

Public Law 105–154  
105th Congress

An Act

To rename the Washington National Airport located in the District of Columbia and Virginia as the “Ronald Reagan Washington National Airport”.

Feb. 6, 1998  
[S. 1575]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REDESIGNATION.**

49 USC 49103  
note.

The airport described in the Act entitled “An Act to provide for the administration of the Washington National Airport, and for other purposes”, approved June 29, 1940 (54 Stat. 686), and known as the Washington National Airport, shall be known and designated as the “Ronald Reagan Washington National Airport”.

**SEC. 2. REFERENCES.**

(a) IN GENERAL.—

(1) The following provisions of law are amended by striking “Washington National Airport” each place it appears and inserting “Ronald Reagan Washington National Airport”:

(A) Subsection (b) of the first section of the Act of June 29, 1940 (54 Stat. 686, chapter 444).

(B) Sections 106 and 107 of the Act of October 31, 1945 (59 Stat. 553, chapter 443).

(C) Section 41714 of title 49, United States Code.

(D) Chapter 491 of title 49, United States Code.

49 USC  
49103–49105,  
49109, 49111.

(2) Section 41714(d) of title 49, United States Code, is amended in the subsection heading by striking “WASHINGTON NATIONAL AIRPORT” and inserting “RONALD REAGAN WASHINGTON NATIONAL AIRPORT”.

49 USC 49103  
note.

(b) OTHER REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Washington National Airport shall be deemed to be a reference to the “Ronald Reagan Washington National Airport”.

Approved February 6, 1998.

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LEGISLATIVE HISTORY—S. 1575 (H.R. 2625):  
CONGRESSIONAL RECORD, Vol. 144 (1998):  
Feb. 3, 4, considered and passed Senate.  
Feb. 5, considered and passed House.



Public Law 105–155  
105th Congress

An Act

To authorize the Federal Aviation Administration’s research, engineering, and development programs for fiscal years 1998 and 1999, and for other purposes.

Feb. 11, 1998  
[H.R. 1271]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “FAA Research, Engineering, and Development Authorization Act of 1998”.

FAA Research,  
Engineering, and  
Development  
Authorization  
Act of 1998.  
49 USC 40101  
note.

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

Section 48102(a) of title 49, United States Code, is amended—

- (1) by striking “and” at the end of paragraph (2)(J);
- (2) by striking the period at the end of paragraph (3)(J) and inserting in lieu thereof a semicolon; and
- (3) by adding at the end the following:
  - “(4) for fiscal year 1998, \$226,800,000, including—
    - “(A) \$16,379,000 for system development and infrastructure projects and activities;
    - “(B) \$27,089,000 for capacity and air traffic management technology projects and activities;
    - “(C) \$23,362,000 for communications, navigation, and surveillance projects and activities;
    - “(D) \$16,600,000 for weather projects and activities;
    - “(E) \$7,854,000 for airport technology projects and activities;
    - “(F) \$49,202,000 for aircraft safety technology projects and activities;
    - “(G) \$53,759,000 for system security technology projects and activities;
    - “(H) \$26,550,000 for human factors and aviation medicine projects and activities;
    - “(I) \$2,891,000 for environment and energy projects and activities; and
    - “(J) \$3,114,000 for innovative/cooperative research projects and activities; and
  - “(5) for fiscal year 1999, \$229,673,000.”.

**SEC. 3. RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.**

(a) PROGRAM.—Section 48102 of title 49, United States Code, is amended by adding at the end the following new subsection:

“(h) RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.—

“(1) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration shall establish a program to utilize undergraduate and technical colleges, including Historically Black Colleges and Universities and Hispanic Serving Institutions, in research on subjects of relevance to the Federal Aviation Administration. Grants may be awarded under this subsection for—

“(A) research projects to be carried out at primarily undergraduate institutions and technical colleges;

“(B) research projects that combine research at primarily undergraduate institutions and technical colleges with other research supported by the Federal Aviation Administration; or

“(C) research on future training requirements on projected changes in regulatory requirements for aircraft maintenance and power plant licensees.

Federal Register,  
publication.

“(2) NOTICE OF CRITERIA.—Within 6 months after the date of the enactment of the FAA Research, Engineering, and Development Authorization Act of 1998, the Administrator of the Federal Aviation Administration shall establish and publish in the Federal Register criteria for the submittal of proposals for a grant under this subsection, and for the awarding of such grants.

“(3) PRINCIPAL CRITERIA.—The principal criteria for the awarding of grants under this subsection shall be—

“(A) the relevance of the proposed research to technical research needs identified by the Federal Aviation Administration;

“(B) the scientific and technical merit of the proposed research; and

“(C) the potential for participation by undergraduate students in the proposed research.

“(4) COMPETITIVE, MERIT-BASED EVALUATION.—Grants shall be awarded under this subsection on the basis of evaluation of proposals through a competitive, merit-based process.”

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 48102(a) of title 49, United States Code, as amended by this Act, is further amended by inserting “, of which \$750,000 shall be for carrying out the grant program established under subsection (h)” after “projects and activities” in paragraph (4)(J).

49 USC 48102  
note.

#### SEC. 4. NOTICES.

(a) REPROGRAMMING.—If any funds authorized by the amendments made by this Act are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committees on Science and Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) NOTICE OF REORGANIZATION.—The Administrator of the Federal Aviation Administration shall provide notice to the Committees on Science, Transportation and Infrastructure, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 30 days before any major reorganization (as determined



by the Administrator) of any program of the Federal Aviation Administration for which funds are authorized by this Act.

**SEC. 5. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.**

With the year 2000 fast approaching, it is the sense of Congress that the Federal Aviation Administration should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond;

(2) assess immediately the extent of the risk to the operations of the Federal Aviation Administration posed by the problems referred to in paragraph (1), and plan and budget for achieving Year 2000 compliance for all of its mission-critical systems; and

(3) develop contingency plans for those systems that the Federal Aviation Administration is unable to correct in time.

Approved February 11, 1998.

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**LEGISLATIVE HISTORY—H.R. 1271:**

HOUSE REPORTS: No. 105–61 (Comm. on Science).

SENATE REPORTS: No. 105–152 (Comm. on Commerce, Science, and Transportation).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Apr. 29, considered and passed House.

Nov. 13, considered and passed Senate, amended.

Vol. 144 (1998): Feb. 3, House concurred in Senate amendments.



Public Law 105–156  
105th Congress

An Act

Feb. 11, 1998  
[H.R. 3042]

Environmental  
Policy and  
Conflict  
Resolution Act of  
1998.  
20 USC 5601  
note.

To amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Environmental Policy and Conflict Resolution Act of 1998”.

**SEC. 2. DEFINITIONS.**

Section 4 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5602) is amended—

(1) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (9), (7), and (8), respectively;

(2) by inserting after paragraph (3) the following:

“(4) the term ‘environmental dispute’ means a dispute or conflict relating to the environment, public lands, or natural resources;”;

(3) by inserting after paragraph (5) (as redesignated by paragraph (1)) the following:

“(6) the term ‘Institute’ means the United States Institute for Environmental Conflict Resolution established pursuant to section 7(a)(1)(D);”;

(4) in paragraph (7) (as redesignated by paragraph (1)), by striking “and” at the end;

(5) in paragraph (8) (as redesignated by paragraph (1)), by striking the period at the end and inserting “; and”; and

(6) in paragraph (9) (as redesignated by paragraph (1))—

(A) by striking “fund” and inserting “Trust Fund”; and

(B) by striking the semicolon at the end and inserting a period.

**SEC. 3. BOARD OF TRUSTEES.**

Section 5(b) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5603(b)) is amended—

(1) in the matter preceding paragraph (1) of the second sentence, by striking “twelve” and inserting “thirteen”; and

(2) by adding at the end the following:

“(7) The chairperson of the President’s Council on Environmental Quality, who shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.”.

#### SEC. 4. PURPOSE.

Section 6 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5604) is amended—

(1) in paragraph (4), by striking “an Environmental Conflict Resolution” and inserting “Environmental Conflict Resolution and Training”;

(2) in paragraph (6), by striking “and” at the end;

(3) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(8) establish as part of the Foundation the United States Institute for Environmental Conflict Resolution to assist the Federal Government in implementing section 101 of the National Environmental Policy Act of 1969 (42 U.S.C. 4331) by providing assessment, mediation, and other related services to resolve environmental disputes involving agencies and instrumentalities of the United States; and

“(9) complement the direction established by the President in Executive Order No. 12988 (61 Fed. Reg. 4729; relating to civil justice reform).”.

#### SEC. 5. AUTHORITY.

Section 7(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5605(a)) is amended—

(1) in paragraph (1), by adding at the end the following:

“(D) INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION.—

“(i) IN GENERAL.—The Foundation shall—

“(I) establish the United States Institute for Environmental Conflict Resolution as part of the Foundation; and

“(II) identify and conduct such programs, activities, and services as the Foundation determines appropriate to permit the Foundation to provide assessment, mediation, training, and other related services to resolve environmental disputes.

“(ii) GEOGRAPHIC PROXIMITY OF CONFLICT RESOLUTION PROVISION.—In providing assessment, mediation, training, and other related services under clause (i)(II) to resolve environmental disputes, the Foundation shall consider, to the maximum extent practicable, conflict resolution providers within the geographic proximity of the conflict.”; and

(2) in paragraph (7), by inserting “and Training” after “Conflict Resolution”.

#### SEC. 6. ENVIRONMENTAL DISPUTE RESOLUTION FUND.

(a) REDESIGNATION.—Sections 10 and 11 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5608, 5609) are redesignated as sections 12 and 13 of the Act, respectively.

(b) ENVIRONMENTAL DISPUTE RESOLUTION FUND.—The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by subsection (a)) is amended by inserting after section 9 the following:

20 USC 5608a.

**“SEC. 10. ENVIRONMENTAL DISPUTE RESOLUTION FUND.**

“(a) ESTABLISHMENT.—There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Foundation. The Fund shall consist of amounts appropriated to the Fund under section 13(b) and amounts paid into the Fund under section 11.

“(b) EXPENDITURES.—The Foundation shall expend from the Fund such sums as the Board determines are necessary to establish and operate the Institute, including such amounts as are necessary for salaries, administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary.

“(c) DISTINCTION FROM TRUST FUND.—The Fund shall be maintained separately from the Trust Fund established under section 8.

“(d) INVESTMENT OF AMOUNTS.—

“(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

“(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

“(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

“(A) on original issue at the issue price; or

“(B) by purchase of outstanding obligations at the market price.

“(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

“(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.”.

**SEC. 7. USE OF THE INSTITUTE BY A FEDERAL AGENCY.**

The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended by section 6) is amended by inserting after section 10 the following:

20 USC 5608b.

**“SEC. 11. USE OF THE INSTITUTE BY A FEDERAL AGENCY.**

“(a) AUTHORIZATION.—A Federal agency may use the Foundation and the Institute to provide assessment, mediation, or other related services in connection with a dispute or conflict related to the environment, public lands, or natural resources.

“(b) PAYMENT.—

“(1) IN GENERAL.—A Federal agency may enter into a contract and expend funds to obtain the services of the Institute.

“(2) PAYMENT INTO ENVIRONMENTAL DISPUTE RESOLUTION FUND.—A payment from an executive agency on a contract entered into under paragraph (1) shall be paid into the Environmental Dispute Resolution Fund established under section 10.

“(c) NOTIFICATION AND CONCURRENCE.—

“(1) NOTIFICATION.—An agency or instrumentality of the Federal Government shall notify the chairperson of the President’s Council on Environmental Quality when using the Foundation or the Institute to provide the services described in subsection (a).

“(2) NOTIFICATION DESCRIPTIONS.—In a matter involving two or more agencies or instrumentalities of the Federal Government, notification under paragraph (1) shall include a written description of—

“(A) the issues and parties involved;

“(B) prior efforts, if any, undertaken by the agency to resolve or address the issue or issues;

“(C) all Federal agencies or instrumentalities with a direct interest or involvement in the matter and a statement that all Federal agencies or instrumentalities agree to dispute resolution; and

“(D) other relevant information.

“(3) CONCURRENCE.—

“(A) IN GENERAL.—In a matter that involves two or more agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality), the agencies or instrumentalities of the Federal Government shall obtain the concurrence of the chairperson of the President’s Council on Environmental Quality before using the Foundation or Institute to provide the services described in subsection (a).

“(B) INDICATION OF CONCURRENCE OR NONCONCURRENCE.—The chairperson of the President’s Council on Environmental Quality shall indicate concurrence or nonconcurrence under subparagraph (A) not later than 20 days after receiving notice under paragraph (2).

“(d) EXCEPTIONS.—

“(1) LEGAL ISSUES AND ENFORCEMENT.—

“(A) IN GENERAL.—A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) that concern purely legal issues or matters, interpretation or determination of law, or enforcement of law by one agency against another agency shall not be submitted to the Foundation or Institute.

“(B) APPLICABILITY.—Subparagraph (A) does not apply to a dispute or conflict concerning—

“(i) agency implementation of a program or project;

“(ii) a matter involving two or more agencies with parallel authority requiring facilitation and coordination of the various Government agencies; or

“(iii) a nonlegal policy or decisionmaking matter that involves two or more agencies that are jointly operating a project.

“(2) OTHER MANDATED MECHANISMS OR AVENUES.—A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) for which Congress by law has mandated another dispute resolution mechanism or avenue to address or resolve shall not be submitted to the Foundation or Institute.”.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—Section 13 of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (as redesignated by section 6(a)) is amended—

(1) by striking “There are authorized to be appropriated to the Fund” and inserting the following:

“(a) **TRUST FUND.**—There is authorized to be appropriated to the Trust Fund”; and

(2) by adding at the end the following:

“(b) **ENVIRONMENTAL DISPUTE RESOLUTION FUND.**—There are authorized to be appropriated to the Environmental Dispute Resolution Fund established under section 10—

“(1) \$4,250,000 for fiscal year 1998, of which—

“(A) \$3,000,000 shall be for capitalization; and

“(B) \$1,250,000 shall be for operation costs; and

“(2) \$1,250,000 for each of the fiscal years 1999 through 2002 for operation costs.”.

**SEC. 9. CONFORMING AMENDMENTS.**

(a) The second sentence of section 8(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5606) is amended—

(1) by striking “fund” and inserting “Trust Fund”; and

(2) by striking “section 11” and inserting “section 13(a)”.

(b) Sections 7(a)(6), 8(b), and 9(a) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5605(a)(6), 5606(b), and 5607(a)) are each amended by striking “Fund” and inserting “Trust Fund” each place it appears.

Approved February 11, 1998.

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LEGISLATIVE HISTORY—H.R. 3042 (S. 399):

CONGRESSIONAL RECORD:

Vol. 143 (1997): Nov. 13, considered and passed House.

Vol. 144 (1998): Jan. 29, considered and passed Senate.



Public Law 105–157  
105th Congress

An Act

To authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel PRINCE NOVA, and for other purposes.

Feb. 11, 1998  
[S. 1349]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DOCUMENTATION OF THE VESSEL PRINCE NOVA.**

(a) DOCUMENTATION AUTHORIZED.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel PRINCE NOVA (Canadian registration number 320804).

(b) EXPIRATION OF CERTIFICATE.—A certificate of documentation issued for the vessel under subsection (a) shall expire unless—

(1) the vessel undergoes conversion, reconstruction, repair, rebuilding, or retrofitting in a shipyard located in the United States;

(2) the cost of that conversion, reconstruction, repair, rebuilding, or retrofitting is not less than the greater of—

(A) 3 times the purchase value of the vessel before the conversion, reconstruction, repair, rebuilding, or retrofitting; or

(B) \$4,200,000; and

(3) not less than an average of \$1,000,000 is spent annually in a shipyard located in the United States for conversion, reconstruction, repair, rebuilding, or retrofitting of the vessel until the total amount of the cost required under paragraph (2) is spent.

Approved February 11, 1998.

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LEGISLATIVE HISTORY—S. 1349:

CONGRESSIONAL RECORD:

Vol. 143 (1997): Nov. 13, considered and passed Senate.

Vol. 144 (1998): Feb. 3, considered and passed House.





Public Law 105–158  
105th Congress

An Act

To provide redress for inadequate restitution of assets seized by the United States Government during World War II which belonged to victims of the Holocaust, and for other purposes.

Feb. 13, 1998

[S. 1564]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Holocaust  
Victims Redress  
Act.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Holocaust Victims Redress Act”.

**TITLE I—HEIRLESS ASSETS**

**SEC. 101. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds as follows:

(1) Among the \$198,000,000 in German assets located in the United States and seized by the United States Government in World War II were believed to be bank accounts, trusts, securities, or other assets belonging to Jewish victims of the Holocaust.

(2) Among an estimated \$1,200,000,000 in assets of Swiss nationals and institutions which were frozen by the United States Government during World War II (including over \$400,000,000 in bank deposits) were assets whose beneficial owners were believed to include victims of the Holocaust.

(3) In the aftermath of the war, the Congress recognized that some of the victims of the Holocaust whose assets were among those seized or frozen during the war might not have any legal heirs, and legislation was enacted to authorize the transfer of up to \$3,000,000 of such assets to organizations dedicated to providing relief and rehabilitation for survivors of the Holocaust.

(4) Although the Congress and the Administration authorized the transfer of such amount to the relief organizations referred to in paragraph (3), the enormous administrative difficulties and cost involved in proving legal ownership of such assets, directly or beneficially, by victims of the Holocaust, and proving the existence or absence of heirs of such victims, led the Congress in 1962 to agree to a lump-sum settlement and to provide \$500,000 for the Jewish Restitution Successor Organization of New York, such sum amounting to 1/6th of the authorized maximum level of “heirless” assets to be transferred.

(5) In June of 1997, a representative of the Secretary of State, in testimony before the Congress, urged the reconsideration of the limited \$500,000 settlement.

(6) While a precisely accurate accounting of “heirless” assets may be impossible, good conscience warrants the recognition that the victims of the Holocaust have a compelling moral claim to the unrestituted portion of assets referred to in paragraph (3).

(7) Furthermore, leadership by the United States in meeting obligations to Holocaust victims would strengthen—

(A) the efforts of the United States to press for the speedy distribution of the remaining nearly 6 metric tons of gold still held by the Tripartite Commission for the Restitution of Monetary Gold (the body established by France, Great Britain, and the United States at the end of World War II to return gold looted by Nazi Germany to the central banks of countries occupied by Germany during the war); and

(B) the appeals by the United States to the 15 nations claiming a portion of such gold to contribute a substantial portion of any such distribution to Holocaust survivors in recognition of the recently documented fact that the gold held by the Commission includes gold stolen from individual victims of the Holocaust.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide a measure of justice to survivors of the Holocaust all around the world while they are still alive.

(2) To authorize the appropriation of an amount which is at least equal to the present value of the difference between the amount which was authorized to be transferred to successor organizations to compensate for assets in the United States of heirless victims of the Holocaust and the amount actually paid in 1962 to the Jewish Restitution Successor Organization of New York for that purpose.

(3) To facilitate efforts by the United States to seek an agreement whereby nations with claims against gold held by the Tripartite Commission for the Restitution of Monetary Gold would contribute all, or a substantial portion, of that gold to charitable organizations to assist survivors of the Holocaust.

#### **SEC. 102. DISTRIBUTIONS BY THE TRIPARTITE GOLD COMMISSION.**

(a) DIRECTIONS TO THE PRESIDENT.—The President shall direct the commissioner representing the United States on the Tripartite Commission for the Restitution of Monetary Gold, established pursuant to Part III of the Paris Agreement on Reparation, to seek and vote for a timely agreement under which all signatories to the Paris Agreement on Reparation, with claims against the monetary gold pool in the jurisdiction of such Commission, contribute all, or a substantial portion, of such gold to charitable organizations to assist survivors of the Holocaust.

(b) AUTHORITY TO OBLIGATE THE UNITED STATES.—

(1) IN GENERAL.—From funds otherwise unobligated in the Treasury of the United States, the President is authorized to obligate subject to paragraph (2) an amount not to exceed \$30,000,000 for distribution in accordance with subsections (a) and (b).

(2) CONFORMANCE WITH BUDGET ACT REQUIREMENT.—Any budget authority contained in paragraph (1) shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

**SEC. 103. FULFILLMENT OF OBLIGATION OF THE UNITED STATES.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President such sums as may be necessary for fiscal years 1998, 1999, and 2000, not to exceed a total of \$25,000,000 for all such fiscal years, for distribution to organizations as may be specified in any agreement concluded pursuant to section 102.

(b) ARCHIVAL RESEARCH.—There are authorized to be appropriated to the President \$5,000,000 for archival research and translation services to assist in the restitution of assets looted or extorted from victims of the Holocaust and such other activities that would further Holocaust remembrance and education.

## **TITLE II—WORKS OF ART**

**SEC. 201. FINDINGS.**

Congress finds as follows:

(1) Established pre-World War II principles of international law, as enunciated in Articles 47 and 56 of the Regulations annexed to the 1907 Hague Convention (IV) Respecting the Laws and Customs of War on Land, prohibited pillage and the seizure of works of art.

(2) In the years since World War II, international sanctions against confiscation of works of art have been amplified through such conventions as the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which forbids the illegal export of art work and calls for its earliest possible restitution to its rightful owner.

(3) In defiance of the 1907 Hague Convention, the Nazis extorted and looted art from individuals and institutions in countries it occupied during World War II and used such booty to help finance their war of aggression.

(4) The Nazis' policy of looting art was a critical element and incentive in their campaign of genocide against individuals of Jewish and other religious and cultural heritage and, in this context, the Holocaust, while standing as a civil war against defined individuals and civilized values, must be considered a fundamental aspect of the world war unleashed on the continent.

(5) Hence, the same international legal principles applied among states should be applied to art and other assets stolen from victims of the Holocaust.

(6) In the aftermath of the war, art and other assets were transferred from territory previously controlled by the Nazis to the Union of Soviet Socialist Republics, much of which has not been returned to rightful owners.

**SEC. 202. SENSE OF THE CONGRESS REGARDING RESTITUTION OF PRIVATE PROPERTY, SUCH AS WORKS OF ART.**

It is the sense of the Congress that consistent with the 1907 Hague Convention, all governments should undertake good faith

efforts to facilitate the return of private and public property, such as works of art, to the rightful owners in cases where assets were confiscated from the claimant during the period of Nazi rule and there is reasonable proof that the claimant is the rightful owner.

Approved February 13, 1998.

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LEGISLATIVE HISTORY—S. 1564:

CONGRESSIONAL RECORD:

Vol. 143 (1997): Nov. 13, considered and passed Senate.

Vol. 144 (1998): Jan. 27, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Feb. 13, Presidential statement.



Public Law 105-159  
105th Congress

An Act

Disapproving the cancellations transmitted by the President on October 6, 1997,  
regarding Public Law 105-45.

Feb. 25, 1998  
[H.R. 2631]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Congress disapproves of cancellations 97-4, 97-5, 97-6, 97-7, 97-8, 97-9, 97-10, 97-11, 97-12, 97-13, 97-14, 97-15, 97-16, 97-17, 97-18, 97-19, 97-20, 97-21, 97-22, 97-23, 97-24, 97-25, 97-26, 97-27, 97-28, 97-29, 97-30, 97-31, 97-32, 97-33, 97-34, 97-35, 97-36, 97-37, 97-38, 97-39, 97-40, and 97-41 as transmitted by the President in a special message on October 6, 1997, regarding Public Law 105-45.

111 Stat. 1142.  
62 FR 52452.

Newt Gingrich

*Speaker of the House of Representatives.*

Strom Thurmond

*President of the Senate pro tempore.*

IN THE HOUSE OF REPRESENTATIVES, U.S.

*February 5, 1998.*

The House of Representatives having proceeded to reconsider the bill (H.R. 2631) entitled “An Act disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105-45”, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

*Resolved*, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Robin H. Carle

*Clerk.*

I certify that this Act originated in the House of Representatives.

Robin H. Carle

*Clerk.*

IN THE SENATE OF THE UNITED STATES,

*February 25, 1998.*

The Senate having proceeded to reconsider the bill (H.R. 2631) entitled “An Act disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45,” returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

*Resolved*, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Gary Sisco

*Secretary.*

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**LEGISLATIVE HISTORY—H.R. 2631 (S. 1292):****CONGRESSIONAL RECORD, Vol. 143 (1997):**

Nov. 8, considered and passed House.

Nov. 9, considered and passed Senate.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 33 (1997):**

Nov. 13, Presidential veto message.

**CONGRESSIONAL RECORD, Vol. 144 (1998):**

Feb. 5, House overrode veto.

Feb. 25, Senate overrode veto.



Public Law 105–160  
105th Congress

An Act

To reauthorize the Sea Grant Program.

Mar. 6, 1998

[S. 927]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Sea Grant College Program Reauthorization Act of 1998”.

National Sea  
Grant College  
Program  
Reauthorization  
Act of 1998.  
33 USC 1121  
note.

**SEC. 2. AMENDMENT OF NATIONAL SEA GRANT COLLEGE PROGRAM ACT.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

**SEC. 3. FINDINGS.**

- (a) Section 202(a)(1) (33 U.S.C. 1121(a)(1)) is amended—
  - (1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and
  - (2) by inserting after subparagraph (C) the following:
    - “(D) encourage the development of forecast and analysis systems for coastal hazards;”.
- (b) Section 202(a)(6) (33 U.S.C. 1121(a)(6)) is amended by striking the second sentence and inserting the following: “The most cost-effective way to promote such activities is through continued and increased Federal support of the establishment, development, and operation of programs and projects by sea grant colleges, sea grant institutes, and other institutions.”.

**SEC. 4. DEFINITIONS.**

- (a) Section 203 (33 U.S.C. 1122) is amended—
  - (1) in paragraph (3)—
    - (A) by striking “their university or” and inserting “his or her”; and
    - (B) by striking “college, programs, or regional consortium” and inserting “college or sea grant institute”;
  - (2) by striking paragraph (4) and inserting the following:
    - “(4) The term ‘field related to ocean, coastal, and Great Lakes resources’ means any discipline or field, including marine affairs, resource management, technology, education, or science, which is concerned with or likely to improve the understanding,

assessment, development, utilization, or conservation of ocean, coastal, or Great Lakes resources.”;

(3) by redesignating paragraphs (5) through (15) as paragraphs (7) through (17), respectively, and inserting after paragraph (4) the following:

“(5) The term ‘Great Lakes’ includes Lake Champlain.

“(6) The term ‘institution’ means any public or private institution of higher education, institute, laboratory, or State or local agency.”;

(4) by striking “regional consortium, institution of higher education, institute, or laboratory” in paragraph (11) (as redesignated) and inserting “institute or other institution”; and

(5) by striking paragraphs (12) through (17) (as redesignated) and inserting after paragraph (11) the following:

“(12) The term ‘project’ means any individually described activity in a field related to ocean, coastal, and Great Lakes resources involving research, education, training, or advisory services administered by a person with expertise in such a field.

“(13) The term ‘sea grant college’ means any institution, or any association or alliance of two or more such institutions, designated as such by the Secretary under section 207 (33 U.S.C. 1126) of this Act.

“(14) The term ‘sea grant institute’ means any institution, or any association or alliance of two or more such institutions, designated as such by the Secretary under section 207 (33 U.S.C. 1126) of this Act.

“(15) The term ‘sea grant program’ means a program of research and outreach which is administered by one or more sea grant colleges or sea grant institutes.

“(16) The term ‘Secretary’ means the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere.

“(17) The term ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or any other territory or possession of the United States.”.

(b) The Act is amended—

(1) in section 209(b) (33 U.S.C. 1128(b)), as amended by this Act, by striking “, the Under Secretary,”; and

(2) by striking “Under Secretary” every other place it appears and inserting “Secretary”.

#### **SEC. 5. NATIONAL SEA GRANT COLLEGE PROGRAM.**

Section 204 (33 U.S.C. 1123) is amended to read as follows:

##### **“SEC. 204. NATIONAL SEA GRANT COLLEGE PROGRAM.**

“(a) PROGRAM MAINTENANCE.—The Secretary shall maintain within the Administration a program to be known as the national sea grant college program. The national sea grant college program shall be administered by a national sea grant office within the Administration.

“(b) PROGRAM ELEMENTS.—The national sea grant college program shall consist of the financial assistance and other activities authorized in this title, and shall provide support for the following elements—



“(1) sea grant programs which comprise a national sea grant college program network, including international projects conducted within such programs;

“(2) administration of the national sea grant college program and this title by the national sea grant office, the Administration, and the panel;

“(3) the fellowship program under section 208; and

“(4) any national strategic investments in fields relating to ocean, coastal, and Great Lakes resources developed with the approval of the panel, the sea grant colleges, and the sea grant institutes.

“(c) RESPONSIBILITIES OF THE SECRETARY.—

“(1) The Secretary, in consultation with the panel, sea grant colleges, and sea grant institutes, shall develop a long-range strategic plan which establishes priorities for the national sea grant college program and which provides an appropriately balanced response to local, regional, and national needs.

“(2) Within 6 months of the date of enactment of the National Sea Grant College Program Reauthorization Act of 1998, the Secretary, in consultation with the panel, sea grant colleges, and sea grant institutes, shall establish guidelines related to the activities and responsibilities of sea grant colleges and sea grant institutes. Such guidelines shall include requirements for the conduct of merit review by the sea grant colleges and sea grant institutes of proposals for grants and contracts to be awarded under section 205, providing, at a minimum, for standardized documentation of such proposals and peer review of all research projects.

Guidelines.

“(3) The Secretary shall by regulation prescribe the qualifications required for designation of sea grant colleges and sea grant institutes under section 207.

Regulations.

“(4) To carry out the provisions of this title, the Secretary may—

“(A) appoint, assign the duties, transfer, and fix the compensation of such personnel as may be necessary, in accordance with civil service laws;

“(B) make appointments with respect to temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code;

“(C) publish or arrange for the publication of, and otherwise disseminate, in cooperation with other offices and programs in the Administration and without regard to section 501 of title 44, United States Code, any information of research, educational, training or other value in fields related to ocean, coastal, or Great Lakes resources;

“(D) enter into contracts, cooperative agreements, and other transactions without regard to section 5 of title 41, United States Code;

“(E) notwithstanding section 1342 of title 31, United States Code, accept donations and voluntary and uncompensated services;

“(F) accept funds from other Federal departments and agencies, including agencies within the Administration, to pay for and add to grants made and contracts entered into by the Secretary; and

“(G) promulgate such rules and regulations as may be necessary and appropriate.

“(d) DIRECTOR OF THE NATIONAL SEA GRANT COLLEGE PROGRAM.—

“(1) The Secretary shall appoint, as the Director of the National Sea Grant College Program, a qualified individual who has appropriate administrative experience and knowledge or expertise in fields related to ocean, coastal, and Great Lakes resources. The Director shall be appointed and compensated, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, at a rate payable under section 5376 of title 5, United States Code.

“(2) Subject to the supervision of the Secretary, the Director shall administer the national sea grant college program and oversee the operation of the national sea grant office. In addition to any other duty prescribed by law or assigned by the Secretary, the Director shall—

“(A) facilitate and coordinate the development of a long-range strategic plan under subsection (c)(1);

“(B) advise the Secretary with respect to the expertise and capabilities which are available within or through the national sea grant college program and encourage the use of such expertise and capabilities, on a cooperative or other basis, by other offices and activities within the Administration, and other Federal departments and agencies;

“(C) advise the Secretary on the designation of sea grant colleges and sea grant institutes, and, if appropriate, on the termination or suspension of any such designation; and

“(D) encourage the establishment and growth of sea grant programs, and cooperation and coordination with other Federal activities in fields related to ocean, coastal, and Great Lakes resources.

“(3) With respect to sea grant colleges and sea grant institutes, the Director shall—

“(A) evaluate the programs of sea grant colleges and sea grant institutes, using the priorities, guidelines, and qualifications established by the Secretary;

“(B) subject to the availability of appropriations, allocate funding among sea grant colleges and sea grant institutes so as to—

“(i) promote healthy competition among sea grant colleges and institutes;

“(ii) encourage successful implementation of sea grant programs; and

“(iii) to the maximum extent consistent with other provisions of this Act, provide a stable base of funding for sea grant colleges and institutes; and

“(C) ensure compliance with the guidelines for merit review under subsection (c)(2).”.

#### **SEC. 6. REPEAL OF SEA GRANT INTERNATIONAL PROGRAM.**

Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is repealed.

#### **SEC. 7. SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.**

Section 207 (33 U.S.C. 1126) is amended to read as follows:

##### **“SEC. 207. SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.**

“(a) DESIGNATION.—

“(1) A sea grant college or sea grant institute shall meet the following qualifications—

“(A) have an existing broad base of competence in fields related to ocean, coastal, and Great Lakes resources;

“(B) make a long-term commitment to the objective in section 202(b), as determined by the Secretary;

“(C) cooperate with other sea grant colleges and institutes and other persons to solve problems or meet needs relating to ocean, coastal, and Great Lakes resources;

“(D) have received financial assistance under section 205 of this title (33 U.S.C. 1124);

“(E) be recognized for excellence in fields related to ocean, coastal, and Great Lakes resources (including marine resources management and science), as determined by the Secretary; and

“(F) meet such other qualifications as the Secretary, in consultation with the panel, considers necessary or appropriate.

“(2) The Secretary may designate an institution, or an association or alliance of two or more such institutions, as a sea grant college if the institution, association, or alliance—

“(A) meets the qualifications in paragraph (1); and

“(B) maintains a program of research, advisory services, training, and education in fields related to ocean, coastal, and Great Lakes resources.

“(3) The Secretary may designate an institution, or an association or alliance of two or more such institutions, as a sea grant institute if the institution, association, or alliance—

“(A) meets the qualifications in paragraph (1); and

“(B) maintains a program which includes, at a minimum, research and advisory services.

“(b) EXISTING DESIGNEES.—Any institution, or association or alliance of two or more such institutions, designated as a sea grant college or awarded institutional program status by the Director prior to the date of enactment of the National Sea Grant College Program Reauthorization Act of 1998, shall not have to reapply for designation as a sea grant college or sea grant institute, respectively, after the date of enactment of the National Sea Grant College Program Reauthorization Act of 1998, if the Director determines that the institution, or association or alliance of institutions, meets the qualifications in subsection (a).

“(c) SUSPENSION OR TERMINATION OF DESIGNATION.—The Secretary may, for cause and after an opportunity for hearing, suspend or terminate any designation under subsection (a).

“(d) DUTIES.—Subject to any regulations prescribed or guidelines established by the Secretary, it shall be the responsibility of each sea grant college and sea grant institute—

“(1) to develop and implement, in consultation with the Secretary and the panel, a program that is consistent with the guidelines and priorities established under section 204(c); and

“(2) to conduct a merit review of all proposals for grants and contracts to be awarded under section 205.”.

#### SEC. 8. SEA GRANT REVIEW PANEL.

(a) Section 209(a) (33 U.S.C. 1128(a)) is amended by striking the second sentence.

(b) Section 209(b) (33 U.S.C. 1128(b)) is amended—

(1) by striking “The Panel” and inserting “(b) DUTIES.—The panel”;

(2) by striking “and section 3 of the Sea Grant College Program Improvement Act of 1976” in paragraph (1); and

(3) by striking “regional consortia” in paragraph (3) and inserting “institutes”.

(c) Section 209(c) (33 U.S.C. 1128(c)) is amended—

(1) in paragraph (1) by striking “college, sea grant regional consortium, or sea grant program” and inserting “college or sea grant institute”; and

(2) by striking paragraph (5)(A) and inserting the following:  
 “(A) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and”.

#### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) GRANTS, CONTRACTS, AND FELLOWSHIPS.—Section 212(a) (33 U.S.C. 1131(a)) is amended to read as follows:

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this Act—

“(A) \$56,000,000 for fiscal year 1999;

“(B) \$57,000,000 for fiscal year 2000;

“(C) \$58,000,000 for fiscal year 2001;

“(D) \$59,000,000 for fiscal year 2002; and

“(E) \$60,000,000 for fiscal year 2003.

“(2) ZEBRA MUSSEL AND OYSTER RESEARCH.—In addition to the amount authorized for each fiscal year under paragraph (1)—

“(A) up to \$2,800,000 may be made available as provided in section 1301(b)(4)(A) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4741(b)(4)(A)) for competitive grants for university research on the zebra mussel;

“(B) up to \$3,000,000 may be made available for competitive grants for university research on oyster diseases and oyster-related human health risks; and

“(C) up to \$3,000,000 may be made available for competitive grants for university research on *Pfiesteria piscicida* and other harmful algal blooms.”.

(b) LIMITATION ON CERTAIN FUNDING.—Section 212(b)(1) (33 U.S.C. 1131(b)(1)) is amended to read as follows:

“(b) PROGRAM ELEMENTS.—

“(1) LIMITATION.—No more than 5 percent of the lesser of—

“(A) the amount authorized to be appropriated; or

“(B) the amount appropriated,

for each fiscal year under subsection (a) may be used to fund the program element contained in section 204(b)(2).”.

(c) NOTICE OF REPROGRAMMING.—If any funds authorized by this section are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committees on Science and

Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(d) NOTICE OF REORGANIZATION.—The Secretary of Commerce shall provide notice to the Committees on Science, Resources, and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 45 days before any major reorganization of any program, project, or activity of the National Sea Grant College Program.

33 USC 1123  
note.

**SEC. 10. ADMINISTRATIVE LAW JUDGES.**

15 USC 1541.

Notwithstanding section 559 of title 5, United States Code, with respect to any marine resource conservation law or regulation administered by the Secretary of Commerce acting through the National Oceanic and Atmospheric Administration, all adjudicatory functions which are required by chapter 5 of title 5 of such Code to be performed by an Administrative Law Judge may be performed by the United States Coast Guard on a reimbursable basis. Should the United States Coast Guard require the detail of an Administrative Law Judge to perform any of these functions, it may request such temporary or occasional assistance from the Office of Personnel Management pursuant to section 3344 of title 5, United States Code.

Approved March 6, 1998.

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**LEGISLATIVE HISTORY—S. 927:**

SENATE REPORTS: No. 105–150 (Comm. on Commerce, Science, and Transportation).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Nov. 13, considered and passed Senate.

Vol. 144 (1998): Feb. 11, considered and passed House, amended.  
Feb. 12, Senate concurred in House amendment.



Public Law 105–161  
105th Congress

An Act

Mar. 9, 1998  
[S. 916]

To designate the United States Post Office building located at 750 Highway 28 East in Taylorsville, Mississippi, as the “Blaine H. Eaton Post Office Building”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF BLAINE H. EATON POST OFFICE BUILDING.**

The United States Post Office building located at 750 Highway 28 East in Taylorsville, Mississippi, shall be known and designated as the “Blaine H. Eaton Post Office Building”.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the “Blaine H. Eaton Post Office Building”.

Approved March 9, 1998.

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**LEGISLATIVE HISTORY—S. 916:**

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Oct. 9, considered and passed Senate.

Vol. 144 (1998): Feb. 24, considered and passed House.



Public Law 105–162  
105th Congress

An Act

To designate the post office located at 194 Ward Street in Paterson, New Jersey,  
as the “Larry Doby Post Office”.

Mar. 9, 1998  
[S. 985]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

Congress finds the following:

(1) Larry Eugene Doby was born in Camden, South Carolina, on December 12, 1923, and moved to Paterson, New Jersey, in 1938.

(2) After playing the 1946 season in the Negro League for the Newark Eagles, Larry Doby’s contract was purchased by the Cleveland Indians of the American League on July 3, 1947.

(3) On July 5, 1947, Larry Doby became the first African-American to play in the American League.

(4) Larry Doby played in the American League for 13 years, appearing in 1,533 games and batting .283, with 253 home runs and 969 runs batted in.

(5) Larry Doby was voted to 7 all-star teams, led the American League in home runs twice, and played in 2 World Series. He was the first African-American to play in the World Series and to hit a home run in a World Series game, both in 1948.

(6) After his stellar playing career ended, Larry Doby continued to make a significant contribution to his community. He has been a pioneer in the cause of civil rights and has received honorary doctorate degrees from Long Island University, Princeton University, and Fairfield University.

**SEC. 2. DESIGNATION OF LARRY DOBY POST OFFICE.**

(a) IN GENERAL.—The post office located at 194 Ward Street in Paterson, New Jersey, shall be known and designated as the “Larry Doby Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in subsection (a) shall be deemed to be a reference to the “Larry Doby Post Office”.

Approved March 9, 1998.

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LEGISLATIVE HISTORY—S. 985:

CONGRESSIONAL RECORD:

Vol. 143 (1997): Oct. 9, considered and passed Senate.

Vol. 144 (1998): Feb. 24, considered and passed House.





Public Law 105–163  
105th Congress

An Act

To designate the Federal building and United States courthouse located at 475 Mulberry Street in Macon, Georgia, as the “William Augustus Bootle Federal Building and United States Courthouse”.

Mar. 20, 1998  
[H.R. 595]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The Federal building and United States courthouse located at 475 Mulberry Street in Macon, Georgia, shall be known and designated as the “William Augustus Bootle Federal Building and United States Courthouse”.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the “William Augustus Bootle Federal Building and United States Courthouse”.

Approved March 20, 1998.

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**LEGISLATIVE HISTORY—H.R. 595 (S. 478):**

HOUSE REPORTS: No. 105–233 (Comm. on Transportation and Infrastructure).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Sept. 29, Nov. 13, considered and passed House.

Vol. 144 (1998): Mar. 6, considered and passed Senate.



Public Law 105–164  
105th Congress

An Act

Mar. 20, 1998  
[H.R. 3116]

Examination  
Parity and Year  
2000 Readiness  
for Financial  
Institutions Act.  
12 USC 1461  
note.  
12 USC 1811  
note.

To address the Year 2000 computer problems with regard to financial institutions, to extend examination parity to the Director of the Office of Thrift Supervision and the National Credit Union Administration, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Examination Parity and Year 2000 Readiness for Financial Institutions Act”.

**SEC. 2. YEAR 2000 READINESS FOR FINANCIAL INSTITUTIONS.**

(a) **FINDINGS.**—The Congress finds that—

(1) the Year 2000 computer problem poses a serious challenge to the American economy, including the Nation’s banking and financial services industries;

(2) thousands of banks, savings associations, and credit unions rely heavily on internal information technology and computer systems, as well as outside service providers, for mission-critical functions, such as check clearing, direct deposit, accounting, automated teller machine networks, credit card processing, and data exchanges with domestic and international borrowers, customers, and other financial institutions; and

(3) Federal financial regulatory agencies must have sufficient examination authority to ensure that the safety and soundness of the Nation’s financial institutions will not be at risk.

(b) **DEFINITIONS.**—For purposes of this section—

(1) the terms “depository institution” and “Federal banking agency” have the same meanings as in section 3 of the Federal Deposit Insurance Act;

(2) the term “Federal home loan bank” has the same meaning as in section 2 of the Federal Home Loan Bank Act;

(3) the term “Federal reserve bank” means a reserve bank established under the Federal Reserve Act;

(4) the term “insured credit union” has the same meaning as in section 101 of the Federal Credit Union Act; and

(5) the term “Year 2000 computer problem” means, with respect to information technology, any problem which prevents such technology from accurately processing, calculating, comparing, or sequencing date or time data—

(A) from, into, or between—

(i) the 20th and 21st centuries; or

(ii) the years 1999 and 2000; or

(B) with regard to leap year calculations.

(c) SEMINARS AND MODEL APPROACHES TO YEAR 2000 COMPUTER PROBLEM.—

(1) SEMINARS.—

(A) IN GENERAL.—Each Federal banking agency and the National Credit Union Administration Board shall offer seminars to all depository institutions and insured credit unions under the jurisdiction of such agency on the implication of the Year 2000 computer problem for—

(i) the safe and sound operations of such depository institutions and credit unions; and

(ii) transactions with other financial institutions, including Federal reserve banks and Federal home loan banks.

(B) CONTENT AND SCHEDULE.—The content and schedule of seminars offered pursuant to subparagraph (A) shall be determined by each Federal banking agency and the National Credit Union Administration Board taking into account the resources and examination priorities of such agency.

(2) MODEL APPROACHES.—

(A) IN GENERAL.—Each Federal banking agency and the National Credit Union Administration Board shall make available to each depository institution and insured credit union under the jurisdiction of such agency model approaches to common Year 2000 computer problems, such as model approaches with regard to project management, vendor contracts, testing regimes, and business continuity planning.

(B) VARIETY OF APPROACHES.—In developing model approaches to the Year 2000 computer problem pursuant to subparagraph (A), each Federal banking agency and the National Credit Union Administration Board shall take into account the need to develop a variety of approaches to correspond to the variety of depository institutions or credit unions within the jurisdiction of the agency.

(3) COOPERATION.—In carrying out this section, the Federal banking agencies and the National Credit Union Administration Board may cooperate and coordinate their activities with each other, the Financial Institutions Examination Council, and appropriate organizations representing depository institutions and credit unions.

**SEC. 3. REGULATION AND EXAMINATION OF SERVICE PROVIDERS.**

(a) REGULATION AND EXAMINATION OF SAVINGS ASSOCIATION SERVICE COMPANIES.—

(1) AMENDMENT TO HOME OWNERS' LOAN ACT.—Section 5(d) of the Home Owners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end the following:

“(7) REGULATION AND EXAMINATION OF SAVINGS ASSOCIATION SERVICE COMPANIES, SUBSIDIARIES, AND SERVICE PROVIDERS.—

“(A) GENERAL EXAMINATION AND REGULATORY AUTHORITY.—A service company or subsidiary that is owned in whole or in part by a savings association shall be subject to examination and regulation by the Director to the same extent as that savings association.

“(B) EXAMINATION BY OTHER BANKING AGENCIES.—The Director may authorize any other Federal banking agency that supervises any other owner of part of the service company or subsidiary to perform an examination described in subparagraph (A).

“(C) APPLICABILITY OF SECTION 8 OF THE FEDERAL DEPOSIT INSURANCE ACT.—A service company or subsidiary that is owned in whole or in part by a saving association shall be subject to the provisions of section 8 of the Federal Deposit Insurance Act as if the service company or subsidiary were an insured depository institution. In any such case, the Director shall be deemed to be the appropriate Federal banking agency, pursuant to section 3(q) of the Federal Deposit Insurance Act.

“(D) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—Notwithstanding subparagraph (A), if a savings association, a subsidiary thereof, or any savings and loan affiliate or entity, as identified by section 8(b)(9) of the Federal Deposit Insurance Act, that is regularly examined or subject to examination by the Director, causes to be performed for itself, by contract or otherwise, any service authorized under this Act or, in the case of a State savings association, any applicable State law, whether on or off its premises—

“(i) such performance shall be subject to regulation and examination by the Director to the same extent as if such services were being performed by the savings association on its own premises; and

“(ii) the savings association shall notify the Director of the existence of the service relationship not later than 30 days after the earlier of—

“(I) the date on which the contract is entered into; or

“(II) the date on which the performance of the service is initiated.

“(E) ADMINISTRATION BY THE DIRECTOR.—The Director may issue such regulations and orders, including those issued pursuant to section 8 of the Federal Deposit Insurance Act, as may be necessary to enable the Director to administer and carry out this paragraph and to prevent evasion of this paragraph.

“(8) DEFINITIONS.—For purposes of this section—

“(A) the term ‘service company’ means—

“(i) any corporation—

“(I) that is organized to perform services authorized by this Act or, in the case of a corporation owned in part by a State savings association, authorized by applicable State law; and

“(II) all of the capital stock of which is owned by 1 or more insured savings associations; and

“(ii) any limited liability company—

“(I) that is organized to perform services authorized by this Act or, in the case of a company, 1 of the members of which is a State savings association, authorized by applicable State law; and

“(II) all of the members of which are 1 or more insured savings associations;

“(B) the term ‘limited liability company’ means any company, partnership, trust, or similar business entity organized under the law of a State (as defined in section 3 of the Federal Deposit Insurance Act) that provides that a member or manager of such company is not personally liable for a debt, obligation, or liability of the company solely by reason of being, or acting as, a member or manager of such company; and

“(C) the terms ‘State savings association’ and ‘subsidiary’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.”.

(2) CONFORMING AMENDMENTS TO SECTION 8 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(A) in subsection (b)(9), by striking “to any service corporation of a savings association and to any subsidiary of such service corporation”;

(B) in subsection (e)(7)(A)(ii), by striking “(b)(8)” and inserting “(b)(9)”;

(C) in subsection (j)(2), by striking “(b)(8)” and inserting “(b)(9)”.

(b) REGULATION AND EXAMINATION OF SERVICE PROVIDERS FOR CREDIT UNIONS.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by inserting after section 206 the following new section:

**“SEC. 206A. REGULATION AND EXAMINATION OF CREDIT UNION ORGANIZATIONS AND SERVICE PROVIDERS.** 12 USC 1786a.

“(a) REGULATION AND EXAMINATION OF CREDIT UNION ORGANIZATIONS.—

“(1) GENERAL EXAMINATION AND REGULATORY AUTHORITY.—

A credit union organization shall be subject to examination and regulation by the Board to the same extent as that insured credit union.

“(2) EXAMINATION BY OTHER BANKING AGENCIES.—The Board may authorize to make an examination of a credit union organization in accordance with paragraph (1)—

“(A) any Federal regulator agency that supervises any activity of a credit union organization; or

“(B) any Federal banking agency that supervises any other person who maintains an ownership interest in a credit union organization.

“(b) APPLICABILITY OF SECTION 206.—A credit union organization shall be subject to the provisions of section 206 as if the credit union organization were an insured credit union.

“(c) SERVICE PERFORMED BY CONTRACT OR OTHERWISE.—Notwithstanding subsection (a), if an insured credit union or a credit union organization that is regularly examined or subject to examination by the Board, causes to be performed for itself, by contract or otherwise, any service authorized under this Act, or in the case of a State credit union, any applicable State law, whether on or off its premises—

“(1) such performance shall be subject to regulation and examination by the Board to the same extent as if such services

were being performed by the insured credit union or credit union organization itself on its own premises; and

“(2) the insured credit union or credit union organization shall notify the Board of the existence of the service relationship not later than 30 days after the earlier of—

“(A) the date on which the contract is entered into; or

“(B) the date on which the performance of the service is initiated.

“(d) ADMINISTRATION BY THE BOARD.—The Board may issue such regulations and orders as may be necessary to enable the Board to administer and carry out this section and to prevent evasion of this section.

“(e) DEFINITIONS.—For purposes of this section—

“(1) the term ‘credit union organization’ means any entity that—

“(A) is not a credit union;

“(B) is an entity in which an insured credit union may lawfully hold an ownership interest or investment; and

“(C) is owned in whole or in part by an insured credit union; and

“(2) the term ‘Federal banking agency’ has the same meaning as in section 3 of the Federal Deposit Insurance Act.

“(f) EXPIRATION OF AUTHORITY.—This section and all powers and authority of the Board under this section shall cease to be effective as of December 31, 2001.”.

Approved March 20, 1998.

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LEGISLATIVE HISTORY—H.R. 3116:

HOUSE REPORTS: No. 105-417 (Comm. on Banking and Financial Services).  
CONGRESSIONAL RECORD, Vol. 144 (1998):

Feb. 24, considered and passed House.

Mar. 6, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Mar. 20, Presidential statement.



Public Law 105–165  
105th Congress

An Act

To designate the Federal building located at 61 Forsyth Street SW., in Atlanta, Georgia, as the “Sam Nunn Atlanta Federal Center”.

Mar. 20, 1998  
[S. 347]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The Federal building located at 61 Forsyth Street SW., in Atlanta, Georgia, shall be known and designated as the “Sam Nunn Atlanta Federal Center”.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the “Sam Nunn Atlanta Federal Center”.

Approved March 20, 1998.

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**LEGISLATIVE HISTORY—S. 347 (H.R. 613):**

HOUSE REPORTS: No. 105–232 accompanying H.R. 613 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 143 (1997):

June 12, considered and passed Senate.

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 3, considered and passed House, amended, in lieu of H.R. 613.

Mar. 6, Senate concurred in House amendments.



Public Law 105–166  
105th Congress

An Act

Apr. 6, 1998

[S. 758]

Lobbying  
Disclosure  
Technical  
Amendments Act  
of 1998.  
2 USC 1601 note.

To make certain technical corrections to the Lobbying Disclosure Act of 1995.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND REFERENCE.**

(a) **SHORT TITLE.**—This Act may be cited as the “Lobbying Disclosure Technical Amendments Act of 1998”.

(b) **REFERENCE.**—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Lobbying Disclosure Act of 1995.

**SEC. 2. DEFINITION OF COVERED EXECUTIVE BRANCH OFFICIAL.**

Section 3(3)(F) (2 U.S.C. 1602(3)(F)) is amended by striking “7511(b)(2)” and inserting “7511(b)(2)(B)”.

**SEC. 3. CLARIFICATION OF EXCEPTION TO LOBBYING CONTACT.**

(a) **CERTAIN COMMUNICATIONS.**—Section 3(8)(B)(ix) (2 U.S.C. 1602(8)(B)(ix)) is amended by inserting before the semicolon the following: “, including any communication compelled by a Federal contract, grant, loan, permit, or license”.

(b) **DEFINITION OF “PUBLIC OFFICIAL”.**—Section 3(15)(F) (2 U.S.C. 1602(15)(F)) is amended by inserting “, or a group of governments acting together as an international organization” before the period.

**SEC. 4. ESTIMATES BASED ON TAX REPORTING SYSTEM.**

(a) **SECTION 15(a).**—Section 15(a) (2 U.S.C. 1610(a)) is amended—

(1) by striking “A registrant” and inserting “A person, other than a lobbying firm,”; and

(2) by amending paragraph (2) to read as follows:

“(2) for all other purposes consider as lobbying contacts and lobbying activities only—

“(A) lobbying contacts with covered legislative branch officials (as defined in section 3(4)) and lobbying activities in support of such contacts; and

“(B) lobbying of Federal executive branch officials to the extent that such activities are influencing legislation as defined in section 4911(d) of the Internal Revenue Code of 1986.”.

(b) **SECTION 15(b).**—Section 15(b) (2 U.S.C. 1610(b)) is amended—



(1) by striking “A registrant that is subject to” and inserting “A person, other than a lobbying firm, who is required to account and does account for lobbying expenditures pursuant to”; and

(2) by amending paragraph (2) to read as follows:

“(2) for all other purposes consider as lobbying contacts and lobbying activities only—

“(A) lobbying contacts with covered legislative branch officials (as defined in section 3(4)) and lobbying activities in support of such contacts; and

“(B) lobbying of Federal executive branch officials to the extent that amounts paid or costs incurred in connection with such activities are not deductible pursuant to section 162(e) of the Internal Revenue Code of 1986.”.

(c) SECTION 5(c).—Section 5(c) (2 U.S.C. 1604(c)) is amended by striking paragraph (3).

**SEC. 5. EXEMPTION BASED ON REGISTRATION UNDER LOBBYING ACT.**

Section 3(h) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 613(h)) is amended by striking “is required to register and does register” and inserting “has engaged in lobbying activities and has registered”.

Approved April 6, 1998.

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**LEGISLATIVE HISTORY—S. 758:**

SENATE REPORTS: No. 105–147 (Comm. on Governmental Affairs).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Nov. 13, considered and passed Senate.

Vol. 144 (1998): Mar. 18, considered and passed House.



Public Law 105–167  
105th Congress

An Act

Apr. 13, 1998  
[S. 750]

To consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXCHANGE OF CERTAIN MINERAL INTERESTS IN BILLINGS COUNTY, NORTH DAKOTA.**

(a) **PURPOSE.**—The purpose of this Act is to direct the consolidation of certain mineral interests in the Little Missouri National Grasslands in Billings County, North Dakota, through the exchange of Federal and private mineral interests in order to enhance land management capability and environmental and wildlife protection.

Burlington  
Resources Oil &  
Gas Company.

(b) **EXCHANGE.**—Notwithstanding any other provision of law—

(1) if, not later than 45 days after the date of enactment of this Act, Burlington Resources Oil & Gas Company (referred to in this Act as “Burlington” and formerly known as Meridian Oil Inc.), conveys title acceptable to the Secretary of Agriculture (referred to in this Act as the “Secretary”) to all oil and gas rights and interests on lands identified on the map entitled “Billings County, North Dakota, Consolidated Mineral Exchange—November 1995”, by quitclaim deed acceptable to the Secretary, the Secretary shall convey to Burlington, subject to valid existing rights, by quitclaim deed, all Federal oil and gas rights and interests on lands identified on that map; and

(2) if Burlington makes the conveyance under paragraph (1) and, not later than 180 days after the date of enactment of this Act, the owners of the remaining non-oil and gas mineral interests on lands identified on that map convey title acceptable to the Secretary to all rights, title, and interests in the interests held by them, by quitclaim deed acceptable to the Secretary, the Secretary shall convey to those owners, subject to valid existing rights, by exchange deed, all remaining Federal non-oil and gas mineral rights, title, and interests in National Forest System lands and National Grasslands identified on that map in the State of North Dakota as are agreed to by the Secretary and the owners of those interests.

(c) LEASEHOLD INTERESTS.—As a condition precedent to the conveyance of interests by the Secretary to Burlington under this Act, all leasehold and contractual interests in the oil and gas interests to be conveyed by Burlington to the United States under this Act shall be released, to the satisfaction of the Secretary.

(d) EQUAL VALUATION OF OIL AND GAS RIGHTS EXCHANGE.—The values of the interests to be exchanged under subsection (b)(1) shall be deemed to be equal.

(e) APPROXIMATE EQUAL VALUE OF EXCHANGES WITH OTHER INTEREST OWNERS.—The values of the interests to be exchanged under subsection (b)(2) shall be approximately equal, as determined by the Secretary.

(f) LAND USE.—

(1) EXPLORATION AND DEVELOPMENT.—The Secretary shall grant to Burlington, and its successors and assigns, the use of federally-owned surface lands to explore for and develop interests conveyed to Burlington under this Act, subject to applicable Federal and State laws.

(2) SURFACE OCCUPANCY AND USE.—Rights to surface occupancy and use that Burlington would have absent the exchange under this Act on its oil and gas rights and interests conveyed under this Act shall apply to the same extent on the federally-owned surface estate overlying oil and gas rights and interests conveyed to Burlington under this Act.

(g) ENVIRONMENTAL PROTECTION FOR ENVIRONMENTALLY SENSITIVE LANDS.—All activities of Burlington, and its successors and assigns, relating to exploration and development on environmentally sensitive National Forest System lands, as described in the “Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota”, executed by the Forest Service and Burlington and dated November 2, 1995, shall be subject to the terms of the memorandum.

(h) MAP.—The map referred to in subsection (b) shall be provided to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives, kept on file in the office of the Chief of the Forest Service, and made available for public inspection in the office of the Forest Supervisor of the Custer National Forest within 45 days after the date of enactment of this Act.

(i) CONTINUATION OF MULTIPLE USE.—Nothing in this Act shall limit, restrict, or otherwise affect the application of the principle of multiple use (including outdoor recreation, range, timber, watershed, and fish and wildlife purposes) in any area of the Little Missouri National Grasslands. Federal grazing permits or privileges in areas designated on the map entitled “Billings County, North

Dakota, Consolidated Mineral Exchange—November 1995” or those lands described in the “Memorandum of Understanding Concerning Certain Severed Mineral Estates, Billings County, North Dakota”, shall not be curtailed or otherwise limited as a result of the exchanges directed by this Act.

Approved April 13, 1998.

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LEGISLATIVE HISTORY—S. 750 (H.R. 2574):

HOUSE REPORTS: No. 105-471 accompanying H.R. 2574 (Comm. on Resources).

SENATE REPORTS: No. 105-92 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Oct. 6, considered and passed Senate.

Vol. 144 (1998): Mar. 30, considered and passed House.



Public Law 105–168  
105th Congress

An Act

To provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

Apr. 21, 1998  
[S. 419]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Birth Defects Prevention Act of 1998”.

Birth Defects  
Prevention Act of  
1998.

42 USC 201 note.

(b) **FINDINGS.**—Congress makes the following findings:

42 USC 247b–4  
note.

(1) Birth defects are the leading cause of infant mortality, directly responsible for one out of every five infant deaths.

(2) Thousands of the 150,000 infants born with a serious birth defect annually face a lifetime of chronic disability and illness.

(3) Birth defects threaten the lives of infants of all racial and ethnic backgrounds. However, some conditions pose excess risks for certain populations. For example, compared to all infants born in the United States, Hispanic-American infants are more likely to be born with anencephaly spina bifida and other neural tube defects and African-American infants are more likely to be born with sickle-cell anemia.

(4) Birth defects can be caused by exposure to environmental hazards, adverse health conditions during pregnancy, or genetic mutations. Prevention efforts are slowed by lack of information about the number and causes of birth defects. Outbreaks of birth defects may go undetected because surveillance and research efforts are underdeveloped and poorly coordinated.

(5) Public awareness strategies, such as programs using folic acid vitamin supplements to prevent spina bifida and alcohol avoidance programs to prevent Fetal Alcohol Syndrome, are essential to prevent the heartache and costs associated with birth defects.

**SEC. 2. PROGRAMS REGARDING BIRTH DEFECTS.**

Section 317C of the Public Health Service Act (42 U.S.C. 247b–4) is amended to read as follows:

“PROGRAMS REGARDING BIRTH DEFECTS

“SEC. 317C. (a) **IN GENERAL.**—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out programs—

“(1) to collect, analyze, and make available data on birth defects (in a manner that facilitates compliance with subsection

(d)(2)), including data on the causes of such defects and on the incidence and prevalence of such defects;

“(2) to operate regional centers for the conduct of applied epidemiological research on the prevention of such defects; and

“(3) to provide information and education to the public on the prevention of such defects.

Public  
information.

“(b) ADDITIONAL PROVISIONS REGARDING COLLECTION OF DATA.—

“(1) IN GENERAL.—In carrying out subsection (a)(1), the Secretary—

“(A) shall collect and analyze data by gender and by racial and ethnic group, including Hispanics, non-Hispanic whites, Blacks, Native Americans, Asian Americans, and Pacific Islanders;

“(B) shall collect data under subparagraph (A) from birth certificates, death certificates, hospital records, and such other sources as the Secretary determines to be appropriate; and

“(C) shall encourage States to establish or improve programs for the collection and analysis of epidemiological data on birth defects, and to make the data available.

Establishment.

“(2) NATIONAL CLEARINGHOUSE.—In carrying out subsection (a)(1), the Secretary shall establish and maintain a National Information Clearinghouse on Birth Defects to collect and disseminate to health professionals and the general public information on birth defects, including the prevention of such defects.

“(c) GRANTS AND CONTRACTS.—

“(1) IN GENERAL.—In carrying out subsection (a), the Secretary may make grants to and enter into contracts with public and nonprofit private entities.

“(2) SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS.—

“(A) Upon the request of a recipient of an award of a grant or contract under paragraph (1), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the recipient in carrying out the purposes for which the award is made and, for such purposes, may detail to the recipient any officer or employee of the Department of Health and Human Services.

“(B) With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

“(3) APPLICATION FOR AWARD.—The Secretary may make an award of a grant or contract under paragraph (1) only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the award is to be made.

“(d) BIENNIAL REPORT.—Not later than February 1 of fiscal year 1999 and of every second such year thereafter, the Secretary

shall submit to the Committee on Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report that, with respect to the preceding 2 fiscal years—

“(1) contains information regarding the incidence and prevalence of birth defects and the extent to which birth defects have contributed to the incidence and prevalence of infant mortality;

“(2) contains information under paragraph (1) that is specific to various racial and ethnic groups (including Hispanics, non-Hispanic whites, Blacks, Native Americans, and Asian Americans);

“(3) contains an assessment of the extent to which various approaches of preventing birth defects have been effective;

“(4) describes the activities carried out under this section; and

“(5) contains any recommendations of the Secretary regarding this section.

“(e) **APPLICABILITY OF PRIVACY LAWS.**—The provisions of this section shall be subject to the requirements of section 552a of title 5, United States Code. All Federal laws relating to the privacy of information shall apply to the data and information that is collected under this section.

“(f) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated \$30,000,000 for fiscal year 1999, \$40,000,000 for fiscal year 2000, and such sums as may be necessary for each of the fiscal years 2001 and 2002.”.

Approved April 21, 1998.

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**LEGISLATIVE HISTORY—S. 419:**

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): June 12, considered and passed Senate.

Vol. 144 (1998): Mar. 10, considered and passed House.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 34 (1998):

Apr. 21, Presidential remarks.



Public Law 105–169  
105th Congress

An Act

Apr. 24, 1998  
[H.R. 1116]

To provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District and the Fabens Independent School District.

Texas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION. 1. CONVEYANCE OF PROPERTY.**

Subject to section 2, the Secretary of State shall execute and file in the appropriate office such instrument as may be necessary to release the reversionary interest of the United States in the 40-acre tract of land referred to in Public Law 85–42.

**SEC. 2. TERMS AND CONDITIONS.**

The release under section 1 shall be made upon condition that the Clint Independent School District and the Fabens Independent School District in the State of Texas use any proceeds received from the disposal of such land for public educational purposes.

Approved April 24, 1998.

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**LEGISLATIVE HISTORY—H.R. 1116:**

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Sept. 29, considered and passed House.

Vol. 144 (1998): Apr. 1, considered and passed Senate.





Public Law 105–170  
105th Congress

An Act

To direct the Administrator of the Federal Aviation Administration to reevaluate the equipment in medical kits carried on, and to make a decision regarding requiring automatic external defibrillators to be carried on, aircraft operated by air carriers, and for other purposes.

Apr. 24, 1998  
[H.R. 2843]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Aviation Medical Assistance Act of 1998”.

Aviation Medical  
Assistance Act of  
1998.  
49 USC 44701  
note.

**SEC. 2. MEDICAL KIT EQUIPMENT AND TRAINING.**

Not later than 1 year after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall reevaluate regulations regarding: (1) the equipment required to be carried in medical kits of aircraft operated by air carriers; and (2) the training required of flight attendants in the use of such equipment, and, if the Administrator determines that such regulations should be modified as a result of such reevaluation, shall issue a notice of proposed rulemaking to modify such regulations.

Regulations.  
49 USC 44701  
note.

**SEC. 3. REPORTS REGARDING DEATHS ON AIRCRAFT.**

(a) IN GENERAL.—During the 1-year period beginning on the 90th day following the date of the enactment of this Act, a major air carrier shall make a good faith effort to obtain, and shall submit quarterly reports to the Administrator of the Federal Aviation Administration on, the following:

49 USC 44701  
note.

(1) The number of persons who died on aircraft of the air carrier, including any person who was declared dead after being removed from such an aircraft as a result of a medical incident that occurred on such aircraft.

(2) The age of each such person.

(3) Any information concerning cause of death that is available at the time such person died on the aircraft or is removed from the aircraft or that subsequently becomes known to the air carrier.

(4) Whether or not the aircraft was diverted as a result of the death or incident.

(5) Such other information as the Administrator may request as necessary to aid in a decision as to whether or not to require automatic external defibrillators in airports or on aircraft operated by air carriers, or both.

Regulations.  
49 USC 44701  
note.

(b) **FORMAT.**—The Administrator may specify a format for reports to be submitted under this section.

**SEC. 4. DECISION ON AUTOMATIC EXTERNAL DEFIBRILLATORS.**

(a) **IN GENERAL.**—Not later than 120 days after the last day of the 1-year period described in section 3, the Administrator of the Federal Aviation Administration shall make a decision on whether or not to require automatic external defibrillators on passenger aircraft operated by air carriers and whether or not to require automatic external defibrillators at airports.

(b) **FORM OF DECISION.**—A decision under this section shall be in the form of a notice of proposed rulemaking requiring automatic external defibrillators in airports or on passenger aircraft operated by air carriers, or both, or a recommendation to Congress for legislation requiring such defibrillators or a notice in the Federal Register that such defibrillators should not be required in airports or on such aircraft. If a decision under this section is in the form of a notice of proposed rulemaking, the Administrator shall make a final decision not later than the 120th day following the date on which comments are due on the notice of proposed rulemaking.

(c) **CONTENTS.**—If the Administrator decides that automatic external defibrillators should be required—

(1) on passenger aircraft operated by air carriers, the proposed rulemaking or recommendation shall include—

(A) the size of the aircraft on which such defibrillators should be required;

(B) the class flights (whether interstate, overseas, or foreign air transportation or any combination thereof) on which such defibrillators should be required;

(C) the training that should be required for air carrier personnel in the use of such defibrillators; and

(D) the associated equipment and medication that should be required to be carried in the aircraft medical kit; and

(2) at airports, the proposed rulemaking or recommendation shall include—

(A) the size of the airport at which such defibrillators should be required;

(B) the training that should be required for airport personnel in the use of such defibrillators; and

(C) the associated equipment and medication that should be required at the airport.

(d) **LIMITATION.**—The Administrator may not require automatic external defibrillators on helicopters and on aircraft with a maximum payload capacity (as defined in section 119.3 of title 14, Code of Federal Regulations) of 7,500 pounds or less.

(e) **SPECIAL RULE.**—If the Administrator decides that automatic external defibrillators should be required at airports, the proposed rulemaking or recommendation shall provide that the airports are responsible for providing the defibrillators.

49 USC 44701  
note.

**SEC. 5. LIMITATIONS ON LIABILITY.**

(a) **LIABILITY OF AIR CARRIERS.**—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the air carrier in obtaining or attempting to obtain the assistance of a passenger in an in-flight medical emergency, or out of the acts or omissions of the

passenger rendering the assistance, if the passenger is not an employee or agent of the carrier and the carrier in good faith believes that the passenger is a medically qualified individual.

(b) **LIABILITY OF INDIVIDUALS.**—An individual shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the individual in providing or attempting to provide assistance in the case of an in-flight medical emergency unless the individual, while rendering such assistance, is guilty of gross negligence or willful misconduct.

**SEC. 6. DEFINITIONS.**

49 USC 44701  
note.

In this Act—

(1) the terms “air carrier”, “aircraft”, “airport”, “interstate air transportation”, “overseas air transportation”, and “foreign air transportation” have the meanings such terms have under section 40102 of title 49, United States Code;

(2) the term “major air carrier” means an air carrier certificated under section 41102 of title 49, United States Code, that accounted for at least 1 percent of domestic scheduled-passenger revenues in the 12 months ending March 31 of the most recent year preceding the date of the enactment of this Act, as reported to the Department of Transportation pursuant to part 241 of title 14 of the Code of Federal Regulations; and

(3) the term “medically qualified individual” includes any person who is licensed, certified, or otherwise qualified to provide medical care in a State, including a physician, nurse, physician assistant, paramedic, and emergency medical technician.

Approved April 24, 1998.

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**LEGISLATIVE HISTORY—H.R. 2843:**

HOUSE REPORTS: No. 105–456 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 24, considered and passed House.

Apr. 3, considered and passed Senate.



Public Law 105–171  
105th Congress

An Act

Apr. 24, 1998  
[H.R. 3226]

To authorize the Secretary of Agriculture to convey certain lands and improvements in the State of Virginia, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PURPOSE.**

The purpose of this Act is to authorize the Secretary of Agriculture (referred to in this Act as the “Secretary”) to sell or exchange all or part of certain administrative sites and other lands in the George Washington National Forest and the Jefferson National Forest, and to use the value derived therefrom to acquire a replacement site and to construct on the site suitable improvements for national forest administrative purposes.

**SEC. 2. SALE OR EXCHANGE OF LAND.**

(a) IN GENERAL.—The Secretary may, under such terms and conditions as the Secretary may prescribe, sell or exchange any or all right, title, and interest of the United States in and to the approximately 368 acres contained in the following tracts of land situated in the State of Virginia:

(1) Tract J–1665 (approximately 101 acres), as shown on the map titled “Natural Bridge Juvenile Corrections Center, February 4, 1998”.

(2) Tract G–1312a (approximately 214 acres), Tract G–1312b (approximately 2 acres), and Tract G1312a–I (approximately 10 acres), as shown on the plat titled “George Washington National Forest, Alleghany Construction Company, (1312a,–I,b), Alleghany County, Virginia, June 1936”.

(3) Tract G–1709 (approximately 23 acres), as shown on the plat titled “James C. Doyle, Alleghany County, Virginia, April 13, 1993”.

(4) Tract G–1360 (consisting of Lots 31 and 32; approximately .29 acres), Tract G–1361 (consisting of Lots 29 and 30; approximately .29 acres), Tract G–1362 (consisting of Lots 22, 23, and 24; approximately .43 acres), and Tract G–1363 (consisting of Lot 21; approximately .14 acres), as shown on the plat titled “Dry River Road, George Washington National Forest, Warehouse Site, Bridgewater, Rockingham County, Virginia, July 1936”.

(5) Tract G–1524 (consisting of Lot 13; approximately .13 acres), as shown on the plat titled “Vertie E. Beery Tract, Rockingham County, Virginia, February 3, 1966”.

(6) Tract G–1525 (consisting of Lots 11 and 12; approximately .26 acres), as shown on the plat titled “Charles F.

Simmons Tract 1525, Rockingham County, Virginia, February 3, 1966”.

(7) Tract G-1486 (consisting of Lots 14, 15, and 16; approximately .39 acres), as shown on the plat shown at Deed Book 133, Page 341 Rockingham Virginia Records of the D.S. Thomas Inc. Addition, Town of Bridgewater.

(8) Tract N-123a (consisting of Lots 7 and 8; approximately .287 acres), as shown on the plat titled “George Washington Forest. A.M. Rucker, Tract N-123a, Buena Vista, Virginia”.

(9) Tract N-123b (consisting of Lots 5 and 6; approximately .287 acres), as shown on the plat titled “George Washington Unit, A.M. Rucker, N-123b, Rockbridge County, Virginia, city of Buena Vista, dated 1942”.

(10) Tract G-1417 (approximately 1.2 acres), as shown on the plat titled “George Washington Unit, R.A. Warren, Tracts (1417-1417a), Bath County, Virginia, May 1940”.

(11) Tract G-1520 (approximately 1 acre), as shown on the plat titled “Samuel J. Snead Tract, Bath County, Virginia, February 3, 1966”.

(12) Tract G-1522a (approximately .65 acres), as shown on the plat titled “Charles N. Loving Tract, Bath County, Virginia, February 3, 1966”.

(13) Tract G-1582 (approximately .86 acres), as shown on the plat titled “Willie I. Haynes Tract, Bath County, Virginia, January 1974”.

(14) Tract G-1582a (approximately .62 acres), as shown on the plat titled “Willie I. Haynes, Bath County, Virginia, January 1979”.

(15) Tract G-1673 (approximately 1.69 acres), as shown on the plat titled “Erwin S. Solomon Tract, Bath County, Virginia, September 15, 1970”.

(16) Tract J-1497 (approximately 2.66 acres), as shown on the plat titled “James A. Williams, Tract 1497, January 24, 1990”.

(17) Tract J-1652 (approximately 1.64 acres), as shown on the plat titled “United States of America, Tract J-1652, Buchanan Magisterial District, Botetourt County, Virginia, September 4, 1996”.

(18) Tract J-1653 (approximately 5.08 acres), as shown on the plat titled “United States of America, Tract J-1653, Peaks Magisterial District, Bedford County, Virginia, November 4, 1996”.

The Secretary may acquire land, and existing or future administrative improvements, in consideration for the conveyance of the lands designated in this subsection.

(b) **APPLICABLE AUTHORITIES.**—Except as otherwise provided in this Act, any sale or exchange of all or a portion of the lands designated in subsection (a) shall be subject to existing laws, rules, and regulations applicable to the conveyance and acquisition of lands for National Forest System purposes.

(c) **CASH EQUALIZATION.**—Notwithstanding any other provision of law, the Secretary may accept cash equalization payments in excess of 25 percent of the total value of the lands designated in subsection (a) from any exchange authorized by subsection (a).

(d) **SOLICITATIONS OF OFFERS.**—In carrying out this Act, the Secretary may use public or private solicitations of offers for sale or exchange on such terms and conditions as the Secretary may

prescribe. The Secretary may reject any offer if the Secretary determines that the offer is not adequate or not in the public interest.

**SEC. 3. DISPOSITION OF FUNDS.**

Any funds received by the Secretary through sale or by cash equalization from an exchange shall be deposited into the fund provided by the Act of December 4, 1967 (16 U.S.C. 484a), commonly known as the Sisk Act, and shall be available for expenditure, upon appropriation, for—

(1) the acquisition of lands, and interests in the lands, in the State of Virginia; and

(2) the acquisition or construction of administrative improvements in connection with the George Washington and Jefferson National Forests.

Approved April 24, 1998.

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**LEGISLATIVE HISTORY—H.R. 3226:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 24, considered and passed House.

Apr. 3, considered and passed Senate.



Public Law 105–172  
105th Congress

An Act

To amend title 18, United States Code, with respect to scanning receivers and similar devices.

Apr. 24, 1998  
[S. 493]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Wireless Telephone Protection Act”.

Wireless  
Telephone  
Protection Act.  
Law enforcement  
and crime.  
18 USC 1001  
note.

**SEC. 2. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COUNTERFEIT ACCESS DEVICES.**

(a) UNLAWFUL ACTS.—Section 1029(a) of title 18, United States Code, is amended—

- (1) by redesignating paragraph (9) as paragraph (10); and
- (2) by striking paragraph (8) and inserting the following:

“(8) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a scanning receiver;

“(9) knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software, knowing it has been configured to insert or modify telecommunication identifying information associated with or contained in a telecommunications instrument so that such instrument may be used to obtain telecommunications service without authorization; or”.

(b) PENALTIES.—

(1) GENERALLY.—Section 1029(c) of title 18, United States Code, is amended to read as follows:

“(c) PENALTIES.—

“(1) GENERALLY.—The punishment for an offense under subsection (a) of this section is—

“(A) in the case of an offense that does not occur after a conviction for another offense under this section—

“(i) if the offense is under paragraph (1), (2), (3), (6), (7), or (10) of subsection (a), a fine under this title or imprisonment for not more than 10 years, or both; and

“(ii) if the offense is under paragraph (4), (5), (8), or (9), of subsection (a), a fine under this title or imprisonment for not more than 15 years, or both;

“(B) in the case of an offense that occurs after a conviction for another offense under this section, a fine under this title or imprisonment for not more than 20 years, or both; and

“(C) in either case, forfeiture to the United States of any personal property used or intended to be used to commit the offense.

“(2) FORFEITURE PROCEDURE.—The forfeiture of property under this section, including any seizure and disposition of the property and any related administrative and judicial proceeding, shall be governed by section 413 of the Controlled Substances Act, except for subsection (d) of that section.”.

(2) ATTEMPTS.—Section 1029(b)(1) of title 18, United States Code, is amended by striking “punished as provided in subsection (c) of this section” and inserting “subject to the same penalties as those prescribed for the offense attempted”.

(c) DEFINITIONS.—Section 1029(e)(8) of title 18, United States Code, is amended by inserting before the period “or to intercept an electronic serial number, mobile identification number, or other identifier of any telecommunications service, equipment, or instrument”.

(d) APPLICABILITY OF NEW SECTION 1029(a)(9).—

(1) IN GENERAL.—Section 1029 of title 18, United States Code, is amended by adding at the end the following:

“(g)(1) It is not a violation of subsection (a)(9) for an officer, employee, or agent of, or a person engaged in business with, a facilities-based carrier, to engage in conduct (other than trafficking) otherwise prohibited by that subsection for the purpose of protecting the property or legal rights of that carrier, unless such conduct is for the purpose of obtaining telecommunications service provided by another facilities-based carrier without the authorization of such carrier.

“(2) In a prosecution for a violation of subsection (a)(9), (other than a violation consisting of producing or trafficking) it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) that the conduct charged was engaged in for research or development in connection with a lawful purpose.”.

(2) DEFINITIONS.—Section 1029(e) of title 18, United States Code, is amended—

(A) by striking “and” at the end of paragraph (6);

(B) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(C) by striking the period at the end of paragraph (8); and

(D) by adding at the end the following:

“(9) the term ‘telecommunications service’ has the meaning given such term in section 3 of title I of the Communications Act of 1934 (47 U.S.C. 153);

“(10) the term ‘facilities-based carrier’ means an entity that owns communications transmission facilities, is responsible for the operation and maintenance of those facilities, and holds an operating license issued by the Federal Communications Commission under the authority of title III of the Communications Act of 1934; and

“(11) the term ‘telecommunication identifying information’ means electronic serial number or any other number or signal that identifies a specific telecommunications instrument or account, or a specific communication transmitted from a telecommunications instrument.”.



(e) AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR WIRELESS TELEPHONE CLONING.— 28 USC 994 note.

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, if appropriate, to provide an appropriate penalty for offenses involving the cloning of wireless telephones (including offenses involving an attempt or conspiracy to clone a wireless telephone).

(2) FACTORS FOR CONSIDERATION.—In carrying out this subsection, the Commission shall consider, with respect to the offenses described in paragraph (1)—

(A) the range of conduct covered by the offenses;

(B) the existing sentences for the offenses;

(C) the extent to which the value of the loss caused by the offenses (as defined in the Federal sentencing guidelines) is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(D) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to sentence above the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offenses;

(E) the extent to which the Federal sentencing guideline sentences for the offenses have been constrained by statutory maximum penalties;

(F) the extent to which Federal sentencing guidelines for the offenses adequately achieve the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code;

(G) the relationship of Federal sentencing guidelines for the offenses to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(H) any other factor that the Commission considers to be appropriate.

Approved April 24, 1998.

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LEGISLATIVE HISTORY—S. 493 (H.R. 2460):

HOUSE REPORTS: No. 105-418 accompanying H.R. 2460 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Nov. 10, considered and passed Senate.

Vol. 144 (1998): Feb. 26, considered and passed House, amended, in lieu of H.R. 2460.

Apr. 1, Senate concurred in House amendments.



Public Law 105–173  
105th Congress

An Act

Apr. 27, 1998  
[S. 1178]

To amend the Immigration and Nationality Act to modify and extend the visa waiver pilot program, and to provide for the collection of data with respect to the number of nonimmigrants who remain in the United States after the expiration of the period of stay authorized by the Attorney General.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF VISA WAIVER PILOT PROGRAM.**

8 USC 1187.

Section 217(f) of the Immigration and Nationality Act is amended by striking “1998.” and inserting “2000.”.

8 USC 1376.

**SEC. 2. DATA ON NONIMMIGRANT OVERSTAY RATES.**

(a) **COLLECTION OF DATA.**—Not later than the date that is 180 days after the date of the enactment of this Act, the Attorney General shall implement a program to collect data, for each fiscal year, regarding the total number of aliens within each of the classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) whose authorized period of stay in the United States terminated during the previous fiscal year, but who remained in the United States notwithstanding such termination.

(b) **ANNUAL REPORT.**—Not later than June 30, 1999, and not later than June 30 of each year thereafter, the Attorney General shall submit an annual report to the Congress providing numerical estimates, for each country for the preceding fiscal year, of the number of aliens from the country who are described in subsection (a).

**SEC. 3. QUALIFICATIONS FOR DESIGNATION AS PILOT PROGRAM COUNTRY.**

Section 217(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1187(c)(2)), is amended to read as follows:

“(2) **QUALIFICATIONS.**—Except as provided in subsection (g), a country may not be designated as a pilot program country unless the following requirements are met:

“(A) **LOW NONIMMIGRANT VISA REFUSAL RATE.**—Either—

“(i) the average number of refusals of nonimmigrant visitor visas for nationals of that country during—

“(I) the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years; and

“(II) either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year; or

“(ii) such refusal rate for nationals of that country during the previous full fiscal year was less than 3.0 percent.

“(B) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

“(C) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.”.

Approved April 27, 1998.

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LEGISLATIVE HISTORY—S. 1178 (H.R. 2578):

HOUSE REPORTS: No. 105–387 accompanying H.R. 2578 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Sept. 26, considered and passed Senate.

Vol. 144 (1998): Mar. 25, considered and passed House, amended, in lieu of H.R. 2578.

Apr. 1, Senate concurred in House amendments.



Public Law 105–174  
105th Congress

An Act

May 1, 1998  
[H.R. 3579]

Making emergency supplemental appropriations for the fiscal year ending September 30, 1998, and for other purposes.

1998  
Supplemental  
Appropriations  
and Rescissions  
Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1998, and for other purposes, namely:

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS  
FOR THE DEPARTMENT OF DEFENSE

CHAPTER 1

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$184,000,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$22,300,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$5,100,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$10,900,000: *Provided*, That such amount is designated by the

Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### RESERVE PERSONNEL, NAVY

For an additional amount for “Reserve Personnel, Navy”, \$4,100,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### OPERATION AND MAINTENANCE

##### OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$1,886,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

##### OPERATION AND MAINTENANCE, NAVY

For an additional amount for “Operation and Maintenance, Navy”, \$48,100,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

##### OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$27,400,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

##### OPERATION AND MAINTENANCE, DEFENSE-WIDE

###### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$1,390,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$125,528,000, for emergency expenses resulting from natural disasters in the United States: *Provided*, That the Secretary of Defense may transfer these funds to current applicable operation and maintenance and working capital funds appropriations, to be merged with and available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this provision is in addition to any transfer authority available to the Department of Defense: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement

pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$125,528,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for “Operation and Maintenance, Army Reserve”, \$650,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for “Operation and Maintenance, Air Force Reserve”, \$229,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Army National Guard”, \$175,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Overseas Contingency Operations Transfer Fund”, \$1,814,100,000, to remain available until expended: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the Secretary of Defense may transfer these funds to fiscal year 1998 appropriations for operation and maintenance, working capital funds, the Defense Health Program, procurement, and research, development, test and evaluation: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred, except that funds made available for or transferred to classified programs shall remain available until September 30, 1999: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained in Public Law 105-56.

## REVOLVING AND MANAGEMENT FUNDS

## NAVY WORKING CAPITAL FUND

For an additional amount for “Navy Working Capital Fund”, \$23,017,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## DEFENSE-WIDE WORKING CAPITAL FUND

For an additional amount for “Defense-Wide Working Capital Fund”, \$1,000,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## OTHER DEPARTMENT OF DEFENSE PROGRAMS

## DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$1,900,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## GENERAL PROVISIONS—THIS CHAPTER

SECTION 1. In addition to the amounts provided in Public Law 105-56, \$36,500,000 is appropriated under the heading “Overseas Humanitarian, Disaster, and Civic Aid”: *Provided*, That from the funds made available under that heading, the Secretary of Defense shall make a grant in the amount of \$16,500,000 to the American Red Cross for Armed Forces emergency services: *Provided further*, That from the funds made available under that heading, the Secretary of Defense shall make a grant in the amount of \$20,000,000 to the American Red Cross for reimbursement for disaster relief and recovery expenditures at overseas locations: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$36,500,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

Grants.  
American Red  
Cross.

SEC. 2. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 3. In addition to the amounts appropriated to the Department of Defense under Public Law 105-56, there is hereby appropriated \$47,000,000 for the “Reserve Mobilization Income Insurance Fund”, to remain available until expended: *Provided*, That such amount is designated by the Congress as an emergency requirement

pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$47,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

Reports.  
Records.

Reports.

SEC. 4. The President is urged to encourage other nations who are allies and friends of the United States to contribute to the burden being borne by the United States in preventing the government of Iraq from using Weapons of Mass Destruction, which pose a threat to the world community. The President is also urged to seek financial, in-kind and other contributions to help defray the costs being incurred by the United States in this operation. For this purpose, a special account shall be established in the Treasury which will accept such financial contributions, and from which funds will be subject to obligation through the normal appropriations process. The Secretary of Defense, after consultation with the Secretary of State, shall provide a report to the Congress within 60 days after enactment as to the status of this effort, and shall make a comprehensive account of the efforts made and results obtained to share the burden of the common defense. The Director of the Office of Management and Budget shall report to the Congress within 30 days as to the establishment of such burden-sharing account in the Department of the Treasury.

(INCLUDING TRANSFER OF FUNDS)

Establishment.

SEC. 5. (a) QUALITY ASSURANCE REPORT ON MILITARY HEALTH CARE.—The Secretary of Defense shall appoint an independent panel of experts to evaluate recent measures taken by the Acting Assistant Secretary of Defense for Health Affairs and the Surgeons General of the Army, Navy and Air Force to improve the quality of care provided by the Military Health Services System.

(b) MEMBERSHIP.—(1) The panel shall be composed of nine members appointed by the Secretary of Defense. At least five of those members shall be persons who are highly qualified in the medical arts, have experience in setting health care standards, and possess a demonstrated understanding of the military health care system and its unique mission requirements. The remaining members shall be persons who are current beneficiaries of the Military Health Services System.

(2) The Secretary shall designate one member to serve as chairperson of the panel.

(3) The Secretary shall appoint the members of this panel not later than 45 days after enactment of this Act.

(c) FUNCTIONS OF THE PANEL.—The panel shall review the Department of Defense Access and Quality Improvement Initiative announced in early 1998 (together with other related quality improvement actions) to assess whether all reasonable measures have been taken to ensure that the Military Health Services System delivers health care services in accordance with consistently high professional standards. The panel shall specifically assess actions of the Department to accomplish the following objectives of that initiative and related management actions:

(1) upgrade professional education and training requirements for military physicians and other health care providers;



(2) establish “Centers of Excellence” for complicated surgical procedures;

(3) make timely and complete reports to the National Practitioner Data Bank and eliminate associated reporting backlogs; Reports.

(4) assure that Military Health Services System providers are properly licensed and have appropriate credentials;

(5) reestablish the Quality Management Report to aid in early identification of compliance problems;

(6) improve communications with beneficiaries to provide comprehensive and objective information on the quality of care being provided;

(7) strengthen the National Quality Management Program;

(8) ensure that all laboratory work meets professional standards; and

(9) ensure the accuracy of patient data and information.

(d) REPORT.—Not later than six months after the date on which the panel is established, the panel shall submit to the Secretary a report setting forth its findings and conclusions, and the reasons therefor, and such recommendations it deems appropriate. The Secretary shall forward the report of the panel to Congress not later than 15 days after the date on which the Secretary receives it, together with the Secretary’s comments on the report.

(e) PANEL ADMINISTRATION.—(1) The members of the panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized by law for employees of agencies while away from their homes or regular places of business in the performance of services for the panel.

(2) Upon request of the chairperson of the panel, the Secretary of Defense may detail to the panel, on a nonreimbursable basis, personnel of the Department of Defense to assist the panel in carrying out its duties. The Secretary of Defense shall furnish to the panel such administrative and support services as may be requested by the chairman of the panel.

(f) PANEL FINANCING.—Of the funds appropriated in Public Law 105-56 for “Research, Development, Test and Evaluation, Navy”, \$4,700,000 shall be transferred to “Defense Health Program”, to be available through fiscal year 1999, only for administrative costs of this panel and for the express purpose of initiating or accelerating any activity identified by the panel that will improve the quality of health care provided by the Military Health Services System.

(TRANSFER OF FUNDS)

SEC. 6. Of the funds appropriated in Public Law 105-56, under the heading “Chemical Agents and Munitions Destruction, Defense” for Operation and maintenance, \$40,000,000 shall be transferred to “Operation and Maintenance, Defense-Wide”.

SEC. 7. (a) Congress urges the President to seek concurrence among the members of the North Atlantic Treaty Organization (NATO) on arrangements that set forth—

(1) the benchmarks for achieving a sustainable peace process that are detailed in the report accompanying the certification that was made by the President to Congress on March 3, 1998;

(2) estimated target dates for achieving the benchmarks; and

President.  
Reports.

(3) a process for NATO to review progress toward achieving the benchmarks.

(b) The President shall submit to Congress—

(1) not later than June 30, 1998, a report on efforts to gain agreement on arrangements described in subsection (a), and such report should include an explanation of the Administration's view of whether it would promote United States interests to adopt firm schedules or deadlines for achieving such benchmarks; and

(2) semiannually after that report, so long as United States ground combat forces continue to participate in the Stabilization Force for Bosnia (SFOR), a report on the progress made toward achieving the benchmarks referred to in subsection (a)(1), including any developments which may affect the ability of the relevant parties to achieve the benchmarks in a timely manner.

(c) The Congress urges the President to ensure that efforts to meet the estimated target dates described in this section do not jeopardize the safety of United States Armed Forces in Bosnia.

(d) The enactment of this section does not reflect approval or disapproval of the benchmarks submitted by the President in the certification to Congress transmitted on March 3, 1998.

SEC. 8. Notwithstanding any other provision of law, in the case of a person who is selected for training in a State program conducted under the National Guard Challenge Program and who obtains a general education diploma in connection with such training, the general education diploma shall be treated as equivalent to a high school diploma for purposes of determining the eligibility of the person for enlistment in the Armed Forces.

SEC. 9. In addition to the amounts provided in Public Law 105-56, \$179,000,000 is appropriated under the heading "Research, Development, Test and Evaluation, Defense-Wide": *Provided*, That the additional amount shall be made available for enhancements to selected theater missile defense programs to counter enhanced ballistic missile threats: *Provided further*, That of the additional amount appropriated, \$45,000,000 shall be made available only for the purpose of adjusting the cost-share of the parties under the Agreement between the Department of Defense and the Ministry of Defence of Israel for the Arrow Deployability Program: *Provided further*, That of the additional amount appropriated, \$38,000,000 shall be made available only for the Sea-Based Wide Area Defense (Navy Upper-Tier) Program: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$179,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

SEC. 10. (a)(1) The Secretary of Defense may enter into a lease or acquire any other interest in the parcels of land described in paragraph (2). The parcels consist in aggregate of approximately 90 acres.

(2) The parcels of land referred to in paragraph (1) are the following land used for the commercial production of cranberries:

(A) The parcels known as the Mashpee bogs, located on the Quashnet River adjacent to the Massachusetts Military Reservation, Massachusetts.

(B) The parcels known as the Falmouth bogs, located on the Coonamessett River adjacent to the Massachusetts Military Reservation, Massachusetts.

(3) The term of any lease or other interest acquired under paragraph (1) may not exceed two years.

(4) Any lease or other real property interest acquired under paragraph (1) shall be subject to such other terms and conditions as are agreed upon jointly by the Secretary and the person or entity entering into the lease or extending the interest.

(b) Of the amounts appropriated or otherwise made available for the Department of Defense for fiscal year 1998, up to \$2,000,000 may be available to acquire interest under subsection (a).

SEC. 11. In addition to the amounts provided in Public Law 105-56, \$272,500,000 is appropriated under the heading "Aircraft Procurement, Navy": *Provided*, That the additional amount shall be made available only for the procurement of eight F/A-18 aircraft for the United States Marine Corps: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$272,500,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

SEC. 12. Funds appropriated in fiscal year 1997, 1998 and hereafter for the Pacific Disaster Center may be obligated to carry out such missions as the Secretary of Defense may specify for disaster information management supporting mitigation, preparedness, response and recovery from this Federal facility and assuring critical infrastructure availability and humanitarian assistance at the Federal, State, local and regional levels in the geographic area of responsibility of the Commander in Chief, Pacific and beyond in support of the Global Disaster Information Network as appropriate.

(INCLUDING TRANSFER OF FUNDS)

SEC. 13. Of the funds provided in Public Law 105-56 for "Research, Development, Test and Evaluation, Navy", \$300,000 shall be transferred to "Operation and Maintenance, Defense-Wide": *Provided*, That the Secretary of Defense shall make grants from the "Operation and Maintenance, Defense-Wide" account in the total amount of not to exceed \$300,000 to the Outdoor Odyssey at Roaring Run to initiate a youth development and leadership program.

Grants.

SEC. 14. Notwithstanding section 7306 of title 10 United States Code, and any other provision of law, of the funds made available to the Department of the Navy by Public Law 105-56, \$3,000,000 may be used only for disposal of residual fuel contained on the U.S.S. Alabama.

SEC. 15. Notwithstanding any other provision of law, funds appropriated for the Defense Health Program for fiscal year 1998 may be used to provide health benefits under section 1086 of title 10, United States Code, to a person who is described in paragraph

(1) of subsection (d) of such section, would be eligible for health benefits under such section in the absence of such paragraph (1), and satisfies the requirements of subparagraphs (A) and (B) of paragraph (2) of such subsection (d), if the Secretary of Defense considers that the provision of health benefits under such section is appropriate to ensure health care coverage for such a person who may have been unaware of the termination of the person's eligibility for such health benefits.

(INCLUDING TRANSFER OF FUNDS)

SEC. 16. In addition to the amounts provided in Public Law 105-56, \$28,000,000, to remain available until expended, is appropriated and shall be available for deposit in the International Trust Fund of the Republic of Slovenia, Mine Clearance, and Assistance to Mine Victims in Bosnia and Herzegovina (the "Fund") and other land mine-affected countries in the region: *Provided*, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes a designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to the Congress by the President: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act: *Provided further*, That the amount designated as an emergency shall be transferred to the Department of State for administration: *Provided further*, That such amount may be deposited in the Fund in two equal annual installments, upon emergency designation, only if the President certifies annually to the Congress of the United States that such amounts could be used effectively and for objectives consistent with ongoing efforts to carry out humanitarian demining activities in and around Bosnia: *Provided further*, That such amount may be deposited in the Fund only to the extent of deposits of matching amounts in that Fund by other governments, entities, or persons.

SEC. 17. It is the sense of the Congress that none of the funds appropriated or otherwise made available by this Act may be made available for the conduct of offensive operations by United States Armed Forces against Iraq for the purpose of obtaining compliance by Iraq with United Nations Security Council Resolutions relating to inspection and destruction of weapons of mass destruction in Iraq unless such operations are specifically authorized by a law enacted after the date of the enactment of this Act.

SEC. 18. CAVALESE, ITALY AIR TRAGEDY.—The United States Congress expresses regret and extends its deepest sympathies to the families of the victims for the tragic incident involving Marine Corps aircraft near Cavalese, Italy on February 3, 1998. The Secretary of Defense shall make available on a timely basis all legal and other technical assistance necessary to facilitate the expeditious processing and resolution of legitimate claims for wrongful death, loss of business and profits, and property damage under the procedures set forth under the NATO Status of Forces Agreement. The Secretary of Defense shall ensure that any claim to replace the destroyed funicular system before the upcoming winter tourist season be considered on a priority basis.

Claims.

## CHAPTER 2

## DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

## MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for “Military Construction, Army National Guard” to cover costs arising from storm related damage, \$3,700,000, to be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## FAMILY HOUSING, NAVY AND MARINE CORPS

For an additional amount for “Family Housing, Navy and Marine Corps” to cover costs arising from Typhoon Paka related damage, \$15,600,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for “Family Housing, Navy and Marine Corps” to cover costs arising from El Niño related damage, \$2,500,000, to be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## FAMILY HOUSING, AIR FORCE

For an additional amount for “Family Housing, Air Force” to cover costs arising from Typhoon Paka related damage, \$1,500,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for “Family Housing, Air Force” to cover costs arising from El Niño related damage, \$900,000, to be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

For an additional amount for “Base Realignment and Closure Account, Part III” to cover costs arising from El Niño related damage, \$1,020,000, to be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## GENERAL PROVISION—THIS CHAPTER

SEC. 20. Notwithstanding any other provision of law, using amounts appropriated in Public Law 104-196 for “Military Construction, Navy”, for the military construction project for North Island Naval Air Station, California, and contributions (if any) provided by the State of California and local governments to support that project, the Secretary of the Navy, in cooperation with local governments, shall carry out beach replenishment in connection with that project using sand obtained from any location. The contributions (if any) provided by the State of California and local governments shall be available only for beach replenishment activities performed after the date of the enactment of this Act.

## TITLE II—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

## CHAPTER 1

## DEPARTMENT OF AGRICULTURE

## FARM SERVICE AGENCY

## AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For additional gross obligations for the principal amount of emergency insured loans authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, for losses in fiscal year 1998 resulting from natural disasters, \$87,400,000.

For the additional cost of emergency insured loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, \$21,000,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent that an official budget request for \$21,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

## EMERGENCY CONSERVATION PROGRAM

For an additional amount for the “Emergency Conservation Program” for expenses resulting from natural disasters,

\$30,000,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent that an official budget request for \$30,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

For an additional amount for the “Emergency Conservation Program” to provide cost-sharing assistance to maple producers to replace taps and tubing that were damaged by ice storms in northeastern States in 1998, \$4,000,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent that an official budget request for \$4,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

#### TREE ASSISTANCE PROGRAM

An amount of \$14,000,000 is provided for assistance to replace or rehabilitate trees, excluding trees used for pulp and/or timber, and vineyards damaged by natural disasters: *Provided*, That the entire amount shall be available only to the extent that an official budget request for \$14,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

#### COMMODITY CREDIT CORPORATION FUND

##### LIVESTOCK DISASTER ASSISTANCE PROGRAM

Effective only for losses incurred beginning on November 27, 1997, through the date of enactment of this Act, \$4,000,000 to implement a livestock indemnity program to compensate producers for losses of livestock (including ratites) due to natural disasters designated pursuant to a Presidential or Secretarial declaration requested during such a period in a manner similar to catastrophic loss coverage available for other commodities under 7 U.S.C. 1508(b): *Provided*, That the entire amount shall be available only to the extent that an official budget request for \$4,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

Effective date.

## DAIRY PRODUCTION DISASTER ASSISTANCE PROGRAM

Effective date.

Effective only for natural disasters beginning on November 27, 1997, through the date of enactment of this Act, \$6,800,000 to implement a dairy production indemnity program to compensate producers at a payment rate of \$4.00 per hundredweight for losses of milk that had been produced but not marketed or for diminished production (including diminished future production due to mastitis) due to natural disasters designated pursuant to a Presidential or Secretarial declaration requested during such period: *Provided*, That payments for diminished production shall be determined on a per head basis derived from a comparison to a like production period from the previous year, the disaster period is 180 days starting with the date of the disasters and the payment rate shall be \$4.00 per hundredweight of milk: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$6,800,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

## NATURAL RESOURCES CONSERVATION SERVICE

## WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for “Watershed and Flood Prevention Operations” to repair damages to the waterways and watersheds resulting from natural disasters, \$80,000,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent that an official budget request for \$80,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

## CHAPTER 2

## UNITED STATES INFORMATION AGENCY

## INTERNATIONAL BROADCASTING OPERATIONS

Reports.

For an additional amount for “International Broadcasting Operations”, \$5,000,000, to remain available until September 30, 1999, for a grant to Radio Free Europe/Radio Liberty for surrogate radio broadcasting to the Iraqi people: *Provided*, That such broadcasting shall be designated “Radio Free Iraq”: *Provided further*, That within 30 days of enactment into law of this Act the Broadcasting Board of Governors shall submit a detailed report to the appropriate committees of Congress on plans to establish a surrogate broadcasting service to Iraq: *Provided further*, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire



amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

### CHAPTER 3

#### DEPARTMENT OF DEFENSE—CIVIL

##### DEPARTMENT OF THE ARMY

##### CORPS OF ENGINEERS—CIVIL

##### OPERATION AND MAINTENANCE, GENERAL

For emergency repairs due to flooding and other natural disasters, \$105,185,000, to remain available until expended, of which such amounts for eligible navigation projects which may be derived from the Harbor Maintenance Trust Fund pursuant to Public Law 99–662, shall be derived from that Fund: *Provided*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### DEPARTMENT OF THE INTERIOR

##### BUREAU OF RECLAMATION

##### WATER AND RELATED RESOURCES

For an additional amount for “Water and Related Resources” to repair damage caused by floods and other natural disasters, \$4,520,000, to remain available until expended, which shall be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## CHAPTER 4

## DEPARTMENT OF THE INTERIOR

## BUREAU OF LAND MANAGEMENT

## CONSTRUCTION

For an additional amount for “Construction”, \$1,837,000, to remain available until expended, to repair damage caused by floods and other natural disasters: *Provided*, That the entire amount shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## UNITED STATES FISH AND WILDLIFE SERVICE

## CONSTRUCTION

For an additional amount for “Construction”, \$32,818,000, to remain available until expended, to repair damage caused by floods and other natural disasters: *Provided*, That of such amount, \$29,130,000 shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## NATIONAL PARK SERVICE

## CONSTRUCTION

For an additional amount for “Construction” to repair damage caused by floods and other natural disasters, \$9,506,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

## UNITED STATES GEOLOGICAL SURVEY

## SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for “Surveys, Investigations, and Research” for emergency expenses resulting from floods and other natural disasters, \$1,198,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the

extent that an official budget request that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

#### BUREAU OF INDIAN AFFAIRS

##### CONSTRUCTION

For an additional amount for “Construction”, \$1,065,000, to remain available until expended, of which \$700,000 is to repair damage caused by floods and other natural disasters, and \$365,000 is for replacement of fixtures and testing for and remediation of Polychlorinated biphenyls (PCBs) in Bureau of Indian Affairs schools and administrative facilities: *Provided*, That the entire amount shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### DEPARTMENT OF AGRICULTURE

##### FOREST SERVICE

##### STATE AND PRIVATE FORESTRY

For an additional amount for “State and Private Forestry” for emergency expenses resulting from damages from ice storms, tornadoes and other natural disasters, \$48,000,000, to remain available until expended: *Provided*, That of such amount, \$28,000,000 shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

##### NATIONAL FOREST SYSTEM

For an additional amount for the “National Forest System” for emergency expenses resulting from damages from ice storms, tornadoes and other natural disasters, \$10,461,000, to remain available until expended: *Provided*, That of such amount, \$5,461,000 shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount

is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### WILDLAND FIRE MANAGEMENT

For an additional amount for “Wildland Fire Management” for emergency expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, and for emergency rehabilitation of burned-over National Forest System lands, in response to damages caused by windstorms in Texas, \$2,000,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### DEPARTMENT OF ENERGY

##### STRATEGIC PETROLEUM RESERVE

111 Stat. 1580.

The paragraph under this heading in Public Law 105-83 is amended by inserting before the period “: *Provided further*, That the drawdown and sale of oil from the Strategic Petroleum Reserve shall be prohibited to the extent that such actions are determined by the President to be imprudent in light of current market conditions and that an official budget request for a prohibition of the drawdown and sale of oil from the Strategic Petroleum Reserve and including a designation of the entire request and the \$207,500,000 of revenue foregone as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act”.

#### CHAPTER 5

#### DEPARTMENT OF TRANSPORTATION

##### FEDERAL HIGHWAY ADMINISTRATION

##### FEDERAL-AID HIGHWAYS

##### EMERGENCY RELIEF PROGRAM

##### (HIGHWAY TRUST FUND)

For an additional amount for the Emergency Relief Program for emergency expenses resulting from floods and other natural disasters, as authorized by 23 U.S.C. 125, \$259,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That the entire amount is designated

by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That of such amount, \$35,000,000 shall be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in such Act is transmitted by the President to the Congress: *Provided further*, That any obligations for the Emergency Relief Program shall not be subject to the prohibition against obligations in section 2(e)(3)(A) and (D) of the Surface Transportation Extension Act of 1997: *Provided further*, That 23 U.S.C. 125(b)(1) shall not apply to projects resulting from flooding during the fall of 1997 through the winter of 1998 in California: *Provided further*, That if sufficient carryover balances for the necessary expenses for administration and operation (including motor carrier safety program operations) of the Federal Highway Administration, the National Highway Traffic Safety Administration, and the Bureau of Transportation Statistics are not available, and pending the reauthorization of the Federal-aid highways program, the Secretary of Transportation may borrow such sums as may be necessary for such expenses from the unobligated balances of discretionary allocations for the Federal-aid highways program made available by this Act.

#### FEDERAL RAILROAD ADMINISTRATION

##### EMERGENCY RAILROAD REHABILITATION AND REPAIR

For necessary expenses to repair and rebuild freight rail lines of regional and short line railroads or a State entity damaged by floods that occurred between and including September 1996 and March 1998, \$9,800,000, to be awarded to the States subject to the discretion of the Secretary on a case-by-case basis: *Provided*, That funds provided under this heading shall be available for rehabilitation of railroad rights-of-way, bridges, and other facilities which are part of the general railroad system of transportation, and primarily used by railroads to move freight traffic: *Provided further*, That railroad rights-of-way, bridges, and other facilities owned by class I railroads are not eligible for funding under this heading unless the rights-of-way, bridges, or other facilities are under contract lease to a class II or class III railroad under which the lessee is responsible for all maintenance costs of the line: *Provided further*, That railroad rights-of-way, bridges, and other facilities owned by passenger railroads, or by tourist, scenic, or historic railroads are not eligible for funding under this heading: *Provided further*, That these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That all funds made available under this heading are to remain available until September 30, 1998.

## CHAPTER 6

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## COMMUNITY PLANNING AND DEVELOPMENT

## COMMUNITY DEVELOPMENT BLOCK GRANTS

For an additional amount for “Community development block grants”, as authorized under title I of the Housing and Community Development Act of 1974, \$130,000,000, which shall remain available until September 30, 2001, for use only for disaster relief, long-term recovery, and mitigation in communities affected by Presidentially-declared natural disasters designated during fiscal year 1998, except for those activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency, the Small Business Administration, or the Army Corps of Engineers: *Provided*, That in administering these amounts and except as provided in the next proviso, the Secretary of Housing and Urban Development (the Secretary) may waive or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds, except for statutory requirements related to civil rights, fair housing and nondiscrimination, the environment, and labor standards, upon a finding that such waiver is required to facilitate the use of such funds and would not be inconsistent with the overall purpose of the statute: *Provided further*, That the Secretary may waive the requirements that activities benefit persons of low- and moderate-income, except that at least 50 percent of the funds under this heading must benefit primarily persons of low- and moderate-income unless the Secretary makes a finding of compelling need: *Provided further*, That all funds under this heading shall be allocated by the Secretary to States to be administered by each State in conjunction with its Federal Emergency Management Agency program or its community development block grants program or by the entity designated by its Chief Executive Officer to administer the HOME Investment Partnerships Program: *Provided further*, That each State shall provide not less than 25 percent in non-Federal public matching funds or its equivalent value (other than administrative costs) for any funds allocated to the State under this heading: *Provided further*, That, in conjunction with the Director of the Federal Emergency Management Agency, the Secretary shall allocate funds based on the unmet needs identified by the Director as those which have not or will not be addressed by other Federal disaster assistance programs: *Provided further*, That, in conjunction with the Director, the Secretary shall utilize annual disaster cost estimates in order that the funds under this heading shall be available, to the maximum extent feasible, to assist States with all Presidentially declared disasters designated during this fiscal year: *Provided further*, That the Secretary shall publish a notice in the Federal Register governing the allocation and use of the community development block grants funds made available under this heading for disaster areas: *Provided further*, That 10 days prior to distribution of funds, the Secretary and the Director shall submit a list to the House and Senate Appropriations Subcommittees on VA, HUD and Independent Agencies, setting forth the proposed uses of funds and the most recent estimates of unmet

Federal Register,  
publication.

Records.

needs (including all uses of waivers and the reasons therefore): *Provided further*, That the Secretary and the Director shall submit quarterly reports to the Subcommittees regarding the actual projects, localities and needs for which funds have been provided: *Provided further*, That these reports shall be based upon quarterly reports submitted to HUD and the Director by each State receiving funds under this heading: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. Records.

## INDEPENDENT AGENCY

### FEDERAL EMERGENCY MANAGEMENT AGENCY

#### DISASTER RELIEF

For an additional amount for “Disaster relief”, \$1,600,000,000, to remain available until expended: *Provided*, That these funds shall be available only to the extent that an official budget request for a specific amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That the entire amount appropriated herein is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## CHAPTER 7

### RESCISSIONS

#### DEPARTMENT OF TRANSPORTATION

##### FEDERAL AVIATION ADMINISTRATION

###### GRANTS-IN-AID FOR AIRPORTS

###### (AIRPORT AND AIRWAY TRUST FUND)

###### (RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized under 49 U.S.C. 48103 as amended, \$241,000,000 are rescinded.

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## PUBLIC AND INDIAN HOUSING

## SECTION 8 RESERVE PRESERVATION ACCOUNT

## (RESCISSION)

Of the amounts recaptured under this heading during fiscal year 1998 and prior years, \$2,347,190,000 are rescinded.

## TITLE III—SUPPLEMENTAL APPROPRIATIONS

## CHAPTER 1

## DEPARTMENT OF AGRICULTURE

## OFFICE OF THE SECRETARY

During fiscal year 1998, not to exceed \$543,000 from funds available to the Secretary of Agriculture to provide compensation to agriculture producers and other persons under section 105(b) of the Federal Plant Pest Act (7 U.S.C. 150dd(b)) may be available for payments to any person who had wheat stored in a storage facility that was subject to an emergency action notice issued by the Secretary relating to the presence or presumed presence of Karnal bunt to compensate the person for economic losses incurred as a result of the effect of the notice on the operation of the storage facility (including wheat plowed under in calendar year 1996) after issuance of an emergency action notice due to Karnal bunt. The determination by the Secretary of the amount of any compensation to be paid under this section shall be final.

## DEPARTMENTAL ADMINISTRATION

For an additional amount for “Departmental Administration”, \$2,000,000.

## OFFICE OF THE GENERAL COUNSEL

For an additional amount for the “Office of the General Counsel”, \$235,000.

## GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

## INSPECTION AND WEIGHING SERVICES

For expenses necessary to recapitalize the revolving fund established under section 7(j)(1) of the United States Grain Standards Act (7 U.S.C. 79(j)(1)), \$1,500,000.

## FARM SERVICE AGENCY

## AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For additional gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, \$43,320,000, of which



\$25,000,000 shall be available for guaranteed loans; operating loans, \$105,000,000, of which \$35,000,000 shall be for subsidized guaranteed loans; and for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, \$18,814,000.

For the additional cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, \$3,356,000, of which \$967,000 shall be for guaranteed loans; operating loans, \$7,973,000, of which \$3,374,000 shall be for subsidized guaranteed loans; and for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, \$222,000.

#### FOOD STAMP PROGRAM

Of the amounts made available under this heading in Public Law 105-86, funds for employment and training shall remain available until expended as authorized by section 16(h)(1) of the Food Stamp Act.

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### FOOD AND DRUG ADMINISTRATION

##### SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" from fees collected pursuant to section 736 of the Federal Food, Drug, and Cosmetic Act, not to exceed \$25,918,000, to remain available until expended: *Provided*, That fees derived from applications received during fiscal year 1998 shall be credited to the appropriation current in the year in which fees are collected and subject to the fiscal year 1998 limitation.

### GENERAL PROVISIONS—THIS CHAPTER

SEC. 1001. Notwithstanding any other provision of law, permanent employees of county committees employed during fiscal year 1998 pursuant to 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall be considered as having Federal Civil Service status only for the purpose of applying for United States Department of Agriculture Civil Service vacancies.

SEC. 1002. Notwithstanding any other provision of law regarding a competitive research, education, or extension grant program of the Department of Agriculture, the Secretary may use grant program funds, as necessary, to supplement funds otherwise available for program administration, to pay for the costs associated with peer review of grant proposals under the program.

## CHAPTER 2

### DEPARTMENT OF ENERGY

#### DEPARTMENTAL ADMINISTRATION

Such additional amounts as necessary, not to exceed \$5,408,000, to cover increases in the estimated amount of cost of Work For Others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost

of Work For Others are offset by revenue increases of the same or greater amount derived from fees authorized by sections 31 and 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2051 and 2053), to remain available until expended.

#### GENERAL PROVISIONS—THIS CHAPTER

SEC. 2001. Notwithstanding any other provisions of law, no fully allocated funding policy shall be applied to projects for which funds were identified in the Conference Report (House Report 105-271) accompanying the Energy and Water Development Appropriations Act, 1998, Public Law 105-62 (111 Stat. 1320 et seq.), under the Construction, General; Operation and Maintenance, General; and Flood Control, Mississippi River and Tributaries, appropriation accounts: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake these projects using continuing contracts, as authorized in section 10 of the Rivers and Harbors Act of September 22, 1922 (33 U.S.C. 621).

SEC. 2002. The Secretary of the Army, acting through the Chief of Engineers, is directed to use available funds, up to the maximum amount authorized per project under section 205 of the Flood Control Act of 1948, as amended, to provide a level of enhanced flood protection at Elba, Alabama.

SEC. 2003. Section 2 of the Emergency Drought Relief Act of 1996 (Public Law 104-318; 110 Stat. 3862) is amended by adding at the end the following new section:

“(c) EXTENSION OF PERIODS FOR REPAYMENT.—Notwithstanding any provision of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.), the Secretary of the Interior—

“(1) shall extend the period for repayment by the City of Corpus Christi, Texas, and the Nueces River Authority under contract No. 6-07-01-x0675, relating to the Nueces River reclamation project, Texas, until—

“(A) August 1, 2029 for repayment pursuant to the municipal and industrial water supply benefits portion of the contract; and

“(B) until August 1, 2044 for repayment pursuant to the fish and wildlife and recreation benefits portion of the contract; and

“(2) shall extend the period for repayment by the Canadian River Municipal Water Authority under contract No. 14-06-500-485 relating to the Canadian River reclamation project, Texas, until October 1, 2021.”.

SEC. 2004. Section 303 of the Energy and Water Development Appropriations Act, 1998 (Public Law 105-62), does not apply to the worker transition plan for the Pinellas Plant site.

#### CHAPTER 3

#### DEPARTMENT OF THE INTERIOR

#### NATIONAL PARK SERVICE

#### OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for “Operation of the National Park System”, \$340,000, to remain available until expended, to provide for public access at Katmai National Park and Preserve and for

Reports.

litigation costs related to the disposition of an allotment within the Park.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For an additional amount for “Royalty and Offshore Minerals Management” to meet increased demand and workload requirements stemming from higher than anticipated leasing activity in the Gulf of Mexico, \$6,675,000, to remain available until expended, to be derived from increased receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for Outer Continental Shelf administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for Outer Continental Shelf administrative activities established after September 30, 1993.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

ABANDONED MINE RECLAMATION FUND

(TRANSFER OF FUNDS)

For an additional amount for the “Abandoned Mine Reclamation Fund”, \$3,163,000, to be derived by transfer from amounts available in Public Law 105-83 under the heading, “Regulation and Technology”, and to be subject to the same terms and conditions of the account to which transferred.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for “Operation of Indian Programs”, \$1,050,000, to remain available until expended, for the cost of document collection and production, including electronic imaging, required to support litigation involving individual Indian trust fund accounts.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For an additional amount for “Federal Trust Programs”, \$4,650,000, to remain available until expended, for the cost of document collection and production, including electronic imaging, required to support litigation involving individual Indian trust fund accounts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For an additional amount for “Indian Health Services”, \$100,000, to remain available until expended, for suicide prevention counseling.

## GENERAL PROVISIONS—THIS CHAPTER

42 USC 254c-3.

SEC. 3001. Section 330C(c) of subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.), as amended by section 4922 of Public Law 105-33, is further amended by inserting “, to remain available until expended,” after the words “fiscal years 1998 through 2002, \$30,000,000”.

SEC. 3002. Construction of the Trappers Loop connector road, and any related actions, by any Federal or state agency or other entity are deemed to be non-discretionary actions authorized and directed by Congress under title III, section 304(e)(3) of the Omnibus Parks and Public Lands Management Act of 1996 (110 Stat. 4093).

SEC. 3003. Neither the issuance by the United States of an easement on and across National Forest lands for the Boulder City Pipeline (also known as Lakewood Pipeline) nor the acceptance of such easement by the City of Boulder, Colorado, nor the relocation of such pipeline on such easement, shall cause, be construed as, or result in the abandonment, termination, relinquishment, revocation, limitation, or diminution of any rights claimed by such city pursuant to or as a result of any prior grant, including the Act of July 26, 1866 (43 U.S.C. 661) and the Acts authorizing the conveyance of such city of the Silver Lake Watershed. The alignment of the relocated pipeline shall be considered neither more nor less within the scope of any prior grants than the alignment of the pipeline existing prior to the issuance of such easement.

SEC. 3004. Notwithstanding any other provision of law, the Secretary of the Interior, through the Bureau of Indian Affairs, may hereafter directly transfer to Indian tribes in North and South Dakota portable housing units at the Grand Forks Air Force Base in North Dakota that have been declared excess by the Department of Defense and requested for transfer by the Department of the Interior: *Provided*, That the Department of the Interior shall not be responsible for rehabilitation of the portable housing units or remediation of any potentially hazardous substances.

Petroglyph  
National  
Monument  
Boundary  
Adjustment Act.  
New Mexico.  
16 USC 431 note.

SEC. 3005. PETROGLYPH NATIONAL MONUMENT. (a) SHORT TITLE.—This section may be cited as the “Petroglyph National Monument Boundary Adjustment Act”.

(b) FINDINGS.—Congress finds that—

(1) the purposes for which Petroglyph National Monument (referred to in this section as “the monument”) was established continue to be valid;

(2) it is of mutual benefit to the trustee institutions of the New Mexico State Trust lands and the National Park Service for land exchange negotiations to be completed with all due diligence, resulting in the transfer of all State Trust lands within the boundaries of the monument to the United States in accordance with State and Federal law;

(3) because the city of Albuquerque, New Mexico, has acquired substantial acreage within the monument boundaries, purchased with State and municipal funds, the consolidation of land ownership and jurisdiction under the National Park Service will require the consent of the city of Albuquerque, and options for National Park Service acquisition that are not currently available;

(4) corridors for the development of Paseo del Norte and Unser Boulevard are depicted on the map referred to in section 102(a) of the Petroglyph National Monument Establishment

Act of 1990 (Public Law 101-313; 16 U.S.C. 431 note), and the alignment of the roadways was anticipated by Congress before the date of enactment of the Act;

(5) it was the expectation of the principal proponents of the monument, including the cities of Albuquerque and Rio Rancho, New Mexico, and the National Park Service, that passage of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101-313; 16 U.S.C. 431 note) would allow the city of Albuquerque—

(A) to utilize the Paseo del Norte and Unser Boulevard corridors through the monument; and

(B) to design and construct infrastructure within the corridors with the cultural and natural resources of the monument in mind;

(6) the city of Albuquerque has not provided for the establishment of rights-of-way for the Paseo del Norte and Unser Boulevard corridors under the Joint Powers Agreement (JPANO 78-521.81-277A), which expanded the boundary of the monument to include the Piedras Marcadas and Boca Negra units, pursuant to section 104 of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101-313; 16 U.S.C. 431 note);

(7) the National Park Service has identified the realignment of Unser Boulevard, depicted on the map referred to in section 102(a) of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101-313; 16 U.S.C. 431 note), as serving a park purpose in the General Management Plan/Development Concept Plan for Petroglyph National Monument;

(8) the establishment of a citizens' advisory committee prior to construction of the Unser Boulevard South project, which runs along the eastern boundary of the Atrisco Unit of the monument, allowed the citizens of Albuquerque and the National Park Service to provide significant and meaningful input into the parkway design of the road, and that similar proceedings should occur prior to construction within the Paseo del Norte corridor;

(9) parkway standards approved by the city of Albuquerque for the construction of Unser Boulevard South along the eastern boundary of the Atrisco Unit of the monument would be appropriate for a road passing through the Paseo del Norte corridor;

(10) adequate planning and cooperation between the city of Albuquerque and the National Park Service is essential to avoid resource degradation within the monument resulting from storm water runoff, and drainage conveyances through the monument should be designed and located to provide sufficient capacity for effective runoff management; and

(11) the monument will best be managed for the benefit and enjoyment of present and future generations with cooperation between the city of Albuquerque, the State of New Mexico, and the National Park Service.

(c) PLANNING AUTHORITY.—

(1) STORM WATER DRAINAGE.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the National Park Service (referred to in this section as the "Secretary"), and the city of Albuquerque, New Mexico, shall enter into negotiations to

provide for the management of storm water runoff and drainage within the monument, including the design and construction of any storm water corridors, conveyances, and easements within the monument boundaries.

(2) ROAD DESIGN.—

(A) If the city of Albuquerque decides to proceed with the construction of a roadway within the area excluded from the monument by the amendment made by subsection (d), the design criteria shall be similar to those provided for the Unser Boulevard South project along the eastern boundary of the Atrisco Unit, taking into account topographic differences and the lane, speed and noise requirements of the heavier traffic load that is anticipated for Paseo del Norte, as referenced in section A-2 of the Unser Middle Transportation Corridor Record of Decision prepared by the city of Albuquerque dated December 1993.

(B) At least 180 days before the initiation of any road construction within the area excluded from the monument by the amendment made by subsection (d), the city of Albuquerque shall notify the Director of the National Park Service (hereinafter “the Director”), who may submit suggested modifications to the design specifications of the road construction project within the area excluded from the monument by the amendment made by subsection (d).

(C) If after 180 days, an agreement on the design specifications is not reached by the city of Albuquerque and the Director, the city may contract with the head of the Department of Civil Engineering at the University of New Mexico, to design a road to meet the design criteria referred to in subparagraph (A). The design specifications developed by the Department of Civil Engineering shall be deemed to have met the requirements of this paragraph, and the city may proceed with the construction project, in accordance with those design specifications.

(d) ACQUISITION AUTHORITY; BOUNDARY ADJUSTMENT; ADMINISTRATION AND MANAGEMENT OF THE MONUMENT.—

(1) ACQUISITION AUTHORITY.—Section 103(a) of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101-313; 16 U.S.C. 431 note) is amended—

(A) by striking “(a) The Secretary” and inserting the following:

“(a) AUTHORITY.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary”;

(B) by striking “, except that lands or interests therein owned by the State or a political subdivision thereof may be acquired only by donation or exchange”; and

(C) by adding at the end the following:

“(2) LAND OWNED BY THE STATE OR A POLITICAL SUBDIVISION.—No land or interest in land owned by the State or a political subdivision of the State may be acquired by purchase before—

“(A) the State or political subdivision holding title to the land or interest in land identifies the land or interest in land for disposal; and

“(B)(i) all private land within the monument boundary for which there is a willing seller is acquired; or

“(ii) 2 years have elapsed after the date on which the Secretary has made a final offer (for which funds are available) to acquire all remaining private land at fair market value.”.

(2) BOUNDARY ADJUSTMENT.—Section 104(a) of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101-313; 16 U.S.C. 431 note) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(B) by inserting “(1)” after “(a)”;

(C) by adding at the end the following:

“(2)(A) Notwithstanding paragraph (1), effective as of the date of enactment of this subparagraph—

“(i) the boundary of the monument is adjusted to exclude the Paseo Del Norte corridor in the Piedras Marcadas Unit described in Exhibit B of the document described in subparagraph (B); and

“(ii) the inclusion of the Paseo Del Norte corridor within the boundary of the monument before the date of enactment of this paragraph shall have no effect on any future ownership, use, or management of the corridor.

“(B) The document described in this subparagraph is the document entitled ‘Petroglyph National Monument Roadway/Utility Corridors’, dated October 30, 1997, on file with the Secretary of the Interior and the mayor of the city of Albuquerque, New Mexico.”.

(e) ADMINISTRATION AND MANAGEMENT OF THE MONUMENT.—Section 105 of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101-313; 16 U.S.C. 431 note) is amended by adding at the end the following:

“(f) BOCA NEGRA AND PIEDRAS MARCADAS UNITS.—If the binding agreement providing for the expansion of the monument pursuant to section 104 is amended, in accordance with the terms of the agreement, to transfer to the National Park Service responsibility for operation, maintenance, and repair of any or all property within the Boca Negra or Piedras Marcadas Unit of the monument, the Secretary may employ, at a comparable grade and salary within the National Park Service, any willing employees of the city assigned to the Unit.”.

(f) DOUBLE EAGLE II AIRPORT ACCESS ROAD.—The Administrator of the Federal Aviation Administration shall allow the use of the access road to the Double Eagle II Airport in existence on the date of enactment of this Act for visitor access to the monument.

SEC. 3006. COUNTY PAYMENT MITIGATION—TRANSPORTATION SYSTEM MORATORIUM. (a)(1) This section provides compensation for loss of revenues that would have been provided to counties if no road moratorium, as described in subsection (a)(2), were implemented or no substitute sales offered as described in subsection (b)(1). This section does not endorse or prohibit the road building moratorium nor does it affect the applicability of existing law to any moratorium.

(2) The Chief of the Forest Service, Department of Agriculture, in his sole discretion, may offer any timber sales that were scheduled October 1, 1997, or thereafter, to be offered in fiscal year 1998 or fiscal year 1999 even if such sales would have been delayed or halted as a result of any moratorium (resulting from the Federal

16 USC 1608  
note.

Register proposal of January 28, 1998, pages 4351-4354) on construction of roads in roadless areas within the National Forest System adopted as policy or by regulation that would otherwise be applicable to such sales.

(3) Any sales offered pursuant to subsection (a)(2) shall—

(A) comply with all applicable laws and regulations and be consistent with applicable land and resource management plans, except any regulations or plan amendments which establish or implement the moratorium referred to in subsection (a)(2); and

(B) be subject to administrative appeals pursuant to part 215 of title 36 of the Code of Federal Regulations and to judicial review.

(b)(1) For any previously scheduled sales that are not offered pursuant to subsection (a)(2), the Chief may, to the extent practicable, offer substitute sales within the same State in fiscal year 1998 or fiscal year 1999. Such substitute sales shall be subject to the requirements of subsection (a)(3).

(2)(A) The Chief shall pay as soon as practicable after fiscal year 1998 and fiscal year 1999 to any State in which sales previously scheduled to be offered that are referred to in, but not offered pursuant to, subsection (a)(2) would have occurred, 25 percent of any anticipated receipts from such sales that—

(i) were scheduled from fiscal year 1998 or fiscal year 1999 sales in the absence of any moratorium referred to in subsection (a)(2); and

(ii) are not offset by revenues received in such fiscal years from substitute projects authorized pursuant to subsection (b)(1).

(B) After reporting the amount of funds required to make any payments required by subsection (b)(2)(A), and the source from which such funds are to be derived, to the Committees on Appropriations of the House of Representatives and the Senate, the Chief shall make any payments required by subsection (b)(2)(A) from any funds available to the Forest Service in fiscal year 1998 or fiscal year 1999, subject to approval of the Committees on Appropriations of the House of Representatives and the Senate, that are not specifically earmarked for another purpose by the applicable appropriation Act or a committee or conference report thereon.

(C) Any State which receives payments required by subsection (b)(2)(A) shall expend such funds only in the manner, and for the purposes, prescribed in section 500 of title 16, United States Code.

Reports.

(c)(1) During the term of the moratorium referred to in subsection (a)(2), the Chief shall prepare and submit to the Committees on Appropriations of the House of Representatives and the Senate a report on each of the following—

(A) a study of whether standards and guidelines in existing land and resource management plans compel or encourage entry into roadless areas within the National Forest System for the purpose of constructing roads or undertaking any other ground-disturbing activities;

(B) an inventory of all roads within the National Forest System and the uses which they serve, in a format that will inform and facilitate the development of a long-term Forest Service transportation policy; and



(C) a comprehensive and detailed analysis of the economic and social effects of the moratorium referred to in subsection (a)(2) on county, State, and regional levels.

SEC. 3007. PROVISION OF CERTAIN HEALTH CARE SERVICES FOR ALASKA NATIVES.—Section 203(a) of the Michigan Indian Land Claims Settlement Act (Public Law 105-143; 111 Stat. 2666) is amended—

(1) by inserting “other than community based alcohol services,” after “Ketchikan Gateway Borough,”; and

(2) by inserting at the end the following new sentence: “Notwithstanding any other provision of law, such contract or compact shall provide services to all Indian and Alaska Native beneficiaries of the Indian Health Service in the Ketchikan Gateway Borough without the need for resolutions of support from any Indian tribe as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).”.

SEC. 3008. Section 326(a) of the Act making Appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1998 and for other purposes (Public Law 105-83; 111 Stat. 1543) is amended by striking “with any Alaska Native village or Alaska Native village corporation” and inserting “to any Indian tribe as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))”.

111 Stat. 1599.

SEC. 3009. None of the funds in this or any other Act shall be used to issue a notice of final rulemaking prior to October 1, 1998 with respect to the valuation of crude oil for royalty purposes, including without limitation a rulemaking derived from proposed rules published in 63 Federal Register 6113 (1998), 62 Federal Register 36030, and 62 Federal Register 3742 (1997).

#### CHAPTER 4

### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### CENTERS FOR DISEASE CONTROL AND PREVENTION

##### DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for the Centers for Disease Control and Prevention, “disease control, research, and training”, \$9,000,000.

#### HEALTH CARE FINANCING ADMINISTRATION

##### PROGRAM MANAGEMENT

For an additional amount for “Program management”, \$2,200,000.

Title II of Public Law 105-78 is amended under this heading by striking the fourth proviso and inserting the following new proviso: “*Provided further*, That \$20,000,000 appropriated under this heading for the transition to a single Part A and Part B processing system and \$20,000,000 to be used only to the extent needed for Year 2000 century date change conversion requirements of external contractor systems shall remain available until expended.”.

111 Stat. 1484.

## OFFICE OF THE SECRETARY

## GENERAL DEPARTMENTAL MANAGEMENT

Of the funds appropriated under the heading “general departmental management” in Public Law 105-78 to carry out title XX of the Public Health Service Act, \$10,831,000 shall be for activities specified under section 2003(b)(2), of which \$9,131,000 shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX.

## DEPARTMENT OF EDUCATION

## SPECIAL EDUCATION

111 Stat. 1500.

Public Law 105-78, under the heading “special education” is amended by inserting before the period the following: “: *Provided further*, That \$600,000 of the funds provided under section 672 of the Act shall be for the Early Childhood Development Project of the National Easter Seal Society for the Mississippi Delta Region, which funds shall be used to provide training, technical support, services, and equipment to address personnel and other needs”.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 4001. (a) If a State child health plan under title XXI of the Social Security Act is approved on or after October 1, 1998, and before October 1, 1999, for purposes of such title (including allotments under section 2104(b) of such title) the plan shall be treated as having been approved with respect to amounts allotted under such title for fiscal year 1998, as well as for fiscal year 1999.

(b) The appropriation in section 2104(a)(1) of such title for fiscal year 1998 shall remain available to be obligated through September 30, 1999.

SEC. 4002. Notwithstanding any other provision of law, the Department of Health and Human Services shall permit the submission of public comments until August 31, 1998, on the final rule entitled “Organ Procurement and Transplantation Network” published by the Department in the Federal Register on April 2, 1998 (63 Fed. Reg. 16295 et seq.), and such rule shall not become effective before October 1, 1998, after the end of such comment period.

## CHAPTER 5

## LEGISLATIVE BRANCH

## CONGRESSIONAL OPERATIONS

## HOUSE OF REPRESENTATIVES

## PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

Lois G. Capps.

For payment to Lois G. Capps, widow of Walter H. Capps, late a Representative of the State of California, \$133,600.

Mary Bono.

For payment to Mary Bono, widow of Sonny Bono, late a Representative of the State of California, \$136,700.

## ARCHITECT OF THE CAPITOL

## CAPITOL BUILDINGS AND GROUNDS

## CAPITOL BUILDINGS

## SALARIES AND EXPENSES

For an additional amount for “Capitol Buildings Salaries and Expenses”, \$7,500,000, to remain available until expended, to begin repairs and rehabilitation of the Capitol dome: *Provided*, That this additional amount shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

## CAPITOL GROUNDS

## (INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the design, installation and maintenance of the Capitol Square perimeter security plan, \$20,000,000 (of which not to exceed \$4,000,000 shall be transferred upon request of the Capitol Police Board to the Capitol Police Board, “Capitol Police”, “General Expenses” for physical security measures associated with the Capitol Square perimeter security plan) to remain available until expended, subject to the review and approval by the appropriate House and Senate authorities: *Provided*, That this additional amount shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

## CHAPTER 6

## DEPARTMENT OF TRANSPORTATION

## OFFICE OF THE SECRETARY

## AMTRAK REFORM COUNCIL

For necessary expenses of the Amtrak Reform Council, including the independent assessment of Amtrak, authorized under sections 202, 203, and 409 of Public Law 105–134, \$2,450,000, to remain available until September 30, 1999: *Provided*, That not to exceed \$400,000 shall be transferred to the Department of Transportation Inspector General for the new responsibilities associated with section 409(c) of Public Law 105–134.

## FEDERAL AVIATION ADMINISTRATION

## FACILITIES AND EQUIPMENT

## (AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for “Facilities and Equipment” for expenses relating to Year 2000 computer hardware and software problems, \$25,000,000, to remain available until September 30, 1999.

## RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

## RESEARCH AND SPECIAL PROGRAMS

For an additional amount for emergency transportation activities, \$1,000,000, to remain available until expended: *Provided*, That of these funds, \$400,000 shall be available only for costs associated with construction and establishment of an emergency transportation response center in Arab, Alabama, \$550,000 shall be available only for costs associated with purchase and establishment of a mobile emergency response system to be administered jointly by the Alabama Department of Transportation and the Alabama Emergency Management Agency, and \$50,000 shall be for Research and Special Programs Administration administrative costs associated with these projects.

## RELATED AGENCY

## NATIONAL TRANSPORTATION SAFETY BOARD

## SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” for necessary expenses resulting from the crash of TWA Flight 800, \$5,400,000: *Provided*, That the entire amount is available only for costs associated with rental of the facility in Calverton, New York, of which not to exceed \$500,000 is for security expenses: *Provided further*, That no funds or unobligated balances are available to provide for or permit flight operations at the Calverton airfield.

## GENERAL PROVISION—THIS CHAPTER

SEC. 6001. Of the balances available to the Federal Transit Administration from previous appropriations Acts, \$1,000,000 shall be made available for a comprehensive transportation investment analysis of the primary urban corridor from Ewa to east Honolulu, Hawaii: *Provided*, That these funds shall remain available until September 30, 2001.

## CHAPTER 7

## DEPARTMENT OF THE TREASURY

## AUTOMATION ENHANCEMENT

## YEAR 2000 CENTURY DATE CHANGE CONVERSION

For necessary expenses of the Department of the Treasury for Year 2000 century date change conversion requirements, \$35,500,000, to remain available until September 30, 2000.

## FINANCIAL MANAGEMENT SERVICE

## SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, for Year 2000 century date change conversion requirements, \$5,300,000, to remain available until September 30, 2000.

## GENERAL PROVISIONS—THIS CHAPTER

SEC. 7001. Federal Employee Voluntary Early Retirement. (a) CIVIL SERVICE RETIREMENT SYSTEM.—Effective for purposes of the period beginning on the date of enactment of this Act and ending on September 30, 1999, paragraph (2) of section 8336(d) of title 5, United States Code, shall be applied as if it had been amended to read as follows:

Effective date.  
Termination  
date.  
Applicability.  
5 USC 8336 note.

“(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

“(B) is serving under an appointment that is not time limited;

“(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

“(D) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

“(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing a major reorganization, a major reduction in force, or a major transfer of function; and

“(ii) a significant percentage of the employees serving in such agency (or component) will be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); and

“(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

“(i) one or more organizational units;

“(ii) one or more occupational series or levels;

“(iii) one or more geographical locations;

“(iv) other similar nonpersonal factors the Office determines appropriate; or

“(v) any appropriate combination of such factors;”.

(b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—Effective for purposes of the period beginning on the date of enactment of this Act and ending on September 30, 1999, subparagraph (B) of section 8414(b)(1) of title 5, United States Code, shall be applied as if it had been amended to read as follows:

Effective date.  
Termination  
date.  
Applicability.  
5 USC 8414 note.

“(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

“(ii) is serving under an appointment that is not time limited;

“(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

“(iv) is separated from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

Regulations.

“(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing a major reorganization, a major reduction in force, or a major transfer of function; and

“(II) a significant percentage of the employees serving in such agency (or component) will be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); and

“(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

“(I) one or more organizational units;

“(II) one or more occupational series or levels;

“(III) one or more geographical locations;

“(IV) other similar nonpersonal factors the Office determines appropriate; or

“(V) any appropriate combination of such factors;”.

Manuel Zurita.

SEC. 7002. Notwithstanding section 2164 of title 10, United States Code, the Department of Defense shall permit the two dependent children of deceased United States Customs Senior Special Agent Manuel Zurita attending the Antilles Consolidated School System at Fort Buchanan, Puerto Rico, to complete their primary and secondary education at this school system without cost to such children or any parent, relative, or guardian of such children. The United States Customs Service shall reimburse the Department of Defense for reasonable educational expenses to cover these costs.

## CHAPTER 8

### DEPARTMENT OF VETERANS AFFAIRS

#### VETERANS BENEFITS ADMINISTRATION

##### COMPENSATION AND PENSIONS

For an additional amount for “Compensation and pensions”, \$550,000,000, to remain available until expended.

##### INDEPENDENT AGENCIES

#### ENVIRONMENTAL PROTECTION AGENCY

##### STATE AND TRIBAL ASSISTANCE GRANTS

43 USC 1281  
note.

Notwithstanding any other provision of law, eligible recipients of the funds appropriated to the Environmental Protection Agency in the State and Tribal Assistance Grants account since fiscal year 1997 and hereafter for multi-media or single media grants, other than Performance Partnership Grants authorized pursuant to Public Law 104-134 and Public Law 105-65, for pollution prevention, control, and abatement and related activities have been and shall be those entities eligible for grants under the Agency’s organic statutes.

##### ADMINISTRATIVE PROVISION

No requirements set forth in any carbon monoxide Federal implementation plan (FIP) that are based on the Clean Air Act

as in effect prior to the 1990 amendments to such Act may be imposed in the State of Arizona.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

(TRANSFER OF FUNDS)

The Administrator of the National Aeronautics and Space Administration shall transfer from amounts made available for NASA in Public Law 105-65 under the heading, "Mission support", \$53,000,000 to "Human space flight" for Space Station activities, to be merged with and to be available for the same purposes of such account: *Provided*, That the total amount available for Space Station activities in fiscal year 1998 shall be up to \$2,441,300,000.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 8001. Section 206 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105-65; October 27, 1997) is amended by inserting the following before the final period: "and for loans and grants for economic development in and around 18th and Vine".

111 Stat. 1365.

SEC. 8002. HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS. (a) Notwithstanding any other provision of law, with respect to the amount allocated for fiscal year 1998, and the amounts that would otherwise be allocated for fiscal year 1999, to the City of Philadelphia, Pennsylvania on behalf of the Philadelphia, PA-NJ Primary Metropolitan Statistical Area (in this section referred to as the "metropolitan area"), under section 854(c) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)), the Secretary of Housing and Urban Development shall adjust such amounts by allocating to the State of New Jersey the proportion of the metropolitan area's amount that is based on the number of cases of AIDS reported in the portion of the metropolitan area that is located in New Jersey.

(b) The State of New Jersey shall use amounts allocated to the State under this section to carry out eligible activities under section 855 of the AIDS Housing Opportunity Act (42 U.S.C. 12904) in the portion of the metropolitan area that is located in New Jersey.

SEC. 8003. RATIFICATION OF INTERNET INTELLECTUAL INFRASTRUCTURE FEE. (a) The 30 percent portion of the fee charged by Network Solutions, Inc. between September 14, 1995 and March 31, 1998 for registration or renewal of an Internet second-level domain name, which portion was to be expended for the preservation and enhancement of the intellectual infrastructure of the Internet under a cooperative agreement with the National Science Foundation, and which portion was held to have been collected without authority in *William Thomas et al. v. Network Solutions, Inc. and National Science Foundation*, Civ. No. 97-2412, is hereby legalized and ratified and confirmed as fully to all intents and purposes as if the same had, by prior Act of Congress, been specifically authorized and directed.

(b) The National Science Foundation is authorized and directed to deposit all money remaining in the Internet Intellectual Infrastructure Fund into the Treasury and credit that amount to its Fiscal Year 1998 Research and Related Activities appropriation to be available until expended for the support of networking activities, including the Next Generation Internet.

#### CHAPTER 9

#### RESCISSIONS AND OFFSET

#### DEPARTMENT OF AGRICULTURE

##### AGRICULTURAL RESEARCH SERVICE

###### (RESCISSION)

Of the funds made available under this heading in Public Law 105–86, \$223,000 are rescinded.

##### ANIMAL AND PLANT HEALTH INSPECTION SERVICE

###### SALARIES AND EXPENSES

###### (RESCISSION)

Of the funds made available under this heading in Public Law 105–86, \$350,000 are rescinded.

##### AGRICULTURAL MARKETING SERVICE

###### MARKETING SERVICES

###### (RESCISSION)

Of the funds made available under this heading in Public Law 105–86, \$25,000 are rescinded.

##### GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

###### SALARIES AND EXPENSES

###### (RESCISSION)

Of the funds made available under this heading in Public Law 105–86, \$38,000 are rescinded.

##### FOOD SAFETY AND INSPECTION SERVICE

###### (RESCISSION)

Of the funds made available under this heading in Public Law 105–86, \$502,000 are rescinded.



FARM SERVICE AGENCY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 105-86, \$1,080,000 are rescinded.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available for the cost of the unsubsidized guaranteed operating loans under this heading in Public Law 105-86, \$8,273,000 are rescinded.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 105-86, \$378,000 are rescinded.

RURAL HOUSING SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 105-86, \$846,000 are rescinded.

FOOD PROGRAM ADMINISTRATION

(RESCISSION)

Of the funds made available under this heading in Public Law 105-86, \$114,000 are rescinded.

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

(RESCISSION)

Of the funds made available under this heading in Public Law 104-208, \$1,188,000 are rescinded.

OREGON AND CALIFORNIA GRANT LANDS

(RESCISSION)

Of the funds made available under this heading in Public Law 104-208, \$2,500,000 are rescinded.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 105–18, \$250,000 are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 104–208, \$1,188,000 are rescinded.

NATIONAL PARK SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 104–208, \$1,638,000 are rescinded.

BUREAU OF MINES

MINES AND MINERALS

(RESCISSION)

The following amounts, totaling \$1,605,000, are rescinded from funds made available under this heading: in Public Law 103–332, \$1,255,000; in Public Law 103–138, \$60,000; in Public Law 102–381, \$173,000; and in Public Law 102–154, \$117,000.

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 104–208, \$837,000 are rescinded.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

(RESCISSION)

Of the funds made available under this heading in Public Law 105–83, \$148,000 are rescinded.

STATE AND PRIVATE FORESTRY

(RESCISSION)

Of the funds made available under this heading in Public Law 105–83, \$59,000 are rescinded.

NATIONAL FOREST SYSTEM

(RESCISSION)

Of the funds made available under this heading in Public Law 105–83, \$1,094,000 are rescinded.

WILDLAND FIRE MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 105–83, \$148,000 are rescinded.

RECONSTRUCTION AND CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 105–83, \$30,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH PROFESSIONS EDUCATION FUND

(RESCISSION)

Of the funds made available under the Health Professions Education Fund appropriation account, \$11,200,000 are rescinded.

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

(RESCISSION)

Of the funds made available under this heading in Public Law 101–516 and subsequently obligated, \$2,500,000 shall be deobligated and are hereby rescinded.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the budgetary resources provided for “Small Community Air Service” by Public Law 101–508 for fiscal years prior to fiscal year 1998, \$3,000,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

FACILITIES, ENGINEERING, AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in previous appropriations Acts, \$500,000 are rescinded.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized under 49 U.S.C. 48103 as amended, \$54,000,000 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

CONRAIL LABOR PROTECTION

(RESCISSION)

Of the funds made available under this heading in previous appropriations Acts, \$508,234 are rescinded.

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 104–208, as amended by Public Law 105–18, \$6,000,000 are rescinded.

OPERATIONS AND MAINTENANCE, CUSTOMS P–3 DRUG INTERDICTION PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 102–393, \$4,470,000 are rescinded.

INTERNAL REVENUE SERVICE

INFORMATION TECHNOLOGY INVESTMENTS

(RESCISSION)

Of the funds made available under this heading in Public Law 105–61, \$30,330,000 are rescinded.

GENERAL PROVISION—THIS CHAPTER

SEC. 9001. None of the funds appropriated or otherwise made available in Public Law 105–86 shall be used to pay the salaries and expenses of personnel to carry out a conservation farm option program as authorized by section 335 of Public Law 104–127 in excess of \$11,000,000.

GENERAL PROVISIONS—THIS TITLE

SEC. 10001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 10002. None of the funds appropriated or otherwise made available in this or any prior Act may be obligated or expended by the Patent and Trademark Office to plan for the lease of new facilities until 30 days after the submission of a report, to be delivered not later than May 15, 1998, to the Committees on Appropriations, on the space plans and detailed cost estimate for the build-out of the new facilities: *Provided*, That such funds shall be made available only in accordance with section 605 of Public Law 105-119.

Reports.

SEC. 10003. Section 203 of the National Sea Grant College Program Act (33 U.S.C. 1122) is amended by—

(1) striking paragraph (5) and redesignating paragraphs (6) through (17) as paragraphs (5) through (16);

(2) redesignating subparagraphs (C) through (F) of paragraph (7), as redesignated, as subparagraphs (D) through (G); and

(3) inserting after subparagraph (B) of paragraph (7), as redesignated, the following:

“(C) Lake Champlain (to the extent that such resources have hydrological, biological, physical, or geological characteristics and problems similar or related to those of the Great Lakes);”.

SEC. 10004. (a) Any agency listed in section 404(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, Public Law 105-119, may transfer any amount to the Department of State, subject to the limitations of subsection (b) of this section, for the purpose of making technical adjustments to the amounts transferred by section 404 of such Act.

(b) Funds transferred pursuant to subsection (a) shall not exceed \$12,000,000, of which not to exceed \$3,500,000 may be transferred from the United States Information Agency, of which not to exceed \$3,600,000 may be transferred from the Defense Intelligence Agency, of which not to exceed \$1,600,000 may be transferred from the Defense Security Assistance Agency, of which not to exceed \$900,000 may be transferred from the Peace Corps, and of which not to exceed \$500,000 may be transferred from any other single agency listed in section 404(b) of Public Law 105-119.

(c) A transfer of funds pursuant to this section shall not require any notification or certification to Congress or any committee of Congress, notwithstanding any other provision of law.

SEC. 10005. Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104-208; 110 Stat. 3009-171) is amended—

(1) in subsection (a)—

(A) by striking “For purposes” and inserting “Notwithstanding any other provision of law, for purposes”; and

(B) by striking “fiscal year 1997” and inserting “fiscal years 1998 and 1999”; and

(2) by amending subsection (b) to read as follows:

“(b) ALIENS COVERED.—

“(1) IN GENERAL.—An alien described in this subsection is an alien who—

“(A) is the son or daughter of a qualified national;

“(B) is 21 years of age or older; and

“(C) was unmarried as of the date of acceptance of the alien’s parent for resettlement under the Orderly Departure Program.

“(2) QUALIFIED NATIONAL.—For purposes of paragraph (1), the term ‘qualified national’ means a national of Vietnam who—

“(A)(i) was formerly interned in a reeducation camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

“(ii) is the widow or widower of an individual described in clause (i); and

“(B)(i) qualified for refugee processing under the reeducation camp internees subprogram of the Orderly Departure Program; and

“(ii) on or after April 1, 1995, is accepted—

“(I) for resettlement as a refugee; or

“(II) for admission as an immigrant under the Orderly Departure Program.”.

President.

SEC. 10006. The President shall instruct the United States Representatives to the World Trade Organization to seek the adoption of procedures that will ensure broader application of the principles of transparency and openness in the activities of the organization, including by urging the World Trade Organization General Council to—

(1) permit appropriate meetings of the Council, the Ministerial Conference, dispute settlement panels, and the Appellate Body to be made open to the public; and

(2) provide for timely public summaries of the matters discussed and decisions made in any closed meeting of the Conference or Council.

#### DISTRICT OF COLUMBIA CHIEF OF POLICE

SEC. 10007. (a) EMPLOYMENT CONTRACT.—Paragraph 2 of section 1 of the Act entitled “An Act relating to the Metropolitan police of the District of Columbia”, approved February 28, 1901 (D.C. Code, sec. 4-104), and any other provision of law affecting the employment of the Chief of the Metropolitan Police Department of the District of Columbia shall not apply to the Chief of the Department to the extent that such paragraph or provision is inconsistent with the terms of an employment agreement entered into between the Chief, the Mayor of the District of Columbia, and the District of Columbia Financial Responsibility and Management Assistance Authority.

(b) APPOINTMENT AND REMOVAL DURING CONTROL YEAR.—

(1) APPOINTMENT.—During a control year, the Chief of the Metropolitan Police Department of the District of Columbia shall be appointed by the Mayor of the District of Columbia as follows:

(A) Prior to appointment, the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this subsection referred to as the “Authority”) may submit recommendations for the appointment to the Mayor.

(B) In consultation with the Authority and the Council of the District of Columbia, the Mayor shall nominate an individual for appointment and notify the Council of the nomination.

(C) After the expiration of the 7-day period which begins on the date the Mayor notifies the Council of the nomination under subparagraph (B), the Mayor shall notify the Authority of the nomination.

(D) The nomination shall be effective subject to approval by a majority vote of the Authority.

(2) REMOVAL.—During a control year, the Chief of the Metropolitan Police Department of the District of Columbia may be removed by the Authority or by the Mayor with the approval of the Authority.

(3) CONTROL YEAR DEFINED.—In this subsection, the term “control year” has the meaning given such term in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(c) EFFECTIVE DATE.—This section shall be effective as of April 21, 1998.

SEC. 10008. SUPPORT FOR DEMOCRATIC OPPOSITION IN IRAQ. Notwithstanding any other provision of law, of the funds made available under the heading “Economic Support Fund” in Public Law 105-118, \$5,000,000 shall be made available for assistance to the Iraqi democratic opposition for such activities as organization, training, communication and dissemination of information, developing and implementing agreements among opposition groups, compiling information to support the indictment of Iraqi officials for war crimes, and for related purposes: *Provided*, That within 30 days of enactment into law of this Act the Secretary of State shall submit a detailed report to the appropriate committees of Congress on plans to establish a program to support the democratic opposition in Iraq.

Reports.

This Act may be cited as the “1998 Supplemental Appropriations and Rescissions Act”.

Approved May 1, 1998.

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LEGISLATIVE HISTORY—H.R. 3579 (S. 1768):

HOUSE REPORTS: Nos. 105-469 (Comm. on Appropriations) and 105-504 (Comm. of Conference).

SENATE REPORTS: No. 105-168 accompanying S. 1768 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 31, considered and passed House. Passed Senate, amended, in lieu of S. 1768.

Apr. 30, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

May 1, Presidential statement.



Public Law 105–175  
105th Congress

Joint Resolution

May 11, 1998  
[H.J. Res. 102]

Expressing the sense of the Congress on the occasion of the 50th anniversary of the founding of the modern State of Israel and reaffirming the bonds of friendship and cooperation between the United States and Israel.

Whereas on November 29, 1947, the United Nations General Assembly voted to partition the British Mandate of Palestine, and through that vote, to create the State of Israel;

Whereas on May 14, 1948, the people of Israel proclaimed the establishment of the sovereign and independent State of Israel and the United States Government established full diplomatic relations with Israel;

Whereas the desire of the Jewish people to establish an independent modern State of Israel is the outgrowth of the existence of the historic Kingdom of Israel established three thousand years ago in the city of Jerusalem and in the land of Israel;

Theodore Herzl.

Whereas one century ago at the First Zionist Congress on August 29 to 31, 1897, in Basel, Switzerland, participants under the leadership of Theodore Herzl affirmed the desire to reestablish a Jewish homeland in the historic land of Israel;

Whereas the establishment of the modern State of Israel as a homeland for the Jews followed the slaughter of more than six million European Jews during the Holocaust;

Whereas since its establishment 50 years ago, the modern State of Israel has rebuilt a nation, forged a new and dynamic society, and created a unique and vital economic, political, cultural, and intellectual life despite the heavy costs of six wars, terrorism, international ostracism, and economic boycotts;

Whereas the people of Israel have established a vibrant and functioning pluralistic democratic political system including freedom of speech, a free press, free and fair and open elections, the rule of law, and other democratic principles and practices;

Whereas, at great social and financial costs, Israel has absorbed hundreds of thousands of Jews from countries throughout the World, many of them refugees from Arab countries, and fully integrated them into Israeli society;

Whereas for half a century the United States and Israel have maintained a special relationship based on mutually shared democratic values, common strategic interests, and moral bonds of friendship and mutual respect; and

Whereas the American people have shared an affinity with the people of Israel and regard Israel as a strong and trusted ally and an important strategic partner: Now, therefore, be it



Public Law 105–176  
105th Congress

An Act

May 29, 1998  
[H.R. 3301]

To amend chapter 51 of title 31, United States Code, to allow the Secretary of the Treasury greater discretion with regard to the placement of the required inscriptions on quarter dollars issued under the 50 States Commemorative Coin Program.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5112(l)(1) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

“(C) FLEXIBILITY WITH REGARD TO PLACEMENT OF INSCRIPTIONS.—Notwithstanding subsection (d)(1), the Secretary may select a design for quarter dollars issued during the 10-year period referred to in subparagraph (A) in which—

“(i) the inscription described in the second sentence of subsection (d)(1) appears on the reverse side of any such quarter dollars; and

“(ii) any inscription described in the third sentence of subsection (d)(1) or the designation of the value of the coin appears on the obverse side of any such quarter dollars.”.

Approved May 29, 1998.

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LEGISLATIVE HISTORY—H.R. 3301:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 27, considered and passed House.

May 19, considered and passed Senate.



“(ii) complementary actions taken by governments during an existing or impending international oil supply disruption.”; and

(G) by amending subsection (l) to read as follows:

“(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.”;

(5) in section 281 (42 U.S.C. 6285) by striking “1997” both places it appears and inserting in lieu thereof “1999”; and

(6) at the end of section 154 by adding the following new

subsection:

“(f)(1) The drawdown and distribution of petroleum products from the Strategic Petroleum Reserve is authorized only under section 161 of this Act, and drawdown and distribution of petroleum products for purposes other than those described in section 161 of this Act shall be prohibited.

“(2) In the Secretary’s annual budget submission, the Secretary shall request funds for acquisition, transportation, and injection of petroleum products for storage in the Reserve. If no requests for funds are made, the Secretary shall provide a written explanation of the reason therefore.”.

Approved June 1, 1998.

42 USC 6234.

Petroleum and  
petroleum  
products.

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LEGISLATIVE HISTORY—H.R. 2472 (S. 417):

HOUSE REPORTS: No. 105–275 (Comm. on Commerce).

SENATE REPORTS: No. 105–25 accompanying S. 417 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Sept. 29, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Nov. 9, House concurred in Senate amendment with an amendment pursuant to H. Res. 317.

Vol. 144 (1998): Feb. 12, Senate concurred in House amendment with an amendment.

May 19, House concurred in Senate amendment.



Public Law 105–178  
105th Congress

An Act

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

June 9, 1998  
[H.R. 2400]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Transportation Equity Act for the 21st Century”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

Transportation  
Equity Act for  
the 21st Century.  
Grants.  
Inter-  
governmental  
relations.  
Loans.  
23 USC 101 note.

**TITLE I—FEDERAL-AID HIGHWAYS**

**Subtitle A—Authorizations and Programs**

Sec. 1101. Authorization of appropriations.  
Sec. 1102. Obligation ceiling.  
Sec. 1103. Apportionments.  
Sec. 1104. Minimum guarantee.  
Sec. 1105. Revenue aligned budget authority.  
Sec. 1106. Federal-aid systems.  
Sec. 1107. Interstate maintenance program.  
Sec. 1108. Surface transportation program.  
Sec. 1109. Highway bridge program.  
Sec. 1110. Congestion mitigation and air quality improvement program.  
Sec. 1111. Federal share.  
Sec. 1112. Recreational trails program.  
Sec. 1113. Emergency relief.  
Sec. 1114. Highway use tax evasion projects.  
Sec. 1115. Federal lands highways program.  
Sec. 1116. Woodrow Wilson Memorial Bridge.  
Sec. 1117. Appalachian development highway system.  
Sec. 1118. National corridor planning and development program.  
Sec. 1119. Coordinated border infrastructure and safety program.

**Subtitle B—General Provisions**

Sec. 1201. Definitions.  
Sec. 1202. Bicycle transportation and pedestrian walkways.  
Sec. 1203. Metropolitan planning.  
Sec. 1204. Statewide planning.  
Sec. 1205. Contracting for engineering and design services.  
Sec. 1206. Access of motorcycles.  
Sec. 1207. Construction of ferry boats and ferry terminal facilities.  
Sec. 1208. Training.  
Sec. 1209. Use of HOV lanes by inherently low-emission vehicles.  
Sec. 1210. Advanced travel forecasting procedures program.  
Sec. 1211. Amendments to prior surface transportation laws.  
Sec. 1212. Miscellaneous.  
Sec. 1213. Studies and reports.  
Sec. 1214. Federal activities.

Sec. 1215. Designated transportation enhancement activities.  
Sec. 1216. Innovative surface transportation financing methods.  
Sec. 1217. Eligibility.  
Sec. 1218. Magnetic levitation transportation technology deployment program.  
Sec. 1219. National scenic byways program.  
Sec. 1220. Elimination of regional office responsibilities.  
Sec. 1221. Transportation and community and system preservation pilot program.  
Sec. 1222. Additions to Appalachian region.

Subtitle C—Program Streamlining and Flexibility

Sec. 1301. Real property acquisition and corridor preservation.  
Sec. 1302. Payments to States for construction.  
Sec. 1303. Proceeds from the sale or lease of real property.  
Sec. 1304. Engineering cost reimbursement.  
Sec. 1305. Project approval and oversight.  
Sec. 1306. Standards.  
Sec. 1307. Design-build contracting.  
Sec. 1309. Major investment study integration.  
Sec. 1309. Environmental streamlining.  
Sec. 1310. Uniform transferability of Federal-aid highway funds.

Subtitle D—Safety

Sec. 1401. Hazard elimination program.  
Sec. 1402. Roadside safety technologies.  
Sec. 1403. Safety incentive grants for use of seat belts.

Subtitle E—Finance

Sec. 1501. Short title.  
Sec. 1502. Findings.  
Sec. 1503. Establishment of program.  
Sec. 1504. Duties of the Secretary.

Subtitle F—High Priority Projects

Sec. 1601. High priority projects program.  
Sec. 1602. Project authorizations.  
Sec. 1603. Special rule.

TITLE II—HIGHWAY SAFETY

Sec. 2001. Highway safety programs.  
Sec. 2002. Highway safety research and development.  
Sec. 2003. Occupant protection.  
Sec. 2004. Alcohol-impaired driving countermeasures.  
Sec. 2005. State highway safety data improvements.  
Sec. 2006. National Driver Register.  
Sec. 2007. Safety studies.  
Sec. 2008. Effectiveness of laws establishing maximum blood alcohol concentrations.  
Sec. 2009. Authorizations of appropriations.

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

Sec. 3001. Short title.  
Sec. 3002. Amendments to title 49, United States Code.  
Sec. 3003. Definitions.  
Sec. 3004. Metropolitan planning.  
Sec. 3005. Transportation improvement program.  
Sec. 3006. Transportation management areas.  
Sec. 3007. Urbanized area formula grants.  
Sec. 3008. Clean fuels formula grant program.  
Sec. 3009. Capital investment grants and loans.  
Sec. 3010. Dollar value of mobility improvements.  
Sec. 3011. Local share.  
Sec. 3012. Intelligent transportation systems applications.  
Sec. 3013. Formula grants and loans for special needs of elderly individuals and individuals with disabilities.  
Sec. 3014. Formula program for other than urbanized areas.  
Sec. 3015. Research, development, demonstration, and training projects.  
Sec. 3016. National planning and research programs.  
Sec. 3017. National Transit Institute.  
Sec. 3018. Bus testing facilities.  
Sec. 3019. Bicycle facilities.  
Sec. 3020. General provisions on assistance.

- Sec. 3021. Pilot program for intercity rail infrastructure investment from mass transit account of highway trust fund.
- Sec. 3022. Contract requirements.
- Sec. 3023. Special procurements.
- Sec. 3024. Project management oversight and review.
- Sec. 3025. Administrative procedures.
- Sec. 3026. Reports and audits.
- Sec. 3027. Apportionment of appropriations for formula grants.
- Sec. 3028. Apportionment of appropriations for fixed guideway modernization.
- Sec. 3029. Authorizations.
- Sec. 3030. Projects for new fixed guideway systems and extensions to existing systems.
- Sec. 3031. Projects for bus and bus-related facilities.
- Sec. 3032. Contracting out study.
- Sec. 3033. Urbanized area formula study.
- Sec. 3034. Coordinated transportation services.
- Sec. 3035. Final assembly of buses.
- Sec. 3036. Clean fuel vehicles.
- Sec. 3037. Job access and reverse commute grants.
- Sec. 3038. Rural transportation accessibility incentive program.
- Sec. 3039. Study of transit needs in national parks and related public lands.
- Sec. 3040. Obligation ceiling.
- Sec. 3041. Adjustments for the Surface Transportation Extension Act of 1997.

#### TITLE IV—MOTOR CARRIER SAFETY

- Sec. 4001. Amendments to title 49, United States Code.
- Sec. 4002. Statement of purposes.
- Sec. 4003. State grants.
- Sec. 4004. Information systems.
- Sec. 4005. Automobile transporter defined.
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- Sec. 4007. Waivers, exemptions, and pilot programs.
- Sec. 4008. Safety regulation.
- Sec. 4009. Safety fitness.
- Sec. 4010. Repeal of certain obsolete miscellaneous authorities.
- Sec. 4011. Commercial vehicle operators.
- Sec. 4012. Exemption from certain regulations for utility service commercial motor vehicle drivers.
- Sec. 4013. Participation in international registration plan and international fuel tax agreement.
- Sec. 4014. Safety performance history of new drivers; limitation on liability.
- Sec. 4015. Penalties.
- Sec. 4016. Authority over charter bus transportation.
- Sec. 4017. Telephone hotline for reporting safety violations.
- Sec. 4018. Insulin treated diabetes mellitus.
- Sec. 4019. Performance-based CDL testing.
- Sec. 4020. Post-accident alcohol testing.
- Sec. 4021. Driver fatigue.
- Sec. 4022. Improved flow of driver history pilot program.
- Sec. 4023. Employee protections.
- Sec. 4024. Improved interstate school bus safety.
- Sec. 4025. Truck trailer conspicuity.
- Sec. 4026. DOT implementation plan.
- Sec. 4027. Study of adequacy of parking facilities.
- Sec. 4028. Qualifications of foreign motor carriers.
- Sec. 4029. Federal motor carrier safety inspectors.
- Sec. 4030. School transportation safety.
- Sec. 4031. Designation of New Mexico commercial zone.
- Sec. 4032. Effects of MCSAP grant reductions.

#### TITLE V—TRANSPORTATION RESEARCH

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##### Subtitle B—Research and Technology

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- Sec. 5103. Technology deployment.

Sec. 5104. Training and education.  
Sec. 5105. State planning and research.  
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Sec. 5107. Surface transportation-environment cooperative research program.  
Sec. 5108. Surface transportation research strategic planning.  
Sec. 5109. Bureau of Transportation Statistics.  
Sec. 5110. University transportation research.  
Sec. 5111. Advanced vehicle technologies program.  
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#### Subtitle C—Intelligent Transportation Systems

Sec. 5201. Short title.  
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Sec. 5210. Use of funds.  
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### TITLE VI—OZONE AND PARTICULATE MATTER STANDARDS

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### TITLE VII—MISCELLANEOUS

#### Subtitle A—Automobile Safety and Information

Sec. 7101. Short title.  
Sec. 7102. Authorization of appropriations.  
Sec. 7103. Improving air bag safety.  
Sec. 7104. Restrictions on lobbying activities.  
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Sec. 7106. Miscellaneous amendments.  
Sec. 7107. Importation of motor vehicle for show or display.

#### Subtitle B—Railroads

Sec. 7201. High-speed rail.  
Sec. 7202. Light density rail line pilot projects.  
Sec. 7203. Railroad rehabilitation and improvement financing.  
Sec. 7204. Alaska Railroad.

#### Subtitle C—Comprehensive One-Call Notification

Sec. 7301. Findings.  
Sec. 7302. One-call notification programs.

#### Subtitle D—Sportfishing and Boating Safety

Sec. 7401. Short title; amendment of 1950 Act.  
Sec. 7402. Outreach and communications programs.  
Sec. 7403. Clean Vessel Act funding.  
Sec. 7404. Boating infrastructure.  
Sec. 7405. Boat safety funds.

### TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

#### Subtitle A—Transportation Discretionary Spending Guarantee

Sec. 8101. Discretionary spending categories.

Sec. 8102. Conforming the Paygo Scorecard with this Act.  
Sec. 8103. Level of obligation limitations.

Subtitle B—Veterans’ Benefits

Sec. 8201. Short title.  
Sec. 8202. Prohibition on establishment of service-connection for disabilities relating to use of tobacco products.  
Sec. 8203. Twenty percent increase in rates of basic educational assistance under Montgomery GI Bill.  
Sec. 8204. Increase in assistance amount for specially adapted housing.  
Sec. 8205. Increase in amount of assistance for automobile and adaptive equipment for certain disabled veterans.  
Sec. 8206. Increase in aid and attendance rates for veterans eligible for pension.  
Sec. 8207. Eligibility of certain remarried surviving spouses for reinstatement of dependency and indemnity compensation upon termination of that remarriage.  
Sec. 8208. Extension of prior revision to offset rule for Department of Defense special separation benefit program.  
Sec. 8209. Sense of the Congress concerning recovery from tobacco companies of costs of treatment of veterans for tobacco-related illnesses.

Subtitle C—Temporary Student Loan Provision.

Sec. 8301. Temporary student loan provision.

Subtitle D—Block Grants for Social Services

Sec. 8401. Block grants for social services.

TITLE IX—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

Sec. 9001. Short title; amendment of 1986 Code.  
Sec. 9002. Extension of highway-related taxes and trust fund.  
Sec. 9003. Extension and modification of tax benefits for alcohol fuels.  
Sec. 9004. Modifications to Highway Trust Fund.  
Sec. 9005. Provisions relating to Aquatic Resources Trust Fund.  
Sec. 9006. Repeal of 1.25 cent tax rate on rail diesel fuel.  
Sec. 9007. Additional qualified expenses available to non-Amtrak States.  
Sec. 9008. Delay in effective date of new requirement for approved diesel or kerosene terminals.  
Sec. 9009. Simplified fuel tax refund procedures.  
Sec. 9010. Election to receive taxable cash compensation in lieu of nontaxable qualified transportation fringe benefits.  
Sec. 9011. Repeal of National Recreational Trails Trust Fund.  
Sec. 9012. Identification of limited tax benefits subject to line item veto.

**SEC. 2. DEFINITIONS.**

23 USC 101 note.

In this Act, the following definitions apply:

(1) **INTERSTATE SYSTEM.**—The term “Interstate System” has the meaning such term has under section 101 of title 23, United States Code.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

## **TITLE I—FEDERAL-AID HIGHWAYS**

### **Subtitle A—Authorizations and Programs**

**SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) **INTERSTATE MAINTENANCE PROGRAM.**—For the Interstate maintenance program under section 119 of title 23, United States Code, \$3,427,341,000 for fiscal year 1998, \$3,957,103,000 for fiscal year 1999, \$3,994,524,000 for fiscal year 2000, \$4,073,322,000 for fiscal year 2001, \$4,139,630,000 for fiscal year 2002, and \$4,217,635,000 for fiscal year 2003.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of such title \$4,112,480,000 for fiscal year 1998, \$4,748,523,000 for fiscal year 1999, \$4,793,429,000 for fiscal year 2000, \$4,887,986,000 for fiscal year 2001, \$4,967,556,000 for fiscal year 2002, and \$5,061,162,000 for fiscal year 2003.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of such title \$2,941,454,000 for fiscal year 1998, \$3,395,354,000 for fiscal year 1999, \$3,427,472,000 for fiscal year 2000, \$3,495,104,000 for fiscal year 2001, \$3,552,016,000 for fiscal year 2002, and \$3,618,966,000 for fiscal year 2003.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of such title \$4,797,620,000 for fiscal year 1998, \$5,539,944,000 for fiscal year 1999, \$5,592,333,000 for fiscal year 2000, \$5,702,651,000 for fiscal year 2001, \$5,795,482,000 for fiscal year 2002, and \$5,904,689,000 for fiscal year 2003.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of such title \$1,192,619,000 for fiscal year 1998, \$1,345,415,000 for fiscal year 1999, \$1,358,138,000 for fiscal year 2000, \$1,384,930,000 for fiscal year 2001, \$1,407,474,000 for fiscal year 2002, and \$1,433,996,000 for fiscal year 2003.

(6) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) \$450,000,000 for each of fiscal years 1999 through 2003.

(7) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of such title \$30,000,000 for fiscal year 1998, \$40,000,000 for fiscal year 1999, and \$50,000,000 for each of fiscal years 2000 through 2003.

(8) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of such title \$225,000,000 for fiscal year 1998 and \$275,000,000 for each of fiscal years 1999 through 2003.

(B) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of such title \$196,000,000 for fiscal year 1998 and \$246,000,000 for each of fiscal years 1999 through 2003.

(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of such title \$115,000,000 for fiscal year 1998 and \$165,000,000 for each of fiscal years 1999 through 2003.

(D) REFUGE ROADS.—For refuge roads under section 204 of such title \$20,000,000 for each of fiscal years 1999 through 2003.

(9) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—For the national corridor planning and development and coordinated border infrastructure programs under sections 1118 and 1119 of this Act \$140,000,000 for each of fiscal years 1999 through 2003.

(10) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal



facilities under section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) \$30,000,000 for each of fiscal year 1998 and \$38,000,000 for each of fiscal years 1999 through 2003.

(11) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of title 23, United States Code, \$23,500,000 for each of fiscal years 1998 and 1999, \$24,500,000 for each of fiscal years 2000 and 2001, and \$25,500,000 for fiscal year 2002, and \$26,500,000 for fiscal year 2003.

(12) VALUE PRICING PILOT PROGRAM.—For the value pricing pilot program under section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) \$7,000,000 for fiscal year 1999, and \$11,000,000 for each of fiscal years 2000 through 2003.

(13) HIGH PRIORITY PROJECTS PROGRAM.—For the high priority projects program under section 117 of title 23, United States Code, \$1,025,695,000 for fiscal year 1998, \$1,398,675,000 for fiscal year 1999, \$1,678,410,000 for fiscal year 2000, \$1,678,410,000 for fiscal year 2001, \$1,771,655,000 for fiscal year 2002, and \$1,771,655,000 for fiscal year 2003.

(14) HIGHWAY USE TAX EVASION PROJECTS.—For highway use tax evasion projects under section 143 of such title \$5,000,000 for each of fiscal years 1998 through 2003.

(15) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 1214(r) of this Act \$110,000,000 for fiscal years 1998 through 2003.

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

23 USC 101 note.

(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(2) DEFINITIONS.—In this subsection, the following definitions apply:

(A) SMALL BUSINESS CONCERN.—The term “small business concern” has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of \$16,600,000, as adjusted by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term “socially and economically disadvantaged individuals” has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in paragraph (1)

Notification.

and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include, but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, résumé of principal owners, financial capacity, and type of work preferred.

(5) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with paragraph (1) because a Federal court issues a final order in which the court finds that the requirement of paragraph (1), or the program established under paragraph (1), is unconstitutional.

Reports.

(6) REVIEW BY COMPTROLLER GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a review of, and publish and report to Congress findings and conclusions on, the impact throughout the United States of administering the requirement of paragraph (1), including an analysis of—

(A) in the case of small business concerns certified in each State under paragraph (4) as owned and controlled by socially and economically disadvantaged individuals—

(i) the number of the small business concerns; and

(ii) the participation rates of the small business concerns in prime contracts and subcontracts funded under titles I, III, and V of this Act;

(B) in the case of small business concerns described in subparagraph (A) that receive prime contracts and subcontracts funded under titles I, III, and V of this Act—

(i) the number of the small business concerns;

(ii) the annual gross receipts of the small business concerns; and

(iii) the net worth of socially and economically disadvantaged individuals that own and control the small business concerns;

(C) in the case of small business concerns described in subparagraph (A) that do not receive prime contracts and subcontracts funded under titles I, III, and V of this Act—

(i) the annual gross receipts of the small business concerns; and

(ii) the net worth of socially and economically disadvantaged individuals that own and control the small business concerns;

(D) in the case of business concerns that receive prime contracts and subcontracts funded under titles I, III, and

V of this Act, other than small business concerns described in subparagraph (B)—

(i) the annual gross receipts of the business concerns; and

(ii) the net worth of individuals that own and control the business concerns;

(E) the rate of graduation from any programs carried out to comply with the requirement of paragraph (1) for small business concerns owned and controlled by socially and economically disadvantaged individuals;

(F) the overall cost of administering the requirement of paragraph (1), including administrative costs, certification costs, additional construction costs, and litigation costs;

(G) any discrimination on the basis of race, color, national origin, or sex against small business concerns owned and controlled by socially and economically disadvantaged individuals;

(H)(i) any other factors limiting the ability of small business concerns owned and controlled by socially and economically disadvantaged individuals to compete for prime contracts and subcontracts funded under titles I, III, and V of this Act; and

(ii) the extent to which any of those factors are caused, in whole or in part, by discrimination based on race, color, national origin, or sex;

(I) any discrimination, on the basis of race, color, national origin, or sex, against construction companies owned and controlled by socially and economically disadvantaged individuals in public and private transportation contracting and the financial, credit, insurance, and bond markets;

(J) the impact on small business concerns owned and controlled by socially and economically disadvantaged individuals of—

(i) the issuance of a final order described in paragraph (5) by a Federal court that suspends a program established under paragraph (1); or

(ii) the repeal or suspension of State or local disadvantaged business enterprise programs; and

(K) the impact of the requirement of paragraph (1), and any program carried out to comply with paragraph (1), on competition and the creation of jobs, including the creation of jobs for socially and economically disadvantaged individuals.

#### SEC. 1102. OBLIGATION CEILING.

23 USC 104 note.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law but subject to subsections (g) and (h), the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

- (1) \$21,500,000,000 for fiscal year 1998;
- (2) \$25,431,000,000 for fiscal year 1999;
- (3) \$26,155,000,000 for fiscal year 2000;
- (4) \$26,651,000,000 for fiscal year 2001;
- (5) \$27,235,000,000 for fiscal year 2002; and
- (6) \$27,681,000,000 for fiscal year 2003.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—

- (1) under section 125 of title 23, United States Code;
- (2) under section 147 of the Surface Transportation Assistance Act of 1978;
- (3) under section 9 of the Federal-Aid Highway Act of 1981;
- (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;
- (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987;
- (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991;
- (7) under section 157 of title 23, United States Code, as in effect on the day before the date of enactment of this Act; and
- (8) under section 105 of title 23, United States Code (but, for each of fiscal years 1998 through 2007), only in an amount equal to \$639,000,000 per fiscal year.

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 1998 through 2003, the Secretary shall—

(1) not distribute obligation authority provided by subsection (a) for such fiscal year for amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, and amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation authority provided by subsection (a) for such fiscal year less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) for section 117 of title 23, United States Code (relating to high priority projects program), section 201 of the Appalachian Regional Development Act of 1965, the Woodrow Wilson Memorial Bridge Authority Act of 1995, and \$2,000,000,000 for such fiscal year under section 105 of such title (relating to minimum guarantee) so that amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined

under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, \$2,000,000,000) for such fiscal year;

(5) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highway and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed \$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall after August 1 of each of fiscal years 1998 through 2003 revise a distribution of the obligation authority made available under subsection (c) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, under section 160 of title 23, United States Code (as in effect on the day before the date of enactment of this Act), and under section 1015 of the Intermodal Surface Transportation Act of 1991 (105 Stat. 1943–1945).

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations imposed by subsection (a) shall apply to transportation research programs carried out under chapter 3 of title 23, United States Code, and under title VI of this Act.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation authority under subsection (c) for each of fiscal years 1998 through 2003, the Secretary shall distribute to the States any funds (1) that are authorized to be appropriated for such fiscal year for Federal-aid highway programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and chapter 4 of title 23, United States Code, and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any

obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (c)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(g) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(4) for a section set forth in subsection (c)(4) shall remain available until used for obligation of funds for such section and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) INCREASE IN OBLIGATION LIMIT.—Limitations on obligations imposed by subsection (a) for a fiscal year shall be increased by an amount equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(B)(ii)(I)(cc)) for such fiscal year. Any such increase shall be distributed in accordance with this section.

(i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

- (1) \$320,000,000 for fiscal year 1998;
- (2) \$350,000,000 for fiscal year 1999;
- (3) \$370,000,000 for fiscal year 2000;
- (4) \$390,000,000 for fiscal year 2001;
- (5) \$410,000,000 for fiscal year 2002; and
- (6) \$430,000,000 for fiscal year 2003.

#### SEC. 1103. APPORTIONMENTS.

(a) ADMINISTRATIVE EXPENSES.—Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) ADMINISTRATIVE EXPENSES.—

“(1) IN GENERAL.—Whenever an apportionment is made of the sums made available for expenditure on each of the surface transportation program under section 133, the bridge program under section 144, the congestion mitigation and air quality improvement program under section 149, the Interstate and National Highway System program under section 103, the minimum guarantee program under section 105, the Federal lands highway program under section 204, or the Appalachian development highway system program under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.), the Secretary shall deduct a sum, in an amount not to exceed 1½ percent of all sums so made available, as the Secretary determines necessary—

“(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

“(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

“(2) CONSIDERATION OF UNOBLIGATED BALANCES.—In making the determination described in paragraph (1), the Secretary

shall take into account the unobligated balance of any sums deducted under this subsection in prior fiscal years.

“(3) AVAILABILITY.—The sum deducted under paragraph (1) shall remain available until expended.”.

(b) APPORTIONMENTS.—Section 104(b) of such title is amended 23 USC 104.  
to read as follows:

“(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) and the set-aside authorized by subsection (f), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the Interstate and National Highway System program, the Congestion Mitigation and Air Quality Improvement program, and the Surface Transportation program for that fiscal year, among the several States in the following manner:

“(1) NATIONAL HIGHWAY SYSTEM COMPONENT.—

“(A) IN GENERAL.—For the National Highway System (excluding funds apportioned under paragraph (4)), \$36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands, \$18,800,000 for each of fiscal years 1999 through 2003 for the Alaska Highway, and the remainder apportioned as follows:

“(i) 25 percent in the ratio that—

“(I) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

“(II) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

“(ii) 35 percent in the ratio that—

“(I) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

“(II) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

“(iii) 30 percent in the ratio that—

“(I) the total diesel fuel used on highways in each State; bears to

“(II) the total diesel fuel used on highways in all States.

“(iv) 10 percent in the ratio that—

“(I) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

“(II) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

“(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A) and paragraph (4), each State shall receive a minimum of  $\frac{1}{2}$  of 1 percent of the funds apportioned under subparagraph (A) and paragraph (4).

“(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

“(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

“(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

“(ii) the total of all weighted nonattainment and maintenance area populations in all States.

“(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

“(i) 0.8 if—

“(I) at the time of the apportionment, the area is a maintenance area; or

“(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.);

“(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

“(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under such subpart;

“(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under such subpart;

“(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under such subpart;

“(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under such subpart; or

“(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide.

“(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—

“(i) CARBON MONOXIDE NONATTAINMENT AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was also classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.2.

“(ii) CARBON MONOXIDE MAINTENANCE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was at one time also classified under subpart 3 of part D of title I



of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide but has been redesignated as a maintenance area, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.1.

“(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of  $\frac{1}{2}$  of 1 percent of the funds apportioned under this paragraph.

“(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

“(3) SURFACE TRANSPORTATION PROGRAM.—

“(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

“(i) 25 percent of the apportionments in the ratio that—

“(I) the total lane miles of Federal-aid highways in each State; bears to

“(II) the total lane miles of Federal-aid highways in all States.

“(ii) 40 percent of the apportionments in the ratio that—

“(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

“(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

“(iii) 35 percent of the apportionments in the ratio that—

“(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

“(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

“(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of  $\frac{1}{2}$  of 1 percent of the funds apportioned under this paragraph.

“(4) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

“(A)  $33\frac{1}{3}$  percent in the ratio that—

“(i) the total lane miles on Interstate System routes open to traffic in each State; bears to

“(ii) the total of all such lane miles in all States;

“(B)  $33\frac{1}{3}$  percent in the ratio that—

“(i) the total vehicle miles traveled on lanes on Interstate System routes designated under—

“(I) section 103;

“(II) section 139(a) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

“(III) section 139(c) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century);

in each State; bears to

“(ii) the total of all such vehicle miles traveled in all States; and

“(C) 33 $\frac{1}{3}$  percent in the ratio that—

“(i) the total of each State’s annual contributions to the Highway Trust Fund (other than the Mass Transit Account) attributable to commercial vehicles; bears to

“(ii) the total of such annual contributions by all States.

(c) OPERATION LIFESAVER AND HIGH SPEED RAIL CORRIDORS.—  
23 USC 104. Section 104(d) of such title is amended—

(1) in paragraph (1) by striking “The” and all that follows through “\$300,000 for each” and inserting “Before making an apportionment under subsection (b)(3) of this section for a fiscal year, the Secretary shall set aside \$500,000 for such”; and

(2) by striking paragraphs (2) and (3) and inserting the following:

“(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

“(A) IN GENERAL.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside \$5,250,000 of the funds made available for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings.

“(B) ELIGIBLE CORRIDORS.—Subject to subparagraph (E), funds made available under subparagraph (A) shall be expended for projects in—

“(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause);

“(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D);

“(iii) a Gulf Coast high speed railway corridor (as designated by the Secretary);

“(iv) a Keystone high speed railway corridor from Philadelphia to Harrisburg, Pennsylvania; and

“(v) an Empire State railway corridor from New York City to Albany to Buffalo, New York.

“(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph (B) shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

“(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph (B), the Secretary shall consider—

“(i) projected rail ridership volume in each corridor;

“(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

“(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

“(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

“(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.

“(E) CERTAIN IMPROVEMENTS.—Not less than \$250,000 of such set-aside shall be available per fiscal year for eligible improvements to the Minneapolis/St. Paul-Chicago segment of the Midwest High Speed Rail Corridor.

“(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$15,000,000 for each of fiscal years 1999 through 2003 to carry out this subsection.”.

(d) CERTIFICATION OF APPORTIONMENTS.—Section 104(e) of such title is amended—

23 USC 104.

(1) by inserting “CERTIFICATION OF APPORTIONMENTS.—” after “(e)”;

(2) by inserting “(1) IN GENERAL.—” before “On October 1”;

(3) by striking the first parenthetical phrase;

(4) by striking “and research” the first place it appears;

(5) by striking the second sentence;

(6) by adding at the end the following:

“(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under section 104, 144, or 157 by the 21st day of a fiscal year beginning after September 30, 1998, the Secretary shall transmit, by such 21st day, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a written statement of the reason for not making such apportionment in a timely manner.”; and

(7) by indenting paragraph (1) (as designated by paragraph (2) of this subsection) and aligning such paragraph (1) with paragraph (2) of such section (as added by paragraph (6) of this subsection).

(e) METROPOLITAN PLANNING SET-ASIDE.—Section 104(f) of such title is amended—

(1) in paragraph (1) by striking “Interstate construction and Interstate substitute programs” and inserting “recreational trails program”; and

(2) in paragraph (3) by striking “120(j) of this title” and inserting “120(b)”.

(f) RECREATIONAL TRAILS PROGRAM.—Section 104(h) of such title is amended to read as follows:

“(h) RECREATIONAL TRAILS PROGRAM.—

“(1) ADMINISTRATIVE COSTS.—Whenever an apportionment is made of the sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct an amount, not to exceed 1½ percent of the sums authorized, to cover the cost to the Secretary for administration of and research and technical assistance under the recreational trails program and for administration of the National Recreational Trails Advisory Committee. The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or non-profit organizations to perform these tasks.

“(2) APPORTIONMENT TO THE STATES.—After making the deduction authorized by paragraph (1) of this subsection, the Secretary shall apportion the remainder of the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year, among the States in the following manner:

“(A) 50 percent of that amount shall be apportioned equally among eligible States.

“(B) 50 percent of that amount shall be apportioned among eligible States in amounts proportionate to the degree of non-highway recreational fuel use in each of those States during the preceding year.

“(3) ELIGIBLE STATE DEFINED.—In this section, the term ‘eligible State’ means a State that meets the requirements of section 206(c).”.

23 USC 104.

(g) AUDITS OF HIGHWAY TRUST FUND.—Section 104 of such title is amended by striking subsection (i) and inserting the following:

“(i) AUDITS OF HIGHWAY TRUST FUND.—From administrative funds deducted under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.”.

(h) REPORT ON OBLIGATIONS.—Section 104 of such title is amended by striking subsection (j) and inserting the following:

“(j) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report for each fiscal year on—

“(1) the amount obligated, by each State, for Federal-aid highways and highway safety construction programs during the preceding fiscal year;

“(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section and sections 105 and 144;

“(3) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year; and

“(4) the rates of obligation of funds apportioned or set aside under this section and sections 105, 133, and 144, according to—

“(A) program;

“(B) funding category or subcategory;

“(C) type of improvement;

“(D) State; and

“(E) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.”.

(i) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—Section 104 of such title is amended by inserting after subsection (j) the following: 23 USC 104.

“(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

“(1) TRANSFER OF HIGHWAY FUNDS.—Funds made available under this title and transferred for transit projects of a type described in section 133(b)(2) shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

“(2) TRANSFER OF TRANSIT FUNDS.—Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of such chapter relating to the non-Federal share shall apply to the transferred funds.

“(3) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) and (2) shall be transferred in the same manner and amount as the funds for the projects are transferred.”.

(j) EFFECT OF CERTAIN DELAY IN DEPOSITS INTO HIGHWAY TRUST FUND.—Section 104 of such title is amended by adding at the end the following:

“(1) EFFECT OF CERTAIN DELAY IN DEPOSITS INTO HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the application of section 901(e) of the Taxpayer Relief Act of 1997 (111 Stat. 872) shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Transportation Equity Act for the 21st Century and this title.”.

(k) TECHNICAL AMENDMENTS.—Section 104(f) of such title is amended—

(1) by striking “(f)(1) On” and inserting the following:

“(f) METROPOLITAN PLANNING.—

“(1) SET-ASIDE.—On”;

(2) in paragraph (1) by striking “, except that” and all that follows through “programs”;

(3) by striking “(2) These” and inserting the following:

“(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These”;

(4) by striking “(3) The” and inserting the following:

“(3) USE OF FUNDS.—The”;

(5) by striking “(4) The” and inserting the following:

“(4) DISTRIBUTION OF FUNDS WITHIN STATES.—The”; and

(6) by aligning the remainder of the text of each of paragraphs (1) through (4) with paragraph (5).

(l) CONFORMING AMENDMENTS.—

(1) Section 146(a) of such title is amended in the first sentence by striking “, 104(b)(2), and 104(b)(6)” and inserting “and 104(b)(3)”.

(2) Section 158 of such title is amended—

(A) in subsection (a)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(iii) in paragraph (1) (as so redesignated)—

(I) by striking “AFTER THE FIRST YEAR” and inserting “IN GENERAL”; and

(II) by striking “104(b)(2), 104(b)(5), and 104(b)(6)” and inserting “104(b)(3), and 104(b)(4)”; and

(iv) in paragraph (2) (as redesignated by clause (ii)) by striking “paragraphs (1) and (2) of this subsection” and inserting “paragraph (1)”; and

(B) by striking subsection (b) and inserting the following:

“(b) EFFECT OF WITHHOLDING OF FUNDS.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.”.

23 USC 115.

(3)(A) Section 115(b)(1) of such title is amended by striking “104(b)(5)” and inserting “104(b)(4)”.

(B) Section 137(f)(1) of such title is amended by striking “section 104(b)(5)(B) of this title” and inserting “section 104(b)(4)”.

(C) Section 141(c) of such title is amended by striking “section 104(b)(5) of this title” each place it appears and inserting “section 104(b)(4)”.

(D) Section 142(c) of such title is amended by striking “(other than section 104(b)(5)(A))”.

(E) Section 159 of such title is amended—

(i) by striking “(5) of” each place it appears and inserting “(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of”; and

(ii) in subsection (b)—

(I) in paragraphs (1)(A)(i) and (3)(A) by striking “section 104(b)(5)(A)” each place it appears and inserting “section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)”;

(II) in paragraph (1)(A)(ii) by striking “section 104(b)(5)(B)” and inserting “section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)”;

(III) in paragraph (3)(B) by striking “(5)(B)” and inserting “(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)”;

(IV) in paragraphs (3) and (4) by striking “section 104(b)(5)” each place it appears and inserting “section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)”.

(F) Section 161(a) of such title is amended by striking “paragraphs (1), (3), and (5)(B) of section 104(b)” each place it appears and inserting “paragraphs (1), (3), and (4) of section 104(b)”.

(4) Section 142(b) of such title is amended by striking “paragraph (5) of subsection (b) of section 104 of this title” and inserting “section 104(b)(4)”.

23 USC 104 note.

(m) ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 1997.—

(1) **IN GENERAL.**—Notwithstanding any other provision of law and subject to section 2(c) of the Surface Transportation Extension Act of 1997, the Secretary shall ensure that the total apportionments for a State (other than Massachusetts) for fiscal year 1998 made under the Transportation Equity Act for the 21st Century (including amendments made by such Act) shall be reduced by the amount apportioned to such State (other than Massachusetts) under section 1003(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991.

(2) **REPAYMENT OF TRANSFERRED FUNDS.**—The Secretary shall ensure that any apportionments made to a State for fiscal year 1998 and adjusted under paragraph (1) shall first be used to restore in accordance with section 3(c) of the Surface Transportation Extension Act of 1997 any funds that a State transferred under section 3 of such Act.

(3) **INSUFFICIENT FUNDS FOR REPAYMENT.**—If a State has insufficient funds apportioned in fiscal year 1998 under the Transportation Equity Act for the 21st Century (including amendments made by such Act) to make the adjustment required by paragraph (1), then the Secretary shall make an adjustment to any funds apportioned to such State in fiscal year 1999.

(4) **ALLOCATED PROGRAMS.**—Notwithstanding any other provision of law, amounts made available for fiscal year 1998 by the Transportation Equity Act for the 21st Century (including amendments made by such Act) for a program that is continued by both of sections 4, 5, 6, and 7 of the Surface Transportation Extension Act of 1997 (including amendments made by such sections) and the Transportation Equity Act for the 21st Century (including amendments made by such Act) shall be reduced by the amount made available by such sections 4, 5, 6, and 7 for such programs.

(5) **TREATMENT OF STEA OBLIGATION AUTHORITY.**—The amount of obligation authority made available under section 2(e) of the Surface Transportation Extension Act of 1997 shall be considered to be an amount of obligation authority made available for fiscal year 1998 under section 1102(a) of this Act.

(n) **STATE DEFINED.**—For the purposes of apportioning funds under sections 104, 105, 144, and 206, the term “State” means any of the 50 States and the District of Columbia. 23 USC 101 note.

#### **SEC. 1104. MINIMUM GUARANTEE.**

(a) **IN GENERAL.**—Section 105 of title 23, United States Code, is amended to read as follows:

##### **“§ 105. Minimum guarantee**

“(a) **GENERAL RULE.**—For each of fiscal years 1998 through 2003, the Secretary shall allocate among the States amounts sufficient to ensure that each State’s percentage of the total apportionments for such fiscal year of Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation, metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs shall equal the percentage listed for each State in subsection (b).

“(b) STATE PERCENTAGES.—The percentage for each State referred to in subsection (a) shall be determined in accordance with the following table:

“States:	Percentage
Alabama .....	2.0269
Alaska .....	1.1915
Arizona .....	1.5581
Arkansas .....	1.3214
California .....	9.1962
Colorado .....	1.1673
Connecticut .....	1.5186
Delaware .....	0.4424
District of Columbia .....	0.3956
Florida .....	4.6176
Georgia .....	3.5104
Hawaii .....	0.5177
Idaho .....	0.7718
Illinois .....	3.3819
Indiana .....	2.3588
Iowa .....	1.2020
Kansas .....	1.1717
Kentucky .....	1.7365
Louisiana .....	1.5900
Maine .....	0.5263
Maryland .....	1.5087
Massachusetts .....	1.8638
Michigan .....	3.1535
Minnesota .....	1.4993
Mississippi .....	1.2186
Missouri .....	2.3615
Montana .....	0.9929
Nebraska .....	0.7768
Nevada .....	0.7248
New Hampshire .....	0.5163
New Jersey .....	2.5816
New Mexico .....	0.9884
New York .....	5.1628
North Carolina .....	2.8298
North Dakota .....	0.6553
Ohio .....	3.4257
Oklahoma .....	1.5419
Oregon .....	1.2183
Pennsylvania .....	4.9887
Rhode Island .....	0.5958
South Carolina .....	1.5910
South Dakota .....	0.7149
Tennessee .....	2.2646
Texas .....	7.2131
Utah .....	0.7831
Vermont .....	0.4573
Virginia .....	2.5627
Washington .....	1.7875
West Virginia .....	1.1319
Wisconsin .....	1.9916
Wyoming .....	0.6951

“(c) TREATMENT OF FUNDS.—

“(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion 50 percent of the amounts made available under this section that exceed \$2,800,000,000 so that the amount apportioned to each State under this paragraph for each program referred to in subsection (a) (other than metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—



“(A) the amount of funds apportioned to each State for each program referred to in subsection (a) for a fiscal year; bears to

“(B) the total amount of funds apportioned to all States for such program for such fiscal year.

“(2) REMAINING DISTRIBUTION.—The Secretary shall apportion the remainder of funds made available under this section to the States in accordance with section 104(b)(3); except that requirements of paragraphs (1), (2), and (3) of section 133(d) shall not apply to amounts apportioned pursuant to this paragraph.

“(d) AUTHORIZATION.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this section for each of fiscal years 1998 through 2003.

“(e) SPECIAL RULE.—If in any of fiscal years 1999 through 2003, the amount authorized under subsection (d) is more than 30 percent higher than the amount authorized under subsection (d) in fiscal year 1998, the Secretary shall use the apportionment factors under sections 104 and 144 as in effect on the date of enactment of this section.

“(f) GUARANTEE OF 90.5 RETURN.—

“(1) IN GENERAL.—Before making any apportionment under this title for each of fiscal years 1999 through 2003, the Secretary, subject to paragraph (2), shall adjust the percentages in the table in subsection (b) to reflect the estimated percentage of estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data is available, to ensure that no State’s return from such Trust Fund is less than 90.5 percent.

“(2) ELIGIBILITY THRESHOLD FOR INITIAL ADJUSTMENT.—The Secretary may make an adjustment under paragraph (1) for a State for a fiscal year only if the State’s return from the Highway Trust Fund (other than the Mass Transit Account) for the preceding fiscal year was equal to or less than 90.5 percent.

“(3) CONFORMING ADJUSTMENTS.—After making any adjustments under paragraph (1) for a fiscal year, the Secretary shall adjust the remaining percentages in the table set forth in subsection (b) to ensure that the total of the percentages in the table do not exceed 100 percent for such fiscal year.

“(4) LIMITATION ON ADJUSTMENTS.—After making any adjustments under paragraph (3) for a fiscal year, the Secretary shall determine whether or not any State’s return from the Highway Trust Fund (other than the Mass Transit Account) is less than 90.5 percent as a result of such adjustments and shall adjust the percentages in the table for such fiscal year accordingly. Adjustments of the percentages in the table under this paragraph may not result in the total of such percentages exceeding 100 percent.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 105 and inserting the following:

“105. Minimum guarantee.”.

**SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.**

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by striking section 110 and inserting the following:

**“§ 110. Revenue aligned budget authority**

“(a) DETERMINATION OF AMOUNT.—On October 15 of fiscal year 1999, and each fiscal year thereafter, the Secretary shall allocate an amount of funds equal to the amount determined pursuant to section 251(b)(1)(B)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(B)(I)(cc)).

“(b) GENERAL DISTRIBUTION.—The Secretary shall—

“(1) determine the ratio that—

“(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the for Federal-aid highway and highway safety construction programs (other than the minimum guarantee program) for which funds are allocated from such Trust Fund by the Secretary under this title and the Transportation Equity Act for the 21st Century for a fiscal year, bears to

“(B) the total of all sums authorized to be appropriated from such Trust Fund for such programs for such fiscal year;

“(2) multiply the ratio determined under paragraph (1) by the total amount of funds to be allocated under subsection (a) for such fiscal year;

“(3) allocate the amount determined under paragraph (2) among such programs in the ratio that—

“(A) the sums authorized to be appropriated from such Trust Fund for each of such programs for such fiscal year, bears to

“(B) the sums authorized to be appropriated from such Trust Fund for all such programs for such fiscal year; and

“(4) allocate the remainder of the funds to be allocated under subsection (a) for such fiscal year to the States in the ratio that—

“(A) the total of all funds authorized to be appropriated from such Trust Fund for Federal-aid highway and highway safety construction programs that are apportioned to each State for such fiscal year but for this section, bears to

“(B) the total of all funds authorized to be appropriated from such Trust Fund for such programs that are apportioned to all States for such fiscal year but for this section.

“(c) STATE PROGRAMMATIC DISTRIBUTION.—Of the funds to be apportioned to each State under subsection (b)(4) for a fiscal year, the Secretary shall ensure that such funds are apportioned for the Interstate Maintenance program, the National Highway System program, the bridge program, the surface transportation program, and the congestion mitigation air quality improvement program in the same ratio that each State is apportioned funds for such programs for such fiscal year but for this section.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this section for fiscal years beginning after September 30, 1998.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 110 and inserting the following:

“110. Revenue aligned budget authority.”.

**SEC. 1106. FEDERAL-AID SYSTEMS.**

23 USC 103 note.

(a) ADMINISTRATION OF NATIONAL HIGHWAY SYSTEM AND INTERSTATE MAINTENANCE PROGRAM.—The Secretary shall administer the National Highway System program and the Interstate Maintenance program as a combined program for purposes of allowing States maximum flexibility. References in this Act and title 23, United States Code, shall not be affected by such consolidation.

(b) FEDERAL-AID SYSTEMS.—Section 103 of title 23, United States Code, is amended to read as follows:

**“§ 103. Federal-aid systems**

“(a) IN GENERAL.—For the purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

“(b) NATIONAL HIGHWAY SYSTEM.—

“(1) DESCRIPTION.—The National Highway System consists of the highway routes and connections to transportation facilities depicted on the map submitted by the Secretary to Congress with the report entitled ‘Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals’ and dated May 24, 1996. The system shall—

“(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

“(B) meet national defense requirements; and

“(C) serve interstate and interregional travel.

“(2) COMPONENTS.—The National Highway System described in paragraph (1) consists of the following:

“(A) The Interstate System described in subsection (c).

“(B) Other urban and rural principal arterial routes.

“(C) Other connector highways (including toll facilities) that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

“(D) A strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be highways on or off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

“(E) Major strategic highway network connectors consisting of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network. The highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

“(3) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 178,250 miles.

“(4) MODIFICATIONS TO NHS.—

“(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State or that is proposed by a State and revised by the Secretary if the Secretary determines that the modification—

“(i) meets the criteria established for the National Highway System under this title; and

“(ii) enhances the national transportation characteristics of the National Highway System.

“(B) COOPERATION.—

“(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

“(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

“(5) CONGRESSIONAL HIGH PRIORITY CORRIDORS.—Upon the completion of feasibility studies, the Secretary shall add to the National Highway System any congressional high priority corridor or any segment of such a corridor established by section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031 et seq.) that was not identified on the National Highway System described in paragraph (1).

“(6) ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1) for the National Highway System may be obligated for any of the following:

“(A) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the National Highway System.

“(B) Operational improvements for segments of the National Highway System.

“(C) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System, and construction of a transit project eligible for assistance under chapter 53 of title 49, if—

“(i) the highway or transit project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

“(ii) the construction or improvements will improve the level of service on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

“(iii) the construction or improvements are more cost-effective than an improvement to the fully access-controlled highway described in clause (i).

“(D) Highway safety improvements for segments of the National Highway System.

“(E) Transportation planning in accordance with sections 134 and 135.

“(F) Highway research and planning in accordance with chapter 5.

“(G) Highway-related technology transfer activities.

“(H) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

“(I) Fringe and corridor parking facilities.

“(J) Carpool and vanpool projects.

“(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

“(L) Development, establishment, and implementation of management systems under section 303.

“(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101-640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction; except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes. With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).

“(N) Publicly-owned intracity or intercity bus terminals.

“(O) Infrastructure-based intelligent transportation systems capital improvements.

“(P) In the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, any project eligible for assistance under section 133, any airport, and any seaport.

“(c) INTERSTATE SYSTEM.—

“(1) DESCRIPTION.—

“(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico) consists of highways designed, located, and selected in accordance with this paragraph.

“(B) DESIGN.—

“(i) IN GENERAL.—Except as provided in clause (ii), highways on the Interstate System shall be designed in accordance with the standards of section 109(b).

“(ii) EXCEPTION.—Highways on the Interstate System in Alaska and Puerto Rico shall be designed in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway.

“(C) LOCATION.—Highways on the Interstate System shall be located so as—

“(i) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

“(ii) to serve the national defense; and

“(iii) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

“(D) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation departments of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

“(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

“(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

“(4) INTERSTATE SYSTEM DESIGNATIONS.—

“(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

“(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

“(i) IN GENERAL.—If the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A) if the highway met all standards of a highway on the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

“(ii) WRITTEN AGREEMENT OF STATES.—A designation under clause (i) shall be made only upon the written agreement of the State or States described in such clause that the highway will be constructed to meet all standards of a highway on the Interstate System by the date that is 12 years after the date of the agreement.

“(iii) REMOVAL OF DESIGNATION.—

“(I) IN GENERAL.—If the State or States described in clause (i) have not substantially completed the construction of a highway designated under this subparagraph within the time provided for in the agreement between the Secretary and the State or States under clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

“(II) EFFECT OF REMOVAL.—Removal of the designation of a highway under subclause (I) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

“(iv) PROHIBITION ON REFERRAL AS INTERSTATE SYSTEM ROUTE.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as the highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a route on the Interstate System.

“(C) FINANCIAL RESPONSIBILITY.—Except as provided in this title, the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

“(d) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—

“(1) INTERSTATE CONSTRUCTION FUNDS NOT IN SURPLUS.—

“(A) IN GENERAL.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), if the amount does not exceed the Federal share of the costs of construction of segments of the Interstate System in the State included in the most recent Interstate System cost estimate.

“(B) EFFECT OF TRANSFER.—Upon transfer of an amount under subparagraph (A), the construction on which the amount is based, as included in the most recent Interstate System cost estimate, shall not be eligible for funding under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) or 118(c).

“(2) SURPLUS INTERSTATE CONSTRUCTION FUNDS.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of surplus funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), if the State has fully financed all

work eligible under the most recent Interstate System cost estimate.

“(3) APPLICABILITY OF CERTAIN LAWS.—Funds transferred under this subsection shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred.”.

23 USC 103 note.

(b) UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS.—Unobligated balances of funds apportioned to a State under section 103(e)(4)(H) of title 23, United States Code (as in effect on the day before the date of enactment of this Act), shall be available for obligation by the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on that date.

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 115(a) of title 23, United States Code, is amended—

(i) in the subsection heading by striking “SUBSTITUTE,”; and

(ii) in paragraph (1)(A)(i) by striking “103(e)(4)(H),”;

(B) Section 118 of such title is amended—

(i) by striking subsection (d); and

(ii) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(C) Section 129(b) of such title is amended in the first sentence by striking “which has been” and all that follows through “and has not” and inserting “which is a public road and has not”.

(2)(A) Section 139 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.

(B) Section 127(f) of such title is amended by striking “section 139(a)” and inserting “section 103(c)(4)(A)”.

(C) Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597) is amended by striking subparagraph (B) and inserting the following:

“(B) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as parts of the Interstate System under this paragraph shall be treated in the same manner as segments designated under section 103(c)(4)(A) of title 23, United States Code.”.

23 USC 103 note.

(d) INTERMODAL FREIGHT CONNECTORS STUDY.—

(1) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(A) review the condition of and improvements made, since the designation of the National Highway System, to connectors on the National Highway System that serve seaports, airports, and other intermodal freight transportation facilities; and

(B) report to Congress on the results of such review.

(2) REVIEW.—In preparing the report, the Secretary shall review the connectors and identify projects carried out on those connectors that were intended to provide and improve service to an intermodal facility referred to in paragraph (1) and to facilitate the efficient movement of freight, including movements of freight between modes.



(3) IDENTIFICATION OF IMPEDIMENTS.—If the Secretary determines on the basis of the review that there are impediments to improving the connectors serving intermodal facilities referred to in paragraph (1), the Secretary shall identify such impediments and make any appropriate recommendations as part of the Secretary's report to Congress under this subsection.

**SEC. 1107. INTERSTATE MAINTENANCE PROGRAM.**

(a) IN GENERAL.—Section 119 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—

“(1) PROJECTS.—The Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing—

“(A) routes on the Interstate System designated under section 103(c)(1) and, in Alaska and Puerto Rico, under section 103(c)(4)(A);

“(B) routes on the Interstate System designated before the date of enactment of the Transportation Equity Act for the 21st Century under subsections (a) and (b) of section 139 (as in effect on the day before the date of enactment of such Act); and

“(C) any segments that become part of the Interstate System under section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991.

“(2) TOLL ROADS.—The Secretary may approve a project pursuant to this subsection on a toll road only if such road is subject to a Secretarial agreement provided for in section 129 or continued in effect by section 1012(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1939) and not voided by the Secretary under section 120(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 159).

“(3) FUNDING.—Sums authorized to be appropriated to carry out this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(4).”;

(2) by striking subsections (b), (c), and (e); and

(3) by redesignating subsections (d), (f), and (g) as subsections (b), (c), and (d), respectively.

(b) SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.—Section 118(c) of such title is amended to read as follows:

“(c) SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.—

“(1) IN GENERAL.—Before any apportionment is made under section 104(b)(4), the Secretary shall set aside \$50,000,000 in fiscal year 1998 and \$100,000,000 in each of fiscal years 1999 through 2003 for obligation by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing any route or portion thereof on the Interstate System (other than any highway designated as a part of the Interstate System under section 139 (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)) and any toll road on the Interstate System not subject to an agreement under section 119(e) (as in effect on December 17, 1991).

“(2) SELECTION CRITERIA.—The amounts set aside under paragraph (1) shall be made available by the Secretary to

any State applying for such funds if the Secretary determines that—

“(A) the State has obligated or demonstrates that it will obligate in the fiscal year all of its apportionments under section 104(b)(4) other than an amount that, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System that has been submitted by the State to the Secretary for approval; and

“(B) the applicant is willing and able to—

“(i) obligate the funds within 1 year of the date the funds are made available;

“(ii) apply the funds to a ready-to-commence project; and

“(iii) in the case of construction work, begin work within 90 days after obligation.

“(3) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In selecting projects to fund under paragraph (1), the Secretary shall give priority consideration to any project the cost of which exceeds \$10,000,000 on any high volume route in an urban area or a high truck-volume route in a rural area.

“(4) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this subsection shall remain available until expended.”.

23 USC 119 note.

(c) INTERSTATE NEEDS.—

(1) STUDY.—The Secretary shall conduct, in cooperation with States and affected metropolitan planning organizations, a study to determine—

(A) the expected condition of the Interstate System over the next 10 years and the needs of States and metropolitan planning organizations to reconstruct and improve the Interstate System;

(B) the resources necessary to maintain and improve the Interstate System; and

(C) the means to ensure that the Nation’s surface transportation program can—

(i) address the needs identified in subparagraph

(A); and

(ii) allow for States to address any extraordinary needs.

(2) REPORT.—Not later than January 1, 2000, the Secretary shall transmit to Congress a report on the results of the study.

#### SEC. 1108. SURFACE TRANSPORTATION PROGRAM.

(a) ELIGIBILITY OF PROJECTS.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1) by inserting after “magnesium acetate” the following: “, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions”;

(2) in paragraph (2) by striking “and publicly owned intracity or intercity bus terminals and facilities” and inserting “, including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus”;

(3) in paragraph (3)—

(A) by striking “and bicycle” and inserting “bicycle”; and

(B) by inserting before the period at the end the following: “, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)”;

(4) in paragraph (4) by inserting “infrastructure” after “safety”;

(5) in paragraph (9) by striking “section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act” and inserting “section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))”;

(6) in paragraph (11)—

(A) in the first sentence—

(i) by inserting “natural habitat and” after “participation in” each place it appears;

(ii) by striking “enhance and create” and inserting “enhance, and create natural habitats and”; and

(iii) by inserting “natural habitat and” before “wetlands conservation”; and

(B) by adding at the end the following: “With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).”; and

(7) by adding at the end the following:

“(13) Infrastructure-based intelligent transportation systems capital improvements.

“(14) Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.”.

(b) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 133 of such title is amended—

23 USC 133.

(1) in subsection (d)(3)(D) by striking “any State” and all that follows through the period at the end and inserting “Hawaii and Alaska”; and

(2) in subsection (e)—

(A) in paragraph (3)(B)(i) by striking “if the Secretary” and all that follows through “activities”; and

(B) in paragraph (5) by adding at the end the following:

“(C) COST SHARING.—

“(i) REQUIRED AGGREGATE NON-FEDERAL SHARE.—The average annual non-Federal share of the total cost of all projects to carry out transportation enhancement activities in a State for a fiscal year shall be not less than the non-Federal share authorized for the State under section 120(b).

“(ii) INNOVATIVE FINANCING.—Subject to clause (i), notwithstanding section 120—

“(I) funds from other Federal agencies and the value of other contributions (as determined by the Secretary) may be credited toward the non-Federal share of the costs of a project to carry out a transportation enhancement activity;

“(II) the non-Federal share for such a project may be calculated on a project, multiple-project, or program basis; and

“(III) the Federal share of the cost of an individual project to which subclause (I) or (II) applies may be up to 100 percent.”.

23 USC 133.

(c) PROGRAM APPROVAL.—Section 133(e) of such title is amended by striking paragraph (2) and inserting the following:

“(2) PROGRAM APPROVAL.—

“(A) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

Certification.

“(i) certifies that the State will meet all the requirements of this section; and

Notification.

“(ii) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

“(B) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—Each State shall request from the Secretary such adjustments to the amount of obligations referred to in subparagraph (A)(ii) as the State determines to be necessary.

“(C) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under subparagraph (A) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.”.

(d) PAYMENTS.—Section 133(e)(3)(A) of such title is amended by striking the second sentence.

(e) SURFACE TRANSPORTATION PROGRAM OBLIGATIONS IN URBAN AREAS.—Section 133 of such title is amended to read as follows:

“(f) OBLIGATION AUTHORITY.—

“(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the period of fiscal years 1998 through 2000 and the period of fiscal years 2001 through 2003 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

“(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during the period; and

“(B) the ratio that—

“(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

“(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

“(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).”

(f) DIVISION OF STP FUNDS FOR AREAS OF LESS THAN 5,000 POPULATION.— 23 USC 133 note.

(1) SPECIAL RULE.—Notwithstanding section 133(c) of title 23, United States Code, and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated under section 133(d)(3)(B) of such title for each of fiscal years 1998 through 2003 may be obligated on roads functionally classified as minor collectors.

(2) SUSPENSION.—The Secretary may suspend the application of paragraph (1) if the Secretary determines that paragraph (1) is being used excessively.

(g) ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS.—The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform appropriate transportation enhancement activities under chapter 1 of title 23, United States Code. 23 USC 133 note.

#### SEC. 1109. HIGHWAY BRIDGE PROGRAM.

(a) APPORTIONMENT FORMULA.—Section 144(e) of title 23, United States Code, is amended in the fourth sentence by inserting before the period at the end the following: “, and, if a State transfers funds apportioned to the State under this section in a fiscal year beginning after September 30, 1997, to any other apportionment of funds to such State under this title, the total cost of deficient bridges in such State and in all States to be determined for the succeeding fiscal year shall be reduced by the amount of such transferred funds”.

(b) DISCRETIONARY BRIDGE SET-ASIDE.—Section 144(g)(1) of such title is amended—

(1) by inserting “(A) FISCAL YEARS 1992 THROUGH 1997.—” before “Of the amounts”;

(2) by adding at the end the following:

“(B) FISCAL YEAR 1998.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for fiscal year 1998, all but \$25,000,000 shall be apportioned as provided in subsection (e) of this section. Such \$25,000,000 shall be available only for projects for the seismic retrofit of a bridge described in subsection (l).

“(C) FISCAL YEARS 1999 THROUGH 2003.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of fiscal years 1999 through 2003, all but \$100,000,000 shall be apportioned as provided in subsection (e). Such \$100,000,000 shall be available at the discretion of the Secretary; except that

not to exceed \$25,000,000 shall be available only for projects for the seismic retrofit of bridges, including projects in the New Madrid fault region.”; and

(3) by indenting subparagraph (A) (as designated by paragraph (1) of this subsection) and aligning such subparagraph (A) with subparagraphs (B) and (C) of such section (as added by paragraph (2) of this subsection).

23 USC 144. (c) OFF-SYSTEM BRIDGE SET-ASIDE.—Section 144(g)(3) of such title is amended—

(1) by striking “, 1988” and all that follows through “1997,” and inserting “through 2003”; and

(2) by striking “system” each place it appears and inserting “highway”.

(d) ELIGIBILITY.—Section 144 of title 23, United States Code, is amended—

(1) in subsection (d) by inserting after “magnesium acetate” the following: “, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or installing scour countermeasures”;

(2) in subsection (d) by inserting after “such acetate” each place it appears the following: “or sodium acetate/formate or such anti-icing or de-icing composition or installation of such countermeasures”; and

(3) in subsection (g)(3) by inserting after “magnesium acetate” the following: “, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures”.

(e) CONFORMING AMENDMENT.—Section 144(n) of such title is amended by striking “system” and inserting “highway”.

#### **SEC. 1110. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—Section 149(a) of title 23, United States Code, is amended by inserting after “establish” the following: “and implement”.

(b) CURRENTLY ELIGIBLE PROJECTS.—Section 149(b) of such title is amended—

(1) by striking “that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994” and inserting the following: “that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997,”;

(2) in paragraph (1)(A) by striking “clauses (xii) and”; and inserting “clause”;

(3) in paragraph (1)(A)(ii) by striking “an area” and all that follows through the semicolon and inserting “a maintenance area,”;

(4) by striking “or” at the end of paragraph (3);

(5) by striking “standard.” at the end of paragraph (4) and inserting “standard; or”; and

(6) by inserting after paragraph (4) the following:

“(5) if the program or project improves traffic flow, including projects to improve signalization, construct high occupancy vehicle lanes, improve intersections, and implement intelligent transportation system strategies and such other projects that are eligible for assistance under this section on the day before the date of enactment of this paragraph.”

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149 of such title is amended by striking subsection (c) and inserting the following: 23 USC 149.

“(c) STATES RECEIVING MINIMUM APPORTIONMENT.—

“(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(2) for any project eligible under the surface transportation program under section 133.

“(2) STATES WITH A NONATTAINMENT AREA.—If a State has a nonattainment area or maintenance area and receives funds under section 104(b)(2)(D) above the amount of funds that the State would have received based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2), the State may use that portion of the funds not based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2) for any project in the State eligible under section 133.”

(d) PUBLIC-PRIVATE PARTNERSHIPS.—

(1) IN GENERAL.—Section 149 of such title is amended by adding at the end the following:

“(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

“(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

“(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

“(B) cost sharing of any project expense;

“(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

“(D) any other form of participation approved by the Secretary.

“(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(2) to an entity described in paragraph (1).

“(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

“(A) may include the costs of vehicle refueling infrastructure, including infrastructure that would support the development, production, and use of emerging technologies

that reduce emissions of air pollutants from motor vehicles, and other capital investments associated with the project;

“(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally fueled vehicle, that would otherwise be borne by a private party; and

“(C) shall apply other governmental financial purchase contributions in the calculation of net incremental cost.

“(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.”.

23 USC 149 note.

(2) DETERMINATION BY THE SECRETARY.—For the purposes of section 149(c) of title 23, United States Code, the Secretary shall determine in accordance with the procedures specified in section 149(b) of such title whether water-phased hydrocarbon fuel emulsion technologies that consist of a hydrocarbon base and water in an amount not less than 20 percent by volume that reduce emissions of hydrocarbon, particulate matter, carbon monoxide, or nitrogen oxide from motor vehicles.

23 USC 149 note.  
Contracts.

(e) STUDY OF CMAQ PROGRAM.—

(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall enter into arrangements with the National Academy of Sciences to complete, by not later than January 1, 2001, a study of the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code. The study shall, at a minimum—

(A) evaluate the air quality impacts of emissions from motor vehicles;

(B) evaluate the negative effects of traffic congestion, including the economic effects of time lost due to congestion;

(C) determine the amount of funds obligated under the program and make a comprehensive analysis of the types of projects funded under the program;

(D) evaluate the emissions reductions attributable to projects of various types that have been funded under the program;

(E) assess the effectiveness, including the quantitative and nonquantitative benefits, of projects funded under the program and include, in the assessment, an estimate of the cost per ton of pollution reduction;

(F) assess the cost effectiveness of projects funded under the program with respect to congestion mitigation;

(G) compare—

(i) the costs of achieving the air pollutant emissions reductions achieved under the program; to

(ii) the costs that would be incurred if similar reductions were achieved by other measures, including pollution controls on stationary sources;

(H) include recommendations on improvements, including other types of projects, that will increase the overall effectiveness of the program;

(I) include recommendations on expanding the scope of the program to address traffic-related pollutants that,



as of the date of the study, are not addressed by the program.

(2) **REPORT.**—Not later than January 1, 2000, the National Academy of Sciences shall transmit to the Secretary, the Committee on Transportation and Infrastructure and the Committee on Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report on the results of the study with recommendations for modifications to the congestion mitigation and air quality improvement program in light of the results of the study.

(3) **FUNDING.**—Before making the apportionment of funds under section 104(b)(2) of title 23, United States Code, for each of fiscal years 1999 and 2000, the Secretary shall deduct from the amount to be apportioned under such section for such fiscal year, and make available, \$500,000 for such fiscal year to carry out this subsection.

**SEC. 1111. FEDERAL SHARE.**

(a) **STATE-DETERMINED LOWER FEDERAL SHARE.**—Section 120 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “Except” and inserting the following:

“(1) **IN GENERAL.**—Except”;

(B) by adding at the end the following:

“(2) **STATE-DETERMINED LOWER FEDERAL SHARE.**—In the case of any project subject to paragraph (1), a State may determine a lower Federal share than the Federal share determined under such paragraph.”; and

(C) by aligning the remainder of the text of paragraph

(1) (as designated by subparagraph (A) of this paragraph) with paragraph (2) of such subsection (as added by subparagraph (B) of this paragraph); and

(2) in subsection (b) by adding at the end the following:

“In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection.”.

(b) **INCREASED FEDERAL SHARE FOR CERTAIN SAFETY PROJECTS.**—The first sentence of section 120(c) of such title is amended by inserting “or transit vehicles” after “emergency vehicles”.

(c) **CREDIT FOR NON-FEDERAL SHARE.**—Section 120 of such title is amended by adding at the end the following:

“(j) **CREDIT FOR NON-FEDERAL SHARE.**—

“(1) **ELIGIBILITY.**—A State may use as a credit toward the non-Federal share requirement for any funds made available to carry out this title (other than the emergency relief program authorized by section 125) or chapter 53 of title 49 toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce. Such public, quasi-public, or private agencies shall have built, improved, or maintained such facilities without Federal funds.

“(2) **MAINTENANCE OF EFFORT.**—

“(A) **IN GENERAL.**—The credit for any non-Federal share provided under this subsection shall not reduce nor replace

State funds required to match Federal funds for any program under this title.

“(B) CONDITION ON RECEIPT OF CREDIT.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreement as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures in such fiscal year at or above the average level of such expenditures for the preceding 3 fiscal years; except that if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than 130 percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years, the agreement shall ensure that the State will maintain its non-Federal transportation capital expenditures in the fiscal year of the credit at or above the average level of such expenditures for the other 2 fiscal years.

“(C) TRANSPORTATION CAPITAL EXPENDITURES DEFINED.—In subparagraph (B), the term ‘non-Federal transportation capital expenditures’ includes any payments made by the State for issuance of transportation-related bonds.

“(3) TREATMENT.—

“(A) LIMITATION ON LIABILITY.—Use of a credit for a non-Federal share under this subsection that is received from a public, quasi-public, or private agency—

“(i) shall not expose the agency to additional liability, additional regulation, or additional administrative oversight; and

“(ii) shall not subject the agency to any additional Federal design standards or laws (including regulations) as a result of providing the non-Federal share other than those to which the agency is already subject.

“(B) CHARTERED MULTISTATE AGENCIES.—When a credit that is received from a chartered multistate agency is applied to a non-Federal share under this subsection, such credit shall be applied equally to all charter States.”.

23 USC 130.

(d) CONFORMING AMENDMENTS.—Section 130(a) of such title is amended—

(1) in the first sentence by striking “Except as provided in subsection (d) of section 120 of this title” and inserting “Subject to section 120”; and

(2) in the second sentence by striking “except as provided in subsection (d) of section 120 of this title” and inserting “subject to section 120”.

#### SEC. 1112. RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 205 the following:

##### “§ 206. Recreational trails program

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) MOTORIZED RECREATION.—The term ‘motorized recreation’ means off-road recreation using any motor-powered vehicle, except for a motorized wheelchair.

“(2) RECREATIONAL TRAIL.—The term ‘recreational trail’ means a thoroughfare or track across land or snow, used for recreational purposes such as—

“(A) pedestrian activities, including wheelchair use;

“(B) skating or skateboarding;

“(C) equestrian activities, including carriage driving;

“(D) nonmotorized snow trail activities, including skiing;

“(E) bicycling or use of other human-powered vehicles;

“(F) aquatic or water activities; and

“(G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

“(b) PROGRAM.—In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails.

“(c) STATE RESPONSIBILITIES.—To be eligible for apportionments under this section—

“(1) the Governor of the State shall designate the State agency or agencies that will be responsible for administering apportionments made to the State under this section; and

“(2) the State shall establish a State recreational trail advisory committee that represents both motorized and non-motorized recreational trail users, which shall meet not less often than once per fiscal year.

“(d) USE OF APPORTIONED FUNDS.—

“(1) IN GENERAL.—Funds apportioned to a State to carry out this section shall be obligated for recreational trails and related projects that—

“(A) have been planned and developed under the laws, policies, and administrative procedures of the State; and

“(B) are identified in, or further a specific goal of, a recreational trail plan, or a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.), that is in effect.

“(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

“(A) maintenance and restoration of existing recreational trails;

“(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

“(C) purchase and lease of recreational trail construction and maintenance equipment;

“(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be—

“(i) permissible under other law;

“(ii) necessary and required by a statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.) and that is in effect;

“(iii) approved by the administering agency of the State designated under subsection (c)(1); and

“(iv) approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

“(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

“(F) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section; and

“(G) operation of educational programs to promote safety and environmental protection as those objectives relate to the use of recreational trails, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year.

“(3) USE OF APPORTIONMENTS.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), of the apportionments made to a State for a fiscal year to carry out this section—

“(i) 40 percent shall be used for recreational trail or related projects that facilitate diverse recreational trail use within a recreational trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;

“(ii) 30 percent shall be used for uses relating to motorized recreation; and

“(iii) 30 percent shall be used for uses relating to nonmotorized recreation.

“(B) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres shall be exempt from the requirements of clauses (ii) and (iii) of subparagraph (A).

“(C) WAIVER AUTHORITY.—A State recreational trail advisory committee established under subsection (c)(2) may waive, in whole or in part, the requirements of clauses (ii) and (iii) of subparagraph (A) if the State recreational trail advisory committee determines and notifies the Secretary that the State does not have sufficient projects to meet the requirements of clauses (ii) and (iii) of subparagraph (A).

“(D) STATE ADMINISTRATIVE COSTS.—State administrative costs eligible for funding under paragraph (2)(F) shall be exempt from the requirements of subparagraph (A).

“(4) GRANTS.—

“(A) IN GENERAL.—A State may use funds apportioned to the State to carry out this section to make grants to

private organizations, municipal, county, State, and Federal Government entities, and other government entities as approved by the State after considering guidance from the State recreational trail advisory committee established under subsection (c)(2), for uses consistent with this section.

“(B) COMPLIANCE.—A State that makes grants under subparagraph (A) shall establish measures to verify that recipients of the grants comply with the conditions of the program for the use of grant funds.

“(e) ENVIRONMENTAL BENEFIT OR MITIGATION.—To the extent practicable and consistent with the other requirements of this section, a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of recreational trails to benefit the natural environment or to mitigate and minimize the impact to the natural environment.

“(f) FEDERAL SHARE.—

“(1) IN GENERAL.—Subject to the other provisions of this subsection, the Federal share of the cost of a project under this section shall not exceed 80 percent.

“(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—

“(A) the share attributable to the Secretary of Transportation may not exceed 80 percent of the cost of a project under this section; and

“(B) the share attributable to the Secretary and the Federal agency may not exceed 95 percent of the cost of a project under this section.

“(3) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE.—Notwithstanding any other provision of law, the non-Federal share of the cost of the project may include amounts made available by the Federal Government under any Federal program that are—

“(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

“(B) expended on a project that is eligible for assistance under this section.

“(4) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments to the non-Federal share of an individual project for a fiscal year under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for the fiscal year does not exceed 80 percent.

“(5) STATE ADMINISTRATIVE COSTS.—The Federal share of the administrative costs of a State under this subsection shall be determined in accordance with section 120(b).

“(g) USES NOT PERMITTED.—A State may not obligate funds apportioned to carry out this section for—

“(1) condemnation of any kind of interest in property;

“(2) construction of any recreational trail on National Forest System land for any motorized use unless—

“(A) the land has been designated for uses other than wilderness by an approved forest land and resource

management plan or has been released to uses other than wilderness by an Act of Congress; and

“(B) the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;

“(3) construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land—

“(A) has been designated for uses other than wilderness by an approved Bureau of Land Management resource management plan or has been released to uses other than wilderness by an Act of Congress; and

“(B) the construction is otherwise consistent with the management direction in the approved management plan; or

“(4) upgrading, expanding, or otherwise facilitating motorized use or access to recreational trails predominantly used by nonmotorized recreational trail users and on which, as of May 1, 1991, motorized use was prohibited or had not occurred.

“(h) PROJECT ADMINISTRATION.—

“(1) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, SERVICES, OR NEW RIGHT-OF-WAY.—

“(A) IN GENERAL.—Nothing in this title or other law shall prevent a project sponsor from offering to donate funds, materials, services, or a new right-of-way for the purposes of a project eligible for assistance under this section. Any funds, or the fair market value of any materials, services, or new right-of-way, may be donated by any project sponsor and shall be credited to the non-Federal share in accordance with subsection (f).

“(B) FEDERAL PROJECT SPONSORS.—Any funds or the fair market value of any materials or services may be provided by a Federal project sponsor and shall be credited to the Federal agency's share in accordance with subsection (f).

“(2) RECREATIONAL PURPOSE.—A project funded under this section is intended to enhance recreational opportunity and is not subject to section 138 of this title or section 303 of title 49.

“(3) CONTINUING RECREATIONAL USE.—At the option of each State, funds apportioned to the State to carry out this section may be treated as Land and Water Conservation Fund apportionments for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-8(f)(3)).

“(4) COOPERATION BY PRIVATE PERSONS.—

“(A) WRITTEN ASSURANCES.—As a condition of making available apportionments for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the land will cooperate with the State and participate as necessary in the activities to be conducted.

“(B) PUBLIC ACCESS.—Any use of the apportionments to a State to carry out this section on privately owned land must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by the apportionments.

“(i) CONTRACT AUTHORITY.—Funds authorized to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 206 and inserting the following:

“206. Recreational trails program.”.

(c) REPEAL OF OBSOLETE PROVISION.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) is repealed.

(d) TERMINATION OF ADVISORY COMMITTEE.—Section 1303 of such Act (16 U.S.C. 1262) is amended by adding at the end the following:

“(j) TERMINATION.—The advisory committee established by this section shall terminate on September 30, 2000.”.

(e) ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS.—The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform construction and maintenance of recreational trails under section 206 of title 23, United States Code.

23 USC 206 note.

#### SEC. 1113. EMERGENCY RELIEF.

(a) FEDERAL SHARE.—Section 120(e) of title 23, United States Code, is amended in the first sentence by striking “highway system” and inserting “highway”.

(b) ELIGIBILITY AND FUNDING.—Section 125 of such title is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively;

(2) by striking subsection (a) and inserting the following:

“(a) GENERAL ELIGIBILITY.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

“(1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

“(2) catastrophic failure from any external cause.

“(b) RESTRICTION ON ELIGIBILITY.—In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

“(c) FUNDING.—Subject to the following limitations, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:

“(1) Not more than \$100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out the provisions of this section; except that, if in any fiscal year the total of all obligations under this

section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.

“(2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized. Funds obligated under this paragraph shall be reimbursed from such appropriation or replenishment.”;

(3) in subsection (d) (as so redesignated)—

(A) in the first sentence by striking “reconstruction of highways” and all that follows through “in accordance” and inserting “reconstruction of highways on Federal-aid highways in accordance”;

(B) by striking “subsection (c)” both places it appears and inserting “subsection (e)”;

(C) in the second sentence by striking “authorized” and all that follows through the period and inserting “authorized on Federal-aid highways.”; and

(D) in the last sentence by striking “Disaster Relief and Emergency Assistance Act (Public Law 93-288)” and inserting “Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)”; and

(4) in subsection (e) (as so redesignated) by striking “on any of the Federal-aid highway systems” and inserting “Federal-aid highways”.

(c) SAN MATEO COUNTY, CALIFORNIA.—Notwithstanding any other provision of law, a project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, that—

(1) was destroyed as a result of a combination of storms in the winter of 1982-1983 and a mountain slide; and

(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities;

shall be eligible for assistance under section 125(a) of title 23, United States Code, if the project complies with the local coastal plan.

23 USC 120.

(d) TECHNICAL AMENDMENTS.—Section 120(e) of such title is amended—

(1) by striking “(c)” and inserting “(b)”;

(2) by striking “90” and inserting “180”.

#### SEC. 1114. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—Section 143 of title 23, United States Code, is amended to read as follows:

##### “§ 143. Highway use tax evasion projects

“(a) STATE DEFINED.—In this section, the term ‘State’ means the 50 States and the District of Columbia.

“(b) PROJECTS.—

“(1) IN GENERAL.—The Secretary shall carry out highway use tax evasion projects in accordance with this subsection.



“(2) ALLOCATION OF FUNDS.—Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary.

“(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

“(4) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only—

“(A) to expand efforts to enhance motor fuel tax enforcement;

“(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

“(C) to supplement motor fuel tax examinations and criminal investigations;

“(D) to develop automated data processing tools to monitor motor fuel production and sales;

“(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

“(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and

“(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

“(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

“(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

“(7) PERIOD OF AVAILABILITY.—Funds authorized to carry out this section shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

“(8) USE OF SURFACE TRANSPORTATION PROGRAM FUNDING.—In addition to funds made available to carry out this section, a State may expend up to  $\frac{1}{4}$  of 1 percent of the funds apportioned to the State for a fiscal year under section 104(b)(3) on initiatives to halt the evasion of payment of motor fuel taxes.

“(c) EXCISE FUEL REPORTING SYSTEM.—

“(1) IN GENERAL.—Not later than April 1, 1998, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development and maintenance by the Internal Revenue Service of an excise fuel reporting system (in this subsection referred to as the ‘system’).

Contracts.

“(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

“(A) the Internal Revenue Service shall develop and maintain the system through contracts;

“(B) the system shall be under the control of the Internal Revenue Service; and

“(C) the system shall be made available for use by appropriate State and Federal revenue, tax, and law

enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

“(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 1998 through 2003, the Secretary shall make available sufficient funds to the Internal Revenue Service to establish and operate an automated fuel reporting system.”.

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of such title is amended by striking the item relating to section 143 and inserting the following:

“143. Highway use tax evasion projects.”.

(2) Section 1040 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is repealed.

(3) Section 8002 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2203) is amended—

(A) in the first sentence of subsection (g) by striking “section 1040 of this Act” and inserting “section 143 of title 23, United States Code,”; and

(B) by striking subsection (h).

#### **SEC. 1115. FEDERAL LANDS HIGHWAYS PROGRAM.**

(a) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

“(j) USE OF FEDERAL LAND MANAGEMENT AGENCY FUNDS.—Notwithstanding any other provision of law, the funds appropriated to any Federal land management agency may be used to pay the non-Federal share of the cost of any Federal-aid highway project the Federal share of which is funded under section 104.

“(k) USE OF FEDERAL LANDS HIGHWAYS PROGRAM FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under section 104 and that provides access to or within Federal or Indian lands.”.

(b) ALLOCATIONS.—Section 202(d) of such title is amended—

(1) by inserting “INDIAN RESERVATION ROADS.—” after “(d)”;

(2) by inserting “(1) FOR FISCAL YEARS ENDING BEFORE OCTOBER 1, 1999.—” before “On October”;

(3) by inserting after “each fiscal year” the following: “ending before October 1, 1999”;

(4) by adding at the end the following:

“(2) FISCAL YEAR 2000 AND THEREAFTER.—

“(A) IN GENERAL.—All funds authorized to be appropriated for Indian reservation roads shall be allocated among Indian tribes for fiscal year 2000 and each subsequent fiscal year in accordance with a formula established by the Secretary of the Interior under a negotiated rule-making procedure under subchapter III of chapter 5 of title 5.

“(B) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall issue regulations governing the Indian reservation roads program, and establishing the funding formula for fiscal

year 2000 and each subsequent fiscal year under this paragraph, in accordance with a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5. The regulations shall be issued in final form not later than April 1, 1999, and shall take effect not later than October 1, 1999.

“(C) NEGOTIATED RULEMAKING COMMITTEE.—In establishing a negotiated rulemaking committee to carry out subparagraph (B), the Secretary of the Interior shall—

“(i) apply the procedures under subchapter III of chapter 5 of title 5 in a manner that reflects the unique government-to-government relationship between the Indian tribes and the United States; and

“(ii) ensure that the membership of the committee includes only representatives of the Federal Government and of geographically diverse small, medium, and large Indian tribes.

“(D) BASIS FOR FUNDING FORMULA.—The funding formula established for fiscal year 2000 and each subsequent fiscal year under this paragraph shall be based on factors that reflect—

“(i) the relative needs of the Indian tribes, and reservation or tribal communities, for transportation assistance; and

“(ii) the relative administrative capacities of, and challenges faced by, various Indian tribes, including the cost of road construction in each Bureau of Indian Affairs area, geographic isolation and difficulty in maintaining all-weather access to employment, commerce, health, safety, and educational resources.

“(3) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available under this title for Indian reservation roads and for highway bridges located on Indian reservation roads to pay for the costs of programs, services, functions, and activities, or portions thereof, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any highway, road, bridge, parkway, or transit facility that provides access to or is located within the reservation or community of an Indian tribe shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engineering, and construction in accordance with the Indian Self-Determination and Education Assistance Act.

“(B) EXCLUSION OF AGENCY PARTICIPATION.—Funds for programs, functions, services, or activities, or portions thereof, including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies, shall be paid in accordance with subparagraph (A) without regard to the organizational level at which the Department of the Interior that has previously carried out such programs, functions, services, or activities.

“(4) RESERVATION OF FUNDS.—

“(A) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall establish a nationwide priority program for improving deficient Indian reservation road bridges.

“(B) RESERVATION.—Of the amounts authorized to be appropriated for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than \$13,000,000 for projects to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate de-icer to, or install scour countermeasures for deficient Indian reservation road bridges, including multiple-pipe culverts.

“(C) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in subparagraph (A) must—

“(i) have an opening of 20 feet or more;

“(ii) be on an Indian reservation road;

“(iii) be unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; and

“(iv) be recorded in the national bridge inventory administered by the Secretary under subsection (b).

“(D) APPROVAL REQUIREMENT.—Funds to carry out Indian reservation road bridge projects under this subsection shall be made available only on approval of plans, specifications, and estimates by the Secretary.”; and

(5) by indenting paragraph (1) (as designated by paragraph (2) of this paragraph) and aligning paragraph (1) with paragraphs (2), (3), and (4) (as added by paragraph (4) of this paragraph).

23 USC 203.

(c) AVAILABILITY OF FUNDS.—Section 203 of such title is amended by adding at the end the following: “Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to pay the Federal share of the cost of the project.”.

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of such title is amended—

(1) by striking subsection (a) and inserting the following:

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, and Indian reservation roads and bridges.

“(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

“(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as

a part of the transportation planning process under this section shall be approved by the Secretary.

“(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

“(A) shall be developed in cooperation with States and metropolitan planning organizations; and

“(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

“(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

“(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop by rule safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.”;

(2) in subsection (b) by striking the first 3 sentences and inserting the following: “Funds available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay for the cost of transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within public lands, national parks, and Indian reservations. In connection with activities under the preceding sentence, the Secretary and the Secretary of the appropriate Federal land management agency may enter into construction contracts and other appropriate contracts with a State or civil subdivision of a State or Indian tribe.”;

(3) in the first sentence of subsection (e) by striking “Secretary of the Interior” and inserting “Secretary of the appropriate Federal land management agency”;

(4) in subsection (h) by adding at the end the following:

“(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.”;

(5) by striking subsection (i) and inserting the following:

“(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

“(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

“(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section.”; and

(6) in subsection (j) by striking the second sentence and inserting the following: “The Indian tribal government, in

cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a).”.

(e) REFUGE ROADS.—

23 USC 201.

(1) AUTHORIZATIONS.—Section 201 of such title is amended in the first sentence by inserting “refuge roads,” before “public lands highways,”.

(2) ALLOCATIONS.—Section 202 of such title is amended by adding at the end the following:

Effective date.

“(e) REFUGE ROADS.—On October 1 of each fiscal year, the Secretary shall allocate the sums made available for that fiscal year for refuge roads according to the relative needs of the various refuges in the National Wildlife Refuge System, and taking into consideration—

“(1) the comprehensive conservation plan for each refuge;

“(2) the need for access as identified through land use planning; and

“(3) the impact of land use planning on existing transportation facilities.”.

(3) AVAILABILITY OF FUNDS.—Section 203 of such title is amended in the first and fourth sentences—

(A) by striking “for,” and inserting “for”; and

(B) by inserting “refuge roads,” after “parkways,” each place it appears.

(4) USE OF FUNDING.—Section 204 of such title is amended by adding at the end the following:

“(k) REFUGE ROADS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for refuge roads shall be used by the Secretary and the Secretary of the Interior only to pay the cost of—

“(A) maintenance and improvements of refuge roads;

“(B) maintenance and improvements of eligible projects described in paragraphs (2), (5), and (6) of subsection (h) that are located in or adjacent to wildlife refuges; and

“(C) administrative costs associated with such maintenance and improvements.

“(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the Interior, as appropriate, may enter into contracts with a State or civil subdivision of a State or Indian tribe as is determined advisable.

“(3) COMPLIANCE WITH OTHER LAW.—Funds made available for refuge roads shall be used only for projects that are in compliance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).”.

#### SEC. 1116. WOODROW WILSON MEMORIAL BRIDGE.

(a) DEFINITIONS.—Section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 628) is amended—

(1) in paragraph (3) by striking “, including approaches thereto”; and

(2) in paragraph (5) by striking “to be determined under section 407. Such” and all that follows through the period at the end and inserting the following: “as described in the record of decision executed by the Secretary in compliance with the National Environmental Policy Act of 1969 (42 U.S.C.

4321 et seq.). The term includes ongoing short-term rehabilitation and repairs to the Bridge.”.

(b) OWNERSHIP OF BRIDGE.—

(1) CONVEYANCE BY THE SECRETARY.—Section 407(a)(1) of such Act (109 Stat. 630) is amended by inserting “or any Capital Region jurisdiction” after “Authority” each place it appears.

(2) AGREEMENT.—Section 407 of such Act (109 Stat. 630) is amended by striking subsection (c) and inserting the following:

“(c) AGREEMENT.—

“(1) IN GENERAL.—The agreement referred to in subsection (a) is an agreement concerning the Project that is executed by the Secretary and the Authority or any Capital Region jurisdiction that accepts ownership of the new bridge.

“(2) TERMS OF THE AGREEMENT.—The agreement shall—

“(A) identify whether the Authority or a Capital Region jurisdiction will accept ownership of the new bridge;

“(B) contain a financial plan satisfactory to the Secretary, which shall be prepared before the execution of the agreement, that specifies—

“(i) the total cost of the Project, including any cost-saving measures;

“(ii) a schedule for implementation of the Project, including whether any expedited design and construction techniques will be used; and

“(iii) the sources of funding that will be used to cover any costs of the Project not funded from funds made available under section 412;

“(C) require that—

“(i) the Project include not more than 12 traffic lanes, including 8 general purpose lanes, 2 merging/diverging lanes, and 2 high occupancy vehicle, express bus, or rail transit lanes;

“(ii) the design, construction, and operation of the Project reflect the requirements of clause (i);

“(iii) all provisions described in the environmental impact statement for the Project or the record of decision for the Project (including in the attachments to the statement and record) for mitigation of environmental and other impacts of the Project be implemented; and

“(iv) the Authority and the Capital Region jurisdictions develop a process to integrate affected local governments, on an ongoing basis, in the process of carrying out the engineering, design, and construction phases of the project, including planning for implementing the provisions described in clause (iii); and

“(D) contain such other terms and conditions as the Secretary determines to be appropriate.”.

(c) FEDERAL CONTRIBUTION.—Such Act (109 Stat. 627) is amended by adding at the end the following:

“SEC. 412. FEDERAL CONTRIBUTION.

“(a) FUNDING.—

“(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$25,000,000 for fiscal year 1998, \$75,000,000 for fiscal year 1999, \$150,000,000 for fiscal year 2000, \$200,000,000 for fiscal year 2001, \$225,000,000 for fiscal year 2002, and \$225,000,000 for fiscal year 2003 to pay the costs of planning, preliminary engineering and design, final engineering, acquisition of rights-of-way, and construction of the Project; except that the costs associated with the Bridge shall be given priority over other eligible costs, other than design costs, of the Project.

“(2) CONTRACT AUTHORITY.—Funds authorized by this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that—

“(A) the funds shall remain available until expended;

“(B) the Federal share of the cost of the Bridge component of the Project shall not exceed 100 percent; and

“(C) the Federal share of the cost of any other component of the Project shall not exceed 80 percent.

“(b) USE OF APPORTIONED FUNDS.—Nothing in this title limits the authority of any Capital Region jurisdiction to use funds apportioned to the jurisdiction under paragraphs (1) and (3) of section 104(b) of title 23, United States Code, in accordance with the requirements for such funds, to pay any costs of the Project.

“(c) AVAILABILITY OF APPORTIONED FUNDS.—None of the funds made available under this section shall be available for construction before the execution of the agreement described in section 407(c), except that the Secretary may fund the maintenance and rehabilitation of the Bridge, the design of the Project, and right-of-way acquisition, including early acquisition of construction staging areas.”.

(d) CONFORMING AMENDMENT.—Section 405(b)(1) of such Act (109 Stat. 629) is amended by striking “the Signatories as to the Federal share of the cost of the Project and the terms and conditions related to the timing of the transfer of the Bridge to”.

#### **SEC. 1117. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

(a) APPORTIONMENT.—The Secretary shall apportion funds made available by section 102 of this Act for fiscal years 1998 through 2003 among the States based on the latest available cost to complete estimate for the Appalachian development highway system under section 201 of the Appalachian Regional Development Act of 1965 prepared by the Appalachian Regional Commission. Such funds shall be available to construct highways and access roads under section 201 of the Appalachian Regional Development Act of 1965.

(b) APPLICABILITY OF TITLE 23.—Funds authorized by section 102 of this Act for the Appalachian development highway system shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with such section 201 and such funds shall remain available until expended.

(c) FEDERAL SHARE FOR PRE-FINANCED PROJECTS.—Section 201(h)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “70” and inserting “80”.



(d) CORRIDOR O.—There is hereby designated as an addition to Corridor O in Pennsylvania on the Appalachian development highway system a segment from Port Matilda to Interstate Route 80 along United States Route 322, and the segment of Corridor O from the Pennsylvania State line to the improved segment in Bedford, Pennsylvania, shall be subtracted from Corridor O. Such designated addition shall not affect estimates of the cost to complete such system and such subtracted segment may be included on a map of such system for purposes of continuity only.

**SEC. 1118. NATIONAL CORRIDOR PLANNING AND DEVELOPMENT PROGRAM.** 23 USC 101 note.

(a) IN GENERAL.—The Secretary shall establish and implement a program to make allocations to States and metropolitan planning organizations for coordinated planning, design, and construction of corridors of national significance, economic growth, and international or interregional trade. A State or metropolitan planning organization may apply to the Secretary for allocations under this section.

(b) ELIGIBILITY OF CORRIDORS.—The Secretary may make allocations under this section with respect to—

(1) high priority corridors identified in section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991; and

(2) any other significant regional or multistate highway corridor not described in whole or in part in paragraph (1) selected by the Secretary after consideration of—

(A) the extent to which the annual volume of commercial vehicle traffic at the border stations or ports of entry of each State—

(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103-182); and

(ii) is projected to increase in the future;

(B) the extent to which commercial vehicle traffic in each State—

(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103-182); and

(ii) is projected to increase in the future;

(C) the extent to which international truck-borne commodities move through each State;

(D) the reduction in commercial and other travel time through a major international gateway or affected port of entry expected as a result of the proposed project including the level of traffic delays at at-grade highway crossings of major rail lines in trade corridors;

(E) the extent of leveraging of Federal funds provided under this subsection, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding including State, local, and private matching funds;

(F) the value of the cargo carried by commercial vehicle traffic, to the extent that the value of the cargo and congestion impose economic costs on the Nation's economy; and

(G) encourage or facilitate major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.

(c) PURPOSES.—Allocations may be made under this section for 1 or more of the following purposes:

(1) Feasibility studies.

(2) Comprehensive corridor planning and design activities.

(3) Location and routing studies.

(4) Multistate and intrastate coordination for corridors described in subsection (b).

(5) After review by the Secretary of a development and management plan for the corridor or a usable component thereof under subsection (b)—

(A) environmental review; and

(B) construction.

(d) CORRIDOR DEVELOPMENT AND MANAGEMENT PLAN.—A State or metropolitan planning organization receiving an allocation under this section shall develop, and submit to the Secretary for review, a development and management plan for the corridor or a usable component thereof with respect to which the allocation is being made. Such plan shall include, at a minimum, the following elements:

(1) A complete and comprehensive analysis of corridor costs and benefits.

(2) A coordinated corridor development plan and schedule, including a timetable for completion of all planning and development activities, environmental reviews and permits, and construction of all segments.

(3) A finance plan, including any innovative financing methods and, if the corridor is a multistate corridor, a State-by-State breakdown of corridor finances.

(4) The results of any environmental reviews and mitigation plans.

(5) The identification of any impediments to the development and construction of the corridor, including any environmental, social, political and economic objections.

In the case of a multistate corridor, the Secretary shall encourage all States having jurisdiction over any portion of such corridor to participate in the development of such plan.

(e) APPLICABILITY OF TITLE 23.—Funds made available by section 1101 of this Act to carry out this section and section 1119 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(f) COORDINATION OF PLANNING.—Planning with respect to a corridor under this section shall be coordinated with transportation planning being carried out by the States and metropolitan planning organizations along the corridor and, to the extent appropriate, with transportation planning being carried out by Federal land management agencies, by tribal governments, or by government agencies in Mexico or Canada.

(g) STATE DEFINED.—In this section, the term “State” has the meaning such term has under section 101 of title 23, United States Code.

**SEC. 1119. COORDINATED BORDER INFRASTRUCTURE PROGRAM.**

23 USC 101 note.  
Canada.  
Mexico.

(a) **GENERAL AUTHORITY.**—The Secretary shall establish and implement a coordinated border infrastructure program under which the Secretary may make allocations to border States and metropolitan planning organizations for areas within the boundaries of 1 or more border States for projects to improve the safe movement of people and goods at or across the border between the United States and Canada and the border between the United States and Mexico.

(b) **ELIGIBLE USES.**—Allocations to States and metropolitan planning organizations under this section may only be used in a border region for—

(1) improvements to existing transportation and supporting infrastructure that facilitate cross-border vehicle and cargo movements;

(2) construction of highways and related safety and safety enforcement facilities that will facilitate vehicle and cargo movements related to international trade;

(3) operational improvements, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross border vehicle and cargo movement;

(4) modifications to regulatory procedures to expedite cross border vehicle and cargo movements;

(5) international coordination of planning, programming, and border operation with Canada and Mexico relating to expediting cross border vehicle and cargo movements; and

(6) activities of Federal inspection agencies.

(c) **SELECTION CRITERIA.**—The Secretary shall make allocations under this section on the basis of—

(1) expected reduction in commercial and other motor vehicle travel time through an international border crossing as a result of the project;

(2) improvements in vehicle and highway safety and cargo security related to motor vehicles crossing a border with Canada or Mexico;

(3) strategies to increase the use of existing, underutilized border crossing facilities and approaches;

(4) leveraging of Federal funds provided under this section, including use of innovative financing, combination of such funds with funding provided under other sections of this Act, and combination with other sources of Federal, State, local, or private funding;

(5) degree of multinational involvement in the project and demonstrated coordination with other Federal agencies responsible for the inspection of vehicles, cargo, and persons crossing international borders and their counterpart agencies in Canada and Mexico;

(6) improvements in vehicle and highway safety and cargo security in and through the gateway or affected port of entry concerned;

(7) the degree of demonstrated coordination with Federal inspection agencies;

(8) the extent to which the innovative and problem solving techniques of the proposed project would be applicable to other border stations or ports of entry;

(9) demonstrated local commitment to implement and sustain continuing comprehensive border or affected port of entry planning processes and improvement programs; and

(10) such other factors as the Secretary determines are appropriate to promote border transportation efficiency and safety.

(d) CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.—At the request of the Administrator of General Services, in consultation with the Attorney General, the Secretary may transfer, during the period of fiscal years 1998 through 2001, not more than \$10,000,000 of the amounts made available by section 1101 to carry out this section and section 1118 to the Administrator of General Services for the construction of transportation infrastructure necessary for law enforcement in border States.

(e) DEFINITIONS.—In this section, the following definitions apply:

(1) BORDER REGION.—The term “border region” means the portion of a border State in the vicinity of an international border with Canada or Mexico.

(2) BORDER STATE.—The term “border State” means any State that has a boundary in common with Canada or Mexico.

## Subtitle B—General Provisions

### SEC. 1201. DEFINITIONS.

Section 101(a) of title 23, United States Code, is amended to read as follows:

“(a) DEFINITIONS.—In this title, the following definitions apply:

“(1) APPORTIONMENT.—The term ‘apportionment’ includes unexpended apportionments made under prior authorization laws.

“(2) CARPOOL PROJECT.—The term ‘carpool project’ means any project to encourage the use of carpools and vanpools, including provision of carpooling opportunities to the elderly and individuals with disabilities, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use for preferential parking for carpools.

“(3) CONSTRUCTION.—The term ‘construction’ means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program. Such term includes—

“(A) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration of the Department of Commerce);

“(B) resurfacing, restoration, and rehabilitation;

“(C) acquisition of rights-of-way;

“(D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

“(E) elimination of hazards of railway grade crossings;

“(F) elimination of roadside obstacles;

“(G) improvements that directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas; and

“(H) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.

“(4) COUNTY.—The term ‘county’ includes corresponding units of government under any other name in States that do not have county organizations and, in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

“(5) FEDERAL-AID HIGHWAY.—The term ‘Federal-aid highway’ means a highway eligible for assistance under this chapter other than a highway classified as a local road or rural minor collector.

“(6) FEDERAL-AID SYSTEM.—The term ‘Federal-aid system’ means any of the Federal-aid highway systems described in section 103.

“(7) FEDERAL LANDS HIGHWAY.—The term ‘Federal lands highway’ means a forest highway, public lands highway, park road, parkway, refuge road, and Indian reservation road that is a public road.

“(8) FOREST DEVELOPMENT ROADS AND TRAILS.—The term ‘forest development roads and trails’ means forest roads and trails under the jurisdiction of the Forest Service.

“(9) FOREST HIGHWAY.—The term ‘forest highway’ means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

“(10) FOREST ROAD OR TRAIL.—The term ‘forest road or trail’ means a road or trail wholly or partly within, or adjacent to, and serving the National Forest System that is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

“(11) HIGHWAY.—The term ‘highway’ includes—

“(A) a road, street, and parkway;

“(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

“(C) a portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State transportation department, including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel.

“(12) INDIAN RESERVATION ROAD.—The term ‘Indian reservation road’ means a public road that is located within or provides access to an Indian reservation or Indian trust land

or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

“(13) INTERSTATE SYSTEM.—The term ‘Interstate System’ means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

“(14) MAINTENANCE.—The term ‘maintenance’ means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for safe and efficient utilization of the highway.

“(15) MAINTENANCE AREA.—The term ‘maintenance area’ means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(16) NATIONAL HIGHWAY SYSTEM.—The term ‘National Highway System’ means the Federal-aid highway system described in section 103(b).

“(17) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term ‘operating costs for traffic monitoring, management, and control’ includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control, such as integrated traffic control systems, incident management programs, and traffic control centers.

“(18) OPERATIONAL IMPROVEMENT.—The term ‘operational improvement’—

“(A) means (i) a capital improvement for installation of traffic surveillance and control equipment, computerized signal systems, motorist information systems, integrated traffic control systems, incident management programs, and transportation demand management facilities, strategies, and programs, and (ii) such other capital improvements to public roads as the Secretary may designate, by regulation; and

“(B) does not include resurfacing, restoring, or rehabilitating improvements, construction of additional lanes, interchanges, and grade separations, and construction of a new facility on a new location.

“(19) PARK ROAD.—The term ‘park road’ means a public road, including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles, that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

“(20) PARKWAY.—The term ‘parkway’, as used in chapter 2 of this title, means a parkway authorized by Act of Congress on lands to which title is vested in the United States.

“(21) PROJECT.—The term ‘project’ means an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed or any other undertaking eligible for assistance under this title.

“(22) PROJECT AGREEMENT.—The term ‘project agreement’ means the formal instrument to be executed by the State transportation department and the Secretary as required by section 106.

“(23) PUBLIC AUTHORITY.—The term ‘public authority’ means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

“(24) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term ‘public lands development roads and trails’ means those roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under the control of the Secretary of the Interior.

“(25) PUBLIC LANDS HIGHWAY.—The term ‘public lands highway’ means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.

“(26) PUBLIC LANDS HIGHWAYS.—The term ‘public lands highways’ means those main highways through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, which are on the Federal-aid systems.

“(27) PUBLIC ROAD.—The term ‘public road’ means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

“(28) REFUGE ROAD.—The term ‘refuge road’ means a public road that provides access to or within a unit of the National Wildlife Refuge System and for which title and maintenance responsibility is vested in the United States Government.

“(29) RURAL AREAS.—The term ‘rural areas’ means all areas of a State not included in urban areas.

“(30) SAFETY IMPROVEMENT PROJECT.—The term ‘safety improvement project’ means a project that corrects or improves high hazard locations, eliminates roadside obstacles, improves highway signing and pavement marking, installs priority control systems for emergency vehicles at signalized intersections, installs or replaces emergency motorist aid call boxes, or installs traffic control or warning devices at locations with high accident potential.

“(31) SECRETARY.—The term ‘Secretary’ means Secretary of Transportation.

“(32) STATE.—The term ‘State’ means any of the 50 States, the District of Columbia, or Puerto Rico.

“(33) STATE FUNDS.—The term ‘State funds’ includes funds raised under the authority of the State or any political or other subdivision thereof, and made available for expenditure under the direct control of the State transportation department.

“(34) STATE TRANSPORTATION DEPARTMENT.—The term ‘State transportation department’ means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction.

“(35) TRANSPORTATION ENHANCEMENT ACTIVITIES.—The term ‘transportation enhancement activities’ means, with

respect to any project or the area to be served by the project, any of the following activities if such activity relates to surface transportation: provision of facilities for pedestrians and bicycles, provision of safety and educational activities for pedestrians and bicyclists, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs (including the provision of tourist and welcome center facilities), landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological planning and research, environmental mitigation to address water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity, and establishment of transportation museums.

“(36) URBAN AREA.—The term ‘urban area’ means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall encompass, at a minimum, the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

“(37) URBANIZED AREA.—The term ‘urbanized area’ means an area with a population of 50,000 or more designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.”.

#### **SEC. 1202. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.**

(a) IN GENERAL.—Section 217 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting “pedestrian walkways and” after “construction of”; and

(B) by striking “(other than the Interstate System)”;

(2) in subsection (e) by striking “, other than a highway access to which is fully controlled,”;

(3) by striking subsection (g) and inserting the following:

“(g) PLANNING AND DESIGN.—

“(1) IN GENERAL.—Bicyclists and pedestrians shall be given due consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively. Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.



“(2) SAFETY CONSIDERATIONS.—Transportation plans and projects shall provide due consideration for safety and contiguous routes for bicyclists and pedestrians. Safety considerations shall include the installation, where appropriate, and maintenance of audible traffic signals and audible signs at street crossings.”;

(4) in subsection (h) by striking “No motorized vehicles shall” and inserting “Motorized vehicles may not”;

(5) in subsection (h)(3)—

(A) by striking “when State and local regulations permit,”; and

(B) by striking “and” at the end;

(6) in subsection (h)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following:

“(4) when State or local regulations permit, electric bicycles; and”;

(7) by striking subsection (j) and inserting the following:

“(j) DEFINITIONS.—In this section, the following definitions apply:

“(1) BICYCLE TRANSPORTATION FACILITY.—The term ‘bicycle transportation facility’ means a new or improved lane, path, or shoulder for use by bicyclists and a traffic control device, shelter, or parking facility for bicycles.

“(2) ELECTRIC BICYCLE.—The term ‘electric bicycle’ means any bicycle or tricycle with a low-powered electric motor weighing under 100 pounds, with a top motor-powered speed not in excess of 20 miles per hour.

“(3) PEDESTRIAN.—The term ‘pedestrian’ means any person traveling by foot and any mobility-impaired person using a wheelchair.

“(4) WHEELCHAIR.—The term ‘wheelchair’ means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or motorized.”.

(b) DESIGN GUIDANCE.—

23 USC 217 note.

(1) IN GENERAL.—In implementing section 217(g) of title 23, United States Code, the Secretary, in cooperation with the American Association of State Highway and Transportation Officials, the Institute of Transportation Engineers, and other interested organizations, shall develop guidance on the various approaches to accommodating bicycles and pedestrian travel.

(2) ISSUES TO BE ADDRESSED.—The guidance shall address issues such as the level and nature of the demand, volume, and speed of motor vehicle traffic, safety, terrain, cost, and sight distance.

(3) RECOMMENDATIONS.—The guidance shall include recommendations on amending and updating the policies of the American Association of State Highway and Transportation Officials relating to highway and street design standards to accommodate bicyclists and pedestrians.

(4) TIME PERIOD FOR DEVELOPMENT.—The guidance shall be developed within 18 months after the date of enactment of this Act.

(c) PROTECTION OF NONMOTORIZED TRANSPORTATION TRAFFIC.—Section 109(n) of such title is amended to read as follows:

“(n) PROTECTION OF NONMOTORIZED TRANSPORTATION TRAFFIC.—The Secretary shall not approve any project or take any regulatory action under this title that will result in the severance of an existing major route or have significant adverse impact on the safety for nonmotorized transportation traffic and light motorcycles, unless such project or regulatory action provides for a reasonable alternate route or such a route exists.”.

23 USC 130.

(d) RAILWAY-HIGHWAY CROSSINGS.—Section 130 of such title is amended by adding at the end the following:

“(j) BICYCLE SAFETY.—In carrying out projects under this section, a State shall take into account bicycle safety.”.

23 USC 402 note.

(e) NATIONAL BICYCLE SAFETY EDUCATION CURRICULUM.—

(1) DEVELOPMENT.—The Secretary is authorized to develop a national bicycle safety education curriculum that may include courses relating to on-road training.

(2) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall transmit to Congress a copy of the curriculum.

(3) FUNDING.—From amounts made available under section 210, the Secretary may use not to exceed \$500,000 for fiscal year 1999 to carry out this subsection.

#### SEC. 1203. METROPOLITAN PLANNING.

(a) GENERAL REQUIREMENTS.—Section 134(a) of title 23, United States Code, is amended to read as follows:

“(a) GENERAL REQUIREMENTS.—

“(1) FINDINGS.—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

“(2) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

“(3) CONTENTS.—The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

“(4) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.”.

(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—Section 134(b) of such title is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

“(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) STRUCTURE.—Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

“(A) local elected officials;

“(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

“(C) appropriate State officials.”.

(2) CONTINUING DESIGNATION.—Section 134(b)(4) of such title is amended to read as follows:

23 USC 134.

“(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).”.

(3) REDESIGNATION.—Section 134(b)(5)(A) of such title is amended—

(A) by striking “among” and inserting “between”; and

(B) by striking “which together” and inserting “that together”.

(4) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—Section 134(b)(6) of such title is amended to read as follows:

“(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.”.

(c) METROPOLITAN PLANNING AREA BOUNDARIES.—Section 134(c) of such title is amended—

(1) in the subsection heading by inserting “PLANNING” before “AREA”;

(2) in the first sentence—

(A) by striking “For the purposes” and inserting the following:

“(1) IN GENERAL.—For the purposes”; and

(B) by inserting “planning” before “area”;

(3) by striking the second sentence and all that follows and inserting the following:

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

“(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

“(3) EXISTING METROPOLITAN PLANNING AREAS IN NON-ATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (b)(5).

“(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

“(A) shall be established in the manner described in subsection (b)(1);

“(B) shall encompass the areas described in paragraph (2)(A);

“(C) may encompass the areas described in paragraph (2)(B); and

“(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.”; and

(4) by aligning paragraph (1) (as designated by paragraph (2)(A) of this subsection) with paragraphs (2) through (4) (as inserted by paragraph (3) of this subsection).

23 USC 134. (d) COORDINATION IN MULTISTATE AREAS.—Section 134(d) of such title is amended to read as follows:

“(d) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

“(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

“(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

“(3) LAKE TAHOE REGION.—

“(A) DEFINITION.—In this paragraph, the term ‘Lake Tahoe region’ has the meaning given the term ‘region’ in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

“(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

“(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

“(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section, section 135, and chapter 53 of title 49.

“(C) INTERSTATE COMPACT.—

California.  
Nevada.

“(i) IN GENERAL.—Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

“(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

“(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

“(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of this title and under chapter 53 of title 49, not more than 1 percent of the funds allocated under section 202 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

“(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

“(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

“(ii) may, in accordance with chapter 2, be funded using funds allocated under section 202.

“(4) RECIPIENTS OF OTHER ASSISTANCE.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the design and delivery of transportation services within the metropolitan planning area that are provided—

“(A) by recipients of assistance under chapter 53 of title 49; and

“(B) by governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source

other than the Department of Transportation to provide nonemergency transportation services.”.

23 USC 134. (e) COORDINATION OF MPOS.—Section 134(e) of such title is amended—

(1) in the subsection heading by striking “MPO’s” and inserting “MPOS”;

(2) by striking “If” and inserting the following:

“(1) NONATTAINMENT AREAS.—If”;

(3) by adding at the end the following:

“(2) PROJECT LOCATED IN MULTIPLE MPOS.—If a project is located within the boundaries of more than 1 metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.”; and

(4) by aligning paragraph (1) (as designated by paragraph (2) of this subsection) with paragraph (2) (as added by paragraph (3) of this subsection).

(f) SCOPE OF PLANNING PROCESS.—Section 134(f) of such title is amended to read as follows:

“(f) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

“(C) increase the accessibility and mobility options available to people and for freight;

“(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

“(E) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

“(F) promote efficient system management and operation; and

“(G) emphasize the preservation of the existing transportation system.

“(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.”.

(g) LONG-RANGE TRANSPORTATION PLAN.—Section 134(g) of such title is amended—

(1) in paragraph (2) by striking “, at a minimum” and inserting “contain, at a minimum, the following”;

(2) in paragraph (2)(A) by striking “Identify” and inserting “An identification of”; and

(3) by striking paragraph (2)(B) and inserting the following:

“(B) A financial plan that demonstrates how the adopted long-range transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial

plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the metropolitan planning organization and State shall cooperatively develop estimates of funds that will be available to support plan implementation.”;

(4) in paragraph (4)—

(A) by inserting after “employees,” the following: “freight shippers, providers of freight transportation services,”; and

(B) by inserting after “private providers of transportation,” the following: “representatives of users of public transit,”;

(5) by adding at the end the following:

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

Notwithstanding paragraph (2)(B), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B).”;

(6) in the subsection heading by striking “LONG RANGE PLAN” and inserting “LONG-RANGE TRANSPORTATION PLAN”;

(7) in the headings for paragraphs (2) and (5) by striking “LONG RANGE PLAN” and inserting “LONG-RANGE TRANSPORTATION PLAN”; and

(8) by striking “long range plan” each place it appears and inserting “long-range transportation plan”.

(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—

Section 134(h) of such title is amended to read as follows:

23 USC 134.

“(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

“(B) OPPORTUNITY FOR COMMENT.—In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed program.

“(C) FUNDING ESTIMATES.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

“(D) UPDATING AND APPROVAL.—The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

“(2) CONTENTS.—The transportation improvement program shall include—

“(A) a priority list of proposed federally supported projects and strategies to be carried out within each 3-year period after the initial adoption of the transportation improvement program; and

“(B) a financial plan that—

“(i) demonstrates how the transportation improvement program can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

“(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available.

“(3) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS CHAPTER AND CHAPTER 53 OF TITLE 49.—A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under this chapter and chapter 53 of title 49.

“(B) PROJECTS UNDER CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

“(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

“(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(4) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall, in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

“(5) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the transportation



improvement program development required under paragraph (1), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

“(i) by—

“(I) in the case of projects under this chapter, the State; and

“(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

“(ii) in cooperation with the metropolitan planning organization.

“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

“(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved transportation improvement program.

“(7) PUBLICATION.—

“(A) PUBLICATION OF TRANSPORTATION IMPROVEMENT PROGRAMS.—A transportation improvement program involving Government participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the transportation improvement program.”

(i) TRANSPORTATION MANAGEMENT AREAS.—

(1) REQUIRED DESIGNATIONS.—Section 134(i)(1) of such title 23 USC 134. is amended to read as follows:

“(1) DESIGNATION.—

“(A) REQUIRED DESIGNATIONS.—The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

“(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.”

(2) SELECTION OF PROJECTS.—Section 134(i)(4) of such title is amended to read as follows:

“(4) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.”.

23 USC 134.

(3) CERTIFICATION.—Section 134(i)(5) of such title is amended to read as follows:

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall—

“(i) ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

“(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

“(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

“(ii) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor.

“(C) EFFECT OF FAILURE TO CERTIFY.—

“(i) WITHHOLDING OF FUNDS.—If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

“(ii) RESTORATION OF WITHHELD FUNDS.—The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

“(iii) FEASIBILITY OF PRIVATE ENTERPRISE PARTICIPATION.—The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.

“(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.”.

(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—Section 134(j) of such title is amended to read as follows:

“(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated long-range transportation plan and transportation improvement program for the metropolitan area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

“(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).”.

(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Section 134(l) of such title is amended—

23 USC 134.

(1) by striking “Notwithstanding” and inserting the following:

“(1) IN GENERAL.—Notwithstanding”; and

(2) by adding at the end the following:

“(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).”.

(l) FUNDING.—Section 134(n) of such title is amended to read as follows:

“(n) FUNDING.—

“(1) IN GENERAL.—Funds set aside under section 104(f) of this title to carry out sections 5303 through 5305 of title 49 shall be available to carry out this section.

“(2) UNUSED FUNDS.—Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.”.

(m) CONTINUATION OF CURRENT REVIEW PRACTICE.—Section 134 of such title is amended by adding at the end the following:

“(o) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.

(n) TECHNICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 134 and inserting the following:

“134. Metropolitan planning.”.

**SEC. 1204. STATEWIDE PLANNING.**

(a) **GENERAL REQUIREMENTS.**—Section 135(a) of title 23, United States Code, is amended to read as follows:

“(a) **GENERAL REQUIREMENTS.**—

“(1) **FINDINGS.**—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

“(2) **DEVELOPMENT OF PLANS AND PROGRAMS.**—Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

“(3) **CONTENTS.**—The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

“(4) **PROCESS OF DEVELOPMENT.**—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.”.

(b) **COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.**—Section 135(b) of such title is amended by inserting after “of this title” the following: “and sections 5303 through 5305 of title 49”.

(c) **SCOPE OF PLANNING PROCESS.**—Section 135(c) of such title is amended to read as follows:

“(c) **SCOPE OF PLANNING PROCESS.**—

“(1) **IN GENERAL.**—Each State shall carry out a transportation planning process that provides for consideration of projects and strategies that will—

“(A) support the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

“(C) increase the accessibility and mobility options available to people and for freight;

“(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

“(E) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

“(F) promote efficient system management and operation; and

“(G) emphasize the preservation of the existing transportation system.

“(2) **FAILURE TO CONSIDER FACTORS.**—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting

a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.”.

(d) ADDITIONAL REQUIREMENTS.—Section 135(d) of such title 23 USC 135. is amended to read as follows:

“(d) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum, consider—

“(1) with respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

“(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

“(3) coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.”.

(e) LONG-RANGE TRANSPORTATION PLAN.—Section 135(e) of such title is amended to read as follows:

“(e) LONG-RANGE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—Each State shall develop a long-range transportation plan, with a minimum 20-year forecast period, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(2) CONSULTATION WITH GOVERNMENTS.—

“(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the long-range transportation plan shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5303 of title 49.

“(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area, the long-range transportation plan shall be developed in consultation with affected local officials with responsibility for transportation.

“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the long-range transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the long-range transportation plan, the State shall—

“(A) provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, representatives of users of public transit, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

“(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

“(4) FINANCIAL PLAN.—The long-range transportation plan may include a financial plan that demonstrates how the adopted long-range transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the

adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (4).”.

23 USC 135. 135(f) of such title is amended to read as follows:

“(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—Each State shall develop a transportation improvement program for all areas of the State.

“(B) CONSULTATION WITH GOVERNMENTS.—

“(i) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5303 of title 49.

“(ii) NONMETROPOLITAN AREAS.—

“(I) IN GENERAL.—With respect to each non-metropolitan area in the State, the program shall be developed in consultation with affected local officials with responsibility for transportation.

“(II) REVIEW.—Not later than 1 year after the date of enactment of this subclause, the State shall submit to the Secretary the details of the consultative planning process developed by the State for nonmetropolitan areas under subclause (I). The Secretary shall not review or approve such process.

“(iii) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

“(C) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed program.

“(2) INCLUDED PROJECTS.—

“(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

“(B) CHAPTER 2 PROJECTS.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item

or identified individually in the transportation improvement program.

“(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be—

“(i) consistent with the long-range transportation plan developed under this section for the State;

“(ii) identical to the project as described in an approved metropolitan transportation improvement program; and

“(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under such Act.

“(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—

The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(E) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(F) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (E), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E).

“(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E) for inclusion in an approved transportation improvement program.

“(G) PRIORITIES.—The program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title.

“(3) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

“(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) shall be selected, from the approved statewide transportation improvement program, by the State in cooperation with the affected local officials.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out in areas described in subparagraph (A) on the National Highway System and projects carried out in such areas under the bridge program or the Interstate maintenance program shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials.

“(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and, on a finding that the planning process through which the program was developed is consistent with this section, section 134, and sections 5303 through 5305 of title 49, approved not less frequently than biennially by the Secretary.

“(5) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project in the program.”

23 USC 135.

(g) FUNDING.—Section 134(g) of such title is amended by striking “section 307(c)(1)” and inserting “section 505(a)”.

(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Section 135 of such title is amended by adding at the end the following:

“(i) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”

23 USC 135 note.

(i) PARTICIPATION OF LOCAL ELECTED OFFICIALS.—

(1) STUDY.—The Secretary shall conduct a study on the effectiveness of the participation of local elected officials in transportation planning and programming. In conducting the study, the Secretary shall consider the degree of cooperation between each State, local officials in rural areas in the State, and regional planning and development organizations in the State.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study with any recommendations the Secretary determines appropriate as a result of the study.

#### SEC. 1205. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

(a) CONTRACTING PROCEDURES.—Section 112(b)(2) of title 23, United States Code, is amended in clauses (i) and (ii) of subparagraph (B) by striking “, except to” each place it appears and all that follows through the period at the end and inserting a period.

(b) SELECTION PROCESS.—Section 112 of title 23, United States Code, is amended by adding at the end the following:

“(g) SELECTION PROCESS.—A State may procure, under a single contract, the services of a consultant to prepare any environmental impact assessments or analyses required for a project, including



environmental impact statements, as well as subsequent engineering and design work on the project if the State conducts a review that assesses the objectivity of the environmental assessment, environmental analysis, or environmental impact statement prior to its submission to the Secretary.”.

**SEC. 1206. ACCESS OF MOTORCYCLES.**

Section 102 of title 23, United States Code, is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

“(b) ACCESS OF MOTORCYCLES.—No State or political subdivision of a State may enact or enforce a law that applies only to motorcycles and the principal purpose of which is to restrict the access of motorcycles to any highway or portion of a highway for which Federal-aid highway funds have been utilized for planning, design, construction, or maintenance. Nothing in this subsection shall affect the authority of a State or political subdivision of a State to regulate motorcycles for safety.”.

**SEC. 1207. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.**

(a) FERRY OPERATING AND LEASING AMENDMENTS.—Section 129(c)(3) of title 23, United States Code, is amended by striking “owned.” and inserting “owned or operated or majority publicly owned if the Secretary determines with respect to a majority publicly owned ferry or ferry terminal facility that such ferry boat or ferry terminal facility provides substantial public benefits.”.

(b) REAUTHORIZATION.—Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) is amended—

(1) in the second sentence of subsection (c) by striking “Such sums” and inserting “Sums made available to carry out this section”;

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following:

“(d) SET-ASIDE FOR PROJECTS ON NHS.—

“(1) IN GENERAL.—\$20,000,000 of the amount made available to carry out this section for each of fiscal years 1999 through 2003 shall be obligated for the construction or refurbishment of ferry boats and ferry terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System.

“(2) ALASKA.—\$10,000,000 of the \$20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Alaska.

“(3) NEW JERSEY.—\$5,000,000 of the \$20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of New Jersey.

“(4) WASHINGTON.—\$5,000,000 of the \$20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Washington.”.

(c) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of ferry transportation in the United States and its possessions—

(A) to identify existing ferry operations, including—  
(i) the locations and routes served; and

23 USC 129 note.

(ii) the source and amount, if any, of funds derived from Federal, State, or local government sources supporting ferry construction or operations;

(B) to identify potential domestic ferry routes in the United States and its possessions and to develop information on those routes; and

(C) to identify the potential for use of high-speed ferry services and alternative-fueled ferry services.

(2) REPORT.—The Secretary shall submit a report on the results of the study to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

#### **SEC. 1208. TRAINING.**

(a) TRAINING POSITIONS FOR WELFARE RECIPIENTS.—Section 140(a) of title 23, United States Code, is amended by inserting after the third sentence the following: “In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program.”.

(b) HIGHWAY TRAINING.—Section 140(b) of such title is amended—

(1) in the first sentence—

(A) by inserting “and technology” after “construction”; and

(B) by inserting after “programs” the following: “, and to develop and fund summer transportation institutes”; and

(2) in the second sentence by striking “104(b)” and inserting “104(b)(3)”.

(c) SUPPORTIVE SERVICES.—Section 140(c) of such title is amended by striking “104(a)” and inserting “104(b)(3)”.

#### **SEC. 1209. USE OF HOV LANES BY INHERENTLY LOW-EMISSION VEHICLES.**

Section 102(a) of title 23, United States Code, is amended—

(1) by striking “A State” and inserting the following:

“(1) IN GENERAL.—A State”;

(2) by adding at the end the following:

“(2) EXCEPTION FOR INHERENTLY LOW-EMISSION VEHICLES.—

Notwithstanding paragraph (1), before September 30, 2003, a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicle is certified as an Inherently Low-Emission Vehicle pursuant to title 40, Code of Federal Regulations, and is labeled in accordance with, section 88.312-93(c) of such title. Such permission may be revoked by the State should the State determine it necessary.”; and

(3) by aligning the remainder of paragraph (1) (as designated by paragraph (1) of this subsection) with paragraph (2) (as added by paragraph (2) of this subsection).

**SEC. 1210. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.** 23 USC 135 note.

(a) **ESTABLISHMENT.**—The Secretary shall establish an advanced travel forecasting procedures program—

(1) to provide for completion of the advanced transportation model developed under the Transportation Analysis Simulation System (referred to in this section as “TRANSIMS”); and

(2) to provide support for early deployment of the advanced transportation modeling computer software and graphics package developed under TRANSIMS and the program established under this section to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

(b) **ELIGIBLE ACTIVITIES.**—The Secretary shall use funds made available under this section to—

(1) provide funding for completion of core development of the advanced transportation model;

(2) develop user-friendly advanced transportation modeling computer software and graphics packages;

(3) provide training and technical assistance with respect to the implementation and application of the advanced transportation model to States, local governments, and metropolitan planning organizations with responsibility for travel modeling; and

(4) allocate funds to not more than 12 entities described in paragraph (3), representing a diversity of populations and geographic regions, for a pilot program to enable transportation management areas designated under section 134(i) of title 23, United States Code, to convert from the use of travel forecasting procedures in use by the areas as of the date of enactment of this Act to the use of the advanced transportation model.

(c) **FUNDING.**—

(1) **IN GENERAL.**—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$4,000,000 for fiscal year 1998, \$3,000,000 for fiscal year 1999, \$6,500,000 for fiscal year 2000, \$5,000,000 for fiscal year 2001, \$4,000,000 for fiscal year 2002, and \$2,500,000 for fiscal year 2003.

(2) **ALLOCATION OF FUNDS.**—

(A) **FISCAL YEARS 1998 AND 1999.**—For each of fiscal years 1998 and 1999, 100 percent of the funds made available under paragraph (1) shall be allocated to activities as described in paragraphs (1), (2), and (3) of subsection (b).

(B) **FISCAL YEARS 2000 THROUGH 2003.**—For each of fiscal years 2000 through 2003, not more than 50 percent of the funds made available under paragraph (1) may be allocated to activities described in subsection (b)(4).

(3) **CONTRACT AUTHORITY.**—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of—

(A) any activity described in paragraph (1), (2), or (3) of subsection (b) shall not exceed 100 percent; and

(B) any activity described in subsection (b)(4) shall not exceed 80 percent.

**SEC. 1211. AMENDMENTS TO PRIOR SURFACE TRANSPORTATION LAWS.**

(a) PENNSYLVANIA STATION REDEVELOPMENT CORPORATION BOARD OF DIRECTORS.—Section 1069(gg) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 593 et seq.) is amended by adding at the end the following:

“(3) PENNSYLVANIA STATION REDEVELOPMENT CORPORATION BOARD OF DIRECTORS.—In furtherance of the redevelopment of the James A. Farley Post Office in New York, New York, into an intermodal transportation facility and commercial center, the Secretary, the Administrator of the Federal Railroad Administration, or their designees are authorized to serve as ex officio members of the Board of Directors of the Pennsylvania Station Redevelopment Corporation.”.

(b) UNION STATION REDEVELOPMENT CORPORATION BOARD OF DIRECTORS.—Subtitle B of title I of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 811 et seq.) is amended by adding at the end the following:

40 USC 819a.

**“SEC. 120. UNION STATION REDEVELOPMENT CORPORATION.**

“To further the rehabilitation, redevelopment and operation of the Union Station complex, the Secretary of Transportation, the Administrator of the Federal Railroad Administration, or their designees are authorized to serve as ex officio members of the Board of Directors of the Union Station Redevelopment Corporation.”.

(c) SAFETY BELT USE LAW REQUIREMENTS.—Section 355 of the National Highway System Designation Act of 1995 (109 Stat. 624) is amended—

(1) in the section heading by striking “AND MAINE”;

(2) in subsection (a)—

(A) by striking “States of New Hampshire and Maine shall each” and inserting “State of New Hampshire shall”; and

(B) in paragraph (1) by striking “and 1996” and inserting “through 2000”; and

(3) by striking “or Maine” each place it appears.

(d) METRIC CONVERSION AT STATE OPTION.—Section 205(c)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 109 note; 109 Stat. 577) is amended by striking “Before September 30, 2000, the” and inserting “The”.

(e) RIGHT-OF-WAY REVOLVING FUND.—

(1) TERMINATION.—Section 108 of title 23, United States Code, is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

23 USC 108 note.

(2) TRANSITION PROVISION.—

(A) IN GENERAL.—Funds advanced to a State by the Secretary from the right-of-way revolving fund established by section 108(c) of title 23, United States Code, prior to the date of enactment of this Act shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

(B) CREDIT TO HIGHWAY TRUST FUND.—With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in subparagraph (A), when

actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first—

(i) the Highway Trust Fund (other than the Mass Transit Account) shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120 of title 23, United States Code, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

(ii) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund (other than the Mass Transit Account).

(g) PILOT TOLL COLLECTION PROGRAM.—Section 129 of title 23, United States Code, is amended by striking subsection (d).

(h) CONGRESSIONAL BRIDGE COMMISSIONS.—Public Law 87-441 (76 Stat. 59) is repealed.

(i) ISTEAL HIGH PRIORITY CORRIDORS.—

(1) IN GENERAL.—Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032-2033) is amended—

(A) by striking paragraph (5)(B)(iii)(I)(ff) and inserting the following:

“(ff) South Carolina State line to the Myrtle Beach Conway region to Georgetown, South Carolina, including a connection to Andrews following the route 41 corridor and to Camden following the U.S. Route 521 corridor; and”;

(B) by striking paragraph (5)(B)(iii)(II)(hh) and inserting the following:

“(hh) South Carolina State line to the Myrtle Beach Conway region to Georgetown, South Carolina.”;

(C) in paragraph (9) by inserting after “New York” the following: “, including United States Route 322 between United States Route 220 and I-80”;

(D) in paragraph (18)—

(i) by striking “(18) Corridor from Indianapolis,” and inserting the following:

“(18) Corridor from Sarnia, Ontario, Canada, through Port Huron, Michigan, southwesterly along Interstate Route 69 through Indianapolis,”; and

(ii) by striking “and to include” and inserting the following: “as follows:

“(A) In Michigan, the corridor shall be from Sarnia, Ontario, Canada, southwesterly along Interstate Route 94 to the Ambassador Bridge interchange in Detroit, Michigan.

“(B) In Michigan and Illinois, the corridor shall be from Windsor, Ontario, Canada, through Detroit, Michigan, westerly along Interstate Route 94 to Chicago, Illinois.

“(C) In Tennessee, Mississippi, Arkansas, and Louisiana, the Corridor shall—

“(i) follow the alignment generally identified in the Corridor 18 Special Issues Study Final Report; and

“(ii) include a connection between the Corridor in the vicinity of Monticello, Arkansas, to Pine Bluff, Arkansas.

“(D) In the Lower Rio Grande Valley, the Corridor shall—

“(i) include United States Route 77 from the Rio Grande River to Interstate Route 37 at Corpus Christi, Texas, and then to Victoria, Texas, via U.S. Route 77;

“(ii) include United States Route 281 from the Rio Grande River to Interstate Route 37 and then to Victoria, Texas, via United States Route 59; and

“(iii) include”;

(E) in paragraph (21) by striking “United States Route 17 in the vicinity of Salamanca, New York” and inserting “Interstate Route 80”;

(F) by inserting “, including I-29 between Kansas City and the Canadian border” before the period at the end of paragraph (23); and

(G) by inserting after paragraph (29) the following:

“(30) Interstate Route 5 in the States of California, Oregon, and Washington, including California State Route 905 between Interstate Route 5 and the Otay Mesa Port of Entry.

“(31) The Mon-Fayette Expressway and Southern Beltway in Pennsylvania and West Virginia.

“(32) The Wisconsin Development Corridor from the Iowa, Illinois, and Wisconsin border near Dubuque, Iowa, to the Upper Mississippi River Basin near Eau Claire, Wisconsin, as follows:

“(A) United States Route 151 from the Iowa border to Fond du Lac via Madison, Wisconsin, then United States Route 41 from Fond du Lac to Marinette via Oshkosh, Appleton, and Green Bay, Wisconsin.

“(B) State Route 29 from Green Bay to I-94 via Wausau, Chippewa Falls, and Eau Claire, Wisconsin.

“(C) United States Route 10 from Appleton to Marshfield, Wisconsin.

“(33) The Capital Gateway Corridor following United States Route 50 from the proposed intermodal transportation center connected to I-395 in Washington, D.C., to the intersection of United States Route 50 with Kenilworth Avenue and the Baltimore-Washington Parkway in Maryland.

“(34) The Alameda Corridor East and Southwest Passage, California. The Alameda Corridor East is generally described as 52.8 miles from east Los Angeles (terminus of Alameda Corridor) through the San Gabriel Valley terminating at Colton Junction in San Bernardino. The Southwest Passage shall follow I-10 from San Bernardino to the Arizona State line and I-8 from San Diego to the Arizona State line.

“(35) Everett-Tacoma FAST Corridor.

“(36) New York and Pennsylvania State Route 17 from Harriman, New York, to its intersection with I-90 in Pennsylvania.

“(37) United States Route 90 from I-49 in Lafayette, Louisiana, to I-10 in New Orleans.

“(38) The Ports-to-Plains Corridor from the Mexican Border via I-27 to Denver, Colorado.

“(39) United States Route 63 from Marked Tree, Arkansas, to I-55.

“(40) The Greensboro Corridor from Danville, Virginia, to Greensboro, North Carolina, along United States Route 29.

“(41) The Falls-to-Falls Corridor—United States Route 53 from International Falls on the Minnesota/Canada border to Chippewa Falls, Wisconsin.

“(42) The portion of Corridor V of the Appalachian development highway system from Interstate Route 55 near Batesville, Mississippi, to the intersection with Corridor X of the Appalachian development highway system near Fulton, Mississippi, and the portion of Corridor X of the Appalachian development highway system from near Fulton, Mississippi, to the intersection with Interstate Route 65 near Birmingham, Alabama.

“(43) The United States Route 95 Corridor from the Canadian border at Eastport, Idaho, to the Oregon State border.”

(2) PROVISIONS APPLICABLE TO CORRIDORS.—Section 1105(e)(5)(A) of such Act is amended—

105 Stat. 2031.

(A) by inserting after “referred to” the first place it appears the following: “in subsection (c)(1),”;

(B) by striking “and” the second place it appears; and

(C) by inserting after “(c)(20)” the following: “, in subsection (c)(36), in subsection (c)(37), in subsection (c)(40), and in subsection (c)(42)”.

(3) ROUTES.—Section 1105(e)(5) of such Act is further amended—

(A) in subparagraph (A) by inserting “(except with respect to Georgetown County)” before “(iii)”;

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following:

“(B) ROUTES.—

“(i) DESIGNATION.—The routes referred to in subsections (c)(18) and (c)(20) shall be designated as Interstate Route I-69. A State having jurisdiction over any segment of routes referred to in subsections (c)(18) and (c)(20) shall erect signs identifying such segment that is consistent with the criteria set forth in subsections (e)(5)(A)(i) and (e)(5)(A)(ii) as Interstate Route I-69, including segments of United States Route 59 in the State of Texas. The segment identified in subsection (c)(18)(B)(i) shall be designated as Interstate Route I-69 East, and the segment identified in subsection (c)(18)(B)(ii) shall be designated as Interstate Route I-69 Central. The State of Texas shall erect signs identifying such routes as segments of future Interstate Route I-69.

“(ii) RULEMAKING TO DETERMINE FUTURE INTERSTATE SIGN ERECTION CRITERIA.—The Secretary shall conduct a rulemaking to determine the appropriate criteria for the erection of signs for future routes on the Interstate System identified in subparagraph (A).

Such rulemaking shall be undertaken in consultation with States and local officials and shall be completed not later than December 31, 1998.”;

(D) by striking the last sentence of subparagraph (A) and inserting it as the first sentence of subparagraph (B)(i) (as inserted by subparagraph (C) of this paragraph); and

(E) in subparagraph (D) (as redesignated by subparagraph (B) of this paragraph), by striking “(C)” and inserting “(D)”.

(j) WINTER HOME HEATING OIL DELIVERY.—Section 346 of the National Highway System Designation Act of 1995 (109 Stat. 615–616) is amended—

49 USC 31136  
note.

(1) in subsection (a) by striking “season in the 6-month period beginning on November 1, 1996” and inserting “seasons in the 18-month period beginning on November 1, 1998”; and

(2) by adding at the end the following:

Reports.

“(g) STUDY.—Not later than 1 year after the completion of the pilot program, the Secretary shall submit to Congress a report on the results of the program, including an assessment of any impact on public safety.”.

(k) FUTURE CORRIDOR SEGMENT.—

(1) STUDY.—The Secretary shall conduct a study to determine the feasibility of providing an Interstate quality road for a route that runs in south/west direction generally along United States Route 61 and crosses the Mississippi River in the vicinity of Memphis, Tennessee, to Highway 79 and generally follows Highway 79 to Pine Bluff, Arkansas.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$500,000 for fiscal year 1999 to carry out the study.

(3) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

(l) BATON ROUGE, LOUISIANA.—

(1) REDUCTION IN SCOPE OF PROJECT.—Section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181–198) is amended in paragraph (47)(B)—

(A) by inserting “and” after the semicolon at the end of clause (i);

(B) by striking “; and” at the end of clause (ii) and inserting a period; and

(C) by striking clause (iii).

(2) APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, the project described in section 149(a)(47)(B) of such Act shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

(m) AMENDMENTS TO SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—Section 146 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2130), relating to lane restrictions, is repealed.

(n) SUBSTITUTE PROJECT.—Section 1045 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1994) is amended in subsection (a)—



(1) by striking “(a) APPROVAL OF PROJECT.—Notwithstanding” and inserting the following:

“(a) APPROVAL OF PROJECT.—

“(1) Notwithstanding”; and

(2) by adding at the end the following new paragraph:

“(2) Notwithstanding paragraph (1) and subsection (c) of this section, upon the request of the Governor of the State of Wisconsin, submitted by October 1, 2000, the Secretary shall approve one or more substitute projects in lieu of the substitute project approved by the Secretary under paragraph (1) and subsection (c) of this section.”.

#### SEC. 1212. MISCELLANEOUS.

(a) STATE TRANSPORTATION DEPARTMENT.—

(1) IN GENERAL.—Section 302 of title 23, United States Code, is amended—

(A) in subsection (a) by striking the second sentence;

and

(B) by striking subsection (b) and inserting the following:

“(b) EFFECT OF COMPLIANCE.—Compliance with subsection (a) shall have no effect on the eligibility of costs.”.

(2) CHANGE IN TERM DEFINED.—

(A) IN GENERAL.—Title 23, United States Code, is amended—

(i) by striking “State highway department” each place it appears and inserting “State transportation department”; and 23 USC 102 *et seq.*

(ii) by striking “State highway departments” each place it appears and inserting “State transportation departments”. 23 USC 104 *et seq.*

(B) CONFORMING AMENDMENTS.—

(i) The analysis for chapter 3 of title 23, United States Code, is amended in the item relating to section 302 by striking “highway” and inserting “transportation”.

(ii) Section 302 of title 23, United States Code, is amended in the section heading by striking “**highway**” and inserting “**transportation**”.

(iii) Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by striking “State highway department” and inserting “State transportation department”.

(iv) Section 138(c) of the Surface Transportation Assistance Act of 1978 (40 U.S.C. App. (note to section 201 of the Appalachian Regional Development Act of 1965); 92 Stat. 2710) is amended in the first sentence—

(I) by striking “Federal-aid primary system” and inserting “National Highway System”; and

(II) by striking “State highway department” and inserting “State transportation department”.

(b) INFRASTRUCTURE AWARENESS PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to fund the production, in cooperation with a not-for-profit national public television station and the National Academy of Engineering, of a documentary about infrastructure that shall demonstrate

how public works and infrastructure projects stimulate job growth and the economy and contribute to the general welfare of the Nation.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the cost of production of the documentary shall be 60 percent. The non-Federal share shall be provided from private sources and shall include amounts expended by such sources for the production before the date of enactment of this Act.

(B) CALCULATION.—The calculation of the Federal and non-Federal shares under this paragraph shall be made over the term for which sums are authorized to be appropriated under paragraph (3).

(3) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$888,000 for fiscal year 1998, and \$1,000,000 for each of fiscal years 1999 and 2000. Such funds shall remain available until expended.

(4) APPLICABILITY OF TITLE 23.—Funds authorized by this paragraph shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection and the availability of funds authorized by this subsection shall be determined in accordance with this subsection.

(c) MASS TRANSPORTATION BUSES.—Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note) is amended by striking “the date on which” and all that follows through “1995” and inserting “October 1, 2003”.

(d) VEHICLE WEIGHT LIMITATIONS.

(1) IN GENERAL.—Section 127(a) of title 23, United States Code, is amended—

Colorado.

(A) by inserting before the next to the last sentence the following: “With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered a nondivisible load.”; and

Louisiana.

(B) by adding at the end the following: “The State of Louisiana may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 100,000 pounds for the hauling of sugarcane during the harvest season, not to exceed 100 days annually. With respect to Interstate Route 95 in the State of New Hampshire, State laws (including regulations) concerning vehicle weight limitations that were in effect on January 1, 1987, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection. With respect to that portion of the Maine Turnpike designated Interstate Route 95 and 495, and that portion of Interstate Route 95 from the southern terminus of the Maine Turnpike to the New Hampshire State line, laws (including regulations) of the State of Maine concerning vehicle weight limitations that were in effect on October 1, 1995, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection.”.

New Hampshire.

Maine.

(2) STUDIES.—

(A) COLORADO.—

(i) IN GENERAL.—In consultation with the Secretary, the State of Colorado shall conduct a study analyzing the economic, safety, and infrastructure impacts of the exemption provided by the amendment made by paragraph (1)(A), including the impact of not having such an exemption. In preparing the study, the State shall provide adequate opportunity for public comment.

(ii) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$200,000 for fiscal year 1999 to carry out the study.

(B) LOUISIANA.—

(i) IN GENERAL.—In consultation with the Secretary, the State of Louisiana shall conduct a study analyzing the economic, safety, and infrastructure impacts of the exemption provided by the amendment made by paragraph (1)(B), including the impact of not having such an exemption. In preparing the study, the State shall provide adequate opportunity for public comment.

(ii) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$200,000 for fiscal year 1999 to carry out the study.

(C) MAINE.—

(i) IN GENERAL.—In consultation with the Secretary, the State of Maine shall conduct a study analyzing the economic, safety, and infrastructure impacts of the exemption provided by the amendment made by paragraph (1)(B), including the impact of not having such an exemption. In preparing the study, the State shall provide adequate opportunity for public comment.

(ii) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$200,000 for fiscal year 1999 to carry out the study.

(D) NEW HAMPSHIRE.—

(i) IN GENERAL.—In consultation with the Secretary, the State of New Hampshire shall conduct a study analyzing the economic, safety, and infrastructure impacts of the exemption provided by the amendment made by paragraph (1)(B), including the impact of not having such an exemption. In preparing the study, the State shall provide adequate opportunity for public comment.

(ii) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$200,000 for fiscal year 1999 to carry out the study.

(E) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized by this paragraph shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.

(k) DRIVER TRAINING AND SAFETY CENTER.—

Pennsylvania.

(1) IN GENERAL.—The Secretary shall make grants to establish a driver training and safety center at Connellsville, Pennsylvania.

(2) PURPOSE.—The purpose of the facility shall be to train and enhance the driving skills of motor vehicle and emergency vehicle operators.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$2,500,000 for each of fiscal years 1999 through 2001.

(4) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the funds shall remain available until expended.

(1) OHIO RIVER WELCOME CENTER.—

West Virginia.

(1) IN GENERAL.—The Secretary shall make grants to establish a welcome center in Point Pleasant, West Virginia.

(2) ACCESS.—The center shall be accessible by motor vehicle, bicycle, pedestrian walkway, and river transportation.

(3) FACILITIES.—The center shall include a comfort station, picnic and sitting plaza, a small amphitheater, a deep river port, a marina, and a walking trail.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$412,900 for fiscal year 1999, \$1,362,500 for fiscal year 2000, and \$699,500 for fiscal year 2001.

(5) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of activities carried out using the funds shall be 50 percent and the funds shall remain available until expended.

(m) PROJECT FLEXIBILITY FOR MINNESOTA.—Notwithstanding any other provision of law, funds allocated for a project in the State of Minnesota under section 117 of title 23, United States Code, may be obligated for any other project in the State for which funds are so allocated; except that the total amount of funds authorized for any project for which funds are so allocated shall not be reduced.

(n) BALTIMORE WASHINGTON PARKWAY.—Notwithstanding any other provision of law, the Federal share of the cost of a project for which funds are allocated under section 117 of title 23, United States Code, for renovation and construction of the Baltimore Washington Parkway in Prince Georges County, Maryland, shall be 100 percent.

23 USC 402 note.

(o) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety—

(A) to operate a national bicycle and pedestrian clearinghouse;

(B) to develop information and educational programs; and

(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$500,000 for each of fiscal years 1998 through 2003.

(E) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(p) HEAVY EQUIPMENT OPERATOR TRAINING FACILITY.—

(1) ESTABLISHMENT.—The Secretary shall establish a heavy equipment operator training facility in Hibbing, Minnesota. The purpose of the facility shall be to develop an appropriate curriculum for training, and to train operators and future operators of heavy equipment in the safe use of such equipment.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) \$500,000 for each of fiscal years 1998 and 1999 to carry out this subsection.

(3) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of establishment of the facility under this subsection shall be 80 percent and such funds shall remain available until expended.

(q) MOTOR CARRIER OPERATOR VEHICLE AND TRAINING FACILITY.—

(1) ESTABLISHMENT.—The Secretary shall make grants to the Commonwealth of Pennsylvania to establish and operate an advanced tractor trailer safety and operator training facility in Chambersburg, Pennsylvania. The purpose of the facility shall be to develop and coordinate an advance curriculum for the training of operators and future operators of tractor trailers. The facility shall conduct training on the test track at Letterkenny Army Depot and the unused segment of the Pennsylvania Turnpike located in Bedford County, Pennsylvania. The facility shall be operated by a not-for-profit entity and, when Federal assistance is no longer being provided with respect to the facility, shall be privately operated.

Pennsylvania.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) \$500,000 for each of fiscal years 1998 through 2003 to carry out this subsection.

(3) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended and the Federal share of the cost of establishment and operation of the facility under this subsection shall be 80 percent.

(r) HIGH PRIORITY LAS VEGAS INTERMODAL CENTER.—

(1) IN GENERAL.—The Secretary shall provide \$2,000,000 for fiscal year 1999 and \$2,500,000 for fiscal year 2000 for the High Priority Las Vegas Intermodal Center in Las Vegas, Nevada.

(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(s) SEISMIC DESIGN.—

(1) IN GENERAL.—The Secretary shall provide—

(A) \$8,000,000 for fiscal year 1999 for seismic design and engineering of the Mississippi/Arkansas Great River Bridge;

(B) \$8,000,000 for fiscal year 1999 to the State of Missouri for seismic design and deployment; and

(C) \$7,000,000 for fiscal year 1999 to the State of Arkansas for seismic design and deployment.

(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(t) BILOXI HARBOR, MISSISSIPPI.—The portion of the project for navigation, Biloxi Harbor, Mississippi, authorized by the River and Harbor Act of 1960 (74 Stat. 481), for the Bernard Bayou Channel beginning near the Air Force Oil Terminal at approximately navigation mile 2.6 and extending downstream to the North-South  $\frac{1}{2}$  of Section 30, Township 7 South, Range 10 West, Harrison County, Mississippi, just west of Kremer Boat Yards, is not authorized after the date of enactment of this Act.

(u) CLARIFICATION.—Notwithstanding any other provision of law, the Commonwealth of Pennsylvania is authorized to proceed with engineering, final design, and construction of Corridor O of the Appalachian development highway system between Bald Eagle and Interstate Route 80. All records of decision relating to Corridor O issued prior to the date of enactment of this Act shall remain in effect.

Effective date.

92 Stat. 1650.

(v) BOUNDARY WATERS CANOE AREA.—Effective January 1, 1999, section 4 of the Act of October 21, 1978 (Public Law 95-495) is amended—

(1) by striking subsection (g) and inserting the following:

“(g) Nothing in this Act shall be construed to prevent the operation of motorized vehicles to transport boats across the portages between the Moose Lake Chain and Basswood Lake, Minnesota, and between Vermilion Lake and Trout Lake, Minnesota.”; and

(2) in subsection (c)(2) by striking “; Alder, Cook County; Canoe, Cook County”.

(w) MISCELLANEOUS PROJECTS.—

(1) REPLACEMENT OF ROSLYN VIADUCT.—

(A) PROJECT.—The Secretary is authorized to carry out a project for replacement of a segment of the Roslyn elevated highway (NY25A) on Long Island, New York.

(B) AUTHORIZATION.—There is authorized to be appropriated to carry out this paragraph \$51,000,000 for fiscal years beginning after September 30, 1998. Such sums shall remain available until expended.

(2) DESIGN AND ENGINEERING FOR MILLER HIGHWAY.—

(A) PROJECT.—The Secretary is authorized to carry out a project for design and engineering of the Miller Highway on the west side of Manhattan, New York.

(B) AUTHORIZATION.—There is authorized to be appropriated to carry out this paragraph \$15,000,000 for fiscal years beginning after September 30, 1998. Such sums shall remain available until expended.

(3) WILLIAMSVILLE TOLL BARRIER.—

(A) PROJECT.—The Secretary is authorized to carry out a project to relocate a toll barrier complex to relieve traffic congestion in the Buffalo, New York, area.

(B) AUTHORIZATION.—There is authorized to be appropriated to carry out this paragraph \$20,000,000 for fiscal years beginning after September 30, 1998. Such sums shall remain available until expended.

(x) ST. GEORGES, DELAWARE.—The Secretary of the Army shall transfer all right, title, and interest of the United States in the highway bridge on United States Route 13 in the vicinity of St. Georges, Delaware, to the State of Delaware if the transfer is necessary to facilitate retransfer to a private entity for the purpose of demonstrating the effectiveness and efficiency of the use of large-scale composites technology for bridge rehabilitation. In evaluating the level of service for all Federal crossings over the Chesapeake and Delaware Canal in Delaware, the total vehicle trips per day on this transferred bridge shall be attributed to the remaining Federal crossing at St. Georges, Delaware (the SR1 Bridge). If the transfer is completed within 180 days after the date of enactment of this Act, the Secretary shall provide \$10,000,000 to the State for the State to use in rehabilitating the bridge.

(y) MOUNT PARAN INTERCHANGE PROJECT FOR INTERSTATE ROUTE 75.—Notwithstanding any other provision of law, none of the funds made available under this Act or title 23, United States Code, shall be used to carry out a project to construct or improve the Mount Paran interchange on Interstate Route 75 in Georgia unless the Atlanta Regional Commission approves the project after the date of enactment of this Act.

(z) NITTANY PARKWAY.—The Secretary shall designate 31 miles of Pennsylvania State Route 26 between Huntingdon, Pennsylvania, and State College, Pennsylvania, as the Nittany Parkway.

Pennsylvania.

#### SEC. 1213. STUDIES AND REPORTS.

(a) HIGHWAY ECONOMIC REQUIREMENT SYSTEM.—

23 USC 101 note.

(1) METHODOLOGY.—

(A) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the methodology used by the Department of Transportation to determine highway needs using the highway economic requirement system (in this subsection referred to as the “model”).

(B) REQUIRED ELEMENT.—The evaluation shall include an assessment of the extent to which the model estimates an optimal level of highway infrastructure investment, including an assessment as to when the model may be overestimating or underestimating investment requirements.

(C) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the evaluation.

(2) STATE INVESTMENT PLANS.—

(A) STUDY.—In consultation with State transportation departments and other appropriate State and local officials, the Comptroller General of the United States shall conduct a study on the extent to which the model can be used to provide States with useful information for developing State transportation investment plans and State infrastructure investment projections.

(B) REQUIRED ELEMENTS.—The study shall—

(i) identify any additional data that may need to be collected beyond the data submitted, before the date of enactment of this Act, to the Federal Highway Administration through the highway performance monitoring system; and

(ii) identify what additional work, if any, would be required of the Federal Highway Administration and the States to make the model useful at the State level.

(C) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

23 USC 109 note.

(b) INTERNATIONAL ROUGHNESS INDEX.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

(2) REQUIRED ELEMENTS.—The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.

23 USC 401 note.

(c) USE OF UNIFORMED POLICE OFFICERS ON FEDERAL-AID HIGHWAY CONSTRUCTION PROJECTS.—

(1) STUDY.—In consultation with the States, State transportation departments, and law enforcement organizations, the Secretary shall conduct a study on the extent and effectiveness of use by States of uniformed police officers on Federal-aid highway construction projects.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study, including any legislative and administrative recommendations of the Secretary.

23 USC 101 note.

(d) SOUTHWEST BORDER TRANSPORTATION INFRASTRUCTURE.—

(1) ASSESSMENT.—The Secretary shall conduct a comprehensive assessment of the state of the transportation infrastructure on the southwest border between the United States and Mexico (in this subsection referred to as the “border”).

(2) CONSULTATION.—In carrying out the assessment, the Secretary shall consult with—

(A) the Secretary of State;

(B) the Attorney General;

(C) the Secretary of the Treasury;

(D) the Commandant of the Coast Guard;

(E) the Administrator of General Services;



(F) the American Commissioner on the International Boundary Commission, United States and Mexico;

(G) State agencies responsible for transportation and law enforcement in border States; and

(H) municipal governments and transportation authorities in sister cities in the border area.

(3) REQUIREMENTS.—In carrying out the assessment, the Secretary shall—

(A) assess the flow of commercial and private traffic through designated ports of entry on the border;

(B) assess the adequacy of transportation infrastructure in the border area, including highways, bridges, railway lines, and border inspection facilities;

(C) assess the adequacy of law enforcement and narcotics abatement activities in the border area, as the activities relate to commercial and private traffic and infrastructure;

(D) assess future demands on transportation infrastructure in the border area; and

(E) make recommendations to facilitate legitimate cross-border traffic in the border area, while maintaining the integrity of the border.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the assessment conducted under this subsection, including any related legislative and administrative recommendations.

(e) STUDY OF PROCUREMENT PRACTICES AND PROJECT DELIVERY.— 23 USC 123 note.

(1) STUDY.—The Comptroller General shall conduct a study to assess the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects. The study shall also assess the following:

(A) Methods States use to mitigate such delays, including the use of the courts to compel cooperation.

(B) The prevalence and use of incentives to utility companies for early completion of utility relocations on Federal-aid transportation project sites and, conversely, penalties assessed on utility companies for utility relocation delays on such projects.

(C) The extent to which States have used available technologies, such as subsurface utility engineering, early in the design of Federal-aid highway and bridge projects so as to eliminate or reduce the need for or delays due to utility relocations.

(D) Whether individual States compensate transportation contractors for business costs incurred by the contractors when Federal-aid highway and bridge projects under contract to them are delayed by utility-company-caused delays in utility relocations and any methods used by States in making any such compensation.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study with any recommendations the Comptroller General determines appropriate as a result of the study.

(f) SPECIALIZED HAULING VEHICLES.—

23 USC 127 note.

(1) STUDY.—The Secretary shall conduct a study to examine the impact of the truck weight standards on specialized hauling vehicles. The study shall include, at a minimum, an analysis of the economic, safety, and infrastructure impacts of the standards.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study with any recommendations the Secretary determines appropriate as a result of the study.

23 USC 131 note.

(g) STUDY OF STATE PRACTICES ON SPECIFIC SERVICE SIGNING.—

(1) STUDY.—The Secretary shall conduct a study to determine the practices in the States for specific service food signs described in sections 2G-5.7 and 2G-5.8 of the Manual on Uniform Traffic Control Devices for Streets and Highways. The study shall examine, at a minimum—

(A) the practices of all States for determining businesses eligible for inclusion on such signs;

(B) whether States allow businesses to be removed from such signs and the circumstances for such removal;

(C) the practices of all States for erecting and maintaining such signs, including the time required for erecting such signs; and

(D) whether States contract out the erection and maintenance of such signs.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study, including any recommendations and, if appropriate, modifications to the Manual.

23 USC 127 note.

(h) VEHICLE WEIGHT ENFORCEMENT.—

(1) STUDY.—The Secretary shall conduct a study of State laws (including regulations) relating to penalties for violation of State commercial motor vehicle weight laws.

(2) PURPOSE.—The purpose of the study shall be to determine the effectiveness of State penalties as a deterrent to illegally overweight trucking operations. The study shall evaluate fine structures, innovative roadside enforcement techniques, and a State's ability to penalize shippers and carriers as well as drivers and shall examine the effectiveness of administrative and judicial procedures utilized to enforce vehicle weight laws.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study with any legislative recommendations of the Secretary.

23 USC 127 note.

(i) COMMERCIAL MOTOR VEHICLE STUDY.—

(1) IN GENERAL.—The Secretary shall request the Transportation Research Board of the National Academy of Sciences to conduct a study regarding the regulation of weights, lengths, and widths of commercial motor vehicles operating on Federal-aid highways to which Federal regulations apply on the date of enactment of this Act. In conducting the study, the Board shall review law, regulations, studies (including Transportation Research Board Special Report 225), and practices and develop recommendations regarding any revisions to law and regulations that the Board determines appropriate.

(2) FACTORS TO CONSIDER AND EVALUATE.—In developing recommendations under paragraph (1), the Board shall consider and evaluate the impact of the recommendations described

in paragraph (1) on the economy, the environment, safety, and service to communities.

(3) CONSULTATION.—In carrying out the study, the Board shall consult with the Department of Transportation, States, the motor carrier industry, freight shippers, highway safety groups, air quality and natural resource management groups, commercial motor vehicle driver representatives, and other appropriate entities.

(4) REPORT.—Not later than 2 years after the date of enactment of this Act, the Board shall transmit to Congress and the Secretary a report on the results of the study conducted under this subsection.

(5) RECOMMENDATIONS.—Not later than 180 days after the date of receipt of the report under paragraph (4), the Secretary may transmit to Congress a report containing comments or recommendations of the Secretary regarding the Board's report.

(6) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) \$250,000 for each of fiscal years 1999 and 2000 to carry out this subsection.

(7) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the study under this subsection shall be 100 percent and such funds shall remain available until expended.

(j) TRAFFIC ANALYSIS.—

(1) IN GENERAL.—The Secretary shall enter into an agreement with the State of Oklahoma to carry out a traffic analysis to determine the feasibility of a trade processing center in McClain County, Oklahoma.

Contracts.  
Oklahoma.

(2) AUTHORIZATION.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$1,000,000 for fiscal year 1999.

(3) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(k) STUDY OF INTERSTATE HIGH SPEED GROUND TRANSPORTATION.—

(1) STUDY.—The Secretary shall conduct a study to assess the feasibility of providing high speed rail passenger service from Atlanta, Georgia, to Charleston, South Carolina. The study shall also assess the potential impact of rail service on the tourism industry.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and to the Committee on Environment and Public Works of the Senate a report on the results of the study, together with any recommendations the Secretary determines appropriate as a result of the study.

**SEC. 1214. FEDERAL ACTIVITIES.**

District of  
Columbia.  
20 USC 76j note.

**(a) ACCESS TO JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.—**

(1) **STUDY.**—The Secretary, in cooperation with the District of Columbia, the John F. Kennedy Center for the Performing Arts, and the Department of the Interior and in consultation with other interested persons, shall conduct a study of methods to improve pedestrian and vehicular access to the John F. Kennedy Center for the Performing Arts.

(2) **REPORT.**—Not later than September 30, 1999, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing the results of the study with an assessment of the impacts (including environmental, aesthetic, economic, and historical impacts) associated with the implementation of each of the methods examined under the study.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$500,000 for fiscal year 1998.

(4) **APPLICABILITY OF TITLE 23, UNITED STATES CODE.**—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities conducted using such funds shall be 100 percent and such funds shall remain available until expended.

20 USC 50 note.

**(b) SMITHSONIAN INSTITUTION TRANSPORTATION PROGRAM.—**

(1) **IN GENERAL.**—The Secretary shall allocate amounts made available by this subsection for obligation at the discretion of the Secretary of the Smithsonian Institution, in consultation with the Secretary, to carry out projects and activities described in paragraph (2).

(2) **ELIGIBLE USES.**—Amounts allocated under paragraph (1) may be obligated only—

(A) for transportation-related exhibitions, exhibits, and educational outreach programs;

(B) to enhance the care and protection of the Nation's collection of transportation-related artifacts;

(C) to acquire historically significant transportation-related artifacts; and

(D) to support research programs within the Smithsonian Institution that document the history and evolution of transportation, in cooperation with other museums in the United States.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) \$1,000,000 for each of fiscal years 1998 through 2003 to carry out this subsection.

(4) **APPLICABILITY OF TITLE 23.**—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity under this subsection shall be 100 percent and such funds shall remain available until expended.

## (c) NEW RIVER VISITOR CENTER.—

(1) IN GENERAL.—The Secretary shall allocate to the Secretary of the Interior amounts made available by this subsection for the planning, design, and construction of a visitor center, and such other related facilities as may be necessary, to facilitate visitor understanding and enjoyment of the scenic, historic, cultural, and recreational resources of the New River Gorge National River in the State of West Virginia. The center and related facilities shall be located at a site for which title is held by the United States in the vicinity of the I-64 Sandstone intersection.

West Virginia.  
16 USC  
460m-29a note.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$1,300,000 for fiscal year 1998, \$1,200,000 for fiscal year 1999, and \$9,900,000 for fiscal year 2000.

(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.

## (d) ADDITIONAL AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.— 23 USC 202 note.

(1) AVAILABILITY TO STATES.—Not later than October 1 of each fiscal year, funds made available under paragraph (5) for the fiscal year shall be made available by the Secretary, in equal amounts, to each State that has within the boundaries of the State all or part of an Indian reservation having a land area of 10,000,000 acres or more.

## (2) AVAILABILITY TO ELIGIBLE COUNTIES.—

(A) IN GENERAL.—Each fiscal year, each county that is located in a State to which funds are made available under paragraph (1), and that has in the county a public road described in subparagraph (B), shall be eligible to apply to the State for all or a portion of the funds made available to the State under this subsection to be used by the county to maintain such roads.

(B) ROADS.—A public road referred to in subparagraph

(A) is a public road that—

(i) is within, adjacent to, or provides access to an Indian reservation described in paragraph (1);

(ii) is used by a school bus to transport children to or from a school or Headstart program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); and

(iii) is maintained by the county in which the public road is located.

## (C) ALLOCATION AMONG ELIGIBLE COUNTIES.—

(i) IN GENERAL.—Except as provided in clause (ii), each State that receives funds under paragraph (1) shall provide directly to each county that applies for funds the amount that the county requests in the application.

(ii) ALLOCATION AMONG ELIGIBLE COUNTIES.—If the total amount of funds applied for under this subsection by eligible counties in a State exceeds the amount of funds available to the State, the State shall equitably

allocate the funds among the eligible counties that apply for funds.

(3) SUPPLEMENTARY FUNDING.—For each fiscal year, the Secretary shall ensure that funding made available under this subsection supplements (and does not supplant)—

(A) any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations; and

(B) any funding provided by a State to a county for road maintenance programs in the county.

(4) USE OF UNALLOCATED FUNDS.—Any portion of the funds made available to a State under this subsection that is not made available to counties within 1 year after the funds are made available to the State shall be apportioned among the States in accordance with section 104(b) of title 23, United States Code.

(5) FUNDING.—

(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$1,500,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(e) NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.—

(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or a portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for reconstruction of the highway or portion of highway.

(2) FUNDING.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2002, the Secretary may set aside not to exceed \$18,800,000 from amounts to be apportioned under section 104(b)(4) of title 23, United States Code, to carry out this section.

(B) AVAILABILITY.—Funds made available under subparagraph (1) shall remain available until expended.

(f) SACHUEST POINT NATIONAL WILDLIFE REFUGE.—

(1) IN GENERAL.—The Secretary shall provide \$200,000 for fiscal year 1999 to the United States Fish and Wildlife Service to resurface the entrance road to Sachuest Point National Wildlife Refuge.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$200,000 for fiscal year 1999.

(3) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(g) RUNWAY REMOVAL AT NINIGRET NATIONAL WILDLIFE REFUGE.—

(1) IN GENERAL.—The Secretary shall provide \$300,000 for fiscal year 1999 to the United States Fish and Wildlife Service to remove asphalt runways at Ninigret National Wildlife Refuge

16 USC 668dd  
note.

16 USC 668dd  
note.

and \$5,000,000 shall be available to the State of Rhode Island for improvements to the T.F. Green Intermodal Facility in Rhode Island for each of fiscal years 1999 through 2003.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$5,300,000 for fiscal year 1999 and \$5,000,000 for each of fiscal years 2000 through 2003.

(3) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(h) MIDDLETOWN VISITOR CENTER.—

16 USC 668dd  
note.

(1) IN GENERAL.—The Secretary shall provide \$500,000 for fiscal year 1999 to the United States Fish and Wildlife Service for the Middletown visitor center at Sachuest Point National Wildlife Refuge.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$500,000 for fiscal year 1999.

(3) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(i) ENTRANCE PAVING AT NINIGRET NATIONAL WILDLIFE REFUGE.—

16 USC 668dd  
note.

(1) IN GENERAL.—The Secretary shall provide \$750,000 for fiscal year 1999 to the United States Fish and Wildlife Service to pave the entrance road to the Ninigret National Wildlife Refuge.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$750,000 for fiscal year 1999.

(3) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(j) EDUCATION CENTER.—

16 USC 668dd  
note.

(1) IN GENERAL.—The Secretary shall provide \$1,000,000 for each of fiscal years 1999 through 2003 to the United States Fish and Wildlife Service for the education visitor center at the Rhode Island National Wildlife Refuge complex.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$1,000,000 for each of fiscal years 1999 through 2003.

(3) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(k) RICHMOND NATIONAL BATTLEFIELD PARK.—

(1) IN GENERAL.—The Secretary shall provide \$1,000,000 for fiscal year 1999 to the National Park Service to revitalize the Tredegar Iron Works to serve as a visitor center for Richmond National Battlefield Park.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$1,000,000 for fiscal year 1999.

(3) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(l) ACCESS TO CORPS OF ENGINEERS.—

(1) IN GENERAL.—The Secretary shall provide \$800,000 for each of fiscal years 1999 through 2003 to the Corps of Engineers to be made available to the State of Missouri for resurfacing and maintenance of city and county roads that provide access to Corps of Engineers reservoirs.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$800,000 for each of fiscal years 1999 through 2003.

(3) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(m) CIVIL WAR BATTLEFIELD PLAN.—

(1) IN GENERAL.—The Secretary shall provide \$250,000 for each of fiscal years 1999 and 2000 to the Department of the Interior to be made available to the Shenandoah Valley Battlefield National Historic District Commission for developing a plan for the interpretation and protection of 10 Civil War battlefields in the Shenandoah Valley.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$250,000 for each of fiscal years 1999 and 2000.

(3) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(n) DOT HEADQUARTERS FACILITY.—Before taking any action that leads to Government ownership of the Department of Transportation headquarters facility, through construction or purchase, the Administrator of General Services shall first seek approval of the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(o) FORT PECK, MONTANA.—

(1) FORT PECK, MONTANA, VISITORS CENTER.—The Secretary shall provide funds for the environmental review, planning, design, and construction of a historical and cultural visitors center and museum at Fort Peck, Montana.

(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$3,000,000 for each of fiscal years 1999 and 2000.

(3) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.

(p) BRIDGES ON NATCHEZ TRACE PARKWAY, MISSISSIPPI.—

(1) IN GENERAL.—The Secretary shall allocate to the State of Mississippi amounts available by this subsection to be used for replacement and widening of the box bridges on the Natchez



Trace Parkway at Old Canton Road and at Rice Road in Madison County, Mississippi.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$5,000,000 for fiscal year 1999.

(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(q) LOLO PASS VISITOR CENTER.—

Idaho.

(1) GRANTS.—The Secretary shall make grants for the Lolo Pass Visitor Center in the State of Idaho.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$2,943,000 for fiscal year 1999.

(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(r) PUERTO RICO HIGHWAY PROGRAM.—

(1) IN GENERAL.—The Secretary shall allocate funds authorized by section 1101(a)(15) for each of fiscal years 1998 through 2003 to the Commonwealth of Puerto Rico to carry out a highway program in such Commonwealth.

(2) APPLICABILITY OF TITLE 23.—Amounts made available by section 1101(a)(15) of this Act shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code. Such amounts shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

#### SEC. 1215. DESIGNATED TRANSPORTATION ENHANCEMENT ACTIVITIES.

(a) GETTYSBURG, PENNSYLVANIA.—

(1) RESTORATION OF TRAIN STATION.—The Secretary shall allocate amounts made available by this subsection for the restoration of the Gettysburg, Pennsylvania, train station.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) \$400,000 for each of fiscal years 1998 and 1999 to carry out this subsection.

(3) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of restoration of the train station under this subsection shall be 80 percent and such funds shall remain available until expended.

(b) CENTER.—

Minnesota.

(1) ESTABLISHMENT.—The Secretary shall allocate funds made available to carry out this subsection to establish a center for national scenic byways in Duluth, Minnesota, to provide technical communications and network support for nationally

designated scenic byway routes in accordance with paragraph (2).

(2) COMMUNICATIONS SYSTEMS.—The center for national scenic byways shall develop and implement communications systems for the support of the national scenic byways program. Such communications systems shall provide local officials and planning groups associated with designated National Scenic Byways or All-American Roads with proactive, technical, and customized assistance through the latest technology that allows scenic byway officials to develop and sustain their National Scenic Byways or All-American Roads.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$1,500,000 for each of fiscal years 1998 through 2003.

(4) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection shall be 100 percent and such funds shall remain available until expended.

West Virginia.

(c) COAL HERITAGE TRAIL.—

(1) IN GENERAL.—The Secretary shall make grants to the State of West Virginia for the Coal Heritage Scenic Byway for the purposes set forth in section 204(h) of title 23, United States Code.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$2,000,000 for each of fiscal years 1999 through 2001.

(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.

(d) TRAFFIC CALMING MEASURES.—

(1) IN GENERAL.—The Secretary shall provide \$5,000,000 for fiscal year 1999 and \$2,000,000 for each of fiscal years 2000 through 2003 to implement traffic calming measures in Fauquier and Loudoun Counties, Virginia.

(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(e) PEDESTRIAN BRIDGE.—

(1) IN GENERAL.—The Secretary shall provide \$1,000,000 for fiscal year 1999 for a pedestrian bridge over United States Route 29 at Emmet Street in Charlottesville, Virginia.

(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(f) INTERPRETIVE CENTER.—

(1) IN GENERAL.—The Secretary shall provide \$600,000 for fiscal year 1999 for construction of the Virginia Blue Ridge Parkway interpretive center located on the Roanoke River Gorge in Virginia.

(2) **APPLICABILITY OF TITLE 23.**—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(g) **CHAIN OF ROCKS BRIDGE.**—

(1) **IN GENERAL.**—The Secretary shall provide \$2,000,000 for fiscal year 1999 for the renovation and preservation of the Missouri Route 66 Chain of Rocks Bridge.

(2) **APPLICABILITY OF TITLE 23.**—Funds made available to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(h) **NOISE BARRIERS, DEKALB COUNTY, GEORGIA.**—Notwithstanding any other provision of law, the Secretary shall approve the construction of Type II noise barriers beginning on the west side of Interstate Route 285 extending from Northlake Parkway to Henderson Mill Road in Dekalb County, Georgia, from funds apportioned under sections 104(b)(1) and 104(b)(3) of title 23, United States Code.

**SEC. 1216. INNOVATIVE SURFACE TRANSPORTATION FINANCING METHODS.**

(a) **VALUE PRICING PILOT PROGRAM.**—

(1) **IN GENERAL.**—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(A) in the subsection heading by striking “CONGESTION” and inserting “VALUE”;

(B) in paragraph (1)—

(i) by striking “congestion” each place it appears and inserting “value”; and

(ii) by striking “projects” each place it appears and inserting “programs”; and

(C) in paragraph (5)—

(i) by striking “projects” and inserting “programs”; and

(ii) by striking “traffic, volume” and inserting “traffic volume”.

(2) **INCREASED NUMBER OF PROJECTS.**—Section 1012(b)(1) of such Act is amended in the second sentence by striking “5” and inserting “15”.

(3) **ELIGIBILITY OF PREIMPLEMENTATION COSTS.**—Section 1012(b)(2) of such Act is amended in the second sentence—

(A) by inserting after “Secretary shall fund” the following: “all preimplementation costs and project design, and”; and

(B) by inserting after “Secretary may not fund” the following: “the preimplementation or implementation costs of”.

(4) **TOLLING.**—Section 1012(b)(4) of such Act is amended by striking “a pilot program under this section, but not on more than 3 of such programs” and inserting “any value pricing pilot program under this subsection”.

(5) **HOV PASSENGER REQUIREMENTS.**—Section 1012(b) of such Act is amended by striking paragraph (6) and inserting the following:

“(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 146(c) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.”.

23 USC 149 note.

(6) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—Section 1012(b) of such Act is amended by adding at the end the following:

“(7) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—Any value pricing pilot program under this subsection shall include, if appropriate, an analysis of the potential effects of the pilot program on low-income drivers and may include mitigation measures to deal with any potential adverse financial effects on low-income drivers.”.

(7) FUNDING.—Section 1012(b) of such Act (as amended by paragraph (6)) is amended by adding at the end the following:

“(8) FUNDING.—

“(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$8,000,000 for each of fiscal years 1998 through 2003.

“(B) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

“(C) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this subsection for fiscal year 1998 and fiscal years thereafter but not allocated exceeds \$8,000,000 as of September 30 of any year, the excess amount—

“(i) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

“(ii) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of such title; and

“(iii) shall be available for any purpose eligible for funding under section 133 of such title.

“(D) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.”.

23 USC 129 note.

(b) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System reconstruction and rehabilitation pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of reconstructing and rehabilitating Interstate highway corridors that could not

otherwise be adequately maintained or functionally improved without the collection of tolls.

(2) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this subsection on 3 facilities on the Interstate System. Each of such facilities shall be located in a different State.

(3) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:

(A) An identification of the facility on the Interstate System proposed to be a toll facility, including the age, condition, and intensity of use of the facility.

(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization established under section 134 of title 23, United States Code, for the area has been consulted concerning the placement and amount of tolls on the facility.

(C) An analysis demonstrating that the facility could not be maintained or improved to meet current or future needs from the State's apportionments and allocations made available by this Act (including amendments made by this Act) and from revenues for highways from any other source without toll revenues.

(D) A facility management plan that includes—

(i) a plan for implementing the imposition of tolls on the facility;

(ii) a schedule and finance plan for the reconstruction or rehabilitation of the facility using toll revenues;

(iii) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

(iv) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

(v) such other information as the Secretary may require.

(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under paragraph (3) only if the Secretary determines that—

(A) the State is unable to reconstruct or rehabilitate the proposed toll facility using existing apportionments;

(B) the facility has a sufficient intensity of use, age, or condition to warrant the collection of tolls;

(C) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

(D) the State plan for reconstruction or rehabilitation of the facility using toll revenues is reasonable; and

(E) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

## Contracts.

(5) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

(A) all toll revenues received from operation of the toll facility will be used only for—

- (i) debt service;
- (ii) reasonable return on investment of any private person financing the project; and
- (iii) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.

(6) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

(7) PROGRAM TERM.—The Secretary shall conduct the pilot program under this subsection for a term to be determined by the Secretary, but not less than 10 years.

(8) INTERSTATE SYSTEM DEFINED.—In this subsection, the term “Interstate System” has the meaning such term has under section 101 of title 23, United States Code.

**SEC. 1217. ELIGIBILITY.**

(a) SAN MATEO COUNTY, CALIFORNIA.—Notwithstanding any other provision of law, a project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, that—

(1) was destroyed as a result of a combination of storms in the winter of 1982–1983 and a mountain slide; and

(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities;

shall be eligible for assistance under section 125(a) of title 23, United States Code, if the project complies with the local coastal plan.

(b) AMBASSADOR BRIDGE ACCESS, DETROIT, MICHIGAN.—

(1) IN GENERAL.—Notwithstanding section 129 of title 23, United States Code, or any other provision of law, improvements to access roads and construction of access roads, approaches, and related facilities (such as signs, lights, and signals) necessary to connect the Ambassador Bridge in Detroit, Michigan, to the Interstate System shall be eligible for funds apportioned under paragraphs (1) and (3) of section 104(b) of such title.

(2) USE OF FUNDS.—Funds described in paragraph (1) shall not be used for any improvement to, or construction of, the bridge itself.

(c) CUYAHOGA RIVER BRIDGE, OHIO.—Notwithstanding any other provision of law, a project to construct a new bridge over the Cuyahoga River in Cleveland, Ohio, shall be eligible for funds apportioned under section 104(b)(3) of such title.

(d) CONNECTICUT.—In fiscal year 1998, the State of Connecticut may transfer any funds remaining available for obligation under section 104(b)(4) of title 23, United States Code, as in effect on the day before the date of the enactment of this Act, for construction of the Interstate System to any other program eligible for assistance under chapter 1 of such title. Before making any distribution of the obligation limitation under section 1102(c)(6) of this Act, the Secretary shall make available to the State of Connecticut sufficient obligation authority under section 1102(c) of this Act to obligate funds available for transfer under this subsection.

(e) INTERNATIONAL BRIDGE, SAULT STE. MARIE, MICHIGAN.—The International Bridge Authority, or its successor organization, shall be permitted to continue collecting tolls for maintenance of, operation of, capital improvements to, and future expansions to the International Bridge, Sault Ste. Marie, Michigan, and its approaches, plaza areas, and associated structures.

(f) INFORMATION SERVICES.—A food business that would otherwise be eligible to display a mainline business logo on a specific service food sign described in section 2G-5.7(4) of part IIG of the 1988 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways under the requirements specified in that section, but for the fact that the business is open 6 days a week, cannot be prohibited from inclusion on such a food sign.

(g) CONTINUANCE OF COMMERCIAL OPERATIONS AT CERTAIN SERVICE PLAZAS IN THE STATE OF MARYLAND.—

(1) WAIVER.—Notwithstanding section 111 of title 23, United States Code, and the agreements described in paragraph (2), at the request of the Maryland Transportation Authority, the Secretary shall allow the continuance of commercial operations at the service plazas on the John F. Kennedy Memorial Highway on Interstate Route 95.

(2) AGREEMENTS.—The agreements referred to in paragraph (1) are agreements between the Department of Transportation of the State of Maryland and the Federal Highway Administration concerning the highway described in paragraph (1).

(h) WELCOME CENTER PILOT PROJECT.—

(1) IN GENERAL.—The Secretary shall permit the State of Georgia to conduct a pilot project to acquire, construct, operate, and maintain a demonstration safety rest area and information center along Interstate Route 75 in Cobb County, Georgia, in accordance with paragraph (2).

Georgia.

(2) INFORMATION CENTER AND SYSTEM.—The center may provide goods and information that is of interest to the traveling public, including commercial advertising and media displays, if such advertising and displays are—

(A) exhibited solely within any facility constructed in the rest area; and

(B) not legible from the main traveled way.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the pilot project.

(i) SOUTHERN CALIFORNIA.—Notwithstanding section 120(l)(1) of title 23, United States Code—

(1) private entity expenditures to construct the SR-91 toll road located in Orange County, California, from SR-55 to the

Riverside County line may be credited toward the State matching share for any Federal-aid project beginning construction after the SR-91 toll road was opened to traffic; and

(2) private expenditures for the future SR-125 toll road in San Diego County, California, from SR-905 to San Miguel Road may be credited against the State match share for Federal-aid highway projects beginning after SR-125 is opened to traffic.

(j) TOLLS ON PENNSYLVANIA TURNPIKE.—Notwithstanding any other provision of law, no tolls shall be collected during the 6-year period beginning on the date of enactment of this Act on the Pennsylvania Turnpike for travel either entering Bedford and exiting Breezewood, Pennsylvania, or entering Breezewood and exiting Bedford.

(k) VICKSBURG AND JACKSON, MISSISSIPPI.—Notwithstanding any other provision of this Act, funds authorized by this Act (including amendments made by this Act) for transportation projects in the State of Mississippi may be used for the purpose of constructing, reconstructing, or rehabilitating rail lines in the vicinity of Vicksburg and Jackson, Mississippi.

#### **SEC. 1218. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.**

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 321 the following:

##### **“§ 322. Magnetic levitation transportation technology deployment program**

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) ELIGIBLE PROJECT COSTS.—The term ‘eligible project costs’—

“(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

“(B) includes the costs of preconstruction planning activities.

“(2) FULL PROJECT COSTS.—The term ‘full project costs’ means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

“(3) MAGLEV.—The term ‘MAGLEV’ means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour or under 50 miles per hour.

“(4) PARTNERSHIP POTENTIAL.—The term ‘partnership potential’ has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1978).

“(b) FINANCIAL ASSISTANCE.—



“(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects selected under this section. Financial assistance made available under this section and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.

“(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than  $\frac{2}{3}$ .

“(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

“(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

“(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

“(1) involve a segment or segments of a high-speed or low-speed ground transportation corridor that exhibit partnership potential;

“(2) require an amount of Federal funds for project financing that will not exceed the sum of—

“(A) the amounts made available under subsection (h)(1)(A); and

“(B) the amounts made available by States under subsection (h)(4);

“(3) result in an operating transportation facility that provides a revenue producing service;

“(4) be undertaken through a public and private partnership, with at least  $\frac{1}{3}$  of full project costs paid using non-Federal funds;

“(5) satisfy applicable statewide and metropolitan planning requirements;

“(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

“(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

“(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

“(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

“(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

“(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

“(3) States, regions, and localities financially contribute to the project;

“(4) implementation of the project will create new jobs in traditional and emerging industries;

“(5) the project will augment MAGLEV networks identified as having partnership potential;

“(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

“(7) financial assistance would foster the timely implementation of a project; and

“(8) life-cycle costs in design and engineering are considered and enhanced.

“(f) PROJECT SELECTION.—

“(1) PRECONSTRUCTION PLANNING ACTIVITIES.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 or more eligible projects to receive financial assistance for preconstruction planning activities, including—

“(A) preparation of such feasibility studies, major investment studies, and environmental impact statements and assessments as are required under State law;

“(B) pricing of the final design, engineering, and construction activities proposed to be assisted under paragraph (2); and

“(C) such other activities as are necessary to provide the Secretary with sufficient information to evaluate whether a project should receive financial assistance for final design, engineering, and construction activities under paragraph (2).

“(2) FINAL DESIGN, ENGINEERING, AND CONSTRUCTION ACTIVITIES.—After completion of preconstruction planning activities for all projects assisted under paragraph (1), the Secretary shall select 1 of the projects to receive financial assistance for final design, engineering, and construction activities.

“(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

“(h) FUNDING.—

“(1) IN GENERAL.—

“(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

“(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$15,000,000 for fiscal year 1999, \$20,000,000 for fiscal year 2000, and \$25,000,000 for fiscal year 2001.

“(ii) CONTRACT AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

“(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

“(II) the availability of the funds shall be determined in accordance with paragraph (2).

“(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

“(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$200,000,000 for each of fiscal years 2000 and 2001, \$250,000,000 for fiscal year 2002, and \$300,000,000 for fiscal year 2003.

“(ii) AVAILABILITY.—Notwithstanding section 118(a), funds made available under clause (i) shall not be available in advance of an annual appropriation.

“(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

“(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

“(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Equity Act for the 21st Century, including loans, loan guarantees, and lines of credit.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 321 the following:

“322. Magnetic levitation transportation technology deployment program.”.

**SEC. 1219. NATIONAL SCENIC BYWAYS PROGRAM.**

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

**“§ 162. National scenic byways program**

“(a) DESIGNATION OF ROADS.—

“(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as National Scenic Byways or All-American Roads.

“(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

“(3) NOMINATION.—To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway.

“(b) GRANTS AND TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States to—

“(A) implement projects on highways designated as National Scenic Byways or All-American Roads, or as State scenic byways; and

“(B) plan, design, and develop a State scenic byway program.

“(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

“(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway or All-American Road and that is consistent with the corridor management plan for the byway;

“(B) each eligible project along a State-designated scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as a National Scenic Byway or All-American Road; and

“(C) each eligible project that is associated with the development of a State scenic byway program.

“(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

“(1) An activity related to the planning, design, or development of a State scenic byway program.

“(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

“(3) Safety improvements to a State scenic byway, National Scenic Byway, or All-American Road to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, National Scenic Byway, or All-American Road.

“(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, passing lane, overlook, or interpretive facility.

“(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

“(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

“(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

“(8) Development and implementation of a scenic byway marketing program.

“(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

“(e) SAVINGS CLAUSE.—The Secretary shall not withhold any grant or impose any requirement on a State as a condition of providing a grant or technical assistance for any scenic byway unless the requirement is consistent with the authority provided in this chapter.

“(f) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byway project along a public road that provides access to or within Federal or Indian land, a Federal

land management agency may use funds authorized for use by the agency as the non-Federal share.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following:

“162. National scenic byways program.”.

**SEC. 1220. ELIMINATION OF REGIONAL OFFICE RESPONSIBILITIES.**

49 USC 104 note.

(a) IN GENERAL.—

(1) ELIMINATION.—The Secretary shall eliminate any programmatic decisionmaking responsibility of the regional offices of the Federal Highway Administration for the Federal-aid highway program as part of the Administration’s efforts to restructure its field organization.

(2) ACTIVITIES.—In carrying out paragraph (1), the Secretary shall eliminate regional offices, create technical resource centers, and, to the maximum extent practicable, delegate authority to State offices of the Federal Highway Administration.

(b) PREFERENCE.—In locating the technical resource centers, the Secretary shall give preference to cities that house, on the date of enactment of this Act, the Federal Highway Administration regional offices and are in locations that minimize the travel distance between the technical resource centers and the Federal Highway Administration division offices that will be served by the new technical resource centers.

(c) REPORT TO CONGRESS.—The Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a detailed implementation plan to carry out this section not later than September 30, 1998, and thereafter provide periodic progress reports on carrying out this section to such Committees.

(d) IMPLEMENTATION.—The Secretary shall begin implementation of the plan transmitted under subsection (c) not later than December 31, 1998.

**SEC. 1221. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.**

23 USC 101 note.

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a comprehensive initiative to investigate and address the relationships between transportation and community and system preservation and identify private sector-based initiatives.

(b) RESEARCH.—

(1) IN GENERAL.—In cooperation with appropriate Federal agencies, State, regional, and local governments, and other entities eligible for assistance under subsection (d), the Secretary shall carry out a comprehensive research program to investigate the relationships between transportation, community preservation, and the environment and the role of the private sector in shaping such relationships.

(2) REQUIRED ELEMENTS.—The program shall provide for monitoring and analysis of projects carried out with funds made available to carry out subsections (c) and (d).

(c) PLANNING.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan

planning organizations, and local governments to plan, develop, and implement strategies to integrate transportation and community and system preservation plans and practices.

(2) PURPOSES.—The purposes of the allocations shall be—

(A) to improve the efficiency of the transportation system;

(B) to reduce the impacts of transportation on the environment;

(C) to reduce the need for costly future investments in public infrastructure;

(D) to provide efficient access to jobs, services, and centers of trade; and

(E) to examine development patterns and identify strategies to encourage private sector development patterns which achieve the goals identified in subparagraphs (A) through (D).

(3) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) propose projects for funding that address the purposes described in paragraph (2); and

(B) demonstrate a commitment of non-Federal resources to the proposed projects.

(4) ADDITIONAL CRITERIA.—In addition, the Secretary shall give consideration to applicants that demonstrate a commitment to public and private involvement, including involvement of nontraditional partners in the project team.

(d) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) have instituted preservation or development plans and programs that—

(i) meet the requirements of title 23 and chapter 53 of title 49, United States Code; and

(ii)(I) are coordinated with State and local adopted preservation or development plans;

(II) are intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

(III) are intended to promote innovative private sector strategies.

(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

(i) spending policies that direct funds to high-growth areas;

(ii) urban growth boundaries to guide metropolitan expansion;

(iii) “green corridors” programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

(iv) other similar programs or policies as determined by the Secretary;

(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

(D) examine ways to encourage private sector investments that address the purposes of this section; and

(E) propose projects for funding that address the purposes described in subsection (c)(2).

(3) **EQUITABLE DISTRIBUTION.**—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

(4) **USE OF ALLOCATED FUNDS.**—

(A) **IN GENERAL.**—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

(B) **TYPES OF PROJECTS.**—The allocation of funds shall be available for obligation for—

(i) any project eligible for funding under title 23 or chapter 53 of title 49, United States Code; or

(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

(I) transit-oriented development plans;

(II) traffic calming measures; or

(III) other coordinated transportation and community and system preservation practices.

(e) **FUNDING.**—

(1) **IN GENERAL.**—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$20,000,000 for fiscal year 1999 and \$25,000,000 for each of fiscal years 2000 through 2003.

(2) **CONTRACT AUTHORITY.**—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

#### **SEC. 1222. ADDITIONS TO APPALACHIAN REGION.**

(a) **IN GENERAL.**—Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the undesignated paragraph relating to Alabama—

(A) by inserting “Hale,” after “Franklin,”; and

(B) by inserting “Macon,” after “Limestone,”;

(2) in the undesignated paragraph relating to Georgia—

(A) by inserting “Elbert,” after “Douglas,”; and

(B) by inserting “Hart,” after “Haralson,”;

(3) in the undesignated paragraph relating to Mississippi by striking “and Winston” and inserting “Winston, and Yalobusha”; and

40 USC app. 403.

(4) in the undesignated paragraph relating to Virginia—

(A) by inserting “Montgomery,” after “Lee,”; and

(B) by inserting “Rockbridge,” after “Pulaski,”.

40 USC app. 405  
and note.

(b) **TECHNICAL AMENDMENT.**—Section 405 of such Act is amended by striking “section 201” and inserting “sections 201 and 403”. This amendment ensures that section 403 is still in effect.

23 USC 101 note.

**SEC. 1223. TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.**

(a) **PURPOSE.**—The purpose of this section is to authorize the provision of assistance for, and support of, State and local efforts concerning surface transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement, the International Paralympic movement, and the Special Olympics International movement by hosting international quadrennial Olympic and Paralympic events, and Special Olympics International events, in the United States.

(b) **PRIORITY FOR TRANSPORTATION PROJECTS RELATING TO OLYMPIC, PARALYMPIC, AND SPECIAL OLYMPIC EVENTS.**—Notwithstanding any other provision of law, from funds available to carry out sections 118(c) and 144(g)(1) of title 23, United States Code, the Secretary may give priority to funding for a transportation project relating to an international quadrennial Olympic or Paralympic event, or a Special Olympics International event, if—

(1) the project meets the extraordinary needs associated with an international quadrennial Olympic or Paralympic event or a Special Olympics International event; and

(2) the project is otherwise eligible for assistance under sections 118(c) and 144(g)(1) of such title.

(c) **TRANSPORTATION PLANNING ACTIVITIES.**—The Secretary may participate in—

(1) planning activities of States and metropolitan planning organizations and transportation projects relating to an international quadrennial Olympic or Paralympic event, or a Special Olympics International event, under sections 134 and 135 of title 23, United States Code; and

(2) developing intermodal transportation plans necessary for the projects in coordination with State and local transportation agencies.

(d) **FUNDING.**—Notwithstanding section 5001(a), from funds made available under such section, the Secretary may provide assistance for the development of an Olympic, a Paralympic, and a Special Olympics transportation management plan in cooperation with an Olympic Organizing Committee responsible for hosting, and State and local communities affected by, an international quadrennial Olympic or Paralympic event or a Special Olympics International event.

(e) **TRANSPORTATION PROJECTS RELATING TO OLYMPIC, PARALYMPIC, AND SPECIAL OLYMPIC EVENTS.**—

(1) **IN GENERAL.**—The Secretary may provide assistance, including planning, capital, and operating assistance, to States and local governments in carrying out transportation projects relating to an international quadrennial Olympic or Paralympic event or a Special Olympics International event.

(2) **FEDERAL SHARE.**—The Federal share of the cost of a project assisted under this subsection shall not exceed 80 percent.



(f) **ELIGIBLE GOVERNMENTS.**—A State or local government shall be eligible to receive assistance under this section only if the government is hosting a venue that is part of an international quadrennial Olympics that is officially selected by the International Olympic Committee.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section such sums as are necessary for each of fiscal years 1998 through 2003.

## **Subtitle C—Program Streamlining and Flexibility**

### **SEC. 1301. REAL PROPERTY ACQUISITION AND CORRIDOR PRESERVATION.**

(a) **ADVANCE ACQUISITION OF REAL PROPERTY.**—Section 108 of title 23, United States Code, is amended by striking the section heading and subsection (a) and inserting the following:

#### **“§ 108. Advance acquisition of real property**

“(a) **IN GENERAL.**—

“(1) **AVAILABILITY OF FUNDS.**—For the purpose of facilitating the timely and economical acquisition of real property for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

“(2) **CONSTRUCTION.**—The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.”.

(b) **CREDIT FOR ACQUIRED LANDS.**—Section 323(b) of such title is amended—

(1) in the subsection heading, by striking “DONATED” and inserting “ACQUIRED”;

(2) by striking paragraphs (1) and (2) and inserting the following:

“(1) **IN GENERAL.**—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

“(A) is lawfully obtained by the State or a unit of local government in the State;

“(B) is incorporated into the project;

“(C) is not land described in section 138; and

“(D) the Secretary determines will not influence the environmental assessment of the project, including—

“(i) the decision as to the need to construct the project;

“(ii) the consideration of alternatives; and

“(iii) the selection of a specific location.

“(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

“(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

“(B) the fair market value of donated land shall be established as of the earlier of—

“(i) the date on which the donation becomes effective; or

“(ii) the date on which equitable title to the land vests in the State.”;

(3) in paragraph (3) by striking “agency of a Federal, State, or local government” and inserting “agency of the Federal Government”; and

(4) in paragraph (4) by striking “to which the donation is applied”.

23 USC 323.

(c) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—Section 323 of such title is amended by adding at the end the following:

“(e) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—A contribution by a unit of local government of real property, funds, or material in connection with a project eligible for assistance under this title shall be credited against the State share of the project at the fair market value of the real property, funds, or material.”.

(d) CONFORMING AMENDMENTS.—

(1) Section 323 of such title is amended by striking the section heading and inserting the following:

**“§ 323. Donations and credits”.**

(2) The analysis for chapter 1 of such title is amended by striking the item relating to section 108 and inserting the following:

“108. Advance acquisition of real property.”.

(3) The analysis for chapter 3 of such title is amended by striking the item relating to section 323 and inserting the following:

“323. Donations and credits.”.

**SEC. 1302. PAYMENTS TO STATES FOR CONSTRUCTION.**

Section 121 of title 23, United States Code, is amended—

(1) by striking subsections (a) and (b) and inserting the following:

“(a) IN GENERAL.—The Secretary, from time to time as the work progresses, may make payments to a State for costs of construction incurred by the State on a project. Such payments may also be made for the value of the materials—

“(1) that have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

“(2) that are not in the vicinity of the construction if the Secretary determines that because of required fabrication at

an off-site location the material cannot be stockpiled in such vicinity.

“(b) PROJECT AGREEMENT.—No payment shall be made under this chapter except for a project covered by a project agreement. After completion of the project in accordance with the project agreement, a State shall be entitled to payment out of the appropriate sums apportioned or allocated to the State of the unpaid balance of the Federal share payable for such project.”;

(2) by striking subsections (c) and (d); and

(3) by redesignating subsection (e) as subsection (c).

#### **SEC. 1303. PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.**

(a) IN GENERAL.—Section 156 of title 23, United States Code, is amended to read as follows:

##### **“§ 156. Proceeds from the sale or lease of real property**

“(a) MINIMUM CHARGE.—Subject to section 142(f), a State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal (other than for utility use and occupancy or for a transportation project eligible for assistance under this title) of real property acquired with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account).

“(b) EXCEPTIONS.—The Secretary may grant an exception to the requirement of subsection (a) for a social, environmental, or economic purpose.

“(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net income from the revenues obtained by a State under subsection (a) shall be used by the State for projects eligible under this title.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 156 and inserting the following:

“156. Proceeds from the sale or lease of real property.”.

#### **SEC. 1304. ENGINEERING COST REIMBURSEMENT.**

Section 102(b) of title 23, United States Code, is amended in the first sentence by inserting after “10 years” the following: “(or such longer period as the State requests and the Secretary determines to be reasonable)”.

#### **SEC. 1305. PROJECT APPROVAL AND OVERSIGHT.**

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

##### **“§ 106. Project approval and oversight”;**

(2) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(3) by striking subsections (a) through (d) and inserting the following:

“(a) IN GENERAL.—

“(1) SUBMISSION OF PLANS, SPECIFICATIONS, AND ESTIMATES.—Except as otherwise provided in this section, each State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require.

“(2) PROJECT AGREEMENT.—The Secretary shall act on the plans, specifications, and estimates as soon as practicable after the date of their submission and shall enter into a formal project agreement with the State transportation department formalizing the conditions of the project approval.

“(3) CONTRACTUAL OBLIGATION.—The execution of the project agreement shall be deemed a contractual obligation of the Federal Government for the payment of the Federal share of the cost of the project.

“(4) GUIDANCE.—In taking action under this subsection, the Secretary shall be guided by section 109.

“(b) PROJECT AGREEMENT.—

“(1) PROVISION OF STATE FUNDS.—The project agreement shall make provision for State funds required to pay the State’s non-Federal share of the cost of construction of the project and to pay for maintenance of the project after completion of construction.

“(2) REPRESENTATIONS OF STATE.—If a part of the project is to be constructed at the expense of, or in cooperation with, political subdivisions of the State, the Secretary may rely on representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials for ensuring that the non-Federal contribution will be provided under paragraph (1).

“(c) ASSUMPTION BY STATES OF RESPONSIBILITIES OF THE SECRETARY.—

“(1) NON-INTERSTATE NHS PROJECTS.—For projects under this title that are on the National Highway System but not on the Interstate System, the State may assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections of projects unless the State or the Secretary determines that such assumption is not appropriate.

“(2) NON-NHS PROJECTS.—For projects under this title that are not on the National Highway System, the State shall assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspection of projects, unless the State determines that such assumption is not appropriate.

“(3) AGREEMENT.—The Secretary and the State shall enter into an agreement relating to the extent to which the State assumes the responsibilities of the Secretary under this subsection.

“(4) LIMITATION ON AUTHORITY OF SECRETARY.—The Secretary may not assume any greater responsibility than the Secretary is permitted under this title on September 30, 1997, except upon agreement by the Secretary and the State.

“(d) RESPONSIBILITIES OF THE SECRETARY.—Nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under—

“(1) section 113 or 114; or

“(2) any Federal law other than this title (including section 5333 of title 49).

“(e) VALUE ENGINEERING ANALYSIS.—For such projects as the Secretary determines advisable, plans, specifications, and estimates

for proposed projects on any Federal-aid highway shall be accompanied by a value engineering analysis or other cost reduction analysis.”.

(b) FINANCIAL PLAN.—Section 106 of such title (as amended by subsection (a)(2)), is amended by adding at the end the following: 23 USC 106.

“(h) FINANCIAL PLAN.—A recipient of Federal financial assistance for a project under this title with an estimated total cost of \$1,000,000,000 or more shall submit to the Secretary an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.”.

(c) LIFE CYCLE COST ANALYSIS.—Section 106 of such title (as amended by subsection (a)(2)), is amended by striking subsection (f) and inserting the following:

“(f) LIFE-CYCLE COST ANALYSIS.—

“(1) USE OF LIFE-CYCLE COST ANALYSIS.—The Secretary shall develop recommendations for the States to conduct life-cycle cost analyses. The recommendations shall be based on the principles contained in section 2 of Executive Order No. 12893 and shall be developed in consultation with the American Association of State Highway and Transportation Officials. The Secretary shall not require a State to conduct a life-cycle cost analysis for any project as a result of the recommendations required under this subsection.

“(2) LIFE-CYCLE COST ANALYSIS DEFINED.—In this subsection, the term ‘life-cycle cost analysis’ means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user costs, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.”.

(d) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 106 and inserting the following:

“106. Project approval and oversight.”.

#### SEC. 1306. STANDARDS.

(a) ELIMINATION OF GUIDELINES AND ANNUAL CERTIFICATION REQUIREMENTS.—Section 109 of title 23, United States Code, is amended—

(1) by striking subsection (m); and

(2) by redesignating subsections (n) through (q) as subsections (m) through (p), respectively.

(b) SAFETY STANDARDS.—Section 109 of such title (as amended by subsection (a)), is amended by adding at the end the following:

“(q) PHASE CONSTRUCTION.—Safety considerations for a project under this title may be met by phase construction consistent with the operative safety management system established in accordance with section 303 or in accordance with a statewide transportation improvement program approved by the Secretary.”.

#### SEC. 1307. DESIGN-BUILD CONTRACTING.

(a) AUTHORITY.—Section 112(b) of title 23, United States Code, is amended—

(1) in the first sentence of paragraph (1) by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”;

(2) in paragraph (2)(A) by striking “Each” and inserting “Subject to paragraph (3), each”; and

(3) by adding at the end the following:

“(3) DESIGN-BUILD CONTRACTING.—

“(A) IN GENERAL.—A State transportation department or local transportation agency may award a design-build contract for a qualified project described in subparagraph (C) using any procurement process permitted by applicable State and local law.

“(B) LIMITATION ON FINAL DESIGN.—Final design under a design-build contract referred to in subparagraph (A) shall not commence before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

“(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter for which—

“(i) the Secretary has approved the use of design-build contracting described in subparagraph (A) under criteria specified in regulations issued by the Secretary; and

“(ii) the total costs are estimated to exceed—

“(I) in the case of a project that involves installation of an intelligent transportation system, \$5,000,000; and

“(II) in the case of any other project, \$50,000,000.

“(D) DESIGN-BUILD CONTRACT DEFINED.—In this paragraph, the term ‘design-build contract’ means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.”.

23 USC 112. (b) INAPPLICABILITY OF STANDARDIZED CONTRACT CLAUSE REQUIREMENT.—Section 112(e)(2) of such title is amended—

(1) by striking “Paragraph” and inserting the following:

“(A) STATE LAW.—Paragraph”;

(2) by adding at the end the following:

“(B) DESIGN-BUILD CONTRACTS.—Paragraph (1) shall not apply to any design-build contract approved under subsection (b)(3).”; and

(3) by aligning the remainder of the text of subparagraph (A) (as designated by paragraph (1) of this subsection) with subparagraph (B) of such section (as added by paragraph (2) of this subsection).

23 USC 112 note.

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date specified in subsection (e), after consultation with the American Association of State Highway and Transportation Officials and representatives from affected industries, the Secretary shall issue regulations to carry out the amendments made by this section.

(2) CONTENTS.—The regulations shall—

(A) identify the criteria to be used by the Secretary in approving the use by a State transportation department

or local transportation agency of design-build contracting;  
and

(B) establish the procedures to be followed by a State transportation department or local transportation agency for obtaining the Secretary's approval of the use of design-build contracting by the department or agency.

(d) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendments made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning design-build contracting that is being carried out by the Secretary as of the date of enactment of this Act. 23 USC 112 note.

(e) EFFECTIVE DATE FOR AMENDMENTS.—

23 USC 112 note.

(1) IN GENERAL.—The amendments made by this section take effect 3 years after the date of enactment of this Act.

(2) TRANSITION PROVISION.—

(A) IN GENERAL.—During the period before issuance of the regulations under subsection (c), the Secretary may approve, in accordance with an experimental program described in subsection (d), design-build contracts to be awarded using any process permitted by applicable State and local law; except that final design under any such contract shall not commence before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(B) PREVIOUSLY AWARDED CONTRACTS.—The Secretary may approve design-build contracts awarded before the date of enactment of this Act.

(C) DESIGN-BUILD CONTRACT DEFINED.—In this paragraph, the term “design-build contract” means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.

(f) REPORT TO CONGRESS.—

23 USC 112 note.

(1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the effectiveness of design-build contracting procedures.

(2) CONTENTS.—The report shall contain—

(A) an assessment of the effect of design-build contracting on project quality, project cost, and timeliness of project delivery;

(B) recommendations on the appropriate level of design for design-build procurements;

(C) an assessment of the impact of design-build contracting on small businesses;

(D) assessment of the subjectivity used in design-build contracting; and

(E) such recommendations concerning design-build contracting procedures as the Secretary determines to be appropriate.

#### SEC. 1308. MAJOR INVESTMENT STUDY INTEGRATION.

The Secretary shall eliminate the major investment study set forth in section 450.318 of title 23, Code of Federal Regulations, as a separate requirement, and promulgate regulations to integrate

such requirement, as appropriate, as part of the analyses required to be undertaken pursuant to the planning provisions of title 23, United States Code, and chapter 53 of title 49, United States Code, and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for Federal-aid highway and transit projects. The scope of the applicability of such regulations shall be no broader than the scope of such section.

23 USC 109 note.

**SEC. 1309. ENVIRONMENTAL STREAMLINING.**

(a) **COORDINATED ENVIRONMENTAL REVIEW PROCESS.**—

(1) **DEVELOPMENT AND IMPLEMENTATION.**—The Secretary shall develop and implement a coordinated environmental review process for highway construction projects that require—

(A) the preparation of an environmental impact statement or environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), except that the Secretary may decide not to apply this section to the preparation of an environmental assessment under such Act; or

(B) the conduct of any other environmental review, analysis, opinion, or issuance of an environmental permit, license, or approval by operation of Federal law.

(2) **MEMORANDUM OF UNDERSTANDING.**—

(A) **IN GENERAL.**—The coordinated environmental review process for each project shall ensure that, whenever practicable (as specified in this section), all environmental reviews, analyses, opinions, and any permits, licenses, or approvals that must be issued or made by any Federal agency for the project concerned shall be conducted concurrently and completed within a cooperatively determined time period. Such process for a project or class of project may be incorporated into a memorandum of understanding between the Department of Transportation and Federal agencies (and, where appropriate, State agencies).

(B) **ESTABLISHMENT OF TIME PERIODS.**—In establishing the time period referred to in subparagraph (A), and any time periods for review within such period, the Department and all such agencies shall take into account their respective resources and statutory commitments.

(b) **ELEMENTS OF COORDINATED ENVIRONMENTAL REVIEW PROCESS.**—For each project, the coordinated environmental review process established under this section shall provide, at a minimum, for the following elements:

(1) **FEDERAL AGENCY IDENTIFICATION.**—The Secretary shall, at the earliest possible time, identify all potential Federal agencies that—

(A) have jurisdiction by law over environmental-related issues that may be affected by the project and the analysis of which would be part of any environmental document required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(B) may be required by Federal law to independently—

(i) conduct an environmental-related review or analysis; or

(ii) determine whether to issue a permit, license, or approval or render an opinion on the environmental impact of the project.



(2) TIME LIMITATIONS AND CONCURRENT REVIEW.—The Secretary and the head of each Federal agency identified under paragraph (1)—

(A)(i) shall jointly develop and establish time periods for review for—

(I) all Federal agency comments with respect to any environmental review documents required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the project; and

(II) all other independent Federal agency environmental analyses, reviews, opinions, and decisions on any permits, licenses, and approvals that must be issued or made for the project;

whereby each such Federal agency's review shall be undertaken and completed within such established time periods for review; or

(ii) may enter into an agreement to establish such time periods for review with respect to a class of project; and

(B) shall ensure, in establishing such time periods for review, that the conduct of any such analysis, review, opinion, and decision is undertaken concurrently with all other environmental reviews for the project, including the reviews required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); except that such review may not be concurrent if the affected Federal agency can demonstrate that such concurrent review would result in a significant adverse impact to the environment or substantively alter the operation of Federal law or would not be possible without information developed as part of the environmental review process.

(3) FACTORS TO BE CONSIDERED.—Time periods for review established under this section shall be consistent with the time periods established by the Council on Environmental Quality under sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations.

(4) EXTENSIONS.—The Secretary shall extend any time periods for review under this section if, upon good cause shown, the Secretary and any Federal agency concerned determine that additional time for analysis and review is needed as a result of new information that has been discovered that could not reasonably have been anticipated when the Federal agency's time periods for review were established. Any memorandum of understanding shall be modified to incorporate any mutually agreed-upon extensions.

(c) DISPUTE RESOLUTION.—When the Secretary determines that a Federal agency which is subject to a time period for its environmental review or analysis under this section has failed to complete such review, analysis, opinion, or decision on issuing any permit, license, or approval within the established time period or within any agreed-upon extension to such time period, the Secretary may, after notice and consultation with such agency, close the record on the matter before the Secretary. If the Secretary finds, after timely compliance with this section, that an environmental issue related to the project that an affected Federal agency has jurisdiction over by operation of Federal law has not been resolved, the Secretary and the head of the Federal agency shall resolve the

matter not later than 30 days after the date of the finding by the Secretary.

(d) **PARTICIPATION OF STATE AGENCIES.**—For any project eligible for assistance under chapter 1 of title 23, United States Code, a State, by operation of State law, may require that all State agencies that have jurisdiction by State or Federal law over environmental-related issues that may be affected by the project, or that are required to issue any environmental-related reviews, analyses, opinions, or determinations on issuing any permits, licenses, or approvals for the project, be subject to the coordinated environmental review process established under this section unless the Secretary determines that a State's participation would not be in the public interest. For a State to require State agencies to participate in the review process, all affected agencies of the State shall be subject to the review process.

(e) **ASSISTANCE TO AFFECTED FEDERAL AGENCIES.**—

(1) **IN GENERAL.**—The Secretary may approve a request by a State to provide funds made available under chapter 1 of title 23, United States Code, to the State for the project subject to the coordinated environmental review process established under this section to affected Federal agencies to provide the resources necessary to meet any time limits established under this section.

(2) **AMOUNTS.**—Such requests under paragraph (1) shall be approved only—

(A) for the additional amounts that the Secretary determines are necessary for the affected Federal agencies to meet the time limits for environmental review; and

(B) if such time limits are less than the customary time necessary for such review.

(f) **JUDICIAL REVIEW AND SAVINGS CLAUSE.**—

(1) **JUDICIAL REVIEW.**—Nothing in this section shall affect the reviewability of any final Federal agency action in a district court of the United States or in the court of any State.

(2) **SAVINGS CLAUSE.**—Nothing in this section shall affect the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

(g) **FEDERAL AGENCY DEFINED.**—In this section, the term “Federal agency” means any Federal agency or any State agency carrying out affected responsibilities required by operation of Federal law.

#### **SEC. 1310. UNIFORM TRANSFERABILITY OF FEDERAL-AID HIGHWAY FUNDS.**

(a) **IN GENERAL.**—Chapter 1 of title 23, United States Code, is amended by inserting after section 109 the following:

##### **“§ 110. Uniform transferability of Federal-aid highway funds**

“(a) **GENERAL RULE.**—Notwithstanding any other provision of law but subject to subsections (b) and (c), if at least 50 percent of a State's apportionment under section 104 or 144 for a fiscal year or at least 50 percent of the funds set-aside under section 133(d) from the State's apportionment section 104(b)(3) may not be transferred to any other apportionment of the State under section 104 or 144 for such fiscal year, then the State may transfer not to exceed 50 percent of such apportionment or set aside to any

other apportionment of such State under section 104 or 144 for such fiscal year.

“(b) APPLICATION TO CERTAIN SET-ASIDES.—No funds may be transferred under this section that are subject to the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3). The maximum amount that a State may transfer under this section of the State’s set-aside under section 133(d)(1) or 133(d)(2) for a fiscal year may not exceed 25 percent of (1) the amount of such set-aside, less (2) the amount of the State’s set-aside under such section for fiscal year 1997.

“(c) APPLICATION TO CERTAIN CMAQ FUNDS.—The maximum amount that a State may transfer under this section of the State’s apportionment under section 104(b)(2) for a fiscal year may not exceed 50 percent of (1) the amount of such apportionment, less (2) the amount that the State’s apportionment under section 104(b)(2) for such fiscal year would have been had the program been funded at \$1,350,000,000. Any such funds apportioned under section 104(b)(2) and transferred under this section may only be obligated in geographic areas eligible for the obligation of funds apportioned under section 104(b)(2).”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 109 the following:

“110. Uniform transferability of Federal-aid highway funds.”.

## Subtitle D—Safety

### SEC. 1401. HAZARD ELIMINATION PROGRAM.

Section 152 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “(a) Each” and inserting the following:

“(a) IN GENERAL.—

“(1) PROGRAM.—Each”;

(B) by inserting “, bicyclists,” after “motorists”;

(C) by adding at the end the following:

“(2) HAZARDS.—In carrying out paragraph (1), a State may, at its discretion—

“(A) identify, through a survey, hazards to motorists, bicyclists, pedestrians, and users of highway facilities; and

“(B) develop and implement projects and programs to address the hazards.”; and

(D) by aligning the remainder of the text of paragraph

(1) (as designated by subparagraph (A) of this paragraph) with paragraph (2) of such subsection (as added by subparagraph (C) of this paragraph);

(2) in subsection (b) by striking “highway safety improvement project” and inserting “safety improvement project, including a project described in subsection (a)”;

(3) in subsection (c) by striking “on any public road (other than a highway on the Interstate System).” and inserting the following: “on—

“(1) any public road;

“(2) any public surface transportation facility or any publicly owned bicycle or pedestrian pathway or trail; or

“(3) any traffic calming measure.”;

(4) in subsection (e)—

(A) by striking “apportioned to” in the first sentence and all that follows through “shall be” in the second sentence; and

(B) by striking “section 104(b)(1)” and inserting “section 104(b)”; and

(5) in subsections (f) and (g) by striking “highway safety improvement projects” each place it appears and inserting “safety improvement projects”.

Regulations.  
23 USC 109 note.

#### **SEC. 1402. ROADSIDE SAFETY TECHNOLOGIES.**

(a) **CRASH CUSHIONS.**—

(1) **GUIDANCE.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue guidance regarding the benefits and safety performance of redirective and nonredirective crash cushions in different road applications, taking into consideration roadway conditions, operating speed limits, the location of the crash cushion in the right-of-way, and any other relevant factors. The guidance shall include recommendations on the most appropriate circumstances for utilization of redirective and nonredirective crash cushions.

(2) **USE OF GUIDANCE.**—States shall use the guidance issued under this subsection in evaluating the safety and cost-effectiveness of utilizing different crash cushion designs and determining whether directive or nonredirective crash cushions or other safety appurtenances should be installed at specific highway locations.

(b) **TRAFFIC FLOW AND SAFETY APPLICATIONS OF ROAD BARRIERS.**—

(1) **STUDY.**—The Secretary shall conduct a study on the technologies and methods to enhance safety, streamline construction, and improve capacity by providing positive separation at all times between traffic, equipment, and workers on highway construction projects. The study shall also address how such technologies can be used to improve capacity and safety at those specific highway, bridge, and other appropriate locations where reversible lane, contraflow, and high occupancy vehicle lane operations are implemented during peak traffic periods.

(2) **USES TO CONSIDER.**—In conducting the study, the Secretary shall consider, at a minimum, uses of positive separation technologies related to—

(A) separating workers from traffic flow when work is in progress;

(B) providing additional safe work space by utilizing adjacent and available traffic lanes during off-peak hours;

(C) rapid deployment to allow for daily or periodic restoration of lanes for use by traffic during peak hours as needed;

(D) mitigating congestion caused by construction by—

(i) opening all adjacent and available lanes to traffic during peak traffic hours; or

(ii) using reversible lanes to optimize capacity of the highway by adjusting to directional traffic flow; and

(E) permanent use of positive separation technologies to create contraflow or reversible lanes to increase the capacity of congested highways, bridges, and tunnels.

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study. The report shall include findings and recommendations for the use of the technologies referred to in paragraph (2) to provide positive separation on appropriate projects.

**SEC. 1403. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.**

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by striking section 157 and inserting the following:

**“§ 157. Safety incentive grants for use of seat belts**

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) MOTOR VEHICLE.—The term ‘motor vehicle’ means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

“(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term ‘multipurpose passenger motor vehicle’ means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

“(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term ‘national average seat belt use rate’ means, in the case of each of calendar years 1996 through 2001, the national average seat belt use rate for that year, as determined by the Secretary.

“(4) PASSENGER CAR.—The term ‘passenger car’ means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

“(5) PASSENGER MOTOR VEHICLE.—The term ‘passenger motor vehicle’ means a passenger car or a multipurpose passenger motor vehicle.

“(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term ‘savings to the Federal Government’ means the amount of Federal budget savings relating to Federal medical costs (including savings under the Medicare and Medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.)), as determined by the Secretary.

“(7) SEAT BELT.—The term ‘seat belt’ means—

“(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

“(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

“(8) STATE SEAT BELT USE RATE.—The term ‘State seat belt use rate’ means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

“(A) for each of calendar years 1996 and 1997, by the State, as weighted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

“(B) for each of calendar years 1998 through 2001, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

“(b) DETERMINATIONS BY THE SECRETARY.—Not later than September 1, 1998, and September 1 of each calendar year thereafter through September 1, 2002, the Secretary shall determine—

“(1)(A) which States had, for each of the previous calendar years (in this subsection referred to as the ‘previous calendar year’) and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

“(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

“(2) in the case of each State that is not a State described in paragraph (1)(A)—

“(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1996 through the calendar year preceding the previous calendar year; and

“(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

“(c) ALLOCATIONS.—

“(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than October 1, 1998, and each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

“(2) OTHER STATES.—Not later than October 1, 1998, and each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

“(d) USE OF AMOUNTS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

“(e) CRITERIA.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

“(f) INNOVATIVE SEAT BELT PROJECT ALLOCATIONS.—

“(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (g)(3) to make allocations to States to carry out innovative projects to promote increased seat belt use rates.

“(2) DETERMINATION OF ELIGIBILITY.—To be eligible to receive an allocation under this subsection for a fiscal year, a State shall—

“(A) develop a plan for innovative projects described in paragraph (1); and

“(B) submit the plan to the Secretary not later than March 1 of the fiscal year.

“(3) PLAN SELECTION.—

“(A) CRITERIA.—Not later than December 1, 1998, the Secretary shall establish criteria for the selection of State plans for allocations under this subsection.

“(B) SELECTION.—The Secretary shall select State plans for allocations under this subsection in accordance with the criteria established under subparagraph (A).

“(C) STATES.—In carrying out this paragraph, the Secretary shall ensure, to the maximum extent practicable, demographic and geographic diversity and a diversity of seat belt use rates among the States selected for allocations.

“(4) ALLOCATION.—Not later than October 1, 1999, and each October 1 thereafter through October 1, 2002, the Secretary shall allocate funds to the States whose plans were selected under paragraph (3).

“(5) AMOUNT OF ALLOCATIONS.—Subject to the availability of unallocated amounts under subsection (g)(3), the amount of each allocation to a State under this subsection shall be not less than \$100,000 for each fiscal year that is covered by a State plan.

“(6) USE OF ALLOCATIONS.—An allocation to a State under this subsection shall be used to carry out the innovative seat belt projects described in the State plan for which the allocation is awarded.

“(7) FEDERAL SHARE.—The Federal share of the cost of an innovative seat belt project under this section shall be 100 percent.

“(8) PERIOD OF AVAILABILITY.—Amounts allocated to a State under this subsection shall remain available for obligation in the State for a period of 3 years after the last day of the fiscal year for which the amounts are allocated.

“(g) FUNDING.—

“(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$82,000,000 for fiscal year 1999, \$92,000,000 for fiscal year 2000, \$102,000,000 for fiscal year 2001, \$112,000,000 for fiscal year 2002, and \$112,000,000 for fiscal year 2003.

“(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph (1), the allocation to each State under subsection (c) shall be reduced proportionately.

“(3) USE OF UNALLOCATED FUNDS.—

“(A) FISCAL YEAR 1999.—To the extent that the amounts made available for fiscal year 1999 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for fiscal year 1999, the excess amounts—

“(i) shall be apportioned in accordance with section 104(b)(3);

“(ii) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

“(iii) shall be available for any purpose eligible for funding under section 133.

“(B) FISCAL YEARS 2000 THROUGH 2003.—To the extent that the amounts made available for any of fiscal years 2000 through 2003 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts shall be used to make allocations under subsection (f).”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 157 and inserting the following:

“157. Safety incentive grants for use of seat belts.”.

23 USC 157 note.

(c) SAVINGS CLAUSE.—The amendment made by subsection (a) shall not affect any funds apportioned or allocated before the date of enactment of this Act.

**SEC. 1404. SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.**

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

**“§ 163. Safety incentives to prevent operation of motor vehicles by intoxicated persons**

“(a) GENERAL AUTHORITY.—The Secretary shall make a grant, in accordance with this section, to any State that has enacted and is enforcing a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a per se offense of driving while intoxicated (or an equivalent per se offense).

“(b) GRANTS.—For each fiscal year, funds authorized to carry out this section shall be apportioned to each State that has enacted and is enforcing a law meeting the requirements of subsection (a) in an amount determined by multiplying—

“(1) the amount authorized to carry out this section for the fiscal year; by

“(2) the ratio that the amount of funds apportioned to each such State under section 402 for such fiscal year bears to the total amount of funds apportioned to all such States under section 402 for such fiscal year.

“(c) USE OF GRANTS.—A State may obligate funds apportioned under subsection (b) for any project eligible for assistance under this title.

“(d) FEDERAL SHARE.—The Federal share of the cost of a project funded under this section shall be 100 percent.

“(e) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$55,000,000 for fiscal year 1998, \$65,000,000 for fiscal year 1999, \$80,000,000 for fiscal year 2000, \$90,000,000 for fiscal year 2001, \$100,000,000 for fiscal year 2002, and \$110,000,000 for fiscal year 2003.

“(2) AVAILABILITY OF FUNDS.—Notwithstanding section 118(b)(2), the funds authorized by this subsection shall remain available until expended.”.



(b) **CONFORMING AMENDMENT.**—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

“Sec. 163. Safety incentives to prevent operation of motor vehicles by intoxicated persons.”.

## Subtitle E—Finance

### CHAPTER 1—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

#### SEC. 1501. SHORT TITLE.

This chapter may be cited as the “Transportation Infrastructure Finance and Innovation Act of 1998”.

#### SEC. 1502. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

#### SEC. 1503. ESTABLISHMENT OF PROGRAM.

(a) **IN GENERAL.**—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

#### “SUBCHAPTER II—INFRASTRUCTURE FINANCE

#### “§ 181. Definitions

“In this subchapter, the following definitions apply:

“(1) **ELIGIBLE PROJECT COSTS.**—The term ‘eligible project costs’ means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

“(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

“(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land),

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environmental mitigation, construction contingencies, and acquisition of equipment; and

“(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

“(2) FEDERAL CREDIT INSTRUMENT.—The term ‘Federal credit instrument’ means a secured loan, loan guarantee, or line of credit authorized to be made available under this subchapter with respect to a project.

“(3) INVESTMENT-GRADE RATING.—The term ‘investment-grade rating’ means a rating category of BBB minus, Baa3, or higher assigned by a rating agency to project obligations offered into the capital markets.

“(4) LENDER.—The term ‘lender’ means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

“(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

“(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

“(5) LINE OF CREDIT.—The term ‘line of credit’ means an agreement entered into by the Secretary with an obligor under section 184 to provide a direct loan at a future date upon the occurrence of certain events.

“(6) LOAN GUARANTEE.—The term ‘loan guarantee’ means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

“(7) LOCAL SERVICER.—The term ‘local servicer’ means—  
“(A) a State infrastructure bank established under this title; or

“(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

“(8) OBLIGOR.—The term ‘obligor’ means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

“(9) PROJECT.—The term ‘project’ means—

“(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49;

“(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible.

“(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; and

“(D) a project for publicly owned intermodal surface freight transfer facilities, other than seaports and airports, if the facilities are located on or adjacent to National Highway System routes or connections to the National Highway System.

“(10) PROJECT OBLIGATION.—The term ‘project obligation’ means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

“(11) RATING AGENCY.—The term ‘rating agency’ means a bond rating agency identified by the Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization.

“(12) SECURED LOAN.—The term ‘secured loan’ means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 183.

“(13) STATE.—The term ‘State’ has the meaning given the term in section 101.

“(14) SUBSIDY AMOUNT.—The term ‘subsidy amount’ means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

“(15) SUBSTANTIAL COMPLETION.—The term ‘substantial completion’ means the opening of a project to vehicular or passenger traffic.

#### “§ 182. Determination of eligibility and project selection

“(a) ELIGIBILITY.—To be eligible to receive financial assistance under this subchapter, a project shall meet the following criteria:

“(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—

The project—

“(A) shall be included in the State transportation plan required under section 135; and

“(B) at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter, shall be included in the approved State transportation improvement program required under section 134.

“(2) APPLICATION.—A State, a local servicer identified under section 185(a), or the entity undertaking the project shall submit a project application to the Secretary.

“(3) ELIGIBLE PROJECT COSTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this subchapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

“(i) \$100,000,000; or

“(ii) 50 percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

“(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project principally involving the installation

of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed \$30,000,000.

“(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources.

“(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

“(b) SELECTION AMONG ELIGIBLE PROJECTS.—

“(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

“(2) SELECTION CRITERIA.—

“(A) IN GENERAL.—The selection criteria shall include the following:

“(i) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

“(ii) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment.

“(iii) The extent to which assistance under this subchapter would foster innovative public-private partnerships and attract private debt or equity investment.

“(iv) The likelihood that assistance under this subchapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

“(v) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

“(vi) The amount of budget authority required to fund the Federal credit instrument made available under this subchapter.

“(vii) The extent to which the project helps maintain or protect the environment.

“(viii) The extent to which assistance under this chapter would reduce the contribution of Federal grant assistance to the project.

“(B) PRELIMINARY RATING OPINION LETTER.—For purposes of subparagraph (A)(ii), the Secretary shall require each project applicant to provide a preliminary rating opinion letter from at least 1 rating agency indicating that the project’s senior obligations have the potential to achieve an investment-grade rating.

“(c) FEDERAL REQUIREMENTS.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for transit projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this subchapter and projects assisted with the funds:

“(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

“(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

### “§ 183. Secured loans

“(a) IN GENERAL.—

“(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

“(A) to finance eligible project costs; or

“(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 182.

“(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

“(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 182(b)(2)(B), shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account such letter.

“(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a secured loan under this section shall be contingent on the project’s senior obligations receiving an investment-grade rating, except that—

“(A) the Secretary may fund an amount of the secured loan not to exceed the capital reserve subsidy amount determined under paragraph (3) prior to the obligations receiving an investment-grade rating; and

“(B) the Secretary may fund the remaining portion of the secured loan only after the obligations have received an investment-grade rating by at least 1 rating agency.

“(b) TERMS AND LIMITATIONS.—

“(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

“(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

“(3) PAYMENT.—The secured loan—

“(A) shall—

“(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources; and

“(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

“(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

“(4) INTEREST RATE.—The interest rate on the secured loan shall be not less than the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

“(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

“(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

“(7) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

“(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under this subchapter may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

“(c) REPAYMENT.—

“(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

“(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

“(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

“(4) DEFERRED PAYMENTS.—

“(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

“(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

“(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

“(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

“(C) CRITERIA.—

“(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

“(ii) REPAYMENT STANDARDS.—The criteria established under clause (i) shall include standards for reasonable assurance of repayment.

“(5) PREPAYMENT.—

“(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

“(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

“(d) SALE OF SECURED LOANS.—

“(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

“(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

“(e) LOAN GUARANTEES.—

“(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

“(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

#### “§ 184. Lines of credit

“(a) IN GENERAL.—

“(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 182.

“(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

“(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 182(b)(2)(B), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account such letter.

“(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this section shall be contingent

on the project's senior obligations receiving an investment-grade rating from at least 1 rating agency.

“(b) TERMS AND LIMITATIONS.—

“(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

“(2) MAXIMUM AMOUNTS.—

“(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

“(B) 1-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

“(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay the costs specified in subsection (a)(2).

“(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

“(5) SECURITY.—The line of credit—

“(A) shall—

“(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources; and

“(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

“(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

“(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

“(7) RIGHTS OF THIRD-PARTY CREDITORS.—

“(A) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

“(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

“(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

“(9) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

“(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section also shall not receive a secured loan or loan guarantee under section 183 of an amount that, combined with the amount of the line of credit, exceeds 33 percent of eligible project costs.



“(c) REPAYMENT.—

“(1) TERMS AND CONDITIONS.—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

“(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and be fully repaid, with interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

“(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

**“§ 185. Project servicing**

“(a) REQUIREMENT.—The State in which a project that receives financial assistance under this subchapter is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this subchapter.

“(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

“(1) shall act as the agent for the Secretary; and

“(2) may receive a servicing fee, subject to approval by the Secretary.

“(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

“(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

**“§ 186. State and local permits**

“The provision of financial assistance under this subchapter with respect to a project shall not—

“(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

“(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

“(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

**“§ 187. Regulations**

“The Secretary may issue such regulations as the Secretary determines appropriate to carry out this subchapter.

**“§ 188. Funding**

“(a) FUNDING.—

“(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter—

“(A) \$80,000,000 for fiscal year 1999;

“(B) \$90,000,000 for fiscal year 2000;

“(C) \$110,000,000 for fiscal year 2001;

“(D) \$120,000,000 for fiscal year 2002; and

“(E) \$130,000,000 for fiscal year 2003.

“(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this subchapter, not more than \$2,000,000 for each of fiscal years 1998 through 2003.

“(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

“(b) CONTRACT AUTHORITY.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

“(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

“(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this subchapter shall be limited to the amounts specified in the following table:

<b>“Fiscal year:</b>	<b>Maximum amount of credit:</b>
1998 .....	\$1,200,000,000
1999 .....	\$1,200,000,000
2000 .....	\$1,800,000,000
2001 .....	\$1,800,000,000
2002 .....	\$2,300,000,000
2003 .....	\$2,300,000,000.

#### “§ 189. Report to Congress

“Not later than 4 years after the date of enactment of this subchapter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this subchapter, including a recommendation as to whether the objectives of this subchapter are best served—

“(1) by continuing the program under the authority of the Secretary;

“(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

“(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this subchapter without Federal participation.”.

(b) CONFORMING AMENDMENTS.—Chapter 1 of title 23, United States Code, is amended—

(1) in the analysis—

(A) by inserting before “Sec.” the following:

“SUBCHAPTER I—GENERAL PROVISIONS”;

and

(B) by adding at the end the following:

“SUBCHAPTER II—INFRASTRUCTURE FINANCE

“181. Definitions.

“182. Determination of eligibility and project selection.

“183. Secured loans.

“184. Lines of credit.

“185. Project servicing.

“186. State and local permits.

“187. Regulations.

“188. Funding.

“189. Report to Congress.”;

and

(2) by inserting before section 101 the following:

“SUBCHAPTER I—GENERAL PROVISIONS”.

#### **SEC. 1504. DUTIES OF THE SECRETARY.**

Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7) by striking “and” at the end;

(2) in paragraph (8) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.”.

### **CHAPTER 2—STATE INFRASTRUCTURE BANK PILOT PROGRAM**

#### **SEC. 1511. STATE INFRASTRUCTURE BANK PILOT PROGRAM.**

23 USC 181 note.

(a) DEFINITIONS.—In this section:

(1) OTHER ASSISTANCE.—The term “other assistance” includes any use of funds in an infrastructure bank—

(A) to provide credit enhancements;

(B) to serve as a capital reserve for bond or debt instrument financing;

(C) to subsidize interest rates;

(D) to ensure the issuance of letters of credit and credit instruments;

(E) to finance purchase and lease agreements with respect to transit projects;

(F) to provide bond or debt financing instrument security; and

(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which the assistance is being provided.

(2) STATE.—The term “State” has the meaning given the term under section 401 of title 23, United States Code.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—

(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with the States of California, Florida, Missouri, and Rhode Island for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

(2) INTERSTATE COMPACTS.—If 2 or more States enter into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, Congress grants consent to those States to enter into an interstate compact establishing the bank in accordance with this section.

(c) FUNDING.—

(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

(A)(i) the total amount of funds apportioned to the State under each of paragraphs (1), (3), and (4) of section 104(b) and section 144 of title 23, United States Code, excluding funds set aside under paragraphs (1) and (2) of section 133(d) of such title; and

(ii) the total amount of funds allocated to the State under section 105 of such title;

(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49, United States Code) under sections 5307, 5309, and 5311 of such title; and

(C) the total amount of funds made available to the State under subtitle V of title 49, United States Code.

(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) of title 23, United States Code, and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) of such title may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

(e) QUALIFYING PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (2), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under title 23, United States Code, for capital projects (as defined in section 5302 of title 49, United States

Code), or for any other project related to surface transportation that the Secretary determines to be appropriate.

(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under section 104(b)(4) of title 23, United States Code, may be used only to provide assistance with respect to projects eligible for assistance under such paragraph.

(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49, United States Code, shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

(f) INFRASTRUCTURE BANK REQUIREMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c), except that if the State has a higher Federal share payable under section 120(b) of title 23, United States Code, the State shall be required to contribute only an amount commensurate with the higher Federal share;

(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

(C) ensure that investment income generated by funds contributed to the bank will be—

(i) credited to the bank;

(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

(iii) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

(D) ensure that any loan from the bank will bear interest at or below market rates, as determined by the State, to make the project that is the subject of the loan feasible;

(E) ensure that repayment of the loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

(F) ensure that the term for repaying any loan will not exceed the lesser of—

(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

(ii) the useful life of the investment; and

(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the

Secretary determines that the waiver is consistent with the objectives of this section.

(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104-59) to comply with this section.

(i) APPLICABILITY OF FEDERAL LAW.—

(1) IN GENERAL.—The requirements of titles 23 and 49, United States Code, that would otherwise apply to funds made available under such title and projects assisted with those funds shall apply to—

(A) funds made available under such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (f); and

(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of title 23 and section 5333 of title 49), is not consistent with the objectives of this section.

(2) REPAYMENTS.—The requirements of titles 23 and 49, United States Code, shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.

(j) UNITED STATES NOT OBLIGATED.—

(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

(l) PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds.

## Subtitle F—High Priority Projects

### SEC. 1601. HIGH PRIORITY PROJECTS PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by striking section 117 and inserting the following:

#### “§ 117. High priority projects program

“(a) AUTHORIZATION OF HIGH PRIORITY PROJECTS.—The Secretary is authorized to carry out high priority projects with funds made available to carry out the high priority projects program under this section. Of amounts made available to carry out this section, the Secretary, subject to subsection (b), shall make available to carry out each project described in section 1602 of the Transportation Equity Act for the 21st Century the amount listed for such project in such section. Any amounts made available to carry out such program that are not allocated for projects described in such section shall be available to the Secretary, subject to subsection (b), to carry out such other high priority projects as the Secretary determines appropriate.

“(b) ALLOCATION PERCENTAGES.—For each project to be carried out with funds made available to carry out the high priority projects program under this section—

“(1) 11 percent of such amount shall be available for obligation beginning in fiscal year 1998;

“(2) 15 percent of such amount shall be available for obligation beginning in fiscal year 1999;

“(3) 18 percent of such amount shall be available for obligation beginning in fiscal year 2000;

“(4) 18 percent of such amount shall be available for obligation beginning in fiscal year 2001;

“(5) 19 percent of such amount shall be available for obligation beginning in fiscal year 2002; and

“(6) 19 percent of such amount shall be available for obligation beginning in fiscal year 2003.

“(c) FEDERAL SHARE.—The Federal share payable on account of any project carried out with funds made available to carry out this section shall be 80 percent of the total cost thereof.

“(d) DELEGATION TO STATES.—Subject to the provisions of this title, the Secretary shall delegate responsibility for carrying out a project or projects, with funds made available to carry out this section, to the State in which such project or projects are located upon request of such State.

“(e) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for a project under this section—

“(1) has obligated all funds allocated under this section and section 1602 of the Transportation Equity Act for the 21st Century for such project; and

“(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section and section 1602 of the Transportation Equity Act for the 21st Century.

“(f) PERIOD OF AVAILABILITY.—Funds made available to carry out this section shall remain available until expended.

“(g) AVAILABILITY OF OBLIGATION LIMITATION.—Obligation authority attributable to funds made available to carry out this section shall only be available for the purposes of this section and shall remain available until obligated pursuant to section 1102(g) of the Transportation Equity Act for the 21st Century.

“(h) TREATMENT.—Funds allocated to a State in accordance with this section shall be treated as amounts in addition to the amounts a State is apportioned under sections 104, 105, and 144 for programmatic purposes.”.

23 USC 145.

(b) PURPOSE OF PROJECTS.—Section 145 of such title is amended—

(1) by inserting “(a) PROTECTION OF STATE SOVEREIGNTY.—” before “The authorization”; and

(2) by adding at the end the following:

“(b) PURPOSE OF PROJECTS.—The projects described in section 1602 of the Transportation Equity Act for the 21st Century, sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027 et seq.), and section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181 et seq.) are intended to establish eligibility for Federal-aid highway funds made available for such projects by section 1101(a)(13) of the Transportation Equity Act for the 21st Century, 117 of title 23, United States Code, sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991, and subsections (b), (c), and (d) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, respectively, and are not intended to define the scope or limits of Federal action in a manner inconsistent with subsection (a).”.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 117 and inserting the following:

“117. High priority projects program.”.

#### **SEC. 1602. PROJECT AUTHORIZATIONS.**

Subject to section 117 of title 23, United States Code, the amount listed for each high priority project in the following table shall be available (from amounts made available by section 1101(a)(13) of the Transportation Equity Act for the 21st Century) for fiscal years 1998 through 2003 to carry out each such project:



No.	State	Project description	(Dollars in millions)
1.	Georgia .....	I-75 advanced transportation management system in Cobb County .....	1.275
2.	Ohio .....	Relocate Washington Street/SR 149 within Bellaire city limits in Belmont County ..	2
3.	Virginia .....	Commuter and freight rail congestion and mitigation project over Quantico Creek ..	7.5
4.	Michigan .....	Construct bike path between Mount Clemens and New Baltimore .....	3.75
5.	California .....	Extend I-10 HOV lanes, Los Angeles .....	2.205
6.	Utah .....	Reconstruct U.S. 89 and interchange at 200 North in Kaysville .....	5.25
7.	Ohio .....	Upgrade North Road between U.S. 422 and East Market Street, Trumbull County .....	1.2
8.	Tennessee .....	Alternative transportation systems, Rutherford .....	5.1
9.	New York .....	Improve Long Ridge Road from Pound Ridge Road to Connecticut State line ....	1.4
10.	New York .....	I-87 Noise Abatement Program .....	7.5
11.	California .....	Upgrade access road to Mare Island .....	0.75
12.	Texas .....	Reconstruct FM 364 between Humble Road and I-10, Beaumont .....	3.6
13.	Washington .....	Construct pedestrian access and safety on Deception Pass Bridge, Deception Pass State Park, Washington .....	1
14.	Ohio .....	Conduct feasibility study for inclusion of U.S. 22 as part of the Interstate System ..	0.1
15.	New York .....	Improve Route 9 in Dutchess County .....	1.14
16.	California .....	Reconstruct State Route 81 (Sierra Avenue) and I-10 Interchange in Fontana ..	7.5
17.	New York .....	Reconstruct Springfield Boulevard between the Long Island Rail main line south to Rockaway Boulevard, Queens County .....	3
18.	Tennessee .....	Reconstruction of U.S. 414 in Henderson County .....	3.75
19.	New Jersey .....	Upgrade Market Street/Essex Street and Rochelle Avenue/Main Street to facilitate access to Routes 17 and 80, Bergen County .....	3.75
20.	Pennsylvania .....	U.S. 209 Marshall's Creek Traffic Relief project in Monroe County .....	7.5
21.	Louisiana .....	Replace ferry in Plaquemines Parish .....	1.6125
22.	Arkansas .....	Construct access routes between interstate highway, industrial park and Slackwater Harbor, Little Rock .....	0.75
23.	Georgia .....	Reconstruct SR 26/U.S. 60 from Bull River to Lazaretto Creek .....	2.6625
24.	California .....	Improve SR 91/Green River Road interchange .....	4.875
25.	Ohio .....	Construct new bridge over Muskingum River and highway approaches, Washington County .....	1.5
26.	Virginia .....	Widen Route 123 from Prince William County line to State Route 645 in Fairfax County, Virginia .....	7.5
27.	California .....	Improve the interchange at Cabo and Nason Street in Moreno Valley .....	4.5
28.	Nevada .....	Canamex Corridor Innovative Urban Renovation project in Henderson .....	5.25
29.	California .....	Construct bikeways, Santa Maria .....	0.384

No.	State	Project description	(Dollars in millions)
30.	Louisiana .....	Expand Harding Road from Scenic Highway to the Mississippi River and construct an information center .....	2.7
31.	Florida .....	West Palm Beach Traffic Calming Project on U.S. 1 and Flagler Drive .....	11.25
32.	Oregon .....	Construct bike path paralleling 42nd Street to link with existing bike path, Springfield .....	0.6
33.	Illinois .....	Construct elevated walkway between Centre Station and arena .....	0.9
34.	Pennsylvania .....	Construct Ardmore Streetscape project .....	0.45
35.	California .....	Construct San Diego and Arizona Eastern Intermodal Yard, San Ysidro .....	10
36.	New Jersey .....	Replace Clove Road bridge over tributary of Mill Brook and Clove Brook in Sussex County .....	0.75
37.	Oregon .....	Design and engineering for Newberg—Dundee Bypass .....	0.375
38.	Ohio .....	Upgrade U.S. Route 33 between vicinity of Haydenville to Floodwood (Nelsonville Bypass) .....	3.75
39.	Connecticut .....	Revise interchange ramp on to Route 72 northbound from I-84 East in Plainville, Connecticut .....	2.8125
40.	Alaska .....	Construct Spruce Creek Bridge in Soldotna .....	0.2625
41.	New York .....	Undertake studies, planning, engineering, design and construction of a tunnel alternative to reconstruction of existing elevated expressway (Gowanus tunnel project) .....	18
42.	Virginia .....	Reconstruct SR 168 (Battlefield Boulevard) in Chesapeake .....	6
43.	Pennsylvania .....	Upgrade PA 228 (Crows Run Corridor) .....	5.4
44.	New York .....	Upgrade and improve Saratoga to Albany intermodal transportation corridor .....	12.2
45.	Pennsylvania .....	Widen Montgomery Alley and improve pedestrian and parking facilities in the vicinity of the Falling Spring, Chambersburg .....	2
46.	Nebraska .....	Corridor study for Plattsmouth Bridge area to U.S. 75 and Horning Road .....	0.2625
47.	Pennsylvania .....	Construct SR 3019 over Great Trough Creek in Huntingdon County .....	0.375
48.	Pennsylvania .....	Improve PA 56 from I-99 to Somerset County Line in Bedford County .....	0.75
49.	Connecticut .....	Replace Windham Road bridge, Windham .....	1.5
50.	Tennessee .....	Upgrade Briley Parkway between I-40 and Opryland .....	4.2
51.	Pennsylvania .....	Renovate Harrisburg Transportation Center in Dauphin County .....	1.875
52.	Oregon .....	Construct phase I: Highway 99 to Biddle Road of the Highway 62 corridor solutions project .....	15.625
53.	Washington .....	Construct traffic signals on U.S. 2 at Olds Owens Road and 5th Street in Sultan, Washington .....	0.257
54.	New York .....	Upgrade Route 17 between Five Mile Point and Occanum, Broome County .....	12.6

No.	State	Project description	(Dollars in millions)
55.	Texas .....	Improve U.S. 82, East-West Freeway between Memphis Avenue and University Avenue .....	12.3
56.	Tennessee .....	Construct Stones River Greenway, Davidson .....	8.2
57.	Minnesota .....	Conduct study of potential for diversion of traffic from the I-35 corridor to commuter rail, Chicago County north of Forest Lake along I-35 corridor to Rush City .....	0.375
58.	Minnesota .....	Upgrade 10th Street South, Street Cloud .....	1.125
59.	Tennessee .....	Improve State Road 95 from Westover Drive to SR 62 in Roane and Anderson Counties .....	3.675
60.	California .....	Construct Ontario International Airport ground access program .....	10.5
61.	Iowa .....	Construct four-lane expressway between Des Moines and Marshalltown .....	7.5
62.	Texas .....	Upgrade FM 225, Nacogdoches .....	3
63.	Ohio .....	Upgrade U.S. Route 35 between vicinity of Chillicothe to Village of Richmond Dale .....	3.75
64.	Indiana .....	Upgrade 93rd Avenue in Merrillville .....	4.425
65.	California .....	Improve streets and construct bicycle path, Westlake Village .....	0.236
66.	Pennsylvania .....	Upgrade I-95 between Lehigh Avenue and Columbia Avenue and improvements to Girard Avenue/I-95 interchange, Philadelphia .....	21.45
67.	Michigan .....	Construct I-96/Beck Wixom Road interchange .....	1.95
68.	Pennsylvania .....	Construct I-95/Route 332 interchange .....	1.5
69.	California .....	Improve streets and construct bicycle path, Calabasas .....	0.75
70.	New York .....	Construct Hutton Bridge Project .....	1
71.	Ohio .....	Restore Main and First Streets to two-way traffic, Miamisburg .....	0.3375
72.	Virginia .....	Widen I-64 Bland Boulevard interchange .....	25.8375
73.	Washington .....	Widen Cook Road in Skagit County, Washington .....	3.1
74.	New York .....	Construct interchange and connector road using ITS testbed capabilities at I-90 Exit 8 .....	8.775
75.	New York .....	Construct Edgewater Road Dedicated Truck Route .....	9
76.	Illinois .....	Upgrade Illinois 336 between Illinois 61 to south of Loraine .....	3.825
77.	Michigan .....	Reconstruct Bagley Street and improve Genschaw Road, Alpena .....	0.45
78.	California .....	Construct Third Street South Bay Basin Bridge, San Francisco .....	9.375
79.	New Mexico .....	Improve I-25 at Raton Pass .....	9
80.	Pennsylvania .....	Construct Mon-Fayette Expressway between Union Town and Brownsville .....	20
81.	Michigan .....	Upgrade Hill Road corridor between I-75 to Dort Highway, Genesee County .....	2.25
82.	Georgia .....	Improve GA 316 in Gwinnett County .....	30.675
83.	North Carolina .....	Construct segment of new freeway, including right-of-way acquisition, between East of U.S. 401 to I-95, and bridge over Cape Fear River .....	12

No.	State	Project description	(Dollars in millions)
84.	Florida .....	Construct U.S. 98/Thomas Drive interchange .....	8.25
85.	Illinois .....	Construct I-64/North Greenmount Road interchange, St. Clair County .....	3.6
86.	South Carolina .....	Three River Greenway Project to and from Gervals Street in Columbia .....	3.75
87.	New York .....	Upgrade Chenango County Route 32 in Norwich .....	1.6
88.	Maine .....	Construct I-95/Stillwater Avenue interchange .....	1.5
89.	Massachusetts .....	Construct I-495/Route 2 interchange east of existing interchange to provide access to commuter rail station, Littleton .....	3.15
90.	Connecticut .....	Construct Seaview Avenue Corridor project .....	2.5
91.	Texas .....	Construct transportation improvements as part of redevelopment of Kelly AFB, San Antonio .....	3.75
92.	Texas .....	Conduct pipeline express study through Texas Transportation Institute (A&M University) .....	1.125
93.	Illinois .....	Undertake improvements to Campus Transportation System, Chicago .....	1.5
94.	Pennsylvania .....	Improve walking and biking trails between Easton and Lehigh Gorge State Park within the Delaware and Lehigh Canal National Heritage Corridor .....	2.1
95.	Michigan .....	Upgrade and make improvements to the Walton Corridor project including segments of Walton Boulevard, Baldwin and Joslyn Roads, and Telegraph Road .....	10.5
96.	North Carolina .....	Construct Charlotte Western Outer Loop freeway, Mecklenburg County .....	12
97.	Tennessee .....	Reconstruct U.S. 79 between Milan and McKenzie .....	3
98.	Virginia .....	Undertake access improvements for Freemason Harbor Development Initiative, Norfolk .....	1.5
99.	Pennsylvania .....	Upgrade U.S. Route 119 between Homer City and Blairsville .....	3.05
100.	Minnesota .....	Construct pedestrian bridge over TH 169 in Elk River .....	0.53025
101.	Georgia .....	Construct Athens to Atlanta Transportation Corridor .....	6
102.	Alabama .....	Initiate construction on controlled access highway between the Eastern edge of Madison County and Mississippi State line .....	3
103.	Texas .....	Construct improvements along U.S. 69 including frontage roads, Jefferson County .....	5.76
104.	New York .....	Rehabilitate Broadway Bridge, New York City .....	1.5
105.	Ohio .....	Reconstruct Morgan County 37 in Morgan County .....	0.4
106.	California .....	Improve Mission Boulevard in San Bernardino, California .....	0.5
107.	Indiana .....	Widen 116th Street in Carmel .....	1.125
108.	Illinois .....	Undertake traffic mitigation and circulation enhancements, 57th and Lake Shore Drive .....	2

No.	State	Project description	(Dollars in millions)
109.	Georgia .....	Construct Rome to Memphis Highway in Floyd and Bartow Counties .....	0.584
110.	Ohio .....	Construct highway-rail grade separations on Snow Road in Brook Park .....	4.75
111.	Kentucky .....	Construct highway-rail grade separations along the City Lead in Paducah .....	0.825
112.	Illinois .....	Resurface S. Chicago Avenue from 71st to 95th Streets, Chicago .....	0.795
113.	Minnesota .....	Upgrade TH 13 between TH 77 and I-494	1.5
114.	Kentucky .....	Redevelop and improve ground access to Louisville Waterfront District in Louisville, Kentucky .....	2.84
115.	South Dakota .....	Construct U.S. 16 Hell Canyon Bridge and approaches in Custer County .....	0.441
116.	Georgia .....	Resurface Davis Drive, Green Street, and North Houston Road in Warner Robins	0.3
117.	Pennsylvania .....	Construct highway-transit transfer facility in Lemoyne .....	1.5
118.	Georgia .....	Upgrade I-75 between the Crisp/Dooly County line to the Florida State line .....	8.25
119.	New Jersey .....	Conduct Route 46 Corridor Improvement Project with the amount provided, \$8,625,000 for the Route 46/Riverview Drive Interchange reconstruction project, \$12,675,000 for the Route 46/Van Houton Avenue reconstruction project, and \$3,075,000 for the Route 46/Union Boulevard interchange reconstruction project .....	24.375
120.	Mississippi .....	Construct segment 2 of the Jackson University Parkway in Jackson .....	0.6875
121.	New Jersey .....	Improve grade separations on the Garden State Parkway in Cape May County, New Jersey .....	10.5
122.	Pennsylvania .....	Construct access to site of former Philadelphia Naval Shipyard and Base, Philadelphia .....	1.5
123.	Idaho .....	Reconstruct U.S. 95 from Bellgrove to Mica .....	9
124.	Illinois .....	Improve access to 93rd Street Station, Chicago .....	2.25
125.	Illinois .....	Rehabilitate WPA Streets in Chicago .....	4.7
126.	Minnesota .....	Construct grade crossing improvements, Morrison County .....	1.35
127.	Kentucky .....	Extend Hurstbourne Parkway from Bardstown Road to Fern Valley Road .....	4.56
128.	Texas .....	Upgrade SH 130 in Caldwell and Williamson Counties .....	0.75
129.	Massachusetts .....	Construct bikeway between Blackstone and Worcester .....	6
130.	New York .....	Rehabilitate roads, Village of Great Neck	0.12
131.	Virginia .....	Widen I-81 in Roanoke and Botetourt Counties and in Rockbridge, Augusta and Rockingham Counties .....	4
132.	Illinois .....	Construct an interchange at I-90 and Illinois Route 173 in Rockford .....	5.625
133.	Illinois .....	Engineering for Peoria to Chicago expressway .....	5
134.	Pennsylvania .....	Construct access improvements between exits 56 and 57 off I-81 in Lackawanna	1.275

No.	State	Project description	(Dollars in millions)
135.	California .....	Reconstruct Tennessee Valley Bridge, Marin County .....	0.75
136.	Michigan .....	Improvements to Card Road between 21 Mile Road and 23 Mile Road in Macomb County .....	0.975
137.	Illinois .....	Construct Veterans Parkway from Eastland Drive to Commerce Parkway in Bloomington .....	7.88
138.	New York .....	Conduct safety study and improve I-90 in Downtown Buffalo .....	0.4
139.	Minnesota .....	Upgrade CSAH 1 from CSAH 61 to 0.8 miles north .....	0.36
140.	Pennsylvania .....	Construct access road and parking facilities, Valley Forge National Historic Park, Valley Forge .....	3
141.	Illinois .....	Construct Orchard Road Bridge over the Fox River .....	5.25
142.	Missouri .....	Construct U.S. 412 corridor from Kennett to Hayti, Missouri .....	6
143.	Michigan .....	Upgrade M 84 connector between Tittabawasee Road and M 13, Bay and Saginaw Counties .....	13.135
144.	Louisiana .....	Increase capacity of Lake Pontchartrain Causeway .....	1
145.	Tennessee .....	Improve the Elizabethton Connector from U.S. 312 to U.S. 19 East .....	6.3375
146.	Texas .....	Construct Austin to San Antonio Corridor	5.625
147.	Pennsylvania .....	Make safety improvements on PA Route 61 (Dusselink Safety Project) between Route 183 in Cressona and SR 0215 in Mount Carbon .....	7
148.	Tennessee .....	Improve State Route 92 from I-40 to South of Jefferson City .....	3.4125
149.	Illinois .....	Planning, engineering and first phase construction of beltway connector, Decatur	2
150.	Indiana .....	Safety improvements to McKinley and Riverside Avenues in Muncie .....	6.825
151.	Georgia .....	Widen Georgia Route 6/U.S. 278 in Polk County .....	5.666
152.	Arkansas .....	Widen 28th Street and related improvements in Van Buren, Arkansas .....	0.75
153.	Tennessee .....	Reconstruct Old Walland Highway bridge over Little River in Townsend .....	1.26
154.	Missouri .....	Construct Highway 36 Hannibal Bridge and approaches in Marion County .....	2.4
155.	Minnesota .....	Construct Cass County Public Trails Corridors .....	0.18
156.	Alabama .....	Construct Eastern Black Warrior River Bridge .....	13
157.	Michigan .....	Construct Monroe Rail Consolidation Project, Monroe .....	4.5
158.	Illinois .....	Rehabilitate 95th Street between 54th Place and 50th Avenue, Oak Lawn .....	0.6
159.	New York .....	Construct Hamilton Street interchange in Erwin, New York .....	12.375
160.	New York .....	Improve 6th and Columbia Street project in Elmira .....	0.525
161.	California .....	Enhance Fort Bragg and Willits passenger stations .....	0.275

No.	State	Project description	(Dollars in millions)
162.	New York .....	Capital improvements for the car float operations in Brooklyn, New York, for the New York City Economic Development Corp .....	14
163.	New Jersey .....	Construct New Jersey Exit 13A Flyover (extension of Kapowski Road to Trumbull Street) .....	2
164.	Pennsylvania .....	Relocate U.S. 22 around the Borough of Holidaysburg, PA, or other projects in the counties of Bedford, Blair, Centre, Franklin, Mifflin, Fulton and Clearfield, and Huntingdon as selected by the Commonwealth of Pennsylvania .....	25
165.	Wyoming .....	Construct Jackson-Teton Pathway in Teton County .....	1.5
166.	Michigan .....	Construct improvements to 23 Mile Road between Mound Road and M 53, Macomb County .....	2.25
167.	Michigan .....	Early preliminary engineering/preliminary engineering to U.S. 131 B.R./Industrial Connector, Kalamazoo, Michigan .....	1.5
168.	Illinois .....	Construct improvements to segment of Town Creek Road, Jackson County .....	0.975
169.	Vermont .....	Replace Missisquoi Bay Bridge .....	12
170.	Massachusetts .....	Upgrade Sacramento Street underpass, Somerville .....	0.1875
171.	Oregon .....	Study and design I-5/Beltline Road interchange reconstruction .....	3
172.	Massachusetts .....	Construct accessibility improvements to Charles Street T Station, Boston .....	3
173.	California .....	Widen and improve I-5/State Route 126 interchange in Valencia .....	10.425
174.	Arkansas .....	Widen Highway 65/82 from Pine Bluff to the Mississippi State line .....	5.375
175.	Ohio .....	Rehabilitate Martin Luther King, Jr. Bridge, Toledo .....	1.5
176.	California .....	Upgrade I-880, Alameda .....	7.5
177.	Illinois .....	Right-of-way acquisition for segment of Alton Bypass between Illinois 143 to Illinois 140 near Alton .....	3
178.	Georgia .....	Conduct study of a multimodal transportation corridor along GA 400 .....	17.25
179.	Illinois .....	Reconstruct Dixie Highway, Harvey .....	0.3705
180.	Tennessee .....	Construct State Route 131 from Gill Road to Bishop Road .....	1.8
181.	Washington .....	Construct Port of Kalama River Bridge ....	0.675
182.	Virginia .....	Upgrade Virginia Route 10, Surrey County .....	0.75
183.	Iowa .....	Reconstruct U.S. Highway 218 between 7th and 20th Streets including center turn lane from Hubenthal Place to Car-bide Lane, Keokuk .....	2.5
184.	Oregon .....	Repair bridge over Rogue River, Gold Beach .....	10
185.	New Jersey .....	Construct pedestrian bridge in Washing-ton Township .....	2.25
186.	Ohio .....	Construct Chesapeake Bypass, Lawrence County .....	3.75
187.	California .....	Rehabilitate historic train depot in San Bernadino .....	2.625

No.	State	Project description	(Dollars in millions)
188.	Michigan .....	Construct improvements to Linden Road between Maple Avenue and Pierson Road, Genessee County .....	0.9
189.	Alabama .....	Construct Crepe Myrtle Trail near Mobile	1.2
190.	New York .....	Reconstruct Route 23/Route 205 intersection in Oneonta .....	0.85
191.	Rhode Island .....	Reconstruct interchanges on Route 116 between Route 146 and Ashton Viaduct, Lincoln .....	0.33375
192.	Michigan .....	Construct route improvements along Washington Avenue between Janes Avenue to Johnson Street and East Genessee Avenue between Saginaw River and Janes Avenue, Saginaw .....	2.7
193.	California .....	Realign and improve California Route 79 in Riverside County .....	4.5
194.	Michigan .....	Construct Tawas Beach Road/U.S. 23 interchange improvements, East Tawas	1.65
195.	Illinois .....	Rehabilitate Timber Bridge over Little Muddy River and approach roadway, Perry County .....	0.105
196.	Texas .....	Construct East Loop, Brownsville .....	0.75
197.	Mississippi .....	Upgrade Cowan-Lorraine Road between I-10 and U.S. 90, Harrison County .....	8.5
198.	California .....	Construct Alameda Corridor East project	9.5625
199.	Washington .....	Construct I-5 interchanges in Lewis County .....	4.9875
200.	Minnesota .....	Undertake improvements to Hennepin County Bikeway .....	3.9
201.	Illinois .....	Construct Alton Bypass from IL 40 to Fosterburg Road .....	1.875
202.	Louisiana .....	Construct Houma-Thibodaux to I-10 connector from Gramercy to Houma .....	2.325
203.	Illinois .....	Study for new bridge over Mississippi River with terminus points in Street Clair County and Street Louis, MO .....	1.05
204.	New York .....	Rehabilitate Queens Boulevard/Sunnyside Yard Bridge, New York City .....	6
205.	North Carolina .....	Construct segment of I-74 between Maxton Bypass and NC 710, Robeson County .....	1.5
206.	Alabama .....	Conduct engineering, acquire right-of-way and construct the Birmingham Northern Beltline in Jefferson County .....	17
207.	South Dakota .....	Replace Meridan Bridge .....	3.25
208.	Ohio .....	Upgrade Route 82, Strongsville .....	5.25
209.	Mississippi .....	Construct I-20/Norrell Road interchange, Hinds County .....	3.75
210.	Wisconsin .....	Reconstruct U.S. Highway 151, Waupun to Fond du Lac .....	19.5
211.	Michigan .....	Improve Kent County Airport road access in Grand Rapids, Michigan by extending 36th Street, improving 48th Street and constructing the I-96/Whitneyville interchange .....	11.28
212.	Pennsylvania .....	Replace Dellville Bridge in Wheatfield .....	0.75
213.	California .....	Upgrade Ft. Irwin Road from I-15 to Fort Irwin .....	1.125
214.	New York .....	Reconstruct 127th Street viaduct, New York City .....	1.5



No.	State	Project description	(Dollars in millions)
215.	Arkansas .....	Upgrade U.S. Route 67, Newport to Missouri State line .....	1.5
216.	Louisiana .....	Extend Howard Avenue to Union Passenger Terminal, New Orleans .....	6
217.	Colorado .....	Complete the Powers Boulevard north extension in Colorado Springs .....	9
218.	Pennsylvania .....	Widen U.S. 30 from U.S. 222 to PA 340 and from PA 283 to PA 741 .....	9
219.	Pennsylvania .....	Upgrade Route 219 between Meyersdale and Somerset .....	2.4
220.	Mississippi .....	Widen MS 15 from Laurel to Louiseville ..	7.5
221.	California .....	Construct bike paths, Thousand Oaks .....	0.625
222.	Texas .....	Investigate strategies to reduce congestion and facilitate access at the international border crossing in Roma .....	0.375
223.	Wisconsin .....	Upgrade Marshfield Boulevard, Marshfield .....	3.75
224.	Wisconsin .....	Construct Abbotsford Bypass .....	4.5
225.	New York .....	Reconstruct Route 25/Route 27 intersection in Street Lawrence County .....	0.75
226.	California .....	Upgrade access to Sylmar/San Fernando Metrolink Station and Westfield Village, Los Angeles .....	0.375
227.	Tennessee .....	Construct park and ride intermodal centers for Nashville/Middle Tennessee Commuter Rail .....	8
228.	Illinois .....	Upgrade Street Marie Township Road, Jasper County .....	0.036
229.	Illinois .....	Resurface 95th Street between Western Avenue and Stony Island Boulevard, Chicago .....	2.34
230.	New York .....	Construct new exit 46A on I-90 at Route 170 in North Chili .....	6
231.	Indiana .....	Upgrade 4 warning devices on north/south rail line from Terre Haute to Evansville .....	0.3
232.	California .....	Improve SR 70 from Marysville Bypass to Oroville Freeway .....	6.25
233.	Dist. of Columbia ..	Implement Geographical Information System .....	7.5
234.	California .....	Construct connector between I-5 and SR 113 and reconstruct I-5 interchange with Road 102, Woodland .....	11.5
235.	Pennsylvania .....	Reconstruct State Route 2001 in Pike County .....	6.75
236.	California .....	Upgrade I-680 Corridor, Alameda County .....	7.5
237.	Louisiana .....	Reconstruct I-10 and Ryan Street access ramps and frontage street improvements, Lake Charles .....	6
238.	Arkansas .....	Construct access route to Northwest Arkansas Regional Airport in Highfill .....	12
239.	Pennsylvania .....	Reconstruct structures and adjacent roadway, Etna and Aspenwall (design and right-of-way acquisition phases), Allegheny County .....	2

No.	State	Project description	(Dollars in millions)
240.	Alaska .....	Construct capital improvements to inter-modal freight and passenger facilities servicing the Alaska Marine Highway and other related transportation modes in Seward provided that the state public authority which owns the current inter-modal facilities carries out this project with the entire amount of funds provided .....	4.5
241.	Illinois .....	Construct improvements to Pleasant Hill Road, Carbondale .....	1.425
242.	Florida .....	Deploy magnetic lane marking system on I-4 .....	0.375
243.	Texas .....	Extend Texas State Highway 154 between U.S. 80W and State Highway 43S .....	4.675
244.	Minnesota .....	Upgrade CSAH 16 between TH 53 and CSAH 4 .....	4.05
245.	Pennsylvania .....	Upgrade U.S. Route 22, Chickory Mountain section .....	4.85
246.	Arkansas .....	Improve Arkansas State Highway 12 from U.S. 71 at Rainbow Curve to Northwest Arkansas Regional Airport .....	0.375
247.	Massachusetts .....	Implement Cape and Islands Rural Roads Initiative, Cape Cod .....	0.375
248.	Massachusetts .....	Reconstruct roadways, Somerville .....	2.25
249.	Washington .....	Construct Washington Pass visitor facilities on North Cascades Highway .....	0.9
250.	Indiana .....	Construct Hazel Dell Parkway from 96th Street to 146th Street in Carmel .....	4.125
251.	Georgia .....	Upgrade Lithonia Industrial Boulevard, De Kalb County .....	0.375
252.	Wisconsin .....	Upgrade STH 29 between IH 94 and Chippewa Falls .....	4.5
253.	Kansas .....	Construct Diamond interchange at Antioch and I-435 .....	7.56
254.	California .....	Reconstruct I-215 and construct HOV lanes between 2nd Street and 9th Street, San Bernardino .....	2.0625
255.	Iowa .....	Relocate U.S. 61 to bypass Fort Madison ..	2.25
256.	Illinois .....	Construct Richton Road, Crete .....	1.5
257.	Ohio .....	Upgrade U.S. 30 from SR 235 in Hancock County to the Ontario bypass in Richland County .....	11.25
258.	Florida .....	Construct access road to Street Johns Avenue Industrial Park .....	0.75
259.	Pennsylvania .....	Design, engineer, ROW acquisition and construct the Luzerne County Community College Road between S.R. 2002 and S.R. 3004 one-mile west of Center Street through S.R. 2008 in the vicinity of Prospect Street and the Luzerne County Community College, including a new interchange on S.R. 0029 .....	10.5
260.	Louisiana .....	Construct State Highway 3241/State Highway 1088/I-12 interchange in St. Tammany Parish .....	8.5
261.	Illinois .....	Improve access to Rantoul Aviation Center in Rantoul .....	1.6
262.	Virginia .....	Improve Harrisonburg East Side roadways in Harrisonburg .....	0.5

No.	State	Project description	(Dollars in millions)
263.	California .....	Upgrade Highway 99 between State Highway 70 and Lincoln Road, Sutter County .....	7.3
264.	Indiana .....	Extend East 56th Street in Lawrence .....	4.875
265.	New York .....	Construct the Mineola intermodal facility and Hicksville intermodal facility in Nassau County .....	10.5
266.	Texas .....	Upgrade IH 30 between Dallas and Ft. Worth .....	21.75
267.	Massachusetts .....	Construct improvements to North Main Street in Worcester .....	1.8
268.	Arkansas .....	Study and construct a multi-modal facility Russellville .....	0.75
269.	New York .....	Judd Road Connector in New Hartford and Whitestown .....	30.3
270.	Oregon .....	Upgrade I-5, Salem .....	3
271.	California .....	Upgrade call boxes throughout Santa Barbara County .....	1.125
272.	Wisconsin .....	Upgrade U.S. Route 10 between Waupaca to U.S. Route 41 .....	6
273.	Iowa .....	Reconstruct I-235 and improve the interchange for access to the ML King Parkway .....	5.175
274.	Pennsylvania .....	Construct Steel Heritage Trail between Glenwood Bridge to Clairton via McKeesport .....	0.3
275.	Idaho .....	Construct critical interchanges and grade-crossings on U.S. 20 between Idaho Falls and Chester .....	7.5
276.	Utah .....	Construct Cache Valley Highway in Logan .....	5.25
277.	Massachusetts .....	Upgrade Route 3 between Route 128/I-95 to Massachusetts and New Hampshire State Line .....	6.15
278.	Indiana .....	Construct Hoosier Heartland from Lafayette to Ft. Wayne .....	18.75
279.	New York .....	Conduct traffic calming study on National Scenic Byway Route 5 in Hamburg .....	0.3
280.	California .....	Construct I-5 rail grade crossings between I-605 and State Route 91, Los Angeles and Orange Counties .....	15.09
281.	Massachusetts .....	Undertake improvements to South Station Intermodal Station .....	2.25
282.	Massachusetts .....	Reconstruct Bates Bridge over Merrimack River .....	3
283.	Illinois .....	Upgrade Wood Street between Little Calumet River to 171st Street, Dixmore, Harvey, Markham, Hazel Crest .....	0.7425
284.	Pennsylvania .....	Construct safety and capacity improvements to Route 309 and Old Packhouse Road including widening of Old Packhouse Road between Kids Peace National Hospital to Route 309 .....	6.15
285.	Illinois .....	Reconstruct Mt. Erie Blacktop in Mt. Erie .....	3.385
286.	Michigan .....	Repair 48th Avenue, Menominee .....	0.2025
287.	Texas .....	Reconstruct intermodal connectors on Highway 78 and Highway 544 in Wylie .....	5.5
288.	Georgia .....	Conduct a study of transportation alternatives in Northwest Georgia between Atlanta and Chattanooga .....	3.75
289.	Louisiana .....	Reconstruct Jefferson Lakefront bikepath in Jefferson Parish .....	1

No.	State	Project description	(Dollars in millions)
290.	New York .....	Construct Midtown West Intermodal Ferry Terminal, New York City .....	3.5
291.	Maine .....	Construct I-295 connector, Portland .....	3.375
292.	Colorado .....	Construct I-25 truck lane from Lincoln Avenue to Castle Pines Parkway in Douglas County .....	2.25
293.	New Jersey .....	Widen Route 1 from Pierson Avenue to Inman Avenue in Middlesex County .....	5.25
294.	New York .....	Construct intermodal transportation hub in Patchogue .....	1.875
295.	New York .....	Improve Route 281 in Cortland .....	6.75
296.	California .....	Construct State Route 76 in Northern San Diego .....	7.5
297.	Illinois .....	Congestion mitigation for Illinois Route 31 and Illinois Route 62 intersection in Algonquin .....	9
298.	Pennsylvania .....	Improve South Central Business Park in Fulton County .....	0.75
299.	California .....	Willits Bypass, Highway 101 in Mendocino County, California .....	0.65
300.	Texas .....	Upgrade FM 1764 between FM 646 to State Highway 6 .....	2.25
301.	Ohio .....	Construct Intermodal Industrial Park in Wellsville .....	3.04
302.	Texas .....	Construct U.S. Expressway 77/83 interchange, Harlingen .....	5.625
303.	Georgia .....	Construct Harry S. Truman Parkway .....	2.6625
304.	Maryland .....	Upgrade I-95/I-495 interchange at Ritchie Marlboro Road, Prince Georges County .....	3.6
305.	New York .....	Construct CR 82 from Montauk Highway to Sunrise Highway in Suffolk County ..	0.435
306.	Pennsylvania .....	PA 26 over Piney Creek 2-bridges in Bedford County .....	0.6
307.	Illinois .....	Intersection improvements at 79th and Stoney Island Boulevard, Chicago .....	1.305
308.	New York .....	Construct CR-85 from Foster Avenue to CR-97 in Suffolk County .....	0.675
309.	New York .....	Construct Phase II of the City of Mount Vernon's New Haven Railroad Redevelopment project .....	2
310.	Alabama .....	Construct improvements to 41st Street between 1st Avenue South and Airport Highway, Birmingham .....	0.75
311.	Alaska .....	Improve roads in Kotzebue .....	1.7625
312.	Pennsylvania .....	Conduct preliminary engineering on the relocation of exits 4 and 5 on I-83 in York County .....	1.5
313.	North Carolina .....	Construct I-540 from east of NC Route 50 to east of U.S. Route 1 in Wake County ..	9.75
314.	Alabama .....	Construct enhancements along 12th Street between State Highway 11 and Baptist Princeton Hospital, Birmingham ..	0.6
315.	Pennsylvania .....	Conduct highway research, Drexel University .....	1
316.	Illinois .....	Improve IL 113 in Kankakee .....	5.55
317.	Texas .....	Upgrade JFK Causeway, Corpus Christi ..	2.25
318.	Pennsylvania .....	Construct Philadelphia Intermodal Gateway Project at 30th Street Station .....	6
319.	Wisconsin .....	Construct STH 26/U.S. 41 Interchange in Oshkosh .....	2.25

No.	State	Project description	(Dollars in millions)
320.	California .....	Improve and widen Forest Hill Road in Placer County .....	2.7
321.	Florida .....	ITS improvements on U.S. 19 in Pasco County .....	1.5
322.	Nebraska .....	Conduct corridor study from Wayne to Vermillion-Newcastle bridge .....	0.4125
323.	Oregon .....	Construct right-of-way improvements to provide improved pedestrian access to MAX light rail, Gresham .....	1
324.	Virginia .....	Repair historic wooden bridges along portion of Virginia Creeper Trail maintained by Town of Abingdon .....	0.75
325.	Oregon .....	Reconstruct Lovejoy ramp, Portland .....	5
326.	Washington .....	Widen SR 99 between 148th Street and King County Line in Lynnwood .....	2.7
327.	Minnesota .....	Construct Trunk Highway 169 Causeway, Itasca County .....	6.075
328.	Louisiana .....	Conduct a feasibility and design study of Louisiana Highway 30 between Louisiana Highway 44 and I-10 .....	1.5
329.	Indiana .....	Reconstruct U.S. Route 231 between junction of State Road 66 to Dubois County line .....	0.6
330.	Massachusetts .....	Construct Greenfield-Montague Bikeways, Franklin County .....	0.675
331.	California .....	Improve highway access to Humboldt Bay and Harbor Port .....	0.275
332.	Virginia .....	Construct road improvement, trailhead development and related facilities for Haysi to Breaks Interstate Bicycle and Pedestrian Trail between Haysi and Garden Hole area of Breaks Interstate Park .....	0.25
333.	Pennsylvania .....	Replace Grant Street Bridge, New Castle .....	1.8
334.	North Dakota .....	Upgrade U.S. Route 52 between Donnybrook and U.S. Route 2 .....	1.8
335.	Florida .....	Construct Wonderwood Connector from Mayport to Arlington, Duval County, Florida .....	27.725
336.	California .....	Construct pedestrian boardwalk between terminus of Pismo Promenade at Pismo Creek and Grande Avenue in Gover Beach .....	0.375
337.	Pennsylvania .....	Construct PA 283 North Union Street ramps in Dauphin County .....	1.8375
338.	New Jersey .....	Upgrade Garden State Parkway Exit 142 .....	22.5
339.	Minnesota .....	Extend County State Highway 61 extension into Two Harbors .....	0.6
340.	Minnesota .....	Reconstruct and replace I-494 Wakota Bridge from South St. Paul to Newport, and approaches .....	9.75
341.	Texas .....	Reconstruct and widen I-35 between North of Georgetown at Loop 418 to U.S. Route 190 .....	6
342.	Georgia .....	Undertake major arterial enhancements in De Kalb County with the amount provided as follows: \$5,250,000 for Candler Road, \$5,625,000 for Memorial Drive, and \$675,000 for Bufford Highway .....	11.55

No.	State	Project description	(Dollars in millions)
343.	Illinois .....	Consolidate rail tracks and eliminate grade crossings as part of Gateway Intermodal Terminal access project .....	1.125
344.	Ohio .....	Replace I-280 bridge over Maumee River, Toledo area .....	18
345.	Pennsylvania .....	Eliminate 16 at-grade rail crossings through Erie .....	8
346.	Arkansas .....	Construct Geyer Springs RR grade separation, Little Rock .....	0.75
347.	Wisconsin .....	Construct Chippewa Falls Bypass .....	4.5
348.	Kentucky .....	Correct rock hazard on U.S. 127 in Russell County .....	0.02625
349.	Kentucky .....	Widen U.S. 27 from Norwood to Eubank ..	22.5
350.	Virginia .....	Conduct Williamsburg 2007 transportation study .....	0.325
351.	Virginia .....	Construct I-95/State Route 627 interchange in Stafford County .....	3.8375
352.	Tennessee .....	Construct Foothills Parkway from Walland to Weans Valley .....	8.625
353.	Oregon .....	Upgrade Murray Boulevard including overpass bridge, Millikan to Terman .....	3.75
354.	California .....	Construct San Francisco Regional Intermodal Terminal .....	9.375
355.	New Hampshire ....	Construct the Broad Street Parkway in Nashua .....	12.511
356.	New Hampshire ....	Construct Conway bypass from Madison to Bartlett .....	5.325
357.	California .....	Seismic retrofit of Golden Gate Bridge .....	0.75
358.	Pennsylvania .....	Realign Route 501 in Lebanon County .....	1.2
359.	Maryland .....	Upgrade U.S. 29 interchange with Randolph Road, Montgomery County .....	9
360.	Utah .....	Construct I-15 interchange at Atkinville ..	6
361.	Illinois .....	Resurface Cicero Avenue between 127th Street and 143rd Street, Chicago .....	0.4575
362.	Pennsylvania .....	Improve Lewistown Narrows U.S. 322 in Mifflin and Juniata County .....	40
363.	Florida .....	Enhance access to Gateway Marketplace through improvements to access roads, Jacksonville .....	0.9
364.	Indiana .....	Upgrade 14 warning devices on east/west rail line from Gary to Auburn .....	1.05
365.	Tennessee .....	Construct I-40/SR 155 interchange, Davidson .....	4.2
366.	Tennessee .....	Construct Crosstown Greenway/Bikeway, Springfield .....	3.2
367.	Maine .....	Studies and planning for reconstruction of East-West Highway .....	3
368.	Florida .....	Construct Port of Palm Beach Road access improvements, Palm Beach County .....	15.75
369.	New Jersey .....	Reconstruct Essex Street Bridge, Bergen County .....	1.875
370.	Missouri .....	Relocate and reconstruct Route 21 between Schenk Road to Town of DeSoto ..	30
371.	New York .....	Improve Route 31 from Baldwinsville to County Route 57 .....	8.8125
372.	Virginia .....	Upgrade Route 600 to facilitate access between I-81 and Mount Rogers National Recreation Area .....	5
373.	California .....	Construct I-380 connector between Sneath Lane and San Bruno Avenue, San Bruno .....	2.1

No.	State	Project description	(Dollars in millions)
374.	Florida .....	Construct South Connector Road and Airport Road interchange in Jacksonville ...	6.75
375.	Pennsylvania .....	Resurface current 219 bypass at Bradford	4.875
376.	Kentucky .....	Construct Route 259-101 from Brownsville to I-65 .....	0.75
377.	California .....	Construct interchanges for I-10 in Coachella Valley, Riverside County .....	2.25
378.	New Mexico .....	Improve 84/285 between Espanola and Hernandez .....	4.5
379.	Pennsylvania .....	Upgrade 2 sections of U.S. 6 in Tioga County .....	1.125
380.	Wisconsin .....	Improve Janesville transportation .....	3
381.	Arkansas .....	Construct Baseline Road RR grade separation, Little Rock .....	3.75
382.	Virginia .....	Replace Shore Drive Bridge over Petty Lake, Norfolk .....	3
383.	Arizona .....	Replace U.S. 93 Hoover Dam Bridge .....	10
384.	Michigan .....	Operational improvements on M 24 from I-75 to the northern Oakland County border .....	0.5
385.	Illinois .....	Reconstruct U.S. 30, Will County .....	6.75
386.	Minnesota .....	Construct Trunk Highway 610/10 from Trunk Highway 169 in Brooklyn Park to I-94 in Maple Grove .....	12
387.	Illinois .....	Extend and reconstruct roadways through industrial corridor in Alton .....	4.2675
388.	Pennsylvania .....	Rehabilitate Jefferson Heights Bridge, Penn Hills .....	1.275
389.	Ohio .....	Construct Eastern U.S. Route 23 bypass of Portsmouth .....	3.75
390.	Washington .....	Construct State Route 7—Elbe rest area and interpretive facility in Pierce County .....	0.45
391.	Michigan .....	Undertake capital improvements to facilitate traffic between Lansing and Detroit	7.5
392.	New Mexico .....	Reconstruct U.S. 84/U.S. 285 from Santa Fe to Espanola .....	13.5
393.	Connecticut .....	Reconstruct Post Office/Town Farm Road in Enfield .....	1.125
394.	Connecticut .....	Improve pedestrian and bicycle connections between Union Station and downtown New London .....	3.39
395.	Pennsylvania .....	Construct access to Tioga Marine Terminal, Ports of Philadelphia and Camden	1.2
396.	Virginia .....	Downtown Staunton Streetscape Plan—Phase I in Staunton .....	0.5
397.	Illinois .....	Construct Marion Street multi-modal project in Village of Oak Park .....	1.5
398.	California .....	Improve and construct I-80 reliever route project; Walters Road and Walters Road Extension Segments .....	2.35
399.	Texas .....	Upgrade State Highway 24 from Commerce to State Highway 19 north of Cooper .....	3.75
400.	Maryland .....	Construct pedestrian and bicycle path between Druid Hill Park and Penn Station, Baltimore .....	1.35
401.	California .....	Upgrade SR 92/El Camino interchange, San Mateo .....	2.775
402.	Illinois .....	Improve Sugar Grove U.S. 30 .....	1.875

No.	State	Project description	(Dollars in millions)
403.	Illinois .....	Construct Sullivan Road Bridge over the Fox River .....	7.5
404.	Massachusetts .....	Construct Packets Landing Enhancement and Restoration Project, Town of Yarmouth .....	0.75
405.	Michigan .....	Upgrade I-94 between M 39 and I-96 .....	6
406.	Pennsylvania .....	Upgrade PA Route 21, Fayette and Greene Counties .....	5
407.	Indiana .....	Construct Gary Marina access road (Buffington Harbor) .....	7.5
408.	Massachusetts .....	Replace deck of Chain Bridge over Merrimack River .....	0.759
409.	New Mexico .....	Improve U.S. 70 southwest of Portales .....	9
410.	California .....	Construct grade separation project at Redondo Junction, located in the North end of an Intermodal corridor of economic significance, as defined by California Streets and Highways Code, Division 3, Chapter 4.7 (commencing with section 2190), Los Angeles .....	6.65
411.	Arkansas .....	Widen West Phoenix Avenue and related improvements in Fort Smith, Arkansas .....	6
412.	Minnesota .....	Upgrade Cross-Range Expressway between Coleraine to CSAH 7 .....	4.5
413.	California .....	Upgrade CA Route 2 Southern Freeway terminus and transportation efficiency improvements to Glendale Boulevard in Los Angeles .....	12
414.	Massachusetts .....	Environmental studies, preliminary engineering and design of North-South Connector in Pittsfield to improve access to I-90 .....	1.5
415.	Pennsylvania .....	Construct streetscape project in the Borough of Ambler, Montgomery County, PA .....	0.072
416.	Pennsylvania .....	Construct improvements to the Park Road extension connecting U.S. 222 and U.S. 422, Spring Township .....	2
417.	New York .....	FJ&G Rail/Trail Project in Fulton County .....	0.525
418.	New Jersey .....	Upgrade Baldwin Avenue intersection to facilitate access to waterfront and ferry, Weehawken .....	2
419.	Kansas .....	Widen U.S. 54 from Liberal, Kansas southwest to Oklahoma .....	6
420.	Washington .....	Improve Hillsboro Street/Highway 395 intersection in Pasco .....	2.6625
421.	Texas .....	Construct ramp connection between Hammet Street to Highway 54 ramp to provide access to I-10 in El Paso .....	11
422.	Ohio .....	Relocate State Route 60 from Zanesville to Dresden, Muskingum County .....	1.5
423.	Alabama .....	Construct the Montgomery Outer Loop from U.S. 80 to I-85 via I-65 .....	10.2375
424.	Oklahoma .....	Reconstruct U.S. 99/SH377 from Prague to Stroud in Lincoln County .....	4.7
425.	Louisiana .....	Extend Louisiana Highway 42 between U.S. 61 and I-10 in Ascension Parish ....	6
426.	Louisiana .....	Conduct feasibility study, design and construction of connector between Louisiana Highway 16 to I-12 in Livingston Parish .....	3.75



No.	State	Project description	(Dollars in millions)
427.	California .....	Construct capital improvements along I-680 corridor .....	2.25
428.	Texas .....	Relocation of Indiana Avenue between 19th street to North Loop 289 and Quaker Avenue intersection .....	7.2
429.	Massachusetts .....	Renovate Union Station Intermodal Transportation Center in Worcester .....	6.5
430.	Texas .....	Construct Manchester grade separations in Houston .....	12
431.	Texas .....	Construct Titus County West Loop, Mount Pleasant .....	1.875
432.	New York .....	Construct County Road 50 in the vicinity of Windsor Avenue .....	1.36
433.	California .....	Construct parking lot, pedestrian bridge and related improvements to improve intermodal transportation in Yorba Linda .....	1
434.	North Carolina .....	Widen North Carolina Route 24 from Swansboro to U.S. 70 in Onslow and Carteret Counties .....	2.25
435.	Minnesota .....	Construct Mankato South Route in Mankato .....	5.25
436.	Kentucky and Indiana.	Ohio River Major Investment Study Project, Kentucky and Indiana .....	40
437.	California .....	Implement traffic management improvements, Grover Beach .....	0.375
438.	Louisiana .....	Extend I-49 from I-220 to Arkansas State line .....	3.3
439.	Indiana .....	Construct East 79th from Sunnyside Road to Oaklandon Road in Lawrence .....	3
440.	Alabama .....	Construct Decatur Southern Bypass .....	2
441.	California .....	Construct tunnel with approaches as part of Devils Slide project in San Mateo County .....	6
442.	Ohio .....	Improve State Route 800 in Monroe County .....	0.5
443.	Kentucky .....	Reconstruct KY 210 from Hodgenville to Morning Star Road, Larue County .....	6
444.	New York .....	Construct Route 17—Lowman Crossover in Ashland .....	3.6
445.	Illinois .....	Improve roads in the Peoria Park District .....	0.81
446.	Massachusetts .....	Reconstruct North Street, Fitchburg .....	0.75
447.	Massachusetts .....	Reconstruct Huntington Avenue in Boston .....	3
448.	California .....	Undertake safety enhancements along Monterey County Railroad highway grade, Monterey County .....	2.1
449.	Michigan .....	Construct Bridge Street bridge project in Southfield .....	3.15
450.	Texas .....	Construct Concord Road Widening project, Beaumont .....	7.375
451.	Oregon .....	Restore the Historic Columbia River Highway including construction of a pedestrian and bicycle path under I-84 at Tanner Creek and restoration of the Tanner Creek and Moffett Creek bridges .....	2
452.	Ohio .....	Upgrade I-77/U.S. 250/SR 39 interchange in Tuscarawas County .....	1
453.	California .....	Construct Palisades Bluff Stabilization project, Santa Monica .....	6

No.	State	Project description	(Dollars in millions)
454.	New York .....	Improve the Route 31/I-81 Bridge in Wattertown .....	1.85475
455.	Washington .....	Improve I-5/196th Street, Southwest Freeway interchange in Lynnwood, Washington .....	4.05
456.	Louisiana .....	Construct the Southern extension of I-49 from Lafayette to the Westbank Expressway .....	4.125
457.	Kansas .....	Construct Phase II improvements to U.S. 59 from U.S. 56 to Ottawa .....	9
458.	Tennessee .....	Construct U.S. 27 from State Road 61 to Morgan County line .....	4.125
459.	Maryland .....	Undertake transportation infrastructure improvements within Baltimore Empowerment Zone .....	10.975
460.	Kentucky .....	Construct Kentucky 31E from Bardstowns to Salt River .....	0.75
461.	Georgia .....	Construct multi-modal passenger terminal, Atlanta .....	12
462.	Kentucky .....	Construct connection between Natcher Bridge and KY 60 east of Owensboro ...	2.25
463.	Minnesota .....	Reconstruct CSAH 48 extension, Brainerd/Baxter .....	0.24
464.	Kentucky .....	Complete I 65 upgrade from Elizabethtown to Tennessee State line .....	3.75
465.	California .....	Construct the South Central Los Angeles Exposition Park Intermodal Urban Access Project in Los Angeles .....	19.5
466.	Pennsylvania .....	Construct U.S. 30 at PA 772 and PA 41 ...	4.5
467.	Ohio .....	Upgrade 1 warning device on the rail line from Marion to Ridgeway .....	0.075
468.	Kentucky .....	Construct necessary connections for the Taylor Southgate Bridge in Newport and the Clay Wade Bailey Bridge in Covington .....	7.125
469.	Maine .....	Replace Singing Bridge across Taunton Bay .....	0.75
470.	California .....	Upgrade Price Canyon Road including construction of bikeway between San Luis Obispo and Pismo Beach .....	0.825
471.	Illinois .....	Extend South 74th Street, Belleville .....	0.375
472.	New Hampshire ...	Reconstruct U.S. 3 Carroll town line 2.1 miles north .....	1.786
473.	Minnesota .....	Upgrade 77th Street between I-35W and 24th Avenue to four lanes in Richfield ..	17.1
474.	New Jersey .....	Relocate and complete construction of new multi-modal facility, Weehawken .....	12
475.	New Jersey .....	Construct Route 4/17 interchange in Paramus .....	6.375
476.	Louisiana .....	Expand Perkins Road in Baton Rouge .....	6.15
477.	New Jersey .....	Revitalize Route 130 from Cinnaminson to Willingboro .....	3
478.	Arkansas .....	Construct Highway 371 from Magnolia to Prescott .....	2.375
479.	Mississippi .....	Upgrade Alva-Stage Road, Montgomery County .....	1.125
480.	California .....	Construct pedestrian promenade, Pismo Beach .....	0.15
481.	California .....	Construct railroad at-grade crossings, San Leandro .....	0.375

No.	State	Project description	(Dollars in millions)
482.	Ohio .....	Construct highway-rail grade separations on Heisley Road between Hendricks Road and Jackson Street in Mentor .....	6.205
483.	Illinois .....	Design and construct U.S. 67 corridor from Jacksonville to Beardstown .....	10
484.	California .....	Construct VC Campus Parkway Loop System in Merced .....	11
485.	Texas .....	Construct highway-rail-marine intermodal project, Corpus Christi .....	8.25
486.	Pennsylvania .....	Construct U.S. 322 Concheater Highway between U.S. 1 and PA 452 .....	18.75
487.	Pennsylvania .....	Construct Route 819/Route 119 interchange between Mt. Pleasant and Scottdale .....	6.9
488.	Illinois .....	Upgrade Western Avenue, Park Forest ....	0.0945
489.	Oregon .....	Relocate and rebuild intersection of Highway 101 and Highway 105, Clatsop County .....	1.2
490.	Ohio .....	Upgrade Western Reserve Road, Mahoning County .....	2.4
491.	California .....	Construct Nogales Street at Railroad Street grade separation in Los Angeles County, California .....	6.5
492.	Nebraska .....	Construct South Beltway in Lincoln .....	4.125
493.	Michigan .....	Acquire right-of-way and construct M 6 Grand Rapids South Beltline in Grand Rapids .....	18.72
494.	New York .....	Replace Route 92 Limestone Creek Bridge in Manlius .....	3
495.	Pennsylvania .....	Extend Martin Luther King, Jr. East Busway to link with Mon-Fayette Expressway .....	4.5
496.	New York .....	Construct Furrows Road from Patchogue/Holbrook Road to Waverly Avenue in Islip .....	1.2
497.	New Jersey .....	Construct East Windsor Bear Brook pathway system .....	0.27
498.	Texas .....	Widen State Highway 6 from FM521 to Brazoria County line and construct railroad overpass .....	9.15
499.	California .....	Construct I-10/Pepper Avenue Interchange .....	6.6
500.	New York .....	Construct access road and entranceway improvements to airport in Niagara Falls .....	2.25
501.	Minnesota .....	Replace Sauk Rapids Bridge over Mississippi River, Stearns and Benton Counties .....	7.725
502.	North Carolina .....	Upgrade I-85, Mecklenburg and Cabarrus Counties .....	19.5
503.	Oklahoma .....	Reconstruct County Road 237 from Indianola to Wichita Mountains Wildlife Refuge .....	0.1875
504.	Illinois .....	Construct Towanda-Barnes Road in Mclean County .....	5.82
505.	Pennsylvania .....	Widen and signalize Sumneytown Pike and Forty Foot Road in Montgomery County .....	3.87

No.	State	Project description	(Dollars in millions)
506.	Rhode Island .....	Construct Rhode Island Greenways and Bikeways projects with the amount provided \$4,275,000 for the Washington Secondary Bikepath, and \$1,575,000 for the South County Bikepath Phase 2 .....	5.85
507.	Mississippi .....	Widen U.S. 61 from Louisiana State line to Adams County .....	0.6875
508.	Georgia .....	Conduct a study of a multimodal transportation corridor from Lawrenceville to Marietta .....	1.8
509.	Missouri .....	Construct Jefferson Avenue viaduct over Mill Creek Valley in St. Louis .....	8.25
510.	New York .....	Conduct extended needs study for the Tappan Zee Bridge .....	3
511.	Pennsylvania .....	Improve Park Avenue/PA 36 in Blair County .....	0.45
512.	Texas .....	Construct the George H.W. Bush Presidential Corridor from Bryan to east to I-45 .....	7.5
513.	New Mexico .....	Improve Uptown in Bernalillo County .....	1.025
514.	Arkansas .....	Upgrade U.S. 65 in Faulkner and Van Buren Counties .....	3
515.	South Carolina .....	Construct high priority surface transportation projects eligible for Federal-aid highway funds .....	5.5
516.	Mississippi .....	Construct Lincoln Road extension, Lamar County .....	1.125
517.	Alaska .....	Construct Pt. Mackenzie Intermodal Facility .....	6.75
518.	Florida .....	Purchase and install I-275 traffic management system in Pinellas County .....	0.75
519.	Illinois .....	Construct U.S. Route 67 bypass project around Roseville .....	8.775
520.	Massachusetts .....	Upgrade I-495 interchange 17 and related improvements including along Route 140 .....	10.86
521.	Mississippi .....	Construct segments 2 and 3 of the Bryam-Clinton Corridor in Hinds County .....	0.6875
522.	New Jersey .....	Rehabilitate East Ridgewood Avenue over Route 17 in Bergen County .....	2.7
523.	Michigan .....	Construct interchange at U.S. 10/Bay City Road in Midland .....	3
524.	North Carolina .....	Construct U.S. Route 17, Elizabeth City Bypass .....	3.375
525.	Virginia .....	Smart Road connecting Blacksburg to I-81 .....	1.025
526.	Oregon .....	Construct passing lanes on Highway 58 between Kitson Ridge Road and Mile Post 47, Lane County .....	4.5
527.	Kansas .....	Construct grade separations on U.S. 36 and U.S. 77 in Marysville .....	3.15
528.	Virginia .....	Upgrade Route 501 in the counties of Bedford, Halifax, and Campbell .....	0.75
529.	Pennsylvania .....	Construct Robinson Town Centre intermodal facility .....	2.025
530.	Nevada .....	Construct the U.S. 395 Carson City Bypass .....	3.75
531.	Indiana .....	Feasibility study of State Road 37 improvements in Noblesville, Elwood and Marion .....	0.45

No.	State	Project description	(Dollars in millions)
532.	Pennsylvania .....	Construct Newton Hamilton SR 3021 over Juniata River in Mifflin County .....	1.5
533.	Pennsylvania .....	Reconstruct PA 309 in Eastern Montgomery with \$4,000,000 for noise abatement .....	15.588
534.	Alabama .....	Upgrade Opoto-Madrid Boulevard, Birmingham .....	1.05
535.	Virginia .....	Conduct feasibility study for the construction of I-66 from Lynchburg to the West Virginia border .....	0.5
536.	California .....	Rehabilitate pavement throughout Santa Barbara County .....	1.125
537.	Illinois .....	Design and construct I-72/MacArthur Boulevard interchange in Springfield ....	4.12525
538.	Illinois .....	Improve Constitution Avenue in Peoria ....	2.6625
539.	Michigan .....	Upgrade East Jordon Road, Boyne City ....	0.3
540.	Georgia .....	Construct noise barriers along GA 400 ....	1.5
541.	Florida .....	Construct North East Dade Bike Path in North Miami Beach .....	1.2
542.	Connecticut .....	Realign and extend Hart Street in New Britain .....	3
543.	Oregon .....	Construct roundabout at intersection of Highway 101 and Highway 202, Clatsop County .....	0.3
544.	New York .....	Replace Route 28 bridge over NY State Thruway, Ulster County .....	2.4
545.	California .....	Extend State Route 7 in Imperial County .....	6
546.	Texas .....	Construct FM2234 (McHard Road) from SH 35 to Beltway 8 at Monroe Boulevard .....	4.8
547.	Dist. of Columbia ..	Enhance recreational facilities along Rock Creek Parkway .....	0.04775
548.	California .....	Construct SR 78/Rancho Del Oro interchange in Oceanside .....	3.75
549.	Michigan .....	Upgrade M. L. King Drive, Genesee County .....	1
550.	California .....	Reconstruct Grand Avenue between Elm Street and Halcyon Road, Arroyo Grande .....	0.375
551.	Pennsylvania .....	Improve PA 41 between Delaware State line and PA 926 .....	5
552.	California .....	Construct Los Angeles County Gateway Cities NHS Access .....	6.6
553.	Michigan .....	Upgrade H 58 within Pictured Rocks National Lakeshore .....	4.2
554.	Dist. of Columbia ..	Rehabilitate Theodore Roosevelt Memorial Bridge .....	7.5
555.	Ohio .....	Undertake improvements to open Federal Street to traffic, Youngstown .....	2.08
556.	Pennsylvania .....	Improve PA 16 including intersection with Antrim Church Road .....	1
557.	Ohio .....	Construct State Route 209 from Cambridge and Byesville to the Guernsey County Industrial Park .....	2.2
558.	California .....	Construct Port of Oakland intermodal terminal .....	6
559.	New York .....	Construct Wellwood Avenue from Freemont Street to Montauk Highway in Lindenhurst .....	1.2
560.	Louisiana .....	Construct Louisiana Highway 1 from the Gulf of Mexico to U.S. 90 .....	0.5625
561.	Mississippi .....	Refurbish Satartia Bridge, Yazoo City .....	0.375

No.	State	Project description	(Dollars in millions)
562.	North Carolina .....	Construct bridge over Chockoyotte Creek in Halifax County .....	1.35
563.	Pennsylvania .....	Widen PA 413 in Bucks County .....	5.625
564.	North Carolina .....	Construct U.S. 13 from the Wilson/U.S. 264 Bypass to Goldsboro in Wayne and Wilson Counties .....	2.625
565.	Pennsylvania .....	Construct Erie Eastside Connector .....	16.2
566.	California .....	Construct Prunedale Bypass segment of U.S. 101, Monterey County .....	1.65
567.	New York .....	Construct access road from Lake Avenue to Milestrip Road in Blasdel .....	0.24
568.	California .....	Construct State Route 905 between I-805 and the Otay Mesa Border Crossing, San Diego County .....	16
569.	Mississippi .....	Build an interchange at I-55 with connectors to Madison and Ridgeland .....	2.25
570.	Minnesota .....	Trunk Highway 53 DWP railroad bridge replacement, St. Louis County .....	3.6
571.	Texas .....	Construct U.S. 77/83 Expressway extension, Brownsville .....	2.25
572.	New York .....	Upgrade and relocate Utica-Rome Expressway in Oneida County .....	14
573.	Pennsylvania .....	West Philadelphia congestion mitigation initiative .....	0.369
574.	Utah .....	Construct Phase II of the University Avenue Interchange in Provo .....	7.5
575.	California .....	Upgrade Osgood Road between Washington Boulevard and South Grimmer Boulevard, Fremont .....	1.5
576.	Missouri .....	Bull Shoals Lake Ferry in Taney County ..	0.52275
577.	Alaska .....	Construct capital improvements to the Alaska Marine Highway and related facilities in Ketchikan .....	2.25
578.	Maine .....	Improve Route 23 .....	0.375
579.	Tennessee .....	Construct U.S. 45 bypass, Madison County .....	1.5
580.	New York .....	Construct pedestrian access bridge from Utica Union Station .....	0.25
581.	Michigan .....	Upgrade Groveland Mine Road, Dickinson .....	0.375
582.	New York .....	Reconstruct Route 9 in Plattsburgh .....	2.5155
583.	Mississippi .....	Upgrade Goose Pond Subdivision Roads, Tallahatchie County .....	0.15
584.	Michigan .....	Construct U.S. 131 Cadillac Bypass project .....	2.25
585.	Pennsylvania .....	Construct Lawrenceville Industrial Access Road .....	7.5
586.	Massachusetts .....	Construct Housatonic-Hoosic bicycle network .....	3
587.	Connecticut .....	Construct the U.S. Route 7 bypass project, Brookfield to New Milford town line .....	3.75
588.	New Jersey .....	Construct road from the Military Ocean Terminal to the Port Jersey Pier, Bayonne .....	2.5
589.	Oregon .....	Repair Coos Bay rail bridge, Port of Coos Bay .....	5.5
590.	Minnesota .....	Complete construction of Forest Highway 11, Lake County .....	3.75
591.	Pennsylvania .....	Construct rail mitigation and improvement projects from Philadelphia to New Jersey Line .....	10

No.	State	Project description	(Dollars in millions)
592.	Louisiana .....	Upgrade Lapalco Boulevard between Barataria Boulevard and U.S. Highway. 90, Jefferson Parish .....	6
593.	Pennsylvania .....	Widen PA 228 from Criders Corners to State Route 3015 .....	0.9
594.	Pennsylvania .....	Improve PA 23 Corridor from U.S. 30 Bypass between Lancaster County line and Morgantown .....	2.5
595.	Pennsylvania .....	Widen SR 247 and SR 2008 between 84 and Lackawanna Valley Industrial Highway for the Moosic Mountain Business Park .....	8.175
596.	Massachusetts .....	Construct Nowottuck-Manhan Bike Trail connections, Easthampton, Amherst, Holyoke, Williamsburg and Northampton .....	3
597.	Texas .....	Reconstruct bridges across the channel for the Port of Corpus Christi .....	4
598.	Minnesota .....	Construct TH 1 east of Northome including bicycle/pedestrian trail .....	0.18
599.	Alabama .....	Construct U.S. 231/I-10 Freeway Connector from the Alabama border to Dothan .....	1.0125
600.	New York .....	Construct CR 3 at Southern State Parkway overpass between Long Island Expressway and Colonial Springs .....	1.12
601.	Massachusetts .....	Construct improvements along Route 18 to provide for access to waterfront and downtown areas, New Bedford .....	12
602.	Pennsylvania .....	Construct road connector and bridge over Allegheny River to link New Kensington with Allegheny Valley Expressway .....	3.75
603.	Michigan .....	Replace Chalk Hills Bridge over Menominee River .....	0.3
604.	Utah .....	Improve 5600 West Highway from 2100 South to 4100 South in West Valley City .....	3.75
605.	Pennsylvania .....	Construct Lackawanna River Heritage Trail in Lackawanna .....	0.375
606.	South Carolina .....	Widen and relocate SC 6 in Lexington County .....	6
607.	New York .....	Construct sound barriers on both sides of Grand Central Parkway between 172nd Street to Chevy Chase Road .....	1.455
608.	Connecticut .....	Improve Route 7 utility and landscaping in New Milford .....	5.4
609.	New York .....	Conduct North Road Corridor study in Oswego County .....	1.125
610.	Arkansas .....	Upgrade U.S. Route 412, Harrison to Mountain Home .....	2.6625
611.	New York .....	Construct full access controlled expressway along NY Route 17 at Parkville, Sullivan County .....	4.5
612.	Florida .....	Construct Englewood Interstate connector from River Road to I-75 in Sarasota and Charlotte Counties .....	5.5
613.	Minnesota .....	Reconstruct St. Louis CSAH 9 (Wallace Avenue) in Duluth from Fourth Street to Woodland Avenue .....	0.45

No.	State	Project description	(Dollars in millions)
614.	New Jersey .....	Design, construct, and expand industrial Roads connecting Carteret with Woodbridge, and Route 35 with Perth Amboy for increased truck traffic which will ease delays and traffic at Turnpike Exit 12 and Route 35 underpass east ....	3
615.	Virginia .....	Construct the Kemper Street Station connector road in Lynchburg .....	1.5
616.	Iowa .....	Improve IA 60 Corridor from LeMar to MN State line .....	6.6
617.	Michigan .....	Operation improvements on M 15 from I-75 north to the Genesee County line ....	0.5
618.	Virginia .....	Upgrade Danville Bypass in Pittsylvania	3
619.	Nebraska .....	Corridor study for Louisville South bypass from State Highway 66 to State Highway 50 .....	0.075
620.	Arkansas .....	Study and construct Van Buren intermodal port facility in Van Buren .....	0.225
621.	Alabama .....	Extend I-759 in Etowah County .....	13.5
622.	North Carolina .....	Widen U.S. 421 from North Carolina Route 194 to two miles East of U.S. 221	3.55
623.	New York .....	Reconstruct Ridge Road Bridge in Orange County .....	0.16
624.	South Carolina .....	Construct North Charleston Regional Intermodal Center .....	3
625.	Florida .....	Upgrade U.S. 319 between Four Points and Oak Ridge Road, Tallahassee .....	3.75
626.	Ohio .....	Complete safety/bicycle path in Madison Township .....	0.03
627.	Arkansas .....	Conduct design study and acquire right of way on U.S. 71 in the vicinity of Fort Chaffee, Fort Smith .....	3.75
628.	Mississippi .....	Construct East Metro Corridor in Rankin County .....	2.625
629.	Wyoming .....	Reconstruct Cheyenne Area Norris Viaduct .....	3.5
630.	New York .....	Design and construct Outer Harbor Bridge in Buffalo .....	6.06
631.	Pennsylvania .....	St. Thomas Signals Hade and Jack Rds U.S. 30 in Franklin County .....	0.15
632.	Texas .....	Upgrade State Highway 35 Yoakum District in Matagorda and Buazovia Counties .....	6.91
633.	Minnesota .....	Conduct highway construction between Highway 494 and Carver County Road 147 .....	3
634.	Utah .....	Widen 106th South from I-15 to Bangerter Highway in South Jordan ....	4.5
635.	Florida .....	Construct pedestrian overpass from the Florida National Scenic Trail over I-4 ...	1.875
636.	Illinois .....	Extend Rogers Street to mitigate congestion, Waterloo .....	1.425
637.	New York .....	Reconstruct and widen Route 78 from I-90 to Route 15 .....	4
638.	Ohio .....	Improve Alum Creek Drive from I-270 to Frebis Avenue in Franklin County .....	4
639.	Louisiana .....	Upgrade and widen I-10 between Williams Boulevard and Tulane Avenue in Jefferson and Orleans Parishes .....	8
640.	Michigan .....	Improve I-94 in Kalamazoo County .....	3.75



No.	State	Project description	(Dollars in millions)
641.	Pennsylvania .....	Improve PA 8 between Cherry Tree and Rynd Farm .....	4.8
642.	Washington .....	Construct passenger ferry facility to serve Southworth, Seattle .....	3.75
643.	Pennsylvania .....	Realign West 38th Street from Shunpike Road to Myrtle Street in Erie County ...	5.4
644.	Ohio .....	Replace Jacobs Road Bridge, Mahoning County .....	2
645.	Massachusetts .....	Upgrade Lowell Street between Woburn Street and Route 38, Town of Wilmington .....	1.08
646.	Oklahoma .....	Improve Battiest-Pickens Road between Battiest and Pickens in McCurtain County .....	1.6
647.	Indiana .....	Improve State Road 31 in Columbus .....	0.375
648.	Oregon .....	Construct bike path along Willamette River, Corvallis .....	0.8
649.	New York .....	Reconstruct Flushing Avenue between Humboldt Street and Cypress Avenue ...	3.75
650.	Missouri .....	Construct bike/pedestrian path between Delmar Metrolink Station and University City loop business district in St. Louis .....	0.6
651.	Wisconsin .....	Construct U.S. Highway 151 Fond du Lac Bypass .....	22.5
652.	Illinois .....	Upgrade U.S. 45 between Eldorado and Harrisburg .....	10.2
653.	Pennsylvania .....	Improve U.S. 22/Canoe Creek Blair County .....	1.5
654.	California .....	Reconstruct and widen Mission Road, Alhambra .....	2.4375
655.	West Virginia .....	Construct safety improvements on Route 82 (Fayette Station Road), Fayette County .....	1
656.	Ohio .....	Widen and reconstruct State Route 82 from Lorain/Cuyahoga County line to I.R. 77 .....	7
657.	Michigan .....	Facilitate access between I-75 and Soo Locks through road reconstruction, bikepath construction and related improvements, Sault Ste. Marie .....	0.375
658.	Kentucky .....	Construct Savage-Cedar Knob Bridge at Koger Creek .....	0.2625
659.	New York .....	Construct intermodal facility in New Rochelle, Westchester County .....	6.438
660.	Virgin Islands .....	Upgrade West-East corridor through Charlotte Amalie .....	6
661.	Ohio .....	Upgrade SR 800 rest stop in Monroe County .....	0.04
662.	Michigan .....	Improve the I-73 corridor in Jackson and Lenawee Counties .....	3.9375
663.	Nevada .....	Widen I-50 between Fallon and Fernley ...	3
664.	California .....	Improve and modify the Port of Hueneme Intermodal Corridor—Phase II in Ventura County .....	16.8
665.	Louisiana .....	Construct and equip Transportation Technology and Emergency Preparedness Center in Baton Rouge .....	5.4
666.	Michigan .....	Rehabilitate Lincoln Street, Negaunee .....	0.1275
667.	Missouri .....	Construct U.S. 67/Route 60 interchange in Popular Bluff .....	6

No.	State	Project description	(Dollars in millions)
668.	New York .....	Upgrade Riverside Drive between 97th Street and Tiemann, New York City .....	1.5
669.	New York .....	Capital improvements for the Red Hook Barge in NY/NJ for the Port Authority of NY/NJ .....	3
670.	Maryland .....	Upgrade U.S. 113 north of U.S. 50 to MD 589 in Worcester County .....	18
671.	Rhode Island .....	Implement transportation alternative relating to Court Street Bridge, Woonsocket .....	0.15
672.	Pennsylvania .....	Construct Frazier Township interchange on SR 28 in Alleghany .....	2.25
673.	California .....	Rehabilitate Artesia Boulevard .....	3
674.	Illinois .....	Undertake access improvements to U.S. Route 41, Chicago .....	2.8125
675.	Colorado .....	Construct Wadsworth Boulevard improvement project in Arvada .....	0.25
676.	Indiana .....	Construct I-70/Six Points interchange in Marion and Hendricks County .....	14.9625
677.	Alabama .....	Construct repairs to viaducts connecting downtown and midtown areas, Birmingham .....	0.45
678.	Illinois .....	Construct VFW Road/Veteran's Drive from Townline Road to Broadway Road in Pekin .....	3.69675
679.	Pennsylvania .....	Design, engineer, ROW acquisition and construct the Wilkes-Barre/Scranton International Airport Access Road between Route 315 and Commerce Boulevard .....	1.5
680.	Dist. of Columbia ..	Construct bicycle and pedestrian walkway (Metropolitan Branch Trail), Union Station to Silver Spring .....	8.5
681.	New Jersey .....	Construct interchange improvements and flyover ramps at I-80W to Route 23N in Passaic County .....	8.5
682.	Washington .....	Undertake SR 166 slide repair .....	4.875
683.	Connecticut .....	Reconstruct Broad Street in New Britain .....	2.4
684.	Massachusetts .....	Reconstruct Route 126 and replace bridge spanning Route 9, Town of Framingham .....	3.525
685.	New Mexico .....	Extend Unser Boulevard in Albuquerque .....	0.65
686.	Massachusetts .....	Implement Phase II of unified signage system, Essex County .....	0.29325
687.	New Hampshire ....	Construct Manchester Airport access road in Manchester .....	8.025
688.	Pennsylvania .....	Improve U.S. 22/PA 866 Intersection in Blair County .....	1.5
689.	California .....	Improve Rancho Santa Fe Road in Carlsbad .....	2.25
690.	New York .....	Renovate State Route 9 in Phillipstown ....	3.84
691.	Florida .....	Construct Greater Orlando Aviation Authority Consolidated Surface Access in Orlando .....	1.00575
692.	Missouri .....	Upgrade Route 169 between Smithville and north of I-435, Clay County .....	5
693.	Virginia .....	Renovate Greater Richmond Transit transportation facility, Richmond .....	3.75
694.	Texas .....	Conduct feasibility study on upgrading SH 16 in South Texas .....	0.1875

No.	State	Project description	(Dollars in millions)
695.	Florida .....	Construct interchange at 21st Street to provide access to Talleyrand Marine Terminal .....	9.475
696.	Pennsylvania .....	Gettysburg comprehensive road improvement study .....	3
697.	South Dakota .....	Construct Eastern Dakota expressways, to include construction of four-lane highways for South Dakota Highway 37 between Huron and Mitchell; U.S. Highway 83 between Pierre and I-90; and U.S. Highway 12 between Aberdeen and I-29 .....	34.804
698.	West Virginia .....	Construct Shawnee Parkway between junction with I-73/74 Corridor and I-77 .....	3.75
699.	Texas .....	Construct State Highway 121 from I-30 to U.S. 67 in Cleburne .....	25
700.	Ohio .....	Improve and construct SR 44/Jackson Street Interchange in Painesville .....	2
701.	California .....	Construct four-lane highway facility (Hollister Bypass), San Benito County .....	2.25
702.	Florida .....	Construct I-4 reversible safety lane in Orlando .....	10.5
703.	Ohio .....	Relocate Harrison/Belmont U.S. 250 .....	2
704.	Illinois .....	Widen 143rd Street in Orland Park .....	4
705.	Tennessee .....	Implement middle Tennessee alternative transportation system along the Stones River in Murfreesboro .....	9.5
706.	Florida .....	Construct County Road 470 Interchange with Florida Turnpike .....	6
707.	California .....	Implement safety and congestion mitigation improvements along Pacific Coast Highway, Malibu .....	0.65
708.	Dist. of Columbia ..	Conduct studies and related activities pertaining to proposed intermodal transportation center .....	0.75
709.	New Jersey .....	Construct Route 31 Fleming Bypass in Hunterdon County .....	11.55
710.	Massachusetts .....	Construct TeleCom Boulevard with access via Commercial Street and Corporation Way to the west of Malden River and with access via Santilli Highway to the east of the river in Everett, Medford and Malden .....	5.25
711.	Pennsylvania .....	Improve access to Raystown in Huntingdon County .....	1.125
712.	Illinois .....	Study upgrading Illinois 13/127 between Murphysboro and Pinckneyville .....	1.575
713.	Michigan .....	Widen Arch Street, Negaunee .....	0.06
714.	Georgia .....	Widen U.S. 84 South from U.S. 82 to the Ware County Line in Waycross and Ware Counties .....	2.4
715.	Michigan .....	Improve drainage on 6th Street in Menominee .....	0.1125
716.	Massachusetts .....	Replace Brightman Street bridge in Fall River .....	7.23
717.	Kentucky .....	Construct Newton Pike Extension between West Main Street to South Limestone in Lexington .....	6
718.	South Carolina .....	Construct pedestrian walkway and safety improvements along SC 277, Richland County .....	0.8

No.	State	Project description	(Dollars in millions)
719.	Illinois .....	Conduct Midwest Regional intermodal facility feasibility study in Rochelle .....	0.3
720.	Pennsylvania .....	Reconfigure I-81 Exit 2 Ramp in Franklin County .....	0.525
721.	Virginia .....	Planning and design for Coalfields Expressway, Buchanan, Dickenson, and Wise Counties .....	1
722.	Virginia .....	Construct the Lynchburg/Madison Heights bypass in Lynchburg .....	1.5
723.	Massachusetts .....	Construct Cambridge Roadways Improvement project, Cambridge .....	2.25
724.	Connecticut .....	Construct I-95 interchange, New Haven ..	19.5
725.	Pennsylvania .....	Conduct study and construct Ft. Washington transportation improvements, Upper Dublin .....	0.45
726.	Michigan .....	Reconstruct I-75/M 57 interchange .....	10.5
727.	Minnesota .....	Construct railroad crossing connecting University of MN with City of Crookston .....	0.15
728.	Massachusetts .....	Construct bicycle and pedestrian facility (The Riverwalk), Peabody .....	1.08
729.	Pennsylvania .....	Upgrade PA 61 between PA 895 and SR 2014, Schuylkill County .....	5
730.	Tennessee .....	Construct SR22 Bypass, Obion County .....	7.5
731.	California .....	Improve streets and highways, and/or construct sound walls, Thousand Oaks .....	1.25
732.	New York .....	Complete engineering, design, environment reviews and other preliminary work for the Miller Highway relocation project in New York .....	6
733.	Michigan .....	Construct M 5 Haggerty Connector .....	2.4
734.	Pennsylvania .....	Improve Sidling Hill Curve and Truck Escape in Fulton County .....	0.375
735.	Texas .....	Construct circumferential freeway loop around Texarkana .....	7.425
736.	Massachusetts .....	Reconstruct Route 2/Jackson Road interchange, Lancaster .....	2.7
737.	Washington .....	Improve Clinton Ferry Terminal .....	3.5
738.	California .....	Upgrade Bristol Street, Santa Ana .....	5.25
739.	Pennsylvania .....	Construct U.S. 30 Bypass from Exton Bypass to PA 10 .....	3
740.	Maine .....	Rehabilitate Piscataqua River bridges, Kittery .....	3.9375
741.	California .....	Construct extension of State Route 180 between Route 99 and the Hughes/West Diagonal .....	6
742.	California .....	Construct Ocean Boulevard and Terminal Island Freeway interchange in Long Beach, California .....	15
743.	Nevada .....	Extend I-580 in Washie and Douglas Counties .....	3.75
744.	Massachusetts .....	Preliminary design of Route 2 connector to downtown Fitchburg .....	1.5
745.	Illinois .....	Improve and construct grade separation on Cockrell Lane in Springfield .....	1.8
746.	Virginia .....	Acquire land and construct segment of Daniel Boone Heritage Trail (Kane Gap section), Jefferson National Forest .....	0.5
747.	Virginia .....	Construct Route 288 in the Richmond Metropolitan Area .....	18.75

No.	State	Project description	(Dollars in millions)
748.	New York .....	Construct congestion mitigation project for Brookhaven .....	3.75
749.	Ohio .....	Construct Licking-Thornwood Connector in Licking County .....	1.5
750.	Louisiana .....	Construct Florida Expressway in St. Bernard and Orleans Parishes .....	0.15
751.	Georgia .....	Construct North River Causeway and Bridge, St. Mary's County .....	2.175
752.	Missouri .....	Upgrade Eastern Jackson County, Jackson County .....	4.5
753.	Texas .....	Conduct MIS for Multimodal Downtown Improvement Project, San Antonio .....	0.75
754.	Kansas .....	Construct road and rail grade separations in Wichita .....	26.25
755.	Florida .....	Construct Cross Seminole Trail connection in Seminole County .....	1.125
756.	Oregon .....	Upgrade I-5/Highway 217 interchange, Portland .....	5.25
757.	Ohio .....	Construct St. Clairsville Bike Path in Belmont County .....	0.5
758.	South Carolina .....	Widen North Main Street, Columbia .....	9
759.	Hawaii .....	Upgrade Puuloa Road between Kamehameha Highway and Salt Lake Boulevard .....	6.75
760.	Alabama .....	Construct new I-10 bridge over the Mobile River in Mobile .....	10.78125
761.	Alaska .....	Construct Coffman Cove ferryboat .....	2.25
762.	Ohio .....	Upgrade U.S. 30 from Wooster to Riceland .....	22.5
763.	Missouri .....	Replace bridge on Route 92, Platte County .....	1
764.	Maryland .....	Reconstruct segment of Baltimore Beltway between U.S. 1 and I-70 .....	6.75
765.	Minnesota .....	Construct Gunflint Realignment project, Grand Marais .....	0.6
766.	Colorado .....	Construct alternative truck route in Montrose .....	4.2
767.	Pennsylvania .....	Improve I-95/PA 413 Interchange in Bucks County .....	5.625
768.	Hawaii .....	Construct improvements to H 1 between the Waiawa interchange and the Halawa interchange .....	15
769.	California .....	Construct new I-95 interchange with Highway 99W, Tehama County .....	2.2
770.	Florida .....	Widen U.S. 17/92 in Volusia County .....	1.35
771.	South Carolina .....	Construct I-77/SC #S-20-30 interchange, Fairfield County .....	5.25
772.	Illinois .....	Construct access road to Melvin Price Locks and Dam Visitors Center, Madison County .....	1.125
773.	Washington .....	Reconstruct I-5 interchange, City of Lacey .....	1.125
774.	Maryland .....	Construct improvements at I-270/MD 187 interchange .....	5.5
775.	Alabama .....	Construct Finley Avenue Extension East project .....	2.925
776.	Connecticut .....	Construct Greenmanville Avenue streetscape extension, including feasibility study, in towns of Groton, Stonington and Mystic .....	6.3
777.	Alabama .....	Construct Anniston Eastern Bypass from I-20 to Fort McClellan in Calhoun County .....	40.14

No.	State	Project description	(Dollars in millions)
778.	Louisiana .....	Construct Causeway Boulevard/Earhart Expressway interchange in Jefferson, Parish .....	4
779.	California .....	Create recreational trails in Santa Monica Mountains National Recreation Area .....	6
780.	Georgia .....	Widen and reconstruct Corder Road from Pineview Drive to the Russell Parkway .....	2.55
781.	Massachusetts .....	Construct Hyannis Intermodal Transportation Center, Hyannis .....	2.4
782.	Oregon .....	Construct South Rivergate rail overcrossing in Portland .....	11
783.	Arkansas .....	Improve Arkansas State Highway 59 from Rena Road to Old Uniontown Road in Van Buren .....	1.875
784.	Rhode Island .....	Reconstruct Pawtucket Avenue and Wilcott Street, Pawtucket .....	1.125
785.	New Hampshire ....	Improve the Bridge Street bridge in Plymouth .....	1.036
786.	Louisiana .....	Install computer signal synchronization system in Baton Rouge .....	4.875
787.	Pennsylvania .....	Improve Oxford Valley Road/U.S. 1 interchange in Bucks County .....	1.5
788.	Pennsylvania .....	Construct U.S. 6 Tunkhannock Bypass in Wyoming County .....	1.8
789.	Florida .....	Construct U.S. 17/92 and SR 436 interchange in Orange/Osceola/Seminole County region .....	2.0625
790.	North Carolina .....	Upgrade U.S. 13/NC 11 (including Bethel bypass) in Pitt and Edgecombe Counties .....	3.375
791.	Massachusetts .....	Conduct planning and engineering for connector route between I-95 and industrial/business park, Attleboro .....	0.8
792.	Virginia .....	Construct I-73 from Roanoke to the North Carolina border .....	6
793.	California .....	Upgrade Route 4 West in Contra Costa County .....	7.5
794.	Florida .....	Construct I-4/John Young Parkway interchange project in Orlando .....	10.24425
795.	Pennsylvania .....	Construct U.S. 202 Section 600 Phase I Early Action project in Upper Gwynedd and Lower Gwynedd .....	4.5
796.	Alabama .....	Construct Historic Whistler Bike Trail in Prichard, Alabama .....	0.5025
797.	Missouri .....	Upgrade Route 6 between I-29 and Route AC, St. Joseph .....	5
798.	Iowa .....	Conduct study of Port of Des Moines, Des Moines .....	0.075
799.	California .....	Improve State Route 57 interchange at Lambert Road in Brea .....	0.985
800.	Pennsylvania .....	Improve ramp junctions at intersection of SR 114 and Interstate 83, Fairview Township .....	3
801.	Mississippi .....	Upgrade Land Fill Road, Panola County ..	0.75
802.	California .....	Construct bike path between Sepulveda Basin Recreation Area and Warner Center/Canoga Park, Los Angeles .....	1.873
803.	Wisconsin .....	Upgrade U.S. 51 Tomahawk Bypass .....	3.75
804.	North Carolina .....	Construct segment of Raleigh Outer Loop, Wake County .....	2.025

No.	State	Project description	(Dollars in millions)
805.	Michigan .....	Conduct feasibility study on widening U.S. 12 to three lanes between U.S. 127 and Michigan Highway 50 .....	0.1875
806.	California .....	Widen U.S. 101 from Windsor to Arata Interchange .....	1.1
807.	Oregon .....	Upgrade access road and related facilities to Port of Port Orford .....	1.5
808.	Pennsylvania .....	Allegheny Trail from Pittsburgh, Pennsylvania to Cumberland, Maryland .....	6
809.	Texas .....	Improve I-35 West from Spur 280 to I-820 in Fort Worth .....	3
810.	Michigan .....	Reconstruct County Road 612 and County Road 491, Montmorency County .....	0.6825
811.	California .....	Improve Folsom Boulevard—Highway 50 in the City of Folsom .....	4.275
812.	Illinois .....	Improve Illinois Route 29 in Sangamon and Christian Counties .....	1.725
813.	Tennessee .....	Upgrade SR 386 between U.S. 31 to the Gallatin Bypass, Sumner County .....	1.06
814.	Washington .....	Improve primary truck access route on East Marine View Drive, FAST corridor in Washington .....	4.9
815.	Minnesota .....	Construct grade separated interchange at south junction of TH 371/Brainerd bypass .....	0.75
816.	California .....	Upgrade Greenville Road and construct railroad underpass, Livermore .....	5.1
817.	Washington .....	Construct State Route 305 corridor improvements in Poulsbo .....	3.15
818.	Tennessee .....	Widen U.S. 321 from Kinzel Springs to Wean Valley Road .....	6.825
819.	Iowa .....	Construct the Julien Dubuque Bridge over the Mississippi River at Dubuque .....	21
820.	Michigan .....	Conduct preliminary engineering, acquire right-of-way and construct I-75/North Down River Road interchange .....	1.125
821.	Virginia .....	Conduct historic restoration of Roanoke Passenger Station in Roanoke .....	0.5
822.	New York .....	Undertake Linden Place reconstruction project, Queens .....	5.25
823.	Illinois .....	Reconstruct interchange at I-294, 127th Street and Cicero Avenue with new ramps to the Tri-State Tollway, Alsip ....	23.495
824.	Louisiana .....	Improve U.S. 165 from Alexandria to Monroe .....	30
825.	Pennsylvania .....	Construct Western Innerloop from PA 26 to State Route 3014 .....	2.7
826.	Alaska .....	Improve Dalton Highway .....	3.75
827.	Pennsylvania .....	Relocate U.S. 219, Ridgeway, Pennsylvania, truck bypass connector along Osterhout Street .....	3.75
828.	Mississippi .....	Widen State Route 24 from Liberty to I-55 .....	0.6875
829.	California .....	Widen I-15 in San Bernardino County .....	18
830.	Virginia .....	Complete North Section of Fairfax County Parkway in Fairfax County .....	7.5
831.	New York .....	Rehabilitate segment of Henry Hudson Parkway between Washington Bridge and Dyckman Street, New York City .....	1.5
832.	Iowa .....	Relocate IA 192 and Avenue G viaduct in Council Bluffs .....	4.5

No.	State	Project description	(Dollars in millions)
833.	Pennsylvania .....	Improve T-344 Bridge over Mahantango Creek in Snyder County .....	0.525
834.	California .....	Construct Phase 3 of Alameda Street project, Los Angeles .....	2.5
835.	Texas .....	Construct Texas State Highway 49 between FM 1735 to Titus/Morris County line .....	4.8
836.	Virginia .....	Construct access road and related facilities for Fisher Peak Mountain Music Interpretive Center on Blue Ridge Parkway .....	2.7
837.	Michigan .....	Construct grade separation on Sheldon Road, Plymouth .....	5.25
838.	Michigan .....	Upgrade Three Mile Road, Grand Traverse .....	0.75
839.	Ohio .....	Relocate SR 30 for final design of south alternative in Carroll County .....	1
840.	Tennessee .....	Improve State Road 60 from Waterville to U.S. 64 in Bradley County .....	1.2
841.	Washington .....	Construct 192nd Street from SR 14 to SE 15 .....	3.75
842.	Wisconsin .....	Reconstruct U.S. Highway 10, Waupaca County .....	9
843.	Minnesota .....	Upgrade Highway 73 from 4.5 miles north of Floodwood to 22.5 miles north of Floodwood .....	2.775
844.	New York .....	Reconstruct Mamaroneck Avenue, White Plains, Harrison and Mamaroneck .....	4.375
845.	Pennsylvania .....	Reconfigure Pennsylvania Turnpike/Route 13 interchange .....	0.375
846.	Pennsylvania .....	Widen and improve Route 449 in Potter County .....	0.75
847.	Puerto Rico .....	Upgrade PR 3 between Rio Grande and Fajardo .....	6
848.	Illinois .....	Construct Peoria City River Center parking facility in Peoria .....	3
849.	New Jersey .....	Construct Route 29/129 bicycle, pedestrian and landscape improvement plan .....	4.125
850.	Tennessee .....	Upgrade Briley Parkway between McGavock Pike and I-65 .....	4.2
851.	Connecticut .....	Widen Route 4 in Torrington .....	2.1
852.	California .....	Widen 5th Street and replace 5th Street bridge in Highland, California .....	0.75
853.	Wisconsin .....	Construct U.S. Highway 10, Freemont to Appleton .....	3
854.	Missouri .....	Upgrade U.S. 71 interchange in Carthage, Missouri .....	0.75
855.	New York .....	Construct Fordham University regional transportation facility .....	1.75
856.	Missouri .....	Upgrade U.S. 63 in Howell County .....	6
857.	Alabama .....	Construct East Foley corridor project from Baldwin County Highway 20 to State Highway 59 .....	5.25
858.	New York .....	Reconstruct Washington County covered bridge project .....	1.7
859.	California .....	Upgrade Route 4 East in Contra Costa County .....	8.5
860.	Pennsylvania .....	Complete Broad Street ramps at Route 611 bypass in Bucks County .....	1.6725
861.	Missouri .....	Construct Strother Road/I-470 interchange, Jackson County .....	3



No.	State	Project description	(Dollars in millions)
862.	Massachusetts .....	Upgrade Route 9/Calvin Coolidge Bridge, Hadley .....	9.375
863.	Ohio .....	Rail mitigation and improvement projects from Vermillion to Conneaut .....	9
864.	Massachusetts .....	Construct I-95/I-93 interchange, Boston ..	3.75
865.	West Virginia .....	Construct Riverside Expressway, Fairmont .....	27
866.	Ohio .....	Construct greenway enhancements in Madison .....	2.3
867.	Tennessee .....	Reconstruct U.S. 27 in Morgan County ....	2.25
868.	West Virginia .....	Upgrade U.S. Route 35 between I-64 and South Buffalo Bridge .....	31
869.	California .....	Construct I-5/Avenida Vista Hermosa interchange in San Clemente .....	2.25
870.	Missouri .....	Upgrade Route 36 between Hamilton and Chillicothe .....	20
871.	Illinois .....	Replace Lebanon Avenue Bridge and approaches, Belleville .....	0.75
872.	Kentucky .....	Construct U.S. 127: \$5,250,000 for the Albany Bypass from KY696 to Clinton County High School and \$3,161,250 for the segment between KY696 and the Tennessee State Line .....	8.41125
873.	Tennessee .....	Improve U.S. 64 in Hardeman and McNairy Counties .....	3.75
874.	Connecticut .....	Replace bridges over Harbor Brook, Meriden .....	4.9125
875.	Colorado .....	Reconstruct I-225/Iliff Avenue interchange in Aurora .....	3.625
876.	Connecticut .....	Reconstruct I-84 between vicinity of Route 69 in Waterbury and Marion Avenue in Southington .....	4.5
877.	New York .....	Improve Cross Westchester Expressway ...	0.75
878.	Oregon .....	Design and engineering for intermodal transportation center, Astoria .....	0.225
879.	Hawaii .....	Construct Kapaa Bypass .....	8.25
880.	Pennsylvania .....	Construct enhancements and related measures, including purchase of vans for reverse commutes, to intermodal facility located at intersection of 52nd and Lancaster Avenue, Philadelphia .....	3
881.	Washington .....	Construct Edmonds Crossing Multimodal transportation project in Edmonds .....	4.5
882.	Ohio .....	Construct Chagrin River/Gulley Brook corridor scenic greenway along I-90 in Lake County .....	1.045
883.	California .....	Construct interchange between I-15 and Main Street in Hesperia, California .....	7.5
884.	Texas .....	Reconstruct State Highway 87 between Sabine Pass and Bolivar Peninsula, McFadden Beach .....	0.9705
885.	California .....	Widen State Route 29 between Route 281 and Route 175 .....	0.275
886.	New York .....	Construct Hudson River scenic overlook from Route 9 to Waterfront in Poughkeepsie .....	0.336
887.	Indiana .....	Expand 126th Street in Carmel .....	0.75
888.	Florida .....	Widen Gunn Highway between Erlich Road and South Mobley Road in Hillsborough County .....	1.5

No.	State	Project description	(Dollars in millions)
889.	Pennsylvania .....	Relocate PA 113 at Creamery Village in Skippack .....	2.7
890.	Michigan .....	Upgrade Van Dyke Road between M 59 and Utica City limits .....	2.775
891.	New Jersey .....	Replace the Ocean City-Longport bridge in Cape May County .....	19.5
892.	New York .....	Construct County Road 93 between NYS 27 and NYS 454 .....	0.515
893.	Mississippi .....	Upgrade Brister Road between Tutwiler and Coahoma County line, Tallahatchie County .....	0.3825
894.	California .....	Conduct highway 65 improvement and mitigation project .....	4.275
895.	Michigan .....	Construct road drainage improvements, Suttons Bay Village .....	0.18
896.	Pennsylvania .....	Construct 25.5 miles of the Perkiomen Trail .....	0.486
897.	Illinois .....	Upgrade Bishop Ford Expressway/142nd Street interchange .....	1.125
898.	Maine .....	Implement rural ITS .....	0.1875
899.	Mississippi .....	Widen U.S. 84 from I-55 at Brookhaven to U.S. 49 at Collins .....	0.6875
900.	Washington .....	Widen Columbia Center Boulevard in Kennewick .....	1.2075
901.	Indiana .....	Repair signal wires, grade-crossing warning devices and other safety protections along South Shore Railroad between Gary and Michigan City .....	0.275
902.	Florida .....	Replace St. Johns River Bridge in Volusia and Seminole Counties .....	10.5
903.	Louisiana .....	Construct East-West Corridor project in Southwest Louisiana .....	0.75
904.	New York .....	Improve and reconstruct Commerce Street in York Town .....	0.28
905.	Washington .....	Widen SR 522 in Snohomish County: \$3,650,000 for phase 1 from SR 9 to Lake Road; \$1,550,000 to construct segment from Paradise Lake Road to Snohomish River Bridge .....	5.2
906.	New Jersey .....	Design and construct pedestrian access facility from Joseph G. Minish Waterfront Park over Route 21 to the New Jersey Performing Arts Center and the contiguous light rail station in Newark .....	1
907.	Kentucky .....	Construct a segment of the I-66 corridor from Somerset to I-75 .....	11.25
908.	Michigan .....	Construct arterial connector between U.S. 41/M 28 and County Road 480, Marquette .....	0.375
909.	Wisconsin .....	Upgrade State Highway 29 between Green Bay and Wausau .....	9
910.	Georgia .....	Construct surface transportation facilities along Atlanta-Griffin-Macon corridor .....	29.25
911.	Oregon .....	Repair Port of Hood River Bridge Lift Span project .....	1.125
912.	Pennsylvania .....	Construct noise abatement barriers along U.S. 581 from I-83 2.0) miles west in Cumberland County .....	0.36
913.	Texas .....	Widen Highway 287 from Creek Bend Drive to Waxahacie bypass .....	5.125

No.	State	Project description	(Dollars in millions)
914.	Oregon .....	Design and engineering for Tualatin-Sherwood Bypass .....	0.375
915.	Texas .....	Implement “Hike and Bike” trail program, Houston .....	6
916.	New Hampshire ....	Widen I-93 from Salem north .....	9.36
917.	Tennessee .....	Construct State Route 30 from Athens to Etowah in McMinn County .....	7.74
918.	California .....	Undertake median improvements along E. 14th Street, San Leandro .....	0.75
919.	New Jersey .....	Construct Toms River bridge project connecting Dover and South Toms River Borough .....	2.25
920.	New York .....	Improve ferry infrastructure in Greenport	0.75
921.	Puerto Rico .....	Upgrade PR 30 between PR 203 in Gurabo to PR 31 in Juncos .....	6
922.	Pennsylvania .....	Improve access and interchange from I-95 to the international terminal at Philadelphia International Airport .....	3
923.	New Hampshire ....	Construct Orford Bridge .....	2.836
924.	Massachusetts .....	Construct roadway improvements on Crosby Drive and Middlesex Turnpike, Bedford, Burlington and Billerica .....	5.78775
925.	Illinois .....	Reconstruct Midlothian Turnpike, Robbins Plan, design and construct interchange between I-15 and Sante Fe Road in Barstow .....	0.216
926.	California .....		3
927.	Pennsylvania .....	Reconstruct and widen U.S. Route 222 to four-lane expressway between Lancaster/Berks County line and Grings Mill Road and construction of Warren Street extension in Reading .....	19
928.	Maryland .....	Upgrade roads within Leakin Park Intermodal Corridor, Baltimore .....	2.4
929.	Washington .....	Widen SR522 from SR 9 to Paradise Lake Road .....	3.6
930.	New York .....	Construct NYS Route 27 at intersection of North Monroe Avenue .....	4.215
931.	Michigan .....	Construct Detroit Metropolitan/Wayne County South Access Road .....	15
932.	Illinois .....	Reconstruct U.S. 6, Harvey .....	1.245
933.	New York .....	Redesign Grand Concourse to enhance traffic flow and related enhancements between E. 161st Street and Fordham Road, New York City .....	9.75
934.	Ohio .....	Construct Black River intermodal transportation center .....	3.45
935.	Connecticut .....	Rehabilitate Route 202 bridge in New Milford .....	2.025
936.	Pennsylvania .....	Construct park and ride facilities in Lower Bucks County .....	1.125
937.	Pennsylvania .....	Widen U.S. 11/15 between Mt. Patrick and McKees Half Falls in Perry County .....	3.75
938.	Illinois .....	Undertake Industrial Transportation Improvement Program in Chicago .....	3.2625
939.	California .....	Improve streets and construct bicycle paths, Agoura Hills .....	0.65
940.	California .....	Implement City of Compton traffic signal systems improvements .....	3.75
941.	Texas .....	Construct relief route around Alice .....	0.1875
942.	California .....	Reconstruct Harbor Boulevard/SR22 Interchange, City of Garden Grove .....	1.5

No.	State	Project description	(Dollars in millions)
943.	North Carolina .....	Upgrade U.S. 158 (including bypasses of Norlina, Macon and Littleton) in Halifax and Warren Counties .....	2.25
944.	Utah .....	Construct 7800 South from 1300 West to Bangerter Highway in West Jordan .....	5.85
945.	Utah .....	Widen and improve 123rd/126th South from Jordan River to Bangerter Highway in Riverton .....	4.5
946.	Kentucky .....	Construct U.S. 127 Jamestown Bypass .....	4.35
947.	Minnesota .....	Upgrade Cass County Road 105 and Crow Wing County Road 125, East Gull Lake .....	0.72
948.	Arkansas .....	Construct Highway 82 from Hamburg to Montrose .....	5.375
949.	Louisiana .....	Construct Port of South Louisiana Connector in Saint John the Baptist Parish .....	0.525
950.	Oregon .....	Rehabilitate Broadway Bridge in Portland .....	7.5
951.	Louisiana .....	Construct Metairie Rail Improvements and Relocation project in Jefferson and Orleans Parishes .....	6
952.	Washington .....	Construct Port of Longview Industrial Rail Corridor and Fibre Way Overpass in Longview .....	1.875
953.	New York .....	Study transportation improvements for segments of Hutchinson River Parkway and New England Thruway through the Northeast Bronx .....	1
954.	West Virginia .....	Construct I-73/74 Corridor, including connectors with WV Route 44 and County Route 13 (Gilbert Creek), Mingo County .....	9.05
955.	Washington .....	Improve I-90/Sunset Way interchange in Issaquah .....	14.85
956.	Indiana .....	Construct Marina Access Road in East Chicago .....	1
957.	Alabama .....	Construct bridge over Tennessee River connecting Muscle Shoals and Florence .....	10
958.	Illinois .....	Resurface 63rd Street from Western Avenue to Wallace, Chicago .....	0.5625
959.	North Carolina .....	Upgrade Highway 55 between U.S. 64 and State Route 1121, Wake and Durham Counties .....	17.25
960.	Indiana .....	Upgrade Ridge Road between Griffith and Highland .....	3.3
961.	Missouri .....	Construct Hermann Bridge on Highway 19 in Montgomery and Gasconade Counties .....	1.1
962.	New Jersey .....	Replace Groveville-Allentown Road bridge in Hanilton .....	2.4
963.	Missouri .....	Upgrade U.S. 60 in Carter County .....	20.25
964.	Georgia .....	Construct the Fall Line Freeway from Bibb to Richmond Counties .....	17.25
965.	Pennsylvania .....	Construct American Parkway Bridge project in Allentown .....	3
966.	Georgia .....	Upgrade U.S. Route 19 between Albany and Thomaston .....	3.75
967.	Georgia .....	Construct noise barriers on the west side of I-185 between Macon Road and Airport Thruway and on I-75 between Mt. Zion Road and Old Dixie Highway in the Atlanta area .....	0.75

No.	State	Project description	(Dollars in millions)
968.	Oregon .....	Construct I-205/Sunnyside/Sunnybrook interchange and related extension road, Clackamas County .....	17.2
969.	Minnesota .....	Widen Trunk Highway 14/52 from 75th Street, NW to Trunk Highway 63 in Rochester .....	9.75
970.	Minnesota .....	Upgrade CSAH 61 between TH324 and Snake River .....	0.9
971.	Utah .....	Construct underpass at 100th South in Sandy .....	3.51
972.	California .....	Improve roadway to provide access to Hansen Dam Recreation Area in Los Angeles .....	0.75
973.	New York .....	Construct Erie Canal Preserve I-90 rest stop in Port Byron .....	2.25
974.	Massachusetts .....	Construct bike path between Route 16 (Everett) to Lynn Oceanside .....	1.275
975.	Tennessee .....	Construct Kingsport Highway in Washington County .....	1.5
976.	Mississippi .....	Widen State Route 6 from Pontotoc to U.S. 45 at Tupelo .....	11.25
977.	Tennessee .....	Construct pedestrian and bicycle pathway to connect with the Mississippi River Trail, and restore adjacent historic cobblestones on riverfront, Memphis .....	2.25
978.	California .....	Construct improvements to Harry Bridges Boulevard, Los Angeles .....	6.5
979.	Nebraska .....	Construct NE 35 alternative and modified route expressway in Norfolk and Wayne .....	3.375
980.	Michigan .....	Upgrade Davison Road between Belsay and Irish Roads, Genessee County .....	3.2
981.	West Virginia .....	Relocate segment of Route 33 (Scott Miller Bypass), Roane County .....	4
982.	California .....	Rehabilitate B Street between Foothill Boulevard and Kelly Street, Hayward ..	0.525
983.	Pennsylvania .....	Construct exit ramp on I-180 at State Route 2049 in Lycoming County .....	7.875
984.	California .....	Improve streets and related bicycle lane in Oak Park, Ventura County .....	0.466
985.	Ohio .....	Upgrade 11 warning devices on the rail north/south line from Toledo to Deshler .....	0.825
986.	Alabama .....	Expand U.S. 278 in Cullman County .....	5.4
987.	California .....	Improve the Avenue H overpass in Lancaster .....	4.575
988.	New York .....	Construct U.S. 219 from Route 39 to Route 17 .....	20
989.	Texas .....	Widen State Highway 35 from SH288 in Angleton to FM521 and dedicate \$630,000 to the acquisition of right-of-way in Brazoria County .....	5.175
990.	Alaska .....	Extend Kenai Spur Highway-North Road in Kenai Peninsula Borough .....	6
991.	Washington .....	Construct Interstate 405/NE 8th Street interchange project in Bellevue .....	17.625
992.	Tennessee .....	Implement ITS technologies, Nashville .....	2.8
993.	Texas .....	Construct Galveston Island Causeway Expansion project, Galveston .....	0.5475
994.	Michigan .....	Improve I-69 in Branch, Eaton and Calhoun Counties .....	1.875
995.	California .....	Improve streets in Canoga Park and Reseda areas, Los Angeles .....	1

No.	State	Project description	(Dollars in millions)
996.	Illinois .....	Undertake improvements to 127th Street, Cicero Avenue and Route 83 to improve safety and facilitate traffic flow, Crestwood .....	2
997.	Ohio .....	Construct new traffic signal and intersection upgrade for Village of Hebron in Licking County .....	0.06
998.	California .....	Upgrade U.S. 101 from Eureka to Arcata .....	0.65
999.	Pennsylvania .....	Construct bicycle and pedestrian facility between Washington's Landing and Millvale Borough, Allegheny County .....	0.4
1000.	New York .....	Construct Maybrook Corridor bikeway in Dutchess County .....	1.404
1001.	California .....	Construct I-10/Barton Road West/Ander- son Street connection .....	3.75
1002.	Mississippi .....	Construct Jackson International Airport Parkway and connectors from High Street to the Jackson International Air- port in Jackson .....	7.5
1003.	New Jersey .....	Upgrade I-78 interchange and West Peddie Street ramps, Newark .....	3.725
1004.	California .....	Implement enhanced traffic access be- tween I-10, area hospitals and southern portion of Loma Linda .....	1.5
1005.	Ohio .....	Construct SR 711 connector four-lane lim- ited access highway in Mahoning Coun- ty .....	25
1006.	Iowa .....	Extend NW 86th Street from NW 70th Street to Beaver Drive in Polk County ..	5.25
1007.	California .....	Construct State Route 56 North connec- tors at I-5 and North and South connec- tors at I-15 in San Diego .....	3
1008.	Arkansas .....	Construct the Ashdown Bypass/Overpass in Ashdown .....	3.875
1009.	Colorado .....	Reconstruct and upgrade I-70/I-25 Inter- change, Denver .....	9
1010.	Louisiana .....	Construct Zachary Taylor Parkway project .....	1
1011.	Michigan .....	Upgrade Rochester Road between I-75 and Torpsey St .....	9.225
1012.	Louisiana .....	Construct I-10/Louisiana Avenue inter- change .....	6
1013.	New York .....	Construct County Route 21, Peekskill Hol- low Road renovation project .....	7.577
1014.	Georgia .....	Undertake Perimeter Central Parkway Overpass project and Ashford Dunwoody interchange improvements at I-285, De Kalb County .....	0.075
1015.	Minnesota .....	Upgrade Highway 53 between Virginia and Cook .....	1.5
1016.	New York .....	Initiate study and subsequent develop- ment and engineering of an inter- national trade corridor in St. Lawrence County .....	1.5
1017.	California .....	Construct Alameda Corridor East, San Gabriel Valley .....	2.205
1018.	Arkansas .....	Upgrade Highway 63, Marked Tree to Lake David .....	10
1019.	Louisiana .....	Congestion mitigation and safety improve- ments to the Central thruway in Baton Rouge .....	2.25

No.	State	Project description	(Dollars in millions)
1020.	Maryland .....	Reconstruct Baltimore Washington Parkway at Route 197, Prince Georges County .....	11.25
1021.	Ohio .....	Construct Wilmington Bypass, Wilmington .....	3.75
1022.	Texas .....	Construct Houston Street Viaduct project in Dallas .....	5.125
1023.	West Virginia .....	Construct I-73/74 Corridor, including interchange with U.S. 460, Mercer County .....	15
1024.	Massachusetts .....	Reconstruct Pleasant Street-River Terrace, Holyoke .....	1.2
1025.	Ohio .....	Improve and widen SR 45 from North of the I-90 interchange to North Bend Road in Ashtabula County .....	6.17
1026.	Rhode Island .....	Install directional signs in Newport and surrounding communities .....	0.225
1027.	Minnesota .....	Construct Highway 210 trail/underpass, Brainerd/Baxter .....	0.48
1028.	Florida .....	A-1-A Beautification project in Daytona ..	3.3
1029.	Ohio .....	Widen Licking SR 79-06.65 (PID 8314) in Licking County .....	9
1030.	Texas .....	Relocate railroad tracks to eliminate road crossings, and provide for the rehabilitation of secondary roads providing access to various parts of the Port and the construction of new connecting roads to access new infrastructure safely and efficiently, Brownsville .....	4.5
1031.	Oklahoma .....	Reconstruct U.S. 70 from Broken Bow to Arkansas State line in McCurtain County .....	3.93
1032.	Tennessee .....	Improve County Road 374 in Montgomery County .....	3.75
1033.	Virginia .....	Enhance Maple Avenue streetscape in Vienna .....	2.025
1034.	Connecticut .....	Widen Route 10 from vicinity of Lazy Lane to River Street in Southington .....	3.48
1035.	Florida .....	Widen U.S. 192 between County Route 532 and I-95 in Brevard and Osceola Counties .....	18.75
1036.	Louisiana .....	Construct Leeville Bridge on LA 1 .....	1.125
1037.	Illinois .....	Construct I-57 interchange, Coles County	8.15
1038.	Massachusetts .....	Upgrade Route 2 between Philipston and Greenfield .....	3
1039.	New Jersey .....	Construct and/or reconstruct intermodal transportation and maintenance facility in Union City in order to replace the NJ Transit depot .....	2
1040.	Illinois .....	Construct Technology Avenue between U.S. Route 45 East to Willenborg Street, Effingham .....	2.735
1041.	New Jersey .....	Replace Maple Grange Road bridge over Pochuck Creek in Sussex County .....	1.35
1042.	New York .....	Construct CR 96 from Great South Bay to Montauk Highway in Suffolk County ....	0.275
1043.	Virginia .....	Construct connector road from the proposed U.S. 58 Stuart bypass to Route 8 South beginning at the intersection of Johnson Street in Stuart to Route 652 ..	5.25

No.	State	Project description	(Dollars in millions)
1044.	Pennsylvania .....	Replace bridge over Shermans Creek in Carroll .....	0.75
1045.	Connecticut .....	Construct bicycle and pedestrian walkway, Town of East Hartford .....	0.9
1046.	Ohio .....	Construct grade separations at Front Street and Bagley Road, Berea .....	14.25
1047.	Alabama .....	Upgrade SR 5 in Perry County .....	1.275
1048.	Connecticut .....	Implement Trinity College Area road improvements, Hartford .....	5.1075
1049.	Louisiana .....	Construct North/South Road/I-10-U.S. 61 connection in Kenner .....	5
1050.	New Jersey .....	Design and construction Belford Ferry Terminal in Belford .....	3.45
1051.	Michigan .....	Construct safety enhancements at rail crossings, Linden, Fenton, Swartz Creek and Gaines .....	0.75
1052.	California .....	Extend 7th Street between F Street and North 7th Street, Sacramento .....	1.5
1053.	Massachusetts .....	Upgrade Spring Street between Bank and Latham Streets, Williamstown .....	1.5
1054.	California .....	Complete Citraeado Parkway project in San Diego County .....	2.25
1055.	Indiana .....	Conduct railroad relocation study in Muncie .....	0.045
1056.	Connecticut .....	Improve Route 4 intersection in Harwinton .....	1.35
1057.	Missouri .....	Widen U.S. 63 in Randolph and Boone Counties .....	31.5
1058.	New York .....	Construct City of Glen Cove waterfront improvements .....	3.75
1059.	Illinois .....	Reconstruct Greenbriar Road with construction of new turn lanes in vicinity of John A. Logan College in Carterville ....	1.05
1060.	Tennessee .....	Construct bridge and approaches on State Route 33 over the Tennessee River (Henley Street Bridge) .....	9.9
1061.	Ohio .....	Construct SR 315 Ohio State University Ramp project in Franklin County .....	3.5
1062.	Nevada .....	Improve at-grade railroad crossings in Reno .....	1.875
1063.	Pennsylvania .....	Construct Williamsport-Lycoming County Airport Access road from I-180 to the airport .....	5.25
1064.	Minnesota .....	Construct bicycle and pedestrian facility (Mesabi Trail), St. Louis County .....	2.25
1065.	Florida .....	Widen State Road 44 in Volusia County ...	1.6875
1066.	Missouri .....	Upgrade MO Route 150, Jackson County	4.5
1067.	Nebraska .....	Construct bridge in Newcastle .....	3
1068.	Pennsylvania .....	Construct PA 36 Convention Center Connector in Blair County .....	0.75
1069.	Illinois .....	Rehabilitate Western Springs Arterial Roadway, Cook County .....	0.825
1070.	California .....	Rehabilitate Highway 1 in Guadalupe .....	0.375
1071.	Utah .....	Widen 7200 South in Midvale .....	0.99
1072.	Iowa .....	Construct I-29 airport interchange overpass in Sioux City .....	4.65
1073.	Florida .....	Restore and rehabilitate Miami Beach Bridge and waterfront in Miami Beach, Florida .....	1.35
1074.	Washington .....	Improve Huntington Avenue South in Castle Rock .....	0.5625



No.	State	Project description	(Dollars in millions)
1075.	Minnesota .....	Implement Trunk Highway 8 Corridor projects, Chisago County .....	12.475
1076.	Michigan .....	Relocate U.S. 31 from River Road to Naomi Road in Berrian County .....	13.5
1077.	South Carolina .....	Construct I-95/I-26 interchange, Orangeburg County .....	8.5
1078.	Texas .....	Upgrade State Highway 35 Houston District Brazoria County .....	6.92
1079.	Maryland .....	Improve Halfway Boulevard east and west of Exit 5, I-81 in Washington County ...	3
1080.	California .....	Upgrade D Street between Grand and Second Streets, Hayward .....	0.9
1081.	New Jersey .....	Undertake improvements associated with the South Amboy Regional Intermodal Center .....	12
1082.	New York .....	Replace Kennedy-class ferries, Staten Island .....	30
1083.	Texas .....	Expand Winters Freeway (U.S. 83/84) in Abilene between Southwest Drive and U.S. 277 .....	8.4
1084.	Maine .....	Replacement and renovation of Carlton Bridge, Bath/Woolwich .....	6
1085.	New York .....	Rehabilitate Jay Covered Bridge in Essex County .....	0.75
1086.	Minnesota .....	Construct Elk River bypass from 171st Avenue at Highway 10 to intersection of County Roads 12 and 13 at Highway 169 .....	2.4
1087.	Pennsylvania .....	Construct Route 72 overpass at Conrail in Lebanon .....	6.6075
1088.	Indiana .....	Upgrade Route 31 and other roads, St. Joseph and Elkhart Counties .....	4.5
1089.	California .....	Install call boxes along Highway 166 between intersection with Highway 101 and junction with Highway 33 .....	0.216
1090.	New Hampshire ...	Construct Chestersfield Bridge .....	2.536
1091.	Oregon .....	Construct bike path between Terry Street and Greenhill Road, Eugene .....	1.17
1092.	Dist. of Columbia ..	Conduct MIS of light rail corridors .....	0.75
1093.	Arkansas .....	Enhance area in the vicinity of Dickson Street in Fayetteville .....	1.125
1094.	Pennsylvania .....	Extend North Delaware Avenue between Lewis Street and Orthodox Street, Philadelphia .....	4.2
1095.	Indiana .....	Reconstruct Wheeling Avenue in Muncie ..	1.2
1096.	Ohio .....	Construct interchange at I-480 in Independence .....	3.5
1097.	Pennsylvania .....	Relocate PA 18 between 9th Avenue and 32nd Street, Beaver Falls .....	1.05
1098.	Alabama .....	Construct Eastern Shore Trail project in Fairhope .....	1.01625
1099.	Maine .....	Studies and planning for extension of I-95	2.125
1100.	Alabama .....	Replace bridge over Tombigbee River, Naheola .....	2.25
1101.	Illinois .....	Reconstruct Cossitt Avenue in LaGrange	1.485
1102.	New York .....	Improve Broadway in North Castle in Westchester County .....	1.26
1103.	New York .....	Construct access improvements to Port of Rochester Harbor, Rochester .....	12
1104.	Illinois .....	Reconstruct Broad Street between Maple Street to Sixth Street, Evansville .....	0.2625

No.	State	Project description	(Dollars in millions)
1105.	California .....	Widen SR 71 from Riverside County to SR 91 .....	13
1106.	Alabama .....	Construct improvements to 19th Street between I-59 and Tuxedo Junction, Birmingham .....	0.675
1107.	Pennsylvania .....	Improve safety on PA 41 from U.S. 30 to PA 926 .....	6
1108.	Texas .....	Construct 6th and 7th Street overpass over railroad yard, Brownsville .....	0.375
1109.	California .....	Upgrade intersection of Folsom Boulevard and Power Inn Road, Sacramento .....	7.5
1110.	Illinois .....	Replace Gaumer Bridge near Alvin .....	0.9
1111.	Minnesota .....	Upgrade TH6 between Talmoon and Highway 1 .....	0.9
1112.	Michigan .....	Extend Trowbridge Road from Harrison Road to Red Cedar Road .....	1.875
1113.	New York .....	Reconstruct Flushing Avenue between Wycoff Avenue and Gates Street .....	2.25
1114.	California .....	Construct I-580 interchange, Livermore ...	9.9
1115.	Illinois .....	Upgrade South Lake Shore Drive between 47th and Hayes, Chicago .....	5.85
1116.	Pennsylvania .....	Improve PA 26 in Huntingdon County .....	0.75
1117.	Virgin Islands .....	Construct bypass around Christiansted ...	6
1118.	New Mexico .....	Complete the Paseo del Norte East Corridor in Bernalillo County .....	3.325
1119.	California .....	Upgrade Industrial Parkway Southwest between Whipple Road and improved segment of the parkway, Hayward .....	0.45
1120.	Kansas .....	Widen U.S. 81 from Minneapolis, Kansas to Nebraska .....	20.85
1121.	New York .....	Construct sound barriers on Grand Central Parkway between 244th Street and Douglaston Parkway .....	0.375
1122.	New York .....	Construct Bike Paths along the Bronx River in Bronx Park .....	0.25
1123.	Pennsylvania .....	Conduct preliminary engineering and design for the U.S. 219 bypass of Bradford .....	0.75
1124.	Utah .....	Widen and improve 123rd/126th South from 700 East to Jordan River in Draper .....	6.3
1125.	California .....	Construct Olympic Training Center Access road, Chula Vista .....	5
1126.	Florida .....	Pedestrian safety initiative on U.S. 19 in Pinellas County .....	5.1
1127.	Texas .....	Construct U.S. Highway 59 railroad crossing overpass in Texarkana .....	2.625
1128.	Illinois .....	Widen and improve U.S. 34 interchange in Aurora .....	6
1129.	Connecticut .....	Construct Hartford Riverwalk South, Hartford .....	2.64
1130.	New York .....	Rehabilitate transportation facilities in CO-OP City .....	1
1131.	Florida .....	Widen and realign Eller Drive in Port Everglades .....	4.2
1132.	Mississippi .....	Construct I-20 interchange at Pirate Cove .....	0.75
1133.	Mississippi .....	Widen U.S. 98 from Pike County to Foxworth .....	0.6875
1134.	Pennsylvania .....	Improve Route 219 in Clearfield County ...	0.75
1135.	Michigan .....	Replace Barton Road/M 14 interchange, Ann Arbor .....	0.75

No.	State	Project description	(Dollars in millions)
1136.	Nebraska .....	Construct the Antelope Valley Overpass in Lincoln .....	5.625
1137.	New York .....	Reconstruct Niagara Street, Quay Street, and 8th Street including realignment of Qual Street and 8th Avenue in Niagara Falls .....	2.625
1138.	California .....	Upgrade and synchronize traffic lights in the Alameda Corridor East in Los Angeles County .....	17.25
1139.	Illinois .....	Widen U.S. 20 in Freeport .....	3.825
1140.	Kentucky .....	Reconstruct Liberty and Todd Roads, Lexington .....	6
1141.	New Jersey .....	Upgrade Montvale/Chestnut Ridge Road and Grand Avenue intersection at Garden State Parkway in Bergen County ...	0.375
1142.	California .....	Widen SR 23 between Moorpark and Thousand Oaks .....	10.5
1143.	Utah .....	Extend Main Street from 5600 South to Vine Street in Murray .....	10.35
1144.	Pennsylvania .....	Construct access road to Hastings Industrial Park, Cambria County .....	3.05
1145.	New Jersey .....	Improve Old York Road/Rising Run Road intersection in Burlington .....	4.98
1146.	Michigan .....	Construct deceleration lane in front of 4427 Wilder Road, Bay City .....	0.015
1147.	Pennsylvania .....	Construct I-81 noise abatement program in Dauphin County .....	0.48
1148.	Washington .....	Construct Peace Arch Crossing of Entry (PACE) lane in Blaine .....	4.9
1149.	New York .....	Traffic Mitigation Project on William Street and Losson Road in Cheektowaga .....	3
1150.	Arkansas .....	Construct North Belt Freeway .....	5.25
1151.	Ohio .....	Improve and widen SR 91 from SR 43 south to county line/city line in Solon ....	4.25
1152.	Texas .....	Upgrade U.S. Route 59 between U.S. 281 to I-37 .....	12
1153.	Michigan .....	Construct M 24 Corridor from I-69 to southern Lapeer County .....	2
1154.	Tennessee .....	Construct greenway and bicycle path corridor, City of White House .....	3.2
1155.	Massachusetts .....	Rehabilitate Union Station in Springfield .....	12
1156.	Pennsylvania .....	Install city-wide signalization (SAMI) project in Lebanon .....	0.75
1157.	Washington .....	Widen SR 543 from I-5 to International Boundary .....	10.2
1158.	Hawaii .....	Replace Sand Island bridge .....	0.75
1159.	West Virginia .....	Upgrade Route 10 between Logan and Man .....	50
1160.	Florida .....	Expand Palm Valley Bridge in St. Johns County .....	3.1
1161.	Michigan .....	Improve U.S. 31 from Holland to Grand Haven .....	2.25
1162.	Florida .....	Upgrade U.S. 319 between I-10 and the Florida/Georgia State line .....	3.75
1163.	Colorado .....	Improve SH 74/JC 73 interchange, City of Evergreen in Jefferson County .....	4.188
1164.	Pennsylvania .....	Improve Route 94 Corridor through Hanover to Maryland State Line .....	6
1165.	California .....	Undertake San Pedro Bridge project at SR 1, Pacifica .....	1.125

No.	State	Project description	(Dollars in millions)
1166.	Michigan .....	Upgrade Tittabawasee Road between Mackinaw Road and Midland Road, Saginaw County .....	3
1167.	Illinois .....	Improve IL 159 in Edwardsville .....	3.20625
1168.	Virginia .....	Improve East Eldon Street in Herndon .....	0.375
1169.	Texas .....	Construct Cleveland Bypass .....	10.125
1170.	Utah .....	Widen SR 36 from I-80 to Mills Junction .....	2.25
1171.	New Jersey .....	Eliminate Berlin Circle and signalize intersection in Camden .....	6
1172.	Arkansas .....	Upgrade U.S. Route 412, Fulton County line to Missouri State line .....	7.5
1173.	California .....	Upgrade Del Almo Boulevard at I-405 .....	5
1174.	Pennsylvania .....	Improve access to McKeesport-Duquesne Bridge .....	2.15
1175.	North Carolina .....	Construct U.S. 64/264 in Dare County .....	0.75
1176.	California .....	Construct Gene Autry Way/I-5 Access project, Anaheim .....	6.75
1177.	Arizona .....	Construct Veterans' Memorial overpass in Pima County .....	11.25
1178.	Virginia .....	Conduct preliminary engineering on I-73 between Roanoke and Virginia/North Carolina State line .....	3
1179.	Mississippi .....	Upgrade roads, Washington County .....	3.3075
1180.	Tennessee .....	State Highway 109 upgrade planning and engineering, Sumner County .....	1.84
1181.	Florida .....	Construct John Young Parkway/I-4 interchange .....	6
1182.	Illinois .....	Rehabilitate and upgrade 87th Street Station to improve intermodal access .....	1.7715
1183.	Ohio .....	Upgrade SR 124 between Five Points and Ravenswood Bridge, Meigs County .....	3.75
1184.	Colorado .....	Construct Broadway Viaduct, Denver .....	3
1185.	New York .....	Construct Bay Shore Road SR 231 to SR 27 in Suffolk County .....	7.53
1186.	North Dakota .....	Construct Jamestown bypass .....	3.6
1187.	Ohio .....	Upgrade State Route 18 between I-71 and I-77 .....	1.55
1188.	California .....	Construct Overland Drive overcrossing in Temecula .....	3.75
1189.	Ohio .....	Upgrade U.S. Route 422 through Girard ..	4.72
1190.	Mississippi .....	Widen MS 45 from Brooksville to U.S. 82 in Mississippi .....	3.375
1191.	California .....	Extend Highway 41 in Madera County .....	5.5
1192.	Missouri .....	Construction and upgrade of U.S. 71/I-49 in Newton and McDonald County .....	24.97725
1193.	North Carolina .....	Upgrade U.S. 158 in Warren and Halifax Counties .....	2.25
1194.	Illinois .....	Reconstruct I-74 through Peoria .....	2
1195.	Minnesota .....	Construct Shepard Road/Upper Landing interceptor, St. Paul .....	2.25
1196.	Texas .....	Construct segment 1 of a bypass to I-35 known as SH 130. The State of Texas shall consult with all appropriate local officials, representatives of the affected local communities, and provide for public comment prior to determining a final alignment for the project .....	13.5
1197.	Washington .....	Redevelop Port of Anacortes waterfront ...	0.05
1198.	California .....	Construct I-15 Galinas interchange in Riverside County .....	6.375

No.	State	Project description	(Dollars in millions)
1199.	New Jersey .....	Replace Kinnaman Avenue bridge over Pohatcong Creek in Warren county .....	1.2
1200.	Michigan .....	Upgrade (all weather) on U.S. 2, U.S. 41, and M 35 .....	1.275
1201.	Maine .....	Upgrade Route 11 .....	3
1202.	Rhode Island .....	Reconstruct Harris Avenue, Woonsocket ..	1.5
1203.	Oregon .....	Construct bike path between Main Street/ Highway 99 in Cottage Grove to Row River Trail, Cottage Grove .....	0.23
1204.	Maine .....	Improve Route 26 .....	1.125
1205.	New York .....	Rehabilitate Third Avenue Bridge over Harlem River, New York City .....	1.5
1206.	New Hampshire ....	Construct the Keene bypass .....	4.899
1207.	New Jersey .....	Construct grade separation of Route 35 and Tinton Falls and extend Shrewsbury Avenue in Monmouth .....	3.75
1208.	California .....	Reconstruct La Loma Bridge in Pasadena	2.25
1209.	Indiana .....	Remove and replace Walnut Street in Muncie .....	1.605
1210.	Arkansas .....	Construct U.S. 270 East-West Arterial in Hot Springs .....	6.875
1211.	Oklahoma .....	Reconstruct and widen I-40 Crosstown Bridge and Realignment in downtown Oklahoma City, including demolition of the existing bridge, vehicle approach roads, interchanges, intersections, signalization and supporting structures between I-35 and I-44 .....	72.7875
1212.	Texas .....	Widen Meacham Boulevard from I-35W to FM 146 and extend Meacham Boulevard from west of FM 156 to North Main Street .....	2
1213.	Minnesota .....	Upgrade CSAH 116 north of CSAH 88 in Ely .....	1.2
1214.	Mississippi .....	Upgrade West County Line Road, City of Jackson .....	8.25
1215.	California .....	Construct Imperial Highway grade separation and sound walls at Esperanza Road/Orangethorpe Avenue in Yorba Linda .....	12.515
1216.	Nevada .....	Widen I-15 from California State line to Las Vegas .....	1.875
1217.	Connecticut .....	Improve and realign Route 8 in Winchester .....	1.515
1218.	Oklahoma .....	Reconstruct U.S. 70 in Marshall and Bryan Counties .....	0.11
1219.	Pennsylvania .....	Construct California University of Pennsylvania intermodal facility .....	1
1220.	Arkansas .....	Construct turning lanes at U.S. 71/AR 8 intersection in Mena .....	0.1875
1221.	Michigan .....	Construct intermodal freight terminal in Wayne County .....	18
1222.	Pennsylvania .....	Improve PA 17 from PA 274 to PA 850 in Perry County .....	0.75
1223.	Indiana .....	Install traffic signalization system in Muncie .....	0.675
1224.	Illinois .....	Upgrade U.S. 40 in Martinsville .....	0.094
1225.	Indiana .....	Construct SR 9 bypass in Greenfield .....	2.3625
1226.	Kentucky .....	Conduct feasibility study for Northern Kentucky High Priority Corridor (I-74)	0.375

No.	State	Project description	(Dollars in millions)
1227.	Hawaii .....	Construct interchange at junction of proposed North-South road and H 1 .....	1.5
1228.	Florida .....	Construct improvements to JFK Boulevard, Eatonville .....	0.75
1229.	Mississippi .....	Construct access improvements to various roads, Humphreys County .....	0.75
1230.	South Dakota .....	Construct Heartland Expressway Phase I .....	6.505
1231.	Illinois .....	Construct Raney Street Overpass in Effingham .....	4.4
1232.	Texas .....	Road improvements along historic mission trails in San Antonio .....	1.875
1233.	New York .....	Construct Elmira Arterial from Miller to Cedar .....	2.25
1234.	Ohio .....	Construct a new interchange at County Road 80 and I-77 in Dover with \$100,000 to preserve or reconstruct the Tourism Information Center .....	7.1
1235.	California .....	Construct Airport Boulevard interchange in Salinas .....	6
1236.	Massachusetts .....	Construct South Weymouth Naval Air Station Connectivity Improvements .....	14.225
1237.	Illinois .....	Construct new entrance to Midway Airport Terminal .....	6.5
1238.	West Virginia .....	Preliminary engineering, design and construction of the Orgas to Chelayn Road, Boone County .....	2
1239.	New Jersey .....	Construct U.S. 22/Chimney Rock Road interchange in Somerset County .....	17.25
1240.	Kansas .....	Reconstruct K 7 from Lone Elm Road to Harrison .....	2.79
1241.	Pennsylvania .....	Install traffic signal upgrade in Clearfield Borough in Clearfield County .....	0.375
1242.	Missouri .....	Construct Grand Avenue viaduct over Mill Creek Valley in St. Louis .....	1.65
1243.	Pennsylvania .....	Construct improvements to North Shore Roadway and access in the City of Pittsburgh .....	11
1244.	West Virginia .....	Construct improvements on WV 9 including turning lane and signalization, Berkely County .....	0.2
1245.	New York .....	Conduct Trans-Hudson Freight Improvement MIS, New York City .....	3
1246.	West Virginia .....	Upgrade Route 2 in Cabell County, including the relocation of Route 2 to provide for a connection to I-64 (Merrick Creek Connector) .....	10
1247.	New Hampshire ....	Construct Hindsale Bridge .....	2.536
1248.	Washington .....	Reconstruct I-82/SR 24 intersection and add lanes on SR 24 to Keys Road .....	6.48
1249.	Iowa .....	Construct controlled access four-lane highway between Des Moines and Burlington .....	9.525
1250.	Pennsylvania .....	Construct bicycle and pedestrian facility between Boston Bridge and McKee Point Park, Allegheny County .....	0.125
1251.	Ohio .....	Upgrade and widen U.S. 24 from I-469 to I-475 .....	17.25
1252.	Texas .....	Upgrade FM517 between Owens and FM 3346, Galveston .....	2.892
1253.	Idaho .....	Construct U.S. 95: Sandcreek Alternate Route in Sandpoint .....	13.5

No.	State	Project description	(Dollars in millions)
1254.	New Jersey .....	Replace Calhoun Street Bridge in Trenton	0.975
1255.	California .....	Construct Cabot-Camino Capistrano Bridge project in Southern Orange County .....	1.5
1256.	Pennsylvania .....	Construct PA 16 Truck climbing lane in Franklin County .....	1.5
1257.	New York .....	Construct Eastern Long Island Scenic Byway in Suffolk County .....	11.25
1258.	Texas .....	Construct Loop 197, Galveston .....	3.2175
1259.	Illinois .....	Construct Western Springs Pedestrian and Tunnel project, Cook County .....	0.925
1260.	Georgia .....	Construct the Savannah River Parkway in Bullock, Jenkins, Screven and Effinghaus Counties .....	7.5
1261.	Mississippi .....	Construct connector between U.S. 90 and I-10 in Biloxi .....	6.375
1262.	American Samoa ...	Construct drainage system improvements associated with highway construction on Tutilla Island .....	3.75
1263.	Maryland .....	Implement citywide signal control system replacements and improvements in Baltimore .....	13.275
1264.	West Virginia .....	Construct I-81 interchange, Martinsburg	5.05
1265.	Alabama .....	Replace pedestrian bridges at Village Creek and Valley Creek, Birmingham ...	0.075
1266.	Virginia .....	Improve Route 123 from Route 1 to Fairfax County line in Prince William County .....	11.25
1267.	New Mexico .....	Improve U.S. 70 from I-25 to Organ .....	18.75
1268.	Pennsylvania .....	Undertake transportation enhancement activities within the Lehigh Landing Area of the Delaware and Lehigh Canal National Heritage Corridor .....	5.25
1269.	New York .....	Implement Melrose Commons geographic information system .....	0.75
1270.	Alabama .....	Construct repairs to Pratt Highway Bridge, Birmingham .....	0.45
1271.	Texas .....	Construct Spur 10 from SH 36 to U.S. 59	3
1272.	Nebraska .....	Replace U.S. 81 bridge between Yankton, South Dakota and Cedar County .....	1.125
1273.	California .....	Construct Centennial Transportation Corridor .....	15.75
1274.	Minnesota .....	Construct Phalen Boulevard between I-35E and I-94 .....	9.75
1275.	California .....	Reconstruct Palos Verdes Drive, Palos Verdes Estates .....	0.3375
1276.	Pennsylvania .....	Facilitate coordination of transportation systems at intersection of 46th and Market, and enhance access and related measures to area facilities including purchase of vans for reverse commutes, Philadelphia .....	3
1277.	Indiana .....	Improve Southwest Highway from Bloomington to Evansville .....	27

No.	State	Project description	(Dollars in millions)
1278.	Pennsylvania .....	Construct an access road in Bedford Springs, Pennsylvania, along Old U.S. 220 to the Springs Project and to construct other facilities to facilitate movement of traffic within the site and construction of a parking facility to be associated therewith or other projects in the counties of Bedford, Blair, Fulton, Franklin, Mifflin, Fulton and Clearfield, and Huntingdon, as selected by the Commonwealth of Pennsylvania .....	28.18
1279.	Washington .....	Undertake FAST Corridor improvements with the amounts provided as follows: \$12,000,000 to construct the North Duwamish Intermodal Project, \$3,375,000 for the Port of Tacoma Road project, \$2,250,000 for the SW Third Street/BSNF project in Auburn, \$1,500,000 for the S. 277th Street/BNSF project in Auburn/Kent, \$1,500,000 for the S. 277th Street/UP project in Auburn Kent, \$1,500,000 for the S. 180th Street E/BSNF project in Tukwila, \$750,000 for the 8th Street E/BSNF project in Pierce County, and \$1,125,000 for the Shaw Road extension Puyallup ..	24
1280.	Ohio .....	Construct interchange at SR 11 and King Graves Road in Trumbull County .....	5.56
1281.	Michigan .....	Apply ITS technologies relating to traffic control, Lansing .....	2.775
1282.	California .....	Stabilize U.S. 101 at Wilson Creek .....	0.65
1283.	Michigan .....	Construct interchange at Eastman Avenue/U.S. 10 in Midland .....	8.25
1284.	Arkansas .....	Enhance area around the Paris Courthouse in the vicinity of Arkansas Scenic Highway 22 and Arkansas Scenic Highway 309, Paris .....	0.3
1285.	Mississippi .....	Upgrade Hampton Lake Road, Tallahatchie County .....	0.66
1286.	Illinois .....	Undertake improvements to Campus Transportation System .....	0.75
1287.	Virginia .....	Construct access road, walking trail and related facilities for the Nicholsville Center, Scott County .....	0.225
1288.	Pennsylvania .....	Improve intersection of U.S., S.R. 3066, and West Allegheny Road, North Fayette Township .....	3.5
1289.	Arkansas .....	Construct Highway 425 from Pine Bluff to the Louisiana State line .....	5.375
1290.	Pennsylvania .....	Construct Independence Gateway Transportation Center project, Philadelphia ...	5.5
1291.	Minnesota .....	Upgrade Perpich Memorial from CR 535 to CSAH 111 .....	2.1
1292.	Texas .....	Construct U.S. Route 67 Corridor through San Angelo .....	5.25
1293.	Pennsylvania .....	Construct improvements to roadway and parking facility in the vicinity of St. Francis College, Cambria County .....	2



No.	State	Project description	(Dollars in millions)
1294.	Missouri .....	Construct extension of bike path between Soulard market area and Riverfront bike trail in St. Louis .....	0.6
1295.	New York .....	Construct intermodal facility in Yonkers, Westchester County .....	8.687
1296.	Maryland .....	Construct intersection improvements to facilitate access to NSA facility, Anne Arundel County .....	2.25
1297.	Massachusetts .....	Undertake vehicular and pedestrian movement improvements within Central Business District of Foxborough .....	1.56
1298.	Kentucky .....	Construct KY 70 from Cave City to Mammoth Cave .....	1.5
1299.	Virginia .....	Construct Main Street Station in Richmond .....	6
1300.	New Hampshire ....	Improve 3 Pisquataqua River Bridges on the New Hampshire—Maine border .....	1.65
1301.	Pennsylvania .....	Construct Abbey Trails in Abington Township .....	0.45
1302.	Hawaii .....	Upgrade Kaunualii Highway .....	8.25
1303.	North Carolina ....	Upgrade and improve U.S. 19 from Maggie Valley to Cherokee .....	15
1304.	Maine .....	Replace Ridlonville Bridge across Androscoggin River .....	1.125
1305.	Mississippi .....	Upgrade and widen U.S. 49 in Rankin, Simpson, and Covington Counties .....	0.6875
1306.	Texas .....	Upgrade SH 30, Huntsville .....	1.875
1307.	California .....	Reconstruct the I-710/Firestone Boulevard interchange .....	12
1308.	Pennsylvania .....	Widen U.S. 30 from Walker Road to Fayetteville in Franklin County .....	1.5
1309.	Virginia .....	Construct Southeastern Parkway and Greenbelt in Virginia Beach .....	3
1310.	Illinois .....	Replace State Route 47 Bridge in Morris ..	14.25
1311.	Texas .....	Upgrade Highway 271 between Paris and Pattonville .....	1.5
1312.	Minnesota .....	Improve roads, Edge of Wilderness, Grand Rapids to Effie .....	4.5
1313.	Arizona .....	Reconstruct I-19, East Side Frontage Road, Ruby Road to Rio Rico Drive, Nogales .....	7.5
1314.	North Carolina ....	Construct I-85 Greensboro Bypass in Greensboro .....	22.125
1315.	New York .....	Improve access to I-84/Dutchess intermodal facility in Dutchess County .....	2.21
1316.	Illinois .....	Construct I-88 interchange at Peace Road in De Kalbe .....	1.5
1317.	North Dakota .....	Upgrade U.S. Route 52, Kenmare to Donybrook .....	2.1
1318.	South Carolina ....	Construct improvements to I-95/SC 38 interchange .....	6.75
1319.	Arkansas .....	Construct Highway 15 from Connector Road to Railroad Overpass in Pine Bluff	0.875
1320.	New York .....	Reconstruct 79th Street Traffic Circle, New York City .....	7
1321.	California .....	Extend State Route 52 in San Diego .....	2.25
1322.	California .....	Construct Sacramento Intermodal Station	3
1323.	Illinois .....	Construct Central Avenue/Narragansett Avenue connector, Chicago .....	3.7
1324.	Pennsylvania .....	Construct Walnut Street pedestrian bridge in Dauphin County .....	0.75

No.	State	Project description	(Dollars in millions)
1325.	Indiana .....	Conduct rail-highway feasibility project study in Muncie .....	0.075
1326.	Georgia .....	Upgrade U.S. Route 27 .....	7.5
1327.	Michigan .....	Improve Hoban Road and Grand Avenue, City of Mackinac Island .....	0.84
1328.	Washington .....	Construct Cross Base Corridor, Fort Lewis-McChord AFB .....	0.375
1329.	Illinois .....	Construct bicycle/pedestrian trail parallel to light rail transit system in St. Clair County .....	5.5
1330.	Pennsylvania .....	Improve Bedford County Business Park Rd in Bedford County .....	1.5
1331.	Louisiana .....	Construct Port of St. Bernard Intermodal facility .....	1.575
1332.	New York .....	Construct bridge deck over the Metro North right-of-way along Park Avenue between E. 188th and 189th Streets .....	0.75
1333.	Ohio .....	Conduct feasibility study for the construction of Muskingum County South 93-22-40 connector .....	0.5
1334.	South Carolina .....	Upgrade U.S. Highway 301 within Bamberg .....	3.2
1335.	Virginia .....	Construct road improvements, trailhead and related facilities for Birch Knob Trail on Cumberland Mountain .....	0.25
1336.	Kansas .....	Widen U.S. 169 in Miami County .....	12.15
1337.	Texas .....	Construct extension of Bay Area Boulevard .....	0.75
1338.	New Jersey .....	Construct highway connector between Interstate Route 1&9 (Tonelle Avenue) and the New Jersey Turnpike at Secaucus Intermodal Transfer Rail Station and the Trans Hudson Corridor at the Bergen Arches arterial roadway .....	5.5
1339.	California .....	Modify HOV lanes, Marin County .....	5.25
1340.	California .....	Widen U.S. 101 from Petaluma Bridge to Novato .....	8.75
1341.	Arkansas .....	Construct U.S. 63 interchange with Washington Avenue and Highway 63B .....	1.5
1342.	Louisiana .....	Kerner's Ferry Bridge Replacement project .....	0.75
1343.	Pennsylvania .....	Reconstruct I-95/Street Road interchange in Bucks County .....	1.3275
1344.	New York .....	Upgrade Frederick Douglas Circle, New York City .....	9
1345.	Pennsylvania .....	Improve PA 453 from Water Street to Tyronne in Huntingdon County .....	0.75
1346.	Oregon .....	Acquire and rennovate facility to serve as multimodal transportation center, Eugene .....	2
1347.	Alabama .....	Construct improvements to Ensley Avenue between 20th Street and Warrior Road, Birmingham .....	0.75
1348.	Alaska .....	Extend West Douglas Road .....	2.475
1349.	Pennsylvania .....	Construction of noise barriers along State Route 28, Aspinwall .....	0.8
1350.	Mississippi .....	Replace Greenville River Bridge in Washington County .....	1.0
1351.	Illinois .....	Reconstruct Claire Boulevard, Robbins .....	0.2475
1352.	New Jersey .....	Reconstruct South Pemberton Road from Route 206 to Hanover Street .....	6

No.	State	Project description	(Dollars in millions)
1353.	Kentucky .....	Reconstruct U.S. 231: \$5,625,000 for the segment between Dry Ridge Road and U.S. 231 and U.S. 31; \$3,000,000 for the segment between Allen-Warren County line and Dry Ridge Road .....	8.625
1354.	Indiana .....	Undertake safety and mobility improvements involving street and street crossings and Conrail line, Elkhart .....	1.5
1355.	New York .....	Construct sound barriers on east side of Clearview Expressway between 15th Road and Willets Point Boulevard .....	0.3
1356.	Tennessee .....	Construct Franklin Road interchange and bypass .....	2
1357.	New Jersey .....	Construct, reconstruct and integrate multi-transportation modes—international airport and seaport, rail, national highway system and brownfields—to establish an international intermodal transportation center and corridor between and within the cities of Bayonne, Elizabeth and Newark, New Jersey .....	2
1358.	Louisiana .....	Construct I-49 interchange at Caddo Port Road in Shreveport .....	4.2
1359.	Oklahoma .....	Conduct study of Highway 3 in McCurtain, Pushmataha and Atoka Counties .....	0.16
1360.	North Carolina .....	Construct U.S. 117, the Elizabeth City Bypass in Pasquotank County .....	2.625
1361.	North Carolina .....	Upgrade U.S. 13 (including Ahoskie bypass) in Bertie and Hertford Counties ...	0.75
1362.	California .....	Extend Route 46 expressway in San Luis Obispo County .....	6
1363.	Illinois .....	Construct improvements to New Era Road, Carbondale .....	2.625
1364.	New York .....	Construct congestion mitigation project for Riverhead .....	1.875
1365.	California .....	Upgrade Riverside Avenue/I-10 interchange, Rialto .....	0.69375
1366.	California .....	Construct I-10 Tippecanoe/Anderson interchange project in Loma Linda and San Bernardino County .....	1.5
1367.	Colorado .....	Construct C 470/I-70 ramps in Jefferson County .....	4.187
1368.	Washington .....	Conduct feasibility study of State Route 35 Hood River bridge in White Salmon	0.75
1369.	Tennessee .....	Construct Landport regional transportation hub, Nashville .....	8
1370.	Pennsylvania .....	Upgrade roadway in the Princeton/Cottman I-95 interchange and related improvements, Philadelphia .....	15.15
1371.	Washington .....	Construct Sequim/Dungeness Valley trail project .....	0.75
1372.	Maryland .....	Construct phase 1A of the I-70/I-270/U.S. 340 interchange in Frederick County ...	11.25
1373.	American Samoa ...	Upgrade village roads on Tutuila/Manua Island .....	8.25
1374.	Virginia .....	Improve Lee Highway Corridor in Fairfax	1.35
1375.	Michigan .....	Preliminary engineering and right-of-way acquisition for “Intertown South” route of U.S. 31 bypass, Emmet County .....	1.125

No.	State	Project description	(Dollars in millions)
1376.	Missouri .....	Construction of airport ground transportation terminal for the Springfield/Branson Airport intermodal facility in Springfield .....	3.75
1377.	Ohio .....	Upgrade SR 7 (Eastern Avenue) to improve traffic flow into Gallipolis, Gallia County .....	1.5
1378.	Michigan .....	Construct U.S. 27 between St. Johns and Ithaca .....	6.375
1379.	Washington .....	Construct SR 167 Corridor, Tacoma .....	1.125
1380.	Washington .....	Widen U.S. 395 in the vicinity of mile post 170 north of Spokane .....	5.5
1381.	Iowa .....	Construct overpass to eliminate railroad crossing in Burlington .....	3.475
1382.	Missouri .....	Improve safety and traffic flow on Route 13 through Clinton .....	6
1383.	Florida .....	Construct Alden Road Improvement Project in Orange County .....	0.525
1384.	Dist. of Columbia ..	Implement traffic signalization, freeway management and motor vehicle information systems .....	6
1385.	Wisconsin .....	Construct freeway conversion project on Highway 41 between Kaukauna and Brown County Highway F .....	16
1386.	Illinois .....	Construct crossings over Fox River in Kane County .....	9.375
1387.	Mississippi .....	Construct U.S. 84 from Eddiceton to Auburn Road .....	0.6875
1388.	Illinois .....	Construct U.S. 67 in Madison and Jersey Counties .....	5.1
1389.	South Carolina .....	Construct Calhoun/Clarendon Causeway ..	6.5
1390.	Florida .....	Construct safety improvements and beautification along U.S. 92, Daytona Beach ..	2.25
1391.	Pennsylvania .....	Realign PA29 in the Borough of Collegeville, Montgomery County .....	0.495
1392.	Pennsylvania .....	Construct Towamencin Township multimodal center .....	2.61
1393.	Maryland .....	Construct improvements to Route 50 interchange with Columbia Pike, Prince Georges County .....	2.4
1394.	Illinois .....	Construct bypass of historic stone bridge, Maeystown .....	0.615
1395.	Pennsylvania .....	Construct Johnstown-Cambria County Airport Relocation Road .....	0.75
1396.	Pennsylvania .....	Reconstruct the I-81 Davis Street interchange in Lackawanna .....	6
1397.	Connecticut .....	Realign Route 4 intersection in Farmington .....	2.1
1398.	Pennsylvania .....	Construct Wexford I-79/SR 910 Interchange, Allegheny County .....	0.825
1399.	Pennsylvania .....	Extend Martin Luther King Busway, Alleghany County .....	1.65
1400.	Massachusetts .....	Construct Arlington to Boston Bike Path ..	0.75
1401.	New Jersey .....	Construct Collingswood Circle eliminator, Camen .....	6
1402.	Ohio .....	Construct grade separations at Fitch Road in Olmsted Falls .....	3.75
1403.	Wisconsin .....	Construct Eau Claire Bypass project .....	6
1404.	Minnesota .....	Reconstruct SE Main Avenue and related improvements, completing 34th Street Corridor project, Moorhead .....	3

No.	State	Project description	(Dollars in millions)
1405.	New York .....	Construct Olana Visitor Center in Olana ..	1
1406.	Massachusetts .....	Improve safety and traffic operations on Main and Green Streets, Mellrose .....	1.95
1407.	New York .....	Reconstruct Jackson Avenue in New Windsor, Orange County .....	1.963
1408.	New York .....	Construct congestion mitigation project for Smithtown .....	0.75
1409.	New York .....	Reconstruct County Route 24 in Franklin County .....	1.85475
1410.	North Carolina .....	Construct U.S. 311 (I-74) from NC 68 to U.S. 29A-70A .....	22.875
1411.	California .....	Design and initiation of long term improvements along Highway 199 in Del Norte County .....	0.275
1412.	Alabama .....	Complete I-59 interchange in De Kalb County .....	3.6
1413.	New York .....	Improve Hiawatha Boulevard and Harrison Street corridors in Syracuse .....	1.6875
1414.	New Jersey .....	Construct Route 17 bridge over the Susquehanna and Western Rail line in Rochelle Park .....	1.125
1415.	Illinois .....	Undertake streetscaping between Damden and Halsted .....	0.8625
1416.	Illinois .....	Construct transportation improvements to Industrial Viaduct, Chicago .....	1.125
1417.	Ohio .....	Construct access and related improvements to Downtown Riverfront Area, Dayton .....	3.675
1418.	Oregon .....	Purchase and install emitters and receiving equipment to facilitate movement of emergency and transit vehicles at key arterial intersections, Portland .....	4.5
1419.	Tennessee .....	Reconstruct road and causeway in Shiloh Military Park in Hardin County .....	11.25
1420.	Arkansas .....	Conduct planning for highway 278 and rail for the Warren/Monticello Arkansas Intermodal Complex .....	0.875
1421.	Oregon .....	Construct regional multimodal transportation center in Albany .....	10
1422.	Texas .....	Construct two-lane parallel bridge, State Highway 146, FM 517 to vicinity of Dickinson Bayou .....	3.6375
1423.	Connecticut .....	Relocate and realign Route 72 in Bristol ..	4.0575
1424.	Massachusetts .....	Construct Minuteman Commuter Bikeway-Charles River Bikeway connector, Cambridge and Watertown .....	0.5625
1425.	Michigan .....	Replace Chevrolet Avenue bridge in Genesee County .....	1.8
1426.	Virginia .....	Construct trailhead and related facilities and restore old Whitetop Train Station at terminus of Virginia Creeper Trail adjacent to Mount Rogers National Recreation Area .....	0.3
1427.	New York .....	Construct Mineola and Hicksville Intermodal Centers in Nassau County .....	12
1428.	Indiana .....	Lafayette Railroad relocation project in Lafayette .....	22.05
1429.	Michigan .....	Construct Jackson Road project (demonstrating performance of paper and plastic reinforced concrete), Scio Township .....	3.45

No.	State	Project description	(Dollars in millions)
1430.	Wyoming .....	Widen and improve Cody—Yellowstone Highway from the entrance to Yellowstone National Park to Cody .....	5
1431.	Texas .....	Widen State Highway 6 from Senior Road to FM521 .....	9.075
1432.	Massachusetts .....	Design, engineer and right-of-way acquisition of the Great River Bridge, Westfield .....	1.5
1433.	Washington .....	Design and implement report and environmental study of the I-5 corridor in Everett .....	1
1434.	North Carolina .....	Make improvements to I-95/SR 1162 interchange in Johnston County .....	2.4
1435.	New York .....	Reconstruct Stoneleigh Avenue in Putnam County .....	2.89
1436.	Pennsylvania .....	Construct transportation improvements around the interchange of Interstate 81 and S.R. 0944, Hampden Township .....	2
1437.	Wisconsin .....	Upgrade Highway 151 between Platteville and Dubuque .....	6
1438.	New York .....	Improve Bedford-Banksville Road from Millbrook to Connecticut State line .....	1.44
1439.	California .....	Construct interchange between I-15 and SR 18 in Victorville/Apple Valley .....	6
1440.	Connecticut .....	Construct overlook and access to Niantic Bay .....	2.31
1441.	Arizona .....	Design, engineering and ROW acquisition for Area Service Highway, Yuma .....	0.75
1442.	Connecticut .....	Reconstruct cross road over I-95, Waterford .....	1.5
1443.	Illinois .....	Upgrade industrial park road in Village of Sauget .....	3.375
1444.	California .....	Construct I-680 HOV lanes between Marina Vista toll plaza to North Main Street, Martinez to Walnut Creek .....	5.25
1445.	Iowa .....	Improve U.S. 65/IA 5 interchange, Warren County .....	5
1446.	Pennsylvania .....	Replace Masontown bridge, Fayette and Greene Counties .....	5
1447.	Indiana .....	Extend SR 149 between SR 130 to U.S. Route 30, Valparaiso .....	3
1448.	Pennsylvania .....	Construct PA 309 Sumneytown Pike Connector .....	3.96
1449.	California .....	Improve Route 99/Route 120 interchange in Manteca County .....	6
1450.	Alaska .....	Construct a bridge joining the Island of Gravina to the Community of Ketchikan on Revilla Island .....	15
1451.	Nebraska .....	Conduct corridor study of NE 35 alternative and modified route in Norfolk, Wayne and Dakota County .....	0.75
1452.	Michigan .....	Upgrade Lalie Street, Frenchtown Road, and Penshee Road, Ironwood .....	0.27
1453.	California .....	Conduct planning, preliminary engineering and design for Etiwanda Avenue/I-10 interchange, San Bernardino County .....	1.5
1454.	California .....	Construct Arbor Vitae Street improvements, Inglewood .....	2.625
1455.	Minnesota .....	Restore MN Transportation facility, Jackson Street Roundhouse, St. Paul .....	0.75

No.	State	Project description	(Dollars in millions)
1456.	Rhode Island .....	Upgrade pedestrian traffic facilities, Bristol .....	0.075
1457.	California .....	Install Silicon Valley Smart Corridor project along the I-880 corridor .....	2.145
1458.	South Carolina .....	Construct I-26/U.S. 1 connector in Columbia .....	9
1459.	New York .....	Construct Poughkeepsie Intermodal Facility in Poughkeepsie .....	3.75
1460.	Oregon .....	Restore transportation connection between Wauna, Astoria and Port of Astoria .....	0.525
1461.	New York .....	Conduct feasibility study of new International bridges on the New York/Canada border .....	0.375
1462.	Tennessee .....	Extend Pellissippi Parkway from State Route 33 to State Route 321 in Blount County .....	8.85
1463.	Ohio .....	Upgrade 2 warning devices on the rail north/south line from Columbus to Toledo .....	0.15
1464.	California .....	Upgrade South Higuera Street, San Luis Obispo .....	0.675
1465.	Alabama .....	Upgrade County Road 39 between Highway 84 and Silver Creek Park, Clarke County .....	0.75
1466.	North Carolina .....	Relocate U.S. 1 from north of Lakeview to SR 1180, Moore and Lee Counties .....	5.475
1467.	Texas .....	Construct extension of West Austin Street (FM 2609) between Old Tyler Road and Loop 224, Nacogdoches .....	1.35
1468.	Michigan .....	Reconstruct I-94 between Michigan Route 14 and U.S. 23 .....	9
1469.	Connecticut .....	Reconstruct I-84, Hartford .....	7.1025
1470.	Ohio .....	Undertake improvements to Valley Street, Dayton .....	0.675
1471.	New Jersey .....	Upgrade Urban University Heights Connector, Newark .....	7.275
1472.	Ohio .....	Widen to 5 lanes existing SR 43/Sunset Boulevard in Steubenville, Jefferson County .....	0.6
1473.	New York .....	Improve and reconstruct Stony Street in York Town .....	0.35
1474.	Ohio .....	Construct grade separation at Dille Road in Euclid .....	3.75
1475.	Washington .....	Safety improvements to State Route 14 in Columbia River Gorge National Scenic Area .....	3.15
1476.	Indiana .....	Upgrade County roads in LaPorte County .....	6
1477.	California .....	Implement ITS technologies in Employment Center area of City of El Segundo .....	2.6625
1478.	Minnesota .....	Construct pedestrian overpass on Highway 169, Mille Lacs Reservation .....	0.45
1479.	Texas .....	Complete State Highway 35 in Aransas County .....	5.42
1480.	Washington .....	Construct overcrossing at 38th Street in Everett, and construct the Riverside Industrial Access Road as identified in the FAST Corridor plan .....	5.893
1481.	Illinois .....	Construct improvements to McKinley Bridge over Mississippi River with terminus points in Venice, Illinois, and St. Louis, Missouri .....	3.9

No.	State	Project description	(Dollars in millions)
1482.	Connecticut .....	Upgrade bridge over Naugatuck River, Ansonia .....	0.3375
1483.	Louisiana .....	Widen Lapalco Boulevard from Barataria Boulevard to Destrehan Avenue in Jefferson Parish .....	3
1484.	California .....	Construct Tulare County roads in Tulare County .....	6.75
1485.	Washington .....	Extend Mill Plain Boulevard in Vancouver .....	3
1486.	Missouri .....	Construct an intermodal center at Missouri Botanical Garden .....	0.9
1487.	Ohio .....	Reimburse costs associated with multimodal transportation improvements, Dayton .....	2.0625
1488.	West Virginia .....	Upgrade U.S. 340 between West Virginia/Virginia State line and the Charles Town Bypass .....	2
1489.	Ohio .....	Add lanes and improve intersections on Route 20 in Lake County .....	2
1490.	Pennsylvania .....	Rehabilitate Kenmawr Bridge, Swissvale .....	0.45
1491.	Rhode Island .....	Construct Blackstone River Bikeway .....	2.59125
1492.	Alaska .....	Construct Gravina Island Bridge in Ketchikan .....	5.443
1493.	Alaska .....	Construct N.W. Alaska Road/Rail access ..	2.5
1494.	Alaska .....	Construct North Denali access route .....	1.5
1495.	Alaska .....	Construct capital improvements to marine transportation facilities for Prince of Wales Island .....	0.75
1496.	Alaska .....	Improve marine dry dock and facilities in Ketchikan .....	0.75
1497.	Alaska .....	Construct New Access Route to Ship Creek Access in Anchorage .....	11.943
1498.	Alabama .....	Construct bridge over Tennessee River connecting Muscle Shoals and Florence .....	1
1499.	Alabama .....	Engineering, right-of-way acquisition and construction of Huntsville Southern Bypass .....	1
1500.	Alabama .....	Construction of Eastern Black Warrior River Bridge .....	7.75
1501.	Alabama .....	Construct East Foley Corridor Project from Baldwin County Highway 20 to State Highway 59 in Alabama .....	1
1502.	Alabama .....	Engineering, right-of-way, acquisition and construction of Birmingham Northern Beltline in Jefferson County .....	8.917
1503.	Alabama .....	Extend I-759 in Etowah County .....	1.167
1504.	Alabama .....	Construct Decatur Southern Bypass .....	1
1505.	Alabama .....	Construct Anniston Eastern Bypass from I-20 to Fort McClellan in Calhoun County .....	2
1506.	Alabama .....	Construct Montgomery outer loop from U.S. 80 to I-85 via I-65 .....	11.8
1507.	Alabama .....	Develop U.S. 231/I-10 Freeway Connector from Alabama border to Dothan .....	2
1508.	Alabama .....	Replace bridge over Tombigbee River, Naheola .....	3
1509.	Arkansas .....	Development of Little Rock Port Authority .....	2
1510.	Arkansas .....	Development of Little Rock River Rail Project .....	2
1511.	Arkansas .....	Improvements to I-30 From Benton to Geyer Springs Exit in Little Rock .....	2



No.	State	Project description	(Dollars in millions)
1512.	Arkansas .....	Upgrade 2 bypasses (Washington Avenue Interchange and Highway 63B Interchange) on U.S. 63 in Jonesboro .....	5
1513.	Arkansas .....	Construct bypass at Ashdown .....	1.25
1514.	Arkansas .....	Development of U.S. 71 from Fort Chaffee to Texarkana .....	7
1515.	Arkansas .....	Development of Interchange at Intersection of I-40 and Airport Road in West Memphis .....	6
1516.	Arkansas .....	Improve U.S. Highway 412 From Harrison to Mountain Home .....	3.8875
1517.	Arkansas .....	Complete Courthouse Improvement Enhancements Project in Paris .....	0.1
1518.	Arkansas .....	Further study and development of Russellville Intermodal Complex in Russellville .....	0.25
1519.	Arkansas .....	Construct turning lanes at the Intersection of U.S. Highway 71 and Arkansas State Highway 8 in Mena .....	0.0625
1520.	Arkansas .....	Transportation Enhancements in the Vicinity of Dickson Street, Fayetteville ....	0.375
1521.	Arkansas .....	Improve Arkansas State Highway 12 From U.S. 71 at Rainbow Curve to the Northwest Arkansas Regional Airport ...	0.125
1522.	Arkansas .....	Construct intermodal connector access road to the Northwest Arkansas Regional Airport .....	4
1523.	Arkansas .....	Continue development of West Phoenix Avenue, Ft. Smith .....	2
1524.	Arkansas .....	Improvements to 28th Street, Van Buren .....	0.25
1525.	Arkansas .....	Conduct feasibility studies for Van Buren Intermodal Port .....	0.075
1526.	Arkansas .....	Upgrade Arkansas State Highway 59 from Rena Road to Old Uniontown Road in Van Buren .....	0.65
1527.	Arkansas .....	Construct improvements to U.S. Highway 71 to I-40 through Fort Chaffee and Fort Smith .....	1.25
1528.	California .....	Construct I-80 reliever route system, Solano County .....	12.1
1529.	California .....	Replace Maxwell Bridge, Napa County ....	8.7
1530.	California .....	Construct March Inland Port ground access project, Riverside County .....	7.2
1531.	California .....	Construct Santa Monica Transit Parkway .....	17
1532.	California .....	Construct State Route 905 between I-805 and Otay Mesa border crossing .....	38.5
1533.	California .....	Construct highway grade separation/other improvements for "Gateway for America" project in San Gabriel Valley .....	100
1534.	Colorado .....	State Priority Projects .....	23.401
1535.	Connecticut .....	Reconstruction of railroad electrical catenary serving commuter lines between New Haven and Stanford .....	23.433
1536.	Connecticut .....	Pedestrian/disabled access improvements at Mark Twain House Historic Site .....	0.5
1537.	Connecticut .....	Reconstruct and expand access road and related riverwalk improvements at/adjacent to Riverside Park, Hartford .....	2
1538.	Connecticut .....	Develop Winsted and Winchester rail trail, linkage to existing trails in neighboring towns .....	1.5

No.	State	Project description	(Dollars in millions)
1539.	Connecticut .....	Develop Quinipiac River linear trail in Wallingford and Meriden .....	1.5
1540.	Connecticut .....	Extend Farmington Canal Rail Trail in Hamden and New Haven .....	1.5
1541.	Florida .....	State Priority Projects .....	92.096
1542.	Georgia .....	Upgrade Lithonia Industrial Boulevard, De Kalb County .....	0.35
1543.	Georgia .....	Widen U.S. 84 South from U.S. 82 to Ware County in Waycross and Ware Counties .....	1.6
1544.	Georgia .....	Construct Rome to Memphis Highway in Floyd and Bartow Counties .....	2
1545.	Georgia .....	Construct Athens to Atlanta transportation corridor .....	8
1546.	Georgia .....	Conduct a study of Interstate multimodal transportation corridor from Atlanta to Chattanooga .....	2.5
1547.	Georgia .....	Conduct study of multimodal transportation corridor along GA 400 .....	25
1548.	Georgia .....	Construct Savannah River Parkway in Bulloch, Jenkins Screven, and Effingham Counties .....	5
1549.	Georgia .....	Conduct study of interstate multimodal transportation corridor from Atlanta to Chattanooga .....	5
1550.	Georgia .....	Undertake major arterial enhancement in De Kalb County: Candler Road, Memorial Drive, and Buford Highway .....	6.66
1551.	Georgia .....	Construct Harry S. Truman Parkway .....	3.55
1552.	Georgia .....	Construct multimodal passenger terminal, Atlanta .....	8.1
1553.	Georgia .....	Construct Rome to Memphis Highway in Floyd and Bartow Counties .....	4.112
1554.	Georgia .....	Construct Fall Line Freeway from Bibb to Richmond Counties .....	9.5
1555.	Georgia .....	Construct Fall Line Freeway from Bibb to Richmond Counties .....	23
1556.	Iowa .....	Design, right-of-way and construction of a bridge over railroad tracks on airport access road in Sioux City .....	1.5
1557.	Iowa .....	Construction of a 4-lane expressway between Des Moines and Marshalltown .....	2.75
1558.	Iowa .....	Design, right-of-way and construction of the Avenue G viaduct and related roadway in Council Bluffs .....	7
1559.	Iowa .....	Design and construction of native roadside vegetation enhancement center at U.N.I. in Cedar Falls .....	0.76
1560.	Iowa .....	Construct the D116 Dubuque Bridge over the MI River at Dubuque .....	7
1561.	Iowa .....	Design, right-of-way and construction of segments of Martin Luther King Jr. Parkway in Des Moines from Center Street to Fleur Drive .....	12
1562.	Idaho .....	Reconstruct 184/I-84 interchange (mileposts 0.0-0.6) .....	19
1563.	Idaho .....	Rehabilitate U.S. 20 Ashton/Ashton Hill Bridge and Intersection Project (mileposts 363.3-363.5) .....	3.75
1564.	Idaho .....	Construct Cheyenne Street Railroad Overpass, Pocatello .....	5.5

No.	State	Project description	(Dollars in millions)
1565.	Idaho .....	Stage 1, U.S. 93 Twin Falls Alternate Route from junction of U.S. 93/Highway 30 north (mileposts 45-48) .....	13
1566.	Idaho .....	Safety improvements on U.S. 95 from Genesee to Moscow (mileposts 331-345) .....	16
1567.	Idaho .....	Safety improvements/bridge replacement on U.S. 95 at Mann's Creek Curves (mileposts 91.2-94.8) .....	7
1568.	Idaho .....	Alignment/bridge replacement State Highway 55 between Smith's Ferry and Round Valley (mileposts 94.9-101.0) .....	18
1569.	Illinois .....	Improve Campus Transportation System, Chicago .....	2
1570.	Illinois .....	Construct U.S. 67 in Madison and Jersey Counties .....	6.798
1571.	Illinois .....	Construct confluence bikeway in Madison County .....	1
1572.	Illinois .....	Extend Veterans Memorial Drive and construct overpass at I-57 in Mt. Vernon ...	3
1573.	Illinois .....	Construct 34 from Burlington, Iowa to Monmouth .....	5
1574.	Illinois .....	Reconstruct Wacker Drive in Chicago .....	25
1575.	Illinois .....	Reconstruct Stevenson Expressway, Chicago .....	25
1576.	Indiana .....	State Priority Projects .....	47.046
1577.	Kansas .....	State Priority Projects .....	23.488
1578.	Kentucky .....	Widen U.S. 27 from Norwood to Eubank ..	5.83
1579.	Kentucky .....	Reconstruct KY 210 from Hodgenville to Morning Star Road in LaRue County ...	2
1580.	Kentucky .....	Conduct feasibility study for No. KY high-priority corridor (I-74) .....	0.125
1581.	Kentucky .....	Construct necessary connections for the Taylor Southgate Bridge in Newport and the Clay Wade Bridge in Covington	2.3
1582.	Kentucky .....	Construction on U.S. 127: Albany Bypass to KY 90, Albany Bypass from KY 696 to Clinton County H.S., and from KY 696 to TN State line .....	2.81
1583.	Kentucky .....	Construct highway rail grade separations along the City Lead in Paducah .....	0.25
1584.	Kentucky .....	Reconstruction of the Louisville Trolley Barn .....	1.5
1585.	Kentucky .....	Completion of the Ownsboro Corridor and related State Highway projects .....	15.817
1586.	Kentucky .....	Extend Hurstbourne Parkway from Bardstown Road to Fern Valley Rd .....	4
1587.	Louisiana .....	Causeway Project .....	0.5
1588.	Louisiana .....	I-10 Connector, Port of South Louisiana ..	0.28
1589.	Louisiana .....	Florida Expressway Construction, Street Bernard/Orleans Parishes .....	0.05
1590.	Louisiana .....	Kerner Bridge, Jefferson Parish .....	0.25
1591.	Louisiana .....	Construction, LA 1 .....	2.3
1592.	Louisiana .....	Leeville Bridge, LA 1 .....	2
1593.	Louisiana .....	Louisiana segment, Gulf Coast high speed rail .....	1
1594.	Louisiana .....	Perkins Road, Baton Rouge .....	1.5
1595.	Louisiana .....	East West Corridor/El Camino Real, LA 6 to U.S. 84, Central-Northwest LA .....	1
1596.	Louisiana .....	Nelson Access Road to Port of Lake Charles .....	4.5
1597.	Louisiana .....	Tchopitoulas Corridor, New Orleans .....	4.5

No.	State	Project description	(Dollars in millions)
1598.	Louisiana .....	Route 3132 to Caddo-Bossier Port, Shreveport .....	4.5
1599.	Louisiana .....	Kansas Lane, Monroe .....	4.5
1600.	Louisiana .....	New Orleans CBD to New Orleans International Airport, commuter rail .....	5
1601.	Massachusetts .....	State Priority Projects .....	37.365
1602.	Maryland .....	Improve highway signage for C&O Canal NHP in Frederick, Washington, and Allegany Counties .....	0.091
1603.	Maryland .....	Construct pedestrian bicycle bridge across Susquehanna River between Havre de Grace and Perryville .....	1.25
1604.	Maryland .....	Upgrade U.S. 113 north of U.S. 50 to Jarvis Road in Worcester County .....	7
1605.	Maryland .....	Upgrade MD 32 in the vicinity of NSA Anne Arundel County .....	6.75
1606.	Maryland .....	Construct Phase 1-A of the I-70/I-270/U.S. 340 interchange in Frederick County .....	15
1607.	Maine .....	Upgrade Route 11 .....	0.15
1608.	Maine .....	Construct I-95/Stillwater Avenue interchange .....	0.15
1609.	Maine .....	Reconstruction of the Mack Point Cargo Port .....	1.45
1610.	Maine .....	Improve Route 23 .....	0.125
1611.	Maine .....	Improve Route 26 .....	0.375
1612.	Maine .....	Replace Ridlonville Bridge, Rumford .....	0.875
1613.	Maine .....	Studies, planning for extension of I-95 .....	2
1614.	Maine .....	Construct I-295 connector, Portland .....	1
1615.	Maine .....	Replace Singing Bridge across Taunton Bay .....	1.375
1616.	Maine .....	Construct new bridge over Kennebec River (Carlton Bridge replacement) .....	2
1617.	Maine .....	Studies, planning, reconstruction of East-West Highway .....	1
1618.	Michigan .....	State Priority Projects .....	25.447
1619.	Michigan .....	State Priority Projects .....	31.438
1620.	Michigan .....	Reconstruct and rehabilitate, including rail and interstate access improvements for the Detroit Waterfront Dock, Detroit .....	6
1621.	Minnesota .....	Reconstruct S.E. Main Avenue/I-94 Interchange, Moorhead .....	1
1622.	Minnesota .....	Construct T.H. 212 Construction between I-494 and Carver County Road 147 .....	1
1623.	Minnesota .....	Construct T.H. 610/10 from T.H. 169 in Brooklyn Park to I-94 in Maple Grove ..	2
1624.	Minnesota .....	Construct Mankato South Route in Mankato .....	1
1625.	Minnesota .....	Reconstruct SE Main Avenue/I-94 Interchange, Moorhead .....	2
1626.	Minnesota .....	Replace Sauk Rapids Bridge over Mississippi River, Stearns and Benton Counties .....	1
1627.	Minnesota .....	Replace Sauk Rapids Bridge over Mississippi River, Stearns and Benton Cities .....	1
1628.	Minnesota .....	Construct Shepard Road/Upper Landing Interceptor, St. Paul .....	1
1629.	Minnesota .....	Construct Mankato South Route, Mankato .....	1

No.	State	Project description	(Dollars in millions)
1630.	Minnesota .....	Reconstruct and Replace I-494 Wakota Bridge from South St. Paul to Newport and approaches .....	3.529
1631.	Minnesota .....	Reconstruct/replace I-494 Wakota Bridge from South St. Paul to Newport, and approaches .....	1
1632.	Minnesota .....	Construct Phalen Boulevard between I-35 and I-94 .....	2.5
1633.	Minnesota .....	Construct T.H. 610/10 from T.H. 169 in Brooklyn Park to I-94 in Maple Grove ..	9.029
1634.	Minnesota .....	Design and Construct Access to I-35W at Lake St., Minneapolis .....	2
1635.	Missouri .....	Develop bike/pedestrian paths for Town of Kansas and Riverfront Park in Kansas City .....	0.341
1636.	Missouri .....	Construct Cuivre River Bridge at Lincoln County .....	3
1637.	Missouri .....	Construct Route 13 MO River Bridge at Lexington .....	3
1638.	Missouri .....	Construct Highway 47 MO River Bridge at Washington .....	3
1639.	Missouri .....	Construct Route 5 Bridge at the Lake of the Ozarks .....	3
1640.	Missouri .....	Upgrade I-70 in Missouri .....	10
1641.	Missouri .....	Construct Chouteau Bridge at Kansas City .....	6
1642.	Missouri .....	Construct Mississippi River Bridge at Hannibal .....	6
1643.	Missouri .....	Construct Bill Emerson Memorial Bridge .....	8
1644.	Missouri .....	Construct Missouri River Bridge at Hermann .....	5
1645.	Mississippi .....	Replace functionally obsolete drawbridge with new crossing, High Rise Bridge, at Pascagoula .....	38
1646.	Montana .....	Conduct environmental review, planning, design, and construction of the Beartooth Highway in Wyoming and Montana .....	19.905
1647.	North Carolina .....	Construct Raleigh Outer Loop (segment D) between NC 50 and SR 2000 .....	8.44
1648.	North Carolina .....	Construct additional lanes on I-77 between I-85 and NC 73 .....	48
1649.	North Dakota .....	State Priority Projects .....	13.138
1650.	Nebraska .....	Improve Nebraska Highways 8 and 15 in Fairbury .....	3
1651.	Nebraska .....	Construct Riverfront Trails and Bridges Along Missouri River from Dodge Park through Omaha to Bellevue .....	4.786
1652.	New Hampshire ....	Widen I-93 from Salem to Manchester ....	1.175
1653.	New Hampshire ....	Construct Manchester Airport Access Road, Manchester .....	1
1654.	New Hampshire ....	Conway bypass/Route 16 mitigation, Conway .....	0.5
1655.	New Hampshire ....	Improve Bridge Street bridge, Plymouth ..	1
1656.	New Hampshire ....	Advance completion of Route 101 project from Raymond to Hampton .....	2
1657.	New Hampshire ....	Rehabilitate/reconstruct Bath-Haverhill Bridge, Bath and Haverhill .....	0.65
1658.	New Hampshire ....	Construct Manchester Access Road, Manchester .....	3.175
1659.	New Hampshire ....	Construct Orford Bridge, Orford .....	0.85

No.	State	Project description	(Dollars in millions)
1660.	New Jersey .....	Construct bicycle trails and riverside improvements, West Deptford .....	0.7
1661.	New Jersey .....	Construct Delaware River tram to link destinations on both sides of Delaware River .....	8
1662.	New Jersey .....	Construct new ramp between NJ 42 and south section of I-295 .....	14
1663.	New Jersey .....	Construct roadway network through the Bergen Arches railroad right-of-way, Hudson County .....	26.5
1664.	New Jersey .....	Relocate/construct Cooper Hospital Medical Center helipad, Camden .....	1.5
1665.	Nevada .....	Canamex Corridor Innovative Urban Renovation Project in Henderson .....	1.531
1666.	Nevada .....	Widen U.S. 50 between Fallon and Fernley .....	1
1667.	Nevada .....	I-580/U.S. 395 Freeway Extension to Carson City .....	5
1668.	Nevada .....	Reconstruction of I-15 Interchange at Sahara Avenue and Rancho Road in North Las Vegas .....	5
1669.	Nevada .....	Widening of Craig Road in North Las Vegas .....	2
1670.	Nevada .....	Widen I-15 in San Bernadino County, CA .....	6
1671.	New York .....	Reconstruct Springfield Boulevard between the LIRR Main Line South to Rockaway Boulevard in Queens County .....	1
1672.	New York .....	Replace Kennedy-class ferries in Staten Island .....	2
1673.	New York .....	Construct Fordham University Regional Transportation Facility, Bronx .....	4
1674.	New York .....	Construct Hamilton Street interchange between Route 17 and Route 15 in Erwin .....	4.4
1675.	New York .....	Construct intermodal project at Castle Clinton and Battery Park, New York City .....	6
1676.	New York .....	Relocate toll barrier in Williamsville .....	6.1
1677.	New York .....	Construct Route 219 from Springville to Salamanica (Route 13 to Route 17) .....	20
1678.	New York .....	Design/construct upgraded interchange between I-84 and I-87 near Stuart International Airport, Newburg .....	20
1679.	New York .....	Renovate/reconstruct James A. Farley Post Office, New York City, as new Amtrak station .....	40
1680.	New York .....	Renovate Hellgate Bridge, New York City .....	15
1681.	Ohio .....	Upgrade intersection of U.S. 20 and SR 420, Woodville .....	5
1682.	Ohio .....	Improve intersection at SR 327 and U.S. 32, Wellston .....	3
1683.	Ohio .....	Upgrade U.S. 20 in Painesville, Perry, and Madison .....	3
1684.	Ohio .....	Upgrade U.S. 30 and Hill-Diley Road, Lancaster .....	4
1685.	Ohio .....	Upgrade Caves Road, Geauga County .....	2
1686.	Ohio .....	Upgrade SR 2 between Oregon and Camp Perry .....	5
1687.	Ohio .....	Construct intermodal transit center in Cincinnati .....	8
1688.	Ohio .....	High priority highway and bridge projects .....	34.325

No.	State	Project description	(Dollars in millions)
1689.	Ohio .....	Upgrade intersection of U.S. 35 and Fairfield Road .....	4
1690.	Oklahoma .....	Reconstruct/widen I-40 Crosstown Bridge and Realignment, Oklahoma City .....	30.912
1691.	Oregon .....	Relocate Highway 126 through Redmond .....	4
1692.	Oregon .....	Widen U.S. 30 from two lanes to four lanes in Pendleton .....	7.8
1693.	Oregon .....	Restore funding for Broadway Bridge Project .....	2.5
1694.	Oregon .....	Restore funding for I-5/217 Kruse Way Project .....	1.75
1695.	Oregon .....	Restore funding for Astoria Hazard Recovery Railroad Slide .....	0.175
1696.	Oregon .....	Restore funding for South Rivergate Overcrossing Project .....	2
1697.	Oregon .....	Restore funding for Medford Highway 62/99 Project .....	4
1698.	Oregon .....	Restore funding for I-205 Sunnyside Interchange Project .....	1.8
1699.	Pennsylvania .....	Reconstruction of I-79 from PA 285 to U.S. 6, Crawford County .....	1
1700.	Pennsylvania .....	Relocation of U.S. 15 from U.S. 522 to PA 147 in Snyder, Union, and Northumberland Counties .....	1
1701.	Pennsylvania .....	Reconstruct I-81/Davis Street Interchange, Lackawanna County .....	1
1702.	Pennsylvania .....	Construct American Parkway Bridge project, Allentown .....	1
1703.	Pennsylvania .....	Construct Williams-Lycoming County Airport access road from I-80 to the Airport .....	1
1704.	Pennsylvania .....	Rehabilitate Streets Run Road for emergency access .....	0.5
1705.	Pennsylvania .....	Construct pedestrian bridge, Vine Street Expressway between 15th and 16th Streets .....	1
1706.	Pennsylvania .....	North Shore roadway and pedestrian improvements, Pittsburgh .....	2.505
1707.	Pennsylvania .....	Widening and reconstruction of U.S. 30, Lancaster County .....	2.5
1708.	Pennsylvania .....	Construction of Erie Bayside Connector, Erie County .....	2
1709.	Pennsylvania .....	Construct Independence Gateway Transportation Center project, Philadelphia ...	1
1710.	Pennsylvania .....	Road construction in and around former Bethlehem Steel plant site .....	3
1711.	Pennsylvania .....	Roadway and pedestrian improvements for North Shore Central Business District Corridor Transportation Project, Pittsburgh .....	2.5
1712.	Pennsylvania .....	Construction at Williamsport Airport, Lycoming County .....	2
1713.	Pennsylvania .....	Construct U.S. 322 Concheste Highway between U.S. 1 and SR 452 .....	3
1714.	Pennsylvania .....	Construct I-95 access ramps at and around Philadelphia International Airport .....	5
1715.	Pennsylvania .....	Reconstruct SR 309 in Eastern Montgomery County .....	2
1716.	Pennsylvania .....	Lancaster County airport runway extension .....	1

No.	State	Project description	(Dollars in millions)
1717.	Pennsylvania .....	Construct safety and capacity improvements to Route 309 and Old Packhouse Road, including widening of Old Packhouse Road between KidsPeace National Hospital and Route 309, Lehigh County .....	1
1718.	Pennsylvania .....	Construct grade separated interchange on Old Route 60 at Pittsburgh Airport, Allegheny County .....	1
1719.	Pennsylvania .....	Improvements to SR 412 from I-78 to Bethlehem Steel site and road improvements for rail intermodal facility, Bethlehem .....	2
1720.	Pennsylvania .....	Construct new interchange at Settler's Cabin, Allegheny County .....	1
1721.	Pennsylvania .....	Improve access and interchange from I-95 to International terminal at Philadelphia International Airport .....	5
1722.	Pennsylvania .....	Relocate Route 15 at Selinsgrove and Shamokin Dam, Snyder County .....	1
1723.	Pennsylvania .....	Construct access to site of former Philadelphia Naval Shipyard and Base .....	2
1724.	Pennsylvania .....	Reconstruct I-80, Mercer and Venango Counties .....	1
1725.	Pennsylvania .....	Construct Erie Eastside Connector .....	3
1726.	Pennsylvania .....	Reconstruct main line I-179 .....	1
1727.	Pennsylvania .....	Upgrade U.S. 219 between Meyersdale and Somerset .....	5
1728.	Pennsylvania .....	Relocate Route 222 in/around Trexlertown, Lehigh County .....	3
1729.	Pennsylvania .....	Widen Broad Street and related improvements, Hazelton .....	2
1730.	Pennsylvania .....	Construct Cranberry Connector, I-79/Route 19/PA Turnpike, Butler County ...	2
1731.	Pennsylvania .....	Construct Warren Street Extension, Reading .....	3
1732.	Pennsylvania .....	Construct new lane on Route 15, Tioga County .....	5
1733.	Pennsylvania .....	Construct Mon Fayette Expressway between WV and Fairchance .....	5
1734.	Pennsylvania .....	Reconstruct Ft. Pitt Bridge and Tunnel, Pittsburgh .....	19
1735.	Pennsylvania .....	Construct new interchange at I-95 and PA Turnpike and related improvements	5
1736.	Rhode Island .....	Construct Blackstone River bikeway .....	8.843
1737.	Rhode Island .....	Construct Woonasquatucket bikeway .....	3.1
1738.	South Carolina .....	Replace Cooper River Bridges, Charleston	19.311
1739.	South Dakota .....	Construct Eastern Dakota Expressway between Aberdeen at I-29 .....	12.832
1740.	South Dakota .....	Preserve Skyline Drive Scenic Ridgeway in Rapid City .....	0.5
1741.	South Dakota .....	Construct new interchange and access road on Interstate 90 at Box Elder .....	1
1742.	Tennessee .....	Reconstruction of Old Walland Highway Bridge over Little River, Townsend .....	0.42
1743.	Tennessee .....	Construct pedestrian and bicycle pathway to connect with Mississippi River Trail and restore historic cobblestones on the Riverfront, Memphis .....	0.7
1744.	Tennessee .....	High priority highway and bridge projects	44.048



No.	State	Project description	(Dollars in millions)
1745.	Utah .....	Construct Phase 2 of the University Avenue Interchange, Provo .....	1.5
1746.	Utah .....	Engineer/reconstruct at Brown's Park Road, Daggett County .....	0.85
1747.	Utah .....	Construct Cache Valley Highway in Logan	1
1748.	Utah .....	Gateway Redevelopment Area road reconstruction, Salt Lake City .....	1
1749.	Utah .....	Widen/improve 123rd/126th South from 700 East to Jordan River, Draper .....	0.5
1750.	Utah .....	Construct Cache Valley Highway in Logan	2
1751.	Utah .....	Widen/improve 123rd/126th South from Jordan River to Bangerter Highway in Riverton .....	0.5
1752.	Utah .....	Construct underpass at 100 South, in Sandy .....	1
1753.	Utah .....	Extend Main Street from 5600 South to Vine Street, Murray .....	2
1754.	Utah .....	Construct Phase 2 of the University Avenue Interchange, Provo .....	1
1755.	Utah .....	Widen 7200 West, Midvale .....	0.35
1756.	Utah .....	Construct I-15 interchange at Atkinville ..	2
1757.	Utah .....	Improve 5600 West Highway from 2100 South to 4100 South in West Valley County .....	1
1758.	Virginia .....	Construct Southeastern Parkway and Greenbelt, Virginia Beach .....	4
1759.	Virginia .....	Construct Route 288, Richmond .....	2
1760.	Virginia .....	Planning/design for Coalfields Expressway, Buchanan, Dickinson, and Wise Counties .....	5
1761.	Virginia .....	Complete new section of Fairfax County Parkway, Fairfax County .....	2
1762.	Virginia .....	Reconstruct SR 168 (Battlefield Boulevard), Chesapeake .....	3
1763.	Virginia .....	Phase 1 Downtown Staunton Streetscape Plan .....	0.2
1764.	Virginia .....	Commuter/freight rail congestion/mitigation project over Quantico Creek .....	2
1765.	Virginia .....	Conduct preliminary engineering on I-73 between Roanoke and VA/NC State line	1
1766.	Virginia .....	Construct I-95/State Route 627 interchange, Stafford County .....	1
1767.	Virginia .....	Improve Lee Highway Corridor in Fairfax	1
1768.	Virginia .....	Construct Third Bridge/Tunnel Crossing of Hampton Rd .....	3
1769.	Virginia .....	Widen I-64 Bland Boulevard interchange	3
1770.	Virginia .....	Construct "Smart Road" in Blacksburg ....	5
1771.	Virginia .....	Reconstruct I-66/Route 29 interchange, Gainesville .....	15
1772.	Vermont .....	Upgrade and Improve Publicly-Owned Vermont Rail Infrastructure from Bennington to Burlington .....	9.168
1773.	Washington .....	Hood River Bridge SR 35 .....	0.192
1774.	Washington .....	Port of Kalama River Bridge .....	0.169
1775.	Washington .....	Huntington Avenue South Castle Rock ....	0.138
1776.	Washington .....	Port of Longview Industrial Rail Corridor	0.477
1777.	Washington .....	I-5 interchange, Lewis County .....	1.27
1778.	Washington .....	Safety Improvements to SR 14 Columbia Gorge .....	0.775
1779.	Washington .....	Construct 192nd Street from SR 14 to SE 15th, Vancouver .....	0.962

No.	State	Project description	(Dollars in millions)
1780.	Washington .....	Widen U.S. 395 north of Spokane .....	1.9
1781.	Washington .....	Columbia Center Boulevard, Kennewick ...	0.309
1782.	Washington .....	Construct Washington Pass Visitors Center .....	0.231
1783.	Washington .....	Improve Hillsboro Street/Highway 395 intersection, Pasco .....	0.682
1784.	Washington .....	Reconstruct I-82/Keys Road Intersection, Yakima .....	1.663
1785.	Washington .....	Construct Sequim/Dungeness Valley Trail Project .....	0.192
1786.	Washington .....	Widen SR 99 between 148th Street and King County Line, Lynnwood .....	0.577
1787.	Washington .....	Improve I-5/196th Street Interchange, Lynnwood .....	0.866
1788.	Washington .....	Construct SR 305 corridor improvement, Poulsboro .....	0.673
1789.	Washington .....	Edmonds Crossing multi-modal transportation project .....	0.962
1790.	Washington .....	Construct Cross Base Corridor Ft. Lewis/McChord AFB .....	0.115
1791.	Washington .....	Reconstruct I-5 Interchange, City of Lacey .....	0.288
1792.	Washington .....	Construct SR 167 Corridor .....	0.288
1793.	Washington .....	Southworth Seattle Ferry .....	0.962
1794.	Washington .....	Undertake SR 166 slide repair .....	1.25
1795.	Washington .....	Construct SR 7 Elbe rest area and interpretive facility .....	0.15
1796.	Washington .....	Extend Mill Plain Boulevard, Vancouver ..	1
1797.	Washington .....	Construct I-405/NE 8th Street Interchange, Bellevue .....	5.875
1798.	Washington .....	Improve I-90/Sunset Way Interchange, Issaquah .....	4.95
1799.	Washington .....	Clinton Ferry Terminal .....	1.2
1800.	Washington .....	8th Street, East Pierce County .....	0.25
1801.	Washington .....	Shaw Road/Puyallup extension .....	0.375
1802.	Washington .....	180th, Tukwila .....	0.5
1803.	Washington .....	South 277th, Auburn (UP) .....	0.5
1804.	Washington .....	South 277th, Auburn (BNSF) .....	0.5
1805.	Washington .....	Construct Southwest Third Street .....	0.75
1806.	Washington .....	Construct Port of Tacoma Road .....	1.125
1807.	Washington .....	Construct North Duwamish Intermodal Project .....	4
1808.	West Virginia .....	Construct Coalfields Expressway .....	22.69
1809.	Wyoming .....	State Priority Projects .....	13.934
1810.	New Mexico .....	Construct Rio Rancho Highway .....	20
1811.	Massachusetts .....	Reconstruct Huntington Avenue .....	1
1812.	Texas .....	Relocate railroad Bryan/College Station at Texas A&M or any other high priority project .....	10
1813.	Texas .....	High priority highway and bridge projects	133.863
1814.	Arizona .....	High priority highway and bridge projects	31.076
1815.	Delaware .....	High priority highway and bridge projects	8.868
1816.	Hawaii .....	High priority highway and bridge projects	10.379
1817.	Wisconsin .....	High priority highway and bridge projects	39.926
1818.	Arkansas .....	High priority highway and bridge projects	15
1819.	Maine .....	High priority highway and bridge projects	10
1820.	Texas .....	Relocate railroad line in Bryan and College Station, Texas A&M University .....	15
1821.	Virginia .....	High priority highway and bridge projects	5
1822.	New Hampshire ....	High priority highway and bridge projects	5
1823.	Idaho .....	High priority highway and bridge projects	5

No.	State	Project description	(Dollars in millions)
1824.	Arkansas .....	Conduct seismic design and deployment projects .....	5
1825.	Missouri .....	High priority highway and bridge projects .....	10
1826.	Wyoming .....	High priority highway and bridge projects .....	5
1827.	Rhode Island .....	Construct pedestrian and bicycle facilities .....	5
1828.	Oklahoma .....	High priority highway and bridge projects .....	5
1829.	Colorado .....	High priority highway and bridge projects .....	5
1830.	Alabama .....	Develop Huntsville Southern Bypass .....	1
1831.	Alabama .....	Replace bridge over Tombigbee River, Naheola .....	1
1832.	Alabama .....	Construct Anniston Eastern Bypass .....	1
1833.	Alabama .....	Construct East Foley Corridor Project from Baldwin County Highway 20 to State Highway 59 .....	0.75
1834.	Alabama .....	Construct Decatur Southern Bypass .....	1
1835.	Alabama .....	Construct Montgomery Outer Loop from U.S. 80 to I–85 via I–65 .....	1
1836.	Alabama .....	Develop Birmingham Northern Beltline ..	1.45
1837.	Alabama .....	Construct bridge over Tennessee River connecting Muscle Shoals and Florence .....	1
1838.	Alabama .....	Create National University Transportation Center at the University of Alabama .....	1.8
1839.	Alabama .....	University of Alabama at Birmingham-Trauma Care Center .....	2.25
1840.	Alabama .....	Conduct advance vehicle transportation research program at the University of Alabama at Tuscaloosa .....	2
1841.	Alabama .....	Conduct asphalt research program at Auburn University .....	0.5
1842.	Alabama .....	Conduct Global Climate Research Program at the University of Alabama at Huntsville .....	0.25
1843.	California .....	Conduct Golden Gate Seismic Retrofit Project .....	26
1844.	Oregon .....	Prepare and preserve high priority highways .....	30
1845.	South Dakota .....	Construct Eastern Dakota Expressway from Aberdeen to I–29 .....	23.768
1846.	Massachusetts .....	High priority highway and bridges .....	25
1847.	Pennsylvania .....	Reconstruct and improve I–95 in Delaware, Philadelphia and Bucks Counties .....	50
1848.	Pennsylvania .....	Reconstruct and improve U.S. 22 in Westmoreland and Indiana Counties .....	50
1849.	South Carolina .....	Replace Cooper River Bridges, Charleston .....	20
1850.	Alaska .....	Construct Bradfield Canal Road .....	1

**SEC. 1603. SPECIAL RULE.**

For purposes of calculating the minimum guarantee apportionment under section 105 of title 23, United States Code, the Secretary shall not include projects numbered 1818 through 1849 in section 1602.

**TITLE II—HIGHWAY SAFETY****SEC. 2001. HIGHWAY SAFETY PROGRAMS.**

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended—

(1) in the fourth sentence by striking “(4) to” and inserting “(4) to prevent accidents and”;

(2) in the eighth sentence by striking “include information obtained by the Secretary under section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991 and”; and

(3) in the twelfth sentence by inserting “enforcement of light transmission standards of window glazing for passenger motor vehicles and light trucks as necessary to improve highway safety,” before “and emergency services”.

23 USC 402. (b) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b) of such title is amended—

(1) by striking “(b)(1)” and all that follows through paragraph (2) and inserting the following:

“(b) ADMINISTRATION OF STATE PROGRAMS.—”;

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3), respectively;

(3) in paragraph (1)(C) (as so redesignated) by striking “paragraph (5)” and inserting “paragraph (3)”; and

(4) in paragraph (2) (as so redesignated) by striking “paragraph (3)(C)” and inserting “paragraph (1)(C)”.

(c) APPORTIONMENT OF FUNDS.—The sixth sentence of section 402(c) of such title is amended by inserting “the apportionment to the Secretary of the Interior shall not be less than three-fourths of 1 percent of the total apportionment and” after “except that”.

(d) APPLICATION IN INDIAN COUNTRY.—Section 402(i) of such title is amended to read as follows:

“(i) APPLICATION IN INDIAN COUNTRY.—

“(1) USE OF TERMS.—For the purpose of application of this section in Indian country, the terms ‘State’ and ‘Governor of a State’ include the Secretary of the Interior and the term ‘political subdivision of a State’ includes an Indian tribe.

“(2) EXPENDITURES FOR LOCAL HIGHWAY PROGRAMS.—Notwithstanding subsection (b)(1)(C), 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions.

“(3) ACCESS FOR INDIVIDUALS WITH DISABILITIES.—The requirements of subsection (b)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

“(4) INDIAN COUNTRY DEFINED.—In this subsection, the term ‘Indian country’ means—

“(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

“(B) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

“(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.”.

(e) RULEMAKING PROCEEDING.—Section 402(j) of such title is amended to read as follows:

“(j) RULEMAKING PROCEEDING.—The Secretary may periodically conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries, and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.”

(f) HIGHWAY SAFETY EDUCATION AND INFORMATION.—

23 USC 402 note.

(1) IN GENERAL.—For fiscal years 1999 and 2000, the Secretary shall allow any State to use funds apportioned to the State under section 402 of title 23, United States Code, to purchase television and radio time for highway safety public service messages.

(2) REPORTS BY STATES.—Any State that uses funds described in paragraph (1) for purchasing television and radio time for highway safety public service messages shall submit to the Secretary a report describing, and assessing the effectiveness of, the messages.

(3) STUDY.—Based on information contained in the reports submitted under paragraph (2), the Secretary shall prepare and transmit to Congress a report on the effectiveness of purchasing television and radio time for highway safety public service messages using funds described in paragraph (1).

Reports.

#### SEC. 2002. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

(a) AUTHORITY OF THE SECRETARY.—Section 403(a)(2)(A) of title 23, United States Code, is amended by inserting “, including training in work zone safety management” after “personnel”.

(b) DRUGS AND DRIVER BEHAVIOR.—

(1) IN GENERAL.—Section 403(b) of such title is amended by adding at the end the following:

23 USC 403.

“(3) Measures that may deter drugged driving.

“(4) Programs to train law enforcement officers on motor vehicle pursuits conducted by the officers.”.

(2) REPORTS OF FEDERAL POLICIES AND PROCEDURES.—Not later than 180 days after the date of enactment of this Act, the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of the Treasury, the Chief of Capitol Police, and the Administrator of General Services shall each transmit to Congress a report containing—

(A) the policy of the department or agency headed by that individual concerning motor vehicle pursuits by law enforcement officers of that department or agency; and

(B) a description of the procedures that the department or agency uses to train law enforcement officers in the implementation of the policy referred to in subparagraph (A).

#### SEC. 2003. OCCUPANT PROTECTION.

(a) OCCUPANT PROTECTION INCENTIVE GRANTS.—

(1) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by inserting after section 404 the following:

#### “§ 405. Occupant protection incentive grants

“(a) GENERAL AUTHORITY.—

“(1) **AUTHORITY TO MAKE GRANTS.**—Subject to the requirements of this section, the Secretary shall make grants under this section to States that adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. Such grants may be used by recipient States only to implement and enforce, as appropriate, such programs.

“(2) **MAINTENANCE OF EFFORT.**—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for programs described in paragraph (1) at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century.

“(3) **MAXIMUM PERIOD OF ELIGIBILITY.**—No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

“(4) **FEDERAL SHARE.**—The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

“(A) in each of the first and second fiscal years in which the State receives a grant under this section, 75 percent;

“(B) in each of the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

“(C) in each of the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

“(b) **GRANT ELIGIBILITY.**—A State shall become eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary at least 4 of the following:

“(1) **SAFETY BELT USE LAW.**—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle (and, beginning in fiscal year 2001, in any seat in the vehicle) does not have a safety belt properly secured about the individual’s body.

“(2) **PRIMARY SAFETY BELT USE LAW.**—The State provides for primary enforcement of the safety belt use law of the State.

“(3) **MINIMUM FINE OR PENALTY POINTS.**—The State imposes a minimum fine or provides for the imposition of penalty points against the driver’s license of an individual—

“(A) for a violation of the safety belt use law of the State; and

“(B) for a violation of the child passenger protection law of the State.

“(4) **SPECIAL TRAFFIC ENFORCEMENT PROGRAM.**—The State has implemented a statewide special traffic enforcement program for occupant protection that emphasizes publicity for the program.

“(5) **CHILD PASSENGER PROTECTION EDUCATION PROGRAM.**—The State has implemented a statewide comprehensive child passenger protection education program that includes education

programs about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraint systems.

“(6) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

“(c) GRANT AMOUNTS.—The amount of a grant for which a State qualifies under this section for a fiscal year shall equal up to 25 percent of the amount apportioned to the State for fiscal year 1997 under section 402.

“(d) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

“(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.

“(f) DEFINITIONS.—In this section, the following definitions apply:

“(1) CHILD SAFETY SEAT.—The term ‘child safety seat’ means any device (except safety belts) designed for use in a motor vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

“(2) MOTOR VEHICLE.—The term ‘motor vehicle’ means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

“(3) MULTIPURPOSE PASSENGER VEHICLE.—The term ‘multipurpose passenger vehicle’ means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

“(4) PASSENGER CAR.—The term ‘passenger car’ means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

“(5) PASSENGER MOTOR VEHICLE.—The term ‘passenger motor vehicle’ means a passenger car or a multipurpose passenger motor vehicle.

“(6) SAFETY BELT.—The term ‘safety belt’ means—

“(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

“(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.”.

(2) CONFORMING AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 404 the following:

“405. Occupant protection incentive grants.”.

(b) CHILD PASSENGER PROTECTION EDUCATION GRANTS.—

(1) IN GENERAL.—The Secretary may make a grant to a State that submits an application, in such form and manner as the Secretary may prescribe, that is approved by the Secretary to carry out the activities specified in paragraph (2) through—

23 USC 405 note.

(A) the child passenger protection program of the State; and

(B) at the option of the State, a grant program established by the State to carry out 1 or more of the activities specified in paragraph (2) by a political subdivision of the State or an appropriate private entity.

(2) **USE OF FUNDS.**—Funds provided to a State as a grant under this subsection shall be used to implement child passenger protection programs that—

(A) are designed to prevent deaths and injuries to children;

(B) educate the public concerning—

(i) all aspects of the proper installation of child restraints using standard seatbelt hardware, supplemental hardware, and modification devices (if needed), including special installation techniques;

(ii) appropriate child restraint design, selection, and placement; and

(iii) harness threading and harness adjustment on child restraints; and

(C) train and retrain child passenger safety professionals, police officers, fire and emergency medical personnel, and other educators concerning all aspects of child restraint use.

(3) **GRANT AWARDS.**—The Secretary may make a grant under this subsection without regard to whether a State is eligible to receive, or has received, a grant under section 405 of title 23, United States Code (as inserted by subsection (a) of this section).

(4) **FEDERAL SHARE.**—The Federal share of the cost of a program carried out using funds made available from a grant under this subsection may not exceed 80 percent.

(5) **REPORT.**—Each State that receives a grant under this subsection shall transmit to the Secretary a report for the period covered by the grant that, at a minimum, describes the program activities carried out with the funds made available under the grant.

(6) **REPORT TO CONGRESS.**—Not later than June 1, 2002, the Secretary shall transmit to Congress a report on the implementation of this subsection that includes a description of the programs carried out and materials developed and distributed by the States that receive grants under this subsection.

(7) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this subsection \$7,500,000 for each of fiscal years 2000 and 2001.

#### **SEC. 2004. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.**

(a) **IN GENERAL.**—Section 410 of title 23, United States Code, is amended to read as follows:

##### **“§ 410. Alcohol-impaired driving countermeasures**

“(a) **GENERAL AUTHORITY.**—

“(1) **AUTHORITY TO MAKE GRANTS.**—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving while under



the influence of alcohol. Such grants may only be used by recipient States to implement and enforce such programs.

“(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century.

“(3) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

“(4) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

“(A) in each of the first and second fiscal years in which the State receives a grant under this section, 75 percent;

“(B) in each of the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

“(C) in each of the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

“(b) BASIC GRANT ELIGIBILITY.—

“(1) BASIC GRANT A.—A State shall become eligible for a grant under this paragraph by adopting or demonstrating to the satisfaction of the Secretary at least 5 of the following:

“(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver’s license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that—

“(i) in the case of an individual who, in any 5-year period beginning after the date of enactment of the Transportation Equity Act for the 21st Century, is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers’ licenses, upon receipt of the report of the law enforcement officer—

“(I) shall suspend the driver’s license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; and

“(II) shall suspend the driver’s license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; and

“(ii) the suspension and revocation referred to under clause (i) shall take effect not later than 30 days after the day on which the individual refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the procedures of the State.

“(B) UNDERAGE DRINKING PROGRAM.—An effective system, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages and for preventing persons from making alcoholic beverages available to individuals under age 21. Such system may include the issuance of drivers’ licenses to individuals under age 21 that are easily distinguishable in appearance from drivers’ licenses issued to individuals age 21 or older and the issuance of drivers’ licenses that are tamper resistant.

“(C) ENFORCEMENT PROGRAM.—Either—

“(i) a statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol; or

“(ii) a statewide special traffic enforcement program for impaired driving that emphasizes publicity for the program.

“(D) GRADUATED LICENSING SYSTEM.—A 3-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first 2 stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater.

“(E) DRIVERS WITH HIGH BAC.—Programs to target individuals with high blood alcohol concentrations who operate a motor vehicle. Such programs may include implementation of a system of graduated penalties and assessment of individuals convicted of driving under the influence of alcohol.

“(F) YOUNG ADULT DRINKING PROGRAMS.—Programs to reduce driving while under the influence of alcohol by individuals age 21 through 34. Such programs may include awareness campaigns; traffic safety partnerships with employers, colleges, and the hospitality industry; assessments of first-time offenders; and incorporation of treatment into judicial sentencing.

“(G) TESTING FOR BAC.—An effective system for increasing the rate of testing of the blood alcohol concentrations of motor vehicle drivers involved in fatal accidents and, in fiscal year 2001 and each fiscal year thereafter, a rate of such testing that is equal to or greater than the national average.

“(2) BASIC GRANT B.—A State shall become eligible for a grant under this paragraph by adopting or demonstrating to the satisfaction of the Secretary each of the following:

“(A) FATAL IMPAIRED DRIVER PERCENTAGE REDUCTION.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available.

“(B) FATAL IMPAIRED DRIVER PERCENTAGE COMPARISON.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State

has been lower than the average percentage for all States in each of the calendar years referred to in subparagraph (A).

“(3) BASIC GRANT AMOUNT.—The amount of a basic grant made to a State for a fiscal year under this subsection shall equal up to 25 percent of the amount apportioned to the State for fiscal year 1997 under section 402.

“(c) SUPPLEMENTAL GRANTS.—

“(1) IN GENERAL.—Upon receiving an application from a State, the Secretary may make supplemental grants to the State for meeting 1 or more of the following criteria:

“(A) VIDEO EQUIPMENT FOR DETECTION OF DRUNK DRIVERS.—The State provides for a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

“(B) SELF-SUSTAINING DRUNK DRIVING PREVENTION PROGRAM.—The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

“(C) REDUCING DRIVING WITH A SUSPENDED LICENSE.—The State enacts and enforces a law to reduce driving with a suspended license. Such law, as determined by the Secretary, may require a ‘zebra’ stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

“(D) USE OF PASSIVE ALCOHOL SENSORS.—The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

“(E) EFFECTIVE DWI TRACKING SYSTEM.—The State demonstrates an effective driving while intoxicated (DWI) tracking system. Such a system, as determined by the Secretary, may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

“(F) OTHER PROGRAMS.—The State provides for other innovative programs to reduce traffic safety problems resulting from individuals driving while under the influence of alcohol or controlled substances, including programs that seek to achieve such a reduction through legal, judicial, enforcement, educational, technological, or other approaches.

“(2) ELIGIBILITY.—A State shall be eligible to receive a grant under this subsection in a fiscal year only if the State is eligible to receive a grant under subsection (b) in such fiscal year.

“(3) FUNDING.—Of the amounts made available to carry out this section in a fiscal year, not to exceed 10 percent shall be available for making grants under this subsection.

“(d) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

“(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.

“(f) DEFINITIONS.—In this section, the following definitions apply:

“(1) ALCOHOLIC BEVERAGE.—The term ‘alcoholic beverage’ has the meaning given such term in section 158(c).

“(2) CONTROLLED SUBSTANCES.—The term ‘controlled substances’ has the meaning given such term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

“(3) MOTOR VEHICLE.—The term ‘motor vehicle’ has the meaning given such term in section 405.”

23 USC 410 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1998.

#### SEC. 2005. STATE HIGHWAY SAFETY DATA IMPROVEMENTS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is further amended by adding at the end the following:

##### “§ 411. State highway safety data improvements

“(a) GENERAL AUTHORITY.—

“(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs—

“(A) to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

“(B) to evaluate the effectiveness of efforts to make such improvements;

“(C) to link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical and economic data; and

“(D) to improve the compatibility of the data system of the State with national data systems and data systems of other States and to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

Such grants may be used by recipient States only to implement such programs.

“(2) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements necessary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall demonstrate how the multiyear highway safety data and traffic records plan of the State described in subsection (b)(1) will be incorporated into data systems of the State.

“(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway

safety data programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century.

“(4) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

“(5) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

“(A) in the first and second fiscal years in which the State receives a grant under this section, 75 percent;

“(B) in the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

“(C) in the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

“(b) FIRST-YEAR GRANTS.—

“(1) ELIGIBILITY.—A State shall become eligible for a first-year grant under this subsection in a fiscal year if the State either—

“(A) demonstrates, to the satisfaction of the Secretary, that the State has—

“(i) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership, including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities);

“(ii) completed, within the preceding 5 years, a highway safety data and traffic records assessment or an audit of the highway safety data and traffic records system of the State; and

“(iii) initiated the development of a multiyear highway safety data and traffic records strategic plan that—

“(I) identifies and prioritizes the highway safety data and traffic records needs and goals of the State;

“(II) identifies performance-based measures by which progress toward those goals will be determined; and

“(III) will be submitted to the highway safety data and traffic records coordinating committee of the State for approval; or

“(B) provides, to the satisfaction of the Secretary—

“(i) a certification that the State has met the requirements of clauses (i) and (ii) of subparagraph (A);

“(ii) a multiyear highway safety data and traffic records strategic plan that—

“(I) meets the requirements of subparagraph (A)(iii); and

“(II) specifies how the incentive funds of the State for the fiscal year will be used to address needs and goals identified in the plan; and

“(iii) a certification that the highway safety data and traffic records coordinating committee of the State

continues to operate and supports the multiyear plan described in clause (ii).

“(2) GRANT AMOUNTS.—The amount of a first-year grant made to a State for a fiscal year under this subsection shall equal—

“(A) if the State is eligible for the grant under paragraph (1)(A), \$125,000; and

“(B) if the State is eligible for the grant under paragraph (1)(B), an amount determined by multiplying—

“(i) the amount appropriated to carry out this section for such fiscal year; by

“(ii) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under paragraph (1)(B) shall receive less than \$250,000.

“(3) STATES NOT MEETING CRITERIA.—The Secretary may award a grant of up to \$25,000 for 1 year to any State that does not meet the criteria established in paragraph (1). The grant may only be used to conduct activities needed to enable the State to qualify for a first-year grant in the next fiscal year.

“(c) SUCCEEDING YEAR GRANTS.—

“(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

“(A) submits or updates a multiyear highway safety data and traffic records strategic plan that meets the requirements of subsection (b)(1);

“(B) certifies that the highway safety data and traffic records coordinating committee of the State continues to operate and supports the multiyear plan; and

“(C) reports annually on the progress of the State in implementing the multiyear plan.

“(2) GRANT AMOUNTS.—The amount of a succeeding year grant made to the State for a fiscal year under this paragraph shall equal the amount determined by multiplying—

“(A) the amount appropriated to carry out this section for such fiscal year; by

“(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under this paragraph shall receive less than \$225,000.

“(c) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

“(d) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.”.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

“411. State highway safety data improvements.”.

**SEC. 2006. NATIONAL DRIVER REGISTER.**

(a) **TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.**—Section 30302 of title 49, United States Code, is amended by adding at the end the following:

“(e) **TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.**—

“(1) **AGREEMENT.**—The Secretary may enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register’s computer timeshare and user assistance functions. If the Secretary decides to enter into such an agreement, the Secretary shall ensure that the management of these functions is compatible with this chapter and the regulations issued to implement this chapter.

“(2) **REQUIRED DEMONSTRATION.**—Any transfer of the National Driver Register’s computer timeshare and user assistance functions to an organization that represents the interests of the States shall begin only after a determination is made by the Secretary that all States are participating in the National Driver Register’s ‘Problem Driver Pointer System’ (the system used by the Register to effect the exchange of motor vehicle driving records) and that the system is functioning properly.

“(3) **TRANSITION PERIOD.**—Any agreement entered into under this subsection shall include a provision for a transition period sufficient to allow the States to make the budgetary and legislative changes the States may need to pay fees charged by the organization representing their interests for their use of the National Driver Register’s computer timeshare and user assistance functions. During this transition period, the Secretary shall continue to fund these transferred functions.

“(4) **FEES.**—The total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of the National Driver Register’s computer timeshare and user assistance functions shall not exceed the total cost to the organization of performing these functions in such fiscal year.

“(5) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this subsection may be construed to diminish, limit, or otherwise affect the authority of the Secretary to carry out this chapter.”.

(b) **ACCESS TO REGISTER INFORMATION.**—

(1) **CONFORMING AMENDMENTS.**—Section 30305(b) of title 49, United States Code, is amended—

(A) in paragraph (2) by inserting before the period at the end the following: “, unless the information is about a revocation or suspension still in effect on the date of the request”;

(B) in paragraph (8), as redesignated by section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104-324, 110 Stat. 3908)—

(i) by striking “paragraph (2)” and inserting “subsection (a) of this section”; and

(ii) by moving the text of such paragraph 2 ems to the left; and

(C) by redesignating paragraph (8), as redesignated by section 502(b)(1) of the Federal Aviation Reauthorization

Act of 1996 (Public Law 104-264, 110 Stat. 3262), as paragraph (9).

(2) FEDERAL AGENCY ACCESS PROVISION.—Section 30305(b) of title 49, United States Code, is further amended—

(A) by redesignating paragraph (6) as paragraph (10) and inserting such paragraph after paragraph (9);

(B) by inserting after paragraph (5) the following:

“(6) The head of a Federal department or agency that issues motor vehicle operator’s licenses may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual applicant for a motor vehicle operator’s license from such department or agency. The department or agency may receive the information, provided it transmits to the Secretary a report regarding any individual who is denied a motor vehicle operator’s license by that department or agency for cause; whose motor vehicle operator’s license is revoked, suspended, or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in section 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in section 30304(b).”; and

(C) by adding at the end the following:

“(11) The head of a Federal department or agency authorized to receive information regarding an individual from the Register under this section may request and receive such information from the Secretary.”.

Reports.

49 USC 30301  
note.

(c) EVALUATION AND ASSESSMENT OF ALTERNATIVES.—

(1) EVALUATION.—The Secretary shall evaluate the implementation of chapter 303 of title 49, United States Code, and the programs under sections 31106 and 31309 of such title and identify alternatives to improve the ability of the States to exchange information about unsafe drivers and to identify drivers with multiple licenses.

(2) TECHNOLOGY ASSESSMENT.—The Secretary, in conjunction with the American Association of Motor Vehicle Administrators, shall conduct an assessment of available electronic technologies to improve access to and exchange of motor vehicle driving records. The assessment may consider alternative unique motor vehicle driver identifiers that would facilitate accurate matching of drivers and their records.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the evaluation and technology assessment, together with any recommendations for appropriate administrative and legislative actions.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (2) \$250,000 in the aggregate for fiscal years beginning after September 30, 1998.

23 USC 403 note. **SEC. 2007. SAFETY STUDIES.**

(a) BLOWOUT RESISTANT TIRES STUDY.—The Secretary shall conduct a study on the benefit to public safety of the use of blowout resistant tires on commercial motor vehicles and the potential to decrease the incidence of accidents and fatalities from accidents occurring as a result of blown out tires.



(b) **SCHOOL BUS OCCUPANT SAFETY STUDY.**—The Secretary shall conduct a study to assess occupant safety in school buses. The study shall examine available information about occupant safety and analyze options for improving occupant safety.

(c) **REPORTS.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of each study conducted under this section.

(d) **LIMITATION ON FUNDING.**—The Secretary may not expend more than \$200,000 from funds made available by section 403 of title 23, United States Code, for conducting each study under this section.

**SEC. 2008. EFFECTIVENESS OF LAWS ESTABLISHING MAXIMUM BLOOD ALCOHOL CONCENTRATIONS.** 23 USC 410 note.

(a) **STUDY.**—The Comptroller General shall conduct a study to evaluate the effectiveness of State laws that—

(1) deem any individual with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle to be driving while intoxicated; and

(2) deem any individual under the age of 21 with a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle to be driving while intoxicated;

in reducing the number and severity of alcohol-involved crashes.

(b) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the study conducted under this section.

**SEC. 2009. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) **IN GENERAL.**—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) **HIGHWAY SAFETY PROGRAMS.**—For carrying out section 402 of title 23, United States Code, \$149,700,000 for fiscal year 1998, \$150,000,000 for fiscal year 1999, \$152,800,000 for fiscal year 2000, \$155,000,000 for fiscal year 2001, \$160,000,000 for fiscal year 2002, and \$165,000,000 for fiscal year 2003.

(2) **HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.**—For carrying out section 403 of title 23, United States Code, \$72,000,000 for each of fiscal years 1998 through 2003.

(3) **OCCUPANT PROTECTION INCENTIVE GRANTS.**—For carrying out section 405 of title 23, United States Code, \$10,000,000 for each of fiscal years 1999 and 2000, \$13,000,000 for fiscal year 2001, \$15,000,000 for fiscal year 2002, and \$20,000,000 for fiscal year 2003.

(4) **ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.**—For carrying out section 410 of title 23, United States Code, \$34,500,000 for fiscal year 1998, \$35,000,000 for fiscal year 1999, \$36,000,000 for each of fiscal years 2000 and 2001, \$38,000,000 for fiscal year 2002, and \$40,000,000 for fiscal year 2003.

(5) **STATE HIGHWAY SAFETY DATA GRANTS.**—For carrying out section 411 of title 23, United States Code, \$5,000,000 for fiscal year 1999, \$8,000,000 for fiscal year 2000, \$9,000,000 for fiscal year 2001, and \$10,000,000 for fiscal year 2002.

(6) NATIONAL DRIVER REGISTER.—For carrying out chapter 303 of title 49, United States Code, by the National Highway Traffic Safety Administration, \$2,000,000 for each of fiscal years 1998 through 2003.

(b) ALLOCATIONS.—

(1) DRUGS AND DRIVER BEHAVIOR.—Out of amounts appropriated pursuant to subsection (a)(2) for fiscal years 1998 through 2003, the Secretary may use—

(A) not to exceed \$2,000,000 per fiscal year to carry out paragraphs (1) through (3) of section 403(b) of title 23, United States Code; and

(B) not to exceed \$1,000,000 per fiscal year to carry out paragraph (4) of such section.

(2) PUBLIC EDUCATION EFFORT.—Out of amounts appropriated pursuant to subsection (a)(2) for fiscal years 1998 through 2003, the Secretary shall obligate at least \$500,000 per fiscal year to educate the motoring public on how to share the road safely with commercial motor vehicles.

(c) APPLICABILITY OF TITLE 23.—Amounts made available under subsection (a)(2) for each of fiscal years 1999 through 2003 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(d) TRANSFERS.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraph (3), (4), or (5) of subsection (a) to the amounts made available under any other of such paragraphs in order to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which the State is eligible under sections 405, 410, and 411 of title 23, United States Code.

Federal Transit  
Act of 1998.  
Grants.  
Inter-  
governmental  
relations.  
Loans.  
49 USC 5101  
note.

## TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

### SEC. 3001. SHORT TITLE.

This title may be cited as the “Federal Transit Act of 1998”.

### SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

### SEC. 3003. DEFINITIONS.

Section 5302 is amended to read as follows:

#### “§ 5302. Definitions

“(a) IN GENERAL.—In this chapter, the following definitions apply:

“(1) CAPITAL PROJECT.—The term ‘capital project’ means a project for—

“(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in mass transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital

portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

“(B) rehabilitating a bus;

“(C) remanufacturing a bus;

“(D) overhauling rail rolling stock;

“(E) preventive maintenance;

“(F) leasing equipment or a facility for use in mass transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

“(G) a mass transportation improvement that enhances economic development or incorporates private investment, including commercial and residential development, pedestrian and bicycle access to a mass transportation facility, and the renovation and improvement of historic transportation facilities, because the improvement enhances the effectiveness of a mass transportation project and is related physically or functionally to that mass transportation project, or establishes new or enhanced coordination between mass transportation and other transportation, and provides a fair share of revenue for mass transportation that will be used for mass transportation—

“(i) including property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, safety and security equipment and facilities (including lighting, surveillance and related intelligent transportation system applications), facilities that incorporate community services such as daycare and health care, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall, except that a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means; and

“(ii) excluding construction of a commercial revenue-producing facility or a part of a public facility not related to mass transportation;

“(H) the introduction of new technology, through innovative and improved products, into mass transportation; or

“(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient’s annual formula apportionment under sections 5307 and 5311.

“(2) CHIEF EXECUTIVE OFFICER OF A STATE.—The term ‘chief executive officer of a State’ includes the designee of the chief executive officer.

“(3) EMERGENCY REGULATION.—The term ‘emergency regulation’ means a regulation—

“(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(b); and

“(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

“(i) would injure seriously an important public interest;

“(ii) would frustrate substantially legislative policy and intent; or

“(iii) would damage seriously a person or class without serving an important public interest.

“(4) FIXED GUIDEWAY.—The term ‘fixed guideway’ means a mass transportation facility—

“(A) using and occupying a separate right-of-way or rail for the exclusive use of mass transportation and other high occupancy vehicles; or

“(B) using a fixed catenary system and a right-of-way usable by other forms of transportation.

“(5) HANDICAPPED INDIVIDUAL.—The term ‘handicapped individual’ means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without special facilities, planning, or design, mass transportation service or a mass transportation facility.

“(6) LOCAL GOVERNMENTAL AUTHORITY.—The term ‘local governmental authority’ includes—

“(A) a political subdivision of a State;

“(B) an authority of at least 1 State or political subdivision of a State;

“(C) an Indian tribe; and

“(D) a public corporation, board, or commission established under the laws of a State.

“(7) MASS TRANSPORTATION.—The term ‘mass transportation’ means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation.

“(8) NET PROJECT COST.—The term ‘net project cost’ means the part of a project that reasonably cannot be financed from revenues.

“(9) NEW BUS MODEL.—The term ‘new bus model’ means a bus model (including a model using alternative fuel)—

“(A) that has not been used in mass transportation in the United States before the date of production of the model; or

“(B) used in mass transportation in the United States, but being produced with a major change in configuration or components.

“(10) PUBLIC TRANSPORTATION.—The term ‘public transportation’ means mass transportation.

“(11) REGULATION.—The term ‘regulation’ means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

“(12) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(13) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

“(14) TRANSIT.—The term ‘transit’ means mass transportation.

“(15) TRANSIT ENHANCEMENT.—The term ‘transit enhancement’ means, with respect to any project or an area to be served by a project, projects that are designed to enhance mass transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

“(A) historic preservation, rehabilitation, and operation of historic mass transportation buildings, structures, and facilities (including historic bus and railroad facilities);

“(B) bus shelters;

“(C) landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights;

“(D) public art;

“(E) pedestrian access and walkways;

“(F) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on mass transportation vehicles;

“(G) transit connections to parks within the recipient’s transit service area;

“(H) signage; and

“(I) enhanced access for persons with disabilities to mass transportation.

“(16) URBAN AREA.—The term ‘urban area’ means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local mass transportation system to serve individuals in the locality.

“(17) URBANIZED AREA.—The term ‘urbanized area’ means an area—

“(A) encompassing at least an urbanized area within a State that the Secretary of Commerce designates; and

“(B) designated as an urbanized area within boundaries fixed by State and local officials and approved by the Secretary.

“(b) AUTHORITY TO MODIFY ‘HANDICAPPED INDIVIDUAL’.—The Secretary may by regulation modify the definition of the term ‘handicapped individual’ in subsection (a)(5) as it applies to section 5307(d)(1)(D).”.

#### **SEC. 3004. METROPOLITAN PLANNING.**

(a) GENERAL REQUIREMENTS; SCOPE OF PLANNING PROCESS.—Section 5303 is amended by striking subsections (a) and (b) and inserting the following:

“(a) GENERAL REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To carry out section 5301(a), metropolitan planning organizations designated under subsection (c), in cooperation with the States and mass transportation operators, shall develop transportation plans and programs for urbanized areas of the State.

“(2) CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

“(3) PROCESS.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

“(b) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

“(C) increase the accessibility and mobility options available to people and for freight;

“(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

“(E) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

“(F) promote efficient system management and operation; and

“(G) emphasize the preservation of the existing transportation system.

“(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.”.

(b) DESIGNATING METROPOLITAN PLANNING ORGANIZATIONS.—

Section 5303(c) is amended—

(1) in paragraph (1)(A)—

(A) by striking “representing” and inserting “that together represent”; and

(B) by striking “as defined by the Secretary of Commerce)” and inserting “or cities, as defined by the Bureau of the Census”;

(2) in paragraph (2)—

(A) by striking “In a metropolitan area” and all that follows through “shall include” and inserting “Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area when designated or redesignated under this subsection shall consist of”; and

(B) by striking “officials of authorities” and inserting “officials of public agencies”;

(3) in paragraph (3) by striking “in an urbanized area” and all that follows through “of the urbanized area” and inserting “within an existing metropolitan planning area only if the chief executive officer of the State and the existing metropolitan organization determine that the size and complexity of the existing metropolitan planning area”; and

(4) in paragraph (5)—

(A) in subparagraph (A)—

(i) by striking “representing” and inserting “that together represent”; and

(ii) by striking “as defined by the Secretary of Commerce” and inserting “or cities, as defined by the Bureau of the Census”;

(B) in subparagraph (B) by striking “as defined by the Secretary of Commerce” and inserting “or cities, as defined by the Bureau of the Census”; and

(C) by adding at the end the following:

“(D) Designations of metropolitan planning organizations, whether made under this section or under any other provision of law, shall remain in effect until redesignation under this paragraph.”.

(c) METROPOLITAN AREA BOUNDARIES.—Section 5303(d) is amended—

(1) in the subsection heading by inserting “PLANNING” before “AREA”;

(2) in the first sentence—

(A) by striking “To carry out” and inserting the following:

“(1) IN GENERAL.—To carry out”; and

(B) by inserting “planning” before “area”;

(3) by striking the second sentence and all that follows and inserting the following:

“(2) INCLUDED AREA.—Each metropolitan planning area—

“(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

“(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

“(3) EXISTING METROPOLITAN PLANNING AREAS IN NON-ATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the chief executive officer of the State and any affected metropolitan planning organizations, in the manner described in subsection (c)(5).

“(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan planning area—

“(A) shall be established in the manner described in subsection (c)(1);

“(B) shall encompass the areas described in paragraph (2)(A);

“(C) may encompass the areas described in paragraph (2)(B); and

“(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.”; and

(4) by aligning paragraph (1) (as designated by paragraph (2)(A) of this subsection) with paragraphs (2) through (4) (as inserted by paragraph (3) of this subsection).

(d) COORDINATION.—Section 5303(e) is amended—

(1) in paragraph (2)—

(A) by inserting “or compact” after “agreement” the first place it appears”; and

(B) by striking “making the agreement effective” and inserting “making the agreements and compacts effective”; and

(2) by adding at the end the following:

“(4) The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the design and delivery of transportation services within the metropolitan planning area that are provided—

“(A) by recipients of assistance under this chapter; and

“(B) by governmental agencies and non-profit organizations (including representatives of the agencies and organizations) that receive Governmental assistance from a source other than the Department of Transportation to provide non-emergency transportation services.”.

(e) DEVELOPING LONG-RANGE TRANSPORTATION PLANS.—Section 5303(f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A) by striking “United States and regional transportation functions” and inserting “national, regional, and metropolitan transportation functions”;

(B) in subparagraph (B) by striking clause (iii) and inserting the following:

“(iii) recommends any additional financing strategies for needed projects and programs;”; and

(C) by striking subparagraph (C) and inserting the following:

“(C) identify transportation strategies necessary—

“(i) to ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and

“(ii) to use existing transportation facilities most efficiently to relieve congestion, to efficiently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area; and”;

(2) in paragraph (2) by striking “as they are related to a 20-year forecast period” and inserting “and any State or local goals developed within the cooperative metropolitan planning process as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process”;

(3) in paragraph (4)—



(A) by inserting after “employees,” the following: “freight shippers, providers of freight transportation services,”; and

(B) by inserting after “private providers of transportation,” the following: “representatives of users of public transit,”;

(4) in paragraph (5)(A) by inserting “published or otherwise” before “made readily available”;

(5) in the subsection heading by striking “LONG-RANGE PLANS” and inserting “LONG-RANGE TRANSPORTATION PLANS”; and

(6) by striking “long-range plans” each place it appears and inserting “long-range transportation plans”.

**SEC. 3005. TRANSPORTATION IMPROVEMENT PROGRAM.**

(a) DEVELOPMENT AND UPDATE.—The second sentence of section 5304(a) is amended—

(1) by striking “the organization” and inserting “the metropolitan planning organization, in cooperation with the chief executive officer of the State and any affected mass transportation operator,”;

(2) by inserting after “employees,” the following: “other affected employee representatives, freight shippers, providers of freight transportation services,”; and

(3) by inserting after “private providers of transportation,” the following: “representatives of users of public transit,”.

(b) CONTENTS.—Section 5304(b)(2) is amended by striking subparagraph (C) and inserting the following:

“(C) identifies innovative financing techniques to finance projects, programs, and strategies, which may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available.”.

(c) PROJECT SELECTION.—Section 5304(c) is amended—

(1) by striking paragraph (1) and inserting the following: “(1) Except as otherwise provided in section 5305(d)(1) and in addition to the transportation improvement program development required under subsection (b), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

“(A) by—

“(i) in the case of projects under title 23, the State; and

“(ii) in the case of projects under this chapter, the designated transit funding recipients; and

“(B) in cooperation with the metropolitan planning organization.”; and

(2) by adding at the end the following:

“(3) Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

“(4) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding subsection (b)(2)(C), a State or metropolitan planning organization shall not be required to select any project from the

illustrative list of additional projects included in the financial plan under subsection (b)(2)(C).

“(5) PUBLICATION.—(A) A transportation improvement program involving Government participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

“(B) An annual listing of projects for which Government funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the transportation improvement program.

“(6) Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program. All other projects funded under chapter 2 of title 23 shall be grouped in 1 line item or identified individually in the transportation improvement program.”.

#### **SEC. 3006. TRANSPORTATION MANAGEMENT AREAS.**

(a) DESIGNATION.—Section 5305(a) is amended by striking paragraph (2) and inserting the following:

“(2) any other area, if requested by the chief executive officer and the metropolitan planning organization designated for the area.”.

(b) TRANSPORTATION PLANS AND PROGRAMS.—Section 5305(b) is amended by inserting “affected” before “mass transportation operators”.

(c) CONGESTION MANAGEMENT SYSTEM.—Section 5305(c) is amended by striking “The Secretary” and all that follows through the final period.

(d) PROJECT SELECTION.—Section 5305(d)(1)(A) is amended by inserting “and any affected mass transportation operator” after “the State”.

(e) CERTIFICATION.—Section 5305(e) is amended—

(1) by striking paragraph (2) and inserting the following:

“(2)(A) If a metropolitan planning process is not certified, the Secretary may withhold not more than 20 percent of the apportioned funds attributable to the transportation management area under this chapter and title 23.

“(B) Any apportionments withheld under subparagraph (A) shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.”; and

(2) by adding at the end the following:

“(4) In making certification determinations under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.”.

(f) CONTINUATION OF CURRENT REVIEW PRACTICE.—Section 5305 is amended by adding at the end the following:

“(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not

be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.

**SEC. 3007. URBANIZED AREA FORMULA GRANTS.**

(a) SECTION HEADING.—

(1) AMENDMENT TO SECTION 5307.—Section 5307 is amended by striking the section heading and inserting the following:

**“§ 5307. Urbanized area formula grants”.**

(2) CONFORMING AMENDMENT.—The item relating to section 5307 in the table of sections for chapter 53 is amended to read as follows:

“5307. Urbanized area formula grants.”.

(b) DEFINITIONS.—Section 5307(a) is amended—

(1) by striking “In this section—” and inserting “In this section, the following definitions apply:”;

(2) by inserting “ASSOCIATED CAPITAL MAINTENANCE ITEMS.—The term” after “(1)”; and

(3) by inserting “DESIGNATED RECIPIENT.—The term” after “(2)”.

(c) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) in paragraph (1)—

(A) by striking “, improvement, and operating costs” and inserting “and improvement costs”; and

(B) by adding at the end the following: “The Secretary may also make grants under this section to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of less than 200,000.”;

(2) in paragraph (2)(A)—

(A) by inserting “, in writing,” after “approved”; and

(B) by striking “and” at the end;

(3) in paragraph (2)(B) by striking the period at the end and inserting “; and”;

(4) in paragraph (2) by adding at the end the following:

“(C) the metropolitan planning organization in approving the use under subparagraph (A) determines that the local transit needs are being addressed.”;

(5) by striking paragraphs (3) and (5); and

(6) by redesignating paragraph (4) as paragraph (3).

(d) ADVANCE CONSTRUCTION.—Section 5307(g)(3) is amended by striking “the amount by which” and all that follows through the period at the end and inserting “the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.”.

Certification.

(e) COORDINATION OF REVIEWS.—Section 5307(i)(2) is amended by adding at the end the following: “To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.”.

(f) TRANSIT ENHANCEMENT ACTIVITIES.—Section 5307(k) is amended to read as follows:

“(k) TRANSIT ENHANCEMENT ACTIVITIES.—

“(1) IN GENERAL.—One percent of the funds apportioned to urbanized areas with a population of at least 200,000 under

section 5336 for a fiscal year shall be made available for transit enhancement activities in accordance with section 5302(a)(15).

“(2) PERIOD OF AVAILABILITY.—Funds apportioned under paragraph (1) shall be available for obligation for 3 years following the fiscal year in which the funds are apportioned. Funds that are not obligated at the end of such period shall be reappportioned under the urbanized area formula program of section 5336.

“(3) REPORT.—A recipient of funds apportioned under paragraph (1) shall submit, as part of the recipient’s annual certification to the Secretary, a report listing the projects carried out during the fiscal year with those funds.”.

(g) CONFORMING AMENDMENTS.—Section 5307(n)(2) is amended by inserting “5319,” after “5318,”.

#### **SEC. 3008. CLEAN FUELS FORMULA GRANT PROGRAM.**

(a) IN GENERAL.—Section 5308 is amended to read as follows:

##### **“§ 5308. Clean fuels formula grant program**

“(a) DEFINITIONS.—In this section—

“(1) the term ‘clean fuel vehicle’ means a vehicle that—

“(A) is powered by—

“(i) compressed natural gas;

“(ii) liquefied natural gas;

“(iii) biodiesel fuels;

“(iv) batteries;

“(v) alcohol-based fuels;

“(vi) hybrid electric;

“(vii) fuel cell;

“(viii) clean diesel, to the extent allowed under this section; or

“(ix) other low or zero emissions technology; and

“(B) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions;

“(2) the term ‘designated recipient’ has the same meaning as in section 5307(a)(2); and

“(3) the term ‘eligible project’—

“(A) means a project for—

“(i) purchasing or leasing clean fuel buses, including buses that employ a lightweight composite primary structure;

“(ii) constructing or leasing clean fuel buses or electrical recharging facilities and related equipment;

“(iii) improving existing mass transportation facilities to accommodate clean fuel buses;

“(iv) repowering pre-1993 engines with clean fuel technology that meets the current urban bus emission standards; or

“(v) retrofitting or rebuilding pre-1993 engines if before half life to rebuild; and

“(B) in the discretion of the Secretary, may include projects relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology vehicles that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

“(b) AUTHORITY.—The Secretary shall make grants in accordance with this section to designated recipients to finance eligible projects.

“(c) APPLICATION.—

“(1) IN GENERAL.—Not later than January 1 of each year, any designated recipient seeking to apply for a grant under this section for an eligible project shall submit an application to the Secretary, in such form and in accordance with such requirements as the Secretary shall establish by regulation.

“(2) CERTIFICATION REQUIRED.—An application submitted under paragraph (1) shall contain a certification by the applicant that the grantee will operate vehicles purchased with a grant under this section only with clean fuels.

“(d) APPORTIONMENT OF FUNDS.—

“(1) FORMULA.—Not later than February 1 of each year, the Secretary shall apportion amounts made available to carry out this section to designated recipients submitting applications under subsection (c), of which—

“(A) two-thirds shall be apportioned to designated recipients with eligible projects in urban areas with a population of at least 1,000,000, of which—

“(i) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

“(I) the number of vehicles in the bus fleet of the eligible project of the designated recipient, weighted by severity of nonattainment for the area in which the eligible project is located, as provided in paragraph (2); and

“(II) the total number of vehicles in the bus fleets of all eligible projects in areas with a population of at least 1,000,000 funded under this section, weighted by severity of nonattainment for all areas in which those eligible projects are located, as provided in paragraph (2); and

“(ii) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

“(I) the number of bus passenger miles (as that term is defined in section 5336(c)) of the eligible project of the designated recipient, weighted by severity of nonattainment of the area in which the eligible project is located, as provided in paragraph (2); and

“(II) the total number of bus passenger miles of all eligible projects in areas with a population of at least 1,000,000 funded under this section, weighted by severity of nonattainment of all areas in which those eligible projects are located, as provided in paragraph (2); and

“(B) one-third shall be apportioned to designated recipients with eligible projects in urban areas with a population of less than 1,000,000, of which—

“(i) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

“(I) the number of vehicles in the bus fleet of the eligible project of the designated recipient, weighted by severity of nonattainment for the area in which the eligible project is located, as provided in paragraph (2); and

“(II) the total number of vehicles in the bus fleets of all eligible projects in areas with a population of less than 1,000,000 funded under this section, weighted by severity of nonattainment for all areas in which those eligible projects are located, as provided in paragraph (2); and

“(ii) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

“(I) the number of bus passenger miles (as that term is defined in section 5336(c)) of the eligible project of the designated recipient, weighted by severity of nonattainment of the area in which the eligible project is located, as provided in paragraph (2); and

“(II) the total number of bus passenger miles of all eligible projects in areas with a population of less than 1,000,000 funded under this section, weighted by severity of nonattainment of all areas in which those eligible projects are located, as provided in paragraph (2).

“(2) WEIGHTING OF SEVERITY OF NONATTAINMENT.—

“(A) IN GENERAL.—For purposes of paragraph (1), subject to subparagraph (B) of this paragraph, the number of clean fuel vehicles in the fleet, or the number of passenger miles, shall be multiplied by a factor of—

“(i) 1.0 if, at the time of the apportionment, the area is a maintenance area (as that term is defined in section 101 of title 23) for ozone or carbon monoxide;

“(ii) 1.1 if, at the time of the apportionment, the area is classified as—

“(I) a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

“(II) a marginal carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.);

“(iii) 1.2 if, at the time of the apportionment, the area is classified as—

“(I) a moderate ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

“(II) a moderate carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.);

“(iv) 1.3 if, at the time of the apportionment, the area is classified as—

“(I) a serious ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

“(II) a serious carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.);

“(v) 1.4 if, at the time of the apportionment, the area is classified as—

“(I) a severe ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

“(II) a severe carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.); or

“(vi) 1.5 if, at the time of the apportionment, the area is classified as—

“(I) an extreme ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

“(II) an extreme carbon monoxide nonattainment area under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.).

“(B) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being classified as a nonattainment or maintenance area (as that term is defined in section 101 of title 23) for ozone under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.), the area was also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area for carbon monoxide, the weighted nonattainment or maintenance area fleet and passenger miles for the eligible project, as calculated under subparagraph (A), shall be further multiplied by a factor of 1.2.

“(3) MAXIMUM GRANT AMOUNT.—

“(A) IN GENERAL.—The amount of a grant made to a designated recipient under this section shall not exceed the lesser of—

“(i) for an eligible project in an area—

“(I) with a population of less than 1,000,000, \$15,000,000; and

“(II) with a population of at least 1,000,000, \$25,000,000; or

“(ii) 80 percent of the total cost of the eligible project.

“(B) REAPPORTIONMENT.—Any amounts that would otherwise be apportioned to a designated recipient under this subsection that exceed the amount described in subparagraph (A) shall be reapportioned among other designated recipients in accordance with paragraph (1).

“(e) ADDITIONAL REQUIREMENTS.—

“(1) LIMITATION ON USES.—Not less than 5 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section shall be available for any eligible projects for which an application is received from a designated recipient, for—

“(A) the purchase or construction of hybrid electric or battery-powered buses; or

“(B) facilities specifically designed to service those buses.

“(2) CLEAN DIESEL BUSES.—Not more than \$50,000,000 of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.

“(3) BUS RETROFITTING AND REPLACEMENT.—Not more than 5 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund retrofitting or replacement of the engines of buses that do not meet the clean air standards of the Environmental Protection Agency, as in effect on the date on which the application for such retrofitting or replacement is submitted under subsection (c)(1).

“(f) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—

“(1) shall remain available to a project for 1 year after the fiscal year for which the amount is made available or appropriated; and

“(2) that remains unobligated at the end of the period described in paragraph (1), shall be added to the amount made available in the following fiscal year.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5308 and inserting the following:

“5308. Clean fuels formula grant program.”.

#### SEC. 3009. CAPITAL INVESTMENT GRANTS AND LOANS.

(a) SECTION HEADING.—Section 5309 is amended in the section heading by striking “Discretionary” and inserting “Capital investment”.

(b) CONFORMING AMENDMENT.—The item relating to section 5309 in the table of sections for chapter 53 is amended by striking “Discretionary” and inserting “Capital investment”.

(c) GENERAL AUTHORITY.—Section 5309(a)(1) is amended—

(1) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(2) by striking subparagraph (E) and inserting the following:

“(E) capital projects to modernize existing fixed guideway systems;

“(F) capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities;”.

(d) CONSIDERATION OF DECREASED COMMUTER RAIL TRANSPORTATION.—Section 5309(c) is amended to read as follows:

“(c) [Reserved.]”.

(e) CRITERIA FOR GRANTS AND LOANS FOR FIXED GUIDEWAY SYSTEMS.—Section 5309(e) is amended to read as follows:

“(e) CRITERIA FOR GRANTS AND LOANS FOR FIXED GUIDEWAY SYSTEMS.—

“(1) IN GENERAL.—The Secretary may approve a grant or loan under this section for a capital project for a new fixed guideway system or extension of an existing fixed guideway system only if the Secretary determines that the proposed project is—

“(A) based on the results of an alternatives analysis and preliminary engineering;



“(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

“(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

“(2) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (1)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

“(3) PROJECT JUSTIFICATION.—In evaluating a project under paragraph (1)(B), the Secretary shall—

“(A) consider the direct and indirect costs of relevant alternatives;

“(B) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed, and recognize reductions in local infrastructure costs achieved through compact land use development;

“(C) identify and consider mass transportation supportive existing land use policies and future patterns, and the cost of urban sprawl;

“(D) consider the degree to which the project increases the mobility of the mass transportation dependent population or promotes economic development;

“(E) consider population density and current transit ridership in the corridor;

“(F) consider the technical capability of the grant recipient to construct the project;

“(G) adjust the project justification to reflect differences in local land, construction, and operating costs; and

“(H) consider other factors that the Secretary determines appropriate to carry out this chapter.

“(4) LOCAL FINANCIAL COMMITMENT.—

“(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (1)(C), the Secretary shall require that—

“(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

“(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

“(iii) local resources are available to operate the overall proposed mass transportation system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing mass transportation services to operate the proposed project.

“(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing under subparagraph (A), the Secretary shall consider—

“(i) existing grant commitments;

“(ii) the degree to which financing sources are dedicated to the purposes proposed;

“(iii) any debt obligation that exists or is proposed by the recipient for the proposed project or other mass transportation purpose; and

“(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

“(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Transit Act of 1998, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of alternatives analysis, project justification, and the degree of local financial commitment, as required under this subsection.

“(6) PROJECT EVALUATION AND RATING.—A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making such findings, the Secretary shall evaluate and rate the project as ‘highly recommended’, ‘recommended’, or not ‘recommended’, based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each criteria established under the regulations issued under paragraph (5).

“(7) FULL FUNDING GRANT AGREEMENT.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

“(8) LIMITATIONS ON APPLICABILITY.—

“(A) PROJECTS WITH A SECTION 5309 FEDERAL SHARE OF LESS THAN \$25,000,000.—A project for a new fixed guideway system or extension of an existing fixed guideway system is not subject to the requirements of this subsection, and the simultaneous evaluation of similar projects in at least 2 corridors in a metropolitan area may not be limited, if the assistance provided under this section with respect to the project is less than \$25,000,000.

“(B) PROJECTS IN NONATTAINMENT AREAS.—The simultaneous evaluation of projects in at least 2 corridors in a metropolitan area may not be limited and the Secretary shall make decisions under this subsection with expedited procedures that will promote carrying out an approved State Implementation Plan in a timely way if a project is—

“(i) located in a nonattainment area;

“(ii) a transportation control measure (as defined by the Clean Air Act (42 U.S.C. 7401 et seq.)); and

“(iii) required to carry out the State Implementation Plan.

“(C) PROJECTS FINANCED WITH HIGHWAY FUNDS.—This subsection does not apply to a part of a project financed

completely with amounts made available from the Highway Trust Fund (other than the Mass Transit Account).

“(D) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—This subsection does not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Transit Act of 1998.”.

(f) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—Section 5309(g) is amended—

(1) in the subsection heading by striking “FINANCING” and inserting “FUNDING”;

(2) by striking “full financing” each place it appears and inserting “full funding”;

(3) in paragraph (1)(B)—

(A) by striking “30 days” and inserting “60 days”;

(B) by inserting before the first comma “or entering into a full funding grant agreement”; and

(C) by striking “issuance of the letter.” and inserting “letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.”; and

(4) in paragraph (4), by striking “50 percent” and all that follows through “obligated” and inserting “an amount equivalent to the total authorizations under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems for fiscal years 2002 and 2003”.

(g) ALLOCATING AMOUNTS.—Section 5309(m) is amended to read as follows:

“(m) ALLOCATING AMOUNTS.—

“(1) IN GENERAL.—Of the amounts made available by or appropriated under section 5338 for grants and loans under this section for each of fiscal years 1998 through 2003—

“(A) 40 percent shall be available for fixed guideway modernization;

“(B) 40 percent shall be available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems; and

“(C) 20 percent shall be available to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities.

“(2) LIMITATION ON AMOUNTS AVAILABLE FOR ACTIVITIES OTHER THAN FINAL DESIGN AND CONSTRUCTION.—Not more than 8 percent of the amounts made available in each fiscal year by paragraph (1)(B) shall be available for activities other than final design and construction.

“(3) BUS AND BUS FACILITY GRANTS.—

“(A) CONSIDERATION.—In making grants under paragraph (1)(C), the Secretary shall consider the age of buses, bus fleets, related equipment, and bus-related facilities.

“(B) FUNDING FOR BUS TESTING FACILITY.—Of the amounts made available under paragraph (1)(C), \$3,000,000 shall be available in each of fiscal years 1998 through 2003 to carry out section 5318.

“(4) FUNDING FOR CLEAN FUELS.—Of the amounts made available under paragraph (1)(C), \$50,000,000 shall be available

in each of fiscal years 1999 through 2003 to carry out section 5308.

“(5) FUNDING FOR FERRY BOAT SYSTEMS.—

“(A) Of the amounts made available under paragraph (1)(B), \$10,400,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.

“(B) Of the amounts appropriated under section 5338(h)(5), \$3,600,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.”.

(h) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 5309(f) is amended to read as follows: “(f) [Reserved.]”.

(2) CROSS REFERENCE.—Section 5328(a)(2) is amended by striking “5309(e)(1)–(6) of this title” and inserting “5309(e)”.

(3) REFERENCES TO FULL FUNDING GRANT AGREEMENTS.—Chapter 53 is amended—

(A) in section 5320—

(i) by striking “full financing” each place it appears and inserting “full funding”; and

(ii) in subsection (e) in the subsection heading, by striking “FINANCING” and inserting “FUNDING”; and

(B) in section 5328(a)(4) by striking “full financing” each place it appears and inserting “full funding”.

(i) REPORTS.—Section 5309 is amended by adding at the end the following:

“(o) REPORTS.—

“(1) FUNDING LEVELS AND ALLOCATIONS OF FUNDS FOR FIXED GUIDEWAY SYSTEMS.—

“(A) ANNUAL REPORT.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that includes a proposal on the allocation of amounts to be made available to finance grants and loans for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems among applicants for those amounts.

“(B) RECOMMENDATIONS ON FUNDING.—The annual report under this paragraph shall include evaluations and ratings, as required under subsection (e), for each project that is authorized or has received funds under this section since the date of enactment of the Federal Transit Act of 1998 or October 1 of the preceding fiscal year, whichever date is earlier. The report shall also include recommendations of projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.

“(2) SUPPLEMENTAL REPORT ON NEW STARTS.—The Secretary shall submit a report to Congress on the 31st day of August of each year that describes the Secretary’s evaluation and rating of each project that has completed alternatives analysis or preliminary engineering since the date of the last report. The report shall include all relevant information that supports the evaluation and rating of each project, including a summary of each project’s financial plan.

“(3) ANNUAL GAO REVIEW.—The General Accounting Office shall—

“(A) conduct an annual review of—

“(i) the processes and procedures for evaluating and rating projects and recommending projects; and

“(ii) the Secretary’s implementation of such processes and procedures; and

“(B) shall report to Congress on the results of such review by April 30 of each year.”.

(j) PROJECT DEFINED.—Section 5309 is amended by adding at the end the following:

“(p) PROJECT DEFINED.—In this section, the term ‘project’ means, with respect to a new fixed guideway system or extension to an existing fixed guideway system, a minimum operable segment of the project.”.

#### SEC. 3010. DOLLAR VALUE OF MOBILITY IMPROVEMENTS.

49 USC 5309  
note.

(a) IN GENERAL.—The Secretary shall not consider the dollar value of mobility improvements, as specified in the report required under section 5309(o) (as added by this Act), in evaluating projects under section 5309 of title 49, United States Code, in developing regulations, or in carrying out any other duty of the Secretary.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the dollar value of mobility improvements and the relationship of mobility improvements to the overall transportation justification of a new fixed guideway system or extension to an existing system.

(2) REPORT.—Not later than January 1, 2000, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study under paragraph (1), including an analysis of the factors relevant to determining the dollar value of mobility improvements.

#### SEC. 3011. LOCAL SHARE.

49 USC 5307  
note.

(a) IN GENERAL.—Notwithstanding any other provision of law, for fiscal years 1999 through 2003, a recipient of assistance under section 5307 or 5309 of title 49, United States Code, may use, as part of the local matching funds for a capital project (as defined in section 5302(a) of title 49, United States Code), the proceeds from the issuance of revenue bonds.

(b) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost (as defined in section 5302(a) of title 49, United States Code) only if the aggregate amount of financial support for mass transportation in the urbanized area from the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State Transportation

Improvement Program under section 135 of title 23, United States Code, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

(c) REPORT.—

(1) IN GENERAL.—Not later than January 1, 2003, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the recipients described in subsection (a) that have used, as part of the local matching funds for a capital project, the proceeds from the issuance of revenue bonds, during the period described in subsection (a).

(2) CONTENTS OF REPORT.—The report required by this subsection shall include—

(A) information on each project undertaken, the amount of the revenue bonds issued, and the status of repayment of the bonds; and

(B) any recommendations of the Secretary regarding the application of this section.

**SEC. 3012. INTELLIGENT TRANSPORTATION SYSTEMS APPLICATIONS.**

(a) FIXED GUIDEWAY TECHNOLOGY.—The Secretary shall make grants for the study, design, and demonstration of fixed guideway technology. Of the amounts made available by or appropriated under section 5338(d) of title 49, United States Code, the Secretary shall make funds available for the following projects in not less than the amounts specified for the fiscal year:

(1) North Orange-South Seminole County, FL \$750,000 for fiscal year 1999.

(2) Galveston, TX fixed guideway activities \$750,000 for fiscal year 1999.

(3) Washoe County, NV Transit Technology, \$1,250,000 for each of fiscal years 1999 and 2000.

(b) BUS TECHNOLOGY.—The Secretary shall make grants for the study, design, and demonstration of bus technology. Of the amounts made available by or appropriated under section 5338(d) of title 49, United States Code, the Secretary shall make funds available for the following projects in not less than the amounts specified for the fiscal year:

(1) MBTA, MA Advanced Electric Transit Buses and Related Infrastructure, \$1,500,000 for each of fiscal years 1999 and 2000.

(2) Palm Springs, CA Fuel Cell Buses, \$1,000,000 for each of fiscal years 1999 and 2000.

(3) Gloucester, MA Intermodal Technology Center, \$1,500,000 for each of fiscal years 1999 and 2000.

(c) ADVANCED PROPULSION CONTROL SYSTEM.—

(1) IN GENERAL.—Of the amounts made available by or appropriated under section 5338(d) of title 49, United States Code, \$2,000,000 for fiscal year 1999, \$3,000,000 for fiscal year 2000, and \$3,000,000 for fiscal year 2001 shall be available to the Southeastern Pennsylvania Transit Authority (in this subsection referred to as “SEPTA”), to be used only for the completion of the program to develop and deploy a new Advanced Propulsion Control System begun under the Request for Technical Proposals for Project S-2814-2.

(2) ACTION REQUIRED BY SEPTA.—This subsection shall take effect only if SEPTA issues a request for cost proposals to the 4 selectees from the full and open competition under SEPTA's Request for Technical Proposals for Project S-2814-2 not later than 60 days after the date of enactment of this Act.

**SEC. 3013. FORMULA GRANTS AND LOANS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.**

(a) SECTION HEADING.—Section 5310 is amended in the section heading by striking “**Grants**” and inserting “**Formula grants**”.

(b) CONFORMING AMENDMENT.—The item relating to section 5310 in the table of sections for chapter 53 is amended by inserting “formula” before “grants”.

**SEC. 3014. FORMULA PROGRAM FOR OTHER THAN URBANIZED AREAS.**

(a) IN GENERAL.—Section 5311 is amended—

(1) in the section heading, by striking “**Financial assistance**” and inserting “**Formula grants**”; and

(2) in subsection (f)(1) by striking “10 percent of the amount made available in the fiscal year ending September 30, 1993, and”.

(b) CONFORMING AMENDMENT.—The item relating to section 5311 in the table of sections for chapter 53 is amended by striking “Financial assistance” and inserting “Formula grant”.

**SEC. 3015. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TRAINING PROJECTS.**

(a) IN GENERAL.—Section 5312 is amended by adding at the end the following:

“(d) JOINT PARTNERSHIP PROGRAM FOR DEPLOYMENT OF INNOVATION.—

“(1) DEFINITION OF CONSORTIUM.—In this subsection, the term ‘consortium’—

“(A) means 1 or more public or private organizations located in the United States that provide mass transportation service to the public and 1 or more businesses, including small- and medium-sized businesses, incorporated in a State, offering goods or services or willing to offer goods and services to mass transportation operators; and

“(B) may include, as additional members, public or private research organizations located in the United States, or State or local governmental authorities.

“(2) GENERAL AUTHORITY.—The Secretary may, under terms and conditions that the Secretary prescribes, enter into grants, contracts, cooperative agreements, and other agreements with consortia selected in accordance with paragraph (4), to promote the early deployment of innovation in mass transportation services, management, operational practices, or technology that has broad applicability. This paragraph shall be carried out in consultation with the transit industry by competitively selected consortia that will share costs, risks, and rewards of early deployment of innovation.

“(3) CONSORTIUM CONTRIBUTION.—A consortium assisted under this subsection shall provide not less than 50 percent of the costs of any joint partnership project. Any business,

organization, person, or governmental body may contribute funds to a joint partnership project.

“(4) NOTICE REQUIREMENT.—The Secretary shall periodically give public notice of the technical areas for which joint partnerships are solicited, required qualifications of consortia desiring to participate, the method of selection and evaluation criteria to be used in selecting participating consortia and projects, and the process by which innovation projects described in paragraph (1) will be awarded.

“(5) USE OF REVENUES.—The Secretary shall accept, to the maximum extent practicable, a portion of the revenues resulting from sales of an innovation project funded under this section. Such revenues shall be accounted for separately within the Mass Transit Account of the Highway Trust Fund and shall be available to the Secretary for activities under this subsection. Annual revenues that are less than \$1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation.

“(e) INTERNATIONAL MASS TRANSPORTATION PROGRAM.—

“(1) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the United States domestic mass transportation community about technological innovations available in the international marketplace and activities that may afford domestic businesses the opportunity to become globally competitive in the export of mass transportation products and services. Such activities may include—

“(A) development, monitoring, assessment, and dissemination domestically of information about worldwide mass transportation market opportunities;

“(B) cooperation with foreign public sector entities in research, development, demonstration, training, and other forms of technology transfer and exchange of experts and information;

“(C) advocacy, in international mass transportation markets, of firms, products, and services available from the United States;

“(D) informing the international market about the technical quality of mass transportation products and services through participation in seminars, expositions, and similar activities; and

“(E) offering those Federal Transit Administration technical services which cannot be readily obtained from the United States private sector to foreign public authorities planning or undertaking mass transportation projects if the cost of these services will be recovered under the terms of each project.

“(2) COOPERATION.—The Secretary may carry out activities under this subsection in cooperation with other Federal agencies, State or local agencies, public and private nonprofit institutions, government laboratories, foreign governments, or any other organization the Secretary determines is appropriate.

“(3) FUNDING.—The funds available to carry out this subsection shall include revenues paid to the Secretary by any cooperating organization or person. Such revenues shall be accounted for separately within the Mass Transit Account of the Highway Trust Fund and shall be available to the Secretary



to carry out activities under this subsection, including promotional materials, travel, reception, and representation expenses necessary to carry out such activities. Annual revenues that are less than \$1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation. Not later than January 1 of each fiscal year, the Secretary shall publish a report on the activities under this paragraph funded from the account.”.

(b) FUEL CELL BUS AND BUS FACILITIES PROGRAM.—Of the funds made available for each fiscal year to carry out section 5309(m)(1)(C) of title 49, United States Code, \$4,850,000 shall be available to carry out the fuel cell powered transit bus program and the intermodal transportation fuel cell bus maintenance facility.

(c) ADVANCED TECHNOLOGY PILOT PROJECT.—

49 USC 322 note.

(1) IN GENERAL.—The Secretary shall make grants for the development of low speed magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act for each of fiscal years 1998 through 2003, \$5,000,000 per fiscal year shall be available to carry out this subsection.

(3) FEDERAL SHARE.—The Federal share payable on account of activities carried out using a grant made under this subsection shall be 80 percent of the cost of such activities.

#### SEC. 3016. NATIONAL PLANNING AND RESEARCH PROGRAMS.

Section 5314(a)(2) is amended by striking “\$2,000,000” and inserting “\$3,000,000”.

#### SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) IN GENERAL.—Section 5315(a) is amended—

(1) in paragraph (5) by inserting “and architectural design” before the semicolon at the end;

(2) in paragraph (7) by striking “carrying out” and inserting “delivering”;

(3) in paragraph (11) by inserting “, construction management, insurance, and risk management” before the semicolon at the end;

(4) in paragraph (13) by striking “and” at the end;

(5) in paragraph (14) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following:

“(15) innovative finance; and

“(16) workplace safety.”.

(b) CONFORMING AMENDMENT.—The item relating to section 5315 in the table of sections for chapter 53 is amended by striking “mass transportation” and inserting “transit”.

#### SEC. 3018. BUS TESTING FACILITIES.

(a) OPERATION AND MAINTENANCE.—Section 5318(b) is amended—

(1) by striking “make a contract with” and inserting “enter into a contract or cooperative agreement with, or make a grant to,”;

(2) by inserting “or organization” after “person”;

(3) by inserting “, cooperative agreement, or grant” after “The contract”; and

(4) by inserting “mass transportation” after “and other”.

(b) AVAILABILITY OF AMOUNTS.—Section 5318(d) is amended by striking “make a contract with” and inserting “enter into a contract or cooperative agreement with, or make a grant to,”.

**SEC. 3019. BICYCLE FACILITIES.**

Section 5319 is amended by striking “under this section is for 90 percent of the cost of the project” and inserting “made eligible by this section is for 90 percent of the cost of the project, except that, if the grant or any portion of the grant is made with funds required to be expended under section 5307(k) and the project involves providing bicycle access to mass transportation, that grant or portion of that grant shall be at a Federal share of 95 percent”.

**SEC. 3020. GENERAL PROVISIONS ON ASSISTANCE.**

(a) TECHNICAL AMENDMENT.—Section 5323(d) is amended by striking “BUYING AND OPERATING BUSES.—” and inserting “CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—”.

(b) BUY AMERICA.—Section 5323(j)(7) is amended to read as follows:

“(7) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.”.

(c) GOVERNMENT’S SHARE.—Section 5323(i) is amended to read as follows:

“(i) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment (including clean fuel or alternative fuel vehicle-related equipment) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment attributable to compliance with those Acts.”.

(d) HHS AND PUBLIC TRANSIT SERVICE.—Section 5323 is amended—

(1) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively; and

(2) by inserting after subsection (j) the following:

“(k) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—To the extent feasible, governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services—

“(1) shall participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

“(2) shall be included in the planning for those services.”.

(e) SUBMISSION OF CERTIFICATIONS.—Section 5323 is amended by adding at the end the following:

“(n) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(e)(2).”.

Publication.

(f) GRANT REQUIREMENTS.—Section 5323 is amended by adding at the end the following:

“(o) GRANT REQUIREMENTS.—The grant requirements under sections 5307 and 5309 apply to any project under this chapter that receives any assistance or other financing under the Transportation Infrastructure Finance and Innovation Act of 1998.”.

**SEC. 3021. PILOT PROGRAM FOR INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND.**

49 USC 5307  
note.

(a) IN GENERAL.—The Secretary shall establish a pilot program to determine the benefits of using funds from the Mass Transit Account of the Highway Trust Fund for intercity passenger rail. Any assistance provided to the State of Oklahoma under sections 5307 and 5311 of title 49, United States Code, during fiscal years 1998 through 2003 may be used for capital improvements to, and operating assistance for, intercity passenger rail service.

(b) REPORT.—

(1) IN GENERAL.—Not later than October 1, 2002, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program established under this section.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) an evaluation of the effect of the pilot program on alternative forms of transportation within the State of Oklahoma;

(B) an evaluation of the effect of the program on operators of mass transportation and their passengers;

(C) a calculation of the amount of Federal assistance provided under this section transferred for the provision of intercity passenger rail service; and

(D) an estimate of the benefits to intercity passenger rail service, including the number of passengers served, the number of route miles covered, and the number of localities served by intercity passenger rail service.

**SEC. 3022. CONTRACT REQUIREMENTS.**

(a) EFFICIENT PROCUREMENT.—Section 5325 is amended—

(1) by striking subsections (b) and (c);

(2) by redesignating subsection (d) as subsection (b); and

(3) by adding at the end the following:

“(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder when the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.”.

**SEC. 3023. SPECIAL PROCUREMENTS.**

(a) **TURNKEY SYSTEM PROJECTS.**—Section 5326(a) is amended—  
 (1) by striking paragraph (1) and inserting the following:

“(1) **TURNKEY SYSTEM PROJECT DEFINED.**—In this subsection, the term ‘turnkey system project’ means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a mass transportation system or an operable segment thereof that meets specific performance criteria. Such project may also include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.”;

(2) in paragraph (2)—

(A) by inserting “SELECTION OF TURNKEY PROJECTS.” after “(2)”; and

(B) by inserting “or an operable segment of a mass transportation system” after “transportation system”;

(3) in paragraph (3) by inserting “DEMONSTRATIONS.—” after “(3)”; and

(4) by aligning paragraphs (2) and (3) with paragraph (1) of such section, as amended by paragraph (1) of this section.

(b) **TECHNICAL AMENDMENT.**—Section 5326 is amended by striking subsection (c) and inserting the following:

“(c) **ACQUIRING ROLLING STOCK.**—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

“(1) based on—

“(A) initial capital costs; or

“(B) performance, standardization, life cycle costs, and other factors; or

“(2) with a party selected through a competitive procurement process.

“(d) **PROCURING ASSOCIATED CAPITAL MAINTENANCE ITEMS.**—A recipient of assistance under section 5307 procuring an associated capital maintenance item under section 5307(b) may enter into a contract directly with the original manufacturer or supplier of the item to be replaced, without receiving prior approval of the Secretary, if the recipient first certifies in writing to the Secretary that—

“(1) the manufacturer or supplier is the only source for the item; and

“(2) the price of the item is no more than the price that similar customers pay for the item.”.

(c) **CONFORMING AMENDMENT.**—Section 5334(b)(4) is amended by striking “5323(a)(2), (c) and (e), 5324(c), and 5325 of this title” and inserting “5323(a)(2), 5323(c), 5323(e), 5324(c), 5325(a), 5325(b), 5326(c), and 5326(d)”.

**SEC. 3024. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.**

(a) **LIMITATION ON USE OF AVAILABLE AMOUNTS.**—Section 5327(c)(2) is amended—

(1) by striking “make contracts” and inserting “enter into contracts”; and

(2) by inserting before the period at the end of the first sentence the following: “and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section”.

(b) **FINANCIAL PLAN.**—Section 5327 is amended by adding at the end the following:

“(f) **FINANCIAL PLAN.**—A recipient of financial assistance for a project under this chapter with an estimated total cost of \$1,000,000,000 or more shall submit to the Secretary an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.”.

**SEC. 3025. ADMINISTRATIVE PROCEDURES.**

(a) **TRAINING AND CONFERENCE COSTS.**—Section 5334(a) is amended—

(1) in paragraph (8) by striking “and” at the end;

(2) in paragraph (9) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(10) collect fees to cover the costs of training or conferences, including costs of promotional materials, sponsored by the Federal Transit Administration to promote mass transportation and credit amounts collected to the appropriation concerned.”.

(b) **TECHNICAL AMENDMENTS.**—

(1) **SECTION HEADING.**—The heading for section 5334 is amended by inserting “**provisions**” after “**Administrative**”.

(2) **TABLE OF SECTIONS.**—The item relating to section 5334 in the table of sections for chapter 53 is amended by inserting “provisions” after “Administrative”.

(c) **PROCEEDS FROM SALE OF TRANSIT ASSETS.**—Section 5334(g) is amended by adding at the end the following:

“(4) **PROCEEDS FROM THE SALE OF TRANSIT ASSETS.**—

“(A) **IN GENERAL.**—When real property, equipment, or supplies acquired with assistance under this chapter are no longer needed for mass transportation purposes as determined under the applicable assistance agreement, the Secretary may authorize the sale, transfer, or lease of the assets under conditions determined by the Secretary and subject to the requirements of this subsection.

“(B) **USE.**—The net income from asset sales, uses, or leases (including lease renewals) under this subsection shall be used by the recipient to reduce the gross project cost of other capital projects carried out under this chapter.

“(C) **RELATIONSHIP TO OTHER AUTHORITY.**—The authority of the Secretary under this subsection is in addition to existing authorities controlling allocation or use of recipient income otherwise permissible in law or regulation in effect prior to the date of enactment of this paragraph.”.

**SEC. 3026. REPORTS AND AUDITS.**

(a) **NATIONAL TRANSIT DATABASE.**—Section 5335(a) is amended—

(1) by striking “REPORTING SYSTEM AND UNIFORM SYSTEM OF ACCOUNTS AND RECORDS” and inserting “NATIONAL TRANSIT DATABASE”; and

(2) in paragraph (1)—

(A) by striking “by uniform categories,” and inserting “using uniform categories”; and

(B) by striking “and a uniform system of accounts and records” and inserting “and using a uniform system of accounts”.

(b) REPORTS.—Section 5335 is amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsection (d) as subsection (b).

**SEC. 3027. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.**

(a) IN GENERAL.—Section 5336 is amended in the section heading by striking “**block grants**” and inserting “**formula grants**”.

(b) REPEAL.—Section 5336(d) is amended to read as follows:

“(d) [Reserved.]”.

(c) CONTINUATION OF OPERATING ASSISTANCE TO CERTAIN LARGER URBANIZED AREAS.—

(1) PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, during the period described in paragraph (2), the Secretary may continue to provide assistance under section 5307 of title 49, United States Code, to finance the operating costs of equipment and facilities for use in mass transportation in any urbanized area (as that term is defined in section 5302 of title 49, United States Code) with a population of at least 200,000, if the Secretary determines that—

(A) the number of the total bus revenue vehicle-miles operated in or directly serving the area is less than 600,000; and

(B) the number of buses operated in or directly serving the area does not exceed 15.

(2) PERIOD DESCRIBED.—For purposes of paragraph (1), the period described in this paragraph is the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) 3 years after the date of enactment of this Act; and

(B) the date on which the Secretary determines that—

(i) the number of the total bus revenue vehicle-miles operated in or directly serving the area is greater than or equal to 600,000; and

(ii) the number of buses operated in or directly serving the area exceeds 15.

**SEC. 3028. APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.**

(a) DISTRIBUTION.—Section 5337(a) is amended to read as follows:

“(a) DISTRIBUTION.—The Secretary shall apportion amounts made available for fixed guideway modernization under section 5309 for each of fiscal years 1998 through 2003 as follows:

“(1) The first \$497,700,000 shall be apportioned in the following urbanized areas as follows:

“(A) Baltimore, \$8,372,000.

“(B) Boston, \$38,948,000.

“(C) Chicago/Northwestern Indiana, \$78,169,000.

“(D) Cleveland, \$9,509,500.

“(E) New Orleans, \$1,730,588.

“(F) New York, \$176,034,461.

“(G) Northeastern New Jersey, \$50,604,653.

“(H) Philadelphia/Southern New Jersey, \$58,924,764.

“(I) Pittsburgh, \$13,662,463.

“(J) San Francisco, \$33,989,571.

“(K) Southwestern Connecticut, \$27,755,000.

“(2) The next \$70,000,000 shall be apportioned as follows:

“(A) 50 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A).

“(B) 50 percent in other urbanized areas eligible for assistance under section 5336(b)(2)(A) to which amounts were apportioned under this section for fiscal year 1997, as provided in section 5336(b)(2)(A) and subsection (e) of this section.

“(3) The next \$5,700,000 shall be apportioned in the following urbanized areas as follows:

“(A) Pittsburgh, 61.76 percent.

“(B) Cleveland, 10.73 percent.

“(C) New Orleans, 5.79 percent.

“(D) 21.72 percent in urbanized areas to which paragraph (2)(B)(ii) applies, as provided in section 5336(b)(2)(A) and subsection (e) of this section.

“(4) The next \$186,600,000 shall be apportioned in each urbanized area to which paragraph (1) applies and in each urbanized area to which paragraph (2)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e) of this section.

“(5) The next \$70,000,000 shall be apportioned as follows:

“(A) 65 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e) of this section.

“(B) 35 percent to other urbanized areas eligible for assistance under section 5336(b)(2)(A) if the areas contain fixed guideway systems placed in revenue service at least 7 years before the fiscal year in which amounts are made available and in any urbanized area if, before the first day of the fiscal year, the area satisfies the Secretary that the area has modernization needs that cannot adequately be met with amounts received under section 5336(b)(2)(A), as provided in section 5336(b)(2)(A) and subsection (e) of this section.

“(6) The next \$50,000,000 shall be apportioned as follows:

“(A) 60 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e) of this section.

“(B) 40 percent to urbanized areas to which paragraph (5)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e) of this section.

“(7) Remaining amounts shall be apportioned as follows:

“(A) 50 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A) and subsection (e) of this section.

“(B) 50 percent to urbanized areas to which paragraph (5)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e) of this section.”.

(b) ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—Section 5337 is amended by adding at the end the following:

“(e) ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—

“(1) 1997 STANDARD.—Amounts apportioned under paragraphs (2)(B), (3), and (4) of subsection (a) shall have attributable to each urbanized area only the number of fixed guideway revenue miles of service and number of fixed guideway route miles for segments of fixed guideway systems used to determine apportionments for fiscal year 1997.

“(2) OTHER STANDARDS.—Amounts apportioned under paragraphs (5) through (7) of subsection (a) shall have attributable to each urbanized area only the number of fixed guideway revenue miles of service and number of fixed guideway route miles for segments of fixed guideway systems placed in revenue service at least 7 years before the fiscal year in which amounts are made available.”.

#### SEC. 3029. AUTHORIZATIONS.

(a) IN GENERAL.—Section 5338 is amended to read as follows:

##### “§ 5338. Authorizations

“(a) FORMULA GRANTS.—

“(1) FISCAL YEAR 1998.—

“(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5310, and 5311, \$2,260,000,000 for fiscal year 1998.

“(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5307, 5310, and 5311, \$240,000,000 for fiscal year 1998.

“(C) ALLOCATION OF FUNDS.—Of the aggregate of amounts made available by and appropriated under this paragraph for a fiscal year—

“(i) \$4,849,950 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

“(ii) \$62,219,389 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

“(iii) \$134,077,934 shall be available to provide financial assistance for other than urbanized areas under section 5311; and

“(iv) \$2,298,852,727 shall be available to provide financial assistance for urbanized areas under section 5307.

“(2) FISCAL YEARS 1999 THROUGH 2003.—

“(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, and 5311—

“(i) \$2,280,000,000 for fiscal year 1999;

“(ii) \$2,478,400,000 for fiscal year 2000;

“(iii) \$2,676,000,000 for fiscal year 2001;

“(iv) \$2,873,600,000 for fiscal year 2002; and

“(v) \$3,071,200,000 for fiscal year 2003.

“(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5307, 5308, 5310, and 5311—

“(i) \$570,000,000 for fiscal year 1999;



- “(ii) \$619,600,000 for fiscal year 2000;
- “(iii) \$669,000,000 for fiscal year 2001;
- “(iv) \$718,400,000 for fiscal year 2002; and
- “(v) \$767,800,000 for fiscal year 2003.

“(C) ALLOCATION OF FUNDS.—Of the aggregate of amounts made available by and appropriated under this paragraph for a fiscal year—

“(i) \$4,849,950 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

“(ii) \$50,000,000 shall be available to carry out section 5308; and

“(iii) of the remaining amount—

“(I) 2.4 percent shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

“(II) 6.37 percent shall be available to provide financial assistance for other than urbanized areas under section 5311; and

“(III) 91.23 percent shall be available to provide financial assistance for urbanized areas under section 5307.

“(b) CAPITAL PROGRAM GRANTS AND LOANS.—

“(1) FISCAL YEAR 1998.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309, \$2,000,000,000 for fiscal year 1998.

“(2) FISCAL YEARS 1999 THROUGH 2003.—

“(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309—

“(i) \$1,805,600,000 for fiscal year 1999;

“(ii) \$1,960,800,000 for fiscal year 2000;

“(iii) \$2,116,800,000 for fiscal year 2001;

“(iv) \$2,272,800,000 for fiscal year 2002; and

“(v) \$2,428,800,000 for fiscal year 2003.

“(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out section 5309—

“(i) \$451,400,000 for fiscal year 1999;

“(ii) \$490,200,000 for fiscal year 2000;

“(iii) \$529,200,000 for fiscal year 2001;

“(iv) \$568,200,000 for fiscal year 2002; and

“(v) \$607,200,000 for fiscal year 2003.

“(c) PLANNING.—

“(1) FISCAL YEAR 1998.—There are authorized to be appropriated to carry out sections 5303, 5304, 5305, and 5313(b), \$47,750,000 for fiscal year 1998.

“(2) FISCAL YEARS 1999 THROUGH 2003.—

“(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5303, 5304, 5305, and 5313(b)—

“(i) \$43,200,000 for fiscal year 1999;

“(ii) \$46,400,000 for fiscal year 2000;

“(iii) \$51,200,000 for fiscal year 2001;

“(iv) \$52,800,000 for fiscal year 2002; and

“(v) \$57,600,000 for fiscal year 2003.

“(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5303, 5304, 5305, and 5313(b)—

- “(i) \$10,800,000 for fiscal year 1999;
- “(ii) \$11,600,000 for fiscal year 2000;
- “(iii) \$12,800,000 for fiscal year 2001;
- “(iv) \$13,200,000 for fiscal year 2002; and
- “(v) \$14,400,000 for fiscal year 2003.

“(C) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated under this paragraph for a fiscal year—

“(i) 82.72 percent shall be available for metropolitan planning under sections 5303, 5304, and 5305; and

“(ii) 17.28 percent shall be available for State planning under section 5313(b).

“(d) RESEARCH.—

“(1) FISCAL YEAR 1998.—There are authorized to be appropriated to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, \$44,250,000 for fiscal year 1998.

“(2) FISCAL YEARS 1999 THROUGH 2003.—

“(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322—

- “(i) \$36,000,000 for fiscal year 1999;
- “(ii) \$37,600,000 for fiscal year 2000;
- “(iii) \$37,600,000 for fiscal year 2001;
- “(iv) \$39,200,000 for fiscal year 2002; and
- “(v) \$39,200,000 for fiscal year 2003.

“(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322—

- “(i) \$9,000,000 for fiscal year 1999;
- “(ii) \$9,400,000 for fiscal year 2000;
- “(iii) \$9,400,000 for fiscal year 2001;
- “(iv) \$9,800,000 for fiscal year 2002; and
- “(v) \$9,800,000 for fiscal year 2003.

“(C) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated under this paragraph for a fiscal year—

“(i) not less than \$5,250,000 shall be available for providing rural transportation assistance under section 5311(b)(2);

“(ii) not less than \$8,250,000 shall be available for carrying out transit cooperative research programs under section 5313(a);

“(iii) not less than \$4,000,000 shall be available to carry out programs under the National Transit Institute under section 5315; and

“(iv) the remainder shall be available for carrying out national planning and research programs under sections 5311(b)(2), 5312, 5313(a), 5314, and 5322.

“(e) UNIVERSITY TRANSPORTATION RESEARCH.—

“(1) FISCAL YEAR 1998.—There are authorized to be appropriated to carry out section 5317(b) \$6,000,000 for fiscal year 1998.

“(2) FISCAL YEARS 1999 THROUGH 2003.—

“(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5317(b), \$4,800,000 for each of fiscal years 1999 through 2003.

“(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out section 5317(b), \$1,200,000 for each of fiscal years 1999 through 2003.

“(f) ADMINISTRATION.—

“(1) FISCAL YEAR 1998.—There are authorized to be appropriated to carry out section 5334, \$45,738,000 for fiscal year 1998.

“(2) FISCAL YEARS 1999 THROUGH 2003.—

“(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

“(i) \$43,200,000 for fiscal year 1999;

“(ii) \$48,000,000 for fiscal year 2000;

“(iii) \$51,200,000 for fiscal year 2001;

“(iv) \$53,600,000 for fiscal year 2002; and

“(v) \$58,400,000 for fiscal year 2003.

“(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out section 5334—

“(i) \$10,800,000 for fiscal year 1999;

“(ii) \$12,000,000 for fiscal year 2000;

“(iii) \$12,800,000 for fiscal year 2001;

“(iv) \$13,400,000 for fiscal year 2002; and

“(v) \$14,600,000 for fiscal year 2003.

“(g) GRANTS AS CONTRACTUAL OBLIGATIONS.—

“(1) GRANTS FINANCED FROM THE HIGHWAY TRUST FUND.—A grant or contract approved by the Secretary, that is financed with amounts made available under subsection (a)(1)(A), (a)(2)(A), (b)(1), (b)(2)(A), (c)(2)(A), (d)(2)(A), (e)(2)(A), or (f)(2)(A) is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

“(2) GRANTS FINANCED FROM GENERAL FUNDS.—A grant or contract, approved by the Secretary, that is financed with amounts made available under subsection (a)(1)(B), (a)(2)(B), (b)(2)(B), (c)(2)(B), (d)(2)(B), (e)(2)(B), (f)(2)(B), or (h) is a contractual obligation of the Government to pay the Government's share of the cost of the project only to the extent that amounts are provided in advance in an appropriations Act.

“(h) ADDITIONAL AMOUNTS.—In addition to amounts made available by or appropriated under subsections (a) through (f), there are authorized to be appropriated—

“(1) to carry out sections 5303, 5304, 5305, and 5313(b)—

“(A) for fiscal year 1999, \$32,000,000;

“(B) for fiscal year 2000, \$33,000,000;

“(C) for fiscal year 2001, \$34,000,000;

“(D) for fiscal year 2002, \$35,000,000; and

“(E) for fiscal year 2003, \$36,000,000;

“(2) to carry out section 5307, \$150,000,000 for each of fiscal years 1999 through 2003;

“(3) to carry out section 5308, \$100,000,000 for each of fiscal years 1999 through 2003;

“(4) to carry out section 5309(m)(1)(A), \$100,000,000 for each of fiscal years 1999 through 2003;

“(5) to carry out section 5309(m)(1)(B)—

“(A) for fiscal year 1999, \$600,000,000;

“(B) for fiscal year 2000, \$610,000,000;

“(C) for fiscal year 2001, \$620,000,000;

“(D) for fiscal year 2002, \$630,000,000; and

“(E) for fiscal year 2003, \$630,000,000;

“(6) to carry out section 5309(m)(1)(C), \$100,000,000 for each of fiscal years 1999 through 2003;

“(7) to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322—

“(A) for fiscal year 1999, \$31,000,000;

“(B) for fiscal year 2000, \$31,000,000;

“(C) for fiscal year 2001, \$33,000,000;

“(D) for fiscal year 2002, \$33,000,000; and

“(E) for fiscal year 2003, \$34,000,000; and

“(8) to carry out section 5334—

“(A) for fiscal year 1999, \$13,000,000;

“(B) for fiscal year 2000, \$14,000,000;

“(C) for fiscal year 2001, \$16,000,000;

“(D) for fiscal year 2002, \$17,000,000; and

“(E) for fiscal year 2003, \$18,000,000.

“(i) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (a) through (e), and paragraphs (1) through (7) of subsection (h), shall remain available until expended.”.

(b) CONFORMING AMENDMENTS.—Chapter 53 is amended as follows:

(1) In sections 5303(h)(1), 5303(h)(2)(A), and 5303(h)(3)(A), by striking “section 5338(g)(1)” each place it appears and inserting “subsection (c) or (h)(1) of section 5338”.

(2) In section 5303(h)(1) by striking “-5306” and inserting “and 5305”.

(3) In section 5303(h)(4) by striking “section 5338(g)” and inserting “subsection (c) or (h)(1) of section 5338”.

(4) In section 5313(a)(1) by striking “Fifty percent of the amounts made available under section 5338(g)(3)” and inserting “The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(d)”.

(5) In section 5313(b)(1) by striking “Fifty percent of the amounts made available under section 5338(g)(3)” and inserting “The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c)”.

(6) In section 5314(a)(1) by striking “section 5338(g)(4)” and inserting “subsections (d) and (h)(7) of section 5338”.

(7) In section 5317(e)(5)(C) by striking “5338(e)(2)” and inserting “5338(e)”.

(8) In section 5318(d) by striking “5338(j)(5)” and inserting “5309(m)(1)(C)”.

(9) In section 5333(b) by striking “5338(j)(5)” each place it appears and inserting “5338(b)”.

(10) In section 5336(a) by striking “5338(f)” and inserting “5338(a)”.

(11) In section 5336(e)(1) by striking “section 5338(f)” and inserting “subsections (a) and (h)(2) of section 5338”.

(12) In section 5337(e)(1) by striking “section 5338(f)” and inserting “subsections (b) and (h)(4) of section 5338”.

**SEC. 3030. PROJECTS FOR NEW FIXED GUIDEWAY SYSTEMS AND EXTENSIONS TO EXISTING SYSTEMS.**

(a) **FINAL DESIGN AND CONSTRUCTION.**—The following projects are authorized for final design and construction for fiscal years 1998 through 2003 under section 5309(m)(1)(B) of title 49, United States Code:

- (1) Atlanta—Athens Commuter Rail.
- (2) Atlanta—Griffin Commuter Rail.
- (3) Atlanta—North Line Extension.
- (4) Austin—NW/North Central/SE—Airport LRT.
- (5) Baltimore—Central LRT Extension to Glen Burnie.
- (6) Boston—Massport Airport Intermodal Transit Connector.
- (7) Boston—North Shore Corridor and Blue Line Extension to Beverly.
- (8) Charlotte—South Corridor Transitway.
- (9) Chicago—Navy Pier-McCormick Place Busway.
- (10) Chicago—North Central Upgrade Commuter Rail.
- (11) Chicago—Ravenswood Line Extension.
- (12) Chicago—Southwest Extension.
- (13) Chicago—West Line Expansion.
- (14) Cleveland—Akron-Canton Commuter Rail.
- (15) Cleveland—Berea Metrolink Extension.
- (16) Cleveland—Blue Line Extension.
- (17) Cleveland—Euclid Corridor Extension.
- (18) Cleveland—I-90 Corridor to Ashtabula County.
- (19) Cleveland—Waterfront Line Extension.
- (20) Dallas—North Central Extension.
- (21) Dallas—Ft. Worth RAILTRAN (Phase II).
- (22) Denver—East Corridor (Airport).
- (23) Denver—Southeast LRT (I-25 between 6th & Lincoln).
- (24) Denver—Southwest LRT.
- (25) Denver—West Corridor LRT.
- (26) East St. Louis-St. Clair County—Mid-America Airport Corridor.
- (27) Ft. Lauderdale-West Palm Beach-Miami Tri-County Commuter Rail.
- (28) Galveston—Trolley Extension.
- (29) Hartford—Griffin Line.
- (30) Hollis—Ketchikan Ferry.
- (31) Houston—Regional Bus Plan—Phase I.
- (32) Kansas City—I-35 Commuter Rail.
- (33) Kansas City—Southtown Corridor.
- (34) Kenosha-Racine—Milwaukee Rail Extension.
- (35) Las Vegas Corridor.
- (36) Little Rock—River Rail.
- (37) Los Angeles—Metrolink San Bernadino Line.
- (38) Los Angeles—MOS-3.
- (39) Los Angeles—Metrolink (Union Station-Fullerton).
- (40) Louisville—Jefferson County Corridor.

- (41) MARC—Commuter Rail Improvements.
- (42) Maryland Light Rail Double Track.
- (43) Memphis—Medical Center Extension.
- (44) Miami—East-West Multimodal Corridor.
- (45) Miami—North 27th Avenue Corridor.
- (46) Miami—South Busway Extension.
- (47) Milwaukee—East-West Corridor.
- (48) Monterey County Commuter Rail.
- (49) Nashua, NH—Lowell, MA Commuter Rail.
- (50) Nashville—Commuter Rail.
- (51) New Orleans—Canal Streetcar.
- (52) New York—8th Avenue Subway Connector.
- (53) New York—Brooklyn—Staten Island Ferry.
- (54) New York—Long Island Railroad East Side Access.
- (55) New York—Staten Island Ferry—Whitehall Inter-modal Terminal.
- (56) New York Susquehanna and Western Commuter Rail.
- (57) New Jersey Urban Core.
- (58) Norfolk—Virginia Beach Corridor.
- (59) Orange County—Fullerton—Irvine Corridor.
- (60) Orlando—I-4 Central Florida Light Rail System.
- (61) Philadelphia—Schuylkill Valley Metro.
- (62) Phoenix—Fixed Guideway.
- (63) Colorado—Roaring Fork Valley Rail.
- (64) Pittsburgh Airborne Shuttle System.
- (65) Pittsburgh—MLK Busway Extension.
- (66) Portland—South-North Corridor.
- (67) Portland—Westside-Hillsboro Corridor.
- (68) Raleigh-Durham—Regional Transit Plan.
- (69) Sacramento—Folsom Extension.
- (70) Sacramento—Placer County Corridor.
- (71) Sacramento—South Corridor.
- (72) Salt Lake City—Light Rail (Airport to University of Utah).
- (73) Salt Lake City—Ogden-Provo Commuter Rail.
- (74) Salt Lake City—South LRT.
- (75) San Diego—Mid-Coast LRT Corridor.
- (76) San Diego—Mission Valley East Corridor.
- (77) San Diego—Oceanside—Escondido Corridor.
- (78) San Francisco—BART to San Francisco International Airport Extension.
- (79) San Francisco—Bayshore Corridor.
- (80) San Jose—Tasman Corridor Light Rail.
- (81) San Juan—Tren Urbano.
- (82) San Juan—Tren Urbano Extension to Minellas.
- (83) Santa Cruz—Fixed Guideway.
- (84) Seattle—Southworth High Speed Ferry.
- (85) Seattle—Sound Move Corridor.
- (86) South Boston—Piers Transitway.
- (87) St. Louis—Cross County Corridor.
- (88) Stockton—Altamont Commuter Rail.
- (89) Tampa Bay—Regional Rail.
- (90) Twin Cities—Northstar Corridor (Downtown Minneapolis-Anoka County-St. Cloud).
- (91) Twin Cities—Transitways Corridors.
- (92) Washington—Richmond Rail Corridor Improvements.
- (93) Washington, D.C.—Dulles Corridor Extension.

- (94) Washington, D.C.—Largo Extension.
- (95) West Trenton Line (West Trenton-Newark).
- (96) Westlake—Commuter Rail Link.
- (97) Pittsburgh North Shore-Central Business District Corridor.
- (98) Pittsburgh—Stage II Light Rail.
- (99) Boston—North-South Rail Link.
- (100) Spokane—South Valley Corridor Light Rail.
- (101) Miami—Palmetto Metrorail.
- (102) Morgantown—Personal Rapid Transit.
- (103) Santa Monica—Busway.
- (104) Northwest New Jersey—Northeast Rail Corridor.
- (105) Southeastern North Carolina Corridor.
- (106) Chicago—Douglas Branch.
- (107) San Joaquin—Regional Transit Corridor.
- (108) Albuquerque—High Capacity Corridor.

(b) ALTERNATIVES ANALYSIS AND PRELIMINARY ENGINEERING.—The following projects are authorized for alternatives analysis and preliminary engineering for fiscal years 1998 through 2003 under section 5309(m)(1)(B) of title 49, United States Code:

- (1) Atlanta—Georgia 400 Multimodal Corridor.
- (2) Atlanta—MARTA Extension (S. De Kalb-Lindbergh).
- (3) Atlanta—MARTA I-285 Transit Corridor.
- (4) Atlanta—MARTA Marietta-Lawrenceville Corridor.
- (5) Atlanta—MARTA South De Kalb Comprehensive Transit Program.
- (6) Baltimore—Metropolitan Rail Corridor.
- (7) Baltimore—People Mover.
- (8) Bergen County Cross—County Light Rail.
- (9) Birmingham Transit Corridor.
- (10) Boston—Urban Ring.
- (11) Charleston—Monobeam.
- (12) Chicago—Comiskey Park Station.
- (13) Chicago—Inner Circumferential Commuter Rail.
- (14) Cumberland/Dauphin County Corridor 1 Commuter Rail.
- (15) Dallas—DART LRT Extensions.
- (16) Dallas—Las Colinas Corridor.
- (17) Dayton—Regional Riverfront Corridor.
- (18) El Paso—International Fixed Guideway (El Paso-Juarez).
- (19) Fremont—South Bay Corridor.
- (20) Houston—Advanced Transit Program.
- (21) Jacksonville—Fixed Guideway Corridor.
- (22) Knoxville—Electric Transit.
- (23) Lorain—Cleveland Commuter Rail.
- (24) Los Angeles—MOS-4 East Side Extension (II).
- (25) Los Angeles—MOS-4 San Fernando Valley East-West.
- (26) Los Angeles—LOSSAN (Del Mar-San Diego).
- (27) Maine High Speed Ferry Service.
- (28) Maryland Route 5 Corridor.
- (29) Memphis—Regional Rail Plan.
- (30) Miami—Kendall Corridor.
- (31) Miami—Northeast Corridor.
- (32) New Jersey Trans-Hudson Midtown Corridor.
- (33) New Orleans—Airport—CBD Commuter Rail.
- (34) New Orleans—Desire Streetcar.

- (35) New York—Astoria—East Elmhurst Extension.
- (36) New York—Broadway—Lafayette & Bleecker Street Transfer.
- (37) New York—Brooklyn—Manhattan Access.
- (38) New York—Lower Manhattan Access.
- (39) New York—Manhattan East Side Link.
- (40) New York—Midtown West Intermodal Terminal.
- (41) New York—Nassau Hub.
- (42) New York—North Shore Railroad.
- (43) New York—Queens West Light Rail Link.
- (44) New York—St. George's Ferry Intermodal Terminal.
- (45) Newburgh—LRT System.
- (46) North Front Range Corridor.
- (47) Northeast Indianapolis Corridor.
- (48) Oakland Airport—BART Connector.
- (49) Providence—Pawtucket Corridor.
- (50) Philadelphia—Broad Street Line Extension.
- (51) Philadelphia—Cross County Metro.
- (52) Philadelphia—Lower Marion Township.
- (53) Pinellas County—Mobility Initiative Project.
- (54) Redlands—San Bernardino Transportation Corridor.
- (55) Riverside—Perris Rail Passenger Service.
- (56) Salt Lake City—Draper Light Rail Extension.
- (57) Salt Lake City—West Jordan Light Rail Extension.
- (58) San Francisco—CalTrain Extension to Hollister.
- (59) Scranton—Laurel Line Intermodal Corridor.
- (60) SEATAC—Personal Rapid Transit.
- (61) Toledo—CBD to Zoo.
- (62) Union Township Station (Raritan Valley Line).
- (63) Washington County Corridor (Hastings-St. Paul).
- (64) Washington, D.C.—Georgetown-Ft. Lincoln.
- (65) Williamsburg—Newport News-Hampton LRT.
- (66) Cincinnati/N. Kentucky—Northeast Corridor.
- (67) Northeast Ohio—commuter rail.
- (68) California—North Bay Commuter Rail.

(c) PROJECT AUTHORIZATIONS.—

(1) IN GENERAL.—Of the total amount made available by or authorized under section 5338(b) of title 49, United States Code, to carry out section 5309(m)(1)(B) for fiscal years 1998 through 2003:

(A) \$3,000,000,000 shall be available for the following projects:

- (i) Birmingham Transit Corridor, \$87,500,000.
- (ii) San Diego-Mission Valley East Corridor, \$325,000,000.
- (iii) Denver-Southeast LRT (I-25 between 6th and Lincoln), \$10,000,000.
- (iv) Colorado—Roaring Fork Valley Rail, \$40,000,000.
- (v) Hartford—Griffin Line, \$33,000,000.
- (vi) Bridgeport—Intermodal Corridor, \$34,000,000.
- (vii) New London—Waterfront Access, \$10,000,000.
- (viii) Old Saybrook—Hartford Rail Extension, \$10,000,000.
- (ix) Stamford—Fixed Guideway Connector, \$18,000,000.



- (x) Orlando—I-4 Central Florida Light Rail System, \$100,000,000.
- (xi) Miami—Palmetto Metrorail, \$8,000,000.
- (xii) Tampa Bay—Regional Rail, \$2,000,000.
- (xiii) Fort Lauderdale—West Palm Beach—Miami Tri-County Commuter Rail, \$20,000,000.
- (xiv) Miami—East-West Multimodal Corridor, \$20,000,000.
- (xv) Chicago—CTA Douglas Branch, \$315,000,000.
- (xvi) Indianapolis Region Commuter Rail, \$10,000,000.
- (xvii) Sioux City—Light Rail, \$10,000,000.
- (xviii) MARC—Commuter Rail Improvements, \$185,000,000.
- (xix) Baltimore—Light Rail Double Track, \$120,000,000.
- (xx) Boston—North Shore Corridor and Blue Line Extension to Beverly, \$50,000,000.
- (xxi) Twin Cities—Transitways Corridors, \$120,000,000.
- (xxii) Twin Cities—Northstar Corridor (Downtown Minneapolis—Anoka County—St. Cloud), \$6,000,000.
- (xxiii) I-35 Commuter Rail, \$30,000,000.
- (xxiv) Las Vegas Corridor, \$155,000,000.
- (xxv) New Jersey—Bergen County Cross County Light Rail, \$5,000,000.
- (xxvi) New Jersey—Trans Hudson Midtown Corridor, \$5,000,000.
- (xxvii) Santa Fe—Eldorado Rail Link, \$10,000,000.
- (xxviii) Albuquerque Alvarado Intermodal Center, \$5,000,000.
- (xxix) Albuquerque Light Rail, \$90,000,000.
- (xxx) New York—Long Island Railroad East Side Access, \$353,000,000.
- (xxxi) New York—Second Avenue Subway, \$5,000,000.
- (xxxii) New York—Whitehall Ferry Terminal, \$40,000,000.
- (xxxiii) New York—St. George's Ferry Intermodal Terminal, \$20,000,000.
- (xxxiv) New York—Nassau Hub, \$10,000,000.
- (xxxv) New Jersey—New York Midtown West Ferry Terminal, \$16,300,000.
- (xxxvi) Cincinnati/Northern Kentucky Corridor, \$65,000,000.
- (xxxvii) Portland South—North Corridor, \$25,000,000.
- (xxxviii) Philadelphia—Schuylkill Valley Metro, \$75,000,000.
- (xxxix) Allegheny County Stage II Light Rail, \$100,200,000.
- (xl) Philadelphia—Pittsburgh High Speed Rail, \$10,000,000.
- (xli) Cumberland/Dauphin County Corridor 1 Commuter Rail, \$20,000,000.
- (xlii) Pittsburgh North Shore—Central Business District, \$20,000,000.

(xliii) Providence—Boston Commuter, \$10,000,000.

(xliv) Rhode Island Integrated Intermodal Transportation, \$25,000,000.

(xlv) Dallas—North Central Extension, \$188,000,000.

(xlvi) Dallas—Southeast Corridor, \$20,000,000.

(xlvii) Dallas—Northwest Corridor, \$12,000,000.

(xlviii) Washington, D.C., Dulles Corridor Extension, \$86,000,000.

(xlix) Seattle—Tacoma Commuter Rail, \$40,000,000.

(i) San Joaquin Regional Intermodal Corridor, \$14,000,000.

(ii) Railtran Corridor Light Rail, \$12,000,000.

(B) The remainder shall be available for projects listed in subsections (a) and (b).

(2) ADDITIONAL FUNDS.—

(A) IN GENERAL.—The total amount authorized in section 5338(h)(5) of title 49, United States Code, for fiscal years 1999 through 2003 shall be available for projects listed in subsections (a) and (b).

(B) PRIORITY FOR SALT LAKE CITY OLYMPICS.—

(i) IN GENERAL.—Of the amount authorized to be appropriated under section 5338(h)(5), \$640,000,000 is authorized to be appropriated for the Salt Lake City Winter Olympic Games for the following projects:

(I) North/South Light Rail.

(II) Airport to University of Utah Light Rail.

(III) Intermodal Facilities.

(IV) Park and Ride Lots.

(V) Bus Acquisition.

(ii) GOVERNMENT SHARE.—The Government share of the costs of projects assisted under this subparagraph shall not exceed 80 percent. For purposes of determining the nongovernmental share for projects authorized under this subparagraph, highway, aviation, and transit projects shall be considered to be a program of projects.

(iii) USE OF FUNDS.—Funds provided under this subparagraph shall be available for planning and capital assistance.

(3) HIGH PRIORITY PROJECT.—The Long Island Rail Road East Side Access project shall be given priority consideration by the Secretary for funds made available under paragraph (1)(B). In addition, that project is authorized for construction with funds available under section 5338(h)(5) of title 49, United States Code.

(d) EFFECT OF AUTHORIZATION.—

(1) IN GENERAL.—

(A) SUBSECTION (a) PROJECTS.—Projects authorized by subsection (a) for final design and construction are also authorized for alternatives analysis and preliminary engineering.

(B) SUBSECTION (b) PROJECTS.—Effective October 1, 2000, projects authorized by subsection (b) for alternatives analysis and preliminary engineering are also authorized for final design and construction.

Effective date.

(2) **FIXED GUIDEWAY AUTHORIZATION.**—The project authorized by subsection (a)(3) includes an additional 28 rapid rail cars and project scope changes from amounts authorized by the Intermodal Surface Transportation Efficiency Act of 1991.

(3) **INTERMODAL CENTER AUTHORIZATIONS.**—Notwithstanding any other provision of law, each of the following projects are eligible for funding under section 5309(m)(1)(C) of title 49, United States Code:

(A) Huntington, West Virginia Intermodal Facility project.

(B) Huntsville Intermodal Center project.

(e) **NEW JERSEY URBAN CORE PROJECT.**—

(1) **ALLOCATIONS.**—Section 3031(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122) is amended by adding at the end the following:

“(3) **ALLOCATIONS.**—

“(A) **RAIL CONNECTION BETWEEN PENN STATION NEWARK AND BROAD STREET STATION, NEWARK.**—Of the amounts made available for the New Jersey Urban Core Project under section 5309(m)(1)(B) of title 49, United States Code, for fiscal years 1998 through 2003, the Secretary shall set aside 10 percent, but not more than \$5,000,000, per fiscal year for preliminary engineering, design, and construction of the rail connection between Penn Station, Newark and Broad Street Station, Newark.

“(B) **NEWARK-NEWARK INTERNATIONAL AIRPORT-ELIZABETH TRANSIT LINK.**—Of the amounts made available for the New Jersey Urban Core Project under section 5309(m)(1)(B) of title 49, United States Code, for fiscal years 1998 through 2003, the Secretary, after making the set aside under subparagraph (A), shall set aside 10 percent, but not more than \$5,000,000 per fiscal year for preliminary engineering, design, and construction of the Newark-Newark International Airport-Elizabeth Transit Link, including construction of the auxiliary New Jersey Transit station, described in subsection (d).

“(C) **LIGHT RAIL CONNECTION AND ALIGNMENT WITHIN AND SERVING THE CITY OF ELIZABETH.**—Of the amounts made available for the New Jersey Urban Core Project under section 5309(m)(1)(B) of title 49, United States Code, for fiscal years 1998 through 2003, the Secretary, after making the set-aside under subparagraphs (A) and (B), shall set aside 10 percent but not more than \$5,000,000 per fiscal year for preliminary engineering, design, and construction of the light rail connection and alignment within and serving the city of Elizabeth as described in subsection (d).”.

(2) **CONFORMING AMENDMENTS.**—Section 3031(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122) is amended—

(A) by striking “section 3(i) of the Federal Transit Act (relating to criteria for new starts)” and inserting “section 5309(e) of title 49, United States Code,”; and

(B) by striking “; except” and all that follows through “such element”.

(3) ELEMENTS OF NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122) is amended—

(A) by inserting after “Secaucus Transfer” the following: “(including relocation and construction of the Bergen County and Pascack Valley Rail Lines and the relocation of the Main/Bergen Connection with construction of a rail station and associated components to and at the contiguous New Jersey Meadowlands Sports Complex)”;

(B) by striking “, Newark-Newark International Airport-Elizabeth Transit Link” and inserting “(including a connection from the Vince Lombardi Station to Saddlebrook and Edgewater), restoration of commuter rail service along the Northern Branch Line of the West Shore Line, Newark-Newark International Airport-Elizabeth Transit Link (including construction of an auxiliary New Jersey Light Rail Transit station directly connected to and integrated with the Amtrak Northeast Corridor Station at Newark International Airport, providing access from the Newark-Newark International Airport-Elizabeth Light Rail Transit Link to the Newark International Airport)”;

(C) by inserting after “New York Penn Station Concourse,” the following: “the restoration of commuter rail service in Lakewood to Freehold to Matawan or Jamesburg, New Jersey, as described in section 3035(p) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2131), a light rail extension of the Newark-Newark International Airport-Elizabeth Light Rail Transit Link from Elizabeth, New Jersey, to the towns of Cranford, Westfield, Fanwood, and Plainfield in Union County, New Jersey, and any appropriate light rail connections and alignments within the city of Elizabeth to be determined by the city of Elizabeth and the New Jersey Department of Transportation (and which shall include connecting midtown Elizabeth to Route 1 Park and Ride, the Elizabeth Car House Museum, Division Street, Singer Place, Ferry Terminal, Jersey Gardens Mall, Elizabeth Port to Lot D at Newark Airport) and any appropriate fixed guideway system in Passaic County,”.

(f) LOS ANGELES MOS-3 PROJECT.—

(1) IN GENERAL.—For purposes of this section, the Los Angeles MOS-3 project referenced in subsection (a)(38) may include any fixed guideway project or projects selected by the Los Angeles County Metropolitan Transportation Authority for development in the transportation corridors to be served by the 3 extensions of MOS-3 of the Los Angeles County Metro Rail project, as described in section 3034(i) of the Intermodal Surface Transportation Efficiency Act of 1991.

(2) ALTERNATIVES.—In considering fixed guideway alternatives and selecting any revised preferred alternative in the East Side or Mid City corridors of MOS-3, the Los Angeles County Metropolitan Transportation Authority shall—

(A) fully evaluate the potential impact of the alternatives on the integrity of the neighborhoods in the corridor involved;

(B) address the capacity of the alternatives to serve transit dependent riders;

(C) identify and address any disproportionately high and adverse effects on minority and low income populations, in accordance with the Executive Order on Federal Actions to Address Environmental Justice (EO 12898; February 11, 1994); and

(D) otherwise comply with all applicable Federal and State planning and environmental requirements.

(g) BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS PROGRAM.—Section 3035(nn) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2134) is amended—

(1) in paragraph (1)—

(A) by inserting “, and alternatives for double tracking and related improvements” after “Penn Station extensions”;

(B) by inserting “shall provide for double tracking and related improvements and” after “under this paragraph”; and

(C) by inserting after the first sentence the following: “Funds for projects under this paragraph shall be provided at an 80 percent Government share. In applying the local share evaluation criteria in section 5309, of title 49, United States Code, the Secretary shall compare the aggregate expenditure of State and local funds, including Federal highway funds provided by the State of Maryland, for all phases of the Central Corridor Light Rail project.”; and

(2) in paragraph (2)—

(A) in the first sentence, by inserting “, including capacity and efficiency improvements through construction of a Penn-Camden Connection, MARC maintenance and storage facilities, and other capacity related improvements, and the Silver Spring Intermodal Center” before the period; and

(B) in the second sentence, by inserting “provide for construction of the Penn-Camden Connection, MARC maintenance and storage facilities, and other capacity related improvements, and the Silver Spring Intermodal Center, and shall” after “shall”.

#### SEC. 3031. PROJECTS FOR BUS AND BUS-RELATED FACILITIES.

(a) GUARANTEED FUNDING.—Of the amounts made available to carry out section 5309(m)(1)(C) of title 49, United States Code, for each of fiscal years 1999 and 2000, the Secretary shall make funds available for the following projects in not less than the amounts specified for the fiscal year:

Project	FY 1999 (in millions)	FY 2000 (in millions)
1. Albuquerque, NM buses .....	1.250	1.250
2. Alexandria, VA bus maintenance facility .....	1.000	1.000
3. Alexandria, VA King Street Station access .....	1.100	0.000
4. Altoona, PA Metro Transit Authority buses and transit system improvements .....	0.842	0.842
5. Altoona, PA Metro Transit Authority Logan Valley Mall Suburban Transfer Center .....	0.080	0.000
6. Altoona, PA Metro Transit Authority Transit Center improvements .....	0.424	0.000
7. Arkansas Highway and Transit Department buses .....	0.200	2.000

	Project	FY 1999 (in millions)	FY 2000 (in millions)
8.	Armstrong County-Mid County, PA bus facilities and buses .....	0.150	0.150
9.	Atlanta, GA MARTA buses .....	9.000	13.500
10.	Austin, TX buses .....	1.250	1.250
11.	Babylon, NY Intermodal Center .....	1.250	1.250
12.	Birmingham-Jefferson County, AL buses .....	1.250	1.250
13.	Boulder/Denver, CO RTD buses .....	0.625	0.625
14.	Bradford County, Endless Mountain Transportation Authority buses .....	1.000	0.000
15.	Brookhaven Town, NY elderly and disabled buses and vans .....	0.225	0.000
16.	Brooklyn-Staten Island, NY Mobility Enhancement buses .....	0.800	0.000
17.	Broward County, FL buses .....	1.000	0.000
18.	Buffalo, NY Auditorium Intermodal Center .....	2.000	2.000
19.	Buffalo, NY Crossroads Intermodal Station .....	1.000	0.000
20.	Cambria County, PA bus facilities and buses ....	0.575	0.575
21.	Centre Area, PA Transportation Authority buses .....	1.250	1.250
22.	Chambersburg, PA Transit Authority buses .....	0.300	0.000
23.	Chambersburg, PA Transit Authority Intermodal Center .....	1.000	0.000
24.	Chester County, PA Paoli Transportation Center .....	1.000	1.000
25.	Altoona, PA Pedestrian Crossover .....	.800	0.000
26.	Cleveland, OH Triskett Garage bus maintenance facility .....	0.625	0.625
27.	Crawford Area, PA Transportation buses .....	0.500	0.000
28.	Culver City, CA CityBus buses .....	1.250	1.250
29.	Davis, CA Unitrans transit maintenance facility .....	0.625	0.625
30.	Dayton, OH Multimodal Transportation Center .....	0.625	0.625
31.	Daytona, FL Intermodal Center .....	2.500	2.500
32.	Duluth, MN Transit Authority community circulation vehicles .....	1.000	1.000
33.	Duluth, MN Transit Authority intelligent transportation systems .....	0.500	0.500
34.	Duluth, MN Transit Authority Transit Hub .....	0.500	0.500
35.	Dutchess County, NY Loop System buses .....	0.521	0.521
36.	East Hampton, NY elderly and disabled buses and vans .....	0.100	0.000
37.	Erie, PA Metropolitan Transit Authority buses .....	1.000	1.000
38.	Everett, WA Multimodal Transportation Center .....	1.950	1.950
39.	Fayette County, PA Intermodal Facilities and buses .....	1.270	1.270
40.	Fayetteville, AR University of Arkansas Transit System buses .....	0.500	0.500
41.	Fort Dodge, IA Intermodal Facility (Phase II) ...	0.885	0.885
42.	Gary, IN Transit Consortium buses .....	1.250	1.250
43.	Grant County, WA buses and vans .....	0.600	0.000
44.	Greensboro, NC Multimodal Center .....	3.340	3.339
45.	Greensboro, NC Transit Authority buses .....	1.500	1.500
46.	Greensboro, NC Transit Authority small buses and vans .....	0.321	0.000
47.	Hartford, CT Transportation Access Project .....	0.800	0.000
48.	Healdsburg, CA Intermodal Facility .....	1.000	1.000
49.	Honolulu, HI bus facility and buses .....	2.250	2.250
50.	Hot Springs, AR Transportation Depot and Plaza .....	0.560	0.560
51.	Humboldt, CA Intermodal Facility .....	1.000	0.000
52.	Huntington, WV Intermodal Facility .....	8.000	12.000

	Project	FY 1999 (in millions)	FY 2000 (in millions)
53.	Illinois statewide buses and bus-related equip- ment .....	6.800	8.200
54.	Indianapolis, IN buses .....	5.000	5.000
55.	Iowa/Illinois Transit Consortium bus safety and security .....	1.000	1.000
56.	Ithaca, NY TCAT bus technology improvements	1.250	1.250
57.	Lackawanna County, PA Transit System buses	0.600	0.600
58.	Lakeland, FL Citrus Connection transit vehi- cles and related equipment .....	1.250	1.250
59.	Lane County, OR Bus Rapid Transit .....	4.400	4.400
60.	Lansing, MI CATA bus technology improve- ments .....	0.600	0.000
61.	Little Rock, AR Central Arkansas Transit buses .....	0.300	0.300
62.	Livermore, CA automatic vehicle locator .....	1.000	1.000
63.	Long Island, NY CNG transit vehicles and fa- cilities .....	1.250	1.250
64.	Los Angeles County, CA Foothill Transit buses	1.625	1.250
65.	New York, NY West 72nd St. Intermodal Sta- tion .....	1.750	1.750
66.	Los Angeles, CA San Fernando Valley smart shuttle buses .....	0.300	0.000
67.	Los Angeles, CA Union Station Gateway Inter- modal Transit Center .....	1.250	1.250
68.	Maryland statewide bus facilities and buses ....	7.000	11.500
69.	Rensslear, NY Rensslear Intermodal Bus Facil- ity .....	1.000	6.000
70.	Mercer County, PA buses .....	0.750	0.000
71.	Miami Beach, FL Electric Shuttle Service .....	0.750	0.750
72.	Miami-Dade, FL buses .....	2.250	2.250
73.	Michigan statewide buses .....	10.000	13.500
74.	Milwaukee County, WI buses .....	4.000	6.000
75.	Mineola/Hicksville, NY LIRR Intermodal Cen- ters .....	1.250	1.250
76.	Modesto, CA bus maintenance facility .....	0.625	0.625
77.	Monroe County, PA Transportation Authority buses .....	1.000	0.000
78.	Monterey, CA Monterey-Salinas buses .....	0.625	0.625
79.	Morongo Basin, CA Transit Authority bus facil- ity .....	0.650	0.000
80.	New Haven, CT bus facility .....	2.250	2.250
81.	New Jersey Transit jitney shuttle buses .....	1.750	1.750
82.	Newark, NJ Morris & Essex Station access and buses .....	1.250	1.250
83.	Northstar Corridor, MN Intermodal Facilities and buses .....	6.000	10.000
84.	Norwich, CT buses .....	2.250	2.250
85.	Ogden, UT Intermodal Center .....	0.800	0.800
86.	Oklahoma statewide bus facilities and buses ....	5.000	5.000
87.	Orlando, FL Downtown Intermodal Facility .....	2.500	2.500
88.	Providence, RI buses and bus maintenance fa- cility .....	2.250	3.294
89.	Perris, CA bus maintenance facility .....	1.250	1.250
90.	Philadelphia, PA Frankford Transportation Center .....	5.000	5.000
91.	Philadelphia, PA Intermodal 30th Street Sta- tion .....	1.250	1.250
92.	Portland, OR Tri-Met buses .....	1.750	1.750
93.	Pritchard, AL bus transfer facility .....	0.500	0.000
94.	Reading, PA BARTA Intermodal Transpor- tation Facility .....	1.750	1.750

	Project	FY 1999 (in millions)	FY 2000 (in millions)
95.	Red Rose, PA Transit Bus Terminal .....	1.000	0.000
96.	Richmond, VA GRTC bus maintenance facility .....	1.250	1.250
97.	Riverhead, NY elderly and disabled buses and vans .....	0.125	0.000
98.	Robinson, PA Towne Center Intermodal Facil- ity .....	1.500	1.500
99.	Rome, NY Intermodal Center .....	0.400	0.000
100.	Sacramento, CA CNG buses .....	1.250	1.250
101.	San Francisco, CA Islais Creek Maintenance Facility .....	1.250	1.250
102.	San Juan, Puerto Rico Intermodal access .....	0.600	0.600
103.	Santa Clarita, CA facilities and buses .....	1.250	1.250
104.	Santa Cruz, CA bus facility .....	0.625	0.625
105.	Santa Rosa/Cotati, CA Intermodal Transpor- tation Facilities .....	0.750	0.750
106.	Seattle, WA Intermodal Transportation Termi- nal .....	1.250	1.250
107.	Shelter Island, NY elderly and disabled buses and vans .....	0.100	0.000
108.	Smithtown, NY elderly and disabled buses and vans .....	0.125	0.000
109.	Somerset County, PA bus facilities and buses ...	0.175	0.175
110.	South Amboy, NJ Regional Intermodal Trans- portation Initiative .....	1.250	1.250
111.	South Bend, IN Urban Intermodal Transpor- tation Facility .....	1.250	1.250
112.	South Carolina statewide Virtual Transit En- terprise .....	1.220	1.220
113.	South Dakota statewide bus facilities and buses .....	1.500	1.500
114.	Southampton, NY elderly and disabled buses and vans .....	0.125	0.000
115.	Southold, NY elderly and disabled buses and vans .....	0.100	0.000
116.	Springfield, MA Union Station .....	1.250	1.250
117.	St. Louis, MO Bi-state Intermodal Center .....	1.250	1.250
118.	Denver, CO Stapleton Intermodal Center .....	1.250	1.250
119.	Suffolk County, NY elderly and disabled buses and vans .....	0.100	0.000
120.	Texas statewide small urban and rural buses ...	4.000	4.500
121.	Towamencin Township, PA Intermodal Bus Transportation Center .....	1.500	1.500
122.	Tuscaloosa, AL Intermodal Center .....	1.000	0.000
123.	Ukiah, CA Transportation Center .....	0.500	0.000
124.	Utah Transit Authority, UT Intermodal Facili- ties .....	1.500	1.500
125.	Utah Transit Authority/Park City Transit, UT buses .....	6.500	6.500
126.	Utica, NY Union Station .....	2.100	2.100
127.	Utica and Rome, NY bus facilities and buses ...	0.500	0.000
128.	Washington County, PA Intermodal Facilities ..	0.630	0.630
129.	Washington, D.C. Intermodal Transportation Center .....	2.500	2.500
130.	Washoe County, NV transit improvements .....	2.250	2.250
131.	Waterbury, CT bus facility .....	2.250	2.250
132.	West Virginia statewide Intermodal Facility and buses .....	5.000	5.000
133.	Westchester County, NY Bee-Line transit sys- tem fareboxes .....	0.979	0.979
134.	Westchester County, NY Bee-Line transit sys- tem shuttle buses .....	1.000	1.000
135.	Westchester County, NY DOT articulated buses .....	1.250	1.250



	Project	FY 1999 (in millions)	FY 2000 (in millions)
136.	Westmoreland County, PA Intermodal Facility	0.200	0.200
137.	Wilkes-Barre, PA Intermodal Facility .....	1.250	1.250
138.	Williamsport, PA Bus Facility .....	1.200	1.200
139.	Windsor, CA Intermodal Facility .....	0.750	0.750
140.	Wisconsin statewide bus facilities and buses .....	8.000	12.000
141.	Woodland Hills, CA Warner Center Transportation Hub .....	0.325	0.625
142.	Worcester, MA Union Station Intermodal Transportation Center .....	2.500	2.500
143.	Lynchburg, VA buses .....	0.200	0.000
144.	Harrisonburg, VA buses .....	0.200	0.000
145.	Roanoke, VA buses .....	0.200	0.000
146.	Allegheny County, PA buses .....	0.000	1.500
147.	Mount Vernon, WA Multimodal Center .....	1.750	1.750
148.	New Bedford/Fall River, MA Mobile Access to health care .....	0.250	0.000
149.	Philadelphia, PA Regional Transportation System for Elderly and Disabled .....	0.750	0.000
150.	Clark County, NV Regional Transportation Commission .....	1.250	1.250

(b) GENERAL FUND AUTHORIZATION.—Of the amounts authorized to be appropriated to carry out section 5309(m)(1)(C) of title 49, United States Code, for each of fiscal years 1999 and 2000, there are authorized to be appropriated for the following projects:

	Project	FY 1999 (in millions)	FY 2000 (in millions)
1.	Everett, WA Multimodal Transportation Center	1.000	1.000
2.	Rennslear, NY Rennslear Intermodal Bus Facility .....	4.000	0.000
3.	Rochester, NY Rochester Central Bus Facility ..	12.500	12.500
4.	Long Beach, NY Long Beach Central Bus Facility .....	0.750	0.750
5.	Broome County, NY Buses and Related Equipment .....	2.700	2.700
6.	Long Island, NY CNG Transit Vehicles and Facilities .....	3.050	3.050

#### SEC. 3032. CONTRACTING OUT STUDY.

(a) STUDY.—Not later than 3 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct a study of the effect of contracting out mass transportation operation and administrative functions on cost, availability and level of service, efficiency, safety, quality of services provided to transit-dependent populations, and employer-employee relations.

(b) TERMS OF AGREEMENT.—The agreement entered into in subsection (a) shall provide that—

(1) the Transportation Research Board, in conducting the study, consider the number of grant recipients that have contracted out services, the size of the population served by such grant recipients, the basis for decisions regarding contracting out, and the extent to which contracting out was affected by the integration and coordination of resources of transit agencies and other Federal agencies and programs; and

49 USC 5301  
note.

(2) the panel conducting the study shall include representatives of transit agencies, employees of transit agencies, private contractors, academic and policy analysts, and other interested persons.

(c) **REPORT.**—Not later than 24 months after the date of entry into the agreement under subsection (a), the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results of the study.

(d) **FUNDING.**—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out this section \$250,000 for fiscal year 1998.

(e) **CONTRACTUAL OBLIGATION.**—Entry into an agreement to carry out this section that is financed with amounts made available under subsection (c) is a contractual obligation of the United States to pay the Government's share of the cost of the study.

49 USC 5336  
note.

**SEC. 3033. URBANIZED AREA FORMULA STUDY.**

(a) **STUDY.**—The Secretary shall conduct a study to determine whether the formula for apportioning funds to urbanized areas under section 5336 of title 49, United States Code, accurately reflects the transit needs of the urbanized areas and, if not, whether any changes should be made either to the formula or through some other mechanism to reflect the fact that some urbanized areas with a population between 50,000 and 200,000 have transit systems that carry more passengers per mile or hour than the average of those transit systems in urbanized areas with a population over 200,000.

(b) **REPORT.**—Not later than December 31, 1999, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study conducted under this section, together with any proposed changes to the method for apportioning funds to urbanized areas with a population over 50,000.

49 USC 301 note.

**SEC. 3034. COORDINATED TRANSPORTATION SERVICES.**

(a) **STUDY.**—The Comptroller General shall conduct a study of Federal departments and agencies (other than the Department of Transportation) that receive Federal financial assistance for non-emergency transportation services.

(b) **CONTENTS.**—In conducting the study, the Comptroller General shall—

(1) identify each Federal department and agency (other than the Department of Transportation) that has received Federal financial assistance for non-emergency transportation services in any of the 3 fiscal years preceding the date of enactment of this Act;

(2) identify the amount of such assistance received by each Federal department and agency in such fiscal years; and

(3) identify the projects and activities funded using such financial assistance.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results of the study and

any recommendations for enhanced coordination between the Department of Transportation and other Federal departments and agencies that provide funding for non-emergency transportation.

**SEC. 3035. FINAL ASSEMBLY OF BUSES.**

(a) **IN GENERAL.**—All buses manufactured on or after September 1, 1999, that are purchased with Federal funds by recipients of assistance from the Federal Transit Administration shall conform with the Federal Transit Administration Guidance on Buy America Requirements, dated March 18, 1997.

(b) **RULE OF CONSTRUCTION.**—For purposes of this section, a bus shall be considered to be manufactured on or after September 1, 1999, if the manufacturing process for that bus is not completed on or before August 31, 1999.

49 USC 5323  
note.

**SEC. 3036. CLEAN FUEL VEHICLES.**

(a) **STUDY.**—The Comptroller General shall conduct a study of the various low and zero emission fuel technologies for transit vehicles, including compressed natural gas, liquefied natural gas, biodiesel fuel, battery, alcohol based fuel, hybrid electric, fuel cell, and clean diesel to determine—

- (1) the status of the development and use of such technologies;
- (2) the environmental benefits of such technologies under the Clean Air Act; and
- (3) the cost of such technologies and any associated equipment.

(b) **REPORT.**—Not later than January 1, 2000, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study, together with recommendations for incentives to encourage the use of low and zero emission fuel technology for transit vehicles.

49 USC 5308  
note.

**SEC. 3037. JOB ACCESS AND REVERSE COMMUTE GRANTS.**

(a) **FINDINGS.**—Congress finds that—

- (1) two-thirds of all new jobs are in the suburbs, whereas three-quarters of welfare recipients live in rural areas or central cities;
- (2) even in metropolitan areas with excellent public transit systems, less than half of the jobs are accessible by transit;
- (3) in 1991, the median price of a new car was equivalent to 25 weeks of salary for the average worker, and considerably more for the low-income worker;
- (4) not less than 9,000,000 households and 10,000,000 Americans of driving age, most of whom are low-income workers, do not own cars;
- (5) 94 percent of welfare recipients do not own cars;
- (6) nearly 40 percent of workers with annual incomes below \$10,000 do not commute by car;
- (7) many of the 2,000,000 Americans who will have their Temporary Assistance to Needy Families grants (under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) terminated by the year 2002 will be unable to get to jobs they could otherwise hold;
- (8) increasing the transit options for low-income workers, especially those who are receiving or who have recently received

49 USC 5309  
note.

welfare benefits, will increase the likelihood of those workers getting and keeping jobs; and

(9) many residents of cities and rural areas would like to take advantage of mass transit to gain access to suburban employment opportunities.

(b) DEFINITIONS.—In this section, the following definitions shall apply:

(1) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term “eligible low-income individual” means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

(2) ELIGIBLE PROJECT AND RELATED TERMS.—

(A) IN GENERAL.—The term “eligible project” means an access to jobs project or a reverse commute project.

(B) ACCESS TO JOBS PROJECT.—The term “access to jobs project” means a project relating to the development of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment. The Secretary may make access to jobs grants for—

(i) capital projects and to finance operating costs of equipment, facilities, and associated capital maintenance items related to providing access to jobs under this section;

(ii) promoting the use of transit by workers with nontraditional work schedules;

(iii) promoting the use by appropriate agencies of transit vouchers for welfare recipients and eligible low-income individuals under specific terms and conditions developed by the Secretary; and

(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986.

(C) REVERSE COMMUTE PROJECT.—The term “reverse commute project” means a project related to the development of transportation services designed to transport residents of urban areas, urbanized areas, and areas other than urbanized areas to suburban employment opportunities, including any project to—

(i) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urban areas, urbanized areas, and areas other than urbanized areas, to suburban workplaces;

(ii) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

(iii) otherwise facilitate the provision of mass transportation services to suburban employment opportunities.

(3) EXISTING TRANSPORTATION SERVICE PROVIDERS.—The term “existing transportation service providers” means mass

transportation operators and governmental agencies and non-profit organizations that receive assistance from Federal, State, or local sources for nonemergency transportation services.

(4) QUALIFIED ENTITY.—The term “qualified entity” means—

(A) with respect to any proposed eligible project in an urbanized area with a population of at least 200,000, the applicant or applicants selected by the appropriate metropolitan planning organization that meets the requirements of this section, including the planning and coordination requirements in subsection (i), from among local governmental authorities and agencies and nonprofit organizations; and

(B) with respect to any proposed eligible project in an urbanized area with a population of at least 200,000, or an area other than an urbanized area, the applicant or applicants selected by the chief executive officer of the State in which the area is located that meets the requirements of this section, including the planning and coordination requirements in subsection (i), from among local governmental authorities and nonprofit organizations.

(5) WELFARE RECIPIENT.—The term “welfare recipient” means an individual who receives or received aid or assistance under a State program funded under part A of title IV of the Social Security Act (whether in effect before or after the effective date of the amendments made by title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2110)) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

(c) GENERAL AUTHORITY.—

(1) IN GENERAL.—The Secretary may make access to jobs grants and reverse commute grants under this section to assist qualified entities in financing eligible projects.

(2) COORDINATION.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

(d) APPLICATIONS.—Each qualified entity seeking to receive a grant under this section for an eligible project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

(e) PROHIBITION.—Grants awarded under this section may not be used for planning or coordination activities.

(f) FACTORS FOR CONSIDERATION.—In awarding grants under this section to applicants under subsection (d), the Secretary shall consider—

(1) the percentage of the population in the area to be served by the applicant that are welfare recipients;

(2) in the case of an applicant seeking assistance to finance an access to jobs project, the need for additional services in the area to be served by the applicant (including bicycling) to transport welfare recipients and eligible low-income individuals to and from specified jobs, training, and other employment support services, and the extent to which the proposed services will address those needs;

(3) the extent to which the applicant demonstrates—

(A) coordination with, and the financial commitment of, existing transportation service providers; and

(B) coordination with the State agency that administers the State program funded under part A of title IV of the Social Security Act;

(4) the extent to which the applicant demonstrates maximum utilization of existing transportation service providers and expands transit networks or hours of service, or both;

(5) the extent to which the applicant demonstrates an innovative approach that is responsive to identified service needs;

(6) the extent to which the applicant—

(A) in the case of an applicant seeking assistance to finance an access to jobs project, presents a regional transportation plan for addressing the transportation needs of welfare recipients and eligible low-income individuals; and

(B) identifies long-term financing strategies to support the services under this section;

(7) the extent to which the applicant demonstrates that the community to be served has been consulted in the planning process; and

(8) in the case of an applicant seeking assistance to finance a reverse commute project, the need for additional services identified in a regional transportation plan to transport individuals to suburban employment opportunities, and the extent to which the proposed services will address those needs.

(g) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

(h) COST SHARING.—

(1) MAXIMUM AMOUNT.—The amount of a grant under this section may not exceed 50 percent of the total project cost.

(2) NONGOVERNMENTAL SHARE.—

(A) IN GENERAL.—The portion of the total cost of an eligible project that is not funded under this section—

(i) shall be provided in cash from sources other than revenues from providing mass transportation, but may include amounts received under a service agreement; and

(ii) may be derived from amounts appropriated to or made available to a department or agency of the Federal Government (other than the Department of Transportation) that are eligible to be expended for transportation.

(B) INAPPLICABILITY.—For purposes of subparagraph (A)(ii), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(ii) of the Social Security Act shall not apply to Federal or State funds to be used for transportation services.

(i) PLANNING REQUIREMENTS.—

(1) IN GENERAL.—The requirements of sections 5303 through 5306 of title 49, United States Code, apply to any grant made under this section.

(2) COORDINATION.—Each application for a grant under this section shall reflect coordination with and the approval of affected transit grant recipients. The eligible access to jobs

projects financed under this section shall be part of a coordinated public transit-human services transportation planning process.

(j) GRANT REQUIREMENTS.—A grant under this section shall be subject to—

(1) all of the terms and conditions to which a grant made under section 5307 of title 49, United States Code, is subject; and

(2) such other terms and conditions as are determined by the Secretary.

(k) PROGRAM EVALUATION.—

(1) COMPTROLLER GENERAL.—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, the Comptroller General of the United States shall—

(A) conduct a study to evaluate the grant program authorized under this section; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of each study under subparagraph (A).

(2) DEPARTMENT OF TRANSPORTATION.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(A) conduct a study to evaluate the access to jobs grant program authorized under this section; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).

(l) AUTHORIZATION AND ALLOCATION.—

(1) IN GENERAL.—

(A) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out this section—

- (i) \$40,000,000 for fiscal year 1999;
- (ii) \$60,000,000 for fiscal year 2000;
- (iii) \$80,000,000 for fiscal year 2001;
- (iv) \$100,000,000 for fiscal year 2002; and
- (v) \$120,000,000 for fiscal year 2003.

(B) FROM THE GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out this section—

- (i) \$10,000,000 for fiscal year 1999;
- (ii) \$15,000,000 for fiscal year 2000;
- (iii) \$20,000,000 for fiscal year 2001;
- (iv) \$25,000,000 for fiscal year 2002; and
- (v) \$30,000,000 for fiscal year 2003.

(C) ADDITIONAL AMOUNTS FROM THE GENERAL FUND.—In addition to amounts made available under subparagraphs (A) and (B), there are authorized to be appropriated to carry out this section—

- (i) \$100,000,000 for fiscal year 1999;
- (ii) \$75,000,000 for fiscal year 2000;
- (iii) \$50,000,000 for fiscal year 2001; and
- (iv) \$25,000,000 for fiscal year 2002.

(2) SET-ASIDE FOR REVERSE COMMUTE PROJECTS.—Of amounts made available by or appropriated under subparagraphs (A) and (B) of paragraph (1) to carry out this section in each fiscal year, not more than \$10,000,000 shall be used for grants for reverse commute projects.

(3) ALLOCATION.—The amounts made available by or appropriated under paragraph (1) to carry out this section in each fiscal year shall be allocated as follows:

(A) 60 percent shall be allocated for eligible projects in urbanized areas with populations of at least 200,000.

(B) 20 percent shall be allocated for eligible projects in urbanized areas with populations of at least 200,000.

(C) 20 percent shall be allocated for eligible projects in areas other than urbanized areas.

49 USC 5310  
note.

**SEC. 3038. RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.**

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) INTERCITY, FIXED-ROUTE OVER-THE-ROAD BUS SERVICE.—The term “intercity, fixed-route over-the-road bus service” means regularly scheduled bus service for the general public, using an over-the-road bus, that—

(A) operates with limited stops over fixed routes connecting 2 or more urban areas not in close proximity;

(B) has the capacity for transporting baggage carried by passengers; and

(C) makes meaningful connections with scheduled intercity bus service to more distant points.

(2) OTHER OVER-THE-ROAD BUS SERVICE.—The term “other over-the-road bus service” means any other transportation using over-the-road buses including local fixed-route service, commuter service, and charter or tour service (including tour or excursion service that includes features in addition to bus transportation such as meals, lodging, admission to points of interest or special attractions or the services of a tour guide).

(3) OVER-THE-ROAD BUS.—The term “over-the-road bus” means a bus characterized by an elevated passenger deck located over a baggage compartment.

(b) GENERAL AUTHORITY.—The Secretary shall make grants under this section to operators of over-the-road buses to finance the incremental capital and training costs of complying with the Department of Transportation’s final rule regarding accessibility of over-the-road buses required by section 306(a)(2)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12186(a)(2)(B)).

(c) GRANT CRITERIA.—In selecting applicants for grants under this section, the Secretary shall consider—

(1) the identified need for over-the-road bus accessibility for persons with disabilities in the areas served by the applicant;

(2) the extent to which the applicant demonstrates innovative strategies and financial commitment to providing access to over-the-road buses to persons with disabilities;

(3) the extent to which the over-the-road bus operator acquires equipment required by the final rule prior to any required timeframe in the final rule;



(4) the extent to which financing the costs of complying with the Department of Transportation's final rule regarding accessibility of over-the-road buses presents a financial hardship for the applicant; and

(5) the impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of the requirements on service to rural areas and for low-income individuals.

(d) **COMPETITIVE GRANT SELECTION.**—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

(e) **FEDERAL SHARE OF COSTS.**—The Federal share of costs under this section shall be provided from funds made available to carry out this section. The Federal share of the costs for a project shall not exceed 50 percent of the project cost.

(f) **GRANT REQUIREMENTS.**—A grant under this section shall be subject to all of the terms and conditions applicable to subrecipients who provide intercity bus transportation under section 5311(f) of title 49, United States Code, and such other terms and conditions as the Secretary may prescribe.

(g) **FUNDING.**—

(1) **INTERCITY, FIXED-ROUTE OVER-THE-ROAD BUS SERVICE.**—Of amounts made available by or appropriated under section 5338(a)(2) of title 49, United States Code (before allocation under section 5338(a)(2)(C) of that title), the following amounts shall be available for operators of intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses:

(A) \$2,000,000 for fiscal year 1999.

(B) \$2,000,000 for fiscal year 2000.

(C) \$3,000,000 for fiscal year 2001.

(D) \$5,250,000 for fiscal year 2002.

(E) \$5,250,000 for fiscal year 2003.

(2) **OTHER OVER-THE-ROAD BUS SERVICE.**—Of amounts made available by or appropriated under section 5338(a)(2) of title 49, United States Code (before allocation under section 5338(a)(2)(C) of that title), \$6,800,000 shall be available for each of fiscal years 2000 through 2003 for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses.

**SEC. 3039. STUDY OF TRANSIT NEEDS IN NATIONAL PARKS AND RELATED PUBLIC LANDS.** 23 USC 138 note.

(a) **PURPOSES.**—The purposes of this section are to encourage and promote the development of transportation systems for the betterment of the national parks and other units of the National Park System, national wildlife refuges, recreational areas, and other public lands in order to conserve natural, historical, and cultural resources and prevent adverse impact, relieve congestion, minimize transportation fuel consumption, reduce pollution (including noise and visual pollution), and enhance visitor mobility and accessibility and the visitor experience.

(b) **STUDY.**—

(1) **IN GENERAL.**—The Secretary, in coordination with the Secretary of the Interior, shall undertake a comprehensive

study of alternative transportation needs in national parks and related public lands managed by Federal land management agencies in order to carry out the purposes described in subsection (a). The study shall be submitted to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than January 1, 2000.

(2) **STUDY ELEMENTS.**—The study required by paragraph (1) shall—

(A) identify transportation strategies that improve the management of the national parks and related public lands;

(B) identify national parks and related public lands with existing and potential problems of adverse impact, high congestion, and pollution, or which can benefit from alternative transportation modes;

(C) assess the feasibility of alternative transportation modes; and

(D) identify and estimate the costs of alternative transportation modes for each of the national parks and related public lands referred to in paragraph (1).

#### **SEC. 3040. OBLIGATION CEILING.**

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (f) of section 5338 of title 49, United States Code, and subparagraphs (A) and (B) of section 3037(l)(1) of this Act, shall not exceed—

- (1) \$5,315,000,000 in fiscal year 1999;
- (2) \$5,798,000,000 in fiscal year 2000;
- (3) \$6,271,000,000 in fiscal year 2001;
- (4) \$6,746,000,000 in fiscal year 2002; and
- (5) \$7,226,000,000 in fiscal year 2003.

49 USC 5338  
note.

#### **SEC. 3041. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 1997.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall ensure that the total apportionments and allocations made to a designated grant recipient under section 5338 of title 49, United States Code, for fiscal year 1998 shall be reduced by the amount apportioned to such designated recipient pursuant to section 8 of the Surface Transportation Extension Act of 1997 (111 Stat. 2559).

(b) **FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.**—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned to each urbanized area for fixed guideway modernization for fiscal year 1998 to reflect the method for apportioning funds in section 5337(a) of title 49, United States Code.

## **TITLE IV—MOTOR CARRIER SAFETY**

#### **SEC. 4001. AMENDMENTS TO TITLE 49, UNITED STATES CODE.**

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the

reference shall be considered to be made to a section or other provision of title 49, United States Code.

**SEC. 4002. STATEMENT OF PURPOSES.**

(a) IN GENERAL.—Chapter 311 is amended by inserting before section 31101 the following:

**“§ 31100. Purpose**

“The purpose of this subchapter is to ensure that the Secretary, States, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient transportation system by—

“(1) focusing resources on strategic safety investments to promote safe for-hire and private transportation, including transportation of passengers and hazardous materials, to identify high-risk carriers and drivers, and to invest in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes;

“(2) increasing administrative flexibility and developing and enforcing effective, compatible, and cost-beneficial motor carrier, commercial motor vehicle, and driver safety regulations and practices, including improving enforcement of State and local traffic safety laws and regulations;

“(3) assessing and improving statewide program performance by setting program outcome goals, improving problem identification and countermeasures planning, designing appropriate performance standards, measures, and benchmarks, improving performance information and analysis systems, and monitoring program effectiveness;

“(4) ensuring that drivers of commercial motor vehicles and enforcement personnel obtain adequate training in safe operational practices and regulatory requirements; and

“(5) advancing promising technologies and encouraging adoption of safe operational practices.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by inserting before the item relating to section 31101 the following:

“31100. Purpose.”.

**SEC. 4003. STATE GRANTS.**

(a) DEFINITIONS.—Section 31101 is amended—

(1) in paragraph (1)(A)—

(A) by inserting “or gross vehicle weight” after “rating”;

and

(B) by striking “10,000 pounds” and inserting “10,001 pounds, whichever is greater”; and

(2) in paragraph (1)(C) by inserting “and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103” after “title”.

(b) PERFORMANCE-BASED GRANTS AND HAZARDOUS MATERIALS TRANSPORTATION SAFETY.—Section 31102 is amended—

(1) in subsection (a)—

(A) by inserting “improving motor carrier safety and” after “programs for”; and

(B) by inserting “, hazardous materials transportation safety,” after “commercial motor vehicle safety”; and

(2) in the first sentence of paragraph (b)(1)—

(A) by striking “adopt and assume responsibility for enforcing” and inserting “assume responsibility for improving motor carrier safety and to adopt and enforce”; and

(B) by inserting “, hazardous materials transportation safety,” after “commercial motor vehicle safety”.

(c) CONTENTS OF STATE PLANS.—Section 31102(b)(1) is amended—

(1) in subparagraph (J) by inserting “(1)” after “(c)”;

(2) by striking subparagraphs (K), (L), and (M) and inserting the following:

“(K) ensures that the State agency will coordinate the plan, data collection, and information systems with State highway safety programs under title 23;

“(L) ensures participation in SAFETYNET and other information systems by all appropriate jurisdictions receiving funding under this section;

“(M) ensures that information is exchanged among the States in a timely manner.”;

(3) in subparagraph (O)—

(A) by inserting after “activities” the following: “in support of national priorities and performance goals, including”;

(B) by striking “to remove” in clause (i) and inserting “activities aimed at removing”;

(C) by striking “to provide” in clause (ii) and inserting “activities aimed at providing”;

(D) by inserting “and” after the semicolon at the end of clause (ii); and

(E) by striking clauses (iii) and (iv) and inserting the following:

“(iii) interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out those interdiction activities.”;

(4) by striking subparagraph (P) and inserting the following:

“(P) provides that the State will establish a program to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection carried out with funds authorized under section 31104.”;

(5) in subparagraph (Q)—

(A) by striking “31140 and 31146” and inserting “31138 and 31139”; and

(B) by striking the period at the end and inserting a semicolon;

(6) by redesignating subparagraphs (A) through (Q) as subparagraphs (B) through (R), respectively;

(7) by inserting before subparagraph (B) (as redesignated by paragraph (6) of this subsection) the following:

“(A) implements performance-based activities by fiscal year 2000.”; and

(8) by adding at the end the following:

“(S) ensures consistent, effective, and reasonable sanctions; and

“(T) ensures that roadside inspections will be conducted at a location that is adequate to protect the safety of drivers and enforcement personnel.”.

(d) FEDERAL SHARE.—Section 31103 is amended—

(1) by inserting “(a) COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS AND ENFORCEMENT.—” before “The Secretary of Transportation”;

(2) by inserting “improve commercial motor vehicle safety and” before “enforce”; and

(3) by adding at the end the following:

“(b) OTHER ACTIVITIES.—The Secretary may reimburse State agencies, local governments, or other persons up to 100 percent for public education activities authorized by section 31104(f)(2).”.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 31104(a) is amended to read as follows:

“(a) IN GENERAL.—The following amounts are made available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to incur obligations to carry out section 31102:

“(1) Not more than \$79,000,000 for fiscal year 1998.

“(2) Not more than \$90,000,000 for fiscal year 1999.

“(3) Not more than \$95,000,000 for fiscal year 2000.

“(4) Not more than \$100,000,000 for fiscal year 2001.

“(5) Not more than \$105,000,000 for fiscal year 2002.

“(6) Not more than \$110,000,000 for fiscal year 2003.”.

(f) CONFORMING AMENDMENT.—Section 31104(b) is amended by striking “(1)” and by striking paragraph (2).

(g) ALLOCATION CRITERIA AND ELIGIBILITY.—Section 31104 is further amended—

(1) by striking subsections (f) and (g) and inserting the following:

“(f) ALLOCATION CRITERIA AND ELIGIBILITY.—

“(1) IN GENERAL.—On October 1 of each fiscal year or as soon after that date as practicable and after making the deduction under subsection (e), the Secretary shall allocate amounts made available to carry out section 31102 for such fiscal year among the States with plans approved under section 31102. Such allocation shall be made under such criteria as the Secretary prescribes by regulation.

“(2) HIGH-PRIORITY AND BORDER ACTIVITIES.—

“(A) HIGH-PRIORITY ACTIVITIES AND PROJECTS.—The Secretary may designate up to 5 percent of amounts available for allocation under paragraph (1) for States, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that are national in scope, increase public awareness and education, or demonstrate new technologies. The amounts designated under this subparagraph shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies.

“(B) BORDER COMMERCIAL MOTOR VEHICLE SAFETY AND ENFORCEMENT PROGRAMS.—The Secretary may designate up to 5 percent of amounts available for allocation under paragraph (1) for States, local governments, and other persons for carrying out border commercial motor vehicle safety programs and enforcement activities and projects.

The amounts designated under this subparagraph shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies.”;

(2) by redesignating subsection (h) as subsection (g);

(3) by striking subsection (i); and

(4) by redesignating subsection (j) as subsection (h).

49 USC 31101  
note.

(h) SAVINGS CLAUSE.—Amendments made by this section shall not affect any funds made available before the date of enactment of this Act.

#### SEC. 4004. INFORMATION SYSTEMS.

(a) IN GENERAL.—Section 31106 is amended to read as follows:

##### “§ 31106. Information systems

“(a) INFORMATION SYSTEMS AND DATA ANALYSIS.—

“(1) IN GENERAL.—Subject to the provisions of this section, the Secretary shall establish and operate motor carrier, commercial motor vehicle, and driver information systems and data analysis programs to support safety regulatory and enforcement activities required under this title.

“(2) NETWORK COORDINATION.—In cooperation with the States, the information systems under this section shall be coordinated into a network providing accurate identification of motor carriers and drivers, commercial motor vehicle registration and license tracking, and motor carrier, commercial motor vehicle, and driver safety performance data.

“(3) DATA ANALYSIS CAPACITY AND PROGRAMS.—The Secretary shall develop and maintain under this section data analysis capacity and programs that provide the means to—

“(A) identify and collect necessary motor carrier, commercial motor vehicle, and driver data;

“(B) evaluate the safety fitness of motor carriers and drivers;

“(C) develop strategies to mitigate safety problems and to use data analysis to address and measure the effectiveness of such strategies and related programs;

“(D) determine the cost-effectiveness of Federal and State safety compliance and enforcement programs and other countermeasures; and

“(E) adapt, improve, and incorporate other information and information systems as the Secretary determines appropriate.

“(4) STANDARDS.—To implement this section, the Secretary shall prescribe technical and operational standards to ensure—

“(A) uniform, timely, and accurate information collection and reporting by the States and other entities as determined appropriate by the Secretary;

“(B) uniform Federal, State, and local policies and procedures necessary to operate the information system; and

“(C) the reliability and availability of the information to the Secretary and States.

“(b) PERFORMANCE AND REGISTRATION INFORMATION PROGRAM.—

“(1) INFORMATION CLEARINGHOUSE.—The Secretary shall include, as part of the motor carrier information system authorized by this section, a program to establish and maintain a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles, the registrants of such vehicles, and the motor carriers operating such vehicles. The clearinghouse and repository may include information on the safety fitness of each of the motor carriers and registrants and other information the Secretary considers appropriate, including information on motor carrier, commercial motor vehicle, and driver safety performance.

“(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State driver and commercial vehicle registration and licensing systems and shall be designed to enable a State to—

“(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

“(B) decide, in cooperation with the Secretary, whether and what types of sanctions or operating limitations to impose on the motor carrier or registrant to ensure safety.

“(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—

“(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4); and

“(B) possess or seek authority to impose commercial motor vehicle registration sanctions on the basis of a Federal safety fitness determination.

“(4) FUNDING.—The Secretary may make available up to 50 percent of the amounts available to carry out this section by section 31107 in each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 to carry out this subsection. The Secretary is encouraged to direct no less than 80 percent of amounts made available to carry out this subsection to States that have not previously received financial assistance to develop or implement the information systems authorized by this section.

“(c) COMMERCIAL MOTOR VEHICLE DRIVER SAFETY PROGRAM.—In coordination with the information system under section 31309, the Secretary is authorized to establish a program to improve commercial motor vehicle driver safety. The objectives of the program shall include—

“(1) enhancing the exchange of driver licensing information among the States, the Federal Government, and foreign countries;

“(2) providing information to the judicial system on commercial motor vehicle drivers;

“(3) evaluating any aspect of driver performance that the Secretary determines appropriate; and

“(4) developing appropriate strategies and countermeasures to improve driver safety.

“(d) COOPERATIVE AGREEMENTS, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and

instrumentalities, or by making grants to, and entering into contracts and cooperative agreements with, States, local governments, associations, institutions, corporations, and other persons.

“(e) INFORMATION AVAILABILITY AND PRIVACY PROTECTION POLICY.—The Secretary shall develop a policy on making information available from the information systems authorized by this section and section 31309. The policy shall be consistent with existing Federal information laws, including regulations, and shall provide for review and correction of such information in a timely manner.”.

(b) CONTRACT AUTHORITY FUNDING.—Section 31107 is amended to read as follows:

**“§ 31107. Contract authority funding for information systems**

“(a) FUNDING.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out sections 31106 and 31309 of this title—

“(1) \$6,000,000 for fiscal year 1998;

“(2) \$10,000,000 for each of fiscal years 1999 and 2000;

and

“(3) \$12,000,000 for each of fiscal years 2001 through 2002.

“(4) \$15,000,000 for fiscal year 2003.

The amounts made available under this subsection shall remain available until expended.

“(b) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under this section imposes upon the United States Government a contractual obligation for payment of the Government’s share of costs incurred in carrying out the objectives of the grant.”.

(c) SUBCHAPTER HEADING.—The heading for subchapter I of chapter 311 is amended by inserting after “GRANTS” the following: “AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS”.

(d) CONFORMING AMENDMENTS.—The analysis for chapter 311 is amended—

(1) by striking

“SUBCHAPTER I—STATE GRANTS”

and inserting

“SUBCHAPTER I—STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS”;

and

(2) by striking the items relating to sections 31106 and 31107 and inserting the following:

“31106. Information systems.

“31107. Contract authority funding for information systems.”.

**SEC. 4005. AUTOMOBILE TRANSPORTER DEFINED.**

Section 31111(a) is amended—

(1) by striking “section—” and inserting “section, the following definitions apply.”;

(2) by inserting after “(1)” the following: “MAXI-CUBE VEHICLE.—The term”;

(3) by inserting after “(2)” the following: “TRUCK TRACTOR.—The term”;

(4) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(5) by inserting before paragraph (2), as so redesignated, the following:



“(1) AUTOMOBILE TRANSPORTER.—The term ‘automobile transporter’ means any vehicle combination designed and used specifically for the transport of assembled highway vehicles, including truck camper units.”.

**SEC. 4006. INSPECTIONS AND REPORTS.**

(a) GENERAL POWERS OF THE SECRETARY.—Section 31133(a)(1) is amended by inserting “and make contracts for” after “conduct”.

(b) REPORTS AND RECORDS.—Section 504(c) is amended by inserting “(and, in the case of a motor carrier, a contractor)” after “employee”.

**SEC. 4007. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.**

(a) IN GENERAL.—Section 31315 is amended to read as follows:

**“§ 31315. Waivers, exemptions, and pilot programs**

“(a) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this chapter or section 31136 if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver—

“(1) for a period not in excess of 3 months;

“(2) limited in scope and circumstances;

“(3) for nonemergency and unique events; and

“(4) subject to such conditions as the Secretary may impose.

“(b) EXEMPTIONS.—

“(1) IN GENERAL.—Upon receipt of a request pursuant to paragraph (3), the Secretary of Transportation may grant to a person or class of persons an exemption from a regulation prescribed under this chapter or section 31136 if the Secretary finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. An exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application to the Secretary.

“(2) AUTHORITY TO REVOKE EXEMPTION.—The Secretary shall immediately revoke an exemption if—

“(A) the person fails to comply with the terms and conditions of such exemption;

“(B) the exemption has resulted in a lower level of safety than was maintained before the exemption was granted; or

“(C) continuation of the exemption would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

“(3) REQUESTS FOR EXEMPTION.—Not later than 180 days after the date of enactment of this section and after notice and an opportunity for public comment, the Secretary shall specify by regulation the procedures by which a person may request an exemption. Such regulations shall, at a minimum, require the person to provide the following information for each exemption request:

“(A) The provisions from which the person requests exemption.

“(B) The time period during which the requested exemption would apply.

Notice.  
Regulations.

Federal Register,  
publication.

“(C) An analysis of the safety impacts the requested exemption may cause.

“(D) The specific countermeasures the person would undertake to ensure an equivalent or greater level of safety than would be achieved absent the requested exemption.

“(4) NOTICE AND COMMENT.—

“(A) UPON RECEIPT OF A REQUEST.—Upon receipt of an exemption request, the Secretary shall publish in the Federal Register a notice explaining the request that has been filed and shall give the public an opportunity to inspect the safety analysis and any other relevant information known to the Secretary and to comment on the request. This subparagraph does not require the release of information protected by law from public disclosure.

“(B) UPON GRANTING A REQUEST.—Upon granting a request for exemption, the Secretary shall publish in the Federal Register the name of the person granted the exemption, the provisions from which the person will be exempt, the effective period, and all terms and conditions of the exemption.

“(C) AFTER DENYING A REQUEST.—After denying a request for exemption, the Secretary shall publish in the Federal Register the name of the person denied the exemption and the reasons for such denial. The Secretary may meet the requirement of this subparagraph by periodically publishing in the Federal Register the names of persons denied exemptions and the reasons for such denials.

“(5) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall grant or deny an exemption request after a thorough review of its safety implications, but in no case later than 180 days after the filing date of such request.

“(6) TERMS AND CONDITIONS.—The Secretary shall establish terms and conditions for each exemption to ensure that it will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The Secretary shall monitor the implementation of the exemption to ensure compliance with its terms and conditions.

“(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before granting a request for exemption, the Secretary shall notify State safety compliance and enforcement personnel, including roadside inspectors, and the public that a person will be operating pursuant to an exemption and any terms and conditions that will apply to the exemption.

“(c) PILOT PROGRAMS.—

“(1) IN GENERAL.—The Secretary may conduct pilot programs to evaluate alternatives to regulations relating to, or innovative approaches to, motor carrier, commercial motor vehicle, and driver safety. Such pilot programs may include exemptions from a regulation prescribed under this chapter or section 31136 if the pilot program contains, at a minimum, the elements described in paragraph (2). The Secretary shall publish in the Federal Register a detailed description of each pilot program, including the exemptions to be considered, and provide notice and an opportunity for public comment before the effective date of the program.

Federal Register,  
publication.

“(2) PROGRAM ELEMENTS.—In proposing a pilot program and before granting exemptions for purposes of a pilot program, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the regulations prescribed under this chapter or section 31136. The Secretary shall include, at a minimum, the following elements in each pilot program plan:

“(A) A scheduled life of each pilot program of not more than 3 years.

“(B) A specific data collection and safety analysis plan that identifies a method for comparison.

“(C) A reasonable number of participants necessary to yield statistically valid findings.

“(D) An oversight plan to ensure that participants comply with the terms and conditions of participation.

“(E) Adequate countermeasures to protect the health and safety of study participants and the general public.

“(F) A plan to inform State partners and the public about the pilot program and to identify approved participants to safety compliance and enforcement personnel and to the public.

“(3) AUTHORITY TO REVOKE PARTICIPATION.—The Secretary shall immediately revoke participation in a pilot program of a motor carrier, commercial motor vehicle, or driver for failure to comply with the terms and conditions of the pilot program or if continued participation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

“(4) AUTHORITY TO TERMINATE PROGRAM.—The Secretary shall immediately terminate a pilot program if its continuation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

“(5) REPORT TO CONGRESS.—At the conclusion of each pilot program, the Secretary shall report to Congress the findings, conclusions, and recommendations of the program, including suggested amendments to laws and regulations that would enhance motor carrier, commercial motor vehicle, and driver safety and improve compliance with national safety standards.

“(d) PREEMPTION OF STATE RULES.—During the time period that a waiver, exemption, or pilot program is in effect under this chapter or section 31136, no State shall enforce any law or regulation that conflicts with or is inconsistent with the waiver, exemption, or pilot program with respect to a person operating under the waiver or exemption or participating in the pilot program.”.

(b) CHAPTER ANALYSIS AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31315 and inserting the following:

“31315. Waivers, exemptions, and pilot programs.”.

(c) CONFORMING AMENDMENT.—Section 31136(e) of such title is amended to read as follows:

“(e) EXEMPTIONS.—The Secretary may grant in accordance with section 31315 waivers and exemptions from, or conduct pilot programs with respect to, any regulations prescribed under this section.”.

49 USC 31136  
note.

(d) **PROTECTION OF EXISTING EXEMPTIONS.**—The amendments made by this section shall not apply to or otherwise affect a waiver, exemption, or pilot program in effect on the day before the date of enactment of this Act under chapter 313 or section 31136(e) of title 49, United States Code.

**SEC. 4008. SAFETY REGULATION.**

(a) **COMMERCIAL MOTOR VEHICLE DEFINED.**—Section 31132(1) is amended—

(1) in subparagraph (A)—

(A) by inserting “or gross vehicle weight” after “rating”;

and

(B) by inserting “, whichever is greater” after “pounds”;

and

(2) in subparagraph (B) by striking “passengers” and all that follows through the semicolon at the end and inserting “more than 8 passengers (including the driver) for compensation;”.

49 USC 31136  
note.

(b) **APPLICATION OF REGULATIONS TO CERTAIN COMMERCIAL MOTOR VEHICLES.**—Effective on the last day of the 1-year period beginning on the date of enactment of this Act, regulations prescribed under section 31136 of title 49, United States Code, shall apply to operators of commercial motor vehicles described in section 31132(1)(B) of such title (as amended by subsection (a)) to the extent that those regulations did not apply to those operators on the day before such effective date, except to the extent that the Secretary determines, through a rulemaking proceeding, that it is appropriate to exempt such operators of commercial motor vehicles from the application of those regulations.

(c) **REPEAL OF REVIEW PANEL.**—Section 31134, and the item relating to such section in the analysis for chapter 311, are repealed.

(d) **REPEAL OF SUBMISSION TO REVIEW PANEL.**—Section 31140, and the item relating to such section in the analysis for chapter 311, are repealed.

(e) **REVIEW PROCEDURE.**—Section 31141 is amended—

(1) by striking subsections (b) and (c) and inserting the following:

“(b) **SUBMISSION OF REGULATION.**—A State receiving funds made available under section 31104 that enacts a State law or issues a regulation on commercial motor vehicle safety shall submit a copy of the law or regulation to the Secretary immediately after the enactment or issuance.

“(c) **REVIEW AND DECISIONS BY SECRETARY.**—

“(1) **REVIEW.**—The Secretary shall review State laws and regulations on commercial motor vehicle safety. The Secretary shall decide whether the State law or regulation—

“(A) has the same effect as a regulation prescribed by the Secretary under section 31136;

“(B) is less stringent than such regulation; or

“(C) is additional to or more stringent than such regulation.

“(2) **REGULATIONS WITH SAME EFFECT.**—If the Secretary decides a State law or regulation has the same effect as a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced.

“(3) **LESS STRINGENT REGULATIONS.**—If the Secretary decides a State law or regulation is less stringent than a

regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may not be enforced.

“(4) ADDITIONAL OR MORE STRINGENT REGULATIONS.—If the Secretary decides a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced unless the Secretary also decides that—

“(A) the State law or regulation has no safety benefit;

“(B) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

“(C) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.

“(5) CONSIDERATION OF EFFECT ON INTERSTATE COMMERCE.—In deciding under paragraph (4) whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of that law or regulation with the implementation of all similar laws and regulations of other States.”;

(2) by striking subsection (e); and

(3) by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively.

(f) INSPECTION OF SAFETY EQUIPMENT.—Section 31142(a) is amended by striking “part 393 of title 49, Code of Federal Regulations” and inserting “the regulations issued under section 31136”.

(g) PROTECTION OF STATES PARTICIPATING IN STATE GROUPS.—Section 31142(c)(1)(C) is amended to read as follows:

“(C) prevent a State from participating in the activities of a voluntary group of States enforcing a program for inspection of commercial motor vehicles; or”.

#### SEC. 4009. SAFETY FITNESS.

(a) IN GENERAL.—Section 31144 is amended to read as follows:

##### “§ 31144. Safety fitness of owners and operators

“(a) IN GENERAL.—The Secretary shall—

“(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles;

“(2) periodically update such safety fitness determinations;

“(3) make such final safety fitness determinations readily available to the public; and

“(4) prescribe by regulation penalties for violations of this section consistent with section 521.

Regulations.

“(b) PROCEDURE.—The Secretary shall maintain by regulation a procedure for determining the safety fitness of an owner or operator. The procedure shall include, at a minimum, the following elements:

Regulations.

“(1) Specific initial and continuing requirements with which an owner or operator must comply to demonstrate safety fitness.

“(2) A methodology the Secretary will use to determine whether an owner or operator is fit.

“(3) Specific time frames within which the Secretary will determine whether an owner or operator is fit.

“(c) PROHIBITED TRANSPORTATION.—

“(1) IN GENERAL.—Except as provided in sections 521(b)(5)(A) and 5113 and this subsection, an owner or operator who the Secretary determines is not fit may not operate

commercial motor vehicles in interstate commerce beginning on the 61st day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

“(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—With regard to owners or operators of commercial motor vehicles designed or used to transport passengers, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

“(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—With regard to owners or operators of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, an owner or operator who the Secretary determines is not fit may not operate in interstate commerce beginning on the 46th day after the date of such fitness determination and until the Secretary determines such owner or operator is fit.

“(4) SECRETARY’S DISCRETION.—Except for owners or operators described in paragraphs (2) and (3), the Secretary may allow an owner or operator who is not fit to continue operating for an additional 60 days after the 61st day after the date of the Secretary’s fitness determination, if the Secretary determines that such owner or operator is making a good faith effort to become fit.

“(d) REVIEW OF FITNESS DETERMINATIONS.—

“(1) IN GENERAL.—Not later than 45 days after an unfit owner or operator requests a review, the Secretary shall review such owner’s or operator’s compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

“(2) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport passengers requests a review, the Secretary shall review such owner’s or operator’s compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

“(3) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Not later than 30 days after an unfit owner or operator of commercial motor vehicles designed or used to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under chapter 51, the Secretary shall review such owner’s or operator’s compliance with those requirements with which the owner or operator failed to comply and resulted in the Secretary determining that the owner or operator was not fit.

“(e) PROHIBITED GOVERNMENT USE.—A department, agency, or instrumentality of the United States Government may not use to provide any transportation service an owner or operator who the Secretary has determined is not fit until the Secretary determines such owner or operator is fit.”.

(b) CONFORMING AMENDMENT.—Section 5113 is amended by striking subsections (a), (b), (c), and (d) and inserting the following: “See section 31144.”.

**SEC. 4010. REPEAL OF CERTAIN OBSOLETE MISCELLANEOUS AUTHORITIES.**

49 USC 31161,  
31162.

Subchapter IV of chapter 311 (including sections 31161 and 31162), and the items relating to such subchapter and sections in the analysis for chapter 311, are repealed.

**SEC. 4011. COMMERCIAL VEHICLE OPERATORS.**

(a) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31301(4) is amended—

(1) in subparagraph (A)—

(A) by inserting “or gross vehicle weight” after “rating” the first 2 places it appears; and

(B) by inserting “, whichever is greater,” after “pounds” the first place it appears; and

(2) in subparagraph (C)(ii)—

(A) by inserting “is” before “transporting” each place it appears; and

(B) by inserting “is” before “not otherwise”.

(b) PROHIBITION ON CMV OPERATION WITHOUT CDL.—

(1) IN GENERAL.—Section 31302 of such title is amended to read as follows:

**“§ 31302. Commercial driver’s license requirement**

“No individual shall operate a commercial motor vehicle without a valid commercial driver’s license issued in accordance with section 31308. An individual operating a commercial motor vehicle may have only one driver’s license at any time.”.

(2) CONFORMING AMENDMENT.—The item relating to section 31302 in the analysis for chapter 313 is amended to read as follows:

“31302. Commercial driver’s license requirement.”.

(c) UNIQUE IDENTIFIERS IN CDLS.—

(1) IN GENERAL.—Section 31308(2) is amended by inserting before the semicolon “and each license issued after January 1, 2001, include unique identifiers (which may include biometric identifiers) to minimize fraud and duplication”.

(2) DEADLINE FOR ISSUANCE OF REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue regulations to carry out the amendment made by paragraph (1).

49 USC 31308  
note.

(d) COMMERCIAL DRIVER’S LICENSE INFORMATION SYSTEM.—Section 31309 of such title is amended—

(1) in subsection (a) by striking “make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section,” and inserting “maintain”;

(2) by inserting after the first sentence of subsection (a) the following: “The system shall be coordinated with activities carried out under section 31106.”;

(3) by striking subsections (b) and (c);

(4) by striking subsection (d)(2) and inserting the following:

“(2) The information system under this section must accommodate any unique identifiers required to minimize fraud or duplication of a commercial driver’s license under section 31308(2).”;

(5) by striking subsection (e) and inserting the following:  
 “(e) AVAILABILITY OF INFORMATION.—Information in the information system shall be made available and subject to review and correction in accordance with the policy developed under section 31106(e).”;

(6) in subsection (f) by striking “If the Secretary establishes an information system under this section, the” and inserting “The”;

(7) by striking “shall” in the first sentence of subsection (f) and inserting “may”; and

(8) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

(e) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311(a) is amended—

(1) in paragraph (15) by striking “section 31310(b)–(e) of this title” and inserting “subsections (b)–(e), (g)(1)(A), and (g)(2) of section 31310”;

(2) by striking paragraph (17); and

(3) by redesignating paragraph (18) as paragraph (17).

(f) REPEAL OF OBSOLETE GRANT PROGRAMS.—Sections 31312 and 31313, and the items relating to such sections in the analysis for chapter 313, are repealed.

(g) UPDATING AMENDMENTS.—Section 31314 is amended—

(1) by striking “(2), (5), and (6)” each place it appears in subsections (a) and (b) and inserting “(3), and (5)”;

(2) in subsection (c) by striking “(1) Amounts” and all that follows through “(2) Amounts” and inserting “Amounts”;

(3) by striking subsection (d); and

(4) by redesignating subsection (e) as subsection (d).

**SEC. 4012. EXEMPTION FROM CERTAIN REGULATIONS FOR UTILITY SERVICE COMMERCIAL MOTOR VEHICLE DRIVERS.**

(a) IN GENERAL.—Section 31502 is amended by adding at the end the following:

“(e) EXCEPTION.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, regulations issued under this section or section 31136 regarding—

“(A) maximum driving and on-duty times applicable to operators of commercial motor vehicles,

“(B) physical testing, reporting, or recordkeeping, and

“(C) the installation of automatic recording devices associated with establishing the maximum driving and on-duty times referred to in subparagraph (A),

shall not apply to any driver of a utility service vehicle during an emergency period of not more than 30 days declared by an elected State or local government official under paragraph (2) in the area covered by the declaration.

“(2) DECLARATION OF EMERGENCY.—An elected State or local government official or elected officials of more than one State or local government jointly may issue an emergency declaration for purposes of paragraph (1) after notice to the Regional Director of the Federal Highway Administration with jurisdiction over the area covered by the declaration.

“(3) INCIDENT REPORT.—Within 30 days after the end of the declared emergency period the official who issued the emergency declaration shall file with the Regional Director a report



of each safety-related incident or accident that occurred during the emergency period involving—

“(A) a utility service vehicle driver to which the declaration applied; or

“(B) a utility service vehicle of the driver to which the declaration applied.

“(4) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) DRIVER OF A UTILITY SERVICE VEHICLE.—The term ‘driver of a utility service vehicle’ means any driver who is considered to be a driver of a utility service vehicle for purposes of section 345(a)(4) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613).

“(B) UTILITY SERVICE VEHICLE.—The term ‘utility service vehicle’ has the meaning that term has under section 345(e)(6) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 614–615).”.

(b) CONTINUED APPLICATION OF SAFETY AND MAINTENANCE REQUIREMENTS.—

49 USC 31502  
note.

(1) IN GENERAL.—The amendment made by subsection (a) may not be construed—

(A) to exempt any utility service vehicle from compliance with any applicable provision of law relating to vehicle mechanical safety, maintenance requirements, or inspections; or

(B) to exempt any driver of a utility service vehicle from any applicable provision of law (including any regulation) established for the issuance, maintenance, or periodic renewal of a commercial driver’s license for that driver.

(2) DEFINITIONS.—In this subsection, the following definitions apply:

(A) COMMERCIAL DRIVER’S LICENSE.—The term “commercial driver’s license” has the meaning that term has under section 31301 of title 49, United States Code.

(B) DRIVER OF A UTILITY SERVICE VEHICLE.—The term “driver of a utility service vehicle” has the meaning that term has under section 31502(e)(2) of such title.

(C) REGULATION.—The term “regulation” has the meaning that term has under section 31132 of such title.

(D) UTILITY SERVICE VEHICLE.—The term “utility service vehicle” has the meaning that term has under section 345(e)(6) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 614–615).

#### **SEC. 4013. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.**

Sections 31702, 31703, and 31708, and the items relating to such sections in the analysis for chapter 317, are repealed.

#### **SEC. 4014. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS; LIMITATION ON LIABILITY.**

(a) IN GENERAL.—

(1) IN GENERAL.—Chapter 5 is amended by adding at the end the following:

Regulations.

**“§ 508. Safety performance history of new drivers; limitation on liability**

“(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against—

“(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

“(2) a person who has complied with such a request; or

“(3) the agents or insurers of a person described in paragraph (1) or (2).

“(b) RESTRICTIONS ON APPLICABILITY.—

“(1) MOTOR CARRIER REQUESTING.—Subsection (a) does not apply to a motor carrier requesting safety performance records unless—

“(A) the motor carrier and any agents of the motor carrier have complied with the regulations issued by the Secretary in using the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

“(B) the motor carrier and any agents and insurers of the motor carrier have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in deciding whether to hire that individual; and

“(C) the motor carrier has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

“(2) PERSON COMPLYING WITH REQUESTS.—Subsection (a) does not apply to a person complying with a request for safety performance records unless—

“(A) the complying person and any agents of the complying person have taken all precautions reasonably necessary to ensure the accuracy of the records and have complied with the regulations issued by the Secretary in furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records; and

“(B) the complying person and any agents and insurers of the complying person have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for such an insurer, not directly involved in forwarding the records.

“(3) PERSONS KNOWINGLY FURNISHING FALSE INFORMATION.—Subsection (a) does not apply to persons who knowingly furnish false information.

“(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits,

penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary to carry out this section. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier.”.

(2) CONFORMING AMENDMENT.—The analysis for chapter 5 is amended by inserting after the item relating to section 507 the following:

“508. Safety performance history of new drivers; limitation on liability.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 31, 1999. 49 USC 508 note.

(c) SAFETY PERFORMANCE HISTORY OF NEW DRIVERS.—

(1) MATTERS TO BE INCLUDED.—As part of the rulemaking that the Secretary is conducting under section 114 of the Hazardous Materials Transportation Authorization Act of 1994 (108 Stat. 1677–1678) to amend section 391.23 of title 49, Code of Federal Regulations (or successor regulations thereto), the Secretary shall amend such section 391.23 (in addition to the matters set forth in such section 114) to provide protection for driver privacy and to establish procedures for review, correction, and rebuttal of the safety performance records of a commercial motor vehicle driver.

(2) COMPLETION.—The rulemaking and the amendments referred to in paragraph (1) shall be completed by January 31, 1999.

#### SEC. 4015. PENALTIES.

(a) NOTIFICATION OF VIOLATIONS AND ENFORCEMENT PROCEDURES.—Section 521(b)(1) is amended—

(1) in the third sentence of subparagraph (A) by striking “fix a reasonable time for abatement of the violation,”; and  
(2) by striking subparagraph (B) and inserting the following:

“(B) NONAPPLICABILITY TO REPORTING AND RECORD-KEEPING VIOLATIONS.—Subparagraph (A) shall not apply to reporting and recordkeeping violations.”.

(b) CIVIL PENALTIES.—Section 521(b)(2) is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding \$2,500.”;

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

“(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer

a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

“(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$500 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed \$5,000; or

“(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed \$5,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.”.

(c) CONFORMING AMENDMENTS.—Section 522 is amended by striking “(a)” and by striking subsection (b).

#### SEC. 4016. AUTHORITY OVER CHARTER BUS TRANSPORTATION.

Section 14501(a) is amended to read as follows:

“(a) MOTOR CARRIERS OF PASSENGERS.—

“(1) LIMITATION ON STATE LAW.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to—

“(A) scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by a motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route;

“(B) the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required; or

“(C) the authority to provide intrastate or interstate charter bus transportation.

This paragraph shall not apply to intrastate commuter bus operations.

“(2) MATTERS NOT COVERED.—Paragraph (1) shall not restrict the safety regulatory authority of a State with respect

to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle, or the authority of a State to regulate carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization.”.

**SEC. 4017. TELEPHONE HOTLINE FOR REPORTING SAFETY VIOLATIONS.**

49 USC 31143  
note.

(a) **IN GENERAL.**—For a period of not less than 2 years beginning on or before the 90th day following the date of enactment of this Act, the Secretary shall establish, maintain, and promote the use of a nationwide toll-free telephone system to be used by drivers of commercial motor vehicles and others to report potential violations of Federal motor carrier safety regulations.

(b) **MONITORING.**—The Secretary shall monitor reports received by the telephone system and may consider nonfrivolous information provided by such reports in setting priorities for motor carrier safety audits and other enforcement activities.

(c) **PROTECTION OF PERSONS REPORTING VIOLATIONS.**—

(1) **PROHIBITION.**—A person reporting a potential violation to the telephone system while acting in good faith may not be discharged, disciplined, or discriminated against regarding pay, terms, or privileges of employment because of the reporting of such violation.

(2) **APPLICABILITY OF SECTION 31105 OF TITLE 49.**—For purposes of section 31105 of title 49, United States Code, a violation or alleged violation of paragraph (1) shall be treated as a violation of section 31105(a) of such title.

(d) **FUNDING.**—From amounts set aside under section 104(a) of title 23, United States Code, the Secretary may use not more than \$250,000 for each of fiscal years 1999 through 2003 to carry out this section.

**SEC. 4018. INSULIN TREATED DIABETES MELLITUS.**

49 USC 31305  
note.

(a) **DETERMINATION.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall determine whether a practicable and cost-effective screening, operating, and monitoring protocol could likely be developed for insulin treated diabetes mellitus individuals who want to operate commercial motor vehicles in interstate commerce that would ensure a level of safety equal to or greater than that achieved with the current prohibition on individuals with insulin treated diabetes mellitus driving such vehicles.

(b) **COMPILATION AND EVALUATION.**—Prior to making the determination in subsection (a), the Secretary shall compile and evaluate research and other information on the effects of insulin treated diabetes mellitus on driving performance. In preparing the compilation and evaluation, the Secretary shall, at a minimum—

(1) consult with States that have developed and are implementing a screening process to identify individuals with insulin treated diabetes mellitus who may obtain waivers to drive commercial motor vehicles in intrastate commerce;

(2) evaluate the Department's policy and actions to permit certain insulin treated diabetes mellitus individuals who meet selection criteria and who successfully comply with the approved monitoring protocol to operate in other modes of transportation;

(3) assess the possible legal consequences of permitting insulin treated diabetes mellitus individuals to drive commercial motor vehicles in interstate commerce;

(4) analyze available data on the safety performance of diabetic drivers of motor vehicles;

(5) assess the relevance of intrastate driving and experiences of other modes of transportation to interstate commercial motor vehicle operations; and

(6) consult with interested groups knowledgeable about diabetes and related issues.

(c) **REPORT TO CONGRESS.**—If the Secretary determines that no protocol described in subsection (a) could likely be developed, the Secretary shall report to Congress the basis for such determination.

Reports.

(d) **INITIATION OF RULEMAKING.**—If the Secretary determines that a protocol described in subsection (a) could likely be developed, the Secretary shall report to Congress a description of the elements of such protocol and shall promptly initiate a rulemaking proceeding to implement such protocol.

49 USC 31305  
note.

**SEC. 4019. PERFORMANCE-BASED CDL TESTING.**

(a) **REVIEW.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a review of the procedures established and implemented by States under section 31305 of title 49, United States Code, to determine if the current system for testing is an accurate measure and reflection of an individual's knowledge and skills as an operator of a commercial motor vehicle and to identify methods to improve testing and licensing standards, including identifying the benefits and costs of a graduated licensing system.

(b) **REGULATIONS.**—The Secretary may issue regulations under section 31305 of title 49, United States Code, reflecting the results of the review.

49 USC 31306  
note.

**SEC. 4020. POST-ACCIDENT ALCOHOL TESTING.**

(a) **STUDY.**—The Secretary shall conduct a study of the feasibility of utilizing law enforcement officers for conducting post-accident alcohol testing of commercial motor vehicle operators under section 31306 of title 49, United States Code, as a method of obtaining more timely information. The study shall also assess the impact of the current post-accident alcohol testing requirements on motor carrier employers, including any burden that employers may encounter in meeting the testing requirements of such section 31306.

(b) **REPORT.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the study, together with such recommendations as the Secretary determines appropriate.

49 USC 31305  
note.

**SEC. 4021. DRIVER FATIGUE.**

(a) **TECHNOLOGIES TO REDUCE FATIGUE OF COMMERCIAL MOTOR VEHICLE OPERATORS.**—

(1) **DEVELOPMENT OF TECHNOLOGIES.**—As part of the activities of the Secretary relating to the fatigue of commercial motor vehicle operators, the Secretary shall encourage the research, development, and demonstration of technologies that may aid in reducing such fatigue.

(2) **MATTERS TO BE TAKEN INTO ACCOUNT.**—In carrying out paragraph (1), the Secretary shall take into account—

(A) the degree to which the technology will be cost efficient;

(B) the degree to which the technology can be effectively used in diverse climatic regions of the Nation; and

(C) the degree to which the application of the technology will further emissions reductions, energy conservation, and other transportation goals.

(3) **FUNDING.**—The Secretary may use amounts made available under section 5001(a)(2) of this Act.

(b) **NONSEDATING MEDICATIONS.**—The Secretary shall review available information on the effects of medications (including antihistamines) on driver fatigue, awareness, and performance and shall consider encouraging, if appropriate, the use of nonsedating medications (including nonsedating antihistamines) as a means of reducing the adverse effects of the use of other medications by drivers.

**SEC. 4022. IMPROVED FLOW OF DRIVER HISTORY PILOT PROGRAM.**

49 USC 31309  
note.

(a) **PILOT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary shall carry out a pilot program in cooperation with 1 or more States to improve upon the timely exchange of pertinent driver performance and safety records data to motor carriers.

(2) **PURPOSE.**—The purpose of the program shall be to—

(A) determine to what extent driver performance records data, including relevant fines, penalties, and failures to appear for a hearing or trial, should be included as part of any information systems under the Department of Transportation’s oversight;

(B) assess the feasibility, costs, safety impact, pricing impact, and benefits of record exchanges; and

(C) assess methods for the efficient exchange of driver safety data available from existing State information systems and sources.

(3) **COMPLETION DATE.**—The pilot program shall end on the last day of the 18-month period beginning on the date of initiation of the pilot program.

(b) **RULEMAKING.**—After completion of the pilot program, the Secretary shall initiate, if appropriate, a rulemaking to revise the information system under section 31309 of title 49, United States Code, to take into account the results of the pilot program.

**SEC. 4023. EMPLOYEE PROTECTIONS.**

Reports.  
49 USC 31105  
note.

Not later than 2 years after the date of enactment of this Act, the Secretary, in conjunction with the Secretary of Labor, shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the effectiveness of existing statutory employee protections provided for under section 31105 of title 49, United States Code. The report shall include recommendations to address any statutory changes necessary to strengthen the enforcement of such employee protection provisions.

Regulations.  
49 USC 31136  
note.

**SEC. 4024. IMPROVED INTERSTATE SCHOOL BUS SAFETY.**

Not later than 6 months after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to determine whether or not relevant commercial motor carrier safety regulations issued under section 31136 of title 49, United States Code, should apply to all interstate school transportation operations by local educational agencies (as defined in section 14101 of the Elementary and Secondary Education Act of 1965).

Regulations.  
49 USC 507 note.

**SEC. 4025. TRUCK TRAILER CONSPICUITY.**

(a) **ISSUANCE OF FINAL RULE.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule regarding the conspicuity of trailers manufactured before December 1, 1993.

(b) **CONSIDERATIONS.**—In conducting the rulemaking under subsection (a), the Secretary shall consider, at a minimum, the following:

- (1) The cost-effectiveness of any requirement to retrofit trailers manufactured before December 1, 1993.
- (2) The extent to which motor carriers have voluntarily taken steps to increase equipment visibility.
- (3) Regulatory flexibility to accommodate differing trailer designs and configurations, such as tank trucks.

**SEC. 4026. DOT IMPLEMENTATION PLAN.**

(a) **ASSESSMENT.**—Not later than 18 months after the date of enactment of this section, the Secretary shall assess the scope of the problem of shippers, freight forwarders, brokers, consignees, or other persons (other than rail carriers, motor carriers, motor carriers of migrant workers, or motor private carriers) encouraging violations of chapter 5 of title 49, United States Code, or a regulation or order issued by the Secretary under such chapter.

(b) **SUBMISSION OF IMPLEMENTATION PLAN.**—After completion of the assessment under subsection (a), the Secretary may submit to the Congress a plan for implementing authority (if subsequently provided by law) to investigate and bring civil actions to enforce chapter 5 of title 49, United States Code, or regulations or orders issued by the Secretary under such chapter with respect to persons described in subsection (a).

(c) **CONTENTS OF IMPLEMENTATION PLAN.**—In developing the implementation plan under subsection (b), the Secretary shall consider, as appropriate—

- (1) in what circumstances the Secretary would exercise the new authority;
- (2) how the Secretary would determine that shippers, freight forwarders, brokers, consignees, or other persons committed violations described in subsection (a), including what types of evidence would be conclusive;
- (3) what procedures would be necessary during investigations to ensure the confidentiality of shipper contract terms prior to the Secretary's findings of violations;
- (4) what impact the exercise of the new authority would have on the Secretary's resources, including whether additional investigative or legal resources would be necessary and whether the staff would need specialized education or training to exercise properly such authority;



(5) to what extent the Secretary would conduct educational activities for persons who would be subject to the new authority; and

(6) any other information that would assist the Congress in determining whether to provide the Secretary the new authority.

**SEC. 4027. STUDY OF ADEQUACY OF PARKING FACILITIES.**

49 USC 31502  
note.

(a) **STUDY.**—The Secretary shall conduct a study to determine the location and quantity of parking facilities at commercial truck stops and travel plazas and public rest areas that could be used by motor carriers to comply with Federal hours of service rules. The study shall include an inventory of current facilities serving the National Highway System, analyze where shortages exist or are projected to exist, and propose a plan to reduce the shortages. The study may be carried out in cooperation with research entities representing motor carriers, the travel plaza industry, and commercial motor vehicle drivers.

(b) **REPORT.**—Not later than the 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study with any recommendations the Secretary determines appropriate as a result of the study.

(c) **FUNDING.**—From amounts set aside under section 104(a) of title 23, United States Code, for each of fiscal years 1999, 2000, and 2001, the Secretary may use not to exceed \$500,000 per fiscal year to carry out this section.

**SEC. 4028. QUALIFICATIONS OF FOREIGN MOTOR CARRIERS.**

(a) **REVIEW.**—Not later than 90 days after the date of enactment of this Act, the Secretary shall review—

(1) the qualifications of any foreign motor carrier, the application for which has not been processed due to the moratorium on the granting of authority to foreign carriers to operate in the United States, to operate as a motor carrier in the United States; and

(2) the carrier's likely ability to comply with applicable laws and regulations of the United States.

(b) **USE OF REVIEW.**—The review conducted under subsection (a) shall not constitute a finding by the Secretary under section 13902 of title 49, United States Code, that a motor carrier is willing and able to comply with requirements of such section. The results of the review may be used by the Secretary as the Secretary determines appropriate.

(c) **REPORT.**—Not later than 120 days after the date of enactment this Act, the Secretary shall submit a report on the results of the review to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include—

(1) any findings made by the Secretary under subsection (a);

(2) information on which carriers have applied to the Department of Transportation under that section; and

(3) a description of the process utilized to respond to such applications and to review the safety fitness of those carriers.

**SEC. 4029. FEDERAL MOTOR CARRIER SAFETY INSPECTORS.**

The Department of Transportation shall maintain at least the number of Federal motor carrier safety inspectors for international border commercial vehicle inspections as in effect on September 30, 1997, or provide for alternative resources and mechanisms to ensure at least an equivalent level of commercial motor vehicle safety inspections. Such funds as are necessary to carry out this section shall be made available within the limitation on general operating expenses of the Department of Transportation.

Contracts.  
23 USC 403 note.

**SEC. 4030. SCHOOL TRANSPORTATION SAFETY.**

(a) **STUDY.**—Not later than 3 months after the date of enactment of this Act, the Secretary shall offer to enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct, subject to the availability of appropriations, a study of the safety issues attendant to the transportation of school children to and from school and school-related activities by various transportation modes.

(b) **TERMS OF AGREEMENT.**—The agreement under subsection (a) shall provide that—

(1) the Transportation Research Board, in conducting the study, shall consider—

(A) in consultation with the National Transportation Safety Board, the Bureau of Transportation Statistics, and other relevant entities, available crash injury data;

(B) vehicle design and driver training requirements, routing, and operational factors that affect safety; and

(C) other factors that the Secretary considers to be appropriate;

(2) if the data referred to in paragraph (1)(A) is unavailable or insufficient, the Transportation Research Board shall recommend a new data collection regimen and implementation guidelines; and

(3) a panel shall conduct the study and shall include—

(A) representatives of—

(i) highway safety organizations;

(ii) school transportation;

(iii) mass transportation operators;

(iv) employee organizations; and

(v) bicycling organizations;

(B) academic and policy analysts; and

(C) other interested parties.

(c) **REPORT.**—Not later than 12 months after the Secretary enters into an agreement under subsection (a), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains the results of the study.

(d) **AUTHORIZATION.**—There are authorized to be appropriated to the Department of Transportation to carry out this section \$200,000 for fiscal year 2000 and \$200,000 for fiscal year 2001. Such sums shall remain available until expended.

**SEC. 4031. DESIGNATION OF NEW MEXICO COMMERCIAL ZONE.**

(a) **GENERAL RULE.**—Notwithstanding the provisions of section 13902(c)(4)(A) of title 49, United States Code, the New Mexico

Commercial Zone shall be a commercial zone for purposes of transportation of property only under section 13506(b) of such title.

(b) CONSULTATION.—In carrying out this section, the Secretary shall consult with other Federal agencies that have responsibilities over traffic between the United States and Mexico.

(c) SUBMISSION OF PLAN.—Not later than 3 months after the date of enactment of this Act, the State of New Mexico shall submit to the Secretary a plan describing how the State will monitor commercial motor vehicle traffic and enforce safety regulations.

(d) SAVINGS PROVISION.—Nothing in this section shall affect any action commenced or pending before the Secretary or Surface Transportation Board before the date of enactment of this Act.

(e) NEW MEXICO COMMERCIAL ZONE DEFINED.—In this section, the term “New Mexico Commercial Zone” means the area that is comprised of Dona Ana County and Luna County in New Mexico.

(f) DESIGNATION.—The designation and operation of the New Mexico Commercial Zone shall become effective upon the date of enactment of this Act.

**SEC. 4032. EFFECTS OF MCSAP GRANT REDUCTIONS.**

49 USC 31102  
note.

(a) STUDY.—The Secretary shall conduct a study on the effects of reductions of grants under section 31102 of title 49, United States Code, due to nonconformity of State intrastate motor carrier, commercial motor vehicle, and driver requirements with Federal interstate requirements. In conducting the study, the Secretary shall consider, at a minimum—

- (1) national uniformity and the purposes of the motor carrier safety assistance program;
- (2) State motor carrier, commercial motor vehicle, and driver safety oversight and enforcement capabilities; and
- (3) the safety impacts, costs, and benefits of full participation in the program.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.

(c) ADJUSTMENT OF STATE ALLOCATIONS.—The Secretary is authorized to adjust State allocations under section 31103 of title 49, United States Code, to reflect the results of the study.

## **TITLE V—TRANSPORTATION RESEARCH**

### **Subtitle A—Funding**

**SEC. 5001. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH.—For carrying out sections 502, 506, 507, and 508 of title 23, United States Code, and section 5112 of this Act \$96,000,000 for fiscal year 1998, \$97,000,000 for fiscal year 1999, \$97,000,000 for fiscal year 2000, \$98,000,000 for fiscal year 2001, \$101,000,000 for fiscal year 2002, and \$103,000,000 for fiscal year 2003.

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—To carry out section 503 of title 23, United States Code, \$35,000,000 for fiscal year 1998, \$35,000,000 for fiscal year 1999, \$40,000,000 for

fiscal year 2000, \$45,000,000 for fiscal year 2001, \$45,000,000 for fiscal year 2002, and \$50,000,000 for fiscal year 2003.

(3) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code, \$14,000,000 for fiscal year 1998, \$15,000,000 for fiscal year 1999, \$16,000,000 for fiscal year 2000, \$18,000,000 for fiscal year 2001, \$19,000,000 for fiscal year 2002, and \$20,000,000 for fiscal year 2003.

(4) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, \$31,000,000 for each of fiscal years 1998 through 2003.

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—For carrying out sections 5204, 5205, 5206, and 5207 of this Act \$95,000,000 for fiscal year 1998, \$95,000,000 for fiscal year 1999, \$98,200,000 for fiscal year 2000, \$100,000,000 for fiscal year 2001, \$105,000,000 for fiscal year 2002, and \$110,000,000 for fiscal year 2003.

(6) ITS DEPLOYMENT.—For carrying out sections 5208 and 5209 of this Act \$101,000,000 for fiscal year 1998, \$105,000,000 for fiscal year 1999, \$113,000,000 for fiscal year 2000, \$118,000,000 for fiscal year 2001, \$120,000,000 for fiscal year 2002, and \$122,000,000 for fiscal year 2003.

(7) UNIVERSITY TRANSPORTATION RESEARCH.—For carrying out section 5505 of title 49, United States Code, \$31,150,000 for fiscal year 1998, \$31,150,000 for fiscal year 1999, \$32,750,000 for fiscal year 2000, \$32,750,000 for fiscal year 2001, \$32,000,000 for fiscal year 2002, and \$32,000,000 for fiscal year 2003.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using such funds shall be 80 percent (unless otherwise expressly provided by this subtitle or otherwise determined by the Secretary with respect to a project or activity) and such funds shall remain available until expended.

(c) ALLOCATIONS.—

(1) SURFACE TRANSPORTATION RESEARCH.—Of the amounts made available under subsection (a)(1)—

(A) \$10,000,000 for each of fiscal years 1998 through 2003 shall be available to carry out section 502(e) of title 23, United States Code (relating to long-term pavement performance);

(B) not to exceed \$2,000,000 for each of fiscal years 1998 through 2003 shall be available to carry out section 502(f) of such title (relating to seismic research), of which not to exceed \$2,500,000 may be used to upgrade earthquake simulation facilities as required to carry out the program;

(C) \$500,000 for each of fiscal years 1998 through 2003 shall be available to carry out section 506 of such title (relating to international outreach); and

(D) \$5,000,000 for each of fiscal years 1998 through 2003 to carry out research on improved methods of using concrete pavement in the construction, reconstruction, and repair of Federal-aid highways.

(2) TECHNOLOGY DEPLOYMENT.—Of the amounts made available under subsection (a)(2)—

(A) \$1,000,000 for each of fiscal years 1998 through 2003 shall be available to carry out section 503(b)(3)(A)(i) of title 23, United States Code (relating to research development technology transfer activities); and

(B) \$10,000,000 for fiscal year 1998, \$15,000,000 for fiscal year 1999, \$17,000,000 for fiscal year 2000, and \$20,000,000 for each of fiscal years 2001 through 2003 shall be available to carry out section 503(b)(3)(A)(ii) of such title (relating to repair, rehabilitation, and construction).

(3) TRAINING AND EDUCATION.—Of the amounts made available under subsection (a)(3)—

(A) \$5,000,000 for fiscal year 1998, \$6,000,000 for fiscal year 1999, \$6,000,000 for fiscal year 2000, \$7,000,000 for fiscal year 2001, \$7,000,000 for fiscal year 2002, and \$8,000,000 for fiscal year 2003 shall be available to carry out section 504(a) of title 23, United States Code (relating to the National Highway Institute);

(B) \$7,000,000 for fiscal year 1998, \$7,000,000 for fiscal year 1999, \$8,000,000 for fiscal year 2000, \$9,000,000 for fiscal year 2001, \$10,000,000 for fiscal year 2002, and \$10,000,000 for fiscal year 2003 shall be available to carry out section 504(b) of such title (relating to local technical assistance); and

(C) \$2,000,000 for each of fiscal years 1998 through 2003 shall be available to carry out section 504(c)(2) of such title (relating to the Eisenhower Transportation Fellowship Program).

(4) ITS DEPLOYMENT.—Of the amounts made available under subsection (a)(6)—

(A) \$74,000,000 for fiscal year 1998, \$75,000,000 for fiscal year 1999, \$80,000,000 for fiscal year 2000, \$83,000,000 for fiscal year 2001, \$85,000,000 for fiscal year 2002, and \$85,000,000 for fiscal year 2003 shall be available to carry out section 5208 of this Act (relating to Intelligent Transportation Systems integration); and

(B) \$25,500,000 for fiscal year 1998, \$27,200,000 for fiscal year 1999, \$30,200,000 for fiscal year 2000, \$32,200,000 for fiscal year 2001, \$33,500,000 for fiscal year 2002, and \$35,500,000 for fiscal year 2003 shall be available to carry out section 5209 of this Act (relating to commercial vehicle infrastructure).

(d) TRANSFERS OF FUNDS.—The Secretary may transfer not to exceed 10 percent of the amounts allocated in a fiscal year under a subparagraph in each of paragraphs (1) through (4) of subsection (c) to the amounts allocated under any other subparagraph in the paragraph.

#### SEC. 5002. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 5001(a) of this Act shall not exceed \$403,150,000 for fiscal year 1998, \$409,150,000 for fiscal year 1999, \$427,950,000 for fiscal year 2000,

\$442,750,000 for fiscal year 2001, \$453,000,000 for fiscal year 2002, and \$468,000,000 for fiscal year 2003.

49 USC 102 note. **SEC. 5003. NOTICE.**

(a) **NOTICE OF REPROGRAMMING.**—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) **NOTICE OF REORGANIZATION.**—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of such reorganization to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

## Subtitle B—Research and Technology

### **SEC. 5101. RESEARCH AND TECHNOLOGY PROGRAM.**

Title 23, United States Code, is amended—

(1) in the table of chapters by adding at the end the following:

“5. **Research and Technology** ..... 501”;  
and

(2) by adding at the end the following:

### **“CHAPTER 5—RESEARCH AND TECHNOLOGY**

“Sec.

“501. Definitions.

“502. Surface transportation research.

“503. Technology deployment program.

“504. Training and education.

“505. State planning and research.

“506. International highway transportation outreach program.

“507. Surface transportation-environment cooperative research program.

“508. Surface transportation research strategic planning.

### **“§ 501. Definitions**

“In this chapter, the following definitions apply:

“(1) **FEDERAL LABORATORY.**—The term ‘Federal laboratory’ includes a Government-owned, Government-operated laboratory and a Government-owned, contractor-operated laboratory.

“(2) **SAFETY.**—The term ‘safety’ includes highway and traffic safety systems, research, and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.”.

### **SEC. 5102. SURFACE TRANSPORTATION RESEARCH.**

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

**“§ 502. Surface transportation research**

“(a) GENERAL AUTHORITY.—

“(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

“(A) motor carrier transportation;

“(B) all phases of transportation planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions); and

“(C) the effect of State laws on the activities described in subparagraphs (A) and (B).

“(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process.

“(3) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

“(A) independently;

“(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

“(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any Federal laboratory, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

“(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508.

“(5) FUNDS.—

“(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this section, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

“(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

“(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State; and

“(B) Federal laboratories.

“(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development

agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

“(3) FEDERAL SHARE.—

“(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

“(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

“(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

“(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

“(c) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include in surface transportation research, technology development, and technology transfer programs carried out under this title coordinated activities in the following areas:

“(1) Development, use, and dissemination of indicators, including appropriate computer programs for collecting and analyzing data on the status of infrastructure facilities, to measure the performance of the surface transportation systems of the United States, including productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect system performance.

“(2) Methods, materials, and testing to improve the durability of surface transportation infrastructure facilities and extend the life of bridge structures, including—

“(A) new and innovative technologies to reduce corrosion;

“(B) tests simulating seismic activity, vibration, and weather; and

“(C) the use of innovative recycled materials.

“(3) Technologies and practices that reduce costs and minimize disruptions associated with the construction, rehabilitation, and maintenance of surface transportation systems, including responses to natural disasters.

“(4) Development of nondestructive evaluation equipment for use with existing infrastructure facilities and with next-generation infrastructure facilities that use advanced materials.

“(5) Dynamic simulation models of surface transportation systems for—

“(A) predicting capacity, safety, and infrastructure durability problems;

“(B) evaluating planned research projects; and

“(C) testing the strengths and weaknesses of proposed revisions to surface transportation operations programs.



“(6) Economic highway geometrics, structures, and desirable weight and size standards for vehicles using the public highways and the feasibility of uniformity in State regulations with respect to such standards.

“(7) Telecommuting and the linkages between transportation, information technology, and community development and the impact of technological change and economic restructuring on travel demand.

“(8) Expansion of knowledge of implementing life cycle cost analysis, including—

“(A) establishing the appropriate analysis period and discount rates;

“(B) learning how to value and properly consider use costs;

“(C) determining tradeoffs between reconstruction and rehabilitation; and

“(D) establishing methodologies for balancing higher initial costs of new technologies and improved or advanced materials against lower maintenance costs.

“(9) Standardized estimates, to be developed in conjunction with the National Institute of Standards and Technology and other appropriate organizations, of useful life under various conditions for advanced materials of use in surface transportation.

“(10) Evaluation of traffic calming measures that promote community preservation, transportation mode choice, and safety.

“(11) Development and implementation of safety-enhancing equipment, including unobtrusive eyetracking technology.

“(d) ADVANCED RESEARCH.—

“(1) IN GENERAL.—The Secretary shall establish an advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508, that addresses longer-term, higher-risk research that shows potential benefits for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) of highway and intermodal transportation systems. In carrying out the program, the Secretary shall strive to develop partnerships with the public and private sectors.

“(2) RESEARCH AREAS.—In carrying out the program, the Secretary may make grants and enter into cooperative agreements and contracts in such areas as the Secretary determines appropriate, including the following:

“(A) Characterization of materials used in highway infrastructure, including analytical techniques, microstructure modeling, and the deterioration processes.

“(B) Diagnostics for evaluation of the condition of bridge and pavement structures to enable the assessment of risks of failure, including from seismic activity, vibration, and weather.

“(C) Design and construction details for composite structures.

“(D) Safety technology-based problems in the areas of pedestrian and bicycle safety, roadside hazards, and composite materials for roadside safety hardware.

“(E) Environmental research, including particulate matter source apportionment and model development.

“(F) Data acquisition techniques for system condition and performance monitoring.

“(G) Human factors, including prediction of the response of travelers to new technologies.

“(e) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

“(1) AUTHORITY.—The Secretary shall complete the long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914 et seq.) through the midpoint of a planned 20-year life of the long-term pavement performance program.

“(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

“(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

“(B) analyze the data obtained in carrying out subparagraph (A); and

“(C) prepare products to fulfill program objectives and meet future pavement technology needs.

“(f) SEISMIC RESEARCH PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall establish a program to study the vulnerability of the Federal-aid highway system and other surface transportation systems to seismic activity and to develop and implement cost-effective methods to reduce such vulnerability.

“(2) COOPERATION WITH NATIONAL CENTER FOR EARTHQUAKE ENGINEERING RESEARCH.—The Secretary shall conduct the program in cooperation with the National Center for Earthquake Engineering Research at the University of Buffalo.

“(3) COOPERATION WITH AGENCIES PARTICIPATING IN NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM.—The Secretary shall conduct the program in consultation and cooperation with Federal departments and agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) and shall take such actions as may be necessary to ensure that the program is consistent with—

“(A) planning and coordination activities of the Director of the Federal Emergency Management Agency under section 5(b)(1) of such Act (42 U.S.C. 7704(b)(1)); and

“(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of such Act (42 U.S.C. 7705(b)).

“(g) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

“(1) IN GENERAL.—Not later than January 31, 1999, and January 31 of every second year thereafter, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on—

“(A) estimates of the future highway and bridge needs of the United States; and

“(B) the backlog of current highway and bridge needs.

“(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the 3 biannual reports published prior to the date of enactment of the Transportation Equity Act for the 21st Century.”.

#### **SEC. 5103. TECHNOLOGY DEPLOYMENT.**

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

##### **“§ 503. Technology deployment**

“(a) TECHNOLOGY DEPLOYMENT INITIATIVES AND PARTNERSHIPS PROGRAM.—

“(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment initiatives and partnerships program.

“(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of innovative technologies by the surface transportation community.

“(3) DEPLOYMENT GOALS.—

“(A) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish not more than 5 deployment goals to carry out paragraph (1).

“(B) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.

“(C) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

“(4) INTEGRATION WITH OTHER PROGRAMS.—The Secretary shall integrate activities carried out under this subsection with the efforts of the Secretary to disseminate the results of research sponsored by the Secretary and to facilitate technology transfer.

“(5) LEVERAGING OF FEDERAL RESOURCES.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.

“(6) CONTINUATION OF SHRP PARTNERSHIPS.—Under the program, the Secretary shall continue the partnerships established through the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section).

“(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter

into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology, including—

“(A) the testing and evaluation of products of the strategic highway research program;

“(B) the further development and implementation of technology in areas such as the Superpave system and the use of lithium salts and other alternatives to prevent and mitigate alkali silica reactivity;

“(C) the provision of support for long-term pavement performance product implementation and technology access; and

“(D) other activities to achieve the goals established under paragraph (3).

“(8) REPORTS.—Not later than 18 months after the date of enactment of this section, and biennially thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress and results of activities carried out under this section.

“(9) ALLOCATION.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for their use.

“(b) INNOVATIVE BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish and carry out a program to demonstrate the application of innovative material technology in the construction of bridges and other structures.

“(2) GOALS.—The goals of the program shall include—

“(A) the development of new, cost-effective innovative material highway bridge applications;

“(B) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

“(C) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

“(D) the development of engineering design criteria for innovative products and materials for use in highway bridges and structures;

“(E) the development of cost-effective and innovative techniques to separate vehicle and pedestrian traffic from railroad traffic;

“(F) the development of highway bridges and structures that will withstand natural disasters, including alternative processes for the seismic retrofit of bridges; and

“(G) the development of new nondestructive bridge evaluation technologies and techniques.

“(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

“(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

“(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials; and

“(ii) States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges or structures that demonstrate the application of innovative materials.

“(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve the applications based on whether the project that is the subject of the grant meets the goals of the program described in paragraph (2).

“(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

“(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.”.

#### **SEC. 5104. TRAINING AND EDUCATION.**

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

#### **“§ 504. Training and education**

“(a) NATIONAL HIGHWAY INSTITUTE.—

“(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a National Highway Institute (in this subsection referred to as the ‘Institute’). The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

“(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

“(A) Federal Highway Administration, State, and local transportation agency employees;

“(B) regional, State, and metropolitan planning organizations;

“(C) State and local police, public safety, and motor vehicle employees; and

“(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

“(3) COURSES.—The Institute may develop and administer courses in modern developments, techniques, methods, regulations, management, and procedures relating to surface transportation, environmental mitigation and compliance, acquisition of rights-of-way, relocation assistance, engineering, safety, construction, maintenance and operations, contract administration, motor carrier safety activities, inspection, and highway finance.

“(4) SET-ASIDE; FEDERAL SHARE.—Not to exceed  $\frac{1}{2}$  of 1 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

“(5) FEDERAL RESPONSIBILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

“(i) by the Secretary at no cost to the States and local governments if the Secretary determines that provision at no cost is in the public interest; or

“(ii) by the State through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

“(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

“(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

“(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

“(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

“(7) COLLECTION OF FEES.—

“(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

“(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

“(C) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

“(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

“(ii) persons and entities to whom education or training is provided under this subsection.

“(D) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

“(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

“(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under paragraph (7).

“(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

“(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

“(A) highway and transportation agencies in urbanized areas with populations of between 50,000 and 1,000,000 individuals;

“(B) highway and transportation agencies in rural areas; and

“(C) contractors that do work for the agencies.

“(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

“(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

“(i) develop and expand their expertise in road and transportation areas (including pavement, bridge, concrete structures, safety management systems, and traffic safety countermeasures);

“(ii) improve roads and bridges;

“(iii) enhance—

“(I) programs for the movement of passengers and freight; and

“(II) intergovernmental transportation planning and project selection; and

“(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

“(B) develop technical assistance for tourism and recreational travel;

“(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and

expanding their ability to deal effectively with transportation-related problems;

“(D) operate, in cooperation with State transportation departments and universities—

“(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas with populations of between 50,000 and 1,000,000 individuals; and

“(ii) local technical assistance program centers designated to provide transportation technical assistance to Indian tribal governments; and

“(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

“(c) RESEARCH FELLOWSHIPS.—

“(1) GENERAL AUTHORITY.—The Secretary, acting either independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

“(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program for the purpose of attracting qualified students to the field of transportation. The program shall be known as the ‘Dwight David Eisenhower Transportation Fellowship Program’.”.

#### **SEC. 5105. STATE PLANNING AND RESEARCH.**

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

##### **“§ 505. State planning and research**

“(a) GENERAL RULE.—Two percent of the sums apportioned to a State for fiscal year 1998 and each fiscal year thereafter under section 104 (other than sections 104(f) and 104(h)) and under section 144 shall be available for expenditure by the State, in consultation with the Secretary, only for the following purposes:

“(1) Engineering and economic surveys and investigations.

“(2) The planning of future highway programs and local public transportation systems and the planning of the financing of such programs and systems, including metropolitan and statewide planning under sections 134 and 135.

“(3) Development and implementation of management systems under section 303.

“(4) Studies of the economy, safety, and convenience of surface transportation systems and the desirable regulation and equitable taxation of such systems.

“(5) Research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems.

“(6) Study, research, and training on the engineering standards and construction materials for transportation systems described in paragraph (5), including the evaluation and accreditation of inspection and testing and the regulation and taxation of their use.



“(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

“(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities described in subsection (a), relating to highway, public transportation, and intermodal transportation systems.

“(2) WAIVERS.—The Secretary may waive the application of paragraph (1) with respect to a State for a fiscal year if the State certifies to the Secretary for the fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the funds described in paragraph (1) and the Secretary accepts such certification.

“(3) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

“(c) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to subsection (a) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

“(d) ADMINISTRATION OF SUMS.—Funds subject to subsection (a) shall be combined and administered by the Secretary as a single fund and shall be available for obligation for the same period as funds apportioned under section 104(b)(1).”.

**SEC. 5106. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.**

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

**“§ 506. International highway transportation outreach program**

“(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—

“(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

“(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and

“(3) to increase transfers of United States highway transportation technology to foreign countries.

“(b) ACTIVITIES.—Activities carried out under the program may include—

“(1) development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

“(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

“(3) informing foreign countries about the technical quality of United States highway transportation goods and services

through participation in trade shows, seminars, expositions, and other such activities;

“(4) offering technical services of the Federal Highway Administration that cannot be readily obtained from United States private sector firms to be incorporated into the proposals of United States private sector firms undertaking highway transportation projects outside the United States if the costs of such services will be recovered under the terms of the project;

“(5) conducting studies to assess the need for or feasibility of highway transportation improvements in countries that are not members of the Organization for Economic Cooperation and Development, as of December 18, 1991, and in Greece and Turkey; and

“(6) gathering and disseminating information on foreign transportation markets and industries.

“(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate Federal agency, State or local agency, authority, association, institution, corporation (profit or non-profit), foreign government, multinational institution, or other organization or person.

“(d) FUNDS.—

“(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

“(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account and other funds available to carry out this section shall be available to cover the cost of any activity eligible under this section, including the cost of promotional materials, travel, reception and representation expenses, and salaries and benefits.

“(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department of Transportation employees providing services under this section shall be credited to the account.

“(e) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out section 505 for any activity authorized under subsection (a).”.

#### **SEC. 5107. SURFACE TRANSPORTATION-ENVIRONMENT COOPERATIVE RESEARCH PROGRAM.**

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

#### **“§ 507. Surface transportation-environment cooperative research program**

“(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environment cooperative research program.

“(b) CONTENTS.—The program to be carried out under this section shall include research designed—

“(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments, including metropolitan planning organizations, in designing implementation plans to meet Federal, State, and local environmental requirements;

“(2) to improve understanding of the factors that contribute to the demand for transportation, including transportation system design, demographic change, land use planning, and communications and other information technologies;

“(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;

“(4) to study the relationship between highway density and ecosystem integrity, including the impacts of highway density on habitat integrity and overall ecosystem health, and develop a rapid assessment methodology for use by transportation and regulatory agencies in determining the relationship between highway density and ecosystem integrity; and

“(5) to meet additional priorities as determined by the advisory board established under subsection (c), including recommendations of the National Research Council in the report entitled ‘Environmental Research Needs in Transportation’.

“(c) ADVISORY BOARD.—

“(1) ESTABLISHMENT.—In consultation with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal departments and agencies, the Secretary shall establish an advisory board to recommend environmental and energy conservation research, technology, and technology transfer activities related to surface transportation.

“(2) MEMBERSHIP.—The advisory board shall include—

“(A) representatives of State transportation and environmental agencies;

“(B) transportation and environmental scientists and engineers; and

“(C) representatives of metropolitan planning organizations, transit operating agencies, and environmental organizations.

“(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsection (b) as the Secretary determines appropriate.”.

**SEC. 5108. SURFACE TRANSPORTATION RESEARCH STRATEGIC PLANNING.**

Chapter 5 of title 23, United States Code (as added by section 5101 of this title), is amended by adding at the end the following:

**“§ 508. Surface transportation research strategic planning**

“(a) IN GENERAL.—The Secretary shall—

“(1) establish a strategic planning process, consistent with section 306 of title 5 for the Department of Transportation to determine national transportation research and technology development priorities related to surface transportation;

“(2) coordinate Federal surface transportation research and technology development activities;

“(3) measure the results of those activities and how they impact the performance of the surface transportation systems of the United States; and

“(4) ensure that planning and reporting activities carried out under this section are coordinated with all other surface transportation planning and reporting requirements.

“(b) IMPLEMENTATION.—The Secretary shall—

“(1) provide for the integrated planning, coordination, and consultation among the operating administrations of the Department of Transportation, all other Federal agencies with responsibility for surface transportation research and technology development, State and local governments, institutions of higher education, industry, and other private and public sector organizations engaged in surface transportation-related research and development activities;

“(2) ensure that the surface transportation research and technology development programs of the Department do not duplicate other Federal, State, or private sector research and development programs; and

“(3) provide for independent validation of the scientific and technical assumptions underlying the surface transportation research and technology development programs of the Department.

“(c) SURFACE TRANSPORTATION RESEARCH AND TECHNOLOGY DEVELOPMENT STRATEGIC PLAN.—

“(1) DEVELOPMENT.—The Secretary shall develop an integrated surface transportation research and technology development strategic plan.

“(2) CONTENTS.—The plan shall include—

“(A) an identification of the general goals and objectives of the Department of Transportation for surface transportation research and development;

“(B) a description of the roles of the Department and other Federal agencies in achieving the goals identified under subparagraph (A), in order to avoid unnecessary duplication of effort;

“(C) a description of the overall strategy of the Department, and the role of each of the operating administrations of the Department, in carrying out the plan over the next 5 years, including a description of procedures for coordination of the efforts of the Secretary with the efforts of the operating administrations of the Department and other Federal agencies;

“(D) an assessment of how State and local research and technology development activities are contributing to the achievement of the goals identified under subparagraph (A);

“(E) details of the surface transportation research and technology development programs of the Department, including performance goals, resources needed to achieve those goals, and performance indicators as described in section 1115(a) of title 31, United States Code, for the next 5 years for each area of research and technology development;

“(F) significant comments on the plan obtained from outside sources; and

“(G) responses to significant comments obtained from the National Research Council and other advisory bodies, and a description of any corrective actions taken pursuant to such comments.

“(3) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall enter into an agreement for the review by the National Research Council of the details of each—

Contracts.

“(A) strategic plan or revision required under section 306 of title 5;

“(B) performance plan required under section 1115 of title 31; and

“(C) program performance report required under section 1116, with respect to surface transportation research and technology development.

“(4) PERFORMANCE PLANS AND REPORTS.—In reports submitted under sections 1115 and 1116 of title 31, the Secretary shall include—

“(A) a summary of the results for the previous fiscal year of surface transportation research and technology development programs to which the Department of Transportation contributes, along with—

“(i) an analysis of the relationship between those results and the goals identified under paragraph (2)(A); and

“(ii) a description of the methodology used for assessing the results; and

“(B) a description of significant surface transportation research and technology development initiatives, if any, undertaken during the previous fiscal year that were not in the plan developed under paragraph (1), and any significant changes in the plan from the previous year’s plan.

“(d) MERIT REVIEW AND PERFORMANCE MEASUREMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall transmit to Congress a report describing competitive merit review procedures for use in selecting grantees and contractors in the programs covered by the plan developed under subsection (c) and performance measurement procedures for evaluating the programs.

Reports.

“(e) PROCUREMENT PROCEDURES.—The Secretary shall—

“(1) develop model procurement procedures that encourage the use of advanced technologies; and

“(2) develop model transactions for carrying out and coordinating Federal and State surface transportation research and technology development activities.

“(f) CONSISTENCY WITH GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993.—The plans and reports developed under this section shall be consistent with and incorporated as part of the plans developed under section 306 of title 5 and sections 1115 and 1116 of title 31.”.

#### SEC. 5109. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Section 111 of title 49, United States Code, is amended—

(1) in subsection (b)(4) by striking the second sentence;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (J) by striking “and” at the end;

(ii) in subparagraph (K) by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(L) transportation-related variables that influence global competitiveness.”;

(B) in paragraph (2)—

(i) in the first sentence by striking “national transportation system” and inserting “transportation systems of the United States”;

(ii) by striking subparagraph (A) and inserting the following:

“(A) be coordinated with efforts to measure outputs and outcomes of the Department of Transportation and the transportation systems of the United States under the Government Performance and Results Act of 1993 (107 Stat. 285 et seq.) and the amendments made by such Act;”; and

(iii) in subparagraph (C) by inserting “, made relevant to the States and metropolitan planning organizations,” after “accuracy”;

(C) in paragraph (3) by adding at the end the following: “The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993, and the amendments made by such Act, and shall carry out such other reviews of the sources and reliability of other data collected by the heads of the operating administrations of the Department as shall be requested by the Secretary.”; and

(D) by adding at the end the following:

“(7) SUPPORTING TRANSPORTATION DECISIONMAKING.—Ensuring that the statistics compiled under paragraph (1) are relevant for transportation decisionmaking by the Federal Government, State and local governments, transportation-related associations, private businesses, and consumers.”;

(3) by redesignating subsections (d), (e), and (f) as subsections (h), (i), and (j), respectively;

(4) by striking subsection (g);

(5) by inserting after subsection (c) the following:

“(d) INTERMODAL TRANSPORTATION DATA BASE.—

“(1) IN GENERAL.—In consultation with the Associate Deputy Secretary, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.

“(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

“(3) CONTENTS.—The data base shall include—

“(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations, and by relevant classification;

“(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

“(C) information on the location and connectivity of transportation facilities and services; and

“(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

“(e) NATIONAL TRANSPORTATION LIBRARY.—

“(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

“(2) ACCESS.—The Director shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Director to make statistics readily accessible under subsection (c)(5).

“(3) COORDINATION.—The Director shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

“(f) NATIONAL TRANSPORTATION ATLAS DATA BASE.—

“(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—

“(A) transportation networks;

“(B) flows of people, goods, vehicles, and craft over the networks; and

“(C) social, economic, and environmental conditions that affect or are affected by the networks.

“(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.

“(g) RESEARCH AND DEVELOPMENT GRANTS.—

“(1) IN GENERAL.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

“(A) investigation of the subjects specified in subsection (c)(1) and research and development of new methods of data collection, management, integration, dissemination, interpretation, and analysis;

“(B) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (e); and

“(C) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (f) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.

“(2) LIMITATION.—Not more than \$500,000 of the amounts made available to carry out this section in a fiscal year may be used to carry out this subsection.”;

(6) by striking subsection (i) (as redesignated by paragraph (3) of this subsection) and inserting the following:

“(i) PROHIBITION ON CERTAIN DISCLOSURES.—

“(1) IN GENERAL.—An officer or employee of the Bureau may not—

“(A) make any disclosure in which the data provided by an individual or organization under subsection (c)(2) can be identified;

“(B) use the information provided under subsection (c)(2) for a nonstatistical purpose; or

“(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c)(2).

“(2) PROHIBITION ON REQUESTS FOR CERTAIN DATA.—

“(A) GOVERNMENT AGENCIES.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c)(2) with the Bureau or retained by an individual respondent.

“(B) COURTS.—Any copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

“(i) shall be immune from legal process; and

“(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

“(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably inferred by direct or indirect means.

“(3) DATA COLLECTED FOR NONSTATISTICAL PURPOSES.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.”;

(7) in subsection (j) (as redesignated by paragraph (3) of this subsection) by striking “On or before January 1, 1994, and annually thereafter, the” and inserting “The”; and

(8) by adding at the end the following:

“(k) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.”.

(b) CONFORMING AMENDMENTS.—Section 5503 of title 49, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.



**SEC. 5110. UNIVERSITY TRANSPORTATION RESEARCH.**

(a) **IN GENERAL.**—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

**“§ 5505. University transportation research**

“(a) **REGIONAL CENTERS.**—The Secretary of Transportation shall make grants to nonprofit institutions of higher learning to establish and operate 1 university transportation center in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

“(b) **OTHER CENTERS.**—The Secretary shall make grants to nonprofit institutions of higher learning to establish and operate university transportation centers, in addition to the centers receiving grants under subsection (a), to address transportation management and research and development matters, with special attention to increasing the number of highly skilled individuals entering the field of transportation.

“(c) **SELECTION OF GRANT RECIPIENTS.**—

“(1) **APPLICATIONS.**—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

“(2) **SELECTION CRITERIA.**—Except as otherwise provided by this section, the Secretary shall select each recipient of a grant under this section through a competitive process on the basis of the following:

“(A) For regional centers, the location of the center within the Federal region to be served.

“(B) The demonstrated research and extension resources available to the recipient to carry out this section.

“(C) The capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

“(D) The recipient’s establishment of a surface transportation program encompassing several modes of transportation.

“(E) The recipient’s demonstrated commitment of at least \$200,000 in regularly budgeted institutional amounts each year to support ongoing transportation research and education programs.

“(F) The recipient’s demonstrated ability to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program.

“(G) The strategic plan the recipient proposes to carry out under the grant.

“(d) **OBJECTIVES.**—Each university transportation center receiving a grant under this section shall conduct the following programs and activities:

“(1) Basic and applied research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation.

“(2) An education program that includes multidisciplinary course work and participation in research.

Contracts.

“(3) An ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented, utilized, or otherwise applied.

“(e) MAINTENANCE OF EFFORT.—In order to be eligible to receive a grant under this section, a recipient shall enter into an agreement with the Secretary to ensure that the recipient will maintain total expenditures from all other sources to establish and operate a university transportation center and related research activities at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

“(f) FEDERAL SHARE.—The Federal share of the costs of activities carried out using a grant made under this section is 50 percent of costs. The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23, United States Code.

“(g) PROGRAM COORDINATION.—

“(1) COORDINATION.—The Secretary shall coordinate the research, education, training, and technology transfer activities that grant recipients carry out under this section, disseminate the results of the research, and establish and operate a clearing-house.

“(2) ANNUAL REVIEW AND EVALUATION.—At least annually and consistent with the plan developed under section 5506, the Secretary shall review and evaluate programs the grant recipients carry out.

“(3) FUNDING LIMITATION.—The Secretary may use not more than 1 percent of amounts made available from Government sources to carry out this subsection.

“(h) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this program shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which such funds are authorized.

“(i) NUMBER AND AMOUNT OF GRANTS.—

“(1) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, the Secretary shall make the following grants under this section:

“(A) GROUP A.—The Secretary shall make a grant in the amount of \$1,000,000 to each of the institutions in group A.

“(B) GROUP B.—The Secretary shall make a grant in the amount of \$300,000 to each of the institutions in group B.

“(C) GROUP C.—The Secretary shall make a grant in the amount of \$750,000 to each of the institutions in group C.

“(D) GROUP D.—The Secretary shall make a grant in the amount of \$2,000,000 to each of the institutions in group D.

“(2) FISCAL YEARS 2000 AND 2001.—For each of fiscal years 2000 and 2001, the Secretary shall make the following grants under this section:

“(A) GROUP A.—The Secretary shall make a grant in the amount of \$1,000,000 to each of the institutions in group A.

“(B) GROUP B.—The Secretary shall make a grant in the amount of \$500,000 to 8 of the institutions in group B.

“(C) GROUP C.—The Secretary shall make a grant in the amount of \$750,000 to each of the institutions in group C.

“(D) GROUP D.—The Secretary shall make a grant in the amount of \$2,000,000 to each of the institutions in group D.

“(3) FISCAL YEARS 2002 AND 2003.—For each of fiscal years 2002 and 2003, the Secretary shall make the following grants under this section:

“(A) GROUP A.—The Secretary shall make a grant in the amount of \$1,000,000 to each of the institutions in group A.

“(B) GROUPS B AND C.—The Secretary shall make a grant in the amount of \$1,000,000 to 10 of the institutions in groups B and C that received grants under this section in fiscal years 2000 and 2001.

“(C) GROUP D.—The Secretary shall make a grant in the amount of \$2,000,000 to each of the institutions in group D.

“(j) IDENTIFICATION OF GROUPS.—For the purpose of making grants under this section, the following groups are identified:

“(1) GROUP A.—Group A shall consist of the 10 regional centers selected under subsection (a).

“(2) GROUP B.—Group B shall consist of the following:

“(A) The University of Denver and Mississippi State University.

“(B) The University of Central Florida.

“(C) University of Southern California and California State University at Long Beach.

“(D) Rutgers University.

“(E) University of Missouri at Rolla.

“(F) South Carolina State University.

“(G) Joseph P. Kennedy Science and Technology Center, Assumption College, Massachusetts.

“(H) Purdue University.

“(3) GROUP C.—Group C shall consist of the following:

“(A) University of Arkansas.

“(B) New Jersey Institute of Technology.

“(C) University of Idaho.

“(D) The University of Alabama.

“(E) Morgan State University.

“(F) North Carolina State University.

“(G) San Jose State University.

“(H) University of South Florida.

“(I) North Carolina A. and T. State University.

“(4) GROUP D.—Group D shall consist of the following:

“(A) University of Minnesota.

“(B) Marshall University, West Virginia, on behalf of a consortium of West Virginia colleges and universities.

“(C) George Mason University, along with the University of Virginia and Virginia Tech University.

“(D) Western Transportation Institute.

“(E) Rhode Island Transportation Research Center.

“(F) Northwestern University.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 49, United States Code, is amended by inserting after the item relating to section 5504 the following:

“5505. University transportation research.”.

(c) REPEALS.—Section 5316 and 5317 of title 49, United States Code, and the items relating to such sections in the analysis for chapter 53 of such title, are repealed.

**SEC. 5111. ADVANCED VEHICLE TECHNOLOGIES PROGRAM.**

(a) IN GENERAL.—Subchapter I of chapter 55 of subtitle I of title 49, United States Code (as amended by section 5110 of this Act), is amended by adding at the end the following:

**“§ 5506. Advanced vehicle technologies program**

“(a) PURPOSES.—The Secretary of Transportation, in coordination with other government agencies and private consortia, shall encourage and promote the research, development, and deployment of transportation technologies that will use technological advances in multimodal vehicles, vehicle components, environmental technologies, and related infrastructure to remove impediments to an efficient, safe, and cost-effective national transportation system.

“(b) DEFINITION OF ELIGIBLE CONSORTIUM.—In this section, the term ‘eligible consortium’ means a consortium that receives funding under the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1876), and that comprises 2 or more of the following entities:

“(1) Businesses incorporated in the United States.

“(2) Public or private educational or research organizations located in the United States.

“(3) Entities of State or local governments in the United States.

“(4) Federal laboratories.

Contracts.

“(c) PROGRAM.—The Secretary shall enter into contracts, cooperative agreements, and other transactions as authorized by section 2371 of title 10 with, and make grants to, eligible consortia to promote the development and deployment of innovation in transportation technology services, management, and operational practices.

“(d) ELIGIBILITY CRITERIA.—To be eligible to receive assistance under this section, an eligible consortium shall—

“(1) for a period of not less than the 3 years preceding the date of a contract, cooperative agreement, or other transaction, be organized on a statewide or multistate basis for the purpose of designing, developing, and deploying transportation technologies that address identified technological impediments in the transportation field;

“(2) facilitate the participation in the consortium of small- and medium-sized businesses, utilities, public laboratories and universities, and other relevant entities;

“(3) be actively engaged in transportation technology projects that address compliance in nonattainment areas under the Clean Air Act (42 U.S.C. 7401 et seq.);

“(4) be designed to use Federal and State funding to attract private capital in the form of grants or investments to carry out this section; and

“(5) ensure that at least 50 percent of the funding for the consortium project will be provided by non-Federal sources.

“(e) PROPOSALS.—The Secretary shall prescribe such terms and conditions as the Secretary determines to be appropriate for the content and structure of proposals submitted for assistance under this section.

“(f) REPORTING REQUIREMENTS.—At least once each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the projects undertaken by the eligible consortia and the progress made in advancing the purposes of this section.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section \$50,000,000 for each of fiscal years 1999 through 2003, to remain available until expended.

“(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall not be available in advance of an annual appropriation.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 49, United States Code, is amended by inserting after the item relating to section 5505 the following:

“5506. Advanced vehicle technologies program.”.

**SEC. 5112. STUDY OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.**

23 USC 502 note.

(a) STUDY.—Not later than 120 days after the date of enactment of this Act, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, the Transportation Research Board of the National Academy of Sciences (in this section referred to as the “Board”) to conduct a study to determine the goals, purposes, research agenda and projects, administrative structure, and fiscal needs for a new strategic highway research program to replace the program established under section 307(d) (as in effect on the day before the date of enactment of this Act), or a similar effort.

Contracts.

(b) CONSULTATION.—In conducting the study, the Board shall consult with the American Association of State Highway and Transportation Officials and such other entities as the Board determines appropriate to the conduct of the study.

(c) REPORT.—Not later than 5 years after making a grant or entering into a cooperative agreement or contract under subsection (a), the Board shall submit a final report on the results of the study to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

**SEC. 5113. COMMERCIAL REMOTE SENSING PRODUCTS AND SPATIAL INFORMATION TECHNOLOGIES.**

23 USC 502 note.

(a) IN GENERAL.—The Secretary shall establish and carry out a program to validate commercial remote sensing products and spatial information technologies for application to national transportation infrastructure development and construction.

(b) PROGRAM STAGES.—

(1) FIRST STAGE.—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.

(2) **SECOND STAGE.**—After establishment of the national policy under paragraph (1), the Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy.

(c) **COOPERATION.**—The Secretary shall carry out this section in cooperation with the Commercial Remote Sensing Program of the National Aeronautics and Space Administration and a consortium of university research centers.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 1999 through 2004.

**SEC. 5114. SENSE OF THE CONGRESS ON THE YEAR 2000 PROBLEM.**

With the year 2000 fast approaching, it is the sense of the Congress that the Secretary should—

(1) give high priority to correcting all 2-digit date-related problems in computer systems of the Department of Transportation to ensure that the systems continue to operate effectively in the year 2000 and thereafter;

(2) assess immediately the extent of the risk to the operations of the Department of Transportation posed by the problems referred to in paragraph (1), and plan and budget for achieving year 2000 compliance for all mission-critical systems of the Department; and

(3) develop contingency plans for those systems that the Secretary of Transportation is unable to correct in time.

49 USC 111 note.

**SEC. 5115. INTERNATIONAL TRADE TRAFFIC.**

(a) **STUDY.**—The Director shall carry out a study—

(1) to measure the ton-miles and value-miles of international trade traffic carried by highway for each State;

(2) to evaluate the accuracy and reliability of such measures for use in the formula for highway apportionments;

(3) to evaluate the accuracy and reliability of the use of diesel fuel data as a measure of international trade traffic by State; and

(4) to identify needed improvements in long-term data collection programs to provide accurate and reliable measures of international traffic for use in the formula for highway apportionments.

(b) **BASIS FOR EVALUATIONS.**—The study shall evaluate the accuracy and reliability of measures for use as formula factors based on statistical quality standards developed by the Bureau in consultation with the Committee on National Statistics of the National Academy of Sciences.

(c) **REPORT.**—Not later than 3 years after the date of enactment of this Act, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study carried out under paragraph (1), including recommendations for changes in law necessary to implement the identified needs for improvements in long-term data collection programs.

**SEC. 5116. UNIVERSITY GRANTS.**

(a) **SEISMIC RESEARCH, UNIVERSITY OF CALIFORNIA AT SAN DIEGO.**—

(1) GRANTS.—The Secretary shall make grants to the University of California at San Diego to upgrade earthquake simulation facilities at the University.

(2) FUNDING.—Of the amounts made available under section 5001(a)(1) of this Act, \$1,000,000 for each of fiscal years 1999 through 2002 shall be available to carry out this subsection.

(b) GLOBAL CLIMATE RESEARCH, UNIVERSITY OF ALABAMA AT HUNTSVILLE.—

(1) GRANTS.—The Secretary shall make grants to the University of Alabama at Huntsville for global climate research.

(2) FUNDING.—Of the amounts made available under section 5001(a)(1) of this Act, \$200,000 for each of fiscal years 1999 through 2003 shall be available to carry out this subsection.

(c) ASPHALT RESEARCH, AUBURN UNIVERSITY.—

(1) GRANTS.—The Secretary shall make grants to Auburn University for asphalt research.

(2) FUNDING.—Of the amounts made available under section 5001(a)(1) of this Act, \$250,000 for each of fiscal years 1999 and 2000 shall be available to carry out this subsection.

(d) ADVANCED VEHICLE RESEARCH, UNIVERSITY OF ALABAMA AT TUSCALOOSA.—

(1) GRANTS.—The Secretary shall make grants to the University of Alabama at Tuscaloosa for advanced vehicle research, including the study of fuel cell and electric vehicle technology.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, \$400,000 for each of fiscal years 1999 through 2003 shall be available to carry out this subsection.

(e) GEOTHERMAL HEAT PUMP SMART BRIDGE PROGRAM, OKLAHOMA STATE UNIVERSITY.—

(1) GRANTS.—The Secretary shall make grants to Oklahoma State University for the purposes of research, development, and field testing of the Geothermal Heat Pump Smart Bridge Program.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, \$1,000,000 for fiscal year 1999, \$1,000,000 for fiscal year 2000, and \$500,000 for fiscal year 2001 shall be available to carry out this subsection.

(f) INTELLIGENT STIFFENER FOR BRIDGE STRESS REDUCTION, UNIVERSITY OF OKLAHOMA.—

(1) GRANTS.—The Secretary shall make grants to the University of Oklahoma, College of Engineering, Center for Structural Control, for the purposes of research, development, and field testing of the Intelligent Stiffener for Bridge Stress Reduction.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, \$1,000,000 for fiscal year 1999, \$1,000,000 for fiscal year 2000, \$1,000,000 for fiscal year 2001, and \$500,000 for fiscal year 2002 shall be available to carry out this subsection.

(g) STUDY OF ADVANCED TRAUMA CARE, UNIVERSITY OF ALABAMA AT BIRMINGHAM.—

(1) GRANTS.—The Secretary shall make grants to the University of Alabama at Birmingham for the study of advanced trauma care.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, \$750,000 for each of fiscal years 1999 through 2003 shall be available to carry out this subsection.

(h) CENTER FOR TRANSPORTATION INJURY RESEARCH.—

(1) GRANTS.—The Secretary shall make grants to establish and maintain a center for transportation injury research at the Calspan University of Buffalo Research Center affiliated with the State University of New York at Buffalo.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, \$2,000,000 for each of fiscal years 1998 through 2003 shall be available to carry out this subsection.

(i) HEAD AND SPINAL CORD INJURY RESEARCH.—

(1) GRANTS.—The Secretary shall make grants to the Neuroscience Center for Excellence at Louisiana State University and the Virginia Transportation Research Institute at George Washington University for research and technology development for preventing and minimizing head and spinal cord injuries relating to automobile accidents.

(2) FUNDING.—Of the amounts made available under section 5001(a)(2) of this Act, \$500,000 for each of fiscal years 1999 through 2003 shall be available to carry out this subsection.

23 USC 502 note. **SEC. 5117. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.**

(a) IN GENERAL.—The Secretary shall carry out a transportation technology innovation and demonstration program in accordance with the requirements of this section.

(b) CONTENTS OF PROGRAM.—

(1) MOTOR VEHICLE SAFETY WARNING SYSTEM.—

(A) IN GENERAL.—The Secretary shall expand and continue the study authorized by section 358(c) of the National Highway System Designation Act of 1995 (23 U.S.C. 401 note; 109 Stat. 625) relating to the development of a motor vehicle safety warning system and shall conduct tests of such system.

(B) GRANTS.—In carrying out this paragraph, the Secretary may make grants to State and local governments.

(C) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2000 by section 5001(a)(2) of this Act, \$700,000 per fiscal year shall be available to carry out this paragraph.

(2) MOTOR CARRIER ADVANCED SENSOR CONTROL SYSTEM.—

(A) IN GENERAL.—The Secretary shall conduct research on the deployment of a system of advanced sensors and signal processors in trucks and tractor trailers to determine axle and wheel alignment, monitor collision alarm, check tire pressure and tire balance conditions, measure and detect load distribution in the vehicle, and monitor and adjust automatic braking systems.

(B) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(2)



of this Act, \$700,000 per fiscal year shall be available to carry out this paragraph.

(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—

(A) IN GENERAL.—The Secretary shall carry out a program to advance the deployment of an operational intelligent transportation infrastructure system for the measurement of various transportation system activities to aid in the transportation planning and analysis while making a significant contribution to the ITS program under this title. This program shall be initiated in the 2 largest metropolitan areas in the Commonwealth of Pennsylvania. The program may locate its database at the facility authorized under paragraph (6).

(B) DESCRIPTION.—The program under this section shall meet the following objectives:

(i) Build an infrastructure of the measurement of various transportation system metrics to aid in planning, analysis, and maintenance of the Department of Transportation, including the buildout, maintenance, and operation of greater than 40 metropolitan area systems with a cost not to exceed \$2,000,000 per metropolitan area. For the purposes of this demonstration initiative, a metropolitan area is defined as any area that has a population exceeding 300,000 and that meets several of the criteria established by the Secretary in conjunction with the intelligent vehicle highway systems corridors program.

(ii) Provide private technology commercialization initiatives to generate revenues which will be shared with local departments of transportation.

(iii) Collect data primarily through wireless transmission along with some shared wide area networks.

(iv) Aggregate data into reports for multipoint data distribution techniques.

(v) Utilize an advanced information system designed and monitored by an entity with experience with the Department of Transportation in the design and monitoring of high reliability, mission critical voice and data systems.

(C) ELIGIBILITY.—In addition to the amounts made available under subparagraph (D), the program authorized under this paragraph shall be eligible for funding under sections 5207 and 5208 of this Act.

(D) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(2) of this Act, \$1,700,000 per fiscal year shall be available to carry out this paragraph.

(E) FEDERAL SHARE.—The Federal share of the cost of a program carried out under this paragraph shall be 80 percent of the cost of such program.

(4) CORROSION CONTROL AND PREVENTION.—

(A) IN GENERAL.—The Secretary shall make a grant to conduct a study on the costs and benefits of corrosion control and prevention. The study shall be conducted in conjunction with an interdisciplinary team of experts from the fields of metallurgy, chemistry, economics, and others, as appropriate. Not later than September 30, 2001, the

Deadline.  
Reports.

Secretary shall submit to Congress a report on the study results, together with any recommendations.

(B) FUNDING.—Of the amounts made available for each of fiscal years 1999 and 2000 by section 5001(a)(1) of this Act, \$500,000 per fiscal year shall be available to carry out this paragraph.

(5) FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.—

(A) IN GENERAL.—The Secretary shall continue to carry out section 6016 of the Intermodal Surface Transportation Efficiency Act of 1991. Additional areas of the program under such section shall be asphalt-water interaction studies and asphalt-aggregate thin film behavior studies.

(B) FUNDING.—Of the amounts made available for each of fiscal years 1999 through 2003 by section 5001(a)(1) of this Act, \$3,000,000 per fiscal year shall be available to carry out this paragraph.

(6) ADVANCED TRAFFIC MONITORING AND RESPONSE CENTER.—

(A) IN GENERAL.—The Secretary shall make grants to the Pennsylvania Transportation Institute, in conjunction with the Pennsylvania Turnpike Commission, to establish an advanced traffic monitoring and emergency response center at Letterkenny Army Depot in Chambersburg, Pennsylvania. The center shall help develop and coordinate traffic monitoring and ITS systems on portions of the Pennsylvania Turnpike system and I-81, coordinate emergency response with State and local governments in the Central Pennsylvania Region and conduct research on emergency response and prototype trauma response.

(B) FUNDING.—

(i) ELIGIBILITY UNDER SECTION 5208.—The center established under this paragraph shall be eligible for funding under section 5208 of this Act.

(ii) ALLOCATION.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(2) of this Act, \$1,667,000 per fiscal year shall be available to carry out this paragraph.

(7) TRANSPORTATION ECONOMIC AND LAND USE SYSTEM.—

(A) IN GENERAL.—The Secretary shall continue development and deployment through the New Jersey Institute of Technology to metropolitan planning organizations of the Transportation Economic and Land Use System.

(B) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(2) of this Act, \$1,000,000 per fiscal year shall be available to carry out this paragraph.

(8) RECYCLED MATERIALS RESOURCE CENTER.—

(A) ESTABLISHMENT.—The Secretary shall establish at the University of New Hampshire a research program to be known as the “Recycled Materials Resource Center” (referred to in this paragraph as the “Center”).

(B) ACTIVITIES.—

(i) IN GENERAL.—The Center shall—

(I) systematically test, evaluate, develop appropriate guidelines for, and demonstrate environmentally acceptable and occupationally

safe technologies and techniques for the increased use of traditional and nontraditional recycled and secondary materials in transportation infrastructure construction and maintenance;

(II) make information available to State transportation departments, the Federal Highway Administration, the construction industry, and other interested parties to assist in evaluating proposals to use traditional and nontraditional recycled and secondary materials in transportation infrastructure construction;

(III) encourage the increased use of traditional and nontraditional recycled and secondary materials by using sound science to analyze thoroughly all potential long-term considerations that affect the physical and environmental performance of the materials; and

(IV) work cooperatively with Federal and State officials to reduce the institutional barriers that limit widespread use of traditional and nontraditional recycled and secondary materials and to ensure that such increased use is consistent with the sustained environmental and physical integrity of the infrastructure in which the materials are used.

(ii) SITES AND PROJECTS UNDER ACTUAL FIELD CONDITIONS.—In carrying out clause (i)(III), the Secretary may authorize the Center to—

(I) use test sites and demonstration projects under actual field conditions to develop appropriate performance data; and

(II) develop appropriate tests and guidelines to ensure correct use of recycled and secondary materials in transportation infrastructure construction.

(C) REVIEW AND EVALUATION.—

(i) IN GENERAL.—Not less often than every 2 years, the Secretary shall review and evaluate the program carried out by the Center.

(ii) NOTIFICATION OF DEFICIENCIES.—In carrying out clause (i), if the Secretary determines that the Center is deficient in carrying out subparagraph (B), the Secretary shall notify the Center of each deficiency and recommend specific measures to address the deficiency.

(iii) DISQUALIFICATION.—If, after the end of the 180-day period that begins on the date of notification to the Center under clause (ii), the Secretary determines that the Center has not corrected each deficiency identified under clause (ii), the Secretary may, after notifying the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination, disqualify the Center from further participation under this section.

(D) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(1)

of this Act, \$1,500,000 per fiscal year shall be available to carry out this paragraph.

**SEC. 5118. DREXEL UNIVERSITY INTELLIGENT INFRASTRUCTURE INSTITUTE.**

(a) **IN GENERAL.**—The Secretary, in cooperation with the Commonwealth of Pennsylvania, shall establish the Intelligent Infrastructure Institute at Drexel University, Pennsylvania. The Institute shall conduct research, training, technology transfer, construction, maintenance, and other activities to advance infrastructure research.

(b) **FUNDING.**—The amounts made available by the item numbered 315 in the table contained in section 1602 of this Act shall be available to carry out this section.

(c) **AUTHORIZATION.**—There is authorized to be appropriated \$10,000,000 to carry out subsection (a).

(d) **FACILITY.**—Funds made available to carry out this section may be used to construct a building to house the Institute.

**SEC. 5119. CONFORMING AMENDMENTS.**

(a) Section 204(b) of title 23, United States Code, is amended in the last sentence by striking “326” and inserting “504(b)”.

(b) Sections 307, 321, 325, and 326 of title 23, United States Code, are repealed.

(c) The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 307, 321, 325, and 326.

(d) Section 115(a)(1)(A)(i) of title 23, United States Code, is amended by striking “or 307” and inserting “or 505”.

(e) Section 151(d) of title 23, United States Code, is amended by striking “section 307(a),” and inserting “section 502,”.

(f) Section 106 of Public Law 89–564 (23 U.S.C. 403 note; 80 Stat. 735) is amended in the third sentence by striking “sections 307 and 403 of title 23, United States Code,” and inserting “section 403 and chapter 5 of title 23, United States Code,”.

## Subtitle C—Intelligent Transportation Systems

**SEC. 5201. SHORT TITLE.**

This subtitle may be cited as the “Intelligent Transportation Systems Act of 1998”.

**SEC. 5202. FINDINGS.**

Congress finds that—

(1) investments authorized by the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914 et seq.) have demonstrated that intelligent transportation systems can mitigate surface transportation problems in a cost-effective manner; and

(2) continued investment in architecture and standards development, research, and systems integration is needed to accelerate the rate at which intelligent transportation systems are incorporated into the national surface transportation network, thereby improving transportation safety and efficiency

Intelligent  
Transportation  
Systems Act of  
1998.  
Inter-  
governmental  
relations.  
Urban and rural  
areas.  
23 USC 502 note.  
23 USC 502 note.

and reducing costs and negative impacts on communities and the environment.

**SEC. 5203. GOALS AND PURPOSES.**

23 USC 502 note.

(a) GOALS.—The goals of the intelligent transportation system program include—

(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services, and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles, with particular emphasis on decreasing the number and severity of collisions;

(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial vehicles, passenger vehicles, and motorcycles, and including individuals with disabilities; and

(5) improvement of the Nation's ability to respond to emergencies and natural disasters and enhancement of national defense mobility.

(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

(4) promote the innovative use of private resources;

(5) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

(6) complete deployment of Commercial Vehicle Information Systems and Networks in a majority of States by September 30, 2003.

**SEC. 5204. GENERAL AUTHORITIES AND REQUIREMENTS.**

23 USC 502 note.

(a) SCOPE.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and advance nationwide deployment of such systems as a component of the surface transportation systems of the United States.

(b) POLICY.—Intelligent transportation system operational tests and deployment projects funded pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent

transportation system program in cooperation with State and local governments and other public entities, the United States private sector, the Federal laboratories, and colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary, as appropriate, shall consult with the Secretary of Commerce, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other Federal departments and agencies.

(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation system management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

(g) INFORMATION CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall—

(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle; and

(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) DELEGATION OF AUTHORITY.—

(A) IN GENERAL.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation.

(B) FEDERAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal assistance under this section.

(h) ADVISORY COMMITTEES.—

(1) IN GENERAL.—In carrying out this subtitle, the Secretary may use 1 or more advisory committees.

(2) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(i) PROCUREMENT METHODS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall develop appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of procurement for intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including innovative and nontraditional methods such as the Information Technology Omnibus Procurement.

(2) INTELLIGENT TRANSPORTATION SYSTEM SOFTWARE.—To the maximum extent practicable, contracting officials shall use as a critical evaluation criterion the Software Engineering Institute's Capability Maturity Model, or another similar recognized standard risk assessment methodology, to reduce the

cost, schedule, and performance risks associated with the development, management, and integration of intelligent transportation system software.

(j) EVALUATIONS.—

(1) GUIDELINES AND REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the evaluation of operational tests and deployment projects carried out under this subtitle.

(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test or project that ensure adequate evaluation of the results of the test or project.

(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44.

**SEC. 5205. NATIONAL ITS PROGRAM PLAN.**

23 USC 502 note.

(a) IN GENERAL.—

(1) UPDATES.—The Secretary shall maintain and update, as necessary, the National ITS Program Plan developed by the Department of Transportation and the Intelligent Transportation Society of America.

(2) SCOPE.—The National ITS Program Plan shall—

(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the context of major metropolitan areas, smaller metropolitan and rural areas, and commercial vehicle operations;

(B) specify how specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of the 5- and 10-year timeframes for the goals and objectives;

(C) identify activities that provide for the dynamic development of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish critical standards; and

(D) establish a cooperative process with State and local governments for determining desired surface transportation system performance levels and developing plans for incorporation of specific intelligent transportation system capabilities into surface transportation systems.

(b) REPORTING.—The plan described in subsection (a) shall be transmitted and updated as part of the Surface Transportation Research and Development Strategic Plan developed under section 508 of title 23, United States Code.

23 USC 502 note. **SEC. 5206. NATIONAL ARCHITECTURE AND STANDARDS.****(a) IN GENERAL.—**

**(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—**Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

**(2) INTEROPERABILITY AND EFFICIENCY.—**To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

**(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—**In carrying out this section, the Secretary may use the services of such standards development organizations as the Secretary determines to be appropriate.

**(b) REPORT ON CRITICAL STANDARDS.—**Not later than June 1, 1999, the Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives identifying which standards are critical to ensuring national interoperability or critical to the development of other standards and specifying the status of the development of each standard identified.

**(c) PROVISIONAL STANDARDS.—**

**(1) IN GENERAL.—**If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard after consultation with affected parties, and using, to the extent practicable, the work product of appropriate standards development organizations.

**(2) CRITICAL STANDARDS.—**If a standard identified as critical in the report under subsection (b) is not adopted and published by the appropriate standards development organization by January 1, 2001, the Secretary shall establish a provisional standard after consultation with affected parties, and using, to the extent practicable, the work product of appropriate standards development organizations.

**(3) PERIOD OF EFFECTIVENESS.—**A provisional standard established under paragraph (1) or (2) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

**(d) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL STANDARD.—**

**(1) IN GENERAL.—**The Secretary may waive the requirement under subsection (c)(2) to establish a provisional standard if the Secretary determines that additional time would be productive or that establishment of a provisional standard would be counterproductive to achieving the timely achievement of the objectives identified in subsection (a).

**(2) NOTICE.—**The Secretary shall publish in the Federal Register a notice describing each standard for which a waiver

Federal Register,  
publication.

Federal Register,  
publication.



of the provisional standard requirement has been granted, the reasons for and effects of granting the waiver, and an estimate as to when the standard is expected to be adopted through a process consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).

(3) **WITHDRAWAL OF WAIVER.**—At any time the Secretary may withdraw a waiver granted under paragraph (1). Upon such withdrawal, the Secretary shall publish in the Federal Register a notice describing each standard for which a waiver has been withdrawn and the reasons for withdrawing the waiver.

(e) **CONFORMITY WITH NATIONAL ARCHITECTURE.**—

(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

(2) **SECRETARY'S DISCRETION.**—The Secretary may authorize exceptions to paragraph (1) for—

(A) projects designed to achieve specific research objectives outlined in the National ITS Program Plan under section 5205 or the Surface Transportation Research and Development Strategic Plan developed under section 508 of title 23, United States Code; or

(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subtitle, if the Secretary determines that the upgrade or expansion—

(i) would not adversely affect the goals or purposes of this subtitle;

(ii) is carried out before the end of the useful life of such system; and

(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

(3) **EXCEPTIONS.**—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subtitle.

(f) **SPECTRUM.**—The Federal Communications Commission shall consider, in consultation with the Secretary, spectrum needs for the operation of intelligent transportation systems, including spectrum for the dedicated short-range vehicle-to-wayside wireless standard. Not later than January 1, 2000, the Federal Communications Commission shall have completed a rulemaking considering the allocation of spectrum for intelligent transportation systems.

#### **SEC. 5207. RESEARCH AND DEVELOPMENT.**

23 USC 502 note.

(a) **IN GENERAL.**—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subtitle.

(b) **PRIORITY AREAS.**—Under the program, the Secretary shall give higher priority to funding projects that—

(1) address traffic management, incident management, transit management, toll collection, traveler information, or highway operations systems;

(2) focus on crash-avoidance and integration of in-vehicle crash protection technologies with other on-board safety systems, including the interaction of air bags and safety belts;

(3) incorporate human factors research, including the science of the driving process;

(4) facilitate the integration of intelligent infrastructure, vehicle, and control technologies, including magnetic guidance control systems or other materials or magnetics research; or

(5) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates.

(c) **OPERATIONAL TESTS.**—Operational tests conducted under this section shall be designed for the collection of data to permit objective evaluation of the results of the tests, derivation of cost-benefit information that is useful to others contemplating deployment of similar systems, and development and implementation of standards.

(d) **FEDERAL SHARE.**—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 percent.

23 USC 502 note. **SEC. 5208. INTELLIGENT TRANSPORTATION SYSTEM INTEGRATION PROGRAM.**

(a) **IN GENERAL.**—The Secretary shall conduct a comprehensive program to accelerate the integration and interoperability of intelligent transportation systems in metropolitan and rural areas. Under the program, the Secretary shall select for funding, through competitive solicitation, projects that will serve as models to improve transportation efficiency, promote safety (including safe freight movement), increase traffic flow (including the flow of intermodal travel at ports of entry), reduce emissions of air pollutants, improve traveler information, enhance alternative transportation modes, build on existing intelligent transportation system projects, or promote tourism.

(b) **SELECTION OF PROJECTS.**—Under the program, the Secretary shall give priority to funding projects that—

(1) contribute to national deployment goals and objectives outlined in the National ITS Program Plan under section 5205;

(2) demonstrate a strong commitment to cooperation among agencies, jurisdictions, and the private sector, as evidenced by signed memoranda of understanding that clearly define the responsibilities and relations of all parties to a partnership arrangement, including institutional relationships and financial agreements needed to support deployment;

(3) encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships, including arrangements that generate revenue to offset public investment costs;

(4) demonstrate commitment to a comprehensive plan of fully integrated intelligent transportation system deployment

in accordance with the national architecture and standards and protocols established under section 5206;

(5) are part of approved plans and programs developed under applicable statewide and metropolitan transportation planning processes and applicable State air quality implementation plans, as appropriate, at the time at which Federal funds are sought;

(6) minimize the relative percentage and amount of Federal contributions under this section to total project costs;

(7) ensure continued, long-term operations and maintenance without continued reliance on Federal funding under this subtitle, as evidenced by documented evidence of fiscal capacity and commitment from anticipated public and private sources;

(8) demonstrate technical capacity for effective operations and maintenance or commitment to acquiring necessary skills;

(9) mitigate any adverse impacts on bicycle and pedestrian transportation and safety; or

(10) in the case of a rural area, meet other safety, mobility, geographic and regional diversity, or economic development criteria as determined by the Secretary.

(c) FISCAL YEAR LIMITATIONS.—Of the amounts made available to carry out this section for a fiscal year—

(1) not more than \$15,000,000 may be used for projects in a single metropolitan area;

(2) not more than \$2,000,000 may be used for projects in a single rural area; and

(3) not more than \$35,000,000 may be used for projects in a State.

(d) FUNDING LIMITATIONS.—

(1) PROJECTS IN METROPOLITAN AREAS.—Funding under this section for intelligent transportation infrastructure projects in metropolitan areas shall be used primarily for activities necessary to integrate intelligent transportation infrastructure elements that are either deployed or to be deployed with other sources of funds.

(2) OTHER PROJECTS.—For projects outside metropolitan areas, funding provided under this subtitle may also be used for installation of intelligent transportation infrastructure elements.

(e) FUNDING FOR RURAL AREAS.—The Secretary shall allocate not less than 10 percent of funds authorized by section 5001(c)(4)(A) in rural areas for intelligent transportation infrastructure deployment activities funded under this section to carry out intelligent transportation infrastructure deployment activities in rural areas.

(f) FEDERAL SHARE.—

(1) FUNDS MADE AVAILABLE UNDER THIS SECTION.—The Federal share of the cost of a project payable from funds made available under this section shall not exceed 50 percent.

(2) FUNDS MADE AVAILABLE FROM ALL FEDERAL SOURCES.—The total Federal share of the cost of a project payable from all eligible sources (including this section) shall not exceed 80 percent.

(g) CORRIDOR DEVELOPMENT AND COORDINATION.—

(1) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements intended to promote regional cooperation, planning, and shared

Contracts.

project implementation for intelligent transportation system projects.

(2) GREAT LAKES ITS IMPLEMENTATION.—

(A) IN GENERAL.—The Secretary shall make grants under this subsection to the State of Wisconsin to continue ITS activities in the corridor serving the Greater Milwaukee, Wisconsin, Chicago, Illinois, and Gary, Indiana, areas initiated under the Intermodal Surface Transportation Efficiency Act of 1991 and other areas of the State.

(B) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 under section 5001(c)(4)(A) of this Act, \$2,000,000 per fiscal year shall be available to carry out this paragraph.

(3) NORTHEAST ITS IMPLEMENTATION.—

(A) IN GENERAL.—The Secretary shall make grants under this subsection to the States to continue ITS activities in the Interstate Route I-95 corridor in the northeastern United States initiated under the Intermodal Surface Transportation Efficiency Act of 1991.

(B) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 under section 5001(c)(4)(A) of this Act, \$5,000,000 per fiscal year shall be available to carry out this paragraph.

23 USC 502 note. **SEC. 5209. COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE DEPLOYMENT.**

(a) IN GENERAL.—The Secretary shall carry out a comprehensive program to deploy intelligent transportation systems that—

(1) improve the safety and productivity of commercial vehicles and drivers; and

(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications to commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

(c) PRIORITY AREAS.—In carrying out the program, the Secretary shall give priority to projects that—

(1) encourage multistate cooperation and corridor development;

(2)(A) improve the safety of commercial vehicle operations; and

(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and generally increase the effectiveness of enforcement efforts;

(3)(A) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information; and

(B) promote communication of the information among the States; or

(4) enhance the safe passage of commercial vehicles across the United States and across international borders.

(d) LEVERAGING OF FEDERAL FUNDS.—Federal funds used to carry out the program shall, to the maximum extent practicable—

- (1) be leveraged with non-Federal funds; and
- (2) be used for activities not carried out through the use of private funds.

(e) **FEDERAL SHARE.**—The Federal share of the cost of the project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of the project payable from all eligible sources shall not exceed 80 percent.

**SEC. 5210. USE OF FUNDS.**

23 USC 502 note.

(a) **OUTREACH AND PUBLIC RELATIONS LIMITATION.**—

(1) **IN GENERAL.**—For each fiscal year, not more than \$5,000,000 of the funds made available to carry out this subtitle shall be used for intelligent transportation system outreach, public relations, displays, scholarships, tours, and brochures.

(2) **APPLICABILITY.**—Paragraph (1) shall not apply to intelligent transportation system training or the publication or distribution of research findings, technical guidance, or similar documents.

(b) **INFRASTRUCTURE DEVELOPMENT.**—Funds made available to carry out this subtitle for operational tests and deployment projects—

(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

(c) **LIFE CYCLE COST ANALYSIS AND FINANCING AND OPERATIONS PLAN.**—The Secretary shall require an applicant for funds made available under sections 5208 and 5209 to submit to the Secretary—

(1) an analysis of the life-cycle costs of operation and maintenance of intelligent transportation system elements, if the total initial capital costs of the elements exceed \$3,000,000; and

(2) a multiyear financing and operations plan that describes how the project will be cost-effectively operated and maintained.

**SEC. 5211. DEFINITIONS.**

In this subtitle, the following definitions apply:

(1) **COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.**—The term “Commercial Vehicle Information Systems and Networks” means the information systems and communications networks that support commercial vehicle operations.

(2) **COMMERCIAL VEHICLE OPERATIONS.**—The term “commercial vehicle operations”—

(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

(3) **CORRIDOR.**—The term “corridor” means any major transportation route that includes parallel limited access highways, major arterials, or transit lines.

(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term “intelligent transportation infrastructure” means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

(5) INTELLIGENT TRANSPORTATION SYSTEM.—The term “intelligent transportation system” means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

(6) NATIONAL ARCHITECTURE.—The term “national architecture” means the common framework for interoperability adopted by the Secretary that defines—

(A) the functions associated with intelligent transportation system user services;

(B) the physical entities or subsystems within which the functions reside;

(C) the data interfaces and information flows between physical subsystems; and

(D) the communications requirements associated with the information flows.

(7) STANDARD.—The term “standard” means a document that—

(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

(B) may support the national architecture and promote—

(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

(8) STATE.—The term “State” has the meaning given the term under section 101 of title 23, United States Code.

23 USC 502 note. **SEC. 5212. PROJECT FUNDING.**

(a) USE OF HAZARDOUS MATERIALS MONITORING SYSTEMS.—

(1) IN GENERAL.—The Secretary shall conduct research on improved methods of deploying and integrating existing ITS projects to include hazardous materials monitoring systems across various modes of transportation.

(2) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(6) of this Act, \$1,500,000 per fiscal year shall be available to carry out this paragraph.

(b) OUTREACH AND TECHNOLOGY TRANSFER ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall continue to support the Urban Consortium’s ITS outreach and technology transfer activities.

(2) FUNDING.—Of the amounts made available for each of fiscal years 1998 through 2003 by section 5001(a)(5) of this Act, \$500,000 per fiscal year shall be available to carry out this paragraph.

(c) TRANSLINK.—

(1) IN GENERAL.—The Secretary shall make grants to the Texas Transportation Institute to continue the Translink Research program.

(2) FUNDING.—Of the amounts allocated for each of fiscal years 1999 through 2001 by section 5001(a)(6) of this Act, \$1,300,000 per fiscal year shall be available to carry out this paragraph.

**SEC. 5213. REPEAL.**

23 USC 502 note.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title VI (23 U.S.C. 307 note; 105 Stat. 2189).

## **TITLE VI—OZONE AND PARTICULATE MATTER STANDARDS**

**SEC. 6101. FINDINGS AND PURPOSE.**

42 USC 7407  
note.

(a) The Congress finds that—

(1) there is a lack of air quality monitoring data for fine particle levels, measured as PM<sub>2.5</sub>, in the United States and the States should receive full funding for the monitoring efforts;

(2) such data would provide a basis for designating areas as attainment or nonattainment for any PM<sub>2.5</sub> national ambient air quality standards pursuant to the standards promulgated in July 1997;

(3) the President of the United States directed the Administrator of the Environmental Protection Agency (referred to in this title as the “Administrator”) in a memorandum dated July 16, 1997, to complete the next periodic review of the particulate matter national ambient air quality standards by July 2002 in order to determine “whether to revise or maintain the standards”;

(4) the Administrator has stated that 3 years of air quality monitoring data for fine particle levels, measured as PM<sub>2.5</sub> and performed in accordance with any applicable Federal reference methods, is appropriate for designating areas as attainment or nonattainment pursuant to the July 1997 promulgated standards; and

(5) the Administrator has acknowledged that in drawing boundaries for attainment and nonattainment areas for the July 1997 ozone national air quality standards, Governors would benefit from considering implementation guidance from EPA on drawing area boundaries.

(b) The purposes of this title are—

(1) to ensure that 3 years of air quality monitoring data regarding fine particle levels are gathered for use in the determination of area attainment or nonattainment designations respecting any PM<sub>2.5</sub> national ambient air quality standards;

(2) to ensure that the Governors have adequate time to consider implementation guidance from EPA on drawing area boundaries prior to submitting area designations respecting the July 1997 ozone national ambient air quality standards;

(3) to ensure that the schedule for implementation of the July 1997 revisions of the ambient air quality standards for particulate matter and the schedule for the Environmental

Protection Agency's visibility regulations related to regional haze are consistent with the timetable for implementation of such particulate matter standards as set forth in the President's Implementation Memorandum dated July 16, 1997.

42 USC 7407  
note.

**SEC. 6102. PARTICULATE MATTER MONITORING PROGRAM.**

(a) Through grants under section 103 of the Clean Air Act the Administrator of the Environmental Protection Agency shall use appropriated funds no later than fiscal year 2000 to fund 100 percent of the cost of the establishment, purchase, operation and maintenance of a PM<sub>2.5</sub> monitoring network necessary to implement the national ambient air quality standards for PM<sub>2.5</sub> under section 109 of the Clean Air Act. This implementation shall not result in a diversion or reprogramming of funds from other Federal, State or local Clean Air Act activities. Any funds previously diverted or reprogrammed from section 105 Clean Air Act grants for PM<sub>2.5</sub> monitors must be restored to State or local air programs in fiscal year 1999.

(b) EPA and the States, consistent with their respective authorities under the Clean Air Act, shall ensure that the national network (designated in subsection (a)) which consists of the PM<sub>2.5</sub> monitors necessary to implement the national ambient air quality standards is established by December 31, 1999.

(c)(1) The Governors shall be required to submit designations referred to in section 107(d)(1) of the Clean Air Act for each area following promulgation of the July 1997 PM<sub>2.5</sub> national ambient air quality standard within 1 year after receipt of 3 years of air quality monitoring data performed in accordance with any applicable Federal reference methods for the relevant areas. Only data from the monitoring network designated in subsection (a) and other Federal reference method PM<sub>2.5</sub> monitors shall be considered for such designations. Nothing in the previous sentence shall be construed as affecting the Governor's authority to designate an area initially as nonattainment, and the Administrator's authority to promulgate the designation of an area as nonattainment, under section 107(d)(1) of the Clean Air Act, based on its contribution to ambient air quality in a nearby nonattainment area.

(2) For any area designated as nonattainment for the July 1997 PM<sub>2.5</sub> national ambient air quality standard in accordance with the schedule set forth in this section, notwithstanding the time limit prescribed in paragraph (2) of section 169B(e) of the Clean Air Act, the Administrator shall require State implementation plan revisions referred to in such paragraph (2) to be submitted at the same time as State implementation plan revisions referred to in section 172 of the Clean Air Act implementing the revised national ambient air quality standard for fine particulate matter are required to be submitted. For any area designated as attainment or unclassifiable for such standard, the Administrator shall require the State implementation plan revisions referred to in such paragraph (2) to be submitted 1 year after the area has been so designated. The preceding provisions of this paragraph shall not preclude the implementation of the agreements and recommendations set forth in the Grand Canyon Visibility Transport Commission Report dated June 1996.

(d) The Administrator shall promulgate the designations referred to in section 107(d)(1) of the Clean Air Act for each area following promulgation of the July 1997 PM<sub>2.5</sub> national ambient



air quality standard by the earlier of 1 year after the initial designations required under subsection (c)(1) are required to be submitted or December 31, 2005.

(e) The Administrator shall conduct a field study of the ability of the PM<sub>2.5</sub> Federal Reference Method to differentiate those particles that are larger than 2.5 micrograms in diameter. This study shall be completed and provided to the Committee on Commerce of the House of Representatives and the Committee on Environment and Public Works of the United States Senate no later than 2 years from the date of enactment of this Act.

**SEC. 6103. OZONE DESIGNATION REQUIREMENTS.**

42 USC 7407  
note.

(a) The Governors shall be required to submit the designations referred to in section 107(d)(1) of the Clean Air Act within 2 years following the promulgation of the July 1997 ozone national ambient air quality standards.

(b) The Administrator shall promulgate final designations no later than 1 year after the designations required under subsection (a) are required to be submitted.

**SEC. 6104. ADDITIONAL PROVISIONS.**

42 USC 7407  
note.

Nothing in sections 6101 through 6103 shall be construed by the Administrator of Environmental Protection Agency or any court, State, or person to affect any pending litigation or to be a ratification of the ozone or PM<sub>2.5</sub> standards.

## **TITLE VII—MISCELLANEOUS**

### **Subtitle A—Automobile Safety and Information**

National  
Highway Traffic  
Safety  
Administration  
Reauthorization  
Act of 1998.  
49 USC 30101  
note.

**SEC 7101. SHORT TITLE.**

This subtitle may be cited as the “National Highway Traffic Safety Administration Reauthorization Act of 1998”.

**SEC. 7102. AUTHORIZATION OF APPROPRIATIONS.**

(a) MOTOR VEHICLE SAFETY ACTIVITIES.—Section 30104 of title 49, United States Code, is amended to read as follows:

**“§ 30104. Authorization of appropriations**

“There is authorized to be appropriated to the Secretary \$81,200,000 for the National Highway Traffic Safety Administration to carry out this part in each fiscal year beginning in fiscal year 1999 and ending in fiscal year 2001.”.

(b) MOTOR VEHICLE INFORMATION ACTIVITIES.—Section 32102 of title 49, United States Code, is amended to read as follows:

**“§ 32102. Authorization of appropriations**

“There is authorized to be appropriated to the Secretary \$6,200,000 for the National Highway Traffic Safety Administration to carry out this part in each fiscal year beginning in fiscal year 1999 and ending in fiscal year 2001.”.

**SEC. 7103. IMPROVING AIR BAG SAFETY.**

49 USC 30127  
note.

(a) RULEMAKING TO IMPROVE AIR BAGS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than September 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to improve occupant protection for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard No. 208, while minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags, by means that include advanced air bags.

(2) FINAL RULE.—Notwithstanding any other provision of law, the Secretary shall complete the rulemaking required by this subsection by issuing, not later than September 1, 1999, a final rule with any provision the Secretary deems appropriate, consistent with paragraph (1) and the requirements of section 30111, title 49, United States Code. If the Secretary determines that the final rule cannot be completed by that date to meet the purposes of paragraph (1), the Secretary may extend the date for issuing the final rule to not later than March 1, 2000.

(3) EFFECTIVE DATE.—The final rule issued under this subsection shall become effective in phases as rapidly as practicable, beginning not earlier than September 1, 2002, and no sooner than 30 months after the date of the issuance of the final rule, but not later than September 1, 2003. The final rule shall become fully effective for all vehicles identified in section 30127(b), title 49, United States Code, that are manufactured on and after September 1, 2005. Should the phase-in of the final rule required by this paragraph commence on September 1, 2003, then in that event, and only in that event, the Secretary is authorized to make the final rule fully effective on September 1, 2006, for all vehicles that are manufactured on and after that date.

(4) COORDINATION OF EFFECTIVE DATES.—The requirements of S13 of Standard No. 208 shall remain in effect unless and until changed by the rule required by this subsection.

(5) CREDIT FOR EARLY COMPLIANCE.—To encourage early compliance, the Secretary is directed to include in the notice of proposed rulemaking required by paragraph (1) means by which manufacturers may earn credits for future compliance. Credits, on a one-vehicle for one-vehicle basis, may be earned for vehicles certified as being in full compliance under section 30115 of title 49, United States Code, with the rule required by paragraph (2) which are either—

(A) so certified in advance of the phase-in period; or

(B) in excess of the percentage requirements during the phase-in period.

(b) ADVISORY COMMITTEES.—Any government advisory committee, task force, or other entity involving air bags shall include representatives of consumer and safety organizations, insurers, manufacturers, and suppliers.

#### SEC. 7104. RESTRICTIONS ON LOBBYING ACTIVITIES.

(a) AMENDMENT.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

##### “§ 30105. Restriction on lobbying activities

“(a) IN GENERAL.—No funds appropriated to the Secretary shall be available for any activity specifically designed to urge a State

or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body.

“(b) APPEARANCE AS WITNESS NOT BARRED.—Subsection (a) does not prohibit officers or employees of the United States from testifying before any State or local legislative body in response to the invitation of any member of that legislative body or a State executive office.”

(b) CLERICAL AMENDMENT.—The table of contents in subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

“30105. Restriction on lobbying activities.”.

#### **SEC. 7105. ODOMETERS.**

(a) TRANSFERS OF NEW MOTOR VEHICLES.—Section 32705(a) of title 49, United States Code, is amended by adding at the end the following:

“(4)(A) This subsection shall apply to all transfers of motor vehicles (unless otherwise exempted by the Secretary by regulation), except in the case of transfers of new motor vehicles from a vehicle manufacturer jointly to a dealer and a person engaged in the business of renting or leasing vehicles for a period of 30 days or less.

“(B) For purposes of subparagraph (A), the term ‘new motor vehicle’ means any motor vehicle driven with no more than the limited use necessary in moving, transporting, or road testing such vehicle prior to delivery from the vehicle manufacturer to a dealer, but in no event shall the odometer reading of such vehicle exceed 300 miles.”.

(b) EXEMPTED VEHICLES.—Section 32705(a) of title 49, United States Code, as amended by subsection (a), is amended by adding at the end the following new paragraph:

“(5) The Secretary may exempt such classes or categories of vehicles as the Secretary deems appropriate from these requirements. Until such time as the Secretary amends or modifies the regulations set forth in 49 CFR 580.6, such regulations shall have full force and effect.”.

#### **SEC. 7106. MISCELLANEOUS AMENDMENTS.**

(a) REMEDIES FOR DEFECTS AND NONCOMPLIANCE.—Section 30120(i)(1) of title 49, United States Code, is amended by inserting “(including retailers of motor vehicle equipment)” after “dealer” the first time it appears.

(b) TIRES.—Section 30123 of title 49, United States Code, is amended by striking subsections (a), (b), and (c) and by redesignating subsections (d), (e), and (f), as subsections (a), (b), and (c), respectively.

(c) AUTOMATIC OCCUPANT CRASH PROTECTION AND SEAT BELT USE.—Section 30127(g)(1) of title 49, United States Code, is amended by striking “every 6 months” and inserting “annually”.

(d) MISCELLANEOUS.—

(1) DEFINITIONS.—

(A) COUNTRY OF ORIGIN.—Section 32304(a)(3)(B) of title 49, United States Code, is amended by inserting before the period the following: “, plus the assembly and labor costs incurred for the final assembly of such engines and transmissions”.

(B) FINAL ASSEMBLY PLACE.—Section 32304(a)(5) of title 49, United States Code, is amended by adding at the end the following: “Such term does not include facilities for engine and transmission fabrication and assembly and the facilities for fabrication of motor vehicle equipment component parts which are produced at the same final assembly place using forming processes such as stamping, machining, or molding processes.”.

(C) OUTSIDE SUPPLIER CONTENT REPORTING.—Section 32304(a)(9)(A) of title 49, United States Code, is amended to read as follows:

“(A) for an outside supplier—

“(i) the full purchase price of passenger motor vehicle equipment whose purchase price contains at least 70 percent value added in the United States and Canada; or

“(ii) that portion of the purchase price of passenger motor vehicle equipment containing less than 70 percent value added in the United States and Canada that is attributable to the percent value added in the United States and Canada when such percent is expressed to the nearest 5 percent; and”.

(2) COUNTRY OF ASSEMBLY.—Section 32304(d) of title 49, United States Code, is amended by adding at the end the following: “A manufacturer may add to the label required under subsection (b) a line stating the country in which vehicle assembly was completed.”.

(3) VEHICLE CONTENT PERCENTAGE BY ASSEMBLY PLANT.—Section 32304 of title 49, United States Code, is amended by redesignating subsections (c) through (f) as subsections (f) through (i), respectively, and by adding after subsection (b) the following:

“(c) VEHICLE CONTENT PERCENTAGE BY ASSEMBLY PLANT.—A manufacturer may display separately on the label required by subsection (b) the domestic content of a vehicle based on the assembly plant. Such display shall occur after the matter required to be in the label by subsection (b)(1)(A).”.

(4) SUPPLIERS FAILING TO REPORT.—Section 32304 of title 49, United States Code, is amended by adding after subsection (c), as added by paragraph (3), the following:

“(d) VALUE ADDED DETERMINATION.—If a manufacturer or allied supplier requests information in a timely manner from one or more of its outside suppliers concerning the United States/Canadian content of particular equipment, but does not receive that information despite a good faith effort to obtain it, the manufacturer or allied supplier may make its own good faith value added determinations, subject to the following:

“(1) The manufacturer or allied supplier shall make the same value added determinations as would be made by the outside supplier, that is, whether 70 percent or more of the value of equipment is added in the United States and/or Canada.

“(2) The manufacturer or allied supplier shall consider the amount of value added and the location in which the value was added for all of the stages that the outside supplier would be required to consider.

“(3) The manufacturer or allied supplier may determine that the value added in the United States and/or Canada is 70 percent or more only if it has a good faith basis to make that determination.

“(4) A manufacturer and its allied suppliers may, on a combined basis, make value added determinations for no more than 10 percent, by value, of a carline’s total parts content from outside suppliers.

“(5) Value added determinations made by a manufacturer or allied supplier under this paragraph shall have the same effect as if they were made by the outside supplier.

“(6) This provision does not affect the obligation of outside suppliers to provide the requested information.”.

(5) ACCOUNTING FOR THE VALUE OF SMALL PARTS.—Section 32304 of title 49, United States Code, is amended by adding after subsection (d), as added by paragraph (4), the following:

“(e) SMALL PARTS.—The country of origin of nuts, bolts, clips, screws, pins, braces, gasoline, oil, blackout, phosphate rinse, windshield washer fluid, fasteners, tire assembly fluid, rivets, adhesives, and grommets, of any system, subassembly, or component installed in a vehicle shall be considered to be the country in which such parts were included in the final assembly of such vehicle.”.

(e) STUDY.—The National Highway Traffic Safety Administration shall conduct a study of the benefits to motor vehicle drivers of a regulation to require the installation in a motor vehicle of an interior device to release the trunk lid. Not later than 18 months after the date of the enactment of this Act, the Administration shall submit a report on the results of the study to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

49 USC 30101  
note.

#### **SEC. 7107. IMPORTATION OF MOTOR VEHICLE FOR SHOW OR DISPLAY.**

(a) IMPORTATION OF NONCOMPLYING MOTOR VEHICLES.—Section 30114 of title 49, United States Code, is amended by striking “or competitive racing events” and inserting “competitive racing events, show, or display”.

(b) TRANSITION RULE.—A person who is the owner of a motor vehicle located in the United States on the date of enactment of this Act may seek an exemption under section 30114 of title 49, United States Code, as amended by subsection (a) of this section, for a period of 6 months after the date regulations of the Secretary of Transportation promulgated in response to such amendment take effect.

49 USC 30114  
note.

## **Subtitle B—Railroads**

#### **SEC. 7201. HIGH-SPEED RAIL.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 26104 of title 49, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (h); and

(2) by inserting after subsection (c) the following new subsections:

“(d) FISCAL YEAR 1998.—(1) There are authorized to be appropriated to the Secretary \$10,000,000 for fiscal year 1998, for carrying out section 26101 (including payment of administrative expenses related thereto).

“(2) There are authorized to be appropriated to the Secretary \$25,000,000 for fiscal year 1998, for carrying out section 26102 (including payment of administrative expenses related thereto).

“(e) FISCAL YEAR 1999.—(1) There are authorized to be appropriated to the Secretary \$10,000,000 for fiscal year 1999, for carrying out section 26101 (including payment of administrative expenses related thereto).

“(2) There are authorized to be appropriated to the Secretary \$25,000,000 for fiscal year 1999, for carrying out section 26102 (including payment of administrative expenses related thereto).

“(f) FISCAL YEAR 2000.—(1) There are authorized to be appropriated to the Secretary \$10,000,000 for fiscal year 2000, for carrying out section 26101 (including payment of administrative expenses related thereto).

“(2) There are authorized to be appropriated to the Secretary \$25,000,000 for fiscal year 2000, for carrying out section 26102 (including payment of administrative expenses related thereto).

“(g) FISCAL YEAR 2001.—(1) There are authorized to be appropriated to the Secretary \$10,000,000 for fiscal year 2001, for carrying out section 26101 (including payment of administrative expenses related thereto).

“(2) There are authorized to be appropriated to the Secretary \$25,000,000 for fiscal year 2001, for carrying out section 26102 (including payment of administrative expenses related thereto).”.

(b) DEFINITION.—Section 26105(2) of title 49, United States Code, is amended to read as follows:

“(2) the term ‘high-speed rail’ means all forms of non-highway ground transportation that run on rails or electromagnetic guideways providing transportation service which is—

“(A) reasonably expected to reach sustained speeds of more than 125 miles per hour; and

“(B) made available to members of the general public as passengers, but does not include rapid transit operations within an urban area that are not connected to the general rail system of transportation.”.

#### **SEC. 7202. LIGHT DENSITY RAIL LINE PILOT PROJECTS.**

(a) AMENDMENT.—Part B of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

#### **“CHAPTER 223—LIGHT DENSITY RAIL LINE PILOT PROJECTS**

“Sec.

“22301. Light density rail line pilot projects.

#### **“§ 22301. Light density rail line pilot projects**

“(a) GRANTS.—The Secretary of Transportation may make grants to States that have State rail plans described in section 22102 (1) and (2), to fund pilot projects that demonstrate the relationship of light density railroad services to the statutory responsibilities of the Secretary, including those under title 23.

“(b) LIMITATIONS.—Grants under this section may be made only for pilot projects for making capital improvements to, and rehabilitating, publicly and privately owned rail line structures, and may not be used for providing operating assistance.

“(c) PRIVATE OWNER CONTRIBUTIONS.—Grants made under this section for projects on privately owned rail line structures shall include contributions by the owner of the rail line structures, based on the benefit to those structures, as determined by the Secretary.

“(d) STUDY.—The Secretary shall conduct a study of the pilot projects carried out with grant assistance under this section to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system. Not later than March 31, 2003, the Secretary shall report to Congress any recommendations the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section \$17,500,000 for each of the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. Such funds shall remain available until expended.”.

(b) TABLE OF CHAPTERS.—The table of chapters of subtitle V of title 49, United States Code, is amended by inserting after the item relating to chapter 221 the following new item:

“223. LIGHT DENSITY RAIL LINE PILOT PROJECTS ..... 22301”.

**SEC. 7203. RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.**

(a) AMENDMENTS.—Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) by striking sections 501 through 504 and inserting 45 USC 821–824.  
the following new sections:

**“SEC. 501. DEFINITIONS.**

45 USC 821.

“For purposes of this title:

“(1)(A) The term ‘cost’ means the estimated long-term cost to the Government of a direct loan or loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

“(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

“(i) Loan disbursements.

“(ii) Repayments of principal.

“(iii) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

Calculation of the cost of a direct loan shall include the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

“(C) The cost of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

“(i) Payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments.

“(ii) Payments to the Government, including origination and other fees, penalties, and recoveries.

Calculation of the cost of a loan guarantee shall include the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan

guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

“(D) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of a direct loan or loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

“(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

“(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

“(2) The term ‘current’ has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(3) The term ‘direct loan’ means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims.

“(4) The term ‘direct loan obligation’ means a binding agreement by the Secretary to make a direct loan when specified conditions are fulfilled by the borrower.

“(5) The term ‘intermodal’ means of or relating to the connection between rail service and other modes of transportation, including all parts of facilities at which such connection is made.

“(6) The term ‘loan guarantee’ means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

“(7) The term ‘loan guarantee commitment’ means a binding agreement by the Secretary to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

“(8) The term ‘modification’ means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.



**“SEC. 502. DIRECT LOANS AND LOAN GUARANTEES.**

45 USC 822.

“(a) **GENERAL AUTHORITY.**—The Secretary may provide direct loans and loan guarantees to State and local governments, government sponsored authorities and corporations, railroads, and joint ventures that include at least 1 railroad.

“(b) **ELIGIBLE PURPOSES.**—

“(1) **IN GENERAL.**—Direct loans and loan guarantees under this section shall be used to—

“(A) acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings, and shops;

“(B) refinance outstanding debt incurred for the purposes described in subparagraph (A); or

“(C) develop or establish new intermodal or railroad facilities.

“(2) **OPERATING EXPENSES NOT ELIGIBLE.**—Direct loans and loan guarantees under this section shall not be used for railroad operating expenses.

“(c) **PRIORITY PROJECTS.**—In granting applications for direct loans or guaranteed loans under this section, the Secretary shall give priority to projects that—

“(1) enhance public safety;

“(2) enhance the environment;

“(3) promote economic development;

“(4) enable United States companies to be more competitive in international markets;

“(5) are endorsed by the plans prepared under section 135 of title 23, United States Code, by the State or States in which they are located; or

“(6) preserve or enhance rail or intermodal service to small communities or rural areas.

“(d) **EXTENT OF AUTHORITY.**—The aggregate unpaid principal amounts of obligations under direct loans and loan guarantees made under this section shall not exceed \$3,500,000,000 at any one time. Of this amount, not less than \$1,000,000,000 shall be available solely for projects primarily benefiting freight railroads other than Class I carriers.

“(e) **RATES OF INTEREST.**—

“(1) **DIRECT LOANS.**—The Secretary shall require interest to be paid on a direct loan made under this section at a rate not less than that necessary to recover the cost of making the loan.

“(2) **LOAN GUARANTEES.**—The Secretary shall not make a loan guarantee under this section if the interest rate for the loan exceeds that which the Secretary determines to be reasonable, taking into consideration the prevailing interest rates and customary fees incurred under similar obligations in the private capital market.

“(f) **INFRASTRUCTURE PARTNERS.**—

“(1) **AUTHORITY OF SECRETARY.**—In lieu of or in combination with appropriations of budget authority to cover the costs of direct loans and loan guarantees as required under section 504(b)(1) of the Federal Credit Reform Act of 1990, the Secretary may accept on behalf of an applicant for assistance under this section a commitment from a non-Federal source to fund in whole or in part credit risk premiums with respect to the loan that is the subject of the application. In no event

shall the aggregate of appropriations of budget authority and credit risk premiums described in this paragraph with respect to a direct loan or loan guarantee be less than the cost of that direct loan or loan guarantee.

“(2) CREDIT RISK PREMIUM AMOUNT.—The Secretary shall determine the amount required for credit risk premiums under this subsection on the basis of—

“(A) the circumstances of the applicant, including the amount of collateral offered;

“(B) the proposed schedule of loan disbursements;

“(C) historical data on the repayment history of similar borrowers;

“(D) consultation with the Congressional Budget Office; and

“(E) any other factors the Secretary considers relevant.

“(3) PAYMENT OF PREMIUMS.—Credit risk premiums under this subsection shall be paid to the Secretary before the disbursement of loan amounts.

“(4) COHORTS OF LOANS.—In order to maintain sufficient balances of credit risk premiums to adequately protect the Federal Government from risk of default, while minimizing the length of time the Government retains possession of those balances, the Secretary shall establish cohorts of loans. When all obligations attached to a cohort of loans have been satisfied, credit risk premiums paid for the cohort, and interest accrued thereon, which were not used to mitigate losses shall be returned to the original source on a pro rata basis.

“(g) PREREQUISITES FOR ASSISTANCE.—The Secretary shall not make a direct loan or loan guarantee under this section unless the Secretary has made a finding in writing that—

“(1) repayment of the obligation is required to be made within a term of not more than 25 years from the date of its execution;

“(2) the direct loan or loan guarantee is justified by the present and probable future demand for rail services or intermodal facilities;

“(3) the applicant has given reasonable assurances that the facilities or equipment to be acquired, rehabilitated, improved, developed, or established with the proceeds of the obligation will be economically and efficiently utilized;

“(4) the obligation can reasonably be repaid, using an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government; and

“(5) the purposes of the direct loan or loan guarantee are consistent with subsection (b).

“(h) CONDITIONS OF ASSISTANCE.—The Secretary shall, before granting assistance under this section, require the applicant to agree to such terms and conditions as are sufficient, in the judgment of the Secretary, to ensure that, as long as any principal or interest is due and payable on such obligation, the applicant, and any railroad or railroad partner for whose benefit the assistance is intended—

“(1) will not use any funds or assets from railroad or intermodal operations for purposes not related to such operations, if such use would impair the ability of the applicant,

railroad, or railroad partner to provide rail or intermodal services in an efficient and economic manner, or would adversely affect the ability of the applicant, railroad, or railroad partner to perform any obligation entered into by the applicant under this section;

“(2) will, consistent with its capital resources, maintain its capital program, equipment, facilities, and operations on a continuing basis; and

“(3) will not make any discretionary dividend payments that unreasonably conflict with the purposes stated in subsection (b).

**“SEC. 503. ADMINISTRATION OF DIRECT LOANS AND LOAN GUARANTEES.**

45 USC 823 note.

“(a) APPLICATIONS.—The Secretary shall prescribe the form and contents required of applications for assistance under section 502, to enable the Secretary to determine the eligibility of the applicant’s proposal, and shall establish terms and conditions for direct loans and loan guarantees made under that section.

“(b) ASSIGNMENT OF LOAN GUARANTEES.—The holder of a loan guarantee made under section 502 may assign the loan guarantee in whole or in part, subject to such requirements as the Secretary may prescribe.

“(c) MODIFICATIONS.—The Secretary may approve the modification of any term or condition of a direct loan, loan guarantee, direct loan obligation, or loan guarantee commitment, including the rate of interest, time of payment of interest or principal, or security requirements, if the Secretary finds in writing that—

“(1) the modification is equitable and is in the overall best interests of the United States; and

“(2) consent has been obtained from the applicant and, in the case of a loan guarantee or loan guarantee commitment, the holder of the obligation.

“(d) COMPLIANCE.—The Secretary shall assure compliance, by an applicant, any other party to the loan, and any railroad or railroad partner for whose benefit assistance is intended, with the provisions of this title, regulations issued hereunder, and the terms and conditions of the direct loan or loan guarantee, including through regular periodic inspections.

“(e) COMMERCIAL VALIDITY.—For purposes of claims by any party other than the Secretary, a loan guarantee or loan guarantee commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this title, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder thereof, including the original lender or any other holder, as of the date when the Secretary granted the application therefor, except as to fraud or material misrepresentation by such holder.

“(f) DEFAULT.—The Secretary shall prescribe regulations setting forth procedures in the event of default on a loan made or guaranteed under section 502. The Secretary shall ensure that each loan guarantee made under that section contains terms and conditions that provide that—

Regulations.

“(1) if a payment of principal or interest under the loan is in default for more than 30 days, the Secretary shall pay

to the holder of the obligation, or the holder's agent, the amount of unpaid guaranteed interest;

"(2) if the default has continued for more than 90 days, the Secretary shall pay to the holder of the obligation, or the holder's agent, 90 percent of the unpaid guaranteed principal;

"(3) after final resolution of the default, through liquidation or otherwise, the Secretary shall pay to the holder of the obligation, or the holder's agent, any remaining amounts guaranteed but which were not recovered through the default's resolution;

"(4) the Secretary shall not be required to make any payment under paragraphs (1) through (3) if the Secretary finds, before the expiration of the periods described in such paragraphs, that the default has been remedied; and

"(5) the holder of the obligation shall not receive payment or be entitled to retain payment in a total amount which, together with all other recoveries (including any recovery based upon a security interest in equipment or facilities) exceeds the actual loss of such holder.

"(g) RIGHTS OF THE SECRETARY.—

"(1) SUBROGATION.—If the Secretary makes payment to a holder, or a holder's agent, under subsection (g) in connection with a loan guarantee made under section 502, the Secretary shall be subrogated to all of the rights of the holder with respect to the obligor under the loan.

"(2) DISPOSITION OF PROPERTY.—The Secretary may complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, rent, sell, or otherwise dispose of any property or other interests obtained pursuant to this section. The Secretary shall not be subject to any Federal or State regulatory requirements when carrying out this paragraph.

"(h) ACTION AGAINST OBLIGOR.—The Secretary may bring a civil action in an appropriate Federal court in the name of the United States in the event of a default on a direct loan made under section 502, or in the name of the United States or of the holder of the obligation in the event of a default on a loan guaranteed under section 502. The holder of a guarantee shall make available to the Secretary all records and evidence necessary to prosecute the civil action. The Secretary may accept property in full or partial satisfaction of any sums owed as a result of a default. If the Secretary receives, through the sale or other disposition of such property, an amount greater than the aggregate of—

"(1) the amount paid to the holder of a guarantee under subsection (g) of this section; and

"(2) any other cost to the United States of remedying the default,

the Secretary shall pay such excess to the obligor.

"(i) BREACH OF CONDITIONS.—The Attorney General shall commence a civil action in an appropriate Federal court to enjoin any activity which the Secretary finds is in violation of this title, regulations issued hereunder, or any conditions which were duly agreed to, and to secure any other appropriate relief.

“(j) ATTACHMENT.—No attachment or execution may be issued against the Secretary, or any property in the control of the Secretary, prior to the entry of final judgment to such effect in any State, Federal, or other court.

“(k) INVESTIGATION CHARGE.—The Secretary may charge and collect from each applicant a reasonable charge for appraisal of the value of the equipment or facilities for which the direct loan or loan guarantee is sought, and for making necessary determinations and findings. Such charge shall not aggregate more than one-half of 1 percent of the principal amount of the obligation.”;

(2) by striking sections 505 through 515 (other than 511(c)), 517, and 518; 45 USC 825 *et seq.*

(3) in section 511(c) by striking “this section” and inserting “section 502”; 45 USC 831.

(4) by moving subsection (c) of section 511 (as amended by paragraph (3) of this section) from section 511 to section 503 (as inserted by paragraph (1) of this section), inserting it after subsection (a), and redesignating it as subsection (b); and 45 USC 831, 823.

(5) by redesignating section 516 as section 504. 45 USC 836.

(b) TECHNICAL AND CONFORMING PROVISIONS.—

(1) TABLE OF CONTENTS.—The table of contents of title V of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by striking the items relating to sections 502 through 518 and inserting the following:

“Sec. 502. Direct loans and loan guarantees.

“Sec. 503. Administration of direct loans and loan guarantees.

“Sec. 504. Employee protection.”.

(2) SAVINGS PROVISION.—A transaction entered into under the authority of title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 *et seq.*) before the date of enactment of this Act shall be administered until completion under its terms as if this Act were not enacted. 45 USC 821 note.

(3) REPEAL.—Section 211(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(i)) is repealed.

#### **SEC. 7204. ALASKA RAILROAD.**

45 USC 1207 note.

(a) GRANTS.—The Secretary may make grants to the Alaska Railroad for capital rehabilitation of and improvements to its passenger services.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,250,000 for each of fiscal years 1998 through 2003.

## **Subtitle C—Comprehensive One-Call Notification**

#### **SEC. 7301. FINDINGS.**

49 USC 6101 note.

Congress finds that—

(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power, and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate or untimely marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.

**SEC. 7302. ONE-CALL NOTIFICATION PROGRAMS.**

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end thereof the following:

**“CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS**

“Sec.

“6101. Purposes.

“6102. Definitions.

“6103. Minimum standards for State one-call notification programs.

“6104. Compliance with minimum standards.

“6105. Review of one-call system best practices.

“6106. Grants to States.

“6107. Authorization of appropriations.

“6108. Relationship to State laws.

**“§ 6101. Purposes**

“The purposes of this chapter are—

“(1) to enhance public safety;

“(2) to protect the environment;

“(3) to minimize risks to excavators; and

“(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the voluntary adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

**“§ 6102. Definitions**

“In this chapter, the following definitions apply:

“(1) ONE-CALL NOTIFICATION SYSTEM.—The term ‘one-call notification system’ means a system operated by an organization that has as 1 of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

“(2) STATE ONE-CALL NOTIFICATION PROGRAM.—The term ‘State one-call notification program’ means the State statutes, regulations, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

“(3) STATE.—The term ‘State’ means a State, the District of Columbia, and Puerto Rico.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

**“§ 6103. Minimum standards for State one-call notification programs**

“(a) MINIMUM STANDARDS.—In order to qualify for a grant under section 6106, a State one-call notification program shall, at a minimum, provide for—

“(1) appropriate participation by all underground facility operators;

“(2) appropriate participation by all excavators; and

“(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

“(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

“(1) damage to types of underground facilities; and

“(2) activities of types of excavators.

“(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for—

“(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

“(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

“(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a de minimis risk to public safety or the environment.

“(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

“(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

“(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

“(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

“(4) equitable relief; and

“(5) citation of violations.

**“§ 6104. Compliance with minimum standards**

“(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall submit to the Secretary a grant application under subsection (b). The State shall submit the application not later than 2 years after the date of enactment of this chapter.

“(b) APPLICATION.—

“(1) Upon application by a State, the Secretary shall review that State’s one-call notification program, including the provisions for the implementation of the program and the record of compliance and enforcement under the program.

“(2) Based on the review under paragraph (1), the Secretary shall determine whether the State’s one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

“(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

“(4) The Secretary shall prescribe the form and manner of filing an application under this section that shall provide sufficient information about a State’s one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

“(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

“(c) **ALTERNATIVE PROGRAM.**—A State is eligible to receive a grant under section 6106 if the State maintains an alternative one-call notification program that provides protection for public safety, excavators, and the environment that is equivalent to, or greater than, protection provided under a program that meets the minimum standards set forth in section 6103.

“(d) **REPORT.**—Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to include the following information in reports submitted under section 60124 of this title—

“(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

“(2) an analysis by the Secretary of the overall effectiveness of each State’s one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

“(3) the impact of each State’s decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

“(4) areas where improvements are needed in one-call notification systems in operation in each State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

#### **“§ 6105. Review of one-call system best practices**

“(a) **STUDY OF EXISTING ONE-CALL SYSTEMS.**—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators, and



other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

“(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to gather information in order to determine which existing one-call notification systems practices appear to be the most effective in protecting the public, excavators, and the environment and in preventing disruptions to public services and damage to underground facilities. As part of the study, the Secretary shall consider, at a minimum—

“(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

“(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

“(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

“(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

“(5) the effectiveness and accuracy of mapping used by one-call notification systems;

“(6) the relationship between one-call notification systems and preventing damage to underground facilities;

“(7) how one-call notification systems address the need for rapid response to situations where the need to excavate is urgent;

“(8) the extent to which accidents occur due to errors in marking of underground facilities, untimely marking or errors in the excavation process after a one-call notification system has been notified of an excavation;

“(9) the extent to which personnel engaged in marking underground facilities may be endangered;

“(10) the characteristics of damage prevention programs the Secretary believes could be relevant to the effectiveness of State one-call notification programs; and

“(11) the effectiveness of penalties and enforcement activities under State one-call notification programs in obtaining compliance with program requirements.

“(c) REPORT.—Within 1 year after the date of the enactment of this chapter, the Secretary shall publish a report identifying those practices of one-call notification systems that are the most and least successful in—

“(1) preventing damage to underground facilities; and

“(2) providing effective and efficient service to excavators and underground facility operators.

The Secretary shall encourage each State and operator of one-call notification programs to adopt and implement those practices identified in the report that the State determines are the most appropriate.

“(d) SECRETARIAL DISCRETION.—Prior to undertaking the study described in subsection (a), the Secretary shall determine whether timely information described in subsection (b) is readily available. If the Secretary determines that such information is readily available, the Secretary is not required to carry out the study.

**“§ 6106. Grants to States**

“(a) IN GENERAL.—The Secretary may make a grant of financial assistance to a State that qualifies under section 6104(b) to assist in improving—

“(1) the overall quality and effectiveness of one-call notification systems in the State;

“(2) communications systems linking one-call notification systems;

“(3) location capabilities, including training personnel and developing and using location technology;

“(4) record retention and recording capabilities for one-call notification systems;

“(5) public information and education;

“(6) participation in one-call notification systems; or

“(7) compliance and enforcement under the State one-call notification program.

“(b) STATE ACTION TAKEN INTO ACCOUNT.—In making grants under this section, the Secretary shall take into consideration the commitment of each State to improving its State one-call notification program, including legislative and regulatory actions taken by the State after the date of enactment of this chapter.

“(c) FUNDING FOR ONE-CALL NOTIFICATION SYSTEMS.—A State may provide funds received under this section directly to any one-call notification system in such State that substantially adopts the best practices identified under section 6105.

**“§ 6107. Authorization of appropriations**

“(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary to provide grants to States under section 6106 \$1,000,000 for fiscal year 2000 and \$5,000,000 for fiscal year 2001. Such funds shall remain available until expended.

“(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out sections 6103, 6104, and 6105 for fiscal years 1999, 2000, and 2001.

“(c) GENERAL REVENUE FUNDING.—Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title.

**“§ 6108. Relationship to State laws**

“Nothing in this chapter preempts State law or shall impose a new requirement on any State or mandate revisions to a one-call system.”.

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle III of such title is amended by adding at the end thereof the following:

“61. ONE-CALL NOTIFICATION PROGRAMS ..... 6101”.

Sportfishing and  
Boating Safety  
Act of 1998.

## Subtitle D—Sportfishing and Boating Safety

**SEC. 7401. SHORT TITLE; AMENDMENT OF 1950 ACT.**

16 USC 777 note.

(a) SHORT TITLE.—This subtitle may be cited as the “Sportfishing and Boating Safety Act of 1998”.

(b) AMENDMENT OF 1950 ACT.—Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of the 1950 Act, the reference shall be considered to be made to a section or other provision of the Act entitled “An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,” approved August 9, 1950 (16 U.S.C. 777 et seq.).

**SEC. 7402. OUTREACH AND COMMUNICATIONS PROGRAMS.**

(a) DEFINITIONS.—Section 2 of the 1950 Act (16 U.S.C. 777a) is amended—

(1) by indenting the left margin of so much of the text as precedes “(a)” by 2 ems;

(2) by inserting “For purposes of this Act—” after the section heading;

(3) by striking “For the purpose of this Act the” in the first paragraph and inserting “(1) the”;

(4) by indenting the left margin of so much of the text as follows “include—” by 4 ems;

(5) by striking “(a)”, “(b)”, “(c)”, and “(d)” and inserting “(A)”, “(B)”, “(C)”, and “(D)”, respectively;

(6) by striking “department.” and inserting “department.”; and

(7) by adding at the end the following:

“(2) the term ‘outreach and communications program’ means a program to improve communications with anglers, boaters, and the general public regarding angling and boating opportunities, to reduce barriers to participation in these activities, to advance adoption of sound fishing and boating practices, to promote conservation and the responsible use of the Nation’s aquatic resources, and to further safety in fishing and boating; and

“(3) the term ‘aquatic resource education program’ means a program designed to enhance the public’s understanding of aquatic resources and sportfishing, and to promote the development of responsible attitudes and ethics toward the aquatic environment.”.

(b) FUNDING FOR OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4 of the 1950 Act (16 U.S.C. 777c) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively;

(2) by inserting after subsection (b) the following:

“(c) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Of the balance of each such annual appropriation remaining after making the distribution under subsections (a) and (b), respectively, an amount equal to—

“(1) \$5,000,000 for fiscal year 1999;

“(2) \$6,000,000 for fiscal year 2000;

“(3) \$7,000,000 for fiscal year 2001;

“(4) \$8,000,000 for fiscal year 2002; and

“(5) \$10,000,000 for fiscal year 2003;

shall be used for the National Outreach and Communications Program under section 8(d). Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary of the Interior for that program may be expended by the Secretary under subsection (e).”;

Federal Register,  
publication.

(3) in subsection (d), as redesignated, by inserting “, for an outreach and communications program” after “Act”;

(4) in subsection (d), as redesignated, by striking “subsections (a) and (b),” and inserting “subsections (a), (b), and (c),”;

(5) by adding at the end of subsection (d), as redesignated, the following: “Of the sum available to the Secretary of the Interior under this subsection for any fiscal year, up to \$2,500,000 may be used for the National Outreach and Communications Program under section 8(d) in addition to the amount available for that program under subsection (c). No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this Act. The Secretary shall publish a detailed accounting of the projects, programs, and activities funded under this subsection annually in the Federal Register.”; and

(6) in subsection (e), as redesignated, by striking “subsections (a), (b), and (c),” and inserting “subsections (a), (b), (c), and (d),”.

(c) INCREASE IN STATE ALLOCATION.—Section 8 of the 1950 Act (16 U.S.C. 777g) is amended—

(1) by striking “12 1/2 percentum” each place it appears in subsection (b) and inserting “15 percent”;

(2) by striking “10 percentum” in subsection (c) and inserting “15 percent”;

(3) by inserting “and communications” in subsection (c) after “outreach”; and

(4) by redesignating subsection (d) as subsection (f); and by inserting after subsection (c) the following:

“(d) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—

“(1) IMPLEMENTATION.—Within 1 year after the date of enactment of the Sportfishing and Boating Safety Act of 1998, the Secretary of the Interior shall develop and implement, in cooperation and consultation with the Sport Fishing and Boating Partnership Council, a national plan for outreach and communications.

“(2) CONTENT.—The plan shall provide—

“(A) guidance, including guidance on the development of an administrative process and funding priorities, for outreach and communications programs; and

“(B) for the establishment of a national program.

“(3) SECRETARY MAY MATCH OR FUND PROGRAMS.—Under the plan, the Secretary may obligate amounts available under subsection (c) or (d) of section 4 of this Act—

“(A) to make grants to any State or private entity to pay all or any portion of the cost of carrying out any outreach and communications program under the plan; or

“(B) to fund contracts with States or private entities to carry out such a program.

“(4) REVIEW.—The plan shall be reviewed periodically, but not less frequently than once every 3 years.

“(e) STATE OUTREACH AND COMMUNICATIONS PROGRAM.—Within 12 months after the completion of the national plan under subsection (d)(1), a State shall develop a plan for an outreach and

communications program and submit it to the Secretary. In developing the plan, a State shall—

- “(1) review the national plan developed under subsection (d);
- “(2) consult with anglers, boaters, the sportfishing and boating industries, and the general public; and
- “(3) establish priorities for the State outreach and communications program proposed for implementation.”.

**SEC. 7403. CLEAN VESSEL ACT FUNDING.**

Section 4(b) of the 1950 Act (16 U.S.C. 777c(b)) is amended to read as follows:

“(b) USE OF BALANCE AFTER DISTRIBUTION.—

“(1) FISCAL YEAR 1998.—In fiscal year 1998, an amount equal to \$20,000,000 of the balance remaining after the distribution under subsection (a) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

“(2) FISCAL YEAR 1999.—For fiscal year 1999, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to \$74,000,000, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

“(A) \$10,000,000 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

“(B) The balance remaining after the application of subparagraph (A) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

“(3) FISCAL YEARS 2000–2003.—For each of fiscal years 2000 through 2003, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to \$82,000,000, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

“(A) \$10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

“(B) \$8,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 6404(d) of the Sportfishing and Boating Safety Act of 1998.

“(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred for each such fiscal year to the Secretary of Transportation and

shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

“(4) TRANSFER OF CERTAIN FUNDS.—Amounts available under subparagraph (A) of paragraph (2) and subparagraphs (A) and (B) of paragraph (3) that are unobligated by the Secretary of the Interior after 3 fiscal years shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.”.

16 USC 777g-1.

**SEC. 7404. BOATING INFRASTRUCTURE.**

(a) PURPOSE.—The purpose of this section is to provide funds to States for the development and maintenance of facilities for transient nontrailerable recreational vessels.

(b) SURVEY.—Section 8 of the 1950 Act (16 U.S.C. 777g), as amended by section 6402, is amended by adding at the end thereof the following:

“(g) SURVEYS.—

“(1) NATIONAL FRAMEWORK.—Within 6 months after the date of enactment of the Sportfishing and Boating Safety Act of 1998, the Secretary, in consultation with the States, shall adopt a national framework for a public boat access needs assessment which may be used by States to conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

“(2) STATE SURVEYS.—Within 18 months after such date of enactment, each State that agrees to conduct a public boat access needs survey following the recommended national framework shall report its findings to the Secretary for use in the development of a comprehensive national assessment of recreational boat access needs and facilities.

“(3) EXCEPTION.—Paragraph (2) does not apply to a State if, within 18 months after such date of enactment, the Secretary certifies that the State has developed and is implementing a plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on its waters.

“(4) FUNDING.—A State that conducts a public boat access needs survey under paragraph (2) may fund the costs of conducting that assessment out of amounts allocated to it as funding dedicated to motorboat access to recreational waters under subsection (b)(1) of this section.”.

(c) PLAN.—Within 6 months after submitting a survey to the Secretary under section 8(g) of the Act entitled “An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,” approved August 9, 1950 (16 U.S.C. 777g(g)), as added by subsection (b) of this section, a State may develop and submit to the Secretary a plan for the construction, renovation, and maintenance of facilities for transient nontrailerable recreational vessels, and access to those facilities, to meet the needs of nontrailerable recreational vessels operating on navigable waters in the State.

(d) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate amounts made available under section 4(b)(3)(B) of the Act entitled “An Act to provide that the United States

shall aid the States in fish restoration and management projects, and for other purposes,” approved August 9, 1950, as amended by this Act, to make grants to any State to pay not more than 75 percent of the cost to a State of constructing, renovating, or maintaining facilities for transient nontrailerable recreational vessels.

(2) PRIORITIES.—In awarding grants under paragraph (1), the Secretary shall give priority to projects that—

(A) consist of the construction, renovation, or maintenance of facilities for transient nontrailerable recreational vessels in accordance with a plan submitted by a State under subsection (c);

(B) provide for public/private partnership efforts to develop, maintain, and operate facilities for transient nontrailerable recreational vessels; and

(C) propose innovative ways to increase the availability of facilities for transient nontrailerable recreational vessels.

(e) DEFINITIONS.—For purposes of this section, the term—

(1) “nontrailerable recreational vessel” means a recreational vessel 26 feet in length or longer—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter’s pleasure;

(2) “facilities for transient nontrailerable recreational vessels” includes mooring buoys, day-docks, navigational aids, seasonal slips, safe harbors, or similar structures located on navigable waters, that are available to the general public (as determined by the Secretary of the Interior) and designed for temporary use by nontrailerable recreational vessels; and

(3) “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

#### SEC. 7405. BOAT SAFETY FUNDS.

(a) AVAILABILITY OF ALLOCATIONS.—Section 13104(a) of title 46, United States Code, is amended—

(1) in paragraph (1), by striking “3 years” and inserting “2 years”; and

(2) in paragraph (2), by striking “3-year” and inserting “2-year”.

(b) EXPENDITURES.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: “Subject to paragraph (2) and subsection (c), the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to the sum of (A) the amount appropriated from the Boat Safety Account for that fiscal year and (B) the amount transferred to the Secretary under section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)).”;

(2) in subsection (a)(2), by striking “appropriated” and inserting “available”; and

(3) by striking subsection (c) and inserting the following:

“(c) Of the amount transferred for each fiscal year to the Secretary of Transportation under paragraphs (2) and (3) of section

Federal Register,  
publication.

4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)), \$5,000,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which \$2,000,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title. No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this section. Amounts made available by this subsection shall remain available until expended. The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.”.

(c) CONFORMING AMENDMENTS.—

(1) The heading for section 13106 of title 46, United States Code, is amended to read as follows:

**“§ 13106. Authorization of appropriations”.**

(2) The chapter analysis for chapter 131 of title 46, United States Code, is amended by striking the item relating to section 13106 and inserting the following:

“13106. Authorization of appropriations.”.

**TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS**

**Subtitle A—Transportation Discretionary Spending Guarantee**

**SEC. 8101. DISCRETIONARY SPENDING CATEGORIES.**

2 USC 901.

(a) ESTABLISHMENT OF SEPARATE CATEGORIES.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) FY1999.—In paragraph (3), strike “and” at the end of subparagraph (B) and after subparagraph (C) add the following new subparagraphs:

“(D) for the highway category: \$21,885,000,000 in outlays; and

“(E) for the mass transit category: \$4,401,000,000 in outlays;”.

(2) FY2000.—In paragraph (4), strike “and” at the end of subparagraph (A) and at the end add the following new subparagraphs:

“(C) for the highway category: \$24,436,000,000 in outlays; and

“(D) for the mass transit category: \$4,761,000,000 in outlays;”.

(3) FY2001.—In paragraph (5), strike the comma and insert “—” after “2001”, insert “(A)” before “for” and indent the new subparagraph and move it 2 ems to the right, strike “and” at the end of such subparagraph, and at the end add the following new subparagraphs:



“(B) for the highway category: \$26,204,000,000 in outlays; and

“(C) for the mass transit category: \$5,190,000,000 in outlays;”.

(4) FY2002.—In paragraph (6), strike the comma and insert “—” after “2002”, insert “(A)” before “for”, indent the new subparagraph and move it 2 ems to the right, and add at the end the following new subparagraphs:

“(B) for the highway category: \$26,977,000,000 in outlays; and

“(C) for the mass transit category: \$5,709,000,000 in outlays; and”.

(5) FY2003.—After paragraph (6), add the following new paragraph:

“(7) with respect to fiscal year 2003—

“(A) for the highway category: \$27,728,000,000 in outlays; and

“(B) for the mass transit category: \$6,256,000,000 in outlays.”.

(b) OFFSETTING ADJUSTMENT IN DISCRETIONARY SPENDING LIMITS.— 2 USC 901 note.

(1) ADJUSTMENT OF NONDEFENSE CATEGORY FOR FY1999.—The discretionary spending limit set forth in section 251(c)(3)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by \$859,000,000 in new budget authority and \$25,173,000,000 in outlays.

(2) ADJUSTMENT OF DISCRETIONARY CATEGORY FOR FY2000.—The discretionary spending limit set forth in section 251(c)(4)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by \$859,000,000 in new budget authority and \$26,045,000,000 in outlays.

(3) ADJUSTMENT OF DISCRETIONARY SPENDING LIMIT FOR FY2001.—The discretionary spending limit set forth in section 251(c)(5)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by \$859,000,000 in new budget authority and \$26,329,000,000 in outlays.

(4) ADJUSTMENT OF DISCRETIONARY SPENDING LIMIT FOR FY2002.—The discretionary spending limit set forth in section 251(c)(6)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by \$859,000,000 in new budget authority and \$26,675,000,000 in outlays.

(c) DEFINITIONS OF HIGHWAY CATEGORY AND MASS TRANSIT CATEGORY.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting “(A)” after “(4)” and by adding at the end the following new subparagraphs: 2 USC 900.

“(B) The term ‘highway category’ refers to the following budget accounts or portions thereof that are subject to the obligation limitations on contract authority set forth in the Transportation Equity Act for the 21st Century:

“(i) 69-8083-0-7-401 (Federal-Aid Highways).

“(ii) 69-8020-0-7-401 (Highway Traffic Safety Grants).

“(iii) 69-8048-0-7-401 (National Motor Carrier Safety Program).

“(iv) 69-8016-0-7-401 (Operations and Research NHTSA).

“(C) The term ‘mass transit category’ refers to the following budget accounts or portions thereof that are subject to the obligation limitations on contract authority provided in the Transportation Equity Act for the 21st Century and for which appropriations are provided pursuant to authorizations contained in that Act (except that appropriations provided pursuant to section 5338(h) of title 49, United States Code, as amended by this section, shall not be included in this category):

“(i) 69-8191-0-7-401 (Mass Transit Capital Fund).

“(ii) 69-8350-0-7-401 (Trust Fund Share of Expenses).

“(iii) 69-1129-0-1-401 (Formula Grants).

“(iv) 69-1120-0-1-401 (Administrative Expenses).

“(v) 69-1136-0-1-401 (University Transportation Centers).

“(vi) 69-1137-0-1-401 (Transit Planning and Research).

“(D) SPECIAL RULE.—(i) Any outlays in excess of the discretionary spending limit set forth in section 251(c) for the highway or mass transit category, as adjusted, for the budget year shall be considered nondefense category outlays or discretionary category outlays.

“(ii) If the obligation limitations for accounts in the highway or mass transit category provided in an appropriation Act for a fiscal year exceed the obligation limitations set forth in section 8103 of the Transportation Equity Act for the 21st Century for that year, as adjusted, the estimated outlays flowing for each outyear from such excess obligations calculated pursuant to clause (iii) shall be attributed to the discretionary category in that outyear.

“(iii) For purposes of clause (ii), outlays from excess obligations shall be determined using the average of the spendout rates for that category in the baseline.”

(d) ADJUSTMENT TO HIGHWAY AND MASS TRANSIT CATEGORIES.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

2 USC 901.

(1) striking “When” and inserting:

“(A) CONCEPTS AND DEFINITIONS.—When”; and

(2) adding at the end the following:

“(B) ADJUSTMENT TO ALIGN HIGHWAY SPENDING WITH REVENUES.—(i) When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to the highway category for the budget year and each outyear as provided in clause (ii)(I)(cc).

“(ii)(I)(aa) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in subclause (II) plus any amount previously calculated under item (bb) for that year.

“(bb) OMB shall take the current estimate of highway receipts for the budget year and subtract the estimated level of receipts for that year.

“(cc) OMB shall take the sum of the amounts calculated under items (aa) and (bb), add that sum to the amount of obligations set forth in section 8103 of the Transportation Equity Act for the 21st Century for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the amount of obligations set forth in that section for the budget year by adding the sum of the amounts calculated under items (aa) and (bb).

“(II) The estimated level of highway receipts for the purposes of this clause are—

“(aa) for fiscal year 1998, \$22,164,000,000;

“(bb) for fiscal year 1999, \$32,619,000,000;

“(cc) for fiscal year 2000, \$28,066,000,000;

“(dd) for fiscal year 2001, \$28,506,000,000;

“(ee) for fiscal year 2002, \$28,972,000,000; and

“(ff) for fiscal year 2003, \$29,471,000,000.

“(III) In this clause, the term ‘highway receipts’ means the governmental receipts credited to the highway account of the Highway Trust Fund.

“(C)(i) In addition to the adjustment required by subparagraph (B), when the President submits the budget under section 1105 of title 31, United States Code, for fiscal years 2000, 2001, 2002, or 2003, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—

“(I) the outlays for the applicable category calculated assuming obligation levels consistent with the estimates prepared pursuant to subparagraph (D), as adjusted, using current technical assumptions; minus

“(II) the outlays for the applicable category set forth in the subparagraph (D) estimates, as adjusted.

“(ii) The adjustment made pursuant to clause (i) in the fiscal years 2002 and 2003 budget submissions of the President under section 1105(a) of title 31, United States Code, shall not exceed 4 percent plus cumulative carryovers. In this clause, the term ‘cumulative carryovers’ means the total of each amount by which outlays for the highway and mass transit category for any fiscal year are less than the outlay limit for that category, as adjusted, for that year less any amount of carryover used in the previous year.

“(D)(i) When OMB and CBO submit their final sequester report for fiscal year 1999, that report shall include an estimate of the outlays for each of the categories that would result in fiscal years 2000 through 2003 from obligations at the levels specified in section 8103 of the Transportation Equity Act for the 21st Century using current assumptions.

“(ii) When the President submits the budget under section 1105 of title 31, United States Code, for fiscal years 2000, 2001, 2002, or 2003, OMB shall adjust the estimates made in clause (i) by the adjustments by subparagraphs (B) and (C).

“(E) OMB shall consult with the Committees on the Budget and include a report on adjustments under subparagraphs (B) and (C) in the preview report.”.

(e) ENFORCEMENT OF GUARANTEE.—Rule XXI of the Rules of the House of Representatives is amended by adding at the end the following new clause:

“9. It shall not be in order to consider any bill or joint resolution, or any amendment thereto or conference report thereon, that would cause obligation limitations to be below the level for any fiscal year set forth in section 8103 of the Transportation Equity Act for the 21st Century, as adjusted, for the highway category or the mass transit category, as applicable.”.

2 USC 902 note.

**SEC. 8102. CONFORMING THE PAYGO SCORECARD WITH THIS ACT.**

Upon the enactment of this Act, the Director of the Office of Management and Budget shall not make any estimates under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 of changes in direct spending outlays and receipts for any fiscal year resulting from this title.

2 USC 901 note.

**SEC. 8103. LEVEL OF OBLIGATION LIMITATIONS.**

(a) HIGHWAY CATEGORY.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the highway category is—

- (1) for fiscal year 1999, \$25,883,000,000;
- (2) for fiscal year 2000, \$26,629,000,000;
- (3) for fiscal year 2001, \$27,158,000,000;
- (4) for fiscal year 2002, \$27,767,000,000; and
- (5) for fiscal year 2003, \$28,233,000,000.

(b) MASS TRANSIT CATEGORY.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the mass transit category is—

- (1) for fiscal year 1999, \$5,365,000,000;
- (2) for fiscal year 2000, \$5,797,000,000;
- (3) for fiscal year 2001, \$6,271,000,000;
- (4) for fiscal year 2002, \$6,747,000,000; and
- (5) for fiscal year 2003, \$7,226,000,000.

For purposes of this subsection, the term “obligation limitations” means the sum of budget authority and obligation limitations.

Veterans  
Benefits Act of  
1998.  
38 USC 101 note.

## Subtitle B—Veterans’ Benefits

**SEC. 8201. SHORT TITLE.**

This subtitle may be cited as the “Veterans Benefits Act of 1998”.

**SEC. 8202. PROHIBITION ON ESTABLISHMENT OF SERVICE-CONNECTION FOR DISABILITIES RELATING TO USE OF TOBACCO PRODUCTS.**

(a) WARTIME DISABILITY COMPENSATION.—Section 1110 of title 38, United States Code, is amended by striking “or abuse of alcohol or drugs” and inserting “, abuse of alcohol or drugs, or use of tobacco products”.

(b) PEACETIME DISABILITY COMPENSATION.—Section 1131 of such title is amended by striking “or abuse of alcohol or drugs”

and inserting “, abuse of alcohol or drugs, or use of tobacco products”.

(c) **APPLICABILITY.**—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to any claims for compensation received by the Secretary of Veterans Affairs before, on, or after the date of enactment of this Act.

(2) The amendments made by this section shall not apply in the case of any such claims adjudicated by the Secretary before such date of enactment for which a service-connection was established for a disability on the basis of the use of tobacco products.

**SEC. 8203. TWENTY PERCENT INCREASE IN RATES OF BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.**

(a) **ACTIVE DUTY EDUCATIONAL ASSISTANCE.**—

(1) **INCREASE IN RATES.**—Section 3015 of title 38, United States Code, is amended—

(A) in subsection (a)(1), by striking “\$400” and inserting “\$528 (as increased from time to time under subsection (g))”; and

(B) in subsection (b)(1), by striking “\$325” and inserting “\$429 (as increased from time to time under subsection (g))”.

(2) **CPI ADJUSTMENT.**—Subsection (g) of such section is amended by striking “beginning on or after October 1, 1994” and all that follows through “such rates” and inserting “, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the rates payable under subsections (a)(1) and (b)(1)”.

(3) **TECHNICAL AMENDMENTS.**—Such section is further amended—

(A) in subsection (a), by striking “subsections (b), (c), (d), (e), (f), and (g) of” in the matter preceding paragraph (1); and

(B) in subsection (b)—

(i) by striking “Except as provided in subsections (c), (d), (e), (f), and (g), in” and inserting “In”; and

(ii) by inserting “(except as provided in the succeeding subsections of this section)” after “under this chapter shall”.

(4) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect on October 1, 1998, and shall apply with respect to educational assistance allowances paid for months after September 1998. However, no adjustment in rates of educational assistance shall be made under subsection (g) of section 3015 of title 38, United States Code, as amended by paragraph (2), for fiscal year 1999.

38 USC 3015  
note.

(b) **SELECTED RESERVE EDUCATIONAL ASSISTANCE.**—

(1) **INCREASE IN RATES.**—Paragraph (1) of section 16131(b) of title 10, United States Code, is amended—

(A) in subparagraph (A), by striking “\$190” and inserting “\$251 (as increased from time to time under paragraph (2))”; and

(B) in subparagraph (B), by striking “\$143” and inserting “\$188 (as increased from time to time under paragraph (2))”; and

(C) in subparagraph (C), by striking “\$95” and inserting “\$125 (as increased from time to time under paragraph (2))”.

(2) CPI ADJUSTMENT.—Paragraph (2) of such section is amended by striking “beginning on or after October 1, 1994” and all that follows through “such rates” and inserting “, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the rates payable under subparagraphs (A), (B), and (C) of paragraph (1)”.

(3) TECHNICAL AMENDMENT.—Paragraph (1) of such section is further amended by striking “in paragraph (2) and”.

10 USC 16131  
note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 1998, and shall apply with respect to educational assistance allowances paid for months after September 1998. However, no adjustment in rates of educational assistance shall be made under paragraph (2) of section 16131(b) of title 10, United States Code, as amended by paragraph (2), for fiscal year 1999.

**SEC. 8204. INCREASE IN ASSISTANCE AMOUNT FOR SPECIALLY ADAPTED HOUSING.**

(a) IN GENERAL.—Section 2102 of title 38, United States Code, is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking “\$38,000” and inserting “\$43,000”; and

(2) in subsection (b)(2), by striking “\$6,500” and inserting “\$8,250”.

38 USC 2102  
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to limitations under section 2102 of such title on assistance furnished to a veteran under section 2101 of such title on or after October 1, 1998.

**SEC. 8205. INCREASE IN AMOUNT OF ASSISTANCE FOR AUTOMOBILE AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS.**

(a) IN GENERAL.—Section 3902(a) of title 38, United States Code, is amended by striking out “\$5,500” and inserting in lieu thereof “\$8,000”.

38 USC 3902  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to assistance furnished under section 3902 of such title on or after October 1, 1998.

**SEC. 8206. INCREASE IN AID AND ATTENDANCE RATES FOR VETERANS ELIGIBLE FOR PENSION.**

38 USC 1521  
note.

Effective October 1, 1998, the maximum annual rates of pension in effect as of September 30, 1998, under the following provisions of chapter 15 of title 38, United States Code, are increased by \$600:

(1) Subsections (d)(1), (d)(2), (f)(2), and (f)(4) of section 1521.

(2) Section 1536(d)(2).

**SEC. 8207. ELIGIBILITY OF CERTAIN REMARRIED SURVIVING SPOUSES  
FOR REINSTATEMENT OF DEPENDENCY AND INDEMNITY  
COMPENSATION UPON TERMINATION OF THAT  
REMARRIAGE.**

(a) **RESTORATION OF PRIOR ELIGIBILITY.**—Section 1311 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(e)(1) The remarriage of the surviving spouse of a veteran shall not bar the furnishing of dependency and indemnity compensation to such person as the surviving spouse of the veteran if the remarriage is terminated by death, divorce, or annulment unless the Secretary determines that the divorce or annulment was secured through fraud or collusion.

“(2) If the surviving spouse of a veteran ceases living with another person and holding himself or herself out openly to the public as that person’s spouse, the bar to granting that person dependency and indemnity compensation as the surviving spouse of the veteran shall not apply.

“(3) The first month of eligibility for payment of dependency and indemnity compensation to a surviving spouse by reason of this subsection shall be the later of the month after—

“(A) the month of the termination of such remarriage, in the case of a surviving spouse described in paragraph (1); or

“(B) the month of the cessation described in paragraph (2), in the case of a surviving spouse described in that paragraph.”.

(b) **EFFECTIVE DATE.**—No payment may be made by reason of section 1311(e) of title 38, United States Code, as added by subsection (a), for any month before October 1998. 38 USC 1311 note.

**SEC. 8208. EXTENSION OF PRIOR REVISION TO OFFSET RULE FOR  
DEPARTMENT OF DEFENSE SPECIAL SEPARATION BENE-  
FIT PROGRAM.** 10 USC 1174 note.

The amendment made by section 653 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2583) to subsection (h)(2) of section 1174 of title 10, United States Code, shall apply to any payment of separation pay under the special separation benefits program under section 1174a of that title that was made during the period beginning on December 5, 1991, and ending on September 30, 1996.

**SEC. 8209. SENSE OF THE CONGRESS CONCERNING RECOVERY FROM  
TOBACCO COMPANIES OF COSTS OF TREATMENT OF VET-  
ERANS FOR TOBACCO-RELATED ILLNESSES.**

It is the sense of the Congress—

(1) that the Attorney General or the Secretary of Veterans Affairs, as appropriate, should take all steps necessary to recover from tobacco companies amounts corresponding to the costs which would be incurred by the Department of Veterans Affairs for treatment of tobacco-related illnesses of veterans, if such treatment were authorized by law; and

(2) that the Congress should authorize by law the treatment of tobacco-related illnesses of veterans upon the recovery of such amounts.

## Subtitle C—Temporary Student Loan Provision.

### SEC. 8301. TEMPORARY STUDENT LOAN PROVISION.

#### (a) FFEL INTEREST RATES.—

(1) AMENDMENT.—Section 427A of the Higher Education Act of 1965 (20 U.S.C. 1077a) is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(B) by inserting after subsection (i) the following new subsection:

“(j) INTEREST RATES FOR NEW LOANS BETWEEN JULY 1, 1998 AND OCTOBER 1, 1998.—

“(1) IN GENERAL.—Notwithstanding subsection (h), but subject to paragraph (2), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

“(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

“(B) 2.3 percent, except that such rate shall not exceed 8.25 percent.

“(2) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding subsection (h), with respect to any loan under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

“(A) prior to the beginning of the repayment period of the loan; or

“(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under paragraph (1) by substituting ‘1.7 percent’ for ‘2.3 percent’.

“(3) PLUS LOANS.—Notwithstanding subsection (h), with respect to any loan under section 428B for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the lesser of—

“(A)(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

“(ii) 3.1 percent; or

“(B) 9.0 percent.

“(4) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such



rate in the Federal Register as soon as practicable after the date of determination.”.

(2) CONFORMING AMENDMENT.—Section 428B(d)(4) (20 U.S.C. 1078-2(d)(4)) is amended by striking “section 427A(c)” and inserting “section 427A for loans made under this section”.  
(b) SPECIAL ALLOWANCES.—

(1) AMENDMENT.—Section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)) is amended by adding at the end the following new subparagraph:

“(G) LOANS DISBURSED BETWEEN JULY 1, 1998, AND OCTOBER 1, 1998.—

“(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, shall be computed—

“(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

“(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

“(III) by adding 2.8 percent to the resultant percent; and

“(IV) by dividing the resultant percent by 4.

“(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 427A(j)(2), clause (i)(III) of this subparagraph shall be applied by substituting ‘2.2 percent’ for ‘2.8 percent’.

“(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 427A(j)(3), clause (i)(III) of this subparagraph shall be applied by substituting ‘3.1 percent’ for ‘2.8 percent’, subject to clause (v) of this subparagraph.

“(iv) CONSOLIDATION LOANS.—This subparagraph shall not apply in the case of any consolidation loan.

“(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 428B and disbursed on or after July 1, 1998, and before October 1, 1998, for which the interest rate is determined under 427A(j)(3), a special allowance shall not be paid for such loan for such unless the rate determined under subparagraph (A) of such section (without regard to subparagraph (B) of such section) exceeds 9.0 percent.”.

(2) CONFORMING AMENDMENTS.—Section 438(b)(2) of such Act is further amended—

(A) in subparagraph (A), by striking “(E), and (F)” and inserting “(E), (F), and (G)”;

(B) in subparagraph (B)(iv), by striking “(E), or (F)” and inserting “(E), (F), or (G)”;

(C) in subparagraph (C)(ii), by striking “In the case” and inserting “Subject to subparagraph (G), in the case”.

(c) DIRECT LOAN INTEREST RATES.—Section 455(b) (20 U.S.C. 1087e(b)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and  
 (2) by inserting after paragraph (4) the following new paragraph:

“(5) TEMPORARY INTEREST RATE PROVISION.—

“(A) RATES FOR FDSL AND FDUSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

“(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

“(ii) 2.3 percent,  
 except that such rate shall not exceed 8.25 percent.

“(B) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

“(i) prior to the beginning of the repayment period of the loan; or

“(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under subparagraph (A) by substituting ‘1.7 percent’ for ‘2.3 percent’.

“(C) PLUS LOANS.—Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall be determined under subparagraph (A)—

“(i) by substituting ‘3.1 percent’ for ‘2.3 percent’;  
 and

“(ii) by substituting ‘9.0 percent’ for ‘8.25 percent’.”.

## Subtitle D—Block Grants for Social Services

### SEC. 8401. BLOCK GRANTS FOR SOCIAL SERVICES.

(a) REDUCTION OF GRANTS.—Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended by striking paragraphs (7) and (8) and inserting the following:

“(7) \$2,380,000,000 for the fiscal year 1997;

“(8) \$2,380,000,000 for the fiscal year 1998;

“(9) \$2,380,000,000 for the fiscal year 1999;

“(10) \$2,380,000,000 for the fiscal year 2000; and

“(11) \$1,700,000,000 for the fiscal year 2001 and each fiscal year thereafter.”.

(b) LIMITATION ON AMOUNT OF TANF FUNDS TRANSFERABLE.—Section 404(d)(2) of the Social Security Act (42 U.S.C. 604(d)(2)) is amended to read as follows:

“(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—

“(A) IN GENERAL.—A State may use not more than the applicable percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.

“(B) APPLICABLE PERCENT.—For purposes of subparagraph (A), the applicable percent is 4.25 percent in the case of fiscal year 2001 and each succeeding fiscal year.”.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1998. 42 USC 604 note.

## TITLE IX—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

Surface  
Transportation  
Revenue Act of  
1998.

### SEC. 9001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the “Surface Transportation Revenue Act of 1998”. 26 USC 1 note.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

### SEC. 9002. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking “1999” each place it appears and inserting “2005”:

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels), as amended by section 907(a)(1) of the Taxpayer Relief Act of 1997.

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels), as amended by section 907(b) of the Taxpayer Relief Act of 1997.

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) OTHER PROVISIONS.—

(A) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(i) by striking “1999” each place it appears and inserting “2005”, and

(ii) by striking “2000” each place it appears and inserting “2006”.

(B) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—

Section 6156(e)(2) (relating to installment payments of highway use tax on use of highway motor vehicles) is amended by striking “1999” and inserting “2005”.

(b) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking “1999” and inserting “2005”:

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(c) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2) and (3) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking “1999” each place it appears and inserting “2005”, and

(B) by striking “2000” each place it appears and inserting “2006”.

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (4)(A)(i) and (5)(A) of section 9503(c) are each amended by striking “1998” and inserting “2005”.

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11(b)) is amended—

(i) by striking “1997” and inserting “2003”, and

(ii) by striking “1998” each place it appears and inserting “2004”.

(3) CONFORMING AMENDMENT.—The heading for paragraph (3) of section 9503(c) is amended to read as follows:

“(3) FLOOR STOCKS REFUNDS.—”.

(d) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUND.—

(1) HIGHWAY ACCOUNT.—

(A) EXTENSION OF EXPENDITURE AUTHORITY.—Paragraph (1) of section 9503(c) is amended by striking “1998” and inserting “2003”.

(B) EXPANSION OF PURPOSES.—Paragraph (1) of section 9503(c) is amended—

(i) by striking “or” at the end of subparagraph (C), and

(ii) by striking “1991.” in subparagraph (D) and all that follows through the end of paragraph (1) and inserting “1991, or

“(E) authorized to be paid out of the Highway Trust Fund under the Transportation Equity Act for the 21st Century.

In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of enactment of the Transportation Equity Act for the 21st Century.”.

(2) MASS TRANSIT ACCOUNT.—

(A) EXTENSION OF EXPENDITURE AUTHORITY.—Paragraph (3) of section 9503(e) is amended by striking “1998” and inserting “2003”.

(B) EXPANSION OF PURPOSES.—Paragraph (3) of section 9503(e) is amended—

(i) by striking “or” at the end of subparagraph

(A),

(ii) by adding “or” at the end of subparagraph

(B), and

(iii) by striking all that follows subparagraph (B) and inserting:

“(C) the Transportation Equity Act for the 21st Century,

as such section and Acts are in effect on the date of enactment of the Transportation Equity Act for the 21st Century.”.

(e) TECHNICAL CORRECTION RELATING TO TRANSFERS TO MASS TRANSIT ACCOUNT.—

(1) IN GENERAL.—Section 9503(e)(2) is amended by striking the last sentence and inserting the following: “For purposes of the preceding sentence, the term ‘mass transit portion’ means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and otherwise deposited into the Highway Trust Fund, the amount determined at the rate of—

“(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

“(B) 1.43 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

“(C) 1.86 cents per gallon in the case of liquefied natural gas,

“(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

“(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendment made by section 901(b) of the Taxpayer Relief Act of 1997. 26 USC 9503 note.

(f) CLERICAL AMENDMENTS.—

(1) Paragraph (1) of section 9503(b) is amended by striking subparagraph (C), by striking “and tread rubber” in subparagraph (D), and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(2) Clause (i) of section 9503(c)(2)(A) is amended by adding “and” at the end of subclause (II), by striking subclause (III), and by redesignating subclause (IV) as subclause (III).

(3) Clause (ii) of section 9503(c)(2)(A) is amended by striking “gasoline, special fuels, and lubricating oil” each place it appears and inserting “fuel”.

#### SEC. 9003. EXTENSION AND MODIFICATION OF TAX BENEFITS FOR ALCOHOL FUELS.

(a) EXTENSION OF TAX BENEFITS.—

(1) EXTENSION.—The following provisions are each amended by striking “2000” each place it appears and inserting “2007”:

(A) Section 4041(b)(2)(C) (relating to termination of reduction in tax for qualified methanol and ethanol fuel).

(B) Section 4041(k)(3) (relating to termination of rates relating to fuels containing alcohol).

(C) Section 4081(c)(8) (relating to termination of special rate for taxable fuels mixed with alcohol).

(D) Section 4091(c)(5) (relating to termination of reduced rate of tax for aviation fuel in alcohol mixture, etc.).

(2) EXTENSION OF REFUND AUTHORITY.—Paragraph (4) of section 6427(f) (relating to refund for gasoline, diesel fuel, and aviation fuel used to produce certain alcohol fuels), as amended by the Taxpayer Relief Act of 1997, is amended by striking “1999” and inserting “2007”.

(3) CREDIT FOR ALCOHOL USED AS A FUEL.—Paragraph (1) of section 40(e) (relating to termination of credit for alcohol used as a fuel) is amended—

(A) by striking “December 31, 2000” in subparagraph (A) and inserting “December 31, 2007”, and

(B) by striking “January 1, 2001” and inserting “January 1, 2008”.

(4) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking “10/1/2000” each place it appears and inserting “10/1/2007”.

(b) MODIFICATION.—

(1) IN GENERAL.—Subsection (h) of section 40 (relating to alcohol used as fuel) is amended to read as follows:

“(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—

“(1) IN GENERAL.—In the case of any alcohol mixture credit or alcohol credit with respect to any sale or use of alcohol which is ethanol during calendar years 2001 through 2007—

“(A) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting ‘the blender amount’ for ‘60 cents’,

“(B) subsection (b)(3) shall be applied by substituting ‘the low-proof blender amount’ for ‘45 cents’ and ‘the blender amount’ for ‘60 cents’, and

“(C) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting ‘the blender amount’ for ‘60 cents’ and ‘the low-proof blender amount’ for ‘45 cents’.

“(2) AMOUNTS.—For purposes of paragraph (1), the blender amount and the low-proof blender amount shall be determined in accordance with the following table:

In the case of any sale or use during calendar year:	The blender amount is:	The low-proof blender amount is:
2001 or 2002	53 cents	39.26 cents
2003 or 2004	52 cents	38.52 cents
2005, 2006, or 2007 .....	51 cents	37.78 cents.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(b)(2) is amended—

(i) in subparagraph (A)(i), by striking “5.4 cents” and inserting “the applicable blender rate”, and

(ii) by redesignating subparagraph (C), as amended by subsection (a)(1)(A), as subparagraph (D) and by inserting after subparagraph (B) the following:

“(C) APPLICABLE BLENDER RATE.—For purposes of subparagraph (A)(i), the applicable blender rate is—

“(i) except as provided in clause (ii), 5.4 cents, and

“(ii) for sales or uses during calendar years 2001 through 2007,  $\frac{1}{10}$  of the blender amount applicable under section 40(h)(2) for the calendar year in which the sale or use occurs.”.

(B) Subparagraph (A) of section 4081(c)(4) is amended to read as follows:

“(A) GENERAL RULES.—

“(i) MIXTURES CONTAINING ETHANOL.—Except as provided in clause (ii), in the case of a qualified alcohol mixture which contains gasoline, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

“(I) in the case of 10 percent gasohol, the applicable blender rate (as defined in section 4041(b)(2)(C)) per gallon,

“(II) in the case of 7.7 percent gasohol, the number of cents per gallon equal to 77 percent of such applicable blender rate, and

“(III) in the case of 5.7 percent gasohol, the number of cents per gallon equal to 57 percent of such applicable blender rate.

“(ii) MIXTURES NOT CONTAINING ETHANOL.—In the case of a qualified alcohol mixture which contains gasoline and none of the alcohol in which consists of ethanol, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

“(I) in the case of 10 percent gasohol, 6 cents per gallon,

“(II) in the case of 7.7 percent gasohol, 4.62 cents per gallon, and

“(III) in the case of 5.7 percent gasohol, 3.42 cents per gallon.”.

(C) Section 4081(c)(5) is amended by striking “5.4 cents” and inserting “the applicable blender rate (as defined in section 4041(b)(2)(C))”.

(D) Section 4091(c)(1) is amended by striking “13.4 cents” each place it appears and inserting “the applicable blender amount” and by adding at the end the following: “For purposes of this paragraph, the term ‘applicable blender amount’ means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, 13.1 cents in the case of any sale or use during 2005, 2006, or 2007, and 13.4 cents in the case of any sale or use during 2008 or thereafter.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2001. 26 USC 40 note.

#### SEC. 9004. MODIFICATIONS TO HIGHWAY TRUST FUND.

(a) DETERMINATION OF TRUST FUND BALANCES AFTER SEPTEMBER 30, 1998.—

(1) IN GENERAL.—Section 9503 (relating to Highway Trust Fund) is amended by adding at the end the following new subsection:

“(f) DETERMINATION OF TRUST FUND BALANCES AFTER SEPTEMBER 30, 1998.—For purposes of determining the balances of the Highway Trust Fund and the Mass Transit Account after September 30, 1998—

“(1) the opening balance of the Highway Trust Fund (other than the Mass Transit Account) on October 1, 1998, shall be \$8,000,000,000, and

“(2) no interest accruing after September 30, 1998, on any obligation held by such Fund shall be credited to such Fund. The Secretary shall cancel obligations held by the Highway Trust Fund to reflect the reduction in the balance under this subsection.”.

26 USC 9503  
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1998.

(b) REPEAL OF LIMITATION ON EXPENDITURES ADDED BY TAXPAYER RELIEF ACT OF 1997.—

(1) IN GENERAL.—Subsection (c) of section 9503 (relating to expenditures from Highway Trust Fund) is amended by striking paragraph (7).

26 USC 9503  
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 901 of the Taxpayer Relief Act of 1997.

(c) LIMITATION ON EXPENDITURE AUTHORITY.—Subsection (b) of section 9503 (relating to transfers to Highway Trust Fund) is amended by adding at the end the following new paragraph:

“(6) LIMITATION ON TRANSFERS TO HIGHWAY TRUST FUND.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no amount may be appropriated to the Highway Trust Fund on and after the date of any expenditure from the Highway Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

“(i) any provision of law which is not contained or referenced in this title or in a revenue Act, and

“(ii) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

“(B) EXCEPTION FOR PRIOR OBLIGATIONS.—Subparagraph (A) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2003, in accordance with the provisions of this section.”.

(d) MODIFICATION OF MASS TRANSIT ACCOUNT RULES ON ADJUSTMENTS OF APPORTIONMENTS.—Paragraph (4) of section 9503(e) is amended to read as follows:

“(4) LIMITATION.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account.”.

#### SEC. 9005. PROVISIONS RELATING TO AQUATIC RESOURCES TRUST FUND.

(a) INCREASED TRANSFERS.—

(1) Subparagraph (D) of section 9503(b)(4), as amended by section 9011, is amended by striking “exceeds 11.5 cents per gallon,” and inserting “exceeds—



“(i) 11.5 cents per gallon with respect to taxes imposed before October 1, 2001,

“(ii) 13 cents per gallon with respect to taxes imposed after September 30, 2001, and before October 1, 2003, and

“(iii) 13.5 cents per gallon with respect to taxes imposed after September 30, 2003, and before October 1, 2005.”.

(2) Clause (ii) of section 9503(c)(4)(A) is amended by adding at the end the following new flush sentence:

“In making the determination under subclause (II) for any fiscal year, the Secretary shall not take into account any amount appropriated from the Boat Safety Account in any preceding fiscal year but not distributed.”.

(b) EXPANSION OF EXPENDITURE AUTHORITY FROM BOAT SAFETY ACCOUNT.—Section 9504(b)(2) (relating to expenditures from Sport Fish Restoration Account) is amended—

(1) in subparagraph (A) by striking “October 1, 1988), and” and inserting “the date of the enactment of the Transportation Equity Act for the 21st Century),”,

(2) in subparagraph (B) by striking “November 29, 1990” and inserting “the date of the enactment of the Transportation Equity Act for the 21st Century”, and

(3) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) to carry out the purposes of section 7404(d) of the Transportation Equity Act for the 21st Century (as in effect on the date of the enactment of such Act), and”.

(c) EXTENSION AND EXPANSION OF EXPENDITURE AUTHORITY FROM BOAT SAFETY ACCOUNT.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(1) by striking “1998” and inserting “2003”, and

(2) by striking “October 1, 1988” and inserting “the date of enactment of the Transportation Equity Act for the 21st Century”.

(d) LIMITATION ON EXPENDITURE AUTHORITY.—Section 9504 (relating to Aquatic Resources Trust Fund) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

“(d) LIMITATION ON TRANSFERS TO AQUATIC RESOURCES TRUST FUND.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated or paid to any Account in the Aquatic Resources Trust Fund on and after the date of any expenditure from any such Account which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

“(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

“(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

“(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before

October 1, 2003, in accordance with the provisions of this section.”.

26 USC 9503  
note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of enactment of this Act.

**SEC. 9006. REPEAL OF 1.25 CENT TAX RATE ON RAIL DIESEL FUEL.**

(a) **IN GENERAL.**—Section 4041(a)(1)(C)(ii) (relating to rate of tax on trains) is amended—

(1) in subclause (II), by striking “October 1, 1999” and inserting “November 1, 1998”, and

(2) in subclause (III), by striking “September 30, 1999” and inserting “October 31, 1998”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 6421(f)(3)(B) is amended—

(A) in clause (ii), by striking “October 1, 1999” and inserting “November 1, 1998”, and

(B) in clause (iii), by striking “September 30, 1999” and inserting “October 31, 1998”.

(2) Section 6427(l)(3)(B) is amended—

(A) in clause (ii), by striking “October 1, 1999” and inserting “November 1, 1998”, and

(B) in clause (iii), by striking “September 30, 1999” and inserting “October 31, 1998”.

**SEC. 9007. ADDITIONAL QUALIFIED EXPENSES AVAILABLE TO NON-AMTRAK STATES.**

(a) **IN GENERAL.**—Section 977(e)(1)(B) of the Taxpayer Relief Act of 1997 (defining qualified expenses) is amended—

26 USC 172 note.

(1) by striking “and” at the end of clause (iii), and

(2) by striking clause (iv) and inserting the following:

“(iv) capital expenditures related to State-owned rail operations in the State,

“(v) any project that is eligible to receive funding under section 5309, 5310, or 5311 of title 49, United States Code,

“(vi) any project that is eligible to receive funding under section 103, 130, 133, 144, 149, or 152 of title 23, United States Code,

“(vii) the upgrading and maintenance of intercity primary and rural air service facilities, and the purchase of intercity air service between primary and rural airports and regional hubs,

“(viii) the provision of passenger ferryboat service within the State,

“(ix) the provision of harbor improvements within the State, and

“(x) the payment of interest and principal on obligations incurred for such acquisition, upgrading, maintenance, purchase, expenditures, provision, and projects.”.

26 USC 172 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the enactment of section 977 of the Taxpayer Relief Act of 1997.

**SEC. 9008. DELAY IN EFFECTIVE DATE OF NEW REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.**

Subsection (f) of section 1032 of the Taxpayer Relief Act of 1997 is amended to read as follows:

26 USC 4041  
note.

“(f) EFFECTIVE DATES.—

“(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on July 1, 1998.

“(2) The amendment made by subsection (d) shall take effect on July 1, 2000.”.

**SEC. 9009. SIMPLIFIED FUEL TAX REFUND PROCEDURES.**

(a) IN GENERAL.—Subparagraph (A) of section 6427(i)(2) is amended to read as follows:

“(A) IN GENERAL.—If, at the close of any quarter of the taxable year of any person, at least \$750 is payable in the aggregate under subsections (a), (b), (d), (h), (l), and (q) of this section and section 6421 to such person with respect to fuel used during—

“(i) such quarter, or

“(ii) any prior quarter (for which no other claim has been filed) during such taxable year, a claim may be filed under this section with respect to such fuel.”.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (i) of section 6427 is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(2) Paragraph (2) of section 6427(k) is amended to read as follows:

“(2) EXCEPTION.—Paragraph (1) shall not apply to a payment of a claim filed under paragraph (2), (3), or (4) of subsection (i).”.

(3) Paragraph (2) of section 6421(d) is amended to read as follows:

“(2) EXCEPTION.—

“For payments per quarter based on aggregate amounts payable under this section and section 6427, see section 6427(i)(2).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998. 26 USC 6421 note.

**SEC. 9010. ELECTION TO RECEIVE TAXABLE CASH COMPENSATION IN LIEU OF NONTAXABLE QUALIFIED TRANSPORTATION FRINGE BENEFITS.**

(a) NO CONSTRUCTIVE RECEIPT.—

(1) IN GENERAL.—Paragraph (4) of section 132(f) (relating to qualified transportation fringe) is amended to read as follows:

“(4) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of an employee solely because the employee may choose between any qualified transportation fringe and compensation which would otherwise be includible in gross income of such employee.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1997. 26 USC 132 note.

(b) INFLATION ADJUSTMENT ONLY AFTER 1999.—

(1) IN GENERAL.—Paragraph (6) of section 132(f) (relating to qualified transportation fringe) is amended to read as follows:

“(6) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1999, the dollar amounts

contained in subparagraphs (A) and (B) of paragraph (2) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ‘calendar year 1998’ for ‘calendar year 1992’.

“(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of \$5, such increase shall be rounded to the next lowest multiple of \$5.”

(2) CONFORMING AMENDMENTS.—Section 132(f)(2) is amended—

(A) by striking “\$60” in subparagraph (A) and inserting “\$65”, and

(B) by striking “\$155” in subparagraph (B) and inserting “\$175”.

26 USC 132 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1998.

(c) INCREASE IN MAXIMUM EXCLUSION FOR EMPLOYER-PROVIDED TRANSIT PASSES.—

(1) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking “\$65” and inserting “\$100”.

(2) NEW BASE PERIOD FOR INFLATION ADJUSTMENT.—Subparagraph (A) of section 132(f)(6) is amended by adding at the end the following flush sentence:

“In the case of any taxable year beginning in a calendar year after 2002, clause (ii) shall be applied by substituting ‘calendar year 2001’ for ‘calendar year 1998’ for purposes of adjusting the dollar amount contained in paragraph (2)(A).”.

26 USC 132 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2001.

#### **SEC. 9011. REPEAL OF NATIONAL RECREATIONAL TRAILS TRUST FUND.**

(a) IN GENERAL.—Section 9511 (relating to National Recreational Trails Trust Fund) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 9503(c) is amended by striking paragraph (6).

(2) Subparagraph (D) of section 9503(b)(4) is amended to read as follows:

“(D) in the case of gasoline and special motor fuels used as described in paragraph (4)(D) or (5)(B) of subsection (c), section 4041 or 4081 with respect to so much of the rate of tax as exceeds 11.5 cents per gallon,”.

(3) The table of sections for subchapter A of chapter 98 is amended by striking the item relating to section 9511.

**SEC. 9012. IDENTIFICATION OF LIMITED TAX BENEFITS SUBJECT TO  
LINE ITEM VETO.**

For purposes of part C of title X of the Congressional Budget and Impoundment Control Act of 1974 (relating to line item veto), the Joint Committee on Taxation has determined that this title does not contain any limited tax benefit (as defined in such part).

Approved June 9, 1998.

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**LEGISLATIVE HISTORY—H.R. 2400 (S. 1173):**

**HOUSE REPORTS:** Nos. 105–467, Pts. 1 and 2 (Comm. on Transportation and Infrastructure) and Pt. 3 (Comm. on Ways and Means), and 105–550 (Comm. of Conference).

**SENATE REPORTS:** No. 105–95 accompanying S. 1173 (Comm. on Environment and Public Works).

**CONGRESSIONAL RECORD**, Vol. 144 (1998):

Apr. 1, considered and passed House.

Apr. 2, considered and passed Senate, amended, in lieu of S. 1173.

May 22, House and Senate agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 34 (1998):

June 9, Presidential remarks and statement.



Public Law 105–179  
105th Congress

An Act

June 16, 1998  
[H.R. 824]

To redesignate the Federal building located at 717 Madison Place, NW., in the District of Columbia, as the “Howard T. Markey National Courts Building”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REDESIGNATION.**

The Federal building located at 717 Madison Place, NW., in the District of Columbia and known as the National Courts Building shall be known and designated as the “Howard T. Markey National Courts Building”.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the “Howard T. Markey National Courts Building”.

Approved June 16, 1998.

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**LEGISLATIVE HISTORY—H.R. 824 (S. 878):**

HOUSE REPORTS: No. 105–211 (Comm. on Transportation and Infrastructure).  
CONGRESSIONAL RECORD:

Vol. 143 (1997): Sept. 23, considered and passed House.  
Vol. 144 (1998): June 2, considered and passed Senate.



Public Law 105–180  
105th Congress

An Act

To amend Part L of the Omnibus Crime Control and Safe Streets Act of 1968.

June 16, 1998

[H.R. 3565]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Care for Police Survivors Act of 1998”.

Care for Police  
Survivors Act of  
1998.  
42 USC 3711  
note.

**SEC. 2. AMENDMENTS TO PUBLIC SAFETY OFFICERS’ DEATH BENEFITS.**

(a) NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY.—Section 1203 of Part L of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a–1), is amended to read as follows: “The Director is authorized to use no less than \$150,000 of the funds appropriated for this part to maintain and enhance national peer support and counseling programs to assist families of public safety officers who have died in the line of duty.”.

Appropriation  
authorization.

(b) ADMINISTRATIVE PROVISION.—Section 1205 of Part L of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796c), is amended by adding at the end the following new subsection:

“(c) Notwithstanding any other provision of law, the Bureau is authorized to use appropriated funds to conduct appeals of public safety officers’ death and disability claims.”.

Approved June 16, 1998.

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**LEGISLATIVE HISTORY—H.R. 3565 (S. 1985):**

HOUSE REPORTS: No. 105–486 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Apr. 21, considered and passed House.

May 15, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

June 16, Presidential remarks.



Public Law 105–181  
105th Congress

An Act

June 16, 1998  
[S. 1605]

To establish a matching grant program to help State and local jurisdictions purchase armor vests for use by law enforcement departments.

Bulletproof Vest  
Partnership  
Grant Act of  
1998.  
42 USC 3711  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Bulletproof Vest Partnership Grant Act of 1998”.

42 USC 3796ll  
note.

**SEC. 2. FINDINGS; PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) the number of law enforcement officers who are killed in the line of duty would significantly decrease if every law enforcement officer in the United States had the protection of an armor vest;

(2) according to studies, between 1985 and 1994, 709 law enforcement officers in the United States were feloniously killed in the line of duty;

(3) the Federal Bureau of Investigation estimates that the risk of fatality to law enforcement officers while not wearing an armor vest is 14 times higher than for officers wearing an armor vest;

(4) the Department of Justice estimates that approximately 150,000 State, local, and tribal law enforcement officers, nearly 25 percent, are not issued body armor;

(5) according to studies, between 1985 and 1994, bullet-resistant materials helped save the lives of more than 2,000 law enforcement officers in the United States; and

(6) the Executive Committee for Indian Country Law Enforcement Improvements reports that violent crime in Indian country has risen sharply, despite a decrease in the national crime rate, and has concluded that there is a “public safety crisis in Indian country”.

(b) PURPOSE.—The purpose of this Act is to save lives of law enforcement officers by helping State, local, and tribal law enforcement agencies provide officers with armor vests.

**SEC. 3. MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Y as part Z;

(2) by redesignating section 2501 as section 2601; and

(3) by inserting after part X the following new part:

42 USC 3797.



## **“PART Y—MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT ARMOR VESTS**

### **“SEC. 2501. PROGRAM AUTHORIZED.**

42 USC 3796ll.

“(a) **IN GENERAL.**—The Director of the Bureau of Justice Assistance is authorized to make grants to States, units of local government, and Indian tribes to purchase armor vests for use by State, local, and tribal law enforcement officers.

“(b) **USES OF FUNDS.**—Grants awarded under this section shall be—

“(1) distributed directly to the State, unit of local government, or Indian tribe; and

“(2) used for the purchase of armor vests for law enforcement officers in the jurisdiction of the grantee.

“(c) **PREFERENTIAL CONSIDERATION.**—In awarding grants under this part, the Director of the Bureau of Justice Assistance may give preferential consideration, if feasible, to an application from a jurisdiction that—

“(1) has the greatest need for armor vests based on the percentage of law enforcement officers in the department who do not have access to a vest;

“(2) has, or will institute, a mandatory wear policy that requires on-duty law enforcement officers to wear armor vests whenever feasible; and

“(3) has a violent crime rate at or above the national average as determined by the Federal Bureau of Investigation; or

“(4) has not received a block grant under the Local Law Enforcement Block Grant program described under the heading ‘Violent Crime Reduction Programs, State and Local Law Enforcement Assistance’ of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119).

“(d) **MINIMUM AMOUNT.**—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.50 percent of the total amount appropriated in the fiscal year for grants pursuant to this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated .25 percent.

“(e) **MAXIMUM AMOUNT.**—A qualifying State, unit of local government, or Indian tribe may not receive more than 5 percent of the total amount appropriated in each fiscal year for grants under this section, except that a State, together with the grantees within the State may not receive more than 20 percent of the total amount appropriated in each fiscal year for grants under this section.

“(f) **MATCHING FUNDS.**—The portion of the costs of a program provided by a grant under subsection (a) may not exceed 50 percent. Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

“(g) ALLOCATION OF FUNDS.—At least half of the funds available under this part shall be awarded to units of local government with fewer than 100,000 residents.

42 USC 3796ll-1. **“SEC. 2502. APPLICATIONS.**

“(a) IN GENERAL.—To request a grant under this part, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Director of the Bureau of Justice Assistance in such form and containing such information as the Director may reasonably require.

“(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this part, the Director of the Bureau of Justice Assistance shall promulgate regulations to implement this section (including the information that must be included and the requirements that the States, units of local government, and Indian tribes must meet) in submitting the applications required under this section.

“(c) ELIGIBILITY.—A unit of local government that receives funding under the Local Law Enforcement Block Grant program (described under the heading ‘Violent Crime Reduction Programs, State and Local Law Enforcement Assistance’ of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119)) during a fiscal year in which it submits an application under this part shall not be eligible for a grant under this part unless the chief executive officer of such unit of local government certifies and provides an explanation to the Director that the unit of local government considered or will consider using funding received under the block grant program for any or all of the costs relating to the purchase of armor vests, but did not, or does not expect to use such funds for such purpose.

42 USC 3796ll-2. **“SEC. 2503. DEFINITIONS.**

“For purposes of this part—

“(1) the term ‘armor vest’ means body armor, no less than Type I, which has been tested through the voluntary compliance testing program operated by the National Law Enforcement and Corrections Technology Center of the National Institute of Justice (NIJ), and found to meet or exceed the requirements of NIJ Standard 0101.03, or any subsequent revision of such standard;

“(2) the term ‘body armor’ means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, stabbing, or other physical harm;

“(3) the term ‘State’ means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

“(4) the term ‘unit of local government’ means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level;

“(5) the term ‘Indian tribe’ has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

“(6) the term ‘law enforcement officer’ means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency

to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following new paragraph:

“(23) There are authorized to be appropriated to carry out part Y, \$25,000,000 for each of fiscal years 1999 through 2001.”.

**SEC. 4. SENSE OF THE CONGRESS.**

In the case of any equipment or products that may be authorized to be purchased with financial assistance provided using funds appropriated or otherwise made available by this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

Approved June 16, 1998.

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**LEGISLATIVE HISTORY—S. 1605 (H.R. 2829):**

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 11, considered and passed Senate.

May 12, considered and passed House, amended, in lieu of H.R. 2829.

May 15, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

June 16, Presidential remarks.



Public Law 105–182  
105th Congress

An Act

June 19, 1998  
[S. 423]

To extend the legislative authority for the Board of Regents of Gunston Hall to establish a memorial to honor George Mason.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

40 USC 1003  
note.

**SECTION 1. EXTENSION OF LEGISLATIVE AUTHORITY FOR MEMORIAL ESTABLISHMENT.**

The legislative authority for the Board of Regents of Gunston Hall to establish a commemorative work (as defined by section 2 of the Commemorative Works Act (40 U.S.C. 1002)) shall expire August 10, 2000, notwithstanding the time period limitation specified in section 10(b) of the Commemorative Works Act (40 U.S.C. 1010(b)).

Approved June 19, 1998.

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LEGISLATIVE HISTORY—S. 423:

HOUSE REPORTS: No. 105–363 (Comm. on Resources).

SENATE REPORTS: No. 105–38 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): July 11, considered and passed Senate.

Vol. 144 (1998): June 9, considered and passed House.



Public Law 105–183  
105th Congress

An Act

To amend title 11, United States Code, to protect certain charitable contributions,  
and for other purposes.

June 19, 1998  
[S. 1244]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Religious Liberty and Charitable  
Donation Protection Act of 1998”.

Religious Liberty  
and Charitable  
Donation  
Protection Act of  
1998.  
11 USC 101 note.

**SEC. 2. DEFINITIONS.**

Section 548(d) of title 11, United States Code, is amended  
by adding at the end the following:

“(3) In this section, the term ‘charitable contribution’ means  
a charitable contribution, as that term is defined in section 170(c)  
of the Internal Revenue Code of 1986, if that contribution—

“(A) is made by a natural person; and

“(B) consists of—

“(i) a financial instrument (as that term is defined  
in section 731(c)(2)(C) of the Internal Revenue Code of  
1986); or

“(ii) cash.

“(4) In this section, the term ‘qualified religious or charitable  
entity or organization’ means—

“(A) an entity described in section 170(c)(1) of the Internal  
Revenue Code of 1986; or

“(B) an entity or organization described in section 170(c)(2)  
of the Internal Revenue Code of 1986.”.

**SEC. 3. TREATMENT OF PRE-PETITION QUALIFIED CHARITABLE CON-  
TRIBUTIONS.**

(a) IN GENERAL.—Section 548(a) of title 11, United States Code,  
is amended—

(1) by inserting “(1)” after “(a)”;

(2) by striking “(1) made” and inserting “(A) made”;

(3) by striking “(2)(A)” and inserting “(B)(i)”;

(4) by striking “(B)(i)” and inserting “(ii)(I)”;

(5) by striking “(ii) was” and inserting “(II) was”;

(6) by striking “(iii)” and inserting “(III)”;

(7) by adding at the end the following:

“(2) A transfer of a charitable contribution to a qualified reli-  
gious or charitable entity or organization shall not be considered  
to be a transfer covered under paragraph (1)(B) in any case in  
which—

“(A) the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

“(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.”.

(b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(1) by striking “(b) The trustee” and inserting “(b)(1) Except as provided in paragraph (2), the trustee”; and

(2) by adding at the end the following:

“(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.”.

(c) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by striking “548(a)(2)” and inserting “548(a)(1)(B)”; and

and

(B) by striking “548(a)(1)” and inserting “548(a)(1)(A)”; and

(2) in subsection (f)—

(A) by striking “548(a)(2)” and inserting “548(a)(1)(B)”; and

and

(B) by striking “548(a)(1)” and inserting “548(a)(1)(A)”; and

and

(3) in subsection (g)—

(A) by striking “section 548(a)(1)” each place it appears and inserting “section 548(a)(1)(A)”; and

(B) by striking “548(a)(2)” and inserting “548(a)(1)(B)”.

#### **SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS.**

(a) CONFIRMATION OF PLAN.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: “, including charitable contributions (that meet the definition of ‘charitable contribution’ under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made”.

(b) DISMISSAL.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: “In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of ‘charitable contribution’ under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).”.

11 USC 544 note. **SEC. 5. APPLICABILITY.**

This Act and the amendments made by this Act shall apply to any case brought under an applicable provision of title 11,

United States Code, that is pending or commenced on or after the date of enactment of this Act.

**SEC. 6. RULE OF CONSTRUCTION.**

11 USC 544 note.

Nothing in the amendments made by this Act is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

Approved June 19, 1998.

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**LEGISLATIVE HISTORY—S. 1244 (H.R. 2604):**

**HOUSE REPORTS:** No. 105–556 accompanying H.R. 2604 (Comm. on the Judiciary).

**CONGRESSIONAL RECORD**, Vol. 144 (1998):

May 13, considered and passed Senate.

June 3, considered and passed House.



Public Law 105–184  
105th Congress

An Act

June 23, 1998

[H.R. 1847]

Telemarketing  
Fraud Prevention  
Act of 1998.  
18 USC 1 note.

To improve the criminal law relating to fraud against consumers.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Telemarketing Fraud Prevention Act of 1998”.

**SEC. 2. CRIMINAL FORFEITURE OF FRAUD PROCEEDS.**

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating the second paragraph designated as paragraph (6) as paragraph (7); and

(B) by adding at the end the following:

Courts.

“(8) The Court, in sentencing a defendant convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344, or of a conspiracy to commit such an offense, if the offense involves telemarketing (as that term is defined in section 2325), shall order that the defendant forfeit to the United States any real or personal property—

“(A) used or intended to be used to commit, to facilitate, or to promote the commission of such offense; and

“(B) constituting, derived from, or traceable to the gross proceeds that the defendant obtained directly or indirectly as a result of the offense.”; and

(2) in subsection (b)(1)(A), by striking “(a)(1) or (a)(6)” and inserting “(a)(1), (a)(6), or (a)(8)”.

**SEC. 3. PENALTY FOR TELEMARKETING FRAUD.**

Section 2326 of title 18, United States Code, is amended by striking “may” each place it appears and inserting “shall”.

**SEC. 4. ADDITION OF CONSPIRACY OFFENSES TO SECTION 2326 ENHANCEMENT.**

Section 2326 of title 18, United States Code, is amended by inserting “, or a conspiracy to commit such an offense,” after “or 1344”.

**SEC. 5. CLARIFICATION OF MANDATORY RESTITUTION.**

Section 2327 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “for any offense under this chapter” and inserting “to all victims of any offense for which an enhanced penalty is provided under section 2326”; and

(2) by striking subsection (c) and inserting the following:



“(c) VICTIM DEFINED.—In this section, the term ‘victim’ has the meaning given that term in section 3663A(a)(2).”.

**SEC. 6. AMENDMENT OF FEDERAL SENTENCING GUIDELINES.**

28 USC 994 note.

(a) DEFINITION OF TELEMARKETING.—In this section, the term “telemarketing” has the meaning given that term in section 2326 of title 18, United States Code.

(b) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall—

(1) promulgate Federal sentencing guidelines or amend existing sentencing guidelines (and policy statements, if appropriate) to provide for substantially increased penalties for persons convicted of offenses described in section 2326 of title 18, United States Code, as amended by this Act, in connection with the conduct of telemarketing; and

(2) submit to Congress an explanation of each action taken under paragraph (1) and any additional policy recommendations for combating the offenses described in that paragraph.

(c) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the guidelines and policy statements promulgated or amended pursuant to subsection (b)(1) and any recommendations submitted thereunder reflect the serious nature of the offenses;

(2) provide an additional appropriate sentencing enhancement, if the offense involved sophisticated means, including but not limited to sophisticated concealment efforts, such as perpetrating the offense from outside the United States;

(3) provide an additional appropriate sentencing enhancement for cases in which a large number of vulnerable victims, including but not limited to victims described in section 2326(2) of title 18, United States Code, are affected by a fraudulent scheme or schemes;

(4) ensure that guidelines and policy statements promulgated or amended pursuant to subsection (b)(1) are reasonably consistent with other relevant statutory directives to the Commission and with other guidelines;

(5) account for any aggravating or mitigating circumstances that might justify upward or downward departures;

(6) ensure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code; and

(7) take any other action the Commission considers necessary to carry out this section.

(d) EMERGENCY AUTHORITY.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable, and in any event not later than 120 days after the date of the enactment of the Telemarketing Fraud Prevention Act of 1998, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that authority had not expired, except that the Commission shall submit to Congress the emergency guidelines or amendments promulgated under this section, and shall set an effective date for those guidelines or amendments not earlier than 30 days after their submission to Congress.

Deadlines.

**SEC. 7. FALSE ADVERTISING OR MISUSE OF NAME TO INDICATE UNITED STATES MARSHALS SERVICE.**

Section 709 of title 18, United States Code, is amended by inserting after the thirteenth undesignated paragraph the following:

“Whoever, except with the written permission of the Director of the United States Marshals Service, knowingly uses the words ‘United States Marshals Service’, ‘U.S. Marshals Service’, ‘United States Marshal’, ‘U.S. Marshal’, ‘U.S.M.S.’, or any colorable imitation of any such words, or the likeness of a United States Marshals Service badge, logo, or insignia on any item of apparel, in connection with any advertisement, circular, book, pamphlet, software, or other publication, or any play, motion picture, broadcast, telecast, or other production, in a manner that is reasonably calculated to convey the impression that the wearer of the item of apparel is acting pursuant to the legal authority of the United States Marshals Service, or to convey the impression that such advertisement, circular, book, pamphlet, software, or other publication, or such play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the United States Marshals Service;”.

**SEC. 8. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.**

Section 2703(c)(1)(B) of title 18, United States Code, is amended—

- (1) by striking “or” at the end of clause (ii);
- (2) by striking the period at the end of clause (iii) and inserting “; or”; and
- (3) by adding at the end the following:

“(iv) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is defined in section 2325 of this title).”.

Approved June 23, 1998.

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**LEGISLATIVE HISTORY—H.R. 1847:**

HOUSE REPORTS: No. 105-158 (Comm. on the Judiciary).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): July 8, considered and passed House.

Nov. 9, considered and passed Senate, amended.

Vol. 144 (1998): June 16, House concurred in Senate amendment.



Public Law 105–185  
105th Congress

An Act

To ensure that federally funded agricultural research, extension, and education address high-priority concerns with national or multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes.

June 23, 1998  
[S. 1150]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Agricultural Research, Extension, and Education Reform Act of 1998”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Short titles for Smith-Lever Act and Hatch Act of 1887.

**TITLE I—PRIORITIES, SCOPE, REVIEW, AND COORDINATION OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION**

- Sec. 101. Standards for Federal funding of agricultural research, extension, and education.
- Sec. 102. Priority setting process.
- Sec. 103. Relevance and merit of agricultural research, extension, and education funded by the Department.
- Sec. 104. Research formula funds for 1862 Institutions.
- Sec. 105. Extension formula funds for 1862 Institutions.
- Sec. 106. Research facilities.

**TITLE II—REFORM OF EXISTING AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION AUTHORITIES**

**Subtitle A—Smith-Lever Act and Hatch Act of 1887**

- Sec. 201. Cooperative agricultural extension work by 1862, 1890, and 1994 Institutions.
- Sec. 202. Plans of work to address critical research and extension issues and use of protocols to measure success of plans.
- Sec. 203. Consistent matching funds requirements under Hatch Act of 1887 and Smith-Lever Act.
- Sec. 204. Integration of research and extension.

**Subtitle B—Competitive, Special, and Facilities Research Grant Act**

- Sec. 211. Competitive grants.
- Sec. 212. Special grants.

**Subtitle C—National Agricultural Research, Extension, and Teaching Policy Act of 1977**

- Sec. 221. Definitions regarding agricultural research, extension, and education.
- Sec. 222. Advisory Board.
- Sec. 223. Grants and fellowships for food and agricultural sciences education.
- Sec. 224. Policy research centers.
- Sec. 225. Plans of work for 1890 Institutions to address critical research and extension issues and use of protocols to measure success of plans.

Agricultural  
Research,  
Extension, and  
Education  
Reform Act of  
1998.  
7 USC 7601 note.

- Sec. 226. Matching funds requirement for research and extension activities at 1890 Institutions.
- Sec. 227. International research, extension, and teaching.
- Sec. 228. United States-Mexico joint agricultural research.
- Sec. 229. Competitive grants for international agricultural science and education programs.
- Sec. 230. General administrative costs.
- Sec. 231. Expansion of authority to enter into cost-reimbursable agreements.

#### **Subtitle D—Food, Agriculture, Conservation, and Trade Act of 1990**

- Sec. 241. Agricultural Genome Initiative.
- Sec. 242. High-priority research and extension initiatives.
- Sec. 243. Nutrient management research and extension initiative.
- Sec. 244. Organic agriculture research and extension initiative.
- Sec. 245. Agricultural telecommunications program.
- Sec. 246. Assistive technology program for farmers with disabilities.

#### **Subtitle E—Other Laws**

- Sec. 251. Equity in Educational Land-Grant Status Act of 1994.
- Sec. 252. Fund for Rural America.
- Sec. 253. Forest and rangeland renewable resources research.

### **TITLE III—EXTENSION OR REPEAL OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION AUTHORITIES**

- Sec. 301. Extensions.
- Sec. 302. Repeals.

### **TITLE IV—NEW AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION INITIATIVES**

- Sec. 401. Initiative for Future Agriculture and Food Systems.
- Sec. 402. Partnerships for high-value agricultural product quality research.
- Sec. 403. Precision agriculture.
- Sec. 404. Biobased products.
- Sec. 405. Thomas Jefferson Initiative for Crop Diversification.
- Sec. 406. Integrated research, education, and extension competitive grants program.
- Sec. 407. Coordinated program of research, extension, and education to improve viability of small and medium size dairy, livestock, and poultry operations.
- Sec. 408. Support for research regarding diseases of wheat and barley caused by *Fusarium graminearum*.

### **TITLE V—AGRICULTURAL PROGRAM ADJUSTMENTS**

#### **Subtitle A—Food Stamp Program**

- Sec. 501. Reductions in funding of employment and training programs.
- Sec. 502. Reductions in payments for administrative costs.
- Sec. 503. Extension of eligibility period for refugees and certain other qualified aliens from 5 to 7 years.
- Sec. 504. Food stamp eligibility for certain disabled aliens.
- Sec. 505. Food stamp eligibility for certain Indians.
- Sec. 506. Food stamp eligibility for certain elderly individuals.
- Sec. 507. Food stamp eligibility for certain children.
- Sec. 508. Food stamp eligibility for certain Hmong and Highland Laotians.
- Sec. 509. Conforming amendments.
- Sec. 510. Effective dates.

#### **Subtitle B—Information Technology Funding**

- Sec. 521. Information technology funding.

#### **Subtitle C—Crop Insurance**

- Sec. 531. Funding.
- Sec. 532. Budgetary offsets.
- Sec. 533. Procedures for responding to certain inquiries.
- Sec. 534. Time period for responding to submission of new policies.
- Sec. 535. Crop insurance study.
- Sec. 536. Required terms and conditions of Standard Reinsurance Agreements.
- Sec. 537. Effective date.

### **TITLE VI—MISCELLANEOUS PROVISIONS**

#### **Subtitle A—Existing Authorities**

- Sec. 601. Retention and use of fees.

- Sec. 602. Office of Energy Policy and New Uses.
- Sec. 603. Kiwifruit research, promotion, and consumer information program.
- Sec. 604. Food Animal Residue Avoidance Database program.
- Sec. 605. Honey research, promotion, and consumer information.
- Sec. 606. Technical corrections.

#### **Subtitle B—New Authorities**

- Sec. 611. Nutrient composition data.
- Sec. 612. National Swine Research Center.
- Sec. 613. Role of Secretary regarding food and agricultural sciences research and extension.
- Sec. 614. Office of Pest Management Policy.
- Sec. 615. Food Safety Research Information Office and National Conference.
- Sec. 616. Safe food handling education.
- Sec. 617. Reimbursement of expenses incurred under Sheep Promotion, Research, and Information Act of 1994.
- Sec. 618. Designation of Crisis Management Team within Department.
- Sec. 619. Designation of Kika de la Garza Subtropical Agricultural Research Center, Weslaco, Texas.

#### **Subtitle C—Studies**

- Sec. 631. Evaluation and assessment of agricultural research, extension, and education programs.
- Sec. 632. Study of federally funded agricultural research, extension, and education.

#### **Subtitle D—Senses of Congress**

- Sec. 641. Sense of Congress regarding Agricultural Research Service emphasis on field research regarding methyl bromide alternatives.
- Sec. 642. Sense of Congress regarding importance of school-based agricultural education.

### **SEC. 2. DEFINITIONS.**

7 USC 7601.

In this Act:

(1) 1862 INSTITUTION.—The term “1862 Institution” means a college or university eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.).

(2) 1890 INSTITUTION.—The term “1890 Institution” means a college or university eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), including Tuskegee University.

(3) 1994 INSTITUTION.—The term “1994 Institution” means 1 of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)) (as amended by section 251(a)).

(4) ADVISORY BOARD.—The term “Advisory Board” means the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123).

(5) DEPARTMENT.—The term “Department” means the Department of Agriculture.

(6) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

### **SEC. 3. SHORT TITLES FOR SMITH-LEVER ACT AND HATCH ACT OF 1887.**

(a) SMITH-LEVER ACT.—The Act of May 8, 1914 (commonly known as the “Smith-Lever Act”) (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.), is amended by adding at the end the following:

“SEC. 11. SHORT TITLE.

7 USC 341 note.

“This Act may be cited as the ‘Smith-Lever Act’.”

(b) HATCH ACT OF 1887.—The Act of March 2, 1887 (commonly known as the “Hatch Act of 1887”) (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.), is amended by adding at the end the following:

7 USC 361a note.

“SEC. 10. SHORT TITLE.

“This Act may be cited as the ‘Hatch Act of 1887’.”.

## **TITLE I—PRIORITIES, SCOPE, REVIEW, AND COORDINATION OF AGRICUL- TURAL RESEARCH, EXTENSION, AND EDUCATION**

7 USC 7611.

### **SEC. 101. STANDARDS FOR FEDERAL FUNDING OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.**

(a) IN GENERAL.—The Secretary shall ensure that agricultural research, extension, or education activities described in subsection (b) address a concern that—

- (1) is a priority, as determined under section 102(a); and
- (2) has national, multistate, or regional significance.

(b) APPLICATION.—Subsection (a) applies to—

- (1) research activities conducted by the Agricultural Research Service; and
- (2) research, extension, or education activities administered, on a competitive basis, by the Cooperative State Research, Education, and Extension Service.

7 USC 7612.

### **SEC. 102. PRIORITY SETTING PROCESS.**

(a) ESTABLISHMENT.—Consistent with section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101), the Secretary shall establish priorities for agricultural research, extension, and education activities conducted or funded by the Department.

(b) RESPONSIBILITIES OF SECRETARY.—In establishing priorities for agricultural research, extension, and education activities conducted or funded by the Department, the Secretary shall solicit and consider input and recommendations from persons who conduct or use agricultural research, extension, or education.

(c) RESPONSIBILITIES OF 1862, 1890, AND 1994 INSTITUTIONS.—

Effective date.

(1) PROCESS.—Effective October 1, 1999, to obtain agricultural research, extension, or education formula funds from the Secretary, each 1862 Institution, 1890 Institution, and 1994 Institution shall establish and implement a process for obtaining input from persons who conduct or use agricultural research, extension, or education concerning the use of the funds.

(2) REGULATIONS.—The Secretary shall promulgate regulations that prescribe—

(A) the requirements for an institution referred to in paragraph (1) to comply with paragraph (1); and

(B) the consequences for an institution of not complying with paragraph (1), which may include the withholding or redistribution of funds to which the institution may be entitled until the institution complies with paragraph (1).

(d) **MANAGEMENT PRINCIPLES.**—To the maximum extent practicable, the Secretary shall ensure that federally supported and conducted agricultural research, extension, and education activities are accomplished in a manner that—

(1) integrates agricultural research, extension, and education functions to better link research to technology transfer and information dissemination activities;

(2) encourages regional and multistate programs to address relevant issues of common concern and to better leverage scarce resources; and

(3) achieves agricultural research, extension, and education objectives through multi-institutional and multifunctional approaches and by conducting research at facilities and institutions best equipped to achieve those objectives.

**SEC. 103. RELEVANCE AND MERIT OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION FUNDED BY THE DEPARTMENT.** 7 USC 7613.

(a) **REVIEW OF COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE.**— Procedures.

(1) **PEER REVIEW OF RESEARCH GRANTS.**—The Secretary shall establish procedures that provide for scientific peer review of each agricultural research grant administered, on a competitive basis, by the Cooperative State Research, Education, and Extension Service of the Department.

(2) **MERIT REVIEW OF EXTENSION AND EDUCATION GRANTS.**—

(A) **ESTABLISHMENT OF PROCEDURES.**—The Secretary shall establish procedures that provide for merit review of each agricultural extension or education grant administered, on a competitive basis, by the Cooperative State Research, Education, and Extension Service.

(B) **CONSULTATION WITH ADVISORY BOARD.**—The Secretary shall consult with the Advisory Board in establishing the merit review procedures.

(b) **ADVISORY BOARD REVIEW.**—On an annual basis, the Advisory Board shall review—

(1) the relevance to the priorities established under section 102(a) of the funding of all agricultural research, extension, or education activities conducted or funded by the Department; and

(2) the adequacy of the funding.

(c) **REQUESTS FOR PROPOSALS.**—

(1) **REVIEW RESULTS.**—As soon as practicable after the review is conducted under subsection (b) for a fiscal year, the Secretary shall consider the results of the review when formulating each request for proposals, and evaluating proposals, involving an agricultural research, extension, or education activity funded, on a competitive basis, by the Department.

(2) **INPUT.**—In formulating a request for proposals described in paragraph (1) for a fiscal year, the Secretary shall solicit and consider input from persons who conduct or use agricultural research, extension, or education regarding the prior year's request for proposals.

(d) **SCIENTIFIC PEER REVIEW OF AGRICULTURAL RESEARCH.**—

(1) **PEER REVIEW PROCEDURES.**—The Secretary shall establish procedures that ensure scientific peer review of all research activities conducted by the Department.

(2) REVIEW PANEL REQUIRED.—As part of the procedures established under paragraph (1), a review panel shall verify, at least once every 5 years, that each research activity of the Department and research conducted under each research program of the Department has scientific merit and relevance.

(3) MISSION AREA.—If the research activity or program to be reviewed is included in the research, educational, and economics mission area of the Department, the review panel shall consider—

(A) the scientific merit and relevance of the activity or research in light of the priorities established pursuant to section 102; and

(B) the national or multistate significance of the activity or research.

(4) COMPOSITION OF REVIEW PANEL.—

(A) IN GENERAL.—A review panel shall be composed of individuals with scientific expertise, a majority of whom are not employees of the agency whose research is being reviewed.

(B) SCIENTISTS FROM COLLEGES AND UNIVERSITIES.—To the maximum extent practicable, the Secretary shall use scientists from colleges and universities to serve on the review panels.

(5) SUBMISSION OF RESULTS.—The results of the panel reviews shall be submitted to the Advisory Board.

(e) MERIT REVIEW.—

Effective date.

(1) 1862 AND 1890 INSTITUTIONS.—Effective October 1, 1999, to be eligible to obtain agricultural research or extension funds from the Secretary for an activity, each 1862 Institution and 1890 Institution shall—

(A) establish a process for merit review of the activity; and

Effective date.

(B) review the activity in accordance with the process.

(2) 1994 INSTITUTIONS.—Effective October 1, 1999, to be eligible to obtain agricultural extension funds from the Secretary for an activity, each 1994 Institution shall—

(A) establish a process for merit review of the activity; and

(B) review the activity in accordance with the process.

(f) REPEAL OF PROVISIONS FOR WITHHOLDING FUNDS.—

(1) SMITH-LEVER ACT.—Section 6 of the Smith-Lever Act (7 U.S.C. 346) is repealed.

(2) HATCH ACT OF 1887.—Section 7 of the Hatch Act of 1887 (7 U.S.C. 361g) is amended by striking the last paragraph.

(3) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended—

(A) in section 1444 (7 U.S.C. 3221)—

(i) by striking subsection (f); and

(ii) by redesignating subsection (g) as subsection

(f);

(B) in section 1445(g) (7 U.S.C. 3222(g)), by striking paragraph (3); and

(C) by striking section 1468 (7 U.S.C. 3314).



## SEC. 104. RESEARCH FORMULA FUNDS FOR 1862 INSTITUTIONS.

(a) IN GENERAL.—Section 3 of the Hatch Act of 1887 (7 U.S.C. 361c) is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs 1, 2, 3, and 5 as paragraphs (1), (2), (3), and (4), respectively; and

(B) by striking paragraph (3) and inserting the following:

“(3) Not less than 25 percent shall be allotted to the States for cooperative research employing multidisciplinary approaches in which a State agricultural experiment station, working with another State agricultural experiment station, the Agricultural Research Service, or a college or university, cooperates to solve problems that concern more than 1 State. The funds available under this paragraph, together with the funds available under subsection (b) for a similar purpose, shall be designated as the ‘Multistate Research Fund, State Agricultural Experiment Stations.’”; and

(2) by adding at the end the following:

“(h) PEER REVIEW AND PLAN OF WORK.—

“(1) PEER REVIEW.—Research carried out under subsection (c)(3) shall be subject to scientific peer review. The review of a project conducted under this paragraph shall be considered to satisfy the merit review requirements of section 103(e) of the Agricultural Research, Extension, and Education Reform Act of 1998.

“(2) PLAN OF WORK.—The State shall include in the plan of work of the State required under section 7 a description of the manner in which the State will meet the requirements of subsection (c)(3).”.

(b) CONFORMING AMENDMENTS.—Section 3 of the Hatch Act of 1887 (7 U.S.C. 361c) is amended—

(1) in subsection (b)(1), by striking “subsection 3(c)(3)” and inserting “subsection (c)(3)”; and

(2) in subsection (e), by striking “subsection 3(c)3” and inserting “subsection (c)(3)”.

## SEC. 105. EXTENSION FORMULA FUNDS FOR 1862 INSTITUTIONS.

Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended by adding at the end the following:

“(h) MULTISTATE COOPERATIVE EXTENSION ACTIVITIES.—

“(1) IN GENERAL.—Not less than the applicable percentage specified under paragraph (2) of the amounts that are paid to a State under subsections (b) and (c) during a fiscal year shall be expended by States for cooperative extension activities in which 2 or more States cooperate to solve problems that concern more than 1 State (referred to in this subsection as ‘multistate activities’).

“(2) APPLICABLE PERCENTAGES.—

“(A) 1997 EXPENDITURES ON MULTISTATE ACTIVITIES.—Of the Federal formula funds that were paid to each State for fiscal year 1997 under subsections (b) and (c), the Secretary of Agriculture shall determine the percentage that the State expended for multistate activities.

“(B) REQUIRED EXPENDITURES ON MULTISTATE ACTIVITIES.—Of the Federal formula funds that are paid to each State for fiscal year 2000 and each subsequent fiscal year

under subsections (b) and (c), the State shall expend for the fiscal year for multistate activities a percentage that is at least equal to the lesser of—

“(i) 25 percent; or

“(ii) twice the percentage for the State determined under subparagraph (A).

“(C) REDUCTION BY SECRETARY.—The Secretary may reduce the minimum percentage required to be expended for multistate activities under subparagraph (B) by a State in a case of hardship, infeasibility, or other similar circumstance beyond the control of the State, as determined by the Secretary.

“(D) PLAN OF WORK.—The State shall include in the plan of work of the State required under section 4 a description of the manner in which the State will meet the requirements of this paragraph.

“(3) APPLICABILITY.—This subsection does not apply to funds provided—

“(A) by a State or local government pursuant to a matching requirement;

“(B) to a 1994 Institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103-382; 7 U.S.C. 301 note)); or

“(C) to the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

“(i) MERIT REVIEW.—

Effective date.

“(1) REVIEW REQUIRED.—Effective October 1, 1999, extension activity carried out under subsection (h) shall be subject to merit review.

“(2) OTHER REQUIREMENTS.—An extension activity for which merit review is conducted under paragraph (1) shall be considered to have satisfied the requirements for review under section 103(e) of the Agricultural Research, Extension, and Education Reform Act of 1998.”.

#### SEC. 106. RESEARCH FACILITIES.

(a) CRITERIA FOR APPROVAL.—Section 3(c)(2)(C)(ii) of the Research Facilities Act (7 U.S.C. 390a(c)(2)(C)(ii)) is amended by striking “regional needs” and inserting “national or multistate needs”.

(b) NATIONAL OR MULTISTATE NEEDS SERVED BY ARS FACILITIES.—Section 3 of the Research Facilities Act (7 U.S.C. 390a) is amended by adding at the end the following:

“(e) NATIONAL OR MULTISTATE NEEDS SERVED BY ARS FACILITIES.—The Secretary shall ensure that each research activity conducted by a facility of the Agricultural Research Service serves a national or multistate need.”.

(c) 10-YEAR STRATEGIC PLAN.—Section 4(d) of the Research Facilities Act (7 U.S.C. 390b(d)) is amended by striking “regional” and inserting “multistate”.

(d) COMPREHENSIVE RESEARCH CAPACITY.—Section 4 of the Research Facilities Act (7 U.S.C. 390b) is amended by adding at the end the following:

“(g) COMPREHENSIVE RESEARCH CAPACITY.—After submission of the 10-year strategic plan required under subsection (d), the

Secretary shall continue to review periodically each operating agricultural research facility constructed in whole or in part with Federal funds, and each planned agricultural research facility proposed to be constructed in whole or in part with Federal funds, pursuant to criteria established by the Secretary, to ensure that a comprehensive research capacity is maintained.”.

## **TITLE II—REFORM OF EXISTING AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION AUTHORITIES**

### **Subtitle A—Smith-Lever Act and Hatch Act of 1887**

#### **SEC. 201. COOPERATIVE AGRICULTURAL EXTENSION WORK BY 1862, 1890, AND 1994 INSTITUTIONS.**

Section 3(b)(3) of the Smith-Lever Act (7 U.S.C. 343(b)(3)) is amended in the last sentence by striking “State institutions” and all that follows through the period at the end and inserting “1994 Institutions (in accordance with regulations that the Secretary may promulgate) and may be administered by the 1994 Institutions through cooperative agreements with colleges and universities eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.), or the Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), including Tuskegee University, located in any State.”.

#### **SEC. 202. PLANS OF WORK TO ADDRESS CRITICAL RESEARCH AND EXTENSION ISSUES AND USE OF PROTOCOLS TO MEASURE SUCCESS OF PLANS.**

(a) SMITH-LEVER ACT.—Section 4 of the Smith-Lever Act (7 U.S.C. 344) is amended—

(1) by striking “SEC. 4.” and inserting the following:

**“SEC. 4. ASCERTAINMENT OF ENTITLEMENT OF STATE TO FUNDS; TIME AND MANNER OF PAYMENT; STATE REPORTING REQUIREMENTS; PLANS OF WORK.**

**“(a) ASCERTAINMENT OF ENTITLEMENT.—”;**

**(2) in the last sentence, by striking “Such sums” and inserting the following:**

**“(b) TIME AND MANNER OF PAYMENT; RELATED REPORTS.—The amount to which a State is entitled”; and**

**(3) by adding at the end the following:**

**“(c) REQUIREMENTS RELATED TO PLAN OF WORK.—Each extension plan of work for a State required under subsection (a) shall contain descriptions of the following:**

**“(1) The critical short-term, intermediate, and long-term agricultural issues in the State and the current and planned extension programs and projects targeted to address the issues.**

**“(2) The process established to consult with extension users regarding the identification of critical agricultural issues in the State and the development of extension programs and projects targeted to address the issues.**

**“(3) The efforts made to identify and collaborate with other colleges and universities within the State, and within other**

States, that have a unique capacity to address the identified agricultural issues in the State and the extent of current and emerging efforts (including regional efforts) to work with those other institutions.

“(4) The manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, the activities to be carried out sequentially, and the activities to be carried out jointly.

“(5) The education and outreach programs already underway to convey available research results that are pertinent to a critical agricultural issue, including efforts to encourage multicounty cooperation in the dissemination of research results.

“(d) EXTENSION PROTOCOLS.—

“(1) DEVELOPMENT.—The Secretary of Agriculture shall develop protocols to be used to evaluate the success of multistate, multi-institutional, and multidisciplinary extension activities and joint research and extension activities in addressing critical agricultural issues identified in the plans of work submitted under subsection (a).

“(2) CONSULTATION.—The Secretary of Agriculture shall develop the protocols in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) and land-grant colleges and universities.

“(e) TREATMENT OF PLANS OF WORK FOR OTHER PURPOSES.—To the maximum extent practicable, the Secretary shall consider a plan of work submitted under subsection (a) to satisfy other appropriate Federal reporting requirements.”

(b) HATCH ACT OF 1887.—Section 7 of the Hatch Act of 1887 (7 U.S.C. 361g) (as amended by section 103(f)(2)) is amended—

(1) by striking “SEC. 7.” and inserting the following:

**“SEC. 7. DUTIES OF SECRETARY; ASCERTAINMENT OF ENTITLEMENT OF STATE TO FUNDS; PLANS OF WORK.**

“(a) DUTIES OF SECRETARY.—”;

(2) by striking “On or before” and inserting the following:

“(b) ASCERTAINMENT OF ENTITLEMENT.—On or before”;

(3) by striking “Whenever it shall appear” and inserting the following:

“(c) EFFECT OF FAILURE TO EXPEND FULL ALLOTMENT.—Whenever it shall appear”; and

(4) by adding at the end the following:

“(d) PLAN OF WORK REQUIRED.—Before funds may be provided to a State under this Act for any fiscal year, a plan of work to be carried out under this Act shall be submitted by the proper officials of the State and shall be approved by the Secretary of Agriculture.

“(e) REQUIREMENTS RELATED TO PLAN OF WORK.—Each plan of work for a State required under subsection (d) shall contain descriptions of the following:

“(1) The critical short-term, intermediate, and long-term agricultural issues in the State and the current and planned research programs and projects targeted to address the issues.

“(2) The process established to consult with users of agricultural research regarding the identification of critical agricultural issues in the State and the development of research programs and projects targeted to address the issues.

“(3) The efforts made to identify and collaborate with other colleges and universities within the State, and within other States, that have a unique capacity to address the identified agricultural issues in the State and the extent of current and emerging efforts (including regional efforts) to work with those other institutions.

“(4) The manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, the activities to be carried out sequentially, and the activities to be carried out jointly.

“(f) RESEARCH PROTOCOLS.—

“(1) DEVELOPMENT.—The Secretary of Agriculture shall develop protocols to be used to evaluate the success of multistate, multi-institutional, and multidisciplinary research activities and joint research and extension activities in addressing critical agricultural issues identified in the plans of work submitted under subsection (d).

“(2) CONSULTATION.—The Secretary of Agriculture shall develop the protocols in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) and land-grant colleges and universities.

“(g) TREATMENT OF PLANS OF WORK FOR OTHER PURPOSES.—To the maximum extent practicable, the Secretary shall consider a plan of work submitted under subsection (d) to satisfy other appropriate Federal reporting requirements.”.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1999. 7 USC 344 note.

**SEC. 203. CONSISTENT MATCHING FUNDS REQUIREMENTS UNDER HATCH ACT OF 1887 AND SMITH-LEVER ACT.**

(a) HATCH ACT OF 1887.—Section 3 of the Hatch Act of 1887 (7 U.S.C. 361c) is amended by striking subsection (d) and inserting the following:

“(d) MATCHING FUNDS.—

“(1) REQUIREMENT.—No allotment shall be made to a State under subsection (b) or (c), and no payments from the allotment shall be made to a State, in excess of the amount that the State makes available out of non-Federal funds for agricultural research and for the establishment and maintenance of facilities for the performance of the research.

“(2) FAILURE TO PROVIDE MATCHING FUNDS.—If a State fails to comply with the requirement to provide matching funds for a fiscal year under paragraph (1), the Secretary of Agriculture shall withhold from payment to the State for that fiscal year an amount equal to the difference between—

“(A) the amount that would be allotted and paid to the State under subsections (b) and (c) (if the full amount of matching funds were provided by the State); and

“(B) the amount of matching funds actually provided by the State.

“(3) REAPPORTIONMENT.—

“(A) IN GENERAL.—The Secretary of Agriculture shall reapportion amounts withheld under paragraph (2) for a fiscal year among the States satisfying the matching requirement for that fiscal year.

“(B) MATCHING REQUIREMENT.—Any reapportionment of funds under this paragraph shall be subject to the matching requirement specified in paragraph (1).”.

(b) SMITH-LEVER ACT.—Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs 1 and 2 as paragraphs (1) and (2), respectively; and

(B) in paragraph (2) (as so redesignated), by striking “census: *Provided*, That payments” and all that follows through “*Provided further*, That any” and inserting “census. Any”; and

(2) by striking subsections (e) and (f) and inserting the following:

“(e) MATCHING FUNDS.—

“(1) REQUIREMENT.—Except as provided in subsection (f), no allotment shall be made to a State under subsection (b) or (c), and no payments from the allotment shall be made to a State, in excess of the amount that the State makes available out of non-Federal funds for cooperative extension work.

“(2) FAILURE TO PROVIDE MATCHING FUNDS.—If a State fails to comply with the requirement to provide matching funds for a fiscal year under paragraph (1), the Secretary of Agriculture shall withhold from payment to the State for that fiscal year an amount equal to the difference between—

“(A) the amount that would be allotted and paid to the State under subsections (b) and (c) (if the full amount of matching funds were provided by the State); and

“(B) the amount of matching funds actually provided by the State.

“(3) REAPPORTIONMENT.—

“(A) IN GENERAL.—The Secretary of Agriculture shall reapportion amounts withheld under paragraph (2) for a fiscal year among the States satisfying the matching requirement for that fiscal year.

“(B) MATCHING REQUIREMENT.—Any reapportionment of funds under this paragraph shall be subject to the matching requirement specified in paragraph (1).

“(f) MATCHING FUNDS EXCEPTION FOR 1994 INSTITUTIONS.—There shall be no matching requirement for funds made available to a 1994 Institution pursuant to subsection (b)(3).”.

(c) TECHNICAL CORRECTIONS.—

(1) RECOGNITION OF STATEHOOD OF ALASKA AND HAWAII.—Section 1 of the Hatch Act of 1887 (7 U.S.C. 361a) is amended in the second sentence by striking “Alaska, Hawaii,”.

(2) ROLE OF SECRETARY OF AGRICULTURE.—Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended—

(A) in subsections (b)(1), (c), and (d), by striking “Federal Extension Service” each place it appears and inserting “Secretary of Agriculture”; and

(B) in subsection (g)(1), by striking “through the Federal Extension Service”.

(3) REFERENCES TO REGIONAL RESEARCH FUND.—Section 5 of the Hatch Act of 1887 (7 U.S.C. 361e) is amended in the first sentence by striking “regional research fund authorized by subsection 3(c)(3)” and inserting “Multistate Research Fund, State Agricultural Experiment Stations”.

SEC. 204. INTEGRATION OF RESEARCH AND EXTENSION.

(a) IN GENERAL.—Section 3 of the Hatch Act of 1887 (7 U.S.C. 361c) (as amended by section 104(a)(2)) is amended by adding at the end the following:

“(i) INTEGRATION OF RESEARCH AND EXTENSION.—

“(1) IN GENERAL.—Not less than the applicable percentage specified under paragraph (2) of the Federal formula funds that are paid under this Act and subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343) to colleges and universities eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.), during a fiscal year shall be expended for activities that integrate cooperative research and extension (referred to in this subsection as ‘integrated activities’).

“(2) APPLICABLE PERCENTAGES.—

“(A) 1997 EXPENDITURES ON MULTISTATE ACTIVITIES.—Of the Federal formula funds that were paid to each State for fiscal year 1997 under this Act and subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343), the Secretary of Agriculture shall determine the percentage that the State expended for integrated activities.

“(B) REQUIRED EXPENDITURES ON MULTISTATE ACTIVITIES.—Of the Federal formula funds that are paid to each State for fiscal year 2000 and each subsequent fiscal year under this Act and subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343), the State shall expend for the fiscal year for integrated activities a percentage that is at least equal to the lesser of—

“(i) 25 percent; or

“(ii) twice the percentage for the State determined under subparagraph (A).

“(C) REDUCTION BY SECRETARY.—The Secretary of Agriculture may reduce the minimum percentage required to be expended by a State for integrated activities under subparagraph (B) in a case of hardship, infeasibility, or other similar circumstance beyond the control of the State, as determined by the Secretary.

“(D) PLAN OF WORK.—The State shall include in the plan of work of the State required under section 7 of this Act or section 4 of the Smith-Lever Act (7 U.S.C. 344), as applicable, a description of the manner in which the State will meet the requirements of this paragraph.

“(3) APPLICABILITY.—This subsection does not apply to funds provided—

“(A) by a State or local government pursuant to a matching requirement;

“(B) to a 1994 Institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103-382; 7 U.S.C. 301 note)); or

“(C) to the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

“(4) RELATIONSHIP TO OTHER REQUIREMENTS.—Federal formula funds described in paragraph (1) that are used by a State for a fiscal year for integrated activities in accordance with paragraph (2)(B) may also be used to satisfy the multistate activities requirements of subsection (c)(3) of this section and section 3(h) of the Smith-Lever Act (7 U.S.C. 343(h)) for the same fiscal year.”.

(b) CONFORMING AMENDMENT.—Section 3 of the Smith-Lever Act (7 U.S.C. 343) (as amended by section 105) is amended by adding at the end the following:

Applicability.

“(j) INTEGRATION OF RESEARCH AND EXTENSION.—Section 3(i) of the Hatch Act of 1887 (7 U.S.C. 361c(i)) shall apply to amounts made available to carry out this Act.”.

## Subtitle B—Competitive, Special, and Facilities Research Grant Act

### SEC. 211. COMPETITIVE GRANTS.

The Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) is amended in subsection (b)—

(1) in the first sentence of paragraph (1), by inserting “national laboratories,” after “Federal agencies,”;

(2) in paragraph (2), by striking “regional” and inserting “multistate”;

(3) in the second sentence of paragraph (3)(E), by striking “an individual shall have less than” and all that follows through “research experience” and inserting “an individual shall be within 5 years of the individual’s initial career track position”; and

(4) in paragraph (8)(B)—

(A) by striking “the cost” and inserting “the cost of”; and

(B) by adding at the end the following: “The Secretary may waive all or part of the matching requirement under this subparagraph in the case of a smaller college or university (as described in section 793(c)(2)(C)(ii) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f(c)(2)(C)(ii))) if the equipment to be acquired costs not more than \$25,000 and has multiple uses within a single research project or is usable in more than 1 research project.”.

### SEC. 212. SPECIAL GRANTS.

The Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) is amended in subsection (c)—

(1) in paragraph (1)—

(A) by striking “5 years” and inserting “3 years”;

(B) in subparagraph (A), by inserting “, extension, or education activities” after “conducting research”; and

(C) in subparagraph (B)—



(i) in the matter preceding clause (i), by inserting “, extension, or education” after “agricultural research”;

(ii) in clause (i), by inserting “, extension, or education” after “research”; and

(iii) in clause (iv), by striking “among States through regional research” and inserting “, extension, or education among States through regional”; and

(2) by adding at the end the following:

“(5) REVIEW REQUIREMENTS.—

“(A) RESEARCH ACTIVITIES.—The Secretary shall make a grant under this subsection for a research activity only if the activity has undergone scientific peer review arranged by the grantee in accordance with regulations promulgated by the Secretary.

“(B) EXTENSION AND EDUCATION ACTIVITIES.—The Secretary shall make a grant under this subsection for an extension or education activity only if the activity has undergone merit review arranged by the grantee in accordance with regulations promulgated by the Secretary.

Regulations.

“(6) REPORTS.—

“(A) IN GENERAL.—A recipient of a grant under this subsection shall submit to the Secretary on an annual basis a report describing the results of the research, extension, or education activity and the merit of the results.

“(B) PUBLIC AVAILABILITY.—

“(i) IN GENERAL.—Except as provided in clause (ii), on request, the Secretary shall make the report available to the public.

“(ii) EXCEPTIONS.—Clause (i) shall not apply to the extent that making the report, or a part of the report, available to the public is not authorized or permitted by section 552 of title 5, United States Code, or section 1905 of title 18, United States Code.”.

## Subtitle C—National Agricultural Research, Extension, and Teaching Policy Act of 1977

### SEC. 221. DEFINITIONS REGARDING AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

(a) FOOD AND AGRICULTURAL SCIENCES.—Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended by striking paragraph (8) and inserting the following:

“(8) FOOD AND AGRICULTURAL SCIENCES.—The term ‘food and agricultural sciences’ means basic, applied, and developmental research, extension, and teaching activities in food and fiber, agricultural, renewable natural resources, forestry, and physical and social sciences, including activities relating to the following:

“(A) Animal health, production, and well-being.

“(B) Plant health and production.

“(C) Animal and plant germ plasm collection and preservation.

“(D) Aquaculture.

“(E) Food safety.

“(F) Soil and water conservation and improvement.

“(G) Forestry, horticulture, and range management.

“(H) Nutritional sciences and promotion.

“(I) Farm enhancement, including financial management, input efficiency, and profitability.

“(J) Home economics.

“(K) Rural human ecology.

“(L) Youth development and agricultural education, including 4-H clubs.

“(M) Expansion of domestic and international markets for agricultural commodities and products, including agricultural trade barrier identification and analysis.

“(N) Information management and technology transfer related to agriculture.

“(O) Biotechnology related to agriculture.

“(P) The processing, distributing, marketing, and utilization of food and agricultural products.”.

(b) REFERENCES TO TEACHING OR EDUCATION.—Section 1404(14) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(14)) is amended by striking “the term ‘teaching’ means” and inserting “TEACHING AND EDUCATION.—The terms ‘teaching’ and ‘education’ mean”.

(c) CONFORMING AMENDMENTS.—Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(1) in the matter preceding paragraph (1), by striking “title—” and inserting “title.”;

(2) in paragraphs (1), (2), (3), (5), (6), (7), (10) through (13), (15), (16), and (17), by striking “the term” each place it appears and inserting “The term”;

(3) in paragraph (4), by striking “the terms” and inserting “The terms”;

(4) in paragraph (9), by striking “the term” the first place it appears and inserting “The term”;

(5) by striking the semicolon at the end of paragraphs (1) through (7) and (9) through (15) and inserting a period; and

(6) in paragraph (16)(F), by striking “; and” and inserting a period.

#### SEC. 222. ADVISORY BOARD.

(a) REPRESENTATION ON BOARD.—Section 1408(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(b)) is amended by adding at the end the following:

“(7) EQUAL REPRESENTATION OF PUBLIC AND PRIVATE SECTOR MEMBERS.—In appointing members to serve on the Advisory Board, the Secretary shall ensure, to the maximum extent practicable, equal representation of public and private sector members.”.

(b) CONSULTATION.—Section 1408(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(d)) is amended—

(1) by striking “In” and inserting the following:

“(1) DUTIES OF ADVISORY BOARD.—In”; and

(2) by adding at the end the following:

“(2) DUTIES OF SECRETARY.—To comply with a provision of this title or any other law that requires the Secretary to consult or cooperate with the Advisory Board or that authorizes the Advisory Board to submit recommendations to the Secretary, the Secretary shall—

“(A) solicit the written opinions and recommendations of the Advisory Board; and

“(B) provide a written response to the Advisory Board regarding the manner and extent to which the Secretary will implement recommendations submitted by the Advisory Board.”.

(c) LIMITATION ON EXPENSES OF ADVISORY BOARD.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

“(g) ANNUAL LIMITATION ON ADVISORY BOARD EXPENSES.—

“(1) MAXIMUM AMOUNT.—Not more than \$350,000 may be used to cover the necessary expenses of the Advisory Board for each fiscal year.

“(2) GENERAL LIMITATION.—The expenses of the Advisory Board shall not be counted toward any general limitation on the expenses of advisory committees, panels, commissions, and task forces of the Department of Agriculture contained in any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph, unless the appropriation Act specifically refers to this subsection and specifically includes this Advisory Board within the general limitation.”.

#### **SEC. 223. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.**

Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) by redesignating subsections (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (d), (f), (g), (h), (i), (j), (k), and (l), respectively;

(2) by inserting after subsection (b) the following:

“(c) PRIORITIES.—In awarding grants under subsection (b), the Secretary shall give priority to—

“(1) applications for teaching enhancement projects that demonstrate enhanced coordination among all types of institutions eligible for funding under this section; and

“(2) applications for teaching enhancement projects that focus on innovative, multidisciplinary education programs, material, and curricula.”; and

(3) by inserting after subsection (d) (as redesignated by paragraph (1)) the following:

“(e) FOOD AND AGRICULTURAL EDUCATION INFORMATION SYSTEM.—From amounts made available for grants under this section, the Secretary may maintain a national food and agricultural education information system that contains—

“(1) information on enrollment, degrees awarded, faculty, and employment placement in the food and agricultural sciences; and

“(2) such other similar information as the Secretary considers appropriate.”.

## SEC. 224. POLICY RESEARCH CENTERS.

Section 1419A(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155(a)) is amended by inserting “and trade agreements” after “public policies”.

**SEC. 225. PLANS OF WORK FOR 1890 INSTITUTIONS TO ADDRESS CRITICAL RESEARCH AND EXTENSION ISSUES AND USE OF PROTOCOLS TO MEASURE SUCCESS OF PLANS.**

(a) EXTENSION AT 1890 INSTITUTIONS.—Section 1444(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(d)) is amended—

(1) by striking “(d)” and inserting the following:

“(d) ASCERTAINMENT OF ENTITLEMENT TO FUNDS; TIME AND MANNER OF PAYMENT; STATE REPORTING REQUIREMENTS; PLANS OF WORK.—

“(1) ASCERTAINMENT OF ENTITLEMENT.—”;

(2) in the last sentence, by striking “Such sums” and inserting the following:

“(2) TIME AND MANNER OF PAYMENT; RELATED REPORTS.—The amount to which an eligible institution is entitled”; and

(3) by adding at the end the following:

“(3) REQUIREMENTS RELATED TO PLAN OF WORK.—Each plan of work for an eligible institution required under this section shall contain descriptions of the following:

“(A) The critical short-term, intermediate, and long-term agricultural issues in the State in which the eligible institution is located and the current and planned extension programs and projects targeted to address the issues.

“(B) The process established to consult with extension users regarding the identification of critical agricultural issues in the State and the development of extension programs and projects targeted to address the issues.

“(C) The efforts made to identify and collaborate with other colleges and universities within the State, and within other States, that have a unique capacity to address the identified agricultural issues in the State and the extent of current and emerging efforts (including regional extension efforts) to work with those other institutions.

“(D) The manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, the activities to be carried out sequentially, and the activities to be carried out jointly.

“(E) The education and outreach programs already underway to convey currently available research results that are pertinent to a critical agricultural issue, including efforts to encourage multicounty cooperation in the dissemination of research results.

“(4) EXTENSION PROTOCOLS.—

“(A) IN GENERAL.—The Secretary shall develop protocols to be used to evaluate the success of multistate, multi-institutional, and multidisciplinary extension activities and joint research and extension activities in addressing critical agricultural issues identified in the plans of work submitted under this section.

“(B) CONSULTATION.—The Secretary shall develop the protocols in consultation with the Advisory Board and land-grant colleges and universities.

“(5) TREATMENT OF PLANS OF WORK FOR OTHER PURPOSES.—

To the maximum extent practicable, the Secretary shall consider a plan of work submitted under this section to satisfy other appropriate Federal reporting requirements.”.

(b) AGRICULTURAL RESEARCH AT 1890 INSTITUTIONS.—Section 1445(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(c)) is amended—

(1) by striking “(c)” and inserting the following:

“(c) PROGRAM AND PLANS OF WORK.—

“(1) INITIAL COMPREHENSIVE PROGRAM OF AGRICULTURAL RESEARCH.—”; and

(2) by adding at the end the following:

“(2) PLAN OF WORK REQUIRED.—Before funds may be provided to an eligible institution under this section for any fiscal year, a plan of work to be carried out under this section shall be submitted by the research director specified in subsection (d) and shall be approved by the Secretary.

“(3) REQUIREMENTS RELATED TO PLAN OF WORK.—Each plan of work required under paragraph (2) shall contain descriptions of the following:

“(A) The critical short-term, intermediate, and long-term agricultural issues in the State in which the eligible institution is located and the current and planned research programs and projects targeted to address the issues.

“(B) The process established to consult with users of agricultural research regarding the identification of critical agricultural issues in the State and the development of research programs and projects targeted to address the issues.

“(C) Other colleges and universities within the State, and within other States, that have a unique capacity to address the identified agricultural issues in the State.

“(D) The current and emerging efforts to work with those other institutions to build on each other’s experience and take advantage of each institution’s unique capacities.

“(E) The manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, the activities to be carried out sequentially, and the activities to be carried out jointly.

“(4) RESEARCH PROTOCOLS.—

“(A) IN GENERAL.—The Secretary shall develop protocols to be used to evaluate the success of multistate, multi-institutional, and multidisciplinary research activities and joint research and extension activities in addressing critical agricultural issues identified in the plans of work submitted under paragraph (2).

“(B) CONSULTATION.—The Secretary shall develop the protocols in consultation with the Advisory Board and land-grant colleges and universities.

“(5) TREATMENT OF PLANS OF WORK FOR OTHER PURPOSES.—To the maximum extent practicable, the Secretary shall consider a plan of work submitted under paragraph (2) to satisfy other appropriate Federal reporting requirements.”.

7 USC 3221 note.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1999.

**SEC. 226. MATCHING FUNDS REQUIREMENT FOR RESEARCH AND EXTENSION ACTIVITIES AT 1890 INSTITUTIONS.**

(a) IMPOSITION OF REQUIREMENT.—Subtitle G of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1448 (7 U.S.C. 3222c) the following:

7 USC 3222d.

**“SEC. 1449. MATCHING FUNDS REQUIREMENT FOR RESEARCH AND EXTENSION ACTIVITIES AT ELIGIBLE INSTITUTIONS.**

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE INSTITUTION.—The term ‘eligible institution’ means a college eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.) (commonly known as the ‘Second Morrill Act’), including Tuskegee University.

“(2) FORMULA FUNDS.—The term ‘formula funds’ means the formula allocation funds distributed to eligible institutions under sections 1444 and 1445.

Reports.

“(b) DETERMINATION OF NON-FEDERAL SOURCES OF FUNDS.—Not later than September 30, 1999, each eligible institution shall submit to the Secretary a report describing for fiscal year 1999—

“(1) the sources of non-Federal funds made available by the State to the eligible institution for agricultural research, extension, and education to meet the requirements of this section; and

“(2) the amount of such funds generally available from each source.

“(c) MATCHING FORMULA.—Notwithstanding any other provision of this subtitle, the distribution of formula funds to an eligible institution shall be subject to the following matching requirements:

“(1) For fiscal year 2000, the State shall provide matching funds from non-Federal sources in an amount equal to not less than 30 percent of the formula funds to be distributed to the eligible institution.

“(2) For fiscal year 2001, the State shall provide matching funds from non-Federal sources in an amount equal to not less than 45 percent of the formula funds to be distributed to the eligible institution.

“(3) For fiscal year 2002 and each fiscal year thereafter, the State shall provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the formula funds to be distributed to the eligible institution.

“(d) LIMITED WAIVER AUTHORITY.—

“(1) FISCAL YEAR 2000.—Notwithstanding subsection (f), the Secretary may waive the matching funds requirement under subsection (c)(1) for fiscal year 2000 for an eligible institution of a State if the Secretary determines that, based on the report received under subsection (b), the State will be unlikely to satisfy the matching requirement.

“(2) FUTURE FISCAL YEARS.—The Secretary may not waive the matching requirement under subsection (c) for any fiscal year other than fiscal year 2000.

“(e) USE OF MATCHING FUNDS.—Under terms and conditions established by the Secretary, matching funds provided as required by subsection (c) may be used by an eligible institution for agricultural research, extension, and education activities.

“(f) REDISTRIBUTION OF FUNDS.—

“(1) REDISTRIBUTION REQUIRED.—Federal funds that are not matched by a State in accordance with subsection (c) for a fiscal year shall be redistributed by the Secretary to eligible institutions whose States have satisfied the matching funds requirement for that fiscal year.

“(2) ADMINISTRATION.—Any redistribution of funds under this subsection shall be subject to the applicable matching requirement specified in subsection (c) and shall be made in a manner consistent with sections 1444 and 1445, as determined by the Secretary.”.

(b) CONFORMING AMENDMENTS.—Section 1445(g) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(g)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (4) as paragraph (2).

(c) REFERENCES TO TUSKEGEE UNIVERSITY.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended—

(1) in section 1404 (7 U.S.C. 3103), by striking “the Tuskegee Institute” in paragraphs (10) and (16)(B) and inserting “Tuskegee University”;

(2) in section 1444 (7 U.S.C. 3221)—

(A) by striking the section heading and “SEC. 1444.” and inserting the following:

**“SEC. 1444. EXTENSION AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.”;**

and

(B) in subsections (a) and (b), by striking “Tuskegee Institute” each place it appears and inserting “Tuskegee University”; and

(3) in section 1445 (7 U.S.C. 3222)—

(A) by striking the section heading and “SEC. 1445.” and inserting the following:

**“SEC. 1445. AGRICULTURAL RESEARCH AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.”;**

and

(B) in subsections (a) and (b)(2)(B), by striking “Tuskegee Institute” each place it appears and inserting “Tuskegee University”.

SEC. 227. INTERNATIONAL RESEARCH, EXTENSION, AND TEACHING.

(a) INCLUSION OF TEACHING.—Section 1458 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291) is amended—

(1) in the section heading, by striking “RESEARCH AND EXTENSION” and inserting “RESEARCH, EXTENSION, AND TEACHING”;

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “related research and extension” and inserting “related research, extension, and teaching”; and

(ii) in subparagraph (B), by striking “research and extension on” and inserting “research, extension, and teaching activities that address”;

(B) in paragraphs (2) and (6), by striking “education” each place it appears and inserting “teaching”;

(C) in paragraph (4), by striking “scientists and experts” and inserting “science and education experts”;

(D) in paragraph (5), by inserting “teaching,” after “development,”;

(E) in paragraph (7), by striking “research and extension that is” and inserting “research, extension, and teaching programs”; and

(F) in paragraph (8), by striking “research capabilities” and inserting “research, extension, and teaching capabilities”; and

(3) in subsection (b), by striking “counterpart agencies” and inserting “counterpart research, extension, and teaching agencies”.

(b) GRANTS FOR COLLABORATIVE PROJECTS.—Section 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended—

(1) in paragraph (7), by striking “and” at the end;

(2) in paragraph (8), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(9) make competitive grants for collaborative projects that—

“(A) involve Federal scientists or scientists from land-grant colleges and universities or other colleges and universities with scientists at international agricultural research centers in other nations, including the international agricultural research centers of the Consultative Group on International Agriculture Research;

“(B) focus on developing and using new technologies and programs for—

“(i) increasing the production of food and fiber, while safeguarding the environment worldwide and enhancing the global competitiveness of United States agriculture; or

“(ii) training scientists;

“(C) are mutually beneficial to the United States and other countries; and

“(D) encourage private sector involvement and the leveraging of private sector funds.”.

(c) REPORTS.—Section 1458 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291) is amended by adding at the end the following:

“(d) REPORTS.—The Secretary shall provide biennial reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on efforts of the Federal Government—

“(1) to coordinate international agricultural research within the Federal Government; and



“(2) to more effectively link the activities of domestic and international agricultural researchers, particularly researchers of the Agricultural Research Service.”.

(d) FULL PAYMENT OF FUNDS MADE AVAILABLE FOR CERTAIN BINATIONAL PROJECTS.—Section 1458 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291) is amended by inserting after subsection (d) (as added by subsection (c) of this section) the following:

“(e) FULL PAYMENT OF FUNDS MADE AVAILABLE FOR CERTAIN BINATIONAL PROJECTS.—Notwithstanding any other provision of law, the full amount of any funds appropriated or otherwise made available to carry out cooperative projects under the arrangement entered into between the Secretary and the Government of Israel to support the Israel-United States Binational Agricultural Research and Development Fund shall be paid directly to the Fund.”.

(e) SUBTITLE HEADING.—Subtitle I of title XIV of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291 et seq.) is amended by striking the subtitle heading and inserting the following:

### **“Subtitle I—International Research, Extension, and Teaching”.**

#### **SEC. 228. UNITED STATES-MEXICO JOINT AGRICULTURAL RESEARCH.**

Subtitle I of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1458 (7 U.S.C. 3291) the following:

#### **“SEC. 1459. UNITED STATES-MEXICO JOINT AGRICULTURAL RESEARCH. 7 USC 3292a.**

“(a) RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary may provide for an agricultural research and development program with the United States/Mexico Foundation for Science. The program shall focus on binational problems facing agricultural producers and consumers in the 2 countries, in particular pressing problems in the areas of food safety, plant and animal pest control, and the natural resources base on which agriculture depends.

“(b) ADMINISTRATION.—Grants under the research and development program shall be awarded competitively through the Foundation.

“(c) MATCHING REQUIREMENTS.—The provision of funds to the Foundation by the United States Government shall be subject to the condition that the Government of Mexico match, on at least a dollar-for-dollar basis, any funds provided by the United States Government.

“(d) LIMITATION ON USE OF FUNDS.—Funds provided under this section may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.”.

#### **SEC. 229. COMPETITIVE GRANTS FOR INTERNATIONAL AGRICULTURAL SCIENCE AND EDUCATION PROGRAMS.**

Subtitle I of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291 et seq.) is amended by inserting after section 1459 (as added by section 228) the following:

7 USC 3292b.

**“SEC. 1459A. COMPETITIVE GRANTS FOR INTERNATIONAL AGRICULTURAL SCIENCE AND EDUCATION PROGRAMS.**

“(a) **COMPETITIVE GRANTS AUTHORIZED.**—The Secretary may make competitive grants to colleges and universities in order to strengthen United States economic competitiveness and to promote international market development.

“(b) **PURPOSE OF GRANTS.**—Grants under this section shall be directed to agricultural research, extension, and teaching activities that will—

“(1) enhance the international content of the curricula in colleges and universities so as to ensure that United States students acquire an understanding of the international dimensions and trade implications of their studies;

“(2) ensure that United States scientists, extension agents, and educators involved in agricultural research and development activities outside of the United States have the opportunity to convey the implications of their activities and findings to their peers and students in the United States and to the users of agricultural research, extension, and teaching;

“(3) enhance the capabilities of colleges and universities to do collaborative research with other countries, in cooperation with other Federal agencies, on issues relevant to United States agricultural competitiveness;

“(4) enhance the capabilities of colleges and universities to provide cooperative extension education to promote the application of new technology developed in foreign countries to United States agriculture; and

“(5) enhance the capability of United States colleges and universities, in cooperation with other Federal agencies, to provide leadership and educational programs that will assist United States natural resources and food production, processing, and distribution businesses and industries to compete internationally, including product market identification, international policies limiting or enhancing market production, development of new or enhancement of existing markets, and production efficiencies.

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.”.

**SEC. 230. GENERAL ADMINISTRATIVE COSTS.**

(a) **LIMITATION ON CHARGING INDIRECT COSTS.**—Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting before section 1463 (7 U.S.C. 3311) the following:

7 USC 3310.

**“SEC. 1462. LIMITATION ON INDIRECT COSTS FOR AGRICULTURAL RESEARCH, EDUCATION, AND EXTENSION PROGRAMS.**

“Except as otherwise provided in law, indirect costs charged against a competitive agricultural research, education, or extension grant awarded under this Act or any other Act pursuant to authority delegated to the Under Secretary of Agriculture for Research, Education, and Economics shall not exceed 19 percent of the total Federal funds provided under the grant award, as determined by the Secretary.”.

(b) **LIMITATION ON DEPARTMENT ADMINISTRATIVE COSTS.**—Section 1469 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3315) is amended—

(1) by striking the section heading and all that follows through “Except as” and inserting the following:

**“SEC. 1469. AUDITING, REPORTING, BOOKKEEPING, AND ADMINISTRATIVE REQUIREMENTS.**

“(a) **IN GENERAL.**—Except as”;

(2) by striking paragraph (3) and inserting the following:

“(3) the Secretary may retain up to 4 percent of amounts appropriated for agricultural research, extension, and teaching assistance programs for the administration of those programs authorized under this Act or any other Act; and”;

(3) by adding at the end the following:

“(b) **COMMUNITY FOOD PROJECTS.**—The Secretary may retain, for the administration of community food projects under section 25 of the Food Stamp Act of 1977 (7 U.S.C. 2034), 4 percent of amounts available for the projects, notwithstanding the availability of any appropriation for administrative expenses of the projects.

“(c) **PEER PANEL EXPENSES.**—Notwithstanding any other provision of law regarding a competitive research, education, or extension grant program of the Department of Agriculture, the Secretary may use grant program funds, as necessary, to supplement funds otherwise available for program administration, to pay for the costs associated with peer review of grant proposals under the program.

“(d) **DEFINITION OF IN-KIND SUPPORT.**—In any law relating to agricultural research, education, or extension activities administered by the Secretary, the term ‘in-kind support’, with regard to a requirement that the recipient of funds provided by the Secretary match all or part of the amount of the funds, means contributions such as office space, equipment, and staff support.”.

**SEC. 231. EXPANSION OF AUTHORITY TO ENTER INTO COST-REIMBURSABLE AGREEMENTS.**

Section 1473A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319a) is amended in the first sentence by inserting “or other colleges and universities” after “institutions”.

## **Subtitle D—Food, Agriculture, Conservation, and Trade Act of 1990**

**SEC. 241. AGRICULTURAL GENOME INITIATIVE.**

Section 1671 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924) is amended to read as follows:

**“SEC. 1671. AGRICULTURAL GENOME INITIATIVE.**

“(a) **GOALS.**—The goals of this section are—

“(1) to expand the knowledge of public and private sector entities and persons concerning genomes for species of importance to the food and agriculture sectors in order to maximize the return on the investment in genomics of agriculturally important species;

“(2) to focus on the species that will yield scientifically important results that will enhance the usefulness of many agriculturally important species;

“(3) to build on genomic research, such as the Human Genome Initiative and the Arabidopsis Genome Project, to understand gene structure and function that is expected to have considerable payoffs in agriculturally important species;

“(4) to develop improved bioinformatics to enhance both sequence or structure determination and analysis of the biological function of genes and gene products;

“(5) to encourage Federal Government participants to maximize the utility of public and private partnerships for agricultural genome research;

“(6) to allow resources developed under this section, including data, software, germplasm, and other biological materials, to be openly accessible to all persons, subject to any confidentiality requirements imposed by law; and

“(7) to encourage international partnerships with each partner country responsible for financing its own strategy for agricultural genome research.

“(b) DUTIES OF SECRETARY.—The Secretary of Agriculture (referred to in this section as the ‘Secretary’) shall conduct a research initiative (to be known as the ‘Agricultural Genome Initiative’) for the purpose of—

“(1) studying and mapping agriculturally significant genes to achieve sustainable and secure agricultural production;

“(2) ensuring that current gaps in existing agricultural genetics knowledge are filled;

“(3) identifying and developing a functional understanding of genes responsible for economically important traits in agriculturally important species, including emerging plant and animal diseases causing economic hardship;

“(4) ensuring future genetic improvement of agriculturally important species;

“(5) supporting preservation of diverse germplasm;

“(6) ensuring preservation of biodiversity to maintain access to genes that may be of importance in the future; and

“(7) otherwise carrying out this section.

“(c) GRANTS AND COOPERATIVE AGREEMENTS.—

“(1) AUTHORITY.—The Secretary may make grants or enter into cooperative agreements with individuals and organizations in accordance with section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318).

“(2) COMPETITIVE BASIS.—A grant or cooperative agreement under this subsection shall be made or entered into on a competitive basis.

“(d) ADMINISTRATION.—Paragraphs (1), (6), (7), and (11) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of a grant or cooperative agreement under this section.

“(e) MATCHING OF FUNDS.—

“(1) GENERAL REQUIREMENT.—If a grant or cooperative agreement under this section provides a particular benefit to a specific agricultural commodity, the Secretary shall require the recipient to provide funds or in-kind support to match

Applicability.

the amount of funds provided by the Secretary under the grant or cooperative agreement.

“(2) WAIVER.—The Secretary may waive the matching funds requirement of paragraph (1) with respect to a research project if the Secretary determines that—

“(A) the results of the project, while of particular benefit to a specific agricultural commodity, are likely to be applicable to agricultural commodities generally; or

“(B) the project involves a minor commodity, the project deals with scientifically important research, and the recipient is unable to satisfy the matching funds requirement.

“(f) CONSULTATION WITH NATIONAL ACADEMY OF SCIENCES.—The Secretary may use funds made available under this section to consult with the National Academy of Sciences regarding the administration of the Agricultural Genome Initiative.”.

SEC. 242. HIGH-PRIORITY RESEARCH AND EXTENSION INITIATIVES.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended to read as follows:

“SEC. 1672. HIGH-PRIORITY RESEARCH AND EXTENSION INITIATIVES.

“(a) COMPETITIVE SPECIALIZED RESEARCH AND EXTENSION GRANTS AUTHORIZED.—The Secretary of Agriculture (referred to in this section as the ‘Secretary’) may make competitive grants to support research and extension activities specified in subsections (e), (f), and (g). The Secretary shall make the grants in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board.

“(b) ADMINISTRATION.—

“(1) IN GENERAL.—Except as otherwise provided in this section, paragraphs (1), (6), (7), and (11) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.

“(2) USE OF TASK FORCES.—To facilitate the making of research and extension grants under this section in the research and extension areas specified in subsection (e), the Secretary may appoint a task force for each such area to make recommendations to the Secretary. The Secretary may not incur costs in excess of \$1,000 for any fiscal year in connection with each task force established under this paragraph.

“(c) MATCHING FUNDS REQUIRED.—

“(1) IN GENERAL.—The Secretary shall require the recipient of a grant under this section to provide funds or in-kind support from non-Federal sources in an amount at least equal to the amount provided by the Federal Government.

“(2) WAIVER AUTHORITY.—The Secretary may waive the matching funds requirement specified in paragraph (1) with respect to a research project if the Secretary determines that—

“(A) the results of the project, while of particular benefit to a specific agricultural commodity, are likely to be applicable to agricultural commodities generally; or

“(B) the project involves a minor commodity, the project deals with scientifically important research, and the grant recipient is unable to satisfy the matching funds requirement.

“(d) PARTNERSHIPS ENCOURAGED.—Following the completion of a peer review process for grant proposals received under this section, the Secretary may provide a priority to those grant proposals, found in the peer review process to be scientifically meritorious, that involve the cooperation of multiple entities.

“(e) HIGH-PRIORITY RESEARCH AND EXTENSION AREAS.—

“(1) BROWN CITRUS APHID AND CITRUS TRISTEZA VIRUS RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of—

“(A) developing methods to control or eradicate the brown citrus aphid and the citrus tristeza virus from citrus crops grown in the United States; or

“(B) adapting citrus crops grown in the United States to the brown citrus aphid and the citrus tristeza virus.

“(2) ETHANOL RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of carrying out or enhancing research on ethanol derived from agricultural crops as an alternative fuel source.

“(3) AFLATOXIN RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of identifying and controlling aflatoxin in the food and feed chains.

“(4) MESQUITE RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of developing enhanced production methods and commercial uses of mesquite.

“(5) PRICKLY PEAR RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of investigating enhanced genetic selection and processing techniques of prickly pears.

“(6) DEER TICK ECOLOGY RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of studying the population ecology of deer ticks and other insects and pests that transmit Lyme disease.

“(7) RED MEAT SAFETY RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of developing—

“(A) intervention strategies that reduce microbial contamination on carcass surfaces;

“(B) microbiological mapping of carcass surfaces; and

“(C) model hazard analysis and critical control point plans.

“(8) GRAIN SORGHUM ERGOT RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of developing techniques for the eradication of sorghum ergot.

“(9) PEANUT MARKET ENHANCEMENT RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of evaluating the economics of applying innovative technologies for peanut processing in a commercial environment.

“(10) DAIRY FINANCIAL RISK MANAGEMENT RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of providing research, development, or education materials, information, and outreach programs regarding risk management strategies for dairy

producers and for dairy cooperatives and other processors and marketers of milk.

“(11) COTTON RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of improving pest management, fiber quality enhancement, economic assessment, textile production, and optimized production systems for short staple cotton.

“(12) METHYL BROMIDE RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of—

“(A) developing and evaluating chemical and nonchemical alternatives, and use and emission reduction strategies, for pre-planting and post-harvest uses of methyl bromide; and

“(B) transferring the results of the research for use by agricultural producers.

“(13) POTATO RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of developing and evaluating new strains of potatoes that are resistant to blight and other diseases, as well as insects. Emphasis may be placed on developing potato varieties that lend themselves to innovative marketing approaches.

“(14) WOOD USE RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of developing new uses for wood from underused tree species as well as investigating methods of modifying wood and wood fibers to produce better building materials.

“(15) LOW-BUSH BLUEBERRY RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of evaluating methods of propagating and developing low-bush blueberry as a marketable crop.

“(16) WETLANDS USE RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of better use of wetlands in diverse ways to provide various economic, agricultural, and environmental benefits.

“(17) WILD PAMPAS GRASS CONTROL, MANAGEMENT, AND ERADICATION RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of control, management, and eradication of wild pampas grass.

“(18) FOOD SAFETY, INCLUDING PATHOGEN DETECTION AND LIMITATION, RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of increasing food safety, including the identification of advanced detection and processing methods to limit the presence of pathogens (including hepatitis A and E. coli 0157:H7) in domestic and imported foods.

“(19) FINANCIAL RISK MANAGEMENT RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of providing research, development, or education materials, information, and outreach programs regarding financial risk management strategies for agricultural producers and for cooperatives and other processors and marketers of any agricultural commodity.

“(20) ORNAMENTAL TROPICAL FISH RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of meeting the needs of commercial producers of ornamental tropical fish and aquatic plants for

improvements in the areas of fish reproduction, health, nutrition, predator control, water use, water quality control, and farming technology.

“(21) SHEEP SCRAPIE RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of investigating the genetic aspects of scrapie in sheep.

“(22) GYPSY MOTH RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of developing biological control, management, and eradication methods against nonnative insects, including *Lymantria dispar* (commonly known as the ‘gypsy moth’), that contribute to significant agricultural, economic, or environmental harm.

“(23) FORESTRY RESEARCH AND EXTENSION.—Research and extension grants may be made under this section to develop and distribute new, high-quality, science-based information for the purpose of improving the long-term productivity of forest resources and contributing to forest-based economic development by addressing such issues as—

“(A) forest land use policies;

“(B) multiple-use forest management, including wildlife habitat development, improved forest regeneration systems, and timber supply; and

“(C) improved development, manufacturing, and marketing of forest products.

“(24) TOMATO SPOTTED WILT VIRUS RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of control, management, and eradication of tomato spotted wilt virus.

“(f) IMPORTED FIRE ANT CONTROL, MANAGEMENT, AND ERADICATION.—

Establishment.

“(1) TASK FORCE.—The Secretary shall establish a task force pursuant to subsection (b)(2) regarding the control, management, and eradication of imported fire ants. The Secretary shall solicit and evaluate grant proposals under this subsection in consultation with the task force.

“(2) INITIAL GRANTS.—

Publication.

“(A) REQUEST FOR PROPOSALS.—The Secretary shall publish a request for proposals for grants for research or demonstration projects related to the control, management, and possible eradication of imported fire ants.

“(B) SELECTION.—Not later than 1 year after the date of publication of the request for proposals, the Secretary shall evaluate the grant proposals submitted in response to the request and may select meritorious research or demonstration projects related to the control, management, and possible eradication of imported fire ants to receive an initial grant under this subsection.

“(3) SUBSEQUENT GRANTS.—

“(A) EVALUATION OF INITIAL GRANTS.—If the Secretary awards grants under paragraph (2)(B), the Secretary shall evaluate all of the research or demonstration projects conducted under the grants for their use as the basis of a national plan for the control, management, and possible eradication of imported fire ants by the Federal Government, State and local governments, and owners and operators of land.



“(B) SELECTION.—On the basis of the evaluation under subparagraph (A), the Secretary may select the projects that the Secretary considers most promising for additional research or demonstration related to preparation of a national plan for the control, management, and possible eradication of imported fire ants. The Secretary shall notify the task force of the projects selected under this subparagraph.

Notification.

“(4) SELECTION AND SUBMISSION OF NATIONAL PLAN.—

“(A) EVALUATION OF SUBSEQUENT GRANTS.—If the Secretary awards grants under paragraph (3)(B), the Secretary shall evaluate all of the research or demonstration projects conducted under the grants for use as the basis of a national plan for the control, management, and possible eradication of imported fire ants by the Federal Government, State and local governments, and owners and operators of land.

“(B) SELECTION.—On the basis of the evaluation under subparagraph (A), the Secretary shall select 1 project funded under paragraph (3)(B), or a combination of those projects, for award of a grant for final preparation of the national plan.

“(C) SUBMISSION.—The Secretary shall submit to Congress the final national plan prepared under subparagraph (B) for the control, management, and possible eradication of imported fire ants.

“(g) FORMOSAN TERMITE RESEARCH AND ERADICATION.—

“(1) RESEARCH PROGRAM.—The Secretary may make competitive research grants under this subsection to regional and multijurisdictional entities, local government planning organizations, and local governments for the purpose of conducting research for the control, management, and possible eradication of Formosan termites in the United States.

“(2) ERADICATION PROGRAM.—The Secretary may enter into cooperative agreements with regional and multijurisdictional entities, local government planning organizations, and local governments for the purposes of—

“(A) conducting projects for the control, management, and possible eradication of Formosan termites in the United States; and

“(B) collecting data on the effectiveness of the projects.

“(3) FUNDING PRIORITY.—In allocating funds made available to carry out paragraph (2), the Secretary shall provide a higher priority for regions or locations with the highest historical rates of infestation of Formosan termites.

“(4) MANAGEMENT COORDINATION.—The program management of research grants, cooperative agreements, and projects under this subsection shall be conducted under existing authority in coordination with the national formosan termite management and research demonstration program conducted by the Agricultural Research Service.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.”.

**SEC. 243. NUTRIENT MANAGEMENT RESEARCH AND EXTENSION INITIATIVE.**

The Food, Agriculture, Conservation, and Trade Act of 1990 is amended by inserting after section 1672 (7 U.S.C. 5925) the following:

7 USC 5925a.

**“SEC. 1672A. NUTRIENT MANAGEMENT RESEARCH AND EXTENSION INITIATIVE.**

“(a) **COMPETITIVE RESEARCH AND EXTENSION GRANTS AUTHORIZED.**—The Secretary of Agriculture (referred to in this section as the ‘Secretary’) may make competitive grants to support research and extension activities specified in subsection (e). The Secretary shall make the grants in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board.

Applicability.

**“(b) ADMINISTRATION.—**

“(1) **IN GENERAL.**—Paragraphs (1), (6), (7), and (11) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.

“(2) **USE OF TASK FORCES.**—To facilitate the making of research and extension grants under this section in the research and extension areas specified in subsection (e), the Secretary may appoint a task force for each such area to make recommendations to the Secretary. The Secretary may not incur costs in excess of \$1,000 for any fiscal year in connection with each task force established under this paragraph.

**“(c) MATCHING FUNDS REQUIRED.—**

“(1) **IN GENERAL.**—The Secretary shall require the recipient of a grant under this section to provide funds or in-kind support from non-Federal sources in an amount at least equal to the amount provided by the Federal Government.

“(2) **WAIVER AUTHORITY.**—The Secretary may waive the matching funds requirement specified in paragraph (1) with respect to a research project if the Secretary determines that—

“(A) the results of the project, while of particular benefit to a specific agricultural commodity, are likely to be applicable to agricultural commodities generally; or

“(B) the project involves a minor commodity, the project deals with scientifically important research, and the grant recipient is unable to satisfy the matching funds requirement.

“(d) **PARTNERSHIPS ENCOURAGED.**—Following the completion of a peer review process for grant proposals received under this section, the Secretary may provide a priority to those grant proposals, found in the peer review process to be scientifically meritorious, that involve the cooperation of multiple entities.

**“(e) NUTRIENT MANAGEMENT RESEARCH AND EXTENSION AREAS.—**

“(1) **ANIMAL WASTE AND ODOR MANAGEMENT.**—Research and extension grants may be made under this section for the purpose of—

“(A) identifying, evaluating, and demonstrating innovative technologies for animal waste management and related air quality management and odor control;

“(B) investigating the unique microbiology of specific animal wastes, such as swine waste, to develop improved methods to effectively manage air and water quality; and

“(C) conducting information workshops to disseminate the results of the research.

“(2) WATER QUALITY AND AQUATIC ECOSYSTEMS.—Research and extension grants may be made under this section for the purpose of investigating the impact on aquatic food webs, especially commercially important aquatic species and their habitats, of microorganisms of the genus *Pfiesteria* and other microorganisms that are a threat to human or animal health.

“(3) RURAL AND URBAN INTERFACE.—Research and extension grants may be made under this section for the purpose of identifying, evaluating, and demonstrating innovative technologies to be used for animal waste management (including odor control) in rural areas adjacent to urban or suburban areas in connection with waste management activities undertaken in urban or suburban areas.

“(4) ANIMAL FEED.—Research and extension grants may be made under this section for the purpose of maximizing nutrition management for livestock, while limiting risks, such as mineral bypass, associated with livestock feeding practices.

“(5) ALTERNATIVE USES OF ANIMAL WASTE.—Research and extension grants may be made under this section for the purpose of finding innovative methods and technologies for economic use or disposal of animal waste.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.”.

**SEC. 244. ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.**

The Food, Agriculture, Conservation, and Trade Act of 1990 is amended by inserting after section 1672A (as added by section 243) the following:

**“SEC. 1672B. ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.**

7 USC 5925b.

“(a) COMPETITIVE SPECIALIZED RESEARCH AND EXTENSION GRANTS AUTHORIZED.—In consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board, the Secretary of Agriculture (referred to in this section as the ‘Secretary’) may make competitive grants to support research and extension activities regarding organically grown and processed agricultural commodities for the purposes of—

“(1) facilitating the development of organic agriculture production and processing methods;

“(2) evaluating the potential economic benefits to producers and processors who use organic methods; and

“(3) exploring international trade opportunities for organically grown and processed agricultural commodities.

“(b) GRANT TYPES AND PROCESS, PROHIBITION ON CONSTRUCTION.—Paragraphs (1), (6), (7), and (11) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.

Applicability.

“(c) MATCHING FUNDS REQUIRED.—

“(1) IN GENERAL.—The Secretary shall require the recipient of a grant under this section to provide funds or in-kind support from non-Federal sources in an amount at least equal to the amount provided by the Federal Government.

“(2) WAIVER AUTHORITY.—The Secretary may waive the matching funds requirement specified in paragraph (1) with respect to a research project if the Secretary determines that—

“(A) the results of the project, while of particular benefit to a specified agricultural commodity, are likely to be applicable to agricultural commodities generally; or

“(B) the project involves a minor commodity, the project deals with scientifically important research, and the grant recipient is unable to satisfy the matching funds requirement.

“(d) PARTNERSHIPS ENCOURAGED.—Following the completion of a peer review process for grant proposals received under this section, the Secretary may provide a priority to those grant proposals, found in the peer review process to be scientifically meritorious, that involve the cooperation of multiple entities.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.”.

#### SEC. 245. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

Section 1673 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926) is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively;

(B) by inserting before paragraph (2) (as so redesignated) the following:

“(1) A\*DEC.—The term ‘A\*DEC’ means the distance education consortium known as A\*DEC.”; and

(C) by adding at the end the following:

“(7) SECRETARY.—Except as provided in subsection (d)(1), the term ‘Secretary’ means the Secretary of Agriculture, acting through A\*DEC.”;

(2) in subsection (d)(1), by striking “The Secretary shall establish a program, to be administered by the Assistant Secretary for Science and Education,” and inserting “The Secretary of Agriculture shall establish a program, to be administered through a grant provided to A\*DEC under terms and conditions established by the Secretary of Agriculture.”; and

(3) in the first sentence of subsection (f)(2), by striking “the Assistant Secretary for Science and Education” and inserting “A\*DEC”.

#### SEC. 246. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

Section 1680 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933) is amended—

(1) in subsection (a), by striking paragraph (6);

(2) in subsection (b)—

(A) by striking “DISSEMINATION.—” and all that follows through “GENERAL.—The” and inserting “DISSEMINATION.—The”; and

(B) by striking paragraph (2); and

(3) by adding at the end the following:

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), there is authorized to be appropriated to carry out this section \$6,000,000 for each of fiscal years 1999 through 2002.

“(2) NATIONAL GRANT.—Not more than 15 percent of the amounts made available under paragraph (1) for a fiscal year shall be used to carry out subsection (b).”.

## Subtitle E—Other Laws

### SEC. 251. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.

(a) DEFINITION OF 1994 INSTITUTIONS.—Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) is amended by adding at the end the following:

“(30) Little Priest Tribal College.”.

(b) ACCREDITATION.—Section 533(a) of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) is amended by adding at the end the following:

“(3) ACCREDITATION.—To receive funding under sections 534 and 535, a 1994 Institution shall certify to the Secretary that the 1994 Institution—

Certification.

“(A) is accredited by a nationally recognized accrediting agency or association determined by the Secretary, in consultation with the Secretary of Education, to be a reliable authority regarding the quality of training offered; or

“(B) is making progress toward the accreditation, as determined by the nationally recognized accrediting agency or association.”.

(c) RESEARCH GRANTS.—The Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) is amended by adding at the end the following:

#### “SEC. 536. RESEARCH GRANTS.

“(a) RESEARCH GRANTS AUTHORIZED.—The Secretary of Agriculture may make grants under this section, on the basis of a competitive application process (and in accordance with such regulations as the Secretary may promulgate), to a 1994 Institution to assist the Institution to conduct agricultural research that addresses high priority concerns of tribal, national, or multistate significance.

“(b) REQUIREMENTS.—Grant applications submitted under this section shall certify that the research to be conducted will be performed under a cooperative agreement with at least 1 other land-grant college or university (exclusive of another 1994 Institution).

Certification.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002. Amounts appropriated shall remain available until expended.”.

### SEC. 252. FUND FOR RURAL AMERICA.

Section 793(b) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f(b)) is amended by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—On October 1, 1998, and each October 1 thereafter through October 1, 2002, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer \$60,000,000 to the Account.”.

**SEC. 253. FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH.**

(a) FINDINGS.—Section 2 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641) is amended by striking “SEC. 2.” and subsection (a) and inserting the following:

“SEC. 2. FINDINGS AND PURPOSE.

“(a) FINDINGS.—Congress finds the following:

“(1) Forests and rangeland, and the resources of forests and rangeland, are of strategic economic and ecological importance to the United States, and the Federal Government has an important and substantial role in ensuring the continued health, productivity, and sustainability of the forests and rangeland of the United States.

“(2) Over 75 percent of the productive commercial forest land in the United States is privately owned, with some 60 percent owned by small nonindustrial private owners. These 10,000,000 nonindustrial private owners are critical to providing both commodity and noncommodity values to the citizens of the United States.

“(3) The National Forest System manages only 17 percent of the commercial timberland of the United States, with over half of the standing softwoods inventory located on that land. Dramatic changes in Federal agency policy during the early 1990’s have significantly curtailed the management of this vast timber resource, causing abrupt shifts in the supply of timber from public to private ownership. As a result of these shifts in supply, some 60 percent of total wood production in the United States is now coming from private forest land in the southern United States.

“(4) At the same time that pressures are building for the removal of even more land from commercial production, the Federal Government is significantly reducing its commitment to productivity-related research regarding forests and rangeland, which is critically needed by the private sector for the sustained management of remaining available timber and forage resources for the benefit of all species.

“(5) Uncertainty over the availability of the United States timber supply, increasing regulatory burdens, and the lack of Federal Government support for research is causing domestic wood and paper producers to move outside the United States to find reliable sources of wood supplies, which in turn results in a worsening of the United States trade balance, the loss of employment and infrastructure investments, and an increased risk of infestations of exotic pests and diseases from imported wood products.

“(6) Wood and paper producers in the United States are being challenged not only by shifts in Federal Government policy, but also by international competition from tropical countries where growth rates of trees far exceed those in the United States. Wood production per acre will need to quadruple from 1996 levels for the United States forestry sector to remain internationally competitive on an ever decreasing forest land base.

“(7) Better and more frequent forest inventorying and analysis is necessary to identify productivity-related forestry research needs and to provide forest managers with the current

data necessary to make timely and effective management decisions.”.

(b) HIGH PRIORITY FORESTRY AND RANGELAND RESEARCH AND EDUCATION.—Section 3 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642) is amended by striking subsection (d) and inserting the following:

“(d) HIGH PRIORITY FORESTRY AND RANGELAND RESEARCH AND EDUCATION.—

“(1) IN GENERAL.—The Secretary may conduct, support, and cooperate in forestry and rangeland research and education that is of the highest priority to the United States and to users of public and private forest land and rangeland in the United States.

“(2) PRIORITIES.—The research and education priorities include the following:

“(A) The biology of forest organisms and rangeland organisms.

“(B) Functional characteristics and cost-effective management of forest and rangeland ecosystems.

“(C) Interactions between humans and forests and rangeland.

“(D) Wood and forage as a raw material.

“(E) International trade, competition, and cooperation.

“(3) NORTHEASTERN STATES RESEARCH COOPERATIVE.—The Secretary may cooperate with the northeastern States of New Hampshire, New York, Maine, and Vermont, land-grant colleges and universities of those States, natural resources and forestry schools of those States, other Federal agencies, and other interested persons in those States to coordinate and improve ecological and economic research relating to agricultural research, extension, and education, including—

“(A) research on ecosystem health, forest management, product development, economics, and related fields;

“(B) research to assist those States and landowners in those States to achieve sustainable forest management;

“(C) technology transfer to the wood products industry of technologies that promote efficient processing, pollution prevention, and energy conservation;

“(D) dissemination of existing and new information to landowners, public and private resource managers, State forest citizen advisory committees, and the general public through professional associations, publications, and other information clearinghouse activities; and

“(E) analysis of strategies for the protection of areas of outstanding ecological significance or high biological diversity, and strategies for the provision of important recreational opportunities and traditional uses, including strategies for areas identified through State land conservation planning processes.”.

(c) FOREST INVENTORY AND ANALYSIS.—Section 3 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642) is amended by adding at the end the following:

“(e) FOREST INVENTORY AND ANALYSIS.—

“(1) PROGRAM REQUIRED.—In compliance with other applicable provisions of law, the Secretary shall establish a program to inventory and analyze, in a timely manner, public and private forests and their resources in the United States.

“(2) ANNUAL STATE INVENTORY.—

“(A) IN GENERAL.—Not later than the end of each full fiscal year beginning after the date of enactment of this subsection, the Secretary shall prepare for each State, in cooperation with the State forester for the State, an inventory of forests and their resources in the State.

“(B) SAMPLE PLOTS.—For purposes of preparing the inventory for a State, the Secretary shall measure annually 20 percent of all sample plots that are included in the inventory program for that State.

Public  
information.

“(C) COMPILATION OF INVENTORY.—On completion of the inventory for a year, the Secretary shall make available to the public a compilation of all data collected for that year from measurements of sample plots as well as any analysis made of the samples.

Publication.  
Public  
information.

“(3) 5-YEAR REPORTS.—Not more often than every 5 full fiscal years after the date of enactment of this subsection, the Secretary shall prepare, publish, and make available to the public a report, prepared in cooperation with State foresters, that—

“(A) contains a description of each State inventory of forests and their resources, incorporating all sample plot measurements conducted during the 5 years covered by the report;

“(B) displays and analyzes on a nationwide basis the results of the annual reports required by paragraph (2); and

“(C) contains an analysis of forest health conditions and trends over the previous 2 decades, with an emphasis on such conditions and trends during the period subsequent to the immediately preceding report under this paragraph.

Publication.

“(4) NATIONAL STANDARDS AND DEFINITIONS.—To ensure uniform and consistent data collection for all forest land that is publicly or privately owned and for each State, the Secretary shall develop, in consultation with State foresters and Federal land management agencies not under the jurisdiction of the Secretary, and publish national standards and definitions to be applied in inventorying and analyzing forests and their resources under this subsection. The standards shall include a core set of variables to be measured on all sample plots under paragraph (2) and a standard set of tables to be included in the reports under paragraph (3).

“(5) PROTECTION FOR PRIVATE PROPERTY RIGHTS.—The Secretary shall obtain authorization from property owners prior to collecting data from sample plots located on private property pursuant to paragraphs (2) and (3).

“(6) STRATEGIC PLAN.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall prepare and submit to Congress a strategic plan to implement and carry out this subsection, including the annual updates required by paragraph (2) and the reports required by paragraph (3), that shall describe in detail—

“(A) the financial resources required to implement and carry out this subsection, including the identification of any resources required in excess of the amounts provided for forest inventorying and analysis in recent appropriations Acts;



“(B) the personnel necessary to implement and carry out this subsection, including any personnel in addition to personnel currently performing inventorying and analysis functions;

“(C) the organization and procedures necessary to implement and carry out this subsection, including proposed coordination with Federal land management agencies and State foresters;

“(D) the schedules for annual sample plot measurements in each State inventory required by paragraph (2) within the first 5-year interval after the date of enactment of this subsection;

“(E) the core set of variables to be measured in each sample plot under paragraph (2) and the standard set of tables to be used in each State and national report under paragraph (3); and

“(F) the process for employing, in coordination with the Secretary of Energy and the Administrator of the National Aeronautics and Space Administration, remote sensing, global positioning systems, and other advanced technologies to carry out this subsection, and the subsequent use of the technologies.”.

(d) **FORESTRY AND RANGELAND COMPETITIVE RESEARCH GRANTS.**—Section 5 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1644) is amended—

(1) by striking the section heading and “SEC. 5.” and inserting the following:

**“SEC. 5. FORESTRY AND RANGELAND COMPETITIVE RESEARCH GRANTS.**

“(a) **COMPETITIVE GRANT AUTHORITY.**—”; and

(2) by adding at the end the following:

“(b) **EMPHASIS ON CERTAIN HIGH PRIORITY FORESTRY RESEARCH.**—The Secretary may use up to 5 percent of the amounts made available for research under section 3 to make competitive grants regarding forestry research in the high priority research areas identified under section 3(d).

“(c) **EMPHASIS ON CERTAIN HIGH PRIORITY RANGELAND RESEARCH.**—The Secretary may use up to 5 percent of the amounts made available for research under section 3 to make competitive grants regarding rangeland research in the high priority research areas identified under section 3(d).

“(d) **PRIORITIES.**—In making grants under subsections (b) and (c), the Secretary shall give priority to research proposals under which—

“(1) the proposed research will be collaborative research organized through a center of scientific excellence;

“(2) the applicant agrees to provide matching funds (in the form of direct funding or in-kind support) in an amount equal to not less than 50 percent of the grant amount; and

“(3) the proposed research will be conducted as part of an existing private and public partnership or cooperative research effort and involves several interested research partners.”.

### **TITLE III—EXTENSION OR REPEAL OF AGRICULTURAL RESEARCH, EXTEN- SION, AND EDUCATION AUTHORITIES**

#### **SEC. 301. EXTENSIONS.**

(a) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended—

(1) in subsection (l) of section 1417 (7 U.S.C. 3152) (as redesignated by section 223(1)), by striking “1997” and inserting “2002”;

(2) in section 1419(d) (7 U.S.C. 3154(d)), by striking “1997” and inserting “2002”;

(3) in section 1419A(d) (7 U.S.C. 3155(d)), by striking “fiscal years 1996 and 1997” and inserting “each of fiscal years 1996 through 2002”;

(4) in section 1424(d) (7 U.S.C. 3174(d)), by striking “fiscal years 1996 and 1997” and inserting “each of fiscal years 1996 through 2002”;

(5) in section 1424A(d) (7 U.S.C. 3174a(d)), by striking “fiscal year 1997” and inserting “each of fiscal years 1997 through 2002”;

(6) in section 1425(c)(3) (7 U.S.C. 3175(c)(3)), by striking “and 1997” and inserting “through 2002”;

(7) in the first sentence of section 1433(a) (7 U.S.C. 3195(a)), by striking “1997” and inserting “2002”;

(8) in section 1434(a) (7 U.S.C. 3196(a)), by striking “1997” and inserting “2002”;

(9) in section 1447(b) (7 U.S.C. 3222b(b)), by striking “and 1997” and inserting “through 2002”;

(10) in section 1448 (7 U.S.C. 3222c)—

(A) in subsection (a)(1), by striking “and 1997” and inserting “through 2002”; and

(B) in subsection (f), by striking “1997” and inserting “2002”;

(11) in section 1455(c) (7 U.S.C. 3241(c)), by striking “fiscal year 1997” and inserting “each of fiscal years 1997 through 2002”;

(12) in section 1463 (7 U.S.C. 3311), by striking “1997” each place it appears in subsections (a) and (b) and inserting “2002”;

(13) in section 1464 (7 U.S.C. 3312), by striking “1997” and inserting “2002”;

(14) in section 1473D(a) (7 U.S.C. 3319d(a)), by striking “1997” and inserting “2002”;

(15) in the first sentence of section 1477 (7 U.S.C. 3324), by striking “1997” and inserting “2002”; and

(16) in section 1483(a) (7 U.S.C. 3336(a)), by striking “1997” and inserting “2002”.

(b) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The Food, Agriculture, Conservation, and Trade Act of 1990 is amended—

(1) in section 1635(b) (7 U.S.C. 5844(b)), by striking “1997” and inserting “2002”;

(2) in section 1673(h) (7 U.S.C. 5926(h)), by striking “1997” and inserting “2002”;

(3) in section 2381(e) (7 U.S.C. 3125b(e)), by striking “1997” and inserting “2002”.

(c) CRITICAL AGRICULTURAL MATERIALS ACT.—Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking “1997” and inserting “2002”.

(d) RESEARCH FACILITIES ACT.—Section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) is amended by striking “fiscal years 1996 and 1997” and inserting “each of fiscal years 1996 through 2002”.

(e) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT AMENDMENTS OF 1985.—Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended by striking “1997” and inserting “2002”.

(f) COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANT ACT.—Subsection (b)(10) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(10)) is amended by striking “1997” and inserting “2002”.

(g) EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.—Sections 533(b) and 535 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) are amended by striking “2000” each place it appears and inserting “2002”.

(h) RENEWABLE RESOURCES EXTENSION ACT OF 1978.—Section 6 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1675) is amended in the first sentence by striking “the fiscal year ending September 30, 1988,” and all that follows through the period at the end and inserting “each of fiscal years 1987 through 2002”.

(i) NATIONAL AQUACULTURE ACT OF 1980.—Section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) is amended by striking “the fiscal years 1991, 1992, and 1993” each place it appears and inserting “fiscal years 1991 through 2002”.

#### SEC. 302. REPEALS.

(a) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—Section 1476 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3323) is repealed.

(b) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT AMENDMENTS OF 1981.—Subsection (b) of section 1432 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (Public Law 97–98; 7 U.S.C. 3222 note) is repealed.

(c) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Subtitle G of title XIV and sections 1670 and 1675 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5501 et seq., 5923, 5928) are repealed.

(d) FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996.—Subtitle E of title VIII of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 1184) is repealed.

## TITLE IV—NEW AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION INITIATIVES

7 USC 7621.

### SEC. 401. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.

(a) **TREASURY ACCOUNT.**—There is established in the Treasury of the United States an account to be known as the Initiative for Future Agriculture and Food Systems (referred to in this section as the “Account”) to provide funds for activities authorized under this section.

(b) **FUNDING.**—

(1) **IN GENERAL.**—On October 1, 1998, and each October 1 thereafter through October 1, 2002, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer \$120,000,000 to the Account.

(2) **ENTITLEMENT.**—The Secretary of Agriculture—

(A) shall be entitled to receive the funds transferred to the Account under paragraph (1);

(B) shall accept the funds; and

(C) shall use the funds to carry out this section.

(c) **PURPOSES.**—

(1) **CRITICAL EMERGING ISSUES.**—The Secretary shall use the funds in the Account—

(A) subject to paragraph (2), for research, extension, and education grants (referred to in this section as “grants”) to address critical emerging agricultural issues related to—

(i) future food production;

(ii) environmental quality and natural resource management; or

(iii) farm income; and

(B) for activities carried out under the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

(2) **PRIORITY MISSION AREAS.**—In making grants under this section, the Secretary, in consultation with the Advisory Board, shall address priority mission areas related to—

(A) agricultural genome;

(B) food safety, food technology, and human nutrition;

(C) new and alternative uses and production of agricultural commodities and products;

(D) agricultural biotechnology;

(E) natural resource management, including precision agriculture; and

(F) farm efficiency and profitability, including the viability and competitiveness of small- and medium-sized dairy, livestock, crop, and other commodity operations.

(d) **ELIGIBLE GRANTEES.**—The Secretary may make a grant under this section to—

(1) a Federal research agency;

(2) a national laboratory;

(3) a college or university or a research foundation maintained by a college or university; or

(4) a private research organization with an established and demonstrated capacity to perform research or technology transfer.

Effective date.  
Termination  
date.

## (e) SPECIAL CONSIDERATIONS.—

(1) SMALLER INSTITUTIONS.—The Secretary may award grants under this section in a manner that ensures that the faculty of small and mid-sized institutions that have not previously been successful in obtaining competitive grants under subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) receive a portion of the grants under this section.

(2) PRIORITIES.—In making grants under this section, the Secretary shall provide a higher priority to—

(A) a project that is multistate, multi-institutional, or multidisciplinary; or

(B) a project that integrates agricultural research, extension, and education.

## (f) ADMINISTRATION.—

(1) IN GENERAL.—In making grants under this section, the Secretary shall—

(A) seek and accept proposals for grants;

(B) determine the relevance and merit of proposals through a system of peer review in accordance with section 103;

(C) award grants on the basis of merit, quality, and relevance to advancing the purposes and priority mission areas established under subsection (c); and

(D) solicit and consider input from persons who conduct or use agricultural research, extension, or education in accordance with section 102(b).

(2) COMPETITIVE BASIS.—A grant under this section shall be awarded on a competitive basis.

(3) TERM.—A grant under this section shall have a term that does not exceed 5 years.

(4) MATCHING FUNDS.—As a condition of making a grant under this section, the Secretary shall require the funding of the grant be matched with equal matching funds from a non-Federal source if the grant is—

(A) for applied research that is commodity-specific; and

(B) not of national scope.

(5) DELEGATION.—The Secretary shall administer this section through the Cooperative State Research, Education, and Extension Service of the Department. The Secretary may establish 1 or more institutes to carry out all or part of the activities authorized under this section.

(6) AVAILABILITY OF FUNDS.—Funds for grants under this section shall be available to the Secretary for obligation for a 2-year period.

(7) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available for grants under this section for administrative costs incurred by the Secretary in carrying out this section.

(8) BUILDINGS AND FACILITIES.—Funds made available for grants under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

7 USC 7622.

**SEC. 402. PARTNERSHIPS FOR HIGH-VALUE AGRICULTURAL PRODUCT QUALITY RESEARCH.**

(a) **DEFINITION OF ELIGIBLE PARTNERSHIP.**—In this section, the term “eligible partnership” means a partnership consisting of a land-grant college or university and other entities specified in subsection (c)(1) that satisfies the eligibility criteria specified in subsection (c).

(b) **ESTABLISHMENT OF PARTNERSHIPS BY GRANT.**—The Secretary of Agriculture may make competitive grants to an eligible partnership to coordinate and manage research and extension activities to enhance the quality of high-value agricultural products.

(c) **CRITERIA FOR AN ELIGIBLE PARTNERSHIP.**—

(1) **PRIMARY INSTITUTIONS IN PARTNERSHIP.**—The primary institution involved in an eligible partnership shall be a land-grant college or university, acting in partnership with other colleges or universities, nonprofit research and development entities, and Federal laboratories.

(2) **PRIORITIZATION OF RESEARCH ACTIVITIES.**—An eligible partnership shall prioritize research and extension activities in order to—

(A) enhance the competitiveness of United States agricultural products;

(B) increase exports of such products; and

(C) substitute such products for imported products.

(3) **COORDINATION.**—An eligible partnership shall coordinate among the entities comprising the partnership the activities supported by the eligible partnership, including the provision of mechanisms for sharing resources between institutions and laboratories and the coordination of public and private sector partners to maximize cost-effectiveness.

(d) **TYPES OF RESEARCH AND EXTENSION ACTIVITIES.**—Research or extension supported by an eligible partnership may address the full spectrum of production, processing, packaging, transportation, and marketing issues related to a high-value agricultural product. Such issues include—

(1) environmentally responsible—

(A) pest management alternatives and biotechnology;

(B) sustainable farming methods; and

(C) soil conservation and enhanced resource management;

(2) genetic research to develop improved agricultural-based products;

(3) refinement of field production practices and technology to improve quality, yield, and production efficiencies;

(4) processing and package technology to improve product quality, stability, or flavor intensity;

(5) marketing research regarding consumer perceptions and preferences;

(6) economic research, including industry characteristics, growth, and competitive analysis; and

(7) research to facilitate diversified, value-added enterprises in rural areas.

(e) **ELEMENTS OF GRANT MAKING PROCESS.**—

(1) **PERIOD OF GRANT.**—The Secretary may award a grant under this section for a period not to exceed 5 years.

(2) **PREFERENCES.**—In making grants under this section, the Secretary shall provide a preference to proposals that—

- (A) demonstrate linkages with—
    - (i) agencies of the Department;
    - (ii) other related Federal research laboratories and agencies;
    - (iii) colleges and universities; and
    - (iv) private industry; and
  - (B) guarantee matching funds in excess of the amounts required by paragraph (3).
- (3) MATCHING FUNDS.—An eligible partnership shall contribute an amount of non-Federal funds for the operation of the partnership that is at least equal to the amount of grant funds received by the partnership under this section.
- (f) LIMITATION ON USE OF GRANT FUNDS.—Funds provided under this section may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.
- (g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

## SEC. 403. PRECISION AGRICULTURE.

7 USC 7623.

## (a) DEFINITIONS.—In this section:

(1) AGRICULTURAL INPUTS.—The term “agricultural inputs” includes all farm management, agronomic, and field-applied agricultural production inputs, such as machinery, labor, time, fuel, irrigation water, commercial nutrients, feed stuffs, veterinary drugs and vaccines, livestock waste, crop protection chemicals, agronomic data and information, application and management services, seed, and other inputs used in agricultural production.

## (2) ELIGIBLE ENTITY.—The term “eligible entity” means—

- (A) a State agricultural experiment station;
- (B) a college or university;
- (C) a research institution or organization;
- (D) a Federal or State government entity or agency;
- (E) a national laboratory;
- (F) a private organization or corporation;
- (G) an agricultural producer or other land manager;

or

(H) a precision agriculture partnership referred to in subsection (g).

(3) PRECISION AGRICULTURE.—The term “precision agriculture” means an integrated information- and production-based farming system that is designed to increase long-term, site-specific, and whole farm production efficiencies, productivity, and profitability while minimizing unintended impacts on wildlife and the environment by—

(A) combining agricultural sciences, agricultural inputs and practices, agronomic production databases, and precision agriculture technologies to efficiently manage agronomic and livestock production systems;

(B) gathering on-farm information pertaining to the variation and interaction of site-specific spatial and temporal factors affecting crop and livestock production;

(C) integrating such information with appropriate data derived from field scouting, remote sensing, and other precision agriculture technologies in a timely manner in order to facilitate on-farm decisionmaking; or

(D) using such information to prescribe and deliver site-specific application of agricultural inputs and management practices in agricultural production systems.

(4) PRECISION AGRICULTURE TECHNOLOGIES.—The term “precision agriculture technologies” includes—

(A) instrumentation and techniques ranging from sophisticated sensors and software systems to manual sampling and data collection tools that measure, record, and manage spatial and temporal data;

(B) technologies for searching out and assembling information necessary for sound agricultural production decisionmaking;

(C) open systems technologies for data networking and processing that produce valued systems for farm management decisionmaking; or

(D) machines that deliver information-based management practices.

(5) SYSTEMS RESEARCH.—The term “systems research” means an integrated, coordinated, and iterative investigative process that involves—

(A) the multiple interacting components and aspects of precision agriculture systems, including synthesis of new knowledge regarding the physical-chemical-biological processes and complex interactions of the systems with cropping, livestock production practices, and natural resource systems;

(B) precision agriculture technologies development and implementation;

(C) data and information collection and interpretation;

(D) production-scale planning;

(E) production-scale implementation; and

(F) farm production efficiencies, productivity, and profitability.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Agriculture may make competitive grants, for periods not to exceed 5 years, to eligible entities to conduct research, education, or information dissemination projects for the development and advancement of precision agriculture.

(2) PRIVATE SECTOR FINANCING.—A grant under this section shall be used to support only a project that the Secretary determines is unlikely to be financed by the private sector.

(3) CONSULTATION WITH ADVISORY BOARD.—The Secretary shall make grants under this section in consultation with the Advisory Board.

(c) PURPOSES OF PROJECTS.—A research, education, or information dissemination project supported by a grant under this section shall address 1 or more of the following purposes:

(1) The study and promotion of components of precision agriculture technologies using a systems research approach designed to increase long-term site-specific and whole-farm production efficiencies, productivity, and profitability.

(2) The improvement in the understanding of agronomic systems, including, soil, water, land cover (including grazing land), pest management systems, and meteorological variability.



(3) The provision of training and educational programs for State cooperative extension services agents, and other professionals involved in the production and transfer of integrated precision agriculture technology.

(4) The development, demonstration, and dissemination of information regarding precision agriculture technologies and systems and the potential costs and benefits of precision agriculture as it relates to—

(A) increased long-term farm production efficiencies, productivity, and profitability;

(B) the maintenance of the environment;

(C) improvements in international trade; and

(D) an integrated program of education for agricultural producers and consumers, including family owned and operated farms.

(5) The promotion of systems research and education projects focusing on the integration of the multiple aspects of precision agriculture, including development, production-scale implementation, and farm production efficiencies, productivity, and profitability.

(6) The study of whether precision agriculture technologies are applicable and accessible to small and medium-size farms and the study of methods of improving the applicability of precision agriculture technologies to those farms.

(d) GRANT PRIORITIES.—In making grants to eligible entities under this section, the Secretary, in consultation with the Advisory Board, shall give priority to research, education, or information dissemination projects designed to accomplish the following:

(1) Evaluate the use of precision agriculture technologies using a systems research approach to increase long-term site-specific and whole-farm production efficiencies, productivity, and profitability.

(2) Integrate research, education, and information dissemination components in a practical and readily available manner so that the findings of the project will be made readily usable by agricultural producers.

(3) Demonstrate the efficient use of agricultural inputs, rather than the uniform reduction in the use of agricultural inputs.

(4) Maximize the involvement and cooperation of precision agriculture producers, certified crop advisers, State cooperative extension services agents, agricultural input machinery, product and service providers, nonprofit organizations, agribusinesses, veterinarians, land-grant colleges and universities, and Federal agencies in precision agriculture systems research projects involving on-farm research, education, and dissemination of precision agriculture information.

(5) Maximize collaboration with multiple agencies and other partners, including through leveraging of funds and resources.

(e) MATCHING FUNDS.—The amount of a grant under this section to an eligible entity (other than a Federal agency) may not exceed the amount that the eligible entity makes available out of non-Federal funds for precision agriculture research and for the establishment and maintenance of facilities necessary for conducting precision agriculture research.

(f) RESERVATION OF FUNDS FOR EDUCATION AND INFORMATION DISSEMINATION PROJECTS.—Of the funds made available for grants

under this section, the Secretary shall reserve a portion of the funds for grants for projects regarding precision agriculture related to education or information dissemination.

(g) **PRECISION AGRICULTURE PARTNERSHIPS.**—In carrying out this section, the Secretary, in consultation with the Advisory Board, shall encourage the establishment of appropriate multistate and national partnerships or consortia between—

(1) land-grant colleges and universities, State agricultural experiment stations, State cooperative extension services, other colleges and universities with demonstrable expertise regarding precision agriculture, agencies of the Department, national laboratories, agribusinesses, agricultural equipment and input manufacturers and retailers, certified crop advisers, commodity organizations, veterinarians, other Federal or State government entities and agencies, or nonagricultural industries and non-profit organizations with demonstrable expertise regarding precision agriculture; and

(2) agricultural producers or other land managers.

(h) **LIMITATION REGARDING FACILITIES.**—A grant made under this section may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002, of which, for each fiscal year—

(A) not less than 30 percent shall be available to make grants for research to be conducted by multidisciplinary teams; and

(B) not less than 40 percent shall be available to make grants for research to be conducted by eligible entities conducting systems research directly applicable to producers and agricultural production systems.

(2) **AVAILABILITY OF FUNDS.**—Funds made available under paragraph (1) shall be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are made available.

7 USC 7624.

#### SEC. 404. BIOBASED PRODUCTS.

(a) **DEFINITION OF BIOBASED PRODUCT.**—In this section, the term “biobased product” means a product suitable for food or nonfood use that is derived in whole or in part from renewable agricultural and forestry materials.

(b) **COORDINATION OF BIOBASED PRODUCT ACTIVITIES.**—The Secretary of Agriculture shall—

(1) coordinate the research, technical expertise, economic information, and market information resources and activities of the Department to develop, commercialize, and promote the use of biobased products;

(2) solicit input from private sector persons who produce, or are interested in producing, biobased products;

(3) provide a centralized contact point for advice and technical assistance for promising and innovative biobased products; and

(4) submit an annual report to Congress describing the coordinated research, marketing, and commercialization activities of the Department relating to biobased products.

Reports.

(c) COOPERATIVE AGREEMENTS FOR BIOBASED PRODUCTS.—

(1) AGREEMENTS AUTHORIZED.—The Secretary may enter into cooperative agreements with private entities described in subsection (d), under which the facilities and technical expertise of the Agricultural Research Service may be made available to operate pilot plants and other large-scale preparation facilities for the purpose of bringing technologies necessary for the development and commercialization of new biobased products to the point of practical application.

(2) DESCRIPTION OF COOPERATIVE ACTIVITIES.—Cooperative activities may include—

(A) research on potential environmental impacts of a biobased product;

(B) methods to reduce the cost of manufacturing a biobased product; and

(C) other appropriate research.

(d) ELIGIBLE PARTNERS.—The following entities shall be eligible to enter into a cooperative agreement under subsection (c):

(1) A party that has entered into a cooperative research and development agreement with the Secretary under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(2) A recipient of funding from the Alternative Agricultural Research and Commercialization Corporation established under section 1658 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5902).

(3) A recipient of funding from the Biotechnology Research and Development Corporation.

(4) A recipient of funding from the Secretary under a Small Business Innovation Research Program established under section 9 of the Small Business Act (15 U.S.C. 638).

(e) PILOT PROJECT.—The Secretary, acting through the Agricultural Research Service, may establish and carry out a pilot project under which grants are provided, on a competitive basis, to scientists of the Agricultural Research Service to—

(1) encourage innovative and collaborative science; and

(2) during each of fiscal years 1999 through 2001, develop biobased products with promising commercial potential.

(f) SOURCE OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), to carry out this section, the Secretary may use—

(A) funds appropriated to carry out this section; and

(B) funds otherwise available for cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(2) EXCEPTION.—The Secretary may not use funds referred to in paragraph (1)(B) to carry out subsection (e).

(g) SALE OF DEVELOPED PRODUCTS.—For the purpose of determining the market potential for new biobased products produced at a pilot plant or other large-scale preparation facility under a cooperative agreement under this section, the Secretary shall authorize the private partner or partners to the agreement to sell the products.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

7 USC 7625.

**SEC. 405. THOMAS JEFFERSON INITIATIVE FOR CROP DIVERSIFICATION.**

(a) **INITIATIVE REQUIRED.**—The Secretary of Agriculture shall provide for a research initiative (to be known as the “Thomas Jefferson Initiative for Crop Diversification”) for the purpose of conducting research and development, in cooperation with other public and private entities, on the production and marketing of new and nontraditional crops needed to strengthen and diversify the agricultural production base of the United States.

(b) **RESEARCH AND EDUCATION EFFORTS.**—The initiative shall include research and education efforts regarding new and nontraditional crops designed—

(1) to identify and overcome agronomic barriers to profitable production;

(2) to identify and overcome other production and marketing barriers; and

(3) to develop processing and utilization technologies for new and nontraditional crops.

(c) **PURPOSES.**—The purposes of the initiative are—

(1) to develop a focused program of research and development at the regional and national levels to overcome barriers to the development of—

(A) new crop opportunities for agricultural producers; and

(B) related value-added enterprises in rural communities; and

(2) to ensure a broad-based effort encompassing research, education, market development, and support of entrepreneurial activity leading to increased agricultural diversification.

(d) **ESTABLISHMENT OF INITIATIVE.**—The Secretary shall coordinate the initiative through a nonprofit center or institute that will coordinate research and education programs in cooperation with other public and private entities. The Secretary shall administer research and education grants made under this section.

(e) **REGIONAL EMPHASIS.**—

(1) **REQUIRED.**—The Secretary shall support development of multistate regional efforts in crop diversification.

(2) **SITE-SPECIFIC CROP DEVELOPMENT EFFORTS.**—Of funding made available to carry out the initiative, not less than 50 percent shall be used for regional efforts centered at colleges and universities in order to facilitate site-specific crop development efforts.

(f) **ELIGIBLE GRANTEE.**—The Secretary may award funds under this section to colleges or universities, nonprofit organizations, public agencies, or individuals.

(g) **ADMINISTRATION.**—

(1) **GRANTS AND CONTRACTS.**—Grants awarded through the initiative shall be selected on a competitive basis.

(2) **PRIVATE BUSINESSES.**—The recipient of a grant may use a portion of the grant funds for standard contracts with private businesses, such as for test processing of a new or nontraditional crop.

(3) **TERMS.**—The term of a grant awarded through the initiative may not exceed 5 years.

(4) **MATCHING FUNDS.**—The Secretary shall require the recipient of a grant awarded through the initiative to contribute

an amount of funds from non-Federal sources that is at least equal to the amount provided by the Federal Government.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

**SEC. 406. INTEGRATED RESEARCH, EDUCATION, AND EXTENSION COMPETITIVE GRANTS PROGRAM.** 7 USC 7626.

(a) PURPOSE.—It is the purpose of this section to authorize the Secretary of Agriculture to establish an integrated research, education, and extension competitive grant program to provide funding for integrated, multifunctional agricultural research, extension, and education activities.

(b) COMPETITIVE GRANTS AUTHORIZED.—Subject to the availability of appropriations to carry out this section, the Secretary may award grants to colleges and universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) on a competitive basis for integrated agricultural research, education, and extension projects in accordance with this section.

(c) CRITERIA FOR GRANTS.—Grants under this section shall be awarded to address priorities in United States agriculture, determined by the Secretary in consultation with the Advisory Board, that involve integrated research, extension, and education activities.

(d) MATCHING OF FUNDS.—

(1) GENERAL REQUIREMENT.—If a grant under this section provides a particular benefit to a specific agricultural commodity, the Secretary shall require the recipient of the grant to provide funds or in-kind support to match the amount of funds provided by the Secretary in the grant.

(2) WAIVER.—The Secretary may waive the matching funds requirement specified in paragraph (1) with respect to a grant if the Secretary determines that—

(A) the results of the project, while of particular benefit to a specific agricultural commodity, are likely to be applicable to agricultural commodities generally; or

(B) the project involves a minor commodity, the project deals with scientifically important research, and the grant recipient is unable to satisfy the matching funds requirement.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

**SEC. 407. COORDINATED PROGRAM OF RESEARCH, EXTENSION, AND EDUCATION TO IMPROVE VIABILITY OF SMALL AND MEDIUM SIZE DAIRY, LIVESTOCK, AND POULTRY OPERATIONS.** 7 USC 7627.

(a) PROGRAM AUTHORIZED.—The Secretary of Agriculture may carry out a coordinated program of research, extension, and education to improve the competitiveness, viability, and sustainability of small and medium size dairy, livestock, and poultry operations (referred to in this section as “operations”).

(b) COMPONENTS.—To the extent the Secretary elects to carry out the program, the Secretary shall conduct—

(1) research, development, and on-farm extension and education concerning low-cost production facilities and practices,

management systems, and genetics that are appropriate for the operations;

(2) in the case of dairy and livestock operations, research and extension on management-intensive grazing systems for dairy and livestock production to realize the potential for reduced capital and feed costs through greater use of management skills, labor availability optimization, and the natural benefits of grazing pastures;

(3) research and extension on integrated crop and livestock or poultry systems that increase efficiencies, reduce costs, and prevent environmental pollution to strengthen the competitive position of the operations;

(4) economic analyses and market feasibility studies to identify new and expanded opportunities for producers on the operations that provide tools and strategies to meet consumer demand in domestic and international markets, such as cooperative marketing and value-added strategies for milk, meat, and poultry production and processing; and

(5) technology assessment that compares the technological resources of large specialized producers with the technological needs of producers on the operations to identify and transfer existing technology across all sizes and scales and to identify the specific research and education needs of the producers.

(c) ADMINISTRATION.—The Secretary may use the funds, facilities, and technical expertise of the Agricultural Research Service and the Cooperative State Research, Education, and Extension Service and other funds available to the Secretary (other than funds of the Commodity Credit Corporation) to carry out this section.

7 USC 7628.

**SEC. 408. SUPPORT FOR RESEARCH REGARDING DISEASES OF WHEAT AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM.**

(a) RESEARCH GRANT AUTHORIZED.—The Secretary of Agriculture may make a grant to a consortium of land-grant colleges and universities to enhance the ability of the consortium to carry out a multi-State research project aimed at understanding and combating diseases of wheat and barley caused by *Fusarium graminearum* and related fungi (referred to in this section as “wheat scab”).

(b) RESEARCH COMPONENTS.—Funds provided under this section shall be available for the following collaborative, multi-State research activities:

(1) Identification and understanding of the epidemiology of wheat scab and the toxicological properties of vomitoxin, a toxic metabolite commonly occurring in wheat and barley infected with wheat scab.

(2) Development of crop management strategies to reduce the risk of wheat scab occurrence.

(3) Development of—

(A) efficient and accurate methods to monitor wheat and barley for the presence of wheat scab and resulting vomitoxin contamination;

(B) post-harvest management techniques for wheat and barley infected with wheat scab; and

(C) milling and food processing techniques to render contaminated grain safe.

(4) Strengthening and expansion of plant-breeding activities to enhance the resistance of wheat and barley to wheat

scab, including the establishment of a regional advanced breeding material evaluation nursery and a germplasm introduction and evaluation system.

(5) Development and deployment of alternative fungicide application systems and formulations to control wheat scab and consideration of other chemical control strategies to assist farmers until new more resistant wheat and barley varieties are available.

(c) COMMUNICATIONS NETWORKS.—Funds provided under this section shall be available for efforts to concentrate, integrate, and disseminate research, extension, and outreach-orientated information regarding wheat scab.

(d) MANAGEMENT.—To oversee the use of a grant made under this section, the Secretary may establish a committee composed of the directors of the agricultural experiment stations in the States in which land-grant colleges and universities that are members of the consortium are located.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,200,000 for each of fiscal years 1999 through 2002.

## **TITLE V—AGRICULTURAL PROGRAM ADJUSTMENTS**

### **Subtitle A—Food Stamp Program**

#### **SEC. 501. REDUCTIONS IN FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.**

Section 16(h)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)(A)) is amended—

(1) in clause (iv)(II), by striking “\$131,000,000” and inserting “\$31,000,000”; and

(2) in clause (v)(II), by striking “\$131,000,000” and inserting “\$86,000,000”.

#### **SEC. 502. REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.**

(a) IN GENERAL.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended—

(1) in the first sentence of subsection (a), by striking “The Secretary” and inserting “Subject to subsection (k), the Secretary”; and

(2) by adding at the end the following:

“(k) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—

“(1) DEFINITIONS.—In this subsection:

“(A) AFDC PROGRAM.—The term ‘AFDC program’ means the program of aid to families with dependent children established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq. (as in effect, with respect to a State, during the base period for that State)).

“(B) BASE PERIOD.—The term ‘base period’ means the period used to determine the amount of the State family assistance grant for a State under section 403 of the Social Security Act (42 U.S.C. 603).

“(C) MEDICAID PROGRAM.—The term ‘medicaid program’ means the program of medical assistance under a

State plan or under a waiver of the plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

“(2) DETERMINATIONS OF AMOUNTS ATTRIBUTABLE TO BENEFITTING PROGRAMS.—Not later than 180 days after the date of enactment of this subsection, the Secretary of Health and Human Services, in consultation with the Secretary of Agriculture and the States, shall, with respect to the base period for each State, determine—

“(A) the annualized amount the State received under section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3) (as in effect during the base period)) for administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for the AFDC program and the food stamp program, the AFDC program and the medicaid program, and the AFDC program, the food stamp program, and the medicaid program that were allocated to the AFDC program; and

“(B) the annualized amount the State would have received under section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3) (as so in effect)), section 1903(a)(7) of the Social Security Act (42 U.S.C. 1396b(a)(7) (as so in effect)), and subsection (a) of this section (as so in effect), for administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for the AFDC program and the food stamp program, the AFDC program and the medicaid program, and the AFDC program, the food stamp program, and the medicaid program, if those costs had been allocated equally among such programs for which the individual, family, or household was eligible or applied for.

“(3) REDUCTION IN PAYMENT.—

“(A) IN GENERAL.—Notwithstanding any other provision of this section, effective for each of fiscal years 1999 through 2002, the Secretary shall reduce, for each fiscal year, the amount paid under subsection (a) to each State by an amount equal to the amount determined for the food stamp program under paragraph (2)(B). The Secretary shall, to the extent practicable, make the reductions required by this paragraph on a quarterly basis.

“(B) APPLICATION.—If the Secretary of Health and Human Services does not make the determinations required by paragraph (2) by September 30, 1999—

“(i) during the fiscal year in which the determinations are made, the Secretary shall reduce the amount paid under subsection (a) to each State by an amount equal to the sum of the amounts determined for the food stamp program under paragraph (2)(B) for fiscal year 1999 through the fiscal year during which the determinations are made; and

“(ii) for each subsequent fiscal year through fiscal year 2002, subparagraph (A) applies.

“(4) APPEAL OF DETERMINATIONS.—

“(A) IN GENERAL.—Not later than 5 days after the date on which the Secretary of Health and Human Services makes any determination required by paragraph (2) with respect to a State, the Secretary shall notify the chief executive officer of the State of the determination.

Effective date.  
Termination  
date.

Applicability.

Notification.



“(B) REVIEW BY ADMINISTRATIVE LAW JUDGE.—

“(i) IN GENERAL.—Not later than 60 days after the date on which a State receives notice under subparagraph (A) of a determination, the State may appeal the determination, in whole or in part, to an administrative law judge of the Department of Health and Human Services by filing an appeal with the administrative law judge. Deadline.

“(ii) DOCUMENTATION.—The administrative law judge shall consider an appeal filed by a State under clause (i) on the basis of such documentation as the State may submit and as the administrative law judge may require to support the final decision of the administrative law judge.

“(iii) REVIEW.—In deciding whether to uphold a determination, in whole or in part, the administrative law judge shall conduct a thorough review of the issues and take into account all relevant evidence.

“(iv) DEADLINE.—Not later than 60 days after the date on which the record is closed, the administrative law judge shall—

“(I) make a final decision with respect to an appeal filed under clause (i); and

“(II) notify the chief executive officer of the State of the decision. Notification.

“(C) REVIEW BY DEPARTMENTAL APPEALS BOARD.—

“(i) IN GENERAL.—Not later than 30 days after the date on which a State receives notice under subparagraph (B) of a final decision, the State may appeal the decision, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (referred to in this paragraph as the ‘Board’) by filing an appeal with the Board. Deadline.

“(ii) REVIEW.—The Board shall review the decision on the record.

“(iii) DEADLINE.—Not later than 60 days after the date on which the appeal is filed, the Board shall—

“(I) make a final decision with respect to an appeal filed under clause (i); and

“(II) notify the chief executive officer of the State of the decision.

“(D) JUDICIAL REVIEW.—The determinations of the Secretary of Health and Human Services under paragraph (2), and a final decision of the administrative law judge or Board under subparagraphs (B) and (C), respectively, shall not be subject to judicial review.

“(E) REDUCED PAYMENTS PENDING APPEAL.—The pendency of an appeal under this paragraph shall not affect the requirement that the Secretary reduce payments in accordance with paragraph (3).

“(5) ALLOCATION OF ADMINISTRATIVE COSTS.—

“(A) IN GENERAL.—No funds or expenditures described in subparagraph (B) may be used to pay for costs—

“(i) eligible for reimbursement under subsection (a) (or costs that would have been eligible for reimbursement but for this subsection); and

“(ii) allocated for reimbursement to the food stamp program under a plan submitted by a State to the Secretary of Health and Human Services to allocate administrative costs for public assistance programs.

“(B) FUNDS AND EXPENDITURES.—Subparagraph (A) applies to—

“(i) funds made available to carry out part A of title IV, or title XX, of the Social Security Act (42 U.S.C. 601 et seq., 1397 et seq.);

“(ii) expenditures made as qualified State expenditures (as defined in section 409(a)(7)(B) of that Act (42 U.S.C. 609(a)(7)(B)));

“(iii) any other Federal funds (except funds provided under subsection (a)); and

“(iv) any other State funds that are—

“(I) expended as a condition of receiving Federal funds; or

“(II) used to match Federal funds under a Federal program other than the food stamp program.”.

Deadline.  
7 USC 2025 note.

(b) REVIEW OF METHODOLOGY USED TO MAKE CERTAIN DETERMINATIONS.—Not later than 1 year after the date of enactment, the Comptroller General of the United States shall—

(1) review the adequacy of the methodology used in making the determinations required under section 16(k)(2)(B) of the Food Stamp Act of 1977 (as added by subsection (a)(2)); and

Reports.

(2) submit a written report on the results of the review to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

**SEC. 503. EXTENSION OF ELIGIBILITY PERIOD FOR REFUGEES AND CERTAIN OTHER QUALIFIED ALIENS FROM 5 TO 7 YEARS.**

Section 402(a)(2)(A) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(A)) is amended—

(1) by striking clause (ii);

(2) by striking “ASYLEES.—” and all that follows through “paragraph (3)(A)” and inserting “ASYLEES.—With respect to the specified Federal programs described in paragraph (3); and

(3) by redesignating subclauses (I) through (V) as clauses (i) through (v) and indenting appropriately.

**SEC. 504. FOOD STAMP ELIGIBILITY FOR CERTAIN DISABLED ALIENS.**

Section 402(a)(2)(F) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(F)) is amended—

(1) by striking “program defined in paragraph (3)(A) (relating to the supplemental security income program)” and inserting “specified Federal programs described in paragraph (3); and

(2) in clause (ii)—

(A) by inserting “(I) in the case of the specified Federal program described in paragraph (3)(A),” after “(ii);

(B) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(II) in the case of the specified Federal program described in paragraph (3)(B), is receiving benefits or assistance for blindness or disability (within the meaning of section 3(r) of the Food Stamp Act of 1977 (7 U.S.C. 2012(r))).”.

**SEC. 505. FOOD STAMP ELIGIBILITY FOR CERTAIN INDIANS.**

Section 402(a)(2)(G) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(G)) is amended—

(1) in the subparagraph heading, by striking “SSI EXCEPTION” and inserting “EXCEPTION”; and

(2) by striking “program defined in paragraph (3)(A) (relating to the supplemental security income program)” and inserting “specified Federal programs described in paragraph (3)”.

**SEC. 506. FOOD STAMP ELIGIBILITY FOR CERTAIN ELDERLY INDIVIDUALS.**

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

“(I) FOOD STAMP EXCEPTION FOR CERTAIN ELDERLY INDIVIDUALS.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to any individual who on August 22, 1996—

“(i) was lawfully residing in the United States;

and

“(ii) was 65 years of age or older.”.

**SEC. 507. FOOD STAMP ELIGIBILITY FOR CERTAIN CHILDREN.**

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) (as amended by section 506) is amended by adding at the end the following:

“(J) FOOD STAMP EXCEPTION FOR CERTAIN CHILDREN.—

With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to any individual who—

“(i) was lawfully residing in the United States on August 22, 1996; and

“(ii) is under 18 years of age.”.

**SEC. 508. FOOD STAMP ELIGIBILITY FOR CERTAIN HMONG AND HIGHLAND LAOTIANS.**

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) (as amended by section 507) is amended by adding at the end the following:

“(K) FOOD STAMP EXCEPTION FOR CERTAIN HMONG AND HIGHLAND LAOTIANS.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to—

“(i) any individual who—

“(I) is lawfully residing in the United States;

and

“(II) was a member of a Hmong or Highland Laotian tribe at the time that the tribe rendered

assistance to United States personnel by taking part in a military or rescue operation during the Vietnam era (as defined in section 101 of title 38, United States Code);

“(ii) the spouse, or an unmarried dependent child, of such an individual; or

“(iii) the unmarried surviving spouse of such an individual who is deceased.”.

#### SEC. 509. CONFORMING AMENDMENTS.

Section 403(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(d)) is amended—

(1) in the subsection heading, by striking “SSI” and all that follows through “INDIANS” and inserting “BENEFITS FOR CERTAIN GROUPS”;

(2) by striking “not apply to an individual” and inserting “not apply to—

“(1) an individual”;

(3) by striking “(a)(3)(A)” and inserting “(a)(3)”; and

(4) by striking the period at the end and inserting “; or”; and

(5) by adding at the end the following:

“(2) an individual, spouse, or dependent described in section 402(a)(2)(K), but only with respect to the specified Federal program described in section 402(a)(3)(B).”.

#### SEC. 510. EFFECTIVE DATES.

7 USC 2025 note.

(a) REDUCTIONS.—The amendments made by sections 501 and 502 take effect on the date of enactment of this Act.

8 USC 1612 note.

(b) FOOD STAMP ELIGIBILITY.—The amendments made by sections 503 through 509 take effect on November 1, 1998.

## Subtitle B—Information Technology Funding

#### SEC. 521. INFORMATION TECHNOLOGY FUNDING.

(a) IN GENERAL.—Section 4(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(g)) is amended in the first sentence by striking “\$275,000,000” and inserting “\$193,000,000”.

15 USC 714b  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 1997.

## Subtitle C—Crop Insurance

#### SEC. 531. FUNDING.

Section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

“(1) DISCRETIONARY EXPENSES.—There are authorized to be appropriated for fiscal year 1999 and each subsequent fiscal year such sums as are necessary to cover the salaries and expenses of the Corporation.”; and

(B) in paragraph (2)—

(i) by inserting after “are necessary to cover” the following: “for each of the 1999 and subsequent reinsurance years”; and

(ii) by striking subparagraph (A) and inserting the following:

“(A) the administrative and operating expenses of the Corporation for the sales commissions of agents; and”; and  
(2) by striking subsection (b) and inserting the following:

“(b) PAYMENT OF CORPORATION EXPENSES FROM INSURANCE FUND.—

“(1) EXPENSES GENERALLY.—For each of the 1999 and subsequent reinsurance years, the Corporation may pay from the insurance fund established under subsection (c) all expenses of the Corporation (other than expenses covered by subsection (a)(1) and expenses covered by paragraph (2)(A)), including—

“(A) premium subsidies and indemnities;

“(B) administrative and operating expenses of the Corporation necessary to pay the sales commissions of agents; and

“(C) all administrative and operating expense reimbursements due under a reinsurance agreement with an approved insurance provider.

“(2) RESEARCH AND DEVELOPMENT EXPENSES.—

“(A) IN GENERAL.—For each of the 1999 and subsequent reinsurance years, the Corporation may pay from the insurance fund established under subsection (c) research and development expenses of the Corporation, but not to exceed \$3,500,000 for each fiscal year.

“(B) DAIRY OPTIONS PILOT PROGRAM.—Amounts necessary to carry out the dairy options pilot program shall not be counted toward the limitation on research and development expenses specified in subparagraph (A).”.

#### SEC. 532. BUDGETARY OFFSETS.

(a) ADMINISTRATIVE FEE FOR CATASTROPHIC RISK PROTECTION.—Section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is amended by striking paragraph (5) and inserting the following:

“(5) ADMINISTRATIVE FEE.—

“(A) BASIC FEE.—Each producer shall pay an administrative fee for catastrophic risk protection in an amount equal to 10 percent of the premium for the catastrophic risk protection or \$50 per crop per county, whichever is greater, as determined by the Corporation.

“(B) ADDITIONAL FEE.—In addition to the amount required under subparagraph (A), the producer shall pay a \$10 fee for each amount determined under subparagraph (A).

“(C) TIME FOR PAYMENT.—The amounts required under subparagraphs (A) and (B) shall be paid by the producer on the date that premium for a policy of additional coverage would be paid by the producer.

“(D) USE OF FEES.—

“(i) IN GENERAL.—The amounts paid under this paragraph shall be deposited in the crop insurance fund established under section 516(c), to be available for the programs and activities of the Corporation.

“(ii) LIMITATION.—No funds deposited in the crop insurance fund under this subparagraph may be used to compensate an approved insurance provider or agent for the delivery of services under this subsection.

“(E) WAIVER OF FEE.—The Corporation shall waive the amounts required under this paragraph for limited resource farmers, as defined by the Corporation.”.

(b) ADMINISTRATIVE FEE FOR ADDITIONAL COVERAGE.—Section 508(c)(10) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)(10)) is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A) FEE REQUIRED.—Except as otherwise provided in this paragraph, if a producer elects to purchase additional coverage for a crop at a level that is less than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall pay an administrative fee for the additional coverage. The administrative fee for the producer shall be \$50 per crop per county, but not to exceed \$200 per producer per county, up to a maximum of \$600 per producer for all counties in which a producer has insured crops. Subparagraphs (D) and (E) of subsection (b)(5) shall apply with respect to the use of administrative fees under this subparagraph.”; and

(2) in subparagraph (C), by striking “\$10” and inserting “\$20”.

(c) REIMBURSEMENT FOR ADMINISTRATIVE AND OPERATING COSTS.—Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) is amended by striking paragraph (4) and inserting the following:

“(4) RATE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the rate established by the Board to reimburse approved insurance providers and agents for the administrative and operating costs of the providers and agents shall not exceed—

“(i) for the 1998 reinsurance year, 27 percent of the premium used to define loss ratio; and

“(ii) for each of the 1999 and subsequent reinsurance years, 24.5 percent of the premium used to define loss ratio.

“(B) PROPORTIONAL REDUCTIONS.—A policy of additional coverage that received a rate of reimbursement for administrative and operating costs for the 1998 reinsurance year that is lower than the rate specified in subparagraph (A)(i) shall receive a reduction in the rate of reimbursement that is proportional to the reduction in the rate of reimbursement between clauses (i) and (ii) of subparagraph (A).”.

(d) LOSS ADJUSTMENT EXPENSES FOR CATASTROPHIC RISK PROTECTION.—Section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is amended by adding at the end the following:

“(11) LOSS ADJUSTMENT.—The rate for reimbursing an approved insurance provider or agent for expenses incurred by the approved insurance provider or agent for loss adjustment in connection with a policy of catastrophic risk protection shall

not exceed 11 percent of the premium for catastrophic risk protection that is used to define loss ratio.”.

SEC. 533. PROCEDURES FOR RESPONDING TO CERTAIN INQUIRIES.

Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended by adding at the end the following:

“(s) PROCEDURES FOR RESPONDING TO CERTAIN INQUIRIES.—

“(1) PROCEDURES REQUIRED.—The Corporation shall establish procedures under which the Corporation will provide a final agency determination in response to an inquiry regarding the interpretation by the Corporation of this title or any regulation issued under this title.

“(2) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Corporation shall issue regulations to implement this subsection. At a minimum, the regulations shall establish—

Deadline.  
Regulations.

“(A) the manner in which inquiries described in paragraph (1) are required to be submitted to the Corporation; and

“(B) a reasonable maximum number of days within which the Corporation will respond to all inquiries.

“(3) EFFECT OF FAILURE TO TIMELY RESPOND.—If the Corporation fails to respond to an inquiry in accordance with the procedures established pursuant to this subsection, the person requesting the interpretation of this title or regulation may assume the interpretation is correct for the applicable reinsurance year.”.

SEC. 534. TIME PERIOD FOR RESPONDING TO SUBMISSION OF NEW POLICIES.

Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by adding at the end the following:

“(10) TIME LIMITS FOR RESPONSE TO SUBMISSION OF NEW POLICIES.—

“(A) IN GENERAL.—The Board shall establish a reasonable time period within which the Board shall approve or disapprove a proposal from a person regarding a new policy submitted in accordance with this subsection.

“(B) EFFECT OF FAILURE TO MEET TIME LIMITS.—Except as provided in subparagraph (C), if the Board fails to provide a response to a proposal described in subparagraph (A) in accordance with subparagraph (A), the new policy shall be deemed to be approved by the Board for purposes of this subsection for the initial reinsurance year designated for the new policy in the request.

“(C) EXCEPTIONS.—Subparagraph (B) shall not apply to a proposal submitted under this subsection if the Board and the person submitting the request agree to an extension of the time period.”.

SEC. 535. CROP INSURANCE STUDY.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall enter into a contract, with 1 or more entities outside the Federal Government with expertise in the establishment and delivery of crop and revenue insurance to agricultural producers, under which the contractor shall conduct a study of crop insurance issues specified in the contract, including—

Deadline.  
Contracts.

(1) improvement of crop insurance service to agricultural producers;

(2) options for transforming the role of the Federal Government from a crop insurance provider to solely that of a crop insurance regulator; and

(3) privatization of crop insurance coverage.

Deadline.  
Reports.

(b) CONTRACTOR.—Not later than 180 days after the date the contract is entered into, the contractor shall complete the study and submit a report on the study, including appropriate recommendations, to the Secretary.

Deadline.

(c) REPORT.—Not later than 30 days after the date the Secretary receives the report, the Secretary shall submit the report, and any comments on the report, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

7 USC 1506 note.

**SEC. 536. REQUIRED TERMS AND CONDITIONS OF STANDARD REINSURANCE AGREEMENTS.**

(a) DEFINITIONS.—In this section, the terms “approved insurance provider” and “Corporation” have the meanings given the terms in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)).

(b) TERMS AND CONDITIONS.—

(1) INCORPORATION OF AMENDMENTS.—For each of the 1999 and subsequent reinsurance years, the Corporation shall ensure that each Standard Reinsurance Agreement between an approved insurance provider and the Corporation reflects the amendments to the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) that are made by this subtitle to the extent the amendments are applicable to approved insurance providers.

(2) RETENTION OF EXISTING PROVISIONS.—Except to the extent necessary to implement the amendments made by this subtitle, each Standard Reinsurance Agreement described in paragraph (1) shall contain the following provisions of the Standard Reinsurance Agreement for the 1998 reinsurance year:

(A) Section II, concerning the terms of reinsurance and underwriting gain and loss for an approved insurance provider.

(B) Section III, concerning the terms for subsidies and administrative fees for an approved insurance provider.

(C) Section IV, concerning the terms for loss adjustment for an approved insurance provider under catastrophic risk protection.

(D) Section V.C., concerning interest payments between the Corporation and an approved insurance provider.

(E) Section V.I.5., concerning liquidated damages.

(c) IMPLEMENTATION.—To implement this subtitle and the amendments made by this subtitle, the Corporation is not required to amend provisions of the Standard Reinsurance Agreement not specifically affected by this subtitle or an amendment made by this subtitle.

7 USC 1506 note.

**SEC. 537. EFFECTIVE DATE.**

Except as provided in section 535, this subtitle and the amendments made by this subtitle take effect on July 1, 1998.



## TITLE VI—MISCELLANEOUS PROVISIONS

### Subtitle A—Existing Authorities

#### SEC. 601. RETENTION AND USE OF FEES.

(a) ORGANIC CERTIFICATION.—Section 2107 of the Organic Foods Production Act of 1990 (7 U.S.C. 6506) is amended by adding at the end the following:

“(d) AVAILABILITY OF FEES.—

“(1) ACCOUNT.—Fees collected under subsection (a)(10) (including late payment penalties and interest earned from investment of the fees) shall be credited to the account that incurs the cost of the services provided under this title.

“(2) USE.—The collected fees shall be available to the Secretary, without further appropriation or fiscal-year limitation, to pay the expenses of the Secretary incurred in providing accreditation services under this title.”

(b) NATIONAL ARBORETUM.—Section 6(b) of the Act of March 4, 1927 (20 U.S.C. 196(b)), is amended by striking “Treasury” and inserting “Treasury. Amounts in the special fund shall be available to the Secretary of Agriculture, without further appropriation.”

(c) PATENT CULTURE COLLECTION FEES.—

7 USC 7641.

(1) RETENTION.—All funds collected by the Agricultural Research Service of the Department of Agriculture in connection with the acceptance of microorganisms for deposit in, or the distribution of microorganisms from, the Patent Culture Collection maintained and operated by the Agricultural Research Service shall be credited to the appropriation supporting the maintenance and operation of the Patent Culture Collection.

(2) USE.—The collected funds shall be available to the Agricultural Research Service, without further appropriation or fiscal-year limitation, to carry out its responsibilities under law (including international treaties) with respect to the Patent Culture Collection.

#### SEC. 602. OFFICE OF ENERGY POLICY AND NEW USES.

The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 219 (7 U.S.C. 6919) the following:

“SEC. 220. OFFICE OF ENERGY POLICY AND NEW USES.

Establishment.  
7 USC 6920.

“The Secretary shall establish for the Department, in the Office of the Secretary, an Office of Energy Policy and New Uses.”

#### SEC. 603. KIWIFRUIT RESEARCH, PROMOTION, AND CONSUMER INFORMATION PROGRAM.

(a) AMENDMENTS TO ORDERS.—Section 554(c) of the National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7463(c)) is amended in the second sentence by inserting before the period at the end the following: “, except that an amendment to an order shall not require a referendum to become effective”.

(b) NATIONAL KIWIFRUIT BOARD.—Section 555 of the National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7464) is amended—

(1) in subsection (a), by striking paragraphs (1) through (3) and inserting the following:

“(1) 10 members who are producers, exporters, or importers (or their representatives), based on a proportional representation of the level of domestic production and imports of kiwifruit (as determined by the Secretary).

“(2) 1 member appointed from the general public.”;

(2) in subsection (b)—

(A) by striking “MEMBERSHIP.—” and all that follows through “paragraph (2), the” and inserting “MEMBERSHIP.— Subject to the 11-member limit, the”; and

(B) by striking paragraph (2); and

(3) in subsection (c)—

(A) in paragraph (2), by inserting “who are producers” after “members”;

(B) in paragraph (3)—

(i) by inserting “who are importers or exporters” after “members”; and

(ii) by striking “(a)(2)” and inserting “(a)(1)”; and

(C) in the second sentence of paragraph (5), by inserting “and alternate” after “member”.

7 USC 7642.

SEC. 604. FOOD ANIMAL RESIDUE AVOIDANCE DATABASE PROGRAM.

(a) CONTINUATION OF PROGRAM.—The Secretary of Agriculture shall continue operation of the Food Animal Residue Avoidance Database program (referred to in this section as the “FARAD program”) through contracts, grants, or cooperative agreements with appropriate colleges or universities.

(b) ACTIVITIES.—In carrying out the FARAD program, the Secretary shall—

(1) provide livestock producers, extension specialists, scientists, and veterinarians with information to prevent drug, pesticide, and environmental contaminant residues in food animal products;

Records.

(2) maintain up-to-date information concerning—

(A) withdrawal times on FDA-approved food animal drugs and appropriate withdrawal intervals for drugs used in food animals in the United States, as established under section 512(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(a));

(B) official tolerances for drugs and pesticides in tissues, eggs, and milk;

(C) descriptions and sensitivities of rapid screening tests for detecting residues in tissues, eggs, and milk; and

(D) data on the distribution and fate of chemicals in food animals;

Publication.

(3) publish periodically a compilation of food animal drugs approved by the Food and Drug Administration;

Public information.

(4) make information on food animal drugs available to the public through handbooks and other literature, computer software, a telephone hotline, and the Internet;

(5) furnish producer quality-assurance programs with up-to-date data on approved drugs;

Records.

(6) maintain a comprehensive and up-to-date, residue avoidance database;

(7) provide professional advice for determining the withdrawal times necessary for food safety in the use of drugs in food animals; and

(8) engage in other activities designed to promote food safety.

(c) **CONTRACT, GRANTS, AND COOPERATIVE AGREEMENTS.**—The Secretary shall offer to enter into a contract, grant, or cooperative agreement with 1 or more appropriate colleges and universities to operate the FARAD program. The term of the contract, grant, or cooperative agreement shall be 3 years, with options to extend the term of the contract triennially.

(d) **INDIRECT COSTS.**—Federal funds provided by the Secretary under a contract, grant, or cooperative agreement under this section shall be subject to reduction for indirect costs of the recipient of the funds in an amount not to exceed 19 percent of the total Federal funds provided under the contract, grant, or cooperative agreement.

**SEC. 605. HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION.**

(a) **FINDINGS AND PURPOSES.**—Section 2 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601) is amended—

(1) by striking the section heading and all that follows through “The Congress finds that:” and inserting the following:

“SEC. 2. FINDINGS AND PURPOSES.

“(a) **FINDINGS.**—Congress makes the following findings:”;

(2) in subsection (a) (as so designated)—

(A) in paragraphs (6) and (7), by striking “and consumer education” each place it appears and inserting “consumer education, and industry information”; and

(B) by inserting after paragraph (7) the following:

“(8) The ability to develop and maintain purity standards for honey and honey products is critical to maintaining the consumer confidence, safety, and trust that are essential components of any undertaking to maintain and develop markets for honey and honey products.

“(9) Research directed at improving the cost effectiveness and efficiency of beekeeping, as well as developing better means of dealing with pest and disease problems, is essential to keeping honey and honey product prices competitive and facilitating market growth as well as maintaining the financial well-being of the honey industry.

“(10) Research involving the quality, safety, and image of honey and honey products and how that quality, safety, and image may be affected during the extraction, processing, packaging, marketing, and other stages of the honey and honey product production and distribution process, is highly important to building and maintaining markets for honey and honey products.”; and

(3) by striking subsection (b) and inserting the following: “(b) **PURPOSES.**—The purposes of this Act are—

“(1) to authorize the establishment of an orderly procedure for the development and financing, through an adequate assessment, of an effective, continuous, and nationally coordinated program of promotion, research, consumer education, and industry information designed to—

“(A) strengthen the position of the honey industry in the marketplace;

“(B) maintain, develop, and expand domestic and foreign markets and uses for honey and honey products;

“(C) maintain and improve the competitiveness and efficiency of the honey industry; and

“(D) sponsor research to develop better means of dealing with pest and disease problems;

“(2) to maintain and expand the markets for all honey and honey products in a manner that—

“(A) is not designed to maintain or expand any individual producer’s, importer’s, or handler’s share of the market; and

“(B) does not compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name honey or honey products; and

“(3) to authorize and fund programs that result in government speech promoting government objectives.

“(c) ADMINISTRATION.—Nothing in this Act—

“(1) prohibits the sale of various grades of honey;

“(2) provides for control of honey production;

“(3) limits the right of the individual honey producer to produce honey; or

“(4) creates a trade barrier to honey or honey products produced in a foreign country.”.

(b) DEFINITIONS.—Section 3 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4602) is amended—

(1) by striking paragraph (7) and inserting the following:

“(7) HANDLE.—

“(A) IN GENERAL.—The term ‘handle’ means to process, package, sell, transport, purchase, or in any other way place or cause to be placed in commerce, honey or a honey product.

“(B) INCLUSION.—The term ‘handle’ includes selling unprocessed honey that will be consumed or used without further processing or packaging.

“(C) EXCLUSIONS.—The term ‘handle’ does not include—

“(i) the transportation of unprocessed honey by a producer to a handler;

“(ii) the transportation by a commercial carrier of honey, whether processed or unprocessed, for a handler or producer; or

“(iii) the purchase of honey or a honey product by a consumer or other end-user of the honey or honey product.”;

(2) by adding at the end the following:

“(19) DEPARTMENT.—The term ‘Department’ means the Department of Agriculture.

“(20) HONEY PRODUCTION.—The term ‘honey production’ means all beekeeping operations related to—

“(A) managing honey bee colonies to produce honey;

“(B) harvesting honey from the colonies;

“(C) extracting honey from the honeycombs; and

“(D) preparing honey for sale for further processing.

“(21) INDUSTRY INFORMATION.—The term ‘industry information’ means information or a program that will lead to the development of new markets, new marketing strategies, or increased efficiency for the honey industry, or an activity to enhance the image of honey and honey products and of the honey industry.

“(22) NATIONAL HONEY MARKETING COOPERATIVE.—The term ‘national honey marketing cooperative’ means a cooperative that markets its products in at least 2 of the following 4 regions of the United States, as determined by the Secretary:

“(A) The Atlantic Coast, including the District of Columbia and the Commonwealth of Puerto Rico.

“(B) The Mideast.

“(C) The Midwest.

“(D) The Pacific, including the States of Alaska and Hawaii.

“(23) QUALIFIED NATIONAL ORGANIZATION REPRESENTING HANDLER INTERESTS.—The term ‘qualified national organization representing handler interests’ means an organization that the Secretary certifies as being eligible to recommend nominations for the Committee handler, handler-importer, alternate handler, and alternate handler-importer members of the Honey Board under section 7(b).

“(24) QUALIFIED NATIONAL ORGANIZATION REPRESENTING IMPORTER INTERESTS.—The term ‘qualified national organization representing importer interests’ means an organization that the Secretary certifies as being eligible to recommend nominations for the Committee importer, handler-importer, alternate importer, and alternate handler-importer members of the Honey Board under section 7(b).”; and

(3) by reordering the paragraphs so that they are in alphabetical order by term defined and redesignating the paragraphs accordingly.

(c) HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER.—Section 4 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4603) is amended by inserting “and regulations” after “orders”.

(d) NOTICE AND HEARING.—Section 5 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4604) is amended to read as follows:

“SEC. 5. NOTICE AND HEARING.

“(a) NOTICE AND COMMENT.—In issuing an order under this Act, an amendment to an order, or a regulation to carry out this Act, the Secretary shall comply with section 553 of title 5, United States Code.

“(b) FORMAL AGENCY ACTION.—Sections 556 and 557 of that title shall not apply with respect to the issuance of an order, an amendment to an order, or a regulation under this Act.

“(c) PROPOSAL OF AN ORDER.—A proposal for an order may be submitted to the Secretary by any organization or interested person affected by this Act.”.

(e) FINDINGS AND ISSUANCE OF ORDER.—Section 6 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4605) is amended to read as follows:

## “SEC. 6. FINDINGS AND ISSUANCE OF ORDER.

“After notice and opportunity for comment has been provided in accordance with section 5(a), the Secretary shall issue an order, an amendment to an order, or a regulation under this Act, if the Secretary finds, and specifies in the order, amendment, or regulation, that the issuance of the order, amendment, or regulation will assist in carrying out the purposes of this Act.”.

## (f) REQUIRED TERMS OF AN ORDER.—

(1) NATIONAL HONEY NOMINATIONS COMMITTEE.—Section 7(b) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(b)) is amended—

(A) in paragraph (2), by striking “except” and all that follows through “three-year terms” and inserting “except that the term of appointments to the Committee may be staggered periodically, as determined by the Secretary”; and

(B) in paragraph (5)—

(i) in the second sentence, by striking “after the first annual meeting”; and

(ii) in the third sentence, by striking “per centum” and inserting “percent”.

(2) HONEY BOARD.—Section 7(c) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(c)) is amended—

(A) by redesignating paragraphs (3) through (6) as paragraphs (8) through (11), respectively;

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “seven” and inserting “7”; and

(ii) by striking subparagraphs (B) through (E) and all that follows and inserting the following:

“(B) 2 members who are handlers appointed from nominations submitted by the Committee from recommendations made by qualified national organizations representing handler interests;

“(C) if approved in a referendum conducted under this Act, 2 members who—

“(i) are handlers of honey;

“(ii) during any 3 of the preceding 5 years, were also importers of record of at least 40,000 pounds of honey; and

“(iii) are appointed from nominations submitted by the Committee from recommendations made by—

“(I) qualified national organizations representing handler interests or qualified national organizations representing importer interests; or

“(II) if the Secretary determines that there is not a qualified national organization representing handler interests or a qualified national organization representing importer interests, individual handlers or importers that have paid assessments to the Honey Board on imported honey or honey products;

“(D) 2 members who are importers appointed from nominations submitted by the Committee from recommendations made by—

“(i) qualified national organizations representing importer interests; or

“(ii) if the Secretary determines that there is not a qualified national organization representing importer interests, individual importers that have paid assessments to the Honey Board on imported honey or honey products; and

“(E) 1 member who is an officer, director, or employee of a national honey marketing cooperative appointed from nominations submitted by the Committee from recommendations made by qualified national honey marketing cooperatives.”;

(C) by inserting after paragraph (2) the following:

“(3) ALTERNATES.—The Committee shall submit nominations for an alternate for each member of the Honey Board described in paragraph (2). An alternate shall be appointed in the same manner as a member and shall serve when the member is absent from a meeting or is disqualified.

“(4) RECONSTITUTION.—

“(A) REVIEW.—If approved in a referendum conducted under this Act and in accordance with rules issued by the Secretary, the Honey Board shall review, at times determined under subparagraph (E)—

Regulations.

“(i) the geographic distribution of the quantities of domestically produced honey assessed under the order; and

“(ii) changes in the annual average percentage of assessments owed by importers under the order relative to assessments owed by producers and handlers of domestic honey, including—

“(I) whether any changes in assessments owed on imported quantities are owed by importers described in paragraph (5)(B); or

“(II) whether such importers are handler-importers described in paragraph (2)(C).

“(B) RECOMMENDATIONS.—If warranted and in accordance with this subsection, the Honey Board shall recommend to the Secretary—

“(i) changes in the regional representation of honey producers established by the Secretary;

“(ii) if necessary to reflect any changes in the proportion of domestic and imported honey assessed under the order or the source of assessments on imported honey or honey products, the reallocation of—

“(I) handler-importer member positions under paragraph (2)(C) as handler member positions under paragraph (2)(B);

“(II) importer member positions under paragraph (2)(D) as handler-importer member positions under paragraph (2)(C); or

“(III) handler-importer member positions under paragraph (2)(C) as importer member positions under paragraph (2)(D); or

“(iii) if necessary to reflect any changes in the proportion of domestic and imported honey or honey products assessed under the order, the addition of

members to the Honey Board under subparagraph (A), (B), (C), or (D) of paragraph (2).

“(C) SCOPE OF REVIEW.—The review required under subparagraph (A) shall be based on data from the 5-year period preceding the year in which the review is conducted.

“(D) BASIS FOR RECOMMENDATIONS.—

“(i) IN GENERAL.—Except as provided in subparagraph (F), recommendations made under subparagraph (B) shall be based on—

“(I) the 5-year average annual assessments, excluding the 2 years containing the highest and lowest disparity between the proportion of assessments owed from imported and domestic honey or honey products, determined pursuant to the review that is conducted under subparagraph (A); and

“(II) whether any change in the average annual assessments is from the assessments owed by importers described in paragraph (5)(B) or from the assessments owed by handler-importers described in paragraph (2)(C).

“(ii) PROPORTIONS.—The Honey Board shall recommend a reallocation or addition of members pursuant to clause (ii) or (iii) of subparagraph (B) only if 1 or more of the following proportions change by more than 6 percent from the base period proportion determined in accordance with subparagraph (F):

“(I) The proportion of assessments owed by handler-importers described in paragraph (2)(C) compared with the proportion of assessments owed by importers described in paragraph (2)(D).

“(II) The proportion of assessments owed by importers compared with the proportion of assessments owed on domestic honey by producers and handlers.

“(E) TIMING OF REVIEW.—

“(i) IN GENERAL.—The Honey Board shall conduct the reviews required under this paragraph not more than once during each 5-year period.

“(ii) INITIAL REVIEW.—The Honey Board shall conduct the initial review required under this paragraph prior to the initial continuation referendum conducted under section 13(c) following the referendum conducted under section 14.

“(F) BASE PERIOD PROPORTIONS.—

“(i) IN GENERAL.—The base period proportions for determining the magnitude of change under subparagraph (D) shall be the proportions determined during the prior review conducted under this paragraph.

“(ii) INITIAL REVIEW.—In the case of the initial review required under subparagraph (E)(ii), the base period proportions shall be the proportions determined by the Honey Board for fiscal year 1996.

“(5) RESTRICTIONS ON NOMINATION AND APPOINTMENT.—

“(A) PRODUCER-PACKERS AS PRODUCERS.—No producer-packer that, during any 3 of the preceding 5 years, purchased for resale more honey than the producer-packer



produced shall be eligible for nomination or appointment to the Honey Board as a producer described in paragraph (2)(A) or as an alternate to such a producer.

“(B) IMPORTERS.—No importer that, during any 3 of the preceding 5 years, did not receive at least 75 percent of the gross income generated by the sale of honey and honey products from the sale of imported honey and honey products shall be eligible for nomination or appointment to the Honey Board as an importer described in paragraph (2)(D) or an alternate to such an importer.

“(6) CERTIFICATION OF ORGANIZATIONS.—

“(A) IN GENERAL.—The eligibility of an organization to participate in the making of recommendations to the Committee for nomination to the Honey Board to represent handlers or importers under this section shall be certified by the Secretary.

“(B) ELIGIBILITY CRITERIA.—Subject to the other provisions of this paragraph, the Secretary shall certify an organization that the Secretary determines meets the eligibility criteria established by the Secretary under this paragraph.

“(C) FINALITY.—An eligibility determination of the Secretary under this paragraph shall be final.

“(D) BASIS FOR CERTIFICATION.—Certification of an organization under this paragraph shall be based on, in addition to other available information, a factual report submitted by the organization that contains information considered relevant by the Secretary, including—

Reports.

“(i) the geographic territory covered by the active membership of the organization;

“(ii) the nature and size of the active membership of the organization, including the proportion of the total number of active handlers or importers represented by the organization;

“(iii) evidence of the stability and permanency of the organization;

“(iv) sources from which the operating funds of the organization are derived;

“(v) the functions of the organization; and

“(vi) the ability and willingness of the organization to further the purposes of this Act.

“(E) PRIMARY CONSIDERATIONS.—A primary consideration in determining the eligibility of an organization under this paragraph shall be whether—

“(i) the membership of the organization consists primarily of handlers or importers that derive a substantial quantity of their income from sales of honey and honey products; and

“(ii) the organization has an interest in the marketing of honey and honey products.

“(F) NONMEMBERS.—As a condition of certification under this paragraph, an organization shall agree—

“(i) to notify nonmembers of the organization of Honey Board nomination opportunities for which the organization is certified to make recommendations to the Committee; and

Notification.

“(ii) to consider the nomination of nonmembers when making the nominations of the organization to the Committee, if nonmembers indicate an interest in serving on the Honey Board.

“(7) MINIMUM PERCENTAGE OF HONEY PRODUCERS.—Notwithstanding any other provision of this subsection, at least 50 percent of the members of the Honey Board shall be honey producers.”; and

(D) in paragraph (8) (as so redesignated), by striking “except” and all that follows through “three-year terms” and inserting “except that appointments to the Honey Board may be staggered periodically, as determined by the Secretary, to maintain continuity of the Honey Board with respect to all members and with respect to members representing particular groups.”.

(3) ASSESSMENTS.—Section 7(e) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(e)) is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(B) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—The Honey Board shall administer collection of the assessment provided for in this subsection, and may accept voluntary contributions from other sources, to finance the expenses described in subsections (d) and (f).

“(2) RATE.—Except as provided in paragraph (3), the assessment rate shall be \$0.0075 per pound (payable in the manner described in section 9), with—

“(A) in the case of honey produced in the United States, \$0.0075 per pound payable by honey producers; and

“(B) in the case of honey or honey products imported into the United States, \$0.0075 per pound payable by honey importers.

“(3) ALTERNATIVE RATE APPROVED IN REFERENDUM.—If approved in a referendum conducted under this Act, the assessment rate shall be \$0.015 per pound (payable in the manner described in section 9)—

“(A) in the case of honey produced in the United States—

“(i) \$0.0075 per pound payable by—

“(I) honey producers; and

“(II) producer-packers on all honey produced by the producer-packers; and

“(ii) \$0.0075 per pound payable by—

“(I) handlers; and

“(II) producer-packers on all honey and honey products handled by the producer-packers, including honey produced by the producer-packers); and

“(B) in the case of honey and honey products imported into the United States, \$0.015 per pound payable by honey importers, of which \$0.0075 per pound represents the assessment due from the handler to be paid by the importer on behalf of the handler.”;

(C) in paragraph (4) (as so redesignated), by striking subparagraph (B) and inserting the following:

“(B) SMALL QUANTITIES.—

“(i) IN GENERAL.—A producer, producer-packer, handler, or importer that produces, imports, or handles during a year less than 6,000 pounds of honey or honey products shall be exempt in that year from payment of an assessment on honey or honey products that the person distributes directly through local retail outlets, as determined by the Secretary, during that year.

“(ii) INAPPLICABILITY.—If a person no longer meets the requirements of clause (i) for an exemption, the person shall—

“(I) file a report with the Honey Board in the form and manner prescribed by the Honey Board; and Reports.

“(II) pay an assessment on or before March 15 of the subsequent year on all honey or honey products produced, imported, or handled by the person during the year in which the person no longer meets the requirements of clause (i) for an exemption.”; and

(D) in paragraph (5) (as so redesignated)—

(i) by inserting “handler,” after “producer-packer” each place it appears;

(ii) by striking “paragraph (2)” and inserting “paragraph (4)”;

(iii) by inserting “, handler,” after “producer” the last place it appears.

(4) USE OF FUNDS.—Section 7(f) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(f)) is amended—

(A) by striking “(f) Funds collected by the Honey Board from the assessments” and inserting the following:

“(f) FUNDS.—

“(1) USE.—Funds collected by the Honey Board”;

(B) by striking “The Secretary shall” and inserting the following:

“(3) REIMBURSEMENT.—The Secretary shall”; and

(C) by inserting after paragraph (1) (as designated by subparagraph (A)) the following:

“(2) RESEARCH PROJECTS.—

“(A) IN GENERAL.—If approved in a referendum conducted under this Act, the Honey Board shall reserve at least 8 percent of all assessments collected during a year for expenditure on approved research projects designed to advance the cost effectiveness, competitiveness, efficiency, pest and disease control, and other management aspects of beekeeping, honey production, and honey bees.

“(B) CARRYOVER.—If all funds reserved under subparagraph (A) are not allocated to approved research projects in a year, any reserved funds remaining unallocated shall be carried forward for allocation and expenditure under subparagraph (A) in subsequent years.”.

(5) FALSE OR UNWARRANTED CLAIMS OR STATEMENTS.—Section 7(g) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(g)) is amended by striking “with assessments collected” and inserting “by the Honey Board”.

(6) INFLUENCING GOVERNMENTAL POLICY OR ACTION.—Section 7(h) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(h)) is amended by striking “through assessments authorized by” and inserting “by the Honey Board under”.

(g) PERMISSIVE TERMS AND PROVISIONS.—Section 8 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4607) is amended—

(1) by inserting “(a) IN GENERAL.—” before “On”; and

(2) by adding at the end the following:

“(8) If approved in a referendum conducted under this Act, providing authority for the development of programs and related rules and regulations that will, with the approval of the Secretary, establish minimum purity standards for honey and honey products that are designed to maintain a positive and wholesome marketing image for honey and honey products.

“(b) INSPECTION AND MONITORING SYSTEM.—

“(1) INSPECTION.—Any program, rule, or regulation under subsection (a)(8) may provide for the inspection, by the Secretary, of honey and honey products being sold for domestic consumption in, or for export from, the United States.

“(2) MONITORING SYSTEM.—The Honey Board may develop and recommend to the Secretary a system for monitoring the purity of honey and honey products being sold for domestic consumption in, or for export from, the United States, including a system for identifying adulterated honey.

“(3) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary may coordinate, to the maximum extent practicable, with the head of any other Federal agency that has authority to ensure compliance with labeling or other requirements relating to the purity of honey and honey products concerning an enforcement action against any person that does not comply with a rule or regulation issued by any other Federal agency concerning the labeling or purity requirements of honey and honey products.

“(4) AUTHORITY TO ISSUE REGULATIONS.—The Secretary may issue such rules and regulations as are necessary to carry out this subsection.

“(c) VOLUNTARY QUALITY ASSURANCE PROGRAM.—

“(1) IN GENERAL.—In addition to or independent of any program, rule, or regulation under subsection (b), the Honey Board, with the approval of the Secretary, may establish and carry out a voluntary quality assurance program concerning purity standards for honey and honey products.

“(2) COMPONENTS.—The program may include—

“(A) the establishment of an official Honey Board seal of approval to be displayed on honey and honey products of producers, handlers, and importers that participate in the voluntary program and are found to meet such standards of purity as are established under the program;

“(B) actions to encourage producers, handlers, and importers to participate in the program;

“(C) actions to encourage consumers to purchase honey and honey products bearing the official seal of approval; and

“(D) periodic inspections by the Secretary, or other parties approved by the Secretary, of honey and honey

products of producers, handlers, and importers that participate in the voluntary program.

“(3) DISPLAY OF SEAL OF APPROVAL.—To be eligible to display the official seal of approval established under paragraph (2)(A) on a honey or honey product, a producer, handler, or importer shall participate in the voluntary program under this subsection.

“(d) AUTHORITY OF THE SECRETARY.—Notwithstanding any other provision of this Act, the Secretary shall have the authority to approve or disapprove the establishment of minimum purity standards, the inspection and monitoring system under subsection (b), and the voluntary quality assurance program under subsection (c).”.

(h) COLLECTION OF ASSESSMENTS.—

(1) NEW ASSESSMENT.—Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) is amended—

(A) by striking subsection (a) and inserting the following:

“(a) HANDLERS.—Except as otherwise provided in this section, a first handler of honey shall be responsible, at the time of first purchase—

“(1) for the collection, and payment to the Honey Board, of the assessment payable by a producer under section 7(e)(2)(A) or, if approved in a referendum conducted under this Act, under section 7(e)(3)(A)(i); and

“(2) if approved in a referendum conducted under this Act, for the payment to the Honey Board of an additional assessment payable by the handler under section 7(e)(3)(A)(ii).”;

(B) by striking subsection (c) and inserting the following:

“(c) IMPORTERS.—Except as otherwise provided in this section, at the time of entry of honey and honey products into the United States, an importer shall remit to the Honey Board through the United States Customs Service—

“(1) the assessment on the imported honey and honey products required under section 7(e)(2)(B); or

“(2) if approved in a referendum conducted under this Act, the assessment on the imported honey and honey products required under section 7(e)(3)(B), of which the amount payable under section 7(e)(3)(A)(ii) represents the assessment due from the handler to be paid by the importer on behalf of the handler.”; and

(C) by striking subsection (e) and inserting the following:

“(e) PRODUCER-PACKERS.—Except as otherwise provided in this section, a producer-packer shall be responsible for the collection, and payment to the Honey Board, of—

“(1) the assessment payable by the producer-packer under section 7(e)(2)(A) or, if approved in a referendum conducted under this Act, under section 7(e)(3)(A)(i) on honey produced by the producer-packer;

“(2) at the time of first purchase, the assessment payable by a producer under section 7(e)(2)(A) or, if approved in a referendum conducted under this Act, under section 7(e)(3)(A)(i) on honey purchased by the producer-packer as a first handler; and

“(3) if approved in a referendum conducted under this Act, an additional assessment payable by the producer-packer under section 7(e)(3)(A)(ii).”.

(2) INSPECTION; BOOKS AND RECORDS.—Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) is amended by striking subsection (f) and inserting the following:

“(f) INSPECTION; BOOKS AND RECORDS.—

“(1) IN GENERAL.—To make available to the Secretary and the Honey Board such information and data as are necessary to carry out this Act (including an order or regulation issued under this Act), a handler, importer, producer, or producer-packer responsible for payment of an assessment under this Act, and a person receiving an exemption from an assessment under section 7(e)(4), shall—

“(A) maintain and make available for inspection by the Secretary and the Honey Board such books and records as are required by the order and regulations issued under this Act; and

Reports.

“(B) file reports at the times, in the manner, and having the content prescribed by the order and regulations, which reports shall include the total number of bee colonies maintained, the quantity of honey produced, and the quantity of honey and honey products handled or imported.

“(2) EMPLOYEE OR AGENT.—To conduct an inspection or review a report of a handler, importer, producer, or producer-packer under paragraph (1), an individual shall be an employee or agent of the Department or the Honey Board, and shall not be a member or alternate member of the Honey Board.

“(3) CONFIDENTIALITY.—An employee or agent described in paragraph (2) shall be subject to the confidentiality requirements of subsection (g).”.

(3) CONFIDENTIALITY OF INFORMATION; DISCLOSURE.—Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) is amended by striking subsection (g) and inserting the following:

“(g) CONFIDENTIALITY OF INFORMATION; DISCLOSURE.—

“(1) IN GENERAL.—All information obtained under subsection (f) shall be kept confidential by all officers, employees, and agents of the Department or of the Honey Board.

“(2) DISCLOSURE.—Information subject to paragraph (1) may be disclosed—

“(A) only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, that involves the order with respect to which the information was furnished or acquired; and

“(B) only if the Secretary determines that the information is relevant to the suit or administrative hearing.

“(3) EXCEPTIONS.—Nothing in this subsection prohibits—

“(A) the issuance of general statements based on the reports of a number of handlers subject to an order, if the statements do not identify the information furnished by any person; or

“(B) the publication, by direction of the Secretary, of the name of any person that violates any order issued

under this Act, together with a statement of the particular provisions of the order violated by the person.

“(4) VIOLATION.—Any person that knowingly violates this subsection, on conviction—

“(A) shall be fined not more than \$1,000, imprisoned not more than 1 year, or both; and

“(B) if the person is an officer or employee of the Honey Board or the Department, shall be removed from office.”.

(4) REFUNDS.—Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) is amended by striking subsection (h).

(5) ADMINISTRATION AND REMITTANCE.—Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) (as amended by paragraph (4)) is amended by inserting after subsection (g) the following:

“(h) ADMINISTRATION AND REMITTANCE.—Administration and remittance of the assessments under this Act shall be conducted—

“(1) in the manner prescribed in the order and regulations issued under this Act; and

“(2) if approved in a referendum conducted under this Act, in a manner that ensures that all honey and honey products are assessed a total of, but not more than, \$0.015 per pound, including any producer or importer assessment.”.

(6) LIABILITY FOR ASSESSMENTS.—Section 9(i) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608(i)) is amended—

(A) by striking “(i) If” and inserting the following:

“(i) LIABILITY FOR ASSESSMENTS.—

“(1) PRODUCERS.—If”; and

(B) by adding at the end the following:

“(2) IMPORTERS.—If the United States Customs Service fails to collect an assessment from an importer or an importer fails to pay an assessment at the time of entry of honey and honey products into the United States under this section, the importer shall be responsible for the remission of the assessment to the Honey Board.”.

(i) PETITION AND REVIEW.—Section 10 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4609) is amended by striking subsection (a) and inserting the following:

“(a) FILING OF PETITION; HEARING.—

“(1) IN GENERAL.—Subject to paragraph (4), a person subject to an order may file a written petition with the Secretary—

“(A) that states that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

“(B) that requests—

“(i) a modification of the order, provision, or obligation; or

“(ii) to be exempted from the order, provision, or obligation.

“(2) HEARING.—In accordance with regulations issued by the Secretary, the petitioner shall be given an opportunity for a hearing on the petition.

Regulations.

“(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition that shall be final, if in accordance with law.

“(4) STATUTE OF LIMITATIONS.—A petition filed under this subsection that challenges an order, any provision of the order, or any obligation imposed in connection with the order, shall be filed not later than 2 years after the later of—

“(A) the effective date of the order, provision, or obligation challenged in the petition; or

“(B) the date on which the petitioner became subject to the order, provision, or obligation challenged in the petition.”.

(j) ENFORCEMENT.—Subsections (a) and (b) of section 11 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4610) are amended by striking “plan” each place it appears and inserting “order”.

(k) REQUIREMENTS OF REFERENDUM.—Section 12 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4611) is amended to read as follows:

“SEC. 12. REQUIREMENTS OF REFERENDUM.

“(a) IN GENERAL.—For the purpose of ascertaining whether issuance of an order is approved by producers, importers, and in the case of an order assessing handlers, handlers, the Secretary shall conduct a referendum among producers, importers, and, in the case of an order assessing handlers, handlers, not exempt under section 7(e)(4), that, during a representative period determined by the Secretary, have been engaged in the production, importation, or handling of honey or honey products.

“(b) EFFECTIVENESS OF ORDER.—

“(1) IN GENERAL.—No order issued under this Act shall be effective unless the Secretary determines that—

“(A) the order is approved by a majority of the producers, importers, and if covered by the order, handlers, voting in the referendum; and

“(B) the producers, importers, and handlers comprising the majority produced, imported, and handled not less than 50 percent of the quantity of the honey and honey products produced, imported, and handled during the representative period by the persons voting in the referendum.

“(2) AMENDMENTS TO ORDERS.—The Secretary may amend an order in accordance with the administrative procedures specified in sections 5 and 6, except that the Secretary may not amend a provision of an order that implements a provision of this Act that specifically provides for approval in a referendum without the approval provided for in this section.

“(c) PRODUCER-PACKERS AND IMPORTERS.—

“(1) IN GENERAL.—Each producer-packer and each importer shall have 1 vote as a handler as well as 1 vote as a producer or importer (unless exempt under section 7(e)(4)) in all referenda concerning orders assessing handlers to the extent that the individual producer-packer or importer owes assessments as a handler.

“(2) ATTRIBUTION OF QUANTITY OF HONEY.—For the purpose of subsection (b)(1)(B)—

“(A) the quantity of honey or honey products on which the qualifying producer-packer or importer owes assessments as a handler shall be attributed to the person’s vote as a handler under paragraph (1); and



“(B) the quantity of honey or honey products on which the producer-packer or importer owes an assessment as a producer or importer shall be attributed to the person’s vote as a producer or importer.

“(d) CONFIDENTIALITY.—The ballots and other information or reports that reveal, or tend to reveal, the identity or vote of any producer, importer, or handler of honey or honey products shall be held strictly confidential and shall not be disclosed.”.

(I) TERMINATION OR SUSPENSION.—Section 13 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4612) is amended to read as follows:

“SEC. 13. TERMINATION OR SUSPENSION.

“(a) DEFINITION OF PERSON.—In this section, the term ‘person’ means a producer, importer, or handler.

“(b) AUTHORITY OF SECRETARY.—If the Secretary finds that an order issued under this Act, or any provision of the order, obstructs or does not tend to effectuate the purposes of this Act, the Secretary shall terminate or suspend the operation of the order or provision.

“(c) PERIODIC REFERENDA.—Except as provided in subsection (d)(3) and section 14(g), on the date that is 5 years after the date on which the Secretary issues an order authorizing the collection of assessments on honey or honey products under this Act, and every 5 years thereafter, the Secretary shall conduct a referendum to determine if the persons subject to assessment under the order approve continuation of the order in accordance with section 12.

“(d) REFERENDA ON REQUEST.—

“(1) IN GENERAL.—On the request of the Honey Board or the petition of at least 10 percent of the total number of persons subject to assessment under the order, the Secretary shall conduct a referendum to determine if the persons subject to assessment under the order approve continuation of the order in accordance with section 12.

“(2) LIMITATION.—Referenda conducted under paragraph (1) may not be held more than once every 2 years.

“(3) EFFECT ON PERIODIC REFERENDA.—If a referendum is conducted under this subsection and the Secretary determines that continuation of the order is approved under section 12, any referendum otherwise required to be conducted under subsection (c) shall not be held before the date that is 5 years after the date of the referendum conducted under this subsection.

“(e) TIMING AND REQUIREMENTS FOR TERMINATION OR SUSPENSION.—

“(1) IN GENERAL.—The Secretary shall terminate or suspend an order at the end of the marketing year during which a referendum is conducted under subsection (c) or (d) if the Secretary determines that continuation of an order is not approved under section 12.

“(2) SUBSEQUENT REFERENDUM.—If the Secretary terminates or suspends an order that assesses the handling of honey and honey products under paragraph (1), the Secretary shall, not later than 90 days after submission of a proposed order by an interested party—

Deadline.

	“(A) propose another order to establish a research, promotion, and consumer information program; and “(B) conduct a referendum on the order among persons that would be subject to assessment under the order.”
Applicability.	“(3) EFFECTIVENESS OF ORDER.—Section 12 shall apply in determining the effectiveness of the subsequent amended order under paragraph (2).” (m) IMPLEMENTATION OF AMENDMENTS.—The Honey Research, Promotion, and Consumer Information Act is amended by inserting after section 13 (7 U.S.C. 4612) the following:
7 USC 4613.	<b>“SEC. 14. IMPLEMENTATION OF AMENDMENTS MADE BY AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998.</b>  “(a) ISSUANCE OF AMENDED ORDER.—To implement the amendments made to this Act by section 605 of the Agricultural Research, Extension, and Education Reform Act of 1998 (other than subsection (m) of that section), the Secretary shall issue an amended order under section 4 that reflects those amendments.  “(b) PROPOSAL OF AMENDED ORDER.—Not later than 90 days after the date of enactment of this section, the Secretary shall publish a proposed order under section 4 that reflects the amendments made by section 605 of the Agricultural Research, Extension, and Education Reform Act of 1998. The Secretary shall provide notice and an opportunity for public comment on the proposed order in accordance with section 5.  “(c) ISSUANCE OF AMENDED ORDER.—Not later than 240 days after publication of the proposed order, the Secretary shall issue an order under section 6, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order conforms with the amendments made by section 605 of the Agricultural Research, Extension, and Education Reform Act of 1998.  “(d) REFERENDUM ON AMENDED ORDER.— “(1) REQUIREMENT.— “(A) IN GENERAL.—On issuance of an order under section 6 reflecting the amendments made by section 605 of the Agricultural Research, Extension, and Education Reform Act of 1998, the Secretary shall conduct a referendum under this section for the sole purpose of determining whether the order as amended shall become effective. “(B) INDIVIDUAL PROVISIONS.—No individual provision of the amended order shall be subject to a separate vote under the referendum. “(2) ELIGIBLE VOTERS.—The Secretary shall conduct the referendum among persons subject to assessment under the order that have been producers, producer-packers, importers, or handlers during the 2-calendar-year period that precedes the referendum, which period shall be considered to be the representative period. “(3) DETERMINATION OF QUANTITY.— “(A) IN GENERAL.—Producer-packers, importers, and handlers shall be allowed to vote as if— “(i) the amended order had been in place during the representative period described in paragraph (2); and
Deadline. Publication.	
Notice.	
Deadline.	

“(ii) they had owed the increased assessments provided by the amended order.

“(B) VOTES AND ATTRIBUTED QUANTITY FOR PRODUCER-PACKERS AND IMPORTERS.—The votes and the quantity of honey and honey products attributed to the votes of producer-packers and importers shall be determined in accordance with section 12.

“(C) ATTRIBUTED QUANTITY FOR HANDLERS.—The quantity of honey and honey products attributed to the vote of a handler shall be the quantity handled in the representative period described in paragraph (2) for which the handler would have owed assessments had the amended order been in effect.

“(4) EFFECTIVENESS OF ORDER.—The amended order shall become effective only if the Secretary determines that the amended order is effective in accordance with section 12.

“(e) CONTINUATION OF EXISTING ORDER IF AMENDED ORDER IS REJECTED.—If adoption of the amended order is not approved—

“(1) the order issued under section 4 that is in effect on the date of enactment of this section shall continue in full force and effect; and

“(2) the Secretary may amend the order to ensure the conformity of the order with this Act (as in effect on the day before the date of enactment of this section).

“(f) EFFECT OF REJECTION ON SUBSEQUENT ORDERS.—

“(1) IN GENERAL.—Subject to paragraph (2), if adoption of the amended order is not approved in the referendum required under subsection (d), the Secretary may issue an amended order that implements some or all of the amendments made to this Act by section 605 of the Agricultural Research, Extension, and Education Reform Act of 1998, or makes other changes to an existing order, in accordance with the administrative procedures specified in sections 5 and 6.

“(2) APPROVAL.—An amendment to an order that implements a provision that is subject to a referendum shall be approved in accordance with section 12 before becoming effective.

“(g) EFFECT ON PERIODIC REFERENDA.—If the amended order becomes effective, any referendum otherwise required to be conducted under section 13(c) shall not be held before the date that is 5 years after the date of the referendum conducted under this section.”.

#### SEC. 606. TECHNICAL CORRECTIONS.

(a) SUPPLEMENTAL AND ALTERNATIVE CROPS RESEARCH.—Effective as of April 6, 1996, section 819(b)(5) of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 1167) is amended by striking “paragraph (3)” and inserting “subsection (c)(3)”.

Effective date.  
7 USC 3319d.

(b) JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES.—Section 1413(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128(b)) is amended by striking “Joint Council, the Advisory Board,” and inserting “Advisory Board”.

(c) ADVISORY BOARD.—

(1) SUPPORT FOR ADVISORY BOARD.—Section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127) is amended—

(A) in subsections (a) and (b), by striking “their duties” each place it appears and inserting “its duties”; and

(B) in subsection (c), by striking “their recommendations” and inserting “its recommendations”.

(2) GENERAL PROVISIONS.—Section 1413(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128(a)) is amended by striking “their powers” and inserting “its duties”.

(d) ANIMAL HEALTH AND DISEASE RESEARCH.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended—

(1) in section 1430 (7 U.S.C. 3192)—

(A) in paragraph (3), by adding “and” at the end;

(B) by striking paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4);

(2) in section 1433(b)(3) (7 U.S.C. 3195(b)(3)), by striking “with the advice, when available, of the Board”;

(3) in section 1434(c) (7 U.S.C. 3196(c))—

(A) in the second sentence, by striking “and the Board”; and

(B) in the fourth sentence, by striking “, the Advisory Board, and the Board” and inserting “and the Advisory Board”; and

(4) in the first sentence of section 1437 (7 U.S.C. 3199), by striking “with the advice, when available, of the Board”.

(e) RANGELAND RESEARCH.—The second sentence of section 1483(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(b)) is amended by striking the last sentence.

(f) PLANT AND ANIMAL PEST AND DISEASE CONTROL PROGRAM.—Section 1629(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5832(g)) is amended by striking “section 1650,”.

Effective date.

(g) GRANTS TO UPGRADE 1890 INSTITUTIONS EXTENSION FACILITIES.—Effective as of April 6, 1996, section 873 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104-127; 110 Stat. 1175) is amended by striking “1981” and inserting “1985”.

7 USC 3224.

(h) COMPETITIVE AND SPECIAL GRANTS.—The Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) is amended—

(1) in subsection (b)(1), by striking “Joint Council on Food and Agricultural Sciences and the National Agricultural Research and Extension Users Advisory Board” and inserting “National Agricultural Research, Extension, Education, and Economics Advisory Board (as established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123))”; and

(2) by striking subsection (l).

## Subtitle B—New Authorities

### SEC. 611. NUTRIENT COMPOSITION DATA.

7 USC 7651.

(a) IN GENERAL.—The Secretary of Agriculture shall update, on a periodic basis, nutrient composition data.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—

Deadline.

(1) the method the Secretary will use to update nutrient composition data, including the quality assurance criteria that will be used and the method for generating the data; and

(2) the timing for updating the data.

### SEC. 612. NATIONAL SWINE RESEARCH CENTER.

Subject to the availability of appropriations to carry out this section, or through a reprogramming of funds provided for swine research to carry out this section pursuant to established procedures, during the period beginning on the date of enactment of this Act and ending December 31, 1998, the Secretary of Agriculture, acting through the Agricultural Research Service, may accept as a gift, and administer, the National Swine Research Center located in Ames, Iowa.

### SEC. 613. ROLE OF SECRETARY REGARDING FOOD AND AGRICULTURAL SCIENCES RESEARCH AND EXTENSION.

7 USC 7652.

The Secretary of Agriculture shall be the principal official in the executive branch responsible for coordinating all Federal research and extension activities related to food and agricultural sciences.

### SEC. 614. OFFICE OF PEST MANAGEMENT POLICY.

7 USC 7653.

(a) PURPOSE.—The purpose of this section is to establish an Office of Pest Management Policy to provide for the effective coordination of agricultural policies and activities within the Department of Agriculture related to pesticides and of the development and use of pest management tools, while taking into account the effects of regulatory actions of other government agencies.

(b) ESTABLISHMENT OF OFFICE; PRINCIPAL RESPONSIBILITIES.—The Secretary of Agriculture shall establish in the Department an Office of Pest Management Policy, which shall be responsible for—

(1) the development and coordination of Department policy on pest management and pesticides;

(2) the coordination of activities and services of the Department, including research, extension, and education activities, regarding the development, availability, and use of economically and environmentally sound pest management tools and practices;

(3) assisting other agencies of the Department in fulfilling their responsibilities related to pest management or pesticides under the Food Quality Protection Act of 1996 (Public Law 104–170; 110 Stat. 1489), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), and other applicable laws; and

(4) performing such other functions as may be required by law or prescribed by the Secretary.

(c) INTERAGENCY COORDINATION.—In support of its responsibilities under subsection (b), the Office of Pest Management Policy shall provide leadership to ensure coordination of interagency activities with the Environmental Protection Agency, the Food and Drug Administration, and other Federal and State agencies.

(d) OUTREACH.—The Office of Pest Management Policy shall consult with agricultural producers that may be affected by pest management or pesticide-related activities or actions of the Department or other agencies as necessary in carrying out the Office's responsibilities under this section.

(e) DIRECTOR.—The Office of Pest Management Policy shall be under the direction of a Director appointed by the Secretary, who shall report directly to the Secretary or a designee of the Secretary.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2002.

7 USC 7654.

**SEC. 615. FOOD SAFETY RESEARCH INFORMATION OFFICE AND NATIONAL CONFERENCE.**

(a) FOOD SAFETY RESEARCH INFORMATION OFFICE.—

(1) ESTABLISHMENT.—The Secretary of Agriculture shall establish a Food Safety Research Information Office at the National Agricultural Library.

(2) PURPOSE.—The Office shall provide to the research community and the general public information on publicly funded, and to the maximum extent practicable, privately funded food safety research initiatives for the purpose of—

(A) preventing unintended duplication of food safety research; and

(B) assisting the executive and legislative branches of the Federal Government and private research entities to assess food safety research needs and priorities.

(3) COOPERATION.—The Office shall carry out this subsection in cooperation with the National Institutes of Health, the Food and Drug Administration, the Centers for Disease Control and Prevention, public institutions, and, on a voluntary basis, private research entities.

Deadline.

(b) NATIONAL CONFERENCE; ANNUAL WORKSHOPS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall sponsor a conference to be known as the “National Conference on Food Safety Research”, for the purpose of beginning the task of prioritization of food safety research. The Secretary shall sponsor annual workshops in each of the subsequent 4 years after the conference so that priorities can be updated or adjusted to reflect changing food safety concerns.

(c) FOOD SAFETY REPORT.—With regard to the study and report to be prepared by the National Academy of Sciences on the scientific and organizational needs for an effective food safety system, the study shall include recommendations to ensure that the food safety inspection system, within the resources traditionally available to existing food safety agencies, protects the public health.

7 USC 7655.

**SEC. 616. SAFE FOOD HANDLING EDUCATION.**

The Secretary of Agriculture shall continue to develop a national program of safe food handling education for adults and

young people to reduce the risk of food-borne illness. The national program shall be suitable for adoption and implementation through State cooperative extension services and school-based education programs.

**SEC. 617. REIMBURSEMENT OF EXPENSES INCURRED UNDER SHEEP PROMOTION, RESEARCH, AND INFORMATION ACT OF 1994.**

Using funds available to the Agricultural Marketing Service, the Service may reimburse the American Sheep Industry Association for expenses incurred by the American Sheep Industry Association between February 6, 1996, and May 17, 1996, in preparation for the implementation of a sheep and wool promotion, research, education, and information order under the Sheep Promotion, Research, and Information Act of 1994 (7 U.S.C. 7101 et seq.).

**SEC. 618. DESIGNATION OF CRISIS MANAGEMENT TEAM WITHIN DEPARTMENT.** 7 USC 7656.

(a) **DESIGNATION OF CRISIS MANAGEMENT TEAM.**—The Secretary of Agriculture shall designate a Crisis Management Team within the Department of Agriculture, which shall be—

(1) composed of senior departmental personnel with strong subject matter expertise selected from each relevant agency of the Department; and

(2) headed by a team leader with management and communications skills.

(b) **DUTIES OF CRISIS MANAGEMENT TEAM.**—The Crisis Management Team shall be responsible for the following:

(1) Developing a Department-wide crisis management plan, taking into account similar plans developed by other government agencies and other large organizations, and developing written procedures for the implementation of the crisis management plan.

(2) Conducting periodic reviews and revisions of the crisis management plan and procedures developed under paragraph (1).

(3) Ensuring compliance with crisis management procedures by personnel of the Department and ensuring that appropriate Department personnel are familiar with the crisis management plan and procedures and are encouraged to bring information regarding crises or potential crises to the attention of members of the Crisis Management Team.

(4) Coordinating the Department's information gathering and dissemination activities concerning issues managed by the Crisis Management Team.

(5) Ensuring that Department spokespersons convey accurate, timely, and scientifically sound information regarding crises or potential crises that can be easily understood by the general public.

(6) Cooperating with, and coordinating among, other Federal agencies, States, local governments, industry, and public interest groups, Department activities regarding a crisis.

(c) **ROLE IN PRIORITIZING CERTAIN RESEARCH.**—The Crisis Management Team shall cooperate with the Advisory Board in the prioritization of agricultural research conducted or funded by the Department regarding animal health, natural disasters, food safety, and other agricultural issues.

(d) **COOPERATIVE AGREEMENTS.**—The Secretary shall seek to enter into cooperative agreements with other Federal departments

and agencies that have related programs or activities to help ensure consistent, accurate, and coordinated dissemination of information throughout the executive branch in the event of a crisis, such as, in the case of a threat to human health from food-borne pathogens, developing a rapid and coordinated response among the Department, the Centers for Disease Control, and the Food and Drug Administration.

**SEC. 619. DESIGNATION OF KIKA DE LA GARZA SUBTROPICAL AGRICULTURAL RESEARCH CENTER, WESLACO, TEXAS.**

(a) DESIGNATION.—The Federal facilities located at 2413 East Highway 83, and 2301 South International Boulevard, in Weslaco, Texas, and known as the “Subtropical Agricultural Research Center”, shall be known and designated as the “Kika de la Garza Subtropical Agricultural Research Center”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal facilities referred to in subsection (a) shall be deemed to be a reference to the “Kika de la Garza Subtropical Agricultural Research Center”.

## Subtitle C—Studies

7 USC 7671.

**SEC. 631. EVALUATION AND ASSESSMENT OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION PROGRAMS.**

(a) EVALUATION.—The Secretary of Agriculture shall conduct a performance evaluation to determine whether federally funded agricultural research, extension, and education programs result in public goods that have national or multistate significance.

(b) CONTRACT.—The Secretary shall enter into a contract with 1 or more entities with expertise in research assessment and performance evaluation to provide input and recommendations to the Secretary with respect to federally funded agricultural research, extension, and education programs.

(c) GUIDELINES FOR PERFORMANCE MEASUREMENT.—The contractor selected under subsection (b) shall develop and propose to the Secretary practical guidelines for measuring performance of federally funded agricultural research, extension, and education programs. The guidelines shall be consistent with the Government Performance and Results Act of 1993 (Public Law 103–62) and amendments made by that Act.

7 USC 7672.

**SEC. 632. STUDY OF FEDERALLY FUNDED AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.**

Deadline.

(a) STUDY.—Not later than January 1, 1999, the Secretary of Agriculture shall request the National Academy of Sciences to conduct a study of the role and mission of federally funded agricultural research, extension, and education.



(b) REQUIREMENTS.—The study shall—

(1) evaluate the strength of science conducted by the Agricultural Research Service and the relevance of the science to national priorities;

(2) examine how the work of the Agricultural Research Service relates to the capacity of the agricultural research, extension, and education system of the United States;

(3) examine the appropriateness of the formulas for the allocation of funds under the Smith-Lever Act (7 U.S.C. 341 et seq.) and the Hatch Act of 1887 (7 U.S.C. 361a et seq.) with respect to current conditions of the agricultural economy and other factors of the various regions and States of the United States and develop recommendations to revise the formulas to more accurately reflect the current conditions; and

(4) examine the system of competitive grants for agricultural research, extension, and education.

(c) REPORTS.—The Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

Deadlines.

(1) not later than 18 months after the commencement of the study, a report that describes the results of the study as it relates to paragraphs (1) and (2) of subsection (b), including any appropriate recommendations; and

(2) not later than 3 years after the commencement of the study, a report that describes the results of the study as it relates to paragraphs (3) and (4) of subsection (b), including the recommendations developed under paragraph (3) of subsection (b) and other appropriate recommendations.

## Subtitle D—Senses of Congress

### SEC. 641. SENSE OF CONGRESS REGARDING AGRICULTURAL RESEARCH SERVICE EMPHASIS ON FIELD RESEARCH REGARDING METHYL BROMIDE ALTERNATIVES.

It is the sense of Congress that, of the Agricultural Research Service funds made available for a fiscal year for research regarding the development for agricultural use of alternatives to methyl bromide, the Secretary of Agriculture should use a substantial portion of the funds for research to be conducted in real field conditions, especially pre-planting and post-harvest conditions, so as to expedite the development and commercial use of methyl bromide alternatives.

**SEC. 642. SENSE OF CONGRESS REGARDING IMPORTANCE OF  
SCHOOL-BASED AGRICULTURAL EDUCATION.**

It is the sense of Congress that the Secretary of Agriculture and the Secretary of Education should collaborate and cooperate in providing both instructional and technical support for school-based agricultural education.

Approved June 23, 1998.

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**LEGISLATIVE HISTORY—S. 1150 (H.R. 2534):**

**HOUSE REPORTS:** Nos. 105–376 accompanying H.R. 2534 (Comm. on Agriculture) and 105–492 (Comm. of Conference).

**SENATE REPORTS:** No. 105–73 (Comm. on Agriculture, Nutrition, and Forestry).  
**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Oct. 29, considered and passed Senate.

Vol. 144 (1998): Feb. 24, considered and passed House, amended, pursuant to H. Res. 365.

May 12, Senate agreed to conference report.

June 4, House agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 34 (1998):

June 23, Presidential remarks and statement.



Public Law 105–186  
105th Congress

An Act

To establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

June 23, 1998  
[S. 1900]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “U.S. Holocaust Assets Commission Act of 1998”.

U.S. Holocaust  
Assets  
Commission Act  
of 1998.  
22 USC 1621  
note.

**SEC. 2. ESTABLISHMENT OF COMMISSION.**

(a) **ESTABLISHMENT.**—There is established a Presidential Commission, to be known as the “Presidential Advisory Commission on Holocaust Assets in the United States” (hereafter in this Act referred to as the “Commission”).

22 USC 1621  
note.

(b) **MEMBERSHIP.**—

President.  
Congress.

(1) **NUMBER.**—The Commission shall be composed of 21 members, appointed in accordance with paragraph (2).

(2) **APPOINTMENTS.**—Of the 21 members of the Commission—

(A) eight shall be private citizens, appointed by the President;

(B) four shall be representatives of the Department of State, the Department of Justice, the Department of the Army, and the Department of the Treasury (one representative of each such Department), appointed by the President;

(C) two shall be Members of the House of Representatives, appointed by the Speaker of the House of Representatives;

(D) two shall be Members of the House of Representatives, appointed by the minority leader of the House of Representatives;

(E) two shall be Members of the Senate, appointed by the majority leader of the Senate;

(F) two shall be Members of the Senate, appointed by the minority leader of the Senate; and

(G) one shall be the Chairperson of the United States Holocaust Memorial Council.

(3) **CRITERIA FOR MEMBERSHIP.**—Each private citizen appointed to the Commission shall be an individual who has a record of demonstrated leadership on issues relating to the Holocaust or in the fields of commerce, culture, or education

that would assist the Commission in analyzing the disposition of the assets of Holocaust victims.

(4) **ADVISORY PANELS.**—The Chairperson of the Commission may, in the discretion of the Chairperson, establish advisory panels to the Commission, including State or local officials, representatives of organizations having an interest in the work of the Commission, or others having expertise that is relevant to the purposes of the Commission.

Deadline.

(5) **DATE.**—The appointments of the members of the Commission shall be made not later than 90 days after the date of enactment of this Act.

President.

(c) **CHAIRPERSON.**—The Chairperson of the Commission shall be selected by the President from among the members of the Commission appointed under subparagraph (A) or (B) of subsection (b)(2).

(d) **PERIOD OF APPOINTMENT.**—Members of the Commission shall be appointed for the life of the Commission.

(e) **VACANCIES.**—Any vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(f) **MEETINGS.**—The Commission shall meet at the call of the Chairperson at any time after the date of appointment of the Chairperson.

(g) **QUORUM.**—11 members of the Commission shall constitute a quorum, but a lesser number of members may hold meetings.

22 USC 1621  
note.

### **SEC. 3. DUTIES OF THE COMMISSION.**

(a) **ORIGINAL RESEARCH.**—

(1) **IN GENERAL.**—Except as otherwise provided in paragraph (3), the Commission shall conduct a thorough study and develop a historical record of the collection and disposition of the assets described in paragraph (2), if such assets came into the possession or control of the Federal Government, including the Board of Governors of the Federal Reserve System and any Federal reserve bank, at any time after January 30, 1933—

(A) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c);

(B) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c); or

(C) in the case of assets consisting of gold bullion, monetary gold, or similar assets, after such assets had been obtained by the Nazi government of Germany from governmental institutions in any area occupied by the military forces of the Nazi government of Germany.

(2) **TYPES OF ASSETS.**—Assets described in this paragraph include—

(A) gold, including gold bullion, monetary gold, or similar assets in the possession of or under the control of the Board of Governors of the Federal Reserve System or any Federal reserve bank;

(B) gems, jewelry, and nongold precious metals;

(C) accounts in banks in the United States;

(D) domestic financial instruments purchased before May 8, 1945, by individual victims of the Holocaust,

whether recorded in the name of the victim or in the name of a nominee;

- (E) insurance policies and proceeds thereof;
- (F) real estate situated in the United States;
- (G) works of art; and
- (H) books, manuscripts, and religious objects.

(3) COORDINATION OF ACTIVITIES.—In carrying out its duties under paragraph (1), the Commission shall, to the maximum extent practicable, coordinate its activities with, and not duplicate similar activities already being undertaken by, private individuals, private entities, or government entities, whether domestic or foreign.

(4) INSURANCE POLICIES.—

(A) IN GENERAL.—In carrying out its duties under this Act, the Commission shall take note of the work of the National Association of Insurance Commissioners with regard to Holocaust-era insurance issues and shall encourage the National Association of Insurance Commissioners to prepare a report on the Holocaust-related claims practices of all insurance companies, both domestic and foreign, doing business in the United States at any time after January 30, 1933, that issued any individual life, health, or property-casualty insurance policy to any individual on any list of Holocaust victims, including the following lists:

Reports.

(i) The list maintained by the United States Holocaust Memorial Museum in Washington, D.C., of Jewish Holocaust survivors.

(ii) The list maintained by the Yad Vashem Holocaust Memorial Authority in its Hall of Names of individuals who died in the Holocaust.

(B) INFORMATION TO BE INCLUDED.—The report on insurance companies prepared pursuant to subparagraph (A) should include the following, to the degree the information is available:

(i) The number of policies issued by each company to individuals described in such subparagraph.

(ii) The value of each policy at the time of issue.

(iii) The total number of policies, and the dollar amount, that have been paid out.

(iv) The total present-day value of assets in the United States of each company.

(C) COORDINATION.—The Commission shall coordinate its work on insurance issues with that of the international Washington Conference on Holocaust-Era Assets, to be convened by the Department of State and the United States Holocaust Memorial Council.

(b) COMPREHENSIVE REVIEW OF OTHER RESEARCH.—Upon receiving permission from any relevant individuals or entities, the Commission shall review comprehensively any research by private individuals, private entities, and non-Federal government entities, whether domestic or foreign, into the collection and disposition of the assets described in subsection (a)(2), to the extent that such research focuses on assets that came into the possession or control of private individuals, private entities, or non-Federal government entities within the United States at any time after January 30, 1933, either—

(1) after having been obtained from victims of the Holocaust by, on behalf of, or under authority of a government referred to in subsection (c); or

(2) because such assets were left unclaimed as the result of actions taken by, on behalf of, or under authority of a government referred to in subsection (c).

(c) **GOVERNMENTS INCLUDED.**—A government referred to in this subsection includes, as in existence during the period beginning on March 23, 1933, and ending on May 8, 1945—

(1) the Nazi government of Germany;

(2) any government in any area occupied by the military forces of the Nazi government of Germany;

(3) any government established with the assistance or cooperation of the Nazi government of Germany; and

(4) any government which was an ally of the Nazi government of Germany.

(d) **REPORTS.**—

(1) **SUBMISSION TO THE PRESIDENT.**—Not later than December 31, 1999, the Commission shall submit a final report to the President that shall contain any recommendations for such legislative, administrative, or other action as it deems necessary or appropriate. The Commission may submit interim reports to the President as it deems appropriate.

(2) **SUBMISSION TO THE CONGRESS.**—After receipt of the final report under paragraph (1), the President shall submit to the Congress any recommendations for legislative, administrative, or other action that the President considers necessary or appropriate.

22 USC 1621  
note.

#### **SEC. 4. POWERS OF THE COMMISSION.**

(a) **HEARINGS.**—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of any such department or agency shall furnish such information to the Commission as expeditiously as possible.

(c) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) **GIFTS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) **ADMINISTRATIVE SERVICES.**—For the purposes of obtaining administrative services necessary to carry out the purposes of this Act, including the leasing of real property for use by the Commission as an office, the Commission shall have the power to—

(1) enter into contracts and modify, or consent to the modification of, any contract or agreement to which the Commission is a party; and

(2) acquire, hold, lease, maintain, or dispose of real and personal property.

**SEC. 5. COMMISSION PERSONNEL MATTERS.**22 USC 1621  
note.

(a) **COMPENSATION.**—No member of the Commission who is a private citizen shall be compensated for service on the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DIRECTOR, GENERAL COUNSEL, AND OTHER STAFF.**—

(1) **IN GENERAL.**—Not later than 90 days after the selection of the Chairperson of the Commission under section 2, the Chairperson shall, without regard to the civil service laws and regulations, appoint an executive director, a deputy executive director, and a general counsel of the Commission, and such other additional personnel as may be necessary to enable the Commission to perform its duties under this Act. Deadline.

(2) **QUALIFICATIONS.**—The executive director, deputy executive director, and general counsel of the Commission shall be appointed without regard to political affiliation, and shall possess all necessary security clearances for such positions.

(3) **DUTIES OF EXECUTIVE DIRECTOR.**—The executive director of the Commission shall—

(A) serve as principal liaison between the Commission and other Government entities;

(B) be responsible for the administration and coordination of the review of records by the Commission; and

(C) be responsible for coordinating all official activities of the Commission.

(4) **COMPENSATION.**—The Chairperson of the Commission may fix the compensation of the executive director, deputy executive director, general counsel, and other personnel employed by the Commission, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

(A) the rate of pay for the executive director of the Commission may not exceed the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(B) the rate of pay for the deputy executive director, the general counsel of the Commission, and other Commission personnel may not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) **EMPLOYEE BENEFITS.**—

(A) **IN GENERAL.**—An employee of the Commission shall be an employee for purposes of chapters 83, 84, 85, 87, and 89 of title 5, United States Code, and service as an employee of the Commission shall be service for purposes of such chapters.

(B) NONAPPLICATION TO MEMBERS.—This paragraph shall not apply to a member of the Commission.

(6) OFFICE OF PERSONNEL MANAGEMENT.—The Office of Personnel Management—

(A) may promulgate regulations to apply the provisions referred to under subsection (a) to employees of the Commission; and

(B) shall provide support services, on a reimbursable basis, relating to—

(i) the initial employment of employees of the Commission; and

(ii) other personnel needs of the Commission.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement to the agency of that employee, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) STAFF QUALIFICATIONS.—Any person appointed to the staff of or employed by the Commission shall be an individual of integrity and impartiality.

(g) CONDITIONAL EMPLOYMENT.—

(1) IN GENERAL.—The Commission may offer employment on a conditional basis to a prospective employee pending the completion of any necessary security clearance background investigation. During the pendency of any such investigation, the Commission shall ensure that such conditional employee is not given and does not have access to or responsibility involving classified or otherwise restricted material.

(2) TERMINATION.—If a person hired on a conditional basis as described in paragraph (1) is denied or otherwise does not qualify for all security clearances necessary for the fulfillment of the responsibilities of that person as an employee of the Commission, the Commission shall immediately terminate the employment of that person with the Commission.

(h) EXPEDITED SECURITY CLEARANCE PROCEDURES.—A candidate for executive director or deputy executive director of the Commission and any potential employee of the Commission shall, to the maximum extent possible, be investigated or otherwise evaluated for and granted, if applicable, any necessary security clearances on an expedited basis.

22 USC 1621  
note.

#### **SEC. 6. ADMINISTRATIVE SUPPORT SERVICES.**

Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

22 USC 1621  
note.

#### **SEC. 7. TERMINATION OF THE COMMISSION.**

The Commission shall terminate 90 days after the date on which the Commission submits its final report under section 3.



**SEC. 8. MISCELLANEOUS PROVISIONS.**22 USC 1621  
note.

(a) **INAPPLICABILITY OF FACAs.**—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(b) **PUBLIC ATTENDANCE.**—To the maximum extent practicable, each meeting of the Commission shall be open to members of the public.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**22 USC 1621  
note.

There are authorized to be appropriated not more than \$3,500,000, in total, for the interagency funding of activities of the Commission under this Act for fiscal years 1998, 1999, and 2000, of which, notwithstanding section 1346 of title 31, United States Code, and section 611 of the Treasury and General Government Appropriations Act, 1998, \$537,000 shall be made available in equal amounts from funds made available for fiscal year 1998 to the Departments of Justice, State, and the Army that are otherwise unobligated. Funds made available to the Commission pursuant to this section shall remain available for obligation until December 31, 1999.

Approved June 23, 1998.

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**LEGISLATIVE HISTORY—S. 1900 (H.R. 3662):****CONGRESSIONAL RECORD, Vol. 144 (1998):**

May 1, considered and passed Senate.

June 9, considered and passed House, amended, in lieu of H.R. 3662.

June 10, Senate concurred in House amendment.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):**

June 23, Presidential statement.



Public Law 105–187  
105th Congress

An Act

June 24, 1998  
[H.R. 3811]

Deadbeat Parents  
Punishment Act  
of 1998.  
18 USC 228 note.

To establish felony violations for the failure to pay legal child support obligations,  
and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Deadbeat Parents Punishment  
Act of 1998”.

**SEC. 2. ESTABLISHMENT OF FELONY VIOLATIONS.**

Section 228 of title 18, United States Code, is amended to  
read as follows:

**“§ 228. Failure to pay legal child support obligations**

“(a) **OFFENSE.**—Any person who—

“(1) willfully fails to pay a support obligation with respect  
to a child who resides in another State, if such obligation  
has remained unpaid for a period longer than 1 year, or is  
greater than \$5,000;

“(2) travels in interstate or foreign commerce with the  
intent to evade a support obligation, if such obligation has  
remained unpaid for a period longer than 1 year, or is greater  
than \$5,000; or

“(3) willfully fails to pay a support obligation with respect  
to a child who resides in another State, if such obligation  
has remained unpaid for a period longer than 2 years, or  
is greater than \$10,000;

shall be punished as provided in subsection (c).

“(b) **PRESUMPTION.**—The existence of a support obligation that  
was in effect for the time period charged in the indictment or  
information creates a rebuttable presumption that the obligor has  
the ability to pay the support obligation for that time period.

“(c) **PUNISHMENT.**—The punishment for an offense under this  
section is—

“(1) in the case of a first offense under subsection (a)(1),  
a fine under this title, imprisonment for not more than 6  
months, or both; and

“(2) in the case of an offense under paragraph (2) or (3)  
of subsection (a), or a second or subsequent offense under  
subsection (a)(1), a fine under this title, imprisonment for not  
more than 2 years, or both.

“(d) **MANDATORY RESTITUTION.**—Upon a conviction under this  
section, the court shall order restitution under section 3663A in

Courts.

an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

“(e) VENUE.—With respect to an offense under this section, an action may be inquired of and prosecuted in a district court of the United States for—

“(1) the district in which the child who is the subject of the support obligation involved resided during a period during which a person described in subsection (a) (referred to in this subsection as an ‘obligor’) failed to meet that support obligation;

“(2) the district in which the obligor resided during a period described in paragraph (1); or

“(3) any other district with jurisdiction otherwise provided for by law.

“(f) DEFINITIONS.—As used in this section—

“(1) the term ‘Indian tribe’ has the meaning given that term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a);

“(2) the term ‘State’ includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

“(3) the term ‘support obligation’ means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.”.

Approved June 24, 1998.

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LEGISLATIVE HISTORY—H.R. 3811 (S. 1371):

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 12, considered and passed House.

June 5, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

June 24, Presidential remarks and statement.



Public Law 105–188  
105th Congress

An Act

July 7, 1998  
[S. 2069]

To permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration for lease.

North Dakota. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

25 USC 396 note. **SECTION 1. LEASES OF ALLOTTED LANDS OF THE FORT BERTHOLD INDIAN RESERVATION.**

(a) IN GENERAL.—

(1) DEFINITIONS.—In this section:

(A) INDIAN LAND.—The term “Indian land” means an undivided interest in a single parcel of land that—

(i) is located within the Fort Berthold Indian Reservation in North Dakota; and

(ii) is held in trust or restricted status by the United States.

(B) INDIVIDUALLY OWNED INDIAN LAND.—The term “individually owned Indian land” means Indian land that is owned by 1 or more individuals.

(C) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) EFFECT OF APPROVAL BY SECRETARY OF THE INTERIOR.—

(A) IN GENERAL.—The Secretary may approve any mineral lease or agreement that affects individually owned Indian land, if—

(i) the owners of a majority of the undivided interest in the Indian land that is the subject of the mineral lease or agreement (including any interest covered by a lease or agreement executed by the Secretary under paragraph (3)) consent to the lease or agreement; and

(ii) the Secretary determines that approving the lease or agreement is in the best interest of the Indian owners of the Indian land.

(B) EFFECT OF APPROVAL.—Upon the approval by the Secretary under subparagraph (A), the lease or agreement shall be binding, to the same extent as if all of the Indian owners of the Indian land involved had consented to the lease or agreement, upon—

(i) all owners of the undivided interest in the Indian land subject to the lease or agreement (including any interest owned by an Indian tribe); and

(ii) all other parties to the lease or agreement.

(C) DISTRIBUTION OF PROCEEDS.—The proceeds derived from a lease or agreement that is approved by the Secretary under subparagraph (A) shall be distributed to all owners of the Indian land that is subject to the lease or agreement in accordance with the interest owned by each such owner.

(3) EXECUTION OF LEASE OR AGREEMENT BY SECRETARY.—The Secretary may execute a mineral lease or agreement that affects individually owned Indian land on behalf of an Indian owner if—

(A) that owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined; or

(B) the heirs or devisees referred to in subparagraph (A) have been determined, but 1 or more of the heirs or devisees cannot be located.

(4) PUBLIC AUCTION OR ADVERTISED SALE NOT REQUIRED.—It shall not be a requirement for the approval or execution of a lease or agreement under this subsection that the lease or agreement be offered for sale through a public auction or advertised sale.

(b) RULE OF CONSTRUCTION.—This Act supersedes the Act of March 3, 1909 (35 Stat. 783, chapter 263; 25 U.S.C. 396) only to the extent provided in subsection (a).

Approved July 7, 1998.

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LEGISLATIVE HISTORY—S. 2069:

SENATE REPORTS: No. 105–205 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 10, considered and passed Senate.

June 24, considered and passed House.



Public Law 105–189  
105th Congress

An Act

July 14, 1998  
[H.R. 651]

To extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF DEADLINE.**

(a) **IN GENERAL.**—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to Federal Energy Regulatory Commission project numbered 8864, the Commission shall, upon the request of the project licensee, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence construction of the project for not more than 3 consecutive 2-year periods.

Effective date.

(b) **APPLICABILITY.**—An extension under subsection (a) shall take effect for a project upon the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the project.

(c) **REINSTATEMENT OF EXPIRED LICENSE.**—If the license for the project referred to in subsection (a) has expired prior to the date of enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and extend the time required for commencement of construction of the project as provided in subsection (a) for not more than 3 consecutive 2-year periods, the first of which shall commence on the date of such expiration.

Approved July 14, 1998.

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**LEGISLATIVE HISTORY—H.R. 651:**

HOUSE REPORTS: No. 105–12 (Comm. on Commerce).

SENATE REPORTS: No. 105–133 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Mar. 11, considered and passed House.

Vol. 144 (1998): June 25, considered and passed Senate.



Public Law 105–190  
105th Congress

An Act

To extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes.

July 14, 1998  
[H.R. 652]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF DEADLINE.**

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to Federal Energy Regulatory Commission project numbered 9025, the Commission shall, upon the request of the project licensee, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence construction of the project for not more than 3 consecutive 2-year periods.

(b) APPLICABILITY.—An extension under subsection (a) shall take effect for a project upon the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the project.

Effective date.

(c) REINSTATEMENT OF EXPIRED LICENSE.—If the license for the project referred to in subsection (a) has expired prior to the date of enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and extend the time required for commencement of construction of the project as provided in subsection (a) for not more than 3 consecutive 2-year periods, the first of which shall commence on the date of such expiration.

Approved July 14, 1998.

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LEGISLATIVE HISTORY—H.R. 652:

HOUSE REPORTS: No. 105–13 (Comm. on Commerce).

SENATE REPORTS: No. 105–134 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Mar. 11, considered and passed House.

Vol. 144 (1998): June 25, considered and passed Senate.



Public Law 105–191  
105th Congress

An Act

July 14, 1998  
[H.R. 848]

To extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF DEADLINE.**

(a) **PROJECT NUMBERED 10836.**—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 10836–000NY, the Commission shall, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission’s procedures under that section, extend the time period during which the licensee is required to commence the construction of the project, under the extension described in subsection (b), for not more than 3 consecutive 2-year periods.

(b) **EFFECTIVE DATE.**—This subsection shall take effect on the date of the expiration of the extension of the period required for commencement of construction of the project described in subsection (a) that the Commission issued, prior to the date of enactment of this Act, under section 13 of the Federal Power Act (16 U.S.C. 806).

(c) **REINSTATEMENT OF EXPIRED LICENSE.**—If the license for the project referred to in subsection (a) has expired prior to the date of enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and extend the time required for commencement of construction of the project as provided in subsection (a) for not more than 3 consecutive 2-year periods, the first of which shall commence on the date of such expiration.

Approved July 14, 1998.

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**LEGISLATIVE HISTORY—H.R. 848:**

HOUSE REPORTS: No. 105–122 (Comm. on Commerce).

SENATE REPORTS: No. 105–135 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): June 10, considered and passed House.

Vol. 144 (1998): June 25, considered and passed Senate.





Public Law 105–192  
105th Congress

An Act

To extend the deadline under the Federal Power Act for the construction of the Bear Creek Hydroelectric Project in the State of Washington, and for other purposes.

July 14, 1998  
[H.R. 1184]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF DEADLINE.**

(a) **IN GENERAL.**—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to Federal Energy Regulatory Commission project numbered 10371, the Commission may, upon the request of the project licensee, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence construction of the project for not more than 3 consecutive 2-year periods.

(b) **APPLICABILITY.**—The extension under subsection (a) shall take effect for the project upon the expiration of the extension, issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806), of the period required for commencement of construction of the project.

Effective date.

(c) **REINSTATEMENT OF EXPIRED LICENSE.**—If the license for the project referred to in subsection (a) has expired prior to the date of enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and extend the time required for commencement of construction of the project as provided in subsection (a) for not more than 3 consecutive 2-year periods, the first of which shall commence on the date of such expiration.

**SEC. 2. REENACTMENT OF SENTENCE IN SECTION 6.**

Section 6 of the Federal Power Act (16 U.S.C. 799) is amended by adding the following sentence (deleted by section 108(a) of the General Accounting Office Act of 1996 (Public Law 104–316)) at the end thereof: “Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this Act, and may be altered or surrendered only upon mutual agreement between the licensee and the Commission after thirty days’ public notice.”.

Approved July 14, 1998.

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**LEGISLATIVE HISTORY—H.R. 1184:**

HOUSE REPORTS: No. 105–123 (Comm. on Commerce).

SENATE REPORTS: No. 105–136 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): June 10, considered and passed House.

Vol. 144 (1998): June 25, considered and passed Senate.



Public Law 105–193  
105th Congress

An Act

July 14, 1998  
[H.R. 1217]

To extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF DEADLINE.**

(a) **IN GENERAL.**—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to Federal Energy Regulatory Commission project numbered 10359, the Commission shall, at the request of the project licensee, extend the time period during which the licensee is required to complete construction of the project to May 4, 2004.

(b) **REPORTS.**—The licensee for the project described in subsection (a) shall file with the Federal Energy Regulatory Commission, on December 31 of each year until construction of the project is completed, a report on the status of the project.

Approved July 14, 1998.

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**LEGISLATIVE HISTORY—H.R. 1217:**

HOUSE REPORTS: No. 105–124 (Comm. on Commerce).

SENATE REPORTS: No. 105–137 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): June 10, considered and passed House.

Vol. 144 (1998): June 25, considered and passed Senate.



Public Law 105–194  
105th Congress

An Act

To amend the Arms Export Control Act, and for other purposes.

July 14, 1998

[S. 2282]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Agriculture Export Relief Act of 1998”.

Agriculture  
Export Relief Act  
of 1998.  
22 USC 2751  
note.

**SEC. 2. SANCTIONS EXEMPTIONS.**

(a) EXEMPTION REGARDING FOOD AND OTHER AGRICULTURAL COMMODITY PURCHASES.—Section 102(b)(2)(D) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2)(D)) is amended as follows:

(1) In clause (i) by striking “or” at the end.

(2) In clause (ii) by striking the period and inserting “, or”.

(3) By inserting after clause (ii) the following new clause:  
“(iii) to any credit, credit guarantee, or financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity.”.

(b) DESCRIPTION OF AGRICULTURAL COMMODITIES.—Section 102(b)(2)(F) of such Act is amended by striking the period at the end and inserting “, which includes fertilizer.”.

(c) OTHER EXEMPTIONS.—Section 102(b)(2)(D)(ii) of such Act is further amended by inserting after “to” the following: “medicines, medical equipment, and”.

(d) APPLICATION OF AMENDMENTS.—The amendment made by subsection (a)(3) shall apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture before, on, or after the date of enactment of this Act through September 30, 1999.

22 USC 2799aa–1  
note.

(e) EFFECT ON EXISTING SANCTIONS.—Any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall cease to apply upon that date with respect to the items described in the amendments made by subsections (b) and (c). In the case of the amendment

22 USC 2799aa–1  
note.

made by subsection (a)(3), any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall not be in effect during the period beginning on that date and ending on September 30, 1999, with respect to the activities and items described in the amendment.

Approved July 14, 1998.

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LEGISLATIVE HISTORY—S. 2282:

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 9, considered and passed Senate.

July 14, considered and passed House, amended. Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

July 14, Presidential statement.



Public Law 105–195  
105th Congress

An Act

To validate certain conveyances in the City of Tulare, Tulare County, California,  
and for other purposes.

July 16, 1998

[H.R. 960]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

The Congress finds that—

(1) It is in the Federal Government's interest to facilitate local development of jobs in areas of high unemployment.

(2) Railroad interests in rights-of-way prevent local communities from obtaining clear title to property for development unless the city also obtains the Federal reversionary interest in those rights-of-way.

(3) For development purposes, in order to secure needed financing, the City of Tulare Redevelopment Agency requires clear title to certain parcels of land within the city's business corridor that are part of a railroad right-of-way.

**SEC. 2. TULARE CONVEYANCE.**

(a) IN GENERAL.—Subject to subsections (c) and (d), all conveyances to the Redevelopment Agency of the City of Tulare, California, of lands described in subsection (b), heretofore or hereafter, made directly by the Southern Pacific Transportation Company, or its successors, are hereby validated to the extent that the conveyances would be legal or valid if all right, title, and interest of the United States, except minerals, were held by the Southern Pacific Transportation Company.

Southern Pacific  
Transportation  
Company.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are the parcels shown on the map entitled “Tulare Redevelopment Agency-Railroad Parcels Proposed to be Acquired”, dated May 29, 1997, that formed part of a railroad right-of-way granted to the Southern Pacific Railroad Company, or its successors, agents, or assigns, by the Federal Government (including the right-of-way approved by an Act of Congress on July 27, 1866). The map referred to in this subsection shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management.

(c) PRESERVATION OF EXISTING RIGHTS OF ACCESS.—Nothing in this section shall impair any existing rights of access in favor of the public or any owner of adjacent lands over, under, or across the lands which are referred to in subsection (a).

(d) MINERALS.—The United States disclaims any and all right of surface entry to the mineral estate of lands described in subsection (b).

Approved July 16, 1998.

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LEGISLATIVE HISTORY—H.R. 960:

HOUSE REPORTS: No. 105–171 (Comm. on Resources).

SENATE REPORTS: No. 105–127 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): July 8, considered and passed House.

Vol. 144 (1998): June 25, considered and passed Senate.



Public Law 105–196  
105th Congress

An Act

To amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

July 16, 1998  
[H.R. 2202]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Bone Marrow Registry Reauthorization Act of 1998”.

National Bone  
Marrow Registry  
Reauthorization  
Act of 1998.  
42 USC 201 note.

**SEC. 2. REAUTHORIZATION.**

(a) ESTABLISHMENT OF REGISTRY.—Section 379(a) of the Public Health Service Act (42 U.S.C. 274k(a)) is amended—

(1) by striking “(referred to in this part as the ‘Registry’) that meets” and inserting “(referred to in this part as the ‘Registry’) that has the purpose of increasing the number of transplants for recipients suitably matched to biologically unrelated donors of bone marrow, and that meets”;

(2) by striking “under the direction of a board of directors that shall include representatives of” and all that follows and inserting the following: “under the direction of a board of directors meeting the following requirements:

“(1) Each member of the board shall serve for a term of 2 years, and each such member may serve as many as 3 consecutive 2-year terms, except that such limitations shall not apply to the Chair of the board (or the Chair-elect) or to the member of the board who most recently served as the Chair.

“(2) A member of the board may continue to serve after the expiration of the term of such member until a successor is appointed.

“(3) In order to ensure the continuity of the board, the board shall be appointed so that each year the terms of approximately one-third of the members of the board expire.

“(4) The membership of the board shall include representatives of marrow donor centers and marrow transplant centers; recipients of a bone marrow transplant; persons who require or have required such a transplant; family members of such a recipient or family members of a patient who has requested the assistance of the Registry in searching for an unrelated donor of bone marrow; persons with expertise in the social sciences; and members of the general public; and in addition nonvoting representatives from the Naval Medical Research and Development Command and from the Division of Organ

Transplantation of the Health Resources and Services Administration.”

(b) PROGRAM FOR UNRELATED MARROW TRANSPLANTS.—

(1) IN GENERAL.—Section 379(b) of the Public Health Service Act (42 U.S.C. 274k(b)) is amended by redesignating paragraph (7) as paragraph (8), and by striking paragraphs (2) through (6) and inserting the following:

“(2) carry out a program for the recruitment of bone marrow donors in accordance with subsection (c), including with respect to increasing the representation of racial and ethnic minority groups (including persons of mixed ancestry) in the enrollment of the Registry;

“(3) carry out informational and educational activities in accordance with subsection (c);

“(4) annually update information to account for changes in the status of individuals as potential donors of bone marrow;

“(5) provide for a system of patient advocacy through the office established under subsection (d);

“(6) provide case management services for any potential donor of bone marrow to whom the Registry has provided a notice that the potential donor may be suitably matched to a particular patient (which services shall be provided through a mechanism other than the system of patient advocacy under subsection (d)), and conduct surveys of donors and potential donors to determine the extent of satisfaction with such services and to identify ways in which the services can be improved;

“(7) with respect to searches for unrelated donors of bone marrow that are conducted through the system under paragraph (1), collect and analyze and publish data on the number and percentage of patients at each of the various stages of the search process, including data regarding the furthest stage reached; the number and percentage of patients who are unable to complete the search process, and the reasons underlying such circumstances; and comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers; and”.

(2) REPORT OF INSPECTOR GENERAL; PLAN REGARDING RELATIONSHIP BETWEEN REGISTRY AND DONOR CENTERS.—The Secretary of Health and Human Services shall ensure that, not later than 1 year after the date of the enactment of this Act, the National Bone Marrow Donor Registry (under section 379 of the Public Health Service Act) develops, evaluates, and implements a plan to effectuate efficiencies in the relationship between such Registry and donor centers. The plan shall incorporate, to the extent practicable, the findings and recommendations made in the inspection conducted by the Office of the Inspector General (Department of Health and Human Services) as of January 1997 and known as the Bone Marrow Program Inspection.

(c) PROGRAM FOR INFORMATION AND EDUCATION.—Section 379 of the Public Health Service Act (42 U.S.C. 274k) is amended by striking subsection (j), by redesignating subsections (c) through (i) as subsections (e) through (k), respectively, and by inserting after subsection (b) the following subsection:

“(c) RECRUITMENT; PRIORITIES; INFORMATION AND EDUCATION.—

“(1) RECRUITMENT; PRIORITIES.—The Registry shall carry out a program for the recruitment of bone marrow donors.

42 USC 274k  
note.



Such program shall identify populations that are underrepresented among potential donors enrolled with the Registry. In the case of populations that are identified under the preceding sentence:

“(A) The Registry shall give priority to carrying out activities under this part to increase representation for such populations in order to enable a member of such a population, to the extent practicable, to have a probability of finding a suitable unrelated donor that is comparable to the probability that an individual who is not a member of an underrepresented population would have.

“(B) The Registry shall consider racial and ethnic minority groups (including persons of mixed ancestry) to be populations that have been identified for purposes of this paragraph, and shall carry out subparagraph (A) with respect to such populations.

“(2) INFORMATION AND EDUCATION REGARDING RECRUITMENT; TESTING AND ENROLLMENT.—

“(A) IN GENERAL.—In carrying out the program under paragraph (1), the Registry shall carry out informational and educational activities for purposes of recruiting individuals to serve as donors of bone marrow, and shall test and enroll with the Registry potential donors. Such information and educational activities shall include the following:

“(i) Making information available to the general public, including information describing the needs of patients with respect to donors of bone marrow.

“(ii) Educating and providing information to individuals who are willing to serve as potential donors, including providing updates.

“(iii) Training individuals in requesting individuals to serve as potential donors.

“(B) PRIORITIES.—In carrying out informational and educational activities under subparagraph (A), the Registry shall give priority to recruiting individuals to serve as donors of bone marrow for populations that are identified under paragraph (1).

“(3) TRANSPLANTATION AS TREATMENT OPTION.—In addition to activities regarding recruitment, the program under paragraph (1) shall provide information to physicians, other health care professionals, and the public regarding the availability, as a potential treatment option, of receiving a transplant of bone marrow from an unrelated donor.”.

(d) PATIENT ADVOCACY AND CASE MANAGEMENT.—Section 379 of the Public Health Service Act (42 U.S.C. 274k), as amended by subsection (c) of this section, is amended by inserting after subsection (c) the following subsection:

“(d) PATIENT ADVOCACY; CASE MANAGEMENT.—

Establishment.

“(1) IN GENERAL.—The Registry shall establish and maintain an office of patient advocacy (in this subsection referred to as the ‘Office’).

“(2) GENERAL FUNCTIONS.—The Office shall meet the following requirements:

“(A) The Office shall be headed by a director.

“(B) The Office shall operate a system for patient advocacy, which shall be separate from mechanisms for

donor advocacy, and which shall serve patients for whom the Registry is conducting, or has been requested to conduct, a search for an unrelated donor of bone marrow.

“(C) In the case of such a patient, the Office shall serve as an advocate for the patient by directly providing to the patient (or family members, physicians, or other individuals acting on behalf of the patient) individualized services with respect to efficiently utilizing the system under subsection (b)(1) to conduct an ongoing search for a donor.

“(D) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) to determine whether the search needs of the patient involved are being met, including with respect to the following:

“(i) Periodically providing to the patient (or an individual acting on behalf of the patient) information regarding donors who are suitability matched to the patient, and other information regarding the progress being made in the search.

“(ii) Informing the patient (or such other individual) if the search has been interrupted or discontinued.

“(iii) Identifying and resolving problems in the search, to the extent practicable.

“(E) In carrying out subparagraph (C), the Office shall monitor the system under subsection (b)(1) to determine whether the Registry, donor centers, transplant centers, and other entities participating in the Registry program are complying with standards issued under subsection (e)(4) for the system for patient advocacy under this subsection.

“(F) The Office shall ensure that the following data are made available to patients:

“(i) The resources available through the Registry.

“(ii) A comparison of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers.

“(iii) A list of donor registries, transplant centers, and other entities that meet the applicable standards, criteria, and procedures under subsection (e).

“(iv) The posttransplant outcomes for individual transplant centers.

“(v) Such other information as the Registry determines to be appropriate.

“(G) The Office shall conduct surveys of patients (or family members, physicians, or other individuals acting on behalf of patients) to determine the extent of satisfaction with the system for patient advocacy under this subsection, and to identify ways in which the system can be improved.

“(3) CASE MANAGEMENT.—

“(A) IN GENERAL.—In serving as an advocate for a patient under paragraph (2), the Office shall provide individualized case management services directly to the patient (or family members, physicians, or other individuals acting on behalf of the patient), including—

“(i) individualized case assessment; and

“(ii) the functions described in paragraph (2)(D) (relating to progress in the search process).

“(B) POSTSEARCH FUNCTIONS.—In addition to the case management services described in paragraph (1) for patients, the Office may, on behalf of patients who have completed the search for an unrelated donor, provide information and education on the process of receiving a transplant of bone marrow, including the posttransplant process.”.

(e) CRITERIA, STANDARDS, AND PROCEDURES.—Section 379(e) of the Public Health Service Act (42 U.S.C. 274k), as redesignated by subsection (c) of this section, is amended by striking paragraph (4) and inserting the following:

“(4) standards for the system for patient advocacy operated under subsection (d), including standards requiring the provision of appropriate information (at the start of the search process and throughout the process) to patients and their families and physicians;”.

(f) REPORT.—Section 379 of the Public Health Service Act, as amended by subsection (c) of this section, is amended by adding at the end the following subsection:

“(1) ANNUAL REPORT REGARDING PRETRANSPLANT COSTS.—The Registry shall annually submit to the Secretary the data collected under subsection (b)(7) on comparisons of transplant centers regarding search and other costs that prior to transplantation are charged to patients by transplant centers. The data shall be submitted to the Secretary through inclusion in the annual report required in section 379A(c).”.

(g) CONFORMING AMENDMENTS.—Section 379 of the Public Health Service Act, as amended by subsection (c) of this section, is amended—

(1) in subsection (f), by striking “subsection (c)” and inserting “subsection (e)”; and

(2) in subsection (k), by striking “subsection (c)(5)(A)” and inserting “subsection (e)(5)(A)” and by striking “subsection (c)(5)(B)” and inserting “subsection (e)(5)(B)”.

### SEC. 3. RECIPIENT REGISTRY.

Part I of title III of the Public Health Service Act (42 U.S.C. 274k et seq.) is amended by striking section 379A and inserting the following:

#### “SEC. 379A. BONE MARROW SCIENTIFIC REGISTRY.

42 USC 274l.

“(a) ESTABLISHMENT OF RECIPIENT REGISTRY.—The Secretary, acting through the Registry under section 379 (in this section referred to as the ‘Registry’), shall establish and maintain a scientific registry of information relating to patients who have been recipients of a transplant of bone marrow from a biologically unrelated donor.

“(b) INFORMATION.—The scientific registry under subsection (a) shall include information with respect to patients described in subsection (a), transplant procedures, and such other information as the Secretary determines to be appropriate to conduct an ongoing evaluation of the scientific and clinical status of transplantation involving recipients of bone marrow from biologically unrelated donors.

“(c) ANNUAL REPORT ON PATIENT OUTCOMES.—The Registry shall annually submit to the Secretary a report concerning patient outcomes with respect to each transplant center. Each such report shall use data collected and maintained by the scientific registry

under subsection (a). Each such report shall in addition include the data required in section 379(l) (relating to pretransplant costs).”.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended—

42 USC 274g.

(1) by transferring section 378 from the current placement of the section and inserting the section after section 377; and

(2) in part I, by inserting after section 379A the following section:

42 USC 274m.

**“SEC. 379B. AUTHORIZATION OF APPROPRIATIONS.**

“For the purpose of carrying out this part, there are authorized to be appropriated \$18,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003.”.

42 USC 274k  
note.

**SEC. 5. STUDY BY GENERAL ACCOUNTING OFFICE.**

(a) IN GENERAL.—During the period indicated pursuant to subsection (b), the Comptroller General of the United States shall conduct a study of the National Bone Marrow Donor Registry under section 379 of the Public Health Service Act for purposes of making determinations of the following:

(1) The extent to which, relative to the effective date of this Act, such Registry has increased the representation of racial and ethnic minority groups (including persons of mixed ancestry) among potential donors of bone marrow who are enrolled with the Registry, and whether the extent of increase results in a level of representation that meets the standard established in subsection (c)(1)(A) of such section 379 (as added by section 2(c) of this Act).

(2) The extent to which patients in need of a transplant of bone marrow from a biologically unrelated donor, and the physicians of such patients, have been utilizing the Registry in the search for such a donor.

(3) The number of such patients for whom the Registry began a preliminary search but for whom the full search process was not completed, and the reasons underlying such circumstances.

(4) The extent to which the plan required in section 2(b)(2) of this Act (relating to the relationship between the Registry and donor centers) has been implemented.

(5) The extent to which the Registry, donor centers, donor registries, collection centers, transplant centers, and other appropriate entities have been complying with the standards, criteria, and procedures under subsection (e) of such section 379 (as redesignated by section 2(c) of this Act).

Deadline.

(b) REPORT.—A report describing the findings of the study under subsection (a) shall be submitted to the Congress not later than October 1, 2001. The report may not be submitted before January 1, 2001.

Deadline.  
42 USC 274k  
note.

**SEC. 6. COMPLIANCE WITH NEW REQUIREMENTS FOR OFFICE OF PATIENT ADVOCACY.**

With respect to requirements for the office of patient advocacy under section 379(d) of the Public Health Service Act, the Secretary of Health and Human Services shall ensure that, not later than 180 days after the effective date of this Act, such office is in

compliance with all requirements (established pursuant to the amendment made by section 2(d)) that are additional to the requirements that under section 379 of such Act were in effect with respect to patient advocacy on the day before the date of the enactment of this Act.

**SEC. 7. EFFECTIVE DATE.**

This Act takes effect October 1, 1998, or upon the date of the enactment of this Act, whichever occurs later.

42 USC 274k  
note.

Approved July 16, 1998.

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**LEGISLATIVE HISTORY—H.R. 2202:**

HOUSE REPORTS: No. 105–538 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 19, considered and passed House.

June 24, considered and passed Senate.



Public Law 105–197  
105th Congress

An Act

July 16, 1998  
[H.R. 2864]

To require the Secretary of Labor to establish a program under which employers may consult with State officials respecting compliance with occupational safety and health requirements.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Occupational  
Safety and  
Health  
Administration  
Compliance  
Assistance  
Authorization  
Act of 1998.  
29 USC 651 note.  
29 USC 670.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998”.

**SEC. 2. COMPLIANCE ASSISTANCE PROGRAM.**

Section 21 of the Occupational Safety and Health Act of 1970 is amended by adding at the end the following new subsection:

“(d)(1) The Secretary shall establish and support cooperative agreements with the States under which employers subject to this Act may consult with State personnel with respect to—

“(A) the application of occupational safety and health requirements under this Act or under State plans approved under section 18; and

“(B) voluntary efforts that employers may undertake to establish and maintain safe and healthful employment and places of employment.

Such agreements may provide, as a condition of receiving funds under such agreements, for contributions by States towards meeting the costs of such agreements.

“(2) Pursuant to such agreements the State shall provide on-site consultation at the employer’s worksite to employers who request such assistance. The State may also provide other education and training programs for employers and employees in the State. The State shall ensure that on-site consultations conducted pursuant to such agreements include provision for the participation by employees.

“(3) Activities under this subsection shall be conducted independently of any enforcement activity. If an employer fails to take immediate action to eliminate employee exposure to an imminent danger identified in a consultation or fails to correct a serious hazard so identified within a reasonable time, a report shall be made to the appropriate enforcement authority for such action as is appropriate.

“(4) The Secretary shall, by regulation after notice and opportunity for comment, establish rules under which an employer—

“(A) which requests and undergoes an on-site consultative visit provided under this subsection;

Contracts.

Regulations.

“(B) which corrects the hazards that have been identified during the visit within the time frames established by the State and agrees to request a subsequent consultative visit if major changes in working conditions or work processes occur which introduce new hazards in the workplace; and

“(C) which is implementing procedures for regularly identifying and preventing hazards regulated under this Act and maintains appropriate involvement of, and training for, management and non-management employees in achieving safe and healthful working conditions,

may be exempt from an inspection (except an inspection requested under section 8(f) or an inspection to determine the cause of a workplace accident which resulted in the death of one or more employees or hospitalization for three or more employees) for a period of 1 year from the closing of the consultative visit.

“(5) A State shall provide worksite consultations under paragraph (2) at the request of an employer. Priority in scheduling such consultations shall be assigned to requests from small businesses which are in higher hazard industries or have the most hazardous conditions at issue in the request.”.

Approved July 16, 1998.

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LEGISLATIVE HISTORY—H.R. 2864:

HOUSE REPORTS: No. 105–444 (Comm. on Education and the Workforce).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 17, considered and passed House.

June 24, considered and passed Senate.

Public Law 105–198  
105th Congress

An Act

July 16, 1998  
[H.R. 2877]

To amend the Occupational Safety and Health Act of 1970.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. INSPECTIONS.**

Section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657) is amended by adding at the end the following:

“(h) The Secretary shall not use the results of enforcement activities, such as the number of citations issued or penalties assessed, to evaluate employees directly involved in enforcement activities under this Act or to impose quotas or goals with regard to the results of such activities.”.

Approved July 16, 1998.

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**LEGISLATIVE HISTORY—H.R. 2877:**

HOUSE REPORTS: No. 105–445 (Comm. on Education and the Workforce).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 17, considered and passed House.

June 24, considered and passed Senate.





Public Law 105–199  
105th Congress

An Act

To establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

July 16, 1998  
[H.R. 3035]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Drought Policy Act of 1998”.

National Drought  
Policy Act of 1998.  
42 USC 5121  
note.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the United States often suffers serious economic and environmental losses from severe regional droughts and there is no coordinated Federal strategy to respond to such emergencies;

(2) at the Federal level, even though historically there have been frequent, significant droughts of national consequences, drought is addressed mainly through special legislation and ad hoc action rather than through a systematic and permanent process as occurs with other natural disasters;

(3) there is an increasing need, particularly at the Federal level, to emphasize preparedness, mitigation, and risk management (rather than simply crisis management) when addressing drought and other natural disasters or emergencies;

(4) several Federal agencies have a role in drought from predicting, forecasting, and monitoring of drought conditions to the provision of planning, technical, and financial assistance;

(5) there is no single Federal agency in a lead or coordinating role with regard to drought;

(6) State, local, and tribal governments have had to deal individually and separately with each Federal agency involved in drought assistance; and

(7) the President should appoint an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for, mitigate the impacts of, respond to, and recover from serious drought emergencies.

42 USC 5121  
note.

**SEC. 3. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the National Drought Policy Commission (hereafter in this Act referred to as the “Commission”).

(b) MEMBERSHIP.—

42 USC 5121  
note.

(1) COMPOSITION.—The Commission shall be composed of 16 members. The members of the Commission shall include—

(A) the Secretary of Agriculture, or the designee of the Secretary, who shall chair the Commission;

(B) the Secretary of the Interior, or the designee of the Secretary;

(C) the Secretary of the Army, or the designee of the Secretary;

(D) the Secretary of Commerce, or the designee of the Secretary;

(E) the Director of the Federal Emergency Management Agency, or the designee of the Director;

(F) the Administrator of the Small Business Administration, or the designee of the Administrator;

President.

(G) two persons nominated by the National Governors' Association and appointed by the President, of whom—

(i) one shall be the governor of a State east of the Mississippi River; and

(ii) one shall be a governor of a State west of the Mississippi River;

President.

(H) a person nominated by the National Association of Counties and appointed by the President;

President.

(I) a person nominated by the United States Conference of Mayors and appointed by the President; and

(J) six persons, appointed by the Secretary of Agriculture in coordination with the Secretary of the Interior and the Secretary of the Army, who shall be representative of groups acutely affected by drought emergencies, such as the agricultural production community, the credit community, rural and urban water associations, Native Americans, and fishing and environmental interests.

Deadline.

(2) DATE.—The appointments of the members of the Commission shall be made no later than 60 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

Deadline.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the chair.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) VICE CHAIR.—The Commission shall select a vice chair from among the members who are not Federal officers or employees.

#### SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY AND REPORT.—The Commission shall conduct a thorough study and submit a report on national drought policy in accordance with this section.

(b) CONTENT OF STUDY AND REPORT.—In conducting the study and report, the Commission shall—

(1) determine, in consultation with the National Drought Mitigation Center in Lincoln, Nebraska, and other appropriate

entities, what needs exist on the Federal, State, local, and tribal levels to prepare for and respond to drought emergencies;

(2) review all existing Federal laws and programs relating to drought;

(3) review State, local, and tribal laws and programs relating to drought that the Commission finds pertinent;

(4) determine what differences exist between the needs of those affected by drought and the Federal laws and programs designed to mitigate the impacts of and respond to drought;

(5) collaborate with the Western Drought Coordination Council and other appropriate entities in order to consider regional drought initiatives and the application of such initiatives at the national level;

(6) make recommendations on how Federal drought laws and programs can be better integrated with ongoing State, local, and tribal programs into a comprehensive national policy to mitigate the impacts of and respond to drought emergencies without diminishing the rights of States to control water through State law and considering the need for protection of the environment;

(7) make recommendations on improving public awareness of the need for drought mitigation, and prevention; and response on developing a coordinated approach to drought mitigation, prevention, and response by governmental and non-governmental entities, including academic, private, and non-profit interests; and

(8) include a recommendation on whether all Federal drought preparation and response programs should be consolidated under one existing Federal agency and, if so, identify such agency.

**(c) SUBMISSION OF REPORT.—**

(1) **IN GENERAL.**—No later than 18 months after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

Deadline.

(2) **APPROVAL OF REPORT.**—Before submission of the report, the contents of the report shall be approved by unanimous consent or majority vote. If the report is approved by majority vote, members voting not to approve the contents shall be given the opportunity to submit dissenting views with the report.

**SEC. 5. POWERS OF THE COMMISSION.**

42 USC 5121  
note.

(a) **HEARINGS.**—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out the purposes of this Act.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) **GIFTS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

42 USC 5121  
note.

**SEC. 6. COMMISSION PERSONNEL MATTERS.**

(a) **COMPENSATION OF MEMBERS.**—Each member of the Commission who is not an officer or employee of the Federal Government shall not be compensated for service on the Commission, except as provided under subsection (b). All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) **ADMINISTRATIVE SUPPORT.**—The Secretary of Agriculture shall provide all financial, administrative, and staff support services for the Commission.

42 USC 5121  
note.

**SEC. 7. TERMINATION OF THE COMMISSION.**

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 4.

Approved July 16, 1998.

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**LEGISLATIVE HISTORY—H.R. 3035 (S. 222):**

HOUSE REPORTS: No. 105–554, Pt. 1 (Comm. on Transportation and Infrastructure).

SENATE REPORTS: No. 105–144 accompanying S. 222 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 16, considered and passed House.

June 24, considered and passed Senate.



Public Law 105–200  
105th Congress

An Act

To provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, and for other purposes.

July 16, 1998

[H.R. 3130]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Child Support Performance and Incentive Act of 1998”.

Child Support  
Performance and  
Incentive Act of  
1998.  
42 USC 1305  
note.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS**

Sec. 101. Alternative penalty procedure.

Sec. 102. Authority to waive single statewide automated data processing and information retrieval system requirement.

**TITLE II—CHILD SUPPORT INCENTIVE SYSTEM**

Sec. 201. Incentive payments to States.

**TITLE III—ADOPTION PROVISIONS**

Sec. 301. More flexible penalty procedure to be applied for failing to permit interjurisdictional adoption.

**TITLE IV—MISCELLANEOUS**

Sec. 401. Elimination of barriers to the effective establishment and enforcement of medical child support.

Sec. 402. Safeguard of new employee information.

Sec. 403. Limitations on use of TANF funds for matching under certain Federal transportation program.

Sec. 404. Clarification of meaning of high-volume automated administrative enforcement of child support in interstate cases.

Sec. 405. General Accounting Office reports.

Sec. 406. Data matching by multistate financial institutions.

Sec. 407. Elimination of unnecessary data reporting.

Sec. 408. Clarification of eligibility under welfare-to-work programs.

Sec. 409. Study of feasibility of implementing immigration provisions of H.R. 3130, as passed by the House of Representatives on March 5, 1998.

Sec. 410. Technical corrections.

## TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS

### SEC. 101. ALTERNATIVE PENALTY PROCEDURE.

(a) IN GENERAL.—Section 455(a) of the Social Security Act (42 U.S.C. 655(a)) is amended by adding at the end the following:

“(4)(A)(i) If—

“(I) the Secretary determines that a State plan under section 454 would (in the absence of this paragraph) be disapproved for the failure of the State to comply with a particular subparagraph of section 454(24), and that the State has made and is continuing to make a good faith effort to so comply; and

“(II) the State has submitted to the Secretary a corrective compliance plan that describes how, by when, and at what cost the State will achieve such compliance, which has been approved by the Secretary,

then the Secretary shall not disapprove the State plan under section 454, and the Secretary shall reduce the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the fiscal year by the penalty amount.

“(ii) All failures of a State during a fiscal year to comply with any of the requirements referred to in the same subparagraph of section 454(24) shall be considered a single failure of the State to comply with that subparagraph during the fiscal year for purposes of this paragraph.

“(B) In this paragraph:

“(i) The term ‘penalty amount’ means, with respect to a failure of a State to comply with a subparagraph of section 454(24)—

“(I) 4 percent of the penalty base, in the case of the first fiscal year in which such a failure by the State occurs (regardless of whether a penalty is imposed under this paragraph with respect to the failure);

“(II) 8 percent of the penalty base, in the case of the second such fiscal year;

“(III) 16 percent of the penalty base, in the case of the third such fiscal year;

“(IV) 25 percent of the penalty base, in the case of the fourth such fiscal year; or

“(V) 30 percent of the penalty base, in the case of the fifth or any subsequent such fiscal year.

“(ii) The term ‘penalty base’ means, with respect to a failure of a State to comply with a subparagraph of section 454(24) during a fiscal year, the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the preceding fiscal year.

“(C)(i) The Secretary shall waive a penalty under this paragraph for any failure of a State to comply with section 454(24)(A) during fiscal year 1998 if—

“(I) on or before August 1, 1998, the State has submitted to the Secretary a request that the Secretary certify the State as having met the requirements of such section;

“(II) the Secretary subsequently provides the certification as a result of a timely review conducted pursuant to the request; and

“(III) the State has not failed such a review.

“(ii) If a State with respect to which a reduction is made under this paragraph for a fiscal year with respect to a failure to comply with a subparagraph of section 454(24) achieves compliance with such subparagraph by the beginning of the succeeding fiscal year, the Secretary shall increase the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the succeeding fiscal year by an amount equal to 90 percent of the reduction for the fiscal year.

“(D) The Secretary may not impose a penalty under this paragraph against a State with respect to a failure to comply with section 454(24)(B) for a fiscal year if the Secretary is required to impose a penalty under this paragraph against the State with respect to a failure to comply with section 454(24)(A) for the fiscal year.”.

(b) INAPPLICABILITY OF PENALTY UNDER TANF PROGRAM.—Section 409(a)(8)(A)(i)(III) of such Act (42 U.S.C. 609(a)(8)(A)(i)(III)) is amended by inserting “(other than section 454(24))” before the semicolon.

**SEC. 102. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM REQUIREMENT.**

(a) IN GENERAL.—Section 452(d)(3) of the Social Security Act (42 U.S.C. 652(d)(3)) is amended to read as follows:

“(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16), and shall waive the single statewide system requirement under sections 454(16) and 454A, with respect to a State if—

“(A) the State demonstrates to the satisfaction of the Secretary that the State has or can develop an alternative system or systems that enable the State—

“(i) for purposes of section 409(a)(8), to achieve the paternity establishment percentages (as defined in section 452(g)(2)) and other performance measures that may be established by the Secretary;

“(ii) to submit data under section 454(15)(B) that is complete and reliable;

“(iii) to substantially comply with the requirements of this part; and

“(iv) in the case of a request to waive the single statewide system requirement, to—

“(I) meet all functional requirements of sections 454(16) and 454A;

“(II) ensure that calculation of distributions meets the requirements of section 457 and accounts for distributions to children in different families or in different States or sub-State jurisdictions, and for distributions to other States;

“(III) ensure that there is only one point of contact in the State which provides seamless case processing for all interstate case processing and coordinated, automated intrastate case management;

“(IV) ensure that standardized data elements, forms, and definitions are used throughout the State;

“(V) complete the alternative system in no more time than it would take to complete a single statewide system that meets such requirement; and

“(VI) process child support cases as quickly, efficiently, and effectively as such cases would be processed through a single statewide system that meets such requirement;

“(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c); or

“(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State’s child support enforcement program; and

“(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating and maintaining the system for 5 years, and the Secretary has agreed with the estimates.”.

(b) PAYMENTS TO STATES.—Section 455(a)(1) of such Act (42 U.S.C. 655(a)(1)) is amended—

(1) by striking “and” at the end of subparagraph (B);

(2) by striking the semicolon at the end of subparagraph (C) and inserting “, and”; and

(3) by inserting after subparagraph (C) the following:

“(D) equal to 66 percent of the sums expended by the State during the quarter for an alternative statewide system for which a waiver has been granted under section 452(d)(3), but only to the extent that the total of the sums so expended by the State on or after the date of the enactment of this subparagraph does not exceed the least total cost estimate submitted by the State pursuant to section 452(d)(3)(C) in the request for the waiver;”.

## TITLE II—CHILD SUPPORT INCENTIVE SYSTEM

### SEC. 201. INCENTIVE PAYMENTS TO STATES.

(a) IN GENERAL.—Part D of title IV of the Social Security Act (42 U.S.C. 651–669) is amended by inserting after section 458 the following:

42 USC 658a.

#### “SEC. 458A. INCENTIVE PAYMENTS TO STATES.

“(a) IN GENERAL.—In addition to any other payment under this part, the Secretary shall, subject to subsection (f), make an incentive payment to each State for each fiscal year in an amount determined under subsection (b).

“(b) AMOUNT OF INCENTIVE PAYMENT.—

“(1) IN GENERAL.—The incentive payment for a State for a fiscal year is equal to the incentive payment pool for the fiscal year, multiplied by the State incentive payment share for the fiscal year.

“(2) INCENTIVE PAYMENT POOL.—

“(A) IN GENERAL.—In paragraph (1), the term ‘incentive payment pool’ means—



- “(i) \$422,000,000 for fiscal year 2000;
- “(ii) \$429,000,000 for fiscal year 2001;
- “(iii) \$450,000,000 for fiscal year 2002;
- “(iv) \$461,000,000 for fiscal year 2003;
- “(v) \$454,000,000 for fiscal year 2004;
- “(vi) \$446,000,000 for fiscal year 2005;
- “(vii) \$458,000,000 for fiscal year 2006;
- “(viii) \$471,000,000 for fiscal year 2007;
- “(ix) \$483,000,000 for fiscal year 2008; and

“(x) for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the second preceding fiscal year.

“(B) CPI.—For purposes of subparagraph (A), the CPI for a fiscal year is the average of the Consumer Price Index for the 12-month period ending on September 30 of the fiscal year. As used in the preceding sentence, the term ‘Consumer Price Index’ means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

“(3) STATE INCENTIVE PAYMENT SHARE.—In paragraph (1), the term ‘State incentive payment share’ means, with respect to a fiscal year—

“(A) the incentive base amount for the State for the fiscal year; divided by

“(B) the sum of the incentive base amounts for all of the States for the fiscal year.

“(4) INCENTIVE BASE AMOUNT.—In paragraph (3), the term ‘incentive base amount’ means, with respect to a State and a fiscal year, the sum of the applicable percentages (determined in accordance with paragraph (6)) multiplied by the corresponding maximum incentive base amounts for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

- “(A) The paternity establishment performance level.
- “(B) The support order performance level.
- “(C) The current payment performance level.
- “(D) The arrearage payment performance level.
- “(E) The cost-effectiveness performance level.

“(5) MAXIMUM INCENTIVE BASE AMOUNT.—

“(A) IN GENERAL.—For purposes of paragraph (4), the maximum incentive base amount for a State for a fiscal year is—

“(i) with respect to the performance measures described in subparagraphs (A), (B), and (C) of paragraph (4), the State collections base for the fiscal year; and

“(ii) with respect to the performance measures described in subparagraphs (D) and (E) of paragraph (4), 75 percent of the State collections base for the fiscal year.

“(B) DATA REQUIRED TO BE COMPLETE AND RELIABLE.—Notwithstanding subparagraph (A), the maximum incentive base amount for a State for a fiscal year with respect to a performance measure described in paragraph (4) is

zero, unless the Secretary determines, on the basis of an audit performed under section 452(a)(4)(C)(i), that the data which the State submitted pursuant to section 454(15)(B) for the fiscal year and which is used to determine the performance level involved is complete and reliable.

“(C) STATE COLLECTIONS BASE.—For purposes of subparagraph (A), the State collections base for a fiscal year is equal to the sum of—

“(i) 2 times the sum of—

“(I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this title or title XIX; and

“(II) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved was so assigned but, at the time of collection, is not required to be so assigned; and

“(ii) the total amount of support collected during the fiscal year under the State plan approved under this part in all other cases.

“(6) DETERMINATION OF APPLICABLE PERCENTAGES BASED ON PERFORMANCE LEVELS.—

“(A) PATERNITY ESTABLISHMENT.—

“(i) DETERMINATION OF PATERNITY ESTABLISHMENT PERFORMANCE LEVEL.—The paternity establishment performance level for a State for a fiscal year is, at the option of the State, the IV-D paternity establishment percentage determined under section 452(g)(2)(A) or the statewide paternity establishment percentage determined under section 452(g)(2)(B).

“(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State’s paternity establishment performance level is as follows:

“If the paternity establishment performance level is:		The applicable percentage is:
At least:	But less than:	
80% .....	.....	100
79% .....	80% .....	98
78% .....	79% .....	96
77% .....	78% .....	94
76% .....	77% .....	92
75% .....	76% .....	90
74% .....	75% .....	88
73% .....	74% .....	86
72% .....	73% .....	84
71% .....	72% .....	82
70% .....	71% .....	80
69% .....	70% .....	79
68% .....	69% .....	78

<b>“If the paternity establishment performance level is:</b>		<b>The applicable percentage is:</b>
<b>At least:</b>	<b>But less than:</b>	
67% .....	68% .....	77
66% .....	67% .....	76
65% .....	66% .....	75
64% .....	65% .....	74
63% .....	64% .....	73
62% .....	63% .....	72
61% .....	62% .....	71
60% .....	61% .....	70
59% .....	60% .....	69
58% .....	59% .....	68
57% .....	58% .....	67
56% .....	57% .....	66
55% .....	56% .....	65
54% .....	55% .....	64
53% .....	54% .....	63
52% .....	53% .....	62
51% .....	52% .....	61
50% .....	51% .....	60
0% .....	50% .....	0.

Notwithstanding the preceding sentence, if the paternity establishment performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's paternity establishment performance level is 50 percent.

“(B) ESTABLISHMENT OF CHILD SUPPORT ORDERS.—

“(i) DETERMINATION OF SUPPORT ORDER PERFORMANCE LEVEL.—The support order performance level for a State for a fiscal year is the percentage of the total number of cases under the State plan approved under this part in which there is a support order during the fiscal year.

“(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's support order performance level is as follows:

<b>“If the support order performance level is:</b>		<b>The applicable percentage is:</b>
<b>At least:</b>	<b>But less than:</b>	
80% .....	.....	100
79% .....	80% .....	98
78% .....	79% .....	96
77% .....	78% .....	94
76% .....	77% .....	92
75% .....	76% .....	90
74% .....	75% .....	88
73% .....	74% .....	86
72% .....	73% .....	84

<b>“If the support order performance level is:</b>		<b>The applicable percentage is:</b>
<b>At least:</b>	<b>But less than:</b>	
71% .....	72% .....	82
70% .....	71% .....	80
69% .....	70% .....	79
68% .....	69% .....	78
67% .....	68% .....	77
66% .....	67% .....	76
65% .....	66% .....	75
64% .....	65% .....	74
63% .....	64% .....	73
62% .....	63% .....	72
61% .....	62% .....	71
60% .....	61% .....	70
59% .....	60% .....	69
58% .....	59% .....	68
57% .....	58% .....	67
56% .....	57% .....	66
55% .....	56% .....	65
54% .....	55% .....	64
53% .....	54% .....	63
52% .....	53% .....	62
51% .....	52% .....	61
50% .....	51% .....	60
0% .....	50% .....	0.

Notwithstanding the preceding sentence, if the support order performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State’s support order performance level is 50 percent.

“(C) COLLECTIONS ON CURRENT CHILD SUPPORT DUE.—

“(i) DETERMINATION OF CURRENT PAYMENT PERFORMANCE LEVEL.—The current payment performance level for a State for a fiscal year is equal to the total amount of current support collected during the fiscal year under the State plan approved under this part divided by the total amount of current support owed during the fiscal year in all cases under the State plan, expressed as a percentage.

“(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State’s current payment performance level is as follows:

<b>“If the current payment performance level is:</b>		<b>The applicable percentage is:</b>
<b>At least:</b>	<b>But less than:</b>	
80% .....	.....	100
79% .....	80% .....	98
78% .....	79% .....	96
77% .....	78% .....	94

“If the current payment performance level is:		The applicable percentage is:
At least:	But less than:	
76% .....	77% .....	92
75% .....	76% .....	90
74% .....	75% .....	88
73% .....	74% .....	86
72% .....	73% .....	84
71% .....	72% .....	82
70% .....	71% .....	80
69% .....	70% .....	79
68% .....	69% .....	78
67% .....	68% .....	77
66% .....	67% .....	76
65% .....	66% .....	75
64% .....	65% .....	74
63% .....	64% .....	73
62% .....	63% .....	72
61% .....	62% .....	71
60% .....	61% .....	70
59% .....	60% .....	69
58% .....	59% .....	68
57% .....	58% .....	67
56% .....	57% .....	66
55% .....	56% .....	65
54% .....	55% .....	64
53% .....	54% .....	63
52% .....	53% .....	62
51% .....	52% .....	61
50% .....	51% .....	60
49% .....	50% .....	59
48% .....	49% .....	58
47% .....	48% .....	57
46% .....	47% .....	56
45% .....	46% .....	55
44% .....	45% .....	54
43% .....	44% .....	53
42% .....	43% .....	52
41% .....	42% .....	51
40% .....	41% .....	50
0% .....	40% .....	0.

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State’s current payment performance level is 50 percent.

“(D) COLLECTIONS ON CHILD SUPPORT ARREARAGES.—

“(i) DETERMINATION OF ARREARAGE PAYMENT PERFORMANCE LEVEL.—The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-

due child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

“(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State’s arrearage payment performance level is as follows:

“If the arrearage payment performance level is:		The applicable percentage is:
At least:	But less than:	
80% .....	.....	100
79% .....	80% .....	98
78% .....	79% .....	96
77% .....	78% .....	94
76% .....	77% .....	92
75% .....	76% .....	90
74% .....	75% .....	88
73% .....	74% .....	86
72% .....	73% .....	84
71% .....	72% .....	82
70% .....	71% .....	80
69% .....	70% .....	79
68% .....	69% .....	78
67% .....	68% .....	77
66% .....	67% .....	76
65% .....	66% .....	75
64% .....	65% .....	74
63% .....	64% .....	73
62% .....	63% .....	72
61% .....	62% .....	71
60% .....	61% .....	70
59% .....	60% .....	69
58% .....	59% .....	68
57% .....	58% .....	67
56% .....	57% .....	66
55% .....	56% .....	65
54% .....	55% .....	64
53% .....	54% .....	63
52% .....	53% .....	62
51% .....	52% .....	61
50% .....	51% .....	60
49% .....	50% .....	59
48% .....	49% .....	58
47% .....	48% .....	57
46% .....	47% .....	56
45% .....	46% .....	55
44% .....	45% .....	54
43% .....	44% .....	53
42% .....	43% .....	52

<b>“If the arrearage payment performance level is:</b>		<b>The applicable percentage is:</b>
<b>At least:</b>	<b>But less than:</b>	
41% .....	42% .....	51
40% .....	41% .....	50
0% .....	40% .....	0.

Notwithstanding the preceding sentence, if the arrearage payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearage payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State’s arrearage payment performance level is 50 percent.

**“(E) COST-EFFECTIVENESS.—**

**“(i) DETERMINATION OF COST-EFFECTIVENESS PERFORMANCE LEVEL.—**The cost-effectiveness performance level for a State for a fiscal year is equal to the total amount collected during the fiscal year under the State plan approved under this part divided by the total amount expended during the fiscal year under the State plan, expressed as a ratio.

**“(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—**The applicable percentage with respect to a State’s cost-effectiveness performance level is as follows:

<b>“If the cost-effectiveness performance level is:</b>		<b>The applicable percentage is:</b>
<b>At least:</b>	<b>But less than:</b>	
5.00 .....	.....	100
4.50 .....	4.99 .....	90
4.00 .....	4.50 .....	80
3.50 .....	4.00 .....	70
3.00 .....	3.50 .....	60
2.50 .....	3.00 .....	50
2.00 .....	2.50 .....	40
0.00 .....	2.00 .....	0.

**“(c) TREATMENT OF INTERSTATE COLLECTIONS.—**In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 455(e) shall be excluded.

**“(d) ADMINISTRATIVE PROVISIONS.—**The amounts of the incentive payments to be made to the States under this section for a fiscal year shall be estimated by the Secretary at/or before the beginning of the fiscal year on the basis of the best information available. The Secretary shall make the payments for the fiscal year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of

any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section are deemed obligated.

“(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary governing the calculation of incentive payments under this section, including directions for excluding from the calculations certain closed cases and cases over which the States do not have jurisdiction.

“(f) REINVESTMENT.—A State to which a payment is made under this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the State—

“(1) to carry out the State plan approved under this part; or

“(2) for any activity (including cost-effective contracts with local agencies) approved by the Secretary, whether or not the expenditures for the activity are eligible for reimbursement under this part, which may contribute to improving the effectiveness or efficiency of the State program operated under this part.”.

42 USC 658a  
note.

(b) TRANSITION RULE.—Notwithstanding any other provision of law—

(1) for fiscal year 2000, the Secretary shall reduce by one-third the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by two-thirds the amount otherwise payable to a State under section 458A of such Act; and

(2) for fiscal year 2001, the Secretary shall reduce by two-thirds the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by one-third the amount otherwise payable to a State under section 458A of such Act.

42 USC 658a  
note.

(c) REGULATIONS.—Within 9 months after the date of the enactment of this section, the Secretary of Health and Human Services shall prescribe regulations governing the implementation of section 458A of the Social Security Act when such section takes effect and the implementation of subsection (b) of this section.

42 USC 658a  
note.

(d) STUDIES.—

(1) GENERAL REVIEW OF NEW INCENTIVE PAYMENT SYSTEM.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of the implementation of the incentive payment system established by section 458A of the Social Security Act, in order to identify the problems and successes of the system.

Deadlines.

(B) REPORTS TO THE CONGRESS.—

(i) REPORT ON VARIATIONS IN STATE PERFORMANCE ATTRIBUTABLE TO DEMOGRAPHIC VARIABLES.—Not later than October 1, 2000, the Secretary shall submit to the Congress a report that identifies any demographic or economic variables that account for differences in the performance levels achieved by the States with respect to the performance measures used in the system, and contains the recommendations of the Secretary for such adjustments to the system as may be necessary to ensure that the relative performance



of States is measured from a baseline that takes account of any such variables.

(ii) INTERIM REPORT.—Not later than March 1, 2001, the Secretary shall submit to the Congress an interim report that contains the findings of the study required by subparagraph (A).

(iii) FINAL REPORT.—Not later than October 1, 2003, the Secretary shall submit to the Congress a final report that contains the final findings of the study required by subparagraph (A). The report shall include any recommendations for changes in the system that the Secretary determines would improve the operation of the child support enforcement program.

(2) DEVELOPMENT OF MEDICAL SUPPORT INCENTIVE.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in consultation with State directors of programs operated under part D of title IV of the Social Security Act and representatives of children potentially eligible for medical support, shall develop a performance measure based on the effectiveness of States in establishing and enforcing medical support obligations, and shall make recommendations for the incorporation of the measure, in a revenue neutral manner, into the incentive payment system established by section 458A of the Social Security Act.

(B) REPORT.—Not later than October 1, 1999, the Secretary shall submit to the Congress a report that describes the performance measure and contains the recommendations required by subparagraph (A).

Deadline.

(e) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 658 note) is amended—

(A) by striking subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

42 USC 652 and note, 658 and notes.

(B) in subsection (c) (as so redesignated)—

(i) by striking paragraph (1) and inserting the following:

42 USC 658 note.

“(1) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—The amendments made by subsection (a) of this section shall become effective with respect to a State as of the date the amendments made by section 103(a) (without regard to section 116(a)(2)) first apply to the State.”; and

Effective date.

(ii) in paragraph (2), by striking “(c)” and inserting “(b)”.

42 USC 652 note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

42 USC 652 note.

(f) ELIMINATION OF PREDECESSOR INCENTIVE PAYMENT SYSTEM.—

(1) REPEAL.—Section 458 of the Social Security Act (42 U.S.C. 658) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 458A of the Social Security Act, as added by section 201(a) of this Act, is redesignated as section 458.

(B) Section 455(a)(4)(C)(iii) of such Act (42 U.S.C. 655(a)(4)(C)(iii)), as added by section 101(a) of this Act, is amended—

(i) by striking “458A(b)(4)” and inserting “458(b)(4)”;

(ii) by striking “458A(b)(6)” and inserting “458(b)(6)”;

(iii) by striking “458A(b)(5)(B)” and inserting “458(b)(5)(B)”.

(C) Subsection (d)(1) of this section is amended by striking “458A” and inserting “458”.

42 USC 655 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2001.

42 USC 658a note.

(g) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on October 1, 1999.

## TITLE III—ADOPTION PROVISIONS

### SEC. 301. MORE FLEXIBLE PENALTY PROCEDURE TO BE APPLIED FOR FAILING TO PERMIT INTERJURISDICTIONAL ADOPTION.

(a) CONVERSION OF FUNDING BAN INTO STATE PLAN REQUIREMENT.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking “and” at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting “; and”; and

(3) by adding at the end the following:

“(23) provides that the State shall not—

“(A) deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

“(B) fail to grant an opportunity for a fair hearing, as described in paragraph (12), to an individual whose allegation of a violation of subparagraph (A) of this paragraph is denied by the State or not acted upon by the State with reasonable promptness.”.

(b) PENALTY FOR NONCOMPLIANCE.—Section 474(d) of such Act (42 U.S.C. 674(d)) is amended in each of paragraphs (1) and (2) by striking “section 471(a)(18)” and inserting “paragraph (18) or (23) of section 471(a)”.

(c) CONFORMING AMENDMENT.—Section 474 of such Act (42 U.S.C. 674) is amended by striking subsection (e).

42 USC 671 note.

(d) RETROACTIVITY.—The amendments made by this section shall take effect as if included in the enactment of section 202 of the Adoption and Safe Families Act of 1997 (Public Law 105–89; 111 Stat. 2125).

**TITLE IV—MISCELLANEOUS****SEC. 401. ELIMINATION OF BARRIERS TO THE EFFECTIVE ESTABLISHMENT AND ENFORCEMENT OF MEDICAL CHILD SUPPORT.**

(a) **STUDY ON EFFECTIVENESS OF ENFORCEMENT OF MEDICAL SUPPORT BY STATE AGENCIES.**—

42 USC 651 note.

(1) **MEDICAL CHILD SUPPORT WORKING GROUP.**—Within 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly establish a Medical Child Support Working Group. The purpose of the Working Group shall be to identify the impediments to the effective enforcement of medical support by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act.

Deadline.

Establishment.

(2) **MEMBERSHIP.**—The Working Group shall consist of not more than 30 members and shall be composed of representatives of—

(A) the Department of Labor;

(B) the Department of Health and Human Services;

(C) State directors of programs under part D of title IV of the Social Security Act;

(D) State directors of the Medicaid program under title XIX of the Social Security Act;

(E) employers, including owners of small businesses and their trade or industry representatives and certified human resource and payroll professionals;

(F) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)));

(G) children potentially eligible for medical support, such as child advocacy organizations;

(H) State medical child support programs; and

(I) organizations representing State child support programs.

(3) **COMPENSATION.**—The members shall serve without compensation.

(4) **ADMINISTRATIVE SUPPORT.**—The Department of Health and Human Services and the Department of Labor shall jointly provide appropriate administrative support to the Working Group, including technical assistance. The Working Group may use the services and facilities of either such Department, with or without reimbursement, as jointly determined by such Departments.

(5) **REPORT.**—

(A) **REPORT BY WORKING GROUP TO THE SECRETARIES.**—

Deadline.

Not later than 18 months after the date of the enactment of this Act, the Working Group shall submit to the Secretary of Labor and the Secretary of Health and Human Services a report containing recommendations for appropriate measures to address the impediments to the effective enforcement of medical support by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act identified by the Working Group, including—

(i) recommendations based on assessments of the form and content of the National Medical Support Notice, as issued under interim regulations;

(ii) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrearages in such obligations, and in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671-1677);

(iii) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs operated pursuant to part D of title IV of the Social Security Act and titles XIX and XXI of such Act;

(iv) appropriate measures to improve the availability of alternate types of medical support that are aside from health coverage offered through the noncustodial parent's health plan and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, co-payments, deductibles, or payments for services not covered under a child's existing health coverage;

(v) recommendations on whether reasonable cost should remain a consideration under section 452(f) of the Social Security Act; and

(vi) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the Working Group deems necessary.

Deadline.

(B) REPORT BY SECRETARIES TO THE CONGRESS.—Not later than 2 months after receipt of the report pursuant to subparagraph (A), the Secretaries shall jointly submit a report to each House of the Congress regarding the recommendations contained in the report under subparagraph (A).

(6) TERMINATION.—The Working Group shall terminate 30 days after the date of the issuance of its report under paragraph (5).

Regulations.  
42 USC 651 note.

(b) PROMULGATION OF NATIONAL MEDICAL SUPPORT NOTICE.—

(1) IN GENERAL.—The Secretary of Health and Human Services and the Secretary of Labor shall jointly develop and promulgate by regulation a National Medical Support Notice, to be issued by States as a means of enforcing the health care coverage provisions in a child support order.

(2) REQUIREMENTS.—The National Medical Support Notice shall—

(A) conform with the requirements which apply to medical child support orders under section 609(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(3)) in connection with group health plans (subject to section 609(a)(4) of such Act), irrespective of whether the group health plan is covered under section 4 of such Act;

(B) conform with the requirements of part D of title IV of the Social Security Act; and

(C) include a separate and easily severable employer withholding notice, informing the employer of—

(i) applicable provisions of State law requiring the employer to withhold any employee contributions due under any group health plan in connection with coverage required to be provided under such order;

(ii) the duration of the withholding requirement;

(iii) the applicability of limitations on any such withholding under title III of the Consumer Credit Protection Act;

(iv) the applicability of any prioritization required under State law between amounts to be withheld for purposes of cash support and amounts to be withheld for purposes of medical support, in cases where available funds are insufficient for full withholding for both purposes; and

(v) the name and telephone number of the appropriate unit or division to contact at the State agency regarding the National Medical Support Notice.

(3) PROCEDURES.—The regulations promulgated pursuant to paragraph (1) shall include appropriate procedures for the transmission of the National Medical Support Notice to employers by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act.

(4) INTERIM REGULATIONS.—Not later than 10 months after the date of the enactment of this Act, the Secretaries shall issue interim regulations providing for the National Medical Support Notice.

Deadline.

(5) FINAL REGULATIONS.—Not later than 1 year after the issuance of the interim regulations under paragraph (4), the Secretary of Health and Human Services and the Secretary of Labor shall jointly issue final regulations providing for the National Medical Support Notice.

Deadline.

(c) REQUIRED USE BY STATES OF NATIONAL MEDICAL SUPPORT NOTICES.—

(1) STATE PROCEDURES.—Section 466(a)(19) of the Social Security Act (42 U.S.C. 666(a)(19)) is amended to read as follows:

“(19) HEALTH CARE COVERAGE.—Procedures under which—

“(A) effective as provided in section 401(c)(3) of the Child Support Performance and Incentive Act of 1998, all child support orders enforced pursuant to this part which include a provision for the health care coverage of the child are enforced, where appropriate, through the use of the National Medical Support Notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 (and referred to in section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 in connection with group health plans covered under title I of such Act, in section 401(e)(3)(C) of the Child Support Performance and Incentive Act of 1998 in connection with State or local group health plans, and in section 401(f)(5)(C) of such Act in connection with church group health plans);

“(B) unless alternative coverage is allowed for in any order of the court (or other entity issuing the child support order), in any case in which a noncustodial parent is required under the child support order to provide such health care coverage and the employer of such noncustodial parent is known to the State agency—

“(i) the State agency uses the National Medical Support Notice to transfer notice of the provision for the health care coverage of the child to the employer;

“(ii) within 20 business days after the date of the National Medical Support Notice, the employer is required to transfer the Notice, excluding the severable employer withholding notice described in section 401(b)(2)(C) of the Child Support Performance and Incentive Act of 1998, to the appropriate plan providing any such health care coverage for which the child is eligible;

“(iii) in any case in which the noncustodial parent is a newly hired employee entered in the State Directory of New Hires pursuant to section 453A(e), the State agency provides, where appropriate, the National Medical Support Notice, together with an income withholding notice issued pursuant to section 466(b), within two days after the date of the entry of such employee in such Directory; and

“(iv) in any case in which the employment of the noncustodial parent with any employer who has received a National Medical Support Notice is terminated, such employer is required to notify the State agency of such termination; and

“(C) any liability of the noncustodial parent to such plan for employee contributions which are required under such plan for enrollment of the child is effectively subject to appropriate enforcement, unless the noncustodial parent contests such enforcement based on a mistake of fact.”.

(2) CONFORMING AMENDMENTS.—Section 452(f) of such Act (42 U.S.C. 652(f)) is amended in the first sentence—

(A) by striking “petition for the inclusion of” and inserting “include”; and

(B) by inserting “and enforce medical support” before “whenever”.

42 USC 652 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective with respect to periods beginning on or after the later of—

(A) October 1, 2001; or

(B) the effective date of laws enacted by the legislature of such State implementing such amendments, but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(d) NATIONAL MEDICAL SUPPORT NOTICE DEEMED UNDER ERISA A QUALIFIED MEDICAL CHILD SUPPORT ORDER.—Section 609(a)(5) of the Employee Retirement Income Security Act of 1974

(29 U.S.C. 1169(a)(5)) is amended by adding at the end the following:

“(C) NATIONAL MEDICAL SUPPORT NOTICE DEEMED TO BE A QUALIFIED MEDICAL CHILD SUPPORT ORDER.—

“(i) IN GENERAL.—If the plan administrator of a group health plan which is maintained by the employer of a noncustodial parent of a child or to which such an employer contributes receives an appropriately completed National Medical Support Notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 in the case of such child, and the Notice meets the requirements of paragraphs (3) and (4), the Notice shall be deemed to be a qualified medical child support order in the case of such child.

“(ii) ENROLLMENT OF CHILD IN PLAN.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a group health plan who is a noncustodial parent of the child, and the Notice is deemed under clause (i) to be a qualified medical child support order, the plan administrator, within 40 business days after the date of the Notice, shall—

“(I) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or, if necessary, any steps to be taken by the custodial parent (or by the official of a State or political subdivision thereof substituted for the name of such child pursuant to paragraph (3)(A)) to effectuate the coverage; and

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“(II) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

“(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed as requiring a group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.”.

(e) NATIONAL MEDICAL SUPPORT NOTICES FOR STATE OR LOCAL GOVERNMENTAL GROUP HEALTH PLANS.—

29 USC 1169  
note.

(1) IN GENERAL.—Each State or local governmental group health plan shall provide benefits in accordance with the applicable requirements of any National Medical Support Notice.

(2) ENROLLMENT OF CHILD IN PLAN.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a State or local governmental group health plan who is a noncustodial parent of the child, the plan administrator, within 40 business days after the date of the Notice, shall—

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(A) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or any steps necessary to be taken by the custodial parent (or by any official of a State or political subdivision thereof substituted in the Notice for the name of such child in accordance with procedures applicable under subsection (b)(2) of this section) to effectuate the coverage; and

(B) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

(3) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed as requiring a State or local governmental group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.

(4) **DEFINITIONS.**—For purposes of this subsection—

(A) **STATE OR LOCAL GOVERNMENTAL GROUP HEALTH PLAN.**—The term “State or local governmental group health plan” means a group health plan which is established or maintained for its employees by the government of any State, any political subdivision of a State, or any agency or instrumentality of either of the foregoing.

(B) **ALTERNATE RECIPIENT.**—The term “alternate recipient” means any child of a participant who is recognized under a National Medical Support Notice as having a right to enrollment under a State or local governmental group health plan with respect to such participant.

(C) **GROUP HEALTH PLAN.**—The term “group health plan” has the meaning provided in section 607(1) of the Employee Retirement Income Security Act of 1974.

(D) **STATE.**—The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(E) **OTHER TERMS.**—The terms “participant” and “administrator” shall have the meanings provided such terms, respectively, by paragraphs (7) and (16) of section 3 of the Employee Retirement Income Security Act of 1974.

(5) **EFFECTIVE DATE.**—The provisions of this subsection shall take effect on the date of the issuance of interim regulations pursuant to subsection (b)(4) of this section.

29 USC 1169  
note.

(f) **QUALIFIED MEDICAL CHILD SUPPORT ORDERS AND NATIONAL MEDICAL SUPPORT NOTICES FOR CHURCH PLANS.**—

(1) **IN GENERAL.**—Each church group health plan shall provide benefits in accordance with the applicable requirements of any qualified medical child support order. A qualified medical child support order with respect to any participant or beneficiary shall be deemed to apply to each such group health plan which has received such order, from which the participant or beneficiary is eligible to receive benefits, and with respect to which the requirements of paragraph (4) are met.

(2) **DEFINITIONS.**—For purposes of this subsection—



(A) CHURCH GROUP HEALTH PLAN.—The term “church group health plan” means a group health plan which is a church plan.

(B) QUALIFIED MEDICAL CHILD SUPPORT ORDER.—The term “qualified medical child support order” means a medical child support order—

(i) which creates or recognizes the existence of an alternate recipient’s right to, or assigns to an alternate recipient the right to, receive benefits for which a participant or beneficiary is eligible under a church group health plan; and

(ii) with respect to which the requirements of paragraphs (3) and (4) are met.

(C) MEDICAL CHILD SUPPORT ORDER.—The term “medical child support order” means any judgment, decree, or order (including approval of a settlement agreement) which—

(i) provides for child support with respect to a child of a participant under a church group health plan or provides for health benefit coverage to such a child, is made pursuant to a State domestic relations law (including a community property law), and relates to benefits under such plan; or

(ii) is made pursuant to a law relating to medical child support described in section 1908 of the Social Security Act (as added by section 13822 of the Omnibus Budget Reconciliation Act of 1993) with respect to a church group health plan,

if such judgment, decree, or order: (I) is issued by a court of competent jurisdiction; or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law. For purposes of this paragraph, an administrative notice which is issued pursuant to an administrative process referred to in subclause (II) of the preceding sentence and which has the effect of an order described in clause (i) or (ii) of the preceding sentence shall be treated as such an order.

(D) ALTERNATE RECIPIENT.—The term “alternate recipient” means any child of a participant who is recognized under a medical child support order as having a right to enrollment under a church group health plan with respect to such participant.

(E) GROUP HEALTH PLAN.—The term “group health plan” has the meaning provided in section 607(1) of the Employee Retirement Income Security Act of 1974.

(F) STATE.—The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(G) OTHER TERMS.—The terms “participant”, “beneficiary”, “administrator”, and “church plan” shall have the meanings provided such terms, respectively, by paragraphs (7), (8), (16), and (33) of section 3 of the Employee Retirement Income Security Act of 1974.

(3) INFORMATION TO BE INCLUDED IN QUALIFIED ORDER.—A medical child support order meets the requirements of this paragraph only if such order clearly specifies—

(A) the name and the last known mailing address (if any) of the participant and the name and mailing address of each alternate recipient covered by the order, except that, to the extent provided in the order, the name and mailing address of an official of a State or a political subdivision thereof may be substituted for the mailing address of any such alternate recipient;

(B) a reasonable description of the type of coverage to be provided to each such alternate recipient, or the manner in which such type of coverage is to be determined; and

(C) the period to which such order applies.

(4) RESTRICTION ON NEW TYPES OR FORMS OF BENEFITS.—A medical child support order meets the requirements of this paragraph only if such order does not require a church group health plan to provide any type or form of benefit, or any option, not otherwise provided under the plan, except to the extent necessary to meet the requirements of a law relating to medical child support described in section 1908 of the Social Security Act (as added by section 13822 of the Omnibus Budget Reconciliation Act of 1993).

(5) PROCEDURAL REQUIREMENTS.—

(A) TIMELY NOTIFICATIONS AND DETERMINATIONS.—In the case of any medical child support order received by a church group health plan—

(i) the plan administrator shall promptly notify the participant and each alternate recipient of the receipt of such order and the plan's procedures for determining whether medical child support orders are qualified medical child support orders; and

(ii) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified medical child support order and notify the participant and each alternate recipient of such determination.

(B) ESTABLISHMENT OF PROCEDURES FOR DETERMINING QUALIFIED STATUS OF ORDERS.—Each church group health plan shall establish reasonable procedures to determine whether medical child support orders are qualified medical child support orders and to administer the provision of benefits under such qualified orders. Such procedures—

(i) shall be in writing;

(ii) shall provide for the notification of each person specified in a medical child support order as eligible to receive benefits under the plan (at the address included in the medical child support order) of such procedures promptly upon receipt by the plan of the medical child support order; and

(iii) shall permit an alternate recipient to designate a representative for receipt of copies of notices that are sent to the alternate recipient with respect to a medical child support order.

(C) NATIONAL MEDICAL SUPPORT NOTICE DEEMED TO BE A QUALIFIED MEDICAL CHILD SUPPORT ORDER.—

(i) IN GENERAL.—If the plan administrator of any church group health plan which is maintained by the employer of a noncustodial parent of a child or to

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which such an employer contributes receives an appropriately completed National Medical Support Notice promulgated pursuant to subsection (b) of this section in the case of such child, and the Notice meets the requirements of paragraphs (3) and (4) of this subsection, the Notice shall be deemed to be a qualified medical child support order in the case of such child.

(ii) ENROLLMENT OF CHILD IN PLAN.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a church group health plan who is a noncustodial parent of the child, and the Notice is deemed under clause (i) to be a qualified medical child support order, the plan administrator, within 40 business days after the date of the Notice, shall—

(I) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or any steps necessary to be taken by the custodial parent (or by the official of a State or political subdivision thereof substituted for the name of such child pursuant to paragraph (3)(A)) to effectuate the coverage; and

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(II) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed as requiring a church group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.

(6) DIRECT PROVISION OF BENEFITS PROVIDED TO ALTERNATE RECIPIENTS.—Any payment for benefits made by a church group health plan pursuant to a medical child support order in reimbursement for expenses paid by an alternate recipient or an alternate recipient's custodial parent or legal guardian shall be made to the alternate recipient or the alternate recipient's custodial parent or legal guardian.

(7) PAYMENT TO STATE OFFICIAL TREATED AS SATISFACTION OF PLAN'S OBLIGATION TO MAKE PAYMENT TO ALTERNATE RECIPIENT.—Payment of benefits by a church group health plan to an official of a State or a political subdivision thereof whose name and address have been substituted for the address of an alternate recipient in a medical child support order, pursuant to paragraph (3)(A), shall be treated, for purposes of this subsection and part D of title IV of the Social Security Act, as payment of benefits to the alternate recipient.

(8) EFFECTIVE DATE.—The provisions of this subsection shall take effect on the date of the issuance of interim regulations pursuant to subsection (b)(4) of this section.

Deadline.  
29 USC 1169  
note.

(g) REPORT AND RECOMMENDATIONS REGARDING THE ENFORCEMENT OF QUALIFIED MEDICAL CHILD SUPPORT ORDERS.—Not later than 8 months after the issuance of the report to the Congress pursuant to subsection (a)(5), the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit to each House of the Congress a report containing recommendations for appropriate legislation to improve the effectiveness of, and enforcement of, qualified medical child support orders under the provisions of subsection (f) of this section and section 609(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)).

(h) TECHNICAL CORRECTIONS.—

(1) AMENDMENT RELATING TO PUBLIC LAW 104-266.—

(A) IN GENERAL.—Subsection (f) of section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

29 USC 1021  
note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of the Act entitled “An Act to repeal the Medicare and Medicaid Coverage Data Bank”, approved October 2, 1996 (Public Law 104-226; 110 Stat. 3033).

(2) AMENDMENTS RELATING TO PUBLIC LAW 103-66.—

29 USC 1144.

(A) IN GENERAL.—(i) Section 4301(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 377) is amended by striking “subsection (b)(7)(D)” and inserting “subsection (b)(7)”.

(ii) Section 514(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(7)) is amended by striking “enforced by” and inserting “they apply to”.

(iii) Section 609(a)(2)(B)(ii) of such Act (29 U.S.C. 1169(a)(2)(B)(ii)) is amended by striking “enforces” and inserting “is made pursuant to”.

(B) CHILD DEFINED.—Section 609(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)) is amended by adding at the end the following:

“(D) CHILD.—The term ‘child’ includes any child adopted by, or placed for adoption with, a participant of a group health plan.”

29 USC 1144  
note.

(C) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall be effective as if included in the enactment of section 4301(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1993.

(3) AMENDMENT RELATED TO PUBLIC LAW 105-33.—

(A) IN GENERAL.—Section 609(a)(9) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(9)) is amended by striking “the name and address” and inserting “the address”.

29 USC 1169  
note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall be effective as if included in the enactment of section 5611(b) of the Balanced Budget Act of 1997.

**SEC. 402. SAFEGUARD OF NEW EMPLOYEE INFORMATION.**

(a) PENALTY FOR UNAUTHORIZED ACCESS, DISCLOSURE, OR USE OF INFORMATION.—Section 453(l) of the Social Security Act (42 U.S.C. 653(l)) is amended—

(1) by striking “Information” and inserting the following:

- “(1) IN GENERAL.—Information”; and  
(2) by adding at the end the following:

“(2) PENALTY FOR MISUSE OF INFORMATION IN THE NATIONAL DIRECTORY OF NEW HIRES.—The Secretary shall require the imposition of an administrative penalty (up to and including dismissal from employment), and a fine of \$1,000, for each act of unauthorized access to, disclosure of, or use of, information in the National Directory of New Hires established under subsection (i) by any officer or employee of the United States who knowingly and willfully violates this paragraph.”.

(b) LIMITS ON RETENTION OF DATA IN THE NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(2) of such Act (42 U.S.C. 653(i)(2)) is amended to read as follows:

“(2) DATA ENTRY AND DELETION REQUIREMENTS.—

“(A) IN GENERAL.—Information provided pursuant to section 453A(g)(2) shall be entered into the data base maintained by the National Directory of New Hires within two business days after receipt, and shall be deleted from the data base 24 months after the date of entry.

“(B) 12-MONTH LIMIT ON ACCESS TO WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The Secretary shall not have access for child support enforcement purposes to information in the National Directory of New Hires that is provided pursuant to section 453A(g)(2)(B), if 12 months has elapsed since the date the information is so provided and there has not been a match resulting from the use of such information in any information comparison under this subsection.

“(C) RETENTION OF DATA FOR RESEARCH PURPOSES.—Notwithstanding subparagraphs (A) and (B), the Secretary may retain such samples of data entered in the National Directory of New Hires as the Secretary may find necessary to assist in carrying out subsection (j)(5).”.

(c) NOTICE OF PURPOSES FOR WHICH WAGE AND SALARY DATA ARE TO BE USED.—Within 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of the specific purposes for which the new hire and the wage and unemployment compensation information in the National Directory of New Hires is to be used. At least 30 days before such information is to be used for a purpose not specified in the notice provided pursuant to the preceding sentence, the Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of such purpose.

Deadline.  
42 USC 653 note.

(d) REPORT BY THE SECRETARY.—Within 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the accuracy of the data maintained by the National Directory of New Hires pursuant to section 453(i) of the Social Security Act, and the effectiveness of the procedures designed to provide for the security of such data.

Deadline.  
42 USC 653 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2000.

42 USC 653 note.

Grants.

**SEC. 403. LIMITATIONS ON USE OF TANF FUNDS FOR MATCHING UNDER CERTAIN FEDERAL TRANSPORTATION PROGRAM.**

(a) IN GENERAL.—Section 404 of the Social Security Act (42 U.S.C. 604) is amended by adding at the end the following:

“(k) LIMITATIONS ON USE OF GRANT FOR MATCHING UNDER CERTAIN FEDERAL TRANSPORTATION PROGRAM.—

“(1) USE LIMITATIONS.—A State to which a grant is made under section 403 may not use any part of the grant to match funds made available under section 3037 of the Transportation Equity Act for the 21st Century, unless—

“(A) the grant is used for new or expanded transportation services (and not for construction) that benefit individuals described in subparagraph (C), and not to subsidize current operating costs;

“(B) the grant is used to supplement and not supplant other State expenditures on transportation;

“(C) the preponderance of the benefits derived from such use of the grant accrues to individuals who are—

“(i) recipients of assistance under the State program funded under this part;

“(ii) former recipients of such assistance;

“(iii) noncustodial parents who are described in item (aa) or (bb) of section 403(a)(5)(C)(ii)(II); and

“(iv) low-income individuals who are at risk of qualifying for such assistance; and

“(D) the services provided through such use of the grant promote the ability of such recipients to engage in work activities (as defined in section 407(d)).

“(2) AMOUNT LIMITATION.—From a grant made to a State under section 403(a), the amount that a State uses to match funds described in paragraph (1) of this subsection shall not exceed the amount (if any) by which 30 percent of the total amount of the grant exceeds the amount (if any) of the grant that is used by the State to carry out any State program described in subsection (d)(1) of this section.

“(3) RULE OF INTERPRETATION.—The provision by a State of a transportation benefit under a program conducted under section 3037 of the Transportation Equity Act for the 21st Century, to an individual who is not otherwise a recipient of assistance under the State program funded under this part, using funds from a grant made under section 403(a) of this Act, shall not be considered to be the provision of assistance to the individual under the State program funded under this part.”.

Deadline.  
49 USC 5309  
note.

(b) REPORT TO THE CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Health and Human Services, shall submit to the Committees on Ways and Means and on Transportation and Infrastructure of the House of Representatives and the Committees on Finance and on Environment and Public Works of the Senate a report that—

(1) describes the manner in which funds made available under section 3037 of the Transportation Equity Act for the 21st Century have been used;

(2) describes whether such uses of such funds has improved transportation services for low-income individuals; and

(3) contains such other relevant information as may be appropriate.

**SEC. 404. CLARIFICATION OF MEANING OF HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT OF CHILD SUPPORT IN INTERSTATE CASES.**

(a) **IN GENERAL.**—Section 466(a)(14)(B) of the Social Security Act (42 U.S.C. 666(a)(14)(B)) is amended to read as follows:

“(B) **HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT.**—In this part, the term ‘high-volume automated administrative enforcement’, in interstate cases, means, on request of another State, the identification by a State, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in other States, and the seizure of such assets by the State, through levy or other appropriate processes.”.

(b) **RETROACTIVITY.**—The amendment made by subsection (a) shall take effect as if included in the enactment of section 5550 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 633).

42 USC 666 note.

**SEC. 405. GENERAL ACCOUNTING OFFICE REPORTS.**

Deadlines.

(a) **REPORT ON FEASIBILITY OF INSTANT CHECK SYSTEM.**—Not later than December 31, 1998, the Comptroller General of the United States shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the feasibility and cost of creating and maintaining a nationwide instant child support order check system under which an employer would be able to determine whether a newly hired employee is required to provide support under a child support order.

(b) **REPORT ON IMPLEMENTATION AND USE OF CHILD SUPPORT DATABASES.**—Not later than December 31, 1998, the Comptroller General of the United States shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the implementation of the Federal Parent Locator Service (including the Federal Case Registry of Child Support Orders and the National Directory of New Hires) established under section 453 of the Social Security Act (42 U.S.C. 653) and the State Directory of New Hires established under section 453A of such Act (42 U.S.C. 653a). The report shall include a detailed discussion of the purposes for which, and the manner in which, the information maintained in such databases has been used, and an examination as to whether such databases are subject to adequate safeguards to protect the privacy of the individuals with respect to whom information is reported and maintained.

**SEC. 406. DATA MATCHING BY MULTISTATE FINANCIAL INSTITUTIONS.**

(a) **USE OF FEDERAL PARENT LOCATOR SERVICE.**—Section 466(a)(17)(A)(i) of the Social Security Act (42 U.S.C. 666(a)(17)(A)(i)) is amended by inserting “and the Federal Parent Locator Service in the case of financial institutions doing business in two or more States,” before “a data match system”.

(b) **FACILITATION OF AGREEMENTS.**—Section 452 of such Act (42 U.S.C. 652) is amended by adding at the end the following:

“(1) The Secretary, through the Federal Parent Locator Service, may aid State agencies providing services under State programs

operated pursuant to this part and financial institutions doing business in two or more States in reaching agreements regarding the receipt from such institutions, and the transfer to the State agencies, of information that may be provided pursuant to section 466(a)(17)(A)(i), except that any State that, as of the date of the enactment of this subsection, is conducting data matches pursuant to section 466(a)(17)(A)(i) shall have until January 1, 2000, to allow the Secretary to obtain such information from such institutions that are operating in the State. For purposes of section 1113(d) of the Right to Financial Privacy Act of 1978, a disclosure pursuant to this subsection shall be considered a disclosure pursuant to a Federal statute.”.

(c) **PROTECTION AGAINST LIABILITY.**—Section 469A(a) of such Act (42 U.S.C. 669a(a)) is amended by inserting “, or for disclosing any such record to the Federal Parent Locator Service pursuant to section 466(a)(17)(A)” before the period.

**SEC. 407. ELIMINATION OF UNNECESSARY DATA REPORTING.**

(a) **IN GENERAL.**—Section 469 of the Social Security Act (42 U.S.C. 669) is amended—

(1) by striking all that precedes subsection (c) and inserting the following:

**“SEC. 469. COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA.**

“(a) **IN GENERAL.**—With respect to each type of service described in subsection (b), the Secretary shall collect and maintain up-to-date statistics, by State, and on a fiscal year basis, on—

“(1) the number of cases in the caseload of the State agency administering the plan approved under this part in which the service is needed; and

“(2) the number of such cases in which the service has actually been provided.

“(b) **TYPES OF SERVICES.**—The statistics required by subsection (a) shall be separately stated with respect to paternity establishment services and child support obligation establishment services.

“(c) **TYPES OF SERVICE RECIPIENTS.**—The statistics required by subsection (a) shall be separately stated with respect to—

“(1) recipients of assistance under a State program funded under part A or of payments or services under a State plan approved under part E; and

“(2) individuals who are not such recipients.”; and

(2) in subsection (c), by striking “(c)” and inserting “(d) **RULE OF INTERPRETATION.**—”.

(b) **CONFORMING AMENDMENT.**—Section 452(a)(10) of such Act (42 U.S.C. 652(a)(10)) is amended—

(1) by adding “and” at the end of subparagraph (H); and

(2) by striking subparagraph (I) and redesignating subparagraph (J) as subparagraph (I).

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to information maintained with respect to fiscal year 1995 or any succeeding fiscal year.

**SEC. 408. CLARIFICATION OF ELIGIBILITY UNDER WELFARE-TO-WORK PROGRAMS.**

Section 403(a)(5)(C)(ii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(ii)) is amended—

Applicability.  
42 USC 652 note.



(1) in the matter preceding subclause (I) by striking “of minors whose custodial parent is such a recipient”;

(2) in subclause (I), by inserting “or the noncustodial parent” after “recipient”; and

(3) in subclause (II), by striking “The individual—” and inserting “The recipient or the minor children of the non-custodial parent—”.

**SEC. 409. STUDY OF FEASIBILITY OF IMPLEMENTING IMMIGRATION PROVISIONS OF H.R. 3130, AS PASSED BY THE HOUSE OF REPRESENTATIVES ON MARCH 5, 1998.**

(a) **STUDY.**—The Secretary of Health and Human Services, in consultation with the Immigration and Naturalization Service, shall conduct a study to determine the feasibility of the provisions of title V of H.R. 3130, as passed by the House of Representatives on March 5, 1998, were such provisions to become law, especially whether it would be feasible for the Immigration and Naturalization Service to implement effectively the requirements of such provisions.

(b) **REPORT TO THE CONGRESS.**—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committees on Ways and Means and on the Judiciary of the House of Representatives and the Committees on Finance and on the Judiciary of the Senate a report on the results of the study required by subsection (a).

Deadline.

**SEC. 410. TECHNICAL CORRECTIONS.**

(a) Section 413(g)(1) of the Social Security Act (42 U.S.C. 613(g)(1)) is amended by striking “Economic and Educational Opportunities” and inserting “Education and the Workforce”.

(b) Section 422(b)(2) of the Social Security Act (42 U.S.C. 622(b)(2)) is amended by striking “under under” and inserting “under”.

(c) Section 432(a)(8) of the Social Security Act (42 U.S.C. 632(a)(8)) is amended by adding “; and” at the end.

42 USC 629b.

(d) Section 453(a)(2) of the Social Security Act (42 U.S.C. 653(a)(2)) is amended—

(1) by striking “parentage,” and inserting “parentage or”;

(2) by striking “or making or enforcing child custody or visitation orders,”; and

(3) in subparagraph (A), by decreasing the indentation of clause (iv) by 2 ems.

(e)(1) Section 5557(b) of the Balanced Budget Act of 1997 (42 U.S.C. 608 note) is amended by adding at the end the following: “The amendment made by section 5536(1)(A) shall not take effect with respect to a State until October 1, 2000, or such earlier date as the State may select.”.

Effective dates.

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 5557 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 637).

42 USC 608 note.

(f) Section 473A(c)(2)(B) of the Social Security Act (42 U.S.C. 673b(c)(2)(B)) is amended—

(1) by striking “November 30, 1997” and inserting “April 30, 1998”; and

(2) by striking “March 1, 1998” and inserting “July 1, 1998”.

(g) Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended by striking “(subject to the limitations imposed by subsection (b))”.

(h) Section 232 of the Social Security Act Amendments of 1994 (42 U.S.C. 1314a) is amended—

- (1) in subsection (b)(3)(D), by striking “Energy and”; and
- (2) in subsection (d)(4), by striking “(b)(3)(C)” and inserting “(b)(3)”.

Approved July 16, 1998.

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LEGISLATIVE HISTORY—H.R. 3130:

HOUSE REPORTS: No. 105–422 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 5, considered and passed House.

Apr. 2, considered and passed Senate, amended.

June 25, House concurred in Senate amendments with amendments.

June 26, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

July 16, Presidential statement.



Public Law 105–201  
105th Congress

Joint Resolution

Approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital.

July 16, 1998  
[H.J. Res. 113]

Whereas section 508 of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 1003 note; 110 Stat. 4157) authorized the Alpha Phi Alpha Fraternity to establish a memorial on Federal land in the District of Columbia to honor Martin Luther King, Jr.;

Whereas section 6(a) of the Commemorative Works Act (40 U.S.C. 1006(a)) provides that the location of a commemorative work in the area described as Area I (within the meaning of the Act) shall be deemed not authorized unless approved by law not later than 150 days after notification to Congress that the Secretary of the Interior recommends location of the commemorative work in Area I; and

Whereas the Secretary of the Interior has notified Congress of the recommendation of the Secretary that the memorial be located in Area I: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MARTIN LUTHER KING, JR., MEMORIAL.**

The location of the commemorative work to honor Martin Luther King, Jr., authorized by section 508 of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 1003 note; 110 Stat. 4157), within Area I is approved under section 6(a) of the Commemorative Works Act (40 U.S.C. 1006(a)).

40 USC 1003  
note.

Approved July 16, 1998.

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LEGISLATIVE HISTORY—H.J. Res. 113 (S.J. Res. 41):

HOUSE REPORTS: No. 105–589 (Comm. on Resources).

SENATE REPORTS: No. 105–210 accompanying S.J. Res. 41 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 22, considered and passed House.

June 25, considered and passed Senate.



Public Law 105–202  
105th Congress

An Act

July 16, 1998 [S. 731]	To extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes.
40 USC 1003 note.	<i>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,</i> That notwithstanding section 10(b) of Public Law 99–652 and section 1(a) of Public Law 103–321, the legislative authority for the National Peace Garden shall extend through June 30, 2002.
North Carolina.	<b>SEC. 2. MAINTENANCE OF WILD HORSES IN CAPE LOOKOUT NATIONAL SEASHORE.</b>  Section 5 of the Act entitled “An Act to provide for the establishment of the Cape Lookout National Seashore in the State of North Carolina, and for other purposes”, approved March 10, 1966 (Public Law 89–366; 16 U.S.C. 459g–4), is amended by inserting “(a)” after “SEC. 5.”, and by adding at the end the following new subsection:  “(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of 100 free roaming horses in Cape Lookout National Seashore (hereinafter referred to as the “seashore”): <i>Provided</i> , That nothing in this section shall be construed to preclude the Secretary from implementing or enforcing the provisions of paragraph (3).  “(2) Within 180 days after enactment of this subsection, the Secretary shall enter into an agreement with the Foundation for Shackelford Horses (a nonprofit corporation established under the laws of the State of North Carolina), or another qualified nonprofit entity, to provide for management of free roaming horses in the seashore. The agreement shall—  “(A) provide for cost-effective management of the horses while ensuring that natural resources within the seashore are not adversely impacted; and  “(B) allow the authorized entity to adopt any of those horses that the Secretary removes from the seashore.  “(3) The Secretary shall not remove, assist in, or permit the removal of any free roaming horses from Federal lands within the boundaries of the seashore—  “(A) unless the entity with whom the Secretary has entered into the agreement under paragraph (2), following notice and a 90-day response period, fails to meet the terms and conditions of the agreement; or  “(B) unless the number of free roaming horses on Federal lands within Cape Lookout National Seashore exceeds 110; or  “(C) except in the case of an emergency, or to protect public health and safety.
Contracts.	

“(4) The Secretary shall annually monitor, assess, and make available to the public findings regarding the population, structure, and health of the free roaming horses in the national seashore. Public information.

“(5) Nothing in this subsection shall be construed to require the Secretary to replace horses or otherwise increase the number of horses within the boundaries of the seashore where the herd numbers fall below 100 as a result of natural causes, including, but not limited to, disease or natural disasters.

“(6) Nothing in this subsection shall be construed as creating liability for the United States for any damages caused by the free roaming horses to property located inside or outside the boundaries of the seashore.”.

Approved July 16, 1998.

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**LEGISLATIVE HISTORY—S. 731:**

HOUSE REPORTS: No. 105-362 (Comm. on Resources).

SENATE REPORTS: No. 105-40 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): July 11, considered and passed Senate.

Nov. 13, considered and passed House, amended.

Vol. 144 (1998): June 25, Senate concurred in House amendment.



Public Law 105–203  
105th Congress

An Act

July 21, 1998  
[H.R. 1635]

To establish within the United States National Park Service the National Underground Railroad Network to Freedom program, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

National  
Underground  
Railroad  
Network to  
Freedom Act of  
1998.

16 USC 461 note.  
16 USC 469f.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Underground Railroad Network to Freedom Act of 1998”.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—The Congress finds the following:

(1) The Underground Railroad, which flourished from the end of the 18th century to the end of the Civil War, was one of the most significant expressions of the American civil rights movement during its evolution over more than three centuries.

(2) The Underground Railroad bridged the divides of race, religion, sectional differences, and nationality; spanned State lines and international borders; and joined the American ideals of liberty and freedom expressed in the Declaration of Independence and the Constitution to the extraordinary actions of ordinary men and women working in common purpose to free a people.

(3) Pursuant to title VI of Public Law 101–628 (16 U.S.C. 1a–5 note; 104 Stat. 4495), the Underground Railroad Advisory Committee conducted a study of the appropriate means of establishing an enduring national commemorative Underground Railroad program of education, example, reflection, and reconciliation.

(4) The Underground Railroad Advisory Committee found that—

(A) although a few elements of the Underground Railroad story are represented in existing National Park Service units and other sites, many sites are in imminent danger of being lost or destroyed, and many important resource types are not adequately represented and protected;

(B) there are many important sites which have high potential for preservation and visitor use in 29 States, the District of Columbia, and the Virgin Islands;

(C) no single site or route completely reflects and characterizes the Underground Railroad, since its story and associated resources involve networks and regions of the country rather than individual sites and trails; and

(D) establishment of a variety of partnerships between the Federal Government and other levels of government and the private sector would be most appropriate for the protection and interpretation of the Underground Railroad.

(5) The National Park Service can play a vital role in facilitating the national commemoration of the Underground Railroad.

(6) The story and significance of the Underground Railroad can best engage the American people through a national program of the National Park Service that links historic buildings, structures, and sites; routes, geographic areas, and corridors; interpretive centers, museums, and institutions; and programs, activities, community projects, exhibits, and multimedia materials, in a manner that is both unified and flexible.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To recognize the importance of the Underground Railroad, the sacrifices made by those who used the Underground Railroad in search of freedom from tyranny and oppression, and the sacrifices made by the people who helped them.

(2) To authorize the National Park Service to coordinate and facilitate Federal and non-Federal activities to commemorate, honor, and interpret the history of the Underground Railroad, its significance as a crucial element in the evolution of the national civil rights movement, and its relevance in fostering the spirit of racial harmony and national reconciliation.

**SEC. 3. NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM PROGRAM.** 16 USC 469/-1.

(a) IN GENERAL.—The Secretary of the Interior (in this Act referred to as the “Secretary”) shall establish in the National Park Service a program to be known as the “National Underground Railroad Network to Freedom” (in this Act referred to as the “national network”). Under the program, the Secretary shall—

(1) produce and disseminate appropriate educational materials, such as handbooks, maps, interpretive guides, or electronic information;

(2) enter into appropriate cooperative agreements and memoranda of understanding to provide technical assistance under subsection (c); and

(3) create and adopt an official, uniform symbol or device for the national network and issue regulations for its use.

(b) ELEMENTS.—The national network shall encompass the following elements:

(1) All units and programs of the National Park Service determined by the Secretary to pertain to the Underground Railroad.

(2) Other Federal, State, local, and privately owned properties pertaining to the Underground Railroad that have a verifiable connection to the Underground Railroad and that are included on, or determined by the Secretary to be eligible for inclusion on, the National Register of Historic Places.

(3) Other governmental and nongovernmental facilities and programs of an educational, research, or interpretive nature that are directly related to the Underground Railroad.

(c) COOPERATIVE AGREEMENTS AND MEMORANDA OF UNDERSTANDING.—To achieve the purposes of this Act and to ensure

effective coordination of the Federal and non-Federal elements of the national network referred to in subsection (b) with National Park Service units and programs, the Secretary may enter into cooperative agreements and memoranda of understanding with, and provide technical assistance to—

(1) the heads of other Federal agencies, States, localities, regional governmental bodies, and private entities; and

(2) in cooperation with the Secretary of State, the governments of Canada, Mexico, and any appropriate country in the Caribbean.

(d) APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act not more than \$500,000 for each fiscal year. No amounts may be appropriated for the purposes of this Act except to the Secretary for carrying out the responsibilities of the Secretary as set forth in section 3(a).

Approved July 21, 1998.

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LEGISLATIVE HISTORY—H.R. 1635 (S. 887):

HOUSE REPORTS: No. 105-559 (Comm. on Resources).

SENATE REPORTS: No. 105-217 accompanying S. 887 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 9, considered and passed House.

June 25, considered and passed Senate.





Public Law 105–204  
105th Congress

An Act

To require the Secretary of Energy to submit to Congress a plan to ensure that all amounts accrued on the books of the United States Enrichment Corporation for the disposition of depleted uranium hexafluoride will be used to treat and recycle depleted uranium hexafluoride.

July 21, 1998  
[S. 2316]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. UNITED STATES ENRICHMENT CORPORATION.**

President.

(a) PLAN.—The Secretary of Energy shall prepare, and the President shall include in the budget request for fiscal year 2000, a plan and proposed legislation to ensure that all amounts accrued on the books of the United States Enrichment Corporation for the disposition of depleted uranium hexafluoride will be used to commence construction of, not later than January 31, 2004, and to operate, an onsite facility at each of the gaseous diffusion plants at Paducah, Kentucky, and Portsmouth, Ohio, to treat and recycle depleted uranium hexafluoride consistent with the National Environmental Policy Act.

Ohio.

(b) LIMITATION.—Notwithstanding the privatization of the United States Enrichment Corporation and notwithstanding any other provision of law (including the repeal of chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297 et seq.) made by section 3116(a)(1) of the United States Enrichment Corporation Privatization Act (104 Stat. 1321–349), no amounts described in subsection (a) shall be withdrawn from the United States Enrichment Corporation Fund established by section 1308 of the Atomic Energy Act of 1954 (42 U.S.C. 2297b–7) or the Working Capital Account established under section 1316 of the Atomic Energy Act of 1954 (42 U.S.C. 2297b–15) until the date that is 1 year after the date on which the President submits to Congress the budget request for fiscal year 2000.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should authorize appropriations during fiscal year 2000 in an amount sufficient to fully fund the plan described in subsection (a).

Approved July 21, 1998.

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LEGISLATIVE HISTORY—S. 2316:

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 16, considered and passed Senate.

July 20, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

July 21, Presidential statement.



Public Law 105–205  
105th Congress

An Act

To amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

July 22, 1998  
[H.R. 1316]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DOMESTIC RELATIONS ORDERS.**

Section 8705 of title 5, United States Code, is amended—

(1) in subsection (a) by striking “(a) The” and inserting “(a) Except as provided in subsection (e), the”; and

(2) by adding at the end the following:

“(e)(1) Any amount which would otherwise be paid to a person determined under the order of precedence named by subsection (a) shall be paid (in whole or in part) by the Office to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation.

“(2) For purposes of this subsection, a decree, order, or agreement referred to in paragraph (1) shall not be effective unless it is received, before the date of the covered employee’s death, by the employing agency or, if the employee has separated from service, by the Office.

“(3) A designation under this subsection with respect to any person may not be changed except—

“(A) with the written consent of such person, if received as described in paragraph (2); or

“(B) by modification of the decree, order, or agreement, as the case may be, if received as described in paragraph (2).

“(4) The Office shall prescribe any regulations necessary to carry out this subsection, including regulations for the application of this subsection in the event that two or more decrees, orders, or agreements, are received with respect to the same amount.”.

Regulations.

**SEC. 2. DIRECTED ASSIGNMENT.**

Section 8706(e) of title 5, United States Code, is amended—

(1) by striking “(e)” and inserting “(e)(1)”; and

(2) by adding at the end the following:

“(2) A court decree of divorce, annulment, or legal separation, or the terms of a court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation, may direct that an insured employee or former employee

make an irrevocable assignment of the employee's or former employee's incidents of ownership in insurance under this chapter (if there is no previous assignment) to the person specified in the court order or court-approved property settlement agreement.”.

Approved July 22, 1998.

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LEGISLATIVE HISTORY—H.R. 1316:

HOUSE REPORTS: No. 105–134 (Comm. on Government Reform and Oversight).

CONGRESSIONAL RECORD:

Vol. 143 (1997): June 24, considered and passed House.

Vol. 144 (1998): June 18, considered and passed Senate.



Public Law 105–206  
105th Congress

An Act

To amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

July 22, 1998  
[H.R. 2676]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; WAIVER OF ESTIMATED TAX PENALTIES; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Internal Revenue Service Restructuring and Reform Act of 1998”.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) **WAIVER OF ESTIMATED TAX PENALTIES.**—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an installment required to be paid on or before the 30th day after the date of the enactment of this Act to the extent such underpayment was created or increased by any provision of this Act.

(d) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Internal Revenue  
Service  
Restructuring  
and Reform Act  
of 1998.  
26 USC 1 note.

26 USC 6654  
note.

Sec. 1. Short title; amendment of 1986 Code; waiver of estimated tax penalties; table of contents.

**TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE  
INTERNAL REVENUE SERVICE**

**Subtitle A—Reorganization of the Internal Revenue Service**

Sec. 1001. Reorganization of the Internal Revenue Service.

Sec. 1002. Internal Revenue Service mission to focus on taxpayers’ needs.

**Subtitle B—Executive Branch Governance and Senior Management**

Sec. 1101. Internal Revenue Service Oversight Board.

Sec. 1102. Commissioner of Internal Revenue; other officials.

Sec. 1103. Treasury Inspector General for Tax Administration.

Sec. 1104. Other personnel.

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**Subtitle C—Personnel Flexibilities**

Sec. 1201. Improvements in personnel flexibilities.

Sec. 1202. Voluntary separation incentive payments.

Sec. 1203. Termination of employment for misconduct.

Sec. 1204. Basis for evaluation of Internal Revenue Service employees.

Sec. 1205. Employee training program.

**TITLE II—ELECTRONIC FILING**

Sec. 2001. Electronic filing of tax and information returns.

- Sec. 2002. Due date for certain information returns.
- Sec. 2003. Paperless electronic filing.
- Sec. 2004. Return-free tax system.
- Sec. 2005. Access to account information.

### TITLE III—TAXPAYER PROTECTION AND RIGHTS

- Sec. 3000. Short title.

#### Subtitle A—Burden of Proof

- Sec. 3001. Burden of proof.

#### Subtitle B—Proceedings by Taxpayers

- Sec. 3101. Expansion of authority to award costs and certain fees.
- Sec. 3102. Civil damages for collection actions.
- Sec. 3103. Increase in size of cases permitted on small case calendar.
- Sec. 3104. Actions for refund with respect to certain estates which have elected the installment method of payment.
- Sec. 3105. Administrative appeal of adverse Internal Revenue Service determination of tax-exempt status of bond issue.
- Sec. 3106. Civil action for release of erroneous lien.

#### Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabilities

- Sec. 3201. Relief from joint and several liability on joint return.
- Sec. 3202. Suspension of statute of limitations on filing refund claims during periods of disability.

#### Subtitle D—Provisions Relating to Interest and Penalties

- Sec. 3301. Elimination of interest rate differential on overlapping periods of interest on tax overpayments and underpayments.
- Sec. 3302. Increase in overpayment rate payable to taxpayers other than corporations.
- Sec. 3303. Mitigation of penalty on individual's failure to pay for months during period of installment agreement.
- Sec. 3304. Mitigation of failure to deposit penalty.
- Sec. 3305. Suspension of interest and certain penalties where Secretary fails to contact individual taxpayer.
- Sec. 3306. Procedural requirements for imposition of penalties and additions to tax.
- Sec. 3307. Personal delivery of notice of penalty under section 6672.
- Sec. 3308. Notice of interest charges.
- Sec. 3309. Abatement of interest on underpayments by taxpayers in Presidentially declared disaster areas.

#### Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities

### PART I—DUE PROCESS

- Sec. 3401. Due process in Internal Revenue Service collection actions.

### PART II—EXAMINATION ACTIVITIES

- Sec. 3411. Confidentiality privileges relating to taxpayer communications.
- Sec. 3412. Limitation on financial status audit techniques.
- Sec. 3413. Software trade secrets protection.
- Sec. 3414. Threat of audit prohibited to coerce tip reporting alternative commitment agreements.
- Sec. 3415. Taxpayers allowed motion to quash all third-party summonses.
- Sec. 3416. Service of summonses to third-party recordkeepers permitted by mail.
- Sec. 3417. Notice of Internal Revenue Service contact of third parties.

### PART III—COLLECTION ACTIVITIES

#### SUBPART A—APPROVAL PROCESS

- Sec. 3421. Approval process for liens, levies, and seizures.

#### SUBPART B—LIENS AND LEVIES

- Sec. 3431. Modifications to certain levy exemption amounts.
- Sec. 3432. Release of levy upon agreement that amount is uncollectible.
- Sec. 3433. Levy prohibited during pendency of refund proceedings.
- Sec. 3434. Approval required for jeopardy and termination assessments and jeopardy levies.
- Sec. 3435. Increase in amount of certain property on which lien not valid.

- Sec. 3436. Waiver of early withdrawal tax for Internal Revenue Service levies on employer-sponsored retirement plans or IRAs.

SUBPART C—SEIZURES

- Sec. 3441. Prohibition of sales of seized property at less than minimum bid.  
Sec. 3442. Accounting of sales of seized property.  
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Sec. 3444. Codification of Internal Revenue Service administrative procedures for seizure of taxpayer's property.  
Sec. 3445. Procedures for seizure of residences and businesses.

PART IV—PROVISIONS RELATING TO EXAMINATION AND COLLECTION ACTIVITIES

- Sec. 3461. Procedures relating to extensions of statute of limitations by agreement.  
Sec. 3462. Offers-in-compromise.  
Sec. 3463. Notice of deficiency to specify deadlines for filing Tax Court petition.  
Sec. 3464. Refund or credit of overpayments before final determination.  
Sec. 3465. Internal Revenue Service procedures relating to appeals of examinations and collections.  
Sec. 3466. Application of certain fair debt collection procedures.  
Sec. 3467. Guaranteed availability of installment agreements.  
Sec. 3468. Prohibition on requests to taxpayers to give up rights to bring actions.

Subtitle F—Disclosures to Taxpayers

- Sec. 3501. Explanation of joint and several liability.  
Sec. 3502. Explanation of taxpayers' rights in interviews with the Internal Revenue Service.  
Sec. 3503. Disclosure of criteria for examination selection.  
Sec. 3504. Explanations of appeals and collection process.  
Sec. 3505. Explanation of reason for refund disallowance.  
Sec. 3506. Statements regarding installment agreements.  
Sec. 3507. Notification of change in tax matters partner.  
Sec. 3508. Disclosure to taxpayers.  
Sec. 3509. Disclosure of Chief Counsel advice.

Subtitle G—Low-Income Taxpayer Clinics

- Sec. 3601. Low-income taxpayer clinics.

Subtitle H—Other Matters

- Sec. 3701. Cataloging complaints.  
Sec. 3702. Archive of records of Internal Revenue Service.  
Sec. 3703. Payment of taxes.  
Sec. 3704. Clarification of authority of Secretary relating to the making of elections.  
Sec. 3705. Internal Revenue Service employee contacts.  
Sec. 3706. Use of pseudonyms by Internal Revenue Service employees.  
Sec. 3707. Illegal tax protester designation.  
Sec. 3708. Provision of confidential information to Congress by whistleblowers.  
Sec. 3709. Listing of local Internal Revenue Service telephone numbers and addresses.  
Sec. 3710. Identification of return preparers.  
Sec. 3711. Offset of past-due, legally enforceable State income tax obligations against overpayments.  
Sec. 3712. Reporting requirements in connection with education tax credit.

Subtitle I—Studies

- Sec. 3801. Administration of penalties and interest.  
Sec. 3802. Confidentiality of tax return information.  
Sec. 3803. Study of noncompliance with internal revenue laws by taxpayers.  
Sec. 3804. Study of payments made for detection of underpayments and fraud.

TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE

Subtitle A—Oversight

- Sec. 4001. Expansion of duties of the Joint Committee on Taxation.  
Sec. 4002. Coordinated oversight reports.

Subtitle B—Century Date Change

- Sec. 4011. Century date change.

Subtitle C—Tax Law Complexity

- Sec. 4021. Role of the Internal Revenue Service.

Sec. 4022. Tax law complexity analysis.

#### TITLE V—ADDITIONAL PROVISIONS

Sec. 5001. Lower capital gains rates to apply to property held more than 1 year.

Sec. 5002. Clarification of exclusion of meals for certain employees.

Sec. 5003. Clarification of designation of normal trade relations.

#### TITLE VI—TECHNICAL CORRECTIONS

Sec. 6001. Short title; coordination with other titles.

Sec. 6002. Definitions.

Sec. 6003. Amendments related to title I of 1997 Act.

Sec. 6004. Amendments related to title II of 1997 Act.

Sec. 6005. Amendments related to title III of 1997 Act.

Sec. 6006. Amendment related to title IV of 1997 Act.

Sec. 6007. Amendments related to title V of 1997 Act.

Sec. 6008. Amendments related to title VII of 1997 Act.

Sec. 6009. Amendments related to title IX of 1997 Act.

Sec. 6010. Amendments related to title X of 1997 Act.

Sec. 6011. Amendments related to title XI of 1997 Act.

Sec. 6012. Amendments related to title XII of 1997 Act.

Sec. 6013. Amendments related to title XIII of 1997 Act.

Sec. 6014. Amendments related to title XIV of 1997 Act.

Sec. 6015. Amendments related to title XV of 1997 Act.

Sec. 6016. Amendments related to title XVI of 1997 Act.

Sec. 6017. Amendment related to Transportation Equity Act for the 21st Century.

Sec. 6018. Amendments related to Small Business Job Protection Act of 1996.

Sec. 6019. Amendments related to Taxpayer Bill of Rights 2.

Sec. 6020. Amendment related to Omnibus Budget Reconciliation Act of 1993.

Sec. 6021. Amendment related to Revenue Reconciliation Act of 1990.

Sec. 6022. Amendment related to Tax Reform Act of 1986.

Sec. 6023. Miscellaneous clerical and deadwood changes.

Sec. 6024. Effective date.

#### TITLE VII—REVENUE PROVISIONS

Sec. 7001. Clarification of deduction for deferred compensation.

Sec. 7002. Termination of exception for certain real estate investment trusts from the treatment of stapled entities.

Sec. 7003. Certain customer receivables ineligible for mark to market treatment.

Sec. 7004. Modification of AGI limit for conversions to Roth IRAs.

#### TITLE VIII—IDENTIFICATION OF LIMITED TAX BENEFITS SUBJECT TO LINE ITEM VETO

Sec. 8001. Identification of limited tax benefits subject to line item veto.

#### TITLE IX—TECHNICAL CORRECTIONS TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Sec. 9001. Short title.

Sec. 9002. Authorization and program subtitle.

Sec. 9003. Restorations to general provisions subtitle.

Sec. 9004. Restorations to program streamlining and flexibility subtitle.

Sec. 9005. Restorations to safety subtitle.

Sec. 9006. Elimination of duplicate provisions.

Sec. 9007. Highway finance.

Sec. 9008. High priority projects technical corrections.

Sec. 9009. Federal Transit Administration programs.

Sec. 9010. Motor carrier safety technical correction.

Sec. 9011. Restorations to research title.

Sec. 9012. Automobile safety and information.

Sec. 9013. Technical corrections regarding subtitle A of title VIII.

Sec. 9014. Corrections to veterans subtitle.

Sec. 9015. Technical corrections regarding title IX.

Sec. 9016. Effective date.



# **TITLE I—REORGANIZATION OF STRUCTURE AND MANAGEMENT OF THE INTERNAL REVENUE SERVICE**

## **Subtitle A—Reorganization of the Internal Revenue Service**

### **SEC. 1001. REORGANIZATION OF THE INTERNAL REVENUE SERVICE.**

26 USC 7801  
note.

(a) **IN GENERAL.**—The Commissioner of Internal Revenue shall develop and implement a plan to reorganize the Internal Revenue Service. The plan shall—

(1) supersede any organization or reorganization of the Internal Revenue Service based on any statute or reorganization plan applicable on the effective date of this section;

(2) eliminate or substantially modify the existing organization of the Internal Revenue Service which is based on a national, regional, and district structure;

(3) establish organizational units serving particular groups of taxpayers with similar needs; and

(4) ensure an independent appeals function within the Internal Revenue Service, including the prohibition in the plan of ex parte communications between appeals officers and other Internal Revenue Service employees to the extent that such communications appear to compromise the independence of the appeals officers.

(b) **SAVINGS PROVISIONS.**—

(1) **PRESERVATION OF SPECIFIC TAX RIGHTS AND REMEDIES.**—Nothing in the plan developed and implemented under subsection (a) shall be considered to impair any right or remedy, including trial by jury, to recover any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority, or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws. For the purpose of any action to recover any such tax, penalty, or sum, all statutes, rules, and regulations referring to the collector of internal revenue, the principal officer for the internal revenue district, or the Secretary, shall be deemed to refer to the officer whose act or acts referred to in the preceding sentence gave rise to such action. The venue of any such action shall be the same as under existing law.

(2) **CONTINUING EFFECT OF LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of any function transferred or affected by the reorganization of the Internal Revenue Service or any other administrative unit of the Department of the Treasury under this section; and

(B) which are in effect at the time this section takes effect, or were final before the effective date of this section

and are to become effective on or after the effective date of this section, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Treasury, the Commissioner of Internal Revenue, or other authorized official, a court of competent jurisdiction, or by operation of law.

(3) **PROCEEDINGS NOT AFFECTED.**—The provisions of this section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) at the time this section takes effect, with respect to functions transferred or affected by the reorganization under this section but such proceedings and applications shall continue. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(4) **SUITS NOT AFFECTED.**—The provisions of this section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(5) **NONABATEMENT OF ACTIONS.**—No suit, action, or other proceeding commenced by or against the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service), or by or against any individual in the official capacity of such individual as an officer of the Department of the Treasury, shall abate by reason of the enactment of this section.

(6) **ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.**—Any administrative action relating to the preparation or promulgation of a regulation by the Department of the Treasury (or any administrative unit of the Department, including the Internal Revenue Service) relating to a function transferred or affected by the reorganization under this section may be continued by the Department of the Treasury through any appropriate administrative unit of the Department, including the Internal Revenue Service with the same effect as if this section had not been enacted.

(c) **EFFECTIVE DATE.**—This section shall take effect on the date of the enactment of this Act.

26 USC 7801  
note.

**SEC. 1002. INTERNAL REVENUE SERVICE MISSION TO FOCUS ON TAXPAYERS' NEEDS.**

The Internal Revenue Service shall review and restate its mission to place a greater emphasis on serving the public and meeting taxpayers' needs.

## **Subtitle B—Executive Branch Governance and Senior Management**

### **SEC. 1101. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.**

(a) **IN GENERAL.**—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

#### **“SEC. 7802. INTERNAL REVENUE SERVICE OVERSIGHT BOARD.**

“(a) **ESTABLISHMENT.**—There is established within the Department of the Treasury the Internal Revenue Service Oversight Board (hereafter in this subchapter referred to as the ‘Oversight Board’).

“(b) **MEMBERSHIP.**—

“(1) **COMPOSITION.**—The Oversight Board shall be composed of nine members, as follows: President.

“(A) six members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate.

“(B) one member shall be the Secretary of the Treasury or, if the Secretary so designates, the Deputy Secretary of the Treasury.

“(C) one member shall be the Commissioner of Internal Revenue.

“(D) one member shall be an individual who is a full-time Federal employee or a representative of employees and who is appointed by the President, by and with the advice and consent of the Senate.

“(2) **QUALIFICATIONS AND TERMS.**—

“(A) **QUALIFICATIONS.**—Members of the Oversight Board described in paragraph (1)(A) shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas:

“(i) Management of large service organizations.

“(ii) Customer service.

“(iii) Federal tax laws, including tax administration and compliance.

“(iv) Information technology.

“(v) Organization development.

“(vi) The needs and concerns of taxpayers.

“(vii) The needs and concerns of small businesses.

In the aggregate, the members of the Oversight Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence.

“(B) **TERMS.**—Each member who is described in subparagraph (A) or (D) of paragraph (1) shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A)—

“(i) two members shall be appointed for a term of 3 years,

“(ii) two members shall be appointed for a term of 4 years; and

“(iii) two members shall be appointed for a term of 5 years.

“(C) REAPPOINTMENT.—An individual who is described in subparagraph (A) or (D) of paragraph (1) may be appointed to no more than two 5-year terms on the Oversight Board.

“(D) VACANCY.—Any vacancy on the Oversight Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed for the remainder of that term.

“(3) ETHICAL CONSIDERATIONS.—

“(A) FINANCIAL DISCLOSURE.—During the entire period that an individual appointed under subparagraph (A) or (D) of paragraph (1) is a member of the Oversight Board, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act, except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

“(B) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, United States Code, an individual appointed under subparagraph (A) or (D) of paragraph (1) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Board, except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

“(C) MEMBERS WHO ARE SPECIAL GOVERNMENT EMPLOYEES.—If an individual appointed under subparagraph (A) or (D) of paragraph (1) is a special Government employee, the following additional rules apply for purposes of chapter 11 of title 18, United States Code:

“(i) RESTRICTION ON REPRESENTATION.—In addition to any restriction under section 205(c) of title 18, United States Code, except as provided in subsections (d) through (i) of section 205 of such title, such individual (except in the proper discharge of official duties) shall not, with or without compensation, represent anyone to or before any officer or employee of—

“(I) the Oversight Board or the Internal Revenue Service on any matter;

“(II) the Department of the Treasury on any matter involving the internal revenue laws or involving the management or operations of the Internal Revenue Service; or

“(III) the Department of Justice with respect to litigation involving a matter described in subclause (I) or (II).

“(ii) COMPENSATION FOR SERVICES PROVIDED BY ANOTHER.—For purposes of section 203 of such title—

“(I) such individual shall not be subject to the restrictions of subsection (a)(1) thereof for sharing in compensation earned by another for representations on matters covered by such section, and

“(II) a person shall not be subject to the restrictions of subsection (a)(2) thereof for sharing such compensation with such individual.

“(D) WAIVER.—The President may, only at the time the President nominates the member of the Oversight Board described in paragraph (1)(D), waive for the term of the member any appropriate provision of chapter 11 of title 18, United States Code, to the extent such waiver is necessary to allow such member to participate in the decisions of the Board while continuing to serve as a full-time Federal employee or a representative of employees. Any such waiver shall not be effective unless a written intent of waiver to exempt such member (and actual waiver language) is submitted to the Senate with the nomination of such member.

“(4) QUORUM.—Five members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

“(5) REMOVAL.—

“(A) IN GENERAL.—Any member of the Oversight Board appointed under subparagraph (A) or (D) of paragraph (1) may be removed at the will of the President.

“(B) SECRETARY AND COMMISSIONER.—An individual described in subparagraph (B) or (C) of paragraph (1) shall be removed upon termination of service in the office described in such subparagraph.

“(6) CLAIMS.—

“(A) IN GENERAL.—Members of the Oversight Board who are described in subparagraph (A) or (D) of paragraph (1) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member.

“(B) EFFECT ON OTHER LAW.—This paragraph shall not be construed—

“(i) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions;

“(ii) to affect any other right or remedy against the United States under applicable law; or

“(iii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

“(c) GENERAL RESPONSIBILITIES.—

“(1) OVERSIGHT.—

“(A) IN GENERAL.—The Oversight Board shall oversee the Internal Revenue Service in its administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

“(B) MISSION OF IRS.—As part of its oversight functions described in subparagraph (A), the Oversight Board shall ensure that the organization and operation of the Internal Revenue Service allows it to carry out its mission.

“(C) CONFIDENTIALITY.—The Oversight Board shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

“(2) EXCEPTIONS.—The Oversight Board shall have no responsibilities or authority with respect to—

“(A) the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions,

“(B) specific law enforcement activities of the Internal Revenue Service, including specific compliance activities such as examinations, collection activities, and criminal investigations,

“(C) specific procurement activities of the Internal Revenue Service, or

“(D) except as provided in subsection (d)(3), specific personnel actions.

“(d) SPECIFIC RESPONSIBILITIES.—The Oversight Board shall have the following specific responsibilities:

“(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

“(A) mission and objectives, and standards of performance relative to either, and

“(B) annual and long-range strategic plans.

“(2) OPERATIONAL PLANS.—To review the operational functions of the Internal Revenue Service, including—

“(A) plans for modernization of the tax system,

“(B) plans for outsourcing or managed competition, and

“(C) plans for training and education.

“(3) MANAGEMENT.—To—

“(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner;

“(B) review the Commissioner’s selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service; and

“(C) review and approve the Commissioner’s plans for any major reorganization of the Internal Revenue Service.

“(4) BUDGET.—To—

“(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner;

“(B) submit such budget request to the Secretary of the Treasury; and

“(C) ensure that the budget request supports the annual and long-range strategic plans.

“(5) TAXPAYER PROTECTION.—To ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

The Secretary shall submit the budget request referred to in paragraph (4)(B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President’s annual budget request for the Internal Revenue Service for such fiscal year.

“(e) BOARD PERSONNEL MATTERS.—

“(1) COMPENSATION OF MEMBERS.—

“(A) IN GENERAL.—Each member of the Oversight Board who—

“(i) is described in subsection (b)(1)(A); or

“(ii) is described in subsection (b)(1)(D) and is not otherwise a Federal officer or employee, shall be compensated at a rate of \$30,000 per year. All other members shall serve without compensation for such service.

“(B) CHAIRPERSON.—In lieu of the amount specified in subparagraph (A), the Chairperson of the Oversight Board shall be compensated at a rate of \$50,000 per year.

“(2) TRAVEL EXPENSES.—

“(A) IN GENERAL.—The members of the Oversight Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, to attend meetings of the Oversight Board and, with the advance approval of the Chairperson of the Oversight Board, while otherwise away from their homes or regular places of business for purposes of duties as a member of the Oversight Board.

“(B) REPORT.—The Oversight Board shall include in its annual report under subsection (f)(3)(A) information with respect to the travel expenses allowed for members of the Oversight Board under this paragraph.

“(3) STAFF.—

“(A) IN GENERAL.—The Chairperson of the Oversight Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

“(B) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairperson of the Oversight Board, a Federal agency shall detail a Federal Government employee to the Oversight Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

“(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Oversight Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

“(f) ADMINISTRATIVE MATTERS.—

“(1) CHAIR.—

“(A) TERM.—The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A).

“(B) POWERS.—Except as otherwise provided by a majority vote of the Oversight Board, the powers of the Chairperson shall include—

“(i) establishing committees;

“(ii) setting meeting places and times;

“(iii) establishing meeting agendas; and

“(iv) developing rules for the conduct of business.

“(2) MEETINGS.—The Oversight Board shall meet at least quarterly and at such other times as the Chairperson determines appropriate.

“(3) REPORTS.—

“(A) ANNUAL.—The Oversight Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

“(B) ADDITIONAL REPORT.—Upon a determination by the Oversight Board under subsection (c)(1)(B) that the organization and operation of the Internal Revenue Service are not allowing it to carry out its mission, the Oversight Board shall report such determination to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.”.

(b) RESTRICTION ON DISCLOSURE OF RETURN INFORMATION TO OVERSIGHT BOARD MEMBERS.—Section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

“(5) INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—

“(A) IN GENERAL.—Notwithstanding paragraph (1), and except as provided in subparagraph (B), no return or return information may be disclosed to any member of the Oversight Board described in subparagraph (A) or (D) of section 7802(b)(1) or to any employee or detailee of such Board by reason of their service with the Board. Any request for information not permitted to be disclosed under the preceding sentence, and any contact relating to a specific taxpayer, made by any such individual to an officer or employee of the Internal Revenue Service shall be reported by such officer or employee to the Secretary, the Treasury Inspector General for Tax Administration, and the Joint Committee on Taxation.

“(B) EXCEPTION FOR REPORTS TO THE BOARD.—If—

“(i) the Commissioner or the Treasury Inspector General for Tax Administration prepares any report or other matter for the Oversight Board in order to assist the Board in carrying out its duties; and

“(ii) the Commissioner or such Inspector General determines it is necessary to include any return or return information in such report or other matter to enable the Board to carry out such duties, such return or return information (other than information regarding taxpayer identity) may be disclosed to members, employees, or detailees of the Board solely for the purpose of carrying out such duties.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 4946(c) (relating to definitions and special rules for chapter 42) is amended by striking “or” at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting “, or”, and by adding at the end the following new paragraph:

“(7) a member of the Internal Revenue Service Oversight Board.”.



(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

“Sec. 7802. Internal Revenue Service Oversight Board.”.

(d) EFFECTIVE DATE.—

26 USC 7802  
note.

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INITIAL NOMINATIONS TO INTERNAL REVENUE SERVICE OVERSIGHT BOARD.—The President shall submit the initial nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act.

President.  
Deadline.

(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF OVERSIGHT BOARD.—Nothing in this section shall be construed to invalidate the actions and authority of the Internal Revenue Service prior to the appointment of the members of the Internal Revenue Service Oversight Board.

**SEC. 1102. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.**

(a) IN GENERAL.—Section 7803 (relating to other personnel) is amended to read as follows:

**“SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.**

“(a) COMMISSIONER OF INTERNAL REVENUE.—

“(1) APPOINTMENT.—

“(A) IN GENERAL.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate, to a 5-year term. Such appointment shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

President.

“(B) VACANCY.—Any individual appointed to fill a vacancy in the position of Commissioner occurring before the expiration of the term for which such individual’s predecessor was appointed shall be appointed only for the remainder of that term.

“(C) REMOVAL.—The Commissioner may be removed at the will of the President.

“(D) REAPPOINTMENT.—The Commissioner may be appointed to more than one 5-year term.

“(2) DUTIES.—The Commissioner shall have such duties and powers as the Secretary may prescribe, including the power to—

“(A) administer, manage, conduct, direct, and supervise the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party; and

“(B) recommend to the President a candidate for appointment as Chief Counsel for the Internal Revenue Service when a vacancy occurs, and recommend to the President the removal of such Chief Counsel.

If the Secretary determines not to delegate a power specified in subparagraph (A) or (B), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the

Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

“(3) CONSULTATION WITH BOARD.—The Commissioner shall consult with the Oversight Board on all matters set forth in paragraphs (2) and (3) (other than paragraph (3)(A)) of section 7802(d).

President.

“(b) CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE.—

“(1) APPOINTMENT.—There shall be in the Department of the Treasury a Chief Counsel for the Internal Revenue Service who shall be appointed by the President, by and with the consent of the Senate.

“(2) DUTIES.—The Chief Counsel shall be the chief law officer for the Internal Revenue Service and shall perform such duties as may be prescribed by the Secretary, including the duty—

“(A) to be legal advisor to the Commissioner and the Commissioner’s officers and employees;

“(B) to furnish legal opinions for the preparation and review of rulings and memoranda of technical advice;

“(C) to prepare, review, and assist in the preparation of proposed legislation, treaties, regulations, and Executive orders relating to laws which affect the Internal Revenue Service;

“(D) to represent the Commissioner in cases before the Tax Court; and

“(E) to determine which civil actions should be litigated under the laws relating to the Internal Revenue Service and prepare recommendations for the Department of Justice regarding the commencement of such actions.

If the Secretary determines not to delegate a power specified in subparagraph (A), (B), (C), (D), or (E), such determination may not take effect until 30 days after the Secretary notifies the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

“(3) PERSONS TO WHOM CHIEF COUNSEL REPORTS.—The Chief Counsel shall report directly to the Commissioner of Internal Revenue, except that—

“(A) the Chief Counsel shall report to both the Commissioner and the General Counsel for the Department of the Treasury with respect to—

“(i) legal advice or interpretation of the tax law not relating solely to tax policy;

“(ii) tax litigation; and

“(B) the Chief Counsel shall report to the General Counsel with respect to legal advice or interpretation of the tax law relating solely to tax policy.

If there is any disagreement between the Commissioner and the General Counsel with respect to any matter jointly referred to them under subparagraph (A), such matter shall be submitted to the Secretary or Deputy Secretary for resolution.

“(4) CHIEF COUNSEL PERSONNEL.—All personnel in the Office of Chief Counsel shall report to the Chief Counsel.

“(c) OFFICE OF THE TAXPAYER ADVOCATE.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the ‘Office of the Taxpayer Advocate’.

“(B) NATIONAL TAXPAYER ADVOCATE.—

“(i) IN GENERAL.—The Office of the Taxpayer Advocate shall be under the supervision and direction of an official to be known as the ‘National Taxpayer Advocate’. The National Taxpayer Advocate shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Secretary of the Treasury so determines, at a rate fixed under section 9503 of such title.

“(ii) APPOINTMENT.—The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury after consultation with the Commissioner of Internal Revenue and the Oversight Board and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

“(iii) QUALIFICATIONS.—An individual appointed under clause (ii) shall have—

“(I) a background in customer service as well as tax law; and

“(II) experience in representing individual taxpayers.

“(iv) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate. Service as an officer or employee of the Office of the Taxpayer Advocate shall not be taken into account in applying this clause.

“(2) FUNCTIONS OF OFFICE.—

“(A) IN GENERAL.—It shall be the function of the Office of the Taxpayer Advocate to—

“(i) assist taxpayers in resolving problems with the Internal Revenue Service;

“(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service;

“(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii); and

“(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

“(B) ANNUAL REPORTS.—

“(i) OBJECTIVES.—Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on

Deadline.

Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

Deadline.

“(ii) ACTIVITIES.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

“(I) identify the initiatives the Office of the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness;

“(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811;

“(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems;

“(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action;

“(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory;

“(VI) contain an inventory of the items described in subclauses (I), (II), and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction;

“(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b);

“(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers;

“(IX) identify areas of the tax law that impose significant compliance burdens on taxpayers or the Internal Revenue Service, including specific recommendations for remedying these problems;

“(X) identify the 10 most litigated issues for each category of taxpayers, including recommendations for mitigating such disputes; and

“(XI) include such other information as the National Taxpayer Advocate may deem advisable.

“(iii) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subparagraph shall be provided directly to the committees described in clause (i) without any prior review or comment from the Commissioner, the Secretary of the Treasury, the Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

“(iv) COORDINATION WITH REPORT OF TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—To the extent that information required to be reported under clause (ii) is also required to be reported under paragraph (1) or (2) of subsection (d) by the Treasury Inspector General for Tax Administration, the National Taxpayer Advocate shall not contain such information in the report submitted under such clause.

“(C) OTHER RESPONSIBILITIES.—The National Taxpayer Advocate shall—

“(i) monitor the coverage and geographic allocation of local offices of taxpayer advocates;

“(ii) develop guidance to be distributed to all Internal Revenue Service officers and employees outlining the criteria for referral of taxpayer inquiries to local offices of taxpayer advocates;

“(iii) ensure that the local telephone number for each local office of the taxpayer advocate is published and available to taxpayers served by the office; and

“(iv) in conjunction with the Commissioner, develop career paths for local taxpayer advocates choosing to make a career in the Office of the Taxpayer Advocate.

“(D) PERSONNEL ACTIONS.—

“(i) IN GENERAL.—The National Taxpayer Advocate shall have the responsibility and authority to—

“(I) appoint local taxpayer advocates and make available at least 1 such advocate for each State; and

“(II) evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate described in subclause (I).

“(ii) CONSULTATION.—The National Taxpayer Advocate may consult with the appropriate supervisory personnel of the Internal Revenue Service in carrying out the National Taxpayer Advocate’s responsibilities under this subparagraph.

“(3) RESPONSIBILITIES OF COMMISSIONER.—The Commissioner shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the National Taxpayer Advocate within 3 months after submission to the Commissioner.

Procedures.

“(4) OPERATION OF LOCAL OFFICES.—

“(A) IN GENERAL.—Each local taxpayer advocate—

“(i) shall report to the National Taxpayer Advocate or delegate thereof;

“(ii) may consult with the appropriate supervisory personnel of the Internal Revenue Service regarding

Notification.

the daily operation of the local office of the taxpayer advocate;

“(iii) shall, at the initial meeting with any taxpayer seeking the assistance of a local office of the taxpayer advocate, notify such taxpayer that the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate; and

“(iv) may, at the taxpayer advocate’s discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.

“(B) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each local office of the taxpayer advocate shall maintain a separate phone, facsimile, and other electronic communication access, and a separate post office address.

“(d) ADDITIONAL DUTIES OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—

“(1) ANNUAL REPORTING.—The Treasury Inspector General for Tax Administration shall include in one of the semiannual reports under section 5 of the Inspector General Act of 1978—

“(A) an evaluation of the compliance of the Internal Revenue Service with—

“(i) restrictions under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998 on the use of enforcement statistics to evaluate Internal Revenue Service employees;

“(ii) restrictions under section 7521 on directly contacting taxpayers who have indicated that they prefer their representatives be contacted;

“(iii) required procedures under section 6320 upon the filing of a notice of a lien;

“(iv) required procedures under subchapter D of chapter 64 for seizure of property for collection of taxes, including required procedures under section 6330 regarding levies; and

“(v) restrictions under section 3707 of the Internal Revenue Service Restructuring and Reform Act of 1998 on designation of taxpayers;

“(B) a review and a certification of whether or not the Secretary is complying with the requirements of section 6103(e)(8) to disclose information to an individual filing a joint return on collection activity involving the other individual filing the return;

“(C) information regarding extensions of the statute of limitations for assessment and collection of tax under section 6501 and the provision of notice to taxpayers regarding requests for such extension;

“(D) an evaluation of the adequacy and security of the technology of the Internal Revenue Service;

“(E) any termination or mitigation under section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998;

“(F) information regarding improper denial of requests for information from the Internal Revenue Service identified under paragraph (3)(A); and

“(G) information regarding any administrative or civil actions with respect to violations of the fair debt collection provisions of section 6304, including—

“(i) a summary of such actions initiated since the date of the last report; and

“(ii) a summary of any judgments or awards granted as a result of such actions.

“(2) SEMIANNUAL REPORTS.—

“(A) IN GENERAL.—The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978—

“(i) the number of taxpayer complaints during the reporting period;

“(ii) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources;

“(iii) a summary of the status of such complaints and allegations; and

“(iv) a summary of the disposition of such complaints and allegations, including the outcome of any Department of Justice action and any monies paid as a settlement of such complaints and allegations.

“(B) Clauses (iii) and (iv) of subparagraph (A) shall only apply to complaints and allegations of serious employee misconduct.

Applicability.

“(3) OTHER RESPONSIBILITIES.—The Treasury Inspector General for Tax Administration shall—

“(A) conduct periodic audits of a statistically valid sample of the total number of determinations made by the Internal Revenue Service to deny written requests to disclose information to taxpayers on the basis of section 6103 of this title or section 552(b)(7) of title 5, United States Code; and

“(B) establish and maintain a toll-free telephone number for taxpayers to use to confidentially register complaints of misconduct by Internal Revenue Service employees and incorporate the telephone number in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1).”.

Communications and telecommunication.

(b) NOTICE OF RIGHT TO CONTACT OFFICE INCLUDED IN NOTICE OF DEFICIENCY.—Section 6212(a) (relating to notice of deficiency) is amended by adding at the end the following new sentence: “Such notice shall include a notice to the taxpayer of the taxpayer’s right to contact a local office of the taxpayer advocate and the location and phone number of the appropriate office.”.

(c) EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.—Section 7811(a) (relating to taxpayer assistance orders) is amended to read as follows:

“(a) AUTHORITY TO ISSUE.—

“(1) IN GENERAL.—Upon application filed by a taxpayer with the Office of the Taxpayer Advocate (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the National Taxpayer Advocate may issue a Taxpayer Assistance Order if—

Regulations.

“(A) the National Taxpayer Advocate determines the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary; or

“(B) the taxpayer meets such other requirements as are set forth in regulations prescribed by the Secretary.

“(2) DETERMINATION OF HARDSHIP.—For purposes of paragraph (1), a significant hardship shall include—

“(A) an immediate threat of adverse action;

“(B) a delay of more than 30 days in resolving taxpayer account problems;

“(C) the incurring by the taxpayer of significant costs (including fees for professional representation) if relief is not granted; or

“(D) irreparable injury to, or a long-term adverse impact on, the taxpayer if relief is not granted.

“(3) STANDARD WHERE ADMINISTRATIVE GUIDANCE NOT FOLLOWED.—In cases where any Internal Revenue Service employee is not following applicable published administrative guidance (including the Internal Revenue Manual), the National Taxpayer Advocate shall construe the factors taken into account in determining whether to issue a taxpayer assistance order in the manner most favorable to the taxpayer.”.

(d) CONFORMING AMENDMENTS RELATING TO NATIONAL TAXPAYER ADVOCATE.—

(1) The following provisions are each amended by striking “Taxpayer Advocate” each place it appears and inserting “National Taxpayer Advocate”:

(A) Section 6323(j)(1)(D) (relating to withdrawal of notice in certain circumstances).

(B) Section 6343(d)(2)(D) (relating to return of property in certain cases).

(C) Section 7811(b)(2)(D) (relating to terms of a Taxpayer Assistance Order).

(D) Section 7811(c) (relating to authority to modify or rescind).

(E) Section 7811(d)(2) (relating to suspension of running of period of limitation).

(F) Section 7811(e) (relating to independent action of Taxpayer Advocate).

(G) Section 7811(f) (relating to Taxpayer Advocate).

(2) Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by striking “Taxpayer Advocate’s” and inserting “National Taxpayer Advocate’s”.

(3) The headings of subsections (e) and (f) of section 7811 are each amended by striking “TAXPAYER ADVOCATE” and inserting “NATIONAL TAXPAYER ADVOCATE”.

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7803 and inserting the following new item:

“Sec. 7803. Commissioner of Internal Revenue; other officials.”.

(2) Section 5109 of title 5, United States Code, is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).



(3) Section 7611(f)(1) (relating to restrictions on church tax inquiries and examinations) is amended by striking “Assistant Commissioner for Employee Plans and Exempt Organizations of the Internal Revenue Service” and inserting “Secretary”.

(f) EFFECTIVE DATE.—

26 USC 7803  
note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) CHIEF COUNSEL.—Section 7803(b)(3) of the Internal Revenue Code of 1986, as added by this section, shall take effect on the date that is 90 days after the date of the enactment of this Act.

(3) NATIONAL TAXPAYER ADVOCATE.—Notwithstanding section 7803(c)(1)(B)(iv) of such Code, as added by this section, in appointing the first National Taxpayer Advocate after the date of the enactment of this Act, the Secretary of the Treasury—

(A) shall not appoint any individual who was an officer or employee of the Internal Revenue Service at any time during the 2-year period ending on the date of appointment; and

(B) need not consult with the Internal Revenue Service Oversight Board if the Oversight Board has not been appointed.

(4) CURRENT OFFICERS.—

(A) In the case of an individual serving as Commissioner of Internal Revenue on the date of the enactment of this Act who was appointed to such position before such date, the 5-year term required by section 7803(a)(1) of such Code, as added by this section, shall begin as of the date of such appointment.

(B) Clauses (ii), (iii), and (iv) of section 7803(c)(1)(B) of such Code, as added by this section, shall not apply to the individual serving as Taxpayer Advocate on the date of the enactment of this Act.

#### SEC. 1103. TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.

(a) ESTABLISHMENT OF TWO INSPECTORS GENERAL IN THE DEPARTMENT OF THE TREASURY.—Section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking the matter following paragraph (3) and inserting the following:  
“there is established—

“(A) in each of such establishments an office of Inspector General, subject to subparagraph (B); and

“(B) in the establishment of the Department of the Treasury—

“(i) an Office of Inspector General of the Department of the Treasury; and

“(ii) an Office of Treasury Inspector General for Tax Administration.”.

(b) AMENDMENTS TO SECTION 8D OF THE INSPECTOR GENERAL ACT OF 1978.—

(1) LIMITATION ON AUTHORITY OF INSPECTOR GENERAL.—Section 8D(a) of the Inspector General Act of 1978 (5 U.S.C.

App.) is amended by adding at the end the following new paragraph:

“(4) The Secretary of the Treasury may not exercise any power under paragraph (1) or (2) with respect to the Treasury Inspector General for Tax Administration.”.

(2) DUTIES OF INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY; RELATIONSHIP TO THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Section 8D(b) of such Act is amended—

(A) by inserting “(1)” after “(b)”;

(B) by adding at the end the following new paragraphs:

“(2) The Inspector General of the Department of the Treasury shall exercise all duties and responsibilities of an Inspector General for the Department of the Treasury other than the duties and responsibilities exercised by the Treasury Inspector General for Tax Administration.

“(3) The Secretary of the Treasury shall establish procedures under which the Inspector General of the Department of the Treasury and the Treasury Inspector General for Tax Administration will—

“(A) determine how audits and investigations are allocated in cases of overlapping jurisdiction; and

“(B) provide for coordination, cooperation, and efficiency in the conduct of such audits and investigations.”.

(3) ACCESS TO RETURNS AND RETURN INFORMATION.—Section 8D(e) of such Act is amended—

(A) in paragraph (1), by striking “Inspector General” and inserting “Treasury Inspector General for Tax Administration”;

(B) in paragraph (2), by striking all beginning with “(2)” through subparagraph (B);

(C)(i) by redesignating subparagraph (C) of paragraph (2) as paragraph (2) of such subsection; and

(ii) in such redesignated paragraph (2), by striking “Inspector General” and inserting “Treasury Inspector General for Tax Administration”; and

(D)(i) by redesignating subparagraph (D) of such paragraph as paragraph (3) of such subsection; and

(ii) in such redesignated paragraph (3), by striking “Inspector General” and inserting “Treasury Inspector General for Tax Administration”.

(4) EFFECT ON CERTAIN FINAL DECISIONS OF THE SECRETARY.—Section 8D(f) of such Act is amended by striking “Inspector General” and inserting “Inspector General of the Department of the Treasury or the Treasury Inspector General for Tax Administration”.

(5) REPEAL OF LIMITATION ON REPORTS TO THE ATTORNEY GENERAL.—Section 8D of such Act is amended by striking subsection (g).

(6) TRANSMISSION OF REPORTS.—Section 8D(h) of such Act is amended—

(A) by striking “(h)” and inserting “(g)(1)”;

(B) by striking “and the Committees on Government Operations and Ways and Means of the House of Representatives” and inserting “and the Committees on Government Reform and Oversight and Ways and Means of the House of Representatives”; and

(C) by adding at the end the following new paragraph:

“(2) Any report made by the Treasury Inspector General for Tax Administration that is required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified under such subsection, to the Internal Revenue Service Oversight Board and the Commissioner of Internal Revenue.”.

(7) TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Section 8D of the Act is amended by adding at the end the following new subsections:

5 USC app.

“(h) The Treasury Inspector General for Tax Administration shall exercise all duties and responsibilities of an Inspector General of an establishment with respect to the Department of the Treasury and the Secretary of the Treasury on all matters relating to the Internal Revenue Service. The Treasury Inspector General for Tax Administration shall have sole authority under this Act to conduct an audit or investigation of the Internal Revenue Service Oversight Board and the Chief Counsel for the Internal Revenue Service.

“(i) In addition to the requirements of the first sentence of section 3(a), the Treasury Inspector General for Tax Administration should have demonstrated ability to lead a large and complex organization.

“(j) An individual appointed to the position of Treasury Inspector General for Tax Administration, the Assistant Inspector General for Auditing of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(1), the Assistant Inspector General for Investigations of the Office of the Treasury Inspector General for Tax Administration under section 3(d)(2), or any position of Deputy Inspector General of the Office of the Treasury Inspector General for Tax Administration may not be an employee of the Internal Revenue Service—

“(1) during the 2-year period preceding the date of appointment to such position; or

“(2) during the 5-year period following the date such individual ends service in such position.

“(k)(1) In addition to the duties and responsibilities exercised by an inspector general of an establishment, the Treasury Inspector General for Tax Administration—

“(A) shall have the duty to enforce criminal provisions under section 7608(b) of the Internal Revenue Code of 1986;

“(B) in addition to the functions authorized under section 7608(b)(2) of such Code, may carry firearms;

“(C) shall be responsible for protecting the Internal Revenue Service against external attempts to corrupt or threaten employees of the Internal Revenue Service, but shall not be responsible for the conducting of background checks and the providing of physical security; and

“(D) may designate any employee in the Office of the Treasury Inspector General for Tax Administration to enforce such laws and perform such functions referred to under subparagraphs (A), (B), and (C).

“(2)(A) In performing a law enforcement function under paragraph (1), the Treasury Inspector General for Tax Administration shall report any reasonable grounds to believe there has been a violation of Federal criminal law to the Attorney General at

an appropriate time as determined by the Treasury Inspector General for Tax Administration, notwithstanding section 4(d).

“(B) In the administration of section 5(d) and subsection (g)(2) of this section, the Secretary of the Treasury may transmit the required report with respect to the Treasury Inspector General for Tax Administration at an appropriate time as determined by the Secretary, if the problem, abuse, or deficiency relates to—

“(i) the performance of a law enforcement function under paragraph (1); and

“(ii) sensitive information concerning matters under subsection (a)(1)(A) through (F).

“(3) Nothing in this subsection shall be construed to affect the authority of any other person to carry out or enforce any provision specified in paragraph (1).

“(1)(1) The Commissioner of Internal Revenue or the Internal Revenue Service Oversight Board may request, in writing, the Treasury Inspector General for Tax Administration to conduct an audit or investigation relating to the Internal Revenue Service. If the Treasury Inspector General for Tax Administration determines not to conduct such audit or investigation, the Inspector General shall timely provide a written explanation for such determination to the person making the request.

Reports. “(2)(A) Any final report of an audit conducted by the Treasury Inspector General for Tax Administration shall be timely submitted by the Inspector General to the Commissioner of Internal Revenue and the Internal Revenue Service Oversight Board.

Records. “(B) The Treasury Inspector General for Tax Administration shall periodically submit to the Commissioner and Board a list of investigations for which a final report has been completed by the Inspector General and shall provide a copy of any such report upon request of the Commissioner or Board.

Applicability. “(C) This paragraph applies regardless of whether the applicable audit or investigation is requested under paragraph (1).”.

(c) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended in subparagraph (L)—

(A) by inserting “(i)” after “(L)”;

(B) by inserting “and” after the semicolon; and

(C) by adding at the end the following new clause:

Effective date. “(ii) of the Treasury Inspector General for Tax Administration, effective 180 days after the date of the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998, the Office of Chief Inspector of the Internal Revenue Service;”.

Effective date. 5 USC app. (2) TERMINATION OF OFFICE OF CHIEF INSPECTOR.—Effective upon the transfer of functions under the amendment made by paragraph (1), the Office of Chief Inspector of the Internal Revenue Service is terminated.

5 USC app. (3) RETENTION OF CERTAIN INTERNAL AUDIT PERSONNEL.—In making the transfer under the amendment made by paragraph (1), the Commissioner of Internal Revenue shall designate and retain an appropriate number (not in excess of 300) of internal audit full-time equivalent employee positions necessary for management relating to the Internal Revenue Service.

Effective date. 5 USC app. (4) ADDITIONAL PERSONNEL TRANSFERS.—Effective 180 days after the date of the enactment of this Act, the Secretary

of the Treasury shall transfer 21 full-time equivalent positions from the Office of the Inspector General of the Department of the Treasury to the Office of the Treasury Inspector General for Tax Administration.

(d) AUDITS AND REPORTS OF AGENCY FINANCIAL STATEMENTS.— 31 USC 3521  
Subject to section 3521(g) of title 31, United States Code— note.

(1) the Inspector General of the Department of the Treasury shall, subject to paragraph (2)—

(A) audit each financial statement in accordance with section 3521(e) of such title; and

(B) prepare and submit each report required under section 3521(f) of such title; and

(2) the Treasury Inspector General for Tax Administration shall—

(A) audit that portion of each financial statement referred to under paragraph (1)(A) that relates to custodial and administrative accounts of the Internal Revenue Service; and

(B) prepare that portion of each report referred to under paragraph (1)(B) that relates to custodial and administrative accounts of the Internal Revenue Service.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TRANSFER OF FUNCTIONS.—Section 8D(b) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking “and the internal audits and internal investigations performed by the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service”.

(2) AMENDMENTS RELATING TO REFERENCES TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY.—

(A) LIMITATION ON AUTHORITY.—Section 8D(a) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(i) in the first sentence of paragraph (1), by inserting “of the Department of the Treasury” after “Inspector General”;

(ii) in paragraph (2), by inserting “of the Department of the Treasury” after “prohibit the Inspector General”; and

(iii) in paragraph (3)—

(I) in the first sentence, by inserting “of the Department of the Treasury” after “notify the Inspector General”; and

(II) in the second sentence, by inserting “of the Department of the Treasury” after “notice, the Inspector General”.

(B) DUTIES.—Section 8D(b) of such Act is amended in the second sentence by inserting “of the Department of the Treasury” after “Inspector General”.

(C) AUDITS AND INVESTIGATIONS.—Section 8D (c) and (d) of such Act are amended by inserting “of the Department of the Treasury” after “Inspector General” each place it appears.

(3) REFERENCES.—The second section 8G of the Inspector General Act of 1978 (relating to rule of construction of special provisions) is amended—

(A) by striking “SEC. 8G” and inserting “SEC. 8H”;

(B) by striking “or 8E” and inserting “8E or 8F”; and

(C) by striking “section 8F(a)” and inserting “section 8G(a)”.

(4) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 7608(b)(1) is amended by striking “or of the Internal Security Division”.

**SEC. 1104. OTHER PERSONNEL.**

(a) IN GENERAL.—Section 7804 (relating to the effect of reorganization plans) is amended to read as follows:

**“SEC. 7804. OTHER PERSONNEL.**

“(a) APPOINTMENT AND SUPERVISION.—Unless otherwise prescribed by the Secretary, the Commissioner of Internal Revenue is authorized to employ such number of persons as the Commissioner deems proper for the administration and enforcement of the internal revenue laws, and the Commissioner shall issue all necessary directions, instructions, orders, and rules applicable to such persons.

“(b) POSTS OF DUTY OF EMPLOYEES IN FIELD SERVICE OR TRAVELING.—Unless otherwise prescribed by the Secretary—

“(1) DESIGNATION OF POST OF DUTY.—The Commissioner shall determine and designate the posts of duty of all such persons engaged in field work or traveling on official business outside of the District of Columbia.

“(2) DETAIL OF PERSONNEL FROM FIELD SERVICE.—The Commissioner may order any such person engaged in field work to duty in the District of Columbia, for such periods as the Commissioner may prescribe, and to any designated post of duty outside the District of Columbia upon the completion of such duty.

“(c) DELINQUENT INTERNAL REVENUE OFFICERS AND EMPLOYEES.—If any officer or employee of the Treasury Department acting in connection with the internal revenue laws fails to account for and pay over any amount of money or property collected or received by him in connection with the internal revenue laws, the Secretary shall issue notice and demand to such officer or employee for payment of the amount which he failed to account for and pay over, and, upon failure to pay the amount demanded within the time specified in such notice, the amount so demanded shall be deemed imposed upon such officer or employee and assessed upon the date of such notice and demand, and the provisions of chapter 64 and all other provisions of law relating to the collection of assessed taxes shall be applicable in respect of such amount.”.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 6344 is amended by striking “section 7803(d)” and inserting “section 7804(c)”.

(2) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7804 and inserting the following new item:

“Sec. 7804. Other personnel.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 1105. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.**

(a) **IN GENERAL.**—Part I of subchapter A of chapter 75 (relating to crimes, other offenses, and forfeitures) is amended by adding after section 7216 the following new section:

**“SEC. 7217. PROHIBITION ON EXECUTIVE BRANCH INFLUENCE OVER TAXPAYER AUDITS AND OTHER INVESTIGATIONS.**

“(a) **PROHIBITION.**—It shall be unlawful for any applicable person to request, directly or indirectly, any officer or employee of the Internal Revenue Service to conduct or terminate an audit or other investigation of any particular taxpayer with respect to the tax liability of such taxpayer.

“(b) **REPORTING REQUIREMENT.**—Any officer or employee of the Internal Revenue Service receiving any request prohibited by subsection (a) shall report the receipt of such request to the Treasury Inspector General for Tax Administration.

“(c) **EXCEPTIONS.**—Subsection (a) shall not apply to any written request made—

“(1) to an applicable person by or on behalf of the taxpayer and forwarded by such applicable person to the Internal Revenue Service;

“(2) by an applicable person for disclosure of return or return information under section 6103 if such request is made in accordance with the requirements of such section; or

“(3) by the Secretary of the Treasury as a consequence of the implementation of a change in tax policy.

“(d) **PENALTY.**—Any person who willfully violates subsection (a) or fails to report under subsection (b) shall be punished upon conviction by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

“(e) **APPLICABLE PERSON.**—For purposes of this section, the term ‘applicable person’ means—

“(1) the President, the Vice President, any employee of the executive office of the President, and any employee of the executive office of the Vice President; and

“(2) any individual (other than the Attorney General of the United States) serving in a position specified in section 5312 of title 5, United States Code.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for part I of subchapter A of chapter 75 is amended by adding after the item relating to section 7216 the following new item:

“Sec. 7217. Prohibition on executive branch influence over taxpayer audits and other investigations.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to requests made after the date of the enactment of this Act. 26 USC 7217 note.

## **Subtitle C—Personnel Flexibilities**

**SEC. 1201. IMPROVEMENTS IN PERSONNEL FLEXIBILITIES.**

(a) **IN GENERAL.**—Part III of title 5, United States Code, is amended by adding at the end the following new subpart:

**“Subpart I—Miscellaneous****“CHAPTER 95—PERSONNEL FLEXIBILITIES RELATING  
TO THE INTERNAL REVENUE SERVICE**

“Sec.  
“9501. Internal Revenue Service personnel flexibilities.  
“9502. Pay authority for critical positions.  
“9503. Streamlined critical pay authority.  
“9504. Recruitment, retention, relocation incentives, and relocation expenses.  
“9505. Performance awards for senior executives.  
“9506. Limited appointments to career reserved Senior Executive Service positions.  
“9507. Streamlined demonstration project authority.  
“9508. General workforce performance management system.  
“9509. General workforce classification and pay.  
“9510. General workforce staffing.

**“§ 9501. Internal Revenue Service personnel flexibilities**

“(a) Any flexibilities provided by sections 9502 through 9510 of this chapter shall be exercised in a manner consistent with—

“(1) chapter 23 (relating to merit system principles and prohibited personnel practices);

“(2) provisions relating to preference eligibles;

“(3) except as otherwise specifically provided, section 5307 (relating to the aggregate limitation on pay);

“(4) except as otherwise specifically provided, chapter 71 (relating to labor-management relations); and

“(5) subject to subsections (b) and (c) of section 1104, as though such authorities were delegated to the Secretary of the Treasury under section 1104(a)(2).

“(b) The Secretary of the Treasury shall provide the Office of Personnel Management with any information that Office requires in carrying out its responsibilities under this section.

“(c) Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 shall not be subject to any flexibility provided by sections 9507 through 9510 of this chapter unless the exclusive representative and the Internal Revenue Service have entered into a written agreement which specifically provides for the exercise of that flexibility. Such written agreement may be imposed by the Federal Services Impasses Panel under section 7119.

**“§ 9502. Pay authority for critical positions**

“(a) When the Secretary of the Treasury seeks a grant of authority under section 5377 for critical pay for 1 or more positions at the Internal Revenue Service, the Office of Management and Budget may fix the rate of basic pay, notwithstanding sections 5377(d)(2) and 5307, at any rate up to the salary set in accordance with section 104 of title 3.

“(b) Notwithstanding section 5307, no allowance, differential, bonus, award, or similar cash payment may be paid to any employee receiving critical pay at a rate fixed under subsection (a), in any calendar year if, or to the extent that, the employee’s total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

**“§ 9503. Streamlined critical pay authority**

“(a) Notwithstanding section 9502, and without regard to the provisions of this title governing appointments in the competitive



service or the Senior Executive Service and chapters 51 and 53 (relating to classification and pay rates), the Secretary of the Treasury may, for a period of 10 years after the date of enactment of this section, establish, fix the compensation of, and appoint individuals to, designated critical administrative, technical, and professional positions needed to carry out the functions of the Internal Revenue Service, if—

“(1) the positions—

“(A) require expertise of an extremely high level in an administrative, technical, or professional field; and

“(B) are critical to the Internal Revenue Service’s successful accomplishment of an important mission;

“(2) exercise of the authority is necessary to recruit or retain an individual exceptionally well qualified for the position;

“(3) the number of such positions does not exceed 40 at any one time;

“(4) designation of such positions are approved by the Secretary of the Treasury;

“(5) the terms of such appointments are limited to no more than 4 years;

“(6) appointees to such positions were not Internal Revenue Service employees prior to June 1, 1998;

“(7) total annual compensation for any appointee to such positions does not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3; and

“(8) all such positions are excluded from the collective bargaining unit.

“(b) Individuals appointed under this section shall not be considered to be employees for purposes of subchapter II of chapter 75.

**“§ 9504. Recruitment, retention, relocation incentives, and relocation expenses**

“(a) For a period of 10 years after the date of enactment of this section and subject to approval by the Office of Personnel Management, the Secretary of the Treasury may provide for variations from sections 5753 and 5754 governing payment of recruitment, relocation, and retention incentives.

“(b) For a period of 10 years after the date of enactment of this section, the Secretary of the Treasury may pay from appropriations made to the Internal Revenue Service allowable relocation expenses under section 5724a for employees transferred or reemployed and allowable travel and transportation expenses under section 5723 for new appointees, for any new appointee appointed to a position for which pay is fixed under section 9502 or 9503 after June 1, 1998.

**“§ 9505. Performance awards for senior executives**

“(a) For a period of 10 years after the date of enactment of this section, Internal Revenue Service senior executives who have program management responsibility over significant functions of the Internal Revenue Service may be paid a performance bonus without regard to the limitation in section 5384(b)(2) if the Secretary of the Treasury finds such award warranted based on the executive’s performance.

“(b) In evaluating an executive’s performance for purposes of an award under this section, the Secretary of the Treasury shall take into account the executive’s contributions toward the successful accomplishment of goals and objectives established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104-106; 110 Stat. 679), Revenue Procedure 64-22 (as in effect on July 30, 1997), taxpayer service surveys, and other performance metrics or plans established in consultation with the Internal Revenue Service Oversight Board.

“(c) Any award in excess of 20 percent of an executive’s rate of basic pay shall be approved by the Secretary of the Treasury.

“(d) Notwithstanding section 5384(b)(3), the Secretary of the Treasury shall determine the aggregate amount of performance awards available to be paid during any fiscal year under this section and section 5384 to career senior executives in the Internal Revenue Service. Such amount may not exceed an amount equal to 5 percent of the aggregate amount of basic pay paid to career senior executives in the Internal Revenue Service during the preceding fiscal year. The Internal Revenue Service shall not be included in the determination under section 5384(b)(3) of the aggregate amount of performance awards payable to career senior executives in the Department of the Treasury other than the Internal Revenue Service.

“(e) Notwithstanding section 5307, a performance bonus award may not be paid to an executive in a calendar year if, or to the extent that, the executive’s total annual compensation will exceed the maximum amount of total annual compensation payable at the rate determined under section 104 of title 3.

**“§ 9506. Limited appointments to career reserved Senior Executive Service positions**

“(a) In the application of section 3132, a ‘career reserved position’ in the Internal Revenue Service means a position designated under section 3132(b) which may be filled only by—

“(1) a career appointee; or

“(2) a limited emergency appointee or a limited term appointee—

“(A) who, immediately upon entering the career reserved position, was serving under a career or career-conditional appointment outside the Senior Executive Service; or

“(B) whose limited emergency or limited term appointment is approved in advance by the Office of Personnel Management.

“(b)(1) The number of positions described under subsection (a) which are filled by an appointee as described under paragraph (2) of such subsection may not exceed 10 percent of the total number of Senior Executive Service positions in the Internal Revenue Service.

“(2) Notwithstanding section 3132—

“(A) the term of an appointee described under subsection (a)(2) may be for any period not to exceed 3 years; and

“(B) such an appointee may serve—

“(i) two such terms; or

“(ii) two such terms in addition to any unexpired term applicable at the time of appointment.

**“§ 9507. Streamlined demonstration project authority**

“(a) The exercise of any of the flexibilities under sections 9502 through 9510 shall not affect the authority of the Secretary of the Treasury to implement for the Internal Revenue Service a demonstration project subject to chapter 47, as provided in subsection (b).

“(b) In applying section 4703 to a demonstration project described in section 4701(a)(4) which involves the Internal Revenue Service—

“(1) section 4703(b)(1) shall be deemed to read as follows:

““(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project.”;

“(2) section 4703(b)(3) shall not apply;

“(3) the 180-day notification period in section 4703(b)(4) shall be deemed to be a notification period of 30 days;

“(4) section 4703(b)(6) shall be deemed to read as follows:

““(6) provides each House of Congress with the final version of the plan.”;

“(5) section 4703(c)(1) shall be deemed to read as follows:

““(1) subchapter V of chapter 63 or subpart G of part III of this title.”;

“(6) the requirements of paragraphs (1)(A) and (2) of section 4703(d) shall not apply; and

“(7) notwithstanding section 4703(d)(1)(B), based on an evaluation as provided in section 4703(h), the Office of Personnel Management and the Secretary of the Treasury, except as otherwise provided by this subsection, may waive the termination date of a demonstration project under section 4703(d).

“(c) At least 90 days before waiving the termination date under subsection (b)(7), the Office of Personnel Management shall publish in the Federal Register a notice of its intention to waive the termination date and shall inform in writing both Houses of Congress of its intention.

Deadline.  
Federal Register,  
publication.

**“§ 9508. General workforce performance management system**

“(a) In lieu of a performance appraisal system established under section 4302, the Secretary of the Treasury shall, within 1 year after the date of enactment of this section, establish for the Internal Revenue Service a performance management system that—

“(1) maintains individual accountability by—

“(A) establishing one or more retention standards for each employee related to the work of the employee and expressed in terms of individual performance, and communicating such retention standards to employees;

“(B) making periodic determinations of whether each employee meets or does not meet the employee’s established retention standards; and

“(C) taking actions, in accordance with applicable laws and regulations, with respect to any employee whose performance does not meet established retention standards, including denying any increases in basic pay, promotions, and credit for performance under section 3502, and taking one or more of the following actions:

“(i) Reassignment.

“(ii) An action under chapter 43 or chapter 75 of this title.

“(iii) Any other appropriate action to resolve the performance problem; and

“(2) except as provided under section 1204 of the Internal Revenue Service Restructuring and Reform Act of 1998, strengthens the system’s effectiveness by—

“(A) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the Internal Revenue Service’s performance planning procedures, including those established under the Government Performance and Results Act of 1993, division E of the Clinger-Cohen Act of 1996 (Public Law 104-106; 110 Stat. 679), Revenue Procedure 64-22 (as in effect on July 30, 1997), and taxpayer service surveys, and communicating such goals or objectives to employees;

“(B) using such goals and objectives to make performance distinctions among employees or groups of employees; and

“(C) using performance assessments as a basis for granting employee awards, adjusting an employee’s rate of basic pay, and other appropriate personnel actions, in accordance with applicable laws and regulations.

“(b)(1) For purposes of subsection (a)(2), the term ‘performance assessment’ means a determination of whether or not retention standards established under subsection (a)(1)(A) are met, and any additional performance determination made on the basis of performance goals and objectives established under subsection (a)(2)(A).

“(2) For purposes of this title, the term ‘unacceptable performance’ with respect to an employee of the Internal Revenue Service covered by a performance management system established under this section means performance of the employee which fails to meet a retention standard established under this section.

“(c)(1) The Secretary of the Treasury may establish an awards program designed to provide incentives for and recognition of organizational, group, and individual achievements by providing for granting awards to employees who, as individuals or members of a group, contribute to meeting the performance goals and objectives established under this chapter by such means as a superior individual or group accomplishment, a documented productivity gain, or sustained superior performance.

“(2) A cash award under subchapter I of chapter 45 may be granted to an employee of the Internal Revenue Service without the need for any approval under section 4502(b).

“(d)(1) In applying sections 4303(b)(1)(A) and 7513(b)(1) to employees of the Internal Revenue Service, ‘30 days’ may be deemed to be ‘15 days’.

“(2) Notwithstanding the second sentence of section 5335(c), an employee of the Internal Revenue Service shall not have a right to appeal the denial of a periodic step increase under section 5335 to the Merit Systems Protection Board.

#### **“§ 9509. General workforce classification and pay**

“(a) For purposes of this section, the term ‘broad-banded system’ means a system for grouping positions for pay, job evaluation, and other purposes that is different from the system established

under chapter 51 and subchapter III of chapter 53 as a result of combining grades and related ranges of rates of pay in one or more occupational series.

“(b)(1)(A) The Secretary of the Treasury may, subject to criteria to be prescribed by the Office of Personnel Management, establish one or more broad-banded systems covering all or any portion of the Internal Revenue Service workforce.

Regulations.

“(B) With the approval of the Office of Personnel Management, a broad-banded system established under this section may either include or consist of positions that otherwise would be subject to subchapter IV of chapter 53 or section 5376.

“(2) The Office of Personnel Management may require the Secretary of the Treasury to submit information relating to broad-banded systems at the Internal Revenue Service.

“(3) Except as otherwise provided under this section, employees under a broad-banded system shall continue to be subject to the laws and regulations covering employees under the pay system that otherwise would apply to such employees.

“(4) The criteria to be prescribed by the Office of Personnel Management shall, at a minimum—

Regulations.

“(A) ensure that the structure of any broad-banded system maintains the principle of equal pay for substantially equal work;

“(B) establish the minimum and maximum number of grades that may be combined into pay bands;

“(C) establish requirements for setting minimum and maximum rates of pay in a pay band;

“(D) establish requirements for adjusting the pay of an employee within a pay band;

“(E) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

“(F) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

“(c) With the approval of the Office of Personnel Management and in accordance with a plan for implementation submitted by the Secretary of the Treasury, the Secretary may, with respect to Internal Revenue Service employees who are covered by a broad-banded system established under this section, provide for variations from the provisions of subchapter VI of chapter 53.

#### “§ 9510. General workforce staffing

“(a)(1) Except as otherwise provided by this section, an employee of the Internal Revenue Service may be selected for a permanent appointment in the competitive service in the Internal Revenue Service through internal competitive promotion procedures if—

“(A) the employee has completed, in the competitive service, 2 years of current continuous service under a term appointment or any combination of term appointments;

“(B) such term appointment or appointments were made under competitive procedures prescribed for permanent appointments;

“(C) the employee’s performance under such term appointment or appointments met established retention standards, or, if not covered by a performance management system established under section 9508, was rated at the fully successful level or higher (or equivalent thereof); and

“(D) the vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

“(2) An appointment under this section may be made only to a position in the same line of work as a position to which the employee received a term appointment under competitive procedures.

“(b)(1) Notwithstanding subchapter I of chapter 33, the Secretary of the Treasury may establish category rating systems for evaluating applicants for Internal Revenue Service positions in the competitive service under which qualified candidates are divided into two or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings.

“(2) Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant’s knowledge, skills, and abilities relative to those needed for successful performance in the position to be filled.

“(3) Within each quality category established under paragraph (1), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than GS-9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

“(4) An appointing authority may select any applicant from the highest quality category or, if fewer than three candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories.

“(5) Notwithstanding paragraph (4), the appointing authority may not pass over a preference eligible in the same or higher category from which selection is made unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

“(c) The Secretary of the Treasury may detail employees among the offices of the Internal Revenue Service without regard to the 120-day limitation in section 3341(b).

“(d) Notwithstanding any other provision of law, the Secretary of the Treasury may establish a probationary period under section 3321 of up to 3 years for Internal Revenue Service positions if the Secretary of the Treasury determines that the nature of the work is such that a shorter period is insufficient to demonstrate complete proficiency in the position.

“(e) Nothing in this section exempts the Secretary of the Treasury from—

“(1) any employment priority established under direction of the President for the placement of surplus or displaced employees; or

“(2) any obligation under a court order or decree relating to the employment practices of the Internal Revenue Service or the Department of the Treasury.”.

(b) CLERICAL AMENDMENT.—The table of sections for part III of title 5, United States Code, is amended by adding at the end the following new items:

“Subpart I—Miscellaneous

“95. Personnel flexibilities relating to the Internal Revenue Service 9501”.

**SEC. 1202. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

5 USC 5597 note.

(a) DEFINITION.—In this section, the term “employee” means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the Internal Revenue Service serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system;

(2) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in paragraph (1);

(3) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(4) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(5) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(6) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(7) any employee who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the 12-month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may pay voluntary separation incentive payments under this section to any employee to the extent necessary to carry out the plan to reorganize the Internal Revenue Service under section 1001.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee’s separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by an agency head not to exceed \$25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before January 1, 2003;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(c) **ADDITIONAL INTERNAL REVENUE SERVICE CONTRIBUTIONS TO THE RETIREMENT FUND.**—

(1) **IN GENERAL.**—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, the Internal Revenue Service shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) **DEFINITION.**—In paragraph (1), the term “final basic pay”, with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee’s final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(d) **EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.**—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual’s first day of employment, the entire amount of the incentive payment to the Internal Revenue Service.

(e) **EFFECT ON INTERNAL REVENUE SERVICE EMPLOYMENT LEVELS.**—

(1) **INTENDED EFFECT.**—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in the Internal Revenue Service.

(2) **USE OF VOLUNTARY SEPARATIONS.**—The Internal Revenue Service may redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

**SEC. 1203. TERMINATION OF EMPLOYMENT FOR MISCONDUCT.**

(a) **IN GENERAL.**—Subject to subsection (c), the Commissioner of Internal Revenue shall terminate the employment of any



employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties. Such termination shall be a removal for cause on charges of misconduct.

(b) ACTS OR OMISSIONS.—The acts or omissions referred to under subsection (a) are—

(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

(2) providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

(3) with respect to a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, the violation of—

(A) any right under the Constitution of the United States; or

(B) any civil right established under—

(i) title VI or VII of the Civil Rights Act of 1964;

(ii) title IX of the Education Amendments of 1972;

(iii) the Age Discrimination in Employment Act of 1967;

(iv) the Age Discrimination Act of 1975;

(v) section 501 or 504 of the Rehabilitation Act of 1973; or

(vi) title I of the Americans with Disabilities Act of 1990;

(4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

(5) assault or battery on a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service, but only if there is a criminal conviction, or a final judgment by a court in a civil case, with respect to the assault or battery;

(6) violations of the Internal Revenue Code of 1986, Department of Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer, taxpayer representative, or other employee of the Internal Revenue Service;

(7) willful misuse of the provisions of section 6103 of the Internal Revenue Code of 1986 for the purpose of concealing information from a congressional inquiry;

(8) willful failure to file any return of tax required under the Internal Revenue Code of 1986 on or before the date prescribed therefor (including any extensions), unless such failure is due to reasonable cause and not to willful neglect;

(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not to willful neglect; and

(10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

(c) DETERMINATION OF COMMISSIONER.—

(1) IN GENERAL.—The Commissioner of Internal Revenue may take a personnel action other than termination for an act or omission under subsection (a).

(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner of Internal Revenue and may not be delegated to any other officer. The Commissioner of Internal Revenue, in his sole discretion, may establish a procedure which will be used to determine whether an individual should be referred to the Commissioner of Internal Revenue for a determination by the Commissioner under paragraph (1).

(3) NO APPEAL.—Any determination of the Commissioner of Internal Revenue under this subsection may not be appealed in any administrative or judicial proceeding.

(d) DEFINITION.—For purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity receiving Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

26 USC 7804  
note.

**SEC. 1204. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.**

(a) IN GENERAL.—The Internal Revenue Service shall not use records of tax enforcement results—

(1) to evaluate employees; or

(2) to impose or suggest production quotas or goals with respect to such employees.

(b) TAXPAYER SERVICE.—The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

(c) CERTIFICATION.—Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue whether or not tax enforcement results are being used in a manner prohibited by subsection (a).

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 6231 of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647; 102 Stat. 3734) is repealed.

(e) EFFECTIVE DATE.—This section shall apply to evaluations conducted on or after the date of the enactment of this Act.

26 USC 7803  
note.  
Applicability.

26 USC 7804.

Deadline.

**SEC. 1205. EMPLOYEE TRAINING PROGRAM.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Commissioner of Internal Revenue shall implement an employee training program and shall submit an employee training plan to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(b) CONTENTS.—The plan submitted under subsection (a) shall—

(1) detail a comprehensive employee training program to ensure adequate customer service training;

(2) detail a schedule for training and the fiscal years during which the training will occur;

(3) detail the funding of the program and relevant information to demonstrate the priority and commitment of resources to the plan;

(4) review the organizational design of customer service;

(5) provide for the implementation of a performance development system; and

(6) provide for at least 16 hours of conflict management training during fiscal year 1999 for employees conducting collection activities.

## TITLE II—ELECTRONIC FILING

### SEC. 2001. ELECTRONIC FILING OF TAX AND INFORMATION RETURNS.

(a) IN GENERAL.—It is the policy of Congress that—

26 USC 6011  
note.

(1) paperless filing should be the preferred and most convenient means of filing Federal tax and information returns;

(2) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007; and

(3) the Internal Revenue Service should cooperate with and encourage the private sector by encouraging competition to increase electronic filing of such returns.

(b) STRATEGIC PLAN.—

26 USC 6011  
note.  
Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the “Secretary”) shall establish a plan to eliminate barriers, provide incentives, and use competitive market forces to increase electronic filing gradually over the next 10 years while maintaining processing times for paper returns at 40 days. To the extent practicable, such plan shall provide that all returns prepared electronically for taxable years beginning after 2001 shall be filed electronically.

(2) ELECTRONIC COMMERCE ADVISORY GROUP.—To ensure that the Secretary receives input from the private sector in the development and implementation of the plan required by paragraph (1), the Secretary shall convene an electronic commerce advisory group to include representatives from the small business community and from the tax practitioner, preparer, and computerized tax processor communities and other representatives from the electronic filing industry.

(c) PROMOTION OF ELECTRONIC FILING AND INCENTIVES.—

Section 6011 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

“(f) PROMOTION OF ELECTRONIC FILING.—

“(1) IN GENERAL.—The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

“(2) INCENTIVES.—The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.”.

(d) ANNUAL REPORTS.—Not later than June 30 of each calendar year after 1998, the Chairperson of the Internal Revenue Service Oversight Board, the Secretary of the Treasury, and the Chairperson of the electronic commerce advisory group established under subsection (b)(2) shall report to the Committees on Ways and Means, Appropriations, Government Reform and Oversight, and Small Business of the House of Representatives and the Committees on Finance, Appropriations, Governmental Affairs, and Small Business of the Senate on—

Deadline.  
26 USC 6011  
note.

(1) the progress of the Internal Revenue Service in meeting the goal of receiving electronically 80 percent of tax and information returns by 2007;

(2) the status of the plan required by subsection (b);

(3) the legislative changes necessary to assist the Internal Revenue Service in meeting such goal; and

(4) the effects on small businesses and the self-employed of electronically filing tax and information returns.

#### **SEC. 2002. DUE DATE FOR CERTAIN INFORMATION RETURNS.**

(a) **INFORMATION RETURNS FILED ELECTRONICALLY.**—Section 6071 (relating to time for filing returns and other documents) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

“(b) **ELECTRONICALLY FILED INFORMATION RETURNS.**—Returns made under subparts B and C of part III of this subchapter which are filed electronically shall be filed on or before March 31 of the year following the calendar year to which such returns relate.”.

(b) **STUDY RELATING TO TIME FOR PROVIDING NOTICE TO RECIPIENTS.**—

(1) **IN GENERAL.**—The Secretary of the Treasury shall conduct a study evaluating the effect of extending the deadline for providing statements to persons with respect to whom information is required to be furnished under subparts B and C of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (other than section 6051 of such Code) from January 31 to February 15 of the year in which the return to which the statement relates is required to be filed.

(2) **REPORT.**—Not later than June 30, 1999, the Secretary of the Treasury shall submit a report on the study under paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to returns required to be filed after December 31, 1999.

Deadline.

Applicability.  
26 USC 6071  
note.

#### **SEC. 2003. PAPERLESS ELECTRONIC FILING.**

(a) **IN GENERAL.**—Section 6061 (relating to signing of returns and other documents) is amended—

(1) by striking “Except as otherwise provided by” and inserting the following:

“(a) **GENERAL RULE.**—Except as otherwise provided by subsection (b) and”; and

(2) by adding at the end the following new subsection:

“(b) **ELECTRONIC SIGNATURES.**—

“(1) **IN GENERAL.**—The Secretary shall develop procedures for the acceptance of signatures in digital or other electronic form. Until such time as such procedures are in place, the Secretary may—

“(A) waive the requirement of a signature for; or

“(B) provide for alternative methods of signing or subscribing,

a particular type or class of return, declaration, statement, or other document required or permitted to be made or written under internal revenue laws and regulations.

Procedures.

“(2) TREATMENT OF ALTERNATIVE METHODS.—Notwithstanding any other provision of law, any return, declaration, statement, or other document filed and verified, signed, or subscribed under any method adopted under paragraph (1)(B) shall be treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed or subscribed.

“(3) PUBLISHED GUIDANCE.—The Secretary shall publish guidance as appropriate to define and implement any waiver of the signature requirements or any method adopted under paragraph (1).”.

(b) ACKNOWLEDGMENT OF ELECTRONIC FILING.—Section 7502(c) is amended to read as follows:

“(c) REGISTERED AND CERTIFIED MAILING; ELECTRONIC FILING.—

“(1) REGISTERED MAIL.—For purposes of this section, if any return, claim, statement, or other document, or payment, is sent by United States registered mail—

“(A) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed; and

“(B) the date of registration shall be deemed the postmark date.

“(2) CERTIFIED MAIL; ELECTRONIC FILING.—The Secretary is authorized to provide by regulations the extent to which the provisions of paragraph (1) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail and electronic filing.”.

Regulations.

(c) ESTABLISHMENT OF PROCEDURES FOR OTHER INFORMATION.—In the case of taxable periods beginning after December 31, 1999, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures to accept, in electronic form, any other information, statements, elections, or schedules, from taxpayers filing returns electronically, so that such taxpayers will not be required to file any paper.

26 USC 6011  
note.

(d) INTERNET AVAILABILITY.—In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures for all tax forms, instructions, and publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database at approximately the same time such records are available to the public in paper form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database at approximately the same time such guidance is available to the public in paper form.

Procedures.  
26 USC 7805  
note.

(e) PROCEDURES FOR AUTHORIZING DISCLOSURE ELECTRONICALLY.—The Secretary shall establish procedures for any taxpayer to authorize, on an electronically filed return, the Secretary to disclose information under section 6103(c) of the Internal Revenue Code of 1986 to the preparer of the return.

26 USC 6103  
note.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 6061  
note.

26 USC 6012  
note.  
Procedures.

**SEC. 2004. RETURN-FREE TAX SYSTEM.**

(a) IN GENERAL.—The Secretary of the Treasury or the Secretary’s delegate shall develop procedures for the implementation of a return-free tax system under which appropriate individuals would be permitted to comply with the Internal Revenue Code of 1986 without making the return required under section 6012 of such Code for taxable years beginning after 2007.

Deadline.

(b) REPORT.—Not later than June 30 of each calendar year after 1999, the Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on—

(1) what additional resources the Internal Revenue Service would need to implement such a system;

(2) the changes to the Internal Revenue Code of 1986 that could enhance the use of such a system;

(3) the procedures developed pursuant to subsection (a); and

(4) the number and classes of taxpayers that would be permitted to use the procedures developed pursuant to subsection (a).

Deadlines.  
26 USC 6103  
note.  
Procedures.

**SEC. 2005. ACCESS TO ACCOUNT INFORMATION.**

(a) IN GENERAL.—Not later than December 31, 2006, the Secretary of the Treasury or the Secretary’s delegate shall develop procedures under which a taxpayer filing returns electronically (and their designees under section 6103(c) of the Internal Revenue Code of 1986) would be able to review the taxpayer’s account electronically, but only if all necessary safeguards to ensure the privacy of such account information are in place.

(b) REPORT.—Not later than December 31, 2003, the Secretary of the Treasury shall report on the progress the Secretary is making on the development of procedures under subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

Taxpayer Bill of  
Rights 3.

**TITLE III—TAXPAYER PROTECTION AND RIGHTS**

26 USC 1 note.

**SEC. 3000. SHORT TITLE.**

This title may be cited as the “Taxpayer Bill of Rights 3”.

**Subtitle A—Burden of Proof**

**SEC. 3001. BURDEN OF PROOF.**

(a) IN GENERAL.—Chapter 76 (relating to judicial proceedings) is amended by adding at the end the following new subchapter:

**“Subchapter E—Burden of Proof**

“Sec. 7491. Burden of proof.

**“SEC. 7491. BURDEN OF PROOF.**

“(a) BURDEN SHIFTS WHERE TAXPAYER PRODUCES CREDIBLE EVIDENCE.—

“(1) GENERAL RULE.—If, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability of the taxpayer for any tax imposed by subtitle A or B, the Secretary shall have the burden of proof with respect to such issue.

“(2) LIMITATIONS.—Paragraph (1) shall apply with respect to an issue only if—

Applicability.

“(A) the taxpayer has complied with the requirements under this title to substantiate any item;

“(B) the taxpayer has maintained all records required under this title and has cooperated with reasonable requests by the Secretary for witnesses, information, documents, meetings, and interviews; and

“(C) in the case of a partnership, corporation, or trust, the taxpayer is described in section 7430(c)(4)(A)(ii).

“(3) COORDINATION.—Paragraph (1) shall not apply to any issue if any other provision of this title provides for a specific burden of proof with respect to such issue.

“(b) USE OF STATISTICAL INFORMATION ON UNRELATED TAXPAYERS.—In the case of an individual taxpayer, the Secretary shall have the burden of proof in any court proceeding with respect to any item of income which was reconstructed by the Secretary solely through the use of statistical information on unrelated taxpayers.

“(c) PENALTIES.—Notwithstanding any other provision of this title, the Secretary shall have the burden of production in any court proceeding with respect to the liability of any individual for any penalty, addition to tax, or additional amount imposed by this title.”.

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 76 is amended by adding at the end the following new item:

“SUBCHAPTER E. Burden of proof.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to court proceedings arising in connection with examinations commencing after the date of the enactment of this Act.

Applicability.  
26 USC 7491  
note.

(2) TAXABLE PERIODS OR EVENTS AFTER DATE OF ENACTMENT.—In any case in which there is no examination, such amendments shall apply to court proceedings arising in connection with taxable periods or events beginning or occurring after such date of enactment.

## Subtitle B—Proceedings by Taxpayers

Courts.

### SEC. 3101. EXPANSION OF AUTHORITY TO AWARD COSTS AND CERTAIN FEES.

(a) INCREASE IN ATTORNEY'S FEES.—

(1) INCREASE IN HOURLY AMOUNT.—Clause (iii) of section 7430(c)(1)(B) (relating to reasonable litigation costs) is amended by striking “\$110” and inserting “\$125”.

(2) AWARD OF HIGHER ATTORNEY'S FEES BASED ON COMPLEXITY OF ISSUES.—Clause (iii) of section 7430(c)(1)(B) (relating to the award of costs and certain fees) is amended by inserting

“the difficulty of the issues presented in the case, or the local availability of tax expertise,” before “justifies a higher rate”.

(b) AWARD OF ADMINISTRATIVE COSTS INCURRED AFTER 30-DAY LETTER.—Paragraph (2) of section 7430(c) is amended by striking the last sentence and inserting the following new flush sentence:

“Such term shall only include costs incurred on or after whichever of the following is the earliest: (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals; (ii) the date of the notice of deficiency; or (iii) the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent.”.

(c) AWARD OF FEES FOR CERTAIN ADDITIONAL SERVICES.—Paragraph (3) of section 7430(c) is amended to read as follows:

“(3) ATTORNEYS FEES.—

“(A) IN GENERAL.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

“(B) PRO BONO SERVICES.—The court may award reasonable attorneys fees under subsection (a) in excess of the attorneys fees paid or incurred if such fees are less than the reasonable attorneys fees because an individual is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee. This subparagraph shall apply only if such award is paid to such individual or such individual’s employer.”.

(d) DETERMINATION OF WHETHER POSITION OF UNITED STATES IS SUBSTANTIALLY JUSTIFIED.—Subparagraph (B) of section 7430(c)(4) is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

“(iii) EFFECT OF LOSING ON SUBSTANTIALLY SIMILAR ISSUES.—In determining for purposes of clause (i) whether the position of the United States was substantially justified, the court shall take into account whether the United States has lost in courts of appeal for other circuits on substantially similar issues.”.

(e) TAXPAYER TREATED AS PREVAILING IF JUDGMENT IS LESS THAN TAXPAYER’S OFFER.—

(1) IN GENERAL.—Section 7430(c)(4) (defining prevailing party) is amended by adding at the end the following new subparagraph:

“(E) SPECIAL RULES WHERE JUDGMENT LESS THAN TAXPAYER’S OFFER.—

“(i) IN GENERAL.—A party to a court proceeding meeting the requirements of subparagraph (A)(ii) shall be treated as the prevailing party if the liability of the taxpayer pursuant to the judgment in the proceeding (determined without regard to interest) is equal to or less than the liability of the taxpayer which would have been so determined if the United States had accepted a qualified offer of the party under subsection (g).

Applicability.



“(ii) EXCEPTIONS.—This subparagraph shall not apply to—

“(I) any judgment issued pursuant to a settlement; or

“(II) any proceeding in which the amount of tax liability is not in issue, including any declaratory judgment proceeding, any proceeding to enforce or quash any summons issued pursuant to this title, and any action to restrain disclosure under section 6110(f).

“(iii) SPECIAL RULES.—If this subparagraph applies to any court proceeding— Applicability.

“(I) the determination under clause (i) shall be made by reference to the last qualified offer made with respect to the tax liability at issue in the proceeding; and

“(II) reasonable administrative and litigation costs shall only include costs incurred on and after the date of such offer.

“(iv) COORDINATION.—This subparagraph shall not apply to a party which is a prevailing party under any other provision of this paragraph.”.

(2) QUALIFIED OFFER.—Section 7430 is amended by adding at the end the following new subsection:

“(g) QUALIFIED OFFER.—For purposes of subsection (c)(4)—

“(1) IN GENERAL.—The term ‘qualified offer’ means a written offer which—

“(A) is made by the taxpayer to the United States during the qualified offer period;

“(B) specifies the offered amount of the taxpayer’s liability (determined without regard to interest);

“(C) is designated at the time it is made as a qualified offer for purposes of this section; and

“(D) remains open during the period beginning on the date it is made and ending on the earliest of the date the offer is rejected, the date the trial begins, or the 90th day after the date the offer is made.

“(2) QUALIFIED OFFER PERIOD.—For purposes of this subsection, the term ‘qualified offer period’ means the period—

“(A) beginning on the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, and

“(B) ending on the date which is 30 days before the date the case is first set for trial.”.

(f) AWARD OF ATTORNEYS FEES IN UNAUTHORIZED INSPECTION AND DISCLOSURE CASES.—Section 7431(c) (relating to damages) is amended by striking the period at the end of paragraph (2) and inserting “, plus”, and by adding at the end the following new paragraph:

“(3) in the case of a plaintiff which is described in section 7430(c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430(c)(4)).”.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred (and, in the case of the amendment Applicability.  
26 USC 7430  
note.

made by subsection (c), services performed) more than 180 days after the date of the enactment of this Act.

**SEC. 3102. CIVIL DAMAGES FOR COLLECTION ACTIONS.**

(a) **EXTENSION TO NEGLIGENCE ACTIONS.**—

(1) **IN GENERAL.**—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended—

(A) in subsection (a), by inserting “, or by reason of negligence,” after “recklessly or intentionally”; and

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by inserting “(\$100,000, in the case of negligence)” after “\$1,000,000”; and

(ii) in paragraph (1), by inserting “or negligent” after “reckless or intentional”.

(2) **REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.**—Paragraph (1) of section 7433(d) is amended to read as follows:

“(1) **REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.**—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.”.

(b) **DAMAGES ALLOWED IN CIVIL ACTIONS BY PERSONS OTHER THAN TAXPAYERS.**—Section 7426 is amended by redesignating subsection (h) as subsection (i) and by adding after subsection (g) the following new subsection:

“(h) **RECOVERY OF DAMAGES PERMITTED IN CERTAIN CASES.**—

“(1) **IN GENERAL.**—Notwithstanding subsection (b), if, in any action brought under this section, there is a finding that any officer or employee of the Internal Revenue Service recklessly or intentionally, or by reason of negligence, disregarded any provision of this title the defendant shall be liable to the plaintiff in an amount equal to the lesser of \$1,000,000 (\$100,000 in the case of negligence) or the sum of—

“(A) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional or negligent disregard of any provision of this title by the officer or employee (reduced by any amount of such damages awarded under subsection (b)); and

“(B) the costs of the action.

“(2) **REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED; MITIGATION; PERIOD.**—The rules of section 7433(d) shall apply for purposes of this subsection.

“(3) **PAYMENT AUTHORITY.**—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.”.

(c) **CIVIL DAMAGES FOR IRS VIOLATIONS OF BANKRUPTCY PROCEDURES.**—

(1) **IN GENERAL.**—Section 7433 (relating to civil damages for certain unauthorized collection actions) is amended by adding at the end the following new subsection:

“(e) **ACTIONS FOR VIOLATIONS OF CERTAIN BANKRUPTCY PROCEDURES.**—

“(1) **IN GENERAL.**—If, in connection with any collection of Federal tax with respect to a taxpayer, any officer or employee of the Internal Revenue Service willfully violates any provision

Applicability.

of section 362 (relating to automatic stay) or 524 (relating to effect of discharge) of title 11, United States Code (or any successor provision), or any regulation promulgated under such provision, such taxpayer may petition the bankruptcy court to recover damages against the United States.

“(2) REMEDY TO BE EXCLUSIVE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), notwithstanding section 105 of such title 11, such petition shall be the exclusive remedy for recovering damages resulting from such actions.

“(B) CERTAIN OTHER ACTIONS PERMITTED.—Subparagraph (A) shall not apply to an action under section 362(h) of such title 11 for a violation of a stay provided by section 362 of such title; except that—

“(i) administrative and litigation costs in connection with such an action may only be awarded under section 7430; and

“(ii) administrative costs may be awarded only if incurred on or after the date that the bankruptcy petition is filed.”.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 7433 is amended by inserting “or petition filed under subsection (e)” after “subsection (a)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to actions of officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

Applicability.  
26 USC 7426  
note.

**SEC. 3103. INCREASE IN SIZE OF CASES PERMITTED ON SMALL CASE CALENDAR.**

(a) IN GENERAL.—Section 7463 (relating to disputes involving \$10,000 or less) is amended by striking “\$10,000” each place it appears (including the section heading) and inserting “\$50,000”.

(b) CONFORMING AMENDMENTS.—

(1) Sections 7436(c)(1) and 7443A(b)(3) are each amended by striking “\$10,000” and inserting “\$50,000”.

(2) The table of sections for part II of subchapter C of chapter 76 is amended by striking “\$10,000” in the item relating to section 7463 and inserting “\$50,000”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

Applicability.  
26 USC 7436  
note.

**SEC. 3104. ACTIONS FOR REFUND WITH RESPECT TO CERTAIN ESTATES WHICH HAVE ELECTED THE INSTALLMENT METHOD OF PAYMENT.**

(a) IN GENERAL.—Section 7422 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) SPECIAL RULE FOR ACTIONS WITH RESPECT TO ESTATES FOR WHICH AN ELECTION UNDER SECTION 6166 IS MADE.—

“(1) IN GENERAL.—The district courts of the United States and the United States Court of Federal Claims shall not fail to have jurisdiction over any action brought by the representative of an estate to which this subsection applies to determine the correct amount of the estate tax liability of such estate (or for any refund with respect thereto) solely because the full amount of such liability has not been paid by reason of an election under section 6166 with respect to such estate.

“(2) ESTATES TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any estate if, as of the date the action is filed—

“(A) no portion of the installments payable under section 6166 have been accelerated;

“(B) all such installments the due date for which is on or before the date the action is filed have been paid;

“(C) there is no case pending in the Tax Court with respect to the tax imposed by section 2001 on the estate and, if a notice of deficiency under section 6212 with respect to such tax has been issued, the time for filing a petition with the Tax Court with respect to such notice has expired; and

“(D) no proceeding for declaratory judgment under section 7479 is pending.

“(3) PROHIBITION ON COLLECTION OF DISALLOWED LIABILITY.—If the court redetermines under paragraph (1) the estate tax liability of an estate, no part of such liability which is disallowed by a decision of such court which has become final may be collected by the Secretary, and amounts paid in excess of the installments determined by the court as currently due and payable shall be refunded.”.

(b) EXTENSION OF TIME TO FILE REFUND SUIT.—Section 7479 (relating to declaratory judgments relating to eligibility of estate with respect to installment payments under section 6166) is amended by adding at the end the following new subsection:

“(c) EXTENSION OF TIME TO FILE REFUND SUIT.—The 2-year period in section 6532(a)(1) for filing suit for refund after disallowance of a claim shall be suspended during the 90-day period after the mailing of the notice referred to in subsection (b)(3) and, if a pleading has been filed with the Tax Court under this section, until the decision of the Tax Court has become final.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any claim for refund filed after the date of the enactment of this Act.

Applicability.  
26 USC 7422  
note.

#### **SEC. 3105. ADMINISTRATIVE APPEAL OF ADVERSE INTERNAL REVENUE SERVICE DETERMINATION OF TAX-EXEMPT STATUS OF BOND ISSUE.**

The Internal Revenue Service shall amend its administrative procedures to provide that if, upon examination, the Internal Revenue Service proposes to an issuer that interest on previously issued obligations of such issuer is not excludable from gross income under section 103(a) of the Internal Revenue Code of 1986, the issuer of such obligations shall have an administrative appeal of right to a senior officer of the Internal Revenue Service Office of Appeals.

#### **SEC. 3106. CIVIL ACTION FOR RELEASE OF ERRONEOUS LIEN.**

(a) RIGHT OF SUBSTITUTION OF VALUE.—Subsection (b) of section 6325 (relating to release of lien or discharge of property) is amended by adding at the end the following new paragraph:

“(4) RIGHT OF SUBSTITUTION OF VALUE.—

“(A) IN GENERAL.—At the request of the owner of any property subject to any lien imposed by this chapter, the Secretary shall issue a certificate of discharge of such property if such owner—

“(i) deposits with the Secretary an amount of money equal to the value of the interest of the United

States (as determined by the Secretary) in the property;  
or

“(ii) furnishes a bond acceptable to the Secretary in a like amount.

“(B) REFUND OF DEPOSIT WITH INTEREST AND RELEASE OF BOND.—The Secretary shall refund the amount so deposited (and shall pay interest at the overpayment rate under section 6621), and shall release such bond, to the extent that the Secretary determines that—

“(i) the unsatisfied liability giving rise to the lien can be satisfied from a source other than such property;  
or

“(ii) the value of the interest of the United States in the property is less than the Secretary’s prior determination of such value.

“(C) USE OF DEPOSIT, ETC., IF ACTION TO CONTEST LIEN NOT FILED.—If no action is filed under section 7426(a)(4) within the period prescribed therefor, the Secretary shall, within 60 days after the expiration of such period—

“(i) apply the amount deposited, or collect on such bond, to the extent necessary to satisfy the unsatisfied liability secured by the lien; and

“(ii) refund (with interest as described in subparagraph (B)) any portion of the amount deposited which is not used to satisfy such liability.

“(D) EXCEPTION.—Subparagraph (A) shall not apply if the owner of the property is the person whose unsatisfied liability gave rise to the lien.”.

(b) CIVIL ACTION TO RELEASE ERRONEOUS LIEN.—

(1) IN GENERAL.—Subsection (a) of section 7426 (relating to civil actions by persons other than taxpayers) is amended by adding at the end the following new paragraph:

“(4) SUBSTITUTION OF VALUE.—If a certificate of discharge is issued to any person under section 6325(b)(4) with respect to any property, such person may, within 120 days after the day on which such certificate is issued, bring a civil action against the United States in a district court of the United States for a determination of whether the value of the interest of the United States (if any) in such property is less than the value determined by the Secretary. No other action may be brought by such person for such a determination.”.

(2) FORM OF RELIEF.—

(A) IN GENERAL.—Subsection (b) of section 7426 is amended by adding at the end the following new paragraph:

“(5) SUBSTITUTION OF VALUE.—If the court determines that the Secretary’s determination of the value of the interest of the United States in the property for purposes of section 6325(b)(4) exceeds the actual value of such interest, the court shall grant a judgment ordering a refund of the amount deposited, and a release of the bond, to the extent that the aggregate of the amounts thereof exceeds such value determined by the court.”.

(B) INTEREST ALLOWED ON REFUND OF DEPOSIT.—

Subsection (g) of section 7426 is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “; and”, and by adding at the end the following new paragraph:

“(3) in the case of a judgment pursuant to subsection (b)(5) which orders a refund of any amount, from the date the Secretary received such amount to the date of payment of such judgment.”.

(3) SUSPENSION OF RUNNING OF STATUTE OF LIMITATION.— Subsection (f) of section 6503 is amended to read as follows:

“(f) WRONGFUL SEIZURE OF OR LIEN ON PROPERTY OF THIRD PARTY.—

“(1) WRONGFUL SEIZURE.—The running of the period under section 6502 shall be suspended for a period equal to the period from the date property (including money) of a third party is wrongfully seized or received by the Secretary to the date the Secretary returns property pursuant to section 6343(b) or the date on which a judgment secured pursuant to section 7426 with respect to such property becomes final, and for 30 days thereafter. The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the amount of money or the value of specific property returned.

“(2) WRONGFUL LIEN.—In the case of any assessment for which a lien was made on any property, the running of the period under section 6502 shall be suspended for a period equal to the period beginning on the date any person becomes entitled to a certificate under section 6325(b)(4) with respect to such property and ending on the date which is 30 days after the earlier of—

“(A) the earliest date on which the Secretary no longer holds any amount as a deposit or bond provided under section 6325(b)(4) by reason of such deposit or bond being used to satisfy the unpaid tax or being refunded or released; or

“(B) the date that the judgment secured under section 7426(b)(5) becomes final.

The running of such period shall be suspended under this paragraph only with respect to the amount of such assessment equal to the value of the interest of the United States in the property plus interest, penalties, additions to the tax, and additional amounts attributable thereto.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 6325  
note.

## **Subtitle C—Relief for Innocent Spouses and for Taxpayers Unable To Manage Their Financial Affairs Due to Disabil- ities**

### **SEC. 3201. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN.**

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 is amended by inserting after section 6014 the following new section:

#### **“SEC. 6015. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN.**

“(a) IN GENERAL.—Notwithstanding section 6013(d)(3)—

“(1) an individual who has made a joint return may elect to seek relief under the procedures prescribed under subsection (b); and

“(2) if such individual is eligible to elect the application of subsection (c), such individual may, in addition to any election under paragraph (1), elect to limit such individual’s liability for any deficiency with respect to such joint return in the manner prescribed under subsection (c).

Any determination under this section shall be made without regard to community property laws.

“(b) PROCEDURES FOR RELIEF FROM LIABILITY APPLICABLE TO ALL JOINT FILERS.—

“(1) IN GENERAL.—Under procedures prescribed by the Secretary, if—

“(A) a joint return has been made for a taxable year;

“(B) on such return there is an understatement of tax attributable to erroneous items of one individual filing the joint return;

“(C) the other individual filing the joint return establishes that in signing the return he or she did not know, and had no reason to know, that there was such understatement;

“(D) taking into account all the facts and circumstances, it is inequitable to hold the other individual liable for the deficiency in tax for such taxable year attributable to such understatement; and

“(E) the other individual elects (in such form as the Secretary may prescribe) the benefits of this subsection not later than the date which is 2 years after the date the Secretary has begun collection activities with respect to the individual making the election,

Deadline.

then the other individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such understatement.

“(2) APPORTIONMENT OF RELIEF.—If an individual who, but for paragraph (1)(C), would be relieved of liability under paragraph (1), establishes that in signing the return such individual did not know, and had no reason to know, the extent of such understatement, then such individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent that such liability is attributable to the portion of such understatement of which such individual did not know and had no reason to know.

“(3) UNDERSTATEMENT.—For purposes of this subsection, the term ‘understatement’ has the meaning given to such term by section 6662(d)(2)(A).

“(c) PROCEDURES TO LIMIT LIABILITY FOR TAXPAYERS NO LONGER MARRIED OR TAXPAYERS LEGALLY SEPARATED OR NOT LIVING TOGETHER.—

“(1) IN GENERAL.—Except as provided in this subsection, if an individual who has made a joint return for any taxable year elects the application of this subsection, the individual’s liability for any deficiency which is assessed with respect to the return shall not exceed the portion of such deficiency properly allocable to the individual under subsection (d).

“(2) BURDEN OF PROOF.—Except as provided in subparagraph (A)(ii) or (C) of paragraph (3), each individual who elects the application of this subsection shall have the burden of proof with respect to establishing the portion of any deficiency allocable to such individual.

“(3) ELECTION.—

“(A) INDIVIDUALS ELIGIBLE TO MAKE ELECTION.—

“(i) IN GENERAL.—An individual shall only be eligible to elect the application of this subsection if—

“(I) at the time such election is filed, such individual is no longer married to, or is legally separated from, the individual with whom such individual filed the joint return to which the election relates; or

“(II) such individual was not a member of the same household as the individual with whom such joint return was filed at any time during the 12-month period ending on the date such election is filed.

“(ii) CERTAIN TAXPAYERS INELIGIBLE TO ELECT.—

If the Secretary demonstrates that assets were transferred between individuals filing a joint return as part of a fraudulent scheme by such individuals, an election under this subsection by either individual shall be invalid (and section 6013(d)(3) shall apply to the joint return).

Deadline.

“(B) TIME FOR ELECTION.—An election under this subsection for any taxable year shall be made not later than 2 years after the date on which the Secretary has begun collection activities with respect to the individual making the election.

“(C) ELECTION NOT VALID WITH RESPECT TO CERTAIN DEFICIENCIES.—If the Secretary demonstrates that an individual making an election under this subsection had actual knowledge, at the time such individual signed the return, of any item giving rise to a deficiency (or portion thereof) which is not allocable to such individual under subsection (d), such election shall not apply to such deficiency (or portion). This subparagraph shall not apply where the individual with actual knowledge establishes that such individual signed the return under duress.

“(4) LIABILITY INCREASED BY REASON OF TRANSFERS OF PROPERTY TO AVOID TAX.—

“(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the portion of the deficiency for which the individual electing the application of this subsection is liable (without regard to this paragraph) shall be increased by the value of any disqualified asset transferred to the individual.

“(B) DISQUALIFIED ASSET.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘disqualified asset’ means any property or right to property transferred to an individual making the election under this subsection with respect to a joint return by the other



purpose of the transfer was the avoidance of tax or payment of tax.

“(ii) PRESUMPTION.—

“(I) IN GENERAL.—For purposes of clause (i), except as provided in subclause (II), any transfer which is made after the date which is 1 year before the date on which the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent shall be presumed to have as its principal purpose the avoidance of tax or payment of tax.

“(II) EXCEPTIONS.—Subclause (I) shall not apply to any transfer pursuant to a decree of divorce or separate maintenance or a written instrument incident to such a decree or to any transfer which an individual establishes did not have as its principal purpose the avoidance of tax or payment of tax.

“(d) ALLOCATION OF DEFICIENCY.—For purposes of subsection (c)—

“(1) IN GENERAL.—The portion of any deficiency on a joint return allocated to an individual shall be the amount which bears the same ratio to such deficiency as the net amount of items taken into account in computing the deficiency and allocable to the individual under paragraph (3) bears to the net amount of all items taken into account in computing the deficiency.

“(2) SEPARATE TREATMENT OF CERTAIN ITEMS.—If a deficiency (or portion thereof) is attributable to—

“(A) the disallowance of a credit; or

“(B) any tax (other than tax imposed by section 1 or 55) required to be included with the joint return; and such item is allocated to one individual under paragraph (3), such deficiency (or portion) shall be allocated to such individual. Any such item shall not be taken into account under paragraph (1).

“(3) ALLOCATION OF ITEMS GIVING RISE TO THE DEFICIENCY.—For purposes of this subsection—

“(A) IN GENERAL.—Except as provided in paragraphs (4) and (5), any item giving rise to a deficiency on a joint return shall be allocated to individuals filing the return in the same manner as it would have been allocated if the individuals had filed separate returns for the taxable year.

“(B) EXCEPTION WHERE OTHER SPOUSE BENEFITS.— Regulations.  
Under rules prescribed by the Secretary, an item otherwise allocable to an individual under subparagraph (A) shall be allocated to the other individual filing the joint return to the extent the item gave rise to a tax benefit on the joint return to the other individual.

“(C) EXCEPTION FOR FRAUD.—The Secretary may provide for an allocation of any item in a manner not prescribed by subparagraph (A) if the Secretary establishes that such allocation is appropriate due to fraud of one or both individuals.

Applicability.

“(4) LIMITATIONS ON SEPARATE RETURNS DISREGARDED.—If an item of deduction or credit is disallowed in its entirety solely because a separate return is filed, such disallowance shall be disregarded and the item shall be computed as if a joint return had been filed and then allocated between the spouses appropriately. A similar rule shall apply for purposes of section 86.

“(5) CHILD’S LIABILITY.—If the liability of a child of a taxpayer is included on a joint return, such liability shall be disregarded in computing the separate liability of either spouse and such liability shall be allocated appropriately between the spouses.

“(e) PETITION FOR REVIEW BY TAX COURT.—

“(1) IN GENERAL.—In the case of an individual who elects to have subsection (b) or (c) apply—

“(A) IN GENERAL.—The individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the appropriate relief available to the individual under this section if such petition is filed during the 90-day period beginning on the date on which the Secretary mails by certified or registered mail a notice to such individual of the Secretary’s determination of relief available to the individual. Notwithstanding the preceding sentence, an individual may file such petition at any time after the date which is 6 months after the date such election is filed with the Secretary and before the close of such 90-day period.

“(B) RESTRICTIONS APPLICABLE TO COLLECTION OF ASSESSMENT.—

Applicability.

“(i) IN GENERAL.—Except as otherwise provided in section 6851 or 6861, no levy or proceeding in court shall be made, begun, or prosecuted against the individual making an election under subsection (b) or (c) for collection of any assessment to which such election relates until the expiration of the 90-day period described in subparagraph (A), or, if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final. Rules similar to the rules of section 7485 shall apply with respect to the collection of such assessment.

“(ii) AUTHORITY TO ENJOIN COLLECTION ACTIONS.—Notwithstanding the provisions of section 7421(a), the beginning of such levy or proceeding during the time the prohibition under clause (i) is in force may be enjoined by a proceeding in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction under this subparagraph to enjoin any action or proceeding unless a timely petition has been filed under subparagraph (A) and then only in respect of the amount of the assessment to which the election under subsection (b) or (c) relates.

“(2) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—The running of the period of limitations in section 6502 on the collection of the assessment to which the petition under paragraph (1)(A) relates shall be suspended for the period during which the Secretary is prohibited by paragraph (1)(B) from

collecting by levy or a proceeding in court and for 60 days thereafter.

“(3) APPLICABLE RULES.—

“(A) ALLOWANCE OF CREDIT OR REFUND.—Except as provided in subparagraph (B), notwithstanding any other law or rule of law (other than section 6512(b), 7121, or 7122), credit or refund shall be allowed or made to the extent attributable to the application of this section.

“(B) RES JUDICATA.—In the case of any election under subsection (b) or (c), if a decision of the Tax Court in any prior proceeding for the same taxable year has become final, such decision shall be conclusive except with respect to the qualification of the individual for relief which was not an issue in such proceeding. The exception contained in the preceding sentence shall not apply if the Tax Court determines that the individual participated meaningfully in such prior proceeding.

“(C) LIMITATION ON TAX COURT JURISDICTION.—If a suit for refund is begun by either individual filing the joint return pursuant to section 6532—

“(i) the Tax Court shall lose jurisdiction of the individual’s action under this section to whatever extent jurisdiction is acquired by the district court or the United States Court of Federal Claims over the taxable years that are the subject of the suit for refund; and

“(ii) the court acquiring jurisdiction shall have jurisdiction over the petition filed under this subsection.

“(4) NOTICE TO OTHER SPOUSE.—The Tax Court shall establish rules which provide the individual filing a joint return but not making the election under subsection (b) or (c) with adequate notice and an opportunity to become a party to a proceeding under either such subsection.

Regulations.

“(f) EQUITABLE RELIEF.—Under procedures prescribed by the Secretary, if—

“(1) taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either); and

“(2) relief is not available to such individual under subsection (b) or (c),

the Secretary may relieve such individual of such liability.

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this section, including—

“(1) regulations providing methods for allocation of items other than the methods under subsection (d)(3); and

“(2) regulations providing the opportunity for an individual to have notice of, and an opportunity to participate in, any administrative proceeding with respect to an election made under subsection (b) or (c) by the other individual filing the joint return.”.

(b) EQUITABLE RELIEF FOR INDIVIDUALS NOT FILING JOINT RETURN.—Section 66(c) (relating to spouse relieved of liability in certain other cases) is amended by adding at the end the following new sentence: “Under procedures prescribed by the Secretary, if, taking into account all the facts and circumstances, it is inequitable

Procedures.

to hold the individual liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under the preceding sentence, the Secretary may relieve such individual of such liability.”.

Deadline.  
26 USC 6015  
note.

(c) **SEPARATE FORM FOR APPLYING FOR SPOUSAL RELIEF.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall develop a separate form with instructions for use by taxpayers in applying for relief under section 6015(a) of the Internal Revenue Code of 1986, as added by this section.

26 USC 6013  
note.

(d) **SEPARATE NOTICE TO EACH FILER.**—The Secretary of the Treasury shall, wherever practicable, send any notice relating to a joint return under section 6013 of the Internal Revenue Code of 1986 separately to each individual filing the joint return.

(e) **CONFORMING AMENDMENTS.**—

(1) Section 6013 is amended by striking subsection (e).

(2) Subparagraph (A) of section 6230(c)(5) is amended by striking “section 6013(e)” and inserting “section 6015”.

(3) Section 7421(a) is amended by inserting “6015(d),” after “sections”.

(f) **CLERICAL AMENDMENT.**—The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by inserting after the item relating to section 6014 the following new item:

“Sec. 6015. Relief from joint and several liability on joint return.”.

26 USC 6015  
note.  
Applicability.

(g) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to any liability for tax arising after the date of the enactment of this Act and any liability for tax arising on or before such date but remaining unpaid as of such date.

(2) **2-YEAR PERIOD.**—The 2-year period under subsection (b)(1)(E) or (c)(3)(B) of section 6015 of the Internal Revenue Code of 1986 shall not expire before the date which is 2 years after the date of the first collection activity after the date of the enactment of this Act.

#### **SEC. 3202. SUSPENSION OF STATUTE OF LIMITATIONS ON FILING REFUND CLAIMS DURING PERIODS OF DISABILITY.**

(a) **IN GENERAL.**—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) **RUNNING OF PERIODS OF LIMITATION SUSPENDED WHILE TAXPAYER IS UNABLE TO MANAGE FINANCIAL AFFAIRS DUE TO DISABILITY.**—

“(1) **IN GENERAL.**—In the case of an individual, the running of the periods specified in subsections (a), (b), and (c) shall be suspended during any period of such individual’s life that such individual is financially disabled.

“(2) **FINANCIALLY DISABLED.**—

“(A) **IN GENERAL.**—For purposes of paragraph (1), an individual is financially disabled if such individual is unable to manage his financial affairs by reason of a medically determinable physical or mental impairment of the individual which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to have such an impairment unless proof

of the existence thereof is furnished in such form and manner as the Secretary may require.

“(B) EXCEPTION WHERE INDIVIDUAL HAS GUARDIAN, ETC.—An individual shall not be treated as financially disabled during any period that such individual’s spouse or any other person is authorized to act on behalf of such individual in financial matters.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods of disability before, on, or after the date of the enactment of this Act but shall not apply to any claim for credit or refund which (without regard to such amendment) is barred by the operation of any law or rule of law (including res judicata) as of the date of the enactment of this Act.

Applicability.  
26 USC 6511  
note.

## **Subtitle D—Provisions Relating to Interest and Penalties**

### **SEC. 3301. ELIMINATION OF INTEREST RATE DIFFERENTIAL ON OVERLAPPING PERIODS OF INTEREST ON TAX OVERPAYMENTS AND UNDERPAYMENTS.**

(a) IN GENERAL.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end the following new subsection:

“(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer of tax imposed by this title, the net rate of interest under this section on such amounts shall be zero for such period.”.

(b) CONFORMING AMENDMENT.—Subsection (f) of section 6601 (relating to satisfaction by credits) is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to the extent that section 6621(d) applies.”.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided under paragraph (2), the amendments made by this section shall apply to interest for periods beginning after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by this section shall apply to interest for periods beginning before the date of the enactment of this Act if the taxpayer—

(A) reasonably identifies and establishes periods of such tax overpayments and underpayments for which the zero rate applies; and

(B) not later than December 31, 1999, requests the Secretary of the Treasury to apply section 6621(d) of the Internal Revenue Code of 1986, as added by subsection (a), to such periods.

Applicability.  
26 USC 6601  
note.

Deadline.

### **SEC. 3302. INCREASE IN OVERPAYMENT RATE PAYABLE TO TAXPAYERS OTHER THAN CORPORATIONS.**

(a) IN GENERAL.—Subparagraph (B) of section 6621(a)(1) (defining overpayment rate) is amended to read as follows:

“(B) 3 percentage points (2 percentage points in the case of a corporation).”.

Applicability.  
26 USC 6621  
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to interest for the second and succeeding calendar quarters beginning after the date of the enactment of this Act.

**SEC. 3303. MITIGATION OF PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.**

(a) **IN GENERAL.**—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

“(h) **LIMITATION ON PENALTY ON INDIVIDUAL'S FAILURE TO PAY FOR MONTHS DURING PERIOD OF INSTALLMENT AGREEMENT.**—In the case of an individual who files a return of tax on or before the due date for the return (including extensions), paragraphs (2) and (3) of subsection (a) shall each be applied by substituting ‘0.25’ for ‘0.5’ each place it appears for purposes of determining the addition to tax for any month during which an installment agreement under section 6159 is in effect for the payment of such tax.”.

Applicability.  
26 USC 6651  
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply for purposes of determining additions to the tax for months beginning after December 31, 1999.

**SEC. 3304. MITIGATION OF FAILURE TO DEPOSIT PENALTY.**

(a) **TAXPAYER MAY DESIGNATE PERIODS TO WHICH DEPOSITS APPLY.**—Section 6656 (relating to underpayment of deposits) is amended by adding at the end the following new subsection:

“(e) **DESIGNATION OF PERIODS TO WHICH DEPOSITS APPLY.**—

“(1) **IN GENERAL.**—A person may, with respect to any deposit of tax to be reported on such person's return for a specified tax period, designate the period or periods within such specified tax period to which the deposit is to be applied for purposes of this section.

“(2) **TIME FOR MAKING DESIGNATION.**—A person may make a designation under paragraph (1) only during the 90-day period beginning on the date of a notice that a penalty under subsection (a) has been imposed for the specified tax period to which the deposit relates.”.

(b) **EXPANSION OF EXEMPTION FOR FIRST-TIME DEPOSITS.**—

(1) **IN GENERAL.**—Paragraph (2) of section 6656(c) (relating to exemption for first-time depositors of employment taxes) is amended to read as follows:

“(2) such failure—

“(A) occurs during the first quarter that such person was required to deposit any employment tax; or

“(B) if such person is required to change the frequency of deposits of any employment tax, relates to the first deposit to which such change applies, and”.

(c) **PERIODS APPLY TO CURRENT LIABILITIES UNLESS DESIGNATED OTHERWISE.**—Paragraph (1) of section 6656(e) (as added by subsection (a) of this section) is amended to read as follows:

“(e) **DESIGNATION OF PERIODS TO WHICH DEPOSITS APPLY.**—

“(1) **IN GENERAL.**—A deposit made under this section shall be applied to the most recent period or periods within the specified tax period to which the deposit relates, unless the person making such deposit designates a different period or periods to which such deposit is to be applied.”.

(d) **EFFECTIVE DATE.**—

Applicability.  
26 USC 6656  
note.

(1) IN GENERAL.—The amendments made by this section shall apply to deposits required to be made after the 180th day after the date of the enactment of this Act.

(2) APPLICATION TO CURRENT LIABILITIES.—The amendment made by subsection (c) shall apply to deposits required to be made after December 31, 2001.

**SEC. 3305. SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT INDIVIDUAL TAXPAYER.**

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) SUSPENSION OF INTEREST AND CERTAIN PENALTIES WHERE SECRETARY FAILS TO CONTACT TAXPAYER.—

“(1) SUSPENSION.—

“(A) IN GENERAL.—In the case of an individual who files a return of tax imposed by subtitle A for a taxable year on or before the due date for the return (including extensions), if the Secretary does not provide a notice to the taxpayer specifically stating the taxpayer’s liability and the basis for the liability before the close of the 1-year period (18-month period in the case of taxable years beginning before January 1, 2004) beginning on the later of—

“(i) the date on which the return is filed; or

“(ii) the due date of the return without regard to extensions,

the Secretary shall suspend the imposition of any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return which is computed by reference to the period of time the failure continues to exist and which is properly allocable to the suspension period.

“(B) SEPARATE APPLICATION.—This paragraph shall be applied separately with respect to each item or adjustment.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

“(A) any penalty imposed by section 6651;

“(B) any interest, penalty, addition to tax, or additional amount in a case involving fraud;

“(C) any interest, penalty, addition to tax, or additional amount with respect to any tax liability shown on the return; or

“(D) any criminal penalty.

“(3) SUSPENSION PERIOD.—For purposes of this subsection, the term ‘suspension period’ means the period—

“(A) beginning on the day after the close of the 1-year period (18-month period in the case of taxable years beginning before January 1, 2004) under paragraph (1); and

“(B) ending on the date which is 21 days after the date on which notice described in paragraph (1)(A) is provided by the Secretary.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Applicability.  
26 USC 6404  
note.

**SEC. 3306. PROCEDURAL REQUIREMENTS FOR IMPOSITION OF PENALTIES AND ADDITIONS TO TAX.**

(a) IN GENERAL.—Chapter 68 (relating to additions to the tax, additional amounts, and assessable penalties) is amended by adding at the end the following new subchapter:

**“Subchapter C—Procedural Requirements**

“Sec. 6751. Procedural requirements.

**“SEC. 6751. PROCEDURAL REQUIREMENTS.**

“(a) COMPUTATION OF PENALTY INCLUDED IN NOTICE.—The Secretary shall include with each notice of penalty under this title information with respect to the name of the penalty, the section of this title under which the penalty is imposed, and a computation of the penalty.

“(b) APPROVAL OF ASSESSMENT.—

“(1) IN GENERAL.—No penalty under this title shall be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the individual making such determination or such higher level official as the Secretary may designate.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

“(A) any addition to tax under section 6651, 6654, or 6655; or

“(B) any other penalty automatically calculated through electronic means.

“(c) PENALTIES.—For purposes of this section, the term ‘penalty’ includes any addition to tax or any additional amount.”.

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 68 is amended by adding at the end the following new item:

“SUBCHAPTER C. Procedural requirements.”.

Applicability.  
26 USC 6751  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices issued, and penalties assessed, after December 31, 2000.

**SEC. 3307. PERSONAL DELIVERY OF NOTICE OF PENALTY UNDER SECTION 6672.**

(a) IN GENERAL.—Paragraph (1) of section 6672(b) (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by inserting “or in person” after “section 6212(b)”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6672(b) is amended by inserting “(or, in the case of such a notice delivered in person, such delivery)” after “paragraph (1)”.

(2) Paragraph (3) of section 6672(b) is amended by inserting “or delivered in person” after “mailed” each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 6672  
note.

**SEC. 3308. NOTICE OF INTEREST CHARGES.**

(a) IN GENERAL.—Chapter 67 (relating to interest) is amended by adding at the end the following new subchapter:



**“Subchapter D—Notice requirements**

“Sec. 6631. Notice requirements.

**“SEC. 6631. NOTICE REQUIREMENTS.**

“The Secretary shall include with each notice to an individual taxpayer which includes an amount of interest required to be paid by such taxpayer under this title information with respect to the section of this title under which the interest is imposed and a computation of the interest.”.

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 67 is amended by adding at the end the following new item:

“SUBCHAPTER D. Notice requirements.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices issued after December 31, 2000.

Applicability.  
26 USC 6631  
note.

**SEC. 3309. ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.**

(a) IN GENERAL.—Section 6404 (relating to abatements), as amended by section 3305, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

“(h) ABATEMENT OF INTEREST ON UNDERPAYMENTS BY TAXPAYERS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—

“(1) IN GENERAL.—If the Secretary extends for any period the time for filing income tax returns under section 6081 and the time for paying income tax with respect to such returns under section 6161 for any taxpayer located in a Presidentially declared disaster area, the Secretary shall abate for such period the assessment of any interest prescribed under section 6601 on such income tax.

“(2) PRESIDENTIALLY DECLARED DISASTER AREA.—For purposes of paragraph (1), the term ‘Presidentially declared disaster area’ means, with respect to any taxpayer, any area which the President has determined warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters declared after December 31, 1997, with respect to taxable years beginning after December 31, 1997.

Applicability.  
26 USC 6404  
note.

(c) EMERGENCY DESIGNATION.—

26 USC 6404  
note.

(1) For the purposes of section 252(e) of the Balanced Budget and Emergency Deficit Control Act, Congress designates the provisions of this section as an emergency requirement.

(2) The amendments made by subsections (a) and (b) of this section shall only take effect upon the transmittal by the President to the Congress of a message designating the provisions of subsections (a) and (b) as an emergency requirement pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act.

## **Subtitle E—Protections for Taxpayers Subject to Audit or Collection Activities**

### **PART I—DUE PROCESS**

#### **SEC. 3401. DUE PROCESS IN INTERNAL REVENUE SERVICE COLLECTION ACTIONS.**

(a) NOTICE AND OPPORTUNITY FOR HEARING UPON FILING OF NOTICE OF LIEN.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting before the table of sections the following:

“Part I. Due process for liens.

“Part II. Liens.

### **“PART I—DUE PROCESS FOR LIENS**

“Sec. 6320. Notice and opportunity for hearing upon filing of notice of lien.

#### **“SEC. 6320. NOTICE AND OPPORTUNITY FOR HEARING UPON FILING OF NOTICE OF LIEN.**

“(a) REQUIREMENT OF NOTICE.—

“(1) IN GENERAL.—The Secretary shall notify in writing the person described in section 6321 of the filing of a notice of lien under section 6323.

“(2) TIME AND METHOD FOR NOTICE.—The notice required under paragraph (1) shall be—

“(A) given in person;

“(B) left at the dwelling or usual place of business of such person; or

“(C) sent by certified or registered mail to such person’s last known address, not more than 5 business days after the day of the filing of the notice of lien.

“(3) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include in simple and non-technical terms—

“(A) the amount of unpaid tax;

“(B) the right of the person to request a hearing during the 30-day period beginning on the day after the 5-day period described in paragraph (2);

“(C) the administrative appeals available to the taxpayer with respect to such lien and the procedures relating to such appeals; and

“(D) the provisions of this title and procedures relating to the release of liens on property.

“(b) RIGHT TO FAIR HEARING.—

“(1) IN GENERAL.—If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

“(2) ONE HEARING PER PERIOD.—A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

“(3) IMPARTIAL OFFICER.—The hearing under this subsection shall be conducted by an officer or employee who has

had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6330. A taxpayer may waive the requirement of this paragraph.

“(4) COORDINATION WITH SECTION 6330.—To the extent practicable, a hearing under this section shall be held in conjunction with a hearing under section 6330.

“(c) CONDUCT OF HEARING; REVIEW; SUSPENSIONS.—For purposes of this section, subsections (c), (d) (other than paragraph (2)(B) thereof), and (e) of section 6330 shall apply. Applicability.

## **“PART II—LIENS”.**

(b) NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.—Subchapter D of chapter 64 (relating to seizure of property for collection of taxes) is amended by inserting before the table of sections the following:

“Part I. Due process for collections.

“Part II. Levy.

## **“PART I—DUE PROCESS FOR COLLECTIONS**

“Sec. 6330. Notice and opportunity for hearing before levy.

### **“SEC. 6330. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.**

“(a) REQUIREMENT OF NOTICE BEFORE LEVY.—

“(1) IN GENERAL.—No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of their right to a hearing under this section before such levy is made. Such notice shall be required only once for the taxable period to which the unpaid tax specified in paragraph (3)(A) relates.

“(2) TIME AND METHOD FOR NOTICE.—The notice required under paragraph (1) shall be—

“(A) given in person;

“(B) left at the dwelling or usual place of business of such person; or

“(C) sent by certified or registered mail, return receipt requested, to such person’s last known address; not less than 30 days before the day of the first levy with respect to the amount of the unpaid tax for the taxable period.

“(3) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include in simple and non-technical terms—

“(A) the amount of unpaid tax;

“(B) the right of the person to request a hearing during the 30-day period under paragraph (2); and

“(C) the proposed action by the Secretary and the rights of the person with respect to such action, including a brief statement which sets forth—

“(i) the provisions of this title relating to levy and sale of property;

“(ii) the procedures applicable to the levy and sale of property under this title;

“(iii) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals;

“(iv) the alternatives available to taxpayers which could prevent levy on property (including installment agreements under section 6159); and

“(v) the provisions of this title and procedures relating to redemption of property and release of liens on property.

“(b) RIGHT TO FAIR HEARING.—

“(1) IN GENERAL.—If the person requests a hearing under subsection (a)(3)(B), such hearing shall be held by the Internal Revenue Service Office of Appeals.

“(2) ONE HEARING PER PERIOD.—A person shall be entitled to only one hearing under this section with respect to the taxable period to which the unpaid tax specified in subsection (a)(3)(A) relates.

“(3) IMPARTIAL OFFICER.—The hearing under this subsection shall be conducted by an officer or employee who has had no prior involvement with respect to the unpaid tax specified in subsection (a)(3)(A) before the first hearing under this section or section 6320. A taxpayer may waive the requirement of this paragraph.

“(c) MATTERS CONSIDERED AT HEARING.—In the case of any hearing conducted under this section—

“(1) REQUIREMENT OF INVESTIGATION.—The appeals officer shall at the hearing obtain verification from the Secretary that the requirements of any applicable law or administrative procedure have been met.

“(2) ISSUES AT HEARING.—

“(A) IN GENERAL.—The person may raise at the hearing any relevant issue relating to the unpaid tax or the proposed levy, including—

“(i) appropriate spousal defenses;

“(ii) challenges to the appropriateness of collection actions; and

“(iii) offers of collection alternatives, which may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

“(B) UNDERLYING LIABILITY.—The person may also raise at the hearing challenges to the existence or amount of the underlying tax liability for any tax period if the person did not receive any statutory notice of deficiency for such tax liability or did not otherwise have an opportunity to dispute such tax liability.

“(3) BASIS FOR THE DETERMINATION.—The determination by an appeals officer under this subsection shall take into consideration—

“(A) the verification presented under paragraph (1);

“(B) the issues raised under paragraph (2); and

“(C) whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.

“(4) CERTAIN ISSUES PRECLUDED.—An issue may not be raised at the hearing if—

“(A) the issue was raised and considered at a previous hearing under section 6320 or in any other previous administrative or judicial proceeding; and

“(B) the person seeking to raise the issue participated meaningfully in such hearing or proceeding.

This paragraph shall not apply to any issue with respect to which subsection (d)(2)(B) applies.

“(d) PROCEEDING AFTER HEARING.—

“(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination—

“(A) to the Tax Court (and the Tax Court shall have jurisdiction to hear such matter); or

“(B) if the Tax Court does not have jurisdiction of the underlying tax liability, to a district court of the United States.

If a court determines that the appeal was to an incorrect court, a person shall have 30 days after the court determination to file such appeal with the correct court.

“(2) JURISDICTION RETAINED AT IRS OFFICE OF APPEALS.—The Internal Revenue Service Office of Appeals shall retain jurisdiction with respect to any determination made under this section, including subsequent hearings requested by the person who requested the original hearing on issues regarding—

“(A) collection actions taken or proposed with respect to such determination; and

“(B) after the person has exhausted all administrative remedies, a change in circumstances with respect to such person which affects such determination.

“(e) SUSPENSION OF COLLECTIONS AND STATUTE OF LIMITATIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if a hearing is requested under subsection (a)(3)(B), the levy actions which are the subject of the requested hearing and the running of any period of limitations under section 6502 (relating to collection after assessment), section 6531 (relating to criminal prosecutions), or section 6532 (relating to other suits) shall be suspended for the period during which such hearing, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such hearing.

“(2) LEVY UPON APPEAL.—Paragraph (1) shall not apply to a levy action while an appeal is pending if the underlying tax liability is not at issue in the appeal and the court determines that the Secretary has shown good cause not to suspend the levy.

“(f) JEOPARDY AND STATE REFUND COLLECTION.—If—

“(1) the Secretary has made a finding under the last sentence of section 6331(a) that the collection of tax is in jeopardy; or

“(2) the Secretary has served a levy on a State to collect a Federal tax liability from a State tax refund, this section shall not apply, except that the taxpayer shall be given the opportunity for the hearing described in this section within a reasonable period of time after the levy.

## “PART II—LEVY”.

(c) REVIEW BY SPECIAL TRIAL JUDGES ALLOWED.—

(1) IN GENERAL.—Section 7443(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking “and” at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

“(4) any proceeding under section 6320 or 6330, and”.

(2) AUTHORITY TO MAKE DECISIONS.—Section 7443(c) (relating to authority to make court decisions) is amended by striking “or (3)” and inserting “(3), or (4)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to collection actions initiated after the date which is 180 days after the date of the enactment of this Act.

Applicability.  
26 USC 6320  
note.

## PART II—EXAMINATION ACTIVITIES

### SEC. 3411. CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

#### “SEC. 7525. CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.

“(a) UNIFORM APPLICATION TO TAXPAYER COMMUNICATIONS WITH FEDERALLY AUTHORIZED PRACTITIONERS.—

“(1) GENERAL RULE.—With respect to tax advice, the same common law protections of confidentiality which apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney.

“(2) LIMITATIONS.—Paragraph (1) may only be asserted in—

“(A) any noncriminal tax matter before the Internal Revenue Service; and

“(B) any noncriminal tax proceeding in Federal court brought by or against the United States.

“(3) DEFINITIONS.—For purposes of this subsection—

“(A) FEDERALLY AUTHORIZED TAX PRACTITIONER.—The term ‘federally authorized tax practitioner’ means any individual who is authorized under Federal law to practice before the Internal Revenue Service if such practice is subject to Federal regulation under section 330 of title 31, United States Code.

“(B) TAX ADVICE.—The term ‘tax advice’ means advice given by an individual with respect to a matter which is within the scope of the individual’s authority to practice described in subparagraph (A).

“(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING CORPORATE TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication between a federally authorized tax practitioner and a director, shareholder, officer, or employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of such corporation in any tax shelter (as defined in section 6662(d)(2)(C)(iii)).”.

(b) **CONFORMING AMENDMENT.**—The table of sections for such chapter 77 is amended by adding at the end the following new item:

“Sec. 7525. Confidentiality privileges relating to taxpayer communications.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to communications made on or after the date of the enactment of this Act.

Applicability.  
26 USC 7525  
note.

**SEC. 3412. LIMITATION ON FINANCIAL STATUS AUDIT TECHNIQUES.**

Section 7602 (relating to examination of books and witnesses) is amended by adding at the end the following new subsection:

“(d) **LIMITATION ON EXAMINATION ON UNREPORTED INCOME.**—The Secretary shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Secretary has a reasonable indication that there is a likelihood of such unreported income.”.

**SEC. 3413. SOFTWARE TRADE SECRETS PROTECTION.**

(a) **IN GENERAL.**—Subchapter A of chapter 78 (relating to examination and inspection) is amended by redesignating section 7612 as section 7613 and by inserting after 7611 the following new section:

**“SEC. 7612. SPECIAL PROCEDURES FOR SUMMONSES FOR COMPUTER SOFTWARE.**

“(a) **GENERAL RULE.**—For purposes of this title—

“(1) except as provided in subsection (b), no summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons to produce or analyze any tax-related computer software source code; and

“(2) any software and related materials which are provided to the Secretary under this title shall be subject to the safeguards under subsection (c).

“(b) **CIRCUMSTANCES UNDER WHICH COMPUTER SOFTWARE SOURCE CODE MAY BE PROVIDED.**—

“(1) **IN GENERAL.**—Subsection (a)(1) shall not apply to any portion, item, or component of tax-related computer software source code if—

“(A) the Secretary is unable to otherwise reasonably ascertain the correctness of any item on a return from—

“(i) the taxpayer’s books, papers, records, or other data; or

“(ii) the computer software executable code (and any modifications thereof) to which such source code relates and any associated data which, when executed, produces the output to ascertain the correctness of the item;

“(B) the Secretary identifies with reasonable specificity the portion, item, or component of such source code needed to verify the correctness of such item on the return; and

“(C) the Secretary determines that the need for the portion, item, or component of such source code with respect to such item outweighs the risks of unauthorized disclosure of trade secrets.

“(2) **EXCEPTIONS.**—Subsection (a)(1) shall not apply to—

“(A) any inquiry into any offense connected with the administration or enforcement of the internal revenue laws;

“(B) any tax-related computer software source code acquired or developed by the taxpayer or a related person primarily for internal use by the taxpayer or such person rather than for commercial distribution;

“(C) any communications between the owner of the tax-related computer software source code and the taxpayer or related persons; or

“(D) any tax-related computer software source code which is required to be provided or made available pursuant to any other provision of this title.

“(3) COOPERATION REQUIRED.—For purposes of paragraph (1), the Secretary shall be treated as meeting the requirements of subparagraphs (A) and (B) of such paragraph if—

“(A) the Secretary determines that it is not feasible to determine the correctness of an item without access to the computer software executable code and associated data described in paragraph (1)(A)(ii);

“(B) the Secretary makes a formal request to the taxpayer for such code and data and to the owner of the computer software source code for such executable code; and

“(C) such code and data is not provided within 180 days of such request.

Courts.

“(4) RIGHT TO CONTEST SUMMONS.—In any proceeding brought under section 7604 to enforce a summons issued under the authority of this subsection, the court shall, at the request of any party, hold a hearing to determine whether the applicable requirements of this subsection have been met.

“(c) SAFEGUARDS TO ENSURE PROTECTION OF TRADE SECRETS AND OTHER CONFIDENTIAL INFORMATION.—

“(1) ENTRY OF PROTECTIVE ORDER.—In any court proceeding to enforce a summons for any portion of software, the court may receive evidence and issue any order necessary to prevent the disclosure of trade secrets or other confidential information with respect to such software, including requiring that any information be placed under seal to be opened only as directed by the court.

“(2) PROTECTION OF SOFTWARE.—Notwithstanding any other provision of this section, and in addition to any protections ordered pursuant to paragraph (1), in the case of software that comes into the possession or control of the Secretary in the course of any examination with respect to any taxpayer—

“(A) the software may be used only in connection with the examination of such taxpayer’s return, any appeal by the taxpayer to the Internal Revenue Service Office of Appeals, any judicial proceeding (and any appeals therefrom), and any inquiry into any offense connected with the administration or enforcement of the internal revenue laws;

“(B) the Secretary shall provide, in advance, to the taxpayer and the owner of the software a written list of the names of all individuals who will analyze or otherwise have access to the software;

“(C) the software shall be maintained in a secure area or place, and, in the case of computer software source



code, shall not be removed from the owner's place of business unless the owner permits, or a court orders, such removal;

“(D) the software may not be copied except as necessary to perform such analysis, and the Secretary shall number all copies made and certify in writing that no other copies have been (or will be) made;

“(E) at the end of the period during which the software may be used under subparagraph (A)—

“(i) the software and all copies thereof shall be returned to the person from whom they were obtained and any copies thereof made under subparagraph (D) on the hard drive of a machine or other mass storage device shall be permanently deleted; and

“(ii) the Secretary shall obtain from any person who analyzes or otherwise had access to such software a written certification under penalty of perjury that all copies and related materials have been returned and that no copies were made of them;

“(F) the software may not be decompiled or disassembled;

“(G) the Secretary shall provide to the taxpayer and the owner of any interest in such software, as the case may be, a written agreement, between the Secretary and any person who is not an officer or employee of the United States and who will analyze or otherwise have access to such software, which provides that such person agrees not to—

“(i) disclose such software to any person other than persons to whom such information could be disclosed for tax administration purposes under section 6103; or

“(ii) participate for 2 years in the development of software which is intended for a similar purpose as the software examined; and

“(H) the software shall be treated as return information for purposes of section 6103.

For purposes of subparagraph (C), the owner shall make available any necessary equipment or materials for analysis of computer software source code required to be conducted on the owner's premises. The owner of any interest in the software shall be considered a party to any agreement described in subparagraph (G).

“(d) DEFINITIONS.—For purposes of this section—

“(1) SOFTWARE.—The term ‘software’ includes computer software source code and computer software executable code.

“(2) COMPUTER SOFTWARE SOURCE CODE.—The term ‘computer software source code’ means—

“(A) the code written by a programmer using a programming language which is comprehensible to appropriately trained persons and is not capable of directly being used to give instructions to a computer;

“(B) related programmers' notes, design documents, memoranda, and similar documentation; and

“(C) related customer communications.

“(3) COMPUTER SOFTWARE EXECUTABLE CODE.—The term ‘computer software executable code’ means—

“(A) any object code, machine code, or other code readable by a computer when loaded into its memory and used directly by such computer to execute instructions; and

“(B) any related user manuals.

“(4) OWNER.—The term ‘owner’ shall, with respect to any software, include the developer of the software.

“(5) RELATED PERSON.—A person shall be treated as related to another person if such persons are related persons under section 267 or 707(b).

“(6) TAX-RELATED COMPUTER SOFTWARE SOURCE CODE.—The term ‘tax-related computer software source code’ means the computer source code for any computer software program intended for accounting, tax return preparation or compliance, or tax planning.”.

(b) UNAUTHORIZED DISCLOSURE OF SOFTWARE.—Section 7213 (relating to unauthorized disclosure of information) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

“(d) DISCLOSURE OF SOFTWARE.—Any person who willfully divulges or makes known software (as defined in section 7612(d)(1)) to any person in violation of section 7612 shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.”.

(c) APPLICATION OF SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.—Paragraph (2) of section 7603(b), as amended by section 3416(a), is amended by striking “and” at the end of subparagraph (H), by striking a period at the end of subparagraph (I) and inserting “, and”, and by adding at the end the following new subparagraph:

“(J) any owner or developer of a computer software source code (as defined in section 7612(d)(2)).

Applicability.

Subparagraph (J) shall apply only with respect to a summons requiring the production of the source code referred to in subparagraph (J) or the program and data described in section 7612(b)(1)(A)(ii) to which such source code relates.”.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 78 is amended by striking the item relating to section 7612 and by inserting the following new item:

“Sec. 7612. Special procedures for summonses for computer software.

“Sec. 7613. Cross references.”.

Applicability.  
26 USC 7612  
note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to summonses issued, and software acquired, after the date of the enactment of this Act.

(2) SOFTWARE PROTECTION.—In the case of any software acquired on or before such date of enactment, the requirements of section 7612(a)(2) of the Internal Revenue Code of 1986 (as added by such amendments) shall apply after the 90th day after such date. The preceding sentence shall not apply to the requirement under section 7612(c)(2)(G)(ii) of such Code (as so added).

**SEC. 3414. THREAT OF AUDIT PROHIBITED TO COERCE TIP REPORTING  
ALTERNATIVE COMMITMENT AGREEMENTS.**26 USC 6053  
note.

The Secretary of the Treasury or the Secretary's delegate shall instruct employees of the Internal Revenue Service that they may not threaten to audit any taxpayer in an attempt to coerce the taxpayer into entering into a Tip Reporting Alternative Commitment Agreement.

**SEC. 3415. TAXPAYERS ALLOWED MOTION TO QUASH ALL THIRD-PARTY  
SUMMONSES.**

(a) IN GENERAL.—Paragraph (1) of section 7609(a) (relating to summonses to which section applies) is amended by striking so much of such paragraph as precedes “notice of the summons” and inserting the following:

“(1) IN GENERAL.—If any summons to which this section applies requires the giving of testimony on or relating to, the production of any portion of records made or kept on or relating to, or the production of any computer software source code (as defined in 7612(d)(2)) with respect to, any person (other than the person summoned) who is identified in the summons, then”.

(b) COORDINATION WITH OTHER AUTHORITY.—Section 7609 (relating to special procedures for third-party summonses) is amended by adding at the end the following new subsection:

“(j) USE OF SUMMONS NOT REQUIRED.—Nothing in this section shall be construed to limit the Secretary's ability to obtain information, other than by summons, through formal or informal procedures authorized by sections 7601 and 7602.”.

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 7609 is amended by striking paragraphs (3) and (4), by redesignating paragraph (5) as paragraph (3), and by striking in paragraph (3) (as so redesignated) “subsection (c)(2)(B)” and inserting “subsection (c)(2)(D)”.

(2) Subsection (c) of section 7609 is amended to read as follows:

“(c) SUMMONS TO WHICH SECTION APPLIES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to any summons issued under paragraph (2) of section 7602(a) or under section 6420(e)(2), 6421(g)(2), 6427(j)(2), or 7612.

“(2) EXCEPTIONS.—This section shall not apply to any summonses—

“(A) served on the person with respect to whose liability the summons is issued, or any officer or employee of such person;

“(B) issued to determine whether or not records of the business transactions or affairs of an identified person have been made or kept;

“(C) issued solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in section 7603(b)(2)(A);

“(D) issued in aid of the collection of—

“(i) an assessment made or judgment rendered against the person with respect to whose liability the summons is issued; or

“(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i);

“(E)(i) issued by a criminal investigator of the Internal Revenue Service in connection with the investigation of an offense connected with the administration or enforcement of the internal revenue laws; and

“(ii) served on any person who is not a third-party recordkeeper (as defined in section 7603(b)); or

“(F) described in subsection (f) or (g).

“(3) RECORDS.—For purposes of this section, the term ‘records’ includes books, papers, and other data.”

(3) Paragraph (2) of section 7609(e) is amended by striking “third-party recordkeeper’s” and all that follows through “subsection (f)” and inserting “summoned party’s response to the summons”.

(4) Subsection (f) of section 7609 is amended—

(A) by striking “described in subsection (c)” and inserting “described in subsection (c)(1)”; and

(B) by inserting “or testimony” after “records” in paragraph (3).

(5) Subsection (g) of section 7609 is amended by striking “In the case of any summons described in subsection (c), the provisions of subsections (a)(1) and (b) shall not apply if” and inserting “A summons is described in this subsection if”.

(6)(A) Subsection (i) of section 7609 is amended by striking “THIRD-PARTY RECORDKEEPER AND” in the subsection heading.

(B) Paragraph (1) of section 7609(i) is amended by striking “described in subsection (c), the third-party recordkeeper” and inserting “to which this section applies for the production of records, the summoned party”.

(C) Paragraph (2) of section 7609(i) is amended—

(i) by striking “RECORDKEEPER” in the heading and inserting “SUMMONED PARTY”; and

(ii) by striking “the third-party recordkeeper” and inserting “the summoned party”.

(D) Paragraph (3) of section 7609(i) is amended to read as follows:

“(3) PROTECTION FOR SUMMONED PARTY WHO DISCLOSES.—Any summoned party, or agent or employee thereof, making a disclosure of records or testimony pursuant to this section in good faith reliance on the certificate of the Secretary or an order of a court requiring production of records or the giving of such testimony shall not be liable to any customer or other person for such disclosure.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses served after the date of the enactment of this Act.

Applicability.  
26 USC 7609  
note.

#### **SEC. 3416. SERVICE OF SUMMONSES TO THIRD-PARTY RECORD-KEEPERS PERMITTED BY MAIL.**

(a) IN GENERAL.—Section 7603 (relating to service of summons) is amended by striking “A summons issued” and inserting “(a) IN GENERAL.—A summons issued” and by adding at the end the following new subsection:

“(b) SERVICE BY MAIL TO THIRD-PARTY RECORDKEEPERS.—

“(1) IN GENERAL.—A summons referred to in subsection (a) for the production of books, papers, records, or other data by a third-party recordkeeper may also be served by certified or registered mail to the last known address of such recordkeeper.

“(2) THIRD-PARTY RECORDKEEPER.—For purposes of paragraph (1), the term ‘third-party recordkeeper’ means—

“(A) any mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar association under Federal or State law, any bank (as defined in section 581), or any credit union (within the meaning of section 501(c)(14)(A));

“(B) any consumer reporting agency (as defined under section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)));

“(C) any person extending credit through the use of credit cards or similar devices;

“(D) any broker (as defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)));

“(E) any attorney;

“(F) any accountant;

“(G) any barter exchange (as defined in section 6045(c)(3));

“(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof, and

“(I) any enrolled agent.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to summonses served after the date of the enactment of this Act.

Applicability.  
26 USC 7603  
note.

#### SEC. 3417. NOTICE OF INTERNAL REVENUE SERVICE CONTACT OF THIRD PARTIES.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses), as amended by section 3412, is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

“(c) NOTICE OF CONTACT OF THIRD PARTIES.—

“(1) GENERAL NOTICE.—An officer or employee of the Internal Revenue Service may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of such taxpayer without providing reasonable notice in advance to the taxpayer that contacts with persons other than the taxpayer may be made.

“(2) NOTICE OF SPECIFIC CONTACTS.—The Secretary shall periodically provide to a taxpayer a record of persons contacted during such period by the Secretary with respect to the determination or collection of the tax liability of such taxpayer. Such record shall also be provided upon request of the taxpayer.

“(3) EXCEPTIONS.—This subsection shall not apply—

“(A) to any contact which the taxpayer has authorized;

“(B) if the Secretary determines for good cause shown that such notice would jeopardize collection of any tax or such notice may involve reprisal against any person; or

Records.

“(C) with respect to any pending criminal investigation.”.

Applicability.  
26 USC 7602  
note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to contacts made after the 180th day after the date of the enactment of this Act.

## PART III—COLLECTION ACTIVITIES

### Subpart A—Approval Process

26 USC 6301  
note.  
Procedures.

#### SEC. 3421. APPROVAL PROCESS FOR LIENS, LEVIES, AND SEIZURES.

(a) **IN GENERAL.**—The Commissioner of Internal Revenue shall develop and implement procedures under which—

(1) a determination by an employee to file a notice of lien or levy with respect to, or to levy or seize, any property or right to property would, where appropriate, be required to be reviewed by a supervisor of the employee before the action was taken; and

(2) appropriate disciplinary action would be taken against the employee or supervisor where the procedures under paragraph (1) were not followed.

(b) **REVIEW PROCESS.**—The review process under subsection (a)(1) may include a certification that the employee has—

(1) reviewed the taxpayer's information;

(2) verified that a balance is due; and

(3) affirmed that the action proposed to be taken is appropriate given the taxpayer's circumstances, considering the amount due and the value of the property or right to property.

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), this section shall take effect on the date of the enactment of this Act.

Applicability.

(2) **AUTOMATED COLLECTION SYSTEM ACTIONS.**—In the case of any action under an automated collection system, this section shall apply to actions initiated after December 31, 2000.

### Subpart B—Liens and Levies

#### SEC. 3431. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) **FUEL, ETC.**—Section 6334(a)(2) (relating to fuel, provisions, furniture, and personal effects) is amended by striking “\$2,500” and inserting “\$6,250”.

(b) **BOOKS, ETC.**—Section 6334(a)(3) (relating to books and tools of a trade, business, or profession) is amended by striking “\$1,250” and inserting “\$3,125”.

(c) **CONFORMING AMENDMENT.**—Section 6334(g)(1) (relating to inflation adjustment) is amended—

(1) by striking “1997” and inserting “1999”; and

(2) by striking “1996” in subparagraph (B) and inserting “1998”.

26 USC 6334  
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect with respect to levies issued after the date of the enactment of this Act.

**SEC. 3432. RELEASE OF LEVY UPON AGREEMENT THAT AMOUNT IS UNCOLLECTIBLE.**

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

“(e) RELEASE OF LEVY UPON AGREEMENT THAT AMOUNT IS NOT COLLECTIBLE.—In the case of a levy on the salary or wages payable to or received by the taxpayer, upon agreement with the taxpayer that the tax is not collectible, the Secretary shall release such levy as soon as practicable.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to levies imposed after December 31, 1999.

Applicability.  
26 USC 6343  
note.

**SEC. 3433. LEVY PROHIBITED DURING PENDENCY OF REFUND PROCEEDINGS.**

(a) IN GENERAL.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

“(i) NO LEVY DURING PENDENCY OF PROCEEDINGS FOR REFUND OF DIVISIBLE TAX.—

“(1) IN GENERAL.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid divisible tax during the pendency of any proceeding brought by such person in a proper Federal trial court for the recovery of any portion of such divisible tax which was paid by such person if—

“(A) the decision in such proceeding would be res judicata with respect to such unpaid tax; or

“(B) such person would be collaterally estopped from contesting such unpaid tax by reason of such proceeding.

“(2) DIVISIBLE TAX.—For purposes of paragraph (1), the term ‘divisible tax’ means—

“(A) any tax imposed by subtitle C; and

“(B) the penalty imposed by section 6672 with respect to any such tax.

“(3) EXCEPTIONS.—

“(A) CERTAIN UNPAID TAXES.—This subsection shall not apply with respect to any unpaid tax if—

“(i) the taxpayer files a written notice with the Secretary which waives the restriction imposed by this subsection on levy with respect to such tax; or

“(ii) the Secretary finds that the collection of such tax is in jeopardy.

“(B) CERTAIN LEVIES.—This subsection shall not apply to—

“(i) any levy to carry out an offset under section 6402; and

“(ii) any levy which was first made before the date that the applicable proceeding under this subsection commenced.

“(4) LIMITATION ON COLLECTION ACTIVITY; AUTHORITY TO ENJOIN COLLECTION.—

“(A) LIMITATION ON COLLECTION.—No proceeding in court for the collection of any unpaid tax to which paragraph (1) applies shall be begun by the Secretary during the pendency of a proceeding under such paragraph. This subparagraph shall not apply to—

“(i) any counterclaim in a proceeding under such paragraph; or

“(ii) any proceeding relating to a proceeding under such paragraph.

“(B) AUTHORITY TO ENJOIN.—Notwithstanding section 7421(a), a levy or collection proceeding prohibited by this subsection may be enjoined (during the period such prohibition is in force) by the court in which the proceeding under paragraph (1) is brought.

“(5) SUSPENSION OF STATUTE OF LIMITATIONS ON COLLECTION.—The period of limitations under section 6502 shall be suspended for the period during which the Secretary is prohibited under this subsection from making a levy.

“(6) PENDENCY OF PROCEEDING.—For purposes of this subsection, a proceeding is pending beginning on the date such proceeding commences and ending on the date that a final order or judgment from which an appeal may be taken is entered in such proceeding.”.

26 USC 6331  
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to unpaid tax attributable to taxable periods beginning after December 31, 1998.

**SEC. 3434. APPROVAL REQUIRED FOR JEOPARDY AND TERMINATION ASSESSMENTS AND JEOPARDY LEVIES.**

(a) IN GENERAL.—Paragraph (1) of section 7429(a) (relating to review of jeopardy levy or assessment procedures) is amended to read as follows:

“(1) ADMINISTRATIVE REVIEW.—

“(A) PRIOR APPROVAL REQUIRED.—No assessment may be made under section 6851(a), 6852(a), 6861(a), or 6862, and no levy may be made under section 6331(a) less than 30 days after notice and demand for payment is made, unless the Chief Counsel for the Internal Revenue Service (or such Counsel’s delegate) personally approves (in writing) such assessment or levy.

“(B) INFORMATION TO TAXPAYER.—Within 5 days after the day on which such an assessment or levy is made, the Secretary shall provide the taxpayer with a written statement of the information upon which the Secretary relied in making such assessment or levy.”.

Applicability.  
26 USC 7429  
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxes assessed and levies made after the date of the enactment of this Act.

**SEC. 3435. INCREASE IN AMOUNT OF CERTAIN PROPERTY ON WHICH LIEN NOT VALID.**

(a) CERTAIN PROPERTY.—

(1) IN GENERAL.—Subsection (b) of section 6323 (relating to validity and priority against certain persons) is amended—

(A) by striking “\$250” in paragraph (4) (relating to personal property purchased in casual sale) and inserting “\$1,000”; and

(B) by striking “\$1,000” in paragraph (7) (relating to residential property subject to a mechanic’s lien for certain repairs and improvements) and inserting “\$5,000”.

(2) INFLATION ADJUSTMENT.—Subsection (i) of section 6323 (relating to special rules) is amended by adding at the end the following new paragraph:



“(4) COST-OF-LIVING ADJUSTMENT.—In the case of notices of liens imposed by section 6321 which are filed in any calendar year after 1998, each of the dollar amounts under paragraph (4) or (7) of subsection (b) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ‘calendar year 1996’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10, such amount shall be rounded to the nearest multiple of \$10.”.

(b) EXPANSION OF TREATMENT OF PASSBOOK LOANS.—Paragraph (10) of section 6323(b) is amended—

(1) by striking “PASSBOOK LOANS” in the heading and inserting “DEPOSIT-SECURED LOANS”;

(2) by striking “, evidenced by a passbook,”; and

(3) by striking all that follows “secured by such account” and inserting a period.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 26 USC 6323 note.

**SEC. 3436. WAIVER OF EARLY WITHDRAWAL TAX FOR INTERNAL REVENUE SERVICE LEVIES ON EMPLOYER-SPONSORED RETIREMENT PLANS OR IRAs.**

(a) IN GENERAL.—Section 72(t)(2)(A) (relating to subsection not to apply to certain distributions) is amended by striking “or” at the end of clauses (iv) and (v), by striking the period at the end of clause (vi) and inserting “, or”, and by adding at the end the following new clause:

“(vii) made on account of a levy under section 6331 on the qualified retirement plan.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1999. Applicability. 26 USC 72 note.

### Subpart C—Seizures

**SEC. 3441. PROHIBITION OF SALES OF SEIZED PROPERTY AT LESS THAN MINIMUM BID.**

(a) IN GENERAL.—Section 6335(e)(1)(A)(i) (relating to determinations relating to minimum price) is amended by striking “a minimum price for which such property shall be sold” and inserting “a minimum price below which such property shall not be sold”.

(b) REFERENCE TO PENALTY FOR VIOLATION.—Section 6335(e) is amended by adding at the end the following new paragraph:

“(4) CROSS REFERENCE.—

“For provision providing for civil damages for violation of paragraph (1)(A)(i), see section 7433.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales made after the date of the enactment of this Act. Applicability. 26 USC 6335 note.

**SEC. 3442. ACCOUNTING OF SALES OF SEIZED PROPERTY.**

(a) IN GENERAL.—Section 6340 (relating to records of sale) is amended—

(1) in subsection (a)—

(A) by striking “real”; and

(B) by inserting “or certificate of sale of personal property” after “deed”; and

(2) by adding at the end the following new subsection:

“(c) ACCOUNTING TO TAXPAYER.—The taxpayer with respect to whose liability the sale was conducted or who redeemed the property shall be furnished—

“(1) the record under subsection (a) (other than the names of the purchasers);

“(2) the amount from such sale applied to the taxpayer’s liability; and

“(3) the remaining balance of such liability.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to seizures occurring after the date of the enactment of this Act.

Applicability.  
26 USC 6340  
note.

26 USC 6335  
note.  
Deadline.

#### **SEC. 3443. UNIFORM ASSET DISPOSAL MECHANISM.**

Not later than the date which is 2 years after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary’s delegate shall implement a uniform asset disposal mechanism for sales under section 6335 of the Internal Revenue Code of 1986. The mechanism should be designed to remove any participation in such sales by revenue officers of the Internal Revenue Service and should consider the use of outsourcing.

#### **SEC. 3444. CODIFICATION OF INTERNAL REVENUE SERVICE ADMINISTRATIVE PROCEDURES FOR SEIZURE OF TAXPAYER’S PROPERTY.**

(a) IN GENERAL.—Section 6331 (relating to levy and distraint), as amended by section 3433, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) NO LEVY BEFORE INVESTIGATION OF STATUS OF PROPERTY.—

“(1) IN GENERAL.—For purposes of applying the provisions of this subchapter, no levy may be made on any property or right to property which is to be sold under section 6335 until a thorough investigation of the status of such property has been completed.

“(2) ELEMENTS IN INVESTIGATION.—For purposes of paragraph (1), an investigation of the status of any property shall include—

“(A) a verification of the taxpayer’s liability;

“(B) the completion of an analysis under subsection (f);

“(C) the determination that the equity in such property is sufficient to yield net proceeds from the sale of such property to apply to such liability; and

“(D) a thorough consideration of alternative collection methods.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 6331  
note.

#### **SEC. 3445. PROCEDURES FOR SEIZURE OF RESIDENCES AND BUSINESSES.**

(a) IN GENERAL.—Section 6334(a)(13) (relating to property exempt from levy) is amended to read as follows:

“(13) RESIDENCES EXEMPT IN SMALL DEFICIENCY CASES AND PRINCIPAL RESIDENCES AND CERTAIN BUSINESS ASSETS EXEMPT IN ABSENCE OF CERTAIN APPROVAL OR JEOPARDY.—

“(A) RESIDENCES IN SMALL DEFICIENCY CASES.—If the amount of the levy does not exceed \$5,000—

“(i) any real property used as a residence by the taxpayer; or

“(ii) any real property of the taxpayer (other than real property which is rented) used by any other individual as a residence.

“(B) PRINCIPAL RESIDENCES AND CERTAIN BUSINESS ASSETS.—Except to the extent provided in subsection (e)—

“(i) the principal residence of the taxpayer (within the meaning of section 121); and

“(ii) tangible personal property or real property (other than real property which is rented) used in the trade or business of an individual taxpayer.”.

(b) LEVY ALLOWED IN CERTAIN CIRCUMSTANCES.—Section 6334(e) is amended to read as follows:

“(e) LEVY ALLOWED ON PRINCIPAL RESIDENCES AND CERTAIN BUSINESS ASSETS IN CERTAIN CIRCUMSTANCES.—

“(1) PRINCIPAL RESIDENCES.—

“(A) APPROVAL REQUIRED.—A principal residence shall not be exempt from levy if a judge or magistrate of a district court of the United States approves (in writing) the levy of such residence.

“(B) JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction to approve a levy under subparagraph (A).

“(2) CERTAIN BUSINESS ASSETS.—Property (other than a principal residence) described in subsection (a)(13)(B) shall not be exempt from levy if—

“(A) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property; or

“(B) the Secretary finds that the collection of tax is in jeopardy.

An official may not approve a levy under subparagraph (A) unless the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.”.

(c) STATE FISH AND WILDLIFE PERMITS.—

(1) IN GENERAL.—With respect to permits issued by a State and required under State law for the harvest of fish or wildlife in the trade or business of an individual taxpayer, the term “other assets” as used in section 6334(e)(2) of the Internal Revenue Code of 1986 shall include future income which may be derived by such taxpayer from the commercial sale of fish or wildlife under such permit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed to invalidate or in any way prejudice any assertion that the privilege embodied in permits described in paragraph (1) is not property or a right to property under the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 6334  
note.

26 USC 6334  
note.

## PART IV—PROVISIONS RELATING TO EXAMINATION AND COLLECTION ACTIVITIES

### SEC. 3461. PROCEDURES RELATING TO EXTENSIONS OF STATUTE OF LIMITATIONS BY AGREEMENT.

(a) **AUTHORITY TO EXTEND 10-YEAR COLLECTION PERIOD AFTER ASSESSMENT.**—Section 6502(a) (relating to length of period after collection) is amended—

(1) by striking paragraph (2) and inserting:

“(2) if—

“(A) there is an installment agreement between the taxpayer and the Secretary, prior to the date which is 90 days after the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer at the time the installment agreement was entered into; or

“(B) there is a release of levy under section 6343 after such 10-year period, prior to the expiration of any period for collection agreed upon in writing by the Secretary and the taxpayer before such release.”; and

(2) by striking the first sentence in the matter following paragraph (2).

(b) **NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.**—Paragraph (4) of section 6501(c) (relating to the period for limitations on assessment and collection) is amended—

(1) by striking “Where” and inserting the following:

“(A) **IN GENERAL.**—Where”; and

(2) by adding at the end the following new subparagraph:

“(B) **NOTICE TO TAXPAYER OF RIGHT TO REFUSE OR LIMIT EXTENSION.**—The Secretary shall notify the taxpayer of the taxpayer’s right to refuse to extend the period of limitations, or to limit such extension to particular issues or to a particular period of time, on each occasion when the taxpayer is requested to provide such consent.”.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply to requests to extend the period of limitations made after December 31, 1999.

(2) **PRIOR REQUEST.**—If, in any request to extend the period of limitations made on or before December 31, 1999, a taxpayer agreed to extend such period beyond the 10-year period referred to in section 6502(a) of the Internal Revenue Code of 1986, such extension shall expire on the latest of—

(A) the last day of such 10-year period;

(B) December 31, 2002; or

(C) in the case of an extension in connection with an installment agreement, the 90th day after the end of the period of such extension.

### SEC. 3462. OFFERS-IN-COMPROMISE.

(a) **STANDARDS FOR EVALUATION OF OFFERS-IN-COMPROMISE.**—Section 7122 (relating to offers-in-compromise) is amended by adding at the end the following new subsection:

“(c) **STANDARDS FOR EVALUATION OF OFFERS.**—

“(1) **IN GENERAL.**—The Secretary shall prescribe guidelines for officers and employees of the Internal Revenue Service

26 USC 6501  
note.  
Applicability.

Expiration date.

Guidelines.

to determine whether an offer-in-compromise is adequate and should be accepted to resolve a dispute.

“(2) ALLOWANCES FOR BASIC LIVING EXPENSES.—

“(A) IN GENERAL.—In prescribing guidelines under paragraph (1), the Secretary shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise have an adequate means to provide for basic living expenses.

Publication.

“(B) USE OF SCHEDULES.—The guidelines shall provide that officers and employees of the Internal Revenue Service shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules published under subparagraph (A) is appropriate and shall not use the schedules to the extent such use would result in the taxpayer not having adequate means to provide for basic living expenses.

“(3) SPECIAL RULES RELATING TO TREATMENT OF OFFERS.—

The guidelines under paragraph (1) shall provide that—

“(A) an officer or employee of the Internal Revenue Service shall not reject an offer-in-compromise from a low-income taxpayer solely on the basis of the amount of the offer; and

“(B) in the case of an offer-in-compromise which relates only to issues of liability of the taxpayer—

“(i) such offer shall not be rejected solely because the Secretary is unable to locate the taxpayer’s return or return information for verification of such liability; and

“(ii) the taxpayer shall not be required to provide a financial statement.”.

(b) LEVY PROHIBITED WHILE OFFER-IN-COMPROMISE PENDING OR INSTALLMENT AGREEMENT PENDING OR IN EFFECT.—Section 6331 (relating to levy and distraint), as amended by sections 3433 and 3444, is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) NO LEVY WHILE CERTAIN OFFERS PENDING OR INSTALLMENT AGREEMENT PENDING OR IN EFFECT.—

“(1) OFFER-IN-COMPROMISE PENDING.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

“(A) during the period that an offer-in-compromise by such person under section 7122 of such unpaid tax is pending with the Secretary; and

“(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection is filed within such 30 days, during the period that such appeal is pending).

For purposes of subparagraph (A), an offer is pending beginning on the date the Secretary accepts such offer for processing.

“(2) INSTALLMENT AGREEMENTS.—No levy may be made under subsection (a) on the property or rights to property of any person with respect to any unpaid tax—

“(A) during the period that an offer by such person for an installment agreement under section 6159 for payment of such unpaid tax is pending with the Secretary;

“(B) if such offer is rejected by the Secretary, during the 30 days thereafter (and, if an appeal of such rejection

is filed within such 30 days, during the period that such appeal is pending);

“(C) during the period that such an installment agreement for payment of such unpaid tax is in effect; and

“(D) if such agreement is terminated by the Secretary, during the 30 days thereafter (and, if an appeal of such termination is filed within such 30 days, during the period that such appeal is pending).

“(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (3), (4), and (5) of subsection (i) shall apply for purposes of this subsection.”.

(c) REVIEW OF REJECTIONS OF OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—

(1) IN GENERAL.—Section 7122 (relating to compromises), as amended by subsection (a), is amended by adding at the end the following new subsection:

Procedures.

“(d) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures—

“(1) for an independent administrative review of any rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section or section 6159 before such rejection is communicated to the taxpayer; and

“(2) which allow a taxpayer to appeal any rejection of such offer or agreement to the Internal Revenue Service Office of Appeals.”.

(2) CONFORMING AMENDMENT.—Section 6159 (relating to installment agreements) is amended by adding at the end the following new subsection:

“(d) CROSS REFERENCE.—

“**For rights to administrative review and appeal, see section 7122(d).**”.

26 USC 7122  
note.

(d) PREPARATION OF STATEMENT RELATING TO OFFERS-IN-COMPROMISE.—The Secretary of the Treasury shall prepare a statement which sets forth in simple, nontechnical terms the rights of a taxpayer and the obligations of the Internal Revenue Service relating to offers-in-compromise. Such statement shall—

(1) advise taxpayers who have entered into a compromise of the advantages of promptly notifying the Internal Revenue Service of any change of address or marital status;

(2) provide notice to taxpayers that in the case of a compromise terminated due to the actions of one spouse or former spouse, the Internal Revenue Service will, upon application, reinstate such compromise with the spouse or former spouse who remains in compliance with such compromise; and

(3) provide notice to the taxpayer that the taxpayer may appeal the rejection of an offer-in-compromise to the Internal Revenue Service Office of Appeals.

(e) EFFECTIVE DATES.—

Applicability.  
26 USC 6331  
note.

(1) IN GENERAL.—The amendments made by this section shall apply to proposed offers-in-compromise and installment agreements submitted after the date of the enactment of this Act.

(2) SUSPENSION OF COLLECTION BY LEVY.—The amendment made by subsection (b) shall apply to offers-in-compromise pending on or made after December 31, 1999.

**SEC. 3463. NOTICE OF DEFICIENCY TO SPECIFY DEADLINES FOR FILING TAX COURT PETITION.**

(a) **IN GENERAL.**—The Secretary of the Treasury or the Secretary's delegate shall include on each notice of deficiency under section 6212 of the Internal Revenue Code of 1986 the date determined by such Secretary (or delegate) as the last day on which the taxpayer may file a petition with the Tax Court.

26 USC 6212  
note.

(b) **LATER FILING DEADLINES SPECIFIED ON NOTICE OF DEFICIENCY TO BE BINDING.**—Subsection (a) of section 6213 (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by adding at the end the following new sentence: “Any petition filed with the Tax Court on or before the last date specified for filing such petition by the Secretary in the notice of deficiency shall be treated as timely filed.”.

(c) **EFFECTIVE DATE.**—Subsection (a) and the amendment made by subsection (b) shall apply to notices mailed after December 31, 1998.

Applicability.  
26 USC 6213  
note.

**SEC. 3464. REFUND OR CREDIT OF OVERPAYMENTS BEFORE FINAL DETERMINATION.**

(a) **TAX COURT PROCEEDINGS.**—Subsection (a) of section 6213 is amended—

(1) by striking “, including the Tax Court.” and inserting “, including the Tax Court, and a refund may be ordered by such court of any amount collected within the period during which the Secretary is prohibited from collecting by levy or through a proceeding in court under the provisions of this subsection.”; and

(2) by striking “to enjoin any action or proceeding” and inserting “to enjoin any action or proceeding or order any refund”.

(b) **OTHER PROCEEDINGS.**—Subsection (a) of section 6512 is amended by striking the period at the end of paragraph (4) and inserting “, and”, and by inserting after paragraph (4) the following new paragraphs:

“(5) As to any amount collected within the period during which the Secretary is prohibited from making the assessment or from collecting by levy or through a proceeding in court under the provisions of section 6213(a); and

“(6) As to overpayments the Secretary is authorized to refund or credit pending appeal as provided in subsection (b).”.

(c) **REFUND OR CREDIT PENDING APPEAL.**—Paragraph (1) of section 6512(b) is amended by adding at the end the following new sentence: “If a notice of appeal in respect of the decision of the Tax Court is filed under section 7483, the Secretary is authorized to refund or credit the overpayment determined by the Tax Court to the extent the overpayment is not contested on appeal.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 6213  
note.

**SEC. 3465. INTERNAL REVENUE SERVICE PROCEDURES RELATING TO APPEALS OF EXAMINATIONS AND COLLECTIONS.**

(a) **DISPUTE RESOLUTION PROCEDURES.**—

(1) **IN GENERAL.**—Chapter 74 (relating to closing agreements and compromises) is amended by redesignating section

7123 as section 7124 and by inserting after section 7122 the following new section:

**“SEC. 7123. APPEALS DISPUTE RESOLUTION PROCEDURES.**

“(a) **EARLY REFERRAL TO APPEALS PROCEDURES.**—The Secretary shall prescribe procedures by which any taxpayer may request early referral of 1 or more unresolved issues from the examination or collection division to the Internal Revenue Service Office of Appeals.

“(b) **ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.**—

“(1) **MEDIATION.**—The Secretary shall prescribe procedures under which a taxpayer or the Internal Revenue Service Office of Appeals may request non-binding mediation on any issue unresolved at the conclusion of—

“(A) appeals procedures; or

“(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.

“(2) **ARBITRATION.**—The Secretary shall establish a pilot program under which a taxpayer and the Internal Revenue Service Office of Appeals may jointly request binding arbitration on any issue unresolved at the conclusion of—

“(A) appeals procedures; or

“(B) unsuccessful attempts to enter into a closing agreement under section 7121 or a compromise under section 7122.”.

(2) **CONFORMING AMENDMENT.**—The table of sections for chapter 74 is amended by striking the item relating to section 7123 and inserting the following new items:

“Sec. 7123. Appeals dispute resolution procedures.

“Sec. 7124. Cross references.”.

(b) **APPEALS OFFICERS IN EACH STATE.**—The Commissioner of Internal Revenue shall ensure that an appeals officer is regularly available within each State.

(c) **APPEALS VIDEOCONFERENCING ALTERNATIVE FOR RURAL AREAS.**—The Commissioner of Internal Revenue shall consider the use of the videoconferencing of appeals conferences between appeals officers and taxpayers seeking appeals in rural or remote areas.

**SEC. 3466. APPLICATION OF CERTAIN FAIR DEBT COLLECTION PROCEDURES.**

(a) **IN GENERAL.**—Subchapter A of chapter 64 (relating to collection) is amended by inserting after section 6303 the following new section:

**“SEC. 6304. FAIR TAX COLLECTION PRACTICES.**

“(a) **COMMUNICATION WITH THE TAXPAYER.**—Without the prior consent of the taxpayer given directly to the Secretary or the express permission of a court of competent jurisdiction, the Secretary may not communicate with a taxpayer in connection with the collection of any unpaid tax—

“(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the taxpayer;

“(2) if the Secretary knows the taxpayer is represented by any person authorized to practice before the Internal Revenue Service with respect to such unpaid tax and has knowledge of, or can readily ascertain, such person’s name and address,



unless such person fails to respond within a reasonable period of time to a communication from the Secretary or unless such person consents to direct communication with the taxpayer; or

“(3) at the taxpayer’s place of employment if the Secretary knows or has reason to know that the taxpayer’s employer prohibits the taxpayer from receiving such communication.

In the absence of knowledge of circumstances to the contrary, the Secretary shall assume that the convenient time for communicating with a taxpayer is after 8 a.m. and before 9 p.m., local time at the taxpayer’s location.

“(b) PROHIBITION OF HARASSMENT AND ABUSE.—The Secretary may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of any unpaid tax. Without limiting the general application of the foregoing, the following conduct is a violation of this subsection:

“(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.

“(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

“(3) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

“(4) Except as provided under rules similar to the rules in section 804 of the Fair Debt Collection Practices Act (15 U.S.C. 1692b), the placement of telephone calls without meaningful disclosure of the caller’s identity.

“(c) CIVIL ACTION FOR VIOLATIONS OF SECTION.—

“**For civil action for violations of this section, see section 7433.**”

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 64 is amended by inserting after the item relating to section 6303 the following new item:

“Sec. 6304. Fair tax collection practices.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 6304  
note.

#### **SEC. 3467. GUARANTEED AVAILABILITY OF INSTALLMENT AGREEMENTS.**

(a) IN GENERAL.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) SECRETARY REQUIRED TO ENTER INTO INSTALLMENT AGREEMENTS IN CERTAIN CASES.—In the case of a liability for tax of an individual under subtitle A, the Secretary shall enter into an agreement to accept the payment of such tax in installments if, as of the date the individual offers to enter into the agreement—

“(1) the aggregate amount of such liability (determined without regard to interest, penalties, additions to the tax, and additional amounts) does not exceed \$10,000;

“(2) the taxpayer (and, if such liability relates to a joint return, the taxpayer’s spouse) has not, during any of the preceding 5 taxable years—

“(A) failed to file any return of tax imposed by subtitle A;

“(B) failed to pay any tax required to be shown on any such return; or

“(C) entered into an installment agreement under this section for payment of any tax imposed by subtitle A,

“(3) the Secretary determines that the taxpayer is financially unable to pay such liability in full when due (and the taxpayer submits such information as the Secretary may require to make such determination);

“(4) the agreement requires full payment of such liability within 3 years; and

“(5) the taxpayer agrees to comply with the provisions of this title for the period such agreement is in effect.”.

26 USC 6159  
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the enactment of this Act.

26 USC 7421  
note.

**SEC. 3468. PROHIBITION ON REQUESTS TO TAXPAYERS TO GIVE UP RIGHTS TO BRING ACTIONS.**

(a) **PROHIBITION.**—No officer or employee of the United States may request a taxpayer to waive the taxpayer’s right to bring a civil action against the United States or any officer or employee of the United States for any action taken in connection with the internal revenue laws.

(b) **EXCEPTIONS.**—Subsection (a) shall not apply in any case where—

(1) a taxpayer waives the right described in subsection (a) knowingly and voluntarily; or

(2) the request by the officer or employee is made in person and the taxpayer’s attorney or other federally authorized tax practitioner (within the meaning of section 7525(a)(3)(A) of the Internal Revenue Code of 1986) is present, or the request is made in writing to the taxpayer’s attorney or other representative.

## Subtitle F—Disclosures to Taxpayers

Procedures.  
26 USC 7801  
note.  
Deadline.

**SEC. 3501. EXPLANATION OF JOINT AND SEVERAL LIABILITY.**

(a) **IN GENERAL.**—The Secretary of the Treasury or the Secretary’s delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, establish procedures to clearly alert married taxpayers of their joint and several liabilities on all appropriate publications and instructions.

(b) **RIGHT TO LIMIT LIABILITY.**—The procedures under subsection (a) shall include requirements that notice of an individual’s right to relief under section 6015 of the Internal Revenue Code of 1986 shall be included in the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) and in any collection-related notices.

26 USC 7801  
note.

**SEC. 3502. EXPLANATION OF TAXPAYERS’ RIGHTS IN INTERVIEWS WITH THE INTERNAL REVENUE SERVICE.**

Deadline.

The Secretary of the Treasury or the Secretary’s delegate shall, as soon as practicable, but not later than 180 days after the date

of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) to more clearly inform taxpayers of their rights—

(1) to be represented at interviews with the Internal Revenue Service by any person authorized to practice before the Internal Revenue Service; and

(2) to suspend an interview pursuant to section 7521(b)(2) of the Internal Revenue Code of 1986.

**SEC. 3503. DISCLOSURE OF CRITERIA FOR EXAMINATION SELECTION.**

26 USC 7801  
note.  
Deadline.

(a) **IN GENERAL.**—The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, incorporate into the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1) a statement which sets forth in simple and nontechnical terms the criteria and procedures for selecting taxpayers for examination. Such statement shall not include any information the disclosure of which would be detrimental to law enforcement, but shall specify the general procedures used by the Internal Revenue Service, including whether taxpayers are selected for examination on the basis of information available in the media or on the basis of information provided to the Internal Revenue Service by informants.

(b) **TRANSMISSION TO COMMITTEES OF CONGRESS.**—The Secretary shall transmit drafts of the statement required under subsection (a) (or proposed revisions to any such statement) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the same day.

**SEC. 3504. EXPLANATIONS OF APPEALS AND COLLECTION PROCESS.**

26 USC 6212  
note.  
Deadline.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, include with any first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals an explanation of the entire process from examination through collection with respect to such proposed deficiency, including the assistance available to the taxpayer from the National Taxpayer Advocate at various points in the process.

**SEC. 3505. EXPLANATION OF REASON FOR REFUND DISALLOWANCE.**

(a) **IN GENERAL.**—Section 6402 (relating to authority to make credits or refunds) is amended by adding at the end the following new subsection:

“(j) **EXPLANATION OF REASON FOR REFUND DISALLOWANCE.**—In the case of a disallowance of a claim for refund, the Secretary shall provide the taxpayer with an explanation for such disallowance.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to disallowances after the 180th day after the date of the enactment of this Act.

Applicability.  
26 USC 6402  
note.

**SEC. 3506. STATEMENTS REGARDING INSTALLMENT AGREEMENTS.**

26 USC 6159  
note.  
Deadline.

The Secretary of the Treasury or the Secretary's delegate shall, beginning not later than July 1, 2000, provide each taxpayer who has an installment agreement in effect under section 6159 of the Internal Revenue Code of 1986 an annual statement setting forth

the initial balance at the beginning of the year, the payments made during the year, and the remaining balance as of the end of the year.

**SEC. 3507. NOTIFICATION OF CHANGE IN TAX MATTERS PARTNER.**

Deadline.

(a) **IN GENERAL.**—Section 6231(a)(7) (defining tax matters partner) is amended by adding at the end the following new sentence: “The Secretary shall, within 30 days of selecting a tax matters partner under the preceding sentence, notify all partners required to receive notice under section 6223(a) of the name and address of the person selected.”.

Applicability.  
26 USC 6231  
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to selections of tax matters partners made by the Secretary of the Treasury after the date of the enactment of this Act.

26 USC 7801  
note.

**SEC. 3508. DISCLOSURE TO TAXPAYERS.**

The Secretary of the Treasury or the Secretary’s delegate shall ensure that any instructions booklet accompanying an individual Federal income tax return form (including forms 1040, 1040A, 1040EZ, and any similar or successor forms) shall include, in clear language, in conspicuous print, and in a conspicuous place, a concise description of the conditions under which return information may be disclosed to any party outside the Internal Revenue Service, including disclosure to any State or agency, body, or commission (or legal representative) thereof.

**SEC. 3509. DISCLOSURE OF CHIEF COUNSEL ADVICE.**

(a) **IN GENERAL.**—Section 6110(b)(1) (defining written determination) is amended by striking “or technical advice memorandum” and inserting “technical advice memorandum, or Chief Counsel advice”.

(b) **CHIEF COUNSEL ADVICE.**—Section 6110 (relating to public inspection of written determinations) is amended by redesignating subsections (i), (j), (k), and (l) as subsections (j), (k), (l), and (m), respectively, and by inserting after subsection (h) the following new subsection:

“(i) **SPECIAL RULES FOR DISCLOSURE OF CHIEF COUNSEL ADVICE.**—

“(1) **CHIEF COUNSEL ADVICE DEFINED.**—

“(A) **IN GENERAL.**—For purposes of this section, the term ‘Chief Counsel advice’ means written advice or instruction, under whatever name or designation, prepared by any national office component of the Office of Chief Counsel which—

“(i) is issued to field or service center employees of the Service or regional or district employees of the Office of Chief Counsel; and

“(ii) conveys—

“(I) any legal interpretation of a revenue provision;

“(II) any Internal Revenue Service or Office of Chief Counsel position or policy concerning a revenue provision; or

“(III) any legal interpretation of State law, foreign law, or other Federal law relating to the assessment or collection of any liability under a revenue provision.

“(B) REVENUE PROVISION DEFINED.—For purposes of subparagraph (A), the term ‘revenue provision’ means any existing or former internal revenue law, regulation, revenue ruling, revenue procedure, other published or unpublished guidance, or tax treaty, either in general or as applied to specific taxpayers or groups of specific taxpayers.

“(2) ADDITIONAL DOCUMENTS TREATED AS CHIEF COUNSEL ADVICE.—The Secretary may by regulation provide that this section shall apply to any advice or instruction prepared and issued by the Office of Chief Counsel which is not described in paragraph (1).

“(3) DELETIONS FOR CHIEF COUNSEL ADVICE.—In the case of Chief Counsel advice open to public inspection pursuant to this section—

“(A) paragraphs (2) through (7) of subsection (c) shall not apply, but

“(B) the Secretary may make deletions of material in accordance with subsections (b) and (c) of section 552 of title 5, United States Code, except that in applying subsection (b)(3) of such section, no statutory provision of this title shall be taken into account.

“(4) NOTICE OF INTENTION TO DISCLOSE.—

“(A) NONTAXPAYER-SPECIFIC CHIEF COUNSEL ADVICE.—In the case of Chief Counsel advice which is written without reference to a specific taxpayer or group of specific taxpayers—

“(i) subsection (f)(1) shall not apply; and

“(ii) the Secretary shall, within 60 days after the issuance of the Chief Counsel advice, complete any deletions described in subsection (c)(1) or paragraph (3) and make the Chief Counsel advice, as so edited, open for public inspection.

Deadline.

Public  
information.

Deadline.

“(B) TAXPAYER-SPECIFIC CHIEF COUNSEL ADVICE.—In the case of Chief Counsel advice which is written with respect to a specific taxpayer or group of specific taxpayers, the Secretary shall, within 60 days after the issuance of the Chief Counsel advice, mail the notice required by subsection (f)(1) to each such taxpayer. The notice shall include a copy of the Chief Counsel advice on which is indicated the information that the Secretary proposes to delete pursuant to subsection (c)(1). The Secretary may also delete from the copy of the text of the Chief Counsel advice any of the information described in paragraph (3), and shall delete the names, addresses, and other identifying details of taxpayers other than the person to whom the advice pertains, except that the Secretary shall not delete from the copy of the Chief Counsel advice that is furnished to the taxpayer any information of which that taxpayer was the source.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 6110(f)(1) is amended by striking “The Secretary” and inserting “Except as otherwise provided by subsection (i), the Secretary”.

(2) Paragraphs (1)(B) and (2) of section 6110(j)(1), as redesignated by this section, are amended by striking “subsection (g)” each place it appears and inserting “subsection (g) or (i)(4)(B)”.

(3) Section 6110(k)(1)(B), as so redesignated, is amended by striking “subsection (c)” and inserting “subsection (c)(1) or (i)(3)”.

26 USC 6110  
note.  
Applicability.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to any Chief Counsel advice issued more than 90 days after the date of the enactment of this Act.

Applicability.

(2) TRANSITION RULES.—The amendments made by this section shall apply to any Chief Counsel advice issued after December 31, 1985, and before the 91st day after the date of the enactment of this Act by the offices of the associate chief counsel for domestic, employee benefits and exempt organizations, and international, except that any such Chief Counsel advice shall be treated as made available on a timely basis if such advice is made available for public inspection not later than the following dates:

(A) One year after the date of the enactment of this Act, in the case of all litigation guideline memoranda, service center advice, tax litigation bulletins, criminal tax bulletins, and general litigation bulletins.

(B) Eighteen months after such date of enactment, in the case of field service advice and technical assistance to the field issued on or after January 1, 1994.

(C) Three years after such date of enactment, in the case of field service advice and technical assistance to the field issued on or after January 1, 1992, and before January 1, 1994.

(D) Six years after such date of enactment, in the case of any other Chief Counsel advice issued after December 31, 1985.

Public  
information.

(3) DOCUMENTS TREATED AS CHIEF COUNSEL ADVICE.—If the Secretary of the Treasury by regulation provides pursuant to section 6110(i)(2) of the Internal Revenue Code of 1986, as added by this section, that any additional advice or instruction issued by the Office of Chief Counsel shall be treated as Chief Counsel advice, such additional advice or instruction shall be made available for public inspection pursuant to section 6110 of such Code, as amended by this section, only in accordance with the effective date set forth in such regulation.

(4) CHIEF COUNSEL ADVICE TO BE AVAILABLE ELECTRONICALLY.—The Internal Revenue Service shall make any Chief Counsel advice issued more than 90 days after the date of the enactment of this Act and made available for public inspection pursuant to section 6110 of such Code, as amended by this section, also available by computer telecommunications within 1 year after issuance.

## Subtitle G—Low-Income Taxpayer Clinics

### SEC. 3601. LOW-INCOME TAXPAYER CLINICS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by section 3411, is amended by adding at the end the following new section:

**“SEC. 7526. LOW-INCOME TAXPAYER CLINICS.**

“(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified low-income taxpayer clinics.

“(b) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED LOW-INCOME TAXPAYER CLINIC.—

“(A) IN GENERAL.—The term ‘qualified low-income taxpayer clinic’ means a clinic that—

“(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred); and

“(ii)(I) represents low-income taxpayers in controversies with the Internal Revenue Service; or

“(II) operates programs to inform individuals for whom English is a second language about their rights and responsibilities under this title.

“(B) REPRESENTATION OF LOW-INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(ii)(I) if—

“(i) at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget; and

“(ii) the amount in controversy for any taxable year generally does not exceed the amount specified in section 7463.

“(2) CLINIC.—The term ‘clinic’ includes—

“(A) a clinical program at an accredited law, business, or accounting school in which students represent low-income taxpayers in controversies arising under this title; and

“(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

“(3) QUALIFIED REPRESENTATIVE.—The term ‘qualified representative’ means any individual (whether or not an attorney) who is authorized to practice before the Internal Revenue Service or the applicable court.

“(c) SPECIAL RULES AND LIMITATIONS.—

“(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than \$6,000,000 per year (exclusive of costs of administering the program) to grants under this section.

“(2) LIMITATION ON ANNUAL GRANTS TO A CLINIC.—The aggregate amount of grants which may be made under this section to a clinic for a year shall not exceed \$100,000.

“(3) MULTI-YEAR GRANTS.—Upon application of a qualified low-income taxpayer clinic, the Secretary is authorized to award a multi-year grant not to exceed 3 years.

“(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary shall consider—

“(A) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language;

“(B) the existence of other low-income taxpayer clinics serving the same population;

“(C) the quality of the program offered by the low-income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low-income taxpayers; and

“(D) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic.

“(5) REQUIREMENT OF MATCHING FUNDS.—A low-income taxpayer clinic must provide matching funds on a dollar-for-dollar basis for all grants provided under this section. Matching funds may include—

“(A) the salary (including fringe benefits) of individuals performing services for the clinic; and

“(B) the cost of equipment used in the clinic.

Indirect expenses, including general overhead of the institution sponsoring the clinic, shall not be counted as matching funds.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77, as amended by section 3411, is amended by adding at the end the following new item:

“Sec. 7526. Low-income taxpayer clinics.”.

26 USC 7526  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

## Subtitle H—Other Matters

26 USC 7804  
note.

### SEC. 3701. CATALOGING COMPLAINTS.

In collecting data for the report required under section 1211 of the Taxpayer Bill of Rights 2 (Public Law 104-168), the Secretary of the Treasury or the Secretary's delegate shall, not later than January 1, 2000, maintain records of taxpayer complaints of misconduct by Internal Revenue Service employees on an individual employee basis.

### SEC. 3702. ARCHIVE OF RECORDS OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

“(17) DISCLOSURE TO NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—The Secretary shall, upon written request from the Archivist of the United States, disclose or authorize the disclosure of returns and return information to officers and employees of the National Archives and Records Administration for purposes of, and only to the extent necessary in, the appraisal of records for destruction or retention. No such officer or employee shall, except to the extent authorized by subsection (f), (i)(7), or (p), disclose any return or return information disclosed under the preceding sentence to any person other than to the Secretary, or to another officer or employee of the National Archives and Records Administration



whose official duties require such disclosure for purposes of such appraisal.”

(b) CONFORMING AMENDMENTS.—Section 6103(p) is amended—

(1) in paragraph (3)(A), by striking “or (16)” and inserting “(16), or (17)”;

(2) in paragraph (4), by striking “or (14)” and inserting “, (14), or (17)” in the matter preceding subparagraph (A); and

(3) in paragraph (4)(F)(ii), by striking “or (15)” and inserting “, (15), or (17)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Archivist of the United States after the date of the enactment of this Act.

Applicability.  
26 USC 6103  
note.

#### **SEC. 3703. PAYMENT OF TAXES.**

The Secretary of the Treasury or the Secretary’s delegate shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order made payable to the United States Treasury.

Regulations.  
26 USC 6311  
note.

#### **SEC. 3704. CLARIFICATION OF AUTHORITY OF SECRETARY RELATING TO THE MAKING OF ELECTIONS.**

Subsection (d) of section 7805 is amended by striking “by regulations or forms”.

#### **SEC. 3705. INTERNAL REVENUE SERVICE EMPLOYEE CONTACTS.**

(a) NOTICE.—The Secretary of the Treasury or the Secretary’s delegate shall provide that—

(1) any manually generated correspondence received by a taxpayer from the Internal Revenue Service shall include in a prominent manner the name, telephone number, and unique identifying number of an Internal Revenue Service employee the taxpayer may contact with respect to the correspondence;

(2) any other correspondence or notice received by a taxpayer from the Internal Revenue Service shall include in a prominent manner a telephone number that the taxpayer may contact; and

(3) an Internal Revenue Service employee shall give a taxpayer during a telephone or personal contact the employee’s name and unique identifying number.

(b) SINGLE CONTACT.—The Secretary of the Treasury or the Secretary’s delegate shall develop a procedure under which, to the extent practicable and if advantageous to the taxpayer, one Internal Revenue Service employee shall be assigned to handle a taxpayer’s matter until it is resolved.

26 USC 7801  
note.

(c) TELEPHONE HELPLINE IN SPANISH.—The Secretary of the Treasury or the Secretary’s delegate shall provide, in appropriate circumstances, that taxpayer questions on telephone helplines of the Internal Revenue Service are answered in Spanish.

(d) OTHER TELEPHONE HELPLINE OPTIONS.—The Secretary of the Treasury or the Secretary’s delegate shall provide, in appropriate circumstances, on telephone helplines of the Internal Revenue Service an option for any taxpayer to talk to an Internal Revenue Service employee during normal business hours. The person shall direct phone questions of the taxpayer to other Internal Revenue Service personnel who can provide assistance to the taxpayer.

Procedures.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall take effect 60 days after the date of the enactment of this Act.

(2) SUBSECTION (c).—Subsection (c) shall take effect on January 1, 2000.

(3) SUBSECTION (d).—Subsection (d) shall take effect on January 1, 2000.

(4) UNIQUE IDENTIFYING NUMBER.—Any requirement under this section to provide a unique identifying number shall take effect 6 months after the date of the enactment of this Act.

26 USC 7804  
note.

**SEC. 3706. USE OF PSEUDONYMS BY INTERNAL REVENUE SERVICE EMPLOYEES.**

(a) IN GENERAL.—Any employee of the Internal Revenue Service may use a pseudonym only if—

(1) adequate justification for the use of a pseudonym is provided by the employee, including protection of personal safety; and

(2) such use is approved by the employee's supervisor before the pseudonym is used.

Applicability.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to requests made after the date of the enactment of this Act.

26 USC 6651  
note.

**SEC. 3707. ILLEGAL TAX PROTESTER DESIGNATION.**

(a) PROHIBITION.—The officers and employees of the Internal Revenue Service—

(1) shall not designate taxpayers as illegal tax protesters (or any similar designation); and

(2) in the case of any such designation made on or before the date of the enactment of this Act—

(A) shall remove such designation from the individual master file; and

(B) shall disregard any such designation not located in the individual master file.

(b) DESIGNATION OF NONFILERS ALLOWED.—An officer or employee of the Internal Revenue Service may designate any appropriate taxpayer as a nonfiler, but shall remove such designation once the taxpayer has filed income tax returns for 2 consecutive taxable years and paid all taxes shown on such returns.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act, except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999.

**SEC. 3708. PROVISION OF CONFIDENTIAL INFORMATION TO CONGRESS BY WHISTLEBLOWERS.**

(a) IN GENERAL.—Section 6103(f) (relating to disclosure to committees of Congress) is amended by adding at the end the following new paragraph:

“(5) DISCLOSURE BY WHISTLEBLOWER.—Any person who otherwise has or had access to any return or return information under this section may disclose such return or return information to a committee referred to in paragraph (1) or any individual authorized to receive or inspect information under paragraph (4)(A) if such person believes such return or return information may relate to possible misconduct, maladministration, or taxpayer abuse.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 6103 note.

**SEC. 3709. LISTING OF LOCAL INTERNAL REVENUE SERVICE TELEPHONE NUMBERS AND ADDRESSES.** 26 USC 7801 note.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable, provide that the local telephone numbers and addresses of Internal Revenue Service offices located in any particular area be listed in a telephone book for that area.

**SEC. 3710. IDENTIFICATION OF RETURN PREPARERS.**

(a) **IN GENERAL.**—The last sentence of section 6109(a) (relating to identifying numbers) is amended by striking “For purposes of this subsection” and inserting “For purposes of paragraphs (1), (2), and (3)”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 6109 note.

**SEC. 3711. OFFSET OF PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS AGAINST OVERPAYMENTS.**

(a) **IN GENERAL.**—Section 6402 (relating to authority to make credits or refunds), as amended by section 3505, is amended by redesignating subsections (e) through (j) as subsections (f) through (k), respectively, and by inserting after subsection (d) the following new subsection:

“(e) **COLLECTION OF PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS.**—

“(1) **IN GENERAL.**—Upon receiving notice from any State that a named person owes a past-due, legally enforceable State income tax obligation to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

“(A) reduce the amount of any overpayment payable to such person by the amount of such State income tax obligation;

“(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

“(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a past-due, legally enforceable State income tax obligation.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return.

“(2) **OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET.**—Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset. Applicability.

“(3) **PRIORITIES FOR OFFSET.**—Any overpayment by a person shall be reduced pursuant to this subsection—

“(A) after such overpayment is reduced pursuant to—

“(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

“(ii) subsection (c) with respect to past-due support; and

“(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

“(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from one or more agencies of the State of more than one debt subject to paragraph (1) that is owed by such person to such an agency, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

“(4) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

“(A) notifies by certified mail with return receipt the person owing the past-due State income tax liability that the State proposes to take action pursuant to this section;

“(B) gives such person at least 60 days to present evidence that all or part of such liability is not past-due or not legally enforceable;

“(C) considers any evidence presented by such person and determines that an amount of such debt is past-due and legally enforceable; and

“(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such State income tax obligation.

“(5) PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATION.—For purposes of this subsection, the term ‘past-due, legally enforceable State income tax obligation’ means a debt—

“(A)(i) which resulted from—

“(I) a judgment rendered by a court of competent jurisdiction which has determined an amount of State income tax to be due; or

“(II) a determination after an administrative hearing which has determined an amount of State income tax to be due; and

“(ii) which is no longer subject to judicial review; or

“(B) which resulted from a State income tax which has been assessed but not collected, the time for redetermination of which has expired, and which has not been delinquent for more than 10 years.

For purposes of this paragraph, the term ‘State income tax’ includes any local income tax administered by the chief tax administration agency of the State.

“(6) REGULATIONS.—The Secretary shall issue regulations prescribing the time and manner in which States must submit notices of past-due, legally enforceable State income tax obligations and the necessary information that must be contained in or accompany such notices. The regulations shall specify the types of State income taxes and the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied. The regulations may require States to pay a fee to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to

the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

“(7) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).”.

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR PAST-DUE, LEGALLY ENFORCEABLE STATE INCOME TAX OBLIGATIONS.—

(1) Paragraph (10) of section 6103(l) is amended by striking “(c) or (d)” each place it appears and inserting “(c), (d), or (e)”.

(2) The heading for paragraph (10) is amended by striking “SECTION 6402 (c) OR 6402 (d)” AND INSERTING “SUBSECTION (c), (d), OR (e) OF SECTION 6402”.

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6402 is amended by striking “(c) and (d)” and inserting “(c), (d), and (e)”.

(2) Paragraph (2) of section 6402(d) is amended by striking “and before such overpayment” and inserting “and before such overpayment is reduced pursuant to subsection (e) and before such overpayment”.

(3) Subsection (f) of section 6402, as redesignated by subsection (a), is amended—

(A) by striking “(c) or (d)” and inserting “(c), (d), or (e)”; and

(B) by striking “Federal agency” and inserting “Federal agency or State”.

(4) Subsection (h) of section 6402, as redesignated by subsection (a), is amended by striking “subsection (c)” and inserting “subsection (c) or (e)”.

(d) EFFECTIVE DATE.—The amendments made by this section (other than subsection (d)) shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 after December 31, 1999.

Applicability.  
26 USC 6103  
note.

**SEC. 3712. REPORTING REQUIREMENTS IN CONNECTION WITH EDUCATION TAX CREDIT.**

(a) AMOUNTS TO BE REPORTED.—Subparagraph (C) of section 6050S(b)(2) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

“(ii) the amount of any grant received by such individual for payment of costs of attendance and processed by the person making such return during such calendar year,”;

(2) in clause (iii) (as so redesignated), by inserting “by the person making such return” after “year”; and

(3) in clause (iv) (as so redesignated), by inserting “and” at the end.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6050S(d) is amended by striking “aggregate”.

(2) Subsection (e) of section 6050S is amended by inserting “(without regard to subsection (g)(2) thereof)” after “section 25A”.

Applicability.  
26 USC 6050S  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed with respect to taxable years beginning after December 31, 1998.

## Subtitle I—Studies

26 USC 6601  
note.

### SEC. 3801. ADMINISTRATION OF PENALTIES AND INTEREST.

The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study—

(1) reviewing the administration and implementation by the Internal Revenue Service of the interest and penalty provisions of the Internal Revenue Code of 1986 (including the penalty reform provisions of the Omnibus Budget Reconciliation Act of 1989); and

(2) making any legislative and administrative recommendations the Committee or the Secretary deems appropriate to simplify penalty or interest administration and reduce taxpayer burden.

Deadline.

Such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 1 year after the date of the enactment of this Act.

26 USC 6103  
note.  
Reports.  
Deadline.

### SEC. 3802. CONFIDENTIALITY OF TAX RETURN INFORMATION.

The Joint Committee on Taxation and the Secretary of the Treasury shall each conduct a separate study of the scope and use of provisions regarding taxpayer confidentiality, and shall report the findings of such study, together with such recommendations as the Committee or the Secretary deems appropriate, to the Congress not later than 18 months after the date of the enactment of this Act. Such study shall examine—

(1) the present protections for taxpayer privacy;

(2) any need for third parties to use tax return information;

(3) whether greater levels of voluntary compliance may be achieved by allowing the public to know who is legally required to file tax returns, but does not file tax returns;

(4) the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code of 1986 with such provisions in other Federal law, including section 552a of title 5, United States Code (commonly known as the “Freedom of Information Act”);

(5) the impact on taxpayer privacy of the sharing of income tax return information for purposes of enforcement of State and local tax laws other than income tax laws, and including the impact on the taxpayer privacy intended to be protected at the Federal, State, and local levels under Public Law 105-35, the Taxpayer Browsing Protection Act of 1997; and

(6) whether the public interest would be served by greater disclosure of information relating to tax exempt organizations described in section 501 of the Internal Revenue Code of 1986.

**SEC. 3803. STUDY OF NONCOMPLIANCE WITH INTERNAL REVENUE LAWS BY TAXPAYERS.**26 USC 7801  
note.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury and the Commissioner of Internal Revenue shall jointly conduct a study, in consultation with the Joint Committee on Taxation, of the noncompliance with internal revenue laws by taxpayers (including willful noncompliance and noncompliance due to tax law complexity or other factors) and report the findings of such study to Congress.

Deadline.

**SEC. 3804. STUDY OF PAYMENTS MADE FOR DETECTION OF UNDERPAYMENTS AND FRAUD.**26 USC 7623  
note.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986 including—

Deadline.  
Reports.

- (1) an analysis of the present use of such section and the results of such use; and
- (2) any legislative or administrative recommendations regarding the provisions of such section and its application.

## **TITLE IV—CONGRESSIONAL ACCOUNTABILITY FOR THE INTERNAL REVENUE SERVICE**

### **Subtitle A—Oversight**

**SEC. 4001. EXPANSION OF DUTIES OF THE JOINT COMMITTEE ON TAXATION.**

(a) IN GENERAL.—Section 8021 (relating to the powers of the Joint Committee on Taxation) is amended by adding at the end the following new subsections:

“(e) INVESTIGATIONS.—The Joint Committee shall review all requests (other than requests by the chairman or ranking member of a committee or subcommittee) for investigations of the Internal Revenue Service by the General Accounting Office, and approve such requests when appropriate, with a view towards eliminating overlapping investigations, ensuring that the General Accounting Office has the capacity to handle the investigation, and ensuring that investigations focus on areas of primary importance to tax administration.

“(f) RELATING TO JOINT REVIEWS.—

“(1) IN GENERAL.—The Chief of Staff, and the staff of the Joint Committee, shall provide such assistance as is required for joint reviews described in paragraph (2).

“(2) JOINT REVIEWS.—Before June 1 of each calendar year after 1998 and before 2004, there shall be a joint review of the strategic plans and budget for the Internal Revenue Service and such other matters as the Chairman of the Joint Committee deems appropriate. Such joint review shall be held at the call of the Chairman of the Joint Committee and shall include two members of the majority and one member of the minority from each of the Committees on Finance, Appropriations, and Governmental Affairs of the Senate, and the Committees on

Deadline.

26 USC 8021  
note.  
Applicability.

Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives.”.

(b) EFFECTIVE DATES.—

(1) Subsection (e) of section 8021 of the Internal Revenue Code of 1986, as added by subsection (a) of this section, shall apply to requests made after the date of the enactment of this Act.

(2) Subsection (f) of such section shall take effect on the date of the enactment of this Act.

#### SEC. 4002. COORDINATED OVERSIGHT REPORTS.

(a) IN GENERAL.—Paragraph (3) of section 8022 (relating to the duties of the Joint Committee on Taxation) is amended to read as follows:

“(3) REPORTS.—

“(A) To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

“(B) Subject to amounts specifically appropriated to carry out this subparagraph, to report, at least once each Congress, to the Committee on Finance and the Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals and other matters relating to the administration of the Federal tax system as it may deem advisable.

Deadline.

“(C) To report, for each calendar year after 1998 and before 2004, to the Committees on Finance, Appropriations, and Governmental Affairs of the Senate, and to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, with respect to—

“(i) strategic and business plans for the Internal Revenue Service;

“(ii) progress of the Internal Revenue Service in meeting its objectives;

“(iii) the budget for the Internal Revenue Service and whether it supports its objectives;

“(iv) progress of the Internal Revenue Service in improving taxpayer service and compliance;

“(v) progress of the Internal Revenue Service on technology modernization; and

“(vi) the annual filing season.”.

26 USC 8022  
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

## Subtitle B—Century Date Change

#### SEC. 4011. CENTURY DATE CHANGE.

It is the sense of the Congress that—

(1) the Internal Revenue Service should place a high priority on resolving the century date change computing problems; and



(2) the Internal Revenue Service efforts to resolve the century date change computing problems should be funded fully to provide for certain resolution of such problems.

## Subtitle C—Tax Law Complexity

### SEC. 4021. ROLE OF THE INTERNAL REVENUE SERVICE.

It is the sense of the Congress that the Internal Revenue Service should provide Congress with an independent view of tax administration, and that during the legislative process, the tax writing committees of Congress should hear from front-line technical experts at the Internal Revenue Service with respect to the administrability of pending amendments to the Internal Revenue Code of 1986.

### SEC. 4022. TAX LAW COMPLEXITY ANALYSIS.

#### (a) COMMISSIONER STUDY.—

26 USC 7801  
note.

(1) IN GENERAL.—The Commissioner of Internal Revenue shall conduct each year after 1998 an analysis of the sources of complexity in administration of the Federal tax laws. Such analysis may include an analysis of—

(A) questions frequently asked by taxpayers with respect to return filing;

(B) common errors made by taxpayers in filling out their returns;

(C) areas of law which frequently result in disagreements between taxpayers and the Internal Revenue Service;

(D) major areas of law in which there is no (or incomplete) published guidance or in which the law is uncertain;

(E) areas in which revenue officers make frequent errors interpreting or applying the law;

(F) the impact of recent legislation on complexity; and

(G) forms supplied by the Internal Revenue Service, including the time it takes for taxpayers to complete and review forms, the number of taxpayers who use each form, and how recent legislation has affected the time it takes to complete and review forms.

(2) REPORT.—The Commissioner shall not later than March 1 of each year report the results of the analysis conducted under paragraph (1) for the preceding year to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The report shall include any recommendations—

Deadline.

(A) for reducing the complexity of the administration of Federal tax laws; and

(B) for repeal or modification of any provision the Commissioner believes adds undue and unnecessary complexity to the administration of the Federal tax laws.

#### (b) ANALYSIS TO ACCOMPANY CERTAIN LEGISLATION.—

26 USC 8022  
note.

(1) IN GENERAL.—The Joint Committee on Taxation, in consultation with the Internal Revenue Service and the Department of the Treasury, shall include a tax complexity analysis in each report for legislation, or provide such analysis to members of the committee reporting the legislation as soon as practicable after the report is filed, if—

(A) such legislation is reported by the Committee on Finance in the Senate, the Committee on Ways and Means of the House of Representatives, or any committee of conference; and

(B) such legislation includes a provision which would directly or indirectly amend the Internal Revenue Code of 1986 and which has widespread applicability to individuals or small businesses.

(2) TAX COMPLEXITY ANALYSIS.—For purposes of this subsection, the term “tax complexity analysis” means, with respect to any legislation, a report on the complexity and administrative difficulties of each provision described in paragraph (1)(B) which—

(A) includes—

(i) an estimate of the number of taxpayers affected by the provision; and

(ii) if applicable, the income level of taxpayers affected by the provision; and

(B) should include (if determinable)—

(i) the extent to which tax forms supplied by the Internal Revenue Service would require revision and whether any new forms would be required;

(ii) the extent to which taxpayers would be required to keep additional records;

(iii) the estimated cost to taxpayers to comply with the provision;

(iv) the extent to which enactment of the provision would require the Internal Revenue Service to develop or modify regulatory guidance;

(v) the extent to which the provision may result in disagreements between taxpayers and the Internal Revenue Service; and

(vi) any expected impact on the Internal Revenue Service from the provision (including the impact on internal training, revision of the Internal Revenue Manual, reprogramming of computers, and the extent to which the Internal Revenue Service would be required to divert or redirect resources in response to the provision).

(3) LEGISLATION SUBJECT TO POINT OF ORDER IN HOUSE OF REPRESENTATIVES.—

(A) LEGISLATION REPORTED BY COMMITTEE ON WAYS AND MEANS.—Clause 2(l) of rule XI of the Rules of the House of Representatives is amended by adding at the end the following new subparagraph:

“(8) The report of the Committee on Ways and Means on any bill or joint resolution containing any provision amending the Internal Revenue Code of 1986 shall include a Tax Complexity Analysis prepared by the Joint Committee on Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 unless the Committee on Ways and Means causes to have such Analysis printed in the Congressional Record prior to the consideration of the bill or joint resolution.”.

(B) CONFERENCE REPORTS.—Rule XXVIII of the Rules of the House of Representatives is amended by adding at the end the following new clause:

“7. It shall not be in order to consider the report of a committee of conference which contains any provision amending the Internal Revenue Code of 1986 unless—

“(a) the accompanying joint explanatory statement contains a Tax Complexity Analysis prepared by the Joint Committee on Taxation in accordance with section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998; or

“(b) such Analysis is printed in the Congressional Record prior to the consideration of the report.”.

(C) RULES OF HOUSE OF REPRESENTATIVES.—This paragraph is enacted by the House of Representatives—

(i) as an exercise of the rulemaking power of the House of Representatives, and as such it is deemed a part of the Rules of the House, and it supersedes other rules only to the extent that it is inconsistent therewith; and

(ii) with full recognition of the constitutional right of the House to change its rules at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(4) EFFECTIVE DATE.—This subsection shall apply to legislation considered on and after January 1, 1999. Applicability.

## TITLE V—ADDITIONAL PROVISIONS

### SEC. 5001. LOWER CAPITAL GAINS RATES TO APPLY TO PROPERTY HELD MORE THAN 1 YEAR.

(a) GENERAL RULE.—

(1) Paragraph (5) of section 1(h) is amended to read as follows:

“(5) 28-PERCENT RATE GAIN.—For purposes of this subsection, the term ‘28-percent rate gain’ means the excess (if any) of—

“(A) the sum of—

“(i) collectibles gain; and

“(ii) section 1202 gain, over

“(B) the sum of—

“(i) collectibles loss;

“(ii) the net short-term capital loss; and

“(iii) the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.”.

(2) Subparagraph (A) of section 1(h)(6) is amended by striking “18 months” and inserting “1 year”.

(3) Clauses (i) and (ii) of section 1(h)(7)(A) are amended to read as follows:

“(i) the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, over

“(ii) the excess (if any) of—

“(I) the amount described in paragraph (5)(B); over

“(II) the amount described in paragraph (5)(A).”.

(4) So much of paragraph (13) of section 1(h) as precedes subparagraph (C) is amended to read as follows:

“(13) SPECIAL RULES.—

“(A) DETERMINATION OF 28-PERCENT RATE GAIN.—In applying paragraph (5)—

“(i) the amount determined under subparagraph (A) of paragraph (5) shall include long-term capital gain (not otherwise described in such subparagraph)—

“(I) which is properly taken into account for the portion of the taxable year before May 7, 1997; or

“(II) from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998;

“(ii) the amount determined under subparagraph (B) of paragraph (5) shall include long-term capital loss (not otherwise described in such subparagraph)—

“(I) which is properly taken into account for the portion of the taxable year before May 7, 1997; or

“(II) from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998; and

“(iii) subparagraph (B) of paragraph (5) (as in effect immediately before the enactment of this clause) shall apply to amounts properly taken into account before January 1, 1998.

“(B) DETERMINATION OF UNRECAPTURED SECTION 1250 GAIN.—The amount determined under paragraph (7)(A) shall not include gain—

“(i) which is properly taken into account for the portion of the taxable year before May 7, 1997; or

“(ii) from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998.”.

(5) Paragraphs (11) and (12) of section 1223, and section 1235(a), are each amended by striking “18 months” each place it appears and inserting “1 year”.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after December 31, 1997.

(2) SUBSECTION (a)(5).—The amendments made by subsection (a)(5) shall take effect on January 1, 1998.

#### SEC. 5002. CLARIFICATION OF EXCLUSION OF MEALS FOR CERTAIN EMPLOYEES.

(a) IN GENERAL.—Subsection (b) of section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended by adding at the end the following new paragraph:

“(4) MEALS FURNISHED TO EMPLOYEES ON BUSINESS PREMISES WHERE MEALS OF MOST EMPLOYEES ARE OTHERWISE EXCLUDABLE.—All meals furnished on the business premises of an employer to such employer’s employees shall be treated

Applicability.

26 USC 1 note.  
Applicability.

as furnished for the convenience of the employer if, without regard to this paragraph, more than half of the employees to whom such meals are furnished on such premises are furnished such meals for the convenience of the employer.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

Applicability.  
26 USC 119 note.

**SEC. 5003. CLARIFICATION OF DESIGNATION OF NORMAL TRADE RELATIONS.**

(a) FINDINGS AND POLICY.—

19 USC 2481  
note.

(1) FINDINGS.—The Congress makes the following findings:

(A) Since the 18th century, the principle of non-discrimination among countries with which the United States has trade relations, commonly referred to as “most-favored-nation” treatment, has been a cornerstone of United States trade policy.

(B) Although the principle remains firmly in place as a fundamental concept in United States trade relations, the term “most-favored-nation” is a misnomer which has led to public misunderstanding.

(C) It is neither the purpose nor the effect of the most-favored-nation principle to treat any country as “most favored”. To the contrary, the principle reflects the intention to confer on a country the same trade benefits that are conferred on any other country, that is, the intention not to discriminate among trading partners.

(D) The term “normal trade relations” is a more accurate description of the principle of nondiscrimination as it applies to the tariffs applicable generally to imports from United States trading partners, that is, the general rates of duty set forth in column 1 of the Harmonized Tariff Schedule of the United States.

(2) POLICY.—It is the sense of the Congress that—

(A) the language used in United States laws, treaties, agreements, executive orders, directives, and regulations should more clearly and accurately reflect the underlying principles of United States trade policy; and

(B) accordingly, the term “normal trade relations” should, where appropriate, be substituted for the term “most-favored-nation”.

(b) CHANGE IN TERMINOLOGY.—

(1) TRADE EXPANSION ACT OF 1962.—The heading for section 251 of the Trade Expansion Act of 1962 (19 U.S.C. 1881) is amended to read as follows: “**NORMAL TRADE RELATIONS**”.

(2) TRADE ACT OF 1974.—(A) Section 402 of the Trade Act of 1974 (19 U.S.C. 2432) is amended by striking “(most-favored-nation treatment)” each place it appears and inserting “(normal trade relations)”.

(B) Section 601(9) of the Trade Act of 1974 (19 U.S.C. 2481(9)) is amended by striking “most-favored-nation treatment” and inserting “trade treatment based on normal trade relations (known under international law as most-favored-nation treatment)”.

(3) CFTA.—Section 302(a)(3)(C) of the United States Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by striking “the most-favored-

nation rate of duty” each place it appears and inserting “the general subcolumn of the column 1 rate of duty set forth in the Harmonized Tariff Schedule of the United States”.

(4) NAFTA.—Section 202(n) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3332(n)) is amended by striking “most-favored-nation”.

(5) URUGUAY ROUND AGREEMENTS ACT.—Section 135(a)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3555(a)(2)) is amended by striking “most-favored-nation” and inserting “normal trade relations”.

(6) SEED ACT.—Section 2(c)(11) of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401(c)(11)) is amended—

(A) by striking “(commonly referred to as ‘most favored nation status’); and

(B) by striking “MOST FAVORED NATION TRADE STATUS” in the heading and inserting “NORMAL TRADE RELATIONS”.

(7) UNITED STATES-HONG KONG POLICY ACT OF 1992.—Section 103(4) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5713(4)) is amended by striking “(commonly referred to as ‘most-favored-nation status’).”

19 USC 2481  
note.

(c) SAVINGS PROVISIONS.—Nothing in this section shall affect the meaning of any provision of law, Executive order, Presidential proclamation, rule, regulation, delegation of authority, other document, or treaty or other international agreement of the United States relating to the principle of “most-favored-nation” (or “most favored nation”) treatment. Any Executive order, Presidential proclamation, rule, regulation, delegation of authority, other document, or treaty or other international agreement of the United States that has been issued, made, granted, or allowed to become effective and that is in effect on the effective date of this Act, or was to become effective on or after the effective date of this Act, shall continue in effect according to its terms until modified, terminated, superseded, set aside, or revoked in accordance with law.

Tax Technical  
Corrections Act  
of 1998.

## TITLE VI—TECHNICAL CORRECTIONS

### SEC. 6001. SHORT TITLE; COORDINATION WITH OTHER TITLES.

26 USC 1 note.

(a) SHORT TITLE.—This title may be cited as the “Tax Technical Corrections Act of 1998”.

26 USC 1 note.

(b) COORDINATION WITH OTHER TITLES.—For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

### SEC. 6002. DEFINITIONS.

For purposes of this title—

(1) 1986 CODE.—The term “1986 Code” means the Internal Revenue Code of 1986.

(2) 1997 ACT.—The term “1997 Act” means the Taxpayer Relief Act of 1997.

### SEC. 6003. AMENDMENTS RELATED TO TITLE I OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 101(a) OF 1997 ACT.—

(1) Subsection (d) of section 24 of the 1986 Code is amended—

(A) by striking paragraphs (3) and (4);

(B) by redesignating paragraph (5) as paragraph (3);

and

(C) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

“(1) IN GENERAL.—In the case of a taxpayer with three or more qualifying children for any taxable year, the aggregate credits allowed under subpart C shall be increased by the lesser of—

“(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a); or

“(B) the amount by which the aggregate amount of credits allowed by this subpart (without regard to this subsection) would increase if the limitation imposed by section 26(a) were increased by the excess (if any) of—

“(i) the taxpayer’s Social Security taxes for the taxable year, over

“(ii) the credit allowed under section 32 (determined without regard to subsection (n)) for the taxable year.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a).

“(2) REDUCTION OF CREDIT TO TAXPAYER SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit determined under this subsection for the taxable year shall be reduced by the excess (if any) of—

“(A) the amount of tax imposed by section 55 (relating to alternative minimum tax) with respect to such taxpayer for such taxable year, over

“(B) the amount of the reduction under section 32(h) with respect to such taxpayer for such taxable year.”

(2) Paragraph (3) of section 24(d) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking “paragraph (3)” and inserting “paragraph (1)”.

(b) AMENDMENTS RELATED TO SECTION 101(b) OF 1997 ACT.—

(1) The subsection (m) of section 32 of the 1986 Code added by section 101(b) of the 1997 Act is amended to read as follows:

“(n) SUPPLEMENTAL CHILD CREDIT.—

“(1) IN GENERAL.—In the case of a taxpayer with respect to whom a credit is allowed under section 24(a) for the taxable year, the credit otherwise allowable under this section shall be increased by the lesser of—

“(A) the excess of—

“(i) the credits allowed under subpart A (determined after the application of section 26 and without regard to this subsection), over

“(ii) the credits which would be allowed under subpart A after the application of section 26, determined without regard to section 24 and this subsection; or

“(B) the excess of—

“(i) the sum of the credits allowed under this part (determined without regard to sections 31, 33, and 34 and this subsection), over

“(ii) the sum of the regular tax and the Social Security taxes (as defined in section 24(d)).

The credit determined under this subsection shall be allowed without regard to any other provision of this section, including subsection (d).

“(2) COORDINATION WITH OTHER CREDITS.—The amount of the credit under this subsection shall reduce the amount of the credits otherwise allowable under subpart A for the taxable year (determined after the application of section 26), but the amount of the credit under this subsection (and such reduction) shall not be taken into account in determining the amount of any other credit allowable under this part.”.

#### SEC. 6004. AMENDMENTS RELATED TO TITLE II OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 201 OF 1997 ACT.—

(1) The item relating to section 25A in the table of sections for subpart A of part IV of subchapter A of chapter 1 of the 1986 Code is amended to read as follows:

“Sec. 25A. Hope and Lifetime Learning credits.”.

(2) Subsection (a) of section 6050S of the 1986 Code is amended to read as follows:

“(a) IN GENERAL.—Any person—

“(1) which is an eligible educational institution—

“(A) which receives payments for qualified tuition and related expenses with respect to any individual for any calendar year; or

“(B) which makes reimbursements or refunds (or similar amounts) to any individual of qualified tuition and related expenses;

“(2) which is engaged in a trade or business of making payments to any individual under an insurance arrangement as reimbursements or refunds (or similar amounts) of qualified tuition and related expenses; or

“(3) except as provided in regulations, which is engaged in a trade or business and, in the course of which, receives from any individual interest aggregating \$600 or more for any calendar year on one or more qualified education loans, shall make the return described in subsection (b) with respect to the individual at such time as the Secretary may by regulations prescribe.”.

26 USC 6724.

(3) Subparagraph (A) of section 201(c)(2) of the 1997 Act is amended to read as follows:

“(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

“(x) section 6050S (relating to returns relating to payments for qualified tuition and related expenses),”.

(b) AMENDMENTS RELATED TO SECTION 202 OF 1997 ACT.—

(1) Paragraph (1) of section 221(e) of the 1986 Code is amended by inserting “by the taxpayer solely” after “incurred” the first place it appears.



(2) Subsection (d) of section 221 of the 1986 Code is amended by adding at the end the following new sentence: “Such 60 months shall be determined in the manner prescribed by the Secretary in the case of multiple loans which are refinanced by, or serviced as, a single loan and in the case of loans incurred before the date of the enactment of this section.”.

(c) AMENDMENTS RELATED TO SECTION 211 OF 1997 ACT.—  
(1) Paragraph (3) of section 135(c) of the 1986 Code is amended to read as follows:

“(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term ‘eligible educational institution’ has the meaning given such term by section 529(e)(5).”.

(2) Subparagraph (A) of section 529(c)(3) of the 1986 Code is amended by striking “section 72(b)” and inserting “section 72”.

(3) Paragraph (2) of section 529(e) of the 1986 Code is amended to read as follows:

“(2) MEMBER OF FAMILY.—The term ‘member of the family’ means, with respect to any designated beneficiary—

“(A) the spouse of such beneficiary;

“(B) an individual who bears a relationship to such beneficiary which is described in paragraphs (1) through (8) of section 152(a); and

“(C) the spouse of any individual described in subparagraph (B).”.

(d) AMENDMENTS RELATED TO SECTION 213 OF 1997 ACT.—

(1) Section 530(b)(1) of the 1986 Code (defining education individual retirement account) is amended by inserting “an individual who is” before “the designated beneficiary” in the material preceding subparagraph (A).

(2)(A) Section 530(b)(1)(E) of the 1986 Code (defining education individual retirement account) is amended to read as follows:

“(E) Except as provided in subsection (d)(7), any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death of such beneficiary.”.

(B) Paragraph (7) of section 530(d) of the 1986 Code is amended by inserting at the end the following new sentence: “In applying the preceding sentence, members of the family (as so defined) of the designated beneficiary shall be treated in the same manner as the spouse under such paragraph (8).”.

(C) Subsection (d) of section 530 of the 1986 Code is amended by adding at the end the following new paragraph:

“(8) DEEMED DISTRIBUTION ON REQUIRED DISTRIBUTION DATE.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period.”.

(3)(A) Paragraph (1) of section 530(d) of the 1986 Code is amended by striking “section 72(b)” and inserting “section 72”.

Applicability.

(B) Subsection (e) of section 72 of the 1986 Code is amended by inserting after paragraph (8) the following new paragraph:

“(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph.”.

(4) Paragraph (2) of section 135(d) of the 1986 Code is amended to read as follows:

“(2) COORDINATION WITH OTHER HIGHER EDUCATION BENEFITS.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by—

“(A) the amount of such expenses which are taken into account in determining the credit allowable to the taxpayer or any other person under section 25A with respect to such expenses; and

“(B) the amount of such expenses which are taken into account in determining the exclusion under section 530(d)(2).”.

(5) Section 530(d)(2) of the 1986 Code (relating to distributions for qualified higher education expenses) is amended by adding at the end the following new subparagraph:

“(D) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.”.

(6) Section 530(d)(4)(B) of the 1986 Code (relating to exceptions) is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “; or”, and by adding at the end the following new clause:

“(iv) an amount which is includible in gross income solely because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2) for the taxable year.”.

(7) So much of section 530(d)(4)(C) of the 1986 Code as precedes clause (ii) thereof is amended to read as follows:

“(C) CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

“(i) such distribution is made on or before the day prescribed by law (including extensions of time) for filing the beneficiary’s return of tax for the taxable year or, if the beneficiary is not required to file such a return, the 15th day of the 4th month of the taxable year following the taxable year; and”.

(8)(A) Paragraph (5) of section 530(d) of the 1986 Code is amended by striking the first sentence and inserting the following new sentence: “Paragraph (1) shall not apply to any

amount paid or distributed from an education individual retirement account to the extent that the amount received is paid, not later than the 60th day after the date of such payment or distribution, into another education individual retirement account for the benefit of the same beneficiary or a member of the family (within the meaning of section 529(e)(2)) of such beneficiary who has not attained age 30 as of such date.”.

(B) Paragraph (6) of section 530(d) of the 1986 Code is amended by inserting before the period “and has not attained age 30 as of the date of such change”.

(9) Subparagraph (C) of section 135(c)(2) of the 1986 Code is amended—

(A) by inserting “AND EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS” in the heading after “PROGRAM”; and

(B) by striking “section 529(c)(3)(A)” and inserting “section 72”.

(10)(A) Paragraph (1) of section 4973(e) of the 1986 Code is amended to read as follows:

“(1) IN GENERAL.—In the case of education individual retirement accounts maintained for the benefit of any one beneficiary, the term ‘excess contributions’ means the sum of—

“(A) the amount by which the amount contributed for the taxable year to such accounts exceeds \$500 (or, if less, the sum of the maximum amounts permitted to be contributed under section 530(c) by the contributors to such accounts for such year);

“(B) if any amount is contributed (other than a contribution described in section 530(b)(2)(B)) during such year to a qualified State tuition program for the benefit of such beneficiary, any amount contributed to such accounts for such taxable year; and

“(C) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

“(i) the distributions out of the accounts for the taxable year (other than rollover distributions); and

“(ii) the excess (if any) of the maximum amount which may be contributed to the accounts for the taxable year over the amount contributed to the accounts for the taxable year.”.

(B) Paragraph (2) of section 4973(e) of the 1986 Code is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(e) AMENDMENTS RELATED TO SECTION 224 OF 1997 ACT.—

(1) Clauses (vi) and (vii) of section 170(e)(6)(B) of the 1986 Code are each amended by striking “entity’s” and inserting “donee’s”.

(2) Clause (iv) of section 170(e)(6)(B) of the 1986 Code is amended by striking “organization or entity” and inserting “donee”.

(3) Subclause (I) of section 170(e)(6)(C)(ii) of the 1986 Code is amended by striking “an entity” and inserting “a donee”.

(4) Section 170(e)(6)(F) of the 1986 Code (relating to termination) is amended by striking “1999” and inserting “2000”.

(f) AMENDMENTS RELATED TO SECTION 225 OF 1997 ACT.—

(1) The last sentence of section 108(f)(2) of the 1986 Code is amended to read as follows:

“The term ‘student loan’ includes any loan made by an educational organization described in section 170(b)(1)(A)(ii) or by an organization exempt from tax under section 501(a) to refinance a loan to an individual to assist the individual in attending any such educational organization but only if the refinancing loan is pursuant to a program of the refinancing organization which is designed as described in subparagraph (D)(ii).”.

(2) Section 108(f)(3) of the 1986 Code is amended by striking “(or by an organization described in paragraph (2)(E) from funds provided by an organization described in paragraph (2)(D))”.

(g) AMENDMENTS RELATED TO SECTION 226 OF 1997 ACT.—

26 USC 1397D,  
1397F.

(1) Section 226(a) of the 1997 Act is amended by striking “section 1397E” and inserting “section 1397D”.

(2) Section 1397E(d)(4)(B) of the 1986 Code is amended by striking “local education agency as defined” and inserting “local educational agency as defined”.

(3) Section 1397E is amended by adding at the end the following new subsection:

“(h) CREDIT TREATED AS ALLOWED UNDER PART IV OF SUBCHAPTER A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.”.

(4) Subsection (g) of section 1397E of the 1986 Code is amended by inserting “(determined without regard to subsection (c))” after “section”.

(5) Subparagraph (D) of section 42(j)(4) of the 1986 Code is amended by striking “subpart A, B, D, or G of this part” and inserting “this chapter”.

(6) Paragraph (4) of section 49(b) of the 1986 Code is amended by striking “subpart A, B, D, or G” and inserting “this chapter”.

(7) Subparagraph (C) of section 50(a)(5) of the 1986 Code is amended by striking “subpart A, B, D, or G” and inserting “this chapter”.

#### SEC. 6005. AMENDMENTS RELATED TO TITLE III OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF 1997 ACT.—

(1) Section 219(g) of the 1986 Code is amended—

(A) by inserting “or the individual’s spouse” after “individual” in paragraph (1); and

(B) by striking paragraph (7) and inserting:

“(7) SPECIAL RULE FOR SPOUSES WHO ARE NOT ACTIVE PARTICIPANTS.—If this subsection applies to an individual for any taxable year solely because their spouse is an active participant, then, in applying this subsection to the individual (but not their spouse)—

“(A) the applicable dollar amount under paragraph (3)(B)(i) shall be \$150,000; and

“(B) the amount applicable under paragraph (2)(A)(ii) shall be \$10,000.”.

26 USC 219.

(2) Paragraph (2) of section 301(a) of the 1997 Act is amended by inserting “after ‘\$10,000’” before the period.

(b) AMENDMENTS RELATED TO SECTION 302 OF 1997 ACT.—

(1) Section 408A(c)(3)(A) of the 1986 Code is amended by striking “shall be reduced” and inserting “shall not exceed

an amount equal to the amount determined under paragraph (2)(A) for such taxable year, reduced”.

(2) Section 408A(c)(3) of the 1986 Code (relating to limits based on modified adjusted gross income) is amended—

(A) by inserting “or a married individual filing a separate return” after “joint return” in subparagraph (A)(ii),

(B) in subparagraph (B)—

(i) by inserting “, for the taxable year of the distribution to which such contribution relates” after “if”; and

(ii) by striking “for such taxable year” in clause (i), and

(C) by striking “and the deduction under section 219 shall be taken into account” in subparagraph (C)(i).

(3)(A) Section 408A(d)(2) of the 1986 Code (defining qualified distribution) is amended by striking subparagraph (B) and inserting the following new subparagraph:

“(B) DISTRIBUTIONS WITHIN NONEXCLUSION PERIOD.—

A payment or distribution from a Roth IRA shall not be treated as a qualified distribution under subparagraph (A) if such payment or distribution is made within the 5-taxable year period beginning with the first taxable year for which the individual made a contribution to a Roth IRA (or such individual’s spouse made a contribution to a Roth IRA) established for such individual.”.

(B) Section 408A(d)(2) of the 1986 Code is amended by adding at the end the following new subparagraph:

“(C) DISTRIBUTIONS OF EXCESS CONTRIBUTIONS AND EARNINGS.—The term ‘qualified distribution’ shall not include any distribution of any contribution described in section 408(d)(4) and any net income allocable to the contribution.”.

(4) Section 408A(d)(3) of the 1986 Code (relating to rollovers from IRAs other than Roth IRAs) is amended—

(A) by striking clause (iii) of subparagraph (A) and inserting:

“(iii) unless the taxpayer elects not to have this clause apply for any taxable year, any amount required to be included in gross income for such taxable year by reason of this paragraph for any distribution before January 1, 1999, shall be so included ratably over the 4-taxable year period beginning with such taxable year.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.”; and

(B) by adding at the end the following new subparagraph:

“(F) SPECIAL RULES FOR CONTRIBUTIONS TO WHICH 4-YEAR AVERAGING APPLIES.—In the case of a qualified rollover contribution to a Roth IRA of a distribution to which subparagraph (A)(iii) applied, the following rules shall apply:

“(i) ACCELERATION OF INCLUSION.—

“(I) IN GENERAL.—The amount required to be included in gross income for each of the first 3

taxable years in the 4-year period under subparagraph (A)(iii) shall be increased by the aggregate distributions from Roth IRAs for such taxable year which are allocable under paragraph (4) to the portion of such qualified rollover contribution required to be included in gross income under subparagraph (A)(i).

“(II) LIMITATION ON AGGREGATE AMOUNT INCLUDED.—The amount required to be included in gross income for any taxable year under subparagraph (A)(iii) shall not exceed the aggregate amount required to be included in gross income under subparagraph (A)(iii) for all taxable years in the 4-year period (without regard to subclause (I)) reduced by amounts included for all preceding taxable years.

“(ii) DEATH OF DISTRIBUTE.—

“(I) IN GENERAL.—If the individual required to include amounts in gross income under such subparagraph dies before all of such amounts are included, all remaining amounts shall be included in gross income for the taxable year which includes the date of death.

“(II) SPECIAL RULE FOR SURVIVING SPOUSE.—If the spouse of the individual described in subclause (I) acquires the individual’s entire interest in any Roth IRA to which such qualified rollover contribution is properly allocable, the spouse may elect to treat the remaining amounts described in subclause (I) as includible in the spouse’s gross income in the taxable years of the spouse ending with or within the taxable years of such individual in which such amounts would otherwise have been includible. Any such election may not be made or changed after the due date for the spouse’s taxable year which includes the date of death.

“(G) SPECIAL RULE FOR APPLYING SECTION 72.—

“(i) IN GENERAL.—If—

“(I) any portion of a distribution from a Roth IRA is properly allocable to a qualified rollover contribution described in this paragraph; and

“(II) such distribution is made within the 5-taxable year period beginning with the taxable year in which such contribution was made, then section 72(t) shall be applied as if such portion were includible in gross income.

“(ii) LIMITATION.—Clause (i) shall apply only to the extent of the amount of the qualified rollover contribution includible in gross income under subparagraph (A)(i).”

(5)(A) Section 408A(d)(4) of the 1986 Code is amended to read as follows:

“(4) AGGREGATION AND ORDERING RULES.—

“(A) AGGREGATION RULES.—Section 408(d)(2) shall be applied separately with respect to Roth IRAs and other individual retirement plans.

“(B) ORDERING RULES.—For purposes of applying this section and section 72 to any distribution from a Roth IRA, such distribution shall be treated as made—

“(i) from contributions to the extent that the amount of such distribution, when added to all previous distributions from the Roth IRA, does not exceed the aggregate contributions to the Roth IRA; and

“(ii) from such contributions in the following order:

“(I) Contributions other than qualified rollover contributions to which paragraph (3) applies.

“(II) Qualified rollover contributions to which paragraph (3) applies on a first-in, first-out basis.

Any distribution allocated to a qualified rollover contribution under clause (ii)(II) shall be allocated first to the portion of such contribution required to be included in gross income.”.

(B) Section 408A(d)(1) of the 1986 Code is amended to read as follows:

“(1) EXCLUSION.—Any qualified distribution from a Roth IRA shall not be includible in gross income.”.

(6)(A) Section 408A(d) of the 1986 Code (relating to distribution rules) is amended by adding at the end the following new paragraph:

“(6) TAXPAYER MAY MAKE ADJUSTMENTS BEFORE DUE DATE.—

“(A) IN GENERAL.—Except as provided by the Secretary, if, on or before the due date for any taxable year, a taxpayer transfers in a trustee-to-trustee transfer any contribution to an individual retirement plan made during such taxable year from such plan to any other individual retirement plan, then, for purposes of this chapter, such contribution shall be treated as having been made to the transferee plan (and not the transferor plan).

“(B) SPECIAL RULES.—

“(i) TRANSFER OF EARNINGS.—Subparagraph (A) shall not apply to the transfer of any contribution unless such transfer is accompanied by any net income allocable to such contribution.

“(ii) NO DEDUCTION.—Subparagraph (A) shall apply to the transfer of any contribution only to the extent no deduction was allowed with respect to the contribution to the transferor plan.”.

(B) Section 408A(d)(3) of the 1986 Code, as amended by this subsection, is amended by striking subparagraph (D) and by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(7) Section 408A(d) of the 1986 Code, as amended by paragraph (6), is amended by adding at the end the following new paragraph:

“(7) DUE DATE.—For purposes of this subsection, the due date for any taxable year is the date prescribed by law (including extensions of time) for filing the taxpayer’s return for such taxable year.”.

(8)(A) Section 4973(f) of the 1986 Code is amended—

(i) by striking “such accounts” in paragraph (1)(A) and inserting “Roth IRAs”; and

(ii) by striking “to the accounts” in paragraph (2)(B) and inserting “by the individual to all individual retirement plans”.

(B) Section 4973(b) of the 1986 Code is amended—

(i) by inserting “a contribution to a Roth IRA or” after “other than” in paragraph (1)(A); and

(ii) by inserting “(including the amount contributed to a Roth IRA)” after “annuities” in paragraph (2)(C).

26 USC 4973.

(C) Section 302(b) of the 1997 Act is amended by striking “Section 4973(b)” and inserting “Section 4973”.

(9) Section 408A of the 1986 Code is amended by adding at the end the following new subsection:

“(f) INDIVIDUAL RETIREMENT PLAN.—For purposes of this section—

“(1) a simplified employee pension or a simple retirement account may not be designated as a Roth IRA; and

“(2) contributions to any such pension or account shall not be taken into account for purposes of subsection (c)(2)(B).”.

(c) AMENDMENTS RELATED TO SECTION 303 OF 1997 ACT.—

(1) Section 72(t)(8)(E) of the 1986 Code is amended—

(A) by striking “120 days” and inserting “120th day”; and

(B) by striking “60 days” and inserting “60th day”.

(2)(A) Section 402(c)(4) of the 1986 Code is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, by inserting at the end the following new subparagraph:

“(C) any hardship distribution described in section 401(k)(2)(B)(i)(IV).”.

(B) Section 403(b)(8)(B) of the 1986 Code is amended by inserting “(including paragraph (4)(C) thereof)” after “section 402(c)”.

Applicability.  
26 USC 402 note.

(C) The amendments made by this paragraph shall apply to distributions after December 31, 1998.

(d) AMENDMENTS RELATED TO SECTION 311 OF 1997 ACT.—

(1) Subsection (h) of section 1 of the 1986 Code (relating to maximum capital gains rate) is amended to read as follows: “(h) MAXIMUM CAPITAL GAINS RATE.—

“(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of—

“(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

“(i) taxable income reduced by the net capital gain; or

“(ii) the lesser of—

“(I) the amount of taxable income taxed at a rate below 28 percent; or

“(II) taxable income reduced by the adjusted net capital gain;

“(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of—



“(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 28 percent, over

“(ii) the taxable income reduced by the adjusted net capital gain;

“(C) 20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B);

“(D) 25 percent of the excess (if any) of—

“(i) the unrecaptured section 1250 gain (or, if less, the net capital gain), over

“(ii) the excess (if any) of—

“(I) the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain, over

“(II) taxable income; and

“(E) 28 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

“(2) REDUCED CAPITAL GAIN RATES FOR QUALIFIED 5-YEAR GAIN.—

“(A) REDUCTION IN 10-PERCENT RATE.—In the case of any taxable year beginning after December 31, 2000, the rate under paragraph (1)(B) shall be 8 percent with respect to so much of the amount to which the 10-percent rate would otherwise apply as does not exceed qualified 5-year gain, and 10 percent with respect to the remainder of such amount.

“(B) REDUCTION IN 20-PERCENT RATE.—The rate under paragraph (1)(C) shall be 18 percent with respect to so much of the amount to which the 20-percent rate would otherwise apply as does not exceed the lesser of—

“(i) the excess of qualified 5-year gain over the amount of such gain taken into account under subparagraph (A) of this paragraph; or

“(ii) the amount of qualified 5-year gain (determined by taking into account only property the holding period for which begins after December 31, 2000),

and 20 percent with respect to the remainder of such amount. For purposes of determining under the preceding sentence whether the holding period of property begins after December 31, 2000, the holding period of property acquired pursuant to the exercise of an option (or other right or obligation to acquire property) shall include the period such option (or other right or obligation) was held.

“(3) NET CAPITAL GAIN TAKEN INTO ACCOUNT AS INVESTMENT INCOME.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

“(4) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection, the term ‘adjusted net capital gain’ means net capital gain reduced (but not below zero) by the sum of—

“(A) unrecaptured section 1250 gain; and

“(B) 28-percent rate gain.

“(5) 28-PERCENT RATE GAIN.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘28-percent rate gain’ means the excess (if any) of—

“(i) the sum of—

“(I) the aggregate long-term capital gain from property held for more than 1 year but not more than 18 months;

“(II) collectibles gain; and

“(III) section 1202 gain, over

“(ii) the sum of—

“(I) the aggregate long-term capital loss (not described in subclause (IV)) from property referred to in clause (i)(I);

“(II) collectibles loss;

“(III) the net short-term capital loss; and

“(IV) the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.

Applicability.

“(B) SPECIAL RULES.—

“(i) SHORT SALE GAINS AND HOLDING PERIODS.—Rules similar to the rules of section 1233(b) shall apply where the substantially identical property has been held more than 1 year but not more than 18 months; except that, for purposes of such rules—

“(I) section 1233(b)(1) shall be applied by substituting ‘18 months’ for ‘1 year’ each place it appears; and

“(II) the holding period of such property shall be treated as being 1 year on the day before the earlier of the date of the closing of the short sale or the date such property is disposed of.

“(ii) LONG-TERM LOSSES.—Section 1233(d) shall be applied separately by substituting ‘18 months’ for ‘1 year’ each place it appears.

“(iii) OPTIONS.—A rule similar to the rule of section 1092(f) shall apply where the stock was held for more than 18 months.

“(iv) SECTION 1256 CONTRACTS.—Amounts treated as long-term capital gain or loss under section 1256(a)(3) shall be treated as attributable to property held for more than 18 months.

“(6) COLLECTIBLES GAIN AND LOSS.—For purposes of this subsection—

“(A) IN GENERAL.—The terms ‘collectibles gain’ and ‘collectibles loss’ mean gain or loss (respectively) from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 18 months but only to the extent such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.

“(B) PARTNERSHIPS, ETC.—For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible.

Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence. Applicability.

“(7) UNRECAPTURED SECTION 1250 GAIN.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘unrecaptured section 1250 gain’ means the excess (if any) of—

“(i) the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if—

“(I) section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, and

“(II) only gain from property held for more than 18 months were taken into account, over

“(ii) the excess (if any) of—

“(I) the amount described in paragraph (5)(A)(ii), over

“(II) the amount described in paragraph (5)(A)(i).

“(B) LIMITATION WITH RESPECT TO SECTION 1231 PROPERTY.—The amount described in subparagraph (A)(i) from sales, exchanges, and conversions described in section 1231(a)(3)(A) for any taxable year shall not exceed the net section 1231 gain (as defined in section 1231(c)(3)) for such year.

“(8) SECTION 1202 GAIN.—For purposes of this subsection, the term ‘section 1202 gain’ means an amount equal to the gain excluded from gross income under section 1202(a).

“(9) QUALIFIED 5-YEAR GAIN.—For purposes of this subsection, the term ‘qualified 5-year gain’ means the aggregate long-term capital gain from property held for more than 5 years. The determination under the preceding sentence shall be made without regard to collectibles gain, gain described in paragraph (7)(A)(i), and section 1202 gain.

“(10) COORDINATION WITH RECAPTURE OF NET ORDINARY LOSSES UNDER SECTION 1231.—If any amount is treated as ordinary income under section 1231(c), such amount shall be allocated among the separate categories of net section 1231 gain (as defined in section 1231(c)(3)) in such manner as the Secretary may by forms or regulations prescribe.

“(11) REGULATIONS.—The Secretary may prescribe such regulations as are appropriate (including regulations requiring reporting) to apply this subsection in the case of sales and exchanges by pass-thru entities and of interests in such entities.

“(12) PASS-THRU ENTITY DEFINED.—For purposes of this subsection, the term ‘pass-thru entity’ means—

“(A) a regulated investment company;

“(B) a real estate investment trust;

“(C) an S corporation;

“(D) a partnership;

“(E) an estate or trust;

“(F) a common trust fund;

“(G) a foreign investment company which is described in section 1246(b)(1) and for which an election is in effect under section 1247; and

“(H) a qualified electing fund (as defined in section 1295).

“(13) SPECIAL RULES FOR PERIODS DURING 1997.—

“(A) DETERMINATION OF 28-PERCENT RATE GAIN.—In applying paragraph (5)—

“(i) the amount determined under subclause (I) of paragraph (5)(A)(i) shall include long-term capital gain (not otherwise described in paragraph (5)(A)(i)) which is properly taken into account for the portion of the taxable year before May 7, 1997;

“(ii) the amounts determined under subclause (I) of paragraph (5)(A)(ii) shall include long-term capital loss (not otherwise described in paragraph (5)(A)(ii)) which is properly taken into account for the portion of the taxable year before May 7, 1997; and

Applicability.

“(iii) clauses (i)(I) and (ii)(I) of paragraph (5)(A) shall be applied by not taking into account any gain and loss on property held for more than 1 year but not more than 18 months which is properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

“(B) OTHER SPECIAL RULES.—

“(i) DETERMINATION OF UNRECAPTURED SECTION 1250 GAIN NOT TO INCLUDE PRE-MAY 7, 1997 GAIN.—The amount determined under paragraph (7)(A)(i) shall not include gain properly taken into account for the portion of the taxable year before May 7, 1997.

Applicability.

“(ii) OTHER TRANSITIONAL RULES FOR 18-MONTH HOLDING PERIOD.—Paragraphs (6)(A) and (7)(A)(i)(II) shall be applied by substituting ‘1 year’ for ‘18 months’ with respect to gain properly taken into account for the portion of the taxable year after May 6, 1997, and before July 29, 1997.

Applicability.

“(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—In applying this paragraph with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.”.

(2) Paragraph (3) of section 55(b) of the 1986 Code is amended to read as follows:

“(3) MAXIMUM RATE OF TAX ON NET CAPITAL GAIN OF NON-CORPORATE TAXPAYERS.—The amount determined under the first sentence of paragraph (1)(A)(i) shall not exceed the sum of—

“(A) the amount determined under such first sentence computed at the rates and in the same manner as if this paragraph had not been enacted on the taxable excess reduced by the lesser of—

“(i) the net capital gain; or

“(ii) the sum of—

“(I) the adjusted net capital gain, plus

“(II) the unrecaptured section 1250 gain, plus

“(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable excess) as does not exceed the amount on which a tax is determined under section 1(h)(1)(B), plus

“(C) 20 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the amount on which tax is determined under subparagraph (B), plus

“(D) 25 percent of the amount of taxable excess in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

In the case of taxable years beginning after December 31, 2000, rules similar to the rules of section 1(h)(2) shall apply for purposes of subparagraphs (B) and (C). Terms used in this paragraph which are also used in section 1(h) shall have the respective meanings given such terms by section 1(h) but computed with the adjustments under this part.”

Applicability.

(3) Section 57(a)(7) of the 1986 Code is amended by adding at the end the following new sentence: “In the case of stock the holding period of which begins after December 31, 2000 (determined with the application of the last sentence of section 1(h)(2)(B)), the preceding sentence shall be applied by substituting ‘28 percent’ for ‘42 percent’.”

Applicability.

(4) Paragraphs (11) and (12) of section 1223, and section 1235(a), of the 1986 Code are each amended by striking “1 year” each place it appears and inserting “18 months”.

(e) AMENDMENTS RELATED TO SECTION 312 OF 1997 ACT.—

(1) Paragraph (2) of section 121(b) of the 1986 Code is amended to read as follows:

“(2) SPECIAL RULES FOR JOINT RETURNS.—In the case of a husband and wife who make a joint return for the taxable year of the sale or exchange of the property—

“(A) \$500,000 LIMITATION FOR CERTAIN JOINT RETURNS.—Paragraph (1) shall be applied by substituting ‘\$500,000’ for ‘\$250,000’ if—

Applicability.

“(i) either spouse meets the ownership requirements of subsection (a) with respect to such property;

“(ii) both spouses meet the use requirements of subsection (a) with respect to such property; and

“(iii) neither spouse is ineligible for the benefits of subsection (a) with respect to such property by reason of paragraph (3).

“(B) OTHER JOINT RETURNS.—If such spouses do not meet the requirements of subparagraph (A), the limitation under paragraph (1) shall be the sum of the limitations under paragraph (1) to which each spouse would be entitled if such spouses had not been married. For purposes of the preceding sentence, each spouse shall be treated as owning the property during the period that either spouse owned the property.”

(2) Section 121(c)(1) of the 1986 Code is amended to read as follows:

“(1) IN GENERAL.—In the case of a sale or exchange to which this subsection applies, the ownership and use requirements of subsection (a), and subsection (b)(3), shall not apply; but the dollar limitation under paragraph (1) or (2) of subsection (b), whichever is applicable, shall be equal to—

“(A) the amount which bears the same ratio to such limitation (determined without regard to this paragraph) as

“(B)(i) the shorter of—

“(I) the aggregate periods, during the 5-year period ending on the date of such sale or exchange, such

property has been owned and used by the taxpayer as the taxpayer's principal residence; or

“(II) the period after the date of the most recent prior sale or exchange by the taxpayer to which subsection (a) applied and before the date of such sale or exchange, bears to  
“(ii) 2 years.”.

26 USC 121 note.

(3) Section 312(d)(2) of the 1997 Act (relating to sales before date of the enactment) is amended by inserting “on or” before “before” each place it appears in the text and heading.

(f) AMENDMENTS RELATED TO SECTION 313 OF 1997 ACT.—

(1) Subsection (a) of section 1045 of such Code is amended—

(A) by striking “an individual” and inserting “a taxpayer other than a corporation”; and

(B) by striking “such individual” and inserting “such taxpayer”.

(2) Subsection (b) of section 1045 of the 1986 Code is amended by adding at the end the following new paragraph:

“(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (f), (g), (h), (i), (j), and (k) of section 1202 shall apply.”.

#### SEC. 6006. AMENDMENT RELATED TO TITLE IV OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 401 OF 1997 ACT.—Paragraph (1) of section 55(e) of the 1986 Code is amended to read as follows:

“(1) IN GENERAL.—

“(A) \$7,500,000 GROSS RECEIPTS TEST.—The tentative minimum tax of a corporation shall be zero for any taxable year if the corporation's average annual gross receipts for all 3-taxable-year periods ending before such taxable year does not exceed \$7,500,000. For purposes of the preceding sentence, only taxable years beginning after December 31, 1993, shall be taken into account.

Applicability.

“(B) \$5,000,000 GROSS RECEIPTS TEST FOR FIRST 3-YEAR PERIOD.—Subparagraph (A) shall be applied by substituting ‘\$5,000,000’ for ‘\$7,500,000’ for the first 3-taxable-year period (or portion thereof) of the corporation which is taken into account under subparagraph (A).

“(C) FIRST TAXABLE YEAR CORPORATION IN EXISTENCE.—If such taxable year is the first taxable year that such corporation is in existence, the tentative minimum tax of such corporation for such year shall be zero.

Applicability.

“(D) SPECIAL RULES.—For purposes of this paragraph, the rules of paragraphs (2) and (3) of section 448(c) shall apply.”.

(b) AMENDMENT RELATED TO SECTION 402 OF 1997 ACT.—Subsection (c) of section 168 of the 1986 Code is amended—

(1) by striking paragraph (2), and

(2) by striking the portion of such subsection preceding the table in paragraph (1) and inserting the following:

“(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table.”.

#### SEC. 6007. AMENDMENTS RELATED TO TITLE V OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 501 OF 1997 ACT.—

(1) Subsection (c) of section 2631 of the 1986 Code is amended to read as follows:

“(c) INFLATION ADJUSTMENT.—

“(1) IN GENERAL.—In the case of any calendar year after 1998, the \$1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

“(A) \$1,000,000, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 1997’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the next lowest multiple of \$10,000.

“(2) ALLOCATION OF INCREASE.—Any increase under paragraph (1) for any calendar year shall apply only to generation-skipping transfers made during or after such calendar year; except that no such increase for calendar years after the calendar year in which the transferor dies shall apply to transfers by such transferor.”.

Applicability.

(2) Subsection (f) of section 501 of the 1997 Act is amended by inserting “(other than the amendment made by subsection (d))” after “this section”.

26 USC 2001 note.

(b) AMENDMENTS RELATED TO SECTION 502 OF 1997 ACT.—

(1)(A) Section 2033A of the 1986 Code is hereby moved to the end of part IV of subchapter A of chapter 11 of the 1986 Code and redesignated as section 2057.

(B) So much of such section 2057 (as so redesignated) as precedes subsection (b) thereof is amended to read as follows:

**“SEC. 2057. FAMILY-OWNED BUSINESS INTERESTS.**

“(a) GENERAL RULE.—

“(1) ALLOWANCE OF DEDUCTION.—For purposes of the tax imposed by section 2001, in the case of an estate of a decedent to which this section applies, the value of the taxable estate shall be determined by deducting from the value of the gross estate the adjusted value of the qualified family-owned business interests of the decedent which are described in subsection (b)(2).

“(2) MAXIMUM DEDUCTION.—The deduction allowed by this section shall not exceed \$675,000.

“(3) COORDINATION WITH UNIFIED CREDIT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), if this section applies to an estate, the applicable exclusion amount under section 2010 shall be \$625,000.

“(B) INCREASE IN UNIFIED CREDIT IF DEDUCTION IS LESS THAN \$675,000.—If the deduction allowed by this section is less than \$675,000, the amount of the applicable exclusion amount under section 2010 shall be increased (but not above the amount which would apply to the estate without regard to this section) by the excess of \$675,000 over the amount of the deduction allowed.”.

(C) Subparagraph (A) of section 2057(b)(2) of the 1986 Code (as so redesignated) is amended by striking “(without regard to this section)”.

(D) Subsection (c) of section 2057 of the 1986 Code (as so redesignated) is amended by striking “(determined without regard to this section)”.

(E) The table of sections for part III of subchapter A of chapter 11 of the 1986 Code is amended by striking the item relating to section 2033A.

(F) The table of sections for part IV of such subchapter is amended by adding at the end the following new item:

“Sec. 2057. Family-owned business interests.”.

(2) Section 2057(b)(3) of the 1986 Code (as so redesignated) is amended to read as follows:

“(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the sum of—

“(A) the amount of such gifts from the decedent to members of the decedent’s family taken into account under section 2001(b)(1)(B), plus

“(B) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent’s spouse) between the date of the gift and the date of the decedent’s death.”.

(3)(A) Section 2057(e)(2)(C) of the 1986 Code (as so redesignated) is amended by striking “(as defined in section 543(a))” and inserting “(as defined in section 543(a) without regard to paragraph (2)(B) thereof) if such trade or business were a corporation”.

(B) Clause (ii) of section 2057(e)(2)(D) of the 1986 Code (as so redesignated) is amended by striking “income of which is described in section 543(a) or” and inserting “personal holding company income (as defined in subparagraph (C)) or income described”.

(C) Paragraph (2) of section 2057(e) of the 1986 Code (as so redesignated) is amended by adding at the end the following new flush sentence:

“In the case of a lease of property on a net cash basis by the decedent to a member of the decedent’s family, income from such lease shall not be treated as personal holding company income for purposes of subparagraph (C), and such property shall not be treated as an asset described in subparagraph (D)(ii), if such income and property would not be so treated if the lessor had engaged directly in the activities engaged in by the lessee with respect to such property.”.

(4) Paragraph (2) of section 2057(f) of the 1986 Code (as so redesignated) is amended—

(A) by striking “(as determined under rules similar to the rules of section 2032A(c)(2)(B))”; and

(B) by adding at the end the following new subparagraph:

“(C) ADJUSTED TAX DIFFERENCE.—For purposes of subparagraph (A)—

“(i) IN GENERAL.—The adjusted tax difference attributable to a qualified family-owned business interest is the amount which bears the same ratio to the adjusted tax difference with respect to the estate (determined under clause (ii)) as the value of such



interest bears to the value of all qualified family-owned business interests described in subsection (b)(2).

“(ii) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.—For purposes of clause (i), the term ‘adjusted tax difference with respect to the estate’ means the excess of what would have been the estate tax liability but for the election under this section over the estate tax liability. For purposes of this clause, the term ‘estate tax liability’ means the tax imposed by section 2001 reduced by the credits allowable against such tax.”.

(5)(A) Paragraph (1) of section 2057(e) of the 1986 Code (as so redesignated) is amended by adding at the end the following new flush sentence:

“For purposes of the preceding sentence, a decedent shall be treated as engaged in a trade or business if any member of the decedent’s family is engaged in such trade or business.”.

(B) Subsection (f) of section 2057 of the 1986 Code (as so redesignated) is amended by adding at the end the following new paragraph:

“(3) USE IN TRADE OR BUSINESS BY FAMILY MEMBERS.—A qualified heir shall not be treated as disposing of an interest described in subsection (e)(1)(A) by reason of ceasing to be engaged in a trade or business so long as the property to which such interest relates is used in a trade or business by any member of such individual’s family.”.

(6) Paragraph (1) of section 2057(g) of the 1986 Code (as so redesignated) is amended by striking “or (M)”.

(7) Paragraph (3) of section 2057(i) of the 1986 Code (as so redesignated) is amended by redesignating subparagraphs (L), (M), and (N) as subparagraphs (N), (O), and (P), respectively, and by inserting after subparagraph (K) the following new subparagraphs:

“(L) Section 2032A(g) (relating to application to interests in partnerships, corporations, and trusts).

“(M) Subsections (h) and (i) of section 2032A.”.

(c) AMENDMENTS RELATED TO SECTION 503 OF THE 1997 ACT.—

(1) Clause (iii) of section 6166(b)(7)(A) of the 1986 Code is amended to read as follows:

“(iii) for purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.”.

(2) Clause (iii) of section 6166(b)(8)(A) of the 1986 Code is amended to read as follows:

“(iii) 2-PERCENT INTEREST RATE NOT TO APPLY.—For purposes of applying section 6601(j), the 2-percent portion (as defined in such section) shall be treated as being zero.”.

(d) AMENDMENT RELATED TO SECTION 505 OF THE 1997 ACT.—Paragraphs (1) and (2) of section 7479(a) of the 1986 Code are each amended by striking “an estate,” and inserting “an estate (or with respect to any property included therein),”.

(e) AMENDMENTS RELATED TO SECTION 506 OF THE 1997 ACT.—

(1) Paragraph (1) of section 506(e) of the 1997 Act is amended by striking “and (c)” and inserting “, (c), and (d)”.

(2)(A) Paragraph (9) of section 6501(c) of the 1986 Code is amended by striking the last sentence.

26 USC 2001  
note.

(B) Subsection (f) of section 2001 of the 1986 Code is amended to read as follows:

“(f) VALUATION OF GIFTS.—

“(1) IN GENERAL.—If the time has expired under section 6501 within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on—

“(A) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)); or

“(B) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined for purposes of chapter 12.

“(2) FINAL DETERMINATION.—For purposes of paragraph (1), a value shall be treated as finally determined for purposes of chapter 12 if—

“(A) the value is shown on a return under such chapter and such value is not contested by the Secretary before the expiration of the time referred to in paragraph (1) with respect to such return;

“(B) in a case not described in subparagraph (A), the value is specified by the Secretary and such value is not timely contested by the taxpayer; or

“(C) the value is determined by a court or pursuant to a settlement agreement with the Secretary.”.

(B) Subsection (c) of section 2504 of the 1986 Code is amended to read as follows:

“(c) VALUATION OF GIFTS.—If the time has expired under section 6501 within which a tax may be assessed under this chapter 12 (or under corresponding provisions of prior laws) on—

“(1) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)); or

“(2) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined (within the meaning of section 2001(f)(2)) for purposes of this chapter.”.

(f) AMENDMENTS RELATED TO SECTION 507 OF 1997 ACT.—

(1) Paragraph (3) of section 1(g) of the 1986 Code is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) Section 641 of the 1986 Code is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(3) Paragraph (4) of section 1361(e) of the 1986 Code is amended by striking “section 641(d)” and inserting “section 641(c)”.

(4) Subparagraph (A) of section 6103(e)(1) of the 1986 Code is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(g) AMENDMENTS RELATED TO SECTION 508 OF 1997 ACT.—

(1) Subsection (c) of section 2031 of the 1986 Code is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

“(9) TREATMENT OF EASEMENTS GRANTED AFTER DEATH.—In any case in which the qualified conservation easement is granted after the date of the decedent’s death and on or before the due date (including extensions) for filing the return of tax imposed by section 2001, the deduction under section 2055(f) with respect to such easement shall be allowed to the estate but only if no charitable deduction is allowed under chapter 1 to any person with respect to the grant of such easement.”.

(2) The first sentence of paragraph (6) of section 2031(c) of the 1986 Code is amended by striking all that follows “shall be made” and inserting “on or before the due date (including extensions) for filing the return of tax imposed by section 2001 and shall be made on such return.”.

**SEC. 6008. AMENDMENTS RELATED TO TITLE VII OF 1997 ACT.**

(a) AMENDMENT RELATED TO SECTION 1400 OF 1986 CODE.—Section 1400(b)(2)(B) of the 1986 Code is amended by inserting “as determined on the basis of the 1990 census” after “percent”.

(b) AMENDMENT RELATED TO SECTION 1400A OF 1986 CODE.—Subsection (a) of section 1400A of the 1986 Code is amended by inserting before the period “and section 1394(b)(3)(B)(iii) shall be applied without regard to the employee residency requirement”.

(c) AMENDMENTS RELATED TO SECTION 1400B OF 1986 CODE.—

(1) Section 1400B(b) of the 1986 Code is amended by inserting after paragraph (4) the following new paragraph:

“(5) TREATMENT OF DC ZONE TERMINATION.—The termination of the designation of the DC Zone shall be disregarded for purposes of determining whether any property is a DC Zone asset.”.

(2) Paragraph (6) of section 1400B(b) of the 1986 Code is amended by striking “(4)(A)(ii)” and inserting “(4)(A)(i) or (ii)”.

(3) Section 1400B(c) of the 1986 Code is amended by striking “entity which is an”.

(4) Section 1400B(d)(2) of the 1986 Code is amended by inserting “as determined on the basis of the 1990 census” after “percent”.

(d) AMENDMENTS RELATED TO SECTION 1400C OF 1986 CODE.—

(1) Paragraph (1) of section 1400C(b) of the 1986 Code is amended by inserting “and subsection (d)” after “this subsection”.

(2) Paragraph (1) of section 1400C(c) of the 1986 Code is amended to read as follows:

“(1) IN GENERAL.—The term ‘first-time homebuyer’ means any individual if such individual (and if married, such individual’s spouse) had no present ownership interest in a principal residence in the District of Columbia during the 1-year period ending on the date of the purchase of the principal residence to which this section applies.”.

(3) Subparagraph (B) of section 1400C(e)(2) of the 1986 Code is amended by inserting before the period “on the date the taxpayer first occupies such residence”.

(4) Paragraph (3) of section 1400C(e) of the 1986 Code is amended by striking all that follows “principal residence” and inserting “on the date such residence is purchased.”.

(5) Subsection (i) of section 1400C of the 1986 Code is amended to read as follows:

“(i) APPLICATION OF SECTION.—This section shall apply to property purchased after August 4, 1997, and before January 1, 2001.”.

(6) Subsection (c) of section 23 of the 1986 Code is amended by inserting “and section 1400C” after “other than this section”.

(7) Subparagraph (C) of section 25(e)(1) of the 1986 Code is amended by striking “section 23” and inserting “sections 23 and 1400C”.

#### SEC. 6009. AMENDMENTS RELATED TO TITLE IX OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 908 OF 1997 ACT.—Paragraph (6) of section 5041(b) of the 1986 Code is amended by inserting “which is a still wine” after “hard cider”.

(b) AMENDMENT RELATED TO SECTION 964 OF 1997 ACT.—

Applicability.

(1) IN GENERAL.—Subparagraph (C) of section 7704(g)(3) of the 1986 Code is amended by striking the period at the end and inserting “and shall be paid by the partnership. Section 6655 shall be applied to such partnership with respect to such tax in the same manner as if the partnership were a corporation, such tax were imposed by section 11, and references in such section to taxable income were references to the gross income referred to in subparagraph (A).”.

Applicability.  
26 USC 7704  
note.

(2) EFFECTIVE DATE.—The second sentence of section 7704(g)(3)(C) of the 1986 Code (as added by paragraph (1)) shall apply to taxable years beginning after the date of the enactment of this Act.

(c) AMENDMENT RELATED TO SECTION 971 OF 1997 ACT.—Clause (ii) of section 280F(a)(1)(C) is amended by striking “subparagraph (A)” and inserting “subparagraphs (A) and (B)”.

(d) AMENDMENT RELATED TO SECTION 976 OF 1997 ACT.—Section 6103(d)(5) of the 1986 Code is amended by striking “section 967 of the Taxpayer Relief Act of 1997.” and inserting “section 976 of the Taxpayer Relief Act of 1997. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect to disclosures or inspections made pursuant to this paragraph.”.

26 USC 172 note.

(e) AMENDMENT RELATED TO SECTION 977 OF 1997 ACT.—Paragraph (2) of section 977(e) of the 1997 Act is amended to read as follows:

“(2) NON-AMTRAK STATE.—The term ‘non-Amtrak State’ means any State which is not receiving intercity passenger rail service from the Corporation as of the date of the enactment of this Act.”.

#### SEC. 6010. AMENDMENTS RELATED TO TITLE X OF 1997 ACT.

(a) AMENDMENTS RELATED TO SECTION 1001 OF 1997 ACT.—

(1) Paragraph (2) of section 1259(b) of the 1986 Code is amended—

(A) by striking “debt” each place it appears in clauses (i), (ii), and (iii) of subparagraph (A) and inserting “position”;

(B) by striking “and” at the end of subparagraph (A); and

(C) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) any hedge with respect to a position described in subparagraph (A), and”.

(2) Section 1259(d)(1) of the 1986 Code is amended by inserting “(including cash)” after “property”.

(3) Subparagraph (D) of section 475(f)(1) of the 1986 Code is amended by adding at the end the following new sentence: “Subsection (d)(3) shall not apply under the preceding sentence for purposes of applying sections 1402 and 7704.”.

(4) Subparagraph (C) of section 1001(d)(3) of the 1997 Act is amended by striking “within the 30-day period beginning on” and inserting “before the close of the 30th day after”.

26 USC 475 note.

(b) AMENDMENT RELATED TO SECTION 1011 OF 1997 ACT.—Paragraph (1) of section 1059(g) of the 1986 Code is amended by striking “and in the case of stock held by pass-thru entities” and inserting “, in the case of stock held by pass-thru entities, and in the case of consolidated groups”.

(c) AMENDMENTS RELATED TO SECTION 1012 OF 1997 ACT.—

(1) Paragraph (1) of section 1012(d) of the 1997 Act is amended by striking “1997, pursuant” and inserting “1997; except that the amendment made by subsection (a) shall apply to such distributions only if pursuant”.

26 USC 351 note.

(2) Subparagraph (A) of section 355(e)(3) of the 1986 Code is amended—

(A) by striking “shall not be treated as described in” and inserting “shall not be taken into account in applying”; and

(B) by striking clause (iv) and inserting the following new clause:

“(iv) The acquisition of stock in the distributing corporation or any controlled corporation to the extent that the percentage of stock owned directly or indirectly in such corporation by each person owning stock in such corporation immediately before the acquisition does not decrease.”.

(3)(A) Subsection (c) of section 351 of the 1986 Code is amended to read as follows:

“(c) SPECIAL RULES WHERE DISTRIBUTION TO SHAREHOLDERS.—

“(1) IN GENERAL.—In determining control for purposes of this section, the fact that any corporate transferor distributes part or all of the stock in the corporation which it receives in the exchange to its shareholders shall not be taken into account.

“(2) SPECIAL RULE FOR SECTION 355.—If the requirements of section 355 (or so much of section 356 as relates to section 355) are met with respect to a distribution described in paragraph (1), then, solely for purposes of determining the tax treatment of the transfers of property to the controlled corporation by the distributing corporation, the fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account in determining control for purposes of this section.”.

(B) Clause (ii) of section 368(a)(2)(H) of the 1986 Code is amended to read as follows:

“(ii) in the case of a transaction with respect to which the requirements of section 355 (or so much of section 356 as relates to section 355) are met, the

fact that the shareholders of the distributing corporation dispose of part or all of the distributed stock shall not be taken into account.”.

(d) AMENDMENTS RELATED TO SECTION 1013 OF 1997 ACT.—

(1) Paragraph (5) of section 304(b) of the 1986 Code is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(2) Subsection (b) of section 304 of the 1986 Code is amended by adding at the end the following new paragraph:

Regulations.

“(6) AVOIDANCE OF MULTIPLE INCLUSIONS, ETC.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation or the issuing corporation is a foreign corporation, the Secretary shall prescribe such regulations as are appropriate in order to eliminate a multiple inclusion of any item in income by reason of this subpart and to provide appropriate basis adjustments (including modifications to the application of sections 959 and 961).”.

(e) AMENDMENTS RELATED TO SECTION 1014 OF 1997 ACT.—

(1) Paragraph (1) of section 351(g) of the 1986 Code is amended by adding “and” at the end of subparagraph (A) and by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

“(B) if (and only if) the transferor receives stock other than nonqualified preferred stock—

“(i) subsection (b) shall apply to such transferor; and

“(ii) such nonqualified preferred stock shall be treated as other property for purposes of applying subsection (b).”.

(2) Clause (ii) of section 354(a)(2)(C) of 1986 Code is amended by adding at the end the following new subclause:

“(III) EXTENSION OF STATUTE OF LIMITATIONS.—The statutory period for the assessment of any deficiency attributable to a corporation failing to be a family-owned corporation shall not expire before the expiration of 3 years after the date the Secretary is notified by the corporation (in such manner as the Secretary may prescribe) of such failure, and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.”.

(f) AMENDMENT RELATED TO SECTION 1024 OF 1997 ACT.—Section 6331(h)(1) of the 1986 Code is amended by striking “The effect of a levy” and inserting “If the Secretary approves a levy under this subsection, the effect of such levy”.

(g) AMENDMENTS RELATED TO SECTION 1031 OF 1997 ACT.—

(1) Subsection (l) of section 4041 of the 1986 Code is amended by striking “subsection (e) or (f)” and inserting “subsection (f) or (g)”.

(2) Subsection (b) of section 9502 of the 1986 Code is amended by moving the sentence added at the end of paragraph (1) to the end of such subsection.

(3) Subsection (c) of section 6421 of the 1986 Code is amended—

(A) by striking “(2)(A)” and inserting “(2)”; and

(B) by adding at the end the following sentence:  
“Subsection (a) shall not apply to gasoline to which this subsection applies.”.

(h) AMENDMENTS RELATED TO SECTION 1032 OF 1997 ACT.—

(1) Section 1032(a) of the 1997 Act is amended by striking “Subsection (a) of section 4083” and inserting “Paragraph (1) of section 4083(a)”. 26 USC 4083.

(2) Section 1032(e)(12)(A) of the 1997 Act shall be applied as if “gasoline, diesel fuel,” were the material proposed to be stricken. 26 USC 7232.

(3) Paragraph (1) of section 4082(d) of the 1986 Code is amended to read as follows:

“(1) AVIATION-GRADE KEROSENE.—Subsection (a)(2) shall not apply to aviation-grade kerosene (as determined under regulations prescribed by the Secretary) which the Secretary determines is destined for use as a fuel in an aircraft.”. Regulations.

(4) Paragraph (3) of section 4082(d) of the 1986 Code is amended by striking “a removal, entry, or sale of kerosene to” and inserting “kerosene received by”.

(5) Paragraph (1) of section 4101(e) of the 1986 Code is amended by striking “dyed diesel fuel and kerosene” and inserting “such fuel in a dyed form”.

(i) AMENDMENT RELATED TO SECTION 1034 OF 1997 ACT.—Paragraph (3) of section 4251(d) of the 1986 Code is amended by striking “other similar arrangement” and inserting “any other similar arrangement”.

(j) AMENDMENTS RELATED TO SECTION 1041 OF 1997 ACT.—

(1) Subparagraph (A) of section 512(b)(13) of the 1986 Code is amended by inserting “or accrues” after “receives”.

(2) Subclause (I) of section 512(b)(13)(B)(i) of the 1986 Code is amended by striking “(as defined in section 513A(a)(5)(A))”.

(3) Paragraph (2) of section 1041(b) of the 1997 Act is amended to read as follows: 26 USC 512 note.

“(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any amount received or accrued during the first 2 taxable years beginning on or after the date of the enactment of this Act if such amount is received or accrued pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before such amount is received or accrued. The preceding sentence shall not apply to any amount which would (but for the exercise of an option to accelerate payment of such amount) be received or accrued after such 2 taxable years.”.

(k) AMENDMENTS RELATED TO SECTION 1053 OF 1997 ACT.—

(1) Section 853 of the 1986 Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) TREATMENT OF TAXES NOT ALLOWED AS A CREDIT UNDER SECTION 901(k).—This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of section 901(k).”.

(2) Subsection (c) of section 853 of the 1986 Code is amended by striking the last sentence.

(3) Subparagraph (A) of section 901(k)(4) of the 1986 Code is amended by striking “securities business” and inserting “business as a securities dealer”.

(l) AMENDMENT RELATED TO SECTION 1055 OF 1997 ACT.—Section 6611(g)(1) of the 1986 Code is amended by striking “(e), and (h)” and inserting “and (e)”.

(m) AMENDMENT RELATED TO SECTION 1061 OF 1997 ACT.—Subsection (c) of section 751 of the 1986 Code is amended by striking “731” each place it appears and inserting “731, 732,”.

26 USC 39. (n) AMENDMENT RELATED TO SECTION 1083 OF 1997 ACT.—Section 1083(a)(2) of the 1997 Act is amended—

(1) by striking “21” and inserting “20”; and

(2) by striking “22” and inserting “21”.

(o) AMENDMENTS RELATED TO SECTION 1084 OF 1997 ACT.—

(1) Paragraph (3) of section 264(a) of the 1986 Code is amended by striking “subsection (c)” and inserting “subsection (d)”.

(2) Paragraph (4) of section 264(a) of the 1986 Code is amended by striking “subsection (d)” and inserting “subsection (e)”.

(3)(A) Paragraph (4) of section 264(f) of the 1986 Code is amended by adding at the end the following new subparagraph:

“(E) MASTER CONTRACTS.—If coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h), 7702, and 7702A, coverage for each such insured shall be treated as a separate contract for purposes of subparagraph (A). For purposes of the preceding sentence, the term ‘master contract’ shall not include any group life insurance contract (as defined in section 848(e)(2)).”.

26 USC 101 note.

(B) The second sentence of section 1084(d) of the 1997 Act is amended by striking “but” and all that follows and inserting “except that, in the case of a master contract (within the meaning of section 264(f)(4)(E) of the Internal Revenue Code of 1986), the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives.”.

(4)(A) Clause (iv) of section 264(f)(5)(A) of the 1986 Code is amended by striking the second sentence.

(B) Subparagraph (B) of section 6724(d)(1) of the 1986 Code is amended by striking “or” at the end of clause (xv), by striking the period at the end of clause (xvi) and inserting “; or”, and by adding at the end the following new clause:

“(xvii) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).”.

(C) Paragraph (2) of section 6724(d) of the 1986 Code is amended by striking “or” at the end of subparagraph (Y), by striking the period at the end of subparagraph (Z) and inserting “or”, and by adding at the end the following new subparagraph:

“(AA) section 264(f)(5)(A)(iv) (relating to reporting with respect to certain life insurance and annuity contracts).”.

(5) Subparagraph (A) of section 264(f)(8) of the 1986 Code is amended by striking “subsection (d)(5)(B)” and inserting “subsection (e)(5)(B)”.

(p) AMENDMENTS RELATED TO SECTION 1085 OF 1997 ACT.—

(1) Paragraph (5) of section 32(c) of the 1986 Code is amended—



(A) by inserting before the period at the end of subparagraph (A) “and increased by the amounts described in subparagraph (C)”;

(B) by adding “or” at the end of clause (iii) of subparagraph (B); and

(C) by striking all that follows subclause (II) of subparagraph (B)(iv) and inserting the following:

“(III) other trades or businesses.

For purposes of clause (iv), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.

“(C) CERTAIN AMOUNTS INCLUDED.—An amount is described in this subparagraph if it is—

“(i) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter; or

“(ii) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

Clause (ii) shall not include any amount which is not includible in gross income by reason of a trustee-to-trustee transfer or a rollover distribution.”.

(2) Clause (v) of section 32(c)(2)(B) of the 1986 Code is amended by inserting “shall be taken into account” before “, but only”.

(3) The text of paragraph (3) of section 1085(a) of the 1997 Act is amended to read as follows: “Paragraph (2) of section 6213(g) (relating to the definition of mathematical or clerical errors) is amended by striking “and” at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting “, and”, and by inserting after subparagraph (J) the following new subparagraph: 26 USC 6213.

“(K) an omission of information required by section 32(k)(2) (relating to taxpayers making improper prior claims of earned income credit).”.

(q) AMENDMENT RELATED TO SECTION 1088 OF 1997 ACT.—Section 1088(b)(2)(C) of the 1997 Act is amended by inserting “more than 1 year” before “after”. 26 USC 453C note.

(r) AMENDMENT RELATED TO SECTION 1089 OF 1997 ACT.—Paragraphs (1)(C) and (2)(C) of section 664(d) of the 1986 Code are each amended by adding “, and” at the end.

#### SEC. 6011. AMENDMENTS RELATED TO TITLE XI OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1103 OF 1997 ACT.—Paragraph (3) of section 59(a) added by section 1103 of the 1997 Act is redesignated as paragraph (4).

(b) AMENDMENTS RELATED TO SECTION 1121 OF 1997 ACT.—

(1) Subsection (e) of section 1297 of the 1986 Code is amended by adding at the end the following new paragraph:

“(4) TREATMENT OF HOLDERS OF OPTIONS.—Paragraph (1) shall not apply to stock treated as owned by a person by reason of section 1298(a)(4) (relating to the treatment of a person that has an option to acquire stock as owning such stock) unless such person establishes that such stock is owned (within the meaning of section 958(a)) by a United States

shareholder (as defined in section 951(b)) who is not exempt from tax under this chapter.”.

(2) Section 1298(a)(2)(B) of the 1986 Code is amended by adding at the end the following new sentence: “Section 1297(e) shall not apply in determining whether a corporation is a passive foreign investment company for purposes of this subparagraph.”.

(c) AMENDMENTS RELATED TO SECTION 1122 OF 1997 ACT.—

(1) Section 672(f)(3)(B) of the 1986 Code is amended by striking “section 1296” and inserting “section 1297”.

(2) Paragraph (1) of section 1291(d) of the 1986 Code is amended by adding at the end the following new sentence: “In the case of stock which is marked to market under section 475 or any other provision of this chapter, this section shall not apply, except that rules similar to the rules of section 1296(j) shall apply.”.

(3) Subsection (d) of section 1296 of the 1986 Code is amended by adding at the end the following new sentence: “In the case of a regulated investment company which elected to mark to market the stock held by such company as of the last day of the taxable year preceding such company’s first taxable year for which such company elects the application of this section, the amount referred to in paragraph (1) shall include amounts included in gross income under such mark to market with respect to such stock for prior taxable years.”.

(d) AMENDMENT RELATED TO SECTION 1123 OF 1997 ACT.— Subsection (e) of section 1297 of the 1986 Code added by section 1123 of the 1997 Act is redesignated as subsection (f).

(e) AMENDMENTS RELATED TO SECTION 1131 OF 1997 ACT.—

(1) Section 991 of the 1986 Code is amended by striking “except for the tax imposed by chapter 5”.

(2) Section 6013 of the 1986 Code is amended by striking “chapters 1 and 5” each place it appears in paragraphs (1)(A) and (5) of subsection (g) and in subsection (h)(1) and inserting “chapter 1”.

(f) AMENDMENT RELATED TO SECTION 1142 OF 1997 ACT.—

(1) Paragraph (2) of section 6038(a) of the 1986 Code is amended by striking “by regulations”.

(2) Paragraph (3) of section 6038(a) of the 1986 Code is amended by striking “such information” and all that follows through the period and inserting “the Secretary has prescribed the furnishing of such information on or before the first day of such annual accounting period.”.

(3) Paragraph (4) of section 6038(e) of the 1986 Code is amended by striking “corporation” and inserting “foreign business entity” each place it appears.

(g) AMENDMENT RELATED TO SECTION 1144 OF 1997 ACT.—

26 USC 6038B. Paragraphs (1) and (2) of section 1144(c) of the 1997 Act are each amended by striking “6038B(b)” and inserting “6038B(c) (as redesignated by subsection (b))”.

#### SEC. 6012. AMENDMENTS RELATED TO TITLE XII OF 1997 ACT.

(a) AMENDMENT RELATED TO SECTION 1204 OF 1997 ACT.— The last sentence of section 162(a) of the 1986 Code is amended by striking “investigate” and all that follows and inserting “investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime.”.

(b) AMENDMENTS RELATED TO SECTION 1205 OF 1997 ACT.—

(1) Section 6311(e)(1) of the 1986 Code is amended by striking “section 6103(k)(8)” and inserting “section 6103(k)(9)”.

(2) Paragraph (8) of section 6103(k) of the 1986 Code (as added by section 1205(c)(1) of the 1997 Act) is redesignated as paragraph (9).

(3) Subsection (g) of section 7431 of the 1986 Code added by section 1205 of the 1997 Act is redesignated as subsection (h) and is amended by striking “(8)” in the heading and inserting “(9)”.

(4) Section 1205(c)(3) of the 1997 Act shall be applied as if it read as follows: 26 USC 6103.

“(3) Section 6103(p)(3)(A), as amended by section 1026(b)(1)(A) of the 1997 Act, is amended by striking “or (8)” and inserting “(8), or (9)”.

(5) Section 1213(b) of the 1997 Act is amended by striking “section 6724(d)(1)(A)” and inserting “section 6724(d)(1)”. 26 USC 6724.

(c) AMENDMENT RELATED TO SECTION 1221 OF 1997 ACT.— Paragraph (2) of section 774(d) of the 1986 Code is amended by inserting before the period “or 857(b)(3)(D)”.

(d) AMENDMENT RELATED TO SECTION 1223 OF 1997 ACT.— Subsection (c) of section 6724 of the 1986 Code is amended by inserting before the period “(more than 100 information returns in the case of a partnership having more than 100 partners)”.

(e) AMENDMENT RELATED TO SECTION 1226 OF 1997 ACT.— Section 1226 of the 1997 Act is amended by striking “ending on or” and inserting “beginning”. 26 USC 6011 note.

(f) AMENDMENT RELATED TO SECTION 1231 OF 1997 ACT.— Subsection (c) of section 6211 of the 1986 Code is amended—

(1) by striking “SUBCHAPTER C” in the heading and inserting “SUBCHAPTERS C AND D”; and

(2) by striking “subchapter C” in the text and inserting “subchapters C and D”.

(g) AMENDMENT RELATED TO SECTION 1256 OF 1997 ACT.— Subparagraph (A) of section 857(d)(3) of the 1986 Code is amended by striking “earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies)” and inserting “earliest earnings and profits accumulated in any taxable year to which the provisions of this part did not apply”.

(h) AMENDMENT RELATED TO SECTION 1285 OF 1997 ACT.— Section 7430(b) of the 1986 Code is amended by redesignating paragraph (5) as paragraph (4).

**SEC. 6013. AMENDMENTS RELATED TO TITLE XIII OF 1997 ACT.**

(a) AMENDMENTS RELATED TO SECTION 1305 OF 1997 ACT.—

(1) Section 646 of the 1986 Code is redesignated as section 645.

(2) The item relating to section 646 in the table of sections for subpart A of part I of subchapter J of chapter 1 of the 1986 Code is amended by striking “Sec. 646” and inserting “Sec. 645”.

(3) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking “section 646” and inserting “section 645”.

(4)(A) Paragraph (1) of section 2652(b) of the 1986 Code is amended by striking the second sentence.

(B) Subsection (b) of section 2654 of the 1986 Code is amended by adding at the end the following new sentence:

“For purposes of this subsection, a trust shall be treated as part of an estate during any period that the trust is so treated under section 645.”

(b) AMENDMENTS RELATED TO SECTION 1309 OF 1997 ACT.—

(1) Subsection (b) of section 685 of the 1986 Code is amended by adding at the end the following new flush sentence: “A trust shall not fail to be treated as meeting the requirement of paragraph (6) by reason of the death of an individual but only during the 60-day period beginning on the date of such death.”.

(2) Subsection (f) of section 685 of the 1986 Code is amended by inserting before the period at the end “and of trusts terminated during the year”.

**SEC. 6014. AMENDMENTS RELATED TO TITLE XIV OF 1997 ACT.**

(a) AMENDMENTS RELATED TO SECTION 1421 OF 1997 ACT.—

(1) Paragraph (1) of section 5054(a) of the 1986 Code is amended—

(A) by inserting “, or imported into the United States and transferred to a brewery free of tax under section 5418,” after “produced in the United States” in the text; and

(B) by inserting “; CERTAIN IMPORTED BEER” after “PRODUCED IN THE UNITED STATES” in the heading.

(2) Paragraph (2) of section 5054(a) of the 1986 Code is amended by inserting “and not transferred to a brewery free of tax under section 5418” after “United States”.

(3) Section 5056 of the 1986 Code is amended by striking “produced in the United States” each place it appears and inserting “removed for consumption or sale”.

(b) AMENDMENTS RELATED TO SECTION 1422 OF 1997 ACT.—

(1) Paragraph (2) of section 5043(a) of the 1986 Code is amended by inserting “which are not transferred to a bonded wine cellar free of tax under section 5364” after “foreign wines”.

(2) Subsection (a) of section 5044 of the 1986 Code is amended by striking “produced in the United States” and inserting “removed from a bonded wine cellar”.

(3) Section 5364 of the 1986 Code is amended by striking “Wine imported or brought into” and inserting “Natural wine (as defined in section 5381) imported or brought into”.

(c) AMENDMENT RELATED TO SECTION 1434 OF 1997 ACT.—

Paragraph (2) of section 4052(f) of the 1986 Code is amended by striking “this section” and inserting “such section”.

(d) AMENDMENT RELATED TO SECTION 1436 OF 1997 ACT.—

Paragraph (2) of section 4091(a) of the 1986 Code is amended by inserting “or on which tax has been credited or refunded” after “such paragraph”.

(e) AMENDMENT RELATED TO SECTION 1453 OF 1997 ACT.—

Subparagraph (D) of section 7430(c)(4) of the 1986 Code is amended by striking “subparagraph (A)(iii)” and inserting “subparagraph (A)(ii)”.

**SEC. 6015. AMENDMENTS RELATED TO TITLE XV OF 1997 ACT.**

(a) AMENDMENT RELATED TO SECTION 1501 OF 1997 ACT.—

Paragraph (8) of section 408(p) of the 1986 Code added by section 1501(b) of the 1997 Act is redesignated as paragraph (9).

(b) AMENDMENT RELATED TO SECTION 1505 OF 1997 ACT.—

Section 1505(d)(2) of the 1997 Act is amended by striking “(b)(12)” and inserting “(b)(12)(A)(i)”.

## (c) AMENDMENTS RELATED TO SECTION 1529 OF 1997 ACT.—

(1) Section 1529(a) of the 1997 Act is amended to read 26 USC 1529.  
as follows:

“(a) GENERAL RULE.—Amounts to which this section applies which are received by an individual (or the survivors of the individual) as a result of hypertension or heart disease of the individual shall be excludable from gross income under section 104(a)(1) of the Internal Revenue Code of 1986.”.

(2) Section 1529(b)(1)(B) of the 1997 Act is amended to read as follows:

“(B) under—

“(i) a State law (as amended on May 19, 1992) which irrebuttably presumed that heart disease and hypertension are work-related illnesses but only for employees hired before July 1, 1992; or

“(ii) any other statute, ordinance, labor agreement, or similar provision as a disability pension payment or in the nature of a disability pension payment attributable to employment as a police officer or fireman, but only if the individual is referred to in the State law described in clause (i); and”.

(d) AMENDMENT RELATED TO SECTION 1530 OF 1997 ACT.—Subparagraph (C) of section 404(a)(9) of the 1986 Code (as added by section 1530 of the 1997 Act) is redesignated as subparagraph (D) and is amended by striking “A qualified” and inserting “QUALIFIED GRATUITOUS TRANSFERS.—A qualified”.

(e) AMENDMENT RELATED TO SECTION 1531 OF 1997 ACT.—Subsection (f) of section 9811 of the 1986 Code (as added by section 1531 of the 1997 Act) is redesignated as subsection (e).

**SEC. 6016. AMENDMENTS RELATED TO TITLE XVI OF 1997 ACT.**

## (a) AMENDMENTS RELATED TO SECTION 1601(d) OF 1997 ACT.—

## (1) AMENDMENTS RELATED TO SECTION 1601(d)(1)—

(A) Section 408(p)(2)(D)(i) of the 1986 Code is amended by striking “or (B)” in the last sentence.

(B) Section 408(p) of the 1986 Code is amended by adding at the end the following new paragraph:

“(10) SPECIAL RULES FOR ACQUISITIONS, DISPOSITIONS, AND SIMILAR TRANSACTIONS.—

“(A) IN GENERAL.—An employer which fails to meet any applicable requirement by reason of an acquisition, disposition, or similar transaction shall not be treated as failing to meet such requirement during the transition period if—

“(i) the employer satisfies requirements similar to the requirements of section 410(b)(6)(C)(i)(II); and

“(ii) the qualified salary reduction arrangement maintained by the employer would satisfy the requirements of this subsection after the transaction if the employer which maintained the arrangement before the transaction had remained a separate employer.

“(B) APPLICABLE REQUIREMENT.—For purposes of this paragraph, the term ‘applicable requirement’ means—

“(i) the requirement under paragraph (2)(A)(i) that an employer be an eligible employer;

“(ii) the requirement under paragraph (2)(D) that an arrangement be the only plan of an employer; and

“(iii) the participation requirements under paragraph (4).

“(C) TRANSITION PERIOD.—For purposes of this paragraph, the term ‘transition period’ means the period beginning on the date of any transaction described in subparagraph (A) and ending on the last day of the second calendar year following the calendar year in which such transaction occurs.”.

(C) Section 408(p)(2) of the 1986 Code is amended—

(i) by striking “the preceding sentence shall apply only in accordance with rules similar to the rules of section 410(b)(6)(C)(i)” in the last sentence of subparagraph (C)(i)(II) and inserting “the preceding sentence shall not apply”; and

(ii) by striking clause (iii) of subparagraph (D).

26 USC 403 note.

(2) AMENDMENT TO SECTION 1601 (d)(4).—Section 1601(d)(4)(A) of the 1997 Act is amended—

(A) by striking “Section 403(b)(11)” and inserting “Paragraphs (7)(A)(ii) and (11) of section 403(b)”; and

(B) by striking “403(b)(1)” in clause (ii) and inserting “403(b)(10)”.

(b) AMENDMENT RELATED TO SECTION 1601(f)(4) OF 1997 ACT.—Subsection (d) of section 6427 of the 1986 Code is amended—

(1) by striking “HELICOPTERS” in the heading and inserting “OTHER AIRCRAFT USES”; and

(2) by inserting “or a fixed-wing aircraft” after “helicopter”.

#### **SEC. 6017. AMENDMENT RELATED TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.**

(a) IN GENERAL.—Subparagraph (B) of section 6427(i)(2) of the 1986 Code is amended to read as follows:

“(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.”.

26 USC 6427 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 9009 of the Transportation Equity Act for the 21st Century.

#### **SEC. 6018. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.**

110 Stat. 1764.

(a) AMENDMENT RELATED TO SECTION 1116.—Subparagraph (C) of section 1116(b)(2) of the Small Business Job Protection Act of 1996 is amended by striking “chapter 68” and inserting “chapter 61”.

(b) AMENDMENT RELATED TO SECTION 1421.—Section 408(d)(7) of the 1986 Code is amended—

(1) by inserting “or 402(k)” after “section 402(h)” in subparagraph (B) thereof; and

(2) by inserting “OR SIMPLE RETIREMENT ACCOUNTS” after “PENSIONS” in the heading thereof.

(c) AMENDMENT RELATED TO SECTION 1431.—Subparagraph (E) of section 1431(c)(1) of the Small Business Job Protection Act of 1996 is amended to read as follows:

26 USC 414.

“(E) Section 414(q)(5), as redesignated by subparagraph (A), is amended by striking ‘under paragraph (4) or the number of officers taken into account under paragraph (5)’”.

(d) AMENDMENT RELATED TO SECTION 1604.—Paragraph (3) of section 1604(b) of such Act is amended—

26 USC 167 note.

(1) by striking “such Code” and inserting “the Internal Revenue Code of 1986”; and

(2) by striking “such date of enactment” and inserting “the date of the enactment of this Act”.

(e) AMENDMENT RELATED TO SECTION 1609.—Paragraph (1) of section 1609(h) of such Act is amended by striking “paragraph (3)(A)(i)” and inserting “paragraph (3)(A)”.

26 USC 4091 note.

(f) AMENDMENTS RELATED TO SECTION 1807.—

(1) Subparagraph (A) of section 23(b)(2) of the 1986 Code (relating to income limitation on credit for adoption expenses) is amended by inserting “(determined without regard to subsection (c))” after “for any taxable year”.

(2) Paragraph (3) of section 1807(c) of the Small Business Job Protection Act of 1996 is amended by striking “Clause (i)” and inserting “Clause (ii)”.

26 USC 219.

(g) AMENDMENT RELATED TO SECTION 1903.—Subsection (b) of section 1903 of such Act shall be applied as if “or” in the material proposed to be stricken were capitalized.

26 USC 679.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

26 USC 23 note.

**SEC. 6019. AMENDMENTS RELATED TO TAXPAYER BILL OF RIGHTS 2.**

(a) IN GENERAL.—Subsection (b) of section 6104 of the 1986 Code is amended by adding at the end the following new sentence: “In the case of an organization described in section 501(d), this subsection shall not apply to copies referred to in section 6031(b) with respect to such organization.”.

(b) PUBLIC INSPECTION.—Subparagraph (C) of section 6104(e)(1) of the 1986 Code is amended by adding at the end the following new sentence: “In the case of an organization described in section 501(d), subparagraph (A) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization.”.

(c) DISCLOSURE TO AUTHORIZED REPRESENTATIVES OF THE TAXPAYER.—Paragraph (6) of section 6103(e) of the 1986 Code is amended by striking “or (5)” and inserting “(5), (8), or (9)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 6103 note.

**SEC. 6020. AMENDMENT RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1993.**

(a) IN GENERAL.—Section 196(c) of the 1986 Code is amended by striking “and” at the end of paragraph (6), by striking the period at the end of paragraph (7), and insert “, and”, and by adding at the end the following new paragraph:

“(8) the employer Social Security credit determined under section 45B(a).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 13443 of the Revenue Reconciliation Act of 1993.

26 USC 196 note.

**SEC. 6021. AMENDMENT RELATED TO REVENUE RECONCILIATION ACT OF 1990.**

(a) IDENTIFICATION REQUIREMENT FOR INDIVIDUALS ELIGIBLE FOR EARNED INCOME CREDIT.—Subparagraph (F) of section 32(c)(1)

of the 1986 Code is amended by striking “The term ‘eligible individual’ does not include any individual who does not include on the return of tax for the taxable year—” and inserting “No credit shall be allowed under this section to an eligible individual who does not include on the return of tax for the taxable year—”.

(b) IDENTIFICATION REQUIREMENT FOR QUALIFYING CHILDREN UNDER EARNED INCOME CREDIT.—

(1) IN GENERAL.—Clause (i) of section 32(c)(3)(D) of the 1986 Code is amended to read as follows:

“(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.”.

(2) INDIVIDUALS WHO DO NOT INCLUDE TIN, ETC., OF ANY QUALIFYING CHILD.—Paragraph (1) of section 32(c) of the 1986 Code is amended by adding at the end the following new subparagraph:

“(G) INDIVIDUALS WHO DO NOT INCLUDE TIN, ETC., OF ANY QUALIFYING CHILD.—No credit shall be allowed under this section to any eligible individual who has one or more qualifying children if no qualifying child of such individual is taken into account under subsection (b) by reason of paragraph (3)(D).”.

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 32(c)(3) is amended by inserting “and” at the end of clause (ii), by striking “, and” at the end of clause (iii) and inserting a period, and by striking clause (iv).

(c) EFFECTIVE DATES.—

(1) ELIGIBLE INDIVIDUALS.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 451 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(2) QUALIFYING CHILDREN.—The amendments made by subsection (b) shall take effect as if included in the amendments made by section 11111 of Revenue Reconciliation Act of 1990.

**SEC. 6022. AMENDMENT RELATED TO TAX REFORM ACT OF 1986.**

(a) IN GENERAL.—Section 6401(b)(1) of the 1986 Code is amended by striking “and D” and inserting “D, and G”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 701(b) of the Tax Reform Act of 1986.

**SEC. 6023. MISCELLANEOUS CLERICAL AND DEADWOOD CHANGES.**

(1) The heading for subparagraph (B) of section 45A(b)(1) of the 1986 Code is amended by striking “TARGETED JOBS CREDIT” and inserting “WORK OPPORTUNITY CREDIT”.

(2) The subsection heading for section 59(b) of the 1986 Code is amended by striking “SECTION 936 CREDIT” and inserting “CREDITS UNDER SECTION 30A OR 936”.

(3) Subsection (n) of section 72 of the 1986 Code is amended by inserting “(as in effect on the day before the date of the enactment of the Small Business Job Protection Act of 1996)” after “section 101(b)(2)(D)”.

(4) Subparagraph (A) of section 72(t)(3) of the 1986 Code is amended by striking “(A)(v),” and inserting “(A)(v)”.

26 USC 32 note.

26 USC 6401  
note.



(5) Clause (ii) of section 142(f)(3)(A) of the 1986 Code is amended by striking “1997, (” and inserting “1997 (”.

(6) The last sentence of paragraph (3) of section 501(n) of the 1986 Code is amended by striking “subparagraph (C)(ii)” and inserting “subparagraph (E)(ii)”.

(7) Subsection (o) of section 501 of the 1986 Code is amended by striking “section 1853(e)” and inserting “section 1855(d)”.

(8) The heading for subclause (II) of section 512(b)(17)(B)(ii) of the 1986 Code is amended by striking “RULE” and inserting “RULE”.

(9) Clause (ii) of section 543(d)(5)(A) of the 1986 Code is amended by striking “section 563(c)” and inserting “section 563(d)”.

(10) Subparagraph (B) of section 871(f)(2) of the 1986 Code is amended by striking “(19 U.S.C. 2462)” and inserting “19 U.S.C. 2461 et seq.”.

(11) Paragraph (2) of section 1017(a) of the 1986 Code is amended by striking “(b)(2)(D)” and inserting “(b)(2)(E)”.

(12) Subparagraph (D) of section 1250(d)(4) of the 1986 Code is amended by striking “the last sentence of section 1033(b)” and inserting “section 1033(b)(2)”.

(13) Paragraph (5) of section 3121(a) of the 1986 Code is amended—

(A) by striking the semicolon at the end of subparagraph (F) and inserting a comma;

(B) by striking “or” at the end of subparagraph (G); and

(C) by striking the period at the end of subparagraph (I) and inserting a semicolon.

(14) Paragraph (19) of section 3401(a) of the 1986 Code is amended by inserting “for” before “any benefit provided to”.

(15) Paragraph (21) of section 3401(a) of the 1986 Code is amended by inserting “for” before “any payment made”.

(16) Sections 4092(b) and 6427(q)(2) of the 1986 Code are each amended by striking “section 4041(c)(4)” and inserting “section 4041(c)(2)”.

(17) Sections 4221(c) and 4222(d) of the 1986 Code are each amended by striking “4053(a)(6)” and inserting “4053(6)”.

(18)(A) The heading of section 4973 of the 1986 Code is amended to read as follows:

**“SEC. 4973. TAX ON EXCESS CONTRIBUTIONS TO CERTAIN TAX-FAVORED ACCOUNTS AND ANNUITIES.”.**

(B) The item relating to section 4973 in the table of sections for chapter 43 of the 1986 Code is amended to read as follows:

“Sec. 4973. Tax on excess contributions to certain tax-favored accounts and annuities.”.

(19) Section 4975 of the 1986 Code is amended—

(A) in subsection (c)(3) by striking “exempt for the tax” and inserting “exempt from the tax”; and

(B) in subsection (i) by striking “Secretary of Treasury” and inserting “Secretary of the Treasury”.

(20) Paragraph (1) of section 6039(a) of the 1986 Code is amended by inserting “to any person” after “transfers”.

(21) Subparagraph (A) of section 6050R(b)(2) of the 1986 Code is amended by striking the semicolon at the end thereof and inserting a comma.

(22) Subparagraph (A) of section 6103(h)(4) of the 1986 Code is amended by inserting “if” before “the taxpayer is a party to”.

(23) Paragraph (5) of section 6416(b) of the 1986 Code is amended by striking “section 4216(e)(1)” each place it appears and inserting “section 4216(d)(1)”.

(24)(A) Section 6421 of the 1986 Code is amended by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(B) Subsection (b) of section 34 of the 1986 Code is amended by striking “section 6421(j)” and inserting “section 6421(i)”.

(C) Subsections (a) and (b) of section 6421 of the 1986 Code are each amended by striking “subsection (j)” and inserting “subsection (i)”.

(25) Paragraph (3) of section 6427(f) of the 1986 Code is amended by striking “(e)”.

(26)(A) Section 6427 of the 1986 Code, as amended by paragraph (16), is amended by redesignating subsections (n), (p), (q), and (r) as subsections (m), (n), (o), and (p), respectively.

(B) Paragraphs (1) and (2)(A) of section 6427(i) of the 1986 Code are each amended by striking “(q)” and inserting “(o)”.

(27) Subsection (m) of section 6501 of the 1986 Code is amended by striking “election under” and all that follows through “(or any)” and inserting “election under section 30(d)(4), 40(f), 43, 45B, 45C(d)(4), or 51(j) (or any)”.

(28) The paragraph heading of paragraph (2) of section 7702B(e) of the 1986 Code is amended by inserting “SECTION” after “APPLICATION OF”.

(29) Paragraph (3) of section 7434(b) of the 1986 Code is amended by striking “attorneys fees” and inserting “attorneys’ fees”.

(30) Subparagraph (B) of section 7872(f)(2) of the 1986 Code is amended by striking “foregone” and inserting “forgone”.

(31) Subsection (e) of section 9502 of the 1986 Code is amended to read as follows:

“(e) CERTAIN TAXES ON ALCOHOL MIXTURES TO REMAIN IN GENERAL FUND.—For purposes of this section, the amounts which would (but for this subsection) be required to be appropriated under subparagraphs (A), (C), and (D) of subsection (b)(1) shall be reduced by—

“(1) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol; and

“(2) 0.67 cent per gallon in the case of fuel used in producing a mixture described in paragraph (1).”.

(32) The amendments made by this section shall take effect on the date of the enactment of this Act.

Effective date.  
26 USC 34 note.

26 USC 1 note.

#### **SEC. 6024. EFFECTIVE DATE.**

Except as otherwise provided in this title, the amendments made by this title shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

## TITLE VII—REVENUE PROVISIONS

### SEC. 7001. CLARIFICATION OF DEDUCTION FOR DEFERRED COMPENSATION.

(a) IN GENERAL.—Section 404(a) (relating to deduction for contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

“(11) DETERMINATIONS RELATING TO DEFERRED COMPENSATION.—For purposes of determining under this section—

“(A) whether compensation of an employee is deferred compensation; and

“(B) when deferred compensation is paid, no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by subsection (a) to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 3-taxable year period beginning with such first taxable year.

26 USC 404 note.  
Applicability.

### SEC. 7002. TERMINATION OF EXCEPTION FOR CERTAIN REAL ESTATE INVESTMENT TRUSTS FROM THE TREATMENT OF STAPLED ENTITIES.

26 USC 269B  
note.

(a) IN GENERAL.—Notwithstanding paragraph (3) of section 136(c) of the Tax Reform Act of 1984 (relating to stapled stock; stapled entities), the REIT gross income provisions shall be applied by treating the activities and gross income of members of the stapled REIT group properly allocable to any nonqualified real property interest held by the exempt REIT or any stapled entity which is a member of such group (or treated under subsection (c) as held by such REIT or stapled entity) as the activities and gross income of the exempt REIT in the same manner as if the exempt REIT and such group were one entity.

Applicability.

(b) NONQUALIFIED REAL PROPERTY INTEREST.—For purposes of this section—

(1) IN GENERAL.—The term “nonqualified real property interest” means, with respect to any exempt REIT, any interest in real property acquired after March 26, 1998, by the exempt REIT or any stapled entity.

(2) EXCEPTION FOR BINDING CONTRACTS, ETC.—Such term shall not include any interest in real property acquired after March 26, 1998, by the exempt REIT or any stapled entity if—

(A) the acquisition is pursuant to a written agreement (including a put option, buy-sell agreement, and an agreement relating to a third party default) which was binding on such date and at all times thereafter on such REIT or stapled entity; or

(B) the acquisition is described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) IMPROVEMENTS AND LEASES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term “nonqualified real property interest” shall not include—

(i) any improvement to land owned or leased by the exempt REIT or any member of the stapled REIT group; and

(ii) any repair to, or improvement of, any improvement owned or leased by the exempt REIT or any member of the stapled REIT group, if such ownership or leasehold interest is a qualified real property interest.

(B) LEASES.—The term “nonqualified real property interest” shall not include—

(i) any lease of a qualified real property interest if such lease is not otherwise such an interest; or

(ii) any renewal of a lease which is a qualified real property interest,

but only if the rent on any lease referred to in clause (i) or any renewal referred to in clause (ii) does not exceed an arm’s length rate.

(C) TERMINATION WHERE CHANGE IN USE.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to any improvement placed in service after December 31, 1999, which is part of a change in the use of the property to which such improvement relates unless the cost of such improvement does not exceed 200 percent of—

(I) the cost of such property; or

(II) if such property is substituted basis property (as defined in section 7701(a)(42) of the Internal Revenue Code of 1986), the fair market value of the property at the time of acquisition.

(ii) BINDING CONTRACTS.—For purposes of clause (i), an improvement shall be treated as placed in service before January 1, 2000, if such improvement is placed in service before January 1, 2004, pursuant to a binding contract in effect on December 31, 1999, and at all times thereafter.

(4) EXCEPTION FOR PERMITTED TRANSFERS, ETC.—The term “nonqualified real property interest” shall not include any interest in real property acquired solely as a result of a direct or indirect contribution, distribution, or other transfer of such interest from the exempt REIT or any member of the stapled REIT group to such REIT or any such member, but only to the extent the aggregate of the interests of the exempt REIT and all stapled entities in such interest in real property (determined in accordance with subsection (c)(1)) is not increased by reason of the transfer.

(5) TREATMENT OF ENTITIES WHICH ARE NOT STAPLED, ETC. ON MARCH 26, 1998.—Notwithstanding any other provision of this section, all interests in real property held by an exempt REIT or any stapled entity with respect to such REIT (or treated under subsection (c) as held by such REIT or stapled entity) shall be treated as nonqualified real property interests unless—

(A) such stapled entity was a stapled entity with respect to such REIT as of March 26, 1998, and at all times thereafter; and

(B) as of March 26, 1998, and at all times thereafter, such REIT was a real estate investment trust.

(6) QUALIFIED REAL PROPERTY INTEREST.—The term “qualified real property interest” means any interest in real property other than a nonqualified real property interest.

(c) TREATMENT OF PROPERTY HELD BY 10-PERCENT SUBSIDIARIES.—For purposes of this section—

(1) IN GENERAL.—Any exempt REIT and any stapled entity shall be treated as holding their proportionate shares of each interest in real property held by any 10-percent subsidiary entity of the exempt REIT or stapled entity, as the case may be.

(2) PROPERTY HELD BY 10-PERCENT SUBSIDIARIES TREATED AS NONQUALIFIED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any interest in real property held by a 10-percent subsidiary entity of an exempt REIT or stapled entity shall be treated as a nonqualified real property interest.

(B) EXCEPTION FOR INTERESTS IN REAL PROPERTY HELD ON MARCH 26, 1998, ETC.—In the case of an entity which was a 10-percent subsidiary entity of an exempt REIT or stapled entity on March 26, 1998, and at all times thereafter, an interest in real property held by such subsidiary entity shall be treated as a qualified real property interest if such interest would be so treated if held or acquired directly by the exempt REIT or the stapled entity.

(3) REDUCTION IN QUALIFIED REAL PROPERTY INTERESTS IF INCREASE IN OWNERSHIP OF SUBSIDIARY.—If, after March 26, 1998, an exempt REIT or stapled entity increases its ownership interest in a subsidiary entity to which paragraph (2)(B) applies above its ownership interest in such subsidiary entity as of such date, the additional portion of each interest in real property which is treated as held by the exempt REIT or stapled entity by reason of such increased ownership shall be treated as a nonqualified real property interest.

(4) SPECIAL RULES FOR DETERMINING OWNERSHIP.—For purposes of this subsection—

(A) percentage ownership of an entity shall be determined in accordance with subsection (e)(4);

(B) interests in the entity which are acquired by an exempt REIT or a member of the stapled REIT group in any acquisition described in an agreement, announcement, or filing described in subsection (b)(2) shall be treated as acquired on March 26, 1998; and

(C) except as provided in guidance prescribed by the Secretary, any change in proportionate ownership which is attributable solely to fluctuations in the relative fair

market values of different classes of stock shall not be taken into account.

(5) TREATMENT OF 60-PERCENT PARTNERSHIPS.—

(A) IN GENERAL.—If, as of March 26, 1998—

(i) an exempt REIT or stapled entity held directly or indirectly at least 60 percent of the capital or profits interest in a partnership; and

(ii) 90 percent or more of the capital interests and 90 percent or more of the profits interests in such partnership (other than interests held directly or indirectly by the exempt REIT or stapled entity) are, or will be, redeemable or exchangeable for consideration the amount of which is determined by reference to the value of shares of stock in the exempt REIT or stapled entity (or both),

paragraph (3) shall not apply to such partnership, and such REIT or entity shall be treated for all purposes of this section as holding all of the capital and profits interests in such partnership.

(B) LIMITATION TO ONE PARTNERSHIP.—If, as of January 1, 1999, more than one partnership owned by any exempt REIT or stapled entity meets the requirements of subparagraph (A), only the largest such partnership on such date (determined by aggregate asset bases) shall be treated as meeting such requirements.

(C) MIRROR ENTITY.—For purposes of subparagraph (A), an interest in a partnership formed after March 26, 1998, shall be treated as held by an exempt REIT or stapled entity on March 26, 1998, if such partnership is formed to mirror the stapling of an exempt REIT and a stapled entity in connection with an acquisition agreed to or announced on or before March 26, 1998.

(d) TREATMENT OF PROPERTY SECURED BY MORTGAGE HELD BY EXEMPT REIT OR MEMBER OF STAPLED REIT GROUP.—

(1) IN GENERAL.—In the case of any nonqualified obligation held by an exempt REIT or any member of the stapled REIT group, the REIT gross income provisions shall be applied by treating the exempt REIT as having impermissible tenant service income equal to—

(A) the interest income from such obligation which is properly allocable to the property described in paragraph (2); and

(B) the income of any member of the stapled REIT group from services described in paragraph (2) with respect to such property.

If the income referred to in subparagraph (A) or (B) is of a 10-percent subsidiary entity, only the portion of such income which is properly allocable to the exempt REIT's or the stapled entity's interest in the subsidiary entity shall be taken into account.

(2) NONQUALIFIED OBLIGATION.—Except as otherwise provided in this subsection, the term “nonqualified obligation” means any obligation secured by a mortgage on an interest in real property if the income of any member of the stapled REIT group for services furnished with respect to such property

would be impermissible tenant service income were such property held by the exempt REIT and such services furnished by the exempt REIT.

(3) EXCEPTION FOR CERTAIN MARKET RATE OBLIGATIONS.—Such term shall not include any obligation—

(A) payments under which would be treated as interest if received by a REIT; and

(B) the rate of interest on which does not exceed an arm's length rate.

(4) EXCEPTION FOR EXISTING OBLIGATIONS.—Such term shall not include any obligation—

(A) which is secured on March 26, 1998, by an interest in real property; and

(B) which is held on such date by the exempt REIT or any entity which is a member of the stapled REIT group on such date and at all times thereafter,

but only so long as such obligation is secured by such interest, and the interest payable on such obligation is not changed to a rate which exceeds an arm's length rate unless such change is pursuant to the terms of the obligation in effect on March 26, 1998. The preceding sentence shall not cease to apply by reason of the refinancing of the obligation if (immediately after the refinancing) the principal amount of the obligation resulting from the refinancing does not exceed the principal amount of the refinanced obligation (immediately before the refinancing) and the interest payable on such refinanced obligation does not exceed an arm's length rate.

(5) TREATMENT OF ENTITIES WHICH ARE NOT STAPLED, ETC. ON MARCH 26, 1998.—A rule similar to the rule of subsection (b)(5) shall apply for purposes of this subsection.

Applicability.

(6) INCREASE IN AMOUNT OF NONQUALIFIED OBLIGATIONS IF INCREASE IN OWNERSHIP OF SUBSIDIARY.—A rule similar to the rule of subsection (c)(3) shall apply for purposes of this subsection.

Applicability.

(7) COORDINATION WITH SUBSECTION (a).—This subsection shall not apply to the portion of any interest in real property that the exempt REIT or stapled entity holds or is treated as holding under this section without regard to this subsection.

(e) DEFINITIONS.—For purposes of this section—

(1) REIT GROSS INCOME PROVISIONS.—The term "REIT gross income provisions" means—

(A) paragraphs (2), (3), and (6) of section 856(c) of the Internal Revenue Code of 1986; and

(B) section 857(b)(5) of such Code.

(2) EXEMPT REIT.—The term "exempt REIT" means a real estate investment trust to which section 269B of the Internal Revenue Code of 1986 does not apply by reason of paragraph (3) of section 136(c) of the Tax Reform Act of 1984.

(3) STAPLED REIT GROUP.—The term "stapled REIT group" means, with respect to an exempt REIT, the group consisting of—

(A) all entities which are stapled entities with respect to the exempt REIT; and

(B) all entities which are 10-percent subsidiary entities of the exempt REIT or any such stapled entity.

(4) 10-PERCENT SUBSIDIARY ENTITY.—

(A) IN GENERAL.—The term “10-percent subsidiary entity” means, with respect to any exempt REIT or stapled entity, any entity in which the exempt REIT or stapled entity (as the case may be) directly or indirectly holds at least a 10-percent interest.

(B) EXCEPTION FOR CERTAIN C CORPORATION SUBSIDIARIES OF REITS.—A corporation which would, but for this subparagraph, be treated as a 10-percent subsidiary of an exempt REIT shall not be so treated if such corporation is taxable under section 11 of the Internal Revenue Code of 1986.

(C) 10-PERCENT INTEREST.—The term “10-percent interest” means—

(i) in the case of an interest in a corporation, ownership of 10 percent (by vote or value) of the stock in such corporation;

(ii) in the case of an interest in a partnership, ownership of 10 percent of the capital or profits interest in the partnership; and

(iii) in any other case, ownership of 10 percent of the beneficial interests in the entity.

(5) OTHER DEFINITIONS.—Terms used in this section which are used in section 269B or section 856 of such Code shall have the respective meanings given such terms by such section.

(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance to prevent the avoidance of such purposes and to prevent the double counting of income.

Applicability.

(g) EFFECTIVE DATE.—This section shall apply to taxable years ending after March 26, 1998.

**SEC. 7003. CERTAIN CUSTOMER RECEIVABLES INELIGIBLE FOR MARK TO MARKET TREATMENT.**

(a) CERTAIN RECEIVABLES NOT ELIGIBLE FOR MARK TO MARKET.—Section 475(c) (relating to definitions) is amended by adding at the end the following new paragraph:

“(4) SPECIAL RULES FOR CERTAIN RECEIVABLES.—

“(A) IN GENERAL.—Paragraph (2)(C) shall not include any nonfinancial customer paper.

“(B) NONFINANCIAL CUSTOMER PAPER.—For purposes of subparagraph (A), the term ‘nonfinancial customer paper’ means any receivable which—

“(i) is a note, bond, debenture, or other evidence of indebtedness;

“(ii) arises out of the sale of nonfinancial goods or services by a person the principal activity of which is the selling or providing of nonfinancial goods or services; and

“(iii) is held by such person (or a person who bears a relationship to such person described in section 267(b) or 707(b)) at all times since issue.”.

(b) REGULATIONS.—Section 475(g) is amended by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) to prevent the use by taxpayers of subsection (c)(4) to avoid the application of this section to a receivable that



is inventory in the hands of the taxpayer (or a person who bears a relationship to the taxpayer described in sections 267(b) of 707(b)).”.

(c) EFFECTIVE DATE.—

26 USC 475 note.  
Applicability.

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer;

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 4-taxable-year period beginning with such first taxable year.

#### **SEC. 7004. MODIFICATION OF AGI LIMIT FOR CONVERSIONS TO ROTH IRAs.**

(a) IN GENERAL.—Section 408A(c)(3)(C)(i) (relating to limits based on modified adjusted gross income) is amended to read as follows:

“(i) adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that—

“(I) any amount included in gross income under subsection (d)(3) shall not be taken into account; and

“(II) any amount included in gross income by reason of a required distribution under a provision described in paragraph (5) shall not be taken into account for purposes of subparagraph (B)(i).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

Applicability.  
26 USC 408A  
note.

## **TITLE VIII—IDENTIFICATION OF LIMITED TAX BENEFITS SUBJECT TO LINE ITEM VETO**

#### **SEC. 8001. IDENTIFICATION OF LIMITED TAX BENEFITS SUBJECT TO LINE ITEM VETO.**

Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall only apply to—

(1) section 3105 (relating to administrative appeal of adverse IRS determination of tax-exempt status of bond issue); and

(2) section 3445(c) (relating to State fish and wildlife permits).

TEA 21  
Restoration Act.  
Grants.  
Inter-  
governmental  
relations.  
Loans.  
23 USC 101 note.

## TITLE IX—TECHNICAL CORRECTIONS TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

### SEC. 9001. SHORT TITLE.

This title may be cited as the “TEA 21 Restoration Act”.

### SEC. 9002. AUTHORIZATION AND PROGRAM SUBTITLE.

*Ante*, p. 111. (a) AUTHORIZATION OF APPROPRIATIONS.—Section 1101(a) of the Transportation Equity Act for the 21st Century is amended—

(1) in paragraph (13)—

(A) by striking “\$1,025,695,000” and inserting “\$1,029,583,500”;

(B) by striking “\$1,398,675,000” and inserting “\$1,403,977,500”;

(C) by striking “\$1,678,410,000” the first place it appears and inserting “\$1,684,773,000”;

(D) by striking “\$1,678,410,000” the second place it appears and inserting “\$1,684,773,000”;

(E) by striking “\$1,771,655,000” the first place it appears and inserting “\$1,778,371,500”; and

(F) by striking “\$1,771,655,000” the second place it appears and inserting “\$1,778,371,500”; and

(2) in paragraph (14)—

(A) by striking “1998” and inserting “1999”; and

(B) by inserting before “\$5,000,000” the following: “\$10,000,000 for fiscal year 1998 and”.

(b) OBLIGATION LIMITATIONS.—

*Ante*, p. 115.

(1) GENERAL LIMITATION.—Section 1102(a) of such Act is amended—

(A) in paragraph (2) by striking “\$25,431,000,000” and inserting “\$25,511,000,000”;

(B) in paragraph (3) by striking “\$26,155,000,000” and inserting “\$26,245,000,000”;

(C) in paragraph (4) by striking “\$26,651,000,000” and inserting “\$26,761,000,000”;

(D) in paragraph (5) by striking “\$27,235,000,000” and inserting “\$27,355,000,000”; and

(E) in paragraph (6) by striking “\$27,681,000,000” and inserting “\$27,811,000,000”.

(2) TRANSPORTATION RESEARCH PROGRAMS.—Section 1102(e) of such Act is amended—

(A) by striking “3” and inserting “5”;

(B) by striking “VI” and inserting “V”; and

(C) by inserting before the period at the end the following: “; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years”.

(3) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Section 1102(f) of such Act is amended by striking “(other than the program under section 160 of title 23, United States Code)”.

*Ante*, p. 118.

(c) APPORTIONMENTS.—Section 1103 of such Act is amended—

(1) in subsection (l) by adding at the end the following:

“(5) Section 150 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.”;

(2) in subsection (n) by inserting “of title 23, United States Code” after “206”; and

(3) by adding at the end the following:

“(o) TECHNICAL ADJUSTMENTS.—Section 104 of title 23, United States Code, is amended—

“(1) in subsection (a)(1) (as amended by subsection (a) of this section) by striking ‘under section 103’;

“(2) in subsection (b) (as amended by subsection (b) of this section)—

“(A) in paragraph (1)(A) by striking ‘1999 through 2003’ and inserting ‘1998 through 2002’; and

“(B) in paragraph (4)(B)(i) by striking ‘on lanes on Interstate System’ and all that follows through ‘in each State’ and inserting ‘on Interstate System routes open to traffic in each State’; and

“(3) in subsection (e)(2) (as added by subsection (d)(6) of this section) by striking ‘104, 144, or 157’ and inserting ‘104, 105, or 144’.”.

(d) MINIMUM GUARANTEE.—Section 1104 of such Act is amended by adding at the end the following: *Ante*, p. 127.

“(c) TECHNICAL ADJUSTMENTS.—Section 105 of title 23, United States Code (as amended by subsection (a) of this section), is amended—

“(1) in subsection (a) by adding at the end the following: ‘The minimum amount allocated to a State under this section for a fiscal year shall be \$1,000,000.’;

“(2) in subsection (c)(1) by striking ‘50 percent of’;

“(3) in subsection (c)(1)(A) by inserting ‘(other than metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs)’ after ‘subsection (a)’;

“(4) in subsection (c)(1)(B) by striking ‘all States’ and inserting ‘each State’;

“(5) in subsection (c)(2)—

“(A) by striking ‘apportion’ and inserting ‘administer’; and

“(B) by striking ‘apportioned’ and inserting ‘administered’; and

“(6) in subsection (f)—

“(A) by inserting ‘percentage’ before ‘return’ each place it appears;

“(B) in paragraph (2) by striking ‘for the preceding fiscal year was equal to or less than’ and inserting ‘in the table in subsection (b) was equal to’; and

“(C) in paragraph (3)—

“(i) by inserting ‘proportionately’ before ‘adjust’;

“(ii) by striking ‘set forth’; and

“(iii) by striking ‘do not exceed’ and inserting ‘is equal to’.”.

(e) REVENUE ALIGNED BUDGET AUTHORITY.—Section 1105 of such Act is amended by adding at the end the following: *Ante*, p. 130.

“(c) TECHNICAL CORRECTIONS.—Section 110 of such title (as amended by subsection (a)) is amended—

“(1) by striking subsection (a) and inserting the following:

‘(a) IN GENERAL.—

‘(1) ALLOCATION.—On October 15 of fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate for such fiscal year an amount of funds equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc)) if the amount determined pursuant to such section for such fiscal year is greater than zero.

‘(2) REDUCTION.—If the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc)) for fiscal year 2000 or any fiscal year thereafter is less than zero, the Secretary on October 1 of the succeeding fiscal year shall reduce proportionately the amount of sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief) by an aggregate amount equal to the amount determined pursuant to such section.’;

“(2) in subsections (b)(2) and (b)(4) by striking ‘subsection (a)’ and inserting ‘subsection (a)(1)’; and

“(3) in subsection (c) by striking ‘Maintenance program, the’ and inserting ‘and’.”.

*Ante*, p. 137. (f) INTERSTATE MAINTENANCE PROGRAM.—Section 1107 of such Act is amended by adding at the end the following:

“(d) TECHNICAL AMENDMENTS.—Section 119 of such title (as amended by subsection (a)) is amended—

“(1) in subsection (b)—

“(A) by striking ‘104(b)(5)(B)’ and inserting ‘104(b)(4)’; and

“(B) by striking ‘104(b)(5)(A)’ each place it appears and inserting ‘104(b)(5)(A) (as in effect on the date before the date of enactment of the Transportation Equity Act for the 21st Century)’; and

“(2) in subsection (c) by striking ‘104(b)(5)(B)’ each place it appears and inserting ‘104(b)(4)’.”.

*Ante*, p. 142. (g) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 1110(d)(2) of such Act is amended—

(1) by striking “149(c)” and inserting “149(e)”; and

(2) by striking “that reduce” and inserting “reduce”.

*Ante*, p. 152. (h) HIGHWAY USE TAX EVASION PROJECTS.—Section 1114 of such Act is amended by adding at the end the following:

“(c) TECHNICAL ADJUSTMENTS.—Section 143 of title 23, United States Code (as amended by subsection (a) of this section), is amended—

“(1) in subsection (c)(1) by striking ‘April 1’ and inserting ‘August 1’;

“(2) in subsection (c)(3) by inserting ‘PRIORITY’ after ‘FUNDING’; and

“(3) in subsection (c)(3) by inserting ‘and prior to funding any other activity under this section,’ after ‘2003,’.”.

*Ante*, p. 154. (i) FEDERAL LANDS HIGHWAYS PROGRAM.—Section 1115 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

“(f) CONFORMING AMENDMENTS.—

“(1) FEDERAL SHARE.—Subsections (j) and (k) of section 120 of title 23, United States Code (as added by subsection

(a) of this section), are redesignated as subsections (k) and (l), respectively.

“(2) RESERVATION OF FUNDS.—Section 202(d)(4)(B) of such title (as added by subsection (b)(4) of this section) is amended by striking ‘to, apply sodium acetate/formate de-icer to,’ and inserting ‘, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions’.

“(3) ELIMINATION OF DUPLICATIVE PROVISION.—Section 144(g) of such title is amended by striking paragraph (4).”.

(j) WOODROW WILSON MEMORIAL BRIDGE CORRECTION.—Section 1116 of such Act is amended by adding at the end the following: *Ante*, p. 158.

“(e) TECHNICAL CORRECTION.—Sections 404(5) and 407(c)(2)(C)(iii) of such Act (as amended by subsections (a)(2) and (b)(2), respectively) are amended by striking ‘the record of decision’ each place it appears and inserting ‘a record of decision’.”.

(k) TECHNICAL CORRECTION.—Section 1117 of such Act is amended in subsections (a) and (b) by striking “section 102” each place it appears and inserting “section 1101(a)(6)”. *Ante*, p. 160.

**SEC. 9003. RESTORATIONS TO GENERAL PROVISIONS SUBTITLE.**

(a) IN GENERAL.—Subtitle B of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following: *Ante*, p. 164.

**“SEC. 1224. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.**

“(a) HISTORIC COVERED BRIDGE DEFINED.—In this section, the term ‘historic covered bridge’ means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

“(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations under subsection (d), the Secretary shall—

“(1) collect and disseminate information concerning historic covered bridges;

“(2) foster educational programs relating to the history and construction techniques of historic covered bridges;

“(3) conduct research on the history of historic covered bridges; and

“(4) conduct research, and study techniques, on protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

“(c) DIRECT FEDERAL ASSISTANCE.—

“(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

“(2) TYPES OF PROJECT.—A grant under paragraph (1) may be made for a project—

“(A) to rehabilitate or repair a historic covered bridge; and

“(B) to preserve a historic covered bridge, including through—

“(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

“(ii) installation of a system to prevent vandalism and arson; or

“(iii) relocation of a bridge to a preservation site.

“(3) AUTHENTICITY.—A grant under paragraph (1) may be made for a project only if—

“(A) to the maximum extent practicable, the project—

“(i) is carried out in the most historically appropriate manner; and

“(ii) preserves the existing structure of the historic covered bridge; and

“(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

“(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

“(d) FUNDING.—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 1999 through 2003. Such funds shall remain available until expended.

District of  
Columbia.

**“SEC. 1225. SUBSTITUTE PROJECT.**

“(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Mayor of the District of Columbia, the Secretary may approve substitute highway and transit projects under section 103(e)(4) of title 23, United States Code (as in effect on the day before the date of enactment of this Act), in lieu of construction of the Barney Circle Freeway project in the District of Columbia, as identified in the 1991 Interstate Cost Estimate.

“(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute project or projects under subsection (a)—

“(1) the cost of construction of the Barney Circle Freeway Modification project shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956; and

“(2) substitute projects approved pursuant to this section shall be funded from interstate construction funds apportioned or allocated to the District of Columbia that are not expended and not subject to lapse on the date of enactment of this Act.

“(c) FEDERAL SHARE.—The Federal share payable on account of a project or activity approved under this section shall be 85 percent of the cost thereof; except that the exception set forth in section 120(b)(2) of title 23, United States Code, shall apply.

“(d) LIMITATION ON ELIGIBILITY.—Any substitute project approved pursuant to subsection (a) (for which the Secretary finds that sufficient Federal funds are available) must be under contract for construction, or construction must have commenced, before the last day of the 4-year period beginning on the date of enactment of this Act. If the substitute project is not under contract for construction, or construction has not commenced, by such last day, the Secretary shall withdraw approval of the substitute project.

**“SEC. 1226. FISCAL, ADMINISTRATIVE, AND OTHER AMENDMENTS.**

“(a) ADVANCED CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

“(1) in subsection (b)—

“(A) by moving the text of paragraph (1) (including subparagraphs (A) and (B)) 2 ems to the left;

“(B) by striking ‘PROJECTS’ and all that follows through ‘When a State’ and inserting ‘PROJECTS.—When a State’;

“(C) by striking paragraphs (2) and (3);

“(D) by striking ‘(A) prior’ and inserting ‘(1) prior’; and

“(E) by striking ‘(B) the project’ and inserting ‘(2) the project’;

“(2) by striking subsection (c); and

“(3) by redesignating subsection (d) as subsection (c).

“(b) AVAILABILITY OF FUNDS.—Section 118 of such title is amended—

“(1) in the subsection heading of subsection (b) by striking ‘; DISCRETIONARY PROJECTS’; and

“(2) by striking subsection (e) and inserting the following:

“(e) EFFECT OF RELEASE OF FUNDS.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of the project agreement, shall be credited to the same program funding category previously apportioned to the State and shall be immediately available for expenditure.’”.

“(c) ADVANCES TO STATES.—Section 124 of such title is amended—

“(1) by striking ‘(a)’ the first place it appears; and

“(2) by striking subsection (b).

“(d) DIVERSION.—Section 126 of such title, and the item relating to such section in the analysis for chapter 1 of such title, are repealed.”.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of such Act is amended by inserting after the item relating to section 1222 the following:

“Sec. 1223. Transportation assistance for Olympic cities.

“Sec. 1224. National historic covered bridge preservation.

“Sec. 1225. Substitute project.

“Sec. 1226. Fiscal, administrative, and other amendments.”.

(c) METROPOLITAN PLANNING TECHNICAL ADJUSTMENT.—Section 1203 of such Act is amended by adding at the end the following:

*Ante*, p. 170.

“(o) TECHNICAL ADJUSTMENT.—Section 134(h)(5)(A) of title 23, United States Code (as amended by subsection (h) of this section), is amended by striking ‘for implementation’.”.

(d) AMENDMENTS TO PRIOR SURFACE TRANSPORTATION LAWS.—Section 1211 of such Act is amended—

*Ante*, p. 188.

(1) in subsection (i)(3)(E) by striking “subparagraph (D)” and inserting “subparagraph (C)”;

(2) in subsection (i) by adding at the end the following:

“(4) TECHNICAL AMENDMENTS.—Section 1105(e)(5)(B)(i) of such Act (as amended by paragraph (3) of this subsection) is amended—

“(A) by striking ‘subsection (c)(18)(B)(i)’ and inserting ‘subsection (c)(18)(D)(i)’;

“(B) by striking ‘subsection (c)(18)(B)(ii)’ and inserting ‘subsection (c)(18)(D)(ii)’; and

“(C) by adding at the end the following: ‘The portion of the route referred to in subsection (c)(36) is designated as Interstate Route I-86.’”;

(3) by striking subsection (j);

(4) in subsection (k)—

(A) by striking “along” in paragraph (1) and inserting “from”; and

(B) by adding at the end the following:

“(4) TEXAS STATE HIGHWAY 99.—Texas State Highway 99 (also known as ‘Grand Parkway’) shall be considered as one option in the I-69 route studies performed by the Texas Department of Transportation for the designation of I-69 Bypass in Houston, Texas.”; and

(5) by redesignating subsections (g) through (i) and (k) through (n) as subsections (f) through (h) and (i) through (l), respectively.

*Ante*, p. 193.

(e) MISCELLANEOUS.—Section 1212 of such Act is amended—

(1) in the second sentence of subsection (q)(1) by striking “advance curriculum” and inserting “advanced curriculum”;

(2) in subsection (r)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) \$2,000,000 for fiscal year 1999 and \$2,500,000 for fiscal year 2000.”;

(3) in subsection (s)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) \$23,000,000 for fiscal year 1999.”;

(4) in subsection (u)—

(A) by inserting “the Secretary shall approve, and” before “the Commonwealth”;

(B) by inserting a comma after “with”; and

(C) by inserting “(as redefined by this Act)” after “80”;

and

(5) by redesignating subsections (k) through (z) as subsections (e) through (t), respectively.

*Ante*, p. 204.

(f) PUERTO RICO HIGHWAY PROGRAM.—Section 1214(r) of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

“(3) TREATMENT OF FUNDS.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

“(A) For purposes of this subsection, such amounts shall be treated as being apportioned to Puerto Rico under sections 104(b), 144, and 206 of title 23, United States Code, for each program funded under such sections in an amount determined by multiplying—

“(i) the aggregate of such amounts for the fiscal year; by

“(ii) the ratio that—

“(I) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

“(II) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.



“(B) The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under such section for purposes of the imposition of any penalty provisions in titles 23 and 49, United States Code.

“(C) Subject to subparagraph (B), nothing in this subsection shall be construed as affecting any allocation under section 105 of title 23, United States Code, and any apportionment under sections 104 and 144 of such title.”.

(g) DESIGNATED TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 1215 of such Act—

*Ante*, p. 209.

(1) is amended in each of subsections (d), (e), (f), and (g)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following:

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out paragraph (1) the amounts specified in such paragraph for the fiscal years specified in such paragraph.”; and

(2) in subsection (d)(1) by inserting “on Route 50” after “measures”.

(h) ELIGIBILITY.—Section 1217 of such Act is amended—

*Ante*, p. 214.

(1) in subsection (d) by striking “104(b)(4)” and inserting “104(b)(5)(A)”;

(2) in subsection (i) by striking “120(l)(1)” and inserting “120(j)(1)”;

(3) in subsection (j) by adding at the end the following: “\$3,000,000 of the amounts made available for item 164 of the table contained in section 1602 shall be made available on October 1, 1998, to the Pennsylvania Turnpike Commission to carry out this subsection.”.

(i) MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.—Section 1218 of such Act is amended by adding at the end the following:

*Ante*, p. 216.

“(c) TECHNICAL AMENDMENTS.—Section 322 of title 23, United States Code (as added by subsection (a) of this section), is amended—

“(1) in subsection (a)(3) by striking ‘or under 50 miles per hour’;

“(2) in subsection (d)—

“(A) in paragraph (1) by striking ‘or low-speed’; and

“(B) in paragraph (2)—

“(i) in subparagraph (A) by striking ‘(h)(1)(A)’ and inserting ‘(h)(1)’; and

“(ii) in subparagraph (B) by striking ‘(h)(4)’ and inserting ‘(h)(3)’;

“(3) in subsection (h)(1)(B)(i) by inserting ‘(other than subsection (i))’ after ‘this section’; and

“(4) by adding at the end the following:

“(i) LOW-SPEED PROJECT.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, of the funds made available by subsection (h)(1)(A) to carry out this section, \$5,000,000 shall be made available

to the Secretary to make grants for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

“(2) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.

“(B) AVAILABILITY.—Notwithstanding section 118(a), funds made available under subparagraph (A)—

“(i) shall not be available in advance of an annual appropriation; and

“(ii) shall remain available until expended.”.

*Ante*, p. 224. (j) TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.—Section 1223(f) of such Act is amended by inserting before the period at the end the following: “or Special Olympics International”.

**SEC. 9004. RESTORATIONS TO PROGRAM STREAMLINING AND FLEXIBILITY SUBTITLE.**

*Ante*, p. 225. (a) IN GENERAL.—Subtitle C of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

**“SEC. 1311. DISCRETIONARY GRANT SELECTION CRITERIA AND PROCESS.**

“(a) ESTABLISHMENT OF CRITERIA.—The Secretary shall establish criteria for all discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account). To the extent practicable, such criteria shall conform to the Executive Order No. 12893 (relating to infrastructure investment).

“(b) SELECTION PROCESS.—

*Publication.* “(1) LIMITATION ON ACCEPTANCE OF APPLICATIONS.—Before accepting applications for grants under any discretionary program for which funds are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by this Act (including the amendments made by this Act), the Secretary shall publish the criteria established under subsection (a). Such publication shall identify all statutory criteria and any criteria established by regulation that will apply to the program.

*Records.* “(2) EXPLANATION.—Not less often than quarterly, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a list of the projects selected under discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account) and an explanation of how the projects were selected based on the criteria established under subsection (a).

*Applicability.* “(c) MINIMUM COVERED PROGRAMS.—At a minimum, the criteria established under subsection (a) and the selection process established by subsection (b) shall apply to the following programs:

“(1) The intelligent transportation system deployment program under title V.

“(2) The national corridor planning and development program.

“(3) The coordinated border infrastructure and safety program.

“(4) The construction of ferry boats and ferry terminal facilities.

“(5) The national scenic byways program.

“(6) The Interstate discretionary program.

“(7) The discretionary bridge program.”

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of such Act is amended—

*Ante*, p. 107.

(1) by striking the following:

“Sec. 1309. Major investment study integration.”.

and inserting the following:

“Sec. 1308. Major investment study integration.”;

and

(2) by inserting after the item relating to section 1310 the following:

“Sec. 1311. Discretionary grant selection criteria and process.”.

(c) REVIEW PROCESS.—Section 1309 of the Transportation Equity Act for the 21st Century is amended—

*Ante*, p. 232.

(1) in subsection (a)(1) by inserting after “highway construction” the following: “and mass transit”;

(2) in subsection (d) by inserting after “Code,” the following: “or chapter 53 of title 49, United States Code,”; and

(3) in subsection (e)(1)—

(A) by inserting “or recipient” after “a State”;

(B) by inserting after “provide funds” the following: “for a highway project”; and

(C) by inserting after “Code,” the following: “or for a mass transit project made available under chapter 53 of title 49, United States Code,”.

#### **SEC. 9005. RESTORATIONS TO SAFETY SUBTITLE.**

(a) IN GENERAL.—Subtitle D of title I of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

*Ante*, p. 235.

#### **“SEC. 1405. OPEN CONTAINER LAWS.**

“(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by inserting after section 153 the following:

#### **“§ 154. Open container requirements**

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) ALCOHOLIC BEVERAGE.—The term “alcoholic beverage” has the meaning given the term in section 158(c).

“(2) MOTOR VEHICLE.—The term “motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

“(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term “open alcoholic beverage container” means any bottle, can, or other receptacle—

“(A) that contains any amount of alcoholic beverage;

and

	<p>‘(B)(i) that is open or has a broken seal; or</p> <p>‘(ii) the contents of which are partially removed.</p>
Regulation.	<p>‘(4) PASSENGER AREA.—The term “passenger area” shall have the meaning given the term by the Secretary by regulation.</p> <p>‘(b) OPEN CONTAINER LAWS.—</p> <p>‘(1) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.</p> <p>‘(2) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container by the driver (but not by a passenger)—</p> <p>‘(A) in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or</p> <p>‘(B) in the living quarters of a house coach or house trailer,</p> <p>the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.</p> <p>‘(c) TRANSFER OF FUNDS.—</p> <p>‘(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—</p> <p>‘(A) to be used for alcohol-impaired driving countermeasures; or</p> <p>‘(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).</p>
Effective dates.	<p>‘(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).</p> <p>‘(3) USE FOR HAZARD ELIMINATION PROGRAM.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.</p>
Effective date.	

‘(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

‘(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1) or (2) may be derived from one or more of the following:

‘(A) The apportionment of the State under section 104(b)(1).

‘(B) The apportionment of the State under section 104(b)(3).

‘(C) The apportionment of the State under section 104(b)(4).

‘(6) TRANSFER OF OBLIGATION AUTHORITY.—

‘(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

‘(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

‘(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

‘(ii) the ratio that—

‘(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

‘(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

‘(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.’

“(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 153 the following:

‘154. Open container requirements.’

**“SEC. 1406. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.**

“(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

**‘§ 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence**

“(a) DEFINITIONS.—In this section, the following definitions apply:

‘(1) ALCOHOL CONCENTRATION.—The term “alcohol concentration” means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

‘(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms “driving while intoxicated” and “driving under the influence” mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

‘(3) LICENSE SUSPENSION.—The term “license suspension” means the suspension of all driving privileges.

‘(4) MOTOR VEHICLE.—The term “motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

‘(5) REPEAT INTOXICATED DRIVER LAW.—The term “repeat intoxicated driver law” means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

‘(A) receive a driver’s license suspension for not less than 1 year;

‘(B) be subject to the impoundment or immobilization of each of the individual’s motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;

‘(C) receive an assessment of the individual’s degree of abuse of alcohol and treatment as appropriate; and

‘(D) receive—

‘(i) in the case of the second offense—

‘(I) an assignment of not less than 30 days of community service; or

‘(II) not less than 5 days of imprisonment;

and

‘(ii) in the case of the third or subsequent offense—

‘(I) an assignment of not less than 60 days of community service; or

‘(II) not less than 10 days of imprisonment.

‘(b) TRANSFER OF FUNDS.—

‘(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

‘(A) to be used for alcohol-impaired driving counter-measures; or

‘(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving counter-measures, dedicated to enforcement of the laws (including regulations).

Effective dates.

“(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.— Effective date.  
On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

“(3) USE FOR HAZARD ELIMINATION PROGRAM.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.

“(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

“(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1) or (2) may be derived from one or more of the following:

“(A) The apportionment of the State under section 104(b)(1).

“(B) The apportionment of the State under section 104(b)(3).

“(C) The apportionment of the State under section 104(b)(4).

“(6) TRANSFER OF OBLIGATION AUTHORITY.—

“(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

“(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

“(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

“(ii) the ratio that—

“(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

“(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

“(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.’.

“(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following:

‘164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.’.”.

*Ante*, p. 107.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of such Act is amended by inserting after the item relating to section 1403 the following:

“Sec. 1404. Safety incentives to prevent operation of motor vehicles by intoxicated persons.

“Sec. 1405. Open container laws.

“Sec. 1406. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.”.

*Ante*, p. 236.

(c) ROADSIDE SAFETY TECHNOLOGIES.—Section 1402(a)(2) of such Act is amended by striking “directive” and inserting “redirective”.

#### SEC. 9006. ELIMINATION OF DUPLICATE PROVISIONS.

*Ante*, p. 151.

(a) SAN MATEO COUNTY, CALIFORNIA.—Section 1113 of the Transportation Equity Act for the 21st Century is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

*Ante*, p. 211.

(b) VALUE PRICING PILOT PROGRAM.—Section 1216(a) of such Act is amended by adding at the end the following:

“(8) CONFORMING AMENDMENTS.—

“(A) Section 1012(b)(6) of such Act (as amended by paragraph (5) of this subsection) is amended by striking ‘146(c)’ and inserting ‘102(a)’.

“(B) Section 1012(b)(8) of such Act (as added by paragraph (7) of this subsection) is amended—

“(i) in subparagraph (C) by striking ‘under this subsection’ and inserting ‘to carry out this subsection’;

“(ii) in subparagraph (D)—

“(I) by striking ‘under this paragraph’ and inserting ‘to carry out this subsection’; and

“(II) by striking ‘by this paragraph’ and inserting ‘to carry out this subsection’;

“(iii) by striking subparagraph (A); and

“(iv) by redesignating subparagraphs (B), (C), and

(D) as subparagraphs (A), (B), and (C), respectively.”.

*Ante*, p. 204.

(c) NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.—Section 1214(e) of such Act is amended to read as follows:

“(e) MINNESOTA TRANSPORTATION HISTORY NETWORK.—

“(1) IN GENERAL.—The Secretary shall award a grant to the Minnesota Historical Society for the establishment of the Minnesota Transportation History Network to include major exhibits, interpretive programs at national historic landmark sites, and outreach programs with county and local historical organizations.

“(2) COORDINATION.—In carrying out subsection (a), the Secretary shall coordinate with officials of the Minnesota Historical Society.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) \$1,000,000 for each of fiscal years 1998 through 2003 to carry out this subsection.

“(4) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner



as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.”.

(d) ENTRANCE PAVING AT NINIGRET NATIONAL WILDLIFE REFUGE.—Section 1214(i) of such Act is amended by striking “\$750,000” each place it appears and inserting “\$75,000”. *Ante*, p. 204.

**SEC. 9007. HIGHWAY FINANCE.**

(a) IN GENERAL.—Section 1503 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following: *Ante*, p. 241.

“(c) TECHNICAL AMENDMENTS.—Section 188 of title 23, United States Code (as added by subsection (a) of this section), is amended—

“(1) in subsection (a)(2) by striking ‘1998’ and inserting ‘1999’; and

“(2) in subsection (c)—

“(A) by striking ‘1998’ and inserting ‘1999’; and

“(B) by striking the table and inserting the following:

<b>Fiscal year:</b>	<b>Maximum amount of credit:</b>
1999 .....	\$1,600,000,000
2000 .....	\$1,800,000,000
2001 .....	\$2,200,000,000
2002 .....	\$2,400,000,000
2003 .....	\$2,600,000,000.’”.

(b) CONFORMING AMENDMENTS.—The table of contents contained in section 1(b) of the Transportation Equity Act for the 21st Century is amended—

(1) in the item relating to section 1119 by striking “and safety”; and

(2) by striking the items relating to subtitle E of title I and inserting the following:

“Subtitle E—Finance

“CHAPTER 1—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

“Sec. 1501. Short title.

“Sec. 1502. Findings.

“Sec. 1503. Establishment of program.

“Sec. 1504. Duties of the Secretary.

“CHAPTER 2—STATE INFRASTRUCTURE BANK PILOT PROGRAM

“Sec. 1511. State infrastructure bank pilot program.”.

**SEC. 9008. HIGH PRIORITY PROJECTS TECHNICAL CORRECTIONS.**

The table contained in section 1602 of the Transportation Equity Act for the 21st Century is amended—

(1) in item 1 by striking “1.275” and inserting “1.7”; *Ante*, p. 256.

(2) in item 82 by striking “30.675” and inserting “32.4”;

(3) in item 107 by striking “1.125” and inserting “1.44”;

(4) in item 121 by striking “10.5” and inserting “5.0”;

(5) in item 140 by inserting “-VFHS Center” after “Park”;

(6) in item 151 by striking “5.666” and inserting “8.666”;

(7) in item 164—

(A) by inserting “, and \$3,000,000 for the period of fiscal years 1998 and 1999 shall be made available to carry out section 1217(j)” after “Pennsylvania”; and

(B) by striking “25” and inserting “24.78”;

(8) by striking item 166 and inserting the following:

"166.	Michigan .....	Improve Tenth Street, Port Huron .....	1.8";
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(9) by striking item 242 and inserting the following:

"242.	Minnesota .....	Construct Third Street North, CSAH 81, Waite Park and St. Cloud .....	1.0";
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(10) by striking item 250 and inserting the following:

"250.	Indiana .....	Reconstruct Old Merridan Corridor from Pennsylvania Avenue to Gilford Road ...	1.35";
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(11) in item 255 by striking "2.25" and inserting "3.0";  
(12) in item 263 by striking "Upgrade Highway 99 between  
State Highway 70 and Lincoln Road, Sutter County" and insert-  
ing "Upgrade Highway 99, Sutter County";

(13) in item 288 by striking "3.75" and inserting "5.0";

(14) in item 290 by striking "3.5" and inserting "3.0";

(15) in item 345 by striking "8" and inserting "19.4";

(16) in item 418 by striking "2" and inserting "2.5";

(17) in item 421 by striking "11" and inserting "6";

(18) in item 508 by striking "1.8" and inserting "2.4";

(19) by striking item 525 and inserting the following:

"525.	Alaska .....	Construct Bradfield Canal Road .....	1";
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(20) in item 540 by striking "1.5" and inserting "2.0";

(21) in item 576 by striking "0.52275" and inserting  
"0.69275";

(22) in item 588 by striking "2.5" and inserting "3.0";

(23) in item 591 by striking "10" and inserting "5";

(24) in item 635 by striking "1.875" and inserting "2.15";

(25) in item 669 by striking "3" and inserting "3.5";

(26) in item 702 by striking "10.5" and inserting "10";

(27) in item 746 by inserting ", and for the purchase of  
the Block House in Scott County, Virginia" after "Forest";

(28) in item 755 by striking "1.125" and inserting "1.5";

(29) in item 769 by striking "Construct new I-95 inter-  
change with Highway 99W, Tehama County" and inserting  
"Construct new I-5 interchange with Highway 99W, Tehama  
County";

(30) in item 770 by striking "1.35" and inserting "1.0";

(31) in item 789 by striking "2.0625" and inserting "1.0";

(32) in item 803 by striking "Tomahark" and inserting  
"Tomahawk";

(33) in item 836 by striking "Construct" and all that follows  
through "for" and inserting "To the National Park Service for  
construction of the";

(34) in item 854 by striking "0.75" and inserting "1";

(35) in item 863 by striking "9" and inserting "4.75";

(36) in item 887 by striking "0.75" and inserting "3.21";

(37) in item 891 by striking "19.5" and inserting "25.0";

(38) in item 902 by striking "10.5" and inserting "14.0";

(39) by striking item 1065 and inserting the following:

"1065.	Texas .....	Construct a 4-lane divided highway on Artcraft Road from I-10 to Route 375 in El Paso .....	5";
(40) in item 1192 by striking "24.97725" and inserting "24.55725";			
(41) in item 1200 by striking "Upgrade (all weather) on U.S. 2, U.S. 41, and M 35" and inserting "Upgrade (all weather) on Delta County's reroute of U.S. 2, U.S. 41, and M 35";			
(42) in item 1245 by striking "3" and inserting "3.5";			
(43) in item 1271 by striking "Spur" and all that follows through "U.S. 59" and inserting "rail-grade separations (Rosenberg Bypass) at U.S. 59(S)";			
(44) in item 1278 by striking "28.18" and inserting "22.0";			
(45) in item 1288 by inserting "30" after "U.S.";			
(46) in item 1338 by striking "5.5" and inserting "3.5";			
(47) in item 1383 by striking "0.525" and inserting "0.35";			
(48) in item 1395 by striking "Construct" and all that follows through "Road" and inserting "Upgrade Route 219 between Meyersdale and Somerset";			
(49) in item 1468 by striking "Reconstruct" and all that follows through "U.S. 23" and inserting "Conduct engineering and design and improve I-94 in Calhoun and Jackson Counties";			
(50) in item 1474—			
(A) by striking "in Euclid" and inserting "and London Road in Cleveland"; and			
(B) by striking "3.75" and inserting "8.0";			
(51) in item 1535 by striking "Stanford" and inserting "Stamford";			
(52) in item 1538 by striking "and Winchester" and inserting ", Winchester, and Torrington";			
(53) by striking item 1546 and inserting the following:			
"1546.	Michigan .....	Construct Bridge-to-Bay bike path, St. Clair County .....	0.450";
(54) by striking item 1549 and inserting the following:			
"1549.	New York .....	Center for Advanced Simulation and Technology at Dowling College .....	0.6";
(55) in item 1663 by striking "26.5" and inserting "27.5";			
(56) in item 1703 by striking "I-80" and inserting "I-180";			
(57) in item 1726 by striking "I-179" and inserting "I-79";			
(58) by striking item 1770 and inserting the following:			
"1770.	Virginia .....	Operate and conduct research on the 'Smart Road' in Blacksburg .....	6.025";
(59) in item 1810 by striking "Construct Rio Rancho Highway" and inserting "Northwest Albuquerque/Rio Rancho high priority roads";			

(60) in item 1815 by striking “High” and all that follows through “projects” and inserting “Highway and bridge projects that Delaware provides for by law”;

(61) in item 1844 by striking “Prepare” and inserting “Repair”;

(62) by striking item 1850 and inserting the following:

“1850.	Missouri .....	Resurface and maintain roads located in Missouri State parks .....	5”;
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(63) in item 661 by striking “SR 800” and inserting “SR 78”;

(64) in item 1704 by inserting “, Pittsburgh,” after “Road”;

(65) in item 1710 by inserting “, Bethlehem” after “site”;

and

(66) in item 1626 by striking “1” and inserting “2”.

**SEC. 9009. FEDERAL TRANSIT ADMINISTRATION PROGRAMS.**

*Ante*, p. 338. (a) DEFINITIONS.—Section 3003 of the Federal Transit Act of 1998 is amended—

(1) by inserting “(a) IN GENERAL.—” before “Section 5302”;

and

(2) by adding at the end the following:

“(b) CONFORMING AMENDMENTS.—Section 5302 (as amended by subsection (a) of this section) is amended in subsection (a)(1)(G)(i) by striking ‘daycare and’ and inserting ‘daycare or’.”.

*Ante*, p. 341. (b) METROPOLITAN PLANNING.—Section 3004 of the Federal Transit Act of 1998 is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking subparagraph (A) and inserting the following:

“(A) by striking ‘general local government representing’ and inserting ‘general purpose local government that together represent’; and”;

(B) in paragraph (3) by striking “and” at the end;

(C) in paragraph (4) by striking subparagraph (A) and inserting the following:

“(A) by striking ‘general local government representing’ and inserting ‘general purpose local government that together represent’; and”;

(D) by redesignating paragraph (4) as paragraph (5);

and

(E) by inserting after paragraph (3) the following:

“(4) in paragraph (4)(A) by striking ‘(3)’ and inserting ‘(5)’; and”;

(2) in subsection (d) by striking the closing quotation marks and the final period at the end and inserting the following:

“(5) COORDINATION.—If a project is located within the boundaries of more than one metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.

“(6) LAKE TAHOE REGION.—

“(A) DEFINITION.—In this paragraph, the term ‘Lake Tahoe region’ has the meaning given the term ‘region’ in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

“(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

“(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

“(ii) coordinate the transportation planning process with the planning process required of State and local governments under this chapter and sections 134 and 135 of title 23, United States Code.

“(C) INTERSTATE COMPACT.—

California.  
Nevada.

“(i) IN GENERAL.—Subject to clause (ii) and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

“(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

“(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

“(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of this chapter and under title 23, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

“(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

“(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

“(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23, United States Code.”; and

(3) by adding at the end the following:

“(f) TECHNICAL ADJUSTMENTS.—Section 5303(f) is amended—  
“(1) in paragraph (1) (as amended by subsection (e)(1) of this subsection)—

“(A) in subparagraph (C) by striking ‘and’ at the end;

“(B) in subparagraph (D) by striking the period at the end and inserting ‘; and’; and

“(C) by adding at the end the following:

“(E) the financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range plan if reasonable additional resources beyond those identified in the financial plan were available, except that, for the purpose of developing the long-range plan, the metropolitan planning organization and the State shall cooperatively develop estimates of funds that will be available to support plan implementation.”; and

“(2) by adding at the end the following:

“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (1)(E), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (1)(B).”.

*Ante*, p. 345.

(c) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 3005 of the Federal Transit Act of 1998 is amended—

(1) in the section heading by inserting “METROPOLITAN” before “TRANSPORTATION”; and

(2) by adding at the end the following:

“(d) TECHNICAL ADJUSTMENTS.—Section 5304 is amended—

“(1) in subsection (a) (as amended by subsection (a) of this section)—

“(A) by striking ‘In cooperation with’ and inserting the following:

“(1) IN GENERAL.—In cooperation with’; and

“(B) by adding at the end the following:

“(2) FUNDING ESTIMATE.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and the State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.”;

“(2) in subsection (b)(2)—

“(A) in subparagraph (B) by striking ‘and’ at the end; and

“(B) in subparagraph (C) (as added by subsection (b) of this section) by striking ‘strategies which may include’ and inserting the following: ‘strategies; and

“(D) may include’; and

“(3) in subsection (c) by striking paragraph (4) (as amended by subsection (c) of this section) and inserting the following:

“(4) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(A) IN GENERAL.—Notwithstanding subsection (b)(2)(D), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subsection (b)(2)(D).

“(B) ACTION BY SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the plan under subsection (b)(2) for inclusion in an approved transportation improvement plan.”.

*Ante*, p. 346.

(d) TRANSPORTATION MANAGEMENT AREAS.—Section 3006(d) of the Federal Transit Act of 1998 is amended to read as follows:

“(d) PROJECT SELECTION.—Section 5305(d)(1) is amended to read as follows: ‘(1)(A) All federally funded projects carried out

within the boundaries of a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge and interstate maintenance program) or under this chapter shall be selected from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

“(B) Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the interstate maintenance program shall be selected from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.’”.

(e) URBANIZED AREA FORMULA GRANTS.—Section 3007 of the Federal Transit Act of 1998 is amended by adding at the end the following:

*Ante*, p. 347.

“(h) TECHNICAL ADJUSTMENTS.—

“(1) GENERAL AUTHORITY.—Section 5307(b) (as amended by subsection (c)(1)(B) of this section) is amended by adding at the end the following: ‘The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000.’”.

“(2) REPORT.—Section 5307(k)(3) (as amended by subsection (f) of this section) is amended by inserting ‘preceding’ before ‘fiscal year’.”.

(f) CLEAN FUELS FORMULA GRANT PROGRAM.—Section 3008 of the Federal Transit Act of 1998 is amended by adding at the end the following:

*Ante*, p. 348.

“(c) TECHNICAL ADJUSTMENTS.—Section 5308(e)(2) (as added by subsection (a) of this section) is amended by striking ‘\$50,000,000’ and inserting ‘35 percent’.”.

(g) CAPITAL INVESTMENT GRANTS AND LOANS.—Section 3009 of the Federal Transit Act of 1998 is amended by adding at the end the following:

*Ante*, p. 352.

“(k) TECHNICAL ADJUSTMENTS.—

“(1) CRITERIA.—Section 5309(e) (as amended by subsection (e) of this section) is amended—

“(A) in paragraph (3)(C) by striking ‘urban’ and inserting ‘suburban’;

“(B) in the second sentence of paragraph (6) by striking ‘or not’ and all that follows through ‘, based’ and inserting ‘or “not recommended”, based’; and

“(C) in the last sentence of paragraph (6) by inserting ‘of the’ before ‘criteria established’.

“(2) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—Section 5309(g) (as amended by subsection (f) of this section) is amended in paragraph (4) by striking ‘5338(a)’ and all that follows through ‘2003’ and inserting ‘5338(b) of this title for new fixed guideway systems and extensions to existing fixed guideway systems and the amount appropriated under section 5338(h)(5) or an amount equivalent to the last 2 fiscal years of funding authorized under section 5338(b) for new fixed guideway systems and extensions to existing fixed guideway systems’.

“(3) ALLOCATING AMOUNTS.—Section 5309(m) (as amended by subsection (g) of this section) is amended—

“(A) in paragraph (1) by inserting ‘(b)’ after ‘5338’;

“(B) by striking paragraph (2) and inserting the following:

“(2) NEW FIXED GUIDEWAY GRANTS.—

“(A) LIMITATION ON AMOUNTS AVAILABLE FOR ACTIVITIES OTHER THAN FINAL DESIGN AND CONSTRUCTION.—Not more than 8 percent of the amounts made available in each fiscal year by paragraph (1)(B) shall be available for activities other than final design and construction.

“(B) FUNDING FOR FERRY BOAT SYSTEMS.—

“(i) AMOUNTS UNDER (1)(B).—Of the amounts made available under paragraph (1)(B), \$10,400,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.

“(ii) AMOUNTS UNDER 5338(H)(5).—Of the amounts appropriated under section 5338(h)(5), \$3,600,000 shall be available in each of fiscal years 1999 through 2003 for capital projects in Alaska or Hawaii, for new fixed guideway systems and extensions to existing fixed guideway systems that are ferry boats or ferry terminal facilities, or that are approaches to ferry terminal facilities.’;

“(C) by redesignating paragraph (4) as paragraph (3)(C);

“(D) in paragraph (3) by adding at the end the following:

“(D) OTHER THAN URBANIZED AREAS.—Of amounts made available by paragraph (1)(C), not less than 5.5 percent shall be available in each fiscal year for other than urbanized areas.’;

“(E) by striking paragraph (5); and

“(F) by inserting after paragraph (3) the following:

“(4) ELIGIBILITY FOR ASSISTANCE FOR MULTIPLE PROJECTS.—

A person applying for or receiving assistance for a project described in subparagraph (A), (B), or (C) of paragraph (1) may receive assistance for a project described in any other of such subparagraphs.’.”

(h) REFERENCES TO FULL FUNDING GRANT AGREEMENTS.—Section 3009(h)(3) of the Federal Transit Act of 1998 is amended—

(1) by striking “and” at the end of subparagraph (A)(ii);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(3) by adding at the end the following:

“(C) in section 5328(a)(4) by striking ‘section 5309(m)(2) of this title’ and inserting ‘5309(o)(1)’; and

“(D) in section 5309(n)(2) by striking ‘in a way’ and inserting ‘in a manner’.”

(i) DOLLAR VALUE OF MOBILITY IMPROVEMENTS.—Section 3010(b)(2) of the Federal Transit Act of 1998 is amended by striking “Secretary” and inserting “Comptroller General”.

*Ante*, p. 352.

*Ante*, p. 357.



(j) INTELLIGENT TRANSPORTATION SYSTEM APPLICATIONS.—Section 3012 of the Federal Transit Act of 1998 is amended by moving paragraph (3) of subsection (a) to the end of subsection (b) and by redesignating such paragraph (3) as paragraph (4). *Ante*, p. 358.

(k) ADVANCED TECHNOLOGY PILOT PROJECT.—Section 3015 of the Federal Transit Act of 1998 is amended— *Ante*, p. 359.

(1) in subsection (c)(2) by adding at the end the following: “Financial assistance made available under this subsection and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.”; and

(2) by adding at the end the following:

“(d) TRAINING AND CURRICULUM DEVELOPMENT.—

“(1) IN GENERAL.—Any funds made available by section 5338(e)(2)(C)(iii) of title 49, United States Code, shall be available in equal amounts for transportation research, training, and curriculum development at institutions identified in subparagraphs (E) and (F) of section 5505(j)(3) of such title.

“(2) SPECIAL RULE.—If the institutions identified in paragraph (1) are selected pursuant to 5505(i)(3)(B) of such title in fiscal year 2002 or 2003, the funds made available to carry out this subsection shall be available to those institutions to carry out the activities required pursuant to section 5505(i)(3)(B) of such title for that fiscal year.”.

(l) NATIONAL TRANSIT INSTITUTE.—Section 3017(a) of the Federal Transit Act of 1998 is amended to read as follows: *Ante*, p. 361.

“(a) IN GENERAL.—Section 5315 is amended—

“(1) in the section heading by striking ‘**mass transportation**’ and inserting ‘**transit**’;

“(2) in subsection (a)—

“(A) by striking ‘mass transportation’ in the first sentence and inserting ‘transit’;

“(B) in paragraph (5) by inserting ‘and architectural design’ before the semicolon at the end;

“(C) in paragraph (7) by striking ‘carrying out’ and inserting ‘delivering’;

“(D) in paragraph (11) by inserting ‘, construction management, insurance, and risk management’ before the semicolon at the end;

“(E) in paragraph (13) by striking ‘and’ at the end;

“(F) in paragraph (14) by striking the period at the end and inserting a semicolon; and

“(G) by adding at the end the following:

“(15) innovative finance; and

“(16) workplace safety.’”.

(m) PILOT PROGRAM.—Section 3021(a) of the Federal Transit Act of 1998 is amended by inserting “single-State” before “pilot program”. *Ante*, p. 363.

(n) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—Section 3022 of the Federal Transit Act of 1998 is amended by adding at the end the following: *Ante*, p. 363.

“(b) CONFORMING AMENDMENT.—Section 5325(b) (as redesignated by subsection (a)(2) of this section) is amended—

“(1) by inserting ‘or requirement’ after ‘A contract’; and

“(2) by inserting before the last sentence the following: “When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting nondisputed audits conducted by other governmental

agencies, as provided in subparagraphs (C) through (F) of section 112(b)(2) of title 23, United States Code.’.”

*Ante*, p. 366. (o) CONFORMING AMENDMENT.—Section 3027 of the Federal Transit Act of 1998 is amended—

(1) in subsection (c) by striking “600,000” each place it appears and inserting “900,000”; and

(2) by adding at the end the following:

“(d) CONFORMING AMENDMENT.—The item relating to section 5336 in the table of sections for chapter 53 is amended by striking ‘block grants’ and inserting ‘formula grants’.”

*Ante*, p. 366. (p) APPORTIONMENT FOR FIXED GUIDEWAY MODERNIZATION.—Section 3028 of the Federal Transit Act of 1998 is amended by adding at the end the following:

“(c) CONFORMING AMENDMENTS.—Section 5337(a) (as amended by subsection (a) of this section) is amended—

“(1) in paragraph (2)(B) by striking ‘(e)’ and inserting ‘(e)(1)’;

“(2) in paragraph (3)(D)—

“(A) by striking ‘(ii)’; and

“(B) by striking ‘(e)’ and inserting ‘(e)(1)’;

“(3) in paragraph (4) by striking ‘(e)’ and inserting ‘(e)(1)’;

“(4) in paragraph (5)(A) by striking ‘(e)’ and inserting ‘(e)(2)’;

“(5) in paragraph (5)(B) by striking ‘(e)’ and inserting ‘(e)(2)’;

“(6) in paragraph (6) by striking ‘(e)’ each place it appears and inserting ‘(e)(2)’; and

“(7) in paragraph (7) by striking ‘(e)’ each place it appears and inserting ‘(e)(2)’.”

*Ante*, p. 368. (q) AUTHORIZATIONS.—Section 3029 of the Federal Transit Act of 1998 is amended by adding at the end the following:

“(c) TECHNICAL ADJUSTMENTS.—Section 5338 (as amended by subsection (a) of this section) is amended—

“(1) in subsection (c)(2)(A)(i) by striking ‘\$43,200,000’ and inserting ‘\$42,200,000’;

“(2) in subsection (c)(2)(A)(ii) by striking ‘\$46,400,000’ and inserting ‘\$48,400,000’;

“(3) in subsection (c)(2)(A)(iii) by striking ‘\$51,200,000’ and inserting ‘\$50,200,000’;

“(4) in subsection (c)(2)(A)(iv) by striking ‘\$52,800,000’ and inserting ‘\$53,800,000’;

“(5) in subsection (c)(2)(A)(v) by striking ‘\$57,600,000’ and inserting ‘\$58,600,000’;

“(6) in subsection (d)(2)(C)(iii) by inserting before the semicolon ‘, including not more than \$1,000,000 shall be available to carry out section 5315(a)(16)’;

“(7) in subsection (e)—

“(A) by striking ‘5317(b)’ each place it appears and inserting ‘5505’;

“(B) in paragraph (1) by striking ‘There are’ and inserting ‘Subject to paragraph (2)(C), there are’;

“(C) in paragraph (2)—

“(i) in subparagraph (A) by striking ‘There shall’ and inserting ‘Subject to subparagraph (C), there shall’;

“(ii) in subparagraph (B) by striking ‘In addition’ and inserting ‘Subject to subparagraph (C), in addition’; and

“(iii) by adding at the end the following:

‘(C) FUNDING OF CENTERS.—

‘(i) Of the amounts made available under subparagraph (A) and paragraph (1) for each fiscal year—

‘(I) \$2,000,000 shall be available for the center identified in section 5505(j)(4)(A); and

‘(II) \$2,000,000 shall be available for the center identified in section 5505(j)(4)(F).

‘(ii) For each of fiscal years 1998 through 2001, of the amounts made available under this paragraph and paragraph (1)—

‘(I) \$400,000 shall be available from amounts made available under subparagraph (A) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3); and

‘(II) \$350,000 shall be available from amounts made available under subparagraph (B) of this paragraph and under paragraph (1) for each of the centers identified in subparagraphs (E) and (F) of section 5505(j)(3).

‘(iii) Any amounts made available under this paragraph or paragraph (1) for any fiscal year that remain after distribution under clauses (i) and (ii), shall be available for the purposes identified in section 3015(d) of the Federal Transit Act of 1998.’; and

“(D) by adding at the end the following:

“(3) SPECIAL RULE.—Nothing in this subsection shall be construed to limit the transportation research conducted by the centers funded by this section.”;

“(8) in subsection (g)(2) by striking ‘(c)(2)(B),’ and all that follows through ‘(f)(2)(B),’ and inserting ‘(c)(1), (c)(2)(B), (d)(1), (d)(2)(B), (e)(1), (e)(2)(B), (f)(1), (f)(2)(B),’;

“(9) in subsection (h) by inserting ‘under the Transportation Discretionary Spending Guarantee for the Mass Transit Category’ after ‘through (f)’; and

“(10) in subsection (h)(5) by striking subparagraphs (A) through (E) and inserting the following:

‘(A) for fiscal year 1999 \$400,000,000;

‘(B) for fiscal year 2000 \$410,000,000;

‘(C) for fiscal year 2001 \$420,000,000;

‘(D) for fiscal year 2002 \$430,000,000; and

‘(E) for fiscal year 2003 \$430,000,000.’.”.

(r) PROJECTS FOR FIXED GUIDEWAY SYSTEMS.—Section 3030 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a)—

(A) in paragraph (8) by inserting “North-” before “South”;

(B) in paragraph (42) by striking “Maryland” and inserting “Baltimore”;

(C) in paragraph (103) by striking “busway” and inserting “Boulevard transitway”;

(D) in paragraph (106) by inserting “CTA” before “Douglas”;

(E) by striking paragraph (108) and inserting the following:

“(108) Greater Albuquerque Mass Transit Project.”; and

*Ante*, p. 373.

(F) by adding at the end the following:

“(109) Hartford City Light Rail Connection to Central Business District.

“(110) Providence–Boston Commuter Rail.

“(111) New York–St. George’s Ferry Intermodal Terminal.

“(112) New York–Midtown West Ferry Terminal.

“(113) Pinellas County–Mobility Initiative Project.

“(114) Atlanta–MARTA Extension (S. De Kalb–Lindbergh).”;

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

“(2) Sioux City–Light Rail.”;

(B) by striking paragraph (40) and inserting the following:

“(40) Santa Fe–El Dorado Rail Link.”;

(C) by striking paragraph (44) and inserting the following:

“(44) Albuquerque–High Capacity Corridor.”;

(D) by striking paragraph (53) and inserting the following:

“(53) San Jacinto–Branch Line (Riverside County).”; and

(E) by adding at the end the following:

“(69) Chicago–Northwest Rail Transit Corridor.

“(70) Vermont–Burlington–Essex Commuter Rail.”; and

(3) in subsection (c)—

(A) in paragraph (1)(A)—

(i) in the matter preceding clause (i) by inserting “(even if the project is not listed in subsection (a) or (b))” before the colon;

(ii) by striking clause (ii) and inserting the following:

“(ii) San Diego Mission Valley and Mid-Coast Corridor, \$325,000,000.”;

(iii) by striking clause (v) and inserting the following:

“(v) Hartford City Light Rail Connection to Central Business District, \$33,000,000.”;

(iv) by striking clause (xxiii) and inserting the following:

“(xxiii) Kansas City—I-35 Commuter Rail, \$30,000,000.”;

(v) in clause (xxxii) by striking “Whitehall Ferry Terminal” and inserting “Staten Island Ferry–Whitehall Intermodal Terminal”;

(vi) by striking clause (xxxv) and inserting the following:

“(xxxv) New York–Midtown West Ferry Terminal, \$16,300,000.”;

(vii) in clause (xxxix) by striking “Allegheny County” and inserting “Pittsburgh”;

(viii) by striking clause (xvi) and inserting the following:

“(xvi) Northeast Indianapolis Corridor, \$10,000,000.”;

(ix) by striking clause (xxix) and inserting the following:

“(xxix) Greater Albuquerque Mass Transit Project, \$90,000,000.”;

(x) by striking clause (xliii) and inserting the following:

“(xliii) Providence–Boston Commuter Rail, \$10,000,000.”; and

(xi) by striking clause (li) and inserting the following:

“(li) Dallas–Ft. Worth RAILTRAN (Phase-II), \$12,000,000.”;

(B) by striking the heading for subsection (c)(2) and inserting “ADDITIONAL AMOUNTS”; and

(C) in paragraph (3) by inserting after the first sentence the following: “The project shall also be exempted from all requirements relating to criteria for grants and loans for fixed guideway systems under section 5309(e) of such title and from regulations required under that section.”.

(s) NEW JERSEY URBAN CORE PROJECT.—Section 3030(e) of the Federal Transit Act of 1998 is amended by adding at the end the following: *Ante*, p. 373.

“(4) TECHNICAL ADJUSTMENT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (as amended by paragraph (3)(B) of this subsection) is amended—

“(A) by striking ‘of the West Shore Line’ and inserting ‘or the West Shore Line’; and

“(B) by striking ‘directly connected to’ and all that follows through ‘Newark International Airport’ the first place it appears.”.

(t) BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS.—Section 3030 of the Federal Transit Act of 1998 is amended by adding at the end the following:

“(h) TECHNICAL ADJUSTMENT.—Section 3035(nn) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2134) (as amended by subsection (g)(1)(C) of this section) is amended by inserting after ‘expenditure of’ the following: ‘section 5309 funds to the aggregate expenditure of’.”.

(u) BUS PROJECTS.—Section 3031 of the Federal Transit Act of 1998 is amended—

(1) in the table contained in subsection (a)—

(A) by striking item 64;

(B) in item 69 by striking “Rensslear” each place it appears and inserting “Rensselaer”;

(C) in item 103 by striking “facilities and”; and

(D) by striking item 150;

(2) by striking the heading for subsection (b) and inserting “ADDITIONAL AMOUNTS”;

(3) in subsection (b) by inserting after “2000” the first place it appears “with funds made available under section 5338(h)(6) of such title”; and

(4) in item 2 of the table contained in subsection (b) by striking “Rensslear” each place it appears and inserting “Rensselaer”.

(v) CONTRACTING OUT STUDY.—Section 3032 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a) by striking “3” and inserting “6”;

*Ante*, p. 381.

*Ante*, p. 385.

(2) in subsection (d) by striking “the Mass Transit Account of the Highway Trust Fund” and inserting “funds made available under section 5338(f)(2) of title 49, United States Code,”;

(3) in subsection (d) by striking “1998” and inserting “1999”; and

(4) in subsection (e) by striking “subsection (c)” and inserting “subsection (d)”.

*Ante*, p. 387. (w) JOB ACCESS AND REVERSE COMMUTE GRANTS.—Section 3037 of the Federal Transit Act of 1998 is amended—

(1) in subsection (b)(4)(A)—

(A) by inserting “designated recipients under section 5307(a)(2) of title 49, United States Code,” after “from among”; and

(B) by inserting a comma after “and agencies”;

(2) in subsection (b)(4)(B)—

(A) by striking “at least” and inserting “less than”;

(B) by inserting “designated recipients under section 5307(a)(2) of title 49, United States Code,” after “from among”; and

(C) by inserting “and agencies,” after “authorities”;

(3) in subsection (f)(2)—

(A) by striking “(including bicycling)”; and

(B) by inserting “(including bicycling)” after “additional services”;

(4) in subsection (h)(2)(B) by striking “403(a)(5)(C)(ii)” and inserting “403(a)(5)(C)(vi)”;

(5) in the heading for subsection (l)(1)(C) by striking “FROM THE GENERAL FUND”;

(6) in subsection (l)(1)(C) by inserting “under the Transportation Discretionary Spending Guarantee for the Mass Transit Category” after “(B)”; and

(7) in subsection (l)(3)(B) by striking “at least” and inserting “less than”.

*Ante*, p. 392. (x) RURAL TRANSPORTATION ACCESSIBILITY INCENTIVE PROGRAM.—Section 3038 of the Federal Transit Act of 1998 is amended—

(1) in subsection (a)(1)(A) by inserting before the semicolon “or connecting 1 or more rural communities with an urban area not in close proximity”;

(2) in subsection (g)(1)—

(A) by inserting “over-the-road buses used substantially or exclusively in” after “operators of”; and

(B) by inserting at the end the following: “Such sums shall remain available until expended.”; and

(3) in subsection (g)(2)—

(A) by striking “each of”; and

(B) by adding at the end the following: “Such sums shall remain available until expended.”.

*Ante*, p. 393. (y) STUDY OF TRANSIT NEEDS IN NATIONAL PARKS AND RELATED PUBLIC LANDS.—Section 3039(b) of the Federal Transit Act of 1998 is amended—

(1) in paragraph (1) by striking “in order to carry” and inserting “assist in carrying”; and

(2) by adding at the end the following:

“(3) DEFINITION.—For purposes of this subsection, the term ‘Federal land management agencies’ means the National Park

Service, the United States Fish and Wildlife Service, and the Bureau of Land Management.”.

(z) OBLIGATION CEILING.—Section 3040 of the Federal Transit Act of 1998 is amended—

*Ante*, p. 394.

- (1) by striking paragraph (2) and inserting the following:  
“(2) \$5,797,000,000 in fiscal year 2000;”, and
- (2) in paragraph (4) by striking “\$6,746,000,000” and inserting “\$6,747,000,000”.

**SEC. 9010. MOTOR CARRIER SAFETY TECHNICAL CORRECTION.**

Section 4011 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

*Ante*, p. 394.

“(h) TECHNICAL AMENDMENTS.—Section 31314 (as amended by subsection (g) of this section) is amended—

- “(1) in subsections (a) and (b) by striking ‘(3), and (5)’ each place it appears and inserting ‘(3), and (4)’; and
- “(2) by striking subsection (d).”.

**SEC. 9011. RESTORATIONS TO RESEARCH TITLE.**

(a) UNIVERSITY TRANSPORTATION RESEARCH FUNDING.—Section 5001(a)(7) of the Transportation Equity Act for the 21st Century is amended—

*Ante*, p. 419.

- (1) by striking “\$31,150,000” each place it appears and inserting “\$25,650,000”;
- (2) by striking “\$32,750,000” each place it appears and inserting “\$27,250,000”; and
- (3) by striking “\$32,000,000” each place it appears and inserting “\$26,500,000”.

(b) OBLIGATION CEILING.—Section 5002 of such Act is amended by striking “\$403,150,000” and all that follows through “\$468,000,000” and inserting “\$397,650,000 for fiscal year 1998, \$403,650,000 for fiscal year 1999, \$422,450,000 for fiscal year 2000, \$437,250,000 for fiscal year 2001, \$447,500,000 for fiscal year 2002, and \$462,500,000”.

*Ante*, p. 421.

(c) USE OF FUNDS FOR ITS.—Section 5210 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

*Ante*, p. 461.

“(d) USE OF INNOVATIVE FINANCING.—

“(1) IN GENERAL.—The Secretary may use up to 25 percent of the funds made available to carry out this subtitle to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this subtitle and that have significant intelligent transportation system elements.

“(2) CONSISTENCY WITH OTHER LAW.—Credit assistance described in paragraph (1) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1998.”.

(d) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5110 of such Act is amended by adding at the end the following:

*Ante*, p. 441.

“(d) TECHNICAL ADJUSTMENTS.—Section 5505 of title 49, United States Code (as added by subsection (a) of this section), is amended—

- “(1) in subsection (g)(2) by striking ‘section 5506,’ and inserting ‘section 508 of title 23, United States Code.’;
- “(2) in subsection (i)—  
“(A) by inserting ‘Subject to section 5338(e):’ after ‘(i) NUMBER AND AMOUNT OF GRANTS.—’; and

“(B) by striking ‘institutions’ each place it appears and inserting ‘institutions or groups of institutions’; and  
 “(3) in subsection (j)(4)(B) by striking ‘on behalf of’ and all that follows before the period and inserting ‘on behalf of a consortium which may also include West Virginia University Institute of Technology, the College of West Virginia, and Bluefield State College.’”.

*Ante*, p. 446.

(e) TECHNICAL CORRECTIONS.—Section 5115 of such Act is amended—

(1) in subsection (a) by striking “Director” and inserting “Director of the Bureau of Transportation Statistics”;

(2) in subsection (b) by striking “Bureau” and inserting “Bureau of Transportation Statistics”; and

(3) in subsection (c) by striking “paragraph (1)” and inserting “subsection (a)”.

*Ante*, p. 446.

(f) CORRECTIONS TO CERTAIN OKLAHOMA PROJECTS.—Section 5116 of such Act is amended—

(1) in subsection (e)(2) by striking “\$1,000,000 for fiscal year 1999, \$1,000,000 for fiscal year 2000, and \$500,000 for fiscal year 2001” and inserting “\$1,000,000 for fiscal year 1999, \$1,000,000 for fiscal year 2000, \$1,000,000 for fiscal year 2001, and \$500,000 for fiscal year 2002”; and

(2) in subsection (f)(2) by striking “\$1,000,000 for fiscal year 1999, \$1,000,000 for fiscal year 2000, \$1,000,000 for fiscal year 2001, and \$500,000 for fiscal year 2002” and inserting “\$1,000,000 for fiscal year 1999, \$1,000,000 for fiscal year 2000, and \$500,000 for fiscal year 2001”.

*Ante*, p. 448.

(g) INTELLIGENT TRANSPORTATION INFRASTRUCTURE REFERENCE.—Section 5117(b)(3)(B)(ii) of such Act is amended by striking “local departments of transportation” and inserting “the Department of Transportation”.

(h) FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.—Section 5117(b)(5)(B) of such Act is amended—

(1) by striking “1999” and inserting “1998”; and

(2) by striking “\$3,000,000 per fiscal year” and inserting “\$1,000,000 for fiscal year 1998 and \$3,000,000 for each of fiscal years 1999 through 2003”.

#### SEC. 9012. AUTOMOBILE SAFETY AND INFORMATION.

*Ante*, p. 466.

(a) REFERENCE.—Section 7104 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

“(c) CONFORMING AMENDMENT.—Section 30105(a) of title 49, United States Code (as amended by subsection (a) of this section), is amended by inserting after ‘Secretary’ the following: ‘for the National Highway Traffic Safety Administration’.”.

*Ante*, p. 485.

(b) CLEAN VESSEL ACT FUNDING.—Section 7403 of such Act is amended—

(1) by inserting “(a) IN GENERAL.—” before “Section 4(b)”;

and

(2) by adding at the end the following:

“(b) TECHNICAL AMENDMENT.—Section 4(b)(3)(B) of the 1950 Act (as amended by subsection (a) of this section) is amended by striking ‘6404(d)’ and inserting ‘7404(d)’.”.

*Ante*, p. 486.

(c) BOATING INFRASTRUCTURE.—Section 7404(b) of such Act is amended by striking “6402” and inserting “7402”.



**SEC. 9013. TECHNICAL CORRECTIONS REGARDING SUBTITLE A OF TITLE VIII.**

(a) AMENDMENT TO OFFSETTING ADJUSTMENT FOR DISCRETIONARY SPENDING LIMIT.—Section 8101(b) of the Transportation Equity Act for the 21st Century is amended—

*Ante*, p. 488.

(1) in paragraph (1) by striking “\$25,173,000,000” and inserting “\$25,144,000,000”; and

(2) in paragraph (2) by striking “\$26,045,000,000” and inserting “\$26,009,000,000”.

(b) AMENDMENTS FOR HIGHWAY CATEGORY.—Section 8101 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following:

“(f) TECHNICAL AMENDMENTS.—Section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by subsection (c) of this Act) is amended—

“(1) by striking ‘Century and’ and inserting ‘Century or’;

“(2) by striking ‘as amended by this section,’ and inserting ‘as amended by the Transportation Equity Act for the 21st Century,’; and

“(3) by adding at the end the following new flush sentence: ‘Such term also refers to the Washington Metropolitan Transit Authority account (69–1128–0–1–401) only for fiscal year 1999 only for appropriations provided pursuant to authorizations contained in section 14 of Public Law 96–184 and Public Law 101–551.’”.

(c) TECHNICAL AMENDMENT.—Section 8102 of the Transportation Equity Act for the 21st Century is amended by inserting before the period at the end the following: “or from section 1102 of this Act”.

*Ante*, p. 492.

**SEC. 9014. CORRECTIONS TO VETERANS SUBTITLE.**

(a) TOBACCO-RELATED ILLNESSES IN VETERANS.—Section 8202 of the Transportation Equity Act for the 21st Century is amended to read as follows (and the amendments made by that section as originally enacted shall be treated for all purposes as not having been made):

*Ante*, p. 492.

**“SEC. 8202. TREATMENT OF TOBACCO-RELATED ILLNESSES OF VETERANS.**

“(a) IN GENERAL.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

**“§ 1103. Special provisions relating to claims based upon effects of tobacco products**

“(a) Notwithstanding any other provision of law, a veteran’s disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in the line of duty in the active military, naval, or air service for purposes of this title on the basis that it resulted from injury or disease attributable to the use of tobacco products by the veteran during the veteran’s service.

“(b) Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which is otherwise shown to have been incurred or aggravated in active military, naval, or air service or which became manifest to the requisite degree of disability during any

applicable presumptive period specified in section 1112 or 1116 of this title.

“(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

‘1103. Special provisions relating to claims based upon effects of tobacco products.’.

Applicability.

“(b) EFFECTIVE DATE.—Section 1103 of title 38, United States Code, as added by subsection (a), shall apply with respect to claims received by the Secretary of Veterans Affairs after the date of the enactment of this Act.”.

Ante, p. 492.

(b) GI BILL EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS OF VETERANS.—Subtitle B of title VIII of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new section:

**“SEC. 8210. TWENTY PERCENT INCREASE IN RATES OF SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.**

“(a) SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE.—Section 3532 of title 38, United States Code, is amended—

“(1) in subsection (a)(1)—

“(A) by striking out ‘\$404’ and inserting in lieu thereof ‘\$485’;

“(B) by striking out ‘\$304’ and inserting in lieu thereof ‘\$365’; and

“(C) by striking out ‘\$202’ and inserting in lieu thereof ‘\$242’;

“(2) in subsection (a)(2), by striking out ‘\$404’ and inserting in lieu thereof ‘\$485’;

“(3) in subsection (b), by striking out ‘\$404’ and inserting in lieu thereof ‘\$485’; and

“(4) in subsection (c)(2)—

“(A) by striking out ‘\$327’ and inserting in lieu thereof ‘\$392’;

“(B) by striking out ‘\$245’ and inserting in lieu thereof ‘\$294’; and

“(C) by striking out ‘\$163’ and inserting in lieu thereof ‘\$196’.

“(b) CORRESPONDENCE COURSE.—Section 3534(b) of such title is amended by striking out ‘\$404’ and inserting in lieu thereof ‘\$485’.

“(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) of such title is amended—

“(1) by striking out ‘\$404’ and inserting in lieu thereof ‘\$485’;

“(2) by striking out ‘\$127’ each place it appears and inserting in lieu thereof ‘\$152’; and

“(3) by striking out ‘\$13.46’ and inserting in lieu thereof ‘\$16.16’.

“(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) of such title is amended—

“(1) by striking out ‘\$294’ and inserting in lieu thereof ‘\$353’;

“(2) by striking out ‘\$220’ and inserting in lieu thereof ‘\$264’;

“(3) by striking out ‘\$146’ and inserting in lieu thereof ‘\$175’; and

“(4) by striking out ‘\$73’ and inserting in lieu thereof ‘\$88’.

“(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 1998, and shall apply with respect to educational assistance allowances paid for months after September 1998.”. Applicability.

**SEC. 9015. TECHNICAL CORRECTIONS REGARDING TITLE IX.**

(a) **HIGHWAY TRUST FUND.**—Subsection (f) of section 9002 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new paragraphs: Ante, p. 499.

“(4) The last sentence of section 9503(c)(1), as amended by subsection (d), is amended by striking ‘the date of enactment of the Transportation Equity Act for the 21st Century’ and inserting ‘the date of the enactment of the TEA 21 Restoration Act’.

“(5) Paragraph (3) of section 9503(e), as amended by subsection (d), is amended by striking ‘the date of enactment of the Transportation Equity Act for the 21st Century’ and inserting ‘the date of the enactment of the TEA 21 Restoration Act’.”.

(b) **BOAT SAFETY ACCOUNT AND SPORT FISH RESTORATION ACCOUNT.**—Section 9005 of the Transportation Equity Act for the 21st Century is amended by adding at the end the following new subsection: Ante, p. 504.

“(f) **CLERICAL AMENDMENTS.**—

“(1) Subparagraph (A) of section 9504(b)(2), as amended by subsection (b)(1), is amended by striking ‘the date of the enactment of the Transportation Equity Act for the 21st Century’ and inserting ‘the date of the enactment of the TEA 21 Restoration Act’.

“(2) Subparagraph (B) of section 9504(b)(2), as added by subsection (b)(3), is amended by striking ‘such Act’ and inserting ‘the TEA 21 Restoration Act’.

“(3) Subparagraph (C) of section 9504(b)(2), as amended by subsection (b)(2) and redesignated by subsection (b)(3), is amended by striking ‘the date of the enactment of the Transportation Equity Act for the 21st Century’ and inserting ‘the date of the enactment of the TEA 21 Restoration Act’.

“(4) Subsection (c) of section 9504, as amended by subsection (c)(2), is amended by striking ‘the date of enactment of the Transportation Equity Act for the 21st Century’ and inserting ‘the date of the enactment of the TEA 21 Restoration Act’.”.

23 USC 101 note. **SEC. 9016. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect simultaneously with the enactment of the Transportation Equity Act for the 21st Century. For purposes of all Federal laws, the amendments made by this title shall be treated as being included in the Transportation Equity Act for the 21st Century at the time of the enactment of such Act, and the provisions of such Act (including the amendments made by such Act) (as in effect on the day before the date of enactment of this Act) that are amended by this title shall be treated as not being enacted.

Approved July 22, 1998.

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**LEGISLATIVE HISTORY—H.R. 2676:**

HOUSE REPORTS: Nos. 105–364, Pt. 1 (Comm. on Ways and Means) and 105–599 (Comm. of Conference).

SENATE REPORTS: No. 105–174 (Comm. on Finance).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Nov. 5, considered and passed House.

Vol. 144 (1998): May 4–7, considered and passed Senate, amended.

June 25, House agreed to conference report.

July 7–9, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

July 22, Presidential remarks.



Public Law 105–207  
105th Congress

An Act

To authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes.

July 29, 1998

[H.R. 1273]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Science Foundation Authorization Act of 1998”.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **DIRECTOR.**—The term “Director” means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(2) **FOUNDATION.**—The term “Foundation” means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) **BOARD.**—The term “Board” means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(4) **UNITED STATES.**—The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(5) **NATIONAL RESEARCH FACILITY.**—The term “national research facility” means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States.

National Science  
Foundation  
Authorization  
Act of 1998.  
42 USC 1861  
note.  
42 USC 1862k  
note.

**TITLE I—NATIONAL SCIENCE  
FOUNDATION AUTHORIZATION**

**SEC. 101. FINDINGS; CORE STRATEGIES.**

42 USC 1862k.

(a) **FINDINGS.**—Congress finds the following:

(1) The United States depends upon its scientific and technological capabilities to preserve the military and economic security of the United States.

(2) America’s leadership in the global marketplace is dependent upon a strong commitment to education, basic research, and development.

(3) A nation that is not technologically literate cannot compete in the emerging global economy.

(4) A coordinated commitment to mathematics and science instruction at all levels of education is a necessary component of successful efforts to produce technologically literate citizens.

(5) Professional development is a necessary component of efforts to produce system-wide improvements in mathematics, engineering, and science education in secondary, elementary, and postsecondary settings.

(6)(A) The mission of the National Science Foundation is to provide Federal support for basic scientific and engineering research, and to be a primary contributor to mathematics, science, and engineering education at academic institutions in the United States.

(B) In accordance with such mission, the long-term goals of the National Science Foundation include providing leadership to—

(i) enable the United States to maintain a position of world leadership in all aspects of science, mathematics, engineering, and technology;

(ii) promote the discovery, integration, dissemination, and application of new knowledge in service to society; and

(iii) achieve excellence in United States science, mathematics, engineering, and technology education at all levels.

(b) CORE STRATEGIES.—In carrying out activities designed to achieve the goals described in subsection (a), the Foundation shall use the following core strategies:

(1) Develop intellectual capital, both people and ideas, with particular emphasis on groups and regions that traditionally have not participated fully in science, mathematics, and engineering.

(2) Strengthen the scientific infrastructure by investing in facilities planning and modernization, instrument acquisition, instrument design and development, and shared-use research platforms.

(3) Integrate research and education through activities that emphasize and strengthen the natural connections between learning and inquiry.

(4) Promote partnerships with industry, elementary and secondary schools, community colleges, colleges and universities, other agencies, State and local governments, and other institutions involved in science, mathematics, and engineering to enhance the delivery of math and science education and improve the technological literacy of the citizens of the United States.

#### SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1998.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$3,505,630,000 for fiscal year 1998.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$2,576,200,000 shall be made available to carry out Research and Related Activities, of which—

(i) \$370,820,000 shall be made available for Biological Sciences;

(ii) \$289,170,000 shall be made available for Computer and Information Science and Engineering;

(iii) \$360,470,000 shall be made available for Engineering;

(iv) \$455,110,000 shall be made available for Geosciences;

(v) \$715,710,000 shall be made available for Mathematical and Physical Sciences;

(vi) \$130,660,000 shall be made available for Social, Behavioral, and Economic Sciences, of which up to \$1,000,000 may be made available for the United States-Mexico Foundation for Science;

(vii) \$165,930,000 shall be made available for United States Polar Research Programs;

(viii) \$62,600,000 shall be made available for United States Antarctic Logistical Support Activities;

(ix) \$2,730,000 shall be made available for the Critical Technologies Institute; and

(x) \$23,000,000 shall be made available for the Next Generation Internet program;

(B) \$632,500,000 shall be made available to carry out Education and Human Resources Activities;

(C) \$155,130,000 shall be made available for Major Research Equipment;

(D) \$136,950,000 shall be made available for Salaries and Expenses; and

(E) \$4,850,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 1999.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$3,773,000,000 for fiscal year 1999.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$2,846,800,000 shall be made available to carry out Research and Related Activities, of which—

(i) \$417,820,000 shall be made available for Biological Sciences;

(ii) \$331,140,000 shall be made available for Computer and Information Science and Engineering, including \$25,000,000 for the Next Generation Internet program;

(iii) \$400,550,000 shall be made available for Engineering;

(iv) \$507,310,000 shall be made available for Geosciences;

(v) \$792,030,000 shall be made available for Mathematical and Physical Sciences;

(vi) \$150,260,000 shall be made available for Social, Behavioral, and Economic Sciences, of which up to \$2,000,000 may be made available for the United States-Mexico Foundation for Science;

(vii) \$182,360,000 shall be made available for United States Polar Research Programs;

(viii) \$62,600,000 shall be made available for United States Antarctic Logistical Support Activities;

(ix) \$2,730,000 shall be made available for the Critical Technologies Institute; and

(B) \$683,000,000 shall be made available to carry out Education and Human Resources Activities;

(C) \$94,000,000 shall be made available for Major Research Equipment;

(D) \$144,000,000 shall be made available for Salaries and Expenses; and

(E) \$5,200,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2000.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$3,886,190,000 for fiscal year 2000.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$2,935,024,000 shall be made available to carry out Research and Related Activities, of which up to—

(i) \$2,000,000 may be made available for the United States-Mexico Foundation for Science; and

(ii) \$25,000,000 may be made available for the Next Generation Internet program;

(B) \$703,490,000 shall be made available to carry out Education and Human Resources Activities;

(C) \$94,000,000 shall be made available for Major Research Equipment;

(D) \$148,320,000 shall be made available for Salaries and Expenses; and

(E) \$5,356,000 shall be made available for the Office of Inspector General.

#### **SEC. 103. PROPORTIONAL REDUCTION OF RESEARCH AND RELATED ACTIVITIES AMOUNTS.**

If the amount appropriated pursuant to section 102(a)(2)(A) or (b)(2)(A) is less than the amount authorized under that paragraph, the amount available for each scientific directorate under that paragraph shall be reduced by the same proportion.

#### **SEC. 104. CONSULTATION AND REPRESENTATION EXPENSES.**

From appropriations made under authorizations provided in this Act, not more than \$10,000 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses. The Director shall have the discretion to determine the expenses (as described in this section) for which the funds described in this section shall be used. Such a determination by the Director shall be final and binding on the accounting officers of the Federal Government.

#### **SEC. 105. UNITED STATES MAN AND THE BIOSPHERE PROGRAM LIMITATION.**

No funds appropriated pursuant to this Act shall be used for the United States Man and the Biosphere Program, or related projects.

## **TITLE II—GENERAL PROVISIONS**

42 USC 1862l.

#### **SEC. 201. NATIONAL RESEARCH FACILITIES.**

(a) FACILITIES PLAN.—

Deadline.

(1) IN GENERAL.—Not later than December 1, of each year, the Director shall, as part of the annual budget request, prepare



and submit to Congress a plan for the proposed construction of, and repair and upgrades to, national research facilities.

(2) CONTENTS OF THE PLAN.—The plan shall include—

(A) estimates of the costs for the construction, repairs, and upgrades described in paragraph (1);

(B) estimates of the costs for the operation and maintenance of existing and proposed new facilities; and

(C) in the case of proposed new construction and for major upgrades to existing facilities, funding profiles, by fiscal year, and milestones for major phases of the construction.

(3) SPECIAL RULE.—The plan shall include cost estimates in the categories of construction, repair, and upgrades—

(A) for the year in which the plan is submitted to Congress; and

(B) for not fewer than the succeeding 4 years.

(b) STATUS OF FACILITIES UNDER CONSTRUCTION.—The plan required under subsection (a) shall include a status report for each uncompleted construction project included in current and previous plans. The status report shall include data on cumulative construction costs by project compared with estimated costs, and shall compare the current and original schedules for achievement of milestones for the major phases of the construction. Reports.

#### SEC. 202. ADMINISTRATIVE AMENDMENTS.

(a) NATIONAL SCIENCE FOUNDATION ACT OF 1950 AMENDMENTS.—The National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.) is amended—

(1) in section 4(g) (42 U.S.C. 1863(g))—

(A) by striking “the appropriate rate provided for individuals in grade GS-18 of the General Schedule under section 5332” and inserting “the maximum rate payable under section 5376”; and

(B) by redesignating the second subsection (k) as subsection (l);

(2) in section 5(e) (42 U.S.C. 1864(e)) by striking paragraph

(2), and inserting the following:

“(2) Any delegation of authority or imposition of conditions under paragraph (1) shall be promptly published in the Federal Register and reported to the Committee on Labor and Human Resources, and the Committee on Commerce, Science, and Transportation, of the Senate and the Committee on Science of the House of Representatives.”; Federal Register, publication. Reports.

(3) in section 14(c) (42 U.S.C. 1873(c))—

(A) by striking “shall receive” and inserting “shall be entitled to receive”;

(B) by striking “the rate specified for the daily rate for GS-18 of the General Schedule under section 5332” and inserting “the maximum rate payable under section 5376”; and

(C) by adding at the end the following: “For the purposes of determining the payment of compensation under this subsection, the time spent in travel by any member of the Board or any member of a special commission shall

be deemed as time engaged in the business of the Foundation. Members of the Board and members of special commissions may waive compensation and reimbursement for traveling expenses.”; and

(4) in section 15(a) (42 U.S.C. 1874(a)), by striking “Atomic Energy Commission” and inserting “Secretary of Energy”.

(b) NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, 1976 AMENDMENTS.—Section 6(a) of the National Science Foundation Authorization Act, 1976 (42 U.S.C. 1881a(a)) is amended by striking “social,” the first place it appears.

(c) NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1988 AMENDMENTS.—Section 117(a) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b(a)) is amended—

(1) by striking paragraph (1)(B)(v) and inserting the following:

“(v) from schools established outside the several States and the District of Columbia by any agency of the Federal Government for dependents of the employees of such agency.”; and

(2) in paragraph (3)(A) by striking “Science and Engineering Education” and inserting “Education and Human Resources”.

(d) SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT AMENDMENTS.—The Science and Engineering Equal Opportunities Act (42 U.S.C. 1885 et seq.) is amended—

(1) in section 34 (42 U.S.C. 1885b)—

(A) by striking the section heading and inserting the following:

**“Participation in Science and Engineering of Minorities and Persons with Disabilities”;**

and

(B) by striking subsection (b) and inserting the following:

“(b) The Foundation is authorized to undertake or support programs and activities to encourage the participation of persons with disabilities in the science and engineering professions.”; and

(2) in section 36 (42 U.S.C. 1885c)—

(A) in subsection (a), by striking “minorities,” and all that follows through “in scientific” and inserting “minorities, and persons with disabilities in scientific”;

(B) in subsection (b)—

(i) by striking “with the concurrence of the National Science Board”; and

(ii) by striking the second sentence and inserting the following: “In addition, the Chairman of the National Science Board may designate a member of the Board as a member of the Committee.”;

(C) by striking subsections (c) and (d);

(D) by inserting after subsection (b) the following:

“(c) The Committee shall be responsible for reviewing and evaluating all Foundation matters relating to opportunities for the participation in, and the advancement of, women, minorities, and persons with disabilities in education, training, and science and engineering research programs.”;

(E) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(F) in subsection (d), as so redesignated by subparagraph (E), by striking “additional”.

(e) TECHNICAL AMENDMENT.—The second subsection (g) of section 3 of the National Science Foundation Act of 1950 is repealed.

42 USC 1862.

**SEC. 203. INDIRECT COSTS.**

42 USC 1862k  
note.

(a) MATCHING FUNDS.—Matching funds required pursuant to section 204(a)(2)(C) of the Academic Research Facilities Modernization Act of 1988 (42 U.S.C. 1862c(a)(2)(C)) shall not be considered facilities costs for purposes of determining indirect cost rates under Office of Management and Budget Circular A-21.

(b) REPORT.—

(1) IN GENERAL.—The Director of the Office of Science and Technology Policy, in consultation with other Federal agencies the Director deems appropriate, shall prepare a report—

(A) analyzing the Federal indirect cost reimbursement rates (as the term is defined in Office of Management and Budget Circular A-21) paid to universities in comparison with Federal indirect cost reimbursement rates paid to other entities, such as industry, government laboratories, research hospitals, and nonprofit institutions;

(B)(i) analyzing the distribution of the Federal indirect cost reimbursement rates by category (such as administration, facilities, utilities, and libraries), and by the type of entity; and

(ii) determining what factors, including the type of research, influence the distribution;

(C) analyzing the impact, if any, that changes in Office of Management and Budget Circular A-21 have had on—

(i) the Federal indirect cost reimbursement rates, the rate of change of the Federal indirect cost reimbursement rates, the distribution by category of the Federal indirect cost reimbursement rates, and the distribution by type of entity of the Federal indirect cost reimbursement rates; and

(ii) the Federal indirect cost reimbursement (as calculated in accordance with Office of Management and Budget Circular A-21), the rate of change of the Federal indirect cost reimbursement, the distribution by category of the Federal indirect cost reimbursement, and the distribution by type of entity of the Federal indirect cost reimbursement;

(D) analyzing the impact, if any, of Federal and State law on the Federal indirect cost reimbursement rates;

(E)(i) analyzing options to reduce or control the rate of growth of the Federal indirect cost reimbursement rates, including options such as benchmarking of facilities and equipment cost, elimination of cost studies, mandated percentage reductions in the Federal indirect cost reimbursement; and

(ii) assessing the benefits and burdens of the options to the Federal Government, research institutions, and researchers; and

(F) analyzing options for creating a database—

(i) for tracking the Federal indirect cost reimbursement rates and the Federal indirect cost reimbursement; and

(ii) for analyzing the impact that changes in policies with respect to Federal indirect cost reimbursement will have on the Federal Government, researchers, and research institutions.

Deadline.

(2) REPORT TO CONGRESS.—The report prepared under paragraph (1) shall be submitted to Congress not later than 1 year after the date of enactment of this Act.

42 USC 1862m  
note.

**SEC. 204. FINANCIAL DISCLOSURE.**

Persons temporarily employed by or at the Foundation shall be subject to the same financial disclosure requirements and related sanctions under the Ethics in Government Act of 1978 (5 U.S.C. App.) as are permanent employees of the Foundation in equivalent positions.

42 USC 1862k  
note.

**SEC. 205. NOTICE.**

(a) NOTICE OF REPROGRAMMING.—If any funds appropriated pursuant to the amendments made by this Act are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the Senate and the House of Representatives, notice of that action shall concurrently be provided to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Labor and Human Resources of the Senate, and the Committee on Science of the House of Representatives.

Deadline.

(b) NOTICE OF REORGANIZATION.—Not later than 15 days before any major reorganization of any program, project, or activity of the National Science Foundation, the Director of the National Science Foundation shall provide notice to the Committees on Science and Appropriations of the House of Representatives and the Committees on Commerce, Science and Transportation, Labor and Human Resources of the Senate, and Appropriations of the Senate.

42 USC 1862k  
note.

**SEC. 206. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.**

(a) DEFINITIONS.—In this section:

(1) EDUCATIONALLY USEFUL FEDERAL EQUIPMENT.—The term “educationally useful Federal equipment” means computers and related peripheral tools and research equipment that is appropriate for use in schools.

(2) SCHOOL.—The term “school” means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

(b) SENSE OF THE CONGRESS.—

(1) IN GENERAL.—It is the sense of the Congress that the Director should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

(2) REPORTS.—

Deadline.

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director shall prepare and submit to the President a report that meets the requirements of this paragraph. The

President.

President shall submit that report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

(B) CONTENTS OF REPORT.—The report prepared by the Director under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report.

**SEC. 207. REPORT ON RESERVIST EDUCATION ISSUES.**

(a) CONVENING APPROPRIATE REPRESENTATIVES.—The Director of the National Science Foundation, with the assistance of the Office of Science and Technology Policy, shall convene appropriate officials of the Federal Government and appropriate representatives of the postsecondary education community and of members of reserve components of the Armed Forces for the purpose of discussing and seeking a consensus on the appropriate resolution to problems relating to the academic standing and financial responsibilities of postsecondary students called or ordered to active duty in the Armed Forces.

Deadline.

(b) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Director of the National Science Foundation shall transmit to the Congress a report summarizing the results of the convening individuals under subsection (a), including any consensus recommendations resulting therefrom as well as any significant opinions expressed by each participant that are not incorporated in such a consensus recommendation.

President.

**SEC. 208. SCIENCE AND TECHNOLOGY POLICY INSTITUTE.**

(a) AMENDMENT.—Section 822 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 6686) is amended—

(1) by striking “**Critical Technologies Institute**” in the section heading and “Critical Technologies Institute” in subsection (a), and inserting “**Science and Technology Policy Institute**” and “Science and Technology Policy Institute”, respectively;

(2) in subsection (b) by striking “As determined by the chairman of the committee referred to in subsection (c), the” and inserting “The”;

(3) by striking subsection (c), and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively;

(4) in subsection (c), as so redesignated by paragraph (3) of this subsection—

(A) by inserting “science and” after “developments and trends in” in paragraph (1);

(B) by striking “with particular emphasis on” in paragraph (1) and inserting “including”;

(C) by inserting “and developing and maintaining relevant informational and analytical tools” before the period at the end of paragraph (1);

(D) by striking “to determine” and all that follows through “technology policies” in paragraph (2) and inserting “with particular attention to the scope and content of the Federal science and technology research and development portfolio as it affects interagency and national issues”;

(E) by amending paragraph (3) to read as follows:

“(3) Initiation of studies and analysis of alternatives available for ensuring the long-term strength of the United States in the development and application of science and technology, including appropriate roles for the Federal Government, State governments, private industry, and institutions of higher education in the development and application of science and technology.”;

(F) by inserting “science and” after “Executive branch on” in paragraph (4)(A); and

(G) by amending paragraph (4)(B) to read as follows:

“(B) to the interagency committees and panels of the Federal Government concerned with science and technology.”;

(5) by striking “subsection (d)” in subsection (d), as redesignated by paragraph (3) of this subsection, and inserting “subsection (c)”;

(6) by striking “Committee” in each place it appears in subsection (e), as redesignated by paragraph (3) of this subsection, and inserting “Institute”;

(7) by striking “subsection (d)” in subsection (f), as redesignated by paragraph (3) of this subsection, and inserting “subsection (c)”;

(8) by striking “Chairman of Committee” each place it appears in subsection (f), as redesignated by paragraph (3) of this subsection, and inserting “Director of Office of Science and Technology Policy”.

42 USC 6686  
note.

(b) CONFORMING USAGE.—All references in Federal law or regulations to the Critical Technologies Institute shall be considered to be references to the Science and Technology Policy Institute.

#### SEC. 209. SENSE OF THE CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 fast approaching, it is the sense of the Congress that the Foundation should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond;

(2) assess immediately the extent of the risk to the operations of the Foundation posed by the problems referred to in paragraph (1), and plan and budget for achieving Year 2000 compliance for all of its mission-critical systems; and

(3) develop contingency plans for those systems that the Foundation is unable to correct in time.

Approved July 29, 1998.

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#### LEGISLATIVE HISTORY—H.R. 1273 (S. 1046):

HOUSE REPORTS: No. 105-63 (Comm. on Science).

SENATE REPORTS: No. 105-110 accompanying S. 1046 (Comm. on Labor and Human Resources).

#### CONGRESSIONAL RECORD:

Vol. 143 (1997): Apr. 24, considered and passed House.

Vol. 144 (1998): May 12, considered and passed Senate, amended.

July 14, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

July 29, Presidential statement.



Public Law 105–208  
105th Congress

An Act

To facilitate the sale of certain land in Tahoe National Forest in the State of California to Placer County, California.

July 29, 1998

[H.R. 1439]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LAND CONVEYANCE, TAHOE NATIONAL FOREST, CALIFORNIA.**

(a) **SALE AUTHORIZED.**—Subject to all valid existing rights, the Secretary of Agriculture may sell to Placer County, California (in this section referred to as the “County”), all right, title, and interest of the United States in and to a parcel of real property, consisting of approximately 35 acres located in Tahoe National Forest in the State of California to permit the County to create a community park in Squaw Valley.

(b) **DESCRIPTION OF PROPERTY.**—The parcel to be conveyed under subsection (a) is generally depicted on a map entitled “Placer County Conveyance”, dated April 1997, which shall be available for public inspection in appropriate offices of the Secretary. The map and attached approximate legal description are subject to adjustment by survey. The cost of any such survey shall be borne by the County.

(c) **CONSIDERATION.**—As consideration for the conveyance under subsection (a), the County shall pay to the United States an amount equal to the fair market value of the conveyed parcel, as determined in conformance with the document entitled “Uniform Appraisal Standards for Federal Land Acquisitions (1992)”. The proceeds from the sale shall be deposited in the fund established by Public Law 90–171 (16 U.S.C. 484a; commonly known as the Sisk Act) and shall be available for expenditure in accordance with such Act.

(d) **EXISTING USES.**—As a condition on the conveyance under subsection (a), the County shall agree to provide for continuation of any existing non-Federal improvements or uses on the conveyed parcel for the remainder of the terms of the existing authorizations.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Approved July 29, 1998.

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**LEGISLATIVE HISTORY—H.R. 1439:**

HOUSE REPORTS: No. 105–114 (Comm. on Resources).

SENATE REPORTS: No. 105–231 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): June 3, considered and passed House.

Vol. 144 (1998): July 17, considered and passed Senate.



Public Law 105–209  
105th Congress

An Act

July 29, 1998  
[H.R. 1460]

To allow for election of the Delegate from Guam by other than separate ballot,  
and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. BALLOT REQUIREMENT FOR DELEGATE.**

Section 2(a) of the Act entitled “An Act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives” approved April 10, 1972 (48 U.S.C. 1712(a)), is amended—

(1) by inserting “from the Virgin Islands” before “shall be elected at large”; and

(2) by inserting “The Delegate from Guam shall be elected at large and by a majority of the votes cast for the office of Delegate.” before “If no candidate”.

President.

**SEC. 2. PROGRAM EXTENSION FOR COMMUNITIES IN THE FORMER UNITED STATES TRUST TERRITORY.**

Section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1903(h)(2)) is amended—

(1) by striking “ten” and inserting “fifteen”; and

(2) by adding at the end of subparagraph (B) the following: “The President shall ensure the assistance provided under these programs reflects the changes in the population since the inception of such programs.”.

Approved July 29, 1998.

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**LEGISLATIVE HISTORY—H.R. 1460:**

HOUSE REPORTS: No. 105–253 (Comm. on Resources).

SENATE REPORTS: No. 105–203 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Sept. 23, considered and passed House.

Vol. 144 (1998): July 17, considered and passed Senate.





Public Law 105–210  
105th Congress

An Act

To make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements.

July 29, 1998  
[H.R. 1779]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BOUNDARY ADJUSTMENT, DEVILS BACKBONE WILDERNESS, MARK TWAIN NATIONAL FOREST, MISSOURI.**

16 USC 1132  
note.

The boundary of the Devils Backbone Wilderness established by section 201(d) of Public Law 96–560 (16 U.S.C. 1132 note) in the Mark Twain National Forest, Missouri, is hereby modified to exclude from the area encompassed by the Devils Backbone Wilderness a parcel of real property consisting of approximately 2 acres in Ozark County, Missouri, and containing a garage, well, mailbox, driveway, and other improvements, as depicted on a map entitled “Devils Backbone Wilderness Boundary Modification”, dated June 1996. The map shall be retained with other Forest Service maps and legal descriptions regarding the Devils Backbone Wilderness and shall be made available for public inspection as provided in section 202 of Public Law 96–560 (94 Stat. 3274).

Approved July 29, 1998.

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LEGISLATIVE HISTORY—H.R. 1779:

HOUSE REPORTS: No. 105–295, Pt. 1 (Comm. on Agriculture).

SENATE REPORTS: No. 105–232 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Oct. 21, considered and passed House.

Vol. 144 (1998): July 17, considered and passed Senate.



Public Law 105–211  
105th Congress

An Act

July 29, 1998  
[H.R. 2165]

To extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 3862 in the State of Iowa, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF DEADLINE.**

(a) **PROJECT NUMBERED 3862.**—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to Federal Energy Regulatory Commission project numbered 3862, the Commission is authorized, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, to extend the time required for commencement of construction of the project for not more than 3 consecutive 2-year periods.

(b) **EFFECTIVE DATE.**—This section shall take effect on the date of the expiration of the extension of the period required for commencement of construction that the Commission issued, prior to the date of enactment of this Act, under section 13 of the Federal Power Act (16 U.S.C. 806) for the project described in subsection (a).

(c) **REINSTATEMENT OF EXPIRED LICENSE.**—If the license for the project referred to in subsection (a) has expired prior to the date of enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and extend the time required for commencement of construction of the project as provided in subsection (a) for not more than 3 consecutive 2-year periods, the first of which shall commence on the date of such expiration.

Approved July 29, 1998.

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**LEGISLATIVE HISTORY—H.R. 2165:**

HOUSE REPORTS: No. 105–273 (Comm. on Commerce).

SENATE REPORTS: No. 105–237 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Sept. 29, Nov. 13, considered and passed House.

Vol. 144 (1998): July 17, considered and passed Senate.



Public Law 105–212  
105th Congress

An Act

To extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes.

July 29, 1998  
[H.R. 2217]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF DEADLINE AND REINSTATEMENT OF LICENSE.**

(a) **EXTENSION OF DEADLINE.**—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to Federal Energy Regulatory Commission project numbered 9248, the Commission shall, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time required for commencement of construction of the project until January 30, 2002.

(b) **REINSTATEMENT OF EXPIRED LICENSE.**—The Commission shall reinstate, effective as of the date of its expiration, the license of the Town of Telluride, Colorado, for the project referred to in subsection (a) that expired prior to the date of the enactment of this Act.

Approved July 29, 1998.

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**LEGISLATIVE HISTORY—H.R. 2217:**

HOUSE REPORTS: No. 105–509 (Comm. on Commerce).

SENATE REPORTS: No. 105–238 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 12, considered and passed House.

July 17, considered and passed Senate.



Public Law 105–213  
105th Congress

An Act

July 29, 1998  
[H.R. 2841]

To extend the time required for the construction of a hydroelectric project.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF PERIOD TO COMMENCE CONSTRUCTION.**

(a) **IN GENERAL.**—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 805) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 10395, the Commission shall, at the request of the licensee for the project and after reasonable notice, in accordance with the good faith, due deference, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project, under the extension described in subsection (b), not more than 3 consecutive 2-year periods.

(b) **EFFECTIVE DATE.**—This section shall take effect on the date of the expiration of the extension of the period required for commencement of construction of the project described in subsection (a) that the Commission issued, prior to the date of enactment of this Act, under section 13 of the Federal Power Act (16 U.S.C. 806).

Approved July 29, 1998.

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**LEGISLATIVE HISTORY—H.R. 2841:**

HOUSE REPORTS: No. 105–510 (Comm. on Commerce).

SENATE REPORTS: No. 105–239 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 12, considered and passed House.

July 17, considered and passed Senate.



Public Law 105–214  
105th Congress

An Act

To amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

July 29, 1998  
[H.R. 2870]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS.**

The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following:

**“PART V—DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS**

Tropical Forest  
Conservation Act  
of 1998.

**“SEC. 801. SHORT TITLE.**

“This part may be cited as the ‘Tropical Forest Conservation Act of 1998’.

22 USC 2151  
note.

**“SEC. 802. FINDINGS AND PURPOSES.**

22 USC 2431.

“(a) FINDINGS.—The Congress finds the following:

“(1) It is the established policy of the United States to support and seek protection of tropical forests around the world.

“(2) Tropical forests provide a wide range of benefits to humankind by—

“(A) harboring a major share of the Earth’s biological and terrestrial resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops;

“(B) playing a critical role as carbon sinks in reducing greenhouse gases in the atmosphere, thus moderating potential global climate change; and

“(C) regulating hydrological cycles on which far-flung agricultural and coastal resources depend.

“(3) International negotiations and assistance programs to conserve forest resources have proliferated over the past decade, but the rapid rate of tropical deforestation continues unabated.

“(4) Developing countries with urgent needs for investment and capital for development have allocated a significant amount of their forests to logging concessions.

“(5) Poverty and economic pressures on the populations of developing countries have, over time, resulted in clearing of vast areas of forest for conversion to agriculture, which is often unsustainable in the poor soils underlying tropical forests.

“(6) Debt reduction can reduce economic pressures on developing countries and result in increased protection for tropical forests.

“(7) Finding economic benefits to local communities from sustainable uses of tropical forests is critical to the protection of tropical forests.

“(b) PURPOSES.—The purposes of this part are—

“(1) to recognize the values received by United States citizens from protection of tropical forests;

“(2) to facilitate greater protection of tropical forests (and to give priority to protecting tropical forests with the highest levels of biodiversity and under the most severe threat) by providing for the alleviation of debt in countries where tropical forests are located, thus allowing the use of additional resources to protect these critical resources and reduce economic pressures that have led to deforestation;

“(3) to ensure that resources freed from debt in such countries are targeted to protection of tropical forests and their associated values; and

“(4) to rechannel existing resources to facilitate the protection of tropical forests.

22 USC 2431a.

**“SEC. 803. DEFINITIONS.**

“As used in this part:

“(1) ADMINISTERING BODY.—The term ‘administering body’ means the entity provided for in section 809(c).

“(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

“(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

“(3) BENEFICIARY COUNTRY.—The term ‘beneficiary country’ means an eligible country with respect to which the authority of section 806(a)(1), section 807(a)(1), or paragraph (1) or (2) of section 808(a) is exercised.

“(4) BOARD.—The term ‘Board’ means the board referred to in section 811.

“(5) DEVELOPING COUNTRY WITH A TROPICAL FOREST.—The term ‘developing country with a tropical forest’ means—

“(A)(i) a country that has a per capita income of \$725 or less in 1994 United States dollars (commonly referred to as ‘low-income country’), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; or

“(ii) a country that has a per capita income of more than \$725 but less than \$8,956 in 1994 United States dollars (commonly referred to as ‘middle-income country’), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; and

“(B) a country that contains at least one tropical forest that is globally outstanding in terms of its biological diversity or represents one of the larger intact blocks of tropical forests left, on a regional, continental, or global scale.

“(6) ELIGIBLE COUNTRY.—The term ‘eligible country’ means a country designated by the President in accordance with section 805.

“(7) TROPICAL FOREST AGREEMENT.—The term ‘Tropical Forest Agreement’ or ‘Agreement’ means a Tropical Forest Agreement provided for in section 809.

“(8) TROPICAL FOREST FACILITY.—The term ‘Tropical Forest Facility’ or ‘Facility’ means the Tropical Forest Facility established in the Department of the Treasury by section 804.

“(9) TROPICAL FOREST FUND.—The term ‘Tropical Forest Fund’ or ‘Fund’ means a Tropical Forest Fund provided for in section 810.

**“SEC. 804. ESTABLISHMENT OF THE FACILITY.**

22 USC 2431b.

“There is established in the Department of the Treasury an entity to be known as the ‘Tropical Forest Facility’ for the purpose of providing for the administration of debt reduction in accordance with this part.

**“SEC. 805. ELIGIBILITY FOR BENEFITS.**

22 USC 2431c.

“(a) IN GENERAL.—To be eligible for benefits from the Facility under this part, a country shall be a developing country with a tropical forest—

“(1) whose government meets the requirements applicable to Latin American or Caribbean countries under paragraphs (1) through (5) and (7) of section 703(a) of this Act; and

“(2) that has put in place major investment reforms, as evidenced by the conclusion of a bilateral investment treaty with the United States, implementation of an investment sector loan with the Inter-American Development Bank, World Bank-supported investment reforms, or other measures, as appropriate.

“(b) ELIGIBILITY DETERMINATIONS.—

President.

“(1) IN GENERAL.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part.

“(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

**“SEC. 806. REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CONCESSIONAL LOANS UNDER THE FOREIGN ASSISTANCE ACT OF 1961.**

22 USC 2431d.

“(a) AUTHORITY TO REDUCE DEBT.—

“(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

“(2) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

“(A) \$25,000,000 for fiscal year 1999;

“(B) \$75,000,000 for fiscal year 2000; and

“(C) \$100,000,000 for fiscal year 2001.

“(3) CERTAIN PROHIBITIONS INAPPLICABLE.—

“(A) IN GENERAL.—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

“(B) ADDITIONAL REQUIREMENT.—The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

“(b) IMPLEMENTATION OF DEBT REDUCTION.—

“(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

“(2) EXCHANGE OF OBLIGATIONS.—

Notification.

“(A) IN GENERAL.—The Facility shall notify the agency primarily responsible for administering part I of this Act of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

“(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation for the country shall be established relating to the agreement, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

Applicability.

“(c) ADDITIONAL TERMS AND CONDITIONS.—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 704(a)(1) of this Act:

“(1) The provisions relating to repayment of principal under section 705 of this Act.

“(2) The provisions relating to interest on new obligations under section 706 of this Act.

22 USC 2431e.

**“SEC. 807. REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CREDITS EXTENDED UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.**

“(a) AUTHORITY TO REDUCE DEBT.—

“(1) AUTHORITY.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of any credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to a country eligible for benefits from the Facility.

“(2) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

“(i) \$25,000,000 for fiscal year 1999;

“(ii) \$50,000,000 for fiscal year 2000; and

“(iii) \$50,000,000 for fiscal year 2001.



“(B) LIMITATION.—The authority provided by this section shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to this section are made in advance.

“(b) IMPLEMENTATION OF DEBT REDUCTION.—

“(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

“(2) EXCHANGE OF OBLIGATIONS.—

Notification.

“(A) IN GENERAL.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

“(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation shall be established for the country relating to the agreement, and the Commodity Credit Corporation shall make an adjustment in its accounts to reflect the debt reduction.

“(c) ADDITIONAL TERMS AND CONDITIONS.—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 604(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c):

Applicability.

“(1) The provisions relating to repayment of principal under section 605 of such Act.

“(2) The provisions relating to interest on new obligations under section 606 of such Act.

“SEC. 808. AUTHORITY TO ENGAGE IN DEBT-FOR-NATURE SWAPS AND DEBT BUYBACKS.

22 USC 2431f.

“(a) LOANS AND CREDITS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

“(1) DEBT-FOR-NATURE SWAPS.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser described in subparagraph (B) any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible purchaser described in subparagraph (B), reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt-for-nature swap to support eligible activities described in section 809(d).

“(B) ELIGIBLE PURCHASER DESCRIBED.—A loan or credit may be sold, reduced, or canceled under subparagraph (A) only to a purchaser who presents plans satisfactory to the President for using the loan or credit for the purpose of engaging in debt-for-nature swaps to support eligible activities described in section 809(d).

“(C) CONSULTATION REQUIREMENT.—Before the sale under subparagraph (A) to any eligible purchaser described in subparagraph (B), or any reduction or cancellation under

President.

such subparagraph (A), of any loan or credit made to an eligible country, the President shall consult with the country concerning the amount of loans or credits to be sold, reduced, or canceled and their uses for debt-for-nature swaps to support eligible activities described in section 809(d).

“(D) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to subparagraph (A), amounts authorized to appropriated under sections 806(a)(2) and 807(a)(2) shall be made available for such reduction of debt pursuant to subparagraph (A).

“(2) DEBT BUYBACKS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible country any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible country, reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than the lessor of 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support eligible activities described in section 809(d).

“(3) LIMITATION.—The authority provided by paragraphs (1) and (2) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to such paragraphs are made in advance.

President.

“(4) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans and credits may be sold, reduced, or canceled pursuant to this section.

Notification.

“(5) ADMINISTRATION.—

“(A) IN GENERAL.—The Facility shall notify the administrator of the agency primarily responsible for administering part I of this Act or the Commodity Credit Corporation, as the case may be, of eligible purchasers described in paragraph (1)(B) that the President has determined to be eligible under paragraph (1), and shall direct such agency or Corporation, as the case may be, to carry out the sale, reduction, or cancellation of a loan pursuant to such paragraph.

“(B) ADDITIONAL REQUIREMENT.—Such agency or Corporation, as the case may be, shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

“(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

22 USC 2431g.

**“SEC. 809. TROPICAL FOREST AGREEMENT.**

“(a) AUTHORITY.—

“(1) IN GENERAL.—The Secretary of State is authorized, in consultation with other appropriate officials of the Federal Government, to enter into a Tropical Forest Agreement with any eligible country concerning the operation and use of the Fund for that country.

“(2) CONSULTATION.—In the negotiation of such an Agreement, the Secretary shall consult with the Board in accordance with section 811.

“(b) CONTENTS OF AGREEMENT.—The requirements contained in section 708(b) of this Act (relating to contents of an agreement) shall apply to an Agreement in the same manner as such requirements apply to an Americas Framework Agreement.

“(c) ADMINISTERING BODY.—

“(1) IN GENERAL.—Amounts disbursed from the Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

“(2) COMPOSITION.—

“(A) IN GENERAL.—The administering body shall consist of—

“(i) one or more individuals appointed by the United States Government;

“(ii) one or more individuals appointed by the government of the beneficiary country; and

“(iii) individuals who represent a broad range of—  
“(I) environmental nongovernmental organizations of, or active in, the beneficiary country;

“(II) local community development nongovernmental organizations of the beneficiary country; and

“(III) scientific, academic, or forestry organizations of the beneficiary country.

“(B) ADDITIONAL REQUIREMENT.—A majority of the members of the administering body shall be individuals described in subparagraph (A)(iii).

“(3) RESPONSIBILITIES.—The requirements contained in section 708(c)(3) of this Act (relating to responsibilities of the administering body) shall apply to an administering body described in paragraph (1) in the same manner as such requirements apply to an administering body described in section 708(c)(1) of this Act.

“(d) ELIGIBLE ACTIVITIES.—Amounts deposited in a Fund shall be used only to provide grants to conserve, maintain, and restore the tropical forests in the beneficiary country, through one or more of the following activities:

“(1) Establishment, restoration, protection, and maintenance of parks, protected areas, and reserves.

“(2) Development and implementation of scientifically sound systems of natural resource management, including land and ecosystem management practices.

“(3) Training programs to increase the scientific, technical, and managerial capacities of individuals and organizations involved in conservation efforts.

“(4) Restoration, protection, or sustainable use of diverse animal and plant species.

“(5) Research and identification of medicinal uses of tropical forest plant life to treat human diseases, illnesses, and health related concerns.

“(6) Development and support of the livelihoods of individuals living in or near a tropical forest in a manner consistent with protecting such tropical forest.

“(e) GRANT RECIPIENTS.—

“(1) IN GENERAL.—Grants made from a Fund shall be made to—

“(A) nongovernmental environmental, forestry, conservation, and indigenous peoples organizations of, or active in, the beneficiary country;

“(B) other appropriate local or regional entities of, or active in, the beneficiary country; or

“(C) in exceptional circumstances, the government of the beneficiary country.

“(2) PRIORITY.—In providing grants under paragraph (1), priority shall be given to projects that are run by nongovernmental organizations and other private entities and that involve local communities in their planning and execution.

“(f) REVIEW OF LARGER GRANTS.—Any grant of more than \$100,000 from a Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

“(g) ELIGIBILITY CRITERIA.—In the event that a country ceases to meet the eligibility requirements set forth in section 805(a), as determined by the President pursuant to section 805(b), then grants from the Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 805(a).

22 USC 2431h.

**“SEC. 810. TROPICAL FOREST FUND.**

“(a) ESTABLISHMENT.—Each beneficiary country that enters into a Tropical Forest Agreement under section 809 shall be required to establish a Tropical Forest Fund to receive payments of interest on new obligations undertaken by the beneficiary country under this part.

“(b) REQUIREMENTS RELATING TO OPERATION OF FUND.—The following terms and conditions shall apply to the Fund in the same manner as such terms as conditions apply to an Enterprise for the Americas Fund under section 707 of this Act:

“(1) The provision relating to deposits under subsection (b) of such section.

“(2) The provision relating to investments under subsection (c) of such section.

“(3) The provision relating to disbursements under subsection (d) of such section.

22 USC 2431i.

**“SEC. 811. BOARD.**

“(a) ENTERPRISE FOR THE AMERICAS BOARD.—The Enterprise for the Americas Board established under section 610(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(a)) shall, in addition to carrying out the responsibilities of the Board under section 610(c) of such Act, carry out the duties described in subsection (c) of this section for the purposes of this part.

President.

“(b) ADDITIONAL MEMBERSHIP.—

“(1) IN GENERAL.—The Enterprise for the Americas Board shall be composed of an additional four members appointed by the President as follows:

“(A) Two representatives from the United States Government, including a representative of the International Forestry Division of the United States Forest Service.

“(B) Two representatives from private nongovernmental environmental, scientific, forestry, or academic organizations with experience and expertise in preservation, maintenance, sustainable uses, and restoration of tropical forests.

“(2) CHAIRPERSON.—Notwithstanding section 610(b)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(2)), the Enterprise for the Americas Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under section 610(b)(1)(A) of such Act or paragraph (1)(A) of this subsection.

“(c) DUTIES.—The duties described in this subsection are as follows:

“(1) Advise the Secretary of State on the negotiations of Tropical Forest Agreements.

“(2) Ensure, in consultation with—

“(A) the government of the beneficiary country;

“(B) nongovernmental organizations of the beneficiary country;

“(C) nongovernmental organizations of the region (if appropriate);

“(D) environmental, scientific, forestry, and academic leaders of the beneficiary country; and

“(E) environmental, scientific, forestry, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Fund.

“(3) Review the programs, operations, and fiscal audits of each administering body.

**“SEC. 812. CONSULTATIONS WITH THE CONGRESS.**

President.  
22 USC 2431j.

“The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this part and the eligibility of countries for benefits from the Facility under this part.

**“SEC. 813. ANNUAL REPORTS TO THE CONGRESS.**

22 USC 2431k.

“(a) IN GENERAL.—Not later than December 31 of each year, the President shall prepare and transmit to the Congress an annual report concerning the operation of the Facility for the prior fiscal year. Such report shall include—

Deadline.  
President.

“(1) a description of the activities undertaken by the Facility during the previous fiscal year;

“(2) a description of any Agreement entered into under this part;

“(3) a report on any Funds that have been established under this part and on the operations of such Funds; and

“(4) a description of any grants that have been provided by administering bodies pursuant to Agreements under this part.

Deadline.

“(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—Not later than December 15 of each year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this part by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.”.

Approved July 29, 1998.

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LEGISLATIVE HISTORY—H.R. 2870 (S. 1758):

HOUSE REPORTS: No. 105-443 (Comm. on International Relations).

SENATE REPORTS: No. 105-219 accompanying S. 1758 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 19, considered and passed House.

July 14, considered and passed Senate, amended.

July 15, House concurred in Senate amendment.



Public Law 105–215  
105th Congress

An Act

To present a congressional gold medal to Nelson Rolihlahla Mandela.

July 29, 1998

[H.R. 3156]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

31 USC 5111  
note.

The Congress finds the following:

(1) Nelson Mandela has dedicated his entire life to the abolition of apartheid and the creation of a true democracy in the Republic of South Africa and has sacrificed his own personal freedom for the good of everyone.

(2) For nearly 30 years as a political prisoner, Nelson Mandela never compromised his political principles, was a source of strength and education for other political prisoners, and refused offers of freedom in exchange for a renunciation of his personal and political beliefs.

(3) After his release from prison, Nelson Mandela continued to pursue his goal of a free South Africa, and was elected and subsequently inaugurated as State President of the Republic of South Africa on May 10, 1994, at the age of 75 years.

(4) Nelson Mandela's dedication to freedom did not cease once the apartheid laws were lifted, as he then focused his efforts toward reconciliation by creating the Truth and Reconciliation Commission, chaired by the Archbishop Desmond Tutu.

Desmond Tutu.

(5) Nelson Mandela is the recipient of many awards and accolades, including the Nobel Peace Prize (which he accepted with then-State President F.W. de Klerk in 1993), and more than 50 honorary degrees from universities around the world.

(6) Millions of individuals of all races and backgrounds in the United States and around the world followed Nelson Mandela's example and fought for the abolition of apartheid in the Republic of South Africa and in this regard the Congress recognizes Amy Elizabeth Biehl, an American student who lost her life in the struggle to free South Africa from racial oppression, and the spirit of forgiveness and reconciliation displayed by her parents, Peter and Linda Biehl.

Amy Elizabeth  
Biehl.  
Peter Biehl.  
Linda Biehl.

(7) Nelson Mandela is a prime example of how to work to heal the wounds of racism.

**SEC. 2. CONGRESSIONAL GOLD MEDAL.**

31 USC 5111  
note.

(a) **PRESENTATION AUTHORIZED.**—The President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Nelson Rolihlahla Mandela in recognition of his life-

long dedication to the abolition of apartheid and the promotion of reconciliation among the people of the Republic of South Africa.

(b) **DESIGN AND STRIKING.**—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the “Secretary”) shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

31 USC 5111  
note.

**SEC. 3. DUPLICATE MEDALS.**

Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck under section 2 at a price sufficient to cover the costs of the medals, including labor, materials, dies, use of machinery, and overhead expenses.

31 USC 5111  
note.

**SEC. 4. NATIONAL MEDALS.**

The medals struck under this Act are national medals for purposes of chapter 51 of title 31, United States Code.

31 USC 5111  
note.

**SEC. 5. FUNDING AND PROCEEDS OF SALE.**

(a) **AUTHORIZATION.**—There is hereby authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed \$30,000 to pay for the cost of the medals authorized by this Act.

(b) **PROCEEDS OF SALE.**—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

Approved July 29, 1998.

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**LEGISLATIVE HISTORY—H.R. 3156:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 16, considered and passed House.

July 14, considered and passed Senate.





Public Law 105–216  
105th Congress

An Act

To require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required as a condition for entering into a residential mortgage transaction, to abolish the Thrift Depositor Protection Oversight Board, and for other purposes.

July 29, 1998  
[S. 318]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Homeowners Protection Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Termination of private mortgage insurance.
- Sec. 4. Disclosure requirements.
- Sec. 5. Notification upon cancellation or termination.
- Sec. 6. Disclosure requirements for lender paid mortgage insurance.
- Sec. 7. Fees for disclosures.
- Sec. 8. Civil liability.
- Sec. 9. Effect on other laws and agreements.
- Sec. 10. Enforcement.
- Sec. 11. Construction.
- Sec. 12. Amendment to Higher Education Act of 1965.
- Sec. 13. Effective date.
- Sec. 14. Abolishment of the Thrift Depositor Protection Oversight Board.

Homeowners  
Protection Act  
of 1998.  
12 USC 4901  
note.

**SEC. 2. DEFINITIONS.**

12 USC 4901.

In this Act, the following definitions shall apply:

(1) **ADJUSTABLE RATE MORTGAGE.**—The term “adjustable rate mortgage” means a residential mortgage that has an interest rate that is subject to change.

(2) **CANCELLATION DATE.**—The term “cancellation date” means—

(A) with respect to a fixed rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(ii) based solely on actual payments, reaches 80 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(ii) based solely on actual payments, first reaches 80 percent of the original value of the property securing the loan.

(3) **FIXED RATE MORTGAGE.**—The term “fixed rate mortgage” means a residential mortgage that has an interest rate that is not subject to change.

(4) **GOOD PAYMENT HISTORY.**—The term “good payment history” means, with respect to a mortgagor, that the mortgagor has not—

(A) made a mortgage payment that was 60 days or longer past due during the 12-month period beginning 24 months before the date on which the mortgage reaches the cancellation date; or

(B) made a mortgage payment that was 30 days or longer past due during the 12-month period preceding the date on which the mortgage reaches the cancellation date.

(5) **INITIAL AMORTIZATION SCHEDULE.**—The term “initial amortization schedule” means a schedule established at the time at which a residential mortgage transaction is consummated with respect to a fixed rate mortgage, showing—

(A) the amount of principal and interest that is due at regular intervals to retire the principal balance and accrued interest over the amortization period of the loan; and

(B) the unpaid principal balance of the loan after each scheduled payment is made.

(6) **MORTGAGE INSURANCE.**—The term “mortgage insurance” means insurance, including any mortgage guaranty insurance, against the nonpayment of, or default on, an individual mortgage or loan involved in a residential mortgage transaction.

(7) **MORTGAGE INSURER.**—The term “mortgage insurer” means a provider of private mortgage insurance, as described in this Act, that is authorized to transact such business in the State in which the provider is transacting such business.

(8) **MORTGAGEE.**—The term “mortgagee” means the holder of a residential mortgage at the time at which that mortgage transaction is consummated.

(9) **MORTGAGOR.**—The term “mortgagor” means the original borrower under a residential mortgage or his or her successors or assignees.

(10) **ORIGINAL VALUE.**—The term “original value”, with respect to a residential mortgage, means the lesser of the sales price of the property securing the mortgage, as reflected in the contract, or the appraised value at the time at which the subject residential mortgage transaction was consummated.

(11) **PRIVATE MORTGAGE INSURANCE.**—The term “private mortgage insurance” means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(12) **RESIDENTIAL MORTGAGE.**—The term “residential mortgage” means a mortgage, loan, or other evidence of a security

interest created with respect to a single-family dwelling that is the primary residence of the mortgagor.

(13) **RESIDENTIAL MORTGAGE TRANSACTION.**—The term “residential mortgage transaction” means a transaction consummated on or after the date that is 1 year after the date of enactment of this Act, in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against a single-family dwelling that is the primary residence of the mortgagor to finance the acquisition, initial construction, or refinancing of that dwelling.

(14) **SERVICER.**—The term “servicer” has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974, with respect to a residential mortgage.

(15) **SINGLE-FAMILY DWELLING.**—The term “single-family dwelling” means a residence consisting of 1 family dwelling unit.

(16) **TERMINATION DATE.**—The term “termination date” means—

(A) with respect to a fixed rate mortgage, the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, the date on which the principal balance of the mortgage, based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan.

### **SEC. 3. TERMINATION OF PRIVATE MORTGAGE INSURANCE.**

12 USC 4902.

(a) **BORROWER CANCELLATION.**—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall be canceled on the cancellation date, if the mortgagor—

(1) submits a request in writing to the servicer that cancellation be initiated;

(2) has a good payment history with respect to the residential mortgage; and

(3) has satisfied any requirement of the holder of the mortgage (as of the date of a request under paragraph (1)) for—

(A) evidence (of a type established in advance and made known to the mortgagor by the servicer promptly upon receipt of a request under paragraph (1)) that the value of the property securing the mortgage has not declined below the original value of the property; and

(B) certification that the equity of the mortgagor in the residence securing the mortgage is unencumbered by a subordinate lien.

(b) **AUTOMATIC TERMINATION.**—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall terminate with respect to payments for that mortgage insurance made by the mortgagor—

(1) on the termination date if, on that date, the mortgagor is current on the payments required by the terms of the residential mortgage transaction; or

(2) on the date after the termination date on which the mortgagor becomes current on the payments required by the terms of the residential mortgage transaction.

(c) FINAL TERMINATION.—If a requirement for private mortgage insurance is not otherwise canceled or terminated in accordance with subsection (a) or (b), in no case may such a requirement be imposed beyond the first day of the month immediately following the date that is the midpoint of the amortization period of the loan if the mortgagor is current on the payments required by the terms of the mortgage.

(d) NO FURTHER PAYMENTS.—No payments or premiums may be required from the mortgagor in connection with a private mortgage insurance requirement terminated or canceled under this section—

(1) in the case of cancellation under subsection (a), more than 30 days after the later of—

(A) the date on which a request under subsection (a)(1) is received; or

(B) the date on which the mortgagor satisfies any evidence and certification requirements under subsection (a)(3);

(2) in the case of termination under subsection (b), more than 30 days after the termination date or the date referred to in subsection (b)(2), as applicable; and

(3) in the case of termination under subsection (c), more than 30 days after the final termination date established under that subsection.

(e) RETURN OF UNEARNED PREMIUMS.—

Deadline.

(1) IN GENERAL.—Not later than 45 days after the termination or cancellation of a private mortgage insurance requirement under this section, all unearned premiums for private mortgage insurance shall be returned to the mortgagor by the servicer.

Deadline.

(2) TRANSFER OF FUNDS TO SERVICER.—Not later than 30 days after notification by the servicer of termination or cancellation of private mortgage insurance under this Act with respect to a mortgagor, a mortgage insurer that is in possession of any unearned premiums of that mortgagor shall transfer to the servicer of the subject mortgage an amount equal to the amount of the unearned premiums for repayment in accordance with paragraph (1).

(f) EXCEPTIONS FOR HIGH RISK LOANS.—

(1) IN GENERAL.—The termination and cancellation provisions in subsections (a) and (b) do not apply to any residential mortgage or mortgage transaction that, at the time at which the residential mortgage transaction is consummated, has high risks associated with the extension of the loan—

(A) as determined in accordance with guidelines published by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, in the case of a mortgage loan with an original principal balance that does not exceed the applicable annual conforming loan limit for the secondary market established pursuant to

section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, so as to require the imposition or continuation of a private mortgage insurance requirement beyond the terms specified in subsection (a) or (b) of section 3; or

(B) as determined by the mortgagee in the case of any other mortgage, except that termination shall occur—

(i) with respect to a fixed rate mortgage, on the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan; and

(ii) with respect to an adjustable rate mortgage, on the date on which the principal balance of the mortgage, based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan.

(2) TERMINATION AT MIDPOINT.—A private mortgage insurance requirement in connection with a residential mortgage or mortgage transaction described in paragraph (1) shall terminate in accordance with subsection (c).

(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require a mortgage or mortgage transaction described in paragraph (1)(A) to be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(4) GAO REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report describing the volume and characteristics of residential mortgages and residential mortgage transactions that, pursuant to paragraph (1) of this subsection, are exempt from the application of subsections (a) and (b). The report shall—

Deadline.

(A) determine the number or volume of such mortgages and transactions compared to residential mortgages and residential mortgage transactions that are not classified as high-risk for purposes of paragraph (1); and

(B) identify the characteristics of such mortgages and transactions that result in their classification (for purposes of paragraph (1)) as having high risks associated with the extension of the loan and describe such characteristics, including—

(i) the income levels and races of the mortgagors involved;

(ii) the amount of the downpayments involved and the downpayments expressed as percentages of the acquisition costs of the properties involved;

(iii) the types and locations of the properties involved;

(iv) the mortgage principal amounts; and

(v) any other characteristics of such mortgages and transactions that may contribute to their classification as high risk for purposes of paragraph (1), including whether such mortgages are purchase-money mortgages or refinancings and whether and to what extent such loans are low-documentation loans.

12 USC 4903.

**SEC. 4. DISCLOSURE REQUIREMENTS.**

(a) DISCLOSURES FOR NEW MORTGAGES AT TIME OF TRANSACTION.—

(1) DISCLOSURES FOR NON-EXEMPTED TRANSACTIONS.—In any case in which private mortgage insurance is required in connection with a residential mortgage or mortgage transaction (other than a mortgage or mortgage transaction described in section 3(f)(1)), at the time at which the transaction is consummated, the mortgagee shall provide to the mortgagor—

(A) if the transaction relates to a fixed rate mortgage—  
 (i) a written initial amortization schedule; and  
 (ii) written notice—

(I) that the mortgagor may cancel the requirement in accordance with section 3(a) of this Act indicating the date on which the mortgagor may request cancellation, based solely on the initial amortization schedule;

(II) that the mortgagor may request cancellation in accordance with section 3(a) of this Act earlier than provided for in the initial amortization schedule, based on actual payments;

(III) that the requirement for private mortgage insurance will automatically terminate on the termination date in accordance with section 3(b) of this Act, and what that termination date is with respect to that mortgage; and

(IV) that there are exemptions to the right to cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 3(f) of this Act, and whether such an exemption applies at that time to that transaction; and

(B) if the transaction relates to an adjustable rate mortgage, a written notice that—

(i) the mortgagor may cancel the requirement in accordance with section 3(a) of this Act on the cancellation date, and that the servicer will notify the mortgagor when the cancellation date is reached;

(ii) the requirement for private mortgage insurance will automatically terminate on the termination date, and that on the termination date, the mortgagor will be notified of the termination or that the requirement will be terminated as soon as the mortgagor is current on loan payments; and

(iii) there are exemptions to the right of cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 3(f) of this Act, and whether such an exemption applies at that time to that transaction.

(2) **DISCLOSURES FOR EXCEPTED TRANSACTIONS.**—In the case of a mortgage or mortgage transaction described in section 3(f)(1), at the time at which the transaction is consummated, the mortgagee shall provide written notice to the mortgagor that in no case may private mortgage insurance be required beyond the date that is the midpoint of the amortization period of the loan, if the mortgagor is current on payments required by the terms of the residential mortgage.

(3) **ANNUAL DISCLOSURES.**—If private mortgage insurance is required in connection with a residential mortgage transaction, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(A) the rights of the mortgagor under this Act to cancellation or termination of the private mortgage insurance requirement; and

(B) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(4) **APPLICABILITY.**—Paragraphs (1) through (3) shall apply with respect to each residential mortgage transaction consummated on or after the date that is 1 year after the date of enactment of this Act.

(b) **DISCLOSURES FOR EXISTING MORTGAGES.**—If private mortgage insurance was required in connection with a residential mortgage entered into at any time before the effective date of this Act, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(1) that the private mortgage insurance may, under certain circumstances, be canceled by the mortgagor (with the consent of the mortgagee or in accordance with applicable State law); and

(2) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(c) **INCLUSION IN OTHER ANNUAL NOTICES.**—The information and disclosures required under subsection (b) and paragraphs (1)(B) and (3) of subsection (a) may be provided on the annual disclosure relating to the escrow account made as required under the Real Estate Settlement Procedures Act of 1974, or as part of the annual disclosure of interest payments made pursuant to Internal Revenue Service regulations, and on a form promulgated by the Internal Revenue Service for that purpose.

(d) **STANDARDIZED FORMS.**—The mortgagee or servicer may use standardized forms for the provision of disclosures required under this section.

#### **SEC. 5. NOTIFICATION UPON CANCELLATION OR TERMINATION.**

12 USC 4904.

(a) **IN GENERAL.**—Not later than 30 days after the date of cancellation or termination of a private mortgage insurance requirement in accordance with this Act, the servicer shall notify the mortgagor in writing—

Deadline.

(1) that the private mortgage insurance has terminated and that the mortgagor no longer has private mortgage insurance; and

(2) that no further premiums, payments, or other fees shall be due or payable by the mortgagor in connection with the private mortgage insurance.

## (b) NOTICE OF GROUNDS.—

(1) IN GENERAL.—If a servicer determines that a mortgage did not meet the requirements for termination or cancellation of private mortgage insurance under subsection (a) or (b) of section 3, the servicer shall provide written notice to the mortgagor of the grounds relied on to make the determination (including the results of any appraisal used to make the determination).

(2) TIMING.—Notice required by paragraph (1) shall be provided—

(A) with respect to cancellation of private mortgage insurance under section 3(a), not later than 30 days after the later of—

(i) the date on which a request is received under section 3(a)(1); or

(ii) the date on which the mortgagor satisfies any evidence and certification requirements under section 3(a)(3); and

(B) with respect to termination of private mortgage insurance under section 3(b), not later than 30 days after the scheduled termination date.

12 USC 4905.

**SEC. 6. DISCLOSURE REQUIREMENTS FOR LENDER PAID MORTGAGE INSURANCE.**

(a) DEFINITIONS.—For purposes of this section—

(1) the term “borrower paid mortgage insurance” means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by the borrower;

(2) the term “lender paid mortgage insurance” means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by a person other than the borrower; and

(3) the term “loan commitment” means a prospective mortgagee’s written confirmation of its approval, including any applicable closing conditions, of the application of a prospective mortgagor for a residential mortgage loan.

(b) EXCLUSION.—Sections 3 through 5 do not apply in the case of lender paid mortgage insurance.

(c) NOTICES TO MORTGAGOR.—In the case of lender paid mortgage insurance that is required in connection with a residential mortgage or a residential mortgage transaction—

(1) not later than the date on which a loan commitment is made for the residential mortgage transaction, the prospective mortgagee shall provide to the prospective mortgagor a written notice—

(A) that lender paid mortgage insurance differs from borrower paid mortgage insurance, in that lender paid mortgage insurance may not be canceled by the mortgagor, while borrower paid mortgage insurance could be cancelable by the mortgagor in accordance with section 3(a) of this Act, and could automatically terminate on the termination date in accordance with section 3(b) of this Act;

(B) that lender paid mortgage insurance—



(i) usually results in a residential mortgage having a higher interest rate than it would in the case of borrower paid mortgage insurance; and

(ii) terminates only when the residential mortgage is refinanced, paid off, or otherwise terminated; and

(C) that lender paid mortgage insurance and borrower paid mortgage insurance both have benefits and disadvantages, including a generic analysis of the differing costs and benefits of a residential mortgage in the case lender paid mortgage insurance versus borrower paid mortgage insurance over a 10-year period, assuming prevailing interest and property appreciation rates;

(D) that lender paid mortgage insurance may be tax-deductible for purposes of Federal income taxes, if the mortgagor itemizes expenses for that purpose; and

(2) not later than 30 days after the termination date that would apply in the case of borrower paid mortgage insurance, the servicer shall provide to the mortgagor a written notice indicating that the mortgagor may wish to review financing options that could eliminate the requirement for private mortgage insurance in connection with the residential mortgage.

Deadline.

(d) STANDARD FORMS.—The servicer of a residential mortgage may develop and use a standardized form or forms for the provision of notices to the mortgagor, as required under subsection (c).

#### SEC. 7. FEES FOR DISCLOSURES.

12 USC 4906.

No fee or other cost may be imposed on any mortgagor with respect to the provision of any notice or information to the mortgagor pursuant to this Act.

#### SEC. 8. CIVIL LIABILITY.

12 USC 4907.

(a) IN GENERAL.—Any servicer, mortgagee, or mortgage insurer that violates a provision of this Act shall be liable to each mortgagor to whom the violation relates for—

(1) in the case of an action by an individual, or a class action in which the liable party is not subject to section 10, any actual damages sustained by the mortgagor as a result of the violation, including interest (at a rate determined by the court) on the amount of actual damages, accruing from the date on which the violation commences;

(2) in the case of—

(A) an action by an individual, such statutory damages as the court may allow, not to exceed \$2,000; and

(B) in the case of a class action—

(i) in which the liable party is subject to section 10, such amount as the court may allow, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of \$500,000 or 1 percent of the net worth of the liable party, as determined by the court; and

(ii) in which the liable party is not subject to section 10, such amount as the court may allow, not to exceed \$1,000 as to each member of the class, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall

not exceed the lesser of \$500,000 or 1 percent of the gross revenues of the liable party, as determined by the court;

(3) costs of the action; and

(4) reasonable attorney fees, as determined by the court.

(b) **TIMING OF ACTIONS.**—No action may be brought by a mortgagor under subsection (a) later than 2 years after the date of the discovery of the violation that is the subject of the action.

(c) **LIMITATIONS ON LIABILITY.**—

(1) **IN GENERAL.**—With respect to a residential mortgage transaction, the failure of a servicer to comply with the requirements of this Act due to the failure of a mortgage insurer or a mortgagee to comply with the requirements of this Act, shall not be construed to be a violation of this Act by the servicer.

(2) **RULE OF CONSTRUCTION.**—Nothing in paragraph (1) shall be construed to impose any additional requirement or liability on a mortgage insurer, a mortgagee, or a holder of a residential mortgage.

12 USC 4908.

**SEC. 9. EFFECT ON OTHER LAWS AND AGREEMENTS.**

(a) **EFFECT ON STATE LAW.**—

(1) **IN GENERAL.**—With respect to any residential mortgage or residential mortgage transaction consummated after the effective date of this Act, and except as provided in paragraph (2), the provisions of this Act shall supersede any provisions of the law of any State relating to requirements for obtaining or maintaining private mortgage insurance in connection with residential mortgage transactions, cancellation or automatic termination of such private mortgage insurance, any disclosure of information addressed by this Act, and any other matter specifically addressed by this Act.

(2) **PROTECTION OF EXISTING STATE LAWS.**—

(A) **IN GENERAL.**—The provisions of this Act do not supersede protected State laws, except to the extent that the protected State laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency.

(B) **INCONSISTENCIES.**—A protected State law shall not be considered to be inconsistent with a provision of this Act if the protected State law—

(i) requires termination of private mortgage insurance or other mortgage guaranty insurance—

(I) at a date earlier than as provided in this Act; or

(II) when a mortgage principal balance is achieved that is higher than as provided in this Act; or

(ii) requires disclosure of information—

(I) that provides more information than the information required by this Act; or

(II) more often or at a date earlier than is required by this Act.

(C) **PROTECTED STATE LAWS.**—For purposes of this paragraph, the term “protected State law” means a State law—

(i) regarding any requirements relating to private mortgage insurance in connection with residential mortgage transactions;

(ii) that was enacted not later than 2 years after the date of the enactment of this Act; and

(iii) that is the law of a State that had in effect, on or before January 2, 1998, any State law described in clause (i).

(b) **EFFECT ON OTHER AGREEMENTS.**—The provisions of this Act shall supersede any conflicting provision contained in any agreement relating to the servicing of a residential mortgage loan entered into by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any private investor or note holder (or any successors thereto).

**SEC. 10. ENFORCEMENT.**

12 USC 4909.

(a) **IN GENERAL.**—Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act);

(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act; and

(3) part C of title V of the Farm Credit Act of 1971 (12 U.S.C. 2261 et seq.), by the Farm Credit Administration in the case of an institution that is a member of the Farm Credit System.

(b) **ADDITIONAL ENFORCEMENT POWERS.**—

(1) **VIOLATION OF THIS ACT TREATED AS VIOLATION OF OTHER ACTS.**—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) **ENFORCEMENT AUTHORITY UNDER OTHER ACTS.**—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law.

(c) **ENFORCEMENT AND REIMBURSEMENT.**—In carrying out its enforcement activities under this section, each agency referred to in subsection (a) shall—

Notification.

(1) notify the mortgagee or servicer of any failure of the mortgagee or servicer to comply with 1 or more provisions of this Act;

(2) with respect to each such failure to comply, require the mortgagee or servicer, as applicable, to correct the account of the mortgagor to reflect the date on which the mortgage insurance should have been canceled or terminated under this Act; and

(3) require the mortgagee or servicer, as applicable, to reimburse the mortgagor in an amount equal to the total unearned premiums paid by the mortgagor after the date on which the obligation to pay those premiums ceased under this Act.

12 USC 4910.

**SEC. 11. CONSTRUCTION.**

(a) **PMI NOT REQUIRED.**—Nothing in this Act shall be construed to impose any requirement for private mortgage insurance in connection with a residential mortgage transaction.

(b) **NO PRECLUSION OF CANCELLATION OR TERMINATION AGREEMENTS.**—Nothing in this Act shall be construed to preclude cancellation or termination, by agreement between a mortgagor and the holder of the mortgage, of a requirement for private mortgage insurance in connection with a residential mortgage transaction before the cancellation or termination date established by this Act for the mortgage.

**SEC. 12. AMENDMENT TO HIGHER EDUCATION ACT OF 1965.**

Section 481(a)(4) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(4)) is amended by—

(1) inserting the subparagraph designation “(A)” immediately after the paragraph designation “(4)”;

(2) redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) adding at the end thereof the following new subparagraph:

“(B) Subparagraph (A)(i) shall not apply to a nonprofit institution whose primary function is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution’s management or policies) that files for bankruptcy under chapter 11 of title 11 of the United States Code between July 1, and December 31, 1998.”.

12 USC 4901  
note.

**SEC. 13. EFFECTIVE DATE.**

This Act, other than section 14, shall become effective 1 year after the date of enactment of this Act.

**SEC. 14. ABOLISHMENT OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.**

Effective date.  
12 USC 1441a  
note.

(a) **IN GENERAL.**—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the Thrift Depositor Protection Oversight Board established under section 21A of the Federal Home Loan Bank Act (hereafter in this section referred to as the “Oversight Board”) is hereby abolished.

## (b) DISPOSITION OF AFFAIRS.—

(1) POWER OF CHAIRPERSON.—Effective on the date of enactment of this Act, the Chairperson of the Oversight Board (or the designee of the Chairperson) may exercise on behalf of the Oversight Board any power of the Oversight Board necessary to settle and conclude the affairs of the Oversight Board.

12 USC 1441a  
note.  
Effective date.

(2) AVAILABILITY OF FUNDS.—Funds available to the Oversight Board shall be available to the Chairperson of the Oversight Board to pay expenses incurred in carrying out paragraph (1).

## (c) SAVINGS PROVISION.—

12 USC 1441a  
note.

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—No provision of this section shall be construed as affecting the validity of any right, duty, or obligation of the United States, the Oversight Board, the Resolution Trust Corporation, or any other person that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the abolishment of the Oversight Board in accordance with subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board with respect to any function of the Oversight Board shall abate by reason of the enactment of this section.

## (3) LIABILITIES.—

(A) IN GENERAL.—All liabilities arising out of the operation of the Oversight Board during the period beginning on August 9, 1989, and the date that is 3 months after the date of enactment of this Act shall remain the direct liabilities of the United States.

(B) NO SUBSTITUTION.—The Secretary of the Treasury shall not be substituted for the Oversight Board as a party to any action or proceeding referred to in subparagraph (A).

## (4) CONTINUATIONS OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS PERTAINING TO THE RESOLUTION FUNDING CORPORATION.—

(A) IN GENERAL.—All orders, resolutions, determinations, and regulations regarding the Resolution Funding Corporation shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations until modified, terminated, set aside, or superseded in accordance with applicable law if such orders, resolutions, determinations, or regulations—

(i) have been issued, made, and prescribed, or allowed to become effective by the Oversight Board, or by a court of competent jurisdiction, in the performance of functions transferred by this section; and

(ii) are in effect at the end of the 3-month period beginning on the date of enactment of this section.

(B) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS BEFORE TRANSFER.—Before the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to

the Resolution Funding Corporation shall be enforceable by and against the United States.

(C) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS AFTER TRANSFER.—On and after the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation shall be enforceable by and against the Secretary of the Treasury.

Effective date.  
12 USC 1441a  
note.

(d) TRANSFER OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD AUTHORITY AND DUTIES OF RESOLUTION FUNDING CORPORATION TO SECRETARY OF THE TREASURY.—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the authority and duties of the Oversight Board under sections 21A(a)(6)(I) and 21B of the Federal Home Loan Bank Act are transferred to the Secretary of the Treasury (or the designee of the Secretary).

Effective date.

(e) MEMBERSHIP OF THE AFFORDABLE HOUSING ADVISORY BOARD.—Effective on the date of enactment of this Act, section 14(b)(2) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(f) TIME OF MEETINGS OF THE AFFORDABLE HOUSING ADVISORY BOARD.—

(1) IN GENERAL.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(A) by striking “4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board or” and inserting “2 times a year or at the request of”; and

(B) by striking the second sentence.

(2) CLERICAL AMENDMENT.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended, in the subparagraph heading, by striking “AND LOCATION”.

Approved July 29, 1998.

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LEGISLATIVE HISTORY—S. 318 (H.R. 607):

HOUSE REPORTS: No. 105–55 accompanying H.R. 607 (Comm. on Banking and Financial Services).

SENATE REPORTS: No. 105–129 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Nov. 9, considered and passed Senate.

Vol. 144 (1998): July 14, considered and passed House, amended.

July 15, Senate concurred in House amendments with amendments.

July 16, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

July 29, Presidential statement.

Public Law 105–217  
105th Congress

An Act

To reauthorize the African Elephant Conservation Act.

Aug. 5, 1998

[H.R. 39]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “African Elephant Conservation  
Reauthorization Act of 1998”.

African Elephant  
Conservation  
Reauthorization  
Act of 1998.  
16 USC 4201  
note.

**SEC. 2. REAUTHORIZATION OF AFRICAN ELEPHANT CONSERVATION  
ACT.**

Section 2306 of the African Elephant Conservation Act (16  
U.S.C. 4245) is amended by striking “fiscal years” and all that  
follows through “1998” and inserting “fiscal years 1997, 1998, 1999,  
2000, 2001, and 2002”.

Approved August 5, 1998.

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**LEGISLATIVE HISTORY—H.R. 39 (S. 627):**

HOUSE REPORTS: No. 105–59 (Comm. on Resources).

SENATE REPORTS: No. 105–222 accompanying S. 627 (Comm. on Environment  
and Public Works).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Apr. 23, considered and passed House.

Vol. 144 (1998): July 23, considered and passed Senate.



Public Law 105–218  
105th Congress

An Act

Aug. 7, 1998  
[H.R. 643]

To designate the United States courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, Ohio, as the “Carl B. Stokes United States Courthouse”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, Ohio, shall be known and designated as the “Carl B. Stokes United States Courthouse”.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the “Carl B. Stokes United States Courthouse”.

Approved August 7, 1998.

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**LEGISLATIVE HISTORY—H.R. 643 (S. 289):**

HOUSE REPORTS: No. 105–231 (Comm. on Transportation and Infrastructure).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Sept. 23, considered and passed House.

Vol. 144 (1998): July 31, considered and passed Senate.





Public Law 105–219  
105th Congress

An Act

To amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

Aug. 7, 1998  
[H.R. 1151]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Credit Union Membership Access Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Findings.  
Sec. 3. Definitions.

**TITLE I—CREDIT UNION MEMBERSHIP**

Sec. 101. Fields of membership.  
Sec. 102. Criteria for approval of expansion of membership of multiple common-bond credit unions.  
Sec. 103. Geographical guidelines for community credit unions.

**TITLE II—REGULATION OF CREDIT UNIONS**

Sec. 201. Financial statement and audit requirements.  
Sec. 202. Conversion of insured credit unions.  
Sec. 203. Limitation on member business loans.  
Sec. 204. National Credit Union Administration Board membership.  
Sec. 205. Report and congressional review requirement for certain regulations.

**TITLE III—CAPITALIZATION AND NET WORTH OF CREDIT UNIONS**

Sec. 301. Prompt corrective action.  
Sec. 302. National credit union share insurance fund equity ratio, available assets ratio, and standby premium charge.  
Sec. 303. Access to liquidity.

**TITLE IV—MISCELLANEOUS PROVISIONS**

Sec. 401. Study and report on differing regulatory treatment.  
Sec. 402. Update on review of regulations and paperwork reductions.  
Sec. 403. Treasury report on reduced taxation and viability of small banks.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The American credit union movement began as a cooperative effort to serve the productive and provident credit needs of individuals of modest means.

(2) Credit unions continue to fulfill this public purpose, and current members and membership groups should not face divestiture from the financial services institution of their choice as a result of recent court action.

Credit Union  
Membership  
Access Act.  
12 USC 1751  
note.

12 USC 1751  
note.

(3) To promote thrift and credit extension, a meaningful affinity and bond among members, manifested by a commonality of routine interaction, shared and related work experiences, interests, or activities, or the maintenance of an otherwise well-understood sense of cohesion or identity is essential to the fulfillment of the public mission of credit unions.

(4) Credit unions, unlike many other participants in the financial services market, are exempt from Federal and most State taxes because they are member-owned, democratically operated, not-for-profit organizations generally managed by volunteer boards of directors and because they have the specified mission of meeting the credit and savings needs of consumers, especially persons of modest means.

(5) Improved credit union safety and soundness provisions will enhance the public benefit that citizens receive from these cooperative financial services institutions.

12 USC 1790d  
note.

### **SEC. 3. DEFINITIONS.**

As used in this Act—

(1) the term “Administration” means the National Credit Union Administration;

(2) the term “Board” means the National Credit Union Administration Board;

(3) the term “Federal banking agencies” has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(4) the terms “insured credit union” and “State-chartered insured credit union” have the same meanings as in section 101 of the Federal Credit Union Act; and

(5) the term “Secretary” means the Secretary of the Treasury.

## **TITLE I—CREDIT UNION MEMBERSHIP**

### **SEC. 101. FIELDS OF MEMBERSHIP.**

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended—

(1) in the first sentence—

(A) by striking “Federal credit union membership shall consist of” and inserting “(a) IN GENERAL.—Subject to subsection (b), Federal credit union membership shall consist of”; and

(B) by striking “, except that” and all that follows through “rural district”; and

(2) by adding at the end the following new subsections:

“(b) MEMBERSHIP FIELD.—Subject to the other provisions of this section, the membership of any Federal credit union shall be limited to the membership described in one of the following categories:

“(1) SINGLE COMMON-BOND CREDIT UNION.—One group that has a common bond of occupation or association.

“(2) MULTIPLE COMMON-BOND CREDIT UNION.—More than one group—

“(A) each of which has (within the group) a common bond of occupation or association; and

“(B) the number of members, each of which (at the time the group is first included within the field of membership of a credit union described in this paragraph) does not exceed any numerical limitation applicable under subsection (d).

“(3) COMMUNITY CREDIT UNION.—Persons or organizations within a well-defined local community, neighborhood, or rural district.

“(c) EXCEPTIONS.—

“(1) GRANDFATHERED MEMBERS AND GROUPS.—

“(A) IN GENERAL.—Notwithstanding subsection (b)—

“(i) any person or organization that is a member of any Federal credit union as of the date of enactment of the Credit Union Membership Access Act may remain a member of the credit union after that date of enactment; and

“(ii) a member of any group whose members constituted a portion of the membership of any Federal credit union as of that date of enactment shall continue to be eligible to become a member of that credit union, by virtue of membership in that group, after that date of enactment.

“(B) SUCCESSORS.—If the common bond of any group referred to in subparagraph (A) is defined by any particular organization or business entity, subparagraph (A) shall continue to apply with respect to any successor to the organization or entity.

“(2) EXCEPTION FOR UNDERSERVED AREAS.—Notwithstanding subsection (b), in the case of a Federal credit union, the field of membership category of which is described in subsection (b)(2), the Board may allow the membership of the credit union to include any person or organization within a local community, neighborhood, or rural district if—

“(A) the Board determines that the local community, neighborhood, or rural district—

“(i) is an ‘investment area’, as defined in section 103(16) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(16)), and meets such additional requirements as the Board may impose; and

“(ii) is underserved, based on data of the Board and the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), by other depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act); and

“(B) the credit union establishes and maintains an office or facility in the local community, neighborhood, or rural district at which credit union services are available.

“(d) MULTIPLE COMMON-BOND CREDIT UNION GROUP REQUIREMENTS.—

“(1) NUMERICAL LIMITATION.—Except as provided in paragraph (2), only a group with fewer than 3,000 members shall be eligible to be included in the field of membership category of a credit union described in subsection (b)(2).

“(2) EXCEPTIONS.—In the case of any Federal credit union, the field of membership category of which is described in subsection (b)(2), the numerical limitation in paragraph (1) of this subsection shall not apply with respect to—

“(A) any group that the Board determines, in writing and in accordance with the guidelines and regulations issued under paragraph (3), could not feasibly or reasonably establish a new single common-bond credit union, the field of membership category of which is described in subsection (b)(1) because—

“(i) the group lacks sufficient volunteer and other resources to support the efficient and effective operation of a credit union;

“(ii) the group does not meet the criteria that the Board has determined to be important for the likelihood of success in establishing and managing a new credit union, including demographic characteristics such as geographical location of members, diversity of ages and income levels, and other factors that may affect the financial viability and stability of a credit union; or

“(iii) the group would be unlikely to operate a safe and sound credit union;

“(B) any group transferred from another credit union—

“(i) in connection with a merger or consolidation recommended by the Board or any appropriate State credit union supervisor based on safety and soundness concerns with respect to that other credit union; or

“(ii) by the Board in the Board’s capacity as conservator or liquidating agent with respect to that other credit union; or

“(C) any group transferred in connection with a voluntary merger, having received conditional approval by the Administration of the merger application prior to October 25, 1996, but not having consummated the merger prior to October 25, 1996, if the merger is consummated not later than 180 days after the date of enactment of the Credit Union Membership Access Act.

“(3) REGULATIONS AND GUIDELINES.—The Board shall issue guidelines or regulations, after notice and opportunity for comment, setting forth the criteria that the Board will apply in determining under this subsection whether or not an additional group may be included within the field of membership category of an existing credit union described in subsection (b)(2).

“(e) ADDITIONAL MEMBERSHIP ELIGIBILITY PROVISIONS.—

“(1) MEMBERSHIP ELIGIBILITY LIMITED TO IMMEDIATE FAMILY OR HOUSEHOLD MEMBERS.—No individual shall be eligible for membership in a credit union on the basis of the relationship of the individual to another person who is eligible for membership in the credit union, unless the individual is a member of the immediate family or household (as those terms are defined by the Board, by regulation) of the other person.

“(2) RETENTION OF MEMBERSHIP.—Except as provided in section 118, once a person becomes a member of a credit union in accordance with this title, that person or organization may remain a member of that credit union until the person or

organization chooses to withdraw from the membership of the credit union.”.

**SEC. 102. CRITERIA FOR APPROVAL OF EXPANSION OF MEMBERSHIP OF MULTIPLE COMMON-BOND CREDIT UNIONS.**

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended by adding at the end the following new subsection:

“(f) CRITERIA FOR APPROVAL OF EXPANSION OF MULTIPLE COMMON-BOND CREDIT UNIONS.—

“(1) IN GENERAL.—The Board shall—

“(A) encourage the formation of separately chartered credit unions instead of approving an application to include an additional group within the field of membership of an existing credit union whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union; and

“(B) if the formation of a separate credit union by the group is not practicable or consistent with the standards referred to in subparagraph (A), require the inclusion of the group in the field of membership of a credit union that is within reasonable proximity to the location of the group whenever practicable and consistent with reasonable standards for the safe and sound operation of the credit union.

“(2) APPROVAL CRITERIA.—The Board may not approve any application by a Federal credit union, the field of membership category of which is described in subsection (b)(2) to include any additional group within the field of membership of the credit union (or an application by a Federal credit union described in subsection (b)(1) to include an additional group and become a credit union described in subsection (b)(2)), unless the Board determines, in writing, that—

“(A) the credit union has not engaged in any unsafe or unsound practice (as defined in section 206(b)) that is material during the 1-year period preceding the date of filing of the application;

“(B) the credit union is adequately capitalized;

“(C) the credit union has the administrative capability to serve the proposed membership group and the financial resources to meet the need for additional staff and assets to serve the new membership group;

“(D) any potential harm that the expansion of the field of membership of the credit union may have on any other insured credit union and its members is clearly outweighed in the public interest by the probable beneficial effect of the expansion in meeting the convenience and needs of the members of the group proposed to be included in the field of membership; and

“(E) the credit union has met such additional requirements as the Board may prescribe, by regulation.”.

**SEC. 103. GEOGRAPHICAL GUIDELINES FOR COMMUNITY CREDIT UNIONS.**

Section 109 of the Federal Credit Union Act (12 U.S.C. 1759) is amended by adding at the end the following new subsection:

“(g) REGULATIONS REQUIRED FOR COMMUNITY CREDIT UNIONS.—

“(1) DEFINITION OF WELL-DEFINED LOCAL COMMUNITY, NEIGHBORHOOD, OR RURAL DISTRICT.—The Board shall prescribe, by regulation, a definition for the term ‘well-defined local community, neighborhood, or rural district’ for purposes of—

“(A) making any determination with regard to the field of membership of a credit union described in subsection (b)(3); and

“(B) establishing the criteria applicable with respect to any such determination.

“(2) SCOPE OF APPLICATION.—The definition prescribed by the Board under paragraph (1) shall apply with respect to any application to form a new credit union, or to alter or expand the field of membership of an existing credit union, that is filed with the Board after the date of enactment of the Credit Union Membership Access Act.”.

## **TITLE II—REGULATION OF CREDIT UNIONS**

### **SEC. 201. FINANCIAL STATEMENT AND AUDIT REQUIREMENTS.**

(a) IN GENERAL.—Section 202(a)(6) of the Federal Credit Union Act (12 U.S.C. 1782(a)(6)) is amended by adding at the end the following new subparagraphs:

“(C) ACCOUNTING PRINCIPLES.—

“(i) IN GENERAL.—Accounting principles applicable to reports or statements required to be filed with the Board by each insured credit union shall be uniform and consistent with generally accepted accounting principles.

“(ii) BOARD DETERMINATION.—If the Board determines that the application of any generally accepted accounting principle to any insured credit union is not appropriate, the Board may prescribe an accounting principle for application to the credit union that is no less stringent than generally accepted accounting principles.

“(iii) DE MINIMUS EXCEPTION.—This subparagraph shall not apply to any insured credit union, the total assets of which are less than \$10,000,000, unless prescribed by the Board or an appropriate State credit union supervisor.

“(D) LARGE CREDIT UNION AUDIT REQUIREMENT.—

“(i) IN GENERAL.—Each insured credit union having total assets of \$500,000,000 or more shall have an annual independent audit of the financial statements of the credit union, performed in accordance with generally accepted auditing standards by an independent certified public accountant or public accountant licensed by the appropriate State or jurisdiction to perform those services.

“(ii) VOLUNTARY AUDITS.—If a Federal credit union that is not required to conduct an audit under clause (i), and that has total assets of more than \$10,000,000 conducts such an audit for any purpose, using an independent auditor who is compensated for his or

her audit services with respect to that audit, the audit shall be performed consistent with the accountancy laws of the appropriate State or jurisdiction, including licensing requirements.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 202(a)(6)(B) of the Federal Credit Union Act (12 U.S.C. 1782(a)(6)(B)) is amended by striking “subparagraph (A)” and inserting “subparagraph (A) or (D)”.

**SEC. 202. CONVERSION OF INSURED CREDIT UNIONS.**

Section 205(b) of the Federal Credit Union Act (12 U.S.C. 1785(b)) is amended—

(1) in paragraph (1), by striking “Except with the prior written approval of the Board, no insured credit union shall” and inserting “Except as provided in paragraph (2), no insured credit union shall, without the prior approval of the Board”;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

“(2) **CONVERSION OF INSURED CREDIT UNIONS TO MUTUAL SAVINGS BANKS.**—

“(A) **IN GENERAL.**—Notwithstanding paragraph (1), an insured credit union may convert to a mutual savings bank or savings association (if the savings association is in mutual form), as those terms are defined in section 3 of the Federal Deposit Insurance Act, without the prior approval of the Board, subject to the requirements and procedures set forth in the laws and regulations governing mutual savings banks and savings associations.

“(B) **CONVERSION PROPOSAL.**—A proposal for a conversion described in subparagraph (A) shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on that date or by written ballot to be filed on or before that date), by a majority of the directors of the insured credit union. Approval of the proposal for conversion shall be by the affirmative vote of a majority of the members of the insured credit union who vote on the proposal.

“(C) **NOTICE OF PROPOSAL TO MEMBERS.**—An insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) shall submit notice to each of its members who is eligible to vote on the matter of its intent to convert—

“(i) 90 days before the date of the member vote on the conversion;

“(ii) 60 days before the date of the member vote on the conversion; and

“(iii) 30 days before the date of the member vote on the conversion.

“(D) **NOTICE OF PROPOSAL TO BOARD.**—The Board may require an insured credit union that proposes to convert to a mutual savings bank or savings association under subparagraph (A) to submit a notice to the Board of its intent to convert during the 90-day period preceding the date of the completion of the conversion.

“(E) **INAPPLICABILITY OF ACT UPON CONVERSION.**—Upon completion of a conversion described in subparagraph (A),

the credit union shall no longer be subject to any of the provisions of this Act.

“(F) LIMIT ON COMPENSATION OF OFFICIALS.—

“(i) IN GENERAL.—No director or senior management official of an insured credit union may receive any economic benefit in connection with a conversion of the credit union as described in subparagraph (A), other than—

“(I) director fees; and

“(II) compensation and other benefits paid to directors or senior management officials of the converted institution in the ordinary course of business.

“(ii) SENIOR MANAGEMENT OFFICIAL.—For purposes of this subparagraph, the term ‘senior management official’ means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer (as defined by the appropriate Federal banking agency pursuant to section 32 (f) of the Federal Deposit Insurance Act).

“(G) CONSISTENT RULES.—

Deadline.

“(i) IN GENERAL.—Not later than 6 months after the date of enactment of the Credit Union Membership Access Act, the Administration shall promulgate final rules applicable to charter conversions described in this paragraph that are consistent with rules promulgated by other financial regulators, including the Office of Thrift Supervision and the Office of the Comptroller of the Currency. The rules required by this clause shall provide that charter conversion by an insured credit union shall be subject to regulation that is no more or less restrictive than that applicable to charter conversions by other financial institutions.

“(ii) OVERSIGHT OF MEMBER VOTE.—The member vote concerning charter conversion under this paragraph shall be administered by the Administration, and shall be verified by the Federal or State regulatory agency that would have jurisdiction over the institution after the conversion. If either the Administration or that regulatory agency disapproves of the methods by which the member vote was taken or procedures applicable to the member vote, the member vote shall be taken again, as directed by the Administration or the agency.”.

#### **SEC. 203. LIMITATION ON MEMBER BUSINESS LOANS.**

(a) IN GENERAL.—The Federal Credit Union Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 107 the following new section:

12 USC 1757a.

#### **“SEC. 107A. LIMITATION ON MEMBER BUSINESS LOANS.**

“(a) IN GENERAL.—On and after the date of enactment of this section, no insured credit union may make any member business loan that would result in a total amount of such loans outstanding at that credit union at any one time equal to more than the lesser of—

“(1) 1.75 times the actual net worth of the credit union;

or



“(2) 1.75 times the minimum net worth required under section 216(c)(1)(A) for a credit union to be well capitalized.

“(b) EXCEPTIONS.—Subsection (a) does not apply in the case of—

“(1) an insured credit union chartered for the purpose of making, or that has a history of primarily making, member business loans to its members, as determined by the Board; or

“(2) an insured credit union that—

“(A) serves predominantly low-income members, as defined by the Board; or

“(B) is a community development financial institution, as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994.

“(c) DEFINITIONS.—As used in this section—

“(1) the term ‘member business loan’—

“(A) means any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate or other business investment property or venture, or agricultural purpose; and

“(B) does not include an extension of credit—

“(i) that is fully secured by a lien on a 1- to 4-family dwelling that is the primary residence of a member;

“(ii) that is fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;

“(iii) that is described in subparagraph (A), if it was made to a borrower or an associated member that has a total of all such extensions of credit in an amount equal to less than \$50,000;

“(iv) the repayment of which is fully insured or fully guaranteed by, or where there is an advance commitment to purchase in full by, any agency of the Federal Government or of a State, or any political subdivision thereof; or

“(v) that is granted by a corporate credit union (as that term is defined by the Board) to another credit union.

“(2) the term ‘net worth’—

“(A) with respect to any insured credit union, means the credit union’s retained earnings balance, as determined under generally accepted accounting principles; and

“(B) with respect to a credit union that serves predominantly low-income members, as defined by the Board, includes secondary capital accounts that are—

“(i) uninsured; and

“(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund; and

“(3) the term ‘associated member’ means any member having a shared ownership, investment, or other pecuniary interest in a business or commercial endeavor with the borrower.

“(d) EFFECT ON EXISTING LOANS.—An insured credit union that has, on the date of enactment of this section, a total amount of outstanding member business loans that exceeds the amount Deadline.

permitted under subsection (a) shall, not later than 3 years after that date of enactment, reduce the total amount of outstanding member business loans to an amount that is not greater than the amount permitted under subsection (a).

“(e) CONSULTATION AND COOPERATION WITH STATE CREDIT UNION SUPERVISORS.—In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.”.

12 USC 1757a  
note.

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary shall conduct a study of member business lending by insured credit unions, including—

(A) an examination of member business lending over \$500,000 and under \$50,000, and a breakdown of the types and sizes of businesses that receive member business loans;

(B) a review of the effectiveness and enforcement of regulations applicable to insured credit union member business lending;

(C) whether member business lending by insured credit unions could affect the safety and soundness of insured credit unions or the National Credit Union Share Insurance Fund;

(D) the extent to which member business lending by insured credit unions helps to meet financial services needs of low- and moderate-income individuals within the field of membership of insured credit unions;

(E) whether insured credit unions that engage in member business lending have a competitive advantage over other insured depository institutions, and if any such advantage could affect the viability and profitability of such other insured depository institutions; and

(F) the effect of enactment of this Act on the number of insured credit unions involved in member business lending and the overall amount of commercial lending.

(2) NCUA COOPERATION.—The National Credit Union Administration shall, upon request, provide such information as the Secretary may require to conduct the study required under paragraph (1).

Deadline.

(3) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

#### SEC. 204. NATIONAL CREDIT UNION ADMINISTRATION BOARD MEMBERSHIP.

Section 102(b) of the Federal Credit Union Act (12 U.S.C. 1752a(b)) is amended—

(1) by striking “(b) The Board” and inserting “(b) MEMBERSHIP AND APPOINTMENT OF BOARD.—

“(1) IN GENERAL.—The Board”; and

(2) by adding at the end the following new paragraph:

“(2) APPOINTMENT CRITERIA.—

President.

“(A) EXPERIENCE IN FINANCIAL SERVICES.—In considering appointments to the Board under paragraph (1), the President shall give consideration to individuals who, by virtue of their education, training, or experience relating to a broad range of financial services, financial services

regulation, or financial policy, are especially qualified to serve on the Board.

“(B) LIMIT ON APPOINTMENT OF CREDIT UNION OFFICERS.—Not more than one member of the Board may be appointed to the Board from among individuals who, at the time of the appointment, are, or have recently been, involved with any insured credit union as a committee member, director, officer, employee, or other institution-affiliated party.”.

**SEC. 205. REPORT AND CONGRESSIONAL REVIEW REQUIREMENT FOR CERTAIN REGULATIONS.**

12 USC 1759  
note.

A regulation prescribed by the Board shall be treated as a major rule for purposes of chapter 8 of title 5, United States Code, if the regulation defines, or amends the definition of—

(1) the term “immediate family or household” for purposes of section 109(e)(1) of the Federal Credit Union Act (as added by section 101 of this Act); or

(2) the term “well-defined local community, neighborhood, or rural district” for purposes of section 109(g) of the Federal Credit Union Act (as added by section 103 of this Act).

## **TITLE III—CAPITALIZATION AND NET WORTH OF CREDIT UNIONS**

**SEC. 301. PROMPT CORRECTIVE ACTION.**

(a) IN GENERAL.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

**“SEC. 216. PROMPT CORRECTIVE ACTION.**

12 USC 1790d.

“(a) RESOLVING PROBLEMS TO PROTECT FUND.—

“(1) PURPOSE.—The purpose of this section is to resolve the problems of insured credit unions at the least possible long-term loss to the Fund.

“(2) PROMPT CORRECTIVE ACTION REQUIRED.—The Board shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured credit unions.

“(b) REGULATIONS REQUIRED.—

“(1) INSURED CREDIT UNIONS.—

“(A) IN GENERAL.—The Board shall, by regulation, prescribe a system of prompt corrective action for insured credit unions that is—

“(i) consistent with this section; and

“(ii) comparable to section 38 of the Federal Deposit Insurance Act.

“(B) COOPERATIVE CHARACTER OF CREDIT UNIONS.—The Board shall design the system required under subparagraph (A) to take into account that credit unions are not-for-profit cooperatives that—

“(i) do not issue capital stock;

“(ii) must rely on retained earnings to build net worth; and

“(iii) have boards of directors that consist primarily of volunteers.

“(2) NEW CREDIT UNIONS.—

“(A) IN GENERAL.—In addition to regulations under paragraph (1), the Board shall, by regulation, prescribe a system of prompt corrective action that shall apply to new credit unions in lieu of this section and the regulations prescribed under paragraph (1).

“(B) CRITERIA FOR ALTERNATIVE SYSTEM.—The Board shall design the system prescribed under subparagraph (A)—

“(i) to carry out the purpose of this section;

“(ii) to recognize that credit unions (as cooperatives that do not issue capital stock) initially have no net worth, and give new credit unions reasonable time to accumulate net worth;

“(iii) to create adequate incentives for new credit unions to become adequately capitalized by the time that they either—

“(I) have been in operation for more than 10 years; or

“(II) have more than \$10,000,000 in total assets;

“(iv) to impose appropriate restrictions and requirements on new credit unions that do not make sufficient progress toward becoming adequately capitalized; and

“(v) to prevent evasion of the purpose of this section.

“(c) NET WORTH CATEGORIES.—

“(1) IN GENERAL.—For purposes of this section the following definitions shall apply:

“(A) WELL CAPITALIZED.—An insured credit union is ‘well capitalized’ if—

“(i) it has a net worth ratio of not less than 7 percent; and

“(ii) it meets any applicable risk-based net worth requirement under subsection (d).

“(B) ADEQUATELY CAPITALIZED.—An insured credit union is ‘adequately capitalized’ if—

“(i) it has a net worth ratio of not less than 6 percent; and

“(ii) it meets any applicable risk-based net worth requirement under subsection (d).

“(C) UNDERCAPITALIZED.—An insured credit union is ‘undercapitalized’ if—

“(i) it has a net worth ratio of less than 6 percent; or

“(ii) it fails to meet any applicable risk-based net worth requirement under subsection (d).

“(D) SIGNIFICANTLY UNDERCAPITALIZED.—An insured credit union is ‘significantly undercapitalized’—

“(i) if it has a net worth ratio of less than 4 percent; or

“(ii) if—

“(I) it has a net worth ratio of less than 5 percent; and

“(II) it—

“(aa) fails to submit an acceptable net worth restoration plan within the time allowed under subsection (f); or

“(bb) materially fails to implement a net worth restoration plan accepted by the Board.

“(E) CRITICALLY UNDERCAPITALIZED.—An insured credit union is ‘critically undercapitalized’ if it has a net worth ratio of less than 2 percent (or such higher net worth ratio, not to exceed 3 percent, as the Board may specify by regulation).

“(2) ADJUSTING NET WORTH LEVELS.—

“(A) IN GENERAL.—If, for purposes of section 38(c) of the Federal Deposit Insurance Act, the Federal banking agencies increase or decrease the required minimum level for the leverage limit (as those terms are used in section 38), the Board may, by regulation, and subject to subparagraph (B) of this paragraph, correspondingly increase or decrease 1 or more of the net worth ratios specified in subparagraphs (A) through (D) of paragraph (1) of this subsection in an amount that is equal to not more than the difference between the required minimum level most recently established by the Federal banking agencies and 4 percent of total assets (with respect to institutions regulated by those agencies).

“(B) DETERMINATIONS REQUIRED.—The Board may increase or decrease net worth ratios under subparagraph (A) only if the Board—

“(i) determines, in consultation with the Federal banking agencies, that the reason for the increase or decrease in the required minimum level for the leverage limit also justifies the adjustment in net worth ratios; and

“(ii) determines that the resulting net worth ratios are sufficient to carry out the purpose of this section.

“(C) TRANSITION PERIOD REQUIRED.—If the Board increases any net worth ratio under this paragraph, the Board shall give insured credit unions a reasonable period of time to meet the increased ratio.

“(d) RISK-BASED NET WORTH REQUIREMENT FOR COMPLEX CREDIT UNIONS.—

“(1) IN GENERAL.—The regulations required under subsection (b)(1) shall include a risk-based net worth requirement for insured credit unions that are complex, as defined by the Board based on the portfolios of assets and liabilities of credit unions.

“(2) STANDARD.—The Board shall design the risk-based net worth requirement to take account of any material risks against which the net worth ratio required for an insured credit union to be adequately capitalized may not provide adequate protection.

“(e) EARNINGS-RETENTION REQUIREMENT APPLICABLE TO CREDIT UNIONS THAT ARE NOT WELL CAPITALIZED.—

“(1) IN GENERAL.—An insured credit union that is not well capitalized shall annually set aside as net worth an amount equal to not less than 0.4 percent of its total assets.

“(2) BOARD’S AUTHORITY TO DECREASE EARNINGS-RETENTION REQUIREMENT.—

“(A) IN GENERAL.—The Board may, by order, decrease the 0.4 percent requirement in paragraph (1) with respect to a credit union to the extent that the Board determines that the decrease—

“(i) is necessary to avoid a significant redemption of shares; and

“(ii) would further the purpose of this section.

“(B) PERIODIC REVIEW REQUIRED.—The Board shall periodically review any order issued under subparagraph (A).

“(f) NET WORTH RESTORATION PLAN REQUIRED.—

“(1) IN GENERAL.—Each insured credit union that is undercapitalized shall submit an acceptable net worth restoration plan to the Board within the time allowed under this subsection.

“(2) ASSISTANCE TO SMALL CREDIT UNIONS.—The Board (or the staff of the Board) shall, upon timely request by an insured credit union with total assets of less than \$10,000,000, and subject to such regulations or guidelines as the Board may prescribe, assist that credit union in preparing a net worth restoration plan.

Regulations.

“(3) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The Board shall, by regulation, establish deadlines for submission of net worth restoration plans under this subsection that—

“(A) provide insured credit unions with reasonable time to submit net worth restoration plans; and

“(B) require the Board to act on net worth restoration plans expeditiously.

“(4) FAILURE TO SUBMIT ACCEPTABLE PLAN WITHIN TIME ALLOWED.—

Notification.

“(A) FAILURE TO SUBMIT ANY PLAN.—If an insured credit union fails to submit a net worth restoration plan within the time allowed under paragraph (3), the Board shall—

“(i) promptly notify the credit union of that failure; and

“(ii) give the credit union a reasonable opportunity to submit a net worth restoration plan.

“(B) SUBMISSION OF UNACCEPTABLE PLAN.—If an insured credit union submits a net worth restoration plan within the time allowed under paragraph (3), and the Board determines that the plan is not acceptable, the Board shall—

“(i) promptly notify the credit union of why the plan is not acceptable; and

“(ii) give the credit union a reasonable opportunity to submit a revised plan.

“(5) ACCEPTING PLAN.—The Board may accept a net worth restoration plan only if the Board determines that the plan is based on realistic assumptions and is likely to succeed in restoring the net worth of the credit union.

“(g) RESTRICTIONS ON UNDERCAPITALIZED CREDIT UNIONS.—

“(1) RESTRICTION ON ASSET GROWTH.—An insured credit union that is undercapitalized shall not generally permit its average total assets to increase, unless—

“(A) the Board has accepted the net worth restoration plan of the credit union for that action;

“(B) any increase in total assets is consistent with the net worth restoration plan; and

“(C) the net worth ratio of the credit union increases at a rate that is consistent with the net worth restoration plan.

“(2) RESTRICTION ON MEMBER BUSINESS LOANS.—Notwithstanding section 107A(a), an insured credit union that is undercapitalized may not make any increase in the total amount of member business loans (as defined in section 107A(c)) outstanding at that credit union at any one time, until such time as the credit union becomes adequately capitalized.

“(h) MORE STRINGENT TREATMENT BASED ON OTHER SUPERVISORY CRITERIA.—With respect to the exercise of authority by the Board under regulations comparable to section 38(g) of the Federal Deposit Insurance Act—

“(1) the Board may not reclassify an insured credit union into a lower net worth category, or treat an insured credit union as if it were in a lower net worth category, for reasons not pertaining to the safety and soundness of that credit union; and

“(2) the Board may not delegate its authority to reclassify an insured credit union into a lower net worth category or to treat an insured credit union as if it were in a lower net worth category.

“(i) ACTION REQUIRED REGARDING CRITICALLY UNDERCAPITALIZED CREDIT UNIONS.—

“(1) IN GENERAL.—The Board shall, not later than 90 days after the date on which an insured credit union becomes critically undercapitalized—

Deadline.

“(A) appoint a conservator or liquidating agent for the credit union; or

“(B) take such other action as the Board determines would better achieve the purpose of this section, after documenting why the action would better achieve that purpose.

“(2) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by the Board under paragraph (1)(B) to take any action with respect to an insured credit union in lieu of appointing a conservator or liquidating agent shall cease to be effective not later than the end of the 180-day period beginning on the date on which the determination is made, and a conservator or liquidating agent shall be appointed for that credit union under paragraph (1)(A), unless the Board makes a new determination under paragraph (1)(B) before the end of the effective period of the prior determination.

Termination date.

“(3) APPOINTMENT OF LIQUIDATING AGENT REQUIRED IF OTHER ACTION FAILS TO RESTORE NET WORTH.—

“(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), the Board shall appoint a liquidating agent for an insured credit union if the credit union is critically undercapitalized on average during the calendar quarter beginning 18 months after the date on which the credit union became critically undercapitalized.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), the Board may continue to take such other action as the Board determines to be appropriate in lieu of appointment of a liquidating agent if—

“(i) the Board determines that—

“(I) the insured credit union has been in substantial compliance with an approved net worth restoration plan that requires consistent improvement in the net worth of the credit union since the date of the approval of the plan; and

“(II) the insured credit union has positive net income or has an upward trend in earnings that the Board projects as sustainable; and

“(ii) the Board certifies that the credit union is viable and not expected to fail.

“(4) NONDELEGATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Board may not delegate the authority of the Board under this subsection.

“(B) EXCEPTION.—The Board may delegate the authority of the Board under this subsection with respect to an insured credit union that has less than \$5,000,000 in total assets, if the Board permits the credit union to appeal any adverse action to the Board.

“(j) REVIEW REQUIRED WHEN FUND INCURS MATERIAL LOSS.—For purposes of determining whether the Fund has incurred a material loss with respect to an insured credit union (such that the inspector general of the Board must make a report), a loss is material if it exceeds the sum of—

“(1) \$10,000,000; and

“(2) an amount equal to 10 percent of the total assets of the credit union at the time at which the Board initiated assistance under section 208 or was appointed liquidating agent.

Regulations.

“(k) APPEALS PROCESS.—Material supervisory determinations, including decisions to require prompt corrective action, made pursuant to this section by Administration officials other than the Board may be appealed to the Board pursuant to the independent appellate process required by section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 (or, if the Board so specifies, pursuant to separate procedures prescribed by regulation).

“(l) CONSULTATION AND COOPERATION WITH STATE CREDIT UNION SUPERVISORS.—

“(1) IN GENERAL.—In implementing this section, the Board shall consult and seek to work cooperatively with State officials having jurisdiction over State-chartered insured credit unions.

“(2) EVALUATING NET WORTH RESTORATION PLAN.—In evaluating any net worth restoration plan submitted by a State-chartered insured credit union, the Board shall seek the views of the State official having jurisdiction over the credit union.

“(3) DECIDING WHETHER TO APPOINT CONSERVATOR OR LIQUIDATING AGENT.—With respect to any decision by the Board on whether to appoint a conservator or liquidating agent for a State-chartered insured credit union—

“(A) the Board shall—

“(i) seek the views of the State official having jurisdiction over the credit union; and

“(ii) give that official an opportunity to take the proposed action;



“(B) the Board shall, upon timely request of an official referred to in subparagraph (A), promptly provide the official with—

“(i) a written statement of the reasons for the proposed action; and

“(ii) reasonable time to respond to that statement;

“(C) if the official referred to in subparagraph (A) makes a timely written response that disagrees with the proposed action and gives reasons for that disagreement, the Board shall not appoint a conservator or liquidating agent for the credit union, unless the Board, after considering the views of the official, has determined that—

“(i) the Fund faces a significant risk of loss with respect to the credit union if a conservator or liquidating agent is not appointed; and

“(ii) the appointment is necessary to reduce—

“(I) the risk that the Fund would incur a loss with respect to the credit union; or

“(II) any loss that the Fund is expected to incur with respect to the credit union; and

“(D) the Board may not delegate any determination under subparagraph (C).

“(m) CORPORATE CREDIT UNIONS EXEMPTED.—This section does not apply to any insured credit union that—

“(1) operates primarily for the purpose of serving credit unions; and

“(2) permits individuals to be members of the credit union only to the extent that applicable law requires that such persons own shares.

“(n) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of the Board or a State to take action in addition to (but not in derogation of) that is required under this section.

“(o) DEFINITIONS.—For purposes of this section the following definitions shall apply:

“(1) FEDERAL BANKING AGENCY.—The term ‘Federal banking agency’ has the same meaning as in section 3 of the Federal Deposit Insurance Act.

“(2) NET WORTH.—The term ‘net worth’—

“(A) with respect to any insured credit union, means retained earnings balance of the credit union, as determined under generally accepted accounting principles; and

“(B) with respect to a low-income credit union, includes secondary capital accounts that are—

“(i) uninsured; and

“(ii) subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and the Fund.

“(3) NET WORTH RATIO.—The term ‘net worth ratio’ means, with respect to a credit union, the ratio of the net worth of the credit union to the total assets of the credit union.

“(4) NEW CREDIT UNION.—The term ‘new credit union’ means an insured credit union that—

“(A) has been in operation for less than 10 years; and

“(B) has not more than \$10,000,000 in total assets.”.

## (b) CONSERVATORSHIP AND LIQUIDATION AMENDMENTS TO FACILITATE PROMPT CORRECTIVE ACTION.—

(1) CONSERVATORSHIP.—Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (D), by striking “or” at the end;

(ii) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following new subparagraphs:

“(F) the credit union is significantly undercapitalized, as defined in section 216, and has no reasonable prospect of becoming adequately capitalized, as defined in section 216; or

“(G) the credit union is critically undercapitalized, as defined in section 216.”; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “In the case” and inserting “Except as provided in subparagraph (C), in the case”; and

(ii) by adding at the end the following new subparagraph:

“(C) In the case of a State-chartered insured credit union, the authority conferred by subparagraphs (F) and (G) of paragraph (1) may not be exercised unless the Board has complied with section 216(l).”.

(2) LIQUIDATION.—Section 207(a) of the Federal Credit Union Act (12 U.S.C. 1787(a)) is amended—

(A) in paragraph (1)(A), by striking “himself” and inserting “itself”; and

(B) by adding at the end the following new paragraph:

“(3) LIQUIDATION TO FACILITATE PROMPT CORRECTIVE ACTION.—The Board may close any credit union for liquidation, and appoint itself or another (including, in the case of a State-chartered insured credit union, the State official having jurisdiction over the credit union) as liquidating agent of that credit union, if—

“(A) the Board determines that—

“(i) the credit union is significantly undercapitalized, as defined in section 216, and has no reasonable prospect of becoming adequately capitalized, as defined in section 216; or

“(ii) the credit union is critically undercapitalized, as defined in section 216; and

“(B) in the case of a State-chartered insured credit union, the Board has complied with section 216(l).”.

(c) CONSULTATION REQUIRED.—In developing regulations to implement section 216 of the Federal Credit Union Act (as added by subsection (a) of this section), the Board shall consult with the Secretary, the Federal banking agencies, and the State officials having jurisdiction over State-chartered insured credit unions.

(d) DEADLINES FOR REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Board shall—

(A) publish in the Federal Register proposed regulations to implement section 216 of the Federal Credit Union Act (as added by subsection (a) of this section) not later

12 USC 1790d  
note.12 USC 1790d  
note.Federal Register,  
publication.

than 270 days after the date of enactment of this Act; and

(B) promulgate final regulations to implement section 216 not later than 18 months after the date of enactment of this Act.

(2) RISK-BASED NET WORTH REQUIREMENT.—

(A) ADVANCE NOTICE OF PROPOSED RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Board shall publish in the Federal Register an advance notice of proposed rulemaking, as required by section 216(d) of the Federal Credit Union Act, as added by this Act.

Federal Register,  
publication.

(B) FINAL REGULATIONS.—The Board shall promulgate final regulations, as required by section 216(d) not later than 2 years after the date of enactment of this Act.

(e) EFFECTIVE DATE.—

12 USC 1790d  
note.

(1) IN GENERAL.—Except as provided in paragraph (2), section 216 of the Federal Credit Union Act (as added by this section) shall become effective 2 years after the date of enactment of this Act.

(2) RISK-BASED NET WORTH REQUIREMENT.—Section 216(d) of the Federal Credit Union Act (as added by this section) shall become effective on January 1, 2001.

(f) REPORT TO CONGRESS REQUIRED.—When the Board publishes proposed regulations pursuant to subsection (d)(1)(A), or promulgates final regulations pursuant to subsection (d)(1)(B), the Board shall submit to the Congress a report that specifically explains—

12 USC 1790d  
note.

(1) how the regulations carry out section 216(b)(1)(B) of the Federal Credit Union Act (as added by this section), relating to the cooperative character of credit unions; and

(2) how the regulations differ from section 38 of the Federal Deposit Insurance Act, and the reasons for those differences.

(g) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO ENFORCEMENT OF PROMPT CORRECTIVE ACTION.—Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended—

(A) in paragraph (1), by inserting “or section 216” after “this section” each place it appears; and

(B) in paragraph (2)(A)(ii), by inserting “, or any final order under section 216” before the semicolon.

(2) CONFORMING AMENDMENT REGARDING APPOINTMENT OF STATE CREDIT UNION SUPERVISOR AS CONSERVATOR.—Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended by inserting “or another (including, in the case of a State-chartered insured credit union, the State official having jurisdiction over the credit union)” after “appoint itself”.

(3) AMENDMENT REPEALING SUPERSEDED PROVISION.—Section 116 of the Federal Credit Union Act (12 U.S.C. 1762) is repealed.

**SEC. 302. NATIONAL CREDIT UNION SHARE INSURANCE FUND EQUITY RATIO, AVAILABLE ASSETS RATIO, AND STANDBY PREMIUM CHARGE.**

(a) IN GENERAL.—Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) CERTIFIED STATEMENT.—

“(1) STATEMENT REQUIRED.—

“(A) IN GENERAL.—For each calendar year, in the case of an insured credit union with total assets of not more than \$50,000,000, and for each semi-annual period in the case of an insured credit union with total assets of \$50,000,000 or more, an insured credit union shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of insured shares in the credit union at the close of the relevant period and both the amount of its deposit or adjustment of deposit and the amount of the insurance charge due to the Fund for that period, both as computed under subsection (c).

“(B) EXCEPTION FOR NEWLY INSURED CREDIT UNION.—

Subparagraph (A) shall not apply with respect to a credit union that became insured during the reporting period.

“(2) FORM.—The certified statements required to be filed with the Board pursuant to this subsection shall be in such form and shall set forth such supporting information as the Board shall require.

“(3) CERTIFICATION.—The president of the credit union or any officer designated by the board of directors shall certify, with respect to each statement required to be filed with the Board pursuant to this subsection, that to the best of his or her knowledge and belief the statement is true, correct, complete, and in accordance with this title and the regulations issued under this title.”;

(2) in subsection (c)(1)(A), by striking clause (iii) and inserting the following:

“(iii) PERIODIC ADJUSTMENT.—The amount of each insured credit union’s deposit shall be adjusted as follows, in accordance with procedures determined by the Board, to reflect changes in the credit union’s insured shares:

“(I) annually, in the case of an insured credit union with total assets of not more than \$50,000,000; and

“(II) semi-annually, in the case of an insured credit union with total assets of \$50,000,000 or more.”;

(3) in subsection (c), by striking paragraphs (2) and (3) and inserting the following:

“(2) INSURANCE PREMIUM CHARGES.—

“(A) IN GENERAL.—Each insured credit union shall, at such times as the Board prescribes (but not more than twice in any calendar year), pay to the Fund a premium charge for insurance in an amount stated as a percentage of insured shares (which shall be the same for all insured credit unions).

“(B) RELATION OF PREMIUM CHARGE TO EQUITY RATIO OF FUND.—The Board may assess a premium charge only if—

“(i) the Fund’s equity ratio is less than 1.3 percent; and

“(ii) the premium charge does not exceed the amount necessary to restore the equity ratio to 1.3 percent.

“(C) PREMIUM CHARGE REQUIRED IF EQUITY RATIO FALLS BELOW 1.2 PERCENT.—If the Fund’s equity ratio is less than 1.2 percent, the Board shall, subject to subparagraph (B), assess a premium charge in such an amount as the Board determines to be necessary to restore the equity ratio to, and maintain that ratio at, 1.2 percent.

“(3) DISTRIBUTIONS FROM FUND REQUIRED.—

“(A) IN GENERAL.—The Board shall effect a pro rata distribution to insured credit unions after each calendar year if, as of the end of that calendar year—

“(i) any loans to the Fund from the Federal Government, and any interest on those loans, have been repaid;

“(ii) the Fund’s equity ratio exceeds the normal operating level; and

“(iii) the Fund’s available assets ratio exceeds 1.0 percent.

“(B) AMOUNT OF DISTRIBUTION.—The Board shall distribute under subparagraph (A) the maximum possible amount that—

“(i) does not reduce the Fund’s equity ratio below the normal operating level; and

“(ii) does not reduce the Fund’s available assets ratio below 1.0 percent.

“(C) CALCULATION BASED ON CERTIFIED STATEMENTS.—

In calculating the Fund’s equity ratio and available assets ratio for purposes of this paragraph, the Board shall determine the aggregate amount of the insured shares in all insured credit unions from insured credit unions certified statements under subsection (b) for the final reporting period of the calendar year referred to in subparagraph (A).”;

(4) in subsection (c), by adding at the end the following new paragraph:

“(4) TIMELINESS AND ACCURACY OF DATA.—In calculating the available assets ratio and equity ratio of the Fund, the Board shall use the most current and accurate data reasonably available.”; and

(5) by striking subsection (h) and inserting the following:

“(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) AVAILABLE ASSETS RATIO.—The term ‘available assets ratio’, when applied to the Fund, means the ratio of—

“(A) the amount determined by subtracting—

“(i) direct liabilities of the Fund and contingent liabilities for which no provision for losses has been made, from

“(ii) the sum of cash and the market value of unencumbered investments authorized under section 203(c), to

“(B) the aggregate amount of the insured shares in all insured credit unions.

“(2) EQUITY RATIO.—The term ‘equity ratio’, when applied to the Fund, means the ratio of—

“(A) the amount of Fund capitalization, including insured credit unions’ 1 percent capitalization deposits and the retained earnings balance of the Fund (net of direct liabilities of the Fund and contingent liabilities for which no provision for losses has been made); to

“(B) the aggregate amount of the insured shares in all insured credit unions.

“(3) INSURED SHARES.—The term ‘insured shares’, when applied to this section, includes share, share draft, share certificate, and other similar accounts as determined by the Board, but does not include amounts exceeding the insured account limit set forth in section 207(c)(1).

“(4) NORMAL OPERATING LEVEL.—The term ‘normal operating level’, when applied to the Fund, means an equity ratio specified by the Board, which shall be not less than 1.2 percent and not more than 1.5 percent.”.

12 USC 1782  
note.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1 of the first calendar year beginning more than 180 days after the date of enactment of this Act.

#### SEC. 303. ACCESS TO LIQUIDITY.

Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end the following new subsections:

“(f) ACCESS TO LIQUIDITY.—The Board shall—

“(1) periodically assess the potential liquidity needs of each insured credit union, and the options that the credit union has available for meeting those needs; and

“(2) periodically assess the potential liquidity needs of insured credit unions as a group, and the options that insured credit unions have available for meeting those needs.

“(g) SHARING INFORMATION WITH FEDERAL RESERVE BANKS.—The Board shall, for the purpose of facilitating insured credit unions’ access to liquidity, make available to the Federal reserve banks (subject to appropriate assurances of confidentiality) information relevant to making advances to such credit unions, including the Board’s reports of examination.”.

## TITLE IV—MISCELLANEOUS PROVISIONS

12 USC 1752a  
note.

#### SEC. 401. STUDY AND REPORT ON DIFFERING REGULATORY TREATMENT.

(a) STUDY.—The Secretary shall conduct a study of—

(1) the differences between credit unions and other federally insured financial institutions, including regulatory differences with respect to regulations enforced by the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Administration; and

(2) the potential effects of the application of Federal laws, including Federal tax laws, on credit unions in the same manner as those laws are applied to other federally insured financial institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study required by subsection (a). Deadline.

**SEC. 402. UPDATE ON REVIEW OF REGULATIONS AND PAPERWORK REDUCTIONS.**

Not later than 1 year after the date of enactment of this Act, the Federal banking agencies shall submit a report to the Congress detailing their progress in carrying out section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994, since their submission of the report dated September 23, 1996, as required by section 303(a)(4) of that Act.

Deadline.  
Reports.  
12 USC 4803  
note.

**SEC. 403. TREASURY REPORT ON REDUCED TAXATION AND VIABILITY OF SMALL BANKS.**

The Secretary shall, not later than 1 year after the date of enactment of this Act, submit a report to the Congress containing—

(1) recommendations for such legislative and administrative action as the Secretary deems appropriate, that would reduce and simplify the tax burden for—

(A) insured depository institutions having less than \$1,000,000,000 in assets; and

(B) banks having total assets of not less than \$1,000,000,000 nor more than \$10,000,000,000; and

(2) any other recommendations that the Secretary deems appropriate that would preserve the viability and growth of small banking institutions in the United States.

Deadline.  
12 USC 4801  
note.

Approved August 7, 1998.

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**LEGISLATIVE HISTORY—H.R. 1151:**

HOUSE REPORTS: No. 105–472 (Comm. on Banking and Financial Services).

SENATE REPORTS: No. 105–193 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Apr. 1, considered and passed House.

July 24, 27, 28, considered and passed Senate, amended.

Aug. 4, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Aug. 7, Presidential statement.

Public Law 105–220  
105th Congress

An Act

Aug. 7, 1998  
[H.R. 1385]

To consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Workforce  
Investment Act  
of 1998.  
20 USC 9201  
note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Workforce Investment Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—WORKFORCE INVESTMENT SYSTEMS**

**Subtitle A—Workforce Investment Definitions**

**Subtitle B—Statewide and Local Workforce Investment Systems**

Sec. 106. Purpose.

**CHAPTER 1—STATE PROVISIONS**

Sec. 111. State workforce investment boards.

Sec. 112. State plan.

**CHAPTER 2—LOCAL PROVISIONS**

Sec. 116. Local workforce investment areas.

Sec. 117. Local workforce investment boards.

Sec. 118. Local plan.

**CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES PROVIDERS**

Sec. 121. Establishment of one-stop delivery systems.

Sec. 122. Identification of eligible providers of training services.

Sec. 123. Identification of eligible providers of youth activities.

**CHAPTER 4—YOUTH ACTIVITIES**

Sec. 126. General authorization.

Sec. 127. State allotments.

Sec. 128. Within State allocations.

Sec. 129. Use of funds for youth activities.

**CHAPTER 5—ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES**

Sec. 131. General authorization.

Sec. 132. State allotments.

Sec. 133. Within State allocations.

Sec. 134. Use of funds for employment and training activities.

**CHAPTER 6—GENERAL PROVISIONS**

Sec. 136. Performance accountability system.

Sec. 137. Authorization of appropriations.



## Subtitle C—Job Corps

- Sec. 141. Purposes.
- Sec. 142. Definitions.
- Sec. 143. Establishment.
- Sec. 144. Individuals eligible for the Job Corps.
- Sec. 145. Recruitment, screening, selection, and assignment of enrollees.
- Sec. 146. Enrollment.
- Sec. 147. Job Corps centers.
- Sec. 148. Program activities.
- Sec. 149. Counseling and job placement.
- Sec. 150. Support.
- Sec. 151. Operating plan.
- Sec. 152. Standards of conduct.
- Sec. 153. Community participation.
- Sec. 154. Industry councils.
- Sec. 155. Advisory committees.
- Sec. 156. Experimental, research, and demonstration projects.
- Sec. 157. Application of provisions of Federal law.
- Sec. 158. Special provisions.
- Sec. 159. Management information.
- Sec. 160. General provisions.
- Sec. 161. Authorization of appropriations.

## Subtitle D—National Programs

- Sec. 166. Native American programs.
- Sec. 167. Migrant and seasonal farmworker programs.
- Sec. 168. Veterans' workforce investment programs.
- Sec. 169. Youth opportunity grants.
- Sec. 170. Technical assistance.
- Sec. 171. Demonstration, pilot, multiservice, research, and multistate projects.
- Sec. 172. Evaluations.
- Sec. 173. National emergency grants.
- Sec. 174. Authorization of appropriations.

## Subtitle E—Administration

- Sec. 181. Requirements and restrictions.
- Sec. 182. Prompt allocation of funds.
- Sec. 183. Monitoring.
- Sec. 184. Fiscal controls; sanctions.
- Sec. 185. Reports; recordkeeping; investigations.
- Sec. 186. Administrative adjudication.
- Sec. 187. Judicial review.
- Sec. 188. Nondiscrimination.
- Sec. 189. Administrative provisions.
- Sec. 190. Reference.
- Sec. 191. State legislative authority.
- Sec. 192. Workforce flexibility plans.
- Sec. 193. Use of certain real property.
- Sec. 194. Continuation of State activities and policies.
- Sec. 195. General program requirements.

## Subtitle F—Repeals and Conforming Amendments

- Sec. 199. Repeals.
- Sec. 199A. Conforming amendments.

## TITLE II—ADULT EDUCATION AND LITERACY

- Sec. 201. Short title.
- Sec. 202. Purpose.
- Sec. 203. Definitions.
- Sec. 204. Home schools.
- Sec. 205. Authorization of appropriations.

## Subtitle A—Adult Education and Literacy Programs

## CHAPTER 1—FEDERAL PROVISIONS

- Sec. 211. Reservation; grants to eligible agencies; allotments.
- Sec. 212. Performance accountability system.

## CHAPTER 2—STATE PROVISIONS

- Sec. 221. State administration.

- Sec. 222. State distribution of funds; matching requirement.
- Sec. 223. State leadership activities.
- Sec. 224. State plan.
- Sec. 225. Programs for corrections education and other institutionalized individuals.

## CHAPTER 3—LOCAL PROVISIONS

- Sec. 231. Grants and contracts for eligible providers.
- Sec. 232. Local application.
- Sec. 233. Local administrative cost limits.

## CHAPTER 4—GENERAL PROVISIONS

- Sec. 241. Administrative provisions.
- Sec. 242. National Institute for Literacy.
- Sec. 243. National leadership activities.

## Subtitle B—Repeals

- Sec. 251. Repeals.

## TITLE III—WORKFORCE INVESTMENT-RELATED ACTIVITIES

## Subtitle A—Wagner-Peyser Act

- Sec. 301. Definitions.
- Sec. 302. Functions.
- Sec. 303. Designation of State agencies.
- Sec. 304. Appropriations.
- Sec. 305. Disposition of allotted funds.
- Sec. 306. State plans.
- Sec. 307. Repeal of Federal advisory council.
- Sec. 308. Regulations.
- Sec. 309. Employment statistics.
- Sec. 310. Technical amendments.
- Sec. 311. Effective date.

## Subtitle B—Linkages With Other Programs

- Sec. 321. Trade Act of 1974.
- Sec. 322. Veterans' employment programs.
- Sec. 323. Older Americans Act of 1965.

## Subtitle C—Twenty-First Century Workforce Commission

- Sec. 331. Short title.
- Sec. 332. Findings.
- Sec. 333. Definitions.
- Sec. 334. Establishment of Twenty-First Century Workforce Commission.
- Sec. 335. Duties of the Commission.
- Sec. 336. Powers of the Commission.
- Sec. 337. Commission personnel matters.
- Sec. 338. Termination of the Commission.
- Sec. 339. Authorization of appropriations.

## Subtitle D—Application of Civil Rights and Labor-Management Laws to the Smithsonian Institution

- Sec. 341. Application of civil rights and labor-management laws to the Smithsonian Institution.

## TITLE IV—REHABILITATION ACT AMENDMENTS OF 1998

- Sec. 401. Short title.
- Sec. 402. Title.
- Sec. 403. General provisions.
- Sec. 404. Vocational rehabilitation services.
- Sec. 405. Research and training.
- Sec. 406. Professional development and special projects and demonstrations.
- Sec. 407. National Council on Disability.
- Sec. 408. Rights and advocacy.
- Sec. 409. Employment opportunities for individuals with disabilities.
- Sec. 410. Independent living services and centers for independent living.
- Sec. 411. Repeal.
- Sec. 412. Helen Keller National Center Act.
- Sec. 413. President's Committee on Employment of People With Disabilities.
- Sec. 414. Conforming amendments.

## TITLE V—GENERAL PROVISIONS

- Sec. 501. State unified plan.
- Sec. 502. Definitions for indicators of performance.
- Sec. 503. Incentive grants.
- Sec. 504. Privacy.
- Sec. 505. Buy-American requirements.
- Sec. 506. Transition provisions.
- Sec. 507. Effective date.

## TITLE I—WORKFORCE INVESTMENT SYSTEMS

### Subtitle A—Workforce Investment Definitions

## SEC. 101. DEFINITIONS.

29 USC 2801.

In this title:

(1) ADULT.—Except in sections 127 and 132, the term “adult” means an individual who is age 18 or older.

(2) ADULT EDUCATION; ADULT EDUCATION AND LITERACY ACTIVITIES.—The terms “adult education” and “adult education and literacy activities” have the meanings given the terms in section 203.

(3) AREA VOCATIONAL EDUCATION SCHOOL.—The term “area vocational education school” has the meaning given the term in section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471).

(4) BASIC SKILLS DEFICIENT.—The term “basic skills deficient” means, with respect to an individual, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test.

(5) CASE MANAGEMENT.—The term “case management” means the provision of a client-centered approach in the delivery of services, designed—

(A) to prepare and coordinate comprehensive employment plans, such as service strategies, for participants to ensure access to necessary workforce investment activities and supportive services, using, where feasible, computer-based technologies; and

(B) to provide job and career counseling during program participation and after job placement.

(6) CHIEF ELECTED OFFICIAL.—The term “chief elected official” means—

(A) the chief elected executive officer of a unit of general local government in a local area; and

(B) in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement described in section 117(c)(1)(B).

(7) COMMUNITY-BASED ORGANIZATION.—The term “community-based organization” means a private nonprofit organization that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce investment.

(8) CUSTOMIZED TRAINING.—The term “customized training” means training—

(A) that is designed to meet the special requirements of an employer (including a group of employers);

(B) that is conducted with a commitment by the employer to employ an individual on successful completion of the training; and

(C) for which the employer pays for not less than 50 percent of the cost of the training.

(9) DISLOCATED WORKER.—The term “dislocated worker” means an individual who—

(A)(i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment;

(ii)(I) is eligible for or has exhausted entitlement to unemployment compensation; or

(II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 134(c), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

(iii) is unlikely to return to a previous industry or occupation;

(B)(i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;

(ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or

(iii) for purposes of eligibility to receive services other than training services described in section 134(d)(4), intensive services described in section 134(d)(3), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;

(C) was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters; or

(D) is a displaced homemaker.

(10) DISPLACED HOME MAKER.—The term “displaced homemaker” means an individual who has been providing unpaid services to family members in the home and who—

(A) has been dependent on the income of another family member but is no longer supported by that income; and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(11) ECONOMIC DEVELOPMENT AGENCIES.—The term “economic development agencies” includes local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating, promoting, or assisting in local economic development.

(12) ELIGIBLE PROVIDER.—The term “eligible provider”, used with respect to—

(A) training services, means a provider who is identified in accordance with section 122(e)(3);

(B) intensive services, means a provider who is identified or awarded a contract as described in section 134(d)(3)(B);

(C) youth activities, means a provider who is awarded a grant or contract in accordance with section 123; or

(D) other workforce investment activities, means a public or private entity selected to be responsible for such activities, such as a one-stop operator designated or certified under section 121(d).

(13) ELIGIBLE YOUTH.—Except as provided in subtitles C and D, the term “eligible youth” means an individual who—

(A) is not less than age 14 and not more than age 21;

(B) is a low-income individual; and

(C) is an individual who is one or more of the following:

(i) Deficient in basic literacy skills.

(ii) A school dropout.

(iii) Homeless, a runaway, or a foster child.

(iv) Pregnant or a parent.

(v) An offender.

(vi) An individual who requires additional assistance to complete an educational program, or to secure and hold employment.

(14) EMPLOYMENT AND TRAINING ACTIVITY.—The term “employment and training activity” means an activity described in section 134 that is carried out for an adult or dislocated worker.

(15) FAMILY.—The term “family” means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

(A) A husband, wife, and dependent children.

(B) A parent or guardian and dependent children.

(C) A husband and wife.

(16) GOVERNOR.—The term “Governor” means the chief executive of a State.

(17) INDIVIDUAL WITH A DISABILITY.—

(A) IN GENERAL.—The term “individual with a disability” means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(B) INDIVIDUALS WITH DISABILITIES.—The term “individuals with disabilities” means more than one individual with a disability.

(18) LABOR MARKET AREA.—The term “labor market area” means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such an area shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by a Governor.

(19) LITERACY.—The term “literacy” has the meaning given the term in section 203.

(20) LOCAL AREA.—The term “local area” means a local workforce investment area designated under section 116.

(21) LOCAL BOARD.—The term “local board” means a local workforce investment board established under section 117.

(22) LOCAL PERFORMANCE MEASURE.—The term “local performance measure” means a performance measure established under section 136(c).

(23) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(24) LOWER LIVING STANDARD INCOME LEVEL.—The term “lower living standard income level” means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based on the most recent lower living family budget issued by the Secretary.

(25) LOW-INCOME INDIVIDUAL.—The term “low-income individual” means an individual who—

(A) receives, or is a member of a family that receives, cash payments under a Federal, State, or local income-based public assistance program;

(B) received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, payments described in subparagraph (A), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of—

(i) the poverty line, for an equivalent period; or

(ii) 70 percent of the lower living standard income level, for an equivalent period;

(C) is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(D) qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302);

(E) is a foster child on behalf of whom State or local government payments are made; or

(F) in cases permitted by regulations promulgated by the Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program described in subparagraph (A) or of subparagraph (B), but who is a member of a family whose income does not meet such requirements.

(26) NONTRADITIONAL EMPLOYMENT.—The term “nontraditional employment” refers to occupations or fields of work for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

(27) OFFENDER.—The term “offender” means any adult or juvenile—

(A) who is or has been subject to any stage of the criminal justice process, for whom services under this Act may be beneficial; or

(B) who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

(28) OLDER INDIVIDUAL.—The term “older individual” means an individual age 55 or older.

(29) ONE-STOP OPERATOR.—The term “one-stop operator” means 1 or more entities designated or certified under section 121(d).

(30) ONE-STOP PARTNER.—The term “one-stop partner” means—

(A) an entity described in section 121(b)(1); and

(B) an entity described in section 121(b)(2) that is participating, with the approval of the local board and chief elected official, in the operation of a one-stop delivery system.

(31) ON-THE-JOB TRAINING.—The term “on-the-job training” means training by an employer that is provided to a paid participant while engaged in productive work in a job that—

(A) provides knowledge or skills essential to the full and adequate performance of the job;

(B) provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and

(C) is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

(32) OUTLYING AREA.—The term “outlying area” means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(33) OUT-OF-SCHOOL YOUTH.—The term “out-of-school youth” means—

(A) an eligible youth who is a school dropout; or

(B) an eligible youth who has received a secondary school diploma or its equivalent but is basic skills deficient, unemployed, or underemployed.

(34) PARTICIPANT.—The term “participant” means an individual who has been determined to be eligible to participate in and who is receiving services (except followup services authorized under this title) under a program authorized by this title. Participation shall be deemed to commence on the first day, following determination of eligibility, on which the individual began receiving subsidized employment, training, or other services provided under this title.

(35) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term “postsecondary educational institution” means an institution of higher education, as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088).

(36) POVERTY LINE.—The term “poverty line” means the poverty line (as defined by the Office of Management and

Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(37) PUBLIC ASSISTANCE.—The term “public assistance” means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.

(38) RAPID RESPONSE ACTIVITY.—The term “rapid response activity” means an activity provided by a State, or by an entity designated by a State, with funds provided by the State under section 134(a)(1)(A), in the case of a permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or other disaster, that results in mass job dislocation, in order to assist dislocated workers in obtaining reemployment as soon as possible, with services including—

(A) the establishment of onsite contact with employers and employee representatives—

(i) immediately after the State is notified of a current or projected permanent closure or mass layoff; or

(ii) in the case of a disaster, immediately after the State is made aware of mass job dislocation as a result of such disaster;

(B) the provision of information and access to available employment and training activities;

(C) assistance in establishing a labor-management committee, voluntarily agreed to by labor and management, with the ability to devise and implement a strategy for assessing the employment and training needs of dislocated workers and obtaining services to meet such needs;

(D) the provision of emergency assistance adapted to the particular closure, layoff, or disaster; and

(E) the provision of assistance to the local community in developing a coordinated response and in obtaining access to State economic development assistance.

(39) SCHOOL DROPOUT.—The term “school dropout” means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

(40) SECONDARY SCHOOL.—The term “secondary school” has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(41) SECRETARY.—The term “Secretary” means the Secretary of Labor, and the term means such Secretary for purposes of section 503.

(42) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(43) STATE ADJUSTED LEVEL OF PERFORMANCE.—The term “State adjusted level of performance” means a level described in clause (iii) or (v) of section 136(b)(3)(A).

(44) STATE BOARD.—The term “State board” means a State workforce investment board established under section 111.

(45) STATE PERFORMANCE MEASURE.—The term “State performance measure” means a performance measure established under section 136(b).

(46) SUPPORTIVE SERVICES.—The term “supportive services” means services such as transportation, child care, dependent



care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under this title, consistent with the provisions of this title.

(47) **UNEMPLOYED INDIVIDUAL.**—The term “unemployed individual” means an individual who is without a job and who wants and is available for work. The determination of whether an individual is without a job shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed.

(48) **UNIT OF GENERAL LOCAL GOVERNMENT.**—The term “unit of general local government” means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.

(49) **VETERAN; RELATED DEFINITION.**—

(A) **VETERAN.**—The term “veteran” means an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable.

(B) **RECENTLY SEPARATED VETERAN.**—The term “recently separated veteran” means any veteran who applies for participation under this title within 48 months after the discharge or release from active military, naval, or air service.

(50) **VOCATIONAL EDUCATION.**—The term “vocational education” has the meaning given the term in section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471).

(51) **WORKFORCE INVESTMENT ACTIVITY.**—The term “workforce investment activity” means an employment and training activity, and a youth activity.

(52) **YOUTH ACTIVITY.**—The term “youth activity” means an activity described in section 129 that is carried out for eligible youth (or as described in section 129(c)(5)).

(53) **YOUTH COUNCIL.**—The term “youth council” means a council established under section 117(h).

## **Subtitle B—Statewide and Local Workforce Investment Systems**

### **SEC. 106. PURPOSE.**

29 USC 2811.

The purpose of this subtitle is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation.

### **CHAPTER 1—STATE PROVISIONS**

#### **SEC. 111. STATE WORKFORCE INVESTMENT BOARDS.**

Establishment.  
29 USC 2821.

(a) **IN GENERAL.**—The Governor of a State shall establish a State workforce investment board to assist in the development

of the State plan described in section 112 and to carry out the other functions described in subsection (d).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The State Board shall include—

(A) the Governor;

(B) 2 members of each chamber of the State legislature, appointed by the appropriate presiding officers of each such chamber; and

(C) representatives appointed by the Governor, who are—

(i) representatives of business in the State, who—

(I) are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority, including members of local boards described in section 117(b)(2)(A)(i);

(II) represent businesses with employment opportunities that reflect the employment opportunities of the State; and

(III) are appointed from among individuals nominated by State business organizations and business trade associations;

(ii) chief elected officials (representing both cities and counties, where appropriate);

(iii) representatives of labor organizations, who have been nominated by State labor federations;

(iv) representatives of individuals and organizations that have experience with respect to youth activities;

(v) representatives of individuals and organizations that have experience and expertise in the delivery of workforce investment activities, including chief executive officers of community colleges and community-based organizations within the State;

(vi)(I) the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) and carried out by one-stop partners; and

(II) in any case in which no lead State agency official has responsibility for such a program, service, or activity, a representative in the State with expertise relating to such program, service, or activity; and

(vii) such other representatives and State agency officials as the Governor may designate, such as the State agency officials responsible for economic development and juvenile justice programs in the State.

(2) AUTHORITY AND REGIONAL REPRESENTATION OF BOARD MEMBERS.—Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities. The members of the board shall represent diverse regions of the State, including urban, rural, and suburban areas.

(3) MAJORITY.—A majority of the members of the State Board shall be representatives described in paragraph (1)(C)(i).

(c) CHAIRMAN.—The Governor shall select a chairperson for the State Board from among the representatives described in subsection (b)(1)(C)(i).

(d) FUNCTIONS.—The State Board shall assist the Governor in—

(1) development of the State plan;

(2) development and continuous improvement of a statewide system of activities that are funded under this subtitle or carried out through a one-stop delivery system described in section 134(c) that receives funds under this subtitle (referred to in this title as a “statewide workforce investment system”), including—

(A) development of linkages in order to assure coordination and nonduplication among the programs and activities described in section 121(b); and

(B) review of local plans;

(3) commenting at least once annually on the measures taken pursuant to section 113(b)(14) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2323(b)(14));

(4) designation of local areas as required in section 116;

(5) development of allocation formulas for the distribution of funds for adult employment and training activities and youth activities to local areas as permitted under sections 128(b)(3)(B) and 133(b)(3)(B);

(6) development and continuous improvement of comprehensive State performance measures, including State adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the State as required under section 136(b);

(7) preparation of the annual report to the Secretary described in section 136(d);

(8) development of the statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act; and

(9) development of an application for an incentive grant under section 503.

(e) ALTERNATIVE ENTITY.—

(1) IN GENERAL.—For purposes of complying with subsections (a), (b), and (c), a State may use any State entity (including a State council, State workforce development board, combination of regional workforce development boards, or similar entity) that—

(A) was in existence on December 31, 1997;

(B)(i) was established pursuant to section 122 or title VII of the Job Training Partnership Act, as in effect on December 31, 1997; or

(ii) is substantially similar to the State board described in subsections (a), (b), and (c); and

(C) includes representatives of business in the State and representatives of labor organizations in the State.

(2) REFERENCES.—References in this Act to a State board shall be considered to include such an entity.

(f) CONFLICT OF INTEREST.—A member of a State board may not—

(1) vote on a matter under consideration by the State board—

(A) regarding the provision of services by such member (or by an entity that such member represents); or

(B) that would provide direct financial benefit to such member or the immediate family of such member; or

(2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

(g) **SUNSHINE PROVISION.**—The State board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the State board, including information regarding the State plan prior to submission of the plan, information regarding membership, and, on request, minutes of formal meetings of the State board.

29 USC 2822.

**SEC. 112. STATE PLAN.**

(a) **IN GENERAL.**—For a State to be eligible to receive an allotment under section 127 or 132, or to receive financial assistance under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), the Governor of the State shall submit to the Secretary for consideration by the Secretary, a single State plan (referred to in this title as the “State plan”) that outlines a 5-year strategy for the statewide workforce investment system of the State and that meets the requirements of section 111 and this section.

(b) **CONTENTS.**—The State plan shall include—

(1) a description of the State board, including a description of the manner in which such board collaborated in the development of the State plan and a description of how the board will continue to collaborate in carrying out the functions described in section 111(d);

(2) a description of State-imposed requirements for the statewide workforce investment system;

(3) a description of the State performance accountability system developed for the workforce investment activities to be carried out through the statewide workforce investment system, that includes information identifying State performance measures as described in section 136(b)(3)(A)(ii);

(4) information describing—

(A) the needs of the State with regard to current and projected employment opportunities, by occupation;

(B) the job skills necessary to obtain such employment opportunities;

(C) the skills and economic development needs of the State; and

(D) the type and availability of workforce investment activities in the State;

(5) an identification of local areas designated in the State, including a description of the process used for the designation of such areas;

(6) an identification of criteria to be used by chief elected officials for the appointment of members of local boards based on the requirements of section 117;

(7) the detailed plans required under section 8 of the Wagner-Peyser Act (29 U.S.C. 49g);

(8)(A) a description of the procedures that will be taken by the State to assure coordination of and avoid duplication among—

(i) workforce investment activities authorized under this title;

(ii) other activities authorized under this title;

(iii) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), title II of this Act, title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)), activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.), and postsecondary vocational education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(iv) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(v) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(vi) activities authorized under chapter 41 of title 38, United States Code;

(vii) employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.);

(viii) activities authorized under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

(ix) employment and training activities carried out by the Department of Housing and Urban Development; and

(x) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law); and

(B) a description of the common data collection and reporting processes used for the programs and activities described in subparagraph (A);

(9) a description of the process used by the State, consistent with section 111(g), to provide an opportunity for public comment, including comment by representatives of businesses and representatives of labor organizations, and input into development of the plan, prior to submission of the plan;

(10) information identifying how the State will use funds the State receives under this subtitle to leverage other Federal, State, local, and private resources, in order to maximize the effectiveness of such resources, and to expand the participation of business, employees, and individuals in the statewide workforce investment system;

(11) assurances that the State will provide, in accordance with section 184 for fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through the allotments made under sections 127 and 132;

(12)(A) a description of the methods and factors the State will use in distributing funds to local areas for youth activities and adult employment and training activities under sections 128(b)(3)(B) and 133(b)(3)(B), including—

(i) a description of how the individuals and entities represented on the State board were involved in determining such methods and factors of distribution; and

(ii) a description of how the State consulted with chief elected officials in local areas throughout the State in determining such distribution;

(B) assurances that the funds will be distributed equitably throughout the State, and that no local areas will suffer significant shifts in funding from year to year; and

(C) a description of the formula prescribed by the Governor pursuant to section 133(b)(2)(B) for the allocation of funds to local areas for dislocated worker employment and training activities;

(13) information specifying the actions that constitute a conflict of interest prohibited in the State for purposes of sections 111(f) and 117(g);

(14) with respect to the one-stop delivery systems described in section 134(c) (referred to individually in this title as a “one-stop delivery system”), a description of the strategy of the State for assisting local areas in development and implementation of fully operational one-stop delivery systems in the State;

(15) a description of the appeals process referred to in section 116(a)(5);

(16) a description of the competitive process to be used by the State to award grants and contracts in the State for activities carried out under this title;

(17) with respect to the employment and training activities authorized in section 134—

(A) a description of—

(i) the employment and training activities that will be carried out with the funds received by the State through the allotment made under section 132;

(ii) how the State will provide rapid response activities to dislocated workers from funds reserved under section 133(a)(2) for such purposes, including the designation of an identifiable State rapid response dislocated worker unit to carry out statewide rapid response activities;

(iii) the procedures the local boards in the State will use to identify eligible providers of training services described in section 134(d)(4) (other than on-the-job training or customized training), as required under section 122; and

(iv) how the State will serve the employment and training needs of dislocated workers (including displaced homemakers), low-income individuals (including recipients of public assistance), individuals training for nontraditional employment, and other individuals with multiple barriers to employment (including older individuals and individuals with disabilities); and

(B) an assurance that veterans will be afforded the employment and training activities by the State, to the extent practicable; and

(18) with respect to youth activities authorized in section 129, information—

(A) describing the State strategy for providing comprehensive services to eligible youth, particularly those eligible youth who are recognized as having significant barriers to employment;

(B) identifying the criteria to be used by local boards in awarding grants for youth activities, including criteria that the Governor and local boards will use to identify effective and ineffective youth activities and providers of such activities;

(C) describing how the State will coordinate the youth activities carried out in the State under section 129 with the services provided by Job Corps centers in the State (where such centers exist); and

(D) describing how the State will coordinate youth activities described in subparagraph (C) with activities carried out through the youth opportunity grants under section 169.

(c) **PLAN SUBMISSION AND APPROVAL.**—A State plan submitted to the Secretary under this section by a Governor shall be considered to be approved by the Secretary at the end of the 90-day period beginning on the day the Secretary receives the plan, unless the Secretary makes a written determination, during the 90-day period, that—

(1) the plan is inconsistent with the provisions of this title; and

(2) in the case of the portion of the plan described in section 8(a) of the Wagner-Peyser Act (29 U.S.C. 49g(a)), the portion does not satisfy the criteria for approval provided in section 8(d) of such Act.

(d) **MODIFICATIONS TO PLAN.**—A State may submit modifications to a State plan in accordance with the requirements of this section and section 111 as necessary during the 5-year period covered by the plan.

## CHAPTER 2—LOCAL PROVISIONS

### SEC. 116. LOCAL WORKFORCE INVESTMENT AREAS.

29 USC 2831.

(a) **DESIGNATION OF AREAS.**—

(1) **IN GENERAL.**—

(A) **PROCESS.**—Except as provided in subsection (b), and consistent with paragraphs (2), (3), and (4), in order for a State to receive an allotment under section 127 or 132, the Governor of the State shall designate local workforce investment areas within the State—

(i) through consultation with the State board; and

(ii) after consultation with chief elected officials and after consideration of comments received through the public comment process as described in section 112(b)(9).

(B) **CONSIDERATIONS.**—In making the designation of local areas, the Governor shall take into consideration the following:

(i) Geographic areas served by local educational agencies and intermediate educational agencies.

(ii) Geographic areas served by postsecondary educational institutions and area vocational education schools.

(iii) The extent to which such local areas are consistent with labor market areas.

(iv) The distance that individuals will need to travel to receive services provided in such local areas.

(v) The resources of such local areas that are available to effectively administer the activities carried out under this subtitle.

(2) AUTOMATIC DESIGNATION.—The Governor shall approve any request for designation as a local area—

(A) from any unit of general local government with a population of 500,000 or more;

(B) of the area served by a rural concentrated employment program grant recipient of demonstrated effectiveness that served as a service delivery area or substate area under the Job Training Partnership Act, if the grant recipient has submitted the request; and

(C) of an area that served as a service delivery area under section 101(a)(4)(A)(ii) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) in a State that has a population of not more than 1,100,000 and a population density greater than 900 persons per square mile.

(3) TEMPORARY AND SUBSEQUENT DESIGNATION.—

(A) CRITERIA.—Notwithstanding paragraph (2)(A), the Governor shall approve any request, made not later than the date of submission of the initial State plan under this subtitle, for temporary designation as a local area from any unit of general local government (including a combination of such units) with a population of 200,000 or more that was a service delivery area under the Job Training Partnership Act on the day before the date of enactment of this Act if the Governor determines that the area—

(i) performed successfully, in each of the last 2 years prior to the request for which data are available, in the delivery of services to participants under part A of title II and title III of the Job Training Partnership Act (as in effect on such day); and

(ii) has sustained the fiscal integrity of the funds used by the area to carry out activities under such part and title.

(B) DURATION AND SUBSEQUENT DESIGNATION.—A temporary designation under this paragraph shall be for a period of not more than 2 years, after which the designation shall be extended until the end of the period covered by the State plan if the Governor determines that, during the temporary designation period, the area substantially met (as defined by the State board) the local performance measures for the local area and sustained the fiscal integrity of the funds used by the area to carry out activities under this subtitle.

(C) TECHNICAL ASSISTANCE.—The Secretary shall provide the States with technical assistance in making the determinations required by this paragraph. The Secretary shall not issue regulations governing determinations to be made under this paragraph.

(D) PERFORMED SUCCESSFULLY.—In this paragraph, the term “performed successfully” means that the area involved met or exceeded the performance standards for activities administered in the area that—



(i) are established by the Secretary for each year and modified by the adjustment methodology of the State (used to account for differences in economic conditions, participant characteristics, and combination of services provided from the combination assumed for purposes of the established standards of the Secretary); and

(ii)(I) if the area was designated as both a service delivery area and a substate area under the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act)—

(aa) relate to job retention and earnings, with respect to activities carried out under part A of title II of such Act (as in effect on such day); or

(bb) relate to entry into employment, with respect to activities carried out under title III of such Act (as in effect on such day);

(II) if the area was designated only as a service delivery area under such Act (as in effect on such day), relate to the standards described in subclause (I)(aa); or

(III) if the area was only designated as a substate area under such Act (as in effect on such day), relate to the standards described in subclause (I)(bb).

(E) SUSTAINED THE FISCAL INTEGRITY.—In this paragraph, the term “sustained the fiscal integrity”, used with respect to funds used by a service delivery area or local area, means that the Secretary has not made a final determination during any of the last 3 years for which data are available, prior to the date of the designation request involved, that either the grant recipient or the administrative entity of the area misexpended the funds due to willful disregard of the requirements of the Act involved, gross negligence, or failure to observe accepted standards of administration.

(4) DESIGNATION ON RECOMMENDATION OF STATE BOARD.—The Governor may approve a request from any unit of general local government (including a combination of such units) for designation (including temporary designation) as a local area if the State board determines, taking into account the factors described in clauses (i) through (v) of paragraph (1)(B), and recommends to the Governor, that such area should be so designated.

(5) APPEALS.—A unit of general local government (including a combination of such units) or grant recipient that requests but is not granted designation of an area as a local area under paragraph (2) or (3) may submit an appeal to the State board under an appeal process established in the State plan. If the appeal does not result in such a designation, the Secretary, after receiving a request for review from the unit or grant recipient and on determining that the unit or grant recipient was not accorded procedural rights under the appeal process established in the State plan or that the area meets the requirements of paragraph (2) or (3), as appropriate, may require that the area be designated as a local area under such paragraph.

(b) **SMALL STATES.**—The Governor of any State that was a single State service delivery area under the Job Training Partnership Act as of July 1, 1998, may designate the State as a single State local area for the purposes of this title. In the case of such a designation, the Governor shall identify the State as a local area under section 112(b)(5).

(c) **REGIONAL PLANNING AND COOPERATION.**—

(1) **PLANNING.**—As part of the process for developing the State plan, a State may require regional planning by local boards for a designated region in the State. The State may require the local boards for a designated region to participate in a regional planning process that results in the establishment of regional performance measures for workforce investment activities authorized under this subtitle. The State may award regional incentive grants to the designated regions that meet or exceed the regional performance measures.

(2) **INFORMATION SHARING.**—The State may require the local boards for a designated region to share, in feasible cases, employment statistics, information about employment opportunities and trends, and other types of information that would assist in improving the performance of all local areas in the designated region on local performance measures.

(3) **COORDINATION OF SERVICES.**—The State may require the local boards for a designated region to coordinate the provision of workforce investment activities authorized under this subtitle, including the provision of transportation and other supportive services, so that services provided through the activities may be provided across the boundaries of local areas within the designated region.

(4) **INTERSTATE REGIONS.**—Two or more States that contain an interstate region that is a labor market area, economic development region, or other appropriate contiguous subarea of the States may designate the area as a designated region for purposes of this subsection, and jointly exercise the State functions described in paragraphs (1) through (3).

(5) **DEFINITIONS.**—In this subsection:

(A) **DESIGNATED REGION.**—The term “designated region” means a combination of local areas that are partly or completely in a single labor market area, economic development region, or other appropriate contiguous subarea of a State, that is designated by the State, except as provided in paragraph (4).

(B) **LOCAL BOARD FOR A DESIGNATED REGION.**—The term “local board for a designated region” means a local board for a local area in a designated region.

29 USC 2832.

**SEC. 117. LOCAL WORKFORCE INVESTMENT BOARDS.**

(a) **ESTABLISHMENT.**—There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment board, to set policy for the portion of the statewide workforce investment system within the local area (referred to in this title as a “local workforce investment system”).

(b) **MEMBERSHIP.**—

(1) **STATE CRITERIA.**—The Governor of the State, in partnership with the State board, shall establish criteria for use by chief elected officials in the local areas for appointment of

members of the local boards in such local areas in accordance with the requirements of paragraph (2).

(2) COMPOSITION.—Such criteria shall require, at a minimum, that the membership of each local board—

(A) shall include—

(i) representatives of business in the local area, who—

(I) are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;

(II) represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(III) are appointed from among individuals nominated by local business organizations and business trade associations;

(ii) representatives of local educational entities, including representatives of local educational agencies, local school boards, entities providing adult education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist), selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities;

(iii) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees;

(iv) representatives of community-based organizations (including organizations representing individuals with disabilities and veterans, for a local area in which such organizations are present);

(v) representatives of economic development agencies, including private sector economic development entities; and

(vi) representatives of each of the one-stop partners; and

(B) may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

(3) AUTHORITY OF BOARD MEMBERS.—Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

(4) MAJORITY.—A majority of the members of the local board shall be representatives described in paragraph (2)(A)(i).

(5) CHAIRPERSON.—The local board shall elect a chairperson for the local board from among the representatives described in paragraph (2)(A)(i).

(c) APPOINTMENT AND CERTIFICATION OF BOARD.—

(1) APPOINTMENT OF BOARD MEMBERS AND ASSIGNMENT OF RESPONSIBILITIES.—

(A) IN GENERAL.—The chief elected official in a local area is authorized to appoint the members of the local board for such area, in accordance with the State criteria established under subsection (b).

(B) MULTIPLE UNITS OF LOCAL GOVERNMENT IN AREA.—

(i) IN GENERAL.—In a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials—

(I) in the appointment of the members of the local board from the individuals nominated or recommended to be such members in accordance with the criteria established under subsection (b); and

(II) in carrying out any other responsibilities assigned to such officials under this subtitle.

(ii) LACK OF AGREEMENT.—If, after a reasonable effort, the chief elected officials are unable to reach agreement as provided under clause (i), the Governor may appoint the members of the local board from individuals so nominated or recommended.

(C) CONCENTRATED EMPLOYMENT PROGRAMS.—In the case of a local area designated in accordance with section 116(a)(2)(B), the governing body of the concentrated employment program involved shall act in consultation with the chief elected official in the local area to appoint members of the local board, in accordance with the State criteria established under subsection (b), and to carry out any other responsibility relating to workforce investment activities assigned to such official under this Act.

(2) CERTIFICATION.—

(A) IN GENERAL.—The Governor shall, once every 2 years, certify 1 local board for each local area in the State.

(B) CRITERIA.—Such certification shall be based on criteria established under subsection (b) and, for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures.

(C) FAILURE TO ACHIEVE CERTIFICATION.—Failure of a local board to achieve certification shall result in reappointment and certification of another local board for the local area pursuant to the process described in paragraph (1) and this paragraph.

(3) DECERTIFICATION.—

(A) FRAUD, ABUSE, FAILURE TO CARRY OUT FUNCTIONS.—Notwithstanding paragraph (2), the Governor may decertify a local board, at any time after providing notice and an opportunity for comment, for—

(i) fraud or abuse; or

(ii) failure to carry out the functions specified for the local board in any of paragraphs (1) through (7) of subsection (d).

(B) NONPERFORMANCE.—Notwithstanding paragraph (2), the Governor may decertify a local board if a local area fails to meet the local performance measures for such

local area for 2 consecutive program years (in accordance with section 136(h)).

(C) PLAN.—If the Governor decertifies a local board for a local area under subparagraph (A) or (B), the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official in the local area, and in accordance with the criteria established under subsection (b).

(4) SINGLE STATE AREA.—Notwithstanding subsection (b) and paragraphs (1) and (2), if a State described in section 116(b) indicates in the State plan that the State will be treated as a local area for purposes of the application of this title, the Governor may designate the State board to carry out any of the functions described in subsection (d).

(d) FUNCTIONS OF LOCAL BOARD.—The functions of the local board shall include the following:

(1) LOCAL PLAN.—Consistent with section 118, each local board, in partnership with the chief elected official for the local area involved, shall develop and submit a local plan to the Governor.

(2) SELECTION OF OPERATORS AND PROVIDERS.—

(A) SELECTION OF ONE-STOP OPERATORS.—Consistent with section 121(d), the local board, with the agreement of the chief elected official—

(i) shall designate or certify one-stop operators as described in section 121(d)(2)(A); and

(ii) may terminate for cause the eligibility of such operators.

(B) SELECTION OF YOUTH PROVIDERS.—Consistent with section 123, the local board shall identify eligible providers of youth activities in the local area by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council.

(C) IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.—Consistent with section 122, the local board shall identify eligible providers of training services described in section 134(d)(4) in the local area.

(D) IDENTIFICATION OF ELIGIBLE PROVIDERS OF INTENSIVE SERVICES.—If the one-stop operator does not provide intensive services in a local area, the local board shall identify eligible providers of intensive services described in section 134(d)(3) in the local area by awarding contracts.

(3) BUDGET AND ADMINISTRATION.—

(A) BUDGET.—The local board shall develop a budget for the purpose of carrying out the duties of the local board under this section, subject to the approval of the chief elected official.

(B) ADMINISTRATION.—

(i) GRANT RECIPIENT.—

(I) IN GENERAL.—The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area under sections 128 and 133, unless the chief elected official reaches an agreement with the Governor for the

Governor to act as the local grant recipient and bear such liability.

(II) DESIGNATION.—In order to assist in the administration of the grant funds, the chief elected official or the Governor, where the Governor serves as the local grant recipient for a local area, may designate an entity to serve as a local grant sub-recipient for such funds or as a local fiscal agent. Such designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds as described in subclause (I).

(III) DISBURSAL.—The local grant recipient or an entity designated under subclause (II) shall disburse such funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this title, if the direction does not violate a provision of this Act. The local grant recipient or entity designated under subclause (II) shall disburse the funds immediately on receiving such direction from the local board.

(ii) STAFF.—The local board may employ staff.

(iii) GRANTS AND DONATIONS.—The local board may solicit and accept grants and donations from sources other than Federal funds made available under this Act.

(4) PROGRAM OVERSIGHT.—The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities authorized under section 129, local employment and training activities authorized under section 134, and the one-stop delivery system in the local area.

(5) NEGOTIATION OF LOCAL PERFORMANCE MEASURES.—The local board, the chief elected official, and the Governor shall negotiate and reach agreement on local performance measures as described in section 136(c).

(6) EMPLOYMENT STATISTICS SYSTEM.—The local board shall assist the Governor in developing the statewide employment statistics system described in section 15(e) of the Wagner-Peyser Act.

(7) EMPLOYER LINKAGES.—The local board shall coordinate the workforce investment activities authorized under this subtitle and carried out in the local area with economic development strategies and develop other employer linkages with such activities.

(8) CONNECTING, BROKERING, AND COACHING.—The local board shall promote the participation of private sector employers in the statewide workforce investment system and ensure the effective provision, through the system, of connecting, brokering, and coaching activities, through intermediaries such as the one-stop operator in the local area or through other organizations, to assist such employers in meeting hiring needs.

(e) SUNSHINE PROVISION.—The local board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the local board, including information

regarding the local plan prior to submission of the plan, and regarding membership, the designation and certification of one-stop operators, and the award of grants or contracts to eligible providers of youth activities, and on request, minutes of formal meetings of the local board.

(f) LIMITATIONS.—

(1) TRAINING SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no local board may provide training services described in section 134(d)(4).

(B) WAIVERS OF TRAINING PROHIBITION.—The Governor of the State in which a local board is located may, pursuant to a request from the local board, grant a written waiver of the prohibition set forth in subparagraph (A) (relating to the provision of training services) for a program of training services, if the local board—

(i) submits to the Governor a proposed request for the waiver that includes—

(I) satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area;

(II) information demonstrating that the board meets the requirements for an eligible provider of training services under section 122; and

(III) information demonstrating that the program of training services prepares participants for an occupation that is in demand in the local area;

(ii) makes the proposed request available to eligible providers of training services and other interested members of the public for a public comment period of not less than 30 days; and

(iii) includes, in the final request for the waiver, the evidence and information described in clause (i) and the comments received pursuant to clause (ii).

(C) DURATION.—A waiver granted to a local board under subparagraph (B) shall apply for a period of not to exceed 1 year. The waiver may be renewed for additional periods of not to exceed 1 year, pursuant to requests from the local board, if the board meets the requirements of subparagraph (B) in making the requests.

Applicability.

(D) REVOCATION.—The Governor may revoke a waiver granted under this paragraph during the appropriate period described in subparagraph (C) if the State determines that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.

(2) CORE SERVICES; INTENSIVE SERVICES; DESIGNATION OR CERTIFICATION AS ONE-STOP OPERATORS.—A local board may provide core services described in section 134(d)(2) or intensive services described in section 134(d)(3) through a one-stop delivery system described in section 134(c) or be designated or certified as a one-stop operator only with the agreement of the chief elected official and the Governor.

(3) LIMITATION ON AUTHORITY.—Nothing in this Act shall be construed to provide a local board with the authority to mandate curricula for schools.

(g) CONFLICT OF INTEREST.—A member of a local board may not—

(1) vote on a matter under consideration by the local board—

(A) regarding the provision of services by such member (or by an entity that such member represents); or

(B) that would provide direct financial benefit to such member or the immediate family of such member; or

(2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

(h) YOUTH COUNCIL.—

(1) ESTABLISHMENT.—There shall be established, as a subgroup within each local board, a youth council appointed by the local board, in cooperation with the chief elected official for the local area.

(2) MEMBERSHIP.—The membership of each youth council—

(A) shall include—

(i) members of the local board described in subparagraph (A) or (B) of subsection (b)(2) with special interest or expertise in youth policy;

(ii) representatives of youth service agencies, including juvenile justice and local law enforcement agencies;

(iii) representatives of local public housing authorities;

(iv) parents of eligible youth seeking assistance under this subtitle;

(v) individuals, including former participants, and representatives of organizations, that have experience relating to youth activities; and

(vi) representatives of the Job Corps, as appropriate; and

(B) may include such other individuals as the chairperson of the local board, in cooperation with the chief elected official, determines to be appropriate.

(3) RELATIONSHIP TO LOCAL BOARD.—Members of the youth council who are not members of the local board described in subparagraphs (A) and (B) of subsection (b)(2) shall be voting members of the youth council and nonvoting members of the board.

(4) DUTIES.—The duties of the youth council include—

(A) developing the portions of the local plan relating to eligible youth, as determined by the chairperson of the local board;

(B) subject to the approval of the local board and consistent with section 123—

(i) recommending eligible providers of youth activities, to be awarded grants or contracts on a competitive basis by the local board to carry out the youth activities; and

(ii) conducting oversight with respect to the eligible providers of youth activities, in the local area;

(C) coordinating youth activities authorized under section 129 in the local area; and

(D) other duties determined to be appropriate by the chairperson of the local board.



## (i) ALTERNATIVE ENTITY.—

(1) IN GENERAL.—For purposes of complying with subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h), a State may use any local entity (including a local council, regional workforce development board, or similar entity) that—

(A) is established to serve the local area (or the service delivery area that most closely corresponds to the local area);

(B) is in existence on December 31, 1997;

(C)(i) is established pursuant to section 102 of the Job Training Partnership Act, as in effect on December 31, 1997; or

(ii) is substantially similar to the local board described in subsections (a), (b), and (c), and paragraphs (1) and (2) of subsection (h); and

(D) includes—

(i) representatives of business in the local area; and

(ii)(I) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations; or

(II) (for a local area in which no employees are represented by such organizations), other representatives of employees in the local area.

(2) REFERENCES.—References in this Act to a local board or a youth council shall be considered to include such an entity or a subgroup of such an entity, respectively.

**SEC. 118. LOCAL PLAN.**

29 USC 2833.

(a) IN GENERAL.—Each local board shall develop and submit to the Governor a comprehensive 5-year local plan (referred to in this title as the “local plan”), in partnership with the appropriate chief elected official. The plan shall be consistent with the State plan.

(b) CONTENTS.—The local plan shall include—

(1) an identification of—

(A) the workforce investment needs of businesses, job-seekers, and workers in the local area;

(B) the current and projected employment opportunities in the local area; and

(C) the job skills necessary to obtain such employment opportunities;

(2) a description of the one-stop delivery system to be established or designated in the local area, including—

(A) a description of how the local board will ensure the continuous improvement of eligible providers of services through the system and ensure that such providers meet the employment needs of local employers and participants; and

(B) a copy of each memorandum of understanding described in section 121(c) (between the local board and each of the one-stop partners) concerning the operation of the one-stop delivery system in the local area;

(3) a description of the local levels of performance negotiated with the Governor and chief elected official pursuant to section 136(c), to be used to measure the performance of

the local area and to be used by the local board for measuring the performance of the local fiscal agent (where appropriate), eligible providers, and the one-stop delivery system, in the local area;

(4) a description and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area;

(5) a description of how the local board will coordinate workforce investment activities carried out in the local area with statewide rapid response activities, as appropriate;

(6) a description and assessment of the type and availability of youth activities in the local area, including an identification of successful providers of such activities;

(7) a description of the process used by the local board, consistent with subsection (c), to provide an opportunity for public comment, including comment by representatives of businesses and comment by representatives of labor organizations, and input into the development of the local plan, prior to submission of the plan;

(8) an identification of the entity responsible for the disbursement of grant funds described in section 117(d)(3)(B)(i)(III), as determined by the chief elected official or the Governor under section 117(d)(3)(B)(i);

(9) a description of the competitive process to be used to award the grants and contracts in the local area for activities carried out under this subtitle; and

(10) such other information as the Governor may require.

(c) **PROCESS.**—Prior to the date on which the local board submits a local plan under this section, the local board shall—

(1) make available copies of a proposed local plan to the public through such means as public hearings and local news media;

(2) allow members of the local board and members of the public, including representatives of business and representatives of labor organizations, to submit comments on the proposed local plan to the local board, not later than the end of the 30-day period beginning on the date on which the proposed local plan is made available; and

(3) include with the local plan submitted to the Governor under this section any such comments that represent disagreement with the plan.

(d) **PLAN SUBMISSION AND APPROVAL.**—A local plan submitted to the Governor under this section shall be considered to be approved by the Governor at the end of the 90-day period beginning on the day the Governor receives the plan, unless the Governor makes a written determination during the 90-day period that—

(1) deficiencies in activities carried out under this subtitle have been identified, through audits conducted under section 184 or otherwise, and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies; or

(2) the plan does not comply with this title.

**CHAPTER 3—WORKFORCE INVESTMENT ACTIVITIES  
PROVIDERS****SEC. 121. ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEMS.**

29 USC 2841.

(a) IN GENERAL.—Consistent with the State plan, the local board for a local area, with the agreement of the chief elected official for the local area, shall—

(1) develop and enter into the memorandum of understanding described in subsection (c) with one-stop partners;

Contracts.

(2) designate or certify one-stop operators under subsection (d); and

(3) conduct oversight with respect to the one-stop delivery system in the local area.

(b) ONE-STOP PARTNERS.—

(1) REQUIRED PARTNERS.—

(A) IN GENERAL.—Each entity that carries out a program or activities described in subparagraph (B) shall—

(i) make available to participants, through a one-stop delivery system, the services described in section 134(d)(2) that are applicable to such program or activities; and

(ii) participate in the operation of such system consistent with the terms of the memorandum described in subsection (c), and with the requirements of the Federal law in which the program or activities are authorized.

(B) PROGRAMS AND ACTIVITIES.—The programs and activities referred to in subparagraph (A) consist of—

(i) programs authorized under this title;

(ii) programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

(iii) adult education and literacy activities authorized under title II;

(iv) programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(v) programs authorized under section 403(a)(5) of the Social Security Act (42 U.S.C. 603(a)(5)) (as added by section 5001 of the Balanced Budget Act of 1997);

(vi) activities authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

(vii) postsecondary vocational education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(viii) activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

(ix) activities authorized under chapter 41 of title 38, United States Code;

(x) employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.);

(xi) employment and training activities carried out by the Department of Housing and Urban Development; and

(xii) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(2) ADDITIONAL PARTNERS.—

(A) IN GENERAL.—In addition to the entities described in paragraph (1), other entities that carry out a human resource program described in subparagraph (B) may—

(i) make available to participants, through the one-stop delivery system, the services described in section 134(d)(2) that are applicable to such program; and

(ii) participate in the operation of such system consistent with the terms of the memorandum described in subsection (c), and with the requirements of the Federal law in which the program is authorized; if the local board and chief elected official involved approve such participation.

(B) PROGRAMS.—The programs referred to in subparagraph (A) may include—

(i) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(ii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

(iii) work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o));

(iv) programs authorized under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.); and

(v) other appropriate Federal, State, or local programs, including programs in the private sector.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) DEVELOPMENT.—The local board, with the agreement of the chief elected official, shall develop and enter into a memorandum of understanding (between the local board and the one-stop partners), consistent with paragraph (2), concerning the operation of the one-stop delivery system in the local area.

(2) CONTENTS.—Each memorandum of understanding shall contain—

(A) provisions describing—

(i) the services to be provided through the one-stop delivery system;

(ii) how the costs of such services and the operating costs of the system will be funded;

(iii) methods for referral of individuals between the one-stop operator and the one-stop partners, for the appropriate services and activities; and

(iv) the duration of the memorandum and the procedures for amending the memorandum during the term of the memorandum; and

(B) such other provisions, consistent with the requirements of this title, as the parties to the agreement determine to be appropriate.

(d) ONE-STOP OPERATORS.—

(1) DESIGNATION AND CERTIFICATION.—Consistent with paragraphs (2) and (3), the local board, with the agreement of the chief elected official, is authorized to designate or certify

one-stop operators and to terminate for cause the eligibility of such operators.

(2) **ELIGIBILITY.**—To be eligible to receive funds made available under this subtitle to operate a one-stop center referred to in section 134(c), an entity (which may be a consortium of entities)—

(A) shall be designated or certified as a one-stop operator—

(i) through a competitive process; or

(ii) in accordance with an agreement reached between the local board and a consortium of entities that, at a minimum, includes 3 or more of the one-stop partners described in subsection (b)(1); and

(B) may be a public or private entity, or consortium of entities, of demonstrated effectiveness, located in the local area, which may include—

(i) a postsecondary educational institution;

(ii) an employment service agency established under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), on behalf of the local office of the agency;

(iii) a private, nonprofit organization (including a community-based organization);

(iv) a private for-profit entity;

(v) a government agency; and

(vi) another interested organization or entity, which may include a local chamber of commerce or other business organization.

(3) **EXCEPTION.**—Elementary schools and secondary schools shall not be eligible for designation or certification as one-stop operators, except that nontraditional public secondary schools and area vocational education schools shall be eligible for such designation or certification.

(e) **ESTABLISHED ONE-STOP DELIVERY SYSTEM.**—If a one-stop delivery system has been established in a local area prior to the date of enactment of this Act, the local board, the chief elected official, and the Governor involved may agree to certify an entity carrying out activities through the system as a one-stop operator for purposes of subsection (d), consistent with the requirements of subsection (b), of the memorandum of understanding, and of section 134(c).

**SEC. 122. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.** 29 USC 2842.

(a) **ELIGIBILITY REQUIREMENTS.**—

(1) **IN GENERAL.**—Except as provided in subsection (h), to be identified as an eligible provider of training services described in section 134(d)(4) (referred to in this section as “training services”) in a local area and to be eligible to receive funds made available under section 133(b) for the provision of training services, a provider of such services shall meet the requirements of this section.

(2) **PROVIDERS.**—Subject to the provisions of this section, to be eligible to receive the funds, the provider shall be—

(A) a postsecondary educational institution that—

(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(ii) provides a program that leads to an associate degree, baccalaureate degree, or certificate;

(B) an entity that carries out programs under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); or

(C) another public or private provider of a program of training services.

(b) INITIAL ELIGIBILITY DETERMINATION.—

(1) POSTSECONDARY EDUCATIONAL INSTITUTIONS AND ENTITIES CARRYING OUT APPRENTICESHIP PROGRAMS.—To be initially eligible to receive funds as described in subsection (a) to carry out a program described in subparagraph (A) or (B) of subsection (a)(2), a provider described in subparagraph (A) or (B), respectively, of subsection (a)(2) shall submit an application, to the local board for the local area in which the provider desires to provide training services, at such time, in such manner, and containing such information as the local board may require.

(2) OTHER ELIGIBLE PROVIDERS.—

(A) PROCEDURE.—Each Governor of a State shall establish a procedure for use by local boards in the State in determining the initial eligibility of a provider described in subsection (a)(2)(C) to receive funds as described in subsection (a) for a program of training services, including the initial eligibility of—

(i) a postsecondary educational institution to receive such funds for a program not described in subsection (a)(2)(A); and

(ii) a provider described in subsection (a)(2)(B) to receive such funds for a program not described in subsection (a)(2)(B).

(B) RECOMMENDATIONS.—In developing such procedure, the Governor shall solicit and take into consideration the recommendations of local boards and providers of training services within the State.

(C) OPPORTUNITY TO SUBMIT COMMENTS.—The Governor shall provide an opportunity, during the development of the procedure, for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure.

(D) REQUIREMENTS.—In establishing the procedure, the Governor shall require that, to be initially eligible to receive funds as described in subsection (a) for a program, a provider described in subsection (a)(2)(C)—

(i) shall submit an application, to the local board for the local area in which the provider desires to provide training services, at such time and in such manner as may be required, and containing a description of the program;

(ii) if the provider provides training services through a program on the date of application, shall include in the application an appropriate portion of the performance information and program cost information described in subsection (d) for the program,

as specified in the procedure, and shall meet appropriate levels of performance for the program, as specified in the procedure; and

(iii) if the provider does not provide training services on such date, shall meet appropriate requirements, as specified in the procedure.

(c) SUBSEQUENT ELIGIBILITY DETERMINATION.—

(1) PROCEDURE.—Each Governor of a State shall establish a procedure for use by local boards in the State in determining the eligibility of a provider described in subsection (a)(2) to continue to receive funds as described in subsection (a) for a program after an initial period of eligibility under subsection (b) (referred to in this section as “subsequent eligibility”).

(2) RECOMMENDATIONS.—In developing such procedure, the Governor shall solicit and take into consideration the recommendations of local boards and providers of training services within the State.

(3) OPPORTUNITY TO SUBMIT COMMENTS.—The Governor shall provide an opportunity, during the development of the procedure, for interested members of the public, including representatives of business and labor organizations, to submit comments on such procedure.

(4) CONSIDERATIONS.—In developing such procedure, the Governor shall ensure that the procedure requires the local boards to take into consideration, in making the determinations of subsequent eligibility—

(A) the specific economic, geographic, and demographic factors in the local areas in which providers seeking eligibility are located; and

(B) the characteristics of the populations served by providers seeking eligibility, including the demonstrated difficulties in serving such populations, where applicable.

(5) REQUIREMENTS.—In establishing the procedure, the Governor shall require that, to be eligible to continue to receive funds as described in subsection (a) for a program after the initial period of eligibility, a provider described in subsection (a)(2) shall—

(A) submit the performance information and program cost information described in subsection (d)(1) for the program and any additional information required to be submitted in accordance with subsection (d)(2) for the program annually to the appropriate local board at such time and in such manner as may be required; and

(B) annually meet the performance levels described in paragraph (6) for the program, as demonstrated utilizing quarterly records described in section 136, in a manner consistent with section 136.

(6) LEVELS OF PERFORMANCE.—

(A) IN GENERAL.—At a minimum, the procedure described in paragraph (1) shall require the provider to meet minimum acceptable levels of performance based on the performance information referred to in paragraph (5)(A).

(B) HIGHER LEVELS OF PERFORMANCE ELIGIBILITY.—The local board may require higher levels of performance

than the levels referred to in subparagraph (A) for subsequent eligibility to receive funds as described in subsection (a).

(d) PERFORMANCE AND COST INFORMATION.—

(1) REQUIRED INFORMATION.—For a provider of training services to be determined to be subsequently eligible under subsection (c) to receive funds as described in subsection (a), such provider shall, under subsection (c), submit—

(A) verifiable program-specific performance information consisting of—

(i) program information, including—

(I) the program completion rates for all individuals participating in the applicable program conducted by the provider;

(II) the percentage of all individuals participating in the applicable program who obtain unsubsidized employment, which may also include information specifying the percentage of the individuals who obtain unsubsidized employment in an occupation related to the program conducted; and

(III) the wages at placement in employment of all individuals participating in the applicable program; and

(ii) training services information for all participants who received assistance under section 134 to participate in the applicable program, including—

(I) the percentage of participants who have completed the applicable program and who are placed in unsubsidized employment;

(II) the retention rates in unsubsidized employment of participants who have completed the applicable program, 6 months after the first day of the employment;

(III) the wages received by participants who have completed the applicable program, 6 months after the first day of the employment involved; and

(IV) where appropriate, the rates of licensure or certification, attainment of academic degrees or equivalents, or attainment of other measures of skills, of the graduates of the applicable program; and

(B) information on program costs (such as tuition and fees) for participants in the applicable program.

(2) ADDITIONAL INFORMATION.—Subject to paragraph (3), in addition to the performance information described in paragraph (1)—

(A) the Governor may require that a provider submit, under subsection (c), such other verifiable program-specific performance information as the Governor determines to be appropriate to obtain such subsequent eligibility, which may include information relating to—

(i) retention rates in employment and the subsequent wages of all individuals who complete the applicable program;



(ii) where appropriate, the rates of licensure or certification of all individuals who complete the program; and

(iii) the percentage of individuals who complete the program who attain industry-recognized occupational skills in the subject, occupation, or industry for which training is provided through the program, where applicable; and

(B) the Governor, or the local board, may require a provider to submit, under subsection (c), other verifiable program-specific performance information to obtain such subsequent eligibility.

(3) CONDITIONS.—

(A) IN GENERAL.—If the Governor or a local board requests additional information under paragraph (2) that imposes extraordinary costs on providers, or if providers experience extraordinary costs in the collection of information required under paragraph (1)(A)(ii), the Governor or the local board shall provide access to cost-effective methods for the collection of the information involved, or the Governor shall provide additional resources to assist providers in the collection of such information from funds made available as described in sections 128(a) and 133(a)(1), as appropriate.

(B) HIGHER EDUCATION ELIGIBILITY REQUIREMENTS.—The local board and the designated State agency described in subsection (i) may accept program-specific performance information consistent with the requirements for eligibility under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) from a provider for purposes of enabling the provider to fulfill the applicable requirements of this subsection, if such information is substantially similar to the information otherwise required under this subsection.

(e) LOCAL IDENTIFICATION.—

(1) IN GENERAL.—The local board shall place on a list providers submitting an application under subsection (b)(1) and providers determined to be initially eligible under subsection (b)(2), and retain on the list providers determined to be subsequently eligible under subsection (c), to receive funds as described in subsection (a) for the provision of training services in the local area served by the local board. The list of providers shall be accompanied by any performance information and program cost information submitted under subsection (b) or (c) by the provider.

(2) SUBMISSION TO STATE AGENCY.—On placing or retaining a provider on the list, the local board shall submit, to the designated State agency described in subsection (i), the list and the performance information and program cost information referred to in paragraph (1). If the agency determines, within 30 days after the date of the submission, that the provider does not meet the performance levels described in subsection (c)(6) for the program (where applicable), the agency may remove the provider from the list for the program. The agency may not remove from the list an agency submitting an application under subsection (b)(1).

Records.

(3) IDENTIFICATION OF ELIGIBLE PROVIDERS.—A provider who is placed or retained on the list under paragraph (1), and is not removed by the designated State agency under paragraph (2), for a program, shall be considered to be identified as an eligible provider of training services for the program.

(4) AVAILABILITY.—

(A) STATE LIST.—The designated State agency shall compile a single list of the providers identified under paragraph (3) from all local areas in the State and disseminate such list, and the performance information and program cost information described in paragraph (1), to the one-stop delivery systems within the State. Such list and information shall be made widely available to participants in employment and training activities authorized under section 134 and others through the one-stop delivery system.

(B) SELECTION FROM STATE LIST.—Individuals eligible to receive training services under section 134(d)(4) shall have the opportunity to select any of the eligible providers, from any of the local areas in the State, that are included on the list described in subparagraph (A) to provide the services, consistent with the requirements of section 134.

(5) ACCEPTANCE OF INDIVIDUAL TRAINING ACCOUNTS BY OTHER STATES.—States may enter into agreements, on a reciprocal basis, to permit eligible providers of training services in a State to accept individual training accounts provided in another State.

(f) ENFORCEMENT.—

(1) ACCURACY OF INFORMATION.—If the designated State agency, after consultation with the local board involved, determines that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information under this section, the agency shall terminate the eligibility of the provider to receive funds described in subsection (a) for any program for a period of time, but not less than 2 years.

(2) NONCOMPLIANCE.—If the designated State agency, or the local board working with the State agency, determines that an eligible provider described in subsection (a) substantially violates any requirement under this Act, the agency, or the local board working with the State agency, may terminate the eligibility of such provider to receive funds described in subsection (a) for the program involved or take such other action as the agency or local board determines to be appropriate.

(3) REPAYMENT.—A provider whose eligibility is terminated under paragraph (1) or (2) for a program shall be liable for repayment of all funds described in subsection (a) received for the program during any period of noncompliance described in such paragraph.

(4) CONSTRUCTION.—This subsection and subsection (g) shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

(g) APPEAL.—The Governor shall establish procedures for providers of training services to appeal a denial of eligibility by the local board or the designated State agency under subsection (b), (c), or (e), a termination of eligibility or other action by the

Procedures.

board or agency under subsection (f), or a denial of eligibility by a one-stop operator under subsection (h). Such procedures shall provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

(h) ON-THE-JOB TRAINING OR CUSTOMIZED TRAINING EXCEPTION.—

(1) IN GENERAL.—Providers of on-the-job training or customized training shall not be subject to the requirements of subsections (a) through (e).

(2) COLLECTION AND DISSEMINATION OF INFORMATION.—A one-stop operator in a local area shall collect such performance information from on-the-job training and customized training providers as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers of training services.

(i) ADMINISTRATION.—The Governor shall designate a State agency to make the determinations described in subsection (e)(2), take the enforcement actions described in subsection (f), and carry out other duties described in this section.

**SEC. 123. IDENTIFICATION OF ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.** 29 USC 2843.

From funds allocated under paragraph (2)(A) or (3) of section 128(b) to a local area, the local board for such area shall identify eligible providers of youth activities by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council and on the criteria contained in the State plan, to the providers to carry out the activities, and shall conduct oversight with respect to the providers, in the local area.

**CHAPTER 4—YOUTH ACTIVITIES**

**SEC. 126. GENERAL AUTHORIZATION.** 29 USC 2851.

The Secretary shall make an allotment under section 127(b)(1)(C) to each State that meets the requirements of section 112 and a grant to each outlying area that complies with the requirements of this title, to assist the State or outlying area, and to enable the State or outlying area to assist local areas, for the purpose of providing workforce investment activities for eligible youth in the State or outlying area and in the local areas.

**SEC. 127. STATE ALLOTMENTS.** 29 USC 2852.

(a) IN GENERAL.—The Secretary shall—

(1) for each fiscal year in which the amount appropriated under section 137(a) exceeds \$1,000,000,000, reserve a portion determined under subsection (b)(1)(A) of the amount appropriated under section 137(a) for use under sections 167 (relating to migrant and seasonal farmworker programs) and 169 (relating to youth opportunity grants); and

(2) use the remainder of the amount appropriated under section 137(a) for a fiscal year to make allotments and grants in accordance with subparagraphs (B) and (C) of subsection (b)(1) and make funds available for use under section 166 (relating to Native American programs).

## (b) ALLOTMENT AMONG STATES.—

## (1) YOUTH ACTIVITIES.—

## (A) YOUTH OPPORTUNITY GRANTS.—

(i) IN GENERAL.—For each fiscal year in which the amount appropriated under section 137(a) exceeds \$1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth opportunity grants and other activities under section 169 (relating to youth opportunity grants) and provide youth activities under section 167 (relating to migrant and seasonal farm-worker programs).

(ii) PORTION.—The portion referred to in clause (i) shall equal, for a fiscal year—

(I) except as provided in subclause (II), the difference obtained by subtracting \$1,000,000,000 from the amount appropriated under section 137(a) for the fiscal year; or

(II) for any fiscal year in which the amount is \$1,250,000,000 or greater, \$250,000,000.

(iii) YOUTH ACTIVITIES FOR FARMWORKERS.—From the portion described in clause (i) for a fiscal year, the Secretary shall make available 4 percent of such portion to provide youth activities under section 167.

(iv) ROLE MODEL ACADEMY PROJECT.—From the portion described in clause (i) for fiscal year 1999, the Secretary shall make available such sums as the Secretary determines to be appropriate to carry out section 169(g).

## (B) OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(2) for a fiscal year, the Secretary shall reserve not more than  $\frac{1}{4}$  of 1 percent of the amount appropriated under section 137(a) for the fiscal year—

(I) to provide assistance to the outlying areas to carry out youth activities and statewide workforce investment activities; and

(II) for each of fiscal years 1999, 2000, and 2001, to carry out the competition described in clause (ii), except that the funds reserved to carry out such clause for any such fiscal year shall not exceed the amount reserved for the Freely Associated States for fiscal year 1997, from amounts reserved under sections 252(a) and 262(a)(1) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act).

(ii) LIMITATION FOR FREELY ASSOCIATED STATES.—

(I) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i)(II) to award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States to carry out youth activities and statewide workforce investment activities.

(II) AWARD BASIS.—The Secretary shall award grants pursuant to subclause (I) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training,

Territories.

working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(III) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive assistance under this subparagraph shall submit an application to the Secretary and shall include in the application for assistance—

(aa) information demonstrating that the Freely Associated State will meet all conditions that apply to States under this title;

(bb) an assurance that, notwithstanding any other provision of this title, the Freely Associated State will use such assistance only for the direct provision of services; and

(cc) such other information and assurances as the Secretary may require.

(IV) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Freely Associated States shall not receive any assistance under this subparagraph for any program year that begins after September 30, 2001.

(V) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under subclause (I) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this clause.

(iii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95-134, permitting the consolidation of grants by the outlying areas, shall not apply to assistance provided to those areas, including the Freely Associated States, under this subparagraph.

(C) STATES.—

(i) IN GENERAL.—After determining the amounts to be reserved under subparagraph (A) (if any) and subparagraph (B), the Secretary shall—

(I) from the amount referred to in subsection (a)(2) for a fiscal year, make available not more than 1.5 percent to provide youth activities under section 166 (relating to Native Americans); and

(II) allot the remainder of the amount referred to in subsection (a)(2) for a fiscal year to the States pursuant to clause (ii) for youth activities and statewide workforce investment activities.

(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

(I)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative number of disadvantaged youth in each State, compared to the total number of disadvantaged youth in all States, except as described in clause (iii).

(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 116(a)(2)(B) (relating to the area served by a rural concentrated employment program grant recipient), the allotment shall be based on the higher of—

(I) the number of individuals who are age 16 through 21 in families with an income below the low-income level in such area; or

(II) the number of disadvantaged youth in such area.

(iv) MINIMUM AND MAXIMUM PERCENTAGES AND MINIMUM ALLOTMENTS.—In making allotments under this subparagraph, the Secretary shall ensure the following:

(I) MINIMUM PERCENTAGE AND ALLOTMENT.—Subject to subclause (IV), the Secretary shall ensure that no State shall receive an allotment for a fiscal year that is less than the greater of—

(aa) an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year; or

(bb) 100 percent of the total of the allotments of the State under sections 252 and 262 of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) for fiscal year 1998.

(II) SMALL STATE MINIMUM ALLOTMENT.—Subject to subclauses (I), (III), and (IV), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

(aa)  $\frac{3}{10}$  of 1 percent of \$1,000,000,000 of the remainder described in clause (i)(II) for the fiscal year; and

(bb) if the remainder described in clause (i)(II) for the fiscal year exceeds \$1,000,000,000,  $\frac{2}{5}$  of 1 percent of the excess.

(III) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(IV) MINIMUM FUNDING.—In any fiscal year in which the remainder described in clause (i)(II) does not exceed \$1,000,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology for calculating the corresponding allotments under parts B and C of title II of the Job Training Partnership Act, as in effect on July 1, 1998.

(2) DEFINITIONS.—For the purpose of the formula specified in paragraph (1)(C):

(A) ALLOTMENT PERCENTAGE.—The term “allotment percentage”, used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i)(II) that is received through an allotment made under paragraph (1)(C) for the fiscal year. The term, used with respect to fiscal year 1998 or 1999, means the percentage of the amounts allotted to States under sections 252(b) and 262(a) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) that is received under such sections by the State involved for fiscal year 1998 or 1999.

(B) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term “area of substantial unemployment” means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this subtitle and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subparagraph, determinations of areas of substantial unemployment shall be made once each fiscal year.

(C) DISADVANTAGED YOUTH.—Subject to paragraph (3), the term “disadvantaged youth” means an individual who is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

- (i) the poverty line; or
- (ii) 70 percent of the lower living standard income level.

(D) EXCESS NUMBER.—The term “excess number” means, used with respect to the excess number of unemployed individuals within a State, the higher of—

- (i) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or
- (ii) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

(E) LOW-INCOME LEVEL.—The term “low-income level” means \$7,000 with respect to income in 1969, and for any later year means that amount that bears the same relationship to \$7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest \$1,000.

(3) SPECIAL RULE.—For the purpose of the formula specified in paragraph (1)(C), the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged youth.

(4) DEFINITION.—In this subsection, the term “Freely Associated State” means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(c) REALLOTMENT.—

(1) **IN GENERAL.**—The Secretary shall, in accordance with this subsection, reallocate to eligible States amounts that are allotted under this section for youth activities and statewide workforce investment activities and that are available for reallocation.

(2) **AMOUNT.**—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the State allotment under this section for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made, exceeds 20 percent of such allotment for the prior program year.

(3) **REALLOTMENT.**—In making reallocations to eligible States of amounts available pursuant to paragraph (2) for a program year, the Secretary shall allot to each eligible State an amount based on the relative amount allotted to such State under this section for such activities for the prior program year, as compared to the total amount allotted to all eligible States under this section for such activities for such prior program year.

(4) **ELIGIBILITY.**—For purposes of this subsection, an eligible State means a State that has obligated at least 80 percent of the State allotment under this section for such activities for the program year prior to the program year for which the determination under paragraph (2) is made.

(5) **PROCEDURES.**—The Governor of each State shall prescribe uniform procedures for the obligation of funds by local areas within the State in order to avoid the requirement that funds be made available for reallocation under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and local areas in the event that a State is required to make funds available for reallocation under this subsection.

29 USC 2853.

**SEC. 128. WITHIN STATE ALLOCATIONS.**

(a) **RESERVATIONS FOR STATE ACTIVITIES.**—

(1) **IN GENERAL.**—The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under section 127(b)(1)(C) and paragraphs (1)(B) and (2)(B) of section 132(b) for a fiscal year for statewide workforce investment activities.

(2) **USE OF FUNDS.**—Regardless of whether the reserved amounts were allotted under section 127(b)(1)(C), or under paragraph (1)(B) or (2)(B) of section 132(b), the Governor may use the reserved amounts to carry out statewide youth activities described in section 129(b) or statewide employment and training activities, for adults or for dislocated workers, described in paragraph (2)(B) or (3) of section 134(a).

(b) **WITHIN STATE ALLOCATION.**—

(1) **METHODS.**—The Governor, acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate the funds that are allotted to the State for youth activities and statewide workforce investment activities under section 127(b)(1)(C) and are not reserved under subsection (a), in accordance with paragraph (2) or (3).

(2) **FORMULA ALLOCATION.**—

(A) **YOUTH ACTIVITIES.**—



(i) ALLOCATION.—In allocating the funds described in paragraph (1) to local areas, a State may allocate—

(I)  $33\frac{1}{3}$  percent of the funds on the basis described in section 127(b)(1)(C)(ii)(I);

(II)  $33\frac{1}{3}$  percent of the funds on the basis described in section 127(b)(1)(C)(ii)(II); and

(III)  $33\frac{1}{3}$  percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 127(b)(1)(C).

(ii) MINIMUM PERCENTAGE.—Effective at the end of the second full fiscal year after the date on which a local area is designated under section 116, the local area shall not receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) DEFINITION.—The term “allocation percentage”, used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year.

(B) APPLICATION.—For purposes of carrying out subparagraph (A)—

(i) references in section 127(b) to a State shall be deemed to be references to a local area;

(ii) references in section 127(b) to all States shall be deemed to be references to all local areas in the State involved; and

(iii) except as described in clause (i), references in section 127(b)(1) to the term “excess number” shall be considered to be references to the term as defined in section 127(b)(2).

(3) YOUTH DISCRETIONARY ALLOCATION.—In lieu of making the allocation described in paragraph (2)(A), in allocating the funds described in paragraph (1) to local areas, a State may distribute—

(A) a portion equal to not less than 70 percent of the funds in accordance with paragraph (2)(A); and

(B) the remaining portion of the funds on the basis of a formula that—

(i) incorporates additional factors (other than the factors described in paragraph (2)(A)) relating to—

(I) excess youth poverty in urban, rural, and suburban local areas; and

(II) excess unemployment above the State average in urban, rural, and suburban local areas; and

(ii) was developed by the State board and approved by the Secretary as part of the State plan.

(4) LIMITATION.—

(A) IN GENERAL.—Of the amount allocated to a local area under this subsection and section 133(b) for a fiscal year, not more than 10 percent of the amount may be

used by the local board for the administrative cost of carrying out local workforce investment activities described in subsection (d) or (e) of section 134 or in section 129(c).

(B) **USE OF FUNDS.**—Funds made available for administrative costs under subparagraph (A) may be used for the administrative cost of any of the local workforce investment activities described in subsection (d) or (e) of section 134 or in section 129(c), regardless of whether the funds were allocated under this subsection or section 133(b).

(C) **REGULATIONS.**—The Secretary, after consulting with the Governors, shall develop and issue regulations that define the term “administrative cost” for purposes of this title. Such definition shall be consistent with generally accepted accounting principles.

(c) **REALLOCATION AMONG LOCAL AREAS.**—

(1) **IN GENERAL.**—The Governor may, in accordance with this subsection, reallocate to eligible local areas within the State amounts that are allocated under paragraph (2)(A) or (3) of subsection (b) for youth activities and that are available for reallocation.

(2) **AMOUNT.**—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made exceeds 20 percent of such allocation for the prior program year.

(3) **REALLOCATION.**—In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State an amount based on the relative amount allocated to such local area under subsection (b)(3) for such activities for the prior program year, as compared to the total amount allocated to all eligible local areas in the State under subsection (b)(3) for such activities for such prior program year. For purposes of this paragraph, local areas that received allocations under subsection (b)(2)(A) for the prior program year shall be treated as if the local areas received allocations under subsection (b)(3) for such year.

(4) **ELIGIBILITY.**—For purposes of this subsection, an eligible local area means a local area that has obligated at least 80 percent of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, for the program year prior to the program year for which the determination under paragraph (2) is made.

**SEC. 129. USE OF FUNDS FOR YOUTH ACTIVITIES.**

(a) **PURPOSES.**—The purposes of this section are—

(1) to provide, to eligible youth seeking assistance in achieving academic and employment success, effective and comprehensive activities, which shall include a variety of options for improving educational and skill competencies and provide effective connections to employers;

(2) to ensure on-going mentoring opportunities for eligible youth with adults committed to providing such opportunities;

(3) to provide opportunities for training to eligible youth;

(4) to provide continued supportive services for eligible youth;

(5) to provide incentives for recognition and achievement to eligible youth; and

(6) to provide opportunities for eligible youth in activities related to leadership, development, decisionmaking, citizenship, and community service.

(b) STATEWIDE YOUTH ACTIVITIES.—

(1) IN GENERAL.—Funds reserved by a Governor for a State as described in sections 128(a) and 133(a)(1)—

(A) shall be used to carry out the statewide youth activities described in paragraph (2); and

(B) may be used to carry out any of the statewide youth activities described in paragraph (3), regardless of whether the funds were allotted to the State under section 127(b)(1) or under paragraph (1) or (2) of section 132(b).

(2) REQUIRED STATEWIDE YOUTH ACTIVITIES.—A State shall use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out statewide youth activities, which shall include—

(A) disseminating a list of eligible providers of youth activities described in section 123;

(B) carrying out activities described in clauses (ii) through (vi) of section 134(a)(2)(B), except that references in such clauses to activities authorized under section 134 shall be considered to be references to activities authorized under this section; and

(C) providing additional assistance to local areas that have high concentrations of eligible youth to carry out the activities described in subsection (c).

(3) ALLOWABLE STATEWIDE YOUTH ACTIVITIES.—A State may use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out additional statewide youth activities, which may include—

(A) carrying out activities described in clauses (i), (ii), (iii), (iv)(II), and (vi)(II) of section 134(a)(3)(A), except that references in such clauses to activities authorized under section 134 shall be considered to be references to activities authorized under this section; and

(B) carrying out, on a statewide basis, activities described in subsection (c).

(4) PROHIBITION.—No funds described in this subsection or section 134(a) shall be used to develop or implement education curricula for school systems in the State.

(c) LOCAL ELEMENTS AND REQUIREMENTS.—

(1) PROGRAM DESIGN.—Funds allocated to a local area for eligible youth under paragraph (2)(A) or (3), as appropriate, of section 128(b) shall be used to carry out, for eligible youth, programs that—

(A) provide an objective assessment of the academic levels, skill levels, and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability,

interests, aptitudes (including interests and aptitudes for nontraditional jobs), supportive service needs, and developmental needs of such participant, except that a new assessment of a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program;

(B) develop service strategies for each participant that shall identify an employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for the participant taking into account the assessment conducted pursuant to subparagraph (A), except that a new service strategy for a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program; and

(C) provide—

(i) preparation for postsecondary educational opportunities, in appropriate cases;

(ii) strong linkages between academic and occupational learning;

(iii) preparation for unsubsidized employment opportunities, in appropriate cases; and

(iv) effective connections to intermediaries with strong links to—

(I) the job market; and

(II) local and regional employers.

(2) PROGRAM ELEMENTS.—The programs described in paragraph (1) shall provide elements consisting of—

(A) tutoring, study skills training, and instruction, leading to completion of secondary school, including dropout prevention strategies;

(B) alternative secondary school services, as appropriate;

(C) summer employment opportunities that are directly linked to academic and occupational learning;

(D) as appropriate, paid and unpaid work experiences, including internships and job shadowing;

(E) occupational skill training, as appropriate;

(F) leadership development opportunities, which may include community service and peer-centered activities encouraging responsibility and other positive social behaviors during non-school hours, as appropriate;

(G) supportive services;

(H) adult mentoring for the period of participation and a subsequent period, for a total of not less than 12 months;

(I) followup services for not less than 12 months after the completion of participation, as appropriate; and

(J) comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral, as appropriate.

(3) ADDITIONAL REQUIREMENTS.—

(A) INFORMATION AND REFERRALS.—Each local board shall ensure that each participant or applicant who meets

the minimum income criteria to be considered an eligible youth shall be provided—

(i) information on the full array of applicable or appropriate services that are available through the local board or other eligible providers or one-stop partners, including those receiving funds under this subtitle; and

(ii) referral to appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—Each eligible provider of a program of youth activities shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program or who cannot be served shall be referred for further assessment, as necessary, and referred to appropriate programs in accordance with subparagraph (A) to meet the basic skills and training needs of the applicant.

(C) INVOLVEMENT IN DESIGN AND IMPLEMENTATION.—The local board shall ensure that parents, participants, and other members of the community with experience relating to programs for youth are involved in the design and implementation of the programs described in paragraph (1).

(4) PRIORITY.—

(A) IN GENERAL.—At a minimum, 30 percent of the funds described in paragraph (1) shall be used to provide youth activities to out-of-school youth.

(B) EXCEPTION.—A State that receives a minimum allotment under section 127(b)(1) in accordance with section 127(b)(1)(C)(iv)(II) or under section 132(b)(1) in accordance with section 132(b)(1)(B)(iv)(II) may reduce the percentage described in subparagraph (A) for a local area in the State, if—

(i) after an analysis of the eligible youth population in the local area, the State determines that the local area will be unable to meet the percentage described in subparagraph (A) due to a low number of out-of-school youth; and

(ii)(I) the State submits to the Secretary, for the local area, a request including a proposed reduced percentage for purposes of subparagraph (A), and the summary of the eligible youth population analysis; and

(II) the request is approved by the Secretary.

(5) EXCEPTIONS.—Not more than 5 percent of participants assisted under this section in each local area may be individuals who do not meet the minimum income criteria to be considered eligible youth, if such individuals are within one or more of the following categories:

(A) Individuals who are school dropouts.

(B) Individuals who are basic skills deficient.

(C) Individuals with educational attainment that is one or more grade levels below the grade level appropriate to the age of the individuals.

(D) Individuals who are pregnant or parenting.

(E) Individuals with disabilities, including learning disabilities.

(F) Individuals who are homeless or runaway youth.

(G) Individuals who are offenders.

(H) Other eligible youth who face serious barriers to employment as identified by the local board.

(6) PROHIBITIONS.—

(A) PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION.—No provision of this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution, school, or school system.

(B) NONDUPLICATION.—All of the funds made available under this Act shall be used in accordance with the requirements of this Act. None of the funds made available under this Act may be used to provide funding under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.) or to carry out, through programs funded under this Act, activities that were funded under the School-to-Work Opportunities Act of 1994, unless the programs funded under this Act serve only those participants eligible to participate in the programs under this Act.

(C) NONINTERFERENCE AND NONREPLACEMENT OF REGULAR ACADEMIC REQUIREMENTS.—No funds described in paragraph (1) shall be used to provide an activity for eligible youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.

(7) LINKAGES.—In coordinating the programs authorized under this section, youth councils shall establish linkages with educational agencies responsible for services to participants as appropriate.

(8) VOLUNTEERS.—The local board shall make opportunities available for individuals who have successfully participated in programs carried out under this section to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

## **CHAPTER 5—ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES**

29 USC 2861.

### **SEC. 131. GENERAL AUTHORIZATION.**

The Secretary shall make allotments under paragraphs (1)(B) and (2)(B) of section 132(b) to each State that meets the requirements of section 112 and a grant to each outlying area that complies with the requirements of this title, to assist the State or outlying area, and to enable the State or outlying area to assist local areas, for the purpose of providing workforce investment activities for adults, and dislocated workers, in the State or outlying area and in the local areas.

**SEC. 132. STATE ALLOTMENTS.**

29 USC 2862.

(a) **IN GENERAL.**—The Secretary shall—

Grants.

(1) make allotments and grants from the total amount appropriated under section 137(b) for a fiscal year in accordance with subsection (b)(1); and

(2)(A) reserve 20 percent of the amount appropriated under section 137(c) for a fiscal year for use under subsection (b)(2)(A), and under sections 170(b) (relating to dislocated worker technical assistance), 171(d) (relating to dislocated worker projects), and 173 (relating to national emergency grants); and

(B) make allotments from 80 percent of the amount appropriated under section 137(c) for a fiscal year in accordance with subsection (b)(2)(B).

(b) **ALLOTMENT AMONG STATES.**—(1) **ADULT EMPLOYMENT AND TRAINING ACTIVITIES.**—(A) **RESERVATION FOR OUTLYING AREAS.**—

(i) **IN GENERAL.**—From the amount made available under subsection (a)(1) for a fiscal year, the Secretary shall reserve not more than  $\frac{1}{4}$  of 1 percent to provide assistance to the outlying areas.

(ii) **APPLICABILITY OF ADDITIONAL REQUIREMENTS.**—From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for adult employment and training activities and statewide workforce investment activities in accordance with the requirements of section 127(b)(1)(B), except that the reference in section 127(b)(1)(B)(i)(II) to sections 252(d) and 262(a)(1) of the Job Training Partnership Act shall be deemed to be a reference to section 202(a)(1) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act).

(B) **STATES.**—

(i) **IN GENERAL.**—After determining the amount to be reserved under subparagraph (A), the Secretary shall allot the remainder of the amount referred to in subsection (a)(1) for a fiscal year to the States pursuant to clause (ii) for adult employment and training activities and statewide workforce investment activities.

(ii) **FORMULA.**—Subject to clauses (iii) and (iv), of the remainder—

(I)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

(II)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III)  $33\frac{1}{3}$  percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of

disadvantaged adults in all States, except as described in clause (iii).

(iii) CALCULATION.—In determining an allotment under clause (ii)(III) for any State in which there is a local area designated under section 116(a)(2)(B), the allotment shall be based on the higher of—

(I) the number of adults in families with an income below the low-income level in such area; or

(II) the number of disadvantaged adults in such area.

(iv) MINIMUM AND MAXIMUM PERCENTAGES AND MINIMUM ALLOTMENTS.—In making allotments under this subparagraph, the Secretary shall ensure the following:

(I) MINIMUM PERCENTAGE AND ALLOTMENT.—Subject to subclause (IV), the Secretary shall ensure that no State shall receive an allotment for a fiscal year that is less than the greater of—

(aa) an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year; or

(bb) 100 percent of the allotment of the State under section 202 of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) for fiscal year 1998.

(II) SMALL STATE MINIMUM ALLOTMENT.—Subject to subclauses (I), (III), and (IV), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

(aa)  $\frac{3}{10}$  of 1 percent of \$960,000,000 of the remainder described in clause (i) for the fiscal year; and

(bb) if the remainder described in clause (i) for the fiscal year exceeds \$960,000,000,  $\frac{2}{5}$  of 1 percent of the excess.

(III) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

(IV) MINIMUM FUNDING.—In any fiscal year in which the remainder described in clause (i) does not exceed \$960,000,000, the minimum allotments under subclauses (I) and (II) shall be calculated by the methodology for calculating the corresponding allotments under part A of title II of the Job Training Partnership Act, as in effect on July 1, 1998.

(v) DEFINITIONS.—For the purpose of the formula specified in this subparagraph:

(I) ADULT.—The term “adult” means an individual who is not less than age 22 and not more than age 72.



(II) ALLOTMENT PERCENTAGE.—The term “allotment percentage”, used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the remainder described in clause (i) that is received through an allotment made under this subparagraph for the fiscal year. The term, used with respect to fiscal year 1998 or 1999, means the percentage of the amounts allotted to States under section 202(a) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act) that is received under such section by the State involved for fiscal year 1998 or 1999.

(III) AREA OF SUBSTANTIAL UNEMPLOYMENT.—The term “area of substantial unemployment” means any area that is of sufficient size and scope to sustain a program of workforce investment activities carried out under this subtitle and that has an average rate of unemployment of at least 6.5 percent for the most recent 12 months, as determined by the Secretary. For purposes of this subclause, determinations of areas of substantial unemployment shall be made once each fiscal year.

(IV) DISADVANTAGED ADULT.—Subject to subclause (V), the term “disadvantaged adult” means an adult who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

(aa) the poverty line; or

(bb) 70 percent of the lower living standard income level.

(V) DISADVANTAGED ADULT SPECIAL RULE.—The Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged adults.

(VI) EXCESS NUMBER.—The term “excess number” means, used with respect to the excess number of unemployed individuals within a State, the higher of—

(aa) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

(bb) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State.

(2) DISLOCATED WORKER EMPLOYMENT AND TRAINING.—

(A) RESERVATION FOR OUTLYING AREAS.—

(i) IN GENERAL.—From the amount made available under subsection (a)(2)(A) for a fiscal year, the Secretary shall reserve not more than  $\frac{1}{4}$  of 1 percent of the amount appropriated under section 137(c) for the fiscal year to provide assistance to the outlying areas.

(ii) **APPLICABILITY OF ADDITIONAL REQUIREMENTS.**—From the amount reserved under clause (i), the Secretary shall provide assistance to the outlying areas for dislocated worker employment and training activities and statewide workforce investment activities in accordance with the requirements of section 127(b)(1)(B), except that the reference in section 127(b)(1)(B)(i)(II) to sections 252(a) and 262(a)(1) of the Job Training Partnership Act shall be deemed to be a reference to section 302(e) of the Job Training Partnership Act (as in effect on the day before the date of enactment of this Act).

(B) **STATES.**—

(i) **IN GENERAL.**—The Secretary shall allot the amount referred to in subsection (a)(2)(B) for a fiscal year to the States pursuant to clause (ii) for dislocated worker employment and training activities and statewide workforce investment activities.

(ii) **FORMULA.**—Of the amount—

(I) 33 $\frac{1}{3}$  percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States;

(II) 33 $\frac{1}{3}$  percent shall be allotted on the basis of the relative excess number of unemployed individuals in each State, compared to the total excess number of unemployed individuals in all States; and

(III) 33 $\frac{1}{3}$  percent shall be allotted on the basis of the relative number of individuals in each State who have been unemployed for 15 weeks or more, compared to the total number of individuals in all States who have been unemployed for 15 weeks or more.

(iii) **DEFINITION.**—In this subparagraph, the term “excess number” means, used with respect to the excess number of unemployed individuals within a State, the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

(3) **DEFINITIONS.**—For the purpose of the formulas specified in this subsection:

(A) **FREELY ASSOCIATED STATES.**—The term “Freely Associated States” means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) **LOW-INCOME LEVEL.**—The term “low-income level” means \$7,000 with respect to income in 1969, and for any later year means that amount that bears the same relationship to \$7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest \$1,000.

(c) **REALLOTMENT.**—

(1) **IN GENERAL.**—The Secretary shall, in accordance with this subsection, reallocate to eligible States amounts that are

allotted under this section for employment and training activities and statewide workforce investment activities and that are available for reallocation.

(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the State allotments under this section for such activities, at the end of the program year prior to the program year for which the determination under this paragraph is made, exceeds 20 percent of such allotments for the prior program year.

(3) REALLOTMENT.—In making reallocations to eligible States of amounts available pursuant to paragraph (2) for a program year, the Secretary shall allot to each eligible State an amount based on the relative amount allotted to such State under this section for such activities for the prior program year, as compared to the total amount allotted to all eligible States under this section for such activities for such prior program year.

(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State that has obligated at least 80 percent of the State allotment under this section for such activities for the program year prior to the program year for which the determination under paragraph (2) is made.

(5) PROCEDURES.—The Governor of each State shall prescribe uniform procedures for the obligation of funds by local areas within the State in order to avoid the requirement that funds be made available for reallocation under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and local areas in the event that a State is required to make funds available for reallocation under this subsection.

#### SEC. 133. WITHIN STATE ALLOCATIONS.

29 USC 2863.

(a) RESERVATIONS FOR STATE ACTIVITIES.—

(1) STATEWIDE WORKFORCE INVESTMENT ACTIVITIES.—The Governor of a State shall make the reservation required under section 128(a).

(2) STATEWIDE RAPID RESPONSE ACTIVITIES.—The Governor of the State shall reserve not more than 25 percent of the total amount allotted to the State under section 132(b)(2)(B) for a fiscal year for statewide rapid response activities described in section 134(a)(2)(A).

(b) WITHIN STATE ALLOCATION.—

(1) METHODS.—The Governor, acting in accordance with the State plan, and after consulting with chief elected officials in the local areas, shall allocate—

(A) the funds that are allotted to the State for adult employment and training activities and statewide workforce investment activities under section 132(b)(1)(B) and are not reserved under subsection (a)(1), in accordance with paragraph (2) or (3); and

(B) the funds that are allotted to the State for dislocated worker employment and training activities under section 132(b)(2)(B) and are not reserved under paragraph (1) or (2) of subsection (a), in accordance with paragraph (2).

(2) FORMULA ALLOCATIONS.—

## (A) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—

(i) ALLOCATION.—In allocating the funds described in paragraph (1)(A) to local areas, a State may allocate—

(I)  $33\frac{1}{3}$  percent of the funds on the basis described in section 132(b)(1)(B)(ii)(I);

(II)  $33\frac{1}{3}$  percent of the funds on the basis described in section 132(b)(1)(B)(ii)(II); and

(III)  $33\frac{1}{3}$  percent of the funds on the basis described in clauses (ii)(III) and (iii) of section 132(b)(1)(B).

Effective date.

(ii) MINIMUM PERCENTAGE.—Effective at the end of the second full fiscal year after the date on which a local area is designated under section 116, the local area shall not receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the 2 preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas under this subparagraph.

(iii) DEFINITION.—The term “allocation percentage”, used with respect to fiscal year 2000 or a subsequent fiscal year, means a percentage of the funds referred to in clause (i), received through an allocation made under this subparagraph, for the fiscal year.

## (B) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—

(i) FORMULA.—In allocating the funds described in paragraph (1)(B) to local areas, a State shall allocate the funds based on an allocation formula prescribed by the Governor of the State. Such formula may be amended by the Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State’s worker readjustment assistance needs.

(ii) INFORMATION.—The information described in clause (i) shall include insured unemployment data, unemployment concentrations, plant closing and mass layoff data, declining industries data, farmer-rancher economic hardship data, and long-term unemployment data.

## (C) APPLICATION.—For purposes of carrying out subparagraph (A)—

(i) references in section 132(b) to a State shall be deemed to be references to a local area;

(ii) references in section 132(b) to all States shall be deemed to be references to all local areas in the State involved; and

(iii) except as described in clause (i), references in section 132(b)(1) to the term “excess number” shall be considered to be references to the term as defined in section 132(b)(1).

## (3) ADULT EMPLOYMENT AND TRAINING DISCRETIONARY ALLOCATIONS.—In lieu of making the allocation described in

paragraph (2)(A), in allocating the funds described in paragraph (1)(A) to local areas, a State may distribute—

(A) a portion equal to not less than 70 percent of the funds in accordance with paragraph (2)(A); and

(B) the remaining portion of the funds on the basis of a formula that—

(i) incorporates additional factors (other than the factors described in paragraph (2)(A)) relating to—

(I) excess poverty in urban, rural, and suburban local areas; and

(II) excess unemployment above the State average in urban, rural, and suburban local areas; and

(ii) was developed by the State board and approved by the Secretary as part of the State plan.

(4) TRANSFER AUTHORITY.—A local board may transfer, if such a transfer is approved by the Governor, not more than 20 percent of the funds allocated to the local area under paragraph (2)(A) or (3), and 20 percent of the funds allocated to the local area under paragraph (2)(B), for a fiscal year between—

(A) adult employment and training activities; and

(B) dislocated worker employment and training activities.

(5) ALLOCATION.—

(A) IN GENERAL.—The Governor of the State shall allocate the funds described in paragraph (1) to local areas under paragraphs (2) and (3) for the purpose of providing a single system of employment and training activities for adults and dislocated workers in accordance with subsections (d) and (e) of section 134.

(B) ADDITIONAL REQUIREMENTS.—

(i) ADULTS.—Funds allocated under paragraph (2)(A) or (3) shall be used by a local area to contribute proportionately to the costs of the one-stop delivery system described in section 134(c) in the local area, and to pay for employment and training activities provided to adults in the local area, consistent with section 134.

(ii) DISLOCATED WORKERS.—Funds allocated under paragraph (2)(B) shall be used by a local area to contribute proportionately to the costs of the one-stop delivery system described in section 134(c) in the local area, and to pay for employment and training activities provided to dislocated workers in the local area, consistent with section 134.

(c) REALLOCATION AMONG LOCAL AREAS.—

(1) IN GENERAL.—The Governor may, in accordance with this subsection, reallocate to eligible local areas within the State amounts that are allocated under paragraph (2)(A) or (3) of subsection (b) for adult employment and training activities and that are available for reallocation.

(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unobligated balance of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, at the end of the

program year prior to the program year for which the determination under this paragraph is made exceeds 20 percent of such allocation for the prior program year.

(3) REALLOCATION.—In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State an amount based on the relative amount allocated to such local area under subsection (b)(3) for such activities for the prior program year, as compared to the total amount allocated to all eligible local areas in the State under subsection (b)(3) for such activities for such prior program year. For purposes of this paragraph, local areas that received allocations under subsection (b)(2)(A) for the prior program year shall be treated as if the local areas received allocations under subsection (b)(3) for such year.

(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area that has obligated at least 80 percent of the local area allocation under paragraph (2)(A) or (3) of subsection (b) for such activities, for the program year prior to the program year for which the determination under paragraph (2) is made.

29 USC 2864.

**SEC. 134. USE OF FUNDS FOR EMPLOYMENT AND TRAINING ACTIVITIES.**

(a) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) IN GENERAL.—Funds reserved by a Governor for a State—

(A) as described in section 133(a)(2) shall be used to carry out the statewide rapid response activities described in paragraph (2)(A); and

(B) as described in sections 128(a) and 133(a)(1)—

(i) shall be used to carry out the statewide employment and training activities described in paragraph (2)(B); and

(ii) may be used to carry out any of the statewide employment and training activities described in paragraph (3),

regardless of whether the funds were allotted to the State under section 127(b)(1) or under paragraph (1) or (2) of section 132(b).

(2) REQUIRED STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) STATEWIDE RAPID RESPONSE ACTIVITIES.—A State shall use funds reserved as described in section 133(a)(2) to carry out statewide rapid response activities, which shall include—

(i) provision of rapid response activities, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials in the local areas; and

(ii) provision of additional assistance to local areas that experience disasters, mass layoffs or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in local areas by the State or by an entity designated by the State, working in conjunction with

the local boards and the chief elected officials in the local areas.

(B) OTHER REQUIRED STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—A State shall use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out other statewide employment and training activities, which shall include—

(i) disseminating the State list of eligible providers of training services, including eligible providers of non-traditional training services, information identifying eligible providers of on-the-job training and customized training, and performance information and program cost information, as described in subsections (e) and (h) of section 122;

(ii) conducting evaluations, under section 136(e), of activities authorized in this section, in coordination with the activities carried out under section 172;

(iii) providing incentive grants to local areas for regional cooperation among local boards (including local boards for a designated region as described in section 116(c)), for local coordination of activities carried out under this Act, and for exemplary performance by local areas on the local performance measures;

(iv) providing technical assistance to local areas that fail to meet local performance measures;

(v) assisting in the establishment and operation of one-stop delivery systems described in subsection (c); and

(vi) operating a fiscal and management accountability information system under section 136(f).

(3) ALLOWABLE STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) IN GENERAL.—A State may use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out additional statewide employment and training activities, which may include—

(i) subject to subparagraph (B), administration by the State of the activities authorized under this section;

(ii) provision of capacity building and technical assistance to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff and the development of exemplary program activities;

(iii) conduct of research and demonstrations;

(iv)(I) implementation of innovative incumbent worker training programs, which may include the establishment and implementation of an employer loan program to assist in skills upgrading; and

(II) the establishment and implementation of programs targeted to empowerment zones and enterprise communities;

(v) support for the identification of eligible providers of training services as required under section 122;

(vi)(I) implementation of innovative programs for displaced homemakers, which for purposes of this subclause may include an individual who is receiving public assistance and is within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

(II) implementation of programs to increase the number of individuals training for and placed in non-traditional employment; and

(vii) carrying out other activities authorized in this section that the State determines to be necessary to assist local areas in carrying out activities described in subsection (d) or (e) through the statewide workforce investment system.

(B) LIMITATION.—

(i) IN GENERAL.—Of the funds allotted to a State under sections 127(b) and 132(b) and reserved as described in sections 128(a) and 133(a)(1) for a fiscal year—

(I) not more than 5 percent of the amount allotted under section 127(b)(1);

(II) not more than 5 percent of the amount allotted under section 132(b)(1); and

(III) not more than 5 percent of the amount allotted under section 132(b)(2),

may be used by the State for the administration of youth activities carried out under section 129 and employment and training activities carried out under this section.

(ii) USE OF FUNDS.—Funds made available for administrative costs under clause (i) may be used for the administrative cost of any of the statewide youth activities or statewide employment and training activities, regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b).

(b) LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to a local area for dislocated workers under section 133(b)(2)(B)—

(1) shall be used to carry out employment and training activities described in subsection (d) for adults or dislocated workers, respectively; and

(2) may be used to carry out employment and training activities described in subsection (e) for adults or dislocated workers, respectively.

(c) ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEM.—

(1) IN GENERAL.—There shall be established in a State that receives an allotment under section 132(b) a one-stop delivery system, which—

(A) shall provide the core services described in subsection (d)(2);

(B) shall provide access to intensive services and training services as described in paragraphs (3) and (4) of subsection (d), including serving as the point of access to individual training accounts for training services to participants in accordance with subsection (d)(4)(G);



(C) shall provide access to the activities carried out under subsection (e), if any;

(D) shall provide access to programs and activities carried out by one-stop partners and described in section 121(b); and

(E) shall provide access to the information described in section 15 of the Wagner-Peyser Act and all job search, placement, recruitment, and other labor exchange services authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(2) ONE-STOP DELIVERY.—At a minimum, the one-stop delivery system—

(A) shall make each of the programs, services, and activities described in paragraph (1) accessible at not less than one physical center in each local area of the State; and

(B) may also make programs, services, and activities described in paragraph (1) available—

(i) through a network of affiliated sites that can provide one or more of the programs, services, and activities to individuals; and

(ii) through a network of eligible one-stop partners—

(I) in which each partner provides one or more of the programs, services, and activities to such individuals and is accessible at an affiliated site that consists of a physical location or an electronically or technologically linked access point; and

(II) that assures individuals that information on the availability of the core services will be available regardless of where the individuals initially enter the statewide workforce investment system, including information made available through an access point described in subclause (I).

(3) SPECIALIZED CENTERS.—The centers and sites described in paragraph (2) may have a specialization in addressing special needs, such as the needs of dislocated workers.

(d) REQUIRED LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) IN GENERAL.—

(A) ALLOCATED FUNDS.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used—

(i) to establish a one-stop delivery system described in subsection (c);

(ii) to provide the core services described in paragraph (2) to adults and dislocated workers, respectively, through the one-stop delivery system in accordance with such paragraph;

(iii) to provide the intensive services described in paragraph (3) to adults and dislocated workers, respectively, described in such paragraph; and

(iv) to provide training services described in paragraph (4) to adults and dislocated workers, respectively, described in such paragraph.

(B) OTHER FUNDS.—A portion of the funds made available under Federal law authorizing the programs and activities described in section 121(b)(1)(B), including the Wagner-Peyser Act (29 U.S.C. 49 et seq.), shall be used as described in clauses (i) and (ii) of subparagraph (A), to the extent not inconsistent with the Federal law involved.

(2) CORE SERVICES.—Funds described in paragraph (1)(A) shall be used to provide core services, which shall be available to individuals who are adults or dislocated workers through the one-stop delivery system and shall, at a minimum, include—

(A) determinations of whether the individuals are eligible to receive assistance under this subtitle;

(B) outreach, intake (which may include worker profiling), and orientation to the information and other services available through the one-stop delivery system;

(C) initial assessment of skill levels, aptitudes, abilities, and supportive service needs;

(D) job search and placement assistance, and where appropriate, career counseling;

(E) provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—

(i) job vacancy listings in such labor market areas;

(ii) information on job skills necessary to obtain the jobs described in clause (i); and

(iii) information relating to local occupations in demand and the earnings and skill requirements for such occupations; and

(F) provision of performance information and program cost information on eligible providers of training services as described in section 122, provided by program, and eligible providers of youth activities described in section 123, providers of adult education described in title II, providers of postsecondary vocational education activities and vocational education activities available to school dropouts under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and providers of vocational rehabilitation program activities described in title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

(G) provision of information regarding how the local area is performing on the local performance measures and any additional performance information with respect to the one-stop delivery system in the local area;

(H) provision of accurate information relating to the availability of supportive services, including child care and transportation, available in the local area, and referral to such services, as appropriate;

(I) provision of information regarding filing claims for unemployment compensation;

(J) assistance in establishing eligibility for—

(i) welfare-to-work activities authorized under section 403(a)(5) of the Social Security Act (as added by section 5001 of the Balanced Budget Act of 1997) available in the local area; and

(ii) programs of financial aid assistance for training and education programs that are not funded under this Act and are available in the local area; and

(K) followup services, including counseling regarding the workplace, for participants in workforce investment activities authorized under this subtitle who are placed in unsubsidized employment, for not less than 12 months after the first day of the employment, as appropriate.

(3) INTENSIVE SERVICES.—

(A) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide intensive services to adults and dislocated workers, respectively—

(i)(I) who are unemployed and are unable to obtain employment through core services provided under paragraph (2); and

(II) who have been determined by a one-stop operator to be in need of more intensive services in order to obtain employment; or

(ii) who are employed, but who are determined by a one-stop operator to be in need of such intensive services in order to obtain or retain employment that allows for self-sufficiency.

(B) DELIVERY OF SERVICES.—Such intensive services shall be provided through the one-stop delivery system—

(i) directly through one-stop operators identified pursuant to section 121(d); or

(ii) through contracts with service providers, which may include contracts with public, private for-profit, and private nonprofit service providers, approved by the local board.

(C) TYPES OF SERVICES.—Such intensive services may include the following:

(i) Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include—

(I) diagnostic testing and use of other assessment tools; and

(II) in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.

(ii) Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals.

(iii) Group counseling.

(iv) Individual counseling and career planning.

(v) Case management for participants seeking training services under paragraph (4).

(vi) Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct, to prepare individuals for unsubsidized employment or training.

## (4) TRAINING SERVICES.—

(A) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to a local area for dislocated workers under section 133(b)(2)(B) shall be used to provide training services to adults and dislocated workers, respectively—

(i) who have met the eligibility requirements for intensive services under paragraph (3)(A) and who are unable to obtain or retain employment through such services;

(ii) who after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to be in need of training services and to have the skills and qualifications to successfully participate in the selected program of training services;

(iii) who select programs of training services that are directly linked to the employment opportunities in the local area involved or in another area in which the adults or dislocated workers receiving such services are willing to relocate;

(iv) who meet the requirements of subparagraph (B); and

(v) who are determined to be eligible in accordance with the priority system, if any, in effect under subparagraph (E).

## (B) QUALIFICATION.—

(i) REQUIREMENT.—Except as provided in clause (ii), provision of such training services shall be limited to individuals who—

(I) are unable to obtain other grant assistance for such services, including Federal Pell Grants established under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); or

(II) require assistance beyond the assistance made available under other grant assistance programs, including Federal Pell Grants.

(ii) REIMBURSEMENTS.—Training services may be provided under this paragraph to an individual who otherwise meets the requirements of this paragraph while an application for a Federal Pell Grant is pending, except that if such individual is subsequently awarded a Federal Pell Grant, appropriate reimbursement shall be made to the local area from such Federal Pell Grant.

(C) PROVIDER QUALIFICATION.—Training services shall be provided through providers identified in accordance with section 122.

(D) TRAINING SERVICES.—Training services may include—

(i) occupational skills training, including training for nontraditional employment;

(ii) on-the-job training;

(iii) programs that combine workplace training with related instruction, which may include cooperative education programs;

(iv) training programs operated by the private sector;

(v) skill upgrading and retraining;

(vi) entrepreneurial training;

(vii) job readiness training;

(viii) adult education and literacy activities provided in combination with services described in any of clauses (i) through (vii); and

(ix) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

(E) PRIORITY.—In the event that funds allocated to a local area for adult employment and training activities under paragraph (2)(A) or (3) of section 133(b) are limited, priority shall be given to recipients of public assistance and other low-income individuals for intensive services and training services. The appropriate local board and the Governor shall direct the one-stop operators in the local area with regard to making determinations related to such priority.

(F) CONSUMER CHOICE REQUIREMENTS.—

(i) IN GENERAL.—Training services provided under this paragraph shall be provided in a manner that maximizes consumer choice in the selection of an eligible provider of such services.

(ii) ELIGIBLE PROVIDERS.—Each local board, through one-stop centers referred to in subsection (c), shall make available—

(I) the State list of eligible providers of training services required under section 122(e), with a description of the programs through which the providers may offer the training services, and the information identifying eligible providers of on-the-job training and customized training required under section 122(h); and

(II) the performance information and performance cost information relating to eligible providers of training services described in subsections (e) and (h) of section 122.

(G) USE OF INDIVIDUAL TRAINING ACCOUNTS.—

(i) IN GENERAL.—Except as provided in clause (ii), training services provided under this paragraph shall be provided through the use of individual training accounts in accordance with this paragraph, and shall be provided to eligible individuals through the one-stop delivery system.

(ii) EXCEPTIONS.—Training services authorized under this paragraph may be provided pursuant to a contract for services in lieu of an individual training account if the requirements of subparagraph (F) are met and if—

(I) such services are on-the-job training provided by an employer or customized training;

(II) the local board determines there are an insufficient number of eligible providers of training services in the local area involved (such as in

a rural area) to accomplish the purposes of a system of individual training accounts; or

(III) the local board determines that there is a training services program of demonstrated effectiveness offered in the local area by a community-based organization or another private organization to serve special participant populations that face multiple barriers to employment.

(iii) LINKAGE TO OCCUPATIONS IN DEMAND.—Training services provided under this paragraph shall be directly linked to occupations that are in demand in the local area, or in another area to which an adult or dislocated worker receiving such services is willing to relocate, except that a local board may approve training services for occupations determined by the local board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area.

(iv) DEFINITION.—In this subparagraph, the term “special participant population that faces multiple barriers to employment” means a population of low-income individuals that is included in one or more of the following categories:

(I) Individuals with substantial language or cultural barriers.

(II) Offenders.

(III) Homeless individuals.

(IV) Other hard-to-serve populations as defined by the Governor involved.

(e) PERMISSIBLE LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) DISCRETIONARY ONE-STOP DELIVERY ACTIVITIES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through one-stop delivery described in subsection (c)(2)—

(A) customized screening and referral of qualified participants in training services described in subsection (d)(4) to employment; and

(B) customized employment-related services to employers on a fee-for-service basis.

(2) SUPPORTIVE SERVICES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide supportive services to adults and dislocated workers, respectively—

(A) who are participating in programs with activities authorized in any of paragraphs (2), (3), or (4) of subsection (d); and

(B) who are unable to obtain such supportive services through other programs providing such services.

(3) NEEDS-RELATED PAYMENTS.—

(A) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for

dislocated workers under section 133(b)(2)(B), may be used to provide needs-related payments to adults and dislocated workers, respectively, who are unemployed and do not qualify for (or have ceased to qualify for) unemployment compensation for the purpose of enabling such individuals to participate in programs of training services under subsection (d)(4).

(B) **ADDITIONAL ELIGIBILITY REQUIREMENTS.**—In addition to the requirements contained in subparagraph (A), a dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments under this paragraph only if such worker was enrolled in the training services—

(i) by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility for employment and training activities for dislocated workers under this subtitle; or

(ii) if later, by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months.

(C) **LEVEL OF PAYMENTS.**—The level of a needs-related payment made to a dislocated worker under this paragraph shall not exceed the greater of—

(i) the applicable level of unemployment compensation; or

(ii) if such worker did not qualify for unemployment compensation, an amount equal to the poverty line, for an equivalent period, which amount shall be adjusted to reflect changes in total family income.

## **CHAPTER 6—GENERAL PROVISIONS**

### **SEC. 136. PERFORMANCE ACCOUNTABILITY SYSTEM.**

29 USC 2871.

(a) **PURPOSE.**—The purpose of this section is to establish a comprehensive performance accountability system, comprised of the activities described in this section, to assess the effectiveness of States and local areas in achieving continuous improvement of workforce investment activities funded under this subtitle, in order to optimize the return on investment of Federal funds in statewide and local workforce investment activities.

(b) **STATE PERFORMANCE MEASURES.**—

(1) **IN GENERAL.**—For each State, the State performance measures shall consist of—

(A)(i) the core indicators of performance described in paragraph (2)(A) and the customer satisfaction indicator of performance described in paragraph (2)(B); and

(ii) additional indicators of performance (if any) identified by the State under paragraph (2)(C); and

(B) a State adjusted level of performance for each indicator described in subparagraph (A).

(2) **INDICATORS OF PERFORMANCE.**—

(A) **CORE INDICATORS OF PERFORMANCE.**—

(i) **IN GENERAL.**—The core indicators of performance for employment and training activities authorized under section 134 (except for self-service and informational activities) and (for participants who are eligible

youth age 19 through 21) for youth activities authorized under section 129 shall consist of—

- (I) entry into unsubsidized employment;
  - (II) retention in unsubsidized employment 6 months after entry into the employment;
  - (III) earnings received in unsubsidized employment 6 months after entry into the employment;
- and

(IV) attainment of a recognized credential relating to achievement of educational skills, which may include attainment of a secondary school diploma or its recognized equivalent, or occupational skills, by participants who enter unsubsidized employment, or by participants who are eligible youth age 19 through 21 who enter postsecondary education, advanced training, or unsubsidized employment.

(ii) CORE INDICATORS FOR ELIGIBLE YOUTH.—The core indicators of performance (for participants who are eligible youth age 14 through 18) for youth activities authorized under section 129, shall include—

(I) attainment of basic skills and, as appropriate, work readiness or occupational skills;

(II) attainment of secondary school diplomas and their recognized equivalents; and

(III) placement and retention in postsecondary education or advanced training, or placement and retention in military service, employment, or qualified apprenticeships.

(B) CUSTOMER SATISFACTION INDICATORS.—The customer satisfaction indicator of performance shall consist of customer satisfaction of employers and participants with services received from the workforce investment activities authorized under this subtitle. Customer satisfaction may be measured through surveys conducted after the conclusion of participation in the workforce investment activities.

(C) ADDITIONAL INDICATORS.—A State may identify in the State plan additional indicators for workforce investment activities authorized under this subtitle.

(3) LEVELS OF PERFORMANCE.—

(A) STATE ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS AND CUSTOMER SATISFACTION INDICATOR.—

(i) IN GENERAL.—For each State submitting a State plan, there shall be established, in accordance with this subparagraph, levels of performance for each of the core indicators of performance described in paragraph (2)(A) and the customer satisfaction indicator described in paragraph (2)(B) for workforce investment activities authorized under this subtitle. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in an objective, quantifiable, and measurable form; and

(II) show the progress of the State toward continuously improving in performance.



(ii) IDENTIFICATION IN STATE PLAN.—Each State shall identify, in the State plan submitted under section 112, expected levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the first 3 program years covered by the State plan.

(iii) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 3 YEARS.—In order to ensure an optimal return on the investment of Federal funds in workforce investment activities authorized under this subtitle, the Secretary and each Governor shall reach agreement on levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the first 3 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan prior to the approval of such plan.

(iv) FACTORS.—The agreement described in clause (iii) or (v) shall take into account—

(I) the extent to which the levels involved will assist the State in attaining a high level of customer satisfaction;

(II) how the levels involved compare with the State adjusted levels of performance established for other States, taking into account factors including differences in economic conditions, the characteristics of participants when the participants entered the program, and the services to be provided; and

(III) the extent to which such levels involved promote continuous improvement in performance on the performance measures by such State and ensure optimal return on the investment of Federal funds.

(v) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR 4TH AND 5TH YEARS.—Prior to the 4th program year covered by the State plan, the Secretary and each Governor shall reach agreement on levels of performance for each of the core indicators of performance and the customer satisfaction indicator of performance, for the 4th and 5th program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan.

(vi) REVISIONS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (iv)(II), the Governor may request that the State adjusted levels of performance agreed to under clause (iii) or (v) be revised.

The Secretary, after collaboration with the representatives described in subsection (i), shall issue objective criteria and methods for making such revisions.

(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—The State may identify, in the State plan, State levels of performance for each of the additional indicators described in paragraph (2)(C). Such levels shall be considered to be State adjusted levels of performance for purposes of this title.

(c) LOCAL PERFORMANCE MEASURES.—

(1) IN GENERAL.—For each local area in a State, the local performance measures shall consist of—

(A)(i) the core indicators of performance described in subsection (b)(2)(A), and the customer satisfaction indicator of performance described in subsection (b)(2)(B), for activities described in such subsections, other than statewide workforce investment activities; and

(ii) additional indicators of performance (if any) identified by the State under subsection (b)(2)(C) for activities described in such subsection, other than statewide workforce investment activities; and

(B) a local level of performance for each indicator described in subparagraph (A).

(2) LOCAL LEVEL OF PERFORMANCE.—The local board, the chief elected official, and the Governor shall negotiate and reach agreement on the local levels of performance based on the State adjusted levels of performance established under subsection (b).

(3) DETERMINATIONS.—In determining such local levels of performance, the local board, the chief elected official, and the Governor shall take into account the specific economic, demographic, and other characteristics of the populations to be served in the local area.

(d) REPORT.—

(1) IN GENERAL.—Each State that receives an allotment under section 127 or 132 shall annually prepare and submit to the Secretary a report on the progress of the State in achieving State performance measures, including information on the levels of performance achieved by the State with respect to the core indicators of performance and the customer satisfaction indicator. The annual report also shall include information regarding the progress of local areas in the State in achieving local performance measures, including information on the levels of performance achieved by the areas with respect to the core indicators of performance and the customer satisfaction indicator. The report also shall include information on the status of State evaluations of workforce investment activities described in subsection (e).

(2) ADDITIONAL INFORMATION.—In preparing such report, the State shall include, at a minimum, information on participants in workforce investment activities authorized under this subtitle relating to—

(A) entry by participants who have completed training services provided under section 134(d)(4) into unsubsidized employment related to the training received;

(B) wages at entry into employment for participants in workforce investment activities who entered

unsubsidized employment, including the rate of wage replacement for such participants who are dislocated workers;

(C) cost of workforce investment activities relative to the effect of the activities on the performance of participants;

(D) retention and earnings received in unsubsidized employment 12 months after entry into the employment;

(E) performance with respect to the indicators of performance specified in subsection (b)(2)(A) of participants in workforce investment activities who received the training services compared with the performance of participants in workforce investment activities who received only services other than the training services (excluding participants who received only self-service and informational activities); and

(F) performance with respect to the indicators of performance specified in subsection (b)(2)(A) of recipients of public assistance, out-of-school youth, veterans, individuals with disabilities, displaced homemakers, and older individuals.

(3) INFORMATION DISSEMINATION.—The Secretary—

Publication.

(A) shall make the information contained in such reports available to the general public through publication and other appropriate methods;

(B) shall disseminate State-by-State comparisons of the information; and

(C) shall provide the appropriate congressional committees with copies of such reports.

(e) EVALUATION OF STATE PROGRAMS.—

(1) IN GENERAL.—Using funds made available under this subtitle, the State, in coordination with local boards in the State, shall conduct ongoing evaluation studies of workforce investment activities carried out in the State under this subtitle in order to promote, establish, implement, and utilize methods for continuously improving the activities in order to achieve high-level performance within, and high-level outcomes from, the statewide workforce investment system. To the maximum extent practicable, the State shall coordinate the evaluations with the evaluations provided for by the Secretary under section 172.

(2) DESIGN.—The evaluation studies conducted under this subsection shall be designed in conjunction with the State board and local boards and shall include analysis of customer feedback and outcome and process measures in the statewide workforce investment system. The studies may include use of control groups.

(3) RESULTS.—The State shall periodically prepare and submit to the State board, and local boards in the State, reports containing the results of evaluation studies conducted under this subsection, to promote the efficiency and effectiveness of the statewide workforce investment system in improving employability for jobseekers and competitiveness for employers.

Reports.

(f) FISCAL AND MANAGEMENT ACCOUNTABILITY INFORMATION SYSTEMS.—

(1) IN GENERAL.—Using funds made available under this subtitle, the Governor, in coordination with local boards and

Guidelines.

chief elected officials in the State, shall establish and operate a fiscal and management accountability information system based on guidelines established by the Secretary after consultation with the Governors, local elected officials, and one-stop partners. Such guidelines shall promote efficient collection and use of fiscal and management information for reporting and monitoring the use of funds made available under this subtitle and for preparing the annual report described in subsection (d).

(2) WAGE RECORDS.—In measuring the progress of the State on State and local performance measures, a State shall utilize quarterly wage records, consistent with State law. The Secretary shall make arrangements, consistent with State law, to ensure that the wage records of any State are available to any other State to the extent that such wage records are required by the State in carrying out the State plan of the State or completing the annual report described in subsection (d).

(3) CONFIDENTIALITY.—In carrying out the requirements of this Act, the State shall comply with section 444 of the General Education Provisions Act (20 U.S.C. 1232g) (as added by the Family Educational Rights and Privacy Act of 1974).

(g) SANCTIONS FOR STATE FAILURE TO MEET STATE PERFORMANCE MEASURES.—

(1) STATES.—

(A) TECHNICAL ASSISTANCE.—If a State fails to meet State adjusted levels of performance relating to indicators described in subparagraph (A) or (B) of subsection (b)(2) for a program for any program year, the Secretary shall, upon request, provide technical assistance in accordance with section 170, including assistance in the development of a performance improvement plan.

(B) REDUCTION IN AMOUNT OF GRANT.—If such failure continues for a second consecutive year, or if a State fails to submit a report under subsection (d) for any program year, the Secretary may reduce by not more than 5 percent, the amount of the grant that would (in the absence of this paragraph) be payable to the State under such program for the immediately succeeding program year. Such penalty shall be based on the degree of failure to meet State adjusted levels of performance.

(2) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The Secretary shall use an amount retained, as a result of a reduction in an allotment to a State made under paragraph (1)(B), to provide incentive grants under section 503.

(h) SANCTIONS FOR LOCAL AREA FAILURE TO MEET LOCAL PERFORMANCE MEASURES.—

(1) TECHNICAL ASSISTANCE.—If a local area fails to meet levels of performance relating to indicators described in subparagraph (A) or (B) of subsection (b)(2) for a program for any program year, the Governor, or upon request by the Governor, the Secretary, shall provide technical assistance, which may include assistance in the development of a performance improvement plan, or the development of a modified local plan.

(2) CORRECTIVE ACTIONS.—

(A) IN GENERAL.—If such failure continues for a second consecutive year, the Governor shall take corrective actions, which may include development of a reorganization plan through which the Governor may—

(i) require the appointment and certification of a new local board (consistent with the criteria established under section 117(b));

(ii) prohibit the use of eligible providers and one-stop partners identified as achieving a poor level of performance; or

(iii) take such other actions as the Governor determines are appropriate.

(B) APPEAL BY LOCAL AREA.—

Deadlines.

(i) APPEAL TO GOVERNOR.—A local area that is subject to a reorganization plan under subparagraph (A) may, not later than 30 days after receiving notice of the reorganization plan, appeal to the Governor to rescind or revise such plan. In such case, the Governor shall make a final decision not later than 30 days after the receipt of the appeal.

(ii) SUBSEQUENT ACTION.—The local area may, not later than 30 days after receiving a decision from the Governor pursuant to clause (i), appeal such decision to the Secretary. In such case, the Secretary shall make a final decision not later than 30 days after the receipt of the appeal.

(C) EFFECTIVE DATE.—The decision made by the Governor under clause (i) of subparagraph (B) shall become effective at the time the Governor issues the decision pursuant to such clause. Such decision shall remain effective unless the Secretary rescinds or revises such plan pursuant to clause (ii) of subparagraph (B).

(i) OTHER MEASURES AND TERMINOLOGY.—

(1) RESPONSIBILITIES.—In order to ensure nationwide comparability of performance data, the Secretary, after collaboration with representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities, educators, and participants, with expertise regarding workforce investment policies and workforce investment activities, shall issue—

(A) definitions for information required to be reported under subsection (d)(2);

(B) terms for a menu of additional indicators of performance described in subsection (b)(2)(C) to assist States in assessing their progress toward State workforce investment goals; and

(C) objective criteria and methods described in subsection (b)(3)(A)(vi) for making revisions to levels of performance.

(2) DEFINITIONS FOR CORE INDICATORS.—The Secretary and the representatives described in paragraph (1) shall participate in the activities described in section 502 concerning the issuance of definitions for indicators of performance described in subsection (b)(2)(A).

(3) ASSISTANCE.—The Secretary shall make the services of staff available to the representatives to assist the representatives in participating in the collaboration described in paragraph (1) and in the activities described in section 502.

29 USC 2872.

**SEC. 137. AUTHORIZATION OF APPROPRIATIONS.**

(a) YOUTH ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 127(a), such sums as may be necessary for each of fiscal years 1999 through 2003.

(b) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 132(a)(1), such sums as may be necessary for each of fiscal years 1999 through 2003.

(c) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—There are authorized to be appropriated to carry out the activities described in section 132(a)(2), such sums as may be necessary for each of fiscal years 1999 through 2003.

## Subtitle C—Job Corps

29 USC 2881.

**SEC. 141. PURPOSES.**

The purposes of this subtitle are—

(1) to maintain a national Job Corps program, carried out in partnership with States and communities, to assist eligible youth who need and can benefit from an intensive program, operated in a group setting in residential and nonresidential centers, to become more responsible, employable, and productive citizens;

(2) to set forth standards and procedures for selecting individuals as enrollees in the Job Corps;

(3) to authorize the establishment of Job Corps centers in which enrollees will participate in intensive programs of activities described in this subtitle; and

(4) to prescribe various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps.

29 USC 2882.

**SEC. 142. DEFINITIONS.**

In this subtitle:

(1) APPLICABLE LOCAL BOARD.—The term “applicable local board” means a local board—

(A) that provides information for a Job Corps center on local employment opportunities and the job skills needed to obtain the opportunities; and

(B) that serves communities in which the graduates of the Job Corps center seek employment.

(2) APPLICABLE ONE-STOP CENTER.—The term “applicable one-stop center” means a one-stop customer service center that provides services, such as referral, intake, recruitment, and placement, to a Job Corps center.

(3) ENROLLEE.—The term “enrollee” means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, and remains with the program, but has not yet become a graduate.

(4) FORMER ENROLLEE.—The term “former enrollee” means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program, but left the program

before completing the requirements of a vocational training program, or receiving a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(5) GRADUATE.—The term “graduate” means an individual who has voluntarily applied for, been selected for, and enrolled in the Job Corps program and has completed the requirements of a vocational training program, or received a secondary school diploma or recognized equivalent, as a result of participation in the Job Corps program.

(6) JOB CORPS.—The term “Job Corps” means the Job Corps described in section 143.

(7) JOB CORPS CENTER.—The term “Job Corps center” means a center described in section 147.

(8) OPERATOR.—The term “operator” means an entity selected under this subtitle to operate a Job Corps center.

(9) REGION.—The term “region” means an area served by a regional office of the Employment and Training Administration.

(10) SERVICE PROVIDER.—The term “service provider” means an entity selected under this subtitle to provide services described in this subtitle to a Job Corps center.

#### **SEC. 143. ESTABLISHMENT.**

29 USC 2883.

There shall be within the Department of Labor a “Job Corps”.

#### **SEC. 144. INDIVIDUALS ELIGIBLE FOR THE JOB CORPS.**

29 USC 2884.

To be eligible to become an enrollee, an individual shall be—

(1) not less than age 16 and not more than age 21 on the date of enrollment, except that—

(A) not more than 20 percent of the individuals enrolled in the Job Corps may be not less than age 22 and not more than age 24 on the date of enrollment; and

(B) either such maximum age limitation may be waived by the Secretary, in accordance with regulations of the Secretary, in the case of an individual with a disability; (2) a low-income individual; and

(3) an individual who is one or more of the following:

(A) Basic skills deficient.

(B) A school dropout.

(C) Homeless, a runaway, or a foster child.

(D) A parent.

(E) An individual who requires additional education, vocational training, or intensive counseling and related assistance, in order to participate successfully in regular schoolwork or to secure and hold employment.

#### **SEC. 145. RECRUITMENT, SCREENING, SELECTION, AND ASSIGNMENT OF ENROLLEES.**

29 USC 2885.

(a) STANDARDS AND PROCEDURES.—

(1) IN GENERAL.—The Secretary shall prescribe specific standards and procedures for the recruitment, screening, and selection of eligible applicants for the Job Corps, after considering recommendations from the Governors, local boards, and other interested parties.

(2) METHODS.—In prescribing standards and procedures under paragraph (1), the Secretary, at a minimum, shall—

(A) prescribe procedures for informing enrollees that drug tests will be administered to the enrollees and the results received within 45 days after the enrollees enroll in the Job Corps;

(B) establish standards for recruitment of Job Corps applicants;

(C) establish standards and procedures for—

(i) determining, for each applicant, whether the educational and vocational needs of the applicant can best be met through the Job Corps program or an alternative program in the community in which the applicant resides; and

(ii) obtaining from each applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment;

(D) where appropriate, take measures to improve the professional capability of the individuals conducting screening of the applicants; and

(E) assure that an appropriate number of enrollees are from rural areas.

(3) IMPLEMENTATION.—To the extent practicable, the standards and procedures shall be implemented through arrangements with—

(A) applicable one-stop centers;

(B) community action agencies, business organizations, and labor organizations; and

(C) agencies and individuals that have contact with youth over substantial periods of time and are able to offer reliable information about the needs and problems of youth.

(4) CONSULTATION.—The standards and procedures shall provide for necessary consultation with individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers.

(5) REIMBURSEMENT.—The Secretary is authorized to enter into contracts with and make payments to individuals and organizations for the cost of conducting recruitment, screening, and selection of eligible applicants for the Job Corps, as provided for in this section. The Secretary shall make no payment to any individual or organization solely as compensation for referring the names of applicants for the Job Corps.

(b) SPECIAL LIMITATIONS ON SELECTION.—

(1) IN GENERAL.—No individual shall be selected as an enrollee unless the individual or organization implementing the standards and procedures described in subsection (a) determines that—

(A) there is a reasonable expectation that the individual considered for selection can participate successfully in group situations and activities, and is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the Job Corps program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the Job Corps center to which the individual might be assigned and communities surrounding the Job Corps center;

Contracts.



(B) the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe the rules; and

(C) the individual has passed a background check conducted in accordance with procedures established by the Secretary.

(2) INDIVIDUALS ON PROBATION, PAROLE, OR SUPERVISED RELEASE.—An individual on probation, parole, or supervised release may be selected as an enrollee only if release from the supervision of the probation or parole official involved is satisfactory to the official and the Secretary and does not violate applicable laws (including regulations). No individual shall be denied a position in the Job Corps solely on the basis of individual contact with the criminal justice system.

(c) ASSIGNMENT PLAN.—

(1) IN GENERAL.—Every 2 years, the Secretary shall develop and implement an assignment plan for assigning enrollees to Job Corps centers. In developing the plan, the Secretary shall, based on the analysis described in paragraph (2), establish targets, applicable to each Job Corps center, for—

(A) the maximum attainable percentage of enrollees at the Job Corps center that reside in the State in which the center is located; and

(B) the maximum attainable percentage of enrollees at the Job Corps center that reside in the region in which the center is located, and in surrounding regions.

(2) ANALYSIS.—In order to develop the plan described in paragraph (1), the Secretary shall, every 2 years, analyze, for the Job Corps center—

(A) the size of the population of individuals eligible to participate in Job Corps in the State and region in which the Job Corps center is located, and in surrounding regions;

(B) the relative demand for participation in the Job Corps in the State and region, and in surrounding regions; and

(C) the capacity and utilization of the Job Corps center, including services provided through the center.

(d) ASSIGNMENT OF INDIVIDUAL ENROLLEES.—

(1) IN GENERAL.—After an individual has been selected for the Job Corps in accordance with the standards and procedures of the Secretary under subsection (a), the enrollee shall be assigned to the Job Corps center that is closest to the home of the enrollee, except that the Secretary may waive this requirement if—

(A) the enrollee chooses a vocational training program, or requires an English literacy program, that is not available at such center;

(B) the enrollee would be unduly delayed in participating in the Job Corps program because the closest center is operating at full capacity; or

(C) the parent or guardian of the enrollee requests assignment of the enrollee to another Job Corps center due to circumstances in the community of the enrollee that would impair prospects for successful participation in the Job Corps program.

(2) ENROLLEES WHO ARE YOUNGER THAN 18.—An enrollee who is younger than 18 shall not be assigned to a Job Corps center other than the center closest to the home of the enrollee pursuant to paragraph (1) if the parent or guardian of the enrollee objects to the assignment.

29 USC 2886.

**SEC. 146. ENROLLMENT.**

(a) RELATIONSHIP BETWEEN ENROLLMENT AND MILITARY OBLIGATIONS.—Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(b) PERIOD OF ENROLLMENT.—No individual may be enrolled in the Job Corps for more than 2 years, except—

(1) in a case in which completion of an advanced career training program under section 148(c) would require an individual to participate in the Job Corps for not more than one additional year; or

(2) as the Secretary may authorize in a special case.

29 USC 2887.

**SEC. 147. JOB CORPS CENTERS.**

(a) OPERATORS AND SERVICE PROVIDERS.—

(1) ELIGIBLE ENTITIES.—

Contracts.

(A) OPERATORS.—The Secretary shall enter into an agreement with a Federal, State, or local agency, an area vocational education school or residential vocational school, or a private organization, for the operation of each Job Corps center.

(B) PROVIDERS.—The Secretary may enter into an agreement with a local entity to provide activities described in this subtitle to the Job Corps center.

(2) SELECTION PROCESS.—

(A) COMPETITIVE BASIS.—Except as provided in subsections (c) and (d) of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the Secretary shall select on a competitive basis an entity to operate a Job Corps center and entities to provide activities described in this subtitle to the Job Corps center. In developing a solicitation for an operator or service provider, the Secretary shall consult with the Governor of the State in which the center is located, the industry council for the Job Corps center (if established), and the applicable local board regarding the contents of such solicitation, including elements that will promote the consistency of the activities carried out through the center with the objectives set forth in the State plan or in a local plan.

(B) RECOMMENDATIONS AND CONSIDERATIONS.—

(i) OPERATORS.—In selecting an entity to operate a Job Corps center, the Secretary shall consider—

(I) the ability of the entity to coordinate the activities carried out through the Job Corps center with activities carried out under the appropriate State plan and local plans;

(II) the degree to which the vocational training that the entity proposes for the center reflects local employment opportunities in the local areas in which enrollees at the center intend to seek employment;

(III) the degree to which the entity is familiar with the surrounding communities, applicable one-stop centers, and the State and region in which the center is located; and

(IV) the past performance of the entity, if any, relating to operating or providing activities described in this subtitle to a Job Corps center.

(ii) PROVIDERS.—In selecting a service provider for a Job Corps center, the Secretary shall consider the factors described in subclauses (I) through (IV) of clause (i), as appropriate.

(b) CHARACTER AND ACTIVITIES.—Job Corps centers may be residential or nonresidential in character, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with access to activities described in this subtitle. In any year, no more than 20 percent of the individuals enrolled in the Job Corps may be nonresidential participants in the Job Corps.

(c) CIVILIAN CONSERVATION CENTERS.—

(1) IN GENERAL.—The Job Corps centers may include Civilian Conservation Centers operated under agreements with the Secretary of Agriculture or the Secretary of the Interior, located primarily in rural areas, which shall provide, in addition to other vocational training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest.

(2) SELECTION PROCESS.—The Secretary may select an entity to operate a Civilian Conservation Center on a competitive basis, as provided in subsection (a), if the center fails to meet such national performance standards as the Secretary shall establish.

(d) INDIAN TRIBES.—

(1) GENERAL AUTHORITY.—The Secretary may enter into agreements with Indian tribes to operate Job Corps centers for Indians.

(2) DEFINITIONS.—In this subsection, the terms “Indian” and “Indian tribe”, have the meanings given such terms in subsections (d) and (e), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

#### SEC. 148. PROGRAM ACTIVITIES.

29 USC 2888.

(a) ACTIVITIES PROVIDED BY JOB CORPS CENTERS.—

(1) IN GENERAL.—Each Job Corps center shall provide enrollees with an intensive, well organized, and fully supervised program of education, vocational training, work experience, recreational activities, physical rehabilitation and development, and counseling. Each Job Corps center shall provide enrollees assigned to the center with access to core services described in section 134(d)(2) and the intensive services described in section 134(d)(3).

(2) RELATIONSHIP TO OPPORTUNITIES.—

(A) IN GENERAL.—The activities provided under this subsection shall provide work-based learning throughout the enrollment of the enrollees and assist the enrollees in obtaining meaningful unsubsidized employment, participating in secondary education or postsecondary education

programs, enrolling in other suitable vocational training programs, or satisfying Armed Forces requirements, on completion of their enrollment.

(B) LINK TO EMPLOYMENT OPPORTUNITIES.—The vocational training provided shall be linked to the employment opportunities in the local area in which the enrollee intends to seek employment after graduation.

(b) EDUCATION AND VOCATIONAL TRAINING.—The Secretary may arrange for education and vocational training of enrollees through local public or private educational agencies, vocational educational institutions, or technical institutes, whenever such entities provide education and training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

(c) ADVANCED CAREER TRAINING PROGRAMS.—

(1) IN GENERAL.—The Secretary may arrange for programs of advanced career training for selected enrollees in which the enrollees may continue to participate for a period of not to exceed 1 year in addition to the period of participation to which the enrollees would otherwise be limited. The advanced career training may be provided through the eligible providers of training services identified under section 122.

(2) BENEFITS.—

(A) IN GENERAL.—During the period of participation in an advanced career training program, an enrollee shall be eligible for full Job Corps benefits, or a monthly stipend equal to the average value of the residential support, food, allowances, and other benefits provided to enrollees assigned to residential Job Corps centers.

(B) CALCULATION.—The total amount for which an enrollee shall be eligible under subparagraph (A) shall be reduced by the amount of any scholarship or other educational grant assistance received by such enrollee for advanced career training.

(3) DEMONSTRATION.—Each year, any operator seeking to enroll additional enrollees in an advanced career training program shall demonstrate that participants in such program have achieved a satisfactory rate of completion and placement in training-related jobs before the operator may carry out such additional enrollment.

(d) CONTINUED SERVICES.—The Secretary shall also provide continued services to graduates, including providing counseling regarding the workplace for 12 months after the date of graduation of the graduates. In selecting a provider for such services, the Secretary shall give priority to one-stop partners.

(e) CHILD CARE.—The Secretary shall, to the extent practicable, provide child care at or near Job Corps centers, for individuals who require child care for their children in order to participate in the Job Corps.

29 USC 2889.

#### **SEC. 149. COUNSELING AND JOB PLACEMENT.**

(a) COUNSELING AND TESTING.—The Secretary shall arrange for counseling and testing for each enrollee at regular intervals to measure progress in the education and vocational training programs carried out through the Job Corps.

(b) PLACEMENT.—The Secretary shall arrange for counseling and testing for enrollees prior to their scheduled graduations to determine their capabilities and, based on their capabilities, shall

make every effort to arrange to place the enrollees in jobs in the vocations for which the enrollees are trained or to assist the enrollees in obtaining further activities described in this subtitle. In arranging for the placement of graduates in jobs, the Secretary shall utilize the one-stop delivery system to the fullest extent possible.

(c) **STATUS AND PROGRESS.**—The Secretary shall determine the status and progress of enrollees scheduled for graduation and make every effort to assure that their needs for further activities described in this subtitle are met.

(d) **SERVICES TO FORMER ENROLLEES.**—The Secretary may provide such services as the Secretary determines to be appropriate under this subtitle to former enrollees.

**SEC. 150. SUPPORT.**

29 USC 2890.

(a) **PERSONAL ALLOWANCES.**—The Secretary may provide enrollees assigned to Job Corps centers with such personal allowances as the Secretary may determine to be necessary or appropriate to meet the needs of the enrollees.

(b) **READJUSTMENT ALLOWANCES.**—

(1) **GRADUATES.**—The Secretary shall arrange for a readjustment allowance to be paid to graduates. The Secretary shall arrange for the allowance to be paid at the one-stop center nearest to the home of the graduate who is returning home, or at the one-stop center nearest to the location where the graduate has indicated an intent to seek employment. If the Secretary uses any organization, in lieu of a one-stop center, to provide placement services under this Act, the Secretary shall arrange for that organization to pay the readjustment allowance.

(2) **FORMER ENROLLEES.**—The Secretary may provide for a readjustment allowance to be paid to former enrollees. The provision of the readjustment allowance shall be subject to the same requirements as are applicable to the provision of the readjustment allowance paid to graduates under paragraph (1).

**SEC. 151. OPERATING PLAN.**

29 USC 2891.

(a) **IN GENERAL.**—The provisions of the contract between the Secretary and an entity selected to operate a Job Corps center shall, at a minimum, serve as an operating plan for the Job Corps center.

(b) **ADDITIONAL INFORMATION.**—The Secretary may require the operator, in order to remain eligible to operate the Job Corps center, to submit such additional information as the Secretary may require, which shall be considered part of the operating plan.

(c) **AVAILABILITY.**—The Secretary shall make the operating plan described in subsections (a) and (b), excluding any proprietary information, available to the public.

**SEC. 152. STANDARDS OF CONDUCT.**

29 USC 2892.

(a) **PROVISION AND ENFORCEMENT.**—The Secretary shall provide, and directors of Job Corps centers shall stringently enforce, standards of conduct within the centers. Such standards of conduct shall include provisions forbidding the actions described in subsection (b)(2)(A).

(b) **DISCIPLINARY MEASURES.**—

(1) **IN GENERAL.**—To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees. If such a director determines that an enrollee has committed a violation of the standards of conduct, the director shall dismiss the enrollee from the Job Corps if the director determines that the retention of the enrollee in the Job Corps will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

(2) **ZERO TOLERANCE POLICY AND DRUG TESTING.**—

(A) **GUIDELINES.**—The Secretary shall adopt guidelines establishing a zero tolerance policy for an act of violence, for use, sale, or possession of a controlled substance, for abuse of alcohol, or for other illegal or disruptive activity.

(B) **DRUG TESTING.**—The Secretary shall require drug testing of all enrollees for controlled substances in accordance with procedures prescribed by the Secretary under section 145(a).

(C) **DEFINITIONS.**—In this paragraph:

(i) **CONTROLLED SUBSTANCE.**—The term “controlled substance” has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(ii) **ZERO TOLERANCE POLICY.**—The term “zero tolerance policy” means a policy under which an enrollee shall be automatically dismissed from the Job Corps after a determination by the director that the enrollee has carried out an action described in subparagraph (A).

(c) **APPEAL.**—A disciplinary measure taken by a director under this section shall be subject to expeditious appeal in accordance with procedures established by the Secretary.

29 USC 2893.

**SEC. 153. COMMUNITY PARTICIPATION.**

(a) **BUSINESS AND COMMUNITY LIAISON.**—Each Job Corps center shall have a Business and Community Liaison (referred to in this Act as a “Liaison”), designated by the director of the center.

(b) **RESPONSIBILITIES.**—The responsibilities of the Liaison shall include—

(1) establishing and developing relationships and networks with—

(A) local and distant employers; and

(B) applicable one-stop centers and applicable local boards,  
for the purpose of providing job opportunities for Job Corps graduates; and

(2) establishing and developing relationships with members of the community in which the Job Corps center is located, informing members of the community about the projects of the Job Corps center and changes in the rules, procedures, or activities of the center that may affect the community, and planning events of mutual interest to the community and the Job Corps center.

(c) **NEW CENTERS.**—The Liaison for a Job Corps center that is not yet operating shall establish and develop the relationships and networks described in subsection (b) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

**SEC. 154. INDUSTRY COUNCILS.**

29 USC 2894.

(a) **IN GENERAL.**—Each Job Corps center shall have an industry council, appointed by the director of the center after consultation with the Liaison, in accordance with procedures established by the Secretary.

(b) **INDUSTRY COUNCIL COMPOSITION.**—

(1) **IN GENERAL.**—An industry council shall be comprised of—

(A) a majority of members who shall be local and distant owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector employers, who—

(i) have substantial management, hiring, or policy responsibility; and

(ii) represent businesses with employment opportunities that reflect the employment opportunities of the applicable local area;

(B) representatives of labor organizations (where present) and representatives of employees; and

(C) enrollees and graduates of the Job Corps.

(2) **LOCAL BOARD.**—The industry council may include members of the applicable local boards who meet the requirements described in paragraph (1).

(c) **RESPONSIBILITIES.**—The responsibilities of the industry council shall be—

(1) to work closely with all applicable local boards in order to determine, and recommend to the Secretary, appropriate vocational training for the center;

(2) to review all the relevant labor market information to—

(A) determine the employment opportunities in the local areas in which the enrollees intend to seek employment after graduation;

(B) determine the skills and education that are necessary to obtain the employment opportunities; and

(C) recommend to the Secretary the type of vocational training that should be implemented at the center to enable the enrollees to obtain the employment opportunities; and

(3) to meet at least once every 6 months to reevaluate the labor market information, and other relevant information, to determine, and recommend to the Secretary, any necessary changes in the vocational training provided at the center.

(d) **NEW CENTERS.**—The industry council for a Job Corps center that is not yet operating shall carry out the responsibilities described in subsection (c) at least 3 months prior to the date on which the center accepts the first enrollee at the center.

**SEC. 155. ADVISORY COMMITTEES.**

29 USC 2895.

The Secretary may establish and use advisory committees in connection with the operation of the Job Corps program, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

29 USC 2896.

**SEC. 156. EXPERIMENTAL, RESEARCH, AND DEMONSTRATION PROJECTS.**

The Secretary may carry out experimental, research, or demonstration projects relating to carrying out the Job Corps program and may waive any provisions of this subtitle that the Secretary finds would prevent the Secretary from carrying out the projects.

29 USC 2897.

**SEC. 157. APPLICATION OF PROVISIONS OF FEDERAL LAW.****(a) ENROLLEES NOT CONSIDERED TO BE FEDERAL EMPLOYEES.—**

(1) **IN GENERAL.**—Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees shall not be considered to be Federal employees and shall not be subject to the provisions of law relating to Federal employment, including such provisions regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) **PROVISIONS RELATING TO TAXES AND SOCIAL SECURITY BENEFITS.**—For purposes of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.), enrollees shall be deemed to be employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(3) **PROVISIONS RELATING TO COMPENSATION TO FEDERAL EMPLOYEES FOR WORK INJURIES.**—For purposes of subchapter I of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed to be civil employees of the Government of the United States within the meaning of the term “employee” as defined in section 8101 of title 5, United States Code, and the provisions of such subchapter shall apply as specified in section 8143(a) of title 5, United States Code.

(4) **FEDERAL TORT CLAIMS PROVISIONS.**—For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered to be employees of the Government.

(b) **ADJUSTMENTS AND SETTLEMENTS.**—Whenever the Secretary finds a claim for damages to a person or property resulting from the operation of the Job Corps to be a proper charge against the United States, and the claim is not cognizable under section 2672 of title 28, United States Code, the Secretary may adjust and settle the claim in an amount not exceeding \$1,500.

(c) **PERSONNEL OF THE UNIFORMED SERVICES.**—Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Job Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

29 USC 2898.

**SEC. 158. SPECIAL PROVISIONS.**

(a) **ENROLLMENT.**—The Secretary shall ensure that women and men have an equal opportunity to participate in the Job Corps program, consistent with section 145.

(b) **STUDIES, EVALUATIONS, PROPOSALS, AND DATA.**—The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of



carrying out the Job Corps program shall become the property of the United States.

(c) TRANSFER OF PROPERTY.—

(1) IN GENERAL.—Notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, the Secretary and the Secretary of Education shall receive priority by the Secretary of Defense for the direct transfer, on a nonreimbursable basis, of the property described in paragraph (2) for use in carrying out programs under this Act or under any other Act.

(2) PROPERTY.—The property described in this paragraph is real and personal property under the control of the Department of Defense that is not used by such Department, including property that the Secretary of Defense determines is in excess of current and projected requirements of such Department.

(d) GROSS RECEIPTS.—Transactions conducted by a private for-profit or nonprofit entity that is an operator or service provider for a Job Corps center shall not be considered to be generating gross receipts. Such an operator or service provider shall not be liable, directly or indirectly, to any State or subdivision of a State (nor to any person acting on behalf of such a State or subdivision) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such entity for operating or providing services to a Job Corps center. Such an operator or service provider shall not be liable to any State or subdivision of a State to collect or pay any sales, excise, use, or similar tax imposed on the sale to or use by such operator or service provider of any property, service, or other item in connection with the operation of or provision of services to a Job Corps center.

(e) MANAGEMENT FEE.—The Secretary shall provide each operator and (in an appropriate case, as determined by the Secretary) service provider with an equitable and negotiated management fee of not less than 1 percent of the amount of the funding provided under the appropriate agreement specified in section 147.

(f) DONATIONS.—The Secretary may accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including equipment and materials, if such donations are available for appropriate use for the purposes set forth in this subtitle.

(g) SALE OF PROPERTY.—Notwithstanding any other provision of law, if the Administrator of General Services sells a Job Corps center facility, the Administrator shall transfer the proceeds from the sale to the Secretary, who shall use the proceeds to carry out the Job Corps program.

**SEC. 159. MANAGEMENT INFORMATION.**

(a) FINANCIAL MANAGEMENT INFORMATION SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish procedures to ensure that each operator, and each service provider, maintains a financial management information system that will provide—

(A) accurate, complete, and current disclosures of the costs of Job Corps operations; and

Procedures.  
29 USC 2899.

(B) sufficient data for the effective evaluation of activities carried out through the Job Corps program.

(2) ACCOUNTS.—Each operator and service provider shall maintain funds received under this subtitle in accounts in a manner that ensures timely and accurate reporting as required by the Secretary.

(3) FISCAL RESPONSIBILITY.—Operators shall remain fiscally responsible and control costs, regardless of whether the funds made available for Job Corps centers are incrementally increased or decreased between fiscal years.

(b) AUDIT.—

(1) ACCESS.—The Secretary, the Inspector General of the Department of Labor, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the operators and service providers described in subsection (a) that are pertinent to the Job Corps program, for purposes of conducting surveys, audits, and evaluations of the operators and service providers.

(2) SURVEYS, AUDITS, AND EVALUATIONS.—The Secretary shall survey, audit, or evaluate, or arrange for the survey, audit, or evaluation of, the operators and service providers, using Federal auditors or independent public accountants. The Secretary shall conduct such surveys, audits, or evaluations not less often than once every 3 years.

(c) INFORMATION ON INDICATORS OF PERFORMANCE.—

(1) ESTABLISHMENT.—The Secretary shall, with continuity and consistency from year to year, establish indicators of performance, and expected levels of performance for Job Corps centers and the Job Corps program, relating to—

(A) the number of graduates and the rate of such graduation, analyzed by type of vocational training received through the Job Corps program and by whether the vocational training was provided by a local or national service provider;

(B) the number of graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received, analyzed by whether the vocational training was provided by a local or national service provider and by whether the placement in the employment was conducted by a local or national service provider;

(C) the average wage received by graduates who entered unsubsidized employment related to the vocational training received through the Job Corps program and the average wage received by graduates who entered unsubsidized employment unrelated to the vocational training received;

(D) the average wage received by graduates placed in unsubsidized employment after completion of the Job Corps program—

(i) on the first day of the employment;

(ii) 6 months after the first day of the employment;

and

(iii) 12 months after the first day of the employment,

analyzed by type of vocational training received through the Job Corps program;

(E) the number of graduates who entered unsubsidized employment and were retained in the unsubsidized employment—

- (i) 6 months after the first day of the employment; and
- (ii) 12 months after the first day of the employment;

(F) the number of graduates who entered unsubsidized employment—

- (i) for 32 hours per week or more;
- (ii) for not less than 20 but less than 32 hours per week; and
- (iii) for less than 20 hours per week;

(G) the number of graduates who entered post-secondary education or advanced training programs, including apprenticeship programs, as appropriate; and

(H) the number of graduates who attained job readiness and employment skills.

(2) PERFORMANCE OF RECRUITERS.—The Secretary shall also establish performance measures, and expected performance levels on the performance measures, for local and national recruitment service providers serving the Job Corps program. The performance measures shall relate to the number of enrollees retained in the Job Corps program for 30 days and for 60 days after initial placement in the program.

(3) REPORT.—The Secretary shall collect, and annually submit a report to the appropriate committees of Congress containing information on the performance of each Job Corps center, and the Job Corps program, on the core performance measures, as compared to the expected performance level for each performance measure. The report shall also contain information on the performance of the service providers described in paragraph (2) on the performance measures established under such paragraph, as compared to the expected performance levels for the performance measures.

(d) ADDITIONAL INFORMATION.—The Secretary shall also collect, and submit in the report described in subsection (c), information on the performance of each Job Corps center, and the Job Corps program, regarding—

- (1) the number of enrollees served;
- (2) the average level of learning gains for graduates and former enrollees;
- (3) the number of former enrollees and graduates who entered the Armed Forces;
- (4) the number of former enrollees who entered post-secondary education;
- (5) the number of former enrollees who entered unsubsidized employment related to the vocational training received through the Job Corps program and the number who entered unsubsidized employment not related to the vocational training received;
- (6) the number of former enrollees and graduates who obtained a secondary school diploma or its recognized equivalent;

(7) the number and percentage of dropouts from the Job Corps program including the number dismissed under the zero tolerance policy described in section 152(b); and

(8) any additional information required by the Secretary.

(e) **METHODS.**—The Secretary may collect the information described in subsections (c) and (d) using methods described in section 136(f)(2) consistent with State law.

(f) **PERFORMANCE ASSESSMENTS AND IMPROVEMENTS.**—

(1) **ASSESSMENTS.**—The Secretary shall conduct an annual assessment of the performance of each Job Corps center. Based on the assessment, the Secretary shall take measures to continuously improve the performance of the Job Corps program.

(2) **PERFORMANCE IMPROVEMENT PLANS.**—With respect to a Job Corps center that fails to meet the expected levels of performance relating to the core performance measures specified in subsection (c), the Secretary shall develop and implement a performance improvement plan. Such a plan shall require action including—

(A) providing technical assistance to the center;

(B) changing the vocational training offered at the center;

(C) changing the management staff of the center;

(D) replacing the operator of the center;

(E) reducing the capacity of the center;

(F) relocating the center; or

(G) closing the center.

(3) **ADDITIONAL PERFORMANCE IMPROVEMENT PLANS.**—In addition to the performance improvement plans required under paragraph (2), the Secretary may develop and implement additional performance improvement plans. Such a plan shall require improvements, including the actions described in paragraph (2), for a Job Corps center that fails to meet criteria established by the Secretary other than the expected levels of performance described in paragraph (2).

(g) **CLOSURE OF JOB CORPS CENTER.**—Prior to the closure of any Job Corps center, the Secretary shall ensure—

(1) that the proposed decision to close the center is announced in advance to the general public through publication in the Federal Register or other appropriate means;

(2) the establishment of a reasonable comment period, not to exceed 30 days, for interested individuals to submit written comments to the Secretary; and

(3) that the Member of Congress who represents the district in which such center is located is notified within a reasonable period of time in advance of any final decision to close the center.

Federal Register,  
publication.

29 USC 2900.

#### **SEC. 160. GENERAL PROVISIONS.**

The Secretary is authorized to—

(1) disseminate, with regard to the provisions of section 3204 of title 39, United States Code, data and information in such forms as the Secretary shall determine to be appropriate, to public agencies, private organizations, and the general public;

(2) subject to section 157(b), collect or compromise all obligations to or held by the Secretary and exercise all legal

or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this subtitle—

(A) for printing and binding, in accordance with applicable law (including regulation); and

(B) without regard to any other law (including regulation), for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not expend funds under the authority of this subparagraph—

(i) except when necessary to obtain an item, service, or facility, that is required in the proper administration of this subtitle, and that otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which the item, service, or facility is needed; and

(ii) prior to having given written notification to the Administrator of General Services (if the expenditure would affect an activity that otherwise would be under the jurisdiction of the General Services Administration) of the intention of the Secretary to make the expenditure, and the reasons and justifications for the expenditure.

**SEC. 161. AUTHORIZATION OF APPROPRIATIONS.**

29 USC 2901.

There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the fiscal years 1999 through 2003.

## Subtitle D—National Programs

**SEC. 166. NATIVE AMERICAN PROGRAMS.**

29 USC 2911.

(a) PURPOSE.—

(1) IN GENERAL.—The purpose of this section is to support employment and training activities for Indian, Alaska Native, and Native Hawaiian individuals in order—

(A) to develop more fully the academic, occupational, and literacy skills of such individuals;

(B) to make such individuals more competitive in the workforce; and

(C) to promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.

(2) INDIAN POLICY.—All programs assisted under this section shall be administered in a manner consistent with the principles of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and the government-to-government relationship between the Federal Government and Indian tribal governments.

(b) DEFINITIONS.—As used in this section:

(1) ALASKA NATIVE.—The term “Alaska Native” means a Native as such term is defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—The terms “Indian”, “Indian tribe”, and “tribal organization” have the meanings given such terms in subsections (d), (e), and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) NATIVE HAWAIIAN AND NATIVE HAWAIIAN ORGANIZATION.—The terms “Native Hawaiian” and “Native Hawaiian organization” have the meanings given such terms in paragraphs (1) and (3), respectively, of section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

(c) PROGRAM AUTHORIZED.—

Grants.  
Contracts.

(1) IN GENERAL.—The Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to carry out the authorized activities described in subsection (d).

(2) EXCEPTION.—The competition for grants, contracts, or cooperative agreements conducted under paragraph (1) shall be conducted every 2 years, except that if a recipient of such a grant, contract, or agreement has performed satisfactorily, the Secretary may waive the requirements for such competition on receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year period of the grant, contract, or agreement.

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Funds made available under subsection (c) shall be used to carry out the activities described in paragraph (2) that—

(A) are consistent with this section; and

(B) are necessary to meet the needs of Indians or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment.

(2) WORKFORCE INVESTMENT ACTIVITIES AND SUPPLEMENTAL SERVICES.—

(A) IN GENERAL.—Funds made available under subsection (c) shall be used for—

(i) comprehensive workforce investment activities for Indians or Native Hawaiians; or

(ii) supplemental services for Indian or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii.

(B) SPECIAL RULE.—Notwithstanding any other provision of this section, individuals who were eligible to participate in programs under section 401 of the Job Training Partnership Act (29 U.S.C. 1671) (as such section was in effect on the day before the date of enactment of this Act) shall be eligible to participate in an activity assisted under this section.

(e) PROGRAM PLAN.—In order to receive a grant or enter into a contract or cooperative agreement under this section an entity described in subsection (c) shall submit to the Secretary a program plan that describes a 2-year strategy for meeting the needs of

Indian, Alaska Native, or Native Hawaiian individuals, as appropriate, in the area served by such entity. Such plan shall—

- (1) be consistent with the purpose of this section;
- (2) identify the population to be served;
- (3) identify the education and employment needs of the population to be served and the manner in which the activities to be provided will strengthen the ability of the individuals served to obtain or retain unsubsidized employment;
- (4) describe the activities to be provided and the manner in which such activities are to be integrated with other appropriate activities; and
- (5) describe, after the entity submitting the plan consults with the Secretary, the performance measures to be used to assess the performance of entities in carrying out the activities assisted under this section.

(f) CONSOLIDATION OF FUNDS.—Each entity receiving assistance under subsection (c) may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(g) NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.—Nothing in this section shall be construed—

- (1) to limit the eligibility of any entity described in subsection (c) to participate in any activity offered by a State or local entity under this Act; or
- (2) to preclude or discourage any agreement, between any entity described in subsection (c) and any State or local entity, to facilitate the provision of services by such entity or to the population served by such entity.

(h) ADMINISTRATIVE PROVISIONS.—

(1) ORGANIZATIONAL UNIT ESTABLISHED.—The Secretary shall designate a single organizational unit within the Department of Labor that shall have primary responsibility for the administration of the activities authorized under this section.

(2) REGULATIONS.—The Secretary shall consult with the entities described in subsection (c) in—

(A) establishing regulations to carry out this section, including performance measures for entities receiving assistance under such subsection, taking into account the economic circumstances of such entities; and

(B) developing a funding distribution plan that takes into consideration previous levels of funding (prior to the date of enactment of this Act) to such entities.

(3) WAIVERS.—

(A) IN GENERAL.—With respect to an entity described in subsection (c), the Secretary, notwithstanding any other provision of law, may, pursuant to a request submitted by such entity that meets the requirements established under paragraph (2), waive any of the statutory or regulatory requirements of this title that are inconsistent with the specific needs of the entities described in such subsection, except that the Secretary may not waive requirements relating to wage and labor standards, worker rights, participation and protection of workers and participants, grievance procedures, and judicial review.

(B) REQUEST AND APPROVAL.—An entity described in subsection (c) that requests a waiver under subparagraph

Establishment.

(A) shall submit a plan to the Secretary to improve the program of workforce investment activities carried out by the entity, which plan shall meet the requirements established by the Secretary and shall be generally consistent with the requirements of section 189(i)(4)(B).

(4) ADVISORY COUNCIL.—

(A) IN GENERAL.—Using funds made available to carry out this section, the Secretary shall establish a Native American Employment and Training Council to facilitate the consultation described in paragraph (2).

(B) COMPOSITION.—The Council shall be composed of individuals, appointed by the Secretary, who are representatives of the entities described in subsection (c).

(C) DUTIES.—The Council shall advise the Secretary on all aspects of the operation and administration of the programs assisted under this section, including the selection of the individual appointed as the head of the unit established under paragraph (1).

(D) PERSONNEL MATTERS.—

(i) COMPENSATION OF MEMBERS.—Members of the Council shall serve without compensation.

(ii) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(iii) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Council with such administrative support as may be necessary to perform the functions of the Council.

(E) CHAIRPERSON.—The Council shall select a chairperson from among its members.

(F) MEETINGS.—The Council shall meet not less than twice each year.

(G) APPLICATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

(5) TECHNICAL ASSISTANCE.—The Secretary, acting through the unit established under paragraph (1), is authorized to provide technical assistance to entities described in subsection (c) that receive assistance under subsection (c) to enable such entities to improve the activities authorized under this section that are provided by such entities.

(6) AGREEMENT FOR CERTAIN FEDERALLY RECOGNIZED INDIAN TRIBES TO TRANSFER FUNDS TO THE PROGRAM.—A federally recognized Indian tribe that administers funds provided under this section and funds provided by more than one State under other sections of this title may enter into an agreement with the Secretary and the Governors of the affected States to transfer the funds provided by the States to the program administered by the tribe under this section.

(i) COMPLIANCE WITH SINGLE AUDIT REQUIREMENTS; RELATED REQUIREMENT.—Grants, contracts, and cooperative agreements entered into under this section shall be subject to the requirements of chapter 75 of subtitle V of title 31, United States Code (enacted



by the Single Audit Act of 1984) and charging of costs under this section shall be subject to appropriate circulars issued by the Office of Management and Budget.

(j) ASSISTANCE TO AMERICAN SAMOANS IN HAWAII.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to provide assistance to American Samoans who reside in Hawaii for the co-location of federally funded and State-funded workforce investment activities.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1999 such sums as may be necessary to carry out this subsection.

**SEC. 167. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.**

Grants.  
Contracts.  
29 USC 2912.

(a) IN GENERAL.—Every 2 years, the Secretary shall, on a competitive basis, make grants to, or enter into contracts with, eligible entities to carry out the activities described in subsection (d).

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant or enter into a contract under this section, an entity shall have an understanding of the problems of eligible migrant and seasonal farmworkers (including dependents), a familiarity with the area to be served, and the ability to demonstrate a capacity to administer effectively a diversified program of workforce investment activities (including youth activities) and related assistance for eligible migrant and seasonal farmworkers.

(c) PROGRAM PLAN.—

(1) IN GENERAL.—To be eligible to receive a grant or enter into a contract under this section, an entity described in subsection (b) shall submit to the Secretary a plan that describes a 2-year strategy for meeting the needs of eligible migrant and seasonal farmworkers in the area to be served by such entity.

(2) CONTENTS.—Such plan shall—

(A) identify the education and employment needs of the population to be served and the manner in which the services to be provided will strengthen the ability of the eligible migrant and seasonal farmworkers and dependents to obtain or retain unsubsidized employment or stabilize their unsubsidized employment;

(B) describe the related assistance and supportive services to be provided and the manner in which such assistance and services are to be integrated and coordinated with other appropriate services; and

(C) describe the indicators of performance to be used to assess the performance of such entity in carrying out the activities assisted under this section.

(3) ADMINISTRATION.—Grants and contracts awarded under this section shall be centrally administered by the Department of Labor and competitively awarded by the Secretary using procedures consistent with standard Federal Government competitive procurement policies.

(4) COMPETITION.—

(A) IN GENERAL.—The competition for grants made and contracts entered into under this section shall be conducted every 2 years.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if a recipient of such a grant or contract has performed satisfactorily under the terms of the grant agreement or contract, the Secretary may waive the requirement for such competition for such recipient upon receipt from the recipient of a satisfactory 2-year plan described in paragraph (1) for the succeeding 2-year grant or contract period. The Secretary may exercise the waiver authority of the preceding sentence not more than once during any 4-year period with respect to any single recipient.

(d) AUTHORIZED ACTIVITIES.—Funds made available under this section shall be used to carry out workforce investment activities (including youth activities) and provide related assistance for eligible migrant and seasonal farmworkers, which may include employment, training, educational assistance, literacy assistance, an English language program, worker safety training, housing, supportive services, dropout prevention activities, followup services for those individuals placed in employment, self-employment and related business enterprise development education as needed by eligible migrant and seasonal farmworkers and identified pursuant to the plan required by subsection (c), and technical assistance relating to capacity enhancement in such areas as management information technology.

(e) CONSULTATION WITH GOVERNORS AND LOCAL BOARDS.—In making grants and entering into contracts under this section, the Secretary shall consult with the Governors and local boards of the States in which the eligible entities will carry out the activities described in subsection (d).

(f) REGULATIONS.—The Secretary shall consult with eligible migrant and seasonal farmworkers groups and States in establishing regulations to carry out this section, including performance measures for eligible entities that take into account the economic circumstances and demographics of eligible migrant and seasonal farmworkers.

(g) COMPLIANCE WITH SINGLE AUDIT REQUIREMENTS; RELATED REQUIREMENT.—Grants and contracts entered into under this section shall be subject to the requirements of chapter 75 of subtitle V of title 31, United States Code (enacted by the Single Audit Act of 1984) and charging of costs under this section shall be subject to appropriate circulars issued by the Office of Management and Budget.

(h) DEFINITIONS.—In this section:

(1) DISADVANTAGED.—The term “disadvantaged”, used with respect to a farmworker, means a farmworker whose income, for 12 consecutive months out of the 24 months prior to application for the program involved, does not exceed the higher of—

(A) the poverty line (as defined in section 334(a)(2)(B)) for an equivalent period; or

(B) 70 percent of the lower living standard income level, for an equivalent period.

(2) ELIGIBLE MIGRANT AND SEASONAL FARMWORKERS.—The term “eligible migrant and seasonal farmworkers” means individuals who are eligible migrant farmworkers or are eligible seasonal farmworkers.

(3) ELIGIBLE MIGRANT FARMWORKER.—The term “eligible migrant farmworker” means—

(A) an eligible seasonal farmworker described in paragraph (4)(A) whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day; and

(B) a dependent of the farmworker described in subparagraph (A).

(4) **ELIGIBLE SEASONAL FARMWORKER.**—The term “eligible seasonal farmworker” means—

(A) a disadvantaged person who, for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural labor that is characterized by chronic unemployment or underemployment; and

(B) a dependent of the person described in subparagraph (A).

**SEC. 168. VETERANS' WORKFORCE INVESTMENT PROGRAMS.**

Grants.  
Contracts.  
29 USC 2913.

(a) **AUTHORIZATION.**—

(1) **IN GENERAL.**—The Secretary shall conduct, directly or through grants or contracts, programs to meet the needs for workforce investment activities of veterans with service-connected disabilities, veterans who have significant barriers to employment, veterans who served on active duty in the armed forces during a war or in a campaign or expedition for which a campaign badge has been authorized, and recently separated veterans.

(2) **CONDUCT OF PROGRAMS.**—Programs supported under this section may be conducted through grants and contracts with public agencies and private nonprofit organizations, including recipients of Federal assistance under other provisions of this title, that the Secretary determines have an understanding of the unemployment problems of veterans described in paragraph (1), familiarity with the area to be served, and the capability to administer effectively a program of workforce investment activities for such veterans.

(3) **REQUIRED ACTIVITIES.**—Programs supported under this section shall include—

(A) activities to enhance services provided to veterans by other providers of workforce investment activities funded by Federal, State, or local government;

(B) activities to provide workforce investment activities to such veterans that are not adequately provided by other public providers of workforce investment activities; and

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job training, on-the-job training and educational opportunities under this title, under title 38, United States Code, and under other provisions of law, which activities shall be coordinated with activities provided through the one-stop centers described in section 134(c).

(b) **ADMINISTRATION OF PROGRAMS.**—

(1) **IN GENERAL.**—The Secretary shall administer programs supported under this section through the Assistant Secretary for Veterans' Employment and Training.

(2) **ADDITIONAL RESPONSIBILITIES.**—In carrying out responsibilities under this section, the Assistant Secretary for Veterans' Employment and Training shall—

(A) be responsible for the awarding of grants and contracts and the distribution of funds under this section and for the establishment of appropriate fiscal controls, accountability, and program performance measures for recipients of grants and contracts under this section; and

(B) consult with the Secretary of Veterans Affairs and take steps to ensure that programs supported under this section are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter II of chapter 77 of such title, chapters 30, 31, 32, and 34 of such title, and sections 1712A, 1720A, 3687, and 4103A of such title.

29 USC 2914.

**SEC. 169. YOUTH OPPORTUNITY GRANTS.**

(a) **GRANTS.**—

(1) **IN GENERAL.**—Using funds made available under section 127(b)(1)(A), the Secretary shall make grants to eligible local boards and eligible entities described in subsection (d) to provide activities described in subsection (b) for youth to increase the long-term employment of youth who live in empowerment zones, enterprise communities, and high poverty areas and who seek assistance.

(2) **DEFINITION.**—In this section, the term “youth” means an individual who is not less than age 14 and not more than age 21.

(3) **GRANT PERIOD.**—The Secretary may make a grant under this section for a 1-year period, and may renew the grant for each of the 4 succeeding years.

(4) **GRANT AWARDS.**—In making grants under this section, the Secretary shall ensure that grants are distributed equitably among local boards and entities serving urban areas and local boards and entities serving rural areas, taking into consideration the poverty rate in such urban and rural areas, as described in subsection (c)(3)(B).

(b) **USE OF FUNDS.**—

(1) **IN GENERAL.**—A local board or entity that receives a grant under this section shall use the funds made available through the grant to provide activities that meet the requirements of section 129, except as provided in paragraph (2), as well as youth development activities such as activities relating to leadership development, citizenship, and community service, and recreation activities.

(2) **INTENSIVE PLACEMENT AND FOLLOWUP SERVICES.**—In providing activities under this section, a local board or entity shall provide—

(A) intensive placement services; and

(B) followup services for not less than 24 months after the completion of participation in the other activities described in this subsection, as appropriate.

(c) **ELIGIBLE LOCAL BOARDS.**—To be eligible to receive a grant under this section, a local board shall serve a community that—

(1) has been designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986;

(2)(A) is a State without a zone or community described in paragraph (1); and

(B) has been designated as a high poverty area by the Governor of the State; or

(3) is 1 of 2 areas in a State that—

(A) have been designated by the Governor as areas for which a local board may apply for a grant under this section; and

(B) meet the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986.

(d) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity (other than a local board) shall—

(1) be a recipient of financial assistance under section 166; and

(2) serve a community that—

(A) meets the poverty rate criteria set forth in subsections (a)(4), (b), and (d) of section 1392 of the Internal Revenue Code of 1986; and

(B) is located on an Indian reservation or serves Oklahoma Indians or Alaska Native villages or Native groups (as such terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).

(e) APPLICATION.—To be eligible to receive a grant under this section, a local board or entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities that the local board or entity will provide under this section to youth in the community described in subsection (c);

(2) a description of the performance measures negotiated under subsection (f), and the manner in which the local boards or entities will carry out the activities to meet the performance measures;

(3) a description of the manner in which the activities will be linked to activities described in section 129; and

(4) a description of the community support, including financial support through leveraging additional public and private resources, for the activities.

(f) PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Secretary shall negotiate and reach agreement with the local board or entity on performance measures for the indicators of performance referred to in subparagraphs (A) and (B) of section 136(b)(2) that will be used to evaluate the performance of the local board or entity in carrying out the activities described in subsection (b). Each local performance measure shall consist of such a indicator of performance, and a performance level referred to in paragraph (2).

(2) PERFORMANCE LEVELS.—The Secretary shall negotiate and reach agreement with the local board or entity regarding the levels of performance expected to be achieved by the local board or entity on the indicators of performance.

(g) ROLE MODEL ACADEMY PROJECT.—

(1) **IN GENERAL.**—Using the funds made available pursuant to section 127(b)(1)(A)(iv) for fiscal year 1999, the Secretary shall provide assistance to an entity to carry out a project establishing a role model academy for out-of-school youth.

(2) **RESIDENTIAL CENTER.**—The entity shall use the assistance to establish an academy that consists of a residential center located on the site of a military installation closed or realigned pursuant to a law providing for closures and realignments of such installations.

(3) **SERVICES.**—The academy established pursuant to this subsection shall provide services that—

(A) utilize a military style model that emphasizes leadership skills and discipline, or another model of demonstrated effectiveness; and

(B) include vocational training, secondary school course work leading to a secondary school diploma or recognized equivalent, and the use of mentors who serve as role models and who provide academic training and career counseling to the youth.

29 USC 2915.

**SEC. 170. TECHNICAL ASSISTANCE.**

(a) **GENERAL TECHNICAL ASSISTANCE.**—

(1) **IN GENERAL.**—The Secretary shall provide, coordinate, and support the development of, appropriate training, technical assistance, staff development, and other activities, including assistance in replicating programs of demonstrated effectiveness, to States and localities, and, in particular, to assist States in making transitions from carrying out activities under the provisions of law repealed under section 199 to carry out activities under this title.

(2) **FORM OF ASSISTANCE.**—In carrying out paragraph (1) on behalf of a State, or recipient of financial assistance under any of sections 166 through 169, the Secretary, after consultation with the State or grant recipient, may award grants and enter into contracts and cooperative agreements.

(3) **LIMITATION.**—Grants or contracts awarded under paragraph (1) to entities other than States or local units of government that are for amounts in excess of \$100,000 shall only be awarded on a competitive basis.

(b) **DISLOCATED WORKER TECHNICAL ASSISTANCE.**—

(1) **AUTHORITY.**—Of the amounts available pursuant to section 132(a)(2), the Secretary shall reserve not more than 5 percent of such amounts to provide technical assistance to States that do not meet the State performance measures described in section 136 with respect to employment and training activities for dislocated workers. Using such reserved funds, the Secretary may provide such assistance to other States, local areas, and other entities involved in providing assistance to dislocated workers, to promote the continuous improvement of assistance provided to dislocated workers, under this title.

(2) **TRAINING.**—Amounts reserved under this subsection may be used to provide for the training of staff, including specialists, who provide rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees. Such projects shall be administered through the dislocated worker office described in section 174(b).

**SEC. 171. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH, AND MULTISTATE PROJECTS.** 29 USC 2916.

(a) STRATEGIC PLAN.—

(1) IN GENERAL.—After consultation with States, localities, and other interested parties, the Secretary shall, every 2 years, publish in the Federal Register, a plan that describes the demonstration and pilot (including dislocated worker demonstration and pilot), multiservice, research, and multistate project priorities of the Department of Labor concerning employment and training for the 5-year period following the submission of the plan. Copies of the plan shall be transmitted to the appropriate committees of Congress.

Federal Register,  
publication.

(2) FACTORS.—The plan published under paragraph (1) shall contain strategies to address national employment and training problems and take into account factors such as—

(A) the availability of existing research (as of the date of the publication);

(B) the need to ensure results that have interstate validity;

(C) the benefits of economies of scale and the efficiency of proposed projects; and

(D) the likelihood that the results of the projects will be useful to policymakers and stakeholders in addressing employment and training problems.

(b) DEMONSTRATION AND PILOT PROJECTS.—

Grants.  
Contracts.

(1) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out demonstration and pilot projects for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of specialized methods, in addressing employment and training needs. Such projects shall include the provision of direct services to individuals to enhance employment opportunities and an evaluation component and may include—

(A) the establishment of advanced manufacturing technology skill centers developed through local partnerships of industry, labor, education, community-based organizations, and economic development organizations to meet unmet, high-tech skill needs of local communities;

(B) projects that provide training to upgrade the skills of employed workers who reside and are employed in enterprise communities or empowerment zones;

(C) programs conducted jointly with the Department of Defense to develop training programs utilizing computer-based and other innovative learning technologies;

(D) projects that promote the use of distance learning, enabling students to take courses through the use of media technology such as videos, teleconferencing computers, and the Internet;

(E) projects that assist in providing comprehensive services to increase the employment rates of out-of-school youth residing in targeted high poverty areas within empowerment zones and enterprise communities;

(F) the establishment of partnerships with national organizations with special expertise in developing, organizing, and administering employment and training services,

for individuals with disabilities, at the national, State, and local levels;

(G) projects to assist public housing authorities that provide, to public housing residents, job training programs that demonstrate success in upgrading the job skills and promoting employment of the residents; and

(H) projects that assist local areas to develop and implement local self-sufficiency standards to evaluate the degree to which participants in programs under this title are achieving self-sufficiency.

(2) LIMITATIONS.—

(A) COMPETITIVE AWARDS.—Grants or contracts awarded for carrying out demonstration and pilot projects under this subsection shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a portion of the funding for the project.

(B) ELIGIBLE ENTITIES.—Grants or contracts may be awarded under this subsection only to—

(i) entities with recognized expertise in—

(I) conducting national demonstration projects;

(II) utilizing state-of-the-art demonstration methods; or

(III) conducting evaluations of workforce investment projects; or

(ii) State and local entities with expertise in operating or overseeing workforce investment programs.

(C) TIME LIMITS.—The Secretary shall establish appropriate time limits for carrying out demonstration and pilot projects under this subsection.

Grants.  
Contracts.

(c) MULTISERVICE PROJECTS, RESEARCH PROJECTS, AND MULTISTATE PROJECTS.—

(1) MULTISERVICE PROJECTS.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out multiservice projects—

(A) that will test an array of approaches to the provision of employment and training services to a variety of targeted populations;

(B) in which the entity carrying out the project, in conjunction with employers, organized labor, and other groups such as the disability community, will design, develop, and test various training approaches in order to determine effective practices; and

(C) that will assist in the development and replication of effective service delivery strategies for targeted populations for the national employment and training system as a whole.

(2) RESEARCH PROJECTS.—

(A) IN GENERAL.—Under a plan published under subsection (a), the Secretary shall, through grants or contracts, carry out research projects that will contribute to the solution of employment and training problems in the United States.

(B) FORMULA IMPROVEMENT STUDY AND REPORT.—



(i) **STUDY.**—The Secretary shall conduct a 2-year study concerning improvements in the formulas described in section 132(b)(1)(B) and paragraphs (2)(A) and (3) of section 133(b) (regarding distributing funds under subtitle B to States and local areas for adult employment and training activities). In conducting the study, the Secretary shall examine means of improving the formulas by—

(I) developing formulas based on statistically reliable data;

(II) developing formulas that are consistent with the goals and objectives of this title; and

(III) developing formulas based on organizational and financial stability of State boards and local boards.

(ii) **REPORT.**—The Secretary shall prepare and submit to Congress a report containing the results of the study, including recommendations for improved formulas.

(3) **MULTISTATE PROJECTS.**—

(A) **IN GENERAL.**—

(i) **AUTHORITY.**—Under a plan published under subsection (a), the Secretary may, through grants or contracts, carry out multistate projects that require demonstrated expertise that is available at the national level to effectively disseminate best practices and models for implementing employment and training services, address the specialized employment and training needs of particular service populations, or address industry-wide skill shortages.

(ii) **DESIGN OF GRANTS.**—Grants or contracts awarded under this subsection shall be designed to obtain information relating to the provision of services under different economic conditions or to various demographic groups in order to provide guidance at the national and State levels about how best to administer specific employment and training services.

(4) **LIMITATIONS.**—

(A) **COMPETITIVE AWARDS.**—Grants or contracts awarded for carrying out projects under this subsection in amounts that exceed \$100,000 shall be awarded only on a competitive basis, except that a noncompetitive award may be made in the case of a project that is funded jointly with other public or private sector entities that provide a substantial portion of assistance under the grant or contract for the project.

(B) **TIME LIMITS.**—A grant or contract shall not be awarded under this subsection to the same organization for more than 3 consecutive years unless such grant or contract is competitively reevaluated within such period.

(C) **PEER REVIEW.**—

(i) **IN GENERAL.**—The Secretary shall utilize a peer review process—

(I) to review and evaluate all applications for grants in amounts that exceed \$500,000 that are submitted under this section; and

(II) to review and designate exemplary and promising programs under this section.

(ii) AVAILABILITY OF FUNDS.—The Secretary is authorized to use funds provided under this section to carry out peer review activities under this subparagraph.

(D) PRIORITY.—In awarding grants or contracts under this subsection, priority shall be provided to entities with nationally recognized expertise in the methods, techniques, and knowledge of workforce investment activities and shall include appropriate time limits, established by the Secretary, for the duration of such projects.

(d) DISLOCATED WORKER PROJECTS.—Of the amount made available pursuant to section 132(a)(2)(A) for any program year, the Secretary shall use not more than 10 percent of such amount to carry out demonstration and pilot projects, multiservice projects, and multistate projects, relating to the employment and training needs of dislocated workers. Of the requirements of this section, such projects shall be subject only to the provisions relating to review and evaluation of applications under subsection (c)(4)(C). Such projects may include demonstration and pilot projects relating to promoting self-employment, promoting job creation, averting dislocations, assisting dislocated farmers, assisting dislocated fishermen, and promoting public works. Such projects shall be administered through the dislocated worker office described in section 173(b).

29 USC 2917.

**SEC. 172. EVALUATIONS.**

(a) PROGRAMS AND ACTIVITIES CARRIED OUT UNDER THIS TITLE.—For the purpose of improving the management and effectiveness of programs and activities carried out under this title, the Secretary shall provide for the continuing evaluation of the programs and activities, including those programs and activities carried out under section 171. Such evaluations shall address—

(1) the general effectiveness of such programs and activities in relation to their cost, including the extent to which the programs and activities—

(A) improve the employment competencies of participants in comparison to comparably-situated individuals who did not participate in such programs and activities; and

(B) to the extent feasible, increase the level of total employment over the level that would have existed in the absence of such programs and activities;

(2) the effectiveness of the performance measures relating to such programs and activities;

(3) the effectiveness of the structure and mechanisms for delivery of services through such programs and activities;

(4) the impact of the programs and activities on the community and participants involved;

(5) the impact of such programs and activities on related programs and activities;

(6) the extent to which such programs and activities meet the needs of various demographic groups; and

(7) such other factors as may be appropriate.

(b) OTHER PROGRAMS AND ACTIVITIES.—The Secretary may conduct evaluations of other federally funded employment-related programs and activities under other provisions of law.

(c) TECHNIQUES.—Evaluations conducted under this section shall utilize appropriate methodology and research designs, including the use of control groups chosen by scientific random assignment methodologies. The Secretary shall conduct as least 1 multisite control group evaluation under this section by the end of fiscal year 2005.

(d) REPORTS.—The entity carrying out an evaluation described in subsection (a) or (b) shall prepare and submit to the Secretary a draft report and a final report containing the results of the evaluation.

(e) REPORTS TO CONGRESS.—Not later than 30 days after the completion of such a draft report, the Secretary shall transmit the draft report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Not later than 60 days after the completion of such a final report, the Secretary shall transmit the final report to such committees of the Congress.

Deadlines.

(f) COORDINATION.—The Secretary shall ensure the coordination of evaluations carried out by States pursuant to section 136(e) with the evaluations carried out under this section.

#### SEC. 173. NATIONAL EMERGENCY GRANTS.

29 USC 2918.

(a) IN GENERAL.—The Secretary is authorized to award national emergency grants in a timely manner—

(1) to an entity described in subsection (c) to provide employment and training assistance to workers affected by major economic dislocations, such as plant closures, mass layoffs, or closures and realignments of military installations;

(2) to provide assistance to the Governor of any State within the boundaries of which is an area that has suffered an emergency or a major disaster as defined in paragraphs (1) and (2), respectively, of section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 (1) and (2)) (referred to in this section as the “disaster area”) to provide disaster relief employment in the area; and

(3) to provide additional assistance to a State or local board for eligible dislocated workers in a case in which the State or local board has expended the funds provided under this section to carry out activities described in paragraphs (1) and (2) and can demonstrate the need for additional funds to provide appropriate services for such workers, in accordance with requirements prescribed by the Secretary.

(b) ADMINISTRATION.—The Secretary shall designate a dislocated worker office to coordinate the functions of the Secretary under this title relating to employment and training activities for dislocated workers, including activities carried out under the national emergency grants.

(c) EMPLOYMENT AND TRAINING ASSISTANCE REQUIREMENTS.—

(1) GRANT RECIPIENT ELIGIBILITY.—

(A) APPLICATION.—To be eligible to receive a grant under subsection (a)(1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) **ELIGIBLE ENTITY.**—In this paragraph, the term “entity” means a State, a local board, an entity described in section 166(c), entities determined to be eligible by the Governor of the State involved, and other entities that demonstrate to the Secretary the capability to effectively respond to the circumstances relating to particular dislocations.

(2) **PARTICIPANT ELIGIBILITY.**—

(A) **IN GENERAL.**—In order to be eligible to receive employment and training assistance under a national emergency grant awarded pursuant to subsection (a)(1), an individual shall be—

- (i) a dislocated worker;
- (ii) a civilian employee of the Department of Defense or the Department of Energy employed at a military installation that is being closed, or that will undergo realignment, within the next 24 months after the date of the determination of eligibility;
- (iii) an individual who is employed in a nonmanagerial position with a Department of Defense contractor, who is determined by the Secretary of Defense to be at-risk of termination from employment as a result of reductions in defense expenditures, and whose employer is converting operations from defense to non-defense applications in order to prevent worker layoffs;

or

(iv) a member of the Armed Forces who—

(I) was on active duty or full-time National Guard duty;

(II)(aa) is involuntarily separated (as defined in section 1141 of title 10, United States Code) from active duty or full-time National Guard duty;

or

(bb) is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under section 1174a of title 10, United States Code, or the voluntary separation incentive program under section 1175 of that title;

(III) is not entitled to retired or retained pay incident to the separation described in subclause (II); and

(IV) applies for such employment and training assistance before the end of the 180-day period beginning on the date of that separation.

(B) **RETRAINING ASSISTANCE.**—The individuals described in subparagraph (A)(iii) shall be eligible for retraining assistance to upgrade skills by obtaining marketable skills needed to support the conversion described in subparagraph (A)(iii).

(C) **ADDITIONAL REQUIREMENTS.**—The Secretary shall establish and publish additional requirements related to eligibility for employment and training assistance under the national emergency grants to ensure effective use of the funds available for this purpose.

(D) **DEFINITIONS.**—In this paragraph, the terms “military institution” and “realignment” have the meanings

given the terms in section 2910 of the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; 10 U.S.C. 2687 note).

(d) DISASTER RELIEF EMPLOYMENT ASSISTANCE REQUIREMENTS.—

(1) IN GENERAL.—Funds made available under subsection

(a)(2)—

(A) shall be used to provide disaster relief employment on projects that provide food, clothing, shelter, and other humanitarian assistance for disaster victims, and projects regarding demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area;

(B) may be expended through public and private agencies and organizations engaged in such projects; and

(C) may be expended to provide employment and training activities.

(2) ELIGIBILITY.—An individual shall be eligible to be offered disaster relief employment under subsection (a)(2) if such individual is a dislocated worker, is a long-term unemployed individual, or is temporarily or permanently laid off as a consequence of the disaster.

(3) LIMITATIONS ON DISASTER RELIEF EMPLOYMENT.—No individual shall be employed under subsection (a)(2) for more than 6 months for work related to recovery from a single natural disaster.

**SEC. 174. AUTHORIZATION OF APPROPRIATIONS.**

29 USC 2919.

(a) NATIVE AMERICAN PROGRAMS; MIGRANT AND SEASONAL FARMWORKER PROGRAMS; VETERANS' WORKFORCE INVESTMENT PROGRAMS.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 166 through 168 such sums as may be necessary for each of the fiscal years 1999 through 2003.

(2) RESERVATIONS.—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall—

(A) reserve not less than \$55,000,000 for carrying out section 166;

(B) reserve not less than \$70,000,000 for carrying out section 167; and

(C) reserve not less than \$7,300,000 for carrying out section 168.

(b) TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS; EVALUATIONS; INCENTIVE GRANTS.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 170 through 172 and section 503 such sums as may be necessary for each of the fiscal years 1999 through 2003.

(2) RESERVATIONS.—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall—

(A)(i) for fiscal year 1999, reserve up to 40 percent for carrying out section 170 (other than subsection (b) of such section);

(ii) for fiscal year 2000, reserve up to 25 percent for carrying out section 170 (other than subsection (b) of such section); and

(iii) for each of the fiscal years 2001 through 2003, reserve up to 20 percent for carrying out section 170 (other than subsection (b) of such section);

(B)(i) for fiscal year 1999, reserve not less than 50 percent for carrying out section 171; and

(ii) for each of the fiscal years 2000 through 2003, reserve not less than 45 percent for carrying out section 171;

(C)(i) for fiscal year 1999, reserve not less than 10 percent for carrying out section 172; and

(ii) for each of the fiscal years 2000 through 2003, reserve not less than 10 percent for carrying out section 172; and

(D)(i) for fiscal year 1999, reserve no funds for carrying out section 503;

(ii) for fiscal year 2000, reserve up to 20 percent for carrying out section 503; and

(iii) for each of the fiscal years 2001 through 2003, reserve up to 25 percent for carrying out section 503.

## Subtitle E—Administration

29 USC 2931.

### SEC. 181. REQUIREMENTS AND RESTRICTIONS.

#### (a) BENEFITS.—

##### (1) WAGES.—

(A) IN GENERAL.—Individuals in on-the-job training or individuals employed in activities under this title shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills, and such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law.

(B) RULE OF CONSTRUCTION.—The reference in subparagraph (A) to section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1))—

(i) shall be deemed to be a reference to section 6(a)(3) of that Act for individuals in American Samoa; and

(ii) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act of 1938 does not apply.

(2) TREATMENT OF ALLOWANCES, EARNINGS, AND PAYMENTS.—Allowances, earnings, and payments to individuals participating in programs under this title shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).

## (b) LABOR STANDARDS.—

(1) LIMITATIONS ON ACTIVITIES THAT IMPACT WAGES OF EMPLOYEES.—No funds provided under this title shall be used to pay the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system.

## (2) DISPLACEMENT.—

(A) PROHIBITION.—A participant in a program or activity authorized under this title (referred to in this section as a “specified activity”) shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

(B) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) OTHER PROHIBITIONS.—A participant in a specified activity shall not be employed in a job if—

(A) any other individual is on layoff from the same or any substantially equivalent job;

(B) the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

(C) the job is created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation).

(4) HEALTH AND SAFETY.—Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers’ compensation law applies, workers’ compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

(5) EMPLOYMENT CONDITIONS.—Individuals in on-the-job training or individuals employed in programs and activities under this title, shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

(6) OPPORTUNITY TO SUBMIT COMMENTS.—Interested members of the public, including representatives of businesses and of labor organizations, shall be provided an opportunity to submit comments to the Secretary with respect to programs and activities proposed to be funded under subtitle B.

(7) NO IMPACT ON UNION ORGANIZING.—Each recipient of funds under this title shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

## (c) GRIEVANCE PROCEDURE.—

(1) IN GENERAL.—Each State and local area receiving an allotment under this title shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this title from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days after the filing of the grievance or complaint.

(2) INVESTIGATION.—

(A) IN GENERAL.—The Secretary shall investigate an allegation of a violation described in paragraph (1) if—

(i) a decision relating to such violation has not been reached within 60 days after the date of the filing of the grievance or complaint and either party appeals to the Secretary; or

(ii) a decision relating to such violation has been reached within such 60 days and the party to which such decision is adverse appeals such decision to the Secretary.

Deadline.

(B) ADDITIONAL REQUIREMENT.—The Secretary shall make a final determination relating to an appeal made under subparagraph (A) no later than 120 days after receiving such appeal.

(3) REMEDIES.—Remedies that may be imposed under this section for a violation of any requirement of this title shall be limited—

(A) to suspension or termination of payments under this title;

(B) to prohibition of placement of a participant with an employer that has violated any requirement under this title;

(C) where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions, and privileges of employment; and

(D) where appropriate, to other equitable relief.

(4) RULE OF CONSTRUCTION.—Nothing in paragraph (3) shall be construed to prohibit a grievant or complainant from pursuing a remedy authorized under another Federal, State, or local law for a violation of this title.

(d) RELOCATION.—

(1) PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR INDUCE RELOCATION.—No funds provided under this title shall be used, or proposed for use, to encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(2) PROHIBITION ON USE OF FUNDS FOR CUSTOMIZED OR SKILL TRAINING AND RELATED ACTIVITIES AFTER RELOCATION.—No funds provided under this title for an employment and training activity shall be used for customized or skill training, on-the-job training, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated, until the date that is 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee



of such business at the original location and such original location is within the United States.

(3) REPAYMENT.—If the Secretary determines that a violation of paragraph (1) or (2) has occurred, the Secretary shall require the State that has violated such paragraph to repay to the United States an amount equal to the amount expended in violation of such paragraph.

(e) LIMITATION ON USE OF FUNDS.—No funds available under this title shall be used for employment generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities that are not directly related to training for eligible individuals under this title. No funds available under subtitle B shall be used for foreign travel.

(f) TESTING AND SANCTIONING FOR USE OF CONTROLLED SUBSTANCES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a State shall not be prohibited by the Federal Government from—

(A) testing participants in programs under subtitle B for the use of controlled substances; and

(B) sanctioning such participants who test positive for the use of such controlled substances.

(2) ADDITIONAL REQUIREMENTS.—

(A) PERIOD OF SANCTION.—In sanctioning participants in programs under subtitle B who test positive for the use of controlled substances—

(i) with respect to the first occurrence for which a participant tests positive, a State may exclude the participant from the program for a period not to exceed 6 months; and

(ii) with respect to the second occurrence and each subsequent occurrence for which a participant tests positive, a State may exclude the participant from the program for a period not to exceed 2 years.

(B) APPEAL.—The testing of participants and the imposition of sanctions under this subsection shall be subject to expeditious appeal in accordance with due process procedures established by the State.

(C) PRIVACY.—A State shall establish procedures for testing participants for the use of controlled substances that ensure a maximum degree of privacy for the participants.

Procedures.

(4) FUNDING REQUIREMENT.—In testing and sanctioning of participants for the use of controlled substances in accordance with this subsection, the only Federal funds that a State may use are the amounts made available for the administration of statewide workforce investment activities under section 134(a)(3)(B).

#### SEC. 182. PROMPT ALLOCATION OF FUNDS.

29 USC 2932.

(a) ALLOTMENTS BASED ON LATEST AVAILABLE DATA.—All allotments to States and grants to outlying areas under this title shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to disadvantaged adults and disadvantaged youth shall be based on the most recent satisfactory data from the Bureau of the Census.

(b) **PUBLICATION IN FEDERAL REGISTER RELATING TO FORMULA FUNDS.**—Whenever the Secretary allots funds required to be allotted under this title, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient of the funds.

Deadline.

(c) **REQUIREMENT FOR FUNDS DISTRIBUTED BY FORMULA.**—All funds required to be allotted under section 127 or 132 shall be allotted within 45 days after the date of enactment of the Act appropriating the funds, except that, if such funds are appropriated in advance as authorized by section 189(g), such funds shall be allotted or allocated not later than the March 31 preceding the program year for which such funds are to be available for obligation.

Deadline.

(d) **PUBLICATION IN FEDERAL REGISTER RELATING TO DISCRETIONARY FUNDS.**—Whenever the Secretary utilizes a formula to allot or allocate funds made available for distribution at the Secretary's discretion under this title, the Secretary shall, not later than 30 days prior to such allotment or allocation, publish such formula in the Federal Register for comments along with the rationale for the formula and the proposed amounts to be distributed to each State and local area. After consideration of any comments received, the Secretary shall publish final allotments and allocations in the Federal Register.

Deadline.

(e) **AVAILABILITY OF FUNDS.**—Funds shall be made available under sections 128 and 133 for a local area not later than 30 days after the date the funds are made available to the Governor involved, under section 127 or 132 (as the case may be), or 7 days after the date the local plan for the area is approved, whichever is later.

29 USC 2933.

**SEC. 183. MONITORING.**

(a) **IN GENERAL.**—The Secretary is authorized to monitor all recipients of financial assistance under this title to determine whether the recipients are complying with the provisions of this title, including the regulations issued under this title.

(b) **INVESTIGATIONS.**—The Secretary may investigate any matter the Secretary determines to be necessary to determine the compliance of the recipients with this title, including the regulations issued under this title. The investigations authorized by this subsection may include examining records (including making certified copies of the records), questioning employees, and entering any premises or onto any site in which any part of a program or activity of such a recipient is conducted or in which any of the records of the recipient are kept.

(c) **ADDITIONAL REQUIREMENT.**—For the purpose of any investigation or hearing conducted under this title by the Secretary, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of documents) apply to the Secretary, in the same manner and to the same extent as the provisions apply to the Federal Trade Commission.

29 USC 2934.

**SEC. 184. FISCAL CONTROLS; SANCTIONS.**

(a) **ESTABLISHMENT OF FISCAL CONTROLS BY STATES.**—

(1) **IN GENERAL.**—Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds allocated to local areas under subtitle B. Such procedures shall ensure that all financial transactions carried out under

subtitle B are conducted and records maintained in accordance with generally accepted accounting principles applicable in each State.

(2) COST PRINCIPLES.—

(A) IN GENERAL.—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the applicable uniform cost principles included in the appropriate circulars of the Office of Management and Budget for the type of entity receiving the funds.

(B) EXCEPTION.—The funds made available to a State for administration of statewide workforce investment activities in accordance with section 134(a)(3)(B) shall be allocable to the overall administration of workforce investment activities, but need not be specifically allocable to—

- (i) the administration of adult employment and training activities;
- (ii) the administration of dislocated worker employment and training activities; or
- (iii) the administration of youth activities.

(3) UNIFORM ADMINISTRATIVE REQUIREMENTS.—

(A) IN GENERAL.—Each State (including the Governor of the State), local area (including the chief elected official for the area), and provider receiving funds under this title shall comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, as promulgated in circulars or rules of the Office of Management and Budget.

(B) ADDITIONAL REQUIREMENT.—Procurement transactions under this title between local boards and units of State or local governments shall be conducted only on a cost-reimbursable basis.

(4) MONITORING.—Each Governor of a State shall conduct on an annual basis onsite monitoring of each local area within the State to ensure compliance with the uniform administrative requirements referred to in paragraph (3).

(5) ACTION BY GOVERNOR.—If the Governor determines that a local area is not in compliance with the uniform administrative requirements referred to in paragraph (3), the Governor shall—

- (A) require corrective action to secure prompt compliance; and
- (B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

(6) CERTIFICATION.—The Governor shall, every 2 years, certify to the Secretary that—

(A) the State has implemented the uniform administrative requirements referred to in paragraph (3);

(B) the State has monitored local areas to ensure compliance with the uniform administrative requirements as required under paragraph (4); and

(C) the State has taken appropriate action to secure compliance pursuant to paragraph (5).

(7) ACTION BY THE SECRETARY.—If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

(A) require corrective action to secure prompt compliance; and

(B) impose the sanctions provided under subsection (e) in the event of failure of the Governor to take the required appropriate action to secure compliance.

(b) SUBSTANTIAL VIOLATION.—

(1) ACTION BY GOVERNOR.—If, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this title, and corrective action has not been taken, the Governor shall—

(A) issue a notice of intent to revoke approval of all or part of the local plan affected; or

(B) impose a reorganization plan, which may include—

(i) decertifying the local board involved;

(ii) prohibiting the use of eligible providers;

(iii) selecting an alternative entity to administer the program for the local area involved;

(iv) merging the local area into one or more other local areas; or

(v) making other such changes as the Secretary or Governor determines necessary to secure compliance.

(2) APPEAL.—

(A) IN GENERAL.—The actions taken by the Governor pursuant to subparagraphs (A) and (B) of paragraph (1) may be appealed to the Secretary and shall not become effective until—

(i) the time for appeal has expired; or

(ii) the Secretary has issued a decision.

(B) ADDITIONAL REQUIREMENT.—The Secretary shall make a final decision under subparagraph (A) not later than 45 days after the receipt of the appeal.

(3) ACTION BY THE SECRETARY.—If the Governor fails to promptly take the actions required under paragraph (1), the Secretary shall take such actions.

(c) REPAYMENT OF CERTAIN AMOUNTS TO THE UNITED STATES.—

(1) IN GENERAL.—Every recipient of funds under this title shall repay to the United States amounts found not to have been expended in accordance with this title.

(2) OFFSET OF REPAYMENT.—If the Secretary determines that a State has expended funds made available under this title in a manner contrary to the requirements of this title, the Secretary may offset repayment of such expenditures against any other amount to which the State is or may be entitled, except as provided under subsection (d)(1).

(3) REPAYMENT FROM DEDUCTION BY STATE.—If the Secretary requires a State to repay funds as a result of a determination that a local area of the State has expended funds contrary to the requirements of this title, the Governor of the State may use an amount deducted under paragraph (4) to repay the funds, except as provided under subsection (e)(1).

(4) DEDUCTION BY STATE.—The Governor may deduct an amount equal to the misexpenditure described in paragraph

Deadline.

(3) from subsequent program year allocations to the local area from funds reserved for the administrative costs of the local programs involved, as appropriate.

(5) LIMITATIONS.—A deduction made by a State as described in paragraph (4) shall not be made until such time as the Governor has taken appropriate corrective action to ensure full compliance within such local area with regard to appropriate expenditures of funds under this title.

(d) REPAYMENT OF AMOUNTS.—

(1) IN GENERAL.—Each recipient of funds under this title shall be liable to repay the amounts described in subsection (c)(1), from funds other than funds received under this title, upon a determination by the Secretary that the misexpenditure of funds was due to willful disregard of the requirements of this title, gross negligence, failure to observe accepted standards of administration, or a pattern of misexpenditure as described in paragraphs (2) and (3) of subsection (c). No such determination shall be made under this subsection or subsection (c) until notice and opportunity for a fair hearing has been given to the recipient.

(2) FACTORS IN IMPOSING SANCTIONS.—In determining whether to impose any sanction authorized by this section against a recipient for violations by a subgrantee or contractor of such recipient under this title (including the regulations issued under this title), the Secretary shall first determine whether such recipient has adequately demonstrated that the recipient has—

(A) established and adhered to an appropriate system for the award and monitoring of grants and contracts with subgrantees and contractors that contains acceptable standards for ensuring accountability;

(B) entered into a written grant agreement or contract with such subgrantee or contractor that established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the grant agreement or contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this title, including regulations issued under this title, by such subgrantee or contractor.

(3) WAIVER.—If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this title and any applicable Federal or State law directly against any subgrantee or contractor for violation of this title, including regulations issued under this title.

(e) IMMEDIATE TERMINATION OR SUSPENSION OF ASSISTANCE IN EMERGENCY SITUATIONS.—In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program or activity involved, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, to the recipient if the

recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

(f) **DISCRIMINATION AGAINST PARTICIPANTS.**—If the Secretary determines that any recipient under this title has discharged or in any other manner discriminated against a participant or against any individual in connection with the administration of the program involved, or against any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title, or has testified or is about to testify in any such proceeding or investigation under or related to this title, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this title or the Secretary's regulations, the Secretary shall, within 30 days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved individual, or both.

(g) **REMEDIES.**—The remedies described in this section shall not be construed to be the exclusive remedies available for violations described in this section.

29 USC 2935.

**SEC. 185. REPORTS; RECORDKEEPING; INVESTIGATIONS.****(a) REPORTS.**—

(1) **IN GENERAL.**—Recipients of funds under this title shall keep records that are sufficient to permit the preparation of reports required by this title and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

(2) **SUBMISSION TO THE SECRETARY.**—Every such recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary may require regarding the performance of programs and activities carried out under this title. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by Congress or a committee of Congress, in which case an estimate may be provided.

(3) **MAINTENANCE OF STANDARDIZED RECORDS.**—In order to allow for the preparation of the reports required under subsection (c), such recipients shall maintain standardized records for all individual participants and provide to the Secretary a sufficient number of such records to provide for an adequate analysis of the records.

**(4) AVAILABILITY TO THE PUBLIC.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), records maintained by such recipients pursuant to this subsection shall be made available to the public upon request.

(B) **EXCEPTION.**—Subparagraph (A) shall not apply to—

(i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(ii) trade secrets, or commercial or financial information, that is obtained from a person and privileged or confidential.

(C) FEES TO RECOVER COSTS.—Such recipients may charge fees sufficient to recover costs applicable to the processing of requests for records under subparagraph (A).

(b) INVESTIGATIONS OF USE OF FUNDS.—

(1) IN GENERAL.—

(A) SECRETARY.—In order to evaluate compliance with the provisions of this title, the Secretary shall conduct, in several States, in each fiscal year, investigations of the use of funds received by recipients under this title.

(B) COMPTROLLER GENERAL OF THE UNITED STATES.—In order to ensure compliance with the provisions of this title, the Comptroller General of the United States may conduct investigations of the use of funds received under this title by any recipient.

(2) PROHIBITION.—In conducting any investigation under this title, the Secretary or the Comptroller General of the United States may not request the compilation of any information that the recipient is not otherwise required to compile and that is not readily available to such recipient.

(3) AUDITS.—

(A) IN GENERAL.—In carrying out any audit under this title (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General of the Department of Labor, or the Comptroller General of the United States shall furnish to the State, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not later than 14 days (or as soon as practicable), prior to the commencement of the audit.

(B) NOTIFICATION REQUIREMENT.—If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

(C) ADDITIONAL REQUIREMENT.—The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding contained in the reports.

(D) RULE OF CONSTRUCTION.—Nothing contained in this title shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General of the United States.

(c) ACCESSIBILITY OF REPORTS.—Each State, each local board, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this title—

(1) shall make readily accessible such reports concerning its operations and expenditures as shall be prescribed by the Secretary;

(2) shall prescribe and maintain comparable management information systems, in accordance with guidelines that shall

Guidelines.

be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide, local area, and other appropriate bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 188; and

(3) shall monitor the performance of providers in complying with the terms of grants, contracts, or other agreements made pursuant to this title.

(d) INFORMATION TO BE INCLUDED IN REPORTS.—

(1) IN GENERAL.—The reports required in subsection (c) shall include information regarding programs and activities carried out under this title pertaining to—

(A) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information regarding participants;

(B) the programs and activities in which participants are enrolled, and the length of time that participants are engaged in such programs and activities;

(C) outcomes of the programs and activities for participants, including the occupations of participants, and placement for participants in nontraditional employment;

(D) specified costs of the programs and activities; and

(E) information necessary to prepare reports to comply with section 188.

(2) ADDITIONAL REQUIREMENT.—The Secretary shall ensure that all elements of the information required for the reports described in paragraph (1) are defined and reported uniformly.

(e) QUARTERLY FINANCIAL REPORTS.—

(1) IN GENERAL.—Each local board in the State shall submit quarterly financial reports to the Governor with respect to programs and activities carried out under this title. Such reports shall include information identifying all program and activity costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation involved.

(2) ADDITIONAL REQUIREMENT.—Each State shall submit to the Secretary, on a quarterly basis, a summary of the reports submitted to the Governor pursuant to paragraph (1).

(f) MAINTENANCE OF ADDITIONAL RECORDS.—Each State and local board shall maintain records with respect to programs and activities carried out under this title that identify—

(1) any income or profits earned, including such income or profits earned by subrecipients; and

(2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

(g) COST CATEGORIES.—In requiring entities to maintain records of costs by category under this title, the Secretary shall require only that the costs be categorized as administrative or programmatic costs.

**SEC. 186. ADMINISTRATIVE ADJUDICATION.**

(a) IN GENERAL.—Whenever any applicant for financial assistance under this title is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar



hearing may also be requested by any recipient for whom a corrective action has been required or a sanction has been imposed by the Secretary under section 184.

(b) **APPEAL.**—The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part of the decision has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. After the 20-day period the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days after such filing, has notified the parties that the case involved has been accepted for review.

(c) **TIME LIMIT.**—Any case accepted for review by the Secretary under subsection (b) shall be decided within 180 days after such acceptance. If the case is not decided within the 180-day period, the decision of the administrative law judge shall become the final decision of the Secretary at the end of the 180-day period.

(d) **ADDITIONAL REQUIREMENT.**—The provisions of section 187 shall apply to any final action of the Secretary under this section.

Applicability.

**SEC. 187. JUDICIAL REVIEW.**

29 USC 2937.

(a) **REVIEW.**—

(1) **PETITION.**—With respect to any final order by the Secretary under section 186 by which the Secretary awards, declines to award, or only conditionally awards, financial assistance under his title, or any final order of the Secretary under section 186 with respect to a corrective action or sanction imposed under section 184, any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds involved, by filing a review petition within 30 days after the date of issuance of such final order.

(2) **ACTION ON PETITION.**—The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record on which the final order was entered as provided in section 2112 of title 28, United States Code. The filing of a review petition shall not stay the order of the Secretary, unless the court orders a stay. Petitions filed under this subsection shall be heard expeditiously, if possible within 10 days after the date of filing of a reply to the petition.

(3) **STANDARD AND SCOPE OF REVIEW.**—No objection to the order of the Secretary shall be considered by the court unless the objection was specifically urged, in a timely manner, before the Secretary. The review shall be limited to questions of law and the findings of fact of the Secretary shall be conclusive if supported by substantial evidence.

(b) **JUDGMENT.**—The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The judgment of the court regarding the order shall be final, subject to certiorari review by the Supreme Court as provided in section 1254(1) of title 28, United States Code.

**SEC. 188. NONDISCRIMINATION.**

29 USC 2938.

(a) **IN GENERAL.**—

(1) **FEDERAL FINANCIAL ASSISTANCE.**—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) **PROHIBITION OF DISCRIMINATION REGARDING PARTICIPATION, BENEFITS, AND EMPLOYMENT.**—No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.

(3) **PROHIBITION ON ASSISTANCE FOR FACILITIES FOR SECTARIAN INSTRUCTION OR RELIGIOUS WORSHIP.**—Participants shall not be employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants).

(4) **PROHIBITION ON DISCRIMINATION ON BASIS OF PARTICIPANT STATUS.**—No person may discriminate against an individual who is a participant in a program or activity that receives funds under this title, with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant.

(5) **PROHIBITION ON DISCRIMINATION AGAINST CERTAIN NON-CITIZENS.**—Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

Notification.

(b) **ACTION OF SECRETARY.**—Whenever the Secretary finds that a State or other recipient of funds under this title has failed to comply with a provision of law referred to in subsection (a)(1), or with paragraph (2), (3), (4), or (5) of subsection (a), including an applicable regulation prescribed to carry out such provision or paragraph, the Secretary shall notify such State or recipient and shall request that the State or recipient comply. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(2) take such other action as may be provided by law.

(c) ACTION OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient of funds under this title is engaged in a pattern or practice of discrimination in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) JOB CORPS.—For the purposes of this section, Job Corps members shall be considered as the ultimate beneficiaries of Federal financial assistance.

(e) REGULATIONS.—The Secretary shall issue regulations necessary to implement this section not later than one year after the date of the enactment of the Workforce Investment Act of 1998. Such regulations shall adopt standards for determining discrimination and procedures for enforcement that are consistent with the Acts referred to in a subsection (a)(1), as well as procedures to ensure that complaints filed under this section and such Acts are processed in a manner that avoids duplication of effort.

Deadline.

#### SEC. 189. ADMINISTRATIVE PROVISIONS.

29 USC 2939.

(a) IN GENERAL.—The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe rules and regulations to carry out this title only to the extent necessary to administer and ensure compliance with the requirements of this title. Such rules and regulations may include provisions making adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective dates. Copies of each such rule or regulation shall be transmitted to the appropriate committees of Congress on the date of such publication and shall contain, with respect to each material provision of such rule or regulation, a citation to the particular substantive section of law that is the basis for the provision.

Federal Register,  
publication.

(b) ACQUISITION OF CERTAIN PROPERTY AND SERVICES.—The Secretary is authorized, in carrying out this title, to accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this title, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.

(c) AUTHORITY TO ENTER INTO CERTAIN AGREEMENTS AND TO MAKE CERTAIN EXPENDITURES.—The Secretary may make such grants, enter into such contracts or agreements, establish such procedures, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend such funds under this title, as may be necessary to carry out this title, including making expenditures for construction, repairs, and capital improvements, and including making necessary adjustments in payments on account of over-payments or underpayments.

(d) ANNUAL REPORT.—The Secretary shall prepare and submit to Congress an annual report regarding the programs and activities carried out under this title. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs and activities in meeting the objectives of this title;

(2) a summary of major findings from research, evaluations, pilot projects, and experiments conducted under this title in the fiscal year prior to the submission of the report;

(3) recommendations for modifications in the programs and activities based on analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.

(e) UTILIZATION OF SERVICES AND FACILITIES.—The Secretary is authorized, in carrying out this title, under the same procedures as are applicable under subsection (c) or to the extent permitted by law other than this title, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized, in carrying out this title, to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with the consent of the State or political subdivision.

(f) OBLIGATIONAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary shall have no authority to enter into contracts, grant agreements, or other financial assistance agreements under this title except to such extent and in such amounts as are provided in advance in appropriations Acts.

(g) PROGRAM YEAR.—

(1) IN GENERAL.—

(A) PROGRAM YEAR.—Except as provided in subparagraph (B), appropriations for any fiscal year for programs and activities carried out under this title shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(B) YOUTH ACTIVITIES.—The Secretary may make available for obligation, beginning April 1 of any fiscal year, funds appropriated for such fiscal year to carry out youth activities under subtitle B.

(2) AVAILABILITY.—Funds obligated for any program year for a program or activity carried out under this title may be expended by each State receiving such funds during that program year and the 2 succeeding program years. Funds obligated for any program year for a program or activity carried out under section 171 or 172 shall remain available until expended. Funds received by local areas from States under this title during a program year may be expended during that program year and the succeeding program year. No amount of the funds described in this paragraph shall be deobligated on account of a rate of expenditure that is consistent with a State plan, an operating plan described in section 151, or a plan, grant agreement, contract, application, or other agreement described in subtitle D, as appropriate.

(h) ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT.—The Secretary shall ensure that each individual participating in any program or activity established under this title, or receiving any assistance or benefit under this title, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall

cooperate with the Secretary to enable the Secretary to carry out this subsection.

(i) WAIVERS AND SPECIAL RULES.—

(1) EXISTING WAIVERS.—With respect to a State that has been granted a waiver under the provisions relating to training and employment services of the Department of Labor in title I of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997 (Public Law 104-208; 110 Stat. 3009-234), the authority provided under such waiver shall continue in effect and apply, and include a waiver of the related provisions of subtitle B and this subtitle, for the duration of the initial waiver.

(2) SPECIAL RULE REGARDING DESIGNATED AREAS.—A State that has enacted, not later than December 31, 1997, a State law providing for the designation of service delivery areas for the delivery of workforce investment activities, may use such areas as local areas under this title, notwithstanding section 116.

Deadline.

(3) SPECIAL RULE REGARDING SANCTIONS.—A State that enacts, not later than December 31, 1997, a State law providing for the sanctioning of such service delivery areas for failure to meet performance measures for workforce investment activities, may use the State law to sanction local areas for failure to meet State performance measures under this title.

Deadline.

(4) GENERAL WAIVERS OF STATUTORY OR REGULATORY REQUIREMENTS.—

(A) GENERAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary may waive for a State, or a local area in a State, pursuant to a request submitted by the Governor of the State (in consultation with appropriate local elected officials) that meets the requirements of subparagraph (B)—

(i) any of the statutory or regulatory requirements of subtitle B or this subtitle (except for requirements relating to wage and labor standards, including non-displacement protections, worker rights, participation and protection of workers and participants, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility of providers or participants, the establishment and functions of local areas and local boards, and procedures for review and approval of plans); and

(ii) any of the statutory or regulatory requirements of sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i) (excluding requirements relating to the provision of services to unemployment insurance claimants and veterans, and requirements relating to universal access to basic labor exchange services without cost to jobseekers).

(B) REQUESTS.—A Governor requesting a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the statewide workforce investment system that—

(i) identifies the statutory or regulatory requirements that are requested to be waived and the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver;

(ii) describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(iii) describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(iv) describes the individuals impacted by the waiver; and

(v) describes the process used to monitor the progress in implementing such a waiver, and the process by which notice and an opportunity to comment on such request has been provided to the local board.

(C) CONDITIONS.—Not later than 90 days after the date of the original submission of a request for a waiver under subparagraph (A), the Secretary shall provide a waiver under this paragraph if and only to the extent that—

(i) the Secretary determines that the requirements requested to be waived impede the ability of the State or local area, as appropriate, to implement the plan described in subparagraph (B); and

(ii) the State has executed a memorandum of understanding with the Secretary requiring such State to meet, or ensure that the local area meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.

Effective date.  
29 USC 2940.

#### **SEC. 190. REFERENCE.**

Effective on the date of the enactment of the Workforce Investment Act of 1998, all references in any other provision of law (other than section 665 of title 18, United States Code) to the Comprehensive Employment and Training Act, or to the Job Training Partnership Act, as the case may be, shall be deemed to refer to the “Workforce Investment Act of 1998.”

29 USC 2941.

#### **SEC. 191. STATE LEGISLATIVE AUTHORITY.**

(a) AUTHORITY OF STATE LEGISLATURE.—Nothing in this title shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this title, of the activities assisted under this title. Any funds received by a State under this title shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this title.

(b) INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS.—In the event that compliance with provisions of this title would be enhanced by compacts and cooperative agreements between States, the consent of Congress is given to States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

29 USC 2942.

#### **SEC. 192. WORKFORCE FLEXIBILITY PLANS.**

(a) PLANS.—A State may submit to the Secretary, and the Secretary may approve, a workforce flexibility plan under which the State is authorized to waive, in accordance with the plan—

(1) any of the statutory or regulatory requirements applicable under this title to local areas, pursuant to applications for such waivers from the local areas, except for requirements relating to the basic purposes of this title, wage and

labor standards, grievance procedures and judicial review, non-discrimination, eligibility of participants, allocation of funds to local areas, establishment and functions of local areas and local boards, review and approval of local plans, and worker rights, participation, and protection;

(2) any of the statutory or regulatory requirements applicable under sections 8 through 10 of the Wagner-Peyser Act (29 U.S.C. 49g through 49i), to the State, except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to jobseekers; and

(3) any of the statutory or regulatory requirements applicable under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), to State agencies on aging with respect to activities carried out using funds allotted under section 506(a)(3) of such Act (42 U.S.C. 3056d(a)(3)), except for requirements relating to the basic purposes of such Act, wage and labor standards, eligibility of participants in the activities, and standards for agreements.

(b) **CONTENT OF PLANS.**—A workforce flexibility plan implemented by a State under subsection (a) shall include descriptions of—

(1)(A) the process by which local areas in the State may submit and obtain approval by the State of applications for waivers of requirements applicable under this title; and

(B) the requirements described in subparagraph (A) that are likely to be waived by the State under the plan;

(2) the requirements applicable under sections 8 through 10 of the Wagner-Peyser Act that are proposed to be waived, if any;

(3) the requirements applicable under the Older Americans Act of 1965 that are proposed to be waived, if any;

(4) the outcomes to be achieved by the waivers described in paragraphs (1) through (3); and

(5) other measures to be taken to ensure appropriate accountability for Federal funds in connection with the waivers.

(c) **PERIODS.**—The Secretary may approve a workforce flexibility plan for a period of not more than 5 years.

(d) **OPPORTUNITY FOR PUBLIC COMMENTS.**—Prior to submitting a workforce flexibility plan to the Secretary for approval, the State shall provide to all interested parties and to the general public adequate notice and a reasonable opportunity for comment on the waiver requests proposed to be implemented pursuant to such plan.

#### **SEC. 193. USE OF CERTAIN REAL PROPERTY.**

29 USC 2943.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Governor may authorize a public agency to make available, for the use of a one-stop service delivery system within the State which is carried out by a consortium of entities that includes the public agency, real property in which, as of the date of the enactment of the Workforce Investment Act of 1998, the Federal Government has acquired equity through the use of funds provided under title III of the Social Security Act (42 U.S.C. 501 et seq.), section 903(c) of such Act (42 U.S.C. 1103(c)), or the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(b) **USE OF FUNDS.**—Subsequent to the commencement of the use of the property described in subsection (a) for the functions

of a one-stop service delivery system, funds provided under the provisions of law described in subsection (a) may only be used to acquire further equity in such property, or to pay operating and maintenance expenses relating to such property in proportion to the extent of the use of such property attributable to the activities authorized under such provisions of law.

29 USC 2944.

**SEC. 194. CONTINUATION OF STATE ACTIVITIES AND POLICIES.**

(a) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may not deny approval of a State plan for a covered State, or an application of a covered State for financial assistance, under this title or find a covered State (including a State board or Governor), or a local area (including a local board or chief elected official) in a covered State, in violation of a provision of this title, on the basis that—

(1)(A) the State proposes to allocate or disburse, allocates, or disburses, within the State, funds made available to the State under section 127 or 132 in accordance with the allocation formula for the type of activities involved, or in accordance with a disbursement procedure or process, used by the State under prior consistent State laws; or

(B) a local board in the State proposes to disburse, or disburses, within the local area, funds made available to a State under section 127 or 132 in accordance with a disbursement procedure or process used by a private industry council under prior consistent State law;

(2) the State proposes to carry out or carries out a State procedure through which local areas use, as fiscal agents for funds made available to the State under section 127 or 132 and allocated within the State, fiscal agents selected in accordance with a process established under prior consistent State laws;

(3) the State proposes to carry out or carries out a State procedure through which the local board in the State (or the local boards, the chief elected officials in the State, and the Governor) designate or select the one-stop partners and one-stop operators of the statewide system in the State under prior consistent State laws, in lieu of making the designation, or certification described in section 121 (regardless of the date the one-stop delivery systems involved have been established);

(4) the State proposes to carry out or carries out a State procedure through which the persons responsible for selecting eligible providers for purposes of subtitle B are permitted to determine that a provider shall not be selected to provide both intake services under section 134(d)(2) and training services under section 134(d)(4), under prior consistent State laws;

(5) the State proposes to designate or designates a State board, or proposes to assign or assigns functions and roles of the State board (including determining the time periods for development and submission of a State plan required under section 112), for purposes of subtitle B in accordance with prior consistent State laws; or

(6) a local board in the State proposes to use or carry out, uses, or carries out a local plan (including assigning functions and roles of the local board) for purposes of subtitle B in accordance with the authorities and requirements



applicable to local plans and private industry councils under prior consistent State laws.

(b) DEFINITION.—In this section:

(1) COVERED STATE.—The term “covered State” means a State that enacted State laws described in paragraph (2).

(2) PRIOR CONSISTENT STATE LAWS.—The term “prior consistent State laws” means State laws, not inconsistent with the Job Training Partnership Act or any other applicable Federal law, that took effect on September 1, 1993, September 1, 1995, and September 1, 1997.

**SEC. 195. GENERAL PROGRAM REQUIREMENTS.**

29 USC 2945.

Except as otherwise provided in this title, the following conditions are applicable to all programs under this title:

(1) Each program under this title shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities. In addition, efforts shall be made to develop programs which contribute to occupational development, upward mobility, development of new careers, and opportunities for nontraditional employment.

(2) Funds provided under this title shall only be used for activities that are in addition to those that would otherwise be available in the local area in the absence of such funds.

(3)(A) Any local area may enter into an agreement with another local area (including a local area that is a city or county within the same labor market) to pay or share the cost of educating, training, or placing individuals participating in programs assisted under this title, including the provision of supportive services.

(B) Such agreement shall be approved by each local board providing guidance to the local area and shall be described in the local plan under section 118.

(4) On-the-job training contracts under this title shall not be entered into with employers who have received payments under previous contracts and have exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(5) No person or organization may charge an individual a fee for the placement or referral of the individual in or to a workforce investment activity under this title.

(6) The Secretary shall not provide financial assistance for any program under this title that involves political activities.

(7)(A) Income under any program administered by a public or private nonprofit entity may be retained by such entity only if such income is used to continue to carry out the program.

(B) Income subject to the requirements of subparagraph (A) shall include—

(i) receipts from goods or services (including conferences) provided as a result of activities funded under this title;

(ii) funds provided to a service provider under this title that are in excess of the costs associated with the services provided; and

Notification.

(iii) interest income earned on funds received under this title.

(C) For purposes of this paragraph, each entity receiving financial assistance under this title shall maintain records sufficient to determine the amount of such income received and the purposes for which such income is expended.

(8)(A) The Secretary shall notify the Governor and the appropriate local board and chief elected official of, and consult with the Governor and such board and official concerning, any activity to be funded by the Secretary under this title within the corresponding State or local area.

(B) The Governor shall notify the appropriate local board and chief elected official of, and consult with such board and official concerning, any activity to be funded by the Governor under this title within the corresponding local area.

(9)(A) All education programs for youth supported with funds provided under chapter 4 of subtitle B shall be consistent with applicable State and local educational standards.

(B) Standards and procedures with respect to awarding academic credit and certifying educational attainment in programs conducted under such chapter shall be consistent with the requirements of applicable State and local law, including regulation.

(10) No funds available under this title may be used for public service employment except as specifically authorized under this title.

(11) The Federal requirements governing the title, use, and disposition of real property, equipment, and supplies purchased with funds provided under this title shall be the Federal requirements generally applicable to Federal grants to States and local governments.

(12) Nothing in this title shall be construed to provide an individual with an entitlement to a service under this title.

(13) Services, facilities, or equipment funded under this title may be used, as appropriate, on a fee-for-service basis, by employers in a local area in order to provide employment and training activities to incumbent workers—

(A) when such services, facilities, or equipment are not in use for the provision of services for eligible participants under this title;

(B) if such use for incumbent workers would not have an adverse affect on the provision of services to eligible participants under this title; and

(C) if the income derived from such fees is used to carry out the programs authorized under this title.

## Subtitle F—Repeals and Conforming Amendments

### SEC. 199. REPEALS.

(a) GENERAL IMMEDIATE REPEALS.—The following provisions are repealed:

(1) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(2) Title II of Public Law 95–250 (92 Stat. 172).

(3) The Displaced Homemakers Self-Sufficiency Assistance Act (29 U.S.C. 2301 et seq.).

(4) Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211).

(5) Subtitle C of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11441 et seq.), except section 738 of such title (42 U.S.C. 11448).

(6) Subchapter I of chapter 421 of title 49, United States Code. 49 USC 42101 *et seq.*

(b) **SUBSEQUENT REPEALS.**—The following provisions are repealed:

(1) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

(2) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(c) **EFFECTIVE DATES.**—

(1) **IMMEDIATE REPEALS.**—The repeals made by subsection (a) shall take effect on the date of enactment of this Act. 29 USC 2301 note.

(2) **SUBSEQUENT REPEALS.**—

(A) **STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.**—The repeal made by subsection (b)(1) shall take effect on July 1, 1999. 42 USC 11421 note.

(B) **JOB TRAINING PARTNERSHIP ACT.**—The repeal made by subsection (b)(2) shall take effect on July 1, 2000. 29 USC 1501 note.

#### **SEC. 199A. CONFORMING AMENDMENTS.**

29 USC 2940 note.

(a) **PREPARATION.**—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary shall prepare recommended legislation containing technical and conforming amendments to reflect the changes made by this subtitle.

(b) **SUBMISSION TO CONGRESS.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to Congress the recommended legislation referred to under subsection (a). Deadline.

(c) **REFERENCES.**—All references in any other provision of law to a provision of the Comprehensive Employment and Training Act, or of the Job Training Partnership Act, as the case may be, shall be deemed to refer to the corresponding provision of this title.

## **TITLE II—ADULT EDUCATION AND LITERACY**

Adult Education and Family Literacy Act. Inter-governmental relations. 20 USC 9201 note.

#### **SEC. 201. SHORT TITLE.**

This title may be cited as the “Adult Education and Family Literacy Act”.

#### **SEC. 202. PURPOSE.**

20 USC 9201.

It is the purpose of this title to create a partnership among the Federal Government, States, and localities to provide, on a voluntary basis, adult education and literacy services, in order to—

(1) assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency;

(2) assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children; and

(3) assist adults in the completion of a secondary school education.

20 USC 9202.

**SEC. 203. DEFINITIONS.**

In this subtitle:

(1) **ADULT EDUCATION.**—The term “adult education” means services or instruction below the postsecondary level for individuals—

(A) who have attained 16 years of age;

(B) who are not enrolled or required to be enrolled in secondary school under State law; and

(C) who—

(i) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

(ii) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or

(iii) are unable to speak, read, or write the English language.

(2) **ADULT EDUCATION AND LITERACY ACTIVITIES.**—The term “adult education and literacy activities” means activities described in section 231(b).

(3) **EDUCATIONAL SERVICE AGENCY.**—The term “educational service agency” means a regional public multiservice agency authorized by State statute to develop and manage a service or program, and to provide the service or program to a local educational agency.

(4) **ELIGIBLE AGENCY.**—The term “eligible agency” means the sole entity or agency in a State or an outlying area responsible for administering or supervising policy for adult education and literacy in the State or outlying area, respectively, consistent with the law of the State or outlying area, respectively.

(5) **ELIGIBLE PROVIDER.**—The term “eligible provider” means—

(A) a local educational agency;

(B) a community-based organization of demonstrated effectiveness;

(C) a volunteer literacy organization of demonstrated effectiveness;

(D) an institution of higher education;

(E) a public or private nonprofit agency;

(F) a library;

(G) a public housing authority;

(H) a nonprofit institution that is not described in any of subparagraphs (A) through (G) and has the ability to provide literacy services to adults and families; and

(I) a consortium of the agencies, organizations, institutions, libraries, or authorities described in any of subparagraphs (A) through (H).

(6) **ENGLISH LITERACY PROGRAM.**—The term “English literacy program” means a program of instruction designed to help individuals of limited English proficiency achieve competence in the English language.

(7) **FAMILY LITERACY SERVICES.**—The term “family literacy services” means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

(8) **GOVERNOR.**—The term “Governor” means the chief executive officer of a State or outlying area.

(9) **INDIVIDUAL WITH A DISABILITY.**—

(A) **IN GENERAL.**—The term “individual with a disability” means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

(B) **INDIVIDUALS WITH DISABILITIES.**—The term “individuals with disabilities” means more than one individual with a disability.

(10) **INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.**—The term “individual of limited English proficiency” means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

(A) whose native language is a language other than English; or

(B) who lives in a family or community environment where a language other than English is the dominant language.

(11) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given the term in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141).

(12) **LITERACY.**—The term “literacy” means an individual’s ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job, in the family of the individual, and in society.

(13) **LOCAL EDUCATIONAL AGENCY.**—The term “local educational agency” has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(14) **OUTLYING AREA.**—The term “outlying area” has the meaning given the term in section 101.

(15) **POSTSECONDARY EDUCATIONAL INSTITUTION.**—The term “postsecondary educational institution” means—

(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor’s degree;

(B) a tribally controlled community college; or

(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

(16) **SECRETARY.**—The term “Secretary” means the Secretary of Education.

(17) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(18) WORKPLACE LITERACY SERVICES.—The term “workplace literacy services” means literacy services that are offered for the purpose of improving the productivity of the workforce through the improvement of literacy skills.

20 USC 9203.

**SEC. 204. HOME SCHOOLS.**

Nothing in this subtitle shall be construed to affect home schools, or to compel a parent engaged in home schooling to participate in an English literacy program, family literacy services, or adult education.

20 USC 9204.

**SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this subtitle such sums as may be necessary for each of the fiscal years 1999 through 2003.

## Subtitle A—Adult Education and Literacy Programs

### CHAPTER 1—FEDERAL PROVISIONS

20 USC 9211.

**SEC. 211. RESERVATION OF FUNDS; GRANTS TO ELIGIBLE AGENCIES; ALLOTMENTS.**

(a) RESERVATION OF FUNDS.—From the sum appropriated under section 205 for a fiscal year, the Secretary—

(1) shall reserve 1.5 percent to carry out section 242, except that the amount so reserved shall not exceed \$8,000,000;

(2) shall reserve 1.5 percent to carry out section 243, except that the amount so reserved shall not exceed \$8,000,000; and

(3) shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 503.

(b) GRANTS TO ELIGIBLE AGENCIES.—

(1) IN GENERAL.—From the sum appropriated under section 205 and not reserved under subsection (a) for a fiscal year, the Secretary shall award a grant to each eligible agency having a State plan approved under section 224 in an amount equal to the sum of the initial allotment under subsection (c)(1) and the additional allotment under subsection (c)(2) for the eligible agency for the fiscal year, subject to subsections (f) and (g), to enable the eligible agency to carry out the activities assisted under this subtitle.

(2) PURPOSE OF GRANTS.—The Secretary may award a grant under paragraph (1) only if the eligible entity involved agrees to expend the grant for adult education and literacy activities in accordance with the provisions of this subtitle.

(c) ALLOTMENTS.—

(1) INITIAL ALLOTMENTS.—From the sum appropriated under section 205 and not reserved under subsection (a) for a fiscal year, the Secretary shall allot to each eligible agency having a State plan approved under section 224(f)—

(A) \$100,000, in the case of an eligible agency serving an outlying area; and

(B) \$250,000, in the case of any other eligible agency.

(2) ADDITIONAL ALLOTMENTS.—From the sum appropriated under section 205, not reserved under subsection (a), and not allotted under paragraph (1), for a fiscal year, the Secretary shall allot to each eligible agency that receives an initial allotment under paragraph (1) an additional amount that bears the same relationship to such sum as the number of qualifying adults in the State or outlying area served by the eligible agency bears to the number of such adults in all States and outlying areas.

(d) QUALIFYING ADULT.—For the purpose of subsection (c)(2), the term “qualifying adult” means an adult who—

(1) is at least 16 years of age, but less than 61 years of age;

(2) is beyond the age of compulsory school attendance under the law of the State or outlying area;

(3) does not have a secondary school diploma or its recognized equivalent; and

(4) is not enrolled in secondary school.

(e) SPECIAL RULE.—

(1) IN GENERAL.—From amounts made available under subsection (c) for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, the Secretary shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Secretary determines are not inconsistent with this subsection.

(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subtitle for any fiscal year that begins after September 30, 2001.

(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

(f) HOLD-HARMLESS.—

(1) IN GENERAL.—Notwithstanding subsection (c)—

(A) for fiscal year 1999, no eligible agency shall receive an allotment under this subtitle that is less than 90 percent of the payments made to the State or outlying area of the eligible agency for fiscal year 1998 for programs for which funds were authorized to be appropriated under section 313 of the Adult Education Act (as such Act was in effect on the day before the date of the enactment of the Workforce Investment Act of 1998); and

(B) for fiscal year 2000 and each succeeding fiscal year, no eligible agency shall receive an allotment under this subtitle that is less than 90 percent of the allotment

the eligible agency received for the preceding fiscal year under this subtitle.

(2) **RATABLE REDUCTION.**—If for any fiscal year the amount available for allotment under this subtitle is insufficient to satisfy the provisions of paragraph (1), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.

(g) **REALLOTMENT.**—The portion of any eligible agency's allotment under this subtitle for a fiscal year that the Secretary determines will not be required for the period such allotment is available for carrying out activities under this subtitle, shall be available for reallocation from time to time, on such dates during such period as the Secretary shall fix, to other eligible agencies in proportion to the original allotments to such agencies under this subtitle for such year.

20 USC 9212.

**SEC. 212. PERFORMANCE ACCOUNTABILITY SYSTEM.**

(a) **PURPOSE.**—The purpose of this section is to establish a comprehensive performance accountability system, comprised of the activities described in this section, to assess the effectiveness of eligible agencies in achieving continuous improvement of adult education and literacy activities funded under this subtitle, in order to optimize the return on investment of Federal funds in adult education and literacy activities.

(b) **ELIGIBLE AGENCY PERFORMANCE MEASURES.**—

(1) **IN GENERAL.**—For each eligible agency, the eligible agency performance measures shall consist of—

(A)(i) the core indicators of performance described in paragraph (2)(A); and

(ii) additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(B); and

(B) an eligible agency adjusted level of performance for each indicator described in subparagraph (A).

(2) **INDICATORS OF PERFORMANCE.**—

(A) **CORE INDICATORS OF PERFORMANCE.**—The core indicators of performance shall include the following:

(i) Demonstrated improvements in literacy skill levels in reading, writing, and speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills.

(ii) Placement in, retention in, or completion of, postsecondary education, training, unsubsidized employment or career advancement.

(iii) Receipt of a secondary school diploma or its recognized equivalent.

(B) **ADDITIONAL INDICATORS.**—An eligible agency may identify in the State plan additional indicators for adult education and literacy activities authorized under this subtitle.

(3) **LEVELS OF PERFORMANCE.**—

(A) **ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS.**—

(i) **IN GENERAL.**—For each eligible agency submitting a State plan, there shall be established, in accordance with this subparagraph, levels of performance for each of the core indicators of performance described in paragraph (2)(A) for adult education and literacy



activities authorized under this subtitle. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in an objective, quantifiable, and measurable form; and

(II) show the progress of the eligible agency toward continuously improving in performance.

(ii) IDENTIFICATION IN STATE PLAN.—Each eligible agency shall identify, in the State plan submitted under section 224, expected levels of performance for each of the core indicators of performance for the first 3 program years covered by the State plan.

(iii) AGREEMENT ON ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 3 YEARS.—In order to ensure an optimal return on the investment of Federal funds in adult education and literacy activities authorized under this subtitle, the Secretary and each eligible agency shall reach agreement on levels of performance for each of the core indicators of performance, for the first 3 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan prior to the approval of such plan.

(iv) FACTORS.—The agreement described in clause (iii) or (v) shall take into account—

(I) how the levels involved compare with the eligible agency adjusted levels of performance established for other eligible agencies, taking into account factors including the characteristics of participants when the participants entered the program, and the services or instruction to be provided; and

(II) the extent to which such levels involved promote continuous improvement in performance on the performance measures by such eligible agency and ensure optimal return on the investment of Federal funds.

(v) AGREEMENT ON ELIGIBLE AGENCY ADJUSTED LEVELS OF PERFORMANCE FOR 4TH AND 5TH YEARS.—Prior to the fourth program year covered by the State plan, the Secretary and each eligible agency shall reach agreement on levels of performance for each of the core indicators of performance for the fourth and fifth program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan.

(vi) REVISIONS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (iv)(II), the eligible agency may request that the eligible agency adjusted

levels of performance agreed to under clause (iii) or (v) be revised. The Secretary, after collaboration with the representatives described in section 136(j), shall issue objective criteria and methods for making such revisions.

(B) **LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.**—The eligible agency may identify, in the State plan, eligible agency levels of performance for each of the additional indicators described in paragraph (2)(B). Such levels shall be considered to be eligible agency adjusted levels of performance for purposes of this subtitle.

(c) **REPORT.**—

(1) **IN GENERAL.**—Each eligible agency that receives a grant under section 211(b) shall annually prepare and submit to the Secretary a report on the progress of the eligible agency in achieving eligible agency performance measures, including information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance.

(2) **INFORMATION DISSEMINATION.**—The Secretary—

(A) shall make the information contained in such reports available to the general public through publication and other appropriate methods;

(B) shall disseminate State-by-State comparisons of the information; and

(C) shall provide the appropriate committees of Congress with copies of such reports.

Publication.

## CHAPTER 2—STATE PROVISIONS

20 USC 9221.

### SEC. 221. STATE ADMINISTRATION.

Each eligible agency shall be responsible for the State or outlying area administration of activities under this subtitle, including—

(1) the development, submission, and implementation of the State plan;

(2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities assisted under this subtitle; and

(3) coordination and nonduplication with other Federal and State education, training, corrections, public housing, and social service programs.

20 USC 9222.

### SEC. 222. STATE DISTRIBUTION OF FUNDS; MATCHING REQUIREMENT.

(a) **STATE DISTRIBUTION OF FUNDS.**—Each eligible agency receiving a grant under this subtitle for a fiscal year—

(1) shall use not less than 82.5 percent of the grant funds to award grants and contracts under section 231 and to carry out section 225, of which not more than 10 percent of the 82.5 percent shall be available to carry out section 225;

(2) shall use not more than 12.5 percent of the grant funds to carry out State leadership activities under section 223; and

(3) shall use not more than 5 percent of the grant funds, or \$65,000, whichever is greater, for the administrative expenses of the eligible agency.

(b) **MATCHING REQUIREMENT.**—

(1) IN GENERAL.—In order to receive a grant from the Secretary under section 211(b) each eligible agency shall provide, for the costs to be incurred by the eligible agency in carrying out the adult education and literacy activities for which the grant is awarded, a non-Federal contribution in an amount equal to—

(A) in the case of an eligible agency serving an outlying area, 12 percent of the total amount of funds expended for adult education and literacy activities in the outlying area, except that the Secretary may decrease the amount of funds required under this subparagraph for an eligible agency; and

(B) in the case of an eligible agency serving a State, 25 percent of the total amount of funds expended for adult education and literacy activities in the State.

(2) NON-FEDERAL CONTRIBUTION.—An eligible agency's non-Federal contribution required under paragraph (1) may be provided in cash or in kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of this subtitle.

#### SEC. 223. STATE LEADERSHIP ACTIVITIES.

20 USC 9223.

(a) IN GENERAL.—Each eligible agency shall use funds made available under section 222(a)(2) for one or more of the following adult education and literacy activities:

(1) The establishment or operation of professional development programs to improve the quality of instruction provided pursuant to local activities required under section 231(b), including instruction incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension, and instruction provided by volunteers or by personnel of a State or outlying area.

(2) The provision of technical assistance to eligible providers of adult education and literacy activities.

(3) The provision of technology assistance, including staff training, to eligible providers of adult education and literacy activities to enable the eligible providers to improve the quality of such activities.

(4) The support of State or regional networks of literacy resource centers.

(5) The monitoring and evaluation of the quality of, and the improvement in, adult education and literacy activities.

(6) Incentives for—

(A) program coordination and integration; and

(B) performance awards.

(7) Developing and disseminating curricula, including curricula incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension.

(8) Other activities of statewide significance that promote the purpose of this title.

(9) Coordination with existing support services, such as transportation, child care, and other assistance designed to increase rates of enrollment in, and successful completion of, adult education and literacy activities, to adults enrolled in such activities.

(10) Integration of literacy instruction and occupational skill training, and promoting linkages with employers.

(11) Linkages with postsecondary educational institutions.

(b) COLLABORATION.—In carrying out this section, eligible agencies shall collaborate where possible, and avoid duplicating efforts, in order to maximize the impact of the activities described in subsection (a).

(c) STATE-IMPOSED REQUIREMENTS.—Whenever a State or outlying area implements any rule or policy relating to the administration or operation of a program authorized under this subtitle that has the effect of imposing a requirement that is not imposed under Federal law (including any rule or policy based on a State or outlying area interpretation of a Federal statute, regulation, or guideline), the State or outlying area shall identify, to eligible providers, the rule or policy as being State- or outlying area-imposed.

20 USC 9224.

**SEC. 224. STATE PLAN.**

(a) 5-YEAR PLANS.—

(1) IN GENERAL.—Each eligible agency desiring a grant under this subtitle for any fiscal year shall submit to, or have on file with, the Secretary a 5-year State plan.

(2) COMPREHENSIVE PLAN OR APPLICATION.—The eligible agency may submit the State plan as part of a comprehensive plan or application for Federal education assistance.

(b) PLAN CONTENTS.—In developing the State plan, and any revisions to the State plan, the eligible agency shall include in the State plan or revisions—

(1) an objective assessment of the needs of individuals in the State or outlying area for adult education and literacy activities, including individuals most in need or hardest to serve;

(2) a description of the adult education and literacy activities that will be carried out with any funds received under this subtitle;

(3) a description of how the eligible agency will evaluate annually the effectiveness of the adult education and literacy activities based on the performance measures described in section 212;

(4) a description of the performance measures described in section 212 and how such performance measures will ensure the improvement of adult education and literacy activities in the State or outlying area;

(5) an assurance that the eligible agency will award not less than one grant under this subtitle to an eligible provider who offers flexible schedules and necessary support services (such as child care and transportation) to enable individuals, including individuals with disabilities, or individuals with other special needs, to participate in adult education and literacy activities, which eligible provider shall attempt to coordinate with support services that are not provided under this subtitle prior to using funds for adult education and literacy activities provided under this subtitle for support services;

(6) an assurance that the funds received under this subtitle will not be expended for any purpose other than for activities under this subtitle;

(7) a description of how the eligible agency will fund local activities in accordance with the considerations described in section 231(e);

(8) an assurance that the eligible agency will expend the funds under this subtitle only in a manner consistent with fiscal requirements in section 241;

(9) a description of the process that will be used for public participation and comment with respect to the State plan;

(10) a description of how the eligible agency will develop program strategies for populations that include, at a minimum—

(A) low-income students;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with multiple barriers to educational enhancement, including individuals with limited English proficiency;

(11) a description of how the adult education and literacy activities that will be carried out with any funds received under this subtitle will be integrated with other adult education, career development, and employment and training activities in the State or outlying area served by the eligible agency; and

(12) a description of the steps the eligible agency will take to ensure direct and equitable access, as required in section 231(c)(1).

(c) **PLAN REVISIONS.**—When changes in conditions or other factors require substantial revisions to an approved State plan, the eligible agency shall submit the revisions to the State plan to the Secretary.

(d) **CONSULTATION.**—The eligible agency shall—

(1) submit the State plan, and any revisions to the State plan, to the Governor of the State or outlying area for review and comment; and

(2) ensure that any comments by the Governor regarding the State plan, and any revision to the State plan, are submitted to the Secretary.

(e) **PEER REVIEW.**—The Secretary shall establish a peer review process to make recommendations regarding the approval of State plans.

(f) **PLAN APPROVAL.**—A State plan submitted to the Secretary shall be approved by the Secretary unless the Secretary makes a written determination, within 90 days after receiving the plan, that the plan is inconsistent with the specific provisions of this subtitle.

**SEC. 225. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.** 20 USC 9225.

(a) **PROGRAM AUTHORIZED.**—From funds made available under section 222(a)(1) for a fiscal year, each eligible agency shall carry out corrections education or education for other institutionalized individuals.

(b) **USES OF FUNDS.**—The funds described in subsection (a) shall be used for the cost of educational programs for criminal offenders in correctional institutions and for other institutionalized individuals, including academic programs for—

(1) basic education;

(2) special education programs as determined by the eligible agency;

(3) English literacy programs; and

(4) secondary school credit programs.

(c) **PRIORITY.**—Each eligible agency that is using assistance provided under this section to carry out a program for criminal offenders in a correctional institution shall give priority to serving individuals who are likely to leave the correctional institution with 5 years of participation in the program.

(d) **DEFINITION OF CRIMINAL OFFENDER.**—

(1) **CRIMINAL OFFENDER.**—The term “criminal offender” means any individual who is charged with or convicted of any criminal offense.

(2) **CORRECTIONAL INSTITUTION.**—The term “correctional institution” means any—

(A) prison;

(B) jail;

(C) reformatory;

(D) work farm;

(E) detention center; or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

### CHAPTER 3—LOCAL PROVISIONS

20 USC 9241.

#### SEC. 231. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

(a) **GRANTS AND CONTRACTS.**—From grant funds made available under section 211(b), each eligible agency shall award multiyear grants or contracts, on a competitive basis, to eligible providers within the State or outlying area to enable the eligible providers to develop, implement, and improve adult education and literacy activities within the State.

(b) **REQUIRED LOCAL ACTIVITIES.**—The eligible agency shall require that each eligible provider receiving a grant or contract under subsection (a) use the grant or contract to establish or operate one or more programs that provide services or instruction in one or more of the following categories:

(1) Adult education and literacy services, including workplace literacy services.

(2) Family literacy services.

(3) English literacy programs.

(c) **DIRECT AND EQUITABLE ACCESS; SAME PROCESS.**—Each eligible agency receiving funds under this subtitle shall ensure that—

(1) all eligible providers have direct and equitable access to apply for grants or contracts under this section; and

(2) the same grant or contract announcement process and application process is used for all eligible providers in the State or outlying area.

(d) **SPECIAL RULE.**—Each eligible agency awarding a grant or contract under this section shall not use any funds made available under this subtitle for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who are not individuals described in subparagraphs (A) and (B) of section 203(1), except that such agency may use such funds for such purpose if such programs, services, or

activities are related to family literacy services. In providing family literacy services under this subtitle, an eligible provider shall attempt to coordinate with programs and services that are not assisted under this subtitle prior to using funds for adult education and literacy activities under this subtitle for activities other than adult education activities.

(e) CONSIDERATIONS.—In awarding grants or contracts under this section, the eligible agency shall consider—

(1) the degree to which the eligible provider will establish measurable goals for participant outcomes;

(2) the past effectiveness of an eligible provider in improving the literacy skills of adults and families, and, after the 1-year period beginning with the adoption of an eligible agency's performance measures under section 212, the success of an eligible provider receiving funding under this subtitle in meeting or exceeding such performance measures, especially with respect to those adults with the lowest levels of literacy;

(3) the commitment of the eligible provider to serve individuals in the community who are most in need of literacy services, including individuals who are low-income or have minimal literacy skills;

(4) whether or not the program—

(A) is of sufficient intensity and duration for participants to achieve substantial learning gains; and

(B) uses instructional practices, such as phonemic awareness, systematic phonics, fluency, and reading comprehension that research has proven to be effective in teaching individuals to read;

(5) whether the activities are built on a strong foundation of research and effective educational practice;

(6) whether the activities effectively employ advances in technology, as appropriate, including the use of computers;

(7) whether the activities provide learning in real life contexts to ensure that an individual has the skills needed to compete in the workplace and exercise the rights and responsibilities of citizenship;

(8) whether the activities are staffed by well-trained instructors, counselors, and administrators;

(9) whether the activities coordinate with other available resources in the community, such as by establishing strong links with elementary schools and secondary schools, post-secondary educational institutions, one-stop centers, job training programs, and social service agencies;

(10) whether the activities offer flexible schedules and support services (such as child care and transportation) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs;

(11) whether the activities maintain a high-quality information management system that has the capacity to report participant outcomes and to monitor program performance against the eligible agency performance measures; and

(12) whether the local communities have a demonstrated need for additional English literacy programs.

20 USC 9242.

**SEC. 232. LOCAL APPLICATION.**

Each eligible provider desiring a grant or contract under this subtitle shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—

(1) a description of how funds awarded under this subtitle will be spent; and

(2) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy activities.

20 USC 9243.

**SEC. 233. LOCAL ADMINISTRATIVE COST LIMITS.**

(a) IN GENERAL.—Subject to subsection (b), of the amount that is made available under this subtitle to an eligible provider—

(1) not less than 95 percent shall be expended for carrying out adult education and literacy activities; and

(2) the remaining amount, not to exceed 5 percent, shall be used for planning, administration, personnel development, and interagency coordination.

(b) SPECIAL RULE.—In cases where the cost limits described in subsection (a) are too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination, the eligible provider shall negotiate with the eligible agency in order to determine an adequate level of funds to be used for noninstructional purposes.

**CHAPTER 4—GENERAL PROVISIONS**

20 USC 9251.

**SEC. 241. ADMINISTRATIVE PROVISIONS.**

(a) SUPPLEMENT NOT SUPPLANT.—Funds made available for adult education and literacy activities under this subtitle shall supplement and not supplant other State or local public funds expended for adult education and literacy activities.

(b) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—

(A) DETERMINATION.—An eligible agency may receive funds under this subtitle for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the second preceding fiscal year, was not less than 90 percent of the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the third preceding fiscal year.

(B) PROPORTIONATE REDUCTION.—Subject to paragraphs (2), (3), and (4), for any fiscal year with respect to which the Secretary determines under subparagraph (A) that the fiscal effort or the aggregate expenditures of an eligible agency for the preceding program year were less than such effort or expenditures for the second preceding program year, the Secretary—

(i) shall determine the percentage decreases in such effort or in such expenditures; and

(ii) shall decrease the payment made under this subtitle for such program year to the agency for adult



education and literacy activities by the lesser of such percentages.

(2) COMPUTATION.—In computing the fiscal effort and aggregate expenditures under paragraph (1), the Secretary shall exclude capital expenditures and special one-time project costs.

(3) DECREASE IN FEDERAL SUPPORT.—If the amount made available for adult education and literacy activities under this subtitle for a fiscal year is less than the amount made available for adult education and literacy activities under this subtitle for the preceding fiscal year, then the fiscal effort per student and the aggregate expenditures of an eligible agency required in order to avoid a reduction under paragraph (1)(B) shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(4) WAIVER.—The Secretary may waive the requirements of this subsection for 1 fiscal year only, if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State or outlying area of the eligible agency. If the Secretary grants a waiver under the preceding sentence for a fiscal year, the level of effort required under paragraph (1) shall not be reduced in the subsequent fiscal year because of the waiver.

#### SEC. 242. NATIONAL INSTITUTE FOR LITERACY.

20 USC 9252.

(a) PURPOSE.—The purpose of this section is to establish a National Institute for Literacy that—

- (1) provides national leadership regarding literacy;
- (2) coordinates literacy services and policy; and
- (3) serves as a national resource for adult education and literacy programs by—

(A) providing the best and most current information available, including the work of the National Institute of Child Health and Human Development in the area of phonemic awareness, systematic phonics, fluency, and reading comprehension, to all recipients of Federal assistance that focuses on reading, including programs under titles I and VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq. and 7401 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and this Act; and

(B) supporting the creation of new ways to offer services of proven effectiveness.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the National Institute for Literacy (in this section referred to as the “Institute”). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the “Interagency Group”). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department

of Health and Human Services the purpose of which is determined by the Interagency Group to be related to the purpose of the Institute.

(2) OFFICES.—The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

(3) RECOMMENDATIONS.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the “Board”) established under subsection (e) in planning the goals of the Institute and in the implementation of any programs to achieve the goals. If the Board’s recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group takes that are inconsistent with the Board’s recommendations, including the reasons for not following the Board’s recommendations with respect to the actions. The Board may also request a meeting of the Interagency Group to discuss the Board’s recommendations.

(4) DAILY OPERATIONS.—The daily operations of the Institute shall be administered by the Director of the Institute.

(c) DUTIES.—

(1) IN GENERAL.—In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized—

(A) to establish a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

(i) effective practices in the provision of literacy and basic skills instruction, including instruction in phonemic awareness, systematic phonics, fluency, and reading comprehension, and the integration of literacy and basic skills instruction with occupational skills training;

(ii) public and private literacy and basic skills programs, and Federal, State, and local policies, affecting the provision of literacy services at the national, State, and local levels;

(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; and

(iv) a communication network for literacy programs, providers, social service agencies, and students;

(B) to coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels;

(C) to coordinate the support of reliable and replicable research and development on literacy and basic skills in families and adults across Federal agencies, especially with the Office of Educational Research and Improvement in the Department of Education, and to carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies, such as the special literacy needs of individuals with learning disabilities;

(D) to collect and disseminate information on methods of advancing literacy that show great promise, including phonemic awareness, systematic phonics, fluency, and reading comprehension based on the work of the National Institute of Child Health and Human Development;

(E) to provide policy and technical assistance to Federal, State, and local entities for the improvement of policy and programs relating to literacy;

(F) to fund a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

(i) encouraging the coordination of literacy services;

(ii) enhancing the capacity of State and local organizations to provide literacy services; and

(iii) serving as a link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources;

(G) to coordinate and share information with national organizations and associations that are interested in literacy and workforce investment activities;

(H) to advise Congress and Federal departments and agencies regarding the development of policy with respect to literacy and basic skills; and

(I) to undertake other activities that lead to the improvement of the Nation's literacy delivery system and that complement other such efforts being undertaken by public and private agencies and organizations.

(2) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—

The Institute may award grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute.

(d) LITERACY LEADERSHIP.—

(1) IN GENERAL.—The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

(2) FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(3) INTERNS AND VOLUNTEERS.—The Institute, in consultation with the Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its mission. Notwithstanding section 1342 of title 31, United States Code, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.

(e) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There shall be a National Institute for Literacy Advisory Board (in this section referred to

President.

as the “Board”), which shall consist of 10 individuals appointed by the President with the advice and consent of the Senate.

(B) COMPOSITION.—The Board shall be comprised of individuals who are not otherwise officers or employees of the Federal Government and who are representative of entities such as—

(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English literacy programs and services, social service organizations, and eligible providers receiving assistance under this subtitle;

(ii) businesses that have demonstrated interest in literacy programs;

(iii) literacy students, including literacy students with disabilities;

(iv) experts in the area of literacy research;

(v) State and local governments;

(vi) State Directors of adult education; and

(vii) representatives of employees, including representatives of labor organizations.

(2) DUTIES.—The Board shall—

(A) make recommendations concerning the appointment of the Director and staff of the Institute;

(B) provide independent advice on the operation of the Institute; and

(C) receive reports from the Interagency Group and the Director.

(3) FEDERAL ADVISORY COMMITTEE ACT.—Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(4) APPOINTMENTS.—

(A) IN GENERAL.—Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which one-third of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member’s term until a successor has taken office.

(5) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation of the Board may be passed only by a majority of the Board’s members present.

(6) ELECTION OF OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the members of the Board.

(f) GIFTS, BEQUESTS, AND DEVISES.—

(1) IN GENERAL.—The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

(2) RULES.—The Board shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible, would reflect unfavorably upon the ability of the Institute or any employee to carry out the responsibilities of the Institute or employee, or official duties, in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of the Institute's programs or any official involved in those programs.

(g) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(h) STAFF.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

(i) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

(j) EXPERTS AND CONSULTANTS.—The Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(k) REPORT.—The Institute shall submit a report biennially to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

(2) a description of how plans for the operation of the Institute for the succeeding 2 fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

(3) any additional minority, or dissenting views submitted by members of the Board.

(l) FUNDING.—Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

20 USC 9253.

**SEC. 243. NATIONAL LEADERSHIP ACTIVITIES.**

The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide. Such activities may include the following:

(1) Technical assistance, including—

(A) assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy activities, including family literacy services;

(B) assistance related to professional development activities, and assistance for the purposes of developing, improving, identifying, and disseminating the most successful methods and techniques for providing adult education and literacy activities, including family literacy services, based on scientific evidence where available; and

(C) assistance in distance learning and promoting and improving the use of technology in the classroom.

(2) Funding national leadership activities that are not described in paragraph (1), either directly or through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, public or private organizations or agencies, or consortia of such institutions, organizations, or agencies, such as—

(A) developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults, including instructional practices using phonemic awareness, systematic phonics, fluency, and reading comprehension, based on the work of the National Institute of Child Health and Human Development;

(B) increasing the effectiveness of, and improving the quality of, adult education and literacy activities, including family literacy services;

(C) carrying out research, such as estimating the number of adults functioning at the lowest levels of literacy proficiency;

(D)(i) carrying out demonstration programs;

(ii) developing and replicating model and innovative programs, such as the development of models for basic skill certificates, identification of effective strategies for working with adults with learning disabilities and with individuals with limited English proficiency who are adults, and workplace literacy programs; and

(iii) disseminating best practices information, including information regarding promising practices resulting from federally funded demonstration programs;

(E) providing for the conduct of an independent evaluation and assessment of adult education and literacy activities through studies and analyses conducted independently through grants and contracts awarded on a competitive basis, which evaluation and assessment shall include descriptions of—

(i) the effect of performance measures and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

(ii) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy activities;

(iii) the extent to which the provision of support services to adults enrolled in adult education and family literacy programs increase the rate of enrollment in, and successful completion of, such programs; and

(iv) the extent to which eligible agencies have distributed funds under section 231 to meet the needs of adults through community-based organizations;

(F) supporting efforts aimed at capacity building at the State and local levels, such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this subtitle;

(G) collecting data, such as data regarding the improvement of both local and State data systems, through technical assistance and development of model performance data collection systems; and

(H) other activities designed to enhance the quality of adult education and literacy activities nationwide.

## Subtitle B—Repeals

### SEC. 251. REPEALS.

(a) REPEALS.—

(1) ADULT EDUCATION ACT.—The Adult Education Act (20 U.S.C. 1201 et seq.) is repealed.

(2) NATIONAL LITERACY ACT OF 1991.—The National Literacy Act of 1991 (20 U.S.C. 1201 note) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) REFUGEE EDUCATION ASSISTANCE ACT.—Subsection (b) of section 402 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is repealed.

(2) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) SECTION 1202 OF ESEA.—Section 1202(c)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)(1)) is amended by striking “Adult Education Act” and inserting “Adult Education and Family Literacy Act”.

(B) SECTION 1205 OF ESEA.—Section 1205(8)(B) of such Act (20 U.S.C. 6365(8)(B)) is amended by striking “Adult Education Act” and inserting “Adult Education and Family Literacy Act”.

(C) SECTION 1206 OF ESEA.—Section 1206(a)(1)(A) of such Act (20 U.S.C. 6366(a)(1)(A)) is amended by striking “an adult basic education program under the Adult Education Act” and inserting “adult education and literacy activities under the Adult Education and Family Literacy Act”.

(D) SECTION 3113 OF ESEA.—Section 3113(1) of such Act (20 U.S.C. 6813(1)) is amended by striking “section 312 of the Adult Education Act” and inserting “section 203 of the Adult Education and Family Literacy Act”.

(E) SECTION 9161 OF ESEA.—Section 9161(2) of such Act (20 U.S.C. 7881(2)) is amended by striking “section 312(2) of the Adult Education Act” and inserting “section 203 of the Adult Education and Family Literacy Act”.

(3) OLDER AMERICANS ACT OF 1965.—Section 203(b)(8) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)(8)) is amended by striking “Adult Education Act” and inserting “Adult Education and Family Literacy Act”.

## **TITLE III—WORKFORCE INVESTMENT-RELATED ACTIVITIES**

### **Subtitle A—Wagner-Peyser Act**

#### **SEC. 301. DEFINITIONS.**

Section 2 of the Wagner-Peyser Act (29 U.S.C. 49a) is amended—

(1) in paragraph (1)—

(A) by striking “or officials”; and

(B) by striking “Job Training Partnership Act” and inserting “Workforce Investment Act of 1998”;

(2) by striking paragraphs (2) and (4);

(3) by redesignating paragraph (3) as paragraph (4);

(4) by inserting after paragraph (1) the following:

“(2) the term ‘local workforce investment board’ means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998;

“(3) the term ‘one-stop delivery system’ means a one-stop delivery system described in section 134(c) of the Workforce Investment Act of 1998;” and

(5) in paragraph (4) (as redesignated in paragraph (3)), by striking the semicolon and inserting “; and”.

#### **SEC. 302. FUNCTIONS.**

(a) IN GENERAL.—Section 3 of the Wagner-Peyser Act (29 U.S.C. 49b) is amended—

(1) in subsection (a), by striking “United States Employment Service” and inserting “Secretary”; and

(2) by adding at the end the following:

“(c) The Secretary shall—

“(1) assist in the coordination and development of a nationwide system of public labor exchange services, provided as part of the one-stop customer service systems of the States;

“(2) assist in the development of continuous improvement models for such nationwide system that ensure private sector satisfaction with the system and meet the demands of job-seekers relating to the system; and

“(3) ensure, for individuals otherwise eligible to receive unemployment compensation, the provision of reemployment services and other activities in which the individuals are required to participate to receive the compensation.”.



(b) CONFORMING AMENDMENTS.—Section 508(b)(1) of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a(b)(1)) is amended—

42 USC 655a.

- (1) by striking “the third sentence of section 3(a)” and inserting “section 3(b)”; and
- (2) by striking “49b(a)” and inserting “49b(b)”.

**SEC. 303. DESIGNATION OF STATE AGENCIES.**

Section 4 of the Wagner-Peyser Act (29 U.S.C. 49c) is amended—

- (1) by striking “, through its legislature,” and inserting “, pursuant to State statute,”;
- (2) by inserting after “the provisions of this Act and” the following: “, in accordance with such State statute, the Governor shall”; and
- (3) by striking “United States Employment Service” and inserting “Secretary”.

**SEC. 304. APPROPRIATIONS.**

Section 5(c) of the Wagner-Peyser Act (29 U.S.C. 49d(c)) is amended by striking paragraph (3).

**SEC. 305. DISPOSITION OF ALLOTTED FUNDS.**

Section 7 of the Wagner-Peyser Act (29 U.S.C. 49f) is amended—

- (1) in subsection (b)(2), by striking “private industry council” and inserting “local workforce investment board”;
- (2) in subsection (c)(2), by striking “any program under” and all that follows and inserting “any workforce investment activity carried out under the Workforce Investment Act of 1998.”;
- (3) in subsection (d)—
  - (A) by striking “United States Employment Service” and inserting “Secretary”; and
  - (B) by striking “Job Training Partnership Act” and inserting “Workforce Investment Act of 1998”; and
- (4) by adding at the end the following:

“(e) All job search, placement, recruitment, labor employment statistics, and other labor exchange services authorized under subsection (a) shall be provided, consistent with the other requirements of this Act, as part of the one-stop delivery system established by the State.”.

**SEC. 306. STATE PLANS.**

Section 8 of the Wagner-Peyser Act (29 U.S.C. 49g) is amended—

- (1) in subsection (a) to read as follows:

“(a) Any State desiring to receive assistance under this Act shall submit to the Secretary, as part of the State plan submitted under section 112 of the Workforce Investment Act of 1998, detailed plans for carrying out the provisions of this Act within such State.”;

- (2) by striking subsections (b) and (c);

- (3) by redesignating subsection (d) as subsection (b);

- (4) by inserting after subsection (b) (as redesignated by paragraph (3)) the following:

“(c) The part of the State plan described in subsection (a) shall include the information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.”;

(5) by redesignating subsection (e) as subsection (d); and  
 (6) in subsection (d) (as redesignated in paragraph (5)),  
 by striking “such plans” and inserting “such detailed plans”.

**SEC. 307. REPEAL OF FEDERAL ADVISORY COUNCIL.**

Section 11 of the Wagner-Peyser Act (29 U.S.C. 49j) is amended—

- (1) by striking “11.” and all that follows through “(b) In” and inserting “11. In”; and
- (2) by striking “Director” and inserting “Secretary”.

**SEC. 308. REGULATIONS.**

Section 12 of the Wagner-Peyser Act (29 U.S.C. 49k) is amended by striking “The Director, with the approval of the Secretary of Labor,” and inserting “The Secretary”.

**SEC. 309. EMPLOYMENT STATISTICS.**

The Wagner-Peyser Act is amended—

- (1) by redesignating section 15 (29 U.S.C. 49 note) as section 16; and
- (2) by inserting after section 14 (29 U.S.C. 49l-1) the following:

29 USC 49l-2.

**“SEC. 15. EMPLOYMENT STATISTICS.**

“(a) SYSTEM CONTENT.—

“(1) IN GENERAL.—The Secretary, in accordance with the provisions of this section, shall oversee the development, maintenance, and continuous improvement of a nationwide employment statistics system of employment statistics that includes—

“(A) statistical data from cooperative statistical survey and projection programs and data from administrative reporting systems that, taken together, enumerate, estimate, and project employment opportunities and conditions at national, State, and local levels in a timely manner, including statistics on—

“(i) employment and unemployment status of national, State, and local populations, including self-employed, part-time, and seasonal workers;

“(ii) industrial distribution of occupations, as well as current and projected employment opportunities, wages, benefits (where data is available), and skill trends by occupation and industry, with particular attention paid to State and local conditions;

“(iii) the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings; and

“(iv) employment and earnings information maintained in a longitudinal manner to be used for research and program evaluation;

“(B) information on State and local employment opportunities, and other appropriate statistical data related to labor market dynamics, which—

“(i) shall be current and comprehensive;

“(ii) shall meet the needs identified through the consultations described in subparagraphs (A) and (B) of subsection (e)(2); and

“(iii) shall meet the needs for the information identified in section 134(d);

“(C) technical standards (which the Secretary shall publish annually) for data and information described in subparagraphs (A) and (B) that, at a minimum, meet the criteria of chapter 35 of title 44, United States Code;

“(D) procedures to ensure compatibility and additivity of the data and information described in subparagraphs (A) and (B) from national, State, and local levels;

“(E) procedures to support standardization and aggregation of data from administrative reporting systems described in subparagraph (A) of employment-related programs;

“(F) analysis of data and information described in subparagraphs (A) and (B) for uses such as—

“(i) national, State, and local policymaking;

“(ii) implementation of Federal policies (including allocation formulas);

“(iii) program planning and evaluation; and

“(iv) researching labor market dynamics;

“(G) wide dissemination of such data, information, and analysis in a user-friendly manner and voluntary technical standards for dissemination mechanisms; and

“(H) programs of—

“(i) training for effective data dissemination;

“(ii) research and demonstration; and

“(iii) programs and technical assistance.

“(2) INFORMATION TO BE CONFIDENTIAL.—

“(A) IN GENERAL.—No officer or employee of the Federal Government or agent of the Federal Government may—

“(i) use any submission that is furnished for exclusively statistical purposes under the provisions of this section for any purpose other than the statistical purposes of this section for which the submission is furnished;

“(ii) make any publication or media transmittal of the data contained in the submission described in clause (i) that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means; or

“(iii) permit anyone other than a sworn officer, employee, or agent of any Federal department or agency, or a contractor (including an employee of a contractor) of such department or agency, to examine an individual submission described in clause (i);

without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission.

“(B) IMMUNITY FROM LEGAL PROCESS.—Any submission (including any data derived from the submission) that is collected and retained by a Federal department or agency, or an officer, employee, agent, or contractor of such a department or agency, for exclusively statistical purposes under this section shall be immune from the legal process and shall not, without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission, be admitted as evidence or used

for any purpose in any action, suit, or other judicial or administrative proceeding.

“(C) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide immunity from the legal process for such submission (including any data derived from the submission) if the submission is in the possession of any person, agency, or entity other than the Federal Government or an officer, employee, agent, or contractor of the Federal Government, or if the submission is independently collected, retained, or produced for purposes other than the purposes of this Act.

“(b) SYSTEM RESPONSIBILITIES.—

“(1) IN GENERAL.—The employment statistics system described in subsection (a) shall be planned, administered, overseen, and evaluated through a cooperative governance structure involving the Federal Government and States.

“(2) DUTIES.—The Secretary, with respect to data collection, analysis, and dissemination of labor employment statistics for the system, shall carry out the following duties:

“(A) Assign responsibilities within the Department of Labor for elements of the employment statistics system described in subsection (a) to ensure that all statistical and administrative data collected is consistent with appropriate Bureau of Labor Statistics standards and definitions.

“(B) Actively seek the cooperation of other Federal agencies to establish and maintain mechanisms for ensuring complementarity and nonduplication in the development and operation of statistical and administrative data collection activities.

“(C) Eliminate gaps and duplication in statistical undertakings, with the systemization of wage surveys as an early priority.

“(D) In collaboration with the Bureau of Labor Statistics and States, develop and maintain the elements of the employment statistics system described in subsection (a), including the development of consistent procedures and definitions for use by the States in collecting the data and information described in subparagraphs (A) and (B) of subsection (a)(1).

“(E) Establish procedures for the system to ensure that—

“(i) such data and information are timely;

“(ii) paperwork and reporting for the system are reduced to a minimum; and

“(iii) States and localities are fully involved in the development and continuous improvement of the system at all levels, including ensuring the provision, to such States and localities, of budget information necessary for carrying out their responsibilities under subsection (e).

“(c) ANNUAL PLAN.—The Secretary, working through the Bureau of Labor Statistics, and in cooperation with the States, and with the assistance of other appropriate Federal agencies, shall prepare an annual plan which shall be the mechanism for achieving cooperative management of the nationwide employment statistics system described in subsection (a) and the statewide

Procedures.

employment statistics systems that comprise the nationwide system. The plan shall—

“(1) describe the steps the Secretary has taken in the preceding year and will take in the following 5 years to carry out the duties described in subsection (b)(2);

“(2) include a report on the results of an annual consumer satisfaction review concerning the performance of the system, including the performance of the system in addressing the needs of Congress, States, localities, employers, jobseekers, and other consumers; Reports.

“(3) evaluate the performance of the system and recommend needed improvements, taking into consideration the results of the consumer satisfaction review, with particular attention to the improvements needed at the State and local levels;

“(4) justify the budget request for annual appropriations by describing priorities for the fiscal year succeeding the fiscal year in which the plan is developed and priorities for the 5 subsequent fiscal years for the system;

“(5) describe current (as of the date of the submission of the plan) spending and spending needs to carry out activities under this section, including the costs to States and localities of meeting the requirements of subsection (e)(2); and

“(6) describe the involvement of States in the development of the plan, through formal consultations conducted by the Secretary in cooperation with representatives of the Governors of every State, and with representatives of local workforce investment boards, pursuant to a process established by the Secretary in cooperation with the States.

“(d) COORDINATION WITH THE STATES.—The Secretary, working through the Bureau of Labor Statistics, and in cooperation with the States, shall—

“(1) develop the annual plan described in subsection (c) and address other employment statistics issues by holding formal consultations, at least once each quarter (beginning with the calendar quarter in which the Workforce Investment Act of 1998 is enacted) on the products and administration of the nationwide employment statistics system; and

“(2) hold the consultations with representatives from each of the 10 Federal regions of the Department of Labor, elected (pursuant to a process established by the Secretary) by and from the State employment statistics directors affiliated with the State agencies that perform the duties described in subsection (e)(2).

“(e) STATE RESPONSIBILITIES.—

“(1) DESIGNATION OF STATE AGENCY.—In order to receive Federal financial assistance under this section, the Governor of a State shall—

“(A) designate a single State agency to be responsible for the management of the portions of the employment statistics system described in subsection (a) that comprise a statewide employment statistics system and for the State’s participation in the development of the annual plan; and

“(B) establish a process for the oversight of such system.

“(2) DUTIES.—In order to receive Federal financial assistance under this section, the State agency shall—

“(A) consult with State and local employers, participants, and local workforce investment boards about the labor market relevance of the data to be collected and disseminated through the statewide employment statistics system;

“(B) consult with State educational agencies and local educational agencies concerning the provision of employment statistics in order to meet the needs of secondary school and postsecondary school students who seek such information;

“(C) collect and disseminate for the system, on behalf of the State and localities in the State, the information and data described in subparagraphs (A) and (B) of subsection (a)(1);

“(D) maintain and continuously improve the statewide employment statistics system in accordance with this section;

“(E) perform contract and grant responsibilities for data collection, analysis, and dissemination for such system;

“(F) conduct such other data collection, analysis, and dissemination activities as will ensure an effective statewide employment statistics system;

“(G) actively seek the participation of other State and local agencies in data collection, analysis, and dissemination activities in order to ensure complementary, compatibility, and usefulness of data;

“(H) participate in the development of the annual plan described in subsection (c); and

“(I) utilize the quarterly records described in section 136(f)(2) of the Workforce Investment Act of 1998 to assist the State and other States in measuring State progress on State performance measures.

“(3) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed as limiting the ability of a State agency to conduct additional data collection, analysis, and dissemination activities with State funds or with Federal funds from sources other than this section.

“(f) **NONDUPLICATION REQUIREMENT.**—None of the functions and activities carried out pursuant to this section shall duplicate the functions and activities carried out under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2004.

“(h) **DEFINITION.**—In this section, the term ‘local area’ means the smallest geographical area for which data can be produced with statistical reliability.”.

#### **SEC. 310. TECHNICAL AMENDMENTS.**

Sections 3(b), 6(b)(1), and 7(d) of the Wagner-Peyser Act (29 U.S.C. 49b(b), 49e(b)(1), and 49f(d)) are amended by striking “Secretary of Labor” and inserting “Secretary”.

29 USC 49a note.

#### **SEC. 311. EFFECTIVE DATE.**

The amendments made by this subtitle shall take effect on July 1, 1999.

## Subtitle B—Linkages With Other Programs

### SEC. 321. TRADE ACT OF 1974.

Section 239 of the Trade Act of 1974 (19 U.S.C. 2311) is amended by adding at the end the following:

“(g) In order to promote the coordination of workforce investment activities in each State with activities carried out under this chapter, any agreement entered into under this section shall provide that the State shall submit to the Secretary, in such form as the Secretary may require, the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.”.

### SEC. 322. VETERANS’ EMPLOYMENT PROGRAMS.

Chapter 41 of title 38, United States Code, is amended by adding at the end the following:

#### “§ 4110B. Coordination and nonduplication

“In carrying out this chapter, the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act that includes the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.”.

### SEC. 323. OLDER AMERICANS ACT OF 1965.

Section 502(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)) is amended—

(1) in subparagraph (O), by striking “; and” and inserting a semicolon;

(2) in subparagraph (P), by striking the period and inserting “; and”; and

(3) by adding at the end the following subparagraph:

“(Q) will provide to the Secretary the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.”.

## Subtitle C—Twenty-First Century Workforce Commission

Twenty-First  
Century  
Workforce  
Commission Act.  
29 USC 2701  
note.

### SEC. 331. SHORT TITLE.

This subtitle may be cited as the “Twenty-First Century Workforce Commission Act”.

### SEC. 332. FINDINGS.

Congress finds that—

(1) information technology is one of the fastest growing areas in the United States economy;

(2) the United States is a world leader in the information technology industry;

(3) the continued growth and prosperity of the information technology industry is important to the continued prosperity of the United States economy;

(4) highly skilled employees are essential for the success of business entities in the information technology industry and other business entities that use information technology;

(5) employees in information technology jobs are highly paid;

(6) as of the date of enactment of this Act, these employees are in high demand in all industries and all regions of the United States; and

(7) through a concerted effort by business entities, the Federal Government, the governments of States and political subdivisions of States, and educational institutions, more individuals will gain the skills necessary to enter into a technology-based job market, ensuring that the United States remains the world leader in the information technology industry.

#### **SEC. 333. DEFINITIONS.**

In this subtitle:

(1) **BUSINESS ENTITY.**—The term “business entity” means a firm, corporation, association, partnership, consortium, joint venture, or other form of enterprise.

(2) **COMMISSION.**—The term “Commission” means the Twenty-First Century Workforce Commission established under section 334.

(3) **INFORMATION TECHNOLOGY.**—The term “information technology” has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 (110 Stat. 679).

(4) **STATE.**—The term “State” means each of the several States of the United States and the District of Columbia.

#### **SEC. 334. ESTABLISHMENT OF TWENTY-FIRST CENTURY WORKFORCE COMMISSION.**

(a) **ESTABLISHMENT.**—There is established a commission to be known as the Twenty-First Century Workforce Commission.

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—

(A) **IN GENERAL.**—The Commission shall be composed of 15 voting members, of which—

(i) five members shall be appointed by the President;

(ii) five members shall be appointed by the Majority Leader of the Senate; and

(iii) five members shall be appointed by the Speaker of the House of Representatives.

(B) **GOVERNMENTAL REPRESENTATIVES.**—Of the members appointed under this subsection, three members shall be representatives of the governments of States and political subdivisions of States, one of whom shall be appointed by the President, one of whom shall be appointed by the Majority Leader of the Senate, and one of whom shall be appointed by the Speaker of the House of Representatives.

(C) **EDUCATORS.**—Of the members appointed under this subsection, three shall be educators who are selected from among elementary, secondary, vocational, and postsecondary educators—

President.  
Congress.



(i) one of whom shall be appointed by the President;

(ii) one of whom shall be appointed by the Majority Leader of the Senate; and

(iii) one of whom shall be appointed by the Speaker of the House of Representatives.

(D) BUSINESS REPRESENTATIVES.—

(i) IN GENERAL.—Of the members appointed under this subsection, eight shall be representatives of business entities (at least three of which shall be individuals who are employed by noninformation technology business entities), two of whom shall be appointed by the President, three of whom shall be appointed by the Majority Leader of the Senate, and three of whom shall be appointed by the Speaker of the House of Representatives.

(ii) SIZE.—Members appointed under this subsection in accordance with clause (i) shall, to the extent practicable, include individuals from business entities of a size that is small or average.

(E) LABOR REPRESENTATIVE.—Of the members appointed under this subsection, one shall be a representative of a labor organization who has been nominated by a national labor federation and who shall be appointed by the President.

(F) EX OFFICIO MEMBERS.—The Commission shall include two nonvoting members, of which—

(i) one member shall be an officer or employee of the Department of Labor, who shall be appointed by the President; and

(ii) one member shall be an officer or employee of the Department of Education, who shall be appointed by the President.

(2) DATE.—The appointments of the members of the Commission shall be made by the later of—

(A) October 31, 1998; or

(B) the date that is 45 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select by vote a chairperson and vice chairperson from among its voting members.

#### SEC. 335. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) **IN GENERAL.**—The Commission shall conduct a thorough study of all matters relating to the information technology workforce in the United States.

(2) **MATTERS STUDIED.**—The matters studied by the Commission shall include an examination of—

(A) the skills necessary to enter the information technology workforce;

(B) ways to expand the number of skilled information technology workers; and

(C) the relative efficacy of programs in the United States and foreign countries to train information technology workers, with special emphasis on programs that provide for secondary education or postsecondary education in a program other than a 4-year baccalaureate program (including associate degree programs and graduate degree programs).

(3) **PUBLIC HEARINGS.**—As part of the study conducted under this subsection, the Commission shall hold public hearings in each region of the United States concerning the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(4) **EXISTING INFORMATION.**—To the extent practicable, in carrying out the study under this subsection, the Commission shall identify and use existing information related to the issues referred to in subparagraphs (A) and (B) of paragraph (2).

(5) **CONSULTATION WITH CHIEF INFORMATION OFFICERS COUNCIL.**—In carrying out the study under this subsection, the Commission shall consult with the Chief Information Officers Council established under Executive Order No. 13011.

Deadline.

(b) **REPORT.**—Not later than 6 months after the first meeting of the Commission, the Commission shall submit a report to the President and the Congress that shall contain a detailed statement of the findings and conclusions of the Commission resulting from the study, together with its recommendations for such legislation and administrative actions as the Commission considers to be appropriate.

(c) **FACILITATION OF EXCHANGE OF INFORMATION.**—In carrying out the study under subsection (a), the Commission shall, to the extent practicable, facilitate the exchange of information concerning the issues that are the subject of the study among—

(1) officials of the Federal Government and the governments of States and political subdivisions of States; and

(2) educators from Federal, State, and local institutions of higher education and secondary schools.

#### **SEC. 336. POWERS OF THE COMMISSION.**

(a) **HEARINGS.**—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) **GIFTS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

**SEC. 337. COMMISSION PERSONNEL MATTERS.**

(a) **COMPENSATION OF MEMBERS.**—Except as provided in subsection (b), each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **STAFF.**—

(1) **IN GENERAL.**—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) **COMPENSATION.**—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

**SEC. 338. TERMINATION OF THE COMMISSION.**

The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under section 335(b).

**SEC. 339. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 to the Commission to carry out the purposes of this subtitle.

(b) **AVAILABILITY.**—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

## Subtitle D—Application of Civil Rights and Labor-Management Laws to the Smithsonian Institution

### SEC. 341. APPLICATION OF CIVIL RIGHTS AND LABOR-MANAGEMENT LAWS TO THE SMITHSONIAN INSTITUTION.

(a) PROHIBITION ON EMPLOYMENT DISCRIMINATION ON BASIS OF RACE, COLOR, RELIGION, SEX, AND NATIONAL ORIGIN.—Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(a)) is amended by inserting “in the Smithsonian Institution,” before “and in the Government Printing Office,”.

(b) PROHIBITION ON EMPLOYMENT DISCRIMINATION ON BASIS OF AGE.—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by inserting “in the Smithsonian Institution,” before “and in the Government Printing Office,”.

(c) PROHIBITION ON EMPLOYMENT DISCRIMINATION ON BASIS OF DISABILITY.—Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) is amended—

(1) in the fourth sentence of subsection (a), in paragraph (1), by inserting “and the Smithsonian Institution” after “Government”;

(2) in the first sentence of subsection (b)—

(A) by inserting “and the Smithsonian Institution” after “in the executive branch”; and

(B) by striking “such department, agency, or instrumentality” and inserting “such department, agency, instrumentality, or Institution”; and

(3) in subsection (d), by inserting “and the Smithsonian Institution” after “instrumentality”.

(d) APPLICATION.—The amendments made by subsections (a), (b), and (c) shall take effect on the date of enactment of this Act and shall apply to and may be raised in any administrative or judicial claim or action brought before such date of enactment but pending on such date, and any administrative or judicial claim or action brought after such date regardless of whether the claim or action arose prior to such date, if the claim or action was brought within the applicable statute of limitations.

(e) LABOR-MANAGEMENT LAWS.—Section 7103(a)(3) of title 5, United States Code, is amended—

(1) by striking “and” after “Library of Congress,”; and

(2) by inserting “and the Smithsonian Institution” after “Government Printing Office,”.

Effective date.  
29 USC 633a  
note.

Rehabilitation  
Act Amendments  
of 1998.

## TITLE IV—REHABILITATION ACT AMENDMENTS OF 1998

29 USC 701 note. **SEC. 401. SHORT TITLE.**

This title may be cited as the “Rehabilitation Act Amendments of 1998”.

**SEC. 402. TITLE.**

29 USC 701 note  
prec.

The title of the Rehabilitation Act of 1973 is amended by striking “to establish special responsibilities” and all that follows

and inserting the following: “to create linkage between State vocational rehabilitation programs and workforce investment activities carried out under title I of the Workforce Investment Act of 1998, to establish special responsibilities for the Secretary of Education for coordination of all activities with respect to individuals with disabilities within and across programs administered by the Federal Government, and for other purposes.”.

#### SEC. 403. GENERAL PROVISIONS.

The Rehabilitation Act of 1973 is amended by striking the matter preceding title I and inserting the following:

29 USC 701 and  
note, 702–707,  
709–718, 718a,  
718b.

##### “SHORT TITLE; TABLE OF CONTENTS

“SEC. 1. (a) SHORT TITLE.—This Act may be cited as the ‘Rehabilitation Act of 1973’.

29 USC 701 note.

“(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- “Sec. 1. Short title; table of contents.
- “Sec. 2. Findings; purpose; policy.
- “Sec. 3. Rehabilitation Services Administration.
- “Sec. 4. Advance funding.
- “Sec. 5. Joint funding.
- “Sec. 6. Definitions.
- “Sec. 7. Allotment percentage.
- “Sec. 8. Nonduplication.
- “Sec. 9. Application of other laws.
- “Sec. 10. Administration of the Act.
- “Sec. 11. Reports.
- “Sec. 12. Evaluation.
- “Sec. 13. Information clearinghouse.
- “Sec. 14. Transfer of funds.
- “Sec. 15. State administration.
- “Sec. 16. Review of applications.
- “Sec. 17. Carryover.
- “Sec. 18. Client assistance information.
- “Sec. 19. Traditionally underserved populations.

##### “TITLE I—VOCATIONAL REHABILITATION SERVICES

###### “PART A—GENERAL PROVISIONS

- “Sec. 100. Declaration of policy; authorization of appropriations.
- “Sec. 101. State plans.
- “Sec. 102. Eligibility and individualized plan for employment.
- “Sec. 103. Vocational rehabilitation services.
- “Sec. 104. Non-Federal share for establishment of program.
- “Sec. 105. State Rehabilitation Council.
- “Sec. 106. Evaluation standards and performance indicators.
- “Sec. 107. Monitoring and review.
- “Sec. 108. Expenditure of certain amounts.
- “Sec. 109. Training of employers with respect to Americans with Disabilities Act of 1990.

###### “PART B—BASIC VOCATIONAL REHABILITATION SERVICES

- “Sec. 110. State allotments.
- “Sec. 111. Payments to States.
- “Sec. 112. Client assistance program.

###### “PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES

- “Sec. 121. Vocational rehabilitation services grants.

###### “PART D—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

- “Sec. 131. Data sharing.

##### “TITLE II—RESEARCH AND TRAINING

- “Sec. 200. Declaration of purpose.

- “Sec. 201. Authorization of appropriations.
- “Sec. 202. National Institute on Disability and Rehabilitation Research.
- “Sec. 203. Interagency Committee.
- “Sec. 204. Research and other covered activities.
- “Sec. 205. Rehabilitation Research Advisory Council.

“TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND  
DEMONSTRATIONS

- “Sec. 301. Declaration of purpose and competitive basis of grants and contracts.
- “Sec. 302. Training.
- “Sec. 303. Demonstration and training programs.
- “Sec. 304. Migrant and seasonal farmworkers.
- “Sec. 305. Recreational programs.
- “Sec. 306. Measuring of project outcomes and performance.

“TITLE IV—NATIONAL COUNCIL ON DISABILITY

- “Sec. 400. Establishment of National Council on Disability.
- “Sec. 401. Duties of National Council.
- “Sec. 402. Compensation of National Council members.
- “Sec. 403. Staff of National Council.
- “Sec. 404. Administrative powers of National Council.
- “Sec. 405. Authorization of Appropriations.

“TITLE V—RIGHTS AND ADVOCACY

- “Sec. 501. Employment of individuals with disabilities.
- “Sec. 502. Architectural and Transportation Barriers Compliance Board.
- “Sec. 503. Employment under Federal contracts.
- “Sec. 504. Nondiscrimination under Federal grants and programs.
- “Sec. 505. Remedies and attorneys’ fees.
- “Sec. 506. Secretarial responsibilities.
- “Sec. 507. Interagency Disability Coordinating Council.
- “Sec. 508. Electronic and information technology regulations.
- “Sec. 509. Protection and advocacy of individual rights.

“TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH  
DISABILITIES

- “Sec. 601. Short title.

“PART A—PROJECTS WITH INDUSTRY

- “Sec. 611. Projects with industry.
- “Sec. 612. Authorization of appropriations.

“PART B—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH THE MOST  
SIGNIFICANT DISABILITIES

- “Sec. 621. Purpose.
- “Sec. 622. Allotments.
- “Sec. 623. Availability of services.
- “Sec. 624. Eligibility.
- “Sec. 625. State plan.
- “Sec. 626. Restriction.
- “Sec. 627. Savings provision.
- “Sec. 628. Authorization of appropriations.

“TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR  
INDEPENDENT LIVING

“CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT DISABILITIES

“PART A—GENERAL PROVISIONS

- “Sec. 701. Purpose.
- “Sec. 702. Definitions.
- “Sec. 703. Eligibility for receipt of services.
- “Sec. 704. State plan.
- “Sec. 705. Statewide Independent Living Council.
- “Sec. 706. Responsibilities of the Commissioner.

“PART B—INDEPENDENT LIVING SERVICES

- “Sec. 711. Allotments.
- “Sec. 712. Payments to States from allotments.

“Sec. 713. Authorized uses of funds.

“Sec. 714. Authorization of appropriations.

“PART C—CENTERS FOR INDEPENDENT LIVING

“Sec. 721. Program authorization.

“Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.

“Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.

“Sec. 724. Centers operated by State agencies.

“Sec. 725. Standards and assurances for centers for independent living.

“Sec. 726. Definitions.

“Sec. 727. Authorization of appropriations.

“CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE  
BLIND

“Sec. 751. Definition.

“Sec. 752. Program of grants.

“Sec. 753. Authorization of appropriations.

“FINDINGS; PURPOSE; POLICY

“SEC. 2. (a) FINDINGS.—Congress finds that—

29 USC 701.

“(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

“(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

“(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

“(A) live independently;

“(B) enjoy self-determination;

“(C) make choices;

“(D) contribute to society;

“(E) pursue meaningful careers; and

“(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

“(4) increased employment of individuals with disabilities can be achieved through implementation of statewide workforce investment systems under title I of the Workforce Investment Act of 1998 that provide meaningful and effective participation for individuals with disabilities in workforce investment activities and activities carried out under the vocational rehabilitation program established under title I, and through the provision of independent living services, support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

“(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

“(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

“(A) make informed choices and decisions; and

“(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

“(b) PURPOSE.—The purposes of this Act are—

“(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

“(A) statewide workforce investment systems implemented in accordance with title I of the Workforce Investment Act of 1998 that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

“(B) independent living centers and services;

“(C) research;

“(D) training;

“(E) demonstration projects; and

“(F) the guarantee of equal opportunity; and

“(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

“(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

“(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

“(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

“(3) inclusion, integration, and full participation of the individuals;

“(4) support for the involvement of an individual’s representative if an individual with a disability requests, desires, or needs such support; and

“(5) support for individual and systemic advocacy and community involvement.

#### “REHABILITATION SERVICES ADMINISTRATION

Establishment.  
President.  
29 USC 702.

“SEC. 3. (a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the ‘Commissioner’) appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. The Commissioner shall be an individual with substantial experience in rehabilitation and in rehabilitation program management. In the performance of the functions of the office, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner. Any reference in this Act to duties to be carried out by the Commissioner shall be considered to be a reference to duties to be carried out by the Secretary acting through the Commissioner. In carrying out any of the functions of the office



under this Act, the Commissioner shall be guided by general policies of the National Council on Disability established under title IV of this Act.

“(b) The Secretary shall take whatever action is necessary to ensure that funds appropriated pursuant to this Act are expended only for the programs, personnel, and administration of programs carried out under this Act.

#### “ADVANCE FUNDING

“SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. 29 USC 703.

“(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

#### “JOINT FUNDING

“SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act. Regulations.  
29 USC 704.

#### “DEFINITIONS

“SEC. 6. For the purposes of this Act:

“(1) The term ‘administrative costs’ means expenditures incurred in the performance of administrative functions under the vocational rehabilitation program carried out under title I, including expenses related to program planning, development, monitoring, and evaluation, including expenses for—

“(A) quality assurance;

“(B) budgeting, accounting, financial management, information systems, and related data processing;

“(C) providing information about the program to the public;

“(D) technical assistance and support services to other State agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in section 103(b)(5);

29 USC 705.

“(E) the State Rehabilitation Council and other advisory committees;

“(F) professional organization membership dues for designated State unit employees;

“(G) the removal of architectural barriers in State vocational rehabilitation agency offices and State operated rehabilitation facilities;

“(H) operating and maintaining designated State unit facilities, equipment, and grounds;

“(I) supplies;

“(J) administration of the comprehensive system of personnel development described in section 101(a)(7), including personnel administration, administration of affirmative action plans, and training and staff development;

“(K) administrative salaries, including clerical and other support staff salaries, in support of these administrative functions;

“(L) travel costs related to carrying out the program, other than travel costs related to the provision of services;

“(M) costs incurred in conducting reviews of rehabilitation counselor or coordinator determinations under section 102(c); and

“(N) legal expenses required in the administration of the program.

“(2) ASSESSMENT FOR DETERMINING ELIGIBILITY AND VOCATIONAL REHABILITATION NEEDS.—The term ‘assessment for determining eligibility and vocational rehabilitation needs’ means, as appropriate in each case—

“(A)(i) a review of existing data—

“(I) to determine whether an individual is eligible for vocational rehabilitation services; and

“(II) to assign priority for an order of selection described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

“(ii) to the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make such determination and assignment;

“(B) to the extent additional data is necessary to make a determination of the employment outcomes, and the objectives, nature, and scope of vocational rehabilitation services, to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual, which comprehensive assessment—

“(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized plan for employment of the eligible individual;

“(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

“(I) existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection described in section 101(a)(5)(A) for the individual; and

“(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

“(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

“(iv) may include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;

“(C) referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and

“(D) an exploration of the individual’s abilities, capabilities, and capacity to perform in work situations, which shall be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.

“(3) ASSISTIVE TECHNOLOGY DEVICE.—The term ‘assistive technology device’ has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section to the term ‘individuals with disabilities’ shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

“(4) ASSISTIVE TECHNOLOGY SERVICE.—The term ‘assistive technology service’ has the meaning given such term in section 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(3)), except that the reference in such section—

“(A) to the term ‘individual with a disability’ shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

“(B) to the term ‘individuals with disabilities’ shall be deemed to mean more than one such individual.

“(5) COMMUNITY REHABILITATION PROGRAM.—The term ‘community rehabilitation program’ means a program that provides directly or facilitates the provision of vocational

rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

“(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

“(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

“(C) recreational therapy;

“(D) physical and occupational therapy;

“(E) speech, language, and hearing therapy;

“(F) psychiatric, psychological, and social services, including positive behavior management;

“(G) assessment for determining eligibility and vocational rehabilitation needs;

“(H) rehabilitation technology;

“(I) job development, placement, and retention services;

“(J) evaluation or control of specific disabilities;

“(K) orientation and mobility services for individuals who are blind;

“(L) extended employment;

“(M) psychosocial rehabilitation services;

“(N) supported employment services and extended services;

“(O) services to family members when necessary to the vocational rehabilitation of the individual;

“(P) personal assistance services; or

“(Q) services similar to the services described in one of subparagraphs (A) through (P).

“(6) CONSTRUCTION; COST OF CONSTRUCTION.—

“(A) CONSTRUCTION.—The term ‘construction’ means—

“(i) the construction of new buildings;

“(ii) the acquisition, expansion, remodeling, alteration, and renovation of existing buildings; and

“(iii) initial equipment of buildings described in clauses (i) and (ii).

“(B) COST OF CONSTRUCTION.—The term ‘cost of construction’ includes architects’ fees and the cost of acquisition of land in connection with construction but does not include the cost of offsite improvements.

“(7) CRIMINAL ACT.—The term ‘criminal act’ means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government, which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, or intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

“(8) DESIGNATED STATE AGENCY; DESIGNATED STATE UNIT.—

“(A) DESIGNATED STATE AGENCY.—The term ‘designated State agency’ means an agency designated under section 101(a)(2)(A).

“(B) DESIGNATED STATE UNIT.—The term ‘designated State unit’ means—

“(i) any State agency unit required under section 101(a)(2)(B)(ii); or

“(ii) in cases in which no such unit is so required, the State agency described in section 101(a)(2)(B)(i).

“(9) **DISABILITY.**—The term ‘disability’ means—

“(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

“(B) for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII, a physical or mental impairment that substantially limits one or more major life activities.

“(10) **DRUG AND ILLEGAL USE OF DRUGS.**—

“(A) **DRUG.**—The term ‘drug’ means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

“(B) **ILLEGAL USE OF DRUGS.**—The term ‘illegal use of drugs’ means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

“(11) **EMPLOYMENT OUTCOME.**—The term ‘employment outcome’ means, with respect to an individual—

“(A) entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

“(B) satisfying the vocational outcome of supported employment; or

“(C) satisfying any other vocational outcome the Secretary may determine to be appropriate (including satisfying the vocational outcome of self-employment, telecommuting, or business ownership),

in a manner consistent with this Act.

“(12) **ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.**—The term ‘establishment of a community rehabilitation program’ includes the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations the Secretary shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of facilities for community rehabilitation programs), and may include such additional equipment and staffing as the Commissioner considers appropriate.

Regulations.

“(13) **EXTENDED SERVICES.**—The term ‘extended services’ means ongoing support services and other appropriate services, needed to support and maintain an individual with a most significant disability in supported employment, that—

“(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining supported employment;

“(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and

“(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

“(14) FEDERAL SHARE.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘Federal share’ means 78.7 percent.

“(B) EXCEPTION.—The term ‘Federal share’ means the share specifically set forth in section 111(a)(3), except that with respect to payments pursuant to part B of title I to any State that are used to meet the costs of construction of those rehabilitation facilities identified in section 103(b)(2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 111(a)(3) applicable with respect to the State.

Regulations.

“(C) RELATIONSHIP TO EXPENDITURES BY A POLITICAL SUBDIVISION.—For the purpose of determining the non-Federal share with respect to a State, expenditures by a political subdivision thereof or by a local agency shall be regarded as expenditures by such State, subject to such limitations and conditions as the Secretary shall by regulation prescribe.

“(15) GOVERNOR.—The term ‘Governor’ means a chief executive officer of a State.

“(16) IMPARTIAL HEARING OFFICER.—

“(A) IN GENERAL.—The term ‘impartial hearing officer’ means an individual—

“(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

“(ii) who is not a member of the State Rehabilitation Council described in section 105;

“(iii) who has not been involved previously in the vocational rehabilitation of the applicant or client;

“(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

“(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

“(B) CONSTRUCTION.—An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

“(17) INDEPENDENT LIVING CORE SERVICES.—The term ‘independent living core services’ means—

“(A) information and referral services;

“(B) independent living skills training;

“(C) peer counseling (including cross-disability peer counseling); and

“(D) individual and systems advocacy.

“(18) INDEPENDENT LIVING SERVICES.—The term ‘independent living services’ includes—

“(A) independent living core services; and

“(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

“(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

“(iii) rehabilitation technology;

“(iv) mobility training;

“(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

“(vi) personal assistance services, including attendant care and the training of personnel providing such services;

“(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

“(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

“(ix) education and training necessary for living in a community and participating in community activities;

“(x) supported living;

“(xi) transportation, including referral and assistance for such transportation and training in the use of public transportation vehicles and systems;

“(xii) physical rehabilitation;

“(xiii) therapeutic treatment;

“(xiv) provision of needed prostheses and other appliances and devices;

“(xv) individual and group social and recreational services;

“(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

“(xvii) services for children;

“(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

“(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

“(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

“(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

“(19) INDIAN; AMERICAN INDIAN; INDIAN AMERICAN; INDIAN

TRIBE.—

“(A) IN GENERAL.—The terms ‘Indian’, ‘American Indian’, and ‘Indian American’ mean an individual who is a member of an Indian tribe.

“(B) INDIAN TRIBE.—The term ‘Indian tribe’ means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act).

“(20) INDIVIDUAL WITH A DISABILITY.—

“(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the term ‘individual with a disability’ means any individual who—

“(i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and

“(ii) can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to title I, III, or VI.

“(B) CERTAIN PROGRAMS; LIMITATIONS ON MAJOR LIFE ACTIVITIES.—Subject to subparagraphs (C), (D), (E), and (F), the term ‘individual with a disability’ means, for purposes of sections 2, 14, and 15, and titles II, IV, V, and VII of this Act, any person who—

“(i) has a physical or mental impairment which substantially limits one or more of such person’s major life activities;

“(ii) has a record of such an impairment; or

“(iii) is regarded as having such an impairment.

“(C) RIGHTS AND ADVOCACY PROVISIONS.—

“(i) IN GENERAL; EXCLUSION OF INDIVIDUALS ENGAGING IN DRUG USE.—For purposes of title V, the term ‘individual with a disability’ does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

“(ii) EXCEPTION FOR INDIVIDUALS NO LONGER ENGAGING IN DRUG USE.—Nothing in clause (i) shall be construed to exclude as an individual with a disability an individual who—

“(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

“(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

“(III) is erroneously regarded as engaging in such use, but is not engaging in such use; except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.



“(iii) EXCLUSION FOR CERTAIN SERVICES.—Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II, and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

“(iv) DISCIPLINARY ACTION.—For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not individuals with disabilities. Furthermore, the due process procedures at section 104.36 of title 34, Code of Federal Regulations (or any corresponding similar regulation or ruling) shall not apply to such disciplinary actions.

“(v) EMPLOYMENT; EXCLUSION OF ALCOHOLICS.—For purposes of sections 503 and 504 as such sections relate to employment, the term ‘individual with a disability’ does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

“(D) EMPLOYMENT; EXCLUSION OF INDIVIDUALS WITH CERTAIN DISEASES OR INFECTIONS.—For the purposes of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

“(E) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF HOMOSEXUALITY OR BISEXUALITY.—For the purposes of sections 501, 503, and 504—

“(i) for purposes of the application of subparagraph (B) to such sections, the term ‘impairment’ does not include homosexuality or bisexuality; and

“(ii) therefore the term ‘individual with a disability’ does not include an individual on the basis of homosexuality or bisexuality.

“(F) RIGHTS PROVISIONS; EXCLUSION OF INDIVIDUALS ON BASIS OF CERTAIN DISORDERS.—For the purposes of sections 501, 503, and 504, the term ‘individual with a disability’ does not include an individual on the basis of—

“(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

“(ii) compulsive gambling, kleptomania, or pyromania; or

“(iii) psychoactive substance use disorders resulting from current illegal use of drugs.

“(G) INDIVIDUALS WITH DISABILITIES.—The term ‘individuals with disabilities’ means more than one individual with a disability.

“(21) INDIVIDUAL WITH A SIGNIFICANT DISABILITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), the term ‘individual with a significant disability’ means an individual with a disability—

“(i) who has a severe physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

“(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

“(iii) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (B) of paragraph (2) to cause comparable substantial functional limitation.

“(B) INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.—For purposes of title VII, the term ‘individual with a significant disability’ means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively.

“(C) RESEARCH AND TRAINING.—For purposes of title II, the term ‘individual with a significant disability’ includes an individual described in subparagraph (A) or (B).

“(D) INDIVIDUALS WITH SIGNIFICANT DISABILITIES.—The term ‘individuals with significant disabilities’ means more than one individual with a significant disability.

“(E) INDIVIDUAL WITH A MOST SIGNIFICANT DISABILITY.—

“(i) IN GENERAL.—The term ‘individual with a most significant disability’, used with respect to an individual in a State, means an individual with a significant disability who meets criteria established by the State under section 101(a)(5)(C).

“(ii) INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES.—The term ‘individuals with the most significant disabilities’ means more than one individual with a most significant disability.

“(22) INDIVIDUAL’S REPRESENTATIVE; APPLICANT’S REPRESENTATIVE.—The terms ‘individual’s representative’ and ‘applicant’s representative’ mean a parent, a family member, a guardian, an advocate, or an authorized representative of an individual or applicant, respectively.

“(23) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

“(24) LOCAL AGENCY.—The term ‘local agency’ means an agency of a unit of general local government or of an Indian tribe (or combination of such units or tribes) which has an agreement with the designated State agency to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from arranging to utilize another local public or nonprofit agency to provide vocational rehabilitation services if such an arrangement is made part of the agreement specified in this paragraph.

“(25) LOCAL WORKFORCE INVESTMENT BOARD.—The term ‘local workforce investment board’ means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998.

“(26) NONPROFIT.—The term ‘nonprofit’, when used with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

“(27) ONGOING SUPPORT SERVICES.—The term ‘ongoing support services’ means services—

“(A) provided to individuals with the most significant disabilities;

“(B) provided, at a minimum, twice monthly—

“(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

“(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

“(C) consisting of—

“(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (2)(B);

“(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the worksite;

“(iii) job development, job retention, and placement services;

“(iv) social skills training;

“(v) regular observation or supervision of the individual;

“(vi) followup services such as regular contact with the employers, the individuals, the individuals’ representatives, and other appropriate individuals, in order to reinforce and stabilize the job placement;

“(vii) facilitation of natural supports at the worksite;

“(viii) any other service identified in section 103; or

“(ix) a service similar to another service described in this subparagraph.

“(28) PERSONAL ASSISTANCE SERVICES.—The term ‘personal assistance services’ means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual’s control in life and ability to perform everyday activities on or off the job.

“(29) PUBLIC OR NONPROFIT.—The term ‘public or nonprofit’, used with respect to an agency or organization, includes an Indian tribe.

“(30) REHABILITATION TECHNOLOGY.—The term ‘rehabilitation technology’ means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas which include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

“(31) SECRETARY.—The term ‘Secretary’, except when the context otherwise requires, means the Secretary of Education.

“(32) STATE.—The term ‘State’ includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“(33) STATE WORKFORCE INVESTMENT BOARD.—The term ‘State workforce investment board’ means a State workforce investment board established under section 111 of the Workforce Investment Act of 1998.

“(34) STATEWIDE WORKFORCE INVESTMENT SYSTEM.—The term ‘statewide workforce investment system’ means a system described in section 111(d)(2) of the Workforce Investment Act of 1998.

“(35) SUPPORTED EMPLOYMENT.—

“(A) IN GENERAL.—The term ‘supported employment’ means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities—

“(i)(I) for whom competitive employment has not traditionally occurred; or

“(II) for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

“(ii) who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extension, described in paragraph (36)(C) and extended services after the transition described in paragraph (13)(C) in order to perform such work.

“(B) CERTAIN TRANSITIONAL EMPLOYMENT.—Such term includes transitional employment for persons who are individuals with the most significant disabilities due to mental illness.

“(36) SUPPORTED EMPLOYMENT SERVICES.—The term ‘supported employment services’ means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment, that—

“(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual to achieve competitive employment;

“(B) are based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; and

“(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator involved jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized plan for employment.

“(37) TRANSITION SERVICES.—The term ‘transition services’ means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student’s needs, taking into account the student’s preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

“(38) VOCATIONAL REHABILITATION SERVICES.—The term ‘vocational rehabilitation services’ means those services identified in section 103 which are provided to individuals with disabilities under this Act.

“(39) WORKFORCE INVESTMENT ACTIVITIES.—The term ‘workforce investment activities’ means workforce investment activities, as defined in section 101 of the Workforce Investment Act of 1998, that are carried out under that Act.

“ALLOTMENT PERCENTAGE

29 USC 706.

“SEC. 7. (a)(1) For purposes of section 110, the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that—

“(A) the allotment percentage shall in no case be more than 75 per centum or less than  $33\frac{1}{3}$  per centum; and

“(B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be 75 per centum.

“(2) The allotment percentages shall be promulgated by the Secretary between October 1 and December 31 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the 2 fiscal years in the period beginning on the October 1 next succeeding such promulgation.

“(3) The term ‘United States’ means (but only for purposes of this subsection) the 50 States and the District of Columbia.

“(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

“NONDUPLICATION

29 USC 707.

“SEC. 8. In determining the amount of any State’s Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded: (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law; and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act, except that this section shall not be construed to limit or reduce fees for services rendered by community rehabilitation programs.

“APPLICATION OF OTHER LAWS

29 USC 708.

“SEC. 9. The provisions of the Act of December 5, 1974 (Public Law 93-510) and of title V of the Act of October 15, 1977 (Public Law 95-134) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

## “ADMINISTRATION OF THE ACT

“SEC. 10. (a) In carrying out the purposes of this Act, the Commissioner may— 29 USC 709.

“(1) provide consultative services and technical assistance to public or nonprofit private agencies and organizations, including assistance to enable such agencies and organizations to facilitate meaningful and effective participation by individuals with disabilities in workforce investment activities;

“(2) provide short-term training and technical instruction, including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches);

“(3) conduct special projects and demonstrations;

“(4) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

“(5) provide monitoring and conduct evaluations.

“(b)(1) In carrying out the duties under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and may pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

“(2) In carrying out the provisions of this Act, the Commissioner shall appoint such task forces as may be necessary to collect and disseminate information in order to improve the ability of the Commissioner to carry out the provisions of this Act.

“(c) The Commissioner may promulgate such regulations as are considered appropriate to carry out the Commissioner’s duties under this Act.

“(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services. Regulations.

“(e) Not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1998, the Secretary shall receive public comment and promulgate regulations to implement the amendments made by the Rehabilitation Act Amendments of 1998. Deadline. Regulations.

“(f) In promulgating regulations to carry out this Act, the Secretary shall promulgate only regulations that are necessary to administer and ensure compliance with the specific requirements of this Act.

“(g) There are authorized to be appropriated to carry out this section such sums as may be necessary. Appropriation authorization.

## “REPORTS

“SEC. 11. (a) Not later than one hundred and eighty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act, including the activities and staffing of the information clearinghouse under section 15. Deadline. 29 USC 710.

“(b) The Commissioner shall collect information to determine whether the purposes of this Act are being met and to assess the performance of programs carried out under this Act. The Commissioner shall take whatever action is necessary to assure that the identity of each individual for which information is supplied under this section is kept confidential, except as otherwise required by law (including regulation).

“(c) In preparing the report, the Commissioner shall annually collect and include in the report information based on the information submitted by States in accordance with section 101(a)(10), including information on administrative costs as required by section 101(a)(10)(D). The Commissioner shall, to the maximum extent appropriate, include in the report all information that is required to be submitted in the reports described in section 136(d) of the Workforce Investment Act of 1998 and that pertains to the employment of individuals with disabilities.

#### “EVALUATION

29 USC 711.

Standards.

“SEC. 12. (a) For the purpose of improving program management and effectiveness, the Secretary, in consultation with the Commissioner, shall evaluate all the programs authorized by this Act, their general effectiveness in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, using appropriate methodology and evaluative research designs. The Secretary shall establish and use standards for the evaluations required by this subsection. Such an evaluation shall be conducted by a person not immediately involved in the administration of the program evaluated.

“(b) In carrying out evaluations under this section, the Secretary shall obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

“(c) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds under this Act shall become the property of the United States.

“(d) Such information as the Secretary may determine to be necessary for purposes of the evaluations conducted under this section shall be made available upon request of the Secretary, by the departments and agencies of the executive branch.

“(e)(1) To assess the linkages between vocational rehabilitation services and economic and noneconomic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

“(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

“(3) The study shall be planned to cover the period beginning on the application of individuals with disabilities for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services.

“(f)(1) The Commissioner shall identify and disseminate information on exemplary practices concerning vocational rehabilitation.



“(2) To facilitate compliance with paragraph (1), the Commissioner shall conduct studies and analyses that identify exemplary practices concerning vocational rehabilitation, including studies in areas relating to providing informed choice in the rehabilitation process, promoting consumer satisfaction, promoting job placement and retention, providing supported employment, providing services to particular disability populations, financing personal assistance services, providing assistive technology devices and assistive technology services, entering into cooperative agreements, establishing standards and certification for community rehabilitation programs, converting from nonintegrated to integrated employment, and providing caseload management.

“(g) There are authorized to be appropriated to carry out this section such sums as may be necessary.

Appropriation  
authorization.

#### “INFORMATION CLEARINGHOUSE

“SEC. 13. (a) The Secretary shall establish a central clearinghouse for information and resource availability for individuals with disabilities which shall provide information and data regarding—

Establishment.  
29 USC 712.

“(1) the location, provision, and availability of services and programs for individuals with disabilities, including such information and data provided by State workforce investment boards regarding such services and programs authorized under title I of such Act;

“(2) research and recent medical and scientific developments bearing on disabilities (and their prevention, amelioration, causes, and cures); and

“(3) the current numbers of individuals with disabilities and their needs.

The clearinghouse shall also provide any other relevant information and data which the Secretary considers appropriate.

“(b) The Commissioner may assist the Secretary to develop within the Department of Education a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide information regarding the information and data referred to in subsection (a) of this section to the Congress, public and private agencies and organizations, individuals with disabilities and their families, professionals in fields serving such individuals, and the general public.

“(c) The office established to carry out the provisions of this section shall be known as the ‘Office of Information and Resources for Individuals with Disabilities’.

“(d) There are authorized to be appropriated to carry out this section such sums as may be necessary.

#### “TRANSFER OF FUNDS

“SEC. 14. (a) Except as provided in subsection (b) of this section, no funds appropriated under this Act for any program or activity may be used for any purpose other than that for which the funds were specifically authorized.

29 USC 713.

“(b) No more than 1 percent of funds appropriated for discretionary grants, contracts, or cooperative agreements authorized by this Act may be used for the purpose of providing non-Federal panels of experts to review applications for such grants, contracts, or cooperative agreements.

## “STATE ADMINISTRATION

- 29 USC 714. “SEC. 15. The application of any State rule or policy relating to the administration or operation of programs funded by this Act (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

## “REVIEW OF APPLICATIONS

- 29 USC 715. “SEC. 16. Applications for grants in excess of \$100,000 in the aggregate authorized to be funded under this Act, other than grants primarily for the purpose of conducting dissemination or conferences, shall be reviewed by panels of experts which shall include a majority of non-Federal members. Non-Federal members may be provided travel, per diem, and consultant fees not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

## “CARRYOVER

- 29 USC 716. “SEC. 17. (a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law—
- “(1) any funds appropriated for a fiscal year to carry out any grant program under part B of title I, section 509 (except as provided in section 509(b)), part B of title VI, part B or C of chapter 1 of title VII, or chapter 2 of title VII (except as provided in section 752(b)), including any funds reallocated under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or
- “(2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received,
- shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.
- “(b) NON-FEDERAL SHARE.—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.

## “CLIENT ASSISTANCE INFORMATION

- 29 USC 717. “SEC. 18. All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals who are applicants for or recipients of the services, or the applicants’ representatives or individuals’ representatives, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.

## “TRADITIONALLY UNDERSERVED POPULATIONS

“SEC. 19. (a) FINDINGS.—With respect to the programs authorized in titles II through VII, the Congress finds as follows: 29 USC 718.

“(1) RACIAL PROFILE.—The racial profile of America is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

“(2) RATE OF DISABILITY.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be significantly disabled.

“(3) INEQUITABLE TREATMENT.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system are denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases are closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

“(4) RECRUITMENT.—Recruitment efforts within vocational rehabilitation at the level of preservice training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

“(b) OUTREACH TO MINORITIES.—

“(1) IN GENERAL.—For each fiscal year, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research (referred to in this subsection as the ‘Director’) shall reserve 1 percent of the funds appropriated for the fiscal year for programs authorized under titles II, III, VI, and VII to carry out this subsection. The Commissioner and the Director shall use the reserved funds to carry out one or more of the activities described in paragraph (2) through a grant, contract, or cooperative agreement.

“(2) ACTIVITIES.—The activities carried out by the Commissioner and the Director shall include one or more of the following:

“(A) Making awards to minority entities and Indian tribes to carry out activities under the programs authorized under titles II, III, VI, and VII.

“(B) Making awards to minority entities and Indian tribes to conduct research, training, technical assistance, or a related activity, to improve services provided under this Act, especially services provided to individuals from minority backgrounds.

“(C) Making awards to entities described in paragraph (3) to provide outreach and technical assistance to minority entities and Indian tribes to promote their participation in activities funded under this Act, including assistance to enhance their capacity to carry out such activities.

“(3) ELIGIBILITY.—To be eligible to receive an award under paragraph (2)(C), an entity shall be a State or a public or private nonprofit agency or organization, such as an institution of higher education or an Indian tribe.

“(4) REPORT.—In each fiscal year, the Commissioner and the Director shall prepare and submit to Congress a report that describes the activities funded under this subsection for the preceding fiscal year.

“(5) DEFINITIONS.—In this subsection:

“(A) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term ‘historically Black college or university’ means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

“(B) MINORITY ENTITY.—The term ‘minority entity’ means an entity that is a historically Black college or university, a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent.

“(c) DEMONSTRATION.—In awarding grants, or entering into contracts or cooperative agreements under titles I, II, III, VI, and VII, and section 509, the Commissioner and the Director, in appropriate cases, shall require applicants to demonstrate how the applicants will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.”.

#### **SEC. 404. VOCATIONAL REHABILITATION SERVICES.**

Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) is amended to read as follows:

## **“TITLE I—VOCATIONAL REHABILITATION SERVICES**

### **“PART A—GENERAL PROVISIONS**

29 USC 720.

#### **“SEC. 100. DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS.**

“(a) FINDINGS; PURPOSE; POLICY.—

“(1) FINDINGS.—Congress finds that—

“(A) work—

“(i) is a valued activity, both for individuals and society; and

“(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in the United States;

“(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

“(C) individuals with disabilities, including individuals with the most significant disabilities, have demonstrated

their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

“(D) reasons for significant numbers of individuals with disabilities not working, or working at levels not commensurate with their abilities and capabilities, include—

“(i) discrimination;

“(ii) lack of accessible and available transportation;

“(iii) fear of losing health coverage under the medicare and medicaid programs carried out under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing private health insurance; and

“(iv) lack of education, training, and supports to meet job qualification standards necessary to secure, retain, regain, or advance in employment;

“(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities;

“(F) the provision of workforce investment activities and vocational rehabilitation services can enable individuals with disabilities, including individuals with the most significant disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities; and

“(G) linkages between the vocational rehabilitation programs established under this title and other components of the statewide workforce investment systems are critical to ensure effective and meaningful participation by individuals with disabilities in workforce investment activities.

“(2) PURPOSE.—The purpose of this title is to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation, each of which is—

“(A) an integral part of a statewide workforce investment system; and

“(B) designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for and engage in gainful employment.

“(3) POLICY.—It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

“(A) Individuals with disabilities, including individuals with the most significant disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

“(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

“(C) Individuals who are applicants for such programs or eligible to participate in such programs must be active

and full partners in the vocational rehabilitation process, making meaningful and informed choices—

“(i) during assessments for determining eligibility and vocational rehabilitation needs; and

“(ii) in the selection of employment outcomes for the individuals, services needed to achieve the outcomes, entities providing such services, and the methods used to secure such services.

“(D) Families and other natural supports can play important roles in the success of a vocational rehabilitation program, if the individual with a disability involved requests, desires, or needs such supports.

“(E) Vocational rehabilitation counselors that are trained and prepared in accordance with State policies and procedures as described in section 101(a)(7)(B) (referred to individually in this title as a ‘qualified vocational rehabilitation counselor’), other qualified rehabilitation personnel, and other qualified personnel facilitate the accomplishment of the employment outcomes and objectives of an individual.

“(F) Individuals with disabilities and the individuals’ representatives are full partners in a vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

“(G) Accountability measures must facilitate the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most significant disabilities.

“(b) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—For the purpose of making grants to States under part B to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1999 through 2003, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this paragraph for the immediately preceding fiscal year, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year.

“(2) REFERENCE.—The reference in paragraph (1) to grants to States under part B shall not be considered to refer to grants under section 112.

“(c) CONSUMER PRICE INDEX.—

“(1) PERCENTAGE CHANGE.—No later than November 15 of each fiscal year (beginning with fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the Consumer Price Index published for October of the preceding fiscal year and October of the fiscal year in which such publication is made.

“(2) APPLICATION.—

“(A) INCREASE.—If in any fiscal year the percentage change published under paragraph (1) indicates an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal

Deadline.  
Federal Register,  
publication.

year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1) increased by such percentage change.

“(B) NO INCREASE OR DECREASE.—If in any fiscal year the percentage change published under paragraph (1) does not indicate an increase in the Consumer Price Index, then the amount to be appropriated under subsection (b)(1) for the subsequent fiscal year shall be at least the amount appropriated under subsection (b)(1) for the fiscal year in which the publication is made under paragraph (1).

“(3) DEFINITION.—For purposes of this section, the term ‘Consumer Price Index’ means the Consumer Price Index for All Urban Consumers, published monthly by the Bureau of Labor Statistics.

“(d) EXTENSION.—

“(1) IN GENERAL.—

“(A) AUTHORIZATION OR DURATION OF PROGRAM.—Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

“(i) of the authorization of appropriations for the program authorized by the State grant program under part B of this title; or

“(ii) of the duration of the program authorized by the State grant program under part B of this title; has passed legislation which would have the effect of extending the authorization or duration (as the case may be) of such program, such authorization or duration is automatically extended for 1 additional year for the program authorized by this title.

“(B) CALCULATION.—The amount authorized to be appropriated for the additional fiscal year described in subparagraph (A) shall be an amount equal to the amount appropriated for such program for fiscal year 2003, increased by the percentage change in the Consumer Price Index determined under subsection (c) for the immediately preceding fiscal year, if the percentage change indicates an increase.

“(2) CONSTRUCTION.—

“(A) PASSAGE OF LEGISLATION.—For the purposes of paragraph (1)(A), Congress shall not be deemed to have passed legislation unless such legislation becomes law.

“(B) ACTS OR DETERMINATIONS OF COMMISSIONER.—In any case where the Commissioner is required under an applicable statute to carry out certain acts or make certain determinations which are necessary for the continuation of the program authorized by this title, if such acts or determinations are required during the terminal year of such program, such acts and determinations shall be required during any fiscal year in which the extension described in that part of paragraph (1) that follows clause (ii) of paragraph (1)(A) is in effect.

#### “SEC. 101. STATE PLANS.

29 USC 721.

“(a) PLAN REQUIREMENTS.—

“(1) IN GENERAL.—

“(A) SUBMISSION.—To be eligible to participate in programs under this title, a State shall submit to the Commissioner a State plan for vocational rehabilitation services that meets the requirements of this section, on the same date that the State submits a State plan under section 112 of the Workforce Investment Act of 1998.

“(B) NONDUPLICATION.—The State shall not be required to submit, in the State plan for vocational rehabilitation services, policies, procedures, or descriptions required under this title that have been previously submitted to the Commissioner and that demonstrate that such State meets the requirements of this title, including any policies, procedures, or descriptions submitted under this title as in effect on the day before the effective date of the Rehabilitation Act Amendments of 1998.

“(C) DURATION.—The State plan shall remain in effect subject to the submission of such modifications as the State determines to be necessary or as the Commissioner may require based on a change in State policy, a change in Federal law (including regulations), an interpretation of this Act by a Federal court or the highest court of the State, or a finding by the Commissioner of State noncompliance with the requirements of this Act, until the State submits and receives approval of a new State plan.

“(2) DESIGNATED STATE AGENCY; DESIGNATED STATE UNIT.—

“(A) DESIGNATED STATE AGENCY.—The State plan shall designate a State agency as the sole State agency to administer the plan, or to supervise the administration of the plan by a local agency, except that—

“(i) where, under State law, the State agency for individuals who are blind or another agency that provides assistance or services to adults who are blind is authorized to provide vocational rehabilitation services to individuals who are blind, that agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency to administer or supervise the administration of the rest of the State plan;

“(ii) the Commissioner, on the request of a State, may authorize the designated State agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit the agencies to carry out a joint program to provide services to individuals with disabilities, and may waive compliance, with respect to vocational rehabilitation services furnished under the joint program, with the requirement of paragraph (4) that the plan be in effect in all political subdivisions of the State; and

“(iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa.



“(B) DESIGNATED STATE UNIT.—The State agency designated under subparagraph (A) shall be—

“(i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities; or

“(ii) if not such an agency, the State agency (or each State agency if 2 are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit that—

“(I) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities, and is responsible for the vocational rehabilitation program of the designated State agency;

“(II) has a full-time director;

“(III) has a staff employed on the rehabilitation work of the organizational unit all or substantially all of whom are employed full time on such work; and

“(IV) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency.

“(C) RESPONSIBILITY FOR SERVICES FOR THE BLIND.—If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency, with the provisions of subparagraph (B) applying separately to each of the designated State units.

“(3) NON-FEDERAL SHARE.—The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out part B.

“(4) STATEWIDENESS.—The State plan shall provide that the plan shall be in effect in all political subdivisions of the State, except that—

“(A) in the case of any activity that, in the judgment of the Commissioner, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of individuals with disabilities or groups of individuals with disabilities, the Commissioner may waive compliance with the requirement that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by the Commissioner, but only if the non-Federal share of the cost of the vocational rehabilitation services involved is met from funds made available by a local agency (including funds contributed to such agency by a private agency, organization, or individual); and

“(B) in a case in which earmarked funds are used toward the non-Federal share and such funds are earmarked for particular geographic areas within the State,

the earmarked funds may be used in such areas if the State notifies the Commissioner that the State cannot provide the full non-Federal share without such funds.

“(5) ORDER OF SELECTION FOR VOCATIONAL REHABILITATION SERVICES.—In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State who apply for the services, the State plan shall—

“(A) show the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services;

“(B) provide the justification for the order of selection;

“(C) include an assurance that, in accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and

“(D) provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system implemented under paragraph (20).

“(6) METHODS FOR ADMINISTRATION.—

“(A) IN GENERAL.—The State plan shall provide for such methods of administration as are found by the Commissioner to be necessary for the proper and efficient administration of the plan.

“(B) EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.—The State plan shall provide that the designated State agency, and entities carrying out community rehabilitation programs in the State, who are in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified individuals with disabilities covered under, and on the same terms and conditions as set forth in, section 503.

“(C) FACILITIES.—The State plan shall provide that facilities used in connection with the delivery of services assisted under the State plan shall comply with the Act entitled ‘An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped’, approved on August 12, 1968 (commonly known as the ‘Architectural Barriers Act of 1968’), with section 504, and with the Americans with Disabilities Act of 1990.

“(7) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—The State plan shall—

“(A) include a description (consistent with the purposes of this Act) of a comprehensive system of personnel development, which shall include—

“(i) a description of the procedures and activities the designated State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit, including the development and maintenance of a system for determining, on an annual basis—

“(I) the number and type of personnel that are employed by the designated State unit in the provision of vocational rehabilitation services,

including ratios of qualified vocational rehabilitation counselors to clients; and

“(II) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in 5 years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the vocational rehabilitation field, and other relevant factors;

“(ii) where appropriate, a description of the manner in which activities will be undertaken under this section to coordinate the system of personnel development with personnel development activities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

“(iii) a description of the development and maintenance of a system of determining, on an annual basis, information on the programs of institutions of higher education within the State that are preparing rehabilitation professionals, including—

“(I) the numbers of students enrolled in such programs; and

“(II) the number of such students who graduated with certification or licensure, or with credentials to qualify for certification or licensure, as a rehabilitation professional during the past year;

“(iv) a description of the development, updating, and implementation of a plan that—

“(I) will address the current and projected vocational rehabilitation services personnel training needs for the designated State unit; and

“(II) provides for the coordination and facilitation of efforts between the designated State unit, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities; and

“(v) a description of the procedures and activities the designated State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

“(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology; and

“(II) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources, including procedures for providing training regarding the amendments to this Act made by the Rehabilitation Act Amendments of 1998;

“(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that

personnel, including rehabilitation professionals and paraprofessionals, needed within the designated State unit to carry out this part are appropriately and adequately prepared and trained, including—

“(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

“(ii) to the extent that such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel within the designated State unit that meet appropriate professional requirements in the State; and

“(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual.

“(8) COMPARABLE SERVICES AND BENEFITS.—

“(A) DETERMINATION OF AVAILABILITY.—

“(i) IN GENERAL.—The State plan shall include an assurance that, prior to providing any vocational rehabilitation service to an eligible individual, except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a), the designated State unit will determine whether comparable services and benefits are available under any other program (other than a program carried out under this title) unless such a determination would interrupt or delay—

“(I) the progress of the individual toward achieving the employment outcome identified in the individualized plan for employment of the individual in accordance with section 102(b);

“(II) an immediate job placement; or

“(III) the provision of such service to any individual at extreme medical risk.

“(ii) AWARDS AND SCHOLARSHIPS.—For purposes of clause (i), comparable benefits do not include awards and scholarships based on merit.

“(B) INTERAGENCY AGREEMENT.—The State plan shall include an assurance that the Governor of the State, in consultation with the entity in the State responsible for the vocational rehabilitation program and other appropriate agencies, will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between any appropriate public entity, including the State entity responsible for administering the State medicaid program, a public institution of higher education, and a component of the statewide workforce investment system, and the designated State unit, in order to ensure the provision of vocational rehabilitation services described in

subparagraph (A) (other than those services specified in paragraph (5)(D), and in paragraphs (1) through (4) and (14) of section 103(a)), that are included in the individualized plan for employment of an eligible individual, including the provision of such vocational rehabilitation services during the pendency of any dispute described in clause (iii). Such agreement or mechanism shall include the following:

“(i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a description of a method for defining, the financial responsibility of such public entity for providing such services, and a provision stating the financial responsibility of such public entity for providing such services.

“(ii) CONDITIONS, TERMS, AND PROCEDURES OF REIMBURSEMENT.—Information specifying the conditions, terms, and procedures under which a designated State unit shall be reimbursed by other public entities for providing such services, based on the provisions of such agreement or mechanism.

“(iii) INTERAGENCY DISPUTES.—Information specifying procedures for resolving interagency disputes under the agreement or other mechanism (including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other public entities or otherwise implement the provisions of the agreement or mechanism).

“(iv) COORDINATION OF SERVICES PROCEDURES.—Information specifying policies and procedures for public entities to determine and identify the interagency coordination responsibilities of each public entity to promote the coordination and timely delivery of vocational rehabilitation services (except those services specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)).

“(C) RESPONSIBILITIES OF OTHER PUBLIC ENTITIES.—

“(i) RESPONSIBILITIES UNDER OTHER LAW.—Notwithstanding subparagraph (B), if any public entity other than a designated State unit is obligated under Federal or State law, or assigned responsibility under State policy or under this paragraph, to provide or pay for any services that are also considered to be vocational rehabilitation services (other than those specified in paragraph (5)(D) and in paragraphs (1) through (4) and (14) of section 103(a)), such public entity shall fulfill that obligation or responsibility, either directly or by contract or other arrangement.

“(ii) REIMBURSEMENT.—If a public entity other than the designated State unit fails to provide or pay for the services described in clause (i) for an eligible individual, the designated State unit shall provide or pay for such services to the individual. Such designated State unit may claim reimbursement for the services from the public entity that failed to provide or pay for such services. Such public entity shall reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism described in this paragraph according to the procedures

established in such agreement or mechanism pursuant to subparagraph (B)(ii).

“(D) METHODS.—The Governor of a State may meet the requirements of subparagraph (B) through—

“(i) a State statute or regulation;

“(ii) a signed agreement between the respective officials of the public entities that clearly identifies the responsibilities of each public entity relating to the provision of services; or

“(iii) another appropriate method, as determined by the designated State unit.

“(9) INDIVIDUALIZED PLAN FOR EMPLOYMENT.—

“(A) DEVELOPMENT AND IMPLEMENTATION.—The State plan shall include an assurance that an individualized plan for employment meeting the requirements of section 102(b) will be developed and implemented in a timely manner for an individual subsequent to the determination of the eligibility of the individual for services under this title, except that in a State operating under an order of selection described in paragraph (5), the plan will be developed and implemented only for individuals meeting the order of selection criteria of the State.

“(B) PROVISION OF SERVICES.—The State plan shall include an assurance that such services will be provided in accordance with the provisions of the individualized plan for employment.

“(10) REPORTING REQUIREMENTS.—

“(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will submit reports in the form and level of detail and at the time required by the Commissioner regarding applicants for, and eligible individuals receiving, services under this title.

“(B) ANNUAL REPORTING.—In specifying the information to be submitted in the reports, the Commissioner shall require annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 136(d)(2) of the Workforce Investment Act of 1998 that are determined by the Secretary to be relevant in assessing the performance of designated State units in carrying out the vocational rehabilitation program established under this title.

“(C) ADDITIONAL DATA.—In specifying the information required to be submitted in the reports, the Commissioner shall require additional data with regard to applicants and eligible individuals related to—

“(i) the number of applicants and the number of individuals determined to be eligible or ineligible for the program carried out under this title, including—

“(I) the number of individuals determined to be ineligible because they did not require vocational rehabilitation services, as provided in section 102(a); and

“(II) the number of individuals determined, on the basis of clear and convincing evidence, to be too severely disabled to benefit in terms of an employment outcome from vocational rehabilitation services;

“(ii) the number of individuals who received vocational rehabilitation services through the program, including—

“(I) the number who received services under paragraph (5)(D), but not assistance under an individualized plan for employment;

“(II) of those recipients who are individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 102(b); and

“(III) of those recipients who are not individuals with significant disabilities, the number who received assistance under an individualized plan for employment consistent with section 102(b);

“(iii) of those applicants and eligible recipients who are individuals with significant disabilities—

“(I) the number who ended their participation in the program carried out under this title and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

“(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

“(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set by the Commissioner, during such employment; and

“(bb) the number who received employment benefits from an employer during such employment; and

“(iv) of those applicants and eligible recipients who are not individuals with significant disabilities—

“(I) the number who ended their participation in the program carried out under this title and the number who achieved employment outcomes after receiving vocational rehabilitation services; and

“(II) the number who ended their participation in the program and who were employed 6 months and 12 months after securing or regaining employment, or, in the case of individuals whose employment outcome was to retain or advance in employment, who were employed 6 months and 12 months after achieving their employment outcome, including—

“(aa) the number who earned the minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or another wage level set

by the Commissioner, during such employment; and

“(bb) the number who received employment benefits from an employer during such employment.

“(D) COSTS AND RESULTS.—The Commissioner shall also require that the designated State agency include in the reports information on—

“(i) the costs under this title of conducting administration, providing assessment services, counseling and guidance, and other direct services provided by designated State agency staff, providing services purchased under individualized plans for employment, supporting small business enterprises, establishing, developing, and improving community rehabilitation programs, providing other services to groups, and facilitating use of other programs under this Act and title I of the Workforce Investment Act of 1998 by eligible individuals; and

“(ii) the results of annual evaluation by the State of program effectiveness under paragraph (15)(E).

“(E) ADDITIONAL INFORMATION.—The Commissioner shall require that each designated State unit include in the reports additional information related to the applicants and eligible individuals, obtained either through a complete count or sampling, including—

“(i) information on—

“(I) age, gender, race, ethnicity, education, category of impairment, severity of disability, and whether the individuals are students with disabilities;

“(II) dates of application, determination of eligibility or ineligibility, initiation of the individualized plan for employment, and termination of participation in the program;

“(III) earnings at the time of application for the program and termination of participation in the program;

“(IV) work status and occupation;

“(V) types of services, including assistive technology services and assistive technology devices, provided under the program;

“(VI) types of public or private programs or agencies that furnished services under the program; and

“(VII) the reasons for individuals terminating participation in the program without achieving an employment outcome; and

“(ii) information necessary to determine the success of the State in meeting—

“(I) the State performance measures established under section 136(b) of the Workforce Investment Act of 1998, to the extent the measures are applicable to individuals with disabilities; and

“(II) the standards and indicators established pursuant to section 106.



“(F) COMPLETENESS AND CONFIDENTIALITY.—The State plan shall include an assurance that the information submitted in the reports will include a complete count, except as provided in subparagraph (E), of the applicants and eligible individuals, in a manner permitting the greatest possible cross-classification of data and that the identity of each individual for which information is supplied under this paragraph will be kept confidential.

“(11) COOPERATION, COLLABORATION, AND COORDINATION.—

“(A) COOPERATIVE AGREEMENTS WITH OTHER COMPONENTS OF STATEWIDE WORKFORCE INVESTMENT SYSTEMS.—The State plan shall provide that the designated State unit or designated State agency shall enter into a cooperative agreement with other entities that are components of the statewide workforce investment system of the State, regarding the system, which agreement may provide for—

“(i) provision of intercomponent staff training and technical assistance with regard to—

“(I) the availability and benefits of, and information on eligibility standards for, vocational rehabilitation services; and

“(II) the promotion of equal, effective, and meaningful participation by individuals with disabilities in workforce investment activities in the State through the promotion of program accessibility, the use of nondiscriminatory policies and procedures, and the provision of reasonable accommodations, auxiliary aids and services, and rehabilitation technology, for individuals with disabilities;

“(ii) use of information and financial management systems that link all components of the statewide workforce investment system, that link the components to other electronic networks, including nonvisual electronic networks, and that relate to such subjects as employment statistics, and information on job vacancies, career planning, and workforce investment activities;

“(iii) use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;

“(iv) establishment of cooperative efforts with employers to—

“(I) facilitate job placement; and

“(II) carry out any other activities that the designated State unit and the employers determine to be appropriate;

“(v) identification of staff roles, responsibilities, and available resources, and specification of the financial responsibility of each component of the statewide workforce investment system with regard to paying for necessary services (consistent with State law and Federal requirements); and

“(vi) specification of procedures for resolving disputes among such components.

“(B) REPLICATION OF COOPERATIVE AGREEMENTS.—The State plan shall provide for the replication of such cooperative agreements at the local level between individual offices of the designated State unit and local entities carrying out activities through the statewide workforce investment system.

“(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, Federal, State, and local agencies and programs, including programs carried out by the Under Secretary for Rural Development of the Department of Agriculture and State use contracting programs, to the extent that such agencies and programs are not carrying out activities through the statewide workforce investment system.

“(D) COORDINATION WITH EDUCATION OFFICIALS.—The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials responsible for the public education of students with disabilities, that are designed to facilitate the transition of the students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—

“(i) consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;

“(ii) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (as added by section 101 of Public Law 105-17);

“(iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and

“(iv) procedures for outreach to and identification of students with disabilities who need the transition services.

“(E) COORDINATION WITH STATEWIDE INDEPENDENT LIVING COUNCILS AND INDEPENDENT LIVING CENTERS.—The State plan shall include an assurance that the designated State unit, the Statewide Independent Living Council established under section 705, and the independent living centers described in part C of title VII within the State have developed working relationships and coordinate their activities.

“(F) COOPERATIVE AGREEMENT WITH RECIPIENTS OF GRANTS FOR SERVICES TO AMERICAN INDIANS.—In applicable cases, the State plan shall include an assurance that the State has entered into a formal cooperative agreement

with each grant recipient in the State that receives funds under part C. The agreement shall describe strategies for collaboration and coordination in providing vocational rehabilitation services to American Indians who are individuals with disabilities, including—

“(i) strategies for interagency referral and information sharing that will assist in eligibility determinations and the development of individualized plans for employment;

“(ii) procedures for ensuring that American Indians who are individuals with disabilities and are living near a reservation or tribal service area are provided vocational rehabilitation services; and

“(iii) provisions for sharing resources in cooperative studies and assessments, joint training activities, and other collaborative activities designed to improve the provision of services to American Indians who are individuals with disabilities.

“(12) RESIDENCY.—The State plan shall include an assurance that the State will not impose a residence requirement that excludes from services provided under the plan any individual who is present in the State.

“(13) SERVICES TO AMERICAN INDIANS.—The State plan shall include an assurance that, except as otherwise provided in part C, the designated State agency will provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State to the same extent as the designated State agency provides such services to other significant populations of individuals with disabilities residing in the State.

“(14) ANNUAL REVIEW OF INDIVIDUALS IN EXTENDED EMPLOYMENT OR OTHER EMPLOYMENT UNDER SPECIAL CERTIFICATE PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938.—The State plan shall provide for—

“(A) an annual review and reevaluation of the status of each individual with a disability served under this title who has achieved an employment outcome either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) for 2 years after the achievement of the outcome (and thereafter if requested by the individual or, if appropriate, the individual’s representative), to determine the interests, priorities, and needs of the individual with respect to competitive employment or training for competitive employment;

“(B) input into the review and reevaluation, and a signed acknowledgment that such review and reevaluation have been conducted, by the individual with a disability, or, if appropriate, the individual’s representative; and

“(C) maximum efforts, including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist the individuals described in subparagraph (A) in engaging in competitive employment.

“(15) ANNUAL STATE GOALS AND REPORTS OF PROGRESS.—

“(A) ASSESSMENTS AND ESTIMATES.—The State plan shall—

“(i) include the results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State has such a Council) every 3 years, describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—

“(I) individuals with the most significant disabilities, including their need for supported employment services;

“(II) individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this title; and

“(III) individuals with disabilities served through other components of the statewide workforce investment system (other than the vocational rehabilitation program), as identified by such individuals and personnel assisting such individuals through the components;

“(ii) include an assessment of the need to establish, develop, or improve community rehabilitation programs within the State; and

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“(iii) provide that the State shall submit to the Commissioner a report containing information regarding updates to the assessments, for any year in which the State updates the assessments.

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“(B) ANNUAL ESTIMATES.—The State plan shall include, and shall provide that the State shall annually submit a report to the Commissioner that includes, State estimates of—

“(i) the number of individuals in the State who are eligible for services under this title;

“(ii) the number of such individuals who will receive services provided with funds provided under part B and under part B of title VI, including, if the designated State agency uses an order of selection in accordance with paragraph (5), estimates of the number of individuals to be served under each priority category within the order; and

“(iii) the costs of the services described in clause (i), including, if the designated State agency uses an order of selection in accordance with paragraph (5), the service costs for each priority category within the order.

“(C) GOALS AND PRIORITIES.—

“(i) IN GENERAL.—The State plan shall identify the goals and priorities of the State in carrying out the program. The goals and priorities shall be jointly developed, agreed to, and reviewed annually by the designated State unit and the State Rehabilitation Council, if the State has such a Council. Any revisions to the goals and priorities shall be jointly agreed to by the designated State unit and the State Rehabilitation Council, if the State has such a Council. The State plan shall provide that the State shall submit

Reports.

to the Commissioner a report containing information regarding revisions in the goals and priorities, for any year in which the State revises the goals and priorities.

“(ii) BASIS.—The State goals and priorities shall be based on an analysis of—

“(I) the comprehensive assessment described in subparagraph (A), including any updates to the assessment;

“(II) the performance of the State on the standards and indicators established under section 106; and

“(III) other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council, under section 105(c) and the findings and recommendations from monitoring activities conducted under section 107.

“(iii) SERVICE AND OUTCOME GOALS FOR CATEGORIES IN ORDER OF SELECTION.—If the designated State agency uses an order of selection in accordance with paragraph (5), the State shall also identify in the State plan service and outcome goals and the time within which these goals may be achieved for individuals in each priority category within the order.

“(D) STRATEGIES.—The State plan shall contain a description of the strategies the State will use to address the needs identified in the assessment conducted under subparagraph (A) and achieve the goals and priorities identified in subparagraph (C), including—

“(i) the methods to be used to expand and improve services to individuals with disabilities, including how a broad range of assistive technology services and assistive technology devices will be provided to such individuals at each stage of the rehabilitation process and how such services and devices will be provided to such individuals on a statewide basis;

“(ii) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program;

“(iii) where necessary, the plan of the State for establishing, developing, or improving community rehabilitation programs;

“(iv) strategies to improve the performance of the State with respect to the evaluation standards and performance indicators established pursuant to section 106; and

“(v) strategies for assisting entities carrying out other components of the statewide workforce investment system (other than the vocational rehabilitation program) in assisting individuals with disabilities.

“(E) EVALUATION AND REPORTS OF PROGRESS.—The State plan shall—

“(i) include the results of an evaluation of the effectiveness of the vocational rehabilitation program,

and a joint report by the designated State unit and the State Rehabilitation Council, if the State has such a Council, to the Commissioner on the progress made in improving the effectiveness from the previous year, which evaluation and report shall include—

“(I) an evaluation of the extent to which the goals identified in subparagraph (C) were achieved;

“(II) a description of strategies that contributed to achieving the goals;

“(III) to the extent to which the goals were not achieved, a description of the factors that impeded that achievement; and

“(IV) an assessment of the performance of the State on the standards and indicators established pursuant to section 106; and

“(ii) provide that the designated State unit and the State Rehabilitation Council, if the State has such a Council, shall jointly submit to the Commissioner an annual report that contains the information described in clause (i).

“(16) PUBLIC COMMENT.—The State plan shall—

“(A) provide that the designated State agency, prior to the adoption of any policies or procedures governing the provision of vocational rehabilitation services under the State plan (including making any amendment to such policies and procedures), shall conduct public meetings throughout the State, after providing adequate notice of the meetings, to provide the public, including individuals with disabilities, an opportunity to comment on the policies or procedures, and actively consult with the Director of the client assistance program carried out under section 112, and, as appropriate, Indian tribes, tribal organizations, and Native Hawaiian organizations on the policies or procedures; and

“(B) provide that the designated State agency (or each designated State agency if two agencies are designated) and any sole agency administering the plan in a political subdivision of the State, shall take into account, in connection with matters of general policy arising in the administration of the plan, the views of—

“(i) individuals and groups of individuals who are recipients of vocational rehabilitation services, or in appropriate cases, the individuals’ representatives;

“(ii) personnel working in programs that provide vocational rehabilitation services to individuals with disabilities;

“(iii) providers of vocational rehabilitation services to individuals with disabilities;

“(iv) the director of the client assistance program; and

“(v) the State Rehabilitation Council, if the State has such a Council.

“(17) USE OF FUNDS FOR CONSTRUCTION OF FACILITIES.—The State plan shall provide that if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs—

“(A) the Federal share of the cost of construction for the facilities for a fiscal year will not exceed an amount equal to 10 percent of the State’s allotment under section 110 for such year;

“(B) the provisions of section 306 (as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1998) shall be applicable to such construction and such provisions shall be deemed to apply to such construction; and

“(C) there shall be compliance with regulations the Commissioner shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of facilities for community rehabilitation programs) because the plan includes such provisions for construction.

Regulations.

“(18) INNOVATION AND EXPANSION ACTIVITIES.—The State plan shall—

“(A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 110—

“(i) for the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities under this title, particularly individuals with the most significant disabilities, consistent with the findings of the statewide assessment and goals and priorities of the State as described in paragraph (15); and

“(ii) to support the funding of—

“(I) the State Rehabilitation Council, if the State has such a Council, consistent with the plan prepared under section 105(d)(1); and

“(II) the Statewide Independent Living Council, consistent with the plan prepared under section 705(e)(1);

“(B) include a description of how the reserved funds will be utilized; and

“(C) provide that the State shall submit to the Commissioner an annual report containing a description of how the reserved funds will be utilized.

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“(19) CHOICE.—The State plan shall include an assurance that applicants and eligible individuals or, as appropriate, the applicants’ representatives or individuals’ representatives, will be provided information and support services to assist the applicants and individuals in exercising informed choice throughout the rehabilitation process, consistent with the provisions of section 102(d).

“(20) INFORMATION AND REFERRAL SERVICES.—

“(A) IN GENERAL.—The State plan shall include an assurance that the designated State agency will implement an information and referral system adequate to ensure that individuals with disabilities will be provided accurate vocational rehabilitation information and guidance, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment, and will be appropriately referred to Federal

and State programs (other than the vocational rehabilitation program carried out under this title), including other components of the statewide workforce investment system in the State.

“(B) REFERRALS.—An appropriate referral made through the system shall—

“(i) be to the Federal or State programs, including programs carried out by other components of the statewide workforce investment system in the State, best suited to address the specific employment needs of an individual with a disability; and

“(ii) include, for each of these programs, provision to the individual of—

“(I) a notice of the referral by the designated State agency to the agency carrying out the program;

“(II) information identifying a specific point of contact within the agency carrying out the program; and

“(III) information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment.

“(21) STATE INDEPENDENT CONSUMER-CONTROLLED COMMISSION; STATE REHABILITATION COUNCIL.—

“(A) COMMISSION OR COUNCIL.—The State plan shall provide that either—

“(i) the designated State agency is an independent commission that—

“(I) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;

“(II) is consumer-controlled by persons who—

“(aa) are individuals with physical or mental impairments that substantially limit major life activities; and

“(bb) represent individuals with a broad range of disabilities, unless the designated State unit under the direction of the Commission is the State agency for individuals who are blind;

“(III) includes family members, advocates, or other representatives, of individuals with mental impairments; and

“(IV) undertakes the functions set forth in section 105(c)(4); or

“(ii) the State has established a State Rehabilitation Council that meets the criteria set forth in section 105 and the designated State unit—

“(I) in accordance with paragraph (15), jointly develops, agrees to, and reviews annually State goals and priorities, and jointly submits annual reports of progress with the Council;

“(II) regularly consults with the Council regarding the development, implementation, and revision of State policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services;



“(III) includes in the State plan and in any revision to the State plan, a summary of input provided by the Council, including recommendations from the annual report of the Council described in section 105(c)(5), the review and analysis of consumer satisfaction described in section 105(c)(4), and other reports prepared by the Council, and the response of the designated State unit to such input and recommendations, including explanations for rejecting any input or recommendation; and

“(IV) transmits to the Council—

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“(aa) all plans, reports, and other information required under this title to be submitted to the Secretary;

“(bb) all policies, and information on all practices and procedures, of general applicability provided to or used by rehabilitation personnel in carrying out this title; and

“(cc) copies of due process hearing decisions issued under this title, which shall be transmitted in such a manner as to ensure that the identity of the participants in the hearings is kept confidential.

“(B) MORE THAN ONE DESIGNATED STATE AGENCY.—

In the case of a State that, under section 101(a)(2), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind (or to supervise the administration of such part by a local agency) and designates a separate State agency to administer the rest of the State plan, the State shall either establish a State Rehabilitation Council for each of the two agencies that does not meet the requirements in subparagraph (A)(i), or establish one State Rehabilitation Council for both agencies if neither agency meets the requirements of subparagraph (A)(i).

“(22) SUPPORTED EMPLOYMENT STATE PLAN SUPPLEMENT.—

The State plan shall include an assurance that the State has an acceptable plan for carrying out part B of title VI, including the use of funds under that part to supplement funds made available under part B of this title to pay for the cost of services leading to supported employment.

“(23) ANNUAL UPDATES.—The plan shall include an assurance that the State will submit to the Commissioner reports

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containing annual updates of the information required under paragraph (7) (relating to a comprehensive system of personnel development) and any other updates of the information required under this section that are requested by the Commissioner, and annual reports as provided in paragraphs (15) (relating to assessments, estimates, goals and priorities, and reports of progress) and (18) (relating to innovation and expansion), at such time and in such manner as the Secretary may determine to be appropriate.

“(24) CERTAIN CONTRACTS AND COOPERATIVE AGREEMENTS.—

“(A) **CONTRACTS WITH FOR-PROFIT ORGANIZATIONS.**—The State plan shall provide that the designated State agency has the authority to enter into contracts with for-profit organizations for the purpose of providing, as vocational rehabilitation services, on-the-job training and related programs for individuals with disabilities under part A of title VI, upon a determination by such agency that such for-profit organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations.

“(B) **COOPERATIVE AGREEMENTS WITH PRIVATE NON-PROFIT ORGANIZATIONS.**—The State plan shall describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established.

“(b) **APPROVAL; DISAPPROVAL OF THE STATE PLAN.**—

“(1) **APPROVAL.**—The Commissioner shall approve any plan that the Commissioner finds fulfills the conditions specified in this section, and shall disapprove any plan that does not fulfill such conditions.

Notification.

“(2) **DISAPPROVAL.**—Prior to disapproval of the State plan, the Commissioner shall notify the State of the intention to disapprove the plan and shall afford the State reasonable notice and opportunity for a hearing.

29 USC 722.

**“SEC. 102. ELIGIBILITY AND INDIVIDUALIZED PLAN FOR EMPLOYMENT.**

“(a) **ELIGIBILITY.**—

“(1) **CRITERION FOR ELIGIBILITY.**—An individual is eligible for assistance under this title if the individual—

“(A) is an individual with a disability under section 7(20)(A); and

“(B) requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

“(2) **PRESUMPTION OF BENEFIT.**—

“(A) **DEMONSTRATION.**—For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(20)(A), unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

“(B) **METHODS.**—In making the demonstration required under subparagraph (A), the designated State unit shall explore the individual’s abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 7(2)(D), with appropriate supports provided through the designated State unit, except under limited circumstances when an individual cannot take advantage of such experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation

services due to the severity of the disability of the individual.

“(3) PRESUMPTION OF ELIGIBILITY.—

“(A) IN GENERAL.—For purposes of this section, an individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be—

“(i) considered to be an individual with a significant disability under section 7(21)(A); and

“(ii) presumed to be eligible for vocational rehabilitation services under this title (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with paragraph (2).

“(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to create an entitlement to any vocational rehabilitation service.

“(4) USE OF EXISTING INFORMATION.—

“(A) IN GENERAL.—To the maximum extent appropriate and consistent with the requirements of this part, for purposes of determining the eligibility of an individual for vocational rehabilitation services under this title and developing the individualized plan for employment described in subsection (b) for the individual, the designated State unit shall use information that is existing and current (as of the date of the determination of eligibility or of the development of the individualized plan for employment), including information available from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs.

“(B) DETERMINATIONS BY OFFICIALS OF OTHER AGENCIES.—Determinations made by officials of other agencies, particularly education officials described in section 101(a)(11)(D), regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(20)(A) or an individual with a significant disability under section 7(21)(A) shall be used, to the extent appropriate and consistent with the requirements of this part, in assisting the designated State unit in making such determinations.

“(C) BASIS.—The determination of eligibility for vocational rehabilitation services shall be based on—

“(i) the review of existing data described in section 7(2)(A)(i); and

“(ii) to the extent that such data is unavailable or insufficient for determining eligibility, the provision of assessment activities described in section 7(2)(A)(ii).

“(5) DETERMINATION OF INELIGIBILITY.—If an individual who applies for services under this title is determined, based on the review of existing data and, to the extent necessary, the assessment activities described in section 7(2)(A)(ii), not to be eligible for the services, or if an eligible individual receiving services under an individualized plan for employment is determined to be no longer eligible for the services—

“(A) the ineligibility determination involved shall be made only after providing an opportunity for full consultation with the individual or, as appropriate, the individual’s representative;

“(B) the individual or, as appropriate, the individual’s representative, shall be informed in writing (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual) of the ineligibility determination, including—

“(i) the reasons for the determination; and

“(ii) a description of the means by which the individual may express, and seek a remedy for, any dissatisfaction with the determination, including the procedures for review by an impartial hearing officer under subsection (c);

“(C) the individual shall be provided with a description of services available from the client assistance program under section 112 and information on how to contact that program; and

“(D) any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed—

“(i) within 12 months; and

“(ii) thereafter, if such a review is requested by the individual or, if appropriate, by the individual’s representative.

“(6) TIMEFRAME FOR MAKING AN ELIGIBILITY DETERMINATION.—The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless—

“(A) exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or

“(B) the designated State unit is exploring an individual’s abilities, capabilities, and capacity to perform in work situations under paragraph (2)(B).

“(b) DEVELOPMENT OF AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—

“(1) OPTIONS FOR DEVELOPING AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—If an individual is determined to be eligible for vocational rehabilitation services as described in subsection (a), the designated State unit shall complete the assessment for determining eligibility and vocational rehabilitation needs,

as appropriate, and shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an individualized plan for employment, including—

“(A) information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the individualized plan for employment for the individual, and the availability of technical assistance in developing all or part of the individualized plan for employment for the individual;

“(B) a description of the full range of components that shall be included in an individualized plan for employment;

“(C) as appropriate—

“(i) an explanation of agency guidelines and criteria associated with financial commitments concerning an individualized plan for employment;

“(ii) additional information the eligible individual requests or the designated State unit determines to be necessary; and

“(iii) information on the availability of assistance in completing designated State agency forms required in developing an individualized plan for employment; and

“(D)(i) a description of the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsection (c); and

“(ii) a description of the availability of a client assistance program established pursuant to section 112 and information about how to contact the client assistance program.

“(2) MANDATORY PROCEDURES.—

“(A) WRITTEN DOCUMENT.—An individualized plan for employment shall be a written document prepared on forms provided by the designated State unit.

“(B) INFORMED CHOICE.—An individualized plan for employment shall be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services, consistent with subsection (d).

“(C) SIGNATORIES.—An individualized plan for employment shall be—

“(i) agreed to, and signed by, such eligible individual or, as appropriate, the individual's representative; and

“(ii) approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit.

“(D) COPY.—A copy of the individualized plan for employment for an eligible individual shall be provided to the individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native

language or mode of communication of the individual or, as appropriate, of the individual's representative.

“(E) REVIEW AND AMENDMENT.—The individualized plan for employment shall be—

“(i) reviewed at least annually by—

“(I) a qualified vocational rehabilitation counselor; and

“(II) the eligible individual or, as appropriate, the individual's representative; and

“(ii) amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the designated State agency or a qualified vocational rehabilitation counselor (to the extent determined to be appropriate by the individual), if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the service providers of the services (which amendments shall not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative, and by a qualified vocational rehabilitation counselor employed by the designated State unit).

“(3) MANDATORY COMPONENTS OF AN INDIVIDUALIZED PLAN FOR EMPLOYMENT.—Regardless of the approach selected by an eligible individual to develop an individualized plan for employment, an individualized plan for employment shall, at a minimum, contain mandatory components consisting of—

“(A) a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;

“(B)(i) a description of the specific vocational rehabilitation services that are—

“(I) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and

“(II) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual; and

“(ii) timelines for the achievement of the employment outcome and for the initiation of the services;

“(C) a description of the entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services;

“(D) a description of criteria to evaluate progress toward achievement of the employment outcome;

“(E) the terms and conditions of the individualized plan for employment, including, as appropriate, information describing—

“(i) the responsibilities of the designated State unit;

“(ii) the responsibilities of the eligible individual, including—

“(I) the responsibilities the eligible individual will assume in relation to the employment outcome of the individual;

“(II) if applicable, the participation of the eligible individual in paying for the costs of the plan; and

“(III) the responsibility of the eligible individual with regard to applying for and securing comparable benefits as described in section 101(a)(8); and

“(iii) the responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as described in section 101(a)(8);

“(F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying—

“(i) the extended services needed by the eligible individual; and

“(ii) the source of extended services or, to the extent that the source of the extended services cannot be identified at the time of the development of the individualized plan for employment, a description of the basis for concluding that there is a reasonable expectation that such source will become available; and

“(G) as determined to be necessary, a statement of projected need for post-employment services.

“(c) PROCEDURES.—

“(1) IN GENERAL.—Each State shall establish procedures for mediation of, and procedures for review through an impartial due process hearing of, determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services to applicants or eligible individuals.

“(2) NOTIFICATION.—

“(A) RIGHTS AND ASSISTANCE.—The procedures shall provide that an applicant or an eligible individual or, as appropriate, the applicant’s representative or individual’s representative shall be notified of—

“(i) the right to obtain review of determinations described in paragraph (1) in an impartial due process hearing under paragraph (5);

“(ii) the right to pursue mediation with respect to the determinations under paragraph (4); and

“(iii) the availability of assistance from the client assistance program under section 112.

“(B) TIMING.—Such notification shall be provided in writing—

“(i) at the time an individual applies for vocational rehabilitation services provided under this title;

“(ii) at the time the individualized plan for employment for the individual is developed; and

“(iii) upon reduction, suspension, or cessation of vocational rehabilitation services for the individual.

“(3) EVIDENCE AND REPRESENTATION.—The procedures required under this subsection shall, at a minimum—

“(A) provide an opportunity for an applicant or an eligible individual, or, as appropriate, the applicant’s representative or individual’s representative, to submit at the mediation session or hearing evidence and information to support the position of the applicant or eligible individual; and

“(B) include provisions to allow an applicant or an eligible individual to be represented in the mediation session or hearing by a person selected by the applicant or eligible individual.

“(4) MEDIATION.—

“(A) PROCEDURES.—Each State shall ensure that procedures are established and implemented under this subsection to allow parties described in paragraph (1) to disputes involving any determination described in paragraph (1) to resolve such disputes through a mediation process that, at a minimum, shall be available whenever a hearing is requested under this subsection.

“(B) REQUIREMENTS.—Such procedures shall ensure that the mediation process—

“(i) is voluntary on the part of the parties;

“(ii) is not used to deny or delay the right of an individual to a hearing under this subsection, or to deny any other right afforded under this title; and

“(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

“(C) LIST OF MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title, from which the mediators described in subparagraph (B) shall be selected.

“(D) COST.—The State shall bear the cost of the mediation process.

“(E) SCHEDULING.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

“(F) AGREEMENT.—An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

“(G) CONFIDENTIALITY.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

“(H) CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the parties to such a dispute from informally resolving the dispute prior to proceedings under this paragraph or paragraph (5), if the informal process used is not used to deny or delay the right of



the applicant or eligible individual to a hearing under this subsection or to deny any other right afforded under this title.

“(5) HEARINGS.—

“(A) OFFICER.—A due process hearing described in paragraph (2) shall be conducted by an impartial hearing officer who shall issue a decision based on the provisions of the approved State plan, this Act (including regulations implementing this Act), and State regulations and policies that are consistent with the Federal requirements specified in this title. The officer shall provide the decision in writing to the applicant or eligible individual, or, as appropriate, the applicant’s representative or individual’s representative, and to the designated State unit.

“(B) LIST.—The designated State unit shall maintain a list of qualified impartial hearing officers who are knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services under this title from which the officer described in subparagraph (A) shall be selected. For the purposes of maintaining such list, impartial hearing officers shall be identified jointly by—

“(i) the designated State unit; and

“(ii) members of the Council or commission, as appropriate, described in section 101(a)(21).

“(C) SELECTION.—Such an impartial hearing officer shall be selected to hear a particular case relating to a determination—

“(i) on a random basis; or

“(ii) by agreement between—

“(I) the Director of the designated State unit and the individual with a disability; or

“(II) in appropriate cases, the Director and the individual’s representative.

“(D) PROCEDURES FOR SEEKING REVIEW.—A State may establish procedures to enable a party involved in a hearing under this paragraph to seek an impartial review of the decision of the hearing officer under subparagraph (A) by—

“(i) the chief official of the designated State agency if the State has established both a designated State agency and a designated State unit under section 101(a)(2); or

“(ii) an official from the office of the Governor.

“(E) REVIEW REQUEST.—If the State establishes impartial review procedures under subparagraph (D), either party may request the review of the decision of the hearing officer within 20 days after the decision.

“(F) REVIEWING OFFICIAL.—The reviewing official described in subparagraph (D) shall—

“(i) in conducting the review, provide an opportunity for the submission of additional evidence and information relevant to a final decision concerning the matter under review;

“(ii) not overturn or modify the decision of the hearing officer, or part of the decision, that supports the position of the applicant or eligible individual unless the reviewing official concludes, based on clear

and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved State plan, this Act (including regulations implementing this Act) or any State regulation or policy that is consistent with the Federal requirements specified in this title; and

“(iii) make a final decision with respect to the matter in a timely manner and provide such decision in writing to the applicant or eligible individual, or, as appropriate, the applicant’s representative or individual’s representative, and to the designated State unit, including a full report of the findings and the grounds for such decision.

“(G) FINALITY OF HEARING DECISION.—A decision made after a hearing under subparagraph (A) shall be final, except that a party may request an impartial review if the State has established procedures for such review under subparagraph (D) and a party involved in a hearing may bring a civil action under subparagraph (J).

“(H) FINALITY OF REVIEW.—A decision made under subparagraph (F) shall be final unless such a party brings a civil action under subparagraph (J).

“(I) IMPLEMENTATION.—If a party brings a civil action under subparagraph (J) to challenge a final decision of a hearing officer under subparagraph (A) or to challenge a final decision of a State reviewing official under subparagraph (F), the final decision involved shall be implemented pending review by the court.

“(J) CIVIL ACTION.—

“(i) IN GENERAL.—Any party aggrieved by a final decision described in subparagraph (I), may bring a civil action for review of such decision. The action may be brought in any State court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy.

“(ii) PROCEDURE.—In any action brought under this subparagraph, the court—

“(I) shall receive the records relating to the hearing under subparagraph (A) and the records relating to the State review under subparagraphs (D) through (F), if applicable;

“(II) shall hear additional evidence at the request of a party to the action; and

“(III) basing the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate.

“(6) HEARING BOARD.—

“(A) IN GENERAL.—A fair hearing board, established by a State before January 1, 1985, and authorized under State law to review determinations or decisions under this Act, is authorized to carry out the responsibilities of the impartial hearing officer under this subsection.

“(B) APPLICATION.—The provisions of paragraphs (1), (2), and (3) that relate to due process hearings do not apply, and paragraph (5) (other than subparagraph (J))

Courts.

Records.

does not apply, to any State to which subparagraph (A) applies.

“(7) IMPACT ON PROVISION OF SERVICES.—Unless the individual with a disability so requests, or, in an appropriate case, the individual’s representative, so requests, pending a decision by a mediator, hearing officer, or reviewing officer under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided for the individual, including evaluation and assessment services and plan development, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual, or the individual’s representative.

“(8) INFORMATION COLLECTION AND REPORT.—

“(A) IN GENERAL.—The Director of the designated State unit shall collect information described in subparagraph (B) and prepare and submit to the Commissioner a report containing such information. The Commissioner shall prepare a summary of the information furnished under this paragraph and include the summary in the annual report submitted under section 13. The Commissioner shall also collect copies of the final decisions of impartial hearing officers conducting hearings under this subsection and State officials conducting reviews under this subsection.

“(B) INFORMATION.—The information required to be collected under this subsection includes—

“(i) a copy of the standards used by State reviewing officials for reviewing decisions made by impartial hearing officers under this subsection;

“(ii) information on the number of hearings and reviews sought from the impartial hearing officers and the State reviewing officials, including the type of complaints and the issues involved;

“(iii) information on the number of hearing decisions made under this subsection that were not reviewed by the State reviewing officials; and

“(iv) information on the number of the hearing decisions that were reviewed by the State reviewing officials, and, based on such reviews, the number of hearing decisions that were—

“(I) sustained in favor of an applicant or eligible individual;

“(II) sustained in favor of the designated State unit;

“(III) reversed in whole or in part in favor of the applicant or eligible individual; and

“(IV) reversed in whole or in part in favor of the designated State unit.

“(C) CONFIDENTIALITY.—The confidentiality of records of applicants and eligible individuals maintained by the designated State unit shall not preclude the access of the Commissioner to those records for the purposes described in subparagraph (A).

“(d) POLICIES AND PROCEDURES.—Each designated State agency, in consultation with the State Rehabilitation Council, if the State has such a council, shall, consistent with section 100(a)(3)(C), develop and implement written policies and procedures that enable

each individual who is an applicant for or eligible to receive vocational rehabilitation services under this title to exercise informed choice throughout the vocational rehabilitation process carried out under this title, including policies and procedures that require the designated State agency—

“(1) to inform each such applicant and eligible individual (including students with disabilities who are making the transition from programs under the responsibility of an educational agency to programs under the responsibility of the designated State unit), through appropriate modes of communication, about the availability of, and opportunities to exercise, informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice, throughout the vocational rehabilitation process;

“(2) to assist applicants and eligible individuals in exercising informed choice in decisions related to the provision of assessment services under this title;

“(3) to develop and implement flexible procurement policies and methods that facilitate the provision of services, and that afford eligible individuals meaningful choices among the methods used to procure services, under this title;

“(4) to provide or assist eligible individuals in acquiring information that enables those individuals to exercise informed choice under this title in the selection of—

“(A) the employment outcome;

“(B) the specific vocational rehabilitation services needed to achieve the employment outcome;

“(C) the entity that will provide the services;

“(D) the employment setting and the settings in which the services will be provided; and

“(E) the methods available for procuring the services;

and

“(5) to ensure that the availability and scope of informed choice provided under this section is consistent with the obligations of the designated State agency under this title.

29 USC 723.

**“SEC. 103. VOCATIONAL REHABILITATION SERVICES.**

“(a) VOCATIONAL REHABILITATION SERVICES FOR INDIVIDUALS.—Vocational rehabilitation services provided under this title are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including—

“(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

“(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);

“(3) referral and other services to secure needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this title;

“(4) job-related services, including job search and placement assistance, job retention services, followup services, and follow-along services;

“(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;

“(6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 101(a)(8)(A)), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including—

“(A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;

“(B) necessary hospitalization in connection with surgery or treatment;

“(C) prosthetic and orthotic devices;

“(D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;

“(E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and

“(F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;

“(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;

“(8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;

“(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

“(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;

“(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

“(12) occupational licenses, tools, equipment, and initial stocks and supplies;

“(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

“(14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

“(15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment;

“(16) supported employment services;

“(17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

“(18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

“(b) VOCATIONAL REHABILITATION SERVICES FOR GROUPS OF INDIVIDUALS.—Vocational rehabilitation services provided for the benefit of groups of individuals with disabilities may also include the following:

“(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.

“(2)(A) The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility. Such programs shall be used to provide services that promote integration and competitive employment.

“(B) The provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any 1 individual with a disability.

“(3) The use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities.

“(4)(A) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media.

“(B) Captioned television, films, or video cassettes for individuals who are deaf or hard of hearing.

“(C) Tactile materials for individuals who are deaf-blind.

“(D) Other special services that provide information through tactile, vibratory, auditory, and visual media.

“(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities

Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.

“(6) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

**“SEC. 104. NON-FEDERAL SHARE FOR ESTABLISHMENT OF PROGRAM OR CONSTRUCTION.** 29 USC 724.

“For the purpose of determining the amount of payments to States for carrying out part B (or to an Indian tribe under part C), the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Commissioner, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to establishment of such a program or construction of such a facility.

**“SEC. 105. STATE REHABILITATION COUNCIL.**

29 USC 725.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—Except as provided in section 101(a)(21)(A)(i), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Council (referred to in this section as the ‘Council’) in accordance with this section.

“(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(2)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

“(b) COMPOSITION AND APPOINTMENT.—

“(1) COMPOSITION.—

“(A) IN GENERAL.—Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

“(i) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

“(ii) at least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17);

“(iii) at least one representative of the client assistance program established under section 112;

“(iv) at least one qualified vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

“(v) at least one representative of community rehabilitation program service providers;

“(vi) four representatives of business, industry, and labor;

“(vii) representatives of disability advocacy groups representing a cross section of—

“(I) individuals with physical, cognitive, sensory, and mental disabilities; and

“(II) individuals’ representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

“(viii) current or former applicants for, or recipients of, vocational rehabilitation services;

“(ix) in a State in which one or more projects are carried out under section 121, at least one representative of the directors of the projects;

“(x) at least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this title and part B of the Individuals with Disabilities Education Act; and

“(xi) at least one representative of the State workforce investment board.

“(B) SEPARATE COUNCIL.—In the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

“(i) at least one representative described in subparagraph (A)(i);

“(ii) at least one representative described in subparagraph (A)(ii);

“(iii) at least one representative described in subparagraph (A)(iii);

“(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

“(v) at least one representative described in subparagraph (A)(v);

“(vi) four representatives described in subparagraph (A)(vi);

“(vii) at least one representative of a disability advocacy group representing individuals who are blind;

“(viii) at least one individual’s representative, of an individual who—

“(I) is an individual who is blind and has multiple disabilities; and

“(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself;

“(ix) applicants or recipients described in subparagraph (A)(viii);

“(x) in a State described in subparagraph (A)(ix), at least one representative described in such subparagraph;

“(xi) at least one representative described in subparagraph (A)(x); and



“(xii) at least one representative described in subparagraph (A)(xi).

“(C) EXCEPTION.—In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on the date of enactment of the Rehabilitation Act Amendments of 1992, to have fewer than 15 members shall be deemed to be in compliance with subparagraph (B) if the Council—

“(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

“(ii) includes at least—

“(I) one representative described in subparagraph (B)(vi); and

“(II) one applicant or recipient described in subparagraph (B)(ix).

“(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio, nonvoting member of the Council.

“(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities. In selecting members, the Governor shall consider, to the greatest extent practicable, the extent to which minority populations are represented on the Council.

“(4) QUALIFICATIONS.—

“(A) IN GENERAL.—A majority of Council members shall be persons who are—

“(i) individuals with disabilities described in section 7(20)(A); and

“(ii) not employed by the designated State unit.

“(B) SEPARATE COUNCIL.—In the case of a separate Council established under subsection (a)(2), a majority of Council members shall be persons who are—

“(i) blind; and

“(ii) not employed by the designated State unit.

“(5) CHAIRPERSON.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

“(B) DESIGNATION BY GOVERNOR.—In States in which the chief executive officer does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

“(6) TERMS OF APPOINTMENT.—

“(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

“(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

“(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for

such fewer number of years as will provide for the expiration of terms on a staggered basis.

“(B) NUMBER OF TERMS.—No member of the Council, other than a representative described in clause (iii) or (ix) of paragraph (1)(A), or clause (iii) or (x) of paragraph (1)(B), may serve more than two consecutive full terms.

“(7) VACANCIES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

“(B) DELEGATION.—The Governor may delegate the authority to fill such a vacancy to the remaining members of the Council after making the original appointment.

“(c) FUNCTIONS OF COUNCIL.—The Council shall, after consulting with the State workforce investment board—

“(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

“(A) eligibility (including order of selection);

“(B) the extent, scope, and effectiveness of services provided; and

“(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes under this title;

“(2) in partnership with the designated State unit—

“(A) develop, agree to, and review State goals and priorities in accordance with section 101(a)(15)(C); and

“(B) evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner in accordance with section 101(a)(15)(E);

“(3) advise the designated State agency and the designated State unit regarding activities authorized to be carried out under this title, and assist in the preparation of the State plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by this title;

“(4) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

“(A) the functions performed by the designated State agency;

“(B) vocational rehabilitation services provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under this Act; and

“(C) employment outcomes achieved by eligible individuals receiving services under this title, including the availability of health and other employment benefits in connection with such employment outcomes;

“(5) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public;

“(6) to avoid duplication of efforts and enhance the number of individuals served, coordinate activities with the activities

Reports.

of other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 612(a)(21) of the Individual with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17), the State Developmental Disabilities Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), the State mental health planning council established under section 1914(a) of the Public Health Service Act (42 U.S.C. 300x-4(a)), and the State workforce investment board;

“(7) provide for coordination and the establishment of working relationships between the designated State agency and the Statewide Independent Living Council and centers for independent living within the State; and

“(8) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Council determines to be appropriate, that are comparable to the other functions performed by the Council.

“(d) RESOURCES.—

“(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary and sufficient to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

“(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor consistent with paragraph (1).

“(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

“(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

“(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

“(f) MEETINGS.—The Council shall convene at least four meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

“(g) COMPENSATION AND EXPENSES.—The Council may use funds allocated to the Council by the designated State unit under this title (except for funds appropriated to carry out the client

assistance program under section 112 and funds reserved pursuant to section 110(c) to carry out part C) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

“(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

29 USC 726.

**“SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.**

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—

Deadline.  
Publication.

“(A) ESTABLISHMENT OF STANDARDS AND INDICATORS.—

The Commissioner shall, not later than July 1, 1999, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program carried out under this title.

Effective date.

“(B) REVIEW AND REVISION.—Effective July 1, 1999, the Commissioner shall review and, if necessary, revise the evaluation standards and performance indicators every 3 years. Any revisions of the standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. Any revisions of the standards and indicators shall be subject to the publication, review, and comment provisions of paragraph (3).

Effective date.

“(C) BASES.—Effective July 1, 1999, to the maximum extent practicable, the standards and indicators shall be consistent with the core indicators of performance established under section 136(b) of the Workforce Investment Act of 1998.

“(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate the accomplishment of the purpose and policy of this title.

Federal Register,  
publications.

“(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

“(b) COMPLIANCE.—

Regulations.

“(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

“(2) PROGRAM IMPROVEMENT.—

“(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards,

the Commissioner shall provide technical assistance to the State, and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

“(B) REVIEW.—The Commissioner shall—

“(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

“(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

“(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

“(d) REPORT TO CONGRESS.—Beginning in fiscal year 1999, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.

Effective date.

**“SEC. 107. MONITORING AND REVIEW.**

29 USC 727.

“(a) IN GENERAL.—

“(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

“(A) provide for the annual review and periodic onsite monitoring of programs under this title; and

“(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

“(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

“(A) State policies and procedures;

“(B) guidance materials;

“(C) decisions resulting from hearings conducted in accordance with due process;

“(D) State goals established under section 101(a)(15) and the extent to which the State has achieved such goals;

“(E) plans and reports prepared under section 106(b);

“(F) consumer satisfaction reviews and analyses described in section 105(c)(4);

“(G) information provided by the State Rehabilitation Council established under section 105, if the State has such a Council, or by the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

“(H) reports; and

“(I) budget and financial management data.

“(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

“(A) onsite visits, including onsite reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

“(B) public hearings and other strategies for collecting information from the public;

“(C) meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission;

“(D) reviews of individual case files, including individualized plans for employment and ineligibility determinations; and

“(E) meetings with qualified vocational rehabilitation counselors and other personnel.

“(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

“(A) the eligibility process;

“(B) the provision of services, including, if applicable, the order of selection;

“(C) such other areas as may be identified by the public or through meetings with the State Rehabilitation Council, if the State has such a Council or with the commission described in section 101(a)(21)(A)(i), if the State has such a commission; and

“(D) such other areas of inquiry as the Commissioner may consider appropriate.

“(5) REPORTS.—If the Commissioner issues a report detailing the findings of an annual review or onsite monitoring conducted under this section, the report shall be made available to the State Rehabilitation Council, if the State has such a Council, for use in the development and modification of the State plan described in section 101.

“(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

“(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

“(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

“(c) FAILURE TO COMPLY WITH PLAN.—

“(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

“(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

“(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

Notification.

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

“(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

“(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

Regulations.

“(d) REVIEW.—

Courts.

“(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

Records.

“(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

“(3) STANDARDS OF REVIEW.—

“(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

“(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

“(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

“(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).

29 USC 728.

**“SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS.**

“(a) EXPENDITURE.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part B of title VI, or under title VII.

“(b) AMOUNTS.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.

29 USC 728a.

**“SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.**

“A State may expend payments received under section 111—

“(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

“(2) to inform employers of the existence of the program and the availability of the services of the program.

**“PART B—BASIC VOCATIONAL REHABILITATION SERVICES**

29 USC 730.

**“SEC. 110. STATE ALLOTMENTS.**

“(a)(1) Subject to the provisions of subsection (c), for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of—

“(A) the population of the State; and

“(B) the square of its allotment percentage,

bears to the sum of the corresponding products for all the States.

“(2)(A) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment in an amount equal to the amount such State received under paragraph (1) for the fiscal year ending September 30, 1978, and an additional amount determined pursuant to subparagraph (B) of this paragraph.



“(B) For each fiscal year beginning on or after October 1, 1978, each State shall be entitled to an allotment, from any amount authorized to be appropriated for such fiscal year under section 100(b)(1) for allotment under this section in excess of the amount appropriated under section 100(b)(1)(A) for the fiscal year ending September 30, 1978, in an amount equal to the sum of—

“(i) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all the States; and

“(ii) an amount bearing the same ratio to 50 percent of such excess amount as the product of the population of the State and its allotment percentage bears to the sum of the corresponding products for all the States.

“(3) The sum of the payment to any State (other than Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands) under this subsection for any fiscal year which is less than  $\frac{1}{3}$  of 1 percent of the amount appropriated under section 100(b)(1), or \$3,000,000, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining such States under this subsection, but with such adjustments as may be necessary to prevent the sum of the allotments made under this subsection to any such remaining State from being thereby reduced to less than that amount.

“(b)(1) Not later than 45 days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

Deadlines.

“(2) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall make such amount available for carrying out the purposes of this title to one or more other States to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes. The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

“(3) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State’s allotment (as determined under the preceding provisions of this section) for such year.

“(c)(1) For fiscal year 1987 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 100(b)(1) for allotment under this section a sum, determined under paragraph (2), to carry out the purposes of part C.

“(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

“(A) not less than three-quarters of 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for fiscal year 1999; and

“(B) not less than 1 percent and not more than 1.5 percent of the amount referred to in paragraph (1), for each of fiscal years 2000 through 2003.

29 USC 731.

**“SEC. 111. PAYMENTS TO STATES.**

“(a)(1) Except as provided in paragraph (2), from each State’s allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan.

“(2)(A) The total of payments under paragraph (1) to a State for a fiscal year may not exceed its allotment under subsection (a) of section 110 for such year.

“(B) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year.

“(C) The Commissioner may waive or modify any requirement or limitation under subparagraph (B) or section 101(a)(17) if the Commissioner determines that a waiver or modification is an equitable response to exceptional or uncontrollable circumstances affecting the State.

“(3)(A) Except as provided in subparagraph (B), the amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a))), in such State.

“(B) If the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such section.

“(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

“(1) The Commissioner shall, prior to the beginning of each calendar quarter or other period prescribed by the Commissioner, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Commissioner may find necessary.

“(2) The Commissioner shall pay, from the allotment available therefor, the amount so estimated by the Commissioner for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which the Commissioner finds that the estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or

settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Commissioner may determine.

**“SEC. 112. CLIENT ASSISTANCE PROGRAM.**

29 USC 732.

Grants.

“(a) From funds appropriated under subsection (h), the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to provide assistance in informing and advising all clients and client applicants of all available benefits under this Act, and, upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and services provided under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act and to facilitate access to the services funded under this Act through individual and systemic advocacy. The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs. In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.

“(b) No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984, a client assistance program which—

“(1) has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of rights of individuals with disabilities who are receiving treatments, services, or rehabilitation under this Act within the State; and

“(2) meets the requirements of designation under subsection (c).

“(c)(1)(A) The Governor shall designate a public or private agency to conduct the client assistance program under this section. Except as provided in the last sentence of this subparagraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this Act. If there is an agency in the State which has, or had, prior to the date of enactment of the Rehabilitation Amendments of 1984, served as a client assistance agency under this section and which received Federal financial assistance under this Act, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

“(B)(i) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

“(I) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

“(II) individuals with disabilities or the individuals’ representatives have timely notice of the redesignation and opportunity for public comment; and

“(III) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.

“(ii) If, after the date of enactment of the Rehabilitation Act Amendments of 1998—

“(I) a designated State agency undergoes any change in the organizational structure of the agency that results in the creation of one or more new State agencies or departments or results in the merger of the designated State agency with one or more other State agencies or departments; and

“(II) an agency (including an office or other unit) within the designated State agency was conducting a client assistance program before the change under the last sentence of subparagraph (A),

the Governor shall redesignate the agency conducting the program. In conducting the redesignation, the Governor shall designate to conduct the program an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

“(2) In carrying out the provisions of this section, the Governor shall consult with the director of the State vocational rehabilitation agency, the head of the developmental disability protection and advocacy agency, and with representatives of professional and consumer organizations serving individuals with disabilities in the State.

“(3) The agency designated under this subsection shall be accountable for the proper use of funds made available to the agency.

“(d) The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

“(e)(1)(A) The Secretary shall allot the sums appropriated for each fiscal year under this section among the States on the basis of relative population of each State, except that no State shall receive less than \$50,000.

“(B) The Secretary shall allot \$30,000 each to American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

“(C) For the purpose of this paragraph, the term ‘State’ does not include American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

“(D)(i) In any fiscal year that the funds appropriated for such fiscal year exceed \$7,500,000, the minimum allotment shall be \$100,000 for States and \$45,000 for territories.

“(ii) For any fiscal year in which the total amount appropriated under subsection (h) exceeds the total amount appropriated under such subsection for the preceding fiscal year, the Secretary shall increase each of the minimum allotments under clause (i) by a percentage that shall not exceed the percentage increase in the total amount appropriated under such subsection between the preceding fiscal year and the fiscal year involved.

“(2) The amount of an allotment to a State for a fiscal year which the Secretary determines will not be required by the State during the period for which it is available for the purpose for

which allotted shall be available for reallocation by the Secretary at appropriate times to other States with respect to which such a determination has not been made, in proportion to the original allotments of such States for such fiscal year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use during such period, and the total of such reduction shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any such amount so reallocated to a State for a fiscal year shall be deemed to be a part of its allotment for such fiscal year.

“(3) Except as specifically prohibited by or as otherwise provided in State law, the Secretary shall pay to the agency designated under subsection (c) the amount specified in the application approved under subsection (f).

“(f) No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

“(g) The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

Regulations.

“(1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this Act in the State.

“(2) Each program shall be afforded reasonable access to policymaking and administrative personnel in the State and local rehabilitation programs, projects, or facilities.

“(3)(A) Each program shall contain provisions designed to assure that to the maximum extent possible alternative means of dispute resolution are available for use at the discretion of an applicant or client of the program prior to resorting to litigation or formal adjudication to resolve a dispute arising under this section.

“(B) In subparagraph (A), the term ‘alternative means of dispute resolution’ means any procedure, including good faith negotiation, conciliation, facilitation, mediation, factfinding, and arbitration, and any combination of procedures, that is used in lieu of litigation in a court or formal adjudication in an administrative forum, to resolve a dispute arising under this section.

“(4) For purposes of any periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

“(h) There are authorized to be appropriated such sums as may be necessary for fiscal years 1999 through 2003 to carry out the provisions of this section.

Appropriation  
authorization.

**“PART C—AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICES**

29 USC 741.

**“SEC. 121. VOCATIONAL REHABILITATION SERVICES GRANTS.**

“(a) The Commissioner, in accordance with the provisions of this part, may make grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for American Indians who are individuals with disabilities residing on or near such reservations. The non-Federal share of such costs may be in cash or in kind, fairly valued, and the Commissioner may waive such non-Federal share requirement in order to carry out the purposes of this Act.

“(b)(1) No grant may be made under this part for any fiscal year unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—

“(A) is made at such time, in such manner, and contains such information as the Commissioner may require;

“(B) contains assurances that the rehabilitation services provided under this part to American Indians who are individuals with disabilities residing on or near a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other individuals with disabilities residing in the State and that, where appropriate, may include services traditionally used by Indian tribes; and

“(C) contains assurances that the application was developed in consultation with the designated State unit of the State.

“(2) The provisions of sections 5, 6, 7, and 102(a) of the Indian Self-Determination and Education Assistance Act shall be applicable to any application submitted under this part. For purposes of this paragraph, any reference in any such provision to the Secretary of Education or to the Secretary of the Interior shall be considered to be a reference to the Commissioner.

“(3) Any application approved under this part shall be effective for not more than 60 months, except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on or near a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).

“(4) In making grants under this part, the Secretary shall give priority consideration to applications for the continuation of programs which have been funded under this part.

“(5) Nothing in this section may be construed to authorize a separate service delivery system for Indian residents of a State who reside in non-reservation areas.

“(c) The term ‘reservation’ includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

“PART D—VOCATIONAL REHABILITATION SERVICES CLIENT  
INFORMATION

“SEC. 131. DATA SHARING.

29 USC 751.

“(a) IN GENERAL.—

“(1) MEMORANDUM OF UNDERSTANDING.—The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purposes of exchanging data of mutual importance—

“(A) that concern clients of designated State agencies;  
and

“(B) that are data maintained either by—

“(i) the Rehabilitation Services Administration, as required by section 13; or

“(ii) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

“(2) EMPLOYMENT STATISTICS.—The Secretary of Labor shall provide the Commissioner with employment statistics specified in section 15 of the Wagner-Peyser Act, that facilitate evaluation by the Commissioner of the program carried out under part B, and allow the Commissioner to compare the progress of individuals with disabilities who are assisted under the program in securing, retaining, regaining, and advancing in employment with the progress made by individuals who are assisted under title I of the Workforce Investment Act of 1998.

“(b) TREATMENT OF INFORMATION.—For purposes of the exchange described in subsection (a)(1), the data described in subsection (a)(1)(B)(ii) shall not be considered return information (as defined in section 6103(b)(2) of the Internal Revenue Code of 1986) and, as appropriate, the confidentiality of all client information shall be maintained by the Rehabilitation Services Administration and the Social Security Administration.”.

SEC. 405. RESEARCH AND TRAINING.

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 760 et seq.), is amended to read as follows:

“TITLE II—RESEARCH AND TRAINING

“DECLARATION OF PURPOSE

“SEC. 200. The purpose of this title is to—

29 USC 760.

“(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

“(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the 5-year plan developed under section 202(h);

“(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

“(A) the procurement process for the purchase of rehabilitation technology;

“(B) the utilization of rehabilitation technology on a national basis;

“(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently; and

“(D) the development or transfer of assistive technology;

“(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

“(A) generated by research, demonstration projects, training, and related activities; and

“(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities, to rehabilitation professionals, individuals with disabilities, and other interested parties, including the general public;

“(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in employment, including employment involving telecommuting and self-employment; and

“(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.

#### “AUTHORIZATION OF APPROPRIATIONS

29 USC 761.

“SEC. 201. (a) There are authorized to be appropriated—

“(1) for the purpose of providing for the expenses of the National Institute on Disability and Rehabilitation Research under section 202, which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204, such sums as may be necessary for each of fiscal years 1999 through 2003; and

“(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1999 through 2003.

“(b) Funds appropriated under this title shall remain available until expended.

#### “NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH

Establishment.  
29 USC 762.

“SEC. 202. (a)(1) There is established within the Department of Education a National Institute on Disability and Rehabilitation Research (hereinafter in this title referred to as the ‘Institute’), which shall be headed by a Director (hereinafter in this title referred to as the ‘Director’), in order to—

“(A) promote, coordinate, and provide for—

“(i) research;

“(ii) demonstration projects and training; and

“(iii) related activities,

with respect to individuals with disabilities;

“(B) more effectively carry out activities through the programs under section 204 and activities under this section;

“(C) widely disseminate information from the activities described in subparagraphs (A) and (B); and



“(D) provide leadership in advancing the quality of life of individuals with disabilities.

“(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).

“(b) The Director, through the Institute, shall be responsible for—

“(1) administering the programs described in section 204 and activities under this section;

“(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, training, and related activities (referred to in this title as ‘covered activities’) funded by the Institute, to—

“(A) other Federal, State, tribal, and local public agencies;

“(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

“(C) rehabilitation practitioners; and

“(D) individuals with disabilities and the individuals’ representatives;

“(3) coordinating, through the Interagency Committee established by section 203 of this Act, all Federal programs and policies relating to research in rehabilitation;

“(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

“(A) public and private entities, including—

“(i) elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965; and

“(ii) institutions of higher education;

“(B) rehabilitation practitioners;

“(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this Act); and

“(D) the individuals’ representatives for the individuals described in subparagraph (C);

“(5)(A) conducting an education program to inform the public about ways of providing for the rehabilitation of individuals with disabilities, including information relating to—

“(i) family care;

“(ii) self-care; and

“(iii) assistive technology devices and assistive technology services; and

“(B) as part of the program, disseminating engineering information about assistive technology devices;

“(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology (including advances concerning the selection and use of assistive technology devices and assistive technology services), pertinent to the full inclusion

and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;

“(7) taking whatever action is necessary to keep the Congress fully and currently informed with respect to the implementation and conduct of programs and activities carried out under this title, including dissemination activities;

“(8) producing, in conjunction with the Department of Labor, the National Center for Health Statistics, the Bureau of the Census, the Health Care Financing Administration, the Social Security Administration, the Bureau of Indian Affairs, the Indian Health Service, and other Federal departments and agencies, as may be appropriate, statistical reports and studies on the employment, self-employment, telecommuting, health, income, and other demographic characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations, and widely disseminating such reports and studies to rehabilitation professionals, individuals with disabilities, the individuals’ representatives, and others to assist in the planning, assessment, and evaluation of vocational and other rehabilitation services for individuals with disabilities;

“(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

“(10) conducting research to examine the relationship between the provision of specific services and successful, sustained employment outcomes, including employment outcomes involving self-employment and telecommuting; and

“(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).

“(c)(1) The Director, acting through the Institute or one or more entities funded by the Institute, shall provide for the development and dissemination of models to address consumer-driven information needs related to assistive technology devices and assistive technology services.

“(2) The development and dissemination of models may include—

“(A) convening groups of individuals with disabilities, family members and advocates of such individuals, commercial producers of assistive technology, and entities funded by the Institute to develop, assess, and disseminate knowledge about information needs related to assistive technology;

“(B) identifying the types of information regarding assistive technology devices and assistive technology services that individuals with disabilities find especially useful;

“(C) evaluating current models, and developing new models, for transmitting the information described in subparagraph (B) to consumers and to commercial producers of assistive technology; and

“(D) disseminating through one or more entities funded by the Institute, the models described in subparagraph (C) and findings regarding the information described in subparagraph (B) to consumers and commercial producers of assistive technology.

“(d)(1) The Director of the Institute shall be appointed by the Secretary. The Director shall be an individual with substantial experience in rehabilitation and in research administration.

“(2) The Director, subject to the approval of the President, may appoint, for terms not to exceed three years, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may compensate, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, such technical and professional employees of the Institute as the Director determines to be necessary to accomplish the functions of the Institute and also appoint and compensate without regard to such provisions, in a number not to exceed one-fifth of the number of full-time, regular technical and professional employees of the Institute.

“(3) The Director may obtain the services of consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

“(e) The Director, pursuant to regulations which the Secretary shall prescribe, may establish and maintain fellowships with such stipends and allowances, including travel and subsistence expenses provided for under title 5, United States Code, as the Director considers necessary to procure the assistance of highly qualified research fellows, including individuals with disabilities, from the United States and foreign countries.

Regulations.

“(f)(1) The Director shall provide for scientific peer review of all applications for financial assistance for research, training, and demonstration projects over which the Director has authority. The scientific peer review shall be conducted by individuals who are not Federal employees, who are scientists or other experts in the rehabilitation field (including the independent living field), including knowledgeable individuals with disabilities, and the individuals’ representatives, and who are competent to review applications for the financial assistance.

“(2) In providing for such scientific peer review, the Secretary shall provide for training, as necessary and appropriate, to facilitate the effective participation of those individuals selected to participate in such review.

“(g) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.

“(h)(1) The Director shall—

“(A) by October 1, 1998, and every fifth October 1 thereafter, prepare and publish in the Federal Register for public comment a draft of a 5-year plan that outlines priorities for rehabilitation research, demonstration projects, training, and related activities and explains the basis for such priorities;

Deadlines.  
Federal Register,  
publication.

Reports.

“(B) by June 1, 1999, and every fifth June 1 thereafter, after considering public comments, submit the plan in final form to the appropriate committees of Congress;

“(C) at appropriate intervals, prepare and submit revisions in the plan to the appropriate committees of Congress; and

“(D) annually prepare and submit progress reports on the plan to the appropriate committees of Congress.

“(2) Such plan shall—

“(A) identify any covered activity that should be conducted under this section and section 204 respecting the full inclusion and integration into society of individuals with disabilities, especially in the area of employment;

“(B) determine the funding priorities for covered activities to be conducted under this section and section 204;

“(C) specify appropriate goals and timetables for covered activities to be conducted under this section and section 204;

“(D) be developed by the Director—

“(i) after consultation with the Rehabilitation Research Advisory Council established under section 205;

“(ii) in coordination with the Commissioner;

“(iii) after consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Interagency Committee on Disability Research established under section 203; and

“(iv) after full consideration of the input of individuals with disabilities and the individuals’ representatives, organizations representing individuals with disabilities, providers of services furnished under this Act, researchers in the rehabilitation field, and any other persons or entities the Director considers to be appropriate;

“(E) specify plans for widespread dissemination of the results of covered activities, in accessible formats, to rehabilitation practitioners, individuals with disabilities, and the individuals’ representatives; and

“(F) specify plans for widespread dissemination of the results of covered activities that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs carried out under this Act.

“(i) In order to promote cooperation among Federal departments and agencies conducting research programs, the Director shall consult with the administrators of such programs, and with the Interagency Committee established by section 203, regarding the design of research projects conducted by such entities and the results and applications of such research.

“(j)(1) The Director shall take appropriate actions to provide for a comprehensive and coordinated research program under this title. In providing such a program, the Director may undertake joint activities with other Federal entities engaged in research and with appropriate private entities. Any Federal entity proposing to establish any research project related to the purposes of this Act shall consult, through the Interagency Committee established by section 203, with the Director as Chairperson of such Committee

and provide the Director with sufficient prior opportunity to comment on such project.

“(2) Any person responsible for administering any program of the National Institutes of Health, the Department of Veterans Affairs, the National Science Foundation, the National Aeronautics and Space Administration, the Office of Special Education and Rehabilitative Services, or of any other Federal entity, shall, through the Interagency Committee established by section 203, consult and cooperate with the Director in carrying out such program if the program is related to the purposes of this title.

“(3) The Director shall support, directly or by grant or contract, a center associated with an institution of higher education, for research and training concerning the delivery of vocational rehabilitation services to rural areas. Grants. Contracts.

“(k) The Director shall make grants to institutions of higher education for the training of rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act. Grants.

#### “INTERAGENCY COMMITTEE

“SEC. 203. (a)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting rehabilitation research programs, there is established within the Federal Government an Interagency Committee on Disability Research (hereinafter in this section referred to as the ‘Committee’), chaired by the Director and comprised of such members as the President may designate, including the following (or their designees): the Director, the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services, the Secretary of Education, the Secretary of Veterans Affairs, the Director of the National Institutes of Health, the Director of the National Institute of Mental Health, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Director of the Indian Health Service, and the Director of the National Science Foundation. Establishment. 29 USC 763.

“(2) The Committee shall meet not less than four times each year.

“(b) After receiving input from individuals with disabilities and the individuals’ representatives, the Committee shall identify, assess, and seek to coordinate all Federal programs, activities, and projects, and plans for such programs, activities, and projects with respect to the conduct of research related to rehabilitation of individuals with disabilities.

“(c) The Committee shall annually submit to the President and to the appropriate committees of the Congress a report making such recommendations as the Committee deems appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research related to rehabilitation of individuals with disabilities. Reports.

#### “RESEARCH AND OTHER COVERED ACTIVITIES

“SEC. 204. (a)(1) To the extent consistent with priorities established in the 5-year plan described in section 202(h), the Director 29 USC 764.

may make grants to and contracts with States and public or private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to pay part of the cost of projects for the purpose of planning and conducting research, demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most significant disabilities, and improve the effectiveness of services authorized under this Act.

“(2)(A) In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, V, VI, and VII, including projects addressing the needs described in the State plans submitted under section 101 or 704 by State agencies.

“(B) Such projects, as described in the State plans submitted by State agencies, may include—

“(i) medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, including basic research where related to rehabilitation techniques or services;

“(ii) studies and analysis of industrial, vocational, social, recreational, psychiatric, psychological, economic, and other factors affecting rehabilitation of individuals with disabilities;

“(iii) studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized;

“(iv) studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of individuals with disabilities;

“(v) studies, analyses, and other activities related to supported employment;

“(vi) related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of individuals with disabilities and individuals with the most significant disabilities, particularly individuals with disabilities, and individuals with the most significant disabilities, who are members of populations that are unserved or underserved by programs under this Act; and

“(vii) studies, analyses, and other activities related to job accommodations, including the use of rehabilitation engineering and assistive technology.

“(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as ‘research grants’) to pay part or all of the cost of the research or other specialized covered activities described in paragraphs (2) through (18). A research grant made under any of paragraphs (2) through (18) may only be used in a manner consistent with priorities established in the 5-year plan described in section 202(h).

“(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for the purpose of providing an integrated program of research, which Centers shall—

“(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

“(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the individuals’ representatives.

“(B) The Centers shall conduct research and training activities by—

“(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities, especially promoting the ability of the individuals to prepare for, secure, retain, regain, or advance in employment;

“(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

“(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

“(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the individuals’ representatives, through conferences, workshops, public education programs, in-service training programs, and similar activities.

“(C) The research to be carried out at each such Center may include—

“(i) basic or applied medical rehabilitation research;

“(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

“(iii) research related to vocational rehabilitation;

“(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

“(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

“(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

“(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

“(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities. Grants.

“(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

“(G) Grants made under this paragraph may be used to provide faculty support for teaching—

“(i) rehabilitation-related courses of study for credit; and

“(ii) other courses offered by the Centers, either directly or through another entity.

“(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

“(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

“(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

“(K) To be eligible to receive a grant under this paragraph, each such institution or provider described in subparagraph (A) shall—

“(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate Federal and State law; and

“(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

Grants.

“(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

“(i) the grant is made to a new recipient; or

“(ii) the grant supports new or innovative research.

“(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

“(N) In conducting scientific peer review under section 202(f) of an application for the renewal of a grant made under this paragraph, the peer review panel shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the individuals’ representatives.

“(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

“(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

“(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

“(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

“(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research,



including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

“(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

“(ii) demonstrating and disseminating—

“(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

“(II) other scientific research to assist in meeting the employment and independent living needs of individuals with significant disabilities; or

“(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

“(I) consumer responsive and individual and family-centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

“(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with significant disabilities.

“(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

“(i) cooperate with programs established under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the individuals’ representatives to—

“(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

“(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

“(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

“(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

“(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

“(I) Early childhood services, including early intervention and family support.

“(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

“(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

“(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the workforce, self-help skills, and activities of daily living.

“(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the individuals’ representatives.

“(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

“(i) the grant is made to a new recipient; or

“(ii) the grant supports new or innovative research.

“(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

“(G) Each Center established or supported through a grant made available under this paragraph shall—

“(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

Reports.

“(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program of the Center in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director.

“(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

“(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the individuals’ representatives, and organizations receiving financial assistance under this paragraph;

“(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

“(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and

coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

“(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

“(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

“(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost-effectiveness of, such a regional system;

“(iii) demonstrate and evaluate existing, new, and improved methods and rehabilitation technology essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

“(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

“(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.

“(5) Research grants may be used to conduct a program for end-stage renal disease research, to include support of projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of individuals with such disease and which will—

“(A) ensure dissemination of research findings;

“(B) provide encouragement and support for initiatives and new approaches by individuals and institutional investigators; and

“(C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts,

in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease. No person shall be selected to participate in such program who is eligible for services for such disease under any other provision of law.

“(6) Research grants may be used to conduct a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of individuals with disabilities in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of individuals with disabilities, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of individuals with disabilities with other nations as a means of increasing the levels of skill of rehabilitation personnel.

“(7) Research grants may be used to conduct a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of individuals with disabilities.

“(8) Research grants may be used to conduct a program of joint projects with the National Institutes of Health, the National Institute of Mental Health, the Health Services Administration, the Administration on Aging, the National Science Foundation, the Veterans’ Administration, the Department of Health and Human Services, the National Aeronautics and Space Administration, other Federal agencies, and private industry in areas of joint interest involving rehabilitation.

“(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the workforce.

“(10) Research grants may be used to conduct a research program to develop and demonstrate innovative methods to attract and retain professionals to serve in rural areas in the rehabilitation of individuals with disabilities, including individuals with significant disabilities.

“(11) Research grants may be used to conduct a model research and demonstration project designed to assess the feasibility of establishing a center for producing and distributing to individuals who are deaf or hard of hearing captioned video cassettes providing a broad range of educational, cultural, scientific, and vocational programming.

“(12) Research grants may be used to conduct a model research and demonstration program to develop innovative methods of providing services for preschool age children who are individuals with disabilities, including—

“(A) early intervention, assessment, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of children who are individuals with significant disabilities up to the age of five, with a special emphasis on children who are individuals with significant disabilities up to the age of three;

“(B) such physical therapy, language development, pediatric, nursing, psychological, and psychiatric services as are necessary for such children; and

“(C) appropriate services for the parents of such children, including psychological and psychiatric services, parent counseling, and training.

“(13) Research grants may be used to conduct a model research and training program under which model training centers shall be established to develop and use more advanced and effective methods of evaluating and addressing the employment needs of individuals with disabilities, including programs that—

“(A) provide training and continuing education for personnel involved with the employment of individuals with disabilities;

“(B) develop model procedures for testing and evaluating the employment needs of individuals with disabilities;

“(C) develop model training programs to teach individuals with disabilities skills which will lead to appropriate employment;

“(D) develop new approaches for job placement of individuals with disabilities, including new followup procedures relating to such placement;

“(E) provide information services regarding education, training, employment, and job placement for individuals with disabilities; and

“(F) develop new approaches and provide information regarding job accommodations, including the use of rehabilitation engineering and assistive technology.

“(14) Research grants may be used to conduct a rehabilitation research program under which financial assistance is provided in order to—

“(A) test new concepts and innovative ideas;

“(B) demonstrate research results of high potential benefits;

“(C) purchase prototype aids and devices for evaluation;

“(D) develop unique rehabilitation training curricula; and

“(E) be responsive to special initiatives of the Director.

No single grant under this paragraph may exceed \$50,000 in any fiscal year and all payments made under this paragraph in any fiscal year may not exceed 5 percent of the amount available for this section to the National Institute on Disability and Rehabilitation Research in any fiscal year. Regulations and administrative procedures with respect to financial assistance under this paragraph shall, to the maximum extent possible, be expedited.

“(15) Research grants may be used to conduct studies of the rehabilitation needs of American Indian populations and of effective mechanisms for the delivery of rehabilitation services to Indians residing on and off reservations.

“(16) Research grants may be used to conduct a demonstration program under which one or more projects national in scope shall be established to develop procedures to provide incentives for the development, manufacturing, and marketing of orphan technological devices, including technology transfer concerning such devices, designed to enable individuals with disabilities to achieve independence and access to gainful employment.

“(17)(A) Research grants may be used to conduct a research program related to quality assurance in the area of rehabilitation technology.

“(B) Activities carried out under the research program may include—

“(i) the development of methodologies to evaluate rehabilitation technology products and services and the dissemination of the methodologies to consumers and other interested parties;

“(ii) identification of models for service provider training and evaluation and certification of the effectiveness of the models;

“(iii) identification and dissemination of outcome measurement models for the assessment of rehabilitation technology products and services; and

“(iv) development and testing of research-based tools to enhance consumer decisionmaking about rehabilitation technology products and services.

“(18) Research grants may be used to provide for research and demonstration projects and related activities that explore the use and effectiveness of specific alternative or complementary medical practices for individuals with disabilities. Such projects and activities may include projects and activities designed to—

“(A) determine the use of specific alternative or complementary medical practices among individuals with disabilities and the perceived effectiveness of the practices;

“(B) determine the specific information sources, decision-making methods, and methods of payment used by individuals with disabilities who access alternative or complementary medical services;

“(C) develop criteria to screen and assess the validity of research studies of such practices for individuals with disabilities; and

“(D) determine the effectiveness of specific alternative or complementary medical practices that show promise for promoting increased functioning, prevention of secondary disabilities, or other positive outcomes for individuals with certain types of disabilities, by conducting controlled research studies.

“(c)(1) In carrying out evaluations of covered activities under this section, the Director is authorized to make arrangements for site visits to obtain information on the accomplishments of the projects.

“(2) The Director shall not make a grant under this section that exceeds \$500,000 unless the peer review of the grant application has included a site visit.

#### “REHABILITATION RESEARCH ADVISORY COUNCIL

29 USC 765.

“SEC. 205. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the ‘Council’) composed of 12 members appointed by the Secretary.

“(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the 5-year plan required by section 202(h).

“(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the individuals’ representatives. At least one-half of the members shall be individuals with disabilities or the individuals’ representatives.

“(d) TERMS OF APPOINTMENT.—

“(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

“(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

“(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such

fewer number of years as will provide for the expiration of terms on a staggered basis.

“(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

“(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

“(f) PAYMENT AND EXPENSES.—

“(1) PAYMENT.—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of \$150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

“(2) TRAVEL EXPENSES.—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

“(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

“(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

“(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.”.

**SEC. 406. PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS.**

Grants.  
Contracts.

Title III of the Rehabilitation Act of 1973 (29 U.S.C. 770 et seq.) is amended to read as follows:

**“TITLE III—PROFESSIONAL DEVELOPMENT AND SPECIAL PROJECTS AND DEMONSTRATIONS**

**“SEC. 301. DECLARATION OF PURPOSE AND COMPETITIVE BASIS OF GRANTS AND CONTRACTS.**

29 USC 771.

“(a) PURPOSE.—It is the purpose of this title to authorize grants and contracts to—

“(1)(A) provide academic training to ensure that skilled personnel are available to provide rehabilitation services to

individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs (including supported employment programs), through economic and business development programs, through independent living services programs, and through client assistance programs; and

“(B) provide training to maintain and upgrade basic skills and knowledge of personnel (including personnel specifically trained to deliver services to individuals with disabilities whose employment outcome is self-employment or telecommuting) employed to provide state-of-the-art service delivery and rehabilitation technology services;

“(2) conduct special projects and demonstrations that expand and improve the provision of rehabilitation and other services (including those services provided through community rehabilitation programs) authorized under this Act, or that otherwise further the purposes of this Act, including related research and evaluation;

“(3) provide vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers;

“(4) initiate recreational programs to provide recreational activities and related experiences for individuals with disabilities to aid such individuals in employment, mobility, socialization, independence, and community integration; and

“(5) provide training and information to individuals with disabilities and the individuals’ representatives, and other appropriate parties to develop the skills necessary for individuals with disabilities to gain access to the rehabilitation system and statewide workforce investment systems and to become active decisionmakers in the rehabilitation process.

“(b) COMPETITIVE BASIS OF GRANTS AND CONTRACTS.—The Secretary shall ensure that all grants and contracts are awarded under this title on a competitive basis.

29 USC 772.

**“SEC. 302. TRAINING.**

“(a) GRANTS AND CONTRACTS FOR PERSONNEL TRAINING.—

“(1) AUTHORITY.—The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the cost of projects to provide training, traineeships, and related activities, including the provision of technical assistance, that are designed to assist in increasing the numbers of, and upgrading the skills of, qualified personnel (especially rehabilitation counselors) who are trained in providing vocational, medical, social, and psychological rehabilitation services, who are trained to assist individuals with communication and related disorders, who are trained to provide other services provided under this Act, to individuals with disabilities, and who may include—

“(A) personnel specifically trained in providing employment assistance to individuals with disabilities through job development and job placement services;

“(B) personnel specifically trained to identify, assess, and meet the individual rehabilitation needs of individuals with disabilities, including needs for rehabilitation technology;



“(C) personnel specifically trained to deliver services to individuals who may benefit from receiving independent living services;

“(D) personnel specifically trained to deliver services in the client assistance programs;

“(E) personnel specifically trained to deliver services, through supported employment programs, to individuals with a most significant disability; and

“(F) personnel specifically trained to deliver services to individuals with disabilities pursuing self-employment, business ownership, and telecommuting; and

“(G) personnel trained in performing other functions necessary to the provision of vocational, medical, social, and psychological rehabilitation services, and other services provided under this Act.

“(2) AUTHORITY TO PROVIDE SCHOLARSHIPS.—Grants and contracts under paragraph (1) may be expended for scholarships and may include necessary stipends and allowances.

“(3) RELATED FEDERAL STATUTES.—In carrying out this subsection, the Commissioner may make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training regarding provisions of Federal statutes, including section 504, title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.), and the provisions of titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.), that are related to work incentives for individuals with disabilities.

“(4) TRAINING FOR STATEWIDE WORKFORCE SYSTEMS PERSONNEL.—The Commissioner may make grants to and enter into contracts under this subsection with States and public or nonprofit agencies and organizations, including institutions of higher education, to furnish training to personnel providing services to individuals with disabilities under title I of the Workforce Investment Act of 1998. Under this paragraph, personnel may be trained—

“(A) in evaluative skills to determine whether an individual with a disability may be served by the State vocational rehabilitation program or another component of a statewide workforce investment system; or

“(B) to assist individuals with disabilities seeking assistance through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998.

“(5) JOINT FUNDING.—Training and other activities provided under paragraph (4) for personnel may be jointly funded with the Department of Labor, using funds made available under title I of the Workforce Investment Act of 1998.

“(b) GRANTS AND CONTRACTS FOR ACADEMIC DEGREES AND ACADEMIC CERTIFICATE GRANTING TRAINING PROJECTS.—

“(1) AUTHORITY.—

“(A) IN GENERAL.—The Commissioner may make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations (including institutions of higher education) to pay part of the costs of academic training projects to provide training that leads to an academic degree or academic certificate. In making such grants or entering into such contracts, the Commissioner

shall target funds to areas determined under subsection (e) to have shortages of qualified personnel.

“(B) TYPES OF PROJECTS.—Academic training projects described in this subsection may include—

“(i) projects to train personnel in the areas of assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting, and of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

“(ii) projects to train personnel to provide—

“(I) services to individuals with specific disabilities or individuals with disabilities who have specific impediments to rehabilitation, including individuals who are members of populations that are unserved or underserved by programs under this Act;

“(II) job development and job placement services to individuals with disabilities;

“(III) supported employment services, including services of employment specialists for individuals with disabilities;

“(IV) specialized services for individuals with significant disabilities; or

“(V) recreation for individuals with disabilities;

“(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities; and

“(iv) projects to train personnel in the use, applications, and benefits of rehabilitation technology.

“(2) APPLICATION.—No grant shall be awarded or contract entered into under this subsection unless the applicant has submitted to the Commissioner an application at such time, in such form, in accordance with such procedures, and including such information as the Secretary may require, including—

“(A) a description of how the designated State unit or units will participate in the project to be funded under the grant or contract, including, as appropriate, participation on advisory committees, as practicum sites, in curriculum development, and in other ways so as to build closer relationships between the applicant and the designated State unit and to encourage students to pursue careers in public vocational rehabilitation programs;

“(B) the identification of potential employers that provide employment that meets the requirements of paragraph (5)(A)(i); and

“(C) an assurance that data on the employment of graduates or trainees who participate in the project is accurate.

“(3) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), no grant or contract under this subsection may be

used to provide any one course of study to an individual for a period of more than 4 years.

“(B) EXCEPTION.—If a grant or contract recipient under this subsection determines that an individual has a disability which seriously affects the completion of training under this subsection, the grant or contract recipient may extend the period referred to in subparagraph (A).

“(4) AUTHORITY TO PROVIDE SCHOLARSHIPS.—Grants and contracts under paragraph (1) may be expanded to provide services that include the provision of scholarships and necessary stipends and allowances.

“(5) AGREEMENTS.—

“(A) CONTENTS.—A recipient of a grant or contract under this subsection shall provide assurances to the Commissioner that each individual who receives a scholarship, for any academic year beginning after June 1, 1992, utilizing funds provided under such grant or contract shall enter into an agreement with the recipient under which the individual shall—

“(i) maintain employment—

“(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

“(II) on a full- or part-time basis; and

“(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this section was received by the individual,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and

“(ii) repay all or part of any scholarship received, plus interest, if the individual does not fulfill the requirements of clause (i),

except as the Commissioner by regulation may provide for repayment exceptions and deferrals.

“(B) ENFORCEMENT.—The Commissioner shall be responsible for the enforcement of each agreement entered into under subparagraph (A) upon completion of the training involved under such subparagraph.

“(c) GRANTS TO HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—The Commissioner, in carrying out this section, shall make grants to historically Black colleges and universities and other institutions of higher education whose minority student enrollment is at least 50 percent of the total enrollment of the institution.

“(d) APPLICATION.—A grant may not be awarded to a State or other organization under this section unless the State or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require. Any such application shall include a detailed description of strategies that will be utilized to recruit and train individuals so as

to reflect the diverse populations of the United States as part of the effort to increase the number of individuals with disabilities, and individuals who are from linguistically and culturally diverse backgrounds, who are available to provide rehabilitation services.

Reports.

“(e) EVALUATION AND COLLECTION OF DATA.—The Commissioner shall evaluate the impact of the training programs conducted under this section, and collect information on the training needs of, and data on shortages of qualified personnel necessary to provide services to individuals with disabilities. The Commissioner shall prepare and submit to Congress, by September 30 of each fiscal year, a report setting forth and justifying in detail how the funds made available for training under this section for the fiscal year prior to such submission are allocated by professional discipline and other program areas. The report shall also contain findings on such personnel shortages, how funds proposed for the succeeding fiscal year will be allocated under the President’s budget proposal, and how the findings on personnel shortages justify the allocations.

“(f) GRANTS FOR THE TRAINING OF INTERPRETERS.—

“(1) AUTHORITY.—

“(A) IN GENERAL.—For the purpose of training a sufficient number of qualified interpreters to meet the communications needs of individuals who are deaf or hard of hearing, and individuals who are deaf-blind, the Commissioner, acting through a Federal office responsible for deafness and communicative disorders, may award grants to public or private nonprofit agencies or organizations to pay part of the costs—

“(i) for the establishment of interpreter training programs; or

“(ii) to enable such agencies or organizations to provide financial assistance for ongoing interpreter training programs.

“(B) GEOGRAPHIC AREAS.—The Commissioner shall award grants under this subsection for programs in geographic areas throughout the United States that the Commissioner considers appropriate to best carry out the objectives of this section.

“(C) PRIORITY.—In awarding grants under this subsection, the Commissioner shall give priority to public or private nonprofit agencies or organizations with existing programs that have a demonstrated capacity for providing interpreter training services.

“(D) FUNDING.—The Commissioner may award grants under this subsection through the use of—

“(i) amounts appropriated to carry out this section; or

“(ii) pursuant to an agreement with the Director of the Office of the Special Education Program (established under section 603 of the Individuals with Disabilities Education Act (as amended by section 101 of the Individuals with Disabilities Education Act Amendments of 1997 (Public Law 105-17))), amounts appropriated under section 686 of the Individuals with Disabilities Education Act.

“(2) APPLICATION.—A grant may not be awarded to an agency or organization under paragraph (1) unless the agency

or organization has submitted an application to the Commissioner at such time, in such form, in accordance with such procedures, and containing such information as the Commissioner may require, including—

“(A) a description of the manner in which an interpreter training program will be developed and operated during the 5-year period following the date on which a grant is received by the applicant under this subsection;

“(B) a demonstration of the applicant’s capacity or potential for providing training for interpreters for individuals who are deaf or hard of hearing, and individuals who are deaf-blind;

“(C) assurances that any interpreter trained or retrained under a program funded under the grant will meet such minimum standards of competency as the Commissioner may establish for purposes of this subsection; and

“(D) such other information as the Commissioner may require.

“(g) TECHNICAL ASSISTANCE AND IN-SERVICE TRAINING.—

“(1) TECHNICAL ASSISTANCE.—The Commissioner is authorized to provide technical assistance to State designated agencies and community rehabilitation programs, directly or through contracts with State designated agencies or nonprofit organizations.

“(2) COMPENSATION.—An expert or consultant appointed or serving under contract pursuant to this section shall be compensated at a rate, subject to approval of the Commissioner, that shall not exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code. Such an expert or consultant may be allowed travel and transportation expenses in accordance with section 5703 of title 5, United States Code.

“(3) IN-SERVICE TRAINING OF REHABILITATION PERSONNEL.—

“(A) PROJECTS.—Subject to subparagraph (B), at least 15 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used, directly or indirectly, for projects for in-service training for rehabilitation personnel, consistent with the needs identified through the comprehensive system for personnel development required by section 101(a)(7), including projects designed—

“(i) to address recruitment and retention of qualified rehabilitation professionals;

“(ii) to provide for succession planning;

“(iii) to provide for leadership development and capacity building; and

“(iv) for fiscal years 1999 and 2000, to provide training regarding the Workforce Investment Act of 1998 and the amendments to this Act made by the Rehabilitation Act Amendments of 1998.

“(B) LIMITATION.—If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1998 by other recipients of funds under this

section, the Commissioner may allocate less than 15 percent of the sums described in subparagraph (A) to designated State agencies for such in-service training.

“(h) PROVISION OF INFORMATION.—The Commissioner, subject to the provisions of section 306, may require that recipients of grants or contracts under this section provide information, including data, with regard to the impact of activities funded under this section.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

29 USC 773.

**“SEC. 303. DEMONSTRATION AND TRAINING PROGRAMS.**

“(a) DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE.—

“(1) GRANTS.—The Commissioner may make grants to States and public or nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

“(2) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the grant only—

“(A) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

“(B) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

“(3) APPLICATION.—Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

“(A) a description of—

“(i) how the entity intends to promote increased client choice in the rehabilitation process, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

“(ii) how the entity intends to ensure that any vocational rehabilitation service or related service is provided by a qualified provider who is accredited or meets such other quality assurance and cost-control criteria as the State may establish; and

“(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

“(B) assurances that a written plan will be established with the full participation of the client, which plan shall, at a minimum, include—

“(i) a statement of the vocational rehabilitation goals to be achieved;

“(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

“(iii) objective criteria, an evaluation procedure, and a schedule, for determining whether such goals are being achieved.

“(4) AWARD OF GRANTS.—In selecting entities to receive grants under paragraph (1), the Commissioner shall take into consideration—

“(A) the diversity of strategies used to increase client choice, including selection among qualified service providers;

“(B) the geographic distribution of projects; and

“(C) the diversity of clients to be served.

“(5) RECORDS.—Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

“(6) DIRECT SERVICES.—At least 80 percent of the funds awarded for any project under this subsection shall be used for direct services, as specifically chosen by eligible clients.

“(7) EVALUATION.—The Commissioner may conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost-effectiveness of the project, and the effects of increased choice on clients and service providers. The Commissioner may reserve funds for the evaluation for a fiscal year from the amounts appropriated to carry out projects under this section for the fiscal year.

“(8) DEFINITIONS.—For the purposes of this subsection:

“(A) DIRECT SERVICES.—The term ‘direct services’ means vocational rehabilitation services, as described in section 103(a).

“(B) ELIGIBLE CLIENT.—The term ‘eligible client’ means an individual with a disability, as defined in section 7(20)(A), who is not currently receiving services under an individualized plan for employment established through a designated State unit.

“(b) SPECIAL DEMONSTRATION PROGRAMS.—

“(1) GRANTS; CONTRACTS.—The Commissioner, subject to the provisions of section 306, may provide grants to, or enter into contracts with, eligible entities to pay all or part of the cost of programs that expand and improve the provision of rehabilitation and other services authorized under this Act or that further the purposes of the Act, including related research and evaluation activities.

“(2) ELIGIBLE ENTITIES; TERMS AND CONDITIONS.—

“(A) ELIGIBLE ENTITIES.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an entity shall be a State vocational rehabilitation agency, community rehabilitation program, Indian tribe or tribal organization, or other public or nonprofit agency or organization, or as the Commissioner determines appropriate, a for-profit organization. The Commissioner may limit competitions to one or more types of organizations described in this subparagraph.

“(B) TERMS AND CONDITIONS.—A grant or contract under paragraph (1) shall contain such terms and conditions as the Commissioner may require.

“(3) APPLICATION.—An eligible entity that desires to receive a grant, or enter into a contract, under paragraph (1) shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the

Commissioner may require, including, if the Commissioner determines appropriate, a description of how the proposed project or demonstration program—

“(A) is based on current research findings, which may include research conducted by the National Institute on Disability and Rehabilitation Research, the National Institutes of Health, and other public or private organizations; and

“(B) is of national significance.

“(4) TYPES OF PROJECTS.—The programs that may be funded under this subsection may include—

“(A) special projects and demonstrations of service delivery;

“(B) model demonstration projects;

“(C) technical assistance projects;

“(D) systems change projects;

“(E) special studies and evaluations; and

“(F) dissemination and utilization activities.

“(5) PRIORITY FOR COMPETITIONS.—

“(A) IN GENERAL.—In announcing competitions for grants and contracts under this subsection, the Commissioner shall give priority consideration to—

“(i) special projects and demonstration programs of service delivery for adults who are either low-functioning and deaf or low-functioning and hard of hearing;

“(ii) supported employment, including community-based supported employment programs to meet the needs of individuals with the most significant disabilities or to provide technical assistance to States and community organizations to improve and expand the provision of supported employment services; and

“(iii) model transitional planning services for youths with disabilities.

“(B) ADDITIONAL COMPETITIONS.—In announcing competitions for grants and contracts under this subsection, the Commissioner may require that applicants address one or more of the following:

“(i) Age ranges.

“(ii) Types of disabilities.

“(iii) Types of services.

“(iv) Models of service delivery.

“(v) Stage of the rehabilitation process.

“(vi) The needs of underserved populations, unserved and underserved areas, individuals with significant disabilities, low-incidence disability population or individuals residing in federally designated empowerment zones and enterprise communities.

“(vii) Expansion of employment opportunities for individuals with disabilities.

“(viii) Systems change projects to promote meaningful access of individuals with disabilities to employment-related services under title I of the Workforce Investment Act of 1998 and under other Federal laws.

“(ix) Innovative methods of promoting achievement of high-quality employment outcomes.



“(x) The demonstration of the effectiveness of early intervention activities in improving employment outcomes.

“(xi) Alternative methods of providing affordable transportation services to individuals with disabilities who are employed, seeking employment, or receiving vocational rehabilitation services from public or private organizations and who reside in geographic areas in which public transportation or paratransit service is not available.

“(6) USE OF FUNDS FOR CONTINUATION AWARDS.—The Commissioner may use funds made available to carry out this section for continuation awards for projects that were funded under sections 12 and 311 (as such sections were in effect on the day before the date of the enactment of the Rehabilitation Act Amendments of 1998).

“(c) PARENT INFORMATION AND TRAINING PROGRAM.—

“(1) GRANTS.—The Commissioner is authorized to make grants to private nonprofit organizations for the purpose of establishing programs to provide training and information to enable individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals to participate more effectively with professionals in meeting the vocational, independent living, and rehabilitation needs of individuals with disabilities. Such grants shall be designed to meet the unique training and information needs of the individuals described in the preceding sentence, who live in the area to be served, particularly those who are members of populations that have been unserved or underserved by programs under this Act.

“(2) USE OF GRANTS.—An organization that receives a grant to establish training and information programs under this subsection shall use the grant to assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals—

“(A) to better understand vocational rehabilitation and independent living programs and services;

“(B) to provide followup support for transition and employment programs;

“(C) to communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

“(D) to provide support in the development of the individualized plan for employment;

“(E) to provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

“(F) to understand the provisions of this Act, particularly provisions relating to employment, supported employment, and independent living.

“(3) AWARD OF GRANTS.—The Commissioner shall ensure that grants under this subsection—

“(A) shall be distributed geographically to the greatest extent possible throughout all States; and

“(B) shall be targeted to individuals with disabilities, and the parents, family members, guardians, advocates,

or authorized representatives of the individuals, in both urban and rural areas or on a State or regional basis.

“(4) ELIGIBLE ORGANIZATIONS.—In order to receive a grant under this subsection, an organization—

“(A) shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization—

“(i) to coordinate training and information activities with Centers for Independent Living;

“(ii) to coordinate and work closely with parent training and information centers established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17); and

“(iii) to effectively conduct the training and information activities authorized under this subsection;

“(B)(i) shall be governed by a board of directors—

“(I) that includes professionals in the field of vocational rehabilitation; and

“(II) on which a majority of the members are individuals with disabilities or the parents, family members, guardians, advocates, or authorized representatives of the individuals; or

“(ii)(I) shall have a membership that represents the interests of individuals with disabilities; and

“(II) shall establish a special governing committee that meets the requirements specified in subclauses (I) and (II) of clause (i) to operate a training and information program under this subsection; and

“(C) shall serve individuals with a full range of disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

“(5) CONSULTATION.—Each organization carrying out a program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the program.

“(6) COORDINATION.—The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating the training and information programs. To the extent practicable, such assistance shall be provided by the parent training and information centers established pursuant to section 682(a) of the Individuals with Disabilities Education Act (as added by section 101 of the Individuals with Disabilities Education Act Amendments of 1997; Public Law 105-17).

“(7) REVIEW.—

“(A) QUARTERLY REVIEW.—The board of directors or special governing committee of an organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall

directly advise the governing board regarding the views and recommendations of the committee.

“(B) REVIEW FOR GRANT RENEWAL.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the organization during the preceding fiscal year.

“(d) BRAILLE TRAINING PROGRAMS.—

“(1) ESTABLISHMENT.—The Commissioner shall make grants to, and enter into contracts with, States and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind.

“(2) PROJECTS.—Such grants shall be used for the establishment or continuation of projects that may provide—

“(A) development of braille training materials;

“(B) in-service or pre-service training in the use of braille, the importance of braille literacy, and methods of teaching braille to youth and adults who are blind; and

“(C) activities to promote knowledge and use of braille and nonvisual access technology for blind youth and adults through a program of training, demonstration, and evaluation conducted with leadership of experienced blind individuals, including the use of comprehensive, state-of-the-art technology.

“(3) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

**“SEC. 304. MIGRANT AND SEASONAL FARMWORKERS.**

29 USC 774.

“(a) GRANTS.—

“(1) AUTHORITY.—The Commissioner, subject to the provisions of section 306, may make grants to eligible entities to pay up to 90 percent of the cost of projects or demonstration programs for the provision of vocational rehabilitation services to individuals with disabilities who are migrant or seasonal farmworkers, as determined in accordance with rules prescribed by the Secretary of Labor, and to the family members who are residing with such individuals (whether or not such family members are individuals with disabilities).

“(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under paragraph (1), an entity shall be—

“(A) a State designated agency;

“(B) a nonprofit agency working in collaboration with a State agency described in subparagraph (A); or

“(C) a local agency working in collaboration with a State agency described in subparagraph (A).

“(3) MAINTENANCE AND TRANSPORTATION.—

“(A) IN GENERAL.—Amounts provided under a grant under this section may be used to provide for the maintenance of and transportation for individuals and family members described in paragraph (1) as necessary for the rehabilitation of such individuals.

“(B) REQUIREMENT.—Maintenance payments under this paragraph shall be provided in a manner consistent with any maintenance payments provided to other individuals with disabilities in the State under this Act.

“(4) ASSURANCE OF COOPERATION.—To be eligible to receive a grant under this section an entity shall provide assurances (satisfactory to the Commissioner) that in the provision of services under the grant there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migrant or seasonal farmworkers or their families.

“(5) COORDINATION WITH OTHER PROGRAMS.—The Commissioner shall administer this section in coordination with other programs serving migrant and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), section 330 of the Public Health Service Act (42 U.S.C. 254b), the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), and the Workforce Investment Act of 1998.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, for each of the fiscal years 1999 through 2003.

29 USC 775.

**“SEC. 305. RECREATIONAL PROGRAMS.**

“(a) GRANTS.—

“(1) AUTHORITY.—

“(A) IN GENERAL.—The Commissioner, subject to the provisions of section 306, shall make grants to States, public agencies, and nonprofit private organizations to pay the Federal share of the cost of the establishment and operation of recreation programs to provide individuals with disabilities with recreational activities and related experiences to aid in the employment, mobility, socialization, independence, and community integration of such individuals.

“(B) RECREATION PROGRAMS.—The recreation programs that may be funded using assistance provided under a grant under this section may include vocational skills development, leisure education, leisure networking, leisure resource development, physical education and sports, scouting and camping, 4-H activities, construction of facilities for aquatic rehabilitation therapy, music, dancing, handicrafts, art, and homemaking. When possible and appropriate, such programs and activities should be provided in settings with peers who are not individuals with disabilities.

“(C) DESIGN OF PROGRAM.—Programs and activities carried out under this section shall be designed to demonstrate ways in which such programs assist in maximizing

the independence and integration of individuals with disabilities.

“(2) MAXIMUM TERM OF GRANT.—A grant under this section shall be made for a period of not more than 3 years.

“(3) AVAILABILITY OF NONGRANT RESOURCES.—

“(A) IN GENERAL.—A grant may not be made to an applicant under this section unless the applicant provides assurances that, with respect to costs of the recreation program to be carried out under the grant, the applicant, to the maximum extent practicable, will make available non-Federal resources (in cash or in-kind) to pay the non-Federal share of such costs.

“(B) FEDERAL SHARE.—The Federal share of the costs of the recreation programs carried out under this section shall be—

“(i) with respect to the first year in which assistance is provided under a grant under this section, 100 percent;

“(ii) with respect to the second year in which assistance is provided under a grant under this section, 75 percent; and

“(iii) with respect to the third year in which assistance is provided under a grant under this section, 50 percent.

“(4) APPLICATION.—To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

“(A) the manner in which the findings and results of the project to be funded under the grant, particularly information that facilitates the replication of the results of such projects, will be made generally available; and

“(B) the manner in which the service program funded under the grant will be continued after Federal assistance ends.

“(5) LEVEL OF SERVICES.—Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

“(6) REPORTS BY GRANTEEES.—

“(A) REQUIREMENT.—The Commissioner shall require that each recipient of a grant under this section annually prepare and submit to the Commissioner a report concerning the results of the activities funded under the grant.

“(B) LIMITATION.—The Commissioner may not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated the annual report of the recipient under subparagraph (A) for the current year.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1999 through 2003.

**“SEC. 306. MEASURING OF PROJECT OUTCOMES AND PERFORMANCE. 29 USC 776.**

“The Commissioner may require that recipients of grants under this title submit information, including data, as determined by the Commissioner to be necessary to measure project outcomes

and performance, including any data needed to comply with the Government Performance and Results Act.”.

**SEC. 407. NATIONAL COUNCIL ON DISABILITY.**

Title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) is amended to read as follows:

“TITLE IV—NATIONAL COUNCIL ON DISABILITY

“ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY

President.  
29 USC 780.

“SEC. 400. (a)(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this title referred to as the ‘National Council’), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

“(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

“(i) organizations representing a broad range of individuals with disabilities; and

“(ii) organizations interested in individuals with disabilities.

“(C) The members of the National Council shall be individuals with disabilities, parents or guardians of individuals with disabilities, or other individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals with disabilities, individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

“(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

“(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

“(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

“(b)(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

“(2)(A) No member of the National Council may serve more than two consecutive full terms beginning on the date of commencement of the first full term on the Council. Members may serve after the expiration of their terms until their successors have taken office.

“(B) As used in this paragraph, the term ‘full term’ means a term of 3 years.

“(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member’s predecessor was appointed shall be appointed only for the remainder of such term.

“(c) The President shall designate the Chairperson from among the members appointed to the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year. President.

“(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

“DUTIES OF NATIONAL COUNCIL

“SEC. 401. (a) The National Council shall—

29 USC 781.

“(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;

“(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

“(3) advise the President, the Congress, the Commissioner, the appropriate Assistant Secretary of the Department of Education, and the Director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under this Act;

“(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;

“(5) review and evaluate on a continuing basis—

“(A) policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act; and

“(B) all statutes and regulations pertaining to Federal programs which assist such individuals with disabilities; in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities;

“(6) assess the extent to which such policies, programs, practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);

“(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal

agencies or other Federal entities, respecting ways to better promote the policies set forth in section 400(a)(2);

“(9) provide to the Congress on a continuing basis advice, recommendations, legislative proposals, and any additional information that the National Council or the Congress deems appropriate; and

“(10) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.

Deadline.  
Reports.

“(b)(1) Not later than October 31, 1998, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled ‘National Disability Policy: A Progress Report’.

“(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

“(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the National Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

#### “COMPENSATION OF NATIONAL COUNCIL MEMBERS

29 USC 782.

“SEC. 402. (a) Members of the National Council shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code, including travel time, for each day they are engaged in the performance of their duties as members of the National Council.

“(b) Members of the National Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the National Council except for compensation for travel expenses as provided under subsection (c) of this section.

“(c) While away from their homes or regular places of business in the performance of services for the National Council, members of the National Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

#### “STAFF OF NATIONAL COUNCIL

29 USC 783.

“SEC. 403. (a)(1) The Chairperson of the National Council may appoint and remove, without regard to the provisions of title 5,



United States Code, governing appointments, the provisions of chapter 75 of such title (relating to adverse actions), the provisions of chapter 77 of such title (relating to appeals), or the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates), an Executive Director to assist the National Council to carry out its duties. The Executive Director shall be appointed from among individuals who are experienced in the planning or operation of programs for individuals with disabilities.

“(2) The Executive Director is authorized to hire technical and professional employees to assist the National Council to carry out its duties.

“(b)(1) The National Council may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code (but at rates for individuals not to exceed the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code).

“(2) The National Council may—

“(A) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

“(B) in the name of the Council, solicit, accept, employ, and dispose of, in furtherance of this Act, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and

“(C) enter into contracts and cooperative agreements with Federal and State agencies, private firms, institutions, and individuals for the conduct of research and surveys, preparation of reports and other activities necessary to the discharge of the Council’s duties and responsibilities.

“(3) Not more than 10 per centum of the total amounts available to the National Council in each fiscal year may be used for official representation and reception.

“(c) The Administrator of General Services shall provide to the National Council on a reimbursable basis such administrative support services as the Council may request.

“(d)(1) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts made available under subsection (a)(2)(B) as is not, in the Secretary’s judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

“(2) The amounts described in paragraph (1), and the interest on, and the proceeds from the sale or redemption of, the obligations described in paragraph (1) shall be available to the National Council to carry out this title.

#### “ADMINISTRATIVE POWERS OF NATIONAL COUNCIL

“SEC. 404. (a) The National Council may prescribe such bylaws and rules as may be necessary to carry out its duties under this title. 29 USC 784.

“(b) The National Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable.

“(c) The National Council may appoint advisory committees to assist the National Council in carrying out its duties. The members thereof shall serve without compensation.

“(d) The National Council may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

“(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.

“AUTHORIZATION OF APPROPRIATIONS

29 USC 785.

“SEC. 405. There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1999 through 2003.”.

**SEC. 408. RIGHTS AND ADVOCACY.**

(a) CONFORMING AMENDMENTS TO RIGHTS AND ADVOCACY PROVISIONS.—

(1) EMPLOYMENT.—Section 501 (29 U.S.C. 791) is amended—

(A) in the third sentence of subsection (a), by striking “President’s Committees on Employment of the Handicapped” and inserting “President’s Committees on Employment of People With Disabilities”; and

(B) in subsection (e), by striking “individualized written rehabilitation program” and inserting “individualized plan for employment”.

(2) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(A) in subsection (a)(1), in the sentence following subparagraph (B), by striking “Chairperson” and inserting “chairperson”;

(B) in subsection (b)—

(i) in paragraph (2), by striking “guidelines” and inserting “information”;

(ii) by striking paragraph (3) and inserting the following:

“(3) establish and maintain—

“(A) minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

“(B) minimum guidelines and requirements for the standards issued pursuant to titles II and III of the Americans with Disabilities Act of 1990;

“(C) guidelines for accessibility of telecommunications equipment and customer premises equipment under section 255 of the Telecommunications Act of 1934 (47 U.S.C. 255); and

“(D) standards for accessible electronic and information technology under section 508;”;

(iii) in paragraph (9), by striking “; and” and inserting a semicolon;

(iv) in paragraph (10), by striking the period and inserting “; and”; and

(v) by adding at the end the following:

“(11) carry out the responsibilities specified for the Access Board in section 508.”;

(C) in subsection (d)(1), by striking “procedures under this section” and inserting “procedures under this subsection”;

(D) in subsection (g)(2), by striking “Committee on Education and Labor” and inserting “Committee on Education and the Workforce”;

(E) in subsection (h)(2)(A), by striking “paragraphs (5) and (7)” and inserting “paragraphs (2) and (4)”;

(F) in subsection (i), by striking “fiscal years 1993 through 1997” and inserting “fiscal years 1999 through 2003”.

(3) FEDERAL GRANTS AND CONTRACTS.—Section 504(a) (29 U.S.C. 794(a)) is amended in the first sentence by striking “section 7(8)” and inserting “section 7(20)”.

(4) SECRETARIAL RESPONSIBILITIES.—Section 506(a) (29 U.S.C. 794b(a)) is amended—

(A) by striking the second sentence and inserting the following: “Any concurrence of the Access Board under paragraph (2) shall reflect its consideration of cost studies carried out by States.”; and

(B) in the second sentence of subsection (c), by striking “provided under this paragraph” and inserting “provided under this subsection”.

(b) ELECTRONIC AND INFORMATION TECHNOLOGY REGULATIONS.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

**“SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY.**

**“(a) REQUIREMENTS FOR FEDERAL DEPARTMENTS AND AGENCIES.—**

**“(1) ACCESSIBILITY.—**

**“(A) DEVELOPMENT, PROCUREMENT, MAINTENANCE, OR USE OF ELECTRONIC AND INFORMATION TECHNOLOGY.—**When developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency, including the United States Postal Service, shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology—

**“(i) individuals with disabilities who are Federal employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and**

**“(ii) individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.**

**“(B) ALTERNATIVE MEANS EFFORTS.—**When development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Access Board under paragraph (2) would impose

an undue burden, the Federal department or agency shall provide individuals with disabilities covered by paragraph (1) with the information and data involved by an alternative means of access that allows the individual to use the information and data.

“(2) ELECTRONIC AND INFORMATION TECHNOLOGY STANDARDS.—

Deadline.  
Publication.

“(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Architectural and Transportation Barriers Compliance Board (referred to in this section as the ‘Access Board’), after consultation with the Secretary of Education, the Administrator of General Services, the Secretary of Commerce, the Chairman of the Federal Communications Commission, the Secretary of Defense, and the head of any other Federal department or agency that the Access Board determines to be appropriate, including consultation on relevant research findings, and after consultation with the electronic and information technology industry and appropriate public or nonprofit agencies or organizations, including organizations representing individuals with disabilities, shall issue and publish standards setting forth—

“(i) for purposes of this section, a definition of electronic and information technology that is consistent with the definition of information technology specified in section 5002(3) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401(3)); and

“(ii) the technical and functional performance criteria necessary to implement the requirements set forth in paragraph (1).

“(B) REVIEW AND AMENDMENT.—The Access Board shall periodically review and, as appropriate, amend the standards required under subparagraph (A) to reflect technological advances or changes in electronic and information technology.

Deadlines.  
Regulations.

“(3) INCORPORATION OF STANDARDS.—Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each Federal department or agency shall revise the Federal procurement policies and directives under the control of the department or agency to incorporate those standards. Not later than 6 months after the Access Board revises any standards required under paragraph (2), the Council shall revise the Federal Acquisition Regulation and each appropriate Federal department or agency shall revise the procurement policies and directives, as necessary, to incorporate the revisions.

“(4) ACQUISITION PLANNING.—In the event that a Federal department or agency determines that compliance with the standards issued by the Access Board under paragraph (2) relating to procurement imposes an undue burden, the documentation by the department or agency supporting the procurement shall explain why compliance creates an undue burden.

“(5) EXEMPTION FOR NATIONAL SECURITY SYSTEMS.—This section shall not apply to national security systems, as that

term is defined in section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

“(6) CONSTRUCTION.—

“(A) EQUIPMENT.—In a case in which the Federal Government provides access to the public to information or data through electronic and information technology, nothing in this section shall be construed to require a Federal department or agency—

“(i) to make equipment owned by the Federal Government available for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public; or

“(ii) to purchase equipment for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public.

“(B) SOFTWARE AND PERIPHERAL DEVICES.—Except as required to comply with standards issued by the Access Board under paragraph (2), nothing in paragraph (1) requires the installation of specific accessibility-related software or the attachment of a specific accessibility-related peripheral device at a workstation of a Federal employee who is not an individual with a disability.

“(b) TECHNICAL ASSISTANCE.—The Administrator of General Services and the Access Board shall provide technical assistance to individuals and Federal departments and agencies concerning the requirements of this section.

“(c) AGENCY EVALUATIONS.—Not later than 6 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the head of each Federal department or agency shall evaluate the extent to which the electronic and information technology of the department or agency is accessible to and usable by individuals with disabilities described in subsection (a)(1), compared to the access to and use of the technology by individuals described in such subsection who are not individuals with disabilities, and submit a report containing the evaluation to the Attorney General.

Deadline.  
Reports.

“(d) REPORTS.—

“(1) INTERIM REPORT.—Not later than 18 months after the date of enactment of the Rehabilitation Act Amendments of 1998, the Attorney General shall prepare and submit to the President a report containing information on and recommendations regarding the extent to which the electronic and information technology of the Federal Government is accessible to and usable by individuals with disabilities described in subsection (a)(1).

Deadlines.

“(2) BIENNIAL REPORTS.—Not later than 3 years after the date of enactment of the Rehabilitation Act Amendments of 1998, and every 2 years thereafter, the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints under subsection (f).

“(e) COOPERATION.—Each head of a Federal department or agency (including the Access Board, the Equal Employment Opportunity Commission, and the General Services Administration) shall

provide to the Attorney General such information as the Attorney General determines is necessary to conduct the evaluations under subsection (c) and prepare the reports under subsection (d).

“(f) ENFORCEMENT.—

“(1) GENERAL.—

Effective date.

“(A) COMPLAINTS.—Effective 2 years after the date of enactment of the Rehabilitation Act Amendments of 1998, any individual with a disability may file a complaint alleging that a Federal department or agency fails to comply with subsection (a)(1) in providing electronic and information technology.

“(B) APPLICATION.—This subsection shall apply only to electronic and information technology that is procured by a Federal department or agency not less than 2 years after the date of enactment of the Rehabilitation Act Amendments of 1998.

“(2) ADMINISTRATIVE COMPLAINTS.—Complaints filed under paragraph (1) shall be filed with the Federal department or agency alleged to be in noncompliance. The Federal department or agency receiving the complaint shall apply the complaint procedures established to implement section 504 for resolving allegations of discrimination in a federally conducted program or activity.

“(3) CIVIL ACTIONS.—The remedies, procedures, and rights set forth in sections 505(a)(2) and 505(b) shall be the remedies, procedures, and rights available to any individual with a disability filing a complaint under paragraph (1).

“(g) APPLICATION TO OTHER FEDERAL LAWS.—This section shall not be construed to limit any right, remedy, or procedure otherwise available under any provision of Federal law (including sections 501 through 505) that provides greater or equal protection for the rights of individuals with disabilities than this section.”.

(c) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—Section 509 (29 U.S.C. 794e) is amended to read as follows:

**“SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.**

“(a) PURPOSE AND CONSTRUCTION.—

“(1) PURPOSE.—The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

“(A) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 112; and

“(B)(i) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) because the individuals do not have a developmental disability, as defined in section 102 of such Act (42 U.S.C. 6002); and

“(ii) are ineligible for services under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) because the individuals are not individuals with mental illness, as defined in section 102 of such Act (42 U.S.C. 10802).

“(2) CONSTRUCTION.—This section shall not be construed to require the provision of protection and advocacy services that can be provided under the Technology-Related Assistance

for Individuals With Disabilities Act of 1988 (42 U.S.C. 2201 et seq.).

“(b) APPROPRIATIONS LESS THAN \$5,500,000.—For any fiscal year in which the amount appropriated to carry out this section is less than \$5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of subparagraphs (A) and (B) of subsection (a)(1).

“(c) APPROPRIATIONS OF \$5,500,000 OR MORE.—

“(1) RESERVATIONS.—

“(A) TECHNICAL ASSISTANCE.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds \$5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

“(B) GRANT FOR THE ELIGIBLE SYSTEM SERVING THE AMERICAN INDIAN CONSORTIUM.—For any fiscal year in which the amount appropriated to carry out this section equals or exceeds \$10,500,000, the Commissioner shall reserve a portion, and use the portion to make a grant for the eligible system serving the American Indian consortium. The Commission shall make the grant in an amount of not less than \$50,000 for the fiscal year.

“(2) ALLOTMENTS.—For any such fiscal year, after the reservations required by paragraph (1) have been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for individuals referred to in subsection (b).

“(3) SYSTEMS WITHIN STATES.—

“(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

“(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than \$100,000 or  $\frac{1}{3}$  of 1 percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than \$100,000 or  $\frac{1}{3}$  of 1 percent of such remainder shall be increased to the greater of the two amounts.

“(4) SYSTEMS WITHIN OTHER JURISDICTIONS.—

“(A) IN GENERAL.—For the purposes of paragraph (3)(B), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

“(B) ALLOTMENT.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted

under paragraph (3)(A) not less than \$50,000 for the fiscal year for which the allotment is made.

“(5) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year, the Commissioner shall increase each of the minimum grants or allotments under paragraphs (1)(B), (3)(B), and (4)(B) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this section between the preceding fiscal year and the fiscal year involved.

“(d) PROPORTIONAL REDUCTION.—To provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(3)(B), or to provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(4)(B), the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3), with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5)) under subsection (c)(3)(B), or the minimum allotment for a State (as increased under subsection (c)(5)) under subsection (c)(4)(B), as appropriate.

“(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

“(f) APPLICATION.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

“(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

“(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

“(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State or the American Indian consortium who are individuals described in subsection (a)(1);

“(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State or the American Indian consortium;



“(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, the individuals’ representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

“(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

“(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

“(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system; and

“(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided.

“(g) CARRYOVER AND DIRECT PAYMENT.—

“(1) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State or the grant for the eligible system that serves the American Indian consortium involved under this section, unless the State or American Indian consortium provides otherwise.

“(2) CARRYOVER.—Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount was paid.

“(h) LIMITATION ON DISCLOSURE REQUIREMENTS.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

“(i) ADMINISTRATIVE COST.—In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.

“(j) DELEGATION.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

“(k) REPORT.—The Commissioner shall annually prepare and submit to the Committee on Education and the Workforce of the

Procedures.

House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

“(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

“(m) DEFINITIONS.—As used in this section:

“(1) ELIGIBLE SYSTEM.—The term ‘eligible system’ means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

“(2) AMERICAN INDIAN CONSORTIUM.—The term ‘American Indian consortium’ means a consortium established as described in section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).”.

#### **SEC. 409. EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.**

Title VI of the Rehabilitation Act of 1973 (29 U.S.C. 795 et seq.) is amended to read as follows:

Employment  
Opportunities for  
Individuals With  
Disabilities Act.

#### **“TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES**

##### **“SHORT TITLE**

29 USC 701 note.

“SEC. 601. This title may be cited as the ‘Employment Opportunities for Individuals With Disabilities Act’.

##### **“PART A—PROJECTS WITH INDUSTRY**

##### **“PROJECTS WITH INDUSTRY**

29 USC 795.

“SEC. 611. (a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

“(2) The Commissioner, in consultation with the Secretary of Labor and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

“(A) provide for the establishment of business advisory councils, that shall—

“(i) be comprised of—

“(I) representatives of private industry, business concerns, and organized labor;

“(II) individuals with disabilities and representatives of individuals with disabilities; and

“(III) a representative of the appropriate designated State unit;

“(ii) identify job and career availability within the community, consistent with the current and projected local employment opportunities identified by the local workforce investment board for the community under section 118(b)(1)(B) of the Workforce Investment Act of 1998;

“(iii) identify the skills necessary to perform the jobs and careers identified; and

“(iv) prescribe training programs designed to develop appropriate job and career skills, or job placement programs designed to identify and develop job placement and career advancement opportunities, for individuals with disabilities in fields related to the job and career availability identified under clause (ii);

“(B) provide job development, job placement, and career advancement services;

“(C) to the extent appropriate, provide for—

“(i) training in realistic work settings in order to prepare individuals with disabilities for employment and career advancement in the competitive market; and

“(ii) to the extent practicable, the modification of any facilities or equipment of the employer involved that are used primarily by individuals with disabilities, except that a project shall not be required to provide for such modification if the modification is required as a reasonable accommodation under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

“(D) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

“(3)(A) An individual shall be eligible for services described in paragraph (2) if the individual is determined to be an individual described in section 102(a)(1), and if the determination is made in a manner consistent with section 102(a).

“(B) Such a determination may be made by the recipient of a grant under this part, to the extent the determination is appropriate and available and consistent with the requirements of section 102(a).

“(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or the individuals’ representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

Contracts.

“(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and

evaluation, to collect data and information of the type described in subparagraphs (A) through (C) of section 101(a)(10), as determined to be appropriate by the Commissioner.

“(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

“(A) assist employers in hiring individuals with disabilities;

or

“(B) improve or develop relationships between—

“(i) grant recipients or prospective grant recipients;

and

“(ii) employers or organized labor; or

“(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.

“(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

“(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

“(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated nondisabled co-workers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

“(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall be submitted as determined to be appropriate by the Commissioner.

“(c) Payments under this section with respect to any project may not exceed 80 per centum of the costs of the project.

Standards.

“(d)(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraph (2).

“(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations.

Grants.

“(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

“(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

“(2) The Commissioner shall, to the extent practicable, ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States,

Indian tribes, or tribal organizations, that are currently unserved or underserved by projects.

“(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register, in final form, indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1). Federal Register, publication.

“(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards. Reports.

“(3)(A) The Commissioner shall annually conduct onsite compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

“(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

“(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

“(i) is not an employee of the Federal Government; and

“(ii) has experience or expertise in conducting projects.

“(D) The Commissioner shall ensure that—

“(i) a representative of the appropriate designated State unit shall participate in the review; and

“(ii) no person shall participate in the review of a grant recipient if—

“(I) the grant recipient provides any direct financial benefit to the reviewer; or

“(II) participation in the review would give the appearance of a conflict of interest.

“(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

“(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of onsite compliance reviews, identifying individual grant recipients. Reports.

“(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

“(1) entities conducting projects for the purpose of assisting such entities in—

“(A) the improvement of or the development of relationships with private industry or labor; or

“(B) the improvement of relationships with State vocational rehabilitation agencies; and

“(2) entities planning the development of new projects.

“(h) As used in this section:

“(1) The term ‘agreement’ means an agreement described in subsection (a)(4).

“(2) The term ‘project’ means a Project With Industry established under subsection (a)(2).

“(3) The term ‘grant recipient’ means a recipient of a grant under subsection (a)(2).

## “AUTHORIZATION OF APPROPRIATIONS

29 USC 795a.

“SEC. 612. There are authorized to be appropriated to carry out the provisions of this part, such sums as may be necessary for each of fiscal years 1999 through 2003.

## “PART B—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH THE MOST SIGNIFICANT DISABILITIES

## “PURPOSE

29 USC 795g.

“SEC. 621. It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most significant disabilities to enable such individuals to achieve the employment outcome of supported employment.

## “ALLOTMENTS

29 USC 795h.

“SEC. 622. (a) IN GENERAL.—

“(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

“(A) no State shall receive less than \$250,000, or  $\frac{1}{3}$  of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

“(B) if the sums appropriated to carry out this part for the fiscal year exceed by \$1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than \$300,000, or  $\frac{1}{3}$  of 1 percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

“(2) CERTAIN TERRITORIES.—

“(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

“(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made.

“(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

## “AVAILABILITY OF SERVICES

“SEC. 623. Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, or title I, may not be used to provide extended services to individuals who are eligible under this part or title I. 29 USC 795i.

## “ELIGIBILITY

“SEC. 624. An individual shall be eligible under this part to receive supported employment services authorized under this Act if— 29 USC 795j.

“(1) the individual is eligible for vocational rehabilitation services;

“(2) the individual is determined to be an individual with a most significant disability; and

“(3) a comprehensive assessment of rehabilitation needs of the individual described in section 7(2)(B), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate employment outcome for the individual.

## “STATE PLAN

“SEC. 625. (a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the services. Each State shall make such annual revisions in the plan supplement as may be necessary. 29 USC 795k.

“(b) CONTENTS.—Each such plan supplement shall—

“(1) designate each designated State agency as the agency to administer the program assisted under this part;

“(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(15)(A)(i), with respect to the rehabilitation needs of individuals with significant disabilities and the need for supported employment services, including needs related to coordination;

“(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 622;

“(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

“(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or non-profit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

“(6) provide assurances that—

“(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

“(B) the comprehensive assessments of individuals with significant disabilities conducted under section 102(b)(1) and funded under title I will include consideration of supported employment as an appropriate employment outcome;

“(C) an individualized plan for employment, as required by section 102, will be developed and updated using funds under title I in order to—

“(i) specify the supported employment services to be provided;

“(ii) specify the expected extended services needed; and

“(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized plan for employment is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

“(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services specified in the individualized plan for employment;

“(E) services provided under an individualized plan for employment will be coordinated with services provided under other individualized plans established under other Federal or State programs;

“(F) to the extent jobs skills training is provided, the training will be provided on site; and

“(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities;

“(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

“(8) contain such other information and be submitted in such manner as the Commissioner may require.

#### “RESTRICTION

29 USC 795l.

“SEC. 626. Each State agency designated under section 625(b)(1) shall collect the information required by section 101(a)(10) separately for eligible individuals receiving supported employment services under this part and for eligible individuals receiving supported employment services under title I.

#### “SAVINGS PROVISION

29 USC 795m.

“SEC. 627. (a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan



submitted under section 101 by using funds made available through a State allotment under section 110.

“(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 628. There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1999 through 2003.”. 29 USC 795n.

**SEC. 410. INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.**

Title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.) is amended to read as follows:

**“TITLE VII—INDEPENDENT LIVING  
SERVICES AND CENTERS FOR INDE-  
PENDENT LIVING**

**“CHAPTER 1—INDIVIDUALS WITH SIGNIFICANT  
DISABILITIES**

**“PART A—GENERAL PROVISIONS**

**“SEC. 701. PURPOSE.**

29 USC 796.

“The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

“(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

“(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

“(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part B of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal law, and programs funded through non-Federal sources.

29 USC 796a.

**“SEC. 702. DEFINITIONS.**

“As used in this chapter:

“(1) CENTER FOR INDEPENDENT LIVING.—The term ‘center for independent living’ means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

“(A) is designed and operated within a local community by individuals with disabilities; and

“(B) provides an array of independent living services.

“(2) CONSUMER CONTROL.—The term ‘consumer control’ means, with respect to a center for independent living, that the center vests power and authority in individuals with disabilities.

29 USC 796b.

**“SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.**

“Services may be provided under this chapter to any individual with a significant disability, as defined in section 7(21)(B).

29 USC 796c.

**“SEC. 704. STATE PLAN.**

“(a) IN GENERAL.—

“(1) REQUIREMENT.—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

“(2) JOINT DEVELOPMENT.—The plan under paragraph (1) shall be jointly developed and signed by—

“(A) the director of the designated State unit; and

“(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

“(3) PERIODIC REVIEW AND REVISION.—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

“(A) the provision of State independent living services;

“(B) the development and support of a statewide network of centers for independent living; and

“(C) working relationships between—

“(i) programs providing independent living services and independent living centers; and

“(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

“(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

“(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

“(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

“(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

“(2) provide administrative support services for a program under part B, and a program under part C in a case in which the program is administered by the State under section 723;

“(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

“(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

“(d) OBJECTIVES.—The plan shall—

“(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

“(2) explain how such objectives are consistent with and further the purpose of this chapter.

“(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this chapter to individuals with significant disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

“(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

“(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.

“(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

“(i) COOPERATION, COORDINATION, AND WORKING RELATIONSHIPS AMONG VARIOUS ENTITIES.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

“(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

“(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

“(j) COORDINATION OF SERVICES.—The plan shall describe how services funded under this chapter will be coordinated with, and

Records.

complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

“(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

“(l) OUTREACH.—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

“(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—

Notification.

“(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

“(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

“(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;

Records.

“(4)(A) maintain records that fully disclose—

“(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

“(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

“(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

“(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

“(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

Reports.

“(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

“(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and

“(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

“(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

29 USC 796d.

**“SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.**

“(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide

Independent Living Council (referred to in this section as the ‘Council’). The Council shall not be established as an entity within a State agency.

“(b) COMPOSITION AND APPOINTMENT.—

“(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor. The Governor shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

“(2) COMPOSITION.—The Council shall include—

“(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State;

“(B) as ex officio, nonvoting members—

“(i) a representative from the designated State unit; and

“(ii) representatives from other State agencies that provide services for individuals with disabilities; and

“(C) in a State in which one or more projects are carried out under section 121, at least one representative of the directors of the projects.

“(3) ADDITIONAL MEMBERS.—The Council may include—

“(A) other representatives from centers for independent living;

“(B) parents and guardians of individuals with disabilities;

“(C) advocates of and for individuals with disabilities;

“(D) representatives from private businesses;

“(E) representatives from organizations that provide services for individuals with disabilities; and

“(F) other appropriate individuals.

“(4) QUALIFICATIONS.—

“(A) IN GENERAL.—The Council shall be composed of members—

“(i) who provide statewide representation;

“(ii) who represent a broad range of individuals with disabilities from diverse backgrounds;

“(iii) who are knowledgeable about centers for independent living and independent living services; and

“(iv) a majority of whom are persons who are—

“(I) individuals with disabilities described in section 7(20)(B); and

“(II) not employed by any State agency or center for independent living.

“(B) VOTING MEMBERS.—A majority of the voting members of the Council shall be—

“(i) individuals with disabilities described in section 7(20)(B); and

“(ii) not employed by any State agency or center for independent living.

“(5) CHAIRPERSON.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the voting membership of the Council.

“(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a voting member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a voting member.

“(6) TERMS OF APPOINTMENT.—

“(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

“(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

“(ii) the terms of service of the members initially appointed shall be (as specified by the Governor) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

“(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

“(7) VACANCIES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

“(B) DELEGATION.—The Governor may delegate the authority to fill such a vacancy to the remaining voting members of the Council after making the original appointment.

“(c) DUTIES.—The Council shall—

“(1) jointly develop and sign (in conjunction with the designated State unit) the State plan required in section 704;

“(2) monitor, review, and evaluate the implementation of the State plan;

“(3) coordinate activities with the State Rehabilitation Council established under section 105, if the State has such a Council, or the commission described in section 101(a)(21)(A), if the State has such a commission, and councils that address the needs of specific disability populations and issues under other Federal law;

“(4) ensure that all regularly scheduled meetings of the Statewide Independent Living Council are open to the public and sufficient advance notice is provided; and

“(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

“(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

“(e) PLAN.—

“(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the Council under this section, with funds made available under this chapter, and under section 110 (consistent with section

Reports.  
Records.

101(a)(18)), and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

“(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

“(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

“(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

**“SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.**

29 USC 796d-1.

“(a) APPROVAL OF STATE PLANS.—

“(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

Notification.

“(2) PROCEDURES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.

“(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—

“(i) to the Secretary shall be deemed to be references to the Commissioner; and

“(ii) to section 101 shall be deemed to be references to section 704.

“(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725.

“(c) ONSITE COMPLIANCE REVIEWS.—

“(1) REVIEWS.—The Commissioner shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 722 and shall periodically conduct such a review of each such center. The Commissioner shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 723, and, to the extent necessary to determine the compliance of such a State unit

with subsections (f) and (g) of section 723, centers that receive funding under section 723 in such State. The Commissioner shall select the centers and State units described in this paragraph for review on a random basis.

“(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

“(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

“(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

“(C) ensure that at least one member of a team conducting such a review shall be an individual who—

“(i) is not a government employee; and

“(ii) has experience in the operation of centers for independent living.

“(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of onsite compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter.

## “PART B—INDEPENDENT LIVING SERVICES

29 USC 796e.

### “SEC. 711. ALLOTMENTS.

“(a) IN GENERAL.—

“(1) STATES.—

“(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

“(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

“(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than \$275,000 or  $\frac{1}{3}$  of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$275,000 or  $\frac{1}{3}$  of 1 percent



of such sums shall be increased to the greater of the two amounts.

“(2) CERTAIN TERRITORIES.—

“(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

“(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than  $\frac{1}{8}$  of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made.

“(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

“(b) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with subsection (a)(1)(B), to provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(C), or to provide minimum allotments to States under subsection (a)(2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B).

“(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

**“SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS.**

29 USC 796e-1.

“(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

“(b) FEDERAL SHARE.—

“(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.

“(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

29 USC 796e-2.

**“SEC. 713. AUTHORIZED USES OF FUNDS.**

“The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

“(1) to provide independent living services to individuals with significant disabilities;

“(2) to demonstrate ways to expand and improve independent living services;

“(3) to support the operation of centers for independent living that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 725;

“(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing independent living services;

“(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

“(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

“(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

29 USC 796e-3.

**“SEC. 714. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1999 through 2003.

## **“PART C—CENTERS FOR INDEPENDENT LIVING**

29 USC 796f.

**“SEC. 721. PROGRAM AUTHORIZATION.**

“(a) IN GENERAL.—From the funds appropriated for fiscal year 1999 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).

“(b) TRAINING.—

“(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance to eligible agencies, centers for independent living, and Statewide Independent Living Councils for such fiscal year, not less than

1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this part for the fiscal year involved.

“(2) ALLOCATION.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

“(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

“(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

“(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

“(c) IN GENERAL.—

“(1) STATES.—

“(A) POPULATION BASIS.—After the reservation required by subsection (b) has been made, and except as provided in subparagraphs (B) and (C), from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

“(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

“(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of

this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

“(i) if such excess is not less than \$8,000,000, the allotment to any State under subparagraph (A) shall be not less than \$450,000 or  $\frac{1}{3}$  of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$450,000 or  $\frac{1}{3}$  of 1 percent of such sums shall be increased to the greater of the 2 amounts;

“(ii) if such excess is not less than \$4,000,000 and is less than \$8,000,000, the allotment to any State under subparagraph (A) shall be not less than \$400,000 or  $\frac{1}{3}$  of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than \$400,000 or  $\frac{1}{3}$  of 1 percent of such sums shall be increased to the greater of the 2 amounts; and

“(iii) if such excess is less than \$4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the 2 amounts described in clause (ii).

“(2) CERTAIN TERRITORIES.—

“(A) IN GENERAL.—For the purposes of paragraph (1)(C), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

“(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted under paragraph (1)(A) not less than  $\frac{1}{8}$  of 1 percent of the remainder for the fiscal year for which the allotment is made.

“(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year, the Commissioner shall increase the minimum allotment under paragraph (1)(C) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this part between the preceding fiscal year and the fiscal year involved.

“(4) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by paragraph (1)(B).

“(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use

additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

**“SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES  
IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.**

29 USC 796f-1.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

“(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

“(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

“(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

“(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

“(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

“(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

“(d) NEW CENTERS FOR INDEPENDENT LIVING.—

“(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant proposing to serve such region, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

“(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

“(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

“(B) shall consider the ability of each such applicant to operate a center for independent living based on—

“(i) evidence of the need for such a center;

“(ii) any past performance of such applicant in providing services comparable to independent living services;

“(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

“(iv) the quality of key personnel and the involvement of individuals with significant disabilities;

“(v) budgets and cost-effectiveness;

“(vi) an evaluation plan; and

“(vii) the ability of such applicant to carry out the plans; and

“(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

“(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

“(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

“(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

“(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

“(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

“(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

“(g) REVIEW.—

“(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

“(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan

Notification.

Termination  
date.

to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

**“SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.** 29 USC 796f-2.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—

“(A) INITIAL YEAR.—

“(i) DETERMINATION.—The director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

“(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

“(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B), making such adjustments as may be necessary to accommodate State funding cycles such as 2-year funding cycles or State fiscal years that do not coincide with the Federal fiscal year.

“(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

“(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner

shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

“(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to eligible agencies in the State in accordance with section 722.

“(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

“(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

“(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

“(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

“(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that has been awarded a grant under this part by September 30, 1997, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

“(d) NEW CENTERS FOR INDEPENDENT LIVING.—

“(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

“(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

“(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;



“(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

“(i) evidence of the need for a center for independent living, consistent with the State plan;

“(ii) any past performance of such applicant in providing services comparable to independent living services;

“(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

“(iv) the quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant;

“(v) the budgets and cost-effectiveness of the applicant;

“(vi) the evaluation plan of the applicant; and

“(vii) the ability of such applicant to carry out the plans; and

“(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

“(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B for a fiscal year shall be eligible for a grant for the subsequent fiscal year under this subsection.

“(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

“(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

“(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

“(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

“(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.

“(g) REVIEW.—

“(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that

any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

“(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

“(A) the date of such notification; or

“(B) in the case of a center that requests an appeal under subsection (i), the date of any final decision under subsection (i),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

“(h) ONSITE COMPLIANCE REVIEW.—The director of the designated State unit shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funding under this section in the State. Each team that conducts onsite compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

“(i) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

29 USC 796f-3.

**“SEC. 724. CENTERS OPERATED BY STATE AGENCIES.**

“A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) of this section (as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1998) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

“(1) no nonprofit private agency—

“(A) submits an acceptable application to operate a center for independent living for the fiscal year before a date specified by the Commissioner; and

“(B) obtains approval of the application under section 722 or 723; or

“(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

29 USC 796f-4.

**“SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.**

“(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs

and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

“(b) STANDARDS.—

“(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

“(A) consumer control of the center regarding decision-making, service delivery, management, and establishment of the policy and direction of the center;

“(B) self-help and self-advocacy;

“(C) development of peer relationships and peer role models; and

“(D) equal access of individuals with significant disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

“(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of significant disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under this title). Eligibility for services at any center for independent living shall be determined by the center, and shall not be based on the presence of any one or more specific significant disabilities.

“(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

“(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with significant disabilities.

“(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.

“(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

“(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

“(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

“(1) the applicant is an eligible agency;

“(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;

“(3) the applicant will comply with the standards set forth in subsection (b);

“(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

“(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

“(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

“(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit, notwithstanding section 7502(a)(2)(A) of title 31, United States Code;

“(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

“(A) the extent to which the center is in compliance with the standards;

“(B) the number and types of individuals with significant disabilities receiving services through the center;

“(C) the types of services provided through the center and the number of individuals with significant disabilities receiving each type of service;

“(D) the sources and amounts of funding for the operation of the center;

“(E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

“(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

“(9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

“(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

“(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

Reports.  
Records.

“(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

Reports.

“(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

Reports.

“(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

**“SEC. 726. DEFINITIONS.**

29 USC 796f–5.

“As used in this part, the term ‘eligible agency’ means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

**“SEC. 727. AUTHORIZATION OF APPROPRIATIONS.**

29 USC 796f–6.

“There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1999 through 2003.

**“CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND**

**“SEC. 751. DEFINITION.**

29 USC 796j.

“For purposes of this chapter, the term ‘older individual who is blind’ means an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

**“SEC. 752. PROGRAM OF GRANTS.**

29 USC 796k.

“(a) IN GENERAL.—

“(1) AUTHORITY FOR GRANTS.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

“(2) DESIGNATED STATE AGENCY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(2)(A)(i).

“(b) CONTINGENT COMPETITIVE GRANTS.—Beginning with fiscal year 1993, in the case of any fiscal year for which the amount appropriated under section 753 is less than \$13,000,000, grants made under subsection (a) shall be—

“(1) discretionary grants made on a competitive basis to States; or

“(2) grants made on a noncompetitive basis to pay for the continuation costs of activities for which a grant was awarded—

“(A) under this chapter; or

“(B) under part C, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

“(c) CONTINGENT FORMULA GRANTS.—

“(1) IN GENERAL.—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than \$13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

“(2) ALLOTMENTS.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

“(d) SERVICES GENERALLY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

“(1) providing independent living services to older individuals who are blind;

“(2) conducting activities that will improve or expand services for such individuals; and

“(3) conducting activities to help improve public understanding of the problems of such individuals.

“(e) INDEPENDENT LIVING SERVICES.—Independent living services for purposes of subsection (d)(1) include—

“(1) services to help correct blindness, such as—

“(A) outreach services;

“(B) visual screening;

“(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

“(D) hospitalization related to such services;

“(2) the provision of eyeglasses and other visual aids;

“(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

“(4) mobility training, braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

“(5) guide services, reader services, and transportation;

“(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

“(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

“(8) other independent living services.

“(f) MATCHING FUNDS.—

“(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than \$1 for each \$9 of Federal funds provided in the grant.

“(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or

services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

“(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

“(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

“(i) APPLICATION FOR GRANT.—

“(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4)).

“(2) CONTENTS.—An application for a grant under this section shall contain—

“(A) an assurance that the agency described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the agency operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

“(i) the number and types of older individuals who are blind and are receiving services;

“(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

“(iii) the sources and amounts of funding for the operation of each project or program;

“(iv) the amounts and percentages of resources committed to each type of service provided;

“(v) data on actions taken to employ, and advance in employment, qualified individuals with significant disabilities, including older individuals who are blind; and

“(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

“(B) an assurance that the agency will—

“(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

“(ii) engage in—

“(I) capacity-building activities, including collaboration with other agencies and organizations;

“(II) activities to promote community awareness, involvement, and assistance; and

“(III) outreach efforts; and

“(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

“(j) AMOUNT OF FORMULA GRANT.—

“(1) IN GENERAL.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

“(A) the amount determined under paragraph (2); or

“(B) the amount determined under paragraph (3).

“(2) MINIMUM ALLOTMENT.—

“(A) STATES.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

“(i) \$225,000; or

“(ii) an amount equal to  $\frac{1}{3}$  of 1 percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

“(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is \$40,000.

“(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

“(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

“(B) a percentage equal to the quotient of—

“(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

“(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

“(4) DISPOSITION OF CERTAIN AMOUNTS.—

“(A) GRANTS.—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

“(B) AMOUNTS.—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

“(i) the failure of any State to submit an application under subsection (i);

“(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

“(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

“(C) CONDITIONS.—The Commissioner may not make a grant under subparagraph (A) unless the State involved



agrees that the grant is subject to the same conditions as grants made under subsection (a).

**“SEC. 753. AUTHORIZATION OF APPROPRIATIONS.**

29 USC 796l.

“There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1999 through 2003.”.

**SEC. 411. REPEAL.**

Title VIII of the Rehabilitation Act of 1973 (29 U.S.C. 797 et seq.) is repealed.

**SEC. 412. HELEN KELLER NATIONAL CENTER ACT.**

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking “1993 through 1997” and inserting “1999 through 2003”.

(b) HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT FUND.—The first sentence of section 208(h) of such Act (29 U.S.C. 1907(h)) is amended by striking “1993 through 1997” and inserting “1999 through 2003”.

(c) REGISTRY.—Such Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following:

**“SEC. 209. REGISTRY.**

29 USC 1908.

“(a) IN GENERAL.—To assist the Center in providing services to individuals who are deaf-blind, the Center may establish and maintain registries of such individuals in each of the regional field offices of the network of the Center.

“(b) VOLUNTARY PROVISION OF INFORMATION.—No individual who is deaf-blind may be required to provide information to the Center for any purpose with respect to a registry established under subsection (a).

“(c) NONDISCLOSURE.—The Center (including the network of the Center) may not disclose information contained in a registry established under subsection (a) to any individual or organization that is not affiliated with the Center, unless the individual to whom the information relates provides specific written authorization for the Center to disclose the information.

“(d) PRIVACY RIGHTS.—The requirements of section 552a of title 5, United States Code (commonly known as the ‘Privacy Act of 1974’) shall apply to personally identifiable information contained in the registries established by the Center under subsection (a), in the same manner and to the same extent as such requirements apply to a record of an agency.

Applicability.

“(e) REMOVAL OF INFORMATION.—On the request of an individual, the Center shall remove all information relating to the individual from any registry established under subsection (a).”.

**SEC. 413. PRESIDENT’S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.**

Section 2(2) of the joint resolution approved July 11, 1949 (63 Stat. 409, chapter 302; 36 U.S.C. 155b(2)) is amended by inserting “solicit,” before “accept,”.

**SEC. 414. CONFORMING AMENDMENTS.**

(a) RANDOLPH-SHEPPARD ACT.—Section 2(e) of the Act of June 20, 1936 (commonly known as the “Randolph-Sheppard Act”) (49

Stat. 1559, chapter 638; 20 U.S.C. 107a(e)) is amended by striking “section 101(a)(1)(A)” and inserting “section 101(a)(2)(A)”.

(b) TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.—

(1) Section 101(b) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2211(b)) is amended—

(A) in paragraph (7)(A)(ii)(II), by striking “individualized written rehabilitation program” and inserting “individualized plan for employment”; and

(B) in paragraph (9)(B), by striking “(as defined in section 7(25) of such Act (29 U.S.C. 706(25)))” and inserting “(as defined in section 7 of such Act)”.

(2) Section 102(e)(23)(A) of such Act (29 U.S.C. 2212(e)(23)(A)) is amended by striking “the assurance provided by the State in accordance with section 101(a)(36) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(36))” and inserting “the portion of the State plan provided by the State in accordance with section 101(a)(21) of the Rehabilitation Act of 1973”.

(c) TITLE 38, UNITED STATES CODE.—Sections 3904(b) and 7303(b) of title 38, United States Code, are amended by striking “section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2)) (relating to the establishment and support of Rehabilitation Engineering Research Centers)” and inserting “section 204(b)(3) of the Rehabilitation Act of 1973 (relating to the establishment and support of Rehabilitation Engineering Research Centers)”.

(d) NATIONAL SCHOOL LUNCH ACT.—Section 27(a)(1)(B) of the National School Lunch Act (42 U.S.C. 1769h(a)(1)(B)) is amended by striking “section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8))” and inserting “section 7 of the Rehabilitation Act of 1973”.

(e) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—Section 421(11) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061(11)) is amended by striking “section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B))” and inserting “section 7(20)(B) of the Rehabilitation Act of 1973”.

(f) ENERGY CONSERVATION AND PRODUCTION ACT.—Section 412(5) of the Energy Conservation and Production Act (42 U.S.C. 6862(5)) is amended by striking “a handicapped individual as defined in section 7(7) of the Rehabilitation Act of 1973” and inserting “an individual with a disability, as defined in section 7 of the Rehabilitation Act of 1973”.

(g) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Section 101(12) of the National and Community Service Act of 1990 (42 U.S.C. 12511(12)) is amended by striking “section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B))” and inserting “section 7(20)(B) of the Rehabilitation Act of 1973”.

## TITLE V—GENERAL PROVISIONS

20 USC 9271.

### SEC. 501. STATE UNIFIED PLAN.

(a) DEFINITION OF APPROPRIATE SECRETARY.—In this section, the term “appropriate Secretary” means the head of the Federal agency who exercises administrative authority over an activity or program described in subsection (b).

(b) STATE UNIFIED PLAN.—

(1) IN GENERAL.—A State may develop and submit to the appropriate Secretaries a State unified plan for 2 or more of the activities or programs set forth in paragraph (2), except that the State may include in the plan the activities described in paragraph (2)(A) only with the prior approval of the legislature of the State. The State unified plan shall cover one or more of the activities set forth in subparagraphs (A) through (D) of paragraph (2) and may cover one or more of the activities set forth in subparagraphs (E) through (O) of paragraph (2).

(2) ACTIVITIES.—The activities and programs referred to in paragraph (1) are as follows:

(A) Secondary vocational education programs authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(B) Postsecondary vocational education programs authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(C) Activities authorized under title I.

(D) Activities authorized under title II.

(E) Programs authorized under section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)).

(F) Work programs authorized under section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)).

(G) Activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(H) Programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(I) Programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 of such Act (29 U.S.C. 732).

(J) Activities authorized under chapter 41 of title 38, United States Code.

(K) Programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(L) Programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(M) Programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(N) Training activities carried out by the Department of Housing and Urban Development.

(O) Programs authorized under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(c) REQUIREMENTS.—

(1) IN GENERAL.—The portion of a State unified plan covering an activity or program described in subsection (b) shall be subject to the requirements, if any, applicable to a plan or application for assistance under the Federal statute authorizing the activity or program.

(2) ADDITIONAL SUBMISSION NOT REQUIRED.—A State that submits a State unified plan covering an activity or program described in subsection (b) that is approved under subsection (d) shall not be required to submit any other plan or application in order to receive Federal funds to carry out the activity or program.

(3) COORDINATION.—A State unified plan shall include—

(A) a description of the methods used for joint planning and coordination of the programs and activities included in the unified plan; and

(B) an assurance that the methods included an opportunity for the entities responsible for planning or administering such programs and activities to review and comment on all portions of the unified plan.

(d) APPROVAL BY THE APPROPRIATE SECRETARIES.—

(1) JURISDICTION.—The appropriate Secretary shall have the authority to approve the portion of the State unified plan relating to the activity or program over which the appropriate Secretary exercises administrative authority. On the approval of the appropriate Secretary, the portion of the plan relating to the activity or program shall be implemented by the State pursuant to the applicable portion of the State unified plan.

(2) APPROVAL.—

(A) IN GENERAL.—A portion of the State unified plan covering an activity or program described in subsection (b) that is submitted to the appropriate Secretary under this section shall be considered to be approved by the appropriate Secretary at the end of the 90-day period beginning on the day the appropriate Secretary receives the portion, unless the appropriate Secretary makes a written determination, during the 90-day period, that the portion is not consistent with the requirements of the Federal statute authorizing the activity or program including the criteria for approval of a plan or application, if any, under such statute or the plan is not consistent with the requirements of subsection (c)(3).

(B) SPECIAL RULE.—In subparagraph (A), the term “criteria for approval of a State plan”, relating to activities carried out under title I or II or under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), includes a requirement for agreement between the State and the appropriate Secretary regarding State performance measures, including levels of performance.

20 USC 9272.

**SEC. 502. DEFINITIONS FOR INDICATORS OF PERFORMANCE.**

(a) IN GENERAL.—In order to ensure nationwide comparability of performance data, the Secretary of Labor and the Secretary of Education, after consultation with the representatives described in subsection (b), shall issue definitions for indicators of performance and levels of performance established under titles I and II.

(b) REPRESENTATIVES.—The representatives referred to in subsection (a) are representatives of States (as defined in section 101) and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 101), educators, participants in activities carried out under this Act, State Directors of adult education, providers of adult education, providers of literacy services, individuals with expertise in serving the employment and training needs of eligible youth (as defined in section 101), parents, and other interested parties, with expertise regarding activities authorized under this Act.

20 USC 9273.

**SEC. 503. INCENTIVE GRANTS.**

Effective date.

(a) IN GENERAL.—Beginning on July 1, 2000, the Secretary shall award a grant to each State that exceeds the State adjusted

levels of performance for title I, the expected levels of performance for title II, and the levels of performance for programs under Public Law 88-210 (as amended; 20 U.S.C. 2301 et seq.), for the purpose of carrying out an innovative program consistent with the requirements of any one or more of the programs within title I, title II, or such Public Law, respectively.

(b) APPLICATION.—

(1) IN GENERAL.—The Secretary may provide a grant to a State under subsection (a) only if the State submits an application to the Secretary for the grant that meets the requirements of paragraph (2).

(2) REQUIREMENTS.—The Secretary may review an application described in paragraph (1) only to ensure that the application contains the following assurances:

(A) The legislature of the State was consulted with respect to the development of the application.

(B) The application was approved by the Governor, the eligible agency (as defined in section 203), and the State agency responsible for programs established under Public Law 88-210 (as amended; 20 U.S.C. 2301 et seq.).

(C) The State and the eligible agency, as appropriate, exceeded the State adjusted levels of performance for title I, the expected levels of performance for title II, and the levels of performance for programs under Public Law 88-210 (as amended; 20 U.S.C. 2301 et seq.).

(c) AMOUNT.—

(1) MINIMUM AND MAXIMUM GRANT AMOUNTS.—Subject to paragraph (2), a grant provided to a State under subsection (a) shall be awarded in an amount that is not less than \$750,000 and not more than \$3,000,000.

(2) PROPORTIONATE REDUCTION.—If the amount available for grants under this section for a fiscal year is insufficient to award a grant to each State or eligible agency that is eligible for a grant, the Secretary shall reduce the minimum and maximum grant amount by a uniform percentage.

**SEC. 504. PRIVACY.**

20 USC 9274.

(a) SECTION 144 OF THE GENERAL EDUCATION PROVISIONS ACT.—Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), as added by the Family Educational Rights and Privacy Act of 1974 (section 513 of Public Law 93-380; 88 Stat. 571).

(b) PROHIBITION ON DEVELOPMENT OF NATIONAL DATABASE.—

(1) IN GENERAL.—Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals receiving services under title I of this Act.

(2) LIMITATION.—Nothing in paragraph (1) shall be construed to prevent the proper administration of national programs under subtitles C and D of title I of this Act or to carry out program management activities consistent with title I of this Act.

**SEC. 505. BUY-AMERICAN REQUIREMENTS.**

20 USC 9275.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless

the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a et seq.).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this subtitle, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations, as such sections are in effect on the date of enactment of this Act, or pursuant to any successor regulations.

20 USC 9276.

#### **SEC. 506. TRANSITION PROVISIONS.**

(a) WORKFORCE INVESTMENT SYSTEMS.—The Secretary of Labor shall take such actions as the Secretary determines to be appropriate to provide for the orderly transition from any authority under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) to the workforce investment systems established under title I of this Act. Such actions shall include the provision of guidance relating to the designation of State workforce investment boards, local workforce investment areas, and local workforce investment boards described in such title.

(b) ADULT EDUCATION AND LITERACY PROGRAMS.—

(1) IN GENERAL.—The Secretary of Education shall take such actions as the Secretary determines to be appropriate to provide for the transition from any authority under the Adult Education Act (20 U.S.C. 1201 et seq.) to any authority under the Adult Education and Family Literacy Act (as added by title II of this Act).

(2) LIMITATION.—The authority to take actions under paragraph (1) shall apply only for the 1-year period beginning on the date of the enactment of this Act.

(c) REGULATIONS.—

(1) INTERIM FINAL REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall develop and publish in the Federal Register interim final regulations relating to the transition to, and implementation of, this Act.

(2) FINAL REGULATIONS.—Not later than December 31, 1999, the Secretary shall develop and publish in the Federal

Applicability.

Deadlines.  
Federal Register,  
publications.

Register final regulations relating to the transition to, and implementation of, this Act.

(d) EXPENDITURE OF FUNDS DURING TRANSITION.—

(1) IN GENERAL.—Subject to paragraph (2) and in accordance with regulations developed under subsection (b), States, grant recipients, administrative entities, and other recipients of financial assistance under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or under this Act may expend funds received under the Job Training Partnership Act or under this Act, prior to July 1, 2000, in order to plan and implement programs and activities authorized under this Act.

(2) ADDITIONAL REQUIREMENTS.—Not to exceed 2 percent of any allotment to any State from amounts appropriated under the Job Training Partnership Act or under this Act for fiscal year 1998 or 1999 may be made available to carry out paragraph (1) and not less than 50 percent of any such amount used to carry out paragraph (1) shall be made available to local entities for the purposes described in such paragraph.

(e) REORGANIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall reorganize and align functions within the Department of Labor and within the Employment and Training Administration in order to carry out the duties and responsibilities required by this Act (and related laws) in an effective and efficient manner.

Deadline.

**SEC. 507. EFFECTIVE DATE.**

Except as otherwise provided in this Act, this Act and the amendments made by this Act, shall take effect on the date of the enactment of this Act.

20 USC 9201  
note.

Approved August 7, 1998.

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**LEGISLATIVE HISTORY—H.R. 1385 (S. 1186):**

HOUSE REPORTS: Nos. 105–93 (Comm. on Education and the Workforce) and 105–659 (Comm. of Conference).

SENATE REPORTS: No. 105–109 accompanying S. 1186 (Comm. on Labor and Human Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): May 16, considered and passed House.

Vol. 144 (1998): May 1, 5, considered and passed Senate, amended.

July 30, Senate agreed to conference report.

July 31, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Aug. 7, Presidential remarks.



Public Law 105–221  
105th Congress

An Act

Aug. 7, 1998  
[H.R. 3152]

To provide that certain volunteers at private non-profit food banks are not employees for purposes of the Fair Labor Standards Act of 1938.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Amy Somers  
Volunteers at  
Food Banks Act.  
29 USC 201 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Amy Somers Volunteers at Food Banks Act”.

**SEC. 2. FAIR LABOR STANDARDS ACT OF 1938.**

Section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) is amended by adding at the end the following:

“(5) The term ‘employee’ does not include individuals who volunteer their services solely for humanitarian purposes to private non-profit food banks and who receive from the food banks groceries.”.

Approved August 7, 1998.

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**LEGISLATIVE HISTORY—H.R. 3152:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 25, considered and passed House.

July 29, considered and passed Senate.





Public Law 105–222  
105th Congress

An Act

To designate the auditorium located within the Sandia Technology Transfer Center in Albuquerque, New Mexico, as the “Steve Schiff Auditorium”.

Aug. 7, 1998  
[H.R. 3731]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS.**

The Congress makes the following findings:

(1) Congressman Steve Schiff represented the First Congressional District of New Mexico in Congress from 1988 to 1998 with honor and distinction.

(2) Mr. Schiff chaired the Subcommittee on Basic Research of the Committee on Science emphasizing protection and improvement of America’s economic and military strength into the 21st century through the support of a robust national science and technology infrastructure.

(3) Mr. Schiff was a tireless advocate of facilitating the transfer of technologies developed at federally supported institutions into the commercial sector.

(4) Mr. Schiff supported technology transfer efforts at Sandia National Laboratory, located in the First Congressional District of New Mexico, including its cooperative research and development programs, which have benefited the people of New Mexico and the Nation as a whole.

(5) Mr. Schiff’s contributions should be acknowledged with a fitting tribute within the district he so selflessly served.

**SEC. 2. DESIGNATION.**

The auditorium located within the Sandia Technology Transfer Center in Albuquerque, New Mexico, and known as Building 825, shall be known and designated as the “Steve Schiff Auditorium”.

**SEC. 3. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the auditorium referred to in section 2 shall be deemed to be a reference to the “Steve Schiff Auditorium”.

Approved August 7, 1998.

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LEGISLATIVE HISTORY—H.R. 3731:

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 15, 16, considered and passed House.

July 30, considered and passed Senate.



Public Law 105–223  
105th Congress

An Act

Aug. 7, 1998  
[H.R. 4354]

To establish the United States Capitol Police Memorial Fund on behalf of the families of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

40 USC 207c.

**SECTION 1. ESTABLISHMENT OF UNITED STATES CAPITOL POLICE MEMORIAL FUND.**

There is hereby established in the Treasury of the United States the United States Capitol Police Memorial Fund (hereafter in this Act referred to as the “Fund”). All amounts received by the Capitol Police Board which are designated for deposit into the Fund shall be deposited into the Fund.

40 USC 207c–1.

**SEC. 2. PAYMENTS FROM FUND FOR FAMILIES OF DETECTIVE GIBSON AND PRIVATE FIRST CLASS CHESTNUT.**

Subject to the regulations issued under section 4, amounts in the Fund shall be paid to the families of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police as follows:

(1) Fifty percent of such amounts shall be paid to the widow and children of Detective Gibson.

(2) Fifty percent of such amounts shall be paid to the widow and children of Private First Class Chestnut.

40 USC 207c–2.

**SEC. 3. TAX TREATMENT OF FUND.**

(a) CONTRIBUTIONS TO FUND.—For purposes of the Internal Revenue Code of 1986, any contribution or gift to or for the use of the Fund shall be treated as a contribution or gift for exclusively public purposes to or for the use of an organization described in section 170(c)(1) of such Code.

(b) TREATMENT OF PAYMENTS FROM FUND.—Any payment from the Fund shall not be subject to any Federal, State, or local income or gift tax.

(c) EXEMPTION.—For purposes of such Code, notwithstanding section 501(c)(1)(A) of such Code, the Fund shall be treated as described in section 501(c)(1) of such Code and exempt from tax under section 501(a) of such Code.

Regulations.  
40 USC 207c–3.

**SEC. 4. ADMINISTRATION BY CAPITOL POLICE BOARD.**

The Capitol Police Board shall administer and manage the Fund (including establishing the timing and manner of making payments under section 2) in accordance with regulations issued by the Board, subject to the approval of the Committee on Rules and Administration of the Senate and the Committee on House

Oversight of the House of Representatives. Under such regulations, the Board shall pay any balance remaining in the Fund upon the expiration of the 6-month period which begins on the date of the enactment of this Act to the families of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut in accordance with section 2, and shall disburse any amounts in the Fund after the expiration of such period in such manner as the Board may establish. Under such regulations, and using amounts in the Fund, a financial adviser or trustee, as appropriate, for the families of Detective John Michael Gibson and Private First Class Jacob Joseph Chestnut of the United States Capitol Police shall be appointed to advise the families respecting disbursements to them of amounts in the Fund.

Approved August 7, 1998.

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LEGISLATIVE HISTORY—H.R. 4354:

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 31, considered and passed House and Senate.



Public Law 105-224  
105th Congress

An Act

Aug. 12, 1998  
[H.R. 434]

To provide for the conveyance of small parcels of land in the Carson National Forest and the Santa Fe National Forest, New Mexico, to the village of El Rito and the town of Jemez Springs, New Mexico.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LAND CONVEYANCE, SANTA FE NATIONAL FOREST, NEW MEXICO.**

Deadline.

(a) CONVEYANCE OF PROPERTY.—Within 60 days of enactment of this Act, the Secretary of Agriculture (herein “the Secretary”) shall convey to the town of Jemez Springs, New Mexico, subject to the terms and conditions under subsection (c), all right, title, and interest of the United States in and to a parcel of real property (including any improvements on the land) consisting of approximately 1 acre located in the Santa Fe National Forest in Sandoval County, New Mexico.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the town of Jemez Springs.

(c) TERMS AND CONDITIONS.—

(1) Notwithstanding exceptions of application under the Recreation and Public Purposes Act (43 U.S.C. 869(c)), consideration for the conveyance described in subsection (a) shall be—

(A) an amount that is consistent with the Bureau of Land Management special pricing program for Governmental entities under the Recreation and Public Purposes Act; and

(B) an agreement between the Secretary and the town of Jemez Springs indemnifying the Government of the United States from all liability of the Government that arises from the property.

(2) The lands conveyed by this Act shall be used for the purposes of construction and operation of a fire substation. If such lands cease to be used for such purposes, at the option of the United States, such lands will revert to the United States.

Approved August 12, 1998.

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LEGISLATIVE HISTORY—H.R. 434:

HOUSE REPORTS: No. 105-359 (Comm. on Resources).

SENATE REPORTS: No. 105-236 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Nov. 4, considered and passed House.

Vol. 144 (1998): July 17, considered and passed Senate, amended.

Aug. 3, House concurred in Senate amendment.



Public Law 105–225  
105th Congress

An Act

To revise, codify, and enact without substantive change certain general and permanent laws, related to patriotic and national observances, ceremonies, and organizations, as title 36, United States Code, “Patriotic and National Observances, Ceremonies, and Organizations”.

Aug. 12, 1998  
[H.R. 1085]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TITLE 36, UNITED STATES CODE.**

36 USC note  
prec. 101.

Certain general and permanent laws of the United States, related to patriotic and national observances, ceremonies, and organizations, are revised, codified, and enacted as title 36, United States Code, “Patriotic and National Observances, Ceremonies, and Organizations”, as follows:

**TITLE 36—PATRIOTIC AND NATIONAL  
OBSERVANCES, CEREMONIES, AND  
ORGANIZATIONS**

SUBTITLE	Sec.
I. PATRIOTIC AND NATIONAL OBSERVANCES AND CEREMONIES	101
II. PATRIOTIC AND NATIONAL ORGANIZATIONS	10101
III. TREATY OBLIGATION ORGANIZATIONS	300101

**SUBTITLE I—PATRIOTIC AND NATIONAL  
OBSERVANCES AND CEREMONIES**

**PART A—OBSERVANCES AND CEREMONIES**

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3. NATIONAL ANTHEM, MOTTO, FLORAL EMBLEM, AND MARCH	301
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**PART A—OBSERVANCES AND CEREMONIES****CHAPTER 1—PATRIOTIC AND NATIONAL OBSERVANCES**

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- 101. American Heart Month.
- 102. Asian/Pacific American Heritage Month.
- 103. Cancer Control Month.
- 104. Carl Garner Federal Lands Cleanup Day.
- 105. Child Health Day.
- 106. Citizenship Day.
- 107. Columbus Day.
- 108. Constitution Week.
- 109. Father's Day.
- 110. Flag Day.
- 111. Gold Star Mother's Day.
- 112. Honor America Days.
- 113. Law Day, U.S.A.
- 114. Leif Erikson Day.
- 115. Loyalty Day.
- 116. Memorial Day.
- 117. Mother's Day.
- 118. National Aviation Day.
- 119. National Day of Prayer.
- 120. National Defense Transportation Day.
- 121. National Disability Employment Awareness Month.
- 122. National Flag Week.
- 123. National Forest Products Week.
- 124. National Freedom Day.
- 125. National Grandparents Day.
- 126. National Hispanic Heritage Month.
- 127. National Korean War Veterans Armistice Day.
- 128. National Maritime Day.
- 129. National Pearl Harbor Remembrance Day.
- 130. National Poison Prevention Week.
- 131. National Safe Boating Week.
- 132. National School Lunch Week.
- 133. National Transportation Week.
- 134. Pan American Aviation Day.
- 135. Parents' Day.
- 136. Peace Officers Memorial Day.
- 137. Police Week.
- 138. Save Your Vision Week.
- 139. Steelmark Month.
- 140. Stephen Foster Memorial Day.
- 141. Thomas Jefferson's birthday.
- 142. White Cane Safety Day.
- 143. Wright Brothers Day.

**§ 101. American Heart Month**

The President is requested to issue each year a proclamation—

- (1) designating February as American Heart Month;
- (2) inviting the chief executive officers of the States, territories, and possessions of the United States to issue proclamations designating February as American Heart Month; and
- (3) urging the people of the United States to recognize the nationwide problem of heart and blood vessel diseases and to support all essential programs required to solve the problem.

**§ 102. Asian/Pacific American Heritage Month**

(a) DESIGNATION.—May is Asian/Pacific American Heritage Month.

(b) PROCLAMATIONS.—The President is requested to issue each year a proclamation calling on the people of the United States, and the chief executive officers of each State of the United States,

the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Marshall Islands, Micronesia, and Palau are requested to issue each year proclamations calling on the people of their respective jurisdictions, to observe Asian/Pacific American Heritage Month with appropriate programs, ceremonies, and activities.

### **§ 103. Cancer Control Month**

(a) GENERAL.—The President is requested—

(1) to issue each year a proclamation designating April as Cancer Control Month; and

(2) to invite each year the chief executive officers of the States, territories, and possessions of the United States to issue proclamations designating April as Cancer Control Month.

(b) CONTENTS OF PROCLAMATIONS.—As part of those proclamations, the chief executive officers and President are requested to invite the medical profession, the press, and all agencies and individuals interested in a national program for the control of cancer by education and other cooperative means to unite during Cancer Control Month in a public dedication to the program and in a concerted effort to make the people of the United States aware of the need for the program.

### **§ 104. Carl Garner Federal Lands Cleanup Day**

(a) DESIGNATION.—The first Saturday after Labor Day is Carl Garner Federal Lands Cleanup Day.

(b) PROCLAMATION.—The President shall issue a proclamation calling on the people of the United States to observe Carl Garner Federal Lands Cleanup Day with appropriate programs, ceremonies, and activities. However, activities may be undertaken in individual States on a day other than the first Saturday after Labor Day if a manager of Federal land decides that an alternative date is more appropriate because of climatological or other factors.

### **§ 105. Child Health Day**

The President is requested to issue each year a proclamation—

(1) designating the first Monday in October as Child Health Day; and

(2) inviting all agencies and organizations interested in child welfare to unite on Child Health Day in observing exercises that will make the people of the United States aware of the fundamental necessity of a year-round program to protect and develop the health of the children of the United States.

### **§ 106. Citizenship Day**

(a) DESIGNATION.—September 17 is Citizenship Day.

(b) PURPOSE.—Citizenship Day commemorates the formation and signing on September 17, 1787, of the Constitution and recognizes all who, by coming of age or by naturalization, have become citizens.

(c) PROCLAMATION.—The President may issue each year a proclamation calling on United States Government officials to display the flag of the United States on all Government buildings on Citizenship Day and inviting the people of the United States to observe Citizenship Day, in schools and churches, or other suitable places, with appropriate ceremonies.

(d) STATE AND LOCAL OBSERVANCES.—The civil and educational authorities of States, counties, cities, and towns are urged to make plans for the proper observance of Citizenship Day and for the complete instruction of citizens in their responsibilities and opportunities as citizens of the United States and of the State and locality in which they reside.

#### **§ 107. Columbus Day**

The President is requested to issue each year a proclamation—

(1) designating the second Monday in October as Columbus Day;

(2) calling on United States Government officials to display the flag of the United States on all Government buildings on Columbus Day; and

(3) inviting the people of the United States to observe Columbus Day, in schools and churches, or other suitable places, with appropriate ceremonies that express the public sentiment befitting the anniversary of the discovery of America.

#### **§ 108. Constitution Week**

The President is requested to issue each year a proclamation—

(1) designating September 17 through September 23 as Constitution Week; and

(2) inviting the people of the United States to observe Constitution Week, in schools, churches, and other suitable places, with appropriate ceremonies and activities.

#### **§ 109. Father's Day**

(a) DESIGNATION.—The third Sunday in June is Father's Day.

(b) PROCLAMATION.—The President is requested to issue a proclamation—

(1) calling on United States Government officials to display the flag of the United States on all Government buildings on Father's Day;

(2) inviting State and local governments and the people of the United States to observe Father's Day with appropriate ceremonies; and

(3) urging the people of the United States to offer public and private expressions of Father's Day to the abiding love and gratitude they have for their fathers.

#### **§ 110. Flag Day**

(a) DESIGNATION.—June 14 is Flag Day.

(b) PROCLAMATION.—The President is requested to issue each year a proclamation—

(1) calling on United States Government officials to display the flag of the United States on all Government buildings on Flag Day; and

(2) urging the people of the United States to observe Flag Day as the anniversary of the adoption on June 14, 1777, by the Continental Congress of the Stars and Stripes as the official flag of the United States.

#### **§ 111. Gold Star Mother's Day**

(a) DESIGNATION.—The last Sunday in September is Gold Star Mother's Day.



(b) PROCLAMATION.—The President is requested to issue a proclamation calling on United States Government officials to display the flag of the United States on all Government buildings, and the people of the United States to display the flag and hold appropriate meetings at homes, churches, or other suitable places, on Gold Star Mother's Day as a public expression of the love, sorrow, and reverence of the people for Gold Star Mothers.

#### **§ 112. Honor America Days**

(a) DESIGNATION.—The 21 days from Flag Day through Independence Day is a period to honor America.

(b) CONGRESSIONAL DECLARATION.—Congress declares that there be public gatherings and activities during that period at which the people of the United States can celebrate and honor their country in an appropriate way.

#### **§ 113. Law Day, U.S.A.**

(a) DESIGNATION.—May 1 is Law Day, U.S.A.

(b) PURPOSE.—Law Day, U.S.A., is a special day of celebration by the people of the United States—

(1) in appreciation of their liberties and the reaffirmation of their loyalty to the United States and of their rededication to the ideals of equality and justice under law in their relations with each other and with other countries; and

(2) for the cultivation of the respect for law that is so vital to the democratic way of life.

(c) PROCLAMATION.—The President is requested to issue a proclamation—

(1) calling on all public officials to display the flag of the United States on all Government buildings on Law Day, U.S.A.; and

(2) inviting the people of the United States to observe Law Day, U.S.A., with appropriate ceremonies and in other appropriate ways, through public entities and private organizations and in schools and other suitable places.

#### **§ 114. Leif Erikson Day**

The President may issue each year a proclamation designating October 9 as Leif Erikson Day.

#### **§ 115. Loyalty Day**

(a) DESIGNATION.—May 1 is Loyalty Day.

(b) PURPOSE.—Loyalty Day is a special day for the reaffirmation of loyalty to the United States and for the recognition of the heritage of American freedom.

(c) PROCLAMATION.—The President is requested to issue a proclamation—

(1) calling on United States Government officials to display the flag of the United States on all Government buildings on Loyalty Day; and

(2) inviting the people of the United States to observe Loyalty Day with appropriate ceremonies in schools and other suitable places.

#### **§ 116. Memorial Day**

(a) DESIGNATION.—The last Monday in May is Memorial Day.

(b) PROCLAMATION.—The President is requested to issue each year a proclamation—

(1) calling on the people of the United States to observe Memorial Day by praying, according to their individual religious faith, for permanent peace;

(2) designating a period of time on Memorial Day during which the people may unite in prayer for a permanent peace;

(3) calling on the people of the United States to unite in prayer at that time; and

(4) calling on the media to join in observing Memorial Day and the period of prayer.

#### **§ 117. Mother's Day**

(a) DESIGNATION.—The second Sunday in May is Mother's Day.

(b) PROCLAMATION.—The President is requested to issue a proclamation calling on United States Government officials to display the flag of the United States on all Government buildings, and on the people of the United States to display the flag at their homes or other suitable places, on Mother's Day as a public expression of love and reverence for the mothers of the United States.

#### **§ 118. National Aviation Day**

The President may issue each year a proclamation—

(1) designating August 19 as National Aviation Day;

(2) calling on United States Government officials to display the flag of the United States on all Government buildings on National Aviation Day; and

(3) inviting the people of the United States to observe National Aviation Day with appropriate exercises to further stimulate interest in aviation in the United States.

#### **§ 119. National Day of Prayer**

The President shall issue each year a proclamation designating the first Thursday in May as a National Day of Prayer on which the people of the United States may turn to God in prayer and meditation at churches, in groups, and as individuals.

#### **§ 120. National Defense Transportation Day**

The President is requested to issue each year a proclamation—

(1) designating the third Friday in May as National Defense Transportation Day; and

(2) urging the people of the United States, including labor, management, users, and investors, in all communities served by the various forms of transportation to observe National Defense Transportation Day by appropriate ceremonies that will give complete recognition to the importance to each community and its people of the transportation system of the United States and the maintenance of the facilities of the system in the most modern state of adequacy to serve the needs of the United States in times of peace and in national defense.

#### **§ 121. National Disability Employment Awareness Month**

(a) DESIGNATION.—October is National Disability Employment Awareness Month.

(b) CEREMONIES.—Appropriate ceremonies shall be held throughout the United States during National Disability Employment Awareness Month to enlist public support for, and interest in, the employment of workers with disabilities who are otherwise qualified. Governors, mayors, heads of other governmental entities, and interested organizations and individuals are invited to participate in the ceremonies.

(c) PROCLAMATION.—The President is requested to issue each year a suitable proclamation.

#### **§ 122. National Flag Week**

The President is requested to issue each year a proclamation—

(1) designating the week in which June 14 falls as National Flag Week; and

(2) calling on citizens to display the flag of the United States during National Flag Week.

#### **§ 123. National Forest Products Week**

(a) DESIGNATION.—The week beginning on the third Sunday in October is National Forest Products Week.

(b) PROCLAMATION.—The President is requested to issue each year a proclamation calling on the people of the United States to observe National Forest Products Week with appropriate ceremonies and activities.

#### **§ 124. National Freedom Day**

The President may issue each year a proclamation designating February 1 as National Freedom Day to commemorate the signing by Abraham Lincoln on February 1, 1865, of the joint resolution adopted by the Senate and the House of Representatives that proposed the 13th amendment to the Constitution.

#### **§ 125. National Grandparents Day**

The President is requested to issue each year a proclamation—

(1) designating the first Sunday in September after Labor Day as National Grandparents Day; and

(2) calling on the people of the United States and interested groups and organizations to observe National Grandparents Day with appropriate ceremonies and activities.

#### **§ 126. National Hispanic Heritage Month**

The President is requested to issue each year a proclamation—

(1) designating September 15 through October 15 as National Hispanic Heritage Month; and

(2) calling on the people of the United States, especially the educational community, to observe National Hispanic Heritage Month with appropriate ceremonies and activities.

#### **§ 127. National Korean War Veterans Armistice Day**

(a) DESIGNATION.—July 27 of each year until 2003 is National Korean War Veterans Armistice Day.

(b) PROCLAMATION.—The President is requested to issue each year a proclamation calling on—

(1) the people of the United States to observe National Korean War Veterans Armistice Day with appropriate ceremonies and activities; and

(2) all departments, agencies, and instrumentalities of the United States Government, and interested organizations, groups, and individuals, to fly the flag of the United States at halfstaff on July 27 of each year until 2003 in honor of the individuals who died as a result of their service in Korea.

#### **§ 128. National Maritime Day**

(a) DESIGNATION.—May 22 is National Maritime Day.

(b) PROCLAMATION.—The President is requested to issue each year a proclamation calling on—

(1) the people of the United States to observe National Maritime Day by displaying the flag of the United States at their homes or other suitable places; and

(2) United States Government officials to display the flag on all Government buildings on National Maritime Day.

#### **§ 129. National Pearl Harbor Remembrance Day**

(a) DESIGNATION.—December 7 is National Pearl Harbor Remembrance Day.

(b) PROCLAMATION.—The President is requested to issue each year a proclamation calling on—

(1) the people of the United States to observe National Pearl Harbor Remembrance Day with appropriate ceremonies and activities; and

(2) all departments, agencies, and instrumentalities of the United States Government, and interested organizations, groups, and individuals, to fly the flag of the United States at halfstaff each December 7 in honor of the individuals who died as a result of their service at Pearl Harbor.

#### **§ 130. National Poison Prevention Week**

The President is requested to issue each year a proclamation designating the third week in March as National Poison Prevention Week to aid in encouraging the people of the United States to learn of the dangers of accidental poisoning and to take preventive measures that are warranted by the seriousness of the danger.

#### **§ 131. National Safe Boating Week**

The President is requested to issue each year a proclamation designating the 7-day period ending on the last Friday before Memorial Day as National Safe Boating Week.

#### **§ 132. National School Lunch Week**

(a) DESIGNATION.—The week beginning on the second Sunday in October is National School Lunch Week.

(b) PROCLAMATION.—The President is requested to issue each year a proclamation calling on the people of the United States to observe National School Lunch Week with appropriate ceremonies and activities.

#### **§ 133. National Transportation Week**

The President is requested to issue each year a proclamation—

(1) designating the week that includes the third Friday of May as National Transportation Week; and

(2) inviting the people of the United States to observe National Transportation Week with appropriate ceremonies and

activities as a tribute to the men and women who, night and day, move goods and individuals throughout the United States.

**§ 134. Pan American Aviation Day**

The President may issue each year a proclamation—

(1) designating December 17 as Pan American Aviation Day; and

(2) calling on all officials of the United States Government, the chief executive offices of the States, territories, and possessions of the United States, and all citizens to participate in the observance of Pan American Aviation Day to further, and stimulate interest in, aviation in the American countries as an important stimulus to the further development of more rapid communications and a cultural development between the countries of the Western Hemisphere.

**§ 135. Parents' Day**

(a) DESIGNATION.—The fourth Sunday in July is Parents' Day.

(b) RECOGNITION.—All private citizens, organizations, and Federal, State, and local governmental and legislative entities are encouraged to recognize Parents' Day through proclamations, activities, and educational efforts in furtherance of recognizing, uplifting, and supporting the role of parents in bringing up their children.

**§ 136. Peace Officers Memorial Day**

The President is requested to issue each year a proclamation—

(1) designating May 15 as Peace Officers Memorial Day in honor of Federal, State, and local officers killed or disabled in the line of duty;

(2) directing United States Government officials to display the flag of the United States at halfstaff on all Government buildings on Peace Officers Memorial Day, as provided by section 7(m) of title 4, United States Code; and

(3) inviting State and local governments and the people of the United States to observe Peace Officers Memorial Day with appropriate ceremonies and activities, including the display of the flag at halfstaff.

**§ 137. Police Week**

The President is requested to issue each year a proclamation—

(1) designating the week in which May 15 occurs as Police Week in recognition of the service given by men and women who stand guard to protect the people of the United States through law enforcement; and

(2) inviting State and local governments and the people of the United States to observe Police Week with appropriate ceremonies and activities, including the display of the flag at halfstaff.

**§ 138. Save Your Vision Week**

The President is requested to issue each year a proclamation—

(1) designating the first week in March as Save Your Vision Week;

(2) inviting the governors and mayors of State and local governments to issue proclamations designating the first week in March as Save Your Vision Week;

(3) inviting the communications media, health care professions, and other agencies and individuals concerned with programs for the improvement of vision to unite during Save Your Vision Week in public activities to convince the people of the United States of the importance of vision to their welfare and the welfare of the United States; and

(4) urging the media, health care professions, and other agencies and individuals to support programs to improve and protect the vision of the people of the United States.

#### **§ 139. Steelmark Month**

(a) DESIGNATION.—May is Steelmark Month.

(b) PURPOSE.—Steelmark Month recognizes the tremendous contribution made by the steel industry in the United States to national security and defense.

(c) PROCLAMATION.—The President is requested to issue a proclamation calling on the people of the United States to observe Steelmark Month with appropriate ceremonies and activities.

#### **§ 140. Stephen Foster Memorial Day**

The President may issue each year a proclamation—

(1) designating January 13 as Stephen Foster Memorial Day; and

(2) calling on the people of the United States to observe Stephen Foster Memorial Day with appropriate ceremonies, pilgrimages to his shrines, and musical programs featuring his compositions.

#### **§ 141. Thomas Jefferson's birthday**

The President shall issue each year a proclamation—

(1) calling on officials of the United States Government to display the flag of the United States on all Government buildings on April 13; and

(2) inviting the people of the United States to observe April 13 in schools and churches, or other suitable places, with appropriate ceremonies in commemoration of Thomas Jefferson's birthday.

#### **§ 142. White Cane Safety Day**

The President may issue each year a proclamation—

(1) designating October 15 as White Cane Safety Day; and

(2) calling on the people of the United States to observe White Cane Safety Day with appropriate ceremonies and activities.

#### **§ 143. Wright Brothers Day**

(a) DESIGNATION.—December 17 is Wright Brothers Day.

(b) PURPOSE.—Wright Brothers Day commemorates the first successful flights in a heavier than air, mechanically propelled airplane, that were made by Orville and Wilbur Wright on December 17, 1903, near Kitty Hawk, North Carolina.

(c) PROCLAMATION.—The President is requested to issue each year a proclamation inviting the people of the United States to observe Wright Brothers Day with appropriate ceremonies and activities.

### CHAPTER 3—NATIONAL ANTHEM, MOTTO, FLORAL EMBLEM, AND MARCH

- Sec.  
301. National anthem.  
302. National motto.  
303. National floral emblem.  
304. National march.

#### § 301. National anthem

(a) DESIGNATION.—The composition consisting of the words and music known as the Star-Spangled Banner is the national anthem.

(b) CONDUCT DURING PLAYING.—During a rendition of the national anthem—

(1) when the flag is displayed—

(A) all present except those in uniform should stand at attention facing the flag with the right hand over the heart;

(B) men not in uniform should remove their headdress with their right hand and hold the headdress at the left shoulder, the hand being over the heart; and

(C) individuals in uniform should give the military salute at the first note of the anthem and maintain that position until the last note; and

(2) when the flag is not displayed, all present should face toward the music and act in the same manner they would if the flag were displayed.

#### § 302. National motto

“In God we trust” is the national motto.

#### § 303. National floral emblem

The flower commonly known as the rose is the national floral emblem.

#### § 304. National march

The composition by John Philip Sousa entitled “The Stars and Stripes Forever” is the national march.

### CHAPTER 5—PRESIDENTIAL INAUGURAL CEREMONIES

- Sec.  
501. Definitions.  
502. Regulations, licenses, and registration tags.  
503. Use of reservations, grounds, and public spaces.  
504. Installation and removal of electrical facilities.  
505. Extension of wires along parade routes.  
506. Duration of regulations and licenses and publication of regulations.  
507. Application to other property.  
508. Enforcement.  
509. Penalty.  
510. Authorization of appropriations.

#### § 501. Definitions

For purposes of this chapter—

(1) “Inaugural Committee” means the committee appointed by the President-elect to be in charge of the Presidential inaugural ceremony and functions and activities connected with the ceremony; and

(2) “inaugural period” means the period that includes the day on which the Presidential inaugural ceremony is held,

the 5 calendar days immediately preceding that day, and the 4 calendar days immediately following that day.

**§ 502. Regulations, licenses, and registration tags**

(a) REGULATIONS AND LICENSES.—For each inaugural period, the Council of the District of Columbia shall—

(1) prescribe reasonable regulations necessary to preserve public order and protect life, health, and property;

(2) prescribe special regulations related to the standing, movement, and operation of vehicles; and

(3) grant special licenses to peddlers and vendors to sell merchandise in places the Council considers proper, subject to conditions and fees for the licenses the Council considers proper.

(b) REGISTRATION TAGS.—The Mayor of the District of Columbia may issue, for any motor vehicle made available for the use of the Inaugural Committee, special registration tags, valid for not more than 90 days, designed to celebrate the inauguration of the President and Vice President.

**§ 503. Use of reservations, grounds, and public spaces**

(a) PERMIT FOR USE.—With the approval of the officer having jurisdiction over any of the Federal reservations or grounds in the District of Columbia, the Secretary of the Interior may grant to the Inaugural Committee a permit to use the reservations or grounds during the inaugural period, including a reasonable time before and after the inaugural period. The Mayor of the District of Columbia may grant a similar permit to use public space under the Mayor's jurisdiction. Each permit granted under this subsection is subject to conditions the grantor of the permit prescribes.

(b) REVIEWING STANDS AND COMMERCIAL STANDS AND STRUCTURES.—A reviewing stand or a stand or structure for the sale of merchandise, food, or drink may be built on public grounds in the District of Columbia only if approved by the Inaugural Committee and by the Secretary or the Mayor, as appropriate.

(c) RESTORATION AFTER INAUGURAL PERIOD.—After the inaugural period, the reservation, ground, or public space occupied by a stand or structure shall be restored promptly to its prior condition.

(d) INDEMNIFICATION.—The Inaugural Committee shall indemnify and save harmless the District of Columbia and the appropriate department, agency, or instrumentality of the United States Government against any loss or damage to, and against any liability arising from the use of, the reservation, ground, or public space, by the Inaugural Committee or a licensee of the Inaugural Committee.

**§ 504. Installation and removal of electrical facilities**

(a) INSTALLATION.—The Mayor of the District of Columbia may allow the Inaugural Committee to install suitable overhead conductors and electrical facilities, with adequate supports. The official in charge of a park or reservation in the District of Columbia in which it is necessary to place wires shall supervise the placing and removal of those wires.

(b) REMOVAL.—The conductors and supports shall be removed not later than 5 days after the end of the inaugural period.

(c) INDEMNIFICATION.—The United States Government and the District of Columbia may not incur any expense or damage from



the installation, operation, or removal of a temporary overhead conductor or electrical facility. The Inaugural Committee shall indemnify and hold harmless the District of Columbia and the appropriate department, agency, or instrumentality of the Government against any loss or damage, and against any liability arising, from any act of the Inaugural Committee or any agent, licensee, servant, or employee of the Inaugural Committee in connection with the installation, operation, or removal of a temporary overhead conductor or electrical facility.

**§ 505. Extension of wires along parade routes**

The Mayor of the District of Columbia, the Secretary of the Interior, and the Inaugural Committee may allow communications companies to extend overhead wires to places along a parade route that are considered convenient for use in connection with the parade and other inaugural purposes. The wires shall be removed not later than 10 days after the inaugural period ends.

**§ 506. Duration of regulations and licenses and publication of regulations**

Regulations prescribed and licenses authorized under this chapter are effective only during the inaugural period. The regulations shall be published in at least one daily newspaper published in the District of Columbia. A penalty prescribed for violating such a regulation may not be enforced until 5 days after publication.

**§ 507. Application to other property**

This chapter does not apply to the United States Capitol Buildings or Grounds or other property under the jurisdiction of Congress or a committee, commission, or officer of Congress. A service or facility authorized by or under this chapter is available for the property on request or approval of the joint committee of the Senate and House of Representatives appointed by the President of the Senate and the Speaker of the House of Representatives to arrange for the inauguration of the President-elect and the Vice President-elect.

**§ 508. Enforcement**

The Mayor of the District of Columbia, or other official having jurisdiction in the premises, shall enforce this chapter, take necessary precautions to protect the public, and ensure that the pavement of any street, sidewalk, avenue, or alley disturbed or damaged is restored to its prior condition.

**§ 509. Penalty**

A person violating a regulation prescribed under this chapter shall be fined under title 18 or imprisoned for not more than 30 days. A separate violation occurs under this section for each day the violation continues.

**§ 510. Authorization of appropriations**

(a) AUTHORIZATION.—Necessary amounts are authorized to be appropriated—

(1) to enable the Mayor of the District of Columbia to provide additional municipal services in the District of Columbia during the inaugural period, including—

(A) employment of personal services without regard to chapters 33 and 51 and subchapter III of chapter 53 of title 5;

(B) travel expenses of enforcement personnel, including sanitarians, from other jurisdictions;

(C) the hiring of the means of transportation;

(D) meals for policemen, firemen, and other municipal employees;

(E) the cost of removing and relocating streetcar loading platforms, construction, rent, maintenance, and expenses incident to the operation of temporary public comfort stations, first-aid stations, and information booths; and

(F) other incidental expenses in the discretion of the Mayor; and

(2) to enable the Secretary of the Interior to provide meals for the members of the United States Park Police during the inaugural period.

(b) PAYMENT.—Amounts appropriated under—

(1) subsection (a)(1) of this section are payable in the same way as other appropriations for the expenses of the District of Columbia; and

(2) subsection (a)(2) of this section are payable in the same way as other appropriations for the expenses of the Department of the Interior.

#### **CHAPTER 7—FEDERAL PARTICIPATION IN CARL GARNER FEDERAL LANDS CLEANUP DAY**

Sec.

701. Findings.

702. Definition.

703. Duties of Federal land management agency.

704. Activities.

#### **§ 701. Findings**

Congress finds that—

(1) Federal lands, parks, recreation areas, and waterways provide recreational opportunities for millions of Americans each year;

(2) Federal lands administered by Federal land management agencies contain valuable wildlife, scenery, natural and historic features, and other resources which may be damaged by litter and misuse;

(3) it is in the best interest of the United States and its citizens to maintain and preserve the beauty, safety, and availability of these Federal lands;

(4) these Federal land management agencies have been designated as the caretakers of these Federal lands and are responsible for maintaining and preserving those areas and facilities;

(5) there is great value in volunteer involvement in maintaining and preserving Federal lands for recreational use;

(6) the Federal land management agencies should be concerned with promoting a sense of pride and ownership among citizens toward these lands;

(7) the use of citizen volunteers in a national cleanup effort promotes these goals and encourages the thoughtful use of these Federal lands and facilities;

(8) the positive impact of annual cleanup events held at various recreation sites has already been proven by steadily declining levels of litter at these sites; and

(9) a national program for cleaning and maintaining Federal lands using volunteers will save millions of tax dollars.

#### **§ 702. Definition**

For purposes of this chapter, “Federal land management agency” includes—

- (1) the Forest Service of the Department of Agriculture;
- (2) the Bureau of Land Management of the Department of the Interior;
- (3) the National Park Service of the Department of the Interior;
- (4) the Fish and Wildlife Service of the Department of the Interior;
- (5) the Bureau of Reclamation of the Department of the Interior; and
- (6) the Army Corps of Engineers.

#### **§ 703. Duties of Federal land management agency**

To observe Carl Garner Federal Lands Cleanup Day at the Federal level, each Federal land management agency shall organize, coordinate, and participate with citizen volunteers and State and local authorities in cleaning and providing for the maintenance of Federal public land, recreation areas, and waterways within the jurisdiction of the agency.

#### **§ 704. Activities**

In cooperation with appropriate State and local government authorities, each Federal land management agency shall plan for and carry out activities on Carl Garner Federal Lands Cleanup Day that—

- (1) encourage continuing public and private sector cooperation in preserving the beauty and safety of areas within the jurisdiction of the agency;
- (2) increase citizens’ sense of ownership and community pride in those areas;
- (3) reduce litter on Federal lands, along trails and waterways, and within those areas; and
- (4) maintain and improve trails, recreation areas, waterways, and facilities.

### **CHAPTER 9—MISCELLANEOUS**

Sec.

901. Service flag and service lapel button.

902. National League of Families POW/MIA flag.

#### **§ 901. Service flag and service lapel button**

(a) **INDIVIDUALS ENTITLED TO DISPLAY SERVICE FLAG.**—A service flag approved by the Secretary of Defense may be displayed in a window of the place of residence of individuals who are members of the immediate family of an individual serving in the Armed Forces of the United States during any period of war or hostilities in which the Armed Forces of the United States are engaged.

(b) **INDIVIDUALS ENTITLED TO DISPLAY SERVICE LAPEL BUTTON.**—A service lapel button approved by the Secretary may

be worn by members of the immediate family of an individual serving in the Armed Forces of the United States during any period of war or hostilities in which the Armed Forces of the United States are engaged.

(c) **LICENSE TO MANUFACTURE AND SELL SERVICE FLAGS AND SERVICE LAPEL BUTTONS.**—Any person may apply to the Secretary for a license to manufacture and sell the approved service flag, or the approved service lapel button, or both. Any person that manufactures a service flag or service lapel button without having first obtained a license, or otherwise violates this section is liable to the United States Government for a civil penalty of not more than \$1,000.

(d) **REGULATIONS.**—The Secretary may prescribe regulations necessary to carry out this section.

### **§ 902. National League of Families POW/MIA flag**

(a) **DESIGNATION.**—The National League of Families POW/MIA flag is designated as the symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing, and unaccounted for in Southeast Asia, thus ending the uncertainty for their families and the Nation.

(b) **DISPLAY.**—The flag shall be displayed—

(1) at each national cemetery and at the National Vietnam Veterans Memorial each year on Memorial Day and Veterans Day and on any day designated by law as National POW/MIA Recognition Day; and

(2) on, or on the grounds of, the buildings containing the primary offices of the Secretaries of State, Defense, and Veterans Affairs, and the Director of the Selective Service System on any day designated by law as National POW/MIA Recognition Day.

(c) **TERMINATION OF FLAG DISPLAY REQUIREMENT.**—Subsection (b) of this section ceases to apply when the President decides that the fullest possible accounting has been made of all members of the Armed Forces and civilian employees of the United States Government who have been identified as prisoners of war or missing in action in Southeast Asia.

## **PART B—UNITED STATES GOVERNMENT ORGANIZATIONS INVOLVED WITH OBSERVANCES AND CEREMONIES**

### **CHAPTER 21—AMERICAN BATTLE MONUMENTS COMMISSION**

Sec.

2101. Membership.

2102. Employment of personnel.

2103. Administrative.

2104. Military cemeteries in foreign countries.

2105. Monuments built by the United States Government.

2106. War memorials not built by the United States Government.

2107. National Memorial Cemetery of the Pacific.

2108. Pacific War Memorial and other historical and memorial sites on Corregidor.

2109. Foreign Currency Fluctuations Account.

2110. Claims against the Commission.

2111. Presidential duties and powers.

2112. Care and maintenance of Surrender Tree site.

**§ 2101. Membership**

(a) COMPOSITION AND TERMS.—The American Battle Monuments Commission has not more than 11 members appointed by the President. The President also shall appoint one officer of the Regular Army to serve as secretary of the Commission. The members and secretary serve at the pleasure of the President. The President shall fill any vacancies that occur. Notwithstanding any other law, members of the Armed Forces may be appointed members of the Commission.

(b) PAY AND EXPENSES.—The members of the Commission serve without compensation. However, the members of the Commission may receive, from an amount appropriated to carry out this chapter or acquired by another authorized way—

(1) their actual expenses related to the work of the Commission;

(2) when in a travel status outside the continental United States, a per diem at the rate authorized to be paid for members of the uniformed services under section 405 of title 37, United States Code, instead of subsistence; and

(3) when in a travel status in the continental United States, a per diem at the rate authorized to be paid under sections 5702 and 5703 of title 5, United States Code, instead of subsistence.

(c) EXPENSES OF OFFICERS OF ARMED FORCES SERVING ON COMMISSION.—An officer of the Armed Forces serving as a member or as secretary of the Commission may be reimbursed for expenses when traveling on business of the Commission in the same way as civilian members of the Commission.

**§ 2102. Employment of personnel**

(a) GENERAL.—Within the limits of an appropriation made to employ personnel, the American Battle Monuments Commission may employ personnel necessary to carry out this chapter. To ensure adequate care and maintenance of cemeteries, monuments, and memorials, the Commission, subject to the availability of appropriations, shall employ—

(1) at least 50 individuals in the competitive service (as defined in section 2102 of title 5, United States Code), of whom at least 43 shall be assigned to duty in foreign countries where the cemeteries, monuments, and memorials are located; and

(2) at least 348 individuals who are citizens of the countries where the cemeteries, monuments, and memorials are located.

(b) DETAILED PERSONNEL.—On request of the Commission, the heads of departments, agencies, and instrumentalities of the United States Government may make available to the Commission their personnel and facilities to assist in carrying out this chapter, and may expend for that purpose amounts appropriated to the department, agency, and instrumentality. The Commission shall reimburse the department, agency, or instrumentality for the pay and allowances of designated personnel.

(c) STATION ALLOWANCE FOR OFFICERS ASSIGNED TO THE COMMISSION.—For officers of the Armed Forces assigned to the Commission, the same station allowance shall be authorized for serving at foreign stations as the Secretary of the Army has authorized for officers of the Army.

(d) **CITIZENSHIP REQUIREMENT.**—An individual may be employed as the superintendent, or as an assistant superintendent, of a cemetery operated by the Commission only if the individual is a citizen of the United States.

**§ 2103. Administrative**

(a) **GENERAL AUTHORITY.**—Subject to appropriations made to carry out this chapter, the American Battle Monuments Commission may—

(1) acquire land or an interest in land in a foreign country to carry out the purposes of this chapter, or an executive order conferring duties and powers on the Commission, without submission to the Attorney General under section 355 of the Revised Statutes (40 U.S.C. 255);

(2) maintain, repair, and operate motor-propelled passenger-carrying vehicles and other property that another department, agency, or instrumentality of the United States Government provides to the Commission;

(3) establish offices in the District of Columbia and elsewhere in or outside the United States;

(4) rent office and garage space, which may be paid for in advance, in foreign countries; and

(5) procure printing, binding, engraving, lithographing, photographing, and typewriting, including the publication of information on United States activities, battlefields, memorials, and cemeteries with respect to which the Commission may exercise any duties and powers.

(b) **DISPOSITION OF LAND.**—Under conditions and in the manner the Commission decides is proper, the Commission may dispose of land or an interest in land in a foreign country that the Commission acquires in connection with its work.

(c) **CONTRACTING OUT.**—Notwithstanding the requirements of existing laws or regulations, the Commission, under conditions the Commission decides are necessary and proper, may contract for work, supplies, materials, and equipment outside or for use outside the United States and engage the services of architects and other technical and professional personnel.

(d) **DELEGATION.**—Under conditions the Commission may prescribe, the Commission may delegate to its chairman, secretary, or officials in charge of any of its offices any of its authority it considers necessary and proper.

(e) **AUTHORITY TO RECEIVE STATE, LOCAL, OR PRIVATE AMOUNTS.**—The Commission may receive State, local, or private amounts to carry out this chapter. The Commission shall deposit the amounts with the Treasurer of the United States. The Treasurer shall keep the amounts in separate accounts and shall disburse the amounts on vouchers approved by the chairman.

(f) **LIMITATION ON USE OF CONTRIBUTIONS.**—The Commission may not obligate, withdraw, or expend amounts received as contributions before March 1, 1998.

(g) **STATEMENTS TO PRESIDENT.**—The Commission shall transmit to the President on October 1 of each year a statement of all its financial and other transactions during the prior fiscal year.

(h) **FINANCIAL STATEMENTS AND AUDITS.**—(1) The Commission shall have a system of financial controls to enable the Commission to comply with the requirements of paragraph (2) of this subsection and with section 2106(d)(4) of this title.

## (2) The Commission shall—

(A) by March 1 of each year (beginning with 1998)—

(i) prepare a financial statement which covers all accounts and associated activities of the Commission for the prior fiscal year and is consistent with the requirements of section 3515 of title 31, United States Code; and

(ii) submit the financial statement, together with a narrative summary, to the Committees on Veterans' Affairs of the Senate and House of Representatives; and

(B) obtain an audit by the Comptroller General of each financial statement prepared under subparagraph (A) of this paragraph, which shall be conducted in accordance with applicable generally accepted government auditing standards and shall be in lieu of any audit otherwise required by law.

(i) DISPOSITION OF RECORDS AND ARCHIVES.—When no longer required by the Commission, the records and archives of the Commission shall be deposited with the National Archives in accordance with section 2107 of title 44, United States Code.

(j) SEAL.—The Commission shall have a seal that shall be judicially noticed.

(k) DISBURSEMENTS OUTSIDE CONTINENTAL UNITED STATES.—Disbursements for expenditures outside the continental United States may be made by a special disbursing agent designated by the Commission under regulations it prescribes.

**§ 2104. Military cemeteries in foreign countries**

When, as a result of combat operations, the Armed Forces establish military cemeteries in zones of operations outside the United States and the territories and possessions of the United States, the American Battle Monuments Commission and the Secretary of the Army, immediately on the cessation of hostilities, shall decide which of the cemeteries will become permanent cemeteries or, if they decide it is desirable, shall select new sites for the cemeteries at any other location. The Commission is solely responsible for the design and construction of the permanent cemeteries, and of all buildings, plantings, headstones, and other permanent improvements incidental to the cemeteries, except that—

(1) the Armed Forces are responsible for maintaining the permanent cemeteries until the Commission declares its readiness to assume the authorized administrative duties and powers;

(2) all construction undertaken by the Armed Forces in establishing and maintaining the cemetery prior to its transfer to the Commission shall be nonpermanent;

(3) burials and reburials by the Armed Forces shall be carried out in accordance with plans prepared by the Commission; and

(4) the Armed Forces have the right to re-enter a cemetery transferred to the Commission to exhume or re-inter a body if they decide it is necessary.

**§ 2105. Monuments built by the United States Government**

(a) MEMORIALS.—The American Battle Monuments Commission shall prepare plans and estimates to build suitable memorials commemorating the service of American Armed Forces, and shall build and maintain memorials in the United States and, as the

Commission decides, at any place outside the United States where the Armed Forces have served since April 6, 1917.

(b) ARCHITECTURE AND ART.—The Commission shall build and maintain works of architecture and art in United States cemeteries located outside the United States and the territories and possessions of the United States that are permanent cemeteries. The Secretary of Veterans Affairs shall maintain works of architecture and art built by the Commission in the National Cemetery System, as described in section 2400(b) of title 38.

(c) CONTROL AND SUPERVISION OF MATERIALS, DESIGN, AND BUILDING.—(1) The Commission shall control the materials and design and prescribe regulations for, and supervise the building of, all memorial monuments and buildings in United States cemeteries located outside the United States and the territories and possessions of the United States.

(2) The Commission shall control the design and prescribe regulations for the building of all memorial monuments and buildings commemorating the service of American Armed Forces that are built in a foreign country or political division of the foreign country that authorizes the Commission to carry out those duties and powers.

(d) APPROVAL BY NATIONAL COMMISSION OF FINE ARTS.—A design for a memorial must be approved by the National Commission of Fine Arts before the Commission can accept it.

#### **§ 2106. War memorials not built by the United States Government**

(a) COOPERATION WITH OTHERS.—The American Battle Monuments Commission may cooperate with citizens of the United States, States, municipalities, or associations desiring to build war memorials outside the continental limits of the United States in the way the Commission decides. An administrative agency of the United States Government may give assistance to build the memorial only if a plan for the memorial has been approved under this chapter.

(b) CONTROL, ADMINISTRATION, AND MAINTENANCE OF WAR MEMORIALS.—(1) The Commission may assume responsibility for the control, administration, and maintenance of any war memorial built outside the United States by a citizen of the United States, a State, a political subdivision of a State, a governmental authority (except a department, agency, or instrumentality of the United States Government), a foreign agency, or a private association to commemorate the services of any of the Armed Forces in hostilities occurring since April 6, 1917, if—

(A) the memorial is not built on the territory of the applicable former enemy; and

(B) the sponsors of the memorial consent to the Commission assuming those responsibilities and transfer to the Commission all their rights and interests in the memorial.

(2) If reasonable effort fails to locate the sponsors of a memorial, the Commission may assume responsibility for the memorial under this subsection by agreement with the appropriate foreign authorities. A decision of the Commission to assume responsibility for a war memorial under this subsection is final.

(3) Sponsors of a war memorial for which the Commission assumes responsibility under this subsection may transfer amounts accumulated to maintain and repair the memorial to the Commission for use in carrying out this chapter. Except as provided in



subsection (c) of this section, the Commission shall deposit transferred amounts as provided in section 2103(e) of this title.

(c) ARRANGEMENTS FOR REPAIR OR LONG-TERM MAINTENANCE OF MEMORIALS.—In assuming responsibility for a war memorial under subsection (b)(1) or (2) of this section, the Commission may arrange with the sponsors of the memorial to provide for repair or long-term maintenance of the memorial. An amount transferred to the Commission for the purpose of this subsection shall be deposited by the Commission in the fund established under subsection (d) of this section.

(d) FUND FOR ARRANGEMENTS FOR REPAIR OR LONG-TERM MAINTENANCE OF MEMORIALS.—(1) There is a fund in the Treasury that is available to the Commission for expenses of repair and long-term maintenance of memorials for which the Commission has made arrangements under subsection (c) of this section. The fund consists of—

(A) amounts deposited into, and interest and proceeds credited to, the fund under paragraph (2) of this subsection; and

(B) obligations obtained under paragraph (3) of this subsection.

(2) The Commission shall deposit into the fund the amounts that are accepted under subsection (c) of this section. The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from the sale or redemption of, obligations held in the fund.

(3) The Secretary shall invest any part of the fund that the Commission decides is not required to meet current expenses. Each investment shall be made in an interest-bearing obligation of the United States Government, or an obligation that has its principal and interest guaranteed by the Government, that the Commission decides has a maturity suitable for the fund.

(4) The Commission shall separately account for all amounts deposited in and expended from the fund for each war memorial for which an arrangement for repair or long-term maintenance is made under subsection (c) of this section.

(e) DEMOLITION OF WAR MEMORIAL BUILT IN A FOREIGN COUNTRY AND DISPOSITION OF SITE.—The Commission may take necessary action to demolish any war memorial built outside the United States by a citizen of the United States, a State, a political subdivision of a State, a governmental authority (except a department, agency, or instrumentality of the United States Government), a foreign agency, or a private association and to dispose of the site of the memorial in a way the Commission decides is proper, if—

(1) the appropriate foreign authorities agree to the demolition; and

(2)(A) the sponsor of the memorial consents to the demolition; or

(B) the memorial has fallen into disrepair and a reasonable effort by the Commission has failed—

(i) to persuade the sponsor to maintain the memorial at a standard acceptable to the Commission; or

(ii) to locate the sponsor.

**§ 2107. National Memorial Cemetery of the Pacific**

With the consent of the Secretary of Veterans Affairs, the American Battle Monuments Commission may build works of architecture and art in the National Memorial Cemetery of the Pacific.

**§ 2108. Pacific War Memorial and other historical and memorial sites on Corregidor**

(a) GENERAL.—After an agreement is made between the Government of the Republic of the Philippines and the United States Government, the American Battle Monuments Commission shall restore, operate, and maintain the Pacific War Memorial and other historical and memorial sites on Corregidor.

(b) PERSONNEL.—The Commission may employ necessary personnel to carry out this section.

(c) USE OF OTHER DEPARTMENTS, AGENCIES, AND INSTRUMENTALITIES.—Departments, agencies, and instrumentalities of the United States Government may assist the Commission, on a reimbursable basis, in carrying out this section.

(d) AUTHORITY TO SOLICIT CONTRIBUTIONS.—To carry out this section, the Commission may solicit and accept private contributions and shall deposit the contributions in the fund established by subsection (f) of this section.

(e) USE OF PRIVATE AMOUNTS.—The Commission shall carry out this section with private amounts except to the extent amounts are appropriated under subsection (g) of this section.

(f) FUND.—(1) There is a fund in the Treasury that is available to the Commission only to carry out this section. The fund consists of—

(A) amounts deposited into, and interest and proceeds credited to, the fund under paragraph (2) of this subsection; and

(B) obligations obtained under paragraph (3) of this subsection.

(2) The Chairman of the Commission shall deposit into the fund the amounts that are accepted under subsection (d) of this section. The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from the sale or redemption of, obligations held in the fund.

(3) The Secretary shall invest any part of the fund that the Chairman decides is not required to meet current expenses. Each investment shall be made in an interest-bearing obligation of the United States Government, or an obligation that has its principal and interest guaranteed by the Government, that the Chairman decides has a maturity suitable for the fund.

(4) Amounts in the fund exceeding the cost of carrying out this section, as decided by the Chairman, shall be deposited in the Treasury as miscellaneous receipts to reimburse the United States Government for amounts appropriated under subsection (g) of this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) \$6,000,000 for site preparation, design, planning, construction, and associated administrative costs for the restoration of the Memorial and other historical and memorial sites referred to in subsection (a) of this section; and

(2) amounts necessary to operate and maintain the Memorial and those other historical and memorial sites.

#### **§ 2109. Foreign Currency Fluctuations Account**

(a) **ESTABLISHMENT AND PURPOSE.**—There is an account in the Treasury known as the “Foreign Currency Fluctuations, American Battle Monuments Commission, Account”. The Account shall be used to provide amounts, in addition to amounts appropriated for salaries and expenses of the Commission, to pay the cost of salaries and expenses that exceeds the amount appropriated for salaries and expenses because of fluctuations in currency exchange rates of foreign countries occurring after a budget request for the Commission is submitted to Congress. The Account may not be used for any other purpose.

(b) **INCREASE IN PERMISSIBLE OBLIGATIONS OF AMOUNTS.**—A provision of law limiting the amounts the Commission may obligate in a fiscal year shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

(c) **TRANSFERRED AMOUNTS.**—(1) Amounts in the Account may be transferred to amounts appropriated for salaries and expenses of the Commission. Transferred amounts shall be merged with, and are available for the same time period as, the appropriation to which they are applied.

(2) Amounts transferred from the Account may be transferred back—

(A) if the amounts are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the amounts were originally transferred; or

(B) because of subsequent favorable fluctuations in the rates or because other amounts are, or become, available to pay the obligations.

(3) Amounts transferred to an appropriation under this subsection may not be transferred back to the Account after the end of the 2d fiscal year after the fiscal year in which the appropriation was available for obligation.

(d) **RECORDING OF OBLIGATIONS AND FLUCTUATIONS IN EXCHANGE RATES.**—An obligation of the Commission payable in the currency of a foreign country may be recorded as an obligation based on exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

(e) **UNOBLIGATED BALANCES.**—The unobligated balance of an appropriation for salaries and expenses may be transferred to the Account not later than the end of the second fiscal year following the fiscal year for which the appropriation was made. The unobligated balance shall be merged with, and be available for the same period and purposes as, the Account.

(f) **ANNUAL REPORT.**—The Commission each year shall submit to the appropriate committees of Congress a report on amounts transferred under this section.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$3,000,000 to the Account.

**§ 2110. Claims against the Commission**

A claim against the American Battle Monuments Commission that is similar to a claim described in section 2734 of title 10, that is based on damage to, or loss or destruction of, property, or personal injury or death of an individual, and that is caused by the negligent or wrongful act or omission of an officer or civilian employee of the Commission acting within the scope of the officer's or employee's office or employment, may be settled, decided, and paid as provided in section 2734 for the settlement of Army claims. However, the Secretary of the Army may appoint an officer or employee of the Commission to a claims commission or as an officer to approve settlements of claims made by the claims commission. All payments in settlement of a claim shall be made out of appropriations made to carry out this chapter.

**§ 2111. Presidential duties and powers**

(a) ARRANGEMENTS WITH FOREIGN COUNTRIES.—The President is requested to make the necessary arrangements with the proper authorities of the appropriate foreign countries to enable the American Battle Monuments Commission to carry out this chapter.

(b) TRANSFER OF ADMINISTRATIVE DUTIES AND POWERS AND SUPPLIES, MATERIAL, AND EQUIPMENT TO COMMISSION.—(1) The President by executive order may transfer to the Commission—

(A) the same administrative duties and powers related to a permanent military cemetery located outside the United States and the territories and possessions of the United States that were transferred to the Commission by Executive Order 6614, February 26, 1934, and Executive Order 10057, May 14, 1949, as amended by Executive Order 10087, December 3, 1949; and

(B) supplies, material, and equipment located in the permanent military cemetery or in a military depot overseas that—  
 (i) the Department of Defense does not need; and  
 (ii) the Commission requests to carry out the duties and powers specified in clause (A) of this paragraph.

(2) After a transfer under this subsection, the Commission shall maintain the cemetery and all improvements in it.

**§ 2112. Care and maintenance of Surrender Tree site**

The American Battle Monuments Commission is responsible for the care and maintenance of the Surrender Tree site in Santiago, Cuba.

## **CHAPTER 23—UNITED STATES HOLOCAUST MEMORIAL COUNCIL**

Sec.

- 2301. Establishment and purposes.
- 2302. Membership.
- 2303. Executive Director.
- 2304. Gifts, bequests, and devises of property.
- 2305. Memorial museum.
- 2306. Audits.
- 2307. Administrative.
- 2308. Annual report.
- 2309. Authorization of appropriations.

**§ 2301. Establishment and purposes**

The United States Holocaust Memorial Council is an independent establishment of the United States Government. The Council shall—

(1) provide for appropriate ways for the Nation to commemorate the Days of Remembrance as an annual, national, civic commemoration of the Holocaust;

(2) encourage and sponsor appropriate observances of the Days of Remembrance throughout the United States;

(3) plan, construct, and operate a permanent living memorial museum to the victims of the Holocaust in cooperation with the Secretary of the Interior and other departments, agencies, and instrumentalities of the United States Government as provided in section 2305 of this title; and

(4) develop a plan for carrying out the recommendations of the President's Commission on the Holocaust in its report to the President of September 27, 1979, to the extent the recommendations are not otherwise provided for in this chapter.

**§ 2302. Membership**

(a) COMPOSITION.—(1) The United States Holocaust Memorial Council consists of 65 voting members and the following ex officio nonvoting members:

(A) one appointed by the Secretary of the Interior.

(B) one appointed by the Secretary of State.

(C) one appointed by the Secretary of Education.

(2) Of the 65 voting members—

(A) the President of the United States appoints 55;

(B) the Speaker of the House of Representatives appoints five from among members of the House of Representatives; and

(C) the President pro tempore of the Senate appoints five, on the recommendation of the majority and minority leaders, from among members of the Senate.

(b) TERMS OF OFFICE.—(1) Except as provided in this subsection, Council members serve for terms of 5 years.

(2) The terms of the five members of the House of Representatives and the five members of the Senate appointed during a term of Congress expire at the end of that term of Congress.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The President of the United States shall appoint the Chairperson and Vice Chairperson of the Council from among the members of the Council. The Chairperson and Vice Chairperson serve for terms of 5 years.

(d) VACANCIES.—(1) A vacancy on the Council shall be filled in the same manner as the original appointment was made.

(2) A member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of the term. A member, except a Member of Congress appointed by the Speaker of the House of Representatives or the President pro tempore of the Senate, may serve after the expiration of a term until a successor takes office.

(3) The President of the United States fills a vacancy in the offices of the Chairperson and Vice Chairperson.

(e) REAPPOINTMENT.—A member whose term expires may be reappointed. The Chairperson and Vice Chairperson may be reappointed to those offices.

(f) PAY AND EXPENSES.—(1) Except as provided in paragraph (2) of this subsection, members of the Council may be paid the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of title 5 for each day (including traveltime) during which they perform duties of the Council. A member is entitled to travel expenses, including a per diem allowance, as provided under section 5703 of title 5, United States Code.

(2) Members who are full-time officers or employees of the United States Government or Members of Congress may not receive additional pay because of their service on the Council.

(g) ASSOCIATED COMMITTEES.—Subject to appointment by the Chairperson, an individual who is not a member of the Council may be designated as a member of a committee associated with the Council. The individual serves without cost to the Government.

#### **§ 2303. Executive Director**

(a) APPOINTMENT AND PAY.—The Chairperson of the United States Holocaust Memorial Council shall appoint an Executive Director, subject to confirmation by the Council. The Executive Director may be paid with nonappropriated funds. However, if the Executive Director is paid with appropriated funds, the rate of pay shall be a rate that is not more than the maximum rate of basic pay payable under section 5376 of title 5, United States Code. The Executive Director serves at the pleasure of the Council.

(b) DUTIES AND POWERS.—The Executive Director may—

(1) appoint employees in the competitive service subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code;

(2) appoint and fix the compensation (at a rate that is not more than the maximum rate of basic pay payable under section 5376 of title 5, United States Code) of not more than three employees, notwithstanding any other law; and

(3) implement decisions of the Council, in the manner the Council directs, and carry out other functions the Council, the Executive Committee of the Council, or the Chairperson assigns.

#### **§ 2304. Gifts, bequests, and devises of property**

(a) GENERAL.—The United States Holocaust Memorial Council may solicit, accept, own, administer, invest, and use gifts, bequests, and devises of property to aid or facilitate the construction, maintenance, and operation of the memorial museum. The property and the proceeds of the property shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating the property. Funds donated to and accepted by the Council under this section are not considered appropriated funds and are not subject to any requirements or restrictions applicable to appropriated funds.

(b) TAX TREATMENT.—For the purposes of Federal income, estate, and gift taxes, property accepted under this section is deemed to be a gift, bequest, or devise to the United States Government.

#### **§ 2305. Memorial museum**

(a) TRANSFER OR PURCHASE OF REAL PROPERTY IN THE DISTRICT OF COLUMBIA.—For the purpose of establishing the memorial museum, and with the approval of the Secretary of the Interior

in consultation with the Commission of Fine Arts and the National Capital Planning Commission—

(1) a department, agency, or instrumentality of the United States Government may transfer to the administrative jurisdiction of the United States Holocaust Memorial Council, any real property in the District of Columbia that is under the administrative jurisdiction of the department, agency, or instrumentality and that the Council considers suitable for the memorial museum; and

(2) the Council may purchase, with the consent of the owner, any real property within the District of Columbia that the Council considers suitable for the memorial museum.

(b) ARCHITECTURAL DESIGN APPROVAL.—The architectural design for the memorial museum is subject to the approval of the Secretary of the Interior, in consultation with the Commission of Fine Arts and the National Capital Planning Commission.

(c) INSURANCE.—The Council shall maintain insurance on the memorial museum to cover the risks, in the amount, and containing the terms the Council considers necessary.

#### **§ 2306. Audits**

When requested by Congress, the Comptroller General shall audit financial transactions of the United States Holocaust Memorial Council, including those involving donated funds, under generally accepted auditing standards. The Council shall make available for an audit under this section all records, items, or property used by the Council that are necessary for the audit. The Council shall provide facilities for verifying transactions with the balances.

#### **§ 2307. Administrative**

(a) BYLAWS.—(1) The United States Holocaust Memorial Council shall adopt bylaws to carry out its functions under this chapter.

(2) The Chairperson of the Council may waive a bylaw when the Chairperson decides the waiver is in the best interest of the Council. Immediately after waiving a bylaw, the Chairperson shall send written notice to every voting member of the Council. The waiver becomes final 30 days after the notice is sent unless a majority of Council members disagrees in writing before the end of the 30-day period.

(b) QUORUM.—One-third of the members of the Council is a quorum. A vacancy in the Council does not affect its power to function.

(c) EXPERTS AND CONSULTANTS.—The Council may procure the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code, at rates that are not more than the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of title 5, United States Code.

(d) CONTRACT AUTHORITY.—In accordance with applicable law, the Council may make contracts or other arrangements with public agencies or authorities and with private organizations and persons and may make payments necessary to carry out its functions under this chapter.

(e) ASSISTANCE FROM OTHER UNITED STATES GOVERNMENT DEPARTMENTS, AGENCIES, AND INSTRUMENTALITIES.—The Secretary of the Smithsonian Institution, the Library of Congress, and all departments, agencies, and instrumentalities in the executive

branch of the United States Government may assist the Council in carrying out its functions under this chapter.

(f) **ADMINISTRATIVE SERVICES AND SUPPORT.**—The Secretary of the Interior may provide administrative services and support to the Council on a reimbursable basis.

#### **§ 2308. Annual report**

Each year, the Executive Director of the United States Holocaust Memorial Council shall submit to Congress a report on the Executive Director's stewardship of the authority to construct, maintain, and operate the memorial museum, including an accounting of all financial transactions involving donated funds.

#### **§ 2309. Authorization of appropriations**

(a) **GENERAL.**—Amounts necessary to carry out this chapter are authorized to be appropriated for each of the fiscal years ending September 30, 1997–2000. Notwithstanding any other law, necessary amounts are authorized to be appropriated to the Council to obtain, from a private insurance carrier, insurance against loss in connection with the memorial museum and related property and exhibits.

(b) **USE OF AMOUNTS FOR CONSTRUCTION BARRED.**—Amounts authorized under this chapter may not be used for construction.

(c) **PRIOR AUTHORITY REQUIRED.**—Authority to make contracts and to make payments under this chapter, using amounts authorized to be appropriated under this section, are effective only to the extent, and in amounts, provided in advance in an appropriations law.

### **CHAPTER 25—PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES**

Sec.

2501. Acceptance of voluntary services and money or property.

2502. Authorization of appropriations.

#### **§ 2501. Acceptance of voluntary services and money or property**

The President's Committee on Employment of People With Disabilities—

(1) notwithstanding section 1342 of title 31, may accept voluntary and uncompensated services; and

(2) may accept, use, and dispose of any money or property the Committee receives.

#### **§ 2502. Authorization of appropriations**

(a) **GENERAL.**—Amounts necessary for the work of the President's Committee on Employment of People With Disabilities are authorized to be appropriated for the fiscal year ending September 30, 1997, to be expended in the manner and by agencies the President may direct.

(b) **USES.**—Amounts appropriated under this section are to be used to carry out the purposes of the National Disability Employment Awareness Month and to enable the President to provide the Committee with adequate personnel to assist in its activities, and otherwise to provide the Committee with the means of carrying out a program to promote the employment of individuals with disabilities, by—



- (1) creating interest throughout the United States in the rehabilitation and employment of such individuals; and
- (2) obtaining and maintaining cooperation from all public and private groups in the field.

## SUBTITLE II—PATRIOTIC AND NATIONAL ORGANIZATIONS

### PART A—GENERAL

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**PART A—GENERAL****CHAPTER 101—GENERAL**

Sec.

10101. Audits.

10102. Reservation of right to amend or repeal.

**§ 10101. Audits**

(a) **GENERAL.**—Except as otherwise provided, the financial statements of each corporation in part B of this subtitle shall be audited annually in accordance with generally accepted auditing standards by an independent certified public accountant or independent licensed public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted where the financial statements of the corporation normally are kept. The person conducting the audit shall be given access to—

(1) all records and property owned or used by the corporation necessary to facilitate the audit; and

(2) full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(b) **REPORT.**—(1) The corporation shall submit a report of the audit to Congress not later than 6 months after the close of the fiscal year for which the audit is made. The report shall describe the scope of the audit and include—

(A) statements necessary to present fairly the corporation's assets, liabilities, and surplus or deficit, and an analysis of the changes in those amounts during the year;

(B) a statement in reasonable detail of the corporation's income and expenses during the year including the results of any trading, manufacturing, publishing, or other commercial-type endeavor; and

(C) the independent auditor's opinion of those statements.

(2) The report may not be printed as a public document, except as part of proceedings authorized to be printed under section 1332 of title 44.

**§ 10102. Reservation of right to amend or repeal**

(a) **GENERAL.**—Congress reserves the right to amend or repeal the provisions of part B of this subtitle.

(b) **NONAPPLICATION.**—Subsection (a) of this section does not apply to chapters 213, 407, 801, 1403, 1503 (except section 150302(b)), 1513, 1517, 1531, and 1539 of this title.

**PART B—ORGANIZATIONS****CHAPTER 201—AGRICULTURAL HALL OF FAME**

Sec.

20101. Organization.

20102. Purposes.

20103. Membership.

20104. Governing body.

20105. Powers.

20106. Restrictions.

20107. Principal office.

20108. Records and inspection.

20109. Service of process.

20110. Liability for acts of officers and agents.

20111. Use of assets on dissolution or final liquidation.

**§ 20101. Organization**

(a) **FEDERAL CHARTER.**—Agricultural Hall of Fame (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 20102. Purposes**

The purposes of the corporation are—

(1) to receive and maintain one or more funds and to use any part of the principal or interest only for charitable, scientific, literary, or educational purposes either directly or by contributing to organizations authorized to carry on similar activities;

(2) to honor farmers, farm women, farm leaders, teachers, scientists, inventors, governmental leaders, and other individuals who have helped make this Nation great by their outstanding contributions to the establishment, development, advancement, or improvement of agriculture in the United States;

(3) to perpetuate the memory of those individuals and record their contributions and achievements by the erection and maintenance of buildings and monuments as may be appropriate as a lasting memorial;

(4) to promote a greater sense of appreciation of the dignity and importance of agriculture, historically carried out through owner-operated farms, and the part it has played in developing those social, economic, and spiritual values which are essential in maintaining the free and democratic institutions of our Republic;

(5) to establish and maintain a library and museum for the collection and preservation for posterity of agricultural tools, implements, machines, vehicles, pictures, paintings, books, papers, documents, data, relics, mementos, artifacts, and other items relating to agriculture;

(6) to cooperate with other organizations interested in similar projects; and

(7) to engage in other activities appropriate to carry out its purposes.

**§ 20103. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights, privileges, and designation of classes of members are as provided in the bylaws.

(b) **VOTING.**—Each member given voting rights by the bylaws has one vote on each matter submitted to a vote at a meeting of the voting members. The vote may be cast in the manner provided in the bylaws.

**§ 20104. Governing body**

(a) **BOARD OF GOVERNORS.**—(1) The board of governors is the governing body of the corporation. Between meetings of the members of the corporation, the board is responsible for the general policies and program of the corporation and for the control of all funds of the corporation.

(2) The number of governors, their manner of selection (including the filling of vacancies), and their term of office are as provided in the bylaws. However, the board shall have at least 15 members.

(3) The board may appoint committees. Each committee has the powers provided in the bylaws or by resolution of the board. The powers of a committee may include all the powers of the board.

(b) OFFICERS.—(1) The officers of the corporation are a president, one or more vice presidents as provided in the bylaws, a secretary, a treasurer, one or more assistant secretaries and assistant treasurers, and other officers as provided in the bylaws.

(2) The manner of election, term of office, and duties of the officers are as provided in the bylaws.

#### **§ 20105. Powers**

The corporation may—

(1) adopt and amend bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, managers, agents, and employees as the activities of the corporation require;

(4) make contracts;

(5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property; and

(7) sue and be sued.

#### **§ 20106. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a governor, officer, employee, or member as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a governor, officer, or member as such during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of compensation to an officer or employee in an amount approved by the board of governors.

(d) LOANS.—The corporation may not make a loan or advance to a governor, officer, employee, or member. Governors who vote for or assent to making a loan or advance to a governor, officer, employee, or member, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

(e) CONTRIBUTIONS TO CERTAIN ORGANIZATIONS.—None of the principal or interest of a fund referred to in section 20102(1) of this title may be contributed to an organization if—

(1) a substantial part of its activities is carrying on propaganda or attempting to influence legislation; or

(2) any part of its net earnings benefits a private shareholder or individual.

#### **§ 20107. Principal office**

The principal office of the corporation shall be in Kansas City, Kansas, or another place decided by the board of governors. However, the activities of the corporation are not confined to the place

where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

**§ 20108. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of governors, and committees having any of the authority of its board of governors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 20109. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the corporation.

**§ 20110. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 20111. Use of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets of the corporation remaining after the discharge of all liabilities shall be distributed as provided by the board of governors, but in compliance with the charter and bylaws.

**CHAPTER 203—AMERICAN ACADEMY OF ARTS AND LETTERS**

Sec.

20301. Organization.

20302. Purpose.

20303. Membership.

20304. Powers.

20305. Annual meeting.

20306. Annual report.

20307. Nonapplication of audit requirements.

**§ 20301. Organization**

(a) FEDERAL CHARTER.—American Academy of Arts and Letters (in this chapter, the “corporation”) is a federally chartered corporation.

(b) PLACE OF INCORPORATION.—The corporation is declared to be incorporated in the District of Columbia.

**§ 20302. Purpose**

The purpose of the corporation is to further the interests of literature and the fine arts.

**§ 20303. Membership**

The corporation may have not more than 50 regular members.

**§ 20304. Powers**

The corporation may—

(1) adopt bylaws and regulations;

- (2) fill vacancies;
- (3) provide for the election of foreign, domestic, or honorary associate members, and the division of those members into classes;
- (4) receive bequests and donations of property, hold the property in trust, and invest the property to carry out the purpose of the corporation; and
- (5) do any other act necessary or usual for such a corporation.

**§ 20305. Annual meeting**

The corporation shall hold an annual meeting at a place in the United States as may be designated.

**§ 20306. Annual report**

The corporation shall make an annual report to Congress, to be filed with the Librarian of Congress.

**§ 20307. Nonapplication of audit requirements**

The audit requirements of section 10101 of this title do not apply to the corporation.

**CHAPTER 205—AMERICAN CHEMICAL SOCIETY**

Sec.  
20501. Organization.  
20502. Purposes.  
20503. Powers.  
20504. Cooperation with the military.  
20505. Annual meeting.  
20506. Annual report.

**§ 20501. Organization**

American Chemical Society (in this chapter, the “corporation”) is a federally chartered corporation.

**§ 20502. Purposes**

The purposes of the corporation are—

- (1) to encourage in the broadest and most liberal manner the advancement of chemistry in all its branches;
- (2) to promote research in chemical science and industry;
- (3) to improve the qualifications and usefulness of chemists through high standards of professional ethics, education, and attainments;
- (4) to increase and diffuse chemical knowledge; and
- (5) by its meetings, professional contacts, reports, papers, discussions, and publications, to promote scientific interests and inquiry to foster public welfare and education, aid the development of our country’s industries, and add to the material prosperity and happiness of our people.

**§ 20503. Powers**

The corporation may—

- (1) adopt a constitution, bylaws, and regulations;
- (2) fill vacancies;
- (3) provide for the election of members and the division of those members into classes;
- (4) receive property, hold the property absolutely or in trust, invest and manage the property, and use the property

and income arising from it to carry out the purposes of the corporation; and

(5) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 20504. Cooperation with the military**

(a) INVESTIGATIONS, EXAMINATIONS, EXPERIMENTS, AND REPORTS.—When requested by the Secretary of the Army, Air Force, or Navy, the corporation shall investigate, examine, experiment, and report on any subject in pure or applied chemistry connected with the national defense.

(b) PAYMENTS.—The actual expense of those investigations, examinations, experiments, and reports shall be paid from amounts appropriated for those purposes, but the corporation may not receive compensation for any services performed for the United States Government.

(c) TITLE AND LICENSE.—Title to inventions and discoveries made in the course of those investigations, examinations, and experiments that the appropriate Secretary believes involve the national defense vest in the Government. The Government shall have unlimited license under other inventions and discoveries made in the course of those investigations, examinations, and experiments.

#### **§ 20505. Annual meeting**

The corporation shall hold an annual meeting at a place in the United States as may from time to time be designated.

#### **§ 20506. Annual report**

Not later than December 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior calendar year, including a complete statement of its receipts and expenditures. The report may not be printed as a public document.

### **CHAPTER 207—AMERICAN COUNCIL OF LEARNED SOCIETIES**

Sec.

20701. Definition.

20702. Organization.

20703. Purposes.

20704. Membership.

20705. Governing body.

20706. Powers.

20707. Restrictions.

20708. Duty to maintain tax-exempt status.

20709. Records and inspection.

20710. Service of process.

20711. Liability for acts of officers and agents.

20712. Annual report.

#### **§ 20701. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

#### **§ 20702. Organization**

American Council of Learned Societies (in this chapter, the “corporation”), a nonprofit corporation incorporated in the District of Columbia, is a federally chartered corporation.



**§ 20703. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and include—

- (1) the advancement of the humanistic studies in all fields of learning; and
- (2) the maintenance and strengthening of relations among the national societies devoted to those studies.

**§ 20704. Membership**

Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

**§ 20705. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

**§ 20706. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**§ 20707. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 20708. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.). If the corporation does not maintain that status, the charter granted by this chapter expires.

**§ 20709. Records and inspection**

(a) RECORDS.—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 20710. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

#### **§ 20711. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### **§ 20712. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

### **CHAPTER 209—AMERICAN EX-PRISONERS OF WAR**

Sec.

20901. Definition.

20902. Organization.

20903. Purposes.

20904. Membership.

20905. Governing body.

20906. Powers.

20907. Exclusive right to name and emblem.

20908. Restrictions.

20909. Duty to maintain corporate and tax-exempt status.

20910. Records and inspection.

20911. Service of process.

20912. Liability for acts of officers and agents.

20913. Annual report.

#### **§ 20901. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

#### **§ 20902. Organization**

(a) FEDERAL CHARTER.—American Ex-Prisoners of War (in this chapter, the “corporation”), a nonprofit corporation incorporated in the State of Washington, is a federally chartered corporation.

(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

#### **§ 20903. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and include—

- (1) encouraging fraternity for the common good;
- (2) fostering patriotism and loyalty;
- (3) assisting widows and orphans of deceased ex-prisoners of war;
- (4) assisting ex-prisoners of war who have been injured or disabled as a result of their service;

- (5) maintaining allegiance to the United States;
- (6) preserving and defending the United States from all enemies; and
- (7) maintaining historical records.

**§ 20904. Membership**

Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.

**§ 20905. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

**§ 20906. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**§ 20907. Exclusive right to name and emblem**

The corporation has the exclusive right to use and to allow others to use the name “American Ex-Prisoners of War” and the official American Ex-Prisoners of War emblem or any colorable simulation of that emblem. This section does not affect any vested rights.

**§ 20908. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board or directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 20909. Duty to maintain corporate and tax-exempt status**

(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of Washington.

(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 20910. Records and inspection**

(a) RECORDS.—The Corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 20911. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 20912. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 20913. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

## **CHAPTER 211—AMERICAN GOLD STAR MOTHERS, INCORPORATED**

Sec.

21101. Definition.

21102. Organization.

21103. Purposes.

21104. Membership.

21105. Governing body.

21106. Powers.

21107. Restrictions.

21108. Duty to maintain corporate and tax-exempt status.

21109. Records and inspection.

21110. Service of process.

21111. Liability for acts of officers and agents.

21112. Annual report.

**§ 21101. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 21102. Organization**

(a) FEDERAL CHARTER.—American Gold Star Mothers, Incorporated (in this chapter, the “corporation”), incorporated in the District of Columbia, is a federally chartered corporation.

(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 21103. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and include a continuing commitment, on a national basis, to—

- (1) keep alive and develop the spirit that promoted world services;
- (2) maintain the ties of fellowship born of that service, and assist and further all patriotic work;
- (3) inculcate a sense of individual obligation to the community, State, and Nation;
- (4) assist veterans of World War I, World War II, the Korean Conflict, Vietnam, and other strategic areas and their dependents in the presentation of claims to the Department of Veterans Affairs, and aid in any way in their power the men and women who served and died or were wounded or incapacitated during hostilities;
- (5) perpetuate the memory of those whose lives were sacrificed in our wars;
- (6) maintain true allegiance to the United States;
- (7) inculcate lessons of patriotism and love of country in the communities in which we live;
- (8) inspire respect for the Stars and Stripes in the youth of America;
- (9) extend needful assistance to all Gold Star Mothers and, when possible, to their descendants; and
- (10) promote peace and good will for the United States and all other Nations.

#### **§ 21104. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws.

(b) **NONDISCRIMINATION.**—The terms of membership may not discriminate on the basis of race, color, religion, or national origin.

#### **§ 21105. Governing body**

(a) **BOARD OF DIRECTORS.**—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) **OFFICERS.**—The officers and the election of officers are as provided in the articles of incorporation.

(c) **NONDISCRIMINATION.**—The requirements for holding office in the corporation may not discriminate on the basis of race, color, religion, or national origin.

#### **§ 21106. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 21107. Restrictions**

(a) **STOCK AND DIVIDENDS.**—The corporation may not issue stock or declare or pay a dividend.

(b) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(c) **LOANS.**—The corporation may not make a loan to a director, officer, or employee.

(d) **CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.**—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 21108. Duty to maintain corporate and tax-exempt status**

(a) **CORPORATE STATUS.**—The corporation shall maintain its status as a corporation incorporated under the laws of each State in which it is incorporated.

(b) **TAX-EXEMPT STATUS.**—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 21109. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and
- (3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 21110. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 21111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 21112. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 213—AMERICAN HISTORICAL ASSOCIATION**

- Sec.  
 21301. Organization.  
 21302. Purposes.  
 21303. Powers.  
 21304. Annual meeting.  
 21305. Principal office.  
 21306. Historical collections.  
 21307. Annual report.

**§ 21301. Organization**

American Historical Association (in this chapter, the “corporation”) is a body corporate and politic in the District of Columbia.

**§ 21302. Purposes**

The purposes of the corporation are—

- (1) to promote historical studies;
- (2) to collect and preserve historical manuscripts; and
- (3) other kindred purposes in the interest of American history and of history in America.

**§ 21303. Powers**

The corporation may—

- (1) adopt a constitution and bylaws; and
- (2) hold property in the District of Columbia necessary to carry out the purposes of the corporation.

**§ 21304. Annual meeting**

The corporation may hold its annual meeting in a place the members of the corporation select.

**§ 21305. Principal office**

The principal office of the corporation shall be in the District of Columbia.

**§ 21306. Historical collections**

The Regents of the Smithsonian Institution may allow the corporation to deposit its collections, manuscripts, books, pamphlets, and other historical material in the Smithsonian Institution or the National Museum on conditions and under regulations the Regents prescribe.

**§ 21307. Annual report**

The corporation shall submit an annual report to the Secretary of the Smithsonian Institution on the activities of the corporation and the condition of historical study in America. The Secretary shall submit to Congress any part of the report the Secretary decides is appropriate.

**CHAPTER 215—AMERICAN HOSPITAL OF PARIS**

Sec.

- 21501. Organization.
- 21502. Purpose.
- 21503. Governing body.
- 21504. Acquisition and management of property.
- 21505. Charges for medical services.
- 21506. Principal office.
- 21507. Nonapplication of audit requirements.

**§ 21501. Organization**

(a) FEDERAL CHARTER.—American Hospital of Paris (in this chapter, the “corporation”) is a federally chartered corporation.

(b) PLACE OF INCORPORATION.—The corporation is declared to be incorporated in the District of Columbia.

(c) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

**§ 21502. Purpose**

The purpose of the corporation is to maintain a hospital in the vicinity of Paris, France, to provide medical and surgical care to citizens of the United States.

**§ 21503. Governing body**

(a) GENERAL.—(1) The board of governors is the governing body of the corporation.

(2) The board shall have at least 12 governors, divided into 3 classes of equal numbers. One class of governors shall be elected each year for a term of 3 years or until their successors are elected. The corporation shall elect the governors at its annual meeting.

(b) QUORUM.—Five governors are a quorum for the transaction of business, except that a majority vote of the board is required for—

(1) the sale or alienation of any real or personal estate of the corporation; or

(2) the leasing of real estate of the corporation for a term of more than one year.

(c) POWERS.—The board may—

(1) adopt and amend bylaws, as may be necessary and proper, related to—

(A) elections and meetings;

(B) qualifications and duties of governors and officers;

(C) admission and qualifications of members; and

(D) management and disposition of the property, business, and concerns of the corporation;

(2) conduct all business of the corporation;

(3) fill, until the next annual election, a vacancy on the board; and

(4) appoint attending and resident physicians and surgeons, agents, assistants, and attendants as may be necessary, set their compensation, and discharge them.

#### **§ 21504. Acquisition and management of property**

The corporation may acquire, own, lease, encumber, and transfer property, in the United States and France, to carry out the purposes of the corporation.

#### **§ 21505. Charges for medical services**

The corporation may charge a reasonable compensation for providing medical and surgical services or may provide those services without charge. Amounts received under this section shall be used to carry out the purposes of the corporation.

#### **§ 21506. Principal office**

The principal office of the corporation shall be in the District of Columbia. However, offices may be maintained and meetings of the board of governors and committees may be held elsewhere.

#### **§ 21507. Nonapplication of audit requirements**

The audit requirements of section 10101 of this title do not apply to the corporation.

### **CHAPTER 217—THE AMERICAN LEGION**

Sec.

21701. Organization.

21702. Purposes.

21703. Membership.

21704. Powers.

21705. Exclusive right to name, emblems, and badges.

21706. Political activities.

21707. Service of process.

21708. Annual report.



**§ 21701. Organization**

(a) **FEDERAL CHARTER.**—The American Legion (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 21702. Purposes**

The purposes of the corporation are—

(1) to uphold and defend the Constitution of the United States;

(2) to promote peace and good will among the peoples of the United States and all the nations of the Earth;

(3) to preserve the memories and incidents of the 2 World Wars and the other great hostilities fought to uphold democracy;

(4) to cement the ties and comradeship born of service; and

(5) to consecrate the efforts of its members to mutual helpfulness and service to their country.

**§ 21703. Membership**

An individual is eligible for membership in the corporation only if the individual—

(1) has served in the Armed Forces of—

(A) the United States at any time during any period from—

(i) April 6, 1917, through November 11, 1918;

(ii) December 7, 1941, through December 31, 1946;

(iii) June 25, 1950, through January 31, 1955;

(iv) December 22, 1961, through May 7, 1975;

(v) August 24, 1982, through July 31, 1984;

(vi) December 20, 1989, through January 31, 1990; or

(vii) August 2, 1990, through the date of cessation of hostilities, as decided by the United States Government; or

(B) a government associated with the United States during a period referred to in subclause (A) of this clause and was a citizen of the United States when the individual entered that service; and

(2) was honorably discharged or separated from that service or continues to serve honorably after that period.

**§ 21704. Powers**

The corporation may—

(1) adopt a constitution, bylaws, and regulations to carry out the purposes of the corporation;

(2) adopt and alter a corporate seal;

(3) establish and maintain offices to conduct its activities;

(4) establish State and territorial organizations and local chapter or post organizations;

(5) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(6) publish a magazine and other publications;

(7) sue and be sued; and

(8) do any other act necessary and proper to carry out the purposes of the corporation.

**§ 21705. Exclusive right to name, emblems, and badges**

The corporation and its State and local subdivisions have the exclusive right to use the name “The American Legion” or “American Legion”. The corporation has the exclusive right to use, manufacture, and control the right to manufacture, emblems and badges the corporation adopts.

**§ 21706. Political activities**

The corporation shall be nonpolitical and may not promote the candidacy of an individual seeking public office.

**§ 21707. Service of process**

As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall file, with the secretary of state or other designated official of each State, the name and address of an agent in that State on whom legal process or demands against the corporation may be served.

**§ 21708. Annual report**

Not later than January 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior calendar year. The report may not be printed as a public document.

**CHAPTER 219—THE AMERICAN NATIONAL THEATER AND ACADEMY**

Sec.

21901. Organization.

21902. Purposes.

21903. Powers.

21904. Exclusive right to name.

21905. Restrictions.

21906. Headquarters and meetings.

21907. Service of process.

21908. Annual report.

**§ 21901. Organization**

(a) **FEDERAL CHARTER.**—The American National Theater and Academy (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 21902. Purposes**

The purposes of the corporation include—

(1) the presentation of theatrical productions of the highest type;

(2) the stimulation of public interest in the drama as an art belonging both to the theater and to literature and to be enjoyed both on the stage and in the study;

(3) the advancement of interest in the drama throughout the United States by furthering the production of the best plays, interpreted by the best actors at a minimum cost;

(4) the further development of the study of drama of the present and past in our universities, colleges, schools, and elsewhere; and

(5) the sponsoring, encouraging, and developing of the art and technique of the theater through a school within the National Academy.

#### **§ 21903. Powers**

The corporation may—

- (1) adopt a constitution, bylaws, and regulations;
- (2) adopt and alter a corporate seal;
- (3) establish and maintain offices and buildings to conduct its activities;
- (4) establish State and territorial organizations and local branches;
- (5) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation, subject to its constitution and instructions of donors;
- (6) sue and be sued; and
- (7) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 21904. Exclusive right to name**

The corporation and its State and local branches and subdivisions have the exclusive right to use the name “The American National Theater and Academy”.

#### **§ 21905. Restrictions**

- (a) PROFIT AND STOCK.—The corporation shall be nonprofit and may not issue stock.
- (b) POLITICAL ACTIVITIES.—The corporation shall be nonpolitical and nonsectarian, and may not promote the candidacy of an individual seeking public office.
- (c) HONORARY MEMBERS.—The corporation may not have honorary members.

#### **§ 21906. Headquarters and meetings**

The corporation may have its headquarters and hold its meetings at places the corporation decides are best.

#### **§ 21907. Service of process**

As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall file, with the secretary of state or other designated official of the District of Columbia or of each State, territory, or possession of the United States in which its headquarters, branches, or subdivisions are located, the name and address of an agent in that jurisdiction on whom legal process or demands against the corporation may be served.

#### **§ 21908. Annual report**

Not later than January 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior calendar year, including a complete report of its receipts and expenditures. The report may not be printed as a public document.

### **CHAPTER 221—THE AMERICAN SOCIETY OF INTERNATIONAL LAW**

- 22102. Purposes.
- 22103. Governing body.
- 22104. Powers.
- 22105. Restrictions.
- 22106. Principal office.
- 22107. Records and inspection.
- 22108. Service of process.
- 22109. Liability for acts of officers and agents.

#### **§ 22101. Organization**

(a) **FEDERAL CHARTER.**—The American Society of International Law (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 22102. Purposes**

The purposes of the corporation are—

- (1) to foster the study of international law; and
- (2) to promote the establishment and maintenance of international relations on the basis of law and justice.

#### **§ 22103. Governing body**

(a) **EXECUTIVE COUNCIL.**—(1) The executive council is the governing body of the corporation. However, the council is subject to the directions of the corporation at its annual meetings and at any other meeting called under the constitution, bylaws, or regulations of the corporation.

(2) The council consists of a president, an honorary president, a number of vice presidents and honorary vice presidents as provided in the constitution, a secretary, a treasurer, and at least 24 additional individuals.

(b) **ELECTION AND TERMS.**—The officers of the corporation and one-third of the other members of the council shall be elected at each annual meeting of the corporation. However, the constitution may authorize the council—

- (1) to elect the secretary and the treasurer of the corporation for specified terms; and
- (2) to fill vacancies until the next annual meeting.

#### **§ 22104. Powers**

The corporation may—

- (1) adopt and amend a constitution, bylaws, and regulations for the management of its property and the regulation of its affairs;
- (2) adopt and alter a corporate seal;
- (3) choose officers, managers, and agents as the activities of the corporation require;
- (4) make contracts;
- (5) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;
- (6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;
- (7) publish a journal and other publications;
- (8) sue and be sued; and
- (9) do any other act necessary and proper to carry out the purposes of the corporation.

**§ 22105. Restrictions**

- (a) PROFIT.—The corporation may not operate for profit.
- (b) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.
- (c) POLITICAL ACTIVITIES.—The corporation or an officer or member of the executive council as such may not contribute to, support, or assist a political party or candidate for elective public office.
- (d) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a member of the corporation or an officer or member of the executive council, except on the dissolution or final liquidation of the corporation.
- (e) LOANS.—The corporation may not make a loan or advance to an officer or member of the executive council. Members of the council who vote for or assent to making a loan or advance to an officer or member of the council, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

**§ 22106. Principal office**

The principal office of the corporation shall be in the District of Columbia. However, the activities of the corporation are not confined to the District of Columbia but may be conducted throughout the United States.

**§ 22107. Records and inspection**

- (a) RECORDS.—The corporation shall keep—
  - (1) correct and complete records of account;
  - (2) minutes of the proceedings of its members, executive council, and committees having any of the authority of its executive council; and
  - (3) at its principal office, a record of the names and addresses of its members entitled to vote.
- (b) INSPECTION.—A member, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 22108. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 22109. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**CHAPTER 223—AMERICAN SYMPHONY ORCHESTRA  
LEAGUE**

- Sec.
- 22301. Organization.
- 22302. Purposes.
- 22303. Membership.
- 22304. Governing body.
- 22305. Powers.

- 22306. Exclusive right to name, insignia, emblems, and badges.
- 22307. Restrictions.
- 22308. Principal office.
- 22309. Records and inspection.
- 22310. Service of process.
- 22311. Liability for acts of officers and agents.
- 22312. Distribution of assets on dissolution or final liquidation.

#### **§ 22301. Organization**

(a) **FEDERAL CHARTER.**—American Symphony Orchestra League (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 22302. Purposes**

The purposes of the corporation are—

(1) to serve as a coordinating, research, and educational agency and clearinghouse for symphony orchestras to help strengthen the work in their local communities;

(2) to assist in the formation of new symphony orchestras;

(3) to encourage and recognize the work of America’s musicians, conductors, and composers, through suitable means; and

(4) to aid the expansion of the musical and cultural life of the United States through suitable educational and service activities.

#### **§ 22303. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights, privileges, and designation of classes of members are as provided in the constitution and bylaws of the corporation.

(b) **VOTING.**—Each member (except an honorary, sustaining, or associate member) has one vote on each matter submitted to a vote at a meeting of the members.

#### **§ 22304. Governing body**

(a) **BOARD OF DIRECTORS.**—(1) The board of directors is the governing body of the corporation. Between meetings of the members of the corporation, the board is responsible for the general policies and program of the corporation and for the control of contributions raised by the corporation.

(2) The number of directors, their manner of selection (including the filling of vacancies), and their term of office are as provided in the constitution and bylaws of the corporation.

(b) **OFFICERS.**—(1) The officers of the corporation are a president, one or more vice presidents as provided in the constitution and bylaws, a secretary, a treasurer, and one or more assistant secretaries and assistant treasurers as provided in the constitution and bylaws.

(2) The manner of election, term of office, and duties of the officers are as provided in the constitution and bylaws.

#### **§ 22305. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

- (3) choose officers, managers, agents, and employees as the activities of the corporation require;
- (4) make contracts;
- (5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;
- (6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property; and
- (7) sue and be sued.

**§ 22306. Exclusive right to name, insignia, emblems, and badges**

The corporation has the exclusive right to use the name “American Symphony Orchestra League” and distinctive insignia, emblems and badges, descriptive or designating marks, and words or phrases required to carry out the duties and powers of the corporation. This section does not affect any vested rights.

**§ 22307. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member as such during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of compensation to an officer in an amount approved by the board of directors.

(d) LOANS.—The corporation may not make a loan or advance to a director, officer, or employee. Directors who vote for or assent to making a loan or advance to a director, officer, or employee, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

**§ 22308. Principal office**

The principal office of the corporation shall be in Charleston, West Virginia, or another place decided by the board of directors. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

**§ 22309. Records and inspection**

(a) RECORDS.—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and
- (3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 22310. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 22311. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 22312. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but in compliance with the constitution and bylaws of the corporation.

**CHAPTER 225—AMERICAN WAR MOTHERS**

Sec.  
22501. Organization.  
22502. Purposes.  
22503. Membership.  
22504. Powers.  
22505. Exclusive right to name.  
22506. Restrictions.  
22507. Tax-exempt status.  
22508. Meetings.  
22509. Service of process.  
22510. Annual report.

**§ 22501. Organization**

(a) **FEDERAL CHARTER.**—American War Mothers (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PLACE OF INCORPORATION.**—The corporation is declared to be incorporated in the District of Columbia.

(c) **PERIOD OF EXISTENCE.**—The corporation may continue to exist until there are no individuals who qualify for membership.

**§ 22502. Purposes**

The purposes of the corporation are—

(1) to keep alive and develop the spirit that promoted world service;

(2) to maintain the ties of fellowship born of that service and to assist and further any patriotic work;

(3) to inculcate a sense of individual obligation to the community, State, and Nation;

(4) to work for the welfare of the Army and Navy;

(5) to assist, in any way in their power, men and women who served and were wounded or incapacitated in World War I; and

(6) to foster and promote friendship and understanding between America and the Allies in World War I.

**§ 22503. Membership**

Eligibility for membership in the corporation is limited to women—

(1) who are citizens of the United States; and

(2) whose natural son or daughter, legally adopted son or daughter, or stepson or stepdaughter—



(A) served in the Armed Forces of the United States or its allies in World War I, World War II, the Korean conflict, or any subsequent war or conflict involving the United States; and

(B) was honorably discharged from that service or continues in the service.

#### **§ 22504. Powers**

The corporation may—

- (1) adopt a constitution, bylaws, and regulations;
- (2) adopt and alter a corporate seal;
- (3) adopt emblems and badges;
- (4) establish and maintain offices to conduct its activities;
- (5) establish State, territorial, and local subdivisions;
- (6) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation, subject to section 22506(b) of this title;
- (7) publish a magazine and other publications;
- (8) sue and be sued; and
- (9) do any other act necessary and proper to carry out its purposes.

#### **§ 22505. Exclusive right to name**

The corporation and its State, territorial, and local subdivisions have the exclusive right to use the name “American War Mothers”.

#### **§ 22506. Restrictions**

(a) GENERAL.—The corporation shall be nonprofit, nonpolitical, nonsectarian, and nonpartisan, and may not promote the candidacy of an individual seeking public office.

(b) OWNERSHIP AND USE OF PROPERTY.—The corporation may not accept, own, or hold, directly or indirectly, any property not reasonably necessary to carry out the purposes of the corporation.

#### **§ 22507. Tax-exempt status**

The personal property and funds of the corporation, whether principal or income, so long as held or used only to carry out the purposes of the corporation, are exempt from taxation by the United States Government, the District of Columbia, and the territories and possessions of the United States.

#### **§ 22508. Meetings**

The corporation may hold its meetings at any place the corporation decides.

#### **§ 22509. Service of process**

As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall file, with the secretary of state or other designated official of each State, the name and address of an agent in that State on whom legal process or demands against the corporation may be served.

#### **§ 22510. Annual report**

Not later than January 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior calendar year. The report may not be printed as a public document.

**CHAPTER 227—AMVETS (AMERICAN VETERANS OF  
WORLD WAR II, KOREA, AND VIETNAM)**

Sec.

- 22701. Organization.
- 22702. Purposes.
- 22703. Membership.
- 22704. Governing body.
- 22705. Powers.
- 22706. Exclusive right to name, seals, emblems, and badges.
- 22707. Restrictions.
- 22708. Headquarters and principal place of business.
- 22709. Records and inspection.
- 22710. Service of process.
- 22711. Liability for acts of officials, representatives, and agents.
- 22712. Distribution of assets on dissolution or final liquidation.

**§ 22701. Organization**

(a) **FEDERAL CHARTER.**—AMVETS (American Veterans of World War II, Korea, and Vietnam) (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 22702. Purposes**

The purposes of the corporation are—

(1) to preserve for ourselves and our posterity the great and basic truths and enduring principles upon which this Nation was founded;

(2) to maintain a continuing interest in the welfare and rehabilitation of the disabled veterans of World War II, the Korean conflict, and the Vietnam era and to establish facilities for the assistance of all veterans and to represent them in their claims before the Department of Veterans Affairs and other organizations without charge;

(3) to dedicate ourselves to the service and best interests of the community, State, and Nation to the end that our country shall be and remain forever a whole, strong, and free Nation;

(4) to aid and encourage the abolition of prejudice, ignorance, and disease;

(5) to encourage universal exercise of the voting franchise to the end that there shall be elected and maintained in public office men and women who hold public office as a public trust administered in the best interests of all the people;

(6) to advocate the development and means by which all Americans may become enlightened and informed citizens and thus participate fully in the functions of our democracy;

(7) to encourage and support an international organization of all peace-loving nations to the end that not again shall any nation be permitted to breach their national peace;

(8) to continue to serve the best interests of our Nation in peace as in war;

(9) to develop to the utmost the human, mental, spiritual, and economical resources of our Nation;

(10) to perpetuate and preserve the friendships and comradeship born on the battle front and nurtured in the common experience of service to our Nation during time of war; and

(11) to honor the memory of those men and women who gave their lives that a free America and a free world might live by the creation of living memorials in the form of additional educational, cultural, and recreational facilities.

**§ 22703. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

(b) **VOTING.**—Each member has one vote in the conduct of official business at the post level.

(c) **NONDISCRIMINATION.**—The terms of membership may not discriminate on the basis of race, color, religion, sex, or national origin.

**§ 22704. Governing body**

(a) **DELEGATES TO NATIONAL CONVENTIONS.**—Each post may elect delegates to national conventions of the corporation. The delegates each have one vote in the conduct of business of the convention to which they are elected.

(b) **EXECUTIVE COMMITTEE.**—The executive committee of the corporation consists of—

- (1) one member elected to represent each department; and
- (2) the officers of the corporation as ex officio members.

(c) **OFFICERS.**—(1) The officers of the corporation are a national commander, seven national vice commanders, one of whom shall be a woman, a finance officer, an adjutant, a judge advocate, and a provost marshal.

(2) The officers shall be elected by the delegates at the annual national convention.

(d) **NONDISCRIMINATION.**—The requirements for holding office in the corporation may not discriminate on the basis of race, color, religion, sex, or national origin.

**§ 22705. Powers**

(a) **GENERAL.**—The corporation may—

- (1) adopt bylaws and regulations for the management of its property and the regulation of its affairs;
- (2) adopt seals, emblems, and badges;
- (3) choose officers, representatives, and agents as necessary to carry out the purposes of the corporation;
- (4) make contracts;
- (5) establish State and regional organizations and local posts;
- (6) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;
- (7) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;
- (8) publish a magazine, newspaper, and other publications consistent with the purposes of the corporation;
- (9) sue and be sued; and
- (10) do any other act necessary and proper to carry out the purposes of the corporation.

(b) **POWERS GRANTED TO OTHER ORGANIZATIONS.**—The provisions, privileges, and prerogatives granted before July 24, 1947, to other national veterans' organizations because of their incorporation by Congress are granted to the corporation.

**§ 22706. Exclusive right to name, seals, emblems, and badges**

The corporation and its State, regional, and local subdivisions have the exclusive right to use the name “AMVETS (American Veterans of World War II, Korea, and Vietnam)” and seals, emblems, and badges the corporation adopts.

**§ 22707. Restrictions**

(a) PROFIT.—The corporation shall operate as a not-for-profit corporation, exclusively for charitable, educational, patriotic, and civic improvement purposes.

(b) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(c) POLITICAL ACTIVITIES.—The corporation or an officer of the corporation or member of its executive committee as such may not contribute to, support, or assist a political party or candidate for elective public office. The corporation may not carry on propaganda.

(d) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member of the corporation, except on dissolution or final liquidation of the corporation.

(e) LOANS.—The corporation may not make a loan or advance to a director or officer. Directors who vote for or assent to making a loan or advance to a director or officer, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

**§ 22708. Headquarters and principal place of business**

The headquarters and principal place of business of the corporation shall be in the District of Columbia. However, the activities of the corporation are not confined to the District of Columbia but may be conducted throughout the States, territories, and possessions of the United States.

**§ 22709. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, executive committee, and committees having any of the authority of its executive committee; and

(3) at its registered or principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 22710. Service of process**

(a) DISTRICT OF COLUMBIA.—The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

(b) STATES.—As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall file, with the secretary of state or other designated official of each State,

the name and address of an agent in that State on whom legal process or demands against the corporation may be served.

**§ 22711. Liability for acts of officials, representatives, and agents**

The corporation is liable for the acts of its officials, representatives, and agents acting within the scope of their authority.

**§ 22712. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge or satisfactory provision for discharge of all liabilities shall be transferred to the Secretary of Veterans Affairs to be applied to the care and comfort of disabled veterans of World War II, the Korean conflict, and the Vietnam era.

**CHAPTER 229—ARMY AND NAVY UNION OF THE UNITED STATES OF AMERICA**

Sec.

22901. Definition.

22902. Organization.

22903. Purposes.

22904. Membership.

22905. Governing body.

22906. Powers.

22907. Restrictions.

22908. Duty to maintain corporate and tax-exempt status.

22909. Records and inspection.

22910. Service of process.

22911. Liability for acts of officers and agents.

22912. Annual report.

**§ 22901. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 22902. Organization**

(a) **FEDERAL CHARTER.**—Army and Navy Union of the United States of America (in this chapter, the “corporation”), incorporated in Ohio, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 22903. Purposes**

The purposes of the corporation are as provided in its articles of incorporation and include—

(1) holding true allegiance to the United States Government and fidelity to its Constitution, laws, and institutions;

(2) serving our Nation under God in peace as well as in war by fostering the ideals of faith and patriotism, loyalty, justice, and liberty, by inculcating in the hearts of young and old, through precept and practice, the spirit of true Americanism, and by participating in civic activities for the good of our country and our community;

(3) uniting in fraternal fellowship those who have served, or are now serving, honorably in the Armed Forces of the United States;

(4) protecting and advancing their civic, social, and economic welfare;

- (5) aiding them in sickness and distress;
- (6) assisting in the burial and commemoration of their dead and providing help for their widows and orphans; and
- (7) perpetuating the memory of patriotic deeds performed by the defenders of our country.

**§ 22904. Membership**

Eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.

**§ 22905. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

**§ 22906. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**§ 22907. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 22908. Duty to maintain corporate and tax-exempt status**

(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of Ohio.

(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 22909. Records and inspection**

(a) RECORDS.—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and
- (3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 22910. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 22911. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 22912. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 231—AVIATION HALL OF FAME**

Sec.  
23101. Organization.  
23102. Purposes.  
23103. Membership.  
23104. Governing body.  
23105. Powers.  
23106. Restrictions.  
23107. Principal office.  
23108. Records and inspection.  
23109. Statement required in audit report.  
23110. Service of process.  
23111. Liability for acts of officers and agents.  
23112. Distribution of assets on dissolution or final liquidation.

**§ 23101. Organization**

(a) **FEDERAL CHARTER.**—Aviation Hall of Fame (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 23102. Purposes**

The purposes of the corporation are—

(1) to receive and maintain one or more funds and to use any part of the principal and income only for charitable, scientific, literary, or educational purposes, either directly or by contributing to organizations authorized to carry on similar activities;

(2) to honor citizens, aviation leaders, pilots, teachers, scientists, engineers, inventors, governmental leaders, and other individuals who have helped to make this Nation great by their outstanding contributions to the establishment, development, advancement, or improvement of aviation in the United States;

(3) to perpetuate the memory of those individuals and record their contributions and achievements by the erection and maintenance of buildings and monuments as may be appropriate as a lasting memorial;

(4) to promote a better sense of appreciation of the origins and growth of aviation, especially in the United States, and

the part aviation has played in changing the economic, social, and scientific aspects of our Nation;

(5) to establish and maintain a library and museum for the collection and preservation for posterity of the history of those honored by the organization, together with a documentation of their accomplishments and contributions to aviation, including items such as aviation pictures, paintings, books, papers, documents, scientific data, relics, mementos, artifacts, and other items related to that history;

(6) to cooperate with other recognized aviation organizations actively engaged and interested in similar projects; and

(7) to engage in any other activities appropriate to carry out the purposes of the corporation.

#### **§ 23103. Membership**

(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights, privileges, and designation of classes of members are as provided in the bylaws.

(b) VOTING.—Each member given voting rights by the bylaws has one vote on each matter submitted to a vote at a meeting of the voting members. The vote may be cast in the manner provided in the bylaws.

#### **§ 23104. Governing body**

(a) BOARD OF TRUSTEES.—(1) The board of trustees is the governing body of the corporation. Between meetings of the members of the corporation, the board is responsible for the general policies and program of the corporation and for the control of all funds of the corporation.

(2) The number of trustees, their manner of selection (including the filling of vacancies), and their term of office are as provided in the bylaws. However, the board shall have at least 18 members.

(3) The board may appoint committees. Each committee has the powers provided in the bylaws or by resolution of the board. The powers of a committee may include all the powers of the board.

(b) OFFICERS.—(1) The officers of the corporation are a president, one or more vice presidents as provided in the bylaws, a secretary, a treasurer, and other officers as provided in the bylaws.

(2) The manner of election, term of office, and duties of the officers are as provided in the bylaws.

(c)(1) BOARD OF NOMINATIONS.—The board of trustees shall appoint a board of nominations, consisting of at least 24 members, from members of the corporation not concurrently serving as members of the board of trustees. Those individuals serve for the term provided in the bylaws.

(2) The board of nominations shall nominate United States citizens or residents to be honored by the corporation and recommend those persons to the board of trustees for consideration as provided in the bylaws.

#### **§ 23105. Powers**

The corporation may—

(1) adopt and amend bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;



- (3) choose officers, trustees, managers, agents, and employees as the activities of the corporation require;
- (4) make contracts;
- (5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;
- (6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property; and
- (7) sue and be sued.

#### **§ 23106. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a trustee, officer, employee, member of the board of nominations, or member of the corporation as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a trustee, officer, member of the board of nominations, or member of the corporation, as such, during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of reasonable compensation to an officer or employee in an amount approved by the board of trustees.

(d) LOANS.—The corporation may not make a loan or advance to a trustee, officer, employee, member of the board of nominations, or member of the corporation. Trustees who vote for or assent to making such a loan or advance, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

(e) CONTRIBUTIONS TO CERTAIN ORGANIZATIONS.—None of the principal or interest of a fund referred to in section 23102(1) of this title may be contributed to an organization if—

- (1) a substantial part of its activities is carrying on propaganda or attempting to influence legislation; or
- (2) any part of its net earnings benefits a private shareholder or individual.

#### **§ 23107. Principal office**

The principal office of the corporation shall be in Dayton, Ohio, or another place decided by the board of trustees. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

#### **§ 23108. Records and inspection**

(a) RECORDS.—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its members, board of trustees, board of nominations, and committees having any of the authority of its board of trustees; and
- (3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 23109. Statement required in audit report**

The corporation shall include in the audit report statement required under section 10101(b)(1)(B) of this title a schedule of all contracts requiring payments greater than \$10,000 and all payments of compensation or fees at a rate greater than \$10,000 a year.

**§ 23110. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the corporation.

**§ 23111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 23112. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of trustees, but consistent with the purposes of the corporation and in compliance with the charter and bylaws.

**CHAPTER 301—BIG BROTHERS—BIG SISTERS OF AMERICA**

Sec.

30101. Organization.

30102. Purposes.

30103. Membership.

30104. Governing body.

30105. Powers.

30106. Exclusive right to names, seals, emblems, and badges.

30107. Restrictions.

30108. Principal office.

30109. Records and inspection.

30110. Service of process.

30111. Liability for acts of officers and agents.

30112. Distribution of assets on dissolution or final liquidation.

**§ 30101. Organization**

(a) **FEDERAL CHARTER.**—Big Brothers—Big Sisters of America (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PLACE OF INCORPORATION AND DOMICILE.**—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 30102. Purposes**

The purposes of the corporation are—

(1) to assist individuals throughout the United States in solving their social and economic problems and in their health and educational and character development;

(2) to promote the use, by other lay and professional agencies and workers, of the techniques of that assistance developed by the corporation; and

(3) to receive, invest, and disburse funds and hold property for the purposes of the corporation.

#### **§ 30103. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights, privileges, and designation of classes of members are as provided in the constitution and bylaws of the corporation.

(b) **VOTING.**—Each member has one vote on each matter submitted to a vote at a meeting of the members.

#### **§ 30104. Governing body**

(a) **BOARD OF DIRECTORS.**—(1) The board of directors is the governing body of the corporation. The powers, duties, and responsibilities of the board are as provided in the constitution and bylaws of the corporation.

(2) The number of directors is as provided in the constitution. Their manner of selection (including the filling of vacancies) and their term of office are as provided in the constitution and bylaws.

(b) **OFFICERS.**—(1) The officers of the corporation are a chairman of the board of directors, a president, one or more vice presidents as provided in the constitution and bylaws, a secretary, and a treasurer.

(2) The manner of election, term of office, and duties of the officers are as provided in the constitution and bylaws.

#### **§ 30105. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, managers, agents, and employees as the activities of the corporation require;

(4) make contracts;

(5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property; and

(7) sue and be sued.

#### **§ 30106. Exclusive right to names, seals, emblems, and badges**

The corporation and its subordinate divisions have the exclusive right to use the names “The Big Brothers of America, Big Sisters International, Incorporated”, “Big Sisters of America”, “Big Brothers”, “Big Sisters”, “Big Brothers—Big Sisters of America”, and “Big Sisters—Big Brothers”, and to use and to allow others to use seals, emblems, and badges the corporation adopts.

#### **§ 30107. Restrictions**

(a) **STOCK AND DIVIDENDS.**—The corporation may not issue stock or declare or pay a dividend.

(b) **POLITICAL ACTIVITIES.**—The corporation or a director or officer as such may not contribute to, support, or assist a political party or candidate for public office.

(c) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member as such during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of compensation to an officer in an amount approved by the board of directors.

(d) **LOANS.**—The corporation may not make a loan or advance to a director, officer, or employee. Directors who vote for or assent to making a loan or advance to a director, officer, or employee, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

#### **§ 30108. Principal office**

The principal office of the corporation shall be in Philadelphia, Pennsylvania, or another place decided by the board of directors. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

#### **§ 30109. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 30110. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

#### **§ 30111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### **§ 30112. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but in compliance with the constitution and bylaws of the corporation.

### **CHAPTER 303—BLINDED VETERANS ASSOCIATION**

Sec.

30301. Organization.

30302. Purposes.

- 30303. Membership.
- 30304. Governing body.
- 30305. Powers.
- 30306. Exclusive right to name, seals, emblems, and badges.
- 30307. Restrictions.
- 30308. Principal office.
- 30309. Records and inspection.
- 30310. Service of process.
- 30311. Liability for acts of officers and agents.
- 30312. Distribution of assets on dissolution or final liquidation.

#### **§ 30301. Organization**

(a) **FEDERAL CHARTER.**—Blinded Veterans Association (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 30302. Purposes**

The purposes of the corporation are—

(1) to operate as a not-for-profit corporation exclusively for charitable, educational, patriotic, and civic improvement purposes;

(2) to promote the welfare of blinded veterans so that, notwithstanding their disabilities, they may take their rightful place in the community and work with their fellow citizens toward the creation of a peaceful world;

(3) to preserve and strengthen a spirit of fellowship among blinded veterans so that they may give mutual aid and assistance to one another; and

(4) to maintain and extend the institutions of American freedom and to encourage loyalty to the Constitution and laws of the United States and of the States in which they reside.

#### **§ 30303. Membership**

(a) **GENERAL MEMBERSHIP.**—An individual who served in the Armed Forces of the United States and who, in the line of duty in that service, sustained a substantial impairment of sight or vision as defined by the bylaws of the corporation is eligible for general membership in the corporation.

(b) **HONORARY AND ASSOCIATE MEMBERSHIP.**—In addition to general membership, the corporation shall have special classes of honorary and associate membership. Eligibility for, and the rights and obligations of, those special classes are as provided in the bylaws.

#### **§ 30304. Governing body**

(a) **BOARD OF DIRECTORS.**—(1) The number of directors of the corporation shall be at least three but not more than 15. The directors shall be divided into a specified number of classes. Each class shall hold office for a definite period of years as provided in the bylaws.

(2) A majority of the directors must be present at a meeting of directors to constitute a quorum. A majority vote of the directors present at a meeting at which there is a quorum is necessary for the transaction of business.

(3) A director may be removed at any time for just and proper cause by a majority vote of a quorum of directors present at a meeting called for that purpose.

(4) A vacancy in the office of director may be filled by a majority vote of a quorum of the remaining directors present at

a meeting called for that purpose. A director elected to fill a vacancy serves until the next annual meeting of the corporation.

(b) OFFICERS.—The officers of the corporation and their manner of election, term of office, duties, and powers are as provided in the bylaws.

#### **§ 30305. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, managers, and agents as the activities of the corporation require;

(4) charge and collect membership dues;

(5) make contracts;

(6) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(7) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(8) sue and be sued; and

(9) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 30306. Exclusive right to name, seals, emblems, and badges**

The corporation and its authorized regional groups and other local subdivisions have the exclusive right to use the name “Blinded Veterans Association” and seals, emblems, and badges the corporation adopts.

#### **§ 30307. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or assist a political party or candidate for elective public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member as such during the life of the corporation or on its dissolution or final liquidation. This section does not prevent the payment of—

(1) bona fide expenses of officers of the corporation in amounts approved by the board of directors; or

(2) appropriate aid to blinded veterans or their widows or children in carrying out the purposes of the corporation.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee. Directors and officers who vote for or assent to making a loan to a director, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

(e) IMMUNITY FROM LIABILITY.—Members and private individuals are not liable for the obligations of the corporation.

#### **§ 30308. Principal office**

The principal office of the corporation shall be in the District of Columbia or another place decided by the board of directors.

However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

**§ 30309. Records and inspection**

(a) RECORDS.—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and
- (3) at its principal office, a record of the names and addresses of its members, directors, and officers.

(b) INSPECTION.—A member, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 30310. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 30311. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 30312. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be transferred to the Secretary of Veterans Affairs to be applied to the care and comfort of blinded veterans.

**CHAPTER 305—BLUE STAR MOTHERS OF AMERICA, INC.**

Sec.

- 30501. Definition.
- 30502. Organization.
- 30503. Purposes.
- 30504. Membership.
- 30505. Governing body.
- 30506. Powers.
- 30507. Exclusive right to name, seals, emblems, and badges.
- 30508. Restrictions.
- 30509. Principal office.
- 30510. Records and inspection.
- 30511. Service of process.
- 30512. Liability for acts of officers and agents.
- 30513. Annual report.
- 30514. Distribution of assets on dissolution or final liquidation.

**§ 30501. Definition**

For purposes of this chapter, “Armed Forces” includes the United States Army, United States Navy, United States Marines, United States Air Force, United States Coast Guard, National Guard, United States Army Reserves, United States Navy Reserves, United States Marine Reserves, United States Air Force Reserves, United States Coast Guard Reserves, United States Naval Militia, merchant marines, and armed home guards who have served on active duty.

**§ 30502. Organization**

(a) **FEDERAL CHARTER.**—Blue Star Mothers of America, Inc. (in this chapter, the “corporation”), is a federally chartered corporation.

(b) **PLACE OF INCORPORATION AND DOMICILE.**—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 30503. Purposes**

The purposes of the corporation are patriotic, educational, social, and for service, and include—

(1) perpetuating the Blue Star Mothers of America, Inc., and the memory of all the men and women who have served our country as members of the Armed Forces;

(2) maintaining true allegiance to the Government of the United States;

(3) educating members of the corporation and others not to divulge military, naval, or other Government information;

(4) assisting in veterans’ ceremonies;

(5) attending patriotic rallies and meetings;

(6) fostering true democracy;

(7) caring for unsupported mothers who gave their sons to the service of the Nation;

(8) aiding in bringing about recognition of the need for permanent civilian defense in each community and the need to be always alert against invasion of un-American activities;

(9) upholding the American institutions of freedom, justice, and equal rights; and

(10) defending the United States from all enemies.

**§ 30504. Membership**

An individual is eligible for membership in the corporation if—

(1) she is a mother, adoptive mother, or stepmother (who has given a mother’s care at least since the stepchild was age 13) of a son or daughter who—

(A) is serving in the Armed Forces; or

(B) has served in, or has been honorably discharged from, the Armed Forces in World War II or the Korean hostilities; and

(2) she is living in the United States.

**§ 30505. Governing body**

(a) **NATIONAL CONVENTION.**—(1) The national convention is the supreme governing authority of the corporation.

(2) The national convention is composed of officers and elected representatives from the States and other local subdivisions of the corporation as provided in the constitution and bylaws. However, the form of government of the corporation must be representative of the membership at large and may not permit concentration of control in a limited number of members or in a self-perpetuating group not representative of the membership at large.

(3) The meetings of the national convention may be held in the District of Columbia or any State, territory, or possession of the United States.



(b) OFFICERS.—The officers of the corporation and their manner of selection, term of office, and duties are as provided in the constitution and bylaws of the corporation.

**§ 30506. Powers**

The corporation may—

- (1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;
- (2) adopt and alter a corporate seal;
- (3) choose officers, managers, employees, and agents as the activities of the corporation require;
- (4) make contracts;
- (5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;
- (6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;
- (7) sue and be sued; and
- (8) do any other act necessary and proper to carry out the purposes of the corporation.

**§ 30507. Exclusive right to name, seals, emblems, and badges**

The corporation and its subordinate divisions have the exclusive right to use the name “Blue Star Mothers of America, Inc.”. The corporation has the exclusive right to use, and to allow others to use, seals, emblems, and badges the corporation adopts.

**§ 30508. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or an officer or agent as such may not contribute to a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, an officer or member as such during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the council of administration of the corporation.

(d) LOANS.—The corporation may not make a loan or advance to an officer or employee. Members of the council of administration who vote for or assent to making a loan or advance to an officer or employee, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

**§ 30509. Principal office**

The principal office of the corporation shall be in the District of Columbia.

**§ 30510. Records and inspection**

(a) RECORDS.—The corporation shall keep—

- (1) correct and complete records of account; and
- (2) minutes of the proceedings of its national conventions and council of administration.

(b) **INSPECTION.**—A member, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 30511. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process, notice, or demand for the corporation. Designation of the agent shall be filed in the office of the Mayor of the District of Columbia or another office designated by the Mayor. Notice to or service on the agent is notice to or service on the corporation.

**§ 30512. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 30513. Annual report**

Not later than March 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior fiscal year. The report may consist of a report of the proceedings of the national convention. The report may not be printed as a public document.

**§ 30514. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the national executive board, but in compliance with the constitution and bylaws of the corporation.

**CHAPTER 307—BOARD FOR FUNDAMENTAL EDUCATION**

Sec.

30701. Organization.

30702. Purpose.

30703. Membership.

30704. Governing body.

30705. Powers.

30706. Exclusive right to name, seals, emblems, and badges.

30707. Restrictions.

30708. Principal office.

30709. Records and inspection.

30710. Service of process.

30711. Liability for acts of officers and agents.

30712. Distribution of assets on dissolution or final liquidation.

**§ 30701. Organization**

(a) **FEDERAL CHARTER.**—Board for Fundamental Education (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 30702. Purpose**

The purpose of the corporation is to foster the development of fundamental education through programs and projects such as—

(1) giving citizens (children, youth, and adults) an opportunity to acquire the understandings and skills necessary to relate the resources of the community to the needs and interests of the community;

(2) demonstrating programs of fundamental education and measuring results; and

(3) training men and women as leaders in fundamental education by providing internships and other experiences.

#### **§ 30703. Membership**

(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in constitution and bylaws of the corporation.

(b) VOTING.—Each member has one vote in the conduct of official business of the corporation.

#### **§ 30704. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors is the governing body of the corporation. The board shall consist of at least 15 directors elected annually by the members.

(b) OFFICERS.—The officers of the corporation are a chairman of the board, a president, one or more vice presidents, a secretary, a treasurer, and any assistant officers designated by the board. The officers have the powers and shall carry out the duties provided in the bylaws or prescribed by the board.

#### **§ 30705. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, managers, agents, and employees as the activities of the corporation require;

(4) make contracts;

(5) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(7) use corporate funds to give prizes, awards, loans, scholarships, and grants to deserving students to carry out the purpose of the corporation;

(8) publish a magazine and other publications;

(9) sue and be sued; and

(10) do any other act necessary and proper to carry out the purpose of the corporation.

#### **§ 30706. Exclusive right to name, seals, emblems, and badges**

The corporation has the exclusive right to use the name “Board for Fundamental Education” and seals, emblems, and badges the corporation adopts.

#### **§ 30707. Restrictions**

(a) PROFIT.—The corporation may not engage in business for profit.

(b) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(c) POLITICAL ACTIVITIES.—The corporation or a director, officer, or member as such may not contribute to, support, or assist a political party or candidate for elective public office.

(d) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed

to, a director, officer, or member except on dissolution or final liquidation of the corporation.

(e) LOANS.—The corporation may not make a loan to a director, officer, or employee. Directors who vote for or assent to making a loan to a director, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

#### **§ 30708. Principal office**

The principal office of the corporation shall be in a place the board of directors decides is appropriate. However, the activities of the corporation may be conducted throughout the States, territories, and possessions of the United States.

#### **§ 30709. Records and inspection**

(a) RECORDS.—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and
- (3) a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member, or an agent or attorney of the member, may inspect the records of the corporation at any reasonable time.

#### **§ 30710. Service of process**

(a) DISTRICT OF COLUMBIA.—The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Designation of the agent shall be filed in the office of the clerk of the United States District Court for the District of Columbia. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

(b) STATES, TERRITORIES, AND POSSESSIONS.—As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall file, with the secretary of state or other designated official of each State, territory, or possession of the United States in which the corporation does business, the name and address of an agent in that State, territory, or possession on whom legal process or demands against the corporation may be served.

#### **§ 30711. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### **§ 30712. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be used by the board of directors for the purpose stated in section 30702 of this title or be transferred to a recognized educational foundation.

### **CHAPTER 309—BOY SCOUTS OF AMERICA**

Sec.  
30901. Organization.  
30902. Purposes.

- 30903. Governing body.
- 30904. Powers.
- 30905. Exclusive right to emblems, badges, marks, and words.
- 30906. Restrictions.
- 30907. Annual and special meetings.
- 30908. Annual report.

### **§ 30901. Organization**

(a) **FEDERAL CHARTER.**—Boy Scouts of America (in this chapter, the “corporation”) is a body corporate and politic of the District of Columbia.

(b) **DOMICILE.**—The domicile of the corporation is the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

### **§ 30902. Purposes**

The purposes of the corporation are to promote, through organization, and cooperation with other agencies, the ability of boys to do things for themselves and others, to train them in scoutcraft, and to teach them patriotism, courage, self-reliance, and kindred virtues, using the methods that were in common use by boy scouts on June 15, 1916.

### **§ 30903. Governing body**

(a) **EXECUTIVE BOARD.**—An executive board composed of citizens of the United States is the governing body of the corporation. The number, qualifications, and term of office of members of the board are as provided in the bylaws. A vacancy on the board shall be filled by a majority vote of the remaining members of the board.

(b) **QUORUM.**—The bylaws may prescribe the number of members of the board necessary for a quorum. That number may be less than a majority of the entire board.

(c) **COMMITTEES.**—(1) The board, by resolution passed by a majority of the entire board, may designate 3 or more members of the board as an executive or governing committee. A majority of the committee is a quorum. The committee, to the extent provided in the resolution or bylaws, may—

(A) exercise the powers of the executive board in managing the activities of the corporation; and

(B) authorize the seal of the corporation to be affixed to papers that may require it.

(2) The board, by majority vote of the entire board, may appoint other standing committees. The standing committees may exercise powers as provided in the bylaws.

### **§ 30904. Powers**

(a) **GENERAL.**—The corporation may—

(1) adopt and amend bylaws and regulations, including regulations for the election of associates and successors;

(2) adopt and alter a corporate seal;

(3) have offices and conduct its activities in the District of Columbia and the States, territories, and possessions of the United States;

(4) acquire and own property as necessary to carry out the purposes of the corporation;

(5) sue and be sued within the jurisdiction of the United States; and

(6) do any other act necessary to carry out this chapter and promote the purpose of the corporation.

(b) **LIMITATIONS ON EXERCISING CERTAIN POWERS.**—(1) The corporation may execute mortgages and liens on the property of the corporation only if approved by a two-thirds vote of the entire executive board at a meeting called for that purpose.

(2) The corporation may dispose in any manner of the whole property of the corporation only with the written consent and affirmative vote of a majority of the members of the corporation.

**§ 30905. Exclusive right to emblems, badges, marks, and words**

The corporation has the exclusive right to use emblems, badges, descriptive or designating marks, and words or phrases the corporation adopts. This section does not affect any vested rights.

**§ 30906. Restrictions**

(a) **PROFIT.**—The corporation may not operate for pecuniary profit to its members.

(b) **STOCKS AND DIVIDENDS.**—The corporation may not issue stock or declare or pay a dividend.

**§ 30907. Annual and special meetings**

(a) **ANNUAL MEETINGS.**—The corporation shall hold an annual meeting at a time and place as provided in the bylaws. At the meeting, the annual reports of the officers and executive board shall be presented, and members of the board shall be elected for the next year.

(b) **SPECIAL MEETINGS.**—Special meetings of the corporation may be called on notice as provided in the bylaws.

(c) **QUORUM.**—The number of members necessary for a quorum at an annual or special meeting shall be prescribed in the bylaws.

(d) **LOCATIONS.**—The members and the executive board may hold meetings and keep the seal and records of the corporation in or outside the District of Columbia.

**§ 30908. Annual report**

Not later than April 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior calendar year.

**CHAPTER 311—BOYS & GIRLS CLUBS OF AMERICA**

Sec.

31101. Organization.

31102. Purposes.

31103. Membership.

31104. Governing body.

31105. Powers.

31106. Restrictions.

31107. Principal office.

31108. Records and inspection.

31109. Service of process.

31110. Liability for acts of officers and agents.

31111. Distribution of assets on dissolution or final liquidation.

**§ 31101. Organization**

(a) **FEDERAL CHARTER.**—Boys & Girls Clubs of America (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PLACE OF INCORPORATION AND DOMICILE.**—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 31102. Purposes**

The purposes of the corporation are—

(1) to promote the health, social, educational, vocational, and character development of youth throughout the United States; and

(2) to receive, invest, and disburse funds and to hold property for the purposes of the corporation.

#### **§ 31103. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights, privileges, and designation of classes of members are as provided in the constitution and bylaws of the corporation.

(b) **VOTING.**—Each member has one vote on each matter submitted to a vote at a meeting of the members.

(c) **BENEFITS OF MEMBER ORGANIZATIONS.**—Each organization that is a member of the corporation as provided in the constitution of the corporation is entitled to all the benefits of incorporation under this chapter. Those benefits cease immediately on termination of membership, whether by—

(1) resignation from the corporation; or

(2) termination of its membership by the board of directors of the corporation as provided in the constitution.

#### **§ 31104. Governing body**

(a) **BOARD OF DIRECTORS.**—(1) The board of directors is the governing body of the corporation. The powers, duties, and responsibilities of the board are as provided in the constitution and bylaws of the corporation.

(2) The number of directors is as provided in the constitution of the corporation. Their manner of selection (including the filling of vacancies) and their term of office are as provided in the constitution and bylaws.

(b) **OFFICERS.**—(1) The officers of the corporation are a chairman of the board of directors, a president, one or more vice presidents as provided in the constitution and bylaws, a secretary, a treasurer, and one or more assistant secretaries and assistant treasurers as provided in the constitution and bylaws.

(2) The manner of election, term of office, and duties of the officers are as provided in the constitution and bylaws.

#### **§ 31105. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, managers, agents, and employees as the activities of the corporation require;

(4) make contracts;

(5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property; and

(7) sue and be sued.

#### **§ 31106. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member as such during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of compensation to an officer in an amount approved by the board of directors.

(d) LOANS.—The corporation may not make a loan or advance to a director, officer, or employee. Directors who vote for or assent to making a loan or advance to a director, officer, or employee, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

#### **§ 31107. Principal office**

The principal office of the corporation shall be in New York, New York, or another place decided by the board of directors. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

#### **§ 31108. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 31109. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

#### **§ 31110. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.



**§ 31111. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but in compliance with the constitution and bylaws of the corporation.

**CHAPTER 401—CATHOLIC WAR VETERANS OF THE UNITED STATES OF AMERICA, INCORPORATED**

Sec.

- 40101. Definition.
- 40102. Organization.
- 40103. Purposes.
- 40104. Membership.
- 40105. Governing body.
- 40106. Powers.
- 40107. Restrictions.
- 40108. Duty to maintain tax-exempt status.
- 40109. Records and inspection.
- 40110. Service of process.
- 40111. Liability for acts of officers and agents.
- 40112. Annual report.

**§ 40101. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 40102. Organization**

(a) **FEDERAL CHARTER.**—Catholic War Veterans of the United States of America, Incorporated (in this chapter, the “corporation”), incorporated in New York, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 40103. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and include a continuing commitment, on a national basis, to—

- (1) preserve, protect, and defend the Constitution of the United States and the laws of the States;
- (2) commemorate the wars, campaigns, and military actions of the United States to reflect profound respect, high honor, and great tribute on the glorious dead and the surviving veterans of those wars, campaigns, and actions and to give all Americans a greater understanding of and appreciation for the sacrifices of those who participated in them for all Americans;
- (3) stimulate to the highest degree possible the interests of the entire Nation in the problems of veterans, their widows, and orphans;
- (4) cooperate to the fullest extent and in a harmonious manner with all veterans’ organizations in common projects designed to serve the interests of all veterans of all wars in which the United States has participated;
- (5) collate, preserve, and encourage the study of historical episodes, chronicles, mementos, and events pertaining to the wars, campaigns, and military actions of the United States;

(6) inculcate an enduring love of country, a deep and abiding sense of patriotism, and a profound commitment to Americanism among all the people of the United States;

(7) encourage, among the youth of our Nation, respect for our national flag, our anthem, and the traditions of America;

(8) preserve the freedoms of all the people, national peace, prosperity, tranquility, good will, the permanence of free institutions, and the defense of the United States;

(9) foster the association of veterans of the Catholic faith who have served in the Armed Forces of the United States;

(10) encourage morality in government, labor, management, economic, social, fraternal, and all other phases of American life;

(11) promote the realization that the family is the basic unit of society;

(12) increase our love, honor, and service to God and to our fellow man without regard to race, creed, color, or national origin; and

(13) function as a veterans' and patriotic organization as authorized by the laws of the each State in which it is incorporated.

#### **§ 40104. Membership**

Eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.

#### **§ 40105. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

#### **§ 40106. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 40107. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee in an amount approved by the board of directors.

(c) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

#### **§ 40108. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 40109. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 40110. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 40111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 40112. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 403—CIVIL AIR PATROL**

Sec.

40301. Organization.

40302. Purposes.

40303. Membership.

40304. Powers.

40305. Restrictions.

40306. Exclusive right to name, insignia, copyrights, emblems, badges, marks, and words.

40307. Annual report.

**§ 40301. Organization**

(a) FEDERAL CHARTER.—Civil Air Patrol (in this chapter, the “corporation”) is a federally chartered corporation.

(b) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

**§ 40302. Purposes**

The purposes of the corporation are to—

(1) provide an organization to—

(A) encourage and aid citizens of the United States in contributing their efforts, services, and resources in developing aviation and in maintaining air supremacy; and

(B) encourage and develop by example the voluntary contribution of private citizens to the public welfare;

(2) provide aviation education and training especially to its senior and cadet members;

(3) encourage and foster civil aviation in local communities; and

(4) provide an organization of private citizens with adequate facilities to assist in meeting local and national emergencies.

#### **§ 40303. Membership**

Eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

#### **§ 40304. Powers**

The corporation may—

(1) adopt and amend a constitution, bylaws, and regulations;

(2) adopt and alter a corporate seal;

(3) establish and maintain offices in the District of Columbia and the States, territories, and possessions of the United States to conduct its affairs;

(4) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(5) sue and be sued; and

(6) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 40305. Restrictions**

The corporation may not engage in business for profit or issue stock.

#### **§ 40306. Exclusive right to name, insignia, copyrights, emblems, badges, marks, and words**

The corporation has the exclusive right to use the name “Civil Air Patrol” and all insignia, copyrights, emblems, badges, descriptive or designating marks, words, and phrases the corporation adopts. This section does not affect any vested rights.

#### **§ 40307. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year.

### **CHAPTER 405—CONGRESSIONAL MEDAL OF HONOR SOCIETY OF THE UNITED STATES OF AMERICA**

Sec.

40501. Organization.

40502. Purposes.

40503. Membership.

40504. Governing body.

40505. Powers.

40506. Restrictions.

40507. Principal office.

40508. Records and inspection.

40509. Service of process.

40510. Liability.

40511. Distribution of assets on dissolution or final liquidation.

#### **§ 40501. Organization**

(a) **FEDERAL CHARTER.**—Congressional Medal of Honor Society of the United States of America (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PLACE OF INCORPORATION AND DOMICILE.**—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 40502. Purposes**

The purposes of the corporation are—

- (1) to form a bond of friendship and comradeship among all holders of the Medal of Honor as presented by Congress;
- (2) to protect, uphold, and preserve the dignity and honor of the medal at all times and on all occasions;
- (3) to protect the name of the medal and individual holders of the medal from exploitation;
- (4) to provide appropriate aid to all persons to whom the medal has been awarded, their widows, or their children;
- (5) to serve our country in peace as in war;
- (6) to inspire and stimulate our youth to become worthy citizens of our country; and
- (7) to foster and perpetuate Americanism.

#### **§ 40503. Membership**

(a) ELIGIBILITY.—An individual who has been awarded the Medal of Honor as presented by Congress is eligible for membership in the corporation. An honorary membership may not be granted.

(b) VOTING.—Each member has one vote on each matter submitted to a vote at a meeting of the members. The vote may be cast in person or by proxy.

#### **§ 40504. Governing body**

(a) BOARD OF DIRECTORS.—(1) The board of directors is the governing body of the corporation. The board may exercise, or provide for the exercise of, the powers of the corporation.

(2) The number of directors, their manner of election (including the filling of vacancies), and their term of office are as provided in the bylaws. However, the board shall have at least 9 directors.

(3) The board shall meet at least annually. Each director has one vote on matters decided by the board.

(4) The president of the corporation is the chairman of the board.

(b) OFFICERS.—(1) The officers of the corporation are a president, an executive vice president, a secretary, a treasurer, and 6 regional vice presidents as provided in the bylaws. The offices of secretary and treasurer may be combined and held by the same individual, but an individual holding those combined offices has only one vote as a director.

(2) The manner of election, term of office, duties, and powers of the officers are as provided in the bylaws.

#### **§ 40505. Powers**

The corporation may—

- (1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;
- (2) adopt and alter a corporate seal;
- (3) choose officers, managers, and agents as the activities of the corporation require;
- (4) charge and collect membership dues;
- (5) make contracts;

(6) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(7) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(8) sue and be sued; and

(9) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 40506. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member as such during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of—

(1) expenses of officers of the corporation in amounts approved by the board of directors; or

(2) appropriate aid to individuals to whom the Medal of Honor has been awarded, their widows, or their children, to carry out the purposes of the corporation.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee. Directors and officers who vote for or assent to making a loan to a director, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

#### **§ 40507. Principal office**

The principal office of the corporation shall be in the District of Columbia or another place decided by the board of directors. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

#### **§ 40508. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 40509. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice

to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 40510. Liability**

(a) **LIABILITY OF CORPORATION.**—The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

(b) **IMMUNITY OF INDIVIDUALS.**—A member or private individual is not liable for the obligations of the corporation.

**§ 40511. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but in compliance with the bylaws.

**CHAPTER 407—CORPORATION FOR THE PROMOTION OF RIFLE PRACTICE AND FIREARMS SAFETY**

**SUBCHAPTER I—CORPORATION**

Sec.

40701. Organization.

40702. Governing body.

40703. Powers.

40704. Restrictions.

40705. Duty to maintain tax-exempt status.

40706. Distribution of assets on dissolution.

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**SUBCHAPTER II—CIVILIAN MARKSMANSHIP PROGRAM**

40721. Responsibility of corporation.

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40725. National Matches and small-arms firing school.

40726. Allowances for junior competitors.

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40730. Surplus property.

40731. Issuance or loan of firearms and supplies.

40732. Sale of firearms and supplies.

40733. Applicability of other law.

**SUBCHAPTER I—CORPORATION**

**§ 40701. Organization**

(a) **FEDERAL CHARTER.**—Corporation for the Promotion of Rifle Practice and Firearms Safety (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **NON-GOVERNMENTAL STATUS.**—The corporation is a private corporation, not a department, agency, or instrumentality of the United States Government. An officer or employee of the corporation is not an officer or employee of the Government.

**§ 40702. Governing body**

(a) **BOARD OF DIRECTORS.**—(1) The board of directors is the governing body of the corporation. The board of directors may adopt bylaws, policies, and procedures for the corporation and may take any other action that it considers necessary for the management and operation of the corporation.

- (2) The board shall have at least 9 directors.
- (3) The term of office of a director is 2 years. A director may be reappointed.
- (4) A vacancy on the board of directors shall be filled by a majority vote of the remaining directors.
- (b) DIRECTOR OF CIVILIAN MARKSMANSHIP.—(1) The board of directors shall appoint the Director of Civilian Marksmanship.
- (2) The Director is responsible for—
  - (A) the daily operation of the corporation; and
  - (B) the duties of the corporation under subchapter II of this chapter.

#### **§ 40703. Powers**

The corporation may—

- (1) adopt, use, and alter a corporate seal, which shall be judicially noticed;
- (2) make contracts;
- (3) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the activities of the corporation;
- (4) incur and pay obligations;
- (5) charge fees to cover the corporation's costs in carrying out the Civilian Marksmanship Program; and
- (6) do any other act necessary and proper to carry out the activities of the corporation.

#### **§ 40704. Restrictions**

- (a) PROFIT.—The corporation may not operate for profit.
- (b) USE OF AMOUNTS COLLECTED.—Amounts collected under section 40703(3) and (5) of this title, including proceeds from the sale of firearms, ammunition, repair parts, and other supplies, may be used only to support the Civilian Marksmanship Program.

#### **§ 40705. Duty to maintain tax-exempt status**

The corporation shall be operated in a manner and for purposes that qualify the corporation for exemption from taxation under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. 501(a)) as an organization described in section 501(c)(3) of that Code (26 U.S.C. 501(c)(3)).

#### **§ 40706. Distribution of assets on dissolution**

- (a) SECRETARY OF THE ARMY.—On dissolution of the corporation, title to the following items, and the right to possess the items, vest in the Secretary of the Army—
  - (1) firearms stored at Defense Distribution Depot, Anniston, Anniston, Alabama on the date of dissolution.
  - (2) M-16 rifles under control of the corporation.
  - (3) trophies received from the National Board for the Promotion of Rifle Practice through the date of dissolution.
- (b) TAX-EXEMPT ORGANIZATIONS.—(1) On dissolution of the corporation, an asset not described in subsection (a) of this section may be distributed to an organization that—
  - (A) is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. 501(a)) as an organization described in section 501(c)(3) of that Code (26 U.S.C. 501(c)(3)); and



(B) performs functions similar to the functions described in section 40722 of this title.

(2) An asset distributed under this subsection may not be distributed to an individual.

(c) TREASURY.—On dissolution of the corporation, any asset not distributed under subsection (a) or (b) of this section shall be sold and the proceeds shall be deposited in the Treasury.

#### **§ 40707. Nonapplication of audit requirements**

The audit requirements of section 10101 of this title do not apply to the corporation.

### **SUBCHAPTER II—CIVILIAN MARKSMANSHIP PROGRAM**

#### **§ 40721. Responsibility of corporation**

The corporation shall supervise and control the Civilian Marksmanship Program.

#### **§ 40722. Functions**

The functions of the Civilian Marksmanship Program are—

(1) to instruct citizens of the United States in marksmanship;

(2) to promote practice and safety in the use of firearms;

(3) to conduct competitions in the use of firearms and to award trophies, prizes, badges, and other insignia to competitors;

(4) to secure and account for firearms, ammunition, and other equipment for which the corporation is responsible;

(5) to issue, loan, or sell firearms, ammunition, repair parts, and other supplies under sections 40731 and 40732 of this title; and

(6) to procure necessary supplies and services to carry out the Program.

#### **§ 40723. Eligibility for participation**

(a) CERTIFICATION.—(1) An individual shall certify by affidavit, before participating in an activity sponsored or supported by the corporation, that the individual—

(A) has not been convicted of a felony;

(B) has not been convicted of a violation of section 922 of title 18; and

(C) is not a member of an organization that advocates the violent overthrow of the United States Government.

(2) The Director of Civilian Marksmanship may require an individual to provide certification from law enforcement agencies to verify that the individual has not been convicted of a felony or a violation of section 922 of title 18.

(b) INELIGIBILITY.—An individual may not participate in an activity sponsored or supported by the corporation if the individual—

(1) has been convicted of a felony; or

(2) has been convicted of a violation of section 922 of title 18.

(c) LIMITING PARTICIPATION.—The Director may limit participation in the program as necessary to ensure—

(1) the safety of participants;

- (2) the security of firearms, ammunition, and equipment;
- and
- (3) the quality of instruction in the use of firearms.

**§ 40724. Priority of youth participation**

In carrying out the Civilian Marksmanship Program, the corporation shall give priority to activities that benefit firearms safety, training, and competition for youth and that reach as many youth participants as possible.

**§ 40725. National Matches and small-arms firing school**

(a) ANNUAL COMPETITION.—An annual competition called the “National Matches” and consisting of rifle and pistol matches for a national trophy, medals, and other prizes shall be held as prescribed by the Secretary of the Army.

(b) ELIGIBLE PARTICIPANTS.—The National Matches are open to members of the Armed Forces, National Guard, Reserve Officers’ Training Corps, Air Force Reserve Officers’ Training Corps, Citizens’ Military Training Camps, Citizens’ Air Training Camps, and rifle clubs, and to civilians.

(c) SMALL-ARMS FIRING SCHOOL.—A small-arms firing school shall be held in connection with the National Matches.

(d) OTHER COMPETITIONS.—Competitions for which trophies and medals are provided by the National Rifle Association of America shall be held in connection with the National Matches.

**§ 40726. Allowances for junior competitors**

(a) DEFINITION.—In this section, a “junior competitor” is a competitor at the National Matches, a small-arms firing school, a competition in connection with the National Matches, or a special clinic under section 40725 of this title who is—

- (1) less than 18 years of age; or
- (2) a member of a gun club organized for the students of a college or university.

(b) SUBSISTENCE ALLOWANCE.—A junior competitor may be paid a subsistence allowance in an amount prescribed by the Secretary of the Army.

(c) TRAVEL ALLOWANCE.—A junior competitor may be paid a travel allowance in an amount prescribed by the Secretary instead of travel expenses and subsistence while traveling. The travel allowance for the return trip may be paid in advance.

**§ 40727. Army support**

(a) LOGISTICAL SUPPORT.—The Secretary of the Army shall provide logistical support to the Civilian Marksmanship Program for competitions and other activities. The corporation shall reimburse the Secretary for incremental direct costs incurred in providing logistical support. The reimbursements shall be credited to the appropriations account of the Department of the Army that is charged to provide the logistical support.

(b) NATIONAL MATCHES.—(1) The National Matches may be held at Department of Defense facilities where the National Matches were held before February 10, 1996.

(2) The Secretary shall provide, without cost to the corporation, members of the National Guard and Army Reserve to support the National Matches as part of the annual training under title 10 and title 32.

(c) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

**§ 40728. Transfer of firearms, ammunition, and parts**

(a) REQUIRED TRANSFERS.—In accordance with subsection (b) of this section, the Secretary of the Army shall transfer to the corporation all firearms and ammunition that, on February 9, 1996, were under the control of the director of civilian marksmanship (as that position existed under section 4307 of title 10 on February 9, 1996), including—

(1) all firearms on loan to affiliated clubs and State associations;

(2) all firearms in the possession of the Civilian Marksmanship Support Detachment; and

(3) all M-1 Garand and caliber .22 rimfire rifles stored at Defense Distribution Depot, Anniston, Anniston, Alabama.

(b) TIME FOR TRANSFERS.—The Secretary shall transfer firearms and ammunition under subsection (a) of this section as and when necessary to enable the corporation—

(1) to issue or loan firearms or ammunition under section 40731 of this title; or

(2) to sell firearms or ammunition under section 40732 of this title.

(c) VESTING OF TITLE IN TRANSFERRED ITEMS.—Title to an item transferred to the corporation under this section shall vest in the corporation—

(1) on the issuance of the item to an eligible recipient under section 40731 of this title; or

(2) immediately before the corporation delivers the item to a purchaser in accordance with a contract for sale of the item that is authorized under section 40732 of this title.

(d) STORAGE OF FIREARMS.—Firearms stored at Defense Distribution Depot, Anniston, Anniston, Alabama, before February 10, 1996, and used for the Civilian Marksmanship Program (as that program existed under section 4308(e) of title 10 before February 10, 1996), shall remain at that facility or another storage facility designated by the Secretary, without cost to the corporation, until the firearms are issued, loaned, or sold by the corporation, or otherwise transferred to the corporation.

(e) DISCRETIONARY TRANSFER OF PARTS.—The Secretary may transfer from the inventory of the Department of the Army to the corporation any part from a rifle designated to be demilitarized.

(f) LIMITATION ON DEMILITARIZATION OF M-1 RIFLES.—After February 10, 1996, the Secretary may not demilitarize an M-1 Garand rifle in the inventory of the Army unless the Defense Logistics Agency decides the rifle is unserviceable.

(g) COST OF TRANSFERS.—A transfer of firearms, ammunition, or parts to the corporation under this section shall be made without cost to the corporation, except that the corporation shall assume the cost of preparation and transportation of firearms and ammunition transferred under this section.

**§ 40729. Reservation of firearms, ammunition, and parts**

(a) RESERVATION.—The Secretary of the Army shall reserve for the corporation—

(1) firearms described in section 40728(a) of this title;

(2) ammunition for firearms described in 40728(a) of this title;

(3) M-16 rifles held by the Department of the Army on February 10, 1996, and used to support the small-arms firing school; and

(4) parts from, and other supplies for, surplus caliber .30 and caliber .22 rimfire rifles.

(b) EXCEPTION.—This section does not supersede the authority provided in section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 372 note).

#### **§ 40730. Surplus property**

The corporation may obtain surplus property from the Defense Reutilization Marketing Service to carry out the Civilian Marksmanship Program. A transfer of property to the corporation under this section shall be made without cost to the corporation.

#### **§ 40731. Issuance or loan of firearms and supplies**

(a) ISSUANCE OR LOAN.—For purposes of training and competition, the corporation may issue or loan, with or without charges to recover administrative costs, caliber .22 rimfire and caliber .30 surplus rifles, air rifles, caliber .22 and .30 ammunition, repair parts, and other supplies necessary for activities related to the Civilian Marksmanship Program to—

(1) organizations affiliated with the corporation that provide firearms training to youth;

(2) the Boy Scouts of America;

(3) 4-H Clubs;

(4) the Future Farmers of America; and

(5) other youth oriented organizations.

(b) SECURITY OF FIREARMS.—The corporation shall ensure adequate oversight and accountability for firearms issued or loaned under this section. The corporation shall prescribe procedures for the security of issued or loaned firearms in accordance with United States, State, and local laws.

#### **§ 40732. Sale of firearms and supplies**

(a) AFFILIATED ORGANIZATIONS.—The corporation may sell, at fair market value, caliber .22 rimfire and caliber .30 surplus rifles, air rifles, caliber .22 and .30 ammunition, repair parts, and other supplies to organizations affiliated with the corporation that provide training in the use of firearms.

(b) GUN CLUB MEMBERS.—(1) The corporation may sell, at fair market value, caliber .22 rimfire and caliber .30 surplus rifles, ammunition, repair parts and other supplies necessary for target practice to a citizen of the United States who is over 18 years of age and who is a member of a gun club affiliated with the corporation.

(2) Except as provided in section 40733 of this title, sales under this subsection are subject to applicable United States, State, and local law. In addition to any other requirement, the corporation shall establish procedures to obtain a criminal records check of the individual with United States Government and State law enforcement agencies.

(c) **LIMITATION ON SALES.**—(1) The corporation may not sell a repair part designed to convert a firearm to fire in a fully automatic mode.

(2) The corporation may not sell any item to an individual who has been convicted of—

(A) a felony; or

(B) a violation of section 922 of title 18.

#### **§ 40733. Applicability of other law**

Section 922(a)(1)–(3) and (5) of title 18 does not apply to the shipment, transportation, receipt, transfer, sale, issuance, loan, or delivery by the corporation, of an item that the corporation is authorized to issue, loan, sell, or receive under this chapter.

### **CHAPTER 501—DAUGHTERS OF UNION VETERANS OF THE CIVIL WAR 1861–1865**

Sec.

50101. Definition.

50102. Organization.

50103. Purposes.

50104. Membership.

50105. Governing body.

50106. Powers.

50107. Restrictions.

50108. Duty to maintain tax-exempt status.

50109. Records and inspection.

50110. Service of process.

50111. Liability for acts of officers and agents.

50112. Annual report.

#### **§ 50101. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

#### **§ 50102. Organization**

(a) **FEDERAL CHARTER.**—Daughters of Union Veterans of the Civil War 1861–1865 (in this chapter, the “corporation”), a nonprofit corporation incorporated in Ohio, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

#### **§ 50103. Purposes**

(a) **PROVIDED IN ARTICLES OF INCORPORATION.**—The purposes of the corporation are as provided in the articles of incorporation.

(b) **PERPETUATING MEMORIES.**—To perpetuate the memories of the fathers of the Daughters of Union Veterans of the Civil War 1861–1865, their loyalty to the Union, and their unselfish sacrifices for the preservation of the Union, the purposes of the corporation also include—

(1) encouraging the preservation of historic sites and the construction and preservation of monuments commemorating any aspect of the Civil War;

(2) building and maintaining a Museum of Civil War History, admission to which shall be free and open to the public, in the city of Springfield, Illinois, as a repository of Civil War documents, artifacts, and cultural relics;

(3) maintaining a library in connection with the Civil War museum, admission to which shall be open to the public,

containing the official volumes of the War of the Rebellion Records, Civil War genealogical files, Adjutant General reports of the various States, military and biographical records and accounts of the individual service of Union soldiers, sailors, and marines, diaries, letters, relics, and other records;

(4) promulgating and teaching American history, particularly the history of the Civil War period, through the establishment of scholarship programs at the national and State levels, the presentation of American flags to youth groups and newly naturalized citizens, and the sponsorship of contests of educational merit;

(5) caring for veterans of all wars through volunteer programs in Department of Veterans Affairs medical centers and in homes and other institutions maintained by the States for the welfare of American veterans; and

(6) participating, in a spirit of cooperation and reciprocity, in programs with other societies devoted to American history, veterans' affairs, or community interests.

(c) VETERANS' AND PATRIOTIC ORGANIZATION.—The corporation shall function as a veterans' and patriotic organization as authorized by the laws of each State in which it is incorporated.

#### **§ 50104. Membership**

Eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

#### **§ 50105. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

#### **§ 50106. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 50107. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 50108. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.). If the corporation does not maintain that status, the charter granted by this chapter expires.

**§ 50109. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 50110. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 50111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 50112. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 503—DISABLED AMERICAN VETERANS**

Sec.

50301. Organization.

50302. Purposes.

50303. Membership.

50304. Powers.

50305. Exclusive right to name.

50306. Restrictions.

50307. Service of process.

50308. Annual report.

**§ 50301. Organization**

(a) FEDERAL CHARTER.—Disabled American Veterans (in this chapter, the “corporation”) is a federally chartered corporation.

(b) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

**§ 50302. Purposes**

The purposes of the corporation are—

(1) to uphold and maintain the Constitution and laws of the United States;

(2) to realize the true American ideals and aims for which those eligible to membership fought;

(3) to advance the interests, and work for the betterment, of all wounded, injured, and disabled American veterans;

(4) to cooperate with the Department of Veterans Affairs and all other public and private agencies devoted to the cause of improving and advancing the condition, health, and interests of all wounded, injured, and disabled veterans;

(5) to stimulate a feeling of mutual devotion, helpfulness, and comradeship among all wounded, injured, and disabled veterans;

(6) to serve our comrades, our communities, and our country; and

(7) to encourage in all people that spirit of understanding which will guard against future wars.

#### **§ 50303. Membership**

(a) **ELIGIBILITY.**—An individual is eligible for membership in the corporation if the individual—

(1)(A) was wounded, gassed, injured, or disabled in the line of duty during time of war while in the service of the military or naval forces of the United States; and

(B) was honorably discharged or separated from that service or is still in active service in the Armed Forces of the United States; or

(2)(A) was disabled while serving with any of the Armed Forces of a country associated with the United States as an ally during any of its war periods;

(B) is a citizen of the United States; and

(C) was honorably discharged.

(b) **NO HONORARY MEMBERSHIPS.**—An honorary membership may not be granted.

#### **§ 50304. Powers**

The corporation may—

(1) adopt a constitution, bylaws, and regulations to carry out the purposes of the corporation;

(2) adopt and alter a corporate seal;

(3) adopt emblems and badges;

(4) establish and maintain offices to conduct its activities;

(5) establish State and territorial organizations and local chapter or post organizations;

(6) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(7) publish a newspaper and other publications devoted to the purposes of the corporation;

(8) sue and be sued; and

(9) do any other act necessary or proper to carry out the purposes of the corporation.

#### **§ 50305. Exclusive right to name**

The corporation and its State and local subdivisions have the exclusive right to use the name “Disabled American Veterans”.



**§ 50306. Restrictions**

The corporation shall be nonpolitical and nonsectarian, and may not promote the candidacy of an individual seeking public office.

**§ 50307. Service of process**

As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall file, with the secretary of state or other designated official of each State in which a chapter is organized, the name and address of an agent in that State on whom legal process or demands against the corporation may be served.

**§ 50308. Annual report**

Not later than January 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior fiscal year.

**CHAPTER 601—82ND AIRBORNE DIVISION ASSOCIATION, INCORPORATED**

Sec.

- 60101. Definition.
- 60102. Organization.
- 60103. Purposes.
- 60104. Membership.
- 60105. Governing body.
- 60106. Powers.
- 60107. Restrictions.
- 60108. Duty to maintain tax-exempt status.
- 60109. Records and inspection.
- 60110. Service of process.
- 60111. Liability for acts of officers and agents.
- 60112. Annual report.

**§ 60101. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 60102. Organization**

(a) **FEDERAL CHARTER.**—82nd Airborne Division Association, Incorporated (in this chapter, the “corporation”), a nonprofit corporation incorporated in Illinois, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 60103. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and include—

- (1) perpetuating the memory of members of the 82nd Airborne Division who fought and died for this country;
- (2) furthering the common bond between retired and active members of the 82nd Airborne Division;
- (3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members of the 82nd Airborne Division;
- (4) promoting civic and patriotic activities; and
- (5) promoting the indispensable role of airborne defense to the national security of the United States.

**§ 60104. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

(b) **NONDISCRIMINATION.**—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, or national origin.

**§ 60105. Governing body**

(a) **BOARD OF DIRECTORS.**—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) **OFFICERS.**—The officers and the election of officers are as provided in the articles of incorporation.

(c) **NONDISCRIMINATION.**—The requirements for holding office in the corporation may not discriminate on the basis of race, color, religion, sex, disability, or national origin.

**§ 60106. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**§ 60107. Restrictions**

(a) **STOCK AND DIVIDENDS.**—The corporation may not issue stock or declare or pay a dividend.

(b) **POLITICAL ACTIVITIES.**—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(d) **LOANS.**—The corporation may not make a loan to a director, officer, or employee.

(e) **CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.**—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 60108. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 60109. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 60110. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 60111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 60112. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 701—FLEET RESERVE ASSOCIATION**

Sec.  
70101. Definition.  
70102. Organization.  
70103. Purposes.  
70104. Membership.  
70105. Governing body.  
70106. Powers.  
70107. Restrictions.  
70108. Duty to maintain corporate and tax-exempt status.  
70109. Records and inspection.  
70110. Service of process.  
70111. Liability for acts of officers and agents.  
70112. Annual report.

**§ 70101. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 70102. Organization**

(a) FEDERAL CHARTER.—Fleet Reserve Association (in this chapter, the “corporation”), a nonprofit corporation incorporated in Delaware, is a federally chartered corporation.

(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 70103. Purposes**

(a) GENERAL.—The purposes of the corporation are as provided in its articles of incorporation and bylaws and include—

(1) upholding and defending the Constitution of the United States;

(2) aiding and maintaining an adequate naval defense for the United States;

(3) assisting the recruitment of the best personnel available for the United States Navy, United States Marine Corps, and United States Coast Guard;

(4) providing for the welfare of the personnel who serve in the United States Navy, United States Marine Corps, and United States Coast Guard;

(5) continuing to loyally serve the United States Navy, United States Marine Corps, and United States Coast Guard;

(6) preserving the spirit of shipmanship by providing assistance to shipmates and their families; and

(7) instilling love of the United States and its flag, and promoting soundness of mind and body, in the youth of the United States.

(b) CORPORATE FUNCTION.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of the State of Delaware.

#### **§ 70104. Membership**

(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the articles of incorporation and bylaws.

(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

#### **§ 70105. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the bylaws and articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the bylaws and articles of incorporation.

(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

#### **§ 70106. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 70107. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(c) LOANS.—The corporation may not make a loan to a director, officer, employee, or member.

(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

#### **§ 70108. Duty to maintain corporate and tax-exempt status**

(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of Delaware.

(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 70109. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 70110. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 70111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 70112. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 703—FORMER MEMBERS OF CONGRESS**

Sec.

70301. Definition.

70302. Organization.

70303. Purposes.

70304. Membership.

70305. Governing body.

70306. Powers.

70307. Restrictions.

70308. Duty to maintain tax-exempt status.

70309. Records and inspection.

70310. Service of process.

70311. Liability for acts of officers and agents.

70312. Annual report.

**§ 70301. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 70302. Organization**

(a) FEDERAL CHARTER.—Former Members of Congress (in this chapter, the “corporation”), a nonprofit corporation incorporated in the District of Columbia, is a federally chartered corporation.

(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 70303. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and include the promotion of the cause of good government at the national level by improving the public understanding of Congress as an institution and strengthening its support

by the public. The corporation shall function as an educational, patriotic, civic, historical, and research organization as authorized by the laws of each State in which it is incorporated.

**§ 70304. Membership**

Eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.

**§ 70305. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

**§ 70306. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**§ 70307. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 70308. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 70309. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 70310. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 70311. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 70312. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 705—THE FOUNDATION OF THE FEDERAL BAR ASSOCIATION**

Sec.

- 70501. Organization.
- 70502. Purposes.
- 70503. Membership.
- 70504. Governing body.
- 70505. Powers.
- 70506. Exclusive right to name.
- 70507. Restrictions.
- 70508. Principal office.
- 70509. Records and inspection.
- 70510. Service of process.
- 70511. Liability for acts of officers and agents.
- 70512. Deposit of assets on dissolution or final liquidation.

**§ 70501. Organization**

(a) **FEDERAL CHARTER.**—The Foundation of the Federal Bar Association (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PLACE OF INCORPORATION AND DOMICILE.**—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 70502. Purposes**

The purposes of the corporation are—

(1) to receive and hold property, including by gift, devise, or grant, and to invest, administer, and dispose of the property without restrictions applicable to trustees or trust funds;

(2) to apply its income and any part of its principal exclusively to educational, charitable, scientific, or literary purposes—

(A) to advance the science of jurisprudence;

(B) to uphold high standards for the Federal judiciary and attorneys representing the United States Government;

(C) to promote and improve the administration of justice, including the study of means for the improved handling of the legal business of the departments, agencies, and instrumentalities of the Government;

(D) to facilitate the cultivation and diffusion of knowledge and understanding of the law and the promotion

of the study of the law and the science of jurisprudence and research in jurisprudence, through the maintenance of a law library, the establishment of seminars, lectures, and studies devoted to the law, and the publication of addresses, essays, treatises, reports, and other literary works by students, practitioners, and teachers of the law; and

(E) to provide for the acquisition, preservation, and exhibition of rare books and documents, sculptures, paintings, and other objects of art and historical interest relating to the law, the courts, and the legal profession; and

(3) to do any other acts necessary or incident to the accomplishment of these purposes.

#### **§ 70503. Membership**

(a) MEMBERS.—The members of the corporation are—

(1) the members of the National Council of the Federal Bar Association, a nonprofit corporation incorporated in the District of Columbia, during their term of membership on that Council; and

(2) other individuals the corporation provides for in the bylaws or otherwise.

(b) VOTING.—Each member has one vote on each matter submitted to a vote of the members.

(c) GROUNDS FOR DISQUALIFICATION.—An individual may not be a member, director, or officer of the corporation if the individual—

(1) is a member of, or advocates the principles of, an organization believing in, or working for, the overthrow of the United States Government by force or violence; or

(2) refuses to uphold and defend the Constitution of the United States.

#### **§ 70504. Governing body**

(a) BOARD OF DIRECTORS.—(1) The board of directors is the governing body of the corporation. The board may exercise, or provide for the exercise of, the powers of the corporation.

(2) The board shall consist of 12 individuals elected, and subject to removal at any time, by a majority vote of the members of the corporation. The term of office of an elected director is 6 years. A vacancy on the board shall be filled by a majority vote of the members of the corporation.

(3) The board shall meet at least annually. Each director has one vote on each matter decided by the board. The board may delegate its powers to a prudential committee subject to the direction of, and reporting to, the board.

(4) The president of the corporation is the chairman of the board and of the prudential committee.

(b) OFFICERS.—(1) The officers of the corporation are a president, a vice president, a secretary, a treasurer, a historian, and other officers provided for in the bylaws. The powers of the officers are as provided in the bylaws.

(2) The officers shall be elected by the board of directors at its annual meeting. The term of office of an officer is 1 year.

#### **§ 70505. Powers**

The corporation may—



- (1) adopt and amend bylaws for the management of its property and the regulation of its affairs;
- (2) adopt and alter a corporate seal;
- (3) choose officers, managers, and agents as the activities of the corporation require;
- (4) make contracts;
- (5) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;
- (6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;
- (7) sue and be sued; and
- (8) do any other act necessary and proper to carry out the purposes of the corporation.

**§ 70506. Exclusive right to name**

The corporation has the exclusive right to use the name “The Foundation of the Federal Bar Association”.

**§ 70507. Restrictions**

- (a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.
- (b) POLITICAL ACTIVITIES.—(1) The activities, funds, income, and property of the corporation may not be used to carry on political activity or attempt to influence legislation.  
(2) The corporation or a director or officer as such may not contribute to, support, or assist a political party or candidate for elective public office.
- (c) DISTRIBUTION OF INCOME.—The income of the corporation may not inure to the benefit of a director, officer, member, or private individual.
- (d) LOANS.—The corporation may not make a loan or advance to a director or officer. Directors and officers who vote for, assent to, or participate in making a loan or advance to a director or officer are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.
- (e) IMMUNITY FROM LIABILITY.—Members and private individuals are not liable for the obligations of the corporation.

**§ 70508. Principal office**

The corporation shall have its principal office in the District of Columbia, but may conduct its activities anywhere.

**§ 70509. Records and inspection**

- (a) RECORDS.—The corporation shall keep—
  - (1) correct and complete records of account;
  - (2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and
  - (3) at its principal office, a record of the names and addresses of its members entitled to vote.
- (b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 70510. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 70511. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 70512. Deposit of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be deposited in the Treasury of the United States as a miscellaneous receipt.

**CHAPTER 707—FREDERICK DOUGLASS MEMORIAL AND HISTORICAL ASSOCIATION**

Sec.

70701. Organization.

70702. Purposes.

70703. Governing body.

70704. Powers.

70705. Management of homestead and erection of monument.

70706. Property exempt from taxation.

70707. Misnomer not to affect transfer of property.

70708. Nonapplication of audit requirements.

**§ 70701. Organization**

(a) **FEDERAL CHARTER.**—Frederick Douglass Memorial and Historical Association (in this chapter, the “corporation”) is a body corporate and politic in the District of Columbia.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 70702. Purposes**

The purposes of the corporation are—

(1) to preserve to posterity the memory of the life and character of the late Frederick Douglass; and

(2) to collect, collate, and preserve a historical record of the inception, progress, and culmination of the antislavery movement in the United States, and to assemble in the homestead of the late Frederick Douglass, commonly called Cedar Hill, in the village of Anacostia, District of Columbia, all suitable exhibits of records or things illustrative or commemorative of the antislavery movement and history that are donated to, or acquired by, the corporation.

**§ 70703. Governing body**

(a) **BOARD OF TRUSTEES.**—(1) The board of trustees is the governing body of the corporation. The board shall exercise the powers granted to the corporation.

(2) The board shall consist of at least 9 but not more than 19 members. A vacancy on the board shall be filled by decision of the remaining members of the board.

(3) The board shall adopt a seal under which all acts of the corporation shall be passed and authenticated.

(b) OFFICERS.—(1) The board shall elect officers the board considers necessary, including a treasurer, for the term and at the compensation the board decides, as provided in the bylaws.

(2) The treasurer shall give a bond as provided in the bylaws.

(3) The board may remove an officer, employee, or agent of the corporation for a cause provided in the bylaws.

#### **§ 70704. Powers**

The corporation may—

(1) adopt and amend bylaws for the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) employ persons the corporation considers necessary;

(4) acquire, own, lease, encumber, and transfer property;

(5) sue and be sued; and

(6) do any other act to carry out the purposes of the corporation.

#### **§ 70705. Management of homestead and erection of monument**

After the corporation has acquired any part of the property occupied by the late Frederick Douglass as his homestead, commonly called Cedar Hill, in the village of Anacostia, District of Columbia, the corporation may—

(1) manage, repair, and improve the property to carry out the purposes of the corporation; and

(2) erect on the property a monument to the memory of the late Frederick Douglass.

#### **§ 70706. Property exempt from taxation**

Any property formerly occupied by the late Frederick Douglass as his homestead, commonly called Cedar Hill, in the village of Anacostia, District of Columbia, and owned by the corporation, is exempt from taxation as long as the property is used for the purposes of the corporation.

#### **§ 70707. Misnomer not to affect transfer of property**

A misnomer of the corporation does not affect any transfer of property to or from the corporation.

#### **§ 70708. Nonapplication of audit requirements**

The audit requirements of section 10101 of this title do not apply to the corporation.

### **CHAPTER 709—FUTURE FARMERS OF AMERICA**

Sec.

70901. Organization.

70902. Purposes.

70903. Membership.

70904. Governing body.

70905. National officers.

70906. Powers.

70907. Exclusive right to name, seals, emblems, and badges.

70908. Restrictions.

70909. Availability of personnel, services, and facilities of Department of Education.

70910. Headquarters and principal office.

70911. Records and inspection.

70912. Service of process.

70913. Liability for acts of officers and agents.

70914. Distribution of assets on dissolution or final liquidation.

**§ 70901. Organization**

(a) **FEDERAL CHARTER.**—Future Farmers of America (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 70902. Purposes**

The purposes of the corporation are—

(1) to create, foster, and assist subsidiary chapters composed of students and former students of vocational agriculture in public schools qualifying for Federal reimbursement under the Smith-Hughes Vocational Education Act (20 U.S.C. 11-15, 16-28) and associations of those chapters in the States, territories, and possessions of the United States;

(2) to develop character, train for useful citizenship, and foster patriotism, and thereby develop competent and aggressive rural and agricultural leadership;

(3) to create and nurture a love of country life by encouraging members to improve the farm home and its surroundings, to develop organized rural recreational activities, and to create more interest in the intelligent choice of farming occupations;

(4) to encourage the practice of thrift;

(5) to procure for and distribute to State associations, local chapters, and members all official supplies and equipment of the corporation;

(6) to publish an official magazine and other publications for the members of the corporation;

(7) to strengthen the confidence of young men and women in themselves and their work, to encourage members in the development of individual farming programs, and to promote their permanent establishment in farming by—

(A) encouraging improvement in scholarship;

(B) providing prizes and awards to deserving students who have achieved distinction in vocational agriculture, including farm mechanics activities on a local, State, or national basis; and

(C) assisting financially, through loans or grants, deserving students in all-day vocational agriculture classes and young farmers under 30 years of age who were former students in all-day vocational agriculture classes in becoming satisfactorily established in a farming occupation;

(8) to cooperate with others, including State boards for vocational education, in accomplishing these purposes; and

(9) to engage in other activities, consistent with these purposes, determined by the governing body to be for the best interests of the corporation.

**§ 70903. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.

(b) **VOTING.**—In matters of official business of a local chapter, each member has one vote. In matters of official business of a State association, each qualified delegate of a local chapter has one vote.

**§ 70904. Governing body**

(a) BOARD OF DIRECTORS.—(1) The board of directors is the governing body of the corporation. The board shall exercise the powers granted to the corporation.

(2) The board consists of the Secretary of Education, four staff members in the Department of Education, and four State supervisors of agriculture education. The Secretary is chairman of the board.

(3) The term of office of the directors and the method of selecting the directors (except ex officio directors) are as provided in the bylaws.

(4) The board shall meet at least annually at the time and place provided in the bylaws. The annual report of the board shall be presented at that meeting. Special meetings of the board may be called at any time by the chairman.

(b) GOVERNING COMMITTEE.—The board may designate the chairman of the board and two members of the chairman's staff as a governing committee. When the board is not in session, the governing committee has the powers of the board subject to the board's direction and may authorize the seal of the corporation to be affixed to all papers that require it.

**§ 70905. National officers**

(a) COMPOSITION.—The national officers of the corporation are a student president, four student vice presidents (one from each of four regions of the United States established in the bylaws for purposes of administration of the corporation), a student secretary, an executive secretary, a treasurer, and a national advisor.

(b) BOARD OF STUDENT OFFICERS.—The national student officers of the corporation comprise a board of student officers. The board of student officers shall advise and make recommendations to the board of directors about the activities and business of the corporation.

(c) ELECTION.—The national officers of the corporation shall be elected annually by a majority vote of the delegates assembled in the annual national convention from among qualified members of the corporation, except that—

(1) the national advisor shall be the Secretary of Education;

(2) the executive secretary shall be a member of the Department of Education; and

(3) the treasurer shall be an employee or member of a State agency that directs or supervises a State program of agricultural education under the provisions of the Smith-Hughes Vocational Education Act (20 U.S.C. 11-15, 16-28).

(d) VOTE AT NATIONAL CONVENTION.—Each qualified delegate has one vote at the annual national convention.

**§ 70906. Powers**

The corporation may—

(1) adopt and amend bylaws and regulations for the management of its property and the regulation of its affairs, including the establishment and maintenance of local chapters and State associations of chapters;

(2) adopt and alter a corporate seal;

(3) adopt emblems and badges;

(4) choose officers, managers, agents, and employees as the activities of the corporation require;

- (5) make contracts;
- (6) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;
- (7) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;
- (8) use corporate funds to give prizes, awards, loans, and grants to deserving students and young farmers to carry out the purposes of the corporation;
- (9) publish a magazine and other publications;
- (10) procure for and distribute to State associations, local chapters, and members all official Future Farmers of America supplies and equipment;
- (11) sue and be sued; and
- (12) do any other act necessary and proper to carry out the purposes of the corporation.

**§ 70907. Exclusive right to name, seals, emblems, and badges**

The corporation and its authorized chapters and associations of chapters have the exclusive right to use the name “Future Farmers of America” and the initials FFA as representing an agricultural membership organization and seals, emblems, and badges the corporation adopts.

**§ 70908. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director, officer, or member as such may not contribute to, support, or assist a political party or candidate for elective public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member, except on dissolution or final liquidation of the corporation.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee. Directors who vote for or assent to making a loan to a director, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

(e) PRIZES, AWARDS, GRANTS, OR LOANS TO STUDENT OFFICERS AND MEMBERS MEETING CRITERIA.—This section does not preclude prizes, awards, grants, or loans to student officers and members meeting the criteria established by the board of directors for selecting recipients of those benefits.

**§ 70909. Availability of personnel, services, and facilities of Department of Education**

On request of the board of directors of the corporation, the Secretary of Education may make personnel, services, and facilities of the Department of Education available to administer or assist in the administration of the activities of the corporation. Personnel of the Department may not receive compensation from the corporation for their services, except that travel and other legitimate expenses as defined by the Secretary and approved by the board may be paid. The Secretary also may cooperate with the State

boards for vocational education to assist in the promotion of the activities of the corporation.

**§ 70910. Headquarters and principal office**

The headquarters and principal office of the corporation shall be in the District of Columbia. However, the activities of the corporation are not confined to the District of Columbia but may be conducted throughout the States, territories, and possessions of the United States.

**§ 70911. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member, or an agent or attorney of the member, may inspect the records of the corporation at any reasonable time.

**§ 70912. Service of process**

(a) DISTRICT OF COLUMBIA.—The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Designation of the agent shall be filed in the office of the clerk of the United States District Court for the District of Columbia. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

(b) STATES, TERRITORIES, AND POSSESSIONS.—As a condition to the exercise of any power or privilege granted by this chapter, the Corporation shall file, with the Secretary of State or other designated official of each State, territory, or possession of the United States in which a subordinate association or chapter is organized, the name and address of an agent in that State, territory, or possession on whom legal process or demands against the corporation may be served.

**§ 70913. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 70914. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be used by the board of directors for the benefit of students of vocational agriculture or be transferred to a recognized educational foundation.

**CHAPTER 801—GENERAL FEDERATION OF WOMEN'S CLUBS**

Sec.

80101. Organization.

80102. Purposes.

80103. Constitution and bylaws.

80104. Property.

80105. Principal office and meetings.  
80106. Distribution of assets on dissolution.

#### **§ 80101. Organization**

(a) **FEDERAL CHARTER.**—General Federation of Women’s Clubs (in this chapter, the “corporation”) is a body corporate and politic of the District of Columbia.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 80102. Purposes**

The corporation shall be organized and operated exclusively for charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and shall comply with the requirements for classification as an exempt organization under section 501(c)(3). The charitable purposes of the corporation shall be achieved through volunteer efforts by the members of the corporation, including arts programs, conservation programs, educational programs, homelife programs, international affairs, public affairs programs advancing information about public affairs, and community improvement programs.

#### **§ 80103. Constitution and bylaws**

The corporation shall have a constitution and may adopt bylaws for the admission and qualifications of members, the management of its property, and the regulation of its affairs. The corporation may amend its constitution and bylaws.

#### **§ 80104. Property**

The corporation may—

(1) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation; and

(2) issue instruments of indebtedness in relation to its real property.

#### **§ 80105. Principal office and meetings**

(a) **PRINCIPAL OFFICE.**—The principal office of the corporation shall be in the District of Columbia.

(b) **MEETINGS.**—The corporation may hold its meetings at places outside the District of Columbia.

#### **§ 80106. Distribution of assets on dissolution**

On dissolution of the corporation, the board of directors shall liquidate and distribute its assets to organizations qualified as exempt organizations under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) with purposes similar to those of the corporation.

### **CHAPTER 803—GIRL SCOUTS OF THE UNITED STATES OF AMERICA**

Sec.  
80301. Organization.  
80302. Purposes.  
80303. Governing body.  
80304. Powers.  
80305. Exclusive right to emblems, badges, marks, and words.  
80306. Restrictions.  
80307. Annual report.



**§ 80301. Organization**

(a) **FEDERAL CHARTER.**—Girl Scouts of the United States of America (in this chapter, the “corporation”) is a body corporate and politic of the District of Columbia.

(b) **DOMICILE.**—The domicile of the corporation is the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 80302. Purposes**

The purposes of the corporation are—

(1) to promote the qualities of truth, loyalty, helpfulness, friendliness, courtesy, purity, kindness, obedience, cheerfulness, thriftiness, and kindred virtues among girls, as a preparation for their responsibilities in the home and for service to the community;

(2) to direct and coordinate the Girl Scout movement in the United States and territories and possessions of the United States; and

(3) to fix and maintain standards for the movement that will inspire the rising generation with the highest ideals of character, patriotism, conduct, and attainment.

**§ 80303. Governing body**

(a) **NATIONAL COUNCIL.**—(1) There shall be a National Council of Girl Scouts. The number, qualifications, and term of office of members of the Council are as provided in the constitution of the corporation, except that members of the Council must be citizens of the United States.

(2) The Council may adopt and amend a constitution and bylaws and elect a board of directors, officers, and agents.

(3) The constitution may prescribe the number of members of the Council necessary for a quorum. That number may be less than a majority of the entire Council.

(4) Meetings of the Council shall be held as provided in the constitution to hold elections and receive reports of the officers and board of directors. Special meetings may be called as provided in the constitution.

(b) **BOARD OF DIRECTORS.**—(1) To the extent provided in the constitution and bylaws, the board of directors shall have the powers of the Council and manage the activities of the corporation between meetings of the Council. The number, qualifications, and term of office of directors are as provided in the constitution.

(2) The constitution may prescribe the number of directors necessary for a quorum. That number shall be at least 20 or two-fifths of the entire board.

(c) **EXECUTIVE AND OTHER COMMITTEES.**—The bylaws may provide for—

(1) an executive committee to carry out the powers of the board of directors between meetings of the board; and

(2) other committees to operate under the general supervision of the board of directors.

(d) **LOCATION OF MEETINGS AND RECORDS.**—The Council and the board of directors may hold meetings and keep the seal and records of the corporation in or outside the District of Columbia.

**§ 80304. Powers**

The corporation may—

(1) adopt and amend a constitution, bylaws, and regulations, including regulations for the election of associates and successors;

(2) adopt and alter a seal;

(3) have offices and conduct its activities in the District of Columbia and in the States, territories, and possessions of the United States;

(4) acquire, own, lease, encumber, and transfer property, and use any income from the property, as necessary to carry out the purposes of the corporation;

(5) sue and be sued within the jurisdiction of the United States; and

(6) do any other act necessary to carry out this chapter and the purposes of the corporation.

**§ 80305. Exclusive right to emblems, badges, marks, and words**

The corporation has the exclusive right to use all emblems and badges, descriptive or designating marks, and words or phrases the corporation adopts, including the badge of the Girl Scouts, Incorporated, referred to in the Act of August 12, 1937 (ch. 590, 50 Stat. 623), and to authorize their use, during the life of the corporation, in connection with the manufacture, advertisement, and sale of equipment and merchandise. This section does not affect any vested rights.

**§ 80306. Restrictions**

(a) PROFIT.—The corporation may not operate for profit.

(b) POLITICAL ACTIVITIES.—The corporation shall be nonpolitical and nonsectarian.

**§ 80307. Annual report**

Not later than April 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior fiscal year. The report shall be printed each year, with accompanying illustrations, as a separate House document of the session of the Congress to which the report is submitted.

**CHAPTER 805—GOLD STAR WIVES OF AMERICA**

Sec.

80501. Definition.

80502. Organization.

80503. Purposes.

80504. Membership.

80505. Governing body.

80506. Powers.

80507. Restrictions.

80508. Duty to maintain tax-exempt status.

80509. Records and inspection.

80510. Service of process.

80511. Liability for acts of officers and agents.

80512. Annual report.

**§ 80501. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 80502. Organization**

(a) **FEDERAL CHARTER.**—Gold Star Wives of America (in this chapter, the “corporation”), incorporated in New York, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 80503. Purposes**

The purposes of the corporation are—

(1) to operate in the public interest, as a nonpartisan and nonprofit organization, solely for patriotic, charitable, literary, educational, scientific, or civic improvement purposes; and

(2) the purposes stated in its articles of incorporation that are not inconsistent with the purposes described in clause (1) of this section.

**§ 80504. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the articles of incorporation and bylaws.

(b) **NONDISCRIMINATION.**—The terms of membership may not discriminate on the basis of race, color, religion, or national origin.

**§ 80505. Governing body**

(a) **BOARD OF DIRECTORS.**—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) **OFFICERS.**—The officers and the election of officers are as provided in the articles of incorporation.

(c) **NONDISCRIMINATION.**—The requirements for holding office in the corporation may not discriminate on the basis of race, color, religion, or national origin.

**§ 80506. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in the State in which it is incorporated.

**§ 80507. Restrictions**

(a) **STOCK AND DIVIDENDS.**—The corporation may not issue stock or declare or pay a dividend.

(b) **POLITICAL ACTIVITIES.**—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) **LOANS.**—The corporation may not make a loan to any director, officer, or employee.

**§ 80508. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 80509. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 80510. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 80511. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority and in accordance with the laws of the States in which it carries on its activities.

**§ 80512. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior calendar year. The report may not be printed as a public document.

**CHAPTER 901—[RESERVED]****CHAPTER 1001—ITALIAN AMERICAN WAR VETERANS OF THE UNITED STATES**

Sec.

100101. Definition.

100102. Organization.

100103. Purposes.

100104. Membership.

100105. Governing body.

100106. Powers.

100107. Restrictions.

100108. Duty to maintain tax-exempt status.

100109. Records and inspection.

100110. Service of process.

100111. Liability for acts of officers and agents.

100112. Annual report.

**§ 100101. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 100102. Organization**

(a) FEDERAL CHARTER.—Italian American War Veterans of the United States (in this chapter, the “corporation”), a nonprofit corporation incorporated in California, Connecticut, Florida, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island, is a federally chartered corporation.

(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

#### **§ 100103. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and include—

(1) giving patriotic allegiance to the United States, fidelity to the Constitution and laws of the United States, and support to the security of civil liberty and permanence of free institutions;

(2) stimulating patriotism in the minds of Americans by encouraging the study of the history of the United States;

(3) ensuring the preservation and defense of the United States from all enemies without reservation;

(4) preserving the memories and records of patriotic service performed by men and women who served in the Armed Forces, by gathering, collating, editing, publishing, and exhibiting the memorabilia, information, records, military awards, decorations, and citations of those who served in the Armed Forces;

(5) promoting peace, prosperity, and good will between the peoples of the United States and Italy; and

(6) functioning as a veterans' and patriotic organization as authorized by the laws of each State in which it is incorporated.

#### **§ 100104. Membership**

A citizen of the United States who was honorably discharged from the Armed Forces is eligible for membership in the corporation. Except as provided in this chapter, eligibility for membership and the rights and privileges of members are as provided in the bylaws.

#### **§ 100105. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

#### **§ 100106. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 100107. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement

for actual necessary expenses in amounts approved by the board of directors.

(d) **LOANS.**—The corporation may not make a loan to a director, officer, or employee.

(e) **CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.**—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 100108. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 100109. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and
- (3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 100110. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 100111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 100112. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 1101—JEWISH WAR VETERANS OF THE UNITED STATES OF AMERICA, INCORPORATED**

Sec.

- 110101. Definition.
- 110102. Organization.
- 110103. Purposes.
- 110104. Membership.
- 110105. Governing body.
- 110106. Powers.
- 110107. Restrictions.
- 110108. Duty to maintain corporate and tax-exempt status.
- 110109. Records and inspection.
- 110110. Service of process.
- 110111. Liability for acts of officers and agents.
- 110112. Annual report.

**§ 110101. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 110102. Organization**

(a) **FEDERAL CHARTER.**—Jewish War Veterans of the United States of America, Incorporated (in this chapter, the “corporation”), a nonprofit corporation incorporated in New York, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 110103. Purposes**

The purposes of the corporation are as provided in its articles of incorporation and include a continuing commitment, on a national basis, to—

- (1) maintain true allegiance to the United States;
- (2) foster and perpetuate true Americanism;
- (3) combat whatever tends to impair the efficiency and permanency of our free institutions;
- (4) uphold the fair name of Jews and fight their battles wherever unjustly assailed;
- (5) encourage the doctrine of universal liberty, equal rights, and full justice to all men;
- (6) combat the powers of bigotry and darkness wherever originating and whatever the target;
- (7) preserve the spirit of comradeship by mutual helpfulness to comrades and their families;
- (8) cooperate with and support existing educational institutions and establish educational institutions;
- (9) foster the education of ex-servicemen and ex-service-women and members of the corporation in the ideals and principles of Americanism;
- (10) instill love of country and flag;
- (11) promote sound minds and bodies in members of the corporation and their youth;
- (12) preserve the memories and records of patriotic service performed by the men and women of the Jewish faith and honor their memory; and
- (13) shield from neglect the graves of our heroic dead.

**§ 110104. Membership**

Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

**§ 110105. Governing body**

(a) **BOARD OF DIRECTORS.**—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) **OFFICERS.**—The officers and the election of officers are as provided in the articles of incorporation.

**§ 110106. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**§ 110107. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(c) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 110108. Duty to maintain corporate and tax-exempt status**

(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of New York.

(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 110109. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 110110. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 110111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 110112. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 1103—JEWISH WAR VETERANS, U.S.A.,  
NATIONAL MEMORIAL, INCORPORATED**

Sec.  
110301. Organization.  
110302. Purposes.  
110303. Governing body.



- 110304. Powers.
- 110305. Restrictions.
- 110306. Principal office.
- 110307. Records and inspection.
- 110308. Service of process.
- 110309. Liability for acts of officers and agents.
- 110310. Distribution of assets on dissolution or final liquidation.

#### **§ 110301. Organization**

(a) **FEDERAL CHARTER.**—Jewish War Veterans, U.S.A., National Memorial, Incorporated (in this chapter, the “corporation”), is a federally chartered corporation.

(b) **PLACE OF INCORPORATION AND DOMICILE.**—The corporation is declared to be a nonprofit corporation incorporated and domiciled in the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 110302. Purposes**

The purposes of the corporation are—

(1) to maintain and conduct a national memorial and museum dedicated to and commemorating the service and sacrifice by Americans of the Jewish faith in the Armed Forces of the United States during the period of war;

(2) to gather, collate, edit, publish, and exhibit memorabilia, information, records, military awards, decorations, citations, and similar items, to preserve the memories and records of patriotic service performed by men and women of the Jewish faith while in the Armed Forces of the United States in time of war; and

(3) to stimulate patriotism in the minds of all Americans by encouraging the study of the military and naval history of the United States.

#### **§ 110303. Governing body**

(a) **BOARD OF DIRECTORS.**—(1) The board of directors is the governing body of the corporation. Between meetings of the corporation, the board is responsible for the general policies and program of the corporation. The board is responsible for the control of all funds of the corporation.

(2) The number of directors, their manner of selection (including the filling of vacancies), and their term of office are as provided in the constitution and bylaws of the corporation. However, the board shall have at least 36 directors.

(b) **OFFICERS.**—(1) The officers of the corporation are a president, one or more vice presidents as provided in the constitution and bylaws, a secretary, and a treasurer.

(2) The manner of election, term of office, and duties of the officers are as provided in the constitution and bylaws.

#### **§ 110304. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) make contracts;

(4) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(5) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property; and

(6) sue and be sued.

#### **§ 110305. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director or officer. This subsection does not prevent the payment of compensation to an officer or employee in an amount approved by the executive committee of the corporation.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee. Directors who vote for or assent to making a loan to a director, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

#### **§ 110306. Principal office**

The principal office of the corporation shall be in the District of Columbia. However, the activities of the corporation are not confined to the District of Columbia but may be conducted throughout the States, territories, and possessions of the United States.

#### **§ 110307. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 110308. Service of process**

The corporation shall have a designated agent in its headquarters in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the headquarters of the corporation in the District of Columbia, is notice to or service on the corporation.

#### **§ 110309. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### **§ 110310. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but in compliance with the constitution and bylaws of the corporation. This section does not

allow assets to be distributed to an officer or employee or to inure to the benefit of a private person.

## **CHAPTER 1201—[RESERVED]**

## **CHAPTER 1301—LADIES OF THE GRAND ARMY OF THE REPUBLIC**

Sec.

- 130101. Organization.
- 130102. Purposes.
- 130103. Membership.
- 130104. Governing body.
- 130105. Powers.
- 130106. Exclusive right to name, seals, emblems, and badges.
- 130107. Restrictions.
- 130108. Principal office.
- 130109. Records and inspection.
- 130110. Service of process.
- 130111. Liability for acts of officers and agents.
- 130112. Annual report.
- 130113. Distribution of assets on dissolution or final liquidation.

### **§ 130101. Organization**

(a) **FEDERAL CHARTER.**—Ladies of the Grand Army of the Republic (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PLACE OF INCORPORATION AND DOMICILE.**—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

### **§ 130102. Purposes**

The purposes of the corporation are—

(1) to perpetuate the memory of the Grand Army of the Republic and of the men who saved the Union in 1861 to 1865;

(2) to assist in every practicable way in preserving, and making available for research, documents and records pertaining to the Grand Army of the Republic and its members;

(3) to cooperate in doing honor to all those who have served our country patriotically in any way;

(4) to teach patriotism, the duties of citizenship, the true history of our country, and the love and honor of our flag;

(5) to oppose every tendency or movement that would weaken loyalty to, destroy, or impair our constitutional Union; and

(6) to inculcate and broadly sustain the American principles of representative government, equal rights, and impartial justice for all.

### **§ 130103. Membership**

(a) **ELIGIBILITY.**—(1) Except as provided in this chapter, eligibility for membership in the corporation and the rights, privileges, and designation of classes of members are as provided in the constitution and bylaws of the corporation.

(2) Eligibility for membership is limited to female blood relatives of an individual who—

(A) served at any time during the period April 12, 1861, through April 9, 1865, as a soldier or sailor in—

(i) the United States Army, Navy, Marine Corps, or Revenue-Cutter Service; or

(ii) a State regiment that was called into active service and was subject to orders of United States general officers during that period; and

(B) was honorably discharged from, or died in, that service.

(b) VOTING.—Each member has one vote on each matter submitted to a vote at a meeting of the members.

#### **§ 130104. Governing body**

(a) NATIONAL CONVENTION.—(1) The national convention is the supreme governing authority of the corporation.

(2) The national convention is composed of officers and elected representatives from the States and other local subdivisions of the corporation as provided in the constitution and bylaws. However, the form of government of the corporation must be representative of the membership at large and may not permit concentration of control in a limited number of members or in a self-perpetuating group not representative of the membership at large.

(3) The meetings of the national convention may be held in the District of Columbia or in any State, territory, or possession of the United States.

(b) OFFICERS.—The titles, manner of selection, term of office, and duties of the officers are as provided in the constitution and bylaws of the corporation.

#### **§ 130105. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, managers, agents, and employees as the activities of the corporation require;

(4) make contracts;

(5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(7) sue and be sued; and

(8) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 130106. Exclusive right to name, seals, emblems, and badges**

The corporation and its subordinate divisions have the exclusive right to use the name “Ladies of the Grand Army of the Republic”. The corporation has the exclusive right to use and to allow others to use seals, emblems, and badges the corporation adopts.

#### **§ 130107. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or an officer or agent as such may not contribute to a political party or candidate for public office.

(c) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, an officer or member during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the council of administration of the corporation.

(d) **LOANS.**—The corporation may not make a loan or advance to an officer or employee. Members of the council of administration who vote for or assent to making a loan or advance to an officer or employee, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

#### **§ 130108. Principal office**

The principal office of the corporation shall be in the District of Columbia or another place decided by the corporation. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

#### **§ 130109. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

(1) correct and complete records of account; and

(2) minutes of the proceedings of its national conventions and council of administration.

(b) **INSPECTION.**—A member, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 130110. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

#### **§ 130111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### **§ 130112. Annual report**

Not later than March 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior fiscal year. The report may consist of a report on the proceedings of the national convention. The report may not be printed as a public document.

#### **§ 130113. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the council of administration, but in compliance with the constitution and bylaws of the corporation.

**CHAPTER 1303—LEGION OF VALOR OF THE UNITED STATES OF AMERICA, INCORPORATED**

Sec.

- 130301. Organization.
- 130302. Principles and purposes.
- 130303. Membership.
- 130304. Governing body.
- 130305. Powers.
- 130306. Restrictions.
- 130307. Principal office.
- 130308. Records and inspection.
- 130309. Service of process.
- 130310. Liability for acts of officers and agents.
- 130311. Distribution of assets on dissolution or final liquidation.

**§ 130301. Organization**

(a) **FEDERAL CHARTER.**—Legion of Valor of the United States of America, Incorporated (in this chapter, the “corporation”), is a federally chartered corporation.

(b) **PLACE OF INCORPORATION AND DOMICILE.**—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

(d) **REFERENCES TO ARMY AND NAVY LEGION OF VALOR OF THE UNITED STATES OF AMERICA, INCORPORATED.**—Any reference to the Army and Navy Legion of Valor of the United States of America, Incorporated, is deemed to refer to the Legion of Valor of the United States of America, Incorporated.

**§ 130302. Principles and purposes**

(a) **PRINCIPLES.**—The principles underlying the corporation are patriotic allegiance to the United States of America, fidelity to the constitution and laws of the United States, the security of civil liberty, and the permanence of free institutions.

(b) **PURPOSES.**—The purposes of the corporation are—

(1) to cherish the memories of the valiant deeds in arms for which the Congressional Medal of Honor, the Distinguished Service Cross, the Navy Cross, and the Air Force Cross are the insignia;

(2) to promote true fellowship among its members;

(3) to advance the best interests of members of the Armed Forces of the United States of America;

(4) to extend all possible relief to needy members of the corporation and their widows and children; and

(5) to stimulate patriotism in the minds of our youth by encouraging the study of the patriotic, military, and naval history of our Nation.

**§ 130303. Membership**

(a) **ELIGIBILITY.**—An individual is eligible for active membership in the corporation if the individual—

(1) is of good moral character; and

(2) has received a Congressional Medal of Honor, a Distinguished Service Cross, a Navy Cross, or an Air Force Cross awarded for acts of extraordinary heroism in connection with military or naval operations against an armed enemy, or for heroism of a specially distinguished character, as a member of the Armed Forces of the United States or any foreign country.

(b) **EXTENSION OF ELIGIBILITY TO PARENTS AND DESCENDANTS.**—The corporation may extend eligibility for membership, either active or associate, to parents and lineal descendants of an individual described in subsection (a) of this section on terms provided in its constitution and bylaws.

(c) **VOTING.**—Each member (except an associate member) has one vote on each matter submitted to a vote at a meeting of the members.

#### **§ 130304. Governing body**

(a) **BOARD OF DIRECTORS.**—(1) The board of directors is the governing body of the corporation. Between meetings of the corporation, the board is responsible for the general policies and program of the corporation. The board is responsible for all funds of the corporation.

(2) The number of directors, their manner of selection (including the filling of vacancies), and their term of office are as provided in the constitution and bylaws of the corporation. However, the board shall have at least 10 directors.

(b) **OFFICERS.**—(1) The officers of the corporation are a commander, a senior vice commander, a junior vice commander, a chaplain, an adjutant and quartermaster, a judge advocate, an inspector, a surgeon, a historian, and any aides-de-camp provided in the constitution and bylaws.

(2) The manner of election, term of office, and duties of the officers are as provided in the constitution and bylaws.

#### **§ 130305. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) make contracts;

(4) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(5) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(6) charge and collect membership dues; and

(7) sue and be sued.

#### **§ 130306. Restrictions**

(a) **STOCK AND DIVIDENDS.**—The corporation may not issue stock or declare or pay a dividend.

(b) **POLITICAL ACTIVITIES.**—The corporation or a director or officer as such may not contribute to, support, or assist a political party or candidate for public office.

(c) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member except on dissolution or final liquidation of the corporation. This subsection does not prevent the payment of compensation to an officer in an amount approved by the executive committee of the corporation.

(d) **LOANS.**—The corporation may not make a loan to a director, officer, or employee. Directors who vote for or assent to making a loan to a director, officer, or employee, and officers who participate

in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

**§ 130307. Principal office**

The principal office of the corporation shall be in a place decided by the board of directors. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

**§ 130308. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 130309. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 130310. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 130311. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but in compliance with the constitution and bylaws of the corporation.

**CHAPTER 1305—LITTLE LEAGUE BASEBALL,  
INCORPORATED**

Sec.

130501. Organization.

130502. Purposes.

130503. Membership.

130504. Governing body.

130505. Powers.

130506. Exclusive right to name and emblems.

130507. Restrictions.

130508. Principal office.

130509. Records and inspection.

130510. Statement required in audit report.

130511. Service of process.

130512. Liability for acts of officers and agents.

130513. Distribution of assets on dissolution or final liquidation.

**§ 130501. Organization**

(a) FEDERAL CHARTER.—Little League Baseball, Incorporated (in this chapter, the “corporation”), is a federally chartered corporation.



(b) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 130502. Purposes**

The purposes of the corporation are—

(1) to promote, develop, supervise, and voluntarily assist in all lawful ways the interest of young people who participate in Little League baseball;

(2) to help and voluntarily assist young people in developing qualities of citizenship and sportsmanship; and

(3) using the disciplines of the native American game of baseball, to teach spirit and competitive will to win, physical fitness through individual sacrifice, the values of team play, and wholesome well being through healthy social association with other youngsters under proper leadership.

#### **§ 130503. Membership**

(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

(b) VOTING.—Each member (except an honorary or associate member) has one vote on each matter submitted to a vote at a meeting of the members.

#### **§ 130504. Governing body**

(a) BOARD OF DIRECTORS.—(1) The board of directors is the governing body of the corporation. Between meetings of the corporation, the board is responsible for the general policies and program of the corporation. The board is responsible for the control of all funds of the corporation.

(2) The number of directors, their manner of selection (including the filling of vacancies), and their term of office are as provided in the constitution and bylaws of the corporation. However, the board shall have at least 13 directors.

(b) OFFICERS.—(1) The officers of the corporation are a chairman of the board of directors, a president, a vice president, and a secretary-treasurer. Their duties are as provided in the constitution and bylaws of the corporation.

(2) The officers shall be elected annually at the annual meeting of the corporation.

#### **§ 130505. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) adopt, alter, and display seals, emblems, and badges;

(4) choose directors, officers, trustees, managers, employees, and agents as the activities of the corporation require;

(5) make contracts;

(6) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(7) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

- (8) charge and collect membership dues and subscription fees;
- (9) sue and be sued; and
- (10) do any other act necessary or desirable to carry out the purposes of the corporation.

#### **§ 130506. Exclusive right to name and emblems**

The corporation has the exclusive right to use and to allow others to use the names “Little League” and “Little Leaguer” and the official Little League emblem or any colorable simulation of that emblem. This section does not affect any vested rights.

#### **§ 130507. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director, officer, or agent as such may not contribute to, support, or assist any political party or candidate for office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income and assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of reasonable compensation to an officer in an amount approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee. Directors who vote for or assent to making a loan to a director, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

#### **§ 130508. Principal office**

The principal office of the corporation shall be in Williamsport, Pennsylvania, or another place decided by the board of directors. However, the activities of the corporation may be conducted throughout the world.

#### **§ 130509. Records and inspection**

(a) RECORDS.—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and
- (3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 130510. Statement required in audit report**

The corporation shall include in the audit report statement required under section 10101(b)(1)(B) of this title a schedule of all contracts requiring payments greater than \$10,000 and all payments of compensation or fees at a rate greater than \$10,000 a year.

**§ 130511. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 130512. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 130513. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but consistent with the purposes of the corporation and in compliance with the constitution and bylaws of the corporation.

**CHAPTER 1401—MARINE CORPS LEAGUE**

Sec.

140101. Organization.

140102. Purposes.

140103. Powers.

140104. Annual report.

**§ 140101. Organization**

(a) **FEDERAL CHARTER.**—Marine Corps League (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 140102. Purposes**

The purposes of the corporation are—

(1) to preserve the traditions and to promote the interests of the United States Marine Corps;

(2) to band those who, on August 4, 1937, were serving in the United States Marine Corps and those who have been honorably discharged from that service together in fellowship that they may effectively promote the ideals of American freedom and democracy;

(3) to fit its members for the duties of citizenship and to encourage them to serve as ably as citizens as they have served the Nation under arms;

(4) to hold sacred the history and memory of the men who have given their lives to the Nation;

(5) to foster love for the principles which they have supported by blood and valor since the founding of the Republic;

(6) to maintain true allegiance to American institutions;

(7) to create a bond of comradeship between those in service and those who have returned to civil life;

(8) to aid voluntarily and to render assistance to all marines and former marines as well as to their widows and orphans; and

(9) to perpetuate the history of the United States Marine Corps and by fitting acts to observe the anniversaries of historical occasions of peculiar interest to marines.

**§ 140103. Powers**

The corporation may—

- (1) adopt and amend bylaws;
- (2) adopt and alter a corporate seal;
- (3) appoint or elect officers and agents;
- (4) choose a board of trustees, consisting of at least 5 but not more than 15 individuals, to conduct the business and exercise the powers of the corporation;
- (5) establish and maintain offices to conduct its activities;
- (6) acquire, own, lease, encumber, and transfer property as necessary or appropriate to carry out the purposes of the corporation;
- (7) charge and collect membership dues and receive contributions of money or property to be devoted to carrying out the purposes of the corporation;
- (8) sue and be sued; and
- (9) do any other act necessary or appropriate to carry out the purposes of the corporation.

**§ 140104. Annual report**

Not later than December 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior calendar year. The report may not be printed as a public document.

**CHAPTER 1403—THE MILITARY CHAPLAINS  
ASSOCIATION OF THE UNITED STATES OF AMERICA**

Sec.

140301. Organization.

140302. Purposes.

140303. Powers.

140304. Exclusive right to name.

140305. Annual report.

**§ 140301. Organization**

(a) **FEDERAL CHARTER.**—The Military Chaplains Association of the United States of America (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 140302. Purposes**

The purposes of the corporation are—

- (1) to safeguard and strengthen the forces of faith and morality of our Nation;
- (2) to perpetuate and deepen the bonds of understanding and friendship of our military service;
- (3) to preserve our spiritual influence and interest in all members and veterans of the Armed Forces;
- (4) to uphold the Constitution of the United States; and
- (5) to promote justice, peace, and good will.

**§ 140303. Powers**

The corporation may—

- (1) make its own organization, including its constitution, bylaws, and regulations;
- (2) adopt and alter a corporate seal;

- (3) establish and maintain offices to conduct its activities;
- (4) appoint or elect officers and agents;
- (5) authorize the executive committee to conduct the business and exercise the powers of the corporation;
- (6) acquire, own, lease, encumber, and transfer property as necessary or appropriate to carry out the purposes of the corporation;
- (7) publish a magazine and other publications;
- (8) charge and collect membership dues and subscription fees;
- (9) sue and be sued; and
- (10) do any other act necessary or appropriate to carry out the purposes of the corporation.

**§ 140304. Exclusive right to name**

The corporation and its area, State, and local chapters have the exclusive right to use the name “The Military Chaplains Association of the United States of America”.

**§ 140305. Annual report**

Not later than September 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior calendar year. The report may not be printed as a public document.

**CHAPTER 1405—MILITARY ORDER OF THE PURPLE HEART OF THE UNITED STATES OF AMERICA, INCORPORATED**

- Sec.
- 140501. Organization.
  - 140502. Principles and purposes.
  - 140503. Membership.
  - 140504. Governing body.
  - 140505. Powers.
  - 140506. Restrictions.
  - 140507. Principal office.
  - 140508. Records and inspection.
  - 140509. Liability for acts of officers and agents.
  - 140510. Service of process.
  - 140511. Distribution of assets on dissolution or final liquidation.

**§ 140501. Organization**

(a) **FEDERAL CHARTER.**—Military Order of the Purple Heart of the United States of America, Incorporated (in this chapter, the “corporation”), is a federally chartered corporation.

(b) **PLACE OF INCORPORATION AND DOMICILE.**—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 140502. Principles and purposes**

(a) **PRINCIPLES.**—The principles underlying the corporation are patriotic allegiance to the United States, fidelity to the Constitution and laws of the United States, the security of civil liberty, and the permanence of free institutions.

(b) **PURPOSES.**—The purposes of the corporation are educational, fraternal, historical, and patriotic, perpetuating the principles of liberty and justice which have created the United States, by—

- (1) commemorating all national patriotic holidays;
- (2) maintaining true allegiance to the Government of the United States and fidelity to its Constitution and laws;
- (3) preserving and strengthening comradeship and patriotism among its members;
- (4) assisting, comforting, and aiding all needy and distressed members and their dependents;
- (5) giving needed hospital and service work through its Department of Veterans Affairs certified service officers;
- (6) cooperating with other civic and patriotic organizations having worthy objectives;
- (7) keeping alive the achievements and memory of our country's founders;
- (8) ever cherishing the memory of General George Washington, who founded the Purple Heart at his headquarters at Newburgh-on-the-Hudson on August 7, 1782;
- (9) influencing and teaching our citizenry, in a loyal appreciation of the heritages of American citizenship, with its responsibilities and privileges; and
- (10) preserving and defending the United States from all enemies.

#### **§ 140503. Membership**

(a) **ACTIVE MEMBERS.**—An individual is eligible for active membership in the corporation if the individual—

- (1) is of good moral character; and
- (2) has received the Purple Heart for wounds received as a member, of any rank, of the Armed Forces of the United States or any foreign country during military or naval combat against an armed enemy of the United States.

(b) **ASSOCIATE MEMBERS.**—The corporation may extend eligibility for membership as associate members to parents and lineal descendants of an individual described in subsection (a) of this section on terms provided in its constitution and bylaws.

(c) **VOTING.**—Each member described in subsection (a) of this section has one vote on each matter submitted to a vote at a meeting of the members.

#### **§ 140504. Governing body**

(a) **BOARD OF DIRECTORS.**—(1) The board of directors is the governing body of the corporation. Between meetings of the corporation, the board is responsible for the general policies and program of the corporation. The board is responsible for all funds of the corporation.

(2) The number of directors, their manner of selection (including the filling of vacancies), and their term of office are as provided in the constitution and bylaws of the corporation. However, the board shall have at least 18 directors.

(b) **OFFICERS.**—(1) The officers of the corporation are a commander, a senior vice commander, a chaplain, an adjutant, a finance officer, a judge advocate, an inspector, a surgeon, a historian, and other elected officers as provided in the constitution and bylaws.

(2) The manner of election, term of office, and duties of the officers are as provided in the constitution and bylaws.

#### **§ 140505. Powers**

The corporation may—

- (1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;
- (2) adopt and alter a corporate seal;
- (3) make contracts;
- (4) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;
- (5) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;
- (6) charge and collect membership dues; and
- (7) sue and be sued.

**§ 140506. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member except on dissolution or final liquidation of the corporation. This subsection does not prevent the payment of compensation to an officer in an amount approved by the executive committee of the corporation.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee. Directors who vote for or assent to making a loan to a director, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

**§ 140507. Principal office**

The principal office of the corporation shall be in the District of Columbia or another place decided by the national executive board. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

**§ 140508. Records and inspection**

(a) RECORDS.—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and
- (3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 140509. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 140510. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 140511. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but in compliance with the constitution and bylaws of the corporation.

**CHAPTER 1407—MILITARY ORDER OF THE WORLD WARS**

Sec.  
140701. Definition.  
140702. Organization.  
140703. Purposes.  
140704. Membership.  
140705. Governing body.  
140706. Powers.  
140707. Restrictions.  
140708. Duty to maintain tax-exempt status.  
140709. Records and inspection.  
140710. Service of process.  
140711. Liability for acts of officers and agents.  
140712. Annual report.

**§ 140701. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 140702. Organization**

(a) **FEDERAL CHARTER.**—Military Order of the World Wars (in this chapter, the “corporation”), a nonprofit corporation incorporated in the District of Columbia, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—The charter granted by this chapter expires if the corporation fails to comply with any provision of—

- (1) its bylaws or articles of incorporation;
- (2) this chapter; or
- (3) the laws of the District of Columbia that apply to corporations such as the corporation recognized under this chapter.

**§ 140703. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and bylaws and include—

- (1) promoting military service associations;
- (2) promoting patriotic education and military, naval, and air science;
- (3) defending the honor and integrity of the United States Government and the Constitution;
- (4) fostering fraternal relations among all branches of the Armed Forces;
- (5) encouraging the adoption of a suitable policy of national security; and
- (6) encouraging the commemoration of military service and the establishment of war memorials.



**§ 140704. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the articles of incorporation and bylaws.

(b) **NONDISCRIMINATION.**—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

**§ 140705. Governing body**

(a) **BOARD OF DIRECTORS.**—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) **OFFICERS.**—The officers and the election of officers are as provided in the articles of incorporation.

(c) **NONDISCRIMINATION.**—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

**§ 140706. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in the State in which it is incorporated.

**§ 140707. Restrictions**

(a) **STOCK AND DIVIDENDS.**—The corporation may not issue stock or declare or pay a dividend.

(b) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(c) **LOANS.**—The corporation may not make a loan to a director, officer, or employee.

(d) **CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.**—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 140708. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 140709. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 140710. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 140711. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 140712. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

## **CHAPTER 1501—NATIONAL ACADEMY OF PUBLIC ADMINISTRATION**

Sec.

- 150101. Definition.
- 150102. Organization.
- 150103. Purposes.
- 150104. Services to United States Government.
- 150105. Membership.
- 150106. Governing body.
- 150107. Powers.
- 150108. Restrictions.
- 150109. Duty to maintain corporate and tax-exempt status.
- 150110. Records and inspection.
- 150111. Service of process.
- 150112. Liability for acts of officers and agents.
- 150113. Annual report.

**§ 150101. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 150102. Organization**

(a) **FEDERAL CHARTER.**—National Academy of Public Administration (in this chapter, the “corporation”), incorporated in the District of Columbia, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 150103. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and include—

- (1) evaluating the structure, administration, operation, and program performance of Federal and other governments and government agencies, anticipating, identifying, and analyzing significant problems, and suggesting timely corrective action;
- (2) foreseeing and examining critical emerging issues in governance, and formulating practical approaches to their resolution;
- (3) assessing the effectiveness, structure, administration, and implications for governance of present or proposed public programs, policies, and processes, and recommending specific changes;

(4) advising on the relationship of Federal, State, regional, and local governments, and increasing public officials', citizens', and scholars' understanding of requirements and opportunities for sound governance and how these can be effectively met; and

(5) demonstrating by the conduct of its affairs a commitment to the highest professional standards of ethics and scholarship.

#### **§ 150104. Services to United States Government**

On request of the United States Government, the corporation shall investigate, examine, experiment, and report on any subject of government. The actual expense of the investigation, examination, experimentation, and report shall be paid by the Government from appropriations available for that purpose.

#### **§ 150105. Membership**

Eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.

#### **§ 150106. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

#### **§ 150107. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 150108. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or member in an amount approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.—Except by agreement, the corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

#### **§ 150109. Duty to maintain corporate and tax-exempt status**

(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the District of Columbia.

(b) **TAX-EXEMPT STATUS.**—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 150110. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 150111. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 150112. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 150113. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 1503—NATIONAL ACADEMY OF SCIENCES**

Sec.

150301. Federal charter.

150302. Powers.

150303. Services to United States Government.

150304. Annual meeting.

**§ 150301. Federal charter**

National Academy of Sciences (in this chapter, the “corporation”) is a federally chartered corporation.

**§ 150302. Powers**

(a) **GENERAL.**—The corporation may—

(1) make its own organization, including adopting a constitution, bylaws, and regulations;

(2) provide for the election of domestic and foreign members, their division into classes, and other matters needful or usual in such an institution;

(3) fill vacancies; and

(4) report its actions under this subsection to Congress.

(b) **PROPERTY.**—(1) The corporation may—

(A) receive property by devise, bequest, donation, or otherwise;

(B) hold the property absolutely or in trust;

(C) manage and invest the property as provided in the constitution of the corporation; and

(D) use the property and income from the property to carry out the purposes of the corporation, subject to instructions of donors.

(2) Congress at any time may limit the amount of real estate the corporation may acquire and the amount of time it may be held.

#### **§ 150303. Services to United States Government**

On request of the United States Government, the corporation shall investigate, examine, experiment, and report on any subject of science or art. The corporation may not receive compensation for services to the Government, but the actual expense of the investigation, examination, experimentation, and report shall be paid by the Government from an appropriation for that purpose.

#### **§ 150304. Annual meeting**

The corporation shall hold an annual meeting at a place designated by the corporation.

### **CHAPTER 1505—NATIONAL CONFERENCE OF STATE SOCIETIES, WASHINGTON, DISTRICT OF COLUMBIA**

Sec.

- 150501. Definition.
- 150502. Organization.
- 150503. Purposes.
- 150504. Membership.
- 150505. Governing body.
- 150506. Powers.
- 150507. Exclusive right to name, seals, emblems, and badges.
- 150508. Restrictions.
- 150509. Headquarters and principal office.
- 150510. Records and inspection.
- 150511. Service of process.
- 150512. Liability for acts of officers and agents.
- 150513. Distribution of assets on dissolution or final liquidation.

#### **§ 150501. Definition**

For purposes of this chapter, “State” includes the District of Columbia.

#### **§ 150502. Organization**

(a) FEDERAL CHARTER.—National Conference of State Societies, Washington, District of Columbia (in this chapter, the “corporation”), is a federally chartered corporation.

(b) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 150503. Purposes**

The purposes of the corporation are—

- (1) to promote friendly and cooperative relations between the State and territorial societies in the District of Columbia;
- (2) to foster, participate in, and encourage educational, cultural, charitable, civic, and patriotic programs and activities in the District of Columbia and surrounding communities; and
- (3) to act as contact agent with States for carrying out State and national programs.

#### **§ 150504. Membership**

The membership of the corporation consists of the members of the State and territorial societies in the District of Columbia.

Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws and regulations of the corporation.

**§ 150505. Governing body**

(a) BOARD OF REPRESENTATIVES.—(1) The board of representatives is the governing body of the corporation. The board shall exercise the powers granted to the corporation.

(2) The board consists of one representative from each State society and territorial society in the District of Columbia. Each member of the board has one vote.

(b) OFFICERS.—(1) The officers of the corporation are a president, a first vice president, a second vice president, a secretary, an assistant secretary, a treasurer, an assistant treasurer, a historian, and other officers designated by the board.

(2) The officers shall be elected by the board at an annual meeting and serve for a term of 1 year.

**§ 150506. Powers**

The corporation has the powers provided in its bylaws and articles of incorporation filed in the State in which it is incorporated, including the power to—

(1) adopt bylaws and regulations for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) adopt emblems and badges;

(4) choose officers, managers, and agents as the activities of the corporation require;

(5) make contracts;

(6) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(7) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(8) publish a magazine, newspaper, and other publications consistent with the purposes of the corporation;

(9) sue and be sued; and

(10) do any other act necessary and proper to carry out the purposes of the corporation.

**§ 150507. Exclusive right to name, seals, emblems, and badges**

The corporation has the exclusive right to use the name “National Conference of State Societies, Washington, District of Columbia” and seals, emblems, and badges the corporation adopts.

**§ 150508. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or an officer or member as such may not contribute to, support, or assist a political party or candidate for elective public office. The corporation may not carry on propaganda.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, an officer or member except on dissolution or final liquidation of the corporation.

(d) **LOANS.**—The corporation may not make a loan or advance to an officer or member of the board of representatives. Officers and members of the board who vote for or assent to making a loan or advance to an officer or member of the board, and officers or members of the board who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

**§ 150509. Headquarters and principal office**

The headquarters and principal office of the corporation shall be in the District of Columbia. However, the activities of the corporation are not confined to the District of Columbia but may be conducted throughout the States, territories, and possessions of the United States.

**§ 150510. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of representatives, and committees having any of the authority of its board of representatives; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 150511. Service of process**

(a) **DISTRICT OF COLUMBIA.**—The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Designation of the agent shall be filed in the office of the clerk of the United States District Court for the District of Columbia. Notice to or service on the agent, or mailed to the address of the agent, is notice to or service on the corporation.

(b) **STATES.**—As a condition to the exercise in any State of any power or privilege granted by this chapter, the corporation shall file, with secretary of state or other designated official of that State, the name and address of an agent in that State on whom legal process or demands against the corporation may be served.

**§ 150512. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 150513. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be divided equally among the State and territorial societies in the District of Columbia.

**CHAPTER 1507—NATIONAL CONFERENCE ON  
CITIZENSHIP**

150702. Purposes.  
150703. Membership.  
150704. National officers.  
150705. Board of directors.  
150706. Powers.  
150707. Exclusive right to name, seals, emblems, and badges.  
150708. Restrictions.  
150709. Headquarters and principal office.  
150710. Records and inspection.  
150711. Service of process.  
150712. Liability for acts of officers and agents.  
150713. Distribution of assets on dissolution or final liquidation.

#### **§ 150701. Organization**

(a) **FEDERAL CHARTER.**—National Conference on Citizenship (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 150702. Purposes**

The purposes of the corporation are—

(1) to hold an annual national conference on citizenship on or about “Citizenship Day”, September 17;

(2) to assist in the development of more dynamic procedures for making citizenship more effective, including the promotion and encouragement of local, State, and regional citizenship conferences; and

(3) to indicate the ways and means by which various organizations may contribute concretely to the development of a more active, alert, enlightened, conscientious, and progressive citizenry in our country.

#### **§ 150703. Membership**

(a) **ELIGIBILITY.**—Membership in the corporation is confined to agencies and organizations. Except as provided in this chapter, the rights and privileges of members are as provided in the bylaws.

(b) **VOTING.**—Each agency or organization sending delegates to, and participating in, the annual national conference on citizenship has one vote in the conduct of the business of the conference.

#### **§ 150704. National officers**

(a) **NATIONAL OFFICERS.**—The national officers of the corporation are a president, a first vice president, a second vice president, a third vice president, a secretary, and a treasurer. The president is chairman of the board of directors and of the executive committee described in section 150705(d) of this title.

(b) **ELECTION.**—The national officers are elected biennially from among the officers and members of the member agencies and organizations participating in the annual national conference on citizenship, by a majority vote of the agencies and organizations sending delegates to, and participating in, the conference.

#### **§ 150705. Board of directors**

(a) **GENERAL.**—The board of directors is the governing body of the corporation. The board shall exercise the powers granted to the corporation.

(b) **NUMBER AND ELECTION.**—The number of directors and their term of office are as provided in the bylaws, except that the board shall have at least 10 members (including ex officio members). The directors are elected from among the officers and members



of the member agencies and organizations participating in the annual national conference on citizenship, by a majority vote of the agencies and organizations sending delegates to, and participating in, the conference.

(c) MEETINGS.—The board shall hold an annual meeting at a time and place as may be provided in the bylaws. The annual report of the board shall be presented at the annual meeting. Special meetings of the board may be called as provided in the bylaws.

(d) EXECUTIVE COMMITTEE.—The board shall designate 3 of its own members, who together with the president and the 3 vice presidents constitute the executive committee. When the board is not in session, the executive committee has the powers of the board subject to the board's direction and may authorize the seal of the corporation to be affixed to all papers that require it.

(e) EXECUTIVE DIRECTOR AND PROFESSIONAL STAFF.—The executive committee shall select an executive director for the corporation, who shall have the qualifications and terms of employment decided by the committee. The executive director shall nominate other professional staff members, who must be approved by the executive committee.

#### **§ 150706. Powers**

The corporation may—

- (1) adopt and amend bylaws and regulations for the management of its property and the regulation of its affairs, including the establishment and maintenance of local and State conferences on citizenship;
- (2) adopt and alter a corporate seal;
- (3) adopt emblems and badges;
- (4) choose officers, managers, employees, and agents as the activities of the corporation require;
- (5) make contracts;
- (6) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;
- (7) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;
- (8) use corporate funds to give prizes or awards to citizens for outstanding contributions toward the achievement of the purposes of the corporation;
- (9) publish a magazine and other publications consistent with the purposes of the corporation;
- (10) sue and be sued; and
- (11) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 150707. Exclusive right to name, seals, emblems, and badges**

The corporation has the exclusive right to use the name "National Conference on Citizenship" and seals, emblems, and badges the corporation adopts.

#### **§ 150708. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) **POLITICAL ACTIVITIES.**—The corporation or a director, officer, or member as such may not contribute to, support, or assist a political party or candidate for elective public office, or advocate, sponsor, or promote legislation in the Congress of the United States or in the legislature of a State.

(c) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member except on dissolution or final liquidation of the corporation. This subsection does not prevent the executive committee from adopting terms of employment of the executive director as provided in section 150705(e) of this title.

(d) **LOANS.**—The corporation may not make a loan to a director, officer, or employee. Directors who vote for or assent to making a loan to a director, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

#### **§ 150709. Headquarters and principal office**

The headquarters and principal office of the corporation shall be in the District of Columbia, Maryland, or Virginia. However, the activities of the corporation are not confined to the District of Columbia, Maryland, and Virginia but may be conducted throughout the States, territories, and possessions of the United States.

#### **§ 150710. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its annual national conference, board of directors, and committees having any of the authority of its board of directors; and
- (3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 150711. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Designation of the agent shall be filed in the office of the clerk of the United States District Court for the District of Columbia. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

#### **§ 150712. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### **§ 150713. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be transferred by the board of directors to a recognized agency or agencies engaged in the furtherance and advancement of citizenship.

**CHAPTER 1509—NATIONAL COUNCIL ON RADIATION  
PROTECTION AND MEASUREMENTS**

Sec.

- 150901. Organization.
- 150902. Purposes.
- 150903. Membership.
- 150904. Governing body.
- 150905. Powers.
- 150906. Restrictions.
- 150907. Principal office.
- 150908. Records and inspection.
- 150909. Statement required in audit report.
- 150910. Service of process.
- 150911. Liability for acts of officers and agents.
- 150912. Distribution of assets on dissolution or final liquidation.

**§ 150901. Organization**

(a) **FEDERAL CHARTER.**—National Council on Radiation Protection and Measurements (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 150902. Purposes**

The purposes of the corporation are—

(1) to collect, analyze, develop, and disseminate in the public interest information and recommendations about—

(A) protection against radiation; and

(B) radiation measurements, quantities, and units, particularly those concerned with protection against radiation;

(2) to provide a means by which organizations concerned with the scientific and related aspects of protection against radiation and of radiation quantities, units, and measurements may cooperate for effective use of their combined resources, and to stimulate the work of those organizations;

(3) to develop basic concepts about—

(A) radiation quantities, units, and measurements;

(B) the application of those concepts; and

(C) protection against radiation; and

(4) to cooperate with the International Commission on Radiological Protection, the Federal Radiation Council, the International Commission on Radiological Units and Measurements, and other national and international organizations, governmental and private, concerned with radiation quantities, units, and measurements and with protection against radiation.

**§ 150903. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.

(b) **VOTING.**—Each member (except an honorary or associate member) has one vote on each matter submitted to a vote at a meeting of the members.

**§ 150904. Governing body**

(a) **BOARD OF DIRECTORS.**—(1) The board of directors is the governing body of the corporation. Between meetings of the corporation, the board is responsible for the general policies and program

of the corporation. The board is responsible for the control of all funds of the corporation.

(2) The selection of directors and their term of office are as provided in the bylaws.

(b) OFFICERS.—(1) The officers of the corporation are a president, one or more vice presidents, a secretary, a treasurer, and other officers as provided in the bylaws. Their duties are as provided in the bylaws.

(2) The officers shall be elected at the annual meeting of the corporation.

#### **§ 150905. Powers**

The corporation may—

(1) adopt and amend bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose directors, officers, trustees, managers, employees, and agents as the activities of the corporation require;

(4) make contracts;

(5) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(7) sue and be sued; and

(8) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 150906. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director, officer, or agent as such may not contribute to, support, or assist a political party or candidate for office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of reasonable compensation to an officer in an amount approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee. Directors who vote for or assent to making a loan to a director, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

#### **§ 150907. Principal office**

The principal office of the corporation shall be in the District of Columbia or another place decided by the board of directors. However, the activities of the corporation may be conducted throughout the world.

#### **§ 150908. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 150909. Statement required in audit report**

The corporation shall include in the audit report statement required under section 10101(b)(1)(B) of this title a schedule of all contracts requiring payments greater than \$10,000 and all payments of compensation or fees at a rate greater than \$10,000 a year.

#### **§ 150910. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

#### **§ 150911. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### **§ 150912. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but consistent with the purposes of the corporation and in compliance with the bylaws.

### **CHAPTER 1511—NATIONAL EDUCATION ASSOCIATION OF THE UNITED STATES**

Sec.

151101. Organization.

151102. Purposes.

151103. Membership.

151104. Governing body.

151105. Powers.

151106. Tax exemption.

151107. Principal office.

151108. Nonapplication of audit requirements.

#### **§ 151101. Organization**

(a) FEDERAL CHARTER.—National Education Association of the United States (in this chapter, the “corporation”) is a federally chartered corporation.

(b) PLACE OF INCORPORATION.—The corporation is declared to be incorporated in the District of Columbia.

(c) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 151102. Purposes**

The purposes of the corporation are—

(1) to elevate the character and advance the interests of the profession of teaching; and

(2) to promote the cause of education in the United States.

#### **§ 151103. Membership**

Eligibility for membership in the corporation and the rights, obligations, and designation of classes of members are as provided in the bylaws.

#### **§ 151104. Governing body**

(a) OFFICERS.—The officers of the corporation are a president, one or more vice presidents, a secretary, a treasurer, and the members of a board of directors, an executive committee, and any other boards, councils, and committees, and other officers, as provided in the bylaws.

(b) ADDITIONAL PROVISIONS.—Except as provided in this chapter, the manner of selection, term of office, powers, and duties of the officers, boards, councils, and committees are as provided in the bylaws. The bylaws may provide other and different provisions as to the names and numbers of the officers, boards, councils, and committees.

#### **§ 151105. Powers**

The corporation may—

- (1) adopt and amend bylaws;
- (2) adopt and alter a corporate seal;
- (3) acquire, own, lease, encumber, and transfer property to carry out the purposes of the corporation;
- (4) accept and administer a trust for educational purposes;
- (5) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property; and
- (6) sue and be sued in any court of the United States, or other court of competent jurisdiction.

#### **§ 151106. Tax exemption**

(a) REAL PROPERTY.—Real property of the corporation is exempt from taxation if it is—

- (1) located in the District of Columbia;
- (2) used for the purposes provided in section 151102 of this title; and
- (3) not used to produce income.

(b) PERSONAL PROPERTY.—Personal property of the corporation is exempt from taxation if it is used for the purposes provided in section 151102 of this title or to produce income to be used for those purposes.

(c) ANNUAL REPORT.—The corporation shall submit annually to the Secretary of Education a written report stating in detail for the prior year—

- (1) the real and personal property held by the corporation;
- (2) the income from the property; and
- (3) the expenditure or other use or disposition of the property and income from the property.

#### **§ 151107. Principal office**

The principal office of the corporation shall be in the District of Columbia. However, the activities of the corporation may be conducted, and offices may be maintained, throughout the United States in accordance with the bylaws.

**§ 151108. Nonapplication of audit requirements**

The audit requirements of section 10101 of this title do not apply to the corporation.

**CHAPTER 1513—NATIONAL FALLEN FIREFIGHTERS FOUNDATION**

Sec.

- 151301. Organization.
- 151302. Purposes.
- 151303. Board of directors.
- 151304. Officers and employees.
- 151305. Powers.
- 151306. Principal office.
- 151307. Provision and acceptance of support by Administrator.
- 151308. Service of process.
- 151309. Civil action by Attorney General for equitable relief.
- 151310. Immunity of United States Government.
- 151311. Annual report.

**§ 151301. Organization**

(a) **FEDERAL CHARTER.**—National Fallen Firefighters Foundation (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **NATURE OF CORPORATION AND PLACE OF INCORPORATION.**—The corporation is a charitable and nonprofit corporation incorporated under the laws of Maryland and is not an agency or establishment of the United States Government.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 151302. Purposes**

The purposes of the corporation are—

- (1) primarily to encourage, accept, and administer private gifts of property for the benefit of the National Fallen Firefighters’ Memorial and the annual memorial service associated with it;
- (2) to provide financial assistance to families of fallen firefighters for transportation to and lodging at non-Federal facilities during the annual memorial service;
- (3) to assist State and local efforts to recognize firefighters who die in the line of duty; and
- (4) to provide scholarships and other financial assistance for educational purposes and job training for the spouses and children of fallen firefighters.

**§ 151303. Board of directors**

(a) **GENERAL.**—The board of directors is the governing body of the corporation.

(b) **MEMBERS AND APPOINTMENT.**—(1) The Administrator of the United States Fire Administration of the Federal Emergency Management Agency is an ex officio nonvoting member of the board. The Administrator appoints the voting members of the board.

(2) The board consists of the following 9 voting members:

- (A) one active volunteer firefighter;
- (B) one active career firefighter;
- (C) one United States Government firefighter; and
- (D) six individuals who have a demonstrated interest in the fire service.

(3) The terms of office of the voting members are 6 years (except for the initial members). The terms shall be staggered so that the terms of 3 members expire every 2 years.

(4) A vacancy on the board shall be filled within 60 days in the manner in which the original appointment was made.

(c) CHAIRMAN.—The Chairman shall be elected by the board from its voting members for a 2-year term.

(d) QUORUM.—A majority of the current membership of the board is a quorum.

(e) MEETINGS.—The board shall meet at the call of the chairman at least once a year. If a member of the board misses 3 consecutive meetings, that member may be removed from the board and that vacancy may be filled as provided in subsection (b)(4) of this section.

(f) STATUS AND COMPENSATION.—Members of the board—

(1) are not officers or employees of the United States Government; and

(2) serve without compensation.

(g) LIABILITY OF DIRECTORS.—Members of the board are not personally liable, except for gross negligence.

#### **§ 151304. Officers and employees**

(a) APPOINTMENT.—The board of directors may appoint not more than 2 officers or employees, but only after the corporation has sufficient funds to pay for their services.

(b) STATUS AND COMPENSATION.—Officers and employees of the corporation—

(1) are not employees of the United States Government;

(2) shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service; and

(3) may be paid without regard to chapter 51 and subchapter III of chapter 53 of title 5, except that an officer or employee may not be paid more than the annual rate of basic pay for level GS-15 of the General Schedule under section 5107 of title 5.

#### **§ 151305. Powers**

(a) GENERAL.—The corporation may—

(1) adopt a constitution and bylaws;

(2) adopt a seal which shall be judicially noticed; and

(3) do any other act necessary to carry out this chapter.

(b) POWERS AS TRUSTEE.—To carry out its purposes, the corporation has the usual powers of a corporation acting as a trustee in the State of Maryland, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of property or any income from or other interest in the property;

(2) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income from the property;

(3) to make contracts and other arrangements with public agencies and private organizations and persons and to make payments necessary to carry out its functions;

(4) to sue and be sued; and

(5) to do any other act necessary and proper to carry out the purposes of the corporation.



**§ 151306. Principal office**

The principal office of the corporation shall be in Maryland. However, the corporation may conduct business throughout the States, territories, and possessions of the United States.

**§ 151307. Provision and acceptance of support by Administrator**

(a) PROVISION BY ADMINISTRATOR.—(1) The Administrator of the United States Fire Administration of the Federal Emergency Management Agency—

(A) may provide personnel, facilities, and other administrative services to the corporation; and

(B) shall require and accept reimbursements for these personnel, facilities, and services.

(2) Reimbursements under paragraph (1) of this subsection shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing the services.

(3) Notwithstanding any other law, United States Government personnel and stationery may not be used to solicit funding for the corporation.

(b) ACCEPTANCE BY ADMINISTRATOR.—The Administrator may accept, without regard to chapters 33 and 51 and subchapter III of chapter 53 of title 5 and related regulations, the services of the corporation and its directors, officers, and employees as volunteers in performing functions authorized under this chapter, without compensation from the Administration.

**§ 151308. Service of process**

The corporation shall have a designated agent to receive service of process for the corporation.

**§ 151309. Civil action by Attorney General for equitable relief**

The Attorney General may bring a civil action in the United States District Court for the District of Columbia for appropriate equitable relief if the corporation—

(1) engages or threatens to engage in any act, practice, or policy that is inconsistent with the purposes in section 151302 of this title; or

(2) refuses, fails, or neglects to carry out its obligations under this chapter or threatens to do so.

**§ 151310. Immunity of United States Government**

The United States Government is not liable for any debts, defaults, acts, or omissions of the corporation. The full faith and credit of the Government does not extend to any obligation of the corporation.

**§ 151311. Annual report**

Not later than 4 months after the end of each fiscal year, the corporation shall submit a report to the appropriate committees of Congress on the activities of the corporation during the prior fiscal year, including a complete statement of its receipts, expenditures, and investments.

**CHAPTER 1515—NATIONAL FEDERATION OF MUSIC CLUBS**

Sec.

- 151501. Definition.
- 151502. Organization.
- 151503. Purposes.
- 151504. Membership.
- 151505. Governing body.
- 151506. Powers.
- 151507. Restrictions.
- 151508. Duty to maintain corporate and tax-exempt status.
- 151509. Records and inspection.
- 151510. Service of process.
- 151511. Liability for acts of officers and agents.
- 151512. Annual report.

**§ 151501. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 151502. Organization**

(a) **FEDERAL CHARTER.**—National Federation of Music Clubs (in this chapter, the “corporation”), incorporated in Illinois, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 151503. Purposes**

(a) **SPECIFIC PURPOSES.**—The purposes of the corporation are as provided in the articles of incorporation and include—

(1) bringing into working relations with one another, music clubs and other musical organizations and individuals associated with musical activity for the purpose of developing and maintaining high musical standards;

(2) aiding and encouraging musical education; and

(3) promoting American music and American artists throughout the United States and the world.

(b) **PATRIOTIC, CIVIC, AND HISTORICAL ORGANIZATION.**—The corporation shall function as a patriotic, civic, and historical organization as authorized by the laws of each State in which it is incorporated.

**§ 151504. Membership**

Eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.

**§ 151505. Governing body**

(a) **BOARD OF DIRECTORS.**—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) **OFFICERS.**—The officers and the election of the officers are as provided in the articles of incorporation.

**§ 151506. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**§ 151507. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 151508. Duty to maintain corporate and tax-exempt status**

(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of Illinois.

(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 151509. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 151510. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 151511. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 151512. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 1517—NATIONAL FILM PRESERVATION  
FOUNDATION**

Sec.

- 151701. Organization.
- 151702. Purposes.
- 151703. Board of directors.
- 151704. Officers and employees.
- 151705. Powers.
- 151706. Principal office.
- 151707. Provision and acceptance of support by Librarian of Congress.
- 151708. Service of process.
- 151709. Civil action by Attorney General for equitable relief.
- 151710. Immunity of United States Government.
- 151711. Authorization of appropriations.
- 151712. Annual report.

**§ 151701. Organization**

(a) **FEDERAL CHARTER.**—National Film Preservation Foundation (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **NATURE OF CORPORATION.**—The corporation is a charitable and nonprofit corporation and is not an agency or establishment of the United States Government.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 151702. Purposes**

The purposes of the corporation are to—

(1) encourage, accept, and administer private gifts to promote and ensure the preservation and public accessibility of the nation’s film heritage held at the Library of Congress and other public and nonprofit archives throughout the United States;

(2) further the goals of the Library of Congress and the National Film Preservation Board in connection with their activities under the National Film Preservation Act of 1996 (2 U.S.C. 179l–179w); and

(3) conduct activities, alone or in cooperation with other film related institutions and organizations, to further the preservation and public accessibility of films made in the United States, particularly films not protected by private interests, for the benefit of present and future generations of Americans.

**§ 151703. Board of directors**

(a) **GENERAL.**—The board of directors is the governing body of the corporation.

(b) **MEMBERS AND APPOINTMENT.**—(1) The Librarian of Congress is an ex officio nonvoting member of the board. The Librarian appoints the directors to the board.

(2)(A) The board consists of nine directors.

(B) Each director must be a United States citizen.

(C) At least six directors must be knowledgeable or experienced in film production, distribution, preservation, or restoration, including two who are sitting members of the National Film Preservation Board. These six directors must, to the extent practicable, represent diverse points of view from the film community, including motion picture producers, creative artists, nonprofit and public archivists, historians, film critics, theater owners, and laboratory and university personnel.

(3) A director is not an employee of the Library of Congress and appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States.

(4) The terms of office of the directors are 4 years. An individual may not serve more than two consecutive terms.

(5) A vacancy on the board shall be filled within 60 days in the manner in which the original appointment was made.

(c) CHAIR.—The Librarian shall appoint one of the directors as the initial chair of the board for a 2-year term. Thereafter, the chair shall be appointed and removed in accordance with the bylaws of the corporation.

(d) QUORUM.—A majority of the current membership of the board is a quorum.

(e) MEETINGS.—The board shall meet at the call of the Librarian or the chair at least once each year. If a director misses three consecutive regularly scheduled meetings, the director may be removed from the board by the Librarian and that vacancy may be filled as provided in subsection (b) of this section.

(f) COMPENSATION AND REIMBURSEMENT.—Directors serve without compensation but may be reimbursed for actual and necessary travel and subsistence expenses incurred in performing duties for the corporation.

(g) LIABILITY OF DIRECTORS.—Directors are not personally liable, except for gross negligence.

#### **§ 151704. Officers and employees**

(a) SECRETARY OF THE BOARD.—(1) The Librarian of Congress shall appoint a Secretary of the Board to serve as executive director of the corporation. The Librarian may remove the Secretary.

(2) The Secretary must be knowledgeable and experienced in matters relating to—

- (A) film preservation and restoration activities;
- (B) financial management; and
- (C) fundraising.

(b) APPOINTMENT OF OFFICERS.—Except as provided in subsection (a) of this section, the board of directors appoints, removes, and replaces officers of the corporation.

(c) APPOINTMENT OF EMPLOYEES.—Except as provided in subsection (a) of this section, the Secretary appoints, removes, and replaces employees of the corporation.

(d) STATUS AND COMPENSATION OF EMPLOYEES.—Employees of the corporation (including the Secretary)—

- (1) are not employees of the Library of Congress;
- (2) shall be appointed and removed without regard to the provisions of title 5 governing appointments in the competitive service; and
- (3) may be paid without regard to chapter 51 and subchapter III of chapter 53 of title 5, except that an employee may not be paid more than the annual rate of basic pay for level GS-15 of the General Schedule under section 5107 of title 5.

#### **§ 151705. Powers**

(a) GENERAL.—The corporation may—

- (1) adopt a constitution and bylaws;
- (2) adopt a seal which shall be judicially noticed; and

(3) do any other act necessary to carry out this chapter.

(b) **POWERS AS TRUSTEE.**—To carry out its purposes, the corporation has the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of property or any income from or other interest in property;

(2) to acquire property or an interest in property by purchase or exchange;

(3) unless otherwise required by an instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income from property;

(4) to borrow money and issue instruments of indebtedness;

(5) to make contracts and other arrangements with public agencies and private organizations and persons and to make payments necessary to carry out its functions;

(6) to sue and be sued; and

(7) to do any other act necessary and proper to carry out the purposes of the corporation.

(c) **ENCUMBERED OR RESTRICTED GIFTS.**—A gift, devise, or bequest may be accepted by the corporation even though it is encumbered, restricted, or subject to beneficial interests of private persons, if any current or future interest is for the benefit of the corporation.

#### **§ 151706. Principal office**

The principal office of the corporation shall be in the District of Columbia. However, the corporation may conduct business throughout the States, territories, and possessions of the United States.

#### **§ 151707. Provision and acceptance of support by Librarian of Congress**

(a) **PROVISION BY LIBRARIAN.**—(1) The Librarian of Congress may provide personnel, facilities, and other administrative services to the corporation. Administrative services may include reimbursement of expenses under section 151703(f) of this title, at rates not exceeding the applicable per diem rates for the United States Government.

(2) The corporation shall reimburse the Librarian for support provided under paragraph (1) of this subsection. Amounts reimbursed shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing the support.

(b) **ACCEPTANCE BY LIBRARIAN.**—The Librarian may accept, without regard to chapters 33 and 51 and subchapter III of chapter 53 of title 5 and related regulations, the services of the corporation and its directors, officers, and employees as volunteers in performing functions authorized under this chapter, without compensation from the Library of Congress.

#### **§ 151708. Service of process**

The corporation shall have a designated agent to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 151709. Civil action by Attorney General for equitable relief**

The Attorney General may bring a civil action in the United States District Court for the District of Columbia for appropriate equitable relief if the corporation—

(1) engages or threatens to engage in any act, practice, or policy that is inconsistent with the purposes in section 151702 of this title; or

(2) refuses, fails, or neglects to carry out its obligations under this chapter or threatens to do so.

**§ 151710. Immunity of United States Government**

The United States Government is not liable for any debts, defaults, acts, or omissions of the corporation. The full faith and credit of the Government does not extend to any obligation of the corporation.

**§ 151711. Authorization of appropriations**

(a) AUTHORIZATION.—There are authorized to be appropriated to the Library of Congress amounts necessary to carry out this chapter, not to exceed \$250,000 for each of the fiscal years ending September 30, 2000–2003. These amounts are to be made available to the corporation to match private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

(b) LIMITATION RELATED TO ADMINISTRATIVE EXPENSES.—Amounts authorized under this section may not be used by the corporation for administrative expenses of the corporation, including salaries, travel, transportation, and overhead expenses.

**§ 151712. Annual report**

As soon as practicable after the end of each fiscal year, the corporation shall submit a report to Congress on the activities of the corporation during the prior fiscal year, including a complete statement of its receipts, expenditures, and investments.

**CHAPTER 1519—NATIONAL FUND FOR MEDICAL EDUCATION**

Sec.

151901. Organization.

151902. Purposes.

151903. Membership.

151904. Governing body.

151905. Powers.

151906. Restrictions.

151907. Principal office.

151908. Records and inspection.

151909. Service of process.

151910. Liability for acts of officers and agents.

151911. Distribution of assets on dissolution or final liquidation.

**§ 151901. Organization**

(a) FEDERAL CHARTER.—National Fund for Medical Education (in this chapter, the “corporation”) is a federally chartered corporation.

(b) PLACE OF INCORPORATION AND DOMICILE.—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 151902. Purposes**

The purposes of the corporation are to raise from private sources, administer, and disperse funds for medical education, and in carrying out those purposes, to take other appropriate action to promote—

(1) the interpretation of the needs of medical education to the American public;

(2) the encouragement of the growth, development, and advancement of constantly improving standards and methods in the education and training of all medical personnel in the United States; and

(3) the preservation of academic freedom in the institutions of medical education.

#### **§ 151903. Membership**

(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights, privileges, and designation of classes of members are as provided in the constitution and bylaws of the corporation.

(b) VOTING.—Each member (except an honorary, sustaining, or associate member) has one vote on each matter submitted to a vote at a meeting of the members.

#### **§ 151904. Governing body**

(a) BOARD OF DIRECTORS.—(1) The board of directors is the governing body of the corporation. Between meetings of the members of the corporation, the board is responsible for the general policies and program of the corporation and for the control of all funds of the corporation.

(2) The number of directors, their manner of selection (including the filling of vacancies), and their term of office are as provided in the constitution and bylaws of the corporation. However—

(A) the corporation shall have at least 15 but not more than 25 directors; and

(B) at least four of the directors shall be members of the medical profession.

(b) OFFICERS.—(1) The officers of the corporation are a chairman of the board of directors, a president, one or more vice presidents as provided in the constitution and bylaws, a secretary, a treasurer, and one or more assistant secretaries and assistant treasurers as provided in the constitution and bylaws.

(2) The manner of election, term of office, and duties of the officers are as provided in the constitution and bylaws.

#### **§ 151905. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, managers, employees, and agents as the activities of the corporation require;

(4) make contracts;



(5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property; and

(7) sue and be sued.

#### **§ 151906. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of compensation to an officer in an amount approved by the board of directors.

(d) LOANS.—The corporation may not make a loan or advance to a director, officer, or employee. Directors who vote for or assent to making a loan or advance to a director, officer, or employee, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

#### **§ 151907. Principal office**

The principal office of the corporation shall be in New York, New York, or another place decided by the board of directors. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

#### **§ 151908. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 151909. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

#### **§ 151910. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 151911. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but in compliance with the constitution and bylaws of the corporation.

**CHAPTER 1521—NATIONAL MINING HALL OF FAME AND MUSEUM**

Sec.

- 152101. Definition.
- 152102. Organization.
- 152103. Purposes.
- 152104. Membership.
- 152105. Governing body.
- 152106. Powers.
- 152107. Restrictions.
- 152108. Duty to maintain corporate and tax-exempt status.
- 152109. Records and inspection.
- 152110. Service of process.
- 152111. Liability for acts of officers and agents.
- 152112. Annual report.

**§ 152101. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 152102. Organization**

(a) **FEDERAL CHARTER.**—National Mining Hall of Fame and Museum (in this chapter, the “corporation”), incorporated in Colorado, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 152103. Purposes**

The purposes of the corporation are as provided in its articles of incorporation and include—

(1) honoring citizens, mining leaders, miners, prospectors, teachers, scientists, engineers, inventors, governmental leaders, and other individuals, who have helped to make this country great by their outstanding contributions to the establishment, development, advancement, or improvement of mining in the United States;

(2) perpetuating the memory of those individuals and recording their contributions and achievements by the erection and maintenance of buildings, monuments, and edifices considered appropriate as a lasting memorial;

(3) fostering, promoting, and encouraging a better understanding of the origins and growth of mining, especially in the United States, and the part mining has played in changing the economic, social, and scientific aspects of our country;

(4) establishing and maintaining a library and museum for collecting and preserving for posterity, the history of those honored by the corporation, together with a documentation of their accomplishments and contributions to mining, including such items as mining pictures, paintings, books, papers, documents, scientific data, relics, mementos, artifacts, and things relating to those items;

(5) cooperating with other mining organizations that are actively engaged and interested in similar projects; and

(6) engaging in any other activity necessary or proper to accomplish any of the purposes in this section.

#### **§ 152104. Membership**

Eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.

#### **§ 152105. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

#### **§ 152106. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 152107. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

#### **§ 152108. Duty to maintain corporate and tax-exempt status**

(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of Colorado.

(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

#### **§ 152109. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 152110. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 152111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 152112. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 1523—NATIONAL MUSIC COUNCIL**

Sec.

152301. Organization.

152302. Purposes.

152303. Membership.

152304. Governing body.

152305. Powers.

152306. Exclusive right to name, seals, emblems, and badges.

152307. Restrictions.

152308. Principal office.

152309. Records and inspection.

152310. Service of process.

152311. Liability for acts of officers and agents.

152312. Distribution of assets on dissolution or final liquidation.

**§ 152301. Organization**

(a) **FEDERAL CHARTER.**—National Music Council (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 152302. Purposes**

The purposes of the corporation are—

(1) to provide the member organizations with a forum for the free discussion of problems affecting national musical life in this country;

(2) to speak with one voice for music whenever an authoritative expression of opinion is desirable;

(3) to provide for the interchange of information between the various member organizations;

(4) to encourage the coordination of efforts of the member organizations, thereby avoiding duplication or conflict;

(5) to organize exploratory surveys or fact-finding commissions whenever the corporation considers them necessary for the solution of important problems; and

(6) to encourage the development and appreciation of the art of music and to foster the highest ethical standards in the musical professions and industries.

**§ 152303. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

(b) **VOTING.**—Each member has one vote in the conduct of official business of the corporation.

**§ 152304. Governing body**

(a) **GENERAL.**—(1) The board of directors is the governing body of the corporation. The board may be known as an Executive Committee.

(2) The board shall consist of at least 10 individuals who shall be representative of members of the corporation or other individuals selected by the members of the corporation. The directors shall be elected by the members of the corporation annually or at another regular interval as provided in the bylaws of the corporation.

(b) **OFFICERS.**—The officers of the corporation are a chairman of the board, a president, one or more vice presidents, a secretary, a treasurer, and assistant officers the board designates. The officers shall perform the duties and have the powers provided in the bylaws and by the board.

**§ 152305. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, managers, employees, and agents as the activities of the corporation require;

(4) make contracts;

(5) publish a bulletin, magazine, and other publications;

(6) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(7) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(8) use corporate funds to give prizes, awards, loans, scholarships, and grants to deserving composers, conductors, and others for the purposes stated in section 152302 of this title and for other purposes the board of directors considers proper;

(9) sue and be sued; and

(10) do any other act necessary and proper to carry out the purposes of the corporation.

**§ 152306. Exclusive right to name, seals, emblems, and badges**

The corporation has the exclusive right to use the name “National Music Council” and seals, emblems, and badges the corporation adopts.

**§ 152307. Restrictions**

(a) **PROFIT.**—The corporation may not engage in business for profit.

(b) **STOCK AND DIVIDENDS.**—The corporation may not issue stock or declare or pay a dividend.

(c) **POLITICAL ACTIVITIES.**—The corporation or a director, officer, or member as such may not contribute to, support, or assist a political party or candidate for elective public office.

(d) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member except on dissolution or final liquidation of the corporation.

(e) **LOANS.**—The corporation may not make a loan to a director, officer, or employee. Directors who vote for or assent to making a loan to a director, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

#### **§ 152308. Principal office**

The principal office of the corporation shall be at the place the board of directors decides. However, the activities of the corporation may be conducted throughout the States, territories, and possessions of the United States.

#### **§ 152309. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 152310. Service of process**

(a) **DISTRICT OF COLUMBIA.**—The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Designation of the agent shall be filed in the office of the clerk of the United States District Court for the District of Columbia. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

(b) **STATES, TERRITORIES, AND POSSESSIONS.**—As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall file, with the secretary of state or other designated official of each State, territory, or possession of the United States in which the corporation does business, the name and address of an agent in that State, territory, or possession on whom legal process or demands against the corporation may be served.

#### **§ 152311. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### **§ 152312. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be used by the board of directors for the purposes stated in section 152302 of this title or be transferred to a recognized educational foundation.

**CHAPTER 1525—NATIONAL SAFETY COUNCIL**

Sec.

- 152501. Organization.
- 152502. Purposes.
- 152503. Membership.
- 152504. Governing body.
- 152505. Powers.
- 152506. Exclusive right to name, seals, emblems, and badges.
- 152507. Restrictions.
- 152508. Principal office.
- 152509. Records and inspection.
- 152510. Service of process.
- 152511. Liability for acts of officers and agents.
- 152512. Distribution of assets on dissolution or final liquidation.

**§ 152501. Organization**

(a) **FEDERAL CHARTER.**—National Safety Council (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 152502. Purposes**

The purposes of the corporation are—

(1) to further, encourage, and promote methods and procedures leading to increased safety, protection, and health among employees, employers, and children in industries, on farms, in schools and colleges, in homes, on streets and highways, in recreation, and in other public and private places;

(2) to collect, correlate, publish, and disseminate educational and informative reports and all other data related to safety methods and procedures;

(3) to arouse and maintain the interest of the people of the United States and its territories and possessions in safety and accident prevention, and to encourage the adoption and institution of safety methods by all individuals, corporations, and other organizations;

(4) to organize, establish, and conduct programs, lectures, conferences, and other activities for the education of all individuals, corporations, and other organizations in safety methods and procedures;

(5) to organize and aid in organizing local safety chapters throughout the United States and its territories and possessions, and to provide organizational guidance and materials to promote the national safety;

(6) to cooperate with, enlist, and develop the cooperation of and among all individuals, corporations, and other organizations and agencies, public and private, engaged in, interested in, or in any manner connected with, any of these purposes; and

(7) to do any lawful acts necessary, useful, suitable, desirable, and proper for the furtherance and accomplishment of any of these purposes.

**§ 152503. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

(b) **VOTING.**—Each member (except an honorary or sustaining member) has one vote on each matter submitted to a vote at

a meeting of the members. The corporation may provide in its constitution and bylaws for additional voting rights based on dues paid.

**§ 152504. Governing body**

(a) BOARD OF DIRECTORS.—(1) The board of directors is the governing body of the corporation. Between meetings of the corporation, the board is responsible for the general policies and program of the corporation. Except as provided in subsection (c) of this section, the board is responsible for all funds of the corporation.

(2) The board shall consist of at least 15 directors. Their manner of selection (including the filling of vacancies) and term of office are as provided in the constitution and bylaws of the corporation.

(b) OFFICERS.—(1) The officers of the corporation are a chairman of the board of directors, a president, three or more vice presidents as provided in the constitution and bylaws, a secretary, a treasurer, and an executive vice president. Their duties are as provided in the constitution and bylaws.

(2) Except for the executive vice president, the officers shall be elected at the annual meeting of the corporation. The executive vice president shall be elected by the board of directors in the manner provided in the constitution and bylaws.

(c) TRUSTEES.—The corporation shall have at least 15 trustees. Their manner of selection and term of office are as provided in the constitution and bylaws. The trustees have full power and control over contributed funds that they raise.

**§ 152505. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) adopt and alter seals, emblems, and badges;

(4) choose directors, officers, trustees, managers, employees, and agents as the activities of the corporation require;

(5) make contracts;

(6) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(7) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(8) publish a magazine and other publications consistent with the purposes of the corporation;

(9) charge and collect membership dues and subscription fees;

(10) receive contributions or grants of money or property to be devoted to carrying out the purposes of the corporation;

(11) use corporate funds to give prizes, awards, or other evidences of merit or recognition to individuals, corporations, and other organizations, public or private, for outstanding contributions toward the achievement of the purposes of the corporation;

(12) organize, establish, and conduct conferences on safety and accident prevention;

(13) establish and maintain offices to conduct its activities, charter local, State, and regional safety organizations, and establish, regulate, and discontinue departmental subdivisions



and local, State, and regional chapters in appropriate places throughout the United States and its territories and possessions;

(14) sue and be sued; and

(15) do any other act necessary and proper to carry out the purposes of the corporation.

**§ 152506. Exclusive right to name, seals, emblems, and badges**

The corporation and its subordinate divisions and regional, State, and local chapters have the exclusive right to use the name “National Safety Council”. The corporation has the exclusive right to use and to allow others to use seals, emblems, and badges the corporation adopts. This section does not affect any vested rights.

**§ 152507. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director, officer, or agent as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member except on dissolution or final liquidation of the corporation. This subsection does not prevent the payment of compensation to an officer in an amount approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee. Directors who vote for or assent to making a loan to a director, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

**§ 152508. Principal office**

The principal office of the corporation shall be in Chicago, Illinois, or another place decided by the board of directors. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

**§ 152509. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 152510. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice

to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 152511. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 152512. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but in compliance with the constitution and bylaws of the corporation.

**CHAPTER 1527—NATIONAL SKI PATROL SYSTEM,  
INCORPORATED**

Sec.

152701. Definition.

152702. Organization.

152703. Purposes.

152704. Membership.

152705. Governing body.

152706. Powers.

152707. Restrictions.

152708. Duty to maintain tax-exempt status.

152709. Records and inspection.

152710. Service of process.

152711. Liability for acts of officers and agents.

152712. Annual report.

**§ 152701. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 152702. Organization**

(a) **FEDERAL CHARTER.**—National Ski Patrol System, Incorporated (in this chapter, the “corporation”), incorporated in New York and Colorado, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 152703. Purposes**

The purposes of the corporation are—

(1) to promote, in every way, patriotic, scientific, educational, and civic improvement activities and public safety in skiing, by such means as the dissemination of information and the formation of volunteer local patrols consisting of competent skiers trained in first aid for the purpose of preventing accidents and rendering speedy assistance to individuals sustaining accidents; and

(2) to solicit contributions of money, services, and other property for, and generally to encourage and assist in carrying out these purposes in every way.

**§ 152704. Membership**

Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.

**§ 152705. Governing body**

(a) **BOARD OF DIRECTORS.**—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) **OFFICERS.**—The officers and the election of officers are as provided in the articles of incorporation.

**§ 152706. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**§ 152707. Restrictions**

(a) **STOCK AND DIVIDENDS.**—The corporation may not issue stock or declare or pay a dividend.

(b) **POLITICAL ACTIVITIES.**—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) **LOANS.**—The corporation may not make a loan to a director, officer, or employee.

**§ 152708. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 152709. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 152710. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 152711. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 152712. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior calendar year. The report may not be printed as a public document.

**CHAPTER 1529—NATIONAL SOCIETY, DAUGHTERS OF THE AMERICAN COLONISTS**

Sec.

- 152901. Definition.
- 152902. Organization.
- 152903. Purposes.
- 152904. Membership.
- 152905. Governing body.
- 152906. Powers.
- 152907. Exclusive right to name, seals, emblems, and badges.
- 152908. Restrictions.
- 152909. Duty to maintain corporate and tax-exempt status.
- 152910. Records and inspection.
- 152911. Service of process.
- 152912. Liability for acts of officers and agents.
- 152913. Annual report.

**§ 152901. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 152902. Organization**

(a) FEDERAL CHARTER.—National Society, Daughters of the American Colonists (in this chapter, the “corporation”), incorporated in the District of Columbia, is a federally chartered corporation.

(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 152903. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and include a continuing commitment, on a national basis—

- (1) to conduct, record, and publish the results of research on the history and deeds of the American colonists;
- (2) to publish the memoirs of American colonists;
- (3) to erect memorials to commemorate the history and deeds of the American colonists;
- (4) to promote respect and admiration for the institutions, laws, and flag of the United States;
- (5) to engage in mutual improvement and educational activities;
- (6) to establish scholarships to assist needy and deserving students and to promote the improvement of educational institutions;
- (7) to engage in volunteer service and make contributions to veterans hospitals; and
- (8) to perform other charitable activities, including the national presidents’ projects, as may be provided in the articles of incorporation or bylaws of the Corporation.

**§ 152904. Membership**

(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges

of members are as provided in the constitution and bylaws of the corporation.

(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, or national origin.

#### **§ 152905. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation or bylaws.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation or bylaws.

(c) NONDISCRIMINATION.—The requirements for holding office in the corporation may not discriminate on the basis of race, color, religion, or national origin.

#### **§ 152906. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 152907. Exclusive right to name, seals, emblems, and badges**

The corporation has the exclusive right to use the name “National Society, Daughters of the American Colonists” and seals, emblems, and badges the corporation adopts. This section does not affect any vested rights.

#### **§ 152908. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

#### **§ 152909. Duty to maintain corporate and tax-exempt status**

(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of each State in which it is incorporated.

(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

#### **§ 152910. Records and inspection**

(a) RECORDS.—The corporation shall keep—

- (1) correct and complete records of account;
- (2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and
- (3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 152911. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

#### **§ 152912. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### **§ 152913. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

### **CHAPTER 1531—THE NATIONAL SOCIETY OF THE DAUGHTERS OF THE AMERICAN REVOLUTION**

Sec.

153101. Organization.

153102. Purposes.

153103. Powers.

153104. Exclusive right to name, seals, emblems, and badges.

153105. Principal office.

153106. Deposit of historical material in Smithsonian Institution.

153107. Annual report.

#### **§ 153101. Organization**

The National Society of the Daughters of the American Revolution (in this chapter, the “corporation”) is a body corporate and politic in the District of Columbia.

#### **§ 153102. Purposes**

The purposes of the corporation are patriotic, historical, and educational, and include—

- (1) perpetuating the memory and spirit of the men and women who achieved American independence by—

- (A) acquiring and protecting historical spots and erecting monuments;

- (B) encouraging historical research in relation to the Revolution and publishing its results;

- (C) preserving documents and relics and the records of the individual services of Revolutionary soldiers and patriots; and

- (D) promoting celebrations of all patriotic anniversaries;

- (2) carrying out the injunction of Washington, in his farewell address to the American people, “to promote, as an object

of primary importance, institutions for the general diffusion of knowledge,” thus developing an enlightened public opinion and affording to young and old such advantages as shall develop in them the largest capacity for performing the duties of American citizens;

(3) cherishing, maintaining, and extending the institutions of American freedom;

(4) fostering true patriotism and love of country; and

(5) aiding in securing for mankind all the blessings of liberty.

#### **§ 153103. Powers**

The corporation may—

(1) adopt a constitution and bylaws;

(2) adopt a seal; and

(3) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out its purposes.

#### **§ 153104. Exclusive right to name, seals, emblems, and badges**

The corporation and its subordinate divisions have the exclusive right to use the name “National Society of the Daughters of the American Revolution”. The corporation has the exclusive right to use and to allow others to use seals, emblems, and badges the corporation adopts.

#### **§ 153105. Principal office**

The corporation shall have its headquarters or principal office in the District of Columbia.

#### **§ 153106. Deposit of historical material in Smithsonian Institution**

The Regents of the Smithsonian Institution may permit the corporation to deposit its collections, manuscripts, books, pamphlets, and other material for history in the Smithsonian Institution or in the National Museum, on conditions and under rules they prescribe.

#### **§ 153107. Annual report**

The corporation shall submit an annual report to the Secretary of the Smithsonian Institution on the activities of the corporation. The Secretary shall communicate to Congress any part of the report that the Secretary considers of national interest and importance.

### **CHAPTER 1533—NATIONAL SOCIETY OF THE SONS OF THE AMERICAN REVOLUTION**

Sec.

153301. Organization.

153302. Purposes.

153303. Powers.

153304. Trustees.

#### **§ 153301. Organization**

National Society of the Sons of the American Revolution (in this chapter, the “corporation”) is a body corporate and politic in the District of Columbia.

**§ 153302. Purposes**

The purposes of the corporation are patriotic, historical, and educational, and include those intended or designed—

(1) to perpetuate the memory of the men who, by their services or sacrifices during the war of the American Revolution, achieved the independence of the American people;

(2) to unite and promote fellowship among their descendants;

(3) to inspire them and the community at large with a more profound reverence for the principles of the government founded by our forefathers;

(4) to encourage historical research in relation to the American Revolution;

(5) to acquire and preserve the records of the individual services of the patriots of the war, as well as documents, relics, and landmarks;

(6) to mark the scenes of the American Revolution by appropriate memorials;

(7) to celebrate the anniversaries of the prominent events of the war and of the Revolutionary period;

(8) to foster true patriotism;

(9) to maintain and extend the institutions of American freedom; and

(10) to carry out the purposes expressed in the preamble to the Constitution of our country and the injunctions of Washington in his farewell address to the American people.

**§ 153303. Powers**

The corporation may—

(1) adopt and amend a constitution, bylaws, and regulations for the admission, government, suspension, and expulsion of its members;

(2) adopt and alter a seal;

(3) provide for the election of its officers and define their duties;

(4) provide for State societies or chapters with regulations for their conduct, and regulate and provide for the management, safe-keeping, and protection of their property and funds;

(5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation; and

(6) sue and be sued.

**§ 153304. Trustees**

The property and affairs of the corporation shall be managed by at least 40 trustees. The trustees shall be elected annually at the time provided in the bylaws. At least one trustee shall be elected annually from a list of nominees to be made by each of the State societies and submitted to the corporation at least 30 days before the annual meeting, in accordance with provisions adopted by the corporation to regulate nominations.

**CHAPTER 1535—NATIONAL TROPICAL BOTANICAL GARDEN**

Sec.

153501. Organization.



- 153502. Purposes.
- 153503. Membership.
- 153504. Governing body.
- 153505. Powers.
- 153506. Exclusive right to name.
- 153507. Restrictions.
- 153508. Principal office and location of activities and gardens.
- 153509. Records and inspection.
- 153510. Statement required in audit report.
- 153511. Service of process.
- 153512. Liability for acts of officers and agents.
- 153513. Distribution of assets on dissolution or final liquidation.

#### **§ 153501. Organization**

(a) **FEDERAL CHARTER.**—National Tropical Botanical Garden (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 153502. Purposes**

The purposes of the corporation are—

(1) to establish, develop, operate, and maintain for the benefit of the people of the United States an educational and scientific center in the form of one or more tropical botanical gardens, together with facilities such as libraries, herbaria, laboratories, and museums that are appropriate and necessary for encouraging and conducting research in basic and applied tropical botany;

(2) to foster and encourage fundamental research about tropical plant life and to encourage research and study of the uses of tropical flora in agriculture, forestry, horticulture, medicine, and other sciences;

(3) to disseminate through publications and other media the knowledge about basic and applied tropical botany acquired at the gardens;

(4) to collect and cultivate tropical flora of every nature and origin and to preserve for the people of the United States species of tropical plant life threatened with extinction; and

(5) to provide a beneficial facility that will contribute to the education, instruction, and recreation of the people of the United States.

#### **§ 153503. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

(b) **VOTING.**—Each member (except an honorary or associate member) has one vote on each matter submitted to a vote at a meeting of the members.

#### **§ 153504. Governing body**

(a) **BOARD OF TRUSTEES.**—(1) The board of trustees is the governing body of the corporation. The duties and powers of the board are as provided in the bylaws.

(2) The manner of selection and term of office of the trustees are as provided in the bylaws.

(b) **OFFICERS.**—(1) The officers of the corporation are a president, one or more vice presidents, a secretary, a treasurer, and other officers as provided in the bylaws.

(2) The manner of election, term of office, and duties of the officers are as provided in the bylaws.

**§ 153505. Powers**

The corporation may—

(1) adopt and amend bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, trustees, managers, employees, and agents as the activities of the corporation require;

(4) make contracts;

(5) acquire, own, lease, encumber, and transfer property as necessary or proper to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(7) sue and be sued; and

(8) do any other act necessary and proper to carry out the purposes of the corporation.

**§ 153506. Exclusive right to name**

The corporation has the exclusive right to use and to allow others to use the name “National Tropical Botanical Garden”.

**§ 153507. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a trustee or officer as such may not contribute to, support, or assist a political party or candidate for elective public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a trustee, officer, or member during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of trustees.

(d) LOANS.—The corporation may not make a loan to a trustee, officer, or employee. Trustees who vote for or assent to making a loan to a trustee, officer, or employee, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

**§ 153508. Principal office and location of activities and gardens**

(a) PRINCIPAL OFFICE.—The principal office of the corporation shall be in the District of Columbia or another place decided by the board of trustees.

(b) LOCATION OF ACTIVITIES AND GARDENS.—The activities of the corporation may be conducted anywhere. However, the corporation may establish tropical botanical gardens only in the United States and its territories and possessions.

**§ 153509. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its board of trustees and committees having any of the authority of its board of trustees; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 153510. Statement required in audit report**

The corporation shall include in the audit report statement required under section 10101(b)(1)(B) of this title a schedule of all contracts requiring payments greater than \$10,000 and all payments of compensation or fees at a rate of greater than \$10,000 a year.

**§ 153511. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 153512. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 153513. Distribution of assets on dissolution or final liquidation**

(a) ALLOWABLE RECIPIENTS.—On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed, as decided by the board of trustees, to—

(1) the United States Government, to be administered by the Secretary of the Interior under the Act of August 25, 1916 (16 U.S.C. 1 et seq.), known as the National Park Service Organic Act)); or

(2) a State or local government to be used for a public purpose.

(b) RESTRICTION.—A distribution under subsection (a) of this section shall be consistent with the purposes of the corporation and in compliance with the charter and bylaws.

**CHAPTER 1537—NATIONAL WOMAN'S RELIEF CORPS,  
AUXILIARY TO THE GRAND ARMY OF THE REPUBLIC**

Sec.

153701. Organization.

153702. Purposes.

153703. Membership.

153704. Governing body.

153705. Powers.

153706. Exclusive right to name, seals, emblems, and badges.

153707. Restrictions.

153708. Principal office.

153709. Records and inspection.

153710. Service of process.

153711. Liability for acts of officers and agents.

153712. Annual report.

153713. Distribution of assets on dissolution or final liquidation.

**§ 153701. Organization**

(a) **FEDERAL CHARTER.**—National Woman's Relief Corps, Auxiliary to the Grand Army of the Republic (in this chapter, the "corporation"), is a federally chartered corporation.

(b) **PLACE OF INCORPORATION AND DOMICILE.**—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 153702. Purposes**

The purposes of the corporation are—

(1) to perpetuate the memory of the Grand Army of the Republic, as the National Woman's Relief Corps is its auxiliary and was organized at its request in 1883, and of the men who saved the Union in 1861 to 1865;

(2) to assist in every practicable way in preserving, and making available for research, documents and records pertaining to the Grand Army of the Republic and its members;

(3) to cooperate in doing honor to all those who have served our country patriotically in any war;

(4) to teach patriotism, the duties of citizenship, the true history of our country, and the love and honor of our flag;

(5) to oppose every tendency or movement that would weaken loyalty to, destroy, or impair our constitutional Union; and

(6) to inculcate and broadly sustain the American principles of representative government, equal rights, and impartial justice for all.

**§ 153703. Membership**

Except as provided in this chapter, eligibility for membership in the corporation and the rights, privileges, and designation of classes of members are as provided in the constitution and bylaws of the corporation. Eligibility for membership is limited to—

(1) women who are the wives, mothers, daughters, and sisters of Union soldiers, sailors, and marines; and

(2) other loyal women who have not given aid or comfort to the enemies of the United States of America.

**§ 153704. Governing body**

(a) **NATIONAL CONVENTION.**—(1) The national convention is the supreme governing authority of the corporation.

(2) The national convention is composed of officers and elected representatives from the States as provided by the regulations of the corporation. However, the form of government of the corporation must be representative of the membership at large and may not permit concentration of control in a limited number of members or in a self-perpetuating group not representative of the membership at large.

(3) The meetings of the national convention may be held in the District of Columbia or in any State.

(4) During the intervals between the convention, the executive officers are the governing board of the corporation and are responsible for the general policies, program, and activities of the corporation.

(b) COUNCIL OF ADMINISTRATION.—The council of administration of the corporation shall consist of at least 7 members elected in the manner and for the term provided in the constitution and bylaws of the corporation.

(c) OFFICERS.—(1) The officers of the corporation are a national president, senior vice national president, junior vice national president, secretary, treasurer, and other officers as provided in the constitution and bylaws. One individual may hold the offices of secretary and treasurer.

(2) The titles, manner of election, term of office, and duties of the officers are as provided in the constitution and bylaws.

#### **§ 153705. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers as the corporation requires;

(4) make contracts;

(5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation; and

(6) sue and be sued.

#### **§ 153706. Exclusive right to name, seals, emblems, and badges**

The corporation and its subordinate corps have the exclusive right to use the name “National Woman’s Relief Corps, Auxiliary to the Grand Army of the Republic”. The corporation has the exclusive right to use and to allow others to use seals, emblems, and badges the corporation adopts.

#### **§ 153707. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or an officer or agent as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, an officer or member during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the council of administration of the corporation.

(d) LOANS.—The corporation may not make a loan or advance to an officer or member of the corporation. Members of the council of administration who vote for or assent to making a loan or advance to an officer or member, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

#### **§ 153708. Principal office**

The principal office of the corporation shall be in Springfield, Illinois. However, the activities of the corporation are not confined

to Springfield but may be conducted throughout the States of the United States and the District of Columbia.

**§ 153709. Records and inspection**

(a) RECORDS.—The corporation shall keep—

- (1) correct and complete records of account; and
- (2) minutes of the proceedings of its national convention.

(b) INSPECTION.—A member, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 153710. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process, notice, or demand for the corporation. Designation of the agent shall be filed in the office of the Mayor of the District of Columbia or another office designated by the Mayor. Notice to or service on the agent is notice to or service on the corporation.

**§ 153711. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 153712. Annual report**

Not later than 6 months after the end of each fiscal year, the corporation shall submit a report to Congress on the activities of the corporation during the prior fiscal year. The report may consist of a report on the proceedings of the national convention during that fiscal year. The report may not be printed as a public document.

**§ 153713. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, its assets shall be distributed as follows:

(1) All liabilities shall be paid and discharged, or adequate provision for payment and discharge shall be made.

(2) Assets held on condition requiring return or transfer on dissolution of the corporation shall be returned or transferred as required by the condition.

(3) Assets received and held subject to a limitation permitting use only for charitable, religious, benevolent, educational, or similar purposes, but not held on a condition requiring return or transfer on dissolution of the corporation, shall be transferred to one or more appropriate domestic or foreign corporations, societies, or organizations under a plan of distribution adopted as provided in this chapter.

(4) Other assets shall be distributed as provided by the articles of incorporation or bylaws to the extent that the articles or bylaws provide the distributive rights of members, or any class of members, or provide for distribution to others.

(5) Any remaining assets may be distributed to persons, societies, organizations, or domestic or foreign corporations engaged in activities not for profit, as provided in a plan of distribution adopted by the council of administration of the corporation and in compliance with the constitution and bylaws of the corporation.

**CHAPTER 1539—THE NATIONAL YOEMEN F**

Sec.

153901. Organization.

153902. Purposes.

153903. Powers.

153904. Deposit of historical material.

**§ 153901. Organization**

The National Yoemen F (in this chapter, the “corporation”) is a body corporate and politic in the District of Columbia.

**§ 153902. Purposes**

The purposes of the corporation are patriotic, historical, and educational and are—

(1) to foster and perpetuate the memory of the service of Yoemen (f) in the United States Naval Reserve Force of the United States Navy during World War I;

(2) to preserve the memories and incidents of their association in World War I by the encouragement of historical research concerning the service of Yoemen (f);

(3) to cherish, maintain, and extend the institutions of American freedom by the promotion of celebrations of all patriotic anniversaries;

(4) to foster true patriotism and love of country; and

(5) to aid in securing for mankind all the blessings of liberty.

**§ 153903. Powers**

The corporation may—

(1) adopt a constitution and bylaws;

(2) adopt a seal; and

(3) hold real and personal property in the United States, but only to the extent necessary to carry out the purposes of the corporation and only in an amount not more than \$50,000.

**§ 153904. Deposit of historical material**

The Regents of the Smithsonian Institution may permit the corporation to deposit its collections, manuscripts, books, pamphlets, and other material for history in the Smithsonian Institution or in the National Museum, on conditions and under rules they prescribe.

**CHAPTER 1541—NAVAL SEA CADET CORPS**

Sec.

154101. Organization.

154102. Purposes.

154103. Membership.

154104. Governing body.

154105. Powers.

154106. Exclusive right to name, insignia, emblems, badges, marks, and words.

154107. Restrictions.

154108. Principal office.

154109. Records and inspection.

154110. Service of process.

154111. Liability for acts of officers and agents.

154112. Annual report.

154113. Distribution of assets on dissolution or final liquidation.

**§ 154101. Organization**

(a) FEDERAL CHARTER.—Naval Sea Cadet Corps (in this chapter, the “corporation”) is a federally chartered corporation.

(b) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

**§ 154102. Purposes**

The purposes of the corporation are, through organization and cooperation with the Department of the Navy—

(1) to encourage and aid American young people to develop an interest and skill in basic seamanship and in its naval adaptations;

(2) to train them in seagoing skills; and

(3) to teach them patriotism, courage, self-reliance, and kindred virtues.

**§ 154103. Membership**

Except as provided in this chapter, eligibility for membership in the corporation and the rights, privileges, and designation of classes of members are as provided in the constitution and bylaws of the corporation.

**§ 154104. Governing body**

(a) BOARD OF DIRECTORS.—(1) The board of directors is the governing body of the corporation. The board is responsible for the general policies and program of the corporation and the control of all funds of the corporation.

(2) The number of directors, their manner of selection (including the filling of vacancies), and their term of office are as provided in the constitution and bylaws. However, the board shall have at least 10 but not more than 25 directors.

(b) OFFICERS.—(1) The officers of the corporation are a president, one or more vice presidents as provided in the constitution and bylaws, a secretary, a treasurer, and other officers as provided in the constitution and bylaws.

(2) The manner of election, term of office, and duties of the officers are as provided in the constitution and bylaws.

**§ 154105. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, managers, employees, and agents as the activities of the corporation require;

(4) make contracts;

(5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property; and

(7) sue and be sued.



**§ 154106. Exclusive right to name, insignia, emblems, badges, marks, and words**

The corporation has the exclusive right to use the name “Naval Sea Cadet Corps” and distinctive insignia, emblems, and badges, descriptive or designating marks, and words or phrases required to carry out the duties and powers of the corporation. This section does not affect any vested rights.

**§ 154107. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of compensation to an officer in an amount approved by the board of directors.

(d) LOANS.—The corporation may not make a loan or advance to a director, officer, or employee. Directors who vote for or assent to making a loan or advance to a director, officer, or employee, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

**§ 154108. Principal office**

The principal office of the corporation shall be in Tacoma, Washington, or another place decided by the board of directors. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

**§ 154109. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 154110. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 154111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 154112. Annual report**

The corporation shall submit an annual report to the Secretary of the Navy on the activities of the corporation during the prior calendar year. The Secretary shall communicate to Congress any part of the report that the Secretary considers appropriate.

**§ 154113. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of directors, but in compliance with the constitution and bylaws of the corporation.

**CHAPTER 1543—NAVY CLUB OF THE UNITED STATES OF AMERICA**

Sec.

154301. Organization.

154302. Purposes.

154303. Powers.

154304. Annual report.

**§ 154301. Organization**

(a) **FEDERAL CHARTER.**—Navy Club of the United States of America (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 154302. Purposes**

The purposes of the corporation are—

(1) to encourage, promote, and maintain comradeship among individuals who are or have been in the active service of the United States Navy, the United States Marine Corps, or the United States Coast Guard;

(2) to revere, honor, and perpetuate the memory of individuals described in paragraph (1) of this section who have departed this life;

(3) to promote and encourage further public interest in the United States Navy, the United States Marine Corps, and the United States Coast Guard, and the history of those organizations;

(4) to uphold the spirit and ideals of the United States Navy, the United States Marine Corps, and the United States Coast Guard;

(5) to promote the ideals of American freedom and democracy and to fit its members for the duties of citizenship and to encourage them to serve as ably as citizens as they have served the Nation under arms; and

(6) to maintain true allegiance to American institutions.

**§ 154303. Powers**

The corporation may—

(1) adopt and amend bylaws;

(2) adopt and alter a corporate seal;

(3) appoint or elect officers and agents;

(4) choose a board of trustees, consisting of at least 5 but not more than 15 individuals, to conduct the business and exercise the powers of the corporation;

(5) establish and maintain offices to conduct its activities;

(6) acquire, own, lease, encumber, and transfer property as necessary or appropriate to carry out the purposes of the corporation;

(7) charge and collect membership dues and receive contributions of money or property to be devoted to carrying out the purposes of the corporation;

(8) sue and be sued; and

(9) do any other act necessary or appropriate to carry out the purposes of the corporation.

#### **§ 154304. Annual report**

Not later than December 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior calendar year. The report may not be printed as a public document.

### **CHAPTER 1545—NAVY WIVES CLUBS OF AMERICA**

Sec.

154501. Definition.

154502. Organization.

154503. Purposes.

154504. Membership.

154505. Governing body.

154506. Powers.

154507. Restrictions.

154508. Duty to maintain corporate and tax-exempt status.

154509. Records and inspection.

154510. Service of process.

154511. Liability for acts of officers and agents.

154512. Annual report.

#### **§ 154501. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

#### **§ 154502. Organization**

(a) **FEDERAL CHARTER.**—Navy Wives Clubs of America (in this chapter, the “corporation”), incorporated in California, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

#### **§ 154503. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and include—

(1) supporting the Constitution of the United States;

(2) promoting a friendly relationship between the wives of enlisted men who are serving in the active United States Navy, United States Marine Corps, or United States Coast Guard, or in the Active Reserves of those services; and

(3) performing charitable activities as provided in the constitution or bylaws of the corporation.

**§ 154504. Membership**

Eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.

**§ 154505. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

**§ 154506. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**§ 154507. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 154508. Duty to maintain corporate and tax-exempt status**

(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of each State in which it is incorporated.

(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 154509. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 154510. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 154511. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 154512. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 1547—NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA, INCORPORATED**

Sec.

- 154701. Definition.
- 154702. Organization.
- 154703. Purposes.
- 154704. Membership.
- 154705. Governing body.
- 154706. Powers.
- 154707. Exclusive right to name, seals, emblems, and badges.
- 154708. Restrictions.
- 154709. Duty to maintain tax-exempt status.
- 154710. Records and inspection.
- 154711. Service of process.
- 154712. Liability for acts of officers and agents.
- 154713. Annual report.

**§ 154701. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 154702. Organization**

(a) **FEDERAL CHARTER.**—Non Commissioned Officers Association of the United States of America, Incorporated (in this chapter, the “corporation”), a nonprofit corporation incorporated in Texas, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 154703. Purposes**

The purposes of the corporation are as provided in the bylaws and articles of incorporation and include—

- (1) upholding and defending the Constitution of the United States;
- (2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;
- (3) assisting veterans and their dependents and survivors through a service program established for that purpose;
- (4) improving conditions for service members, veterans, and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

#### **§ 154704. Membership**

(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

#### **§ 154705. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

#### **§ 154706. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 154707. Exclusive right to name, seals, emblems, and badges**

The corporation has the exclusive right to use the names “The Non Commissioned Officers Association of the United States of America”, “Non Commissioned Officers Association of the United States of America”, “Non Commissioned Officers Association”, and “NCOA”, and seals, emblems, and badges the corporation adopts. This section does not affect any vested rights.

#### **§ 154708. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(c) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

#### **§ 154709. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 154710. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 154711. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 154712. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 154713. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 1601—[RESERVED]****CHAPTER 1701—PARALYZED VETERANS OF AMERICA**

Sec.

170101. Organization.

170102. Purposes.

170103. Membership.

170104. Powers.

170105. Exclusive right to name, seals, emblems, and badges.

170106. Restrictions.

170107. Headquarters and principal place of business.

170108. Records and inspection.

170109. Service of process.

170110. Liability for acts of officers and agents.

170111. Distribution of assets on dissolution or final liquidation.

**§ 170101. Organization**

(a) FEDERAL CHARTER.—Paralyzed Veterans of America (in this chapter, the “corporation”) is a federally chartered corporation.

(b) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

**§ 170102. Purposes**

The purposes of the corporation are—

(1) to preserve the great and basic truths and enduring principles on which this Nation was founded;

(2) to form a national association for the benefit of individuals who have suffered injuries or diseases of the spinal cord;

(3) to acquaint the public with the needs and problems of paraplegics;

(4) to promote medical research in the several fields connected with injuries and diseases of the spinal cord, including research in neurosurgery and orthopedics and in genitourinary and orthopedic appliances; and

(5) to advocate and foster complete and effective reconditioning programs for paraplegics, including a thorough physical reconditioning program, physiotherapy, competent walking instructions, adequate guidance (both vocational and educational), academic and vocational education (both in hospitals and in educational institutions), psychological orientation and readjustment to family and friends, and occupational therapy (both functional and diversional).

#### **§ 170103. Membership**

An individual is eligible for membership in the corporation if the individual—

(1) is a citizen of the United States;

(2) was regularly enlisted, inducted, or commissioned, and was accepted for or on active duty, in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States or an ally of the United States;

(3)(A) was separated from service in the Armed Forces under conditions other than dishonorable; or

(B) is on active duty or must continue to serve after the cessation of hostilities; and

(4) has suffered a spinal cord injury or disease, whether or not service connected in origin.

#### **§ 170104. Powers**

(a) SPECIFIC POWERS.—The corporation may—

(1) adopt and amend a constitution and bylaws;

(2) adopt and alter a corporate seal, emblems, and badges;

(3) choose officers, representatives, and agents as necessary to carry out the purposes of the corporation;

(4) make contracts;

(5) accept gifts, legacies, and devises that will further the purposes of the corporation;

(6) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(7) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(8) establish, regulate, and discontinue subordinate State and regional organizations and local chapters or posts;

(9) establish and maintain offices to conduct the affairs of the corporation;

(10) publish a magazine, newspaper, and other publications;

(11) sue and be sued; and

(12) do any other act necessary and proper to carry out the purposes of the corporation.

(b) PRIVILEGES OF OTHER NATIONAL VETERANS' ORGANIZATIONS.—Privileges granted to other national veterans' organizations as a result of their being incorporated by Congress are also granted to the corporation.



**§ 170105. Exclusive right to name, seals, emblems, and badges**

The corporation and its State and regional organizations and local chapters or posts have the exclusive right to use the name “Paralyzed Veterans of America” and seals, emblems, and badges the corporation lawfully adopts.

**§ 170106. Restrictions**

(a) PROFIT.—The corporation may not engage in business for profit.

(b) STOCK.—The corporation may not issue stock.

(c) POLITICAL ACTIVITIES.—The corporation shall be nonpolitical and may not provide financial aid to, or otherwise promote the candidacy of, an individual seeking public office.

(d) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, member, or employee during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(e) LOANS.—The corporation may not make a loan to a director, officer, member, or employee. Directors who vote for or assent to making such a loan, and officers who participate in making the loan, are jointly and severally liable to the corporation for the amount of the loan until it is repaid.

**§ 170107. Headquarters and principal place of business**

The headquarters and principal place of business of the corporation shall be in the District of Columbia. However, the activities of the corporation are not confined to the District of Columbia but may be conducted throughout the States, territories, and possessions of the United States.

**§ 170108. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, executive committee, and committees having any of the authority of its executive committee; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 170109. Service of process**

As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall file, with the secretary of state or other designated official of each State, territory, or possession of the United States in which an organization, chapter, or post is organized, the name and address of an agent in that State, territory, or possession on whom legal process or demands against the corporation may be served.

**§ 170110. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 170111. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge or satisfactory provision for discharge of all liabilities shall be transferred to the Secretary of Veterans Affairs to be applied to the care and comfort of paralyzed veterans.

**CHAPTER 1703—PEARL HARBOR SURVIVORS ASSOCIATION**

Sec.

- 170301. Definition.
- 170302. Organization.
- 170303. Purposes.
- 170304. Membership.
- 170305. Governing body.
- 170306. Powers.
- 170307. Exclusive right to name, seals, emblems, and badges.
- 170308. Restrictions.
- 170309. Duty to maintain tax-exempt status.
- 170310. Records and inspection.
- 170311. Service of process.
- 170312. Liability for acts of officers and agents.
- 170313. Annual report.

**§ 170301. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 170302. Organization**

(a) **FEDERAL CHARTER.**—Pearl Harbor Survivors Association (in this chapter, the “corporation”), a nonprofit corporation incorporated in Missouri, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 170303. Purposes**

The purposes of the corporation are as provided in its articles of incorporation and include—

(1) upholding and defending the Constitution of the United States;

(2) collating, preserving, and encouraging the study of historical episodes, chronicles, mementos, and events pertaining to “The Day of Infamy, 7 December 1941”, and in particular those memories and records of patriotic service performed by the heroic Pearl Harbor survivors and nonsurvivors;

(3) shielding from neglect the graves, past and future, of those who served at Pearl Harbor on that day;

(4) stimulating communities and political subdivisions into taking more interest in the affairs and future of the United States to keep our Nation alert;

(5) fighting unceasingly for our national security to protect the United States from enemies within and without our borders;

(6) preserving the American way of life and fostering the spirit and practice of Americanism; and

(7) instilling love of country and flag and promoting soundness of mind and body in the youth of our Nation.

#### **§ 170304. Membership**

(a) **ELIGIBILITY.**—Eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

(b) **NONDISCRIMINATION.**—The terms of membership may not discriminate on the basis of race, color, religion, or national origin.

#### **§ 170305. Governing body**

(a) **BOARD OF DIRECTORS.**—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) **OFFICERS.**—The officers and the election of officers are as provided in the articles of incorporation.

(c) **NONDISCRIMINATION.**—The requirements for holding office in the corporation may not discriminate on the basis of race, color, religion, or national origin.

#### **§ 170306. Powers**

The corporation has the powers provided in its bylaws and articles of incorporation filed in the State in which it is incorporated, including the power to—

- (1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;
- (2) adopt and alter a corporate seal;
- (3) adopt emblems and badges;
- (4) establish, maintain, and regulate offices to conduct the affairs of the corporation;
- (5) publish a magazine and other publications;
- (6) charge and collect membership dues and subscription fees and receive contributions or grants of money or property to be used to carry out the purposes of the corporation;
- (7) accept gifts, legacies, and devises that will further the purposes of the corporation;
- (8) promote the formation of auxiliaries, the membership requirements of which shall be as provided in the constitution and the bylaws of the corporation;
- (9) sue and be sued; and
- (10) do any other act necessary or desirable to carry out the purposes of the corporation.

#### **§ 170307. Exclusive right to name, seals, emblems, and badges**

The corporation and its regional districts and local branches have the exclusive right to use the name “Pearl Harbor Survivors Association” and seals, emblems, and badges the corporation adopts.

#### **§ 170308. Restrictions**

(a) **STOCK AND DIVIDENDS.**—The corporation may not issue stock or declare or pay a dividend.

(b) **POLITICAL ACTIVITIES.**—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter or on dissolution or final liquidation of the corporation. This subsection does not prevent the payment of compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) **LOANS.**—The corporation may not make a loan to a director, officer, or employee.

(e) **CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.**—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

#### **§ 170309. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

#### **§ 170310. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 170311. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

#### **§ 170312. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### **§ 170313. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

### **CHAPTER 1705—POLISH LEGION OF AMERICAN VETERANS, U.S.A.**

Sec.

170501. Definition.

170502. Organization.

170503. Purposes.

170504. Membership.

170505. Governing body.

170506. Powers.

170507. Restrictions.

170508. Duty to maintain tax-exempt status.

170509. Records and inspection.

170510. Service of process.

170511. Liability for acts of officers and agents.

170512. Annual report.

#### **§ 170501. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

#### **§ 170502. Organization**

(a) **FEDERAL CHARTER.**—Polish Legion of American Veterans, U.S.A. (in this chapter, the “corporation”), a nonprofit corporation incorporated in Illinois, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

#### **§ 170503. Purposes**

The purposes of the corporation are as provided in its articles of incorporation. The corporation shall function as a veterans’ and patriotic organization as authorized by the laws of each State in which it is incorporated.

#### **§ 170504. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

(b) **NONDISCRIMINATION.**—The terms of membership may not discriminate on the basis of race, color, religion, or national origin.

#### **§ 170505. Governing body**

(a) **BOARD OF DIRECTORS.**—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) **OFFICERS.**—The officers and the election of officers are as provided in the articles of incorporation.

(c) **NONDISCRIMINATION.**—The requirements for holding office in the corporation may not discriminate on the basis of race, color, religion, or national origin.

#### **§ 170506. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 170507. Restrictions**

(a) **STOCK AND DIVIDENDS.**—The corporation may not issue stock or declare or pay a dividend.

(b) **POLITICAL ACTIVITIES.**—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) **DISTRIBUTION OF INCOME OR ASSETS.**—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement

for actual necessary expenses in amounts approved by the board of directors.

(d) **LOANS.**—The corporation may not make a loan to a director, officer, or employee.

(e) **CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.**—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

#### **§ 170508. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

#### **§ 170509. Records and inspection**

(a) **RECORDS.**—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) **INSPECTION.**—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

#### **§ 170510. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

#### **§ 170511. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

#### **§ 170512. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

### **CHAPTER 1801—[RESERVED]**

### **CHAPTER 1901—RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES**

Sec.

190101. Organization.

190102. Purposes.

190103. Membership.

190104. Governing body.

190105. Powers.

190106. Exclusive right to name, seals, emblems, and badges.

190107. Restrictions.

190108. Headquarters.

190109. Records and inspection.

190110. Service of process.

190111. Liability for acts of officers and agents.

190112. Distribution of assets on dissolution or final liquidation.

**§ 190101. Organization**

(a) **FEDERAL CHARTER.**—Reserve Officers Association of the United States (in this chapter, the “corporation”) is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 190102. Purposes**

The purposes of the corporation are to support and promote the development and execution of a military policy for the United States that will provide adequate national security.

**§ 190103. Membership**

(a) **ELIGIBILITY.**—Eligibility for membership in the corporation is as provided in the constitution and bylaws of the corporation.

(b) **VOTING.**—Each active member of a department or chapter has one vote in the conduct of official business of that department or chapter.

**§ 190104. Governing body**

(a) **NATIONAL CONVENTION.**—The corporation shall hold an annual national convention. The national convention shall be composed of delegates elected by the various departments.

(b) **NATIONAL EXECUTIVE COMMITTEE.**—(1) The national executive committee is the governing body of the corporation.

(2) The national executive committee consists of the president, the last past president, 3 vice presidents, 3 junior vice presidents, 3 national executive committee members, and the executive director. Each of these individuals, except the executive director, has one vote on each matter decided by the committee.

(c) **OFFICERS.**—(1) The officers of the corporation are a president, 3 vice presidents, 3 junior vice presidents, 3 national executive committee members, an executive director, a national treasurer, a judge advocate, a surgeon, a chaplain, a historian, a public relations officer, and other officers as decided at the national convention.

(2) The national officers of the corporation shall be elected at the annual national convention, except for the executive director, the national treasurer, and the national public relations officer, who shall be appointed by the national executive committee.

(3) The elected officers shall hold office for one year or until their successors have been elected and qualified.

(d) **VACANCIES.**—(1) Except for the positions of president and last past president, a vacancy on the national executive committee shall be filled by the existing members of the committee. An individual appointed by the committee to fill a vacancy serves until the next national convention when the individual’s successor shall be elected for the unexpired term, if any, caused by the vacancy.

(2) If the president is absent or the office of president is vacant, the national vice president of the same service as the president shall act as president.

**§ 190105. Powers**

The corporation may—

- (1) adopt and amend a constitution and bylaws;
- (2) adopt and alter a corporate seal;
- (3) adopt and alter emblems and badges;

- (4) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;
- (5) publish a magazine, newspaper, and other publications;
- (6) establish, regulate, and discontinue subordinate departmental subdivisions and local chapters;
- (7) sue and be sued; and
- (8) do any other act necessary and proper to carry out the purposes of the corporation.

**§ 190106. Exclusive right to name, seals, emblems, and badges**

The corporation and its subordinate departmental subdivisions and local chapters have the exclusive right to use the name “Reserve Officers Association of the United States” and seals, emblems, and badges the corporation adopts.

**§ 190107. Restrictions**

- (a) PROFIT.—The corporation may not engage in business for profit.
- (b) STOCK.—The corporation may not issue stock.
- (c) POLITICAL ACTIVITIES.—The corporation or an officer or member as such may not contribute to, support, or assist a political party or candidate for public office.
- (d) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, an officer or member except on dissolution or final liquidation of the corporation.
- (e) LOANS.—The corporation may not make a loan or advance to an officer or member of the national executive committee. Members of the national executive committee who vote for or assent to making a loan or advance to an officer, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

**§ 190108. Headquarters**

The headquarters of the corporation shall be in the District of Columbia.

**§ 190109. Records and inspection**

- (a) RECORDS.—The corporation shall keep—
  - (1) correct and complete records of account;
  - (2) minutes of the proceedings of its national conventions, national executive committee, and national council; and
  - (3) at its principal office, a record of the names and addresses of its members entitled to vote.
- (b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 190110. Service of process**

- (a) DISTRICT OF COLUMBIA.—The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the corporation.
- (b) STATES, TERRITORIES, AND POSSESSIONS.—As a condition to the exercise of any power or privilege granted by this chapter,



the corporation shall file, with the secretary of state or other designated official of each State, territory, or possession of the United States in which a subordinate department or local chapter is organized, the name and address of an agent in that State, territory, or possession on whom legal process or demands against the corporation may be served.

**§ 190111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 190112. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be divided equally among the then active officers and members.

**CHAPTER 1903—RETIRED ENLISTED ASSOCIATION,  
INCORPORATED**

Sec.

- 190301. Definition.
- 190302. Organization.
- 190303. Purposes.
- 190304. Membership.
- 190305. Governing body.
- 190306. Powers.
- 190307. Exclusive right to name, seals, emblems, and badges.
- 190308. Restrictions.
- 190309. Duty to maintain tax-exempt status.
- 190310. Records and inspection.
- 190311. Service of process.
- 190312. Liability for acts of officers and agents.
- 190313. Annual report.

**§ 190301. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

**§ 190302. Organization**

(a) **FEDERAL CHARTER.**—Retired Enlisted Association, Incorporated (in this chapter, the “corporation”), a nonprofit corporation incorporated in Colorado, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 190303. Purposes**

The purposes of the corporation are as provided in its articles of incorporation and bylaws and include—

- (1) upholding and defending the Constitution of the United States;
- (2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;
- (3) assisting veterans and their dependents and survivors through a service program established for that purpose;
- (4) improving conditions for retired enlisted service members, veterans, and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

#### **§ 190304. Membership**

(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the articles of incorporation and bylaws.

(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

#### **§ 190305. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

#### **§ 190306. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 190307. Exclusive right to name, seals, emblems, and badges**

The corporation has the exclusive right to use the names “The Retired Enlisted Association, Incorporated”, “The Retired Enlisted Association”, “Retired Enlisted Association”, and “TREA” and seals, emblems, and badges the corporation adopts. This section does not affect any vested rights.

#### **§ 190308. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(c) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

#### **§ 190309. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 190310. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 190311. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 190312. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 190313. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 2001—SOCIETY OF AMERICAN FLORISTS AND ORNAMENTAL HORTICULTURISTS**

Sec.

200101. Organization.

200102. Purposes.

200103. Powers.

200104. Restrictions.

200105. Principal office.

200106. Nonapplication of audit requirements.

**§ 200101. Organization**

Society of American Florists and Ornamental Horticulturists (in this chapter, the “corporation”) is a body corporate and politic in the District of Columbia.

**§ 200102. Purposes**

The purposes of the corporation are to educate members of the florist industry and the public, and to promote scientific development, in floriculture and horticulture.

**§ 200103. Powers**

The corporation may—

(1) adopt a constitution and bylaws for the management of its property and the regulation of its affairs; and

(2)(A) hold property, in the District of Columbia or elsewhere, necessary to carry out the purposes of the corporation, in an amount not to exceed \$1,000,000; and

(B) hold other property donated or bequeathed in any State or territory of the United States.

**§ 200104. Restrictions**

(a) PROFIT.—The corporation may not operate for profit.

(b) USE OF EARNINGS.—Earnings generated by the corporation may be used only for the purposes provided in section 200102 of this title.

(c) USE OF PROPERTY.—Property held by the corporation, and the proceeds from the property, may be used only for the purposes provided in section 200102 of this title.

(d) PARKS IN THE DISTRICT OF COLUMBIA.—The corporation may not occupy any park in the District of Columbia.

**§ 200105. Principal office**

The principal office of the corporation shall be located in the District of Columbia. However, annual meetings may be held wherever the corporation decides.

**§ 200106. Nonapplication of audit requirements**

The audit requirements of section 10101 of this title do not apply to the corporation.

## **CHAPTER 2003—SONS OF UNION VETERANS OF THE CIVIL WAR**

Sec.

200301. Organization.

200302. Purposes.

200303. Membership.

200304. Governing body.

200305. Powers.

200306. Exclusive right to name, seals, emblems, and badges.

200307. Restrictions.

200308. Principal office.

200309. Records and inspection.

200310. Service of process.

200311. Liability for acts of officers and agents.

200312. Annual report.

200313. Distribution of assets on dissolution or final liquidation.

**§ 200301. Organization**

(a) FEDERAL CHARTER.—Sons of Union Veterans of the Civil War (in this chapter, the “corporation”) is a federally chartered corporation.

(b) PLACE OF INCORPORATION AND DOMICILE.—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

**§ 200302. Purposes**

The purposes of the corporation are—

(1) to perpetuate the memory of the Grand Army of the Republic and of the men who saved the Union in 1861 to 1865;

(2) to assist in every practicable way in preserving, and making available for research, documents and records pertaining to the Grand Army of the Republic and its members;

(3) to cooperate in honoring all those who have served our country patriotically in any war;

(4) to teach patriotism, the duties of citizenship, the true history of our country, and the love and honor of our flag;

(5) to oppose every tendency or movement that would weaken loyalty to, destroy, or impair our constitutional Union; and

(6) to inculcate and broadly sustain the American principles of representative government, equal rights, and impartial justice for all.

#### **§ 200303. Membership**

(a) GENERAL.—Except as provided in this chapter, eligibility for membership in the corporation and the rights, privileges, and designation of classes of members are as provided in the constitution and bylaws of the corporation.

(b) REQUIRED SERVICE.—Eligibility for membership in the corporation is limited to male blood relatives of an individual who—

(1) served at any time during the period from April 12, 1861, through April 9, 1865, as a soldier or sailor in—

(A) the United States Army, Navy, Marine Corps, or Revenue-Cutter Service; or

(B) a State regiment that was called into active service and was subject to orders of United States general officers during that period; and

(2) was discharged honorably from, or died in, that service.

#### **§ 200304. Governing body**

(a) NATIONAL ENCAMPMENT.—(1) The national encampment is the supreme governing authority of the corporation.

(2) The national encampment is composed of officers and elected representatives from the States and other local subdivisions of the corporation as provided in the constitution and bylaws. However, the form of government of the corporation must be representative of the membership at large and may not permit concentration of control in a limited number of members or in a self-perpetuating group not representative of the membership at large.

(3) The meetings of the national encampment may be held in the District of Columbia or in any State, territory, or possession of the United States.

(b) COUNCIL OF ADMINISTRATION.—(1) During the intervals between the national encampments, the council of administration is the governing board of the corporation and is responsible for the general policies, program, and activities of the corporation.

(2) The council of administration shall consist of at least seven members elected in the manner and for the term provided in the constitution and bylaws.

(c) OFFICERS.—(1) The officers of the corporation are a commander in chief, a senior vice commander in chief, a junior vice commander in chief, a secretary, a treasurer, and other officers as provided in the constitution and bylaws. One individual may hold the offices of secretary and treasurer.

(2) The manner of selection, term of office, and duties of the officers are as provided in the constitution and bylaws.

#### **§ 200305. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, managers, agents, and employees as the activities of the corporation require;

(4) make contracts;

(5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(7) sue and be sued; and

(8) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 200306. Exclusive right to name, seals, emblems, and badges**

The corporation and its subordinate divisions have the exclusive right to use the name “Sons of Union Veterans of the Civil War”. The corporation has the exclusive right to use and to allow others to use seals, emblems, and badges the corporation adopts.

#### **§ 200307. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or an officer or agent as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, an officer or member during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the council of administration of the corporation.

(d) LOANS.—The corporation may not make a loan or advance to an officer or employee. Members of the council of administration who vote for or assent to making a loan or advance to an officer or employee, and officers who participate in making the loan or advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

#### **§ 200308. Principal office**

The principal office of the corporation shall be in Trenton, New Jersey, or another place decided by the council of administration. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted in the District of Columbia and throughout the States, territories, and possessions of the United States.

#### **§ 200309. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account; and

(2) minutes of the proceedings of its national encampments and council of administration.

(b) INSPECTION.—A member, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 200310. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 200311. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 200312. Annual report**

Not later than March 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior fiscal year. The report may consist of a report on the proceedings of the national encampment. The report may not be printed as a public document.

**§ 200313. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the council of administration, but in compliance with the constitution and bylaws of the corporation.

**CHAPTER 2101—THEODORE ROOSEVELT ASSOCIATION**

Sec.

210101. Organization.

210102. Purposes.

210103. Membership.

210104. Governing body.

210105. Powers.

210106. Restrictions.

210107. Nonapplication of audit requirements.

**§ 210101. Organization**

(a) **FEDERAL CHARTER.**—Theodore Roosevelt Association (in this chapter, the “corporation”) is a body corporate and politic in the District of Columbia.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 210102. Purposes**

The purposes of the corporation are—

(1) to perpetuate the memory of Theodore Roosevelt for the benefit of the people of the United States and the world; and

(2) to solicit, receive, hold, and maintain funds, and to apply the principal of the funds and the income from those funds to the following objects, among others:

(A) the erection and maintenance of a suitable and adequate monumental memorial in the District of Columbia to the memory of Theodore Roosevelt;

(B) the acquisition, development, and maintenance of a public park in memory of Theodore Roosevelt in Oyster Bay, New York;

(C) the establishment and maintenance of an endowment fund to promote the development and application

of the policies and ideals of Theodore Roosevelt for the benefit of the American people; and

(D) the donation of real and personal property, including part or all of its endowment fund, to a public agency for the purpose of preserving in public ownership historically significant property associated with the life of Theodore Roosevelt.

#### **§ 210103. Membership**

Eligibility for membership in the corporation is as provided in regulations adopted by the board of trustees.

#### **§ 210104. Governing body**

(a) BOARD OF TRUSTEES.—A self-perpetuating board of trustees shall manage and direct the property and affairs of the corporation.

(b) POWERS.—The board of trustees may adopt and amend a constitution, bylaws, and regulations for—

- (1) the selection of successor trustees;
- (2) the admission of members;
- (3) the election of officers; and
- (4) the conduct of the affairs of the corporation.

#### **§ 210105. Powers**

The corporation may—

- (1) adopt a constitution, bylaws, and regulations;
- (2) adopt and alter a corporate seal;
- (3) acquire and own property necessary to carry out the purposes of the corporation;
- (4) give and dedicate its property to public agencies and purposes;
- (5) maintain offices, hold meetings, and conduct business affairs in the District of Columbia and in the States, territories, and possessions of the United States;
- (6) sue and be sued within the jurisdiction of the United States; and
- (7) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 210106. Restrictions**

(a) EXCLUSIVELY EDUCATIONAL PURPOSES.—The corporation shall be operated exclusively for educational purposes.

(b) STOCKS AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(c) DISTRIBUTIONS OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of any member or individual.

#### **§ 210107. Nonapplication of audit requirements**

The audit requirements of section 10101 of this title do not apply to the corporation.

### **CHAPTER 2103—369TH VETERANS' ASSOCIATION**

Sec.

210301. Definition.

210302. Organization.

210303. Purposes.

210304. Membership.



- 210305. Governing body.
- 210306. Powers.
- 210307. Exclusive right to name, seals, emblems, and badges.
- 210308. Restrictions.
- 210309. Duty to maintain tax-exempt status.
- 210310. Records and inspection.
- 210311. Service of process.
- 210312. Liability for acts of officers and agents.
- 210313. Annual report.

#### **§ 210301. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

#### **§ 210302. Organization**

(a) **FEDERAL CHARTER.**—369th Veterans’ Association (in this chapter, the “corporation”), a nonprofit corporation incorporated in New York, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

#### **§ 210303. Purposes**

The purposes of the corporation are as provided in the articles of incorporation and include—

- (1) promoting the principles of friendship and good will among its members;
- (2) engaging in social and civic activities that tend to enhance the welfare of its members and inculcate the true principles of good citizenship in its members; and
- (3) memorializing, individually and collectively, the patriotic services of its members in the 369th antiaircraft artillery group and other units in the Armed Forces of the United States.

#### **§ 210304. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

(b) **NONDISCRIMINATION.**—The terms of membership may not discriminate on the basis of race, color, religion, or national origin.

#### **§ 210305. Governing body**

(a) **BOARD OF DIRECTORS.**—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) **OFFICERS.**—The officers and the election of officers are as provided in the articles of incorporation.

(c) **NONDISCRIMINATION.**—The requirements for holding office in the corporation may not discriminate on the basis of race, color, religion, or national origin.

#### **§ 210306. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**§ 210307. Exclusive right to name, seals, emblems, and badges**

The corporation has the exclusive right to use the name “369th Veterans’ Association” and seals, emblems, and badges the corporation adopts. This section does not affect any vested rights.

**§ 210308. Restrictions**

(a) STOCKS AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 210309. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 210310. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, the board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 210311. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 210312. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 210313. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report

of the audit required by section 10101 of this title. The report may not be printed as a public document.

## **CHAPTER 2201—UNITED SERVICE ORGANIZATIONS, INCORPORATED**

Sec.

220101. Organization.

220102. Purposes.

220103. Membership.

220104. Governing body.

220105. Powers.

220106. Exclusive right to name, seals, emblems, and badges.

220107. Assistance by Department of Defense.

220108. Restrictions.

220109. Duty to maintain corporate status.

220110. Principal office.

220111. Records and inspection.

220112. Service of process.

220113. Annual report.

220114. Distribution of assets on dissolution or final liquidation.

### **§ 220101. Organization**

(a) **FEDERAL CHARTER.**—United Service Organizations, Incorporated (in this chapter, the “corporation”), is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

### **§ 220102. Purposes**

The purposes of the corporation are—

(1) to provide a voluntary civilian agency through which the people of this Nation may, in peace or war, serve the religious, spiritual, social, welfare, educational, and entertainment needs of men and women in the Armed Forces, within or without the territorial limits of the United States;

(2) to contribute to the maintenance of morale of men and women in the Armed Forces;

(3) to solicit funds to maintain the organization and accomplish its responsibility;

(4) to accept the cooperation of, and provide an organization and means through which, the National Board of Young Men’s Christian Associations, the National Board of Young Women’s Christian Associations, the National Catholic Community Service, the Salvation Army, the National Jewish Welfare Board, the Travelers Aid-International Social Service of America, and other civilian agencies experienced in specialized types of related work, which may be needed adequately to meet the particular needs of the members of the Armed Forces, may carry on their historic work of serving the religious, spiritual, social, welfare, educational, and entertainment needs of men and women in the Armed Forces and be afforded an appropriate means of participation and financial assistance;

(5) to coordinate their programs; and

(6) other consonant purposes.

### **§ 220103. Membership**

Except as provided in this chapter, the rights, privileges, and designation of classes of members are as provided in the bylaws. The membership of the corporation consists of—

- (1) nine individuals designated by the President; and
- (2) representatives of the civilian organizations listed in section 220102(4) of this title, and of the public at large, as provided in the bylaws.

#### **§ 220104. Governing body**

(a) BOARD OF GOVERNORS.—(1) The board of governors is the governing body of the corporation. The board is responsible for the general policies and program of the corporation and for the control of the affairs and property of the corporation.

(2) The board shall be elected by the members of the corporation for the term and in the classes provided in the bylaws of the corporation. The board includes—

- (A) six members appointed by the President;
- (B) the Secretary of State or the Secretary's designee; and
- (C) representatives of the civilian organizations listed in section 220102(4) of this title, and of the public at large, as provided in the bylaws.

(3) The corporation may have other governing bodies or committees as provided in the bylaws.

(b) OFFICERS.—(1) The office of honorary chairman of the corporation shall be offered to the President. On acceptance, the honorary chairman shall be invited to preside at meetings of the corporation that the honorary chairman deems appropriate and convenient.

(2) The corporation may have other officers as provided in the bylaws.

#### **§ 220105. Powers**

The corporation has all the powers necessary and proper to carry out the purposes stated in section 220102 of this title, including the power—

- (1) to adopt and amend bylaws and regulations for the management of its property and the regulation of its affairs;
- (2) to adopt and alter a corporate seal;
- (3) to adopt and alter emblems and marks;
- (4) to establish and maintain offices to conduct the affairs of the corporation;
- (5) to choose officers, representatives, and agents as the activities of the corporation require;
- (6) to make contracts;
- (7) to acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;
- (8) to borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;
- (9) to publish a magazine, newspaper, and other publications;
- (10) to establish, regulate, and terminate councils, organizations, chapters, or affiliates as needed to carry out the purposes stated in section 220102 of this title;
- (11) to solicit funds;
- (12) to sue and be sued; and
- (13) to do any other act necessary and proper to carry out the purposes stated in section 220102 of this title.

**§ 220106. Exclusive right to name, seals, emblems, and badges**

The corporation and its councils, organizations, chapters, and affiliates have the exclusive right to use the names “United Service Organizations, Incorporated” and “USO” and seals, emblems, and badges the corporation adopts.

**§ 220107. Assistance by Department of Defense**

The Secretary of Defense may make the resources of the Department of Defense available to the corporation to the extent compatible with the primary mission of the Department and in accordance with guidelines issued by the Secretary.

**§ 220108. Restrictions**

(a) PROFIT.—The corporation may not engage in business activity for profit unless the activity is substantially related to—

(1) the purposes stated in section 220102 of this title;

or

(2) raising funds to accomplish those purposes.

(b) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(c) POLITICAL ACTIVITIES.—The corporation shall be nonpolitical and may not provide financial aid or assistance to, or otherwise promote the candidacy of, an individual seeking elective public office. A substantial part of the activities of the corporation may not involve carrying on propaganda or otherwise attempting to influence legislation.

(d) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of a governor, officer, member, or employee or be distributed to any person during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of reasonable compensation to an officer, employee, or other person or reimbursement for actual necessary expenses in amounts approved by the board of governors.

(e) LOANS.—The corporation may not make a loan to a governor, officer, member, or employee.

**§ 220109. Duty to maintain corporate status**

The corporation shall maintain its status as a corporation incorporated under the laws of New York, another State, or the District of Columbia.

**§ 220110. Principal office**

The principal office of the corporation shall be in New York, New York, or another place decided by the board of governors. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States and in foreign countries.

**§ 220111. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of governors, and committees having any of the authority of its board of governors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 220112. Service of process**

(a) DISTRICT OF COLUMBIA.—The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

(b) STATES, TERRITORIES, AND POSSESSIONS.—The corporation shall file, with the secretary of state or other designated official of each State, territory, or possession of the United States in which the corporation or a council, organization, chapter, or affiliate may have activities, the name and address of an agent in that State, territory, or possession on whom legal process or demands against the corporation may be served.

**§ 220113. Annual report**

The corporation shall make public an annual report on its activities for the prior calendar year.

**§ 220114. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of governors, but in compliance with the bylaws. However, the assets of the corporation are irrevocably dedicated to charitable purposes and may not inure to the benefit of a private person except a fund, foundation, or organization operated exclusively for charitable purposes.

**CHAPTER 2203—UNITED STATES CAPITOL HISTORICAL SOCIETY**

Sec.

220301. Organization.

220302. Purposes.

220303. Membership.

220304. Governing body.

220305. Powers.

220306. Exclusive right to name, seals, emblems, insignia, marks, and words.

220307. Tax exemption.

220308. Restrictions.

220309. Duty to maintain corporate status.

220310. Principal office.

220311. Records and inspection.

220312. Service of process.

220313. Liability for acts of officers and agents.

220314. Annual report and audit.

220315. Distribution of assets on dissolution or final liquidation.

**§ 220301. Organization**

(a) FEDERAL CHARTER.—United States Capitol Historical Society (in this chapter, the “corporation”) is a federally chartered corporation.

(b) PLACE OF INCORPORATION.—The corporation is declared to be incorporated in the District of Columbia.

(c) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

**§ 220302. Purposes**

The purposes of the corporation are—

(1) to encourage in the most comprehensive and enlightened manner an understanding by the American people of the founding, growth, and significance of the Capitol of the United States as the tangible symbol of their representative form of government;

(2) to undertake research into the history of the Congress and the Capitol and to promote discussion, publication, and dissemination of the results of this research;

(3) to foster and increase an informed patriotism among the citizens in the study of this living memorial to the founders of this Nation and the continuing thread of principles as exemplified by their successors; and

(4) to cooperate with the standing committees of Congress, the Library of Congress, the Architect of the Capitol, and relevant departments, agencies, and instrumentalities of the executive branch of the United States Government in carrying out the purposes of the corporation.

**§ 220303. Membership**

Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

**§ 220304. Governing body**

(a) BOARD OF TRUSTEES.—(1) The board of trustees is the governing body of the corporation. The board is responsible for the control of all funds and affairs of the corporation.

(2) Exclusive of ex officio and honorary members, the board shall consist of at least 12 but not more than 40 trustees, one of whom shall be elected chairman. Trustees shall be elected by the board of trustees for a term of 4 years. A trustee may not be reelected as a trustee within one year of the expiration of the prior term, except by the unanimous vote of the trustees present and voting. A trustee may be removed at any time, with or without cause, by a two-thirds vote of the other trustees.

(3) The officers of the corporation are ex officio members of the board with all the rights and privileges of trustees, including the right to vote.

(4) The board shall meet at least once a year in the Capitol of the United States. The board may meet at other times as decided by the chairman. A meeting may be held only at a time and place stated in the bylaws or on 30 days' written notice.

(b) OFFICERS.—(1) The officers of the corporation are a president, 5 vice presidents, a treasurer, and a secretary. The president is the chief executive officer.

(2) The officers shall be elected annually by the board of trustees and continue in office at the pleasure of the board.

(3) The duties of the officers are the usual duties pertaining to their offices and any additional duties delegated by the board.

(4) Officers may be compensated for their services, and reimbursed for actual expenses, in amounts decided by the board.

(c) EMPLOYEES.—The board of trustees may employ an executive secretary and other personnel needed to assist the board and the officers to carry out the activities of the corporation. Employees

serve at the pleasure of the board. The board shall prescribe the compensation and duties of employees.

#### **§ 220305. Powers**

The corporation may—

- (1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;
- (2) adopt and alter a corporate seal;
- (3) choose officers, managers, and agents as the activities of the corporation require;
- (4) make contracts;
- (5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;
- (6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;
- (7) produce, buy, and market commemorative medals, souvenirs, publications, pictures, and cinemas consistent with the purposes of the corporation;
- (8) charge and collect membership dues;
- (9) conduct fund raising campaigns and accept contributions;
- (10) sue and be sued; and
- (11) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 220306. Exclusive right to name, seals, emblems, insignia, marks, and words**

The corporation has the exclusive right to use the name “United States Capitol Historical Society” and seals, emblems, distinctive insignia, and descriptive or designating marks, words, or phrases required to carry out the duties and powers of the corporation. This section does not affect any vested rights.

#### **§ 220307. Tax exemption**

Notwithstanding section 105 of title 4 of the United States Code or any provision of the District of Columbia Code, the corporation is not required to pay, collect, or account for any tax specified in those provisions in connection with activities conducted within, or on the grounds of, the United States Capitol Building.

#### **§ 220308. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a trustee, officer, or member as such during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual expenses in amounts approved by the board of trustees.

(c) LOANS.—The corporation may not make a loan or advance to a trustee, officer, or employee. Trustees who vote for or assent to making a loan or advance to a trustee, officer, or employee, and officers who participate in making the loan or advance, are



jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

**§ 220309. Duty to maintain corporate status**

The corporation shall maintain its status as a corporation incorporated under the laws of the District of Columbia or a State.

**§ 220310. Principal office**

The principal office of the corporation shall be in the District of Columbia or another place decided by the board of trustees. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted throughout the States, territories, and possessions of the United States.

**§ 220311. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of trustees, and committees having any of the authority of its board of trustees; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 220312. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 220313. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 220314. Annual report and audit**

(a) ANNUAL REPORT.—The corporation shall submit an annual report to each House of Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted as soon as practical after the end of each fiscal year.

(b) AUDIT.—In addition to complying with the audit requirements of section 10101 of this title, the corporation shall comply with section 451 of the Legislative Reorganization Act of 1970 (40 U.S.C. 193m-1).

**§ 220315. Distribution of assets on dissolution or final liquidation**

On dissolution or final liquidation of the corporation, any assets remaining after the discharge of all liabilities shall be distributed as provided by the board of trustees, but in compliance with the constitution and bylaws of the corporation.

**CHAPTER 2205—UNITED STATES OLYMPIC COMMITTEE**

**SUBCHAPTER I—CORPORATION**

Sec.

- 220501. Definitions.
- 220502. Organization.
- 220503. Purposes.
- 220504. Membership.
- 220505. Powers.
- 220506. Exclusive right to name, seals, emblems, and badges.
- 220507. Restrictions.
- 220508. Headquarters, principal office, and meetings.
- 220509. Resolution of disputes.
- 220510. Service of process.
- 220511. Annual report.

#### SUBCHAPTER II—NATIONAL GOVERNING BODIES

- 220521. Recognition of amateur sports organizations as national governing bodies.
- 220522. Eligibility requirements.
- 220523. Authority of national governing bodies.
- 220524. General duties of national governing bodies.
- 220525. Granting sanctions for amateur athletic competitions.
- 220526. Restricted amateur athletic competitions.
- 220527. Complaints against national governing bodies.
- 220528. Applications to replace an incumbent national governing body.
- 220529. Arbitration of corporation determinations.

#### SUBCHAPTER I—CORPORATION

##### § 220501. Definitions

For purposes of this chapter—

(1) “amateur athlete” means an athlete who meets the eligibility standards established by the national governing body for the sport in which the athlete competes.

(2) “amateur athletic competition” means a contest, game, meet, match, tournament, regatta, or other event in which amateur athletes compete.

(3) “amateur sports organization” means a not-for-profit corporation, association, or other group organized in the United States that sponsors or arranges an amateur athletic competition.

(4) “corporation” means the United States Olympic Committee.

(5) “international amateur athletic competition” means an amateur athletic competition between one or more athletes representing the United States, individually or as a team, and one or more athletes representing a foreign country.

(6) “national governing body” means an amateur sports organization that is recognized by the corporation under section 220521 of this title.

(7) “sanction” means a certificate of approval issued by a national governing body.

##### § 220502. Organization

(a) FEDERAL CHARTER.—The corporation is a federally chartered corporation.

(b) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.

(c) REFERENCES TO UNITED STATES OLYMPIC ASSOCIATION.—Any reference to the United States Olympic Association is deemed to refer to the United States Olympic Committee.

##### § 220503. Purposes

The purposes of the corporation are—

(1) to establish national goals for amateur athletic activities and encourage the attainment of those goals;

(2) to coordinate and develop amateur athletic activity in the United States, directly related to international amateur athletic competition, to foster productive working relationships among sports-related organizations;

(3) to exercise exclusive jurisdiction, directly or through constituent members of committees, over—

(A) all matters pertaining to United States participation in the Olympic Games and the Pan-American Games, including representation of the United States in the games; and

(B) the organization of the Olympic Games and the Pan-American Games when held in the United States;

(4) to obtain for the United States, directly or by delegation to the appropriate national governing body, the most competent amateur representation possible in each event of the Olympic Games and Pan-American Games;

(5) to promote and support amateur athletic activities involving the United States and foreign nations;

(6) to promote and encourage physical fitness and public participation in amateur athletic activities;

(7) to assist organizations and persons concerned with sports in the development of amateur athletic programs for amateur athletes;

(8) to provide swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations, and protect the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition;

(9) to foster the development of amateur athletic facilities for use by amateur athletes and assist in making existing amateur athletic facilities available for use by amateur athletes;

(10) to provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis;

(11) to encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety;

(12) to encourage and provide assistance to amateur athletic activities for women;

(13) to encourage and provide assistance to amateur athletic programs and competition for individuals with disabilities, including, where feasible, the expansion of opportunities for meaningful participation by individuals with disabilities in programs of athletic competition for able-bodied individuals; and

(14) to encourage and provide assistance to amateur athletes of racial and ethnic minorities for the purpose of eliciting the participation of those minorities in amateur athletic activities in which they are underrepresented.

#### **§ 220504. Membership**

(a) **ELIGIBILITY.**—Eligibility for membership in the corporation is as provided in the constitution and bylaws of the corporation.

(b) **REQUIRED PROVISIONS FOR REPRESENTATION.**—In its constitution and bylaws, the corporation shall establish and maintain provisions with respect to its governance and the conduct of its affairs for reasonable representation of—

(1) amateur sports organizations recognized as national governing bodies under section 220521 of this title;

(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States in international amateur athletic competition within the preceding 10 years;

(3) amateur sports organizations that conduct a national program or regular national amateur athletic competition in 2 or more sports that are included on the program of the Olympic Games or the Pan-American Games on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition; and

(4) individuals not affiliated or associated with any amateur sports organization who, in the corporation's judgment, represent the interests of the American public in the activities of the corporation.

#### **§ 220505. Powers**

(a) CONSTITUTION AND BYLAWS.—The corporation shall adopt a constitution and bylaws. The corporation may amend its constitution only if the corporation—

(1) publishes, in its principal publication, a notice of the proposed amendment, including—

(A) the substantive terms of the amendment;

(B) the time and place of the corporation's regular meeting at which adoption of the amendment is to be decided; and

(C) a provision informing interested persons that they may submit materials as authorized in clause (2) of this subsection; and

(2) gives all interested persons an opportunity to submit written comments and information for at least 60 days after publication of notice of the proposed amendment and before adoption of the amendment.

(b) GENERAL CORPORATE POWERS.—The corporation may—

(1) adopt and alter a corporate seal;

(2) establish and maintain offices to conduct the affairs of the corporation;

(3) make contracts;

(4) accept gifts, legacies, and devises in furtherance of its corporate purposes;

(5) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(7) publish a magazine, newspaper, and other publications consistent with its corporate purposes;

(8) approve and revoke membership in the corporation;

(9) sue and be sued; and

(10) do any other act necessary and proper to carry out the purposes of the corporation.

(c) POWERS RELATED TO AMATEUR ATHLETICS AND THE OLYMPIC GAMES.—The corporation may—

(1) serve as the coordinating body for amateur athletic activity in the United States directly related to international amateur athletic competition;

(2) represent the United States as its national Olympic committee in relations with the International Olympic Committee and the Pan-American Sports Organization;

(3) organize, finance, and control the representation of the United States in the competitions and events of the Olympic Games and of the Pan-American Games, and obtain, directly or by delegation to the appropriate national governing body, amateur representation for those games;

(4) recognize eligible amateur sports organizations as national governing bodies for any sport that is included on the program of the Olympic Games or the Pan-American Games;

(5) facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes that involve any of its members and any amateur athlete, coach, trainer, manager, administrator, official, national governing body, or amateur sports organization and that arise in connection with their eligibility for and participation in the Olympic Games, the Pan-American world championship competition, or other protected competition as defined in the constitution and bylaws of the corporation; and

(6) provide financial assistance to any organization or association, except a corporation organized for profit, in furtherance of the purposes of the corporation.

**§ 220506. Exclusive right to name, seals, emblems, and badges**

(a) EXCLUSIVE RIGHT OF CORPORATION.—Except as provided in subsection (d) of this section, the corporation has the exclusive right to use—

(1) the name “United States Olympic Committee”;

(2) the symbol of the International Olympic Committee, consisting of 5 interlocking rings;

(3) the emblem of the corporation, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with 5 interlocking rings displayed on the chief; and

(4) the words “Olympic”, “Olympiad”, “Citius Altius Fortius”, or any combination of those words.

(b) CONTRIBUTORS AND SUPPLIERS.—The corporation may authorize contributors and suppliers of goods or services to use the trade name of the corporation or any trademark, symbol, insignia, or emblem of the International Olympic Committee or of the corporation to advertise that the contributions, goods, or services were donated or supplied to, or approved, selected, or used by, the corporation, the United States Olympic team, the Pan-American team, or team members.

(c) CIVIL ACTION FOR UNAUTHORIZED USE.—Except as provided in subsection (d) of this section, the corporation may file a civil action against a person for the remedies provided in the Act of July 5, 1946 (15 U.S.C. 1051 et seq.) (popularly known as the Trademark Act of 1946) if the person, without the consent of the corporation, uses for the purpose of trade, to induce the sale of

any goods or services, or to promote any theatrical exhibition, athletic performance, or competition—

- (1) the symbol described in subsection (a)(2) of this section;
- (2) the emblem described in subsection (a)(3) of this section;
- (3) the words described in subsection (a)(4) of this section, or any combination or simulation of those words tending to cause confusion or mistake, to deceive, or to falsely suggest a connection with the corporation or any Olympic activity;

or

- (4) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee or the corporation.

(d) PRE-EXISTING RIGHTS.—(1) A person who actually used the emblem described in subsection (a)(3) of this section, or the words or any combination of the words described in subsection (a)(4) of this section, for any lawful purpose before September 21, 1950, is not prohibited by this section from continuing the lawful use for the same purpose and for the same goods or services.

(2) A person who actually used, or whose assignor actually used, the words or any combination of the words described in subsection (a)(4) of this section, or a trademark, trade name, sign, symbol, or insignia described in subsection (c)(4) of this section, for any lawful purpose before September 21, 1950, is not prohibited by this section from continuing the lawful use for the same purpose and for the same goods or services.

#### **§ 220507. Restrictions**

(a) PROFIT AND STOCK.—The corporation may not engage in business for profit or issue stock.

(b) POLITICAL ACTIVITIES.—The corporation shall be nonpolitical and may not promote the candidacy of an individual seeking public office.

#### **§ 220508. Headquarters, principal office, and meetings**

The corporation shall maintain its principal office and national headquarters in a place in the United States decided by the corporation. The corporation may hold its annual and special meetings in the places decided by the corporation.

#### **§ 220509. Resolution of disputes**

The corporation shall establish and maintain provisions in its constitution and bylaws for the swift and equitable resolution of disputes involving any of its members and relating to the opportunity of an amateur athlete, coach, trainer, manager, administrator, or official to participate in the Olympic Games, the Pan-American Games, world championship competition, or other protected competition as defined in the constitution and bylaws of the corporation.

#### **§ 220510. Service of process**

As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall file, with the secretary of state or other designated official of each State, the name and address of an agent in that State on whom legal process or demands against the corporation may be served.

**§ 220511. Annual report**

(a) SUBMISSION TO PRESIDENT AND CONGRESS.—Not later than June 1 of each year, the corporation shall submit simultaneously to the President and to each House of Congress a detailed report of its operations during the prior calendar year, including—

(1) a complete statement of the corporation's receipts and expenditures; and

(2) a comprehensive description of the activities and accomplishments of the corporation during the prior year.

(b) AVAILABILITY TO PUBLIC.—The corporation shall make copies of the report available to interested persons at a reasonable cost.

**SUBCHAPTER II—NATIONAL GOVERNING BODIES****§ 220521. Recognition of amateur sports organizations as national governing bodies**

(a) GENERAL AUTHORITY.—For any sport that is included on the program of the Olympic Games or the Pan-American Games, the corporation may recognize as a national governing body an amateur sports organization that files an application and is eligible under section 220522 of this title. The corporation may recognize only one national governing body for each sport for which an application is made and approved.

(b) PUBLIC HEARING.—Before recognizing an organization as a national governing body, the corporation shall hold a public hearing on the application. The corporation shall publish notice of the time, place, and nature of the hearing. Publication shall be made in a regular issue of the corporation's principal publication at least 30 days, but not more than 60 days, before the date of the hearing.

(c) RECOMMENDATION TO INTERNATIONAL SPORTS FEDERATION.—Within 61 days after recognizing an organization as a national governing body, the corporation shall recommend and support in any appropriate manner the national governing body to the appropriate international sports federation as the representative of the United States for that sport.

(d) REVIEW OF RECOGNITION.—The corporation may review all matters related to the continued recognition of an organization as a national governing body and may take action it considers appropriate, including placing conditions on the continued recognition.

**§ 220522. Eligibility requirements**

An amateur sports organization is eligible to be recognized, or to continue to be recognized, as a national governing body only if it—

(1) is incorporated under the laws of a State of the United States or the District of Columbia as a not-for-profit corporation having as its purpose the advancement of amateur athletic competition;

(2) has the managerial and financial capability to plan and execute its obligations;

(3) submits—

(A) an application, in the form required by the corporation, for recognition as a national governing body;

(B) a copy of its corporate charter and bylaws; and

(C) any additional information considered necessary or appropriate by the corporation;

(4) agrees to submit, on demand by the corporation, to binding arbitration conducted in accordance with the commercial rules of the American Arbitration Association in any controversy involving—

(A) its recognition as a national governing body, as provided for in section 220529 of this title; or

(B) the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition, as provided for in the corporation's constitution and bylaws;

(5) demonstrates that it is autonomous in the governance of its sport, in that it—

(A) independently decides and controls all matters central to governance;

(B) does not delegate decision-making and control of matters central to governance; and

(C) is free from outside restraint;

(6) demonstrates that it is a member of no more than one international sports federation that governs a sport included on the program of the Olympic Games or the Pan-American Games;

(7) demonstrates that its membership is open to any individual who is an amateur athlete, coach, trainer, manager, administrator, or official active in the sport for which recognition is sought, or any amateur sports organization that conducts programs in the sport for which recognition is sought, or both;

(8) provides an equal opportunity to amateur athletes, coaches, trainers, managers, administrators, and officials to participate in amateur athletic competition, without discrimination on the basis of race, color, religion, sex, age, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring the individual ineligible to participate;

(9) is governed by a board of directors or other governing board whose members are selected without regard to race, color, religion, national origin, or sex, except that, in sports where there are separate male and female programs, it provides for reasonable representation of both males and females on the board of directors or other governing board;

(10) demonstrates that—

(A) its board of directors or other governing board includes among its voting members—

(i) individuals who are actively engaged in amateur athletic competition in the sport for which recognition is sought; or

(ii) individuals who, within the prior 10 years, have represented the United States in international amateur athletic competition in the sport for which recognition is sought; and

(B) the individuals described in subclause (A) of this clause hold at least 20 percent of the membership and voting power on the board;

(11) provides for reasonable direct representation on its board of directors or other governing board for any amateur sports organization that—



(A) conducts a national program or regular national amateur athletic competition in the applicable sport on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition; and

(B) ensures that the representation reflects the nature, scope, quality, and strength of the programs and competitions of the amateur sports organization in relation to all other programs and competitions in the sport in the United States;

(12) demonstrates that none of its officers are also officers of any other amateur sports organization recognized as a national governing body;

(13) provides procedures for the prompt and equitable resolution of grievances of its members;

(14) does not have eligibility criteria related to amateur status that are more restrictive than those of the appropriate international sports federation; and

(15) demonstrates, if the organization is seeking to be recognized as a national governing body, that it is prepared to meet the obligations imposed on a national governing body under sections 220524 and 220525 of this title.

#### **§ 220523. Authority of national governing bodies**

(a) **AUTHORITY.**—For the sport that it governs, a national governing body may—

(1) represent the United States in the appropriate international sports federation;

(2) establish national goals and encourage the attainment of those goals;

(3) serve as the coordinating body for amateur athletic activity in the United States;

(4) exercise jurisdiction over international amateur athletic activities and sanction international amateur athletic competition held in the United States and sanction the sponsorship of international amateur athletic competition held outside the United States;

(5) conduct amateur athletic competition, including national championships, and international amateur athletic competition in the United States, and establish procedures for determining eligibility standards for participation in competition, except for amateur athletic competition specified in section 220526 of this title;

(6) recommend to the corporation individuals and teams to represent the United States in the Olympic Games and the Pan-American Games; and

(7) designate individuals and teams to represent the United States in international amateur athletic competition (other than the Olympic Games and the Pan-American Games) and certify, in accordance with applicable international rules, the amateur eligibility of those individuals and teams.

(b) **REPLACEMENT OF NATIONAL GOVERNING BODY PURSUANT TO ARBITRATION.**—A national governing body may not exercise any authority under subsection (a) of this section for a particular sport after another amateur sports organization has been declared (in accordance with binding arbitration proceedings prescribed by the organic documents of the corporation) entitled to replace that

national governing body as the member of the corporation for that sport.

**§ 220524. General duties of national governing bodies**

For the sport that it governs, a national governing body shall—

(1) develop interest and participation throughout the United States and be responsible to the persons and amateur sports organizations it represents;

(2) minimize, through coordination with other amateur sports organizations, conflicts in the scheduling of all practices and competitions;

(3) keep amateur athletes informed of policy matters and reasonably reflect the views of the athletes in its policy decisions;

(4) allow an amateur athlete to compete in any international amateur athletic competition conducted by any amateur sports organization or person, unless the national governing body establishes that its denial is based on evidence that the organization or person conducting the competition does not meet the requirements stated in section 220525 of this title;

(5) provide equitable support and encouragement for participation by women where separate programs for male and female athletes are conducted on a national basis;

(6) encourage and support amateur athletic sports programs for individuals with disabilities and the participation of individuals with disabilities in amateur athletic activity, including, where feasible, the expansion of opportunities for meaningful participation by individuals with disabilities in programs of athletic competition for able-bodied individuals;

(7) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis; and

(8) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety.

**§ 220525. Granting sanctions for amateur athletic competitions**

(a) **PROMPT REVIEW AND DECISION.**—For the sport that it governs, a national governing body promptly shall—

(1) review a request by an amateur sports organization or person for a sanction to hold an international amateur athletic competition in the United States or to sponsor United States amateur athletes to compete in international amateur athletic competition outside the United States; and

(2) grant the sanction if—

(A) the national governing body does not decide by clear and convincing evidence that holding or sponsoring an international amateur athletic competition would be detrimental to the best interest of the sport; and

(B) the requirements of subsection (b) of this section are met.

(b) **REQUIREMENTS.**—An amateur sports organization or person may be granted a sanction under this section only if the organization or person meets the following requirements:

(1) The organization or person must pay the national governing body any required sanctioning fee, if the fee is reasonable and nondiscriminatory.

(2) For a sanction to hold an international amateur athletic competition in the United States, the organization or person must—

(A) submit to the national governing body an audited or notarized financial report of similar events, if any, conducted by the organization or person; and

(B) demonstrate that the requirements of paragraph (4) of this subsection have been met.

(3) For a sanction to sponsor United States amateur athletes to compete in international amateur athletic competition outside the United States, the organization or person must—

(A) submit a report of the most recent trip to a foreign country, if any, that the organization or person sponsored for the purpose of having United States amateur athletes compete in international amateur athletic competition; and

(B) submit a letter from the appropriate entity that will hold the international amateur athletic competition certifying that the requirements of paragraph (4) of this subsection have been met.

(4) The requirements referred to in paragraphs (2) and (3) of this subsection are that—

(A) appropriate measures have been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition;

(B) appropriate provision has been made for validation of any records established during the competition;

(C) due regard has been given to any international amateur athletic requirements specifically applicable to the competition;

(D) the competition will be conducted by qualified officials;

(E) proper medical supervision will be provided for athletes who will participate in the competition; and

(F) proper safety precautions have been taken to protect the personal welfare of the athletes and spectators at the competition.

#### **§ 220526. Restricted amateur athletic competitions**

(a) **EXCLUSIVE JURISDICTION.**—An amateur sports organization that conducts amateur athletic competition shall have exclusive jurisdiction over that competition if participation is restricted to a specific class of amateur athletes, such as high school students, college students, members of the Armed Forces, or similar groups or categories.

(b) **SANCTIONS FOR INTERNATIONAL COMPETITION.**—An amateur sports organization under subsection (a) of this section shall obtain a sanction from the appropriate national governing body if the organization wishes to—

(1) conduct international amateur athletic competition in the United States; or

(2) sponsor international amateur athletic competition to be held outside the United States.

**§ 220527. Complaints against national governing bodies**

(a) GENERAL.—(1) An amateur sports organization or person that belongs to or is eligible to belong to a national governing body may seek to compel the national governing body to comply with sections 220522, 220524, and 220525 of this title by filing a written complaint with the corporation. A copy of the complaint shall be served on the national governing body.

(2) The corporation shall establish procedures for the filing and disposition of complaints under this section.

(b) EXHAUSTION OF REMEDIES.—(1) An organization or person may file a complaint under subsection (a) of this section only after exhausting all available remedies within the national governing body for correcting deficiencies, unless it can be shown by clear and convincing evidence that those remedies would have resulted in unnecessary delay.

(2) Within 30 days after a complaint is filed, the corporation shall decide whether the organization or person has exhausted all available remedies as required by paragraph (1) of this subsection. If the corporation determines that the remedies have not been exhausted, it may direct that the remedies be pursued before the corporation considers the complaint further.

(c) HEARINGS.—If the corporation decides that all available remedies have been exhausted as required by subsection (b)(1) of this section, it shall hold a hearing, within 90 days after the complaint is filed, to receive testimony to decide whether the national governing body is complying with sections 220522, 220524, and 220525 of this title.

(d) DISPOSITION OF COMPLAINT.—(1) If the corporation decides, as a result of the hearing, that the national governing body is complying with sections 220522, 220524, and 220525 of this title, it shall so notify the complainant and the national governing body.

(2) If the corporation decides, as a result of the hearing, that the national governing body is not complying with sections 220522, 220524, and 220525 of this title, it shall—

(A) place the national governing body on probation for a specified period of time, not to exceed 180 days, which the corporation considers necessary to enable the national governing body to comply with those sections; or

(B) revoke the recognition of the national governing body.

(3) If the corporation places a national governing body on probation under paragraph (2) of this subsection, it may extend the probationary period if the national governing body has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with sections 220522, 220524, and 220525 of this title. If, at the end of the period allowed by the corporation, the national governing body has not complied with those sections, the corporation shall revoke the recognition of the national governing body.

**§ 220528. Applications to replace an incumbent national governing body**

(a) GENERAL.—An amateur sports organization may seek to replace an incumbent as the national governing body for a particular sport by filing a written application for recognition with the corporation.

(b) ESTABLISHMENT OF PROCEDURES.—The corporation shall establish procedures for the filing and disposition of applications

under this section. If 2 or more organizations file applications for the same sport, the applications shall be considered in a single proceeding.

(c) FILING PROCEDURES.—(1) An application under this section must be filed within one year after the final day of—

(A) any Olympic Games, for a sport in which competition is held in the Olympic Games or both the Olympic and Pan-American Games; or

(B) any Pan-American Games, for a sport in which competition is held in the Pan-American Games but not in the Olympic Games.

(2) The application shall be filed with the corporation by registered mail, and a copy of the application shall be served on the national governing body. The corporation shall inform the applicant that its application has been received.

(d) HEARINGS.—Within 180 days after receipt of an application filed under this section, the corporation shall conduct a formal hearing to determine the merits of the application. The corporation shall publish notice of the time and place of the hearing in a regular issue of its principal publication at least 30 days, but not more than 60 days, before the date of the hearing. In the hearing, the applicant and the national governing body shall be given a reasonable opportunity to present evidence supporting their positions.

(e) STANDARDS FOR GRANTING APPLICATIONS.—In the hearing, the applicant must establish by a preponderance of the evidence that—

(1) it meets the criteria for recognition as a national governing body under section 220522 of this title; and

(2)(A) the national governing body does not meet the criteria of section 220522, 220524, or 220525 of this title; or

(B) the applicant more adequately meets the criteria of section 220522 of this title, is capable of more adequately meeting the criteria of sections 220524 and 220525 of this title, and provides or is capable of providing a more effective national program of competition than the national governing body in the sport for which it seeks recognition.

(f) DISPOSITION OF APPLICATIONS.—Within 30 days after the close of the hearing required by this section, the corporation shall—

(1) uphold the right of the national governing body to continue as the national governing body for its sport;

(2) revoke the recognition of the national governing body and declare a vacancy in the national governing body for that sport;

(3) revoke the recognition of the national governing body and recognize the applicant as the national governing body; or

(4) place the national governing body on probation for a period not exceeding 180 days, pending the compliance of the national governing body, if the national governing body would have retained recognition except for a minor deficiency in one of the requirements of section 220522, 220524, or 220525 of this title.

(g) REVOCATION OF RECOGNITION AFTER PROBATION.—If the national governing body does not comply with sections 220522, 220524, and 220525 of this title within the probationary period prescribed under subsection (f)(4) of this section, the corporation

shall revoke the recognition of the national governing body and either—

- (1) recognize the applicant as the national governing body;
- or
- (2) declare a vacancy in the national governing body for that sport.

**§ 220529. Arbitration of corporation determinations**

(a) **RIGHT TO REVIEW.**—A party aggrieved by a determination of the corporation under section 220527 or 220528 of this title may obtain review by any regional office of the American Arbitration Association.

(b) **PROCEDURE.**—(1) A demand for arbitration must be submitted within 30 days after the determination of the corporation.

(2) On receipt of a demand for arbitration, the Association shall serve notice on the parties to the arbitration and on the corporation, and shall immediately proceed with arbitration according to the commercial rules of the Association in effect at the time the demand is filed, except that—

(A) the arbitration panel shall consist of at least 3 arbitrators, unless the parties to the proceeding agree to a lesser number;

(B) the arbitration hearing shall take place at a site selected by the Association, unless the parties to the proceeding agree to the use of another site; and

(C) the arbitration hearing shall be open to the public.

(3) A decision by the arbitrators shall be by majority vote unless the concurrence of all arbitrators is expressly required by the contesting parties.

(4) Each party may be represented by counsel or by any other authorized representative at the arbitration proceeding.

(5) The parties may offer any evidence they desire and shall produce any additional evidence the arbitrators believe is necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to legal rules of evidence is not necessary.

(c) **SETTLEMENT.**—The arbitrators may settle a dispute arising under this chapter before making a final award, if agreed to by the parties and achieved in a manner not inconsistent with the constitution and bylaws of the corporation.

(d) **BINDING NATURE OF DECISION.**—Final decision of the arbitrators is binding on the parties if the award is not inconsistent with the constitution and bylaws of the corporation.

(e) **REOPENING HEARINGS.**—(1) At any time before a final decision is made, the hearings may be reopened by the arbitrators on their own motion or on the motion of a party.

(2) If the reopening is based on the motion of a party, and if the reopening would result in the arbitrators' decision being delayed beyond the specific period agreed to at the beginning of the arbitration proceedings, all parties to the decision must agree to reopen the hearings.

**CHAPTER 2207—UNITED STATES SUBMARINE VETERANS OF WORLD WAR II**

Sec.  
220701. Definition.

220702. Organization.  
220703. Purposes.  
220704. Membership.  
220705. Governing body.  
220706. Powers.  
220707. Restrictions.  
220708. Duty to maintain tax-exempt status.  
220709. Records and inspection.  
220710. Service of process.  
220711. Liability for acts of officers and agents.  
220712. Annual report.

#### **§ 220701. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

#### **§ 220702. Organization**

(a) **FEDERAL CHARTER.**—United States Submarine Veterans of World War II (in this chapter, the “corporation”), a nonprofit corporation incorporated in New Jersey and Colorado, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

#### **§ 220703. Purposes**

The purposes of the corporation are as provided in its articles of incorporation and include—

- (1) preserving and promoting patriotism and loyalty to the United States of America;
- (2) perpetuating and establishing memorials to the memory of shipmates who served aboard United States submarines and gave their lives in submarine warfare during World War II;
- (3) promoting the spirit and unity that existed among the United States Navy submarine crewmen during World War II;
- (4) fostering general public awareness of life aboard submarines during World War II, through securing, restoring, and displaying the submarines that were in service at that time;
- (5) sponsoring annual college scholarships; and
- (6) performing acts of charity as provided in the constitution and bylaws of the corporation.

#### **§ 220704. Membership**

Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

#### **§ 220705. Governing body**

(a) **BOARD OF DIRECTORS.**—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) **OFFICERS.**—The officers and the election of officers are as provided in the articles of incorporation.

#### **§ 220706. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**§ 220707. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**§ 220708. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**§ 220709. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 220710. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 220711. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 220712. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 2301—VETERANS OF FOREIGN WARS OF THE UNITED STATES**



- 230102. Purposes.
- 230103. Membership.
- 230104. Powers.
- 230105. Exclusive right to name, seal, emblems, and badges.
- 230106. Service of process.
- 230107. Annual report.

#### **§ 230101. Organization**

(a) **FEDERAL CHARTER.**—Veterans of Foreign Wars of the United States (in this chapter, the “corporation”), a national association of men who as soldiers, sailors, marines, and airmen served this Nation in wars, campaigns, and expeditions on foreign soil or in hostile waters, is a federally chartered corporation.

(b) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 230102. Purposes**

The purposes of the corporation are fraternal, patriotic, historical, and educational, and are—

- (1) to preserve and strengthen comradeship among its members;
- (2) to assist worthy comrades;
- (3) to perpetuate the memory and history of our dead, and to assist their widows and orphans;
- (4) to maintain true allegiance to the Government of the United States, and fidelity to its Constitution and laws;
- (5) to foster true patriotism;
- (6) to maintain and extend the institutions of American freedom; and
- (7) to preserve and defend the United States from all enemies.

#### **§ 230103. Membership**

An individual is eligible for membership in the corporation only if the individual served honorably as a member of the Armed Forces of the United States—

- (1) in a foreign war, insurrection, or expedition in service that—
  - (A) has been recognized as campaign-medal service; and
  - (B) is governed by the authorization of the award of a campaign badge by the United States Government; or
- (2) on the Korean peninsula or in its territorial waters for at least 30 consecutive days, or a total of 60 days, after June 30, 1949.

#### **§ 230104. Powers**

The corporation may—

- (1) adopt and amend a constitution, bylaws, and regulations to carry out the purposes of the corporation;
- (2) adopt and alter a corporate seal;
- (3) establish and maintain offices to conduct its activities;
- (4) make contracts;
- (5) acquire, own, lease, encumber, and transfer property as necessary and appropriate to carry out the purposes of the corporation;
- (6) establish, regulate, and discontinue subordinate State and territorial subdivisions and local chapters or posts;
- (7) publish a magazine and other publications;

- (8) sue and be sued; and
- (9) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 230105. Exclusive right to name, seal, emblems, and badges**

The corporation has the exclusive right to use the name “Veterans of Foreign Wars of the United States” and its corporate seal and to manufacture and use emblems and badges the corporation adopts.

#### **§ 230106. Service of process**

As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall file, with the secretary of state or other designated official of each State, the name and address of an agent in that State on whom legal process or demands against the corporation may be served.

#### **§ 230107. Annual report**

Not later than January 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior fiscal year. The report may not be printed as a public document.

### **CHAPTER 2303—VETERANS OF WORLD WAR I OF THE UNITED STATES OF AMERICA, INCORPORATED**

Sec.

- 230301. Organization.
- 230302. Purposes.
- 230303. Membership.
- 230304. Governing body.
- 230305. Powers.
- 230306. Exclusive right to name, seals, emblems, and badges.
- 230307. Restrictions.
- 230308. Principal office.
- 230309. Records and inspection.
- 230310. Service of process.
- 230311. Liability for acts of officers and agents.
- 230312. Annual report.
- 230313. Termination of existence and distribution of assets.

#### **§ 230301. Organization**

(a) **FEDERAL CHARTER.**—Veterans of World War I of the United States of America, Incorporated (in this chapter, the “corporation”), is a federally chartered corporation.

(b) **PLACE OF INCORPORATION AND DOMICILE.**—The corporation is declared to be incorporated and domiciled in the District of Columbia.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

#### **§ 230302. Purposes**

The purposes of the corporation are patriotic, fraternal, historical, and educational, in the service and for the benefit of veterans of World War I, and are—

- (1) to provide for the veterans of World War I an organization for their mutual benefit, pleasure, and amusement which will afford them opportunities and means for personal contact with each other to keep alive friendships and memories of World War I and to venerate the memory of their honored dead;

(2) to cooperate to the fullest extent and in a harmonious manner with all veterans' organizations so that the best interests of all veterans of all wars in which the United States has participated, and the widows and orphans of deceased veterans of those wars, may best be served;

(3) to stimulate communities and political subdivisions into taking more interest in veterans of World War I, the widows and orphans of those deceased veterans, and the problems of those veterans and their widows and orphans;

(4) to collate, preserve, and encourage the study of historical episodes, chronicles, mementos, and events pertaining to World War I;

(5) to fight vigorously to uphold the Constitution and laws of the United States as well as the individual States of the Union and to foster the spirit and practice of true Americanism;

(6) to fight unceasingly for our national security to protect Americans from enemies within our borders, as well as those from without, so that our American way of life is preserved;

(7) to fight to the utmost all those alien forces, particularly forces such as communism, whose objectives are to deny our very existence as a free people; and

(8) to do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 230303. Membership**

(a) ELIGIBILITY.—Eligibility for membership in the corporation and the rights, privileges, and designation of classes of members are as provided in the constitution and bylaws of the corporation. However, an individual who did not serve honorably in the Armed Forces of the United States during the period beginning April 6, 1917, and ending November 11, 1918, is not eligible for all classes of membership.

(b) VOTING.—Each member of the corporation (except an associate or honorary member) has one vote on each matter submitted to a vote at a meeting of the members of the corporation except the national convention.

#### **§ 230304. Governing body**

(a) NATIONAL CONVENTION.—(1) The national convention is the supreme governing authority of the corporation.

(2) The national convention is composed of officers and elected representatives from the States and other local subdivisions of the corporation as provided in the constitution and bylaws of the corporation. However, the form of government of the corporation must be representative of the membership at large and may not permit concentration of control in a limited number of members or in a self-perpetuating group not representative of the membership at large. Each elected representative is entitled to one vote at the national convention.

(3) The meetings of the national convention may be held in the District of Columbia or in any State, territory, or possession of the United States.

(b) BOARD OF ADMINISTRATION.—(1) During the intervals between the national convention, the board of administration is the governing board of the corporation and is responsible for the general policies, program, and activities of the corporation.

(2) The board shall consist of at least 7 members elected in the manner and for the term provided in the constitution and bylaws.

(c) OFFICERS.—(1) The officers of the corporation are a national commander, a national senior vice commander, a national junior vice commander, a national quartermaster, a national adjutant, a national judge advocate, 9 regional vice commanders, and other officers as provided in the constitution and bylaws. One individual may hold the offices of national quartermaster and national adjutant.

(2) The titles, manner of selection, term of office, and duties of the officers are as provided in the constitution and bylaws.

#### **§ 230305. Powers**

The corporation may—

(1) adopt and amend a constitution and bylaws for the management of its property and the regulation of its affairs;

(2) adopt and alter a corporate seal;

(3) choose officers, managers, employees, and agents as the activities of the corporation require;

(4) make contracts;

(5) acquire, own, lease, encumber, and transfer property as necessary or convenient to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(7) sue and be sued; and

(8) do any other act necessary and proper to carry out the purposes of the corporation.

#### **§ 230306. Exclusive right to name, seals, emblems, and badges**

The corporation and its subordinate divisions have the exclusive right to use the name “Veterans of World War I of the United States of America, Incorporated”. The corporation has the exclusive right to use, and to allow others to use, seals, emblems, and badges the corporation adopts.

#### **§ 230307. Restrictions**

(a) STOCKS AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or an officer or agent as such may not contribute to, support, or assist a political party or candidate for public office.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, an officer or member during the life of the corporation or on its dissolution or final liquidation. This subsection does not prevent the payment of compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of administration of the corporation.

(d) LOANS.—The corporation may not make a loan or advance to an officer or employee. Members of the board of administration who vote for or assent to making a loan or advance to an officer or employee, and officers who participate in making the loan or

advance, are jointly and severally liable to the corporation for the amount of the loan or advance until it is repaid.

**§ 230308. Principal office**

The principal office of the corporation shall be in the District of Columbia or another place decided by the board of administration. However, the activities of the corporation are not confined to the place where the principal office is located but may be conducted in the District of Columbia and throughout the States, territories, and possessions of the United States.

**§ 230309. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account; and

(2) minutes of the proceedings of its national convention and board of administration.

(b) INSPECTION.—A member, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 230310. Service of process**

The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

**§ 230311. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 230312. Annual report**

Not later than March 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior fiscal year. The report may consist of a report on the proceedings of the national convention.

**§ 230313. Termination of existence and distribution of assets**

(a) AUTHORITY TO MAKE CONTINGENT PROVISIONS.—The national convention, by resolution, may declare that the corporate existence will terminate on the occurrence of a specified event and provide for the disposition of any property remaining after the discharge of all liabilities.

(b) PROCEDURE FOR CARRYING OUT CONTINGENT PROVISIONS.—

(1) An authenticated copy of the national convention's resolution must be filed in the office of the United States District Court for the District of Columbia.

(2) The court shall take jurisdiction when—

(A) the declared event has occurred; and

(B) a petition is filed with the court reciting the relevant facts.

(3) On proof of the facts, the court shall enter an order vesting title and ownership in accordance with the resolution of the national convention.

**CHAPTER 2305—VIETNAM VETERANS OF AMERICA, INC.**

Sec.

230501. Definition.

- 230502. Organization.
- 230503. Purposes.
- 230504. Membership.
- 230505. Governing body.
- 230506. Powers.
- 230507. Exclusive right to name, seals, emblems, and badges.
- 230508. Restrictions.
- 230509. Duty to maintain tax-exempt status.
- 230510. Records and inspection.
- 230511. Service of process.
- 230512. Liability for acts of officers and agents.
- 230513. Annual report.

#### **§ 230501. Definition**

For purposes of this chapter, “State” includes the District of Columbia and the territories and possessions of the United States.

#### **§ 230502. Organization**

(a) **FEDERAL CHARTER.**—Vietnam Veterans of America, Inc. (in this chapter, the “corporation”), a nonprofit corporation incorporated in New York, is a federally chartered corporation.

(b) **EXPIRATION OF CHARTER.**—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

#### **§ 230503. Purposes**

The purposes of the corporation are as provided in its articles of incorporation, constitution, and bylaws and include a commitment—

- (1) to uphold and defend the Constitution of the United States;
- (2) to foster improvement of the condition of Vietnam-era veterans;
- (3) to promote the social welfare (including educational, economic, social, physical, and cultural improvement) of Vietnam-era veterans and other veterans in the United States by encouraging their growth, development, readjustment, self-respect, self-confidence, and usefulness;
- (4) to improve conditions for Vietnam-era veterans and develop channels of communication to assist Vietnam-era veterans;
- (5) to conduct and publish research, on a nonpartisan basis, pertaining to—
  - (A) the relationship between Vietnam-era veterans and American society;
  - (B) the Vietnam war experience;
  - (C) the role of the United States in securing peaceful coexistence for the world community; and
  - (D) other matters that affect the educational, economic, social, physical, or cultural welfare of Vietnam-era veterans, other veterans, and their families;
- (6) to assist disabled Vietnam-era veterans and other veterans in need of assistance and the dependents and survivors of those veterans; and
- (7) to consecrate the efforts of the members of the corporation, and Vietnam-era veterans generally, to mutual helpfulness and service to their country.

#### **§ 230504. Membership**

(a) **ELIGIBILITY.**—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges

of members are as provided in the constitution and bylaws of the corporation.

(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

#### **§ 230505. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the constitution and bylaws of the corporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the constitution and bylaws of the corporation.

(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

#### **§ 230506. Powers**

The corporation has only the powers provided in its articles of incorporation filed in the State of incorporation and in its constitution and bylaws.

#### **§ 230507. Exclusive right to name, seals, emblems, and badges**

The corporation has the exclusive right to use the names “The Vietnam Veterans of America, Inc.”, “Vietnam Veterans of America, Inc.”, and “Vietnam Veterans of America”, and seals, emblems, and badges the corporation adopts. This section does not affect any vested rights.

#### **§ 230508. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(c) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

#### **§ 230509. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

#### **§ 230510. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 230511. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 230512. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**§ 230513. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 2401—WOMEN'S ARMY CORPS VETERANS' ASSOCIATION**

Sec.

240101. Definition.

240102. Organization.

240103. Purposes.

240104. Membership.

240105. Governing body.

240106. Powers.

240107. Restrictions.

240108. Duty to maintain tax-exempt status.

240109. Records and inspection.

240110. Service of process.

240111. Liability for acts of officers and agents.

240112. Annual report.

**§ 240101. Definition**

For purposes of this chapter, "State" includes the District of Columbia and the territories and possessions of the United States.

**§ 240102. Organization**

(a) FEDERAL CHARTER.—Women's Army Corps Veterans' Association (in this chapter, the "corporation"), a nonprofit corporation incorporated in the District of Columbia, is a federally chartered corporation.

(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**§ 240103. Purposes**

The purposes of the corporation are as provided in its articles of incorporation and include a continuing commitment on a national basis—

(1) to promote the general welfare of all veterans, especially women veterans, who have served or are serving in the United States Army, the Army Reserve, and the Army National Guard;

(2) to recognize outstanding women in college ROTC units throughout the United States; and



(3) to provide services and support to patients in medical facilities of the Department of Veterans Affairs throughout the United States.

#### **§ 240104. Membership**

Eligibility for membership in the corporation and the rights and privileges of members are as provided in the constitution and bylaws of the corporation.

#### **§ 240105. Governing body**

(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

#### **§ 240106. Powers**

The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

#### **§ 240107. Restrictions**

(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

(b) POLITICAL ACTIVITIES.—The corporation or a director or officer as such may not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(d) LOANS.—The corporation may not make a loan to a director, officer, or employee.

(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim the approval or the authority of the United States Government for any of its activities.

#### **§ 240108. Duty to maintain tax-exempt status**

The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

#### **§ 240109. Records and inspection**

(a) RECORDS.—The corporation shall keep—

(1) correct and complete records of account;

(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

(3) at its principal office, a record of the names and addresses of its members entitled to vote.

(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**§ 240110. Service of process**

The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**§ 240111. Liability for acts of officers and agents**

The corporation is liable for the acts of its officers or agents acting within the scope of their authority.

**§ 240112. Annual report**

The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.

**CHAPTER 2501—[RESERVED]****CHAPTER 2601—[RESERVED]****CHAPTER 2701—[RESERVED]**

## **SUBTITLE III—TREATY OBLIGATION ORGANIZATIONS**

CHAPTER	Sec.
3001. THE AMERICAN NATIONAL RED CROSS .....	
300101 .....	

**CHAPTER 3001—THE AMERICAN NATIONAL RED CROSS**

Sec.
300101. Organization.
300102. Purposes.
300103. Membership and chapters.
300104. Board of governors.
300105. Powers.
300106. Emblem, badge, and brassard.
300107. Annual meeting.
300108. Buildings.
300109. Endowment fund.
300110. Annual report and audit.
300111. Reservation of right to amend or repeal.

**§ 300101. Organization**

(a) **FEDERAL CHARTER.**—The American National Red Cross (in this chapter, the “corporation”) is a body corporate and politic in the District of Columbia.

(b) **NAME.**—The name of the corporation is “The American National Red Cross”.

(c) **PERPETUAL EXISTENCE.**—Except as otherwise provided, the corporation has perpetual existence.

**§ 300102. Purposes**

The purposes of the corporation are—

(1) to provide volunteer aid in time of war to the sick and wounded of the Armed Forces, in accordance with the spirit and conditions of—

(A) the conference of Geneva of October 1863;

(B) the treaties of the Red Cross, or the treaties of Geneva, August 22, 1864, July 27, 1929, and August 12,

1949, to which the United States of America has given its adhesion; and

(C) any other treaty, convention, or protocol similar in purpose to which the United States of America has given or may give its adhesion;

(2) in carrying out the purposes described in paragraph (1) of this section, to perform all the duties devolved on a national society by each nation that has acceded to any of those treaties, conventions, or protocols;

(3) to act in matters of voluntary relief and in accordance with the military authorities as a medium of communication between the people of the United States and the Armed Forces of the United States and to act in those matters between similar national societies of governments of other countries through the International Committee of the Red Cross and the Government, the people, and the Armed Forces of the United States; and

(4) to carry out a system of national and international relief in time of peace, and to apply that system in mitigating the suffering caused by pestilence, famine, fire, floods, and other great national calamities, and to devise and carry out measures for preventing those calamities.

#### **§ 300103. Membership and chapters**

(a) MEMBERSHIP.—Membership in the corporation is open to all the people of the United States and its territories and possessions, on payment of an amount specified in the bylaws.

(b) CHAPTERS.—(1) The chapters of the corporation are the local units of the corporation. The board of governors shall prescribe regulations related to—

(A) granting charters to the chapters and revoking those charters;

(B) the territorial jurisdiction of the chapters;

(C) the relationship of the chapters to the corporation; and

(D) compliance by the chapters with the policies and regulations of the corporation.

(2) The regulations shall require that each chapter adhere to the democratic principles of election specified in the bylaws in electing the governing body of the chapter and selecting delegates to the national convention of the corporation.

#### **§ 300104. Board of governors**

(a) BOARD OF GOVERNORS.—(1) The board of governors is the governing body of the corporation with all powers of governing and managing the corporation. The board has 50 members. The governors shall be appointed or elected in the following manner:

(A) The President shall appoint eight governors, one of whom the President shall designate to act as the principal officer of the corporation with the title and functions provided in the bylaws. The other governors appointed by the President shall be officials of departments and agencies of the United States Government, whose positions and interests qualify them to contribute to carrying out the programs and purposes of the corporation. At least one, but not more than three, of those officials shall be selected from the Armed Forces.

(B) The chapters shall elect 30 governors at the national convention under procedures for nomination and election that ensure equitable representation of all chapters, with regard to geographical considerations, the size of the chapters, and the size of the populations served by the chapters.

(C) The board shall elect 12 governors as members-at-large. Those governors shall be individuals who are representative of the national interests that the corporation serves, and with which it is desirable that the corporation have close association.

(2) One-third of the members elected to the board shall be elected at each national convention, and take office at that time or as soon as practicable after the convention.

(b) TERM OF OFFICE AND VACANCIES.—(1) The term of office of each governor is 3 years. However, the term of office of a governor appointed by the President (except the principal officer of the corporation) expires if, before the end of the 3-year term, the governor retires from the official position held at the time of appointment as a governor.

(2) The President shall fill as soon as practicable a vacancy in the office of the principal officer of the corporation or in the position of another governor appointed by the President. The board shall make a temporary appointment to fill a vacancy occurring in an elected position on the board. An individual appointed by the board to fill a vacancy serves until the next national convention.

(c) EXECUTIVE COMMITTEE.—The board may—

(1) appoint, from its own members, an executive committee of at least 11 individuals to exercise the powers of the board when the board is not in session; and

(2) appoint and remove, or provide for the appointment and removal of, officers and employees of the corporation, except the principal officer of the corporation.

(d) VOTING BY PROXY.—Voting by proxy is not allowed at any meeting of the board, at the national convention, or at any meeting of a chapter. However, the board may allow the election of governors by proxy at the national convention if the board believes a national emergency makes attendance at the national convention impossible.

#### **§ 300105. Powers**

(a) GENERAL.—The corporation may—

(1) adopt bylaws and regulations;

(2) adopt, alter, and destroy a seal;

(3) own and dispose of property to carry out the purposes of the corporation;

(4) accept gifts, devise, and bequests of property to carry out the purposes of the corporation;

(5) sue and be sued in courts of law and equity, State or Federal, within the jurisdiction of the United States; and

(6) do any other act necessary to carry out this chapter and promote the purposes of the corporation.

(b) DESIGNATION.—The corporation is designated as the organization authorized to act in matters of relief under the treaties of Geneva, August 22, 1864, July 27, 1929, and August 12, 1949.

#### **§ 300106. Emblem, badge, and brassard**

(a) EMBLEM AND BADGE.—In carrying out its purposes under this chapter, the corporation may have and use, as an emblem

and badge, a Greek red cross on a white ground, as described in the treaties of Geneva, August 22, 1864, July 27, 1929, and August 12, 1949, and adopted by the nations acceding to those treaties.

(b) DELIVERY OF BRASSARD.—In accordance with those treaties, the delivery of the brassard allowed for individuals neutralized in time of war shall be left to military authority.

#### **§ 300107. Annual meeting**

The annual meeting of the corporation is the national convention of delegates of the chapters. The national convention shall be held annually on a date and at a place specified by the board of governors. In matters requiring a vote at the national convention, each chapter is entitled to at least one vote. The board shall determine on an equitable basis the number of votes that each chapter is entitled to cast, taking into consideration the size of the membership of the chapters and of the populations served by the chapters. The board shall review the allocation of votes at least every 5 years.

#### **§ 300108. Buildings**

(a) OWNERSHIP.—The United States Government shall retain ownership of the corporation's permanent headquarters, comprised of buildings erected on square 172 in the District of Columbia, including—

(1) the memorial building to commemorate the service and sacrifice of the women of the United States, North and South, during the Civil War, erected for the use of the corporation;

(2) the memorial building to commemorate the service and sacrifice of the patriotic women of the United States, its territories and possessions, and the District of Columbia during World War I, erected for the use of the corporation; and

(3) the permanent building erected for the use of the corporation in connection with its work in cooperation with the Government.

(b) MAINTENANCE AND EXPENSES.—Those buildings shall remain under the supervision of the Administrator of General Services. However, the corporation shall care for and maintain the buildings without expense to the Government.

#### **§ 300109. Endowment fund**

The endowment fund of the corporation shall be kept and invested under the management and control of a board of nine trustees elected by the board of governors. The board of governors shall prescribe regulations on terms and tenure of office, accountability, and expenses of the board of trustees.

#### **§ 300110. Annual report and audit**

(a) SUBMISSION OF REPORT.—As soon as practicable after July 1 of each year, the corporation shall submit a report to the Secretary of Defense on the activities of the corporation during the fiscal year ending June 30, including a complete, itemized report of all receipts and expenditures.

(b) AUDITING OF REPORT AND SUBMISSION TO CONGRESS.—The Secretary shall audit the report and submit a copy of the audited report to Congress.

(c) **PAYMENT OF AUDIT EXPENSES.**—The corporation shall reimburse the Secretary each year for auditing its accounts. The amount paid shall be deposited in the Treasury of the United States as a miscellaneous receipt.

**§ 300111. Reservation of right to amend or repeal**

Congress reserves the right to amend or repeal the provisions of this chapter.

**SEC. 2. THE FLAG.**

(a) Chapter 1 of title 4, United States Code, is amended by adding at the end the following new sections:

**“§ 4. Pledge of allegiance to the flag; manner of delivery**

“The Pledge of Allegiance to the Flag, ‘I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.’, should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute.

**“§ 5. Display and use of flag by civilians; codification of rules and customs; definition**

“The following codification of existing rules and customs pertaining to the display and use of the flag of the United States of America is established for the use of such civilians or civilian groups or organizations as may not be required to conform with regulations promulgated by one or more executive departments of the Government of the United States. The flag of the United States for the purpose of this chapter shall be defined according to sections 1 and 2 of this title and Executive Order 10834 issued pursuant thereto.

**“§ 6. Time and occasions for display**

“(a) It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstaves in the open. However, when a patriotic effect is desired, the flag may be displayed 24 hours a day if properly illuminated during the hours of darkness.

“(b) The flag should be hoisted briskly and lowered ceremoniously.

“(c) The flag should not be displayed on days when the weather is inclement, except when an all weather flag is displayed.

“(d) The flag should be displayed on all days, especially on New Year’s Day, January 1; Inauguration Day, January 20; Lincoln’s Birthday, February 12; Washington’s Birthday, third Monday in February; Easter Sunday (variable); Mother’s Day, second Sunday in May; Armed Forces Day, third Saturday in May; Memorial Day (half-staff until noon), the last Monday in May; Flag Day, June 14; Independence Day, July 4; Labor Day, first Monday in September; Constitution Day, September 17; Columbus Day, second Monday in October; Navy Day, October 27; Veterans Day, November 11; Thanksgiving Day, fourth Thursday in November; Christmas Day, December 25; and such other days as may be proclaimed

by the President of the United States; the birthdays of States (date of admission); and on State holidays.

“(e) The flag should be displayed daily on or near the main administration building of every public institution.

“(f) The flag should be displayed in or near every polling place on election days.

“(g) The flag should be displayed during school days in or near every schoolhouse.

#### **“§ 7. Position and manner of display**

“The flag, when carried in a procession with another flag or flags, should be either on the marching right; that is, the flag’s own right, or, if there is a line of other flags, in front of the center of that line.

“(a) The flag should not be displayed on a float in a parade except from a staff, or as provided in subsection (i) of this section.

“(b) The flag should not be draped over the hood, top, sides, or back of a vehicle or of a railroad train or a boat. When the flag is displayed on a motorcar, the staff shall be fixed firmly to the chassis or clamped to the right fender.

“(c) No other flag or pennant should be placed above or, if on the same level, to the right of the flag of the United States of America, except during church services conducted by naval chaplains at sea, when the church pennant may be flown above the flag during church services for the personnel of the Navy. No person shall display the flag of the United Nations or any other national or international flag equal, above, or in a position of superior prominence or honor to, or in place of, the flag of the United States at any place within the United States or any Territory or possession thereof: *Provided*, That nothing in this section shall make unlawful the continuance of the practice heretofore followed of displaying the flag of the United Nations in a position of superior prominence or honor, and other national flags in positions of equal prominence or honor, with that of the flag of the United States at the headquarters of the United Nations.

“(d) The flag of the United States of America, when it is displayed with another flag against a wall from crossed staffs, should be on the right, the flag’s own right, and its staff should be in front of the staff of the other flag.

“(e) The flag of the United States of America should be at the center and at the highest point of the group when a number of flags of States or localities or pennants of societies are grouped and displayed from staffs.

“(f) When flags of States, cities, or localities, or pennants of societies are flown on the same halyard with the flag of the United States, the latter should always be at the peak. When the flags are flown from adjacent staffs, the flag of the United States should be hoisted first and lowered last. No such flag or pennant may be placed above the flag of the United States or to the United States flag’s right.

“(g) When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.

“(h) When the flag of the United States is displayed from a staff projecting horizontally or at an angle from the window

sill, balcony, or front of a building, the union of the flag should be placed at the peak of the staff unless the flag is at half-staff. When the flag is suspended over a sidewalk from a rope extending from a house to a pole at the edge of the sidewalk, the flag should be hoisted out, union first, from the building.

“(i) When displayed either horizontally or vertically against a wall, the union should be uppermost and to the flag’s own right, that is, to the observer’s left. When displayed in a window, the flag should be displayed in the same way, with the union or blue field to the left of the observer in the street.

“(j) When the flag is displayed over the middle of the street, it should be suspended vertically with the union to the north in an east and west street or to the east in a north and south street.

“(k) When used on a speaker’s platform, the flag, if displayed flat, should be displayed above and behind the speaker. When displayed from a staff in a church or public auditorium, the flag of the United States of America should hold the position of superior prominence, in advance of the audience, and in the position of honor at the clergyman’s or speaker’s right as he faces the audience. Any other flag so displayed should be placed on the left of the clergyman or speaker or to the right of the audience.

“(l) The flag should form a distinctive feature of the ceremony of unveiling a statue or monument, but it should never be used as the covering for the statue or monument.

“(m) The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. On Memorial Day the flag should be displayed at half-staff until noon only, then raised to the top of the staff. By order of the President, the flag shall be flown at half-staff upon the death of principal figures of the United States Government and the Governor of a State, territory, or possession, as a mark of respect to their memory. In the event of the death of other officials or foreign dignitaries, the flag is to be displayed at half-staff according to Presidential instructions or orders, or in accordance with recognized customs or practices not inconsistent with law. In the event of the death of a present or former official of the government of any State, territory, or possession of the United States, the Governor of that State, territory, or possession may proclaim that the National flag shall be flown at half-staff. The flag shall be flown at half-staff 30 days from the death of the President or a former President; 10 days from the day of death of the Vice President, the Chief Justice or a retired Chief Justice of the United States, or the Speaker of the House of Representatives; from the day of death until interment of an Associate Justice of the Supreme Court, a Secretary of an executive or military department, a former Vice President, or the Governor of a State, territory, or possession; and on the day of death and the following day for a Member of Congress. The flag shall be flown at half-staff on Peace Officers Memorial Day, unless that day is also Armed Forces Day. As used in this subsection—

“(1) the term ‘half-staff’ means the position of the flag when it is one-half the distance between the top and bottom of the staff;



“(2) the term ‘executive or military department’ means any agency listed under sections 101 and 102 of title 5, United States Code; and

“(3) the term ‘Member of Congress’ means a Senator, a Representative, a Delegate, or the Resident Commissioner from Puerto Rico.

“(n) When the flag is used to cover a casket, it should be so placed that the union is at the head and over the left shoulder. The flag should not be lowered into the grave or allowed to touch the ground.

“(o) When the flag is suspended across a corridor or lobby in a building with only one main entrance, it should be suspended vertically with the union of the flag to the observer’s left upon entering. If the building has more than one main entrance, the flag should be suspended vertically near the center of the corridor or lobby with the union to the north, when entrances are to the east and west or to the east when entrances are to the north and south. If there are entrances in more than two directions, the union should be to the east.

#### **“§ 8. Respect for flag**

“No disrespect should be shown to the flag of the United States of America; the flag should not be dipped to any person or thing. Regimental colors, State flags, and organization or institutional flags are to be dipped as a mark of honor.

“(a) The flag should never be displayed with the union down, except as a signal of dire distress in instances of extreme danger to life or property.

“(b) The flag should never touch anything beneath it, such as the ground, the floor, water, or merchandise.

“(c) The flag should never be carried flat or horizontally, but always aloft and free.

“(d) The flag should never be used as wearing apparel, bedding, or drapery. It should never be festooned, drawn back, nor up, in folds, but always allowed to fall free. Bunting of blue, white, and red, always arranged with the blue above, the white in the middle, and the red below, should be used for covering a speaker’s desk, draping the front of the platform, and for decoration in general.

“(e) The flag should never be fastened, displayed, used, or stored in such a manner as to permit it to be easily torn, soiled, or damaged in any way.

“(f) The flag should never be used as a covering for a ceiling.

“(g) The flag should never have placed upon it, nor on any part of it, nor attached to it any mark, insignia, letter, word, figure, design, picture, or drawing of any nature.

“(h) The flag should never be used as a receptacle for receiving, holding, carrying, or delivering anything.

“(i) The flag should never be used for advertising purposes in any manner whatsoever. It should not be embroidered on such articles as cushions or handkerchiefs and the like, printed or otherwise impressed on paper napkins or boxes or anything that is designed for temporary use and discard. Advertising signs should not be fastened to a staff or halyard from which the flag is flown.

“(j) No part of the flag should ever be used as a costume or athletic uniform. However, a flag patch may be affixed to the uniform of military personnel, firemen, policemen, and members

of patriotic organizations. The flag represents a living country and is itself considered a living thing. Therefore, the lapel flag pin being a replica, should be worn on the left lapel near the heart.

“(k) The flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning.

**“§ 9. Conduct during hoisting, lowering or passing of flag**

“During the ceremony of hoisting or lowering the flag or when the flag is passing in a parade or in review, all persons present except those in uniform should face the flag and stand at attention with the right hand over the heart. Those present in uniform should render the military salute. When not in uniform, men should remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Aliens should stand at attention. The salute to the flag in a moving column should be rendered at the moment the flag passes.

**“§ 10. Modification of rules and customs by President**

“Any rule or custom pertaining to the display of the flag of the United States of America, set forth herein, may be altered, modified, or repealed, or additional rules with respect thereto may be prescribed, by the Commander in Chief of the Armed Forces of the United States, whenever he deems it to be appropriate or desirable; and any such alteration or additional rule shall be set forth in a proclamation.”.

(b) The analysis of chapter 1 of title 4, United States Code, is amended by adding at the end the following new items:

- “4. Pledge of allegiance to the flag; manner of delivery.
- “5. Display and use of flag by civilians; codification of rules and customs; definition.
- “6. Time and occasions for display.
- “7. Position and manner of display.
- “8. Respect for flag.
- “9. Conduct during hoisting, lowering or passing of flag.
- “10. Modification of rules and customs by President.”.

**SEC. 3. CONFORMING PROVISIONS.**

Section 1332 of title 44, United States Code, is amended by striking “the United Spanish War Veterans,”.

**SEC. 4. CONFORMING CROSS-REFERENCES.**

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) In section 2249b, strike “the provisions of section 3 of the Joint Resolution of June 22, 1942 (56 Stat. 378, chapter 435; 36 U.S.C. 175), and any modification of such provisions under section 8 of that Joint Resolution (36 U.S.C. 178)” and substitute “section 7 of title 4 and any modification of section 7 under section 10 of title 4”.

(2) Section 2543 is amended as follows:

(A) In subsection (e)(1), strike “subsection (b)(2) of the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721)” and substitute “section 501 of title 36”.

(B) In subsection (e)(2), strike “the proviso in section 9 of the Presidential Inaugural Ceremonies Act (36 U.S.C. 729)” and substitute “section 507 of title 36”.

(3) In section 9441(b), strike “section 2 of the Act of July 1, 1946 (36 U.S.C. 202)” and substitute “section 40302 of title 36”.

(b) TITLE 18.—Section 2320(d) of title 18, United States Code, is amended as follows:

(1) In clause (1)(B), strike “section 110 of the Olympic Charter Act” and substitute “section 220706 of title 36”.

(2) In clause (2), insert “and” after the semicolon.

(3) In clause (3), strike “; and” and substitute a period.

(4) Strike clause (4).

#### SEC. 5. LEGISLATIVE PURPOSE AND CONSTRUCTION.

36 USC note  
prec. 101.

(a) NO SUBSTANTIVE CHANGE.—Sections 1 and 2 of this Act restate, without substantive change, laws enacted before August 16, 1997, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after August 15, 1997, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) REFERENCES.—A reference to a law replaced by section 1 or 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by section 1 or 2 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by section 1 or 2 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) INFERENCES.—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a caption or catch line of the provision.

(f) SEVERABILITY.—If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

#### SEC. 6. REPEALS.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision may or was not in effect before its repeal.

36 USC note  
prec. 101.

(b) REPEALER SCHEDULE.—The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

36 USC note  
prec. 101.

## Schedule of Laws Repealed

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1884 June 20	107 .....	.....	23	50 .....	36	254
1889 Jan. 4	20 .....	.....	25	640 .....	36	20
1896 Feb. 20	23 .....	.....	29	8 .....	36	18-18c
1900 June 6	806 .....	.....	31	662 .....	36	4401-4408
1901 Mar. 3	860 .....	.....	31	1438 .....	36	3501-3504
1904 Apr. 28	876 .....	.....	31	1453 .....	36	5401, 5402
1905 Jan. 5	1790 .....	.....	33	542 .....	36	3504
1906 June 9	23 .....	1-3, 4a-8 .....	33	599, 601 ...	36	1, 2, 3, 4a-6, 8, 9
1910 June 30	3065 .....	.....	34	227 .....	36	20a-20g
1912 June 23	3929 .....	.....	34	804 .....	36	5301-5311
1913 Jan. 30	372 .....	2 .....	36	604 .....	36	9
1914 May 8	1 .....	.....	37	647 .....	36	5
1915 May 27	21 .....	.....	37	654 .....	36	4901, 4901 note, 4902-4910
1916 Apr. 17	Pub. R. 25. ....	.....	38	770 .....	36	141, 142
1917 Feb. 27	101 .....	.....	38	383 .....	36	254, 254 note
1919 Sept. 16	89 .....	.....	38	955 .....	36	18a
1920 May 29	77 .....	.....	39	51 .....	36	4201-4206
1921 Mar. 3	148 .....	.....	39	227 .....	36	21-29
1922 Apr. 6	137 .....	.....	39	946 .....	36	6
1923 Mar. 3	59 .....	.....	41	284 .....	36	41-51
1924 Apr. 2	214 .....	(1st complete par. on p. 659) ...	41	659 .....	36	7
	216 .....	.....	41	691 .....	36	4701-4707
	131 .....	.....	41	1354 .....	36	5
	121 .....	.....	42	490 .....	36	3502
	228 .....	.....	42	1441 .....	36	61-66
	283 .....	.....	42	1509 .....	36	121, 122b, 123-125, 127, 128, 131, 132, 138-138c
	81 .....	1 (2d, last provisos in par. under heading "American Battle Monuments Commission").	43	35 .....	36	122, 133
	292 .....	1 (provisos in par. under heading "American Battle Monuments Commission").	43	522 .....	36	122, 133
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1926						
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Apr. 22	171 .....	1 (2d-last provisos in par. under heading "American Battle Monuments Commission").	44	307 .....	36	122, 133-135
May 5	246 .....	.....	44	403 .....	36	14
1927						
Feb. 11	104 .....	1 (provisos in par. under heading "American Battle Monuments Commission").	44	1071 .....	36	122, 133-137
1928						
May 16	580 .....	1 (provisos in par. under heading "American Battle Monuments Commission").	45	575 .....	36	122, 134, 135
May 18	643 .....	.....	45	617 .....	36	143
1929						
Feb. 20	270 .....	1 (1st, 2d, last provisos in par. under heading "American Battle Monuments Commission").	45	1231, 1232	36	122, 134, 135
June 14	23 .....	.....	46	11 .....	36	4902
1930						
Feb. 7	42 .....	.....	46	66 .....	36	13
Apr. 19	201 .....	1 (1st, 2d, last provisos in par. under heading "American Battle Monuments Commission").	46	230, 231 ...	36	122, 134, 135
1931						
Feb. 23	281 .....	1 (1st, 2d, last provisos in par. under heading "American Battle Monuments Commission").	46	1356 .....	36	122, 134, 135
Mar. 3	436 .....	.....	46	1508 .....	36	170
1932						
June 17	268 .....	.....	47	320 .....	36	90a-90k
June 30	330 .....	1 (1st, 2d, last provisos in par. under heading "American Battle Monuments Commission").	47	454 .....	36	122, 134, 135
1933						
Mar. 3	214 .....	.....	47	1544 .....	36	16
May 20	36 .....	.....	48	73 .....	36	145
June 16	101 .....	1 (1st, last provisos in par. under heading "American Battle Monuments Commission").	48	285 .....	36	122, 135
1934						
Apr. 30	184 .....	.....	48	657 .....	36	146
June 7	425 .....	.....	48	925 .....	36	3502, 3504
1935						
Feb. 2	3 .....	1 (1st, 3d, last provisos in par. under heading "American Battle Monuments Commission").	49	7 .....	36	121a, 122, 135
June 28	323 .....	1, 2 .....	49	426 .....	36	491, 491 note
July 5	373 .....	.....	49	457 .....	36	3301-3310
Aug. 12	508 .....	1 (par. under heading "Memorial to Personnel of American Expeditionary Forces").	49	594 .....	36	491 note
1936						
Mar. 19	156 .....	1 (1st, 3d, last provisos in par. under heading "American Battle Monuments Commission").	49	1169 .....	36	121a, 122, 135
May 28	471 .....	.....	49	1390 .....	36	111-120

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1937						
June 14	336 .....	.....	50	257 .....	36	5305-5308
June 28	396 .....	1 (1st, 3d, last provisos in par. under heading "American Battle Monuments Commission").	50	331 .....	36	121a, 122, 135
Aug. 4	564 .....	.....	50	558 .....	36	57-59
Aug. 16	666 .....	.....	50	668 .....	36	149
Aug. 25	762 .....	.....	50	798 .....	36	3201, 3201 note, 3202-3209
1938						
Mar. 28	56 .....	.....	52	148 .....	36	150
May 23	259 .....	1 (1st, 3d, last provisos in par. under heading "American Battle Monuments Commission").	52	412 .....	36	121a, 122, 135
June 29	796 .....	.....	52	1226 .....	36	5401, 5402
1939						
Mar. 16	11 .....	1 (1st, 3d, last provisos in par. under heading "American Battle Monuments Commission").	53	525 .....	36	121a, 122, 135
May 11	123 .....	.....	53	739 .....	36	151
1940						
Apr. 18	107 .....	1 (1st, 3d, last provisos in par. under heading "American Battle Monuments Commission").	54	113 .....	36	121a, 122, 135
June 6	239 .....	.....	54	232 .....	36	140, 140 note, 140a-140c
Sept. 24	730 .....	.....	54	960 .....	36	149 note
Oct. 10	840 .....	.....	54	1093 .....	36	151a
1941						
Apr. 5	40 .....	1 (provisos in par. under heading "American Battle Monuments Commission").	55	95 .....	36	121a, 122, 135
1942						
June 22	435 .....	.....	56	377 .....	36	171-178
June 27	450 .....	1 (provisos in par. under heading "American Battle Monuments Commission").	56	395 .....	36	121a, 122, 135
July 15	505 .....	.....	56	659 .....	36	90a, 90c, 90e-90j
July 30	537 .....	.....	56	728 .....	36	149 note
Sept. 26	563 .....	.....	56	758 .....	36	97
Oct. 17	615 .....	.....	56	796 .....	36	179-182
Oct. 29	633 .....	.....	56	1012 .....	36	43, 45
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1943						
June 26	145 .....	101 (provisos in par. under heading "American Battle Monuments Commission").	57	171 .....	36	121a, 122, 135
1944						
June 27	286 .....	101 (provisos in par. under heading "American Battle Monuments Commission").	58	363 .....	36	121a, 122, 135
1945						
May 3	106 .....	101 (provisos in par. under heading "American Battle Monuments Commission").	59	107 .....	36	121a, 122, 135

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Apr. 20	219 .....	101 (last proviso in par. under heading “American Battle Monuments Commission”).	62	179 .....	36	122
June 30 1949	755 .....	.....	62	1150 .....	36	156
July 11	302 .....	.....	63	409 .....	36	155a, 155b
Aug. 3	385 .....	.....	63	492 .....	36	157
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1950						
Mar. 16	62 .....	.....	64	22 .....	36	31–38a
May 11	182 .....	.....	64	158 .....	36	169g
June 30	431 .....	1–14, 16–19 .....	64	312, 315 ...	36	221–234, 236–239
Aug. 30	823 .....	1–13, 15–21 .....	64	563, 566 ...	36	271–283, 285–291
Sept. 6	896 .....	101 (last proviso in par. under heading “American Battle Monuments Commission”).	64	699 .....	36	122
Sept. 20	956 .....	.....	64	868 .....	36	311–317
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	1178 .....	.....	64	1122 .....	36	67e
1951						
Apr. 16	29 .....	.....	65	31 .....	36	39
July 30	255 .....	.....	65	130 .....	36	18a
Aug. 17	328 .....	.....	65	192 .....	36	36
Aug. 31	376 .....	101 (provisos in 1st par. under heading “American Battle Monuments Commission”).	65	269 .....	36	122
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July 5	578 .....	101 (provisos in 1st par. under heading “American Battle Monuments Commission”).	66	395 .....	36	121b, 122
1953						
May 21	63 .....	1 .....	67	27 .....	36	4702
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June 24	359 .....	101 (provisos in pars. under heading "American Battle Monuments Commission").	68	275 .....	36	121b, 122, 122a, 125a
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Aug. 9	658 .....	.....	69	589 .....	36	426
1956						
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July 7	90-498 ...	.....	82	848 .....	36	169f
Aug. 9	91-37 .....	.....	83	42 .....	36	5303, 5306, 5307, 5307 note
Sept. 17	91-153 ...	(provisos in par. under heading "American Battle Monuments Commission").	83	421 .....	36	121b, 122, 122a
1969	91-442 ...	.....	84	914 .....	36	155
June 30	91-472 ...	(provisos in par. under heading "American Battle Monuments Commission").	84	1058 .....	36	121b, 122, 122a
Dec. 24	91-480 ...	.....	84	1081 .....	36	121
1970	92-77 .....	(provisos in par. under heading "American Battle Monuments Commission").	85	264 .....	36	121b, 122, 122a
Oct. 8						
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1971						
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Aug. 11 1972	92-93 .....	.....	85	317 .....	36	1151-1167
Apr. 24	92-278 ...	.....	86	124 .....	36	142a
Sept. 29	92-447 ...	.....	86	746 .....	36	4605
Oct. 25	92-544 ...	(provisos in par. under heading "American Battle Monuments Commission").	86	1128 .....	36	121b, 122, 122a
1973 Nov. 27	93-162 ...	(provisos in par. under heading "American Battle Monuments Commission").	87	653 .....	36	121b, 122, 122a
1974 Jan. 2	93-244 ...	.....	87	1070 .....	36	125
Apr. 12	93-266 ...	.....	88	85 .....	36	4904, 4906
	93-267 ...	.....	88	85 .....	36	97
Sept. 6	93-414 ...	(provisos in par. under heading "American Battle Monuments Commission").	88	1099 .....	36	121b, 122, 122a
Nov. 29	93-504 ...	.....	88	1575 .....	36	1042
Dec. 26	93-551 ...	.....	88	1744 .....	36	1073
Dec. 27 1975	93-557 ...	.....	88	1792 .....	36	45
June 13	94-33 .....	.....	89	211 .....	36	157b
Oct. 17	94-116 ...	(provisos in 1st par. under heading "American Battle Monuments Commission").	89	587 .....	36	121b, 122, 122a
Dec. 15 1976	94-151 ...	.....	89	809 .....	36	1101, 3502
Apr. 1	94-256 ...	.....	90	301 .....	36	121
Apr. 21	94-273 ...	3(19) .....	90	377 .....	36	131
July 7	94-344 ...	.....	90	810 .....	36	171-178
Aug. 9	94-378 ...	(provisos in par. under heading "American Battle Monuments Commission").	90	1098 .....	36	121b, 122, 122a
Oct. 1 1977	94-443 ...	.....	90	1475 .....	36	18a, 18c
Aug. 15	95-98 .....	.....	91	830 .....	36	67, 67 note, 67a, 67b, 67e, 67h, 67p-67r
Oct. 4	95-119 ...	(provisos in par. under heading "American Battle Monuments Commission").	91	1077 .....	36	121b, 122, 122a
Nov. 11	95-167 ...	.....	91	1347 .....	36	881, 883, 885, 887, 895, 896, 1101
1978 Aug. 17	95-346 ...	.....	92	485 .....	36	45
Sept. 30	95-392 ...	(provisos in par. under heading "American Battle Monuments Commission").	92	795 .....	36	121b, 122, 122a
Oct. 18	95-479 ...	306 .....	92	1566 .....	36	121
	95-482 ...	113 .....	92	1605 .....	36	384
Oct. 20	95-493 ...	.....	92	1643 .....	36	1201-1219
Nov. 8	95-606 ...	.....	92	3045 .....	36	371, 371 note, 372-382b, 391-396
1979 Sept. 6	96-62 .....	.....	93	410 .....	36	142b
Nov. 5	96-103 ...	(provisos in par. under heading "American Battle Monuments Commission").	93	775 .....	36	121b, 122, 122a
Dec. 21	96-155 ...	.....	93	1165 .....	36	45
Dec. 29	96-165 ...	.....	93	1267 .....	36	1101, 1301-1309
1980 July 8	96-304 ...	(last sentence in par. under heading "Salaries and Expenses").	94	898 .....	36	393 note

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	96-388 ...	.....	94	1547 .....	36	1401-1411
Dec. 2	96-489 ...	.....	94	2553 .....	36	1101, 1501-1514
Dec. 4	96-497 ...	.....	94	2595 .....	36	1101, 1601-1614
Dec. 15	96-526 ...	(provisos in par. under heading "American Battle Monuments Commission").	94	3050 .....	36	121b, 122, 122a
1981 Nov. 20	97-82 ....	.....	95	1091 .....	36	1101, 1701-1715
	97-83 ....	.....	95	1094 .....	36	1101, 1801-1815
	97-84 ....	.....	95	1097 .....	36	1402, 1405
Dec. 23	97-101 ...	(provisos in par. under heading "American Battle Monuments Commission").	95	1422 .....	36	121b, 122, 122a
1982 June 1	97-192 ...	.....	96	109 .....	36	1101, 1901-1914
Aug. 9	97-231 ...	.....	96	256 .....	36	1101, 2001-2015
Aug. 10	97-234 ...	.....	96	261 .....	36	1101, 2101-2116
Sept. 30	97-272 ...	(provisos in par. under heading "American Battle Monuments Commission").	96	1165 .....	36	121b, 122, 122a
1983 Jan. 8	97-427 ...	.....	96	2265 .....	36	1101, 2201-2215
Jan. 12	97-447 ...	.....	96	2364 .....	36	1219
July 12	98-45 ....	(provisos in par. under heading "American Battle Monuments Commission").	97	224 .....	36	121b, 122, 122a
1984 Apr. 10	98-257 ...	.....	98	127 .....	36	1101, 2301-2316
May 21	98-291 ...	.....	98	203 .....	36	90i
May 31	98-304 ...	.....	98	220 .....	36	67e
June 12	98-314 ...	.....	98	237 .....	36	1101, 2401-2415
July 18	98-371 ...	(provisos in par. under heading "American Battle Monuments Commission").	98	1221 .....	36	121b, 122, 122a
July 23	98-372 ...	.....	98	1239 .....	36	1101, 2501-2515
Aug. 7	98-375 ...	.....	98	1257 .....	36	146 note
Aug. 17	98-382 ...	.....	98	1343 .....	36	1101, 2601-2615
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Aug. 27	98-399 ...	.....	98	1473 .....	36	169j-169j-10
Oct. 19	98-520 ...	.....	98	2428 .....	36	1101, 2801-2815
Oct. 30	98-561 ...	.....	98	2910 .....	36	1101, 2901-2916
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1985 Oct. 7	99-119 ...	.....	99	498 .....	36	1101, 3601-3616
Nov. 25	99-160 ...	(1st-3d provisos in par. under heading "American Battle Monuments Commission").	99	914 .....	36	121b, 122, 122a
Dec. 9	99-172 ...	.....	99	1020 .....	36	1101, 3701-3715

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1986 May 1	99-284 ...	.....	100	406 .....	36	169j-2, 169j-3, 169j-7, 169j-8
May 23	99-318 ...	.....	100	474 .....	36	1101, 3801-3817
Aug. 7	99-376 ...	.....	100	804 .....	36	3501
Aug. 27	99-402 ...	.....	100	910 .....	36	169i, 169i notes, 169i-1
Oct. 7	99-449 ...	.....	100	1128 .....	36	187
Oct. 18	99-500 ...	101(g) [(1st-3d provisos in par. under heading “American Battle Monuments Commission” in title II of H.R. 5313)], (h) [(1st, 2d, 4th, last provisos in par. under heading “United States Holocaust Memorial Council”)].	100	1783-242, 1783-283.	36	121b, 122, 122a, 1404 note
Oct. 21	99-506 ...	902 .....	100	1841 .....	36	155a
Oct. 30	99-591 ...	101(g) [(1st-3d provisos in par. under heading “American Battle Monuments Commission” in title II of H.R. 5313)], (h) [(1st, 2d, 4th, last provisos in par. under heading “United States Holocaust Memorial Council”)].	100	3341-242, 3341-283.	36	121b, 122, 122a, 1404 note
Nov. 6	99-604 ...	.....	100	3446 .....	36	1101, 3901-3915
1987 July 11	100-71 ...	(par. related to Holocaust Memorial Council under heading “United States Holocaust Memorial Council”).	101	418 .....	36	1405
Aug. 18	100-94 ...	.....	101	700 .....	36	146 note
Dec. 11	100-186	.....	101	1286 .....	36	188
Dec. 22	100-202	101(f) [(1st-3d provisos in 1st par. under heading “American Battle Monuments Commission”)], (g) [(1st, 2d, 4th, 5th provisos in par. under heading “United States Holocaust Memorial Council”)].	101	1329-194, 1329-251.	36	121b, 122, 122a, 1404 note
1988 Apr. 6	100-281	.....	102	73 .....	36	1101, 4001-4017
May 5	100-307	.....	102	456 .....	36	169h
May 20	100-322	345 .....	102	540 .....	36	138c, 138c notes
Aug. 17	100-402	.....	102	1012 .....	36	169f, 169f note
Aug. 19	100-404	(1st-3d provisos in par. under heading “American Battle Monuments Commission”).	102	1021 .....	36	121b, 122, 122a
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Nov. 7	100-630	301 .....	102	3315 .....	36	155-155b
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Nov. 9	101-144	(1st-3d provisos in par. under heading "American Battle Monuments Commission").	103	854 .....	36	121b, 122, 122a,
Dec. 18 1990	101-237	503 .....	103	2094 .....	36	121
Aug. 10	101-355	.....	104	416 .....	36	189
Oct. 30	101-478	.....	104	1157 .....	36	45
Nov. 5	101-507	(1st-3d provisos in par. under heading "American Battle Monuments Commission").	104	1370 .....	36	121b, 122, 122a
	101-510	1601-1616 .....	104	1736 .....	36	1101, 4801-4815
1991 June 6	102-52 ...	9(b) .....	105	263 .....	36	155a
June 13	102-54 ...	13(n) .....	105	278 .....	36	67b, 67h, 90c, 823, 865, 1159, 2403, 3103, 3703
Oct. 28	102-139	(1st-3d provisos in par. under heading "American Battle Monuments Commission").	105	760 .....	36	121b, 122, 122a
Dec. 2	102-179	.....	105	1229 .....	36	45
Dec. 5	102-190	1084 .....	105	1482 .....	36	189 note
Dec. 10	102-199	.....	105	1628 .....	36	691, 693, 1101
1992 Oct. 5	102-381	(par. under heading "United States Holocaust Memorial Council").	106	1415 .....	36	1405 note
Oct. 6	102-389	(1st-3d provisos in par. under heading "American Battle Monuments Commission").	106	1595 .....	36	121b, 122, 122a
Oct. 23	102-450	.....	106	2251 .....	36	169k, 169k note
	102-484	1801-1817, 1821-1838 .....	106	2581 .....	36	1101, 5001-5016, 5101-5117
Oct. 26	102-522	201-208 .....	106	3417 .....	36	5201, 5201 note, 5203-5207
Oct. 27	102-529	.....	106	3463 .....	36	1401, 1406, 1408, 1411
Oct. 29 1993	102-569	914 .....	106	4488 .....	36	155a
May 31	103-35 ...	202(a)(13) .....	107	101 .....	36	5013, 5113
Oct. 28	103-124	(1st-3d provisos in par. under heading "American Battle Monuments Commission").	107	1291 .....	36	121b, 122, 122a
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Nov. 30	103-160	1182(c)(6) .....	107	1772 .....	36	5108
Dec. 20 1994	103-206	318 .....	107	2427 .....	36	161, 161 note
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Feb. 10	104–106	1601–1611(c)(4), 1611(d)–1621, 1623.	110	515, 516, 522.	36	5501(a)–(c)(4), (d), 5501 note, 5502–5521, 5523
Apr. 4	104–127	358(a)(2) .....	110	1014 .....	36	1101
Apr. 26	104–134	(provisos in par. under heading “American Battle Monuments Commission”).	110	1321–293	36	121b, 122, 122a
Sept. 23	104–201	1073(c), 1801–1816 .....	110	2657, 2760	36	1101, 5505, 5506, 5509, 5601–5615
Sept. 26	104–204	(provisos in par. under heading “American Battle Monuments Commission”).	110	2907 .....	36	121b, 122, 122a
Oct. 9	104–275	602 .....	110	3344 .....	36	125, 138d
Oct. 11	104–285	201–209 .....	110	3382 .....	36	5701, 5701 note, 5702–5708
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10 .....	items 4312, 4313 in analysis of ch. 401

**SEC. 7. TECHNICAL AMENDMENTS.**

(a) Section 9503(e)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(e)(3)) is amended by adding a period at the end of the paragraph.

(b) Title 49, United States Code, is amended as follows:

(1) In section 5108(f), strike “section 552(f)” and substitute “section 552(b)”.

(2) In section 15904(c)(1), insert “section” before “15901(b)”.

(c)(1) Chapter 491 of title 49, United States Code, as enacted by the Act of November 20, 1997 (Public Law 105–102, 111 Stat. 2205), is amended as follows:

(A) In section 49106(b)(1)(F), strike “1996” and substitute “1986”.

(B) In section 49106(c)(3), strike “by the board” and substitute “to the board”.

(C) In section 49107(b), strike “subchapter II” and substitute “subchapter III”.

(D) In section 49111(b), strike “retention of” and substitute “retention by”.

(2) The Schedule of Laws Repealed in the Act of November 20, 1997 (Public Law 105–102, 111 Stat. 2217), is amended by

49 USC note  
prec. 101.

striking “1996” in the items related to Public Laws 99–500 and 99–591 and substituting “1986”.

Effective date.  
49 USC 49106  
note.  
Effective date.

(3) The amendments made by this subsection are effective as of November 20, 1997.

(d) Effective October 11, 1996, section 5(45)(A) of the Act of October 11, 1996 (Public Law 104–287, 110 Stat. 3393), is amended by striking “ENFORCEMENT,” and substituting “ENFORCEMENT.”.

Approved August 12, 1998.

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LEGISLATIVE HISTORY—H.R. 1085:

HOUSE REPORTS: No. 105–326 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Feb. 3, considered and passed House.

July 30, considered and passed Senate.





Public Law 105–226  
105th Congress

An Act

To amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance.

Aug. 12, 1998  
[H.R. 3504]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “John F. Kennedy Center for the Performing Arts Authorization Act of 1998”.

John F. Kennedy  
Center for the  
Performing Arts  
Authorization  
Act of 1998.  
20 USC 76h note.

**SEC. 2. CAPITAL REPAIR DUTIES.**

Section 4(a)(1)(G) of the John F. Kennedy Center Act (20 U.S.C. 76j(a)(1)(G)) is amended to read as follows:

“(G) with respect to the building and site of the John F. Kennedy Center for the Performing Arts, plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary to maintain the functionality of the building and site at current standards of life, safety, security, and accessibility;”.

**SEC. 3. OPERATION AND MAINTENANCE DUTIES.**

Section 4(a)(1)(H)(ii) of the John F. Kennedy Center Act (20 U.S.C. 76j(a)(1)(H)(ii)) is amended to read as follows:

“(ii) with respect to the building and site of the John F. Kennedy Center for the Performing Arts, all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operations of, the building and site, in a manner consistent with requirements for high quality operations; and”.

**SEC. 4. REPEAL OF AUDIT REQUIREMENT.**

20 USC 76l.

Section 6 of the John F. Kennedy Center Act (20 U.S.C. 76l) is amended by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

Section 12 of the John F. Kennedy Center Act (20 U.S.C. 76r) is amended by striking subsections (a) and (b) and inserting the following:

“(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H)—

“(1) \$13,000,000 for fiscal year 1999;

“(2) \$14,000,000 for each of fiscal years 2000 and 2001;  
and  
“(3) \$15,000,000 for each of fiscal years 2002 and 2003.  
“(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1)—  
“(1) \$20,000,000 for each of fiscal years 1999, 2000, and 2001;  
“(2) \$19,000,000 for fiscal year 2002; and  
“(3) \$17,000,000 for fiscal year 2003.”.

Approved August 12, 1998.

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LEGISLATIVE HISTORY—H.R. 3504 (S. 2038):

HOUSE REPORTS: No. 105-533 (Comm. on Transportation and Infrastructure).

SENATE REPORTS: No. 105-215 accompanying S. 2038 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 3, considered and passed House.

July 31, considered and passed Senate.



Public Law 105–227  
105th Congress

An Act

To amend the District of Columbia Convention Center and Sports Arena Authorization Act of 1995 to revise the revenues and activities covered under such Act, and for other purposes.

Aug. 12, 1998  
[H.R. 4237]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REVENUES AND ACTIVITIES COVERED UNDER WASHINGTON CONVENTION CENTER AND SPORTS ARENA AUTHORIZATION ACT OF 1995.**

(a) IN GENERAL.—Section 101 of the District of Columbia Convention Center and Sports Arena Authorization Act of 1995 (D.C. Code, sec. 47–396.1) is amended by striking subsections (a) and (b) and inserting the following:

“The fourth sentence of section 446 of the District of Columbia Home Rule Act (D.C. Code, sec. 47–304) shall not apply with respect to the expenditure or obligation of any revenues of the Washington Convention Center Authority for any purpose authorized under the Washington Convention Center Authority Act of 1994 (D.C. Law 10–188).”.

(b) RULE OF CONSTRUCTION REGARDING REVENUE BOND REQUIREMENTS UNDER HOME RULE ACT.—Nothing in the District of Columbia Convention Center and Sports Arena Authorization Act of 1995 may be construed to affect the application of section 490 of the District of Columbia Home Rule Act to any revenue bonds, notes, or other obligations issued by the Council of the District of Columbia or by any District instrumentality to which the Council delegates its authority to issue revenue bonds, notes, or other obligations under such section.

**SEC. 2. WAIVER OF CONGRESSIONAL REVIEW OF WASHINGTON CONVENTION CENTER AUTHORITY FINANCING AMENDMENT ACT OF 1998.**

Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act, the Washington Convention Center Authority Financing Amendment Act of 1998 (D.C. Act 12–402) shall take effect on the date of the enactment of this Act.

Approved August 12, 1998.

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LEGISLATIVE HISTORY—H.R. 4237:

CONGRESSIONAL RECORD, Vol. 144 (1998):  
July 30, considered and passed House.  
July 31, considered and passed Senate.



Public Law 105–228  
105th Congress

An Act

Aug. 12, 1998  
[S. 2344]

To amend the Agricultural Market Transition Act to provide for the advance payment, in full, of the fiscal year 1999 payments otherwise required under production flexibility contracts.

Emergency Farm  
Financial Relief  
Act.  
7 USC 7201 note.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Emergency Farm Financial Relief Act”.

**SEC. 2. SPECIAL RULE FOR FISCAL YEAR 1999 PAYMENT UNDER  
PRODUCTION FLEXIBILITY CONTRACTS.**

Section 112(d) of the Agricultural Market Transition Act (7 U.S.C. 7212(d)) is amended by adding at the end the following:

“(3) SPECIAL RULE FOR FISCAL YEAR 1999.—Notwithstanding the requirements for making an annual contract payment specified in paragraphs (1) and (2), at the option of the owner or producer, the Secretary shall pay the full amount (or such portion as the owner or producer may specify) of the contract payment required to be paid for fiscal year 1999 at such time or times during that fiscal year as the owner or producer may specify.”.

Approved August 12, 1998.

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**LEGISLATIVE HISTORY—S. 2344:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 30, considered and passed Senate.

Aug. 3, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Aug. 12, Presidential statement.



Public Law 105–229  
105th Congress

An Act

To ensure maintenance of a herd of wild horses in Cape Lookout National Seashore.

Aug. 13, 1998  
[H.R. 765]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MAINTENANCE OF WILD HORSES IN CAPE LOOKOUT NATIONAL SEASHORE.**

Section 5 of the Act entitled “An Act to provide for the establishment of the Cape Lookout National Seashore in the State of North Carolina, and for other purposes”, approved March 10, 1966 (Public Law 89–366; 16 U.S.C. 459g–4), is amended by inserting “(a)” after “Sec. 5.”, and by adding at the end the following new subsection:

“(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of 100 free roaming horses in Cape Lookout National Seashore (hereinafter referred to as the ‘Seashore’): *Provided*, That nothing in this section shall be construed to preclude the Secretary from implementing or enforcing the provisions of paragraph (3).

“(2) Within 180 days after enactment of this subsection, the Secretary shall enter into an agreement with the Foundation for Shackelford Horses (a nonprofit corporation established under the laws of the State of North Carolina), or another qualified nonprofit entity, to provide for management of free roaming horses in the seashore. The agreement shall—

Deadline.  
Contracts.

“(A) provide for cost-effective management of the horses while ensuring that natural resources within the seashore are not adversely impacted; and

“(B) allow the authorized entity to adopt any of those horses that the Secretary removes from the seashore.

“(3) The Secretary shall not remove, assist in, or permit the removal of any free roaming horses from Federal lands within the boundaries of the seashore—

“(A) unless the entity with whom the Secretary has entered into the agreement under paragraph (2), following notice and a 90-day response period, fails to meet the terms and conditions of the agreement; or

“(B) unless the number of free roaming horses on Federal lands within Cape Lookout National Seashore exceeds 110; or

“(C) except in the case of an emergency, or to protect public health and safety.

“(4) The Secretary shall annually monitor, assess, and make available to the public findings regarding the population, structure, and health of the free roaming horses in the national seashore.

Public  
information.

“(5) Nothing in this subsection shall be construed to require the Secretary to replace horses or otherwise increase the number of horses within the boundaries of the seashore where the herd numbers fall below 100 as a result of natural causes, including, but not limited to, disease or natural disasters.

“(6) Nothing in this subsection shall be construed as creating liability for the United States for any damages caused by the free roaming horses to property located inside or outside the boundaries of the seashore.”.

Approved August 13, 1998.

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LEGISLATIVE HISTORY—H.R. 765:

HOUSE REPORTS: No. 105-179 (Comm. on Resources).

SENATE REPORTS: No. 105-115 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): July 22, considered and passed House.

Vol. 144 (1998): July 17, considered and passed Senate, amended.  
Aug. 3, House concurred in Senate amendment.



Public Law 105–230  
105th Congress

An Act

To establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

Aug. 13, 1998  
[H.R. 872]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Biomaterials Access Assurance Act of 1998”.

Biomaterials  
Access Assistance  
Act of 1998.  
21 USC 1601  
note.

**SEC. 2. FINDINGS.**

21 USC 1601.

The Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) move in interstate commerce;

(B) are not designed or manufactured specifically for use in medical devices; and

(C) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and component parts;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices for a number of reasons, including concerns about the costs of such litigation;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; or

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) because medical devices and the raw materials and component parts used in their manufacture move in interstate commerce, a shortage of such raw materials and component parts affects interstate commerce;

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs;

(16) the several States and their courts are the primary architects and regulators of our tort system; Congress, however, must, in certain circumstances involving the national interest, address tort issues, and a threatened shortage of raw materials and component parts for lifesaving medical devices is one such circumstance; and

(17) the protections set forth in this Act are needed to assure the continued supply of materials for lifesaving medical devices, although such protections do not protect negligent suppliers.

### SEC. 3. DEFINITIONS.

As used in this Act:

(1) BIOMATERIALS SUPPLIER.—



(A) IN GENERAL.—The term “biomaterials supplier” means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term “claimant” means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of a deceased individual into whose body, or in contact with whose blood or tissue the implant was placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services in any case in which—

(I) the sale or use of an implant is incidental to such services; and

(II) the essence of the professional health care services provided is the furnishing of judgment, skill, or services;

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier; or

(iii) a person alleging harm caused by either the silicone gel or the silicone envelope utilized in a breast implant containing silicone gel, except that—

(I) neither the exclusion provided by this clause nor any other provision of this Act may be construed as a finding that silicone gel (or any other form of silicone) may or may not cause harm; and

(II) the existence of the exclusion under this clause may not—

(aa) be disclosed to a jury in any civil action or other proceeding; and

(bb) except as necessary to establish the applicability of this Act, otherwise be presented in any civil action or other proceeding.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term “component part” means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

- (i) has significant non-implant applications; and
- (ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term “harm” means—

- (i) any injury to or damage suffered by an individual;
- (ii) any illness, disease, or death of that individual resulting from that injury or damage; and
- (iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term “implant” means—

(A) a medical device that is intended by the manufacturer of the device—

- (i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

- (ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term “manufacturer” means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1))) of the implant; and

(B) is required—

- (i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

- (ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term “medical device” means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)), and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) RAW MATERIAL.—The term “raw material” means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term “seller” means a person who, in the course of a business conducted for that purpose,

sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

- (i) a seller or lessor of real property;
- (ii) a provider of professional health care services in any case in which—
  - (I) the sale or use of the implant is incidental to such services; and
  - (II) the essence of the professional health care services provided is the furnishing of judgment, skill, or services; or
- (iii) any person who acts in only a financial capacity with respect to the sale of an implant.

**SEC. 4. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.**

21 USC 1603.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this Act, a biomaterials supplier may—

(A) raise any exclusion from liability set forth in section 5; and

(B) make a motion for dismissal or for summary judgment as set forth in section 6.

(2) PROCEDURES.—Notwithstanding any other provision of law, a Federal or State court in which an action covered by this Act is pending shall, in connection with a motion under section 6 or 7, use the procedures set forth in this Act.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this Act applies to any civil action brought by a claimant, whether in a Federal or State court, on the basis of any legal theory, for harm allegedly caused, directly or indirectly, by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device, purchased for use in providing professional health care services, for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this Act; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this Act establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this Act and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States

Code, that otherwise would not exist under applicable Federal or State law.

21 USC 1604.

**SEC. 5. LIABILITY OF BIOMATERIALS SUPPLIERS.**

(a) IN GENERAL.—Except as provided in section 7, a biomaterials supplier shall not be liable for harm to a claimant caused by an implant unless such supplier is liable—

(1) as a manufacturer of the implant, as provided in subsection (b);

(2) as a seller of the implant, as provided in subsection (c); or

(3) for furnishing raw materials or component parts for the implant that failed to meet applicable contractual requirements or specifications, as provided in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) registered or was required to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included or was required to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 6, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

- (i) notice to the affected persons; and
- (ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 120 days after the petition is filed, the Secretary shall issue a final decision on the petition. Deadline.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period from the time a claimant files a petition with the Secretary under this paragraph until such time as either (i) the Secretary issues a final decision on the petition, or (ii) the petition is withdrawn.

(D) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant only if—

- (1) the biomaterials supplier—

- (A) held title to the implant and then acted as a seller of the implant after its initial sale by the manufacturer; or

- (B) acted under contract as a seller to arrange for the transfer of the implant directly to the claimant after the initial sale by the manufacturer of the implant; or

- (2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 6(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 6, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR FAILURE TO MEET APPLICABLE CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the claimant in an action shows, by a preponderance of the evidence, that—

- (1) the biomaterials supplier supplied raw materials or component parts for use in the implant that either—

- (A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for the supplying of the product; or

- (B) failed to meet any specifications that were—

- (i) accepted, pursuant to applicable law, by the biomaterials supplier;

- (ii) published by the biomaterials supplier;

- (iii) provided by the biomaterials supplier to the person who contracted for such product;

(iv) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(v) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were accepted, pursuant to applicable law, by the biomaterials supplier; and

(2) such failure to meet applicable contractual requirements or specifications was an actual and proximate cause of the harm to the claimant.

Courts.  
21 USC 1605.

**SEC. 6. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.**

(a) **MOTION TO DISMISS.**—A defendant may, at any time during which a motion to dismiss may be filed under applicable law, move to dismiss an action against it on the grounds that the defendant is a biomaterials supplier and one or more of the following:

(1) The defendant is not liable as a manufacturer, as provided in section 5(b).

(2) The defendant is not liable as a seller, as provided in section 5(c).

(3) The defendant is not liable for furnishing raw materials or component parts for the implant that failed to meet applicable contractual requirements or specifications, as provided in section 5(d).

(4) The claimant did not name the manufacturer as a party to the action, as provided in subsection (b).

(b) **MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.**—In any civil action covered by this Act, the claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) a claim against the manufacturer is barred by applicable law or rule of practice.

Applicability.

(c) **PROCEEDING ON MOTION TO DISMISS.**—The following rules shall apply to any proceeding on a motion to dismiss filed by a defendant under this section:

(1) **EFFECT OF MOTION TO DISMISS ON DISCOVERY.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), if a defendant files a motion to dismiss under subsection (a), no discovery shall be permitted in connection with the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss.

(B) **DISCOVERY.**—If a defendant files a motion to dismiss under subsection (a)(3) on the grounds that it did not furnish raw materials or component parts for the implant that failed to meet applicable contractual require-

ments or specifications, the court may permit discovery limited to issues that are directly relevant to—

- (i) the pending motion to dismiss; or
- (ii) the jurisdiction of the court.

(2) AFFIDAVITS.—

(A) DEFENDANT.—A defendant may submit affidavits supporting the grounds for dismissal contained in its motion to dismiss under subsection (a). If the motion is made under subsection (a)(1), the defendant may submit an affidavit demonstrating that the defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) CLAIMANT.—In response to a motion to dismiss, the claimant may submit affidavits demonstrating that—

- (i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 5(b)(2)(B); or
- (ii) the defendant is a seller of the implant who is liable under section 5(c).

(3) BASIS OF RULING ON MOTION TO DISMISS.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings and affidavits of the parties made pursuant to this subsection. The court shall grant a motion to dismiss filed under subsection (a)—

(A) unless the claimant submits a valid affidavit that demonstrates that the defendant is not a biomaterials supplier;

(B) unless the court determines, to the extent raised in the pleadings and affidavits, that one or more of the following apply:

- (i) the defendant may be liable as a manufacturer, as provided in section 5(b);
- (ii) the defendant may be liable as a seller, as provided in section 5(c); or
- (iii) the defendant may be liable for furnishing raw materials or component parts for the implant that failed to meet applicable contractual requirements or specifications, as provided in section 5(d); or

(C) if the claimant did not name the manufacturer as a party to the action, as provided in subsection (b).

(4) TREATMENT OF MOTION AS MOTION FOR SUMMARY JUDGMENT.—The court may treat a motion to dismiss as a motion for summary judgment subject to subsection (d) in order to determine whether the pleadings and affidavits, in connection with such action, raise genuine issues of material fact concerning whether the defendant furnished raw materials or component parts of the implant that failed to meet applicable contractual requirements or specifications as provided in section 5(d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—If a motion to dismiss of a biomaterials supplier is to be treated as a motion for summary judgment under subsection (c)(4) or if a biomaterials supplier moves for summary judgment,

the biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue of material fact for each applicable element set forth in paragraphs (1) and (2) of section 5(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by the claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment governed by section 5(d), such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 5(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 5(d) or the failure to establish the applicable elements of section 5(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) DISMISSAL WITH PREJUDICE.—An order granting a motion to dismiss or for summary judgment pursuant to this section shall be entered with prejudice, except insofar as the moving defendant may be rejoined to the action as provided in section 7.

(f) MANUFACTURER CONDUCT OF LITIGATION.—The manufacturer of an implant that is the subject of an action covered under this Act shall be permitted to conduct litigation on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section on behalf of such supplier if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such litigation or to conduct such litigation.

21 USC 1606.

#### **SEC. 7. SUBSEQUENT IMPLER OF DISMISSED BIOMATERIALS SUPPLIER.**

(a) IMPEADING OF DISMISSED DEFENDANT.—A court, upon motion by a manufacturer or a claimant within 90 days after entry of a final judgment in an action by the claimant against a manufacturer, and notwithstanding any otherwise applicable statute of limitations, may implead a biomaterials supplier who has been dismissed from the action pursuant to this Act if—

(1) the manufacturer has made an assertion, either in a motion or other pleading filed with the court or in an opening or closing statement at trial, or as part of a claim for contribution or indemnification, and the court finds based on the court's independent review of the evidence contained in the record of the action, that under applicable law—

(A) the negligence or intentionally tortious conduct of the dismissed supplier was an actual and proximate cause of the harm to the claimant; and



(B) the manufacturer's liability for damages should be reduced in whole or in part because of such negligence or intentionally tortious conduct; or

(2) the claimant has moved to implead the supplier and the court finds, based on the court's independent review of the evidence contained in the record of the action, that under applicable law—

(A) the negligence or intentionally tortious conduct of the dismissed supplier was an actual and proximate cause of the harm to the claimant; and

(B) the claimant is unlikely to be able to recover the full amount of its damages from the remaining defendants.

(b) **STANDARD OF LIABILITY.**—Notwithstanding any preliminary finding under subsection (a), a biomaterials supplier who has been impleaded into an action covered by this Act, as provided for in this section—

(1) may, prior to entry of judgment on the claim against it, supplement the record of the proceeding that was developed prior to the grant of the motion for impleader under subsection (a); and

(2) may be found liable to a manufacturer or a claimant only to the extent required and permitted by any applicable State or Federal law other than this Act.

(c) **DISCOVERY.**—Nothing in this section shall give a claimant or any other party the right to obtain discovery from a biomaterials supplier at any time prior to grant of a motion for impleader beyond that allowed under section 6.

**SEC. 8. EFFECTIVE DATE.**

This Act shall apply to all civil actions covered under this Act that are commenced on or after the date of enactment of this Act, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this Act.

Applicability.  
21 USC 1601  
note.

Approved August 13, 1998.

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**LEGISLATIVE HISTORY—H.R. 872:**

HOUSE REPORTS: No. 105-549, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 29, considered and passed House.

July 30, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Aug. 13, Presidential statement.



Public Law 105–231  
105th Congress

An Act

Aug. 13, 1998  
[S. 1759]

To grant a Federal charter to the American GI Forum of the United States.

Texas.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

36 USC  
app. 5901.

**SECTION 1. RECOGNITION AND GRANT OF FEDERAL CHARTER.**

The American GI Forum of the United States, a nonprofit corporation organized under the laws of the State of Texas, is recognized as such and granted a Federal charter.

36 USC  
app. 5902.

**SEC. 2. POWERS.**

The American GI Forum of the United States (in this Act referred to as the “corporation”) shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State of Texas and subject to the laws of the State of Texas.

36 USC  
app. 5903.

**SEC. 3. PURPOSES.**

The purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include the following:

(1) To secure the blessing of American democracy at every level of local, State, and national life for all United States citizens.

(2) To uphold and defend the Constitution and the United States flag.

(3) To foster and perpetuate the principles of American democracy based on religious and political freedom for the individual and equal opportunity for all.

(4) To foster and enlarge equal educational opportunities, equal economic opportunities, equal justice under the law, and equal political opportunities for all United States citizens, regardless of race, color, religion, sex, or national origin.

(5) To encourage greater participation of the ethnic minority represented by the corporation in the policy-making and administrative activities of all departments, agencies, and other governmental units of local and State governments and the Federal Government.

(6) To combat all practices of a prejudicial or discriminatory nature in local, State, or national life which curtail, hinder, or deny to any United States citizen an equal opportunity to develop full potential as an individual.

(7) To foster and promote the broader knowledge and appreciation by all United States citizens of their cultural heritage and language.

**SEC. 4. SERVICE OF PROCESS.**36 USC  
app. 5904.

With respect to service of process, the corporation shall comply with the laws of the State of Texas and those States in which it carries on its activities in furtherance of its corporate purposes.

**SEC. 5. MEMBERSHIP.**36 USC  
app. 5905.

Except as provided in section 8(g), eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws and articles of incorporation of the corporation.

**SEC. 6. BOARD OF DIRECTORS.**36 USC  
app. 5906.

Except as provided in section 8(g), the composition of the board of directors of the corporation and the responsibilities of the board shall be as provided in the bylaws and articles of incorporation of the corporation and in conformity with the laws of the State of Texas.

**SEC. 7. OFFICERS.**36 USC  
app. 5907.

Except as provided in section 8(g), the positions of officers of the corporation and the election of members to such positions shall be as provided in the bylaws and articles of incorporation of the corporation and in conformity with the laws of the State of Texas.

**SEC. 8. RESTRICTIONS.**36 USC  
app. 5908.

(a) **INCOME AND COMPENSATION.**—No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection may be construed to prevent the payment of reasonable compensation to the officers and employees of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) **LOANS.**—The corporation may not make any loan to any member, officer, director, or employee of the corporation.

(c) **ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.**—The corporation may not issue any shares of stock or declare or pay any dividends.

(d) **DISCLAIMER OF CONGRESSIONAL OR FEDERAL APPROVAL.**—The corporation may not claim the approval of Congress or the authorization of the Federal Government for any of its activities by virtue of this Act.

(e) **CORPORATE STATUS.**—The corporation shall maintain its status as a corporation organized and incorporated under the laws of the State of Texas.

(f) **CORPORATE FUNCTION.**—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of the State of Texas.

(g) **NONDISCRIMINATION.**—In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

36 USC  
app. 5909.

**SEC. 9. LIABILITY.**

The corporation shall be liable for the acts of its officers, directors, employees, and agents whenever such individuals act within the scope of their authority.

36 USC  
app. 5910.

**SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.**

(a) **BOOKS AND RECORDS OF ACCOUNT.**—The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors.

(b) **NAMES AND ADDRESSES OF MEMBERS.**—The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote in any proceeding of the corporation.

(c) **RIGHT TO INSPECT BOOKS AND RECORDS.**—All books and records of the corporation may be inspected by any member having the right to vote in any proceeding of the corporation, or by any agent or attorney of such member, for any proper purpose at any reasonable time.

(d) **APPLICATION OF STATE LAW.**—This section may not be construed to contravene any applicable State law.

**SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.**

The first section of the Act entitled “An Act to provide for audit of accounts of private corporations established under Federal law”, approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following:

“(80) American GI Forum of the United States.”.

36 USC  
app. 5911.

**SEC. 12. ANNUAL REPORT.**

The corporation shall annually submit to Congress a report concerning the activities of the corporation during the preceding fiscal year. The annual report shall be submitted on the same date as the report of the audit required by reason of the amendment made in section 11. The annual report shall not be printed as a public document.

36 USC  
app. 5912.

**SEC. 13. RESERVATION OF RIGHT TO ALTER, AMEND, OR REPEAL CHARTER.**

The right to alter, amend, or repeal this Act is expressly reserved to Congress.

36 USC  
app. 5913.

**SEC. 14. TAX-EXEMPT STATUS REQUIRED AS CONDITION OF CHARTER.**

If the corporation fails to maintain its status as a corporation exempt from taxation as provided in the Internal Revenue Code of 1986 the charter granted in this Act shall terminate.

36 USC  
app. 5914.

**SEC. 15. TERMINATION.**

The charter granted in this Act shall expire if the corporation fails to comply with any of the provisions of this Act.

**SEC. 16. DEFINITION OF STATE.**

For purposes of this Act, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

36 USC  
app. 5915.

Approved August 13, 1998.

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**LEGISLATIVE HISTORY—S. 1759:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 31, considered and passed Senate.

Aug. 3, considered and passed House.



Public Law 105–232  
105th Congress

An Act

Aug. 13, 1998  
[S. 1800]

To designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the “Joseph P. Kinneary United States Courthouse”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF JOSEPH P. KINNEARY UNITED STATES COURTHOUSE.**

The Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, shall be known and designated as the “Joseph P. Kinneary United States Courthouse”.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the “Joseph P. Kinneary United States Courthouse”.

Approved August 13, 1998.

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**LEGISLATIVE HISTORY—S. 1800:**

HOUSE REPORTS: No. 105–619 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 2, considered and passed Senate.

Aug. 4, considered and passed House.



Public Law 105–233  
105th Congress

An Act

To amend chapter 45 of title 28, United States Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes.

Aug. 13, 1998  
[S. 2143]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION FOR VOLUNTARY SERVICES.**

Section 677 of title 28, United States Code, is amended by adding at the end the following:

“(c)(1) Notwithstanding section 1342 of title 31, the Administrative Assistant, with the approval of the Chief Justice, may accept voluntary personal services to assist with public and visitor programs.

“(2) No person may volunteer personal services under this subsection unless the person has first agreed, in writing, to waive any claim against the United States arising out of or in connection with such services, other than a claim under chapter 81 of title 5.

“(3) No person volunteering personal services under this subsection shall be considered an employee of the United States for any purpose other than for purposes of—

“(A) chapter 81 of title 5; or

“(B) chapter 171 of this title.

“(4) In the administration of this subsection, the Administrative Assistant shall ensure that the acceptance of personal services shall not result in the reduction of pay or displacement of any employee of the Supreme Court.”.

Approved August 13, 1998.

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**LEGISLATIVE HISTORY—S. 2143:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 16, considered and passed Senate.

Aug. 3, considered and passed House.

Public Law 105-234  
105th Congress

An Act

Aug. 14, 1998  
[H.R. 3824]

Amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENT.**

Section 15 of the Fastener Quality Act (15 U.S.C. 5414) is amended—

(1) by inserting “(a) TRANSITIONAL RULE.—” before “The requirements of this Act”; and

(2) by adding at the end the following new subsection:

“(b) AIRCRAFT EXEMPTION.—

“(1) IN GENERAL.—The requirements of this Act shall not apply to fasteners specifically manufactured or altered for use on an aircraft if the quality and suitability of those fasteners for that use has been approved by the Federal Aviation Administration, except as provided in paragraph (2).

“(2) EXCEPTION.—Paragraph (1) shall not apply to fasteners represented by the fastener manufacturer as having been manufactured in conformance with standards or specifications established by a consensus standards organization or a Federal agency other than the Federal Aviation Administration.”.

**SEC. 2. DELAYED IMPLEMENTATION OF REGULATIONS.**

The regulations issued under the Fastener Quality Act by the National Institute of Standards and Technology on April 14, 1998, and any other regulations issued by the National Institute of Standards and Technology pursuant to the Fastener Quality Act, shall not take effect until after the later of June 1, 1999, or the expiration of 120 days after the Secretary of Commerce transmits to the Committee on Science and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, a report on—

(1) changes in fastener manufacturing processes that have occurred since the enactment of the Fastener Quality Act;

(2) a comparison of the Fastener Quality Act to other regulatory programs that regulate the various categories of fasteners, and an analysis of any duplication that exists among programs; and

Reports.  
15 USC 5412  
note.



(3) any changes in that Act that may be warranted because of the changes reported under paragraphs (1) and (2).  
The report required by this section shall be transmitted to the Committee on Science and the Committee on Commerce of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, by February 1, 1999.

Approved August 14, 1998.

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LEGISLATIVE HISTORY—H.R. 3824:

HOUSE REPORTS: No. 105-574, Pt. 1 (Comm. on Science).

SENATE REPORTS: No. 105-267 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 16, considered and passed House.

July 31, considered and passed Senate, amended.

Aug. 6, House concurred in Senate amendments.



Public Law 105-235  
105th Congress

Joint Resolution

Aug. 14, 1998  
[S.J. Res. 54]

Finding the Government of Iraq in unacceptable and material breach of its international obligations.

- Whereas hostilities in Operation Desert Storm ended on February 28, 1991, and the conditions governing the cease-fire were specified in United Nations Security Council Resolutions 686 (March 2, 1991) and 687 (April 3, 1991);
- Whereas United Nations Security Council Resolution 687 requires that international economic sanctions remain in place until Iraq discloses and destroys its weapons of mass destruction programs and capabilities and undertakes unconditionally never to resume such activities;
- Whereas Resolution 687 established the United Nations Special Commission on Iraq (UNSCOM) to uncover all aspects of Iraq's weapons of mass destruction programs and tasked the Director-General of the International Atomic Energy Agency to locate and remove or destroy all nuclear weapons systems, subsystems or material from Iraq;
- Whereas United Nations Security Council Resolution 715, adopted on October 11, 1991, empowered UNSCOM to maintain a long-term monitoring program to ensure Iraq's weapons of mass destruction programs are dismantled and not restarted;
- Whereas Iraq has consistently fought to hide the full extent of its weapons programs, and has systematically made false declarations to the Security Council and to UNSCOM regarding those programs, and has systematically obstructed weapons inspections for seven years;
- Whereas in June 1991, Iraqi forces fired on International Atomic Energy Agency inspectors and otherwise obstructed and misled UNSCOM inspectors, resulting in United Nations Security Council Resolution 707 which found Iraq to be in "material breach" of its obligations under United Nations Security Council Resolution 687 for failing to allow UNSCOM inspectors access to a site storing nuclear equipment;
- Whereas in January and February of 1992, Iraq rejected plans to install long-term monitoring equipment and cameras called for in United Nations resolutions, resulting in a Security Council Presidential Statement of February 19, 1992 which declared that Iraq was in "continuing material breach" of its obligations;
- Whereas in February of 1992, Iraq continued to obstruct the installation of monitoring equipment, and failed to comply with UNSCOM orders to allow destruction of missiles and other proscribed weapons, resulting in the Security Council Presidential Statement of February 28, 1992, which reiterated that Iraq was in "continuing material breach" and noted a "further material

- breach” on account of Iraq’s failure to allow destruction of ballistic missile equipment;
- Whereas on July 5, 1992, Iraq denied UNSCOM inspectors access to the Iraqi Ministry of Agriculture, resulting in a Security Council Presidential Statement of July 6, 1992, which declared that Iraq was in “material and unacceptable breach” of its obligations under United Nations resolutions;
- Whereas in December of 1992 and January of 1993, Iraq violated the southern no-fly zone, moved surface-to-air missiles into the no-fly zone, raided a weapons depot in internationally recognized Kuwaiti territory and denied landing rights to a plane carrying United Nations weapons inspectors, resulting in a Security Council Presidential Statement of January 8, 1993, which declared that Iraq was in an “unacceptable and material breach” of its obligations under United Nations resolutions;
- Whereas in response to continued Iraqi defiance, a Security Council Presidential Statement of January 11, 1993, reaffirmed the previous finding of material breach, followed on January 13 and 18 by allied air raids, and on January 17 with an allied missile attack on Iraqi targets;
- Whereas on June 10, 1993, Iraq prevented UNSCOM’s installation of cameras and monitoring equipment, resulting in a Security Council Presidential Statement of June 18, 1993, declaring Iraq’s refusal to comply to be a “material and unacceptable breach”;
- Whereas on October 6, 1994, Iraq threatened to end cooperation with weapons inspectors if sanctions were not ended, and one day later, massed 10,000 troops within 30 miles of the Kuwaiti border, resulting in United Nations Security Council Resolution 949 demanding Iraq’s withdrawal from the Kuwaiti border area and renewal of compliance with UNSCOM;
- Whereas on April 10, 1995, UNSCOM reported to the Security Council that Iraq had concealed its biological weapons program, and had failed to account for 17 tons of biological weapons material resulting in the Security Council’s renewal of sanctions against Iraq;
- Whereas on July 1, 1995, Iraq admitted to a full scale biological weapons program, but denied weaponization of biological agents, and subsequently threatened to end cooperation with UNSCOM resulting in the Security Council’s renewal of sanctions against Iraq;
- Whereas on March 8, 11, 14, and 15, 1996, Iraq again barred UNSCOM inspectors from sites containing documents and weapons, in response to which the Security Council issued a Presidential Statement condemning “clear violations by Iraq of previous Resolutions 687, 707, and 715”;
- Whereas from June 11–15, 1996, Iraq repeatedly barred weapons inspectors from military sites, in response to which the Security Council adopted United Nations Security Council Resolution 1060, noting the “clear violation on United Nations Security Council Resolutions 687, 707, and 715” and in response to Iraq’s continued violations, issued a Presidential Statement detailing Iraq’s “gross violation of obligations”;
- Whereas in August 1996, Iraqi troops overran Irbil, in Iraqi Kurdistan, employing more than 30,000 troops and Republican Guards, in response to which the Security Council briefly suspended implementation on United Nations Security Council Resolution 986, the United Nations oil for food plan;

Whereas in December 1996, Iraq prevented UNSCOM from removing 130 Scud missile engines from Iraq for analysis, resulting in a Security Council Presidential Statement which “deplore[d]” Iraq’s refusal to cooperate with UNSCOM;

Whereas on April 9, 1997, Iraq violated the no-fly zone in southern Iraq and United Nations Security Council Resolution 670, banning international flights, resulting in a Security Council statement regretting Iraq’s lack of “specific consultation” with the Council;

Whereas on June 4 and 5, 1997 Iraqi officials on board UNSCOM aircraft interfered with the controls and inspections, endangering inspectors and obstructing the UNSCOM mission, resulting in a United Nations Security Council Presidential Statement demanding Iraq end its interference and on June 21, 1997, United Nations Security Council Resolution 1115 threatened sanctions on Iraqi officials responsible for these interferences;

Whereas on September 13, 1997, during an inspection mission, an Iraqi official attacked UNSCOM officials engaged in photographing illegal Iraqi activities, resulting in the October 23, 1997, adoption of United Nations Security Council Resolution 1134 which threatened a travel ban on Iraqi officials responsible for noncompliance with United Nations resolutions;

Whereas on October 29, 1997, Iraq announced that it would no longer allow American inspectors working with UNSCOM to conduct inspections in Iraq, blocking UNSCOM teams containing Americans to conduct inspections and threatening to shoot down United States U-2 surveillance flights in support of UNSCOM, resulting in a United Nations Security Council Resolution 1137 on November 12, 1997, which imposed the travel ban on Iraqi officials and threatened unspecified “further measures”;

Whereas on November 13, 1997, Iraq expelled United States inspectors from Iraq, leading to UNSCOM’s decision to pull out its remaining inspectors and resulting in a United Nations Security Council Presidential Statement demanding Iraq revoke the expulsion;

Whereas on January 16, 1998, an UNSCOM team led by American Scott Ritter was withdrawn from Iraq after being barred for three days by Iraq from conducting inspections, resulting in the adoption of a United Nations Security Council Presidential Statement deploring Iraq’s decision to bar the team as a clear violation of all applicable resolutions;

Saddam Hussein.  
Kofi Annan.

Whereas despite clear agreement on the part of Iraqi President Saddam Hussein with United Nations General Kofi Annan to grant access to all sites, and fully cooperate with UNSCOM, and the adoption on March 2, 1998, of United Nations Security Council Resolution 1154, warning that any violation of the agreement with Annan would have the “severest consequences” for Iraq, Iraq has continued to actively conceal weapons and weapons programs, provide misinformation and otherwise deny UNSCOM inspectors access;

Richard Butler.

Whereas on June 24, 1998, UNSCOM Director Richard Butler presented information to the United Nations Security Council indicating clearly that Iraq, in direct contradiction to information provided to UNSCOM, weaponized the nerve agent VX; and

Whereas Iraq’s continuing weapons of mass destruction programs threaten vital United States interests and international peace and security: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Government of Iraq is in material and unacceptable breach of its international obligations, and therefore the President is urged to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations.

Approved August 14, 1998.

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LEGISLATIVE HISTORY—S.J. Res. 54:

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 31, considered and passed Senate.

Aug. 3, considered and passed House.



Public Law 105–236  
105th Congress

An Act

Sept. 20, 1998 [H.R. 629]	To grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.
	<i>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,</i>
Texas Low-Level Radioactive Waste Disposal Compact Consent Act. Maine. Vermont. 42 USC 2021d note. 42 USC 2021d note.	<p><b>SECTION 1. SHORT TITLE.</b></p> <p>This Act may be cited as the “Texas Low-Level Radioactive Waste Disposal Compact Consent Act”.</p> <p><b>SEC. 2. CONGRESSIONAL FINDING.</b></p> <p>The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.).</p>
42 USC 2021d note.	<p><b>SEC. 3. CONDITIONS OF CONSENT TO COMPACT.</b></p> <p>The consent of the Congress to the compact set forth in section 5—</p> <p>(1) shall become effective on the date of the enactment of this Act;</p> <p>(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and</p> <p>(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.</p>
42 USC 2021d note.	<p><b>SEC. 4. CONGRESSIONAL REVIEW.</b></p> <p>The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided in such compact.</p>
42 USC 2021d note.	<p><b>SEC. 5. TEXAS LOW-LEVEL RADIOACTIVE WASTE COMPACT.</b></p> <p>(a) CONSENT OF CONGRESS.—In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of Congress is given to the States of Texas, Maine, and Vermont to enter into the compact set forth in subsection (b).</p> <p>(b) TEXT OF COMPACT.—The compact reads substantially as follows:</p>

## “TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

## “ARTICLE I. POLICY AND PURPOSE

“SEC. 1.01. The party states recognize a responsibility for each state to seek to manage low-level radioactive waste generated within its boundaries, pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b–2021j). They also recognize that the United States Congress, by enacting the Act, has authorized and encouraged states to enter into compacts for the efficient management and disposal of low-level radioactive waste. It is the policy of the party states to cooperate in the protection of the health, safety, and welfare of their citizens and the environment and to provide for and encourage the economical management and disposal of low-level radioactive waste. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety, and welfare of the citizens and the environment of the party states; to limit the number of facilities needed to effectively, efficiently, and economically manage low-level radioactive waste and to encourage the reduction of the generation thereof; and to distribute the costs, benefits, and obligations among the party states; all in accordance with the terms of this compact.

## “ARTICLE II. DEFINITIONS

“SEC. 2.01. As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

“(1) ‘Act’ means the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b–2021j).

“(2) ‘Commission’ means the Texas Low-Level Radioactive Waste Disposal Compact Commission established in Article III of this compact.

“(3) ‘Compact facility’ or ‘facility’ means any site, location, structure, or property located in and provided by the host state for the purpose of management or disposal of low-level radioactive waste for which the party states are responsible.

“(4) ‘Disposal’ means the permanent isolation of low-level radioactive waste pursuant to requirements established by the United States Nuclear Regulatory Commission and the United States Environmental Protection Agency under applicable laws, or by the host state.

“(5) ‘Generate,’ when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

“(6) ‘Generator’ means a person who produces or processes low-level radioactive waste in the course of its activities, excluding persons who arrange for the collection, transportation, management, treatment, storage, or disposal of waste generated outside the party states, unless approved by the commission.

“(7) ‘Host county’ means a county in the host state in which a disposal facility is located or is being developed.

“(8) ‘Host state’ means a party state in which a compact facility is located or is being developed. The State of Texas is the host state under this compact.

“(9) ‘Institutional control period’ means that period of time following closure of the facility and transfer of the facility

license from the operator to the custodial agency in compliance with the appropriate regulations for long-term observation and maintenance.

“(10) ‘Low-level radioactive waste’ has the same meaning as that term is defined in Section 2(9) of the Act (42 U.S.C. 2021b(9)), or in the host state statute so long as the waste is not incompatible with management and disposal at the compact facility.

“(11) ‘Management’ means collection, consolidation, storage, packaging, or treatment.

“(12) ‘Operator’ means a person who operates a disposal facility.

“(13) ‘Party state’ means any state that has become a party in accordance with Article VII of this compact. Texas, Maine, and Vermont are initial party states under this compact.

“(14) ‘Person’ means an individual, corporation, partnership or other legal entity, whether public or private.

“(15) ‘Transporter’ means a person who transports low-level radioactive waste.

#### “ARTICLE III. THE COMMISSION

Establishment.

“SEC. 3.01. There is hereby established the Texas Low-Level Radioactive Waste Disposal Compact Commission. The commission shall consist of one voting member from each party state except that the host state shall be entitled to six voting members. Commission members shall be appointed by the party state governors, as provided by the laws of each party state. Each party state may provide alternates for each appointed member.

“SEC. 3.02. A quorum of the commission consists of a majority of the members. Except as otherwise provided in this compact, an official act of the commission must receive the affirmative vote of a majority of its members.

“SEC. 3.03. The commission is a legal entity separate and distinct from the party states and has governmental immunity to the same extent as an entity created under the authority of Article XVI, Section 59, of the Texas Constitution. Members of the commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

“SEC. 3.04. The commission shall:

“(1) Compensate its members according to the host state’s law.

Records.

“(2) Conduct its business, hold meetings, and maintain public records pursuant to laws of the host state, except that notice of public meetings shall be given in the non-host party states in accordance with their respective statutes.

“(3) Be located in the capital city of the host state.

“(4) Meet at least once a year and upon the call of the chair, or any member. The governor of the host state shall appoint a chair and vice-chair.

Records.

“(5) Keep an accurate account of all receipts and disbursements. An annual audit of the books of the commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the commission.

“(6) Approve a budget each year and establish a fiscal year that conforms to the fiscal year of the host state.



“(7) Prepare, adopt, and implement contingency plans for the disposal and management of low-level radioactive waste in the event that the compact facility should be closed. Any plan which requires the host state to store or otherwise manage the low-level radioactive waste from all the party states must be approved by at least four host state members of the commission. The commission, in a contingency plan or otherwise, may not require a non-host party state to store low-level radioactive waste generated outside of the state.

“(8) Submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the commission, including an annual report to be submitted on or before January 31 of each year.

Reports.  
Deadline.

“(9) Assemble and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.

Public  
information.

“(10) Keep a current inventory of all generators within the party states, based upon information provided by the party states.

Records.

“(11) By no later than 180 days after all members of the commission are appointed under Section 3.01 of this article, establish by rule the total volume of low-level radioactive waste that the host state will dispose of in the compact facility in the years 1995–2045, including decommissioning waste. The shipments of low-level radioactive waste from all non-host party states shall not exceed 20 percent of the volume estimated to be disposed of by the host state during the 50-year period. When averaged over such 50-year period, the total of all shipments from non-host party states shall not exceed 20,000 cubic feet a year. The commission shall coordinate the volumes, timing, and frequency of shipments from generators in the non-host party states in order to assure that over the life of this agreement shipments from the non-host party states do not exceed 20 percent of the volume projected by the commission under this paragraph.

Deadline.

“SEC. 3.05. The commission may:

“(1) Employ staff necessary to carry out its duties and functions. The commission is authorized to use to the extent practicable the services of existing employees of the party states. Compensation shall be as determined by the commission.

“(2) Accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition, if any, of any donation, grant or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the commission.

“(3) Enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the commission shall bind a party state.

“(4) Adopt, by a majority vote, bylaws and rules necessary to carry out the terms of this compact. Any rules promulgated by the commission shall be adopted in accordance with the Administrative Procedure and Texas Register Act (Article 6252–13a, Vernon’s Texas Civil Statutes).

“(5) Sue and be sued and, when authorized by a majority vote of the members, seek to intervene in administrative or judicial proceedings related to this compact.

“(6) Enter into an agreement with any person, state, regional body, or group of states for the importation of low-level radioactive waste into the compact for management or disposal, provided that the agreement receives a majority vote of the commission. The commission may adopt such conditions and restrictions in the agreement as it deems advisable.

“(7) Upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level waste to a low-level radioactive waste disposal facility located outside the party states. The commission may approve the petition only by a majority vote of its members. The permission to export low-level radioactive waste shall be effective for that period of time and for the specified amount of low-level radioactive waste, and subject to any other term or condition, as is determined by the commission.

“(8) Monitor the exportation outside of the party states of material, which otherwise meets the criteria of low-level radioactive waste, where the sole purpose of the exportation is to manage or process the material for recycling or waste reduction and return it to the party states for disposal in the compact facility.

“SEC. 3.06. Jurisdiction and venue of any action contesting any action of the commission shall be in the United States District Court in the district where the commission maintains its office.

“ARTICLE IV. RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS OF PARTY STATES

“SEC. 4.01. The host state shall develop and have full administrative control over the development, management and operation of a facility for the disposal of low-level radioactive waste generated within the party states. The host state shall be entitled to unlimited use of the facility over its operating life. Use of the facility by the non-host party states for disposal of low-level radioactive waste, including such waste resulting from decommissioning of any nuclear electric generation facilities located in the party states, is limited to the volume requirements of Section 3.04(11) of Article III.

“SEC. 4.02. Low-level radioactive waste generated within the party states shall be disposed of only at the compact facility, except as provided in Section 3.05(7) of Article III.

“SEC. 4.03. The initial states of this compact cannot be members of another low-level radioactive waste compact entered into pursuant to the Act.

“SEC. 4.04. The host state shall do the following:

“(1) Cause a facility to be developed in a timely manner and operated and maintained through the institutional control period.

“(2) Ensure, consistent with any applicable federal and host state laws, the protection and preservation of the environment and the public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the disposal facilities within the host state.

“(3) Close the facility when reasonably necessary to protect the public health and safety of its citizens or to protect its natural resources from harm. However, the host state shall notify the commission of the closure within three days of its action and shall, within 30 working days of its action, provide

Notification.

a written explanation to the commission of the closure, and implement any adopted contingency plan.

“(4) Establish reasonable fees for disposal at the facility of low-level radioactive waste generated in the party states based on disposal fee criteria set out in Sections 402.272 and 402.273, Texas Health and Safety Code. The same fees shall be charged for the disposal of low-level radioactive waste that was generated in the host state and in the non-host party states. Fees shall also be sufficient to reasonably support the activities of the Commission.

“(5) Submit an annual report to the commission on the status of the facility, including projections of the facility’s anticipated future capacity, and on the related funds.

Reports.

“(6) Notify the Commission immediately upon the occurrence of any event which could cause a possible temporary or permanent closure of the facility and identify all reasonable options for the disposal of low-level radioactive waste at alternate compact facilities or, by arrangement and Commission vote, at noncompact facilities.

Notification.

“(7) Promptly notify the other party states of any legal action involving the facility.

Notification.

“(8) Identify and regulate, in accordance with federal and host state law, the means and routes of transportation of low-level radioactive waste in the host state.

“SEC. 4.05. Each party state shall do the following:

“(1) Develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for the facility to conform to packaging, processing, and waste form specifications of the host state.

“(2) Maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at a facility, including, but not limited to, the amount of low-level radioactive waste and the class of low-level radioactive waste generated by each generator.

“(3) Develop and enforce procedures requiring generators within its borders to minimize the volume of low-level radioactive waste requiring disposal. Nothing in this compact shall prohibit the storage, treatment, or management of waste by a generator.

“(4) Provide the commission with any data and information necessary for the implementation of the commission’s responsibilities, including taking those actions necessary to obtain this data or information.

“(5) Pay for community assistance projects designated by the host county in an amount for each non-host party state equal to 10 percent of the payment provided for in Article V for each such state. One-half of the payment shall be due and payable to the host county on the first day of the month following ratification of this compact agreement by Congress and one-half of the payment shall be due and payable on the first day of the month following the approval of a facility operating license by the host state’s regulatory body.

“(6) Provide financial support for the commission’s activities prior to the date of facility operation and subsequent to the date of congressional ratification of this compact under Section 7.07 of Article VII. Each party state will be responsible for

annual payments equalling its pro-rata share of the commission's expenses, incurred for administrative, legal, and other purposes of the commission.

“(7) If agreed by all parties to a dispute, submit the dispute to arbitration or other alternate dispute resolution process. If arbitration is agreed upon, the governor of each party state shall appoint an arbitrator. If the number of party states is an even number, the arbitrators so chosen shall appoint an additional arbitrator. The determination of a majority of the arbitrators shall be binding on the party states. Arbitration proceedings shall be conducted in accordance with the provisions of 9 U.S.C. Sections 1 to 16. If all parties to a dispute do not agree to arbitration or alternate dispute resolution process, the United States District Court in the district where the commission maintains its office shall have original jurisdiction over any action between or among parties to this compact.

“(8) Provide on a regular basis to the commission and host state—

“(A) an accounting of waste shipped and proposed to be shipped to the compact facility, by volume and curies;

“(B) proposed transportation methods and routes; and

“(C) proposed shipment schedules.

“(9) Seek to join in any legal action by or against the host state to prevent nonparty states or generators from disposing of low-level radioactive waste at the facility.

“SEC. 4.06. Each party state shall act in good faith and may rely on the good faith performance of the other party states regarding requirements of this compact.

#### “ARTICLE V. PARTY STATE CONTRIBUTIONS

“SEC. 5.01. Each party state, except the host state, shall contribute a total of \$25 million to the host state. Payments shall be deposited in the host state treasury to the credit of the low-level waste fund in the following manner except as otherwise provided. Not later than the 60th day after the date of congressional ratification of this compact, each non-host party state shall pay to the host state \$12.5 million. Not later than the 60th day after the date of the opening of the compact facility, each non-host party state shall pay to the host state an additional \$12.5 million.

“SEC. 5.02. As an alternative, the host state and the non-host states may provide for payments in the same total amount as stated above to be made to meet the principal and interest expense associated with the bond indebtedness or other form of indebtedness issued by the appropriate agency of the host state for purposes associated with the development, operation, and post-closure monitoring of the compact facility. In the event the member states proceed in this manner, the payment schedule shall be determined in accordance with the schedule of debt repayment. This schedule shall replace the payment schedule described in Section 5.01 of this article.

#### “ARTICLE VI. PROHIBITED ACTS AND PENALTIES

“SEC. 6.01. No person shall dispose of low-level radioactive waste generated within the party states unless the disposal is at the compact facility, except as otherwise provided in Section 3.05(7) of Article III.

Deadline.

Deadline.

“SEC. 6.02. No person shall manage or dispose of any low-level radioactive waste within the party states unless the low-level radioactive waste was generated within the party states, except as provided in Section 3.05(6) of Article III. Nothing herein shall be construed to prohibit the storage or management of low-level radioactive waste by a generator, nor its disposal pursuant to 10 C.F.R. Part 20.302.

“SEC. 6.03. Violations of this article may result in prohibiting the violator from disposing of low-level radioactive waste in the compact facility, or in the imposition of penalty surcharges on shipments to the facility, as determined by the commission.

“ARTICLE VII. ELIGIBILITY, ENTRY INTO EFFECT; CONGRESSIONAL  
CONSENT; WITHDRAWAL; EXCLUSION

“SEC. 7.01. The states of Texas, Maine, and Vermont are party states to this compact. Any other state may be made eligible for party status by a majority vote of the commission and ratification by the legislature of the host state, subject to fulfillment of the rights of the initial non-host party states under Section 3.04(11) of Article III and Section 4.01 of Article IV, and upon compliance with those terms and conditions for eligibility that the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states named in this section, as a member of this compact; provided, however, the specific provisions of this compact, except for those pertaining to the composition of the commission and those pertaining to Section 7.09 of this article, may not be changed except upon ratification by the legislatures of the party states.

“SEC. 7.02. Upon compliance with the other provisions of this compact, a state made eligible under Section 7.01 of this article may become a party state by legislative enactment of this compact or by executive order of the governor of the state adopting this compact. A state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened after the executive order is issued, unless before the adjournment, the legislature enacts this compact.

“SEC. 7.03. Any party state may withdraw from this compact by repealing enactment of this compact subject to the provisions herein. In the event the host state allows an additional state or additional states to join the compact, the host state's legislature, without the consent of the non-host party states, shall have the right to modify the composition of the commission so that the host state shall have a voting majority on the commission, provided, however, that any modification maintains the right of each initial party state to retain one voting member on the commission.

“SEC. 7.04. If the host state withdraws from the compact, the withdrawal shall not become effective until five years after enactment of the repealing legislation and the non-host party states may continue to use the facility during that time. The financial obligation of the non-host party states under Article V shall cease immediately upon enactment of the repealing legislation. If the host state withdraws from the compact or abandons plans to operate a facility prior to the date of any non-host party state payment under Sections 4.05(5) and (6) of Article IV or Article V, the non-host party states are relieved of any obligations to make the contributions. This section sets out the exclusive remedies for the

Effective date.

non-host party states if the host state withdraws from the compact or is unable to develop and operate a compact facility.

Effective date.

“SEC. 7.05. A party state, other than the host state, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing legislation. During this two-year period the party state will continue to have access to the facility. The withdrawing party shall remain liable for any payments under Sections 4.05(5) and (6) of Article IV that were due during the two-year period, and shall not be entitled to any refund of payments previously made.

Effective date.

“SEC. 7.06. Any party state that substantially fails to comply with the terms of the compact or to fulfill its obligations hereunder may have its membership in the compact revoked by a seven-eighths vote of the commission following notice that a hearing will be scheduled not less than six months from the date of the notice. In all other respects, revocation proceedings undertaken by the commission will be subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon’s Texas Civil Statutes), except that a party state may appeal the commission’s revocation decision to the United States District Court in accordance with Section 3.06 of Article III. Revocation shall take effect one year from the date such party state receives written notice from the commission of a final action. Written notice of revocation shall be transmitted immediately following the vote of the commission, by the chair, to the governor of the affected party state, all other governors of party states, and to the United States Congress.

Notice.

Effective date.

“SEC. 7.07. This compact shall take effect following its enactment under the laws of the host state and any other party state and thereafter upon the consent of the United States Congress and shall remain in effect until otherwise provided by federal law. If Texas and either Maine or Vermont ratify this compact, the compact shall be in full force and effect as to Texas and the other ratifying state, and this compact shall be interpreted as follows:

“(1) Texas and the other ratifying state are the initial party states.

“(2) The commission shall consist of two voting members from the other ratifying state and six from Texas.

“(3) Each party state is responsible for its pro-rata share of the commission’s expenses.

“SEC. 7.08. This compact is subject to review by the United States Congress and the withdrawal of the consent of Congress every five years after its effective date, pursuant to federal law.

“SEC. 7.09. The host state legislature, with the approval of the governor, shall have the right and authority, without the consent of the non-host party states, to modify the provisions contained in Section 3.04(11) of Article III to comply with Section 402.219(c)(1), Texas Health & Safety Code, as long as the modification does not impair the rights of the initial non-host party states.

#### “ARTICLE VIII. CONSTRUCTION AND SEVERABILITY

“SEC. 8.01. The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party shall not be infringed upon unnecessarily.

“SEC. 8.02. This compact does not affect any judicial proceeding pending on the effective date of this compact.

“SEC. 8.03. No party state acquires any liability, by joining this compact, resulting from the siting, operation, maintenance, long-term care or any other activity relating to the compact facility. No non-host party state shall be liable for any harm or damage from the siting, operation, maintenance, or long-term care relating to the compact facility. Except as otherwise expressly provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act or failure to act. Generators, transporters, owners and operators of the facility shall be liable for their acts, omissions, conduct or relationships in accordance with applicable law. By entering into this compact and securing the ratification by Congress of its terms, no party state acquires a potential liability under section 5(d)(2)(C) of the Act (42 U.S.C. Sec. 2021e(d)(2)(C)) that did not exist prior to entering into this compact.

“SEC. 8.04. If a party state withdraws from the compact pursuant to Section 7.03 of Article VII or has its membership in this compact revoked pursuant to section 7.06 of Article VII, the withdrawal or revocation shall not affect any liability already incurred by or chargeable to the affected state under Section 8.03 of this article.

“SEC. 8.05. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby to the extent the remainder can in all fairness be given effect. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

“SEC. 8.06. Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

“(1) The United States Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2011 et seq.).

“(2) An agreement state under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

“SEC. 8.07. Nothing in this compact confers any new authority on the states or commission to do any of the following:

“(1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the United States Nuclear Regulatory Commission or the United States Department of Transportation.

“(2) Regulate health, safety, or environmental hazards from source, by-product, or special nuclear material.

“(3) Inspect the activities of licensees of the agreement states or of the United States Nuclear Regulatory Commission.”.

Approved September 20, 1998.

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LEGISLATIVE HISTORY—H.R. 629 (S. 270):

HOUSE REPORTS: Nos. 105–181 (Comm. on Commerce) and 105–630 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Oct. 7, considered and passed House.

Vol. 144 (1998): Apr. 1, considered and passed Senate, amended.

July 29, House agreed to conference report.

Sept. 1, 2, Senate considered and agreed to conference report.





Public Law 105–237  
105th Congress

An Act

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

Sept. 20, 1998

[H.R. 4059]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, for the fiscal year ending September 30, 1999, and for other purposes, namely:

Military  
Construction  
Appropriations  
Act, 1999.

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, \$868,726,000, to remain available until September 30, 2003: *Provided*, That of this amount, not to exceed \$64,269,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$604,593,000, to remain available until September 30, 2003: *Provided*, That of this amount, not to exceed \$60,846,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

## MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$615,809,000, to remain available until September 30, 2003: *Provided*, That of this amount, not to exceed \$38,092,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

## MILITARY CONSTRUCTION, DEFENSE-WIDE

## (INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$553,114,000, to remain available until September 30, 2003: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$26,005,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

DEPARTMENT OF DEFENSE MILITARY UNACCOMPANIED HOUSING  
IMPROVEMENT FUND

## (RESCISSION OF FUNDS)

Of the funds appropriated for “Department of Defense Military Unaccompanied Housing Improvement Fund” under Public Law 104-196, \$5,000,000 is hereby rescinded.

## MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$142,403,000, to remain available until September 30, 2003.

## MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by

chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$169,801,000, to remain available until September 30, 2003.

#### MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$102,119,000, to remain available until September 30, 2003.

#### MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$31,621,000, to remain available until September 30, 2003.

#### MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$34,371,000, to remain available until September 30, 2003.

#### NORTH ATLANTIC TREATY ORGANIZATION

##### SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in Military Construction Authorization Acts and section 2806 of title 10, United States Code, \$154,000,000, to remain available until expended.

#### FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$135,290,000, to remain available until September 30, 2003; for Operation and Maintenance, and for debt payment, \$1,094,697,000; in all \$1,229,987,000.

#### FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition,

expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$295,590,000, to remain available until September 30, 2003; for Operation and Maintenance, and for debt payment, \$912,293,000; in all \$1,207,883,000.

#### FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$280,965,000, to remain available until September 30, 2003; for Operation and Maintenance, and for debt payment, \$783,204,000; in all \$1,064,169,000.

#### FAMILY HOUSING, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, \$345,000, to remain available until September 30, 2003; for Operation and Maintenance, \$36,899,000; in all \$37,244,000.

#### DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, \$2,000,000, to remain available until expended, as the sole source of funds for planning, administrative, and oversight costs incurred by the Housing Revitalization Support Office relating to military family housing initiatives undertaken pursuant to 10 U.S.C. 2883, pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

#### BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510), \$427,164,000, to remain available until expended: *Provided*, That not more than \$271,800,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

#### BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510), \$1,203,738,000, to remain available until expended: *Provided*, That

not more than \$426,036,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

#### GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or his designee; (3) where the estimated value is less than \$25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation

overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Gulf, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Gulf, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

Notification.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

SEC. 114. Not more than 20 percent of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

10 USC 2860  
note.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

## (TRANSFER OF FUNDS)

SEC. 118. During the 5-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation “Foreign Currency Fluctuations, Construction, Defense” to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

10 USC 2860  
note.

SEC. 119. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Gulf to assume a greater share of the common defense burden of such nations and the United States.

Reports.  
Deadline.

## (TRANSFER OF FUNDS)

SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 121. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the “Buy American Act”).

SEC. 122. (a) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

Notice.

## (TRANSFER OF FUNDS)

SEC. 123. Subject to 30 days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in “Family Housing” accounts, to

be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Fund shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

SEC. 124. None of the funds appropriated or made available by this Act may be obligated for Partnership for Peace Programs or to provide support for non-NATO countries.

SEC. 125. Payments received by the Secretary of the Navy pursuant to subsection (b)(1) of section 2842 of the National Defense Authorization Act, 1993 (Public Law 102-484) are appropriated and shall be available for the purpose authorized in subsection (d) of that section.

Deadline.  
Notice.

SEC. 126. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the congressional defense committees the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(c) In this section, the term “congressional defense committees” means the following:

(1) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the Senate.

(2) The Committee on National Security and the Military Construction Subcommittee, Committee on Appropriations of the House of Representatives.

#### (TRANSFER OF FUNDS)

SEC. 127. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.



SEC. 128. It is the sense of the Congress that the Secretary of the Army should name the “All American Parkway” at Fort Bragg, North Carolina, as the “W.G. ‘Bill’ Hefner All American Parkway”.

This Act may be cited as the “Military Construction Appropriations Act, 1999”.

Approved September 20, 1998.

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LEGISLATIVE HISTORY—H.R. 4059 (S. 2160):

HOUSE REPORTS: Nos. 105-578 (Comm. on Appropriations) and 105-647 (Comm. of Conference).

SENATE REPORTS: No. 105-213 accompanying S. 2160 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 22, considered and passed House.

June 25, considered and passed Senate, amended, in lieu of S. 2160.

July 29, House agreed to conference report.

Sept. 1, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Sept. 20, Presidential statements.



Public Law 105-238  
105th Congress

An Act

Sept. 23, 1998  
[S. 1683]

To transfer administrative jurisdiction over part of the Lake Chelan National Recreation Area from the Secretary of the Interior to the Secretary of Agriculture for inclusion in the Wenatchee National Forest.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

16 USC 90a-1  
note.

**SECTION 1. BOUNDARY ADJUSTMENTS, LAKE CHELAN NATIONAL RECREATION AREA AND WENATCHEE NATIONAL FOREST, WASHINGTON.**

(a) BOUNDARY ADJUSTMENTS.—

(1) LAKE CHELAN NATIONAL RECREATION AREA.—The boundary of the Lake Chelan National Recreation Area, established by section 202 of Public Law 90-544 (16 U.S.C. 90a-1), is hereby adjusted to exclude a parcel of land and waters consisting of approximately 88 acres, as depicted on the map entitled “Proposed Management Units, North Cascades, Washington”, numbered NP-CAS-7002A, originally dated October 1967, and revised July 13, 1994.

(2) WENATCHEE NATIONAL FOREST.—The boundary of the Wenatchee National Forest is hereby adjusted to include the parcel of land and waters described in paragraph (1).

(3) AVAILABILITY OF MAP.—The map referred to in paragraph (1) shall be on file and available for public inspection in the offices of the superintendent of the Lake Chelan National Recreation Area and the Director of the National Park Service, Department of the Interior, and in the office of the Chief of the Forest Service, Department of Agriculture.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over Federal land and waters in the parcel covered by the boundary adjustments in subsection (a) is transferred from the Secretary of the Interior to the Secretary of Agriculture, and the transferred land and waters shall be managed by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Wenatchee National Forest, as adjusted by subsection (a), shall be considered to be the boundaries of the Wenatchee National Forest as of January 1, 1965.

Approved September 23, 1998.

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LEGISLATIVE HISTORY—S. 1683:

SENATE REPORTS: No. 105-228 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 17, considered and passed Senate.

Sept. 9, considered and passed House.



Public Law 105–239  
105th Congress

An Act

Sept. 23, 1998  
[S. 1883]

To direct the Secretary of the Interior to convey the Marion National Fish Hatchery and the Claude Harris National Aquacultural Research Center to the State of Alabama, and for other purposes.

Marion National  
Fish Hatchery  
and Claude  
Harris National  
Aquacultural  
Research Center  
Conveyance Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Marion National Fish Hatchery and Claude Harris National Aquacultural Research Center Conveyance Act”.

**SEC. 2. CONVEYANCE OF MARION NATIONAL FISH HATCHERY AND CLAUDE HARRIS NATIONAL AQUACULTURAL RESEARCH CENTER TO THE STATE OF ALABAMA.**

Deadline.

(a) CONVEYANCE REQUIREMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the State of Alabama without reimbursement, and subject to the condition described in paragraph (2), all right, title, and interest of the United States in and to the properties described in subsection (b) for use by the Game and Fish Division of the Department of Conservation and Natural Resources of the State of Alabama (referred to in this section as the “Game and Fish Division”) as part of the fish culture program of the State of Alabama.

(2) LEASE OF CLAUDE HARRIS NATIONAL AQUACULTURAL RESEARCH CENTER.—As a condition of the conveyance under paragraph (1), the Game and Fish Division shall offer to lease the property described in subsection (b)(1)(B) to the Alabama Agriculture Experiment Station—

(A) at no cost to the Station or the Game and Fish Division; and

(B) for the period requested by the Station and provided by Alabama law.

(b) DESCRIPTION OF PROPERTIES.—The properties referred to in subsection (a)(1) consist of—

(1)(A) the portion of the Marion National Fish Hatchery leased to the Game and Fish Division, located 7 miles northeast of Marion, Alabama, on State Highway 175, as described in Amendment No. 2 to the Cooperative Agreement dated June 6, 1974, between the United States Fish and Wildlife Service and the Game and Fish Division, consisting of approximately 300 acres; and

(B) the Claude Harris National Aquacultural Research Center, located 7 miles northeast of Marion, Alabama, on State Highway 175, as described in a document of the United States Fish and Wildlife Service entitled “EXHIBIT A” and dated March 19, 1996, consisting of approximately 298 acres;

(2) all improvements and related personal property under the control of the Secretary of the Interior that are located on the properties described in paragraph (1), including buildings, structures, and equipment; and

(3) all easements, leases, and water and timber rights relating to the properties described in paragraph (1).

(c) REVERSIONARY INTEREST.—

(1) REQUIREMENT.—If any property conveyed to the State of Alabama under this section is used for any purpose other than the use authorized under subsection (a), all right, title, and interest in and to all property conveyed under this section shall revert to the United States.

(2) CONDITION OF PROPERTY ON REVERSION.—In the case of a reversion of property under paragraph (1), the State of Alabama shall ensure that all property reverting to the United States under this subsection is in substantially the same condition as, or in better condition than, at the time of conveyance under subsection (a).

Approved September 23, 1998.

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LEGISLATIVE HISTORY—S. 1883:

SENATE REPORTS: No. 105–263 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 31, considered and passed Senate.

Sept. 9, considered and passed House.



Public Law 105-240  
105th Congress

Joint Resolution

Sept. 25, 1998

[H.J. Res. 128]

Making continuing appropriations for the fiscal year 1999, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1999, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1998 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1998 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

(1) the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999;

(2) the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 701 of the United States Information and Educational Exchange Act of 1948, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), and section 53 of the Arms Control and Disarmament Act;

(3) the Department of Defense Appropriations Act, 1999, notwithstanding section 504(a)(1) of the National Security Act of 1947;

(4) the District of Columbia Appropriations Act, 1999;

(5) the Energy and Water Development Appropriations Act, 1999;

(6) the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956;

(7) the Department of the Interior and Related Agencies Appropriations Act, 1999;

(8) the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999, the House and Senate reported versions of which shall be deemed to have passed the House and Senate respectively as of October 1, 1998, for the purposes of this joint resolution,

unless a reported version is passed as of October 1, 1998, in which case the passed version shall be used in place of the reported version for purposes of this joint resolution;

(9) the Legislative Branch Appropriations Act, 1999;

(10) the Department of Transportation and Related Agencies Appropriations Act, 1999;

(11) the Treasury and General Government Appropriations Act, 1999; and

(12) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999:

*Provided*, That whenever the amount which would be made available or the authority which would be granted in these Acts as passed by the House and Senate as of October 1, 1998, is different than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate: *Provided further*, That whenever the amount of the budget request is less than the amount for current operations and the amount which would be made available or the authority which would be granted in these appropriations Acts as passed by the House and Senate as of October 1, 1998, is less than the amount for current operations, then the pertinent project or activity shall be continued at a rate for operations not exceeding the greater of the rates that would be provided by the amount of the budget request or the amount which would be made available or the authority which would be granted in these appropriations Acts: *Provided further*, That whenever there is no amount made available under any of these appropriations Acts as passed by the House and Senate as of October 1, 1998, for a continuing project or activity which was conducted in fiscal year 1998 and for which there is fiscal year 1999 funding included in the budget request, the pertinent project or activity shall be continued at a rate for operations not exceeding the lesser of the rates that would be provided by the amount of the budget request or the rate for current operations under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1998.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1998, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1998, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1999 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1998: *Provided*, That whenever the amount of the budget request is less than the amount for current operations and the amounts which would be made available or the authority which would be granted in these appropriations Acts as passed by the House and the Senate as of October 1, 1998, are both less than the amount for current operations, then the pertinent project or activity shall be continued at a rate for operations not exceeding the greater of the rates that would be provided by the amount of the budget request or the amount which would be made available or the authority which would be granted in the applicable appropriations Act as passed

by the House or as passed by the Senate under the appropriation, fund, or authority provided in the applicable appropriations Act for the fiscal year 1999 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1998.

(c) Whenever an Act listed in this section has been passed by only the House or only the Senate as of October 1, 1998, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1998: *Provided*, That whenever the amount of the budget request is less than the amount for current operations and the amounts which would be made available or the authority which would be granted in the appropriations Act as passed by the one House as of October 1, 1998, is less than the amount for current operations, then the pertinent project or activity shall be continued at a rate for operations not exceeding the greater of the rates that would be provided by the amount of the budget request or the amount which would be made available or the authority which would be granted in the applicable appropriations Act as passed by the one House under the appropriation, fund, or authority provided in the applicable appropriations Act for the fiscal year 1999 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1998: *Provided further*, That whenever there is no amount made available under any of these appropriations Acts as passed by the House or the Senate as of October 1, 1998, for a continuing project or activity which was conducted in fiscal year 1998 and for which there is fiscal year 1999 funding included in the budget request, the pertinent project or activity shall be continued at a rate for operations not exceeding the lesser of the rates that would be provided by the amount of the budget request or the rate for current operations under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1998.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1998 or prior years, for the increase in production rates above those sustained with fiscal year 1998 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1998: *Provided*, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.



SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1998.

SEC. 105. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1998 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until: (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution; or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity; or (c) October 9, 1998, whichever first occurs.

Termination  
date.

SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in the appropriations Act for the fiscal year 1999 referred to in section 101 of this Act that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that had high initial rates of operation or complete distribution of fiscal year 1998 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 1999 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 113. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for projects and activities that would be funded under the heading "International Organizations and Conferences, Contributions to International Organizations" in the Departments of Commerce, Justice,

and State, the Judiciary, and Related Agencies Appropriations Act, 1999, shall be the amount provided by the provisions of section 101 multiplied by the ratio of the number of days covered by this resolution to 365.

SEC. 114. Notwithstanding any other provision of this joint resolution, except section 106, the rate for operations for the following activities funded with Federal funds for the District of Columbia, shall be at a rate for operations not exceeding the current rate, multiplied by the ratio of the number of days covered by this joint resolution to 365: Corrections Trustee Operations, Offender Supervision, Public Defender Services, Parole Revocation, Adult Probation, and Court Operations.

SEC. 115. Activities authorized by sections 1309(a)(2), 1319, 1336(a), and 1376(c) of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et seq.), may continue through the date specified in section 106 of this joint resolution.

Mines and  
mining.

SEC. 116. Section 28f(a) of title 30, United States Code, is amended by striking the words “The holder” through “\$100 per claim.” and inserting “The holder of each unpatented mining claim, mill, or tunnel site located pursuant to the mining laws of the United States before October 1, 1998 shall pay the Secretary of the Interior, on or before September 1, 1999 a claim maintenance fee of \$100 per claim site.”. Notwithstanding any other provision of law, the time for locating any unpatented mining claim, mill, or tunnel site pursuant to 30 U.S.C. 28g may continue through the date specified in section 106 of this joint resolution.

Patents and  
trademarks.

SEC. 117. The amounts charged for patent fees through the date provided in section 106 shall be the amounts charged by the Patent and Trademark Office on September 30, 1998, including any applicable surcharges collected pursuant to section 8001 of Public Law 103-66: *Provided*, That such fees shall be credited as offsetting collections to the Patent and Trademark Office Salaries and Expenses account: *Provided further*, That during the period covered by this joint resolution, the Commissioner may recognize fees that reflect partial payment of the fees authorized by this section and may require unpaid amounts to be paid within a time period set by the Commissioner.

SEC. 118. Notwithstanding sections 101, 104, and 106 of this joint resolution, until 30 days after the date specified in section 106, funds may be used to initiate or resume projects or activities at a rate in excess of the current rate to the extent necessary, consistent with existing agency plans, to achieve Year 2000 (Y2K) computer conversion.

SEC. 119. Notwithstanding any other provision of this joint resolution, except section 106, the amount made available for projects and activities for decennial census programs shall be the higher of the amount that would be provided under the heading “Bureau of the Census, Periodic Censuses and Programs” in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as passed by the House, or the amount that would be provided by such Act as passed by the Senate, or the amount of the budget request, multiplied by the ratio of the number of days covered by this joint resolution to 365. Census.

Approved September 25, 1998.

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LEGISLATIVE HISTORY—H.J. Res. 128:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 17, considered and passed House and Senate.



Public Law 105–241  
105th Congress

An Act

Sept. 28, 1998  
[S. 2112]

To make the Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer.

Postal Employees  
Safety  
Enhancement  
Act.  
39 USC 101 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Postal Employees Safety Enhancement Act”.

**SEC. 2. APPLICATION OF ACT.**

(a) **DEFINITION.**—Section 3(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5)) is amended by inserting after “the United States” the following: “(not including the United States Postal Service)”.

(b) **FEDERAL PROGRAMS.**—

(1) **OCCUPATIONAL SAFETY AND HEALTH.**—Section 19(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668(a)) is amended by inserting after “each Federal Agency” the following: “(not including the United States Postal Service)”.

(2) **OTHER SAFETY PROGRAMS.**—Section 7902(a)(2) of title 5, United States Code, is amended by inserting after “Government of the United States” the following: “(not including the United States Postal Service)”.

**SEC. 3. CLOSING OR CONSOLIDATION OF OFFICES NOT BASED ON OSHA COMPLIANCE.**

Section 404(b)(2) of title 39, United States Code, is amended to read as follows:

“(2) The Postal Service, in making a determination whether or not to close or consolidate a post office—

“(A) shall consider—

“(i) the effect of such closing or consolidation on the community served by such post office;

“(ii) the effect of such closing or consolidation on employees of the Postal Service employed at such office;

“(iii) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

“(iv) the economic savings to the Postal Service resulting from such closing or consolidation; and

“(v) such other factors as the Postal Service determines are necessary; and

“(B) may not consider compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).”.

**SEC. 4. PROHIBITION ON RESTRICTION OR ELIMINATION OF SERVICES.**

(a) **IN GENERAL.**—Chapter 4 of title 39, United States Code, is amended by adding after section 414 the following:

**“§ 415. Prohibition on restriction or elimination of services**

“The Postal Service may not restrict, eliminate, or adversely affect any service provided by the Postal Service as a result of the payment of any penalty imposed under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end the following:

“415. Prohibition on restriction or elimination of services.”.

**SEC. 5. LIMITATIONS ON RAISE IN RATES.**

Section 3622 of title 39, United States Code, is amended by adding at the end the following:

“(c) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.”.

Approved September 28, 1998.

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**LEGISLATIVE HISTORY—S. 2112:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 31, considered and passed Senate.

Sept. 14, considered and passed House.



Public Law 105–242  
105th Congress

An Act

Oct. 5, 1998  
[H.R. 1856]

To amend the Fish and Wildlife Act of 1956 to promote volunteer programs and community partnerships for the benefit of national wildlife refuges, and for other purposes.

National Wildlife  
Refuge System  
Volunteer and  
Community  
Partnership  
Enhancement  
Act of 1998.  
16 USC 742a  
note.  
16 USC 742f  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act of 1998”.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the National Wildlife Refuge System (referred to in this Act as the “System”), consisting of more than 500 refuges and 93,000,000 acres, plays an integral role in the protection of the natural resources of the United States;

(2) the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105–57; 111 Stat. 1252) significantly improved the law governing the System, although the financial resources for implementing this law and managing the System remain limited;

(3) by encouraging volunteer programs and donations, and facilitating non-Federal partnerships with refuges, Federal funding for the refuges can be supplemented and the System can fully benefit from the amendments made by the National Wildlife Refuge System Improvement Act of 1997; and

(4) by encouraging refuge educational programs, public awareness of the resources of the System and public participation in the conservation of those resources can be promoted.

(b) PURPOSES.—The purposes of this Act are—

(1) to encourage the use of volunteers to assist the United States Fish and Wildlife Service in the management of refuges within the System;

(2) to facilitate partnerships between the System and non-Federal entities to promote public awareness of the resources of the System and public participation in the conservation of those resources; and

(3) to encourage donations and other contributions by persons and organizations to the System.

**SEC. 3. GIFTS TO PARTICULAR NATIONAL WILDLIFE REFUGES.**

Section 7(b)(2) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(b)(2)) is amended—

(1) by striking “(2) Any” and inserting the following:

“(2) USE OF GIFTS, DEVISES, AND BEQUESTS.—

“(A) IN GENERAL.—Any”; and

(2) by adding at the end the following:

“(B) GIFTS, DEVISES, AND BEQUESTS TO PARTICULAR REFUGES.—

“(i) DISBURSAL.—Any gift, devise, or bequest made for the benefit of a particular national wildlife refuge or complex of geographically related refuges shall be disbursed only for the benefit of that refuge or complex of refuges and without further appropriations.

“(ii) MATCHING.—Subject to the availability of appropriations and the requirements of the National Wildlife Refuge Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law, the Secretary may provide funds to match gifts, devise, and bequests made for the benefit of a particular national wildlife refuge or complex of geographically related refuges. With respect to each gift, devise, or bequest, the amount of Federal funds may not exceed the amount (or, in the case of property or in-kind services, the fair market value) of the gift, devise, or bequest.”.

#### SEC. 4. VOLUNTEER ENHANCEMENT.

(a) PILOT PROJECTS.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary of the Interior shall carry out a pilot project at 2 or more national wildlife refuges or complexes of geographically related refuges in each United States Fish and Wildlife Service region, but not more than 20 pilot projects nationwide.

(2) VOLUNTEER COORDINATOR.—Each pilot project shall provide for the employment of a full-time volunteer coordinator for the refuge or complex of geographically related refuges. The volunteer coordinator shall be responsible for recruiting, training, and supervising volunteers. The volunteer coordinator may be responsible for assisting partner organizations in developing projects and programs under cooperative agreements under section 7(d) of the Fish and Wildlife Act of 1956 (as added by section 5) and coordinating volunteer activities with partner organizations to carry out the projects and programs.

(3) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate evaluating and making recommendations regarding the pilot projects.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$2,000,000 for each of fiscal years 1999 through 2002.

(b) AWARDS AND RECOGNITION FOR VOLUNTEERS.—Section 7(c)(2) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)(2)) is amended—

(1) by inserting “awards (including nominal cash awards) and recognition,” after “lodging,”; and

(2) by inserting “without regard to their places of residence” after “volunteers”.

16 USC 742f  
note.

Deadline.

(c) SENIOR VOLUNTEER CORPS.—Section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)) is amended by striking paragraph (6) and inserting the following:

“(6) SENIOR VOLUNTEER CORPS.—The Secretary of the Interior may establish a Senior Volunteer Corps, consisting of volunteers over the age of 50. To assist in the recruitment and retention of the volunteers, the Secretary may provide for additional incidental expenses to members of the Corps beyond the incidental expenses otherwise provided to volunteers under this subsection. The members of the Corps shall be subject to the other provisions of this subsection.”.

#### SEC. 5. COMMUNITY PARTNERSHIP ENHANCEMENT.

Section 7 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f) is amended by adding at the end the following:

“(d) COMMUNITY PARTNERSHIP ENHANCEMENT.—

“(1) DEFINITION OF PARTNER ORGANIZATION.—In this subsection, the term ‘partner organization’ means an organization that—

“(A) draws its membership from private individuals, organizations, corporations, academic institutions, or State or local governments;

“(B) is established to promote the understanding of, education relating to, and the conservation of the fish, wildlife, plants, and cultural and historical resources of a particular refuge or complex of geographically related refuges; and

“(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code.

“(2) COOPERATIVE AGREEMENTS.—

“(A) IN GENERAL.—The Secretary of the Interior may enter into a cooperative agreement (within the meaning of chapter 63 of title 31, United States Code) with any partner organization, academic institution, or State or local government agency to carry out 1 or more projects or programs for a refuge or complex of geographically related refuges in accordance with this subsection.

“(B) PROJECTS AND PROGRAMS.—Subject to the requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law, and such terms and conditions as the Secretary determines to be appropriate, the Secretary may approve projects and programs for a refuge or complex of geographically related refuges that—

“(i) promote the stewardship of resources of the refuge through habitat maintenance, restoration, and improvement, biological monitoring, or research;

“(ii) support the operation and maintenance of the refuge through constructing, operating, maintaining, or improving the facilities and services of the refuge;

“(iii) increase awareness and understanding of the refuge and the National Wildlife Refuge System through the development, publication, or distribution of educational materials and products;

“(iv) advance education concerning the purposes of the refuge and the mission of the System through



the use of the refuge as an outdoor classroom and development of other educational programs; or

“(v) contribute financial resources to the refuge, under terms that require that the net revenues be used exclusively for the benefit of the refuge, through donation of net revenues from the sale of educational materials and products and through encouragement of gifts, devises, and bequests.

“(C) FEDERAL FUNDING AND OWNERSHIP.—

“(i) MATCHING.—Subject to the availability of appropriations and the requirements of the National Wildlife Refuge Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law, the Secretary may provide funds to match non-Federal funds donated under a cooperative agreement under this paragraph. With respect to each project or program, the amount of funds provided by the Secretary may not exceed the amount of the non-Federal funds donated through the project or program.

“(ii) USE OF FEDERAL FUNDS.—Any Federal funds used to fund a project or program under a cooperative agreement may be used only for expenses directly related to the project or program and may not be used for operation or administration of any non-Federal entity.

“(iii) OWNERSHIP OF FACILITIES.—Any new facility, improvement to an existing facility, or other permanent improvement to a refuge constructed under this subsection shall be the property of the United States Government.

“(D) TREASURY ACCOUNT.—Amounts received by the Secretary of the Interior as a result of projects and programs under subparagraph (B) shall be deposited in a separate account in the Treasury. Amounts in the account that are attributable to activities at a particular refuge or complex of geographically related refuges shall be available to the Secretary of the Interior, without further appropriation, to pay the costs of incidental expenses related to volunteer activities, and to carry out cooperative agreements for the refuge or complex of refuges.”.

#### SEC. 6. REFUGE EDUCATION PROGRAM DEVELOPMENT.

Section 7 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f) (as amended by section 5) is amended by adding at the end the following:

“(e) REFUGE EDUCATION PROGRAM ENHANCEMENT.—

“(1) GUIDANCE.—Not later than 1 year after the date of enactment of this subsection, the Secretary of the Interior shall develop guidance for refuge education programs to further the mission of the National Wildlife Refuge System and the purposes of individual refuges through—

“(A) providing outdoor classroom opportunities for students on national wildlife refuges that combine educational curricula with the personal experiences of students relating to fish, wildlife, and plants and their habitat and to the cultural and historical resources of the refuges;

Deadline.

“(B) promoting understanding and conservation of fish, wildlife, and plants and cultural and historical resources of the refuges; and

“(C) improving scientific literacy in conjunction with both formal and nonformal education programs.

“(2) REFUGE PROGRAMS.—Based on the guidance developed under paragraph (1), the Secretary of the Interior may develop or enhance refuge education programs as appropriate, based on the resources of individual refuges and the opportunities available for such programs in State, local, and private schools. In developing and implementing each program, the Secretary should cooperate with State and local education authorities, and may cooperate with partner organizations in accordance with subsection (d).”.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

Section 7 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f) (as amended by section 6) is amended by adding at the end the following:

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior to carry out subsections (b), (c), (d), and (e) \$2,000,000 for each of fiscal years 1999 through 2004.”.

Approved October 5, 1998.

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**LEGISLATIVE HISTORY—H.R. 1856:**

HOUSE REPORTS: No. 105-329 (Comm. on Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Nov. 4, considered and passed House.

Vol. 144 (1998): Sept. 11, considered and passed Senate, amended.  
Sept. 18, House concurred in Senate amendments.



Public Law 105–243  
105th Congress

An Act

To authorize the Secretary of the Interior to study the suitability and feasibility of designating the Sand Creek Massacre National Historic Site in the State of Colorado as a unit of the National Park System, and for other purposes.

Oct. 6, 1998  
[S. 1695]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Sand Creek Massacre National Historic Site Study Act of 1998”.

Sand Creek  
Massacre  
National Historic  
Site Study Act of  
1998.

**SEC. 2. FINDINGS.**

(a) FINDINGS.—Congress finds that—

(1) on November 29, 1864, Colonel John M. Chivington led a group of 700 armed soldiers to a peaceful Cheyenne village of more than 100 lodges on the Big Sandy, also known as Sand Creek, located within the Territory of Colorado, and in a running fight that ranged several miles upstream along the Big Sandy, slaughtered several hundred Indians in Chief Black Kettle’s village, the majority of whom were women and children;

John M.  
Chivington.  
Black Kettle.

(2) the incident was quickly recognized as a national disgrace and investigated and condemned by 2 congressional committees and a military commission;

(3) although the United States admitted guilt and reparations were provided for in article VI of the Treaty of Little Arkansas of October 14, 1865 (14 Stat. 703) between the United States and the Cheyenne and Arapaho Tribes of Indians, those treaty obligations remain unfulfilled;

Cheyenne Tribe.  
Arapaho Tribe.

(4) land at or near the site of the Sand Creek Massacre may be available for purchase from a willing seller; and

(5) the site is of great significance to the Cheyenne and Arapaho Indian descendants of those who lost their lives at the incident at Sand Creek and to their tribes, and those descendants and tribes deserve the right of open access to visit the site and rights of cultural and historical observance at the site.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior acting through the Director of the National Park Service.

(2) SITE.—The term “site” means the Sand Creek Massacre site described in section 2.

- (3) TRIBES.—The term “Tribes” means—  
(A) the Cheyenne and Arapaho Tribe of Oklahoma;  
(B) the Northern Cheyenne Tribe; and  
(C) the Northern Arapaho Tribe.

**SEC. 4. STUDY.**

Deadline

(a) IN GENERAL.—Not later than 18 months after the date on which funds are made available for the purpose, the Secretary, in consultation with the Tribes and the State of Colorado, shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a resource study of the site.

(b) CONTENTS.—The study under subsection (a) shall—

(1) identify the location and extent of the massacre area and the suitability and feasibility of designating the site as a unit of the National Park System; and

(2) include cost estimates for any necessary acquisition, development, operation and maintenance, and identification of alternatives for the management, administration, and protection of the area.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved October 6, 1998.

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**LEGISLATIVE HISTORY—S. 1695:**

HOUSE REPORTS: No. 105-697 (Comm. on Resources).

SENATE REPORTS: No. 105-244 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 17, considered and passed Senate.

Sept. 18, considered and passed House.



Public Law 105–244  
105th Congress

An Act

To extend the authorization of programs under the Higher Education Act of 1965,  
and for other purposes.

Oct. 7, 1998  
[H.R. 6]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Higher Education Amendments of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. References.
- Sec. 3. General effective date.

Higher Education  
Amendments of  
1998.  
Grants.  
Inter-  
governmental  
relations.  
Loans.  
20 USC 1001  
note.

**TITLE I—GENERAL PROVISIONS**

- Sec. 101. Revision of title I.
- Sec. 102. Conforming amendments.

**TITLE II—TEACHER QUALITY**

- Sec. 201. Teacher quality enhancement grants.

**TITLE III—INSTITUTIONAL AID**

- Sec. 301. Transfers and redesignations.
- Sec. 302. Findings.
- Sec. 303. Strengthening institutions.
- Sec. 304. Strengthening HBCU's.
- Sec. 305. Endowment challenge grants.
- Sec. 306. HBCU capital financing.
- Sec. 307. Minority science and engineering improvement program.
- Sec. 308. General provisions.

**TITLE IV—STUDENT ASSISTANCE**

**PART A—GRANTS TO STUDENTS**

- Sec. 401. Federal Pell Grants.
- Sec. 402. Federal TRIO programs.
- Sec. 403. Gear up program.
- Sec. 404. Academic achievement incentive scholarships.
- Sec. 405. Repeals.
- Sec. 406. Federal supplemental educational opportunity grants.
- Sec. 407. Leveraging educational assistance partnership program.
- Sec. 408. Special programs for students whose families are engaged in migrant and seasonal farmwork.
- Sec. 409. Robert C. Byrd Honors Scholarship Program.
- Sec. 410. Child care access means parents in school.
- Sec. 410A. Learning anytime anywhere partnerships.

**PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM**

- Sec. 411. Limitation repealed.
- Sec. 412. Advances to reserve funds.
- Sec. 413. Guaranty agency reforms.
- Sec. 414. Scope and duration of Federal loan insurance program.

- Sec. 415. Limitations on individual federally insured loans and Federal loan insurance.
- Sec. 416. Applicable interest rates.
- Sec. 417. Federal payments to reduce student interest costs.
- Sec. 418. Voluntary flexible agreements with guaranty agencies.
- Sec. 419. Federal PLUS loans.
- Sec. 420. Federal consolidation loans.
- Sec. 421. Default reduction program.
- Sec. 422. Requirements for disbursements of student loans.
- Sec. 423. Unsubsidized loans.
- Sec. 424. Loan forgiveness for teachers.
- Sec. 425. Loan forgiveness for child care providers.
- Sec. 426. Notice to Secretary and payment of loss.
- Sec. 427. Legal powers and responsibilities.
- Sec. 428. Student loan information by eligible lenders.
- Sec. 429. Definitions.
- Sec. 430. Delegation of functions.
- Sec. 431. Discharge.
- Sec. 432. Debt management options.
- Sec. 433. Special allowances.
- Sec. 434. Federal family education loan insurance fund.

#### PART C—FEDERAL WORK-STUDY PROGRAMS

- Sec. 441. Authorization of appropriations; community services.
- Sec. 442. Allocation of funds.
- Sec. 443. Grants for Federal work-study programs.
- Sec. 444. Flexible use of funds.
- Sec. 445. Work colleges.

#### PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

- Sec. 451. Selection of institutions.
- Sec. 452. Terms and conditions.
- Sec. 453. Contracts.
- Sec. 454. Funds for administrative expenses.
- Sec. 455. Authority to sell loans.
- Sec. 456. Loan cancellation for teachers.

#### PART E—FEDERAL PERKINS LOANS

- Sec. 461. Authorization of appropriations.
- Sec. 462. Allocation of funds.
- Sec. 463. Agreements with institutions of higher education.
- Sec. 464. Terms of loans.
- Sec. 465. Cancellation for public service.
- Sec. 466. Distribution of assets from student loan funds.
- Sec. 467. Perkins Loan Revolving Fund.

#### PART F—NEED ANALYSIS

- Sec. 471. Cost of attendance.
- Sec. 472. Data elements.
- Sec. 473. Family contribution for dependent students.
- Sec. 474. Family contribution for independent students without dependents other than a spouse.
- Sec. 475. Family contribution for independent students with dependents other than a spouse.
- Sec. 476. Regulations; updated tables and amounts.
- Sec. 477. Simplified needs test; zero expected family contribution.
- Sec. 478. Discretion of student financial aid administrators.
- Sec. 479. Treatment of other financial assistance.
- Sec. 480. Clerical amendments.
- Sec. 480A. Effective dates.

#### PART G—GENERAL PROVISIONS

- Sec. 481. Master calendar.
- Sec. 482. Forms and regulations.
- Sec. 483. Student eligibility.
- Sec. 484. State court judgments.
- Sec. 485. Institutional refunds.
- Sec. 486. Institutional and financial assistance information for students.
- Sec. 487. National student loan data system.
- Sec. 488. Distance education demonstration programs.

- Sec. 489. Program participation agreements.
- Sec. 490. Regulatory relief and improvement.
- Sec. 490A. Garnishment requirements.
- Sec. 490B. Administrative subpoena authority.
- Sec. 490C. Advisory Committee on Student Financial Assistance.
- Sec. 490D. Meetings and negotiated rulemaking.
- Sec. 490E. Year 2000 requirements at the Department of Education.
- Sec. 490F. Procedures for cancellations and deferments for eligible disabled veterans.

#### PART H—PROGRAM INTEGRITY

- Sec. 491. State role and responsibilities.
- Sec. 492. Accrediting agency recognition.
- Sec. 493. Eligibility and certification procedures.
- Sec. 494. Program review and data.
- Sec. 495. Review of regulations.

#### TITLE V—DEVELOPING INSTITUTIONS

- Sec. 501. Establishment of new title V.

#### TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

- Sec. 601. International and foreign language studies.
- Sec. 602. Business and international education programs.
- Sec. 603. Institute for International Public Policy.
- Sec. 604. General provisions.

#### TITLE VII—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

- Sec. 701. Revision of title VII.
- Sec. 702. Repeals.

#### TITLE VIII—STUDIES, REPORTS, AND RELATED PROGRAMS

##### PART A—STUDIES

- Sec. 801. Study of market mechanisms in Federal student loan programs.
- Sec. 802. Study of the feasibility of alternative financial instruments for determining lender yields.
- Sec. 803. Student-related debt study required.
- Sec. 804. Study of transfer of credits.
- Sec. 805. Study of opportunities for participation in athletics programs.
- Sec. 806. Study of the effectiveness of cohort default rates for institutions with few student loan borrowers.

##### PART B—ADVANCED PLACEMENT INCENTIVE PROGRAM

- Sec. 810. Advanced placement incentive program.

##### PART C—COMMUNITY SCHOLARSHIP MOBILIZATION

- Sec. 811. Short title.
- Sec. 812. Findings.
- Sec. 813. Definitions.
- Sec. 814. Purpose; endowment grant authority.
- Sec. 815. Grant agreement and requirements.
- Sec. 816. Authorization of appropriations.

##### PART D—GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION

###### TRAINING FOR INCARCERATED YOUTH OFFENDERS

- Sec. 821. Grants to States for workplace and community transition training for incarcerated youth offenders.

##### PART E—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN ON CAMPUSES

- Sec. 826. Grants to combat violent crimes against women on campuses.
- Sec. 827. Study of institutional procedures to report sexual assaults.

##### PART F—IMPROVING UNITED STATES UNDERSTANDING OF SCIENCE, ENGINEERING, AND TECHNOLOGY IN EAST ASIA

- Sec. 831. Improving United States understanding of science, engineering, and technology in East Asia.

##### PART G—OLYMPIC SCHOLARSHIPS

- Sec. 836. Extension of authorization.

## PART H—UNDERGROUND RAILROAD

Sec. 841. Underground Railroad educational and cultural program.

## PART I—SUMMER TRAVEL AND WORK PROGRAMS

Sec. 846. Authority to administer summer travel and work programs.

## PART J—WEB-BASED EDUCATION COMMISSION

- Sec. 851. Short title; definitions.
- Sec. 852. Establishment of Web-Based Education Commission.
- Sec. 853. Duties of the Commission.
- Sec. 854. Powers of the Commission.
- Sec. 855. Commission personnel matters.
- Sec. 856. Termination of the Commission.
- Sec. 857. Authorization of appropriations.

## PART K—MISCELLANEOUS

- Sec. 861. Education-welfare study.
- Sec. 862. Release of conditions, covenants, and reversionary interests, Guam Community College conveyance, Barrigada, Guam.
- Sec. 863. Sense of Congress regarding good character.
- Sec. 864. Educational merchandise licensing codes of conduct.

## TITLE IX—AMENDMENTS TO OTHER LAWS

## PART A—EXTENSION AND REVISION OF INDIAN HIGHER EDUCATION PROGRAMS

- Sec. 901. Tribally controlled colleges and universities.
- Sec. 902. Reauthorization of Navajo Community College Act.

## PART B—EDUCATION OF THE DEAF

- Sec. 911. Short title.
- Sec. 912. Elementary and secondary education programs.
- Sec. 913. Agreement with Gallaudet University.
- Sec. 914. Agreement for the National Technical Institute for the Deaf.
- Sec. 915. Definitions.
- Sec. 916. Gifts.
- Sec. 917. Reports.
- Sec. 918. Monitoring, evaluation, and reporting.
- Sec. 919. Federal endowment programs.
- Sec. 920. Scholarship program.
- Sec. 921. Oversight and effect of agreements.
- Sec. 922. International students.
- Sec. 923. Research priorities.
- Sec. 924. National Study on the Education of the Deaf.
- Sec. 925. Authorization of appropriations.

## PART C—UNITED STATES INSTITUTE OF PEACE

- Sec. 931. Authorities of the United States Institute of Peace.

## PART D—VOLUNTARY RETIREMENT INCENTIVE PLANS

- Sec. 941. Voluntary retirement incentive plans.

## PART E—GENERAL EDUCATION PROVISIONS ACT AMENDMENT

- Sec. 951. Amendment to Family Educational Rights and Privacy Act of 1974.
- Sec. 952. Alcohol or drug possession disclosure.

## PART F—LIAISON FOR PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION

- Sec. 961. Liaison for proprietary institutions of higher education.

## PART G—AMENDMENTS TO OTHER STATUTES

- Sec. 971. Nondischareability of certain claims for educational benefits provided to obtain higher education.
- Sec. 972. GNMA guarantee fee.

## PART H—REPEALS

- Sec. 981. Repeals.
- Sec. 982. Repeals of previous higher education amendments provisions.

**SEC. 2. REFERENCES.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment



to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

**SEC. 3. GENERAL EFFECTIVE DATE.**

20 USC 1001  
note.

Except as otherwise provided in this Act or the amendments made by this Act, the amendments made by this Act shall take effect on October 1, 1998.

## **TITLE I—GENERAL PROVISIONS**

**SEC. 101. REVISION OF TITLE I.**

(a) GENERAL PROVISIONS.—Title I (20 U.S.C. 1001 et seq.) is amended to read as follows:

### **“TITLE I—GENERAL PROVISIONS**

#### **“PART A—DEFINITIONS**

**“SEC. 101. GENERAL DEFINITION OF INSTITUTION OF HIGHER EDUCATION.**

20 USC 1001.

“(a) INSTITUTION OF HIGHER EDUCATION.—For purposes of this Act, other than title IV, the term ‘institution of higher education’ means an educational institution in any State that—

“(1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

“(2) is legally authorized within such State to provide a program of education beyond secondary education;

“(3) provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

“(4) is a public or other nonprofit institution; and

“(5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

“(b) ADDITIONAL INSTITUTIONS INCLUDED.—For purposes of this Act, other than title IV, the term ‘institution of higher education’ also includes—

“(1) any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a); and

“(2) a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

“(c) LIST OF ACCREDITING AGENCIES.—For purposes of this section and section 102, the Secretary shall publish a list of nationally

Publication.

recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part H of title IV, to be reliable authority as to the quality of the education or training offered.

20 USC 1002.

**“SEC. 102. DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.**

“(a) DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.—

“(1) INCLUSION OF ADDITIONAL INSTITUTIONS.—Subject to paragraphs (2) through (4) of this subsection, the term ‘institution of higher education’ for purposes of title IV includes, in addition to the institutions covered by the definition in section 101—

“(A) a proprietary institution of higher education (as defined in subsection (b) of this section);

“(B) a postsecondary vocational institution (as defined in subsection (c) of this section); and

“(C) only for the purposes of part B of title IV, an institution outside the United States that is comparable to an institution of higher education as defined in section 101 and that has been approved by the Secretary for the purpose of part B of title IV.

“(2) INSTITUTIONS OUTSIDE THE UNITED STATES.—

Regulations.

“(A) IN GENERAL.—For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 101. In the case of a graduate medical or veterinary school outside the United States, such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B unless—

“(i) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part B of title IV; and

“(ii) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of title IV; or

“(iii) the institution has a clinical training program that was approved by a State as of January 1, 1992, or the institution’s students complete their clinical training at an approved veterinary school located in the United States.

Establishment.

“(B) ADVISORY PANEL.—

“(i) IN GENERAL.—For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—

“(I) evaluate the standards of accreditation applied to applicant foreign medical schools; and

“(II) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

“(ii) SPECIAL RULE.—If the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 101.

“(C) FAILURE TO RELEASE INFORMATION.—The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of title IV.

“(D) SPECIAL RULE.—If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under title IV, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

“(3) LIMITATIONS BASED ON COURSE OF STUDY OR ENROLLMENT.—An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

“(A) offers more than 50 percent of such institution’s courses by correspondence, unless the institution is an institution that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act;

“(B) enrolls 50 percent or more of the institution’s students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

“(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor’s degree, or an associate’s degree or a postsecondary diploma, respectively; or

“(D) has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor’s degree or an associate’s

degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

“(4) LIMITATIONS BASED ON MANAGEMENT.—An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

“(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution’s management or policies) that files for bankruptcy under chapter 11 of title 11, United States Code, between July 1, 1998, and December 1, 1998; or

“(B) the institution, the institution’s owner, or the institution’s chief executive officer has been convicted of, or has pled *nolo contendere* or guilty to, a crime involving the acquisition, use, or expenditure of funds under title IV, or has been judicially determined to have committed fraud involving funds under title IV.

“(5) CERTIFICATION.—The Secretary shall certify an institution’s qualification as an institution of higher education in accordance with the requirements of subpart 3 of part H of title IV.

“(6) LOSS OF ELIGIBILITY.—An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under title IV as a result of an action pursuant to part H of title IV.

“(b) PROPRIETARY INSTITUTION OF HIGHER EDUCATION.—

“(1) PRINCIPAL CRITERIA.—For the purpose of this section, the term ‘proprietary institution of higher education’ means a school that—

“(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

“(B) meets the requirements of paragraphs (1) and (2) of section 101(a);

“(C) does not meet the requirement of paragraph (4) of section 101(a);

“(D) is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part H of title IV;

“(E) has been in existence for at least 2 years; and

“(F) has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under title IV, as determined in accordance with regulations prescribed by the Secretary.

“(2) ADDITIONAL INSTITUTIONS.—The term ‘proprietary institution of higher education’ also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 101(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

“(c) POSTSECONDARY VOCATIONAL INSTITUTION.—

“(1) PRINCIPAL CRITERIA.—For the purpose of this section, the term ‘postsecondary vocational institution’ means a school that—

“(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

“(B) meets the requirements of paragraphs (1), (2), (4), and (5) of section 101(a); and

“(C) has been in existence for at least 2 years.

“(2) ADDITIONAL INSTITUTIONS.—The term ‘postsecondary vocational institution’ also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 101(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

**“SEC. 103. ADDITIONAL DEFINITIONS.**

20 USC 1003.

“In this Act:

“(1) COMBINATION OF INSTITUTIONS OF HIGHER EDUCATION.—The term ‘combination of institutions of higher education’ means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on the group’s behalf.

“(2) DEPARTMENT.—The term ‘Department’ means the Department of Education.

“(3) DISABILITY.—The term ‘disability’ has the same meaning given that term under section 3(2) of the Americans With Disabilities Act of 1990.

“(4) ELEMENTARY SCHOOL.—The term ‘elementary school’ has the same meaning given that term under section 14101 of the Elementary and Secondary Education Act of 1965.

“(5) GIFTED AND TALENTED.—The term ‘gifted and talented’ has the same meaning given that term under section 14101 of the Elementary and Secondary Education Act of 1965.

“(6) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the same meaning given that term under section 14101 of the Elementary and Secondary Education Act of 1965.

“(7) NEW BORROWER.—The term ‘new borrower’ when used with respect to any date means an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under title IV.

“(8) NONPROFIT.—The term ‘nonprofit’ as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part

of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

“(9) SCHOOL OR DEPARTMENT OF DIVINITY.—The term ‘school or department of divinity’ means an institution, or a department or a branch of an institution, the program of instruction of which is designed for the education of students—

“(A) to prepare the students to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation); or

“(B) to prepare the students to teach theological subjects.

“(10) SECONDARY SCHOOL.—The term ‘secondary school’ has the same meaning given that term under section 14101 of the Elementary and Secondary Education Act of 1965.

“(11) SECRETARY.—The term ‘Secretary’ means the Secretary of Education.

“(12) SERVICE-LEARNING.—The term ‘service-learning’ has the same meaning given that term under section 101(23) of the National and Community Service Act of 1990.

“(13) SPECIAL EDUCATION TEACHER.—The term ‘special education teacher’ means teachers who teach children with disabilities as defined in section 602 of the Individuals with Disabilities Education Act.

“(14) STATE EDUCATIONAL AGENCY.—The term ‘State educational agency’ has the same meaning given that term under section 14101 of the Elementary and Secondary Education Act of 1965.

“(15) STATE HIGHER EDUCATION AGENCY.—The term ‘State higher education agency’ means the officer or agency primarily responsible for the State supervision of higher education.

“(16) STATE; FREELY ASSOCIATED STATES.—

“(A) STATE.—The term ‘State’ includes, in addition to the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

“(B) FREELY ASSOCIATED STATES.—The term ‘Freely Associated States’ means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

## **“PART B—ADDITIONAL GENERAL PROVISIONS**

20 USC 1011.

### **“SEC. 111. ANTIDISCRIMINATION.**

“(a) IN GENERAL.—Institutions of higher education receiving Federal financial assistance may not use such financial assistance, directly or indirectly, to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except that nothing in this subsection shall be construed to prohibit an institution from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or to have the institution’s curriculum restricted on the subject of discrimination.

“(b) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed to limit the rights or responsibilities of any individual under the Americans With Disabilities Act of 1990, the Rehabilitation Act of 1973, or any other law.

**“SEC. 112. PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS.** 20 USC 1011a.

“(a) PROTECTION OF RIGHTS.—It is the sense of Congress that no student attending an institution of higher education on a full- or part-time basis should, on the basis of participation in protected speech or protected association, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or official sanction under any education program, activity, or division of the institution directly or indirectly receiving financial assistance under this Act, whether or not such program, activity, or division is sponsored or officially sanctioned by the institution.

“(b) CONSTRUCTION.—Nothing in this section shall be construed—

“(1) to discourage the imposition of an official sanction on a student that has willfully participated in the disruption or attempted disruption of a lecture, class, speech, presentation, or performance made or scheduled to be made under the auspices of the institution of higher education; or

“(2) to prevent an institution of higher education from taking appropriate and effective action to prevent violations of State liquor laws, to discourage binge drinking and other alcohol abuse, to protect students from sexual harassment including assault and date rape, to prevent hazing, or to regulate unsanitary or unsafe conditions in any student residence.

“(c) DEFINITIONS.—For the purposes of this section:

“(1) OFFICIAL SANCTION.—The term ‘official sanction’—

“(A) means expulsion, suspension, probation, censure, condemnation, reprimand, or any other disciplinary, coercive, or adverse action taken by an institution of higher education or administrative unit of the institution; and

“(B) includes an oral or written warning made by an official of an institution of higher education acting in the official capacity of the official.

“(2) PROTECTED ASSOCIATION.—The term ‘protected association’ means the joining, assembling, and residing with others that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

“(3) PROTECTED SPEECH.—The term ‘protected speech’ means speech that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

**“SEC. 113. TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.** 20 USC 1011b.

“(a) WAIVER AUTHORITY.—The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

Termination date. “(b) ELIGIBILITY.—Notwithstanding any other provision of law, an institution of higher education that is located in any of the Freely Associated States, rather than in another State, shall be eligible, if otherwise qualified, for assistance under chapter 1 of subpart 2 of part A of title IV. This subsection shall cease to be effective on September 30, 2004.

20 USC 1011c.

**“SEC. 114. NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.**

“(a) ESTABLISHMENT.—There is established in the Department a National Advisory Committee on Institutional Quality and Integrity (hereafter in this section referred to as the ‘Committee’), which shall be composed of 15 members appointed by the Secretary from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and types of institutions of higher education (as defined in section 102), to assess the process of eligibility and certification of such institutions under title IV and the provision of financial aid under title IV.

“(b) TERMS OF MEMBERS.—Terms of office of each member of the Committee shall be 3 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member’s predecessor was appointed shall be appointed for the remainder of such term.

Federal Register,  
publication.  
Records.

“(c) PUBLIC NOTICE.—The Secretary shall—

“(1) annually publish in the Federal Register a list containing the name of each member of the Committee and the date of the expiration of the term of office of the member; and

“(2) publicly solicit nominations for each vacant position or expiring term of office on the Committee.

“(d) FUNCTIONS.—The Committee shall—

“(1) advise the Secretary with respect to establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part H of title IV;

“(2) advise the Secretary with respect to the recognition of a specific accrediting agency or association;

“(3) advise the Secretary with respect to the preparation and publication of the list of nationally recognized accrediting agencies and associations;

“(4) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs;

“(5) advise the Secretary with respect to the eligibility and certification process for institutions of higher education under title IV, together with recommendations for improvements in such process;

“(6) advise the Secretary with respect to the relationship between—

“(A) accreditation of institutions of higher education and the certification and eligibility of such institutions; and

“(B) State licensing responsibilities with respect to such institutions; and



“(7) carry out such other advisory functions relating to accreditation and institutional eligibility as the Secretary may prescribe.

“(e) MEETING PROCEDURES.—The Committee shall meet not less than twice each year at the call of the Chairperson. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

“(f) REPORT.—Not later than November 30 of each year, the Committee shall make an annual report through the Secretary to Congress. The annual report shall contain—

Deadline.  
Records.

“(1) a list of the members of the Committee and their addresses;

“(2) a list of the functions of the Committee;

“(3) a list of dates and places of each meeting during the preceding fiscal year; and

“(4) a summary of the activities, findings and recommendations made by the Committee during the preceding fiscal year.

“(g) TERMINATION.—The Committee shall cease to exist on September 30, 2004.

**“SEC. 115. STUDENT REPRESENTATION.**

20 USC 1011d.

“The Secretary shall, in appointing individuals to any commission, committee, board, panel, or other body in connection with the administration of this Act, include individuals who are, at the time of appointment, attending an institution of higher education.

**“SEC. 116. FINANCIAL RESPONSIBILITY OF FOREIGN STUDENTS.**

20 USC 1011e.

“Nothing in this Act or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by—

“(1) making advance payment of such tuition and fees;

“(2) making deposits in an escrow account administered by such institution for such payments; or

“(3) obtaining a bond or other insurance that such payments will be made.

**“SEC. 117. DISCLOSURES OF FOREIGN GIFTS.**

20 USC 1011f.

“(a) DISCLOSURE REPORT.—Whenever any institution is owned or controlled by a foreign source or receives a gift from or enters into a contract with a foreign source, the value of which is \$250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

Deadline.

“(b) CONTENTS OF REPORT.—Each report to the Secretary required by this section shall contain the following:

“(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the

country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

“(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

“(3) In the case of an institution which is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control.

“(c) ADDITIONAL DISCLOSURES FOR RESTRICTED AND CONDITIONAL GIFTS.—Notwithstanding the provisions of subsection (b), whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose the following:

“(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

“(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

“(d) RELATION TO OTHER REPORTING REQUIREMENTS.—

“(1) STATE REQUIREMENTS.—If an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a). The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

“(2) USE OF OTHER FEDERAL REPORTS.—If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this section, a copy of the report may be filed with the Secretary in lieu of a report required under subsection (a).

“(e) PUBLIC INSPECTION.—All disclosure reports required by this section shall be public records open to inspection and copying during business hours.

“(f) ENFORCEMENT.—

“(1) COURT ORDERS.—Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated under this section, a civil action may be brought by the Attorney General, at the request of the Secretary, in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of

the United States, to request such court to compel compliance with the requirements of this section.

“(2) COSTS.—For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

“(g) REGULATIONS.—The Secretary may promulgate regulations to carry out this section.

“(h) DEFINITIONS.—For the purpose of this section—

“(1) the term ‘contract’ means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

“(2) the term ‘foreign source’ means—

“(A) a foreign government, including an agency of a foreign government;

“(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

“(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

“(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

“(3) the term ‘gift’ means any gift of money or property;

“(4) the term ‘institution’ means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State, that—

“(A) is legally authorized within such State to provide a program of education beyond secondary school;

“(B) provides a program for which the institution awards a bachelor’s degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

“(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of the institution’s subunits; and

“(5) the term ‘restricted or conditional gift or contract’ means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding—

“(A) the employment, assignment, or termination of faculty;

“(B) the establishment of departments, centers, research or lecture programs, or new faculty positions;

“(C) the selection or admission of students; or

“(D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

**“SEC. 118. APPLICATION OF PEER REVIEW PROCESS.**

20 USC 1011g.

“All applications submitted under the provisions of this Act which require peer review shall be read by a panel of readers

composed of individuals selected by the Secretary, which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

Collegiate  
Initiative To  
Reduce Binge  
Drinking and  
Illegal Alcohol  
Consumption.  
20 USC 1011h.

**“SEC. 119. BINGE DRINKING ON COLLEGE CAMPUSES.**

“(a) **SHORT TITLE.**—This section may be cited as the ‘Collegiate Initiative To Reduce Binge Drinking and Illegal Alcohol Consumption’.

“(b) **SENSE OF CONGRESS.**—It is the sense of Congress that, in an effort to change the culture of alcohol consumption on college campuses, all institutions of higher education should carry out the following:

“(1) The president of the institution should appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at the institution. The task force should make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution should provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

“(2) The institution should provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities.

“(3) The institution should enforce a ‘zero tolerance’ policy on the illegal consumption of alcohol by students at the institution.

“(4) The institution should vigorously enforce the institution’s code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems should be referred for assistance, including on-campus counseling programs if appropriate.

“(5) The institution should adopt a policy to discourage alcoholic beverage-related sponsorship of on-campus activities. It should adopt policies limiting the advertisement and promotion of alcoholic beverages on campus.

“(6) The institution should work with the local community, including local businesses, in a ‘Town/Gown’ alliance to encourage responsible policies toward alcohol consumption and to address illegal alcohol use by students.

20 USC 1011i.

**“SEC. 120. DRUG AND ALCOHOL ABUSE PREVENTION.**

Certification.

“(a) **RESTRICTION ON ELIGIBILITY.**—Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless the institution certifies to the Secretary that the institution has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

“(1) the annual distribution to each student and employee of—

“(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on the institution’s property or as part of any of the institution’s activities;

“(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

“(C) a description of the health-risks associated with the use of illicit drugs and the abuse of alcohol;

“(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

“(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by subparagraph (A); and

“(2) a biennial review by the institution of the institution’s program to—

“(A) determine the program’s effectiveness and implement changes to the program if the changes are needed; and

“(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

“(b) INFORMATION AVAILABILITY.—Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2).

“(c) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

“(A) the periodic review of a representative sample of programs required by subsection (a); and

“(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

“(2) REHABILITATION PROGRAM.—The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.

“(d) APPEALS.—Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day

period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.

“(e) ALCOHOL AND DRUG ABUSE PREVENTION GRANTS.—

“(1) PROGRAM AUTHORITY.—The Secretary may make grants to institutions of higher education or consortia of such institutions, and enter into contracts with such institutions, consortia, and other organizations, to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and the violence associated with such use. Such grants or contracts may also be used for the support of a higher education center for alcohol and drug abuse prevention that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

“(2) AWARDS.—Grants and contracts shall be awarded under paragraph (1) on a competitive basis.

“(3) APPLICATIONS.—An institution of higher education, a consortium of such institutions, or another organization that desires to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

“(4) ADDITIONAL REQUIREMENTS.—

“(A) PARTICIPATION.—In awarding grants and contracts under this subsection the Secretary shall make every effort to ensure—

“(i) the equitable participation of private and public institutions of higher education (including community and junior colleges); and

“(ii) the equitable geographic participation of such institutions.

“(B) CONSIDERATION.—In awarding grants and contracts under this subsection the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

“(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(f) NATIONAL RECOGNITION AWARDS.—

“(1) PURPOSE.—It is the purpose of this subsection to provide models of innovative and effective alcohol and drug abuse prevention programs in higher education and to focus national attention on exemplary alcohol and drug abuse prevention efforts.

“(2) AWARDS.—

“(A) IN GENERAL.—The Secretary shall make 5 National Recognition Awards for outstanding alcohol prevention programs and 5 National Recognition Awards for outstanding drug abuse prevention programs, on an annual basis, to institutions of higher education that—

“(i) have developed and implemented innovative and effective alcohol prevention programs or drug abuse prevention programs; and

“(ii) with respect to an application for an alcohol prevention program award, demonstrate in the application submitted under paragraph (3) that the institution has undertaken efforts designed to change the culture of college drinking consistent with the review criteria described in paragraph (3)(C)(iii).

“(B) CEREMONY.—The awards shall be made at a ceremony in Washington, D.C.

District of  
Columbia.

“(C) DOCUMENT.—The Secretary shall publish a document describing the alcohol and drug abuse prevention programs of institutions of higher education that receive the awards under this subsection and disseminate the document nationally to all public and private secondary school guidance counselors for use by secondary school juniors and seniors preparing to enter an institution of higher education. The document shall be disseminated not later than January 1 of each academic year.

Publication.

Deadline.

“(D) AMOUNT AND USE.—Each institution of higher education selected to receive an award under this subsection shall receive an award in the amount of \$50,000. Such award shall be used for the maintenance and improvement of the institution’s outstanding prevention program for the academic year following the academic year for which the award is made.

“(3) APPLICATION.—

“(A) IN GENERAL.—Each institution of higher education desiring an award under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall contain—

“(i) a clear description of the goals and objectives of the prevention program of the institution;

“(ii) a description of program activities that focus on alcohol or drug policy issues, policy development, modification, or refinement, policy dissemination and implementation, and policy enforcement;

“(iii) a description of activities that encourage student and employee participation and involvement in activity development and implementation;

“(iv) the objective criteria used to determine the effectiveness of the methods used in such programs and the means used to evaluate and improve the programs’ efforts;

“(v) a description of special initiatives used to reduce high-risk behavior or increase low-risk behavior; and

“(vi) a description of coordination and networking efforts that exist in the community in which the institution is located for purposes of such programs.

“(B) APPLICATION REVIEW.—The Secretary shall appoint a committee to review applications submitted

under this paragraph. The committee may include representatives of Federal departments or agencies the programs of which include alcohol abuse prevention and education efforts and drug abuse prevention and education efforts, directors or heads (or their representatives) of professional associations that focus on alcohol and drug abuse prevention efforts, and non-Federal scientists who have backgrounds in social science evaluation and research methodology and in education. Decisions of the committee shall be made directly to the Secretary without review by any other entity in the Department.

“(C) REVIEW CRITERIA.—The committee described in subparagraph (B) shall develop specific review criteria for reviewing and evaluating applications submitted under this paragraph. The review criteria shall include—

“(i) measures of the effectiveness of the program of the institution, that includes changes in the campus alcohol or other drug environment or the climate and changes in alcohol or other drug use before and after the initiation of the program;

“(ii) measures of program institutionalization, including—

“(I) an assessment of needs of the institution;

“(II) the institution’s alcohol and drug policies, staff and faculty development activities, drug prevention criteria, student, faculty, and campus community involvement; and

“(III) whether the program will be continued after the cessation of Federal funding; and

“(iii) with respect to an application for an alcohol prevention program award, criteria for determining whether the institution has policies in effect that—

“(I) prohibit alcoholic beverage sponsorship of athletic events, and prohibit alcoholic beverage advertising inside athletic facilities;

“(II) prohibit alcoholic beverage marketing on campus, which may include efforts to ban alcohol advertising in institutional publications or efforts to prohibit alcohol-related advertisements at campus events;

“(III) establish or expand upon alcohol-free living arrangements for all college students;

“(IV) establish partnerships with community members and organizations to further alcohol prevention efforts on campus and the areas surrounding campus; and

“(V) establish innovative communications programs involving students and faculty in an effort to educate students about alcohol-related risks.

“(4) ELIGIBILITY.—In order to be eligible to receive a National Recognition Award an institution of higher education shall—

“(A) offer an associate or baccalaureate degree;

“(B) have established an alcohol abuse prevention and education program or a drug abuse prevention and education program;



“(C) nominate itself or be nominated by others, such as professional associations or student organizations, to receive the award; and

“(D) not have received an award under this subsection during the 5 academic years preceding the academic year for which the determination is made.

“(5) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection \$750,000 for fiscal year 1999.

“(B) AVAILABILITY.—Funds appropriated under subparagraph (A) shall remain available until expended.

**“SEC. 121. PRIOR RIGHTS AND OBLIGATIONS.**

20 USC 1011j.

“(a) AUTHORIZATION OF APPROPRIATIONS.—

“(1) PRE-1987 PARTS C AND D OF TITLE VII.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to 1987 under parts C and D of title VII, as such parts were in effect before the effective date of the Higher Education Amendments of 1992.

“(2) POST-1992 AND PRE-1998 PART C OF TITLE VII.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to the date of enactment of the Higher Education Amendments of 1998 under part C of title VII, as such part was in effect during the period—

“(A) after the effective date of the Higher Education Amendments of 1992; and

“(B) prior to the date of enactment of the Higher Education Amendments of 1998.

“(b) LEGAL RESPONSIBILITIES.—

“(1) PRE-1987 TITLE VII.—All entities with continuing obligations incurred under parts A, B, C, and D of title VII, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Amendments of 1992.

“(2) POST-1992 AND PRE-1998 PART C OF TITLE VII.—All entities with continuing obligations incurred under part C of title VII, as such part was in effect during the period—

“(A) after the effective date of the Higher Education Amendments of 1992; and

“(B) prior to the date of enactment of the Higher Education Amendments of 1998,

shall be subject to the requirements of such part as such part was in effect during such period.

**“SEC. 122. RECOVERY OF PAYMENTS.**

20 USC 1011k.

“(a) PUBLIC BENEFIT.—Congress declares that, if a facility constructed with the aid of a grant under part A of title VII as such part A was in effect prior to the date of enactment of the Higher Education Amendments of 1998, or part B of such title as part B was in effect prior to the date of enactment of the Higher Education Amendments of 1992, is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value

the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of such title as so in effect.

“(b) RECOVERY UPON CESSATION OF PUBLIC BENEFIT.—If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A of title VII as such part A was in effect prior to the date of enactment of the Higher Education Amendments of 1998, or part B of title VII as such part B was in effect prior to the date of enactment of the Higher Education Amendments of 1992—

“(1) the applicant under such parts as so in effect (or the applicant’s successor in title or possession) ceases or fails to be a public or nonprofit institution; or

“(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term ‘academic facility’ (as such term was defined under title VII, as so in effect), unless the Secretary determines that there is good cause for releasing the institution from its obligation, the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

“(c) PROHIBITION ON USE FOR RELIGION.—Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under title VII (as in effect prior to the date of enactment of the Higher Education Amendments of 1998) shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

## “PART C—COST OF HIGHER EDUCATION

20 USC 1015.

### “SEC. 131. IMPROVEMENTS IN MARKET INFORMATION AND PUBLIC ACCOUNTABILITY IN HIGHER EDUCATION.

“(a) IMPROVED DATA COLLECTION.—

“(1) DEVELOPMENT OF UNIFORM METHODOLOGY.—The Secretary shall direct the Commissioner of Education Statistics to convene a series of forums to develop nationally consistent methodologies for reporting costs incurred by postsecondary institutions in providing postsecondary education.

“(2) REDESIGN OF DATA SYSTEMS.—On the basis of the methodologies developed pursuant to paragraph (1), the Secretary shall redesign relevant parts of the postsecondary education data systems to improve the usefulness and timeliness of the data collected by such systems.

“(3) INFORMATION TO INSTITUTIONS.—The Commissioner of Education Statistics shall—

“(A) develop a standard definition for the following data elements:

“(i) tuition and fees for a full-time undergraduate student;

“(ii) cost of attendance for a full-time undergraduate student, consistent with the provisions of section 472;

“(iii) average amount of financial assistance received by an undergraduate student who attends an institution of higher education, including—

“(I) each type of assistance or benefit described in section 428(a)(2)(C)(i);

“(II) fellowships; and

“(III) institutional and other assistance; and

“(iv) number of students receiving financial assistance described in each of subclauses (I), (II), and (III) of clause (iii);

“(B) not later than 90 days after the date of enactment of the Higher Education Amendments of 1998, report the definitions to each institution of higher education and within a reasonable period of time thereafter inform the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives of those definitions; and

Deadline.  
Reports.

“(C) collect information regarding the data elements described in subparagraph (A) with respect to at least all institutions of higher education participating in programs under title IV, beginning with the information from academic year 2000–2001 and annually thereafter.

“(b) DATA DISSEMINATION.—The Secretary shall make available the data collected pursuant to subsection (a). Such data shall be available in a form that permits the review and comparison of the data submissions of individual institutions of higher education. Such data shall be presented in a form that is easily understandable and allows parents and students to make informed decisions based on the costs for typical full-time undergraduate students.

“(c) STUDY.—

“(1) IN GENERAL.—The Commissioner of Education Statistics shall conduct a national study of expenditures at institutions of higher education. Such study shall include information with respect to—

“(A) the change in tuition and fees compared with the consumer price index and other appropriate measures of inflation;

“(B) faculty salaries and benefits;

“(C) administrative salaries, benefits and expenses;

“(D) academic support services;

“(E) research;

“(F) operations and maintenance; and

“(G) institutional expenditures for construction and technology and the potential cost of replacing instructional buildings and equipment.

“(2) EVALUATION.—The study shall include an evaluation of—

“(A) changes over time in the expenditures identified in paragraph (1);

“(B) the relationship of the expenditures identified in paragraph (1) to college costs; and

“(C) the extent to which increases in institutional financial aid and tuition discounting practices affect tuition increases, including the demographics of students receiving

such discounts, the extent to which financial aid is provided to students with limited need in order to attract a student to a particular institution, and the extent to which Federal financial aid, including loan aid, has been used to offset the costs of such practices.

Deadline.

“(3) FINAL REPORT.—The Commissioner of Education Statistics shall submit a report regarding the findings of the study required by paragraph (1) to the appropriate committees of Congress not later than September 30, 2002.

Reports.  
Deadline.

“(4) HIGHER EDUCATION MARKET BASKET.—The Bureau of Labor Statistics, in consultation with the Commissioner of Education Statistics, shall develop a higher education market basket that identifies the items that comprise the costs of higher education. The Bureau of Labor Statistics shall provide a report on the market basket to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 2002.

“(5) FINES.—In addition to actions authorized in section 487(c), the Secretary may impose a fine in an amount not to exceed \$25,000 on an institution of higher education for failing to provide the information described in paragraph (1) in a timely and accurate manner, or for failing to otherwise cooperate with the National Center for Education Statistics regarding efforts to obtain data on the cost of higher education under this section and pursuant to the program participation agreement entered into under section 487.

“(d) STUDENT AID RECIPIENT SURVEY.—(1) The Secretary shall survey student aid recipients on a regular cycle, but not less than once every 3 years—

“(A) to identify the population of students receiving Federal student aid;

“(B) to determine the income distribution and other socioeconomic characteristics of federally aided students;

“(C) to describe the combinations of aid from State, Federal, and private sources received by students from all income groups;

“(D) to describe the debt burden of loan recipients and their capacity to repay their education debts; and

“(E) to disseminate such information in both published and machine readable form.

“(2) The survey shall be representative of full-time and part-time, undergraduate, graduate, and professional and current and former students in all types of institutions, and should be designed and administered in consultation with the Congress and the post-secondary education community.

## **“PART D—ADMINISTRATIVE PROVISIONS FOR DELIVERY OF STUDENT FINANCIAL ASSISTANCE**

20 USC 1018.

### **“SEC. 141. PERFORMANCE-BASED ORGANIZATION FOR THE DELIVERY OF FEDERAL STUDENT FINANCIAL ASSISTANCE.**

“(a) ESTABLISHMENT AND PURPOSE.—

“(1) ESTABLISHMENT.—There is established in the Department a Performance-Based Organization (hereafter referred to

as the ‘PBO’) which shall be a discrete management unit responsible for managing the operational functions supporting the programs authorized under title IV of this Act, as specified in subsection (b).

“(2) PURPOSES.—The purposes of the PBO are—

“(A) to improve service to students and other participants in the student financial assistance programs authorized under title IV, including making those programs more understandable to students and their parents;

“(B) to reduce the costs of administering those programs;

“(C) to increase the accountability of the officials responsible for administering the operational aspects of these programs;

“(D) to provide greater flexibility in the management of the operational functions of the Federal student financial assistance programs;

“(E) to integrate the information systems supporting the Federal student financial assistance programs;

“(F) to implement an open, common, integrated system for the delivery of student financial assistance under title IV; and

“(G) to develop and maintain a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity.

“(b) GENERAL AUTHORITY.—

“(1) AUTHORITY OF SECRETARY.—Notwithstanding any other provision of this part, the Secretary shall maintain responsibility for the development and promulgation of policy and regulations relating to the programs of student financial assistance under title IV. In the exercise of its functions, the PBO shall be subject to the direction of the Secretary. The Secretary shall—

“(A) request the advice of, and work in cooperation with, the Chief Operating Officer in developing regulations, policies, administrative guidance, or procedures affecting the information systems administered by the PBO, and other functions performed by the PBO;

“(B) request cost estimates from the Chief Operating Officer for system changes required by specific policies proposed by the Secretary; and

“(C) assist the Chief Operating Officer in identifying goals for the administration and modernization of the delivery system for student financial assistance under title IV.

“(2) PBO FUNCTIONS.—Subject to paragraph (1), the PBO shall be responsible for administration of the information and financial systems that support student financial assistance programs authorized under this title, excluding the development of policy relating to such programs but including the following:

“(A) The administrative, accounting, and financial management functions of the delivery system for Federal student assistance, including—

“(i) the collection, processing and transmission of applicant data to students, institutions and authorized third parties, as provided for in section 483;

“(ii) design and technical specifications for software development and systems supporting the delivery of student financial assistance under title IV;

“(iii) all software and hardware acquisitions and all information technology contracts related to the delivery and management of student financial assistance under title IV;

“(iv) all aspects of contracting for the information and financial systems supporting student financial assistance programs under this title; and

“(v) providing all customer service, training, and user support related to systems that support those programs.

“(B) Annual development of a budget for the operations and services of the PBO, in consultation with the Secretary, and for consideration and inclusion in the Department’s annual budget submission.

“(3) ADDITIONAL FUNCTIONS.—The Secretary may allocate to the PBO such additional functions as the Secretary and the Chief Operating Officer determine are necessary or appropriate to achieve the purposes of the PBO.

“(4) INDEPENDENCE.—Subject to paragraph (1), in carrying out its functions, the PBO shall exercise independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions.

“(5) AUDITS AND REVIEW.—The PBO shall be subject to the usual and customary Federal audit procedures and to review by the Inspector General of the Department.

“(6) CHANGES.—

“(A) IN GENERAL.—The Secretary and the Chief Operating Officer shall consult concerning the effects of policy, market, or other changes on the ability of the PBO to achieve the goals and objectives established in the performance plan described in subsection (c).

“(B) REVISIONS TO AGREEMENT.—The Secretary and the Chief Operating Officer may revise the annual performance agreement described in subsection (d)(4) in light of policy, market, or other changes that occur after the Secretary and the Chief Operating Officer enter into the agreement.

“(c) PERFORMANCE PLAN AND REPORT.—

“(1) PERFORMANCE PLAN.—

“(A) IN GENERAL.—Each year, the Secretary and Chief Operating Officer shall agree on, and make available to the public, a performance plan for the PBO for the succeeding 5 years that establishes measurable goals and objectives for the organization.

“(B) CONSULTATION.—In developing the 5-year performance plan and any revision to the plan, the Secretary and the Chief Operating Officer shall consult with students, institutions of higher education, Congress, lenders, the Advisory Committee on Student Financial Assistance, and other interested parties not less than 30 days prior to the implementation of the performance plan or revision.

“(C) AREAS.—The plan shall include a concise statement of the goals for a modernized system for the delivery of student financial assistance under title IV and identify

action steps necessary to achieve such goals. The plan shall address the PBO's responsibilities in the following areas:

“(i) IMPROVING SERVICE.—Improving service to students and other participants in student financial aid programs authorized under this title, including making those programs more understandable to students and their parents.

“(ii) REDUCING COSTS.—Reducing the costs of administering those programs.

“(iii) IMPROVEMENT AND INTEGRATION OF SUPPORT SYSTEMS.—Improving and integrating the information and delivery systems that support those programs.

“(iv) DELIVERY AND INFORMATION SYSTEM.—Developing an open, common, and integrated delivery and information system for programs authorized under this title.

“(v) OTHER AREAS.—Any other areas identified by the Secretary.

“(2) ANNUAL REPORT.—Each year, the Chief Operating Officer shall prepare and submit to Congress, through the Secretary, an annual report on the performance of the PBO, including an evaluation of the extent to which the PBO met the goals and objectives contained in the 5-year performance plan described in paragraph (1) for the preceding year. The annual report shall include the following:

“(A) An independent financial audit of the expenditures of both the PBO and programs administered by the PBO.

“(B) Financial and performance requirements applicable to the PBO under the Chief Financial Officer Act of 1990 and the Government Performance and Results Act of 1993.

“(C) The results achieved by the PBO during the year relative to the goals established in the organization's performance plan.

“(D) The evaluation rating of the performance of the Chief Operating Officer and senior managers under subsections (d)(4) and (e)(2), including the amounts of bonus compensation awarded to these individuals.

“(E) Recommendations for legislative and regulatory changes to improve service to students and their families, and to improve program efficiency and integrity.

“(F) Other such information as the Director of the Office of Management and Budget shall prescribe for performance based organizations.

“(3) CONSULTATION WITH STAKEHOLDERS.—The Chief Operating Officer, in preparing the report described in paragraph (2), shall establish appropriate means to consult with borrowers, institutions, lenders, guaranty agencies, secondary markets, and others involved in the delivery system of student aid under this title—

“(A) regarding the degree of satisfaction with the delivery system; and

“(B) to seek suggestions on means to improve the delivery system.

“(d) CHIEF OPERATING OFFICER.—

Deadline. “(1) APPOINTMENT.—The management of the PBO shall be vested in a Chief Operating Officer who shall be appointed by the Secretary to a term of not less than 3 and not more than 5 years, and compensated without regard to chapters 33, 51, and 53 of title 5, United States Code. The Secretary shall appoint the Chief Operating Officer within 6 months after the date of enactment of the Higher Education Amendments of 1998. The appointment shall be made on the basis of demonstrated management ability and expertise in information technology, including experience with financial systems, and without regard to political affiliation or activity.

“(2) REAPPOINTMENT.—The Secretary may reappoint the Chief Operating Officer to subsequent terms of not less than 3 and not more than 5 years, so long as the performance of the Chief Operating Officer, as set forth in the performance agreement described in paragraph (4), is satisfactory.

“(3) REMOVAL.—The Chief Operating Officer may be removed by—

“(A) the President; or

“(B) the Secretary, for misconduct or failure to meet performance goals set forth in the performance agreement in paragraph (4).

The President or Secretary shall communicate the reasons for any such removal to the appropriate committees of Congress.

“(4) PERFORMANCE AGREEMENT.—

“(A) IN GENERAL.—Each year, the Secretary and the Chief Operating Officer shall enter into an annual performance agreement, that shall set forth measurable organization and individual goals for the Chief Operating Officer.

Public  
information.

“(B) TRANSMITTAL.—The final agreement, and any revision to the final agreement, shall be transmitted to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, and made publicly available.

“(5) COMPENSATION.—

“(A) IN GENERAL.—The Chief Operating Officer is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(B) of such title. The compensation of the Chief Operating Officer shall be considered for purposes of section 207(c)(2)(A) of title 18, United States Code, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

“(B) BONUS.—In addition, the Chief Operating Officer may receive a bonus in an amount that does not exceed 50 percent of such annual rate of basic pay, based upon the Secretary’s evaluation of the Chief Operating Officer’s performance in relation to the goals set forth in the performance agreement described in paragraph (2).

“(C) PAYMENT.—Payment of a bonus under this subparagraph (B) may be made to the Chief Operating Officer only to the extent that such payment does not



cause the Chief Operating Officer's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.

“(e) SENIOR MANAGEMENT.—

“(1) APPOINTMENT.—

“(A) IN GENERAL.—The Chief Operating Officer may appoint such senior managers as that officer determines necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

“(B) COMPENSATION.—The senior managers described in subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

“(2) PERFORMANCE AGREEMENT.—Each year, the Chief Operating Officer and each senior manager appointed under this subsection shall enter into an annual performance agreement that sets forth measurable organization and individual goals. The agreement shall be subject to review and renegotiation at the end of each term.

“(3) COMPENSATION.—

“(A) IN GENERAL.—A senior manager appointed under this subsection may be paid at an annual rate of basic pay of not more than the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title. The compensation of a senior manager shall be considered for purposes of section 207(c)(2)(A) of title 18, United States Code, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

“(B) BONUS.—In addition, a senior manager may receive a bonus in an amount such that the manager's total annual compensation does not exceed 125 percent of the maximum rate of basic pay for the Senior Executive Service, including any applicable locality-based comparability payment, based upon the Chief Operating Officer's evaluation of the manager's performance in relation to the goals set forth in the performance agreement described in paragraph (2).

“(4) REMOVAL.—A senior manager shall be removable by the Chief Operating Officer, or by the Secretary if the position of Chief Operating Officer is vacant.

“(f) STUDENT LOAN OMBUDSMAN.—

“(1) APPOINTMENT.—The Chief Operating Officer, in consultation with the Secretary, shall appoint a Student Loan Ombudsman to provide timely assistance to borrowers of loans made, insured, or guaranteed under title IV by performing the functions described in paragraph (3).

“(2) PUBLIC INFORMATION.—The Chief Operating Officer shall disseminate information about the availability and functions of the Ombudsman to borrowers and potential borrowers, as well as institutions of higher education, lenders, guaranty

agencies, loan servicers, and other participants in those student loan programs.

Regulations.

“(3) FUNCTIONS OF OMBUDSMAN.—The Ombudsman shall—

“(A) in accordance with regulations of the Secretary, receive, review, and attempt to resolve informally complaints from borrowers of loans described in paragraph (1), including, as appropriate, attempts to resolve such complaints within the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in the loan programs described in paragraph (1)(A); and

Records.

“(B) compile and analyze data on borrower complaints and make appropriate recommendations.

“(4) REPORT.—Each year, the Ombudsman shall submit a report to the Chief Operating Officer, for inclusion in the annual report under subsection (c)(2), that describes the activities, and evaluates the effectiveness of the Ombudsman during the preceding year.

“(g) PERSONNEL FLEXIBILITY.—

“(1) PERSONNEL CEILINGS.—The PBO shall not be subject to any ceiling relating to the number or grade of employees.

“(2) ADMINISTRATIVE FLEXIBILITY.—The Chief Operating Officer shall work with the Office of Personnel Management to develop and implement personnel flexibilities in staffing, classification, and pay that meet the needs of the PBO, subject to compliance with title 5, United States Code.

“(3) EXCEPTED SERVICE.—The Chief Operating Officer may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 25 technical and professional employees to administer the functions of the PBO. These employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

“(h) ESTABLISHMENT OF A FAIR AND EQUITABLE SYSTEM FOR MEASURING STAFF PERFORMANCE.—The PBO shall establish an annual performance management system, subject to compliance with title 5, United States Code and consistent with applicable provisions of law and regulations, which strengthens the organizational effectiveness of the PBO by providing for establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the performance plan of the PBO and its performance planning procedures, including those established under the Government Performance and Results Act of 1993, and communicating such goals or objectives to employees.

Deadline.

“(i) REPORT.—The Secretary and the Chief Operating Officer, not later than 180 days after the date of enactment of the Higher Education Amendments of 1998, shall report to Congress on the proposed budget and sources of funding for the operation of the PBO.

“(j) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall allocate from funds made available under section 458 such funds as are appropriate to the functions assumed by the PBO. In addition, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this part, including transition costs.

**“SEC. 142. PROCUREMENT FLEXIBILITY.**

20 USC 1018a.

“(a) **PROCUREMENT AUTHORITY.**—Subject to the authority of the Secretary, the Chief Operating Officer of a PBO may exercise the authority of the Secretary to procure property and services in the performance of functions managed by the PBO. For the purposes of this section, the term ‘PBO’ includes the Chief Operating Officer of the PBO and any employee of the PBO exercising procurement authority under the preceding sentence.

“(b) **IN GENERAL.**—Except as provided in this section, the PBO shall abide by all applicable Federal procurement laws and regulations when procuring property and services. The PBO shall—

“(1) enter into contracts for information systems supporting the programs authorized under title IV to carry out the functions set forth in section 141(b)(2); and

Contracts.

“(2) obtain the services of experts and consultants without regard to section 3109 of title 5, United States Code and set pay in accordance with such section.

“(c) **SERVICE CONTRACTS.**—

“(1) **PERFORMANCE-BASED SERVICING CONTRACTS.**—The Chief Operating Officer shall, to the extent practicable, maximize the use of performance-based servicing contracts, consistent with guidelines for such contracts published by the Office of Federal Procurement Policy, to achieve cost savings and improve service.

“(2) **FEE FOR SERVICE ARRANGEMENTS.**—The Chief Operating Officer shall, when appropriate and consistent with the purposes of the PBO, acquire services related to the title IV delivery system from any entity that has the capability and capacity to meet the requirements for the system. The Chief Operating Officer is authorized to pay fees that are equivalent to those paid by other entities to an organization that provides an information system or service that meets the requirements of the PBO, as determined by the Chief Operating Officer.

“(d) **TWO-PHASE SOURCE-SELECTION PROCEDURES.**—

“(1) **IN GENERAL.**—The PBO may use a two-phase process for selecting a source for a procurement of property or services.

“(2) **FIRST PHASE.**—The procedures for the first phase of the process for a procurement are as follows:

“(A) **PUBLICATION OF NOTICE.**—The contracting officer for the procurement shall publish a notice of the procurement in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637), except that the notice shall include only the following:

“(i) A general description of the scope or purpose of the procurement that provides sufficient information on the scope or purpose for sources to make informed business decisions regarding whether to participate in the procurement.

“(ii) A description of the basis on which potential sources are to be selected to submit offers in the second phase.

“(iii) A description of the information that is to be required under subparagraph (B).

“(iv) Any additional information that the contracting officer determines appropriate.

“(B) INFORMATION SUBMITTED BY OFFERORS.—Each offeror for the procurement shall submit basic information, such as information on the offeror’s qualifications, the proposed conceptual approach, costs likely to be associated with the proposed conceptual approach, and past performance of the offeror on Federal Government contracts, together with any additional information that is requested by the contracting officer.

“(C) SELECTION FOR SECOND PHASE.—The contracting officer shall select the offerors that are to be eligible to participate in the second phase of the process. The contracting officer shall limit the number of the selected offerors to the number of sources that the contracting officer determines is appropriate and in the best interests of the Federal Government.

“(3) SECOND PHASE.—

“(A) IN GENERAL.—The contracting officer shall conduct the second phase of the source selection process in accordance with sections 303A and 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a and 253b).

“(B) ELIGIBLE PARTICIPANTS.—Only the sources selected in the first phase of the process shall be eligible to participate in the second phase.

“(C) SINGLE OR MULTIPLE PROCUREMENTS.—The second phase may include a single procurement or multiple procurements within the scope, or for the purpose, described in the notice pursuant to paragraph (2)(A).

“(4) PROCEDURES CONSIDERED COMPETITIVE.—The procedures used for selecting a source for a procurement under this subsection shall be considered competitive procedures for all purposes.

“(e) USE OF SIMPLIFIED PROCEDURES FOR COMMERCIAL ITEMS.—Whenever the PBO anticipates that commercial items will be offered for a procurement, the PBO may use (consistent with the special rules for commercial items) the special simplified procedures for the procurement without regard to—

“(1) any dollar limitation otherwise applicable to the use of those procedures; and

“(2) the expiration of the authority to use special simplified procedures under section 4202(e) of the Clinger-Cohen Act of 1996 (110 Stat. 654; 10 U.S.C. 2304 note).

“(f) FLEXIBLE WAIT PERIODS AND DEADLINES FOR SUBMISSION OF OFFERS OF NONCOMMERCIAL ITEMS.—

“(1) AUTHORITY.—In carrying out a procurement, the PBO may—

“(A) apply a shorter waiting period for the issuance of a solicitation after the publication of a notice under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) than is required under subsection (a)(3)(A) of such section; and

“(B) notwithstanding subsection (a)(3) of such section, establish any deadline for the submission of bids or proposals that affords potential offerors a reasonable opportunity to respond to the solicitation.

“(2) INAPPLICABILITY TO COMMERCIAL ITEMS.—Paragraph (1) does not apply to a procurement of a commercial item.

“(3) CONSISTENCY WITH APPLICABLE INTERNATIONAL AGREEMENTS.—If an international agreement is applicable to the procurement, any exercise of authority under paragraph (1) shall be consistent with the international agreement.

“(g) MODULAR CONTRACTING.—

“(1) IN GENERAL.—The PBO may satisfy the requirements of the PBO for a system incrementally by carrying out successive procurements of modules of the system. In doing so, the PBO may use procedures authorized under this subsection to procure any such module after the first module.

“(2) UTILITY REQUIREMENT.—A module may not be procured for a system under this subsection unless the module is useful independently of the other modules or useful in combination with another module previously procured for the system.

“(3) CONDITIONS FOR USE OF AUTHORITY.—The PBO may use procedures authorized under paragraph (4) for the procurement of an additional module for a system if—

“(A) competitive procedures were used for awarding the contract for the procurement of the first module for the system; and

“(B) the solicitation for the first module included—

“(i) a general description of the entire system that was sufficient to provide potential offerors with reasonable notice of the general scope of future modules;

“(ii) other information sufficient for potential offerors to make informed business judgments regarding whether to submit offers for the contract for the first module; and

“(iii) a statement that procedures authorized under this subsection could be used for awarding subsequent contracts for the procurement of additional modules for the system.

“(4) PROCEDURES.—If the procurement of the first module for a system meets the requirements set forth in paragraph (3), the PBO may award a contract for the procurement of an additional module for the system using any of the following procedures:

“(A) SOLE SOURCE.—Award of the contract on a sole-source basis to a contractor who was awarded a contract for a module previously procured for the system under competitive procedures or procedures authorized under subparagraph (B).

“(B) ADEQUATE COMPETITION.—Award of the contract on the basis of offers made by—

“(i) a contractor who was awarded a contract for a module previously procured for the system after having been selected for award of the contract under this subparagraph or other competitive procedures; and

“(ii) at least one other offeror that submitted an offer for a module previously procured for the system and is expected, on the basis of the offer for the previously procured module, to submit a competitive offer for the additional module.

“(C) OTHER.—Award of the contract under any other procedure authorized by law.

“(5) NOTICE REQUIREMENT.—

Deadline.

“(A) PUBLICATION.—Not less than 30 days before issuing a solicitation for offers for a contract for a module for a system under procedures authorized under subparagraph (A) or (B) of paragraph (4), the PBO shall publish in the Commerce Business Daily a notice of the intent to use such procedures to enter into the contract.

“(B) EXCEPTION.—Publication of a notice is not required under this paragraph with respect to a use of procedures authorized under paragraph (4) if the contractor referred to in that subparagraph (who is to be solicited to submit an offer) has previously provided a module for the system under a contract that contained cost, schedule, and performance goals and the contractor met those goals.

“(C) CONTENT OF NOTICE.—A notice published under subparagraph (A) with respect to a use of procedures described in paragraph (4) shall contain the information required under section 18(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(b)), other than paragraph (4) of such section, and shall invite the submission of any assertion that the use of the procedures for the procurement involved is not in the best interest of the Federal Government together with information supporting the assertion.

“(6) DOCUMENTATION.—The basis for an award of a contract under this subsection shall be documented. However, a justification pursuant to section 303(f) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)) or section 8(h) of the Small Business Act (15 U.S.C. 637(h)) is not required.

“(7) SIMPLIFIED SOURCE-SELECTION PROCEDURES.—The PBO may award a contract under any other simplified procedures prescribed by the PBO for the selection of sources for the procurement of modules for a system, after the first module, that are not to be procured under a contract awarded on a sole-source basis.

“(h) USE OF SIMPLIFIED PROCEDURES FOR SMALL BUSINESS SET-ASIDES FOR SERVICES OTHER THAN COMMERCIAL ITEMS.—

“(1) AUTHORITY.—The PBO may use special simplified procedures for a procurement of services that are not commercial items if—

“(A) the procurement is in an amount not greater than \$1,000,000;

“(B) the procurement is conducted as a small business set-aside pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)); and

“(C) the price charged for supplies associated with the services procured are items of supply expected to be less than 20 percent of the total contract price.

“(2) INAPPLICABILITY TO CERTAIN PROCUREMENTS.—The authority set forth in paragraph (1) may not be used for—

“(A) an award of a contract on a sole-source basis;

or

“(B) a contract for construction.

“(i) GUIDANCE FOR USE OF AUTHORITY.—

“(1) ISSUANCE BY PBO.—The Chief Operating Officer of the PBO, in consultation with the Administrator for Federal

Procurement Policy, shall issue guidance for the use by PBO personnel of the authority provided in this section.

“(2) GUIDANCE FROM OFPP.—As part of the consultation required under paragraph (1), the Administrator for Federal Procurement Policy shall provide the PBO with guidance that is designed to ensure, to the maximum extent practicable, that the authority under this section is exercised by the PBO in a manner that is consistent with the exercise of the authority by the heads of the other performance-based organizations.

“(3) COMPLIANCE WITH OFPP GUIDANCE.—The head of the PBO shall ensure that the procurements of the PBO under this section are carried out in a manner that is consistent with the guidance provided for the PBO under paragraph (2).

“(j) LIMITATION ON MULTIAGENCY CONTRACTING.—No department or agency of the Federal Government may purchase property or services under contracts entered into or administered by a PBO under this section unless the purchase is approved in advance by the senior procurement official of that department or agency who is responsible for purchasing by the department or agency.

“(k) LAWS NOT AFFECTED.—Nothing in this section shall be construed to waive laws for the enforcement of civil rights or for the establishment and enforcement of labor standards that are applicable to contracts of the Federal Government.

“(l) DEFINITIONS.—In this section:

“(1) COMMERCIAL ITEM.—The term ‘commercial item’ has the meaning given the term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

“(2) COMPETITIVE PROCEDURES.—The term ‘competitive procedures’ has the meaning given the term in section 309(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(b)).

“(3) SOLE-SOURCE BASIS.—The term ‘sole-source basis’, with respect to an award of a contract, means that the contract is awarded to a source after soliciting an offer or offers from, and negotiating with, only that source.

“(4) SPECIAL RULES FOR COMMERCIAL ITEMS.—The term ‘special rules for commercial items’ means the regulations set forth in the Federal Acquisition Regulation pursuant to section 303(g)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)) and section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427).

“(5) SPECIAL SIMPLIFIED PROCEDURES.—The term ‘special simplified procedures’ means the procedures applicable to purchases of property and services for amounts not greater than the simplified acquisition threshold that are set forth in the Federal Acquisition Regulation pursuant to section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and section 31(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(1)).

**“SEC. 143. ADMINISTRATIVE SIMPLIFICATION OF STUDENT AID DELIVERY. 20 USC 1018b.**

“(a) IN GENERAL.—In order to improve the efficiency and effectiveness of the student aid delivery system, the Secretary and the Chief Operating Officer shall encourage and participate in the establishment of voluntary consensus standards and requirements

for the electronic transmission of information necessary for the administration of programs under title IV.

“(b) PARTICIPATION IN STANDARD SETTING ORGANIZATIONS.—

“(1) The Chief Operating Officer shall participate in the activities of standard setting organizations in carrying out the provisions of this section.

“(2) The Chief Operating Officer shall encourage higher education groups seeking to develop common forms, standards, and procedures in support of the delivery of Federal student financial assistance to conduct these activities within a standard setting organization.

“(3) The Chief Operating Officer may pay necessary dues and fees associated with participating in standard setting organizations pursuant to this subsection.

“(c) ADOPTION OF VOLUNTARY CONSENSUS STANDARDS.—Except with respect to the common financial reporting form under section 483(a), the Secretary shall consider adopting voluntary consensus standards agreed to by the organization described in subsection (b) for transactions required under title IV, and common data elements for such transactions, to enable information to be exchanged electronically between systems administered by the Department and among participants in the Federal student aid delivery system.

“(d) USE OF CLEARINGHOUSES.—Nothing in this section shall restrict the ability of participating institutions and lenders from using a clearinghouse or servicer to comply with the standards for the exchange of information established under this section.

“(e) DATA SECURITY.—Any entity that maintains or transmits information under a transaction covered by this section shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

“(1) to ensure the integrity and confidentiality of the information; and

“(2) to protect against any reasonably anticipated security threats, or unauthorized uses or disclosures of the information.

“(f) DEFINITIONS.—

“(1) CLEARINGHOUSE.—The term ‘clearinghouse’ means a public or private entity that processes or facilitates the processing of nonstandard data elements into data elements conforming to standards adopted under this section.

“(2) STANDARD SETTING ORGANIZATION.—The term ‘standard setting organization’ means an organization that—

“(A) is accredited by the American National Standards Institute;

“(B) develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this section; and

“(C) is open to the participation of the various entities engaged in the delivery of Federal student financial assistance.

“(3) VOLUNTARY CONSENSUS STANDARD.—The term ‘voluntary consensus standard’ means a standard developed or used by a standard setting organization described in paragraph (2).”.

(b) REPEAL OF OLD GENERAL PROVISIONS.—Title XII (20 U.S.C. 1141 et seq.) is repealed.



(c) REPEAL OF TITLE IV DEFINITION.—Section 481 (20 U.S.C. 1088) is amended—

- (1) by striking subsections (a), (b), and (c); and
- (2) by redesignating subsections (d) through (f) as subsections (a) through (c), respectively.

**SEC. 102. CONFORMING AMENDMENTS.**

(a) CONFORMING AMENDMENTS CORRECTING REFERENCES TO SECTION 1201.—

(1) AGRICULTURE.—

(A) STUDENT INTERNSHIP PROGRAMS.—Section 922 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2279c) is amended—

(i) in subsection (a)(1)(B)—

- (I) by striking “1201” and inserting “101”; and
- (II) by striking “(20 U.S.C. 1141)”; and

(ii) in subsection (b)(1)—

- (I) by striking “1201” and inserting “101”; and
- (II) by striking “(20 U.S.C. 1141)”.

(B) AGRICULTURAL SCIENCES EDUCATION.—Section 1417(j)(1)(A) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)(1)(A)) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(2) ARMED FORCES.—

(A) SCIENCE AND MATHEMATICS EDUCATION IMPROVEMENT PROGRAM.—Section 2193(c)(1) of title 10, United States Code, is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(B) SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION.—Section 2199(2) of title 10, United States Code, is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(C) ALLOWABLE COSTS UNDER DEFENSE CONTRACTS.—Section 841(c)(2) of the National Defense Authorization Act for fiscal year 1994 (10 U.S.C. 2324 note) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(D) ENVIRONMENTAL RESTORATION INSTITUTIONAL GRANTS FOR TRAINING DISLOCATED DEFENSE WORKERS AND YOUNG ADULTS.—Section 1333(i)(3) of the National Defense Authorization Act for fiscal year 1994 (10 U.S.C. 2701 note) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(E) ENVIRONMENTAL EDUCATION OPPORTUNITIES PROGRAM.—Section 1334(k)(3) of the National Defense Authorization Act for fiscal year 1994 (10 U.S.C. 2701 note) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(F) ENVIRONMENTAL SCHOLARSHIP AND FELLOWSHIP PROGRAMS.—Section 4451(b)(1) of the National Defense

Authorization Act for 1993 (10 U.S.C. 2701 note) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(3) APPLICATION OF ANTITRUST LAWS TO AWARD OF NEED-BASED EDUCATIONAL AID.—Section 568(c)(3) of the Improving America’s Schools Act of 1994 (15 U.S.C. 1 note) is amended—

- (A) by striking “1201(a)” and inserting “101”; and
- (B) by striking “(20 U.S.C. 1141(a))”.

(4) OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996.—Section 1007(c)(5) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 698u–5) is amended by striking “1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))” and inserting “101 of the Higher Education Act of 1965”.

(5) RESTRICTIONS ON FORMER OFFICERS, EMPLOYEES, AND ELECTED OFFICIALS OF THE EXECUTIVE AND LEGISLATIVE BRANCHES.—Section 207(j)(2)(B) of title 18, United States Code, is amended by striking “1201(a)” and inserting “101”.

(6) EDUCATION.—

(A) HIGHER EDUCATION AMENDMENTS OF 1992.—Section 1(c) of the Higher Education Amendments of 1992 (20 U.S.C. 1001 note) is amended by striking “1201” and inserting “101”.

(B) TREATMENT OF BRANCHES.—Section 498(j)(2) of the Higher Education Act of 1965 (20 U.S.C. 1099c(j)(2)) is amended by striking “1201(a)(2)” and inserting “101(a)(2)”.

(C) DISCLOSURE REQUIREMENTS.—Section 429(d)(2)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1228c(d)(2)(B)(ii)) is amended by striking “1201(a)” and inserting “101”.

(D) HARRY S. TRUMAN SCHOLARSHIPS.—Section 3(4) of the Harry S. Truman Memorial Scholarship Act (20 U.S.C. 2002(4)) is amended by striking “1201(a)” and inserting “101”.

(E) TECH-PREP EDUCATION.—Section 347(2)(A) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2394e(2)(A)) is amended by striking “1201(a)” and inserting “101”.

(F) EDUCATION FOR ECONOMIC SECURITY.—Section 3(6) of the Education for Economic Security Act (20 U.S.C. 3902(6)) is amended by striking “1201(a)” and inserting “101”.

(G) JAMES MADISON MEMORIAL FELLOWSHIPS.—Section 815 of the James Madison Memorial Fellowship Act (20 U.S.C. 4514) is amended—

- (i) in paragraph (3), by striking “1201(a)” and inserting “101”; and

- (ii) in paragraph (4), by striking “1201(d) of the Higher Education Act of 1965” and inserting “14101 of the Elementary and Secondary Education Act of 1965”.

(H) BARRY GOLDWATER SCHOLARSHIPS.—Section 1403(4) of the Barry Goldwater Scholarship and Excellence in Education Act (20 U.S.C. 4702(4)) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(I) MORRIS K. UDALL SCHOLARSHIPS.—Section 4(6) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5602(6)) is amended by striking “1201(a)” and inserting “101”.

(J) BILINGUAL EDUCATION, AND LANGUAGE ENHANCEMENT AND ACQUISITION.—Section 7501(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7601(4)) is amended by striking “1201(a)” and inserting “101”.

(K) GENERAL DEFINITIONS.—Section 14101(17) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(17)) is amended by striking “1201(a)” and inserting “101”.

(L) NATIONAL EDUCATION STATISTICS.—Section 402(c)(3) of the National Education Statistics Act of 1994 (20 U.S.C. 9001(c)(3)) is amended by striking “1201(a)” and inserting “101”.

(7) FOREIGN RELATIONS.—

(A) ENVIRONMENT AND SUSTAINABLE DEVELOPMENT EXCHANGE PROGRAM.—Section 240(d) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2452 note) is amended by striking “1201(a)” and inserting “101”.

(B) SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.—Section 112(a)(8) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(a)(8)) is amended—

(i) by striking “1201(a)” and inserting “101”; and

(ii) by striking “(20 U.S.C. 1141(a))”.

(C) SOVIET-EASTERN EUROPEAN TRAINING.—Section 803(1) of the Soviet-Eastern European Research and Training Act of 1983 (22 U.S.C. 4502(1)) is amended by striking “1201(a)” and inserting “101”.

(D) DEVELOPING COUNTRY SCHOLARSHIPS.—Section 603(d) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 4703(d)) is amended by striking “1201(a)” and inserting “101”.

(8) INDIANS.—

(A) SNYDER ACT.—The last paragraph of section 410 of the Act entitled “An Act authorizing appropriations and expenditures for the administration of Indian Affairs, and for other purposes”, approved November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act) is amended by striking “1201” and inserting “101”.

(B) TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE.—Section 2(a)(5) of the Tribally Controlled Community College Assistance Act (25 U.S.C. 1801(a)(5)) is amended by striking “1201(a)” and inserting “101”.

(C) CONSTRUCTION OF NEW FACILITIES.—Section 113(b)(2) of the Tribally Controlled Community College Assistance Act (25 U.S.C. 1813(b)(2)) is amended—

(i) by striking “1201(a)” and inserting “101”; and

(ii) by striking “(20 U.S.C. 1141(a))”.

(D) AMERICAN INDIAN TEACHER TRAINING.—Section 1371(a)(1)(B) of the Higher Education Amendments of 1992 (25 U.S.C. 3371(a)(1)(B)) is amended by striking “1201(a)” and inserting “101”.

(9) LABOR.—

(A) REHABILITATION DEFINITIONS.—Section 6(23) of the Rehabilitation Act of 1973 (29 U.S.C. 705(23)) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(B) TECHNOLOGY RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.—Section 3(8) of the Technology Related Assistance for Individuals with Disabilities Act of 1988 (29 U.S.C. 2202(8)) is amended by striking “1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))” and inserting “101 of the Higher Education Act of 1965”.

(10) SURFACE MINING CONTROL.—Section 701(32) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291(32)) is amended by striking “1201(a)” and inserting “101”.

(11) POLLUTION PREVENTION.—Section 112(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1262(a)(1)) is amended by striking “1201” and inserting “101”.

(12) POSTAL SERVICE.—Section 3626(b)(3) of title 39, United States Code, is amended—

- (A) by striking “1201(a)” and inserting “101”; and
- (B) by striking “(20 U.S.C. 1141(a))”.

(13) PUBLIC HEALTH AND WELFARE.—

(A) PUBLIC HEALTH SERVICE ACT.—Section 705(a)(2)(C) of the Public Health Service Act (42 U.S.C. 292d(a)(2)(C)) is amended by striking “section 481(a)” and inserting “section 102(a)”.

(B) SCIENTIFIC AND TECHNICAL EDUCATION.—Section 3(g) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(g)) is amended—

- (i) in paragraph (2)—
  - (I) by striking “1201(a)” and inserting “101”; and
  - (II) by striking “(20 U.S.C. 1141(a))”; and
- (ii) in paragraph (3)—
  - (I) by striking “1201(a)” and inserting “101”; and
  - (II) by striking “(20 U.S.C. 1141(a))”.

(C) OLDER AMERICANS.—Section 102(32) of the Older Americans Act of 1965 (42 U.S.C. 3002(32)) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(D) JUSTICE SYSTEM IMPROVEMENT.—Section 901(17) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(17)) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(E) ENERGY TECHNOLOGY COMMERCIALIZATION SERVICES PROGRAM.—Section 362(f)(5)(A) of the Energy Policy and Conservation Act (42 U.S.C. 6322(f)(5)(A)) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(F) ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Section 3132(b)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (42 U.S.C. 7274e(b)(1)) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(G) HEAD START.—Section 649(c)(3) of the Head Start Act (42 U.S.C. 9844(c)(3)) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(H) STATE DEPENDENT CARE DEVELOPMENT GRANTS.—Section 670G(5) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9877(5)) is amended by striking “1201(a)” and inserting “101”.

(I) INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.—The matter preceding subparagraph (A) of section 682(b)(1) of the Community Services Block Grant Act (42 U.S.C. 9910c(b)(1)) is amended by striking “1201(a)” and inserting “101”.

(J) DRUG ABUSE EDUCATION.—Section 3601(7) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11851(7)) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(K) NATIONAL AND COMMUNITY SERVICE.—Section 101(13) of the National and Community Service Act of 1990 (42 U.S.C. 12511(13)) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(L) CIVILIAN COMMUNITY CORPS.—Section 166(6) of the National and Community Service Act of 1990 (42 U.S.C. 12626(6)) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(M) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 457(9) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899f(9)) is amended by striking “1201(a)” and inserting “101”.

(N) COMMUNITY SCHOOLS YOUTH SERVICES AND SUPERVISION GRANT PROGRAM.—The definition of public school in section 30401(b) of the Community Schools Youth Services and Supervision Grant Program Act of 1994 (42 U.S.C. 13791(b)) is amended—

- (i) by striking “1201” each place the term appears and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(i))”.

(O) POLICE CORPS.—The definition of institution of higher education in section 200103 of the Police Corps Act (42 U.S.C. 14092) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(P) LAW ENFORCEMENT SCHOLARSHIP PROGRAM.—The definition of institution of higher education in section 200202 of the Law Enforcement Scholarship and Recruitment Act (42 U.S.C. 14111) is amended—

- (i) by striking “1201(a)” and inserting “101”; and
- (ii) by striking “(20 U.S.C. 1141(a))”.

(14) TELECOMMUNICATIONS.—Section 223(h)(4) of the Telecommunications Act of 1934 (47 U.S.C. 223(h)(4)) is amended—

- (A) by striking “1201” and inserting “101”; and
- (B) by striking “(20 U.S.C. 1141)”.

(15) WAR AND NATIONAL DEFENSE.—Section 808(3) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1908(3)) is amended—

(A) by striking “1201(a)” and inserting “101”; and

(B) by striking “(20 U.S.C. 1141(a))”.

(b) INTERNAL CROSS REFERENCES.—The Act (20 U.S.C. 1001 et seq.) is amended—

(1) in section 402A(c)(2) (20 U.S.C. 1070a-11(c)(2)), by striking “1210” and inserting “118”;

(2) in section 435(a) (20 U.S.C. 1085(a)), by striking “section 481” and inserting “section 102”;

(3) in section 485(f)(1)(I) (20 U.S.C. 1092(f)(1)(I)), by striking “1213” and inserting “120”;

(4) in section 487(d) (20 U.S.C. 1094(d)), by striking “section 481” and inserting “section 102”;

(5) in subsections (j) and (k) of section 496 (20 U.S.C. 1099b), by striking “section 481” each place the term appears and inserting “section 102”;

(6) in section 498(i) (20 U.S.C. 1099c) is amended by striking “section 481” and inserting “section 102”;

(7) in section 498(j) (20 U.S.C. 1099c(j))—

(A) in paragraph (1), by striking “sections 481(b)(5) and 481(c)(3)” and inserting “sections 102(b)(1)(E) and 102(c)(1)(C)”;

(B) in paragraph (2), by striking “1201(a)(2)” and inserting “101(a)(2)”;

(8) in section 631(a)(8) (20 U.S.C. 1132(a)(8))—

(A) by striking “section 1201(a)” each place the term appears and inserting “section 101”;

(B) by striking “of 1201(a)” and inserting “of section 101”.

(c) ADDITIONAL CONFORMING AMENDMENTS CORRECTING REFERENCES TO SECTION 481.—

(1) SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994.—Section 4 of the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6103) is amended—

(A) in paragraph (11)(B)(viii), by striking “section 481(b)” and inserting “section 102(b)”;

(B) in paragraph (12), by striking “section 481” and inserting “section 102”.

(2) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Section 148(g) of the National and Community Service Act of 1990 (42 U.S.C. 12604(g)) is amended by striking “section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a))” and inserting “section 102 of the Higher Education Act of 1965”.

(d) WORKFORCE INVESTMENT ACT OF 1998.—The Workforce Investment Act of 1998 is amended—

(1) in section 101(35) (29 U.S.C. 2801(35)), by striking “section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088)” and inserting “section 102 of the Higher Education Act of 1965”;

(2) in section 203(11) (20 U.S.C. 9202(11)), by striking “section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)” and inserting “section 101 of the Higher Education Act of 1965”.

## TITLE II—TEACHER QUALITY

### SEC. 201. TEACHER QUALITY ENHANCEMENT GRANTS.

The Act is amended by inserting after title I (20 U.S.C. 1001 et seq.) the following:

## “TITLE II—TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS

### “SEC. 201. PURPOSES; DEFINITIONS.

20 USC 1021.

“(a) PURPOSES.—The purposes of this title are to—

“(1) improve student achievement;

“(2) improve the quality of the current and future teaching force by improving the preparation of prospective teachers and enhancing professional development activities;

“(3) hold institutions of higher education accountable for preparing teachers who have the necessary teaching skills and are highly competent in the academic content areas in which the teachers plan to teach, such as mathematics, science, English, foreign languages, history, economics, art, civics, Government, and geography, including training in the effective uses of technology in the classroom; and

“(4) recruit highly qualified individuals, including individuals from other occupations, into the teaching force.

“(b) DEFINITIONS.—In this title:

“(1) ARTS AND SCIENCES.—The term ‘arts and sciences’ means—

“(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers 1 or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

“(B) when referring to a specific academic subject matter area, the disciplines or content areas in which academic majors are offered by the arts and science organizational unit.

“(2) HIGH NEED LOCAL EDUCATIONAL AGENCY.—The term ‘high need local educational agency’ means a local educational agency that serves an elementary school or secondary school located in an area in which there is—

“(A) a high percentage of individuals from families with incomes below the poverty line;

“(B) a high percentage of secondary school teachers not teaching in the content area in which the teachers were trained to teach; or

“(C) a high teacher turnover rate.

“(3) POVERTY LINE.—The term ‘poverty line’ means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

20 USC 1022.

**“SEC. 202. STATE GRANTS.**

“(a) **IN GENERAL.**—From amounts made available under section 210(1) for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible States to enable the eligible States to carry out the activities described in subsection (d).

“(b) **ELIGIBLE STATE.**—

“(1) **DEFINITION.**—In this title, the term ‘eligible State’ means—

“(A) the Governor of a State; or

“(B) in the case of a State for which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for teacher certification and preparation activity, such individual, entity, or agency.

“(2) **CONSULTATION.**—The Governor and the individual, entity, or agency designated under paragraph (1) shall consult with the Governor, State board of education, State educational agency, or State agency for higher education, as appropriate, with respect to the activities assisted under this section.

“(3) **CONSTRUCTION.**—Nothing in this subsection shall be construed to negate or supersede the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

“(c) **APPLICATION.**—To be eligible to receive a grant under this section, an eligible State shall, at the time of the initial grant application, submit an application to the Secretary that—

“(1) meets the requirement of this section;

“(2) includes a description of how the eligible State intends to use funds provided under this section; and

“(3) contains such other information and assurances as the Secretary may require.

“(d) **USES OF FUNDS.**—An eligible State that receives a grant under this section shall use the grant funds to reform teacher preparation requirements, and to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas in which the teachers are assigned to teach, by carrying out 1 or more of the following activities:

“(1) **REFORMS.**—Implementing reforms that hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach, and possess strong teaching skills, which may include the use of rigorous subject matter competency tests and the requirement that a teacher have an academic major in the subject area, or related discipline, in which the teacher plans to teach.

“(2) **CERTIFICATION OR LICENSURE REQUIREMENTS.**—Reforming teacher certification or licensure requirements to ensure that teachers have the necessary teaching skills and academic content knowledge in the subject areas in which teachers are assigned to teach.

“(3) **ALTERNATIVES TO TRADITIONAL PREPARATION FOR TEACHING.**—Providing prospective teachers with alternatives to



traditional preparation for teaching through programs at colleges of arts and sciences or at nonprofit educational organizations.

“(4) ALTERNATIVE ROUTES TO STATE CERTIFICATION.—Carrying out programs that—

“(A) include support during the initial teaching experience; and

“(B) establish, expand, or improve alternative routes to State certification of teachers for highly qualified individuals, including mid-career professionals from other occupations, paraprofessionals, former military personnel and recent college graduates with records of academic distinction.

“(5) RECRUITMENT; PAY; REMOVAL.—Developing and implementing effective mechanisms to ensure that local educational agencies and schools are able to effectively recruit highly qualified teachers, to financially reward those teachers and principals whose students have made significant progress toward high academic performance, such as through performance-based compensation systems and access to ongoing professional development opportunities for teachers and administrators, and to expeditiously remove incompetent or unqualified teachers consistent with procedures to ensure due process for the teachers.

“(6) SOCIAL PROMOTION.—Development and implementation of efforts to address the problem of social promotion and to prepare teachers to effectively address the issues raised by ending the practice of social promotion.

“(7) RECRUITMENT.—Activities described in section 204(d).

**“SEC. 203. PARTNERSHIP GRANTS.**

20 USC 1023.

“(a) GRANTS.—From amounts made available under section 210(2) for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible partnerships to enable the eligible partnerships to carry out the activities described in subsections (d) and (e).

“(b) DEFINITIONS.—

“(1) ELIGIBLE PARTNERSHIPS.—In this title, the term ‘eligible partnerships’ means an entity that—

“(A) shall include—

“(i) a partner institution;

“(ii) a school of arts and sciences; and

“(iii) a high need local educational agency; and

“(B) may include a Governor, State educational agency, the State board of education, the State agency for higher education, an institution of higher education not described in subparagraph (A), a public charter school, a public or private elementary school or secondary school, a public or private nonprofit educational organization, a business, a teacher organization, or a prekindergarten program.

“(2) PARTNER INSTITUTION.—In this section, the term ‘partner institution’ means a private independent or State-supported public institution of higher education, the teacher training program of which demonstrates that—

“(A) graduates from the teacher training program exhibit strong performance on State-determined qualifying assessments for new teachers through—

“(i) demonstrating that 80 percent or more of the graduates of the program who intend to enter the field of teaching have passed all of the applicable State qualification assessments for new teachers, which shall include an assessment of each prospective teacher’s subject matter knowledge in the content area or areas in which the teacher intends to teach; or

“(ii) being ranked among the highest-performing teacher preparation programs in the State as determined by the State—

“(I) using criteria consistent with the requirements for the State report card under section 207(b); and

“(II) using the State report card on teacher preparation required under section 207(b), after the first publication of such report card and for every year thereafter; or

“(B) the teacher training program requires all the students of the program to participate in intensive clinical experience, to meet high academic standards, and—

“(i) in the case of secondary school candidates, to successfully complete an academic major in the subject area in which the candidate intends to teach or to demonstrate competence through a high level of performance in relevant content areas; and

“(ii) in the case of elementary school candidates, to successfully complete an academic major in the arts and sciences or to demonstrate competence through a high level of performance in core academic subject areas.

“(c) APPLICATION.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

“(1) contain a needs assessment of all the partners with respect to teaching and learning and a description of how the partnership will coordinate with other teacher training or professional development programs, and how the activities of the partnership will be consistent with State, local, and other education reform activities that promote student achievement;

“(2) contain a resource assessment that describes the resources available to the partnership, the intended use of the grant funds, including a description of how the grant funds will be fairly distributed in accordance with subsection (f), and the commitment of the resources of the partnership to the activities assisted under this title, including financial support, faculty participation, time commitments, and continuation of the activities when the grant ends; and

“(3) contain a description of—

“(A) how the partnership will meet the purposes of this title;

“(B) how the partnership will carry out the activities required under subsection (d) and any permissible activities under subsection (e); and

“(C) the partnership’s evaluation plan pursuant to section 206(b).

“(d) **REQUIRED USES OF FUNDS.**—An eligible partnership that receives a grant under this section shall use the grant funds to carry out the following activities:

“(1) **REFORMS.**—Implementing reforms within teacher preparation programs to hold the programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach, and for promoting strong teaching skills, including working with a school of arts and sciences and integrating reliable research-based teaching methods into the curriculum, which curriculum shall include programs designed to successfully integrate technology into teaching and learning.

“(2) **CLINICAL EXPERIENCE AND INTERACTION.**—Providing sustained and high quality preservice clinical experience including the mentoring of prospective teachers by veteran teachers, and substantially increasing interaction between faculty at institutions of higher education and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools, and providing support, including preparation time, for such interaction.

“(3) **PROFESSIONAL DEVELOPMENT.**—Creating opportunities for enhanced and ongoing professional development that improves the academic content knowledge of teachers in the subject areas in which the teachers are certified to teach or in which the teachers are working toward certification to teach, and that promotes strong teaching skills.

“(e) **ALLOWABLE USES OF FUNDS.**—An eligible partnership that receives a grant under this section may use such funds to carry out the following activities:

“(1) **TEACHER PREPARATION AND PARENT INVOLVEMENT.**—Preparing teachers to work with diverse student populations, including individuals with disabilities and limited English proficient individuals, and involving parents in the teacher preparation program reform process.

“(2) **DISSEMINATION AND COORDINATION.**—Broadly disseminating information on effective practices used by the partnership, and coordinating with the activities of the Governor, State board of education, State higher education agency, and State educational agency, as appropriate.

“(3) **MANAGERIAL AND LEADERSHIP SKILLS.**—Developing and implementing proven mechanisms to provide principals and superintendents with effective managerial and leadership skills that result in increased student achievement.

“(4) **TEACHER RECRUITMENT.**—Activities described in section 204(d).

“(f) **SPECIAL RULE.**—No individual member of an eligible partnership shall retain more than 50 percent of the funds made available to the partnership under this section.

“(g) **CONSTRUCTION.**—Nothing in this section shall be construed to prohibit an eligible partnership from using grant funds to coordinate with the activities of more than one Governor, State board of education, State educational agency, local educational agency, or State agency for higher education.

**“SEC. 204. TEACHER RECRUITMENT GRANTS.**

20 USC 1024.

“(a) **PROGRAM AUTHORIZED.**—From amounts made available under section 210(3) for a fiscal year, the Secretary is authorized

to award grants, on a competitive basis, to eligible applicants to enable the eligible applicants to carry out activities described in subsection (d).

“(b) ELIGIBLE APPLICANT DEFINED.—In this title, the term ‘eligible applicant’ means—

“(1) an eligible State described in section 202(b); or

“(2) an eligible partnership described in section 203(b).

“(c) APPLICATION.—Any eligible applicant desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require, including—

“(1) a description of the assessment that the eligible applicant, and the other entities with whom the eligible applicant will carry out the grant activities, have undertaken to determine the most critical needs of the participating high-need local educational agencies;

“(2) a description of the activities the eligible applicant will carry out with the grant; and

“(3) a description of the eligible applicant’s plan for continuing the activities carried out with the grant, once Federal funding ceases.

“(d) USES OF FUNDS.—Each eligible applicant receiving a grant under this section shall use the grant funds—

“(1)(A) to award scholarships to help students pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program;

“(B) to provide support services, if needed to enable scholarship recipients to complete postsecondary education programs; and

“(C) for followup services provided to former scholarship recipients during the recipients first 3 years of teaching; or

“(2) to develop and implement effective mechanisms to ensure that high need local educational agencies and schools are able to effectively recruit highly qualified teachers.

“(e) SERVICE REQUIREMENTS.—The Secretary shall establish such requirements as the Secretary finds necessary to ensure that recipients of scholarships under this section who complete teacher education programs subsequently teach in a high-need local educational agency, for a period of time equivalent to the period for which the recipients receive scholarship assistance, or repay the amount of the scholarship. The Secretary shall use any such repayments to carry out additional activities under this section.

20 USC 1025.

**“SEC. 205. ADMINISTRATIVE PROVISIONS.**

“(a) DURATION; ONE-TIME AWARDS; PAYMENTS.—

“(1) DURATION.—

“(A) ELIGIBLE STATES AND ELIGIBLE APPLICANTS.—Grants awarded to eligible States and eligible applicants under this title shall be awarded for a period not to exceed 3 years.

“(B) ELIGIBLE PARTNERSHIPS.—Grants awarded to eligible partnerships under this title shall be awarded for a period of 5 years.

“(2) ONE-TIME AWARD.—An eligible State and an eligible partnership may receive a grant under each of sections 202, 203, and 204 only once.

“(3) PAYMENTS.—The Secretary shall make annual payments of grant funds awarded under this part.

“(b) PEER REVIEW.—

“(1) PANEL.—The Secretary shall provide the applications submitted under this title to a peer review panel for evaluation. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

“(2) PRIORITY.—In recommending applications to the Secretary for funding under this title, the panel shall—

“(A) with respect to grants under section 202, give priority to eligible States serving States that—

“(i) have initiatives to reform State teacher certification requirements that are designed to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas in which the teachers are certified or licensed to teach;

“(ii) include innovative reforms to hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content area in which the teachers plan to teach and have strong teaching skills; or

“(iii) involve the development of innovative efforts aimed at reducing the shortage of highly qualified teachers in high poverty urban and rural areas;

“(B) with respect to grants under section 203—

“(i) give priority to applications from eligible partnerships that involve businesses; and

“(ii) take into consideration—

“(I) providing an equitable geographic distribution of the grants throughout the United States; and

“(II) the potential of the proposed activities for creating improvement and positive change.

“(3) SECRETARIAL SELECTION.—The Secretary shall determine, based on the peer review process, which application shall receive funding and the amounts of the grants. In determining grant amounts, the Secretary shall take into account the total amount of funds available for all grants under this title and the types of activities proposed to be carried out.

“(c) MATCHING REQUIREMENTS.—

“(1) STATE GRANTS.—Each eligible State receiving a grant under section 202 or 204 shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (in cash or in kind) to carry out the activities supported by the grant.

“(2) PARTNERSHIP GRANTS.—Each eligible partnership receiving a grant under section 203 or 204 shall provide, from non-Federal sources (in cash or in kind), an amount equal to 25 percent of the grant for the first year of the grant, 35 percent of the grant for the second year of the grant, and 50 percent of the grant for each succeeding year of the grant.

“(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—An eligible State or eligible partnership that receives a grant under this title may not use more than 2 percent of the grant funds for purposes of administering the grant.

“(e) **TEACHER QUALIFICATIONS PROVIDED TO PARENTS UPON REQUEST.**—Any local educational agency or school that benefits from the activities assisted under this title shall make available, upon request and in an understandable and uniform format, to any parent of a student attending any school served by the local educational agency, information regarding the qualification of the student’s classroom teacher with regard to the subject matter in which the teacher provides instruction. The local educational agency shall inform parents that the parents are entitled to receive the information upon request.

20 USC 1026.

**“SEC. 206. ACCOUNTABILITY AND EVALUATION.**

“(a) **STATE GRANT ACCOUNTABILITY REPORT.**—An eligible State that receives a grant under section 202 shall submit an annual accountability report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives. Such report shall include a description of the degree to which the eligible State, in using funds provided under such section, has made substantial progress in meeting the following goals:

“(1) **STUDENT ACHIEVEMENT.**—Increasing student achievement for all students as defined by the eligible State.

“(2) **RAISING STANDARDS.**—Raising the State academic standards required to enter the teaching profession, including, where appropriate, through the use of incentives to incorporate the requirement of an academic major in the subject, or related discipline, in which the teacher plans to teach.

“(3) **INITIAL CERTIFICATION OR LICENSURE.**—Increasing success in the pass rate for initial State teacher certification or licensure, or increasing the numbers of highly qualified individuals being certified or licensed as teachers through alternative programs.

“(4) **CORE ACADEMIC SUBJECTS.**—

“(A) **SECONDARY SCHOOL CLASSES.**—Increasing the percentage of secondary school classes taught in core academic subject areas by teachers—

“(i) with academic majors in those areas or in a related field;

“(ii) who can demonstrate a high level of competence through rigorous academic subject area tests; or

“(iii) who can demonstrate competence through a high level of performance in relevant content areas.

“(B) **ELEMENTARY SCHOOL CLASSES.**—Increasing the percentage of elementary school classes taught by teachers—

“(i) with academic majors in the arts and sciences; or

“(ii) who can demonstrate competence through a high level of performance in core academic subjects.

“(5) **DECREASING TEACHER SHORTAGES.**—Decreasing shortages of qualified teachers in poor urban and rural areas.

“(6) **INCREASING OPPORTUNITIES FOR PROFESSIONAL DEVELOPMENT.**—Increasing opportunities for enhanced and ongoing professional development that improves the academic content knowledge of teachers in the subject areas in which the teachers are certified or licensed to teach or in which the teachers

are working toward certification or licensure to teach, and that promotes strong teaching skills.

“(7) TECHNOLOGY INTEGRATION.—Increasing the number of teachers prepared to integrate technology in the classroom.

“(b) ELIGIBLE PARTNERSHIP EVALUATION.—Each eligible partnership receiving a grant under section 203 shall establish and include in the application submitted under section 203(c), an evaluation plan that includes strong performance objectives. The plan shall include objectives and measures for—

“(1) increased student achievement for all students as measured by the partnership;

“(2) increased teacher retention in the first 3 years of a teacher’s career;

“(3) increased success in the pass rate for initial State certification or licensure of teachers; and

“(4) increased percentage of secondary school classes taught in core academic subject areas by teachers—

“(A) with academic majors in the areas or in a related field; and

“(B) who can demonstrate a high level of competence through rigorous academic subject area tests or who can demonstrate competence through a high level of performance in relevant content areas;

“(5) increasing the percentage of elementary school classes taught by teachers with academic majors in the arts and sciences or who demonstrate competence through a high level of performance in core academic subject areas; and

“(6) increasing the number of teachers trained in technology.

“(c) REVOCATION OF GRANT.—

“(1) REPORT.—Each eligible State or eligible partnership receiving a grant under this title shall report annually on the progress of the eligible State or eligible partnership toward meeting the purposes of this title and the goals, objectives, and measures described in subsections (a) and (b).

“(2) REVOCATION.—

“(A) ELIGIBLE STATES AND ELIGIBLE APPLICANTS.—If the Secretary determines that an eligible State or eligible applicant is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the second year of a grant under this title, then the grant payment shall not be made for the third year of the grant.

“(B) ELIGIBLE PARTNERSHIPS.—If the Secretary determines that an eligible partnership is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the third year of a grant under this title, then the grant payments shall not be made for any succeeding year of the grant.

“(d) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate the activities funded under this title and report the Secretary’s findings regarding the activities to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives. The Secretary shall broadly disseminate successful practices developed by eligible States and eligible partnerships under this title, and

shall broadly disseminate information regarding such practices that were found to be ineffective.

20 USC 1027.

**“SEC. 207. ACCOUNTABILITY FOR PROGRAMS THAT PREPARE TEACHERS.**

Deadline.

“(a) DEVELOPMENT OF DEFINITIONS AND REPORTING METHODS.—Within 9 months of the date of enactment of the Higher Education Amendments of 1998, the Commissioner of the National Center for Education Statistics, in consultation with States and institutions of higher education, shall develop key definitions for terms, and uniform reporting methods (including the key definitions for the consistent reporting of pass rates), related to the performance of elementary school and secondary school teacher preparation programs.

“(b) STATE REPORT CARD ON THE QUALITY OF TEACHER PREPARATION.—Each State that receives funds under this Act shall provide to the Secretary, within 2 years of the date of enactment of the Higher Education Amendments of 1998, and annually thereafter, in a uniform and comprehensible manner that conforms with the definitions and methods established in subsection (a), a State report card on the quality of teacher preparation in the State, which shall include at least the following:

“(1) A description of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the State.

“(2) The standards and criteria that prospective teachers must meet in order to attain initial teacher certification or licensure and to be certified or licensed to teach particular subjects or in particular grades within the State.

“(3) A description of the extent to which the assessments and requirements described in paragraph (1) are aligned with the State’s standards and assessments for students.

“(4) The percentage of teaching candidates who passed each of the assessments used by the State for teacher certification and licensure, and the passing score on each assessment that determines whether a candidate has passed that assessment.

“(5) The percentage of teaching candidates who passed each of the assessments used by the State for teacher certification and licensure, disaggregated and ranked, by the teacher preparation program in that State from which the teacher candidate received the candidate’s most recent degree, which shall be made available widely and publicly.

“(6) Information on the extent to which teachers in the State are given waivers of State certification or licensure requirements, including the proportion of such teachers distributed across high- and low-poverty school districts and across subject areas.

“(7) A description of each State’s alternative routes to teacher certification, if any, and the percentage of teachers certified through alternative certification routes who pass State teacher certification or licensure assessments.

“(8) For each State, a description of proposed criteria for assessing the performance of teacher preparation programs within institutions of higher education in the State, including indicators of teacher candidate knowledge and skills.



“(9) Information on the extent to which teachers or prospective teachers in each State are required to take examinations or other assessments of their subject matter knowledge in the area or areas in which the teachers provide instruction, the standards established for passing any such assessments, and the extent to which teachers or prospective teachers are required to receive a passing score on such assessments in order to teach in specific subject areas or grade levels.

“(c) INITIAL REPORT.—

“(1) IN GENERAL.—Each State that receives funds under this Act, not later than 6 months of the date of enactment of the Higher Education Amendments of 1998 and in a uniform and comprehensible manner, shall submit to the Secretary the information described in paragraphs (1), (5), and (6) of subsection (b). Such information shall be compiled by the Secretary and submitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 9 months after the date of enactment of the Higher Education Amendments of 1998.

Deadline.

Records.

“(2) CONSTRUCTION.—Nothing in this subsection shall be construed to require a State to gather information that is not in the possession of the State or the teacher preparation programs in the State, or readily available to the State or teacher preparation programs.

“(d) REPORT OF THE SECRETARY ON THE QUALITY OF TEACHER PREPARATION.—

“(1) REPORT CARD.—The Secretary shall provide to Congress, and publish and make widely available, a report card on teacher qualifications and preparation in the United States, including all the information reported in paragraphs (1) through (9) of subsection (b). Such report shall identify States for which eligible States and eligible partnerships received a grant under this title. Such report shall be so provided, published and made available not later than 2 years 6 months after the date of enactment of the Higher Education Amendments of 1998 and annually thereafter.

Publication.  
Public  
information.

“(2) REPORT TO CONGRESS.—The Secretary shall report to Congress—

“(A) a comparison of States’ efforts to improve teaching quality; and

“(B) regarding the national mean and median scores on any standardized test that is used in more than 1 State for teacher certification or licensure.

“(3) SPECIAL RULE.—In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification or licensure assessment during an academic year, the Secretary shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over a 3-year period.

Records.  
Publication.

“(e) COORDINATION.—The Secretary, to the extent practicable, shall coordinate the information collected and published under this title among States for individuals who took State teacher certification or licensure assessments in a State other than the State in which the individual received the individual’s most recent degree.

Records.  
Publication.

“(f) INSTITUTIONAL REPORT CARDS ON THE QUALITY OF TEACHER PREPARATION.—

Deadline.  
Reports.  
Public  
information.

“(1) REPORT CARD.—Each institution of higher education that conducts a teacher preparation program that enrolls students receiving Federal assistance under this Act, not later than 18 months after the date of enactment of the Higher Education Amendments of 1998 and annually thereafter, shall report to the State and the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established under subsection (a), the following information:

“(A) PASS RATE.—(i) For the most recent year for which the information is available, the pass rate of the institution’s graduates on the teacher certification or licensure assessments of the State in which the institution is located, but only for those students who took those assessments within 3 years of completing the program.

“(ii) A comparison of the program’s pass rate with the average pass rate for programs in the State.

“(iii) In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification or licensure assessment during an academic year, the institution shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over a 3-year period.

“(B) PROGRAM INFORMATION.—The number of students in the program, the average number of hours of supervised practice teaching required for those in the program, and the faculty-student ratio in supervised practice teaching.

“(C) STATEMENT.—In States that approve or accredit teacher education programs, a statement of whether the institution’s program is so approved or accredited.

“(D) DESIGNATION AS LOW-PERFORMING.—Whether the program has been designated as low-performing by the State under section 208(a).

“(2) REQUIREMENT.—The information described in paragraph (1) shall be reported through publications such as school catalogs and promotional materials sent to potential applicants, secondary school guidance counselors, and prospective employers of the institution’s program graduates.

“(3) FINES.—In addition to the actions authorized in section 487(c), the Secretary may impose a fine not to exceed \$25,000 on an institution of higher education for failure to provide the information described in this subsection in a timely or accurate manner.

20 USC 1028.

**“SEC. 208. STATE FUNCTIONS.**

Deadline.  
Procedures.

“(a).STATE ASSESSMENT.—In order to receive funds under this Act, a State, not later than 2 years after the date of enactment of the Higher Education Amendments of 1998, shall have in place a procedure to identify, and assist, through the provision of technical assistance, low-performing programs of teacher preparation within institutions of higher education. Such State shall provide the Secretary an annual list of such low-performing institutions that includes an identification of those institutions at-risk of being placed on such list. Such levels of performance shall be determined solely by the State and may include criteria based upon information collected pursuant to this title. Such assessment shall be described in the report under section 207(b).

Records.

“(b) **TERMINATION OF ELIGIBILITY.**—Any institution of higher education that offers a program of teacher preparation in which the State has withdrawn the State’s approval or terminated the State’s financial support due to the low performance of the institution’s teacher preparation program based upon the State assessment described in subsection (a)—

“(1) shall be ineligible for any funding for professional development activities awarded by the Department of Education; and

“(2) shall not be permitted to accept or enroll any student that receives aid under title IV of this Act in the institution’s teacher preparation program.

“(c) **NEGOTIATED RULEMAKING.**—If the Secretary develops any regulations implementing subsection (b)(2), the Secretary shall submit such proposed regulations to a negotiated rulemaking process, which shall include representatives of States, institutions of higher education, and educational and student organizations.

**“SEC. 209. GENERAL PROVISIONS.**

20 USC 1029.

“(a) **METHODS.**—In complying with sections 207 and 208, the Secretary shall ensure that States and institutions of higher education use fair and equitable methods in reporting and that the reporting methods protect the privacy of individuals.

“(b) **SPECIAL RULE.**—For each State in which there are no State certification or licensure assessments, or for States that do not set minimum performance levels on those assessments—

“(1) the Secretary shall, to the extent practicable, collect data comparable to the data required under this title from States, local educational agencies, institutions of higher education, or other entities that administer such assessments to teachers or prospective teachers; and

“(2) notwithstanding any other provision of this title, the Secretary shall use such data to carry out requirements of this title related to assessments or pass rates.

“(c) **LIMITATIONS.**—

“(1) **FEDERAL CONTROL PROHIBITED.**—Nothing in this title shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to prohibit private, religious, or home schools from participation in programs or services under this title.

“(2) **NO CHANGE IN STATE CONTROL ENCOURAGED OR REQUIRED.**—Nothing in this title shall be construed to encourage or require any change in a State’s treatment of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law.

“(3) **NATIONAL SYSTEM OF TEACHER CERTIFICATION PROHIBITED.**—Nothing in this title shall be construed to permit, allow, encourage, or authorize the Secretary to establish or support any national system of teacher certification.

**“SEC. 210. AUTHORIZATION OF APPROPRIATIONS.**

20 USC 1030.

“There are authorized to be appropriated to carry out this title \$300,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years, of which—

“(1) 45 percent shall be available for each fiscal year to award grants under section 202;

“(2) 45 percent shall be available for each fiscal year to award grants under section 203; and

“(3) 10 percent shall be available for each fiscal year to award grants under section 204.”.

## TITLE III—INSTITUTIONAL AID

### SEC. 301. TRANSFERS AND REDESIGNATIONS.

(a) IN GENERAL.—The Higher Education Act of 1965 is amended—

(1) by redesignating part D of title III (20 U.S.C. 1066 et seq.) as part F of title III;

20 USC 1066 et  
seq., 1068 et seq.

(2) by redesignating sections 351, 352, 353, 354, 356, 357, 358, and 360 (20 U.S.C. 1066, 1067, 1068, 1069, 1069b, 1069c, 1069d, and 1069f) as sections 391, 392, 393, 394, 395, 396, 397, and 399, respectively;

20 USC 1132 et  
seq., 1066 et seq.

(3) by transferring part B of title VII (20 U.S.C. 1132c et seq.) to title III to follow part C of title III (20 U.S.C. 1065 et seq.), and redesignating such part B as part D;

20 USC 1132 et  
seq., 1066 et seq.

(4) by redesignating sections 721 through 728 (20 U.S.C. 1132c and 1132c–7) as sections 341 through 348, respectively;

20 USC 1135b et  
seq., 1067a et seq.

(5) by transferring subparts 1 and 3 of part B of title X (20 U.S.C. 1135b et seq. and 1135d et seq.) to title III to follow part D of title III (as redesignated by paragraph (3)), and redesignating such subpart 3 as subpart 2;

(6) by inserting after part D of title III (as redesignated by paragraph (3)) the following:

### “PART E—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM”;

20 USC 1135b et  
seq., 1067a et seq.

(7) by redesignating sections 1021 through 1023 (20 U.S.C. 1135b and 1135b–2), and sections 1041, 1042, 1043, 1044, 1046, and 1047 (20 U.S.C. 1135d, 1135d–1, 1135d–2, 1135d–3, 1135d–5, and 1135d–6) as sections 351 through 353, and sections 361, 362, 363, 364, 365, and 366, respectively; and

20 USC 1067l.

(8) by repealing section 366 (as redesignated by paragraph (7)) (20 U.S.C. 1135d–6).

20 USC 1067g.

(b) CONFORMING AMENDMENTS.—Section 361 (as redesignated by subsection (a)(7)) (20 U.S.C. 1135d) is amended—

(1) in paragraph (1), by inserting “and” after the semicolon;

(2) in paragraph (2), by striking “; and” and inserting a period; and

(3) by striking paragraph (3).

(c) CROSS REFERENCES.—Title III (20 U.S.C. 1051 et seq.) is amended—

(1) in section 311(b) (20 U.S.C. 1057(b)), by striking “360(a)(1)” and inserting “399(a)(1)”;

(2) in section 312 (20 U.S.C. 1058)—

(A) in subsection (b)(1)(B), by striking “352(b)” and inserting “392(b)”;

(B) in subsection (c)(2), by striking “352(a)” and inserting “392(a)”;

- (3) in section 313(b) (20 U.S.C. 1059(b)), by striking “354(a)(1)” and inserting “394(a)(1)”;
- (4) in section 342 (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c-1)—
- (A) in paragraph (3), by striking “723(b)” and inserting “343(b)”;
- (B) in paragraph (4), by striking “723” and inserting “343”;
- (C) in the matter preceding subparagraph (A) of paragraph (5), by striking “724(b)” and inserting “344(b)”;
- (D) in paragraph (8), by striking “725(1)” and inserting “345(1)”;
- (E) in paragraph (9), by striking “727” and inserting “347”;
- (5) in section 343 (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c-2)—
- (A) in subsection (a), by striking “724” and inserting “344”; and
- (B) in subsection (b)—
- (i) in the matter preceding paragraph (1), by striking “725(1) and 726” and inserting “345(1) and 346”;
- (ii) in paragraph (10), by striking “724” and inserting “344”; and
- (iii) in subsection (d), by striking “723(c)(1)” and inserting “343(c)(1)”;
- (6) in section 345(2) (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c-4(2)), by striking “723” and inserting “343”;
- (7) in section 348 (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c-7), by striking “725(1)” and inserting “345(1)”;
- (8) in section 353(a) (as redesignated by subsection (a)(7)) (20 U.S.C. 1135b-2(a))—
- (A) in paragraph (1), by striking “1046(6)” and inserting “365(6)”;
- (B) in paragraph (2), by striking “1046(7)” and inserting “365(7)”;
- (C) in paragraph (3), by striking “1046(8)” and inserting “365(8)”;
- (D) in paragraph (4), by striking “1046(9)” and inserting “365(9)”;
- (9) in section 361(1) (as redesignated by subsection (a)(7)) (20 U.S.C. 1135d(1)), by striking “1046(3)” and inserting “365(3)”;
- (10) in section 362(a) (as redesignated by subsection (a)(7)) (20 U.S.C. 1135d-1(a))—
- (A) in the matter preceding paragraph (1), by striking “1041” and inserting “361”; and
- (B) in paragraph (1), by striking “1021(b)” and inserting “351(b)”;
- (11) in section 391(b)(6) (as redesignated by subsection (a)(2)), by striking “357” and inserting “396”.

**SEC. 302. FINDINGS.**

Section 301(a) (20 U.S.C. 1051(a)) is amended—

- (1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and
- (2) by inserting after paragraph (2) the following:

“(3) in order to be competitive and provide a high-quality education for all, institutions of higher education should improve their technological capacity and make effective use of technology;”.

**SEC. 303. STRENGTHENING INSTITUTIONS.**

(a) GRANTS.—Section 311 (20 U.S.C. 1057) is amended by adding at the end the following:

“(c) AUTHORIZED ACTIVITIES.—Grants awarded under this section shall be used for 1 or more of the following activities:

“(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

“(2) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including the integration of computer technology into institutional facilities to create smart buildings.

“(3) Support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the field of instruction of the faculty.

“(4) Development and improvement of academic programs.

“(5) Purchase of library books, periodicals, and other educational materials, including telecommunications program material.

“(6) Tutoring, counseling, and student service programs designed to improve academic success.

“(7) Funds management, administrative management, and acquisition of equipment for use in strengthening funds management.

“(8) Joint use of facilities, such as laboratories and libraries.

“(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

“(10) Establishing or improving an endowment fund.

“(11) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

“(12) Other activities proposed in the application submitted pursuant to subsection (c) that—

“(A) contribute to carrying out the purposes of the program assisted under this part; and

“(B) are approved by the Secretary as part of the review and acceptance of such application.

“(d) ENDOWMENT FUND.—

“(1) IN GENERAL.—An eligible institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at such institution.

“(2) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

“(3) COMPARABILITY.—The provisions of part C, regarding the establishment or increase of an endowment fund, that

Applicability.

the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).”.

(b) ENDOWMENT FUND DEFINITION.—Section 312 (as amended by section 301(c)(2)) (20 U.S.C. 1058) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

“(c) ENDOWMENT FUND.—For the purpose of this part, the term ‘endowment fund’ means a fund that—

“(1) is established by State law, by an institution of higher education, or by a foundation that is exempt from Federal income taxation;

“(2) is maintained for the purpose of generating income for the support of the institution; and

“(3) does not include real estate.”.

(c) DURATION OF GRANT.—Section 313 (20 U.S.C. 1059) is amended—

(1) in subsection (b), by inserting “subsection (c) and a grant under” before “section 394(a)(1)”; and

(2) by adding at the end the following:

“(d) WAIT-OUT-PERIOD.—Each eligible institution that received a grant under this part for a 5-year period shall not be eligible to receive an additional grant under this part until 2 years after the date on which the 5-year grant period terminates.”.

(d) APPLICATIONS.—Title III is amended by striking section 314 (20 U.S.C. 1059a) and inserting the following:

**“SEC. 314. APPLICATIONS.**

20 USC 1059a.

“Each eligible institution desiring to receive assistance under this part shall submit an application in accordance with the requirements of section 391.”.

(e) AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.—Section 316 (20 U.S.C. 1059c) is amended to read as follows:

**“SEC. 316. AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.**

“(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Indian Tribal Colleges and Universities to enable such institutions to improve and expand their capacity to serve Indian students.

“(b) DEFINITIONS.—In this section:

“(1) INDIAN.—The term ‘Indian’ has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978.

“(2) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978.

“(3) TRIBAL COLLEGE OR UNIVERSITY.—The term ‘Tribal College or University’ has the meaning give the term ‘tribally controlled college or university’ in section 2 of the Tribally Controlled College or University Assistance Act of 1978, and includes an institution listed in the Equity in Educational Land Grant Status Act of 1994.

“(4) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ means an institution of higher education as defined in section 101(a), except that paragraph (2) of such section shall not apply.

“(c) AUTHORIZED ACTIVITIES.—

“(1) IN GENERAL.—Grants awarded under this section shall be used by Tribal Colleges or Universities to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions’ capacity to serve Indian students.

“(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—The activities described in paragraph (1) may include—

“(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

“(B) construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

“(C) support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the faculty’s field of instruction;

“(D) academic instruction in disciplines in which Indians are underrepresented;

“(E) purchase of library books, periodicals, and other educational materials, including telecommunications program material;

“(F) tutoring, counseling, and student service programs designed to improve academic success;

“(G) funds management, administrative management, and acquisition of equipment for use in strengthening funds management;

“(H) joint use of facilities, such as laboratories and libraries;

“(I) establishing or improving a development office to strengthen or improve contributions from alumni and the private sector;

“(J) establishing or enhancing a program of teacher education designed to qualify students to teach in elementary schools or secondary schools, with a particular emphasis on teaching Indian children and youth, that shall include, as part of such program, preparation for teacher certification;

“(K) establishing community outreach programs that encourage Indian elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education; and

“(L) other activities proposed in the application submitted pursuant to subsection (d) that—

“(i) contribute to carrying out the activities described in subparagraphs (A) through (K); and

“(ii) are approved by the Secretary as part of the review and acceptance of such application.

“(3) ENDOWMENT FUND.—

“(A) IN GENERAL.—A Tribal College or University may use not more than 20 percent of the grant funds provided under this section to establish or increase an endowment fund at the institution.

“(B) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with subparagraph (A), the Tribal College or University shall provide matching



funds, in an amount equal to the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

“(C) COMPARABILITY.—The provisions of part C regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this paragraph, shall apply to funds used under subparagraph (A).

Applicability.

“(d) APPLICATION PROCESS.—

“(1) INSTITUTIONAL ELIGIBILITY.—To be eligible to receive assistance under this section, a Tribal College or University shall be an eligible institution under section 312(b).

“(2) APPLICATION.—Any Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, and in such manner, as the Secretary may by regulation reasonably require. Each such application shall include—

“(A) a 5-year plan for improving the assistance provided by the Tribal College or University to Indian students, increasing the rates at which Indian secondary school students enroll in higher education, and increasing overall postsecondary retention rates for Indian students; and

“(B) such enrollment data and other information and assurances as the Secretary may require to demonstrate compliance with paragraph (1).

“(3) SPECIAL RULE.—For the purposes of this part, no Tribal College or University that is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.”.

(f) ALASKA NATIVE AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.—Part A of title III (20 U.S.C. 1057 et seq.) is amended by adding at the end the following:

“SEC. 317. ALASKA NATIVE AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.

20 USC 1059d.

“(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Alaska Native-serving institutions and Native Hawaiian-serving institutions to enable such institutions to improve and expand their capacity to serve Alaska Natives and Native Hawaiians.

“(b) DEFINITIONS.—For the purpose of this section—

“(1) the term ‘Alaska Native’ has the meaning given the term in section 9308 of the Elementary and Secondary Education Act of 1965;

“(2) the term ‘Alaska Native-serving institution’ means an institution of higher education that—

“(A) is an eligible institution under section 312(b); and

“(B) at the time of application, has an enrollment of undergraduate students that is at least 20 percent Alaska Native students;

“(3) the term ‘Native Hawaiian’ has the meaning given the term in section 9212 of the Elementary and Secondary Education Act of 1965; and

“(4) the term ‘Native Hawaiian-serving institution’ means an institution of higher education which—

“(A) is an eligible institution under section 312(b); and

“(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Native Hawaiian students.

“(c) AUTHORIZED ACTIVITIES.—

“(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Alaska Native-serving institutions and Native Hawaiian-serving institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions’ capacity to serve Alaska Natives or Native Hawaiians.

“(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—

“(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

“(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

“(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in the faculty’s field of instruction;

“(D) curriculum development and academic instruction;

“(E) purchase of library books, periodicals, microfilm, and other educational materials;

“(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

“(G) joint use of facilities such as laboratories and libraries; and

“(H) academic tutoring and counseling programs and student support services.

“(d) APPLICATION PROCESS.—

“(1) INSTITUTIONAL ELIGIBILITY.—Each Alaska Native-serving institution and Native Hawaiian-serving institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is an Alaska Native-serving institution or a Native Hawaiian-serving institution as defined in subsection (b), along with such other information and data as the Secretary may by regulation require.

“(2) APPLICATIONS.—Any institution which is determined by the Secretary to be an Alaska Native-serving institution or a Native Hawaiian-serving institution may submit an application for assistance under this section to the Secretary. Such application shall include—

“(A) a 5-year plan for improving the assistance provided by the Alaska Native-serving institution or the Native Hawaiian-serving institution to Alaska Native or Native Hawaiian students; and

“(B) such other information and assurance as the Secretary may require.

“(e) SPECIAL RULE.—For the purposes of this section, no Alaska Native-serving institution or Native Hawaiian-serving institution which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.”.

**SEC. 304. STRENGTHENING HBCU’s.**

(a) GRANTS.—Section 323 (20 U.S.C. 1062) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following:

“(b) ENDOWMENT FUND.—

“(1) IN GENERAL.—An institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at the institution.

“(2) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

“(3) COMPARABILITY.—The provisions of part C regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).”; and  
(3) in subsection (c) (as redesignated by paragraph (1)), by striking paragraph (3).

Applicability.

(b) PROFESSIONAL OR GRADUATE INSTITUTIONS.—

(1) GENERAL AUTHORIZATION.—Section 326(a) (20 U.S.C. 1063b(a)) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting “in mathematics, engineering, or the physical or natural sciences” after “graduate education opportunities”; and

(ii) in paragraph (2)—

(I) by striking “\$500,000” and inserting “\$1,000,000”; and

(II) by striking “except that” and all that follows and inserting the following: “, except that no institution shall be required to match any portion of the first \$1,000,000 of the institution’s award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f), the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.”; and

(B) in subsection (d)(2), by striking “\$500,000” and inserting “\$1,000,000”.

(2) USE OF FUNDS.—Section 326(c) (20 U.S.C. 1063b(c)) is amended by striking paragraphs (1) through (3) and inserting the following:

“(1) purchase, rental or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

“(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

“(3) purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials;

“(4) scholarships, fellowships, and other financial assistance for needy graduate and professional students to permit the enrollment of the students in and completion of the doctoral degree in medicine, dentistry, pharmacy, veterinary medicine, law, and the doctorate degree in the physical or natural sciences, engineering, mathematics, or other scientific disciplines in which African Americans are underrepresented;

“(5) establish or improve a development office to strengthen and increase contributions from alumni and the private sector;

“(6) assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 331; and

“(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems.”.

(3) ELIGIBILITY.—Section 326(e) (20 U.S.C. 1063b(e)) is amended—

(A) in paragraph (1)—

(i) by striking “include—” and inserting “are the following”;

(ii) by inserting “and other qualified graduate programs” before the semicolon at the end of subparagraphs (E) through (J);

(iii) by striking “and” at the end of subparagraph (O); and

(iv) in subparagraph (P)—

(I) by inserting “University” after “State”; and

(II) by striking the period and inserting a semicolon; and

(III) by adding at the end the following:

“(Q) Norfolk State University qualified graduate programs; and

“(R) Tennessee State University qualified graduate programs.”;

(B) by striking paragraphs (2) and (3) and inserting the following:

“(2) QUALIFIED GRADUATE PROGRAM.—(A) For the purposes of this section, the term ‘qualified graduate program’ means a graduate or professional program that provides a program of instruction in the physical or natural sciences, engineering, mathematics, or other scientific discipline in which African Americans are underrepresented and has students enrolled in such program at the time of application for a grant under this section.

“(B) Notwithstanding the enrollment requirement contained in subparagraph (A), an institution may use an amount equal to not more than 10 percent of the institution’s grant under this section for the development of a new qualified graduate program.

“(3) SPECIAL RULE.—Institutions that were awarded grants under this section prior to October 1, 1998, shall continue to receive such grants, subject to the availability of appropriated funds, regardless of the eligibility of the institutions described in subparagraphs (Q) and (R) of paragraph (1).”; and

(C) by adding at the end the following:

“(5) INSTITUTIONAL CHOICE.—The president or chancellor of the institution may decide which graduate or professional school or qualified graduate program will receive funds under the grant in any 1 fiscal year, if the allocation of funds among the schools or programs is delineated in the application for funds submitted to the Secretary under this section.”.

(4) FUNDING RULE.—Section 326(f) (20 U.S.C. 1063b(f)) is amended—

(A) by striking “Of the amount appropriated” and inserting “Subject to subsection (g), of the amount appropriated”;

(B) in paragraph (1)—

(i) by striking “\$12,000,000” and inserting “\$26,600,000”; and

(ii) by striking “(A) through (E)” and inserting “(A) through (P)”;

(C) by striking paragraph (2) and inserting the following:

“(2) any amount in excess of \$26,600,000, but not in excess of \$28,600,000, shall be available for the purpose of making grants to institutions or programs described in subparagraphs (Q) and (R) of subsection (e)(1); and

“(3) any amount in excess of \$28,600,000, shall be made available to each of the institutions or programs identified in subparagraphs (A) through (R) pursuant to a formula developed by the Secretary that uses the following elements:

“(A) The ability of the institution to match Federal funds with non-Federal funds.

“(B) The number of students enrolled in the programs for which the eligible institution received funding under this section in the previous year.

“(C) The average cost of education per student, for all full-time graduate or professional students (or the equivalent) enrolled in the eligible professional or graduate school, or for doctoral students enrolled in the qualified graduate programs.

“(D) The number of students in the previous year who received their first professional or doctoral degree from the programs for which the eligible institution received funding under this section in the previous year.

“(E) The contribution, on a percent basis, of the programs for which the institution is eligible to receive funds under this section to the total number of African Americans receiving graduate or professional degrees in the professions or disciplines related to the programs for the previous year.”.

(5) HOLD HARMLESS RULE.—Section 326 is further amended by adding at the end the following new subsection:

“(g) HOLD HARMLESS RULE.—Notwithstanding paragraphs (2) and (3) of subsection (f), no institution or qualified program identified in subsection (e)(1) that received a grant for fiscal year 1998 and that is eligible to receive a grant in a subsequent fiscal year shall receive a grant amount in any such subsequent fiscal year that is less than the grant amount received for fiscal year 1998, unless the amount appropriated is not sufficient to provide such

grant amounts to all such institutions and programs, or the institution cannot provide sufficient matching funds to meet the requirements of this section.”.

**SEC. 305. ENDOWMENT CHALLENGE GRANTS.**

Section 331(b) (20 U.S.C. 1065(b)) is amended—

(1) in paragraph (1), by striking “360” and inserting “399”; and

(2) in paragraph (2), by striking subparagraphs (B) and (C) and inserting the following:

“(B) The Secretary may make a grant under this part to an eligible institution in any fiscal year if the institution—

“(i) applies for a grant in an amount not exceeding \$500,000; and

“(ii) has deposited in the eligible institution’s endowment fund established under this section an amount which is equal to ½ of the amount of such grant.

“(C) An eligible institution of higher education that is awarded a grant under subparagraph (B) shall not be eligible to receive an additional grant under subparagraph (B) until 10 years after the date on which the grant period terminates.”.

**SEC. 306. HBCU CAPITAL FINANCING.**

20 USC 1066a.

(a) DEFINITION.—Section 342(5) (as redesignated by section 301(a)(4)) (20 U.S.C. 1132c-1(5)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (G), and (H), respectively;

(2) by inserting after subparagraph (A) the following:

“(B) a facility for the administration of an educational program, or a student center or student union, except that not more than 5 percent of the loan proceeds provided under this part may be used for the facility, center or union if the facility, center or union is owned, leased, managed, or operated by a private business, that, in return for such use, makes a payment to the eligible institution;”;

(3) in subparagraph (C) (as redesignated by paragraph (1)), insert “technology,” after “instructional equipment”;

(4) by inserting after subparagraph (C) (as redesignated by paragraph (1)) the following:

“(D) a maintenance, storage, or utility facility that is essential to the operation of a facility, a library, a dormitory, equipment, instrumentation, a fixture, real property or an interest therein, described in this paragraph;

“(E) a facility designed to provide primarily outpatient health care for students or faculty;

“(F) physical infrastructure essential to support the projects authorized under this paragraph, including roads, sewer and drainage systems, and water, power, lighting, telecommunications, and other utilities;”;

(5) in subparagraph (H) (as redesignated by paragraph (2)), by striking “(C)” and inserting “(G)”.

20 USC 1066b.

(b) RESPONSIBILITIES.—Section 343 (as redesignated by section 301(a)(4)) (20 U.S.C. 1132c-2) is amended—

(1) in subsection (b)(8) (as redesignated by section 301(a)(4)) (20 U.S.C. 1132c-2(b)(8)), by striking “10 percent” each place the term appears and inserting “5 percent”; and

(2) by adding at the end the following:

“(e) Notwithstanding any other provision of law, a qualified bond guaranteed under this part may be sold to any party that offers terms that the Secretary determines are in the best interest of the eligible institution.”.

(c) TECHNICAL ASSISTANCE.—Section 345 (as redesignated by section 301(a)(4)) (20 U.S.C. 1132c-4) is amended—

(1) in paragraph (5), by striking “and” after the semicolon;

(2) in paragraph (6), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(7) may, directly or by grant or contract, provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a capital improvement loan, including a loan under this part.”.

(d) PROHIBITION.—Section 346 (as redesignated by section 301(a)(4)) (20 U.S.C. 1132c-5) is repealed.

(e) ADVISORY BOARD.—Section 347 (as redesignated by section 301(a)(4)) (20 U.S.C. 1132c-6) is amended—

(1) in subsection (b)—

(A) in subparagraph (D), by inserting “, or the president’s designee.” after the period; and

(B) in subparagraph (E), by inserting “, or the designee of the Association” before the period; and

(2) by striking subsection (c).

#### SEC. 307. MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM.

(a) MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM FINDINGS.—Subpart 1 of part E of title III (as redesignated by paragraphs (6) and (7) of section 301) (20 U.S.C. 1135b et seq.) is amended by inserting after the subpart heading the following:

##### “SEC. 350. FINDINGS.

20 USC 1067.

“Congress makes the following findings:

“(1) It is incumbent on the Federal Government to support the technological and economic competitiveness of the United States by improving and expanding the scientific and technological capacity of the United States. More and better prepared scientists, engineers, and technical experts are needed to improve and expand such capacity.

“(2) As the Nation’s population becomes more diverse, it is important that the educational and training needs of all Americans are met. Underrepresentation of minorities in science and technological fields diminishes our Nation’s competitiveness by impairing the quantity of well prepared scientists, engineers, and technical experts in these fields.

“(3) Despite significant limitations in resources, minority institutions provide an important educational opportunity for minority students, particularly in science and engineering fields. Aid to minority institutions is a good way to address the underrepresentation of minorities in science and technological fields.

“(4) There is a strong Federal interest in improving science and engineering programs at minority institutions as such programs lag behind in program offerings and in student enrollment compared to such programs at other institutions of higher education.”.

(b) ELIGIBILITY FOR GRANTS.—Section 361 (as redesignated by section 301(a)(7)) (20 U.S.C. 1135d) is amended to read as follows:

20 USC 1067g.

**“SEC. 361. ELIGIBILITY FOR GRANTS.**

“Eligibility to receive grants under this part is limited to—

“(1) public and private nonprofit institutions of higher education that—

“(A) award baccalaureate degrees; and

“(B) are minority institutions;

“(2) public or private nonprofit institutions of higher education that—

“(A) award associate degrees; and

“(B) are minority institutions that—

“(i) have a curriculum that includes science or engineering subjects; and

“(ii) enter into a partnership with public or private nonprofit institutions of higher education that award baccalaureate degrees in science and engineering;

“(3) nonprofit science-oriented organizations, professional scientific societies, and institutions of higher education that award baccalaureate degrees, that—

“(A) provide a needed service to a group of minority institutions; or

“(B) provide in-service training for project directors, scientists, and engineers from minority institutions; or

“(4) consortia of organizations, that provide needed services to one or more minority institutions, the membership of which may include—

“(A) institutions of higher education which have a curriculum in science or engineering;

“(B) institutions of higher education that have a graduate or professional program in science or engineering;

“(C) research laboratories of, or under contract with, the Department of Energy;

“(D) private organizations that have science or engineering facilities; or

“(E) quasi-governmental entities that have a significant scientific or engineering mission.”.

20 USC 1067k.

(c) DEFINITIONS.—Section 365(4) (as redesignated by section 301(a)(7)) (20 U.S.C. 1135d-5(4)) is amended by inserting “behavioral,” after “physical,”.

(d) CONFORMING AMENDMENTS.—The heading for subpart 1 of part E of title III (as redesignated by paragraphs (6) and (7) of section 301(a)) is amended by inserting “and Engineering” before “Improvement Program”.

**SEC. 308. GENERAL PROVISIONS.**

20 USC 1068.

(a) APPLICATIONS FOR ASSISTANCE.—Subsection (a) of section 391(a) (as redesignated by section 301(a)(2)) (20 U.S.C. 1066(a)) is amended to read as follows:

“(a) APPLICATIONS.—

“(1) APPLICATIONS REQUIRED.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution’s need for the assistance. Subject to the availability of appropriations to carry out



this title, the Secretary may approve an application for assistance under this title only if the Secretary determines that—

“(A) the application meets the requirements of subsection (b);

“(B) the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought; and

“(C) the applicant’s performance goals are sufficiently rigorous as to meet the purposes of this title and the performance objectives and indicators for this title established by the Secretary pursuant to the Government Performance and Results Act of 1993 and the amendments made by such Act.

“(2) PRELIMINARY APPLICATIONS.—In carrying out paragraph (1), the Secretary may develop a preliminary application for use by eligible institutions applying under part A prior to the submission of the principal application.”.

(b) APPLICATIONS.—Paragraph (1) of section 391(b) (as redesignated by section 301(a)(2)) (20 U.S.C. 1066(b)) is amended by inserting “, D or E” after “part C”. 20 USC 1068.

(c) CONTENTS OF APPLICATIONS.—Section 391(b)(6) (as redesignated by section 301(a)(2)) is amended by inserting before the semicolon the following: “, except that for purposes of section 316, paragraphs (2) and (3) of section 396 shall not apply”.

(d) WAIVERS.—Section 392(a) (as redesignated by section 301(a)(2)) (20 U.S.C. 1067(a)) is amended— 20 USC 1068a.

(1) by striking “or” at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following new paragraph:

“(6) that is a tribally controlled college or university as defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978; or”.

(e) APPLICATION REVIEW PROCESS.—Section 393(a) (as redesignated by section 301(a)(2)) (20 U.S.C. 1068(a)) is amended— 20 USC 1068b.

(1) in paragraph (2), by striking “Native American colleges and universities” and inserting “Tribal Colleges and Universities”; and

(2) by adding at the end the following:

“(d) EXCLUSION.—The provisions of this section shall not apply to applications submitted under part D.”.

(f) WAIVERS.—Paragraph (2) of section 395(b) (as redesignated by section 301(a)(2)) (20 U.S.C. 1069b(b)) is amended by striking “title IV, VII, or VIII” and inserting “part D or title IV”. 20 USC 1068d.

(g) CONTINUATION AWARDS.—Part F of title III is amended by inserting after section 397 (as redesignated by section 301(a)(2)) (20 U.S.C. 1069d) the following:

**“SEC. 398. CONTINUATION AWARDS.**

20 USC 1068g.

“The Secretary shall make continuation awards under this title for the second and succeeding years of a grant only after determining that the recipient is making satisfactory progress in carrying out the grant.”.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 399(a) (as redesignated by section 301(a)(2)) (20 U.S.C. 1069f) is amended— 20 USC 1068h.

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “1993” and inserting “1999”;

(B) in subparagraph (B)—

(i) in clause (i), by striking “\$45,000,000 for fiscal year 1993” and inserting “\$10,000,000 for fiscal year 1999”;

(ii) by striking clause (ii); and

(iii) by striking “(B)(i) There” and inserting “(B) There”; and

(C) by adding at the end the following:

“(C) There are authorized to be appropriated to carry out section 317, \$5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.”;

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “1993” and inserting “1999”; and

(B) in subparagraph (B), by striking “\$20,000,000 for fiscal year 1993” and inserting “\$35,000,000 for fiscal year 1999”;

(3) in paragraph (3), by striking “\$50,000,000 for fiscal year 1993” and inserting “\$10,000,000 for fiscal year 1999”;

(4) by adding at the end the following:

“(4) PART D.—(A) There are authorized to be appropriated to carry out part D (other than section 345(7), but including section 347), \$110,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(B) There are authorized to be appropriated to carry out section 345(7), such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

“(5) PART E.—There are authorized to be appropriated to carry out part E, \$10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.”; and

(5) by striking subsections (c), (d), and (e).

## TITLE IV—STUDENT ASSISTANCE

### PART A—GRANTS TO STUDENTS

#### SEC. 401. FEDERAL PELL GRANTS.

(a) EXTENSION OF AUTHORITY.—Section 401(a)(1) (20 U.S.C. 1070a(a)(1)) is amended—

(1) in the first sentence, by striking “The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1998,” and inserting “For each fiscal year through fiscal year 2004, the Secretary shall”; and

(2) in the second sentence, by inserting “until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner,” after “pay eligible students”.

(b) AMOUNT OF GRANT.—Paragraph (2)(A) of section 401(b) is amended to read as follows:

“(2)(A) The amount of the Federal Pell Grant for a student eligible under this part shall be—

“(i) \$4,500 for academic year 1999–2000;

- “(ii) \$4,800 for academic year 2000–2001;
- “(iii) \$5,100 for academic year 2001–2002;
- “(iv) \$5,400 for academic year 2002–2003; and
- “(v) \$5,800 for academic year 2003–2004,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.”.

(c) RELATION OF MAXIMUM GRANT TO TUITION AND EXPENSES.—Paragraph (3) of section 401(b) is amended to read as follows:

20 USC 1070a.

“(3)(A) For any academic year for which an appropriation Act provides a maximum basic grant in an amount in excess of \$2,700, the amount of a student’s basic grant shall equal \$2,700 plus—

“(i) one-half of the amount by which such maximum basic grant exceeds \$2,700; plus

“(ii) the lesser of—

“(I) the remaining one-half of such excess; or

“(II) the sum of the student’s tuition and, if the student has dependent care expenses (as described in section 472(8)) or disability-related expenses (as described in section 472(9)), an allowance determined by the institution for such expenses.

“(B) An institution that charged only fees in lieu of tuition as of October 1, 1998, may include in the institution’s determination of tuition charged, fees that would normally constitute tuition.”.

(d) REGULATIONS FOR MULTIPLE AWARDS.—Section 401(b)(6) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses

(i) and (ii), respectively;

(2) by inserting “(A)” after the paragraph designation; and

(3) by adding at the end the following:

“(B) The Secretary shall promulgate regulations implementing this paragraph.”.

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(e) TIME LIMIT TO RECEIVE GRANTS.—Section 401(c) is amended by adding at the end the following:

“(4) Notwithstanding paragraph (1), the Secretary may allow, on a case-by-case basis, a student to receive a basic grant if the student—

“(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education; and

“(B) is enrolled or accepted for enrollment in a postbaccalaureate program that does not lead to a graduate degree, and in courses required by a State in order for the student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State, except that this paragraph shall not apply to a student who is enrolled in an institution of higher education that offers a baccalaureate degree in education.”.

(f) INSTITUTIONAL INELIGIBILITY BASED ON DEFAULT RATES.—Section 401 is amended by adding at the end the following:

“(j) INSTITUTIONAL INELIGIBILITY BASED ON DEFAULT RATES.—

“(1) IN GENERAL.—No institution of higher education shall be an eligible institution for purposes of this subpart if such institution of higher education is ineligible to participate in a loan program under part B or D as a result of a final default rate determination made by the Secretary under part

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B or D after the final publication of cohort default rates for fiscal year 1996 or a succeeding fiscal year.

“(2) SANCTIONS SUBJECT TO APPEAL OPPORTUNITY.—No institution may be subject to the terms of this subsection unless the institution has had the opportunity to appeal the institution’s default rate determination under regulations issued by the Secretary for the loan program authorized under part B or D, as applicable. This subsection shall not apply to an institution that was not participating in the loan program authorized under part B or D on the date of enactment of the Higher Education Amendments of 1998, unless the institution subsequently participates in the loan programs.”.

(g) CONFORMING AMENDMENTS.—

(1) Section 400(a)(1) (20 U.S.C. 1070(a)(1)) is amended by striking “basic educational opportunity grants” and inserting “Federal Pell Grants”.

(2) The heading of subpart 1 of part A of title IV (20 U.S.C. 1070a et seq.) is amended to read as follows:

**“Subpart 1—Federal Pell Grants”.**

20 USC 1070a.

(3) Section 401 is amended—

(A) in the heading of the section, by striking “**BASIC EDUCATIONAL OPPORTUNITY**” and inserting “**FEDERAL PELL**”;

(B) in subsection (a)(3), by striking “Basic grants” and inserting “Grants”;

(C) by striking “basic grant” each place the term appears and inserting “Federal Pell Grant”; and

(D) by striking “basic grants” each place the term appears and inserting “Federal Pell Grants”.

(4) Section 401(f)(3) is amended by striking “Education and Labor” and inserting “Education and the Workforce”.

(5) Section 452(c) (20 U.S.C. 1087b(c)) is amended by striking “basic grants” and inserting “Federal Pell Grants”.

(6) Subsections (j)(2) and (k)(3) of section 455 (20 U.S.C. 1087e) are each amended by striking “basic grants” and inserting “Federal Pell Grants”.

**SEC. 402. FEDERAL TRIO PROGRAMS.**

(a) PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

(1) DURATION OF GRANTS.—Section 402A(b)(2) (20 U.S.C. 1070a–11(b)(2)) is amended—

(A) by striking “and” at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting “; and”; and

(C) by inserting after subparagraph (B) the following new subparagraph:

“(C) grants under section 402H shall be awarded for a period determined by the Secretary.”.

(2) MINIMUM GRANTS.—Section 402A(b)(3) is amended to read as follows:

“(3) MINIMUM GRANTS.—Unless the institution or agency requests a smaller amount, individual grants under this chapter shall be no less than—

“(A) \$170,000 for programs authorized by sections 402D and 402G;

“(B) \$180,000 for programs authorized by sections 402B and 402F; and

“(C) \$190,000 for programs authorized by sections 402C and 402E.”.

(3) PROCEDURES FOR AWARDING GRANTS AND CONTRACTS.—

Subsection (c) of section 402A is amended to read as follows:

“(c) PROCEDURES FOR AWARDING GRANTS AND CONTRACTS.—

“(1) APPLICATION REQUIREMENTS.—An eligible entity that desires to receive a grant or contract under this chapter shall submit an application to the Secretary in such manner and form, and containing such information and assurances, as the Secretary may reasonably require.

“(2) PRIOR EXPERIENCE.—In making grants under this chapter, the Secretary shall consider each applicant’s prior experience of service delivery under the particular program for which funds are sought. The level of consideration given the factor of prior experience shall not vary from the level of consideration given such factor during fiscal years 1994 through 1997, except that grants made under section 402H shall not be given prior experience consideration.

“(3) ORDER OF AWARDS; PROGRAM FRAUD.—(A) Except with respect to grants made under sections 402G and 402H and as provided in subparagraph (B), the Secretary shall award grants and contracts under this chapter in the order of the scores received by the application for such grant or contract in the peer review process required under paragraph (4) and adjusted for prior experience in accordance with paragraph (2) of this subsection.

“(B) The Secretary is not required to provide assistance to a program otherwise eligible for assistance under this chapter, if the Secretary has determined that such program has involved the fraudulent use of funds under this chapter.

“(4) PEER REVIEW PROCESS.—(A) The Secretary shall ensure that, to the extent practicable, members of groups underrepresented in higher education, including African Americans, Hispanics, Native Americans, Alaska Natives, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians), are represented as readers of applications submitted under this chapter. The Secretary shall also ensure that persons from urban and rural backgrounds are represented as readers.

“(B) The Secretary shall ensure that each application submitted under this chapter is read by at least three readers who are not employees of the Federal Government (other than as readers of applications).

“(5) NUMBER OF APPLICATIONS FOR GRANTS AND CONTRACTS.—The Secretary shall not limit the number of applications submitted by an entity under any program authorized under this chapter if the additional applications describe programs serving different populations or campuses.

“(6) COORDINATION WITH OTHER PROGRAMS FOR DISADVANTAGED STUDENTS.—The Secretary shall encourage coordination of programs assisted under this chapter with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding source of such programs. The Secretary shall not limit an entity’s eligibility to receive funds under this chapter because such entity sponsors

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a program similar to the program to be assisted under this chapter, regardless of the funding source of such program. The Secretary shall permit the Director of a program receiving funds under this chapter to administer one or more additional programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding sources of such programs.

“(7) APPLICATION STATUS.—The Secretary shall inform each entity operating programs under this chapter regarding the status of their application for continued funding at least 8 months prior to the expiration of the grant or contract. The Secretary, in the case of an entity that is continuing to operate a successful program under this chapter, shall ensure that the start-up date for a new grant or contract for such program immediately follows the termination of the preceding grant or contract so that no interruption of funding occurs for such successful reapplicants. The Secretary shall inform each entity requesting assistance under this chapter for a new program regarding the status of their application at least 8 months prior to the proposed startup date of such program.”.

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(4) AUTHORIZATION OF APPROPRIATIONS.—Section 402A(f) is amended by striking “\$650,000,000 for fiscal year 1993” and inserting “\$700,000,000 for fiscal year 1999”.

(5) WAIVER.—Section 402A(g) is amended by adding at the end the following:

“(4) WAIVER.—The Secretary may waive the service requirements in subparagraph (A) or (B) of paragraph (3) if the Secretary determines the application of the service requirements to a veteran will defeat the purpose of a program under this chapter.”.

(b) TALENT SEARCH.—Section 402B(b) (20 U.S.C. 1070a-12(b)) is amended—

(1) by striking paragraph (4) and inserting the following:

“(4) guidance on and assistance in secondary school reentry, entry to general educational development (GED) programs, other alternative education programs for secondary school drop-outs, or postsecondary education;”;

(2) in paragraph (5), by inserting “, or activities designed to acquaint individuals from disadvantaged backgrounds with careers in which the individuals are particularly underrepresented” before the semicolon;

(3) in paragraph (8), by striking “parents” and inserting “families”; and

(4) in paragraph (9), by inserting “or counselors” after “teachers”.

(c) UPWARD BOUND.—Section 402C (20 U.S.C. 1070a-13) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking “personal counseling” and inserting “counseling and workshops”;

(B) in paragraph (9)—

(i) by inserting “or counselors” after “teachers”; and

(ii) by striking “and” after the semicolon;

(C) by redesignating paragraph (10) as paragraph (12);

(D) by inserting after paragraph (9) the following:

“(10) work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree;

“(11) special services to enable veterans to make the transition to postsecondary education; and”; and

(E) in paragraph (12) (as redesignated by subparagraph (C)), by striking “(9)” and inserting “(11)”; and

(2) in subsection (e), by striking “and not in excess of \$40 per month during the remaining period of the year.” and inserting “except that youth participating in a work-study position under subsection (b)(10) may be paid a stipend of \$300 per month during June, July, and August. Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of \$40 per month during the remaining period of the year.”.

(d) STUDENT SUPPORT SERVICES.—Paragraph (6) of section 402D(c) (20 U.S.C. 1070a-14(c)(6)) is amended to read as follows:

“(6) consider, in addition to such other criteria as the Secretary may prescribe, the institution’s effort, and where applicable past history, in—

“(A) providing sufficient financial assistance to meet the full financial need of each student in the project; and

“(B) maintaining the loan burden of each such student at a manageable level.”.

(e) POSTBACCALAUREATE ACHIEVEMENT PROGRAM.—Section 402E(e)(1) (20 U.S.C. 1070a-15(e)(1)) is amended by striking “\$2,400” and inserting “\$2,800”.

(f) STAFF DEVELOPMENT ACTIVITIES.—Section 402G (20 U.S.C. 1070a-17) is amended—

(1) in subsection (a), by inserting “participating in,” after “leadership personnel employed in,”; and

(2) in subsection (b), by inserting after paragraph (3) the following new paragraph:

“(4) The use of appropriate educational technology in the operation of projects assisted under this chapter.”.

(g) EVALUATION AND DISSEMINATION.—Section 402H (20 U.S.C. 1070a-18) is amended to read as follows:

**“SEC. 402H. EVALUATIONS AND GRANTS FOR PROJECT IMPROVEMENT AND DISSEMINATION PARTNERSHIP PROJECTS.**

“(a) EVALUATIONS.—

“(1) IN GENERAL.—For the purpose of improving the effectiveness of the programs and projects assisted under this chapter, the Secretary may make grants to or enter into contracts with institutions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the programs and projects assisted under this chapter.

“(2) PRACTICES.—The evaluations described in paragraph (1) shall identify institutional, community, and program or project practices that are particularly effective in enhancing the access of low-income individuals and first-generation college students to postsecondary education, the preparation of the individuals and students for postsecondary education, and the success of the individuals and students in postsecondary education. Such evaluations shall also investigate the effectiveness of alternative and innovative methods within Federal TRIO

programs of increasing access to, and retention of, students in postsecondary education.

“(b) GRANTS.—The Secretary may award grants to institutions of higher education or other private and public institutions and organizations, that are carrying out a program or project assisted under this chapter prior to the date of enactment of the Higher Education Amendments of 1998, to enable the institutions and organizations to expand and leverage the success of such programs or projects by working in partnership with other institutions, community-based organizations, or combinations of such institutions and organizations, that are not receiving assistance under this chapter and are serving low-income students and first generation college students, in order to—

“(1) disseminate and replicate best practices of programs or projects assisted under this chapter; and

“(2) provide technical assistance regarding programs and projects assisted under this chapter.

“(c) RESULTS.—In order to improve overall program or project effectiveness, the results of evaluations and grants described in this section shall be disseminated by the Secretary to similar programs or projects assisted under this subpart, as well as other individuals concerned with postsecondary access for and retention of low-income individuals and first-generation college students.”.

#### **SEC. 403. GEAR UP PROGRAM.**

Chapter 2 of subpart 2 of part A of title IV (20 U.S.C. 1070a–21 et seq.) is amended to read as follows:

### **“CHAPTER 2—GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS**

20 USC 1070a–21.

#### **“SEC. 404A. EARLY INTERVENTION AND COLLEGE AWARENESS PROGRAM AUTHORIZED.**

“(a) PROGRAM AUTHORIZED.—The Secretary is authorized, in accordance with the requirements of this chapter, to establish a program that—

“(1) encourages eligible entities to provide or maintain a guarantee to eligible low-income students who obtain a secondary school diploma (or its recognized equivalent), of the financial assistance necessary to permit the students to attend an institution of higher education; and

“(2) supports eligible entities in providing—

“(A) additional counseling, mentoring, academic support, outreach, and supportive services to elementary school, middle school, and secondary school students who are at risk of dropping out of school; and

“(B) information to students and their parents about the advantages of obtaining a postsecondary education and the college financing options for the students and their parents.

“(b) AWARDS.—

“(1) IN GENERAL.—From funds appropriated under section 404H for each fiscal year, the Secretary shall make awards



to eligible entities described in paragraphs (1) and (2) of subsection (c) to enable the entities to carry out the program authorized under subsection (a).

“(2) PRIORITY.—In making awards to eligible entities described in paragraph (c)(1), the Secretary shall—

“(A) give priority to eligible entities that—

“(i) on the day before the date of enactment of the Higher Education Amendments of 1998, carried out successful educational opportunity programs under this chapter (as this chapter was in effect on such day); and

“(ii) have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies;

“(B) ensure that students served under this chapter on the day before the date of enactment of the Higher Education Amendments of 1998 continue to receive assistance through the completion of secondary school.

“(c) DEFINITION OF ELIGIBLE ENTITY.—For the purposes of this chapter, the term ‘eligible entity’ means—

“(1) a State; or

“(2) a partnership consisting of—

“(A) one or more local educational agencies acting on behalf of—

“(i) one or more elementary schools or secondary schools; and

“(ii) the secondary schools that students from the schools described in clause (i) would normally attend;

“(B) one or more degree granting institutions of higher education; and

“(C) at least two community organizations or entities, such as businesses, professional associations, community-based organizations, philanthropic organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4, or other public or private agencies or organizations.

**“SEC. 404B. REQUIREMENTS.**

“(a) FUNDING RULES.—

“(1) CONTINUATION AWARDS.—From the amount appropriated under section 404H for a fiscal year, the Secretary shall continue to award grants to States under this chapter (as this chapter was in effect on the day before the date of enactment of the Higher Education Amendments of 1998) in accordance with the terms and conditions of such grants.

“(2) DISTRIBUTION.—From the amount appropriated under section 404H that remains after making continuation awards under paragraph (1) for a fiscal year, the Secretary shall—

“(A) make available—

“(i) not less than 33 percent of the amount to eligible entities described in section 404A(c)(1); and

“(ii) not less than 33 percent of the amount to eligible entities described in section 404A(c)(2); and

“(B) award the remainder of the amount to eligible entities described in paragraph (1) or (2) of section 404A(c).

“(3) SPECIAL RULE.—The Secretary shall annually reevaluate the distribution of funds described in paragraph

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(2)(B) based on number, quality, and promise of the applications and adjust the distribution accordingly.”.

“(b) LIMITATION.—Each eligible entity described in section 404A(c)(1), and each eligible entity described in section 404A(c)(2) that conducts a scholarship component under section 404E, shall use not less than 25 percent and not more than 50 percent of grant funds received under this chapter for the early intervention component of an eligible entity’s program under this chapter, except that the Secretary may waive the 50 percent limitation if the eligible entity demonstrates that the eligible entity has another means of providing the students with financial assistance that is described in the plan submitted under section 404C.

“(c) COORDINATION.—Each eligible entity shall ensure that the activities assisted under this chapter are, to the extent practicable, coordinated with, and complement and enhance—

“(1) services under this chapter provided by other eligible entities serving the same school district or State; and

“(2) related services under other Federal or non-Federal programs.

“(d) DESIGNATION OF FISCAL AGENT.—An eligible entity described in section 404A(c)(2) shall designate an institution of higher education or a local educational agency as the fiscal agent for the eligible entity.

“(e) COORDINATORS.—An eligible entity described in section 404A(c)(2) shall have a full-time program coordinator or a part-time program coordinator, whose primary responsibility is a project under section 404C.

“(f) DISPLACEMENT.—An eligible entity described in 404A(c)(2) shall ensure that the activities assisted under this chapter will not displace an employee or eliminate a position at a school assisted under this chapter, including a partial displacement such as a reduction in hours, wages or employment benefits.

“(g) COHORT APPROACH.—

“(1) IN GENERAL.—The Secretary shall require that eligible entities described in section 404A(c)(2)—

“(A) provide services under this chapter to at least one grade level of students, beginning not later than 7th grade, in a participating school that has a 7th grade and in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under the National School Lunch Act (or, if an eligible entity determines that it would promote the effectiveness of a program, an entire grade level of students, beginning not later than the 7th grade, who reside in public housing as defined in section 3(b)(1) of the United States Housing Act of 1937); and

“(B) ensure that the services are provided through the 12th grade to students in the participating grade level.

“(2) COORDINATION REQUIREMENT.—In order for the Secretary to require the cohort approach described in paragraph (1), the Secretary shall, where applicable, ensure that the cohort approach is done in coordination and collaboration with existing early intervention programs and does not duplicate the services already provided to a school or community.

**“SEC. 404C. ELIGIBLE ENTITY PLANS.**

“(a) PLAN REQUIRED FOR ELIGIBILITY.—

“(1) IN GENERAL.—In order for an eligible entity to qualify for a grant under this chapter, the eligible entity shall submit to the Secretary a plan for carrying out the program under this chapter. Such plan shall provide for the conduct of a scholarship component if required or undertaken pursuant to section 404E and an early intervention component required pursuant to section 404D.

“(2) CONTENTS.—Each plan submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation. Each such plan shall—

“(A) describe the activities for which assistance under this chapter is sought; and

“(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this chapter.

“(b) MATCHING REQUIREMENT.—

“(1) IN GENERAL.—The Secretary shall not approve a plan submitted under subsection (a) unless such plan—

“(A) provides that the eligible entity will provide, from State, local, institutional, or private funds, not less than 50 percent of the cost of the program, which matching funds may be provided in cash or in kind;

“(B) specifies the methods by which matching funds will be paid; and

“(C) includes provisions designed to ensure that funds provided under this chapter shall supplement and not supplant funds expended for existing programs.

“(2) SPECIAL RULE.—Notwithstanding the matching requirement described in paragraph (1)(A), the Secretary may by regulation modify the percentage requirement described in paragraph (1)(A) for eligible entities described in section 404A(c)(2).

“(c) METHODS FOR COMPLYING WITH MATCHING REQUIREMENT.—An eligible entity may count toward the matching requirement described in subsection (b)(1)(A)—

“(1) the amount of the financial assistance paid to students from State, local, institutional, or private funds under this chapter;

“(2) the amount of tuition, fees, room or board waived or reduced for recipients of financial assistance under this chapter; and

“(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations.

“(d) PEER REVIEW PANELS.—The Secretary shall convene peer review panels to assist in making determinations regarding the awarding of grants under this chapter.

**“SEC. 404D. EARLY INTERVENTION.**

“(a) SERVICES.—

“(1) IN GENERAL.—In order to receive a grant under this chapter, an eligible entity shall demonstrate to the satisfaction of the Secretary, in the plan submitted under section 404C,

that the eligible entity will provide comprehensive mentoring, counseling, outreach, and supportive services to students participating in programs under this chapter. Such counseling shall include—

“(A) financial aid counseling and information regarding the opportunities for financial assistance under this title; and

“(B) activities or information regarding—

“(i) fostering and improving parent involvement in promoting the advantages of a college education, academic admission requirements, and the need to take college preparation courses;

“(ii) college admissions and achievement tests; and

“(iii) college application procedures.

“(2) METHODS.—The eligible entity shall demonstrate in such plan, pursuant to regulations of the Secretary, the methods by which the eligible entity will target services on priority students described in subsection (c), if applicable.

“(b) USES OF FUNDS.—

“(1) IN GENERAL.—The Secretary shall, by regulation, establish criteria for determining whether comprehensive mentoring, counseling, outreach, and supportive services programs may be used to meet the requirements of subsection (a).

“(2) PERMISSIBLE ACTIVITIES.—Examples of activities that meet the requirements of subsection (a) include the following:

“(A) Providing eligible students in preschool through grade 12 with a continuing system of mentoring and advising that—

“(i) is coordinated with the Federal and State community service initiatives; and

“(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, career mentoring, and academic counseling.

“(B) Requiring each student to enter into an agreement under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory progress described in section 484(c), in exchange for receiving tuition assistance for a period of time to be established by each eligible entity.

“(C) Activities designed to ensure secondary school completion and college enrollment of at-risk children, such as identification of at-risk children, after school and summer tutoring, assistance in obtaining summer jobs, academic counseling, volunteer and parent involvement, providing former or current scholarship recipients as mentor or peer counselors, skills assessment, providing access to rigorous core courses that reflect challenging academic standards, personal counseling, family counseling and home visits, staff development, and programs and activities described in this subparagraph that are specially designed for students of limited English proficiency.

“(D) Summer programs for individuals who are in their sophomore or junior years of secondary school or are planning to attend an institution of higher education in the succeeding academic year that—

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“(i) are carried out at an institution of higher education that has programs of academic year supportive services for disadvantaged students through projects authorized under section 402D or through comparable projects funded by the State or other sources;

“(ii) provide for the participation of the individuals who are eligible for assistance under section 402D or who are eligible for comparable programs funded by the State;

“(iii)(I) provide summer instruction in remedial, developmental or supportive courses;

“(II) provide such summer services as counseling, tutoring, or orientation; and

“(III) provide financial assistance to the individuals to cover the individuals’ summer costs for books, supplies, living costs, and personal expenses; and

“(iv) provide the individuals with financial assistance during each academic year the individuals are enrolled at the participating institution after the summer program.

“(E) Requiring eligible students to meet other standards or requirements as the State determines necessary to meet the purposes of this section.

“(c) PRIORITY STUDENTS.—For eligible entities not using a cohort approach, the eligible entity shall treat as priority students any student in preschool through grade 12 who is eligible—

“(1) to be counted under section 1124(c) of the Elementary and Secondary Education Act of 1965;

“(2) for free or reduced price meals under the National School Lunch Act; or

“(3) for assistance pursuant to part A of title IV of the Social Security Act.

“(d) ALLOWABLE PROVIDERS.—In the case of eligible entities described in section 404A(c)(1), the activities required by this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4, and other organizations the State deems appropriate.

**“SEC. 404E. SCHOLARSHIP COMPONENT.**

20 USC 1070a-  
25.

“(a) IN GENERAL.—

“(1) STATES.—In order to receive a grant under this chapter, an eligible entity described in section 404A(c)(1) shall establish or maintain a financial assistance program that awards scholarships to students in accordance with the requirements of this section. The Secretary shall encourage the eligible entity to ensure that a scholarship provided pursuant to this section is available to an eligible student for use at any institution of higher education.

“(2) PARTNERSHIPS.—An eligible entity described in section 404A(c)(2) may award scholarships to eligible students in accordance with the requirements of this section.

“(b) GRANT AMOUNTS.—The maximum amount of a scholarship that an eligible student shall be eligible to receive under this section shall be established by the eligible entity. The minimum

amount of the scholarship for each fiscal year shall not be less than the lesser of—

Regulations.

“(1) 75 percent of the average cost of attendance for an in-State student, in a 4-year program of instruction, at public institutions of higher education in such State, as determined in accordance with regulations prescribed by the Secretary; or

“(2) the maximum Federal Pell Grant funded under section 401 for such fiscal year.

“(c) **RELATION TO OTHER ASSISTANCE.**—Scholarships provided under this section shall not be considered for the purpose of awarding Federal grant assistance under this title, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed such student’s total cost of attendance.

“(d) **ELIGIBLE STUDENTS.**—A student eligible for assistance under this section is a student who—

“(1) is less than 22 years old at time of first scholarship award under this section;

“(2) receives a secondary school diploma or its recognized equivalent on or after January 1, 1993;

“(3) is enrolled or accepted for enrollment in a program of undergraduate instruction at an institution of higher education that is located within the State’s boundaries, except that, at the State’s option, an eligible entity may offer scholarship program portability for recipients who attend institutions of higher education outside such State; and

“(4) who participated in the early intervention component required under section 404D.

“(e) **PRIORITY.**—The Secretary shall ensure that each eligible entity places a priority on awarding scholarships to students who will receive a Federal Pell Grant for the academic year for which the scholarship is awarded under this section.

“(f) **SPECIAL RULE.**—An eligible entity may consider students who have successfully participated in programs funded under chapter 1 to have met the requirements of subsection (d)(4).

20 USC 1070a–26.

**“SEC. 404F. 21ST CENTURY SCHOLAR CERTIFICATES.**

“(a) **AUTHORITY.**—The Secretary, using funds appropriated under section 404H that do not exceed \$200,000 for a fiscal year—

“(1) shall ensure that certificates, to be known as 21st Century Scholar Certificates, are provided to all students participating in programs under this chapter; and

“(2) may, as practicable, ensure that such certificates are provided to all students in grades 6 through 12 who attend schools at which at least 50 percent of the students enrolled are eligible for a free or reduced price lunch under the National School Lunch Act.

“(b) **INFORMATION REQUIRED.**—A 21st Century Scholar Certificate shall be personalized for each student and indicate the amount of Federal financial aid for college which a student may be eligible to receive.

20 USC 1070a–27.

**“SEC. 404G. EVALUATION AND REPORT.**

“(a) **EVALUATION.**—Each eligible entity receiving a grant under this chapter shall biennially evaluate the activities assisted under

this chapter in accordance with the standards described in subsection (b) and shall submit to the Secretary a copy of such evaluation. The evaluation shall permit service providers to track eligible student progress during the period such students are participating in the activities and shall be consistent with the standards developed by the Secretary pursuant to subsection (b).

“(b) **EVALUATION STANDARDS.**—The Secretary shall prescribe standards for the evaluation described in subsection (a). Such standards shall—

“(1) provide for input from eligible entities and service providers; and

“(2) ensure that data protocols and procedures are consistent and uniform.

“(c) **FEDERAL EVALUATION.**—In order to evaluate and improve the impact of the activities assisted under this chapter, the Secretary shall, from not more than 0.75 percent of the funds appropriated under section 404H for a fiscal year, award one or more grants, contracts, or cooperative agreements to or with public and private institutions and organizations, to enable the institutions and organizations to evaluate the effectiveness of the program and, as appropriate, disseminate the results of the evaluation.

“(d) **REPORT.**—The Secretary shall biennially report to Congress regarding the activities assisted under this chapter and the evaluations conducted pursuant to this section.

**“SEC. 404H. AUTHORIZATION OF APPROPRIATIONS.**

20 USC 1070a–28.

“There are authorized to be appropriated to carry out this chapter \$200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

**SEC. 404. ACADEMIC ACHIEVEMENT INCENTIVE SCHOLARSHIPS.**

Chapter 3 of subpart 2 of part A of title IV (20 U.S.C. 1070a–31 et seq.) is amended to read as follows:

**“CHAPTER 3—ACADEMIC ACHIEVEMENT INCENTIVE SCHOLARSHIPS**

**“SEC. 406A. SCHOLARSHIPS AUTHORIZED.**

20 USC 1070a–31.

“The Secretary is authorized to award scholarships to students who graduate from secondary school after May 1, 2000, to enable the students to pay the cost of attendance at an institution of higher education during the students first 2 academic years of undergraduate education, if the students—

“(1) are eligible to receive Federal Pell Grants for the year in which the scholarships are awarded; and

“(2) demonstrate academic achievement by graduating in the top 10 percent of their secondary school graduating class.

**“SEC. 406B. SCHOLARSHIP PROGRAM REQUIREMENTS.**

20 USC 1070a–32.

“(a) **AMOUNT OF AWARD.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the amount of a scholarship awarded under this chapter for any academic year shall be equal to 100 percent of the amount of the Federal Pell Grant for which the recipient is eligible for the academic year.

“(2) **ADJUSTMENT FOR INSUFFICIENT APPROPRIATIONS.**—If, after the Secretary determines the total number of eligible applicants for an academic year in accordance with section

406C, funds available to carry out this chapter for the academic year are insufficient to fully fund all awards under this chapter for the academic year, the amount of the scholarship paid to each student under this chapter shall be reduced proportionately.

“(b) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—A scholarship awarded under this chapter to any student, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, may not exceed the student’s cost of attendance.

20 USC 1070a–33.

**“SEC. 406C. ELIGIBILITY OF SCHOLARS.**

“(a) PROCEDURES ESTABLISHED BY REGULATION.—The Secretary shall establish by regulation procedures for the determination of eligibility of students for the scholarships awarded under this chapter. Such procedures shall include measures to prevent any secondary school from certifying more than 10 percent of the school’s students for eligibility under this section.

“(b) COORDINATION.—In prescribing procedures under subsection (a), the Secretary shall ensure that the determination of eligibility and the amount of the scholarship is determined in a timely and accurate manner consistent with the requirements of section 482 and the submission of the financial aid form required by section 483. For such purposes, the Secretary may provide that, for the first academic year of a student’s 2 academic years of eligibility under this chapter, class rank may be determined prior to graduation from secondary school, at such time and in such manner as the Secretary may specify in regulations prescribed under this chapter.

20 USC 1070a–34.

**“SEC. 406D. STUDENT REQUIREMENTS.**

“(a) IN GENERAL.—Each eligible student desiring a scholarship under this chapter shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(b) CONTINUING ELIGIBILITY.—In order for a student to continue to be eligible to receive a scholarship under this chapter for the second year of undergraduate education, the eligible student shall maintain eligibility to receive a Federal Pell Grant for that year, including fulfilling the requirements for satisfactory progress described in section 484(c).

20 USC 1070a–35.

**“SEC. 407E. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this chapter \$200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

**SEC. 405. REPEALS.**

Chapters 4 through 8 of subpart 2 of part A of title IV (20 U.S.C. 1070a–41 et seq. and 1070a–81 et seq.) are repealed.

20 USC 1070a–41 et seq., 1070a–51 et seq., 1070a–61, 1070a–71, 1070a–81.

**SEC. 406. FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 413A(b)(1) (20 U.S.C. 1070b(b)(1)) is amended by striking “1993” and inserting “1999”.



(b) **USE OF FUNDS FOR LESS-THAN-FULL-TIME STUDENTS.**—Subsection (d) of section 413C (20 U.S.C. 1070b-2) is amended to read as follows:

“(d) **USE OF FUNDS FOR LESS-THAN-FULL-TIME STUDENTS.**—If the institution’s allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution on less than a full-time basis, then a reasonable proportion of the allocation shall be made available to such students.”.

(c) **ALLOCATION OF FUNDS.**—

(1) **UPDATING THE BASE PERIOD.**—Section 413D(a) (20 U.S.C. 1070b-3(a)) is amended—

(A) in paragraph (1), by striking “received and used under this part for fiscal year 1985” and inserting “received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)”;

(B) in paragraph (2)—

(i) in subparagraphs (A) and (B), by striking “1985” each place the term appears and inserting “1999”; and

(ii) in subparagraph (C)(i), by striking “1986” and inserting “2000”.

(2) **ELIMINATION OF PRO RATA SHARE.**—Section 413D is further amended—

(A) by striking subsection (b);

(B) in subsection (c)(1), by striking “three-quarters of the remainder” and inserting “the remainder”;

(C) in subsection (c)(2)(A)(i), by striking “subsection (d)” and inserting “subsection (c)”;

(D) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply with respect to allocations of amounts appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for fiscal year 2000 or any succeeding fiscal year.

(d) **CARRYOVER AND CARRYBACK AUTHORITY.**—Subpart 3 of part A of title IV (20 U.S.C. 1070b et seq.) is amended by adding at the end the following:

**“SEC. 413E. CARRYOVER AND CARRYBACK AUTHORITY.**

“(a) **CARRYOVER AUTHORITY.**—Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out the program under this subpart.

“(b) **CARRYBACK AUTHORITY.**—

“(1) **IN GENERAL.**—Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, be used by the institution for expenditure for the fiscal year preceding the fiscal year for which the sums were appropriated.

“(2) **USE OF CARRIED-BACK FUNDS.**—An eligible institution may make grants to students after the end of the academic year, but prior to the beginning of the succeeding fiscal year, from such succeeding fiscal year’s appropriations.”.

Applicability.  
20 USC 1070b-3  
note.

20 USC 1070b-4.

**SEC. 407. LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.**

(a) AMENDMENT TO SUBPART HEADING.—

(1) IN GENERAL.—The heading for subpart 4 of part A of title IV (20 U.S.C. 1070c et seq.) is amended to read as follows:

“SUBPART 4—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM”.

(2) CONFORMING AMENDMENTS.—Subpart 4 of part A of title IV (20 U.S.C. 1070c et seq.) is amended—

(A) in section 415B(b) (20 U.S.C. 1070c-1(b)), by striking “State student grant incentive” and inserting “leveraging educational assistance partnership”; and

(B) in the heading for section 415C (20 U.S.C. 1070c-2), by striking “STATE STUDENT INCENTIVE GRANT” and inserting “LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 415A(b) (20 U.S.C. 1070c(b)) is amended—

(1) in paragraph (1), by striking “1993” and inserting “1999”;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

“(2) RESERVATION.—For any fiscal year for which the amount appropriated under paragraph (1) exceeds \$30,000,000, the excess shall be available to carry out section 415E.”.

(c) SPECIAL LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.—Subpart 4 of part A of title IV (20 U.S.C. 1070c et seq.) is amended—

20 USC 1070c-4.

(1) by redesignating section 415E as 415F; and

(2) by inserting after section 415D the following:

20 USC 1070c-3a.

**“SEC. 415E. SPECIAL LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.**

“(a) IN GENERAL.—From amounts reserved under section 415A(b)(2) for each fiscal year, the Secretary shall—

“(1) make allotments among States in the same manner as the Secretary makes allotments among States under section 415B; and

“(2) award grants to States, from allotments under paragraph (1), to enable the States to pay the Federal share of the cost of the authorized activities described in subsection (c).

“(b) APPLICABILITY RULE.—The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

“(c) AUTHORIZED ACTIVITIES.—Each State receiving a grant under this section may use the grant funds for—

“(1) increasing the dollar amount of grants awarded under section 415B to eligible students who demonstrate financial need;

“(2) carrying out transition programs from secondary school to postsecondary education for eligible students who demonstrate financial need;

“(3) carrying out a financial aid program for eligible students who demonstrate financial need and wish to enter careers in information technology, or other fields of study determined by the State to be critical to the State’s workforce needs;

“(4) making funds available for community service work-study activities for eligible students who demonstrate financial need;

“(5) creating a postsecondary scholarship program for eligible students who demonstrate financial need and wish to enter teaching;

“(6) creating a scholarship program for eligible students who demonstrate financial need and wish to enter a program of study leading to a degree in mathematics, computer science, or engineering;

“(7) carrying out early intervention programs, mentoring programs, and career education programs for eligible students who demonstrate financial need; and

“(8) awarding merit or academic scholarships to eligible students who demonstrate financial need.

“(d) MAINTENANCE OF EFFORT REQUIREMENT.—Each State receiving a grant under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (c) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditures by the State for the activities for the second preceding fiscal year.

“(e) FEDERAL SHARE.—The Federal share of the cost of the authorized activities described in subsection (c) for any fiscal year shall be not more than 33⅓ percent.”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) PURPOSE.—Subsection (a) of section 415A (20 U.S.C. 1070c(a)) is amended to read as follows:

“(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to States to assist States in—

“(1) providing grants to—

“(A) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

“(B) eligible students for campus-based community service work-study; and

“(2) carrying out the activities described in section 415F.”.

(2) ALLOTMENT.—Section 415B(a)(1) (20 U.S.C. 1070c-1(a)(1)) is amended by inserting “and not reserved under section 415A(b)(2)” after “415A(b)(1)”.

**SEC. 408. SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK.**

(a) COORDINATION.—Section 418A(d) (20 U.S.C. 1070d-2(d)) is amended by inserting after “contains assurances” the following: “that the grant recipient will coordinate the project, to the extent feasible, with other local, State, and Federal programs to maximize the resources available for migrant students, and”.

20 USC 1070d-2.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 418A(g) is amended by striking “1993” each place the term appears and inserting “1999”.

(c) **DATA COLLECTION.**—Section 418A is amended—

(1) by redesignating subsection (g) (as amended by subsection (b)) as subsection (h); and

(2) by inserting after subsection (f) the following:

“(g) **DATA COLLECTION.**—The National Center for Education Statistics shall collect postsecondary education data on migrant students.”.

(d) **TECHNICAL AMENDMENT.**—Section 418A(e) is amended by striking “authorized by subpart 4 of this part in accordance with section 417A(b)(2)” and inserting “in accordance with section 402A(c)(1)”.

**SEC. 409. ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM.**

(a) **FAS ELIGIBILITY.**—Section 419D (20 U.S.C. 1070d-34) is amended by adding at the end thereof the following:

“(e) **FAS ELIGIBILITY.**—

“(1) **FISCAL YEARS 2000 THROUGH 2004.**—Notwithstanding any other provision of this subpart, in the case of students from the Freely Associated States who may be selected to receive a scholarship under this subpart for the first time for any of the fiscal years 2000 through 2004—

“(A) there shall be 10 scholarships in the aggregate awarded to such students for each of the fiscal years 2000 through 2004; and

“(B) the Pacific Regional Educational Laboratory shall administer the program under this subpart in the case of scholarships for students in the Freely Associated States.

“(2) **TERMINATION OF ELIGIBILITY.**—A student from the Freely Associated States shall not be eligible to receive a scholarship under this subpart after September 30, 2004.”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 419K (20 U.S.C. 1070d-41) is amended by striking “\$10,000,000 for fiscal year 1993” and inserting “\$45,000,000 for fiscal year 1999”.

**SEC. 410. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL.**

Part A of title IV (20 U.S.C. 1070 et seq.) is amended by inserting after subpart 6 (20 U.S.C. 1070d-31 et seq.) the following:

**“Subpart 7—Child Care Access Means Parents in School**

20 USC 1070e.

**“SEC. 419N. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL.**

“(a) **PURPOSE.**—The purpose of this section is to support the participation of low-income parents in postsecondary education through the provision of campus-based child care services.

“(b) **PROGRAM AUTHORIZED.**—

“(1) **AUTHORITY.**—The Secretary may award grants to institutions of higher education to assist the institutions in providing campus-based child care services to low-income students.

“(2) **AMOUNT OF GRANTS.**—

“(A) **IN GENERAL.**—The amount of a grant awarded to an institution of higher education under this section for a fiscal year shall not exceed 1 percent of the total

amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year.

“(B) MINIMUM.—A grant under this section shall be awarded in an amount that is not less than \$10,000.

“(3) DURATION; RENEWAL; AND PAYMENTS.—

“(A) DURATION.—The Secretary shall award a grant under this section for a period of 4 years.

“(B) PAYMENTS.—Subject to subsection (e)(2), the Secretary shall make annual grant payments under this section.

“(4) ELIGIBLE INSTITUTIONS.—An institution of higher education shall be eligible to receive a grant under this section for a fiscal year if the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year equals or exceeds \$350,000.

“(5) USE OF FUNDS.—Grant funds under this section shall be used by an institution of higher education to support or establish a campus-based child care program primarily serving the needs of low-income students enrolled at the institution of higher education. Grant funds under this section may be used to provide before and after school services to the extent necessary to enable low-income students enrolled at the institution of higher education to pursue postsecondary education.

“(6) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an institution of higher education that receives grant funds under this section from serving the child care needs of the community served by the institution.

“(7) DEFINITION OF LOW-INCOME STUDENT.—For the purpose of this section, the term “low-income student” means a student who is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made.

“(c) APPLICATIONS.—An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall—

“(1) demonstrate that the institution is an eligible institution described in subsection (b)(4);

“(2) specify the amount of funds requested;

“(3) demonstrate the need of low-income students at the institution for campus-based child care services by including in the application—

“(A) information regarding student demographics;

“(B) an assessment of child care capacity on or near campus;

“(C) information regarding the existence of waiting lists for existing child care;

“(D) information regarding additional needs created by concentrations of poverty or by geographic isolation; and

“(E) other relevant data;

“(4) contain a description of the activities to be assisted, including whether the grant funds will support an existing child care program or a new child care program;

“(5) identify the resources, including technical expertise and financial support, the institution will draw upon to support

the child care program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of child care, using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrate that the use of the resources will not result in increases in student tuition;

“(6) contain an assurance that the institution will meet the child care needs of low-income students through the provision of services, or through a contract for the provision of services;

“(7) describe the extent to which the child care program will coordinate with the institution’s early childhood education curriculum, to the extent the curriculum is available, to meet the needs of the students in the early childhood education program at the institution, and the needs of the parents and children participating in the child care program assisted under this section;

“(8) in the case of an institution seeking assistance for a new child care program—

“(A) provide a timeline, covering the period from receipt of the grant through the provision of the child care services, delineating the specific steps the institution will take to achieve the goal of providing low-income students with child care services;

“(B) specify any measures the institution will take to assist low-income students with child care during the period before the institution provides child care services; and

“(C) include a plan for identifying resources needed for the child care services, including space in which to provide child care services, and technical assistance if necessary;

“(9) contain an assurance that any child care facility assisted under this section will meet the applicable State or local government licensing, certification, approval, or registration requirements; and

“(10) contain a plan for any child care facility assisted under this section to become accredited within 3 years of the date the institution first receives assistance under this section.

“(d) PRIORITY.—The Secretary shall give priority in awarding grants under this section to institutions of higher education that submit applications describing programs that—

“(1) leverage significant local or institutional resources, including in-kind contributions, to support the activities assisted under this section; and

“(2) utilize a sliding fee scale for child care services provided under this section in order to support a high number of low-income parents pursuing postsecondary education at the institution.

“(e) REPORTING REQUIREMENTS; CONTINUING ELIGIBILITY.—

“(1) REPORTING REQUIREMENTS.—

“(A) REPORTS.—Each institution of higher education receiving a grant under this section shall report to the Secretary 18 months, and 36 months, after receiving the first grant payment under this section.

“(B) CONTENTS.—The report shall include—

“(i) data on the population served under this section;

“(ii) information on campus and community resources and funding used to help low-income students access child care services;

“(iii) information on progress made toward accreditation of any child care facility; and

“(iv) information on the impact of the grant on the quality, availability, and affordability of campus-based child care services.

“(2) CONTINUING ELIGIBILITY.—The Secretary shall make the third annual grant payment under this section to an institution of higher education only if the Secretary determines, on the basis of the 18-month report submitted under paragraph (1), that the institution is making a good faith effort to ensure that low-income students at the institution have access to affordable, quality child care services.

“(f) CONSTRUCTION.—No funds provided under this section shall be used for construction, except for minor renovation or repair to meet applicable State or local health or safety requirements.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$45,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

#### **SEC. 411. LEARNING ANYTIME ANYWHERE PARTNERSHIPS.**

Subpart 8 of part A of title IV (20 U.S.C. 1070 et seq.) is amended to read as follows:

### **“Subpart 8—Learning Anytime Anywhere Partnerships**

#### **“SEC. 420D. FINDINGS.**

20 USC 1070f.

“Congress makes the following findings:

“(1) The nature of postsecondary education delivery is changing, and new technology and other related innovations can provide promising education opportunities for individuals who are currently not being served, particularly for individuals without easy access to traditional campus-based postsecondary education or for whom traditional courses are a poor match with education or training needs.

“(2) Individuals, including individuals seeking basic or technical skills or their first postsecondary experience, individuals with disabilities, dislocated workers, individuals making the transition from welfare-to-work, and individuals who are limited by time and place constraints can benefit from nontraditional, noncampus-based postsecondary education opportunities and appropriate support services.

“(3) The need for high-quality, nontraditional, technology-based education opportunities is great, as is the need for skill competency credentials and other measures of educational progress and attainment that are valid and widely accepted, but neither need is likely to be adequately addressed by the uncoordinated efforts of agencies and institutions acting independently and without assistance.

“(4) Partnerships, consisting of institutions of higher education, community organizations, or other public or private agencies or organizations, can coordinate and combine institutional resources—

“(A) to provide the needed variety of education options to students; and

“(B) to develop new means of ensuring accountability and quality for innovative education methods.

20 USC 1070f-1. **“SEC. 420E. PURPOSE; PROGRAM AUTHORIZED.**

“(a) PURPOSE.—It is the purpose of this subpart to enhance the delivery, quality, and accountability of postsecondary education and career-oriented lifelong learning through technology and related innovations.

“(b) PROGRAM AUTHORIZED.—

“(1) GRANTS.—

“(A) IN GENERAL.—The Secretary may, from funds appropriated under section 420J make grants to, or enter into contracts or cooperative agreements with, eligible partnerships to carry out the authorized activities described in section 420G.

“(B) DURATION.—Grants under this subpart shall be awarded for periods that do not exceed 5 years.

“(2) DEFINITION OF ELIGIBLE PARTNERSHIP.—For purposes of this subpart, the term ‘eligible partnership’ means a partnership consisting of 2 or more independent agencies, organizations, or institutions. The agencies, organizations, or institutions may include institutions of higher education, community organizations, and other public and private institutions, agencies, and organizations.

20 USC 1070f-2. **“SEC. 420F. APPLICATION.**

“(a) REQUIREMENT.—An eligible partnership desiring to receive a grant under this subpart shall submit an application to the Secretary, in such form and containing such information, as the Secretary may require.

“(b) CONTENTS.—Each application shall include—

“(1) the name of each partner and a description of the responsibilities of the partner, including the designation of a nonprofit organization as the fiscal agent for the partnership;

“(2) a description of the need for the project, including a description of how the project will build on any existing services and activities;

“(3) a listing of human, financial (other than funds provided under this subpart), and other resources that each member of the partnership will contribute to the partnership, and a description of the efforts each member of the partnership will make in seeking additional resources; and

“(4) a description of how the project will operate, including how funds awarded under this subpart will be used to meet the purpose of this subpart.

20 USC 1070f-3. **“SEC. 420G. AUTHORIZED ACTIVITIES.**

“Funds awarded to an eligible partnership under this subpart shall be used to—

“(1) develop and assess model distance learning programs or innovative educational software;



“(2) develop methodologies for the identification and measurement of skill competencies;

“(3) develop and assess innovative student support services;  
or

“(4) support other activities that are consistent with the purpose of this subpart.

**“SEC. 420H. MATCHING REQUIREMENT.**

20 USC 1070f–4.

“Federal funds shall provide not more than 50 percent of the cost of a project under this subpart. The non-Federal share of project costs may be in cash or in kind, fairly evaluated, including services, supplies, or equipment.

**“SEC. 420I. PEER REVIEW.**

20 USC 1070f–5.

“The Secretary shall use a peer review process to review applications under this subpart and to make recommendations for funding under this subpart to the Secretary.

**“SEC. 420J. AUTHORIZATION OF APPROPRIATIONS.**

20 USC 1070f–6.

“There are authorized to be appropriated to carry out this subpart \$10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

## **PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM**

**SEC. 411. LIMITATION REPEALED.**

Section 421 (20 U.S.C. 1071) is amended by striking subsection (d).

**SEC. 412. ADVANCES TO RESERVE FUNDS.**

Section 422 (20 U.S.C. 1072) is amended—

(1) in subsection (a)(2), by striking “428(c)(10)(E)” and inserting “428(c)(9)(E)”;

(2) in subsection (c)—

(A) in paragraph (6)(B)(i), by striking “written” and inserting “written, electronic,”;

(B) in paragraph (7)(A), by striking “during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title”; and

(C) in paragraph (7)(B), by striking “428(c)(10)(F)(v)” and inserting “428(c)(9)(F)(v)”;

(3) in the first and second sentences of subsection (g)(1), by striking “or the program authorized by part D of this title” each place it appears; and

(4) by adding at the end the following:

“(i) **ADDITIONAL RECALL OF RESERVES.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of law and subject to paragraph (4), the Secretary shall recall, from reserve funds held in the Federal Student Loan Reserve Funds established under section 422A by guaranty agencies—

“(A) \$85,000,000 in fiscal year 2002;

“(B) \$82,500,000 in fiscal year 2006; and

“(C) \$82,500,000 in fiscal year 2007.

“(2) **DEPOSIT.**—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

“(3) **REQUIRED SHARE.**—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) on the basis of the agency’s required share. For purposes of this paragraph, a guaranty agency’s required share shall be determined as follows:

“(A) **EQUAL PERCENTAGE.**—The Secretary shall require each guaranty agency to return an amount representing an equal percentage reduction in the amount of reserve funds held by the agency on September 30, 1996.

“(B) **CALCULATION.**—The equal percentage reduction shall be the percentage obtained by dividing—

“(i) \$250,000,000, by

“(ii) the total amount of all guaranty agencies’ reserve funds held on September 30, 1996, less any amounts subject to recall under subsection (h).

“(C) **SPECIAL RULE.**—Notwithstanding subparagraphs (A) and (B), the percentage reduction under subparagraph (B) shall not result in the depletion of the reserve funds of any agency which charges the 1.0 percent insurance premium pursuant to section 428(b)(1)(H) below an amount equal to the amount of lender claim payments paid during the 90 days prior to the date of the return under this subsection. If any additional amount is required to be returned after deducting the total of the required shares under subparagraph (B) and as a result of the preceding sentence, such additional amount shall be obtained by imposing on each guaranty agency to which the preceding sentence does not apply, an equal percentage reduction in the amount of the agency’s remaining reserve funds.

“(4) **OFFSET OF REQUIRED SHARES.**—If any guaranty agency returns to the Secretary any reserve funds in excess of the amount required under this subsection or subsection (h), the total amount required to be returned under paragraph (1) shall be reduced by the amount of such excess reserve funds returned.

“(5) **DEFINITION OF RESERVE FUNDS.**—The term ‘reserve funds’ when used with respect to a guaranty agency—

“(A) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

“(B) does not include buildings, equipment, or other nonliquid assets.”.

#### **SEC. 413. GUARANTY AGENCY REFORMS.**

(a) **FEDERAL STUDENT LOAN RESERVE FUND.**—Part B of title IV is amended by inserting after section 422 (20 U.S.C. 1072) the following new section:

20 USC 1072a.

#### **“SEC. 422A. FEDERAL STUDENT LOAN RESERVE FUND.**

Deadline.

“(a) **ESTABLISHMENT.**—Each guaranty agency shall, not later than 60 days after the date of enactment of this section, deposit all funds, securities, and other liquid assets contained in the reserve fund established pursuant to section 422 into a Federal Student Loan Reserve Fund (in this section and section 422B referred to as the ‘Federal Fund’), which shall be an account of a type selected by the agency, with the approval of the Secretary.

“(b) **INVESTMENT OF FUNDS.**—Funds transferred to the Federal Fund shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities

selected by the guaranty agency, with the approval of the Secretary. Earnings from the Federal Fund shall be the sole property of the Federal Government.

“(c) ADDITIONAL DEPOSITS.—After the establishment of the Federal Fund, a guaranty agency shall deposit into the Federal Fund—

“(1) all amounts received from the Secretary as payment of reinsurance on loans pursuant to section 428(c)(1);

“(2) from amounts collected on behalf of the obligation of a defaulted borrower, a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made—

“(A) with respect to the defaulted loan pursuant to sections 428(c)(6)(A) and 428F(a)(1)(B); and

“(B) with respect to a loan that the Secretary has repaid or discharged under section 437;

“(3) insurance premiums collected from borrowers pursuant to sections 428(b)(1)(H) and 428H(h);

“(4) all amounts received from the Secretary as payment for supplemental preclaims activity performed prior to the date of enactment of this section;

“(5) 70 percent of amounts received after such date of enactment from the Secretary as payment for administrative cost allowances for loans upon which insurance was issued prior to such date of enactment; and

“(6) other receipts as specified in regulations of the Secretary.

“(d) USES OF FUNDS.—Subject to subsection (f), the Federal Fund may only be used by a guaranty agency—

“(1) to pay lender claims pursuant to sections 428(b)(1)(G), 428(j), 437, and 439(q); and

“(2) to pay into the Agency Operating Fund established pursuant to section 422B (in this section and section 422B referred to as the “Operating Fund”) a default aversion fee in accordance with section 428(l).

“(e) OWNERSHIP OF FEDERAL FUND.—The Federal Fund, and any nonliquid asset (such as a building or equipment) developed or purchased by the guaranty agency in whole or in part with Federal reserve funds, regardless of who holds or controls the Federal reserve funds or such asset, shall be considered to be the property of the United States, prorated based on the percentage of such asset developed or purchased with Federal reserve funds, which property shall be used in the operation of the program authorized by this part, as provided in subsection (d). The Secretary may restrict or regulate the use of such asset only to the extent necessary to reasonably protect the Secretary’s prorated share of the value of such asset. The Secretary may direct a guaranty agency, or such agency’s officers or directors, to cease any activity involving expenditures, use, or transfer of the Federal Fund administered by the guaranty agency that the Secretary determines is a misapplication, misuse, or improper expenditure of the Federal Fund or the Secretary’s share of such asset.

“(f) TRANSITION.—

“(1) IN GENERAL.—In order to establish the Operating Fund, each guaranty agency may transfer not more than 180 days’ cash expenses for normal operating expenses (not including claim payments) as a working capital reserve as defined in

Office of Management and Budget Circular A-87 (Cost Accounting Standards) from the Federal Fund for deposit into the Operating Fund for use in the performance of the guaranty agency's duties under this part. Such transfers may occur during the first 3 years following the establishment of the Operating Fund. However, no agency may transfer in excess of 45 percent of the balance, as of September 30, 1998, of the agency's Federal Fund to the agency's Operating Fund during such 3-year period. In determining the amount that may be transferred, the agency shall ensure that sufficient funds remain in the Federal Fund to pay lender claims within the required time periods and to meet the reserve recall requirements of this section and subsections (h) and (i) of section 422.

“(2) SPECIAL RULE.—A limited number of guaranty agencies may transfer interest earned on the Federal Fund to the Operating Fund during the first 3 years after the date of enactment of this section if the guaranty agency demonstrates to the Secretary that—

“(A) the cash flow in the Operating Fund will be negative without the transfer of such interest; and

“(B) the transfer of such interest will substantially improve the financial circumstances of the guaranty agency.

“(3) REPAYMENT PROVISIONS.—Each guaranty agency shall begin repayment of sums transferred pursuant to this subsection not later than the start of the fourth year after the establishment of the Operating Fund, and shall repay all amounts transferred not later than 5 years from the date of the establishment of the Operating Fund. With respect to amounts transferred from the Federal Fund, the guaranty agency shall not be required to repay any interest on the funds transferred and subsequently repaid. The guaranty agency shall provide to the Secretary a reasonable schedule for repayment of the sums transferred and an annual financial analysis demonstrating the agency's ability to comply with the schedule and repay all outstanding sums transferred.

“(4) PROHIBITION.—If a guaranty agency transfers funds from the Federal Fund in accordance with this section, and fails to make scheduled repayments to the Federal Fund, the agency may not receive any other funds under this part until the Secretary determines that the agency has made such repayments. The Secretary shall pay to the guaranty agency any funds withheld in accordance with this paragraph immediately upon making the determination that the guaranty agency has made all such repayments.

“(5) WAIVER.—The Secretary may—

“(A) waive the requirements of paragraph (3), but only with respect to repayment of interest that was transferred in accordance with paragraph (2); and

“(B) waive paragraph (4);

for a guaranty agency, if the Secretary determines that there are extenuating circumstances (such as State constitutional prohibitions) beyond the control of the agency that justify such a waiver.

“(6) EXTENSION OF REPAYMENT PERIOD FOR INTEREST.—

“(A) EXTENSION PERMITTED.—The Secretary shall extend the period for repayment of interest that was transferred in accordance with paragraph (2) from 2 years to 5 years if the Secretary determines that—

“(i) the cash flow of the Operating Fund will be negative as a result of repayment as required by paragraph (3);

“(ii) the repayment of the interest transferred will substantially diminish the financial circumstances of the guaranty agency; and

“(iii) the guaranty agency has demonstrated—

“(I) that the agency is able to repay all transferred funds by the end of the 8th year following the date of establishment of the Operating Fund; and

“(II) that the agency will be financially sound on the completion of repayment.

“(B) REPAYMENT OF INCOME ON TRANSFERRED FUNDS.—All repayments made to the Federal Fund during the 6th, 7th, and 8th years following the establishment of the Operating Fund of interest that was transferred shall include the sums transferred plus any income earned from the investment of the sums transferred after the 5th year.

“(7) INVESTMENT OF FEDERAL FUNDS.—Funds transferred from the Federal Fund to the Operating Fund for operating expenses shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary.

“(8) SPECIAL RULE.—In calculating the minimum reserve level required by section 428(c)(9)(A), the Secretary shall include all amounts owed to the Federal Fund by the guaranty agency in the calculation.”.

(b) AGENCY OPERATING FUND ESTABLISHED.—Part B of title IV is further amended by inserting after section 422A (as added by subsection (a)) the following new section:

**“SEC. 422B. AGENCY OPERATING FUND.**

20 USC 1072b.

“(a) ESTABLISHMENT.—Each guaranty agency shall, not later than 60 days after the date of enactment of this section, establish a fund designated as the Operating Fund.

Deadline.

“(b) INVESTMENT OF FUNDS.—Funds deposited into the Operating Fund shall be invested at the discretion of the guaranty agency in accordance with prudent investor standards.

“(c) ADDITIONAL DEPOSITS.—After the establishment of the Operating Fund, the guaranty agency shall deposit into the Operating Fund—

“(1) the loan processing and issuance fee paid by the Secretary pursuant to section 428(f);

“(2) 30 percent of amounts received after the date of enactment of this section from the Secretary as payment for administrative cost allowances for loans upon which insurance was issued prior to such date of enactment;

“(3) the account maintenance fee paid by the Secretary in accordance with section 458;

“(4) the default aversion fee paid in accordance with section 428(l);

“(5) amounts remaining pursuant to section 428(c)(6)(B) from collection on defaulted loans held by the agency, after payment of the Secretary’s equitable share, excluding amounts deposited in the Federal Fund pursuant to section 422A(c)(2); and

“(6) other receipts as specified in regulations of the Secretary.

“(d) USES OF FUNDS.—

“(1) IN GENERAL.—Funds in the Operating Fund shall be used for application processing, loan disbursement, enrollment and repayment status management, default aversion activities (including those described in section 422(h)(8)), default collection activities, school and lender training, financial aid awareness and related outreach activities, compliance monitoring, and other student financial aid related activities, as selected by the guaranty agency.

“(2) SPECIAL RULE.—The guaranty agency may, in the agency’s discretion, transfer funds from the Operating Fund to the Federal Fund for use pursuant to section 422A. Such transfer shall be irrevocable, and any funds so transferred shall become the sole property of the United States.

“(3) DEFINITIONS.—For purposes of this subsection:

“(A) DEFAULT COLLECTION ACTIVITIES.—The term ‘default collection activities’ means activities of a guaranty agency that are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the due diligence activities required pursuant to regulations of the Secretary.

“(B) DEFAULT AVERSION ACTIVITIES.—The term ‘default aversion activities’ means activities of a guaranty agency that are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan’s being legally in a default status, including due diligence activities required pursuant to regulations of the Secretary.

“(C) ENROLLMENT AND REPAYMENT STATUS MANAGEMENT.—The term ‘enrollment and repayment status management’ means activities of a guaranty agency that are directly related to ascertaining the student’s enrollment status, including prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part.

“(e) OWNERSHIP AND REGULATION OF OPERATING FUND.—

“(1) OWNERSHIP.—The Operating Fund, with the exception of funds transferred from the Federal Fund in accordance with section 422A(f), shall be considered to be the property of the guaranty agency.

“(2) REGULATION.—Except as provided in paragraph (3), the Secretary may not regulate the uses or expenditure of moneys in the Operating Fund, but the Secretary may require such necessary reports and audits as provided in section 428(b)(2).

“(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), during any period in which funds are owed to the Federal Fund as a result of transfer under section 422A(f)—

“(A) moneys in the Operating Fund may only be used for expenses related to the student loan programs authorized under this part; and

“(B) the Secretary may regulate the uses or expenditure of moneys in the Operating Fund.”.

**SEC. 414. SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM.**

Section 424(a) (20 U.S.C. 1074(a)) is amended—

(1) by striking “October 1, 2002” and inserting “October 1, 2004”; and

(2) by striking “September 30, 2006” and inserting “September 30, 2008”.

**SEC. 415. LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND FEDERAL LOAN INSURANCE.**

Section 425(a)(1)(A) (20 U.S.C. 1075(a)(1)(A)) is amended—

(1) in clause (i)—

(A) by inserting “and” after the semicolon at the end of subclause (I); and

(B) by striking subclauses (II) and (III) and inserting the following:

“(II) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;”;

(2) by inserting “and” after the semicolon at the end of clause (iii).

**SEC. 416. APPLICABLE INTEREST RATES.**

(a) APPLICABLE INTEREST RATES.—

(1) AMENDMENT.—Section 427A (20 U.S.C. 1077a) is amended—

(A) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively; and

(B) by inserting after subsection (j) the following:

“(k) INTEREST RATES FOR NEW LOANS ON OR AFTER OCTOBER 1, 1998, AND BEFORE JULY 1, 2003.—

“(1) IN GENERAL.—Notwithstanding subsection (h) and subject to paragraph (2) of this subsection, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

“(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

“(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

“(2) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding subsection (h), with respect to any loan under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest for interest which accrues—

“(A) prior to the beginning of the repayment period of the loan; or

“(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 427(a)(2)(C) or 428(b)(1)(M),

shall be determined under paragraph (1) by substituting ‘1.7 percent’ for ‘2.3 percent’.

“(3) PLUS LOANS.—Notwithstanding subsection (h), with respect to any loan under section 428B for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall be determined under paragraph (1)—

“(A) by substituting ‘3.1 percent’ for ‘2.3 percent’; and

“(B) by substituting ‘9.0 percent’ for ‘8.25 percent’.

“(4) CONSOLIDATION LOANS.—With respect to any consolidation loan under section 428C for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

“(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

“(B) 8.25 percent.

“(5) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.”.

(2) CONFORMING AMENDMENT.—Section 428B(d)(4) (20 U.S.C. 1078-2(d)(4)) is amended by striking “section 427A(c)” and inserting “section 427A”.

(b) SPECIAL ALLOWANCES.—

(1) AMENDMENT.—Section 438(b)(2) (20 U.S.C. 1087-1(b)(2)) is amended by adding at the end the following:

“(H) LOANS DISBURSED ON OR AFTER OCTOBER 1, 1998, AND BEFORE JULY 1, 2003.—

“(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, shall be computed—

“(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;



“(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

“(III) by adding 2.8 percent to the resultant percent; and

“(IV) by dividing the resultant percent by 4.

“(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(k)(2), clause (i)(III) of this subparagraph shall be applied by substituting ‘2.2 percent’ for ‘2.8 percent’.

“(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(k)(3), clause (i)(III) of this subparagraph shall be applied by substituting ‘3.1 percent’ for ‘2.8 percent’, subject to clause (v) of this subparagraph.

“(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003, and for which the applicable interest rate is determined under section 427A(k)(4), clause (i)(III) of this subparagraph shall be applied by substituting ‘3.1 percent’ for ‘2.8 percent’, subject to clause (vi) of this subparagraph.

“(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 428B and first disbursed on or after October 1, 1998, and before July 1, 2003, for which the interest rate is determined under section 427A(k)(3), a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless, on the June 1 preceding such July 1—

“(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1 (as determined by the Secretary for purposes of such section); plus

“(II) 3.1 percent,  
exceeds 9.0 percent.

“(vi) LIMITATION ON SPECIAL ALLOWANCES FOR CONSOLIDATION LOANS.—In the case of consolidation loans made under section 428C and for which the application is received on or after October 1, 1998, and before July 1, 2003, for which the interest rate is determined under section 427A(k)(4), a special allowance shall not be paid for such loan during any 3-month period ending March 31, June 30, September 30, or December 31 unless—

“(I) the average of the bond equivalent rate of 91-day Treasury bills auctioned for such 3-month period; plus

“(II) 3.1 percent,  
exceeds the rate determined under section 427A(k)(4).”.

(2) CONSOLIDATION LOANS.—Section 428C(c)(1) (20 U.S.C. 1078-3(c)(1)) is amended by striking everything preceding subparagraph (B) and inserting the following:

“(1) INTEREST RATE.—(A) Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003, the applicable interest rate shall be determined under section 427A(k)(4).”.

(3) CONFORMING AMENDMENT.—Section 438(b)(2) (20 U.S.C. 1087-1(b)(2)(C)(ii)) is amended—

(A) in subparagraph (A), by striking “(F), and (G)” and inserting “(F), (G), and (H)”;

(B) in subparagraph (B)(iv), by striking “(F), or (G)” and inserting “(F), (G), or (H)”;

(C) in subparagraph (C)(ii), by striking “subparagraph (G)” and inserting “subparagraphs (G) and (H)”.

Applicability.  
20 USC 1077a  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, except that such amendments shall apply with respect to any loan made under section 428C of such Act for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003.

#### SEC. 417. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.

(a) FEDERAL INTEREST SUBSIDIES.—

(1) REQUIREMENTS TO RECEIVE SUBSIDY.—Section 428(a)(2) (20 U.S.C. 1078(a)(2)) is amended—

(A) in subparagraph (A)(i), by striking subclauses (I), (II), and (III) and inserting the following:

“(I) sets forth the loan amount for which the student shows financial need; and

“(II) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and”;

(B) by amending subparagraph (B) to read as follows:

“(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has determined and documented the student’s amount of need for a loan based on the student’s estimated cost of attendance, estimated financial assistance, and, for the purpose of an interest payment pursuant to this section, expected family contribution (as determined under part F), subject to the provisions of subparagraph (D).”;

(C) by amending subparagraph (C) to read as follows:

“(C) For the purpose of subparagraph (B) and this paragraph—

“(i) a student’s cost of attendance shall be determined under section 472;

“(ii) a student’s estimated financial assistance means, for the period for which the loan is sought—

“(I) the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 3 of part A, and parts C and E;

“(II) any veterans’ education benefits paid because of enrollment in a postsecondary education institution, including veterans’ education benefits (as defined in section 480(c), but excluding benefits described in paragraph (2)(E) of such section); plus

“(III) other scholarship, grant, or loan assistance, but excluding any national service education award or post-service benefit under title I of the National and Community Service Act of 1990; and

“(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part F.”; and

(D) by striking subparagraph (F).

(2) DURATION OF AUTHORITY.—Section 428(a)(5) is amended—

20 USC 1078.

(A) by striking “September 30, 2002” and inserting “September 30, 2004”; and

(B) by striking “September 30, 2006” and inserting “September 30, 2008”.

(b) INSURANCE PROGRAM AGREEMENTS.—

(1) ANNUAL LOAN LIMITS.—Section 428(b)(1)(A) is amended—

(A) in the matter preceding clause (i), by inserting “, as defined in section 481(a)(2),” after “academic year”; and

(B) in clause (i)—

(i) in subclause (I), by striking “length (as determined under section 481),” and inserting “length; and”; and

(ii) by striking subclauses (II) and (III) and inserting the following:

“(II) if such student is enrolled in a program of undergraduate education which is less than 1 academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to 1 academic year;”;

(C) in clause (iv), by striking “and” after the semicolon;

(D) in clause (v), by inserting “and” after the semicolon;

and

(E) by inserting before the matter following clause (v) the following:

“(vi) in the case of a student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B)—

“(I) \$2,625 for coursework necessary for enrollment in an undergraduate degree or certificate program, and, in the case of a student who has obtained a baccalaureate degree, \$5,500 for coursework necessary for enrollment in a graduate or professional degree or certification program; and

“(II) in the case of a student who has obtained a baccalaureate degree, \$5,500 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary school or secondary school;”.

20 USC 1078.

(2) SELECTION OF REPAYMENT PLANS.—Clause (ii) of section 428(b)(1)(D) is amended to read as follows: “(ii) the student borrower may annually change the selection of a repayment plan under this part, and”.

(3) REPAYMENT PLANS.—Subparagraph (E) of section 428(b)(1) is amended to read as follows:

“(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

“(i) not more than 6 months prior to the date on which the borrower’s first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 428H, the option of repaying the loan in accordance with a standard, graduated, income-sensitive, or extended repayment schedule (as described in paragraph (9)) established by the lender in accordance with regulations of the Secretary; and

“(ii) repayment of loans shall be in installments in accordance with the repayment plan selected under paragraph (9) and commencing at the beginning of the repayment period determined under paragraph (7);”;

(4) COINSURANCE.—Section 428(b)(1)(G) is amended by striking “not less than”.

(5) PAYMENT AMOUNTS.—Section 428(b)(1)(L)(i) is amended—

(A) by inserting “except as otherwise provided by a repayment plan selected by the borrower under clause (ii) or (iii) of paragraph (9)(A),” before “during any”; and

(B) by inserting “, notwithstanding any payment plan under paragraph (9)(A)” after “due and payable”.

(6) DEFERMENTS.—Section 428(b)(1)(M) is amended—

(A) in clause (i)(I), by inserting before the semicolon the following: “, except that no borrower, notwithstanding the provisions of the promissory note, shall be required to borrow an additional loan under this title in order to be eligible to receive a deferment under this clause”; and

(B) in clause (ii), by inserting before the semicolon the following: “, except that no borrower who provides evidence of eligibility for unemployment benefits shall be required to provide additional paperwork for a deferment under this clause”.

(7) LIMITATION, SUSPENSION, AND TERMINATION.—Section 428(b)(1)(U) is amended—

(A) by striking “emergency action,” each place the term appears and inserting “emergency action,”; and

(B) in clause (iii)(I), by inserting “that originates or holds more than \$5,000,000 in loans made under this title for any lender fiscal year (except that each lender described in section 435(d)(1)(A)(ii)(III) shall annually submit the results of an audit required by this clause),” before “at least once a year”.

(8) ADDITIONAL INSURANCE PROGRAM REQUIREMENTS.—Section 428(b)(1) is further amended—

(A) by striking “and” at the end of subparagraph (W);

(B) in subparagraph (X)—

(i) by striking “428(c)(10)” and inserting “428(c)(9)”;  
and

(ii) by striking the period at the end and inserting  
“; and”;

(C) by adding at the end the following new subparagraph:

“(Y) provides that—

“(i) the lender shall determine the eligibility of a borrower for a deferment described in subparagraph (M)(i) based on receipt of—

“(I) a request for deferment from the borrower and documentation of the borrower’s eligibility for the deferment;

“(II) a newly completed loan application that documents the borrower’s eligibility for a deferment; or

“(III) student status information received by the lender that the borrower is enrolled on at least a half-time basis; and

“(ii) the lender will notify the borrower of the granting of any deferment under clause (i)(II) or (III) of this subparagraph and of the option to continue paying on the loan.”.

(9) RESTRICTIONS ON INDUCEMENTS.—Section 428(b)(3) is amended—

20 USC 1078.

(A) by striking subparagraph (C) and inserting the following:

“(C) conduct unsolicited mailings of student loan application forms to students enrolled in secondary school or a postsecondary institution, or to parents of such students, except that applications may be mailed to borrowers who have previously received loans guaranteed under this part by the guaranty agency; or”; and

(B) by adding at the end the following new sentence:  
“It shall not be a violation of this paragraph for a guaranty agency to provide assistance to institutions of higher education comparable to the kinds of assistance provided to institutions of higher education by the Department of Education.”.

(10) DELAY IN COMMENCEMENT OF REPAYMENT PERIOD.—Section 428(b)(7) is amended by adding at the end the following:

“(D) There shall be excluded from the 6-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in subparagraph (A)(i) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code, is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower’s next available regular enrollment period.”.

(11) REPAYMENT PLANS.—Section 428(b) is amended by adding at the end the following:

“(9) REPAYMENT PLANS.—

“(A) DESIGN AND SELECTION.—In accordance with regulations promulgated by the Secretary, the lender shall offer a borrower of a loan made under this part the plans

Regulations.

described in this subparagraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than 5 years unless the borrower, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over of a shorter period. The borrower may choose from—

“(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed 10 years;

“(ii) a graduated repayment plan paid over a fixed period of time, not to exceed 10 years;

“(iii) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed 10 years, except that the borrower’s scheduled payments shall not be less than the amount of interest due; and

“(iv) for new borrowers on or after the date of enactment of the Higher Education Amendments of 1998 who accumulate (after such date) outstanding loans under this part totaling more than \$30,000, an extended repayment plan, with a fixed annual or graduated repayment amount paid over an extended period of time, not to exceed 25 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (1)(L)(i).

“(B) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this part does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).”.

(c) GUARANTEE AGREEMENTS.—

(1) REINSURANCE PAYMENTS.—

(A) AMENDMENTS.—Section 428(c)(1) (20 U.S.C. 1078(c)(1)) is amended—

(i) in subparagraph (A), by striking “98 percent” and inserting “95 percent”;

(ii) in subparagraph (B)(i), by striking “88 percent” and inserting “85 percent”;

(iii) in subparagraph (B)(ii), by striking “78 percent” and inserting “75 percent”;

(iv) in subparagraph (E)—

(I) in clause (i), by striking “98 percent” and inserting “95 percent”;

(II) in clause (ii), by striking “88 percent” and inserting “85 percent”; and

(III) in clause (iii), by striking “78 percent” and inserting “75 percent”; and

(v) in subparagraph (F)—

(I) in clause (i), by striking “98 percent” and inserting “95 percent”;

(II) in clause (ii), by striking “88 percent” and inserting “85 percent”; and

(III) in clause (iii), by striking “78 percent” and inserting “75 percent”.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) of this paragraph apply to loans for which the first disbursement is made on or after October 1, 1998.

Applicability.  
20 USC 1078  
note.

(2) NOTICE TO INSTITUTIONS OF DEFAULTS.—Section 428(c)(2) is amended—

20 USC 1078.

(A) in subparagraph (A), by striking “proof that reasonable attempts were made” and inserting “proof that the institution was contacted and other reasonable attempts were made”; and

(B) in subparagraph (G), by striking “certifies to the Secretary that diligent attempts have been made” and inserting “certifies to the Secretary that diligent attempts, including contact with the institution, have been made”.

(3) GUARANTY AGENCY INFORMATION TO ELIGIBLE INSTITUTIONS.—Section 428(c)(2)(H)(ii) is amended to read as follows:

“(ii) the guaranty agency shall not require the payment from the institution of any fee for such information; and”.

(4) FORBEARANCE.—Section 428(c)(3) is amended—

(A) in subparagraph (A)(i), by striking “written”;

(B) in subparagraph (B), by striking “and” after the semicolon;

(C) in subparagraph (C), by striking the period and inserting “; and”; and

(D) by inserting before the matter following subparagraph (C) the following:

“(D) shall contain provisions that specify that—

“(i) forbearance for a period not to exceed 60 days may be granted if the lender reasonably determines that such a suspension of collection activity is warranted following a borrower’s request for deferment, forbearance, a change in repayment plan, or a request to consolidate loans, in order to collect or process appropriate supporting documentation related to the request, and

“(ii) during such period interest shall accrue but not be capitalized.”.

(5) EQUITABLE SHARE.—Paragraph (6) of section 428(c) is amended to read as follows:

“(6) SECRETARY’S EQUITABLE SHARE.—For the purpose of paragraph (2)(D), the Secretary’s equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

“(A) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

“(B) an amount equal to 24 percent of such payments for use in accordance with section 422B, except that, beginning on October 1, 2003, this subparagraph shall be applied by substituting ‘23 percent’ for ‘24 percent’.”.

Effective date.  
Applicability.

(6) ASSIGNMENT.—Section 428(c)(8) is amended—

(A) by striking “(A) If” and inserting “If”; and

(B) by striking subparagraph (B).

20 USC 1078.

(7) GUARANTY AGENCY RESERVE LEVEL; AGENCY TERMINATION.—Section 428(c)(9) is amended—

(A) in subparagraph (A), by striking “maintain a current minimum reserve level of at least .5 percent” and inserting “maintain in the agency’s Federal Student Loan Reserve Fund established under section 422A a current minimum reserve level of at least 0.25 percent”;

(B) in subparagraph (C)—

(i) by striking “80 percent pursuant to section 428(c)(1)(B)(ii)” and inserting “85 percent pursuant to paragraph (1)(B)(i)”;

(ii) by striking “, as appropriate,”; and

(iii) by striking “30 working days” and inserting “45 working days”;

(C) in subparagraph (E)—

(i) by inserting “or” at the end of clause (iv);

(ii) by striking “; or” at the end of clause (v) and inserting a period; and

(iii) by striking clause (vi);

(D) in subparagraph (F)(vii), by striking “to avoid disruption” and everything that follows and inserting “and to avoid disruption of the student loan program.”;

(E) in subparagraph (I), by inserting “that, if commenced after September 24, 1998, shall be on the record” after “for a hearing”; and

(F) in subparagraph (K)—

(i) by striking “and Labor” and inserting “and the Workforce”; and

(ii) by striking everything after “guaranty agency system” and inserting a period.

(d) PAYMENT FOR LENDER REFERRAL SERVICES; INCOME-SENSITIVE REPAYMENT.—Subsection (e) of section 428 is amended to read as follows:

Regulations.

“(e) NOTICE OF AVAILABILITY OF INCOME-SENSITIVE REPAYMENT OPTION.—At the time of offering a borrower a loan under this part, and at the time of offering the borrower the option of repaying a loan in accordance with this section, the lender shall provide the borrower with a notice that informs the borrower, in a form prescribed by the Secretary by regulation—

“(1) that all borrowers are eligible for income-sensitive repayment, including through loan consolidation under section 428C;

“(2) the procedures by which the borrower may elect income-sensitive repayment; and

“(3) where and how the borrower may obtain additional information concerning income-sensitive repayment.”.

(e) PAYMENT OF CERTAIN COSTS.—Subsection (f) of section 428 is amended to read as follows:

“(f) PAYMENTS OF CERTAIN COSTS.—

“(1) PAYMENT FOR CERTAIN ACTIVITIES.—

“(A) IN GENERAL.—The Secretary—

“(i) for loans originated during fiscal years beginning on or after October 1, 1998, and before October 1, 2003, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.65 percent of the total



principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency; and

“(ii) for loans originated during fiscal years beginning on or after October 1, 2003, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.40 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency.

“(B) PAYMENT.—The payment required by subparagraph (A) shall be paid on a quarterly basis. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this paragraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application under this subparagraph.

“(C) REQUIREMENT FOR PAYMENT.—No payment may be made under this paragraph for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.”.

(f) ACTION ON AGREEMENTS.—Section 428(g) is amended by striking “and Labor” and inserting “and the Workforce”. 20 USC 1078.

(g) LENDERS-OF-LAST-RESORT.—Paragraph (3) of section 428(j) is amended—

(1) in the paragraph heading, by striking “DURING TRANSITION TO DIRECT LENDING”;

(2) in subparagraph (A)—

(A) by striking “during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title,” and inserting a comma;

(B) by inserting “designated for a State” after “a guaranty agency”; and

(C) by inserting “subparagraph (C) and” before “section 422(c)(7).”; and

(3) by adding at the end thereof the following:

“(C) The Secretary shall exercise the authority described in subparagraph (A) only if the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part, and that the guaranty agency designated for that State has the capability to provide lender-of-last-resort loans in a timely manner, in accordance with the guaranty agency’s obligations under paragraph (1), but cannot do so without advances provided by the Secretary under this paragraph. If the Secretary makes the determinations described in the preceding sentence and determines that it would be cost-effective to do so, the Secretary may provide advances under this paragraph to such guaranty agency. If the Secretary determines that such guaranty agency does not have such capability, or will not provide such loans in a timely fashion, the Secretary may provide such advances to enable another guaranty agency, that the Secretary determines to have such capability, to make lender-of-last-resort loans to eligible borrowers in that State who are experiencing loan access problems.”.

20 USC 1078. 428 (h) DEFAULT AVERSION ASSISTANCE.—Subsection (l) of section is amended to read as follows:

“(l) DEFAULT AVERSION ASSISTANCE.—

“(1) ASSISTANCE REQUIRED.—Upon receipt of a complete request from a lender received not earlier than the 60th day of delinquency, a guaranty agency having an agreement with the Secretary under subsection (c) shall engage in default aversion activities designed to prevent the default by a borrower on a loan covered by such agreement.

“(2) REIMBURSEMENT.—

“(A) IN GENERAL.—A guaranty agency, in accordance with the provisions of this paragraph, may transfer from the Federal Student Loan Reserve Fund under section 422A to the Agency Operating Fund under section 422B a default aversion fee. Such fee shall be paid for any loan on which a claim for default has not been paid as a result of the loan being brought into current repayment status by the guaranty agency on or before the 300th day after the loan becomes 60 days delinquent.

“(B) AMOUNT.—The default aversion fee shall be equal to 1 percent of the total unpaid principal and accrued interest on the loan at the time the request is submitted by the lender. A guaranty agency may transfer such fees earned under this subsection not more frequently than monthly. Such a fee shall not be paid more than once on any loan for which the guaranty agency averts the default unless—

“(i) at least 18 months has elapsed between the date the borrower entered current repayment status and the date the lender filed a subsequent default aversion assistance request; and

“(ii) during the period between such dates, the borrower was not more than 30 days past due on any payment of principal and interest on the loan.

“(C) DEFINITION.—For the purpose of earning the default aversion fee, the term ‘current repayment status’ means that the borrower is not delinquent in the payment of any principal or interest on the loan.”.

(i) INCOME CONTINGENT REPAYMENT.—Section 428(m) is amended by striking “shall require at least 10 percent of the borrowers” and inserting “may require borrowers”.

(j) STATE SHARE OF DEFAULT COSTS.—Subsection (n) of section 428 is repealed.

(k) BLANKET CERTIFICATE OF GUARANTY.—Section 428 is amended by adding at the end the following:

“(n) BLANKET CERTIFICATE OF LOAN GUARANTY.—

“(1) IN GENERAL.—Subject to paragraph (3), any guaranty agency that has entered into or enters into any insurance program agreement with the Secretary under this part may—

“(A) offer eligible lenders participating in the agency’s guaranty program a blanket certificate of loan guaranty that permits the lender to make loans without receiving prior approval from the guaranty agency of individual loans for eligible borrowers enrolled in eligible programs at eligible institutions; and

“(B) provide eligible lenders with the ability to transmit electronically data to the agency concerning loans the

lender has elected to make under the agency's insurance program via standard reporting formats, with such reporting to occur at reasonable and standard intervals.

“(2) LIMITATIONS ON BLANKET CERTIFICATE OF GUARANTY.—

(A) An eligible lender may not make a loan to a borrower under this section after such lender receives a notification from the guaranty agency that the borrower is not an eligible borrower.

“(B) A guaranty agency may establish limitations or restrictions on the number or volume of loans issued by a lender under the blanket certificate of guaranty.

“(3) PARTICIPATION LEVEL.—During fiscal years 1999 and 2000, the Secretary may permit, on a pilot basis, a limited number of guaranty agencies to offer blanket certificates of guaranty under this subsection. Beginning in fiscal year 2001, any guaranty agency that has an insurance program agreement with the Secretary may offer blanket certificates of guaranty under this subsection.

“(4) REPORT REQUIRED.—The Secretary shall, at the conclusion of the pilot program under paragraph (3), provide a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the impact of the blanket certificates of guaranty on program efficiency and integrity.”.

**SEC. 418. VOLUNTARY FLEXIBLE AGREEMENTS WITH GUARANTY AGENCIES.**

Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 428 (20 U.S.C. 1078) the following:

**“SEC. 428A. VOLUNTARY FLEXIBLE AGREEMENTS WITH GUARANTY AGENCIES.** 20 USC 1078-1.

“(a) VOLUNTARY AGREEMENTS.—

“(1) AUTHORITY.—Subject to paragraph (2), the Secretary may enter into a voluntary, flexible agreement with a guaranty agency under this section, in lieu of agreements with a guaranty agency under subsections (b) and (c) of section 428. The Secretary may waive or modify any requirement under such subsections, except that the Secretary may not waive—

“(A) any statutory requirement pertaining to the terms and conditions attached to student loans or default claim payments made to lenders; or

“(B) the prohibitions on inducements contained in section 428(b)(3) unless the Secretary determines that such a waiver is consistent with the purposes of this section and is limited to activities of the guaranty agency within the State or States for which the guaranty agency serves as the designated guarantor.

“(2) SPECIAL RULE.—If the Secretary grants a waiver pursuant to paragraph (1)(B), any guaranty agency doing business within the affected State or States may request, and the Secretary shall grant, an identical waiver to such guaranty agency under the same terms and conditions (including service area limitations) as govern the original waiver.

“(3) ELIGIBILITY.—During fiscal years 1999, 2000, and 2001, the Secretary may enter into a voluntary, flexible agreement with not more than 6 guaranty agencies that had 1 or more agreements with the Secretary under subsections (b) and (c)

of section 428 as of the day before the date of enactment of the Higher Education Amendments of 1998. Beginning in fiscal year 2002, any guaranty agency or consortium thereof may enter into a voluntary flexible agreement with the Secretary.

Deadline.

“(4) REPORT REQUIRED.—Not later than September 30, 2001, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives regarding the impact that the voluntary flexible agreements have had upon program integrity, program and cost efficiencies, and the availability and delivery of student financial aid. Such report shall include—

“(A) a description of each voluntary flexible agreement and the performance goals established by the Secretary for each agreement;

Records.

“(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency and any waivers provided to other guaranty agencies under paragraph (2);

“(C) a description of the standards by which each agency’s performance under the agency’s voluntary flexible agreement was assessed and the degree to which each agency achieved the performance standards; and

“(D) an analysis of the fees paid by the Secretary, and the costs and efficiencies achieved under each voluntary agreement.

“(b) TERMS OF AGREEMENT.—An agreement between the Secretary and a guaranty agency under this section—

“(1) shall be developed by the Secretary, in consultation with the guaranty agency, on a case-by-case basis;

“(2) may only include provisions—

“(A) specifying the responsibilities of the guaranty agency under the agreement, with respect to—

“(i) administering the issuance of insurance on loans made under this part on behalf of the Secretary;

“(ii) monitoring insurance commitments made under this part;

“(iii) default aversion activities;

“(iv) review of default claims made by lenders;

“(v) payment of default claims;

“(vi) collection of defaulted loans;

“(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary in a timely manner, and on an accurate, and auditable basis;

“(viii) timely and accurate collection and reporting of such other data as the Secretary may require to carry out the purposes of the programs under this title;

“(ix) monitoring of institutions and lenders participating in the program under this part; and

“(x) informational outreach to schools and students in support of access to higher education;

“(B) regarding the fees the Secretary shall pay, in lieu of revenues that the guaranty agency may otherwise receive under this part, to the guaranty agency under

the agreement, and other funds that the guaranty agency may receive or retain under the agreement, except that in no case may the cost to the Secretary of the agreement, as reasonably projected by the Secretary, exceed the cost to the Secretary, as similarly projected, in the absence of the agreement;

“(C) regarding the use of net revenues, as described in the agreement under this section, for such other activities in support of postsecondary education as may be agreed to by the Secretary and the guaranty agency;

“(D) regarding the standards by which the guaranty agency’s performance of the agency’s responsibilities under the agreement will be assessed, and the consequences for a guaranty agency’s failure to achieve a specified level of performance on 1 or more performance standards;

“(E) regarding the circumstances in which a guaranty agency’s agreement under this section may be ended in advance of the agreement’s expiration date;

“(F) regarding such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage; and

“(G) such other provisions as the Secretary may determine to be necessary to protect the United States from the risk of unreasonable loss and to promote the purposes of this part;

“(3) shall provide for uniform lender participation with the guaranty agency under the terms of the agreement; and

“(4) shall not prohibit or restrict borrowers from selecting a lender of the borrower’s choosing, subject to the prohibitions and restrictions applicable to the selection under this Act.

“(c) PUBLIC NOTICE.—

“(1) IN GENERAL.—The Secretary shall publish in the Federal Register a notice to all guaranty agencies that sets forth—

Federal Register,  
publication.

“(A) an invitation for the guaranty agencies to enter into agreements under this section; and

“(B) the criteria that the Secretary will use for selecting the guaranty agencies with which the Secretary will enter into agreements under this section.

“(2) AGREEMENT NOTICE.—The Secretary shall notify the Chairperson and the Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 30 days prior to concluding an agreement under this section. The notice shall contain—

“(A) a description of the voluntary flexible agreement and the performance goals established by the Secretary for the agreement;

“(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency;

Records.

“(C) a description of the standards by which each guaranty agency’s performance under the agreement will be assessed; and

“(D) a description of the fees that will be paid to each participating guaranty agency.

Deadline.

“(3) WAIVER NOTICE.—The Secretary shall notify the Chairperson and the Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 30 days prior to the granting of a waiver pursuant to subsection (a)(2) to a guaranty agency that is not a party to a voluntary flexible agreement.

“(4) PUBLIC AVAILABILITY.—The text of any voluntary flexible agreement, and any subsequent revisions, and any waivers related to section 428(b)(3) that are not part of such an agreement, shall be readily available to the public.

“(5) MODIFICATION NOTICE.—The Secretary shall notify the Chairperson and the Ranking Minority Members of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives 30 days prior to any modifications to an agreement under this section.

“(d) TERMINATION.—At the expiration or early termination of an agreement under this section, the Secretary shall reinstate the guaranty agency’s prior agreements under subsections (b) and (c) of section 428, subject only to such additional requirements as the Secretary determines to be necessary in order to ensure the efficient transfer of responsibilities between the agreement under this section and the agreements under subsections (b) and (c) of section 428, and including the guaranty agency’s compliance with reserve requirements under sections 422 and 428.”.

#### SEC. 419. FEDERAL PLUS LOANS.

Section 428B (20 U.S.C. 1078-2) is amended—

(1) by amending subsection (a) to read as follows:

“(a) AUTHORITY TO BORROW.—

“(1) AUTHORITY AND ELIGIBILITY.—Parents of a dependent student shall be eligible to borrow funds under this section in amounts specified in subsection (b), if—

“(A) the parents do not have an adverse credit history as determined pursuant to regulations promulgated by the Secretary; and

“(B) the parents meet such other eligibility criteria as the Secretary may establish by regulation, after consultation with guaranty agencies, eligible lenders, and other organizations involved in student financial assistance.

“(2) TERMS, CONDITIONS, AND BENEFITS.—Except as provided in subsections (c), (d), and (e), loans made under this section shall have the same terms, conditions, and benefits as all other loans made under this part.

“(3) SPECIAL RULE.—Whenever necessary to carry out the provisions of this section, the terms ‘student’ and ‘borrower’ as used in this part shall include a parent borrower under this section.”; and

(2) by adding at the end the following:

“(f) VERIFICATION OF IMMIGRATION STATUS AND SOCIAL SECURITY NUMBER.—A parent who wishes to borrow funds under this section shall be subject to verification of the parent’s—

“(1) immigration status in the same manner as immigration status is verified for students under section 484(g); and

“(2) social security number in the same manner as social security numbers are verified for students under section 484(p).”.

**SEC. 420. FEDERAL CONSOLIDATION LOANS.**

(a) **DEFINITION OF ELIGIBLE BORROWER.**—Section 428C(a)(3) (20 U.S.C. 1078-3(a)(3)) is amended by striking everything preceding subparagraph (C) and inserting the following:

“(3) **DEFINITION OF ELIGIBLE BORROWER.**—(A) For the purpose of this section, the term ‘eligible borrower’ means a borrower who—

“(i) is not subject to a judgment secured through litigation with respect to a loan under this title or to an order for wage garnishment under section 488A; and

“(ii) at the time of application for a consolidation loan—

“(I) is in repayment status;

“(II) is in a grace period preceding repayment; or

“(III) is a defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans.

“(B)(i) An individual’s status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section, except that—

“(I) an individual who receives eligible student loans after the date of receipt of the consolidation loan may receive a subsequent consolidation loan;

“(II) loans received prior to the date of the consolidation loan may be added during the 180-day period following the making of the consolidation loan;

“(III) loans received following the making of the consolidation loan may be added during the 180-day period following the making of the consolidation loan; and

“(IV) loans received prior to the date of the first consolidation loan may be added to a subsequent consolidation loan.”.

(b) **DEFINITION OF ELIGIBLE STUDENT LOAN.**—Section 428C(a)(4) is amended by striking subparagraph (C) and inserting the following:

“(C) made under part D of this title;”.

(c) **CONTENTS OF AGREEMENTS.**—Section 428C(b) is amended—

(1) in paragraph (1)(A)(i), by inserting “except that this clause shall not apply in the case of a borrower with multiple holders of loans under this part,” after “under this section;”;

(2) in paragraph (4)(C)(ii)—

(A) in the matter preceding subclause (I), by inserting “during any such period” after “and be paid”;

(B) in subclause (I), by striking “, or on or after October 1, 1998,”; and

(C) in subclause (II), by striking “and before October 1, 1998,”;

(3) in paragraph (6)(A), by inserting before the semicolon at the end the following: “, except that a lender is not required to consolidate loans described in subparagraph (D) or (E) of subsection (a)(4) or subsection (d)(1)(C)(ii)”.

20 USC 1078-3.

(d) **EXTENSION OF AUTHORITY.**—Section 428C(e) is amended by striking “September 30, 2002” and inserting “September 30, 2004”.

(e) **SPECIAL RULE.**—Section 428C(f) is amended—

- (1) by redesignating paragraph (2) as paragraph (3); and
- (2) by inserting after paragraph (1) the following:

“(2) **SPECIAL RULE.**—For consolidation loans based on applications received during the period from October 1, 1998 through January 31, 1999, inclusive, the rebate described in paragraph (1) shall be equal to 0.62 percent of the principal plus accrued unpaid interest on such loan.”.

#### **SEC. 421. DEFAULT REDUCTION PROGRAM.**

The heading for subsection (b) of section 428F (20 U.S.C. 1078-6) is amended by striking “SPECIAL RULE” and inserting “SATISFACTORY REPAYMENT ARRANGEMENTS TO RENEW ELIGIBILITY”.

#### **SEC. 422. REQUIREMENTS FOR DISBURSEMENTS OF STUDENT LOANS.**

(a) **SPECIAL RULE.**—Section 428G(a) (20 U.S.C. 1078-7(a)) is amended by adding at the end the following:

“(3) **SPECIAL RULE.**—An institution whose cohort default rate (as determined under section 435(m)) for each of the 3 most recent fiscal years for which data are available is less than 10 percent may disburse any loan made, insured, or guaranteed under this part in a single installment for any period of enrollment that is not more than 1 semester, 1 trimester, 1 quarter, or 4 months.”

(b) **DISBURSEMENT.**—Section 428G(b)(1) is amended by adding at the end the following new sentence: “An institution whose cohort default rate (as determined under section 435(m)) for each of the three most recent fiscal years for which data are available is less than 10 percent shall be exempt from the requirements of this paragraph.”.

(c) **EXCLUSIONS.**—Section 428G(e) is amended—

- (1) by striking “or made” and inserting “, made”; and
- (2) by inserting “, or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 435(m)) of less than 5 percent” before the period.

Termination  
date.  
20 USC 1078-7  
note.

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall be effective during the period beginning on October 1, 1998, and ending on September 30, 2002.

#### **SEC. 423. UNSUBSIDIZED LOANS.**

(a) **ELIGIBLE BORROWERS.**—Subsection (b) of section 428H (20 U.S.C. 1078-8(b)) is amended to read as follows:

Regulations.

“(b) **ELIGIBLE BORROWERS.**—Any student meeting the requirements for student eligibility under section 484 (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Federal Stafford Loan if the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, has—

- “(1) determined and documented the student’s need for the loan based on the student’s estimated cost of attendance (as determined under section 472) and the student’s estimated



financial assistance, including a loan which qualifies for interest subsidy payments under section 428; and

“(2) provided the lender a statement—

“(A) certifying the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c); and

“(B) setting forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G.”.

(b) LOAN LIMITS.—Section 428H(d) is amended—

20 USC 1078-8.

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting “(as defined in section 481(a)(2))” after “academic year”; and

(ii) by striking “or in any period of 7 consecutive months, whichever is longer;”;

(B) in subparagraph (A)—

(i) in clause (i), by striking “length (as determined under section 481);” and inserting “length; and”; and

(ii) by striking clauses (ii) and (iii) and inserting the following:

“(ii) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in clause (i) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;”.

(C) in subparagraph (C), by inserting “and” after the semicolon; and

(D) by inserting before the matter following subparagraph (C) the following:

“(D) in the case of a student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B)—

“(i) \$4,000 for coursework necessary for enrollment in an undergraduate degree or certificate program, and, in the case of a student who has obtained a baccalaureate degree, \$5,000 for coursework necessary for enrollment in a graduate or professional program; and

“(ii) in the case of a student who has obtained a baccalaureate degree, \$5,000 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school;”;

(2) in paragraph (3), by adding at the end the following:

“Interest capitalized shall not be deemed to exceed such maximum aggregate amount.”.

(c) CAPITALIZATION OF INTEREST.—Paragraph (2) of section 428H(e) is amended to read as follows:

“(2) CAPITALIZATION OF INTEREST.—(A) Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 427(a)(2)(C) and

428(b)(1)(M) shall, if agreed upon by the borrower and the lender—

“(i) be paid monthly or quarterly; or

“(ii) be added to the principal amount of the loan by the lender only—

“(I) when the loan enters repayment;

“(II) at the expiration of a grace period, in the case of a loan that qualifies for a grace period;

“(III) at the expiration of a period of deferment or forbearance; or

“(IV) when the borrower defaults.

“(B) The capitalization of interest described in subparagraph (A) shall not be deemed to exceed the annual insurable limit on account of the student.”.

20 USC 1078-8. (d) EXTENDED REPAYMENT PLAN.—Section 428H(e)(6) is amended by striking “10 year repayment period under section 428(b)(1)(D)” and inserting “repayment period under section 428(b)(9)”.

(e) QUALIFICATION.—Section 428H(e) is amended by adding at the end the following:

“(7) QUALIFICATION FOR FORBEARANCE.—A lender may grant the borrower of a loan under this section a forbearance for a period not to exceed 60 days if the lender reasonably determines that such a forbearance from collection activity is warranted following a borrower’s request for forbearance, deferment, or a change in repayment plan, or a request to consolidate loans in order to collect or process appropriate supporting documentation related to the request. During any such period, interest on the loan shall accrue but not be capitalized.”.

(f) REPEAL.—Subsection (f) of section 428H is repealed.

#### **SEC. 424. LOAN FORGIVENESS FOR TEACHERS.**

Section 428J (20 U.S.C. 1078-10) is amended to read as follows:

##### **“SEC. 428J. LOAN FORGIVENESS FOR TEACHERS.**

“(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

“(b) PROGRAM AUTHORIZED.—The Secretary shall carry out a program, through the holder of the loan, of assuming the obligation to repay a qualified loan amount for a loan made under section 428 or 428H, in accordance with subsection (c), for any new borrower on or after October 1, 1998, who—

“(1) has been employed as a full-time teacher for 5 consecutive complete school years—

“(A) in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools;

“(B) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower’s academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed; and

“(C) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching

skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and

“(2) is not in default on a loan for which the borrower seeks forgiveness.

“(c) QUALIFIED LOANS AMOUNT.—

“(1) IN GENERAL.—The Secretary shall repay not more than \$5,000 in the aggregate of the loan obligation on a loan made under section 428 or 428H that is outstanding after the completion of the fifth complete school year of teaching described in subsection (b)(1). No borrower may receive a reduction of loan obligations under both this section and section 460.

“(2) TREATMENT OF CONSOLIDATION LOANS.—A loan amount for a loan made under section 428C may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 428 or 428H for a borrower who meets the requirements of subsection (b), as determined in accordance with regulations prescribed by the Secretary.

Regulations.

“(d) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

“(e) CONSTRUCTION.—Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

“(f) LIST.—If the list of schools in which a teacher may perform service pursuant to subsection (b) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

“(g) ADDITIONAL ELIGIBILITY PROVISIONS.—

“(1) CONTINUED ELIGIBILITY.—Any teacher who performs service in a school that—

“(A) meets the requirements of subsection (b)(1)(A) in any year during such service; and

“(B) in a subsequent year fails to meet the requirements of such subsection, may continue to teach in such school and shall be eligible for loan forgiveness pursuant to subsection (b).

“(2) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same service, receive a benefit under both this subsection and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

“(h) DEFINITION.—For purposes of this section, the term ‘year’, where applied to service as a teacher, means an academic year as defined by the Secretary.”

#### **SEC. 425. LOAN FORGIVENESS FOR CHILD CARE PROVIDERS.**

Part B (20 U.S.C. 1071 et seq.) is amended by inserting after section 428J (20 U.S.C. 1078–10) the following:

#### **“SEC. 428K. LOAN FORGIVENESS FOR CHILD CARE PROVIDERS.**

20 USC 1078–11.

“(a) PURPOSE.—It is the purpose of this section—

“(1) to bring more highly trained individuals into the early child care profession; and

“(2) to keep more highly trained child care providers in the early child care field for longer periods of time.

“(b) DEFINITIONS.—In this section:

“(1) CHILD CARE FACILITY.—The term ‘child care facility’ means a facility, including a home, that—

“(A) provides child care services; and

“(B) meets applicable State or local government licensing, certification, approval, or registration requirements, if any.

“(2) CHILD CARE SERVICES.—The term ‘child care services’ means activities and services provided for the education and care of children from birth through age 5 by an individual who has a degree in early childhood education.

“(3) DEGREE.—The term ‘degree’ means an associate’s or bachelor’s degree awarded by an institution of higher education.

“(4) EARLY CHILDHOOD EDUCATION.—The term ‘early childhood education’ means education in the areas of early child education, child care, or any other educational area related to child care that the Secretary determines appropriate.

“(5) INSTITUTION OF HIGHER EDUCATION.—Notwithstanding section 102, the term ‘institution of higher education’ has the meaning given the term in section 101.

“(c) DEMONSTRATION PROGRAM.—

“(1) IN GENERAL.—The Secretary may carry out a demonstration program of assuming the obligation to repay, pursuant to subsection (d), a loan made, insured, or guaranteed under this part or part D (excluding loans made under sections 428B and 428C or comparable loans made under part D) for any new borrower after the date of enactment of the Higher Education Amendments of 1998, who—

“(A) completes a degree in early childhood education;

“(B) obtains employment in a child care facility; and

“(C) has worked full time for the 2 consecutive years preceding the year for which the determination is made as a child care provider in a low-income community.

“(2) LOW-INCOME COMMUNITY.—For the purposes of this subsection, the term ‘low-income community’ means a community in which 70 percent of households within the community earn less than 85 percent of the State median household income.

“(3) AWARD BASIS; PRIORITY.—

“(A) AWARD BASIS.—Subject to subparagraph (B), loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

“(B) PRIORITY.—The Secretary shall give priority in providing loan repayment under this section for a fiscal year to student borrowers who received loan repayment under this section for the preceding fiscal year.

“(4) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

“(d) LOAN REPAYMENT.—

“(1) IN GENERAL.—The Secretary shall assume the obligation to repay—

“(A) after the second consecutive year of employment described in subparagraphs (B) and (C) of subsection (c)(1), 20 percent of the total amount of all loans made after date of enactment of the Higher Education Amendments of 1998, to a student under this part or part D;

“(B) after the third consecutive year of such employment, 20 percent of the total amount of all such loans; and

“(C) after each of the fourth and fifth consecutive years of such employment, 30 percent of the total amount of all such loans.

“(2) CONSTRUCTION.—Nothing in this section shall be construed to authorize the refunding of any repayment of a loan made under this part or part D.

“(3) INTEREST.—If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

“(4) SPECIAL RULE.—In the case where a student borrower who is not participating in loan repayment pursuant to this section returns to an institution of higher education after graduation from an institution of higher education for the purpose of obtaining a degree in early childhood education, the Secretary is authorized to assume the obligation to repay the total amount of loans made under this part or part D incurred for a maximum of two academic years in returning to an institution of higher education for the purpose of obtaining a degree in early childhood education. Such loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

“(5) INELIGIBILITY OF NATIONAL SERVICE AWARD RECIPIENTS.—No student borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

“(e) REPAYMENT TO ELIGIBLE LENDERS.—The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of loans which are subject to repayment pursuant to this section for such year.

“(f) APPLICATION FOR REPAYMENT.—

“(1) IN GENERAL.—Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(2) CONDITIONS.—An eligible individual may apply for loan repayment under this section after completing each year of qualifying employment. The borrower shall receive forbearance while engaged in qualifying employment unless the borrower is in deferment while so engaged.

“(g) EVALUATION.—

“(1) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the demonstration program assisted under this section on the field of early childhood education.

“(2) COMPETITIVE BASIS.—The grant or contract described in subsection (b) shall be awarded on a competitive basis.

“(3) CONTENTS.—The evaluation described in this subsection shall—

“(A) determine the number of individuals who were encouraged by the demonstration program assisted under this section to pursue early childhood education;

“(B) determine the number of individuals who remain employed in a child care facility as a result of participation in the program;

“(C) identify the barriers to the effectiveness of the program;

“(D) assess the cost-effectiveness of the program in improving the quality of—

“(i) early childhood education; and

“(ii) child care services;

“(E) identify the reasons why participants in the program have chosen to take part in the program;

“(F) identify the number of individuals participating in the program who received an associate’s degree and the number of such individuals who received a bachelor’s degree; and

“(G) identify the number of years each individual participates in the program.

Deadline.

“(4) INTERIM AND FINAL EVALUATION REPORTS.—The Secretary shall prepare and submit to the President and the Congress such interim reports regarding the evaluation described in this subsection as the Secretary deems appropriate, and shall prepare and so submit a final report regarding the evaluation by January 1, 2002.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

#### **SEC. 426. NOTICE TO SECRETARY AND PAYMENT OF LOSS.**

The third sentence of section 430(a) (20 U.S.C. 1080(a)) is amended by inserting “the institution was contacted and other” after “submit proof that”.

#### **SEC. 427. LEGAL POWERS AND RESPONSIBILITIES.**

20 USC 1082.

(a) AUDIT OF FINANCIAL TRANSACTIONS.—Section 432(f)(1) is amended—

(1) in subparagraph (B), by striking “section 435(d)(1) (D), (F), or (H);” and inserting “section 435(d)(1); and”;

(2) in subparagraph (C)—

(A) by striking “and Labor” and inserting “and the Workforce”; and

(B) by striking “; and” inserting a period; and

(3) by striking subparagraph (D).

(b) PROGRAM OF ASSISTANCE.—Section 432(k)(3) is amended by striking “Within 1 year” and everything that follows through “1992, the” and inserting “The”.

(c) COMMON FORMS AND FORMATS.—Section 432(m) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “a common application form and promissory note” and inserting “common application forms and promissory notes, or master promissory notes,”;

(B) in subparagraph (B)—

(i) by striking “The form” and inserting “The forms”;

(ii) by striking clause (iii); and

(C) by amending subparagraph (C) to read as follows:

“(C) FREE APPLICATION FORM.—For academic year 1999–2000 and succeeding academic years, the Secretary shall prescribe the form developed under section 483 as the application form under this part, other than for loans under sections 428B and 428C.”;

(D) by amending subparagraph (D) to read as follows:

“(D) MASTER PROMISSORY NOTE.—

“(i) IN GENERAL.—The Secretary shall develop and require the use of master promissory note forms for loans made under this part and part D. Such forms shall be available for periods of enrollment beginning not later than July 1, 2000. Each form shall allow eligible borrowers to receive, in addition to initial loans, additional loans for the same or subsequent periods of enrollment through a student confirmation process approved by the Secretary. Such forms shall be used for loans made under this part or part D as directed by the Secretary.

Deadline.

“(ii) CONSULTATION.—In developing the master promissory note under this subsection, the Secretary shall consult with representatives of guaranty agencies, eligible lenders, institutions of higher education, students, and organizations involved in student financial assistance.

“(iii) SALE; ASSIGNMENT; ENFORCEABILITY.—Notwithstanding any other provision of law, each loan made under a master promissory note under this subsection may be sold or assigned independently of any other loan made under the same promissory note and each such loan shall be separately enforceable in all Federal and State courts on the basis of an original or copy of the master promissory note in accordance with the terms of the master promissory note.

“(iv) PERFECTION OF SECURITY INTERESTS IN STUDENT LOANS.—Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in loans made under this part created on behalf of any eligible lender as defined in section 435(d) may be perfected either through the taking of possession of such loans (which can be through taking possession of an original or copy of the master promissory note) or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.”; and

(2) by adding at the end the following:

“(4) ELECTRONIC FORMS.—Nothing in this section shall be construed to limit the development and use of electronic forms and procedures.”.

(d) DEFAULT REDUCTION MANAGEMENT.—Section 432(n) is amended—

20 USC 1082.

(1) in paragraph (1), by striking “1993” and inserting “1999”; and

(2) in paragraph (3), by striking “and Labor” and inserting “and the Workforce”.

20 USC 1082.

(e) REPORTING REQUIREMENT.—Section 432(p) is amended by striking “State postsecondary reviewing entities designated under subpart 1 of part H,”.

**SEC. 428. STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS.**

(a) REQUIRED DISCLOSURE BEFORE DISBURSEMENT.—Section 433(a) (20 U.S.C. 1083(a)) is amended by amending the matter preceding paragraph (1) to read as follows:

“(a) REQUIRED DISCLOSURE BEFORE DISBURSEMENT.—Each eligible lender, at or prior to the time such lender disburses a loan that is insured or guaranteed under this part (other than a loan made under section 428C), shall provide thorough and accurate loan information on such loan to the borrower in simple and understandable terms. Any disclosure required by this subsection may be made by an eligible lender by written or electronic means, including as part of the application material provided to the borrower, as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. Each lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. The disclosure shall include—”.

(b) REQUIRED DISCLOSURE BEFORE REPAYMENT.—Section 433(b) is amended by amending the matter preceding paragraph (1) to read as follows:

“(b) REQUIRED DISCLOSURE BEFORE REPAYMENT.—Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower by written or electronic means the information required under this subsection in simple and understandable terms. Each eligible lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. For any loan made, insured, or guaranteed under this part, other than a loan made under section 428B or 428C, such disclosure required by this subsection shall be made not less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower. The disclosure shall include—”.

**SEC. 429. DEFINITIONS.**

(a) COHORT DEFAULT RATE.—Section 435(a) (20 U.S.C. 1085(a)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “or” at the end of clause (i);

(ii) by striking clause (ii) and inserting the following:

“(ii) there are exceptional mitigating circumstances within the meaning of paragraph (4); or

“(iii) there are, in the judgment of the Secretary, other exceptional mitigating circumstances that would make the application of this paragraph inequitable.”; and

(iii) by adding after the matter following clause

(iii) (as added by clause (ii)) the following:



“If an institution continues to participate in a program under this part, and the institution’s appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to loans made under this part to students attending, or planning to attend, that institution during the pendency of such appeal.”; and

(B) in subparagraph (C), by striking “July 1, 1998,” and inserting “July 1, 1999.”;

(2) in the matter following subparagraph (C) of paragraph (3)—

(A) by inserting “for a reasonable period of time, not to exceed 30 days,” after “access”; and

(B) by striking “of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days” and inserting “used by a guaranty agency in determining whether to pay a claim on a defaulted loan or by the Department in determining an institution’s default rate in the loan program under part D of this title”; and

(3) by adding at the end the following new paragraphs:

“(4) DEFINITION OF MITIGATING CIRCUMSTANCES.—(A) For purposes of paragraph (2)(A)(ii), an institution of higher education shall be treated as having exceptional mitigating circumstances that make application of that paragraph inequitable if such institution, in the opinion of an independent auditor, meets the following criteria:

“(i) For a 12-month period that ended during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution’s cohort default rate is determined, at least two-thirds of the students enrolled on at least a half-time basis at the institution—

“(I) are eligible to receive a Federal Pell Grant award that is at least equal to one-half the maximum Federal Pell Grant award for which a student would be eligible based on the student’s enrollment status; or

“(II) have an adjusted gross income that when added with the adjusted gross income of the student’s parents (unless the student is an independent student), of less than the poverty level, as determined by the Department of Health and Human Services.

“(ii) In the case of an institution of higher education that offers an associate, baccalaureate, graduate or professional degree, 70 percent or more of the institution’s regular students who were initially enrolled on a full-time basis and were scheduled to complete their programs during the same 12-month period described in clause (i)—

“(I) completed the educational programs in which the students were enrolled;

“(II) transferred from the institution to a higher level educational program;

“(III) at the end of the 12-month period, remained enrolled and making satisfactory progress toward completion of the student’s educational programs; or

“(IV) entered active duty in the Armed Forces of the United States.

“(iii)(I) In the case of an institution of higher education that does not award a degree described in clause (ii), had a placement rate of 44 percent or more with respect to the institution’s former regular students who—

“(aa) remained in the program beyond the point the students would have received a 100 percent tuition refund from the institution;

“(bb) were initially enrolled on at least a half-time basis; and

“(cc) were originally scheduled, at the time of enrollment, to complete their educational programs during the same 12-month period described in clause (i).

“(II) The placement rate shall not include students who are still enrolled and making satisfactory progress in the educational programs in which the students were originally enrolled on the date following 12 months after the date of the student’s last date of attendance at the institution.

“(III) The placement rate is calculated by determining the percentage of all those former regular students who—

“(aa) are employed, in an occupation for which the institution provided training, on the date following 12 months after the date of their last day of attendance at the institution;

“(bb) were employed, in an occupation for which the institution provided training, for at least 13 weeks before the date following 12 months after the date of their last day of attendance at the institution; or

“(cc) entered active duty in the Armed Forces of the United States.

“(IV) The placement rate shall not include as placements a student or former student for whom the institution is the employer.

“(B) For purposes of determining a rate of completion and a placement rate under this paragraph, a student is originally scheduled, at the time of enrollment, to complete the educational program on the date when the student will have been enrolled in the program for the amount of time normally required to complete the program. The amount of time normally required to complete the program for a student who is initially enrolled full-time is the period of time specified in the institution’s enrollment contract, catalog, or other materials, for completion of the program by a full-time student. For a student who is initially enrolled less than full-time, the period is the amount of time it would take the student to complete the program if the student remained enrolled at that level of enrollment throughout the program.

“(5) REDUCTION OF DEFAULT RATES AT CERTAIN MINORITY INSTITUTIONS.—

“(A) BENEFICIARIES OF EXCEPTION REQUIRED TO ESTABLISH MANAGEMENT PLAN.—After July 1, 1999, any institution that has a cohort default rate that equals or exceeds 25 percent for each of the three most recent fiscal years for which data are available and that relies on the exception in subparagraph (B) to continue to be an eligible institution shall—

“(i) submit to the Secretary a default management plan which the Secretary, in the Secretary’s discretion, after consideration of the institution’s history, resources, dollars in default, and targets for default reduction, determines is acceptable and provides reasonable assurance that the institution will, by July 1, 2002, have a cohort default rate that is less than 25 percent;

“(ii) engage an independent third party (which may be paid with funds received under section 317 or part B of title III) to provide technical assistance in implementing such default management plan; and

“(iii) provide to the Secretary, on an annual basis or at such other intervals as the Secretary may require, evidence of cohort default rate improvement and successful implementation of such default management plan.

“(B) DISCRETIONARY ELIGIBILITY CONDITIONED ON IMPROVEMENT.—Notwithstanding the expiration of the exception in paragraph (2)(C), the Secretary may, in the Secretary’s discretion, continue to treat an institution described in subparagraph (A) of this paragraph as an eligible institution for each of the 1-year periods beginning on July 1 of 1999, 2000, and 2001, only if the institution submits by the beginning of such period evidence satisfactory to the Secretary that—

“(i) such institution has complied and is continuing to comply with the requirements of subparagraph (A); and

“(ii) such institution has made substantial improvement, during each of the preceding 1-year periods, in the institution’s cohort default rate.

“(6) PARTICIPATION RATE INDEX.—

“(A) IN GENERAL.—An institution that demonstrates to the Secretary that the institution’s participation rate index is equal to or less than 0.0375 for any of the 3 most recent fiscal years for which data is available shall not be subject to paragraph (2). The participation rate index shall be determined by multiplying the institution’s cohort default rate for loans under part B or D, or weighted average cohort default rate for loans under parts B and D, by the percentage of the institution’s regular students, enrolled on at least a half-time basis, who received a loan made under part B or D for a 12-month period ending during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution’s cohort default rate is determined.

“(B) DATA.—An institution shall provide the Secretary with sufficient data to determine the institution’s participation rate index within 30 days after receiving an initial notification of the institution’s draft cohort default rate.

“(C) NOTIFICATION.—Prior to publication of a final cohort default rate for an institution that provides the data described in subparagraph (B), the Secretary shall notify the institution of the institution’s compliance or non-compliance with subparagraph (A).”.

(b) ELIGIBLE LENDER.—Section 435(d) (20 U.S.C. 1085(d)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)(ii)—

(i) by striking “or” after “1992,”; and

(ii) by inserting before the semicolon the following: “, or (III) it is a bank (as defined in section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)(1)) that is a wholly owned subsidiary of a non-profit foundation, the foundation is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(1) of such Code, and the bank makes loans under this part only to undergraduate students who are age 22 or younger and has a portfolio of such loans that is not more than \$5,000,000”;

(B) by striking “and” at the end of subparagraph (I);

(C) by striking the period at the end of subparagraph

(J) and inserting “; and”;

(D) by adding at the end the following new subparagraph:

“(K) a consumer finance company subsidiary of a national bank which, as of the date of enactment of this subparagraph, through one or more subsidiaries: (i) acts as a small business lending company, as determined under regulations of the Small Business Administration under section 120.470 of title 13, Code of Federal Regulations (as such section is in effect on the date of enactment of this subparagraph); and (ii) participates in the program authorized by this part pursuant to subparagraph (C), provided the national bank and all of the bank’s direct and indirect subsidiaries taken together as a whole, do not have, as their primary consumer credit function, the making or holding of loans made to students under this part.”; and

(2) in paragraph (5), by adding at the end the following new sentence:

“It shall not be a violation of this paragraph for a lender to provide assistance to institutions of higher education comparable to the kinds of assistance provided to institutions of higher education by the Department of Education.”.

(c) DEFINITION OF DEFAULT.—

(1) AMENDMENT.—Section 435(l) is amended—

(A) by striking “180 days” and inserting “270 days”;

and

(B) by striking “240 days” and inserting “330 days”.

(2) EFFECTIVE DATE.—The amendment made by paragraph

(1) shall apply with respect to loans for which the first day

of delinquency occurs on or after the date of enactment of this Act.

(d) COHORT DEFAULT RATE.—Section 435(m) is amended—

20 USC 1085.

(1) in paragraph (1)(B), by striking “insurance, and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3), exclude” and inserting “insurance. In considering appeals with respect to cohort default rates pursuant to subsection (a)(3), the Secretary shall exclude, from the calculation of the number of students who entered repayment and from the calculation of the number of students who default,”; and

(2) in paragraph (2)(C), by adding at the end the following: “The Secretary may require guaranty agencies to collect data with respect to defaulted loans in a manner that will permit the identification of any defaulted loan for which (i) the borrower is currently making payments and has made not less than 6 consecutive on-time payments by the end of such following fiscal year, and (ii) a guaranty agency has renewed the borrower’s title IV eligibility as provided in section 428F(b).”; and

(3) in paragraph (4), by adding at the end the following:

“(D) The Secretary shall publish the report described in subparagraph (C) by September 30 of each year.”.

Publication.  
Deadline.

#### SEC. 430. DELEGATION OF FUNCTIONS.

Section 436 (20 U.S.C. 1086) is amended to read as follows:

##### “SEC. 436. DELEGATION OF FUNCTIONS.

“(a) IN GENERAL.—An eligible lender or guaranty agency that contracts with another entity to perform any of the lender’s or agency’s functions under this title, or otherwise delegates the performance of such functions to such other entity—

“(1) shall not be relieved of the lender’s or agency’s duty to comply with the requirements of this title; and

“(2) shall monitor the activities of such other entity for compliance with such requirements.

“(b) SPECIAL RULE.—A lender that holds a loan made under part B in the lender’s capacity as a trustee is responsible for complying with all statutory and regulatory requirements imposed on any other holder of a loan made under this part.”.

#### SEC. 431. DISCHARGE.

Section 437(c)(1) (20 U.S.C. 1087(c)(1)) is amended—

(1) by inserting after “falsely certified by the eligible institution,” the following: “or if the institution failed to make a refund of loan proceeds which the institution owed to such student’s lender,”; and

(2) by adding at the end the following new sentences: “In the case of a discharge based upon a failure to refund, the amount of the discharge shall not exceed that portion of the loan which should have been refunded. The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate annually as to the dollar amount of loan discharges attributable to failures to make refunds.”.

Reports.

**SEC. 432. DEBT MANAGEMENT OPTIONS.**

Section 437A (20 U.S.C. 1087-0) is repealed.

**SEC. 433. SPECIAL ALLOWANCES.**

(a) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—Paragraph (1) of section 438(c) (20 U.S.C. 1087-1) is amended to read as follows:

“(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—(A) Notwithstanding subsection (b), the Secretary shall collect the amount the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection—

“(i) by reducing the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder; or

“(ii) directly from the holder of the loan, if the lender fails or is not required to bill the Secretary for interest and special allowance or withdraws from the program with unpaid loan origination fees.

“(B) If the Secretary collects the origination fee under this subsection through the reduction of interest and special allowance, and the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters’ payments until the total amount has been deducted.”.

(b) ORIGATION FEES.—Section 438(c) is amended—

(1) in paragraph (2)—

(A) by striking “(other than” and inserting “(including loans made under section 428H, but excluding”; and

(B) by adding at the end the following new sentence: “Except as provided in paragraph (8), a lender that charges an origination fee under this paragraph shall assess the same fee to all student borrowers.”; and

(2) by adding at the end the following new paragraph:

“(8) EXCEPTION.—Notwithstanding paragraph (2), a lender may assess a lesser origination fee for a borrower demonstrating greater financial need as determined by such borrower’s adjusted gross family income.”.

(c) COLLECTION OF FEES.—Paragraph (1) of section 438(d) is amended to read as follows:

“(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—

“(A) IN GENERAL.—Notwithstanding subsection (b), the Secretary shall collect a loan fee in an amount determined in accordance with paragraph (2)—

“(i) by reducing the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b), respectively, to any holder of a loan; or

“(ii) directly from the holder of the loan, if the lender—

“(I) fails or is not required to bill the Secretary for interest and special allowance payments; or

“(II) withdraws from the program with unpaid loan fees.

“(B) SPECIAL RULE.—If the Secretary collects loan fees under this subsection through the reduction of interest and special allowance payments, and the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b), respectively, is less than the amount of such loan fees, then the Secretary shall deduct the amount of the loan fee balance from the amount of interest and special allowance payments that would otherwise be payable, in subsequent quarterly increments until the balance has been deducted.”.

(d) LENDING FROM PROCEEDS OF TAX-EXEMPT OBLIGATIONS.—

(1) AMENDMENT.—Subsection (e) of section 438 is amended to read as follows: 20 USC 1087-1.

“(e) NONDISCRIMINATION.—In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1986, to be eligible to receive a special allowance under subsection (b)(2) on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower’s access to loans under this part because of the borrower’s race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower’s educational program, or the borrower’s academic year in school.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as of the date the plan required by section 438(e)(1) (as such section was in effect prior to such amendment) was approved by the Secretary or the Governor (whichever was the case). No Authority shall have a right or cause of action against the Secretary for any amounts paid to or offset by the Secretary pursuant to a final settlement agreement entered into prior to July 1, 1998, resolving any audit or program review findings alleging violations of any provision of section 438(e) (as in effect prior to such amendment). 20 USC 1087-1 note.

#### **SEC. 434. FEDERAL FAMILY EDUCATION LOAN INSURANCE FUND.**

20 USC 1081 note.

Any funds in the insurance fund, as established under section 431 of the Higher Education Act of 1965 (20 U.S.C. 1081), on the date of enactment of this Act shall be transferred to and deposited in the Treasury. All funds received by the Secretary of Education under subsection (a) of such section after the date of enactment of this Act shall be deposited into the fund in accordance with such subsection.

### **PART C—FEDERAL WORK-STUDY PROGRAMS**

#### **SEC. 441. AUTHORIZATION OF APPROPRIATIONS; COMMUNITY SERVICES.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 441(b) (42 U.S.C. 2751(b)) is amended by striking “\$800,000,000 for fiscal year 1993” and inserting “\$1,000,000,000 for fiscal year 1999”.

(b) DEFINITION OF COMMUNITY SERVICES.—Section 441(c) is amended—

(1) in paragraph (1), by inserting “(including child care services provided on campus that are open and accessible to the community)” after “child care”; and

(2) in paragraph (3), by inserting “, including students with disabilities who are enrolled at the institution” before the semicolon.

#### SEC. 442. ALLOCATION OF FUNDS.

42 USC 2752.

(a) UPDATING THE BASE PERIOD.—Section 442(a) (20 U.S.C. 2752(a)) is amended—

(1) in paragraph (1), by striking “received and used under this part for fiscal year 1985” and inserting “received under subsections (a) and (b) for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)”;

(2) in paragraph (2)—

(A) in subparagraphs (A) and (B), by striking “1985” each place the term appears and inserting “1999”; and

(B) in subparagraph (C)(i), by striking “1986” and inserting “2000”.

(b) ELIMINATION OF PRO RATA SHARE.—Section 442 is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c) through (f) as subsections (b) through (e), respectively;

(3) in subsection (b)(1) (as redesignated by paragraph (2)), by striking “three-quarters of”;

(4) in subsection (b)(2)(A)(i) (as so redesignated), by striking “subsection (d)” and inserting “subsection (c)”;

(5) in subsection (c)(3) (as so redesignated), by striking “the Secretary, for academic year 1988–1989 shall use the procedures employed for academic year 1986–1987, and, for any subsequent academic years,”; and

(6) in subsection (d)(1) (as so redesignated)—

(A) by striking “10 percent” and inserting “5 percent”;

(B) by striking “in community service” and inserting “in tutoring in reading and family literacy activities”; and

(C) by striking “subsection (c)” and inserting “subsection (b)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to allocations of amounts appropriated pursuant to section 441(b) for fiscal year 2000 or any succeeding fiscal year.

Applicability.  
42 USC 2752  
note.

#### SEC. 443. GRANTS FOR FEDERAL WORK-STUDY PROGRAMS.

(a) ELIGIBLE EMPLOYMENT.—Section 443(b)(1) (42 U.S.C. 2753(b)(1)) is amended by inserting “, including internships, practica, or research assistantships as determined by the Secretary,” after “part-time employment”.

(b) COMMUNITY SERVICE.—Section 443(b)(2)(A) is amended—

(1) by striking “in fiscal year 1994 and succeeding fiscal years,” and inserting “for fiscal year 1999,”; and

(2) by inserting “(including a reasonable amount of time spent in travel or training directly related to such community service)” after “community service”.

(c) TUTORING AND LITERACY ACTIVITIES.—Section 443 is amended—

(1) in subsection (b)(2)—

(A) by striking “and” at the end of subparagraph (A);



(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

“(B) for fiscal year 2000 and succeeding fiscal years, an institution shall use at least 7 percent of the total amount of funds granted to such institution under this section for such fiscal year to compensate students employed in community service, and shall ensure that not less than 1 tutoring or family literacy project (as described in subsection (d)) is included in meeting the requirement of this subparagraph, except that the Secretary may waive this subparagraph if the Secretary determines that enforcing this subparagraph would cause hardship for students at the institution; and”; and

(2) by adding at the end the following new subsection:

“(d) TUTORING AND LITERACY ACTIVITIES.—

“(1) USE OF FUNDS.—In any academic year to which subsection (b)(2)(B) applies, an institution shall ensure that funds granted to such institution under this section are used in accordance with such subsection to compensate (including compensation for time spent in training and travel directly related to tutoring in reading and family literacy activities) students—

“(A) employed as reading tutors for children who are preschool age or are in elementary school; or

“(B) employed in family literacy projects.

“(2) PRIORITY FOR SCHOOLS.—To the extent practicable, an institution shall—

“(A) give priority to the employment of students in the provision of tutoring in reading in schools that are participating in a reading reform project that—

“(i) is designed to train teachers how to teach reading on the basis of scientifically-based research on reading; and

“(ii) is funded under the Elementary and Secondary Education Act of 1965; and

“(B) ensure that any student compensated with the funds described in paragraph (1) who is employed in a school participating in a reading reform project described in subparagraph (A) receives training from the employing school in the instructional practices used by the school.

“(3) FEDERAL SHARE.—The Federal share of the compensation of work-study students compensated under this subsection may exceed 75 percent.”.

(d) USE OF FUNDS FOR INDEPENDENT AND LESS THAN FULL-TIME STUDENTS.—Paragraph (3) of section 443(b) is amended to read as follows:

42 USC 2753.

“(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with part F and meet the requirements of section 484 will be assisted, except that if the institution’s grant under this part is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution on less than a full-time basis, or (B) independent students, a reasonable portion of the grant shall be made available to such students;”.

(e) FEDERAL SHARE.—Paragraph (5) of section 443(b) is amended to read as follows:

“(5) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement shall not exceed 75 percent, except that—

“(A) the Federal share may exceed 75 percent, but not exceed 90 percent, if, consistent with regulations of the Secretary—

“(i) the student is employed at a nonprofit private organization or a government agency that—

“(I) is not a part of, and is not owned, operated, or controlled by, or under common ownership, operation, or control with, the institution;

“(II) is selected by the institution on an individual case-by-case basis for such student; and

“(III) would otherwise be unable to afford the costs of such employment; and

“(ii) not more than 10 percent of the students compensated through the institution’s grant under this part during the academic year are employed in positions for which the Federal share exceeds 75 percent; and

“(B) the Federal share may exceed 75 percent if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part;”.

42 USC 2753. (f) AVAILABILITY OF EMPLOYMENT.—Section 443(b)(6) is amended by striking “, and to make” and all that follows through “such employment”.

(g) ACADEMIC RELEVANCE.—Section 443(c)(4) is amended by inserting before the semicolon at the end the following: “, to the maximum extent practicable”.

#### **SEC. 444. FLEXIBLE USE OF FUNDS.**

Section 445 (42 U.S.C. 2755) is amended by adding at the end the following:

“(c) FLEXIBLE USE OF FUNDS.—An eligible institution may, upon the request of a student, make payments to the student under this part by crediting the student’s account at the institution or by making a direct deposit to the student’s account at a depository institution. An eligible institution may only credit the student’s account at the institution for (1) tuition and fees, (2) in the case of institutionally owned housing, room and board, and (3) other institutionally provided goods and services.”.

#### **SEC. 445. WORK COLLEGES.**

Section 448 (42 U.S.C. 2756b) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (C), by striking “and” after the semicolon;

(B) in subparagraph (D)(ii), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

“(E) coordinate and carry out joint projects and activities to promote work service learning; and

“(F) carry out a comprehensive, longitudinal study of student academic progress and academic and career outcomes, relative to student self-sufficiency in financing their

higher education, repayment of student loans, continued community service, kind and quality of service performed, and career choice and community service selected after graduation.”; and

(2) in subsection (f), by striking “1993” and inserting “1999”.

## **PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM**

### **SEC. 451. SELECTION OF INSTITUTIONS.**

(a) GENERAL AUTHORITY.—Section 453(a) (20 U.S.C. 1087c(a)) is amended—

(1) by striking “PHASE-IN” and everything that follows through “GENERAL AUTHORITY.—” and inserting “GENERAL AUTHORITY.—”; and

(2) by striking paragraphs (2), (3), and (4).

(b) SELECTION CRITERIA.—Section 453(b)(2) is amended by striking “prescribe,” and everything that follows through the end of subparagraph (B) and inserting “prescribe.”.

(c) ORIGINATION.—Section 453(c) is amended—

(1) in paragraph (2)—

(A) in the heading, by striking “TRANSITION SELECTION CRITERIA” and inserting “SELECTION CRITERIA”;

(B) by striking “For academic year 1994–1995, the Secretary” and inserting “The Secretary”;

(C) by striking subparagraph (A);

(D) by striking subparagraph (E); and

(E) by redesignating subparagraphs (B), (C), (D), (F), (G), and (H) as subparagraphs (A) through (F), respectively; and

(2) in paragraph (3)—

(A) in the paragraph heading, by striking “AFTER TRANSITION”; and

(B) by striking “For academic year 1995–1996 and subsequent academic years, the” and inserting “The”.

### **SEC. 452. TERMS AND CONDITIONS.**

(a) DIRECT LOAN INTEREST RATES.—

(1) AMENDMENT.—Section 455(b) (20 U.S.C. 1087e(b)) is amended by adding at the end the following:

“(6) INTEREST RATE PROVISION FOR NEW LOANS ON OR AFTER OCTOBER 1, 1998, AND BEFORE JULY 1, 2003.—

“(A) RATES FOR FDSL AND FDUSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

“(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

“(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

“(B) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest for interest which accrues—

“(i) prior to the beginning of the repayment period of the loan; or

“(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C), shall be determined under subparagraph (A) by substituting ‘1.7 percent’ for ‘2.3 percent’.

“(C) PLUS LOANS.—Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall be determined under subparagraph (A)—

“(i) by substituting ‘3.1 percent’ for ‘2.3 percent’; and

“(ii) by substituting ‘9.0 percent’ for ‘8.25 percent’.

“(D) CONSOLIDATION LOANS.—Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after February 1, 1999, and before July 1, 2003, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

“(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or

“(ii) 8.25 percent.

“(E) TEMPORARY RULES FOR CONSOLIDATION LOANS.—Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after October 1, 1998, and before February 1, 1999, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to—

“(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

“(ii) 2.3 percent, except that such rate shall not exceed 8.25 percent.”.

20 USC 1087e  
note.

(2) LIMITATION ON CONSOLIDATION LOANS DURING TEMPORARY INTEREST RATE.—Notwithstanding section 455(g) of the Higher Education Act of 1965, a borrower who is enrolled or accepted for enrollment in an institution of higher education may not consolidate loans under such section during the period beginning October 1, 1998, and ending February 1, 1999, unless the borrower certifies that the borrower has no outstanding loans made, insured, or guaranteed under title IV of such Act other than loans made under part D of such title.

(b) REPAYMENT INCENTIVES.—Section 455(b) (20 U.S.C. 1087e(b)) is further amended by adding at the end the following:

**“(7) REPAYMENT INCENTIVES.—**

**“(A) IN GENERAL.—**Notwithstanding any other provision of this part, the Secretary is authorized to prescribe by regulation such reductions in the interest rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment of the loan. Such reductions may be offered only if the Secretary determines the reductions are cost neutral and in the best financial interest of the Federal Government. Any increase in subsidy costs resulting from such reductions shall be completely offset by corresponding savings in funds available for the William D. Ford Federal Direct Loan Program in that fiscal year from section 458 and other administrative accounts.

Regulations.

**“(B) ACCOUNTABILITY.—**Prior to publishing regulations proposing repayment incentives, the Secretary shall ensure the cost neutrality of such reductions. The Secretary shall not prescribe such regulations in final form unless an official report from the Director of the Office of Management and Budget to the Secretary and a comparable report from the Director of the Congressional Budget Office to the Congress each certify that any such reductions will be completely cost neutral. Such reports shall be transmitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not less than 60 days prior to the publication of regulations proposing such reductions.”.

Reports.

Deadline.

**(c) CONSOLIDATION LOANS.—**The first sentence of section 455(g) is amended by striking everything after “section 428C(a)(4)” and inserting a period.

20 USC 1087e.

**(d) EFFECTIVE DATE.—**The amendments made by subsection (a) shall apply with respect to any loan made under part D of title IV of the Higher Education Act of 1965 for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, except that such amendments shall apply with respect to a Federal Direct Consolidation Loan for which the application is received on or after October 1, 1998, and before July 1, 2003.

Applicability.  
20 USC 1087e  
note.**SEC. 453. CONTRACTS.**

Section 456(b) (20 U.S.C. 1087f(b)) is amended—

- (1) in paragraph (3), by inserting “and” after the semicolon;
- (2) by striking paragraph (4); and
- (3) by redesignating paragraph (5) as paragraph (4).

**SEC. 454. FUNDS FOR ADMINISTRATIVE EXPENSES.**

Section 458 (20 U.S.C. 1087h) is amended—

- (1) by amending subsection (a) to read as follows:

**“(a) ADMINISTRATIVE EXPENSES.—**

**“(1) IN GENERAL.—**Each fiscal year there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

**“(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and**

**“(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsections (b) and (c),**

not to exceed (from such funds not otherwise appropriated) \$617,000,000 in fiscal year 1999, \$735,000,000 in fiscal year 2000, \$770,000,000 in fiscal year 2001, \$780,000,000 in fiscal year 2002, and \$795,000,000 in fiscal year 2003.

“(2) ACCOUNT MAINTENANCE FEES.—Account maintenance fees under paragraph (1)(B) shall be paid quarterly and deposited in the Agency Operating Fund established under section 422B.

“(3) CARRYOVER.—The Secretary may carry over funds made available under this section to a subsequent fiscal year.”;

(2) by amending subsection (b) to read as follows:

“(b) CALCULATION BASIS.—Except as provided in subsection (c), account maintenance fees payable to guaranty agencies under paragraph (1)(B) shall be calculated—

“(1) for fiscal years 1999 and 2000, on the basis of 0.12 percent of the original principal amount of outstanding loans on which insurance was issued under part B; and

“(2) for fiscal years 2001, 2002, and 2003, on the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B.”;

(3) by striking subsection (d);

(4) by redesignating subsection (c) as subsection (d); and

(5) by inserting after subsection (b) the following:

“(c) SPECIAL RULES.—

“(1) FEE CAP.—The total amount of account maintenance fees payable under this section—

“(A) for fiscal year 1999, shall not exceed \$177,000,000;

“(B) for fiscal year 2000, shall not exceed \$180,000,000;

“(C) for fiscal year 2001, shall not exceed \$170,000,000;

“(D) for fiscal year 2002, shall not exceed \$180,000,000;

and

“(E) for fiscal year 2003, shall not exceed \$195,000,000.

“(2) INSUFFICIENT FUNDING.—

“(A) IN GENERAL.—If the amounts set forth in paragraph (1) are insufficient to pay the account maintenance fees payable to guaranty agencies pursuant to subsection (b) for a fiscal year, the Secretary shall pay the insufficiency by requiring guaranty agencies to transfer funds from the Federal Student Loan Reserve Funds under section 422A to the Agency Operating Funds under section 422B.

“(B) ENTITLEMENT.—A guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of subparagraph (A).”.

#### **SEC. 455. AUTHORITY TO SELL LOANS.**

Part D of title IV (20 U.S.C. 1087a et seq.) is amended by adding at the end the following:

20 USC 1087i.

#### **“SEC. 459. AUTHORITY TO SELL LOANS.**

“The Secretary, in consultation with the Secretary of the Treasury, is authorized to sell loans made under this part on such terms as the Secretary determines are in the best interest of the United States, except that any such sale shall not result in any cost to the Federal Government. Notwithstanding any other provision of law, the proceeds of any such sale may be used by the Secretary to offer reductions in the interest rate paid by a borrower

of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment in accordance with section 455(b)(7). Such reductions may be offered only if the Secretary determines the reductions are in the best financial interests of the Federal Government.”.

**SEC. 456. LOAN CANCELLATION FOR TEACHERS.**

Part D of title IV (20 U.S.C. 1087a et seq.) is further amended by adding after section 459 (as added by section 455) the following:

**“SEC. 460. LOAN CANCELLATION FOR TEACHERS.**

20 USC 1087j.

“(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

“(b) PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—The Secretary shall carry out a program of canceling the obligation to repay a qualified loan amount in accordance with subsection (c) for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made under this part for any new borrower on or after October 1, 1998, who—

“(A) has been employed as a full-time teacher for 5 consecutive complete school years—

“(i) in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools;

“(ii) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower’s academic major as certified by the chief administrative officer of the public or non-profit private secondary school in which the borrower is employed; and

“(iii) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics and other areas of the elementary school curriculum; and

“(B) is not in default on a loan for which the borrower seeks forgiveness.

“(2) SPECIAL RULE.—No borrower may obtain a reduction of loan obligations under both this section and section 428J.

“(c) QUALIFIED LOAN AMOUNTS.—

“(1) IN GENERAL.—The Secretary shall cancel not more than \$5,000 in the aggregate of the loan obligation on a Federal Direct Stafford Loan or a Federal Direct Unsubsidized Stafford Loan that is outstanding after the completion of the fifth complete school year of teaching described in subsection (b)(1)(A).

“(2) TREATMENT OF CONSOLIDATION LOANS.—A loan amount for a Federal Direct Consolidation Loan may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 428 or 428H, for a borrower who meets the requirements of subsection (b), as determined in accordance with regulations prescribed by the Secretary.

Regulations.

“(d) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

“(e) CONSTRUCTION.—Nothing in this section shall be construed to authorize any refunding of any canceled loan.

“(f) LIST.—If the list of schools in which a teacher may perform service pursuant to subsection (b) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

“(g) ADDITIONAL ELIGIBILITY PROVISIONS.—

“(1) CONTINUED ELIGIBILITY.—Any teacher who performs service in a school that—

“(A) meets the requirements of subsection (b)(1)(A) in any year during such service; and

“(B) in a subsequent year fails to meet the requirements of such subsection, may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (b).

“(2) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

“(h) DEFINITION.—For the purpose of this section, the term ‘year’ where applied to service as a teacher means an academic year as defined by the Secretary.”.

## **PART E—FEDERAL PERKINS LOANS**

### **SEC. 461. AUTHORIZATION OF APPROPRIATIONS.**

Subsection (b) of section 461 (20 U.S.C. 1087aa) is amended—

(1) in paragraph (1), by striking “1993” and inserting “1999”; and

(2) in paragraph (2), by striking “1997” each place the term appears and inserting “2003”.

### **SEC. 462. ALLOCATION OF FUNDS.**

(a) CHANGES IN ALLOCATION FORMULA.—

(1) UPDATING THE BASE PERIOD.—Section 462(a) (20 U.S.C. 1087bb(a)) is amended—

(A) in paragraph (1)(A), by striking “the amount of the Federal capital contribution allocated to such institution under this part for fiscal year 1985” and inserting “the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)”;

(B) in paragraph (2)—

(i) in subparagraphs (A) and (B), by striking “1985” each place the term appears and inserting “1999”; and

(ii) in subparagraph (C)(i), by striking “1986” and inserting “2000”.

(2) ELIMINATION OF PRO RATA SHARE.—Section 462 is further amended—

(A) in subsection (a)—

(i) in paragraph (1)(B), by striking “subsection (f)” and inserting “subsection (e)”;



(ii) in the matter following paragraph (1)(B), by striking “subsection (g)” and inserting “subsection (f)”;

(iii) in paragraph (2)(D)(ii), by striking “subsection (f)” and inserting “subsection (e)”;

(iv) in the matter following paragraph (2)(D)(ii), by striking “subsection (g)” and inserting “subsection (f)”;

(B) by striking subsection (b);

(C) in subsection (c)(1), by striking “three-quarters of the remainder” and inserting “the remainder”;

(D) in the matter following subsection (c)(2)(B), by striking “subsection (g)” and inserting “subsection (f)”;

(E) in subsection (c)(3)—

(i) in subparagraph (A), by striking “subsection (d)” and inserting “subsection (c)”;

(ii) in subparagraph (C), by striking “subsection (f)” and inserting “subsection (e)”;

(iii) in the matter following subparagraph (C), by striking “subsection (g)” and inserting “subsection (f)”;

(F) in subsection (j)(1)(B)(i), by striking “1985” and inserting “1999”;

(G) in subsection (j)(2)—

(i) in subparagraph (A), by striking “paragraph (3) of subsection (c)” and inserting “subsection (b)(3)”;

(ii) in subparagraph (B), by striking “subsection (c) of section 462” and inserting “subsection (b)”;

(H) by redesignating subsections (c) through (j) as subsections (b) through (i), respectively.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to allocations of amounts appropriated pursuant to section 461(b) for fiscal year 2000 or any succeeding fiscal year.

Applicability.  
20 USC 1087bb  
note.

(b) SELF-HELP NEED.—The matter preceding subparagraph (A) of section 462(c)(3) (as redesignated by subsection (a)(2)(G)) is amended by striking “the Secretary, for” and all that follows through “years,”.

20 USC 1087bb.

(c) DEFAULT PENALTIES.—Subsections (e) and (f) of section 462 (as redesignated by subsection (a)(2)(G)) are amended to read as follows:

“(e) DEFAULT PENALTIES.—

“(1) YEARS PRECEDING FISCAL YEAR 2000.—For any fiscal year preceding fiscal year 2000, any institution with a cohort default rate that—

“(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations prescribed by the Secretary, except that such plan shall not be required with respect to an institution that has a default rate of less than 20 percent and that has less than 100 students who have loans under this part in such academic year;

Regulations.

“(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

“(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

“(D) equals or exceeds 30 percent shall have a default penalty of zero.

“(2) YEARS FOLLOWING FISCAL YEAR 2000.—For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (g)) that equals or exceeds 25 percent shall have a default penalty of zero.

“(3) INELIGIBILITY.—

Deadlines.

“(A) IN GENERAL.—For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort default rate (as defined in subsection (g)) that equals or exceeds 50 percent for each of the 3 most recent years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and the 2 succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after the submission of the appeal. Such decision may permit the institution to continue to participate in a program under this part if—

“(i) the institution demonstrates to the satisfaction of the Secretary that the calculation of the institution’s cohort default rate is not accurate, and that recalculation would reduce the institution’s cohort default rate for any of the 3 fiscal years below 50 percent; or

“(ii) there are, in the judgment of the Secretary, such a small number of borrowers entering repayment that the application of this subparagraph would be inequitable.

“(B) CONTINUED PARTICIPATION.—During an appeal under subparagraph (A), the Secretary may permit the institution to continue to participate in a program under this part.

Deadline.

“(C) RETURN OF FUNDS.—Within 90 days after the date of any termination pursuant to subparagraph (A), or the conclusion of any appeal pursuant to subparagraph (B), whichever is later, the balance of the student loan fund established under this part by the institution that is the subject of the termination shall be distributed as follows:

“(i) The Secretary shall first be paid an amount which bears the same ratio to such balance (as of the date of such distribution) as the total amount of Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal capital contributions and the capital contributions to such fund made by the institution.

“(ii) The remainder of such student loan fund shall be paid to the institution.

“(D) USE OF RETURNED FUNDS.—Any funds returned to the Secretary under this paragraph shall be reallocated to institutions of higher education pursuant to subsection (i).

“(E) DEFINITION.—For the purposes of subparagraph (A), the term ‘loss of eligibility’ shall be defined as the mandatory liquidation of an institution’s student loan fund, and assignment of the institution’s outstanding loan portfolio to the Secretary.

“(f) APPLICABLE MAXIMUM COHORT DEFAULT RATE.—

“(1) AWARD YEARS PRIOR TO 2000.—For award years prior to award year 2000, the applicable maximum cohort default rate is 30 percent.

“(2) AWARD YEAR 2000 AND SUCCEEDING AWARD YEARS.—For award year 2000 and subsequent years, the applicable maximum cohort default rate is 25 percent.”.

(d) COHORT DEFAULT RATE DEFINITION.—Section 462(g) (as redesignated by subsection (a)(2)(G)) is amended—

20 USC 1087bb.

(1) by striking the subsection heading and paragraphs (1) and (2) and inserting the following:

“(g) DEFINITION OF COHORT DEFAULT RATE.—”;

(2) by striking “(3)(A) For award year 1994 and any succeeding award year, the term” and inserting the following:

“(1)(A) The term”;

(3) in paragraph (1) (as redesignated by paragraph (2))—

(A) by striking subparagraphs (B) and (E); and

(B) by redesignating subparagraphs (C), (D), (F), and (G) as subparagraphs (B), (C), (D), and (F), respectively;

(C) by inserting after subparagraph (D) (as redesignated by subparagraph (B)) the following:

“(E) In determining the number of students who default before the end of such award year, the institution, in calculating the cohort default rate, shall exclude—

“(i) any loan on which the borrower has, after the time periods specified in paragraph (2)—

“(I) voluntarily made 6 consecutive payments;

“(II) voluntarily made all payments currently due;

“(III) repaid in full the amount due on the loan; or

“(IV) received a deferment or forbearance, based on a condition that began prior to such time periods;

“(ii) any loan which has, after the time periods specified in paragraph (2), been rehabilitated or canceled; and

“(iii) any other loan that the Secretary determines should be excluded from such determination.”; and

(4) by striking paragraph (4) and inserting the following:

“(2) For purposes of calculating the cohort default rate under this subsection, a loan shall be considered to be in default—

“(A) 240 days (in the case of a loan repayable monthly),

or

“(B) 270 days (in the case of a loan repayable quarterly),

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.”.

(e) CONFORMING AMENDMENTS.—Section 462 (20 U.S.C. 1087bb) is amended—

(1) in the matter following paragraphs (1)(B) and (2)(D)(ii) of subsection (a), by inserting “cohort” before “default” each place the term appears;

(2) in the matter following paragraphs (2)(B) and (3)(C) of subsection (b) (as redesignated by subsection (a)(2)(G)), by inserting “cohort” before “default” each place the term appears;

(3) in subsection (d)(2) (as redesignated by subsection (a)(2)(G)), by inserting “cohort” before “default”; and

(4) in subsection (g)(1)(F) (as redesignated by subsections (a)(2)(G) and (d)(3)(B)), by inserting “cohort” before “default”.

**SEC. 463. AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION.**

(a) CONTENTS OF AGREEMENTS.—Section 463(a) (20 U.S.C. 1087cc(a)) is amended—

(1) by amending subparagraph (B) of paragraph (2) to read as follows:

“(B) a capital contribution by an institution in an amount equal to one-third of the Federal capital contributions described in subparagraph (A);”;

(2) by striking paragraph (4); and

(3) by redesignating paragraphs (5) through (10) as paragraphs (4) through (9);

(b) AGREEMENTS WITH CREDIT BUREAUS.—Section 463(c) is amended—

(1) in paragraph (1)—

(A) by striking “the Secretary shall” and inserting “the Secretary and each institution of higher education participating in the program under this part shall”; and

(B) by inserting “and regarding loans held by the Secretary or an institution” after “section 467”;

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking “by the Secretary” and all that follows through “of—” and inserting “by the Secretary or an institution, as the case may be, to such organizations, with respect to any loan held by the Secretary or the institution, respectively, of—”;

(B) by amending subparagraph (A) to read as follows:

“(A) the date of disbursement and the amount of such loans made to any borrower under this part at the time of disbursement of the loan;”;

(C) in subparagraph (B)—

(i) by inserting “the repayment and” after “concerning”; and

(ii) by striking “any defaulted” and inserting “such”; and

(D) in subparagraph (C), by inserting “, or upon cancellation or discharge of the borrower’s obligation on the loan for any reason” before the period;

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting “or an institution” after “from the Secretary”; and

(ii) by striking “until—” and inserting “until the loan is paid in full.”; and

(B) by striking subparagraphs (A) and (B);

(4) by amending paragraph (4) to read as follows:

“(4)(A) Except as provided in subparagraph (B), an institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement the information set forth in paragraph (2), and shall disclose promptly to such credit bureau organization any changes to the information previously disclosed.

“(B) The Secretary may promulgate regulations establishing criteria under which an institution of higher education may cease

reporting the information described in paragraph (2) before a loan is paid in full.”; and

(4) by inserting after paragraph (4) the following:

“(5) Each institution of higher education shall notify the appropriate credit bureau organizations whenever a borrower of a loan that is made and held by the institution and that is in default makes 6 consecutive monthly payments on such loan, for the purpose of encouraging such organizations to update the status of information maintained with respect to that borrower.”.

Notification.

(c) CONFORMING AMENDMENT.—Section 463(d) is amended by striking “subsection (a)(10)” and inserting “subsection (a)(9)”.

20 USC 1087cc.

#### SEC. 464. TERMS OF LOANS.

(a) TERMS AND CONDITIONS; ANNUAL LIMITS.—Paragraph (2) of section 464(a) (20 U.S.C. 1087dd(a)) is amended to read as follows:

“(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

“(i) \$4,000, in the case of a student who has not successfully completed a program of undergraduate education; or

“(ii) \$6,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

Regulations.

“(B) Except as provided in paragraph (4), the aggregate unpaid principal amount for all loans made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

“(i) \$40,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary, and including any loans from such funds made to such person before such person became a graduate or professional student);

“(ii) \$20,000, in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor’s degree but who has not completed the work necessary for such a degree (determined under regulations issued by the Secretary), and including any loans from such funds made to such person before such person became such a student; and

Regulations.

“(iii) \$8,000, in the case of any other student.”.

(b) NEED AND ELIGIBILITY.—Section 464(b) is amended—

(1) in paragraph (1), by adding at the end the following:

“A student who is in default on a loan under this part shall not be eligible for an additional loan under this part unless such loan meets one of the conditions for exclusion under section 462(g)(1)(E).”; and

(2) by amending paragraph (2) to read as follows:

“(2) If the institution’s capital contribution under section 462 is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, then a reasonable portion of the loans made from the institution’s student loan fund containing the contribution shall be made available to such students.”.

(c) CONTENTS OF LOAN AGREEMENT.—Section 464(c) is amended—

(1) in paragraph (1)(D)—

(A) by striking “(i) 3 percent” and all that follows through “or (iii)”; and

(B) by striking “subparagraph (A)(i)” and inserting “paragraph (2)(A)(i)”;

(2) in the matter following clause (iv) of paragraph (2)(A), by striking “subparagraph (B)” and inserting “subparagraph (A) of paragraph (1)”;

(3) by adding at the end of paragraph (2) the following:

“(C) An individual with an outstanding loan balance who meets the eligibility criteria for a deferment described in subparagraph (A) as in effect on the date of enactment of this subparagraph shall be eligible for deferment under this paragraph notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such deferment.”; and

(4) by adding at the end the following:

“(7) There shall be excluded from the 9-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload (as described in paragraph (1)(A)) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code, is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower’s next available regular enrollment period.”.

(d) DISCHARGE; REHABILITATION; INCENTIVE REPAYMENT.—

20 USC 1087dd.

Section 464 is amended by adding at the end the following:

“(g) DISCHARGE.—

“(1) IN GENERAL.—If a student borrower who received a loan made under this part on or after January 1, 1986, is unable to complete the program in which such student is enrolled due to the closure of the institution, then the Secretary shall discharge the borrower’s liability on the loan (including the interest and collection fees) and shall subsequently pursue any claim available to such borrower against the institution and the institution’s affiliates and principals, or settle the loan obligation pursuant to the financial responsibility standards described in section 498(c).

“(2) ASSIGNMENT.—A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund in an amount that does not exceed the amount discharged against the institution and the institution’s affiliates and principals.

“(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE.—The period during which a student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student’s period of eligibility for additional assistance under this title.

“(4) SPECIAL RULE.—A borrower whose loan has been discharged pursuant to this subsection shall not be precluded, because of that discharge, from receiving additional grant, loan, or work assistance under this title for which the borrower

would be otherwise eligible (but for the default on the discharged loan). The amount discharged under this subsection shall be treated as an amount canceled under section 465(a).

“(5) REPORTING.—The Secretary or institution, as the case may be, shall report to credit bureaus with respect to loans that have been discharged pursuant to this subsection.

“(h) REHABILITATION OF LOANS.—

“(1) REHABILITATION.—

“(A) IN GENERAL.—If the borrower of a loan made under this part who has defaulted on the loan makes 12 ontime, consecutive, monthly payments of amounts owed on the loan, as determined by the institution, or by the Secretary in the case of a loan held by the Secretary, the loan shall be considered rehabilitated, and the institution that made that loan (or the Secretary, in the case of a loan held by the Secretary) shall request that any credit bureau organization or credit reporting agency to which the default was reported remove the default from the borrower’s credit history.

“(B) COMPARABLE CONDITIONS.—As long as the borrower continues to make scheduled repayments on a loan rehabilitated under this paragraph, the rehabilitated loan shall be subject to the same terms and conditions, and qualify for the same benefits and privileges, as other loans made under this part.

“(C) ADDITIONAL ASSISTANCE.—The borrower of a rehabilitated loan shall not be precluded by section 484 from receiving additional grant, loan, or work assistance under this title (for which the borrower is otherwise eligible) on the basis of defaulting on the loan prior to such rehabilitation.

“(D) LIMITATIONS.—A borrower only once may obtain the benefit of this paragraph with respect to rehabilitating a loan under this part.

“(2) RESTORATION OF ELIGIBILITY.—If the borrower of a loan made under this part who has defaulted on that loan makes 6 ontime, consecutive, monthly payments of amounts owed on such loan, the borrower’s eligibility for grant, loan, or work assistance under this title shall be restored to the extent that the borrower is otherwise eligible. A borrower only once may obtain the benefit of this paragraph with respect to restored eligibility.

“(i) INCENTIVE REPAYMENT PROGRAM.—

“(1) IN GENERAL.—Each institution of higher education may establish, with the approval of the Secretary, an incentive repayment program designed to reduce default and to replenish student loan funds established under this part. Each such incentive repayment program may—

“(A) offer a reduction of the interest rate on a loan on which the borrower has made 48 consecutive, monthly repayments, but in no event may the rate be reduced by more than 1 percent;

“(B) provide for a discount on the balance owed on a loan on which the borrower pays the principal and interest in full prior to the end of the applicable repayment period, but in no event may the discount exceed 5 percent

of the unpaid principal balance due on the loan at the time the early repayment is made; and

“(C) include such other incentive repayment options as the institution determines will carry out the objectives of this subsection.

“(2) LIMITATION.—No incentive repayment option under an incentive repayment program authorized by this subsection may be paid for with Federal funds, including any Federal funds from the student loan fund, or with institutional funds from the student loan fund.”.

#### **SEC. 465. CANCELLATION FOR PUBLIC SERVICE.**

Section 465 (20 U.S.C. 1087ee) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(C), by striking “section 676(b)(9)” and inserting “section 635(a)(10)”;

(B) in the last sentence of paragraph (2), by striking “section 602(a)(1)” and inserting “section 602”; and

(C) by adding at the end the following new paragraph:

“(7) An individual with an outstanding loan obligation under this part who performs service of any type that is described in paragraph (2) as in effect on the date of enactment of this paragraph shall be eligible for cancellation under this section for such service notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such service.”; and

Deadline.

(2) in subsection (b), by adding at the end the following new sentence: “To the extent feasible, the Secretary shall pay the amounts for which any institution qualifies under this subsection not later than 3 months after the institution files an institutional application for campus-based funds.”.

#### **SEC. 466. DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS.**

Section 466 (20 U.S.C. 1087ff) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking “1996” and inserting “2003”; and

(ii) by striking “1997” and inserting “2004”; and

(B) in paragraph (1), by striking “1996” and inserting “2003”;

(2) in subsection (b)—

(A) by striking “2005” and inserting “2012”; and

(B) by striking “1996” and inserting “2003”; and

(3) in subsection (c), by striking “1997” and inserting “2004”.

#### **SEC. 467. PERKINS LOAN REVOLVING FUND.**

(a) REPEAL.—Subsection (c) of section 467 (20 U.S.C. 1087gg(c)) is repealed.

20 USC 1087gg  
note.

(b) TRANSFER OF BALANCE.—Any funds in the Perkins Loan Revolving Fund on the date of enactment of this Act shall be transferred to and deposited in the Treasury.



**PART F—NEED ANALYSIS****SEC. 471. COST OF ATTENDANCE.**

Section 472 (20 U.S.C. 1087ll) is amended—

(1) in paragraph (2), by inserting after “personal expenses” the following: “, including a reasonable allowance for the documented rental or purchase of a personal computer,”;

(2) in paragraph (3)—

(A) in subparagraph (A), by striking “of not less than \$1,500” and inserting “determined by the institution”; and

(B) in subparagraph (C), by striking “, except that the amount may not be less than \$2,500”;

(3) in paragraph (10), by striking everything after “determining costs” and inserting a semicolon; and

(4) in paragraph (11), by striking “placed” and inserting “engaged”.

**SEC. 472. DATA ELEMENTS.**

Section 474(b)(3) (20 U.S.C. 1087nn(b)(3)) is amended by inserting “, excluding the student’s parents,” after “family of the student”.

**SEC. 473. FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.**

(a) PARENTS’ CONTRIBUTION FROM ADJUSTED AVAILABLE INCOME.—Section 475(b)(3) (20 U.S.C. 1087oo(b)(3)) is amended by inserting “, excluding the student’s parents,” after “number of family members”.

(b) STUDENT CONTRIBUTION FROM AVAILABLE INCOME.—Section 475(g) is amended—

(1) in paragraph (2)—

(A) in subparagraph (D), by striking “\$1,750; and” and inserting “\$2,200 (or a successor amount prescribed by the Secretary under section 478);”;

(B) by striking the period at the end of subparagraph (E) and inserting “; and”; and

(C) by inserting after subparagraph (E) the following new subparagraph:

“(F) an allowance for parents’ negative available income, determined in accordance with paragraph (6).”; and

(2) by adding at the end the following new paragraph:

“(6) ALLOWANCE FOR PARENTS’ NEGATIVE AVAILABLE INCOME.—The allowance for parents’ negative available income is the amount, if any, by which the sum of the amounts deducted under subparagraphs (A) through (F) of subsection (c)(1) exceeds the sum of the parents’ total income (as defined in section 480) and the parents’ contribution from assets (as determined in accordance with subsection (d)).”.

(c) ADJUSTMENTS TO STUDENT’S CONTRIBUTION FOR ENROLLMENT PERIODS OTHER THAN NINE MONTHS.—Section 475 is amended by adding at the end the following:

“(j) ADJUSTMENTS TO STUDENT’S CONTRIBUTION FOR ENROLLMENT PERIODS OF LESS THAN NINE MONTHS.—For periods of enrollment of less than 9 months, the student’s contribution from adjusted available income (as determined under subsection (g)) is determined, for purposes other than subpart 2 of part A, by dividing the amount

determined under such subsection by 9, and multiplying the result by the number of months in the period of enrollment.”.

**SEC. 474. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.**

(a) **ADJUSTMENTS FOR ENROLLMENT PERIODS OF LESS THAN NINE MONTHS.**—Section 476(a) (20 U.S.C. 1087pp(a)) is amended—

(1) by striking “and” at the end of paragraph (1)(B);

(2) by inserting “and” after the semicolon at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

“(3) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A—

“(A) dividing the quotient resulting under paragraph

(2) by 9; and

“(B) multiplying the result by the number of months in the period of enrollment;”.

(b) **CONTRIBUTION FROM AVAILABLE INCOME.**—Section 476(b)(1)(A)(iv) is amended—

(1) by striking “allowance of—” and inserting “allowance of the following amount (or a successor amount prescribed by the Secretary under section 478)—”;

(2) in subclauses (I) and (II), by striking “\$3,000” each place the term appears and inserting “\$5,000”; and

(3) in subclause (III), by striking “\$6,000” and inserting “\$8,000”.

**SEC. 475. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.**

Section 477(a) (20 U.S.C. 1087qq(a)) is amended—

(1) by striking “and” at the end of paragraph (2);

(2) by inserting “and” after the semicolon at the end of paragraph (3); and

(3) by inserting after paragraph (3) the following new paragraph:

“(4) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A—

“(A) dividing the quotient resulting under paragraph

(3) by 9; and

“(B) multiplying the result by the number of months in the period of enrollment;”.

**SEC. 476. REGULATIONS; UPDATED TABLES AND AMOUNTS.**

Section 478(b) (20 U.S.C. 1087rr(b)) is amended—

(1) by striking “For each academic year” and inserting the following:

“(1) **REVISED TABLES.**—For each academic year”; and

(2) by adding at the end the following new paragraph:

“(2) **REVISED AMOUNTS.**—For each academic year after academic year 2000–2001, the Secretary shall publish in the Federal Register revised income protection allowances for the purpose of sections 475(g)(2)(D) and 476(b)(1)(A)(iv). Such revised allowances shall be developed by increasing each of the dollar amounts contained in such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1999 and

the December next preceding the beginning of such academic year, and rounding the result to the nearest \$10.”.

**SEC. 477. SIMPLIFIED NEEDS TEST; ZERO EXPECTED FAMILY CONTRIBUTION.**

Section 479 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)(3)—

(A) in the matter preceding subparagraph (A), by striking “this paragraph” and inserting “this subsection, or subsection (c), as the case may be,”;

(B) in subparagraph (A), by striking “or” at the end thereof;

(C) by redesignating subparagraph (B) as subparagraph (C); and

(D) by inserting after subparagraph (A) the following new subparagraph:

“(B) a form 1040 (including any prepared or electronic version of such form) required pursuant to the Internal Revenue Code of 1986, except that such form shall be considered a qualifying form only if the student or family files such form in order to take a tax credit under section 25A of the Internal Revenue Code of 1986, and would otherwise be eligible to file a form described in subparagraph (A); or”;

(2) in subsection (c)—

(A) by amending paragraph (1)(A) to read as follows:

“(A) the student’s parents file, or are eligible to file, a form described in subsection (b)(3), or certify that the parents are not required to file an income tax return and the student files, or is eligible to file, such a form, or certifies that the student is not required to file an income tax return; and”;

(B) by amending paragraph (2)(A) to read as follows:

“(A) the student (and the student’s spouse, if any) files, or is eligible to file, a form described in subsection (b)(3), or certifies that the student (and the student’s spouse, if any) is not required to file an income tax return; and”.

**SEC. 478. DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.**

Section 479A (20 U.S.C. 1087tt) is amended—

(1) in subsection (a), by inserting after the second sentence the following: “Special circumstances may include tuition expenses at an elementary or secondary school, medical or dental expenses not covered by insurance, unusually high child care costs, recent unemployment of a family member, the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 487, or other changes in a family’s income, a family’s assets, or a student’s status.”; and

(2) by amending subsection (c) to read as follows:

“(c) REFUSAL OR ADJUSTMENT OF LOAN CERTIFICATIONS.—On a case-by-case basis, an eligible institution may refuse to certify a statement that permits a student to receive a loan under part B or D, or may certify a loan amount or make a loan that is less than the student’s determination of need (as determined under this part), if the reason for the action is documented and provided

in written form to the student. No eligible institution shall discriminate against any borrower or applicant in obtaining a loan on the basis of race, national origin, religion, sex, marital status, age, or disability status.”.

**SEC. 479. TREATMENT OF OTHER FINANCIAL ASSISTANCE.**

Section 480(j) (20 U.S.C. 1087vv(j)) is amended—

(1) in paragraph (1), by inserting before the period at the end the following: “, and national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.)”;

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

**SEC. 480. CLERICAL AMENDMENTS.**

(a) AMOUNT OF NEED.—Section 471 (20 U.S.C. 1087kk) is amended by striking “or 4” and inserting “or 2”.

(b) FAMILY CONTRIBUTION.—Section 473 (20 U.S.C. 1087mm) is amended by striking “subpart 4” and inserting “subpart 2”.

20 USC 1087kk  
note.

**SEC. 480A. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part are effective on the date of enactment of this Act.

Applicability.

(b) PROVISIONS EFFECTIVE FOR ACADEMIC YEAR 2000–2001, AND THEREAFTER.—The amendments made by sections 472, 473, 474, and 475 shall apply with respect to determinations of need under part F of title IV of the Higher Education Act of 1965 for academic years beginning on or after July 1, 2000.

## **PART G—GENERAL PROVISIONS**

**SEC. 481. MASTER CALENDAR.**

(a) REQUIRED SCHEDULE.—Section 482(a) (20 U.S.C. 1089(a)) is amended by adding at the end the following:

Notification.

“(3) The Secretary shall, to the extent practicable, notify eligible institutions, guaranty agencies, lenders, interested software providers, and, upon request, other interested parties, by December 1 prior to the start of an award year of minimal hardware and software requirements necessary to administer programs under this title.

“(4) The Secretary shall attempt to conduct training activities for financial aid administrators and others in an expeditious and timely manner prior to the start of an award year in order to ensure that all participants are informed of all administrative requirements.”.

(b) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS.—Subsection (c) of section 482 is amended to read as follows:

“(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS.—(1) Except as provided in paragraph (2), any regulatory changes initiated by the Secretary affecting the programs under this title that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.

“(2)(A) The Secretary may designate any regulatory provision that affects the programs under this title and is published in final form after November 1 as one that an entity subject to the provision may, in the entity’s discretion, choose to implement prior

to the effective date described in paragraph (1). The Secretary may specify in the designation when, and under what conditions, an entity may implement the provision prior to that effective date. The Secretary shall publish any designation under this subparagraph in the Federal Register.

Federal Register,  
publication.

“(B) If an entity chooses to implement a regulatory provision prior to the effective date described in paragraph (1), as permitted by subparagraph (A), the provision shall be effective with respect to that entity in accordance with the terms of the Secretary’s designation.”.

#### SEC. 482. FORMS AND REGULATIONS.

(a) COMMON FINANCIAL AID FORM DEVELOPMENT.—Section 483(a) (20 U.S.C. 1090(a)) is amended—

(1) in the subsection heading, by striking “FORM” and inserting “FORM DEVELOPMENT”;

(2) in paragraph (1)—

(A) by striking “A, C, D, and E” and inserting “A through E”;

(B) by striking “and to determine the need of a student for the purpose of part B of this title”;

(C) by striking the second sentence and inserting the following: “The Secretary shall include on the form developed under this subsection such data items as the Secretary determines are appropriate for inclusion. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance. In no case shall the number of such data items be less than the number included on the form on the date of enactment of the Higher Education Amendments of 1998.”; and

(D) by striking the last sentence;

(3) in paragraph (2)—

(A) by striking “A, C, D, and E” each place the term appears and inserting “A through E”;

(B) by striking “and the need of a student for the purpose of part B of this title,”; and

(C) by striking “or have the student’s need established for the purpose of part B of this title”;

(4) by amending paragraph (3) to read as follows:

“(3) DISTRIBUTION OF DATA.—Institutions of higher education, guaranty agencies, and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this section for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education, guaranty agencies, or States to receive such data shall be subject to all the requirements of this section, unless such requirements are waived by the Secretary.”;

(5) by adding at the end the following:

“(5) ELECTRONIC FORMS.—(A) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, including private computer software providers, shall develop an electronic version of the form described in paragraph (1). As permitted by the Secretary, such an electronic version shall not require a signature to be collected at the time such version is submitted, if a signature

Deadline.

is subsequently submitted by the applicant. The Secretary shall prescribe such version not later than 120 days after the date of enactment of the Higher Education Amendments of 1998.

“(B) Nothing in this section shall be construed to prohibit the use of the form developed by the Secretary pursuant to subparagraph (A) by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software providers, a consortium thereof, or such other entities as the Secretary may designate.

“(C) No fee shall be charged to students in connection with the use of the electronic version of the form, or of any other electronic forms used in conjunction with such form in applying for Federal or State student financial assistance.

Privacy.

“(D) The Secretary shall ensure that data collection complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the form developed by the Secretary pursuant to subparagraph (A) shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the form. Data collected by such version of the form shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such version of the form shall be used for making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary.

“(6) THIRD PARTY SERVICERS AND PRIVATE SOFTWARE PROVIDERS.—To the extent practicable and in a timely manner, the Secretary shall provide, to private organizations and consortia that develop software used by eligible institutions for the administration of funds under this title, all the necessary specifications that the organizations and consortia must meet for the software the organizations and consortia develop, produce, and distribute (including any diskette, modem, or network communications) which are so used. The specifications shall contain record layouts for required data. The Secretary shall develop in advance of each processing cycle an annual schedule for providing such specifications. The Secretary, to the extent practicable, shall use means of providing such specifications, including conferences and other meetings, outreach, and technical support mechanisms (such as training and printed reference materials). The Secretary shall, from time to time, solicit from such organizations and consortia means of improving the support provided by the Secretary.

“(7) PARENT’S SOCIAL SECURITY NUMBER AND BIRTH DATE.—The Secretary is authorized to include on the form developed under this subsection space for the social security number and birth date of parents of dependent students seeking financial assistance under this title.”.

20 USC 1090.

(b) STREAMLINED REAPPLICATION PROCESS.—Section 483(b)(1) is amended by striking “, within 240 days” and all that follows through “of 1992,”.

(c) INFORMATION TO COMMITTEES.—Section 483(c) is amended by striking “and Labor” and inserting “and the Workforce”.

(d) TOLL-FREE INFORMATION.—Section 483(d) is amended by striking “section 633(c)” and inserting “section 685(d)(2)(C)”. 20 USC 1090.

(e) REPEAL.—Subsection (f) of section 483 is repealed.

**SEC. 483. STUDENT ELIGIBILITY.**

(a) IN GENERAL.—Section 484(a) (20 U.S.C. 1091(a)) is amended—

(1) in paragraph (4), by striking “the institution” and everything that follows through “lender), a document” and inserting “the Secretary, as part of the original financial aid application process, a certification,”; and

(2) in paragraph (5), by striking “or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands” and inserting “a citizen of any one of the Freely Associated States”.

(b) HOME-SCHOOLED STUDENTS.—Section 484(d) is amended—

(1) in the matter preceding paragraph (1), by striking “either”; and

(2) by adding at the end the following:

“(3) The student has completed a secondary school education in a home school setting that is treated as a home school or private school under State law.”.

(c) TERMINATION OF ELIGIBILITY.—Section 484(j) is amended to read as follows:

“(j) ASSISTANCE UNDER SUBPARTS 1 AND 3 OF PART A, AND PART C.—Notwithstanding any other provision of law, a student shall be eligible until September 30, 2004, for assistance under subparts 1 and 3 of part A, and part C, if the student is otherwise qualified and—

“(1) is a citizen of any one of the Freely Associated States and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Freely Associated States; or

“(2) meets the requirements of subsection (a)(5) and attends a public or nonprofit private institution of higher education in any one of the Freely Associated States.”.

(d) CORRESPONDENCE COURSES.—Paragraph (1) of section 484(l) is amended to read as follows:

“(1) RELATION TO CORRESPONDENCE COURSES.—

“(A) IN GENERAL.—A student enrolled in a course of instruction at an institution of higher education that is offered in whole or in part through telecommunications and leads to a recognized certificate for a program of study of 1 year or longer, or a recognized associate, baccalaureate, or graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of the total amount of all courses at the institution.

“(B) REQUIREMENT.—An institution of higher education referred to in subparagraph (A) is an institution of higher education—

“(i) that is not an institute or school described in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act; and

“(ii) for which at least 50 percent of the programs of study offered by the institution lead to the award of a recognized associate, baccalaureate, or graduate degree.”.

20 USC 1091.

(e) VERIFICATION OF INCOME DATA.—Section 484 is amended by adding at the end the following:

“(q) VERIFICATION OF INCOME DATA.—

“(1) CONFIRMATION WITH IRS.—The Secretary of Education, in cooperation with the Secretary of the Treasury, is authorized to confirm with the Internal Revenue Service the adjusted gross income, Federal income taxes paid, filing status, and exemptions reported by applicants (including parents) under this title on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications.

Procedures.

“(2) NOTIFICATION.—The Secretary shall establish procedures under which an applicant is notified that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(l)(13) of the Internal Revenue Code of 1986.”.

(f) SUSPENSION OF ELIGIBILITY FOR DRUG-RELATED OFFENSES.—

(1) AMENDMENT.—Section 484 is amended by adding at the end thereof the following:

“(r) SUSPENSION OF ELIGIBILITY FOR DRUG-RELATED OFFENSES.—

“(1) IN GENERAL.—A student who has been convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this title during the period beginning on the date of such conviction and ending after the interval specified in the following table:

**“If convicted of an offense involving:**

<b>The possession of a controlled substance:</b>	<b>Ineligibility period is:</b>
First offense .....	1 year
Second offense .....	2 years
Third offense .....	Indefinite.

<b>The sale of a controlled substance:</b>	<b>Ineligibility period is:</b>
First offense .....	2 years
Second offense .....	Indefinite.

“(2) REHABILITATION.—A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the ineligibility period determined under such paragraph if—

“(A) the student satisfactorily completes a drug rehabilitation program that—

“(i) complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph; and

“(ii) includes two unannounced drug tests; or

“(B) the conviction is reversed, set aside, or otherwise rendered nugatory.

“(3) DEFINITIONS.—In this subsection, the term ‘controlled substance’ has the meaning given the term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).”.



(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1), regarding suspension of eligibility for drug-related offenses, shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act.

Applicability.  
20 USC 1091  
note.

**SEC. 484. STATE COURT JUDGMENTS.**

Section 484A (20 U.S.C. 1091a) is amended—

(1) in the heading of the section by inserting “, **AND STATE COURT JUDGMENTS**” after “**LIMITATIONS**”; and

(2) by adding at the end the following:

“(c) **STATE COURT JUDGMENTS.**—A judgment of a State court for the recovery of money provided as grant, loan, or work assistance under this title that has been assigned or transferred to the Secretary under this title may be registered in any district court of the United States by filing a certified copy of the judgment and a copy of the assignment or transfer. A judgment so registered shall have the same force and effect, and may be enforced in the same manner, as a judgment of the district court of the district in which the judgment is registered.”.

**SEC. 485. INSTITUTIONAL REFUNDS.**

Section 484B (20 U.S.C. 1091b) is amended to read as follows:

**“SEC. 484B. INSTITUTIONAL REFUNDS.**

**“(a) RETURN OF TITLE IV FUNDS.—**

**“(1) IN GENERAL.**—If a recipient of assistance under this title withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the amount of grant or loan assistance (other than assistance received under part C) to be returned to the title IV programs is calculated according to paragraph (3) and returned in accordance with subsection (b).

**“(2) LEAVE OF ABSENCE.—**

**“(A) LEAVE NOT TREATED AS WITHDRAWAL.**—In the case of a student who takes a leave of absence from an institution for not more than a total of 180 days in any 12-month period, the institution may consider the student as not having withdrawn from the institution during the leave of absence, and not calculate the amount of grant and loan assistance provided under this title that is to be returned in accordance with this section if—

**“(i)** the institution has a formal policy regarding leaves of absence;

**“(ii)** the student followed the institution’s policy in requesting a leave of absence; and

**“(iii)** the institution approved the student’s request in accordance with the institution’s policy.

**“(B) CONSEQUENCES OF FAILURE TO RETURN.**—If a student does not return to the institution at the expiration of an approved leave of absence that meets the requirements of subparagraph (A), the institution shall calculate the amount of grant and loan assistance provided under this title that is to be returned in accordance with this section based on the day the student withdrew (as determined under subsection (c)).

**“(3) CALCULATION OF AMOUNT OF TITLE IV ASSISTANCE EARNED.—**

“(A) IN GENERAL.—The amount of grant or loan assistance under this title that is earned by the recipient for purposes of this section is calculated by—

“(i) determining the percentage of grant and loan assistance under this title that has been earned by the student, as described in subparagraph (B); and

“(ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student’s behalf, for the payment period or period of enrollment for which the assistance was awarded, as of the day the student withdrew.

“(B) PERCENTAGE EARNED.—For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this title that has been earned by the student is—

“(i) equal to the percentage of the payment period or period of enrollment for which assistance was awarded that was completed (as determined in accordance with subsection (d)) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the payment period or period of enrollment; or

“(ii) 100 percent, if the day the student withdrew occurs after the student has completed 60 percent of the payment period or period of enrollment.

“(C) PERCENTAGE AND AMOUNT NOT EARNED.—For purposes of subsection (b), the amount of grant and loan assistance awarded under this title that has not been earned by the student shall be calculated by—

“(i) determining the complement of the percentage of grant or loan assistance under this title that has been earned by the student described in subparagraph (B); and

“(ii) applying the percentage determined under clause (i) to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student’s behalf, for the payment period or period of enrollment, as of the day the student withdrew.

“(4) DIFFERENCES BETWEEN AMOUNTS EARNED AND AMOUNTS RECEIVED.—

Regulations.

“(A) IN GENERAL.—If the student has received less grant or loan assistance than the amount earned as calculated under subparagraph (A) of paragraph (3), the institution of higher education shall comply with the procedures for late disbursement specified by the Secretary in regulations.

“(B) RETURN.—If the student has received more grant or loan assistance than the amount earned as calculated under paragraph (3)(A), the unearned funds shall be returned by the institution or the student, or both, as may be required under paragraphs (1) and (2) of subsection (b), to the programs under this title in the order specified in subsection (b)(3).

“(b) RETURN OF TITLE IV PROGRAM FUNDS.—

“(1) RESPONSIBILITY OF THE INSTITUTION.—The institution shall return, in the order specified in paragraph (3), the lesser of—

“(A) the amount of grant and loan assistance awarded under this title that has not been earned by the student, as calculated under subsection (a)(3)(C); or

“(B) an amount equal to—

“(i) the total institutional charges incurred by the student for the payment period or period of enrollment for which such assistance was awarded; multiplied by

“(ii) the percentage of grant and loan assistance awarded under this title that has not been earned by the student, as described in subsection (a)(3)(C)(i).

“(2) RESPONSIBILITY OF THE STUDENT.—

“(A) IN GENERAL.—The student shall return assistance that has not been earned by the student as described in subsection (a)(3)(C)(ii) in the order specified in paragraph (3) minus the amount the institution is required to return under paragraph (1).

“(B) SPECIAL RULE.—The student (or parent in the case of funds due to a loan borrowed by a parent under part B or D) shall return or repay, as appropriate, the amount determined under subparagraph (A) to—

“(i) a loan program under this title in accordance with the terms of the loan; and

“(ii) a grant program under this title, as an overpayment of such grant and shall be subject to—

“(I) repayment arrangements satisfactory to the institution; or

“(II) overpayment collection procedures prescribed by the Secretary.

“(C) REQUIREMENT.—Notwithstanding subparagraphs (A) and (B), a student shall not be required to return 50 percent of the grant assistance received by the student under this title, for a payment period or period of enrollment, that is the responsibility of the student to repay under this section.

“(3) ORDER OF RETURN OF TITLE IV FUNDS.—

“(A) IN GENERAL.—Excess funds returned by the institution or the student, as appropriate, in accordance with paragraph (1) or (2), respectively, shall be credited to outstanding balances on loans made under this title to the student or on behalf of the student for the payment period or period of enrollment for which a return of funds is required. Such excess funds shall be credited in the following order:

“(i) To outstanding balances on loans made under section 428H for the payment period or period of enrollment for which a return of funds is required.

“(ii) To outstanding balances on loans made under section 428 for the payment period or period of enrollment for which a return of funds is required.

“(iii) To outstanding balances on unsubsidized loans (other than parent loans) made under part D for the payment period or period of enrollment for which a return of funds is required.

“(iv) To outstanding balances on subsidized loans made under part D for the payment period or period of enrollment for which a return of funds is required.

“(v) To outstanding balances on loans made under part E for the payment period or period of enrollment for which a return of funds is required.

“(vi) To outstanding balances on loans made under section 428B for the payment period or period of enrollment for which a return of funds is required.

“(vii) To outstanding balances on parent loans made under part D for the payment period or period of enrollment for which a return of funds is required.

“(B) REMAINING EXCESSES.—If excess funds remain after repaying all outstanding loan amounts, the remaining excess shall be credited in the following order:

“(i) To awards under subpart 1 of part A for the payment period or period of enrollment for which a return of funds is required.

“(ii) To awards under subpart 3 of part A for the payment period or period of enrollment for which a return of funds is required.

“(iii) To other assistance awarded under this title for which a return of funds is required.

“(c) WITHDRAWAL DATE.—

“(1) IN GENERAL.—In this section, the term ‘day the student withdrew’—

“(A) is the date that the institution determines—

“(i) the student began the withdrawal process prescribed by the institution;

“(ii) the student otherwise provided official notification to the institution of the intent to withdraw; or

“(iii) in the case of a student who does not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, the date that is the mid-point of the payment period for which assistance under this title was disbursed or a later date documented by the institution; or

“(B) for institutions required to take attendance, is determined by the institution from such attendance records.

“(2) SPECIAL RULE.—Notwithstanding paragraph (1), if the institution determines that a student did not begin the withdrawal process, or otherwise notify the institution of the intent to withdraw, due to illness, accident, grievous personal loss, or other such circumstances beyond the student’s control, the institution may determine the appropriate withdrawal date.

“(d) PERCENTAGE OF THE PAYMENT PERIOD OR PERIOD OF ENROLLMENT COMPLETED.—For purposes of subsection (a)(3)(B)(i), the percentage of the payment period or period of enrollment for which assistance was awarded that was completed, is determined—

“(1) in the case of a program that is measured in credit hours, by dividing the total number of calendar days comprising the payment period or period of enrollment for which assistance is awarded into the number of calendar days completed in that period as of the day the student withdrew; and

“(2) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising

the payment period or period of enrollment for which assistance is awarded into the number of clock hours—

“(A) completed by the student in that period as of the day the student withdrew; or

“(B) scheduled to be completed as of the day the student withdrew, if the clock hours completed in the period are not less than a percentage, to be determined by the Secretary in regulations, of the hours that were scheduled to be completed by the student in the period.

Regulations.

“(e) EFFECTIVE DATE.—The provisions of this section shall take effect 2 years after the date of enactment of the Higher Education Amendments of 1998. An institution of higher education may choose to implement such provisions prior to that date.”.

**SEC. 486. INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS.**

(a) INFORMATION DISSEMINATION ACTIVITIES.—Section 485(a) (20 U.S.C. 1092(a)) is amended—

(1) in paragraph (1)—

(A) in the second sentence, by striking “, through appropriate publications and mailings, to all current students, and to any prospective student upon request” and inserting “upon request, through appropriate publications, mailings, and electronic media, to an enrolled student and to any prospective student”;

(B) by inserting after the second sentence the following: “Each eligible institution shall, on an annual basis, provide to all enrolled students a list of the information that is required to be provided by institutions to students by this section and section 444 of the General Education Provisions Act (also referred to as the Family Educational Rights and Privacy Act of 1974), together with a statement of the procedures required to obtain such information.”;

(C) by amending subparagraph (F) to read as follows: “(F) a statement of—

“(i) the requirements of any refund policy with which the institution is required to comply;

“(ii) the requirements under section 484B for the return of grant or loan assistance provided under this title; and

“(iii) the requirements for officially withdrawing from the institution.”; and

(D) by striking “and” at the end of subparagraph (M);

(E) by striking the period at the end of subparagraph (N) and inserting “; and”; and

(F) by adding at the end the following:

“(O) the campus crime report prepared by the institution pursuant to subsection (f), including all required reporting categories.”;

(2) in paragraph (3), by amending subparagraph (A) to read as follows:

“(A) shall be made available by July 1 each year to enrolled students and prospective students prior to the students enrolling or entering into any financial obligation; and”; and

(3) by adding at the end the following:

“(6) Each institution may provide supplemental information to enrolled and prospective students showing the completion or

graduation rate for students described in paragraph (4) or for students transferring into the institution or information showing the rate at which students transfer out of the institution.”.

(b) EXIT COUNSELING FOR BORROWERS.—Section 485(b) (20 U.S.C. 1092(b)) is amended—

(1) in paragraph (1)(A), by striking “(individually or in groups)”;

(2) in paragraph (2), by adding at the end the following:

“(C) Nothing in this subsection shall be construed to prohibit an institution of higher education from utilizing electronic means to provide personalized exit counseling.”.

(c) DEPARTMENTAL PUBLICATIONS.—Section 485(d) is amended—

(1) by striking “(1) assist” and inserting “(A) assist”;

(2) by striking “(2) assist” and inserting “(B) assist”;

(3) by inserting “(1)” before “The Secretary” the first place the term appears; and

(4) by adding at the end the following:

Records. “(2) The Secretary, to the extent the information is available, shall compile information describing State and other prepaid tuition programs and savings programs and disseminate such information to States, eligible institutions, students, and parents in departmental publications.

Internet. “(3) The Secretary, to the extent practicable, shall update the Department’s Internet site to include direct links to databases that contain information on public and private financial assistance programs. The Secretary shall only provide direct links to databases that can be accessed without charge and shall make reasonable efforts to verify that the databases included in a direct link are not providing fraudulent information. The Secretary shall prominently display adjacent to any such direct link a disclaimer indicating that a direct link to a database does not constitute an endorsement or recommendation of the database, the provider of the database, or any services or products of such provider. The Secretary shall provide additional direct links to information resources from which students may obtain information about fraudulent and deceptive practices in the provision of services related to student financial aid.”.

(d) DISCLOSURES.—Section 485(e) is amended—

(1) in paragraph (2)—

(A) by striking “his parents, his guidance” and inserting “the student’s parents, guidance”; and

(B) by adding at the end the following: “If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of the association’s member institutions that the Secretary determines is substantially comparable to the information described in paragraph (1), the distribution of the compilation of such data to all secondary schools in the United States shall fulfill the responsibility of the institution to provide information to a prospective student athlete’s guidance counselor and coach.”; and

(2) by amending paragraph (9) to read as follows:

Reports. Deadline. “(9) The reports required by this subsection shall be due each July 1 and shall cover the 1-year period ending August 31 of the preceding year.”.

(e) DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.—Section 485(f) (20 U.S.C. 1092(f)) is amended—

(1) in paragraph (1)—

(A) by amending subparagraph (F) to read as follows:

“(F) Statistics concerning the occurrence on campus, in or on noncampus buildings or property, and on public property during the most recent calendar year, and during the 2 preceding calendar years for which data are available—

“(i) of the following criminal offenses reported to campus security authorities or local police agencies:

“(I) murder;

“(II) sex offenses, forcible or nonforcible;

“(III) robbery;

“(IV) aggravated assault;

“(V) burglary;

“(VI) motor vehicle theft;

“(VII) manslaughter;

“(VIII) arson; and

“(IX) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession; and

“(ii) of the crimes described in subclauses (I) through (VIII) of clause (i), and other crimes involving bodily injury to any person in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice.”;

(B) by striking subparagraph (H); and

(C) by redesignating subparagraph (I) as subparagraph (H);

(2) in paragraph (4)—

(A) by striking “Upon request of the Secretary, each” and inserting “On an annual basis, each”;

(B) by striking “paragraphs (1)(F) and (1)(H)” and inserting “paragraph (1)(F)”;

(C) by striking “and Labor” and inserting “and the Workforce”;

(D) by striking “1995” and inserting “2000”;

(E) by striking “and” at the end of subparagraph (A);

(F) by redesignating subparagraph (B) as subparagraph (C); and

(G) by inserting after subparagraph (A) the following:

“(B) make copies of the statistics submitted to the Secretary available to the public; and”;

(3) by amending paragraph (5)(A) to read as follows:

“(5)(A) In this subsection:

“(i) The term ‘campus’ means—

“(I) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution’s educational purposes, including residence halls; and

“(II) property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by

Public  
information.

students, and supports institutional purposes (such as a food or other retail vendor).

“(ii) The term ‘noncampus building or property’ means—

“(I) any building or property owned or controlled by a student organization recognized by the institution; and

“(II) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution’s educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

“(iii) The term ‘public property’ means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution’s educational purposes.”;

(4) in paragraph (6)—

(A) by striking “paragraphs (1)(F) and (1)(H)” and inserting “paragraph (1)(F)”;

(B) by adding at the end the following: “Such statistics shall not identify victims of crimes or persons accused of crimes.”;

(5) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively;

(6) by inserting after paragraph (3) the following:

Records.

“(4)(A) Each institution participating in any program under this title that maintains a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including—

“(i) the nature, date, time, and general location of each crime; and

“(ii) the disposition of the complaint, if known.

Public  
information.

“(B)(i) All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim, be open to public inspection within two business days of the initial report being made to the department or a campus security authority.

Deadline.

“(ii) If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police or security department.

“(iii) If there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur from the release of such information.”; and

(7) by adding at the end the following:

“(9) The Secretary shall provide technical assistance in complying with the provisions of this section to an institution of higher education who requests such assistance.



“(10) Nothing in this section shall be construed to require the reporting or disclosure of privileged information.

“(11) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection. Reports.

“(12) For purposes of reporting the statistics with respect to crimes described in paragraph (1)(F), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

“(A) on campus;

“(B) in or on a noncampus building or property;

“(C) on public property; and

“(D) in dormitories or other residential facilities for students on campus.

“(13) Upon a determination pursuant to section 487(c)(3)(B) that an institution of higher education has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection, the Secretary shall impose a civil penalty upon the institution in the same amount and pursuant to the same procedures as a civil penalty is imposed under section 487(c)(3)(B).

“(14)(A) Nothing in this subsection may be construed to—

“(i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

“(ii) establish any standard of care.

“(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

“(15) This subsection may be cited as the ‘Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act’.”.

Short title.

(f) DATA REQUIRED.—Section 485(g) is amended—

20 USC 1092.

(1) in paragraph (1), by adding at the end the following:

“(I)(i) The total revenues, and the revenues from football, men’s basketball, women’s basketball, all other men’s sports combined and all other women’s sports combined, derived by the institution from the institution’s intercollegiate athletics activities.

“(ii) For the purpose of clause (i), revenues from intercollegiate athletics activities allocable to a sport shall include (without limitation) gate receipts, broadcast revenues, appearance guarantees and options, concessions, and advertising, but revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only.

“(J)(i) The total expenses, and the expenses attributable to football, men’s basketball, women’s basketball, all other men’s sports combined, and all other women’s sports combined, made by the institution for the institution’s intercollegiate athletics activities.

“(ii) For the purpose of clause (i), expenses for intercollegiate athletics activities allocable to a sport shall include (without limitation) grants-in-aid, salaries, travel, equipment, and supplies, but expenses such as general

and administrative overhead not so allocable shall be included in the calculation of total expenses only.”; and  
 (2) by striking paragraph (5);  
 (3) by redesignating paragraph (4) as paragraph (5); and  
 (4) by inserting after paragraph (3) the following:

Deadlines. “(4) SUBMISSION; REPORT; INFORMATION AVAILABILITY.—(A) On an annual basis, each institution of higher education described in paragraph (1) shall provide to the Secretary, within 15 days of the date that the institution makes available the report under paragraph (1), the information contained in the report.

“(B) The Secretary shall prepare a report regarding the information received under subparagraph (A) and submit such report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate by April 1, 2000. The report shall—

“(i) summarize the information and identify trends in the information;

“(ii) aggregate the information by divisions of the National Collegiate Athletic Association; and

“(iii) contain information on each individual institution of higher education.

Public information. “(C) The Secretary shall ensure that the reports described in subparagraph (A) and the report to Congress described in subparagraph (B) are made available to the public within a reasonable period of time.

Deadline. Notification. “(D) Not later than 180 days after the date of enactment of the Higher Education Amendments of 1998, the Secretary shall notify all secondary schools in all States regarding the availability of the information reported under subparagraph (B) and the information made available under paragraph (1), and how such information may be accessed.”.

#### **SEC. 487. NATIONAL STUDENT LOAN DATA SYSTEM.**

Section 485B(a) (20 U.S.C. 1092b(a)) is amended by inserting before the period at the end of the third sentence the following: “not later than one year after the date of enactment of the Higher Education Amendments of 1998”.

#### **SEC. 488. DISTANCE EDUCATION DEMONSTRATION PROGRAMS.**

20 USC 1093. Section 486 (20 U.S.C. 1083) is amended to read as follows:

##### **“SEC. 486. DISTANCE EDUCATION DEMONSTRATION PROGRAMS.**

“(a) PURPOSE.—It is the purpose of this section—

“(1) to allow demonstration programs that are strictly monitored by the Department of Education to test the quality and viability of expanded distance education programs currently restricted under this Act;

“(2) to provide for increased student access to higher education through distance education programs; and

“(3) to help determine—

“(A) the most effective means of delivering quality education via distance education course offerings;

“(B) the specific statutory and regulatory requirements which should be altered to provide greater access to high quality distance education programs; and

“(C) the appropriate level of Federal assistance for students enrolled in distance education programs.

“(b) DEMONSTRATION PROGRAMS AUTHORIZED.—

“(1) IN GENERAL.—In accordance with the provisions of subsection (d), the Secretary is authorized to select institutions of higher education, systems of such institutions, or consortia of such institutions for voluntary participation in a Distance Education Demonstration Program that provides participating institutions with the ability to offer distance education programs that do not meet all or a portion of the sections or regulations described in paragraph (2).

“(2) WAIVERS.—The Secretary is authorized to waive for any institution of higher education, system of institutions of higher education, or consortium participating in a Distance Education Demonstration Program, the requirements of section 472(5) as the section relates to computer costs, sections 481(a) and 481(b) as such sections relate to requirements for a minimum number of weeks of instruction, sections 102(a)(3)(A), 102(a)(3)(B), and 484(l)(1), or one or more of the regulations prescribed under this part or part F which inhibit the operation of quality distance education programs.

“(3) ELIGIBLE APPLICANTS.—

“(A) ELIGIBLE INSTITUTIONS.—Except as provided in subparagraphs (B), (C), and (D), only an institution of higher education that is eligible to participate in programs under this title shall be eligible to participate in the demonstration program authorized under this section.

“(B) PROHIBITION.—An institution of higher education described in section 102(a)(1)(C) shall not be eligible to participate in the demonstration program authorized under this section.

“(C) SPECIAL RULE.—Subject to subparagraph (B), an institution of higher education that meets the requirements of subsection (a) of section 102, other than the requirement of paragraph (3)(A) or (3)(B) of such subsection, and that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree, shall be eligible to participate in the demonstration program authorized under this section.

“(D) REQUIREMENT.—Notwithstanding any other provision of this paragraph, Western Governors University shall be considered eligible to participate in the demonstration program authorized under this section. In addition to the waivers described in paragraph (2), the Secretary may waive the provisions of title I and parts G and H of this title for such university that the Secretary determines to be appropriate because of the unique characteristics of such university. In carrying out the preceding sentence, the Secretary shall ensure that adequate program integrity and accountability measures apply to such university's participation in the demonstration program authorized under this section.

“(c) APPLICATION.—

“(1) IN GENERAL.—Each institution, system, or consortium of institutions desiring to participate in a demonstration program under this section shall submit an application to the

Secretary at such time and in such manner as the Secretary may require.

“(2) CONTENTS.—Each application shall include—

“(A) a description of the institution, system, or consortium’s consultation with a recognized accrediting agency or association with respect to quality assurances for the distance education programs to be offered;

“(B) a description of the statutory and regulatory requirements described in subsection (b)(2) or, if applicable, subsection (b)(3)(D) for which a waiver is sought and the reasons for which the waiver is sought;

“(C) a description of the distance education programs to be offered;

“(D) a description of the students to whom distance education programs will be offered;

“(E) an assurance that the institution, system, or consortium will offer full cooperation with the ongoing evaluations of the demonstration program provided for in this section; and

“(F) such other information as the Secretary may require.

“(d) SELECTION.—

“(1) IN GENERAL.—For the first year of the demonstration program authorized under this section, the Secretary is authorized to select for participation in the program not more than 15 institutions, systems of institutions, or consortia of institutions. For the third year of the demonstration program authorized under this section, the Secretary may select not more than 35 institutions, systems, or consortia, in addition to the institutions, systems, or consortia selected pursuant to the preceding sentence, to participate in the demonstration program if the Secretary determines that such expansion is warranted based on the evaluations conducted in accordance with subsections (f) and (g).

“(2) CONSIDERATIONS.—In selecting institutions to participate in the demonstration program in the first or succeeding years of the program, the Secretary shall take into account—

“(A) the number and quality of applications received;

“(B) the Department’s capacity to oversee and monitor each institution’s participation;

“(C) an institution’s—

“(i) financial responsibility;

“(ii) administrative capability; and

“(iii) program or programs being offered via distance education; and

“(D) ensuring the participation of a diverse group of institutions with respect to size, mission, and geographic distribution.

“(e) NOTIFICATION.—The Secretary shall make available to the public and to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives a list of institutions, systems or consortia selected to participate in the demonstration program authorized by this section. Such notice shall include a listing of the specific statutory and regulatory requirements being waived for each institution, system or consortium and a description of the distance education courses to be offered.

“(f) EVALUATIONS AND REPORTS.—

“(1) EVALUATION.—The Secretary shall evaluate the demonstration programs authorized under this section on an annual basis. Such evaluations specifically shall review—

“(A) the extent to which the institution, system or consortium has met the goals set forth in its application to the Secretary, including the measures of program quality assurance;

“(B) the number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees and the extent to which participation in such programs increased;

“(C) issues related to student financial assistance for distance education;

“(D) effective technologies for delivering distance education course offerings; and

“(E) the extent to which statutory or regulatory requirements not waived under the demonstration program present difficulties for students or institutions.

“(2) POLICY ANALYSIS.—The Secretary shall review current policies and identify those policies that present impediments to the development and use of distance education and other nontraditional methods of expanding access to education.

“(3) REPORTS.—

“(A) IN GENERAL.—Within 18 months of the initiation of the demonstration program, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives with respect to—

“(i) the evaluations of the demonstration programs authorized under this section; and

“(ii) any proposed statutory changes designed to enhance the use of distance education.

“(B) ADDITIONAL REPORTS.—The Secretary shall provide additional reports to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives on an annual basis regarding—

“(i) the demonstration programs authorized under this section; and

“(ii) the number and types of students receiving assistance under this title for instruction leading to a recognized certificate, as provided for in section 484(l)(1), including the progress of such students toward recognized certificates and the degree to which participation in such programs leading to such certificates increased.

“(g) OVERSIGHT.—In conducting the demonstration program authorized under this section, the Secretary shall, on a continuing basis—

“(1) assure compliance of institutions, systems or consortia with the requirements of this title (other than the sections and regulations that are waived under subsections (b)(2) and (b)(3)(D));

“(2) provide technical assistance;

“(3) monitor fluctuations in the student population enrolled in the participating institutions, systems or consortia; and

“(4) consult with appropriate accrediting agencies or associations and appropriate State regulatory authorities.

“(h) DEFINITION.—For the purpose of this section, the term ‘distance education’ means an educational process that is characterized by the separation, in time or place, between instructor and student. Such term may include courses offered principally through the use of—

“(1) television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission;

“(2) audio or computer conferencing;

“(3) video cassettes or discs; or

“(4) correspondence.”.

#### SEC. 489. PROGRAM PARTICIPATION AGREEMENTS.

(a) REQUIRED CONTENT.—Section 487(a) (20 U.S.C. 1094(a)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(2) in paragraph (4), by striking “subsection (b)” and inserting “subsection (c)”;

(3) in paragraph (9), by striking “part B” and inserting “part B or D”;

(4) in paragraph (14)—

(A) in subparagraph (A), by striking “part B” and inserting “part B or D”; and

(B) in subparagraph (B), by striking “part B” and inserting “part B or D”; and

(C) by adding at the end the following:

“(C) This paragraph shall not apply in the case of an institution in which (i) neither the parent nor the subordinate institution has a cohort default rate in excess of 10 percent, and (ii) the new owner of such parent or subordinate institution does not, and has not, owned any other institution with a cohort default rate in excess of 10 percent.”;

(5) in paragraph (15), by striking “State review entities” and inserting “the State agencies”;

(6) by amending paragraph (18) to read as follows:

“(18) The institution will meet the requirements established pursuant to section 485(g).”; and

(7) by amending paragraph (21) to read as follows:

“(21) The institution will meet the requirements established by the Secretary and accrediting agencies or associations, and will provide evidence to the Secretary that the institution has the authority to operate within a State.”.

(b) PROVISION OF VOTER REGISTRATION FORMS.—

(1) PROGRAM PARTICIPATION REQUIREMENT.—Section 487(a) (20 U.S.C. 1094(a)) is amended by adding at the end the following:

“(23)(A) The institution, if located in a State to which section 4(b) of the National Voter Registration Act (42 U.S.C. 1973gg-2(b)) does not apply, will make a good faith effort to distribute a mail voter registration form, requested and

received from the State, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution.

“(B) The institution shall request the forms from the State 120 days prior to the deadline for registering to vote within the State. If an institution has not received a sufficient quantity of forms to fulfill this section from the State within 60 days prior to the deadline for registering to vote in the State, the institution shall not be held liable for not meeting the requirements of this section during that election year.

“(C) This paragraph shall apply to elections as defined in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1)), and includes the election for Governor or other chief executive within such State).”

Applicability.

(2) REGULATION PROHIBITED.—No officer of the executive branch is authorized to instruct the institution in the manner in which the amendment made by this subsection is carried out.

20 USC 1094 note.

(c) AUDITS; FINANCIAL RESPONSIBILITY.—Section 487(c) is amended—

20 USC 1094.

(1) in paragraph (1)(A)—

(A) in clause (i)—

(i) by striking “clause (ii)” and inserting “clauses (ii) and (iii)”;

(ii) by striking “State review entities referred to in” and inserting “appropriate State agency notifying the Secretary under”; and

(iii) by striking “or” after the semicolon;

(B) in clause (ii), by inserting “or” after the semicolon;

and

(C) by adding at the end the following:

“(iii) at the discretion of the Secretary, with regard to an eligible institution (other than an eligible institution described in section 102(a)(1)(C)) that has obtained less than \$200,000 in funds under this title during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than ½ of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution’s eligibility under section 498(g);”

(2) in paragraph (4), by striking “, after consultation with each State review entity designated under subpart 1 of part H,”; and

(3) in paragraph (5), by striking “State review entities designated” and inserting “State agencies notifying the Secretary”.

#### SEC. 490. REGULATORY RELIEF AND IMPROVEMENT.

Section 487A (20 U.S.C. 1094a) is amended to read as follows:

#### “SEC. 487A. REGULATORY RELIEF AND IMPROVEMENT.

“(a) QUALITY ASSURANCE PROGRAM.—

“(1) IN GENERAL.—The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance

Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems, related to processing and disbursement of student financial aid, verification of student financial aid application data, and entrance and exit interviews, thereby enhancing program integrity within the student aid delivery system.

“(2) CRITERIA AND CONSIDERATION.—The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary. The selection criteria shall ensure the participation of a diverse group of institutions of higher education with respect to size, mission, and geographical distribution.

“(3) WAIVER.—The Secretary is authorized to waive for any institution participating in the Quality Assurance Program any regulations dealing with reporting or verification requirements in this title that are addressed by the institution’s alternative management system, and may substitute such quality assurance reporting as the Secretary determines necessary to ensure accountability and compliance with the purposes of the programs under this title. The Secretary shall not modify or waive any statutory requirements pursuant to this paragraph.

“(4) DETERMINATION.—The Secretary is authorized to determine—

“(A) when an institution that is unable to administer the Quality Assurance Program shall be removed from such program; and

“(B) when institutions desiring to cease participation in such program will be required to complete the current award year under the requirements of the Quality Assurance Program.

“(5) REVIEW AND EVALUATION.—The Secretary shall review and evaluate the Quality Assurance Program conducted by each participating institution and, on the basis of that evaluation, make recommendations regarding amendments to this Act that will streamline the administration and enhance the integrity of Federal student assistance programs. Such recommendations shall be submitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.

“(b) REGULATORY IMPROVEMENT AND STREAMLINING EXPERI-

MENTS.—

“(1) IN GENERAL.—The Secretary may continue any experimental sites in existence on the date of enactment of the Higher Education Amendments of 1998. Any activities approved by the Secretary prior to such date that are inconsistent with this section shall be discontinued not later than June 30, 1999.

“(2) REPORT.—The Secretary shall review and evaluate the experience of institutions participating as experimental sites during the period of 1993 through 1998 under this section (as such section was in effect on the day before the date of enactment of the Higher Education Amendments of 1998), and shall submit a report based on this review and evaluation to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the

Termination  
date.

Deadline.



House of Representatives not later than 6 months after the enactment of the Higher Education Amendments of 1998. Such report shall include—

“(A) a list of participating institutions and the specific statutory or regulatory waivers granted to each institution;

“(B) the findings and conclusions reached regarding each of the experiments conducted; and

“(C) recommendations for amendments to improve and streamline this Act, based on the results of the experiment.

“(3) SELECTION.—

“(A) IN GENERAL.—Upon the submission of the report required by paragraph (2), the Secretary is authorized to select a limited number of additional institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

“(B) CONSULTATION.—Prior to approving any additional experimental sites, the Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives and shall provide to such Committees—

“(i) a list of institutions proposed for participation in the experiment and the specific statutory or regulatory waivers proposed to be granted to each institution;

“(ii) a statement of the objectives to be achieved through the experiment; and

“(iii) an identification of the period of time over which the experiment is to be conducted.

“(C) WAIVERS.—The Secretary is authorized to waive, for any institution participating as an experimental site under subparagraph (A), any requirements in this title, or regulations prescribed under this title, that will bias the results of the experiment, except that the Secretary shall not waive any provisions with respect to award rules, grant and loan maximum award amounts, and need analysis requirements.

“(c) DEFINITIONS.—For purposes of this section, the term ‘current award year’ means the award year during which the participating institution indicates the institution’s intention to cease participation.”.

Records.

#### **SEC. 490A. GARNISHMENT REQUIREMENTS.**

Section 488A (20 U.S.C. 1095a) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

“(d) NO ATTACHMENT OF STUDENT ASSISTANCE.—Except as authorized in this section, notwithstanding any other provision of Federal or State law, no grant, loan, or work assistance awarded under this title, or property traceable to such assistance, shall be subject to garnishment or attachment in order to satisfy any debt owed by the student awarded such assistance, other than a debt owed to the Secretary and arising under this title.”.

**SEC. 490B. ADMINISTRATIVE SUBPOENA AUTHORITY.**

Part G of title IV is further amended by inserting immediately after section 490 (20 U.S.C. 1097) the following:

20 USC 1097a.

**“SEC. 490A. ADMINISTRATIVE SUBPOENAS.**

“(a) **AUTHORITY.**—To assist the Secretary in the conduct of investigations of possible violations of the provisions of this title, the Secretary is authorized to require by subpoena the production of information, documents, reports, answers, records, accounts, papers, and other documentary evidence pertaining to participation in any program under this title. The production of any such records may be required from any place in a State.

“(b) **ENFORCEMENT.**—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States where such person resides or transacts business for a court order for the enforcement of this section.”.

**SEC. 490C. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.**

Section 491 (20 U.S.C. 1098) is amended—

(1) in subsection (b)—

(A) in the second sentence, by striking “and expenditures” and inserting “, expenditures and staffing levels”; and

(B) by inserting after the third sentence the following: “Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary.”;

(2) in subsection (e)—

(A) by redesignating paragraphs (3), (4), and (5), as paragraphs (4), (5), and (6), respectively; and

(B) by inserting after paragraph (2) the following:

“(3) No officers or full-time employees of the Federal Government shall serve as members of the Advisory Committee.”;

(3) in subsection (g), by striking “(1) Members” and all that follows through “of the United States may each” and inserting “Members of the Advisory Committee may each”;

(4) in subsection (h)(1)—

(A) by inserting “determined” after “as may be”; and

(B) by adding at the end the following: “The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5, United States Code. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.”;

(5) in subsection (i), by striking “\$750,000” and inserting “\$800,000”;

(6) by amending subsection (j) to read as follows:

“(j) **SPECIAL ANALYSES AND ACTIVITIES.**—The Advisory Committee shall—

“(1) monitor and evaluate the modernization of student financial aid systems and delivery processes, including the implementation of a performance-based organization within the

Reports.

Department, and report to Congress regarding such modernization on not less than an annual basis, including recommendations for improvement;

“(2) assess the adequacy of current methods for disseminating information about programs under this title and recommend improvements, as appropriate, regarding early needs assessment and information for first-year secondary school students;

“(3) assess and make recommendations concerning the feasibility and degree of use of appropriate technology in the application for, and delivery and management of, financial assistance under this title, as well as policies that promote use of such technology to reduce cost and enhance service and program integrity, including electronic application and reapplication, just-in-time delivery of funds, reporting of disbursements and reconciliation;

“(4) assess the implications of distance education on student eligibility and other requirements for financial assistance under this title, and make recommendations that will enhance access to postsecondary education through distance education while maintaining access, through on-campus instruction at eligible institutions, and program integrity; and

“(5) make recommendations to the Secretary regarding redundant or outdated provisions of and regulations under this Act, consistent with the Secretary’s requirements under section 498B.”;

(7) in subsection (k), by striking “1998” and inserting “2004”; and

(8) by repealing subsection (l).

**SEC. 490D. MEETINGS AND NEGOTIATED RULEMAKING.**

(a) MEETINGS.—Section 492(a) (20 U.S.C. 1098a) is amended—  
(1) in paragraph (1)—

(A) by striking “convene regional meetings to”;

(B) by striking “parts B, G, and H of this title,” and inserting “this title”; and

(C) by striking “Such meetings shall include” and inserting “The Secretary shall obtain the advice of and recommendations from”; and

(2) in paragraph (2)—

(A) by striking “During such meetings the” and inserting “The”;

(B) by striking “parts B, G, and H” and inserting “this title”;

(C) by striking “1992” and inserting “1998 through such mechanisms as regional meetings and electronic exchanges of information”; and

(D) by striking “at such meetings” and inserting “through such mechanisms”.

(b) DRAFT REGULATIONS.—Section 492(b) is amended—

(1) by striking “After” and inserting the following:

“(1) IN GENERAL.—After”;

(2) in paragraph (1) (as redesignated by paragraph (1))—

(A) by striking “holding regional meetings” and inserting “obtaining the advice and recommendations described in subsection (a)(1)”;

(B) by striking “parts B, G, and H of this title” and inserting “this title”;

(C) by striking “1992” and inserting “1998”;

(D) by striking “The Secretary shall follow the guidance provided in sections 305.82-4 and 305.85-5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law.”;

(E) by striking “participating in the regional meetings”;

(F) by striking “240-day” and inserting “360-day”; and

(G) by striking “section 431(g)” and inserting “section 437(e)”; and

(3) by adding at the end the following:

Federal Register,  
publication.

“(2) EXPANSION OF NEGOTIATED RULEMAKING.—All regulations pertaining to this title that are promulgated after the date of enactment of this paragraph shall be subject to a negotiated rulemaking (including the selection of the issues to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5, United States Code), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from such agreements. Such negotiated rulemaking shall be conducted in accordance with the provisions of paragraph (1), and the Secretary shall ensure that a clear and reliable record of agreements reached during the negotiations process is maintained.”.

**SEC. 490E. YEAR 2000 REQUIREMENTS AT THE DEPARTMENT OF EDUCATION.**

Part G of title IV (20 U.S.C. 1088 et seq.) is amended by adding at the end the following:

20 USC 1098c.

**“SEC. 493A. YEAR 2000 REQUIREMENTS AT THE DEPARTMENT.**

“(a) PREPARATIONS FOR YEAR 2000.—In order to ensure that the processing, delivery, and administration of grant, loan, and work assistance provided under this title is not interrupted due to operational problems related to the inability of computer systems to indicate accurately dates after December 31, 1999, the Secretary of Education shall—

“(1) take such actions as are necessary to ensure that all internal and external systems, hardware, and data exchange infrastructure administered by the Department that are necessary for the processing, delivery, and administration of the grant, loan, and work assistance are Year 2000 compliant by March 31, 1999, such that there will be no business interruption after December 31, 1999;

“(2) ensure that the Robert T. Stafford Federal Student Loan Program and the William D. Ford Federal Direct Loan Program are equal in level of priority with respect to addressing, and that resources are managed to equally provide for successful resolution of, the Year 2000 computer problem in both programs by December 31, 1999;

Reports.  
Deadline.

“(3) work with the Department’s various data exchange partners under this title to fully test all data exchange routes

for Year 2000 compliance via end-to-end testing, and submit a report describing the parameters and results of such tests to the Comptroller General not later than March 31, 1999;

“(4) ensure that the Inspector General of the Department (or an external, independent entity selected by the Inspector General) performs and publishes a risk assessment of the systems and hardware under the Department’s management, that has been reviewed by an independent entity, and make such assessment publicly available not later than 60 days after the date of enactment of the Higher Education Amendments of 1998;

Publication.  
Public  
information.  
Deadline.

“(5) not later than June 30, 1999, ensure that the Inspector General (or an external, independent entity selected by the Inspector General) conducts a review of the Department’s Year 2000 compliance for the processing, delivery, and administration of grant, loan, and work assistance, and submits a report reflecting the results of that review to the Chairperson of the Committee on Labor and Human Resources of the Senate and the Chairperson of the Committee on Education and the Workforce of the House of Representatives;

Deadline.  
Reports.

“(6) develop a contingency plan to ensure the programs under this title will continue to run uninterrupted in the event of widespread disruptions in the flow of accurate computerized data, which contingency plan shall include a prioritization of mission critical systems and strategies to allow data partners to transfer data through alternate means; and

“(7) alert Congress at the earliest possible time if mission critical deadlines will not be met.

“(b) POSTPONEMENT AUTHORITY FOR THE YEAR 2000.—

“(1) PURPOSE.—It is the purpose of this subsection to provide the Secretary with the flexibility necessary to—

“(A) ensure that the resources and capabilities of institutions, lenders, and guaranty agencies are not overburdened by the combination of student aid processing and delivery requirements added or modified by the amendments made by the Higher Education Amendments of 1998 and by the changes required to ensure that the systems of the institutions, lenders and guaranty agencies are Year 2000 compliant; and

“(B) avoid the disruption of grant, loan, or work assistance funds awarded to students because of Year 2000 compliance problems at a substantial number of institutions, lenders, and guaranty agencies.

“(2) AUTHORITY TO POSTPONE.—The Secretary may postpone, for a period of time described in paragraph (3), the implementation of any requirements under part B, D, E, or G that are added or modified by the amendments made by the Higher Education Amendments of 1998 related to the processing or delivery of grant, loan, and work assistance (which shall not include the determination of need for such assistance) provided under this title, if the Secretary—

“(A) determines that—

“(i) implementation of such requirements would require extensive changes to the existing systems of institutions, lenders, or guaranty agencies; and

“(ii) postponement is necessary to avoid jeopardizing the ability of a substantial number of institutions,

Federal Register,  
publication.  
Records.  
Notification.

lenders, or guaranty agencies to ensure that all of the systems of the institutions, lenders, or guaranty agencies related to the processing or delivery of such assistance function successfully after December 31, 1999; and

“(B) promptly publishes in the Federal Register a list of, and notifies Congress of, any provisions, the implementation of which the Secretary intends to postpone, with the reasons for such postponement.

“(3) EXCEPTIONS TO AUTHORITY.—The Secretary may not postpone the implementation of one or more provisions described in this subsection longer than the earlier of—

“(A) the period of time that the Secretary determines necessary to ensure that the processing and delivery systems of the institutions, lenders, and guaranty agencies referred to in paragraph (1)(A)(ii) are capable of functioning successfully after December 31, 1999; or

“(B) one award year after the effective date applicable to such provision under the Higher Education Amendments of 1998.”.

#### **SEC. 490F. PROCEDURES FOR CANCELLATIONS AND DEFERMENTS FOR ELIGIBLE DISABLED VETERANS.**

Part G of title IV (20 U.S.C. 1088 et seq.) is amended by adding after section 493A (as added by section 490E) the following:

20 USC 1098d.

#### **“SEC. 493B. PROCEDURES FOR CANCELLATIONS AND DEFERMENTS FOR ELIGIBLE DISABLED VETERANS.**

Deadline.  
Reports.

“The Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and implement a procedure to permit Department of Veterans Affairs physicians to provide the certifications and affidavits needed to enable disabled veterans enrolled in the Department of Veterans Affairs health care system to document such veterans’ eligibility for deferments or cancellations of student loans made, insured, or guaranteed under this title. Not later than 6 months after the date of enactment of the Higher Education Amendments of 1998, the Secretary and the Secretary of Veterans Affairs jointly shall report to Congress on the progress made in developing and implementing the procedure.”.

### **PART H—PROGRAM INTEGRITY**

#### **SEC. 491. STATE ROLE AND RESPONSIBILITIES.**

Part H of title IV (20 U.S.C. 1099a et seq.) is amended by—

(1) striking the heading of such part and inserting the following:

#### **“PART H—PROGRAM INTEGRITY”;**

and

(2) by amending subpart 1 (20 U.S.C. 1099a et seq.) to read as follows:

## “Subpart 1—State Role

### “SEC. 495. STATE RESPONSIBILITIES.

20 USC 1099a.

Notification.

“(a) STATE RESPONSIBILITIES.—As part of the integrity program authorized by this part, each State, through one State agency or several State agencies selected by the State, shall—

“(1) furnish the Secretary, upon request, information with respect to the process for licensing or other authorization for institutions of higher education to operate within the State;

“(2) notify the Secretary promptly whenever the State revokes a license or other authority to operate an institution of higher education; and

“(3) notify the Secretary promptly whenever the State has credible evidence that an institution of higher education within the State—

“(A) has committed fraud in the administration of the student assistance programs authorized by this title; or

“(B) has substantially violated a provision of this title.

“(b) INSTITUTIONAL RESPONSIBILITY.—Each institution of higher education shall provide evidence to the Secretary that the institution has authority to operate within a State at the time the institution is certified under subpart 3.”.

### SEC. 492. ACCREDITING AGENCY RECOGNITION.

(a) RECOGNITION.—

(1) SUBPART HEADING.—The heading of subpart 2 of part H is amended by striking “**Approval**” and inserting “**Recognition**”.

(2) SECTION 496 HEADING.—The heading of section 496 is amended by striking “**APPROVAL**” and inserting “**RECOGNITION**”.

20 USC 1099b.

(b) STANDARDS.—Section 496(a) (20 U.S.C. 1099b(a)) is amended—

(1) in the subsection heading, by striking “STANDARDS” and inserting “CRITERIA”;

(2) in the matter preceding paragraph (1), by striking “standards” each place the term appears and inserting “criteria”;

(3) in paragraph (4)—

(A) by striking “at the institution” and inserting “offered by the institution”; and

(B) by inserting “, including distance education courses or programs,” after “higher education”; and

(4) in paragraph (5)—

(A) by striking “of accreditation” and inserting “for accreditation”;

(B) by striking subparagraphs (H), (I), and (J);

(C) by redesignating subparagraphs (A) through (G) as subparagraphs (B) through (H), respectively;

(D) by redesignating subparagraphs (K) and (L) as subparagraphs (I) and (J), respectively;

(E) by inserting before subparagraph (B) the following:

“(A) success with respect to student achievement in relation to the institution’s mission, including, as appropriate, consideration of course completion, State licensing examinations, and job placement rates;”;

(F) in subparagraph (H) (as redesignated by subparagraph (C)), by striking “program length and tuition and fees in relation to the subject matters taught” and inserting “measures of program length”;

(G) in subparagraph (J) (as redesignated by subparagraph (D))—

(i) by inserting “record of” before “compliance”;

(ii) by striking “Act, including any” and inserting “Act based on the most recent student loan default rate data provided by the Secretary, the”; and

(iii) by inserting “any” after “reviews, and”; and

(H) in the matter following subparagraph (J) (as redesignated by subparagraph (D)), by striking “(G), (H), (I), (J), and (L)” and inserting “(A), (H), and (J)”;

(5) in paragraph (7), by striking “State postsecondary review entity” and inserting “State licensing or authorizing agency”; and

(6) in paragraph (8), by striking “State postsecondary” and everything that follows through “is located” and inserting “State licensing or authorizing agency”.

20 USC 1099b.

(c) OPERATING PROCEDURES.—Section 496(c) is amended—

(1) by striking “approved by the Secretary” and inserting “recognized by the Secretary”; and

(2) in paragraph (1), by striking “(at least” and everything that follows through “unannounced,” and inserting “(which may include unannounced site visits)”.

(d) CONFORMING AMENDMENTS.—Section 496 is further amended—

(1) in subsection (d)—

(A) by striking “APPROVAL” in the heading of such subsection and inserting “RECOGNITION”; and

(B) by striking “approved” and inserting “recognized”;

(2) in subsection (f), by striking “approved” and inserting “recognized”;

(3) in subsection (g)—

(A) in the heading of such subsection, by striking “STANDARDS” and inserting “CRITERIA”; and

(B) by striking “standards” the first place such term appears and inserting “criteria”;

(4) in subsection (k)—

(A) in the matter preceding paragraph (1), by striking “section 481” and inserting “section 102”; and

(B) in paragraph (2), by striking “standards” and inserting “criteria”;

(5) in subsection (l), by striking everything preceding paragraph (2) and inserting the following:

“(l) LIMITATION, SUSPENSION, OR TERMINATION OF RECOGNITION.—(1) If the Secretary determines that an accrediting agency or association has failed to apply effectively the criteria in this section, or is otherwise not in compliance with the requirements of this section, the Secretary shall—

Notice.

“(A) after notice and opportunity for a hearing, limit, suspend, or terminate the recognition of the agency or association; or

“(B) require the agency or association to take appropriate action to bring the agency or association into compliance with



such requirements within a timeframe specified by the Secretary, except that—

“(i) such timeframe shall not exceed 12 months unless the Secretary extends such period for good cause; and

“(ii) if the agency or association fails to bring the agency or association into compliance within such timeframe, the Secretary shall, after notice and opportunity for a hearing, limit, suspend, or terminate the recognition of the agency or association.”; and

(6) in subsection (n)—

(A) by striking “standards” each place the term appears and inserting “criteria”;

(B) in paragraph (3)—

(i) by striking “approval process” and inserting “recognition process”;

(ii) by striking “approval or disapproval” and inserting “recognition or denial of recognition”; and

(iii) by adding at the end the following: “When the Secretary decides to recognize an accrediting agency or association, the Secretary shall determine the agency or association’s scope of recognition. If the agency or association reviews institutions offering distance education courses or programs and the Secretary determines that the agency or association meets the requirements of this section, then the agency shall be recognized and the scope of recognition shall include accreditation of institutions offering distance education courses or programs.”; and

(C) by striking paragraph (4) and inserting the following:

“(4) The Secretary shall maintain sufficient documentation to support the conclusions reached in the recognition process, and, if the Secretary does not recognize any accreditation agency or association, shall make publicly available the reason for denying recognition, including reference to the specific criteria under this section which have not been fulfilled.”.

Records.  
Public  
information.

#### SEC. 493. ELIGIBILITY AND CERTIFICATION PROCEDURES.

(a) SINGLE APPLICATION FORM.—Section 498(b) (20 U.S.C. 1099c(b)) is amended—

(1) in paragraph (1), by striking “and capability” and inserting “financial responsibility, and administrative capability”;

(2) by amending paragraph (3) to read as follows:

“(3) requires—

“(A) a description of the third party servicers of an institution of higher education; and

“(B) the institution to maintain a copy of any contract with a financial aid service provider or loan servicer, and provide a copy of any such contract to the Secretary upon request;”;

(3) in paragraph (4), by striking the period and inserting “, and”; and

(4) by adding at the end the following:

“(5) provides, at the option of the institution, for participation in one or more of the programs under part B or D.”.

(b) FINANCIAL RESPONSIBILITY STANDARDS.—Section 498(c) is amended—

(1) in paragraph (2)—

(A) in the first sentence, by striking “with respect to operating losses, net worth, asset to liabilities ratios, or operating fund deficits” and inserting “regarding ratios that demonstrate financial responsibility,”; and

(B) in the second sentence, by inserting “, public,” after “for profit”;

(2) in paragraph (3)(A), by inserting “that the Secretary determines are reasonable” after “guarantees”; and

(3) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking “ratio of current assets to current liabilities” and inserting “criteria”; and

(B) in subparagraph (C), by striking “current operating ratio requirement” and inserting “criteria”.

(c) FINANCIAL GUARANTEES FROM OWNERS.—

20 USC 1099c.

(1) AMENDMENT.—Section 498(e) is amended by adding at the end the following:

“(6) Notwithstanding any other provision of law, any individual who—

“(A) the Secretary determines, in accordance with paragraph (2), exercises substantial control over an institution participating in, or seeking to participate in, a program under this title;

“(B) is required to pay, on behalf of a student or borrower, a refund of unearned institutional charges to a lender, or to the Secretary; and

“(C) willfully fails to pay such refund or willfully attempts in any manner to evade payment of such refund, shall, in addition to other penalties provided by law, be liable to the Secretary for the amount of the refund not paid, to the same extent with respect to such refund that such an individual would be liable as a responsible person for a penalty under section 6672(a) of Internal Revenue Code of 1986 with respect to the nonpayment of taxes.”.

20 USC 1099c  
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to any unpaid refunds that were first required to be paid to a lender or to the Secretary on or after 90 days after the date of enactment of this Act.

(d) APPLICATIONS AND SITE VISITS.—Section 498(f) is amended—

(1) in the subsection heading, by striking “; SITE VISITS AND FEES” and inserting “AND SITE VISITS”;

(2) in the second sentence, by striking “shall” and inserting “may”;

(3) in the third sentence—

(A) by striking “may establish” and insert “shall establish”; and

(B) by striking “may coordinate” and inserting “shall, to the extent practicable, coordinate”; and

(4) by striking the fourth sentence.

(e) TIME LIMITATIONS ON, AND RENEWAL OF, ELIGIBILITY.—Subsection (g) of section 498 is amended to read as follows:

“(g) TIME LIMITATIONS ON, AND RENEWAL OF, ELIGIBILITY.—

“(1) GENERAL RULE.—After the expiration of the certification of any institution under the schedule prescribed under this section (as this section was in effect prior to the enactment

of the Higher Education Act Amendments of 1998), or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this title of each such institution for a period not to exceed 6 years.

“(2) NOTIFICATION.—The Secretary shall notify each institution of higher education not later than 6 months prior to the date of the expiration of the institution’s certification.

Deadline.

“(3) INSTITUTIONS OUTSIDE THE UNITED STATES.—The Secretary shall promulgate regulations regarding the recertification requirements applicable to an institution of higher education outside of the United States that meets the requirements of section 102(a)(1)(C) and received less than \$500,000 in funds under part B for the most recent year for which data are available.”.

Regulations.

(f) PROVISIONAL CERTIFICATION.—Section 498(h)(2) is amended— 20 USC 1099c.

(1) by striking “the approval” and inserting “the recognition”; and

(2) by striking “of approval” and inserting “of recognition”.

(g) CHANGE IN OWNERSHIP.—Section 498(i) is amended by adding at the end the following:

“(4)(A) The Secretary may provisionally certify an institution seeking approval of a change in ownership based on the preliminary review by the Secretary of a materially complete application that is received by the Secretary within 10 business days of the transaction for which the approval is sought.

“(B) A provisional certification under this paragraph shall expire not later than the end of the month following the month in which the transaction occurred, except that if the Secretary has not issued a decision on the application for the change of ownership within that period, the Secretary may continue such provisional certification on a month-to-month basis until such decision has been issued.”.

Termination date.

(h) TREATMENT OF BRANCHES.—The second sentence of section 498(j)(1) is amended by inserting “after the branch is certified by the Secretary as a branch campus participating in a program under this title,” after “2 years”.

#### SEC. 494. PROGRAM REVIEW AND DATA.

Section 498A (20 U.S.C. 1099c-1) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “may” and inserting “shall”;

(ii) by amending subparagraph (C) to read as follows:

“(C) institutions with a significant fluctuation in Federal Stafford Loan volume, Federal Direct Stafford/Ford Loan volume, or Federal Pell Grant award volume, or any combination thereof, in the year for which the determination is made, compared to the year prior to such year, that are not accounted for by changes in the Federal Stafford Loan program, the Federal Direct Stafford/Ford Loan program, or the Pell Grant program, or any combination thereof;”;

(iii) by amending subparagraph (D) to read as follows:

“(D) institutions reported to have deficiencies or financial aid problems by the State licensing or authorizing agency, or by the appropriate accrediting agency or association;”;

(iv) in subparagraph (E), by inserting “and” after the semicolon; and

(v) by striking subparagraphs (F) and (G) and inserting the following:

“(F) such other institutions that the Secretary determines may pose a significant risk of failure to comply with the administrative capability or financial responsibility provisions of this title; and”;

(B) in paragraph (3)(A), by inserting “relevant” after “all”; and

(2) by amending subsection (b) to read as follows:

“(b) SPECIAL ADMINISTRATIVE RULES.—In carrying out paragraphs (1) and (2) of subsection (a) and any other relevant provisions of this title, the Secretary shall—

“(1) establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education;

“(2) make available to each institution participating in programs authorized under this title complete copies of all review guidelines and procedures used in program reviews;

“(3) permit the institution to correct or cure an administrative, accounting, or recordkeeping error if the error is not part of a pattern of error and there is no evidence of fraud or misconduct related to the error;

“(4) base any civil penalty assessed against an institution of higher education resulting from a program review or audit on the gravity of the violation, failure, or misrepresentation; and

“(5) inform the appropriate State and accrediting agency or association whenever the Secretary takes action against an institution of higher education under this section, section 498, or section 432.”.

#### **SEC. 495. REVIEW OF REGULATIONS.**

Part H of title IV is further amended by adding at the end the following:

20 USC 1099c-2. **“SEC. 498B. REVIEW OF REGULATIONS.**

“(a) REVIEW REQUIRED.—The Secretary shall review each regulation issued under this title that is in effect at the time of the review and applies to the operations or activities of any participant in the programs assisted under this title. The review shall include a determination of whether the regulation is duplicative, or is no longer necessary. The review may involve one or more of the following:

“(1) An assurance of the uniformity of interpretation and application of such regulations.

“(2) The establishment of a process for ensuring that eligibility and compliance issues, such as institutional audit, program review, and recertification, are considered simultaneously.

“(3) A determination of the extent to which unnecessary costs are imposed on institutions of higher education as a

consequence of the applicability to the facilities and equipment of such institutions of regulations prescribed for purposes of regulating industrial and commercial enterprises.

“(b) REGULATORY AND STATUTORY RELIEF FOR SMALL VOLUME INSTITUTIONS.—The Secretary shall review and evaluate ways in which regulations under and provisions of this Act affecting institution of higher education (other than institutions described in section 102(a)(1)(C)), that have received in each of the two most recent award years prior to the date of the enactment of the Higher Education Amendments of 1998 less than \$200,000 in funds through this title, may be improved, streamlined, or eliminated.

“(c) CONSULTATION.—In carrying out subsections (a) and (b), the Secretary shall consult with relevant representatives of institutions participating in the programs authorized by this title.

“(d) REPORTS TO CONGRESS.—

Deadlines.

“(1) IN GENERAL.—The Secretary shall submit, not later than 1 year after the date of the enactment of the Higher Education Amendments of 1998, a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives detailing the Secretary’s findings and recommendations based on the reviews conducted under subsections (a) and (b), including a timetable for implementation of any recommended changes in regulations and a description of any recommendations for legislative changes.

“(2) ADDITIONAL REPORTS.—Not later than January 1, 2003, the Secretary shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives detailing the Secretary’s findings and recommendations based on the review conducted under subsection (a), including a timetable for implementation of any recommended changes in regulations and a description of any recommendations for legislative changes.”.

## **TITLE V—DEVELOPING INSTITUTIONS**

### **SEC. 501. ESTABLISHMENT OF NEW TITLE V.**

Title V (20 U.S.C. 1101 et seq.) is amended to read as follows:

## **“TITLE V—DEVELOPING INSTITUTIONS**

### **“PART A—HISPANIC-SERVING INSTITUTIONS**

#### **“SEC. 501. FINDINGS; PURPOSE; AND PROGRAM AUTHORITY.**

20 USC 1101.

“(a) FINDINGS.—Congress makes the following findings:

“(1) Hispanic Americans are at high risk of not enrolling or graduating from institutions of higher education.

“(2) Disparities between the enrollment of non-Hispanic white students and Hispanic students in postsecondary education are increasing. Between 1973 and 1994, enrollment of white secondary school graduates in 4-year institutions of higher education increased at a rate two times higher than that of Hispanic secondary school graduates.

“(3) Despite significant limitations in resources, Hispanic-serving institutions provide a significant proportion of post-secondary opportunities for Hispanic students.

“(4) Relative to other institutions of higher education, Hispanic-serving institutions are underfunded. Such institutions receive significantly less in State and local funding, per full-time equivalent student, than other institutions of higher education.

“(5) Hispanic-serving institutions are succeeding in educating Hispanic students despite significant resource problems that—

“(A) limit the ability of such institutions to expand and improve the academic programs of such institutions; and

“(B) could imperil the financial and administrative stability of such institutions.

“(6) There is a national interest in remedying the disparities described in paragraphs (2) and (4) and ensuring that Hispanic students have an equal opportunity to pursue post-secondary opportunities.

“(b) PURPOSE.—The purpose of this title is to—

“(1) expand educational opportunities for, and improve the academic attainment of, Hispanic students; and

“(2) expand and enhance the academic offerings, program quality, and institutional stability of colleges and universities that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and other low-income individuals complete postsecondary degrees.

“(c) PROGRAM AUTHORITY.—The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic students and other low-income individuals.

20 USC 1101a.

**“SEC. 502. DEFINITIONS; ELIGIBILITY.**

“(a) DEFINITIONS.—For the purpose of this title:

“(1) EDUCATIONAL AND GENERAL EXPENDITURES.—The term ‘educational and general expenditures’ means the total amount expended by an institution for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers that the institution is required to pay by law.

“(2) ELIGIBLE INSTITUTION.—The term ‘eligible institution’ means—

“(A) an institution of higher education—

“(i) that has an enrollment of needy students as required by subsection (b);

“(ii) except as provided in section 512(b), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

“(iii) that is—

“(I) legally authorized to provide, and provides within the State, an educational program for which the institution awards a bachelor’s degree; or

“(II) a junior or community college;

“(iv) that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or that is, according to such an agency or association, making reasonable progress toward accreditation;

“(v) that meets such other requirements as the Secretary may prescribe; and

“(vi) that is located in a State; and

“(B) any branch of any institution of higher education described under subparagraph (A) that by itself satisfies the requirements contained in clauses (i) and (ii) of such subparagraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given twice the weight of the factor described under subparagraph (A)(ii).

“(3) ENDOWMENT FUND.—The term ‘endowment fund’ means a fund that—

“(A) is established by State law, by a Hispanic-serving institution, or by a foundation that is exempt from Federal income taxation;

“(B) is maintained for the purpose of generating income for the support of the institution; and

“(C) does not include real estate.

“(4) FULL-TIME EQUIVALENT STUDENTS.—The term ‘full-time equivalent students’ means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

“(5) HISPANIC-SERVING INSTITUTION.—The term ‘Hispanic-serving institution’ means an institution of higher education that—

“(A) is an eligible institution;

“(B) at the time of application, has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students; and

“(C) provides assurances that not less than 50 percent of the institution’s Hispanic students are low-income individuals.

“(6) JUNIOR OR COMMUNITY COLLEGE.—The term ‘junior or community college’ means an institution of higher education—

“(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

“(B) that does not provide an educational program for which the institution awards a bachelor’s degree (or an equivalent degree); and

“(C) that—

“(i) provides an educational program of not less than 2 years in duration that is acceptable for full credit toward such a degree; or

“(ii) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

“(7) LOW-INCOME INDIVIDUAL.—The term ‘low-income individual’ means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

“(b) ENROLLMENT OF NEEDY STUDENTS.—For the purpose of this title, the term ‘enrollment of needy students’ means an enrollment at an institution with respect to which—

“(1) at least 50 percent of the degree students so enrolled are receiving need-based assistance under title IV in the second fiscal year preceding the fiscal year for which the determination is made (other than loans for which an interest subsidy is paid pursuant to section 428); or

“(2) a substantial percentage of the students so enrolled are receiving Federal Pell Grants in the second fiscal year preceding the fiscal year for which determination is made, compared to the percentage of students receiving Federal Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this paragraph is waived under section 512(a).

20 USC 1101b.

**“SEC. 503. AUTHORIZED ACTIVITIES.**

“(a) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this title shall be used by Hispanic-serving institutions of higher education to assist the institutions to plan, develop, undertake, and carry out programs to improve and expand the institutions’ capacity to serve Hispanic students and other low-income students.

“(b) AUTHORIZED ACTIVITIES.—Grants awarded under this section shall be used for one or more of the following activities:

“(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

“(2) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities.

“(3) Support of faculty exchanges, faculty development, curriculum development, academic instruction, and faculty fellowships to assist in attaining advanced degrees in the fellow’s field of instruction.

“(4) Purchase of library books, periodicals, and other educational materials, including telecommunications program material.

“(5) Tutoring, counseling, and student service programs designed to improve academic success.



“(6) Funds management, administrative management, and acquisition of equipment for use in strengthening funds management.

“(7) Joint use of facilities, such as laboratories and libraries.

“(8) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

“(9) Establishing or improving an endowment fund.

“(10) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

“(11) Establishing or enhancing a program of teacher education designed to qualify students to teach in public elementary schools and secondary schools.

“(12) Establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue post-secondary education.

“(13) Expanding the number of Hispanic and other under-represented graduate and professional students that can be served by the institution by expanding courses and institutional resources.

“(14) Other activities proposed in the application submitted pursuant to section 504 that—

“(A) contribute to carrying out the purposes of this title; and

“(B) are approved by the Secretary as part of the review and acceptance of such application.

“(c) ENDOWMENT FUND LIMITATIONS.—

“(1) PORTION OF GRANT.—A Hispanic-serving institution may not use more than 20 percent of the grant funds provided under this title for any fiscal year for establishing or improving an endowment fund.

“(2) MATCHING REQUIRED.—A Hispanic-serving institution that uses any portion of the grant funds provided under this title for any fiscal year for establishing or improving an endowment fund shall provide from non-Federal funds an amount equal to or greater than the portion.

“(3) COMPARABILITY.—The provisions of part C of title III regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

**“SEC. 504. DURATION OF GRANT.**

20 USC 1101c.

“(a) AWARD PERIOD.—

“(1) IN GENERAL.—The Secretary may award a grant to a Hispanic-serving institution under this title for 5 years.

“(2) WAITOUT PERIOD.—A Hispanic-serving institution shall not be eligible to secure a subsequent 5-year grant award under this title until 2 years have elapsed since the expiration of the institution’s most recent 5-year grant award under this title, except that for the purpose of this subsection a grant under section 514(a) shall not be considered a grant under this title.

“(b) PLANNING GRANTS.—Notwithstanding subsection (a), the Secretary may award a grant to a Hispanic-serving institution

under this title for a period of 1 year for the purpose of preparation of plans and applications for a grant under this title.

20 USC 1101d.

**“SEC. 505. SPECIAL RULE.**

“No Hispanic-serving institution that is eligible for and receives funds under this title may receive funds under part A or B of title III during the period for which funds under this title are awarded.

**“PART B—GENERAL PROVISIONS**

20 USC 1103.

**“SEC. 511. ELIGIBILITY; APPLICATIONS.**

“(a) INSTITUTIONAL ELIGIBILITY.—Each Hispanic-serving institution desiring to receive assistance under this title shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Hispanic-serving institution as defined in section 502, along with such other data and information as the Secretary may by regulation require.

“(b) APPLICATIONS.—

“(1) APPLICATIONS REQUIRED.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution’s need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title only if the Secretary determines that—

“(A) the application meets the requirements of subsection (b); and

“(B) the institution is eligible for assistance in accordance with the provisions of this title under which the assistance is sought.

“(2) PRELIMINARY APPLICATIONS.—In carrying out paragraph (1), the Secretary may develop a preliminary application for use by Hispanic-serving institutions applying under this title prior to the submission of the principal application.

“(c) CONTENTS.—A Hispanic-serving institution, in the institution’s application for a grant, shall—

“(1) set forth, or describe how the institution will develop, a comprehensive development plan to strengthen the institution’s academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

“(2) include a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic students and other low-income individuals;

“(3) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 501(b), and in no case supplant those funds;

“(4) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

“(5) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the institution under this title;

“(6) provide that the institution will comply with the limitations set forth in section 516;

“(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

“(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

“(B) in the case of any development project that consists of several components (as described by the institution pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the institution);

“(C) an evaluation by the institution of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the institution under this title, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the institution pursuant to subparagraph (A));

“(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the institution; and

“(E) a detailed description of any activity which involves the expenditure of more than \$25,000, as identified in the budget referred to in subparagraph (D);

“(8) provide for making reports, in such form and containing such information, as the Secretary may require to carry out the Secretary’s functions under this title, including not less than one report annually setting forth the institution’s progress toward achieving the objectives for which the funds were awarded and for keeping such records and affording such access to such records, as the Secretary may find necessary to assure the correctness and verification of such reports; and

Reports.

“(9) include such other information as the Secretary may prescribe.

“(d) **PRIORITY.**—With respect to applications for assistance under this section, the Secretary shall give priority to an application that contains satisfactory evidence that the Hispanic-serving institution has entered into or will enter into a collaborative arrangement with at least one local educational agency or community-based organization to provide such agency or organization with assistance (from funds other than funds provided under this title) in reducing dropout rates for Hispanic students, improving rates of academic achievement for Hispanic students, and increasing the rates at which Hispanic secondary school graduates enroll in higher education.

“(e) **ELIGIBILITY DATA.**—The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under title IV in making

eligibility determinations and shall advance the base-year for the determinations forward following each annual grant cycle.

20 USC 1103a.

**“SEC. 512. WAIVER AUTHORITY AND REPORTING REQUIREMENT.**

“(a) **WAIVER REQUIREMENTS; NEED-BASED ASSISTANCE STUDENTS.**—The Secretary may waive the requirements set forth in section 502(a)(2)(A)(i) in the case of an institution—

“(1) that is extensively subsidized by the State in which the institution is located and charges low or no tuition;

“(2) that serves a substantial number of low-income students as a percentage of the institution’s total student population;

“(3) that is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

“(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions; or

“(5) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Hispanic Americans.

“(b) **WAIVER DETERMINATIONS; EXPENDITURES.**—

“(1) **WAIVER DETERMINATIONS.**—The Secretary may waive the requirements set forth in section 502(a)(2)(A)(ii) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution’s failure to meet the requirements is due to factors which, when used in the determination of compliance with the requirements, distort such determination, and that the institution’s designation as an eligible institution under part A is otherwise consistent with the purposes of this title.

Reports.

“(2) **EXPENDITURES.**—The Secretary shall submit to Congress every other year a report concerning the institutions that, although not satisfying the requirements of section 502(a)(2)(A)(ii), have been determined to be eligible institutions under part A. Such report shall—

“(A) identify the factors referred to in paragraph (1) that were considered by the Secretary as factors that distorted the determination of compliance with clauses (i) and (ii) of section 502(a)(2)(A); and

Records.

“(B) contain a list of each institution determined to be an eligible institution under part A including a statement of the reasons for each such determination.

20 USC 1103b.

**“SEC. 513. APPLICATION REVIEW PROCESS.**

“(a) **REVIEW PANEL.**—All applications submitted under this title by Hispanic-serving institutions shall be read by a panel of readers composed of individuals who are selected by the Secretary and who include individuals representing Hispanic-serving institutions. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application that might impair the impartiality with which the individual conducts the review under this section.

“(b) **INSTRUCTION.**—All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title that are consistent with the provisions of this title, including—

“(1) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

“(2) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

“(c) RECOMMENDATIONS OF PANEL.—In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

“(d) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each Hispanic-serving institution making an application under this title of—

Deadline.

“(1) the scores given the institution by the panel pursuant to this section;

“(2) the recommendations of the panel with respect to such application; and

“(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

**“SEC. 514. COOPERATIVE ARRANGEMENTS.**

20 USC 1103c.

“(a) GENERAL AUTHORITY.—The Secretary may make grants to encourage cooperative arrangements with funds available to carry out this title, between Hispanic-serving institutions eligible for assistance under this title, and between such institutions and institutions not receiving assistance under this title, for the activities described in section 503 so that the resources of the cooperating institutions might be combined and shared in order to achieve the purposes of this title, to avoid costly duplicative efforts, and to enhance the development of Hispanic-serving institutions.

“(b) PRIORITY.—The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant Hispanic-serving institution.

“(c) DURATION.—Grants to Hispanic-serving institutions having a cooperative arrangement may be made under this section for a period determined under section 505.

**“SEC. 515. ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS.**

20 USC 1103d.

“(a) ASSISTANCE ELIGIBILITY.—Each Hispanic-serving institution that the Secretary determines to be an institution eligible under this title may be eligible for waivers in accordance with subsection (b).

“(b) WAIVER APPLICABILITY.—

“(1) IN GENERAL.—Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a Hispanic-serving institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

“(2) PROGRAMS.—The provisions of this section shall apply to any program authorized by title IV or section 604.

“(c) **LIMITATION.**—The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

20 USC 1103e.

**“SEC. 516. LIMITATIONS.**

“The funds appropriated under section 518 may not be used—

“(1) for a school or department of divinity or any religious worship or sectarian activity;

“(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to a Hispanic-serving institution;

“(3) for an activity that is inconsistent with a State plan of higher education applicable to a Hispanic-serving institution; or

“(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to a Hispanic-serving institution.

20 USC 1103f.

**“SEC. 517. PENALTIES.**

“Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this title embezzles, willfully misapplies, steals, or obtains by fraud any of the funds that are the subject of such grant or assistance, shall be fined not more than \$10,000 or imprisoned for not more than 2 years, or both.

20 USC 1103g.

**“SEC. 518. AUTHORIZATIONS OF APPROPRIATIONS.**

“(a) **AUTHORIZATIONS.**—There are authorized to be appropriated to carry out this title \$62,500,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(b) **USE OF MULTIPLE YEAR AWARDS.**—In the event of a multiple year award to any Hispanic-serving institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the institution.”.

## **TITLE VI—INTERNATIONAL EDUCATION PROGRAMS**

**SEC. 601. INTERNATIONAL AND FOREIGN LANGUAGE STUDIES.**

Part A of title VI (20 U.S.C. 1121 et seq.) is amended to read as follows:

### **“PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES**

20 USC 1121.

**“SEC. 601. FINDINGS AND PURPOSES.**

“(a) **FINDINGS.**—Congress finds as follows:

“(1) The security, stability, and economic vitality of the United States in a complex global era depend upon American experts in and citizens knowledgeable about world regions, foreign languages, and international affairs, as well as upon a strong research base in these areas.

“(2) Advances in communications technology and the growth of regional and global problems make knowledge of other countries and the ability to communicate in other languages more essential to the promotion of mutual understanding and cooperation among nations and their peoples.

“(3) Dramatic post-Cold War changes in the world’s geopolitical and economic landscapes are creating needs for American expertise and knowledge about a greater diversity of less commonly taught foreign languages and nations of the world.

“(4) Systematic efforts are necessary to enhance the capacity of institutions of higher education in the United States for—

“(A) producing graduates with international and foreign language expertise and knowledge; and

“(B) research regarding such expertise and knowledge.

“(5) Cooperative efforts among the Federal Government, institutions of higher education, and the private sector are necessary to promote the generation and dissemination of information about world regions, foreign languages, and international affairs throughout education, government, business, civic, and nonprofit sectors in the United States.

“(b) PURPOSES.—The purposes of this part are—

“(1)(A) to support centers, programs, and fellowships in institutions of higher education in the United States for producing increased numbers of trained personnel and research in foreign languages, area studies, and other international studies;

“(B) to develop a pool of international experts to meet national needs;

“(C) to develop and validate specialized materials and techniques for foreign language acquisition and fluency, emphasizing (but not limited to) the less commonly taught languages;

“(D) to promote access to research and training overseas; and

“(E) to advance the internationalization of a variety of disciplines throughout undergraduate and graduate education;

“(2) to support cooperative efforts promoting access to and the dissemination of international and foreign language knowledge, teaching materials, and research, throughout education, government, business, civic, and nonprofit sectors in the United States, through the use of advanced technologies; and

“(3) to coordinate the programs of the Federal Government in the areas of foreign language, area studies, and other international studies, including professional international affairs education and research.

**“SEC. 602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS AND PROGRAMS.** 20 USC 1122.

“(a) NATIONAL LANGUAGE AND AREA CENTERS AND PROGRAMS AUTHORIZED.—

“(1) CENTERS AND PROGRAMS.—

“(A) IN GENERAL.—The Secretary is authorized—

“(i) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive foreign language and area or international studies centers and programs; and

“(ii) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating a diverse network of undergraduate foreign language and area or international studies centers and programs.

“(B) NATIONAL RESOURCES.—The centers and programs referred to in paragraph (1) shall be national resources for—

“(i) teaching of any modern foreign language;

“(ii) instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used;

“(iii) research and training in international studies, and the international and foreign language aspects of professional and other fields of study; and

“(iv) instruction and research on issues in world affairs that concern one or more countries.

“(2) AUTHORIZED ACTIVITIES.—Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of—

“(A) teaching and research materials;

“(B) curriculum planning and development;

“(C) establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the teaching and research of the center or program;

“(D) bringing visiting scholars and faculty to the center to teach or to conduct research;

“(E) professional development of the center’s faculty and staff;

“(F) projects conducted in cooperation with other centers addressing themes of world regional, cross-regional, international, or global importance;

“(G) summer institutes in the United States or abroad designed to provide language and area training in the center’s field or topic; and

“(H) support for faculty, staff, and student travel in foreign areas, regions, or countries, and for the development and support of educational programs abroad for students.

“(3) GRANTS TO MAINTAIN LIBRARY COLLECTIONS.—The Secretary may make grants to centers described in paragraph (1) having important library collections, as determined by the Secretary, for the maintenance of such collections.

“(4) OUTREACH GRANTS AND SUMMER INSTITUTES.—The Secretary may make additional grants to centers described in paragraph (1) for any one or more of the following purposes:

“(A) Programs of linkage or outreach between foreign language, area studies, or other international fields, and professional schools and colleges.

“(B) Programs of linkage or outreach with 2- and 4-year colleges and universities.

“(C) Programs of linkage or outreach with departments or agencies of Federal and State governments.

“(D) Programs of linkage or outreach with the news media, business, professional, or trade associations.

“(E) Summer institutes in foreign area, foreign language, and other international fields designed to carry



out the programs of linkage and outreach described in subparagraphs (A), (B), (C), and (D).

“(b) GRADUATE FELLOWSHIPS FOR FOREIGN LANGUAGE AND AREA OR INTERNATIONAL STUDIES.—

“(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary.

“(2) ELIGIBLE STUDENTS.—Students receiving stipends described in paragraph (1) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program, including predissertation level studies, preparation for dissertation research, dissertation research abroad, and dissertation writing.

“(c) SPECIAL RULE WITH RESPECT TO TRAVEL.—No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

“(d) ALLOWANCES.—Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

“SEC. 603. LANGUAGE RESOURCE CENTERS.

“(a) LANGUAGE RESOURCE CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating a small number of national language resource and training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively.

Contracts.  
20 USC 1123.

“(b) AUTHORIZED ACTIVITIES.—The activities carried out by the centers described in subsection (a)—

“(1) shall include effective dissemination efforts, whenever appropriate; and

“(2) may include—

“(A) the conduct and dissemination of research on new and improved teaching methods, including the use of advanced educational technology;

“(B) the development and dissemination of new teaching materials reflecting the use of such research in effective teaching strategies;

“(C) the development, application, and dissemination of performance testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

“(D) the training of teachers in the administration and interpretation of performance tests, the use of effective teaching strategies, and the use of new technologies;

“(E) a significant focus on the teaching and learning needs of the less commonly taught languages, including an assessment of the strategic needs of the United States,

the determination of ways to meet those needs nationally, and the publication and dissemination of instructional materials in the less commonly taught languages;

“(F) the development and dissemination of materials designed to serve as a resource for foreign language teachers at the elementary and secondary school levels; and

“(G) the operation of intensive summer language institutes to train advanced foreign language students, to provide professional development, and to improve language instruction through preservice and inservice language training for teachers.

“(c) CONDITIONS FOR GRANTS.—Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

20 USC 1124.

**“SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.**

**“(a) INCENTIVES FOR THE CREATION OF NEW PROGRAMS AND THE STRENGTHENING OF EXISTING PROGRAMS IN UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.—**

“(1) AUTHORITY.—The Secretary is authorized to make grants to institutions of higher education, combinations of such institutions, or partnerships between nonprofit educational organizations and institutions of higher education, to assist such institutions, combinations or partnerships in planning, developing, and carrying out programs to improve undergraduate instruction in international studies and foreign languages. Such grants shall be awarded to institutions, combinations or partnerships seeking to create new programs or to strengthen existing programs in foreign languages, area studies, and other international fields.

“(2) USE OF FUNDS.—Grants made under this section may be used for Federal share of the cost of projects and activities which are an integral part of such a program, such as—

“(A) planning for the development and expansion of undergraduate programs in international studies and foreign languages;

“(B) teaching, research, curriculum development, faculty training in the United States or abroad, and other related activities, including—

“(i) the expansion of library and teaching resources; and

“(ii) preservice and inservice teacher training;

“(C) expansion of opportunities for learning foreign languages, including less commonly taught languages;

“(D) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

“(E) programs designed to develop or enhance linkages between 2- and 4-year institutions of higher education, or baccalaureate and post-baccalaureate programs or institutions;

“(F) the development of undergraduate educational programs—

“(i) in locations abroad where such opportunities are not otherwise available or that serve students for whom such opportunities are not otherwise available; and

“(ii) that provide courses that are closely related to on-campus foreign language and international curricula;

“(G) the integration of new and continuing education abroad opportunities for undergraduate students into curricula of specific degree programs;

“(H) the development of model programs to enrich or enhance the effectiveness of educational programs abroad, including predeparture and postreturn programs, and the integration of educational programs abroad into the curriculum of the home institution;

“(I) the development of programs designed to integrate professional and technical education with foreign languages, area studies, and other international fields;

“(J) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational programs assisted under this subsection;

“(K) the conduct of summer institutes in foreign area, foreign language, and other international fields to provide faculty and curriculum development, including the integration of professional and technical education with foreign area and other international studies, and to provide foreign area and other international knowledge or skills to government personnel or private sector professionals in international activities;

“(L) the development of partnerships between—

“(i) institutions of higher education; and

“(ii) the private sector, government, or elementary and secondary education institutions,  
in order to enhance international knowledge and skills;  
and

“(M) the use of innovative technology to increase access to international education programs.

“(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of the programs assisted under this subsection—

“(A) may be provided in cash from the private sector corporations or foundations in an amount equal to one-third of the total cost of the programs assisted under this section; or

“(B) may be provided as an in-cash or in-kind contribution from institutional and noninstitutional funds, including State and private sector corporation or foundation contributions, equal to one-half of the total cost of the programs assisted under this section.

“(4) SPECIAL RULE.—The Secretary may waive or reduce the required non-Federal share for institutions that—

“(A) are eligible to receive assistance under part A or B of title III or under title V; and

“(B) have submitted a grant application under this section.

“(5) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications from institutions of higher education, combinations or partnerships that require entering students to have successfully completed at least 2 years of secondary school foreign language instruction or that

require each graduating student to earn 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in the foreign language) or, in the case of a 2-year degree granting institution, offer 2 years of postsecondary credit in a foreign language.

“(6) GRANT CONDITIONS.—Grants under this subsection shall be made on such conditions as the Secretary determines to be necessary to carry out this subsection.

“(7) APPLICATION.—Each application for assistance under this subsection shall include—

“(A) evidence that the applicant has conducted extensive planning prior to submitting the application;

“(B) an assurance that the faculty and administrators of all relevant departments and programs served by the applicant are involved in ongoing collaboration with regard to achieving the stated objectives of the application;

“(C) an assurance that students at the applicant institutions, as appropriate, will have equal access to, and derive benefits from, the program assisted under this subsection; and

“(D) an assurance that each institution, combination or partnership will use the Federal assistance provided under this subsection to supplement and not supplant non-Federal funds the institution expends for programs to improve undergraduate instruction in international studies and foreign languages.

“(8) EVALUATION.—The Secretary may establish requirements for program evaluations and require grant recipients to submit annual reports that evaluate the progress and performance of students participating in programs assisted under this subsection.

“(b) PROGRAMS OF NATIONAL SIGNIFICANCE.—The Secretary may also award grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to improving undergraduate international studies and foreign language programs.

“(c) FUNDING SUPPORT.—The Secretary may use not more than 10 percent of the total amount appropriated for this part for carrying out the purposes of this section.

20 USC 1125.

**“SEC. 605. RESEARCH; STUDIES; ANNUAL REPORT.**

“(a) AUTHORIZED ACTIVITIES.—The Secretary may, directly or through grants or contracts, conduct research and studies that contribute to achieving the purposes of this part. Such research and studies may include—

“(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists in government, education, and the private sector;

“(2) studies and surveys to assess the utilization of graduates of programs supported under this title by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

“(3) evaluation of the extent to which programs assisted under this title that address national needs would not otherwise be offered;

“(4) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

“(5) research on more effective methods of providing instruction and achieving competency in foreign languages, area studies, or other international fields;

“(6) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists;

“(7) studies and surveys of the uses of technology in foreign language, area studies, and international studies programs;

“(8) studies and evaluations of effective practices in the dissemination of international information, materials, research, teaching strategies, and testing techniques throughout the education community, including elementary and secondary schools; and

“(9) the application of performance tests and standards across all areas of foreign language instruction and classroom use.

“(b) ANNUAL REPORT.—The Secretary shall prepare, publish, and announce an annual report listing the books and research materials produced with assistance under this section.

Publication.

**“SEC. 606. TECHNOLOGICAL INNOVATION AND COOPERATION FOR FOREIGN INFORMATION ACCESS.**

20 USC 1126.

“(a) AUTHORITY.—The Secretary is authorized to make grants to institutions of higher education, public or nonprofit private libraries, or consortia of such institutions or libraries, to develop innovative techniques or programs using new electronic technologies to collect, organize, preserve, and widely disseminate information on world regions and countries other than the United States that address our Nation’s teaching and research needs in international education and foreign languages.

“(b) AUTHORIZED ACTIVITIES.—Grants under this section may be used—

“(1) to facilitate access to or preserve foreign information resources in print or electronic forms;

“(2) to develop new means of immediate, full-text document delivery for information and scholarship from abroad;

“(3) to develop new means of shared electronic access to international data;

“(4) to support collaborative projects of indexing, cataloging, and other means of bibliographic access for scholars to important research materials published or distributed outside the United States;

“(5) to develop methods for the wide dissemination of resources written in non-Roman language alphabets;

“(6) to assist teachers of less commonly taught languages in acquiring, via electronic and other means, materials suitable for classroom use; and

“(7) to promote collaborative technology based projects in foreign languages, area studies, and international studies among grant recipients under this title.

“(c) APPLICATION.—Each institution or consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may reasonably require.

“(d) MATCH REQUIRED.—The Federal share of the total cost of carrying out a program supported by a grant under this section shall not be more than 66 $\frac{2}{3}$  percent. The non-Federal share of such cost may be provided either in-kind or in cash, and may include contributions from private sector corporations or foundations.”.

20 USC 1127.

**“SEC. 607. SELECTION OF CERTAIN GRANT RECIPIENTS.**

“(a) COMPETITIVE GRANTS.—The Secretary shall award grants under section 602 competitively on the basis of criteria that separately, but not less rigorously, evaluates the applications for comprehensive and undergraduate language and area centers and programs.

“(b) SELECTION CRITERIA.—The Secretary shall set criteria for grants awarded under section 602 by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

“(c) EQUITABLE DISTRIBUTION OF GRANTS.—The Secretary shall, to the extent practicable, award grants under this part (other than section 602) in such manner as to achieve an equitable distribution of the grant funds throughout the United States, based on the merit of a proposal as determined pursuant to a peer review process involving broadly representative professionals.

20 USC 1128.

**“SEC. 608. EQUITABLE DISTRIBUTION OF CERTAIN FUNDS.**

“(a) SELECTION CRITERIA.—The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

“(b) EQUITABLE DISTRIBUTION.—To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such a manner as will achieve an equitable distribution of funds throughout the United States.

“(c) SUPPORT FOR UNDERGRADUATE EDUCATION.—The Secretary shall also award grants under this part in such manner as to ensure that an appropriate portion of the funds appropriated for this part (as determined by the Secretary) are used to support undergraduate education.

20 USC 1128a.

**“SEC. 609. AMERICAN OVERSEAS RESEARCH CENTERS.**

Contracts.

“(a) CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with any American overseas research center that is a consortium of institutions of higher education (hereafter in this section referred to as a “center”) to enable such center to promote postgraduate research, exchanges and area studies.

“(b) USE OF GRANTS.—Grants made and contracts entered into pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a center or program, including—

“(1) the cost of faculty and staff stipends and salaries;

“(2) the cost of faculty, staff, and student travel;

“(3) the cost of the operation and maintenance of overseas facilities;

“(4) the cost of teaching and research materials;

“(5) the cost of acquisition, maintenance, and preservation of library collections;

“(6) the cost of bringing visiting scholars and faculty to a center to teach or to conduct research;

“(7) the cost of organizing and managing conferences; and

“(8) the cost of publication and dissemination of material for the scholarly and general public.

“(c) LIMITATION.—The Secretary shall only award grants to and enter into contracts with centers under this section that—

“(1) receive more than 50 percent of their funding from public or private United States sources;

“(2) have a permanent presence in the country in which the center is located; and

“(3) are organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 which are exempt from taxation under section 501(a) of such Code.

“(d) DEVELOPMENT GRANTS.—The Secretary is authorized to make grants for the establishment of new centers. The grants may be used to fund activities that, within 1 year, will result in the creation of a center described in subsection (c).

**“SEC. 610. AUTHORIZATION OF APPROPRIATIONS.**

20 USC 1128b.

“There are authorized to be appropriated to carry out this part \$80,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

**SEC. 602. BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS.**

(a) AMENDMENT TO HEADING.—The heading for section 611 (20 U.S.C. 1130) is amended to read as follows:

**“SEC. 611. FINDINGS AND PURPOSES.”.**

(b) CENTERS.—Section 612 (20 U.S.C. 1130–1) is amended—

(1) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking “advanced”;

and

(ii) in subparagraph (C), by striking “evening or summer”; and

(B) in paragraph (2)(C), by inserting “foreign language studies,” after “area studies,”; and

(2) in subsection (d)(2)(G), by inserting “, such as a representative of a community college in the region served by the center” before the period.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 614 (20 U.S.C. 1130b) is amended—

(1) in subsection (a), by striking “1993” and inserting “1999”; and

(2) in subsection (b), by striking “1993” and inserting “1999”.

**SEC. 603. INSTITUTE FOR INTERNATIONAL PUBLIC POLICY.**

(a) MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM.—Section 621(e) (20 U.S.C. 1131(e)) is amended by striking “one-fourth” and inserting “one-half”.

(b) INSTITUTIONAL DEVELOPMENT.—Part C of title VI (20 U.S.C. 1131 et seq.) is amended—

(1) by redesignating sections 622 through 627 (20 U.S.C. 1131a through 1131f) as sections 623 through 628, respectively; and

(2) by inserting after section 621 (20 U.S.C. 1131) the following:

Minorities.  
20 USC 1131-1.

**“SEC. 622. INSTITUTIONAL DEVELOPMENT.**

“(a) IN GENERAL.—The Institute shall award grants, from amounts available to the Institute for each fiscal year, to historically Black colleges and universities, Hispanic-serving institutions, Tribally Controlled Colleges or Universities, and minority institutions, to enable such colleges, universities, and institutions to strengthen international affairs programs.

“(b) APPLICATION.—No grant may be made by the Institute unless an application is made by the college, university, or institution at such time, in such manner, and accompanied by such information as the Institute may require.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘historically Black college and university’ has the meaning given the term in section 322;

“(2) the term ‘Hispanic-serving institution’ has the meaning given the term in section 502;

“(3) the term ‘Tribally Controlled College or University’ has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801); and

“(4) the term ‘minority institution’ has the meaning given the term in section 365.”.

(c) STUDY ABROAD PROGRAM.—Section 623 (as redesignated by subsection(b)(1)) (20 U.S.C. 1131a)—

(1) in the section heading, by striking “JUNIOR YEAR” and inserting “STUDY”;

(2) in subsection (b)(2)—

(A) by inserting “, or completing the third year of study in the case of a summer abroad program,” after “study”; and

(B) by striking “junior year” and inserting “study”; and

(3) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking “junior year” and inserting “study”;

(B) in paragraph (1), by striking “junior year” and inserting “study”; and

(C) in paragraph (2)—

(i) by striking “one-half” and inserting “one-third”; and

(ii) by striking “junior year” and inserting “study”.

20 USC 1131c.

(d) INTERNSHIPS.—Section 625 (as redesignated by subsection (b)(1)) (20 U.S.C. 1132c)—

(1) by striking “The Institute” and inserting “(a) IN GENERAL.—The Institute”; and

(2) by adding at the end the following:

Contracts.

“(b) POSTBACCALAUREATE INTERNSHIPS.—The Institute shall enter into agreements with institutions of higher education described in the first sentence of subsection (a) to conduct internships for students who have completed study for a baccalaureate



degree. The internship program authorized by this subsection shall—

“(1) assist the students to prepare for a master’s degree program;

“(2) be carried out with the assistance of the Woodrow Wilson International Center for Scholars;

“(3) contain work experience for the students designed to contribute to the students’ preparation for a master’s degree program; and

“(4) be assisted by the Interagency Committee on Minority Careers in International Affairs established under subsection (c).

“(c) INTERAGENCY COMMITTEE ON MINORITY CAREERS IN INTERNATIONAL AFFAIRS.—

“(1) ESTABLISHMENT.—There is established in the executive branch of the Federal Government an Interagency Committee on Minority Careers in International Affairs composed of not less than 7 members, including—

“(A) the Under Secretary for Farm and Foreign Agricultural Services of the Department of Agriculture, or the Under Secretary’s designee;

“(B) the Assistant Secretary and Director General, of the United States and Foreign Commercial Service of the Department of Commerce, or the Assistant Secretary and Director General’s designee;

“(C) the Under Secretary of Defense for Personnel and Readiness of the Department of Defense, or the Under Secretary’s designee;

“(D) the Assistant Secretary for Postsecondary Education in the Department of Education, or the Assistant Secretary’s designee;

“(E) the Director General of the Foreign Service of the Department of State, or the Director General’s designee;

“(F) the General Counsel of the Agency for International Development, or the General Counsel’s designee; and

“(G) the Associate Director for Educational and Cultural Affairs of the United States Information Agency, or the Associate Director’s designee.

“(2) FUNCTIONS.—The Interagency Committee established by this section shall—

“(A) on an annual basis inform the Secretary and the Institute regarding ways to advise students participating in the internship program assisted under this section with respect to goals for careers in international affairs;

“(B) locate for students potential internship opportunities in the Federal Government related to international affairs; and

“(C) promote policies in each department and agency participating in the Committee that are designed to carry out the objectives of this part.”

(f) CONFORMING AMENDMENT.—Section 627 (as redesignated by subsection (b)(1)) (20 U.S.C. 1131e) is amended by striking “625” and inserting “626”.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 628 (as redesignated by subsection (b)(1)) (20 U.S.C. 1131f), by striking “1993” and inserting “1999”.

**SEC. 604. GENERAL PROVISIONS.**

(a) DEFINITIONS.—Section 631(a) (20 U.S.C. 1132(a)) is amended—

- (1) by striking “and” at the end of paragraph (7);
- (2) by striking the period at the end of paragraph (8) and inserting “; and”; and

(3) by inserting after paragraph (8) the following:

“(9) the term ‘educational programs abroad’ means programs of study, internships, or service learning outside the United States which are part of a foreign language or other international curriculum at the undergraduate or graduate education levels.”.

(b) REPEAL.—Section 632 (20 U.S.C. 1132-1) is repealed.

## **TITLE VII—GRADUATE AND POST-SECONDARY IMPROVEMENT PROGRAMS**

**SEC. 701. REVISION OF TITLE VII.**

Title VII (20 U.S.C. 1132a et seq.) is amended to read as follows:

## **“TITLE VII—GRADUATE AND POST-SECONDARY IMPROVEMENT PROGRAMS**

20 USC 1133.

**“SEC. 700. PURPOSE.**

“It is the purpose of this title—

“(1) to authorize national graduate fellowship programs—

“(A) in order to attract students of superior ability and achievement, exceptional promise, and demonstrated financial need, into high-quality graduate programs and provide the students with the financial support necessary to complete advanced degrees; and

“(B) that are designed to—

“(i) sustain and enhance the capacity for graduate education in areas of national need; and

“(ii) encourage talented students to pursue scholarly careers in the humanities, social sciences, and the arts; and

“(2) to promote postsecondary programs.

## **“PART A—GRADUATE EDUCATION PROGRAMS**

### **“Subpart 1—Jacob K. Javits Fellowship Program**

20 USC 1134.

**“SEC. 701. AWARD OF JACOB K. JAVITS FELLOWSHIPS.**

“(a) AUTHORITY AND TIMING OF AWARDS.—The Secretary is authorized to award fellowships in accordance with the provisions

of this subpart for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement, financial need, and exceptional promise. The fellowships shall be awarded to students who are eligible to receive any grant, loan, or work assistance pursuant to section 484 and intend to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is the terminal highest degree awarded in the area of study. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year following the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.

“(b) DESIGNATION OF FELLOWS.—Students receiving awards under this subpart shall be known as ‘Jacob K. Javits Fellows’.

“(c) INTERRUPTIONS OF STUDY.—The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

“(d) PROCESS AND TIMING OF COMPETITION.—The Secretary shall make applications for fellowships under this part available not later than October 1 of the academic year preceding the academic year for which fellowships will be awarded, and shall announce the recipients of fellowships under this section not later than March 1 of the academic year preceding the academic year for which the fellowships are awarded.

Deadlines.

“(e) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with a nongovernmental agency to administer the program assisted under this part if the Secretary determines that entering into the contract is an efficient means of carrying out the program.

**“SEC. 702. ALLOCATION OF FELLOWSHIPS.**

20 USC 1134a.

“(a) FELLOWSHIP BOARD.—

“(1) APPOINTMENT.—The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (hereinafter in this subpart referred to as the ‘Board’) consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly representative of a range of disciplines in graduate education in arts, humanities, and social sciences.

“(2) DUTIES.—The Board shall—

“(A) establish general policies for the program established by this subpart and oversee the program's operation;

“(B) establish general criteria for the award of fellowships in academic fields identified by the Board, or, in the event that the Secretary enters into a contract with

a nongovernmental entity to administer the program assisted under this subpart, by such nongovernmental entity;

“(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows, except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity; and

Reports.

“(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

“(3) CONSULTATIONS.—In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

“(4) TERM.—The term of office of each member of the Board shall be 4 years, except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

“(5) INITIAL MEETING; VACANCY.—The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairperson and a Vice Chairperson, who shall serve until 1 year after the date of the appointment of the Chairperson and Vice Chairperson. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

“(6) QUORUM; ADDITIONAL MEETINGS.—(A) A majority of the members of the Board shall constitute a quorum.

“(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out the Board’s responsibilities.

“(7) COMPENSATION.—Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate of basic pay payable for level IV of the Executive Schedule, including travel time, and while so serving away from their homes or regular places of business, the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

“(b) USE OF SELECTION PANELS.—The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Board to make such selections under criteria established by the Board, except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity. The number of recipients in each field in each year shall

not exceed the number of fellows allocated to that field for that year by the Board.

“(c) FELLOWSHIP PORTABILITY.—Each recipient shall be entitled to use the fellowship in a graduate program at any accredited institution of higher education in which the recipient may decide to enroll.

**“SEC. 703. STIPENDS.**

20 USC 1134b.

“(a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this subpart such stipends as the Secretary may establish, reflecting the purpose of this program to encourage highly talented students to undertake graduate study as described in this subpart. In the case of an individual who receives such individual’s first stipend under this subpart in academic year 1999–2000 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow’s demonstrated level of need determined in accordance with part F of title IV.

“(b) INSTITUTIONAL PAYMENTS.—

“(1) IN GENERAL.—(A) The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be, for 1999–2000 and succeeding academic years, the same amount as the institutional payment made for 1998–1999 under section 933(b) (as such section was in effect on the day before the date of enactment of the Higher Education Amendments of 1998) adjusted for 1999–2000 and annually thereafter in accordance with inflation as determined by the Department of Labor’s Consumer Price Index for the previous calendar year.

“(B) The institutional allowance paid under subparagraph (A) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient’s instructional program.

“(2) SPECIAL RULES.—(A) Beginning March 1, 1992, any applicant for a fellowship under this subpart who has been notified in writing by the Secretary that such applicant has been selected to receive such a fellowship and is subsequently notified that the fellowship award has been withdrawn, shall receive such fellowship unless the Secretary subsequently makes a determination that such applicant submitted fraudulent information on the application.

Effective date.

“(B) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1).

**“SEC. 704. FELLOWSHIP CONDITIONS.**

20 USC 1134c.

“(a) REQUIREMENTS FOR RECEIPT.—An individual awarded a fellowship under the provisions of this subpart shall continue to receive payments provided in section 703 only during such periods as the Secretary finds that such individual is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded,

in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

“(b) REPORTS FROM RECIPIENTS.—The Secretary is authorized to require reports containing such information in such form and filed at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this subpart. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

20 USC 1134d.

**“SEC. 705. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated \$30,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

**“Subpart 2—Graduate Assistance in Areas of National Need**

20 USC 1135.

**“SEC. 711. GRANTS TO ACADEMIC DEPARTMENTS AND PROGRAMS OF INSTITUTIONS.**

“(a) GRANT AUTHORITY.—

“(1) IN GENERAL.—The Secretary shall make grants to academic departments, programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this subpart.

“(2) ADDITIONAL GRANTS.—The Secretary may also make grants to such departments, programs and other academic units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

“(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and is exempt from tax under section 501(a) of such Code;

“(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

“(C) is not a private foundation;

“(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

“(E) has necessary research resources not otherwise readily available in such institutions to such students.

“(b) AWARD AND DURATION OF GRANTS.—

“(1) AWARDS.—The principal criterion for the award of grants shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications,

the Secretary shall, in awarding such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

“(2) DURATION AND AMOUNT.—

“(A) DURATION.—The Secretary shall award a grant under this subpart for a period of 3 years.

“(B) AMOUNT.—The Secretary shall award a grant to an academic department, program or unit of an institution of higher education under this subpart for a fiscal year in an amount that is not less than \$100,000 and not greater than \$750,000.

“(3) REALLOTMENT.—Whenever the Secretary determines that an academic department, program or unit of an institution of higher education is unable to use all of the amounts available to the department, program or unit under this subpart, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallocate the amounts not needed to academic departments, programs and units of institutions which can use the grants authorized by this subpart.

“(c) PREFERENCE TO CONTINUING GRANT RECIPIENTS.—

“(1) IN GENERAL.—The Secretary shall make new grant awards under this subpart only to the extent that each previous grant recipient under this subpart has received continued funding in accordance with subsection (b)(2)(A).

“(2) RATABLY REDUCTION.—To the extent that appropriations under this subpart are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded under subsection (b)(2)(A).

**“SEC. 712. INSTITUTIONAL ELIGIBILITY.**

20 USC 1135a.

“(a) ELIGIBILITY CRITERIA.—Any academic department, program or unit of an institution of higher education that offers a program of postbaccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b)) may apply for a grant under this subpart. No department, program or unit shall be eligible for a grant unless the program of postbaccalaureate study has been in existence for at least 4 years at the time of application for assistance under this subpart.

“(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need. In making such designations, the Secretary shall take into account the extent to which the interest in the area is compelling, the extent to which other Federal programs support postbaccalaureate study in the area concerned, and an assessment of how the program could achieve the most significant impact with available resources.

**“SEC. 713. CRITERIA FOR APPLICATIONS.**

20 USC 1135b.

“(a) SELECTION OF APPLICATIONS.—The Secretary shall make grants to academic departments, programs and units of institutions of higher education on the basis of applications submitted in accordance with subsection (b). Applications shall be ranked on program quality by review panels of nationally recognized scholars and evaluated on the quality and effectiveness of the academic program and the achievement and promise of the students to be served. To the extent possible (consistent with other provisions of this

section), the Secretary shall make awards that are consistent with recommendations of the review panels.

“(b) CONTENTS OF APPLICATIONS.—An academic department, program or unit of an institution of higher education, in the department, program or unit’s application for a grant, shall—

“(1) describe the current academic program of the applicant for which the grant is sought;

“(2) provide assurances that the applicant will provide, from other non-Federal sources, for the purposes of the fellowship program under this subpart an amount equal to at least 25 percent of the amount of the grant received under this subpart, which contribution may be in cash or in kind, fairly valued;

“(3) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

“(4) describe the number, types, and amounts of the fellowships that the applicant intends to offer with grant funds provided under this part;

“(5) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will make awards to individuals who—

“(A) have financial need, as determined under part F of title IV;

“(B) have excellent academic records in their previous programs of study; and

“(C) plan to pursue the highest possible degree available in their course of study;

“(6) set forth policies and procedures to ensure that Federal funds made available under this subpart for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this subpart and in no case to supplant those funds;

“(7) provide assurances that, in the event that funds made available to the academic department, program or unit under this subpart are insufficient to provide the assistance due a student under the commitment entered into between the academic department, program or unit and the student, the academic department, program or unit will, from any funds available to the department, program or unit, fulfill the commitment to the student;

“(8) provide that the applicant will comply with the limitations set forth in section 715;

“(9) provide assurances that the academic department will provide at least 1 year of supervised training in instruction for students; and

“(10) include such other information as the Secretary may prescribe.

20 USC 1135c.

**“SEC. 714. AWARDS TO GRADUATE STUDENTS.**

“(a) COMMITMENTS TO GRADUATE STUDENTS.—

“(1) IN GENERAL.—An academic department, program or unit of an institution of higher education shall make commitments to graduate students who are eligible students under section 484 (including students pursuing a doctoral degree after having completed a master’s degree program at an institution



of higher education) at any point in their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

“(2) SPECIAL RULE.—No such commitments shall be made to students under this subpart unless the academic department, program or unit has determined adequate funds are available to fulfill the commitment from funds received or anticipated under this subpart, or from institutional funds.

“(b) AMOUNT OF STIPENDS.—The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this subpart. The stipends the Secretary establishes shall reflect the purpose of the program under this subpart to encourage highly talented students to undertake graduate study as described in this subpart. In the case of an individual who receives such individual’s first stipend under this subpart in academic year 1999–2000 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow’s demonstrated level of need as determined under part F of title IV.

“(c) TREATMENT OF INSTITUTIONAL PAYMENTS.—An institution of higher education that makes institutional payments for tuition and fees on behalf of individuals supported by fellowships under this subpart in amounts that exceed the institutional payments made by the Secretary pursuant to section 716(a) may count such excess toward the amounts the institution is required to provide pursuant to section 714(b)(2).

“(d) ACADEMIC PROGRESS REQUIRED.—Notwithstanding the provisions of subsection (a), no student shall receive an award—

“(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded; or

“(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student’s progress towards a degree.

**“SEC. 715. ADDITIONAL ASSISTANCE FOR COST OF EDUCATION.**

20 USC 1135d.

“(a) INSTITUTIONAL PAYMENTS.—

“(1) IN GENERAL.—The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be, for 1999–2000 and succeeding academic years, the same amount as the institutional payment made for 1998–1999 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor’s Consumer Price Index for the previous calendar year.

“(2) REDUCTION.—The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient’s instructional program.

“(b) USE FOR OVERHEAD PROHIBITED.—Funds made available pursuant to this subpart may not be used for the general operational overhead of the academic department or program.

20 USC 1135ee.

**“SEC. 716. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated \$35,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

**“Subpart 3—Thurgood Marshall Legal Educational Opportunity Program**

20 USC 1136.

**“SEC. 721. LEGAL EDUCATIONAL OPPORTUNITY PROGRAM.**

“(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as the ‘Thurgood Marshall Legal Educational Opportunity Program’ designed to provide low-income, minority, or disadvantaged college students with the information, preparation, and financial assistance to gain access to and complete law school study.

“(b) ELIGIBILITY.—A college student is eligible for assistance under this section if the student is—

“(1) from a low-income family;

“(2) a minority; or

“(3) from an economically or otherwise disadvantaged background.

“(c) CONTRACT OR GRANT AUTHORIZED.—The Secretary is authorized to enter into a contract with, or make a grant to, the Council on Legal Education Opportunity, for a period of not less than 5 years—

“(1) to identify college students who are from low-income families, are minorities, or are from disadvantaged backgrounds described in subsection (b)(3);

“(2) to prepare such students for study at accredited law schools;

“(3) to assist such students to select the appropriate law school, make application for entry into law school, and receive financial assistance for such study;

“(4) to provide support services to such students who are first-year law students to improve retention and success in law school studies; and

“(5) to motivate and prepare such students with respect to law school studies and practice in low-income communities.

“(d) SERVICES PROVIDED.—In carrying out the purposes described in subsection (c), the contract or grant shall provide for the delivery of services through prelaw information resource centers, summer institutes, midyear seminars, and other educational activities, conducted under this section. Such services may include—

“(1) information and counseling regarding—

“(A) accredited law school academic programs, especially tuition, fees, and admission requirements;

“(B) course work offered and required for graduation;

“(C) faculty specialties and areas of legal emphasis;

and

“(D) undergraduate preparatory courses and curriculum selection;

“(2) tutoring and academic counseling, including assistance in preparing for bar examinations;

“(3) prelaw mentoring programs, involving law school faculty, members of State and local bar associations, and retired and sitting judges, justices, and magistrates;

“(4) assistance in identifying preparatory courses and material for the law school aptitude or admissions tests;

“(5) summer institutes for Thurgood Marshall Fellows that expose the Fellows to a rigorous curriculum that emphasizes abstract thinking, legal analysis, research, writing, and examination techniques; and

“(6) midyear seminars and other educational activities that are designed to reinforce reading, writing, and studying skills of Thurgood Marshall Fellows.

“(e) DURATION OF THE PROVISION OF SERVICES.—The services described in subsection (d) may be provided—

“(1) prior to the period of law school study;

“(2) during the period of law school study; and

“(3) during the period following law school study and prior to taking a bar examination.

“(f) SUBCONTRACTS AND SUBGRANTS.—For the purposes of planning, developing, or delivering one or more of the services described in subsection (d), the Council on Legal Education Opportunity shall enter into subcontracts with, and make subgrants to, institutions of higher education, law schools, public and private agencies and organizations, and combinations of such institutions, schools, agencies, and organizations.

“(g) STIPENDS.—The Secretary shall annually establish the maximum stipend to be paid (including allowances for participant travel and for the travel of the dependents of the participant) to Thurgood Marshall Fellows for the period of participation in summer institutes and midyear seminars. A Fellow may be eligible for such a stipend only if the Thurgood Marshall Fellow maintains satisfactory academic progress toward the Juris Doctor or Bachelor of Laws degree, as determined by the respective institutions.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

## “Subpart 4—General Provisions

“SEC. 731. ADMINISTRATIVE PROVISIONS FOR SUBPARTS 1, 2, AND 3. 20 USC 1137.

“(a) COORDINATED ADMINISTRATION.—In carrying out the purpose described in section 700(1), the Secretary shall provide for coordinated administration and regulation of graduate programs assisted under subparts 1, 2, and 3 with other Federal programs providing assistance for graduate education in order to minimize duplication and improve efficiency to ensure that the programs are carried out in a manner most compatible with academic practices and with the standard timetables for applications for, and notifications of acceptance to, graduate programs.

“(b) HIRING AUTHORITY.—For purposes of carrying out subparts 1, 2, and 3, the Secretary shall appoint, without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall

be needed to assist in the administration of such parts. The employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

“(c) USE FOR RELIGIOUS PURPOSES PROHIBITED.—No institutional payment or allowance under section 703(b) or 715(a) shall be paid to a school or department of divinity as a result of the award of a fellowship under subpart 1 or 2, respectively, to an individual who is studying for a religious vocation.

“(d) EVALUATION.—The Secretary shall evaluate the success of assistance provided to individuals under subpart 1, 2, or 3 with respect to graduating from their degree programs, and placement in faculty and professional positions.

“(e) CONTINUATION AWARDS.—The Secretary, using funds appropriated to carry out subparts 1 and 2, and before awarding any assistance under such parts to a recipient that did not receive assistance under part C or D of title IX (as such parts were in effect prior to the date of enactment of the Higher Education Amendments of 1998) shall continue to provide funding to recipients of assistance under such part C or D (as so in effect), as the case may be, pursuant to any multiyear award of such assistance.

## **“PART B—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION**

20 USC 1138.

### **“SEC. 741. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.**

“(a) AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, combinations of such institutions, and other public and private nonprofit institutions and agencies, to enable such institutions, combinations, and agencies to improve postsecondary education opportunities by—

“(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

“(2) the creation of institutions, programs, and joint efforts involving paths to career and professional training, and combinations of academic and experiential learning;

“(3) the establishment of institutions and programs based on the technology of communications;

“(4) the carrying out, in postsecondary educational institutions, of changes in internal structure and operations designed to clarify institutional priorities and purposes;

“(5) the design and introduction of cost-effective methods of instruction and operation;

“(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

“(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

“(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

“(b) **PLANNING GRANTS.**—The Secretary is authorized to make planning grants to institutions of higher education for the development and testing of innovative techniques in postsecondary education. Such grants shall not exceed \$20,000.

**“SEC. 742. BOARD OF THE FUND FOR THE IMPROVEMENT OF POST-SECONDARY EDUCATION.** 20 USC 1138a.

“(a) **ESTABLISHMENT.**—There is established a National Board of the Fund for the Improvement of Postsecondary Education (in this part referred to as the ‘Board’). The Board shall consist of 15 members appointed by the Secretary for overlapping 3-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for 6 consecutive years shall thereafter be ineligible for appointment to the Board during a 2-year period following the expiration of such sixth year.

“(b) **MEMBERSHIP.**—

“(1) **IN GENERAL.**—The Secretary shall designate one of the members of the Board as Chairperson of the Board. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

“(2) **APPOINTMENT OF DIRECTOR.**—The Secretary shall appoint the Director of the Fund for the Improvement of Postsecondary Education (hereafter in this part referred to as the ‘Director’).

“(c) **DUTIES.**—The Board shall—

“(1) advise the Secretary and the Director on priorities for the improvement of postsecondary education and make such recommendations as the Board may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

“(2) advise the Secretary and the Director on the operation of the Fund for the Improvement of Postsecondary Education, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

“(3) meet at the call of the Chairperson, except that the Board shall meet whenever one-third or more of the members request in writing that a meeting be held.

“(d) **INFORMATION AND ASSISTANCE.**—The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

**“SEC. 743. ADMINISTRATIVE PROVISIONS.**

20 USC 1138b.

“(a) **TECHNICAL EMPLOYEES.**—The Secretary may appoint, for terms not to exceed 3 years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 7 technical employees to administer this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

“(b) **PROCEDURES.**—The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this part. Procedures for reviewing grant applications or contracts for financial assistance under this section may not

be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

20 USC 1138c.

**“SEC. 744. SPECIAL PROJECTS.**

“(a) GRANT AUTHORITY.—The Director is authorized to make grants to institutions of higher education, or consortia thereof, and such other public agencies and nonprofit organizations as the Director deems necessary for innovative projects concerning one or more areas of particular national need identified by the Director.

“(b) APPLICATION.—No grant shall be made under this part unless an application is made at such time, in such manner, and contains or is accompanied by such information as the Secretary may require.

“(c) AREAS OF NATIONAL NEED.—Areas of national need shall initially include, but shall not be limited to, the following:

“(1) Institutional restructuring to improve learning and promote productivity, efficiency, quality improvement, and cost and price control.

“(2) Articulation between 2- and 4-year institutions of higher education, including developing innovative methods for ensuring the successful transfer of students from 2- to 4-year institutions of higher education.

“(3) Evaluation and dissemination of model programs.

“(4) International cooperation and student exchange among postsecondary educational institutions.

20 USC 1138d.

**“SEC. 745. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to carry out this part \$30,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

**“PART C—URBAN COMMUNITY SERVICE**

20 USC 1139.

**“SEC. 751. FINDINGS.**

“The Congress finds that—

“(1) the Nation’s urban centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

“(2) there are, in the Nation’s urban institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services toward the amelioration of the problems described in paragraph (1);

“(3) the skills, knowledge and experience in these urban institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

“(4) the application of such skills, knowledge and experience is hindered by the limited funds available to redirect attention to solutions to such urban problems.

20 USC 1139a.

**“SEC. 752. PURPOSE; PROGRAM AUTHORIZED.**

“(a) PURPOSE.—It is the purpose of this part to provide incentives to urban academic institutions to enable such institutions

to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

“(b) PROGRAM AUTHORIZED.—The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the activities described in section 754 in accordance with the provisions of this part.

**“SEC. 753. APPLICATION FOR URBAN COMMUNITY SERVICE GRANTS.** 20 USC 1139b.

“(a) APPLICATION.—

“(1) IN GENERAL.—An eligible institution seeking assistance under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may require by regulation.

“(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

“(A) describe the activities and services for which assistance is sought; and

“(B) include a plan that is agreed to by the members of a consortium that includes, in addition to the eligible institution, one or more of the following entities:

“(i) A community college.

“(ii) An urban school system.

“(iii) A local government.

“(iv) A business or other employer.

“(v) A nonprofit institution.

“(3) WAIVER.—The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

“(b) PRIORITY IN SELECTION OF APPLICATIONS.—The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs. In addition, the Secretary shall give priority to eligible institutions submitting applications that demonstrate the eligible institution’s commitment to urban community service.

“(c) SELECTION PROCEDURES.—The Secretary shall, by regulation, develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

Regulations.  
Federal Register,  
publication.

**“SEC. 754. ALLOWABLE ACTIVITIES.**

20 USC 1139c.

“Funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist urban communities to meet and address their pressing and severe problems, such as the following:

“(1) Work force preparation.

“(2) Urban poverty and the alleviation of such poverty.

“(3) Health care, including delivery and access.

“(4) Underperforming school systems and students.

“(5) Problems faced by the elderly and individuals with disabilities in urban settings.

“(6) Problems faced by families and children.

“(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

“(8) Urban housing.

“(9) Urban infrastructure.

“(10) Economic development.

“(11) Urban environmental concerns.

“(12) Other problem areas which participants in the consortium described in section 753(a)(2)(B) concur are of high priority in the urban area.

“(13)(A) Problems faced by individuals with disabilities regarding accessibility to institutions of higher education and other public and private community facilities.

“(B) Amelioration of existing attitudinal barriers that prevent full inclusion by individuals with disabilities in their community.

“(14) Improving access to technology in local communities.

20 USC 1139d.

**“SEC. 755. PEER REVIEW.**

“The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, and State and local government, who have expertise in urban community service or in education.

20 USC 1139e.

**“SEC. 756. DISBURSEMENT OF FUNDS.**

“(a) MULTIYEAR AVAILABILITY.—Subject to the availability of appropriations, grants under this part may be made on a multiyear basis, except that no institution, individually or as a participant in a consortium of such institutions, may receive such a grant for more than 5 years.

“(b) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this part in a manner that achieves an equitable geographic distribution of such grants.

“(c) MATCHING REQUIREMENT.—An applicant under this part and the local governments associated with the application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount of the grant, which contribution may be in cash or in kind.

20 USC 1139f.

**“SEC. 757. DESIGNATION OF URBAN GRANT INSTITUTIONS.**

Publication.  
Records.  
Establishment.

“The Secretary shall publish a list of eligible institutions under this part and shall designate these institutions of higher education as ‘Urban Grant Institutions’. The Secretary shall establish a national network of Urban Grant Institutions so that the results of individual projects achieved in one metropolitan area can then be generalized, disseminated, replicated, and applied throughout the Nation. The information developed as a result of this section shall be made available to Urban Grant Institutions and to any other interested institution of higher education by any appropriate means.



**“SEC. 758. DEFINITIONS.**

20 USC 1139g.

“As used in this part:

“(1) URBAN AREA.—The term ‘urban area’ means a metropolitan statistical area having a population of not less than 350,000, or two contiguous metropolitan statistical areas having a population of not less than 350,000, or, in any State which does not have a metropolitan statistical area which has such a population, the eligible entity in the State submitting an application under section 753, or, if no such entity submits an application, the Secretary, shall designate one urban area for the purposes of this part.

“(2) ELIGIBLE INSTITUTION.—The term ‘eligible institution’ means—

“(A) a nonprofit municipal university, established by the governing body of the city in which it is located, and operating as of the date of enactment of the Higher Education Amendments of 1992 under that authority; or

“(B) an institution of higher education, or a consortium of such institutions any one of which meets all of the requirements of this paragraph, which—

“(i) is located in an urban area;

“(ii) draws a substantial portion of its undergraduate students from the urban area in which such institution is located, or from contiguous areas;

“(iii) carries out programs to make postsecondary educational opportunities more accessible to residents of such urban area, or contiguous areas;

“(iv) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas;

“(v) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

“(vi) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and the people of such areas.

**“SEC. 759. AUTHORIZATION OF APPROPRIATIONS.**

20 USC 1139h.

“There are authorized to be appropriated \$20,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

**“PART D—DEMONSTRATION PROJECTS TO ENSURE STUDENTS WITH DISABILITIES RECEIVE A QUALITY HIGHER EDUCATION****“SEC. 761. PURPOSES.**

20 USC 1140.

“It is the purpose of this part to support model demonstration projects to provide technical assistance or professional development for faculty and administrators in institutions of higher education in order to provide students with disabilities a quality postsecondary education.

**“SEC. 762. GRANTS AUTHORIZED.**

20 USC 1140a.

“(a) COMPETITIVE GRANTS AUTHORIZED.—The Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to institutions of higher education, of which at least

two such grants shall be awarded to institutions that provide professional development and technical assistance in order for students with learning disabilities to receive a quality postsecondary education.

“(b) DURATION; ACTIVITIES.—

“(1) DURATION.—Grants under this part shall be awarded for a period of 3 years.

“(2) AUTHORIZED ACTIVITIES.—Grants under this part shall be used to carry out one or more of the following activities:

“(A) TEACHING METHODS AND STRATEGIES.—The development of innovative, effective, and efficient teaching methods and strategies to provide faculty and administrators with the skills and supports necessary to teach students with disabilities. Such methods and strategies may include inservice training, professional development, customized and general technical assistance, workshops, summer institutes, distance learning, and training in the use of assistive and educational technology.

“(B) SYNTHESIZING RESEARCH AND INFORMATION.—Synthesizing research and other information related to the provision of postsecondary educational services to students with disabilities.

“(C) PROFESSIONAL DEVELOPMENT AND TRAINING SESSIONS.—Conducting professional development and training sessions for faculty and administrators from other institutions of higher education to enable the faculty and administrators to meet the postsecondary educational needs of students with disabilities.

“(3) MANDATORY EVALUATION AND DISSEMINATION.—Grants under this part shall be used for evaluation, and dissemination to other institutions of higher education, of the information obtained through the activities described in subparagraphs (A) through (C).

“(c) CONSIDERATIONS IN MAKING AWARDS.—In awarding grants, contracts, or cooperative agreements under this section, the Secretary shall consider the following:

“(1) GEOGRAPHIC DISTRIBUTION.—Providing an equitable geographic distribution of such grants.

“(2) RURAL AND URBAN AREAS.—Distributing such grants to urban and rural areas.

“(3) RANGE AND TYPE OF INSTITUTION.—Ensuring that the activities to be assisted are developed for a range of types and sizes of institutions of higher education.

“(4) PRIOR EXPERIENCE OR EXCEPTIONAL PROGRAMS.—Institutions of higher education with demonstrated prior experience in, or exceptional programs for, meeting the postsecondary educational needs of students with disabilities.

20 USC 1140b.

**“SEC. 763. APPLICATIONS.**

“Each institution of higher education desiring to receive a grant, contract, or cooperative agreement under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall include—

“(1) a description of how such institution plans to address each of the activities required under this part;

“(2) a description of how the institution consulted with a broad range of people within the institution to develop activities for which assistance is sought; and

“(3) a description of how the institution will coordinate and collaborate with the office that provides services to students with disabilities within the institution.

**“SEC. 764. RULE OF CONSTRUCTION.**

20 USC 1140c.

“Nothing in this part shall be construed to impose any additional duty, obligation, or responsibility on an institution of higher education or on the institution’s faculty, administrators, or staff than are required by section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

**“SEC. 765. AUTHORIZATION OF APPROPRIATIONS.**

20 USC 1140d.

“There are authorized to be appropriated for this part \$10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

**SEC. 702. REPEALS.**

Except as otherwise provided in section 301(a), titles VIII (20 U.S.C. 1133 et seq.), IX (20 U.S.C. 1134 et seq.), X (20 U.S.C. 1135 et seq.), XI (20 U.S.C. 1136), and XII (20 U.S.C. 1141) are repealed.

## **TITLE VIII—STUDIES, REPORTS, AND RELATED PROGRAMS**

### **PART A—STUDIES**

**SEC. 801. STUDY OF MARKET MECHANISMS IN FEDERAL STUDENT  
LOAN PROGRAMS.**

20 USC 1018  
note.

(a) **STUDY REQUIRED.**—The Comptroller General and the Secretary of Education shall convene a study group including the Secretary of the Treasury, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, representatives of entities making loans under part B of title IV of the Higher Education Act of 1965, representatives of other entities in the financial services community, representatives of other participants in the student loan programs, and such other individuals as the Comptroller General and the Secretary may designate. The Comptroller General and Secretary, in consultation with the study group, shall design and conduct a study to identify and evaluate means of establishing a market mechanism for the delivery of loans made pursuant to such title IV.

(b) **DESIGN OF STUDY.**—The study required under this section shall identify not fewer than 3 different market mechanisms for use in determining lender return on student loans while continuing to meet the other objectives of the programs under parts B and D of such title IV, including the provision of loans to all eligible students. Consideration may be given to the use of auctions and to the feasibility of incorporating income-contingent repayment options into the student loan system and requiring borrowers to repay through income tax withholding.

(c) **EVALUATION OF MARKET MECHANISMS.**—The mechanisms identified under subsection (b) shall be evaluated in terms of the following areas:

(1) The cost or savings of loans to or for borrowers, including parent borrowers.

(2) The cost or savings of the mechanism to the Federal Government.

(3) The cost, effect, and distribution of Federal subsidies to or for participants in the program.

(4) The ability of the mechanism to accommodate the potential distribution of subsidies to students through an income-contingent repayment option.

(5) The effect on the simplicity of the program, including the effect of the plan on the regulatory burden on students, institutions, lenders, and other program participants.

(6) The effect on investment in human capital and resources, loan servicing capability, and the quality of service to the borrower.

(7) The effect on the diversity of lenders, including community-based lenders, originating and secondary market lenders.

(8) The effect on program integrity.

(9) The degree to which the mechanism will provide market incentives to encourage continuous improvement in the delivery and servicing of loans.

(10) The availability of loans to students by region, income level, and by categories of institutions.

(11) The proposed Federal and State role in the operation of the mechanism.

(12) A description of how the mechanism will be administered and operated.

(13) Transition procedures, including the effect on loan availability during a transition period.

(14) Any other areas the study group may include.

Deadlines.  
Public  
information.

(d) PRELIMINARY FINDINGS AND PUBLICATION OF STUDY.—Not later than November 15, 2000, the study group shall make the group's preliminary findings, including any additional or dissenting views, available to the public with a 60-day request for public comment. The study group shall review these comments and the Comptroller General and the Secretary shall transmit a final report, including any additional or dissenting views, to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committees on the Budget of the House of Representatives and the Senate not later than May 15, 2001.

#### **SEC. 802. STUDY OF THE FEASIBILITY OF ALTERNATIVE FINANCIAL INSTRUMENTS FOR DETERMINING LENDER YIELDS.**

(a) STUDY REQUIRED.—The Comptroller General and the Secretary of Education shall convene a study group including the Secretary of the Treasury, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, representatives of entities making loans under part B of title IV of the Higher Education Act of 1965, representatives of other entities in the financial services community, representatives of other participants in the student loan programs, and such other individuals as the Comptroller General and the Secretary of Education may designate. The Comptroller General and the Secretary of Education, in consultation with the study group, shall evaluate the 91-day Treasury bill, 30-day and 90-day commercial paper, and

the 90-day London Interbank Offered Rate (in this section referred to as “LIBOR”) in terms of the following:

(1) The historical liquidity of the market for each, and a historical comparison of the spread between: (A) the 30-day and 90-day commercial paper rate, respectively, and the 91-day Treasury bill rate; and (B) the spread between the LIBOR and the 91-day Treasury bill rate.

(2) The historical volatility of the rates and projections of future volatility.

(3) Recent changes in the liquidity of the market for each such instrument in a balanced Federal budget environment and a low-interest rate environment, and projections of future liquidity assuming the Federal budget remains in balance.

(4) The cost or savings to lenders with small, medium, and large student loan portfolios of basing lender yield on either the 30-day or 90-day commercial paper rate or the LIBOR while continuing to base the borrower rate on the 91-day Treasury bill, and the effect of such change on the diversity of lenders participating in the program.

(5) The cost or savings to the Federal Government of basing lender yield on either the 30-day or 90-day commercial paper rate or the LIBOR while continuing to base the borrower rate on the 91-day Treasury bill.

(6) Any possible risks or benefits to the student loan programs under the Higher Education Act of 1965 and to student borrowers.

(7) Any other areas the Comptroller General and the Secretary of Education agree to include.

(b) **REPORT REQUIRED.**—Not later than 6 months after the date of enactment of this Act, the Comptroller General and the Secretary shall submit a final report regarding the findings of the study group to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Deadline.

#### **SEC. 803. STUDENT-RELATED DEBT STUDY REQUIRED.**

20 USC 1015  
note.

(a) **IN GENERAL.**—The Secretary of Education shall conduct a study that analyzes the distribution and increase in student-related debt in terms of—

(1) demographic characteristics, such as race or ethnicity, and family income;

(2) type of institution and whether the institution is a public or private institution;

(3) loan source, such as Federal, State, institutional or other, and, if the loan source is Federal, whether the loan is or is not subsidized;

(4) academic field of study;

(5) parent loans, and whether the parent loans are federally guaranteed, private, or property-secured such as home equity loans; and

(6) relation of student debt or anticipated debt to—

(A) students’ decisions about whether and where to enroll in college and whether or how much to borrow in order to attend college;

(B) the length of time it takes students to earn baccalaureate degrees;

(C) students' decisions about whether and where to attend graduate school;

(D) graduates' employment decisions;

(E) graduates' burden of repayment as reflected by the graduates' ability to save for retirement or invest in a home; and

(F) students' future earnings.

Deadline.

(b) **REPORT.**—After conclusion of the study required by subsection (a), the Secretary of Education shall submit a final report regarding the findings of the study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 18 months after the date of enactment of the Higher Education Amendments of 1998.

(c) **INFORMATION.**—After the study and report under this section are concluded, the Secretary of Education shall determine which information described in subsection (a) would be useful for families to know and shall include such information as part of the comparative information provided to families about the costs of higher education under the provisions of part C of title I.

20 USC 1099b  
note.

**SEC. 804. STUDY OF TRANSFER OF CREDITS.**

(a) **STUDY REQUIRED.**—The Secretary of Education shall conduct a study to evaluate policies or practices instituted by recognized accrediting agencies or associations regarding the treatment of the transfer of credits from one institution of higher education to another, giving particular attention to—

(1) adopted policies regarding the transfer of credits between institutions of higher education which are accredited by different agencies or associations and the reasons for such policies;

(2) adopted policies regarding the transfer of credits between institutions of higher education which are accredited by national agencies or associations and institutions of higher education which are accredited by regional agencies and associations and the reasons for such policies;

(3) the effect of the adoption of such policies on students transferring between such institutions of higher education, including time required to matriculate, increases to the student of tuition and fees paid, and increases to the student with regard to student loan burden;

(4) the extent to which Federal financial aid is awarded to such students for the duplication of coursework already completed at another institution; and

(5) the aggregate cost to the Federal Government of the adoption of such policies.

Deadline.

(b) **REPORT.**—Not later than one year after the date of enactment of this Act, the Secretary of Education shall submit a report to the Chairman and Ranking Minority Member of the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate detailing the Secretary's findings regarding the study conducted under subsection (a). The Secretary's report shall include such recommendation with respect to the recognition of accrediting agencies or associations as the Secretary deems advisable.

**SEC. 805. STUDY OF OPPORTUNITIES FOR PARTICIPATION IN ATHLETICS PROGRAMS.**20 USC 1001  
note.

(a) STUDY.—The Comptroller General shall conduct a study of the opportunities for participation in intercollegiate athletics. The study shall address issues including—

(1) the extent to which the number of—

(A) secondary school athletic teams has increased or decreased in the 20 years preceding 1998 (in aggregate terms); and

(B) intercollegiate athletic teams has increased or decreased in the 20 years preceding 1998 (in aggregate terms) at 2-year and 4-year institutions of higher education;

(2) the extent to which participation by student-athletes in secondary school and intercollegiate athletics has increased or decreased in the 20 years preceding 1998 (in aggregate terms);

(3) over the 20-year period preceding 1998, a list of the men's and women's secondary school and intercollegiate sports, ranked in order of the sports most affected by increases or decreases in levels of participation and numbers of teams (in the aggregate);

(4) all factors that have influenced campus officials to add or discontinue sports teams at secondary schools and institutions of higher education, including—

(A) institutional mission and priorities;

(B) budgetary pressures;

(C) institutional reforms and restructuring;

(D) escalating liability insurance premiums;

(E) changing student and community interest in a sport;

(F) advancement of diversity among students;

(G) lack of necessary level of competitiveness of the sports program;

(H) club level sport achieving a level of competitiveness to make the sport a viable varsity level sport;

(I) injuries or deaths; and

(J) conference realignment;

(5) the actions that institutions of higher education have taken when decreasing the level of participation in intercollegiate sports, or the number of teams, in terms of providing information, advice, scholarship maintenance, counseling, advance warning, and an opportunity for student-athletes to be involved in the decisionmaking process;

(6) the administrative processes and procedures used by institutions of higher education when determining whether to increase or decrease intercollegiate athletic teams or participation by student-athletes;

(7) the budgetary or fiscal impact, if any, of a decision by an institution of higher education—

(A) to increase or decrease the number of intercollegiate athletic teams or the participation of student-athletes; or

(B) to be involved in a conference realignment; and

(8) the alternatives, if any, institutions of higher education have pursued in lieu of eliminating, or severely reducing the funding for, an intercollegiate sport, and the success of such alternatives.

(b) **REPORT.**—The Comptroller General shall submit a report regarding the results of the study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.

**SEC. 806. STUDY OF THE EFFECTIVENESS OF COHORT DEFAULT RATES FOR INSTITUTIONS WITH FEW STUDENT LOAN BORROWERS.**

(a) **STUDY REQUIRED.**—The Secretary of Education shall conduct a study of the effectiveness of cohort default rates as an indicator of administrative capability and program quality for institutions of higher education at which less than 15 percent of students eligible to borrow participate in the Federal student loan programs under title IV of the Higher Education Act of 1965 and fewer than 30 borrowers enter repayment in any fiscal year. At a minimum, the study shall include—

(1) identification of the institutions included in the study and of the student populations the institutions serve;

(2) analysis of cohort default rates as indicators of administrative shortcomings and program quality at the institutions;

(3) analysis of the effectiveness of cohort default rates as a means to prevent fraud and abuse in the programs assisted under such title;

(4) analysis of the extent to which the institutions with high cohort default rates are no longer participants in the Federal student loan programs under such title; and

(5) analysis of the costs incurred by the Department of Education for the calculation, publication, correction, and appeal of cohort default rates for the institutions in relation to any benefits to taxpayers.

(b) **CONSULTATION.**—In conducting the study described in subsection (a), the Secretary of Education shall consult with institutions of higher education.

Deadline.

(c) **REPORT TO CONGRESS.**—The Secretary of Education shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 1999, regarding the results of the study described in subsection (a).

**PART B—ADVANCED PLACEMENT INCENTIVE PROGRAM**

20 USC 1070a–  
11 note.

**SEC. 810. ADVANCED PLACEMENT INCENTIVE PROGRAM.**

(a) **PROGRAM ESTABLISHED.**—The Secretary of Education is authorized to make grants to States having applications approved under subsection (c) to enable the States to reimburse low-income individuals to cover part or all of the cost of advanced placement test fees, if the low-income individuals—

(1) are enrolled in an advanced placement class; and

(2) plan to take an advanced placement test.

(b) **INFORMATION DISSEMINATION.**—The State educational agency shall disseminate information regarding the availability of test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

(c) **REQUIREMENTS FOR APPROVAL OF APPLICATIONS.**—In approving applications for grants the Secretary of Education shall—



(1) require that each such application contain a description of the advanced placement test fees the State will pay on behalf of individual students;

(2) require an assurance that any funds received under this section, other than funds used in accordance with subsection (d), shall be used only to pay advanced placement test fees;

(3) contain such information as the Secretary may require to demonstrate that the State will ensure that a student is eligible for payments under this section, including the documentation required by chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a-11 et seq.); and

(4) consider the number of children eligible to be counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 in the State in relation to the number of such children in all the States in determining grant award amounts.

(d) FUNDING RULES.—

(1) USE OF FUNDS.—A State educational agency in a State in which no eligible low-income individual is required to pay more than a nominal fee to take advanced placement tests in core subjects may use any grant funds provided to that State educational agency, that remain after fees have been paid on behalf of all eligible low-income individuals, for activities directly related to increasing—

(A) the enrollment of low-income individuals in advanced placement courses;

(B) the participation of low-income individuals in advanced placement tests; and

(C) the availability of advanced placement courses in schools serving high poverty areas.

(2) SUPPLEMENT, NOT SUPPLANT, RULE.—Funds provided under this section shall supplement and not supplant other non-Federal funds that are available to assist low-income individuals in paying advanced placement test fees.

(e) REGULATIONS.—The Secretary of Education shall prescribe such regulations as are necessary to carry out this section.

(f) REPORT.—Each State annually shall report to the Secretary of Education regarding—

(1) the number of low-income individuals in the State who receive assistance under this section; and

(2) the activities described in subsection (d)(1), if applicable.

(g) DEFINITION.—In this section:

(1) ADVANCED PLACEMENT TEST.—The term “advanced placement test” includes only an advanced placement test approved by the Secretary of Education for the purposes of this section.

(2) LOW-INCOME INDIVIDUAL.—The term “low-income individual” has the meaning given the term in section 402A(g)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a-11(g)(2)).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$6,800,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

Community  
Scholarship  
Mobilization Act.

## PART C—COMMUNITY SCHOLARSHIP MOBILIZATION

20 USC 1070  
note.

### SEC. 811. SHORT TITLE.

This part may be cited as the “Community Scholarship Mobilization Act”.

20 USC 1070  
note.

### SEC. 812. FINDINGS.

Congress finds that—

(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

(2) local communities, working to complement or augment services currently offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally-based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized, financial assistance;

(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of regional, State, or community program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

20 USC 1070  
note.

### SEC. 813. DEFINITIONS.

In this part:

(1) REGIONAL, STATE, OR COMMUNITY PROGRAM CENTER.—The term “regional, State, or community program center” means an organization that—

(A) is a division or member of, responsible to, and overseen by, a national organization; and

(B) is staffed by professionals trained to create, develop, and sustain local entities in towns, cities, and neighborhoods.

(2) LOCAL ENTITY.—The term “local entity” means an organization that—

(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization);

(B) is formed for the purpose of providing educational scholarships and academic support for residents of the local community served by such organization;

(C) solicits broad-based community support in its academic support and fund-raising activities;

(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors that includes leaders from local neighborhood organizations and neighborhood residents,

such as school or college personnel, parents, students, community agency representatives, retirees, and representatives of the business community;

(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin, or disability; and

(F) gives priority to awarding scholarships for postsecondary education to deserving students from low-income families in the local community.

(3) NATIONAL ORGANIZATION.—The term “national organization” means an organization that—

(A) has the capacity to create, develop and sustain local entities and affiliated regional, State, or community program centers;

(B) has the capacity to sustain newly created local entities in towns, cities, and neighborhoods through ongoing training support programs;

(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code;

(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(iv) of such Code;

(E) ensures that each of the organization’s local entities meet the criteria described in subparagraphs (C) and (D); and

(F) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out the organization’s scholarship and academic support activities.

(4) HIGH POVERTY AREA.—The term “high poverty area” means a community with a higher percentage of children from low-income families than the national average of such percentage and a lower percentage of children pursuing postsecondary education than the national average of such percentage.

(5) SECRETARY.—The term “Secretary” means the Secretary of Education.

(6) STUDENTS FROM LOW-INCOME FAMILIES.—The term “students from low-income families” means students determined, pursuant to part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.), to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act (20 U.S.C. 1070a).

#### SEC. 814. PURPOSE; ENDOWMENT GRANT AUTHORITY.

(a) PURPOSE.—It is the purpose of this part to establish and support regional, State or community program centers to enable such centers to foster the development of local entities in high poverty areas that promote higher education goals for students from low-income families by—

(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

(2) providing scholarship assistance for the cost of postsecondary education.

(b) ENDOWMENT GRANT AUTHORITY.—From the funds appropriated pursuant to the authority of section 816, the Secretary shall award an endowment grant, on a competitive basis, to a national organization to enable such organization to support the

20 USC 1070  
note.

establishment or ongoing work of regional, State or community program centers that foster the development of local entities in high poverty areas to improve secondary school graduation rates and postsecondary attendance through the provision of academic support services and scholarship assistance for the cost of postsecondary education.

20 USC 1070  
note.

**SEC. 815. GRANT AGREEMENT AND REQUIREMENTS.**

(a) **IN GENERAL.**—The Secretary shall award one or more endowment grants described in section 814(b) pursuant to an agreement between the Secretary and a national organization. Such agreement shall—

(1) require a national organization to establish an endowment fund in the amount of the grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

(2) require a national organization to use 70 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of regional, State or community program centers to enable such centers to work with local communities to establish local entities in high poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local entities;

(3) require a national organization to use 30 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for postsecondary education to students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by the local entities;

(4) require that at least 50 percent of all the interest income from the endowment be allocated to establish new local entities or support regional, State or community program centers in high poverty areas;

(5) require a national organization to submit, for each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains—

(A) a description of the programs and activities supported by the interest on the endowment fund;

(B) the audited financial statement of the national organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported by the interest on the endowment fund as the Secretary may require;

(D) an evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

(E) data indicating the number of students from low-income families who receive scholarships from local entities, and the amounts of such scholarships;

(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund; and

(7) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this part, then the national organization shall

pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that is available to the national organization on the date of such determination.

(b) RETURNED FUNDS.—All funds returned to the Secretary pursuant to subsection (a)(7) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

**SEC. 816. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this part \$10,000,000 for fiscal year 2000.

20 USC 1070  
note.

**PART D—GRANTS TO STATES FOR WORK-  
PLACE AND COMMUNITY TRANSITION  
TRAINING FOR INCARCERATED YOUTH OF-  
FENDERS**

**SEC. 821. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY  
TRANSITION TRAINING FOR INCARCERATED YOUTH  
OFFENDERS.**

20 USC 1151.

(a) FINDINGS.—Congress makes the following findings:

(1) Over 150,000 youth offenders age 21 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

(4) The average incarcerated youth has attended school only through grade 10.

(5) Most of these youths can be diverted from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

(10) There is a need for alternative educational opportunities during incarceration and after release.

(b) DEFINITION.—For purposes of this part, the term “youth offender” means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

(c) GRANT PROGRAM.—The Secretary of Education (in this section referred to as the “Secretary”) shall establish a program in accordance with this section to provide grants to the State correctional education agencies in the States, from allocations for the

States under subsection (i), to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continue through prerelease and while on parole.

(d) APPLICATION.—To be eligible for a grant under this section, a State correctional education agency shall submit to the Secretary a proposal for a youth offender program that—

(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

(4) describes the evaluation methods and performance measures that the State correctional education agency will employ, which methods and measures—

(A) shall be appropriate to meet the goals and objectives of the proposal; and

(B) shall include measures of—

(i) program completion;

(ii) student academic and vocational skill attainment;

(iii) success in job placement and retention; and

(iv) recidivism;

(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

(7) describes how students will be selected so that only youth offenders eligible under subsection (f) will be enrolled in postsecondary programs.

(e) PROGRAM REQUIREMENTS.—Each State correctional education agency receiving a grant under this section shall—

(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

(A) work experience or apprenticeship programs;

(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

(C) placement services in occupations that the students are preparing to enter;

(D) employment-based learning programs; and

(E) programs that address State and local labor shortages;

(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the

Reports.

methods and performance measures contained in the proposal; and

(3) provide to each State for each student eligible under subsection (f) not more than \$1,500 annually for tuition, books, and essential materials, and not more than \$300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

(f) STUDENT ELIGIBILITY.—A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

(1) is eligible to be released within 5 years (including a youth offender who is eligible for parole within such time); and

(2) is 25 years of age or younger.

(g) LENGTH OF PARTICIPATION.—A State correctional education agency receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a secondary school diploma or its recognized equivalent. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

(h) EDUCATION DELIVERY SYSTEMS.—State correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this section.

(i) ALLOCATION OF FUNDS.—From the funds appropriated pursuant to subsection (j) for each fiscal year, the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (f) in such State bears to the total number of such students in all States.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$17,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

## **PART E—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN ON CAMPUSES**

### **SEC. 826. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN ON CAMPUSES.**

20 USC 1152.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Attorney General is authorized to make grants to institutions of higher education, for use by such institutions or consortia consisting of campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution, to develop and strengthen effective security and investigation strategies to combat violent crimes against women on campuses, and to develop and strengthen victim services in cases involving violent crimes against women on campuses, which may include partnerships with local criminal justice authorities and community-based victim services agencies.

## Contracts.

(2) AWARD BASIS.—The Attorney General shall award grants and contracts under this section on a competitive basis.

(3) EQUITABLE PARTICIPATION.—The Attorney General shall make every effort to ensure—

(A) the equitable participation of private and public institutions of higher education in the activities assisted under this section; and

(B) the equitable geographic distribution of grants under this section among the various regions of the United States.

(b) USE OF GRANT FUNDS.—Grant funds awarded under this section may be used for the following purposes:

(1) To provide personnel, training, technical assistance, data collection, and other equipment with respect to the increased apprehension, investigation, and adjudication of persons committing violent crimes against women on campus.

(2) To train campus administrators, campus security personnel, and personnel serving on campus disciplinary or judicial boards to more effectively identify and respond to violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(3) To implement and operate education programs for the prevention of violent crimes against women.

(4) To develop, enlarge, or strengthen support services programs, including medical or psychological counseling, for victims of sexual offense crimes.

(5) To create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action.

(6) To develop and implement more effective campus policies, protocols, orders, and services specifically devoted to prevent, identify, and respond to violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(7) To develop, install, or expand data collection and communication systems, including computerized systems, linking campus security to the local law enforcement for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions with respect to violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(8) To develop, enlarge, or strengthen victim services programs for the campus and to improve delivery of victim services on campus.

(9) To provide capital improvements (including improved lighting and communications facilities but not including the construction of buildings) on campuses to address violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(10) To support improved coordination among campus administrators, campus security personnel, and local law enforcement to reduce violent crimes against women on campus.

(c) APPLICATIONS.—

(1) IN GENERAL.—In order to be eligible to be awarded a grant under this section for any fiscal year, an institution of higher education shall submit an application to the Attorney



General at such time and in such manner as the Attorney General shall prescribe.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) describe the need for grant funds and the plan for implementation for any of the purposes described in subsection (b);

(B) describe how the campus authorities shall consult and coordinate with nonprofit and other victim services programs, including sexual assault and domestic violence victim services programs;

(C) describe the characteristics of the population being served, including type of campus, demographics of the population, and number of students;

(D) provide measurable goals and expected results from the use of the grant funds;

(E) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds, be made available by the institution for the purposes described in subsection (b); and

(F) include such other information and assurances as the Attorney General reasonably determines to be necessary.

(3) COMPLIANCE WITH CAMPUS CRIME REPORTING REQUIRED.—No institution of higher education shall be eligible for a grant under this section unless such institution is in compliance with the requirements of section 485(f) of the Higher Education Act of 1965.

(d) GENERAL TERMS AND CONDITIONS.—

(1) NONMONETARY ASSISTANCE.—In addition to the assistance provided under this section, the Attorney General may request any Federal agency to use the agency's authorities and the resources granted to the agency under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of campus security, and investigation and victim service efforts.

(2) GRANTEE REPORTING.—

(A) ANNUAL REPORT.—Each institution of higher education receiving a grant under this section shall submit an annual performance report to the Attorney General. The Attorney General shall suspend funding under this section for an institution of higher education if the institution fails to submit an annual performance report.

(B) FINAL REPORT.—Upon completion of the grant period under this section, the institution shall file a performance report with the Attorney General and the Secretary of Education explaining the activities carried out under this section together with an assessment of the effectiveness of those activities in achieving the purposes described in subsection (b).

(3) REPORT TO CONGRESS.—Not later than 180 days after the end of the fiscal year for which grants are awarded under this section, the Attorney General shall submit to the committees of the House of Representatives and the Senate responsible Deadline.

for issues relating to higher education and crime, a report that includes—

(A) the number of grants, and the amount of funds, distributed under this section;

(B) a summary of the purposes for which the grants were provided and an evaluation of the progress made under the grant;

(C) a statistical summary of the persons served, detailing the nature of victimization, and providing data on age, sex, race, ethnicity, language, disability, relationship to offender, geographic distribution, and type of campus; and

(D) an evaluation of the effectiveness of programs funded under this part, including information obtained from reports submitted pursuant to section 485(f) of the Higher Education Act of 1965.

Deadlines.  
Publications.

(4) REGULATIONS OR GUIDELINES.—Not later than 120 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of Education, shall publish proposed regulations or guidelines implementing this section. Not later than 180 days after the date of enactment of this section, the Attorney General shall publish final regulations or guidelines implementing this section.

(f) DEFINITIONS.—In this section—

(1) the term “domestic violence” includes acts or threats of violence, not including acts of self defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against a victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction;

(2) the term “sexual assault” means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison, including both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim; and

(3) the term “victim services” means a nonprofit, non-governmental organization that assists domestic violence or sexual assault victims, including campus women’s centers, rape crisis centers, battered women’s shelters, and other sexual assault or domestic violence programs, including campus counseling support and victim advocate organizations with domestic violence, stalking, and sexual assault programs, whether or not organized and staffed by students.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated \$10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

**SEC. 827. STUDY OF INSTITUTIONAL PROCEDURES TO REPORT SEXUAL ASSAULTS.** 20 USC 1152 note.

(a) **IN GENERAL.**—The Attorney General, in consultation with the Secretary of Education, shall provide for a national study to examine procedures undertaken after an institution of higher education receives a report of sexual assault.

(b) **REPORT.**—The study required by subsection (a) shall include an analysis of—

(1) the existence and publication of the institution of higher education's and State's definition of sexual assault;

(2) the existence and publication of the institution's policy for campus sexual assaults;

(3) the individuals to whom reports of sexual assault are given most often and—

(A) how the individuals are trained to respond to the reports; and

(B) the extent to which the individuals are trained;

(4) the reporting options that are articulated to the victim or victims of the sexual assault regarding—

(A) on-campus reporting and procedure options; and

(B) off-campus reporting and procedure options;

(5) the resources available for victims' safety, support, medical health, and confidentiality, including—

(A) how well the resources are articulated both specifically to the victim of sexual assault and generally to the campus at large; and

(B) the security of the resources in terms of confidentiality or reputation;

(6) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local crime authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(7) policies and practices found successful in aiding the report and any ensuing investigation or prosecution of a campus sexual assault;

(8) the on-campus procedures for investigation and disciplining the perpetrator of a sexual assault, including—

(A) the format for collecting evidence; and

(B) the format of the investigation and disciplinary proceeding, including the faculty responsible for running the disciplinary procedure and the persons allowed to attend the disciplinary procedure; and

(9) types of punishment for offenders, including—

(A) whether the case is directed outside the institution for further punishment; and

(B) how the institution punishes perpetrators.

(c) **SUBMISSION OF REPORT.**—The report required by subsection (b) shall be submitted to Congress not later than September 1, 2000.

(d) **DEFINITION.**—For purposes of this section, the term “campus sexual assaults” means sexual assaults occurring at institutions of higher education and sexual assaults committed against or by students or employees of such institutions.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$1,000,000 for fiscal year 2000.

## **PART F—IMPROVING UNITED STATES UNDERSTANDING OF SCIENCE, ENGINEERING, AND TECHNOLOGY IN EAST ASIA**

42 USC 1862  
note.

### **SEC. 831. IMPROVING UNITED STATES UNDERSTANDING OF SCIENCE, ENGINEERING, AND TECHNOLOGY IN EAST ASIA.**

(a) **ESTABLISHMENT.**—The Director of the National Science Foundation is authorized, beginning in fiscal year 2000, to carry out an interdisciplinary program of education and research on East Asian science, engineering, and technology. The Director shall carry out the interdisciplinary program in consultation with the Secretary of Education.

(b) **PURPOSES.**—The purposes of the program established under this section shall be to—

(1) increase understanding of East Asian research, and innovation for the creative application of science and technology to the problems of society;

(2) provide scientists, engineers, technology managers, and students with training in East Asian languages, and with an understanding of research, technology, and management of innovation, in East Asian countries;

(3) provide program participants with opportunities to be directly involved in scientific and engineering research, and activities related to the management of scientific and technological innovation, in East Asia; and

(4) create mechanisms for cooperation and partnerships among United States industry, universities, colleges, not-for-profit institutions, Federal laboratories (within the meaning of section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6))), and government, to disseminate the results of the program assisted under this section for the benefit of United States research and innovation.

(c) **PARTICIPATION BY FEDERAL SCIENTISTS, ENGINEERS, AND MANAGERS.**—Scientists, engineers, and managers of science and engineering programs in Federal agencies and the Federal laboratories shall be eligible to participate in the program assisted under this section on a reimbursable basis.

(d) **REQUIREMENT FOR MERIT REVIEW.**—Awards made under the program established under this section shall only be made using a competitive, merit-based review process.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2000.

## **PART G—OLYMPIC SCHOLARSHIPS**

### **SEC. 836. EXTENSION OF AUTHORIZATION.**

Section 1543(d) of the Higher Education Amendments of 1992 is amended by striking “1993” and inserting “1999”.

## **PART H—UNDERGROUND RAILROAD**

20 USC 1070  
note.

Historic  
preservation.  
20 USC 1153.

### **SEC. 841. UNDERGROUND RAILROAD EDUCATIONAL AND CULTURAL PROGRAM.**

(a) **PROGRAM ESTABLISHED.**—The Secretary of Education, in consultation and cooperation with the Secretary of the Interior,

is authorized to make grants to 1 or more nonprofit educational organizations that are established to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad.

(b) GRANT AGREEMENT.—Each nonprofit educational organization awarded a grant under this section shall enter into an agreement with the Secretary of Education. Each such agreement shall require the organization—

(1) to establish a facility to house, display, and interpret the artifacts related to the history of the Underground Railroad, and to make the interpretive efforts available to institutions of higher education that award a baccalaureate or graduate degree;

(2) to demonstrate substantial private support for the facility through the implementation of a public-private partnership between a State or local public entity and a private entity for the support of the facility, which private entity shall provide matching funds for the support of the facility in an amount equal to 4 times the amount of the contribution of the State or local public entity, except that not more than 20 percent of the matching funds may be provided by the Federal Government;

(3) to create an endowment to fund any and all shortfalls in the costs of the on-going operations of the facility;

(4) to establish a network of satellite centers throughout the United States to help disseminate information regarding the Underground Railroad throughout the United States, if such satellite centers raise 80 percent of the funds required to establish the satellite centers from non-Federal public and private sources;

(5) to establish the capability to electronically link the facility with other local and regional facilities that have collections and programs which interpret the history of the Underground Railroad; and

(6) to submit, for each fiscal year for which the organization receives funding under this section, a report to the Secretary of Education that contains—

(A) a description of the programs and activities supported by the funding;

(B) the audited financial statement of the organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported by the funding as the Secretary may require; and

(D) an evaluation of the programs and activities supported by the funding as the Secretary may require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$6,000,000 for fiscal year 1999, \$6,000,000 for fiscal year 2000, \$6,000,000 for fiscal year 2001, \$3,000,000 for fiscal year 2002, and \$3,000,000 for fiscal year 2003.

Reports.

## PART I—SUMMER TRAVEL AND WORK PROGRAMS

22 USC 1474  
note.

### SEC. 846. AUTHORITY TO ADMINISTER SUMMER TRAVEL AND WORK PROGRAMS.

The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to preplacement requirements.

Web-Based  
Education  
Commission Act.

## PART J—WEB-BASED EDUCATION COMMISSION

### SEC. 851. SHORT TITLE; DEFINITIONS.

(a) IN GENERAL.—This part may be cited as the “Web-Based Education Commission Act”.

(b) DEFINITIONS.—In this part:

(1) COMMISSION.—The term “Commission” means the Web-Based Education Commission established under section 852.

(2) INFORMATION TECHNOLOGY.—The term “information technology” has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 (110 Stat. 679).

(3) STATE.—The term “State” means each of the several States of the United States and the District of Columbia.

### SEC. 852. ESTABLISHMENT OF WEB-BASED EDUCATION COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Web-Based Education Commission.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 14 members, of which—

President.

(A) three members shall be appointed by the President, from among individuals representing the Internet technology industry;

(B) three members shall be appointed by the Secretary, from among individuals with expertise in accreditation, establishing statewide curricula, and establishing information technology networks pertaining to education curricula;

(C) two members shall be appointed by the Majority Leader of the Senate;

(D) two members shall be appointed by the Minority Leader of the Senate;

(E) two members shall be appointed by the Speaker of the House of Representatives; and

(F) two members shall be appointed by the Minority Leader of the House of Representatives.

Deadline.

(2) DATE.—The appointments of the members of the Commission shall be made not later than 45 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

Deadline.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the Commission’s first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a chairperson and vice chairperson from among the members of the Commission.

#### SEC. 853. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study to assess the educational software available in retail markets for secondary and postsecondary students who choose to use such software.

(2) PUBLIC HEARINGS.—As part of the study conducted under this subsection, the Commission shall hold public hearings in each region of the United States concerning the assessment referred to in paragraph (1).

(3) EXISTING INFORMATION.—To the extent practicable, in carrying out the study under this subsection, the Commission shall identify and use existing information related to the assessment referred to in paragraph (1).

(b) REPORT.—Not later than 6 months after the first meeting of the Commission, the Commission shall submit a report to the President and Congress that shall contain a detailed statement of the findings and conclusions of the Commission resulting from the study, together with the Commission's recommendations—

Deadline.

(1) for such legislation and administrative actions as the Commission considers to be appropriate; and

(2) regarding the appropriate Federal role in determining quality educational software products.

(c) FACILITATION OF EXCHANGE OF INFORMATION.—In carrying out the study under subsection (a), the Commission shall, to the extent practicable, facilitate the exchange of information concerning the issues that are the subject of the study among—

(1) officials of the Federal Government, and State governments and political subdivisions of States; and

(2) educators from Federal, State, and local institutions of higher education and secondary schools.

#### SEC. 854. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission considers necessary to carry out the provisions of this part. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission upon request.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

**SEC. 855. COMMISSION PERSONNEL MATTERS.**

(a) COMPENSATION OF MEMBERS.—Except as provided in subsection (b), each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform the Commission's duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

**SEC. 856. TERMINATION OF THE COMMISSION.**

The Commission shall terminate on the date that is 90 days after the date on which the Commission submits the Commission's report under section 853(b).

**SEC. 857. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated \$450,000 for fiscal year 1999 to the Commission to carry out this part.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.



**PART K—MISCELLANEOUS****SEC. 861. EDUCATION-WELFARE STUDY.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study of the effectiveness of educational approaches (including vocational and post-secondary education approaches) and rapid employment approaches to helping welfare recipients and other low-income adults become employed and economically self-sufficient. Such study shall include—

(1) a survey of the available scientific evidence and research data on the subject, including a comparison of the effects of programs emphasizing a vocational or postsecondary educational approach to programs emphasizing a rapid employment approach, along with research on the impacts of programs which emphasize a combination of such approaches;

(2) an examination of the research regarding the impact of postsecondary education on the educational attainment of the children of recipients who have completed a postsecondary education program; and

(3) information regarding short and long-term employment, wages, duration of employment, poverty rates, sustainable economic self-sufficiency, prospects for career advancement or wage increases, access to quality child care, placement in employment with benefits including health care, life insurance and retirement, and related program outcomes.

(b) **REPORT.**—Not later than August 1, 1999, the Comptroller General of the United States shall prepare and submit to the Committees on Ways and Means and on Education and the Workforce of the House of Representatives and the Committees on Finance and on Labor and Human Resources of the Senate, a report that contains the finding of the study required by subsection (a).

Deadline.

**SEC. 862. RELEASE OF CONDITIONS, COVENANTS, AND REVERSIONARY INTERESTS, GUAM COMMUNITY COLLEGE CONVEYANCE, BARRIGADA, GUAM.**

(a) **RELEASE.**—The Secretary of Education shall release all conditions and covenants that were imposed by the United States, and the reversionary interests that were retained by the United States, as part of the conveyance of a parcel of Federal surplus property located in Barrigada, Guam, consisting of approximately 314.28 acres and known as Naval Communications Area Master Station, WESTPAC, parcel IN, which was conveyed to the Guam Community College pursuant to—

(1) the quitclaim deed dated June 8, 1990, conveying 61.45 acres, between the Secretary, acting through the Administrator for Management Services, and the Guam Community College, acting through its Board of Trustees; and

(2) the quitclaim deed dated June 8, 1990, conveying 252.83 acres, between the Secretary, acting through the Administrator for Management Services, and the Guam Community College, acting through its Board of Trustees, and the Governor of Guam.

(b) **CONSIDERATION.**—The Secretary shall execute the release of the conditions, covenants, and reversionary interests under subsection (a) without consideration.

(c) **INSTRUMENT OF RELEASE.**—The Secretary shall execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the conditions, covenants, and reversionary interests under subsection (a).

**SEC. 863. SENSE OF CONGRESS REGARDING GOOD CHARACTER.**

(a) **FINDINGS.**—Congress finds that—

(1) the future of our Nation and world will be determined by the young people of today;

(2) record levels of youth crime, violence, teenage pregnancy, and substance abuse indicate a growing moral crisis in our society;

(3) character development is the long-term process of helping young people to know, care about, and act upon such basic values as trustworthiness, respect for self and others, responsibility, fairness, compassion, and citizenship;

(4) these values are universal, reaching across cultural and religious differences;

(5) a recent poll found that 90 percent of Americans support the teaching of core moral and civic values;

(6) parents will always be children's primary character educators;

(7) good moral character is developed best in the context of the family;

(8) parents, community leaders, and school officials are establishing successful partnerships across the Nation to implement character education programs;

(9) character education programs also ask parents, faculty, and staff to serve as role models of core values, to provide opportunities for young people to apply these values, and to establish high academic standards that challenge students to set high goals, work to achieve the goals, and persevere in spite of difficulty;

(10) the development of virtue and moral character, those habits of mind, heart, and spirit that help young people to know, desire, and do what is right, has historically been a primary mission of colleges and universities; and

(11) the Congress encourages parents, faculty, and staff across the Nation to emphasize character development in the home, in the community, in our schools, and in our colleges and universities.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that Congress should support and encourage character building initiatives in schools across America and urge colleges and universities to affirm that the development of character is one of the primary goals of higher education.

**SEC. 864. EDUCATIONAL MERCHANDISE LICENSING CODES OF CONDUCT.**

It is the sense of Congress that all American colleges and universities should adopt rigorous educational merchandise licensing codes of conduct to assure that university and college licensed merchandise is not made by sweatshop and exploited adult or child labor either domestically or abroad, and that such codes should include at least the following:

(1) Public reporting of the code and the companies adhering to the code.

(2) Independent monitoring of the companies adhering to the code by entities not limited to major international accounting firms.

(3) An explicit prohibition on the use of child labor.

(4) An explicit requirement that companies pay workers at least the governing minimum wage and applicable overtime.

(5) An explicit requirement that companies allow workers the right to organize without retribution.

(6) An explicit requirement that companies maintain a safe and healthy workplace.

## **TITLE IX—AMENDMENTS TO OTHER LAWS**

### **PART A—EXTENSION AND REVISION OF INDIAN HIGHER EDUCATION PROGRAMS**

#### **SEC. 901. TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.**

(a) REAUTHORIZATION.—

(1) AMOUNT OF GRANTS.—Section 108(a)(2) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)(2)) is amended by striking “\$5,820” and inserting “\$6,000”.

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) TITLE I.—Section 110(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(i) in paragraph (1), by striking “1993” and inserting “1999”;

(ii) in paragraph (2), by striking “\$30,000,000 for fiscal year 1993” and inserting “\$40,000,000 for fiscal year 1999”;

(iii) in paragraph (3), by striking “1993” and inserting “1999”; and

(iv) in paragraph (4), by striking “1993” and inserting “1999”.

(B) TITLE III.—Section 306(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1836(a)) is amended by striking “1993” and inserting “1999”.

(C) TITLE IV.—Section 403 of the Tribal Economic Development and Technology Related Education Assistance Act of 1990 (25 U.S.C. 1852) is amended by striking “1993” and inserting “1999”.

(b) EXTENSION TO COLLEGES AND UNIVERSITIES.—The Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) is amended—

(1) in the first section (25 U.S.C. 1801 note), by striking “Community College” and inserting “College or University”;

(2) in the heading for title I (25 U.S.C. 1802 et seq.), by striking “COMMUNITY COLLEGES” and inserting “COLLEGES OR UNIVERSITIES”;

(3) in the heading for title III (25 U.S.C. 1831 et seq.), by striking “COMMUNITY COLLEGE” and inserting “COLLEGE OR UNIVERSITY”;

(4) in the heading for section 107, by striking “COMMUNITY COLLEGES” and inserting “COLLEGES OR UNIVERSITIES”;

(5) in sections 2(a)(4), 2(a)(7), 2(b)(4), 102(b), 103, 105, 106(b), 107(a), 107(b), 108(a), 108(b)(3)(A), 108(b)(3)(B), 108(b)(4), 109(b)(2), 109(b)(3), 109(d), 113(a), 113(b), 113(c)(1), 113(c)(2), 302(b), 303, 304, 305(a), and 305(b) (25 U.S.C. 1801(a)(4), 1801(a)(7), 1801(b)(4), 1803(b), 1804, 1805, 1806(b), 1807(a), 1807(b), 1808(a), 1808(b)(3)(A), 1808(b)(3)(B), 1808(b)(4), 1809(b)(2), 1809(b)(3), 1809(d), 1813(a), 1813(b), 1813(c)(1), 1813(c)(2), 1832(b), 1833, 1834, 1835(a), and 1835(b)), by striking “community college” each place the term appears and inserting “college or university”;

(6) in sections 101, 102(a), 104(a)(1), 107(a), 108(c)(2), 109(b)(1), 111(a)(2), 112(a), 112(a)(2), 112(c)(2)(B), 301, 302(a), and 402(a) (25 U.S.C. 1802, 1803(a), 1804a(a)(1), 1807(a), 1808(c)(2), 1809(b)(1), 1811(a)(2), 1812(a), 1812(a)(2), 1812(c)(2)(B), 1831, 1832(a), and 1851(a)), by striking “community colleges” each place the term appears and inserting “colleges or universities”;

(7) in sections 108(a)(1), 108(a), 113(b)(2), 113(c)(2), 302(a), 302(b), 302(b)(2)(B), 302(b)(4), 303, 304, 305(a), and 305(b) (25 U.S.C. 1808(a)(1), 1808(a), 1813(b)(2), 1813(c)(2), 1832(a), 1832(b), 1832(b)(2)(B), 1832(b)(4), 1833, 1834, 1835(a), and 1835(b)), by striking “such college” each place the term appears and inserting “such college or university”;

(8) in sections 104(a)(2), 109(b)(1), and 111(a)(2) (25 U.S.C. 1804a(a)(2), 1809(b)(1), and 1811(a)(2)), by striking “such colleges” and inserting “such colleges or universities”;

(9) in section 2(b)(5) (25 U.S.C. 1801(b)(5)), by striking “community college’s” and inserting “college or university’s”;

(10) in section 109(a) (25 U.S.C. 1809(a)), by inserting “or university” after “tribally controlled college”;

(11) in section 110(a)(4) (25 U.S.C. 1810(a)(4)), by striking “Tribally Controlled Community Colleges” and inserting “tribally controlled colleges or universities”;

(12) in sections 102(b), 109(d), 113(c)(2)(E), 302(b)(6), and 305(a) (25 U.S.C. 1803(b), 1809(d), 1813(c)(2)(E), 1832(b)(6), and 1835(a)), by striking “the college” and inserting “the college or university”;

(13) in section 112(c)(1) (25 U.S.C. 1812(c)(1)), by striking “colleges” and inserting “colleges or universities”;

(14) in sections 302(b)(4) and 305(a) (25 U.S.C. 1832(b)(4) and 1835(a)), by striking “that college” and inserting “that college or university”; and

(15) in section 302(b)(4) (25 U.S.C. 1832(b)(4)), by striking “other colleges” and inserting “other colleges or universities”.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) RECOMMENDED LEGISLATION.—The Secretary of Education shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by subsection (b).

(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this title, the Secretary of Education shall submit the recommended legislation referred to under paragraph (1).

(d) REFERENCES.—Any reference to a section or other provision of the Tribally Controlled Community College Assistance Act of

25 USC 1801  
note.

Deadline.

25 USC 1801  
note.

1978 shall be deemed to be a reference to the Tribally Controlled College or University Assistance Act of 1978.

(e) CLERICAL AMENDMENT.—Section 109 of the Tribally Controlled Colleges or University Act of 1978 (as renamed by subsection (b)(1)) (25 U.S.C. 1809) is amended by redesignating subsection (d) as subsection (c).

**SEC. 902. REAUTHORIZATION OF NAVAJO COMMUNITY COLLEGE ACT.**

Section 5(a)(1) of the Navajo Community College Act (25 U.S.C. 640c-1) is amended by striking “1993” and inserting “1999”.

**PART B—EDUCATION OF THE DEAF**

**SEC. 911. SHORT TITLE.**

This part may be cited as the “Education of the Deaf Amendments of 1998”.

**SEC. 912. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.**

Section 104(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4304(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting “and” after the semicolon;

(B) in subparagraph (B), by striking “; and” and inserting a period; and

(C) by striking subparagraph (C);

(2) in the matter preceding subparagraph (A) of paragraph

(2)—

(A) by striking “paragraph (1)” and inserting “paragraph (1)(B)”; and

(B) by striking “section 618(b)” and inserting “section 618(a)(1)(A)”;

(3) in paragraph (3), by striking “intermediate educational unit” and inserting “educational service agency”;

(4) in paragraph (4)—

(A) in subparagraph (A), by striking “intermediate educational unit” and inserting “educational service agency”; and

(B) in subparagraph (B), by striking “intermediate educational units” and inserting “educational service agencies”; and

(5) by amending subparagraph (C) to read as follows:

“(C) provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act and procedural safeguards in accordance with the following provisions of section 615 of such Act:

“(i) Paragraphs (1), and (3) through (6) of subsection (b).

“(ii) Subsections (c) through (g).

“(iii) Subsection (h), except for the matter in paragraph (4) pertaining to transmission of findings and decisions to a State advisory panel.

“(iv) Paragraphs (1) and (2) of subsection (i).

“(v) Subsection (j)—

“(I) except that such subsection shall not be applicable to a decision by the University to refuse to admit a child; or

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Deaf  
Amendments of  
1998.  
20 USC 4301  
note.

“(II) to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days written notice to the child’s parents and to the local educational agency in which the child resides, unless the dismissal involves a suspension, expulsion, or other change in placement covered under section 615(k).  
 “(vi) Subsections (k) through (m).”.

District of  
Columbia.

#### **SEC. 913. AGREEMENT WITH GALLAUDET UNIVERSITY.**

Section 105(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4305(a)) is amended—

(1) by striking “within 1 year after enactment of the Education of the Deaf Act Amendments of 1992, a new” and inserting “and periodically update, an”; and

(2) by amending the second sentence to read as follows: “The Secretary or the University shall determine the necessity for the periodic update described in the preceding sentence.”.

#### **SEC. 914. AGREEMENT FOR THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.**

Paragraph (2) of section 112(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4332(a)) is amended to read as follows:

“(2) The Secretary and the institution of higher education with which the Secretary has an agreement under this section—

“(A) shall periodically assess the need for modification of the agreement; and

“(B) shall periodically update the agreement as determined necessary by the Secretary or the institution.”.

#### **SEC. 915. DEFINITIONS.**

Section 201 of the Education of the Deaf Act of 1986 (20 U.S.C. 4351) is amended—

(1) in paragraph (1)(C), by striking “Palau (but only until the Compact of Free Association with Palau takes effect),”; and

(2) in paragraph (5)—

(A) by inserting “and” after “Virgin Islands,”; and

(B) by striking “, and Palau (but only until the Compact of Free Association with Palau takes effect)”.

#### **SEC. 916. GIFTS.**

Subsection (b) of section 203 of the Education of the Deaf Act of 1986 (20 U.S.C. 4353) is amended to read as follows:

“(b) INDEPENDENT FINANCIAL AND COMPLIANCE AUDIT.—

“(1) IN GENERAL.—Gallaudet University shall have an annual independent financial and compliance audit made of the programs and activities of the University, including the national mission and school operations of the elementary and secondary education programs at Gallaudet. The institution of higher education with which the Secretary has an agreement under section 112 shall have an annual independent financial and compliance audit made of the programs and activities of such institution of higher education, including NTID, and containing specific schedules and analyses for all NTID funds, as determined by the Secretary.

“(2) COMPLIANCE.—As used in paragraph (1), compliance means compliance with sections 102(b), 105(b)(4), 112(b)(5),

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University.  
District of  
Columbia.

and 203(c), paragraphs (2) and (3) of section 207(b), subsections (b)(2), (b)(3), and (c) through (f), of section 207, and subsections (b) and (c) of section 210.

“(3) SUBMISSION OF AUDITS.—A copy of each audit described in paragraph (1) shall be provided to the Secretary within 15 days of acceptance of the audit by the University or the institution authorized to establish and operate the NTID under section 112(a), as the case may be, but not later than January 10 of each year.”

#### **SEC. 917. REPORTS.**

Section 204(3) of the Education of the Deaf Act of 1986 (20 U.S.C. 4354(3)) is amended—

(1) in subparagraph (A), by striking “The annual” and inserting “A summary of the annual”; and

(2) in subparagraph (B), by striking “the annual” and inserting “a summary of the annual”.

#### **SEC. 918. MONITORING, EVALUATION, AND REPORTING.**

Section 205(c) of the Education of the Deaf Act of 1986 (20 U.S.C. 4355(c)) is amended by striking “1993, 1994, 1995, 1996, and 1997” and inserting “1998 through 2003”.

#### **SEC. 919. FEDERAL ENDOWMENT PROGRAMS.**

Section 207 of the Education of the Deaf Act of 1986 (20 U.S.C. 4357) is amended—

(1) in subsection (b)—

(A) by amending paragraph (2) to read as follows:

“(2) Subject to the availability of appropriations, the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources during the fiscal year in which the appropriations are made available (excluding transfers from other endowment funds of the institution involved).”; and

(B) by striking paragraph (3);

(2) in subsection (c)(1), by inserting “the Federal contribution of” after “shall invest”;

(3) in subsection (d)—

(A) in paragraph (2)(C), by striking “Beginning on October 1, 1992, the” and inserting “The”; and

(B) in paragraph (3)(A), by striking “prior” and inserting “current”; and

(4) in subsection (h)—

(A) in paragraph (1), by striking “1993 through 1997” and inserting “1998 through 2003”; and

(B) in paragraph (2), by striking “1993 through 1997” and inserting “1998 through 2003”.

#### **SEC. 920. SCHOLARSHIP PROGRAM.**

Section 208 of the Education of the Deaf Act of 1986 (20 U.S.C. 4358) is repealed.

#### **SEC. 921. OVERSIGHT AND EFFECT OF AGREEMENTS.**

Section 209 of the Education of the Deaf Act of 1986 (20 U.S.C. 4359) is amended—

(1) in subsection (a), by striking “Committee on Education and Labor” and inserting “Committee on Education and the Workforce”; and

20 USC 4359.

(2) by redesignating such section as section 208.

**SEC. 922. INTERNATIONAL STUDENTS.**

(a) AMENDMENT.—Section 210 of the Education of the Deaf Act of 1986 (20 U.S.C. 4359a) is amended—

(1) in subsection (a)—

(A) by striking “10 percent” and inserting “15 percent”; and

(B) by inserting before the period the following: “, except that in any school year no United States citizen who is qualified to be admitted to the University or NTID and applies for admission to the University or NTID shall be denied admission because of the admission of an international student”; and

(2) in subsection (b), by striking “surcharge of 75 percent for the academic year 1993–1994 and 90 percent beginning with the academic year 1994–1995” and inserting “surcharge of 100 percent for the academic year 1999–2000 and any succeeding academic year”.

(b) CONFORMING AMENDMENT.—Section 210 of such Act (20 U.S.C. 4359a) is amended by redesignating such section as section 209.

**SEC. 923. RESEARCH PRIORITIES.**

Title II of the Education of the Deaf Act of 1986 is amended by striking section 211 (20 U.S.C. 4360) and inserting the following:

**“SEC. 210. RESEARCH PRIORITIES.**

“(a) RESEARCH PRIORITIES.—Gallaudet University and the National Technical Institute for the Deaf shall each establish and disseminate priorities for their national mission with respect to deafness related research, development, and demonstration activities, that reflect public input, through a process that includes consumers, constituent groups, and the heads of other federally funded programs. The priorities for the University shall include activities conducted as part of the University’s elementary and secondary education programs under section 104.

“(b) RESEARCH REPORTS.—The University and NTID shall each prepare and submit an annual research report, to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, not later than January 10 of each year, that shall include—

“(1) a summary of the public input received as part of the establishment and dissemination of priorities required by subsection (a), and the University’s and NTID’s response to the input; and

“(2) a summary description of the research undertaken by the University and NTID, the start and projected end dates for each research project, the projected cost and source or sources of funding for each project, and any products resulting from research completed in the prior fiscal year.”.

**SEC. 924. NATIONAL STUDY ON THE EDUCATION OF THE DEAF.**

The Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) is amended by adding after section 210 (as inserted by section 923) the following:

Gallaudet  
University.  
National  
Technical  
Institute for the  
Deaf.  
20 USC 4359b.

Deadline.



**“SEC. 211. NATIONAL STUDY ON THE EDUCATION OF THE DEAF.**

20 USC 4360.

**“(a) CONDUCT OF STUDY.—**

“(1) IN GENERAL.—The Secretary shall conduct a national study on the education of the deaf, to identify education-related barriers to successful postsecondary education experiences and employment for individuals who are deaf, and those education-related factors that contribute to successful postsecondary education experiences and employment for individuals who are deaf.

“(2) DEFINITION.—In this section the term ‘deaf’, when used with respect to an individual, means an individual with a hearing impairment, including an individual who is hard of hearing, an individual deafened later in life, and an individual who is profoundly deaf.

**“(b) PUBLIC INPUT AND CONSULTATION.—**

“(1) IN GENERAL.—In conducting such study, the Secretary shall obtain input from the public. To obtain such input, the Secretary shall—

“(A) publish a notice with an opportunity for comment in the Federal Register;

Federal Register,  
publication.

“(B) consult with individuals and organizations representing a wide range of perspectives on deafness-related issues, including organizations representing individuals who are deaf, parents of children who are deaf, educators, and researchers; and

“(C) take such other action as the Secretary deems appropriate, which may include holding public meetings.

“(2) STRUCTURED OPPORTUNITIES.—The Secretary shall provide structured opportunities to receive and respond to the viewpoints of the individuals and organizations described in paragraph (1)(B).

“(c) REPORT.—The Secretary shall report to Congress not later than 18 months after the date of enactment of the Education of the Deaf Amendments of 1998 regarding the results of the study. The report shall contain—

Deadline.

“(1) recommendations, including recommendations for legislation, that the Secretary deems appropriate; and

“(2) a detailed summary of the input received under subsection (b) and the ways in which the report addresses such input.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$1,000,000 for each of the fiscal years 1999 and 2000 to carry out the provisions of this section.”.

**SEC. 925. AUTHORIZATION OF APPROPRIATIONS.**

Title II of the Education of the Deaf Act of 1986 (20 U.S.C. 4351 et seq.) is amended by adding after section 211 (as inserted by section 924) the following:

**“SEC. 212. AUTHORIZATION OF APPROPRIATIONS.**

20 USC 4360a.

“(a) GALLAUDET UNIVERSITY.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2003 to carry out the provisions of title I and this title, relating to—

“(1) Gallaudet University;

“(2) Kendall Demonstration Elementary School; and

“(3) the Model Secondary School for the Deaf.

“(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2003 to carry out the provisions of title I and this title relating to the National Technical Institute for the Deaf.”.

## **PART C—UNITED STATES INSTITUTE OF PEACE**

### **SEC. 931. AUTHORITIES OF THE UNITED STATES INSTITUTE OF PEACE.**

The United States Institute of Peace Act (22 U.S.C. 4601 et seq.) is amended—

(1) in section 1705 (22 U.S.C. 4604)—

(A) in subsection (f), by inserting “personal service and other” after “may enter into”; and

(B) in subsection (o), by inserting after “Services” the following: “and use all sources of supply and services of the General Services Administration”;

(2) in section 1710(a)(1) (22 U.S.C. 4609(a)(1))—

(A) by striking “1993” and inserting “1999”; and

(B) by striking “6” and inserting “4”; and

(3) in the second and third sentences of section 1712 (22 U.S.C. 4611), by striking “shall” each place the term appears and inserting “may”.

## **PART D—VOLUNTARY RETIREMENT INCENTIVE PLANS**

### **SEC. 941. VOLUNTARY RETIREMENT INCENTIVE PLANS.**

(a) IN GENERAL.—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end the following:

“(m) Notwithstanding subsection (f)(2)(B), it shall not be a violation of subsection (a), (b), (c), or (e) solely because a plan of an institution of higher education (as defined in section 101 of the Higher Education Act of 1965) offers employees who are serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) supplemental benefits upon voluntary retirement that are reduced or eliminated on the basis of age, if—

“(1) such institution does not implement with respect to such employees any age-based reduction or cessation of benefits that are not such supplemental benefits, except as permitted by other provisions of this Act;

“(2) such supplemental benefits are in addition to any retirement or severance benefits which have been offered generally to employees serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure), independent of any early retirement or exit-incentive plan, within the preceding 365 days; and

“(3) any employee who attains the minimum age and satisfies all non-age-based conditions for receiving a benefit under the plan has an opportunity lasting not less than 180 days to elect to retire and to receive the maximum benefit that could then be elected by a younger but otherwise similarly

situated employee, and the plan does not require retirement to occur sooner than 180 days after such election.”.

(b) PLANS PERMITTED.—Section 4(i)(6) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(i)(6)) is amended by adding after the word “accruals” the following: “or it is a plan permitted by subsection (m).”

(c) CONSTRUCTION.—Nothing in the amendment made by subsection (a) shall affect the application of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) with respect to—

(1) any plan described in subsection (m) of section 4 of such Act (as added by subsection (a)), for any period prior to enactment of such Act;

(2) any plan not described in subsection (m) of section 4 of such Act (as added by subsection (a)); or

(3) any employer other than an institution of higher education (as defined in section 101 of the Higher Education Act of 1965).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall take effect on the date of enactment of this Act.

(2) EFFECT ON CAUSES OF ACTION EXISTING BEFORE DATE OF ENACTMENT.—The amendment made by subsection (a) shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 prior to the date of enactment of this Act.

29 USC 623 note.

29 USC 623 note.

## **PART E—GENERAL EDUCATION PROVISIONS ACT AMENDMENT**

### **SEC. 951. AMENDMENT TO FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974**

Section 444(b) of the General Education Provisions Act (20 U.S.C. 1232g(b)), also known as the Family Educational Rights and Privacy Act of 1974, is amended—

(1) in paragraph (1), by amending subparagraph (C) to read as follows:

“(C)(i) authorized representatives of (I) the Comptroller General of the United States, (II) the Secretary, or (III) State educational authorities, under the conditions set forth in paragraph (3), or (ii) authorized representatives of the Attorney General for law enforcement purposes under the same conditions as apply to the Secretary under paragraph (3);”;

(2) in paragraph (6)—

(A) by inserting “(A)” after “(6)”;

(B) in subparagraph (A), as designated by subparagraph (A) of this paragraph—

(i) by striking “the results” and inserting “or a nonforcible sex offense, the final results”; and

(ii) by striking “such crime” each place the term appears and inserting “such crime or offense”; and

(C) adding at the end thereof the following:

“(B) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence (as that term is defined in section 16 of title 18, United

States Code), or a nonforcible sex offense, if the institution determines as a result of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

“(C) For the purpose of this paragraph, the final results of any disciplinary proceeding—

“(i) shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student; and

“(ii) may include the name of any other student, such as a victim or witness, only with the written consent of that other student.”.

#### **SEC. 952. ALCOHOL OR DRUG POSSESSION DISCLOSURE.**

Section 444 of the General Education Provisions Act (20 U.S.C. 1232g) is amended by adding at the end the following:

“(i) DRUG AND ALCOHOL VIOLATION DISCLOSURES.—

“(1) IN GENERAL.—Nothing in this Act or the Higher Education Act of 1965 shall be construed to prohibit an institution of higher education from disclosing, to a parent or legal guardian of a student, information regarding any violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether that information is contained in the student's education records, if—

“(A) the student is under the age of 21; and

“(B) the institution determines that the student has committed a disciplinary violation with respect to such use or possession.

“(2) STATE LAW REGARDING DISCLOSURE.—Nothing in paragraph (1) shall be construed to supersede any provision of State law that prohibits an institution of higher education from making the disclosure described in subsection (a).”.

## **PART F—LIAISON FOR PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION**

#### **SEC. 961. LIAISON FOR PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION.**

Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is amended by adding at the end the following:

20 USC 3426.

#### **“SEC. 219. LIAISON FOR PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION.**

“(a) ESTABLISHMENT.—There shall be in the Department a Liaison for Proprietary Institutions of Higher Education, who shall be an officer of the Department appointed by the Secretary.

Deadline.

“(b) APPOINTMENT.—The Secretary shall appoint, not later than 6 months after the date of enactment of the Higher Education Amendments of 1998 a Liaison for Proprietary Institutions of Higher Education who shall be a person who—

“(1) has attained a certificate or degree from a proprietary institution of higher education; or

“(2) has been employed in a proprietary institution setting for not less than 5 years.

“(c) DUTIES.—The Liaison for Proprietary Institutions of Higher Education shall—

“(1) serve as the principal advisor to the Secretary on matters affecting proprietary institutions of higher education;

“(2) provide guidance to programs within the Department that involve functions affecting proprietary institutions of higher education; and

“(3) work with the Federal Interagency Committee on Education to improve the coordination of—

“(A) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

“(B) collaborative business and education partnerships; and

“(C) education programs located in, and involving, rural areas.”.

## PART G—AMENDMENTS TO OTHER STATUTES

### SEC. 971. NONDISCHARGEABILITY OF CERTAIN CLAIMS FOR EDUCATIONAL BENEFITS PROVIDED TO OBTAIN HIGHER EDUCATION.

(a) AMENDMENT.—Section 523(a)(8) of title 11, United States Code, is amended by striking “unless—” and all that follows through “(B) excepting such debt” and inserting “unless excepting such debt”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to cases commenced under title 11, United States Code, after the date of enactment of this Act.

Applicability.  
11 USC 523 note.

### SEC. 972. GNMA GUARANTEE FEE.

(a) IN GENERAL.—Section 306(g)(3)(A) of the National Housing Act (12 U.S.C. 1721(g)(3)(A)) is amended by striking “No fee or charge” and all that follows through “States)” and inserting “The Association shall assess and collect a fee in an amount equal to nine basis points”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2004.

12 USC 1721  
note.

## PART H—REPEALS

### SEC. 981. REPEALS.

Section 4122 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7132) is repealed.

Approved October 7, 1998.

#### LEGISLATIVE HISTORY—H.R. 6 (S. 1882):

HOUSE REPORTS: Nos. 105–481 (Comm. on Education and the Workforce) and 105–750 (Comm. of Conference).

SENATE REPORTS: No. 105–181 accompanying S. 1882 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Apr. 29, May 5, 6, considered and passed House.

July 9, considered and passed Senate, amended, in lieu of S. 1882.

Sept. 28, House agreed to conference report.

Sept. 29, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 7, Presidential remarks and statement.



Public Law 105–245  
105th Congress

An Act

Oct. 7, 1998  
[H.R. 4060]

Making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

Energy and  
Water  
Development  
Appropriations  
Act, 1999.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, \$161,747,000, to remain available until expended, of which funds are provided for the following projects in the amounts specified:

Delaware Bay Coastline, Delaware and New Jersey,  
\$419,000;

Tampa Harbor, Alafia Channel, Florida, \$200,000;

Barnegat Inlet to Little Egg Harbor Inlet, New Jersey,  
\$322,000;

Brigantine Inlet to Great Egg Harbor Inlet, New Jersey,  
\$113,000;

Great Egg Harbor Inlet to Townsend's Inlet, New Jersey,  
\$200,000;

Lower Cape May Meadows—Cape May Point, New Jersey,  
\$100,000;

Manasquan Inlet to Barnegat Inlet, New Jersey, \$300,000;  
Raritan Bay to Sandy Hook Bay, New Jersey, \$750,000;  
and

Townsend's Inlet to Cape May Inlet, New Jersey, \$250,000:  
*Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$700,000 of the funds appropriated in Public Law 102-377 for the Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, project for the feasibility phase of the Red River Navigation, Southwest Arkansas, study: *Provided further*, That the Secretary of the Army is directed to use \$500,000 of the funds appropriated herein to implement section 211(f)(7) of Public Law 104-303 (110 Stat. 3684) and to reimburse the non-Federal sponsor a portion of the Federal share of project costs for the Hunting Bayou element of the project for flood control, Buffalo Bayou and tributaries, Texas: *Provided further*, That the Secretary of the Army is directed to use \$300,000 of the funds appropriated herein to implement section 211(f)(8) of Public Law 104-303 (110 Stat. 3684) and to reimburse the non-Federal sponsor a portion of the Federal share of project costs for the project for flood control, White Oak Bayou watershed, Texas.

#### CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), \$1,429,885,000, to remain available until expended, of which such sums as are necessary for the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund, as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri; Lock and Dam 14, Mississippi River, Iowa; Lock and Dam 24, Part 1, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota, projects, and of which funds are provided for the following projects in the amounts specified:

Norco Bluffs, California, \$4,400,000;  
Panama City Beaches, Florida, \$6,000,000;  
Tybee Island, Georgia, \$1,200,000;  
Indiana Shoreline Erosion, Indiana, \$700,000;  
Indianapolis Central Waterfront, Indiana, \$4,000,000;  
Ohio River Flood Protection, Indiana, \$750,000;  
Harlan/Clover Fork, Williamsburg, Pike County,  
Middlesboro, Martin County, and Town of Martin, elements  
of the Levisa and Tug Forks of the Big Sandy River and  
Upper Cumberland River project in Kentucky, \$25,230,000;  
Southern and Eastern Kentucky, Kentucky, \$4,000,000;  
Lake Pontchartrain and Vicinity (Hurricane Protection),  
Louisiana, \$16,000,000;

Lake Pontchartrain (Jefferson Parish) Stormwater Discharge, Louisiana, \$4,500,000;  
Southeast Louisiana, Louisiana, \$75,000,000;  
Jackson County, Mississippi, \$6,200,000;  
Pascagoula Harbor, Mississippi, \$12,000,000;  
Passaic River Streambank Restoration, New Jersey, \$3,000,000;

Lackawanna River, Olyphant, Pennsylvania, \$6,800,000;  
Lackawanna River, Scranton, Pennsylvania, \$40,551,000;  
South Central Pennsylvania Environment Improvement Program, \$39,000,000, of which \$13,000,000 shall be available only for water-related environmental infrastructure and resource protection and development projects in Lackawanna, Lycoming, Susquehanna, Wyoming, Pike, and Monroe counties in Pennsylvania in accordance with the purposes of subsection (a) and requirements of subsections (b) through (e) of section 313 of the Water Resources Development Act of 1992, as amended;

Wallisville Lake, Texas, \$5,500,000;  
Virginia Beach, Virginia (Hurricane Protection), \$18,000,000;

Upper Mingo County (including Mingo County Tributaries), Lower Mingo County (Kermit), Wayne County, Hatfield Bottom, and McDowell County, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project in West Virginia, \$11,350,000; and

West Virginia and Pennsylvania Flood Control, West Virginia and Pennsylvania, \$750,000:

*Provided*, That the Secretary of the Army is directed to incorporate the economic analyses for the Green Ridge and Plot sections of the Lackawanna River, Scranton, Pennsylvania, project with the economic analysis for the Albright Street section of the project, and to cost-share and implement these combined sections as a single project with no separable elements, except that each section may be undertaken individually when the non-Federal sponsor provides the applicable local cooperation requirements: *Provided further*, That any funds heretofore appropriated and made available in Public Law 103-126 for projects associated with the restoration of the Lackawanna River Basin Greenway Corridor, Pennsylvania, may be utilized by the Secretary of the Army in carrying out other projects and activities on the Lackawanna River in Pennsylvania: *Provided further*, That the Secretary of the Army is directed to use \$4,500,000 of the funds appropriated herein to implement section 211(f)(6) of Public Law 104-303 (110 Stat. 3683) and to reimburse the non-Federal sponsor a portion of the Federal share of project construction costs for the flood control components comprising the Brays Bayou element of the project for flood control, Buffalo Bayou and tributaries, Texas: *Provided further*, That the navigation project for Cook Inlet Navigation, Alaska, authorized by Section 101(b)(2) of Public Law 104-303 is modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the project at a total cost of \$12,600,000 with an estimated first Federal cost of \$9,450,000 and an estimated first non-Federal cost of \$3,150,000: *Provided further*, That the flood control project for West Sacramento, California, authorized by Section 101(4) of Public Law 102-580 is modified to authorize the Secretary of the Army, acting through the Chief of Engineers,



to construct the project at a total cost of \$32,900,000 with an estimated first Federal cost of \$24,700,000 and an estimated first non-Federal cost of \$8,200,000: *Provided further*, That the flood control project for Sacramento River, Glenn-Colusa Irrigation District, California, authorized by Section 2 of the Act entitled “An Act to provide for the control of floods of the Mississippi River and the Sacramento River, and for other purposes”, approved March 1, 1917 (39 Stat. 949), is modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the project at a total cost of \$20,700,000 with an estimated first Federal cost of \$15,570,000 and an estimated first non-Federal cost of \$5,130,000: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$4,000,000 provided herein to construct bluff stabilization measures at authorized locations for Natchez Bluff, Mississippi, at a total estimated cost of \$26,065,000 with an estimated first Federal cost of \$19,549,000 and an estimated first non-Federal cost of \$6,516,000 and to award continuing contracts, which are not to be considered fully funded: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, may use up to \$5,000,000 of the funding appropriated herein for construction of an emergency outlet from Devils Lake, North Dakota, to the Sheyenne River, except that funds shall not become available unless the Secretary of the Army determines that an emergency (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) exists with respect to the emergency need for the outlet and reports to Congress that the construction is technically sound, economically justified, and environmentally acceptable and in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided further*, That the economic justification for the emergency outlet shall be prepared in accordance with the principles and guidelines for economic evaluation as required by regulations and procedures of the Army Corps of Engineers for all flood control projects, and that the economic justification be fully described, including the analysis of the benefits and costs, in the project plan documents: *Provided further*, That the plans for the emergency outlet shall be reviewed and, to be effective, shall contain assurances provided by the Secretary of State, after consultation with the International Joint Commission, that the project will not violate the requirements or intent of the Treaty Between the United States and Great Britain Relating to Boundary Waters Between the United States and Canada, signed at Washington January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the “Boundary Waters Treaty of 1909”): *Provided further*, That the Secretary of the Army shall submit the final plans and other documents for the emergency outlet to Congress: *Provided further*, That no funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to carry out the portion of the feasibility study of the Devils Lake Basin, North Dakota, authorized under the Energy and Water Development Appropriations Act, 1993 (Public Law 102-377), that addresses the needs of the area for stabilized lake levels through inlet controls, or to otherwise study any facility or carry out any activity that would permit the transfer of water from the Missouri River Basin into Devils Lake: *Provided further*, That, the Secretary of the Army, acting through the Chief

of Engineers, is directed to transfer remaining General Investigations funds previously appropriated for the Juniata River, Pennsylvania, study and Mussers Dam, Pennsylvania, project to Construction, General for use in equal amounts at Broad Top/Coaldale, Bedford County, Pennsylvania, and Mont Alto Borough, Franklin County, Pennsylvania, which are part of the South Central Pennsylvania Environment Improvement Program.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), \$321,149,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, \$1,653,252,000, to remain available until expended, of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), may be derived from that account for construction, operation, and maintenance of outdoor recreation facilities, and of which \$4,200,000 is provided for repair of Chickamauga Lock, Tennessee: *Provided*, That no funds, whether appropriated, contributed, or otherwise provided, shall be available to the United States Army Corps of Engineers for the purpose of acquiring land in Jasper County, South Carolina, in connection with the Savannah Harbor navigation project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake authorized maintenance and repairs on the Allegheny River, Pennsylvania, project, using \$6,000,000 of funds provided under this heading in Public Law 105-62 for extending the navigation channel on the Allegheny River, Pennsylvania, project to provide passenger boat access to the Kittanning, Pennsylvania, Riverfront Park.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$106,000,000, to remain available until expended.

## FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to clean up contaminated sites throughout the United States where work was performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended: *Provided*, That the response actions by the United States Army Corps of Engineers under this program shall consist of the following functions and activities to be performed at eligible sites where remediation has not been completed: sampling and assessment of contaminated areas, characterization of site conditions, determination of the nature and extent of contamination, selection of the necessary and appropriate response actions as the lead Federal agency, preparation of designation reports, cleanup and closeout of sites, and any other functions determined by the Chief of Engineers as necessary for remediation: *Provided further*, That response actions by the United States Army Corps of Engineers under this program shall be subject to the administrative, procedural, and regulatory provisions of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR, Chapter 1, Part 300: *Provided further*, That, except as stated herein, these provisions do not alter, curtail or limit the authorities, functions or responsibilities of other agencies under the Atomic Energy Act (42 U.S.C. 2011 et seq.): *Provided further*, That any sums recovered under CERCLA for response actions, or recovered from a contractor, insurer, surety, or other person to reimburse the United States Army Corps of Engineers for any expenditures for response actions, shall be credited to the account used to fund response actions on eligible sites, and will be available for response action costs for any eligible site: *Provided further*, That the Secretary of Energy may exercise the authority of 42 U.S.C. 2208 to make payments in lieu of taxes for federally-owned property where Formerly Utilized Sites Remedial Action Program activities are conducted, regardless of which Federal agency has acquired the property and notwithstanding references to "the activities of the Commission" in 42 U.S.C. 2208: *Provided further*, That the unexpended balances of prior appropriations provided for these activities in this Act or any previous Energy and Water Development Appropriations Act may be transferred to and merged with this appropriation account, and thereafter, may be accounted for as one fund for the same time period as originally enacted.

## GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Water Resources Support Center, and headquarters support functions at the USACE Finance Center; \$148,000,000, to remain available until expended: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices.

## REVOLVING FUND

Using amounts available in the Revolving Fund, the Secretary of the Army is authorized to renovate office space in the General Accounting Office (GAO) headquarters building in Washington, D.C., for use by the Corps and GAO. The Secretary is authorized to enter into a lease with GAO to occupy such renovated space as appropriate, for the Corps' headquarters. The Secretary shall ensure that the Revolving Fund is appropriately reimbursed from appropriations of the Corps' benefitting programs by collection each year of amounts sufficient to repay the capitalized cost of such renovation and through rent reductions or rebates from GAO.

## ADMINISTRATIVE PROVISION

Appropriations in this title shall be available for official reception and representation expenses (not to exceed \$5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

## GENERAL PROVISIONS

## CORPS OF ENGINEERS—CIVIL

SEC. 101. Notwithstanding any other provisions of law, no fully allocated funding policy shall be applied to projects for which funds are identified in the Committee reports accompanying this Act under the Construction, General; Operation and Maintenance, General; and Flood Control, Mississippi River and Tributaries, appropriation accounts: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake these projects using continuing contracts, as authorized in section 10 of the Rivers and Harbors Act of September 22, 1922 (33 U.S.C. 621).

SEC. 102. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

## TITLE II

## DEPARTMENT OF THE INTERIOR

## CENTRAL UTAH PROJECT

## CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, and for activities related to the Uintah and Upalco Units authorized by 43 U.S.C. 620, \$41,217,000, to remain available until expended, of which \$15,476,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: *Provided*, That of the amounts deposited into that account, \$5,000,000 shall be considered the Federal contribution authorized

by paragraph 402(b)(2) of the Central Utah Project Completion Act and \$10,476,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under that Act.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,283,000, to remain available until expended.

#### BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

#### WATER AND RELATED RESOURCES

##### (INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian Tribes, and others, \$642,845,000, to remain available until expended, of which \$2,800,000 shall be for construction of the Tooele Wastewater Treatment and Reuse, Utah, project, and of which \$1,873,000 shall be available for transfer to the Upper Colorado River Basin Fund and \$45,990,000 shall be available for transfer to the Lower Colorado River Basin Development Fund, and of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l-6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That of the total appropriated, \$25,800,000 shall be derived by transfer of unexpended balances from the Bureau of Reclamation Working Capital Fund: *Provided further*, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: *Provided further*, That the amount authorized for Indian municipal, rural, and industrial water features by section 10 of Public Law 89-108, as amended by section 8 of Public Law 99-294 and section 1701(b) of Public Law 102-575, is increased by \$2,000,000 (October 1997 prices): *Provided further*, That the Secretary of the Interior is directed to use, not to exceed, \$3,600,000 of funds appropriated herein as the Bureau of Reclamation share for completion of the McCall Area Wastewater Reclamation and Reuse, Idaho, project authorized in Public Law 105-62 and described in PN-FONSI-96-05.

## BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, \$7,996,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a-422l): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$38,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, \$425,000, to remain available until expended: *Provided*, That of the total sums appropriated, the amount of program activities that can be financed by the Reclamation Fund shall be derived from that Fund.

## CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$33,130,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575.

## CALIFORNIA BAY-DELTA ECOSYSTEM RESTORATION

## (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of the Interior and other participating Federal agencies in carrying out the California Bay-Delta Environmental Enhancement and Water Security Act, consistent with plans to be approved by the Secretary of the Interior, in consultation with such Federal agencies, \$75,000,000, to remain available until expended, of which such amounts as may be necessary to conform with such plans shall be transferred to appropriate accounts of such Federal agencies: *Provided*, That such funds may be obligated only as non-Federal sources provide their share in accordance with the cost-sharing agreement required under section 102(d) of such Act: *Provided further*, That such funds may be obligated prior to the completion of a final programmatic environmental impact statement only if: (1) consistent with 40 CFR 1506.1(c); and (2) used for purposes that the Secretary finds are of sufficiently high priority to warrant such an expenditure.

## POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$47,000,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

## ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 6 passenger motor vehicles for replacement only.

## TITLE III

## DEPARTMENT OF ENERGY

## ENERGY PROGRAMS

## ENERGY SUPPLY

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for energy supply, and uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 22 passenger motor vehicles for replacement only, \$727,091,000, of which not to exceed \$3,000 may be used for official reception and representation expenses for transparency activities.

## NON-DEFENSE ENVIRONMENTAL MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction or expansion, \$431,200,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING  
FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, \$220,200,000, to be derived from the Fund, to remain available until expended: *Provided*, That \$30,000,000 of amounts derived from the Fund for such expenses shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

## SCIENCE

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition,

construction, or expansion, and purchase of not to exceed 5 passenger motor vehicles for replacement only, \$2,682,860,000, to remain available until expended: *Provided*, That \$7,600,000 of the unobligated balances originally available for Superconducting Super Collider termination activities shall be made available for other activities under this heading.

#### NUCLEAR WASTE DISPOSAL

Certification.

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$169,000,000, to remain available until expended, of which \$165,000,000 is to be derived from the Nuclear Waste Fund; and of which not to exceed \$250,000 may be provided to the Department of Energy to reimburse the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, and not to exceed \$5,540,000 may be provided to affected local governments, as defined in Public Law 97-425, to conduct appropriate activities pursuant to the Act: *Provided*, That the distribution of the funds to the units of local government shall be determined by the Department of Energy: *Provided further*, That the funds shall be made available to the units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, each local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities as defined in Public Law 97-425. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-state efforts or other coalition building activities inconsistent with the restrictions contained in this Act.

#### DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$35,000), \$200,475,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total \$136,530,000 in fiscal year 1999 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein



appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than \$63,945,000.

#### OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$29,000,000, to remain available until expended.

### ATOMIC ENERGY DEFENSE ACTIVITIES

#### WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; the purchase of not to exceed 1 fixed wing aircraft; and the purchase of passenger motor vehicles (not to exceed 32 for replacement only, and 1 bus), \$4,400,000,000, to remain available until expended: *Provided*, That funding for any ballistic missile defense program undertaken by the Department of Energy for the Department of Defense shall be provided by the Department of Defense according to procedures established for Work for Others by the Department of Energy.

#### DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 3 new sedans and 6 for replacement only, of which 3 are sedans, 2 are buses, and 1 is an ambulance), \$4,310,227,000, to remain available until expended.

#### DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, \$1,038,240,000, to remain available until expended.

#### DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Organization

Act (42 U.S.C. 7101 et seq.), \$228,357,000, to remain available until expended.

#### OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,696,676,000, to remain available until expended.

#### DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$189,000,000, to remain available until expended.

#### POWER MARKETING ADMINISTRATIONS

##### BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for official reception and representation expenses in an amount not to exceed \$1,500.

During fiscal year 1999, no new direct loan obligations may be made.

##### OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$7,500,000, to remain available until expended; in addition, notwithstanding 31 U.S.C. 3302, not to exceed \$28,000,000 in reimbursements, of which \$20,000,000 is for transmission wheeling and ancillary services and \$8,000,000 is for power purchases at the Richard B. Russell Project, to remain available until expended.

##### OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed \$1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, \$26,000,000, to remain

available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed \$4,200,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE,  
WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500, \$203,000,000, to remain available until expended, of which \$193,787,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, \$5,036,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydro-electric facilities at the Falcon and Amistad Dams, \$1,010,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed \$3,000), \$167,500,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed \$167,500,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1999 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as revenues are received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than \$0.

42 USC 7171  
note.

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

SEC. 301. (a) None of the funds appropriated by this Act or any prior appropriations Act may be used to award a management and operating contract unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

Reports.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 302. (a) None of the funds appropriated by this Act or any prior appropriations Act may be used to award, amend, or modify a contract in a manner that deviates from the Federal Acquisition Regulation, unless the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

Reports.

(b) At least 60 days before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Subcommittees on Energy and Water Development of the Committees on Appropriations of the House of Representatives and the Senate a report notifying the subcommittees of the waiver and setting forth the reasons for the waiver.

SEC. 303. None of the funds appropriated by this Act or any prior appropriations Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy; under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 304. None of the funds appropriated by this Act or any prior appropriations Act may be used to augment the \$29,900,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2644; 42 U.S.C. 7274h).

SEC. 305. None of the funds appropriated by this Act or any prior appropriations Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 306. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 307. Notwithstanding 41 U.S.C. 254c(a), the Secretary of Energy may use funds appropriated by this Act to enter into multi-year contracts for the acquisition of property or services without obligating the estimated costs associated with any necessary cancellation or termination of the contract. The Secretary of Energy may pay costs of termination or cancellation from—

(1) appropriations originally available for the performance of the contract concerned;

(2) appropriations currently available for procurement of the type of property or services concerned, and not otherwise obligated; or

(3) funds appropriated for those payments.

SEC. 308. None of the funds in this Act may be used to dispose of transuranic waste in the Waste Isolation Pilot Plant which contains concentrations of plutonium in excess of 20 percent by weight for the aggregate of any material category on the date of enactment of this Act, or is generated after such date.

SEC. 309. CHANGE OF NAME OF THE OFFICE OF ENERGY RESEARCH. (a) IN GENERAL.—Section 209 of the Department of Energy Organization Act (42 U.S.C. 7139) is amended—

(1) in the section heading, by striking “ENERGY RESEARCH” and inserting “SCIENCE”; and

(2) in subsection (a), by striking “Energy Research” and inserting “Science”.

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The table of contents in the first section of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended by striking the item relating to section 209 and inserting the following:

“Section 209. Office of Science.”.

(2) REFERENCES IN OTHER LAW.—Each of the following is amended by striking “Energy Research” and inserting “Science”:

(A) The item relating to the Director, Office of Energy Research, Department of Energy in section 5315 of title 5, United States Code.

(B) Section 2902(b)(6) of title 10, United States Code.

(C) Section 406(h)(2)(A)(v) of the Public Health Service Act (42 U.S.C. 284a(h)(2)(A)(v)).

(D) Sections 3167(3) and 3168 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381d(3), 7381e).

(E) Paragraphs (1) and (2) of section 224(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10204(b)).

(F) Section 2203(b)(3)(A)(i) of the Energy Policy Act of 1992 (42 U.S.C. 13503(b)(3)(A)(i)).

SEC. 310. MAINTENANCE OF SECURITY AT DOE URANIUM ENRICHMENT PLANTS.—Section 3107(h) of the USEC Privatization Act (42 U.S.C. 2297h-5(h)) is amended in paragraph (1), by striking “an adequate number of security guards” and inserting “all security police officers”; and by inserting the following paragraph:

“(2) FUNDING.—

“(A) The costs of arming and providing arrest authority to the security police officers required under paragraph (1) shall be paid as follows:

“(i) the Department of Energy (the “Department”) shall pay the percentage of the costs equal to the percentage of the total number of employees at the gaseous diffusion plant who are: (I) employees of the Department or the contractor or subcontractors of the Department; or (II) employees of the private entity leasing the gaseous diffusion plant who perform work on behalf of the Department (including employees of a contractor or subcontractor of the private entity); and

“(ii) the private entity leasing the gaseous diffusion plant shall pay the percentage of the costs equal to the percentage of the total number of employees at

the gaseous diffusion plant who are employees of the private entity (including employees of a contractor or subcontractor) other than those employees who perform work for the Department.

“(B) Neither the private entity leasing the gaseous diffusion plant nor the Department shall reduce its payments under any contract or lease or take other action to offset its share of the costs referred to in subparagraph (A), and the Department shall not reimburse the private entity for the entity’s share of these costs.

“(C) Nothing in this subsection shall alter the Department’s responsibilities to pay the safety, safeguards and security costs associated with the Department’s highly enriched uranium activities.”

SEC. 311. None of the funds in this Act may be used by the Department of Energy to conduct pilot projects simulating external regulation unless the Nuclear Regulatory Commission, the Occupational Safety and Health Administration, and the appropriate State and local regulatory entities are included in the pilot projects.

SEC. 312. Of the amounts provided in this title under the heading, “Atomic Energy Defense Activities, Weapons Activities”, \$57,000,000 shall not be available for obligation until September 30, 1999.

## TITLE IV

### INDEPENDENT AGENCIES

#### APPALACHIAN REGIONAL COMMISSION

40 USC app. 401  
note.

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$66,400,000, to remain available until expended.

#### DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses, \$20,000,000, to remain available until expended, subject to enactment of authorization by law.

#### DEFENSE NUCLEAR FACILITIES SAFETY BOARD

##### SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, \$16,500,000, to remain available until expended.

## NUCLEAR REGULATORY COMMISSION

## SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), \$465,000,000, to remain available until expended: *Provided*, That of the amount appropriated herein, \$17,000,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$444,800,000 in fiscal year 1999 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That \$3,200,000 of the funds herein appropriated for regulatory reviews and other assistance provided to the Department of Energy and other Federal agencies shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at not more than \$20,200,000.

## OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$4,800,000, to remain available until expended: *Provided*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at not more than \$0.

## NUCLEAR WASTE TECHNICAL REVIEW BOARD

## SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, \$2,600,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

## TITLE V—GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in section 1913 of title 18, United States Code.

SEC. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 503. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the “Cleanup Program—Alternative Repayment Plan” and the “SJVDP—Alternative Repayment Plan” described in the report entitled “Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995”, prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal Reclamation law.

SEC. 504. None of the funds made available in this or any other Act may be used to restart the High Flux Beam Reactor.

SEC. 505. Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990, as amended, (42 U.S.C. 2214(a)(3)) is amended by striking “September 30, 1998” and inserting “September 30, 1999”.

42 USC 5852.

SEC. 506. (a) Funds appropriated for “Nuclear Regulatory Commission—Salaries and Expenses” shall be available to the Commission for the following additional purposes:

- (1) Employment of aliens.
- (2) Services authorized by section 3109 of title 5, United States Code.
- (3) Publication and dissemination of atomic information.
- (4) Purchase, repair, and cleaning of uniforms.
- (5) Reimbursements to the General Services Administration for security guard services.
- (6) Hire of passenger motor vehicles and aircraft.
- (7) Transfers of funds to other agencies of the Federal Government for the performance of the work for which such funds are appropriated, and such transferred funds may be merged with the appropriations to which they are transferred.
- (8) Transfers to the Office of Inspector General of the Commission, not to exceed an additional amount equal to 5 percent of the amount otherwise appropriated to the Office for the fiscal year. Notice of such transfers shall be submitted to the Committees on Appropriations.



(b) Funds appropriated for “Nuclear Regulatory Commission—Office of Inspector General” shall be available to the Office for the additional purposes described in paragraphs (2) and (7) of subsection (a).

(c) Moneys received by the Commission for the cooperative nuclear research program, services rendered to State governments, foreign governments, and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302, and shall remain available until expended.

(d) Notwithstanding section 663(c)(2)(D) of Public Law 104–208, and to facilitate targeted workforce downsizing and restructuring, the Chairman of the Nuclear Regulatory Commission may use funds appropriated in this Act to exercise the authority provided by section 663 of that Act with respect to employees who voluntarily separate from the date of enactment of this Act through December 31, 2000. All of the requirements in section 663 of Public Law 104–208, except for section 663(c)(2)(D), apply to the exercise of authority under this section.

(e) Subsections (a), (b), and (c) of this section shall apply to fiscal year 1999 and each succeeding fiscal year. Applicability.

(TRANSFER OF FUNDS)

**SEC. 507. FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA, CRIMINAL JUSTICE SYSTEM.**—Of the amounts appropriated as a Federal payment under the District of Columbia Appropriations Act, 1998, to the Pretrial Services, Defense Services, Parole, Adult Probation and Offender Supervision Trustee, \$1,700,000 are hereby transferred to the District of Columbia Courts for court operations.

DESIGNATION OF VIC FAZIO YOLO WILDLIFE AREA

**SEC. 508.** The wetlands located in Yolo County, California, and known as the Yolo Basin Wetlands, shall be known and designated as the “Vic Fazio Yolo Wildlife Area”. Any reference in a law, map, regulation, document, paper, or other record of the United States to the wetlands shall be deemed to be a reference to the “Vic Fazio Yolo Wildlife Area”.

DALE BUMPERS WILDLIFE RESOURCES PROTECTION ACT

**SEC. 509.** The Arkansas Wilderness Act of 1984 (Public Law 98–508; 98 Stat. 2349) is amended by adding at the end thereof the following new section:

**“SEC. 8. RECOGNIZING THE CONTRIBUTIONS OF SENATOR DALE BUMPERS.**

“(a) **DEDICATION.**—The nine areas in the State of Arkansas comprising approximately 91,100 acres designated as components of the National Wilderness Preservation System pursuant to this Act are hereby dedicated to United States Senator Dale Bumpers in recognition of his leadership and outstanding contributions to the designation of wilderness in the State of Arkansas and to the protection and preservation of natural resources for the benefit of the people of the United States.

“(b) SHORT TITLE.—In further recognition of his efforts to protect wilderness resources in the State of Arkansas, this Act shall, upon enactment of this section, be known as the ‘Dale Bumpers Wilderness Resources Protection Act’.

Deadline.

“(c) PUBLIC NOTIFICATION.—Not later than 180 days after the date of enactment of this section, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall take such actions as may be necessary to recognize the contributions of Senator Dale Bumpers to the preservation of wilderness in the State of Arkansas. Such actions shall include, but not be limited to, appropriate signs and other materials, commemorative markers, maps, interpretive programs or other means as will adequately inform the public of the efforts of Senator Bumpers to preserve and protect National Forest wilderness areas in the State of Arkansas.”.

This Act may be cited as the “Energy and Water Development Appropriations Act, 1999”.

Approved October 7, 1998.

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LEGISLATIVE HISTORY—H.R. 4060 (S. 2138):

HOUSE REPORTS: Nos. 105-581 (Comm. on Appropriations) and 105-749 (Comm. of Conference).

SENATE REPORTS: No. 105-206 accompanying S. 2138 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 22, considered and passed House.

June 23, considered and passed Senate, amended.

Sept. 28, House agreed to conference report.

Sept. 29, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 7, Presidential statement.



Public Law 105–246  
105th Congress

An Act

To amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes.

Oct. 8, 1998

[S. 1379]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Nazi War Crimes  
Disclosure Act.  
5 USC 522 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Nazi War Crimes Disclosure Act”.

**SEC. 2. ESTABLISHMENT OF NAZI WAR CRIMINAL RECORDS INTER-AGENCY WORKING GROUP.**

5 USC 522 note.

(a) **DEFINITIONS.**—In this section the term—

(1) “agency” has the meaning given such term under section 551 of title 5, United States Code;

(2) “Interagency Group” means the Nazi War Criminal Records Interagency Working Group established under subsection (b);

(3) “Nazi war criminal records” has the meaning given such term under section 3 of this Act; and

(4) “record” means a Nazi war criminal record.

(b) **ESTABLISHMENT OF INTERAGENCY GROUP.**—

(1) **IN GENERAL.**—Not later than 60 days after the date of enactment of this Act, the President shall establish the Nazi War Criminal Records Interagency Working Group, which shall remain in existence for 3 years after the date the Interagency Group is established.

Deadlines.  
President.

(2) **MEMBERSHIP.**—The President shall appoint to the Interagency Group individuals whom the President determines will most completely and effectively carry out the functions of the Interagency Group within the time limitations provided in this section, including the Director of the Holocaust Museum, the Historian of the Department of State, the Archivist of the United States, the head of any other agency the President considers appropriate, and no more than 3 other persons. The head of an agency appointed by the President may designate an appropriate officer to serve on the Interagency Group in lieu of the head of such agency.

(3) **INITIAL MEETING.**—Not later than 90 days after the date of enactment of this Act, the Interagency Group shall hold an initial meeting and begin the functions required under this section.

Records.

(c) **FUNCTIONS.**—Not later than 1 year after the date of enactment of this Act, the Interagency Group shall, to the greatest extent possible consistent with section 3 of this Act—

(1) locate, identify, inventory, recommend for declassification, and make available to the public at the National Archives and Records Administration, all classified Nazi war criminal records of the United States;

(2) coordinate with agencies and take such actions as necessary to expedite the release of such records to the public; and

Reports.

(3) submit a report to Congress, including the Committee on the Judiciary of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, describing all such records, the disposition of such records, and the activities of the Interagency Group and agencies under this section.

(d) **FUNDING.**—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

5 USC 522 note.

**SEC. 3. REQUIREMENT OF DISCLOSURE OF RECORDS REGARDING PERSONS WHO COMMITTED NAZI WAR CRIMES.**

(a) **NAZI WAR CRIMINAL RECORDS.**—For purposes of this Act, the term “Nazi war criminal records” means classified records or portions of records that—

(1) pertain to any person with respect to whom the United States Government, in its sole discretion, has grounds to believe ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government of Germany;

(B) any government in any area occupied by the military forces of the Nazi government of Germany;

(C) any government established with the assistance or cooperation of the Nazi government of Germany; or

(D) any government which was an ally of the Nazi government of Germany; or

(2) pertain to any transaction as to which the United States Government, in its sole discretion, has grounds to believe—

(A) involved assets taken from persecuted persons during the period beginning on March 23, 1933, and ending on May 8, 1945, by, under the direction of, on behalf of, or under authority granted by the Nazi government of Germany or any nation then allied with that government; and

(B) such transaction was completed without the assent of the owners of those assets or their heirs or assigns or other legitimate representatives.

(b) **RELEASE OF RECORDS.**—

(1) **IN GENERAL.**—Subject to paragraphs (2), (3), and (4), the Nazi War Criminal Records Interagency Working Group shall release in their entirety Nazi war criminal records that are described in subsection (a).

(2) EXCEPTION FOR PRIVACY, ETC.—An agency head may exempt from release under paragraph (1) specific information, that would—

(A) constitute a clearly unwarranted invasion of personal privacy;

(B) reveal the identity of a confidential human source, or reveal information about the application of an intelligence source or method, or reveal the identity of a human intelligence source when the unauthorized disclosure of that source would clearly and demonstrably damage the national security interests of the United States;

(C) reveal information that would assist in the development or use of weapons of mass destruction;

(D) reveal information that would impair United States cryptologic systems or activities;

(E) reveal information that would impair the application of state-of-the-art technology within a United States weapon system;

(F) reveal actual United States military war plans that remain in effect;

(G) reveal information that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States;

(H) reveal information that would clearly and demonstrably impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services, in the interest of national security, are authorized;

(I) reveal information that would seriously and demonstrably impair current national security emergency preparedness plans; or

(J) violate a treaty or international agreement.

(3) APPLICATION OF EXEMPTIONS.—

(A) IN GENERAL.—In applying the exemptions listed in subparagraphs (B) through (J) of paragraph (2), there shall be a presumption that the public interest in the release of Nazi war criminal records will be served by disclosure and release of the records. Assertion of such exemption may only be made when the agency head determines that disclosure and release would be harmful to a specific interest identified in the exemption. An agency head who makes such a determination shall promptly report it to the committees of Congress with appropriate jurisdiction, including the Committee on the Judiciary of the Senate and the Committee on Government Reform and Oversight of the House of Representatives. The exemptions set forth in paragraph (2) shall constitute the only authority pursuant to which an agency head may exempt records otherwise subject to release under paragraph (1).

(B) APPLICATION OF TITLE 5.—A determination by an agency head to apply an exemption listed in subparagraphs (B) through (I) of paragraph (2) shall be subject to the same standard of review that applies in the case of records withheld under section 552(b)(1) of title 5, United States Code.

(4) LIMITATION ON APPLICATION.—This subsection shall not apply to records—

(A) related to or supporting any active or inactive investigation, inquiry, or prosecution by the Office of Special Investigations of the Department of Justice; or

(B) solely in the possession, custody, or control of that office.

(c) INAPPLICABILITY OF NATIONAL SECURITY ACT OF 1947 EXEMPTION.—Section 701(a) of the National Security Act of 1947 (50 U.S.C. 431) shall not apply to any operational file, or any portion of any operational file, that constitutes a Nazi war criminal record under section 3 of this Act.

5 USC 522 note.

**SEC. 4. EXPEDITED PROCESSING OF FOIA REQUESTS FOR NAZI WAR CRIMINAL RECORDS.**

(a) EXPEDITED PROCESSING.—For purposes of expedited processing under section 552(a)(6)(E) of title 5, United States Code, any requester of a Nazi war criminal record shall be deemed to have a compelling need for such record.

(b) REQUESTER.—For purposes of this section, the term “requester” means any person who was persecuted in the manner described under section 3(a)(1) of this Act who requests a Nazi war criminal record.

5 USC 522 note.

**SEC. 5. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on the date that is 90 days after the date of enactment of this Act.

Approved October 8, 1998.

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**LEGISLATIVE HISTORY—S. 1379:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 19, considered and passed Senate.

Aug. 6, considered and passed House.



Public Law 105–247  
105th Congress

An Act

To correct a provision relating to termination of benefits for convicted persons.

Oct. 9, 1998

[H.R. 3096]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. CORRECTION.**

Section 8148(a) of title 5, United States Code, is amended  
by striking “a receipt” and inserting “or receipt”.

Approved October 9, 1998.

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**LEGISLATIVE HISTORY—H.R. 3096:**

HOUSE REPORTS: No. 105–446 (Comm. on Education and the Workforce).

SENATE REPORTS: No. 105–296 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 24, considered and passed House.

Sept. 28, considered and passed Senate.



Public Law 105–248  
105th Congress

An Act

Oct. 9, 1998  
[H.R. 4382]

To amend the Public Health Service Act to revise and extend the program for mammography quality standards.

Mammography  
Quality  
Standards  
Reauthorization  
Act of 1998.  
42 USC 201 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Mammography Quality Standards Reauthorization Act of 1998”.

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Section 354(r)(2) of the Public Health Service Act (42 U.S.C. 263b(r)(2)) is amended in each of subparagraphs (A) and (B) by striking “1997” and inserting “2002”.

(b) TECHNICAL AMENDMENTS.—Section 354(r)(2) of the Public Health Service Act (42 U.S.C. 263b(r)(2)) is amended in subparagraph (A) by striking “subsection (q)” and inserting “subsection (p)”, and in subparagraph (B) by striking “fiscal year” and inserting “fiscal years”.

**SEC. 3. APPLICATION OF CURRENT VERSION OF APPEAL REGULATIONS.**

Section 354(d)(2)(B) of the Public Health Service Act (42 U.S.C. 263b(d)(2)(B)) is amended by striking “42 C.F.R. 498 and in effect on the date of the enactment of this section” and inserting “part 498 of title 42, Code of Federal Regulations”.

**SEC. 4. ACCREDITATION STANDARDS.**

(a) IN GENERAL.—Section 354(e)(1)(B) of the Public Health Service Act (42 U.S.C. 263b(e)(1)(B)) is amended—

(1) in clause (i), by striking “practicing physicians” each place such term appears and inserting “review physicians”; and

(2) in clause (ii), by striking “financial relationship” and inserting “relationship”.

(b) DEFINITION.—Section 354(a) of the Public Health Service Act (42 U.S.C. 263b(a)) is amended by adding at the end the following:

“(8) REVIEW PHYSICIAN.—The term ‘review physician’ means a physician as prescribed by the Secretary under subsection (f)(1)(D) who meets such additional requirements as may be established by an accreditation body under subsection (e) and approved by the Secretary to review clinical images under subsection (e)(1)(B)(i) on behalf of the accreditation body.”.



**SEC. 5. CLARIFICATION OF FACILITIES' RESPONSIBILITY TO RETAIN MAMMOGRAM RECORDS.**

Section 354(f)(1)(G) of the Public Health Service Act (42 U.S.C. 263b(f)(1)(G)) is amended by striking clause (i) and inserting the following:

- “(i) a facility that performs any mammogram—
  - “(I) except as provided in subclause (II), maintain the mammogram in the permanent medical records of the patient for a period of not less than 5 years, or not less than 10 years if no subsequent mammograms of such patient are performed at the facility, or longer if mandated by State law; and
  - “(II) upon the request of or on behalf of the patient, transfer the mammogram to a medical institution, to a physician of the patient, or to the patient directly; and”.

**SEC. 6. DIRECT REPORTS TO PATIENTS.**

Section 354(f)(1)(G)(ii) of the Public Health Service Act (42 U.S.C. 263b(f)(1)(G)(ii)) is amended by striking subclause (IV) and inserting the following:

- “(IV) whether or not such a physician is available or there is no such physician, a summary of the written report shall be sent directly to the patient in terms easily understood by a lay person; and”.

**SEC. 7. SCOPE OF INSPECTIONS.**

Section 354(g)(1)(A) of the Public Health Service Act (42 U.S.C. 263b(g)(1)(A)) is amended in the first sentence—

- (1) by striking “certified”; and
- (2) by inserting “the certification requirements under subsection (b) and” after “compliance with”.

**SEC. 8. DEMONSTRATION PROGRAM REGARDING FREQUENCY OF INSPECTIONS.**

Section 354(g) of the Public Health Service Act (42 U.S.C. 263b(g)) is amended—

- (1) in paragraph (1)(E), by inserting “, subject to paragraph (6)” before the period; and
- (2) by adding at the end the following paragraph:

“(6) DEMONSTRATION PROGRAM.—

“(A) IN GENERAL.—The Secretary may establish a demonstration program under which inspections under paragraph (1) of selected facilities are conducted less frequently by the Secretary (or as applicable, by State or local agencies acting on behalf of the Secretary) than the interval specified in subparagraph (E) of such paragraph.

“(B) REQUIREMENTS.—Any demonstration program under subparagraph (A) shall be carried out in accordance with the following:

“(i) The program may not be implemented before April 1, 2001. Preparations for the program may be carried out prior to such date.

“(ii) In carrying out the program, the Secretary may not select a facility for inclusion in the program unless the facility is substantially free of incidents of noncompliance with the standards under subsection

(f). The Secretary may at any time provide that a facility will no longer be included in the program.

“(iii) The number of facilities selected for inclusion in the program shall be sufficient to provide a statistically significant sample, subject to compliance with clause (ii).

“(iv) Facilities that are selected for inclusion in the program shall be inspected at such intervals as the Secretary determines will reasonably ensure that the facilities are maintaining compliance with such standards.”.

**SEC. 9. CLARIFICATION OF AUTHORITY TO DELEGATE INSPECTION RESPONSIBILITY TO LOCAL GOVERNMENT AGENCIES.**

Section 354 of the Public Health Service Act (42 U.S.C. 263b) is amended—

(1) in subsections (a)(4), (g)(1), (g)(3), and (g)(4), by inserting “or local” after “State” each place such term appears;

(2) in the heading of subsection (g)(3), by inserting “OR LOCAL” after “STATE”; and

(3) in subsection (i)(1)(D)—

(A) by inserting “or local” after “State” the first place such term appears; and

(B) by inserting “or local agency” after “State” the second place such term appears.

**SEC. 10. PATIENT NOTIFICATION CONCERNING HEALTH RISKS.**

(a) **REQUIREMENT.**—Section 354(h) of the Public Health Service Act (42 U.S.C. 263b(h)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) **PATIENT INFORMATION.**—If the Secretary determines that the quality of mammography performed by a facility (whether or not certified pursuant to subsection (c)) was so inconsistent with the quality standards established pursuant to subsection (f) as to present a significant risk to individual or public health, the Secretary may require such facility to notify patients who received mammograms at such facility, and their referring physicians, of the deficiencies presenting such risk, the potential harm resulting, appropriate remedial measures, and such other relevant information as the Secretary may require.”.

(b) **CIVIL MONEY PENALTY.**—Section 354(h)(3) of the Public Health Service Act (42 U.S.C. 263b(h)(3)), as redesignated by subsection (a)(1), is amended—

(1) by striking “and” at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

“(C) each failure to notify a patient of risk as required by the Secretary pursuant to paragraph (2), and”.

(c) **CONFORMING AMENDMENT.**—Section 354(h)(4) of the Public Health Service Act (42 U.S.C. 263b(h)(4)), as redesignated by subsection (a)(1), is amended by striking “paragraphs (1) and (2)” and inserting “paragraphs (1) through (3)”.

**SEC. 11. REQUIREMENT TO COMPLY WITH INFORMATION REQUESTS.**

Section 354(i)(1)(C) of the Public Health Service Act (42 U.S.C. 263b(i)(1)(C)) is amended—

(1) by inserting after “Secretary” the first place such term appears the following: “(or of an accreditation body approved pursuant to subsection (e))”; and

(2) by inserting after “Secretary” the second place such term appears the following: “(or such accreditation body or State carrying out certification program requirements pursuant to subsection (q))”.

**SEC. 12. ADJUSTMENT TO SEVERITY OF SANCTIONS.**

Section 354(i)(2)(A) of the Public Health Service Act (42 U.S.C. 263b(i)(2)(A)) is amended by striking “makes the finding” and all that follows and inserting the following: “has reason to believe that the circumstance of the case will support one or more of the findings described in paragraph (1) and that—

“(i) the failure or violation was intentional; or

“(ii) the failure or violation presents a serious risk to human health.”.

**SEC. 13. TECHNICAL AMENDMENT.**

Section 354(q)(4)(B) of the Public Health Service Act (42 U.S.C. 263b(q)(4)(B)) is amended by striking “accredited” and inserting “certified”.

Approved October 9, 1998.

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**LEGISLATIVE HISTORY—H.R. 4382 (S. 537):**

HOUSE REPORTS: No. 105–713 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 15, considered and passed House.

Sept. 25, considered and passed Senate.

Public Law 105–249  
105th Congress

Joint Resolution

Oct. 9, 1998  
[H.J. Res. 133]

Making further continuing appropriations for the fiscal year 1999, and for other purposes.

*Ante*, p. 1569.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 106(c) of Public Law 105–240 is amended by striking “October 9, 1998” and inserting in lieu thereof “October 12, 1998”.

Approved October 9, 1998.

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LEGISLATIVE HISTORY—H.J. Res. 133:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 9, considered and passed House and Senate.



Public Law 105–250  
105th Congress

An Act

To designate the United States courthouse located at 141 Church Street in New Haven, Connecticut, as the “Richard C. Lee United States Courthouse”.

Oct. 9, 1998  
[S. 1355]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION.**

The United States courthouse located at 141 Church Street in New Haven, Connecticut, shall be known and designated as the “Richard C. Lee United States Courthouse”.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the “Richard C. Lee United States Courthouse”.

Approved October 9, 1998.

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**LEGISLATIVE HISTORY—S. 1355:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 2, considered and passed Senate.

Sept. 23, considered and passed House, amended.

Sept. 30, Senate concurred in House amendments.



Public Law 105–251  
105th Congress

An Act

Oct. 9, 1998  
[S. 2022]

To provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

**TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998**

Sec. 101. Short title.

Sec. 102. State grant program for criminal justice identification, information, and communication.

**TITLE II—NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT**

Sec. 201. Short title.

Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes

Sec. 211. Short title.

Sec. 212. Findings.

Sec. 213. Definitions.

Sec. 214. Enactment and consent of the United States.

Sec. 215. Effect on other laws.

Sec. 216. Enforcement and implementation.

Sec. 217. National Crime Prevention and Privacy Compact.

**OVERVIEW**

**ARTICLE I—DEFINITIONS**

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## TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Crime  
Identification  
Technology Act  
of 1998.

Records.

### SEC. 101. SHORT TITLE.

This title may be cited as the “Crime Identification Technology Act of 1998”.

42 USC 14601  
note.

### SEC. 102. STATE GRANT PROGRAM FOR CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION.

42 USC 14601.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Office of Justice Programs relying principally on the expertise of the Bureau of Justice Statistics shall make a grant to each State, in a manner consistent with the national criminal history improvement program, which shall be used by the State, in conjunction with units of local government, State and local courts, other States, or combinations thereof, to establish or upgrade an integrated approach to develop information and identification technologies and systems to—

(1) upgrade criminal history and criminal justice record systems, including systems operated by law enforcement agencies and courts;

(2) improve criminal justice identification;

(3) promote compatibility and integration of national, State, and local systems for—

(A) criminal justice purposes;

(B) firearms eligibility determinations;

(C) identification of sexual offenders;

(D) identification of domestic violence offenders; and

(E) background checks for other authorized purposes unrelated to criminal justice; and

(4) capture information for statistical and research purposes to improve the administration of criminal justice.

(b) USE OF GRANT AMOUNTS.—Grants under this section may be used for programs to establish, develop, update, or upgrade—

(1) State centralized, automated, adult and juvenile criminal history record information systems, including arrest and disposition reporting;

(2) automated fingerprint identification systems that are compatible with standards established by the National Institute of Standards and Technology and interoperable with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation;

(3) finger imaging, live scan, and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with standards established by the National Institute of Standards and Technology and interoperable with systems operated by States and by the Federal Bureau of Investigation;

(4) programs and systems to facilitate full participation in the Interstate Identification Index of the National Crime Information Center;

(5) systems to facilitate full participation in any compact relating to the Interstate Identification Index of the National Crime Information Center;

(6) systems to facilitate full participation in the national instant criminal background check system established under

section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) for firearms eligibility determinations;

(7) integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement agencies, courts, prosecutors, and corrections agencies;

(8) noncriminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note);

(9) court-based criminal justice information systems that promote—

(A) reporting of dispositions to central State repositories and to the Federal Bureau of Investigation; and

(B) compatibility with, and integration of, court systems with other criminal justice information systems;

(10) ballistics identification and information programs that are compatible and integrated with the National Integrated Ballistics Network (NIBN);

(11) the capabilities of forensic science programs and medical examiner programs related to the administration of criminal justice, including programs leading to accreditation or certification of individuals or departments, agencies, or laboratories, and programs relating to the identification and analysis of deoxyribonucleic acid;

(12) sexual offender identification and registration systems;

(13) domestic violence offender identification and information systems;

(14) programs for fingerprint-supported background checks capability for noncriminal justice purposes, including youth service employees and volunteers and other individuals in positions of responsibility, if authorized by Federal or State law and administered by a government agency;

(15) criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems that are compatible with the National Incident-Based Reporting System (NIBRS) and uniform crime reports; and

(16) multiagency, multijurisdictional communications systems among the States to share routine and emergency information among Federal, State, and local law enforcement agencies.

(c) ASSURANCES.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a State shall provide assurances to the Attorney General that the State has the capability to contribute pertinent information to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note).

(2) INFORMATION SHARING.—Such assurances shall include a provision that ensures that a statewide strategy for information sharing systems is underway, or will be initiated, to improve the functioning of the criminal justice system, with an emphasis on integration of all criminal justice components, law enforcement, courts, prosecution, corrections, and probation and parole. The strategy shall be prepared after consultation



with State and local officials with emphasis on the recommendation of officials whose duty it is to oversee, plan, and implement integrated information technology systems, and shall contain—

(A) a definition and analysis of “integration” in the State and localities developing integrated information sharing systems;

(B) an assessment of the criminal justice resources being devoted to information technology;

(C) Federal, State, regional, and local information technology coordination requirements;

(D) an assurance that the individuals who developed the grant application took into consideration the needs of all branches of the State Government and specifically sought the advice of the chief of the highest court of the State with respect to the application;

(E) State and local resource needs;

(F) the establishment of statewide priorities for planning and implementation of information technology systems; and

(G) a plan for coordinating the programs funded under this title with other federally funded information technology programs, including directly funded local programs such as the Local Law Enforcement Block Grant program (described under the heading “Violent Crime Reduction Programs, State and Local Law Enforcement Assistance” of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119)) and the M.O.R.E. program established pursuant to part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

(d) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 90 percent of the costs of a program or proposal funded under this title unless the Attorney General waives, wholly or in part, the requirements of this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section \$250,000,000 for each of fiscal years 1999 through 2003.

(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

(A) not more than 3 percent may be used by the Attorney General for salaries and administrative expenses;

(B) not more than 5 percent may be used for technical assistance, training and evaluations, and studies commissioned by Bureau of Justice Statistics of the Department of Justice (through discretionary grants or otherwise) in furtherance of the purposes of this section;

(C) not less than 20 percent shall be used by the Attorney General for the purposes described in paragraph (11) of subsection (b); and

(D) the Attorney General shall ensure the amounts are distributed on an equitable geographic basis.

(f) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this section, the Attorney General may use amounts made available under this section to make grants to Indian tribes for use in accordance with this section.

National  
Criminal History  
Access and Child  
Protection Act.  
Records.

## **TITLE II—NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT**

42 USC 14601  
note.

### **SEC. 201. SHORT TITLE.**

This title may be cited as the “National Criminal History Access and Child Protection Act”.

National Crime  
Prevention and  
Privacy Compact  
Act of 1998.  
Records.  
42 USC 14601  
note.

## **Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes**

### **SEC. 211. SHORT TITLE.**

This subtitle may be cited as the “National Crime Prevention and Privacy Compact Act of 1998”.

42 USC 14611.

### **SEC. 212. FINDINGS.**

Congress finds that—

(1) both the Federal Bureau of Investigation and State criminal history record repositories maintain fingerprint-based criminal history records;

(2) these criminal history records are shared and exchanged for criminal justice purposes through a Federal-State program known as the Interstate Identification Index System;

(3) although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from State to State;

(4) an interstate and Federal-State compact is necessary to facilitate authorized interstate criminal history record exchanges for noncriminal justice purposes on a uniform basis, while permitting each State to effectuate its own dissemination policy within its own borders; and

(5) such a compact will allow Federal and State records to be provided expeditiously to governmental and nongovernmental agencies that use such records in accordance with pertinent Federal and State law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

42 USC 14612.

### **SEC. 213. DEFINITIONS.**

In this subtitle:

(1) **ATTORNEY GENERAL.**—The term “Attorney General” means the Attorney General of the United States.

(2) **COMPACT.**—The term “Compact” means the National Crime Prevention and Privacy Compact set forth in section 217.

(3) **COUNCIL.**—The term “Council” means the Compact Council established under Article VI of the Compact.

(4) **FBI.**—The term “FBI” means the Federal Bureau of Investigation.

(5) **PARTY STATE.**—The term “Party State” means a State that has ratified the Compact.

(6) STATE.—The term “State” means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

**SEC. 214. ENACTMENT AND CONSENT OF THE UNITED STATES.**

42 USC 14613.

The National Crime Prevention and Privacy Compact, as set forth in section 217, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

**SEC. 215. EFFECT ON OTHER LAWS.**

42 USC 14614.

(a) PRIVACY ACT OF 1974.—Nothing in the Compact shall affect the obligations and responsibilities of the FBI under section 552a of title 5, United States Code (commonly known as the “Privacy Act of 1974”).

(b) ACCESS TO CERTAIN RECORDS NOT AFFECTED.—Nothing in the Compact shall interfere in any manner with—

(1) access, direct or otherwise, to records pursuant to—

(A) section 9101 of title 5, United States Code;

(B) the National Child Protection Act;

(C) the Brady Handgun Violence Prevention Act (Public Law 103–159; 107 Stat. 1536);

(D) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2074) or any amendment made by that Act;

(E) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

(F) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(2) any direct access to Federal criminal history records authorized by law.

(c) AUTHORITY OF FBI UNDER DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, 1973.—Nothing in the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544 (86 Stat. 1115)).

(d) FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) MEMBERS OF COUNCIL NOT FEDERAL OFFICERS OR EMPLOYEES.—Members of the Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed—

(1) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of title 5, United States Code); or

(2) to become entitled by reason of Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

**SEC. 216. ENFORCEMENT AND IMPLEMENTATION.**

42 USC 14615.

All departments, agencies, officers, and employees of the United States shall enforce the Compact and cooperate with one another and with all Party States in enforcing the Compact and effectuating its purposes. For the Federal Government, the Attorney General shall make such rules, prescribe such instructions, and take such

other actions as may be necessary to carry out the Compact and this subtitle.

42 USC 14616.

**SEC. 217. NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.**

The Contracting Parties agree to the following:

**OVERVIEW**

(a) **IN GENERAL.**—This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

(b) **OBLIGATIONS OF PARTIES.**—Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

**ARTICLE I—DEFINITIONS**

In this Compact:

(1) **ATTORNEY GENERAL.**—The term “Attorney General” means the Attorney General of the United States.

(2) **COMPACT OFFICER.**—The term “Compact officer” means—

(A) with respect to the Federal Government, an official so designated by the Director of the FBI; and

(B) with respect to a Party State, the chief administrator of the State’s criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) **COUNCIL.**—The term “Council” means the Compact Council established under Article VI.

(4) **CRIMINAL HISTORY RECORDS.**—The term “criminal history records”—

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) **CRIMINAL HISTORY RECORD REPOSITORY.**—The term “criminal history record repository” means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized record-keeping functions for criminal history records and services in the State.

(6) **CRIMINAL JUSTICE.**—The term “criminal justice” includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons

or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) CRIMINAL JUSTICE AGENCY.—The term “criminal justice agency”—

(A) means—

(i) courts; and

(ii) a governmental agency or any subunit thereof that—

(I) performs the administration of criminal justice pursuant to a statute or Executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes Federal and State inspectors general offices.

(8) CRIMINAL JUSTICE SERVICES.—The term “criminal justice services” means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) CRITERION OFFENSE.—The term “criterion offense” means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) DIRECT ACCESS.—The term “direct access” means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) EXECUTIVE ORDER.—The term “Executive order” means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI.—The term “FBI” means the Federal Bureau of Investigation.

(13) INTERSTATE IDENTIFICATION SYSTEM.—The term “Interstate Identification Index System” or “III System”—

(A) means the cooperative Federal-State system for the exchange of criminal history records; and

(B) includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

(14) NATIONAL FINGERPRINT FILE.—The term “National Fingerprint File” means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) NATIONAL IDENTIFICATION INDEX.—The term “National Identification Index” means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) NATIONAL INDICES.—The term “National indices” means the National Identification Index and the National Fingerprint File.

(17) NONPARTY STATE.—The term “Nonparty State” means a State that has not ratified this Compact.

(18) NONCRIMINAL JUSTICE PURPOSES.—The term “noncriminal justice purposes” means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) PARTY STATE.—The term “Party State” means a State that has ratified this Compact.

(20) POSITIVE IDENTIFICATION.—The term “positive identification” means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects’ names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) SEALED RECORD INFORMATION.—The term “sealed record information” means—

(A) with respect to adults, that portion of a record that is—

- (i) not available for criminal justice uses;
- (ii) not supported by fingerprints or other accepted means of positive identification; or
- (iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

(22) STATE.—The term “State” means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

## ARTICLE II—PURPOSES

The purposes of this Compact are to—

(1) provide a legal framework for the establishment of a cooperative Federal-State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(3) require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules,

procedures, and standards established by the Council under Article VI;

(4) provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

#### ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI RESPONSIBILITIES.—The Director of the FBI shall—  
(1) appoint an FBI Compact officer who shall—

(A) administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);

(B) ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in Article III(1)(A); and

(C) regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

(2) provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including—

(A) information from Nonparty States; and

(B) information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) STATE RESPONSIBILITIES.—Each Party State shall—

(1) appoint a Compact officer who shall—

(A) administer this Compact within that State;

(B) ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

(C) regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

(2) establish and maintain a criminal history record repository, which shall provide—

(A) information and records for the National Identification Index and the National Fingerprint File; and

(B) the State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) COMPLIANCE WITH III SYSTEM STANDARDS.—In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) MAINTENANCE OF RECORD SERVICES.—

(1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

#### ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

(a) STATE CRIMINAL HISTORY RECORD REPOSITORIES.—To the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) CRIMINAL JUSTICE AGENCIES AND OTHER GOVERNMENTAL OR NONGOVERNMENTAL AGENCIES.—The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) PROCEDURES.—Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall—

(1) ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted



from the response and, if no information authorized for release remains, an appropriate “no record” response is communicated to the requesting official.

#### ARTICLE V—RECORD REQUEST PROCEDURES

(a) POSITIVE IDENTIFICATION.—Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) SUBMISSION OF STATE REQUESTS.—Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State’s criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

(c) SUBMISSION OF FEDERAL REQUESTS.—Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) FEES.—A State criminal history record repository or the FBI—

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) ADDITIONAL SEARCH.—

(1) If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to a request forwarded by a State criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records—

(A) the FBI shall so advise the State criminal history record repository; and

(B) the State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

#### ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a council to be known as the “Compact Council”, which shall have the authority to promulgate rules and procedures governing the use of the III

System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) ORGANIZATION.—The Council shall—

(A) continue in existence as long as this Compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) MEMBERSHIP.—The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(B) 1 shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI(c), each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of State or local criminal justice agencies; and

(B) 1 shall be a representative of State or local non-criminal justice agencies.

(4) One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a 3-year term, and who shall be an employee of the FBI.

(c) CHAIRMAN AND VICE CHAIRMAN.—

(1) IN GENERAL.—From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council—

(A) shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and

(B) shall serve a 2-year term and may be reelected to only 1 additional 2-year term.

(2) DUTIES OF VICE CHAIRMAN.—The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(d) MEETINGS.—

(1) IN GENERAL.—The Council shall meet at least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) QUORUM.—A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) RULES, PROCEDURES, AND STANDARDS.—The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

Public  
information.  
Federal Register,  
publication.

(f) ASSISTANCE FROM FBI.—The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) COMMITTEES.—The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

#### ARTICLE VII—RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by 2 or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.

Effective date.

#### ARTICLE VIII—MISCELLANEOUS PROVISIONS

(a) RELATION OF COMPACT TO CERTAIN FBI ACTIVITIES.—Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) NO AUTHORITY FOR NONAPPROPRIATED EXPENDITURES.—Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) RELATING TO PUBLIC LAW 92-544.—Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(a), regarding the use and dissemination of criminal history records and information.

## ARTICLE IX—RENUNCIATION

(a) IN GENERAL.—This Compact shall bind each Party State until renounced by the Party State.

(b) EFFECT.—Any renunciation of this Compact by a Party State shall—

(1) be effected in the same manner by which the Party State ratified this Compact; and

Effective date.

(2) become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

## ARTICLE X—SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

## ARTICLE XI—ADJUDICATION OF DISPUTES

(a) IN GENERAL.—The Council shall—

(1) have initial authority to make determinations with respect to any dispute regarding—

(A) interpretation of this Compact;

(B) any rule or standard established by the Council pursuant to Article V; and

(C) any dispute or controversy between any parties to this Compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) DUTIES OF FBI.—The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) RIGHT OF APPEAL.—The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of title 28, United States Code, or other statutory authority.

**Subtitle B—Volunteers for Children Act**Volunteers for  
Children Act.**SEC. 221. SHORT TITLE.**

This subtitle may be cited as the “Volunteers for Children Act”.

42 USC 5101  
note.**SEC. 222. FACILITATION OF FINGERPRINT CHECKS.**

(a) **STATE AGENCY.**—Section 3(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(a)) is amended by adding at the end the following:

“(3) In the absence of State procedures referred to in paragraph (1), a qualified entity designated under paragraph (1) may contact an authorized agency of the State to request national criminal fingerprint background checks. Qualified entities requesting background checks under this paragraph shall comply with the guidelines set forth in subsection (b) and with procedures for requesting national criminal fingerprint background checks, if any, established by the State.”.

(b) **FEDERAL LAW.**—Section 3(b)(5) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)(5)) is amended by inserting before the period at the end the following: “, except that this paragraph does not apply to any request by a qualified entity for a national criminal fingerprint background check pursuant to subsection (a)(3)”.

(c) **AUTHORIZATION.**—Section 4(b)(2) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)(2)) is amended by striking “1994, 1995, 1996, and 1997” and inserting “1999, 2000, 2001, and 2002”.

Approved October 9, 1998.

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**LEGISLATIVE HISTORY—S. 2022:****CONGRESSIONAL RECORD**, Vol. 144 (1998):

July 13, considered and passed Senate.

Oct. 7, considered and passed House, amended.

Oct. 8, Senate concurred in House amendment.



Public Law 105–252  
105th Congress

An Act

Oct. 9, 1998  
[S. 2071]

To extend a quarterly financial report program administered by the Secretary of Commerce.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF QUARTERLY FINANCIAL REPORT PROGRAM.**

Section 4(b) of the Act entitled “An Act to amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes”, approved January 12, 1983 (Public Law 97–454; 13 U.S.C. 91 note), is amended by striking “September 30, 1998” and inserting “September 30, 2005”.

Approved October 9, 1998.

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**LEGISLATIVE HISTORY—S. 2071:**

SENATE REPORTS: No. 105–241 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 10, considered and passed Senate.

Sept. 28, considered and passed House.



Public Law 105–253  
105th Congress

Joint Resolution

Waiving certain enrollment requirements for the remainder of the One Hundred Fifth Congress with respect to any bill or joint resolution making general or continuing appropriations for fiscal year 1999.

Oct. 12, 1998  
[H.J. Res. 131]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of sections 106 and 107 of title 1, United States Code, are waived for the remainder of the One Hundred Fifth Congress with respect to the printing (on parchment or otherwise) of the enrollment of any bill or joint resolution making general appropriations or continuing appropriations for the fiscal year ending September 30, 1999. The enrollment of any such bill or joint resolution shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

1 USC 106 note.

Approved October 12, 1998.

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LEGISLATIVE HISTORY—H.J. Res. 131:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 8, considered and passed House.

Oct. 9, considered and passed Senate.



Public Law 105-254  
105th Congress

Joint Resolution

Oct. 12, 1998  
[H.J. Res. 134]

Making further continuing appropriations for the fiscal year 1999, and for other purposes.

*Ante*, pp. 1569,  
1868.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 106(c) of Public Law 105-240 is further amended by striking “October 12, 1998” and inserting in lieu thereof “October 14, 1998”.

Approved October 12, 1998.

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LEGISLATIVE HISTORY—H.J. Res. 134:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 12, considered and passed House and Senate.





Public Law 105–255  
105th Congress

An Act

To establish the Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development.

Oct. 14, 1998  
[H.R. 3007]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development Act”.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) According to the National Science Foundation’s 1996 report, *Women, Minorities, and Persons with Disabilities in Science and Engineering*—

(A) women have historically been underrepresented in scientific and engineering occupations, and although progress has been made over the last several decades, there is still room for improvement;

(B) female and minority students take fewer high-level mathematics and science courses in high school;

(C) female students earn fewer bachelors, masters, and doctoral degrees in science and engineering;

(D) among recent bachelors of science and bachelors of engineering graduates, women are less likely to be in the labor force, to be employed full-time, and to be employed in their field than are men;

(E) among doctoral scientists and engineers, women are far more likely to be employed at 2-year institutions, are far less likely to be employed in research universities, and are much more likely to teach part-time;

(F) among university full-time faculty, women are less likely to chair departments or hold high-ranked positions;

(G) a substantial salary gap exists between men and women with doctorates in science and engineering;

(H) Blacks, Hispanics, and Native Americans continue to be seriously underrepresented in graduate science and engineering programs; and

(I) Blacks, Hispanics, and Native Americans as a group are 23 percent of the population of the United States, but only 6 percent are scientists or engineers.

(2) According to the National Research Council’s 1995 report, *Women Scientists and Engineers Employed in Industry: Why So Few?*—

Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development Act.  
42 USC 1885a note.  
42 USC 1885a note.

(A) limited access is the first hurdle faced by women seeking industrial jobs in science and engineering, and while progress has been made in recent years, common recruitment and hiring practices that make extensive use of traditional networks often overlook the available pool of women;

(B) once on the job, many women find paternalism, sexual harassment, allegations of reverse discrimination, different standards for judging the work of men and women, lower salary relative to their male peers, inequitable job assignments, and other aspects of a male-oriented culture that are hostile to women; and

(C) women to a greater extent than men find limited opportunities for advancement, particularly for moving into management positions, and the number of women who have achieved the top levels in corporations is much lower than would be expected, based on the pipeline model.

(3) The establishment of a commission to examine issues raised by the findings of these two reports would help—

(A) to focus attention on the importance of eliminating artificial barriers to the recruitment, retention, and advancement of women and minorities in the fields of science, engineering, and technology, and in all employment sectors of the United States;

(B) to promote work force diversity;

(C) to sensitize employers to the need to recruit and retain women and minority scientists, engineers, and computer specialists; and

(D) to encourage the replication of successful recruitment and retention programs by universities, corporations, and Federal agencies having difficulties in employing women or minorities in the fields of science, engineering, and technology.

42 USC 1885a  
note.

### **SEC. 3. ESTABLISHMENT.**

There is established a commission to be known as the “Commission on the Advancement of Women and Minorities in Science, Engineering, and Technology Development” (in this Act referred to as the “Commission”).

42 USC 1885a  
note.

### **SEC. 4. DUTY OF THE COMMISSION.**

The Commission shall review available research, and, if determined necessary by the Commission, conduct additional research to—

(1) identify the number of women, minorities, and individuals with disabilities in the United States in specific types of occupations in science, engineering, and technology development;

(2) examine the preparedness of women, minorities, and individuals with disabilities to—

(A) pursue careers in science, engineering, and technology development; and

(B) advance to positions of greater responsibility within academia, industry, and government;

(3) describe the practices and policies of employers and labor unions relating to the recruitment, retention, and advancement of women, minorities, and individuals with

disabilities in the fields of science, engineering, and technology development;

(4) identify the opportunities for, and artificial barriers to, the recruitment, retention, and advancement of women, minorities, and individuals with disabilities in the fields of science, engineering, and technology development in academia, industry, and government;

(5) compile a synthesis of available research on lawful practices, policies, and programs that have successfully led to the recruitment, retention, and advancement of women, minorities, and individuals with disabilities in science, engineering, and technology development;

(6) issue recommendations with respect to lawful policies that government (including Congress and appropriate Federal agencies), academia, and private industry can follow regarding the recruitment, retention, and advancement of women, minorities, and individuals with disabilities in science, engineering, and technology development;

(7) identify the disincentives for women, minorities, and individuals with disabilities to continue graduate education in the fields of engineering, physics, and computer science;

(8) identify university undergraduate programs that are successful in retaining women, minorities, and individuals with disabilities in the fields of science, engineering, and technology development;

(9) identify the disincentives that lead to a disproportionate number of women, minorities, and individuals with disabilities leaving the fields of science, engineering, and technology development before completing their undergraduate education;

(10) assess the extent to which the recommendations of the Task Force on Women, Minorities, and the Handicapped in Science and Technology established under section 8 of the National Science Foundation Authorization Act for Fiscal Year 1987 (Public Law 99-383; 42 U.S.C. 1885a note) have been implemented;

(11) compile a list of all federally funded reports on the subjects of encouraging women, minorities, and individuals with disabilities to enter the fields of science and engineering and retaining women, minorities, and individuals with disabilities in the science and engineering workforce that have been issued since the date that the Task Force described in paragraph (10) submitted its report to Congress;

(12) assess the extent to which the recommendations contained in the reports described in paragraph (11) have been implemented; and

(13) evaluate the benefits of family-friendly policies in order to assist recruiting, retaining, and advancing women in the fields of science, engineering, and technology such as the benefits or disadvantages of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

Records.  
Reports.

#### **SEC. 5. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 11 members as follows:

(1) One member appointed by the President from among for-profit entities that hire individuals in the fields of engineering, science, or technology development.

42 USC 1885a  
note.

President.

(2) Two members appointed by the Speaker of the House of Representatives from among such entities.

(3) One member appointed by the minority leader of the House of Representatives from among such entities.

(4) Two members appointed by the majority leader of the Senate from among such entities.

(5) One member appointed by the minority leader of the Senate from among such entities.

(6) Two members appointed by the Chairman of the National Governors Association from among individuals in education or academia in the fields of life science, physical science, or engineering.

(7) Two members appointed by the Vice Chairman of the National Governors Association from among such individuals.

Deadline.

(b) INITIAL APPOINTMENTS.—Initial appointments shall be made under subsection (a) not later than 90 days after the date of the enactment of this Act.

(c) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) PAY OF MEMBERS.—Members shall not be paid by reason of their service on the Commission.

(e) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(g) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

(h) MEETINGS.—The Commission shall meet not fewer than 5 times in connection with and pending the completion of the report described in section 8. The Commission shall hold additional meetings for such purpose if the Chairperson or a majority of the members of the Commission requests the additional meetings in writing.

(i) EMPLOYMENT STATUS.—Members of the Commission shall not be deemed to be employees of the Federal Government by reason of their work on the Commission except for the purposes of—

(1) the tort claims provisions of chapter 171 of title 28, United States Code; and

(2) subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

42 USC 1885a  
note.

#### **SEC. 6. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.**

(a) DIRECTOR.—The Commission shall appoint a Director who shall be paid at a rate not to exceed the maximum annual rate of basic pay payable under section 5376 of title 5, United States Code.

(b) STAFF.—The Commission may appoint and fix the pay of additional personnel as the Commission considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard

to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum annual rate of basic pay payable under section 5376 of title 5, United States Code.

(d) **EXPERTS AND CONSULTANTS.**—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the maximum annual rate of basic pay payable under section 5376 of title 5, United States Code.

(e) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Commission, the Director of the National Science Foundation or the head of any other Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

#### **SEC. 7. POWERS OF COMMISSION.**

(a) **HEARINGS AND SESSIONS.**—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) **POWERS OF MEMBERS AND AGENTS.**—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) **OBTAINING OFFICIAL DATA.**—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(f) **CONTRACT AUTHORITY.**—To the extent provided in advance in appropriations Acts, the Commission may contract with and compensate Government and private agencies or persons for the purpose of conducting research or surveys necessary to enable the Commission to carry out its duties under this Act.

#### **SEC. 8. REPORT.**

Not later than 1 year after the date on which the initial appointments under section 5(a) are completed, the Commission shall submit to the President, the Congress, and the highest executive official of each State, a written report containing the findings, conclusions, and recommendations of the Commission resulting from the study conducted under section 4.

42 USC 1885a  
note.

Deadline.  
42 USC 1885a  
note.

42 USC 1885a  
note.

**SEC. 9. CONSTRUCTION; USE OF INFORMATION OBTAINED.**

(a) **IN GENERAL.**—Nothing in this Act shall be construed to require any non-Federal entity (such as a business, college or university, foundation, or research organization) to provide information to the Commission concerning such entity's personnel policies, including salaries and benefits, promotion criteria, and affirmative action plans.

(b) **USE OF INFORMATION OBTAINED.**—No information obtained from any entity by the Commission may be used in connection with any employment related litigation.

42 USC 1885a  
note.

**SEC. 10. TERMINATION; ACCESS TO INFORMATION.**

(a) **TERMINATION.**—The Commission shall terminate 30 days after submitting the report required by section 8.

(b) **ACCESS TO INFORMATION.**—On or before the date of the termination of the Commission under subsection (a), the Commission shall provide to the National Science Foundation the information gathered by the Commission in the process of carrying out its duties under this Act. The National Science Foundation shall act as a central repository for such information and shall make such information available to the public, including making such information available through the Internet.

Internet.

42 USC 1885a  
note.

**SEC. 11. REVIEW OF INFORMATION PROVIDED BY THE NATIONAL SCIENCE FOUNDATION AND OTHER AGENCIES.**

(a) **PROVISION OF INFORMATION.**—At the request of the Commission, the National Science Foundation and any other Federal department or agency shall provide to the Commission any information determined necessary by the Commission to carry out its duties under this Act, including—

(1) data on academic degrees awarded to women, minorities, and individuals with disabilities in science, engineering, and technology development, and workforce representation and the retention of women, minorities, and individuals with disabilities in the fields of science, engineering, and technology development; and

(2) information gathered by the National Science Foundation in the process of compiling its biennial report on Women, Minorities, and Persons with Disabilities in Science and Engineering.

(b) **REVIEW OF INFORMATION.**—The Commission shall review any information provided under subsection (a) and shall include in the report required under section 8—

(1) recommendations on how to correct any deficiencies in the collection of the types of information described in that subsection, and in the analysis of such data, which might impede the characterization of the factors which affect the attraction and retention of women, minorities, and individuals with disabilities in the fields of science, engineering, and technology development; and

(2) an assessment of the biennial report of the National Science Foundation on Women, Minorities, and Persons with Disabilities in Science and Engineering, and recommendations on how that report could be improved.

42 USC 1885a  
note.

**SEC. 12. DEFINITION OF STATE.**

In this Act, the term “State” includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the

Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.

**SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

42 USC 1885a  
note.

There are authorized to be appropriated to carry out this Act—

- (1) \$400,000 for fiscal year 1999; and
- (2) \$400,000 for fiscal year 2000.

Approved October 14, 1998.

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**LEGISLATIVE HISTORY—H.R. 3007:**

HOUSE REPORTS: No. 105–562, Pt. 1 (Comm. on Science).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 14, considered and passed House.

Oct. 1, considered and passed Senate.



Public Law 105–256  
105th Congress

An Act

Oct. 14, 1998  
[H.R. 4068]

To make certain technical corrections in laws relating to Native Americans, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION FOR 99-YEAR LEASES.**

The second sentence of subsection (a) of the first section of the Act entitled “An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases”, approved August 9, 1955 (25 U.S.C. 415(a)), is amended—

(1) by inserting “lands held in trust for the Confederated Tribes of the Grand Ronde Community of Oregon,” after “lands held in trust for the Cahuilla Band of Indians of California,”; and

(2) by inserting “the Cabazon Indian Reservation,” after “the Navajo Reservation.”.

**SEC. 2. GRAND RONDE RESERVATION ACT.**

Section 1(c) of the Act entitled “An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes”, approved September 9, 1988 (25 U.S.C. 713f note; 102 Stat. 1594), is amended—

(1) by striking “10,120.68 acres of land” and inserting “10,311.60 acres of land”; and

(2) by striking all in the table after:

“4        7        30        Lots 3, 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$         240”;

and inserting the following:

“6	8	1	N $\frac{1}{2}$ SW $\frac{1}{4}$	29.59
6	8	12	W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$	21.70
6	8	13	W $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$	5.31
6	7	7	E $\frac{1}{2}$ E $\frac{1}{2}$	57.60
6	7	8	SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$	22.46



6	7	17	NW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$	10.84
6	7	18	E $\frac{1}{2}$ NE $\frac{1}{4}$	43.42
Total				10,311.60".

**SEC. 3. NAVAJO-HOPI LAND DISPUTE SETTLEMENT ACT.**

Section 12 of the Navajo-Hopi Land Dispute Settlement Act of 1996 (110 Stat. 3653) is amended—

(1) in subsection (a)(1)(C), by inserting “of surface water” after “on such lands”; and

(2) in subsection (b), by striking “subsection (a)(3)” each place it appears and inserting “subsection (a)(1)(C)”.

25 USC 640d  
note.

**SEC. 4. TREATMENT OF CERTAIN DEMONSTRATION PROJECTS.**

(a) IN GENERAL.—The Secretary of the Interior shall take such action as may be necessary to extend the terms of the projects referred to in section 512 of the Indian Health Care Improvement Act (25 U.S.C. 1660b) so that the term of each such project expires on October 1, 2002.

Expiration date.  
25 USC 1660b  
note.

(b) AMENDMENT TO INDIAN HEALTH CARE IMPROVEMENT ACT.—Section 512 of the Indian Health Care Improvement Act (25 U.S.C. 1660b) is amended by adding at the end the following:

“(c) In addition to the amounts made available under section 514 to carry out this section through fiscal year 2000, there are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2001 and 2002.”

Appropriation  
authorization.

**SEC. 5. CONFEDERATED TRIBES OF COOS, LOWER UMPQUA, AND SIUSLAW INDIANS RESERVATION ACT.**

Section 7(b) of the Coos, Lower Umpqua, and Siuslaw Restoration Act (25 U.S.C. 714e(b)) is amended by adding at the end the following:

“(4) In Lane County, Oregon, a parcel described as beginning at the common corner to sections 23, 24, 25, and 26 township 18 south, range 12 west, Willamette Meridian; then west 25 links; then north 2 chains and 50 links; then east 25 links to a point on the section line between sections 23 and 24; then south 2 chains and 50 links to the place of origin, and containing .062 of an acre, more or less, situated and lying in section 23, township 18 south, range 12 west, of Willamette Meridian.”

**SEC. 6. HOOPA VALLEY RESERVATION BOUNDARY ADJUSTMENT.**

Section 2(b) of the Hoopa Valley Reservation South Boundary Adjustment Act (25 U.S.C. 1300i–1 note) is amended—

(1) by striking “north 72 degrees 30 minutes east” and inserting “north 73 degrees 50 minutes east”; and

(2) by striking “south 15 degrees 59 minutes east” and inserting “south 14 degrees 36 minutes east”.

**SEC. 7. CLARIFICATION OF SERVICE AREA FOR CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON.**

Section 2 of the Act entitled “An Act to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon”, approved September 4, 1980 (25 U.S.C. 711e note; 94 Stat. 1073), is amended by adding at the end the following:

“(c) Subject to the express limitations under sections 4 and 5, for purposes of determining eligibility for Federal assistance programs, the service area of the Confederated Tribes of the Siletz Indians of Oregon shall include Benton, Clackamas, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties in Oregon.”.

Minnesota.

**SEC. 8. LOWER SIOUX INDIAN COMMUNITY.**

Notwithstanding any other provision of law, the Lower Sioux Indian Community in Minnesota is hereby authorized to sell, convey, and warrant to a buyer, without further approval of the United States, all the Community's interest in the following real property located in Redwood County, Minnesota:

A tract of land located in the Northeast Quarter (NE $\frac{1}{4}$ ) of Section Five (5), Township One Hundred Twelve (112) North, Range Thirty-five (35) West, County of Redwood and State of Minnesota, described as follows: Commencing at the north quarter corner of Section 5 in Township 112 North, Range 35 West of the 5th Principal Meridian; thence east a distance of 678 feet; thence south a distance of 650 feet; thence South 45 degrees West a distance of 367.7 feet; thence west a distance of 418 feet to a point situated on the north and south quarter line of said Section 5; thence north a distance of 910 feet to the place of beginning, subject to highway easements of record, and containing 13.38 acres, more or less.

Nothing in this section is intended to authorize the Lower Sioux Indian Community in Minnesota to sell any of its lands that are held in trust by the United States.

Oregon.

**SEC. 9. FEDERAL TRUST EMPLACEMENT OF TRIBAL LANDS.**

The Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712 et seq.) is amended by adding at the end the following new section:

25 USC 712e.

**“SEC. 7. CERTAIN PROPERTY TAKEN INTO TRUST.**

“The Secretary of the Interior shall accept title to 2000 acres of real property and may accept title to any additional number of acres of real property located in Umpqua River watershed upstream from Scottsburg, Oregon, or the northern slope of the Rogue River watershed upstream from Agness, Oregon, if such real property is conveyed or otherwise transferred to the United States by or on behalf of the Tribe. The Secretary shall take into trust for the benefit of the Tribe all real property conveyed or otherwise transferred to the United States pursuant to this section. Real property taken into trust pursuant to this section shall become part of the Tribe's reservation. Real property taken into trust pursuant to this section shall not be considered to have been taken into trust for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).”.

**SEC. 10. AMENDMENTS TO THE JICARILLA APACHE TRIBE WATER RIGHTS SETTLEMENT ACT.**

106 Stat. 4752.

(a) Section 8(e)(3) of the Jicarilla Apache Tribe Water Rights Settlement Act, as amended by Public Law 104-261, is further amended by striking “December 31, 1998” and inserting “December 31, 2000”.

(b) The Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102-441) is amended by adding at the end the following new section:

**“SEC. 12. APPROVAL OF STIPULATION.**

“Notwithstanding any other provision of Federal law, including section 2116 of the Revised Statutes (25 U.S.C. 177), the Stipulation and Settlement Agreement, dated October 7, 1997, between the Jicarilla Apache Tribe and other parties to State of New Mexico v. Aragon, No. CIV-7941 JC, U.S. Dist. Ct., D.N.M., approved by the United States District Court in that proceeding, is hereby approved.”.

**SEC. 11. SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT.**

Section 105(c) of the San Luis Rey Indian Water Rights Settlement Act (Public Law 100-675; 102 Stat. 4000), as amended by section 117 of the Department of the Interior and Related Agencies Appropriations Act, 1992 (Public Law 102-154; 105 Stat. 1012-1013), is amended—

(1) by inserting “(1)” before “Until”; and

(2) by adding at the end the following new paragraph:

“(2) Notwithstanding paragraph (1), prior to completion of the final settlement and as soon as feasible, the Secretary is authorized and directed to disburse a total of \$8,000,000, of which \$1,600,000 will go to each of the Bands, from the interest income which has accrued to the Fund. The disbursed funds shall be invested or used for economic development of the Bands, the Bands’ reservation land, and their members and may not be used for per capita payments to members of any Band. The United States shall not be liable for any claim or causes of action arising from the Bands’ use or expenditure of moneys distributed from the Fund.”.

**SEC. 12. NATIVE HAWAIIAN HEALTH SCHOLARSHIP PROGRAM.**

(a) ELIGIBILITY.—Section 10(a)(1) of the Native Hawaiian Health Care Improvement Act (42 U.S.C. 11709(a)(1)) is amended by striking “meet the requirements of section 338A of the Public Health Service Act (42 U.S.C. 2541)” and inserting “meet the requirements of paragraphs (1), (3), and (4) of section 338A(b) of the Public Health Service Act (42 U.S.C. 2541(b))”.

(b) TERMS AND CONDITIONS.—Section 10(b)(1) of the Native Hawaiian Health Care Improvement Act (42 U.S.C. 11709(b)(1)) is amended—

(1) in subparagraph (A), by inserting “identified in the Native Hawaiian comprehensive health care master plan implemented under section 4” after “health care professional”;

(2) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(3) by inserting after subparagraph (A) the following:

“(B) the primary health services covered under the scholarship assistance program under this section shall be the services included under the definition of that term under section 12(8);”;

(4) by striking subparagraph (D), as redesignated, and inserting the following:

“(D) the obligated service requirement for each scholarship recipient shall be fulfilled through the full-time clinical or nonclinical practice of the health profession of the scholarship recipient, in an order of priority that would provide for practice—

“(i) first, in any one of the five Native Hawaiian health care systems; and

“(ii) second, in—

“(I) a health professional shortage area or medically underserved area located in the State of Hawaii; or

“(II) a geographic area or facility that is—

“(aa) located in the State of Hawaii; and

“(bb) has a designation that is similar to a designation described in subclause (I) made by the Secretary, acting through the Public Health Service;”;

(5) in subparagraph (E), as redesignated, by striking the period and inserting a comma; and

(6) by adding at the end the following:

“(F) the obligated service of a scholarship recipient shall not be performed by the recipient through membership in the National Health Service Corps; and

“(G) the requirements of sections 331 through 338 of the Public Health Service Act (42 U.S.C. 254d through 254k), section 338C of that Act (42 U.S.C. 254m), other than subsection (b)(5) of that section, and section 338D of that Act (42 U.S.C. 254n) applicable to scholarship assistance provided under section 338A of that Act (42 U.S.C. 254l) shall not apply to the scholarship assistance provided under subsection (a) of this section.”.

#### **SEC. 13. MISCELLANEOUS TECHNICAL CORRECTIONS.**

(a) **AUTHORIZATION.**—Section 711(h) of the Indian Health Care Improvement Act (25 U.S.C. 1665j(h)) is amended by striking “of the fiscal years” and inserting “of fiscal years”.

(b) **REFERENCE.**—Section 4(12)(B) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(12)(B)) is amended by striking “Indian Self-Determination and Education Assistance Act of 1975” and inserting “Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)”.

#### **SEC. 14. REPEAL.**

111 Stat. 1599.  
110 Stat. 3956.

Section 326(d)(1) of Public Law 105-83 is repealed and section 1004(a) of Public Law 104-324 is amended by inserting “sale or” before “use”.

Approved October 14, 1998.

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#### **LEGISLATIVE HISTORY—H.R. 4068:**

HOUSE REPORTS: No. 105-733 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 23, considered and passed House.

Oct. 1, considered and passed Senate.



Public Law 105–257  
105th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 1999, and for other purposes.

Oct. 14, 1998  
[H.J. Res. 135]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 106(c) of Public Law 105–240 is further amended by striking “October 14, 1998” and inserting in lieu thereof “October 16, 1998”.

*Ante*, pp. 1569,  
1868, 1888.

Approved October 14, 1998.

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LEGISLATIVE HISTORY—H.J. Res. 135:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 14, considered and passed House and Senate.



Public Law 105–258  
105th Congress

An Act

Oct. 14, 1998  
[S. 414]

To amend the Shipping Act of 1984 to encourage competition in international shipping and growth of United States exports, and for other purposes.

Ocean Shipping  
Reform Act of  
1998.  
46 USC app.  
1701 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Ocean Shipping Reform Act of 1998”.

46 USC app.  
1701 note.

**SEC. 2. EFFECTIVE DATE.**

Except as otherwise expressly provided in this Act, this Act and the amendments made by this Act take effect May 1, 1999.

**TITLE I—AMENDMENTS TO THE  
SHIPPING ACT OF 1984**

**SEC. 101. PURPOSE.**

Section 2 of the Shipping Act of 1984 (46 U.S.C. App. 1701) is amended by—

- (1) striking “and” after the semicolon in paragraph (2);
- (2) striking “needs.” in paragraph (3) and inserting “needs; and”;
- (3) adding at the end thereof the following:  
“(4) to promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.”.

**SEC. 102. DEFINITIONS.**

Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended by—

- (1) striking “the government under whose registry the vessels of the carrier operate,” in paragraph (8) and inserting “a government;”;
- (2) striking paragraph (9) and inserting the following:  
“(9) ‘deferred rebate’ means a return by a common carrier of any portion of freight money to a shipper as a consideration for that shipper giving all, or any portion, of its shipments to that or any other common carrier over a fixed period of time, the payment of which is deferred beyond the completion of service for which it is paid, and is made only if the shipper has agreed to make a further shipment or shipments with that or any other common carrier.”;

(3) striking paragraph (10) and redesignating paragraphs (11) through (27) as paragraphs (10) through (26);

(4) striking “in an unfinished or semifinished state that require special handling moving in lot sizes too large for a container,” in paragraph (10), as redesignated;

(5) striking “paper board in rolls, and paper in rolls.” in paragraph (10) as redesignated and inserting “paper and paper board in rolls or in pallet or skid-sized sheets.”;

(6) striking “conference, other than a service contract or contract based upon time-volume rates,” in paragraph (13) as redesignated and inserting “agreement”;

(7) striking “conference.” in paragraph (13) as redesignated and inserting “agreement and the contract provides for a deferred rebate arrangement.”;

(8) striking “carrier.” in paragraph (14) as redesignated and inserting “carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49, United States Code.”;

(9) striking paragraph (16) as redesignated and redesignating paragraphs (17) through (26) as redesignated as paragraphs (16) through (25), respectively;

(10) striking paragraph (17), as redesignated, and inserting the following:

“(17) ‘ocean transportation intermediary’ means an ocean freight forwarder or a non-vessel-operating common carrier. For purposes of this paragraph, the term—

“(A) ‘ocean freight forwarder’ means a person that—

“(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

“(ii) processes the documentation or performs related activities incident to those shipments; and

“(B) ‘non-vessel-operating common carrier’ means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.”;

(11) striking paragraph (19), as redesignated and inserting the following:

“(19) ‘service contract’ means a written contract, other than a bill of lading or a receipt, between one or more shippers and an individual ocean common carrier or an agreement between or among ocean common carriers in which the shipper or shippers makes a commitment to provide a certain volume or portion of cargo over a fixed time period, and the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of non-performance on the part of any party.”; and

(12) striking paragraph (21), as redesignated, and inserting the following:

“(21) ‘shipper’ means—

“(A) a cargo owner;

“(B) the person for whose account the ocean transportation is provided;

“(C) the person to whom delivery is to be made;

“(D) a shippers’ association; or

“(E) an ocean transportation intermediary, as defined in paragraph (17)(B) of this section, that accepts responsibility for payment of all charges applicable under the tariff or service contract.”.

**SEC. 103. AGREEMENTS WITHIN THE SCOPE OF THE ACT.**

(a) OCEAN COMMON CARRIERS.—Section 4(a) of the Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended by—

(1) striking “operators or non-vessel-operating common carriers;” in paragraph (5) and inserting “operators;”;

(2) striking “and” in paragraph (6) and inserting “or”; and

(3) striking paragraph (7) and inserting the following:

“(7) discuss and agree on any matter related to service contracts.”.

(b) MARINE TERMINAL OPERATORS.—Section 4(b) of that Act (46 U.S.C. App. 1703(b)) is amended by—

(1) striking “(to the extent the agreements involve ocean transportation in the foreign commerce of the United States);”;

(2) striking “and” in paragraph (1) and inserting “or”; and

(3) striking “arrangements.” in paragraph (2) and inserting “arrangements, to the extent that such agreements involve ocean transportation in the foreign commerce of the United States.”.

**SEC. 104. AGREEMENTS.**

(a) IN GENERAL.—Section 5 of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended by—

(1) striking subsection (b)(8) and inserting the following:

“(8) provide that any member of the conference may take independent action on any rate or service item upon not more than 5 calendar days’ notice to the conference and that, except for exempt commodities not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item;

(2) redesignating subsections (c) through (e) as subsections (d) through (f); and

(3) inserting after subsection (b) the following:

“(c) OCEAN COMMON CARRIER AGREEMENTS.—An ocean common carrier agreement may not—

“(1) prohibit or restrict a member or members of the agreement from engaging in negotiations for service contracts with 1 or more shippers;

“(2) require a member or members of the agreement to disclose a negotiation on a service contract, or the terms and conditions of a service contract, other than those terms or conditions required to be published under section 8(c)(3) of this Act; or

“(3) adopt mandatory rules or requirements affecting the right of an agreement member or agreement members to negotiate and enter into service contracts.

An agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member’s



or agreement members' service contracts if the guidelines explicitly state the right of members of the agreement not to follow the guidelines. These guidelines shall be confidentially submitted to the Commission.”.

Confidentiality.

(b) APPLICATION.—

(1) Subsection (e) of section 5 of that Act, as redesignated, is amended by striking “this Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do” and inserting “this Act does”; and

46 USC app.  
1704.

(2) Subsection (f) of section 5 of that Act, as redesignated, is amended by—

(A) striking “and the Shipping Act, 1916, do” and inserting “does”;

(B) striking “or the Shipping Act, 1916,”; and

(C) inserting “or are essential terms of a service contract” after “tariff”.

**SEC. 105. EXEMPTION FROM ANTITRUST LAWS.**

Section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706) is amended by—

(1) inserting “or publication” in paragraph (2) of subsection (a) after “filing”;

(2) striking “or” at the end of subsection (b)(2);

(3) striking “States.” at the end of subsection (b)(3) and inserting “States; or”; and

(4) adding at the end of subsection (b) the following:

“(4) to any loyalty contract.”.

**SEC. 106. TARIFFS.**

(a) IN GENERAL.—Section 8(a) of the Shipping Act of 1984 (46 U.S.C. App. 1707(a)) is amended by—

(1) inserting “new assembled motor vehicles,” after “scrap,” in paragraph (1);

(2) striking “file with the Commission, and” in paragraph (1);

(3) striking “inspection,” in paragraph (1) and inserting “inspection in an automated tariff system,”;

(4) striking “tariff filings” in paragraph (1) and inserting “tariffs”;

(5) striking “freight forwarder” in paragraph (1)(C) and inserting “transportation intermediary, as defined in section 3(17)(A),”;

(6) striking “and” at the end of paragraph (1)(D);

(7) striking “loyalty contract,” in paragraph (1)(E);

(8) striking “agreement.” in paragraph (1)(E) and inserting “agreement; and”;

(9) adding at the end of paragraph (1) the following:

“(F) include copies of any loyalty contract, omitting the shipper's name.”; and

(10) striking paragraph (2) and inserting the following:

“(2) Tariffs shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations, and a reasonable charge may be assessed for such access. No charge may be assessed a Federal agency for such access.”.

(b) SERVICE CONTRACTS.—Subsection (c) of that section is amended to read as follows:

“(c) SERVICE CONTRACTS.—

“(1) IN GENERAL.—An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this Act. The exclusive remedy for a breach of a contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree. In no case may the contract dispute resolution forum be controlled by or in any way affiliated with a controlled carrier as defined in section 3(8) of this Act, or by the government which owns or controls the carrier.

Confidentiality.

“(2) FILING REQUIREMENTS.—Except for service contracts dealing with bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste, each contract entered into under this subsection by an individual ocean common carrier or an agreement shall be filed confidentially with the Commission. Each service contract shall include the following essential terms—

“(A) the origin and destination port ranges;

“(B) the origin and destination geographic areas in the case of through intermodal movements;

“(C) the commodity or commodities involved;

“(D) the minimum volume or portion;

“(E) the line-haul rate;

“(F) the duration;

“(G) service commitments; and

“(H) the liquidated damages for nonperformance, if

any.

Public  
information.

“(3) PUBLICATION OF CERTAIN TERMS.—When a service contract is filed confidentially with the Commission, a concise statement of the essential terms described in paragraphs 2 (A), (C), (D), and (F) shall be published and made available to the general public in tariff format.

“(4) DISCLOSURE OF CERTAIN TERMS.—

“(A) An ocean common carrier, which is a party to or is subject to the provisions of a collective bargaining agreement with a labor organization, shall, in response to a written request by such labor organization, state whether it is responsible for the following work at dock areas and within port areas in the United States with respect to cargo transportation under a service contract described in paragraph (1) of this subsection—

“(i) the movement of the shipper’s cargo on a dock area or within the port area or to or from railroad cars on a dock area or within the port area;

“(ii) the assignment of intraport carriage of the shipper’s cargo between areas on a dock or within the port area;

“(iii) the assignment of the carriage of the shipper’s cargo between a container yard on a dock area or within the port area and a rail yard adjacent to such container yard; and

“(iv) the assignment of container freight station work and container maintenance and repair work performed at a dock area or within the port area.

“(B) The common carrier shall provide the information described in subparagraph (A) of this paragraph to the

requesting labor organization within a reasonable period of time.

“(C) This paragraph requires the disclosure of information by an ocean common carrier only if there exists an applicable and otherwise lawful collective bargaining agreement which pertains to that carrier. No disclosure made by an ocean common carrier shall be deemed to be an admission or agreement that any work is covered by a collective bargaining agreement. Any dispute regarding whether any work is covered by a collective bargaining agreement and the responsibility of the ocean common carrier under such agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Relations Act, and without reference to this paragraph.

“(D) Nothing in this paragraph shall have any effect on the lawfulness or unlawfulness under this Act, the National Labor Relations Act, the Taft-Hartley Act, the Federal Trade Commission Act, the antitrust laws, or any other Federal or State law, or any revisions or amendments thereto, of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract under this subsection.

“(E) For purposes of this paragraph the terms ‘dock area’ and ‘within the port area’ shall have the same meaning and scope as in the applicable collective bargaining agreement between the requesting labor organization and the carrier.”.

(c) RATES.—Subsection (d) of that section is amended by—  
(1) striking the subsection caption and inserting “(d) TARIFF RATES.—”;

(2) striking “30 days after filing with the Commission.” in the first sentence and inserting “30 calendar days after publication.”;

(3) inserting “calendar” after “30” in the next sentence; and

(4) striking “publication and filing with the Commission.” in the last sentence and inserting “publication.”.

(d) REFUNDS.—Subsection (e) of that section is amended by—

(1) striking “tariff of a clerical or administrative nature or an error due to inadvertence” in paragraph (1) and inserting a comma; and

(2) striking “file a new tariff,” in paragraph (1) and inserting “publish a new tariff, or an error in quoting a tariff.”;

(3) striking “refund, filed a new tariff with the Commission” in paragraph (2) and inserting “refund for an error in a tariff or a failure to publish a tariff, published a new tariff”;

(4) inserting “and” at the end of paragraph (2); and

(5) striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(e) MARINE TERMINAL OPERATOR SCHEDULES.—Subsection (f) of that section is amended to read as follows:

“(f) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public, subject to section 10(d) of this Act, a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining

to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public shall be enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions.”.

46 USC app.  
1707.

(f) AUTOMATED TARIFF SYSTEM REQUIREMENTS; FORM.—Section 8 of that Act is amended by adding at the end the following:

Publication.

“(g) REGULATIONS.—The Commission shall by regulation prescribe the requirements for the accessibility and accuracy of automated tariff systems established under this section. The Commission may, after periodic review, prohibit the use of any automated tariff system that fails to meet the requirements established under this section. The Commission may not require a common carrier to provide a remote terminal for access under subsection (a)(2). The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.”.

#### SEC. 107. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

Section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 U.S.C. App. 1707a) is repealed.

#### SEC. 108. CONTROLLED CARRIERS.

Section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708) is amended by—

(1) striking “service contracts filed with the Commission” in the first sentence of subsection (a) and inserting “service contracts, or charge or assess rates,”;

(2) striking “or maintain” in the first sentence of subsection (a) and inserting “maintain, or enforce”;

(3) striking “disapprove” in the third sentence of subsection (a) and inserting “prohibit the publication or use of”; and

(4) striking “filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission” in the last sentence of subsection (a) and inserting “that have been suspended or prohibited by the Commission”;

(5) striking “may take into account appropriate factors including, but not limited to, whether—” in subsection (b) and inserting “shall take into account whether the rates or charges which have been published or assessed or which would result from the pertinent classifications, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier’s actual costs or upon its constructive costs. For purposes of the preceding sentence, the term ‘constructive costs’ means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade. The Commission may also take into account other appropriate factors, including but not limited to, whether—”;

(6) striking paragraph (1) of subsection (b) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(7) striking “filed” in paragraph (1) as redesignated and inserting “published or assessed”;

(8) striking “filing with the Commission.” in subsection (c) and inserting “publication.”;

Deadline.

(9) striking “DISAPPROVAL OF RATES.—” in subsection (d) and inserting “PROHIBITION OF RATES.—Within 120 days after the receipt of information requested by the Commission under

this section, the Commission shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable.”;

(10) striking “filed” in subsection (d) and inserting “published or assessed”;

(11) striking “may issue” in subsection (d) and inserting “shall issue”;

(12) striking “disapproved.” in subsection (d) and inserting “prohibited.”;

(13) striking “60” in subsection (d) and inserting “30”;

(14) inserting “controlled” after “affected” in subsection (d);

(15) striking “file” in subsection (d) and inserting “publish”;

(16) striking “disapproval” in subsection (e) and inserting “prohibition”;

(17) inserting “or” after the semicolon in subsection (f)(1);

(18) striking paragraphs (2), (3), and (4) of subsection (f);  
and

(19) redesignating paragraph (5) of subsection (f) as paragraph (2).

#### SEC. 109. PROHIBITED ACTS.

(a) Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended by—

(1) striking paragraphs (1) through (3);

(2) redesignating paragraph (4) as paragraph (1);

(3) inserting after paragraph (1), as redesignated, the following:

“(2) provide service in the liner trade that—

“(A) is not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under section 8 of this Act unless excepted or exempted under section 8(a)(1) or 16 of this Act; or

“(B) is under a tariff or service contract which has been suspended or prohibited by the Commission under section 9 of this Act or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a);”;

(4) redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively;

(5) striking “except for service contracts,” in paragraph (4), as redesignated, and inserting “for service pursuant to a tariff,”;

(6) striking “rates;” in paragraph (4)(A), as redesignated, and inserting “rates or charges;”;

(7) inserting after paragraph (4), as redesignated, the following:

“(5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice in the matter of rates or charges with respect to any port;”;

(8) redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively;

(9) striking paragraph (6) as redesignated and inserting the following:

“(6) use a vessel or vessels in a particular trade for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;”;

(10) striking paragraphs (9) through (13) and inserting the following:

“(8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;

“(9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any port;

“(10) unreasonably refuse to deal or negotiate;”;

(11) redesignating paragraphs (14), (15), and (16) as paragraphs (11), (12), and (13), respectively;

(12) striking “a non-vessel-operating common carrier” in paragraphs (11) and (12) as redesignated and inserting “an ocean transportation intermediary”;

(13) striking “sections 8 and 23” in paragraphs (11) and (12) as redesignated and inserting “sections 8 and 19”;

(14) striking “or in which an ocean transportation intermediary is listed as an affiliate” in paragraph (12), as redesignated;

(15) striking “Act,” in paragraph (12), as redesignated, and inserting “Act, or with an affiliate of such ocean transportation intermediary;”

(16) striking “paragraph (16)” in the matter appearing after paragraph (13), as redesignated, and inserting “paragraph (13)”;

and

(17) inserting “the Commission,” after “United States,” in such matter.

(b) Section 10(c) of the Shipping Act of 1984 (46 U.S.C. App. 1709(c)) is amended by—

(1) striking “non-ocean carriers” in paragraph (4) and inserting “non-ocean carriers, unless such negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this Act”;

(2) striking “freight forwarder” in paragraph (5) and inserting “transportation intermediary, as defined by section 3(17)(A) of this Act,”;

(3) striking “or” at the end of paragraph (5);

(4) striking “contract.” in paragraph (6) and inserting “contract;” and

(5) adding at the end the following:

“(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or persons due to those persons’ status as shippers’ associations or ocean transportation intermediaries; or

“(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or persons due to those persons’ status as shippers’ associations or ocean transportation intermediaries;”.

(c) Section 10(d) of the Shipping Act of 1984 (46 U.S.C. App. 1709(d)) is amended by—

(1) striking “freight forwarders,” and inserting “transportation intermediaries;”;

(2) striking “freight forwarder,” in paragraph (1) and inserting “transportation intermediary,”;

(3) striking “subsection (b)(11), (12), and (16)” and inserting “subsections (b)(10) and (13)”; and

(4) adding at the end thereof the following:

“(4) No marine terminal operator may give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person.

“(5) The prohibition in subsection (b)(13) of this section applies to ocean transportation intermediaries, as defined by section 3(17)(A) of this Act.”.

#### **SEC. 110. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.**

Section 11(g) of the Shipping Act of 1984 (46 U.S.C. App. 1710(g)) is amended by—

(1) striking “section 10(b)(5) or (7)” and inserting “section 10(b)(3) or (6)”; and

(2) striking “section 10(b)(6)(A) or (B)” and inserting “section 10(b)(4)(A) or (B).”.

#### **SEC. 111. FOREIGN SHIPPING PRACTICES ACT OF 1988.**

Section 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a) is amended by—

(1) striking “‘non-vessel-operating common carrier’,” in subsection (a)(1) and inserting “‘ocean transportation intermediary’,”;

(2) striking “forwarding and” in subsection (a)(4);

(3) striking “non-vessel-operating common carrier” in subsection (a)(4) and inserting “ocean transportation intermediary services and”;

(4) striking “freight forwarder,” in subsections (c)(1) and (d)(1) and inserting “transportation intermediary,”;

(5) striking “filed with the Commission,” in subsection (e)(1)(B) and inserting “and service contracts,”;

(6) inserting “and service contracts” after “tariffs” the second place it appears in subsection (e)(1)(B); and

(7) striking “(b)(5)” each place it appears in subsection (h) and inserting “(b)(6).”.

#### **SEC. 112. PENALTIES.**

(a) Section 13(a) of the Shipping Act of 1984 (46 U.S.C. App. 1712(a)) is amended by adding at the end thereof the following: “The amount of any penalty imposed upon a common carrier under this subsection shall constitute a lien upon the vessels operated by that common carrier and any such vessel may be libeled therefore in the district court of the United States for the district in which it may be found.”.

(b) Section 13(b) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)) is amended by—

(1) striking “section 10(b)(1), (2), (3), (4), or (8)” in paragraph (1) and inserting “section 10(b)(1), (2), or (7)”;

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(3) inserting before paragraph (5), as redesignated, the following:

“(4) If the Commission finds, after notice and an opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Commission may request that the Secretary of the Treasury refuse or revoke any clearance required for a vessel operated by that common carrier. Upon request by the Commission, the Secretary of the Treasury shall, with respect to the vessel concerned, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).”; and

(4) striking “paragraphs (1), (2), and (3)” in paragraph (6), as redesignated, and inserting “paragraphs (1), (2), (3), and (4)”.

(c) Section 13(f)(1) of the Shipping Act of 1984 (46 U.S.C. App. 1712(f)(1)) is amended by—

(1) striking “or (b)(4)” and inserting “or (b)(2)”;

(2) striking “(b)(1), (4)” and inserting “(b)(1), (2)”;

(3) adding at the end thereof the following “Neither the Commission nor any court shall order any person to pay the difference between the amount billed and agreed upon in writing with a common carrier or its agent and the amount set forth in any tariff or service contract by that common carrier for the transportation service provided.”.

#### **SEC. 113. REPORTS AND CERTIFICATES.**

Section 15 of the Shipping Act of 1984 (46 U.S.C. App. 1714) is amended by—

(1) striking “and certificates” in the section heading;

(2) striking “(a) REPORTS.—” in the subsection heading for subsection (a); and

(3) striking subsection (b).

#### **SEC. 114. EXEMPTIONS.**

Section 16 of the Shipping Act of 1984 (46 U.S.C. App. 1715) is amended by striking “substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce.” and inserting “result in substantial reduction in competition or be detrimental to commerce.”.

#### **SEC. 115. AGENCY REPORTS AND ADVISORY COMMISSION.**

Section 18 of the Shipping Act of 1984 (46 U.S.C. App. 1717) is repealed.

#### **SEC. 116. OCEAN FREIGHT FORWARDERS.**

Section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) is amended by—

(1) striking “freight forwarders” in the section caption and inserting “transportation intermediaries”;

(2) striking subsection (a) and inserting the following:

“(a) LICENSE.—No person in the United States may act as an ocean transportation intermediary unless that person holds a license issued by the Commission. The Commission shall issue an intermediary’s license to any person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.”;

(3) redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;



(4) inserting after subsection (a) the following:

“(b) FINANCIAL RESPONSIBILITY.—

“(1) No person may act as an ocean transportation intermediary unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

“(2) A bond, insurance, or other surety obtained pursuant to this section—

“(A) shall be available to pay any order for reparation issued pursuant to section 11 or 14 of this Act, or any penalty assessed pursuant to section 13 of this Act;

“(B) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities described in section 3(17) of this Act with the consent of the insured ocean transportation intermediary and subject to review by the surety company, or when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

“(C) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities under section 3(17) of this Act, provided the claimant has first attempted to resolve the claim pursuant to subparagraph (B) of this paragraph and the claim has not been resolved within a reasonable period of time.

“(3) The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

Regulations.

“(4) An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.”;

(5) striking, each place such term appears—

(A) “freight forwarder” and inserting “transportation intermediary”;

(B) “a forwarder’s” and inserting “an intermediary’s”;

(C) “forwarder” and inserting “intermediary”; and

(D) “forwarding” and inserting “intermediary”;

(6) striking “a bond in accordance with subsection (a)(2).” in subsection (c), as redesignated, and inserting “a bond, proof of insurance, or other surety in accordance with subsection (b)(1).”;

(7) striking “FORWARDERS.—” in the caption of subsection (e), as redesignated, and inserting “INTERMEDIARIES.—”;

(8) striking “intermediary” the first place it appears in subsection (e)(1), as redesignated and as amended by paragraph

(5)(A), and inserting “intermediary, as defined in section 3(17)(A) of this Act,”;

(9) striking “license” in paragraph (1) of subsection (e), as redesignated, and inserting “license, if required by subsection (a),”;

(10) striking paragraph (3) of subsection (e), as redesignated, and redesignating paragraph (4) as paragraph (3); and

(11) adding at the end of subsection (e), as redesignated, the following:

“(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean transportation intermediary, as defined in section 3(17)(A) of this Act, may—

“(A) deny to any member of the conference or group the right, upon notice of not more than 5 calendar days, to take independent action on any level of compensation paid to an ocean transportation intermediary, as so defined; or

“(B) agree to limit the payment of compensation to an ocean transportation intermediary, as so defined, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a tariff and which are assessed against the cargo on which the intermediary services are provided.”.

#### **SEC. 117. CONTRACTS, AGREEMENTS, AND LICENSES UNDER PRIOR SHIPPING LEGISLATION.**

Section 20 of the Shipping Act of 1984 (46 U.S.C. App. 1719) is amended by—

(1) striking subsection (d) and inserting the following:

“(d) EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.—All agreements, contracts, modifications, licenses, and exemptions previously issued, approved, or effective under the Shipping Act, 1916, or the Shipping Act of 1984, shall continue in force and effect as if issued or effective under this Act, as amended by the Ocean Shipping Reform Act of 1998, and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act, as amended by the Ocean Shipping Reform Act of 1998.”;

(2) inserting the following at the end of subsection (e):

“(3) The Ocean Shipping Reform Act of 1998 shall not affect any suit—

“(A) filed before the effective date of that Act; or

“(B) with respect to claims arising out of conduct engaged in before the effective date of that Act filed within 1 year after the effective date of that Act.

“(4) Regulations issued by the Federal Maritime Commission shall remain in force and effect where not inconsistent with this Act, as amended by the Ocean Shipping Reform Act of 1998.”.

Regulations.

#### **SEC. 118. SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS.**

Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721) is repealed.

## TITLE II—AUTHORIZATION OF APPROPRIATIONS FOR THE FEDERAL MARITIME COMMISSION

### SEC. 201. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1998.

There are authorized to be appropriated to the Federal Maritime Commission, \$15,000,000 for fiscal year 1998.

### SEC. 202. FEDERAL MARITIME COMMISSION ORGANIZATION.

Section 102(d) of Reorganization Plan No. 7 of 1961 (75 Stat. 840) is amended to read as follows:

“(d) A vacancy or vacancies in the membership of Commission shall not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the members serving on the Commission is required to dispose of any matter before the Commission.”.

5 USC app; 46  
USC app. 1111  
note.

### SEC. 203. REGULATIONS.

Not later than March 1, 1999, the Federal Maritime Commission shall prescribe final regulations to implement the changes made by this Act.

Deadline.  
46 USC app.  
1716 note.

## TITLE III—AMENDMENTS TO OTHER SHIPPING AND MARITIME LAWS

### SEC. 301. AMENDMENTS TO SECTION 19 OF THE MERCHANT MARINE ACT, 1920.

(a) IN GENERAL.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876) is amended by—

- (1) striking “forwarding and” in subsection (1)(b);
- (2) striking “non-vessel-operating common carrier operations,” in subsection (1)(b) and inserting “ocean transportation intermediary services and operations,”;
- (3) striking “methods or practices” and inserting “methods, pricing practices, or other practices” in subsection (1)(b);
- (4) striking “tariffs of a common carrier” in subsection 7(d) and inserting “tariffs and service contracts of a common carrier”;
- (5) striking “use the tariffs of conferences” in subsections (7)(d) and (9)(b) and inserting “use tariffs of conferences and service contracts of agreements”;
- (6) striking “tariffs filed with the Commission” in subsection (9)(b) and inserting “tariffs and service contracts”;
- (7) striking “freight forwarder,” each place it appears and inserting “transportation intermediary,”; and
- (8) striking “tariff” each place it appears in subsection (11) and inserting “tariff or service contract”.

(b) STYLISTIC CONFORMITY.—Section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), as amended by subsection (a), is further amended by—

- (1) redesignating subdivisions (1) through (12) as subsections (a) through (l), respectively;

- (2) redesignating subdivisions (a), (b), and (c) of subsection (a), as redesignated, as paragraphs (1), (2), and (3);
- (3) redesignating subdivisions (a) through (d) of subsection (f), as redesignated, as paragraphs (1) through (4), respectively;
- (4) redesignating subdivisions (a) through (e) of subsection (g), as redesignated, as paragraphs (1) through (5), respectively;
- (5) redesignating clauses (i) and (ii) of subsection (g)(4), as redesignated, as subparagraphs (A) and (B), respectively;
- (6) redesignating subdivisions (a) through (e) of subsection (i), as redesignated, as paragraphs (1) through (5), respectively;
- (7) redesignating subdivisions (a) and (b) of subsection (j), as redesignated, as paragraphs (1) and (2), respectively;
- (8) striking “subdivision (c) of paragraph (1)” in subsection (c), as redesignated, and inserting “subsection (a)(3)”;
- (9) striking “paragraph (2)” in subsection (c), as redesignated, and inserting “subsection (b)”;
- (10) striking “paragraph (1)(b)” each place it appears and inserting “subsection (a)(2)”;
- (11) striking “subdivision (b),” in subsection (g)(4), as redesignated, and inserting “paragraph (2),”;
- (12) striking “paragraph (9)(d)” in subsection (j)(1), as redesignated, and inserting “subsection (i)(4)”;
- (13) striking “paragraph (7)(d) or (9)(b)” in subsection (k), as redesignated, and inserting “subsection (g)(4) or (i)(2)”.

#### **SEC. 302. TECHNICAL CORRECTIONS.**

(a) PUBLIC LAW 89-777.—Sections 2 and 3 of the Act of November 6, 1966 (46 U.S.C. App. 817d and 817e) are amended by striking “they in their discretion” each place it appears and inserting “it in its discretion”.

(b) TARIFF ACT OF 1930.—Section 641(i) of the Tariff Act of 1930 (19 U.S.C. 1641) is repealed.

## **TITLE IV—CERTAIN LOAN GUARANTEES AND COMMITMENTS**

46 USC app.  
1273a.

#### **SEC. 401. CERTAIN LOAN GUARANTEES AND COMMITMENTS.**

(a) The Secretary of Transportation may not issue a guarantee or commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a liner vessel under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) after the date of enactment of this Act unless the Chairman of the Federal Maritime Commission certifies that the operator of such vessel—

(1) has not been found by the Commission to have violated section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876), or the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1701a), within the previous 5 years; and

(2) has not been found by the Commission to have committed a violation of the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.), which involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port within the previous 5 years.

(b) The Secretary of Commerce may not issue a guarantee or a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a fishing vessel under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.) if the fishing vessel operator has been—

(1) held liable or liable in rem for a civil penalty pursuant to section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858) and not paid the penalty;

(2) found guilty of an offense pursuant to section 309 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859) and not paid the assessed fine or served the assessed sentence;

(3) held liable for a civil or criminal penalty pursuant to section 105 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375) and not paid the assessed fine or served the assessed sentence; or

(4) held liable for a civil penalty by the Coast Guard pursuant to title 33 or 46, United States Code, and not paid the assessed fine.

Approved October 14, 1998.

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**LEGISLATIVE HISTORY—S. 414:**

SENATE REPORTS: No. 105-61 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Apr. 3, 21, considered and passed Senate.

Aug. 4, considered and passed House, amended.

Oct. 1, Senate concurred in House amendment.



Public Law 105–259  
105th Congress

An Act

Oct. 15, 1998  
[H.R. 4658]

To extend the date by which an automated entry-exit control system must be developed.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF DATE FOR DEVELOPMENT OF AUTOMATED ENTRY-EXIT CONTROL SYSTEM.**

8 USC 1221 note.

Section 110 of division C of Public Law 104–208 is amended by striking “2 years after the date of enactment of this Act” and inserting “October 15, 1998”.

Approved October 15, 1998.

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LEGISLATIVE HISTORY—H.R. 4658 (S. 2540):

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 1, considered and passed House.

Oct. 8, considered and passed Senate.



Public Law 105–260  
105th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 1999, and for other purposes.

Oct. 16, 1998  
[H.J. Res. 136]

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 106(c) of Public Law 105–240 is further amended by striking “October 16, 1998” and inserting in lieu thereof “October 20, 1998”.

*Ante*, pp. 1569,  
1868, 1888, 1901.

Approved October 16, 1998.

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LEGISLATIVE HISTORY—H.J. Res. 136:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 16, considered and passed House and Senate.



Public Law 105–261  
105th Congress

An Act

Oct. 17, 1998  
[H.R. 3616]

Strom Thurmond  
National Defense  
Authorization  
Act for Fiscal  
Year 1999.

To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Strom Thurmond National Defense Authorization Act for Fiscal Year 1999”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) Senator Strom Thurmond of South Carolina first became a member of the Committee on Armed Services of the United States Senate on January 19, 1959. Senator Thurmond’s continuous service on that committee covers more than 75 percent of the period of the existence of the committee, which was established immediately after World War II, and more than 20 percent of the period of the existence of military and naval affairs committees of Congress, the original bodies of which were formed in 1816.

(2) Senator Thurmond came to Congress and the committee as a distinguished veteran of service, including combat service, in the Armed Forces of the United States.

(3) Senator Thurmond was commissioned as a reserve second lieutenant of infantry in 1924. He served with great distinction with the First Army in the European Theater of Operations during World War II, landing in Normandy in a glider with the 82nd Airborne Division on D-Day. He was transferred to the Pacific Theater of Operations at the end of the war in Europe and was serving in the Philippines when Japan surrendered.

(4) Having reverted to Reserve status at the end of World War II, Senator Thurmond was promoted to brigadier general in the United States Army Reserve in 1954. He served as President of the Reserve Officers Association beginning that same year and ending in 1955. Senator Thurmond was promoted to major general in the United States Army Reserve in 1959. He transferred to the Retired Reserve on January 1, 1965, after 36 years of commissioned service.

(5) The distinguished character of Senator Thurmond’s military service has been recognized by awards of numerous decorations that include the Legion of Merit, the Bronze Star medal with “V” device, the Army Commendation Medal, the Belgian



Cross of the Order of the Crown, and the French Croix de Guerre.

(6) Senator Thurmond has served as chairman of the Committee on Armed Services of the United States Senate since 1995 and served as the ranking minority member of the committee from 1993 to 1995. Senator Thurmond concludes his service as chairman at the end of the One Hundred Fifth Congress, but is to continue to serve the committee as a member in successive Congresses.

(7) This Act is the fortieth annual authorization bill for the Department of Defense for which Senator Thurmond has taken a major responsibility as a member of the Committee on Armed Services of the Senate.

(8) Senator Thurmond, as an Army officer and a legislator, has made matchless contributions to the national security of the United States that, in duration and in quality, are unique.

(9) It is altogether fitting and proper that this Act, the last annual authorization Act for the national defense that Senator Thurmond manages in and for the United States Senate as chairman of the Committee on Armed Services, be named in his honor, as provided in subsection (a).

## **SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; findings.

Sec. 2. Organization of Act into divisions; table of contents.

Sec. 3. Congressional defense committees defined.

## **DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**

### **TITLE I—PROCUREMENT**

#### **Subtitle A—Authorization of Appropriations**

Sec. 101. Army.

Sec. 102. Navy and Marine Corps.

Sec. 103. Air Force.

Sec. 104. Defense-wide activities.

Sec. 105. Reserve components.

Sec. 106. Defense Inspector General.

Sec. 107. Chemical demilitarization program.

Sec. 108. Defense health programs.

Sec. 109. Defense Export Loan Guarantee program.

#### **Subtitle B—Army Programs**

Sec. 111. Multiyear procurement authority for Longbow Hellfire Missile program.

Sec. 112. Conditions for award of a second-source procurement contract for the Family of Medium Tactical Vehicles.

Sec. 113. Armored system modernization.

Sec. 114. Reactive armor tiles.

Sec. 115. Extension of authority to carry out Armament Retooling and Manufacturing Support Initiative.

#### **Subtitle C—Navy Programs**

Sec. 121. CVN-77 nuclear aircraft carrier program.

- Sec. 122. Increase in amount authorized to be excluded from cost limitation for Seawolf submarine program.
- Sec. 123. Multiyear procurement authority for the Department of the Navy.
- Sec. 124. Annual GAO review of F/A–18E/F aircraft program.

#### **Subtitle D—Air Force Programs**

- Sec. 131. F–22 aircraft program.
- Sec. 132. C–130J aircraft program.

#### **Subtitle E—Other Matters**

- Sec. 141. Chemical stockpile emergency preparedness program.
- Sec. 142. Alternative technologies for destruction of assembled chemical weapons.

### **TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION**

#### **Subtitle A—Authorization of Appropriations**

- Sec. 201. Authorization of appropriations.
- Sec. 202. Amount for basic and applied research.

#### **Subtitle B—Program Requirements, Restrictions, and Limitations**

- Sec. 211. Management responsibility for Navy mine countermeasures programs.
- Sec. 212. Future aircraft carrier transition technologies.
- Sec. 213. Manufacturing technology program.
- Sec. 214. Sense of Congress on the Defense Science and Technology Program.
- Sec. 215. Next Generation Internet Program.
- Sec. 216. Crusader self-propelled artillery system program.
- Sec. 217. Airborne Laser Program.
- Sec. 218. Enhanced Global Positioning System program.

#### **Subtitle C—Ballistic Missile Defense**

- Sec. 231. Sense of Congress on National Missile Defense coverage.
- Sec. 232. Limitation on funding for the Medium Extended Air Defense System.
- Sec. 233. Limitation on funding for Cooperative Ballistic Missile Defense programs.
- Sec. 234. Sense of Congress with respect to Ballistic Missile Defense cooperation with Russia.
- Sec. 235. Ballistic Missile Defense program elements.
- Sec. 236. Restructuring of acquisition strategy for Theater High-Altitude Area Defense (THAAD) system.

#### **Subtitle D—Other Matters**

- Sec. 241. Extension of authority to carry out certain prototype projects.
- Sec. 242. NATO alliance ground surveillance concept definition.
- Sec. 243. NATO common-funded Civil Budget.
- Sec. 244. Executive agent for cooperative research program of the Department of Defense and the Department of Veterans Affairs.
- Sec. 245. Review of pharmacological interventions for reversing brain injury.
- Sec. 246. Pilot program for revitalizing the laboratories and test and evaluation centers of the Department of Defense.
- Sec. 247. Chemical warfare defense.
- Sec. 248. Landmine alternatives.

### **TITLE III—OPERATION AND MAINTENANCE**

#### **Subtitle A—Authorization of Appropriations**

- Sec. 301. Operation and maintenance funding.
- Sec. 302. Working capital funds.
- Sec. 303. Armed Forces Retirement Home.
- Sec. 304. Transfer from National Defense Stockpile Transaction Fund.

#### **Subtitle B—Program Requirements, Restrictions, and Limitations**

- Sec. 311. Refurbishment of M1–A1 tanks.
- Sec. 312. Operation of prepositioned fleet, National Training Center, Fort Irwin, California.
- Sec. 313. Berthing space at Norfolk Naval Shipyard, Virginia.
- Sec. 314. NATO common-funded military budget.

#### **Subtitle C—Environmental Provisions**

- Sec. 321. Settlement of claims of foreign governments for environmental cleanup of overseas sites formerly used by the Department of Defense.
- Sec. 322. Authority to pay negotiated settlement for environmental cleanup of formerly used defense sites in Canada.

- Sec. 323. Removal of underground storage tanks.
- Sec. 324. Report regarding polychlorinated biphenyl waste under Department of Defense control overseas.
- Sec. 325. Modification of deadline for submittal to Congress of annual reports on environmental activities.
- Sec. 326. Submarine solid waste control.
- Sec. 327. Arctic Military Environmental Cooperation Program.
- Sec. 328. Sense of Congress regarding oil spill prevention training for personnel on board Navy vessels.

#### **Subtitle D—Information Technology Issues**

- Sec. 331. Additional information technology responsibilities of Chief Information Officers.
- Sec. 332. Defense-wide electronic mall system for supply purchases.
- Sec. 333. Priority funding to ensure year 2000 compliance of information technology and national security systems.
- Sec. 334. Evaluation of year 2000 compliance as part of training exercises programs.
- Sec. 335. Continuity of essential operations at risk of failure because of information technology and national security systems that are not year 2000 compliant.

#### **Subtitle E—Defense Infrastructure Support Improvement**

- Sec. 341. Clarification of definition of depot-level maintenance and repair.
- Sec. 342. Reporting and analysis requirements before change of commercial and industrial type functions to private sector performance.
- Sec. 343. Notifications of determinations of military items as being commercial items for purposes of the exception to requirements regarding core logistics capabilities.
- Sec. 344. Oversight of development and implementation of automated identification technology.
- Sec. 345. Contractor-operated civil engineering supply stores program.
- Sec. 346. Conditions on expansion of functions performed under prime vendor contracts for depot-level maintenance and repair.
- Sec. 347. Best commercial inventory practices for management of secondary supply items.
- Sec. 348. Personnel reductions in Army Materiel Command.
- Sec. 349. Inventory management of in-transit items.
- Sec. 350. Review of Defense Automated Printing Service functions.
- Sec. 351. Development of plan for establishment of core logistics capabilities for maintenance and repair of C–17 aircraft.

#### **Subtitle F—Commissaries and Nonappropriated Fund Instrumentalities**

- Sec. 361. Continuation of management and funding of Defense Commissary Agency through the Office of the Secretary of Defense.
- Sec. 362. Expansion of current eligibility of Reserves for commissary benefits.
- Sec. 363. Costs payable to the Department of Defense and other Federal agencies for services provided to the Defense Commissary Agency.
- Sec. 364. Collection of dishonored checks presented at commissary stores.
- Sec. 365. Restrictions on patron access to, and purchases in, overseas commissaries and exchange stores.
- Sec. 366. Repeal of requirement for Air Force to sell tobacco products to enlisted personnel.
- Sec. 367. Prohibition on consolidation or other organizational changes of Department of Defense retail systems.
- Sec. 368. Defense Commissary Agency telecommunications.
- Sec. 369. Survey of commissary store patrons regarding satisfaction with commissary store merchandise.

#### **Subtitle G—Other Matters**

- Sec. 371. Eligibility requirements for attendance at Department of Defense domestic dependent elementary and secondary schools.
- Sec. 372. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 373. Department of Defense readiness reporting system.
- Sec. 374. Specific emphasis of program to investigate fraud, waste, and abuse within Department of Defense.
- Sec. 375. Condition for providing financial assistance for support of additional duties assigned to the Army National Guard.
- Sec. 376. Demonstration program to improve quality of personal property shipments of members.
- Sec. 377. Pilot program for acceptance and use of landing fees charged for use of domestic military airfields by civil aircraft.

- Sec. 378. Strategic plan for expansion of distance learning initiatives.
- Sec. 379. Public availability of operating agreements between military installations and financial institutions.

#### **TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS**

##### **Subtitle A—Active Forces**

- Sec. 401. End strengths for active forces.
- Sec. 402. Revision in permanent end strength levels.
- Sec. 403. Date for submission of annual manpower requirements report.
- Sec. 404. Additional exemption from percentage limitation on number of lieutenant generals and vice admirals.
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- Sec. 2874. Designation of building containing Navy and Marine Corps Reserve Center, Augusta, Georgia.

#### TITLE XXIX—JUNIPER BUTTE RANGE WITHDRAWAL

- Sec. 2901. Short title.
- Sec. 2902. Withdrawal and reservation.
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- Sec. 2904. Agency agreement.
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- Sec. 2908. Management of withdrawn and reserved lands.
- Sec. 2909. Integrated natural resource management plan.
- Sec. 2910. Memorandum of understanding.
- Sec. 2911. Maintenance of roads.
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### DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

#### TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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- Sec. 3101. Weapons activities.
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- Sec. 3135. Continuation of processing, treatment, and disposition of legacy nuclear materials.
- Sec. 3136. Authority for Department of Energy federally funded research and development centers to participate in merit-based technology research and development programs.
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- Sec. 3138. Hanford overhead and service center costs.
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- Sec. 3140. Hanford Health Information Network.
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- Sec. 3142. Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico.
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- Sec. 3144. Tritium production.

#### **Subtitle D—Other Matters**

- Sec. 3151. Study and plan relating to worker and community transition assistance.
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- Sec. 3154. Department of Energy nuclear materials couriers.
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- Sec. 3159. Panel to assess the reliability, safety, and security of the United States nuclear stockpile.
- Sec. 3160. International cooperative information exchange.
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- Sec. 3162. Sense of Congress regarding treatment of Formerly Utilized Sites Remedial Action Program under a nondefense discretionary budget function.
- Sec. 3163. Reports relating to tritium production.

#### **TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

- Sec. 3201. Authorization.

#### **TITLE XXXIII—NATIONAL DEFENSE STOCKPILE**

- Sec. 3301. Definitions.
- Sec. 3302. Authorized uses of stockpile funds.
- Sec. 3303. Authority to dispose of certain materials in National Defense Stockpile.
- Sec. 3304. Use of stockpile funds for certain environmental remediation, restoration, waste management, and compliance activities.

#### **TITLE XXXIV—NAVAL PETROLEUM RESERVES**

- Sec. 3401. Definitions.
- Sec. 3402. Authorization of appropriations.
- Sec. 3403. Disposal of Naval Petroleum Reserve Numbered 2.
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#### **TITLE XXXV—PANAMA CANAL COMMISSION**

- Sec. 3501. Short title; references to Panama Canal Act of 1979.
- Sec. 3502. Authorization of expenditures.
- Sec. 3503. Purchase of vehicles.
- Sec. 3504. Expenditures only in accordance with treaties.
- Sec. 3505. Donations to the Commission.
- Sec. 3506. Agreements for United States to provide post-transfer administrative services for certain employee benefits.
- Sec. 3507. Sunset of United States overseas benefits just before transfer.

- Sec. 3508. Central examining office.
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- Sec. 3512. Technical amendments.

#### **TITLE XXXVI—MARITIME ADMINISTRATION**

- Sec. 3601. Authorization of appropriations for fiscal year 1999.
- Sec. 3602. Authority to convey National Defense Reserve Fleet vessel.
- Sec. 3603. Authority to convey certain National Defense Reserve Fleet vessels.
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#### **TITLE XXXVII—INCREASED MONITORING OF PRODUCTS MADE WITH FORCED LABOR**

- Sec. 3701. Authorization for additional customs personnel to monitor the importation of products made with forced labor.
- Sec. 3702. Reporting requirement on forced labor products destined for the United States market.
- Sec. 3703. Renegotiating memoranda of understanding on forced labor.

#### **TITLE XXXVIII—FAIR TRADE IN AUTOMOTIVE PARTS**

- Sec. 3801. Short title.
- Sec. 3802. Definitions.
- Sec. 3803. Re-establishment of initiative on automotive parts sales to Japan.
- Sec. 3804. Establishment of Special Advisory Committee on automotive parts sales in Japanese and other Asian markets.
- Sec. 3805. Expiration date.

#### **TITLE XXXIX—RADIO FREE ASIA**

- Sec. 3901. Short title.
- Sec. 3902. Authorization of appropriations for increased funding for Radio Free Asia and Voice of America broadcasting to China.
- Sec. 3903. Reporting requirement.

#### **SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.**

For purposes of this Act, the term “congressional defense committees” means—

- (1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and
- (2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

## **DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**

### **TITLE I—PROCUREMENT**

#### **Subtitle A—Authorization of Appropriations**

- Sec. 101. Army.
- Sec. 102. Navy and Marine Corps.
- Sec. 103. Air Force.
- Sec. 104. Defense-wide activities.
- Sec. 105. Reserve components.
- Sec. 106. Defense Inspector General.
- Sec. 107. Chemical demilitarization program.
- Sec. 108. Defense health programs.
- Sec. 109. Defense Export Loan Guarantee program.

#### **Subtitle B—Army Programs**

- Sec. 111. Multiyear procurement authority for Longbow Hellfire Missile program.
- Sec. 112. Conditions for award of a second-source procurement contract for the Family of Medium Tactical Vehicles.

- Sec. 113. Armored system modernization.
- Sec. 114. Reactive armor tiles.
- Sec. 115. Extension of authority to carry out Armament Retooling and Manufacturing Support Initiative.

#### **Subtitle C—Navy Programs**

- Sec. 121. CVN-77 nuclear aircraft carrier program.
- Sec. 122. Increase in amount authorized to be excluded from cost limitation for Seawolf submarine program.
- Sec. 123. Multiyear procurement authority for the Department of the Navy.
- Sec. 124. Annual GAO review of F/A-18E/F aircraft program.

#### **Subtitle D—Air Force Programs**

- Sec. 131. F-22 aircraft program.
- Sec. 132. C-130J aircraft program.

#### **Subtitle E—Other Matters**

- Sec. 141. Chemical stockpile emergency preparedness program.
- Sec. 142. Alternative technologies for destruction of assembled chemical weapons.

## **Subtitle A—Authorization of Appropriations**

### **SEC. 101. ARMY.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Army as follows:

- (1) For aircraft, \$1,396,047,000.
- (2) For missiles, \$1,228,229,000.
- (3) For weapons and tracked combat vehicles, \$1,507,551,000.
- (4) For ammunition, \$1,016,255,000.
- (5) For other procurement, \$3,344,932,000.

### **SEC. 102. NAVY AND MARINE CORPS.**

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Navy as follows:

- (1) For aircraft, \$7,642,200,000.
- (2) For weapons, including missiles and torpedoes, \$1,223,903,000.
- (3) For shipbuilding and conversion, \$6,033,480,000.
- (4) For other procurement, \$4,042,975,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Marine Corps in the amount of \$881,896,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Navy and the Marine Corps in the amount of \$463,339,000.

### **SEC. 103. AIR FORCE.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Air Force as follows:

- (1) For aircraft, \$8,350,617,000.
- (2) For missiles, \$2,210,640,000.
- (3) For ammunition, \$383,161,000.
- (4) For other procurement, \$6,950,372,000.

### **SEC. 104. DEFENSE-WIDE ACTIVITIES.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for Defense-wide procurement in the amount of \$1,954,828,000.



**SEC. 105. RESERVE COMPONENTS.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

- (1) For the Army National Guard, \$10,000,000.
- (2) For the Air National Guard, \$10,000,000.
- (3) For the Army Reserve, \$10,000,000.
- (4) For the Naval Reserve, \$10,000,000.
- (5) For the Air Force Reserve, \$10,000,000.
- (6) For the Marine Corps Reserve, \$10,000,000.

**SEC. 106. DEFENSE INSPECTOR GENERAL.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Inspector General of the Department of Defense in the amount of \$1,300,000.

**SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.**

There is hereby authorized to be appropriated for fiscal year 1999 the amount of \$803,000,000 for—

- (1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and
- (2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

**SEC. 108. DEFENSE HEALTH PROGRAMS.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of \$402,387,000.

**SEC. 109. DEFENSE EXPORT LOAN GUARANTEE PROGRAM.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for the Department of Defense for carrying out the Defense Export Loan Guarantee Program under section 2540 of title 10, United States Code, in the total amount of \$1,250,000.

## **Subtitle B—Army Programs**

**SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR LONGBOW HELLFIRE MISSILE PROGRAM.**

Beginning with the fiscal year 1999 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract for procurement of the AGM–114 Longbow Hellfire missile.

**SEC. 112. CONDITIONS FOR AWARD OF A SECOND-SOURCE PROCUREMENT CONTRACT FOR THE FAMILY OF MEDIUM TACTICAL VEHICLES.**

The Secretary of the Army may award a second-source procurement contract for the production of the Family of Medium Tactical Vehicles only after the Secretary certifies in writing to the congressional defense committees—

- (1) that the total quantity of vehicles within the Family of Medium Tactical Vehicles program that the Secretary will

require to be delivered (under all contracts) in any 12-month period will be sufficient to enable the prime contractor to maintain a minimum economic production level;

(2) that the total cost to the Army of the procurements under the prime and second-source contracts over the period of those contracts will be the same as or lower than the amount that would be the total cost of the procurements if only one such contract were awarded; and

(3) that the vehicles to be produced under those contracts will be produced with common components that will be interchangeable among similarly configured models.

**SEC. 113. ARMORED SYSTEM MODERNIZATION.**

(a) **FUNDING.**—Of the funds appropriated pursuant to the authorization of appropriations in section 101(3) for M1 Abrams Tank Modifications—

(1) \$14,300,000 shall be obligated for procurements associated with the M1A1D Appliqué Integration Program, of which no more than \$11,400,000 may be obligated before the end of the 30-day period beginning on the date on which the Secretary of the Army submits the report required under subsection (b); and

(2) \$6,000,000 shall be obligated to develop a M1A2 risk reduction program.

(b) **REPORT.**—(1) Not later than January 31, 1999, the Secretary of the Army shall submit to the congressional defense committees a report on Army armored system modernization programs. The report shall include—

(A) an assessment of the current acquisition and fielding strategy of the Army for the M1 Abrams Tank and M2A3 Bradley Fighting Vehicle; and

(B) a description and assessment of alternatives to that strategy, including an assessment of an alternative fielding strategy that provides for placing all of the armored vehicles configured in the latest variant into one heavy corps.

(2) The assessment of each alternative acquisition and fielding strategy under paragraph (1)(B) shall include the following:

(A) The relative effects of that strategy on warfighting capabilities in terms of operational effectiveness and training and support efficiencies, taking into consideration the joint warfighting context.

(B) How that strategy would facilitate the transition to the Future Scout and Cavalry System, the Future Combat System, or other armored systems for the future force structure known as the Army After Next.

(C) How that strategy fits into the context of overall armored system modernization through 2020.

(D) Budgetary implications.

(E) Implications for the national technology and industrial base.

(F) Innovative techniques and alternatives for maintaining M1A2 System Enhancement Program production.

(3) The Secretary shall include in the report a draft of any legislation that may be required to execute a given alternative for M1A2 System Enhancement Program production.

(c) **GAO EVALUATION.**—The Comptroller General shall review the report of the Secretary of the Army under subsection (b) and,

not later than 30 days after the date on which that report is submitted to the congressional defense committees, shall submit to those committees a report providing the Comptroller General's views on the conclusions of the Secretary of the Army set forth in that report.

**SEC. 114. REACTIVE ARMOR TILES.**

(a) **LIMITATION.**—None of the funds authorized to be appropriated under section 101(3) or 102(b) may be obligated for the procurement of reactive armor tiles until 30 days after the date on which the Secretary of Defense submits to the congressional defense committees the matters specified in subsection (d).

(b) **EXCEPTION.**—The limitation in subsection (a) does not apply to the obligation of any funds for the procurement of armor tiles for an armored vehicle for which the Secretary of the Army or, in the case of the Marine Corps, the Secretary of the Navy, had established a requirement for such tiles before the date of the enactment of this Act.

(c) **STUDY REQUIRED.**—(1) The Secretary of Defense shall contract with an entity independent of the Department of Defense to conduct a study of the operational requirements of the Army and the Marine Corps for reactive armor tiles for armored vehicles and to submit to the Secretary a report on the results of the study.

(2) The study shall include the following:

(A) A detailed assessment of the operational requirements of the Army and the Marine Corps for reactive armor tiles for each of the armored vehicles presently in use, including the requirements for each vehicle in its existing configurations and in configurations proposed for the vehicle.

(B) For each armored vehicle, an analysis of the costs and benefits of the procurement and installation of the tiles, including a comparison of those costs and benefits with the costs and benefits of any existing upgrade program for the armored vehicle.

(3) The entity carrying out the study shall request the views of the Secretary of the Army and the Secretary of the Navy.

(d) **SUBMISSION TO CONGRESSIONAL COMMITTEES.**—Not later than April 1, 1999, the Secretary of Defense shall submit to the congressional defense committees—

(1) the report on the study submitted to the Secretary by the entity carrying out the study;

(2) the comments of the Secretary of the Army and the Secretary of the Navy on the study; and

(3) for each vehicle for which there is a requirement for reactive armor tiles, as indicated by the results of the study, the Secretary's recommendations as to the number of vehicles to be equipped with such tiles.

**SEC. 115. EXTENSION OF AUTHORITY TO CARRY OUT ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.**

Section 193(a) of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102-484; 10 U.S.C. 2501 note) is amended by striking out "During fiscal years 1993 through 1998" and inserting in lieu thereof "During fiscal years 1993 through 1999".

## Subtitle C—Navy Programs

### SEC. 121. CVN-77 NUCLEAR AIRCRAFT CARRIER PROGRAM.

Of the amount authorized to be appropriated under section 102(a)(3) for fiscal year 1999, \$124,500,000 is available for the advance procurement and advance construction of components (including nuclear components) for the CVN-77 nuclear aircraft carrier program.

### SEC. 122. INCREASE IN AMOUNT AUTHORIZED TO BE EXCLUDED FROM COST LIMITATION FOR SEAWOLF SUBMARINE PROGRAM.

Section 123(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1650) is amended by striking out “\$272,400,000” and inserting in lieu thereof “\$557,600,000”.

### SEC. 123. MULTIYEAR PROCUREMENT AUTHORITY FOR THE DEPARTMENT OF THE NAVY.

(a) AUTHORITY FOR SPECIFIED NAVY AIRCRAFT PROGRAMS.—Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract for procurement for the following programs:

- (1) The AV-8B aircraft program.
- (2) The T-45TS aircraft program.
- (3) The E-2C aircraft program.

(b) AUTHORITY FOR MARINE CORPS MEDIUM TACTICAL VEHICLE REPLACEMENT.—Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract to procure the Marine Corps Medium Tactical Vehicle Replacement.

### SEC. 124. ANNUAL GAO REVIEW OF F/A-18E/F AIRCRAFT PROGRAM.

(a) REVIEW AND REPORT REQUIRED.—Not later than June 15 of each year, the Comptroller General shall review the F/A-18E/F aircraft program and submit to Congress a report on the results of the review. The Comptroller General shall submit to Congress with each such report a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(b) CONTENT OF REPORT.—The report submitted on the program each year shall include the following:

(1) The extent to which engineering and manufacturing development and operational test and evaluation under the program are meeting the goals established for engineering and manufacturing development and operational test and evaluation under the program, including the performance, cost, and schedule goals.

(2) The status of modifications expected to have a significant effect on the cost or performance of the F/A-18E/F aircraft.

(c) DURATION OF REQUIREMENT.—No report is required under this section after the full-rate production contract is awarded under the program.

(d) REQUIREMENT TO SUPPORT ANNUAL GAO REVIEW.—The Secretary of Defense and the prime contractors under the F/A-18E/F program shall timely provide the Comptroller General with such

information on the program, including information on program performance, as the Comptroller General considers necessary to carry out this section.

## Subtitle D—Air Force Programs

### SEC. 131. F-22 AIRCRAFT PROGRAM.

(a) LIMITATION ON ADVANCE PROCUREMENT.—(1) Amounts available for the Department of Defense for any fiscal year for the F-22 aircraft program may not be obligated for advance procurement for the six Lot II F-22 aircraft before the applicable date under paragraph (2) or (3).

(2) The applicable date for the purposes of paragraph (1) is the date on which the Secretary of Defense submits a certification under subsection (b)(1) unless the Secretary submits a report under subsection (b)(2).

(3) If the Secretary submits a report under subsection (b)(2), the applicable date for the purposes of paragraph (1) is the later of—

(A) the date on which the Secretary of Defense submits the report; or

(B) the date on which the Director of Operational Test and Evaluation submits the certification required under subsection (c).

(b) CERTIFICATION BY SECRETARY OF DEFENSE.—(1) Upon the completion of 433 hours of flight testing of F-22 flight test vehicles, the Secretary of Defense shall submit to the congressional defense committees a certification of the completion of that amount of flight testing. A certification is not required under this paragraph if the Secretary submits a report under paragraph (2).

(2) If the Secretary determines that a number of hours of flight testing of F-22 flight test vehicles less than 433 hours provides the Defense Acquisition Board with a sufficient basis for deciding to proceed into production of Lot II F-22 aircraft, the Secretary may submit a report to the congressional defense committees upon the completion of that lesser number of hours of flight testing. A report under this paragraph shall contain the following:

(A) A certification of the number of hours of flight testing completed.

(B) The reasons for the Secretary's determination that the lesser number of hours is a sufficient basis for a decision by the board.

(C) A discussion of the extent to which the Secretary's determination is consistent with each decision made by the Defense Acquisition Board since January 1997 in the case of a major aircraft acquisition program that the amount of flight testing completed for the program was sufficient or not sufficient to justify a decision to proceed into low-rate initial production.

(D) A determination by the Secretary that it is more financially advantageous for the Department to proceed into production of Lot II F-22 aircraft than to delay production until completion of 433 hours of flight testing, together with the reasons for that determination.

(c) CERTIFICATION BY THE DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—Upon the completion of 183 hours of the flight

testing of F-22 flight test vehicles provided for in the test and evaluation master plan for the F-22 aircraft program, as in effect on October 1, 1997, the Director of Operational Test and Evaluation shall submit to the congressional defense committees a certification of the completion of that flight testing.

**SEC. 132. C-130J AIRCRAFT PROGRAM.**

Reports.

Not later than March 1, 1999, the Secretary of Defense shall review the C-130J aircraft program and submit a report on the program to the congressional defense committees. The report shall include at least the following:

(1) A discussion of the testing planned and the testing conducted under the program, including—

(A) the testing schedule intended at the beginning of the program;

(B) the testing schedule as of when the testing commenced; and

(C) an explanation of the time taken for the testing.

(2) The cost and schedule of the program, including—

(A) whether the Department has exercised or plans to exercise contract options for fiscal years 1996, 1997, 1998, and 1999;

(B) when the Department expects the aircraft to be delivered and how the delivery dates compare to the delivery dates specified in the contract;

(C) whether the Department expects to make any modification to the negotiated contract price for these aircraft, and the amount and basis for any such modification; and

(D) whether the Department expects the reported delays and overruns in the development of the aircraft to have any other impact on the cost, schedule, or performance of the aircraft.

## **Subtitle E—Other Matters**

**SEC. 141. CHEMICAL STOCKPILE EMERGENCY PREPAREDNESS PROGRAM.**

(a) ASSISTANCE TO STATE AND LOCAL GOVERNMENTS.—Section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 50 U.S.C. 1521), is amended by adding at the end of subsection (c) the following:

“(4)(A) In coordination with the Secretary of the Army and in accordance with agreements between the Secretary of the Army and the Director of the Federal Emergency Management Agency, the Director shall carry out a program to provide assistance to State and local governments in developing capabilities to respond to emergencies involving risks to the public health or safety within their jurisdictions that are identified by the Secretary as being risks resulting from—

“(i) the storage of lethal chemical agents and munitions referred to in subsection (a) at military installations in the continental United States; or

“(ii) the destruction of such agents and munitions at facilities referred to in paragraph (1)(B).

“(B) No assistance may be provided under this paragraph after the completion of the destruction of the United States’ stockpile of lethal chemical agents and munitions.

“(C) Not later than December 15 of each year, the Director shall transmit a report to Congress on the activities carried out under this paragraph during the fiscal year preceding the fiscal year in which the report is submitted.” Reports.

(b) PROGRAM FUNDING.—Section 1412(f) of such Act (51 U.S.C. 1521(f)) is amended— 50 USC 1521.

(1) by striking out “IDENTIFICATION OF FUNDS.—Funds” and inserting in lieu thereof “IDENTIFICATION OF FUNDS.—(1) Funds”; and

(2) by adding at the end the following new paragraph: “(2) Amounts appropriated to the Secretary for the purpose of carrying out subsection (c)(4) shall be promptly made available to the Director of the Federal Emergency Management Agency.”.

(c) PERIODIC REPORTS.—Section 1412(g) of such Act (50 U.S.C. 1521(g)) is amended—

(1) in paragraph (2)(B)—

(A) by striking out “and” at the end of clause (v);

(B) by striking out the period at the end of clause (vi) and inserting in lieu thereof “; and”; and

(C) by adding at the end the following new clause:

“(vii) grants to State and local governments to assist those governments in carrying out functions relating to emergency preparedness and response in accordance with subsection (c)(3).”;

(2) by redesignating subparagraph (B) (as amended by paragraph (1)) and subparagraph (C) of paragraph (2) as subparagraphs (C) and (D), respectively; and

(3) by inserting after paragraph (2)(A) the following new subparagraph (B):

“(B) A site-by-site description of actions taken to assist State and local governments (either directly or through the Federal Emergency Management Agency) in carrying out functions relating to emergency preparedness and response in accordance with subsection (c)(3).”.

**SEC. 142. ALTERNATIVE TECHNOLOGIES FOR DESTRUCTION OF ASSEMBLED CHEMICAL WEAPONS.**

50 USC 1521  
note.

(a) PROGRAM MANAGEMENT.—The program manager for the Assembled Chemical Weapons Assessment shall continue to manage the development and testing (including demonstration and pilot-scale testing) of technologies for the destruction of lethal chemical munitions that are potential or demonstrated alternatives to the baseline incineration program. In performing such management, the program manager shall act independently of the program manager for Chemical Demilitarization and shall report to the Under Secretary of Defense for Acquisition and Technology.

(b) POST-DEMONSTRATION ACTIVITIES.—(1) The program manager for the Assembled Chemical Weapons Assessment may carry out those activities necessary to ensure that an alternative technology for the destruction of lethal chemical munitions can be implemented immediately after—

(A) the technology has been demonstrated to be successful; and

(B) the Under Secretary of Defense for Acquisition and Technology has submitted a report on the demonstration to Congress that includes a decision to proceed with the pilot-scale facility phase for an alternative technology.

(2) To prepare for the immediate implementation of any such technology, the program manager may, during fiscal years 1998 and 1999, take the following actions:

(A) Establish program requirements.

(B) Prepare procurement documentation.

(C) Develop environmental documentation.

(D) Identify and prepare to meet public outreach and public participation requirements.

(E) Prepare to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999.

(c) INDEPENDENT EVALUATION.—The Under Secretary of Defense for Acquisition and Technology shall provide for an independent evaluation of the cost and schedule of the Assembled Chemical Weapons Assessment, which shall be performed and submitted to the Under Secretary not later than September 30, 1999. The evaluation shall be performed by a nongovernmental organization qualified to make such an evaluation.

(d) PILOT FACILITIES CONTRACTS.—(1) The Under Secretary of Defense for Acquisition and Technology shall determine whether to proceed with pilot-scale testing of a technology referred to in paragraph (2) in time to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999. If the Under Secretary determines to proceed with such testing, the Under Secretary shall (exercising the acquisition authority of the Secretary of Defense) so award a contract not later than such date.

(2) Paragraph (1) applies to an alternative technology for the destruction of lethal chemical munitions, other than incineration, that the Under Secretary—

(A) certifies in writing to Congress is—

(i) as safe and cost effective for disposing of assembled chemical munitions as is incineration of such munitions; and

(ii) is capable of completing the destruction of such munitions on or before the later of the date by which the destruction of the munitions would be completed if incineration were used or the deadline date for completing the destruction of the munitions under the Chemical Weapons Convention; and

(B) determines as satisfying the Federal and State environmental and safety laws that are applicable to the use of the technology and to the design, construction, and operation of a pilot facility for use of the technology.

(3) The Under Secretary shall consult with the National Research Council in making determinations and certifications for the purpose of paragraph (2).

(4) In this subsection, the term “Chemical Weapons Convention” means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their



Destruction, opened for signature on January 13, 1993, together with related annexes and associated documents.

(e) **PLAN FOR PILOT PROGRAM.**—If the Secretary of Defense proceeds with a pilot program under section 152(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 214; 50 U.S.C. 1521(f)), the Secretary shall prepare a plan for the pilot program and shall submit to Congress a report on such plan (including information on the cost of, and schedule for, implementing the pilot program).

(f) **FUNDING.**—(1) Of the amount authorized to be appropriated under section 107, funds shall be available for the program manager for the Assembled Chemical Weapons Assessment for the following:

(A) Demonstrations of alternative technologies under the Assembled Chemical Weapons Assessment.

(B) Planning and preparation to proceed from demonstration of an alternative technology immediately into the development of a pilot-scale facility for the technology, including planning and preparation for—

(i) continued development of the technology leading to deployment of the technology for use;

(ii) satisfaction of requirements for environmental permits;

(iii) demonstration, testing, and evaluation;

(iv) initiation of actions to design a pilot plant;

(v) provision of support at the field office or depot level for deployment of the technology for use; and

(vi) educational outreach to the public to engender support for the deployment.

(C) The independent evaluation of cost and schedule required under subsection (c).

(2) Funds authorized to be appropriated under section 107(1) are authorized to be used for awarding contracts in accordance with subsection (d) and for taking any other action authorized in this section.

(f) **ASSEMBLED CHEMICAL WEAPONS ASSESSMENT DEFINED.**—In this section, the term “Assembled Chemical Weapons Assessment” means the pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104–208; 110 Stat. 3009–101; 50 U.S.C. 1521 note).

## **TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION**

### **Subtitle A—Authorization of Appropriations**

Sec. 201. Authorization of appropriations.

Sec. 202. Amount for basic and applied research.

### **Subtitle B—Program Requirements, Restrictions, and Limitations**

Sec. 211. Management responsibility for Navy mine countermeasures programs.

Sec. 212. Future aircraft carrier transition technologies.

Sec. 213. Manufacturing technology program.

Sec. 214. Sense of Congress on the Defense Science and Technology Program.

Sec. 215. Next Generation Internet Program.

Sec. 216. Crusader self-propelled artillery system program.

Sec. 217. Airborne Laser Program.

Sec. 218. Enhanced Global Positioning System program.

**Subtitle C—Ballistic Missile Defense**

- Sec. 231. Sense of Congress on National Missile Defense coverage.
- Sec. 232. Limitation on funding for the Medium Extended Air Defense System.
- Sec. 233. Limitation on funding for Cooperative Ballistic Missile Defense programs.
- Sec. 234. Sense of Congress with respect to Ballistic Missile Defense cooperation with Russia.
- Sec. 235. Ballistic Missile Defense program elements.
- Sec. 236. Restructuring of acquisition strategy for Theater High-Altitude Area Defense (THAAD) system.

**Subtitle D—Other Matters**

- Sec. 241. Extension of authority to carry out certain prototype projects.
- Sec. 242. NATO alliance ground surveillance concept definition.
- Sec. 243. NATO common-funded Civil Budget.
- Sec. 244. Executive agent for cooperative research program of the Department of Defense and the Department of Veterans Affairs.
- Sec. 245. Review of pharmacological interventions for reversing brain injury.
- Sec. 246. Pilot program for revitalizing the laboratories and test and evaluation centers of the Department of Defense.
- Sec. 247. Chemical warfare defense.
- Sec. 248. Landmine alternatives.

## **Subtitle A—Authorization of Appropriations**

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Department of Defense for research, development, test, and evaluation as follows:

- (1) For the Army, \$4,657,012,000.
- (2) For the Navy, \$8,305,011,000.
- (3) For the Air Force, \$13,918,728,000.
- (4) For Defense-wide activities, \$9,127,187,000, of which—
  - (A) \$249,106,000 is authorized for the activities of the Director, Test and Evaluation; and
  - (B) \$29,245,000 is authorized for the Director of Operational Test and Evaluation.

**SEC. 202. AMOUNT FOR BASIC AND APPLIED RESEARCH.**

(a) FISCAL YEAR 1999.—Of the amounts authorized to be appropriated by section 201, \$4,179,905,000 shall be available for basic research and applied research projects.

(b) BASIC RESEARCH AND APPLIED RESEARCH DEFINED.—For purposes of this section, the term “basic research and applied research” means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

## **Subtitle B—Program Requirements, Restrictions, and Limitations**

**SEC. 211. MANAGEMENT RESPONSIBILITY FOR NAVY MINE COUNTER-MEASURES PROGRAMS.**

Section 216(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1317, as amended) is amended by striking out “through 1999” and inserting in lieu thereof “through 2003”.

**SEC. 212. FUTURE AIRCRAFT CARRIER TRANSITION TECHNOLOGIES.**

Of the funds authorized to be appropriated under section 201(2) for Carrier System Development (program element 0603512N), \$50,000,000 shall be available only for research, development, test, evaluation, and incorporation into the CVN-77 nuclear aircraft carrier program of technologies designed to transition to, demonstrate enhanced capabilities for, or mitigate cost and technical risks of, the CV(X) aircraft carrier program.

**SEC. 213. MANUFACTURING TECHNOLOGY PROGRAM.**

(a) REQUIREMENTS RELATING TO COMPETITION.—Subsection (d)(1) of section 2525 of title 10, United States Code, is amended—

(1) by striking out “(1) Competitive” and inserting in lieu thereof “(1)(A) In accordance with the policy stated in section 2374 of this title, competitive”; and

(2) by adding at the end the following new subparagraph:

“(B) For each grant awarded and each contract, cooperative agreement, or other transaction entered into on a cost-share basis under the program, the ratio of contract recipient cost to Government cost shall be determined by competitive procedures. For a project for which the Government receives an offer from only one offeror, the contracting officer shall negotiate the ratio of contract recipient cost to Government cost that represents the best value to the Government.”.

(b) REQUIREMENTS RELATING TO COST SHARE WAIVERS.—Subsection (d)(2) of such section is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by inserting “(A)” after “(2)”; and

(3) by adding at the end the following new subparagraphs:

“(B) For any grant awarded or contract, cooperative agreement, or other transaction entered into on a basis other than a cost-sharing basis because of a determination made under subparagraph (A), the transaction file for the project concerned must document the rationale for the determination.

“(C) The Secretary of Defense may delegate the authority to make determinations under subparagraph (A) only to the Under Secretary of Defense for Acquisition and Technology or a service acquisition executive, as appropriate.”.

(c) COST SHARE GOAL.—Subsection (d) of such section is amended—

(1) by striking out paragraph (4); and

(2) in paragraph (3)—

(A) by striking out “At least” and inserting in lieu thereof “As a goal, at least”;

(B) by striking out “shall” and inserting in lieu thereof “should”; and

(C) by adding at the end the following: “The Secretary of Defense, in coordination with the Secretaries of the military departments and upon recommendation of the Under Secretary of Defense for Acquisition and Technology, shall establish annual objectives to meet such goal.”.

(d) ADDITIONAL INFORMATION TO BE INCLUDED IN FIVE-YEAR PLAN.—Subsection (e)(2) of such section is amended to read as follows:

“(2) The plan shall include the following:

“(A) An assessment of the effectiveness of the program.

“(B) An assessment of the extent to which the costs of projects are being shared by the following:

“(i) Commercial enterprises in the private sector.

“(ii) Department of Defense program offices, including weapon system program offices.

“(iii) Departments and agencies of the Federal Government outside the Department of Defense.

“(iv) Institutions of higher education.

“(v) Other institutions not operated for profit.

“(vi) Other sources.”.

10 USC 2501  
note.

**SEC. 214. SENSE OF CONGRESS ON THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.**

(a) **FUNDING REQUIREMENTS FOR THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM BUDGET.**—It is the sense of Congress that, for each of the fiscal years 2000 through 2008, it should be an objective of the Secretary of Defense to increase the budget for the Defense Science and Technology Program for the fiscal year over the budget for that program for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

(b) **GUIDELINES FOR THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.**—

(1) **RELATIONSHIP OF DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO UNIVERSITY RESEARCH.**—It is the sense of Congress that the following should be key objectives of the Defense Science and Technology Program:

(A) The sustainment of research capabilities in scientific and engineering disciplines critical to the Department of Defense.

(B) The education and training of the next generation of scientists and engineers in disciplines that are relevant to future defense systems, particularly through the conduct of basic research.

(C) The continued support of the Defense Experimental Program to Stimulate Competitive Research and research programs at historically black colleges and universities and minority institutions.

(2) **RELATIONSHIP OF THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO COMMERCIAL RESEARCH AND TECHNOLOGY.**—(A) It is the sense of Congress that, in supporting projects within the Defense Science and Technology Program, the Secretary of Defense should attempt to leverage commercial research, technology, products, and processes for the benefit of the Department of Defense.

(B) It is the sense of Congress that funds made available for projects and programs of the Defense Science and Technology Program should be used only for the benefit of the Department of Defense, which includes—

(i) the development of technology that has only military applications;

(ii) the development of militarily useful, commercially viable technology; and

(iii) the adaptation of commercial technology, products, or processes for military purposes.

(3) **SYNERGISTIC MANAGEMENT OF RESEARCH AND DEVELOPMENT.**—It is the sense of Congress that the Secretary of Defense

should have the flexibility to allocate a combination of funds available for the Department of Defense for basic and applied research and for advanced development to support any individual project or program within the Defense Science and Technology Program, but such flexibility should not change the allocation of funds in any fiscal year among basic and applied research and advanced development.

(4) MANAGEMENT OF SCIENCE AND TECHNOLOGY.—It is the sense of Congress that—

(A) management and funding for the Defense Science and Technology Program for each military department should receive a level of priority and leadership attention equal to the level received by program acquisition, and the Secretary of each military department should ensure that a senior official in the department holds the appropriate title and responsibility to ensure effective oversight and emphasis on science and technology;

(B) to ensure an appropriate long-term focus for investments, a sufficient percentage of science and technology funds should be directed toward new technology areas, and annual reviews should be conducted for ongoing research areas to ensure that those funded initiatives are either integrated into acquisition programs or discontinued when appropriate;

(C) the Secretary of each military department should take appropriate steps to ensure that sufficient numbers of officers and civilian employees in the department hold advanced degrees in technical fields; and

(D) of particular concern, the Secretary of the Air Force should take appropriate measures to ensure that sufficient numbers of scientists and engineers are maintained to address the technological challenges faced in the areas of air, space, and information technology.

(c) STUDY.—

(1) REQUIREMENT.—The Secretary of Defense, in cooperation with the National Research Council of the National Academy of Sciences, shall conduct a study on the technology base of the Department of Defense.

(2) MATTERS COVERED.—The study shall—

(A) result in recommendations on the minimum requirements for maintaining a technology base that is sufficient, based on both historical developments and future projections, to project superiority in air and space weapons systems and in information technology;

(B) address the effects on national defense and civilian aerospace industries and information technology of reducing funding below the goal described in subsection (a); and

(C) result in recommendations on the appropriate levels of staff with baccalaureate, masters, and doctorate degrees, and the optimal ratio of civilian and military staff holding such degrees, to ensure that science and technology functions of the Department of Defense remain vital.

(3) REPORT.—Not later than 120 days after the date on which the study required under paragraph (1) is completed, the Secretary shall submit to Congress a report on the results of the study.

(d) DEFINITIONS.—In this section:

(1) The term “Defense Science and Technology Program” means basic and applied research and advanced development.

(2) The term “basic and applied research” means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

(3) The term “advanced development” means work funded in program elements for defense research and development under Department of Defense category 6.3.

**SEC. 215. NEXT GENERATION INTERNET PROGRAM.**

(a) FUNDING.—Of the funds authorized to be appropriated under section 201(4), \$53,000,000 shall be available for the Next Generation Internet program.

(b) LIMITATION.—Notwithstanding the enactment of any other provision of law after the date of the enactment of this Act, amounts may be appropriated for fiscal year 1999 for research, development, test, and evaluation by the Department of Defense for the Next Generation Internet program only pursuant to the authorization of appropriations under section 201(4).

**SEC. 216. CRUSADER SELF-PROPELLED ARTILLERY SYSTEM PROGRAM.**

(a) LIMITATION.—Of the amount authorized to be appropriated for the Army pursuant to section 201(1), not more than \$223,000,000 may be obligated for the Crusader self-propelled artillery system program until 30 days after the date on which the Secretary of the Army submits the report required under subsection (b).

(b) REQUIREMENT FOR REPORT.—The Secretary of the Army shall submit to the congressional defense committees a report on the Crusader self-propelled artillery system. The report shall include the following:

(1) An assessment of the risks associated with the current Crusader program technology.

(2) The total requirements for the Crusader system, taking into consideration revisions in force structure resulting from the redesign of heavy and light divisions to achieve a force structure known as the Army After Next.

(3) The potential for reducing the weight of the Crusader system by as much as 50 percent.

(4) The potential for using alternative propellants for the artillery projectile for the Crusader system and the effects on the overall program schedule that would result from taking the actions and time necessary to develop mature technologies for alternative propellants.

(5) An analysis of the costs and benefits of delaying procurement of the Crusader system to avoid affordability issues associated with the current schedule and to allow for maturation of weight and propellant technologies.

(c) SUBMISSION OF REPORT.—The Secretary of the Army shall submit the report not later than March 1, 1999.

**SEC. 217. AIRBORNE LASER PROGRAM.**

(a) ASSESSMENT OF TECHNICAL AND OPERATIONAL ASPECTS.—The Secretary of Defense shall conduct an assessment of the technical and operational aspects of the Airborne Laser Program. In conducting the assessment, the Secretary shall establish an independent team of persons from outside the Department of Defense who are experts in relevant fields to review the technical

and operational aspects of the Airborne Laser Program. The team shall assess the following:

(1) Whether additional ground testing or other forms of data collection should be completed before initial modification of a commercial aircraft to an Airborne Laser configuration.

(2) The adequacy of exit criteria for the program definition and risk reduction phase of the Airborne Laser Program.

(3) The adequacy of current Airborne Laser operational concepts.

(b) REPORT ON ASSESSMENT.—Not later than March 15, 1999, the Secretary shall submit to Congress a report on the assessment. The report shall include the Secretary's findings and any recommendations that the Secretary considers appropriate.

(c) FUNDING FOR PROGRAM.—Of the amount authorized to be appropriated under section 201(3), \$235,219,000 shall be available for the Airborne Laser Program.

(d) LIMITATION.—Of the amount made available pursuant to subsection (c), not more than \$185,000,000 may be obligated until 30 days after the Secretary submits the report required by subsection (b).

#### SEC. 218. ENHANCED GLOBAL POSITIONING SYSTEM PROGRAM.

10 USC 2281  
note.

(a) POLICY ON PRIORITY FOR DEVELOPMENT OF ENHANCED GPS SYSTEM.—The development of an enhanced Global Positioning System is an urgent national security priority.

(b) DEVELOPMENT REQUIRED.—To fulfill the requirements described in section 279(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 243) and section 2281 of title 10, United States Code, the Secretary of Defense shall develop an enhanced Global Positioning System in accordance with the priority declared in subsection (a). The enhanced Global Positioning System shall include the following elements:

(1) An evolved satellite system that includes increased signal power and other improvements such as regional-level directional signal enhancements.

(2) Enhanced receivers and user equipment that are capable of providing military users with direct access to encrypted Global Positioning System signals.

(3) To the extent funded by the Secretary of Transportation, additional civil frequencies and other enhancements for civil users.

(c) SENSE OF CONGRESS REGARDING FUNDING.—It is the sense of Congress that—

(1) the Secretary of Defense should ensure that the future-years defense program provides for sufficient funding to develop and deploy an enhanced Global Positioning System in accordance with the priority declared in subsection (a); and

(2) the Secretary of Transportation should provide sufficient funding to support additional civil frequencies for the Global Positioning System and other enhancements of the system for civil users.

(d) PLAN FOR DEVELOPMENT OF ENHANCED GLOBAL POSITIONING SYSTEM.—Not later than April 15, 1999, the Secretary of Defense shall submit to Congress a plan for carrying out the requirements of subsection (b).

(e) DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.—Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1578) is amended by striking out “2000” and inserting in lieu thereof “2005”.

(f) FUNDING FROM AUTHORIZED APPROPRIATIONS FOR FISCAL YEAR 1999.—Of the amounts authorized to be appropriated under section 201(3), \$44,000,000 shall be available to establish and carry out an enhanced Global Positioning System program.

## **Subtitle C—Ballistic Missile Defense**

### **SEC. 231. SENSE OF CONGRESS ON NATIONAL MISSILE DEFENSE COVERAGE.**

It is the sense of Congress that—

(1) any national missile defense system deployed by the United States must provide effective defense against limited, accidental, or unauthorized ballistic missile attack for all 50 States; and

(2) the territories of the United States should be afforded effective protection against ballistic missile attack.

### **SEC. 232. LIMITATION ON FUNDING FOR THE MEDIUM EXTENDED AIR DEFENSE SYSTEM.**

None of the funds appropriated for fiscal year 1999 for the Ballistic Missile Defense Organization may be obligated for the Medium Extended Air Defense System (MEADS) until the Secretary of Defense certifies to Congress that the future-years defense program includes sufficient programmed funding for that system to complete the design and development phase. If the Secretary does not submit such a certification by January 1, 1999, then (effective as of that date) the funds appropriated for fiscal year 1999 for the Ballistic Missile Defense Organization that are allocated for the MEADS program shall be available to support alternative programmatic and technical approaches to meeting the requirement for mobile theater missile defense that was to be met by the MEADS system.

### **SEC. 233. LIMITATION ON FUNDING FOR COOPERATIVE BALLISTIC MISSILE DEFENSE PROGRAMS.**

Of the funds appropriated for fiscal year 1999 for the Russian-American Observational Satellite (RAMOS) program, \$5,000,000 may not be obligated until the Secretary of Defense certifies to Congress that the Department of Defense has received detailed information concerning the nature, extent, and military implications of the transfer of ballistic missile technology from Russian sources to Iran.

### **SEC. 234. SENSE OF CONGRESS WITH RESPECT TO BALLISTIC MISSILE DEFENSE COOPERATION WITH RUSSIA.**

It is the sense of Congress that, as the United States proceeds with efforts to develop defenses against ballistic missile attack, the United States should seek to foster a climate of cooperation with Russia on matters related to ballistic missile defense and that, in particular, the United States and its NATO allies should seek to cooperate with Russia in such areas as early warning of ballistic missile launches.



**SEC. 235. BALLISTIC MISSILE DEFENSE PROGRAM ELEMENTS.**

(a) BMD PROGRAM ELEMENTS.—(1) Chapter 9 of title 10, United States Code, is amended by inserting after section 222 the following new section:

**“§ 223. Ballistic missile defense programs: program elements**

“(a) PROGRAM ELEMENTS SPECIFIED.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for activities of the Ballistic Missile Defense Organization shall be set forth in accordance with the following program elements:

- “(1) The Patriot system.
- “(2) The Navy Area system.
- “(3) The Theater High-Altitude Area Defense system.
- “(4) The Navy Theater Wide system.
- “(5) The Medium Extended Air Defense System.
- “(6) Joint Theater Missile Defense.
- “(7) National Missile Defense.
- “(8) Support Technologies.
- “(9) Family of Systems Engineering and Integration.
- “(10) Ballistic Missile Defense Technical Operations.
- “(11) Threat and Countermeasures.
- “(12) International Cooperative Programs.

“(b) TREATMENT OF MAJOR DEFENSE ACQUISITION PROGRAMS.—Amounts requested for Theater Missile Defense and National Missile Defense major defense acquisition programs shall be specified in individual, dedicated program elements, and amounts appropriated for those programs shall be available only for Ballistic Missile Defense activities.

“(c) MANAGEMENT AND SUPPORT.—The amount requested for each program element specified in subsection (a) shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 222 the following new item:

“223. Ballistic missile defense programs: program elements.”.

(b) REPEAL OF SUPERSEDED PROVISION.—Section 251 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 10 U.S.C. 221 note) is repealed.

**SEC. 236. RESTRUCTURING OF ACQUISITION STRATEGY FOR THEATER HIGH-ALTITUDE AREA DEFENSE (THAAD) SYSTEM.**

(a) ESTABLISHMENT OF COMPETITIVE CONTRACTOR.—(1) The Secretary of Defense shall take appropriate steps to implement technical and price competition for the development and production of the interceptor missile for the Theater High-Altitude Area Defense (THAAD) system.

(2) The Secretary shall take such steps as necessary to ensure that the prime contractor (as of the date of the enactment of this Act) for the THAAD system provides the cooperation needed to establish the technical and price competition required in subsection (a).

(3) The Secretary shall use the authority provided in section 2304(c)(2) of title 10, United States Code, to expedite the implementation of paragraphs (1) and (2).

(4) Of the amount made available under section 201(4) for the THAAD System, \$29,600,000 shall be available to establish the technical and price competition required in paragraph (1).

(b) COST SHARING ARRANGEMENT.—(1) The Secretary of Defense shall contractually establish with the THAAD interceptor prime contractor an appropriate arrangement for sharing between the United States and that contractor the costs for flight test failures of the interceptor missile for the THAAD system beginning with the flight test numbered 9.

(2) For purposes of paragraph (1), the term “THAAD interceptor prime contractor” means the firm that as of May 14, 1998, is the prime contractor for the interceptor missile for the Theater High-Altitude Area Defense system.

(c) ENGINEERING AND MANUFACTURING DEVELOPMENT PHASE FOR OTHER ELEMENTS OF THE THAAD SYSTEM.—The Secretary of Defense may proceed with the milestone approval process for the Engineering and Manufacturing Development phase for the Battle Management and Command, Control, and Communications (BM/C<sup>3</sup>) element of the THAAD system and for the Ground Based Radar (GBR) element for that system without regard to the stage of development of the interceptor missile for that system.

(d) PLAN FOR CONTINGENCY CAPABILITY.—(1) The Secretary of Defense shall prepare a plan that would allow for deployment of THAAD missiles and the other elements of the THAAD system referred to in subsection (c) in response to theater ballistic missile threats that evolve before United States military forces are equipped with the objective configuration of those missiles and elements.

(2) The Secretary shall submit a report on the plan to the congressional defense committees by December 15, 1998.

(e) LIMITATION ON ENTERING ENGINEERING AND MANUFACTURING DEVELOPMENT PHASE.—(1) The Secretary of Defense may not approve the commencement of the Engineering and Manufacturing Development phase for the interceptor missile for the THAAD system until there have been 3 successful tests of that missile.

(2) For purposes of paragraph (1), a successful test of the interceptor missile of the THAAD system is a body-to-body intercept by that missile of a ballistic missile target.

Reports.

## Subtitle D—Other Matters

### SEC. 241. EXTENSION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

Section 845(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note) is amended by striking out “September 30, 1999” and inserting in lieu thereof “September 30, 2001”.

### SEC. 242. NATO ALLIANCE GROUND SURVEILLANCE CONCEPT DEFINITION.

Amounts authorized to be appropriated under section 201 are available for a NATO alliance ground surveillance concept definition that is based on the Joint Surveillance Target Attack Radar System

(Joint STARS) Radar Technology Insertion Program (RTIP) sensor of the United States, as follows:

- (1) Of the amount authorized to be appropriated under section 201(1), \$6,400,000.
- (2) Of the amount authorized to be appropriated under section 201(3), \$3,500,000.

**SEC. 243. NATO COMMON-FUNDED CIVIL BUDGET.**

Of the amount authorized to be appropriated by section 201(1), \$750,000 shall be available for contributions for the common-funded Civil Budget of NATO.

**SEC. 244. EXECUTIVE AGENT FOR COOPERATIVE RESEARCH PROGRAM OF THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF VETERANS AFFAIRS.**

The Secretary of Defense, acting through the Army Medical Research and Materiel Command and the Naval Operational Medicine Institute, shall be the executive agent for the use of funds available from the amount authorized to be appropriated by section 201(4) for the Cooperative Research Program of the Department of Defense and the Department of Veterans Affairs.

**SEC. 245. REVIEW OF PHARMACOLOGICAL INTERVENTIONS FOR REVERSING BRAIN INJURY.**

(a) REVIEW AND REPORT REQUIRED.—The Assistant Secretary of Defense for Health Affairs shall review research on pharmacological interventions for reversing brain injury and, not later than March 31, 1999, submit a report on the results of the review to Congress.

(b) CONTENT OF REPORT.—The report shall include the following:

- (1) The potential for pharmacological interventions for reversing brain injury to reduce mortality and morbidity in cases of head injuries incurred in combat or resulting from exposures to chemical weapons or agents.
- (2) The potential utility of such interventions for the Armed Forces.
- (3) A conclusion regarding whether funding for research on such interventions should be included in the budget for the Department of Defense for fiscal year 2000.

**SEC. 246. PILOT PROGRAM FOR REVITALIZING THE LABORATORIES AND TEST AND EVALUATION CENTERS OF THE DEPARTMENT OF DEFENSE.**

10 USC 2358  
note.

(a) PILOT PROGRAM.—(1) The Secretary of Defense may carry out a pilot program to demonstrate improved cooperative relationships with universities and other private sector entities for the performance of research and development functions.

(2) Under the pilot program, the Secretary of Defense shall provide the director of one science and technology laboratory, and the director of one test and evaluation center, of each military department with authority for the following:

- (A) To explore innovative methods for quickly, efficiently, and fairly entering into cooperative relationships with universities and other private sector entities with respect to the performance of research and development functions.
- (B) To waive any restrictions on the demonstration and implementation of such methods that are not required by law.

(C) To develop or expand innovative methods of operation that provide more defense research for each dollar of cost, including to carry out such initiatives as focusing on the performance of core functions and adopting more business-like practices.

(3) In selecting the laboratories and centers for participation in the pilot program, the Secretary shall consider laboratories and centers where innovative management techniques have been demonstrated, particularly as documented under sections 1115 through 1119 of title 31, United States Code, relating to Government agency performance and results.

(4) The Secretary may carry out the pilot program at each selected laboratory and center for a period of three years beginning not later than March 1, 1999.

(b) REPORTS.—(1) Not later than March 1, 1999, the Secretary of Defense shall submit a report on the implementation of the pilot program to Congress. The report shall include the following:

(A) Each laboratory and center selected for the pilot program.

(B) To the extent possible, a description of the innovative concepts that are to be tested at each laboratory or center.

(C) The criteria to be used for measuring the success of each concept to be tested.

(2) Promptly after the expiration of the period for participation of a laboratory or center in the pilot program, the Secretary of Defense shall submit to Congress a final report on the participation of the laboratory or center in the pilot program. The report shall contain the following:

(A) A description of the concepts tested.

(B) The results of the testing.

(C) The lessons learned.

(D) Any proposal for legislation that the Secretary recommends on the basis of the experience at the laboratory or center under the pilot program.

(c) COMMENDATION.—Congress commends the Secretary of Defense for the progress made by the science and technology laboratories and test and evaluation centers of the Department of Defense and encourages the Secretary to take the actions necessary to ensure continued progress for the laboratories and test and evaluation centers in developing cooperative relationships with universities and other private sector entities for the performance of research and development functions.

50 USC 1522  
note.

#### **SEC. 247. CHEMICAL WARFARE DEFENSE.**

(a) REVIEW AND MODIFICATION OF POLICIES AND DOCTRINES.—The Secretary of Defense shall review the policies and doctrines of the Department of Defense on chemical warfare defense and modify the policies and doctrine as appropriate to achieve the objectives set forth in subsection (b).

(b) OBJECTIVES.—The objectives for the modification of policies and doctrines of the Department of Defense on chemical warfare defense are as follows:

(1) To provide for adequate protection of personnel from any exposure to a chemical warfare agent (including chronic and low-level exposure to a chemical warfare agent) that would endanger the health of exposed personnel because of the deleterious effects of—

- (A) a single exposure to the agent;
- (B) exposure to the agent concurrently with other dangerous exposures, such as exposures to—
  - (i) other potentially toxic substances in the environment, including pesticides, other insect and vermin control agents, and environmental pollutants;
  - (ii) low-grade nuclear and electromagnetic radiation present in the environment;
  - (iii) preventive medications (that are dangerous when taken concurrently with other dangerous exposures referred to in this paragraph);
  - (iv) diesel fuel, jet fuel, and other hydrocarbon-based fuels; and
  - (v) occupational hazards, including battlefield hazards; and
- (C) repeated exposures to the agent, or some combination of one or more exposures to the agent and other dangerous exposures referred to in subparagraph (B), over time.

(2) To provide for—

(A) the prevention of and protection against, and the detection (including confirmation) of, exposures to a chemical warfare agent (whether intentional or inadvertent) at levels that, even if not sufficient to endanger health immediately, are greater than the level that is recognized under Department of Defense policies as being the maximum safe level of exposure to that agent for the general population; and

(B) the recording, reporting, coordinating, and retaining of information on possible exposures described in subparagraph (A), including the monitoring of the health effects of exposures on humans and animals, environmental effects, and ecological effects, and the documenting and reporting of those effects specifically by location.

(3) To provide solutions for the concerns and mission requirements that are specifically applicable for one or more of the Armed Forces in a protracted conflict when exposures to chemical agents could be complex, dynamic, and occurring over an extended period.

(c) RESEARCH PROGRAM.—The Secretary of Defense shall develop and carry out a plan to establish a research program for determining the effects of exposures to chemical warfare agents of the type described in subsection (b). The research shall be designed to yield results that can guide the Secretary in the evolution of policy and doctrine on exposures to chemical warfare agents and to develop new risk assessment methods and instruments with respect to such exposures. The plan shall state the objectives and scope of the program and include a 5-year funding plan.

(d) REPORT.—Not later than May 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the results of the review under subsection (a) and on the research program developed under subsection (c). The report shall include the following:

- (1) Each modification of chemical warfare defense policy and doctrine resulting from the review.

(2) Any recommended legislation regarding chemical warfare defense.

(3) The plan for the research program.

**SEC. 248. LANDMINE ALTERNATIVES.**

(a) AVAILABILITY OF FUNDS.—(1) Of the amounts authorized to be appropriated in section 201, not more than \$19,200,000 shall be available for activities relating to the identification, adaptation, modification, research, and development of existing and new technologies and concepts that—

(A) would provide a combat capability that is equivalent to the combat capability provided by non-self destructing anti-personnel landmines;

(B) would provide a combat capability that is equivalent to the combat capability provided by anti-personnel submunitions used in mixed anti-tank mine systems; or

(C) would provide a combat capability that is equivalent to the combat capability provided by current mixed mine systems.

(2) Of the amount available under paragraph (1)—

(A) not more than \$17,200,000 shall be made available for activities referred to in subparagraph (A) of that paragraph for the current efforts of the Army referred to as the Non-Self Destruct Alternative; and

(B) not more than \$2,000,000 shall be made available for activities referred to in subparagraphs (B) or (C) of that paragraph that relate to anti-personnel submunitions used in mixed mine systems or an alternative for mixed munitions.

(b) FUNDING FOR RESEARCH INTO ALTERNATIVES TO ANTI-PERSONNEL SUBMUNITIONS USED IN MIXED MINE SYSTEMS OR AN ALTERNATIVE FOR MIXED MUNITIONS.—The Secretary shall include with the materials submitted to Congress with the budget for fiscal year 2000 under section 1105 of title 31, United States Code, an explanation of any funds requested to support a search for existing and new technologies and concepts that could provide a combat capability equivalent to the combat capability provided by anti-personnel submunitions used in mixed mine systems or an alternative to mixed munitions.

(c) STUDIES.—The Secretary of Defense shall enter into two contracts, each with an appropriate scientific organization—

(1) to carry out a study on existing and new technologies and concepts referred to in subsection (a); and

(2) to submit to the Secretary a report on the study, including any recommendations considered appropriate by the scientific organization.

(d) REPORT.—Not later than April 1 of 2000 and 2001, the Secretary shall submit to the congressional defense committees a report describing the progress made in identifying technologies and concepts referred to in subsection (a). At the same time the report is submitted, the Secretary shall transmit to such committees copies of the reports (and recommendations, if any) received by the Secretary from the scientific organizations that carried out the studies referred to in subsection (c).

Contracts.

## **TITLE III—OPERATION AND MAINTENANCE**

### **Subtitle A—Authorization of Appropriations**

- Sec. 301. Operation and maintenance funding.
- Sec. 302. Working capital funds.
- Sec. 303. Armed Forces Retirement Home.
- Sec. 304. Transfer from National Defense Stockpile Transaction Fund.

### **Subtitle B—Program Requirements, Restrictions, and Limitations**

- Sec. 311. Refurbishment of M1–A1 tanks.
- Sec. 312. Operation of prepositioned fleet, National Training Center, Fort Irwin, California.
- Sec. 313. Berthing space at Norfolk Naval Shipyard, Virginia.
- Sec. 314. NATO common-funded military budget.

### **Subtitle C—Environmental Provisions**

- Sec. 321. Settlement of claims of foreign governments for environmental cleanup of overseas sites formerly used by the Department of Defense.
- Sec. 322. Authority to pay negotiated settlement for environmental cleanup of formerly used defense sites in Canada.
- Sec. 323. Removal of underground storage tanks.
- Sec. 324. Report regarding polychlorinated biphenyl waste under Department of Defense control overseas.
- Sec. 325. Modification of deadline for submittal to Congress of annual reports on environmental activities.
- Sec. 326. Submarine solid waste control.
- Sec. 327. Arctic Military Environmental Cooperation Program.
- Sec. 328. Sense of Congress regarding oil spill prevention training for personnel on board Navy vessels.

### **Subtitle D—Information Technology Issues**

- Sec. 331. Additional information technology responsibilities of Chief Information Officers.
- Sec. 332. Defense-wide electronic mall system for supply purchases.
- Sec. 333. Priority funding to ensure year 2000 compliance of information technology and national security systems.
- Sec. 334. Evaluation of year 2000 compliance as part of training exercises programs.
- Sec. 335. Continuity of essential operations at risk of failure because of information technology and national security systems that are not year 2000 compliant.

### **Subtitle E—Defense Infrastructure Support Improvement**

- Sec. 341. Clarification of definition of depot-level maintenance and repair.
- Sec. 342. Reporting and analysis requirements before change of commercial and industrial type functions to private sector performance.
- Sec. 343. Notifications of determinations of military items as being commercial items for purposes of the exception to requirements regarding core logistics capabilities.
- Sec. 344. Oversight of development and implementation of automated identification technology.
- Sec. 345. Contractor-operated civil engineering supply stores program.
- Sec. 346. Conditions on expansion of functions performed under prime vendor contracts for depot-level maintenance and repair.
- Sec. 347. Best commercial inventory practices for management of secondary supply items.
- Sec. 348. Personnel reductions in Army Materiel Command.
- Sec. 349. Inventory management of in-transit items.
- Sec. 350. Review of Defense Automated Printing Service functions.
- Sec. 351. Development of plan for establishment of core logistics capabilities for maintenance and repair of C–17 aircraft.

### **Subtitle F—Commissaries and Nonappropriated Fund Instrumentalities**

- Sec. 361. Continuation of management and funding of Defense Commissary Agency through the Office of the Secretary of Defense.
- Sec. 362. Expansion of current eligibility of Reserves for commissary benefits.
- Sec. 363. Costs payable to the Department of Defense and other Federal agencies for services provided to the Defense Commissary Agency.

- Sec. 364. Collection of dishonored checks presented at commissary stores.
- Sec. 365. Restrictions on patron access to, and purchases in, overseas commissaries and exchange stores.
- Sec. 366. Repeal of requirement for Air Force to sell tobacco products to enlisted personnel.
- Sec. 367. Prohibition on consolidation or other organizational changes of Department of Defense retail systems.
- Sec. 368. Defense Commissary Agency telecommunications.
- Sec. 369. Survey of commissary store patrons regarding satisfaction with commissary store merchandise.

#### **Subtitle G—Other Matters**

- Sec. 371. Eligibility requirements for attendance at Department of Defense domestic dependent elementary and secondary schools.
- Sec. 372. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 373. Department of Defense readiness reporting system.
- Sec. 374. Specific emphasis of program to investigate fraud, waste, and abuse within Department of Defense.
- Sec. 375. Condition for providing financial assistance for support of additional duties assigned to the Army National Guard.
- Sec. 376. Demonstration program to improve quality of personal property shipments of members.
- Sec. 377. Pilot program for acceptance and use of landing fees charged for use of domestic military airfields by civil aircraft.
- Sec. 378. Strategic plan for expansion of distance learning initiatives.
- Sec. 379. Public availability of operating agreements between military installations and financial institutions.

## **Subtitle A—Authorization of Appropriations**

### **SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

- (1) For the Army, \$17,002,563,000.
- (2) For the Navy, \$21,577,702,000.
- (3) For the Marine Corps, \$2,528,603,000.
- (4) For the Air Force, \$18,690,633,000.
- (5) For Defense-wide activities, \$10,550,076,000.
- (6) For the Army Reserve, \$1,198,022,000.
- (7) For the Naval Reserve, \$920,639,000.
- (8) For the Marine Corps Reserve, \$117,893,000.
- (9) For the Air Force Reserve, \$1,722,796,000.
- (10) For the Army National Guard, \$2,564,315,000.
- (11) For the Air National Guard, \$3,047,433,000.
- (12) For the Defense Inspector General, \$130,764,000.
- (13) For the United States Court of Appeals for the Armed Forces, \$7,324,000.
- (14) For Environmental Restoration, Army, \$370,640,000.
- (15) For Environmental Restoration, Navy, \$274,600,000.
- (16) For Environmental Restoration, Air Force, \$372,100,000.
- (17) For Environmental Restoration, Defense-wide, \$25,091,000.
- (18) For Environmental Restoration, Formerly Used Defense Sites, \$195,000,000.
- (19) For Overseas Humanitarian, Disaster, and Civic Aid programs, \$50,000,000.



(20) For Drug Interdiction and Counter-drug Activities, Defense-wide, \$725,582,000.

(21) For the Kaho’olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, \$15,000,000.

(22) For Defense Health Program, \$9,617,435,000.

(23) For Cooperative Threat Reduction programs, \$440,400,000.

(24) For Overseas Contingency Operations Transfer Fund, \$746,900,000.

#### **SEC. 302. WORKING CAPITAL FUNDS.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, \$1,076,571,000.

(2) For the National Defense Sealift Fund, \$669,566,000.

#### **SEC. 303. ARMED FORCES RETIREMENT HOME.**

There is hereby authorized to be appropriated for fiscal year 1999 from the Armed Forces Retirement Home Trust Fund the sum of \$70,745,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers’ and Airmen’s Home and the Naval Home.

#### **SEC. 304. TRANSFER FROM NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.**

(a) **TRANSFER AUTHORITY.**—To the extent provided in appropriations Acts, not more than \$150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1999 in amounts as follows:

(1) For the Army, \$50,000,000.

(2) For the Navy, \$50,000,000.

(3) For the Air Force, \$50,000,000.

(b) **TREATMENT OF TRANSFERS.**—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) **RELATIONSHIP TO OTHER TRANSFER AUTHORITY.**—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

## **Subtitle B—Program Requirements, Restrictions, and Limitations**

#### **SEC. 311. REFURBISHMENT OF M1-A1 TANKS.**

Of the amount authorized to be appropriated pursuant to section 301(1) for operation and maintenance for the Army, \$31,000,000 shall be available only for the refurbishment of up to 70 M1-A1 tanks under the AIM-XXI program.

**SEC. 312. OPERATION OF PREPOSITIONED FLEET, NATIONAL TRAINING CENTER, FORT IRWIN, CALIFORNIA.**

Of the amount authorized to be appropriated pursuant to section 301(1) for operation and maintenance for the Army, \$60,200,000 shall be available only to pay costs associated with the operation of the prepositioned fleet of equipment during training rotations at the National Training Center, Fort Irwin, California.

**SEC. 313. BERTHING SPACE AT NORFOLK NAVAL SHIPYARD, VIRGINIA.**

Of the amount authorized to be appropriated pursuant to section 301(2) for operation and maintenance for the Navy, \$6,000,000 may be available for the purpose of relocating the U.S.S. WISCONSIN, which is currently in a reserve status at the Norfolk Naval Shipyard, Virginia, to a suitable location in order to increase available berthing space at the shipyard.

**SEC. 314. NATO COMMON-FUNDED MILITARY BUDGET.**

Of the amount authorized to be appropriated pursuant to section 301(1) for operation and maintenance for the Army, \$227,377,000 shall be available for contributions for the common-funded Military Budget of the North Atlantic Treaty Organization.

**Subtitle C—Environmental Provisions**

10 USC 2701  
note.

President.

**SEC. 321. SETTLEMENT OF CLAIMS OF FOREIGN GOVERNMENTS FOR ENVIRONMENTAL CLEANUP OF OVERSEAS SITES FORMERLY USED BY THE DEPARTMENT OF DEFENSE.**

(a) NOTICE OF NEGOTIATIONS.—The President shall notify Congress before entering into any negotiations for the ex-gratia settlement of the claims of a government of another country against the United States for environmental cleanup of sites in that country that were formerly used by the Department of Defense.

(b) AUTHORIZATION REQUIRED FOR USE OF FUNDS FOR PAYMENT OF SETTLEMENT.—No funds may be used for any payment under an ex-gratia settlement of any claims described in subsection (a) unless the use of the funds for that purpose is specifically authorized by law or international agreement, including a treaty.

**SEC. 322. AUTHORITY TO PAY NEGOTIATED SETTLEMENT FOR ENVIRONMENTAL CLEANUP OF FORMERLY USED DEFENSE SITES IN CANADA.**

(a) FINDINGS.—Congress makes the following findings with respect to the authorization of payment of settlement with Canada in subsection (b) regarding environmental cleanup at formerly used defense sites in Canada:

(1) A unique and longstanding national security alliance exists between the United States and Canada.

(2) The sites covered by the settlement were formerly used by the United States and Canada for their mutual defense.

(3) There is no formal treaty or international agreement between the United States and Canada regarding the environmental cleanup of the sites.

(4) Environmental contamination at some of the sites could pose a substantial risk to the health and safety of the United States citizens residing in States near the border between the United States and Canada.

(5) The United States and Canada reached a negotiated agreement for an ex-gratia reimbursement of Canada in full satisfaction of claims of Canada relating to environmental contamination which agreement was embodied in an exchange of Notes between the Government of the United States and the Government of Canada.

(6) There is a unique factual basis for authorizing a reimbursement of Canada for environmental cleanup at sites in Canada after the United States departure from such sites.

(7) The basis for and authorization of such reimbursement does not extend to similar claims by other nations.

(8) The Government of Canada is committed to spending the entire \$100,000,000 of the reimbursement authorized in subsection (b) in the United States, which will benefit United States industry and United States workers.

(b) **AUTHORITY TO MAKE PAYMENTS.**—(1) Subject to subsection (c), the Secretary of Defense may, using funds specified under subsection (d), make a payment described in paragraph (2) for each fiscal year through fiscal year 2008 for purposes of the ex-gratia reimbursement of Canada in full satisfaction of any and all claims asserted against the United States by Canada for environmental cleanup of sites in Canada that were formerly used for the mutual defense of the United States and Canada.

(2) A payment referred to in paragraph (1) is a payment of \$10,000,000, in constant fiscal year 1996 dollars, into the Foreign Military Sales Trust Account for purposes of Canada.

(c) **CONDITION ON AUTHORITY FOR SUBSEQUENT FISCAL YEARS.**—A payment may be made under subsection (b) for a fiscal year after fiscal year 1999 only if the Secretary of Defense submits to Congress with the budget for such fiscal year under section 1105 of title 31, United States Code, evidence that the cumulative amount expended by the Government of Canada for environmental cleanup activities in Canada during any fiscal years before such fiscal year in which a payment under that subsection was authorized was an amount equal to or greater than the aggregate amount of the payments under that subsection during such fiscal years.

(d) **SOURCE OF FUNDS.**—(1) The payment under subsection (b) for fiscal year 1998 shall be made from amounts appropriated pursuant to section 301(5) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1669).

(2) The payment under subsection (b) for fiscal year 1999 shall be made from amounts appropriated pursuant to section 301(5).

(3) For a fiscal year after fiscal year 1999, a payment may be made under subsection (b) from amounts appropriated pursuant to the authorization of appropriations for the Department of Defense for such fiscal year for Operation and Maintenance, Defense-Wide.

#### **SEC. 323. REMOVAL OF UNDERGROUND STORAGE TANKS.**

The Secretary of the Army may use funds available pursuant to the authorization of appropriations in section 301(18) (relating to environmental restoration of formerly used defense sites) for the removal of underground storage tanks to the extent that, and in accordance with such criteria as, the Secretary determines appropriate for the use of such funds.

**SEC. 324. REPORT REGARDING POLYCHLORINATED BIPHENYL WASTE  
UNDER DEPARTMENT OF DEFENSE CONTROL OVERSEAS.**

(a) **REPORT REQUIRED.**—(1) Not later than March 1, 1999, the Secretary of Defense shall submit to the committees specified in paragraph (2) a report on the status of foreign-manufactured polychlorinated biphenyl waste. The Secretary shall prepare the report in consultation with the Administrator of the Environmental Protection Agency and the Secretary of State.

(2) The committees referred to in paragraph (1) are the following:

(A) The Committee on Armed Services and the Committee on Environment and Public Works of the Senate.

(B) The Committee on National Security, the Committee on Commerce, and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) **ELEMENTS OF REPORT.**—The report under subsection (a) shall include the following:

(1) The identity of each foreign country from which the Secretary of Defense anticipates that the Department of Defense will need to transport foreign-manufactured polychlorinated biphenyl waste into the customs territory of the United States.

(2) For each foreign country identified under paragraph (1), an inventory of the type, concentrations, and estimated quantity of foreign-manufactured polychlorinated biphenyl waste involved, the reasons why disposal of the polychlorinated biphenyl waste in the foreign country is not available, the identity of other locations or facilities where disposal of the polychlorinated biphenyl waste in an environmentally sound manner is available, and the availability of alternative technologies and mobile units for polychlorinated biphenyl waste treatment or disposal.

(3) An accounting of all foreign-manufactured polychlorinated biphenyl waste that exists as of the date of the enactment of this Act and as of the date of the report.

(4) An estimate of the volume of foreign-manufactured polychlorinated biphenyl waste that is likely to be generated annually in each of the next 5 calendar years, and the basis for each such estimate.

(5) A description of any hazards to human health or the environment posed by foreign-manufactured polychlorinated biphenyl waste.

(6) A description of any international or domestic legal impediments that the Department has experienced in disposing of foreign-manufactured polychlorinated biphenyl waste in an environmentally sound manner.

(7) A description of any efforts undertaken by the Department to seek relief from legal impediments to the disposal of foreign-manufactured polychlorinated biphenyl waste, including the relief available pursuant to section 6(e) or 22 of the Toxic Substances Control Act (15 U.S.C. 2605(e), 2621).

(8) The identity of the possible disposal or treatment facilities in the United States that would be used if foreign-manufactured polychlorinated biphenyl waste were transported into the customs territory of the United States, and the method of disposal or treatment at each such facility.

(9) A description of Department policy and practice concerning procurement or purchase of foreign-manufactured polychlorinated biphenyls or materials containing foreign-manufactured polychlorinated biphenyls.

(c) RECOMMENDATIONS.—The report shall also include such recommendations as the Secretary of Defense, with the concurrence of the Administrator of the Environmental Protection Agency and the Secretary of State, considers necessary regarding changes to United States law to allow for the disposal, in an environmentally sound manner, of foreign-manufactured polychlorinated biphenyl waste, together with a statement of whether and how such changes would be consistent with international law, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the Protocol to the Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants.

(d) DEFINITIONS.—In this section:

(1) The term “polychlorinated biphenyl waste” means—

(A) polychlorinated biphenyls; and

(B) materials containing polychlorinated biphenyls;

that are ready for disposal.

(2) The term “foreign-manufactured polychlorinated biphenyl waste” means polychlorinated biphenyl waste that is owned by the Department of Defense and situated outside of the United States and that consists of—

(A) polychlorinated biphenyls; or

(B) materials containing polychlorinated biphenyls;

that were manufactured outside of the United States.

**SEC. 325. MODIFICATION OF DEADLINE FOR SUBMITTAL TO CONGRESS OF ANNUAL REPORTS ON ENVIRONMENTAL ACTIVITIES.**

Section 2706 of title 10, United States Code, is amended by striking out “not later than 30 days” each place it appears in subsections (a), (b), (c), and (d) and inserting in lieu thereof “not later than 45 days”.

**SEC. 326. SUBMARINE SOLID WASTE CONTROL.**

(a) SOLID WASTE DISCHARGE REQUIREMENTS.—Subsection (c)(2) of section 3 of the Act to Prevent Pollution from Ships (33 U.S.C. 1902) is amended—

(1) in subparagraph (A), by adding at the end the following:

“(iii) With regard to a submersible, nonplastic garbage that has been compacted and weighted to ensure negative buoyancy.”; and

(2) in subparagraph (B)(ii), by striking out “subparagraph (A)(ii)” and inserting in lieu thereof “clauses (ii) and (iii) of subparagraph (A)”.

(b) CONFORMING AMENDMENT.—Subsection (e)(3)(A) of that section is amended by striking out “garbage that contains more than the minimum amount practicable of”.

**SEC. 327. ARCTIC MILITARY ENVIRONMENTAL COOPERATION PROGRAM.**

(a) ACTIVITIES UNDER PROGRAM.—(1) Subject to paragraph (2), activities under the Arctic Military Environmental Cooperation Program of the Department of Defense shall include cooperative activities on environmental matters in the Arctic region with the military

departments and agencies of other countries, including the Russian Federation.

(2) Activities under the Arctic Military Environmental Cooperation Program may not include any activities for purposes for which funds for Cooperative Threat Reduction programs have been denied or are prohibited, including the purposes for which funds are prohibited by section 1503 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2732).

(b) PRIOR NOTICE TO CONGRESS OF OBLIGATION OF FUNDS.—The Secretary of Defense shall submit to the congressional defense committees a report at least 15 days before the obligation of any funds for the Arctic Military Environmental Cooperation Program. Each such report shall specify—

- (1) the amount of the proposed obligation;
- (2) the activities for which the Secretary plans to obligate such funds; and
- (3) the terms of the implementing agreement between the United States and the foreign government concerning the activity to be undertaken, including the financial and other responsibilities of each government.

(c) AVAILABILITY OF FISCAL YEAR 1999 FUNDS.—(1) Of the amount authorized to be appropriated by section 301(5), \$4,000,000 shall be available for carrying out the Arctic Military Environmental Cooperation Program.

(2) Amounts available for the Arctic Military Environmental Cooperation Program under paragraph (1) may not be obligated or expended for that Program until 45 days after the date on which the Secretary of Defense submits to the congressional defense committees a plan for the Program under paragraph (3).

(3) The plan for the Arctic Military Environmental Cooperation Program under this paragraph shall include the following:

- (A) A statement of the overall goals and objectives of the Program.
- (B) A statement of the proposed activities under the Program and the relationship of such activities to the national security interests of the United States.
- (C) An assessment of the compatibility of the activities set forth under subparagraph (B) with the purposes of the Cooperative Threat Reduction programs of the Department of Defense (including with any prohibitions and limitations applicable to such programs).
- (D) An estimate of the funding to be required and requested in future fiscal years for the activities set forth under subparagraph (B).
- (E) A proposed termination date for the Program.

**SEC. 328. SENSE OF CONGRESS REGARDING OIL SPILL PREVENTION TRAINING FOR PERSONNEL ON BOARD NAVY VESSELS.**

(a) FINDINGS.—Congress makes the following findings:

(1) There have been six significant oil spills in Puget Sound, Washington, in 1998, five at Puget Sound Naval Shipyard (including three from the U.S.S. Kitty Hawk, one from the U.S.S. Carl Vinson, and one from the U.S.S. Sacramento) and one at Naval Station Everett from the U.S.S. Paul F. Foster.

(2) Navy personnel on board vessels, and not shipyard employees, were primarily responsible for a majority of these oil spills at Puget Sound Naval Shipyard.

(3) Oil spills have the potential to damage the local environment, killing microscopic organisms, contributing to air pollution, harming plants and marine animals, and increasing overall pollution levels in Puget Sound.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Navy should take immediate action to significantly reduce the risk of vessel oil spills, including the minimization of fuel oil transfers, the assurance of proper training and qualifications of all Naval personnel in occupations that may contribute to or minimize the risk of shipboard oil spills, and the improvement of liaison with local authorities concerning oil spill prevention and response activities.

## Subtitle D—Information Technology Issues

### SEC. 331. ADDITIONAL INFORMATION TECHNOLOGY RESPONSIBILITIES OF CHIEF INFORMATION OFFICERS.

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

#### “§ 2223. Information technology: additional responsibilities of Chief Information Officers

“(a) ADDITIONAL RESPONSIBILITIES OF CHIEF INFORMATION OFFICER OF DEPARTMENT OF DEFENSE.—In addition to the responsibilities provided for in chapter 35 of title 44 and in section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425), the Chief Information Officer of the Department of Defense shall—

“(1) review and provide recommendations to the Secretary of Defense on Department of Defense budget requests for information technology and national security systems;

“(2) ensure the interoperability of information technology and national security systems throughout the Department of Defense;

“(3) ensure that information technology and national security systems standards that will apply throughout the Department of Defense are prescribed; and

“(4) provide for the elimination of duplicate information technology and national security systems within and between the military departments and Defense Agencies.

“(b) ADDITIONAL RESPONSIBILITIES OF CHIEF INFORMATION OFFICER OF MILITARY DEPARTMENTS.—In addition to the responsibilities provided for in chapter 35 of title 44 and in section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425), the Chief Information Officer of a military department, with respect to the military department concerned, shall—

“(1) review budget requests for all information technology and national security systems;

“(2) ensure that information technology and national security systems are in compliance with standards of the Government and the Department of Defense;

“(3) ensure that information technology and national security systems are interoperable with other relevant information technology and national security systems of the Government and the Department of Defense; and

“(4) coordinate with the Joint Staff with respect to information technology and national security systems.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘Chief Information Officer’ means the senior official designated by the Secretary of Defense or a Secretary of a military department pursuant to section 3506 of title 44.

“(2) The term ‘information technology’ has the meaning given that term by section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

“(3) The term ‘national security system’ has the meaning given that term by section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2223. Information technology: additional responsibilities of Chief Information Officers.”.

(b) EFFECTIVE DATE.—Section 2223 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1998.

10 USC 2451  
note.

**SEC. 332. DEFENSE-WIDE ELECTRONIC MALL SYSTEM FOR SUPPLY PURCHASES.**

(a) ELECTRONIC MALL SYSTEM DEFINED.—In this section, the term “electronic mall system” means an electronic system for displaying, ordering, and purchasing supplies and materiel available from sources within the Department of Defense and from the private sector.

(b) DEVELOPMENT AND MANAGEMENT.—(1) Using systems and technology available in the Department of Defense as of the date of the enactment of this Act, the Joint Electronic Commerce Program Office of the Department of Defense shall develop a single, defense-wide electronic mall system, which shall provide a single, defense-wide electronic point of entry and a single view, access, and ordering capability for all Department of Defense electronic catalogs. The Secretary of each military department and the head of each Defense Agency shall provide to the Joint Electronic Commerce Program Office the necessary and requested data to ensure compliance with this paragraph.

(2) The Defense Logistics Agency, under the direction of the Joint Electronic Commerce Program Office, shall be responsible for maintaining the defense-wide electronic mall system developed under paragraph (1).

(c) ROLE OF CHIEF INFORMATION OFFICER.—The Chief Information Officer of the Department of Defense shall be responsible for—

(1) overseeing the elimination of duplication and overlap among Department of Defense electronic catalogs; and

(2) ensuring that such catalogs utilize technologies and formats compliant with the requirements of subsection (b).

(d) IMPLEMENTATION.—Within 180 days after the date of the enactment of this Act, the Chief Information Officer shall develop and provide to the congressional defense committees—

(1) an inventory of all existing and planned electronic mall systems in the Department of Defense; and

(2) a schedule for ensuring that each such system is compliant with the requirements of subsection (b).



**SEC. 333. PRIORITY FUNDING TO ENSURE YEAR 2000 COMPLIANCE  
OF INFORMATION TECHNOLOGY AND NATIONAL SECURITY SYSTEMS.**

(a) **FUNDS FOR COMPLETION OF YEAR 2000 CONVERSION.**—None of the funds authorized to be appropriated pursuant to this Act may (except as provided in subsection (b)) be obligated or expended on the development or modernization of any information technology or national security system of the Department of Defense in use by the Department of Defense (whether or not the system is a mission critical system) if the date-related data processing capability of that system does not meet certification level 1a, 1b, or 2 (as prescribed in the April 1997 publication of the Department of Defense entitled “Year 2000 Management Plan”).

(b) **EXCEPTION FOR CERTAIN INFORMATION TECHNOLOGY AND NATIONAL SECURITY SYSTEMS.**—The limitation in subsection (a) does not apply to an obligation or expenditure for an information technology or national security system that is reported to the Office of the Secretary of Defense by October 1, 1998, in accordance with the preparation instructions for the May 1998 Department of Defense quarterly report on the status of year 2000 compliance, if—

(1) the obligation or expenditure is directly related to ensuring that the reported system achieves year 2000 compliance;

(2) the system is being developed and fielded to replace, before January 1, 2000, a noncompliant system or a system to be terminated in accordance with the May 1998 Department of Defense quarterly report on the status of year 2000 compliance; or

(3) the obligation or expenditure is required for a particular change that is specifically required by law or that is specifically directed by the Secretary of Defense.

(c) **UNALLOCATED REDUCTIONS OF FUNDS NOT TO APPLY TO MISSION CRITICAL SYSTEMS.**—Funds authorized to be appropriated pursuant to this Act for mission critical systems are not subject to any unallocated reduction of funds made by or otherwise applicable to funds authorized to be appropriated pursuant to this Act.

(d) **CURRENT SERVICES OPERATIONS NOT AFFECTED.**—Subsection (a) does not prohibit the obligation or expenditure of funds for current services operations of information technology and national security systems.

(e) **WAIVER AUTHORITY.**—The Secretary of Defense may waive subsection (a) on a case-by-case basis with respect to an information technology or national security system if the Secretary provides the congressional defense committees with written notice of the waiver, including the reasons for the waiver and a timeline for the testing and certification of the system as year 2000 compliant.

(f) **REQUIRED REPORT.**—(1) Not later than December 1, 1998, the Secretary of Defense shall submit to the congressional defense committees a report describing—

(A) an executable strategy to be used throughout the Department of Defense to test information technology and national security systems for year 2000 compliance (to include functional capability tests and military exercises);

(B) the plans of the Department of Defense for ensuring that adequate resources (such as testing facilities, tools, and

personnel) are available to ensure that all mission critical systems achieve year 2000 compliance; and

(C) the criteria and process to be used to certify a system as year 2000 compliant.

(2) The report shall also include—

(A) an updated list of all mission critical systems; and

(B) guidelines for developing contingency plans for the functioning of each information technology or national security system in the event of a year 2000 problem in any such system.

(g) CAPABILITY CONTINGENCY PLANS.—Not later than December 30, 1998, the Secretary of Defense shall have in place contingency plans to ensure continuity of operations for every critical mission or function of the Department of Defense that is dependent on an information technology or national security system.

(h) INSPECTOR GENERAL EVALUATION.—The Inspector General of the Department of Defense shall selectively audit information technology and national security systems certified as year 2000 compliant to evaluate the ability of systems to successfully operate during the actual year 2000, including the ability of the systems to access and transmit information from point of origin to point of termination.

(i) DEFINITIONS.—For purposes of this section:

(1) The term “information technology” has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term “national security system” has the meaning given that term in section 5142 of such Act (40 U.S.C. 1452).

(3) The term “development or modernization” has the meaning given that term in paragraph E of section 180203 of the Department of Defense Financial Management Regulation (DOD 7000.14-R), but does not include any matter covered by subparagraph 3 of that paragraph.

(4) The term “current services” has the meaning given that term in paragraph C of section 180203 of the Department of Defense Financial Management Regulation (DOD 7000.14-R).

(5) The term “mission critical system” means an information technology or national security system that is designated as mission critical in the May 1998 Department of Defense quarterly report on the status of year 2000 compliance.

#### **SEC. 334. EVALUATION OF YEAR 2000 COMPLIANCE AS PART OF TRAINING EXERCISES PROGRAMS.**

(a) REPORT ON EVALUATION PLAN.—Not later than December 15, 1998, the Secretary of Defense shall submit to Congress a plan for the execution of a simulated year 2000 as part of military exercises described in subsection (c) in order to evaluate, in an operational environment, the extent to which information technology and national security systems involved in those exercises will successfully operate during the actual year 2000, including the ability of those systems to access and transmit information from point of origin to point of termination.

(b) EVALUATION OF COMPLIANCE IN SELECTED EXERCISES.—In conducting the military exercises described in subsection (c), the Secretary of Defense shall ensure that—

(1) at least 25 of those exercises (referred to in this section as “year 2000 simulation exercises”) are conducted so as to

include a simulated year 2000 in accordance with the plan submitted under subsection (a);

(2) at least two of those exercises are conducted by the commander of each unified or specified combatant command; and

(3) all mission critical systems that are expected to be used if the Armed Forces are involved in a conflict in a major theater of war are tested in at least two exercises.

(c) COVERED MILITARY EXERCISES.—A military exercise referred to in this section is a military exercise conducted by the Department of Defense, during the period beginning on January 1, 1999, and ending on September 30, 1999—

(1) under the training exercises program known as the “CJCS Exercise Program”;

(2) at the Naval Strike and Air Warfare Center, the Army National Training Center, or the Air Force Air Warfare Center; or

(3) as part of Naval Carrier Group fleet training or Marine Corps Expeditionary Unit training.

(d) ALTERNATIVE TESTING METHOD.—In the case of an information technology or national security system for which a simulated year 2000 test as part of a military exercise described in subsection (c) is not feasible or presents undue risk, the Secretary of Defense shall test the system using a functional end-to-end test or through a Defense Major Range and Test Facility Base. The Secretary shall include the plans for these tests in the plan required by subsection (a). Tests under this subsection are in addition to the 25 tests required by subsection (b).

(e) AUTHORITY FOR EXCLUSION OF SYSTEMS NOT CAPABLE OF PERFORMING RELIABLY IN YEAR 2000 SIMULATION.—(1) In carrying out a year 2000 simulation exercise, the Secretary of Defense may exclude a particular information technology or national security system from the year 2000 simulation phase of the exercise if the Secretary determines that the system would be incapable of performing reliably during the year 2000 simulation phase of the exercise. In such a case, the system excluded shall be replaced in accordance with the year 2000 contingency plan for the system.

(2) If the Secretary of Defense excludes an information technology or national security system from the year 2000 simulation phase of an exercise as provided in paragraph (1), the Secretary shall notify Congress of that exclusion not later than two weeks before commencing that exercise. The notice shall include a list of each information technology or national security system excluded from the exercise, a description of how the exercise will use the year 2000 contingency plan for each such system, and a description of the effect that continued year 2000 noncompliance of each such system would have on military readiness.

(3) An information technology or national security system with cryptological applications that is not capable of having its internal clock adjusted forward to a simulated later time is exempt from the year 2000 simulation phase of an exercise under this section.

(f) COMPTROLLER GENERAL REVIEW.—Not later than January 30, 1999, the Comptroller General shall review the report and plan submitted under subsection (a) and submit to Congress a briefing evaluating the methodology to be used under the plan to simulate the year 2000 and describing the potential information that will be collected as a result of implementation of the plan,

the adequacy of the planned tests, and the impact that the plan will have on military readiness.

(g) DEFINITIONS.—For the purposes of this section:

(1) The term “information technology” has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term “national security system” has the meaning given that term in section 5142 of such Act (40 U.S.C. 1452).

(3) The term “mission critical system” means an information technology or national security system that is designated as mission critical in the May 1998 Department of Defense quarterly report on the status of year 2000 compliance.

**SEC. 335. CONTINUITY OF ESSENTIAL OPERATIONS AT RISK OF FAILURE BECAUSE OF INFORMATION TECHNOLOGY AND NATIONAL SECURITY SYSTEMS THAT ARE NOT YEAR 2000 COMPLIANT.**

(a) REPORT REQUIRED.—Not later than March 31, 1999, the Secretary of Defense and the Director of Central Intelligence shall jointly submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the plans of the Department of Defense and the intelligence community for ensuring the continuity of performance of essential operations that are at risk of failure because of information technology and national security systems that are not year 2000 compliant.

(b) CONTENT.—The report shall contain, at a minimum, the following:

(1) A prioritization of mission critical systems to ensure that the most critical systems have the highest priority for efforts to reprogram information technology and national security systems to be year 2000 compliant.

(2) A discussion of the private and other public information and support systems relied on by the national security community, including the intelligence community, and the efforts under way to ensure that those systems are year 2000 compliant.

(3) The efforts under way to repair the underlying operating systems and infrastructure.

(4) The plans for comprehensive testing of Department of Defense systems, including simulated operational tests in mission areas.

(5) A comprehensive contingency plan, for the entire national security community, which provides for resolving emergencies resulting from a system that is not year 2000 compliant and includes provision for the creation of crisis action teams for use in resolving such emergencies.

(6) A discussion of the efforts undertaken to ensure the continued reliability of service on the systems used by the President and other leaders of the United States for communicating with the leaders of other nations.

(7) A discussion of the vulnerability of allied armed forces to the failure of systems that are not, or have critical components that are not, year 2000 compliant, together with an assessment of the potential problems for interoperability among the Armed Forces of the United States and allied armed forces because of the potential for failure of such systems.

(8) An estimate of the total cost of making information technology and national security systems of the Department of Defense and the intelligence community year 2000 compliant.

(9) The countries that have critical computer-based systems any disruption of which, due to not being year 2000 compliant, would cause a significant potential national security risk to the United States.

(10) A discussion of the cooperative arrangements between the United States and other nations to assist those nations in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in their communications and strategic systems, or other systems identified by the Secretary of Defense, that make the systems not year 2000 compliant.

(11) A discussion of the threat posed to the national security interests of the United States from any potential failure of strategic systems of foreign countries that are not year 2000 compliant.

(c) INTERNATIONAL COOPERATIVE ARRANGEMENTS.—The Secretary of Defense, with the concurrence of the Secretary of State, may enter into a cooperative arrangement with a representative of any foreign government to provide for the United States to assist the foreign government in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in communications, strategic, or other systems of that foreign government that render the systems not year 2000 compliant.

(d) DEFINITIONS.—In this section:

(1) The term “year 2000 compliant”, with respect to an information technology or national security system of the United States or a computer-based system of a foreign government, means that the system correctly recognizes dates in years after 1999 as being dates after 1999 for the purposes of system functions for which the correct date is relevant to the performance of the functions, consistent with certification level 1a, 1b, or 2 (as prescribed in the April 1997 publication of the Department of Defense entitled “Year 2000 Management Plan”).

(2) The term “information technology” has the meaning given that term by section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term “national security system” has the meaning given that term by section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

## **Subtitle E—Defense Infrastructure Support Improvement**

### **SEC. 341. CLARIFICATION OF DEFINITION OF DEPOT-LEVEL MAINTENANCE AND REPAIR.**

Section 2460(a) of title 10, United States Code, is amended by inserting before the period at the end of the first sentence the following: “or the location at which the maintenance or repair is performed”.

**SEC. 342. REPORTING AND ANALYSIS REQUIREMENTS BEFORE  
CHANGE OF COMMERCIAL AND INDUSTRIAL TYPE FUNC-  
TIONS TO PRIVATE SECTOR PERFORMANCE.**

(a) IN GENERAL.—Section 2461 of title 10, United States Code, is amended—

(1) by redesignating subsections (c) and (g) as subsections (g) and (h), respectively, and transferring subsection (g), as so redesignated, to appear after subsection (f); and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

“(a) REPORTING AND ANALYSIS REQUIREMENTS AS PRECONDITION TO CHANGE IN PERFORMANCE.—A commercial or industrial type function of the Department of Defense that, as of October 1, 1980, was being performed by Department of Defense civilian employees may not be changed to performance by the private sector until the Secretary of Defense fully complies with the reporting and analysis requirements specified in subsections (b) and (c).

“(b) NOTIFICATION AND ELEMENTS OF ANALYSIS.—(1) Before commencing to analyze a commercial or industrial type function described in subsection (a) for possible change to performance by the private sector, the Secretary of Defense shall submit to Congress a report containing the following:

“(A) The function to be analyzed for possible change.

“(B) The location at which the function is performed by Department of Defense civilian employees.

“(C) The number of civilian employee positions potentially affected.

“(D) The anticipated length and cost of the analysis.

“(E) A certification that a proposed performance of the commercial or industrial type function by persons who are not civilian employees of the Department of Defense is not a result of a decision by an official of a military department or Defense Agency to impose predetermined constraints or limitations on such employees in terms of man years, end strengths, full-time equivalent positions, or maximum number of employees.

“(2) The duty to prepare a report under paragraph (1) may be delegated. A report prepared below the major command or claimant level of a military department, or below the equivalent level in a Defense Agency, pursuant to any such delegation shall be reviewed at the major command, claimant level, or equivalent level, as the case may be, before submission to Congress.

“(3) An analysis of a commercial or industrial type function for possible change to performance by the private sector shall include the following:

“(A) An examination of the cost of performance of the function by Department of Defense civilian employees and by one or more private contractors to demonstrate whether change to performance by the private sector will result in savings to the Government over the life of the contract, including in the examination the following:

“(i) The cost to the Government, estimated by the Secretary of Defense (based on offers received), for performance of the function by the private sector.

“(ii) The estimated cost to the Government of Department of Defense civilian employees performing the function.

“(iii) In addition to the costs referred to in clause (i), an estimate of all other costs and expenditures that the Government would incur because of the award of such a contract.

“(B) An examination of the potential economic effect of performance of the function by the private sector on the following:

“(i) Employees of the Department of Defense who would be affected by such a change in performance.

“(ii) The local community and the Government, if more than 75 employees of the Department of Defense perform the function.

“(C) An examination of the effect of performance of the function by the private sector on the military mission associated with the performance of the function.

“(4)(A) A representative individual or entity at a facility where a commercial or industrial type function is analyzed for possible change in performance may submit to the Secretary of Defense an objection to the analysis on the grounds that the report required by paragraph (1) has not been submitted or that the certification required by paragraph (1)(E) is not included in the report submitted as a condition for the analysis. The objection shall be in writing and shall be submitted within 90 days after the following date:

“(i) In the case of a failure to submit the report when required, the date on which the representative individual or an official of the representative entity authorized to pose the objection first knew or should have known of that failure.

“(ii) In the case of a failure to include the certification in a submitted report, the date on which the report was submitted to Congress.

“(B) If the Secretary determines that the report required by paragraph (1) was not submitted or that the required certification was not included in the submitted report, the commercial or industrial type function covered by the analysis to which objected may not be the subject of a solicitation of offers for, or award of, a contract until, respectively, the report is submitted or a report containing the certification in full compliance with the certification requirement is submitted.

“(c) NOTIFICATION OF DECISION.—(1) If, as a result of the completion of the examinations under subsection (b)(3), a decision is made to change the commercial or industrial type function that was the subject of the analysis to performance by the private sector, the Secretary of Defense shall submit to Congress a report describing that decision. The report shall contain the following:

“(A) An indication that the examinations required under subsection (b)(3) have been completed.

“(B) The Secretary’s certification that the Government calculation of the cost of performance of the function by Department of Defense civilian employees is based on an estimate of the most cost effective manner for performance of the function by Department of Defense civilian employees.

“(C) The Secretary’s certification that the examination required by subsection (b)(3)(A) as part of the analysis demonstrates that the performance of the function by the private sector will result in savings to the Government over the life of the contract.

“(D) The Secretary’s certification that the entire analysis is available for examination.

“(E) A schedule for completing the change to performance of the function by the private sector.

“(2) The change of the function to contractor performance may not begin until after the submission of the report required by this subsection.”.

(b) DEFINITION OF SMALL FUNCTION FOR WAIVER PURPOSES.—Subsection (d) of section 2461 of title 10, United States Code, is amended by striking out “20” and inserting in lieu thereof “50”.

(c) CONFORMING AMENDMENTS.—(1) Subsections (d) and (e) of section 2461 of title 10, United States Code, are amended by inserting “and subsection (g)” after “Subsections (a) through (c)”.

(2) Subsections (e)(2) and (f)(1) of such section are amended by striking out “converted” and inserting in lieu thereof “changed”.

(3) Subsection (f)(2) of such section is amended by striking out “conversion” and inserting in lieu thereof “change”.

10 USC 2461  
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, but the amendments shall not apply with respect to a conversion of a function of the Department of Defense to performance by a private contractor concerning which the Secretary of Defense provided to Congress, before the date of the enactment of this Act, a notification under paragraph (1) of section 2461(a) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act.

**SEC. 343. NOTIFICATIONS OF DETERMINATIONS OF MILITARY ITEMS AS BEING COMMERCIAL ITEMS FOR PURPOSES OF THE EXCEPTION TO REQUIREMENTS REGARDING CORE LOGISTICS CAPABILITIES.**

(a) REQUIREMENT.—Section 2464 of title 10, United States Code, is amended by adding at the end the following:

“(c) NOTIFICATION OF DETERMINATIONS REGARDING CERTAIN COMMERCIAL ITEMS.—The first time that a weapon system or other item of military equipment described in subsection (a)(3) is determined to be a commercial item for the purposes of the exception contained in that subsection, the Secretary of Defense shall submit to Congress a notification of the determination, together with the justification for the determination. The justification for the determination shall include, at a minimum, the following:

“(1) The estimated percentage of commonality of parts of the version of the item that is sold or leased in the commercial marketplace and the Government’s version of the item.

“(2) The value of any unique support and test equipment and tools that are necessary to support the military requirements if the item were maintained by the Government.

“(3) A comparison of the estimated life cycle logistics support costs that would be incurred by the Government if the item were maintained by the private sector with the estimated life cycle logistics support costs that would be incurred by the Government if the item were maintained by the Government.”.

10 USC 2464  
note.

(b) APPLICABILITY.—Subsection (c) of section 2464 of title 10, United States Code (as added by subsection (a)), shall apply with respect to determinations made after the date of the enactment of this Act.



**SEC. 344. OVERSIGHT OF DEVELOPMENT AND IMPLEMENTATION OF AUTOMATED IDENTIFICATION TECHNOLOGY.** 10 USC 113 note.

(a) DEFINITIONS.—In this section:

(1) The term “automated identification technology program” means a program in the Department of Defense, including any pilot program, employing one or more of the following technologies:

(A) Magnetic stripe.

(B) Bar codes, both linear and two-dimensional (including matrix symbologies).

(C) Smart Card.

(D) Optical memory.

(E) Personal computer memory card international association carriers.

(F) Any other established or emerging automated identification technology, including biometrics and radio frequency identification.

(2) The term “Smart Card” means a credit card size device that contains one or more integrated circuits.

(b) ESTABLISHMENT OF AUTOMATED IDENTIFICATION TECHNOLOGY OFFICE.—(1) The Secretary of Defense shall establish an Automated Identification Technology Office within the Department of Defense that shall be responsible for—

(A) overseeing the development and implementation of all automated identification technology programs in the Department; and

(B) coordinating automated identification technology programs with the Joint Staff, the Secretaries of the military departments, and the directors of the Defense Agencies.

(2) After the date of the enactment of this Act, funds appropriated for the Department of Defense may not be obligated for an automated identification technology program unless the program has been reviewed and approved by the Automated Identification Technology Office. Pending the establishment of the Automated Identification Technology Office, the review and approval of a program by the Smart Card Technology Office of the Defense Human Resources Field Activity of the Department of Defense shall be sufficient to satisfy the requirements of this paragraph even if the approval was given before the date of the enactment of this Act.

(3) As part of its oversight responsibilities, the Automated Identification Technology Office shall establish standards designed—

(A) to ensure the compatibility and interoperability of automated identification technology programs in the Department of Defense; and

(B) to identify and terminate redundant, infeasible, or uneconomical automated identification technology programs.

(c) FUNDING FOR INCREASED USE OF SMART CARDS.—(1) Of the funds available for the Navy for fiscal year 1999 for operation and maintenance, the Secretary of the Navy shall allocate sufficient amounts, up to \$25,000,000, for the purpose of making significant progress toward ensuring that Smart Cards with a multi-application, multi-technology automated reading capability are issued and used throughout the Navy and the Marine Corps for purposes for which Smart Cards are suitable.

(2) Not later than June 30, 1999, the Secretary of the Navy shall equip with Smart Card technology at least one carrier battle group, one carrier air wing, and one amphibious readiness group (including the Marine Corps units embarked on the vessels of such battle and readiness groups) in each of the United States Atlantic Command and the United States Pacific Command.

(3) None of the funds appropriated pursuant to any authorization of appropriations in this Act may be expended after June 30, 1999, for the procurement of the Joint Uniformed Services Identification card for members of the Navy or the Marine Corps or for the issuance of such card to such members, until the Secretary of the Navy certifies in writing to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that the Secretary has completed the issuance of Smart Cards in accordance with paragraph (2).

(d) DEFENSE-WIDE PLAN.—Not later than March 31, 1999, the Secretary of Defense shall submit to the congressional defense committees a plan for the use of Smart Card technology by each military department. The Secretary shall include in the plan an estimate of the costs of the plan, the savings to be derived from carrying out the plan, and a description of the ways in which the Department of Defense will review and revise business practices to take advantage of Smart Card technology.

**SEC. 345. CONTRACTOR-OPERATED CIVIL ENGINEERING SUPPLY STORES PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) The term “contractor-operated civil engineering supply store” means a Government-owned facility that, as of the date of the enactment of this Act, is operated by a contractor under the contractor-operated civil engineering supply store program of the Department of the Air Force (known as the “COCESS program”) for the purpose of—

(A) maintaining inventories of civil engineering supplies on behalf of a military department; and

(B) furnishing such supplies to the department as needed.

(2) The term “civil engineering supplies” means parts and supplies needed for the repair and maintenance of military installations.

(b) FINDINGS.—Congress finds the following:

(1) In 1970, the Strategic Air Command of the Air Force began to use contractor-operated civil engineering supply stores to improve the efficiency and effectiveness of materials management and relieve the Air Force from having to maintain large inventories of civil engineering supplies.

(2) Contractor-operated civil engineering supply stores are designed to support the civil engineering and public works efforts of the Armed Forces through the provision of quality civil engineering supplies at competitive prices and within a reasonable period of time.

(3) Through the use of a contractor-operated civil engineering supply store, a guaranteed inventory level of civil engineering supplies is maintained at a military installation, which ensures that urgently needed civil engineering supplies are available on site.

(4) The contractor operating the contractor-operated civil engineering supply store is an independent business organization whose customer is a military department and the Armed Forces and who is subject to all the rules of private business and the regulations of the Government.

(5) The use of contractor-operated civil engineering supply stores ensures the best price and best buy for the Government.

(6) Ninety-five percent of the cost savings realized through the use of contractor-operated civil engineering supply stores is due to savings in the cost of actually procuring supplies.

(7) In the past 30 years, private contractors have never lost a cost comparison conducted pursuant to the criteria set forth in Office of Management and Budget Circular A-76 for the provision of civil engineering supplies to the Government.

(c) **CONDITIONS ON MULTI-FUNCTION CONTRACTS.**—A civil engineering supplies function that is performed, as of the date of the enactment of this Act, by a contractor-operated civil engineering supply store may not be combined with another supply function or any service function, including any base operating support function, for purposes of competition or contracting, until 60 days after the date on which the Secretary of Defense submits to Congress a report—

(1) notifying Congress of the proposed combined competition or contract; and

(2) explaining why a combined competition or contract is the best method by which to achieve cost savings and efficiencies to the Government.

(d) **GAO REVIEWS.**—Not later than 50 days after the date on which the Secretary of Defense submits a report to Congress under subsection (c), the Comptroller General shall review the report and submit to Congress a briefing regarding whether the cost savings and efficiencies identified in the report are achievable.

(e) **RELATIONSHIP TO OTHER LAWS.**—If a civil engineering supplies function covered by subsection (c) is proposed for combination with a supply or service function that is subject to the study and reporting requirements of section 2461 of title 10, United States Code, the Secretary of Defense may include the report required under subsection (c) as part of the report under such section.

**SEC. 346. CONDITIONS ON EXPANSION OF FUNCTIONS PERFORMED UNDER PRIME VENDOR CONTRACTS FOR DEPOT-LEVEL MAINTENANCE AND REPAIR.**

10 USC 2464  
note.

(a) **CONDITIONS ON EXPANDED USE.**—The Secretary of Defense or the Secretary of a military department, as the case may be, may not enter into a prime vendor contract for depot-level maintenance and repair of a weapon system or other military equipment described in section 2464(a)(3) of title 10, United States Code, before the end of the 30-day period beginning on the date on which the Secretary submits to Congress a report, specific to the proposed contract, that—

(1) describes the competitive procedures to be used to award the prime vendor contract; and

(2) contains an analysis of costs and benefits that demonstrates that use of the prime vendor contract will result in savings to the Government over the life of the contract.

(b) **DEFINITIONS.**—In this section:

(1) The term “prime vendor contract” means an innovative contract that gives a defense contractor the responsibility to manage, store, and distribute inventory, manage and provide services, or manage and perform research, on behalf of the Department of Defense on a frequent, regular basis, for users within the Department on request. The term includes contracts commonly referred to as prime vendor support contracts, flexible sustainment contracts, and direct vendor delivery contracts.

(2) The term “depot-level maintenance and repair” has the meaning given such term in section 2460 of title 10, United States Code.

(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section shall be construed to exempt a prime vendor contract from the requirements of section 2461 of title 10, United States Code, or any other provision of chapter 146 of such title.

10 USC 2458  
note.

**SEC. 347. BEST COMMERCIAL INVENTORY PRACTICES FOR MANAGEMENT OF SECONDARY SUPPLY ITEMS.**

(a) DEVELOPMENT AND SUBMISSION OF SCHEDULE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of each military department shall submit to Congress a schedule for implementing within the military department, for secondary supply items managed by that military department, inventory practices identified by the Secretary as being the best commercial inventory practices for the acquisition and distribution of such supply items consistent with military requirements. The schedule shall provide for the implementation of such practices to be completed not later than five years after the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term “best commercial inventory practice” includes cellular repair processes, use of third-party logistics providers, and any other practice that the Secretary of the military department determines will enable the military department to reduce inventory levels while improving the responsiveness of the supply system to user needs.

(c) GAO REPORTS ON MILITARY DEPARTMENT AND DEFENSE LOGISTICS AGENCY SCHEDULES.—(1) Not later than 240 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report evaluating the extent to which the Secretary of each military department has complied with the requirements of this section.

(2) Not later than 18 months after the date on which the Director of the Defense Logistics Agency submits to Congress a schedule for implementing best commercial inventory practices under section 395 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1718; 10 U.S.C. 2458 note), the Comptroller General shall submit to Congress an evaluation of the extent to which best commercial inventory practices are being implemented in the Defense Logistics Agency in accordance with that schedule.

**SEC. 348. PERSONNEL REDUCTIONS IN ARMY MATERIEL COMMAND.**

Reports.

Not later than March 31, 1999, the Comptroller General shall submit to the congressional defense committees a report concerning—

(1) the effect that the quadrennial defense review’s proposed personnel reductions in the Army Materiel Command will have on workload and readiness if implemented; and

(2) the projected cost savings from such reductions and the manner in which such savings are expected to be achieved.

**SEC. 349. INVENTORY MANAGEMENT OF IN-TRANSIT ITEMS.**

10 USC 2458  
note.

(a) **REQUIREMENT FOR PLAN.**—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a comprehensive plan to ensure visibility over all in-transit end items and secondary items.

(b) **END ITEMS.**—The plan required by subsection (a) shall address the specific mechanisms to be used to enable the Department of Defense to identify at any time the quantity and location of all end items.

(c) **SECONDARY ITEMS.**—The plan required by subsection (a) shall address the following problems with Department of Defense management of inventories of in-transit secondary items:

(1) The vulnerability of in-transit secondary items to loss through fraud, waste, and abuse.

(2) Loss of oversight of in-transit secondary items, including any loss of oversight when items are being transported by commercial carriers.

(3) Loss of accountability for in-transit secondary items due to either a delay of delivery of the items or a lack of notification of a delivery of the items.

(d) **CONTENT OF PLAN.**—The plan shall include for subsection (b) and for each of the problems described in subsection (c) the following information:

(1) The actions to be taken by the Department.

(2) Statements of objectives.

(3) Performance measures and schedules.

(4) An identification of any resources necessary for implementing the required actions, together with an estimate of the annual costs.

(e) **GAO REVIEWS.**—(1) Not later than 60 days after the date on which the Secretary of Defense submits the plan to Congress, the Comptroller General shall review the plan and submit to Congress any comments that the Comptroller General considers appropriate regarding the plan.

(2) The Comptroller General shall monitor any implementation of the plan and, not later than 1 year after the date referred to in paragraph (1), submit to Congress an assessment of the extent to which the plan has been implemented.

**SEC. 350. REVIEW OF DEFENSE AUTOMATED PRINTING SERVICE FUNCTIONS.**

(a) **REVIEW REQUIRED.**—The Secretary of Defense shall provide for a review of the functions of the Defense Automated Printing Service in accordance with this section and shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives the matters required under subsection (f) not later than March 31, 1999.

(b) **PERFORMANCE BY INDEPENDENT ENTITY.**—The Secretary of Defense shall select the General Accounting Office, an experienced entity in the private sector, or any other entity outside the Department of Defense to perform the review under this section. The Comptroller General shall perform the review if the Secretary selects the Comptroller General to do so.

(c) **CONSULTATION.**—Regardless of the entity selected by the Secretary under subsection (b) to perform the review, the entity

shall perform the review in consultation with persons in the private sector who have expertise and experience in performing in the private sector functions similar to the functions performed by the Defense Automated Printing Service. If such a person obtains any privileged information (as defined by the Secretary of Defense) as a result of participating in the review, the person may not receive a contract, either through the Department of Defense or the Government Printing Office, to provide services for the Department of Defense similar to the functions performed by the Defense Automated Printing Service for a one-year period beginning on the date the report is submitted to the Secretary of Defense under subsection (e).

(d) **ELEMENTS OF REVIEW.**—In performing the review under this section, the entity selected under subsection (b) shall specifically address the following:

(1) The functions performed by the Defense Automated Printing Service.

(2) The functions of the Defense Automated Printing Service that are inherently national security functions and, as such, need to be performed within the Department of Defense.

(3) The functions of the Defense Automated Printing Service that are appropriate for transfer to another appropriate entity to perform, including a private sector entity.

(4) The appropriate management structure of the Defense Automated Printing Service, the effectiveness of the current structure of the Defense Automated Printing Service in supporting current and future customer requirements, and any plans to address any deficiencies in supporting such requirements.

(5) The current and future requirements of customers of the Defense Automated Printing Service.

(6) The best business practices that are used by the Defense Automated Printing Service and other best business practices that could be used by the Defense Automated Printing Service.

(7) Options for maximizing the Defense Automated Printing Service structure and services to provide the most cost effective service to its customers.

(e) **REPORT ON RESULTS OF REVIEW.**—The entity performing the review under this section shall submit to the Secretary of Defense a report that sets forth the results of the review. In addition to specifically addressing the matters specified in subsection (d), the report shall also include the following:

(1) A list of all sites where functions of the Defense Automated Printing Service are performed by the Defense Automated Printing Service.

(2) The total number of the personnel employed by the Defense Automated Printing Service and the locations where the personnel perform the duties as employees.

(3) For each site identified under paragraph (1), an assessment of each type of equipment at the site.

(4) The types and explanation of the networking and technology integration linking all of the sites referred to in paragraph (1).

(5) For each function of the Defense Automated Printing Service determined to be an inherently national security function under subsection (d)(2), a detailed justification for the determination.

(6) For each function of the Defense Automated Printing Service determined to be appropriate for transfer under subsection (d)(3), a detailed assessment of the costs or savings associated with the transfer.

(f) REVIEW AND COMMENTS OF SECRETARY OF DEFENSE.—(1) After reviewing the report submitted under subsection (e), the Secretary of Defense shall submit the report to Congress. The Secretary shall include with the report the following:

(1) The Secretary's comments and recommendations regarding the report.

(2) A plan to transfer to another appropriate entity, or contract with another appropriate entity for, the performance of the functions of the Defense Automated Printing Service that—

(A) are not identified in the review as being inherently national security functions; and

(B) the Secretary believes should be transferred or contracted for performance outside the Department of Defense in accordance with law.

(3) Any recommended legislation and any administrative action that is necessary for transferring or contracting for the performance of the functions.

(g) EXTENSION OF REQUIREMENT FOR COMPETITIVE PROCUREMENT OF SERVICES.—Section 351(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 266), as amended by section 351(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2490) and section 387(a)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1713), is further amended by striking out “1998” and inserting in lieu thereof “1999”.

**SEC. 351. DEVELOPMENT OF PLAN FOR ESTABLISHMENT OF CORE LOGISTICS CAPABILITIES FOR MAINTENANCE AND REPAIR OF C-17 AIRCRAFT.**

(a) PLAN REQUIRED.—Not later than March 1, 1999, the Secretary of the Air Force shall submit to Congress a plan for the establishment of the core logistics capabilities for the C-17 aircraft consistent with the requirements of section 2464 of title 10, United States Code.

(b) EFFECT ON EXISTING CONTRACT.—After March 1, 1999, the Secretary of the Air Force may not extend the Interim Contract for the C-17 Flexible Sustainment Program before the end of the 60-day period beginning on the date on which the plan required by subsection (a) is received by Congress.

(c) COMPTROLLER GENERAL REVIEW.—During the period specified in subsection (b), the Comptroller General shall review the plan required under subsection (a) and submit to Congress a report evaluating the merits of the plan.

Reports.

## Subtitle F—Commissaries and Nonappropriated Fund Instrumentalities

### SEC. 361. CONTINUATION OF MANAGEMENT AND FUNDING OF DEFENSE COMMISSARY AGENCY THROUGH THE OFFICE OF THE SECRETARY OF DEFENSE.

(a) MANAGEMENT AND FUNDING RESPONSIBILITIES.—Section 192 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(d) SPECIAL RULE FOR DEFENSE COMMISSARY AGENCY.—Notwithstanding the results of any periodic review under subsection (c) with regard to the Defense Commissary Agency, the Secretary of Defense may not transfer to the Secretary of a military department the responsibility to manage and fund the provision of services and supplies provided by the Defense Commissary Agency unless the transfer of the management and funding responsibility is specifically authorized by a law enacted after the date of the enactment of this subsection.”.

(b) GOVERNING BOARD.—Section 2482 of such title is amended by adding at the end the following new subsection:

“(c) GOVERNING BOARD.—(1) Notwithstanding section 192(d) of this title, the Secretary of Defense shall establish a governing board for the commissary system to provide advice to the Secretary regarding the prudent operation of the commissary system and to assist in the overall supervision of the Defense Commissary Agency. The Secretary may authorize the board to have such supervisory authority as the Secretary considers appropriate to permit the board to carry out its responsibilities.

“(2) The Secretary of Defense shall determine the membership of the governing board, which shall include, at a minimum, appropriate representatives from each military department.

“(3) The governing board shall be accountable only to the Secretary of Defense and to the civilian officer of the Department of Defense who is assigned the responsibility for the overall supervision of the Defense Commissary Agency pursuant to section 192(a) of this title. The Director of the Defense Commissary Agency shall be accountable to and report to the board.”.

Reports.

### SEC. 362. EXPANSION OF CURRENT ELIGIBILITY OF RESERVES FOR COMMISSARY BENEFITS.

(a) DAYS OF ELIGIBILITY FOR READY RESERVE MEMBERS WITH 50 CREDITABLE POINTS.—Section 1063 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) in subsection (a)—

(A) by striking out “(1)”;

(B) by striking out “12 days of eligibility” and inserting in lieu thereof “24 days of eligibility”; and

(C) by striking out “(2) Paragraph (1)” and inserting in lieu thereof “(b) EFFECT OF COMPENSATION OR TYPE OF DUTY.—Subsection (a)”.

(b) DAYS OF ELIGIBILITY FOR RESERVE RETIREES UNDER AGE 60.—Section 1064 of such title is amended by striking out “for 12 days each calendar year” and inserting in lieu thereof “for 24 days each calendar year”.



(c) ELIGIBILITY OF MEMBERS OF NATIONAL GUARD SERVING IN FEDERALLY DECLARED DISASTER.—Chapter 54 of such title is amended by inserting after section 1063 the following new section:

**“§ 1063a. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster**

“(a) ELIGIBILITY OF MEMBERS.—A member of the National Guard who, although not in Federal service, is called or ordered to duty in response to a federally declared disaster shall be permitted to use commissary stores and MWR retail facilities during the period of such duty on the same basis as members of the armed forces on active duty.

“(b) ELIGIBILITY OF DEPENDENTS.—A dependent of a member of the National Guard who is permitted under subsection (a) to use commissary stores and MWR retail facilities shall be permitted to use such stores and facilities, during the same period as the member, on the same basis as dependents of members of the armed forces on active duty.

“(c) DEFINITIONS.—In this section:

“(1) FEDERALLY DECLARED DISASTER.—The term ‘federally declared disaster’ means a disaster or other situation for which a Presidential declaration of major disaster is issued under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

“(2) MWR RETAIL FACILITIES.—The term ‘MWR retail facilities’ has the meaning given that term in section 1065(e) of this title.”

(d) SECTION HEADINGS.—(1) The heading of section 1063 of such title is amended to read as follows:

**“§ 1063. Use of commissary stores: members of Ready Reserve with at least 50 creditable points”.**

(2) The heading of section 1064 of such title is amended to read as follows:

**“§ 1064. Use of commissary stores: persons qualified for retired pay under chapter 1223 but under age 60”.**

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 54 of such title is amended by striking out the items relating to sections 1063 and 1064 and inserting in lieu thereof the following items:

“1063. Use of commissary stores: members of Ready Reserve with at least 50 creditable points.

“1063a. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster.

“1064. Use of commissary stores: persons qualified for retired pay under chapter 1223 but under age 60.”

**SEC. 363. COSTS PAYABLE TO THE DEPARTMENT OF DEFENSE AND OTHER FEDERAL AGENCIES FOR SERVICES PROVIDED TO THE DEFENSE COMMISSARY AGENCY.**

(a) LIMITATION.—Section 2482(b)(1) of title 10, United States Code, is amended by adding at the end the following: “However, the Defense Commissary Agency may not pay for any such service provided by the United States Transportation Command any amount that exceeds the price at which the service could be procured through full and open competition, as such term is defined

10 USC 2482  
note.

in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to services provided or obtained on or after the date of the enactment of this Act.

**SEC. 364. COLLECTION OF DISHONORED CHECKS PRESENTED AT COMMISSARY STORES.**

Section 2486 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(g) **COLLECTION OF DISHONORED CHECKS.**—(1) The Secretary of Defense may impose a charge for the collection of a check accepted at a commissary store that is not honored by the financial institution on which the check is drawn. The imposition and amounts of charges shall be consistent with practices of commercial grocery stores regarding dishonored checks.

“(2)(A) The following persons are liable to the United States for the amount of a check referred to in paragraph (1) that is returned unpaid to the United States, together with any charge imposed under that paragraph:

“(i) The person who presented the check.

“(ii) Any person whose status and relationship to the person who presented the check provide the basis for that person’s eligibility to make purchases at a commissary store.

“(B) Any amount for which a person is liable under subparagraph (A) may be collected by deducting and withholding such amount from any amounts payable to that person by the United States.

“(3) Amounts collected as charges imposed under paragraph (1) shall be credited to the commissary trust revolving fund.

“(4) Appropriated funds may be used to pay any costs incurred in the collection of checks and charges referred to in paragraph (1). An appropriation account charged a cost under the preceding sentence shall be reimbursed the amount of that cost out of funds in the commissary trust revolving fund.

“(5) In this subsection, the term ‘commissary trust revolving fund’ means the trust revolving fund maintained by the Department of Defense for surcharge collections and proceeds of sales of commissary stores.”

**SEC. 365. RESTRICTIONS ON PATRON ACCESS TO, AND PURCHASES IN, OVERSEAS COMMISSARIES AND EXCHANGE STORES.**

(a) **AUTHORITY TO IMPOSE RESTRICTIONS; LIMITATIONS ON AUTHORITY.**—Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2492. Overseas commissary and exchange stores: access and purchase restrictions**

“(a) **GENERAL AUTHORITY.**—(1) The Secretary of Defense may establish restrictions on the ability of eligible patrons of commissary and exchange stores located outside of the United States to purchase certain merchandise items (or the quantity of certain merchandise items) otherwise included within an authorized merchandise category if the Secretary determines that such restrictions are necessary to prevent the resale of such merchandise in violation of treaty obligations of the United States or host nation laws (to the extent such laws are not inconsistent with United States laws).

“(2) In establishing a quantity or other restriction, the Secretary—

“(A) may not discriminate among the various categories of eligible patrons of the commissary and exchange system; and

“(B) shall ensure that the restriction is consistent with the purpose of the overseas commissary and exchange system to provide reasonable access for eligible patrons to purchase merchandise items made in the United States.

“(b) CONTROLLED ITEM LISTS.—For each location outside the United States that is served by the commissary system or the exchange system, the Secretary of Defense may maintain a list of controlled merchandise items, except that, after the date of the enactment of this section, the Secretary may not change the list to add a merchandise item unless, before making the change, the Secretary submits to Congress a notice of the proposed addition and the reasons for the addition of the item.

“(c) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress an annual report describing the host nation laws and the treaty obligations of the United States, and the conditions within host nations, that necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2492. Overseas commissary and exchange stores: access and purchase restrictions.”.

**SEC. 366. REPEAL OF REQUIREMENT FOR AIR FORCE TO SELL TOBACCO PRODUCTS TO ENLISTED PERSONNEL.**

(a) REPEAL.—Section 9623 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 939 of such title is amended by striking out the item relating to section 9623.

**SEC. 367. PROHIBITION ON CONSOLIDATION OR OTHER ORGANIZATIONAL CHANGES OF DEPARTMENT OF DEFENSE RETAIL SYSTEMS.**

10 USC 2482  
note.

(a) DEFENSE RETAIL SYSTEMS DEFINED.—For purposes of this section, the term “defense retail systems” means the defense commissary system and exchange stores and other revenue-generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the Armed Forces.

(b) PROHIBITION.—The operation and administration of the defense retail systems may not be consolidated or otherwise merged unless the consolidation or merger is specifically authorized by a law enacted after the date of the enactment of this Act.

(c) EFFECT ON EXISTING STUDY.—Nothing in this section shall be construed to prohibit the study of defense retail systems, known as the “Joint Exchange Due Diligence Study”, which is underway on the date of the enactment of this Act pursuant to a contract awarded by the Department of the Navy on April 21, 1998, except that any recommendation contained in the completed study regarding the operation or administration of the defense retail systems

may not be implemented unless implementation of the recommendation is specifically authorized by a law enacted after the date of the enactment of this Act.

**SEC. 368. DEFENSE COMMISSARY AGENCY TELECOMMUNICATIONS.**

Regulations.

(a) **USE OF FTS 2000/2001.**—The Secretary of Defense shall prescribe in regulations authority for the Defense Commissary Agency to meet its telecommunication requirements by obtaining telecommunication services and related items under the FTS 2000/2001 contract.

(b) **REPORT.**—Upon the initiation of telecommunication service for the Defense Commissary Agency under the FTS 2000/2001 contract, the Secretary of Defense shall submit to Congress a notification that the service has been initiated.

(c) **DEFINITION.**—In this section, the term “FTS 2000/2001 contract” means the contract for the provision of telecommunication services for the Federal Government that was entered into by the Defense Information Technology Contract Organization.

**SEC. 369. SURVEY OF COMMISSARY STORE PATRONS REGARDING SATISFACTION WITH COMMISSARY STORE MERCHANDISE.**

Contracts.

(a) **PATRON SURVEY.**—The Secretary of Defense shall enter into a contract with a commercial survey firm to conduct a survey of eligible patrons of the commissary store system to determine patron satisfaction with the merchandise sold in commissary stores, including patron views on product quality, prices, assortment, and such other matters as the Secretary considers appropriate.

(b) **SURVEY LOCATION.**—The survey shall be conducted at not less than three military installations in the United States of each of the Armed Forces (other than the Coast Guard).

(c) **REPORT ON RESULTS.**—The survey shall be completed, and the results submitted to the Secretary of Defense, the Committee on Armed Services of the Senate, and the Committee on National Security of the House of Representatives, not later than February 28, 1999.

## Subtitle G—Other Matters

**SEC. 371. ELIGIBILITY REQUIREMENTS FOR ATTENDANCE AT DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS.**

(a) **DEPENDENTS OF MEMBERS RESIDING IN CERTAIN AREAS.**—Subsection (a) of section 2164 of title 10, United States Code, is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second sentence as paragraph (2);

and

(3) by adding at the end of paragraph (2) (as so designated) the following new sentence: “If a member of the armed forces is assigned to a remote location or is assigned to an unaccompanied tour of duty, a dependent of the member who resides, on or off a military installation, in a territory, commonwealth, or possession of the United States, as authorized by the member’s orders, may be enrolled in an educational program provided by the Secretary under this subsection.”.

(b) **WAIVER OF FIVE-YEAR ATTENDANCE LIMITATION.**—Subsection (c)(2) of such section is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

“(B) At the discretion of the Secretary, a dependent referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the dependent is otherwise qualified for enrollment, space is available in the program, and the Secretary will be reimbursed for the educational services provided. Any such extension shall cover only one school year at a time.”.

(c) **CUSTOMS SERVICE EMPLOYEE DEPENDENTS IN PUERTO RICO.**—(1) Subsection (c)(1) of such section is amended—

(A) by inserting “(A)” after “(1)”; and

(B) by adding at the end the following new subparagraph:

“(B) A dependent of a United States Customs Service employee who resides in Puerto Rico, but not on a military installation, may enroll in an educational program provided by the Secretary pursuant to subsection (a) in Puerto Rico in accordance with the same rules as apply to a dependent of a Federal employee residing in permanent living quarters on a military installation.”.

(2) Subsection (c)(2) of such section is further amended by adding at the end the following new subparagraph:

“(D) Subparagraph (A) shall not apply to a dependent covered by paragraph (1)(B). No requirement under this paragraph for reimbursement for educational services provided for the dependent shall apply with respect to the dependent, except that the Secretary may require the United States Customs Service to reimburse the Secretary for the cost of the educational services provided for the dependent.”.

(3) The amendments made by this subsection shall apply with respect to academic years beginning on or after the date of the enactment of this Act.

Applicability.  
10 USC 2164  
note.

**SEC. 372. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.**

(a) **CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 1999.**—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities—

(1) \$30,000,000 shall be available only for the purpose of providing educational agencies assistance (as defined in subsection (d)(1)) to local educational agencies; and

(2) \$5,000,000 shall be available only for the purpose of making educational agencies payments (as defined in subsection (d)(2)) to local educational agencies.

(b) **NOTIFICATION.**—Not later than June 30, 1999, the Secretary of Defense shall—

(1) notify each local educational agency that is eligible for educational agencies assistance for fiscal year 1999 of that agency's eligibility for such assistance and the amount of such assistance for which that agency is eligible; and

(2) notify each local educational agency that is eligible for an educational agencies payment for fiscal year 1999 of that agency's eligibility for such payment and the amount of the payment for which that agency is eligible.

(c) **DISBURSEMENT OF FUNDS.**—The Secretary of Defense shall disburse funds made available under paragraphs (1) and (2) of subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) **DEFINITIONS.**—In this section:

(1) The term “educational agencies assistance” means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 20 U.S.C. 7703 note).

(2) The term “educational agencies payments” means payments authorized under section 386(d) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 20 U.S.C. 7703 note).

(3) The term “local educational agency” has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

#### **SEC. 373. DEPARTMENT OF DEFENSE READINESS REPORTING SYSTEM.**

(a) **ESTABLISHMENT OF SYSTEM.**—(1) Chapter 2 of title 10, United States Code, is amended by inserting after section 116 the following new section:

##### **“§ 117. Readiness reporting system: establishment; reporting to congressional committees**

“(a) **REQUIRED READINESS REPORTING SYSTEM.**—The Secretary of Defense shall establish a comprehensive readiness reporting system for the Department of Defense. The readiness reporting system shall measure in an objective, accurate, and timely manner the capability of the armed forces to carry out—

“(1) the National Security Strategy prescribed by the President in the most recent annual national security strategy report under section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

“(2) the defense planning guidance provided by the Secretary of Defense pursuant to section 113(g) of this title; and

“(3) the National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff.

“(b) **READINESS REPORTING SYSTEM CHARACTERISTICS.**—In establishing the readiness reporting system, the Secretary shall ensure—

“(1) that the readiness reporting system is applied uniformly throughout the Department of Defense;

“(2) that information in the readiness reporting system is continually updated, with any change in the overall readiness status of a unit, an element of the training establishment, or an element of defense infrastructure, that is required to be reported as part of the readiness reporting system, being reported within 24 hours of the event necessitating the change in readiness status; and

“(3) that sufficient resources are provided to establish and maintain the system so as to allow reporting of changes in readiness status as required by this section.

“(c) **CAPABILITIES.**—The readiness reporting system shall measure such factors relating to readiness as the Secretary prescribes, except that the system shall include the capability to do each of the following:

“(1) Measure, on a monthly basis, the capability of units (both as elements of their respective armed force and as elements of joint forces) to conduct their assigned wartime missions.

“(2) Measure, on a quarterly basis, the capability of training establishments to provide trained and ready forces for wartime missions.

“(3) Measure, on a quarterly basis, the capability of defense installations and facilities and other elements of Department of Defense infrastructure, both in the United States and abroad, to provide appropriate support to forces in the conduct of their wartime missions.

“(4) Measure, on a monthly basis, critical warfighting deficiencies in unit capability.

“(5) Measure, on a quarterly basis, critical warfighting deficiencies in training establishments and defense infrastructure.

“(6) Measure, on a monthly basis, the level of current risk based upon the readiness reporting system relative to the capability of forces to carry out their wartime missions.

“(d) QUARTERLY AND MONTHLY JOINT READINESS REVIEWS.—

(1) The Chairman of the Joint Chiefs of Staff shall—

“(A) on a quarterly basis, conduct a joint readiness review; and

“(B) on a monthly basis, review any changes that have been reported in readiness since the previous joint readiness review.

“(2) The Chairman shall incorporate into both the joint readiness review required under paragraph (1)(A) and the monthly review required under paragraph (1)(B) the current information derived from the readiness reporting system and shall assess the capability of the armed forces to execute their wartime missions based upon their posture at the time the review is conducted. The Chairman shall submit to the Secretary of Defense the results of each review under paragraph (1), including the deficiencies in readiness identified during that review.

“(e) SUBMISSION TO CONGRESSIONAL COMMITTEES.—The Secretary shall each month submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives a report in writing containing the results of the most recent joint readiness review or monthly review conducted under subsection (d), including the current information derived from the readiness reporting system. Each such report shall be submitted in unclassified form and may, as the Secretary determines necessary, also be submitted in classified form.

“(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. In those regulations, the Secretary shall prescribe the units that are subject to reporting in the readiness reporting system, what type of equipment is subject to such reporting, and the elements of the training establishment and of defense infrastructure that are subject to such reporting.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 116 the following new item:

“117. Readiness reporting system: establishment; reporting to congressional committees.”.

10 USC 117 note.

(b) IMPLEMENTATION.—The Secretary of Defense shall establish and implement the readiness reporting system required by section 117 of title 10, United States Code, as added by subsection (a), so as to ensure that the capabilities required by subsection (c) of that section are attained not later than January 15, 2000.

10 USC 117 note.

(c) IMPLEMENTATION PLAN.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a report setting forth the Secretary’s plan for implementation of section 117 of title 10, United States Code, as added by subsection (a).

10 USC 482 note.

(d) REPEAL OF QUARTERLY READINESS REPORT REQUIREMENT.—(1) Effective January 15, 2000, or the date on which the first report of the Secretary of Defense is submitted under section 117(e) of title 10, United States Code, as added by subsection (a), whichever is later, the Secretary of Defense shall cease to submit reports under section 482 of title 10, United States Code.

(2) Effective June 1, 2001—

(A) section 482 of title 10, United States Code, is repealed; and

(B) the table of sections at the beginning of chapter 23 of such title is amended by striking out the item relating to that section.

**SEC. 374. SPECIFIC EMPHASIS OF PROGRAM TO INVESTIGATE FRAUD, WASTE, AND ABUSE WITHIN DEPARTMENT OF DEFENSE.**

Section 392 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 10 U.S.C. 113 note) is amended by inserting before the period the following: “and any fraud, waste, and abuse occurring in connection with overpayments made to vendors by the Department of Defense, including overpayments identified under section 354 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 10 U.S.C. 2461 note)”.

**SEC. 375. CONDITION FOR PROVIDING FINANCIAL ASSISTANCE FOR SUPPORT OF ADDITIONAL DUTIES ASSIGNED TO THE ARMY NATIONAL GUARD.**

(a) COMPETITIVE SOURCE SELECTION.—Section 113(b) of title 32, United States Code, is amended to read as follows:

“(b) COVERED ACTIVITIES.—(1) Except as provided in paragraph (2), financial assistance may be provided for the performance of an activity by the Army National Guard under subsection (a) only if—

“(A) the activity is carried out in the performance of a responsibility of the Secretary of the Army under paragraph (6), (10), or (11) of section 3013(b) of title 10; and

“(B) the Army National Guard was selected to perform the activity under competitive procedures that permit all qualified public-sector and private-sector sources to submit offers and be considered for selection to perform the activity on the basis of the offers.

“(2) Paragraph (1)(B) does not apply to an activity that, on the date of the enactment of this subsection, was performed for



the Federal Government by employees of the Federal Government or employees of a State.”.

(b) PROSPECTIVE APPLICABILITY.—Subsection (b)(1)(B) of section 113 of title 32, United States Code (as added by subsection (a) of this section), does not apply to—

32 USC 113 note.

(1) financial assistance provided under that section before October 1, 1998; or

(2) financial assistance for an activity that, before May 9, 1998, the Secretary of the Army identified in writing as being under consideration for supporting with financial assistance under that section.

**SEC. 376. DEMONSTRATION PROGRAM TO IMPROVE QUALITY OF PERSONAL PROPERTY SHIPMENTS OF MEMBERS.**

(a) DEFINITION.—In this section, the term “current demonstration program” means the pilot program to improve the movement of household goods of members of the Armed Forces that is identified in the re-engineering pilot solicitation of the Military Traffic Management Command designated as DAMTO1-97-R-3001.

(b) COMPLETION OF CURRENT DEMONSTRATION PROGRAM.—The Secretary of Defense shall complete the current demonstration program to improve the quality of personal property shipments within the Department of Defense not later than October 1, 1999.

(c) EVALUATIONS OF CURRENT AND ALTERNATIVE DEMONSTRATIONS.—(1) Not later than August 31, 1999, the Secretary of Defense shall submit to Congress a report evaluating the following:

(A) Whether the current demonstration program, as implemented, meets the goals for the current demonstration program previously agreed upon between the Department of Defense and representatives of private sector entities involved in the transportation of household goods for members of the Armed Forces, as such goals are contained in the report of the Comptroller General designated as report “NSIAD 97-49”.

(B) Whether the demonstration program contained in the proposal prepared for the Secretary of Defense by private sector entities involved in the transportation of household goods for members of the Armed Forces as an alternative to the current demonstration program would, if implemented, be likely to meet the goals for the current demonstration program.

(2) The Secretary shall also submit to Congress interim reports regarding the progress of the current demonstration program not later than January 15, 1999, and April 15, 1999.

Reports.

(d) PROHIBITION.—The Secretary of Defense may not exercise any option with respect to the current demonstration program that would have the effect of extending the current demonstration program after October 1, 1999, or otherwise continue the current demonstration program after that date, until the end of the 30-day period beginning on the date on which the Secretary submits the report required under subsection (c)(1).

**SEC. 377. PILOT PROGRAM FOR ACCEPTANCE AND USE OF LANDING FEES CHARGED FOR USE OF DOMESTIC MILITARY AIRFIELDS BY CIVIL AIRCRAFT.**

10 USC 113 note.

(a) PILOT PROGRAM AUTHORIZED.—The Secretary of each military department may carry out a pilot program during fiscal years 1999 and 2000 to demonstrate the use of landing fees as a source of funding for the operation and maintenance of airfields of that

department. No fee may be charged under the pilot program for a landing after September 30, 2000.

(b) **UNIFORM LANDING FEES.**—The Secretary of Defense shall prescribe the landing fees, which shall be uniform for the military departments, that may be imposed under a pilot program carried out under this section.

(c) **USE OF PROCEEDS.**—Amounts received for a fiscal year in payment of landing fees imposed under the pilot program for use of a military airfield shall be credited to the appropriation that is available for that fiscal year for the operation and maintenance of the military airfield, shall be merged with amounts in the appropriation to which credited, and shall be available for that military airfield for the same period and purposes as the appropriation is available.

(d) **REPORT.**—Not later than March 31, 2000, the Secretary of Defense shall submit to Congress a report on the pilot programs carried out under this section by the Secretaries of the military departments. The report shall specify the amounts of fees received and retained by each military department under its pilot program as of December 31, 1999.

**SEC. 378. STRATEGIC PLAN FOR EXPANSION OF DISTANCE LEARNING INITIATIVES.**

(a) **PLAN REQUIRED.**—The Secretary of Defense shall develop a strategic plan for guiding and expanding distance learning initiatives within the Department of Defense. The plan shall provide for an expansion of such initiatives over five consecutive fiscal years beginning with fiscal year 2000.

(b) **CONTENT OF PLAN.**—The strategic plan shall contain, at a minimum, the following:

(1) A statement of measurable goals and objectives and outcome-related performance indicators (consistent with section 1115 of title 31, United States Code, relating to agency performance plans) for the development and execution of distance learning initiatives throughout the Department of Defense.

(2) A detailed description of how distance learning initiatives are to be developed and managed within the Department of Defense.

(3) An assessment of the estimated costs and the benefits associated with developing and maintaining an appropriate infrastructure for distance learning.

(4) A statement of planned expenditures for the investments necessary to build and maintain that infrastructure.

(5) A description of the mechanisms that are to be used to supervise the development and coordination of the distance learning initiatives of the Department of Defense.

(c) **RELATIONSHIP TO EXISTING INITIATIVE.**—In developing the strategic plan, the Secretary may take into account the ongoing collaborative effort among the Department of Defense, other Federal agencies, and private industry that is known as the Advanced Distribution Learning initiative. However, the Secretary shall ensure that the strategic plan is specifically focused on the training and education goals and objectives of the Department of Defense.

(d) **SUBMISSION TO CONGRESS.**—The Secretary of Defense shall submit the strategic plan to Congress not later than March 1, 1999.

**SEC. 379. PUBLIC AVAILABILITY OF OPERATING AGREEMENTS BETWEEN MILITARY INSTALLATIONS AND FINANCIAL INSTITUTIONS.** 10 USC 2468 note.

With respect to an agreement between the commander of a military installation in the United States (or the designee of such an installation commander) and a financial institution that permits, allows, or otherwise authorizes the provision of financial services by the financial institution on the military installation, nothing in the terms or nature of such an agreement shall be construed to exempt the agreement from the provisions of sections 552 and 552a of title 5, United States Code.

## **TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS**

### **Subtitle A—Active Forces**

- Sec. 401. End strengths for active forces.
- Sec. 402. Revision in permanent end strength levels.
- Sec. 403. Date for submission of annual manpower requirements report.
- Sec. 404. Additional exemption from percentage limitation on number of lieutenant generals and vice admirals.
- Sec. 405. Extension of authority for Chairman of the Joint Chiefs of Staff to designate up to 12 general and flag officer positions to be excluded from general and flag officer grade limitations.
- Sec. 406. Exception for Chief, National Guard Bureau, from limitation on number of officers above major general.
- Sec. 407. Limitation on daily average of personnel on active duty in grades E–8 and E–9.

### **Subtitle B—Reserve Forces**

- Sec. 411. End strengths for Selected Reserve.
- Sec. 412. End strengths for Reserves on active duty in support of the reserves.
- Sec. 413. End strengths for military technicians (dual status).
- Sec. 414. Increase in number of members in certain grades authorized to serve on active duty in support of the reserves.
- Sec. 415. Consolidation of strength authorizations for active status Naval Reserve flag officers of the Navy Medical Department Staff Corps.

### **Subtitle C—Authorization of Appropriations**

- Sec. 421. Authorization of appropriations for military personnel.

## **Subtitle A—Active Forces**

### **SEC. 401. END STRENGTHS FOR ACTIVE FORCES.**

10 USC 115 note.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1999, as follows:

- (1) The Army, 480,000.
- (2) The Navy, 372,696.
- (3) The Marine Corps, 172,200.
- (4) The Air Force, 370,882.

### **SEC. 402. REVISION IN PERMANENT END STRENGTH LEVELS.**

(a) REVISED END STRENGTH FLOORS.—Subsection (b) of section 691 of title 10, United States Code, is amended—

- (1) in paragraph (1), by striking out “495,000” and inserting in lieu thereof “480,000”;
- (2) in paragraph (2), by striking out “390,802” and inserting in lieu thereof “372,696”;
- (3) in paragraph (3), by striking out “174,000” and inserting in lieu thereof “172,200”; and

(4) in paragraph (4), by striking out “371,577” and inserting in lieu thereof “370,802”.

(b) REVISION TO FLEXIBILITY AUTHORITY FOR THE ARMY.—Subsection (e) of such section is amended by striking out “1 percent or, in the case of the Army, by not more than 1.5 percent,” and inserting in lieu thereof “0.5 percent.”.

10 USC 691 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

**SEC. 403. DATE FOR SUBMISSION OF ANNUAL MANPOWER REQUIREMENTS REPORT.**

Section 115a(a) of title 10, United States Code, is amended—

(1) by striking out “, not later than February 15 of each fiscal year,” in the first sentence; and

(2) by striking out “The report shall be in writing and” in the second sentence and inserting in lieu thereof “The report, which shall be in writing, shall be submitted each year not later than 45 days after the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31. The report”.

**SEC. 404. ADDITIONAL EXEMPTION FROM PERCENTAGE LIMITATION ON NUMBER OF LIEUTENANT GENERALS AND VICE ADMIRALS.**

Section 525(b)(4)(B) of title 10, United States Code, is amended by striking out “six” and inserting in lieu thereof “seven”.

**SEC. 405. EXTENSION OF AUTHORITY FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF TO DESIGNATE UP TO 12 GENERAL AND FLAG OFFICER POSITIONS TO BE EXCLUDED FROM GENERAL AND FLAG OFFICER GRADE LIMITATIONS.**

Section 526(b)(2) of title 10, United States Code, is amended by striking out “October 1, 1998” and inserting in lieu thereof “October 1, 2002”.

**SEC. 406. EXCEPTION FOR CHIEF, NATIONAL GUARD BUREAU, FROM LIMITATION ON NUMBER OF OFFICERS ABOVE MAJOR GENERAL.**

Section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(6) An officer while serving as Chief of the National Guard Bureau is in addition to the number that would otherwise be permitted for that officer’s armed force for officers serving on active duty in grades above major general under paragraph (1).”.

**SEC. 407. LIMITATION ON DAILY AVERAGE OF PERSONNEL ON ACTIVE DUTY IN GRADES E-8 AND E-9.**

(a) FISCAL YEAR BASIS FOR APPLICATION OF LIMITATION.—The first sentence of section 517(a) of title 10, United States Code, is amended—

(1) by striking out “a calendar year” and inserting in lieu thereof “a fiscal year”; and

(2) by striking out “January 1 of that year” and inserting in lieu thereof “the first day of that fiscal year”.

10 USC 517 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

## Subtitle B—Reserve Forces

### SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

10 USC 12001  
note.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1999, as follows:

- (1) The Army National Guard of the United States, 357,223.
- (2) The Army Reserve, 208,003.
- (3) The Naval Reserve, 90,843.
- (4) The Marine Corps Reserve, 40,018.
- (5) The Air National Guard of the United States, 106,992.
- (6) The Air Force Reserve, 74,243.
- (7) The Coast Guard Reserve, 8,000.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary an end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

- (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and
- (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

### SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

10 USC 12001  
note.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1999, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

- (1) The Army National Guard of the United States, 21,986.
- (2) The Army Reserve, 12,807.
- (3) The Naval Reserve, 15,590.
- (4) The Marine Corps Reserve, 2,362.
- (5) The Air National Guard of the United States, 10,931.
- (6) The Air Force Reserve, 992.

### SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

10 USC 115 note.

The minimum number of military technicians (dual status) as of the last day of fiscal year 1999 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

- (1) For the Army Reserve, 5,395.

(2) For the Army National Guard of the United States, 23,125.

(3) For the Air Force Reserve, 9,761.

(4) For the Air National Guard of the United States, 22,408.

**SEC. 414. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO SERVE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.**

(a) OFFICERS.—The table in section 12011(a) of title 10, United States Code, is amended to read as follows:

“Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander .....	3,219	1,071	791	140
Lieutenant Colonel or Commander .....	1,524	520	713	90
Colonel or Navy Captain .....	438	188	297	30”.

(b) SENIOR ENLISTED MEMBERS.—The table in section 12012(a) of such title is amended to read as follows:

“Grade	Army	Navy	Air Force	Marine Corps
E–9 .....	623	202	395	20
E–8 .....	2,585	429	997	94”.

10 USC 12011  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

**SEC. 415. CONSOLIDATION OF STRENGTH AUTHORIZATIONS FOR ACTIVE STATUS NAVAL RESERVE FLAG OFFICERS OF THE NAVY MEDICAL DEPARTMENT STAFF CORPS.**

Section 12004(c) of title 10, United States Code, is amended—

(1) in the table in paragraph (1)—

(A) by striking out the item relating to the Medical Corps and inserting in lieu thereof the following:

“Medical Department staff corps ..... 9”;

and

(B) by striking out the items relating to the Dental Corps, the Nurse Corps, and the Medical Service Corps; and

(2) by adding at the end the following:

“(4)(A) For the purposes of paragraph (1), the Medical Department staff corps referred to in the table are as follows:

“(i) The Medical Corps.

“(ii) The Dental Corps.

“(iii) The Nurse Corps.

“(iv) The Medical Service Corps.

“(B) Each of the Medical Department staff corps is authorized one rear admiral (lower half) within the strength authorization distributed to the Medical Department staff corps under paragraph (1). The Secretary of the Navy shall distribute the remainder of the strength authorization for the Medical Department staff corps under that paragraph among those staff corps as the Secretary determines appropriate to meet the needs of the Navy.”.

## **Subtitle C—Authorization of Appropriations**

### **SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.**

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1999 a total of \$70,592,286,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1999.

## **TITLE V—MILITARY PERSONNEL POLICY**

### **Subtitle A—Officer Personnel Policy**

- Sec. 501. Codification of eligibility of retired officers and former officers for consideration by special selection boards.
- Sec. 502. Involuntary separation pay denied for officer discharged for failure of selection for promotion requested by the officer.
- Sec. 503. Streamlined selective retention process for regular officers.
- Sec. 504. Permanent applicability of limitations on years of active naval service of Navy limited duty officers in grades of commander and captain.
- Sec. 505. Tenure of Chief of the Air Force Nurse Corps.
- Sec. 506. Grade of Air Force Assistant Surgeon General for Dental Services.
- Sec. 507. Review regarding allocation of Naval Reserve Officers' Training Corps scholarships among participating colleges and universities.

### **Subtitle B—Reserve Component Matters**

- Sec. 511. Use of Reserves for emergencies involving weapons of mass destruction.
- Sec. 512. Service required for retirement of National Guard officer in higher grade.
- Sec. 513. Reduced time-in-grade requirement for reserve general and flag officers involuntarily transferred from active status.
- Sec. 514. Active status service requirement for promotion consideration for Army and Air Force reserve component brigadier generals.
- Sec. 515. Composition of selective early retirement boards for rear admirals of the Naval Reserve and major generals of the Marine Corps Reserve.
- Sec. 516. Authority for temporary waiver for certain Army Reserve officers of baccalaureate degree requirement for promotion of reserve officers.
- Sec. 517. Furnishing of burial flags for deceased members and former members of the Selected Reserve.

### **Subtitle C—Military Education and Training**

- Sec. 521. Separate housing for male and female recruits during recruit basic training.
- Sec. 522. After-hours privacy for recruits during basic training.
- Sec. 523. Sense of the House of Representatives relating to small unit assignments by gender during recruit basic training.
- Sec. 524. Extension of reporting dates for Commission on Military Training and Gender-Related Issues.
- Sec. 525. Improved oversight of innovative readiness training.

### **Subtitle D—Decorations, Awards, and Commendations**

- Sec. 531. Study of new decorations for injury or death in line of duty.
- Sec. 532. Waiver of time limitations for award of certain decorations to certain persons.
- Sec. 533. Commendation and commemoration of the Navy and Marine Corps personnel who served in the United States Navy Asiatic Fleet from 1910–1942.
- Sec. 534. Appreciation for service during World War I and World War II by members of the Navy assigned on board merchant ships as the Naval Armed Guard Service.
- Sec. 535. Sense of Congress regarding the heroism, sacrifice, and service of the military forces of South Vietnam, other nations, and indigenous groups in connection with the United States Armed Forces during the Vietnam conflict.

- Sec. 536. Sense of Congress regarding the heroism, sacrifice, and service of former South Vietnamese commandos in connection with United States Armed Forces during the Vietnam conflict.
- Sec. 537. Prohibition on members of Armed Forces entering correctional facilities to present decorations to persons who have committed serious violent felonies.

**Subtitle E—Administration of Agencies Responsible for Review and Correction of Military Records**

- Sec. 541. Personnel freeze.
- Sec. 542. Professional staff.
- Sec. 543. Ex parte communications.
- Sec. 544. Timeliness standards.
- Sec. 545. Scope of correction of military records.

**Subtitle F—Reports**

- Sec. 551. Report on personnel retention.
- Sec. 552. Report on process for selection of members for service on courts-martial.
- Sec. 553. Report on prisoners transferred from United States Disciplinary Barracks, Fort Leavenworth, Kansas, to Federal Bureau of Prisons.
- Sec. 554. Review and report regarding the distribution of National Guard full-time support among the States.

**Subtitle G—Other Matters**

- Sec. 561. Two-year extension of certain force drawdown transition authorities relating to personnel management and benefits.
- Sec. 562. Leave without pay for suspended academy cadets and midshipmen.
- Sec. 563. Continued eligibility under Voluntary Separation Incentive program for members who involuntarily lose membership in a reserve component.
- Sec. 564. Reinstatement of definition of financial institution in authorities for reimbursement of defense personnel for Government errors in direct deposit of pay.
- Sec. 565. Increase in maximum amount for College Fund program.
- Sec. 566. Central Identification Laboratory, Hawaii.
- Sec. 567. Military funeral honors for veterans.
- Sec. 568. Status in the Naval Reserve of cadets at the Merchant Marine Academy.
- Sec. 569. Repeal of restriction on civilian employment of enlisted members.
- Sec. 570. Transitional compensation for abused dependent children not residing with the spouse or former spouse of a member convicted of dependent abuse.
- Sec. 571. Pilot program for treating GED and home school diploma recipients as high school graduates for determinations of eligibility for enlistment in the Armed Forces.
- Sec. 572. Sense of Congress concerning New Parent Support Program and military families.
- Sec. 573. Advancement of Benjamin O. Davis, Junior, to grade of general on the retired list of the Air Force.
- Sec. 574. Sense of the House of Representatives concerning adherence by civilians in military chain of command to the standard of exemplary conduct required of commanding officers and others in authority in the Armed Forces.

**Subtitle A—Officer Personnel Policy**

**SEC. 501. CODIFICATION OF ELIGIBILITY OF RETIRED OFFICERS AND FORMER OFFICERS FOR CONSIDERATION BY SPECIAL SELECTION BOARDS.**

(a) PERSONS NOT CONSIDERED BY PROMOTION BOARDS DUE TO ADMINISTRATIVE ERROR.—Subsection (a) of section 628 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) (and the subsection designation at the beginning of that paragraph) and inserting in lieu thereof the following:

“(a) PERSONS NOT CONSIDERED BY PROMOTION BOARDS DUE TO ADMINISTRATIVE ERROR.—(1) If the Secretary of the military department concerned determines that because of administrative error a person who should have been considered for selection for



promotion by a promotion board was not so considered, the Secretary shall convene a special selection board under this subsection to determine whether that person (whether or not then on active duty) should be recommended for promotion.”;

(2) in paragraph (2), by striking out “the officer as his record” in the first sentence and inserting in lieu thereof “the person whose name was referred to it for consideration as that record”; and

(3) in paragraph (3), by striking out “an officer in a grade” and all that follows through “the officer” and inserting in lieu thereof “a person whose name was referred to it for consideration for selection for appointment to a grade other than a general officer or flag officer grade, the person”.

(b) PERSONS CONSIDERED BY PROMOTION BOARDS IN UNFAIR MANNER.—Subsection (b) of such section is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

“(b) PERSONS CONSIDERED BY PROMOTION BOARDS IN UNFAIR MANNER.—(1) If the Secretary of the military department concerned determines, in the case of a person who was considered for selection for promotion by a promotion board but was not selected, that there was material unfairness with respect to that person, the Secretary may convene a special selection board under this subsection to determine whether that person (whether or not then on active duty) should be recommended for promotion. In order to determine that there was material unfairness, the Secretary must determine that—

“(A) the action of the promotion board that considered the person was contrary to law or involved material error of fact or material administrative error; or

“(B) the board did not have before it for its consideration material information.”;

(2) in paragraph (2), by striking out “the officer as his record” in the first sentence and inserting in lieu thereof “the person whose name was referred to it for consideration as that record”; and

(3) in paragraph (3)—

(A) by striking out “an officer” and inserting in lieu thereof “a person”; and

(B) by striking out “the officer” and inserting in lieu thereof “the person”.

(c) CONFORMING AMENDMENTS.—(1) Subsection (c) of such section is amended—

(A) by inserting “REPORTS OF BOARDS.—” after “(c)”;

(B) by striking out “officer” both places it appears in paragraph (1) and inserting in lieu thereof “person”; and

(C) in paragraph (2), by adding the following new sentence at the end: “However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, the provisions of sections 576(d) and 576(f) of this title (rather than the provisions of section 617(b) and 618 of this title) apply to the report and proceedings of the board in the same manner as they apply to the report and proceedings of a selection board convened under section 573 of this title.”.

(2) Subsection (d)(1) of such section is amended—

(A) by inserting “APPOINTMENT OF PERSONS SELECTED BY BOARDS.—” after “(d)”;

(B) by striking out “an officer” and inserting in lieu thereof “a person”;

(C) by striking out “such officer” and inserting in lieu thereof “that person”;

(D) by striking out “the next higher grade” the second place it appears and inserting in lieu thereof “that grade”; and

(E) by adding at the end the following: “However, in the case of a board convened under this section to consider a warrant officer or former warrant officer, if the report of that board, as approved by the Secretary concerned, recommends that warrant officer or former warrant officer for promotion to the next higher grade, that person shall, as soon as practicable, be appointed to the next higher grade in accordance with provisions of section 578(c) of this title (rather than subsections (b), (c), and (d) of section 624 of this title).”.

(3) Subsection (d)(2) of such section is amended—

(A) by striking out “An officer who is promoted” and inserting in lieu thereof “A person who is appointed”;

(B) by striking out “such promotion” and inserting in lieu thereof “that appointment”; and

(C) by adding at the end the following new sentence: “In the case of a person who is not on the active-duty list when appointed to the next higher grade, placement of that person on the active-duty list pursuant to the preceding sentence shall be only for purposes of determination of eligibility of that person for consideration for promotion by any subsequent special selection board under this section.”.

(d) APPLICABILITY TO DECEASED PERSONS.—Subsection (e) of such section is amended to read as follows:

“(e) DECEASED PERSONS.—If a person whose name is being considered for referral to a special selection board under this section dies before the completion of proceedings under this section with respect to that person, this section shall be applied to that person posthumously.”.

(e) RECODIFICATION OF ADMINISTRATIVE MATTERS.—Such section is further amended by adding at the end the following:

“(f) CONVENING OF BOARDS.—A board convened under this section—

“(1) shall be convened under regulations prescribed by the Secretary of Defense;

“(2) shall be composed in accordance with section 612 of this title or, in the case of board to consider a warrant officer or former warrant officer, in accordance with section 573 of this title and regulations prescribed by the Secretary of the military department concerned; and

“(3) shall be subject to the provisions of section 613 of this title.

“(g) PROMOTION BOARD DEFINED.—In this section, the term ‘promotion board’ means a selection board convened by the Secretary of a military department under section 573(a) or 611(a) of this title.”.

10 USC 628 note.

(f) RATIFICATION OF CODIFIED PRACTICE.—The consideration by a special selection board convened under section 628 of title 10, United States Code, before the date of the enactment of this Act of a person who, at the time of consideration, was a retired

officer or former officer of the Armed Forces (including a deceased retired or former officer) is hereby ratified.

**SEC. 502. INVOLUNTARY SEPARATION PAY DENIED FOR OFFICER DISCHARGED FOR FAILURE OF SELECTION FOR PROMOTION REQUESTED BY THE OFFICER.**

(a) **INELIGIBILITY FOR SEPARATION PAY.**—Section 1174(a) of title 10, United States Code, is amended by adding at the end the following:

“(3) Notwithstanding paragraphs (1) and (2), an officer discharged under any provision of chapter 36 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if either (or both) of those failures of selection for promotion was by the action of a selection board to which the officer submitted a request in writing not to be selected for promotion or who otherwise directly caused his nonselection through written communication to the Board under section 614(b) of this title.”.

(b) **REPORT OF SELECTION BOARD TO NAME OFFICERS REQUESTING NONSELECTION.**—Section 617 of such title is amended by adding at the end the following:

“(c) A selection board convened under section 611(a) of this title shall include in its report to the Secretary concerned the name of any regular officer considered and not recommended for promotion by the board who submitted to the board a request not to be selected for promotion or who otherwise directly caused his nonselection through written communication to the Board under section 614(b) of this title.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after the date of the enactment of this Act.

10 USC 617 note.

**SEC. 503. STREAMLINED SELECTIVE RETENTION PROCESS FOR REGULAR OFFICERS.**

(a) **REPEAL OF REQUIREMENT FOR DUPLICATIVE BOARD.**—Section 1183 of title 10, United States Code, is repealed.

(b) **CONFORMING AMENDMENTS.**—(1) Section 1182(c) of such title is amended by striking out “send the record of proceedings to a board of review convened under section 1183 of this title” and inserting in lieu thereof “recommend to the Secretary concerned that the officer not be retained on active duty”.

(2) Section 1184 of such title is amended by striking out “board of review convened under section 1183 of this title” and inserting in lieu thereof “board of inquiry convened under section 1182 of this title”.

(c) **CLERICAL AMENDMENTS.**—(1) The heading for section 1184 of such title is amended by striking out “**review**” and inserting in lieu thereof “**inquiry**”.

(2) The table of sections at the beginning of chapter 60 of such title is amended by striking out the items relating to sections 1183 and 1184 and inserting in lieu thereof the following:

“1184. Removal of officer: action by Secretary upon recommendation of board of inquiry.”.

**SEC. 504. PERMANENT APPLICABILITY OF LIMITATIONS ON YEARS OF ACTIVE NAVAL SERVICE OF NAVY LIMITED DUTY OFFICERS IN GRADES OF COMMANDER AND CAPTAIN.**

(a) **COMMANDERS.**—Section 633 of title 10, United States Code, is amended—

(1) by striking out “Except an officer” and all that follows through “or section 6383 of this title applies” and inserting in lieu thereof “Except an officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 5596(e) or 6383 of this title applies”; and

(2) by striking out the second sentence.

(b) **CAPTAINS.**—Section 634 of such title is amended—

(1) by inserting “an officer of the Navy who is designated for limited duty to whom section 6383(a)(4) of this title applies and except” in the first sentence after “Except”; and

(2) by striking out the second sentence.

(c) **YEARS OF ACTIVE NAVAL SERVICE.**—Section 6383(a) of such title is amended by striking out paragraph (5).

(d) **LIMITATIONS ON SELECTIVE RETENTIONS.**—Section 6383(k) of such title is amended by striking out the last sentence.

**SEC. 505. TENURE OF CHIEF OF THE AIR FORCE NURSE CORPS.**

Section 8069(b) of title 10, United States Code, is amended by striking out “, but not for more than three years, and may not be reappointed to the same position” in the last sentence.

**SEC. 506. GRADE OF AIR FORCE ASSISTANT SURGEON GENERAL FOR DENTAL SERVICES.**

Section 8081 of title 10, United States Code, is amended—

(1) in the first sentence, by striking out “major” and inserting in lieu thereof “lieutenant colonel”; and

(2) by striking out the second sentence and inserting in lieu thereof the following: “An appointee who holds a lower regular grade shall be appointed in the regular grade of brigadier general. The Assistant Surgeon General for Dental Services serves at the pleasure of the Secretary.”.

10 USC 2107  
note.

**SEC. 507. REVIEW REGARDING ALLOCATION OF NAVAL RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS AMONG PARTICIPATING COLLEGES AND UNIVERSITIES.**

(a) **REVIEW.**—The Secretary of the Navy should review the process and criteria used to determine the number of Naval Reserve Officer Training Corps (NROTC) scholarship recipients who attend each college and university participating in the NROTC program and how those scholarships are allocated to those schools.

(b) **PURPOSE OF REVIEW.**—The review should seek to determine—

(1) whether the method used by the Navy to allocate NROTC scholarships could be changed so as to increase the likelihood that scholarship awardees attend the school of their choice while maintaining the Navy's capability to attain the objectives of the Naval ROTC program to meet the annual

requirement for newly commissioned Navy ensigns and Marine Corps second lieutenants, as well as the overall needs of the officer corps of the Department of the Navy; and

(2) within the determination under paragraph (1), whether the likelihood of a scholarship awardee who wants to attend a school of choice in the student's State of residence can be increased.

(c) **MATTERS REVIEWED.**—The matters reviewed should include the following:

(1) The factors and criteria considered in the process of determining the allocation of NROTC scholarships to host colleges and universities.

(2) Historical data indicating the extent to which NROTC scholarship recipients attend colleges and universities they have indicated a preference to attend, as opposed to attending solely or mainly in order to receive an NROTC scholarship.

(3) The extent to which the process used by the Navy to allocate NROTC scholarships to participating colleges and universities contributes to optimizing resources available for the operation of the NROTC program and improving the professional education of NROTC midshipmen.

(4) The effects that eliminating the controlled allocation of scholarships to host colleges and universities, entirely or by State, would have on the NROTC program.

(d) **CONSULTATION REQUIREMENT.**—In carrying out a review under subsection (a), the Secretary should consult with officials of interested associations and of colleges and universities which host ROTC units and such other officials as the Secretary considers appropriate.

## **Subtitle B—Reserve Component Matters**

### **SEC. 511. USE OF RESERVES FOR EMERGENCIES INVOLVING WEAPONS OF MASS DESTRUCTION.**

(a) **ORDER TO ACTIVE DUTY.**—(1) Section 12304 of title 10, United States Code, is amended—

(A) in subsection (a), by inserting “or that it is necessary to provide assistance referred to in subsection (b)” after “to augment the active forces for any operational mission”;

(B) in subsection (b)—

(i) by striking out “(b)” and inserting in lieu thereof “(c) **LIMITATIONS.**—(1)”; and

(ii) by striking out “, or to provide” and inserting in lieu thereof “or, except as provided in subsection (b), to provide”;

(C) by redesignating subsection (c) as paragraph (2); and

(D) by inserting after subsection (a) the following new subsection (b):

“(b) **SUPPORT FOR RESPONSES TO CERTAIN EMERGENCIES.**—The authority under subsection (a) includes authority to order a unit or member to active duty to provide assistance in responding to an emergency involving a use or threatened use of a weapon of mass destruction.”.

(2) Subsection (i) of such section is amended to read as follows:

“(i) **DEFINITIONS.**—In this section:

“(1) The term ‘Individual Ready Reserve mobilization category’ means, in the case of any reserve component, the category of the Individual Ready Reserve described in section 10144(b) of this title.

“(2) The term ‘weapon of mass destruction’ has the meaning given that term in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).”

(3) Such section is further amended—

(A) in subsection (a), by inserting “AUTHORITY.—” after “(a)”;

(B) in subsection (d), by inserting “EXCLUSION FROM STRENGTH LIMITATIONS.—” after “(d)”;

(C) in subsection (e), by inserting “POLICIES AND PROCEDURES.—” after “(e)”;

(D) in subsection (f), by inserting “NOTIFICATION OF CONGRESS.—” after “(f)”;

(E) in subsection (g), by inserting “TERMINATION OF DUTY.—” after “(g)”;

(F) in subsection (h), by inserting “RELATIONSHIP TO WAR POWERS RESOLUTION.—” after “(h)”.

(b) USE OF ACTIVE GUARD AND RESERVE PERSONNEL.—(1) Section 12310 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c)(1) A Reserve on active duty as described in subsection (a), or a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32 in connection with functions referred to in subsection (a), may, subject to paragraph (3), perform duties in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction (as defined in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))).

“(2) The costs of the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for a Reserve performing duties under the authority of paragraph (1) shall be paid from the appropriation that is available to pay such costs for other members of the reserve component of that Reserve who are performing duties as described in subsection (a).

“(3) A Reserve may perform duties described in paragraph (1) only—

“(A) while assigned to the Department of Defense Consequence Management Program Integration Office; or

“(B) while assigned to a reserve component rapid assessment element team and performing those duties within the geographical limits of the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico.

“(4) The number of Reserves on active duty who are performing duties described in paragraph (1) at the same time may not exceed 228. Reserves on active duty who are performing duties described in paragraph (1) shall be counted against the annual end strength authorizations required by section 115(a)(1)(B) and 115(a)(2) of this title. The justification material for the defense budget request for a fiscal year shall identify the number and component of the Reserves programmed to be performing duties described in paragraph (1) during that fiscal year.

“(5) A reserve component rapid assessment element team, and any Reserve assigned to such a team, may not be used to respond to an emergency described in paragraph (1) unless the Secretary of Defense has certified to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that that team, or that Reserve, possesses the requisite skills, training, and equipment to be proficient in all mission requirements.

“(6) If the Secretary of Defense submits to Congress any request for the enactment of legislation to modify the requirements of paragraph (3) or to increase the number of personnel authorized by paragraph (4), the Secretary shall provide with the request—

“(A) justification for each such requested modification or for the requested additional personnel and explain the need for the increase in the context of existing or projected similar capabilities at the local, State, and Federal levels; and

“(B) the Secretary’s plan for sustaining the qualifications of the personnel and teams described in paragraph (3)(B).”.

(2) The Secretary of Defense may not submit to Congress earlier than 90 days after the date of the receipt by Congress of the report required by section 1411 of this Act a request for the enactment of legislation to modify the requirements of paragraph (3), or to increase the number of personnel authorized by paragraph (4), of section 12310(c) of title 10, United States Code, as added by paragraph (1).

**SEC. 512. SERVICE REQUIRED FOR RETIREMENT OF NATIONAL GUARD OFFICER IN HIGHER GRADE.**

(a) **REVISION OF REQUIREMENT.**—Subparagraph (E) of section 1370(d)(3) of title 10, United States Code, is amended to read as follows:

“(E) To the extent authorized by the Secretary of the military department concerned, a person who, after having been found qualified for Federal recognition in a higher grade by a board under section 307 of title 32, serves in a position for which that grade is the minimum authorized grade and is appointed as a reserve officer in that grade may be credited for the purposes of subparagraph (A) as having served in that grade. The period of the service for which credit is afforded under the preceding sentence may only be the period for which the person served in the position after the Senate provides advice and consent for the appointment.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply with respect to appointments to higher grades that take effect after that date.

10 USC 1370  
note.

**SEC. 513. REDUCED TIME-IN-GRADE REQUIREMENT FOR RESERVE GENERAL AND FLAG OFFICERS INVOLUNTARILY TRANSFERRED FROM ACTIVE STATUS.**

(a) **MINIMUM SERVICE IN ACTIVE STATUS.**—Section 1370(d)(3) of title 10, United States Code, as amended by section 511, is further amended by adding at the end the following new subparagraph:

“(F) A person covered by subparagraph (A) who has completed at least six months of satisfactory service in a grade above colonel or (in the case of the Navy) captain and, while serving in an active status in such grade, is involuntarily transferred (other than for cause) from active status may be credited with satisfactory

service in the grade in which serving at the time of such transfer, notwithstanding failure of the person to complete three years of service in that grade.”

10 USC 1370  
note.

(b) **EFFECTIVE DATE.**—Subparagraph (F) of such section, as added by subsection (a), shall take effect on the date of the enactment of this Act and shall apply with respect to transfers referred to in such subparagraph that are made on or after that date.

**SEC. 514. ACTIVE STATUS SERVICE REQUIREMENT FOR PROMOTION CONSIDERATION FOR ARMY AND AIR FORCE RESERVE COMPONENT BRIGADIER GENERALS.**

Section 14301 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(g) A reserve component brigadier general of the Army or the Air Force who is in an inactive status is eligible (notwithstanding subsection (a)) for consideration for promotion to major general by a promotion board convened under section 14101(a) of this title if the officer—

“(1) has been in an inactive status for less than 1 year as of the date of the convening of the promotion board; and

“(2) had continuously served for at least 1 year on the reserve active status list or the active duty list (or a combination of both) immediately before the officer’s most recent transfer to an inactive status.”

**SEC. 515. COMPOSITION OF SELECTIVE EARLY RETIREMENT BOARDS FOR REAR ADMIRALS OF THE NAVAL RESERVE AND MAJOR GENERALS OF THE MARINE CORPS RESERVE.**

(a) **IN GENERAL.**—Section 14705(b) of title 10, United States Code, is amended—

(1) by inserting “(1)” after “(b) BOARDS.—”; and

(2) by adding at the end the following:

“(2) In the case of such a board convened to consider officers in the grade of rear admiral or major general, the Secretary of the Navy may appoint the board without regard to section 14102(b) of this title. In doing so, however, the Secretary shall ensure that—

“(A) each regular commissioned officer appointed to the board holds a grade higher than the grade of rear admiral or major general; and

“(B) at least one member of the board is a reserve officer who holds the grade of rear admiral or major general.”

(b) **TECHNICAL AMENDMENTS.**—Paragraph (1) of such section, as designated by subsection (a)(1), is amended—

(1) by inserting “of officers” after “consideration”; and

(2) by inserting “continuation” after “shall convene a”.

10 USC 12205  
note.

**SEC. 516. AUTHORITY FOR TEMPORARY WAIVER FOR CERTAIN ARMY RESERVE OFFICERS OF BACCALAUREATE DEGREE REQUIREMENT FOR PROMOTION OF RESERVE OFFICERS.**

(a) **WAIVER AUTHORITY FOR ARMY OCS GRADUATES.**—The Secretary of the Army may waive the applicability of section 12205(a) of title 10, United States Code, to any officer who before the date of the enactment of this Act was commissioned through the Army Officer Candidate School. Any such waiver shall be made on a case-by-case basis, considering the individual circumstances of the officer involved, and may continue in effect for no more than 2 years after the waiver is granted. The Secretary may provide for



such a waiver to be effective before the date of the waiver, as appropriate in an individual case.

(b) EXPIRATION OF AUTHORITY.—A waiver under this section may not be granted after September 30, 2000.

**SEC. 517. FURNISHING OF BURIAL FLAGS FOR DECEASED MEMBERS AND FORMER MEMBERS OF THE SELECTED RESERVE.**

Section 2301 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(f)(1) The Secretary shall furnish a flag to drape the casket of each deceased member or former member of the Selected Reserve (as  $\pm$ described in section 10143 of title 10) who is not otherwise eligible for a flag under this section or section 1482(a) of title 10—

“(A) who completed at least one enlistment as a member of the Selected Reserve or, in the case of an officer, completed the period of initial obligated service as a member of the Selected Reserve;

“(B) who was discharged before completion of the person’s initial enlistment as a member of the Selected Reserve or, in the case of an officer, period of initial obligated service as a member of the Selected Reserve, for a disability incurred or aggravated in line of duty; or

“(C) who died while a member of the Selected Reserve.

“(2) A flag may not be furnished under subparagraphs (A) or (B) of paragraph (1) in the case of a person whose last discharge from service in the Armed Forces was under conditions less favorable than honorable.

“(3) After the burial, a flag furnished under paragraph (1) shall be given to the next of kin or to such other person as the Secretary considers appropriate.”.

## **Subtitle C—Military Education and Training**

**SEC. 521. SEPARATE HOUSING FOR MALE AND FEMALE RECRUITS DURING RECRUIT BASIC TRAINING.**

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 4319. Recruit basic training: separate housing for male and female recruits**

“(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Army shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

“(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

“(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

“(b) ALTERNATIVE SEPARATE HOUSING.—If male recruits and female recruits cannot be housed as provided under subsection

(a) by October 1, 2001, at a particular installation, the Secretary of the Army shall require (on and after that date) that male recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for males and that female recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for females.

“(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Army shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

“(d) BASIC TRAINING DEFINED.—In this section, the term ‘basic training’ means the initial entry training program of the Army that constitutes the basic training of new recruits.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“4319. Recruit basic training: separate housing for male and female recruits.”.

10 USC 4319  
note.

(3) The Secretary of the Army shall implement section 4319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

#### **“CHAPTER 602—TRAINING GENERALLY**

“Sec.

“6931. Recruit basic training: separate housing for male and female recruits.

##### **“§ 6931. Recruit basic training: separate housing for male and female recruits**

“(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Navy shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

“(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

“(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

“(b) ALTERNATIVE SEPARATE HOUSING.—If male recruits and female recruits cannot be housed as provided under subsection (a) by October 1, 2001, at a particular installation, the Secretary of the Navy shall require (on and after that date) that male recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for males and that female recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for females.

“(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Navy shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

“(d) BASIC TRAINING DEFINED.—In this section, the term ‘basic training’ means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.”.

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

**“602. Training Generally ..... 6931”.**

(3) The Secretary of the Navy shall implement section 6931 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

10 USC 6931  
note.

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 9319. Recruit basic training: separate housing for male and female recruits**

“(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Air Force shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

“(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

“(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

“(b) ALTERNATIVE SEPARATE HOUSING.—If male recruits and female recruits cannot be housed as provided under subsection (a) by October 1, 2001, at a particular installation, the Secretary of the Air Force shall require (on and after that date) that male recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for males and that female recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for females.

“(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Air Force shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

“(d) BASIC TRAINING DEFINED.—In this section, the term ‘basic training’ means the initial entry training program of the Air Force that constitutes the basic training of new recruits.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“9319. Recruit basic training: separate housing for male and female recruits.”.

10 USC 9319  
note.

(3) The Secretary of the Air Force shall implement section 9319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(d) GAO REVIEW OF COSTS OF SEPARATE HOUSING FACILITIES FOR MALE AND FEMALE RECRUITS DURING RECRUIT BASIC TRAINING.—Not later than March 1, 1999, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the costs that would be incurred by each of the military departments if required to provide housing for male and female recruits during basic training in separate structures. The report shall be prepared separately for each of the Army, Navy, and Air Force and shall be based on reviews and cost analyses prepared independently of the Department of Defense.

**SEC. 522. AFTER-HOURS PRIVACY FOR RECRUITS DURING BASIC TRAINING.**

(a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding after section 4319, as added by section 521(a)(1), the following new section:

**“§ 4320. Recruit basic training: privacy**

“The Secretary of the Army shall require that access by drill sergeants and other training personnel to a living area in which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to drill sergeants and other training personnel who are of the same sex as the recruits housed in that living area or to superiors in the chain of command of those recruits who, if not of the same sex as the recruits housed in that living area, are accompanied by a member (other than a recruit) who is of the same sex as the recruits housed in that living area.”.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4319, as added by section 521(a)(2), the following new item:

“4320. Recruit basic training: privacy.”.

10 USC 4320  
note.

(3) The Secretary of the Army shall implement section 4320 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(b) NAVY.—(1) Chapter 602 of title 10, United States Code, as added by section 521(b)(1), is amended by adding at the end the following new section:

**“§ 6932. Recruit basic training: privacy**

“The Secretary of the Navy shall require that access by recruit division commanders and other training personnel to a living area

in which Navy recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit division commanders and other training personnel who are of the same sex as the recruits housed in that living area or to superiors in the chain of command of those recruits who, if not of the same sex as the recruits housed in that living area, are accompanied by a member (other than a recruit) who is of the same sex as the recruits housed in that living area.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“6932. Recruit basic training: privacy.”.

(3) The Secretary of the Navy shall implement section 6932 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

10 USC 6932  
note.

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding after section 9319, as added by section 521(c)(1), the following new section:

**“§ 9320. Recruit basic training: privacy**

“The Secretary of the Air Force shall require that access by military training instructors and other training personnel to a living area in which recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to military training instructors and other training personnel who are of the same sex as the recruits housed in that living area or to superiors in the chain of command of those recruits who, if not of the same sex as the recruits housed in that living area, are accompanied by a member (other than a recruit) who is of the same sex as the recruits housed in that living area.”.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 9319, as added by section 521(c)(2), the following new item:

“9320. Recruit basic training: privacy.”.

(3) The Secretary of the Air Force shall implement section 9320 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

10 USC 9320  
note.

**SEC. 523. SENSE OF THE HOUSE OF REPRESENTATIVES RELATING TO  
SMALL UNIT ASSIGNMENTS BY GENDER DURING  
RECRUIT BASIC TRAINING.**

It is the sense of the House of Representatives that the Secretary of each military department should require that during recruit basic training male recruits and female recruits be assigned to separate units at the small unit levels designated by the different services as platoons, divisions, or flights, as recommended in the report of the Federal Advisory Committee on Gender-Integrated Training and Related Issues, chaired by Nancy Kassebaum-Baker,

that was submitted to the Secretary of Defense on December 16, 1997.

10 USC 113 note. **SEC. 524. EXTENSION OF REPORTING DATES FOR COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES.**

(a) **FIRST REPORT.**—Subsection (e)(1) of section 562 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1754) is amended by striking out “April 15, 1998” and inserting in lieu thereof “October 15, 1998”.

(b) **FINAL REPORT.**—Subsection (e)(2) of such section is amended by striking out “September 16, 1998” and inserting in lieu thereof “March 15, 1999”.

**SEC. 525. IMPROVED OVERSIGHT OF INNOVATIVE READINESS TRAINING.**

(a) **IN GENERAL.**—Section 2012 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(j) **OVERSIGHT AND COST ACCOUNTING.**—The Secretary of Defense shall establish a program to improve the oversight and cost accounting of training projects conducted in accordance with this section. The program shall include measures to accomplish the following:

“(1) Ensure that each project that is proposed to be conducted in accordance with this section (regardless of whether additional funding from the Secretary of Defense is sought) is requested in writing, reviewed for full compliance with this section, and approved in advance of initiation by the Secretary of the military department concerned and, in the case of a project that seeks additional funding from the Secretary of Defense, by the Secretary of Defense.

“(2) Ensure that each project that is conducted in accordance with this section is required to provide, within a specified period following completion of the project, an after-action report to the Secretary of Defense.

“(3) Require that each application for a project to be conducted in accordance with this section include an analysis and certification that the proposed project would not result in a significant increase in the cost of training (as determined in accordance with procedures prescribed by the Secretary of Defense).

“(4) Determine the total program cost for each project, including both those costs that are borne by the military departments from their own accounts and those costs that are borne by defense-wide accounts.

“(5) Provide for oversight of project execution to ensure that a training project under this section is carried out in accordance with the proposal for that project as approved.”.

10 USC 2012  
note.

(b) **IMPLEMENTATION.**—The Secretary of Defense may not initiate any project under section 2012 of title 10, United States Code, after October 1, 1998, until the program required by subsection (i) of that section (as added by subsection (a)) has been established.

## **Subtitle D—Decorations, Awards, and Commendations**

### **SEC. 531. STUDY OF NEW DECORATIONS FOR INJURY OR DEATH IN LINE OF DUTY.**

#### **(a) STUDY OF NEED AND CRITERIA FOR NEW DECORATION.—**

(1) The Secretary of Defense shall carry out a study of the need for, and the appropriate criteria for, two possible new decorations.

(2) The first such decoration would, if implemented, be awarded to members of the Armed Forces who, while serving under competent authority in any capacity with the Armed Forces, are killed or injured in the line of duty as a result of noncombat circumstances occurring—

(A) as a result of an international terrorist attack against the United States or a foreign nation friendly to the United States;

(B) while engaged in, training for, or traveling to or from a peacetime or contingency operation; or

(C) while engaged in, training for, or traveling to or from service outside the territory of the United States as part of a peacekeeping force.

(3) The second such decoration would, if implemented, be awarded to civilian nationals of the United States who, while serving under competent authority in any capacity with the Armed Forces, are killed or injured in the line of duty under circumstances which, if they were members of the Armed Forces, would qualify them for award of the Purple Heart or the medal described in paragraph (2).

(b) **RECOMMENDATION TO CONGRESS.**—Not later than July 31, 1999, the Secretary shall submit to Congress a report setting forth the Secretary's recommendation concerning the need for, and propriety of, each of the possible new decorations referred to in subsection (a).

(c) **COORDINATION.**—The Secretary shall carry out this section in coordination with the Secretaries of the military departments and the Secretary of Transportation with regard to the Coast Guard.

### **SEC. 532. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO CERTAIN PERSONS.**

(a) **WAIVER.**—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply to awards of decorations described in this section, the award of each such decoration having been determined by the Secretary of the military department concerned to be warranted in accordance with section 1130 of title 10, United States Code.

(b) **DISTINGUISHED-SERVICE CROSS.**—Subsection (a) applies to the award of the Distinguished-Service Cross of the Army as follows:

(1) To Isaac Camacho of El Paso, Texas, for extraordinary heroism in actions at Camp Hiep Hoa in Vietnam on November 24, 1963, while serving as a member of the Army.

(2) To Bruce P. Crandall of Mesa, Arizona, for extraordinary heroism in actions at Landing Zone X-Ray in Vietnam on November 14, 1965, while serving as a member of the Army.

(3) To Leland B. Fair of Jessieville, Arkansas, for extraordinary heroism in actions in the Philippine Islands on July 4, 1945, while serving as a member of the Army.

(c) DISTINGUISHED-SERVICE MEDAL.—Subsection (a) applies to the award of the Distinguished-Service Medal of the Army to Richard P. Sakakida of Fremont, California, for exceptionally meritorious service while a prisoner of war in the Philippine Islands from May 7, 1942, to September 14, 1945, while serving as a member of the Army.

(d) NAVY CROSS.—Subsection (a) applies to the posthumous award of the Navy Cross to Joseph F. Keenan for extraordinary heroism in actions on March 26–27, 1953, while serving as a member of the Navy.

(e) SILVER STAR MEDAL.—Subsection (a) applies to the award of the Silver Star Medal of the Navy to Andrew A. Bernard of Methuen, Massachusetts, for gallantry in action on November 24, 1943, while serving as a member of the Navy.

(f) DISTINGUISHED FLYING CROSS.—Subsection (a) applies to the award of the Distinguished Flying Cross for service during World War II or Korea (including multiple awards to the same individual) in the case of each individual (not covered by section 573(d) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1757)) concerning whom the Secretary of the Navy (or an officer of the Navy acting on behalf of the Secretary) submitted to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate, before the date of the enactment of this Act, a notice as provided in section 1130(b) of title 10, United States Code, that the award of the Distinguished Flying Cross to that individual is warranted and that a waiver of time restrictions prescribed by law for recommendation for such award is recommended.

**SEC. 533. COMMENDATION AND COMMEMORATION OF THE NAVY AND MARINE CORPS PERSONNEL WHO SERVED IN THE UNITED STATES NAVY ASIATIC FLEET FROM 1910-1942.**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States established the Asiatic Fleet of the Navy in 1910 to protect United States nationals, policies, and possessions in the Far East.

(2) The sailors and Marines of the Asiatic Fleet ensured the safety of United States and foreign nationals and provided humanitarian assistance in that region during the Chinese civil war, the Yangtze Flood of 1931, and the outbreak of Sino-Japanese hostilities.

(3) In 1940, due to deteriorating political relations and increasing tensions between the United States and Japan, a reinforced Asiatic Fleet began concentrating on the defense of the Philippines and engaged in extensive training to ensure maximum operational readiness for any eventuality.

(4) Following the declaration of war against Japan in December 1941, the warships, submarines, and aircraft of the Asiatic Fleet courageously fought many battles against superior Japanese forces.

(5) The Asiatic Fleet directly suffered the loss of 22 vessels, 1,826 men killed or missing in action, and 518 men captured



and imprisoned under the worst of conditions, with many of them dying while held as prisoners of war.

(b) CONGRESSIONAL COMMENDATION.—Congress—

(1) commends the Navy and Marine Corps personnel who served in the Asiatic Fleet of the United States Navy during the period from 1910 to 1942; and

(2) honors those who gave their lives in the line of duty while serving in the Asiatic Fleet.

(c) COMMEMORATION OF UNITED STATES NAVY ASIATIC FLEET.—

The President is authorized and requested to issue a proclamation designating an appropriate commemoration of the United States Navy Asiatic Fleet and calling upon the people of the United States to observe such commemoration with appropriate programs, ceremonies, and activities.

President.

**SEC. 534. APPRECIATION FOR SERVICE DURING WORLD WAR I AND WORLD WAR II BY MEMBERS OF THE NAVY ASSIGNED ON BOARD MERCHANT SHIPS AS THE NAVAL ARMED GUARD SERVICE.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Navy established a special force during both World War I and World War II, known as the Naval Armed Guard Service, to protect merchant ships of the United States from enemy attack by stationing members of the Navy and weapons on board those ships.

(2) Members of the Naval Armed Guard Service served on 6,236 merchant ships during World War II, of which 710 were sunk by enemy action.

(3) Over 144,900 members of the Navy served in the Naval Armed Guard Service during World War II as officers, gun crewmen, signalmen, and radiomen, of whom 1,810 were killed in action.

(4) The efforts of the members of the Naval Armed Guard Service played a significant role in the safe passage of United States merchant ships to their destinations in the Soviet Union and various locations in western Europe and the Pacific Theater.

(5) The efforts of the members of the Navy who served in the Naval Armed Guard Service have been largely overlooked due to the rapid disbanding of the service after World War II and lack of adequate records.

(6) Recognition of the service of the naval personnel who served in the Naval Armed Guard Service is highly warranted and long overdue.

(b) SENSE OF CONGRESS.—Congress expresses its appreciation, and the appreciation of the American people, for the dedicated service performed during World War I and World War II by members of the Navy assigned as gun crews on board merchant ships as part of the Naval Armed Guard Service.

**SEC. 535. SENSE OF CONGRESS REGARDING THE HEROISM, SACRIFICE, AND SERVICE OF THE MILITARY FORCES OF SOUTH VIETNAM, OTHER NATIONS, AND INDIGENOUS GROUPS IN CONNECTION WITH THE UNITED STATES ARMED FORCES DURING THE VIETNAM CONFLICT.**

(a) FINDINGS.—Congress finds the following:

(1) South Vietnam, Australia, South Korea, Thailand, New Zealand, and the Philippines contributed military forces,

together with the United States, during military operations conducted in Southeast Asia during the Vietnam conflict.

(2) Indigenous groups, such as the Hmong, Nung, Montagnard, Kahmer, Hoa Hao, and Cao Dai contributed military forces, together with the United States, during military operations conducted in Southeast Asia during the Vietnam conflict.

(3) The contributions of these combat forces continued through long years of armed conflict.

(4) As a result, in addition to the United States casualties exceeding 210,000, this willingness to participate in the Vietnam conflict resulted in the death and wounding of more than 1,000,000 military personnel from South Vietnam and 16,000 from other allied nations.

(5) The service of the Vietnamese, indigenous groups, and other allied nations was repeatedly marked by exceptional heroism and sacrifice, with particularly noteworthy contributions being made by the Vietnamese airborne, commando, infantry and ranger units, the Republic of Korea marines, the Capital and White Horse divisions, the Royal Thai Army Black Panther Division, the Royal Australian Regiment, the New Zealand “V” force, and the 1st Philippine Civic Action Group.

(b) SENSE OF CONGRESS.—Congress recognizes and honors the members and former members of the military forces of South Vietnam, the Republic of Korea, Thailand, Australia, New Zealand, and the Philippines, as well as members of the Hmong, Nung, Montagnard, Kahmer, Hoa Hao, and Cao Dai, for their heroism, sacrifice, and service in connection with United States Armed Forces during the Vietnam conflict.

**SEC. 536. SENSE OF CONGRESS REGARDING THE HEROISM, SACRIFICE, AND SERVICE OF FORMER SOUTH VIETNAMESE COMMANDOS IN CONNECTION WITH UNITED STATES ARMED FORCES DURING THE VIETNAM CONFLICT.**

(a) FINDINGS.—Congress finds the following:

(1) South Vietnamese commandos were recruited by the United States as part of OPLAN 34A or its predecessor or OPLAN 35 from 1961 to 1970.

(2) The commandos conducted covert operations in North Vietnam during the Vietnam conflict.

(3) Many of the commandos were captured and imprisoned by North Vietnamese forces, some for as long as 20 years.

(4) The commandos served and fought proudly during the Vietnam conflict.

(5) Many of the commandos lost their lives serving in operations conducted by the United States during the Vietnam conflict.

(6) Many of the Vietnamese commandos now reside in the United States.

(b) SENSE OF CONGRESS.—Congress recognizes and honors the former South Vietnamese commandos for their heroism, sacrifice, and service in connection with United States Armed Forces during the Vietnam conflict.

**SEC. 537. PROHIBITION ON MEMBERS OF ARMED FORCES ENTERING CORRECTIONAL FACILITIES TO PRESENT DECORATIONS TO PERSONS WHO HAVE COMMITTED SERIOUS VIOLENT FELONIES.**

(a) PROHIBITION.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 1132. Presentation of decorations: prohibition on entering correctional facilities for presentation to prisoners convicted of serious violent felonies**

“(a) PROHIBITION.—A member of the armed forces may not enter a Federal, State, local, or foreign correctional facility to present a decoration to a person who is incarcerated due to conviction of a serious violent felony.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘decoration’ means any decoration or award that may be presented or awarded to a member of the armed forces.

“(2) The term ‘serious violent felony’ has the meaning given that term in section 3559(c)(2)(F) of title 18.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

“1132. Presentation of decorations: prohibition on entering correctional facilities for presentation to prisoners convicted of serious violent felonies.”.

## **Subtitle E—Administration of Agencies Responsible for Review and Correction of Military Records**

**SEC. 541. PERSONNEL FREEZE.**

10 USC 1551  
note.

(a) LIMITATION.—During fiscal years 1999, 2000, and 2001, the Secretary of a military department may not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency until—

(1) the Secretary submits to Congress a report that describes the reduction proposed to be made, provides the Secretary’s rationale for that reduction, and specifies the number of such personnel that would be assigned to duty with that agency after the reduction; and

(2) a period of 90 days has elapsed after the date on which such report is submitted.

Reports.

(b) BASELINE NUMBER.—The baseline number for a service review agency under this section is—

(1) for purposes of the first report with respect to a service review agency under this section, the number of military and civilian personnel assigned to duty with that agency as of October 1, 1997; and

(2) for purposes of any subsequent report with respect to a service review agency under this section, the number of such personnel specified in the most recent report with respect to that agency under this section.

(c) SERVICE REVIEW AGENCY DEFINED.—In this section, the term “service review agency” means—

(1) with respect to the Department of the Army, the Army Review Boards Agency;

(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

(3) with respect to the Department of the Air Force, the Air Force Review Boards Agency.

**SEC. 542. PROFESSIONAL STAFF.**

(a) IN GENERAL.—(1) Chapter 79 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 1555. Professional staff**

“(a) The Secretary of each military department shall assign to the staff of the service review agency of that military department at least one attorney and at least one physician. Such assignments shall be made on a permanent, full-time basis and may be made from members of the armed forces or civilian employees.

“(b) Personnel assigned pursuant to subsection (a)—

“(1) shall work under the supervision of the director or executive director (as the case may be) of the service review agency; and

“(2) shall be assigned duties as advisers to the director or executive director or other staff members on legal and medical matters, respectively, that are being considered by the agency.

“(c) In this section, the term ‘service review agency’ means—

“(1) with respect to the Department of the Army, the Army Review Boards Agency;

“(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

“(3) with respect to the Department of the Air Force, the Air Force Review Boards Agency.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1555. Professional staff.”.

10 USC 1555  
note.

(b) EFFECTIVE DATE.—Section 1555 of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

**SEC. 543. EX PARTE COMMUNICATIONS.**

(a) IN GENERAL.—(1) Chapter 79 of title 10, United States Code, is amended by adding after section 1555, as added by section 542(a)(1), the following new section:

**“§ 1556. Ex parte communications prohibited**

“(a) IN GENERAL.—The Secretary of each military department shall ensure that an applicant seeking corrective action by the Army Review Boards Agency, the Air Force Review Boards Agency, or the Board for Correction of Naval Records, as the case may be, is provided a copy of all correspondence and communications (including summaries of verbal communications) to or from the agency or board, or a member of the staff of the agency or board, with an entity or person outside the agency or board that pertain directly to the applicant’s case or have a material effect on the applicant’s case.

“(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

“(1) Classified information.

“(2) Information the release of which is otherwise prohibited by law or regulation.

“(3) Any record previously provided to the applicant or known to be possessed by the applicant.

“(4) Any correspondence that is purely administrative in nature.

“(5) Any military record that is (or may be) provided to the applicant by the Secretary of the military department or other source.”.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to 1555, as added by section 542(a)(2), the following new item:

“1556. Ex parte communications prohibited.”.

(b) **EFFECTIVE DATE.**—Section 1556 of title 10, United States Code, as added by subsection (a), shall apply with respect to correspondence and communications made 60 days or more after the date of the enactment of this Act.

10 USC 1556  
note.

#### **SEC. 544. TIMELINESS STANDARDS.**

(a) **IN GENERAL.**—Chapter 79 of title 10, United States Code, is amended by adding after section 1556, as added by section 543(a)(1), the following new section:

#### **“§ 1557. Timeliness standards for disposition of applications before Corrections Boards**

“(a) **TEN-MONTH CLEARANCE PERCENTAGE.**—Of the applications received by a Corrections Board during a period specified in the following table, the percentage on which final action by the Corrections Board must be completed within 10 months of receipt (other than for those applications considered suitable for administrative correction) is as follows:

<b>“For applications received during—</b>	<b>The percentage on which final Correction Board action must be completed within 10 months of receipt is—</b>
the period of fiscal years 2001 and 2002 .....	50
the period of fiscal years 2003 and 2004 .....	60
the period of fiscal years 2005, 2006, and 2007 .....	70
the period of fiscal years 2008, 2009, and 2010 .....	80
the period of any fiscal year after fiscal year 2010 .....	90.

“(b) **CLEARANCE DEADLINE FOR ALL APPLICATIONS.**—Effective October 1, 2002, final action by a Corrections Board on all applications received by the Corrections Board (other than those applications considered suitable for administrative correction) shall be completed within 18 months of receipt.

“(c) **WAIVER AUTHORITY.**—The Secretary of the military department concerned may exclude an individual application from the timeliness standards prescribed in subsections (a) and (b) if the Secretary determines that the application warrants a longer period of consideration. The authority of the Secretary of a military department under this subsection may not be delegated.

“(d) **FAILURE TO MEET TIMELINESS STANDARDS NOT TO AFFECT ANY INDIVIDUAL APPLICATION.**—Failure of a Corrections Board to meet the applicable timeliness standard for any period of time under subsection (a) or (b) does not confer any presumption or advantage with respect to consideration by the board of any application.

“(e) **REPORTS ON FAILURE TO MEET TIMELINESS STANDARDS.**—The Secretary of the military department concerned shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report not later than June 1 following any fiscal year during which the Corrections Board of that Secretary’s military department was unable to meet the applicable timeliness standard for that fiscal year under subsections (a) and (b). The report shall specify the reasons why the standard could not be met and the corrective actions initiated to ensure compliance in the future. The report shall also specify the number of waivers granted under subsection (c) during that fiscal year.

“(f) **CORRECTIONS BOARD DEFINED.**—In this section, the term ‘Corrections Board’ means—

“(1) with respect to the Department of the Army, the Army Board for Correction of Military Records;

“(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

“(3) with respect to the Department of the Air Force, the Air Force Board for Correction of Military Records.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1556, as added by section 543(a)(2), the following new item:

“1557. Timeliness standards for disposition of applications before Corrections Boards.”.

#### **SEC. 545. SCOPE OF CORRECTION OF MILITARY RECORDS.**

(a) **PAYMENT OF CLAIMS ARISING FROM CORRECTION.**—Subsection (c) of section 1552 of title 10, United States Code, is amended in the first sentence by inserting before the period the following: “, or on account of his or another’s service as a civilian employee”.

(b) **DEFINITION OF MILITARY RECORD.**—Such section is further amended by adding at the end the following new subsection:

“(g) In this section, the term ‘military record’ means a document or other record that pertains to (1) an individual member or former member of the armed forces, or (2) at the discretion of the Secretary of the military department concerned, any other military matter affecting a member or former member of the armed forces, an employee or former employee of that military department, or a dependent or current or former spouse of any such person. Such term does not include records pertaining to civilian employment matters (such as matters covered by title 5 and chapters 81, 83, 87, 108, 373, 605, 607, 643, and 873 of this title).”.

(c) **REPORT.**—The Secretary of Defense shall submit to Congress, not later than March 31, 1999, a report on the effect of the six-year bar to retroactive benefits contained in section 3702 of title 31, United States Code, and the Secretary’s recommendation as to whether it is appropriate for the Secretaries of the military departments to have authority to waive that limitation in selected cases involving implementation of decisions of the Secretary of a military department under chapter 79 of title 10, United States Code. The report shall be prepared in consultation with the Secretaries of the military departments.

## Subtitle F—Reports

### SEC. 551. REPORT ON PERSONNEL RETENTION.

(a) **REPORT REQUIRED.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing information on the retention of members of the Armed Forces on active duty in the combat, combat support, and combat service support forces of the Army, Navy, Air Force, and Marine Corps.

(b) **REQUIRED INFORMATION.**—The Secretary shall include in the report information on retention of members with military occupational specialties (or the equivalent) in combat, combat support, or combat service support positions in each of the Army, Navy, Air Force, and Marine Corps. Such information shall be shown by pay grade and shall be aggregated by enlisted grades and officers grades and shall be shown by military occupational specialty (or the equivalent). The report shall set forth separately (in numbers and as a percentage) the number of members separated during each such fiscal year who terminate service in the Armed Forces completely and the number who separate from active duty by transferring into a reserve component.

(c) **YEARS COVERED BY REPORT.**—The report shall provide the information required in the report, shown on a fiscal year basis, for each of fiscal years 1989 through 1998.

### SEC. 552. REPORT ON PROCESS FOR SELECTION OF MEMBERS FOR SERVICE ON COURTS-MARTIAL.

(a) **REPORT REQUIRED.**—Not later than April 15, 1999, the Secretary of Defense shall submit to Congress a report on the method of selection of members of the Armed Forces to serve on courts-martial.

(b) **CONSIDERATION OF ALTERNATIVES.**—In preparing the report, the Secretary shall examine alternatives, including random selection, to the current system of selection of members of courts-martial by the convening authority. Any alternative examined by the Secretary shall be consistent with the provisions relating to service on courts-martial specified in section 825(d) of title 10, United States Code (article 25(d) of the Uniform Code of Military Justice). The Secretary shall include in the report the Secretary's evaluation of each alternative examined.

(c) **VIEWS OF CODE COMMITTEE.**—In preparing the report under subsection (a), the Secretary shall obtain the views of the members of the committee referred to in section 946 of such title (known as the "Code Committee").

### SEC. 553. REPORT ON PRISONERS TRANSFERRED FROM UNITED STATES DISCIPLINARY BARRACKS, FORT LEAVENWORTH, KANSAS, TO FEDERAL BUREAU OF PRISONS.

(a) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report, to be prepared by the General Counsel of the Department of Defense, concerning the decision of the Secretary of the Army in 1994 to transfer approximately 500 prisoners from the United States Disciplinary Barracks, Fort Leavenworth, Kansas, to the Federal Bureau of Prisons.

(b) **MATTERS TO BE INCLUDED.**—The Secretary shall include in the report the following:

(1) A description of the basis for the selection of prisoners to be transferred, particularly in light of the fact that many of the prisoners transferred are minimum or medium security prisoners, who are considered to have the best chance for rehabilitation, and whether the transfer of those prisoners indicates a change in Department of Defense policy regarding the rehabilitation of military prisoners.

(2) A comparison of the historical recidivism rates of prisoners released from the United States Disciplinary Barracks and the Federal Bureau of Prisons, together with a description of any plans of the Army to track the parole and recidivism rates of prisoners transferred to the Federal Bureau of Prisons and whether it has tracked those factors for previous transferes.

(3) A description of the projected future flow of prisoners into the new United States Disciplinary Barracks being constructed at Fort Leavenworth, Kansas, and whether the Secretary of the Army plans to automatically send new prisoners to the Federal Bureau of Prisons without serving at the United States Disciplinary Barracks if that Barracks is at capacity and whether the Memorandum of Understanding between the Federal Bureau of Prisons and the Army covers that possibility.

(4) A description of the cost of incarcerating a prisoner in the Federal Bureau of Prisons compared to the United States Disciplinary Barracks and the assessment of the Secretary as to the extent to which the transfer of prisoners to the Federal Bureau of Prisons by the Secretary of the Army is made in order to shift a budgetary burden.

(c) MONITORING.—During fiscal years 1999 through 2003, the Secretary of the Army shall track the parole and recidivism rates of prisoners transferred from the United States Disciplinary Barracks, Fort Leavenworth, Kansas, to the Federal Bureau of Prisons.

**SEC. 554. REVIEW AND REPORT REGARDING THE DISTRIBUTION OF NATIONAL GUARD FULL-TIME SUPPORT AMONG THE STATES.**

(a) REQUIREMENT FOR REVIEW.—The Chief of the National Guard Bureau shall review the process used for allocating and distributing all categories of full-time support personnel among the States for the National Guard of the States.

(b) PURPOSE OF REVIEW.—The purpose of the review is to determine whether that allocation and distribution process provides for adequately meeting the full-time support personnel requirements of the National Guard in the case of those States that have fewer than 16 National Guard units categorized in readiness tiers I, II, and III.

(c) MATTERS TO BE REVIEWED.—The matters reviewed shall include the following:

(1) The factors considered for the process of determining the distribution among the States of full-time support personnel, including the weights assigned to those factors.

(2) The extent to which that process results in full-time support personnel levels for the units of the States described in subsection (b) that are at the levels necessary to optimize the preparedness of those units to meet the mission requirements applicable to those units.



(3) The effects that full-time support personnel at levels determined under that process will have on the National Guard of those States in the future, including the effects on all categories of full-time support personnel, and unit readiness, recruitment, and continued use of existing National Guard armories and other facilities.

(d) REPORT.—Not later than March 15, 1999, the Chief of the National Guard Bureau shall submit to the Secretary of Defense a report on the results of the review. Not later than April 30, 1999, the Secretary shall transmit the report, and the Secretary's evaluation of and comments on the report, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

## **Subtitle G—Other Matters**

### **SEC. 561. TWO-YEAR EXTENSION OF CERTAIN FORCE DRAWDOWN TRANSITION AUTHORITIES RELATING TO PERSONNEL MANAGEMENT AND BENEFITS.**

(a) EARLY RETIREMENT AUTHORITY FOR ACTIVE FORCE MEMBERS.—Section 4403(i) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1293 note) is amended by striking out “October 1, 1999” and inserting in lieu thereof “October 1, 2001”.

(b) SSB AND VSI.—Sections 1174a(h) and 1175(d)(3) of title 10, United States Code, are amended by striking out “September 30, 1999” and inserting in lieu thereof “September 30, 2001”.

(c) SELECTIVE EARLY RETIREMENT BOARDS.—Section 638a(a) of such title is amended by striking out “during the nine-year period beginning on October 1, 1990” and inserting in lieu thereof “during the period beginning on October 1, 1990, and ending on September 30, 2001”.

(d) TIME-IN-GRADE REQUIREMENT FOR RETENTION OF GRADE UPON VOLUNTARY RETIREMENT.—Section 1370(a)(2)(A) of such title is amended by striking out “during the nine-year period beginning on October 1, 1990” and inserting in lieu thereof “during the period beginning on October 1, 1990, and ending on September 30, 2001”.

(e) MINIMUM COMMISSIONED SERVICE FOR VOLUNTARY RETIREMENT AS AN OFFICER.—Sections 3911(b), 6323(a)(2), and 8911(b) of such title are amended by striking out “during the nine-year period beginning on October 1, 1990” and inserting in lieu thereof “during the period beginning on October 1, 1990, and ending on September 30, 2001”.

(f) TRAVEL, TRANSPORTATION, AND STORAGE BENEFITS.—Sections 404(c)(1)(C), 404(f)(2)(B)(v), 406(a)(2)(B)(v), and 406(g)(1)(C) of title 37, United States Code, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (37 U.S.C. 406 note) are amended by striking out “during the nine-year period beginning on October 1, 1990” and inserting in lieu thereof “during the period beginning on October 1, 1990, and ending on September 30, 2001”.

(g) EDUCATIONAL LEAVE FOR PUBLIC AND COMMUNITY SERVICE.—Section 4463(f) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143a note) is amended by striking out “September 30, 1999” and inserting in lieu thereof “September 30, 2001”.

(h) TRANSITIONAL HEALTH BENEFITS.—Section 1145 of title 10, United States Code, is amended—

(1) in subsections (a)(1) and (c)(1), by striking out “during the nine-year period beginning on October 1, 1990” and inserting in lieu thereof “during the period beginning on October 1, 1990, and ending on September 30, 2001”; and

(2) in subsection (e), by striking out “during the five-year period beginning on October 1, 1994” and inserting in lieu thereof “during the period beginning on October 1, 1994, and ending on September 30, 2001”.

(i) TRANSITIONAL COMMISSARY AND EXCHANGE BENEFITS.—Section 1146 of such title is amended—

(1) by striking out “during the nine-year period beginning on October 1, 1990” and inserting in lieu thereof “during the period beginning on October 1, 1990, and ending on September 30, 2001”; and

(2) by striking out “during the five-year period beginning on October 1, 1994” and inserting in lieu thereof “during the period beginning on October 1, 1994, and ending on September 30, 2001”.

(j) TRANSITIONAL USE OF MILITARY HOUSING.—Section 1147(a) of such title is amended—

(1) in paragraph (1), by striking out “during the nine-year period beginning on October 1, 1990” and inserting in lieu thereof “during the period beginning on October 1, 1990, and ending on September 30, 2001”; and

(2) in paragraph (2), by striking out “during the five-year period beginning on October 1, 1994” and inserting in lieu thereof “during the period beginning on October 1, 1994, and ending on September 30, 2001”.

(k) CONTINUED ENROLLMENT OF DEPENDENTS IN DEFENSE DEPENDENTS’ EDUCATION SYSTEM.—Section 1407(c)(1) of the Defense Dependents’ Education Act of 1978 (20 U.S.C. 926(c)(1)) is amended by striking out “during the nine-year period beginning on October 1, 1990” and inserting in lieu thereof “during the period beginning on October 1, 1990, and ending on September 30, 2001”.

(l) FORCE REDUCTION TRANSITION PERIOD DEFINITION.—Section 4411 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended by striking out “September 30, 1999” and inserting in lieu thereof “September 30, 2001”.

(m) TEMPORARY SPECIAL AUTHORITY FOR FORCE REDUCTION PERIOD RETIREMENTS.—Section 4416(b)(1) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended by striking out “October 1, 1999” and inserting in lieu thereof “October 1, 2001”.

(n) RETIRED PAY FOR NON-REGULAR SERVICE.—(1) Section 12731(f) of title 10, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “September 30, 2001”.

(2) Section 12731a of such title is amended in subsections (a)(1)(B) and (b) by striking out “October 1, 1999” and inserting in lieu thereof “October 1, 2001”.

(o) REDUCTION OF TIME-IN-GRADE REQUIREMENT FOR RETENTION OF GRADE UPON VOLUNTARY RETIREMENT.—Section 1370(d) of such title is amended by adding at the end the following new paragraph:

“(5) The Secretary of Defense may authorize the Secretary of a military department to reduce the 3-year period required by paragraph (3)(A) to a period not less than 2 years in the case of retirements effective during the period beginning on the date of the enactment of this paragraph and ending on September 30, 2001. The number of reserve commissioned officers of an armed force in the same grade for whom a reduction is made during any fiscal year in the period of service-in-grade otherwise required under this paragraph may not exceed the number equal to 2 percent of the strength authorized for that fiscal year for reserve commissioned officers of that armed force in an active status in that grade.”.

(p) **AFFILIATION WITH GUARD AND RESERVE UNITS; WAIVER OF CERTAIN LIMITATIONS.**—Section 1150(a) of such title is amended by striking out “during the nine-year period beginning on October 1, 1990” and inserting in lieu thereof “during the period beginning on October 1, 1990, and ending on September 30, 2001”.

(q) **RESERVE MONTGOMERY GI BILL.**—Section 16133(b)(1)(B) of such title is amended by striking out “September 30, 1999” and inserting in lieu thereof “September 30, 2001”.

**SEC. 562. LEAVE WITHOUT PAY FOR SUSPENDED ACADEMY CADETS AND MIDSHIPMEN.**

(a) **AUTHORITY.**—Section 702 of title 10, United States Code, is amended—

(1) by designating the second sentence of subsection (b) as subsection (d);

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

“(b) **INVOLUNTARY LEAVE WITHOUT PAY FOR SUSPENDED ACADEMY CADETS AND MIDSHIPMEN.**—(1) Under regulations prescribed under subsection (d), the Secretary concerned may place an academy cadet or midshipman on involuntary leave for any period during which the Superintendent of the Academy at which the cadet or midshipman is admitted has suspended the cadet or midshipman from duty at the Academy—

“(A) pending separation from the Academy;

“(B) pending return to the Academy to repeat an academic semester or year; or

“(C) for other good cause.

“(2) A cadet or midshipman placed on involuntary leave under paragraph (1) is not entitled to any pay under section 230(c) of title 37 for the period of the leave.

“(3) Return of an academy cadet or midshipman to a pay status at the Academy concerned from involuntary leave status under paragraph (1) does not restore any entitlement of the cadet or midshipman to pay for the period of the involuntary leave.”.

(b) **DEFINITION.**—Such section is further amended—

(1) in subsection (c) (as redesignated by subsection (a)(2)), by striking out “cadets at” and all that follows through “Naval Academy,” and inserting in lieu thereof “academy cadets or midshipmen”; and

(2) by adding at the end the following new subsection:

“(e) **DEFINITION.**—In this section, the term ‘academy cadet or midshipman’ means—

“(1) a cadet of the United States Military Academy;

- “(2) a midshipman of the United States Naval Academy;
- “(3) a cadet of the United States Air Force Academy; or
- “(4) a cadet of the United States Coast Guard Academy.”.
- (c) SUBSECTION HEADINGS.—Such section is further amended—
  - (1) in subsection (a), by inserting “GRADUATION LEAVE.—” after “(a)”;
  - (2) in subsection (c) (as redesignated by subsection (a)(2)), by inserting “INAPPLICABLE LEAVE PROVISIONS.—” after “(c)”;
  - and
  - (3) in subsection (d) (as designated by subsection (a)(1)), by inserting “REGULATIONS.—” after “(d)”.

**SEC. 563. CONTINUED ELIGIBILITY UNDER VOLUNTARY SEPARATION INCENTIVE PROGRAM FOR MEMBERS WHO INVOLUNTARILY LOSE MEMBERSHIP IN A RESERVE COMPONENT.**

(a) PERIOD OF ELIGIBILITY.—Subsection (a) of section 1175 of title 10, United States Code, is amended—

- (1) by inserting “(1)” after “(a)”;
- (2) by striking out “, for the period of time the member serves in a reserve component”; and
- (3) by adding at the end the following:

“(2)(A) Except as provided in subparagraph (B), a financial incentive provided a member under this section shall be paid for the period equal to twice the number of years of service of the member, computed as provided in subsection (e)(5).

“(B) If, before the expiration of the period otherwise applicable under subparagraph (A) to a member receiving a financial incentive under this section, the member is separated from a reserve component or is transferred to the Retired Reserve, the period for payment of a financial incentive to the member under this section shall terminate on the date of the separation or transfer unless—

“(i) the separation or transfer is required by reason of the age or number of years of service of the member;

“(ii) the separation or transfer is required by reason of the failure of selection for promotion or the medical disqualification of the member, except in a case in which the Secretary of Defense or the Secretary of Transportation determines that the basis for the separation or transfer is a result of a deliberate action taken by the member with the intent to avoid retention in the Ready Reserve or Standby Reserve; or

“(iii) in the case of a separation, the member is separated from the reserve component for appointment or enlistment in or transfer to another reserve component of an armed force for service in the Ready Reserve or Standby Reserve of that armed force.”.

(b) REPEAL OF SUPERSEDED PROVISION.—Subsection (e)(1) of such section is amended by striking out the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to any person provided a voluntary separation incentive under section 1175 of title 10, United States Code (whether before, on, or after the date of the enactment of this Act).

**SEC. 564. REINSTATEMENT OF DEFINITION OF FINANCIAL INSTITUTION IN AUTHORITIES FOR REIMBURSEMENT OF DEFENSE PERSONNEL FOR GOVERNMENT ERRORS IN DIRECT DEPOSIT OF PAY.**

(a) **MEMBERS OF THE ARMED FORCES.**—Paragraph (1) of section 1053(d) of title 10, United States Code, is amended to read as follows:

“(1) The term ‘financial institution’ means a bank, savings and loan association, or similar institution or a credit union chartered by the United States or a State.”.

(b) **CIVILIAN PERSONNEL.**—Paragraph (1) of section 1594(d) of such title is amended to read as follows:

“(1) The term ‘financial institution’ means a bank, savings and loan association, or similar institution or a credit union chartered by the United States or a State.”.

**SEC. 565. INCREASE IN MAXIMUM AMOUNT FOR COLLEGE FUND PROGRAM.**

(a) **INCREASE IN MAXIMUM RATE FOR ACTIVE COMPONENT MONTGOMERY GI BILL SUPPLEMENT.**—Section 3015(d) of title 38, United States Code, is amended—

(1) by inserting “, at the time the individual first becomes a member of the Armed Forces,” after “Secretary of Defense, may”; and

(2) by striking out “\$400” and all that follows through “that date” and inserting in lieu thereof “\$950 per month”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on October 1, 1998, and shall apply with respect to individuals who first become members of the Armed Forces on or after that date.

38 USC 3015  
note.

**SEC. 566. CENTRAL IDENTIFICATION LABORATORY, HAWAII.**

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the Central Identification Laboratory, Hawaii, of the Department of the Army is an important element of the Department of Defense and is critical to the full accounting of members of the Armed Forces who have been classified as POW/MIAs or are otherwise unaccounted for.

(b) **REQUIRED STAFFING LEVEL.**—The Secretary of Defense shall provide sufficient personnel to fill all authorized personnel positions of the Central Identification Laboratory, Hawaii, Department of the Army. Those personnel shall be drawn from members of the Army, Navy, Air Force, and Marine Corps and from civilian personnel, as appropriate, considering the proportion of POW/MIAs from each service.

(c) **JOINT MANNING PLAN.**—The Secretary of Defense shall develop and implement, not later than March 31, 2000, a joint manning plan to ensure the appropriate participation of the four services in the staffing of the Central Identification Laboratory, Hawaii, as required by subsection (b).

(d) **LIMITATION ON REDUCTIONS.**—The Secretary of the Army may not carry out any personnel reductions (in authorized or assigned personnel) at the Central Identification Laboratory, Hawaii, until the joint manning plan required by subsection (c) is implemented.

**SEC. 567. MILITARY FUNERAL HONORS FOR VETERANS.**

(a) CONFERENCE ON PRACTICES CONCERNING MILITARY HONORS AT FUNERALS FOR VETERANS.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall convene and preside over a conference, to be completed not later than December 31, 1998, for the purpose of determining means of improving and increasing the availability of military funeral honors for veterans. The Secretary of Veterans Affairs shall also participate in the conference.

(2) The Secretaries shall invite and encourage the participation at the conference of appropriate representatives of veterans service organizations.

(3) The conference shall perform the following:

(A) Review current policies and practices of the military departments and the Department of Veterans Affairs relating to the provision of military funeral honors for veterans.

(B) Consider alternative methods for providing military funeral honors for veterans and develop new strategies for providing those honors.

(C) Determine what resources may be available outside the Department of Defense that could be used to provide military funeral honors for veterans.

(D) Analyze the costs associated with providing military funeral honors for veterans, including the costs associated with using personnel and other resources for that purpose.

(E) Assess trends in the rate of death of veterans.

(F) Propose, consider, and determine means of improving and increasing the availability of military funeral honors for veterans.

Reports.

(4) Not later than March 31, 1999, the Secretary of Defense shall submit to Congress a report on the conference. The report shall set forth any modifications to Department of Defense directives on military funeral honors adopted as a result of the conference and include any recommendations for legislation that the Secretary considers appropriate as a result of the conference.

(b) HONOR GUARD DETAILS AT FUNERALS OF VETERANS.—(1) Chapter 75 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 1491. Honor guard details at funerals of veterans**

“(a) AVAILABILITY.—The Secretary of a military department shall, upon request, provide an honor guard detail (or ensure that an honor guard detail is provided) for the funeral of any veteran that occurs after December 31, 1999.

“(b) COMPOSITION OF HONOR GUARD DETAILS.—The Secretary of each military department shall ensure that an honor guard detail for the funeral of a veteran consists of not less than three persons and (unless a bugler is part of the detail) has the capability to play a recorded version of Taps.

Regulations.

“(c) PERSONS FORMING HONOR GUARDS.—An honor guard detail may consist of members of the armed forces or members of veterans organizations or other organizations approved for purposes of this section under regulations prescribed by the Secretary of Defense. The Secretary of a military department may provide transportation, or reimbursement for transportation, and expenses for a person who participates in an honor guard detail under this section and

is not a member of the armed forces or an employee of the United States.

“(d) REGULATIONS.—The Secretary of Defense shall by regulation establish a system for selection of units of the armed forces and other organizations to provide honor guard details. The system shall place an emphasis on balancing the funeral detail workload among the units and organizations providing honor guard details in an equitable manner as they are able to respond to requests for such details in terms of geographic proximity and available resources. The Secretary shall provide in such regulations that the armed force in which a veteran served shall not be considered to be a factor when selecting the military unit or other organization to provide an honor guard detail for the funeral of the veteran.

“(e) ANNUAL REPORT.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report not later than January 31 of each year beginning with 2001 and ending with 2005 on the experience of the Department of Defense under this section. Each such report shall provide data on the number of funerals supported under this section, the cost for that support, shown by manpower and other cost factors, and the number and costs of funerals supported by each participating organization. The data in the report shall be presented in a standard format, regardless of military department or other organization.

“(f) VETERAN DEFINED.—In this section, the term ‘veteran’ has the meaning given that term in section 101(2) of title 38.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1491. Honor guard details at funerals of veterans.”.

(c) TREATMENT OF PERFORMANCE OF HONOR GUARD FUNCTIONS BY RESERVES.—(1) Chapter 1215 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 12552. Funeral honor guard functions: prohibition of treatment as drill or training**

“Performance by a Reserve of honor guard functions at the funeral of a veteran may not be considered to be a period of drill or training otherwise required.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“12552. Funeral honor guard functions: prohibition of treatment as drill or training.”.

(d) REPEAL OF LIMITATION ON AVAILABILITY OF FUNDS FOR HONOR GUARD FUNCTIONS BY NATIONAL GUARD.—Section 114 of title 32, United States Code, is amended—

(1) by striking out “(a)”; and

(2) by striking out subsection (b).

(e) VETERANS SERVICE ORGANIZATION DEFINED.—In this section, the term “veterans service organization” means any organization recognized by the Secretary of Veterans Affairs under section 5902 of title 38, United States Code.

**SEC. 568. STATUS IN THE NAVAL RESERVE OF CADETS AT THE MERCHANT MARINE ACADEMY.**

Section 1303(c) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295(c)), is amended—

46 USC app.  
1295b.

- (1) by inserting “(1)” after “(c)”;
- (2) by striking out “may” and inserting in lieu thereof “shall”; and

(3) by adding at the end the following:

“(2) The Secretary of the Navy shall provide for cadets of the Academy who are midshipmen in the United States Naval Reserve to be issued an identification card (referred to as a ‘military ID card’) and to be entitled to all rights and privileges in accordance with the same eligibility criteria as apply to other members of the Ready Reserve of the reserve components of the Armed Forces.

“(3) The Secretary of the Navy shall carry out paragraphs (1) and (2) in coordination with the Secretary.”.

**SEC. 569. REPEAL OF RESTRICTION ON CIVILIAN EMPLOYMENT OF ENLISTED MEMBERS.**

(a) REPEAL.—Section 974 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 49 of such title is amended by striking out the item relating to section 974.

**SEC. 570. TRANSITIONAL COMPENSATION FOR ABUSED DEPENDENT CHILDREN NOT RESIDING WITH THE SPOUSE OR FORMER SPOUSE OF A MEMBER CONVICTED OF DEPENDENT ABUSE.**

(a) ENTITLEMENT NOT CONDITIONED ON FORFEITURE OF SPOUSAL COMPENSATION.—Subsection (d) of section 1059 of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out “(except as otherwise provided in this subsection)”;

(B) by inserting before the period the following: “, including an amount (determined under subsection (f)(2)) for each, if any, dependent child of the individual described in subsection (b) who resides in the same household as that spouse or former spouse”;

(2) in paragraph (2)—

(A) by striking out “(but for subsection (g)) would be eligible” and inserting in lieu thereof “is or, but for subsection (g), would be eligible”; and

(B) by striking out “such compensation” and inserting in lieu thereof “compensation under this section”; and

(3) in paragraph (4), by striking out “For purposes of paragraphs (2) and (3)” and inserting in lieu thereof “For purposes of this subsection”.

(b) AMOUNT OF PAYMENT.—Subsection (f)(2) of such section is amended by striking out “has custody of a dependent child or children of the member” and inserting in lieu thereof “has custody of a dependent child of the member who resides in the same household as that spouse or former spouse”.

(c) PROSPECTIVE APPLICABILITY.—No benefits shall accrue by reason of the amendments made by this section for any month that begins before the date of the enactment of this Act.



**SEC. 571. PILOT PROGRAM FOR TREATING GED AND HOME SCHOOL DIPLOMA RECIPIENTS AS HIGH SCHOOL GRADUATES FOR DETERMINATIONS OF ELIGIBILITY FOR ENLISTMENT IN THE ARMED FORCES.** 10 USC 520 note.

(a) **PROGRAM REQUIRED.**—The Secretary of Defense shall establish a pilot program to assess whether the Armed Forces could better meet recruiting requirements by treating GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces. The Secretary of each military department shall administer the pilot program for the Armed Force or armed forces under the jurisdiction of that Secretary.

(b) **PERSONS ELIGIBLE UNDER THE PILOT PROGRAM AS HIGH SCHOOL GRADUATES.**—Under the pilot program, a person shall be treated as having graduated from high school with a high school diploma for the purpose described in subsection (a) if—

(1) the person has completed a general education development program while participating in the National Guard Challenge Program under section 509 of title 32, United States Code, and is a GED recipient; or

(2) the person is a home school diploma recipient and provides a transcript demonstrating completion of high school to the military department involved under the pilot program.

(c) **GED AND HOME SCHOOL DIPLOMA RECIPIENTS.**—For the purposes of this section—

(1) a person is a GED recipient if the person, after completing a general education development program, has obtained certification of high school equivalency by meeting State requirements and passing a State approved exam that is administered for the purpose of providing an appraisal of the person's achievement or performance in the broad subject matter areas usually required for high school graduates; and

(2) a person is a home school diploma recipient if the person has received a diploma for completing a program of education through the high school level at a home school, without regard to whether the home school is treated as a private school under the law of the State in which located.

(d) **ANNUAL LIMIT ON NUMBER.**—Not more than 1,250 GED recipients and home school diploma recipients enlisted by an armed force during a fiscal year may be treated under the pilot program as having graduated from high school with a high school diploma.

(e) **DURATION OF PILOT PROGRAM.**—The pilot program shall be in effect during the period beginning on October 1, 1998, and ending on September 30, 2003.

(f) **REPORT.**—Not later than February 1, 2004, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the pilot program. The report shall include the following, set forth separately for GED recipients and home school diploma recipients:

(1) The assessment of the Secretary of Defense, and any assessment of any of the Secretaries of the military departments, regarding the value of, and any necessity for, authority to treat GED recipients and home school diploma recipients as having graduated from high school with a high school

diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces.

(2) A comparison (shown by armed force and by each fiscal year of the pilot program) of the performance of the persons who enlisted during the fiscal year as GED or home school diploma recipients treated under the pilot program as having graduated from high school with a high school diploma with the performance of the persons who enlisted in that armed force during the same fiscal year after having graduated from high school with a high school diploma, with respect to the following:

(A) Attrition.

(B) Discipline.

(C) Adaptability to military life.

(D) Aptitude for mastering the skills necessary for technical specialties.

(E) Reenlistment rates.

(g) STATE DEFINED.—For purposes of this section, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories of the United States.

**SEC. 572. SENSE OF CONGRESS CONCERNING NEW PARENT SUPPORT PROGRAM AND MILITARY FAMILIES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the New Parent Support Program that was begun as a pilot program of the Marine Corps at Camp Pendleton, California, has been an effective tool in curbing family violence within the military community;

(2) such program is a model for future New Parent Support Programs throughout the Marine Corps, Navy, Army, and Air Force; and

(3) in light of the pressures and strains placed upon military families and the benefits of the New Parent Support Program in helping “at-risk” families, the Department of Defense should seek ways to ensure that in future fiscal years funds are made available for New Parent Support Programs for the Army, Navy, Air Force, and Marine Corps in amounts sufficient to meet requirements for those programs.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the New Parent Support Program of the Department of Defense. The Secretary shall include in the report the following:

(1) A description of how the Army, Navy, Air Force, and Marine Corps are each implementing a New Parent Support Program and how each such program is organized.

(2) A description of how the implementation of programs for the Army, Navy, and Air Force compare to the fully implemented Marine Corps program.

(3) The number of installations that the four Armed Forces have each scheduled to receive support for the New Parent Support Program.

(4) The number of installations delayed in providing the program.

(5) The number of programs terminated.

(6) The number of programs with reduced support.

(7) The funding provided for those programs for each of the four Armed Forces for each of fiscal years 1994 through 1999 and the amount projected to be provided for those programs for fiscal year 2000 and, if the amount provided for any of those programs for any such year is less than the amount needed to fully fund that program for that year, an explanation of the reasons for the shortfall.

**SEC. 573. ADVANCEMENT OF BENJAMIN O. DAVIS, JUNIOR, TO GRADE OF GENERAL ON THE RETIRED LIST OF THE AIR FORCE.**

(a) **AUTHORITY.**—The President is authorized to advance Lieutenant General Benjamin O. Davis, Junior, United States Air Force, retired, to the grade of general on the retired list of the Air Force. President.

(b) **ADDITIONAL BENEFITS NOT TO ACCRUE.**—An advancement of Benjamin O. Davis, Junior, to the grade of general on the retired list of the Air Force under subsection (a) shall not increase or change the compensation or benefits from the United States to which any person is now or may in the future be entitled based upon the military service of the said Benjamin O. Davis, Junior.

**SEC. 574. SENSE OF THE HOUSE OF REPRESENTATIVES CONCERNING ADHERENCE BY CIVILIANS IN MILITARY CHAIN OF COMMAND TO THE STANDARD OF EXEMPLARY CONDUCT REQUIRED OF COMMANDING OFFICERS AND OTHERS IN AUTHORITY IN THE ARMED FORCES.**

It is the sense of the House of Representatives that civilians in the military chain of command (as provided in section 162(b) of title 10, United States Code) should (in the same manner as is required by law of commanding officers and others in authority in the Armed Forces)—

(1) show in themselves a good example of virtue, honor, and patriotism and subordinate themselves to those ideals;

(2) be vigilant in inspecting the conduct of all persons who are placed under their command;

(3) guard against and put an end to all dissolute and immoral practices and correct, according to the laws and regulations of the Armed Forces, all persons who are guilty of them; and

(4) take all necessary and proper measures, under the laws, regulations, and customs of the Armed Forces, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

## **TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS**

### **Subtitle A—Pay and Allowances**

Sec. 601. Increase in basic pay for fiscal year 1999.

Sec. 602. Rate of pay for cadets and midshipmen at the service academies.

Sec. 603. Basic allowance for housing outside the United States.

Sec. 604. Basic allowance for subsistence for reserves.

### **Subtitle B—Bonuses and Special and Incentive Pays**

Sec. 611. Three-month extension of certain bonuses and special pay authorities for reserve forces.

- Sec. 612. Three-month extension of certain bonuses and special pay authorities for nurse officer candidates, registered nurses, and nurse anesthetists.
- Sec. 613. Three-month extension of authorities relating to payment of other bonuses and special pays.
- Sec. 614. Increased hazardous duty pay for aerial flight crewmembers in certain pay grades.
- Sec. 615. Aviation career incentive pay and aviation officer retention bonus.
- Sec. 616. Diving duty special pay for divers having diving duty as a nonprimary duty.
- Sec. 617. Hardship duty pay.
- Sec. 618. Selective reenlistment bonus eligibility for Reserve members performing active Guard and Reserve duty.
- Sec. 619. Repeal of 10 percent limitation on certain selective reenlistment bonuses.
- Sec. 620. Increase in maximum amount authorized for Army enlistment bonus.
- Sec. 621. Equitable treatment of Reserves eligible for special pay for duty subject to hostile fire or imminent danger.
- Sec. 622. Retention incentives initiative for critically short military occupational specialties.

#### **Subtitle C—Travel and Transportation Allowances**

- Sec. 631. Payments for movements of household goods arranged by members.
- Sec. 632. Exception to maximum weight allowance for baggage and household effects.
- Sec. 633. Travel and transportation allowances for travel performed by members in connection with rest and recuperative leave from overseas stations.
- Sec. 634. Storage of baggage of certain dependents.
- Sec. 635. Commercial travel of Reserves at Federal supply schedule rates for attendance at inactive-duty training assemblies.

#### **Subtitle D—Retired Pay, Survivor Benefits, and Related Matters**

- Sec. 641. Paid-up coverage under Survivor Benefit Plan.
- Sec. 642. Survivor Benefit Plan open enrollment period.
- Sec. 643. Effective date of court-required former spouse Survivor Benefit Plan coverage effectuated through elections and deemed elections.
- Sec. 644. Presentation of United States flag to members of the Armed Forces upon retirement.
- Sec. 645. Recovery, care, and disposition of remains of medically retired member who dies during hospitalization that begins while on active duty.
- Sec. 646. Revision to computation of retired pay for certain members.
- Sec. 647. Elimination of backlog of unpaid retired pay.

#### **Subtitle E—Other Matters**

- Sec. 651. Definition of possessions of the United States for pay and allowances purposes.
- Sec. 652. Accounting of advance payments.
- Sec. 653. Reimbursement of rental vehicle costs when motor vehicle transported at Government expense is late.
- Sec. 654. Education loan repayment program for health professions officers serving in Selected Reserve.
- Sec. 655. Federal employees' compensation coverage for students participating in certain officer candidate programs.
- Sec. 656. Relationship of enlistment bonuses to eligibility to receive Army college fund supplement under Montgomery GI Bill Educational Assistance Program.
- Sec. 657. Authority to provide financial assistance for education of certain defense dependents overseas.
- Sec. 658. Clarifications concerning payments to certain persons captured or interned by North Vietnam.

### **Subtitle A—Pay and Allowances**

37 USC 1009  
note.

#### **SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 1999.**

(a) **WAIVER OF SECTION 1009 ADJUSTMENT.**—Except as provided in subsection (b), the adjustment to become effective during fiscal year 1999 required by section 1009 of title 37, United States Code, in the rate of monthly basic pay authorized members of the uniformed services by section 203(a) of such title shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 1999, the rates of basic pay of members of the uniformed services shall be increased by the greater of—

(1) 3.6 percent; or

(2) the percentage increase determined under subsection (c) of section 1009 of title 37, United States Code, by which the monthly basic pay of members would be adjusted under subsection (a) of that section on that date in the absence of subsection (a) of this section.

**SEC. 602. RATE OF PAY FOR CADETS AND MIDSHIPMEN AT THE SERVICE ACADEMIES.**

(a) INCREASED RATE.—Section 203(c) of title 37, United States Code, is amended by striking out “\$558.04” and inserting in lieu thereof “\$600.00”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1999. 37 USC 203 note.

**SEC. 603. BASIC ALLOWANCE FOR HOUSING OUTSIDE THE UNITED STATES.**

(a) PAYMENT OF CERTAIN EXPENSES RELATED TO OVERSEAS HOUSING.—Section 403(c) of title 37, United States Code, is amended by adding at the end the following new paragraph:

“(3)(A) In the case of a member of the uniformed services authorized to receive an allowance under paragraph (1), the Secretary concerned may make a lump-sum payment to the member for required deposits and advance rent, and for expenses relating thereto, that are—

“(i) incurred by the member in occupying private housing outside of the United States; and

“(ii) authorized or approved under regulations prescribed by the Secretary concerned.

“(B) Expenses for which a member may be reimbursed under this paragraph may include losses relating to housing that are sustained by the member as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located.

“(C) The Secretary concerned shall recoup the full amount of any deposit or advance rent payments made by the Secretary under subparagraph (A), including any gain resulting from currency fluctuations between the time of payment and the time of recoupment.”.

(b) CONFORMING AMENDMENT.—Section 405 of title 37, United States Code, is amended by striking out subsection (c).

(c) RETROACTIVE APPLICATION.—The reimbursement authority provided by section 403(c)(3)(B) of title 37, United States Code, as added by subsection (a), applies with respect to losses relating to housing that are sustained, on or after July 1, 1997, by a member of the uniformed services as a result of fluctuations in the relative value of the currencies of the United States and the foreign country in which the housing is located. 37 USC 403 note.

**SEC. 604. BASIC ALLOWANCE FOR SUBSISTENCE FOR RESERVES.**

(a) IN GENERAL.—Section 402 of title 37, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

“(e) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of this title, an enlisted member of a reserve component may receive, at the discretion of the Secretary concerned, rations in kind, or a part thereof, when the member’s instruction or duty periods, as described in section 206(a) of this title, total at least 8 hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.”.

(b) APPLICATION DURING TRANSITIONAL PERIOD.—Section 602(d)(1) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 37 U.S.C. 402 note) is amended by adding at the end the following new subparagraph:

“(D) SPECIAL RULE FOR CERTAIN ENLISTED RESERVE MEMBERS.—Unless entitled to basic pay under section 204 of title 37, United States Code, an enlisted member of a reserve component (as defined in section 101(24) of such title) may receive, at the discretion of the Secretary concerned (as defined in section 101(5) of such title), rations in kind, or a part thereof, when the member’s instruction or duty periods (as described in section 206(a) of such title) total at least 8 hours in a calendar day. The Secretary concerned may provide an enlisted member who could be provided rations in kind under the preceding sentence with a commutation when rations in kind are not available.”.

## **Subtitle B—Bonuses and Special and Incentive Pays**

### **SEC. 611. THREE-MONTH EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.**

(a) SPECIAL PAY FOR HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of title 37, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of title 37, United States Code, as redesignated by section 622, is amended

by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking out “October 1, 1999” and inserting in lieu thereof “January 1, 2000”.

**SEC. 612. THREE-MONTH EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.**

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

**SEC. 613. THREE-MONTH EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.**

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out “September 30, 1999,” and inserting in lieu thereof “December 31, 1999,”.

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(c) ENLISTMENT BONUSES FOR MEMBERS WITH CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(d) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(e) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking out “September 30, 1999” and inserting in lieu thereof “December 31, 1999”.

(f) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking out “October 1, 1999” and inserting in lieu thereof “October 1, 1998, and the 15-month period beginning on that date and ending on December 31, 1999”.

**SEC. 614. INCREASED HAZARDOUS DUTY PAY FOR AERIAL FLIGHT CREWMEMBERS IN CERTAIN PAY GRADES.**

(a) RATES.—The table in section 301(b) of title 37, United States Code, is amended by striking out the items relating to pay grades E-4, E-5, E-6, E-7, E-8, and E-9, and inserting in lieu thereof the following:

“E-9 .....	240
E-8 .....	240
E-7 .....	240
E-6 .....	215
E-5 .....	190
E-4 .....	165”.

37 USC 301 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.

**SEC. 615. AVIATION CAREER INCENTIVE PAY AND AVIATION OFFICER RETENTION BONUS.**

(a) **DEFINITION OF AVIATION SERVICE.**—(1) Section 301a(a)(6) of title 37, United States Code, is amended—

(A) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively; and

(B) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

“(A) The term ‘aviation service’ means service performed by an officer (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.”.

(2) Section 301b(j) of such title is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

“(1) The term ‘aviation service’ means service performed by an officer (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.”.

(b) **AMOUNT OF INCENTIVE PAY.**—Subsection (b) of section 301a of such title is amended to read as follows:

“(b)(1) A member who satisfies the requirements described in subsection (a) is entitled to monthly incentive pay as follows:

“Years of aviation service (including flight training) as an officer:	Monthly rate
2 or less .....	\$125
Over 2 .....	\$156
Over 3 .....	\$188
Over 4 .....	\$206
Over 6 .....	\$650
Over 14 .....	\$840
Over 22 .....	\$585
Over 23 .....	\$495
Over 24 .....	\$385
Over 25 .....	\$250

“(2) An officer in a pay grade above O-6 is entitled, until the officer completes 25 years of aviation service, to be paid at the rates set forth in the table in paragraph (1), except that—

“(A) an officer in pay grade O-7 may not be paid at a rate greater than \$200 a month; and

“(B) an officer in pay grade O-8 or above may not be paid at a rate greater than \$206 a month.

“(3) For a warrant officer with over 22, 23, 24, or 25 years of aviation service who is qualified under subsection (a), the rate prescribed in the table in paragraph (1) for officers with over 14 years of aviation service shall continue to apply to the warrant officer.”.

(c) **REFERENCES TO AVIATION SERVICE.**—(1) Section 301a of such title is further amended—



(A) in subsection (a)(4)—

(i) by striking out “22 years of the officer’s service as an officer” and inserting in lieu thereof “22 years of aviation service of the officer”; and

(ii) by striking out “25 years of service as an officer (as computed under section 205 of this title)” and inserting in lieu thereof “25 years of aviation service”; and

(B) in subsection (d), by striking out “subsection (b)(1) or (2), as the case may be, for the performance of that duty by a member of corresponding years of aviation or officer service, as appropriate,” and inserting in lieu thereof “subsection (b) for the performance of that duty by a member with corresponding years of aviation service”.

(2) Section 301b(b)(5) of such title is amended by striking out “active duty” and inserting in lieu thereof “aviation service”.

(d) CONFORMING AMENDMENT.—Section 615 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1787) is repealed.

37 USC 301a and note.

**SEC. 616. DIVING DUTY SPECIAL PAY FOR DIVERS HAVING DIVING DUTY AS A NONPRIMARY DUTY.**

(a) ELIGIBILITY FOR MAINTAINING PROFICIENCY.—Section 304(a)(3) of title 37, United States Code, is amended to read as follows:

“(3) either—

“(A) actually performs diving duty while serving in an assignment for which diving is a primary duty; or

“(B) meets the requirements to maintain proficiency as described in paragraph (2) while serving in an assignment that includes diving duty other than as a primary duty.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.

37 USC 304 note.

**SEC. 617. HARDSHIP DUTY PAY.**

(a) DUTY FOR WHICH PAY AUTHORIZED.—Section 305 of title 37, United States Code, is amended—

(1) in subsection (a), by striking out “on duty at a location” and all that follows through the period at the end of the subsection and inserting in lieu thereof “performing duty in the United States or outside the United States that is designated by the Secretary of Defense as hardship duty.”;

(2) by striking out subsections (b) and (c);

(3) in subsection (d), by striking out “hardship duty location pay” and inserting in lieu thereof “hardship duty pay”; and

(4) by redesignating subsection (d) as subsection (b).

(b) CONFORMING AMENDMENT.—Section 907(d) of such title is amended by striking out “duty at a hardship duty location” and inserting in lieu thereof “hardship duty”.

(c) CLERICAL AMENDMENTS.—(1) The heading for section 305 of such title is amended to read as follows:

**“§ 305. Special pay: hardship duty pay”.**

(2) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

“305. Special pay: hardship duty pay.”.

**SEC. 618. SELECTIVE REENLISTMENT BONUS ELIGIBILITY FOR RESERVE MEMBERS PERFORMING ACTIVE GUARD AND RESERVE DUTY.**

Section 308(a)(1)(D) of title 37, United States Code, is amended to read as follows:

“(D) reenlists or voluntarily extends the member’s enlistment for a period of at least three years—

“(i) in a regular component of the service concerned;  
or

“(ii) in a reserve component of the service concerned, if the member is performing active Guard and Reserve duty (as defined in section 101(d)(6) of title 10).”.

**SEC. 619. REPEAL OF TEN PERCENT LIMITATION ON CERTAIN SELECTIVE REENLISTMENT BONUSES.**

Section 308(b) of title 37, United States Code, is amended—

(1) by striking out paragraph (2); and

(2) by striking out “(1)” after “(b)”.

**SEC. 620. INCREASE IN MAXIMUM AMOUNT AUTHORIZED FOR ARMY ENLISTMENT BONUS.**

Section 308f(a) of title 37, United States Code, is amended by striking out “\$4,000” and inserting in lieu thereof “\$6,000”.

**SEC. 621. EQUITABLE TREATMENT OF RESERVES ELIGIBLE FOR SPECIAL PAY FOR DUTY SUBJECT TO HOSTILE FIRE OR IMMINENT DANGER.**

Section 310(b) of title 37, United States Code, is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end the following new paragraph:

“(2) A member of a reserve component who is eligible for special pay under this section for a month shall receive the full amount authorized in subsection (a) for that month regardless of the number of days during that month on which the member satisfies the eligibility criteria specified in such subsection.”.

37 USC 301 note.

**SEC. 622. RETENTION INCENTIVES INITIATIVE FOR CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.**

(a) **REQUIREMENT FOR NEW INCENTIVES.**—The Secretary of Defense shall establish and provide for members of the Armed Forces qualified in critically short military occupational specialties a series of new incentives that the Secretary considers potentially effective for increasing the rates at which those members are retained in the Armed Forces for service in such specialties.

(b) **CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.**—For the purposes of this section, a military occupational specialty is a critically short military occupational specialty for an Armed Force if the number of members retained in that Armed Force in fiscal year 1998 for service in that specialty is less than 50 percent of the number of members of that Armed Force that were projected to be retained in that Armed Force for service in the specialty by the Secretary of the military department concerned as of October 1, 1997.

(c) **INCENTIVES.**—It is the sense of Congress that, among the new incentives established and provided under this section, the Secretary of Defense should include the following incentives:

(1) Family support and leave allowances.

(2) Increased special reenlistment or retention bonuses.

(3) Repayment of educational loans.

(4) Priority of selection for assignment to preferred permanent duty station or for extension at permanent duty station.

(5) Modified leave policies.

(6) Special consideration for Government housing or additional housing allowances.

(d) RELATIONSHIP TO OTHER INCENTIVES.—Incentives provided under this section are in addition to any special pay or other benefit that is authorized under any other provision of law.

(e) REPORTS.—(1) Not later than December 1, 1998, the Secretary of Defense shall submit to the congressional defense committees a report that identifies, for each of the Armed Forces, the critically short military occupational specialties to which incentives under this section are to apply.

(2) Not later than April 15, 1999, the Secretary of Defense shall submit to the congressional defense committees a report that specifies, for each of the Armed Forces, the incentives that are to be provided under this section.

## **Subtitle C—Travel and Transportation Allowances**

### **SEC. 631. PAYMENTS FOR MOVEMENTS OF HOUSEHOLD GOODS ARRANGED BY MEMBERS.**

(a) MONETARY ALLOWANCE AUTHORIZED.—Subsection (b)(1) of section 406 of title 37, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking out “, or reimbursement therefor,”; and

(B) by inserting after the second sentence the following new sentence: “Alternatively, the member may be paid reimbursement or a monetary allowance under subparagraph (F).”; and

(2) by adding at the end the following new subparagraph:

“(F) A member entitled to transportation of baggage and household effects under subparagraph (A) may, as an alternative to the provision of transportation, be paid reimbursement or, at the member’s request, a monetary allowance in advance for the cost of transportation of the baggage and household effects. The monetary allowance may be paid only if the amount of the allowance does not exceed the cost that would be incurred by the Government under subparagraph (A) for the transportation of the baggage and household effects. Appropriations available to the Department of Defense, the Department of Transportation, and the Department of Health and Human Services for providing transportation of baggage or household effects of members of the uniformed services shall be available to pay a reimbursement or monetary allowance under this subparagraph. The Secretary concerned may prescribe the manner in which the risk of liability for damage, destruction, or loss of baggage or household effects arranged, packed, crated, or loaded by a member is allocated among the member, the United States, and any contractor when a reimbursement or monetary allowance is elected under this subparagraph.”.

(b) REPEAL OF SUPERSEDED PROVISION.—(1) Such section is further amended—

(A) by striking out subsection (j); and

(B) by redesignating subsections (k), (l), and (m) as subsections (j), (k), and (l), respectively.

(2) Section 2634(d) of title 10, United States Code, is amended by striking out “section 406(k)” and inserting in lieu thereof “section 406(j)”.

**SEC. 632. EXCEPTION TO MAXIMUM WEIGHT ALLOWANCE FOR BAGGAGE AND HOUSEHOLD EFFECTS.**

Section 406(b)(1)(D) of title 37, United States Code, is amended in the second sentence by inserting before the period the following: “, unless the additional weight allowance in excess of such maximum is intended to permit the shipping of consumables that cannot be reasonably obtained at the new station of the member”.

**SEC. 633. TRAVEL AND TRANSPORTATION ALLOWANCES FOR TRAVEL PERFORMED BY MEMBERS IN CONNECTION WITH REST AND RECUPERATIVE LEAVE FROM OVERSEAS STATIONS.**

(a) PROVISION OF TRANSPORTATION.—Section 411c of title 37, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following new subsection:

“(b) When the transportation authorized by subsection (a) is provided by the Secretary concerned, the Secretary may use Government or commercial carriers. The Secretary concerned may limit the amount of payments made to members under subsection (a).”.

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

**“§411c. Travel and transportation allowances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries”.**

(2) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

“411c. Travel and transportation allowances: travel performed in connection with rest and recuperative leave from certain stations in foreign countries.”.

**SEC. 634. STORAGE OF BAGGAGE OF CERTAIN DEPENDENTS.**

Section 430(b) of title 37, United States Code, is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end the following new paragraph:

“(2) At the option of the member, in lieu of the transportation of baggage of a dependent child under paragraph (1) from the dependent’s school in the continental United States, the Secretary concerned may pay or reimburse the member for costs incurred to store the baggage at or in the vicinity of the school during the dependent’s annual trip between the school and the member’s duty station. The amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.”.

**SEC. 635. COMMERCIAL TRAVEL OF RESERVES AT FEDERAL SUPPLY SCHEDULE RATES FOR ATTENDANCE AT INACTIVE-DUTY TRAINING ASSEMBLIES.**

(a) AUTHORITY.—Chapter 1217 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 12603. Attendance at inactive-duty training assemblies: commercial travel at Federal supply schedule rates**

“(a) **FEDERAL SUPPLY SCHEDULE TRAVEL.**—Commercial travel under Federal supply schedules is authorized for the travel of a Reserve to the location of inactive duty training to be performed by the Reserve and from that location upon completion of the training.

“(b) **REGULATIONS.**—The Secretary of Defense shall prescribe in regulations such requirements, conditions, and restrictions for travel under the authority of subsection (a) as the Secretary considers appropriate. The regulations shall include policies and procedures for preventing abuses of that travel authority.

“(c) **REIMBURSEMENT NOT AUTHORIZED.**—A Reserve is not entitled to Government reimbursement for the cost of travel authorized under subsection (a).

“(d) **TREATMENT OF TRANSPORTATION AS USE BY MILITARY DEPARTMENTS.**—For the purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)), travel authorized under subsection (a) shall be treated as transportation for the use of a military department.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“12603. Attendance at inactive-duty training assemblies: commercial travel at Federal supply schedule rates.”.

## **Subtitle D—Retired Pay, Survivor Benefits, and Related Matters**

### **SEC. 641. PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.**

Section 1452 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(j) **COVERAGE PAID UP AT 30 YEARS AND AGE 70.**—Effective October 1, 2008, no reduction may be made under this section in the retired pay of a participant in the Plan for any month after the later of—

Effective date.

“(1) the 360th month for which the participant’s retired pay is reduced under this section; and

“(2) the month during which the participant attains 70 years of age.”.

### **SEC. 642. SURVIVOR BENEFIT PLAN OPEN ENROLLMENT PERIOD.**

10 USC 1448  
note.

(a) **PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.**—

(1) **ELECTION OF SBP COVERAGE.**—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (d).

(2) **ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.**—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

(3) **ELIGIBLE RETIRED OR FORMER MEMBER.**—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code (or chapter 67 of such title as in effect before October 5, 1994), but for the fact that such member or former member is under 60 years of age.

(4) **STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.**—

(A) **STANDARD ANNUITY.**—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) **RESERVE-COMPONENT ANNUITY.**—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) **MANNER OF MAKING ELECTIONS.**—

(1) **IN GENERAL.**—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Except as provided in paragraph (2), any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(2) **ELECTION MUST BE VOLUNTARY.**—An election under this section is not effective unless the person making the election declares the election to be voluntary. An election to participate in the Survivor Benefit Plan under this section may not be required by any court. An election to participate or not to participate in the Survivor Benefit Plan is not subject to the concurrence of a spouse or former spouse of the person.

(c) **EFFECTIVE DATE FOR ELECTIONS.**—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(d) **OPEN ENROLLMENT PERIOD DEFINED.**—The open enrollment period is the 1-year period beginning on March 1, 1999.

(e) **EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.**—If a person making an election under this section dies before the end of the 2-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such 2-year period.

(f) **APPLICABILITY OF CERTAIN PROVISIONS OF LAW.**—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(g) **PREMIUMS FOR OPEN ENROLLMENT ELECTION.**—

(1) **PREMIUMS TO BE CHARGED.**—The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

Regulations.

(A) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to participate under chapter 73 of title 10, United States Code;

(B) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(C) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(2) **PREMIUMS TO BE CREDITED TO RETIREMENT FUND.**—Premiums paid under the regulations shall be credited to the Department of Defense Military Retirement Fund.

(h) **DEFINITIONS.**—In this section:

(1) The term “Survivor Benefit Plan” means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term “Supplemental Survivor Benefit Plan” means the program established under subchapter III of chapter 73 of title 10, United States Code.

(3) The term “retired pay” includes retainer pay paid under section 6330 of title 10, United States Code.

(4) The terms “uniformed services” and “Secretary concerned” have the meanings given those terms in section 101 of title 37, United States Code.

(5) The term “Department of Defense Military Retirement Fund” means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

**SEC. 643. EFFECTIVE DATE OF COURT-REQUIRED FORMER SPOUSE SURVIVOR BENEFIT PLAN COVERAGE EFFECTUATED THROUGH ELECTIONS AND DEEMED ELECTIONS.**

(a) **ELIMINATION OF DISPARITY IN EFFECTIVE DATE PROVISIONS.**—Section 1448(b)(3) of title 10, United States Code, is amended—

- (1) in subparagraph (C)—
  - (A) by striking out the second sentence; and
  - (B) by striking out “EFFECTIVE DATE,” in the heading;
- and
- (2) by adding at the end the following new subparagraph:
  - “(E) EFFECTIVE DATE OF ELECTION.—An election under this paragraph is effective as of—
    - “(i) the first day of the first month following the month in which the election is received by the Secretary concerned; or
    - “(ii) in the case of a person required (as described in section 1450(f)(3)(B) of this title) to make the election by reason of a court order or filing the date of which is on or after the date of the enactment of the subparagraph, the first day of the first month which begins after the date of that court order or filing.”.

(b) CONFORMITY BY CROSS REFERENCE.—Section 1450(f)(3)(D) of such title is amended by striking out “the first day of the first month which begins after the date of the court order or filing involved” and inserting in lieu thereof “the day referred to in section 1448(b)(3)(E)(ii) of this title”.

**SEC. 644. PRESENTATION OF UNITED STATES FLAG TO MEMBERS OF THE ARMED FORCES UPON RETIREMENT.**

(a) ARMY.—(1) Chapter 353 of title 10, United States Code, is amended by inserting after the table of sections the following new section:

**“§ 3681. Presentation of United States flag upon retirement**

“(a) PRESENTATION OF FLAG.—Upon the release of a member of the Army from active duty for retirement, the Secretary of the Army shall present a United States flag to the member.

“(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 6141 or 8681 of this title or section 516 of title 14.

“(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.”.

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 3684 the following new item:

“3681. Presentation of United States flag upon retirement.”.

(b) NAVY AND MARINE CORPS.—(1) Chapter 561 of title 10, United States Code, is amended by inserting after the table of sections the following new section:

**“§ 6141. Presentation of United States flag upon retirement**

“(a) PRESENTATION OF FLAG.—Upon the release of a member of the Navy or Marine Corps from active duty for retirement or transfer to the Fleet Reserve or the Fleet Marine Corps Reserve, the Secretary of the Navy shall present a United States flag to the member.

“(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this



section or section 3681 or 8681 of this title or section 516 of title 14.

“(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.”.

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 6151 the following new item:

“6141. Presentation of United States flag upon retirement.”.

(c) AIR FORCE.—(1) Chapter 853 of title 10, United States Code, is amended by inserting after the table of sections the following new section:

**“§ 8681. Presentation of United States flag upon retirement**

“(a) PRESENTATION OF FLAG.—Upon the release of a member of the Air Force from active duty for retirement, the Secretary of the Air Force shall present a United States flag to the member.

“(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681 or 6141 of this title or section 516 of title 14.

“(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.”.

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 8684 the following new item:

“8681. Presentation of United States flag upon retirement.”.

(d) COAST GUARD.—(1) Chapter 13 of title 14, United States Code, is amended by adding at the end the following new section:

**“§ 516. Presentation of United States flag upon retirement**

“(a) PRESENTATION OF FLAG.—Upon the release of a member of the Coast Guard from active duty for retirement, the Secretary of Transportation shall present a United States flag to the member.

“(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681, 6141, and 8681 of title 10.

“(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“516. Presentation of United States flag upon retirement.”.

(e) EFFECTIVE DATE.—Sections 3681, 6141, and 8681 of title 10, United States Code (as added by this section), and section 516 of title 14, United States Code (as added by subsection (d)), shall apply with respect to releases from active duty described in those sections on or after October 1, 1998.

10 USC 3681  
note.

**SEC. 645. RECOVERY, CARE, AND DISPOSITION OF REMAINS OF MEDICALLY RETIRED MEMBER WHO DIES DURING HOSPITALIZATION THAT BEGINS WHILE ON ACTIVE DUTY.**

(a) IN GENERAL.—Paragraph (7) of section 1481(a) of title 10, United States Code, is amended to read as follows:

“(7) A person who—

“(A) dies as a retired member of an armed force under the Secretary’s jurisdiction during a continuous hospitalization of the member as a patient in a United States hospital that began while the member was on active duty for a period of more than 30 days; or

“(B) is not covered by subparagraph (A) and, while in a retired status by reason of eligibility to retire under chapter 61 of this title, dies during a continuous hospitalization of the person that began while the person was on active duty as a Regular of an armed force under the Secretary’s jurisdiction.”.

(b) **REPEAL OF OBSOLETE TERMINOLOGY.**—Paragraph (1) of such section is amended by striking out “, or a member of an armed force without component,”.

10 USC 1481  
note.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) applies with respect to deaths occurring on or after the date of the enactment of this Act.

**SEC. 646. REVISION TO COMPUTATION OF RETIRED PAY FOR CERTAIN MEMBERS.**

Section 1406(i) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

“(2) **EXCEPTION FOR MEMBERS REDUCED IN GRADE OR WHO DO NOT SERVE SATISFACTORILY.**—Paragraph (1) does not apply in the case of a member who, while or after serving in a position specified in that paragraph and by reason of conduct occurring on or after the date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999—

“(A) in the case of an enlisted member, is reduced in grade as the result of a court-martial sentence, non-judicial punishment, or other administrative process; or

“(B) in the case an officer, is not certified by the Secretary of Defense under section 1370(c) of this title as having served on active duty satisfactorily in the grade of general or admiral, as the case may be, while serving in that position.”.

**SEC. 647. ELIMINATION OF BACKLOG OF UNPAID RETIRED PAY.**

(a) **REQUIREMENT.**—The Secretary of the Army shall take such actions as are necessary to eliminate, by December 31, 1998, the backlog of unpaid retired pay for members and former members of the Army (including members and former members of the Army Reserve and the Army National Guard).

(b) **REPORT.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the backlog of unpaid retired pay. The report shall include the following:

(1) The actions taken under subsection (a).

(2) The extent of the remaining backlog.

(3) A discussion of any additional actions that are necessary to ensure that retired pay is paid in a timely manner.

## Subtitle E—Other Matters

### SEC. 651. DEFINITION OF POSSESSIONS OF THE UNITED STATES FOR PAY AND ALLOWANCES PURPOSES.

Section 101(2) of title 37, United States Code, is amended by striking out “the Canal Zone,”.

### SEC. 652. ACCOUNTING OF ADVANCE PAYMENTS.

Section 1006(e) of title 37, United States Code, is amended—

(1) by inserting “(1)” after “(e)”; and

(2) by adding at the end the following new paragraph:

“(2)(A) Notwithstanding any other provision of law, an obligation for an advance of pay made pursuant to this section shall be recorded as an obligation only in the fiscal year in which the entitlement of the member to the pay accrues.

“(B) Current appropriations available for advance payments under this section may be transferred to the prior fiscal year appropriation available for the same purpose in the amount of any unliquidated advance payments that remain at the end of such prior fiscal year. Such unliquidated advance payments shall then be credited to the current appropriation.”.

### SEC. 653. REIMBURSEMENT OF RENTAL VEHICLE COSTS WHEN MOTOR VEHICLE TRANSPORTED AT GOVERNMENT EXPENSE IS LATE.

(a) TRANSPORTATION IN CONNECTION WITH CHANGE OF PERMANENT STATION.—Section 2634 of title 10, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection:

“(g) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this section does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the member’s use, or for the use of the dependent for whom the delayed vehicle was transported. The amount reimbursed may not exceed \$30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).”.

(b) TRANSPORTATION IN CONNECTION WITH OTHER MOVES.—Section 406(h) of title 37, United States Code, is amended by adding at the end the following new paragraph:

“(3) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this subsection does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent’s use. The amount reimbursed may not exceed \$30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).”.

(c) TRANSPORTATION IN CONNECTION WITH DEPARTURE ALLOWANCES FOR DEPENDENTS.—Section 405a(b) of title 37, United States Code, is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end the following new paragraph:

“(2) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under paragraph (1) does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the member for expenses incurred after that date to rent a motor vehicle for the dependent’s use. The amount reimbursed may not exceed \$30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).”

(d) TRANSPORTATION IN CONNECTION WITH EFFECTS OF MISSING PERSONS.—Section 554 of title 37, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

“(i) If a motor vehicle of a member (or a dependent of the member) that is transported at the expense of the United States under this section does not arrive at the authorized destination of the vehicle by the designated delivery date, the Secretary concerned shall reimburse the dependent for expenses incurred after that date to rent a motor vehicle for the dependent’s use. The amount reimbursed may not exceed \$30 per day, and the rental period for which reimbursement may be provided expires after 7 days or on the date on which the delayed vehicle arrives at the authorized destination (whichever occurs first).”

10 USC 2634  
note.

(e) APPLICATION OF AMENDMENTS.—(1) Reimbursement for motor vehicle rental expenses may not be provided under the amendments made by this section until after the date on which the Secretary of Defense submits to Congress a report containing a certification that the Department of Defense has in place and operational a system to recover the cost of providing such reimbursement from commercial carriers that are responsible for the delay in the delivery of the motor vehicles of members of the Armed Forces and their dependents. The Secretary of Defense shall prepare the report in consultation with the Secretary of Transportation, with respect to the Coast Guard.

Reports.

(2) The amendments shall apply with respect to rental expenses described in such amendments that are incurred on or after the date of the submission of the report. The report shall be submitted not later than six months after the date of the enactment of this Act and shall include, in addition to the certification, a description of the system to be used to recover from commercial carriers the costs incurred under such amendments.

#### **SEC. 654. EDUCATION LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONS OFFICERS SERVING IN SELECTED RESERVE.**

(a) ELIGIBLE PERSONS.—Subsection (b)(2) of section 16302 of title 10, United States Code, is amended by inserting “, or is enrolled in a program of education leading to professional qualifications,” after “possesses professional qualifications”.

(b) INCREASED BENEFITS.—Subsection (c) of such section is amended—

(1) in paragraph (2), by striking out “\$3,000” and inserting in lieu thereof “\$20,000”; and

(2) in paragraph (3), by striking out “\$20,000” and inserting in lieu thereof “\$50,000”.

**SEC. 655. FEDERAL EMPLOYEES’ COMPENSATION COVERAGE FOR STUDENTS PARTICIPATING IN CERTAIN OFFICER CANDIDATE PROGRAMS.**

(a) PERIODS OF COVERAGE.—Subsection (a)(2) of section 8140 of title 5, United States Code, is amended to read as follows:

“(2) during the period of the member’s attendance at training or a practice cruise under chapter 103 of title 10, United States Code, beginning when the authorized travel to the training or practice cruise begins and ending when authorized travel from the training or practice cruise ends.”.

(b) LINE OF DUTY.—Subsection (b) of such section is amended to read as follows:

“(b) For the purpose of this section, an injury, disability, death, or illness of a member referred to in subsection (a) may be considered as incurred or contracted in line of duty only if the injury, disability, or death is incurred, or the illness is contracted, by the member during a period described in that subsection. Subject to review by the Secretary of Labor, the Secretary of the military department concerned (under regulations prescribed by that Secretary), shall determine whether an injury, disability, or death was incurred, or an illness was contracted, by a member in line of duty.”.

(c) CLARIFICATION OF CASUALTIES COVERED.—Subsection (a) of such section, as amended by subsection (a) of this section, is further amended by inserting “, or an illness contracted,” after “death incurred” in the matter preceding paragraph (1).

(d) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and apply with respect to injuries, illnesses, disabilities, and deaths incurred or contracted on or after that date.

5 USC 8140 note.

**SEC. 656. RELATIONSHIP OF ENLISTMENT BONUSES TO ELIGIBILITY TO RECEIVE ARMY COLLEGE FUND SUPPLEMENT UNDER MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PROGRAM.**

(a) ENLISTEMENT BONUSES AND GI BILL SUPPLEMENT NOT EXCLUSIVE.—Section 3015(d) of title 38, United States Code, is amended—

(1) by inserting “(1)” after “(d)”; and

(2) by adding at the end the following:

“(2) In the case of an individual who after October 7, 1997, receives an enlistment bonus under section 308a or 308f of title 37, receipt of that bonus does not affect the eligibility of that individual for an increase under paragraph (1) in the rate of the basic educational assistance allowance applicable to that individual, and the Secretary concerned may provide such an increase for that individual (and enter into an agreement with that individual that the United States agrees to make payments pursuant to such an increase) without regard to any provision of law (enacted before,

on, or after the date of the enactment of this paragraph) that limits the authority to make such payments.”.

(b) REPEAL OF RELATED LIMITATIONS.—(1) Section 8013(a) of the Department of Defense Appropriations Act, 1998 (111 Stat. 1222), is amended—

(A) by striking out “on or after the date of enactment of this Act—” and all that follows through “nor shall any amounts” and inserting in lieu thereof “after October 7, 1997, enlists in the armed services for a period of active duty of less than three years, nor shall any amounts”; and

(B) in the first proviso, by striking out “in the case of a member covered by clause (1),”.

(2) Section 8013(a) of the Department of Defense Appropriations Act, 1999, is amended—

(A) by striking out “of this Act—” and all that follows through “nor shall any amounts” and inserting in lieu thereof “of this Act, enlists in the armed services for a period of active duty of less than 3 years, nor shall any amounts”; and

(B) in the first proviso, by striking out “in the case of a member covered by clause (1),”.

(3) The amendments made by paragraph (2) shall take effect on the later of the following:

(A) The date of the enactment of this Act.

(B) The date of the enactment of the Department of Defense Appropriations Act, 1999.

**SEC. 657. AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE FOR EDUCATION OF CERTAIN DEFENSE DEPENDENTS OVERSEAS.**

Section 1407(b) of the Defense Dependents’ Education Act of 1978 (20 U.S.C. 926(b)) is amended—

(1) by striking out “(b) Under such circumstances as he may by regulation prescribe, the Secretary of Defense” and inserting in lieu thereof “(b) TUITION AND ASSISTANCE WHEN SCHOOLS UNAVAILABLE.—(1) Under such circumstances as the Secretary of Defense may prescribe in regulations, the Secretary”; and

(2) by adding at the end the following new paragraph:

“(2)(A) The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy, may provide financial assistance to sponsors of dependents in overseas areas where schools operated by the Secretary of Defense under subsection (a) are not reasonably available in order to assist the sponsors to defray the costs incurred by the sponsors for the attendance of the dependents at schools in such areas other than schools operated by the Secretary of Defense.

Regulations.

“(B) The Secretary of Defense and the Secretary of Transportation shall each prescribe regulations relating to the availability of financial assistance under subparagraph (A). Such regulations shall, to the maximum extent practicable, be consistent with Department of State regulations relating to the availability of financial assistance for the education of dependents of Department of State personnel overseas.”.

**SEC. 658. CLARIFICATIONS CONCERNING PAYMENTS TO CERTAIN PERSONS CAPTURED OR INTERNED BY NORTH VIETNAM.**

(a) ELIGIBLE SURVIVORS.—Subsection (b) of section 657 of the National Defense Authorization Act for Fiscal Year 1997 (Public

Law 104–201; 110 Stat. 2585) is amended by adding at the end the following new paragraphs:

“(3) If there is no surviving spouse or surviving child, to the parents of the decedent, in equal shares, or, if one parent of the decedent has died, to the surviving parent.

“(4) If there is no surviving spouse, surviving child, or surviving parent, to the surviving siblings by blood of the decedent, in equal shares.”.

(b) PERMITTED RECIPIENTS OF PAYMENT DISBURSEMENT.— Subsection (f)(1) of such section is amended by striking out “The actual disbursement” and inserting in lieu thereof “Notwithstanding any agreement (including a power of attorney) to the contrary, the actual disbursement”.

## **TITLE VII—HEALTH CARE PROVISIONS**

### **Subtitle A—Health Care Services**

Sec. 701. Dependents’ dental program.

Sec. 702. Expansion of dependent eligibility under retiree dental program.

Sec. 703. Plan for redesign of military pharmacy system.

Sec. 704. Transitional authority to provide continued health care coverage for certain persons unaware of loss of CHAMPUS eligibility.

### **Subtitle B—TRICARE Program**

Sec. 711. Payment of claims for provision of health care under the TRICARE program for which a third party may be liable.

Sec. 712. TRICARE Prime automatic enrollments and retiree payment options.

Sec. 713. System for tracking data and measuring performance in meeting TRICARE access standards.

Sec. 714. Establishment of appeals process for claimcheck denials.

Sec. 715. Reviews relating to accessibility of health care under TRICARE.

### **Subtitle C—Health Care Services for Medicare-Eligible Department of Defense Beneficiaries**

Sec. 721. Demonstration project to include certain covered beneficiaries within Federal Employees Health Benefits Program.

Sec. 722. TRICARE as Supplement to Medicare demonstration.

Sec. 723. Implementation of redesign of pharmacy system.

Sec. 724. Comprehensive evaluation of implementation of demonstration projects and TRICARE pharmacy redesign.

### **Subtitle D—Other Changes to Existing Laws Regarding Health Care Management**

Sec. 731. Process for waiving informed consent requirement for administration of certain drugs to members of Armed Forces for purposes of a particular military operation.

Sec. 732. Health benefits for abused dependents of members of the Armed Forces.

Sec. 733. Provision of health care at military entrance processing stations and elsewhere outside medical treatment facilities.

Sec. 734. Professional qualifications of physicians providing military health care.

### **Subtitle E—Other Matters**

Sec. 741. Enhanced Department of Defense Organ and Tissue Donor program.

Sec. 742. Authorization to establish a Level 1 Trauma Training Center.

Sec. 743. Authority to establish center for study of post-deployment health concerns of members of the Armed Forces.

Sec. 744. Report on implementation of enrollment-based capitation for funding for military medical treatment facilities.

Sec. 745. Joint Department of Defense and Department of Veterans Affairs reports relating to interdepartmental cooperation in the delivery of medical care.

Sec. 746. Report on research and surveillance activities regarding lyme disease and other tick-borne diseases.

## Subtitle A—Health Care Services

### SEC. 701. DEPENDENTS' DENTAL PROGRAM.

(a) PREMIUM INCREASE.—Section 1076a(b)(2) of title 10, United States Code, is amended—

(A) by inserting “(A)” after “(2)”; and

(B) by adding at the end the following:

“(B) Effective as of January 1 of each year, the amount of the premium required under subparagraph (A) shall be increased by the percent equal to the lesser of—

“(i) the percent by which the rates of basic pay of members of the uniformed services are increased on such date; or

“(ii) the sum of one-half percent and the percent computed under section 5303(a) of title 5 for the increase in rates of basic pay for statutory pay systems for pay periods beginning on or after such date.”.

10 USC 1076a  
note.

(2) The amendment made by subparagraph (B) of paragraph (1) shall take effect on January 1, 1999, and shall apply to months after 1998 as if such subparagraph had been in effect since December 31, 1993.

(b) LIMITATION ON REDUCTION OF BENEFITS.—Section 1076a is further amended by adding at the end the following new subsection:

“(j) LIMITATION ON REDUCTION OF BENEFITS.—The Secretary of Defense may not reduce benefits provided under this section until—

Notice.

“(1) the Secretary provides notice of the Secretary’s intent to reduce such benefits to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate; and

“(2) 1 year has elapsed following the date of such notice.”.

### SEC. 702. EXPANSION OF DEPENDENT ELIGIBILITY UNDER RETIREE DENTAL PROGRAM.

(a) IN GENERAL.—Subsection (b) of section 1076c of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) Eligible dependents of a member described in paragraph (1) or (2) who is not enrolled in the plan and who—

“(A) is enrolled under section 1705 of title 38 to receive dental care from the Secretary of Veterans Affairs;

“(B) is enrolled in a dental plan that—

“(i) is available to the member as a result of employment by the member that is separate from the military service of the member; and

“(ii) is not available to dependents of the member as a result of such separate employment by the member; or

“(C) is prevented by a medical or dental condition from being able to obtain benefits under the plan.”.

(b) CONFORMING AMENDMENT.—Subsection (f)(3) of such section is amended by striking out “(b)(4)” and inserting in lieu thereof “(b)(5)”.



**SEC. 703. PLAN FOR REDESIGN OF MILITARY PHARMACY SYSTEM.**10 USC 1073  
note.

(a) **PLAN REQUIRED.**—The Secretary of Defense shall submit to Congress a plan that would provide for a system-wide redesign of the military and contractor retail and mail-order pharmacy system of the Department of Defense by incorporating “best business practices” of the private sector. The Secretary shall work with contractors of TRICARE retail pharmacy and national mail-order pharmacy programs to develop a plan for the redesign of the pharmacy system that—

(1) may include a plan for an incentive-based formulary for military medical treatment facilities and contractors of TRICARE retail pharmacies and the national mail-order pharmacy; and

(2) shall include a plan for each of the following:

(A) A uniform formulary for such facilities and contractors.

(B) A centralized database that integrates the patient databases of pharmacies of military medical treatment facilities and contractor retail and mail-order programs to implement automated prospective drug utilization review systems.

(C) A system-wide drug benefit for covered beneficiaries under chapter 55 of title 10, United States Code, who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(b) **SUBMISSION OF PLAN.**—The Secretary shall submit the plan required under subsection (a) not later than March 1, 1999.

(c) **SUSPENSION OF IMPLEMENTATION OF PROGRAM.**—The Secretary shall suspend any plan to establish a national retail pharmacy program for the Department of Defense until—

(1) the plan required under subsection (a) is submitted; and

(2) the Secretary implements cost-saving reforms with respect to the military and contractor retail and mail order pharmacy system.

**SEC. 704. TRANSITIONAL AUTHORITY TO PROVIDE CONTINUED HEALTH CARE COVERAGE FOR CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.**10 USC 1086  
note.

(a) **TRANSITIONAL COVERAGE.**—The administering Secretaries may continue eligibility of a person described in subsection (b) for health care coverage under the Civilian Health and Medical Program of the Uniformed Services based on a determination that such continuation is appropriate to assure health care coverage for any such person who may have been unaware of the loss of eligibility to receive health benefits under that program.

(b) **PERSONS ELIGIBLE.**—A person shall be eligible for transitional health care coverage under subsection (a) if the person—

(1) is a person described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;

(2) in the absence of such paragraph, would be eligible for health benefits under such section; and

(3) satisfies the criteria specified in subparagraphs (A) and (B) of paragraph (2) of such subsection.

(c) **EXTENT OF TRANSITIONAL AUTHORITY.**—The authority to continue eligibility under this section shall apply with respect to

health care services provided between October 1, 1998, and July 1, 1999.

(d) DEFINITION.—In this section, the term “administering Secretaries” has the meaning given that term in section 1072(3) of title 10, United States Code.

## **Subtitle B—TRICARE Program**

### **SEC. 711. PAYMENT OF CLAIMS FOR PROVISION OF HEALTH CARE UNDER THE TRICARE PROGRAM FOR WHICH A THIRD PARTY MAY BE LIABLE.**

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1095a the following new section:

#### **“§ 1095b. TRICARE program: contractor payment of certain claims**

“(a) PAYMENT OF CLAIMS.—(1) The Secretary of Defense may authorize a contractor under the TRICARE program to pay a claim described in paragraph (2) before seeking to recover from a third-party payer the costs incurred by the contractor to provide health care services that are the basis of the claim to a beneficiary under such program.

“(2) A claim under this paragraph is a claim—

“(A) that is submitted to the contractor by a provider under the TRICARE program for payment for services for health care provided to a covered beneficiary; and

“(B) that is identified by the contractor as a claim for which a third-party payer may be liable.

“(b) RECOVERY FROM THIRD-PARTY PAYERS.—A contractor for the provision of health care services under the TRICARE program that pays a claim described in subsection (a)(2) shall have the right to collect from the third-party payer the costs incurred by such contractor on behalf of the covered beneficiary. The contractor shall have the same right to collect such costs under this subsection as the right of the United States to collect costs under section 1095 of this title.

“(c) DEFINITION OF THIRD-PARTY PAYER.—In this section, the term ‘third-party payer’ has the meaning given that term in section 1095(h) of this title, except that such term excludes primary medical insurers.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1095a the following new item:

“1095b. TRICARE program: contractor payment of certain claims.”.

### **SEC. 712. TRICARE PRIME AUTOMATIC ENROLLMENTS AND RETIREE PAYMENT OPTIONS.**

(a) PROCEDURES.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1097 the following new section:

#### **“§ 1097a. TRICARE Prime: automatic enrollments; payment options**

“(a) AUTOMATIC ENROLLMENT OF CERTAIN DEPENDENTS.—Each dependent of a member of the uniformed services in grade E4

or below who is entitled to medical and dental care under section 1076(a)(2)(A) of this title and resides in the catchment area of a facility of a uniformed service offering TRICARE Prime shall be automatically enrolled in TRICARE Prime at the facility. The Secretary concerned shall provide written notice of the enrollment to the member. The enrollment of a dependent of the member may be terminated by the member or the dependent at any time.

“(b) AUTOMATIC RENEWAL OF ENROLLMENTS OF COVERED BENEFICIARIES.—(1) An enrollment of a covered beneficiary in TRICARE Prime shall be automatically renewed upon the expiration of the enrollment unless the renewal is declined.

“(2) Not later than 15 days before the expiration date for an enrollment of a covered beneficiary in TRICARE Prime, the Secretary concerned shall—

“(A) transmit a written notification of the pending expiration and renewal of enrollment to the covered beneficiary or, in the case of a dependent of a member of the uniformed services, to the member; and

“(B) afford the beneficiary or member, as the case may be, an opportunity to decline the renewal of enrollment.

“(c) PAYMENT OPTIONS FOR RETIREES.—A member or former member of the uniformed services eligible for medical care and dental care under section 1074(b) of this title may elect to have any fee payable by the member or former member for an enrollment in TRICARE Prime withheld from the member's retired pay, retainer pay, or equivalent pay, as the case may be, or to be paid from a financial institution through electronic transfers of funds. The fee shall be paid in accordance with the election. A member may elect under this section to pay the fee in full at the beginning of the enrollment period or to make payments on a monthly or quarterly basis.

“(d) REGULATIONS AND EXCEPTIONS.—The Secretary of Defense shall prescribe regulations, including procedures, to carry out this section. Regulations prescribed to carry out the automatic enrollment requirements under this section may include such exceptions to the automatic enrollment procedures as the Secretary determines appropriate for the effective operation of TRICARE Prime.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘TRICARE Prime’ means the managed care option of the TRICARE program.

“(2) The term ‘catchment area’, with respect to a facility of a uniformed service, means the service area of the facility, as designated under regulations prescribed by the administering Secretaries.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1097 the following new item:

“1097a. TRICARE Prime: automatic enrollments; payment options.”.

(b) DEADLINE FOR IMPLEMENTATION.—The regulations required under subsection (d) of section 1097a of title 10, United States Code (as added by subsection (a)), shall be prescribed to take effect not later than September 30, 1999. The section shall be applied under TRICARE Prime on and after the date on which the regulations take effect.

10 USC 1097a  
note.

10 USC 1073  
note.

**SEC. 713. SYSTEM FOR TRACKING DATA AND MEASURING PERFORMANCE IN MEETING TRICARE ACCESS STANDARDS.**

(a) **REQUIREMENT TO ESTABLISH SYSTEM.**—(1) The Secretary of Defense shall establish a system—

(A) to track data regarding access of covered beneficiaries under chapter 55 of title 10, United States Code, to primary health care under the TRICARE program; and

(B) to measure performance in increasing such access against the primary care access standards established by the Secretary under the TRICARE program.

(2) In implementing the system described in paragraph (1), the Secretary shall collect data on the timeliness of appointments and precise waiting times for appointments in order to measure performance in meeting the primary care access standards established under the TRICARE program.

(b) **DEADLINE FOR ESTABLISHMENT.**—The Secretary shall establish the system described in subsection (a) not later than April 1, 1999.

**SEC. 714. ESTABLISHMENT OF APPEALS PROCESS FOR CLAIMCHECK DENIALS.**

(a) **ESTABLISHMENT OF APPEALS PROCESS.**—Not later than January 1, 1999, the Secretary of Defense shall establish an appeals process in cases of denials through the ClaimCheck computer software system (or any other claims processing system that may be used by the Secretary) of claims by civilian providers for payment for health care services provided under the TRICARE program.

(b) **REPORT.**—Not later than March 1, 1999, the Secretary shall submit to Congress a report on the implementation of this section.

10 USC 1106  
note.

**SEC. 715. REVIEWS RELATING TO ACCESSIBILITY OF HEALTH CARE UNDER TRICARE.**

(a) **REVIEW OF REHABILITATIVE SERVICES FOR HEAD INJURIES.**—The Secretary of Defense shall review policies under the TRICARE program (including a review of the TRICARE policy manual) to determine if policies addressing the availability of rehabilitative services for TRICARE patients suffering from head injuries are adequate and appropriately address consideration of certification by an attending physician that such services would be beneficial for such a patient.

(b) **REVIEW OF ADEQUACY OF PROVIDER NETWORK.**—The Secretary of Defense shall review the administration of the TRICARE Prime health plans to determine whether, for each region covered by such a plan, there is a sufficient number, distribution, and variety of qualified participating health care providers to ensure that covered health care services, including specialty services and rehabilitative services, are accessible in the vicinity of the residence of the enrollees and available in a timely manner to such enrollees, regardless of where such enrollees are located within the TRICARE region.

(c) **REPORT.**—Not later than April 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the results of the reviews required by subsections (a) and (b), together with a description of any actions taken or directed as a result of those reviews.

## **Subtitle C—Health Care Services for Medicare-Eligible Department of Defense Beneficiaries**

### **SEC. 721. DEMONSTRATION PROJECT TO INCLUDE CERTAIN COVERED BENEFICIARIES WITHIN FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.**

(a) FEHBP DEMONSTRATION PROJECT.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

#### **“§ 1108. Health care coverage through Federal Employees Health Benefits program: demonstration project**

“(a) FEHBP OPTION DEMONSTRATION.—The Secretary of Defense, after consulting with the other administering Secretaries, shall enter into an agreement with the Office of Personnel Management to conduct a demonstration project (in this section referred to as the ‘demonstration project’) under which eligible beneficiaries described in subsection (b) and residing within one of the areas covered by the demonstration project may enroll in health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5. The number of eligible beneficiaries and family members of such beneficiaries under subsection (b)(2) who may be enrolled in health benefits plans during the enrollment period under subsection (d)(2) may not exceed 66,000.

“(b) ELIGIBLE BENEFICIARIES; COVERAGE.—(1) An eligible beneficiary under this subsection is—

“(A) a member or former member of the uniformed services described in section 1074(b) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

“(B) an individual who is an unremarried former spouse of a member or former member described in section 1072(2)(F) or 1072(2)(G));

“(C) an individual who is—

“(i) a dependent of a deceased member or former member described in section 1076(b) or 1076(a)(2)(B) of this title or of a member who died while on active duty for a period of more than 30 days; and

“(ii) a member of family as defined in section 8901(5) of title 5; or

“(D) an individual who is—

“(i) a dependent of a living member or former member described in section 1076(b)(1) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, regardless of the member’s or former member’s eligibility for such hospital insurance benefits; and

“(ii) a member of family as defined in section 8901(5) of title 5.

“(2) Eligible beneficiaries may enroll in a Federal Employees Health Benefit plan under chapter 89 of title 5 under this section for self-only coverage or for self and family coverage which includes any dependent of the member or former member who is a family member for purposes of such chapter.

“(3) A person eligible for coverage under this subsection shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5 (except as provided in paragraph (1)(C) or (1)(D)) as a condition for enrollment in health benefits plans offered through the Federal Employees Health Benefits program under the demonstration project.

“(4) For purposes of determining whether an individual is a member of family under paragraph (5) of section 8901 of title 5 for purposes of paragraph (1)(C) or (1)(D), a member or former member described in section 1076(b) or 1076(a)(2)(B) of this title shall be deemed to be an employee under such section.

“(5) An eligible beneficiary who is eligible to enroll in the Federal Employees Health Benefits program as an employee under chapter 89 of title 5 is not eligible to enroll in a Federal Employees Health Benefits plan under this section.

“(c) AREA OF DEMONSTRATION PROJECT.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly identify and select the geographic areas in which the demonstration project will be conducted. The Secretary and the Director shall establish at least six, but not more than ten, such demonstration areas. In establishing the areas, the Secretary and Director shall include—

“(1) an area that includes the catchment area of one or more military medical treatment facilities;

“(2) an area that is not located in the catchment area of a military medical treatment facility;

“(3) an area in which there is a Medicare Subvention Demonstration project area under section 1896 of title XVIII of the Social Security Act (42 U.S.C. 1395ggg); and

“(4) not more than one area for each TRICARE region.

“(d) DURATION OF DEMONSTRATION PROJECT.—(1) The Secretary of Defense shall conduct the demonstration project during three contract years under the Federal Employees Health Benefits program.

“(2) Eligible beneficiaries shall, as provided under the agreement pursuant to subsection (a), be permitted to enroll in the demonstration project during an open enrollment period for the year 2000 (conducted in the fall of 1999). The demonstration project shall terminate on December 31, 2002.

“(e) PROHIBITION AGAINST USE OF MTFs AND ENROLLMENT UNDER TRICARE.—Covered beneficiaries under this chapter who are provided coverage under the demonstration project shall not be eligible to receive care at a military medical treatment facility or to enroll in a health care plan under the TRICARE program.

“(f) TERM OF ENROLLMENT IN PROJECT.—(1) Subject to paragraphs (2) and (3), the period of enrollment of an eligible beneficiary who enrolls in the demonstration project during the open enrollment period for the year 2000 shall be three years unless the beneficiary disenrolls before the termination of the project.

“(2) A beneficiary who elects to enroll in the project, and who subsequently discontinues enrollment in the project before the end of the period described in paragraph (1), shall not be eligible to reenroll in the project.

“(3) An eligible beneficiary enrolled in a Federal Employees Health Benefits plan under this section may change health benefits plans and coverage in the same manner as any other Federal

Employees Health Benefits program beneficiary may change such plans.

“(g) EFFECT OF CANCELLATION.—The cancellation by an eligible beneficiary of coverage under the Federal Employee Health Benefits program shall be irrevocable during the term of the demonstration project.

“(h) SEPARATE RISK POOLS; CHARGES.—(1) The Director of the Office of Personnel Management shall require health benefits plans under chapter 89 of title 5 that participate in the demonstration project to maintain a separate risk pool for purposes of establishing premium rates for eligible beneficiaries who enroll in such a plan in accordance with this section.

“(2) The Director shall determine total subscription charges for self only or for family coverage for eligible beneficiaries who enroll in a health benefits plan under chapter 89 of title 5 in accordance with this section. The subscription charges shall include premium charges paid to the plan and amounts described in section 8906(c) of title 5 for administrative expenses and contingency reserves.

“(i) GOVERNMENT CONTRIBUTIONS.—The Secretary of Defense shall be responsible for the Government contribution for an eligible beneficiary who enrolls in a health benefits plan under chapter 89 of title 5 in accordance with this section, except that the amount of the contribution may not exceed the amount of the Government contribution which would be payable if the electing beneficiary were an employee (as defined for purposes of such chapter) enrolled in the same health benefits plan and level of benefits.

“(j) REPORT REQUIREMENTS.—(1) The Secretary of Defense and the Director of the Office of Personnel Management shall jointly submit to Congress two reports containing the information described in paragraph (2). The first report shall be submitted not later than the date that is 15 months after the date that the Secretary begins to implement the demonstration project. The second report shall be submitted not later than December 31, 2002.

“(2) The reports required by paragraph (1) shall include the following:

“(A) Information on the number of eligible beneficiaries who elect to participate in the demonstration project.

“(B) An analysis of the percentage of eligible beneficiaries who participate in the demonstration project as compared to the percentage of covered beneficiaries under this chapter who elect to enroll in a health care plan under such chapter.

“(C) Information on eligible beneficiaries who elect to participate in the demonstration project and did not have Medicare Part B coverage before electing to participate in the project.

“(D) An analysis of the enrollment rates and cost of health services provided to eligible beneficiaries who elect to participate in the demonstration project as compared with similarly situated enrollees in the Federal Employees Health Benefits program under chapter 89 of title 5.

“(E) An analysis of how the demonstration project affects the accessibility of health care in military medical treatment facilities, and a description of any unintended effects on the treatment priorities in those facilities in the demonstration area.

“(F) An analysis of any problems experienced by the Department of Defense in managing the demonstration project.

“(G) A description of the effects of the demonstration project on medical readiness and training of the Armed Forces at military medical treatment facilities located in the demonstration area, and a description of the probable effects that making the project permanent would have on the medical readiness and training.

“(H) An examination of the effects that the demonstration project, if made permanent, would be expected to have on the overall budget of the Department of Defense, the budget of the Office of Personnel Management, and the budgets of individual military medical treatment facilities.

“(I) An analysis of whether the demonstration project affects the cost to the Department of Defense of prescription drugs or the accessibility, availability, and cost of such drugs to eligible beneficiaries.

“(J) Any additional information that the Secretary of Defense or the Director of the Office of Personnel Management considers appropriate to assist Congress in determining the viability of expanding the project to all Medicare-eligible members of the uniformed services and their dependents.

“(K) Recommendations on whether eligible beneficiaries—

“(i) should be given more than one chance to enroll in the demonstration project under this section;

“(ii) should be eligible to enroll in the project only during the first year following the date that the eligible beneficiary becomes eligible to receive hospital insurance benefits under part A of title XVIII of the Social Security Act; or

“(iii) should be eligible to enroll in the project only during the 2-year period following the date on which the beneficiary first becomes eligible to enroll in the project.

“(k) COMPTROLLER GENERAL REPORT.—Not later than December 31, 2002, the Comptroller General shall submit to Congress a report addressing the same matters required to be addressed under subsection (j)(2). The report shall describe any limitations with respect to the data contained in the report as a result of the size and design of the demonstration project.

“(l) APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

“(2) In applying paragraph (1)—

“(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to 36 months; and

“(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Defense in consultation with the Director of the Office of Personnel Management.”.



(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1108. Health care coverage through Federal Employees Health Benefits program: demonstration project.”.

(b) CONFORMING AMENDMENTS.—Chapter 89 of title 5, United States Code, is amended—

(1) in section 8905—

(A) by redesignating subsections (d) through (f) as subsections (e) through (g), respectively; and

(B) by inserting after subsection (c) the following new subsection:

“(d) An individual whom the Secretary of Defense determines is an eligible beneficiary under subsection (b) of section 1108 of title 10 may enroll, as part of the demonstration project under such section, in a health benefits plan under this chapter in accordance with the agreement under subsection (a) of such section between the Secretary and the Office and applicable regulations under this chapter.”;

(2) in section 8906(b)—

(A) in paragraph (1), by striking “paragraphs (2) and (3)” and inserting in lieu thereof “paragraphs (2), (3), and (4)”; and

(B) by adding at the end the following new paragraph:

“(4) In the case of persons who are enrolled in a health benefits plan as part of the demonstration project under section 1108 of title 10, the Government contribution shall be subject to the limitation set forth in subsection (i) of that section.”;

(3) in section 8906(g)—

(A) in paragraph (1), by striking “paragraph (2)” and inserting in lieu thereof “paragraphs (2) and (3)”; and

(B) by adding at the end the following new paragraph:

“(3) The Government contribution for persons enrolled in a health benefits plan as part of the demonstration project under section 1108 of title 10 shall be paid as provided in subsection (i) of that section.”; and

(4) in section 8909, by adding at the end the following new subsection:

“(g) The fund described in subsection (a) is available to pay costs that the Office incurs for activities associated with implementation of the demonstration project under section 1108 of title 10.”.

**SEC. 722. TRICARE AS SUPPLEMENT TO MEDICARE DEMONSTRATION.**

10 USC 1073  
note.

(a) IN GENERAL.—(1) The Secretary of Defense shall, after consultation with the other administering Secretaries, carry out a demonstration project in order to assess the feasibility and advisability of providing medical care coverage under the TRICARE program to the individuals described in subsection (c). The demonstration project shall be known as the “TRICARE Senior Supplement”.

(2) The Secretary shall commence the demonstration project not later than January 1, 2000, and shall terminate the demonstration project not later than December 31, 2002.

(3) Under the demonstration project, the Secretary shall permit eligible individuals described in subsection (c) to enroll in the TRICARE program.

(4) Payment for care and services received by eligible individuals who enroll in the TRICARE program under the demonstration project shall be made as follows:

(A) First, under title XVIII of the Social Security Act, but only to the extent that payment for such care and services is provided for under that title.

(B) Second, under the TRICARE program, but only to the extent that payment for such care and services is provided under that program and is not provided for under subparagraph (A).

(C) Third, by the eligible individual concerned, but only to the extent that payment for such care and services is not provided for under subparagraph (A) or (B).

(5)(A) The Secretary shall require each eligible individual who enrolls in the TRICARE program under the demonstration project to pay an enrollment fee. The Secretary shall provide, to the extent feasible, the option of payment of the enrollment fee through electronic transfers of funds and through withholding of such payment from the pay of a member or former member of the Armed Forces, and shall provide the option that payment of the enrollment fee be made in full at the beginning of the enrollment period or that payments be made on a monthly or quarterly basis.

(B) The amount of the enrollment fee charged an eligible individual under subparagraph (A) for self-only or family enrollment in any year may not exceed the amount equal to 75 percent of the total subscription charges in that year for self-only or family, respectively, fee-for-service coverage under the health benefits plan under the Federal Employees Health Benefits program under chapter 89 of title 5, United States Code, that is most similar in coverage to the TRICARE program.

(6) A covered beneficiary who enrolls in TRICARE Senior Supplement under this subsection shall not be eligible to receive health care at a facility of the uniformed services during the period such enrollment is in effect.

(b) EVALUATION; REVIEW.—(1) The Secretary shall provide for an evaluation of the demonstration project conducted under this subsection by an appropriate person or entity that is independent of the Department of Defense. The evaluation shall include the following:

(A) An analysis of the costs of the demonstration project to the United States and to the eligible individuals who participate in such demonstration project.

(B) An assessment of the extent to which the demonstration project satisfies the requirements of such eligible individuals for the health care services available under the demonstration project.

(C) An assessment of the effect, if any, of the demonstration project on military medical readiness.

(D) A description of the rate of the enrollment in the demonstration project of the individuals who were eligible to enroll in the demonstration project.

(E) An assessment of whether the demonstration project provides the most suitable model for a program to provide adequate health care services to the population of individuals consisting of the eligible individuals.

(F) An evaluation of any other matters that the Secretary considers appropriate.

(2) The Comptroller General shall review the evaluation conducted under paragraph (1). In carrying out the review, the Comptroller General shall—

(A) assess the validity of the processes used in the evaluation; and

(B) assess the validity of any findings under the evaluation, including any limitations with respect to the data contained in the evaluation as a result of the size and design of the demonstration project.

(3)(A) The Secretary shall submit a report on the results of the evaluation under paragraph (1), together with the evaluation, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than December 31, 2002.

(B) The Comptroller General shall submit a report on the results of the review under paragraph (2) to the committees referred to in subparagraph (A) not later than February 15, 2003.

Reports.

(c) ELIGIBLE INDIVIDUALS.—(1) An individual is eligible to participate under this section if the individual is a member or former member of the uniformed services described in section 1074(b) of title 10, United States Code, a dependent of the member described in section 1076(a)(2)(B) or 1076(b) of that title, or a dependent of a member of the uniformed services who died while on active duty for a period of more than 30 days, who—

(A) is 65 years of age or older;

(B) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

(C) is enrolled in the supplemental medical insurance program under part B of such title XVIII (42 U.S.C. 1395j et seq.); and

(D) resides in an area selected by the Secretary under subsection (c).

(d) AREAS OF IMPLEMENTATION.—(1) The Secretary shall carry out the demonstration project under this section in two separate areas selected by the Secretary.

(2) The areas selected by the Secretary under paragraph (1) shall be as follows:

(A) One area shall be an area outside the catchment area of a military medical treatment facility in which—

(i) no eligible organization has a contract in effect under section 1876 of the Social Security Act (42 U.S.C. 1395mm) and no Medicare+Choice organization has a contract in effect under part C of title XVIII of that Act (42 U.S.C. 1395w-21); or

(ii) the aggregate number of enrollees with an eligible organization with a contract in effect under section 1876 of that Act or with a Medicare+Choice organization with a contract in effect under part C of title XVIII of that Act is less than 2.5 percent of the total number of individuals in the area who are entitled to hospital insurance benefits under part A of title XVIII of that Act.

(B) The other area shall be an area outside the catchment area of a military medical treatment facility in which—

(i) at least one eligible organization has a contract in effect under section 1876 of that Act or one

Medicare+Choice organization has a contract in effect under part C of title XVIII of that Act; and

(ii) the aggregate number of enrollees with an eligible organization with a contract in effect under section 1876 of that Act or with a Medicare+Choice organization with a contract in effect under part C of title XVIII of that Act exceeds 10 percent of the total number of individuals in the area who are entitled to hospital insurance benefits under part A of title XVIII of that Act.

(e) DEFINITIONS.—In this section:

(1) The term “administering Secretaries” has the meaning given that term in section 1072(3) of title 10, United States Code.

(2) The term “TRICARE program” has the meaning given that term in section 1072(7) of title 10, United States Code.

10 USC 1073  
note.

**SEC. 723. IMPLEMENTATION OF REDESIGN OF PHARMACY SYSTEM.**

(a) IN GENERAL.—Not later than October 1, 1999, the Secretary of Defense shall implement, with respect to eligible individuals described in subsection (e) who reside in an area selected under subsection (f), the redesign of the pharmacy system under TRICARE (including the mail-order and retail pharmacy benefit under TRICARE) to incorporate “best business practices” of the private sector in providing pharmaceuticals, as developed under the plan described in section 703.

(b) COLLECTION OF PREMIUMS AND OTHER CHARGES.—The Secretary of Defense may collect from eligible individuals described in subsection (e) who participate in the redesigned pharmacy system any premiums, deductibles, copayments, or other charges that the Secretary would otherwise collect from individuals similar to such individuals.

(c) EVALUATION.—The Secretary shall provide for an evaluation of the implementation of the redesign of the pharmacy system under TRICARE under this section by an appropriate person or entity that is independent of the Department of Defense. The evaluation shall include the following:

(1) An analysis of the costs of the implementation of the redesign of the pharmacy system under TRICARE and to the eligible individuals who participate in the system.

(2) An assessment of the extent to which the implementation of such system satisfies the requirements of the eligible individuals for the health care services available under TRICARE.

(3) An assessment of the effect, if any, of the implementation of the system on military medical readiness.

(4) A description of the rate of the participation in the system of the individuals who were eligible to participate.

(5) An evaluation of any other matters that the Secretary considers appropriate.

(d) REPORTS.—The Secretary shall submit two reports on the results of the evaluation under subsection (c), together with the evaluation, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The first report shall be submitted not later than December 31, 2000, and the second report shall be submitted not later than December 31, 2002.

(e) **ELIGIBLE INDIVIDUALS.**—(1) An individual is eligible to participate under this section if the individual is a member or former member of the uniformed services described in section 1074(b) of title 10, United States Code, a dependent of the member described in section 1076(a)(2)(B) or 1076(b) of that title, or a dependent of a member of the uniformed services who died while on active duty for a period of more than 30 days, who—

(A) is 65 years of age or older;

(B) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

(C) except as provided in paragraph (2), is enrolled in the supplemental medical insurance program under part B of such title XVIII (42 U.S.C. 1395j et seq.); and

(D) resides in an area selected by the Secretary under subsection (f).

(2) Paragraph (1)(C) shall not apply in the case of an individual who at the time of attaining the age of 65 lived within 100 miles of the catchment area of a military medical treatment facility.

(f) **AREAS OF IMPLEMENTATION.**—(1) The Secretary shall carry out the implementation of the redesign of the pharmacy system under TRICARE in two separate areas selected by the Secretary.

(2) The areas selected by the Secretary under paragraph (1) shall be as follows:

(A) One area shall be an area outside the catchment area of a military medical treatment facility in which—

(i) no eligible organization has a contract in effect under section 1876 of the Social Security Act (42 U.S.C. 1395mm) and no Medicare+Choice organization has a contract in effect under part C of title XVIII of that Act (42 U.S.C. 1395w-21); or

(ii) the aggregate number of enrollees with an eligible organization with a contract in effect under section 1876 of that Act or with a Medicare+Choice organization with a contract in effect under part C of title XVIII of that Act is less than 2.5 percent of the total number of individuals in the area who are entitled to hospital insurance benefits under part A of title XVIII of that Act.

(B) The other area shall be an area outside the catchment area of a military medical treatment facility in which—

(i) at least one eligible organization has a contract in effect under section 1876 of that Act or one Medicare+Choice organization has a contract in effect under part C of title XVIII of that Act; and

(ii) the aggregate number of enrollees with an eligible organization with a contract in effect under section 1876 of that Act or with a Medicare+Choice organization with a contract in effect under part C of title XVIII of that Act exceeds 10 percent of the total number of individuals in the area who are entitled to hospital insurance benefits under part A of title XVIII of that Act.

**SEC. 724. COMPREHENSIVE EVALUATION OF IMPLEMENTATION OF DEMONSTRATION PROJECTS AND TRICARE PHARMACY REDESIGN.**

10 USC 1108  
note.

Not later than March 31, 2003, the Comptroller General shall submit to the Committee on Armed Services of the Senate and

the Committee on National Security of the House of Representatives a report containing a comprehensive comparative analysis of the FEHBP demonstration project conducted under section 1108 of title 10, United States Code (as added by section 721), the TRICARE Senior Supplement under section 722, and the redesign of the TRICARE pharmacy system under section 723. The comprehensive analysis shall incorporate the findings of the evaluation submitted under section 723(c) and the report submitted under subsection (j) of such section 1108.

## Subtitle D—Other Changes to Existing Laws Regarding Health Care Management

President.

### SEC. 731. PROCESS FOR WAIVING INFORMED CONSENT REQUIREMENT FOR ADMINISTRATION OF CERTAIN DRUGS TO MEMBERS OF ARMED FORCES FOR PURPOSES OF A PARTICULAR MILITARY OPERATION.

(a) LIMITATION AND WAIVER.—(1) Section 1107 of title 10, United States Code, is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection (f):

“(f) LIMITATION AND WAIVER.—(1) In the case of the administration of an investigational new drug or a drug unapproved for its applied use to a member of the armed forces in connection with the member’s participation in a particular military operation, the requirement that the member provide prior consent to receive the drug in accordance with the prior consent requirement imposed under section 505(i)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)(4)) may be waived only by the President. The President may grant such a waiver only if the President determines, in writing, that obtaining consent—

“(A) is not feasible;

“(B) is contrary to the best interests of the member; or

“(C) is not in the interests of national security.

“(2) In making a determination to waive the prior consent requirement on a ground described in subparagraph (A) or (B) of paragraph (1), the President shall apply the standards and criteria that are set forth in the relevant FDA regulations for a waiver of the prior consent requirement on that ground.

“(3) The Secretary of Defense may request the President to waive the prior consent requirement with respect to the administration of an investigational new drug or a drug unapproved for its applied use to a member of the armed forces in connection with the member’s participation in a particular military operation. With respect to any such administration—

“(A) the Secretary may not delegate to any other official the authority to request the President to waive the prior consent requirement for the Department of Defense; and

Notification.

“(B) if the President grants the requested waiver, the Secretary shall submit to the chairman and ranking minority member of each congressional defense committee a notification of the waiver, together with the written determination of the President under paragraph (1) and the Secretary’s justification for the request or requirement under subsection (a) for the member to receive the drug covered by the waiver.

“(4) In this subsection:

“(A) The term ‘relevant FDA regulations’ means the regulations promulgated under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)).

“(B) The term ‘prior consent requirement’ means the requirement included in the relevant FDA regulations pursuant to section 505(i)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)(4)).

“(C) The term ‘congressional defense committee’ means each of the following:

“(i) The Committee on Armed Services and the Committee on Appropriations of the Senate.

“(ii) The Committee on National Security and the Committee on Appropriations of the House of Representatives.”.

(2) Subsection (f) of section 1107 of title 10, United States Code (as added by paragraph (1)), shall apply to the administration of an investigational new drug or a drug unapproved for its applied use to a member of the Armed Forces in connection with the member’s participation in a particular military operation on or after the date of the enactment of this Act.

Applicability.  
10 USC 1107  
note.

(3) A waiver of the requirement for prior consent imposed under the regulations required under paragraph (4) of section 505(i) of the Federal Food, Drug, and Cosmetic Act (or under any antecedent provision of law or regulations) that has been granted under that section (or antecedent provision of law or regulations) before the date of the enactment of this Act for the administration of a drug to a member of the Armed Forces in connection with the member’s participation in a particular military operation may be applied in that case after that date only if—

10 USC 1107  
note.

(A) the Secretary of Defense personally determines that the waiver is justifiable on each ground on which the waiver was granted;

(B) the President concurs in that determination in writing; and

(C) the Secretary submits to the chairman and ranking minority member of each congressional committee referred to in section 1107(f)(4)(C) of title 10, United States Code (as added by paragraph (1))—

(i) a notification of the waiver;

(ii) the President’s written concurrence; and

(iii) the Secretary’s justification for the request or for the requirement under subsection 1107(a) of such title for the member to receive the drug covered by the waiver.

(b) TIME AND FORM OF NOTICE.—(1) Subsection (b) of such section is amended by striking out “, if practicable” and all that follows through “first administered to the member”.

(2) Subsection (c) of such section is amended by striking out “unless the Secretary of Defense determines” and all that follows through “alternative method”.

#### **SEC. 732. HEALTH BENEFITS FOR ABUSED DEPENDENTS OF MEMBERS OF THE ARMED FORCES.**

Section 1076(e) of title 10, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

“(1) Subject to paragraph (3), the administering Secretary shall furnish an abused dependent of a former member of a uniformed

service described in paragraph (4), during that period that the abused dependent is in receipt of transitional compensation under section 1059 of this title, with medical and dental care, including mental health services, in facilities of the uniformed services in accordance with the same eligibility and benefits as were applicable for that abused dependent during the period of active service of the former member.”; and

(2) in paragraph (3)—

(A) by adding “and” at the end of subparagraph (A);

(B) by striking “; and” at the end of subparagraph

(B) and inserting a period; and

(C) by striking subparagraph (C).

**SEC. 733. PROVISION OF HEALTH CARE AT MILITARY ENTRANCE PROCESSING STATIONS AND ELSEWHERE OUTSIDE MEDICAL TREATMENT FACILITIES.**

(a) **EXTENSION OF AUTHORIZATION FOR USE OF PERSONAL SERVICES CONTRACTS.**—Section 1091(a)(2) of title 10, United States Code, is amended in the second sentence by striking out “the end of the one-year period beginning on the date of the enactment of this paragraph” and inserting in lieu thereof “December 31, 2000”.

10 USC 1091  
note.

(b) **TEST OF ALTERNATIVE PROCESS FOR CONDUCTING MEDICAL SCREENINGS FOR ENLISTMENT QUALIFICATION.**—(1) The Secretary of Defense shall conduct a test to—

(A) determine whether the use of an alternative to the system currently used by the Department of Defense of employing fee-basis physicians for determining the medical qualifications for enlistment of applicants for military service would reduce the number of disqualifying medical conditions that are detected during the initial entry training of such applicants;

(B) determine whether any savings or cost avoidance may be achieved through use of an alternative system as a result of any increased detection of disqualifying medical conditions before entry by applicants into initial entry training; and

(C) compare the capability of an alternative system to meet or exceed the cost, responsiveness, and timeliness standards of the system currently used by the Department.

(2) The alternative system described in paragraph (1) may include the system used under the TRICARE system, the health-care system of the Department of Veterans Affairs, or any other system, or combination of systems, considered appropriate by the Secretary.

Deadline.  
Reports.

(3) Not later than March 1, 2000, the Secretary shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report on the results and findings of the test conducted under paragraph (1).

**SEC. 734. PROFESSIONAL QUALIFICATIONS OF PHYSICIANS PROVIDING MILITARY HEALTH CARE.**

(a) **REQUIREMENT FOR UNRESTRICTED LICENSE.**—Section 1094(a)(1) of title 10, United States Code, is amended by adding at the end the following: “In the case of a physician, the physician may not provide health care as a physician under this chapter unless the current license is an unrestricted license that is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license.”.



(b) **SATISFACTION OF CONTINUING MEDICAL EDUCATION REQUIREMENTS.**—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1094 the following new section:

**“§ 1094a. Continuing medical education requirements: system for monitoring physician compliance**

“The Secretary of Defense shall establish a mechanism for ensuring that each person under the jurisdiction of the Secretary of a military department who provides health care under this chapter as a physician satisfies the continuing medical education requirements applicable to the physician.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1094 the following new item:

“1094a. Continuing medical education requirements: system for monitoring physician compliance.”.

(c) **EFFECTIVE DATES.**—(1) The amendment made by subsection (a) shall take effect on October 1, 1999.

10 USC 1094  
note.

(2) The system required by section 1094a of title 10, United States Code (as added by subsection (b)), shall take effect on the date that is three years after the date of the enactment of this Act.

10 USC 1094a  
note.

## Subtitle E—Other Matters

### SEC. 741. ENHANCED DEPARTMENT OF DEFENSE ORGAN AND TISSUE DONOR PROGRAM.

10 USC 1109  
note.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Organ and tissue transplantation is one of the most remarkable medical success stories in the history of medicine.

(2) Each year, the number of people waiting for organ or tissue transplantation increases. It is estimated that there are approximately 39,000 patients, ranging in age from babies to those in retirement, awaiting transplants of kidneys, hearts, livers, and other solid organs.

(3) The Department of Defense has made significant progress in increasing the awareness of the importance of organ and tissue donations among members of the Armed Forces.

(4) The inclusion of organ and tissue donor elections in the Defense Enrollment Eligibility Reporting System (DEERS) central database represents a major step in ensuring that organ and tissue donor elections are a matter of record and are accessible in a timely manner.

(b) **RESPONSIBILITIES REGARDING ORGAN AND TISSUE DONATION.**—(1) Chapter 55 of title 10, United States Code, is amended by adding after section 1108, as added by section 721(a)(1), the following new section:

**“§ 1109. Organ and tissue donor program**

“(a) **RESPONSIBILITIES OF THE SECRETARY OF DEFENSE.**—The Secretary of Defense shall ensure that the advanced systems developed for recording armed forces members’ personal data and information (such as the SMARTCARD, MEDITAG, and Personal Information Carrier) include the capability to record organ and tissue donation elections.

Records.

“(b) RESPONSIBILITIES OF THE SECRETARIES OF THE MILITARY DEPARTMENTS.—(1) The Secretaries of the military departments shall ensure that—

“(1) appropriate information about organ and tissue donation is provided—

“(A) to each officer candidate during initial training;

and

“(B) to each recruit—

“(i) after completion by the recruit of basic training;

and

“(ii) before arrival of the recruit at the first duty assignment of the recruit;

“(2) members of the armed forces are given recurring, specific opportunities to elect to be organ or tissue donors during service in the armed forces and upon retirement; and

“(3) members of the armed forces electing to be organ or tissue donors are encouraged to advise their next of kin concerning the donation decision and any subsequent change of that decision.

“(c) RESPONSIBILITIES OF THE SURGEONS GENERAL OF THE MILITARY DEPARTMENTS.—The Surgeons General of the military departments shall ensure that—

“(1) appropriate training is provided to enlisted and officer medical personnel to facilitate the effective operation of organ and tissue donation activities under garrison conditions and, to the extent possible, under operational conditions; and

“(2) medical logistical activities can, to the extent possible without jeopardizing operational requirements, support an effective organ and tissue donation program.”.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1108, as added by section 721(a)(2), the following new item:

“1109. Organ and tissue donor program.”.

Deadline.  
10 USC 1109  
note.

(c) REPORT.—Not later than September 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the implementation of section 1109 of title 10, United States Code (as added by subsection (b)).

#### **SEC. 742. AUTHORIZATION TO ESTABLISH A LEVEL 1 TRAUMA TRAINING CENTER.**

The Secretary of the Army is hereby authorized to establish a Level 1 Trauma Training Center (as designated by the American College of Surgeons) in order to provide the Army with a trauma center capable of training forward surgical teams.

#### **SEC. 743. AUTHORITY TO ESTABLISH CENTER FOR STUDY OF POST-DEPLOYMENT HEALTH CONCERNS OF MEMBERS OF THE ARMED FORCES.**

The Secretary of Defense is hereby authorized to establish a center devoted to a longitudinal study to evaluate data on the health conditions of members of the Armed Forces upon their return from deployment on military operations for purposes of ensuring the rapid identification of any trends in diseases, illnesses, or injuries among such members as a result of such operations.

**SEC. 744. REPORT ON IMPLEMENTATION OF ENROLLMENT-BASED  
CAPITATION FOR FUNDING FOR MILITARY MEDICAL  
TREATMENT FACILITIES.**

(a) **REPORT REQUIRED.**—The Secretary of Defense shall submit to Congress a report on the potential impact of using an enrollment-based capitation methodology to allocate funds for military medical treatment facilities. The report shall address the following:

(1) A description of the plans of the Secretary to implement an enrollment-based capitation methodology for military medical treatment facilities and with respect to contracts for the delivery of health care under the TRICARE program.

(2) The justifications for implementing an enrollment-based capitation methodology without first conducting a demonstration project for implementation of such methodology.

(3) The impact that implementation of an enrollment-based capitation methodology would have on the provision of space-available care at military medical treatment facilities, particularly in the case of care for—

(A) military retirees who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); and

(B) covered beneficiaries under chapter 55 of title 10, United States Code, who reside outside the catchment area of a military medical treatment facility.

(4) The impact that implementation of an enrollment-based capitation methodology would have with respect to the pharmacy benefits provided at military medical treatment facilities, given that the enrollment-based capitation methodology would fund military medical treatment facilities based on the number of members at such facilities enrolled in TRICARE Prime, but all covered beneficiaries may fill prescriptions at military medical treatment facility pharmacies.

(5) An explanation of how additional funding will be provided for a military medical treatment facility if an enrollment-based capitation methodology is implemented to ensure that space-available care and pharmacy coverage can be provided to covered beneficiaries who are not enrolled at the military medical treatment facility, and the amount of funding that will be available.

(6) An explanation of how implementation of an enrollment-based capitation methodology would impact the provision of uniform benefits under TRICARE Prime, and how the Secretary would ensure, if such methodology were implemented, that the provision of health care under TRICARE Prime would not be bifurcated between the provision of such care at military medical treatment facilities and the provision of such care from civilian providers.

(b) **DEADLINE FOR SUBMISSION.**—The Secretary shall submit the report required by subsection (a) not later than March 1, 1999.

**SEC. 745. JOINT DEPARTMENT OF DEFENSE AND DEPARTMENT OF  
VETERANS AFFAIRS REPORTS RELATING TO INTER-  
DEPARTMENTAL COOPERATION IN THE DELIVERY OF  
MEDICAL CARE.**

10 USC 1071  
note.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The military health care system of the Department of Defense and the Veterans Health Administration of the

Department of Veterans Affairs are national institutions that collectively manage more than 1,500 hospitals, clinics, and health care facilities worldwide to provide services to more than 11,000,000 beneficiaries.

(2) In the post-Cold War era, these institutions are in a profound transition that involves challenging opportunities.

(3) During the period from 1988 to 1998, the number of military medical personnel has declined by 15 percent and the number of military hospitals has been reduced by one-third.

(4) During the 2 years since 1996, the Department of Veterans Affairs has revitalized its structure by decentralizing authority into 22 Veterans Integrated Service Networks.

(5) In the face of increasing costs of medical care, increased demands for health care services, and increasing budgetary constraints, the Department of Defense and the Department of Veterans Affairs have embarked on a variety of dynamic and innovative cooperative programs ranging from shared services to joint venture operations of medical facilities.

(6) In 1984, there was a combined total of 102 Department of Veterans Affairs and Department of Defense facilities with sharing agreements. By 1997, that number had grown to 420. During the six years from fiscal year 1992 through fiscal year 1997, shared services increased from slightly over 3,000 services to more than 6,000 services, ranging from major medical and surgical services, laundry, blood, and laboratory services to unusual speciality care services.

(7) The Department of Defense and the Department of Veterans Affairs are conducting four health care joint ventures in New Mexico, Nevada, Texas, and Oklahoma, and are planning to conduct four more such ventures in Alaska, Florida, Hawaii, and California.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Department of Defense and the Department of Veterans Affairs should be commended for the cooperation between the two departments in the delivery of medical care, of which the cooperation involved in the establishment and operation of the Department of Defense and the Department of Veterans Affairs Executive Council is a praiseworthy example;

(2) the Department of Defense and the Department of Veterans Affairs are encouraged to continue to explore new opportunities to enhance the availability and delivery of medical care to beneficiaries by further enhancing the cooperative efforts of the departments; and

(3) enhanced cooperation between the Department of Defense and the Department of Veterans Affairs is encouraged regarding—

(A) the general areas of access to quality medical care, identification and elimination of impediments to enhanced cooperation, and joint research and program development; and

(B) the specific areas in which there is significant potential to achieve progress in cooperation in a short term, including computerization of patient records systems, participation of the Department of Veterans Affairs in the

TRICARE program, pharmaceutical programs, and joint physical examinations.

(c) JOINT SURVEY OF POPULATIONS SERVED.—(1) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly conduct a survey of their respective medical care beneficiary populations to identify, by category of beneficiary (defined as the Secretaries consider appropriate), the expectations of, requirements for, and behavior patterns of the beneficiaries with respect to medical care. The two Secretaries shall develop the protocol for the survey jointly, but shall obtain the services of an entity independent of the Department of Defense and the Department of Veterans Affairs to carry out the survey.

(2) The survey shall include the following:

(A) Demographic characteristics, economic characteristics, and geographic location of beneficiary populations with regard to catchment or service areas.

(B) The types and frequency of care required by veterans, retirees, and dependents within catchment or service areas of Department of Defense and Department of Veterans Affairs medical facilities and outside those areas.

(C) The numbers of, characteristics of, and types of medical care needed by the veterans, retirees, and dependents who, though eligible for medical care in Department of Defense or Department of Veterans Affairs treatment facilities or through other federally funded medical programs, choose not to seek medical care from those facilities or under those programs, and the reasons for that choice.

(D) The obstacles or disincentives for seeking medical care from such facilities or under such programs that are perceived by veterans, retirees, and dependents.

(E) Any other matters that the Secretary of Defense and the Secretary of Veterans Affairs consider appropriate for the survey.

(3) The Secretary of Defense or the Secretary of Veterans Affairs may waive the survey requirements under this subsection with respect to information that can be better obtained from a source other than the survey.

(4) The Secretary of Defense and the Secretary of Veterans Affairs shall submit a report on the results of the survey to the appropriate committees of Congress. The report shall contain the matters described in paragraph (2) and any proposals for legislation that the Secretaries recommend for enhancing Department of Defense and Department of Veterans Affairs cooperative efforts with respect to the delivery of medical care.

Reports.

(d) REVIEW OF LAW AND POLICIES.—(1) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly conduct a review to identify impediments to cooperation between the Department of Defense and the Department of Veterans Affairs regarding the delivery of medical care. The matters reviewed shall include the following:

(A) All laws, policies, and regulations, and any attitudes of beneficiaries of the health care systems of the two departments, that have the effect of preventing the establishment, or limiting the effectiveness, of cooperative health care programs of the departments.

(B) The requirements and practices involved in the credentialing and licensure of health care providers.

(C) The perceptions of beneficiaries in a variety of categories (defined as the Secretaries consider appropriate) regarding the various Federal health care systems available for their use.

(D) The types and frequency of medical services furnished by the Department of Defense and the Department of Veterans Affairs through cooperative arrangements to each category of beneficiary (including active-duty members, retirees, dependents, veterans in the health-care eligibility categories referred to as Category A and Category C, and persons authorized to receive medical care under section 1713 of title 38, United States Code) of the other department.

(E) The extent to which health care facilities of the Department of Defense and Department of Veterans Affairs have sufficient capacity, or could jointly or individually create sufficient capacity, to provide services to beneficiaries of the other department without diminution of access or services to their primary beneficiaries.

(F) The extent to which the recruitment of scarce medical specialists and allied health personnel by the Department of Defense and the Department of Veterans Affairs could be enhanced through cooperative arrangements for providing health care services.

(G) The obstacles and disincentives to providing health care services through cooperative arrangements between the Department of Defense and the Department of Veterans Affairs.

Reports.

(2) The Secretaries shall jointly submit a report on the results of the review to the appropriate committees of Congress. The report shall include any proposals for legislation that the Secretaries recommend for eliminating or reducing impediments to interdepartmental cooperation that are identified during the review.

(e) PARTICIPATION IN TRICARE.—(1) The Secretary of Defense shall review the TRICARE program to identify opportunities for increased participation by the Department of Veterans Affairs in that program. The ongoing collaboration between Department of Defense officials and Department of Veterans Affairs officials regarding increased participation shall be included among the matters reviewed.

Reports.

(2) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a semiannual report on the status of the review under this subsection and on efforts to increase the participation of the Department of Veterans Affairs in the TRICARE program. No report is required under this paragraph after the submission of a semiannual report in which the Secretaries declare that the Department of Veterans Affairs is participating in the TRICARE program to the extent that can reasonably be expected to be attained.

(f) PHARMACEUTICAL BENEFITS AND PROGRAMS.—(1) The Department of Defense-Department of Veterans Affairs Federal Pharmacy Executive Steering Committee shall—

(A) undertake a comprehensive examination of existing pharmaceutical benefits and programs for beneficiaries of Department of Defense medical care programs, including matters relating to the purchasing, distribution, and dispensing of pharmaceuticals and the management of mail order pharmaceuticals programs; and

(B) review the existing methods for contracting for and distributing medical supplies and services.

(2) The committee shall submit a report on the results of the examination to the appropriate committees of Congress. Reports.

(g) STANDARDIZATION OF PHYSICAL EXAMINATIONS FOR DISABILITY.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the status of the efforts of the Department of Defense and the Department of Veterans Affairs to standardize physical examinations administered by the two departments for the purpose of determining or rating disabilities. Reports.

(h) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—For the purposes of this section, the appropriate committees of Congress are as follows:

(1) The Committee on Armed Services and the Committee on Veterans' Affairs of the Senate.

(2) The Committee on National Security and the Committee on Veterans' Affairs of the House of Representatives.

(i) DEADLINES FOR SUBMISSION OF REPORTS.—(1) The report required by subsection (c)(3) shall be submitted not later than January 1, 2000.

(2) The report required by subsection (d)(2) shall be submitted not later than March 1, 1999.

(3) The semiannual report required by subsection (e)(2) shall be submitted not later than March 1 and September 1 of each year.

(4) The report on the examination required under subsection (f) shall be submitted not later than 60 days after the completion of the examination.

(5) The report required by subsection (g) shall be submitted not later than March 1, 1999.

**SEC. 746. REPORT ON RESEARCH AND SURVEILLANCE ACTIVITIES REGARDING LYME DISEASE AND OTHER TICK-BORNE DISEASES.**

Not later than April 1, 1999, the Secretary of Defense shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report on the current and recommended levels of research and surveillance activities regarding Lyme disease and other tick-borne diseases among members of the Armed Forces. The report shall include the following: Deadline.

(1) An analysis of the current and projected threat to the operational readiness of the Armed Forces posed by Lyme disease and other tick-borne diseases in the United States and in overseas locations at which members of the Armed Forces might be deployed.

(2) A review of the current research efforts being implemented to prevent the contraction of Lyme disease and other tick-borne diseases by members of the Armed Forces, and to enhance the early identification of such diseases once they have been contracted.

(3) An assessment of the adequacy of existing and projected funding levels for research and surveillance activities relating to Lyme disease and other tick-borne diseases among members of the Armed Forces.

(4) The recommended funding levels necessary to address the threats posed to the operational readiness of the Armed Forces by Lyme disease and other tick-borne diseases.

## **TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS**

### **Subtitle A—Amendments to General Contracting Authorities, Procedures, and Limitations**

- Sec. 801. Limitation on use of price preference upon achievement of contract goal for small and disadvantaged businesses.
- Sec. 802. Distribution of assistance under the Procurement Technical Assistance Cooperative Agreement Program.
- Sec. 803. Defense commercial pricing management improvement.
- Sec. 804. Modification of senior executives covered by limitation on allowability of compensation for certain contractor personnel.
- Sec. 805. Separate determinations of exceptional waivers of truth in negotiation requirements for prime contracts and subcontracts.
- Sec. 806. Procurement of conventional ammunition.
- Sec. 807. Para-aramid fibers and yarns.
- Sec. 808. Clarification of responsibility for submission of information on prices previously charged for property or services offered.
- Sec. 809. Amendments and study relating to procurement from firms in industrial base for production of small arms.

### **Subtitle B—Other Matters**

- Sec. 811. Eligibility of involuntarily downgraded employee for membership in an acquisition corps.
- Sec. 812. Time for submission of annual report relating to Buy American Act.
- Sec. 813. Procurement of travel services for official and unofficial travel under one contract.
- Sec. 814. Department of Defense purchases through other agencies.
- Sec. 815. Supervision of defense acquisition university structure by Under Secretary of Defense for Acquisition and Technology.
- Sec. 816. Pilot programs for testing program manager performance of product support oversight responsibilities for life cycle of acquisition programs.
- Sec. 817. Scope of protection of certain information from disclosure.
- Sec. 818. Plan for rapid transition from completion of small business innovation research into defense acquisition programs.
- Sec. 819. Five-year authority for Secretary of the Navy to exchange certain items.
- Sec. 820. Permanent authority for use of major range and test facility installations by commercial entities.
- Sec. 821. Inventory exchange authorized for certain fuel delivery contract.

### **Subtitle A—Amendments to General Contracting Authorities, Procedures, and Limitations**

#### **SEC. 801. LIMITATION ON USE OF PRICE PREFERENCE UPON ACHIEVEMENT OF CONTRACT GOAL FOR SMALL AND DISADVANTAGED BUSINESSES.**

Section 2323(e)(3) of title 10, United States Code, is amended—

- (1) by inserting “(A)” after “(3)”;
  - (2) by inserting “, except as provided in subparagraph (B),” after “the head of an agency may” in the first sentence; and
  - (3) by adding at the end the following:
    - “(B)(i) The Secretary of Defense may not exercise the authority under subparagraph (A) to enter into a contract for



a price exceeding fair market cost if the regulations implementing that authority are suspended under clause (ii) with respect to that contract.

“(ii) At the beginning of each fiscal year, the Secretary shall determine, on the basis of the most recent data, whether the Department of Defense achieved the 5 percent goal described in subsection (a) during the fiscal year to which the data relates. Upon determining that the Department achieved the goal for the fiscal year to which the data relates, the Secretary shall issue a suspension, in writing, of the regulations that implement the authority under subparagraph (A). Such a suspension shall be in effect for the one-year period beginning 30 days after the date on which the suspension is issued and shall apply with respect to contracts awarded pursuant to solicitations issued during that period.

Regulations.

Applicability.

“(iii) For purposes of clause (ii), the term ‘most recent data’ means data relating to the most recent fiscal year for which data are available.”.

**SEC. 802. DISTRIBUTION OF ASSISTANCE UNDER THE PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM.**

(a) CORRECTION OF DESCRIPTION OF GEOGRAPHIC UNIT.—(1) Section 2413(c) of title 10, United States Code, is amended by striking out “region” and inserting in lieu thereof “district”.

(2) Section 2415 of such title is amended—

(A) by striking out “region” and inserting in lieu thereof “district” each place it appears; and

(B) by striking out “regions” and inserting in lieu thereof “districts”.

(b) TECHNICAL AMENDMENT.—Section 2415 of such title is amended by striking out “Defense Contract Administrative Services” and inserting in lieu thereof “Department of Defense contract administrative services”.

**SEC. 803. DEFENSE COMMERCIAL PRICING MANAGEMENT IMPROVEMENT.**

10 USC 2306a  
note.

(a) MODIFICATION OF PRICING REGULATIONS FOR CERTAIN COMMERCIAL ITEMS EXEMPT FROM COST OR PRICING DATA CERTIFICATION REQUIREMENTS.—(1) The Federal Acquisition Regulation issued in accordance with sections 6 and 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 405, 421) shall be revised to clarify the procedures and methods to be used for determining the reasonableness of prices of exempt commercial items (as defined in subsection (d)).

(2) The regulations shall, at a minimum, provide specific guidance on—

(A) the appropriate application and precedence of such price analysis tools as catalog-based pricing, market-based pricing, historical pricing, parametric pricing, and value analysis;

(B) the circumstances under which contracting officers should require offerors of exempt commercial items to provide—

(i) information on prices at which the offeror has previously sold the same or similar items; or

(ii) other information other than certified cost or pricing data;

	(C) the role and responsibility of Department of Defense support organizations in procedures for determining price reasonableness; and
	(D) the meaning and appropriate application of the term “purposes other than governmental purposes” in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).
Termination date.	(3) This subsection shall cease to be effective 1 year after the date on which final regulations prescribed pursuant to paragraph (1) take effect.
Procedures.	(b) UNIFIED MANAGEMENT OF PROCUREMENT OF EXEMPT COMMERCIAL ITEMS.—The Secretary of Defense shall develop and implement procedures to ensure that, whenever appropriate, a single item manager or contracting officer is responsible for negotiating and entering into all contracts from a single contractor for the procurement of exempt commercial items or for the procurement of items in a category of exempt commercial items.
Procedures.	(c) COMMERCIAL PRICE TREND ANALYSIS.—(1) The Secretary of Defense shall develop and implement procedures that, to the maximum extent that is practicable and consistent with the efficient operation of the Department of Defense, provide for the collection and analysis of information on price trends for categories of exempt commercial items described in paragraph (2). (2) A category of exempt commercial items referred to in paragraph (1) consists of exempt commercial items— (A) that are in a single Federal Supply Group or Federal Supply Class, are provided by a single contractor, or are otherwise logically grouped for the purpose of analyzing information on price trends; and (B) for which there is a potential for the price paid to be significantly higher (on a percentage basis) than the prices previously paid in procurements of the same or similar items for the Department of Defense, as determined by the head of the procuring Department of Defense agency or the Secretary of the procuring military department on the basis of criteria prescribed by the Secretary of Defense. (3) The head of a Department of Defense agency or the Secretary of a military department shall take appropriate action to address any unreasonable escalation in prices being paid for items procured by that agency or military department as identified in an analysis conducted pursuant to paragraph (1).
Deadline. Reports.	(4) Not later than April 1 of each of fiscal years 2000, 2001, and 2002, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the analyses of price trends that were conducted for categories of exempt commercial items during the preceding fiscal year under the procedures prescribed pursuant to paragraph (1). The report shall include a description of the actions taken to identify and address any unreasonable price escalation for the categories of items. (d) EXEMPT COMMERCIAL ITEMS DEFINED.—For the purposes of this section, the term “exempt commercial item” means a commercial item that is exempt under subsection (b)(1)(B) of section 2306a of title 10, United States Code, or subsection (b)(1)(B) of section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b), from the requirements for submission of certified cost or pricing data under that section.

**SEC. 804. MODIFICATION OF SENIOR EXECUTIVES COVERED BY  
LIMITATION ON ALLOWABILITY OF COMPENSATION FOR  
CERTAIN CONTRACTOR PERSONNEL.**

(a) **ARMED SERVICES ACQUISITIONS.**—Section 2324(l)(5) of title 10, United States Code, is amended to read as follows:

“(5) The term ‘senior executives’, with respect to a contractor, means the five most highly compensated employees in management positions at each home office and each segment of the contractor.”.

(b) **CIVILIAN AGENCY ACQUISITIONS.**—Section 306(m)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(m)(2)) is amended to read as follows:

“(2) The term ‘senior executives’, with respect to a contractor, means the five most highly compensated employees in management positions at each home office and each segment of the contractor.”.

(c) **CONFORMING AMENDMENTS.**—(1) Section 39(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 435(c)(2)) is amended to read as follows:

“(2) The term ‘senior executives’, with respect to a contractor, means the five most highly compensated employees in management positions at each home office and each segment of the contractor.”.

(2) Section 808(g)(2) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1838) is amended by striking out “senior executive” and inserting in lieu thereof “senior executives”.

41 USC 435 note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to costs of compensation of senior executives incurred after January 1, 1999, under covered contracts (as defined in section 2324(l) of title 10, United States Code, and section 306(l) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C.256(l)) entered into before, on, or after the date of the enactment of this Act.

Applicability.  
10 USC 2324  
note.

**SEC. 805. SEPARATE DETERMINATIONS OF EXCEPTIONAL WAIVERS OF  
TRUTH IN NEGOTIATION REQUIREMENTS FOR PRIME  
CONTRACTS AND SUBCONTRACTS.**

(a) **ARMED SERVICES ACQUISITIONS.**—Section 2306a(a)(5) of title 10, United States Code, is amended to read as follows:

“(5) A waiver of requirements for submission of certified cost or pricing data that is granted under subsection (b)(1)(C) in the case of a contract or subcontract does not waive the requirement under paragraph (1)(C) for submission of cost or pricing data in the case of subcontracts under that contract or subcontract unless the head of the procuring activity granting the waiver determines that the requirement under that paragraph should be waived in the case of such subcontracts and justifies in writing the reasons for the determination.”.

(b) **CIVILIAN AGENCY ACQUISITIONS.**—Section 304A(a)(5) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(a)(5)) is amended to read as follows:

“(5) A waiver of requirements for submission of certified cost or pricing data that is granted under subsection (b)(1)(C) in the case of a contract or subcontract does not waive the requirement under paragraph (1)(C) for submission of cost or pricing data in the case of subcontracts under that contract or subcontract unless

the head of the procuring activity granting the waiver determines that the requirement under that paragraph should be waived in the case of such subcontracts and justifies in writing the reasons for the determination.”.

10 USC 2304  
note.

**SEC. 806. PROCUREMENT OF CONVENTIONAL AMMUNITION.**

(a) **AUTHORITY.**—The official in the Department of Defense designated as the single manager for conventional ammunition in the Department shall have the authority to restrict the procurement of conventional ammunition to sources within the national technology and industrial base in accordance with the authority in section 2304(c) of title 10, United States Code.

(b) **REQUIREMENT.**—The official in the Department of Defense designated as the single manager for conventional ammunition in the Department of Defense shall limit a specific procurement of ammunition to sources within the national technology and industrial base in accordance with section 2304(c)(3) of title 10, United States Code, in any case in which that manager determines that such limitation is necessary to maintain a facility, producer, manufacturer, or other supplier available for furnishing an essential item of ammunition or ammunition component in cases of national emergency or to achieve industrial mobilization.

(c) **CONVENTIONAL AMMUNITION DEFINED.**—For purposes of this section, the term “conventional ammunition” has the meaning given that term in Department of Defense Directive 5160.65, dated March 8, 1995.

**SEC. 807. PARA-ARAMID FIBERS AND YARNS.**

(a) **AUTHORITY.**—The Secretary of Defense may procure articles containing para-aramid fibers and yarns manufactured in a foreign country referred to in subsection (d) if the Secretary determines that—

(1) procuring articles that contain only para-aramid fibers and yarns manufactured from suppliers within the national technology and industrial base would result in sole-source contracts or subcontracts for the supply of such para-aramid fibers and yarns; and

(2) such sole-source contracts or subcontracts would not be in the best interests of the Government or consistent with the objectives of section 2304 of title 10, United States Code.

(b) **SUBMISSION TO CONGRESS.**—Not later than 30 days after making a determination under subsection (a), the Secretary shall submit to Congress a copy of the determination.

(c) **APPLICABILITY TO SUBCONTRACTS.**—The authority under subsection (a) applies with respect to subcontracts under Department of Defense contracts as well as to such contracts.

(d) **FOREIGN COUNTRIES COVERED.**—The authority under subsection (a) applies with respect to a foreign country that—

(1) is a party to a defense memorandum of understanding entered into under section 2531 of this title; and

(2) permits United States firms that manufacture para-aramid fibers and yarns to compete with foreign firms for the sale of para-aramid fibers and yarns in that country, as determined by the Secretary of Defense.

(e) **DEFINITION.**—In this section, the term “national technology and industrial base” has the meaning given that term in section 2500 of title 10, United States Code.

Applicability.

**SEC. 808. CLARIFICATION OF RESPONSIBILITY FOR SUBMISSION OF INFORMATION ON PRICES PREVIOUSLY CHARGED FOR PROPERTY OR SERVICES OFFERED.**

(a) **ARMED SERVICES PROCUREMENTS.**—Section 2306a(d)(1) of title 10, United States Code, is amended by striking out “the data submitted shall” in the second sentence and inserting in lieu thereof the following: “the contracting officer shall require that the data submitted”.

(b) **CIVILIAN AGENCY PROCUREMENTS.**—Section 304A(d)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)(1)), is amended by striking out “the data submitted shall” in the second sentence and inserting in lieu thereof the following: “the contracting officer shall require that the data submitted”.

(c) **ELIGIBILITY FOR CONTRACTS AND SUBCONTRACTS TO BE CONDITIONED ON COMPLIANCE.**—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to provide that an offeror’s compliance with a requirement to submit data for a contract or subcontract in accordance with section 2306a(d)(1) of title 10, United States Code, or section 304A(d)(1) of the Federal Property and Administrative Services Act of 1949 shall be a condition for the offeror to be eligible to enter into the contract or subcontract, subject to such exceptions as the Federal Acquisition Regulatory Council determines appropriate.

Deadline.  
41 USC 254b  
note.

(d) **CRITERIA FOR CERTAIN DETERMINATIONS.**—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to include criteria for contracting officers to apply for determining the specific price information that an offeror should be required to submit under section 2306a(d) of title 10, United States Code, or section 304A(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)).

Deadline.  
41 USC 254b  
note.

**SEC. 809. AMENDMENTS AND STUDY RELATING TO PROCUREMENT FROM FIRMS IN INDUSTRIAL BASE FOR PRODUCTION OF SMALL ARMS.**

(a) **REQUIREMENT TO LIMIT PROCUREMENTS TO CERTAIN SOURCES.**—Subsection (a) of section 2473 of title 10, United States Code, is amended—

(1) in the heading, by striking out the first word and inserting in lieu thereof “REQUIREMENT”;

(2) by striking out “To the extent that the Secretary of Defense determines necessary to preserve the small arms production industrial base, the Secretary may” and inserting in lieu thereof “In order to preserve the small arms production industrial base, the Secretary of Defense shall”; and

(3) by inserting before the period at the end the following: “, unless the Secretary determines, with regard to a particular procurement, that such requirement is not necessary to preserve the small arms production industrial base”.

(b) **SPECIFICATION OF INCLUDED REPAIR PARTS.**—Subsection (b) of such section is amended in paragraph (1) by inserting before the period the following: “, including repair parts consisting of barrels, receivers, and bolts”.

(c) **APPLICABILITY OF REQUIREMENT.**—Such section is further amended—

(1) in subsection (b), by striking out “Subsection” and inserting in lieu thereof “Subject to subsection (d), subsection”; and

(2) by adding at the end the following new subsection:

“(d) APPLICABILITY.—This section applies only to procurements of covered property and services involving the following small arms:

“(1) M16 series rifle.

“(2) MK19 grenade machine gun.

“(3) M4 series carbine.

“(4) M240 series machine gun.

“(5) M249 squad automatic weapon.”.

(d) SUBMISSION OF CERTIFIED COST OR PRICING DATA.—Such section is further amended by adding at the end the following new subsection:

“(e) SUBMISSION OF CERTIFIED COST OR PRICING DATA.—If a procurement under subsection (a) is a procurement of a commercial item, the Secretary may, notwithstanding section 2306a(b)(1)(B) of this title, require the submission of certified cost or pricing data under section 2306a(a) of this title.”.

(e) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall conduct a study, to be carried out by the Army Science Board, to examine whether the requirements of section 2473 of title 10, United States Code, should be extended to small arms (as specified in subsection (d) of such section) and the parts manufactured under a contract with the Department of Defense to produce such small arms.

(f) AUTHORITY TO EXTEND REQUIREMENTS OF SECTION 2473.—Based upon recommendations of the Army Science Board resulting from the study conducted under subsection (e), the Secretary of the Army may apply the requirements of section 2473 of title 10, United States Code, to the small arms and parts referred to in subsection (e).

Deadline.  
10 USC 2473  
note.

10 USC 2473  
note.

## Subtitle B—Other Matters

### SEC. 811. ELIGIBILITY OF INVOLUNTARILY DOWNGRADED EMPLOYEE FOR MEMBERSHIP IN AN ACQUISITION CORPS.

Section 1732(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(3) Paragraph (1) of subsection (b) shall not apply to an employee who—

“(A) having previously served in a position within a grade referred to in subparagraph (A) of that paragraph, is currently serving in the same position within a grade below GS-13 of the General Schedule, or in another position within that grade, by reason of a reduction in force or the closure or realignment of a military installation, or for any other reason other than by reason of an adverse personnel action for cause; and

“(B) except as provided in paragraphs (1) and (2), satisfies the educational, experience, and other requirements prescribed under paragraphs (2), (3), and (4) of that subsection.”.

### SEC. 812. TIME FOR SUBMISSION OF ANNUAL REPORT RELATING TO BUY AMERICAN ACT.

Section 827 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2611; 41 U.S.C. 10b—

3) is amended by striking out “90 days” and inserting in lieu thereof “60 days”.

**SEC. 813. PROCUREMENT OF TRAVEL SERVICES FOR OFFICIAL AND UNOFFICIAL TRAVEL UNDER ONE CONTRACT.**

(a) **AUTHORITY.**—Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2646. Travel services: procurement for official and unofficial travel under one contract**

“(a) **AUTHORITY.**—The head of an agency may enter into a contract for travel-related services that provides for the contractor to furnish services for both official travel and unofficial travel.

“(b) **CREDITS, DISCOUNTS, COMMISSIONS, FEES.**—(1) A contract entered into under this section may provide for credits, discounts, or commissions or other fees to accrue to the Department of Defense. The accrual and amounts of credits, discounts, or commissions or other fees may be determined on the basis of the volume (measured in the number or total amount of transactions or otherwise) of the travel-related sales that are made by the contractor under the contract.

“(2) The evaluation factors applicable to offers for a contract under this section may include a factor that relates to the estimated aggregate value of any credits, discounts, commissions, or other fees that would accrue to the Department of Defense for the travel-related sales made under the contract.

“(3) Commissions or fees received by the Department of Defense as a result of travel-related sales made under a contract entered into under this section shall be distributed as follows:

“(A) For amounts relating to sales for official travel, credit to appropriations available for official travel for the fiscal year in which the amounts were charged.

“(B) For amounts relating to sales for unofficial travel, deposit in nonappropriated fund accounts available for morale, welfare, and recreation programs.

“(c) **DEFINITIONS.**—In this section:

“(1) The term ‘head of an agency’ has the meaning given that term in section 2302(1) of this title.

“(2) The term ‘official travel’ means travel at the expense of the Federal Government.

“(3) The term ‘unofficial travel’ means personal travel or other travel that is not paid for or reimbursed by the Federal Government out of appropriated funds.

“(d) **INAPPLICABILITY TO COAST GUARD AND NASA.**—This section does not apply to the Coast Guard when it is not operating as a service in the Navy, nor to the National Aeronautics and Space Administration.”

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2646. Travel services: procurement for official and unofficial travel under one contract.”

**SEC. 814. DEPARTMENT OF DEFENSE PURCHASES THROUGH OTHER AGENCIES.**

(a) **EXTENSION OF REGULATIONS.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall revise the regulations issued pursuant to section 844 of the

31 USC 1535  
note.

Deadline.

National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1720; 31 U.S.C. 1535 note) to—

(1) cover any purchase described in subsection (b) that is greater than the micro-purchase threshold; and

(2) provide for a streamlined method of compliance for any such purchase that is not greater than the simplified acquisition threshold.

(b) **DESCRIPTION OF PURCHASES.**—A purchase referred to in subsection (a) is a purchase of goods or services for one agency of the Department of Defense by any other agency under a task or delivery order contract entered into by the other agency under section 2304a of title 10, United States Code, or section 303H of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h).

(c) **DEFINITIONS.**—In this section:

(1) The term “micro-purchase threshold” has the meaning provided in section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428).

(2) The term “simplified acquisition threshold” has the meaning provided in section 4 of such Act (41 U.S.C. 403).

(d) **TERMINATION.**—This section shall cease to be effective 1 year after the date on which final regulations prescribed pursuant to subsection (a) take effect.

**SEC. 815. SUPERVISION OF DEFENSE ACQUISITION UNIVERSITY STRUCTURE BY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.**

Section 1702 of title 10, United States Code, is amended by adding at the end the following: “The Under Secretary shall prescribe policies and requirements for the educational programs of the defense acquisition university structure established under section 1746 of this title.”.

10 USC 2220  
note.

**SEC. 816. PILOT PROGRAMS FOR TESTING PROGRAM MANAGER PERFORMANCE OF PRODUCT SUPPORT OVERSIGHT RESPONSIBILITIES FOR LIFE CYCLE OF ACQUISITION PROGRAMS.**

(a) **DESIGNATION OF PILOT PROGRAMS.**—The Secretary of Defense, acting through the Secretaries of the military departments, shall designate 10 acquisition programs of the military departments as pilot programs on program manager responsibility for product support.

(b) **RESPONSIBILITIES OF PROGRAM MANAGERS.**—The program manager for each acquisition program designated as a pilot program under this section shall have the responsibility for ensuring that the product support functions for the program are properly carried out over the entire life cycle of the program.

Deadline.

(c) **REPORT.**—Not later than February 1, 1999, the Secretary of Defense shall submit to the congressional defense committees a report on the pilot programs. The report shall contain the following:

(1) A description of the acquisition programs designated as pilot programs under subsection (a).

(2) For each such acquisition program, the specific management actions taken to ensure that the program manager has the responsibility for oversight of the performance of the product support functions.



(3) Any proposed change to law, policy, regulation, or organization that the Secretary considers desirable, and determines feasible to implement, for ensuring that the program managers are fully responsible under the pilot programs for the performance of all such responsibilities.

**SEC. 817. SCOPE OF PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.**

Section 2371(i)(2)(A) of title 10, United States Code, is amended by striking out “cooperative agreement that includes a clause described in subsection (d)” and inserting in lieu thereof “cooperative agreement for performance of basic, applied, or advanced research authorized by section 2358 of this title”.

**SEC. 818. PLAN FOR RAPID TRANSITION FROM COMPLETION OF SMALL BUSINESS INNOVATION RESEARCH INTO DEFENSE ACQUISITION PROGRAMS.**

(a) **PLAN REQUIRED.**—(1) Not later than February 1, 1999, Deadline. the Secretary of Defense, in consultation with the Administrator of the Small Business Administration, shall develop a plan for facilitating the rapid transition into Department of Defense acquisition programs of successful first phase and second phase activities under the Small Business Innovation Research program under section 9 of the Small Business Act (15 U.S.C. 638).

(2) The Secretary shall submit the plan developed under paragraph (1) to—

(A) the Committee on Armed Services and the Committee on Small Business of the Senate; and

(B) the Committee on National Security and the Committee on Small Business of the House of Representatives.

(b) **CONDITIONS.**—The plan developed under subsection (a) shall—

(1) be consistent with the Small Business Innovation Research program and with the provisions of division D of the Clinger-Cohen Act of 1996 (division D of Public Law 104–106; 110 Stat. 642) and the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3243) that are applicable to the Department of Defense; and

(2) provide for favorable consideration, in the acquisition planning process, for funding projects under the Small Business Innovation Research program that have successfully completed the second phase or are subject to a third phase agreement entered into pursuant to section 9(r) of the Small Business Act (15 U.S.C. 638(r)).

**SEC. 819. FIVE-YEAR AUTHORITY FOR SECRETARY OF THE NAVY TO EXCHANGE CERTAIN ITEMS.**

(a) **BARTER AUTHORITY.**—The Secretary of the Navy may enter into a barter agreement to convey trucks and other tactical vehicles in exchange for the repair and remanufacture of ribbon bridges for the Marine Corps. The Secretary shall enter into any such agreement in accordance with section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c)), and the regulations issued under such section, except that the requirement that the items to be exchanged be similar shall not apply to the authority provided under this subsection.

(b) **PERIOD OF AUTHORITY.**—The authority to enter into agreements under subsection (a) and to make exchanges under any

such agreement is effective during the 5-year period beginning on October 1, 1998.

**SEC. 820. PERMANENT AUTHORITY FOR USE OF MAJOR RANGE AND TEST FACILITY INSTALLATIONS BY COMMERCIAL ENTITIES.**

(a) **PERMANENT AUTHORITY.**—Subsection (g) of section 2681 of title 10, United States Code, is repealed.

(b) **REPEAL OF EXECUTED REPORTING REQUIREMENT.**—Subsection (h) of such section is repealed.

**SEC. 821. INVENTORY EXCHANGE AUTHORIZED FOR CERTAIN FUEL DELIVERY CONTRACT.**

(a) **EXCHANGE OF BARRELS AUTHORIZED.**—(1) The Secretary of Defense shall provide, under a contract described in subsection (f), that the contract may be performed, during the period described in paragraph (2), by means of delivery of fuel obtained by the refiner concerned in an inventory exchange of barrels of fuel, in any case in which—

(A) the refiner is unable to physically deliver fuel in compliance with the contract requirements because of ice conditions in Cook Inlet, as determined by the Coast Guard; and

(B) the Secretary determines that such inability will result in an inequity to the refiner.

(2) The period referred to in paragraph (1) is the period beginning on the date of the enactment of this Act and ending on February 28, 1999.

(b) **LIMITATION.**—The number of barrels of fuel exchanged pursuant to a contract described in subsection (f) may contain up to 15 percent of the total quantity of fuel required to be delivered under the contract.

(c) **EFFECT ON STATUS AS SMALL DISADVANTAGED BUSINESS.**—Nothing in this section, and no action taken pursuant to this section, may be construed as affecting the status of the refiner as a small disadvantaged business.

(d) **EFFECT ON CONTRACTUAL OBLIGATIONS.**—Nothing in this section may be construed as affecting the requirement of a refiner to fulfill its contractual obligations under a contract described in subsection (e), other than as provided under subsection (b).

(e) **SMALL DISADVANTAGED BUSINESS DEFINED.**—For the purposes of this section, the term “small disadvantaged business” means a socially and economically disadvantaged small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, and a qualified HUBZone small business concern, as those terms are defined in sections 8(a)(4)(A), 8(d)(3)(C), and 3(p) of the Small Business Act (15 U.S.C. 637(a)(4)(A)), 637(d)(3)(C), and 632(p)), respectively.

(f) **APPLICABILITY.**—This section applies to any contract between the Defense Energy Supply Center of the Department of Defense and a refiner that qualifies as a small disadvantaged business for the delivery of fuel by barge to Defense Energy Supply Point-Anchorage.

## **TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT**

### **Subtitle A—Department of Defense Officers and Organization**

- Sec. 901. Reduction in number of Assistant Secretary of Defense positions.
- Sec. 902. Repeal of statutory requirement for position of Assistant Secretary of Defense for Command, Control, Communications, and Intelligence.
- Sec. 903. Independent task force on transformation and Department of Defense organization.
- Sec. 904. Authority to expand the National Defense University.
- Sec. 905. Center for Hemispheric Defense Studies.
- Sec. 906. Restructuring of administration of Fisher Houses.
- Sec. 907. Management reform for research, development, test, and evaluation activities.

### **Subtitle B—Department of Defense Financial Management**

- Sec. 911. Improved accounting for defense contract services.
- Sec. 912. Report on Department of Defense financial management improvement plan.
- Sec. 913. Study of feasibility of performance of Department of Defense finance and accounting functions by private sector sources or other Federal sources.
- Sec. 914. Limitation on reorganization and consolidation of operating locations of the Defense Finance and Accounting Service.
- Sec. 915. Annual report on resources allocated to support and mission activities.

### **Subtitle C—Joint Warfighting Experimentation**

- Sec. 921. Findings concerning joint warfighting experimentation.
- Sec. 922. Sense of Congress concerning joint warfighting experimentation.
- Sec. 923. Reports on joint warfighting experimentation.

### **Subtitle D—Other Matters**

- Sec. 931. Further reductions in defense acquisition and support workforce.
- Sec. 932. Limitation on operation and support funds for the Office of the Secretary of Defense.
- Sec. 933. Clarification and simplification of responsibilities of Inspectors General regarding whistleblower protections.
- Sec. 934. Repeal of requirement relating to assignment of tactical airlift mission to Reserve components.
- Sec. 935. Consultation with Marine Corps on major decisions directly concerning Marine Corps aviation.

## **Subtitle A—Department of Defense Officers and Organization**

### **SEC. 901. REDUCTION IN NUMBER OF ASSISTANT SECRETARY OF DEFENSE POSITIONS.**

(a) REDUCTION TO NINE POSITIONS.—Section 138(a) of title 10, United States Code, is amended by striking out “ten” and insert in lieu thereof “nine”.

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking out “(10)” after “Assistant Secretaries of Defense” and inserting in lieu thereof “(9)”.

### **SEC. 902. REPEAL OF STATUTORY REQUIREMENT FOR POSITION OF ASSISTANT SECRETARY OF DEFENSE FOR COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE.**

Section 138(b) of title 10, United States Code is amended by striking out paragraph (3).

### **SEC. 903. INDEPENDENT TASK FORCE ON TRANSFORMATION AND DEPARTMENT OF DEFENSE ORGANIZATION.**

(a) FINDINGS.—Congress finds the following:

(1) The post-Cold War era is marked by geopolitical uncertainty and by accelerating technological change, particularly with regard to information technologies.

(2) The combination of that geopolitical uncertainty and accelerating technological change portends a transformation in the conduct of war, particularly in ways that are likely to increase the effectiveness of joint operations.

(3) The Department of Defense must be organized appropriately in order to fully exploit the opportunities offered by, and to meet the challenges posed by, this anticipated transformation in the conduct of war.

(4) The basic organization of the Department of Defense was established by the National Security Act of 1947 and the 1949 amendments to that Act.

(5) The Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) dramatically improved the capability of the Department of Defense to carry out operations involving joint forces, but did not specifically address issues pertaining to the development of joint operations.

(6) In the future, the ability to achieve improved operations of joint forces, particularly under rapidly changing technological conditions, will depend on improved force development for joint operations.

Establishment.

(b) INDEPENDENT TASK FORCE ON TRANSFORMATION AND DEPARTMENT OF DEFENSE ORGANIZATION.—The Secretary of Defense shall establish a task force of the Defense Science Board to examine the current organization of the Department of Defense with regard to the appropriateness of that organization for preparing for a transformation in the conduct of war. The task force shall be established not later than November 1, 1998.

Deadline.

(c) DUTIES OF THE TASK FORCE.—The task force shall assess, and shall make recommendations for the appropriate organization of, the Office of the Secretary of Defense, the Joint Chiefs of Staff, the individual Armed Forces, and the executive parts of the military departments for the purpose of preparing the Department of Defense for a transformation in the conduct of war. In making those assessments and developing those recommendations, the task force shall review the following:

(1) The general organization of the Department of Defense, including whether responsibility and authority for issues relating to a transformation in the conduct of war are appropriately allocated, especially among the Office of the Secretary of Defense, the Joint Chiefs of Staff, and the individual Armed Forces.

(2) The joint requirements process and the requirements processes for each of the Armed Forces, including the establishment of measures of effectiveness and methods for resource allocation.

(3) The process and organizations responsible for doctrinal development, including the appropriate relationship between joint force and service doctrine and doctrinal development organizations.

(4) The current programs and organizations under the Office of the Secretary of Defense, the Joint Chiefs of Staff, and the Armed Forces devoted to innovation and experimentation related to a transformation in the conduct of war, including the appropriateness of—

(A) conducting joint field tests;

(B) establishing a separate unified command as a joint forces command to serve, as its sole function, as the trainer, provider, and developer of forces for joint operations and for conducting joint warfighting experimentation;

(C) establishing a separate Joint Concept Development Center to monitor exercises and develop measures of effectiveness, analytical concepts, models, and simulations appropriate for understanding the transformation in the conduct of war;

(D) establishing a Joint Battle Laboratory to conduct joint experimentation and to integrate the similar efforts of the Armed Forces; and

(E) establishing an Assistant Secretary of Defense responsible for transformation in the conduct of war.

(5) Joint training establishments and training establishments of the Armed Forces, including those devoted to professional military education, and the appropriateness of establishing national training centers.

(6) Other issues relating to a transformation in the conduct of war that the Secretary considers appropriate.

(d) REPORT.—The task force shall submit to the Secretary of Defense a report containing its assessments and recommendations not later than February 1, 1999. The Secretary shall submit the report to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate not later than March 1, 1999, together with the recommendations and comments of the Secretary of Defense. Deadlines.

#### **SEC. 904. AUTHORITY TO EXPAND THE NATIONAL DEFENSE UNIVERSITY.**

Section 2165(b) of title 10, United States Code, is amended by adding at the end the following:

“(7) Any other educational institution of the Department of Defense that the Secretary considers appropriate and designates as an institution of the university.”.

#### **SEC. 905. CENTER FOR HEMISPHERIC DEFENSE STUDIES.**

(a) FUNDING FOR CENTER.—Section 2165 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c) SOURCE OF FUNDS FOR CENTER FOR HEMISPHERIC DEFENSE STUDIES.—Funds available for the payment of personnel expenses under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the Center for Hemispheric Defense Studies.”.

(b) CONFORMING AMENDMENT.—Section 1050 of such title is amended by inserting “Secretary of Defense or the” before “Secretary of a military department”.

#### **SEC. 906. RESTRUCTURING OF ADMINISTRATION OF FISHER HOUSES.**

(a) ADMINISTRATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—(1) Chapter 147 of title 10, United States Code, is amended by inserting after section 2492 (as added by section 365) the following new section:

**“§ 2493. Fisher Houses: administration as nonappropriated fund instrumentality**

“(a) FISHER HOUSES AND SUITES DEFINED.—In this section:

“(1) The term ‘Fisher House’ means a housing facility that—

“(A) is located in proximity to a health care facility of the Army, the Air Force, or the Navy;

“(B) is available for residential use on a temporary basis by patients of that health care facility, members of the families of such patients, and others providing the equivalent of familial support for such patients; and

“(C) is constructed and donated by—

“(i) the Zachary and Elizabeth M. Fisher Armed Services Foundation; or

“(ii) another source, if the Secretary of the military department concerned designates the housing facility as a Fisher House.

“(2) The term ‘Fisher Suite’ means one or more rooms that—

“(A) meet the requirements of subparagraphs (A) and (B) of paragraph (1);

“(B) are constructed, altered, or repaired and donated by a source described in subparagraph (C) of that paragraph; and

“(C) are designated by the Secretary of the military department concerned as a Fisher Suite.

“(b) NONAPPROPRIATED FUND INSTRUMENTALITY.—The Secretary of each military department shall administer all Fisher Houses and Fisher Suites associated with health care facilities of that military department as a nonappropriated fund instrumentality of the United States.

“(c) GOVERNANCE.—The Secretary of each military department shall establish a system for the governance of the nonappropriated fund instrumentality required by subsection (b) for that military department.

“(d) CENTRAL FUND.—The Secretary of each military department shall establish a single fund as the source of funding for the operation, maintenance, and improvement of all Fisher Houses and Fisher Suites of the nonappropriated fund instrumentality required by subsection (b) for that military department.

“(e) ACCEPTANCE OF CONTRIBUTIONS; IMPOSITION OF FEES.—

(1) The Secretary of a military department may—

“(A) accept money, property, and services donated for the support of a Fisher House or Fisher Suite associated with health care facilities of that military department; and

“(B) may impose fees relating to the use of such Fisher Houses and Fisher Suites.

“(2) All monetary donations, and the proceeds of the disposal of any other donated property, accepted by the Secretary of a military department under this subsection shall be credited to the fund established under subsection (d) for the Fisher Houses and Fisher Suites associated with health care facilities of that military department and shall be available to that Secretary to support all such Fisher Houses and Fisher Suites.

“(f) ANNUAL REPORT.—Not later than January 15 of each year, the Secretary of each military department shall submit to Congress a report describing the operation of Fisher Houses and Fisher

Zachary Fisher.  
Elizabeth Fisher.

Deadline.

Suites associated with health care facilities of that military department. The report shall include, at a minimum, the following:

“(1) The amount in the fund established by that Secretary under subsection (d) as of October 1 of the previous year.

“(2) The operation of the fund during the preceding fiscal year, including—

“(A) all gifts, fees, and interest credited to the fund; and

“(B) all disbursements from the fund.

“(3) The budget for the operation of the Fisher Houses and Fisher Suites for the fiscal year in which the report is submitted.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2492 (as added by section 365) the following new item:

“2493. Fisher Houses: administration as nonappropriated fund instrumentality.”

(b) ESTABLISHMENT OF FUNDS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of each military department shall—

Deadline.  
10 USC 2493  
note.

(1) establish the fund required under section 2493(d) of title 10, United States Code (as added by subsection (a)); and

(2) close the Fisher House Trust Fund established for that department under section 2221 of such title and transfer the amounts in the closed fund to the newly established fund.

(c) FUNDING TRANSITION.—(1) Of the amount authorized to be appropriated pursuant to section 301(2) for operation and maintenance for the Navy, the Secretary of the Navy shall transfer to the fund established by that Secretary under section 2493(d) of title 10, United States Code (as added by subsection (a)), such amount as that Secretary considers appropriate for establishing in the fund a corpus sufficient for operating Fisher Houses and Fisher Suites associated with health care facilities of the Department of the Navy.

(2) Of the amount authorized to be appropriated pursuant to section 301(4) for operation and maintenance for the Air Force, the Secretary of the Air Force shall transfer to the fund established by that Secretary under section 2493(d) of title 10, United States Code (as added by subsection (a)), such amount as that Secretary considers appropriate for establishing in the fund a corpus sufficient for operating Fisher Houses and Fisher Suites associated with health care facilities of the Department of the Air Force.

(d) REPORTING REQUIREMENTS.—The Secretary of each military department, upon completing the actions required of the Secretary under subsections (b) and (c), shall submit to Congress a report containing—

(1) the certification of that Secretary that those actions have been completed; and

(2) a statement of the amount deposited in the fund established by that Secretary under section 2493(d) of title 10, United States Code (as added by subsection (a)).

(e) AVAILABILITY OF TRANSFERRED AMOUNTS.—Amounts transferred under subsection (b) or (c) to a fund established under section 2493(d) of title 10, United States Code (as added by subsection (a)), shall be available without fiscal year limitation for the purposes for which the fund is established and shall be administered as nonappropriated funds.

(f) CONFORMING REPEALS.—(1) Section 2221 of title 10, United States Code, and the item relating to that section in the table of sections at the beginning of chapter 131 of such title, are repealed.

(2) Section 1321(a) of title 31, United States Code, is amended by striking out paragraphs (92), (93), and (94).

Effective date.

(3) The amendments made by this subsection shall take effect 90 days after the date of the enactment of this Act.

**SEC. 907. MANAGEMENT REFORM FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES.**

(a) ANALYSIS AND PLAN FOR REFORM OF MANAGEMENT OF RDTE ACTIVITIES.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, shall analyze the structures and processes of the Department of Defense for management of its laboratories and test and evaluation centers. Taking into consideration the results of that analysis, the Secretary shall develop a plan for improving the management of those laboratories and centers. The plan shall include such reorganizations and reforms as the Secretary considers appropriate.

(2) The analysis under paragraph (1) shall include an analysis of each of the following with respect to Department of Defense laboratories and test and evaluation centers:

(A) Opportunities to improve efficiency and reduce duplication of efforts by those laboratories and centers by designating a lead agency or executive agent by area or function or other methods of streamlining management.

(B) Reform of the management processes of those laboratories and centers that would reduce costs and increase efficiency in the conduct of research, development, test, and evaluation activities.

(C) Opportunities for those laboratories and centers to enter into partnership arrangements with laboratories in industry, academia, and other Federal agencies that demonstrate leadership, initiative, and innovation in research, development, test, and evaluation activities.

(D) The extent to which there is disseminated within those laboratories and centers information regarding initiatives that have successfully improved efficiency through reform of management processes and other means.

(E) Any cost savings that can be derived directly from reorganization of management structures of those laboratories and centers.

(F) Options for reinvesting any such cost savings in those laboratories and centers.

Deadline.

(3) The Secretary shall submit the plan required under paragraph (1) to the congressional defense committees not later than 180 days after the date of the enactment of this Act.

(b) COST-BASED MANAGEMENT INFORMATION SYSTEM.—(1) The Secretary of Defense shall develop a plan, including a schedule, for establishing a cost-based management information system for Department of Defense laboratories and test and evaluation centers. The system shall provide for accurately identifying and comparing the costs of operating each laboratory and each center.

(2) In preparing the plan, the Secretary shall assess the feasibility and desirability of establishing a common methodology for assessing costs. The Secretary shall consider the use of a revolving fund as one potential methodology.



(3) The Secretary shall submit the plan required under paragraph (1) to the congressional defense committees not later than 90 days after the date of the enactment of this Act. Deadline.

## **Subtitle B—Department of Defense Financial Management**

### **SEC. 911. IMPROVED ACCOUNTING FOR DEFENSE CONTRACT SERVICES.**

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2211 the following new section:

#### **“§ 2212. Obligations for contract services: reporting in budget object classes**

“(a) LIMITATION ON REPORTING IN MISCELLANEOUS SERVICES OBJECT CLASS.—The Secretary of Defense shall ensure that, in reporting to the Office of Management and Budget (pursuant to OMB Circular A–11 (relating to preparation and submission of budget estimates)) obligations of the Department of Defense for any period of time for contract services, no more than 15 percent of the total amount of obligations so reported is reported in the miscellaneous services object class.

“(b) DEFINITION OF REPORTING CATEGORIES FOR ADVISORY AND ASSISTANCE SERVICES.—In carrying out section 1105(g) of title 31 for the Department of Defense (and in determining what services are to be reported to the Office of Management and Budget in the advisory and assistance services object class), the Secretary of Defense shall apply to the terms used for the definition of ‘advisory and assistance services’ in paragraph (2)(A) of that section the following meanings (subject to the authorized exemptions):

“(1) MANAGEMENT AND PROFESSIONAL SUPPORT SERVICES.—The term ‘management and professional support services’ (used in clause (i) of section 1105(g)(2)(A) of title 31) means services that provide engineering or technical support, assistance, advice, or training for the efficient and effective management and operation of organizations, activities, or systems. Those services—

“(A) are closely related to the basic responsibilities and mission of the using organization; and

“(B) include efforts that support or contribute to improved organization or program management, logistics management, project monitoring and reporting, data collection, budgeting, accounting, auditing, and administrative or technical support for conferences and training programs.

“(2) STUDIES, ANALYSES, AND EVALUATIONS.—The term ‘studies, analyses, and evaluations’ (used in clause (ii) of section 1105(g)(2)(A) of title 31) means services that provide organized, analytic assessments to understand or evaluate complex issues to improve policy development, decisionmaking, management, or administration and that result in documents containing data or leading to conclusions or recommendations. Those services may include databases, models, methodologies, and related software created in support of a study, analysis, or evaluation.

“(3) ENGINEERING AND TECHNICAL SERVICES.—The term ‘engineering and technical services’ (used in clause (iii) of section 1105(g)(2)(A) of title 31) means services that take the form of advice, assistance, training, or hands-on training necessary to maintain and operate fielded weapon systems, equipment, and components (including software when applicable) at design or required levels of effectiveness.

“(c) PROPER CLASSIFICATION OF ADVISORY AND ASSISTANCE SERVICES.—Before the submission to the Office of Management and Budget of the proposed Department of Defense budget for inclusion in the President’s budget for a fiscal year pursuant to section 1105 of title 31, the Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall conduct a review of Department of Defense services expected to be performed as contract services during the fiscal year for which that budget is to be submitted in order to ensure that those services that are advisory and assistance services (as defined in accordance with subsection (b)) are in fact properly classified, in accordance with that subsection, in the advisory and assistance services object class.

Deadlines.

“(d) REPORT TO CONGRESS.—The Secretary shall submit to Congress each year, not later than 30 days after the date on which the budget for the next fiscal year is submitted pursuant to section 1105 of title 31, a report containing the information derived from the review under subsection (c).

“(e) ASSESSMENT BY COMPTROLLER GENERAL.—(1) The Comptroller General shall conduct a review of the report of the Secretary of Defense under subsection (d) each year and shall—

“(A) assess the methodology used by the Secretary in obtaining the information submitted to Congress in that report; and

“(B) assess the information submitted to Congress in that report.

“(2) Not later than 120 days after the date on which the Secretary submits to Congress the report required under subsection (d) for any year, the Comptroller General shall submit to Congress the Comptroller General’s report containing the results of the review for that year under paragraph (1).

“(f) DEFINITIONS.—In this section:

“(1) The term ‘contract services’ means all services that are reported to the Office of Management and Budget pursuant to OMB Circular A-11 (relating to preparation and submission of budget estimates) in budget object classes that are designated in the Object Class 25 series.

“(2) The term ‘advisory and assistance services object class’ means those contract services constituting the budget object class that is denominated ‘Advisory and Assistance Service’ and designated (as of the date of the enactment of this section) as Object Class 25.1 (or any similar object class established after the date of the enactment of this section for the reporting of obligations for advisory and assistance contract services).

“(3) The term ‘miscellaneous services object class’ means those contract services constituting the budget object class that is denominated ‘Other Services (services not otherwise specified in the 25 series)’ and designated (as of the date of the enactment of this section) as Object Class 25.2 (or any similar object class established after the date of the enactment of this section

for the reporting of obligations for miscellaneous or unspecified contract services).

“(4) The term ‘authorized exemptions’ means those exemptions authorized (as of the date of the enactment of this section) under Department of Defense Directive 4205.2, captioned ‘Acquiring and Managing Contracted Advisory and Assistance Services (CAAS)’ and issued by the Under Secretary of Defense for Acquisition and Technology on February 10, 1992, such exemptions being set forth in Enclosure 3 to that directive (captioned ‘CAAS Exemptions’).”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2211 the following new item:

“2212. Obligations for contract services: reporting in budget object classes.”.

(b) **TRANSITION.**—For the budget for fiscal year 2000, and the reporting of information to the Office of Management and Budget in connection with the preparation of that budget, section 2212 of title 10, United States Code, as added by subsection (a), shall be applied by substituting “30 percent” in subsection (a) for “15 percent”.

Applicability.  
10 USC 2212  
note.

(c) **INITIAL CLASSIFICATION OF ADVISORY AND ASSISTANCE SERVICES.**—Not later than February 1, 1999, the Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall conduct a review of Department of Defense services performed or expected to be performed as contract services during fiscal year 1999 in order to ensure that those services that are advisory and assistance services (as defined in accordance with subsection (b) of section 2212 of title 10, United States Code, as added by subsection (a)) are in fact properly classified, in accordance with that subsection, in the advisory and assistance services object class (as defined in subsection (f)(2) of that section).

Deadline.

(d) **FISCAL YEAR 1999 REDUCTION.**—The total amount that may be obligated by the Secretary of Defense for contracted advisory and assistance services from amounts appropriated for fiscal year 1999 is the amount programmed for those services resulting from the review referred to in subsection (c) reduced by \$240,000,000.

**SEC. 912. REPORT ON DEPARTMENT OF DEFENSE FINANCIAL MANAGEMENT IMPROVEMENT PLAN.**

Deadline.

Not later than 60 days after the date on which the Secretary of Defense submits the first biennial financial management improvement plan required by section 2222 of title 10, United States Code, the Comptroller General shall submit to Congress an analysis of the plan. The analysis shall include a discussion of the content of the plan and the extent to which the plan—

(1) complies with the requirements of such section 2222; and

(2) is a workable plan for addressing the financial management problems of the Department of Defense.

**SEC. 913. STUDY OF FEASIBILITY OF PERFORMANCE OF DEPARTMENT OF DEFENSE FINANCE AND ACCOUNTING FUNCTIONS BY PRIVATE SECTOR SOURCES OR OTHER FEDERAL SOURCES.**

(a) **STUDY REQUIRED.**—(1) The Secretary of Defense shall carry out a study of the feasibility and advisability of selecting on a competitive basis the source or sources for performing the finance

and accounting functions of the Department of Defense from among the Defense Finance and Accounting Service of the Department of Defense and non-DFAS sources.

(2) For the purposes of this section, the term “non-DFAS sources” means—

(A) the military departments;

(B) Federal agencies outside the Department of Defense;

and

(C) private sector sources.

Deadline.

(b) REPORT.—Not later than October 1, 1999, the Secretary shall submit to Congress a report in writing on the results of the study. The report shall include the following:

(1) A discussion of how the finance and accounting functions of the Department of Defense are performed, including the necessary operations, the operations actually performed, the personnel required for the operations, and the core competencies that are necessary for the performance of those functions.

(2) A comparison of the performance of the finance and accounting functions by the Defense Finance and Accounting Service with the performance of finance and accounting functions by non-DFAS sources that exemplify the best finance and accounting practices and results, together with a comparison of the costs of the performance of those functions by the Defense Finance and Accounting Service and the estimated costs of the performance of those functions by non-DFAS sources.

(3) The finance and accounting functions, if any, that are appropriate for performance by non-DFAS sources, together with a concept of operations that—

(A) specifies the mission;

(B) identifies the finance and accounting operations to be performed;

(C) describes the work force that is necessary to perform those operations;

(D) discusses where the operations are to be performed;

(E) describes how the operations are to be performed;

and

(F) discusses the relationship between how the operations are to be performed and the mission.

(4) An analysis of how Department of Defense programs or processes would be affected by the performance of the finance and accounting functions of the Department of Defense by one or more non-DFAS source.

(5) The status of the efforts within the Department of Defense to consolidate and eliminate redundant finance and accounting systems and to better integrate the automated and manual systems of the department that provide input to financial management or accounting systems of the department.

(6) A description of a feasible and effective process for selecting, on a competitive basis, sources to perform the finance and accounting functions of the Department of Defense from among the Defense Finance and Accounting Service and non-DFAS sources, including a discussion of the selection criteria the Secretary considers appropriate.

(7) An analysis of the costs and benefits of the various policies and actions recommended.

(8) A discussion of any findings, analyses, and recommendations on the performance of the finance and accounting functions of the Department of Defense that have been made by the Task Force on Defense Reform appointed by the Secretary of Defense on May 14, 1997.

(9) Any additional information and recommendations the Secretary considers appropriate.

(c) **MARKET RESEARCH.**—In carrying out the study, the Secretary shall conduct market research to determine whether or not an efficient and competitive domestic market for finance and accounting services exists. In conducting that research, the Secretary shall consider whether the domestic market for finance and accounting services could be reasonably expected to generate responsive private sector competitors for the provision of the finance and accounting services, or a portion of such services, of the Department of Defense and whether there are any substantial barriers to entry or expansion in that market. In conducting such research, the Secretary shall consider not only the current state of the domestic market for finance and accounting services, but also the potential effects that the entry of the Department of Defense as a large, long-term consumer of such services might have on that market.

**SEC. 914. LIMITATION ON REORGANIZATION AND CONSOLIDATION OF OPERATING LOCATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.**

(a) **LIMITATION.**—The Secretary of Defense may not close any operating location of the Defense Finance and Accounting Service before the date that is 90 days after the date on which the Secretary submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives the plan required by subsection (b).

(b) **PLAN REQUIRED.**—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a strategic plan for improving the financial management operations at each of the operating locations of the Defense Finance and Accounting Service.

(c) **CONTENT OF PLAN.**—The plan shall include the following:

(1) The workloads that it is necessary to perform at those operating locations each fiscal year.

(2) The capacity and number of operating locations that are necessary for performing those workloads.

(3) A discussion of the costs and benefits that could result from reorganizing the operating locations of the Defense Finance and Accounting Service on the basis of function performed, together with the Secretary's assessment of the feasibility of carrying out such a reorganization.

(d) **SUBMITTAL OF PLAN.**—The plan shall be submitted to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than January 15, 1999.

**SEC. 915. ANNUAL REPORT ON RESOURCES ALLOCATED TO SUPPORT AND MISSION ACTIVITIES.**

(a) **REQUIREMENT.**—Section 113 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(1) The Secretary shall include in the annual report to Congress under subsection (c) the following:

“(1) A comparison of the amounts provided in the defense budget for support and for mission activities for each of the preceding five fiscal years.

“(2) A comparison of the number of military and civilian personnel, shown by major occupational category, assigned to support positions and to mission positions for each of the preceding five fiscal years.

“(3) An accounting, shown by service and by major occupational category, of the number of military and civilian personnel assigned to support positions during each of the preceding five fiscal years.

Records.

“(4) A listing of the number of military and civilian personnel assigned to management headquarters and headquarters support activities as a percentage of military end-strength for each of the preceding five fiscal years.”

Deadline.

10 USC 113 note.

(b) REPORT ON TERMINOLOGY.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the definitions of the terms “support” and “mission” that the Secretary proposes to use for purposes of the report requirement under section 113(l) of title 10, United States Code, as added by subsection (a).

## Subtitle C—Joint Warfighting Experimentation

10 USC 485 note. **SEC. 921. FINDINGS CONCERNING JOINT WARFIGHTING EXPERIMENTATION.**

Congress makes the following findings:

(1) The assessments of the Quadrennial Defense Review and the National Defense Panel provide a compelling argument—

(A) that the security environment in the early 21st century will include fundamentally different military challenges than the security environment in the late 20th century; and

(B) reinforce the premise of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 that future warfare will require more effective joint operational concepts.

(2) Joint experimentation is necessary for—

(A) integrating advances in technology with changes in organizational structure and joint operational concepts; and

(B) determining the interdependent aspects of joint warfare that are key for transforming the conduct of military operations to meet future challenges successfully.

(3) It is essential that an energetic and innovative organization be established in the Department of Defense with the authority (subject to the authority and guidance of the Secretary of Defense and Chairman of the Joint Chiefs of Staff) to design and implement a process of joint experimentation to investigate and test technologies and alternative forces and concepts in field environments under realistic conditions

against the full range of future challenges to assist in developing and validating new joint warfighting concepts and transforming the Armed Forces to meet the threats to national security anticipated for the early 21st century.

**SEC. 922. SENSE OF CONGRESS CONCERNING JOINT WARFIGHTING EXPERIMENTATION.** 10 USC 485 note.

(a) **DESIGNATION OF COMMANDER TO HAVE JOINT WARFIGHTING EXPERIMENTATION MISSION.**—It is the sense of Congress that the initiative of the Secretary of Defense to designate the commander of a combatant command to have the mission of joint warfighting experimentation is a key step in exploiting the potential of advanced technologies, new organizational structures, and new joint operational concepts to transform the conduct of military operations by the Armed Forces.

(b) **RESOURCES AND AUTHORITY OF COMMANDER.**—It is, further, the sense of Congress that the commander of the combatant command referred to in subsection (a) should be provided with appropriate and sufficient resources for joint warfighting experimentation and with the appropriate authority to execute the commander's assigned responsibilities and that such authority should include the following:

(1) Planning, preparing, and conducting the program of joint warfighting experimentation, which program should include analyses, simulations, wargames, experiments, advanced concept technology demonstrations, joint exercises conducted in virtual and field environments, and, as a particularly critical aspect, assessments of "red team" vulnerability.

(2) Developing scenarios and measures of effectiveness to meet the operational challenges expected to be encountered in the early 21st century and assessing the effectiveness of current and new organizational structures, operational concepts, and technologies in addressing those challenges.

(3) Integrating and testing in joint experimentation the systems and concepts that result from warfighting experimentation conducted by the Armed Forces and the Defense Agencies.

(4) Coordinating with each of the Armed Forces and Defense Agencies regarding the development and acquisition of equipment (including surrogate or real technologies, platforms, and systems), supplies, and services necessary for joint experimentation.

(5) Providing the Secretary of Defense and the Chairman of the Joint Chiefs of Staff with recommendations, based on the conduct of joint warfighting experimentation, for—

(A) improving interoperability;

(B) reducing unnecessary redundancy;

(C) synchronizing technology fielding;

(D) developing joint operational concepts;

(E) prioritizing the most promising joint capabilities for future experimentation; and

(F) prioritizing joint requirements and acquisition programs.

(6) Making recommendations to the Chairman of the Joint Chiefs of Staff on mission needs statements and operational requirements documents.

(c) CONGRESSIONAL REVIEW.—It is, further, the sense of Congress that Congress—

(1) should review the adequacy of the process of transformation to meet future challenges to the national security; and

(2) if progress is determined inadequate, should consider legislation to—

(A) establish an appropriate organization to conduct the mission described in subsection (a); and

(B) provide to the commander given the responsibility for that mission appropriate and sufficient resources for joint warfighting experimentation and the appropriate authority to execute that commander's assigned responsibilities for that mission, including the authorities specified in subsection (b).

10 USC 485 note.

**SEC. 923. REPORTS ON JOINT WARFIGHTING EXPERIMENTATION.**

Deadline.

(a) INITIAL REPORT.—(1) The commander of the combatant command assigned by the Secretary of Defense to have the mission for joint warfighting experimentation shall submit to the Secretary an initial report on the implementation of joint experimentation. Not later than April 1, 1999, the Secretary shall submit that report, together with any comments that the Secretary considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(2) The report of the commander under paragraph (1) shall include the commander's assessment of the following:

(A) The authority and responsibilities of the commander as described in section 922(b).

(B) The organization of the commander's combatant command, and of its staff, for carrying out the joint warfighting experimentation mission.

(C) The process established for tasking forces to participate in experimentation and the commander's specific authority over those forces, including forces designated as joint experimentation forces.

(D) The resources provided for initial implementation of joint warfighting experimentation, the process for providing those resources to the commander, the categories of the funding, and the authority of the commander for budget execution.

(E) The process established for the development and acquisition of the materiel, supplies, services, and equipment necessary for the conduct of joint warfighting experimentation.

(F) The process established for designing, preparing, and conducting joint experiments.

(G) The role assigned the commander for—

(i) integrating and testing in joint warfighting experimentation the systems that emerge from warfighting experimentation by the Armed Forces or the Defense Agencies;

(ii) assessing the effectiveness of organizational structures, operational concepts, and technologies; and

(iii) assisting the Secretary of Defense and Chairman of the Joint Chiefs of Staff to prioritize requirements or acquisition programs.



(b) ANNUAL REPORT.—(1) Chapter 23 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 485. Joint warfighting experimentation**

“(a) ANNUAL REPORT.—The commander of the combatant command assigned by the Secretary of Defense to have the mission for joint warfighting experimentation shall submit to the Secretary an annual report on the conduct of joint experimentation activities for the fiscal year ending in the year of the report. Not later than December 1 of each year, the Secretary shall submit that report, together with any comments that the Secretary considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

Deadline.

“(b) MATTERS TO BE INCLUDED.—Each report under this section shall include, for the fiscal year covered by the report, the following:

“(1) Any changes in the assessments of the matters described in section 923(a)(2) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 since the preparation of the assessments of those matters set forth in the latest report submitted under this section.

“(2) A description of the conduct of joint experimentation activities, including the number of activities, the forces involved, the national security challenges addressed, the operational concepts assessed, and the scenarios and measures of effectiveness used.

“(3) An assessment of the results of joint warfighting experimentation within the Department of Defense.

“(4) With respect to joint warfighting experimentation, any recommendations that the commander considers appropriate regarding—

“(A) the development or acquisition of advanced technologies;

“(B) changes in organizational structure, operational concepts, or joint doctrine;

“(C) the conduct of experiments;

“(D) the adequacy of resources; or

“(E) changes in authority of the commander to develop or acquire materiel, supplies, services, or equipment directly for the conduct of joint warfighting experimentation.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“485. Joint warfighting experimentation.”.

(c) FIRST ANNUAL REPORT.—The first report under section 485 of title 10, United States Code, as added by subsection (b), shall be made with respect to fiscal year 1999. In the case of the report under that section for fiscal year 1999, the reference in subsection (b)(1) of that section to the most recent report under that section shall be treated as referring to the report under subsection (a) of this section.

## Subtitle D—Other Matters

### SEC. 931. FURTHER REDUCTIONS IN DEFENSE ACQUISITION AND SUPPORT WORKFORCE.

(a) **REDUCTION OF DEFENSE ACQUISITION AND SUPPORT WORKFORCE.**—The Secretary of Defense shall accomplish reductions in defense acquisition and support personnel positions during fiscal year 1999 so that the total number of such personnel as of October 1, 1999, is less than the total number of such personnel as of October 1, 1998, by at least the applicable number determined under subsection (b).

(b) **REQUIRED REDUCTION.**—(1) The applicable number for purposes of subsection (a) is 25,000. However, the Secretary of Defense may specify a lower number, which may not be less than 12,500, as the applicable number for purposes of subsection (a) if the Secretary determines, and certifies to Congress not later than May 1, 1999, that an applicable number greater than the number specified by the Secretary would be inconsistent with the cost-effective management of the defense acquisition system to obtain best value equipment and with ensuring military readiness.

(2) The Secretary shall include with such a certification a report setting forth a detailed explanation of each of the matters certified. The report shall include—

(A) a detailed explanation of all matters incorporated in the Secretary's determination;

(B) a definition of the components of the defense acquisition and support positions; and

(C) the allocation of the reductions under this section among the occupational elements of those positions.

(3) The authority of the Secretary under paragraph (1) may only be delegated to the Deputy Secretary of Defense.

(c) **LIMITATION ON REDUCTION OF CORE ACQUISITION WORKFORCE.**—The Secretary shall implement this section so that the core defense acquisition workforce identified by the Secretary in the report submitted pursuant to section 912(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1860) is reduced proportionally no more than the other occupational elements included as defense acquisition and support positions in that report.

(d) **DEFENSE ACQUISITION AND SUPPORT PERSONNEL DEFINED.**—For purposes of this section, the term “defense acquisition and support personnel” means military and civilian personnel (other than civilian personnel who are employed at a maintenance depot) who are assigned to, or employed in, acquisition organizations of the Department of Defense (as specified in Department of Defense Instruction numbered 5000.58 dated January 14, 1992), and any other organizations which the Secretary may determine to have a predominantly acquisition mission.

### SEC. 932. LIMITATION ON OPERATION AND SUPPORT FUNDS FOR THE OFFICE OF THE SECRETARY OF DEFENSE.

Of the amount available for fiscal year 1999 for operation and support activities of the Office of the Secretary of Defense, not more than 90 percent may be obligated until each of the following reports has been submitted:

(1) The report required to be submitted to the congressional defense committees by section 904(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2619).

(2) The reports required to be submitted to Congress by sections 911(b) and 911(c) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1858, 1859).

**SEC. 933. CLARIFICATION AND SIMPLIFICATION OF RESPONSIBILITIES OF INSPECTORS GENERAL REGARDING WHISTLE-BLOWER PROTECTIONS.**

(a) ROLES OF INSPECTORS GENERAL OF THE ARMED FORCES.—

(1) Subsection (c) of section 1034 of title 10, United States Code, is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

“(1) If a member of the armed forces submits to an Inspector General an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall take the action required under paragraph (3).”; and

(B) by striking out paragraph (3) and inserting in lieu thereof the following:

“(3)(A) An Inspector General receiving an allegation as described in paragraph (1) shall expeditiously determine whether there is sufficient evidence to warrant an investigation of the allegation.

“(B) If the Inspector General receiving such an allegation is an Inspector General within a military department, that Inspector General shall promptly notify the Inspector General of the Department of Defense of the allegation. Such notification shall be made in accordance with regulations prescribed under subsection (h).

“(C) If an allegation under paragraph (1) is submitted to an Inspector General within a military department and if the determination of that Inspector General under subparagraph (A) is that there is not sufficient evidence to warrant an investigation of the allegation, that Inspector General shall forward the matter to the Inspector General of the Department of Defense for review.

“(D) Upon determining that an investigation of an allegation under paragraph (1) is warranted, the Inspector General making the determination shall expeditiously investigate the allegation. In the case of a determination made by the Inspector General of the Department of Defense, that Inspector General may delegate responsibility for the investigation to an appropriate Inspector General within a military department.

“(E) In the case of an investigation under subparagraph (D) within the Department of Defense, the results of the investigation shall be determined by, or approved by, the Inspector General of the Department of Defense (regardless of whether the investigation itself is conducted by the Inspector General of the Department of Defense or by an Inspector General within a military department).

“(4) Neither an initial determination under paragraph (3)(A) nor an investigation under paragraph (3)(D) is required in the case of an allegation made more than 60 days after the date

on which the member becomes aware of the personnel action that is the subject of the allegation.

“(5) The Inspector General of the Department of Defense, or the Inspector General of the Department of Transportation (in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy), shall ensure that the Inspector General conducting the investigation of an allegation under this subsection is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.”.

10 USC 1034.

(2) Subsection (d) of such section is amended—

(A) by inserting “receiving the allegation” after “the Inspector General” the first place it appears; and

(B) by adding at the end the following: “In the case of an allegation received by the Inspector General of the Department of Defense, the Inspector General may delegate that responsibility to the Inspector General of the armed force concerned.”.

(b) MISMANAGEMENT COVERED BY PROTECTED COMMUNICATIONS.—Subsection (c)(2)(B) of such section is amended by striking out “Mismanagement” and inserting in lieu thereof “Gross mismanagement”.

(c) SIMPLIFIED REPORTING AND NOTICE REQUIREMENTS.—(1) Paragraph (1) of subsection (e) of such section is amended—

(A) by striking out “Not later than 30 days after completion of an investigation under subsection (c) or (d),” and inserting in lieu thereof “After completion of an investigation under subsection (c) or (d) or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under subsection (c)(3)(E),”

(B) by striking out “the Inspector General shall submit a report on” and inserting in lieu thereof “the Inspector General conducting the investigation shall submit a report on”;

(C) by inserting “shall transmit a copy of the report on the results of the investigation to” before “the member of the armed forces”; and

Deadline.

(D) by adding at the end the following new sentence: “The report shall be transmitted to the Secretary, and the copy of the report shall be transmitted to the member, not later than 30 days after the completion of the investigation or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under subsection (c)(3)(E).”.

(2) Paragraph (2) of such subsection is amended—

(A) by striking out “submitted” after “In the copy of the report” and inserting in lieu thereof “transmitted”; and

(B) by adding at the end the following new sentence: “However, the copy need not include summaries of interviews conducted, nor any document acquired, during the course of the investigation. Such items shall be transmitted to the member, if the member requests the items, with the copy of the report or after the transmittal to the member of the copy of the report, regardless of whether the request for those items is made before or after the copy of the report is transmitted to the member.”.

(3) Paragraph (3) of such subsection is amended by striking out “90 days” and inserting in lieu thereof “180 days”.

(d) REPEAL OF POST-INVESTIGATION INTERVIEW REQUIREMENT.—Subsection (h) of such section is repealed.

(e) DEFINITION OF INSPECTOR GENERAL DEFINED.—Subsection (j)(2) of such section is amended—

(1) by redesignating subparagraph (B) as subparagraph (G) and, in that subparagraph, by striking out “an officer” and inserting in lieu thereof “An officer”;

(2) by striking out subparagraph (A) and inserting in lieu thereof the following:

“(A) The Inspector General of the Department of Defense.

“(B) The Inspector General of the Department of Transportation, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy.

“(C) The Inspector General of the Army, in the case of a member of the Army.

“(D) The Naval Inspector General, in the case of a member of the Navy.

“(E) The Inspector General of the Air Force, in the case of a member of the Air Force.

“(F) The Deputy Naval Inspector General for Marine Corps Matters, in the case of a member of the Marine Corps.”; and

(3) in the matter preceding subparagraph (A), by striking out “means—” and inserting in lieu thereof “means the following.”

(f) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Subsections (i) and (j) of such section are redesignated as subsections (h) and (i), respectively.

(2) Subsection (b)(1)(B)(ii) of such section is amended by striking out “subsection (j)” and inserting in lieu thereof “subsection (i)” or any other Inspector General appointed under the Inspector General Act of 1978”.

**SEC. 934. REPEAL OF REQUIREMENT RELATING TO ASSIGNMENT OF TACTICAL AIRLIFT MISSION TO RESERVE COMPONENTS.**

Section 1438 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1689), as amended by section 1023 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1460), is repealed.

**SEC. 935. CONSULTATION WITH MARINE CORPS ON MAJOR DECISIONS DIRECTLY CONCERNING MARINE CORPS AVIATION.**

(a) IN GENERAL.—Chapter 503 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 5026. Consultation with Commandant of the Marine Corps on major decisions directly concerning Marine Corps aviation**

“The Secretary of the Navy shall ensure that the views of the Commandant of the Marine Corps are given appropriate consideration before a major decision is made by an element of the Department of the Navy outside the Marine Corps on a matter that directly concerns Marine Corps aviation.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“5026. Consultation with Commandant of the Marine Corps on major decisions directly concerning Marine Corps aviation.”.

## **TITLE X—GENERAL PROVISIONS**

### **Subtitle A—Financial Matters**

- Sec. 1001. Transfer authority.
- Sec. 1002. Incorporation of classified annex.
- Sec. 1003. Authorization of prior emergency supplemental appropriations for fiscal year 1998.
- Sec. 1004. Authorization of appropriations for Bosnia peacekeeping operations for fiscal year 1999.
- Sec. 1005. Partnership for Peace Information Management System.
- Sec. 1006. United States contribution to NATO common-funded budgets in fiscal year 1999.
- Sec. 1007. Liquidity of working-capital funds.
- Sec. 1008. Termination of authority to manage working-capital funds and certain activities through the Defense Business Operations Fund.
- Sec. 1009. Clarification of authority to retain recovered costs of disposals in working-capital funds.
- Sec. 1010. Crediting of amounts recovered from third parties for loss or damage to personal property shipped or stored at Government expense.

### **Subtitle B—Naval Vessels and Shipyards**

- Sec. 1011. Revision to requirement for continued listing of two Iowa-class battleships on the Naval Vessel Register.
- Sec. 1012. Transfer of U.S.S. NEW JERSEY.
- Sec. 1013. Homeporting of the U.S.S. IOWA in San Francisco, California.
- Sec. 1014. Sense of Congress concerning the naming of an LPD–17 vessel.
- Sec. 1015. Reports on naval surface fire-support capabilities.
- Sec. 1016. Long-term charter of three vessels in support of submarine rescue, escort, and towing.
- Sec. 1017. Transfer of obsolete Army tugboat.

### **Subtitle C—Counter-Drug Activities and Other Assistance for Civilian Law Enforcement**

- Sec. 1021. Department of Defense support to other agencies for counter-drug activities.
- Sec. 1022. Department of Defense support of National Guard drug interdiction and counter-drug activities.
- Sec. 1023. Department of Defense counter-drug activities in transit zone.

### **Subtitle D—Miscellaneous Report Requirements and Repeals**

- Sec. 1031. Repeal of unnecessary and obsolete reporting provisions.
- Sec. 1032. Report regarding use of tagging system to identify hydrocarbon fuels used by Department of Defense.

### **Subtitle E—Armed Forces Retirement Home**

- Sec. 1041. Appointment of Director and Deputy Director of the Naval Home.
- Sec. 1042. Revision of inspection requirements relating to Armed Forces Retirement Home.
- Sec. 1043. Clarification of land conveyance authority, Armed Forces Retirement Home.

### **Subtitle F—Matters Relating to Defense Property**

- Sec. 1051. Plan for improved demilitarization of excess and surplus defense property.
- Sec. 1052. Transfer of F–4 Phantom II aircraft to foundation.

### **Subtitle G—Other Department of Defense Matters**

- Sec. 1061. Pilot program on alternative notice of receipt of legal process for garnishment of Federal pay for child support and alimony.
- Sec. 1062. Training of special operations forces with friendly foreign forces.

- Sec. 1063. Research grants competitively awarded to service academies.  
Sec. 1064. Department of Defense use of frequency spectrum.  
Sec. 1065. Department of Defense aviation accident investigations.  
Sec. 1066. Investigation of actions relating to 174th Fighter Wing of New York Air National Guard.  
Sec. 1067. Program to commemorate 50th anniversary of the Korean War.  
Sec. 1068. Designation of America's National Maritime Museum.  
Sec. 1069. Technical and clerical amendments.

#### **Subtitle H—Other Matters**

- Sec. 1071. Act constituting presidential approval of vessel war risk insurance requested by the Secretary of Defense.  
Sec. 1072. Extension and reauthorization of Defense Production Act of 1950.  
Sec. 1073. Requirement that burial flags furnished by the Secretary of Veterans Affairs be wholly produced in the United States.  
Sec. 1074. Sense of Congress concerning tax treatment of principal residence of members of Armed Forces while away from home on active duty.  
Sec. 1075. Clarification of State authority to tax compensation paid to certain employees.

### **Subtitle A—Financial Matters**

#### **SEC. 1001. TRANSFER AUTHORITY.**

(a) **AUTHORITY TO TRANSFER AUTHORIZATIONS.**—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1999 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed \$2,000,000,000.

(b) **LIMITATIONS.**—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) **EFFECT ON AUTHORIZATION AMOUNTS.**—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) **NOTICE TO CONGRESS.**—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

#### **SEC. 1002. INCORPORATION OF CLASSIFIED ANNEX.**

10 USC 114 note.

(a) **STATUS OF CLASSIFIED ANNEX.**—The Classified Annex prepared by the committee of conference to accompany the conference report on the bill H.R. 3616 of the One Hundred Fifth Congress and transmitted to the President is hereby incorporated into this Act.

(b) **CONSTRUCTION WITH OTHER PROVISIONS OF ACT.**—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) **LIMITATION ON USE OF FUNDS.**—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

President.

(d) **DISTRIBUTION OF CLASSIFIED ANNEX.**—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

**SEC. 1003. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1998.**

Amounts authorized to be appropriated to the Department of Defense for fiscal year 1998 in the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105-174).

**SEC. 1004. AUTHORIZATION OF APPROPRIATIONS FOR BOSNIA PEACEKEEPING OPERATIONS FOR FISCAL YEAR 1999.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 1999 for incremental costs of the Armed Forces for Bosnia peacekeeping operations in the total amount of \$1,858,600,000, as follows:

(1) For military personnel, in addition to the amounts authorized to be appropriated in title IV of this Act:

(A) For the Army, \$297,700,000.

(B) For the Navy, \$9,700,000.

(C) For the Marine Corps, \$2,700,000.

(D) For the Air Force, \$33,900,000.

(E) For the Naval Reserve, \$2,200,000.

(2) For operation and maintenance for the Overseas Contingency Operations Transfer Fund, in addition to the total amount authorized to be appropriated for that fund in section 301(24) of this Act, \$1,512,400,000.

(b) **DESIGNATION AS EMERGENCY.**—Funds authorized to be appropriated in accordance with subsection (a) are designated as emergency requirements pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

(c) **LIMITATION.**—(1) Funds available for the Department of Defense for fiscal year 1999 for military personnel for the Army, Navy, Marine Corps, Air Force, or Naval Reserve or for operation and maintenance for the Overseas Contingency Operations Transfer Fund may not be obligated or expended for Bosnia peacekeeping operations in excess of the amount authorized to be appropriated for that purpose under subsection (a).

(2) The President may waive the limitation in paragraph (1) after submitting to Congress the following:

(A) The President's written certification that the waiver is necessary in the national security interests of the United States.



(B) The President's written certification that exercising the waiver will not adversely affect the readiness of United States military forces.

(C) A report setting forth the following:

(i) The reasons that the waiver is necessary in the national security interests of the United States.

(ii) The specific reasons that additional funding is required for the continued presence of United States military forces participating in, or supporting, Bosnia peacekeeping operations for fiscal year 1999.

(iii) A discussion of the impact on the military readiness of United States Armed Forces of the continuing deployment of United States military forces participating in, or supporting, Bosnia peacekeeping operations.

(D) A supplemental appropriations request for the Department of Defense for such amounts as are necessary for the additional fiscal year 1999 costs associated with United States military forces participating in, or supporting, Bosnia peacekeeping operations.

(d) **TRANSFER AUTHORITY.**—The Secretary of Defense may transfer amounts of authorizations made available to the Department of Defense in subsection (a)(2) for fiscal year 1999 to any of the authorizations for that fiscal year in section 301. Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred. The transfer authority under this subsection is in addition to any other transfer authority provided in this Act.

(e) **BOSNIA PEACEKEEPING OPERATIONS DEFINED.**—For the purposes of this section, the term “Bosnia peacekeeping operations”—

(1) means the operation designated as Operation Joint Forge and any other operation involving the participation of any of the Armed Forces in peacekeeping or peace enforcement activities in and around the Republic of Bosnia and Herzegovina; and

(2) includes, with respect to Operation Joint Forge or any such other operation, each activity that is directly related to the support of the operation.

**SEC. 1005. PARTNERSHIP FOR PEACE INFORMATION SYSTEM MANAGEMENT.**

Funds authorized to be appropriated under titles II and III of this Act shall be available for the Partnership for Peace Information Management System as follows:

(1) Of the amount authorized to be appropriated under section 201(4) for Defense-wide activities, \$2,000,000.

(2) Of the amount authorized to be appropriated under section 301(5) for Defense-wide activities, \$3,000,000.

**SEC. 1006. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 1999.**

(a) **FISCAL YEAR 1999 LIMITATION.**—The total amount contributed by the Secretary of Defense in fiscal year 1999 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) **TOTAL AMOUNT.**—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 1998, of funds appropriated for fiscal years before fiscal year 1999 for payments for those budgets.

(2) The amount authorized to be appropriated under section 301(1) that is available for contributions for the NATO common-funded military budget under section 314.

(3) The amount authorized to be appropriated under section 201 that is available for contribution for the NATO common-funded civil budget under section 243.

(4) The total amount of the contributions authorized to be made under section 2501.

(c) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term “common-funded budgets of NATO” means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term “fiscal year 1998 baseline limitation” means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

#### SEC. 1007. LIQUIDITY OF WORKING-CAPITAL FUNDS.

(a) INCREASED CASH BALANCES.—The Secretary of Defense shall administer the working-capital funds of the Department of Defense during fiscal year 1999 so as to ensure that the total amount of the cash balances in such funds on September 30, 1999, exceeds the total amount of the cash balances in such funds on September 30, 1998, by \$1,300,000,000.

(b) ACTIONS REGARDING UNBUDGETED LOSSES.—The Under Secretary of Defense (Comptroller) shall take such actions regarding unbudgeted losses for the working-capital funds as may be necessary in order to ensure that such unbudgeted losses do not preclude the Secretary of Defense from achieving the increase in cash balances in working-capital funds required under subsection (a).

(c) WAIVER.—(1) The Secretary of Defense may waive the requirements of this section upon certifying to Congress, in writing, that the waiver is necessary to meet requirements associated with—

(A) a contingency operation (as defined in section 101(a)(13) of title 10, United States Code); or

(B) an operation of the Armed Forces that commenced before October 1, 1998, and continues during fiscal year 1999.

(2) The waiver authority under paragraph (1) may not be delegated to any official other than the Deputy Secretary of Defense.

(3) The waiver authority under paragraph (1) does not apply to the limitation in subsection (d) or the limitation in section 2208(l)(3) of title 10, United States Code (as added by subsection (e)).

(d) FISCAL YEAR 1999 LIMITATION ON ADVANCE BILLINGS.—

(1) The total amount of the advance billings rendered or imposed

for the working-capital funds of the Department of Defense and the Defense Business Operations Fund in fiscal year 1999—

(A) for the Department of the Navy, may not exceed \$400,000,000; and

(B) for the Department of the Air Force, may not exceed \$400,000,000.

(2) In paragraph (1), the term “advance billing” has the meaning given such term in section 2208(l) of title 10, United States Code.

(e) PERMANENT LIMITATION ON ADVANCE BILLINGS.—(1) Section 2208(l) of title 10, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

“(3) The total amount of the advance billings rendered or imposed for all working-capital funds of the Department of Defense in a fiscal year may not exceed \$1,000,000,000.”.

(2) Section 2208(l)(3) of such title, as added by paragraph (1), applies to fiscal years after fiscal year 1999.

(f) SEMIANNUAL REPORT.—(1) The Under Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives—

(A) not later than May 1, 1999, a report on the administration of this section for the six-month period ending on March 31, 1999; and

(B) not later than November 1, 1999, a report on the administration of this section for the six-month period ending on September 30, 1999.

(2) Each report shall include, for the period covered by the report, the following:

(A) The profit and loss status of each working-capital fund activity.

(B) The actions taken by the Secretary of each military department to use assessments of surcharges to correct for unbudgeted losses.

Applicability.  
10 USC 2208  
note.  
Deadlines.

**SEC. 1008. TERMINATION OF AUTHORITY TO MANAGE WORKING-CAPITAL FUNDS AND CERTAIN ACTIVITIES THROUGH THE DEFENSE BUSINESS OPERATIONS FUND.**

(a) REVISION OF CERTAIN DBOF PROVISIONS AND REENACTMENT TO APPLY TO WORKING-CAPITAL FUNDS GENERALLY.—Section 2208 of title 10, United States Code, is amended by adding at the end the following:

“(m) CAPITAL ASSET SUBACCOUNTS.—Amounts charged for depreciation of capital assets shall be credited to a separate capital asset subaccount established within a working-capital fund.

“(n) SEPARATE ACCOUNTING, REPORTING, AND AUDITING OF FUNDS AND ACTIVITIES.—The Secretary of Defense, with respect to the working-capital funds of each Defense Agency, and the Secretary of each military department, with respect to the working-capital funds of the military department, shall provide for separate accounting, reporting, and auditing of funds and activities managed through the working-capital funds.

“(o) CHARGES FOR GOODS AND SERVICES PROVIDED THROUGH THE FUND.—(1) Charges for goods and services provided for an activity through a working-capital fund shall include the following:

“(A) Amounts necessary to recover the full costs of the goods and services provided for that activity.

“(B) Amounts for depreciation of capital assets, set in accordance with generally accepted accounting principles.

“(2) Charges for goods and services provided through a working-capital fund may not include the following:

“(A) Amounts necessary to recover the costs of a military construction project (as defined in section 2801(b) of this title), other than a minor construction project financed by the fund pursuant to section 2805(c)(1) of this title.

“(B) Amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

“(C) Amounts necessary to recover the costs of functions designated by the Secretary of Defense as mission critical, such as ammunition handling safety, and amounts for ancillary tasks not directly related to the mission of the function or activity managed through the fund.

“(p) PROCEDURES FOR ACCUMULATION OF FUNDS.—The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of a military department, with respect to each working-capital fund of the military department, shall establish billing procedures to ensure that the balance in that working-capital fund does not exceed the amount necessary to provide for the working-capital requirements of that fund, as determined by the Secretary.

“(q) ANNUAL REPORTS AND BUDGET.—The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of each military department, with respect to each working-capital fund of the military department, shall annually submit to Congress, at the same time that the President submits the budget under section 1105 of title 31, the following:

“(1) A detailed report that contains a statement of all receipts and disbursements of the fund (including such a statement for each subaccount of the fund) for the fiscal year ending in the year preceding the year in which the budget is submitted.

“(2) A detailed proposed budget for the operation of the fund for the fiscal year for which the budget is submitted.

“(3) A comparison of the amounts actually expended for the operation of the fund for the fiscal year referred to in paragraph (1) with the amount proposed for the operation of the fund for that fiscal year in the President’s budget.

“(4) A report on the capital asset subaccount of the fund that contains the following information:

“(A) The opening balance of the subaccount as of the beginning of the fiscal year in which the report is submitted.

“(B) The estimated amounts to be credited to the subaccount in the fiscal year in which the report is submitted.

“(C) The estimated amounts of outlays to be paid out of the subaccount in the fiscal year in which the report is submitted.

“(D) The estimated balance of the subaccount at the end of the fiscal year in which the report is submitted.

“(E) A statement of how much of the estimated balance at the end of the fiscal year in which the report is submitted will be needed to pay outlays in the immediately following fiscal year that are in excess of the amount to be credited to the subaccount in the immediately following fiscal year.”.

(b) REPEAL OF AUTHORITY TO MANAGE THROUGH THE DEFENSE BUSINESS OPERATIONS FUND.—Section 2216a of title 10, United States Code, and the item relating to that section in the table of sections at the beginning of chapter 131 of such title, are repealed.

**SEC. 1009. CLARIFICATION OF AUTHORITY TO RETAIN RECOVERED COSTS OF DISPOSALS IN WORKING-CAPITAL FUNDS.**

Section 2210(a) of title 10, United States Code, is amended to read as follows:

“(a)(1) A working-capital fund established pursuant to section 2208 of this title may retain so much of the proceeds of disposals of property referred to in paragraph (2) as is necessary to recover the expenses incurred by the fund in disposing of such property. Proceeds from the sale or disposal of such property in excess of amounts necessary to recover the expenses may be credited to current applicable appropriations of the Department of Defense.

“(2) Paragraph (1) applies to disposals of supplies, material, equipment, and other personal property that were not financed by stock funds established under section 2208 of this title.”.

Applicability.

**SEC. 1010. CREDITING OF AMOUNTS RECOVERED FROM THIRD PARTIES FOR LOSS OR DAMAGE TO PERSONAL PROPERTY SHIPPED OR STORED AT GOVERNMENT EXPENSE.**

(a) IN GENERAL.—(1) Chapter 163 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2739. Amounts recovered from third parties for loss or damage to personal property shipped or stored at Government expense: crediting to appropriations**

“(a) CREDITING OF COLLECTIONS.—Any qualifying military department third-party collection shall be credited to the appropriate current appropriation. Amounts so credited shall be merged with the funds in that appropriation and shall be available for the same period and purposes as the funds with which merged.

“(b) APPROPRIATE CURRENT APPROPRIATION.—For purposes of subsection (a), the appropriate current appropriation with respect to a qualifying military department third-party collection is the appropriation currently available, as of the date of the collection, for the payment of claims by that military department for loss or damage of personal property shipped or stored at Government expense.

“(c) QUALIFYING MILITARY DEPARTMENT THIRD-PARTY COLLECTIONS.—For purposes of subsection (a), a qualifying military department third-party collection is any amount that a military department collects under sections 3711, 3716, 3717, and 3721 of title 31 from a third party for a loss or damage to personal property that occurred during shipment or storage of the property at Government expense and for which the Secretary of the military department paid the owner in settlement of a claim.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2739. Amounts recovered from third parties for loss or damage to personal property shipped or stored at Government expense: crediting to appropriations.”.

(b) EFFECTIVE DATE.—Section 2739 of title 10, United States Code, as added by subsection (a), applies with respect to amounts

Applicability.  
10 USC 2739  
note.

collected by a military department on or after the date of the enactment of this Act.

## Subtitle B—Naval Vessels and Shipyards

Records.

### **SEC. 1011. REVISION TO REQUIREMENT FOR CONTINUED LISTING OF TWO IOWA-CLASS BATTLESHIPS ON THE NAVAL VESSEL REGISTER.**

In carrying out section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 421), the Secretary of the Navy shall list on the Naval Vessel Register, and maintain on that register, the following two Iowa-class battleships: the U.S.S. IOWA (BB-61) and the U.S.S. WISCONSIN (BB-64).

### **SEC. 1012. TRANSFER OF U.S.S. NEW JERSEY.**

The Secretary of the Navy shall strike the U.S.S. NEW JERSEY (BB-62) from the Naval Vessel Register and shall transfer that vessel to a non-for-profit entity in accordance with section 7306 of title 10, United States Code. The Secretary shall require as a condition of the transfer of that vessel that the transferee locate the vessel in the State of New Jersey.

### **SEC. 1013. HOMEPORING OF THE U.S.S. IOWA IN SAN FRANCISCO, CALIFORNIA.**

It is the sense of Congress that the U.S.S. IOWA (BB-61) should be homeported at the Port of San Francisco, California.

Clifton B. Cates.

### **SEC. 1014. SENSE OF CONGRESS CONCERNING THE NAMING OF AN LPD-17 VESSEL.**

It is the sense of Congress that, consistent with section 1018 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 425), the Secretary of the Navy should name the next vessel of the LPD-17 class of amphibious vessels to be named after the date of the enactment of this Act as the U.S.S. Clifton B. Cates, in honor of former Commandant of the Marine Corps Clifton B. Cates (1893-1970), a native of Tennessee whose distinguished career of service in the Marine Corps included combat service in World War I so heroic that he became the most decorated Marine Corps officer of that war, exemplary combat leadership in the Pacific theater during World War II from Guadalcanal to Tinian and Iwo Jima and beyond, and appointment in 1948 as the 19th Commandant of the Marine Corps with the rank of lieutenant general, a position from which he led the efficient and alacritous response of the Marine Corps to the invasion of the Republic of South Korea by Communist North Korea.

### **SEC. 1015. REPORTS ON NAVAL SURFACE FIRE-SUPPORT CAPABILITIES.**

Deadline.

(a) NAVY REPORT.—(1) Not later than March 31, 1999, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on battleship readiness for meeting requirements of the Armed Forces for naval surface fire support.

(2) The report shall contain the following:

(A) The reasons for the Secretary's failure to comply with the requirements of section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 421) until February 1998.

(B) The requirements for specialized air-naval gunfire liaison units.

(C) The plans of the Navy for retaining and maintaining 16-inch ammunition for the main guns of battleships.

(D) The plans of the Navy for retaining the hammerhead crane essential for lifting battleship turrets.

(E) An estimate of the cost of reactivating Iowa-class battleships for listing on the Naval Vessel Register, restoring the vessels to seaworthiness with operational capabilities necessary to meet requirements for naval surface fire-support, and maintaining the battleships in that condition for continued listing on the register, together with an estimate of the time necessary to reactivate and restore the vessels to that condition.

(F) An assessment of the short-term costs and the long-term costs associated with alternative methods for executing the naval surface fire-support mission of the Navy, including the alternative of reactivating two battleships.

(3) The Secretary shall act through the Director of Expeditionary Warfare Division (N85) of the Office of the Chief of Naval Operations in preparing the report.

(b) GAO REPORT.—(1) The Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the naval surface fire-support capabilities of the Navy.

(2) The report shall contain the following:

(A) An assessment of the extent of the compliance by the Secretary of the Navy with the requirements of section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 421).

(B) The plans of the Navy for executing the naval surface fire-support mission of the Navy.

(C) An assessment of the short-term costs and the long-term costs associated with the plans.

(D) An analysis of the assessment required under subsection (a)(2)(F).

**SEC. 1016. LONG-TERM CHARTER OF THREE VESSELS IN SUPPORT OF SUBMARINE RESCUE, ESCORT, AND TOWING.**

The Secretary of the Navy may enter into contracts in accordance with section 2401 of title 10, United States Code, for the charter through September 30, 2003, of the following vessels:

(1) The CAROLYN CHOUEST (United States official number D102057).

(2) The KELLIE CHOUEST (United States official number D1038519).

(3) The DOLORES CHOUEST (United States official number D600288).

**SEC. 1017. TRANSFER OF OBSOLETE ARMY TUGBOAT.**

In carrying out section 1023 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1876), the Secretary of the Army may substitute the obsolete, decommissioned tugboat Attleboro (LT-1977) for the tugboat Normandy (LT-

1971) as one of the two obsolete tugboats authorized to be transferred by the Secretary under that section.

## **Subtitle C—Counter-Drug Activities and Other Assistance for Civilian Law Enforcement**

### **SEC. 1021. DEPARTMENT OF DEFENSE SUPPORT TO OTHER AGENCIES FOR COUNTER-DRUG ACTIVITIES.**

(a) CONTINUATION OF AUTHORITY.—Subsection (a) of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 374 note) is amended by striking out “through 1999” and inserting in lieu thereof “through 2002”.

(b) BASES AND FACILITIES SUPPORT.—Subsection (b)(4) of such section is amended—

(1) by striking out “unspecified minor construction” and inserting in lieu thereof “an unspecified minor military construction project”;

(2) by inserting “of the Department of Defense or any Federal, State, or local law enforcement agency” after “counter-drug activities”; and

(3) by inserting before the period at the end the following: “or counter-drug activities of a foreign law enforcement agency outside the United States”.

(c) CONGRESSIONAL NOTIFICATION OF FACILITIES PROJECTS.—Such section is further amended by adding at the end the following new subsection:

“(h) CONGRESSIONAL NOTIFICATION OF FACILITIES PROJECTS.—

(1) When a decision is made to carry out a military construction project described in paragraph (2), the Secretary of Defense shall submit to the congressional defense committees written notice of the decision, including the justification for the project and the estimated cost of the project. The project may be commenced only after the end of the 21-day period beginning on the date on which the written notice is received by Congress.

“(2) Paragraph (1) applies to an unspecified minor military construction project that—

“(A) is intended for the modification or repair of a Department of Defense facility for the purpose set forth in subsection (b)(4); and

“(B) has an estimated cost of more than \$500,000.”.

### **SEC. 1022. DEPARTMENT OF DEFENSE SUPPORT OF NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.**

(a) PROCUREMENT OF EQUIPMENT.—Subsection (a)(3) of section 112 of title 32, United States Code, is amended—

(1) by striking out “and leasing of equipment” and inserting in lieu thereof “and equipment, and the leasing of equipment,”; and

(2) by adding at the end the following new sentence: “However, the use of such funds for the procurement of equipment may not exceed \$5,000 per purchase order, unless approval for procurement of equipment in excess of that amount is granted in advance by the Secretary of Defense.”.

Applicability.



(b) TRAINING AND READINESS.—Subsection (b)(2) of such section is amended to read as follows:

“(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and counter-drug activities. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

“(B) Appropriations available for the Department of Defense for drug interdiction and counter-drug activities may be used for paying costs associated with a member’s participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying those costs, for the amounts paid. Appropriations available for paying those costs shall be available for making the reimbursements.

“(C) To ensure that the use of units and personnel of the National Guard of a State pursuant to a State drug interdiction and counter-drug activities plan does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the drug interdiction and counter-drug activities that units and personnel of the National Guard of a State may perform:

“(i) The performance of the activities may not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.

“(ii) National Guard personnel will not degrade their military skills as a result of performing the activities.

“(iii) The performance of the activities will not result in a significant increase in the cost of training.

“(iv) In the case of drug interdiction and counter-drug activities performed by a unit organized to serve as a unit, the activities will support valid unit training requirements.”.

(c) ASSISTANCE TO YOUTH AND CHARITABLE ORGANIZATIONS.—Subsection (b)(3) of such section is amended to read as follows:

“(3) A unit or member of the National Guard of a State may be used, pursuant to a State drug interdiction and counter-drug activities plan approved by the Secretary of Defense under this section, to provide services or other assistance (other than air transportation) to an organization eligible to receive services under section 508 of this title if—

“(A) the State drug interdiction and counter-drug activities plan specifically recognizes the organization as being eligible to receive the services or assistance;

“(B) in the case of services, the performance of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

“(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the State drug interdiction and counter-drug activities plan.”.

(d) **DEFINITION OF DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.**—Subsection (i)(1) of such section is amended by inserting after “drug interdiction and counter-drug law enforcement activities” the following: “, including drug demand reduction activities,”.

(e) **CONFORMING AMENDMENTS.**—Subsection (a) of such section is further amended—

(1) by striking out “for—” and inserting in lieu thereof “for the following:”;

(2) by striking out “the” at the beginning of paragraphs (1), (2), and (3) and inserting in lieu thereof “The”;

(3) in paragraph (1), by striking out the semicolon at the end and inserting in lieu thereof a period; and

(4) in paragraph (2), by striking out “; and” and inserting in lieu thereof a period.

**SEC. 1023. DEPARTMENT OF DEFENSE COUNTER-DRUG ACTIVITIES IN TRANSIT ZONE.**

(a) **SENSE OF CONGRESS REGARDING PRIORITY OF DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.**—It is the sense of Congress that the Secretary of Defense should—

(1) ensure that the international drug interdiction and counter-drug activities of the Department of Defense are accorded adequate resources within the budget allocation of the Department to execute the drug interdiction and counter-drug mission under the Global Military Force Policy of the Department; and

(2) make such changes to that policy as the Secretary considers necessary.

(b) **SUPPORT FOR COUNTER-DRUG OPERATION CAPER FOCUS.**—

(1) During fiscal year 1999, the Secretary of Defense shall make available, to the maximum extent practicable, such surface vessels, maritime patrol aircraft, and personnel of the Navy as may be necessary to conduct the final phase of the counter-drug operation known as Caper Focus, which targets the maritime movement of cocaine on vessels in the eastern Pacific Ocean.

(2) Of the amount authorized to be appropriated pursuant to section 301(20) for drug interdiction and counter-drug activities, \$10,500,000 shall be available for the purpose of conducting the counter-drug operation known as Caper Focus.

(c) **PATROL COASTAL CRAFT FOR DRUG INTERDICTION BY SOUTHERN COMMAND.**—Of the amount authorized to be appropriated pursuant to section 301(20) for drug interdiction and counter-drug activities, \$14,500,000 shall be available for the purpose of equipping and operating six of the Cyclone-class coastal defense ships of the Department of Defense in the Caribbean Sea and eastern Pacific Ocean in support of the drug interdiction efforts of the United States Southern Command.

(d) **RESULTING AVAILABILITY OF FUNDS FOR COUNTERPROLIFERATION AND COUNTERTERRORISM ACTIVITIES.**—(1) In light of subsection (c), of the amount authorized to be appropriated pursuant to section 301(5) for the Special Operations Command, \$4,500,000 shall be available for the purpose of increased training and related operations in support of the activities of the Special Operations Command regarding counterproliferation of weapons of mass destruction and counterterrorism.

(2) The amount made available under this subsection is in addition to other funds authorized to be appropriated under section 301(5) for the Special Operations Command for such purpose.

## **Subtitle D—Miscellaneous Report Requirements and Repeals**

### **SEC. 1031. REPEAL OF UNNECESSARY AND OBSOLETE REPORTING PROVISIONS.**

(a) **HEALTH AND MEDICAL CARE STUDIES AND DEMONSTRATIONS.**—Section 1092(a) of title 10, United States Code, is amended by striking out paragraph (3).

(b) **EXECUTED REQUIREMENT FOR BIENNIAL REPORTS ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES.**—Section 2819 of the National Defense Authorization Act, Fiscal Year 1989 (10 U.S.C. 2391 note), relating to the Commission on Alternative Utilization of Military Facilities, is repealed.

### **SEC. 1032. REPORT REGARDING USE OF TAGGING SYSTEM TO IDENTIFY HYDROCARBON FUELS USED BY DEPARTMENT OF DEFENSE.**

(a) **REPORT REQUIRED.**—Not later than March 30, 1999, the Secretary of Defense shall submit to Congress a report evaluating the following: Deadline.

(1) The feasibility of tagging hydrocarbon fuels used by the Department of Defense for the purposes of analyzing and identifying such fuels.

(2) The deterrent effect of such tagging on the theft and misuse of fuels purchased by the Department.

(3) The extent to which such tagging would assist in determining the source of surface and underground pollution in locations having separate fuel storage facilities of the Department and of civilian companies.

(b) **SYSTEM ELEMENTS.**—In preparing the report, the Secretary shall ensure that any tagging system for the Department of Defense considered by the Secretary satisfies the following requirements:

(1) The tagging system would not harm the environment.

(2) Each chemical that would be used in the tagging system is—

(A) approved for use under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

(B) substantially similar to the fuel to which added, as determined in accordance with criteria established by the Environmental Protection Agency for the introduction of additives into hydrocarbon fuels.

(3) The tagging system would permit a determination if a tag is present and a determination if the concentration of a tag has changed in order to facilitate identification of tagged fuels and detection of dilution of tagged fuels.

(4) The tagging system would not impair or degrade the suitability of tagged fuels for their intended use.

(c) **RECOMMENDATIONS.**—The report shall include any recommendations for legislation relating to the tagging of hydrocarbon fuels by the Department of Defense that the Secretary considers appropriate.

## Subtitle E—Armed Forces Retirement Home

### SEC. 1041. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR OF THE NAVAL HOME.

(a) APPOINTMENT AND QUALIFICATIONS OF DIRECTOR AND DEPUTY DIRECTOR.—Subsection (a) of section 1517 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 417) is amended—

(1) in paragraph (2)—

(A) by striking out “Each Director” and inserting in lieu thereof “The Director of the United States Soldiers’ and Airmen’s Home”; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

“(B) meet the requirements of paragraph (4).”;

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs (3) and (4):

“(3) The Director, and any Deputy Director, of the Naval Home shall be appointed by the Secretary of Defense from among persons recommended by the Secretaries of the military departments who—

“(A) in the case of the position of Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above O-5;

“(B) in the case of the position of Deputy Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above O-4; and

“(C) meet the requirements of paragraph (4).

“(4) Each Director shall have appropriate leadership and management skills, an appreciation and understanding of the culture and norms associated with military service, and significant military background.”.

(b) TERM OF DIRECTOR AND DEPUTY DIRECTOR.—Subsection (c) of such section is amended—

(1) by striking out “(c) TERM OF DIRECTOR.—” and all that follows through “A Director” in the second sentence and inserting in lieu thereof “(c) TERMS OF DIRECTORS.—(1) The term of office of the Director of the United States Soldiers’ and Airmen’s Home shall be five years. The Director”; and

(2) by adding at the end the following new paragraph:

“(2) The Director and the Deputy Director of the Naval Home shall serve at the pleasure of the Secretary of Defense.”.

(c) DEFINITIONS.—Such section is further amended by adding at the end the following new subsection:

“(g) DEFINITIONS.—In this section:

“(1) The term ‘United States Soldiers’ and Airmen’s Home’ means the separate facility of the Retirement Home that is known as the United States Soldiers’ and Airmen’s Home.

“(2) The term ‘Naval Home’ means the separate facility of the Retirement Home that is known as the Naval Home.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

**SEC. 1042. REVISION OF INSPECTION REQUIREMENTS RELATING TO ARMED FORCES RETIREMENT HOME.**

(a) INSPECTION BY INSPECTORS GENERAL OF THE MILITARY DEPARTMENTS.—Section 1518 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 418) is amended to read as follows:

**“SEC. 1518. INSPECTION OF RETIREMENT HOME.**

“(a) TRIENNIAL INSPECTION.—Every three years the Inspector General of a military department shall inspect the Retirement Home, including the records of the Retirement Home. Records.

“(b) ALTERNATING DUTY AMONG INSPECTORS GENERAL.—The duty to inspect the Retirement Home shall alternate among the Inspector General of the Army, the Naval Inspector General, and the Inspector General of the Air Force on such schedule as the Secretary of Defense shall direct.

“(c) REPORTS.—Not later than 45 days after completing an inspection under subsection (a), the Inspector General carrying out the inspection shall submit to the Retirement Home Board, the Secretary of Defense, and Congress a report describing the results of the inspection and containing such recommendations as the Inspector General considers appropriate.”. Deadline.

(b) FIRST INSPECTION.—The first inspection under section 1518 of the Armed Forces Retirement Home Act of 1991, as amended by subsection (a), shall be carried out during fiscal year 1999. 24 USC 418 note.

**SEC. 1043. CLARIFICATION OF LAND CONVEYANCE AUTHORITY, ARMED FORCES RETIREMENT HOME.**

Section 1053 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2650) is amended—

(1) in subsection (a), by striking out “may convey, by sale or otherwise,” and inserting in lieu thereof “shall convey by sale”; and

(2) by striking out subsection (b) and inserting in lieu thereof the following new subsection (b):

“(b) MANNER, TERMS AND CONDITIONS OF DISPOSAL.—(1) The sale under subsection (a) shall be made to a neighboring nonprofit organization from whose extensive educational and charitable services the public benefits and has benefited from for more than 100 years, or an entity or entities related to such organization, and whose substantial investment in the neighborhood is consistent with the continued existence and purpose of the Armed Forces Retirement Home.

“(2) As consideration for the real property conveyance under subsection (a), the purchaser selected under paragraph (1) shall pay to the United States an amount equal to the fair market value of the real property at its highest and best economic use, as determined by the Armed Forces Retirement Home Board, based on an independent appraisal.”.

## Subtitle F—Matters Relating to Defense Property

**SEC. 1051. PLAN FOR IMPROVED DEMILITARIZATION OF EXCESS AND SURPLUS DEFENSE PROPERTY.**

(a) PLAN REQUIRED.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a plan to address the Deadline.

problems with the sale or other disposal of excess and surplus defense materials identified in the report submitted to Congress by the Secretary of Defense on June 5, 1998, pursuant to section 1067 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1896). The plan shall provide for the following:

(1) Implementation for all appropriate Department personnel of the mandatory demilitarization training specified in Department of Defense revised manual 4160.21-M-1.

(2) Improvement of oversight of the performance of demilitarization functions and the maintenance of demilitarization codes throughout the life cycle of defense materials.

(3) Assignment of accurate demilitarization codes and the issuance of accurate demilitarization execution instructions during the system planning phases of the acquisition process.

(4) Implementation of such recommendations of the Defense Science Board task force appointed by the Under Secretary of Defense for Acquisition and Technology to consider the control of military excess and surplus property as the Secretary of Defense considers to be appropriate.

(b) DEMILITARIZATION TRAINING.—In connection with the demilitarization training that is required to be addressed in the plan, the Secretary shall indicate the time frame for full implementation of such training and the number of Department of Defense personnel to be trained.

(c) CENTRALIZED DEMILITARIZATION FUNCTIONS.—In connection with the matters specified in paragraphs (2) and (3) of subsection (a) that are required to be addressed in the plan, the Secretary shall consider options for the centralization of demilitarization functions and responsibilities in a single office or agency. The Secretary shall specify in the plan the responsible office or agency, and indicate the time frame for centralizing demilitarization functions and responsibilities, unless the Secretary determines that it is not practical or appropriate to centralize demilitarization functions and responsibilities, in which case the Secretary shall provide the reasons for the determination.

(d) DRAFT LEGISLATION.—The Secretary shall include in the plan any draft legislation that the Secretary considers appropriate to clarify the authority of the Government to recover critical and sensitive defense property that has been inadequately demilitarized.

(e) RELATED REPORTS.—(1) The Secretary shall submit with the plan—

(A) a copy of recommendations of the Defense Science Board task force referred to in subsection (a)(4); and

(B) a copy of the report prepared by an independent contractor in accordance with the Secretary's report referred to in subsection (a), at the request of the Defense Logistics Agency, to address options for centralizing demilitarization responsibilities, including a central demilitarization office and a central system for coding and maintaining demilitarization codes through the life cycle of the property involved.

(2) With respect to the report of the independent contractor described in paragraph (1)(B), the Secretary shall provide an evaluation of the recommendations contained in the report and any plans by the Secretary for implementing the recommendations.

**SEC. 1052. TRANSFER OF F-4 PHANTOM II AIRCRAFT TO FOUNDATION.**

(a) **AUTHORITY.**—The Secretary of the Air Force may convey, without consideration, to the Collings Foundation, Stow, Massachusetts (in this section referred to as the “foundation”), all right, title, and interest of the United States in and to one surplus F-4 Phantom II aircraft. The conveyance shall be made by means of a conditional deed of gift.

(b) **CONDITION OF AIRCRAFT.**—The Secretary may not convey ownership of the aircraft under subsection (a) until the Secretary determines that the foundation has altered the aircraft in such manner as the Secretary determines necessary to ensure that the aircraft does not have any capability for use as a platform for launching or releasing munitions or any other combat capability that it was designed to have. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) **REVERTER UPON BREACH OF CONDITIONS.**—The Secretary shall include in the instrument of conveyance of the aircraft—

(1) a condition that the foundation not convey any ownership interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary;

(2) a condition that the foundation operate and maintain the aircraft in compliance with all applicable limitations and maintenance requirements imposed by the Administrator of the Federal Aviation Administration; and

(3) a condition that if the Secretary determines at any time that the foundation has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, or has failed to comply with the condition set forth in paragraph (2), all right, title, and interest in and to the aircraft, including any repair or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(d) **CONVEYANCE AT NO COST TO THE UNITED STATES.**—The conveyance of an aircraft authorized by this section shall be made at no cost to the United States. Any costs associated with such conveyance, costs of determining compliance with subsection (b), and costs of operation and maintenance of the aircraft conveyed shall be borne by the foundation.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

(f) **CLARIFICATION OF LIABILITY.**—Notwithstanding any other provision of law, upon the conveyance of ownership of the F-4 Phantom II aircraft to the foundation under subsection (a), the United States shall not be liable for any death, injury, loss, or damage that results from any use of that aircraft by any person other than the United States.

## Subtitle G—Other Department of Defense Matters

5 USC 5520a  
note.

### SEC. 1061. PILOT PROGRAM ON ALTERNATIVE NOTICE OF RECEIPT OF LEGAL PROCESS FOR GARNISHMENT OF FEDERAL PAY FOR CHILD SUPPORT AND ALIMONY.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall conduct a pilot program on alternative notice procedures for withholding or garnishment of pay for the payment of child support and alimony under section 459 of the Social Security Act (42 U.S.C. 659).

(b) PURPOSE.—The purpose of the pilot program is to test the efficacy of providing notice in accordance with subsection (c) to the person whose pay is to be withheld or garnished.

(c) AUTHORIZATION OF ALTERNATIVE TO PROVIDING COPY OF NOTICE OR SERVICE RECEIVED BY THE SECRETARY.—(1) Under the pilot program, whenever the Secretary of Defense (acting through the DOD section 459 agent) provides a section 459 notice to an individual, the Secretary may include as part of that notice the information specified in subsection (e) in lieu of sending with that notice a copy (otherwise required pursuant to the parenthetical phrase in section 459(c)(2)(A) of the Social Security Act) of the notice or service received by the DOD section 459 agent with respect to that individual's child support or alimony payment obligations.

(2) Under the pilot program, whenever the Secretary of Defense (acting through the DOD section 5520a agent) provides a section 5520a notice to an individual, the Secretary may include as part of that notice the information specified in subsection (e) in lieu of sending with that notice a copy (otherwise required pursuant to the second parenthetical phrase in section 5520a(c) of title 5, United States Code) of the legal process received by the DOD section 5520a agent with respect to that individual.

(d) DEFINITIONS.—For purposes of this section:

(1) DOD SECTION 459 AGENT.—The term “DOD section 459 agent” means the agent or agents designated by the Secretary of Defense under subsection (c)(1)(A) of section 459 of the Social Security Act (42 U.S.C. 659) to receive orders and accept service of process in matters related to child support or alimony.

(2) SECTION 459 NOTICE.—The term “section 459 notice” means, with respect to the Department of Defense, the notice required by subsection (c)(2)(A) of section 459 of the Social Security Act (42 U.S.C. 659) to be sent to an individual in writing upon the receipt by the DOD section 459 agent of notice or service with respect to the individual's child support or alimony payment obligations.

(3) DOD SECTION 5520A AGENT.—The term “DOD section 5520a agent” means a person who is designated by law or regulation to accept service of process to which the Department of Defense is subject under section 5520a of title 5, United States Code (including the regulations promulgated under subsection (k) of that section).

(4) SECTION 5520A NOTICE.—The term “section 5520a notice” means, with respect to the Department of Defense, the notice required by subsection (c) of section 5520a of title 5, United States Code, to be sent in writing to an employee (or, pursuant



to the regulations promulgated under subsection (k) of that section, to a member of the Armed Forces) upon the receipt by the DOD section 5520a agent of legal process covered by that section.

(e) **ALTERNATIVE REQUIREMENTS.**—The information referred to in subsection (c) that is to be included as part of a section 459 notice or section 5520a notice sent to an individual (in lieu of sending with that notice a copy of the notice or service received by the DOD section 459 agent or the DOD section 5520a agent) is the following:

(1) A description of the pertinent court order, notice to withhold, or other order, process, or interrogatory received by the DOD section 459 agent or the DOD section 5520a agent.

(2) The identity of the court or judicial forum involved and (in the case of a notice or process concerning the ordering of a support or alimony obligation) the case number, the amount of the obligation, and the name of the beneficiary.

(3) Information on how the individual may obtain from the Department of Defense a copy of the notice, service, or legal process, including an address and telephone number that the individual may be contacted for the purpose of obtaining such a copy.

(f) **PERIOD OF PILOT PROGRAM.**—The Secretary shall commence the pilot program not later than 90 days after the date of the enactment of this Act. The pilot program shall terminate on September 30, 2001.

(g) **REPORT.**—Not later than January 1, 2001, the Secretary shall submit to Congress a report describing the experience of the Department of Defense under the authority provided by this section. The report shall include the following:

Deadline.

(1) The number of section 459 notices provided by the DOD section 459 agent during the period the authority provided by this section was in effect.

(2) The number of individuals who requested the DOD section 459 agent to provide to them a copy of the actual notice or service.

(3) Any complaint the Secretary received by reason of not having provided the actual notice or service in the section 459 notice.

(4) The number of section 5520a notices provided by the DOD section 5520a agent during the period the authority provided by this section was in effect.

(5) The number of individuals who requested the DOD section 5520a agent to provide to them a copy of the actual legal process.

(6) Any complaint the Secretary received by reason of not having provided the actual legal process in the section 5520a notice.

**SEC. 1062. TRAINING OF SPECIAL OPERATIONS FORCES WITH FRIENDLY FOREIGN FORCES.**

(a) **REQUIREMENT FOR PRIOR APPROVAL OF SECRETARY OF DEFENSE.**—Subsection (c) of section 2011 of title 10, United States Code, is amended by inserting after the first sentence the following new sentence: “The regulations shall require that training activities may be carried out under this section only with the prior approval of the Secretary of Defense.”.

10 USC 2011.

(b) ELEMENTS OF ANNUAL REPORT.—Subsection (e) of such section is amended by adding at the end the following new paragraphs:

“(5) A summary of the expenditures under this section resulting from the training for which expenses were paid under this section.

“(6) A discussion of the unique military training benefit to United States special operations forces derived from the training activities for which expenses were paid under this section.”.

**SEC. 1063. RESEARCH GRANTS COMPETITIVELY AWARDED TO SERVICE ACADEMIES.**

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 4358. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees**

“(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Army may authorize the Superintendent of the Academy to accept qualifying research grants under this section. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

“(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

“(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

“(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The Superintendent shall use the funds in the account in accordance with applicable regulations and the terms and conditions of the grants received.

“(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in applying for, and otherwise pursuing, award of a qualifying research grant.

“(f) REGULATIONS.—The Secretary of the Army shall prescribe regulations for the administration of this section.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“4358. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees.”.

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 6977. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees**

“(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the Superintendent of the Academy to accept qualifying research grants under this section. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

“(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

“(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

“(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The Superintendent shall use the funds in the account in accordance with applicable regulations and the terms and conditions of the grants received.

“(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in applying for, and otherwise pursuing, award of a qualifying research grant.

“(f) REGULATIONS.—The Secretary of the Navy shall prescribe regulations for the administration of this section.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“6977. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees.”.

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 9357. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees**

“(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Air Force may authorize the Superintendent of the Academy to accept qualifying research grants under this section. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

“(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

“(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

“(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The Superintendent shall use the funds in the account in accordance with applicable regulations and the terms and conditions of the grants received.

“(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in applying for, and otherwise pursuing, award of a qualifying research grant.

“(f) REGULATIONS.—The Secretary of the Air Force shall prescribe regulations for the administration of this section.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“9357. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees.”.

#### **SEC. 1064. DEPARTMENT OF DEFENSE USE OF FREQUENCY SPECTRUM.**

(a) FINDING.—Congress finds that the report submitted to Congress by the Secretary of Defense on April 2, 1998, regarding the reallocation of the frequency spectrum used or dedicated to the Department of Defense and the intelligence community does not include a discussion of the costs to the Department of Defense that are associated with past and potential future reallocations of the frequency spectrum, although such a discussion was to be included in the report as directed in connection with the enactment of the National Defense Authorization Act for Fiscal Year 1998.

(b) ADDITIONAL REPORT.—The Secretary of Defense shall, not later than October 31, 1998, submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report that discusses the costs referred to in subsection (a).

(c) RELOCATION OF FEDERAL FREQUENCIES.—Section 113(g)(1) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(1)) is amended—

(1) by striking out “(1) IN GENERAL.—In order” and inserting in lieu thereof the following:

“(1) IN GENERAL.—

“(A) AUTHORITY OF FEDERAL ENTITIES TO ACCEPT COMPENSATION.—In order”;

(2) in subparagraph (A), as so designated, by striking out the second, third, and fourth sentences and inserting in lieu thereof the following: “Any such Federal entity which proposes to so relocate shall notify the NTIA, which in turn shall notify the Commission, before the auction concerned of the marginal costs anticipated to be associated with such relocation or with modifications necessary to accommodate prospective licensees. The Commission in turn shall notify potential bidders of the estimated relocation or modification costs based on the geographic area covered by the proposed licenses before the auction.”; and

(3) by adding at the end the following:

“(B) REQUIREMENT TO COMPENSATE FEDERAL ENTITIES.—Any person on whose behalf a Federal entity incurs costs under subparagraph (A) shall compensate the Federal entity in advance for such costs. Such compensation may take the form of a cash payment or in-kind compensation.

Deadline.

Notification.

“(C) DISPOSITION OF PAYMENTS.—

“(i) PAYMENT BY ELECTRONIC FUNDS TRANSFER.—

A person making a cash payment under this paragraph shall make the cash payment by depositing the amount of the payment by electronic funds transfer in the account of the Federal entity concerned in the Treasury of the United States or in another account as authorized by law.

“(ii) AVAILABILITY.—Subject to the provisions of authorization Acts and appropriations Acts, amounts deposited under this subparagraph shall be available to the Federal entity concerned to pay directly the costs of relocation under this paragraph, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary.

“(D) APPLICATION TO CERTAIN OTHER RELOCATIONS.—

The provisions of this paragraph also apply to any Federal entity that operates a Federal Government station assigned to used electromagnetic spectrum identified for reallocation under subsection (a) if before August 5, 1997, the Commission has not identified that spectrum for service or assigned licenses or otherwise authorized service for that spectrum.

“(E) IMPLEMENTATION PROCEDURES.—The NTIA and the Commission shall develop procedures for the implementation of this paragraph, which procedures shall include a process for resolving any differences that arise between the Federal Government and commercial licensees regarding estimates of relocation or modification costs under this paragraph.

“(F) INAPPLICABILITY TO CERTAIN RELOCATIONS.—With the exception of the band of frequencies located at 1710–1755 megahertz, the provisions of this paragraph shall not apply to Federal spectrum identified for reallocation in the first reallocation report submitted to the President and Congress under subsection (a).”.

(d) REPORTS ON COSTS OF RELOCATIONS.—The head of each department or agency of the Federal Government shall include in the annual budget submission of such department or agency to the Director of the Office of Management and Budget a report assessing the costs to be incurred by such department or agency as a result of any frequency relocations of such department or agency that are anticipated under section 113 of the National Telecommunications Information Administration Organization Act (47 U.S.C. 923) as of the date of such report. 47 USC 923 note.

**SEC. 1065. DEPARTMENT OF DEFENSE AVIATION ACCIDENT INVESTIGATIONS.**

(a) REPORT REQUIRED.—Not later than March 31, 1999, the Secretary of Defense shall submit to Congress a report on the roles of the Office of the Secretary of Defense and of the Joint Staff in the investigation of Department of Defense aviation accidents. Deadline.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) An assessment of whether the Office of the Secretary of Defense and the Joint Staff should have more direct involvement in the investigation of military aviation accidents.

(2) The advisability of the Office of the Secretary of Defense, the Joint Staff, or another Department of Defense entity independent of the military departments supervising the conduct of aviation accident investigations.

(3) An assessment of the minimum training and experience required for aviation accident investigation board presidents and board members.

(4) An assessment whether or not the procedures for sharing the results of military aviation accident investigations among the military departments should be improved.

(5) An assessment of the advisability of centralized training and instruction for military aircraft accident investigators.

10 USC 2254  
note.

(c) **UNIFORM REGULATIONS FOR PROVISION OF ACCIDENT INVESTIGATION UPDATE INFORMATION.**—The Secretary of Defense shall prescribe regulations, which shall be applied uniformly across the Department of Defense, establishing procedures by which the military departments shall provide to the family members of any person involved in a military aviation accident periodic update reports on the conduct and progress of investigations into the accident.

**SEC. 1066. INVESTIGATION OF ACTIONS RELATING TO 174TH FIGHTER WING OF NEW YORK AIR NATIONAL GUARD.**

(a) **INVESTIGATION.**—The Inspector General of the Department of Defense shall conduct a new investigation into the circumstances that led to the December 1, 1995, grounding of the 174th Fighter Wing of the New York Air National Guard. The investigation shall review those circumstances, examine the administrative and disciplinary actions taken against members of that wing, and determine whether those administrative and disciplinary measures were appropriate.

Deadline.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Inspector General shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report describing the results of the investigation under subsection (a).

**SEC. 1067. PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE KOREAN WAR.**

(a) **LIMITATION ON EXPENDITURES.**—Subsection (f) of section 1083 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1918; 10 U.S.C. 113 note) is amended to read as follows:

“(f) **LIMITATION ON EXPENDITURES.**—The total amount expended by the Department of Defense to carry out the commemorative program for fiscal year 1999 may not exceed \$1,820,000.”.

10 USC 113 note.

(b) **REDESIGNATION OF COMMEMORATION ACCOUNT.**—The account in the Treasury known as the “Department of Defense Korean Conflict Commemoration Account” is redesignated as the “Department of Defense Korean War Commemoration Account”.

10 USC 113 note.

(c) **OTHER REFERENCES TO KOREAN WAR.**—Such section is further amended—

(1) in the section heading, by striking out “**KOREAN CONFLICT**” and inserting in lieu thereof “**KOREAN WAR**”;

(2) by striking out “Korean conflict” each place it appears and inserting in lieu thereof “Korean War”;

(3) in subsection (c), by striking out “names ‘The Department of Defense Korean Conflict Commemoration,’” and inserting in lieu thereof “name the ‘Department of Defense Korean War Commemoration,’”; and

(4) in subsection (d)(1), by striking out “Korean Conflict” and inserting in lieu thereof “Korean War”.

(d) CROSS REFERENCES.—Any reference to the Department of Defense Korean Conflict Commemoration or the Department of Defense Korean Conflict Commemoration Account in any law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the Department of Defense Korean War Commemoration or the Department of Defense Korean War Commemoration Account, respectively. 10 USC 113 note.

**SEC. 1068. DESIGNATION OF AMERICA'S NATIONAL MARITIME MUSEUM.** 16 USC 5409.

(a) IN GENERAL.—America's National Maritime Museum is comprised of those museums designated by law to be museums of America's National Maritime Museum on the basis that they—

(1) house a collection of maritime artifacts clearly representing the Nation's maritime heritage; and

(2) provide outreach programs to educate the public about the Nation's maritime heritage.

(b) INITIAL DESIGNATION OF MUSEUMS.—The following museums (meeting the criteria specified in subsection (a)) are hereby designated as museums of America's National Maritime Museum:

(1) The Mariners' Museum, located at 100 Museum Drive, Newport News, Virginia.

(2) The South Street Seaport Museum, located at 207 Front Street, New York, New York.

(c) FUTURE DESIGNATION OF OTHER MUSEUMS NOT PRECLUDED.—The designation of the museums referred to in subsection (b) as museums of America's National Maritime Museum does not preclude the designation by law after the date of the enactment of this Act of any other museum that meets the criteria specified in subsection (a) as a museum of America's National Maritime Museum.

(d) REFERENCE TO MUSEUMS.—Any reference in any law, map, regulation, document, paper, or other record of the United States to a museum designated by law to be a museum of America's National Maritime Museum shall be deemed to be a reference to that museum as a museum of America's National Maritime Museum.

**SEC. 1069. TECHNICAL AND CLERICAL AMENDMENTS.**

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The item relating to section 484 in the table of sections at the beginning of chapter 23 is amended to read as follows: 10 USC 484.  
“484. Annual report on aircraft inventory.”.

(2) Section 517(a) is amended by striking out “Except as provided in section 307 of title 37, the” and inserting in lieu thereof “The”.

(3) The item relating to section 2302c in the table of sections at the beginning of chapter 137 is amended to read as follows:

“2302c. Implementation of electronic commerce capability.”.

(4) The table of subchapters at the beginning of chapter 148 is amended—

(A) by striking out “2491” in the item relating to subchapter I and inserting in lieu thereof “2500”; and

(B) by striking out the item relating to subchapter IV and inserting in lieu thereof the following:

“IV. Manufacturing Technology ..... 2521”.

(5) The subchapter heading for subchapter IV of chapter 148 is amended to read as follows:

“SUBCHAPTER IV—MANUFACTURING TECHNOLOGY”

(6) Section 7045(c) is amended by striking out “the” after “are subject to”.

(7) Section 7572(b) is repealed.

(8) Section 12683(b)(2) is amended by striking out “; or” at the end and inserting in lieu thereof a period.

Effective date. (b) PUBLIC LAW 105-85.—Effective as of November 18, 1997, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85) is amended as follows:

10 USC 2461 note. (1) Section 389(g) (111 Stat. 1715) is amended by striking out “Secretary of Defense” and inserting in lieu thereof “Comptroller General”.

10 USC 2221. (2) Section 1006(a) (111 Stat. 1869) is amended by striking out “or” in the quoted matter and inserting in lieu thereof “and”.

(3) Section 3133(b)(3) (111 Stat. 2036) is amended by striking out “III” and inserting in lieu thereof “XIV”.

(c) DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION ACT OF 1996.—The Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201) is amended as follows:

(1) Section 1423(b)(4) (50 U.S.C. 2332(b)(4); 110 Stat. 2726) is amended by striking out “(22 U.S.C. 2156a(c))” and inserting in lieu thereof “(42 U.S.C. 2139a(c))”.

(2) Section 1441(b)(2) (50 U.S.C. 2351(b)(2); 110 Stat. 2727) is amended by striking out “established under section 1342” and inserting in lieu thereof “of the National Security Council”.

(3) Section 1444 (50 U.S.C. 2354; 110 Stat. 2730) is amended by striking out “1341” and “1342” and inserting in lieu thereof “1441” and “1442”, respectively.

(4) Section 1453(1) (50 U.S.C. 2363(1); 110 Stat. 2730) is amended by striking out “the National Defense Authorization Act for Fiscal Years 1993 and 1994” and inserting in lieu thereof “title XIV of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 22 U.S.C. 5901 et seq.)”.

(d) OTHER ACTS.—

(1) Section 18(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)(1)) is amended by striking out the period at the end of subparagraph (A) and inserting in lieu thereof a semicolon.

(2) Section 3(c)(2) of Public Law 101-533 (22 U.S.C. 3142(c)(2)) is amended by striking out “included in the most recent plan submitted to the Congress under section 2506 of title 10” and inserting in lieu thereof “identified in the most recent assessment prepared under section 2505 of title 10”.



(e) **COORDINATION WITH OTHER AMENDMENTS.**—For purposes of applying amendments made by provisions of this Act other than provisions of this section, this section shall be treated as having been enacted immediately before the other provisions of this Act. 10 USC 101 note.

## Subtitle H—Other Matters

### **SEC. 1071. ACT CONSTITUTING PRESIDENTIAL APPROVAL OF VESSEL WAR RISK INSURANCE REQUESTED BY THE SECRETARY OF DEFENSE.**

(a) **IN GENERAL.**—Section 1205(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1285(b)), is amended by adding at the end the following new sentence: “The signature of the President (or of an official designated by the President) on the agreement shall be treated as an expression of the approval required under section 1202(a) to provide the insurance.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply only to a signature of the President (or of an official designated by the President) on or after the date of the enactment of this Act.

Applicability.  
46 USC app.  
1285 note.

### **SEC. 1072. EXTENSION AND REAUTHORIZATION OF DEFENSE PRODUCTION ACT OF 1950.**

(a) **EXTENSION OF TERMINATION DATE.**—Section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking “September 30, 1998” and inserting “September 30, 1999”.

(b) **EXTENSION OF AUTHORIZATION.**—Section 711(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(b)) is amended by striking “and 1998” and inserting “1998, and 1999”.

### **SEC. 1073. REQUIREMENT THAT BURIAL FLAGS FURNISHED BY THE SECRETARY OF VETERANS AFFAIRS BE WHOLLY PRODUCED IN THE UNITED STATES.**

(a) **REQUIREMENT.**—Section 2301 of title 38, United States Code, as amended by section 517, is further amended by adding at the end the following new subsection:

“(g)(1) The Secretary may not procure any flag for the purposes of this section that is not wholly produced in the United States.

“(2)(A) The Secretary may waive the requirement of paragraph (1) if the Secretary determines—

“(i) that the requirement cannot be reasonably met; or

“(ii) that compliance with the requirement would not be in the national interest of the United States.

“(B) The Secretary shall submit to Congress in writing notice of a determination under subparagraph (A) not later than 30 days after the date on which such determination is made.

“(3) For the purpose of paragraph (1), a flag shall be considered to be wholly produced in the United States only if—

“(A) the materials and components of the flag are entirely grown, manufactured, or created in the United States;

“(B) the processing (including spinning, weaving, dyeing, and finishing) of such materials and components is entirely performed in the United States; and

“(C) the manufacture and assembling of such materials and components into the flag is entirely performed in the United States.”.

Notice.

Applicability.  
10 USC 2301  
note.

(b) **EFFECTIVE DATE.**—Subsection (g) of section 2301 of title 38, United States Code, as added by subsection (a), shall apply to flags procured by the Secretary of Veterans Affairs for the purposes of section 2301 of title 38, United States Code, after the end of the 30-day period beginning on the date of the enactment of this Act.

26 USC 121 note.

**SEC. 1074. SENSE OF CONGRESS CONCERNING TAX TREATMENT OF PRINCIPAL RESIDENCE OF MEMBERS OF ARMED FORCES WHILE AWAY FROM HOME ON ACTIVE DUTY.**

It is the sense of Congress that a member of the Armed Forces should be treated for purposes of section 121 of the Internal Revenue Code of 1986 as using property as a principal residence during any continuous period that the member is serving on active duty for 180 days or more with the Armed Forces, but only if the member used the property as a principal residence for any period during or immediately before that period of active duty.

**SEC. 1075. CLARIFICATION OF STATE AUTHORITY TO TAX COMPENSATION PAID TO CERTAIN EMPLOYEES.**

(a) **LIMITATION ON STATE AUTHORITY TO TAX COMPENSATION PAID TO INDIVIDUALS PERFORMING SERVICES AT FORT CAMPBELL, KENTUCKY.**—

(1) **IN GENERAL.**—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

**“§ 115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky**

“Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.”.

(2) **CONFORMING AMENDMENT.**—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

“115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky.”.

Applicability.  
4 USC 115 note.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to pay and compensation paid after the date of the enactment of this Act.

(b) **CLARIFICATION OF STATE AUTHORITY TO TAX COMPENSATION PAID TO CERTAIN FEDERAL EMPLOYEES.**—

(1) **IN GENERAL.**—Section 111 of title 4, United States Code, is amended—

(A) by inserting “(a) **GENERAL RULE.**—” before “The United States” the first place it appears; and

(B) by adding at the end the following:

Oregon.  
Washington.

“(b) **TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE COLUMBIA RIVER.**—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

“(1) which is owned by the United States;

“(2) which is located on the Columbia River; and

“(3) portions of which are within the States of Oregon and Washington,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

“(c) TREATMENT OF CERTAIN FEDERAL EMPLOYEES EMPLOYED AT FEDERAL HYDROELECTRIC FACILITIES LOCATED ON THE MISSOURI RIVER.—Pay or compensation paid by the United States for personal services as an employee of the United States at a hydroelectric facility—

South Dakota.  
Nebraska.

“(1) which is owned by the United States;

“(2) which is located on the Missouri River; and

“(3) portions of which are within the States of South Dakota and Nebraska,

shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to pay and compensation paid after the date of the enactment of this Act.

4 USC 111 note.

## TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

Sec. 1101. Defense Advanced Research Projects Agency experimental personnel management program for technical personnel.

Sec. 1102. Maximum pay rate comparability for faculty members of the United States Air Force Institute of Technology.

Sec. 1103. Authority for release to Coast Guard of drug test results of civil service mariners of the Military Sealift Command.

Sec. 1104. Limitations on back pay awards.

Sec. 1105. Restoration of annual leave accumulated by civilian employees at installations in the Republic of Panama to be closed pursuant to the Panama Canal Treaty of 1977.

Sec. 1106. Repeal of program providing preference for employment of military spouses in military child care facilities.

Sec. 1107. Observance of certain holidays at duty posts outside the United States.

Sec. 1108. Continuation of random drug testing program for certain Department of Defense employees.

Sec. 1109. Department of Defense employee voluntary early retirement authority.

### SEC. 1101. DEFENSE ADVANCED RESEARCH PROJECTS AGENCY EXPERIMENTAL PERSONNEL MANAGEMENT PROGRAM FOR TECHNICAL PERSONNEL.

5 USC 3104 note.

(a) PROGRAM AUTHORIZED.—During the 5-year period beginning on the date of the enactment of this Act, the Secretary of Defense may carry out a program of experimental use of the special personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for research and development projects administered by the Defense Advanced Research Projects Agency.

(b) SPECIAL PERSONNEL MANAGEMENT AUTHORITY.—Under the program, the Secretary may—

(1) appoint scientists and engineers from outside the civil service and uniformed services (as such terms are defined in section 2101 of title 5, United States Code) to not more than 20 scientific and engineering positions in the Defense Advanced Research Projects Agency without regard to any provision of title 5, United States Code, governing the appointment of employees in the civil service;

(2) prescribe the rates of basic pay for positions to which employees are appointed under paragraph (1) at rates not in excess of the maximum rate of basic pay authorized for senior-

level positions under section 5376 of title 5, United States Code, notwithstanding any provision of such title governing the rates of pay or classification of employees in the executive branch; and

(3) pay any employee appointed under paragraph (1) payments in addition to basic pay within the limit applicable to the employee under subsection (d)(1).

(c) LIMITATION ON TERM OF APPOINTMENT.—(1) Except as provided in paragraph (2), the service of an employee under an appointment under subsection (b)(1) may not exceed 4 years.

(2) The Secretary may, in the case of a particular employee, extend the period to which service is limited under paragraph (1) by up to 2 years if the Secretary determines that such action is necessary to promote the efficiency of the Defense Advanced Research Projects Agency.

(d) LIMITATIONS ON ADDITIONAL PAYMENTS.—(1) The total amount of the additional payments paid to an employee under subsection (b)(3) for any 12-month period may not exceed the least of the following amounts:

(A) \$25,000.

(B) The amount equal to 25 percent of the employee's annual rate of basic pay.

(C) The amount of the limitation that is applicable for a calendar year under section 5307(a)(1) of title 5, United States Code.

(2) An employee appointed under subsection (b)(1) is not eligible for any bonus, monetary award, or other monetary incentive for service except for payments authorized under subsection (b)(3).

(e) PERIOD OF PROGRAM.—(1) The program authorized under this section shall terminate at the end of the 5-year period referred to in subsection (a).

(2) After the termination of the program—

(A) no appointment may be made under paragraph (1) of subsection (b);

(B) a rate of basic pay prescribed under paragraph (2) of that subsection may not take effect for a position; and

(C) no period of service may be extended under subsection (c)(1).

(f) SAVINGS PROVISIONS.—In the case of an employee who, on the day before the termination of the program, is serving in a position pursuant to an appointment under subsection (b)(1)—

(1) the termination of the program does not terminate the employee's employment in that position before the expiration of the lesser of—

(A) the period for which the employee was appointed;

or

(B) the period to which the employee's service is limited under subsection (c), including any extension made under paragraph (2) of that subsection before the termination of the program; and

(2) the rate of basic pay prescribed for the position under subsection (b)(2) may not be reduced for so long (within the period applicable to the employee under paragraph (1)) as the employee continues to serve in the position without a break in service.

(g) ANNUAL REPORT.—(1) Not later than October 15 of each year, beginning in 1999 and ending in 2004, the Secretary of

Deadine.

Defense shall submit a report on the program to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The report submitted in a year shall cover the 12-month period ending on the day before the anniversary, in that year, of the date of the enactment of this Act.

(2) The annual report shall contain, for the period covered by the report, the following:  
Termination date.

(A) A detailed discussion of the exercise of authority under this section.

(B) The sources from which individuals appointed under subsection (b)(1) were recruited.

(C) The methodology used for identifying and selecting such individuals.

(D) Any additional information that the Secretary considers helpful for assessing the utility of the authority under this section.

**SEC. 1102. MAXIMUM PAY RATE COMPARABILITY FOR FACULTY MEMBERS OF THE UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY.**

Section 9314(b)(2)(B) of title 10, United States Code, is amended by striking out “section 5306(e)” and inserting in lieu thereof “section 5373”.

**SEC. 1103. AUTHORITY FOR RELEASE TO COAST GUARD OF DRUG TEST RESULTS OF CIVIL SERVICE MARINERS OF THE MILITARY SEALIFT COMMAND.**

(a) IN GENERAL.—Chapter 643 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 7479. Civil service mariners of Military Sealift Command: release of drug test results to Coast Guard**

“(a) RELEASE OF DRUG TEST RESULTS TO COAST GUARD.—The Secretary of the Navy may release to the Commandant of the Coast Guard the results of a drug test of any employee of the Department of the Navy who is employed in any capacity on board a vessel of the Military Sealift Command. Any such release shall be in accordance with the standards and procedures applicable to the disclosure and reporting to the Coast Guard of drug test results and drug test records of individuals employed on vessels documented under the laws of the United States.

“(b) WAIVER.—The results of a drug test of an employee may be released under subsection (a) without the prior written consent of the employee that is otherwise required under section 503(e) of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“7479. Civil service mariners of Military Sealift Command: release of drug test results to Coast Guard.”.

**SEC. 1104. LIMITATIONS ON BACK PAY AWARDS.**

(a) In General.—Section 5596(b) of title 5, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) The pay, allowances, or differentials granted under this section for the period for which an unjustified or unwarranted personnel action was in effect shall not exceed that authorized by the applicable law, rule, regulations, or collective bargaining agreement under which the unjustified or unwarranted personnel action is found, except that in no case may pay, allowances, or differentials be granted under this section for a period beginning more than 6 years before the date of the filing of a timely appeal or, absent such filing, the date of the administrative determination.”.

(b) CONFORMING AMENDMENT.—Section 7121 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(h) Settlements and awards under this chapter shall be subject to the limitations in section 5596(b)(4) of this title.”.

**SEC. 1105. RESTORATION OF ANNUAL LEAVE ACCUMULATED BY CIVILIAN EMPLOYEES AT INSTALLATIONS IN THE REPUBLIC OF PANAMA TO BE CLOSED PURSUANT TO THE PANAMA CANAL TREATY OF 1977.**

Section 6304(d)(3)(A) of title 5, United States Code, is amended by inserting “the closure of an installation of the Department of Defense in the Republic of Panama in accordance with the Panama Canal Treaty of 1977,” after “2687 note) during any period,”.

**SEC. 1106. REPEAL OF PROGRAM PROVIDING PREFERENCE FOR EMPLOYMENT OF MILITARY SPOUSES IN MILITARY CHILD CARE FACILITIES.**

Section 1792 of title 10, United States Code, is amended—  
 (1) by striking out subsection (d); and  
 (2) by redesignating subsection (e) as subsection (d).

**SEC. 1107. OBSERVANCE OF CERTAIN HOLIDAYS AT DUTY POSTS OUTSIDE THE UNITED STATES.**

Section 6103(b) of title 5, United States Code, is amended by inserting after paragraph (2) the following new paragraph:

“(3) Instead of a holiday that is designated under subsection (a) to occur on a Monday, for an employee at a duty post outside the United States whose basic workweek is other than Monday through Friday, and for whom Monday is a regularly scheduled workday, the legal public holiday is the first workday of the workweek in which the Monday designated for the observance of such holiday under subsection (a) occurs.”.

5 USC 7301 note.

**SEC. 1108. CONTINUATION OF RANDOM DRUG TESTING PROGRAM FOR CERTAIN DEPARTMENT OF DEFENSE EMPLOYEES.**

(a) CONTINUATION OF EXISTING PROGRAM.—The Secretary of Defense shall continue to actively carry out the drug testing program, originally required by section 3(a) of Executive Order No. 12564 (51 Fed. Reg. 32889; September 15, 1986), involving civilian employees of the Department of Defense who are considered to be employees in sensitive positions. The Secretary shall comply with the drug testing procedures prescribed pursuant to section 4 of the Executive order.

(b) TESTING UPON REASONABLE SUSPICION OF ILLEGAL DRUG USE.—The Secretary of Defense shall ensure that the drug testing program referred to in subsection (a) authorizes the testing of a civilian employee of the Department of Defense for illegal drug

use when there is a reasonable suspicion that the employee uses illegal drugs.

(c) NOTIFICATION TO APPLICANTS.—The Secretary of Defense shall notify persons who apply for employment with the Department of Defense that, as a condition of employment by the Department, the person may be required to submit to drug testing under the drug testing program required by Executive Order No. 12564 (51 Fed. Reg. 32889; September 15, 1986) pursuant to the terms of the Executive order.

(d) DEFINITIONS.—In this section, the terms “illegal drugs” and “employee in a sensitive position” have the meanings given such terms in section 7 of Executive Order No. 12564 (51 Fed. Reg. 32889; September 15, 1986).

**SEC. 1109. DEPARTMENT OF DEFENSE EMPLOYEE VOLUNTARY EARLY RETIREMENT AUTHORITY.**

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336 of title 5, United States Code, is amended—

(1) in subsection (d)(2), by inserting “except in the case of an employee described in subsection (o)(1),” after “(2)”; and

(2) by adding at the end the following:

“(o)(1) An employee of the Department of Defense who is separated from the service under conditions described in paragraph (2) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.

“(2) Paragraph (1) applies to an employee who—

“(A) has been employed continuously by the Department of Defense for more than 30 days before the date on which the Secretary concerned requests the determinations required under subparagraph (D)(i);

“(B) is serving under an appointment that is not limited by time;

“(C) has not received a decision notice of involuntary separation for misconduct or unacceptable performance that is pending decision; and

“(D) is separated from the service voluntarily during a period in which—

“(i) the Department of Defense or the military department or subordinate organization within the Department of Defense or military department in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function, and employees comprising a significant percentage of the employees serving in that department or organization are to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions of law), as determined by the Office of Personnel Management (under regulations prescribed by the Office) upon the request of the Secretary concerned; and

“(ii) the employee is within the scope of an offer of voluntary early retirement (as defined by organizational unit, occupational series or level, geographical location, any other similar factor that the Office of Personnel Management determines appropriate, or any combination of such definitions of scope), as determined by the Secretary concerned under regulations prescribed by the Office.

“(3) In this subsection, the term ‘Secretary concerned’ means—

“(A) the Secretary of Defense, with respect to an employee of the Department of Defense not employed in a position in a military department;

“(B) the Secretary of the Army, with respect to an employee of the Department of the Army;

“(C) the Secretary of the Navy, with respect to an employee of the Department of the Navy; and

“(D) the Secretary of the Air Force, with respect to an employee of the Department of the Air Force.”.

(b) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—Section 8414 of such title is amended—

(1) in subsection (b)(1)(B), by inserting “except in the case of an employee described in subsection (d)(1),” after “(B)”; and

(2) by adding at the end the following:

“(d)(1) An employee of the Department of Defense who is separated from the service under conditions described in paragraph (2) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.

Applicability.

“(2) Paragraph (1) applies to an employee who—

“(A) has been employed continuously by the Department of Defense for more than 30 days before the date on which the Secretary concerned requests the determinations required under subparagraph (D)(i);

“(B) is serving under an appointment that is not limited by time;

“(C) has not received a decision notice of involuntary separation for misconduct or unacceptable performance that is pending decision; and

“(D) is separated from the service voluntarily during a period in which—

“(i) the Department of Defense or the military department or subordinate organization within the Department of Defense or military department in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function, and employees comprising a significant percentage of the employees serving in that department or organization are to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions of law), as determined by the Office of Personnel Management (under regulations prescribed by the Office) upon the request of the Secretary concerned; and

Regulations.

“(ii) the employee is within the scope of an offer of voluntary early retirement (as defined by organizational unit, occupational series or level, geographical location, any other similar factor that the Office of Personnel Management determines appropriate, or any combination of such definitions of scope), as determined by the Secretary concerned under regulations prescribed by the Office.

“(3) In this subsection, the term ‘Secretary concerned’ means—

“(A) the Secretary of Defense, with respect to an employee of the Department of Defense not employed in a position in a military department;

“(B) the Secretary of the Army, with respect to an employee of the Department of the Army;



“(C) the Secretary of the Navy, with respect to an employee of the Department of the Navy; and

“(D) the Secretary of the Air Force, with respect to an employee of the Department of the Air Force.”.

(c) CONFORMING AMENDMENTS.—(1) Section 8339(h) of such title is amended by striking out “or (j)” in the first sentence and inserting in lieu thereof “(j), or (o)”.

(2) Section 8464(a)(1)(A)(i) of such title is amended by striking out “or (b)(1)(B)” and inserting in lieu thereof “, (b)(1)(B), or (d)”.

(d) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this section—

(1) shall take effect on October 1, 2000; and

(2) shall apply with respect to an approval for voluntary early retirement made on or after that date.

5 USC 8336 note.

## **TITLE XII—MATTERS RELATING TO OTHER NATIONS**

### **Subtitle A—United States Armed Forces in Bosnia and Herzegovina**

Sec. 1201. Findings.

Sec. 1202. Sense of Congress.

Sec. 1203. Presidential reports.

Sec. 1204. Secretary of Defense reports on operations in Bosnia and Herzegovina.

Sec. 1205. Definitions.

### **Subtitle B—Matters Relating to Contingency Operations**

Sec. 1211. Report on involvement of Armed Forces in contingency and ongoing operations.

Sec. 1212. Submission of report on objectives of a contingency operation with requests for funding for the operation.

### **Subtitle C—Matters Relating to NATO and Europe**

Sec. 1221. Limitation on United States share of costs of NATO expansion.

Sec. 1222. Report on military capabilities of an expanded NATO alliance.

Sec. 1223. Reports on the development of the European security and defense identity.

### **Subtitle D—Other Matters**

Sec. 1231. Limitation on assignment of United States forces for certain United Nations purposes.

Sec. 1232. Prohibition on restriction of Armed Forces under Kyoto Protocol to the United Nations Framework Convention on Climate Change.

Sec. 1233. Defense burdensharing.

Sec. 1234. Transfer of excess UH–1 Huey and AH–1 Cobra helicopters to foreign countries.

Sec. 1235. Transfers of naval vessels to certain foreign countries.

Sec. 1236. Repeal of landmine moratorium.

Sec. 1237. Application of authorities under the International Emergency Economic Powers Act to Communist Chinese military companies.

## **Subtitle A—United States Armed Forces in Bosnia and Herzegovina**

### **SEC. 1201. FINDINGS.**

Congress makes the following findings:

(1) The contributions of the people of the United States and other nations have, in large measure, resulted in the suspension of fighting and alleviated the suffering of the people of Bosnia and Herzegovina since December 1995.

(2) The United States has expended approximately \$9,500,000,000 between 1992 and mid-1998 just in support

of the United States military operations in Bosnia to achieve those results.

(3) Efforts to restore the economy and political structure in Bosnia and Herzegovina have achieved some success in accordance with the Dayton Accords.

(4) On March 3, 1998, the President certified to Congress (A) that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was required in order to meet the national security interests of the United States, and (B) that United States Armed Forces will not serve as, or be used as, civil police in Bosnia and Herzegovina.

(5) With that certification, the President submitted to Congress a report stating that the goal of the military presence in Bosnia and Herzegovina is to establish the conditions under which implementation of the Dayton Accords can continue without the support of a major NATO-led military force and setting forth the criteria for determining when that goal has been accomplished.

(6) Since the administration has not specified how long achievement of that goal is expected to take, the mission of United States ground combat forces in Bosnia and Herzegovina is essentially of indefinite duration.

(7) The NATO operations plan for the Stabilization Force (Operations Plan 10407, which went into effect on June 20, 1998, after approval by allied foreign ministers) incorporates all of the benchmarks set forth in the report referred to in paragraph (5) and states that the Stabilization Force will develop detailed criteria for assessing progress in achieving those benchmarks in close coordination with key international organizations participating in civilian implementation of the Dayton Accords.

(8) The military representatives of NATO member nations have been tasked by the North Atlantic Council to provide estimates of the time likely to be required for implementation of the Dayton Accords.

(9) NATO has decided to conduct formal reviews when appropriate (but at intervals of not more than 6 months) to assess the security situation and the progress being made in the implementation of the civil aspects of the Dayton Accords. Those reviews will enable the Alliance to make decisions as to reductions in the size of the Stabilization Force, leading to its eventual full withdrawal.

(10) NATO has approved the creation of a multinational specialized unit of gendarmes or paramilitary police composed of European security forces to help promote public security in Bosnia and Herzegovina as a part of the post-June 1998 mission for the Stabilization Force.

(11) The limit established for spending by the United States for the defense discretionary budget category for fiscal year 1998 in the Balanced Budget and Emergency Deficit Control Act of 1985 does not take into account the continued deployment of United States forces in Bosnia and Herzegovina after June 30, 1998, leading to the request by the President for emergency supplemental appropriations for the Bosnia and Herzegovina mission through September 30, 1998.

(12) Amounts for Department of Defense operations in Bosnia and Herzegovina during fiscal year 1999 were not

included in the budget of the President for fiscal year 1999, as submitted to Congress on February 2, 1998.

(13) The President requested \$1,858,600,000 in emergency appropriations in his March 4, 1998, amendment to the fiscal year 1999 budget to cover the shortfall in funding in fiscal year 1999 for the costs of extending the mission in Bosnia.

**SEC. 1202. SENSE OF CONGRESS.**

(a) SENSE OF CONGRESS CONCERNING UNITED STATES FORCES AND ACCOMPLISHMENT OF TASKS IN BOSNIA AND HERZEGOVINA.—It is the sense of Congress that—

(1) United States ground combat forces should not remain in Bosnia and Herzegovina indefinitely in view of the worldwide commitments of the Armed Forces of the United States;

(2) the President should work with NATO allies and the other nations whose military forces are participating in the NATO-led Stabilization Force to withdraw United States ground combat forces from Bosnia and Herzegovina within a reasonable period of time, consistent with the safety of those forces and the accomplishment of the Stabilization Force's military tasks;

(3) a NATO-led force without the participation of United States ground combat forces in Bosnia and Herzegovina might be suitable for a follow-on force for Bosnia and Herzegovina if the European Security and Defense Identity is not sufficiently developed or is otherwise considered inappropriate for such a mission; and

(4) the United States may decide to provide appropriate support to a Western European Union-led or NATO-led follow-on force for Bosnia and Herzegovina, including command and control, intelligence, logistics, and, if necessary, a ready reserve force in the region.

(b) SENSE OF CONGRESS CONCERNING PRESIDENTIAL ACTIONS.—It is the sense of Congress that the President—

(1) should inform the European NATO allies of the expression of the sense of Congress in subsection (a) and should strongly urge them to undertake preparations for establishing a Western European Union-led or a NATO-led force as a follow-on force to the Stabilization Force if needed to maintain peace and stability in Bosnia and Herzegovina; and

(2) should consult closely with the congressional leadership and the congressional defense committees with respect to the progress being made toward achieving a sustainable peace in Bosnia and Herzegovina and the progress being made toward a reduction and ultimate withdrawal of United States ground combat forces from Bosnia and Herzegovina.

(c) SENSE OF CONGRESS CONCERNING DEFENSE BUDGET.—It is the sense of Congress that—

(1) the President should include in the budget for the Department of Defense that the President submits to Congress under section 1105(a) of title 31, United States Code, for each fiscal year sufficient amounts to pay for any proposed continuation of the participation of United States forces in NATO operations in Bosnia and Herzegovina during that fiscal year; and

(2) amounts included in the budget for the purpose stated in paragraph (1) should be over and above the defense discretionary estimates as identified in the Bipartisan Budget Agreement of May 16, 1997 and the fiscal year 1998 concurrent budget resolution and not be transferred from amounts in the budget of any other agency of the executive branch, but instead should be an overall increase in the budget for the Department of Defense and the discretionary spending limits in the Balanced Budget Act of 1997.

**SEC. 1203. PRESIDENTIAL REPORTS.**

(a) **REQUIRED REPORTS.**—The President shall ensure that the semiannual reports required by section 7(b) of the general provisions of chapter I of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105-174; 112 Stat. 64) are submitted to Congress in a timely manner as long as United States ground combat forces continue to participate in the Stabilization Force (SFOR). In addition, whenever the President submits to Congress a request for funds for continued operations of United States forces in Bosnia and Herzegovina, the President shall submit a supplemental report providing information to update Congress on developments since the last semiannual report.

(b) **REQUIRED INFORMATION.**—In addition to the information required by the section referred to in subsection (a) to be included in a report under that section, each report under that section or under subsection (a) shall include the following:

(1) The expected duration of the deployment of United States ground combat forces in Bosnia and Herzegovina in support of implementation of the benchmarks set forth in the President's report of March 3, 1998 (referred to in section 1201(5)) for achieving a sustainable peace process.

(2) The percentage of those benchmarks that have been completed as of the date of the report, the percentage that are expected to be completed within the next reporting period, and the expected time for completion of the remaining tasks.

(3) The status of the NATO force of gendarmes or paramilitary police, including the mission of the force, the composition of the force, and the extent, if any, to which members of the Armed Forces of the United States are participating (or are to participate) in the force.

(4) The military and nonmilitary missions that the President has directed for United States forces in Bosnia and Herzegovina, including a specific discussion of—

(A) the mission of those forces, if any, in connection with the pursuit and apprehension of war criminals;

(B) the mission of those forces, if any, in connection with civilian police functions;

(C) the mission of those forces, if any, in connection with the resettlement of refugees; and

(D) the missions undertaken by those forces, if any, in support of international and local civilian authorities.

(5) An assessment of the risk for the United States forces in Bosnia and Herzegovina, including, for each mission identified pursuant to paragraph (4), the assessment of the Chairman of the Joint Chiefs of Staff regarding the nature and level of risk of the mission for the safety and well-being of United States military personnel.

(6) An assessment of the cost to the United States, by fiscal year, of carrying out the missions identified pursuant to paragraph (4) and a detailed projection of any additional funding that will be required by the Department of Defense to meet mission requirements for those operations for the remainder of the fiscal year.

(7) A joint assessment by the Secretary of Defense and the Secretary of State of the status of planning for—

(A) the assumption of all remaining military missions inside Bosnia and Herzegovina by European military and paramilitary forces; and

(B) the establishment and support of a forward-based United States rapid response force outside of Bosnia and Herzegovina that would be capable of deploying rapidly to defeat military threats to a European follow-on force inside Bosnia and Herzegovina and of providing whatever logistical, intelligence, and air support is needed to ensure that a European follow-on force is fully capable of accomplishing its missions under the Dayton Accords.

**SEC. 1204. SECRETARY OF DEFENSE REPORTS ON OPERATIONS IN BOSNIA AND HERZEGOVINA.**

(a) **REPORT ON EFFECTS ON CAPABILITIES OF UNITED STATES MILITARY FORCES.**—Not later than December 15, 1998, the Secretary of Defense shall submit to the congressional defense committees a report on the effects of military operations in Bosnia and Herzegovina and the Balkans region on the capabilities of United States military forces. The report shall, in particular, describe the effects of those operations on the capability of United States military forces to conduct successfully two nearly simultaneous major theater wars as specified in current Defense Planning Guidance and in accordance with the deployment timelines called for in the war plans of the commanders of the unified combatant commands. Deadline.

(b) **ADDITIONAL REPORTS.**—Whenever the number of United States ground combat forces in Bosnia and Herzegovina increases or decreases by 20 percent or more compared to the number of such forces as of the most recent previous report under this section, the Secretary shall submit an additional report as specified in subsection (a). Any such additional report shall be submitted within 30 days of the date on which the requirement to submit the report becomes effective under the preceding sentence.

(c) **MATTERS TO BE INCLUDED.**—The Secretary shall include in each report under this section information with respect to the effects of military operations in Bosnia and Herzegovina and the Balkans region on the capabilities of United States military forces to conduct successfully two nearly simultaneous major theater wars as specified in current Defense Planning Guidance and in accordance with the deployment timelines called for in the war plans of the commanders of the unified combatant commands. Such information shall include information on the effects of those operations on anticipated deployment plans for major theater wars in Southwest Asia or on the Korean peninsula, including the following:

(1) Deficiencies or delays in deployment of strategic lift, logistics support and infrastructure, ammunition (including precision guided munitions), support forces, intelligence assets,

follow-on forces used for planned counteroffensives, and similar forces.

(2) Additional planned reserve component mobilization, including specific units to be ordered to active duty and required dates for activation of presidential call-up authority.

(3) Specific plans and timelines for redeployment of United States forces from Bosnia and Herzegovina, the Balkans region, or supporting forces in the region, to both the first and second major theater war.

(4) Preventative actions or deployments involving United States forces in Bosnia and Herzegovina and the Balkans region that would be taken in the event of a single theater war to deter the outbreak of a second theater war.

(5) Specific plans and timelines to replace forces deployed to Bosnia and Herzegovina, the Balkans region, or the surrounding region to maintain United States military presence.

(6) An assessment, undertaken in consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the unified combatant commands, of the level of increased risk to successful conduct of the major theater wars and the maintenance of security and stability in Bosnia and Herzegovina and the Balkans region, by the requirement to redeploy forces from Bosnia and the Balkans in the event of a major theater war.

#### **SEC. 1205. DEFINITIONS.**

As used in this subtitle:

(1) **DAYTON PEACE ACCORDS.**—The term “Dayton Peace Accords” means the General Framework Agreement for Peace in Bosnia and Herzegovina, initialed by the parties in Dayton, Ohio, on November 21, 1995, and signed in Paris on December 14, 1995.

(2) **STABILIZATION FORCE.**—The term “Stabilization Force” means the NATO-led force in Bosnia and Herzegovina and other countries in the region (referred to as “SFOR”), authorized under United Nations Security Council Resolution 1088 (December 12, 1996).

(3) **NATO.**—The term “NATO” means the North Atlantic Treaty Organization.

### **Subtitle B—Matters Relating to Contingency Operations**

#### **SEC. 1211. REPORT ON INVOLVEMENT OF ARMED FORCES IN CONTINGENCY AND ONGOING OPERATIONS.**

Deadline.

(a) **REPORT REQUIRED.**—Not later than January 31, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the involvement of the Armed Forces in major contingency operations and major ongoing operations since the end of the Persian Gulf War. The report shall include the following:

(1) A discussion of the effects of the involvement of the Armed Forces in those operations on retention of personnel

in the Armed Forces, shown in the aggregate and separately for officers and enlisted personnel.

(2) The extent to which the use of combat support and combat service support personnel and equipment of the Armed Forces in those operations has resulted in shortages of Armed Forces personnel and equipment in other regions of the world.

(3) The accounts from which funds have been drawn to pay for those operations and the specific programs for which those funds were available until diverted to pay for those operations.

(4) For each such operation—

(A) a statement of the vital interests of the United States that are involved in the operation or, if none, the interests of the United States that are involved in the operation and a characterization of those interests;

(B) a statement of what clear and distinct objectives guide the activities of United States forces in the operation; and

(C) a statement of what the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the end of the operation.

(b) **FORM OF REPORT.**—The report shall be submitted in unclassified form, but may also be submitted in a classified form if necessary.

(c) **MAJOR OPERATION DEFINED.**—For the purposes of this section, a contingency operation or an ongoing operation is a major contingency operation or a major ongoing operation, respectively, if the operation involves the deployment of more than 500 members of the Armed Forces.

**SEC. 1212. SUBMISSION OF REPORT ON OBJECTIVES OF A CONTINGENCY OPERATION WITH REQUESTS FOR FUNDING FOR THE OPERATION.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) On May 3, 1994, the President issued Presidential Decision Directive 25 declaring that American participation in United Nations and other peace operations would depend in part on whether the role of United States forces is tied to clear objectives and an endpoint for United States participation can be identified.

(2) Between that date and mid-1998, the President and other executive branch officials have obligated or requested appropriations of approximately \$9,400,000,000 for military-related operations throughout Bosnia and Herzegovina without providing to Congress, in conjunction with the budget submission for any fiscal year, a strategic plan for such operations under the criteria set forth in that Presidential Decision Directive.

(3) Between November 27, 1995, and mid-1998 the President has established three deadlines, since elapsed, for the termination of United States military-related operations throughout Bosnia and Herzegovina.

(4) On December 17, 1997, the President announced that United States ground combat forces would remain in Bosnia and Herzegovina for an unknown period of time.

(5) Approximately 47,880 United States military personnel (excluding personnel serving in units assigned to the Republic

of Korea) have participated in 14 international contingency operations between fiscal years 1991 and 1998.

(6) The 1998 posture statements of the Navy and Air Force included declarations that the pace of military operations over fiscal year 1997 adversely affected the readiness of non-deployed forces, personnel retention rates, and spare parts inventories of the Navy and Air Force.

(b) INFORMATION TO BE REPORTED WITH FUNDING REQUESTS.—Section 113 of title 10, United States Code, is amended by adding after subsection (l), as added by section 915, the following new subsection:

“(m) INFORMATION TO ACCOMPANY FUNDING REQUEST FOR CONTINGENCY OPERATION.—Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation. The report shall include a discussion of the following:

“(1) What clear and distinct objectives guide the activities of United States forces in the operation.

“(2) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the endpoint of the operation.”.

## Subtitle C—Matters Relating to NATO and Europe

22 USC 1928  
note.

### SEC. 1221. LIMITATION ON UNITED STATES SHARE OF COSTS OF NATO EXPANSION.

(a) LIMITATION.—The United States share of defined NATO expansion costs may not exceed the lesser of—

- (1) the amount equal to 25 percent of those costs; or
- (2) \$2,000,000,000.

(b) DEFINED NATO EXPANSION COSTS.—For purposes of subsection (a), the term “defined NATO expansion costs” means the commonly funded costs of the North Atlantic Treaty Organization (NATO) during fiscal years 1999 through 2011 for enlargement of NATO due to the admission to NATO of Poland, Hungary, and the Czech Republic.

### SEC. 1222. REPORT ON MILITARY CAPABILITIES OF AN EXPANDED NATO ALLIANCE.

(a) REPORT.—The Secretary of Defense shall prepare a report, in both classified and unclassified form, on the planned future military capabilities of the North Atlantic Treaty Organization (NATO) with the anticipated accession of Poland, the Czech Republic, and Hungary to the NATO alliance. The report shall set forth the following:

- (1) An assessment of the tactical, operational, and strategic military requirements, including interoperability, reinforcement, and force modernization issues, as well as strategic and territorial issues, that are raised by the inclusion of Poland, the Czech Republic, and Hungary in the NATO alliance.



(2) The minimum military requirements to be satisfied by those countries before accession to the NATO alliance in April 1999.

(3) The improvements to common alliance military assets that are necessary as a result of expanding the NATO alliance to include those nations.

(4) The improvements to national capabilities of current NATO members that would be necessitated by the inclusion of those nations in the alliance.

(5) The necessary improvements to national capabilities of the military forces of those new member nations.

(6) Any additional necessary improvements to common alliance military assets of the military forces of those new members for which funds are not planned to be included in the NATO budget.

(7) The additional requirements, related to NATO expansion, that the United States would agree to assist each new member nation to meet on a bilateral basis.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An assessment of the tactical and operational capabilities of the military forces of Poland, the Czech Republic, and Hungary.

(2) An assessment of the ability of each such new member nation to meet the minimum military requirements upon accession to the NATO alliance in April 1999, and the ability of that nation to provide logistical, command and control, and other vital infrastructure required for alliance defense (as specified in Article V of the NATO Charter), including a description in general terms of alliance plans for reinforcing each new NATO member nation during a crisis or war and detailing means for deploying both United States and other NATO forces from current member states and from the continental United States or other United States bases worldwide and, in particular, describing plans for ground reinforcement of Hungary.

(3) An assessment of the ability of the current and new alliance members to deploy and sustain combat forces in alliance defense missions conducted in the territory of any of the new member nations, as specified in Article V of the NATO Charter.

(4) A description of projected defense programs through 2009 (shown on an annual basis and cumulatively) of each current and new alliance member nation—

(A) including planned investments in capabilities pursuant to Article V to ensure that—

(i) the nation's military force structure, defense planning, command structures, and force goals promote NATO's capacity to project power when the security of a NATO member is threatened; and

(ii) NATO members possess national military capabilities to rapidly deploy forces over long distances, sustain operations for extended periods, and operate jointly with the United States in high intensity conflicts as well as potential alliance contingency operations;

(B) showing both planned national efforts as well as planned alliance common efforts; and

(C) describing any deficiencies in investments by current or new alliance member nations.

(5) A detailed comparison and description of the differences in scope, methodology, and assessments of common alliance or national responsibilities, or any other factor related to alliance capabilities between (A) the report on alliance expansion costs prepared by the Department of Defense (in the report submitted to Congress in February 1998 entitled “Report to the Congress on the Military Requirements and Costs of NATO Enlargement”), and (B) the report on alliance expansion costs prepared by NATO collectively and referred to as the “NATO estimate”, issued at Brussels in November 1997.

(6) Any other factor that, in the judgment of the Secretary of Defense, bears upon the strategic, operational, or tactical military capabilities of an expanded NATO alliance.

Deadline.

(c) SUBMISSION OF REPORT.—The report shall be submitted to Congress not later than March 15, 1999.

22 USC 1928  
note.

**SEC. 1223. REPORTS ON THE DEVELOPMENT OF THE EUROPEAN SECURITY AND DEFENSE IDENTITY.**

(a) REQUIREMENT FOR REPORTS.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives in accordance with this section reports on the development of the European Security and Defense Identity (ESDI) within the NATO Alliance that would enable the Western European Union (WEU), with the consent of the NATO Alliance, to assume the political control and strategic direction of NATO assets and capabilities made available by the Alliance.

(b) REPORTS TO BE SUBMITTED.—The reports required to be submitted under subsection (a) are as follows:

(1) An initial report, submitted not later than December 15, 1998, that contains a discussion of the actions taken, and the plans for future actions, to build the European Security and Defense Identity, together with the matters required under subsection (c).

(2) A semiannual report on the progress made toward establishing the European Security and Defense Identity, submitted not later than June 15 and December 15 of each year after 1998.

(c) CONTENT OF REPORTS.—The Secretary shall include in each report under this section the following:

(1) A discussion of the arrangements between NATO and the Western European Union for the release, transfer, monitoring, return, and recall of NATO assets and capabilities.

(2) A discussion of the development of such planning and other capabilities by the Western European Union that are necessary to provide political control and strategic direction of NATO assets and capabilities.

(3) A discussion of the development of terms of reference for the Deputy Supreme Allied Commander, Europe, with respect to the European Security and Defense Identity.

(4) A discussion of the arrangements for the assignment or appointment of NATO officers to serve in two positions concurrently (commonly referred to as “dual-hatting”).

(5) A discussion of the development of the Combined Joint Task Force (CJTF) concept, including lessons-learned from the NATO-led Stabilization Force in Bosnia.

(6) Identification within the NATO Alliance of the types of separable but not separate capabilities, assets, and support assets for Western European Union-led operations.

(7) Identification of separable but not separate headquarters, headquarters elements, and command positions for command and conduct of Western European Union-led operations.

(8) The conduct by NATO, at the request of and in coordination with the Western European Union, of military planning and exercises for illustrative missions.

(9) A discussion of the arrangements between NATO and the Western European Union for the sharing of information, including intelligence.

(10) Such other information as the Secretary considers useful for a complete understanding of the establishment of the European Security and Defense Identity within the NATO Alliance.

(d) **TERMINATION OF REPORTING REQUIREMENT.**—The requirement to submit reports under subsection (b)(2) terminates upon the submission by the Secretary under that subsection of a report in which the Secretary states that the European Security and Defense Identity has been fully established.

## Subtitle D—Other Matters

### **SEC. 1231. LIMITATION ON ASSIGNMENT OF UNITED STATES FORCES FOR CERTAIN UNITED NATIONS PURPOSES.**

(a) **LIMITATION ON PARTICIPATION IN UNITED NATIONS RAPIDLY DEPLOYABLE MISSION HEADQUARTERS.**—If members of the Armed Forces are assigned during fiscal year 1999 to the United Nations Rapidly Deployable Mission Headquarters, the number of members so assigned may not exceed eight at any time during that year.

(b) **PROHIBITION.**—No funds available to the Department of Defense may be used—10 USC 405 note.

(1) for a monetary contribution to the United Nations for the establishment of a standing international force under the United Nations; or

(2) to assign or detail any member of the Armed Forces to duty with a United Nations Stand By Force.

### **SEC. 1232. PROHIBITION ON RESTRICTION OF ARMED FORCES UNDER KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE.** 10 USC 111 note.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, no provision of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, or any regulation issued pursuant to such protocol, shall restrict the training or operations of the United States Armed Forces or limit the military equipment procured by the United States Armed Forces.

(b) **WAIVER.**—A provision of law may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law—

(1) specifically refers to this section; and

(2) specifically states that such provision of law modifies or supersedes the provisions of this section.

(c) MATTERS NOT AFFECTED.—Nothing in this section shall be construed to preclude the Department of Defense from implementing any measure to achieve efficiencies or for any other reason independent of the Kyoto Protocol.

**SEC. 1233. DEFENSE BURDENSARING.**

Effective date.

(a) REVISED GOALS FOR EFFORTS TO INCREASE ALLIED BURDENSARING.—Effective October 1, 1998, subsection (a) of section 1221 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1935; 22 U.S.C. 1928 note) is amended—

(1) in paragraph (2), by striking out “September 30, 1998” and inserting in lieu thereof “September 30, 1999”;

(2) in paragraph (3)—

(A) by striking out “economic” and all that follows through “rights” and inserting in lieu thereof “governmental accountability and transparency, economic stabilization and development, defense economic conversion, respect for the rule of law and internationally recognized human rights, and humanitarian relief efforts”; and

(B) by striking out “at least to a level commensurate to that of the United States by September 30, 1998” and inserting in lieu thereof “to provide such foreign assistance at an annual rate that is not less than one percent of its gross domestic product, by September 30, 1999”; and

(3) in paragraph (4)—

(A) by striking out “amount of”;

(B) by striking out “, or would be prepared to contribute,” and inserting in lieu thereof “or has pledged to contribute”; and

(C) by inserting before the period at the end the following: “by 10 percent by September 30, 1999”.

(b) REVISED REQUIREMENT FOR REPORT ON PROGRESS IN INCREASING ALLIED BURDENSARING.—Subsection (c) of such section is amended—

(1) by striking out “March 1, 1998” in the matter preceding paragraph (1) and inserting in lieu thereof “March 1, 1999”; and

(2) in paragraph (3), by striking out “March 1, 1996” and all that follows through the semicolon and inserting in lieu thereof “October 1, 1996, and ending on September 30, 1997, and during the period beginning on October 1, 1997, and ending on September 30, 1998, or, in the case of any nation for which the data for such periods is inadequate, the difference between the amounts for the latest periods for which adequate data is available;”.

(c) EXTENSION OF DEADLINE FOR REPORT REGARDING NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSARING RELATIONSHIPS.—Subsection (d)(2) of such section is amended by striking out “March 1, 1998” and inserting in lieu thereof “March 1, 1999”.

**SEC. 1234. TRANSFER OF EXCESS UH-1 HUEY AND AH-1 COBRA HELICOPTERS TO FOREIGN COUNTRIES.**

(a) IN GENERAL.—Chapter 153 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2581. Excess UH-1 Huey and AH-1 Cobra helicopters: requirements for transfer to foreign countries**

“(a) REQUIREMENTS.—(1) Before an excess UH-1 Huey helicopter or AH-1 Cobra helicopter is transferred on a grant or sales basis to a foreign country for the purpose of flight operations by that country, the Secretary of Defense shall make all reasonable efforts to ensure that the helicopter receives, to the extent necessary, maintenance and repair equivalent to the depot-level maintenance and repair (as defined in section 2460 of this title) that the helicopter would need were the helicopter to remain in operational use with the armed forces. Any such maintenance and repair work shall be performed at no cost to the Department of Defense.

“(2) The Secretary shall make all reasonable efforts to ensure that maintenance and repair work described in paragraph (1) is performed in the United States.

“(b) EXCEPTION.—Subsection (a) does not apply with respect to salvage helicopters provided to the foreign country solely as a source for spare parts.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2581. Excess UH-1 Huey and AH-1 Cobra helicopters: requirements for transfer to foreign countries.”.

**SEC. 1235. TRANSFERS OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.**

(a) TRANSFERS BY GRANT.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) To the Government of Argentina, the NEWPORT class tank landing ship NEWPORT (LST 1179).

(2) To the Government of Greece—

(A) the KNOX class frigate HEPBURN (FF 1055); and

(B) the ADAMS class guided missile destroyers STRAUSS (DDG 16), SEMMS (DDG 18), and WADDELL (DDG 24).

(3) To the Government of Portugal, the STALWART class ocean surveillance ship ASSURANCE (T-AGOS 5).

(4) To the Government of Turkey, the KNOX class frigates PAUL (FF 1080), MILLER (FF 1091), and W.S. SIMMS (FF 1059).

(b) TRANSFERS BY SALE.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) To the Government of Brazil, the NEWPORT class tank landing ships CAYUGA (LST 1186) and PEORIA (LST 1183).

(2) To the Government of Chile—

(A) the NEWPORT class tank landing ship SAN BERNARDINO (LST 1189); and

(B) the auxiliary repair dry dock WATERFORD (ARD

5).

(3) To the Government of Greece—

(A) the OAK RIDGE class medium dry dock ALAMAGORDO (ARDM 2); and

(B) the KNOX class frigates VREELAND (FF 1068) and TRIPPE (FF 1075).

(4) To the Government of Mexico—

(A) the auxiliary repair dock SAN ONOFRE (ARD 30); and

(B) the KNOX class frigate PHARRIS (FF 1094).

(5) To the Government of the Philippines, the STALWART class ocean surveillance ship TRIUMPH (T-AGOS 4).

(6) To the Government of Spain, the NEWPORT class tank landing ships HARLAN COUNTY (LST 1196) and BARNSTABLE COUNTY (LST 1197).

(7) To the Taipei Economic and Cultural Representative Office in the United States (the Taiwan instrumentality that is designated pursuant to section 10(a) of the Taiwan Relations Act)—

(A) the KNOX class frigates PEARY (FF 1073), JOSEPH HEWES (FF 1078), COOK (FF 1083), BREWTON (FF 1086), KIRK (FF 1987), and BARBEY (FF 1088);

(B) the NEWPORT class tank landing ships MANITOWOC (LST 1180) and SUMTER (LST 1181);

(C) the floating dry dock COMPETENT (AFDM 6); and

(D) the ANCHORAGE class dock landing ship PENSACOLA (LSD 38).

(8) To the Government of Turkey—

(A) the OLIVER HAZARD PERRY class guided missile frigates MAHLON S. TISDALE (FFG 27), REID (FFG 30), and DUNCAN (FFG 10); and

(B) the KNOX class frigates REASONER (FF 1063), FANNING (FF 1076), BOWEN (FF 1079), MCCANDLESS (FF 1084), DONALD BEARY (FF 1085), AINSWORTH (FF 1090), THOMAS C. HART (FF 1092), and CAPODANNO (FF 1093).

(9) To the Government of Venezuela, the medium auxiliary floating dry dock bearing hull number AFDM 2.

(c) TRANSFERS ON A COMBINED LEASE-SALE BASIS.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a combined lease-sale basis under sections 61 and 21 of the Arms Export Control Act (22 U.S.C. 2796, 2761) and in accordance with subsection (d) as follows:

(1) To the Government of Brazil, the CIMARRON class oiler MERRIMACK (AO 179).

(2) To the Government of Greece, the KIDD class guided missile destroyers KIDD (DDG 993), CALLAGHAN (DDG 994), SCOTT (DDG 995), and CHANDLER (DDG 996).

(d) CONDITIONS RELATING TO COMBINED LEASE-SALE TRANSFERS.—A transfer of a vessel on a combined lease-sale basis authorized by subsection (c) shall be made in accordance with the following requirements:

(1) The Secretary may initially transfer the vessel by lease, with lease payments suspended for the term of the lease, if the country entering into the lease for the vessel simultaneously enters into a foreign military sales agreement for the transfer of title to the vessel.

(2) The Secretary may not deliver to the purchasing country title to the vessel until the purchase price of the vessel under such a foreign military sales agreement is paid in full.

(3) Upon payment of the purchase price in full under such a sales agreement and delivery of title to the recipient country, the Secretary shall terminate the lease.

(4) If the purchasing country fails to make full payment of the purchase price in accordance with the sales agreement by the date required under the sales agreement—

(A) the sales agreement shall be immediately terminated;

(B) the suspension of lease payments under the lease shall be vacated; and

(C) the United States shall be entitled to retain all funds received on or before the date of the termination under the sales agreement, up to the amount of the lease payments due and payable under the lease and all other costs required by the lease to be paid to that date.

(5) If a sales agreement is terminated pursuant to paragraph (4), the United States shall not be required to pay any interest to the recipient country on any amount paid to the United States by the recipient country under the sales agreement and not retained by the United States under the lease.

(e) REQUIREMENT FOR PROVISION IN ADVANCE IN AN APPROPRIATIONS ACT.—Authority to transfer vessels on a sale basis under subsection (b) or a combined lease-sale basis under subsection (c) is effective only to the extent that authority to effectuate such transfers, together with appropriations to cover the associated cost (as defined in section 502 of the Congressional Budget of 1974 (2 U.S.C. 661a)), are provided in advance in an appropriations Act.

(f) AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN COSTS OF TRANSFERS.—There is established in the Treasury of the United States a special account to be known as the Defense Vessels Transfer Program Account. There is hereby authorized to be appropriated into that account such sums as may be necessary for the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of the lease-sale transfers authorized by subsection (c). Funds in that account are available only for the purpose of covering those costs.

(g) NOTIFICATION OF CONGRESS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress, for each naval vessel that is to be transferred under this section before January 1, 1999, the notifications required under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) and section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105-118; 111 Stat. 2413).

(h) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(i) **COSTS OF TRANSFERS.**—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)) in the case of a transfer authorized to be made on a grant basis under subsection (a)).

(j) **REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.**—To the maximum extent practicable, the Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(k) **EXPIRATION OF AUTHORITY.**—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

**SEC. 1236. REPEAL OF LANDMINE MORATORIUM.**

Section 580 of the Foreign Operations Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 751), is repealed.

50 USC 1701  
note.

**SEC. 1237. APPLICATION OF AUTHORITIES UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT TO COMMUNIST CHINESE MILITARY COMPANIES.**

(a) **PRESIDENTIAL AUTHORITY.**—

(1) **IN GENERAL.**—The President may exercise IEEPA authorities (other than authorities relating to importation) without regard to section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) in the case of any commercial activity in the United States by a person that is on the list published under subsection (b).

(2) **PENALTIES.**—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) apply to violations of any license, order, or regulation issued under paragraph (1).

(3) **IEEPA AUTHORITIES.**—For purposes of paragraph (1), the term “IEEPA authorities” means the authorities set forth in section 203(a) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)).

(b) **DETERMINATION AND PUBLICATION OF COMMUNIST CHINESE MILITARY COMPANIES OPERATING IN UNITED STATES.**—

Federal Register,  
publication.

(1) **INITIAL DETERMINATION AND PUBLICATION.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall make a determination of those persons operating directly or indirectly in the United States or any of its territories and possessions that are Communist Chinese military companies and shall publish a list of those persons in the Federal Register.

(2) **REVISIONS TO LIST.**—The Secretary of Defense shall make additions or deletions to the list published under paragraph (1) on an ongoing basis based on the latest information available.

(3) **CONSULTATION.**—The Secretary of Defense shall consult with the following officers in carrying out paragraphs (1) and (2):

- (A) The Attorney General.
- (B) The Director of Central Intelligence.



(C) The Director of the Federal Bureau of Investigation.

(4) COMMUNIST CHINESE MILITARY COMPANY.—For purposes of making the determination required by paragraph (1) and of carrying out paragraph (2), the term “Communist Chinese military company” means—

(A) any person identified in the Defense Intelligence Agency publication numbered VP-1920-271-90, dated September 1990, or PC-1921-57-95, dated October 1995, and any update of those publications for the purposes of this section; and

(B) any other person that—

(i) is owned or controlled by the People’s Liberation Army; and

(ii) is engaged in providing commercial services, manufacturing, producing, or exporting.

(c) PEOPLE’S LIBERATION ARMY.—For purposes of this section, the term “People’s Liberation Army” means the land, naval, and air military services, the police, and the intelligence services of the Communist Government of the People’s Republic of China, and any member of any such service or of such police.

## **TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION**

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.

Sec. 1302. Funding allocations.

Sec. 1303. Prohibition on use of funds for specified purposes.

Sec. 1304. Limitation on use of funds for chemical weapons destruction activities in Russia.

Sec. 1305. Limitation on use of funds for biological weapons proliferation prevention activities in Russia.

Sec. 1306. Cooperative counter-proliferation program.

Sec. 1307. Requirement to submit summary of amounts requested by project category.

Sec. 1308. Report on biological weapons programs in Russia.

Sec. 1309. Report on individuals with expertise in former Soviet weapons of mass destruction programs.

### **SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.**

(a) SPECIFICATION OF CTR PROGRAMS.—(1) For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note) (as amended by paragraph (2)).

22 USC 5952  
note.

(2) Section 1501(b)(3) of such Act is amended by inserting “materials,” after “components,”.

50 USC 2362  
note.

(b) FISCAL YEAR 1999 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term “fiscal year 1999 Cooperative Threat Reduction funds” means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

**SEC. 1302. FUNDING ALLOCATIONS.**

(a) **FUNDING FOR SPECIFIC PURPOSES.**—Of the amounts authorized to be appropriated to the Department of Defense for fiscal year 1999 in section 301(23), \$440,400,000 shall be available to carry out Cooperative Threat Reduction programs, of which not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, \$142,400,000.

(2) For strategic nuclear arms elimination in Ukraine, \$47,500,000.

(3) For activities to support warhead dismantlement processing in Russia, \$9,400,000.

(4) For activities associated with chemical weapons destruction in Russia, \$88,400,000.

(5) For weapons transportation security in Russia, \$10,300,000.

(6) For planning, design, and construction of a storage facility for Russian fissile material, \$60,900,000.

(7) For weapons storage security in Russia, \$41,700,000.

(8) For development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, \$29,800,000.

(9) For biological weapons proliferation prevention activities in Russia, \$2,000,000.

(10) For activities designated as Other Assessments/Administrative Support, \$8,000,000.

(b) **LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.**—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraphs (2) and (3), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts appropriated for the purposes stated in any of paragraphs (3) through (10) of subsection (a) in excess of 115 percent of the amount stated in those paragraphs.

**SEC. 1303. PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.**

(a) **IN GENERAL.**—No fiscal year 1999 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs for any prior fiscal year and remaining available for obligation, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(b) **LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.**—None of the funds appropriated pursuant to this Act may be obligated or expended for the provision of assistance to Russia or any other state of the former Soviet Union to promote defense conversion.

**SEC. 1304. LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION ACTIVITIES IN RUSSIA.**

22 USC 5952  
note.

(a) **LIMITATION.**—Subject to the limitation in section 1405(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1961), no funds authorized to be appropriated for Cooperative Threat Reduction programs under this Act or any other Act may be obligated or expended for chemical weapons destruction activities in Russia (including activities for the planning, design, or construction of a chemical weapons destruction facility or for the dismantlement of an existing chemical weapons production facility) until the President submits to Congress a written certification described in subsection (b).

(b) **PRESIDENTIAL CERTIFICATION.**—A certification under this subsection is either of the following certifications by the President:

(1) A certification that—

(A) Russia is making reasonable progress toward the implementation of the Bilateral Destruction Agreement;

(B) the United States and Russia have made substantial progress toward the resolution, to the satisfaction of the United States, of outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement; and

(C) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical weapons facilities, and other facilities associated with chemical weapons.

(2) A certification that the national security interests of the United States could be undermined by a policy of the United States not to carry out chemical weapons destruction activities under Cooperative Threat Reduction programs for which funds are authorized to be appropriated under this Act or any other Act for fiscal year 1999.

(c) **DEFINITIONS.**—In this section:

(1) The term “Bilateral Destruction Agreement” means the Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Non-production of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons signed on June 1, 1990.

(2) The term “Wyoming Memorandum of Understanding” means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related

to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

**SEC. 1305. LIMITATION ON USE OF FUNDS FOR BIOLOGICAL WEAPONS PROLIFERATION PREVENTION ACTIVITIES IN RUSSIA.**

No fiscal year 1999 Cooperative Threat Reduction funds may be obligated or expended for biological weapons proliferation prevention activities in Russia until 15 days after the date on which the Secretary submits to the congressional defense committees a report on—

(1) whether Cooperative Threat Reduction funds provided for cooperative research activities at biological research institutes in Russia have been used—

(A) to support activities to develop new strains of anthrax; or

(B) for any purpose inconsistent with the objectives of providing such funds; and

(2) the new strains of anthrax alleged to have been developed at a biological research institute in Russia and any efforts by the United States to examine such strains.

**SEC. 1306. COOPERATIVE COUNTER PROLIFERATION PROGRAM.**

(a) **IN GENERAL.**—Of the amount authorized to be appropriated in section 1302 (other than the amounts authorized to be appropriated in subsections (a)(1) and (a)(2) of that section) and subject to the limitations in that section and subsection (b), the Secretary of Defense may provide a country of the former Soviet Union with emergency assistance for removing or obtaining from that country—

(1) weapons of mass destruction; or

(2) materials, equipment, or technology related to the development or delivery of weapons of mass destruction.

(b) **CERTIFICATION REQUIRED.**—(1) The Secretary may not provide assistance under subsection (a) until 15 days after the date that the Secretary submits to the congressional defense committees a certification in writing that the weapons, materials, equipment, or technology described in that subsection meet each of the following requirements:

(A) The weapons, materials, equipment, or technology are at risk of being sold or otherwise transferred to a restricted foreign state or entity.

(B) The transfer of the weapons, materials, equipment, or technology would pose a significant near-term threat to the national security interests of the United States or would significantly advance a foreign country's weapon program that threatens the national security interests of the United States.

(C) Other options for securing or otherwise preventing the transfer of the weapons, materials, equipment, or technology have been considered and rejected as ineffective or inadequate.

(2) The 15-day notice requirement in paragraph (1) may be waived if the Secretary determines that compliance with the requirement would compromise the national security interests of the United States. In such case, the Secretary shall promptly notify the congressional defense committees of the circumstances regarding such determination in advance of providing assistance under subsection (a) and shall submit the certification required not later than 30 days after providing such assistance.

(c) **CONTENT OF CERTIFICATIONS.**—Each certification required under subsection (b) shall contain information on the following with respect to the assistance being provided:

(1) The specific assistance provided and the purposes for which the assistance is being provided.

(2) The sources of funds for the assistance.

(3) Whether any assistance is being provided by any other Federal department or agency.

(4) The options considered and rejected for preventing the transfer of the weapons, materials, equipment, or technology, as described in subsection (b)(1)(C).

(5) Whether funding was requested by the Secretary from other Federal departments or agencies.

(6) Any additional information that the Secretary determines is relevant to the assistance being provided.

(d) **ADDITIONAL SOURCES OF FUNDING.**—The Secretary may request assistance and accept funds from other Federal departments or agencies in carrying out this section.

(e) **DEFINITIONS.**—In this section:

(1) The term “restricted foreign state or entity”, with respect to weapons, materials, equipment, or technology covered by a certification or notification of the Secretary of Defense under subsection (b), means—

(A) any foreign country the government of which has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); or

(B) any foreign state or entity that the Secretary of Defense determines would constitute a military threat to the United States, its allies, or interests, if that foreign state or entity were to possess the weapons, materials, equipment, or technology.

(2) The term “weapons of mass destruction” has the meaning given that term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201; 50 U.S.C. 2302(1)).

**SEC. 1307. REQUIREMENT TO SUBMIT SUMMARY OF AMOUNTS REQUESTED BY PROJECT CATEGORY.**

22 USC 5952  
note.

(a) **SUMMARY REQUIRED.**—The Secretary of Defense shall submit to Congress as part of the Secretary’s annual budget request to Congress—

(1) a descriptive summary, with respect to the appropriations requested for Cooperative Threat Reduction programs for the fiscal year after the fiscal year in which the summary is submitted, of the amounts requested for each project category under each Cooperative Threat Reduction program element; and

(2) a descriptive summary, with respect to appropriations for Cooperative Threat Reduction programs for the fiscal year in which the list is submitted and the previous fiscal year, of the amounts obligated or expended, or planned to be obligated or expended, for each project category under each Cooperative Threat Reduction program element.

(b) **DESCRIPTION OF PURPOSE AND INTENT.**—The descriptive summary required under subsection (a) shall include a narrative

description of each program and project category under each Cooperative Threat Reduction program element that explains the purpose and intent of the funds requested.

**SEC. 1308. REPORT ON BIOLOGICAL WEAPONS PROGRAMS IN RUSSIA.**

(a) REPORT.—Not later than March 1, 1999, the Secretary of Defense shall submit to the congressional defense committees a report, in classified and unclassified forms, containing—

(1) an assessment of the extent of compliance by Russia with international agreements relating to the control of biological weapons; and

(2) a detailed evaluation of the potential political and military costs and benefits of collaborative biological pathogen research efforts by the United States and Russia.

(b) CONTENT OF REPORT.—The report required under subsection (a) shall include the following:

(1) An evaluation of the extent of the control and oversight by the Government of Russia over the military and civilian-military biological warfare programs formerly controlled or overseen by states of the former Soviet Union.

(2) The extent and scope of continued biological warfare research, development, testing, and production in Russia, including the sites where such activity is occurring and the types of activity being conducted.

(3) An assessment of compliance by Russia with the terms of the Biological Weapons Convention.

(4) An identification and assessment of the measures taken by Russia to comply with the obligations assumed under the Joint Statement on Biological Weapons, agreed to by the United States, the United Kingdom, and Russia on September 14, 1992.

(5) A description of the extent to which Russia has permitted individuals from the United States or other countries to visit military and nonmilitary biological research, development, testing, and production sites in order to resolve ambiguities regarding activities at such sites.

(6) A description of the information provided by Russia about its biological weapons dismantlement efforts to date.

(7) An assessment of the accuracy and comprehensiveness of declarations by Russia regarding its biological weapons activities.

(8) An identification of collaborative biological research projects carried out by the United States and Russia for which Cooperative Threat Reduction funds have been used.

(9) An evaluation of the political and military utility of prior, existing, and prospective cooperative biological pathogen research programs carried out between the United States and Russia, and an assessment of the impact of such programs on increasing Russian military transparency with respect to biological weapons activities.

(10) An assessment of the political and military utility of the long-term collaborative program advocated by the National Academy of Sciences in its October 27, 1997 report, "Controlling Dangerous Pathogens: A Blueprint for U.S.-Russian Cooperation".

**SEC. 1309. REPORT ON INDIVIDUALS WITH EXPERTISE IN FORMER SOVIET WEAPONS OF MASS DESTRUCTION PROGRAMS.**

Not later than January 31, 1999, the Secretary of Defense, in consultation with the Secretary of State, the Secretary of Energy, and any other appropriate officials, shall submit to the congressional defense committees a report on the number of individuals in the former Soviet Union who have significant expertise in the research, development, production, testing, and operational employment of ballistic missiles and weapons of mass destruction. The report shall contain the following:

(1) A listing of the specific expertise of the individuals, by category and discipline.

(2) An assessment of which categories of expertise would pose the greatest risks to the security of the United States if that expertise were transferred to potentially hostile states.

(3) An estimate, by category, of the number of the individuals in paragraph (1) who are fully or partly employed at the time the report is submitted by the military-industrial complex of the former Soviet Union, the number of such individuals who are fully employed at the time the report is submitted by commercial ventures outside the military-industrial complex of the former Soviet Union, and the number of such individuals who are unemployed and underemployed at the time the report is submitted.

(4) An identification of the nature, scope, and cost of activities conducted by the United States and other countries to assist in the employment in nonproliferation and nonmilitary-related endeavors and enterprises of individuals involved in the weapons complex of the former Soviet Union, and which categories of individuals are being targeted in these efforts.

(5) An assessment of whether the activities identified under paragraph (4) should be reduced, maintained, or expanded.

## **TITLE XIV—DOMESTIC PREPAREDNESS FOR DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION**

Defense Against  
Weapons of Mass  
Destruction Act  
of 1998.

Sec. 1401. Short title.

Sec. 1402. Domestic preparedness for response to threats of terrorist use of weapons of mass destruction.

Sec. 1403. Report on domestic emergency preparedness.

Sec. 1404. Threat and risk assessments.

Sec. 1405. Advisory panel to assess domestic response capabilities for terrorism involving weapons of mass destruction.

**SEC. 1401. SHORT TITLE.**

50 USC 2301  
note.

This title may be cited as the “Defense Against Weapons of Mass Destruction Act of 1998”.

**SEC. 1402. DOMESTIC PREPAREDNESS FOR RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.**

50 USC 2301  
note.

(a) **ENHANCED RESPONSE CAPABILITY.**—In light of the continuing potential for terrorist use of weapons of mass destruction against the United States and the need to develop a more fully coordinated response to that threat on the part of Federal, State, and local agencies, the President shall act to increase the effectiveness at

the Federal, State, and local level of the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction by utilizing the President's existing authorities to develop an integrated program that builds upon the program established under the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201; 110 Stat. 2714; 50 U.S.C. 2301 et seq.).

President.

(b) REPORT.—Not later than January 31, 1999, the President shall submit to Congress a report containing information on the actions taken at the Federal, State, and local level to develop an integrated program to prevent and respond to terrorist incidents involving weapons of mass destruction.

50 USC 2301  
note.

**SEC. 1403. REPORT ON DOMESTIC EMERGENCY PREPAREDNESS.**

Section 1051 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1889; 31 U.S.C. 1113 note) is amended by adding at the end the following new subsection:

“(c) ANNEX ON DOMESTIC EMERGENCY PREPAREDNESS PROGRAM.—As part of the annual report submitted to Congress under subsection (b), the President shall include an annex which provides the following information on the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction (as established under section 1402 of the Defense Against Weapons of Mass Destruction Act of 1998):

“(1) Information on program responsibilities for each participating Federal department, agency, and bureau.

“(2) A summary of program activities performed during the preceding fiscal year for each participating Federal department, agency, and bureau.

“(3) A summary of program obligations and expenditures during the preceding fiscal year for each participating Federal department, agency, and bureau.

“(4) A summary of the program plan and budget for the current fiscal year for each participating Federal department, agency, and bureau.

“(5) The program budget request for the following fiscal year for each participating Federal department, agency, and bureau.

“(6) Recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction that have been made by the advisory panel to assess the capabilities of domestic response to terrorism involving weapons of mass destruction (as established under section 1405 of the Defense Against Weapons of Mass Destruction Act of 1998), and actions taken as a result of such recommendations.

“(7) Additional program measures and legislative authority for which congressional action may be required.”.

50 USC 2301  
note.

**SEC. 1404. THREAT AND RISK ASSESSMENTS.**

(a) REQUIREMENT TO DEVELOP METHODOLOGIES.—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation and representatives of appropriate Federal, State, and local agencies, shall develop and test methodologies for assessing the threat and risk of terrorist employment of weapons of mass destruction against cities and other local areas. The results of the tests may be used to determine the training and equipment



requirements under the program developed under section 1402. The methodologies required by this subsection shall be developed using cities or local areas selected by the Attorney General, acting in consultation with the Director of the Federal Bureau of Investigation and appropriate representatives of Federal, State, and local agencies.

(b) **REQUIRED COMPLETION DATE.**—The requirements in subsection (a) shall be completed not later than 1 year after the date of the enactment of this Act.

**SEC. 1405. ADVISORY PANEL TO ASSESS DOMESTIC RESPONSE CAPABILITIES FOR TERRORISM INVOLVING WEAPONS OF MASS DESTRUCTION.**

50 USC 2301  
note.

(a) **REQUIREMENT FOR PANEL.**—The Secretary of Defense, in consultation with the Attorney General, the Secretary of Energy, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, shall enter into a contract with a federally funded research and development center to establish a panel to assess the capabilities for domestic response to terrorism involving weapons of mass destruction.

Contracts.

(b) **COMPOSITION OF PANEL; SELECTION.**—(1) The panel shall be composed of members who shall be private citizens of the United States with knowledge and expertise in emergency response matters.

(2) Members of the panel shall be selected by the federally funded research and development center in accordance with the terms of the contract established pursuant to subsection (a).

(c) **PROCEDURES FOR PANEL.**—The federally funded research and development center shall be responsible for establishing appropriate procedures for the panel, including procedures for selection of a panel chairman.

(d) **DUTIES OF PANEL.**—The panel shall—

(1) assess Federal agency efforts to enhance domestic preparedness for incidents involving weapons of mass destruction;

(2) assess the progress of Federal training programs for local emergency responses to incidents involving weapons of mass destruction;

(3) assess deficiencies in programs for response to incidents involving weapons of mass destruction, including a review of unfunded communications, equipment, and planning requirements, and the needs of maritime regions;

(4) recommend strategies for ensuring effective coordination with respect to Federal agency weapons of mass destruction response efforts, and for ensuring fully effective local response capabilities for weapons of mass destruction incidents; and

(5) assess the appropriate roles of State and local government in funding effective local response capabilities.

(e) **DEADLINE TO ENTER INTO CONTRACT.**—The Secretary of Defense shall enter into the contract required under subsection (a) not later than 60 days after the date of the enactment of this Act.

(f) **DEADLINE FOR SELECTION OF PANEL MEMBERS.**—Selection of panel members shall be made not later than 30 days after the date on which the Secretary enters into the contract required by subsection (a).

(g) INITIAL MEETING OF THE PANEL.—The panel shall conduct its first meeting not later than 30 days after the date that all the selections to the panel have been made.

(h) REPORTS.—(1) Not later than 6 months after the date of the first meeting of the panel, the panel shall submit to the President and to Congress an initial report setting forth its findings, conclusions, and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

(2) Not later than December 15 of each year, beginning in 1999 and ending in 2001, the panel shall submit to the President and to the Congress a report setting forth its findings, conclusions, and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

(i) COOPERATION OF OTHER AGENCIES.—(1) The panel may secure directly from the Department of Defense, the Department of Energy, the Department of Health and Human Services, the Department of Justice, and the Federal Emergency Management Agency, or any other Federal department or agency information that the panel considers necessary for the panel to carry out its duties.

(2) The Attorney General, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, and any other official of the United States shall provide the panel with full and timely cooperation in carrying out its duties under this section.

(j) FUNDING.—The Secretary of Defense shall provide the funds necessary for the panel to carry out its duties from the funds available to the Department of Defense for weapons of mass destruction preparedness initiatives.

(k) COMPENSATION OF PANEL MEMBERS.—(1) Members of the panel shall serve without pay by reason of their work on the panel.

(2) Members of the panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 57 of title 5, United States Code, while away from their homes or regular place of business in performance of services for the panel.

(l) TERMINATION OF THE PANEL.—The panel shall terminate three years after the date of the appointment of the member selected as chairman of the panel.

(m) DEFINITION.—In this section, the term “weapon of mass destruction” has the meaning given that term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

## **TITLE XV—MATTERS RELATING TO ARMS CONTROL, EXPORT CONTROLS, AND COUNTER-PROLIFERATION**

### **Subtitle A—Arms Control Matters**

Sec. 1501. One-year extension of limitation on retirement or dismantlement of strategic nuclear delivery systems.

- Sec. 1502. Transmission of executive branch reports providing Congress with classified summaries of arms control developments.
- Sec. 1503. Report on adequacy of emergency communications capabilities between United States and Russia.
- Sec. 1504. Russian nonstrategic nuclear weapons.

#### **Subtitle B—Satellite Export Controls**

- Sec. 1511. Sense of Congress.
- Sec. 1512. Certification of exports of missile equipment or technology to China.
- Sec. 1513. Satellite controls under the United States Munitions List.
- Sec. 1514. National security controls on satellite export licensing.
- Sec. 1515. Report on export of satellites for launch by People's Republic of China.
- Sec. 1516. Related items defined.

#### **Subtitle C—Other Export Control Matters**

- Sec. 1521. Authority for export control activities of the Department of Defense.
- Sec. 1522. Release of export information by Department of Commerce to other agencies for purpose of national security assessment.
- Sec. 1523. Nuclear export reporting requirement.
- Sec. 1524. Execution of objection authority within the Department of Defense.

#### **Subtitle D—Counterproliferation Matters**

- Sec. 1531. One-year extension of counterproliferation authorities for support of United Nations Special Commission on Iraq.
- Sec. 1532. Sense of Congress on nuclear tests in South Asia.
- Sec. 1533. Report on requirements for response to increased missile threat in Asia-Pacific region.

### **Subtitle A—Arms Control Matters**

#### **SEC. 1501. ONE-YEAR EXTENSION OF LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.**

Section 1302 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1948) is amended—

- (1) in subsections (a), (b), and (c)(2), by striking out “during fiscal year 1998” and inserting in lieu thereof “during the strategic delivery systems retirement limitation period”;
- (2) in subsection (c)(1), by striking out “during fiscal year 1998”;
- (3) in subsection (d)(1)—
  - (A) by striking out “for fiscal year 1998”; and
  - (B) by striking out “during fiscal year 1998”; and
- (4) by adding at the end the following new subsection:
 

“(g) STRATEGIC DELIVERY SYSTEMS RETIREMENT LIMITATION PERIOD.—For purposes of this section, the term ‘strategic delivery systems retirement limitation period’ means the period of fiscal years 1998 and 1999.”

#### **SEC. 1502. TRANSMISSION OF EXECUTIVE BRANCH REPORTS PROVIDING CONGRESS WITH CLASSIFIED SUMMARIES OF ARMS CONTROL DEVELOPMENTS.**

(a) REPORTING REQUIREMENT.—The Director of the Arms Control and Disarmament Agency (or the Secretary of State, if the Arms Control and Disarmament Agency becomes an element of the Department of State) shall transmit to the Committee on National Security of the House of Representatives on a periodic basis reports containing classified summaries of arms control developments.

22 USC 2593a  
note.

(b) **CONTENTS OF REPORTS.**—The reports required by subsection (a) shall include information reflecting the activities of forums established to consider issues relating to treaty implementation and treaty compliance.

**SEC. 1503. REPORT ON ADEQUACY OF EMERGENCY COMMUNICATIONS CAPABILITIES BETWEEN UNITED STATES AND RUSSIA.**

Not later than 3 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the status and adequacy of current direct communications capabilities between the governments of the United States and Russia. The report shall identify each existing direct communications link between those governments and each such link that is designed to be used, or is available to be used, in an emergency situation. The Secretary shall describe in the report any shortcomings with the existing communications capabilities and shall include such proposals as the Secretary considers appropriate to improve those capabilities. In considering improvements to propose, the Secretary shall assess the feasibility and desirability of establishing a direct communications link between the commanders of appropriate United States unified and specified commands, including the United States Space Command and the United States Strategic Command, and their Russian counterparts.

**SEC. 1504. RUSSIAN NONSTRATEGIC NUCLEAR WEAPONS.**

(a) **FINDINGS.**—The Congress makes the following findings:

(1) The 7,000 to 12,000 or more nonstrategic (or “tactical”) nuclear weapons estimated by the United States Strategic Command to be in the Russian arsenal may present the greatest threat of sale or theft of a nuclear warhead in the world today.

(2) As the number of deployed strategic warheads in the Russian and United States arsenals declines to just a few thousand under the START accords, Russia’s vast superiority in tactical nuclear warheads—many of which have yields equivalent to strategic nuclear weapons—could become strategically destabilizing.

(3) While the United States has unilaterally reduced its inventory of tactical nuclear weapons by nearly 90 percent since the end of the Cold War, Russia is behind schedule in implementing the steep tactical nuclear arms reductions pledged by former Soviet President Gorbachev in 1991 and Russian President Yeltsin in 1992, perpetuating the dangers from Russia’s tactical nuclear stockpile.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the President should call on Russia to expedite reduction of its tactical nuclear arsenal in accordance with the promises made in 1991 and 1992.

(c) **REPORT.**—Not later than March 15, 1999, the Secretary of Defense shall submit to Congress a report on the nonstrategic nuclear weapons of Russia. The report shall include—

(1) estimates regarding the current numbers, types, yields, viability, and locations of those weapons;

(2) an assessment of the strategic implications of Russia’s nonstrategic arsenal, including the potential use of those weapons in a strategic role or the use of their components in strategic

nuclear systems and the potential of Russian superiority in tactical nuclear weapons to destabilize the overall nuclear balance as strategic nuclear weapons are sharply reduced under the START accords;

(3) an assessment of the extent of the current threat of theft, sale, or unauthorized use of the warheads of those weapons, including an analysis of Russian command and control as it concerns the use of tactical nuclear weapons;

(4) a summary of past, current, and planned efforts to work cooperatively with Russia to account for, secure, and reduce Russia's stockpile of tactical nuclear weapons and associated fissile material;

(5) a summary of how the United States would prevent, or plans to cope militarily with, scenarios in which a deterioration in relations with Moscow causes Russia to redeploy tactical nuclear weapons or in which Russia threatens to employ, or actually employs, tactical nuclear weapons in a local or regional conflict involving the United States or allies of the United States; and

(6) an assessment of the steps that could be taken by the United States to enhance military preparedness in order (A) to deter any potential attempt by Russia to possibly exploit its advantage in tactical nuclear weapons through coercive "nuclear diplomacy" or on the battlefield, or (B) to counter Russia if Russia should make such an attempt to exploit its advantage in tactical nuclear weapons.

(d) **VIEWS.**—The Secretary of Defense shall include in the report under subsection (c) the views of the Director of Central Intelligence and of the commander of the United States Strategic Command.

## **Subtitle B—Satellite Export Controls**

### **SEC. 1511. SENSE OF CONGRESS.**

22 USC 2778  
note.

It is the sense of Congress that—

(1) United States business interests must not be placed above United States national security interests;

(2) United States foreign policy and the policies of the United States regarding commercial relations with other countries should affirm the importance of observing and adhering to the Missile Technology Control Regime (MTCR);

(3) the United States should encourage universal observance of the Guidelines to the Missile Technology Control Regime;

(4) the exportation or transfer of advanced communication satellites and related technologies from United States sources to foreign recipients should not increase the risks to the national security of the United States;

(5) due to the military sensitivity of the technologies involved, it is in the national security interests of the United States that United States satellites and related items be subject to the same export controls that apply under United States law and practices to munitions;

(6) the United States should not issue any blanket waiver of the suspensions contained in section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), regarding the export of satellites of United

States origin intended for launch from a launch vehicle owned by the People's Republic of China;

(7) the United States should pursue policies that protect and enhance the United States space launch industry; and

(8) the United States should not export to the People's Republic of China missile equipment or technology that would improve the missile or space launch capabilities of the People's Republic of China.

22 USC 2778  
note.

**SEC. 1512. CERTIFICATION OF EXPORTS OF MISSILE EQUIPMENT OR TECHNOLOGY TO CHINA.**

The President shall certify to the Congress at least 15 days in advance of any export to the People's Republic of China of missile equipment or technology (as defined in section 74 of the Arms Export Control Act (22 U.S.C. 2797c)) that—

(1) such export is not detrimental to the United States space launch industry; and

(2) the missile equipment or technology, including any indirect technical benefit that could be derived from such export, will not measurably improve the missile or space launch capabilities of the People's Republic of China.

22 USC 2778  
note.

**SEC. 1513. SATELLITE CONTROLS UNDER THE UNITED STATES MUNITIONS LIST.**

(a) CONTROL OF SATELLITES ON THE UNITED STATES MUNITIONS LIST.—Notwithstanding any other provision of law, all satellites and related items that are on the Commerce Control List of dual-use items in the Export Administration Regulations (15 CFR part 730 et seq.) on the date of the enactment of this Act shall be transferred to the United States Munitions List and controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(b) DEFENSE TRADE CONTROLS REGISTRATION FEES.—Section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717) is amended—

(1) in subsection (a)—

(A) by striking out “\$700,000” and inserting in lieu thereof “100 percent”; and

(B) by striking out “(a) DEFENSE TRADE CONTROLS REGISTRATION FEES.—”; and

(2) by striking out subsection (b).

(c) EFFECTIVE DATE.—(1) Subsection (a) shall take effect on March 15, 1999, and shall not apply to any export license issued before such effective date or to any export license application made under the Export Administration Regulations before such effective date.

(2) The amendments made by subsection (b) shall be effective as of October 1, 1998.

(d) REPORT.—Not later than January 1, 1999, the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, shall submit to Congress a report containing—

(1) a detailed description of the plans of the Department of State to implement the requirements of this section, including any organizational changes that are required and any Executive orders or regulations that may be required;

(2) an identification and explanation of any steps that should be taken to improve the license review process for

exports of the satellites and related items described in subsection (a), including measures to shorten the timelines for license application reviews, and any measures relating to the transparency of the license review process and dispute resolution procedures;

(3) an evaluation of the adequacy of resources available to the Department of State, including fiscal and personnel resources, to carry out the additional activities required by this section; and

(4) any recommendations for additional actions, including possible legislation, to improve the export licensing process under the Arms Export Control Act for the satellites and related items described in subsection (a).

**SEC. 1514. NATIONAL SECURITY CONTROLS ON SATELLITE EXPORT LICENSING.**

22 USC 2778  
note.

(a) **ACTIONS BY THE PRESIDENT.**—Notwithstanding any other provision of law, the President shall take such actions as are necessary to implement the following requirements for improving national security controls in the export licensing of satellites and related items:

(1) **MANDATORY TECHNOLOGY CONTROL PLANS.**—All export licenses shall require a technology transfer control plan approved by the Secretary of Defense and an encryption technology transfer control plan approved by the Director of the National Security Agency.

(2) **MANDATORY MONITORS AND REIMBURSEMENT.**—

(A) **MONITORING OF PROPOSED FOREIGN LAUNCH OF SATELLITES.**—In any case in which a license is approved for the export of a satellite or related items for launch in a foreign country, the Secretary of Defense shall monitor all aspects of the launch in order to ensure that no unauthorized transfer of technology occurs, including technical assistance and technical data. The costs of such monitoring services shall be fully reimbursed to the Department of Defense by the person or entity receiving such services. All reimbursements received under this subparagraph shall be credited to current appropriations available for the payment of the costs incurred in providing such services.

(B) **CONTENTS OF MONITORING.**—The monitoring under subparagraph (A) shall cover, but not be limited to—

(i) technical discussions and activities, including the design, development, operation, maintenance, modification, and repair of satellites, satellite components, missiles, other equipment, launch facilities, and launch vehicles;

(ii) satellite processing and launch activities, including launch preparation, satellite transportation, integration of the satellite with the launch vehicle, testing and checkout prior to launch, satellite launch, and return of equipment to the United States;

(iii) activities relating to launch failure, delay, or cancellation, including post-launch failure investigations; and

(iv) all other aspects of the launch.

(3) MANDATORY LICENSES FOR CRASH-INVESTIGATIONS.—In the event of the failure of a launch from a foreign country of a satellite of United States origin—

(A) the activities of United States persons or entities in connection with any subsequent investigation of the failure are subject to the controls established under section 38 of the Arms Export Control Act, including requirements for licenses issued by the Secretary of State for participation in that investigation;

(B) officials of the Department of Defense shall monitor all activities associated with the investigation to insure against unauthorized transfer of technical data or services; and

(C) the Secretary of Defense shall establish and implement a technology transfer control plan for the conduct of the investigation to prevent the transfer of information that could be used by the foreign country to improve its missile or space launch capabilities.

(4) MANDATORY NOTIFICATION AND CERTIFICATION.—All technology transfer control plans for satellites or related items shall require any United States person or entity involved in the export of a satellite of United States origin or related items to notify the Department of Defense in advance of all meetings and interactions with any foreign person or entity providing launch services and require the United States person or entity to certify after the launch that it has complied with this notification requirement.

(5) MANDATORY INTELLIGENCE COMMUNITY REVIEW.—The Secretary of Commerce and the Secretary of State shall provide to the Secretary of Defense and the Director of Central Intelligence copies of all export license applications and technical assistance agreements submitted for approval in connection with launches in foreign countries of satellites to verify the legitimacy of the stated end-user or end-users.

(6) MANDATORY SHARING OF APPROVED LICENSES AND AGREEMENTS.—The Secretary of State shall provide copies of all approved export licenses and technical assistance agreements associated with launches in foreign countries of satellites to the Secretaries of Defense and Energy, the Director of Central Intelligence, and the Director of the Arms Control and Disarmament Agency.

(7) MANDATORY NOTIFICATION TO CONGRESS ON LICENSES.—Upon issuing a license for the export of a satellite or related items for launch in a foreign country, the head of the department or agency issuing the license shall so notify Congress.

(8) MANDATORY REPORTING ON MONITORING ACTIVITIES.—The Secretary of Defense shall provide to Congress an annual report on the monitoring of all launches in foreign countries of satellites of United States origin.

(9) ESTABLISHING SAFEGUARDS PROGRAM.—The Secretary of Defense shall establish a program for recruiting, training, and maintaining a staff dedicated to monitoring launches in foreign countries of satellites and related items of United States origin.

(b) EXCEPTION.—This section shall not apply to the export of a satellite or related items for launch in, or by nationals of,



a country that is a member of the North Atlantic Treaty Organization or that is a major non-NATO ally of the United States.

(c) **EFFECTIVE DATE.**—The President shall take the actions required by subsection (a) not later than 45 days after the date of the enactment of this Act. President.

**SEC. 1515. REPORT ON EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.** 22 USC 2778 note.

(a) **REQUIREMENT FOR REPORT.**—Each report to Congress submitted pursuant to subsection (b) of section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note; Public Law 101-246) to waive the restrictions contained in subsection (a) of that section on the export to the People's Republic of China of any satellite of United States origin or related items shall be accompanied by a detailed justification setting forth the following:

(1) A detailed description of all militarily sensitive characteristics integrated within, or associated with, the satellite.

(2) An estimate of the number of United States civilian contract personnel expected to be needed in country to carry out the proposed satellite launch.

(3)(A) A detailed description of the United States Government's plan to monitor the proposed satellite launch to ensure that no unauthorized transfer of technology occurs, together with an estimate of the number of officers and employees of the United States that are expected to be needed in country to carry out monitoring of the proposed satellite launch; and

(B) the estimated cost to the Department of Defense of monitoring the proposed satellite launch and the amount of such cost that is to be reimbursed to the department.

(4) The reasons why the proposed satellite launch is in the national security interest of the United States.

(5) The impact of the proposed export on employment in the United States, including the number of new jobs created in the United States, on a State-by-State basis, as a direct result of the proposed export.

(6) The number of existing jobs in the United States that would be lost, on a State-by-State basis, as a direct result of the proposed export not being licensed.

(7) The impact of the proposed export on the balance of trade between the United States and the People's Republic of China and on reducing the current United States trade deficit with the People's Republic of China.

(8) The impact of the proposed export on the transition of the People's Republic of China from a nonmarket economy to a market economy and the long-term economic benefit to the United States.

(9) The impact of the proposed export on opening new markets to United States-made products through the purchase by the People's Republic of China of United States-made goods and services not directly related to the proposed export.

(10) The impact of the proposed export on reducing acts, policies, and practices that constitute significant trade barriers to United States exports or foreign direct investment in the People's Republic of China by United States nationals.

(11) The increase that will result from the proposed export in the overall market share of the United States for goods and services in comparison to Japan, France, Germany, the United Kingdom, and Russia.

(12) The impact of the proposed export on the willingness of the People's Republic of China to modify its commercial and trade laws, practices, and regulations to make United States-made goods and services more accessible to that market.

(13) The impact of the proposed export on the willingness of the People's Republic of China to reduce formal and informal trade barriers and tariffs, duties, and other fees on United States-made goods and services entering that country.

(b) **MILITARILY SENSITIVE CHARACTERISTICS DEFINED.**—In this section, the term “militarily sensitive characteristics” includes antijamming capability, antennas, crosslinks, baseband processing, encryption devices, radiation-hardened devices, propulsion systems, pointing accuracy, kick motors, and other such characteristics as are specified by the Secretary of Defense.

22 USC 2778  
note.

**SEC. 1516. RELATED ITEMS DEFINED.**

In this subtitle, the term “related items” means the satellite fuel, ground support equipment, test equipment, payload adapter or interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines described in the report submitted to Congress by the Department of State on February 6, 1998, pursuant to section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)).

## **Subtitle C—Other Export Control Matters**

**SEC. 1521. AUTHORITY FOR EXPORT CONTROL ACTIVITIES OF THE DEPARTMENT OF DEFENSE.**

(a) **FUNCTIONS OF THE UNDER SECRETARY FOR POLICY.**—Section 134(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(3) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall have responsibility for supervising and directing activities of the Department of Defense relating to export controls.”.

(b) **ESTABLISHMENT OF DEPUTY UNDER SECRETARY FOR TECHNOLOGY SECURITY POLICY.**—(1) Chapter 4 of title 10, United States Code, is amended by inserting after section 134a the following new section:

**“§ 134b. Deputy Under Secretary of Defense for Technology Security Policy**

“(a) There is in the Office of the Under Secretary of Defense for Policy a Deputy Under Secretary of Defense for Technology Security Policy.

“(b) The Deputy Under Secretary serves as the Director of the Defense Technology Security Administration (or any successor organization charged with similar responsibilities).

“(c) The principal duties of the Deputy Under Secretary are—

“(1) assisting the Under Secretary of Defense for Policy in supervising and directing the activities of the Department of Defense relating to export controls; and

“(2) assisting the Under Secretary of Defense for Policy in developing policies and positions regarding the appropriate export control policies and procedures that are necessary to protect the national security interests of the United States.

“(d) The Deputy Under Secretary shall perform such additional duties and exercise such authority as the Secretary of Defense may prescribe.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 134a the following new item:

“134b. Deputy Under Secretary of Defense for Technology Security Policy.”.

(c) **TIME FOR IMPLEMENTATION.**—The Secretary of Defense shall complete the actions necessary to implement the amendment made by subsection (a) and to establish the office of Deputy Under Secretary of Defense for Technology Security Policy in accordance with section 134b of title 10, United States Code, as added by subsection (b), not later than 60 days after the date of the enactment of this Act.

10 USC 134 note.

(d) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the plans of the Secretary for implementing the amendments made by subsections (a) and (b). The report shall include the following:

10 USC 134 note.

(1) A description of any organizational changes that are to be made within the Department of Defense to implement those amendments.

(2) A description of the role of the Chairman of the Joint Chiefs of Staff in the export control activities of the Department of Defense after those subsections are implemented, together with a discussion of how that role compares to the Chairman’s role in those activities before the implementation of those subsections.

**SEC. 1522. RELEASE OF EXPORT INFORMATION BY DEPARTMENT OF COMMERCE TO OTHER AGENCIES FOR PURPOSE OF NATIONAL SECURITY ASSESSMENT.**

50 USC app.  
2404 note.

(a) **RELEASE OF EXPORT INFORMATION.**—The Secretary of Commerce shall, upon the written request of an official specified in subsection (c), transmit to that official any information relating to exports that is held by the Department of Commerce and is requested by that official for the purpose of assessing national security risks. The Secretary shall transmit such information within 10 business days after receiving such a request.

(b) **NATURE OF INFORMATION.**—The information referred to in subsection (a) includes information concerning—

- (1) export licenses issued by the Department of Commerce;
- (2) exports that were carried out under an export license issued by the Department of Commerce; and
- (3) exports from the United States that were carried out without an export license.

(c) **REQUESTING OFFICIALS.**—The officials referred to in subsection (a) are the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of Central Intelligence. Each of those officials may delegate to any other official within

their respective departments and agency the authority to request information under subsection (a).

President.  
42 USC 2155  
note.

**SEC. 1523. NUCLEAR EXPORT REPORTING REQUIREMENT.**

(a) NOTIFICATION OF CONGRESS.—The President shall notify Congress upon the granting of a license by the Nuclear Regulatory Commission for the export or reexport of any nuclear-related technology or equipment, including source material, special nuclear material, or equipment or material especially designed or prepared for the processing, use, or production of special nuclear material.

(b) APPLICABILITY.—The requirements of this section shall apply only to an export or reexport to a country that—

(1) the President has determined is a country that has detonated a nuclear explosive device; and

(2) is not a member of the North Atlantic Treaty Organization.

50 USC app.  
2404 note.

**SEC. 1524. EXECUTION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.**

Section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1932) is amended by adding at the end the following new subsection:

“(g) DELEGATION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.—For the purposes of the Department of Defense, the authority to issue an objection referred to in subsection (a) shall be executed for the Secretary of Defense by an official at the Assistant Secretary level within the office of the Under Secretary of Defense for Policy. In implementing subsection (a), the Secretary of Defense shall ensure that Department of Defense procedures maximize the ability of the Department of Defense to be able to issue an objection within the 10-day period specified in subsection (c).”.

## Subtitle D—Counterproliferation Matters

**SEC. 1531. ONE-YEAR EXTENSION OF COUNTERPROLIFERATION AUTHORITIES FOR SUPPORT OF UNITED NATIONS SPECIAL COMMISSION ON IRAQ.**

(a) AMOUNT AUTHORIZED FOR FISCAL YEAR 1999.—The total amount of assistance for fiscal year 1999 provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) that is provided for activities of the Department of Defense in support of the United Nations Special Commission on Iraq, may not exceed \$15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking out “1998” and inserting in lieu thereof “1999”.

**SEC. 1532. SENSE OF CONGRESS ON NUCLEAR TESTS IN SOUTH ASIA.**

The Congress—

(1) strongly condemns the decisions by the Governments of India and Pakistan to conduct nuclear tests in May 1998;

(2) calls for the Governments of India and Pakistan to commit not to conduct any additional nuclear tests;

(3) urges the Governments of India and Pakistan to take immediate steps to reduce tensions between the two countries;

(4) urges India and Pakistan to engage in high-level dialogue aimed at reducing the likelihood of armed conflict, enacting confidence and security building measures, and resolving areas of dispute;

(5) commends all nations to take steps which will reduce tensions in South Asia, including appropriate measures to prevent the transfer of technology that could further exacerbate the arms race in South Asia, and thus avoid further deterioration of security there;

(6) calls upon the President, leaders of all nations, and the United Nations to encourage a diplomatic, negotiated solution between the Governments of India and Pakistan to promote peace and stability in South Asia and resolve the current impasse;

(7) encourages United States diplomatic leadership in assisting the Governments of India and Pakistan to seek a negotiated resolution of their 50-year conflict over the disputed territory in Kashmir;

(8) urges India and Pakistan to take immediate, binding, and verifiable steps to roll back their nuclear programs and come into compliance with internationally accepted norms regarding the proliferation of weapons of mass destruction; and

(9) urges the United States to reevaluate its bilateral relationship with India and Pakistan, in light of the new regional security realities in South Asia, with the goal of preventing further nuclear and ballistic missile proliferation, diffusing long-standing regional rivalries between India and Pakistan, and securing commitments from India and Pakistan which, if carried out, could result in a calibrated lifting of United States sanctions imposed under the Arms Export Control Act and the Nuclear Proliferation Prevention Act of 1994.

**SEC. 1533. REPORT ON REQUIREMENTS FOR RESPONSE TO INCREASED MISSILE THREAT IN ASIA-PACIFIC REGION.**

(a) **STUDY.**—The Secretary of Defense shall carry out a study of the architecture requirements for the establishment and operation of a theater ballistic missile defense system in the Asia-Pacific region that would have the capability to protect key regional allies of the United States.

(b) **REPORT.**—(1) Not later than January 1, 1999, the Secretary shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report containing—

(A) the results of the study conducted under subsection

(a);

(B) the factors used to obtain such results; and

(C) a description of any United States missile defense system currently deployed or under development that could be transferred to key allies of the United States in the Asia-Pacific region to provide for their self-defense against limited ballistic missile attacks.

(2) The report shall be submitted in both classified and unclassified form.

Military  
Construction  
Authorization  
Act for Fiscal  
Year 1999.

## DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

### SEC. 2001. SHORT TITLE.

This division may be cited as the “Military Construction Authorization Act for Fiscal Year 1999”.

## TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.

Sec. 2102. Family housing.

Sec. 2103. Improvements to military family housing units.

Sec. 2104. Authorization of appropriations, Army.

Sec. 2105. Modification of authority to carry out fiscal year 1998 projects.

### SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

**Army: Inside the United States**

State	Installation or location	Amount
Alabama .....	Anniston Army Depot .....	\$3,550,000
	Fort Rucker .....	\$14,300,000
	Redstone Arsenal .....	\$1,550,000
Alaska .....	Fort Wainwright .....	\$22,600,000
California .....	Fort Irwin .....	\$14,800,000
Georgia .....	Fort Benning .....	\$28,600,000
Hawaii .....	Schofield Barracks .....	\$71,000,000
Illinois .....	Rock Island Arsenal .....	\$5,300,000
Indiana .....	Crane Army Ammunition Activity .....	\$7,100,000
Kansas .....	Fort Riley .....	\$41,000,000
Kentucky .....	Blue Grass Army Depot .....	\$5,300,000
	Fort Campbell .....	\$75,000,000
	Fort Knox .....	\$23,000,000
Louisiana .....	Fort Polk .....	\$8,300,000
Maryland .....	Fort Detrick .....	\$3,550,000
	Fort Meade .....	\$5,300,000
Missouri .....	Fort Leonard Wood .....	\$28,200,000
New Jersey .....	Fort Monmouth .....	\$7,600,000
	Picatinny Arsenal .....	\$8,400,000
New York .....	Fort Drum .....	\$4,650,000
	United States Military Academy, West Point .....	\$85,000,000
North Carolina .....	Fort Bragg .....	\$95,900,000
Oklahoma .....	Fort Sill .....	\$13,800,000
	McAlester Army Ammunition Plant ..	\$10,800,000
Texas .....	Fort Bliss .....	\$4,100,000
	Fort Hood .....	\$32,500,000
	Fort Sam Houston .....	\$27,300,000
Utah .....	Tooele Army Depot .....	\$3,900,000
Virginia .....	National Ground Intelligence Center, Charlottesville .....	\$46,200,000
	Fort Eustis .....	\$41,181,000
	Fort Myer .....	\$6,200,000

**Army: Inside the United States—Continued**

State	Installation or location	Amount
Washington .....	Fort Lewis .....	\$18,200,000
CONUS Classified .....	Classified Location .....	\$4,600,000
	Total .....	\$768,781,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

**Army: Outside the United States**

Country	Installation or location	Amount
Belgium .....	80th Area Support Group .....	\$6,300,000
Germany .....	Schweinfurt .....	\$18,000,000
	Wurzburg .....	\$4,250,000
Korea .....	Camp Casey .....	\$21,400,000
	Camp Castle .....	\$18,226,000
	Camp Humphreys .....	\$8,500,000
	Camp Stanley .....	\$5,800,000
Kwajalein .....	Kwajalein Atoll .....	\$48,600,000
	Total .....	\$131,076,000

**SEC. 2102. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

**Army: Family Housing**

State	Installation or location	Purpose	Amount
Alabama .....	Redstone Arsenal .....	118 Units .....	\$14,000,000
Hawaii .....	Schofield Barracks .....	64 Units .....	\$14,700,000
North Carolina .....	Fort Bragg .....	170 Units .....	\$19,800,000
Texas .....	Fort Hood .....	154 Units .....	\$21,600,000
Virginia .....	Fort Lee .....	80 Units .....	\$13,000,000
		Total .....	\$83,100,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$6,350,000.

**SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may

improve existing military family housing units in an amount not to exceed \$48,479,000.

**SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of \$2,098,713,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), \$609,781,000.

(2) For military construction projects outside the United States authorized by section 2101(b), \$95,076,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, \$12,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$64,269,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$137,929,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), \$1,097,697,000.

(6) For the construction of the missile software engineering annex, phase II, Redstone Arsenal, Alabama, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105-85; 111 Stat. 1966), \$13,600,000.

(7) For the construction of a disciplinary barracks, phase II, Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, \$29,000,000.

(8) For the construction of the whole barracks complex renewal, Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, \$20,500,000.

(9) For rail yard expansion at Fort Carson, Colorado, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, \$23,000,000.

(10) For the construction of an aerial gunnery range at Fort Drum, New York, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, \$9,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) \$16,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a multipurpose digital training range at Fort Knox, Kentucky);



(3) \$15,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a railhead facility at Fort Hood, Texas);

(4) \$73,000,000 (the balance of the amount authorized under section 2101(a) for the construction of a cadet development center at the United States Military Academy, West Point, New York);

(5) \$36,000,000 (the balance of the amount authorized under section 2101(b) for the construction of a powerplant on Roi Namur Island at Kwajalein Atoll, Kwajalein);

(6) \$3,500,000 (the balance of the amount authorized under section 2101(a) for the construction of the whole barracks complex renewal at Fort Wainwright, Alaska);

(7) \$24,500,000 (the balance of the amount authorized under section 2101(a) for the construction of the whole barracks complex renewal at Fort Riley, Kansas); and

(8) \$27,000,000 (the balance of the amount authorized under section 2101(a) for the construction of the whole barracks complex renewal at Fort Campbell, Kentucky).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (10) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—

(1) \$2,639,000, which represents the combination of project savings in military family housing construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes;

(2) \$3,000,000, which represents the combination of savings in military family housing support resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes; and

(3) \$8,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

**SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1998 PROJECTS.**

(a) MODIFICATION.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105-85; 111 Stat. 1967) is amended—

(1) in the item relating to Fort Drum, New York, by striking out “\$24,400,000” in the amount column and inserting in lieu thereof “\$24,900,000”;

(2) in the item relating to Fort Sill, Oklahoma, by striking out “\$25,000,000” in the amount column and inserting in lieu thereof “\$28,500,000”; and

(3) by striking out the amount identified as the total in the amount column and inserting in lieu thereof “\$602,750,000”.

(b) CONFORMING AMENDMENTS.—Section 2104 of that Act (111 Stat. 1968) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking out “\$2,010,466,000” and inserting in lieu thereof “\$2,013,966,000”; and

(B) in paragraph (1), by striking out “\$435,350,000” and inserting in lieu thereof “\$438,850,000”; and

(2) in subsection (b)(8), by striking out “\$8,500,000” and inserting in lieu thereof “\$9,000,000”.

## TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorization of appropriations, Navy.

Sec. 2205. Authorization to accept road construction project, Marine Corps Base, Camp Lejeune, North Carolina.

### SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

**Navy: Inside the United States**

State	Installation or location	Amount
Arizona .....	Marine Corps Air Station, Yuma .....	\$11,010,000
	Naval Observatory Detachment, Flagstaff .....	\$990,000
California .....	Marine Corps Air Station, Miramar .....	\$29,570,000
	Marine Corps Base, Camp Pendleton .....	\$40,430,000
	Naval Air Station, Lemoore .....	\$20,640,000
	Naval Air Warfare Center Weapons Division, China Lake .....	\$10,140,000
	Naval Facility, San Clemente Island .....	\$8,350,000
	Naval Submarine Base, San Diego .....	\$11,400,000
Connecticut .....	Naval Submarine Base, New London .....	\$11,330,000
District of Columbia .....	Naval District, Washington .....	\$790,000
Florida .....	Naval Air Station, Key West .....	\$3,730,000
	Naval Air Station, Jacksonville .....	\$1,500,000
	Naval Air Station, Whiting Field .....	\$1,400,000
	Naval Station, Mayport .....	\$6,163,000
Georgia .....	Marine Corps Logistics Base, Albany .....	\$2,800,000
	Naval Submarine Base, Kings Bay .....	\$2,550,000
Hawaii .....	Fleet and Industrial Supply Center, Pearl Harbor .....	\$9,730,000
	Marine Corps Air Station, Kaneohe Bay .....	\$46,410,000
	Naval Communications & Telecommunications Area Master Station Eastern Pacific, Wahiawa .....	\$1,970,000
	Naval Shipyard, Pearl Harbor .....	\$11,400,000
	Naval Station, Pearl Harbor .....	\$18,180,000
	Naval Submarine Base, Pearl Harbor .....	\$8,060,000
	Navy Public Works Center, Pearl Harbor .....	\$28,967,000
Illinois .....	Naval Training Center, Great Lakes .....	\$19,950,000
Indiana .....	Naval Surface Warfare Center, Crane .....	\$11,110,000
Maryland .....	Naval Surface Warfare Center, Indian Head Division, Indian Head .....	\$13,270,000
	United States Naval Academy .....	\$4,300,000
Mississippi .....	Naval Air Station, Meridian .....	\$3,280,000
	Naval Construction Battalion Center, Gulfport .....	\$10,670,000

**Navy: Inside the United States—Continued**

State	Installation or location	Amount
North Carolina .....	Marine Corps Air Station, Cherry Point .....	\$6,040,000
	Marine Corps Base, Camp LeJeune .....	\$14,600,000
Pennsylvania .....	Naval Surface Warfare Center Ship Systems Engineering Station, Philadelphia .....	\$2,410,000
	Naval Inventory Control Point, Mechanicsburg .....	\$1,600,000
	Naval Inventory Control Point, Philadelphia .....	\$1,550,000
Rhode Island .....	Naval Education and Training Center, Newport .....	\$5,630,000
	Naval Undersea Warfare Center Division, Newport .....	\$9,140,000
South Carolina .....	Marine Corps Air Station, Beaufort .....	\$1,770,000
	Marine Corps Reserve Detachment, Parris Island .....	\$15,990,000
	Naval Weapons Station, Charleston .....	\$9,737,000
Texas .....	Naval Station, Ingleside .....	\$12,200,000
Virginia .....	Fleet and Industrial Supply Center, Norfolk (Crane Island) .....	\$1,770,000
	Fleet Training Center, Norfolk .....	\$5,700,000
	Naval Air Station, Oceana .....	\$6,400,000
	Naval Shipyard, Norfolk, Portsmouth ..	\$6,180,000
	Naval Station, Norfolk .....	\$45,530,000
	Naval Surface Warfare Center, Dahlgren .....	\$15,680,000
	Tactical Training Group Atlantic, Dam Neck .....	\$2,430,000
Washington .....	Naval Shipyard, Puget Sound .....	\$4,300,000
	Strategic Weapons Facility Pacific, Bremerton .....	\$2,750,000
	Total .....	\$521,497,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

**Navy: Outside the United States**

Country	Installation or location	Amount
Greece .....	Naval Support Activity, Souda Bay .....	\$5,260,000
Guam .....	Naval Activities, Guam .....	\$10,310,000
Italy .....	Naval Support Activity, Naples .....	\$18,270,000
United Kingdom .....	Joint Maritime Communications Center, St. Mawgan .....	\$2,010,000
	Total .....	\$35,850,000

**SEC. 2202. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire

family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

**Navy: Family Housing**

State	Installation or location	Purpose	Amount
California .....	Naval Air Station, Lemoore .....	162 Units .....	\$30,379,000
Hawaii .....	Navy Public Works Center, Pearl Harbor .....	150 Units .....	\$29,125,000
		Total .....	\$59,504,000

(b) **PLANNING AND DESIGN.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed \$15,618,000.

**SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed \$227,791,000.

**SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of \$1,812,476,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), \$503,997,000.

(2) For military construction projects outside the United States authorized by section 2201(b), \$35,850,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, \$9,900,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$60,846,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$302,913,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), \$915,293,000.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) \$13,500,000 (the balance of the amount authorized under section 2202(a) for the construction of a berthing pier at Naval Station, Norfolk, Virginia); and

(3) \$4,000,000 (the balance of the amount authorized under section 2201(a) for the construction of a bachelor enlisted quarters at Marine Corps Air Station, Kaneohe Bay, Hawaii).

(c) **ADJUSTMENT.**—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—

(1) \$7,323,000, which represents the combination of project savings in military family housing construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes;

(2) \$3,000,000, which represents the combination of savings in military family housing support resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes; and

(3) \$6,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

**SEC. 2205. AUTHORIZATION TO ACCEPT ROAD CONSTRUCTION PROJECT, MARINE CORPS BASE, CAMP LEJEUNE, NORTH CAROLINA.**

The Secretary of the Navy may accept from the State of North Carolina a road construction project valued at approximately \$2,000,000, which is to be constructed at Marine Corps Base, Camp Lejeune, North Carolina, in accordance with plans and specifications acceptable to the Secretary.

## **TITLE XXIII—AIR FORCE**

Sec. 2301. Authorized Air Force construction and land acquisition projects.

Sec. 2302. Family housing.

Sec. 2303. Improvements to military family housing units.

Sec. 2304. Authorization of appropriations, Air Force.

**SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

**Air Force: Inside the United States**

State	Installation or location	Amount
Alabama .....	Maxwell Air Force Base .....	\$19,398,000
Alaska .....	Eielson Air Force Base .....	\$4,352,000
Arizona .....	Luke Air Force Base .....	\$3,400,000
Arkansas .....	Little Rock Air Force Base .....	\$1,500,000
California .....	Edwards Air Force Base .....	\$10,361,000
	Travis Air Force Base .....	\$4,250,000
	Vandenberg Air Force Base .....	\$18,709,000
Colorado .....	Falcon Air Force Station .....	\$9,601,000

**Air Force: Inside the United States—Continued**

State	Installation or location	Amount
	United States Air Force Academy	\$4,413,000
District of Columbia .....	Bolling Air Force Base .....	\$2,948,000
Florida .....	Eglin Air Force Base .....	\$20,437,000
	Eglin Auxiliary Field 9 .....	\$3,837,000
	MacDill Air Force Base .....	\$9,808,000
	Tyndall Air Force Base .....	\$3,600,000
Georgia .....	Robins Air Force Base .....	\$11,894,000
Hawaii .....	Hickam Air Force Base .....	\$5,890,000
Idaho .....	Mountain Home Air Force Base ....	\$17,897,000
Kansas .....	McConnell Air Force Base .....	\$4,450,000
Louisiana .....	Barksdale Air Force Base .....	\$9,300,000
Maryland .....	Andrews Air Force Base .....	\$4,448,000
Massachusetts .....	Hanscom Air Force Base .....	\$10,000,000
Mississippi .....	Columbus Air Force Base .....	\$5,700,000
	Keesler Air Force Base .....	\$35,526,000
Montana .....	Malmstrom Air Force Base .....	\$7,900,000
Nevada .....	Indian Springs Air Force Auxiliary Air Field .....	\$15,013,000
	Nellis Air Force Base .....	\$6,378,000
New Jersey .....	McGuire Air Force Base .....	\$6,044,000
New Mexico .....	Holloman Air Force Base .....	\$11,100,000
	Kirtland Air Force Base .....	\$8,574,000
North Carolina .....	Seymour Johnson Air Force Base ..	\$6,100,000
North Dakota .....	Grand Forks Air Force Base .....	\$11,486,000
	Minot Air Force Base .....	\$8,500,000
Ohio .....	Wright-Patterson Air Force Base ..	\$22,000,000
Oklahoma .....	Altus Air Force Base .....	\$9,300,000
	Tinker Air Force Base .....	\$24,985,000
	Vance Air Force Base .....	\$6,223,000
South Carolina .....	Charleston Air Force Base .....	\$24,330,000
South Dakota .....	Ellsworth Air Force Base .....	\$6,500,000
Tennessee .....	Arnold Air Force Base .....	\$11,600,000
Texas .....	Dyess Air Force Base .....	\$4,750,000
	Goodfellow Air Force Base .....	\$7,300,000
	Lackland Air Force Base .....	\$14,930,000
	Laughlin Air Force Base .....	\$7,315,000
	Randolph Air Force Base .....	\$3,166,000
Utah .....	Hill Air Force Base .....	\$2,600,000
Washington .....	Fairchild Air Force Base .....	\$15,220,000
	McChord Air Force Base .....	\$51,847,000
	Total .....	\$514,880,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

**Air Force: Outside the United States**

Country	Installation or location	Amount
Germany .....	Spangdahlem Air Base .....	\$9,501,000
Korea .....	Kunsan Air Base .....	\$5,958,000
	Osan Air Base .....	\$7,496,000
Turkey .....	Incirlik Air Base .....	\$2,949,000
United Kingdom .....	Royal Air Force, Lakenheath .....	\$15,838,000
	Royal Air Force, Mildenhall .....	\$24,960,000
	Total .....	\$66,702,000

**SEC. 2302. FAMILY HOUSING.**

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

**Air Force: Family Housing**

State	Installation or location	Purpose	Amount
Alabama .....	Maxwell Air Force Base .....	143 Units .....	\$16,300,000
Alaska .....	Eielson Air Force Base .....	46 Units .....	\$12,932,000
California .....	Edwards Air Force Base .....	48 Units .....	\$12,580,000
	Vandenberg Air Force Base .....	95 Units .....	\$18,499,000
Delaware .....	Dover Air Force Base .....	55 Units .....	\$8,998,000
Florida .....	MacDill Air Force Base .....	48 Units .....	\$7,609,000
	Patrick Air Force Base .....	46 Units .....	\$9,692,000
	Tyndall Air Force Base .....	122 Units .....	\$14,500,000
Mississippi .....	Columbus Air Force Base .....	52 Units .....	\$6,800,000
	Keesler Air Force Base .....	52 Units .....	\$6,800,000
Montana .....	Malmstrom Air Force Base .....	50 Units .....	\$10,000,000
Nebraska .....	Offutt Air Force Base .....	Ancillary Facility .....	\$870,000
	Offutt Air Force Base .....	Ancillary Facility .....	\$900,000
	Offutt Air Force Base .....	90 Units .....	\$12,212,000
Nevada .....	Nellis Air Force Base .....	28 Units .....	\$5,000,000
New Mexico .....	Kirtland Air Force Base .....	37 Units .....	\$6,400,000
Ohio .....	Wright-Patterson Air Force Base .....	40 Units .....	\$5,600,000
Texas .....	Dyess Air Force Base .....	64 Units .....	\$9,415,000
	Sheppard Air Force Base .....	65 Units .....	\$7,000,000

**Air Force: Family Housing—Continued**

State	Installation or location	Purpose	Amount
Washington .....	Fairchild Air Force Base .....	Ancillary Facility .....	\$1,692,000
	Fairchild Air Force Base .....	14 Units .....	\$2,300,000
		Total .....	\$176,099,000

(b) **PLANNING AND DESIGN.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed \$11,342,000.

**SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed \$104,108,000.

**SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.**

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of \$1,679,978,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), \$514,880,000.

(2) For military construction projects outside the United States authorized by section 2301(b), \$66,702,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, \$8,135,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$38,092,000.

(5) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$291,549,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), \$785,204,000.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) **ADJUSTMENT.**—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by—



(1) \$10,584,000, which represents the combination of project savings in military family housing construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes;

(2) \$2,000,000,000, which represents the combination of savings in military family housing support resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes; and

(3) \$12,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

## TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.

Sec. 2402. Improvements to military family housing units.

Sec. 2403. Energy conservation projects.

Sec. 2404. Authorization of appropriations, Defense Agencies.

Sec. 2405. Repeal of fiscal year 1997 authorization of appropriations for certain military housing improvement program.

Sec. 2406. Modification of authority to carry out certain fiscal year 1995 projects.

Sec. 2407. Modification of authority to carry out fiscal year 1990 project.

### SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

**Defense Agencies: Inside the United States**

Agency	Installation or location	Amount
Chemical Demilitarization ..	Aberdeen Proving Ground, Maryland .....	\$186,350,000
	Newport Army Depot, Indiana .....	\$191,550,000
Defense Logistics Agency ....	Defense Fuel Support Point, Fort Sill, Oklahoma .....	\$3,500,000
	Defense Fuel Support Point, Jacksonville Annex, Mayport, Florida .....	\$11,020,000
	Defense Fuel Support Point, Jacksonville, Florida .....	\$11,000,000
	Defense General Supply Center, Richmond (DLA), Virginia .....	\$10,500,000
	Defense Fuel Supply Center, Camp Shelby, Mississippi .....	\$5,300,000
	Defense Fuel Supply Center, Elmendorf Air Force Base, Alaska .....	\$19,500,000
	Defense Fuel Supply Center, Pope Air Force Base, North Carolina .....	\$4,100,000
	Various Locations .....	\$1,300,000
Defense Medical Facilities Office .....	Barksdale Air Force Base, Louisiana .....	\$3,450,000
	Beale Air Force Base, California ...	\$3,500,000
	Carlisle Barracks, Pennsylvania ...	\$4,678,000
	Cheatham Annex, Virginia .....	\$11,300,000

**Defense Agencies: Inside the United States—Continued**

<b>Agency</b>	<b>Installation or location</b>	<b>Amount</b>
Defense Education Activity	Edwards Air Force Base, California .....	\$6,000,000
	Eglin Air Force Base, Florida .....	\$9,200,000
	Fort Bragg, North Carolina .....	\$6,500,000
	Fort Hood, Texas .....	\$14,100,000
	Fort Stewart/Hunter Army Air Field, Georgia .....	\$10,400,000
	Grand Forks Air Force Base, North Dakota .....	\$5,600,000
	Holloman Air Force Base, New Mexico .....	\$1,300,000
	Keesler Air Force Base, Mississippi .....	\$700,000
	Marine Corps Air Station, Camp Pendleton, California .....	\$6,300,000
	McChord Air Force Base, Washington .....	\$20,000,000
	Moody Air Force Base, Georgia ....	\$11,000,000
	Naval Air Station, Pensacola, Florida .....	\$25,400,000
	Naval Hospital, Bremerton, Washington .....	\$28,000,000
	Naval Hospital, Great Lakes, Illinois .....	\$7,100,000
	Naval Station, San Diego, California .....	\$1,350,000
	Naval Submarine Base, Bangor, Washington .....	\$5,700,000
	Travis Air Force Base, California ..	\$1,700,000
	Marine Corps Base, Camp LeJeune, North Carolina .....	\$16,900,000
	United States Military Academy, West Point, New York .....	\$2,840,000
	Fort Meade, Maryland .....	\$668,000
	National Security Agency ... Special Operations Command .....	Eglin Auxiliary Field 3, Florida ....
		Eglin Auxiliary Field 9, Florida ....
		Fort Campbell, Kentucky .....
		MacDill Air Force Base, Florida ....
		Naval Amphibious Base, Coronado, California .....
		Stennis Space Center, Mississippi ..
	Total .....	\$690,016,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

**Defense Agencies: Outside the United States**

<b>Agency</b>	<b>Installation or location</b>	<b>Amount</b>
Defense Logistics Agency ....	Lajes Field, Azores, Portugal .....	\$7,700,000
Defense Medical Facilities Office .....	Naval Air Station, Sigonella, Italy ..	\$5,300,000

**Defense Agencies: Outside the United States—Continued**

Agency	Installation or location	Amount
Defense Education Activity	Royal Air Force, Lakenheath, United Kingdom .....	\$10,800,000
	Fort Buchanan, Puerto Rico .....	\$8,805,000
	Naval Activities, Guam .....	\$13,100,000
Special Operations Command .....	Naval Station, Roosevelt Roads, Puerto Rico .....	\$9,600,000
	Total .....	\$55,305,000

**SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(11)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed \$345,000.

**SEC. 2403. ENERGY CONSERVATION PROJECTS.**

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(9), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

**SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of \$2,223,260,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), \$369,966,000.

(2) For military construction projects outside the United States authorized by section 2401(a), \$55,305,000.

(3) For construction of the Ammunition Demilitarization Facility, Pine Bluff Arsenal, Arkansas, authorized by section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539), section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1982), and section 2406 of this Act, \$16,500,000.

(4) For construction of the Ammunition Demilitarization Facility, Umatilla Army Depot, Oregon, authorized by section 2401 of the Military Construction Authorization Act for Fiscal Year 1995, as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996, section 2408 of the Military Construction Authorization Act for Fiscal Year 1998, and section 2406 of this Act, \$50,950,000.

(5) For military construction projects at Portsmouth Naval Hospital, Virginia, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189;

106 Stat. 1640), as amended by section 2407 of this Act, \$17,954,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$13,394,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, \$4,890,000.

(8) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$41,005,000.

(9) For energy conservation projects authorized by section 2403, \$46,950,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), \$1,630,902,000.

(11) For military family housing functions:

(A) For improvement of military family housing and facilities, \$345,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), \$36,899,000 of which not more than \$31,139,000 may be obligated or expended for the leasing of military family housing units worldwide.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, \$2,000,000.

(b) **LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variation authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) \$162,050,000 (the balance of the amount authorized under section 2401(a) for the construction of the Ammunition Demilitarization Facility at Newport Army Depot, Indiana); and

(3) \$158,000,000 (the balance of the amount authorized under section 2401(a) for the construction of the Ammunition Demilitarization Facility at Aberdeen Proving Ground, Maryland).

(c) **ADJUSTMENT.**—The total amount authorized to be appropriated pursuant to paragraphs (1) through (11) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by \$63,800,000 (of which \$50,500,000 represents savings from military construction for chemical demilitarization), which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

**SEC. 2405. REPEAL OF FISCAL YEAR 1997 AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN MILITARY HOUSING IMPROVEMENT PROGRAM.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 2406(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104-201; 110 Stat. 2778) is amended—

(1) by striking out “\$3,379,703,000” and inserting in lieu thereof “\$3,374,703,000”; and

(2) in paragraph (14), by striking out subparagraph (D).

(b) CREDIT AND USE OF FUNDS.—Section 2404 of that Act (110 Stat. 2777) is amended—

(1) in subsection (a)—

(A) by striking out “(1)” before “Of”; and

(B) by striking out paragraph (2); and

(2) in subsection (b)—

(A) by striking out “(1)” before “The”;

(B) by striking out “subsection (a)(1)” and inserting in lieu thereof “subsection (a)”; and

(C) by striking out paragraph (2).

**SEC. 2406. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1995 PROJECTS.**

The table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103-337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 539) and section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105-85; 111 Stat. 1982), under the agency heading relating to Chemical Weapons and Munitions Destruction, is amended—

(1) in the item relating to Pine Bluff Arsenal, Arkansas, by striking out “\$134,000,000” in the amount column and inserting in lieu thereof “\$154,400,000”; and

(2) in the item relating to Umatilla Army Depot, Oregon, by striking out “\$187,000,000” in the amount column and inserting in lieu thereof “\$193,377,000”.

**SEC. 2407. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1990 PROJECT.**

(a) INCREASE.—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 100-189; 103 Stat. 1640) is amended in the item relating to Portsmouth Naval Hospital, Virginia, by striking out “\$330,000,000” and inserting in lieu thereof “\$351,354,000”.

(b) CONFORMING AMENDMENT.—Section 2405(b)(2) of that Act (103 Stat. 1642) is amended by striking out “\$321,500,000” and inserting in lieu thereof “\$342,854,000”.

## **TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM**

Sec. 2501. Authorized NATO construction and land acquisition projects.

Sec. 2502. Authorization of appropriations, NATO.

**SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount

not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

**SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.**

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of \$154,000,000.

## **TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES**

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

Sec. 2602. Modification of authority to carry out fiscal year 1998 project.

**SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND  
LAND ACQUISITION PROJECTS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years beginning after September 30, 1998, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, \$142,403,000; and

(B) for the Army Reserve, \$102,119,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, \$31,621,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, \$169,801,000; and

(B) for the Air Force Reserve, \$34,371,000.

(b) ADJUSTMENT.—(1) The amount authorized to be appropriated pursuant to subsection (a)(1)(A) is reduced by \$2,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

(2) The amount authorized to be appropriated pursuant to subsection (a)(3)(A) is reduced by \$4,000,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

**SEC. 2602. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR  
1998 PROJECT.**

Section 2603 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105-85; 111 Stat. 1983) is amended to read as follows:

**“SEC. 2603. ARMY RESERVE CONSTRUCTION PROJECT, SALT LAKE CITY, UTAH.**

“With regard to the military construction project for the Army Reserve concerning construction of a reserve center and organizational maintenance shop at an appropriate site in, or in the vicinity of, Salt Lake City, Utah, to be carried out using funds appropriated pursuant to the authorization of appropriations in section 2601(a)(1)(B), the Secretary of the Army shall enter into an agreement with the State of Utah under which the State agrees to provide financial or in-kind contributions in connection with the project.”.

**TITLE XXVII—EXPIRATION AND  
EXTENSION OF AUTHORIZATIONS**

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.

Sec. 2702. Extension of authorizations of certain fiscal year 1996 projects.

Sec. 2703. Extension of authorization of fiscal year 1995 project.

Sec. 2704. Effective date.

**SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS  
REQUIRED TO BE SPECIFIED BY LAW.**

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2001; or

(2) the date of enactment of an Act authorizing funds for military construction for fiscal year 2002.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2001; or

(2) the date of enactment of an Act authorizing funds for fiscal year 2002 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

**SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR  
1996 PROJECTS.**

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 541), authorizations for the projects set forth in the tables in subsection (b), as provided in section 2201, 2202, 2302, or 2601 of that Act, shall remain in effect until October 1, 1999, or the date of enactment of an Act authorizing funds for military construction for fiscal year 2000, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

**Navy: Extension of 1996 Project Authorizations**

State	Installation or location	Project	Amount
Puerto Rico .....	Naval Station Roosevelt Roads .....	Housing Office	\$710,000
California .....	Camp Pendleton .....	Family Housing Construction (138 units) ....	\$20,000,000

**Air Force: Extension of 1996 Project Authorization**

State	Installation or location	Project	Amount
Texas .....	Lackland Air Force Base .....	Family Housing (67 units) .....	\$6,200,000

**Army National Guard: Extension of 1996 Project Authorizations**

State	Installation or location	Project	Amount
Mississippi .....	Camp Shelby .....	Multipurpose Range Complex (Phase I)	\$5,000,000
Missouri .....	National Guard Training Site, Jefferson City .....	Multipurpose Range .....	\$2,236,000

**SEC. 2703. EXTENSION OF AUTHORIZATION OF FISCAL YEAR 1995 PROJECT.**

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3046), the authorization for the project set forth in the table in subsection (b), as provided in section 2201 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1985), shall remain in effect until October 1, 1999, or the date of enactment of an Act authorizing funds for military construction for fiscal year 2000, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

**Navy: Extension of 1995 Project Authorization**

State	Installation or location	Project	Amount
Maryland .....	Indian Head Naval Surface Warfare Center .....	Denitrification/Acid Mixing Facility .....	\$6,400,000

**SEC. 2704. EFFECTIVE DATE.**

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 1998; or



(2) the date of the enactment of this Act.

## **TITLE XXVIII—GENERAL PROVISIONS**

### **Subtitle A—Military Construction Program and Military Family Housing Changes**

- Sec. 2801. Architectural and engineering services and construction design.
- Sec. 2802. Expansion of Army overseas family housing lease authority.
- Sec. 2803. Definition of ancillary supporting facilities under alternative authority for acquisition and improvement of military housing.
- Sec. 2804. Purchase of build-to-lease family housing at Eielson Air Force Base, Alaska.
- Sec. 2805. Report relating to improvement of housing for unaccompanied members.

### **Subtitle B—Real Property and Facilities Administration**

- Sec. 2811. Exceptions to real property transaction reporting requirements for war and certain emergency and other operations.
- Sec. 2812. Restoration of Department of Defense lands used by another Federal agency.
- Sec. 2813. Outdoor recreation development on military installations for disabled veterans, military dependents with disabilities, and other persons with disabilities.
- Sec. 2814. Report on leasing and other alternative uses of nonexcess military property.
- Sec. 2815. Report on implementation of utility system conveyance authority.

### **Subtitle C—Defense Base Closure and Realignment**

- Sec. 2821. Applicability of property disposal laws to leases at installations to be closed or realigned under base closure laws.
- Sec. 2822. Elimination of waiver authority regarding prohibition against certain conveyances of property at Naval Station, Long Beach, California.
- Sec. 2823. Payment of stipulated penalties assessed under CERCLA in connection with McClellan Air Force Base, California.

### **Subtitle D—Land Conveyances**

#### **PART I—ARMY CONVEYANCES**

- Sec. 2831. Modification of land conveyance, Army Reserve Center, Youngstown, Ohio.
- Sec. 2832. Release of interests in real property, former Kennebec Arsenal, Augusta, Maine.
- Sec. 2833. Release, waiver, or conveyance of interests in real property, former Redstone Army Arsenal property, Alabama.
- Sec. 2834. Conveyance of utility systems, Lone Star Army Ammunition Plant, Texas.
- Sec. 2835. Conveyance of water rights and related interests, Rocky Mountain Arsenal, Colorado, for purposes of acquisition of perpetual contracts for water.
- Sec. 2836. Land conveyance, Army Reserve Center, Massena, New York.
- Sec. 2837. Land conveyance, Army Reserve Center, Ogdensburg, New York.
- Sec. 2838. Land conveyance, Army Reserve Center, Jamestown, Ohio.
- Sec. 2839. Land conveyance, Army Reserve Center, Peoria, Illinois.
- Sec. 2840. Land conveyance, Army Reserve Center, Bridgton, Maine.
- Sec. 2841. Land conveyance, Fort Sheridan, Illinois.
- Sec. 2842. Land conveyance, Skaneateles, New York.
- Sec. 2843. Land conveyance, Indiana Army Ammunition Plant, Charlestown, Indiana.
- Sec. 2844. Land conveyance, Volunteer Army Ammunition Plant, Chattanooga, Tennessee.
- Sec. 2845. Land conveyance, Stewart Army Sub-Post, New Windsor, New York.

#### **PART II—NAVY CONVEYANCES**

- Sec. 2851. Conveyance of easement, Marine Corps Base, Camp Pendleton, California.
- Sec. 2852. Land exchange, Naval Reserve Readiness Center, Portland, Maine.
- Sec. 2853. Land conveyance, Naval and Marine Corps Reserve facility, Youngstown, Ohio.
- Sec. 2854. Land conveyance, Naval Air Reserve Center, Minneapolis, Minnesota.

#### **PART III—AIR FORCE CONVEYANCES**

- Sec. 2861. Modification of land conveyance, Eglin Air Force Base, Florida.

- Sec. 2862. Modification of land conveyance, Finley Air Force Station, North Dakota.  
Sec. 2863. Land conveyance, Lake Charles Air Force Station, Louisiana.  
Sec. 2864. Land conveyance, Air Force Housing Facility, La Junta, Colorado.

**Subtitle E—Other Matters**

- Sec. 2871. Modification of authority relating to Department of Defense Laboratory Revitalization Demonstration Program.  
Sec. 2872. Repeal of prohibition on joint use of Gray Army Airfield, Fort Hood, Texas, with civil aviation.  
Sec. 2873. Modification of demonstration project for purchase of fire, security, police, public works, and utility services from local government agencies.  
Sec. 2874. Designation of building containing Navy and Marine Corps Reserve Center, Augusta, Georgia.

**Subtitle A—Military Construction Program  
and Military Family Housing Changes**

**SEC. 2801. ARCHITECTURAL AND ENGINEERING SERVICES AND  
CONSTRUCTION DESIGN.**

(a) INCREASE IN THRESHOLD FOR NOTICE TO CONGRESS.—Subsection (b) of section 2807 of title 10, United States Code, is amended by striking out “\$300,000” and inserting in lieu thereof “\$500,000”.

(b) AVAILABILITY OF APPROPRIATIONS.—Subsection (d) of that section is amended by striking out “study, planning, design, architectural, and engineering services” and inserting in lieu thereof “architectural and engineering services and construction design”.

**SEC. 2802. EXPANSION OF ARMY OVERSEAS FAMILY HOUSING LEASE  
AUTHORITY.**

(a) ALTERNATIVE MAXIMUM UNIT AMOUNTS.—Section 2828(e) of title 10, United States Code, is amended—

(1) in paragraph (2), by inserting, “, and the Secretary of the Army may lease not more than 500 units of family housing in Italy,” after “family housing in Italy”;

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

“(3) In addition to the 450 units of family housing referred to in paragraph (1) for which the maximum lease amount is \$25,000 per unit per year, the Secretary of the Army may lease not more than 800 units of family housing in Korea subject to that maximum lease amount.”.

(b) CONFORMING AMENDMENT.—Paragraph (4) of that section, as redesignated by subsection (a)(2) of this section, is amended by striking out “and (2)” and inserting in lieu thereof “, (2), and (3)”.

**SEC. 2803. DEFINITION OF ANCILLARY SUPPORTING FACILITIES  
UNDER ALTERNATIVE AUTHORITY FOR ACQUISITION  
AND IMPROVEMENT OF MILITARY HOUSING.**

Section 2871(1) of title 10, United States Code, is amended by inserting after “including” the following: “facilities to provide or support elementary or secondary education,”.

**SEC. 2804. PURCHASE OF BUILD-TO-LEASE FAMILY HOUSING AT EIELSON AIR FORCE BASE, ALASKA.**

(a) **AUTHORITY TO PURCHASE.**—The Secretary of the Air Force may purchase the entire interest of the developer in the military family housing project at Eielson Air Force Base, Alaska, described in subsection (b) if the Secretary determines that the purchase is in the best economic interests of the Air Force.

(b) **DESCRIPTION OF PROJECT.**—The military family housing project referred to in this section is the 366-unit military family housing project at Eielson Air Force Base that was constructed by the developer and is being leased by the Secretary under the authority of former subsection (g) of section 2828 of title 10, United States Code (now section 2835 of such title), as added by section 801 of the Military Construction Authorization Act, 1984 (Public Law 98-115; 97 Stat. 782).

(c) **PURCHASE PRICE.**—The purchase price to be paid by the Secretary under this section for the interest of the developer in the military family housing project may not exceed an amount equal to the amount of the outstanding indebtedness of the developer to the lender for the project that would have remained at the time of the purchase under this section if the developer had paid down its indebtedness to the lender for the project in accordance with the original debt instruments for the project.

(d) **TIME FOR PURCHASE.**—(1) Subject to paragraph (2), the Secretary may elect to make the purchase authorized by subsection (a) at any time during or after the term of the lease for the military family housing project.

(2) The Secretary may not make the purchase until 30 days after the date on which the Secretary notifies the congressional defense committees of the Secretary's election to make the purchase under paragraph (1).

**SEC. 2805. REPORT RELATING TO IMPROVEMENT OF HOUSING FOR UNACCOMPANIED MEMBERS.**

(a) **REPORT REQUIRED.**—(1) Not later than April 1, 1999, the Secretary of Defense shall submit to Congress a report on—

(A) the plans of each of the military departments to improve the condition, suitability, and availability of housing for members of the Armed Forces who are unaccompanied by dependents; and

(B) the costs associated with the implementation of the plans.

(2) The Secretary of Defense shall prepare the report in consultation with the Secretaries of the military departments.

(b) **ELEMENTS.**—The report under subsection (a) shall include the following:

(1) The plans and programs of each of the military departments to improve housing on military installations for unaccompanied members of the Armed Forces, including an assessment of the requirement, a schedule to implement such plans and programs, and an explanation of the standards used to determine the adequacy, suitability, and availability of housing outside of military installations.

(2) A justification for the initiative to build single occupancy rooms with a shared bath (commonly known as the “1 Plus 1 Initiative”), including—

(A) a description of the manner in which the initiative is designed to enhance the quality of life for enlisted members and the retention of such members in adequate numbers; and

(B) an assessment of the analysis and data used in the justification to implement the initiative.

(3) The cost for each military department of implementing the initiative, including the amount of funds, by fiscal year, authorized and appropriated for military construction and real property maintenance obligated or expended on the improvement of military housing for unaccompanied members beginning on October 1, 1996, and the amount of funds required to be expended to ensure the suitability of such housing for unaccompanied members.

(4) An explanation of the difference in cost between—

(A) upgrading existing military housing to the standard proposed in the initiative; and

(B) rehabilitating such housing within existing standards.

(5) An assessment of the viability and utility of the authorities provided by subchapter IV of chapter 169 of title 10, United States Code, to contribute to the improvement of the condition, suitability, and availability of housing for unaccompanied members, especially members in junior grades.

(6) The views of the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, the Commandant of the Coast Guard, and each of the senior enlisted members of the Armed Forces regarding the initiative referred to in paragraph (2) and regarding any alternatives to the initiative having the potential of enhancing the quality of life for unaccompanied members, improving the readiness of the Armed Forces, and improving the retention of enlisted members in adequate numbers.

## **Subtitle B—Real Property and Facilities Administration**

### **SEC. 2811. EXCEPTIONS TO REAL PROPERTY TRANSACTION REPORTING REQUIREMENTS FOR WAR AND CERTAIN EMERGENCY AND OTHER OPERATIONS.**

(a) EXCEPTIONS.—Section 2662 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(g) EXCEPTIONS FOR TRANSACTIONS FOR WAR AND CERTAIN EMERGENCY AND OTHER OPERATIONS.—(1) The reporting requirement set forth in subsection (a) shall not apply with respect to a real property transaction otherwise covered by that subsection, and the reporting requirement set forth in subsection (e) shall not apply with respect to a real property transaction otherwise covered by that subsection, if the Secretary concerned determines that the transaction is made as a result of any of the following:

“(A) A declaration of war.

“(B) A declaration of a national emergency by the President pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.).

“(C) A declaration of an emergency or major disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(D) The use of the militia or the armed forces after a proclamation to disperse under section 334 of this title.

“(E) A contingency operation.

“(2) The reporting requirement set forth in subsection (a) shall not apply with respect to a real property transaction otherwise covered by that subsection if the Secretary concerned determines that—

“(A) an event listed in paragraph (1) is imminent; and

“(B) the transaction is necessary for purposes of preparation for such event.

“(3) Not later than 30 days after entering into a real property transaction covered by paragraph (1) or (2), the Secretary concerned shall submit to the committees named in subsection (a) a report on the transaction. The report shall set forth any facts or information which would otherwise have been submitted in a report on the transaction under subsection (a) or (e), as the case may be, but for the operation of paragraph (1) or (2).”.

(b) **STYLISTIC AMENDMENTS.**—That section is further amended—

(1) in subsection (a), by inserting “GENERAL NOTICE AND WAIT REQUIREMENTS.—” after “(a)”;

(2) in subsection (b), by inserting “ANNUAL REPORTS ON CERTAIN MINOR TRANSACTIONS.—” after “(b)”;

(3) in subsection (c), by inserting “GEOGRAPHIC SCOPE; EXCEPTED PROJECTS.—” after “(c)”;

(4) in subsection (d), by inserting “STATEMENTS OF COMPLIANCE IN TRANSACTION INSTRUMENTS.—” after “(d)”;

(5) in subsection (e), by inserting “NOTICE AND WAIT REGARDING LEASES OF SPACE FOR DoD BY GSA.—” after “(e)”;

and

(6) in subsection (f), by inserting “REPORTS ON TRANSACTIONS INVOLVING INTELLIGENCE COMPONENTS.—” after “(f)”.

**SEC. 2812. RESTORATION OF DEPARTMENT OF DEFENSE LANDS USED BY ANOTHER FEDERAL AGENCY.**

(a) **RESTORATION AS TERM OF AGREEMENT.**—Section 2691 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c)(1) As a condition of any lease, permit, license, or other grant of access entered into by the Secretary of a military department with another Federal agency authorizing the agency to use lands under the control of the Secretary, the Secretary may require the agency to agree to remove any improvements and to take any other action necessary in the judgment of the Secretary to restore the land used by the agency to its condition before its use by the agency.

“(2) In lieu of performing any removal or restoration work under paragraph (1), a Federal agency may elect, with the consent of the Secretary, to reimburse the Secretary for the costs incurred by the military department in performing such removal or restoration work.”.

(b) **CLERICAL AMENDMENTS.**—(1) The heading of such section is amended to read as follows:

**“§ 2691. Restoration of land used by permit or lease”.**

(2) The table of sections at the beginning of chapter 159 of title 10, United States Code, is amended by striking the item relating to section 2691 and inserting in lieu thereof the following new item:

“2691. Restoration of land used by permit or lease.”.

**SEC. 2813. OUTDOOR RECREATION DEVELOPMENT ON MILITARY INSTALLATIONS FOR DISABLED VETERANS, MILITARY DEPENDENTS WITH DISABILITIES, AND OTHER PERSONS WITH DISABILITIES.**

(a) ACCESS ENHANCEMENT.—Section 103 of the Sikes Act (16 U.S.C. 670c) is amended by adding at the end the following new subsections:

“(b) ACCESS FOR DISABLED VETERANS, MILITARY DEPENDENTS WITH DISABILITIES, AND OTHER PERSONS WITH DISABILITIES.—(1) In developing facilities and conducting programs for public outdoor recreation at military installations, consistent with the primary military mission of the installations, the Secretary of Defense shall ensure, to the extent reasonably practicable, that outdoor recreation opportunities (including fishing, hunting, trapping, wildlife viewing, boating, and camping) made available to the public also provide access for persons described in paragraph (2) when topographic, vegetative, and water resources allow access for such persons without substantial modification to the natural environment.

“(2) Persons referred to in paragraph (1) are the following:

“(A) Disabled veterans.

“(B) Military dependents with disabilities.

“(C) Other persons with disabilities, when access to a military installation for such persons and other civilians is not otherwise restricted.

“(3) The Secretary of Defense shall carry out this subsection in consultation with the Secretary of Veterans Affairs, national service, military, and veterans organizations, and sporting organizations in the private sector that participate in outdoor recreation projects for persons described in paragraph (2).

“(c) ACCEPTANCE OF DONATIONS.—In connection with the facilities and programs for public outdoor recreation at military installations, in particular the requirement under subsection (b) to provide access for persons described in paragraph (2) of such subsection, the Secretary of Defense may accept—

“(1) the voluntary services of individuals and organizations; and

“(2) donations of property, whether real or personal.

“(d) TREATMENT OF VOLUNTEERS.—A volunteer under subsection (c) shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

“(1) for the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, the volunteer shall be considered to be a Federal employee; and

“(2) for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, the volunteer shall be considered to be an employee, as defined in section 8101(1)(B) of title

5, United States Code, and the provisions of such subchapter shall apply.”.

(b) CONFORMING AMENDMENT.—Such section is further amended by striking out “SEC. 103.” and inserting in lieu thereof the following:

**“SEC. 103. PROGRAM FOR PUBLIC OUTDOOR RECREATION.**

**“(a) PROGRAM AUTHORIZED.—”.**

**SEC. 2814. REPORT ON LEASING AND OTHER ALTERNATIVE USES OF NONEXCESS MILITARY PROPERTY.**

(a) REPORT REQUIRED.—Not later than March 15, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report regarding the authority of the military departments and Defense Agencies to lease to the private sector nonexcess real and personal property. The Secretary shall prepare the report in consultation with the Secretaries of the military departments and the Director of the Office of Management and Budget.

(b) REQUIRED ELEMENTS OF REPORT.—The report shall set forth the following:

(1) The number and purpose of all leases entered into under sections 2667 and 2667a of title 10, United States Code, other than leases under section 2667(f) of that title, during the 5-year period ending on the date of the enactment of this Act.

(2) The types and amounts of payments received under the leases specified in paragraph (1) and the costs, if any, foregone as a result of the leases.

(3) An assessment of the positive and negative aspects of leasing real property and surplus capacity at military installations to the private sector, including the potential effect of the use of the leases on force protection and the military functions of the installations.

(4) An assessment of the current efforts of the Department of Defense to identify for the private sector any surplus capacity at military installations that could be leased or otherwise used by the private sector.

(5) An assessment of the proposal of the Secretary of the Air Force to reduce infrastructure costs at Brooks Air Force Base, Texas, using the authority provided in section 2667 of title 10, United States Code, and the proposal of the Secretary of the Navy regarding the potential for development of Ford Island as part of Naval Complex, Pearl Harbor, Hawaii.

(6) An assessment (including an economic analysis) of the ability of the military departments and Defense Agencies to reduce the quantity of real property leased by them through the relocation of activities located in such leased space to property of a military installation, or another Federal agency, that is unutilized or underutilized, while also lowering operational and maintenance costs and minimizing the need for new construction.

(c) ADDITIONAL ELEMENTS OF REPORT.—In the event that the Secretary of Defense considers the authority under section 2667 or 2667a of title 10, United States Code, to be insufficient, the Secretary shall also include in the report—

(1) a proposal for authority to conduct a pilot project based on the assessment made under subsection (b)(5) or for such general legislative authority as the Secretary considers appropriate to enhance the ability of the Department of Defense to utilize surplus capacity at military installations in order to improve military readiness, achieve cost savings with respect to such installations, or decrease the cost of operating such installations;

(2) an estimate of the income that could accrue to the Department of Defense as a result of the implementation of enhanced authority proposed under paragraph (1) during the 5-year period beginning on the date of such implementation; and

(3) an assessment of the extent to which any such income should be reserved for the use of the installations exercising such authority and of the extent to which installations would be likely to enter into such leases if they cannot retain such income.

**SEC. 2815. REPORT ON IMPLEMENTATION OF UTILITY SYSTEM CONVEYANCE AUTHORITY.**

Not later than March 1, 1999, the Secretary of Defense, in consultation with the Secretaries of the military departments, shall submit to Congress a report containing—

(1) the criteria to be used by the Secretary of a military department to select utility systems, and related improvements, easements, and rights-of-way, under the jurisdiction of the Secretary, for conveyance to a municipal, private, regional, district, or cooperative utility company or other entity under the authority of section 2688 of title 10, United States Code;

(2) an assessment of the need to include, as part of the conveyance authority under such section, authority for the Secretary to convey real property associated with a utility system conveyed under such section; and

(3) a description of the manner in which the Secretary will ensure that any conveyance under such section does not adversely affect the national security of the United States.

## **Subtitle C—Defense Base Closure and Realignment**

**SEC. 2821. APPLICABILITY OF PROPERTY DISPOSAL LAWS TO LEASES AT INSTALLATIONS TO BE CLOSED OR REALIGNED UNDER BASE CLOSURE LAWS.**

Section 2667(f)(1) of title 10, United States Code, is amended by inserting after “subsection (a)(3)” the following: “or the Federal Property and Administrative Services Act of 1949 (to the extent such Act is inconsistent with this subsection)”.

**SEC. 2822. ELIMINATION OF WAIVER AUTHORITY REGARDING PROHIBITION AGAINST CERTAIN CONVEYANCES OF PROPERTY AT NAVAL STATION, LONG BEACH, CALIFORNIA.**

Section 2826 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 2001) is amended by striking out subsection (e).



**SEC. 2823. PAYMENT OF STIPULATED PENALTIES ASSESSED UNDER CERCLA IN CONNECTION WITH MCCLELLAN AIR FORCE BASE, CALIFORNIA.**

(a) **SOURCE OF PAYMENT.**—Notwithstanding subsection (b) of section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), the Secretary of Defense may use amounts in the Department of Defense Base Closure Account 1990 established under subsection (a) of such section to pay stipulated penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against McClellan Air Force Base, California.

(b) **AMOUNT OF PAYMENT.**—The amount expended under the authority of subsection (a) may not exceed \$15,000.

## **Subtitle D—Land Conveyances**

### **PART I—ARMY CONVEYANCES**

**SEC. 2831. MODIFICATION OF LAND CONVEYANCE, ARMY RESERVE CENTER, YOUNGSTOWN, OHIO.**

Section 2861(b) of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 573) is amended by striking out “retain” and all that follows through the period at the end and inserting in lieu thereof “develop the parcel for educational purposes.”.

**SEC. 2832. RELEASE OF INTERESTS IN REAL PROPERTY, FORMER KENNEBEC ARSENAL, AUGUSTA, MAINE.**

(a) **AUTHORITY TO RELEASE.**—The Secretary of the Army may release, without consideration, all right, title, and interest of the United States in and to the real property described in subsection (b).

(b) **COVERED PROPERTY.**—The real property referred to in subsection (a) is the parcel of real property consisting of approximately 40 acres located in Augusta, Maine, and formerly known as the Kennebec Arsenal, which parcel was conveyed by the Secretary of War to the State of Maine under the provisions of the Act entitled “An Act Authorizing the Secretary of War to convey the Kennebec Arsenal property, situated in Augusta, Maine, to the State of Maine for public purposes”, approved March 3, 1905 (33 Stat. 1270), as amended by section 771 of the Department of Defense Appropriations Act, 1981 (Public Law 96-527; 94 Stat. 3093).

(c) **INSTRUMENT OF RELEASE.**—The Secretary of the Army shall execute and file in the appropriate office a deed of release, amended deed, or other appropriate instrument effectuating the release of interests authorized by this section.

**SEC. 2833. RELEASE, WAIVER, OR CONVEYANCE OF INTERESTS IN REAL PROPERTY, FORMER REDSTONE ARMY ARSENAL PROPERTY, ALABAMA.**

(a) **RELEASE AUTHORIZED.**—The Secretary of the Army may release, without consideration and to such extent as the Secretary considers appropriate to protect the interests of the United States, the reversionary interests of the United States in the real property described in subsection (b), which were retained by the United States when the property was conveyed to the Alabama Space

Science Exhibit Commission, an agency of the State of Alabama. The release shall be executed in the manner provided in this section.

(b) DESCRIPTION OF PROPERTY.—The real property referred to in this section is the real property conveyed to the Alabama Space Science Exhibit Commission under the authority of the following provisions of law:

(1) The first section of Public Law 90-276 (82 Stat. 68).

(2) Section 813 of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 952).

(3) Section 813 of the Military Construction Authorization Act, 1984 (Public Law 98-115; 97 Stat. 790).

(c) RELEASE, WAIVER, OR CONVEYANCE OF OTHER RIGHTS, TERMS, AND CONDITIONS.—As part of the release under subsection (a), the Secretary may release, waive, or convey, without consideration and to such extent as the Secretary considers appropriate to protect the interests of the United States—

(1) any and all other rights retained by the United States in and to the real property described in subsection (b) when the property was conveyed to the Alabama Space Science Exhibit Commission; and

(2) any and all terms and conditions and restrictions on the use of the real property imposed as part of the conveyances described in subsection (b).

(d) CONDITIONS ON RELEASE, WAIVER, OR CONVEYANCE.—(1) The Secretary may execute the release under subsection (a) or a release, waiver, or conveyance under subsection (c) only after—

(A) the Secretary approves of the master plan prepared by the Alabama Space Science Exhibit Commission, as such plan may exist or be revised from time to time, for development of the real property described in subsection (b); and

(B) the installation commander at Redstone Arsenal, Alabama, certifies to the Secretary that the release, waiver, or conveyance is consistent with the master plan.

(2) A new facility or structure may not be constructed on the real property described in subsection (b) unless the facility or structure is included in the master plan, which has been approved and certified as provided in paragraph (1).

(e) INSTRUMENT OF RELEASE, WAIVER, OR CONVEYANCE.—In making a release, waiver, or conveyance authorized by this section, the Secretary shall execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release, waiver, or conveyance.

(f) EFFECT OF RELEASE.—Except as provided in subsection (g), upon release of any reversionary interest under this section, the right, title, and interest of the Alabama Space Science Exhibit Commission in and to the real property described in subsection (b) shall, to the extent of the release, no longer be subject to the conditions prescribed in the provisions of law specified in such subsection. Except as provided in subsection (g), the Alabama Space Science Exhibit Commission may use the real property for any such purpose or purposes as it considers appropriate consistent with the master plan approved and certified as provided in subsection (d), and the real property may be conveyed by the Alabama Space Science Exhibit Commission without restriction and unencumbered by any claims or rights of the United States with respect to the property, subject to such rights, terms, and conditions of the United States previously imposed on the real property and

not released, waived, or conveyed by the Secretary under subsection (c).

(g) EXCEPTIONS.—(1) Conveyance of the drainage and utility easement reserved to the United States pursuant to section 813(b)(3) of the Military Construction Authorization Act, 1984 (Public Law 98-115; 97 Stat. 791), is not authorized under this section.

(2) In no event may title to any portion of the real property described in subsection (b) be conveyed by the Alabama Space Science Exhibit Commission or any future deed holder of the real property to any person other than an agency, instrumentality, political subdivision, municipal corporation, or public corporation of the State of Alabama. Any deed conveying title to any portion of the real property described in subsection (b) shall restrict the further use of the conveyed property to purposes and uses consistent with the master plan approved and certified as provided in subsection (d), unless otherwise approved by the Secretary.

(3) Paragraph (2) does not prevent the Alabama Space Science Exhibit Commission or any future deed holder of the real property described in subsection (b) from giving a mortgage with respect to any portion of the real property to any person, except that any such mortgage shall provide that the further use of the real property shall be restricted to purposes and uses consistent with the master plan approved and certified as provided in subsection (d), unless otherwise approved by the Secretary.

**SEC. 2834. CONVEYANCE OF UTILITY SYSTEMS, LONE STAR ARMY AMMUNITION PLANT, TEXAS.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey all right, title, and interest of the United States in and to any utility system, or part thereof, including any real property associated with such system, at the Lone Star Army Ammunition Plant, Texas, to the redevelopment authority for the Red River Army Depot, Texas, in conjunction with the disposal of property at the Depot under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the redevelopment authority shall pay to the United States an amount equal to the fair market value of the conveyed utility system and any real property conveyed as part of the conveyance, as determined by an independent appraisal satisfactory to the Secretary and paid for by the redevelopment authority.

(c) RULE OF CONSTRUCTION.—Nothing in subsection (a) may be construed to prohibit or otherwise limit the Secretary from conveying any utility system referred to in that subsection under any other provision of law, including section 2688 of title 10, United States Code.

(d) UTILITY SYSTEM DEFINED.—In this section, the term “utility system” has the meaning given that term in section 2688(g) of title 10, United States Code.

**SEC. 2835. CONVEYANCE OF WATER RIGHTS AND RELATED INTERESTS, ROCKY MOUNTAIN ARSENAL, COLORADO, FOR PURPOSES OF ACQUISITION OF PERPETUAL CONTRACTS FOR WATER.**

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (c), the Secretary of the Army may convey any and all interest of the United States in the water rights and related rights at Rocky

Mountain Arsenal, Colorado, described in subsection (b) to the City and County of Denver, Colorado, acting through its Board of Water Commissioners.

(b) COVERED WATER RIGHTS AND RELATED RIGHTS.—The water rights and related rights authorized to be conveyed under subsection (a) are the following:

(1) Any and all interest in 300 acre rights to water from Antero Reservoir as set forth in Antero Reservoir Contract No. 382 dated August 22, 1923, for 160 acre rights; Antero Reservoir Contract No. 383 dated August 22, 1923, for 50 acre rights; Antero Reservoir Contract No. 384 dated October 30, 1923, for 40 acre rights; Antero Reservoir Contract No. 387 dated March 3, 1923, for 50 acre rights; and Supplemental Contract No. 382-383-384-387 dated July 24, 1932, defining the amount of water to be delivered under the 300 acre rights in the prior contracts as 220 acre feet.

(2) Any and all interest in the 305 acre rights of water from the High Line Canal, diverted at its headgate on the South Platte River and delivered to the Fitzsimons Army Medical Center and currently subject to cost assessments pursuant to Denver Water Department contract #001990.

(3) Any and all interest in the 2,603.55 acre rights of water from the High Line Canal, diverted at its headgate on the South Platte River and delivered to the Rocky Mountain Arsenal in Adams County, Colorado, and currently subject to cost assessments by the Denver Water Department, including 680 acre rights transferred from Lowry Field to the Rocky Mountain Arsenal by the October 5, 1943, agreement between the City and County of Denver, acting by and through its Board of Water Commissioners, and the United States of America.

(4) Any and all interest in 4,058.34 acre rights of water not currently subject to cost assessments by the Denver Water Department.

(5) A new easement for the placement of water lines approximately 50 feet wide inside the Southern boundary of Rocky Mountain Arsenal and across the Reserve Center along the northern side of 56th Avenue.

(6) A permanent easement for utilities where Denver has an existing temporary easement near the southern and western boundaries of Rocky Mountain Arsenal.

(c) CONSIDERATION.—(1) The Secretary of the Army may make the conveyance under subsection (a) only if the Board of Water Commissioners, on behalf of the City and County of Denver, Colorado—

(A) enters into a permanent contract with the Secretary of the Army for purposes of ensuring the delivery of nonpotable water and potable water to Rocky Mountain Arsenal; and

(B) enters into a permanent contract with the Secretary of the Interior for purposes of ensuring the delivery of nonpotable water and potable water to Rocky Mountain Arsenal National Wildlife Refuge, Colorado.

(2) Section 2809(e) of title 10, United States Code, shall not operate to limit the term of the contract entered into under paragraph (1)(A).

(d) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary of the Army may not make the conveyance authorized by subsection

(a) until the execution of the proposed agreement provided for under subsection (c) between the City and County of Denver, Colorado, acting through its Board of Water Commissioners, the South Adams County Water and Sanitation District, the United States Fish and Wildlife Service, and the Army.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2836. LAND CONVEYANCE, ARMY RESERVE CENTER, MASSENA, NEW YORK.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the Village of Massena, New York (in this section referred to as the “Village”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of the Army Reserve Center in Massena, New York, for the purpose of permitting the Village to develop the parcel for public benefit, including the development of municipal office space.

(b) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Village.

(c) **REVERSIONARY INTEREST.**—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2837. LAND CONVEYANCE, ARMY RESERVE CENTER, OGDENSBURG, NEW YORK.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the City of Ogdensburg, New York (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of the Army Reserve Center in Ogdensburg, New York, for the purpose of permitting the City to develop the parcel for public benefit, including the development of municipal office space.

(b) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(c) **REVERSIONARY INTEREST.**—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and

interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2838. LAND CONVEYANCE, ARMY RESERVE CENTER, JAMESTOWN, OHIO.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the Greeneview Local School District of Jamestown, Ohio, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, that is located at 5693 Plymouth Road in Jamestown, Ohio, and contains an Army Reserve Center, for the purpose of permitting the Greeneview Local School District to retain and use the conveyed property for educational purposes.

(b) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Greeneview Local School District.

(c) **REVERSIONARY INTEREST.**—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2839. LAND CONVEYANCE, ARMY RESERVE CENTER, PEORIA, ILLINOIS.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the Peoria School District #150 of Peoria, Illinois (in this section referred to as the “School District”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of the Army Reserve Center located at 1429 Northmoor Road in Peoria, Illinois, for the purpose of permitting the School District to develop the parcel for educational and transportation purposes.

(b) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(c) **REVERSIONARY INTEREST.**—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with the purpose

of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2840. LAND CONVEYANCE, ARMY RESERVE CENTER, BRIDGTON, MAINE.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the Town of Bridgton, Maine (in this section referred to as the “Town”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 3.65 acres and containing the Army Reserve Center in Bridgton, Maine, for the purpose of permitting the Town to develop the parcel for public benefit, including the development of municipal office space.

(b) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(c) **REVERSIONARY INTEREST.**—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2841. LAND CONVEYANCE, FORT SHERIDAN, ILLINOIS.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey to the City of Lake Forest, Illinois (in this section referred to as the “City”), all right, title, and interest, of the United States in and to all or some portion of the parcel of real property, including improvements thereon, at the former Fort Sheridan, Illinois, consisting of approximately 14 acres and known as the northern Army Reserve enclave area.

(b) **CONSIDERATION.**—As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to not less than the fair market value of the real property to be conveyed, as determined by the Secretary.

(c) **USE OF PROCEEDS.**—In such amounts as are provided in advance in appropriations Acts, the Secretary may use the funds paid by the City under subsection (b) to provide for the construction of replacement facilities and for the relocation costs for Reserve units and activities affected by the conveyance.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) NOTICE AND WAIT.—The Secretary may not make the conveyance authorized by subsection (a) until 21 days after the date on which the Secretary submits to the congressional defense committees a certification that the relocation of the Reserve units and activities affected by the conveyance is consistent with an approved master plan for the consolidation of Reserve activities in, or in the vicinity of, Chicago, Illinois.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2842. LAND CONVEYANCE, SKANEATELES, NEW YORK.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Town of Skaneateles, New York (in this section referred to as the “Town”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 147.10 acres in Skaneateles, New York, and commonly known as the “Federal Farm”, for the purpose of permitting the Town to develop the parcel for public benefit, including for recreational purposes.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(c) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

**SEC. 2843. LAND CONVEYANCE, INDIANA ARMY AMMUNITION PLANT, CHARLESTOWN, INDIANA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Indiana Army Ammunition Plant Reuse Authority (in this section referred to as the “Reuse Authority”) all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 4,660 acres located at the Indiana Army Ammunition Plant, Charlestown, Indiana, for the purpose of developing the parcel as an industrial park to replace all or part of the economic activity lost at the inactivated plant.

(b) CONSIDERATION.—Except as provided in subsection (d), as consideration for the conveyance under subsection (a), the Reuse Authority shall pay to the Secretary an amount equal to the fair



market value of the conveyed property as of the time of the conveyance, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(c) TIME FOR PAYMENT.—The consideration required under subsection (b) shall be paid by the Reuse Authority at the end of the 10-year period beginning on the date on which the conveyance under subsection (a) is completed.

(d) EFFECT OF RECONVEYANCE OR LEASE.—(1) If, during the 10-year period specified in subsection (c), the Reuse Authority reconveys all or any part of the property conveyed under subsection (a), the Reuse Authority shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the Reuse Authority, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(2) The Secretary may treat a lease of the property within such 10-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (1).

(e) DEPOSIT OF PROCEEDS.—The Secretary shall deposit any proceeds received under subsection (b) or (d) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) ADMINISTRATIVE EXPENSES.—In connection with the conveyance under subsection (a), the Secretary may accept amounts provided by the Reuse Authority or other persons to cover administrative expenses incurred by the Secretary in making the conveyance. Amounts received under this subsection for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation, fund, or account and shall be available for the same purposes and subject to the same limitations as the funds with which merged.

(g) DESCRIPTION OF PROPERTY.—The property to be conveyed under subsection (a) includes the administrative area of the Indiana Army Ammunition Plant as well as open space in the southern end of the plant. The exact acreage and legal description of the property to be conveyed shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Reuse Authority.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(i) ADDITIONAL CONVEYANCE FOR RECREATIONAL PURPOSES.—Section 2858(a) of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 571), as amended by section 2838 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105-85; 111 Stat. 2006), is further amended by adding at the end the following new paragraph:

“(3) The Secretary may also convey to the State, without consideration, another parcel of real property at the Indiana Army Ammunition Plant consisting of approximately 2,000 acres of additional riverfront property in order to connect the parcel conveyed under paragraph (2) with the parcels of Charlestown State Park

conveyed to the State under paragraph (1) and title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).”.

**SEC. 2844. LAND CONVEYANCE, VOLUNTEER ARMY AMMUNITION PLANT, CHATTANOOGA, TENNESSEE.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey to Hamilton County, Tennessee (in this section referred to as the “County”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 1,033 acres located at the Volunteer Army Ammunition Plant, Chattanooga, Tennessee, for the purpose of developing the parcel as an industrial park to replace all or part of the economic activity lost at the inactivated plant.

(b) **CONSIDERATION.**—Except as provided in subsection (d), as consideration for the conveyance under subsection (a), the County shall pay to the Secretary an amount equal to the fair market value of the conveyed property as of the time of the conveyance, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(c) **TIME FOR PAYMENT.**—The consideration required under subsection (b) shall be paid by the County at the end of the 10-year period beginning on the date on which the conveyance under subsection (a) is completed.

(d) **EFFECT OF RECONVEYANCE OR LEASE.**—(1) If the County reconveys all or any part of the conveyed property during the 10-year period specified in subsection (c), the County shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the County, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(2) The Secretary may treat a lease of the property within such 10-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (1).

(e) **DEPOSIT OF PROCEEDS.**—The Secretary shall deposit any proceeds received under subsection (b) or (d) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) **EFFECT ON EXISTING LEASES.**—The conveyance of the real property under subsection (a) shall not affect the terms or length of any contract entered into by the Secretary before the date of the enactment of this Act with regard to the property to be conveyed.

(g) **ADMINISTRATIVE EXPENSES.**—In connection with the conveyance under subsection (a), the Secretary may accept amounts provided by the County or other persons to cover administrative expenses incurred by the Secretary in making the conveyance. Amounts received under this subsection for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation, fund, or account and shall be available for the same purposes and subject to the same limitations as the funds with which merged.

(h) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the property to be conveyed under subsection (a)

shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(i) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2845. LAND CONVEYANCE, STEWART ARMY SUB-POST, NEW WINDSOR, NEW YORK.**

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the Town of New Windsor, New York (in this section referred to as the “Town”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 291 acres at the Stewart Army Sub-Post in New Windsor, New York, for the purpose of permitting the Town to develop the parcel for economic purposes.

(b) **EXCLUSION.**—The real property to be conveyed under subsection (a) does not include any portion of the approximately 89.2-acre parcel at Stewart Army Sub-Post that is proposed for transfer to the jurisdiction and control of the Marine Corps or the approximately 22-acre parcel at Stewart Army Sub-Post that is proposed for transfer to the jurisdiction and control of the Army Reserve.

(c) **CONDITIONS OF CONVEYANCE.**—The conveyance authorized by subsection (a) may only be made subject to the following conditions:

(1) The Town must agree to provide connections to the local wastewater and sewage treatment system for all existing and future improvements to the parcels of real property referred to in subsection (b).

(2) The Town must agree to provide wastewater and sewage treatment service to such parcels at a rate established by the appropriate Federal or State regulatory authority.

(d) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**PART II—NAVY CONVEYANCES**

**SEC. 2851. CONVEYANCE OF EASEMENT, MARINE CORPS BASE, CAMP PENDLETON, CALIFORNIA.**

(a) **EASEMENT AUTHORIZED.**—The Secretary of the Navy may grant an easement, in perpetuity, to the Foothill/Eastern Transportation Corridor Agency (in this section referred to as the “Agency”) over a parcel of real property at Marine Corps Base, Camp Pendleton, California, consisting of approximately 340 acres to permit the recipient of the easement to construct, operate, and maintain a restricted access highway. The area covered by the easement shall include slopes and all necessary incidents thereto.

(b) **CONSIDERATION.**—As consideration for the grant of an easement under subsection (a), the Agency shall pay to the United States an amount equal to the fair market value of the easement,

as determined by an independent appraisal satisfactory to the Secretary and paid for by the Agency.

(c) **USE OF PROCEEDS.**—In such amounts as are provided in advance in appropriation Acts, the Secretary shall use the funds paid by the Agency under subsection (b) to carry out one or more of the following programs at Camp Pendleton:

(1) Enhancement of access from Red, White, and Green Beaches under Interstate Route 5 and railroad crossings to inland areas.

(2) Improvement of roads and bridge structures in the range and training area.

(3) Realignment of Basilone Road.

(d) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the easement to be granted under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Agency.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the grant of an easement under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2852. LAND EXCHANGE, NAVAL RESERVE READINESS CENTER, PORTLAND, MAINE.**

(a) **CONVEYANCE AUTHORIZED.**—(1) The Secretary of the Navy may convey to the Gulf of Maine Aquarium Development Corporation, Portland, Maine (in this section referred to as the “Corporation”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 3.72 acres in Portland, Maine, and containing the Naval Reserve Readiness Center, Portland, Maine, for the purpose of permitting the Corporation to use the parcel for economic development and as the site for an aquarium and marine research facility.

(2) As part of the conveyance under paragraph (1), the Secretary shall also convey to the Corporation any interest of the United States in the submerged lands adjacent to the real property conveyed under that paragraph that is appurtenant to the real property conveyed under that paragraph.

(b) **PROVISION OF REPLACEMENT FACILITIES.**—As consideration for the conveyance authorized by subsection (a), the Corporation shall design and construct such facilities as the Secretary determines appropriate for the Naval Reserve to replace the facilities conveyed under that subsection.

(c) **LOCATION OF REPLACEMENT FACILITIES.**—(1) To provide a location for the replacement facilities required under subsection (b), the Corporation shall—

(A) convey to the United States all right, title, and interest in and to a parcel of real property determined by the Secretary to be an appropriate location for such facilities; or

(B) design and construct such facilities on such parcel of real property under the jurisdiction of the Secretary as the Secretary shall specify.

(2) The Secretary shall select the alternative provided under paragraph (1) to be used by the Corporation.

(d) **NOTICE AND WAIT.**—The Secretary may not make the conveyance authorized by subsection (a) until 21 days after the date on which the Secretary submits to the congressional defense

committees a report specifying the terms and conditions under which the conveyance will occur.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1), of any interest to be conveyed under subsection (a)(2), and of the real property, if any, to be conveyed under subsection (c)(1)(A) shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Corporation.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2853. LAND CONVEYANCE, NAVAL AND MARINE CORPS RESERVE FACILITY, YOUNGSTOWN, OHIO.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the City of Youngstown, Ohio (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, that is located at 315 East Laclede Avenue in Youngstown, Ohio, and is the location of a Naval and Marine Corps Reserve facility, for the purpose of permitting the City to use the parcel for educational purposes.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(c) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2854. LAND CONVEYANCE, NAVAL AIR RESERVE CENTER, MINNEAPOLIS, MINNESOTA.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the Minneapolis-St. Paul Metropolitan Airports Commission, Minnesota (in this section referred to as the “Commission”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 32 acres located in Minneapolis, Minnesota, and comprising the Naval Air Reserve Center, Minneapolis, Minnesota, for the purpose of facilitating the expansion of the Minneapolis-St. Paul International Airport.

(b) ALTERNATIVE LEASE AUTHORITY.—In lieu of the conveyance authorized by subsection (a), the Secretary may elect to lease the property referred to in that subsection to the Commission if the Secretary determines that a lease of the property would better serve the interests of the United States.

(c) **PROVISION OF REPLACEMENT FACILITIES.**—As consideration for the conveyance under subsection (a), or the lease under subsection (b), the Commission shall—

(1) provide for such facilities as the Secretary considers appropriate for the Naval Reserve to replace the facilities conveyed or leased under this section;

(2) assume the costs of designing and constructing such replacement facilities, as may be acceptable to the Secretary; and

(3) assume any costs incurred by the Secretary in relocating the operations of the Naval Air Reserve Center to such replacement facilities.

(d) **LOCATION OF REPLACEMENT FACILITIES.**—To provide a location for the replacement facilities required under subsection (c), the Commission may—

(1) convey to the United States all right, title, and interest in and to a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the conveyance authorized by subsection (a); or

(2) lease to the United States a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the lease authorized by subsection (b).

(e) **AVAILABILITY OF REPLACEMENT FACILITIES.**—The Secretary may not make the conveyance authorized by subsection (a), or enter into the lease authorized by subsection (b), until the replacement facilities required by subsection (c) are available for the relocation of the operations of the Naval Air Reserve Center.

(f) **AGREEMENT RELATING TO CONVEYANCE.**—(1) If the Secretary determines to proceed with the conveyance authorized by subsection (a), or the lease authorized by subsection (b), the Secretary and the Commission shall enter into an agreement specifying the terms and conditions under which the conveyance or lease will occur.

(2) The Secretary may not enter into the agreement under paragraph (1) until 21 days after the date on which the Secretary submits to the congressional defense committees a report specifying the terms and conditions under which the conveyance or lease will occur.

(g) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed to the Commission under subsection (a), or leased to the Commission under subsection (b), and the exact acreage and legal description of the real property to be conveyed or leased under subsection (d) to the United States, shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Commission.

(h) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a), or the lease under subsection (b), as the Secretary considers appropriate to protect the interests of the United States.

### PART III—AIR FORCE CONVEYANCES

#### SEC. 2861. MODIFICATION OF LAND CONVEYANCE, EGLIN AIR FORCE BASE, FLORIDA.

Section 809(c) of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 587), as amended by section 2826 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2123), is further amended by striking out “and a third parcel containing forty-two acres” and inserting in lieu thereof “, a third parcel containing forty-two acres, a fourth parcel containing approximately 3.43 acres, and a fifth parcel containing approximately 0.56 acres”.

#### SEC. 2862. MODIFICATION OF LAND CONVEYANCE, FINLEY AIR FORCE STATION, NORTH DAKOTA.

Section 2835 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103-337; 108 Stat. 3063) is amended—

(1) by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following new subsections:

“(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the City of Finley, North Dakota (in this section referred to as the ‘City’), all right, title, and interest of the United States in and to the parcels of real property, including improvements thereon, in the vicinity of Finley, North Dakota, described in subsection (b), for the purpose of permitting the City to use the parcels for economic development.

“(b) COVERED PARCELS.—The parcels of real property authorized for conveyance under subsection (a) are as follows:

“(1) A parcel of approximately 14 acres that served as the support complex of the Finley Air Force Station and Radar Site.

“(2) A parcel of approximately 57 acres known as the Finley Air Force Station Complex.

“(3) A parcel of approximately 6 acres that includes a well site and wastewater treatment system.

“(c) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.”; and

(2) in subsections (d) and (e), by striking out “subsection (a)(1)” and inserting in lieu thereof “subsection (a)”.

#### SEC. 2863. LAND CONVEYANCE, LAKE CHARLES AIR FORCE STATION, LOUISIANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to McNeese State University of Louisiana (in this section referred to as the “University”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of

approximately 4.38 acres at Lake Charles Air Force Station, Louisiana, for the purpose of permitting the University to use the parcel for educational purposes and agricultural research.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the University.

(c) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 2864. LAND CONVEYANCE, AIR FORCE HOUSING FACILITY, LA JUNTA, COLORADO.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the City of La Junta, Colorado (in this section referred to as the “City”), all right, title, and interest of the United States in and to the unused Air Force housing facility, consisting of approximately 28 acres and improvements thereon, located within the southern-most boundary of the City, for the purpose of permitting the City to develop the conveyed property for housing and educational purposes.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(c) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.



## Subtitle E—Other Matters

### **SEC. 2871. MODIFICATION OF AUTHORITY RELATING TO DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.**

(a) PROGRAM REQUIREMENTS.—Subsection (c) of section 2892 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 590; 10 U.S.C. 2805 note) is amended to read as follows:

“(c) PROGRAM REQUIREMENTS.—(1) Not later than 30 days before commencing the program, the Secretary shall establish procedures for the review and approval of requests from Department of Defense laboratories for construction under the program.

“(2) The laboratories at which construction may be carried out under the program may not include Department of Defense laboratories that are contractor-owned.”.

(b) REPORT.—Subsection (d) of that section is amended to read as follows:

“(d) REPORT.—Not later than February 1, 2003, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary’s conclusions and recommendation regarding the desirability of making the authority set forth under subsection (b) permanent.”.

(c) EXTENSION.—Subsection (g) of that section is amended by striking out “September 30, 1998” and inserting in lieu thereof “September 30, 2003”.

### **SEC. 2872. REPEAL OF PROHIBITION ON JOINT USE OF GRAY ARMY AIRFIELD, FORT HOOD, TEXAS, WITH CIVIL AVIATION.**

Section 319 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3855) is repealed.

### **SEC. 2873. MODIFICATION OF DEMONSTRATION PROJECT FOR PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.**

Section 816 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2820), as amended by section 352 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2491), is further amended—

(1) in subsection (a), by striking out “, beginning October 1, 1994,”;

(2) in subsection (b), by striking out “and 1998” and inserting in lieu thereof “through 2000”; and

(3) by adding at the end the following new subsection:

“(c) DURATION OF PROJECT.—The authority to purchase or receive services under the demonstration project shall expire on September 30, 2000.”.

### **SEC. 2874. DESIGNATION OF BUILDING CONTAINING NAVY AND MARINE CORPS RESERVE CENTER, AUGUSTA, GEORGIA.**

The building containing the Navy and Marine Corps Reserve Center located at 2869 Central Avenue in Augusta, Georgia, shall be known and designated as the “A. James Dyess Building”.

Juniper Butte  
Range  
Withdrawal Act.

## TITLE XXIX—JUNIPER BUTTE RANGE WITHDRAWAL

- Sec. 2901. Short title.
- Sec. 2902. Withdrawal and reservation.
- Sec. 2903. Map and legal description.
- Sec. 2904. Agency agreement.
- Sec. 2905. Right-of-way grants.
- Sec. 2906. Indian sacred sites.
- Sec. 2907. Actions concerning ranching operations in withdrawn area.
- Sec. 2908. Management of withdrawn and reserved lands.
- Sec. 2909. Integrated natural resource management plan.
- Sec. 2910. Memorandum of understanding.
- Sec. 2911. Maintenance of roads.
- Sec. 2912. Management of withdrawn and acquired mineral resources.
- Sec. 2913. Hunting, fishing, and trapping.
- Sec. 2914. Water rights.
- Sec. 2915. Duration of withdrawal.
- Sec. 2916. Environmental remediation of relinquished withdrawn lands or upon termination of withdrawal.
- Sec. 2917. Delegation of authority.
- Sec. 2918. Hold harmless.
- Sec. 2919. Authorization of appropriations.

### SEC. 2901. SHORT TITLE.

This title may be cited as the “Juniper Butte Range Withdrawal Act”.

### SEC. 2902. WITHDRAWAL AND RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Juniper Butte Range, Idaho, referred to in subsection (c), are withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral and geothermal leasing laws but not the Act of July 31, 1947 (commonly known as the Materials Act of 1947; 30 U.S.C. 601 et seq.).

(b) RESERVED USES.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Air Force for—

- (1) a high hazard training area;
- (2) dropping non-explosive training ordnance with spotting charges;
- (3) electronic warfare and tactical maneuvering and air support; and
- (4) other defense-related purposes consistent with the purposes specified in paragraphs (1), (2), and (3), including continued natural resource management and environmental remediation in accordance with section 2916.

(c) SITE DEVELOPMENT PLANS.—(1) Site development plans shall be prepared before construction.

(2) Site development plans shall be incorporated in the integrated natural resource management plan developed under section 2909.

(3) Except in the case of any minimal improvements, development on the withdrawn lands of any facilities beyond those proposed and analyzed in the Environmental Impact Statement concerning Enhanced Training in Idaho, prepared by the Secretary of the Air Force, the Record of Decision dated March 10, 1998, concerning Enhanced Training in Idaho, prepared by the Secretary of the Air Force, and the site development plans shall be contingent upon review and approval of the Idaho State Director of the Bureau of Land Management.

(d) **GENERAL DESCRIPTION.**—(1) The public lands withdrawn and reserved by this section comprise approximately 11,300 acres of public land in Owhyee County, Idaho, as generally depicted on the map entitled “Juniper Butte Range Withdrawal—Proposed”, dated June 1998, that will be filed in accordance with section 2903.

(2) The withdrawal is for an approximately 10,600-acre tactical training range, a 640-acre no-drop target site, four 5-acre no-drop target sites and nine 1-acre electronic threat emitter sites.

**SEC. 2903. MAP AND LEGAL DESCRIPTION.**

(a) **IN GENERAL.**—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file a map or maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the Senate and with the Committee on Resources of the House of Representatives.

(b) **INCORPORATION BY REFERENCE.**—Such maps and legal description shall have the same force and effect as if included in this title.

(c) **CORRECTION OF ERRORS.**—The Secretary of the Interior may correct clerical and typographical errors in such map or maps and legal description.

(d) **AVAILABILITY.**—Copies of such map or maps and the legal description shall be available for public inspection in the following offices:

(1) The office of the Idaho State Director of the Bureau of Land Management.

(2) The offices of the managers of the Lower Snake River District, Bureau Field Office and Jarbidge Field Office of the Bureau of Land Management.

(3) The Office of the commander of Mountain Home Air Force Base, Idaho.

(e) **UTILIZATION OF AIR FORCE DESCRIPTIONS AND MAPS.**—To the extent practicable, the Secretary of the Interior shall adopt the legal description and maps prepared by the Secretary of the Air Force in support of this title.

(f) **REIMBURSEMENT OF COSTS.**—The Secretary of the Air Force shall reimburse the Secretary of the Interior for the costs incurred by the Department of the Interior in implementing this section.

**SEC. 2904. AGENCY AGREEMENT.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) The Bureau of Land Management and the Air Force have agreed upon additional mitigation measures associated with this land withdrawal as specified in the “ENHANCED TRAINING IN IDAHO Memorandum of Understanding Between The Bureau of Land Management and The United States Air Force” dated June 11, 1998.

(2) This agreement specifies that these mitigation measures will be adopted as part of the Air Force’s Record of Decision for Enhanced Training in Idaho.

(3) Congress endorses this collaborative effort between the agencies and directs that the agreement be implemented.

(b) **MODIFICATION.**—The parties may, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), mutually agree to modify the mitigation measures specified in the agreement in light of experience gained through the actions called for in the agreement or as a result of changed military circumstances.

(c) **CONSTRUCTION.**—Neither the agreement, any modification thereof, nor this section creates any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

#### **SEC. 2905. RIGHT-OF-WAY GRANTS.**

In addition to the withdrawal under section 2902 and in accordance with all applicable laws, the Secretary of the Interior shall process and grant the Secretary of the Air Force rights-of-way using the Department of the Interior regulations and policies in effect at the time of filing applications for the one-quarter acre electronic warfare threat emitter sites, roads, powerlines, and other ancillary facilities as described and analyzed in the Enhanced Training in Idaho Final Environmental Impact Statement, dated January 1998.

#### **SEC. 2906. INDIAN SACRED SITES.**

(a) **MANAGEMENT.**—(1) In the management of the Federal lands withdrawn and reserved by this title, the Air Force shall, to the extent practicable and not clearly inconsistent with essential agency functions—

(A) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners; and

(B) avoid adversely affecting the integrity of such sacred sites.

(2) The Secretary of the Air Force shall maintain the confidentiality of such sites where appropriate.

(b) **CONSULTATION.**—The commander of Mountain Home Air Force Base, Idaho, shall regularly consult with the Tribal Chairman of the Shoshone-Paiute Tribes of the Duck Valley Reservation to assure that tribal government rights and concerns are fully considered during the development of the Juniper Butte Range.

(c) **DEFINITIONS.**—In this section:

(1) The term “sacred site” shall mean any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion but only to the extent that the tribe or appropriately authoritative representative of an Indian religion has informed the Air Force of the existence of such a site.

(2) The term “Indian tribe” means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

(3) The term “Indian” refers to a member of an Indian tribe.

**SEC. 2907. ACTIONS CONCERNING RANCHING OPERATIONS IN WITHDRAWN AREA.**

(a) **AUTHORITY TO CONCLUDE AND IMPLEMENT AGREEMENTS.**—The Secretary of the Air Force is authorized and directed to, upon such terms and conditions as the Secretary of the Air Force considers just and in the national interest, conclude and implement agreements with the grazing permittees to provide appropriate consideration, including future grazing arrangements.

(b) **IMPLEMENTATION.**—(1) Upon the conclusion of these agreements, the Assistant Secretary of the Interior for Land and Minerals Management shall grant rights-of-way and approvals and take such actions as are necessary to implement promptly this title and the agreements with the grazing permittees.

(2) The Secretary of the Air Force and the Secretary of the Interior shall allow the grazing permittees for lands withdrawn and reserved by this title to continue their activities on the lands in accordance with the permits and their applicable regulations until the Secretary of the Air Force has fully implemented the agreement with the grazing permittees under this section.

(3) Upon the implementation of these agreements, the Bureau of Land Management is authorized and directed, subject to the limitations included in this section, to terminate grazing on the lands withdrawn.

**SEC. 2908. MANAGEMENT OF WITHDRAWN AND RESERVED LANDS.**

(a) **IN GENERAL.**—Except as provided in section 2916(d), during the withdrawal and reservation of any lands under this title, the Secretary of the Air Force shall manage such lands for purposes relating to the uses set forth in section 2902(b).

(b) **MANAGEMENT ACCORDING TO PLAN.**—The lands withdrawn and reserved by this title shall be managed in accordance with the provisions of this title under the integrated natural resources management plan prepared under section 2909.

(c) **AUTHORITY TO CLOSE LAND.**—(1) If the Secretary of the Air Force determines that military operations, public safety, or the interests of national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title that are commonly in public use, the Secretary of the Air Force may take such action.

(2) Closures under paragraph (1) shall be limited to the minimum areas and periods required for the purposes specified in this subsection.

(3) During closures, the Secretary of the Air Force shall keep appropriate warning notices posted and take appropriate steps to notify the public about the closures.

(d) **LEASE AUTHORITY.**—The Secretary of the Air Force may enter into leases for State lands with the State of Idaho in support of the Juniper Butte Range and operations at the Juniper Butte Range.

(e) **PREVENTION AND SUPPRESSION OF FIRE.**—(1) The Secretary of the Air Force shall take appropriate precautions to prevent and suppress brush fires and range fires that occur within the boundaries of the Juniper Butte Range, as well as brush and range fires occurring outside the boundaries of the Range resulting from military activities.

(2) Notwithstanding section 2465 of title 10, United States Code, the Secretary of the Air Force may obligate funds appropriated or otherwise available to the Secretary to enter into contracts for fire-fighting.

(3)(A) The memorandum of understanding under section 2910 shall provide for the Bureau of Land Management to assist the Secretary of the Air Force in the suppression of the fires described in paragraph (1).

(B) The memorandum of understanding shall provide that the Secretary of the Air Force reimburse the Bureau of Land Management for any costs incurred by the Bureau of Land Management under this paragraph.

(f) **USE OF MINERAL MATERIALS.**—Notwithstanding any other provision of this title or the Act of July 31, 1947 (commonly known as the Materials Act of 1947; 30 U.S.C. 601 et seq.), the Secretary of the Air Force may use, from the lands withdrawn and reserved by this title, sand, gravel, or similar mineral material resources of the type subject to disposition under the Act of July 31, 1947, when the use of such resources is required for construction needs of the Juniper Butte Range.

**SEC. 2909. INTEGRATED NATURAL RESOURCE MANAGEMENT PLAN.**

(a) **REQUIREMENT.**—(1)(A) Not later than 2 years after the date of the enactment of this Act, the Secretary of the Air Force shall, in cooperation with the Secretary of the Interior, the State of Idaho, and Owyhee County, Idaho, develop an integrated natural resources management plan to address the management of the resources of the lands withdrawn and reserved by this title during their withdrawal and reservation under this title.

(B) Additionally, the integrated natural resource management plan shall address mitigation and monitoring activities by the Air Force for State and Federal lands affected by military training activities associated with the Juniper Butte Range.

(C) The foregoing will be done cooperatively between the Air Force, the Bureau of Land Management, the State of Idaho, and Owyhee County, Idaho.

(2) Except as otherwise provided under this title, the integrated natural resources management plan under this section shall be developed in accordance with, and meet the requirements of, section 101 of the Sikes Act (16 U.S.C. 670a).

(3)(A) Site development plans shall be prepared before construction of facilities.

(B) Such plans shall be reviewed by the Bureau of Land Management, for Federal lands, and the State of Idaho, for State lands, for consistency with the proposal assessed in the Enhanced Training in Idaho Environmental Impact Statement.

(C) The portion of such development plans describing reconfigurable or replacement targets may be conceptual.

(b) **ELEMENTS.**—The integrated natural resources management plan under subsection (a) shall—

(1) include provisions for the proper management and protection of the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title and for the use of such resources in a manner consistent with the uses set forth in section 2902(b);

(2) permit livestock grazing at the discretion of the Secretary of the Air Force in accordance with section 2907 or

any other authorities relating to livestock grazing that are available to that Secretary;

(3) permit fencing, water pipeline modifications and extensions, and the construction of aboveground water reservoirs, and the maintenance and repair of these items on the lands withdrawn and reserved by this title, and on other lands under the jurisdiction of the Bureau of Land Management; and

(4) otherwise provide for the management by the Secretary of the Air Force of any lands withdrawn and reserved by this title while retained under the jurisdiction of that Secretary under this title.

(c) PERIODIC REVIEW.—The Secretary of the Air Force shall, in cooperation with the Secretary of the Interior and the State of Idaho, review the adequacy of the provisions of the integrated natural resources management plan developed under this section at least once every 5 years after the effective date of the plan.

#### **SEC. 2910. MEMORANDUM OF UNDERSTANDING.**

(a) REQUIREMENT.—The Secretary of the Air Force, the Secretary of the Interior, and the Governor of the State of Idaho shall jointly enter into a memorandum of understanding to implement the integrated natural resources management plan required under section 2909.

(b) TERM.—The memorandum of understanding under subsection (a) shall apply to any lands withdrawn and reserved by this title until their relinquishment by the Secretary of the Air Force under this title.

(c) MODIFICATION.—The memorandum of understanding under subsection (a) may be modified by agreement of all the parties specified in that subsection.

#### **SEC. 2911. MAINTENANCE OF ROADS.**

The Secretary of the Air Force shall enter into agreements with the Owyhee County Highway District, Idaho, and the Three Creek Good Roads Highway District, Idaho, under which the Secretary of the Air Force shall pay the costs of road maintenance incurred by such districts that are attributable to operations of the Department of the Air Force associated with the Juniper Butte Range.

#### **SEC. 2912. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.**

Except as provided in subsection 2908(f), the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Juniper Butte Range in accordance with the Act of February 28, 1958 (commonly known as the Engle Act; 43 U.S.C. 155 et seq.).

#### **SEC. 2913. HUNTING, FISHING, AND TRAPPING.**

All hunting, fishing, and trapping on the lands withdrawn and reserved by this title shall be conducted in accordance with section 2671 of title 10, United States Code.

#### **SEC. 2914. WATER RIGHTS.**

(a) LIMITATION.—The Secretary of the Air Force shall not seek or obtain any water rights associated with any water pipeline modified or extended, or aboveground water reservoir constructed, for purposes of consideration under section 2907.

(b) **NEW RIGHTS.**—(1) Nothing in this title shall be construed to establish a reservation in favor of the United States with respect to any water or water right on the lands withdrawn and reserved by this title.

(2) Nothing in this title shall be construed to authorize the appropriation of water on the lands withdrawn and reserved by this title by the United States after the date of the enactment of this Act unless such appropriation is carried out in accordance with the laws of the State of Idaho.

(c) **APPLICABILITY.**—This section may not be construed to affect any water rights acquired by the United States before the date of the enactment of this Act.

**SEC. 2915. DURATION OF WITHDRAWAL.**

(a) **TERMINATION.**—(1) Except as otherwise provided in this section and section 2916, the withdrawal and reservation made by this title shall terminate 25 years after the date of the enactment of this Act.

Federal Register,  
publication.

(2) At the time of termination, the previously withdrawn lands shall not be open to the general land laws, including the mining laws and the mineral and geothermal leasing laws, until the Secretary of the Interior publishes in the Federal Register an appropriate order which shall state the date upon which such lands shall be opened.

(b) **RELINQUISHMENT.**—(1) If the Secretary of the Air Force determines under subsection (c) that the Air Force has no continuing military need for any lands withdrawn and reserved by this title, the Secretary of the Air Force shall submit to the Secretary of the Interior a notice of intent to relinquish jurisdiction over such lands to the Secretary of the Interior.

(2) The Secretary of the Interior may accept jurisdiction over any lands covered by a notice of intent to relinquish jurisdiction under paragraph (1) if the Secretary of the Interior determines that the Secretary of the Air Force has completed the environmental review required under section 2916(a) and the conditions under section 2916(c) have been met.

Federal Register  
publication.

(3) If the Secretary of the Interior decides to accept jurisdiction over lands under paragraph (2) before the date of termination, as provided for in subsection (a)(1), the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(A) revoke the withdrawal and reservation of such lands under this title;

(B) constitute official acceptance of administrative jurisdiction over the lands by the Secretary of the Interior; and

(C) state the date upon which such lands shall be opened to the operation of the general land laws, including the mining laws and the mineral and geothermal leasing laws, if appropriate.

(4) The Secretary of the Interior shall manage any lands relinquished under this subsection as multiple use status lands.

(5) If the Secretary of the Interior declines pursuant to subsection (b)(2) to accept jurisdiction of any parcel of land proposed for relinquishment, that parcel shall remain under the continued administration of the Secretary of the Air Force pursuant to section 2916(d).



(c) EXTENSION.—(1) In the case of any lands withdrawn and reserved by this title that the Air Force proposes to include in a notice of extension because of continued military need under paragraph (2), the Secretary of the Air Force shall, before issuing the notice under paragraph (2)—

(A) evaluate the environmental effects of the extension of the withdrawal and reservation of such lands in accordance with all applicable laws and regulations; and

(B) hold at least one public meeting in the State of Idaho regarding that evaluation.

(2)(A) Not later than 2 years before the termination of the withdrawal and reservation of lands by this title under subsection (a), the Secretary of the Air Force shall notify Congress and the Secretary of the Interior as to whether or not the Air Force has a continuing military need for any of the lands withdrawn and reserved by this title, and not previously relinquished under this section, after the termination date as specified in subsection (a).

(B)(i) The Secretary of the Air force shall specify in the notice under subparagraph (A) the duration of any extension or further extension of withdrawal and reservation of such lands under this title.

(ii) The duration of each extension or further extension under clause (i) shall not exceed 25 years.

(C) The notice under subparagraph (A) shall be published in the Federal Register and a newspaper of local distribution with the opportunity for comments, within a 60-day period, which shall be provided to the Secretary of the Air Force and the Secretary of the Interior.

Federal Register,  
publication.

(3)(A) Subject to subparagraph (B), in the case of any lands withdrawn and reserved by this title that are covered by a notice of extension under subsection (c)(2), the withdrawal and reservation of such lands shall extend under the provisions of this title after the termination date otherwise provided for under subsection (a) for such period as is specified in the notice under subsection (c)(2).

(B) Subparagraph (A) shall not apply with respect to any lands covered by a notice referred to in that paragraph until 90 legislative days after the date on which the notice with respect to such lands is submitted to Congress under paragraph (2).

**SEC. 2916. ENVIRONMENTAL REMEDIATION OF RELINQUISHED WITHDRAWN LANDS OR UPON TERMINATION OF WITHDRAWAL.**

(a) ENVIRONMENTAL REVIEW.—(1) Before submitting under section 2915 a notice of an intent to relinquish jurisdiction over lands withdrawn and reserved by this title, and in all cases not later than 2 years before the date of termination of withdrawal and reservation, the Secretary of the Air Force shall, in consultation with the Secretary of the Interior, complete a review that fully characterizes the environmental conditions of such lands (including any water and air associated with such lands) in order to identify any contamination on such lands.

(2) The Secretary of the Air Force shall submit to the Secretary of the Interior a copy of the review prepared with respect to any lands under paragraph (1). The Secretary of the Air Force shall also submit at the same time any notice of intent to relinquish jurisdiction over such lands under section 2915.

(3) The Secretary of the Air Force shall submit a copy of any such review to Congress.

(b) ENVIRONMENTAL REMEDIATION OF LANDS.—The Secretary of the Air Force shall, in accordance with applicable State and Federal law, carry out and complete environmental remediation—

(1) before relinquishing jurisdiction to the Secretary of the Interior over any lands identified in a notice of intent to relinquish under section 2915(b); or

(2) before the date of termination of the withdrawal and reservation, except as provided under subsection (d).

(c) POSTPONEMENT OF RELINQUISHMENT.—The Secretary of the Interior shall not accept jurisdiction over any lands that are the subject of activities under subsection (b) until the Secretary of the Interior determines that environmental conditions on the lands are such that—

(1) all necessary environmental remediation has been completed by the Secretary of the Air Force;

(2) the lands are safe for nonmilitary uses; and

(3) the lands could be opened consistent with the Secretary of the Interior's public land management responsibilities.

(d) JURISDICTION WHEN WITHDRAWAL TERMINATES.—If the determination required by section (c) cannot be achieved for any parcel of land subject to the withdrawal and reservation before the termination date of the withdrawal and reservation, the Secretary of the Air Force shall retain administrative jurisdiction over such parcels of land notwithstanding the termination date for the limited purposes of—

(1) environmental remediation activities under subsection (b); and

(2) any activities relating to the management of such lands after the termination of the withdrawal reservation for military purposes that are provided for in the integrated natural resources management plan under section 2909.

(e) EFFECT ON OTHER LAWS.—Nothing in this title shall affect, or be construed to affect, the obligations, if any, of the Secretary of the Air Force to decontaminate lands withdrawn by this title pursuant to applicable law, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

#### SEC. 2917. DELEGATION OF AUTHORITY.

(a) DEPARTMENT OF THE AIR FORCE FUNCTIONS.—Except for executing the agreement referred to in section 2907, the Secretary of the Air Force may delegate that Secretary's functions under this title.

(b) DEPARTMENT OF THE INTERIOR FUNCTIONS.—(1) Except as provided in paragraph (2), the Secretary of the Interior may delegate that Secretary's functions under this title.

(2) The order referred to in section 2915(b)(3) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Interior.

(3) The approvals granted by the Bureau of Land Management shall be pursuant to the decisions of the Secretary of the Interior, or the Assistant Secretary for Land and Minerals Management.

**SEC. 2918. HOLD HARMLESS.**

Any party conducting any mining, mineral, or geothermal leasing activity on lands withdrawn and reserved by this title shall indemnify the United States against any costs, fees, damages, or other liabilities (including costs of litigation) incurred by the United States and arising from or relating to such mining activities, including costs of mineral materials disposal, whether arising under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or otherwise.

**SEC. 2919. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this title.

## **DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZA- TIONS AND OTHER AUTHORIZATIONS**

### **TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS**

#### **Subtitle A—National Security Programs Authorizations**

- Sec. 3101. Weapons activities.
- Sec. 3102. Defense environmental restoration and waste management.
- Sec. 3103. Other defense activities.
- Sec. 3104. Defense nuclear waste disposal.
- Sec. 3105. Defense environmental management privatization.

#### **Subtitle B—Recurring General Provisions**

- Sec. 3121. Reprogramming.
- Sec. 3122. Limits on general plant projects.
- Sec. 3123. Limits on construction projects.
- Sec. 3124. Fund transfer authority.
- Sec. 3125. Authority for conceptual and construction design.
- Sec. 3126. Authority for emergency planning, design, and construction activities.
- Sec. 3127. Funds available for all national security programs of the Department of Energy.
- Sec. 3128. Availability of funds.
- Sec. 3129. Transfers of defense environmental management funds.

#### **Subtitle C—Program Authorizations, Restrictions, and Limitations**

- Sec. 3131. Permanent extension of funding prohibition relating to international cooperative stockpile stewardship.
- Sec. 3132. Support of ballistic missile defense activities of the Department of Defense.
- Sec. 3133. Nonproliferation activities.
- Sec. 3134. Licensing of certain mixed oxide fuel fabrication and irradiation facilities.
- Sec. 3135. Continuation of processing, treatment, and disposition of legacy nuclear materials.
- Sec. 3136. Authority for Department of Energy federally funded research and development centers to participate in merit-based technology research and development programs.
- Sec. 3137. Activities of Department of Energy facilities.
- Sec. 3138. Hanford overhead and service center costs.
- Sec. 3139. Hanford waste tank cleanup program reforms.
- Sec. 3140. Hanford Health Information Network.
- Sec. 3141. Hazardous materials management and emergency response training program.
- Sec. 3142. Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico.

- Sec. 3143. Relocation of National Atomic Museum, Albuquerque, New Mexico.  
 Sec. 3144. Tritium production.

#### **Subtitle D—Other Matters**

- Sec. 3151. Study and plan relating to worker and community transition assistance.  
 Sec. 3152. Extension of authority for appointment of certain scientific, engineering, and technical personnel.  
 Sec. 3153. Requirement for plan to modify employment system used by Department of Energy in defense environmental management programs.  
 Sec. 3154. Department of Energy nuclear materials couriers.  
 Sec. 3155. Increase in maximum rate of pay for scientific, engineering, and technical personnel responsible for safety at defense nuclear facilities.  
 Sec. 3156. Extension of authority of Department of Energy to pay voluntary separation incentive payments.  
 Sec. 3157. Repeal of fiscal year 1998 statement of policy on stockpile stewardship program.  
 Sec. 3158. Report on stockpile stewardship criteria.  
 Sec. 3159. Panel to assess the reliability, safety, and security of the United States nuclear stockpile.  
 Sec. 3160. International cooperative information exchange.  
 Sec. 3161. Protection against inadvertent release of Restricted Data and Formerly Restricted Data.  
 Sec. 3162. Sense of Congress regarding treatment of Formerly Utilized Sites Remedial Action Program under a nondefense discretionary budget function.  
 Sec. 3163. Reports relating to tritium production.

## **Subtitle A—National Security Programs Authorizations**

### **SEC. 3101. WEAPONS ACTIVITIES.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for weapons activities in carrying out programs necessary for national security in the amount of \$4,511,600,000, to be allocated as follows:

(1) STOCKPILE STEWARDSHIP.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of \$2,148,375,000, to be allocated as follows:

(A) For core stockpile stewardship, \$1,591,375,000, to be allocated as follows:

(i) For operation and maintenance, \$1,475,832,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$115,543,000, to be allocated as follows:

Project 99-D-102, rehabilitation of maintenance facility, Lawrence Livermore National Laboratory, Livermore, California, \$6,500,000.

Project 99-D-103, isotope sciences facilities, Lawrence Livermore National Laboratory, Livermore, California, \$4,000,000.

Project 99-D-104, protection of real property (roof reconstruction, Phase II), Lawrence Livermore National Laboratory, Livermore, California, \$7,300,000.

Project 99-D-105, central health physics calibration facility, Los Alamos National Laboratory, Los Alamos, New Mexico, \$3,900,000.

Project 99-D-106, model validation and system certification test center, Sandia National Laboratories, Albuquerque, New Mexico, \$1,600,000.

Project 99-D-107, joint computational engineering laboratory, Sandia National Laboratories, Albuquerque, New Mexico, \$1,800,000.

Project 99-D-108, renovate existing roadways, Nevada Test Site, Nevada, \$2,000,000.

Project 97-D-102, dual-axis radiographic hydrotest facility, Los Alamos National Laboratory, Los Alamos, New Mexico, \$36,000,000.

Project 96-D-102, stockpile stewardship facilities revitalization, Phase VI, various locations, \$20,423,000.

Project 96-D-103, ATLAS, Los Alamos National Laboratory, Los Alamos, New Mexico, \$6,400,000.

Project 96-D-104, processing and environmental technology laboratory, Sandia National Laboratories, Albuquerque, New Mexico, \$18,920,000.

Project 96-D-105, contained firing facility addition, Lawrence Livermore National Laboratory, Livermore, California, \$6,700,000.

(B) For inertial fusion, \$498,000,000, to be allocated as follows:

(i) For operation and maintenance, \$213,800,000.

(ii) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto), \$284,200,000, to be allocated as follows:

Project 96-D-111, national ignition facility, Lawrence Livermore National Laboratory, Livermore, California, \$284,200,000.

(C) For technology partnership and education, \$59,000,000, to be allocated as follows:

(i) For technology partnership, \$50,000,000.

(ii) For education, \$9,000,000.

(2) STOCKPILE MANAGEMENT.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of \$2,113,225,000, to be allocated as follows:

(A) For operation and maintenance, \$2,014,303,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$98,922,000, to be allocated as follows:

Project 99-D-122, rapid reactivation, various locations, \$11,200,000.

Project 99-D-123, replace mechanical utility systems, Y-12 Plant, Oak Ridge, Tennessee, \$1,900,000.

Project 99-D-125, replace boilers and controls, Kansas City Plant, Kansas City, Missouri, \$1,000,000.

Project 99-D-127, stockpile management restructuring initiative, Kansas City Plant, Kansas City, Missouri, \$13,700,000.

Project 99-D-128, stockpile management restructuring initiative, Pantex Plant consolidation, Amarillo, Texas, \$1,108,000.

Project 99-D-132, stockpile management restructuring initiative, nuclear material safeguards and security upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, \$9,700,000.

Project 98-D-123, stockpile management restructuring initiative, tritium facility modernization and consolidation, Savannah River Site, Aiken, South Carolina, \$27,500,000.

Project 98-D-124, stockpile management restructuring initiative, Y-12 Plant consolidation, Oak Ridge, Tennessee, \$10,700,000.

Project 97-D-122, nuclear materials storage facility renovation, Los Alamos National Laboratory, Los Alamos, New Mexico, \$3,764,000.

Project 97-D-123, structural upgrades, Kansas City Plant, Kansas City, Missouri, \$6,400,000.

Project 96-D-122, sewage treatment quality upgrade, Pantex Plant, Amarillo, Texas, \$3,700,000.

Project 95-D-102, chemistry and metallurgy research building upgrades, Los Alamos National Laboratory, Los Alamos, New Mexico, \$5,000,000.

Project 93-D-122, life safety upgrades, Y-12 Plant, Oak Ridge, Tennessee, \$3,250,000.

(3) PROGRAM DIRECTION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for program direction in carrying out weapons activities necessary for national security programs in the amount of \$250,000,000.

(b) ADJUSTMENTS.—

(1) CONSTRUCTION.—The total amount authorized to be appropriated pursuant to paragraphs (1)(A)(ii), (1)(B)(ii), and (2)(B) of subsection (a) is the sum of the amounts authorized to be appropriated in those paragraphs, reduced by \$13,600,000.

(2) NON-CONSTRUCTION.—The total amount authorized to be appropriated pursuant to paragraphs (1)(A)(i), (1)(B)(i), (1)(C), (2)(A), and (3) of subsection (a) is the sum of the amounts authorized to be appropriated in those paragraphs, reduced by \$178,900,000, to be derived from use of prior year balances.

#### **SEC. 3102. DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for environmental restoration and waste management in carrying out programs necessary for national security in the amount of \$5,446,143,000, to be allocated as follows:

(1) CLOSURE PROJECTS.—For closure projects carried out in accordance with section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2836; 42 U.S.C. 7274n) in the amount of \$1,038,240,000.

(2) SITE PROJECT AND COMPLETION.—For site project and completion in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$1,067,253,000, to be allocated as follows:

(A) For operation and maintenance, \$868,090,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$199,163,000, to be allocated as follows:

Project 99-D-402, tank farm support services, F&H areas, Savannah River Site, Aiken, South Carolina, \$2,745,000.

Project 99-D-404, health physics instrumentation laboratory, Idaho National Engineering Laboratory, Idaho, \$950,000.

Project 98-D-401, H-tank farm storm water systems upgrade, Savannah River Site, Aiken, South Carolina, \$3,120,000.

Project 98-D-453, plutonium stabilization and handling system for plutonium finishing plant, Richland, Washington, \$26,814,000.

Project 98-D-700, road rehabilitation, Idaho National Engineering Laboratory, Idaho, \$7,710,000.

Project 97-D-450, Actinide packaging and storage facility, Savannah River Site, Aiken, South Carolina, \$79,184,000.

Project 97-D-470, environmental monitoring laboratory, Savannah River Site, Aiken, South Carolina, \$7,000,000.

Project 96-D-406, spent nuclear fuels canister storage and stabilization facility, Richland, Washington, \$38,680,000.

Project 96-D-408, waste management upgrades, Kansas City Plant, Kansas City, Missouri, and Savannah River Site, Aiken, South Carolina, \$4,512,000.

Project 96-D-464, electrical and utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, \$11,544,000.

Project 96-D-471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, \$8,000,000.

Project 95-D-456, security facilities consolidation, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, \$485,000.

Project 92-D-140, F&H canyon exhaust upgrades, Savannah River Site, Aiken, South Carolina, \$3,667,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, \$4,752,000.

(3) POST-2006 COMPLETION.—For post-2006 project completion in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$2,744,451,000, to be allocated as follows:

(A) For operation and maintenance, \$2,663,195,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$81,256,000, to be allocated as follows:

Project 99-D-403, privatization phase I infrastructure support, Richland, Washington, \$14,800,000.

Project 97-D-402, tank farm restoration and safe operations, Richland, Washington, \$22,723,000.

Project 96-D-408, waste management upgrades, Richland, Washington, \$171,000.

Project 94-D-407, initial tank retrieval systems, Richland, Washington, \$32,860,000.

Project 93-D-187, high-level waste removal from filled waste tanks, Savannah River Site, Aiken, South Carolina, \$10,702,000.

(4) SCIENCE AND TECHNOLOGY.—For science and technology in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$250,000,000.

(5) PROGRAM DIRECTION.—For program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of \$346,199,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1), (2)(A), (3)(A), (4), and (5) of subsection (a) is the sum of the amounts authorized to be appropriated in those paragraphs, reduced by \$94,100,000, to be derived from use of prior year balances.

#### **SEC. 3103. OTHER DEFENSE ACTIVITIES.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for other defense activities in carrying out programs necessary for national security in the amount of \$1,716,160,000, to be allocated as follows:

(1) NONPROLIFERATION AND NATIONAL SECURITY.—For nonproliferation and national security, \$699,300,000, to be allocated as follows:

(A) For verification and control technology, \$503,500,000, to be allocated as follows:

(i) For nonproliferation and verification research and development, \$210,000,000.

(ii) For arms control, \$256,900,000.

(iii) For intelligence, \$36,600,000.

(B) For nuclear safeguards and security, \$53,200,000.

(C) For security investigations, \$30,000,000.

(D) For emergency management, \$23,700,000.

(E) For program direction, \$88,900,000.

(2) WORKER AND COMMUNITY TRANSITION ASSISTANCE.—For worker and community transition assistance, \$40,000,000, to be allocated as follows:

(A) For worker and community transition, \$36,000,000.

(B) For program direction, \$4,000,000.

(3) FISSILE MATERIALS CONTROL AND DISPOSITION.—For fissile materials control and disposition, \$168,960,000, to be allocated as follows:

(A) For operation and maintenance, \$111,372,000.



(B) For program direction, \$4,588,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$53,000,000, to be allocated as follows:

Project 99-D-141, pit disassembly and conversion facility, various locations, \$25,000,000.

Project 99-D-143, mixed oxide fuel fabrication facility, various locations, \$28,000,000.

(4) ENVIRONMENT, SAFETY, AND HEALTH.—For environment, safety, and health, defense, \$89,000,000, to be allocated as follows:

(A) For the Office of Environment, Safety, and Health (Defense), \$84,231,000.

(B) For program direction, \$4,769,000.

(5) OFFICE OF HEARINGS AND APPEALS.—For the Office of Hearings and Appeals, \$2,400,000.

(6) INTERNATIONAL NUCLEAR SAFETY.—For international nuclear safety, \$35,000,000.

(7) NAVAL REACTORS.—For naval reactors, \$681,500,000, to be allocated as follows:

(A) For naval reactors development, \$661,400,000, to be allocated as follows:

(i) For operation and maintenance, \$639,600,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), \$21,800,000, to be allocated as follows:

GPN-101, general plant projects, various locations, \$9,000,000.

Project 98-D-200, site laboratory/facility upgrade, various locations, \$7,000,000.

Project 90-N-102, expended core facility dry cell project, Naval Reactors Facility, Idaho, \$5,800,000.

(B) For program direction, \$20,100,000.

(b) ADJUSTMENT.—(1) The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in paragraphs (1) through (7) of subsection (a) reduced by \$2,000,000.

(2) The amount authorized to be appropriated pursuant to subsection (a)(1)(C) is reduced by \$20,000,000 to reflect an offset provided by user organizations for security investigations.

#### **SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of \$190,000,000.

#### **SEC. 3105. DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION.**

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for privatization initiatives in carrying out environmental restoration

and waste management activities necessary for national security programs in the amount of \$286,857,000, to be allocated as follows:

Project 99-PVT-1, remote handled transuranic waste transportation, Carlsbad, New Mexico, \$19,605,000.

Project 98-PVT-2, spent nuclear fuel dry storage, Idaho Falls, Idaho, \$30,000,000.

Project 98-PVT-5, waste disposal, Oak Ridge, Tennessee, \$50,000,000.

Project 97-PVT-1, tank waste remediation system phase I, Hanford, Washington, \$100,000,000.

Project 97-PVT-2, advanced mixed waste treatment facility, Idaho Falls, Idaho, \$87,252,000.

(b) ADJUSTMENT.—The amount authorized to be appropriated in subsection (a) is the sum of the amounts authorized to be appropriated for the projects set forth in that subsection, reduced by \$32,000,000 for use of prior year balances of funds for defense environmental management privatization.

## **Subtitle B—Recurring General Provisions**

### **SEC. 3121. REPROGRAMMING.**

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) \$1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

### **SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.**

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed \$5,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost

variations and the revised cost of the project exceeds \$5,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

**SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.**

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than \$5,000,000.

**SEC. 3124. FUND TRANSFER AUTHORITY.**

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than 5 percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(c) LIMITATION.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of any transfer of funds to or from authorizations under this title.

**SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.**

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds \$3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than \$5,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed \$600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds \$600,000, funds for such design must be specifically authorized by law.

**SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.**

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including those funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, and 3103, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

**SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.**

Subject to the provisions of appropriations Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

**SEC. 3128. AVAILABILITY OF FUNDS.**

(a) IN GENERAL.—Except as provided in subsection (b), when so specified in an appropriations Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

(b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—Amounts appropriated for program direction pursuant to an authorization of appropriations in subtitle A shall remain available to be expended only until the end of fiscal year 2001.

**SEC. 3129. TRANSFERS OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.**

(a) TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of the office to another such program or project.

(b) LIMITATIONS.—(1) Only one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project under subsection (a) may not exceed \$5,000,000 in a fiscal year.

(3) A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary to address a risk to health, safety, or the environment or to assure the most efficient use of defense environmental management funds at the field office.

(4) Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term “program or project” means, with respect to a field office of the Department of Energy, any of the following:

(A) A program referred to or a project listed in paragraph (2) or (3) of section 3102.

(B) A program or project not described in subparagraph (A) that is for environmental restoration or waste management activities necessary for national security programs of the Department, that is being carried out by the office, and for which defense environmental management funds

have been authorized and appropriated before the date of the enactment of this Act.

(2) The term “defense environmental management funds” means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

(f) DURATION OF AUTHORITY.—The managers of the field offices of the Department may exercise the authority provided under subsection (a) during the period beginning on October 1, 1998, and ending on September 30, 1999.

### **Subtitle C—Program Authorizations, Restrictions, and Limitations**

42 USC 7273c.

#### **SEC. 3131. PERMANENT EXTENSION OF FUNDING PROHIBITION RELATING TO INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.**

Section 3133(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 2036) is amended by striking out “for fiscal year 1998” and inserting in lieu thereof “for any fiscal year”.

#### **SEC. 3132. SUPPORT OF BALLISTIC MISSILE DEFENSE ACTIVITIES OF THE DEPARTMENT OF DEFENSE.**

(a) FUNDS TO CARRY OUT CERTAIN BALLISTIC MISSILE DEFENSE ACTIVITIES.—Of the amounts authorized to be appropriated to the Department of Energy pursuant to section 3101, \$30,000,000 shall be available for research, development, and demonstration activities to support the mission of the Ballistic Missile Defense Organization of the Department of Defense, including the following activities:

(1) Technology development, concept demonstration, and integrated testing to improve reliability and reduce risk in hit-to-kill interceptors for missile defense.

(2) Support for science and engineering teams to address technical problems identified by the Director of the Ballistic Missile Defense Organization as critical to acquisition of a theater missile defense capability.

(b) MEMORANDUM OF UNDERSTANDING.—The activities referred to in subsection (a) shall be carried out under the memorandum of understanding entered into by the Secretary of Energy and the Secretary of Defense for the use of national laboratories for ballistic missile defense programs, as required by section 3131 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 2034).

(c) METHOD OF FUNDING.—Funds for activities referred to in subsection (a) may be provided—

(1) by direct payment from funds available pursuant to subsection (a); or

(2) in the case of such an activity carried out by a national laboratory but paid for by the Ballistic Missile Defense Organization, through a method under which the Secretary of Energy waives any requirement for the Department of Defense to pay any indirect expenses (including overhead and federal administrative charges) of the Department of Energy or its contractors.

**SEC. 3133. NONPROLIFERATION ACTIVITIES.**

(a) **INITIATIVES FOR PROLIFERATION PREVENTION.**—Of the amount authorized to be appropriated by section 3103(a)(1)(A)(ii), up to \$20,000,000 may be used for the Initiatives for Proliferation Prevention program.

(b) **NUCLEAR CITIES INITIATIVE.**—(1) Funds authorized under this title may not be obligated or expended for the purpose of implementing the Nuclear Cities Initiative until—

(A) the Secretary of Energy submits to the congressional defense committees the report described in paragraph (2); and

(B) a period of 20 legislative days has expired following the date on which the report is submitted to Congress.

(2) The Secretary of Energy shall prepare a report on the Nuclear Cities Initiative. The report shall describe—

(A) the objectives of the initiative;

(B) methods and processes for the implementation of the initiative;

(C) a program timeline for the initiative with milestones; and

(D) the funding requirements for the initiative through its completion.

(3) For purposes of this section, the term “Nuclear Cities Initiative” means the initiative arising pursuant to the March 1998 discussion between the Vice President of the United States and the Prime Minister of the Russian Federation and between the Secretary of Energy of the United States and the Minister of Atomic Energy of the Russian Federation.

(4) For purposes of paragraph (1)(B), a legislative day is a day on which both Houses of Congress are in session.

**SEC. 3134. LICENSING OF CERTAIN MIXED OXIDE FUEL FABRICATION AND IRRADIATION FACILITIES.**

(a) **LICENSE REQUIREMENT.**—Section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842) is amended by adding at the end the following new paragraph:

“(5) Any facility under a contract with and for the account of the Department of Energy that is utilized for the express purpose of fabricating mixed plutonium-uranium oxide nuclear reactor fuel for use in a commercial nuclear reactor licensed under such Act, other than any such facility that is utilized for research, development, demonstration, testing, or analysis purposes.”.

(b) **AVAILABILITY OF FUNDS FOR LICENSING BY NRC.**—Section 210 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (42 U.S.C. 7272) shall not apply to any licensing activities required pursuant to section 202(5) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842), as added by subsection (a).

42 USC 5842  
note.

(c) **APPLICABILITY OF OCCUPATIONAL SAFETY AND HEALTH REQUIREMENTS TO ACTIVITIES UNDER LICENSE.**—Any activities carried out under a license required pursuant to section 202(5) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842), as added by subsection (a), shall be subject to regulation under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

42 USC 5842  
note.

**SEC. 3135. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSITION OF LEGACY NUCLEAR MATERIALS.**

The Secretary of Energy shall continue operations and maintain a high state of readiness at the F-canyon and H-canyon facilities at the Savannah River Site, Aiken, South Carolina, and shall provide technical staff necessary to operate and so maintain such facilities.

**SEC. 3136. AUTHORITY FOR DEPARTMENT OF ENERGY FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS TO PARTICIPATE IN MERIT-BASED TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAMS.**

(a) **AUTHORITY.**—Section 217(f)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2695) is amended—

(1) by inserting “(A)” after “(1)”;

(2) by inserting “or of the Department of Energy” after “the Department of Defense”; and

(3) by adding at the end the following new subparagraph:

“(B) A federally funded research and development center of the Department of Energy described in subparagraph (A) may respond to solicitations and announcements described in that subparagraph only for activities conducted by the center under contract with or on behalf of the Department of Defense.”.

(b) **CONFORMING AMENDMENT.**—Section 217(f)(2) of such Act is amended by inserting “(A)” after “(1)”.

42 USC 7259a.

**SEC. 3137. ACTIVITIES OF DEPARTMENT OF ENERGY FACILITIES.**

(a) **RESEARCH AND ACTIVITIES ON BEHALF OF NON-DEPARTMENT PERSONS AND ENTITIES.**—(1) The Secretary of Energy may conduct research and other activities referred to in paragraph (2) at facilities of the Department of Energy on behalf of other departments and agencies of the Government, agencies of State and local governments, and private persons and entities.

(2) The research and other activities that may be conducted under paragraph (1) are those which the Secretary is authorized to conduct by law, including research and activities authorized under the following provisions of law:

(A) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(B) The Energy Reorganization Act of 1974 (42 U.S.C. 5811 et seq.).

(C) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

(b) **CHARGES.**—(1) The Secretary shall impose on the department, agency, or person or entity for which research and other activities are carried out under subsection (a) a charge for such research and activities in carrying out such research and activities, which shall include—

(A) the direct cost incurred in carrying out such research and activities; and

(B) the overhead cost, including site-wide indirect costs, associated with such research and activities.

(2)(A) Subject to subparagraph (B), the Secretary shall also impose on the department, agency, or person or entity concerned a Federal administrative charge (which includes any depreciation and imputed interest charges) in an amount not to exceed 3 percent



of the full cost incurred in carrying out the research and activities concerned.

(B) The Secretary may waive the imposition of the Federal administrative charge required by subparagraph (A) in the case of research and other activities conducted on behalf of small business concerns, institutions of higher education, non-profit entities, and State and local governments.

(3) Not later than 2 years after the date of the enactment of this Act, the Secretary shall terminate any waiver of charges under section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053) that were made before such date, unless the Secretary determines that such waiver should be continued.

(c) PILOT PROGRAM OF REDUCED FACILITY OVERHEAD CHARGES.—(1) The Secretary may, with the cooperation of participating contractors of the contractor-operated facilities of the Department, carry out a pilot program under which the Secretary and such contractors reduce the facility overhead charges imposed under this section for research and other activities conducted under this section.

(2) The Secretary shall carry out the pilot program at contractor-operated facilities selected by the Secretary in consultation with the contractors concerned.

(3) The Secretary shall determine the facility overhead charges to be imposed under the pilot program at a facility based on a joint review by the Secretary and the contractor for the facility of all items included in the overhead costs of the facility in order to determine which items are appropriately incurred as facility overhead charges by the contractor in carrying out research and other activities at such facility under this section.

(4) The Secretary shall commence carrying out the pilot program under this subsection not later than October 1, 1999, and shall terminate the pilot program on September 30, 2003.

(5) Not later than January 31, 2003, the Secretary shall submit to Congress an interim report on the results of the pilot program under this subsection. The report shall include any recommendations for the extension or expansion of the pilot program, including the establishment of multiple rates of overhead charges for various categories of persons and entities seeking research and other activities in contractor-operated facilities of the Department.

(d) APPLICABILITY WITH RESPECT TO USER FEE PRACTICE.—This section does not apply to the practice of the Department of Energy with respect to user fees at Department facilities.

Effective date.  
Termination  
date.

Reports.

#### SEC. 3138. HANFORD OVERHEAD AND SERVICE CENTER COSTS.

(a) TARGET FOR REDUCTION OF COSTS.—The Secretary of Energy shall establish a target for the overhead and service center costs for the Project Hanford Management Contractor for fiscal year 1999 that is less than the established baseline for such costs for that fiscal year.

(b) USE OF FUNDS RESULTING FROM REDUCTION.—If the actual overhead and service center costs for that contractor for fiscal year 1999 are less than the established baseline for such costs for that fiscal year, the Secretary, to the extent consistent with fiscal year 1999 appropriations, shall use an amount equal to the difference between the baseline and such actual costs to perform additional clean-up work at Hanford in order to reduce the most threatening environmental risks at Hanford and to comply with

applicable laws and regulations and the Tri-Party Agreement among the Department of Energy, the Environmental Protection Agency, and the State of Washington.

(c) REVIEW.—The Director of the Defense Contract Audit Agency shall review the Project Hanford Management Contract for compliance with cost accounting standards promulgated pursuant to section 26(f) of the Office of Federal Procurement Policy Act (42 U.S.C. 422(f)). The review shall include the following:

(1) An identification and assessment of methods for calculating overhead costs.

(2) A description of activities the costs of which are allocated to—

(A) all accounts at the Hanford site other than overhead accounts; or

(B) other contracts under which work is performed at the Hanford site.

(3) A description of service center costs, including—

(A) computer service and information management costs and other support service costs; and

(B) costs of any activity which is paid for on a per-unit basis.

(4) An identification and assessment of all fees, awards, or other profit on overhead or service center costs that are not attributed to performance on a single project or contract.

(5) An identification and assessment of all contracts awarded without competition.

(6) An identification and assessment of any other costs that the Director considers necessary or appropriate to present a full and complete review of Hanford costs.

(d) REPORT.—Not later than March 1, 1999, the Director of the Defense Contract Audit Agency shall submit to the congressional defense committees a report on the results of the review under subsection (c).

#### **SEC. 3139. HANFORD WASTE TANK CLEANUP PROGRAM REFORMS.**

(a) ESTABLISHMENT OF OFFICE OF RIVER PROTECTION.—The Secretary of Energy shall establish an office at the Hanford Reservation, Richland, Washington, to be known as the “Office of River Protection” (in this section referred to as the “Office”).

(b) MANAGEMENT AND RESPONSIBILITIES OF OFFICE.—(1) The Office shall be headed by a senior official of the Department of Energy, who shall report to the Assistant Secretary of Energy for Environmental Management.

(2) The head of the Office shall be responsible for managing all aspects of the Tank Waste Remediation System (also referred to as the Hanford Tank Farm operations), including those portions under privatization contracts, of the Department of Energy at Hanford.

(c) DEPARTMENT RESPONSIBILITIES.—The Secretary shall provide the manager of the Office with the resources and personnel necessary to manage the tank waste privatization program at Hanford in an efficient and streamlined manner.

(d) INTEGRATED MANAGEMENT PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committees on Commerce and on National Security of the House of Representatives an integrated management plan for all

aspects of the Hanford Tank Farm operations, including the roles, responsibilities, and reporting relationships of the Office.

(e) REPORT.—Not later than 2 years after the commencement of operations of the Office, the Secretary shall submit to the committees referred to in subsection (d) a report describing—

(1) any progress in or resulting from the utilization of the Tank Waste Remediation System; and

(2) any improvements in the management structure of the Department at Hanford with respect to the Tank Waste Remediation System as a result of the Office.

(f) TERMINATION.—(1) The Office shall terminate 5 years after the commencement of operations under this section unless the Secretary determines that termination on that date would disrupt effective management of the Hanford Tank Farm operations.

(2) The Secretary shall notify, in writing, the committees referred to in subsection (d) of a determination under paragraph (1).

#### **SEC. 3140. HANFORD HEALTH INFORMATION NETWORK.**

Of the funds authorized to be appropriated or otherwise made available to the Department of Energy by section 3102, \$1,500,000 shall be available for activities relating to the Hanford Health Information Network established pursuant to the authority in section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1834), as amended by section 3138(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 3087).

#### **SEC. 3141. HAZARDOUS MATERIALS MANAGEMENT AND EMERGENCY RESPONSE TRAINING PROGRAM.**

The Secretary of Energy may enter into partnership arrangements with Federal and non-Federal entities to share the costs of operating the hazardous materials management and hazardous materials emergency response training program authorized under section 3140(a) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 3088). Such arrangements may include the exchange of equipment and services, in lieu of payment for the training program.

#### **SEC. 3142. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.**

(a) AVAILABILITY OF FUNDS.—Of the funds authorized to be appropriated or otherwise made available to the Department of Energy by this title, up to \$5,000,000 shall be made available for payment by the Secretary of Energy to the educational foundation chartered to enhance educational activities in the public schools in the vicinity of Los Alamos National Laboratory, New Mexico (in this section referred to as the “Foundation”).

(b) USE OF FUNDS.—(1) The Foundation shall utilize funds provided under subsection (a) as a contribution to an endowment fund for the Foundation.

(2) The Foundation shall use the income generated from investments in the endowment fund that are attributable to the payment made under subsection (a) to fund programs to support the educational needs of children in public schools in the vicinity of Los Alamos National Laboratory.

**SEC. 3143. RELOCATION OF NATIONAL ATOMIC MUSEUM, ALBUQUERQUE, NEW MEXICO.**

The Secretary of Energy shall submit to the congressional defense committees a plan for the relocation of the National Atomic Museum in Albuquerque, New Mexico.

**SEC. 3144. TRITIUM PRODUCTION.**

The Secretary of Energy may not obligate or expend any funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1999 to implement a final decision on the technology to be utilized for tritium production, made pursuant to section 3135 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 2037), until October 1, 1999.

## **Subtitle D—Other Matters**

**SEC. 3151. STUDY AND PLAN RELATING TO WORKER AND COMMUNITY TRANSITION ASSISTANCE.****(a) STUDY BY THE GENERAL ACCOUNTING OFFICE.—**

(1) **STUDY REQUIREMENT.**—The Comptroller General shall conduct a study on the effects of workforce restructuring plans for defense nuclear facilities developed pursuant to section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h).

(2) **MATTERS COVERED BY STUDY.**—The study shall cover the four-year period preceding the date of the enactment of this Act and shall include the following:

(A) An analysis of the number of jobs created by any employee retraining, education, and reemployment assistance and any community impact assistance provided in each workforce restructuring plan developed pursuant to section 3161 of the National Defense Authorization Act for Fiscal Year 1993.

(B) An analysis of other benefits provided pursuant to such plans, including any assistance provided to community reuse organizations.

(C) A description of the funds expended, and the funds obligated but not expended, pursuant to such plans as of the date of the report.

(D) A description of the criteria used since October 23, 1992, in providing assistance pursuant to such plans.

(E) A comparison of any similar benefits provided—

(i) pursuant to such a plan to employees whose employment at the defense nuclear facility covered by the plan is terminated; and

(ii) to employees whose employment at a facility where more than 50 percent of the revenues are derived from contracts with the Department of Defense has been terminated as a result of cancellation, termination, or completion of contracts with the Department of Defense and the employees whose employment is terminated constitute more than 15 percent of the employees at that facility.

(F) A comparison of—

(i) involuntary separation benefits provided to employees of Department of Energy contractors and subcontractors under such plans; and

(ii) involuntary separation benefits provided to employees of the Federal Government.

(G) A comparison of costs to the Federal Government (including costs of involuntary separation benefits) for—

(i) involuntary separations of employees of Department of Energy contractors and subcontractors; and

(ii) involuntary separations of employees of contractors and subcontractors of other Federal Government departments and agencies.

(H) A description of the length of service and hiring dates of employees of Department of Energy contractors and subcontractors provided benefits under such plans in the 2-year period preceding the date of the enactment of this Act.

(3) REPORT ON STUDY.—The Comptroller General shall submit a report to Congress on the results of the study not later than March 31, 1999.

(4) DEFINITION.—In this section, the term “defense nuclear facility” has the meaning provided the term “Department of Energy defense nuclear facility” in section 3163 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 42 U.S.C. 7274j).

(b) PLAN FOR TERMINATION OF WORKER AND COMMUNITY TRANSITION PROGRAM.—Not later than July 1, 1999, the Secretary of Energy shall submit to the congressional defense committees a plan to terminate the Office of Worker and Community Transition. The plan shall include—

(1) a description of how the authority of the Office would be terminated; and

(2) a description of how the responsibility to manage downsizing of the contractor workforce of the Department of Energy would be transferred to other offices or programs within the Department.

**SEC. 3152. EXTENSION OF AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.**

Section 3161(c)(1) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 7231 note) is amended by striking out “September 30, 1999” and inserting in lieu thereof “September 30, 2000”.

**SEC. 3153. REQUIREMENT FOR PLAN TO MODIFY EMPLOYMENT SYSTEM USED BY DEPARTMENT OF ENERGY IN DEFENSE ENVIRONMENTAL MANAGEMENT PROGRAMS.**

(a) PLAN REQUIREMENT.—Not later than February 1, 1999, the Secretary of Energy shall submit to Congress a report containing a plan to modify the Federal employment system used within the defense environmental management programs of the Department of Energy to allow for workforce restructuring in those programs. Reports.

(b) SPECIFIED ELEMENTS OF PLAN.—The plan shall address strategies to recruit and hire—

(1) individuals with a high degree of scientific and technical competence in the areas of nuclear and toxic waste remediation and environmental restoration; and

(2) individuals with the necessary skills to manage large construction and environmental remediation projects.

(c) **LEGISLATIVE CHANGES.**—The plan shall include an identification of the provisions of Federal law that would need to be changed to allow the Secretary of Energy to restructure the Department of Energy defense environmental management workforce to hire individuals described in subsection (b), while staying within any numerical limitations required by law (including section 3161 of Public Law 103-337 (42 U.S.C. 7231 note)) on employment of such individuals.

**SEC. 3154. DEPARTMENT OF ENERGY NUCLEAR MATERIALS COURIERS.**

(a) **MAXIMUM AGE FOR ENTRY INTO NUCLEAR MATERIALS COURIER FORCE.**—Section 3307 of title 5, United States Code, is amended—

(1) in subsection (a), by striking “and (d)” and inserting “(d), (e), and (f)”; and

(2) by adding at the end the following:

“(f) The Secretary of Energy may determine and fix the maximum age limit for an original appointment to a position as a nuclear materials courier, as defined by section 8331(27) or 8401(33).”.

(b) **DEFINITION FOR PURPOSES OF CIVIL SERVICE RETIREMENT SYSTEM.**—Section 8331 of title 5, United States Code, is amended—

(1) by striking “and” at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting “; and”; and

(3) by adding at the end the following:

“(27) ‘Nuclear materials courier’—

“(A) means an employee of the Department of Energy, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapon components, strategic quantities of special nuclear materials or other materials related to national security; and

“(B) includes an employee who is transferred directly to a supervisory or administrative position within the same Department of Energy organization, after performing duties referred to in subparagraph (A) for at least 3 years.”.

(c) **DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS UNDER CSRS.**—(1) Subsection (a)(1) of section 8334 of title 5, United States Code, is amended by striking “or member of the Capitol Police,” and inserting “member of the Capitol Police, or nuclear materials courier,”.

(2) Subsection (c) of that section is amended by adding after the item for a Member of the Capitol Police the following new item:

“Nuclear materials courier .....	7 .....	October 1, 1977 to the day before the date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.
	7.5 .....	The date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 to December 31, 1998.
	7.75 .....	January 1, 1999 to December 31, 1999.
	7.9 .....	January 1, 2000 to December 31, 2000.
	8 .....	January 1, 2001 to December 31, 2002.
	7.5 .....	After December 31, 2002.”

(3) Notwithstanding subsection (a)(1) or (k)(1) of section 8334 of title 5, United States Code, or section 7001(a) of Public Law 105–33, during the period beginning on the effective date provided for under subsection (n)(1) and ending on September 30, 2002, the Department of Energy shall deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund on behalf of each nuclear materials courier from whose basic pay a deduction is made under such subsection (a)(1) during that period an amount equal to 9.01 percent of such basic pay, in lieu of the agency contributions otherwise required under such subsection (a)(1) during that period.

5 USC 8334 note.

(d) MANDATORY SEPARATION UNDER CSRS.—Section 8335(b) of title 5, United States Code, is amended in the second sentence—

(1) by inserting “or nuclear materials courier” after “law enforcement officer”; and

(2) by inserting “or courier, as the case may be,” after “that officer”.

(e) IMMEDIATE RETIREMENT UNDER CSRS.—Section 8336(c)(1) of title 5, United States Code, is amended by striking “or firefighter” and inserting “, firefighter, or nuclear materials courier”.

(f) DEFINITION FOR PURPOSES OF FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—Section 8401 of title 5, United States Code, is amended—

(1) by striking “and” at the end of paragraph (31);

(2) by striking the period at the end of paragraph (32) and inserting “; and”; and

(3) by adding at the end the following:

“(33) ‘Nuclear materials courier’ has the meaning given that term in section 8331(27).”.

(g) IMMEDIATE RETIREMENT UNDER FERS.—Section 8412(d) of title 5, United States Code, is amended by striking “or firefighter” each place it appears in paragraphs (1) and (2) and inserting “firefighter, or nuclear materials courier”.

(h) COMPUTATION OF BASIC ANNUITY UNDER FERS.—Section 8415(g) of title 5, United States Code, is amended by inserting “nuclear materials courier,” after “firefighter,”.

(i) DEDUCTIONS AND CONTRIBUTIONS UNDER FERS.—(1) Section 8422(a)(3) of title 5, United States Code, is amended by adding after the item relating to a law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller the following new item:

“Nuclear materials courier .....	7 .....	January 1, 1987 to the day before the date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.
	7.5 .....	The date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 to December 31, 1998.
	7.75 .....	January 1, 1999 to December 31, 1999.
	7.9 .....	January 1, 2000 to December 31, 2000.
	8 .....	January 1, 2001 to December 31, 2001.
	7.5 .....	After December 31, 2002.”

5 USC 8422 note.

(2) Contributions under subsections (a) and (b) of section 8423 of title 5, United States Code, shall not be reduced as a result of that portion of the amendment made by paragraph (1) requiring employee deductions at a rate in excess of 7.5 percent for the period beginning on January 1, 1999, and ending on December 31, 2002.

(j) AGENCY CONTRIBUTIONS UNDER FERS.—Paragraphs (1)(B)(i) and (3)(A) of section 8423(a) of title 5, United States Code, are each amended by inserting “nuclear materials couriers,” after “firefighters,”.

(k) MANDATORY SEPARATION UNDER FERS.—Section 8425(b) of title 5, United States Code, is amended by inserting “or nuclear materials courier” after “law enforcement officer” both places it appears in the second sentence.

5 USC 8348 note.

(l) PAYMENTS.—(1) The Department of Energy shall pay into the Civil Service Retirement and Disability Fund an amount determined by the Director of the Office of Personnel Management to be necessary to reimburse the Fund for any estimated increase in the unfunded liability of the Fund resulting from the amendments related to the Civil Service Retirement System under this section, and for any estimated increase in the supplemental liability of the Fund resulting from the amendments related to the Federal Employees Retirement System under this section.

(2) The Department shall pay the amount so determined in five equal annual installments with interest computed at the rate used in the most recent valuation of the Federal Employees Retirement System.

(3) The Department shall make payments under this subsection from amounts available for weapons activities of the Department.

5 USC 8331 note.

(m) APPLICABILITY.—Subsections (b) through (l) shall apply only to an individual who is employed as a nuclear materials courier, as defined by section 8331(27) or 8401(33) of title 5, United States Code (as amended by this section), after the later of—

(1) September 30, 1998; or

(2) the date of the enactment of this Act.

5 USC 8331 note.

(n) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect at the beginning of the first pay period that begins after the later of—

(A) October 1, 1998; or

(B) the date of the enactment of this Act.



(2)(A) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(B) The amendments made by subsections (d) and (k) shall take effect 1 year after the date of the enactment of this Act.

**SEC. 3155. INCREASE IN MAXIMUM RATE OF PAY FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL RESPONSIBLE FOR SAFETY AT DEFENSE NUCLEAR FACILITIES.**

Section 3161(a)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 42 U.S.C. 7231 note) is amended by striking out “level IV of the Executive Schedule under section 5315” and inserting in lieu thereof “level III of the Executive Schedule under section 5314”.

**SEC. 3156. EXTENSION OF AUTHORITY OF DEPARTMENT OF ENERGY TO PAY VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**

5 USC 5597 note.

(a) EXTENSION.—Notwithstanding subsection (c)(2)(D) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–383; 5 U.S.C. 5597 note), the Department of Energy may pay voluntary separation incentive payments to qualifying employees who voluntarily separate (whether by retirement or resignation) before January 1, 2001.

(b) EXERCISE OF AUTHORITY.—The Department shall pay voluntary separation incentive payments under subsection (a) in accordance with the provisions of such section 663.

**SEC. 3157. REPEAL OF FISCAL YEAR 1998 STATEMENT OF POLICY ON STOCKPILE STEWARDSHIP PROGRAM.**

Section 3156 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2045; 42 U.S.C. 2121 note) is repealed.

**SEC. 3158. REPORT ON STOCKPILE STEWARDSHIP CRITERIA.**

42 USC 2121 note.

(a) REQUIREMENT FOR CRITERIA.—The Secretary of Energy shall develop clear and specific criteria for judging whether the science-based tools being used by the Department of Energy for determining the safety and reliability of the nuclear weapons stockpile are performing in a manner that will provide an adequate degree of certainty that the stockpile is safe and reliable.

(b) COORDINATION WITH SECRETARY OF DEFENSE.—The Secretary of Energy, in developing the criteria required by subsection (a), shall coordinate with the Secretary of Defense.

(c) REPORT.—Not later than March 1, 2000, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the efforts by the Department of Energy to develop the criteria required by subsection (a). The report shall include—

(1) a description of the information needed to determine that the nuclear weapons stockpile is safe and reliable and the relationship of the science-based tools to the collection of that information; and

(2) a description of the criteria required by subsection (a) to the extent they have been developed as of the date of the submission of the report.

42 USC 2121  
note.

Contracts.

**SEC. 3159. PANEL TO ASSESS THE RELIABILITY, SAFETY, AND SECURITY OF THE UNITED STATES NUCLEAR STOCKPILE.**

(a) **REQUIREMENT FOR PANEL.**—The Secretary of Defense, in consultation with the Secretary of Energy, shall enter into a contract with a federally funded research and development center to establish a panel for the assessment of the certification process for the reliability, safety, and security of the United States nuclear stockpile.

(b) **COMPOSITION AND ADMINISTRATION OF PANEL.**—(1) The panel shall consist of private citizens of the United States with knowledge and expertise in the technical aspects of design, manufacture, and maintenance of nuclear weapons.

(2) The federally funded research and development center shall be responsible for establishing appropriate procedures for the panel, including selection of a panel chairman.

(c) **DUTIES OF PANEL.**—Each year the panel shall review and assess the following:

(1) The annual certification process, including the conclusions and recommendations resulting from the process, for the safety, security, and reliability of the nuclear weapons stockpile of the United States, as carried out by the directors of the national weapons laboratories.

(2) The long-term adequacy of the process of certifying the safety, security, and reliability of the nuclear weapons stockpile of the United States.

(3) The adequacy of the criteria established by the Secretary of Energy pursuant to section 3158 for achieving the purposes for which those criteria are established.

(d) **REPORT.**—Not later than October 1 of each year, beginning with 1999, the panel shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth its findings and conclusions resulting from the review and assessment carried out for the year covered by the report. The report shall be submitted in classified and unclassified form.

(e) **COOPERATION OF OTHER AGENCIES.**—(1) The panel may secure directly from the Department of Energy, the Department of Defense, or any of the national weapons laboratories or plants or any other Federal department or agency information that the panel considers necessary to carry out its duties.

(2) For carrying out its duties, the panel shall be provided full and timely cooperation by the Secretary of Energy, the Secretary of Defense, the Commander of United States Strategic Command, the Directors of the Los Alamos National Laboratory, the Lawrence Livermore National Laboratory, the Sandia National Laboratories, the Savannah River Site, the Y-12 Plant, the Pantex Facility, and the Kansas City Plant, and any other official of the United States that the chairman of the panel determines as having information described in paragraph (1).

(3) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the panel.

(f) **FUNDING.**—The Secretary of Defense and the Secretary of Energy shall each contribute 50 percent of the amount of funds that are necessary for the panel to carry out its duties. Funds available for the Department of Energy for atomic energy defense

activities shall be available for the Department of Energy contribution.

(g) **TERMINATION OF PANEL.**—The panel shall terminate three years after the date of the appointment of the member designated as chairman of the panel.

(h) **INITIAL IMPLEMENTATION.**—The Secretary of Defense shall enter into the contract required under subsection (a) not later than 60 days after the date of the enactment of this Act. The panel shall convene its first meeting not later than 30 days after the date as of which all members of the panel have been appointed.

**SEC. 3160. INTERNATIONAL COOPERATIVE INFORMATION EXCHANGE.**

(a) **FINDINGS.**—Congress finds the following:

(1) Currently in the post-cold war world, there are new opportunities to facilitate international political and scientific cooperation on cost-effective, advanced, and innovative nuclear management technologies.

(2) There is increasing public interest in monitoring and remediation of nuclear waste.

(3) It is in the best interest of the United States to explore and develop options with the international community to facilitate the exchange of evolving advanced nuclear wastes technologies.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other officials as appropriate, should prepare and submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report containing the following:

(1) An assessment of whether the United States should encourage the establishment of an international project to facilitate the international exchange of information (including costs data) relating to nuclear waste technologies, including technologies for solid and liquid radioactive wastes and contaminated soils and sediments.

(2) An assessment of whether such a project could be funded privately through industry, public interest, and scientific organizations and administered by an international nongovernmental organization, with operations in the United States, Russia, and other countries that have an interest in developing such technologies.

(3) A description of the Federal programs that facilitate the exchange of such information and of any added benefit of consolidating such programs into such a project.

(4) Recommendations for any legislation that the Secretary of Energy believes would be required to enable such a project to be undertaken.

**SEC. 3161. PROTECTION AGAINST INADVERTENT RELEASE OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.**

50 USC 435 note.

(a) **PLAN FOR PROTECTION AGAINST RELEASE.**—The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a plan to prevent the

inadvertent release of records containing Restricted Data or Formerly Restricted Data during the automatic declassification of records under Executive Order No. 12958 (50 U.S.C. 435 note).

(b) PLAN ELEMENTS.—The plan under subsection (a) shall include the following:

(1) The actions to be taken in order to ensure that records subject to Executive Order No. 12958 are reviewed on a page-by-page basis for Restricted Data and Formerly Restricted Data unless they have been determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.

(2) The criteria and process by which documents are determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.

(3) The actions to be taken in order to ensure proper training, supervision, and evaluation of personnel engaged in declassification under that Executive order so that such personnel recognize Restricted Data and Formerly Restricted Data.

(4) The extent to which automated declassification technologies will be used under that Executive order to protect Restricted Data and Formerly Restricted Data from inadvertent release.

(5) Procedures for periodic review and evaluation by the Secretary of Energy, in consultation with the Director of the Information Security Oversight Office of the National Archives and Records Administration, of compliance by Federal agencies with the plan.

(6) Procedures for resolving disagreements among Federal agencies regarding declassification procedures and decisions under the plan.

(7) The funding, personnel, and other resources required to carry out the plan.

(8) A timetable for implementation of the plan.

(c) LIMITATION ON DECLASSIFICATION OF CERTAIN RECORDS.—

(1) Effective on the date of the enactment of this Act and except as provided in paragraph (3), a record referred to in subsection (a) may not be declassified unless the agency having custody of the record reviews the record on a page-by-page basis to ensure that the record does not contain Restricted Data or Formerly Restricted Data.

(2) Any record determined as a result of a review under paragraph (1) to contain Restricted Data or Formerly Restricted Data may not be declassified until the Secretary of Energy, in conjunction with the head of the agency having custody of the record, determines that the document is suitable for declassification.

(3) After the date occurring 60 days after the submission of the plan required by subsection (a) to the committees referred to in paragraphs (1) and (2) of subsection (d), the requirement under paragraph (1) to review a record on a page-by-page basis shall not apply in the case of a record determined, under the actions specified in the plan pursuant to subsection (b)(1), to be a record that is highly unlikely to contain Restricted Data or Formerly Restricted Data.

(d) SUBMISSION OF PLAN.—The Secretary of Energy shall submit the plan required under subsection (a) to the following:

(1) The Committee on Armed Services of the Senate.

(2) The Committee on National Security of the House of Representatives.

(3) The Assistant to the President for National Security Affairs.

(e) SUBMISSION OF REVIEWS.—The Secretary of Energy shall, on a periodic basis, submit a summary of the results of the periodic reviews and evaluations specified in the plan pursuant to subsection (b)(4) to the committees and Assistant to the President specified in subsection (d).

(f) REPORT AND NOTIFICATION REGARDING INADVERTENT RELEASES.—(1) The Secretary of Energy shall submit to the committees and Assistant to the President specified in subsection (d) a report on inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 12958 that occurred before the date of the enactment of this Act.

(2) Not later than 30 days after any such inadvertent release occurring after the date of the enactment of this Act, the Secretary of Energy shall notify the committees and Assistant to the President specified in subsection (d) of such releases.

(g) DEFINITION.—In this section, the term “Restricted Data” has the meaning given that term in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

**SEC. 3162. SENSE OF CONGRESS REGARDING TREATMENT OF FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM UNDER A NONDEFENSE DISCRETIONARY BUDGET FUNCTION.**

It is the sense of Congress that the Office of Management and Budget should, beginning with fiscal year 2000, transfer the Formerly Utilized Sites Remedial Action Program from the National Defense budget function (budget function 050) to a nondefense discretionary budget function.

**SEC. 3163. REPORTS RELATING TO TRITIUM PRODUCTION.**

(a) REPORT ON TRITIUM PRODUCTION TECHNOLOGY OPTIONS.—

(1) The Secretary of Defense, in consultation with the Secretary of Energy, shall establish a task force of the Defense Science Board to examine tritium production technology options.

(2) The task force shall examine the following issues:

(A) The risk associated with the design, construction, operation, and cost of each option for tritium production under consideration.

(B) The implications for nuclear weapons proliferation of each such option.

(C) The extent to which each such option contributes to the capability of the Government to reliably meet the national defense requirements of the United States.

(D) Any other factors that the Secretary of Defense or the Secretary of Energy considers appropriate.

(3) The task force shall submit to the Secretary of Defense and the Secretary of Energy a report on the results of its examination. The Secretaries shall submit the report to Congress not later than June 30, 1999.

(b) REPORT ON TEST PROGRAM FOR TRITIUM PRODUCTION AT WATTS BAR.—(1) The Secretary of Energy shall submit to the congressional defense committees a report on the results of the test program at the Watts Bar Nuclear Station, Tennessee, after the test program is completed and the results of the program are evaluated. The report shall include—

- (A) data on the performance of the test rods, including any leakage of tritium from the test rods;
  - (B) the amount of tritium produced during the test;
  - (C) the performance of the reactor during the test; and
  - (D) any other technical findings resulting from the test.
- (2) The Secretary of Energy shall submit to the congressional defense committees an interim report on the test program not later than 60 days after the test rods are removed from the Watts Bar reactor.

## TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

### SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1999, \$17,500,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

## TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Definitions.

Sec. 3302. Authorized uses of stockpile funds.

Sec. 3303. Authority to dispose of certain materials in National Defense Stockpile.

Sec. 3304. Use of stockpile funds for certain environmental remediation, restoration, waste management, and compliance activities.

50 USC 98d note. **SEC. 3301. DEFINITIONS.**

In this title:

(1) The term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term “National Defense Stockpile Transaction Fund” means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

### SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) **OBLIGATION OF STOCKPILE FUNDS.**—During fiscal year 1999, the National Defense Stockpile Manager may obligate up to \$83,000,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)), including the disposal of hazardous materials that are environmentally sensitive.

(b) **ADDITIONAL OBLIGATIONS.**—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

**SEC. 3303. AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.** 50 USC 98d note.

(a) DISPOSAL REQUIRED.—Subject to subsection (c), the President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in the amount of—

- (1) \$105,000,000 by the end of fiscal year 1999;
- (2) \$460,000,000 by the end of fiscal year 2002;
- (3) \$555,000,000 by the end of fiscal year 2003; and
- (4) \$590,000,000 by the end of fiscal year 2005.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

**Authorized Stockpile Disposals**

Material for disposal	Quantity
Bauxite Refractory .....	29,000 long calcined ton
Beryllium Metal .....	100 short tons
Chromite Chemical .....	34,000 short dry tons
Chromite Refractory .....	159,000 short dry tons
Chromium Ferroalloy .....	125,000 short tons
Columbium Carbide Powder .....	21,372 pounds of contained Columbium
Columbium Concentrates .....	1,733,454 pounds of contained Columbium
Columbium Ferro .....	249,396 pounds of contained Columbium
Columbium Metal—Ingots .....	161,123 pounds of contained Columbium
Diamond, Stones .....	3,000,000 carats
Germanium Metal .....	28,198 kilograms
Graphite Natural Ceylon Lump .....	5,492 short tons
Indium .....	14,248 troy ounces
Mica Muscovite Block .....	301,000 pounds
Mica Phlogopite Block .....	130,745 pounds
Platinum .....	439,887 troy ounces
Platinum—Iridium .....	4,450 troy ounces
Platinum—Palladium .....	750,000 troy ounces
Tantalum Carbide Powder .....	22,688 pounds of contained Tantalum
Tantalum Metal Ingots .....	125,000 pounds of contained Tantalum
Tantalum Metal Powder .....	125,000 pounds of contained Tantalum
Tantalum Minerals .....	1,751,364 pounds of contained Tantalum
Tantalum Oxide .....	122,730 pounds of contained Tantalum
Tungsten Carbide Powder .....	2,032,896 pounds of contained Tungsten
Tungsten Ferro .....	2,024,143 pounds of contained Tungsten
Tungsten Metal Powder .....	1,898,009 pounds of contained Tungsten

**Authorized Stockpile Disposals—Continued**

<b>Material for disposal</b>	<b>Quantity</b>
Tungsten Ores & Concentrates .....	76,358,235 pounds of contained Tungsten

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) TREATMENT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials authorized for disposal under subsection (a) shall be treated as follows:

(1) The following amounts shall be transferred to the Secretary of Health and Human Services, to be credited in the manner determined by the Secretary to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund:

- (A) \$3,000,000 during fiscal year 1999.
- (B) \$22,000,000 during fiscal year 2000.
- (C) \$28,000,000 during fiscal year 2001.
- (D) \$31,000,000 during fiscal year 2002.
- (E) \$8,000,000 during fiscal year 2003.

(2) The balance of the funds received shall be deposited into the general fund of the Treasury.

(e) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(f) AUTHORIZATION OF SALE.—The authority provided by this section to dispose of materials contained in the National Defense Stockpile so as to result in receipts of \$100,000,000 of the amount specified for fiscal year 1999 in subsection (a) by the end of that fiscal year shall be effective only to the extent provided in advance in appropriation Acts.

**SEC. 3304. USE OF STOCKPILE FUNDS FOR CERTAIN ENVIRONMENTAL REMEDIATION, RESTORATION, WASTE MANAGEMENT, AND COMPLIANCE ACTIVITIES.**

Section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended—

(1) by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L), respectively; and

(2) by inserting after subparagraph (I) the following new subparagraph (J):

“(J) Performance of environmental remediation, restoration, waste management, or compliance activities at locations of the stockpile that are required under a Federal law or are undertaken by the Government under an administrative decision or negotiated agreement.”.



## TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Definitions.

Sec. 3402. Authorization of appropriations.

Sec. 3403. Disposal of Naval Petroleum Reserve Numbered 2.

Sec. 3404. Disposal of Naval Petroleum Reserve Numbered 3.

Sec. 3405. Disposal of Oil Shale Reserve Numbered 2.

Sec. 3406. Administration.

### SEC. 3401. DEFINITIONS.

10 USC 7420  
note.

In this title:

(1) The term “naval petroleum reserves” has the meaning given the term in section 7420(2) of title 10, United States Code.

(2) The term “Naval Petroleum Reserve Numbered 2” means the naval petroleum reserve, commonly referred to as the Buena Vista unit, that is located in Kern County, California, and was established by Executive order of the President, dated December 13, 1912.

(3) The term “Naval Petroleum Reserve Numbered 3” means the naval petroleum reserve, commonly referred to as the Teapot Dome unit, that is located in the State of Wyoming and was established by Executive order of the President, dated April 30, 1915.

(4) The term “Oil Shale Reserve Numbered 2” means the naval petroleum reserve that is located in the State of Utah and was established by Executive order of the President, dated December 6, 1916.

(5) The term “antitrust laws” has the meaning given the term in section 1(a) of the Clayton Act (15 U.S.C. 12(a)), except that the term also includes—

(A) the Act of June 19, 1936 (15 U.S.C. 13 et seq.; commonly known as the Robinson-Patman Act); and

(B) section 5 of the Federal Trade Commission Act (15 U.S.C. 45), to the extent that such section applies to unfair methods of competition.

(6) The term “petroleum” has the meaning given the term in section 7420(3) of title 10, United States Code.

### SEC. 3402. AUTHORIZATION OF APPROPRIATIONS.

10 USC 7420  
note.

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy \$22,500,000 for fiscal year 1999 for the purpose of carrying out—

(1) activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves;

(2) closeout activities at Naval Petroleum Reserve Numbered 1 upon the sale of that reserve under subtitle B of title XXXIV of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 7420 note); and

(3) activities under this title relating to the disposition of Naval Petroleum Reserve Numbered 2, Naval Petroleum Reserve Numbered 3, and Oil Shale Reserve Numbered 2.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

10 USC 7420  
note.

**SEC. 3403. DISPOSAL OF NAVAL PETROLEUM RESERVE NUMBERED 2.**

(a) DISPOSAL OF FORD CITY LOTS AUTHORIZED.—(1) Subject to section 3406, the Secretary of Energy may dispose of the portion of Naval Petroleum Reserve Numbered 2 that is located within the town lots in Ford City, California, which are identified as “Drill Sites Numbered 3A, 4, 6, 9A, 20, 22, 24, and 26” and described in the document entitled “Ford City Drill Site Locations—NPR-2,” and accompanying maps on file in the office of the Deputy Assistant Secretary for Naval Petroleum and Oil Shale Reserves of the Department of Energy.

(2) The Secretary of Energy shall carry out the disposal authorized by paragraph (1) by competitive sale or lease consistent with commercial practices, by transfer to another Federal agency or a public or private entity, or by such other means as the Secretary considers appropriate. Any competitive sale or lease under this subsection shall provide for the disposal of all right, title, and interest of the United States in the property to be conveyed. The Secretary of Energy may use the authority provided by the Act of June 14, 1926 (43 U.S.C. 869 et seq.; commonly known as the Recreation and Public Purposes Act), in the same manner and to the same extent as the Secretary of the Interior, to dispose of the portion of Naval Petroleum Reserve Numbered 2 described in paragraph (1).

(3) Section 2696(a) of title 10, United States Code, regarding the screening of real property for further Federal use before disposal, shall apply to the disposal authorized by paragraph (1).

**(b) TRANSFER OF ADMINISTRATIVE JURISDICTION AUTHORIZED.—**

(1) The Secretary of Energy shall continue to administer Naval Petroleum Reserve Numbered 2 (other than the portion of the reserve authorized for disposal under subsection (a)) in accordance with chapter 641 of title 10, United States Code, until such time as the Secretary makes a determination to abandon oil and gas operations in Naval Petroleum Reserve Numbered 2 in accordance with commercial operating practices.

(2) After oil and gas operations are abandoned in Naval Petroleum Reserve Numbered 2, the Secretary of Energy may transfer to the Secretary of the Interior administrative jurisdiction and control over all public domain lands included within Naval Petroleum Reserve Numbered 2 (other than the portion of the reserve authorized for disposal under subsection (a)) for management in accordance with the general land laws.

(c) RELATIONSHIP TO ANTITRUST LAWS.—This section does not modify, impair, or supersede the operation of the antitrust laws.

10 USC 7420  
note.

**SEC. 3404. DISPOSAL OF NAVAL PETROLEUM RESERVE NUMBERED 3.**

(a) ADMINISTRATION PENDING TERMINATION OF OPERATIONS.—The Secretary of Energy shall continue to administer Naval Petroleum Reserve Numbered 3 in accordance with chapter 641 of title 10, United States Code, until such time as the Secretary makes a determination to abandon oil and gas operations in Naval Petroleum Reserve Numbered 3 in accordance with commercial operating practices.

(b) DISPOSAL AUTHORIZED.—After oil and gas operations are abandoned in Naval Petroleum Reserve Numbered 3, the Secretary of Energy may dispose of the reserve as provided in this subsection.

Subject to section 3406, the Secretary shall carry out any such disposal of the reserve by sale or lease or by transfer to another Federal agency. Any sale or lease shall provide for the disposal of all right, title, and interest of the United States in the property to be conveyed and shall be conducted in accordance with competitive procedures consistent with commercial practices, as established by the Secretary.

(c) RELATIONSHIP TO ANTITRUST LAWS.—This section does not modify, impair, or supersede the operation of the antitrust laws.

**SEC. 3405. DISPOSAL OF OIL SHALE RESERVE NUMBERED 2.**

10 USC 7420  
note.

(a) TRANSFER OF ADMINISTRATIVE JURISDICTION AUTHORIZED.—Subject to section 3406, the Secretary of Energy may transfer to the Secretary of the Interior administrative jurisdiction and control over all public domain lands included within Oil Shale Reserve Numbered 2 for management in accordance with the general land laws.

(b) RELATIONSHIP TO INDIAN RESERVATION.—The transfer of administrative jurisdiction under this section does not affect any interest, right, or obligation respecting the Uintah and Ouray Indian Reservation located in Oil Shale Reserve Numbered 2.

**SEC. 3406. ADMINISTRATION.**

10 USC 7420  
note.

(a) PROTECTION OF EXISTING RIGHTS.—At the discretion of the Secretary of Energy, the disposal of property under this title shall be subject to any contract related to the United States ownership interest in the property in effect at the time of disposal, including any lease agreement pertaining to the United States interest in Naval Petroleum Reserve Numbered 2.

(b) DEPOSIT OF RECEIPTS.—Notwithstanding any other law, all monies received by the United States from the disposal of property under this title, including any monies received from a lease entered into under this title, shall be deposited in the general fund of the Treasury.

(c) TREATMENT OF ROYALTIES.—Any petroleum accruing to the United States as royalty from any lease of lands transferred under this title shall be delivered to the United States, or shall be paid for in money, as the Secretary of the Interior may elect.

(d) ELEMENTS OF LEASE.—A lease under this title may provide for the exploration for, and development and production of, petroleum, other than petroleum in the form of oil shale.

(e) WAIVER OF REQUIREMENTS REGARDING CONSULTATION AND APPROVAL.—Section 7431 of title 10, United States Code, shall not apply to the disposal of property under this title.

## **TITLE XXXV—PANAMA CANAL COMMISSION**

Panama Canal  
Commission  
Authorization  
Act for Fiscal  
Year 1999.

Sec. 3501. Short title; references to Panama Canal Act of 1979.

Sec. 3502. Authorization of expenditures.

Sec. 3503. Purchase of vehicles.

Sec. 3504. Expenditures only in accordance with treaties.

Sec. 3505. Donations to the Commission.

Sec. 3506. Agreements for United States to provide post-transfer administrative services for certain employee benefits.

Sec. 3507. Sunset of United States overseas benefits just before transfer.

Sec. 3508. Central examining office.

Sec. 3509. Liability for vessel accidents.

Sec. 3510. Panama Canal Board of Contract Appeals.

Sec. 3511. Restatement of requirement that Secretary of Defense designee on Panama Canal Commission supervisory board be a current officer of the Department of Defense.

Sec. 3512. Technical amendments.

**SEC. 3501. SHORT TITLE; REFERENCES TO PANAMA CANAL ACT OF 1979.**

(a) **SHORT TITLE.**—This title may be cited as the “Panama Canal Commission Authorization Act for Fiscal Year 1999”.

(b) **REFERENCES TO PANAMA CANAL ACT OF 1979.**—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.).

**SEC. 3502. AUTHORIZATION OF EXPENDITURES.**

(a) **IN GENERAL.**—Subject to subsection (b), the Panama Canal Commission is authorized to use amounts in the Panama Canal Revolving Fund to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, improvement, and administration of the Panama Canal for fiscal year 1999.

(b) **LIMITATIONS.**—For fiscal year 1999, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than \$100,000 for official reception and representation expenses, of which—

(1) not more than \$28,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) not more than \$14,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) not more than \$58,000 may be used for official reception and representation expenses of the Administrator of the Commission.

**SEC. 3503. PURCHASE OF VEHICLES.**

Notwithstanding any other provision of law, the funds available to the Commission shall be available for the purchase and transportation to the Republic of Panama of passenger motor vehicles, the purchase price of which shall not exceed \$23,000 per vehicle.

**SEC. 3504. EXPENDITURES ONLY IN ACCORDANCE WITH TREATIES.**

Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

**SEC. 3505. DONATIONS TO THE COMMISSION.**

Section 1102b (22 U.S.C. 3612b) is amended by adding at the end the following new subsection:

“(f)(1) The Commission may seek and accept donations of funds, property, and services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out its promotional activities.

“(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance

of funds, property, or services authorized by paragraph (1) would reflect unfavorably upon the ability of the Commission (or any employee of the Commission) to carry out its responsibilities or official duties in a fair and objective manner or would compromise the integrity or the appearance of the integrity of its programs or of any official in those programs.”.

**SEC. 3506. AGREEMENTS FOR UNITED STATES TO PROVIDE POST-TRANSFER ADMINISTRATIVE SERVICES FOR CERTAIN EMPLOYEE BENEFITS.**

Section 1110 (22 U.S.C. 3620) is amended by adding at the end the following new subsection:

“(c)(1) The Secretary of State may enter into one or more agreements to provide for the United States to furnish administrative services relating to the benefits described in paragraph (2) after December 31, 1999, and to establish appropriate procedures for providing advance funding for the services.

“(2) The benefits referred to in paragraph (1) are the following:

“(A) Pension, disability, and medical benefits provided by the Panama Canal Commission pursuant to section 1245.

“(B) Compensation for work injuries covered by chapter 81 of title 5, United States Code.”.

**SEC. 3507. SUNSET OF UNITED STATES OVERSEAS BENEFITS JUST BEFORE TRANSFER.**

(a) **REPEALS.**—Effective 11:59 p.m. (Eastern Standard Time), December 30, 1999, the following provisions are repealed and any right or condition of employment provided for in, or arising from, those provisions is terminated: sections 1206 (22 U.S.C. 3646), 1207 (22 U.S.C. 3647), 1217(a) (22 U.S.C. 3657(a)), and 1224(11) (22 U.S.C. 3664(11)), subparagraphs (A), (B), (F), (G), and (H) of section 1231(a)(2) (22 U.S.C. 3671(a)(2)) and section 1321(e) (22 U.S.C. 3731(e)).

(b) **SAVINGS PROVISION FOR BASIC PAY.**—Notwithstanding subsection (a), benefits based on basic pay, as listed in paragraphs (1), (2), (3), (5), and (6) of section 1218 of the Panama Canal Act of 1979, shall be paid as if sections 1217(a) and 1231(a)(2)(A) and (B) of that Act had been repealed effective 12:00 noon, December 31, 1999. The exception under the preceding sentence shall not apply to any pay for hours of work performed on December 31, 1999.

22 USC 3657  
note.

(c) **NONAPPLICABILITY TO AGENCIES IN PANAMA OTHER THAN PANAMA CANAL COMMISSION.**—Section 1212(b)(3) (22 U.S.C. 3652(b)(3)) is amended by striking out “the Panama Canal Transition Facilitation Act of 1997” and inserting in lieu thereof “the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105-85; 110 Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999”.

**SEC. 3508. CENTRAL EXAMINING OFFICE.**

(a) **REPEAL.**—Section 1223 (22 U.S.C. 3663) is repealed.

(b) **CLERICAL AMENDMENT.**—The table of contents in section 1 is amended by striking out the item relating to section 1223.

**SEC. 3509. LIABILITY FOR VESSEL ACCIDENTS.**

(a) **COMMISSION LIABILITY SUBJECT TO CLAIMANT INSURANCE.**—

(1) Section 1411(a) (22 U.S.C. 3771(a)) is amended by inserting

“to section 1419(b) of this Act and” after “Subject” in the first sentence.

(2) Section 1412 (22 U.S.C. 3772) is amended by striking out “The Commission” in the first sentence and inserting in lieu thereof “Subject to section 1419(b) of this Act, the Commission”.

(3) Section 1416 (22 U.S.C. 3776) is amended by striking out “A claimant” in the first sentence and inserting in lieu thereof “Subject to section 1419(b) of this Act, a claimant”.

(b) **AUTHORITY TO REQUIRE CLAIMANTS TO BE COVERED BY INSURANCE.**—Section 1419 (22 U.S.C. 3779) is amended—

(1) by inserting “(a)” before “The Commission”; and

(2) by adding at the end the following:

“(b)(1) The Commission may by regulation require as a condition of transit through the Panama Canal or presence in the Panama Canal or waters adjacent thereto that any potential claimant under section 1411 or 1412 of this Act be covered by insurance against the types of injuries described in those sections. The amount of insurance so required shall be specified in those regulations, but may not exceed \$1,000,000.

“(2) In a claim under section 1411 or 1412 of this Act for which the Commission has required insurance under this subsection, the Commission’s liability shall be limited to the amount of damages in excess of the amount of insurance required by the Commission.

“(3) In regulations under this subsection, the Commission may prohibit consideration or payment by it of claims presented by or on behalf of an insurer or subrogee of a claimant in a case for which the Commission has required insurance under this subsection.”.

**SEC. 3510. PANAMA CANAL BOARD OF CONTRACT APPEALS.**

(a) **ESTABLISHMENT AND PAY OF BOARD.**—Section 3102(a) (22 U.S.C. 3862(a)) is amended—

(1) in paragraph (1), by striking out “shall” in the first sentence and inserting in lieu thereof “may”; and

(2) by adding at the end the following new paragraph:

“(3) Compensation for members of the Board of Contract Appeals shall be established by the Commission’s supervisory board. The annual compensation established for members may not exceed the rate of basic pay established for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The compensation of a member may not be reduced during the member’s term of office from the level established at the time of the appointment of the member.”.

(b) **DEADLINE FOR COMMENCEMENT OF BOARD.**—Section 3102(e) (22 U.S.C. 3862(e)) is amended by striking out “, but not later than January 1, 1999”.

**SEC. 3511. RESTATEMENT OF REQUIREMENT THAT SECRETARY OF DEFENSE DESIGNEE ON PANAMA CANAL COMMISSION SUPERVISORY BOARD BE A CURRENT OFFICER OF THE DEPARTMENT OF DEFENSE.**

(a) **AUTHORITY.**—Section 1102(a) (22 U.S.C. 3612(a)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: “The Commission shall be supervised by a Board composed of nine members, one of whom shall be an officer of the Department of Defense. The officer of

the Department of Defense who shall serve on the Board shall be designated by the Secretary of Defense and may continue to serve on the Board only while continuing to serve as an officer of the Department of Defense.”; and

(2) in the last sentence, by striking out “Secretary of Defense or a designee of the Secretary of Defense” and inserting in lieu thereof “the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board”.

(b) REPEAL OF SUPERSEDED PROVISION.—Section 302 of Public Law 105-18 (111 Stat. 168) is repealed.

**SEC. 3512. TECHNICAL AMENDMENTS.**

(a) PANAMA CANAL ACT OF 1979.—The Panama Canal Act of 1979 is amended as follows:

(1) Section 1202(c) (22 U.S.C. 3642(c)) is amended—

(A) by striking out “the day before the date of the enactment of the Panama Canal Transition Facilitation Act of 1997” and inserting in lieu thereof “November 17, 1997.”;

(B) by striking out “on or after that date”; and

(C) by striking out “the day before the date of enactment” and inserting in lieu thereof “that date”.

(2) Section 1212(b)(3) (22 U.S.C. 3652(b)(3)) is amended by inserting “the” after “by the head of”.

(3) Section 1313 (22 U.S.C. 3723) is amended by striking out “subsection (d)” in each of subsections (a), (b), and (d) and inserting in lieu thereof “subsection (c)”.

(4) Sections 1411(a) and 1412 (22 U.S.C. 3771(a), 3772) are amended by striking out “the date of the enactment of the Panama Canal Transition Facilitation Act of 1997” and inserting in lieu thereof “by November 18, 1998”.

(5) Section 1416 (22 U.S.C. 3776) is amended by striking out “the date of the enactment of the Panama Canal Transition Facilitation Act of 1997” and inserting in lieu thereof “by May 17, 1998”.

(b) PUBLIC LAW 104-201.—Effective as of September 23, 1996, and as if included therein as enacted, section 3548(b)(3) of the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104-201; 110 Stat. 2869) is amended by striking out “section” in both items of quoted matter and inserting in lieu thereof “sections”.

22 USC 3751  
note.

## TITLE XXXVI—MARITIME ADMINISTRATION

Sec. 3601. Authorization of appropriations for fiscal year 1999.

Sec. 3602. Authority to convey National Defense Reserve Fleet vessel.

Sec. 3603. Authority to convey certain National Defense Reserve Fleet vessels.

Sec. 3604. Clearinghouse for maritime information.

Sec. 3605. Conveyance of NDRF vessel ex-USS LORAIN COUNTY.

**SEC. 3601. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1999.**

Funds are hereby authorized to be appropriated for fiscal year 1999, to be available without fiscal year limitation if so provided in appropriations Act, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, \$70,553,000.

(2) For expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), \$20,000,000 of which—

(A) \$16,000,000 is for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program; and

(B) \$4,000,000 is for administrative expenses related to loan guarantee commitments under the program.

**SEC. 3602. AUTHORITY TO CONVEY NATIONAL DEFENSE RESERVE FLEET VESSEL.**

(a) **AUTHORITY TO CONVEY.**—The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessel M/V BAYAMON (United States official number 530007) to a purchaser for use as a self-propelled floating trade exposition to showcase United States technology, industrial products, and services.

(b) **TERMS OF CONVEYANCE.**—

(1) **DELIVERY OF VESSEL.**—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) **REQUIRED CONDITIONS.**—The Secretary may not convey a vessel under this section unless—

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that any repair, except for emergency repairs, restoration, or reconstruction work for the vessel will be performed in the United States;

(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(E) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel.

(3) **ADDITIONAL TERMS.**—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **PROCEEDS.**—Any amounts received by the United States as proceeds from the sale of the M/V BAYAMON shall be deposited in the Vessel Operations Revolving Fund established by section 801 of the Act of June 2, 1951 (65 Stat. 59; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).



**SEC. 3603. AUTHORITY TO CONVEY CERTAIN NATIONAL DEFENSE RESERVE FLEET VESSELS.**

(a) **AUTHORITY TO CONVEY.**—The Secretary of Transportation may convey all right, title, and interest of the United States Government in and to the vessels BENJAMIN ISHERWOOD (TAO-191) and HENRY ECKFORD (TAO-192) to a purchaser for the limited purpose of reconstruction of those vessels for sale or charter to a North Atlantic Treaty Organization country for full use as an oiler.

(b) **TERMS OF CONVEYANCE.**—

(1) **DELIVERY OF VESSEL.**—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of the conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States Government.

(2) **REQUIRED CONDITIONS.**—The Secretary may not convey a vessel under this section unless—

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that any repair, except for emergency repairs, restoration, or reconstruction work for the vessel will be performed in the United States;

(D) the recipient agrees to hold the Government harmless for any claims arising from defects in the vessel or from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date;

(E) the recipient provides sufficient evidence to the Secretary that it has adequate financial resources in the form of cash, liquid assets, or a written loan commitment to complete the reconstruction of the vessel; and

(F) with respect to the vessel, the recipient remains subject to all laws and regulations governing the export of military items, including the requirements administered by the Department of State regarding export licenses and certification of nontransfer end use.

(3) **ADDITIONAL TERMS.**—The Secretary may require such additional terms in connection with a conveyance authorized by this section as the Secretary considers appropriate.

(c) **PROCEEDS.**—Any amounts received by the United States as proceeds from the sale of a vessel under this section shall be deposited in the Vessel Operations Revolving Fund established by section 801 of the Act of June 2, 1951 (65 Stat. 59; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

**SEC. 3604. CLEARINGHOUSE FOR MARITIME INFORMATION.**

Of the amount authorized to be appropriated pursuant to section 3601(1) for operations of the Maritime Administration, \$75,000

may be available for the establishment at a State Maritime Academy of a clearinghouse for maritime information that makes that information publicly available, including by use of the Internet.

**SEC. 3605. CONVEYANCE OF NDRF VESSEL EX-USS LORAIN COUNTY.**

(a) **AUTHORITY TO CONVEY.**—The Secretary of Transportation may convey all right, title, and interest of the Federal Government in and to the vessel ex-USS LORAIN COUNTY (LST-1177) to the Ohio War Memorial, Inc., located in Sandusky, Ohio (in this section referred to as the “recipient”), for use as a memorial to Ohio veterans.

(b) **TERMS OF CONVEYANCE.**—

(1) **DELIVERY OF VESSEL.**—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) **REQUIRED CONDITIONS.**—The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000.

(3) **ADDITIONAL TERMS.**—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **OTHER UNNEEDED EQUIPMENT.**—The Secretary may convey to the recipient of the vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

## **TITLE XXXVII—INCREASED MONITORING OF PRODUCTS MADE WITH FORCED LABOR**

Sec. 3701. Authorization for additional Customs personnel to monitor the importation of products made with forced labor.

Sec. 3702. Reporting requirement on forced labor products destined for the United States market.

Sec. 3703. Renegotiating memoranda of understanding on forced labor.

**SEC. 3701. AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED LABOR.**

There are authorized to be appropriated for monitoring by the United States Customs Service of the importation into the United States of products made with forced labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, \$2,000,000 for fiscal year 1999.

**SEC. 3702. REPORTING REQUIREMENT ON FORCED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET.**19 USC 1307  
note.

(a) **REPORT TO CONGRESS.**—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Customs shall prepare and transmit to the Congress a report on products made with forced labor that are destined for the United States market.

(b) **CONTENTS OF REPORT.**—The report under subsection (a) shall include information concerning the following:

(1) The extent of the use of forced labor in manufacturing products destined for the United States market.

(2) The volume of products made with forced labor, destined for the United States market, that is in violation of section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, and is seized by the United States Customs Service.

(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor that are destined for the United States market.

**SEC. 3703. RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED LABOR.**

It is the sense of Congress that the President should determine whether any country with which the United States has a memorandum of understanding with respect to reciprocal trade which involves goods made with forced labor is frustrating implementation of the memorandum. Should an affirmative determination be made, the President should immediately commence negotiations to replace the current memorandum of understanding with one providing for effective procedures for the monitoring of forced labor, including improved procedures to request investigations by international monitors of worksites suspected to be in violation of any such memorandum.

**TITLE XXXVIII—FAIR TRADE IN  
AUTOMOTIVE PARTS**Fair Trade in  
Automotive Parts  
Act of 1998.

Sec. 3801. Short title.

Sec. 3802. Definitions.

Sec. 3803. Re-establishment of initiative on automotive parts sales to Japan.

Sec. 3804. Establishment of Special Advisory Committee on automotive parts sales in Japanese and other Asian markets.

Sec. 3805. Expiration date.

**SEC. 3801. SHORT TITLE.**15 USC 4701  
note.

This title may be cited as the “Fair Trade in Automotive Parts Act of 1998”.

**SEC. 3802. DEFINITIONS.**

15 USC 4705.

In this title:

(1) **JAPANESE MARKETS.**—The term “Japanese markets” refers to markets, including markets in the United States and Japan, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese automobiles.

(2) **JAPANESE AND OTHER ASIAN MARKETS.**—The term “Japanese and other Asian markets” refers to markets, including markets in the United States, Japan, and other Asian countries,

where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese, United States, or other Asian automobiles.

15 USC 4705a.

**SEC. 3803. RE-ESTABLISHMENT OF INITIATIVE ON AUTOMOTIVE PARTS SALES TO JAPAN.**

(a) **IN GENERAL.**—The Secretary of Commerce shall re-establish the initiative to increase the sale of United States-made automotive parts and accessories to Japanese markets.

(b) **FUNCTIONS.**—In carrying out this section, the Secretary shall—

(1) foster increased access for United States-made automotive parts and accessories to Japanese companies, including specific consultations on access to Japanese markets;

(2) facilitate the exchange of information between United States automotive parts manufacturers and the Japanese automobile industry;

(3) collect data and market information on the Japanese automotive industry regarding needs, trends, and procurement practices, including the types, volume, and frequency of parts sales to Japanese automobile manufacturers;

(4) establish contacts with Japanese automobile manufacturers in order to facilitate contact between United States automotive parts manufacturers and Japanese automobile manufacturers;

(5) report on and attempt to resolve disputes, policies, or practices, whether public or private, that result in barriers to increased commerce between United States automotive parts manufacturers and Japanese automobile manufacturers;

(6) take actions to initiate periodic consultations with officials of the Government of Japan regarding sales of United States-made automotive parts in Japanese markets; and

(7) transmit to Congress the annual report prepared by the Special Advisory Committee under section 3804(c)(5).

15 USC 4705b.

**SEC. 3804. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE ON AUTOMOTIVE PARTS SALES IN JAPANESE AND OTHER ASIAN MARKETS.**

(a) **IN GENERAL.**—The Secretary of Commerce shall seek the advice of the United States automotive parts industry in carrying out this title.

(b) **ESTABLISHMENT OF COMMITTEE.**—The Secretary of Commerce shall establish a Special Advisory Committee for purposes of carrying out this title.

(c) **FUNCTIONS.**—The Special Advisory Committee established under subsection (b) shall—

Reports.

(1) report to the Secretary of Commerce on barriers to sales of United States-made automotive parts and accessories in Japanese and other Asian markets;

(2) review and consider data collected on sales of United States-made automotive parts and accessories in Japanese and other Asian markets;

(3) advise the Secretary of Commerce during consultations with other governments on issues concerning sales of United States-made automotive parts in Japanese and other Asian markets;

(4) assist in establishing priorities for the initiative established under section 3803, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and

(5) assist the Secretary in reporting to Congress by submitting an annual written report to the Secretary on the sale of United States-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to this title.

(d) **AUTHORITY.**—The Secretary of Commerce shall draw on existing budget authority in carrying out this title.

**SEC. 3805. EXPIRATION DATE.**

15 USC 4705c.

The authority under this title shall expire on December 31, 2003.

## **TITLE XXXIX—RADIO FREE ASIA**

Radio Free Asia  
Act of 1998.

Sec. 3901. Short title.

Sec. 3902. Authorization of appropriations for increased funding for Radio Free Asia and Voice of America broadcasting to China.

Sec. 3903. Reporting requirement.

**SEC. 3901. SHORT TITLE.**

This title may be cited as the “Radio Free Asia Act of 1998”.

**SEC. 3902. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA BROADCASTING TO CHINA.**

(a) **AUTHORIZATION OF APPROPRIATIONS FOR RADIO FREE ASIA.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for “Radio Free Asia” \$22,000,000 for fiscal year 1999.

(2) **SENSE OF CONGRESS.**—It is the sense of Congress that a significant amount of the funds under paragraph (1) should be directed toward broadcasting to China and Tibet in the appropriate languages and dialects.

(b) **AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL BROADCASTING TO CHINA.**—In addition to such sums as are otherwise authorized to be appropriated to the United States Information Agency for “International Broadcasting Activities” for fiscal year 1999, there are authorized to be appropriated for “International Broadcasting Activities” \$3,000,000 for fiscal year 1999, which shall be available only for enhanced Voice of America broadcasting to China.

(c) **AUTHORIZATION OF APPROPRIATIONS FOR RADIO CONSTRUCTION.**—In addition to such sums as are otherwise authorized to be appropriated for “Radio Construction” for fiscal year 1999, there are authorized to be appropriated for “Radio Construction” \$2,000,000 for fiscal year 1999, which shall be available only for construction in support of enhanced broadcasting to China, including the timely augmentation of transmitters at Tinian, the Commonwealth of the Northern Mariana Islands.

**SEC. 3903. REPORTING REQUIREMENT.**

(a) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall prepare and submit to the appropriate congressional committees an assessment of the board's efforts to increase broadcasting by Radio Free Asia and Voice of America to China and Tibet. This report shall include an analysis of Chinese government control of the media, the ability of independent journalists and news organizations to operate in China, and the results of any research conducted to quantify listenership.

(b) **DEFINITION.**—As used in this section, the term “appropriate congressional committees” means—

(1) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

(2) the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

Approved October 17, 1998.

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**LEGISLATIVE HISTORY—H.R. 3616 (S. 2057):**

**HOUSE REPORTS:** Nos. 105-532 (Comm. on National Security) and 105-736 (Comm. of Conference).

**CONGRESSIONAL RECORD**, Vol. 144 (1998):

May 19-21, considered and passed House.

June 25, considered and passed Senate, amended, in lieu of S. 2057.

Sept. 24, House agreed to conference report.

Sept. 30, Oct. 1, Senate considered and agreed to conference report.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS**, Vol. 34 (1998):

Oct. 17, Presidential statement.



Public Law 105–262  
105th Congress

An Act

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

Oct. 17, 1998  
[H.R. 4103]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, for military functions administered by the Department of Defense, and for other purposes, namely:

Department of  
Defense  
Appropriations  
Act, 1999.

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; \$20,841,687,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; \$16,570,754,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and

expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; \$6,263,387,000.

#### MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; \$17,211,987,000.

#### RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; \$2,167,052,000.

#### RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; \$1,426,663,000.

#### RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent



duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; \$406,616,000.

#### RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; \$852,324,000.

#### NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; \$3,489,987,000.

#### NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; \$1,377,109,000.

### TITLE II

#### OPERATION AND MAINTENANCE

##### OPERATION AND MAINTENANCE, ARMY

###### (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law;

and not to exceed \$11,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; \$17,185,623,000 and, in addition, \$50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided*, That of the funds appropriated in this paragraph, not less than \$355,000,000 shall be made available only for conventional ammunition care and maintenance.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$5,360,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; \$21,872,399,000 and, in addition, \$50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; \$2,578,718,000.

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$7,968,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; \$19,021,045,000 and, in addition, \$50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; \$10,914,076,000, of which not to exceed \$25,000,000 may be available for the CINC initiative fund account; and of which not to exceed \$29,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided*, That of the funds appropriated under this heading, \$10,000,000 shall be made available only for use in federally owned educational facilities located on military installations for the purpose of transferring title of such facilities to the local educational facilities.

## OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$1,202,622,000.

## OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$957,239,000.

## OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$117,893,000.

## OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$1,747,696,000.

## OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); \$2,678,015,000: *Provided*, That not later than March 15, 1999, the Director of the Army National Guard shall provide a report to the congressional defense committees identifying the allocation, by installation and activity, of all base operations funds appropriated under this heading.

Deadline  
Reports.

## OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; \$3,106,933,000.

## OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces; \$439,400,000, to remain available until expended: *Provided*, That the Secretary of Defense may transfer these funds only to operation and maintenance accounts within this title, and to working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

## UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces; \$7,324,000, of which not to exceed \$2,500 can be used for official representation purposes.

## ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$370,640,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That not more than 25 per centum of funds

provided under this heading may be obligated for environmental remediation by the Corps of Engineers under total environmental remediation contracts.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, \$274,600,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, \$372,100,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, \$26,091,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

## ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$225,000,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

## OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code); \$50,000,000, to remain available until September 30, 2000.

## FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical, and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components, and weapons technology and expertise; \$440,400,000, to remain available until September 30, 2001: *Provided*, That of the amounts provided under this heading, \$35,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

## QUALITY OF LIFE ENHANCEMENTS, DEFENSE

For expenses, not otherwise provided for, resulting from unfunded shortfalls in the repair and maintenance of real property of the Department of Defense (including military housing and barracks); \$455,000,000, for the maintenance of real property of the Department of Defense (including minor construction and major maintenance and repair), which shall remain available for obligation until September 30, 2000, as follows:

Army, \$137,000,000;  
Navy, \$121,000,000;  
Marine Corps, \$27,000,000;  
Air Force, \$108,000,000;  
Army Reserve, \$26,000,000;  
Navy Reserve, \$12,400,000;

Marine Corps Reserve, \$7,600,000;  
Air Force Reserve, \$6,000,000; and  
Air National Guard, \$10,000,000.

#### PENTAGON RENOVATION TRANSFER FUND

##### (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, resulting from the Department of Defense renovation of the Pentagon Reservation, \$279,820,000 shall be derived by transfer from the Operation and Maintenance accounts in this Act, for renovation of the Pentagon Reservation, which shall remain available for obligation until September 30, 2000, as follows:

Army, \$96,000,000;  
Navy, \$32,087,000;  
Marine Corps, \$9,513,000;  
Air Force, \$52,200,000; and  
Defense-Wide, \$90,020,000.

### TITLE III

#### PROCUREMENT

##### AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$1,388,268,000, to remain available for obligation until September 30, 2001.

##### MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$1,226,335,000, to remain available for obligation until September 30, 2001.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES,  
ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$1,548,340,000, to remain available for obligation until September 30, 2001.

## PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$1,065,955,000, to remain available for obligation until September 30, 2001.

## OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of not to exceed 37 passenger motor vehicles for replacement only; and the purchase of 54 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$230,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$3,339,486,000, to remain available for obligation until September 30, 2001.

## AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and



construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$7,541,709,000, to remain available for obligation until September 30, 2001.

#### WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$1,211,419,000, to remain available for obligation until September 30, 2001.

#### PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$484,203,000, to remain available for obligation until September 30, 2001.

#### SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

- NSSN, \$1,498,165,000;
- NSSN (AP), \$504,736,000;
- CVN-77 (AP), \$124,515,000;
- CVN Refuelings (AP), \$274,980,000;
- DDG-51 destroyer program, \$2,667,078,000;
- DDG-51 destroyer program (AP), \$7,396,000;
- LPD-17 amphibious transport dock ship, \$638,780,000;
- LHD-8 (AP), \$45,000,000;
- Oceanographic ship program, \$60,341,000;
- LCAC landing craft air cushion program, \$16,000,000; and

For craft, outfitting, post delivery, conversions, and first destination transportation, \$198,761,000;  
In all: \$6,035,752,000, to remain available for obligation until September 30, 2003: *Provided*, That additional obligations may be incurred after September 30, 2003, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

#### OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 246 passenger motor vehicles for replacement only; and the purchase of 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$225,000 per vehicle; lease of passenger motor vehicles; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$4,072,662,000, to remain available for obligation until September 30, 2001.

#### PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 37 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; \$874,216,000, to remain available for obligation until September 30, 2001.

#### AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval

of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$8,095,507,000, to remain available for obligation until September 30, 2001.

#### MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$2,069,827,000, to remain available for obligation until September 30, 2001.

#### PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$379,425,000, to remain available for obligation until September 30, 2001.

#### OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 267 passenger motor vehicles for replacement only; the purchase of 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$240,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; \$6,960,483,000, to remain available for obligation until September 30, 2001.

#### PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for

procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 346 passenger motor vehicles for replacement only; the purchase of 4 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$165,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; \$1,944,833,000, to remain available for obligation until September 30, 2001.

#### NATIONAL GUARD AND RESERVE EQUIPMENT

Deadlines.  
Reports.

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; \$352,000,000, to remain available for obligation until September 30, 2001: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

#### TITLE IV

#### RESEARCH, DEVELOPMENT, TEST AND EVALUATION

##### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

Certification.

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; \$5,031,788,000, to remain available for obligation until September 30, 2000: *Provided*, That of the funds made available under this heading, \$15,000,000 shall be available only to commence in fiscal year 1999 a live fire, side-by-side operational test and evaluation of the air-to-air Starstreak and air-to-air Stinger missiles fired from the AH-64D Apache helicopter: *Provided further*, That in conjunction with the development of a test plan, the Secretary of the Army shall certify the following, in writing, to the congressional defense committees:

(1) Engagement tests can be safely conducted with both Starstreak and Stinger missiles from the AH-64D helicopter at air speeds consistent with the normal operating limits of that aircraft;

(2) The Starstreak missiles utilized in the test will be provided at no cost to the United States Government;

(3) None of the \$15,000,000 provided will be used to develop modifications to the Starstreak or the Stinger missiles; and

(4) Both the Starstreak and Stinger missiles can be fired from the AH-64D aircraft consistent with the survivability of the aircraft and missile performance standards contained in the Army's Air-to-Air Missile Capability Need Statement approved by the Department of the Army in January 1997.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; \$8,636,649,000, to remain available for obligation until September 30, 2000: *Provided*, That funds appropriated in this paragraph which are available for the V-22 may be used to meet unique requirements of the Special Operation Forces: *Provided further*, That notwithstanding 10 U.S.C. 2366, none of the funds made available under this heading may be used to conduct system-level live-fire shock tests on the SSN-21 class of submarines unless the Commander-in-Chief of the United States Atlantic Command certifies in writing to the congressional defense committees that such testing must be conducted to meet operational requirements for those submarines.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment; \$13,758,811,000, to remain available for obligation until September 30, 2000.

## RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment; \$9,036,551,000, to remain available for obligation until September 30, 2000: *Provided*, That not less than \$310,446,000 of the funds made available under this heading shall be made available only for the Sea-Based Wide Area Defense (Navy Upper-Tier) program: *Provided further*, That funding for the Sea-Based Wide Area Defense (Navy Upper-Tier) program in this or any other Act shall be used for research, development and deployment including, but not limited to, continuing ongoing risk reduction activities, initiating system engineering for an initial Block I capability, and deployment at the earliest feasible time following Aegis Lightweight Exoatmospheric Projectile (LEAP) intercept flight tests.

## DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director, Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; \$258,606,000, to remain available for obligation until September 30, 2000.

## OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; \$34,245,000, to remain available for obligation until September 30, 2000.

## TITLE V

## REVOLVING AND MANAGEMENT FUNDS

## DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds; \$94,500,000.

## NATIONAL DEFENSE SEALIFT FUND

(INCLUDING TRANSFER OF FUNDS)

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744); \$708,366,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That notwithstanding any other provision of law, of the funds available under this heading, \$28,800,000 shall be transferred to "Alteration of Bridges": *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

## TITLE VI

## OTHER DEPARTMENT OF DEFENSE PROGRAMS

## DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law; \$10,149,872,000, of which \$9,727,985,000 shall be for Operation

and maintenance, of which not to exceed 2 per centum shall remain available until September 30, 2000, of which \$402,387,000, to remain available for obligation until September 30, 2001, shall be for Procurement, and of which \$19,500,000, to remain available for obligation until September 30, 2000, shall be for Research, development, test and evaluation: *Provided*, That of the amounts made available under this heading for Operation and maintenance, not less than \$25,000,000 shall be only for breast cancer treatment and access to care.

#### CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile; \$780,150,000, of which \$491,700,000 shall be for Operation and maintenance, \$115,670,000 shall be for Procurement to remain available until September 30, 2001, and \$172,780,000 shall be for Research, development, test and evaluation to remain available until September 30, 2000: *Provided*, That of the funds available under this heading, \$1,000,000 shall be available until expended each year only for a Johnston Atoll off-island leave program: *Provided further*, That the Secretaries concerned shall, pursuant to uniform regulations, prescribe travel and transportation allowances for travel by participants in the off-island leave program.

#### DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

##### (INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; \$735,582,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act.

#### OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended; \$132,064,000, of which \$130,764,000 shall be for Operation and maintenance, of which not to exceed \$500,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on his certificate of necessity for confidential military purposes; and of which \$1,300,000, to remain available until September 30, 2001, shall be for Procurement.

## TITLE VII

## RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY  
SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; \$201,500,000.

## INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account; \$129,123,000, of which \$30,290,000 for the Advanced Research and Development Committee shall remain available until September 30, 2000: *Provided*, That of the funds appropriated under this heading, \$27,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, \$1,500,000 for Procurement shall remain available until September 30, 2001, and \$3,000,000 for Research, development, test and evaluation shall remain available until September 30, 2000.

PAYMENT TO KAHO'OLAWA ISLAND CONVEYANCE, REMEDIATION, AND  
ENVIRONMENTAL RESTORATION FUND

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law; \$25,000,000, to remain available until expended.

## NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102-183, \$3,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

## TITLE VIII

## GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

10 USC 1584  
note.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees,



whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$1,650,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

Notification.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in

amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

10 USC 2306b  
note.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of \$20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed \$500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

E-2C aircraft;  
Longbow Hellfire missile; and  
Medium Tactical Vehicle Replacement (MTVR).

10 USC 401 note.

Reports.

Territories.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana

Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 1999, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2000 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2000 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2000. Budget.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further*, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 3015(c) of title 38, United States Code, for any member of the armed services who, on or after the date of the enactment of this Act—

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further*, That this subsection applies only to active components of the Army. Applicability.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student

is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

Certification. SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 per centum Native American ownership.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

Regulations.

SEC. 8018. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8019. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 2000 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

10 USC 2687  
note.

Reports.

SEC. 8020. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

SEC. 8021. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 per centum of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8022. No more than \$500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8023. A member of a reserve component whose unit or whose residence is located in a State which is not contiguous with another State is authorized to travel in a space required status on aircraft of the Armed Forces between home and place of inactive duty training, or place of duty in lieu of unit training assembly, when there is no road or railroad transportation (or combination of road and railroad transportation between those locations): *Provided*, That a member traveling in that status on a military aircraft pursuant to the authority provided in this section is not authorized to receive travel, transportation, or per diem allowances in connection with that travel.

SEC. 8024. (a) In addition to the funds provided elsewhere in this Act, \$8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That contractors participating in the test program established by section 854 of Public Law 101-189 (15 U.S.C. 637 note) shall be eligible for the program established by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544).

111 Stat. 1225.

(b) Section 8024 of the Department of Defense Appropriations Act (Public Law 105-56) is amended by striking out "That these payments" and all that follows through "*Provided further*,".

SEC. 8025. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5, United States Code, or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 10101 of title 10, United States Code, or the National Guard, as described in section 101 of title 32, United States Code;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under sections 331, 332, 333, or 12406 of title 10, or other provision of law, as applicable; or

(B) full-time military service for his or her State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

*Provided*, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5, United States Code.

SEC. 8026. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8027. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8028. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8029. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC-130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 8030. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase “qualified nonprofit agency for the blind or other severely handicapped” means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O’Day Act (41 U.S.C. 46–48).

SEC. 8031. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility’s direct budget amount.

SEC. 8032. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed \$350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8033. Of the funds made available in this Act, not less than \$28,300,000 shall be available for the Civil Air Patrol Corporation, of which \$23,497,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes \$3,800,000 for the Civil Air Patrol counterdrug program: *Provided*, That funds identified for “Civil Air Patrol” under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8034. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) LIMITATION ON COMPENSATION—FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER (FFRDC).—No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 1999 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 1999, not more than 6,206 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,105 staff years may be funded for the defense studies and analysis FFRDCs.

Deadline.  
Reports.

(e) Within 60 days after the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report presenting the specific amounts of staff years of technical effort to be allocated by the department for each defense FFRDC during fiscal year 1999: *Provided*, That, after the submission of the report required by this subsection, the department may not reallocate more than 5 per centum of an FFRDC's staff years among other defense FFRDCs until 30 days after a detailed justification for any such reallocation is submitted to the congressional defense committees.

Reports.

(f) The Secretary of Defense shall, with the submission of the department's fiscal year 2000 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.



(g) Notwithstanding any other provision of law, the Secretary of Defense shall control the total number of staff years to be performed by defense FFRDCs during fiscal year 1999 so as to reduce the total amounts appropriated in titles II, III, and IV of this Act by \$62,000,000: *Provided*, That the total amounts appropriated in titles II, III, and IV of this Act are hereby reduced by \$62,000,000 to reflect savings from the use of defense FFRDCs by the department.

(h) Notwithstanding any other provision of law, none of the reductions for advisory and assistance services contained in this Act shall be applied to defense FFRDCs.

SEC. 8035. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8036. For the purposes of this Act, the term “congressional defense committees” means the National Security Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on National Security of the Committee on Appropriations of the House of Representatives.

SEC. 8037. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

Certification.

SEC. 8038. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary’s blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

41 USC 10b-2.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

Reports.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 1999. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term “Buy American Act” means title III of the Act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes”, approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8039. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8040. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8041. During the current fiscal year, appropriations available to the Department of Defense may be used to reimburse a member of a reserve component of the Armed Forces who is not otherwise entitled to travel and transportation allowances and who occupies transient government housing while performing active duty for training or inactive duty training: *Provided*, That such members may be provided lodging in kind if transient government quarters are unavailable as if the member was entitled to such allowances under subsection (a) of section 404 of title 37, United States Code: *Provided further*, That if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid directly from funds appropriated for operation and maintenance of the reserve component of the member concerned.

President.  
Budget.  
10 USC 221 note.

SEC. 8042. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the Defense agencies.

SEC. 8043. Notwithstanding any other provision of law, funds available for “Drug Interdiction and Counter-Drug Activities, Defense” may be obligated for the Young Marines program.

SEC. 8044. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act: *Provided*, That none of the funds made available for expenditure under this section may be transferred or obligated until thirty days after the Secretary of Defense submits a report which details the balance available in the Overseas Military Facility Investment Recovery Account, all projected income into the account during fiscal years 1999 and 2000, and the specific expenditures to be made using funds transferred from this account during fiscal year 1999.

Reports.

SEC. 8045. Of the funds appropriated or otherwise made available by this Act, not more than \$119,200,000 shall be available for payment of the operating costs of NATO Headquarters: *Provided*, That the Secretary of Defense may waive this section for Department of Defense support provided to NATO forces in and around the former Yugoslavia.

SEC. 8046. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than \$100,000.

SEC. 8047. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2000 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2000 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2000 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

Budget

SEC. 8048. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2000: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended.

50 USC 403u  
note.

SEC. 8049. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency

may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8050. Of the funds appropriated by the Department of Defense under the heading “Operation and Maintenance, Defense-Wide”, not less than \$8,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8051. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986, and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

SEC. 8052. None of the funds appropriated in this Act may be used to fill the commander’s position at any military medical facility with a health care professional unless the prospective candidate can demonstrate professional administrative skills.

SEC. 8053. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term “Buy American Act” means title III of the Act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes”, approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a “Made in America” inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8054. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological

promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

*Provided*, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8055. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8056. Funds appropriated by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 1999 until the enactment of the Intelligence Authorization Act for Fiscal Year 1999.

SEC. 8057. Notwithstanding section 303 of Public Law 96-487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: *Provided*, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8058. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded as of the date of the enactment of this Act from the following accounts and programs in the specified amounts:

Under the heading, "Shipbuilding and Conversion, Navy, 1988/2001":

TRIDENT ballistic missile submarine program,  
\$3,062,696;

SSN-688 attack submarine program, \$8,146,796;

CG-47 cruiser program, \$4,000,000;

LSD-41 cargo variant ship program, \$256,141;

LHD-1 amphibious assault ship program, \$505,938;

For craft, outfitting, and post delivery, \$3,459,756;

Under the heading, “Shipbuilding and Conversion, Navy, 1989/2000”:

TRIDENT ballistic missile submarine program, \$2,750,679;  
 SSN-688 attack submarine program, \$5,663,109;  
 AO conversion program, \$881,619;  
 T-AGOS surveillance ship program, \$1,989,383;  
 T-AO fleet oiler program, \$3,451,287;  
 MHC coastal mine hunter program, \$150,000;  
 For craft, outfitting, and post delivery, \$2,521,413;

Under the heading, “Shipbuilding and Conversion, Navy, 1990/2002”:

TRIDENT ballistic missile submarine program, \$6,746,000;  
 LSD-41 cargo variant ship program, \$8,701,615;  
 Aircraft carrier service life extension program, \$890,209;  
 For craft, outfitting, and post delivery, \$2,636,339;

Under the heading, “Shipbuilding and Conversion, Navy, 1991/2001”:

Service craft program, \$143,740;  
 LCAC landing craft air cushion program, \$126,698;  
 For craft, outfitting, and post delivery, \$1,549,000;

Under the heading, “Shipbuilding and Conversion, Navy, 1992/2001”:

For craft, outfitting, and post delivery, \$3,307,524;

Under the heading, “Shipbuilding and Conversion, Navy, 1993/2002”:

For craft, outfitting, and post delivery, \$4,540,746.  
 “Missile Procurement, Air Force, 1997/1999”, \$8,000,000;  
 “Research, Development, Test and Evaluation, Defense-Wide, 1997/1998”, \$67,000,000;  
 “Missile Procurement, Army, 1998/2000”, \$12,800,000;  
 “Procurement of Weapons and Tracked Combat Vehicles, Army, 1998/2000”, \$6,700,000;  
 “Other Procurement, Army, 1998/2000”, \$24,000,000;  
 “Weapons Procurement, Navy, 1998/2000”, \$2,000,000;  
 “Procurement of Ammunition, Navy and Marine Corps, 1998/2000”, \$12,560,000;  
 Under the heading, “Shipbuilding and Conversion, Navy, 1998/2002”:

CVN refuelings, \$35,000,000;  
 “Other Procurement, Navy, 1998/2000”, \$28,500,000;  
 “Aircraft Procurement, Air Force, 1998/2000”, \$8,934,000;  
 “Missile Procurement, Air Force, 1998/2000”, \$4,200,000;  
 “Procurement of Ammunition, Air Force, 1998/2000”, \$14,106,000;  
 “Other Procurement, Air Force, 1998/2000”, \$3,508,000;  
 “Research, Development, Test and Evaluation, Navy, 1998/1999”, \$20,500,000;  
 “Research, Development, Test and Evaluation, Air Force, 1998/1999”, \$17,620,000;  
 “National Defense Sealift Fund, Public Law 104-208”, \$65,000,000; and  
 “National Defense Sealift Fund, Public Law 104-61”, \$20,000,000.

SEC. 8059. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8060. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8061. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: *Provided*, That during the performance of such duty, the members of the National Guard shall be under State command and control: *Provided further*, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8062. Funds appropriated in this Act for operation and maintenance of the Military Departments, Unified and Specified Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Unified Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8063. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 1998 level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8064. None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, unless the Secretary of Defense certifies that the total cost for the planning, design, construction and installation of equipment for the renovation of the Pentagon Reservation will not exceed \$1,118,000,000.

SEC. 8065. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

10 USC 374 note.

50 USC 403f  
note.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8066. Appropriations available in this Act under the heading “Operation and Maintenance, Defense-Wide” for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8067. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8068. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa: *Provided*, That notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8069. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8070. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8071. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills:



*Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8072. During the current fiscal year, the Army shall use the former George Air Force Base as the airhead for the National Training Center at Fort Irwin: *Provided*, That none of the funds in this Act shall be obligated or expended to transport Army personnel into Edwards Air Force Base for training rotations at the National Training Center.

SEC. 8073. (a) The Secretary of Defense shall submit, on a quarterly basis, a report to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate setting forth all costs (including incremental costs) incurred by the Department of Defense during the preceding quarter in implementing or supporting resolutions of the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, and humanitarian missions undertaken by the Department of Defense. The quarterly report shall include an aggregate of all such Department of Defense costs by operation or mission. Reports.

(b) The Secretary of Defense shall detail in the quarterly reports all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

SEC. 8074. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

Applicability.

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

Loans.

SEC. 8075. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense shall issue loan guarantees in support of United States defense exports not otherwise provided for: *Provided*, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed \$15,000,000,000: *Provided further*, That the exposure fees charged and collected by the Secretary for each guarantee, shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further*, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services and Foreign Relations of the Senate and the Committees on Appropriations, National Security and International Relations in the House of Representatives on the implementation of this program: *Provided further*, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

Reports.

SEC. 8076. None of the funds available to the Department of Defense shall be obligated or expended to make a financial contribution to the United Nations for the cost of an United Nations peacekeeping activity (whether pursuant to assessment or a voluntary contribution) or for payment of any United States arrearage to the United Nations.

SEC. 8077. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8078. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8079. None of the funds provided in title II of this Act for “Former Soviet Union Threat Reduction” may be obligated or expended to finance housing for any individual who was a member of the military forces of the Soviet Union or for any individual who is or was a member of the military forces of the Russian Federation.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 8080. During the current fiscal year, no more than \$10,000,000 of appropriations made in this Act under the heading “Operation and Maintenance, Defense-Wide” may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8081. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading “Shipbuilding and Conversion, Navy” shall be considered to be for the same purpose as any subdivision under the heading “Shipbuilding and Conversion, Navy” appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

Applicability.

SEC. 8082. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

## (TRANSFER OF FUNDS)

SEC. 8083. Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: *Provided further*, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, “Shipbuilding and Conversion, Navy, 1988/2001”:

TRIDENT ballistic missile submarine program,  
\$2,674,000;  
SSN-688 attack submarine program, \$32,232,000;  
CG-47 cruiser program, \$10,886,000;  
Carrier replacement program, \$40,360,000;  
LHD-1 amphibious assault ship program,  
\$3,001,000;  
LSD-41 cargo variant ship program, \$790,000;

To: Under the heading, “Shipbuilding and Conversion,  
Navy, 1995/2001”:

Carrier replacement program, \$89,943,000;

From:

Under the heading, “Shipbuilding and Conversion,  
Navy, 1989/2000”:

TRIDENT ballistic missile submarine program,  
\$3,028,000;  
LHD-1 amphibious assault ship program,  
\$2,153,000;  
MHC coastal minehunter program, \$1,298,000;

To: Under the heading, “Shipbuilding and Conversion,  
Navy, 1995/2000”:

Carrier replacement program, \$6,479,000;

From:

Under the heading, “Shipbuilding and Conversion,  
Navy, 1990/2002”:

TRIDENT ballistic missile submarine program,  
\$10,796,000;  
SSN-688 attack submarine program, \$1,000,000;  
DDG-51 destroyer program, \$5,066,000;  
LCAC landing craft, air cushioned program,  
\$509,000;  
MCM mine countermeasures ship program,  
\$1,200,000;  
AOE combat support ship program, \$1,674,000;  
AO(J) jumboized oiler program, \$1,899,000;  
Oceanographic research program, \$394,000;

To: Under the heading, “Shipbuilding and Conversion,  
Navy, 1995/2002”:

Carrier replacement program, \$22,538,000;

From:

Under the heading, “Shipbuilding and Conversion,  
Navy, 1991/2001”:

DDG-51 destroyer program, \$1,500,000;  
LHD-1 amphibious assault ship program,  
\$7,500,000;  
LSD-41 cargo variant ship program, \$1,227,000;  
LCAC landing craft, air cushioned program,  
\$392,000;  
MHC coastal minehunter program, \$2,400,000;

To: Under the heading, “Shipbuilding and Conversion,  
Navy, 1991/2001”:

SSN-21 attack submarine program, \$13,019,000;

From:

Under the heading, “Shipbuilding and Conversion, Navy, 1992/2001”:

Prior year escalation, \$52,934,000;

To:

Under the heading, “Shipbuilding and Conversion, Navy, 1991/2001”:

SSN-21 attack submarine program, \$16,967,000;

Under the heading, “Shipbuilding and Conversion, Navy, 1994/2001”:

MCS(C) mine warfare command and control ship program, \$5,729,000;

Under the heading, “Shipbuilding and Conversion, Navy, 1995/2001”:

DDG-51 destroyer program, \$24,261,000;

Carrier replacement program, \$5,977,000;

From:

Under the heading, “Shipbuilding and Conversion, Navy, 1993/2002”:

AOE combat support ship program, \$7,753,000;

To:

Under the heading, “Shipbuilding and Conversion, Navy, 1995/2002”:

DDG-51 destroyer program, \$7,753,000;

From:

Under the heading, “Shipbuilding and Conversion, Navy, 1996/2000”:

SSN-21 attack submarine program, \$26,526,000;

To:

Under the heading, “Shipbuilding and Conversion, Navy, 1995/2000”:

DDG-51 destroyer program, \$368,000;

Under the heading, “Shipbuilding and Conversion, Navy, 1996/2000”:

DDG-51 destroyer program, \$2,756,000;

LHD-1 amphibious assault ship program, \$21,850,000;

Fast Patrol craft program, \$345,000;

Under the heading, “Shipbuilding and Conversion, Navy, 1997/2000”:

AGOR SWATH oceanographic research program, \$1,207,000;

From:

Under the heading, “Shipbuilding and Conversion, Navy, 1998/2002”:

DDG-51(AP) destroyer program, \$9,009,000;

To:

Under the heading, “Shipbuilding and Conversion, Navy, 1998/2002”:

DDG-51 destroyer program, \$9,009,000.

SEC. 8084. The Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees by February 1, 1999 a detailed report identifying, by amount and by separate budget activity, activity group, subactivity group, line item, program element, program, project, subproject, and activity, any activity for which the fiscal year 2000 budget request was reduced because Congress appropriated funds above the President’s budget request for that specific activity for fiscal year 1999.

Deadline.  
Reports.

SEC. 8085. Funds appropriated in title II of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8086. The Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided*, That costs for which reimbursement is waived pursuant to this subsection shall be paid from appropriations available for the Asia-Pacific Center.

SEC. 8087. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8088. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8089. During the current fiscal year, the amounts which are necessary for the operation and maintenance of the Fisher Houses administered by the Departments of the Army, the Navy, and the Air Force are hereby appropriated, to be derived from amounts which are available in the applicable Fisher House trust fund established under 10 U.S.C. 2221 for the Fisher Houses of each such department.

SEC. 8090. During the current fiscal year, refunds attributable to the use of the Government travel card by military personnel and civilian employees of the Department of Defense and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8091. During the current fiscal year, not more than a total of \$60,000,000 in withdrawal credits may be made by the Marine Corps Supply Management activity group of the Navy Working Capital Fund, Department of Defense Working Capital Funds,

to the credit of current applicable appropriations of a Department of Defense activity in connection with the acquisition of critical low density repairables that are capitalized into the Navy Working Capital Fund.

SEC. 8092. Notwithstanding 31 U.S.C. 3902, during the current fiscal year interest penalties may be paid by the Department of Defense from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated.

SEC. 8093. At the time the President submits his budget for fiscal year 2000 and any fiscal year thereafter, the Department of Defense shall transmit to the congressional defense committees a budget justification document for the active and reserve Military Personnel accounts, to be known as the “M-1”, which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for military personnel in any budget request, or amended budget request, for that fiscal year.

Budget.  
10 USC 221 note.

SEC. 8094. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8095. The budget of the President for fiscal year 2000 submitted to Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include budget activity groups (known as “subactivities”) in all appropriations accounts provided in this Act, as may be necessary, to separately identify all costs incurred by the Department of Defense to support the North Atlantic Treaty Organization and all Partnership For Peace programs and initiatives. The budget justification materials submitted to Congress in support of the budget of the Department of Defense for fiscal year 2000, and subsequent fiscal years, shall provide complete, detailed estimates for all such costs.

Budget.  
10 USC 221 note.

SEC. 8096. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with a contractor that is subject to the reporting requirement set forth in subsection (d) of section 4212 of title 38, United States Code, but has not submitted the most recent report required by such subsection for 1998 or a subsequent year.

SEC. 8097. None of the funds made available in this Act may be used to approve or license the sale of the F-22 advanced tactical fighter to any foreign government.

SEC. 8098. None of the funds appropriated or otherwise made available by this Act may be made available for the United States Man and the Biosphere Program, or related projects.

SEC. 8099. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided

in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

Applicability.  
Contracts.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50-65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8100. Notwithstanding 31 U.S.C. 1552(a), of the funds provided in Department of Defense Appropriations Acts, not more than the specified amounts from the following accounts shall remain available for the payment of satellite on-orbit incentive fees until the fees are paid:

“Missile Procurement, Air Force, 1995/1997”, \$20,978,000;

and

“Missile Procurement, Air Force, 1996/1998”, \$16,782,400.

SEC. 8101. None of the funds in this Act may be used by the National Imagery and Mapping Agency for mapping, charting, and geodesy activities unless contracts for such services are awarded in accordance with the qualifications based selection process in 40 U.S.C. 541 et seq. and 10 U.S.C. 2855: *Provided*, That such agency may continue to fund existing contracts for such services for not more than 180 days from the date of the enactment of this Act: *Provided further*, That an exception shall be provided for such services that are critical to national security after a written notification has been submitted by the Deputy Secretary of Defense to the Committees on Appropriations of the House of Representatives and the Senate.

Notification.

SEC. 8102. Funds made available to the Civil Air Patrol in this Act under the heading “Drug Interdiction and Counter-Drug Activities, Defense” may be used for the Civil Air Patrol Corporation’s counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State and local government agencies; for administrative costs, including the hiring of Civil Air Patrol Corporation employees; for travel and per diem expenses of Civil Air Patrol Corporation personnel in support of those missions; and for equipment needed for mission support or performance: *Provided*, That of these funds, \$300,000 shall be made available to establish and operate a distance learning program: *Provided further*, That the Department of the Air Force should



waive reimbursement from the Federal, State and local government agencies for the use of these funds.

SEC. 8103. During fiscal year 1999, advance billing for services provided or work performed by the Working Capital Fund activities of the Department of the Air Force in excess of \$100,000,000 is prohibited.

SEC. 8104. The Secretary of Defense shall undertake a review of all distributed learning education and training programs in the Department of Defense and shall issue a plan to implement a department-wide, standardized, cost-effective Advanced Distributed Learning framework to achieve the goals of commonality, interoperability, and reuse: *Provided*, That the Secretary shall report to Congress on the results of this review and present a detailed implementation and budget plan no later than July 30, 1999.

Deadline.  
Reports.

SEC. 8105. Notwithstanding any other provision in this Act, the total amount appropriated in title II is hereby reduced by \$70,000,000 to reflect savings resulting from consolidations and personnel reductions as mandated in the Defense Reform Initiative.

SEC. 8106. The Secretary of Defense shall submit to the congressional defense committees an in-depth analysis comparing the cost of any proposed establishment or expansion of depot facilities by the Reserve Components to the cost of performing the same work at existing depot facilities or by the private sector: *Provided*, That for purposes of this section, the term “depot level maintenance” does not include General Support Level maintenance activities, Intermediate Level maintenance activities, or lower echelon maintenance activities.

Reports.

SEC. 8107. Notwithstanding any other provision of law, the TRICARE managed care support contracts in effect, or in final stages of acquisition as of September 30, 1998, may be extended for two years: *Provided*, That any such extension may only take place if the Secretary of Defense determines that it is in the best interest of the Government: *Provided further*, That any contract extension shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the Government: *Provided further*, That notwithstanding any other provision of law, all future TRICARE managed care support contracts replacing contracts in effect, or in the final stages of acquisition as of September 30, 1998, may include a base contract period for transition and up to seven one-year option periods.

10 USC 1073  
note.

SEC. 8108. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$400,600,000 to reflect savings from revised economic assumptions, to be distributed as follows:

- “Operation and Maintenance, Army”, \$24,000,000;
- “Operation and Maintenance, Navy”, \$32,000,000;
- “Operation and Maintenance, Marine Corps”, \$4,000,000;
- “Operation and Maintenance, Air Force”, \$31,000,000;
- “Operation and Maintenance, Defense-Wide”, \$17,600,000;
- “Operation and Maintenance, Army Reserve”, \$2,000,000;
- “Operation and Maintenance, Navy Reserve”, \$2,000,000;
- “Operation and Maintenance, Air Force Reserve”, \$2,000,000;
- “Operation and Maintenance, Army National Guard”, \$4,000,000;

“Operation and Maintenance, Air National Guard”,  
 \$4,000,000;  
 “Drug Interdiction and Counter-Drug Activities, Defense”,  
 \$2,000,000;  
 “Environmental Restoration, Army”, \$1,000,000;  
 “Environmental Restoration, Navy”, \$1,000,000;  
 “Environmental Restoration, Air Force”, \$1,000,000;  
 “Environmental Restoration, Defense-Wide”, \$1,000,000;  
 “Defense Health Program”, \$36,000,000;  
 “Aircraft Procurement, Army”, \$4,000,000;  
 “Missile Procurement, Army”, \$4,000,000;  
 “Procurement of Weapons and Tracked Combat Vehicles,  
 Army”, \$4,000,000;  
 “Procurement of Ammunition, Army”, \$3,000,000;  
 “Other Procurement, Army”, \$9,000,000;  
 “Aircraft Procurement, Navy”, \$22,000,000;  
 “Weapons Procurement, Navy”, \$4,000,000;  
 “Procurement of Ammunition, Navy and Marine Corps”,  
 \$1,000,000;  
 “Shipbuilding and Conversion, Navy”, \$18,000,000;  
 “Other Procurement, Navy”, \$12,000,000;  
 “Procurement, Marine Corps”, \$2,000,000;  
 “Aircraft Procurement, Air Force”, \$23,000,000;  
 “Missile Procurement, Air Force”, \$7,000,000;  
 “Procurement of Ammunition, Air Force”, \$1,000,000;  
 “Other Procurement, Air Force”, \$17,500,000;  
 “Procurement, Defense-Wide”, \$5,800,000;  
 “Chemical Agents and Munitions Destruction, Army”,  
 \$3,000,000;  
 “Research, Development, Test and Evaluation, Army”,  
 \$10,000,000;  
 “Research, Development, Test and Evaluation, Navy”,  
 \$20,000,000;  
 “Research, Development, Test and Evaluation, Air Force”,  
 \$39,000,000; and  
 “Research, Development, Test and Evaluation, Defense-  
 Wide”, \$26,700,000:

*Provided*, That these reductions shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within each appropriation account.

President.  
 50 USC 98d note.

SEC. 8109. (a) DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.—Subject to subsection (c), the President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in the amount of \$100,000,000 by the end of fiscal year 1999.

(b) DISPOSAL QUANTITIES.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

**Authorized Stockpile Disposals**

<b>Material for disposal</b>	<b>Quantity</b>
Beryllium Metal .....	20 short tons
Chromium Ferroalloy .....	25,000 short tons
Columbium Carbide Powder .....	21,372 pounds of contained Columbium
Diamond, Stones .....	600,000 carats
Platinum .....	100,000 troy ounces
Platinum—Palladium .....	150,000 troy ounces
Tantalum Carbide Powder .....	22,688 pounds of contained Tantalum
Tantalum Metal Ingots .....	25,000 pounds of contained Tantalum
Tantalum Metal Powder .....	25,000 pounds of contained Tantalum

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) TREATMENT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials authorized for disposal under subsection (a) shall be deposited into the general fund of the Treasury.

(e) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—(1) The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(2) The disposal authority provided in subsection (a) is referred to in section 3303 of the National Defense Authorization Act for Fiscal Year 1999, and the quantities of the materials specified in the table in subsection (b) are included in the quantities specified in the table in subsection (b) of such section 3303.

(f) DEFINITION.—In this section, the term “National Defense Stockpile” means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 8110. (a) TRANSFERS OF VESSELS BY GRANT.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) To the Government of Argentina, the NEWPORT class tank landing ship NEWPORT (LST 1179).

(2) To the Government of Greece—

(A) the KNOX class frigate HEPBURN (FF 1055); and

(B) the ADAMS class guided missile destroyers STRAUSS (DDG 16), SEMMS (DDG 18), and WADDELL (DDG 24).

(3) To the Government of Portugal, the STALWART class ocean surveillance ship ASSURANCE (T-AGOS 5).

(4) To the Government of Turkey, the KNOX class frigates PAUL (FF 1080), MILLER (FF 1091), and W.S. SIMMS (FF 1059).

(b) TRANSFERS OF VESSELS BY SALE.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) To the Government of Brazil, the NEWPORT class tank landing ships CAYUGA (LST 1186) and PEORIA (LST 1183).

(2) To the Government of Chile—

(A) the NEWPORT class tank landing ship SAN BERNARDINO (LST 1189); and

(B) the auxiliary repair dry dock WATERFORD (ARD 5).

(3) To the Government of Greece—

(A) the OAK RIDGE class medium dry dock ALAMAGORDO (ARDM 2); and

(B) the KNOX class frigates VREELAND (FF 1068) and TRIPPE (FF 1075).

(4) To the Government of Mexico—

(A) the auxiliary repair dry dock SAN ONOFRE (ARD 30); and

(B) the KNOX class frigate PHARRIS (FF 1094).

(5) To the Government of the Philippines, the STALWART class ocean surveillance ship TRIUMPH (T-AGOS 4).

(6) To the Government of Spain, the NEWPORT class tank landing ships HARLAN COUNTY (LST 1196) and BARNSTABLE COUNTY (LST 1197).

(7) To the Taipei Economic and Cultural Representative Office in the United States (the Taiwan instrumentality that is designated pursuant to section 10(a) of the Taiwan Relations Act)—

(A) the KNOX class frigates PEARY (FF 1073), JOSEPH HEWES (FF 1078), COOK (FF 1083), BREWTON (FF 1086), KIRK (FF 1987), and BARBEY (FF 1088);

(B) the NEWPORT class tank landing ships MANITOWOC (LST 1180) and SUMTER (LST 1181);

(C) the floating dry dock COMPETENT (AFDM 6); and

(D) the ANCHORAGE class dock landing ship PENSA-COLA (LSD 38).

(8) To the Government of Turkey—

(A) the OLIVER HAZARD PERRY class guided missile frigates MAHLON S. TISDALE (FFG 27), REID (FFG 30), and DUNCAN (FFG 10); and

(B) the KNOX class frigates REASONER (FF 1063), FANNING (FF 1076), BOWEN (FF 1079), MCCANDLESS (FF 1084), DONALD BEARY (FF 1085), AINSWORTH (FF 1090), THOMAS C. HART (FF 1092), and CAPODANNO (FF 1093).

(9) To the Government of Venezuela, the medium auxiliary floating dry dock bearing hull number AFDM 2.

(c) TRANSFERS OF VESSELS ON A COMBINED LEASE-SALE BASIS.—The Secretary of the Navy is authorized to transfer vessels to foreign countries on a combined lease-sale basis under sections

61 and 21 of the Arms Export Control Act (22 U.S.C. 2796, 2761) and in accordance with subsection (d) as follows:

(1) To the Government of Brazil, the CIMARRON class oiler MERRIMACK (AO 179).

(2) To the Government of Greece, the KIDD class guided missile destroyers KIDD (DDG 993), CALLAGHAN (DDG 994), SCOTT (DDG 995), and CHANDLER (DDG 996).

(d) CONDITIONS RELATING TO COMBINED LEASE-SALE TRANSFERS.—A transfer of a vessel on a combined lease-sale basis authorized by subsection (c) shall be made in accordance with the following requirements:

(1) The Secretary may initially transfer the vessel by lease, with lease payments suspended for the term of the lease, if the country entering into the lease for the vessel simultaneously enters into a foreign military sales agreement for the transfer of title to the vessel.

(2) The Secretary may not deliver to the purchasing country title to the vessel until the purchase price of the vessel under such a foreign military sales agreement is paid in full.

(3) Upon payment of the purchase price in full under such a sales agreement and delivery of title to the recipient country, the Secretary shall terminate the lease.

(4) If the purchasing country fails to make full payment of the purchase price in accordance with the sales agreement by the date required under the sales agreement—

(A) the sales agreement shall be immediately terminated;

(B) the suspension of lease payments under the lease shall be vacated; and

(C) the United States shall be entitled to retain all funds received on or before the date of the termination under the sales agreement, up to the amount of the lease payments due and payable under the lease and all other costs required by the lease to be paid to that date.

(5) If a sales agreement is terminated pursuant to paragraph (4), the United States shall not be required to pay any interest to the recipient country on any amount paid to the United States by the recipient country under the sales agreement and not retained by the United States under the lease.

(e) FUNDING FOR CERTAIN COSTS OF TRANSFERS.—There is established in the Treasury of the United States a special account to be known as the Defense Vessels Transfer Program Account. There is hereby appropriated into that account such sums as may be necessary for the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of the lease-sale transfers authorized by subsection (c). Funds in that account are available only for the purpose of covering those costs.

(f) NOTIFICATION OF CONGRESS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress, for each naval vessel that is to be transferred under this section before January 1, 1999, the notifications required under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) and section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105-118; 111 Stat. 2413). Deadline.

(g) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to

another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(h) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)) in the case of a transfer authorized to be made on a grant basis under subsection (a)).

(i) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(j) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 8111. None of the funds in this Act may be used to compensate an employee of the Department of Defense who initiates a new start program without notification to the Office of the Secretary of Defense and the congressional defense committees, as required by Department of Defense financial management regulations.

SEC. 8112. None of the funds made available by this Act shall be used by the Army to reduce civilian personnel workforce levels at United States Army, Pacific (USARPAC) bases and at Major Range and Test Facility Bases (MRTFBs) in the United States in fiscal year 1999 below levels assumed in this Act unless the Secretary of the Army notifies the Congressional defense committees not less than 30 days prior to implementation of any civilian personnel workforce reductions.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8113. Of the funds made available under title II of this Act, the following amounts shall be transferred to the Defense Working Capital Funds for the purpose of funding operations of the Defense Commissary Agency:

“Operation and Maintenance, Army”, \$338,400,000;

“Operation and Maintenance, Navy”, \$255,000,000;

“Operation and Maintenance, Marine Corps”, \$86,600,000;

and

“Operation and Maintenance, Air Force”, \$302,071,000:

*Provided*, That the transfer authority provided in this section is in addition to any other transfer authority contained elsewhere in this Act.

SEC. 8114. Of the amounts made available in title II of this Act under the heading “Operation and Maintenance, Navy”, \$20,000,000 is available only for emergency and extraordinary expenses associated with the accident involving a United States Marine Corps A-6 aircraft on February 3, 1998, near Cavalese, Italy: *Provided*, That these funds shall remain available until

expended: *Provided further*, That notwithstanding any other provision of law, the funds made available by this section may be available for payments to persons, communities, or other entities in Italy for reimbursement for property damages resulting from the accident involving a United States Marine Corps A-6 aircraft on February 3, 1998, near Cavalese, Italy: *Provided further*, That notwithstanding any other provision of law, funds made available under this section may be used to rebuild or replace the funicular system in Cavalese destroyed on February 3, 1998 by that aircraft: *Provided further*, That any amount paid to any individual or entity from the amount appropriated under this section shall be credited against any amount subsequently determined to be payable to that individual or entity under chapter 163 of title 10, United States Code, section 127 of that title, or any other authority provided by law for administrative settlement of claims against the United States with respect to damages arising from the accident described in this section: *Provided further*, That payment of an amount under this section shall not be considered to constitute a statement of legal liability on the part of the United States or otherwise to prejudice any judicial proceeding or investigation arising from the accident described in this section: *Provided further*, That no part of any payment authorized by this section shall be paid to or received by agents or attorneys for services rendered in connection with obtaining such payment, any contract to the contrary notwithstanding.

SEC. 8115. (a) None of the funds appropriated or otherwise made available under this Act may be obligated or expended for any additional deployment of forces of the Armed Forces of the United States to Yugoslavia, Albania, or Macedonia unless and until the President, after consultation with the Speaker of the House of Representatives, the Majority Leader of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate, transmits to Congress a report on the deployment that includes the following:

President.  
Reports.

(1) The President's certification that the presence of those forces in each country to which the forces are to be deployed is necessary in the national security interests of the United States.

Certification.

(2) The reasons why the deployment is in the national security interests of the United States.

(3) The number of United States military personnel to be deployed to each country.

(4) The mission and objectives of forces to be deployed.

(5) The expected schedule for accomplishing the objectives of the deployment.

(6) The exit strategy for United States forces engaged in the deployment.

(7) The costs associated with the deployment and the funding sources for paying those costs.

(8) The anticipated effects of the deployment on the morale, retention, and effectiveness of United States forces.

(b) Subsection (a) does not apply to a deployment of forces—

(1) in accordance with United Nations Security Council Resolution 795; or

(2) under circumstances determined by the President to be an emergency necessitating immediate deployment of the forces.

(c) Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

SEC. 8116. (a) ENSURING YEAR 2000 COMPLIANCE OF INFORMATION TECHNOLOGY AND NATIONAL SECURITY SYSTEMS.—None of the funds appropriated or otherwise made available by this Act may (except as provided in subsection (b)) be obligated or expended on the development or modernization of any information technology or national security system of the Department of Defense in use by the Department of Defense (whether or not the system is a mission critical system) if the date-related data processing capability of that system does not meet certification level 1a, 1b, or 2 (as prescribed in the April 1997 publication of the Department of Defense entitled “Year 2000 Management Plan”).

(b) EXCEPTION FOR CERTAIN INFORMATION TECHNOLOGY AND NATIONAL SECURITY SYSTEMS.—The limitation in subsection (a) does not apply to an obligation or expenditure for an information technology or national security system that is reported to the Office of the Secretary of Defense by October 1, 1998, in accordance with the preparation instructions for the May 1998 Department of Defense quarterly report on the status of year 2000 compliance, if—

(1) the obligation or expenditure is directly related to ensuring that the reported system achieves year 2000 compliance;

(2) the system is being developed and fielded to replace, before January 1, 2000, a noncompliant system or a system to be terminated in accordance with the May 1998 Department of Defense quarterly report on the status of year 2000 compliance; or

(3) the obligation or expenditure is required for a particular change that is specifically required by law or that is specifically directed by the Secretary of Defense.

(c) UNALLOCATED REDUCTIONS OF FUNDS NOT TO APPLY TO MISSION CRITICAL SYSTEMS.—Funds appropriated or otherwise made available by this Act for mission critical systems are not subject to any unallocated reduction of funds made by or otherwise applicable to funds appropriated or otherwise made available by this Act.

(d) CURRENT SERVICES OPERATIONS NOT AFFECTED.—Subsection (a) does not prohibit the obligation or expenditure of funds for current services operations of information technology and national security systems.

(e) WAIVER AUTHORITY.—The Secretary of Defense may waive subsection (a) on a case-by-case basis with respect to an information technology or national security system if the Secretary provides the congressional defense committees with written notice of the waiver, including the reasons for the waiver and a timeline for the testing and certification of the system as year 2000 compliant.

(f) REQUIRED REPORT.—(1) Not later than December 1, 1998, the Secretary of Defense shall submit to the congressional defense committees a report describing—

(A) an executable strategy to be used throughout the Department of Defense to test information technology and national security systems for year 2000 compliance (to include functional capability tests and military exercises);

(B) the plans of the Department of Defense for ensuring that adequate resources (such as testing facilities, tools, and

Deadline.



personnel) are available to ensure that all mission critical systems achieve year 2000 compliance; and

(C) the criteria and process to be used to certify a system as year 2000 compliant.

(2) The report shall also include—

(A) an updated list of all mission critical systems; and

(B) guidelines for developing contingency plans for the functioning of each information technology or national security system in the event of a year 2000 problem in any such system.

(g) CAPABILITY CONTINGENCY PLANS.—Not later than December 30, 1998, the Secretary of Defense shall have in place contingency plans to ensure continuity of operations for every critical mission or function of the Department of Defense that is dependent on an information technology or national security system.

(h) INSPECTOR GENERAL EVALUATION.—The Inspector General of the Department of Defense shall selectively audit information technology and national security systems certified as year 2000 compliant to evaluate the ability of systems to successfully operate during the actual year 2000, including the ability of the systems to access and transmit information from point of origin to point of termination.

(i) DEFINITIONS.—For purposes of this section:

(1) The term “information technology” has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term “national security system” has the meaning given that term in section 5142 of such Act (40 U.S.C. 1452).

(3) The term “development or modernization” has the meaning given that term in paragraph E of section 180203 of the Department of Defense Financial Management Regulation (DOD 7000.14–R), but does not include any matter covered by subparagraph 3 of that paragraph.

(4) The term “current services” has the meaning given that term in paragraph C of section 180203 of the Department of Defense Financial Management Regulation (DOD 7000.14–R).

(5) The term “mission critical system” means an information technology or national security system that is designated as mission critical in the May 1998 Department of Defense quarterly report on the status of year 2000 compliance.

SEC. 8117. (a) EVALUATION OF YEAR 2000 COMPLIANCE AS PART OF TRAINING EXERCISES PROGRAMS.—Not later than December 15, 1998, the Secretary of Defense shall submit to Congress a plan for the execution of a simulated year 2000 as part of military exercises described in subsection (c) in order to evaluate, in an operational environment, the extent to which information technology and national security systems involved in those exercises will successfully operate during the actual year 2000, including the ability of those systems to access and transmit information from point of origin to point of termination.

(b) EVALUATION OF COMPLIANCE IN SELECTED EXERCISES.—In conducting the military exercises described in subsection (c), the Secretary of Defense shall ensure that—

(1) at least 25 of those exercises (referred to in this section as “year 2000 simulation exercises”) are conducted so as to include a simulated year 2000 in accordance with the plan submitted under subsection (a);

Records.

Guidelines.

Deadline.

Deadline.

(2) at least two of those exercises are conducted by the commander of each unified or specified combatant command; and

(3) all mission critical systems that are expected to be used if the Armed Forces are involved in a conflict in a major theater of war are tested in at least two exercises.

(c) COVERED MILITARY EXERCISES.—A military exercise referred to in this section is a military exercise conducted by the Department of Defense, during the period beginning on January 1, 1999, and ending on September 30, 1999—

(1) under the training exercises program known as the “CJCS Exercise Program”;

(2) at the Naval Strike and Air Warfare Center, the Army National Training Center, or the Air Force Air Warfare Center; or

(3) as part of Naval Carrier Group fleet training or Marine Corps Expeditionary Unit training.

(d) ALTERNATIVE TESTING METHOD.—In the case of an information technology or national security system for which a simulated year 2000 test as part of a military exercise described in subsection (c) is not feasible or presents undue risk, the Secretary of Defense shall test the system using a functional end-to-end test or through a Defense Major Range and Test Facility Base. The Secretary shall include the plans for these tests in the plan required by subsection (a). Tests under this subsection are in addition to the 25 tests required by subsection (b).

(e) AUTHORITY FOR EXCLUSION OF SYSTEMS NOT CAPABLE OF PERFORMING RELIABLY IN YEAR 2000 SIMULATION.—(1) In carrying out a year 2000 simulation exercise, the Secretary of Defense may exclude a particular information technology or national security system from the year 2000 simulation phase of the exercise if the Secretary determines that the system would be incapable of performing reliably during the year 2000 simulation phase of the exercise. In such a case, the system excluded shall be replaced in accordance with the year 2000 contingency plan for the system.

Notification.

(2) If the Secretary of Defense excludes an information technology or national security system from the year 2000 simulation phase of an exercise as provided in paragraph (1), the Secretary shall notify Congress of that exclusion not later than two weeks before commencing that exercise. The notice shall include a list of each information technology or national security system excluded from the exercise, a description of how the exercise will use the year 2000 contingency plan for each such system, and a description of the effect that continued year 2000 noncompliance of each such system would have on military readiness.

Records.

(3) An information technology or national security system with cryptological applications that is not capable of having its internal clock adjusted forward to a simulated later time is exempt from the year 2000 simulation phase of an exercise under this section.

Deadline.

(f) COMPTROLLER GENERAL REVIEW.—Not later than January 30, 1999, the Comptroller General shall review the report and plan submitted under subsection (a) and submit to Congress a briefing evaluating the methodology to be used under the plan to simulate the year 2000 and describing the potential information that will be collected as a result of implementation of the plan, the adequacy of the planned tests, and the impact that the plan will have on military readiness.

(g) DEFINITIONS.—For the purposes of this section:

(1) The term “information technology” has the meaning given that term in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(2) The term “national security system” has the meaning given that term in section 5142 of such Act (40 U.S.C. 1452).

(3) The term “mission critical system” means an information technology or national security system that is designated as mission critical in the May 1998 Department of Defense quarterly report on the status of year 2000 compliance.

SEC. 8118. During the current fiscal year and hereafter, no funds appropriated or otherwise available to the Department of Defense may be used to award a contract to, extend a contract with, or approve the award of a subcontract to any person who within the preceding 15 years has been convicted under section 704 of title 18, United States Code, of the unlawful manufacture or sale of the Congressional Medal of Honor.

10 USC 2241  
note.

SEC. 8119. (a) The Secretary of Defense shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on food stamp assistance for members of the Armed Forces. The Secretary shall submit the report at the same time that the Secretary submits to Congress, in support of the fiscal year 2001 budget, the materials that relate to the funding provided in that budget for the Department of Defense.

Reports.  
Food Stamps.  
10 USC 113 note.

(b) The report shall include the following:

(1) The number of members of the Armed Forces and dependents of members of the Armed Forces who are eligible for food stamps.

(2) The number of members of the Armed Forces and dependents of members of the Armed Forces who received food stamps in fiscal year 1998.

(3) A proposal for using, as a means for eliminating or reducing significantly the need of such personnel for food stamps, the authority under section 2828 of title 10, United States Code, to lease housing facilities for enlisted members of the Armed Forces and their families when Government quarters are not available for such personnel.

(4) A proposal for increased locality adjustments through the basic allowance for housing and other methods as a means for eliminating or reducing significantly the need of such personnel for food stamps.

(5) Other potential alternative actions (including any recommended legislation) for eliminating or reducing significantly the need of such personnel for food stamps.

(6) A discussion of the potential for each alternative action referred to in paragraph (3) or (4) to result in the elimination or a significant reduction in the need of such personnel for food stamps.

(c) Each potential alternative action included in the report under paragraph (3) or (4) of subsection (b) shall meet the following requirements:

(1) Apply only to persons referred to in paragraph (1) of such subsection.

(2) Be limited in cost to the lowest amount feasible to achieve the objectives.

(d) In this section:

(1) The term “fiscal year 2001 budget” means the budget for fiscal year 2001 that the President submits to Congress under section 1105(a) of title 31, United States Code.

(2) The term “food stamps” means assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

SEC. 8120. None of the funds appropriated or otherwise made available by this Act in titles III and IV may be used to enter into or renew a contract with any company owned, or partially owned, by the People’s Republic of China or the People’s Liberation Army of the People’s Republic of China.

SEC. 8121. (a) Chapter 157 of title 10, United States Code, is amended by inserting after section 2641 the following:

**“§ 2641a. Transportation of American Samoa veterans on Department of Defense aircraft for certain medical care in Hawaii**

“(a) TRANSPORTATION AUTHORIZED.—The Secretary of Defense may provide transportation on Department of Defense aircraft for the purpose of transporting any veteran specified in subsection (b) between American Samoa and the State of Hawaii if such transportation is required in order to provide hospital care to such veteran as described in that subsection.

“(b) VETERANS ELIGIBLE FOR TRANSPORT.—A veteran eligible for transport under subsection (a) is any veteran who—

“(1) resides in and is located in American Samoa; and

“(2) as determined by an official of the Department of Veterans Affairs designated for that purpose by the Secretary of Veterans Affairs, must be transported to the State of Hawaii in order to receive hospital care to which such veteran is entitled under chapter 17 of title 38, United States Code, in facilities of such Department in the State of Hawaii.

“(c) ADMINISTRATION.—(1) Transportation may be provided to veterans under this section only on a space-available basis.

“(2) A charge may not be imposed on a veteran for transportation provided to the veteran under this section.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘veteran’ has the meaning given that term in section 101(2) of title 38, United States Code.

“(2) The term ‘hospital care’ has the meaning given that term in section 1701(5) of title 38, United States Code.”.

(b) The table of sections at the beginning of chapter 157 of such title is amended by inserting after the item relating to section 2641 the following new item:

“2641a. Transportation of American Samoa veterans on Department of Defense aircraft for certain medical care in Hawaii.”.

SEC. 8122. ADDITIONAL FUNDING FOR KOREAN WAR VETERANS MEMORIAL. Section 3 of Public Law 99-572 (40 U.S.C. 1003 note) is amended by adding at the end the following:

“(c) ADDITIONAL FUNDING.—

“(1) IN GENERAL.—In addition to amounts made available under subsections (a) and (b), the Secretary of the Army may expend, from any funds available to the Secretary on the date of the enactment of this paragraph, \$2,000,000 for repair of the memorial.

“(2) DISPOSITION OF FUNDS RECEIVED FROM CLAIMS.—Any funds received by the Secretary of the Army as a result of

any claim against a contractor in connection with construction of the memorial shall be deposited in the general fund of the Treasury.”.

SEC. 8123. Of the funds available under title VI for “Chemical Agents and Munitions Destruction, Army” for research and development, \$18,000,000 shall be made available for the program manager for the Assembled Chemical Weapons Assessment (under section 8065 of the Department of Defense Appropriations Act, 1997) for demonstrations of technologies under the Assembled Chemical Weapons Assessment, for planning and preparation to proceed from demonstration of an alternative technology immediately into the development of a pilot-scale facility for the technology, and for the design, construction, and operation of a pilot facility for the technology.

SEC. 8124. The Secretary of the Navy may carry out a competitively awarded vessel scrapping pilot program during fiscal years 1999 and 2000 using funds made available in this Act under the heading “Operation and Maintenance, Navy”: *Provided*, That the Secretary of the Navy shall define the program scope sufficient to gather data on the cost of scrapping Government vessels and to demonstrate cost-effective technologies and techniques to scrap such vessels in a manner that is protective of worker safety and health and the environment.

10 USC 7291  
note.

SEC. 8125. From within the funds provided under the heading “Operation and Maintenance, Army”, up to \$500,000 shall be available for paying subcontractors and suppliers for work performed at Fort Wainwright, Alaska, in 1994, under Army services contract number DACA85-93-C-0065. Subcontractors and suppliers are to be paid interest calculated in accordance with the Contract Dispute Act of 1978 (41 U.S.C. 601-613).

SEC. 8126. (a) The Secretary of the Army and the Secretary of the Air Force may each enter into one or more multiyear leases of nontactical firefighting equipment, nontactical crash rescue equipment, or nontactical snow removal equipment. The period of a lease entered into under this section shall be for any period not in excess of 10 years. Any such lease shall provide that performance under the lease during the second and subsequent years of the contract is contingent upon the appropriation of funds and shall provide for a cancellation payment to be made to the lessor if such appropriations are not made.

10 USC 2401a  
note.

(b) Lease payments made under subsection (a) shall be made from amounts provided in this or future appropriations Acts.

(c) This section is effective for all fiscal years beginning after September 30, 1998.

Effective date.

SEC. 8127. From within funds available for the Department of Defense under title VI of this Act for “Chemical Agents and Munitions Destruction, Army”, or the unobligated balances of funds available for “Chemical Agents and Munitions Destruction, Defense”, under any other Act making appropriations for military functions administered by the Department of Defense for any fiscal year, the Secretary of Defense may use not more than \$25,000,000 for the Assembled Chemical Weapons Assessment to complete the demonstration of alternatives to baseline incineration for the destruction of chemical agents and munitions and to carry out the pilot program under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104-208; 110 Stat. 3009-101; 50 U.S.C. 1521 note). The amount specified

in the preceding sentence is in addition to any other amount that is made available under title VI of this Act to complete the demonstration of the alternatives and to carry out the pilot program: *Provided*, That none of these funds shall be taken from any ongoing operational chemical munitions destruction programs.

SEC. 8128. (a) FINDINGS.—The Congress finds that—

(1) child experts estimate that as many as 250,000 children under the age of 18 are currently serving in armed forces or armed groups in more than 30 countries around the world;

(2) contemporary armed conflict has caused the deaths of 2,000,000 minors in the last decade alone, and has left an estimated 6,000,000 children seriously injured or permanently disabled;

(3) children are uniquely vulnerable to military recruitment because of their emotional and physical immaturity, are easily manipulated, and can be drawn into violence that they are too young to resist or understand;

(4) children are most likely to become child soldiers if they are poor, separated from their families, displaced from their homes, living in a combat zone, or have limited access to education;

(5) orphans and refugees are particularly vulnerable to recruitment;

(6) one of the most egregious examples of the use of child soldiers is the abduction of some 10,000 children, some as young as 8 years of age, by the Lord's Resistance Army (in this section referred to as the "LRA") in northern Uganda;

(7) the Department of State's Country Reports on Human Rights Practices for 1997 reports that in Uganda the LRA kills, maims, and rapes large numbers of civilians, and forces abducted children into "virtual slavery as guards, concubines, and soldiers";

(8) children abducted by the LRA are forced to raid and loot villages, fight in the front line of battle against the Ugandan army and the Sudan People's Liberation Army (SPLA), serve as sexual slaves to rebel commanders, and participate in the killing of other children who try to escape;

(9) former LRA child captives report witnessing Sudanese government soldiers delivering food supplies, vehicles, ammunition, and arms to LRA base camps in government-controlled southern Sudan;

(10) children who manage to escape from LRA captivity have little access to trauma care and rehabilitation programs, and many find their families displaced, unlocatable, dead, or fearful of having their children return home;

(11) Graca Machel, the former United Nations expert on the impact of armed conflict on children, identified the immediate demobilization of all child soldiers as an urgent priority, and recommended the establishment through an optional protocol to the Convention on the Rights of the Child of 18 as the minimum age for recruitment and participation in armed forces; and

(12) the International Committee of the Red Cross, the United Nations Children's Fund (UNICEF), the United Nations High Commission on Refugees, and the United Nations High Commissioner on Human Rights, as well as many nongovernmental organizations, also support the establishment of 18

Lord's Resistance  
Army.

Graca Machel.

as the minimum age for military recruitment and participation in armed conflict.

(b) IN GENERAL.—The Congress hereby—

(1) deploras the global use of child soldiers and supports their immediate demobilization;

(2) condemns the abduction of Ugandan children by the LRA;

(3) calls on the Government of Sudan to use its influence with the LRA to secure the release of abducted children and to halt further abductions; and

(4) encourages the United States delegation not to block the drafting of an optional protocol to the Convention on the Rights of the Child that would establish 18 as the minimum age for participation in armed conflict.

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President and the Secretary of State should—

(1) support efforts to end the abduction of children by the LRA, secure their release, and facilitate their rehabilitation and reintegration into society;

(2) not block efforts to establish 18 as the minimum age for participation in conflict through an optional protocol to the Convention on the Rights of the Child; and

(3) provide greater support to United Nations agencies and nongovernmental organizations working for the rehabilitation and reintegration of former child soldiers into society.

SEC. 8129. Notwithstanding any other provision of law, the Secretary of Defense shall obligate the funds provided for Counterterror Technical Support in the Department of Defense Appropriations Act, 1998 (under title IV of Public Law 105-56) for the projects and in the amounts provided for in House Report 105-265 of the House of Representatives, One Hundred Fifth Congress, First Session: *Provided*, That the funds available for the Pulsed Fast Neutron Analysis Project should be executed through cooperation with the Office of National Drug Control Policy.

SEC. 8130. TRAINING AND OTHER PROGRAMS. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that a member of such unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

Human rights.

(b) MONITORING.—Not more than 90 days after the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, shall establish procedures to ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all information available to the Department of State relating to human rights violations by foreign security forces.

Deadline.  
Procedures.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security

Deadline.

forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8131. Notwithstanding any other provision of law, and notwithstanding the provisions of section 509(b) of title 32, United States Code, of the funds made available for Civil Military Programs to the Department of Defense in this Act, not less than \$62,394,000 shall be made available for the National Guard Challenge Program.

SEC. 8132. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey, without consideration, to Indian tribes located in the State of Montana relocatable military housing units located at Malmstrom Air Force Base, Montana, that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—(1) The Secretary of the Air Force shall convey military housing units under subsection (a) in accordance with the requests for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the State of Montana.

(2) The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting such requests to the Secretary of the Air Force under paragraph (1).

(c) INDIAN TRIBE DEFINED.—In this section, the term “Indian tribe” means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (Public Law 103-454; 108 Stat. 4792; 25 U.S.C. 479a-1).

SEC. 8133. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian health service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

(b) Not later than March 15, 1999, the Secretary of Defense shall submit to Congress a report on the program, including the actions taken under the program.

SEC. 8134. The total amount appropriated in title III of this Act is hereby reduced by \$142,100,000.

SEC. 8135. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$193,600,000 to reflect savings from favorable foreign currency fluctuations, to be distributed as follows:

- “Military Personnel, Army”, \$5,300,000;
- “Military Personnel, Navy”, \$12,000,000;
- “Military Personnel, Marine Corps”, \$4,200,000;
- “Military Personnel, Air Force”, \$8,100,000;
- “Operation and Maintenance, Army”, \$111,500,000;
- “Operation and Maintenance, Navy”, \$11,500,000;
- “Operation and Maintenance, Marine Corps”, \$3,300,000;
- “Operation and Maintenance, Air Force”, \$26,200,000; and
- “Operation and Maintenance, Defense-Wide”, \$11,500,000.

SEC. 8136. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$502,000,000 to reflect savings from reductions in the price of bulk fuel, to be distributed as follows:

- “Operation and Maintenance, Army”, \$36,000,000;
- “Operation and Maintenance, Navy”, \$167,000,000;

Deadline.  
Reports.



“Operation and Maintenance, Marine Corps”, \$8,000,000;  
 “Operation and Maintenance, Air Force”, \$176,000,000;  
 “Operation and Maintenance, Defense-Wide”, \$67,000,000;  
 “Operation and Maintenance, Army Reserve”, \$1,400,000;  
 “Operation and Maintenance, Navy Reserve”, \$8,200,000;  
 “Operation and Maintenance, Air Force Reserve”,  
 \$11,700,000;  
 “Operation and Maintenance, Army National Guard”,  
 \$3,500,000; and  
 “Operation and Maintenance, Air National Guard”,  
 \$23,200,000.

SEC. 8137. GLOBAL POSITIONING SYSTEM FREQUENCY SPECTRUM.—In order to guard against disruption of Global Positioning System services that are vital to the national security and economic interests of the United States, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a national strategy to: (1) protect the integrity of the Global Positioning System frequency spectrum against interference and disruption; (2) achieve full and effective use by GPS of radio frequency spectrum currently allocated by the International Telecommunications Union for transmission of satellite navigation signals; and (3) provide for any additional allocation of spectrum necessary for GPS evolution. Such report shall be submitted to the congressional defense committees within 120 days of the enactment of this Act.

Reports.

SEC. 8138. The Secretary of Defense shall submit a report to Congress concurrent with submission of the fiscal year 2000 President's budget regarding past military deployment rates and future deployment rate goals. Such report shall contain a listing of the monthly overseas deployment rates for military personnel of each service covering each fiscal year beginning with fiscal year 1989, the location and size of each deployment, a description of the methodology used to determine the deployment rates for each service, and a discussion of the maximum yearly deployment rates for each service that can be sustained on a continuous basis in non-emergency situations over the next five years given the resources and personnel end strengths contained in the Future Years Defense Plan.

Deadline.

Reports.

Records.

SEC. 8139. (a) CONVEYANCE REQUIRED.—The Secretary of the Air Force shall convey, without consideration, to the Town of Newington, New Hampshire, all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 1.3 acres located at former Pease Air Force Base, New Hampshire, and known as the site of the old Stone School.

New Hampshire.

(b) INAPPLICABILITY OF CERTAIN DISPOSAL AUTHORITIES.—The Secretary shall make the conveyance required by subsection (a) without regard to the provisions of section 204(b) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 8140. (a) The Secretary of the Navy may lease to the University of Central Florida (in this section referred to as the “University”), or a representative or agent of the University designated by the University, such portion of the property known as the Naval Air Warfare Center, Training Systems Division, Orlando, Florida, as the Secretary considers appropriate as a location for the establishment of a center for research in the fields of law enforcement, public safety, civil defense, and national defense.

(b) Notwithstanding any other provision of law, the term of the lease under subsection (a) may not exceed 50 years.

(c) As consideration for the lease under subsection (a), the University shall—

(1) undertake and incur the cost of the planning, design, and construction required to establish the center referred to in that subsection; and

(2) during the term of the lease, provide the Secretary such space in the center for activities of the Navy as the Secretary and the University jointly consider appropriate.

(d) The Secretary may require such additional terms and conditions in connection with the lease authorized by subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

SEC. 8141. (a) The Secretary of the Air Force may enter into an agreement to lease from the City of Phoenix, Arizona, the parcel of real property described in subsection (b), together with improvements on the property, in consideration of annual rent not in excess of one dollar.

(b) The real property referred to in subsection (a) is a parcel, known as Auxiliary Field 3, that is located approximately 12 miles north of Luke Air Force Base, Arizona, in section 4 of township 3 north, range 1 west of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, is bounded on the north by Bell Road, on the east by Litchfield Road, on the south by Greenway Road, and on the west by agricultural land, and is composed of approximately 638 acres, more or less, the same property that was formerly an Air Force training and emergency field developed during World War II.

(c) The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 8142. Notwithstanding any other provision of law, the Secretary of Defense may retain all or a portion of the family housing at Fort Buchanan, Puerto Rico, as the Secretary deems necessary to meet military family housing needs arising out of the relocation of elements of the United States Army South to Fort Buchanan.

SEC. 8143. (a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Seattle, Washington (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 11.82 acres, the location of the Magnolia housing area, Seattle, Washington, less such areas as the Secretary determines are required to support continued Navy family housing requirements.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the fair market value (as determined by the Secretary) of the portion of the real property to be conveyed under subsection (a) that was not donated to the United States by the City. The portion of the real property to be conveyed under subsection (a) that was donated to the United States by the City will be returned to the City at no cost.

(c) CONDITION.—The conveyance authorized by subsection (a) shall be subject to the condition that the City accept the real property in its condition at the time of conveyance.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed for monetary consideration, as well as the acreage of the portion to be returned to the City at no cost as described in subsection (b), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) USE OF FUNDS.—(1) The Secretary shall use any amounts paid to the Secretary under subsection (b) for Navy family housing purposes in the Puget Sound region.

(2) If amounts referred to in paragraph (1) remain unexpended after the use for Navy family housing purposes referred to in that paragraph, the Secretary shall deposit such unexpended amounts in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 8144. (a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the City of Reading, Pennsylvania, hereafter referred to as the “City” or to another entity designated by the City, all right and title, and interest of the United States in and to a parcel of real property (including improvements thereon) consisting of approximately 1.8 acres at the Army Reserve Center located at 1800 North 12th Street in Reading, Pennsylvania, for redevelopment purposes.

(b) CONSIDERATION.—The conveyance authorized under subsection (a) shall be subject to the condition that the City—

(1) Will pay fair market value for the property, if the property is to be conveyed to or used by a business enterprise.

(2) Will obtain the property without consideration if the property is to be used by a State or local governmental agency.

(c) ADMINISTRATIVE EXPENSES.—In connection with the conveyance under subsection (a), the Secretary may accept amounts provided by the City or other persons to cover administrative expenses incurred by the Secretary in entering into the transaction. Amounts collected under subsection (b) for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation, fund, or account and shall be available for the same purposes and subject to the same limitations as the funds with which merged.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection

(a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 8145.** Notwithstanding any other provision of law, using funds previously appropriated into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510), the Secretary of the Air Force shall obligate up to \$7,646,000 for demolition and related environmental restoration of 31 buildings, possessing asbestos and lead-based paint, at the former Norton Air Force Base, California.

**SEC. 8146. LIQUIDITY OF WORKING-CAPITAL FUNDS.** (a) **INCREASED CASH BALANCES.**—The Secretary of Defense shall administer the working-capital funds of the Department of Defense during fiscal year 1999 so as to ensure that the total amount of the cash balances in such funds on September 30, 1999, exceeds the total amount of the cash balances in such funds on September 30, 1998, by \$1,300,000,000.

(b) **ACTIONS REGARDING UNBUDGETED LOSSES.**—The Under Secretary of Defense (Comptroller) shall take such actions regarding unbudgeted losses for the working-capital funds as may be necessary in order to ensure that such unbudgeted losses do not preclude the Secretary of Defense from achieving the increase in cash balances in working-capital funds required under subsection (a).

(c) **WAIVER.**—(1) The Secretary of Defense may waive the requirements of this section upon certifying to Congress, in writing, that the waiver is necessary to meet requirements associated with—

(A) a contingency operation (as defined in section 101(a)(13) of title 10, United States Code); or

(B) an operation of the Armed Forces that commenced before October 1, 1998, and continues during fiscal year 1999.

(2) The waiver authority under paragraph (1) may not be delegated to any official other than the Deputy Secretary of Defense.

(3) The waiver authority under paragraph (1) does not apply to the limitation in subsection (d) or the limitation in section 2208(1)(3) of title 10, United States Code (as added by subsection (e)).

(d) **PERMANENT LIMITATION ON ADVANCE BILLINGS.**—(1) Section 2208(1) of title 10, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

“(3) The total amount of the advance billings rendered or imposed for all working-capital funds of the Department of Defense in a fiscal year may not exceed \$1,000,000,000.”.

(2) Section 2208(1)(3) of such title, as added by paragraph (1), applies to fiscal years after fiscal year 1999.

(e) **SEMIANNUAL REPORT.**—(1) The Under Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives—

(A) not later than May 1, 1999, a report on the administration of this section for the six-month period ending on March 31, 1999; and

10 USC 2208  
note.

Deadline.

(B) not later than November 1, 1999, a report on the administration of this section for the six-month period ending on September 30, 1999. Deadline.

(2) Each report shall include, for the period covered by the report, the following:

(A) The profit and loss status of each working-capital fund activity.

(B) The actions taken by the Secretary of each military department to use assessments of surcharges to correct for unbudgeted losses.

SEC. 8147. The Secretary of Defense shall establish, through a revised Defense Integrated Military Human Resources System (DIMHRS), a defense reform initiative enterprise pilot program for military manpower and personnel information: *Provided*, That this pilot program should include all functions and systems currently included in DIMHRS and shall be expanded to include all appropriate systems within the enterprise of personnel, manpower, training, and compensation: *Provided further*, That in establishing a revised DIMHRS enterprise program for manpower and personnel information superiority the functions of this program shall include, but not be limited to: (1) an analysis and determination of the number and kinds of information systems necessary to support manpower and personnel within the Department of Defense; and (2) the establishment of programs to develop and implement information systems in support of manpower and personnel to include an enterprise level strategic approach, performance and results based management, business process improvement and other non-material solutions, the use of commercial or government off-the-shelf technology, the use of modular contracting as defined by Public Law 104-106, and the integration and consolidation of existing manpower and personnel information systems: *Provided further*, That the Secretary of Defense shall re-instate fulfillment standards designated as ADS-97-03-GD, dated January, 1997: *Provided further*, That the requirements of this section should be implemented not later than 6 months after the date of the enactment of this Act. 10 USC 113 note.

SEC. 8148. (a) The Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff and the military service chiefs, shall conduct a comprehensive reassessment of existing military compensation, benefits, and related programs. The Secretary shall consider the effectiveness of these programs in providing an adequate standard of living and family support for service members and dependents, the current and projected effects of these programs on recruiting and retention of service members, and improvements which could be gained by potential changes in these programs.

(b) In conducting this assessment, the Secretary's analysis shall consider, but not be limited to, the following areas:

(1) Military pay and benefits, to include special pay and targeted bonus programs;

(2) The military retirement system, including an assessment of the effects of the significant changes made to the retirement system in 1986;

(3) Health care programs; and

(4) Housing, family support, and morale, welfare and recreation programs.

Deadline.

Reports.  
Deadline.

(c) The Secretary shall consider the cumulative and complementary ability of these programs, and the effects of potential modifications to these programs, in terms of their ability to contribute to the attainment of existing and future manpower requirements of the military services, as well as the provision of a fair and equitable quality of life for service members and their dependents.

(d) The Secretary shall provide an initial report on these issues to the congressional defense committees within 60 days of the enactment of this Act.

(e) Concurrent with submission of the fiscal year 2000 budget, the Secretary shall provide a comprehensive assessment of these issues, and proposed changes in existing programs should he determine they are warranted, to the Congress.

This Act may be cited as the “Department of Defense Appropriations Act, 1999”.

Approved October 17, 1998.

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LEGISLATIVE HISTORY—H.R. 4103 (S. 2132):

HOUSE REPORTS: Nos. 105-591 (Comm. on Appropriations) and 105-746 (Comm. of Conference).

SENATE REPORTS: No. 105-200 accompanying S. 2132 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 24, considered and passed House.

July 30, considered and passed Senate, amended, in lieu of S. 2132.

Sept. 28, House agreed to conference report.

Sept. 29, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 17, Presidential statement.



Public Law 105–263  
105th Congress

An Act

To provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

Oct. 19, 1998  
[H.R. 449]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Southern Nevada Public Land Management Act of 1998”.

Southern Nevada  
Public Land  
Management Act  
of 1998.  
31 USC 6901  
note.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) **FINDINGS.**—The Congress finds the following:

(1) The Bureau of Land Management has extensive land ownership in small and large parcels interspersed with or adjacent to private land in the Las Vegas Valley, Nevada, making many of these parcels difficult to manage and more appropriate for disposal.

(2) In order to promote responsible and orderly development in the Las Vegas Valley, certain of those Federal lands should be sold by the Federal Government based on recommendations made by local government and the public.

(3) The Las Vegas metropolitan area is the fastest growing urban area in the United States, which is causing significant impacts upon the Lake Mead National Recreation Area, the Red Rock Canyon National Conservation Area, and the Spring Mountains National Recreation Area, which surround the Las Vegas Valley.

(b) **PURPOSE.**—The purpose of this Act is to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

**SEC. 3. DEFINITIONS.**

As used in this Act:

(1) The term “Secretary” means the Secretary of the Interior.

(2) The term “unit of local government” means Clark County, the City of Las Vegas, the City of North Las Vegas, or the City of Henderson; all in the State of Nevada.

(3) The term “Agreement” means the agreement entitled “The Interim Cooperative Management Agreement Between The United States Department of the Interior—Bureau of Land Management and Clark County”, dated November 4, 1992.

(4) The term “special account” means the account in the Treasury of the United States established under section 4(e)(1)(C).

(5) The term “Recreation and Public Purposes Act” means the Act entitled “An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes”, approved June 14, 1926 (43 U.S.C. 869 et seq.).

(6) The term “regional governmental entity” means the Southern Nevada Water Authority, the Regional Flood Control District, and the Clark County Sanitation District.

#### SEC. 4. DISPOSAL AND EXCHANGE.

(a) DISPOSAL.—Notwithstanding the land use planning requirements contained in sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711 and 1712), the Secretary, in accordance with this Act, the Federal Land Policy and Management Act of 1976, and other applicable law, and subject to valid existing rights, is authorized to dispose of lands within the boundary of the area under the jurisdiction of the Director of the Bureau of Land Management in Clark County, Nevada, as generally depicted on the map entitled “Las Vegas Valley, Nevada, Land Disposal Map”, dated April 10, 1997. Such map shall be on file and available for public inspection in the offices of the Director and the Las Vegas District of the Bureau of Land Management.

(b) RESERVATION FOR LOCAL PUBLIC PURPOSES.—

(1) RECREATION AND PUBLIC PURPOSE ACT CONVEYANCES.—Not less than 30 days before the offering of lands for sale or exchange pursuant to subsection (a), the State of Nevada or the unit of local government in whose jurisdiction the lands are located may elect to obtain any such lands for local public purposes pursuant to the provisions of the Recreation and Public Purposes Act. Pursuant to any such election, the Secretary shall retain the elected lands for conveyance to the State of Nevada or such unit of the local government in accordance with the provisions of the Recreation and Public Purposes Act.

(2) RIGHTS-OF-WAY.—

(A) ISSUANCE.—Upon application, by a unit of local government or regional governmental entity, the Secretary, in accordance with this Act and the Federal Land Policy and Management Act of 1976, and other applicable provisions of law, shall issue right-of-way grants on Federal lands in Clark County, Nevada, for all reservoirs, canals, channels, ditches, pipes, pipelines, tunnels, and other facilities and systems needed for—

(i) the impoundment, storage, treatment, transportation, or distribution of water (other than water from the Virgin River) or wastewater; or

(ii) flood control management.

(B) DURATION.—Right-of-way grants issued under this paragraph shall be valid in perpetuity.

(C) WAIVER OF FEES.—Right-of-way grants issued under this paragraph shall not require the payment of rental or cost recovery fees.



(3) YOUTH ACTIVITY FACILITIES.—Within 30 days after a request by Clark County, Nevada, the Secretary shall offer to Clark County, Nevada, the land depicted on the map entitled “Vicinity Map Parcel 177-28-101-020 dated August 14, 1996, in accordance with the Recreation and Public Purposes Act for the construction of youth activity facilities.

(c) WITHDRAWAL.—Subject to valid existing rights, all Federal lands identified in subsection (a) for disposal are withdrawn from location and entry, under the mining laws and from operation under the mineral leasing and geothermal leasing laws until such time as the Secretary terminates the withdrawal or the lands are patented.

(d) SELECTION.—

(1) JOINT SELECTION REQUIRED.—The Secretary and the unit of local government in whose jurisdiction lands referred to in subsection (a) are located shall jointly select lands to be offered for sale or exchange under this section. The Secretary shall coordinate land disposal activities with the unit of local government in whose jurisdiction such lands are located. Land disposal activities of the Secretary shall be consistent with local land use planning and zoning requirements and recommendations.

(2) OFFERING.—After land has been selected in accordance with this subsection, the Secretary shall make the first offering of land as soon as practicable after the date of the enactment of this Act.

(e) DISPOSITION OF PROCEEDS.—

(1) LAND SALES.—Of the gross proceeds of sales of land under this subsection in a fiscal year—

(A) 5 percent shall be paid directly to the State of Nevada for use in the general education program of the State;

(B) 10 percent shall be paid directly to the Southern Nevada Water Authority for water treatment and transmission facility infrastructure in Clark County, Nevada; and

(C) the remainder shall be deposited in a special account in the Treasury of the United States for use pursuant to the provisions of paragraph (3).

Amounts in the special account shall be available to the Secretary without further appropriation and shall remain available until expended.

(2) LAND EXCHANGES.—

(A) PAYMENTS.—In the case of a land exchange under this section, the non-Federal party shall provide direct payments to the State of Nevada and the Southern Nevada Water Authority in accordance with paragraphs (1)(A) and (B). The payments shall be based on the fair market value of the Federal lands to be conveyed in the exchange and shall be considered a cost incurred by the non-Federal party that shall be compensated by the Secretary if so provided by any agreement to initiate exchange.

(B) PENDING EXCHANGES.—The provisions of this Act, except this subsection and subsections (a) and (b), shall not apply to any land exchange for which an initial agreement to initiate an exchange was signed by an authorized

representative of the exchange proponent and an authorized officer of the Bureau of Land Management prior to February 29, 1996.

(3) AVAILABILITY OF SPECIAL ACCOUNT.—

(A) IN GENERAL.—Amounts deposited in the special account may be expended by the Secretary for—

(i) the acquisition of environmentally sensitive land in the State of Nevada in accordance with subsection (h), with priority given to lands located within Clark County;

(ii) capital improvements at the Lake Mead National Recreation Area, the Desert National Wildlife Refuge, the Red Rock Canyon National Conservation Area and other areas administered by the Bureau of Land Management in Clark County, and the Spring Mountains National Recreation Area;

(iii) development of a multispecies habitat conservation plan in Clark County, Nevada;

(iv) development of parks, trails, and natural areas in Clark County, Nevada, pursuant to a cooperative agreement with a unit of local government; and

(v) reimbursement of costs incurred by the local offices of the Bureau of Land Management in arranging sales or exchanges under this Act.

(B) PROCEDURES.—The Secretary shall coordinate the use of the special account with the Secretary of Agriculture, the State of Nevada, local governments, and other interested persons, to ensure accountability and demonstrated results.

(C) LIMITATION.—Not more than 25 percent of the amounts available to the Secretary from the special account in any fiscal year (determined without taking into account amounts deposited under subsection (g)(4)) may be used in any fiscal year for the purposes described in subparagraph (A)(ii).

(f) INVESTMENT OF SPECIAL ACCOUNT.—All funds deposited as principal in the special account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the account and expended according to the provisions of subsection (e)(3).

(g) AIRPORT ENVIRONS OVERLAY DISTRICT LAND TRANSFER.—Upon request of Clark County, Nevada, the Secretary shall transfer to Clark County, Nevada, without consideration, all right, title, and interest of the United States in and to the lands identified in the Agreement, subject to the following:

(1) Valid existing rights.

(2) Clark County agrees to manage such lands in accordance with the Agreement and with section 47504 of title 49, United States Code (relating to airport noise compatibility planning), and regulations promulgated pursuant to that section.

(3) Clark County agrees that if any of such lands are sold, leased, or otherwise conveyed or leased by Clark County, such sale, lease, or other conveyance shall contain a limitation which requires uses compatible with the Agreement and such Airport Noise Compatibility Planning provisions.

(4) Clark County agrees that if any of such lands are sold, leased, or otherwise conveyed by Clark County, such lands shall be sold, leased, or otherwise conveyed for fair market value. Clark County shall contribute 85 percent of the gross proceeds from the sale, lease, or other conveyance of such lands directly to the special account. If any of such lands sold, leased, or otherwise conveyed by Clark County are identified on the map referenced in section 2(a) of the Act entitled “An Act to provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes”, approved December 23, 1980 (94 Stat. 3381; commonly known as the “Santini-Burton Act”), the proceeds contributed to the special account by Clark County from the sale, lease, or other conveyance of such lands shall be used by the Secretary of Agriculture to acquire environmentally sensitive land in the Lake Tahoe Basin pursuant to section 3 of the Santini-Burton Act. Clark County shall contribute 5 percent of the gross proceeds from the sale, lease, or other conveyance of such lands directly to the State of Nevada for use in the general education program of the State, and the remainder shall be available for use by the Clark County Department of Aviation for the benefit of airport development and the Noise Compatibility Program.

#### SEC. 5. ACQUISITIONS.

##### (a) ACQUISITIONS.—

(1) DEFINITION.—For purposes of this subsection, the term “environmentally sensitive land” means land or an interest in land, the acquisition of which the United States would, in the judgment of the Secretary or the Secretary of Agriculture—

(A) promote the preservation of natural, scientific, aesthetic, historical, cultural, watershed, wildlife, and other values contributing to public enjoyment and biological diversity;

(B) enhance recreational opportunities and public access;

(C) provide the opportunity to achieve better management of public land through consolidation of Federal ownership; or

(D) otherwise serve the public interest.

(2) IN GENERAL.—After the consultation process has been completed in accordance with paragraph (3), the Secretary may acquire with the proceeds of the special account environmentally sensitive land and interests in environmentally sensitive land. Lands may not be acquired under this section without the consent of the owner thereof. Funds made available from the special account may be used with any other funds made available under any other provision of law.

(3) CONSULTATION.—Before initiating efforts to acquire land under this subsection, the Secretary or the Secretary of Agriculture shall consult with the State of Nevada and with local government within whose jurisdiction the lands are located, including appropriate planning and regulatory agencies, and with other interested persons, concerning the necessity of making the acquisition, the potential impacts on State and local government, and other appropriate aspects of the acquisition.

Consultation under this paragraph is in addition to any other consultation required by law.

(b) ADMINISTRATION.—On acceptance of title by the United States, land and interests in land acquired under this section that is within the boundaries of a unit of the National Forest System, National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, any other system established by Act of Congress, or any national conservation or national recreation area established by Act of Congress—

(1) shall become part of the unit or area without further action by the Secretary or Secretary of Agriculture; and

(2) shall be managed in accordance with all laws and regulations and land use plans applicable to the unit or area.

(c) DETERMINATION OF FAIR MARKET VALUE.—The fair market value of land or an interest in land to be acquired by the Secretary or the Secretary of Agriculture under this section shall be determined pursuant to section 206 of the Federal Land Policy and Management Act of 1976 and shall be consistent with other applicable requirements and standards. Fair market value shall be determined without regard to the presence of a species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(d) PAYMENTS IN LIEU OF TAXES.—Section 6901(1) of title 31, United States Code, is amended as follows:

(1) By striking “or” at the end of subparagraph (F).

(2) By striking the period at the end of subparagraph (G) and inserting “; or”.

(3) By adding at the end the following:

“(H) acquired by the Secretary of the Interior or the Secretary of Agriculture under section 5 of the Southern Nevada Public Land Management Act of 1998 that is not otherwise described in subparagraphs (A) through (G).”.

#### SEC. 6. REPORT.

The Secretary, in cooperation with the Secretary of Agriculture, shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives an annual report on all transactions under this Act.

#### SEC. 7. RECREATION AND PUBLIC PURPOSES ACT.

(a) TRANSFER OF REVERSIONARY INTEREST.—

(1) IN GENERAL.—Upon request by a grantee of lands within Clark County, Nevada, that are subject to a lease or patent issued under the Recreation and Public Purposes Act, the Secretary may transfer the reversionary interest in such lands to other non-Federal lands. The transfer of the reversionary interest shall only be made to lands of equal value, except that with respect to the State of Nevada or a unit of local government an amount equal to the excess (if any) of the fair market value of lands received by the unit of local government over the fair market value of lands transferred by the unit of local government shall be paid to the Secretary and shall be treated under subsection (e)(1) of section 4 as proceeds from the sale of land. For purposes of this subsection, the fair market value of lands to be transferred by the State of

Nevada or a unit of local government may be based upon a statement of value prepared by a qualified appraiser.

(2) **TERMS AND CONDITIONS APPLICABLE TO LANDS ACQUIRED.**—Land selected under this subsection by a grantee described in paragraph (1) shall be subject to the terms and conditions, uses, and acreage limitations of the lease or patent to which the lands transferred by the grantee were subject, including the reverter provisions, under the Recreation and Public Purposes Act.

(b) **AFFORDABLE HOUSING.**—The Secretary, in consultation with the Secretary of Housing and Urban Development, may make available, in accordance with section 203 of the Federal Land Planning and Management Act of 1976, land in the State of Nevada at less than fair market value and under other such terms and conditions as he may determine for affordable housing purposes. Such lands shall be made available only to State or local governmental entities, including local public housing authorities. For the purposes of this subsection, housing shall be considered to be affordable housing if the housing serves low-income families as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704).

**SEC. 8. BOUNDARY MODIFICATION OF RED ROCK CANYON NATIONAL CONSERVATION AREA.**

Section 3(a)(2) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-1(a)(2)) is amended to read as follows:

“(2) The conservation area shall consist of approximately 195,780 acres as generally depicted on the map entitled ‘Red Rock Canyon National Conservation Area Administrative Boundary Modification’, dated August 8, 1996.”.

Approved October 19, 1998.

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**LEGISLATIVE HISTORY—H.R. 449:**

HOUSE REPORTS: No. 105-68 (Comm. on Resources).

SENATE REPORTS: No. 105-291 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Apr. 23, considered and passed House.

Vol. 144 (1998): Oct. 2, considered and passed Senate.



Public Law 105–264  
105th Congress

An Act

Oct. 19, 1998  
[H.R. 930]

To require Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayment audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses.

Travel and  
Transportation  
Reform Act of  
1998.  
5 USC 5701 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Travel and Transportation Reform Act of 1998”.

5 USC 5701 note.  
Regulations.

**SEC. 2. REQUIRING USE OF THE TRAVEL CHARGE CARD.**

(a) IN GENERAL.—Under regulations issued by the Administrator of General Services after consultation with the Secretary of the Treasury, the Administrator shall require that Federal employees use the travel charge card established pursuant to the United States Travel and Transportation Payment and Expense Control System, or any Federal contractor-issued travel charge card, for all payments of expenses of official Government travel. The Administrator shall exempt any payment, person, type or class of payments, or type or class of personnel from any requirement established under the preceding sentence in any case in which—

(1) it is in the best interest of the United States to do so;

(2) payment through a travel charge card is impractical or imposes unreasonable burdens or costs on Federal employees or Federal agencies; or

(3) the Secretary of Defense or the Secretary of Transportation (with respect to the Coast Guard) requests an exemption with respect to the members of the uniformed services.

Deadline.  
Notification.

(b) AGENCY EXEMPTION.—The head of a Federal agency or the designee of such head may exempt any payment, person, type or class of payments, or type or class of agency personnel from subsection (a) if the agency head or the designee determines the exemption to be necessary in the interest of the agency. Not later than 30 days after granting such an exemption, the head of such agency or the designee shall notify the Administrator of General Services in writing of such exemption stating the reasons for the exemption.

(c) LIMITATION ON RESTRICTION ON DISCLOSURE.—

(1) IN GENERAL.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end the following new subsection:

“(q) Nothing in this title shall apply to the disclosure of any financial record or information to a Government authority in conjunction with a Federal contractor-issued travel charge card issued for official Government travel.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) is effective as of October 1, 1983, and applies to any records created pursuant to the United States Travel and Transportation Payment and Expense Control System or any Federal contractor-issued travel charge card issued for official Government travel.

Applicability.  
Records.

(d) COLLECTION OF AMOUNTS OWED.—

(1) IN GENERAL.—Under regulations issued by the Administrator of General Services and upon written request of a Federal contractor, the head of any Federal agency or a disbursing official of the United States may, on behalf of the contractor, collect by deduction from the amount of pay owed to an employee of the agency any amount of funds the employee owes to the contractor as a result of delinquencies not disputed by the employee on a travel charge card issued for payment of expenses incurred in connection with official Government travel. The amount deducted from the pay owed to an employee with respect to a pay period may not exceed 15 percent of the disposable pay of the employee for that pay period, except that a greater percentage may be deducted upon the written consent of the employee.

Regulations.

(2) DUE PROCESS PROTECTIONS.—Collection under this subsection shall be carried out in accordance with procedures substantially equivalent to the procedures required under section 3716(a) of title 31, United States Code.

(3) DEFINITIONS.—For the purpose of this subsection:

(A) AGENCY.—The term “agency” has the meaning that term has under section 101 of title 31, United States Code.

(B) EMPLOYEE.—The term “employee” means an individual employed in or under an agency, including a member of any of the uniformed services. For purposes of this subsection, a member of one of the uniformed services is an employee of that uniformed service.

(C) MEMBER; UNIFORMED SERVICE.—Each of the terms “member” and “uniformed service” has the meaning that term has in section 101 of title 37, United States Code.

(e) REGULATIONS.—Within 270 days after the date of the enactment of this Act, the Administrator of General Services shall promulgate regulations implementing this section, that—

Deadline.

(1) make the use of the travel charge card established pursuant to the United States Travel and Transportation System and Expense Control System, or any Federal contractor-issued travel charge card, mandatory for all payments of expenses of official Government travel pursuant to this section;

(2) specify the procedures for effecting under subsection (d) a deduction from pay owed to an employee, and ensure that the due process protections provided to employees under such procedures are no less than the protections provided to employees pursuant to section 3716 of title 31, United States Code;

(3) provide that any deduction under subsection (d) from pay owed to an employee may occur only after reimbursement of the employee for the expenses of Government travel with respect to which the deduction is made; and

(4) require agencies to promptly reimburse employees for expenses charged on a travel charge card pursuant to this section, and by no later than 30 days after the submission of a claim for reimbursement.

**(f) REPORTS.—**

(1) **IN GENERAL.**—The Administrator of General Services shall submit 2 reports to the Congress on agency compliance with this section and regulations that have been issued under this section.

Deadlines.

(2) **TIMING.**—The first report under this subsection shall be submitted before the end of the 180-day period beginning on the date of the enactment of this Act, and the second report shall be submitted after that period and before the end of the 540-day period beginning on that date of enactment.

(3) **PREPARATION.**—Each report shall be based on a sampling survey of agencies that expended more than \$5,000,000 during the previous fiscal year on travel and transportation payments, including payments for employee relocation. The head of an agency shall provide to the Administrator the necessary information in a format prescribed by the Administrator and approved by the Director of the Office of Management and Budget.

Regulations.

(g) **REIMBURSEMENT OF TRAVEL EXPENSES.**—In accordance with regulations prescribed by the Administrator of General Services, the head of an agency shall ensure that the agency reimburses an employee who submits a proper voucher for allowable travel expenses in accordance with applicable travel regulations within 30 days after submission of the voucher. If an agency fails to reimburse an employee who has submitted a proper voucher within 30 days after submission of the voucher, the agency shall pay the employee a late payment fee as prescribed by the Administrator.

**SEC. 3. PREPAYMENT AUDITS OF TRANSPORTATION EXPENSES.**

(a) **IN GENERAL.**—(1) Section 3322 of title 31, United States Code, is amended in subsection (c) by inserting after “classifications” the following: “if the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government”.

(2) Section 3528 of title 31, United States Code, is amended—

(A) in subsection (a) by striking “and” after the semicolon at the end of paragraph (3), by striking the period at the end of subsection (a)(4)(C) and inserting “; and”, and by adding at the end the following new paragraph:

“(5) verifying transportation rates, freight classifications, and other information provided on a Government bill of lading or transportation request, unless the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government.”;



(B) in subsection (c)(1), by inserting after “deductions” the following: “and the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government”; and

(C) in subsection (c)(2), by inserting after “agreement” the following: “and the Administrator of General Services has determined that verification by a prepayment audit conducted pursuant to section 3726(a) of this title for a particular mode or modes of transportation, or for an agency or subagency, will not adequately protect the interests of the Government”.

(3) Section 3726 of title 31, United States Code, is amended—

(A) by amending subsection (a) to read as follows:

“(a)(1) Each agency that receives a bill from a carrier or freight forwarder for transporting an individual or property for the United States Government shall verify its correctness (to include transportation rates, freight classifications, or proper combinations thereof), using prepayment audit, prior to payment in accordance with the requirements of this section and regulations prescribed by the Administrator of General Services.

Regulations.

“(2) The Administrator of General Services may exempt bills, a particular mode or modes of transportation, or an agency or subagency from a prepayment audit and verification and in lieu thereof require a postpayment audit, based on cost effectiveness, public interest, or other factors the Administrator considers appropriate.

“(3) Expenses for prepayment audits shall be funded by the agency’s appropriations used for the transportation services.

“(4) The audit authority provided to agencies by this section is subject to oversight by the Administrator.”;

(B) by redesignating subsections (b), (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), (h), and (i), respectively;

(C) by inserting after subsection (a) the following new subsections:

“(b) The Administrator may conduct pre- or post-payment audits of transportation bills of any Federal agency. The number and types of bills audited shall be based on the Administrator’s judgment.

“(c)(1) The Administrator shall adjudicate transportation claims which cannot be resolved by the agency procuring the transportation services, or the carrier or freight-forwarder presenting the bill.

“(2) A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

“(A) The date of accrual of the claim.

“(B) The date payment for the transportation is made.

“(C) The date a refund for an overpayment for the transportation is made.

“(D) The date a deduction under subsection (d) of this section is made.”;

(D) in subsection (f), as so redesignated, by striking “subsection (c)” and inserting “subsection (e)”, and by adding at the end the following new sentence: “This reporting requirement expires December 31, 1998.”;

Expiration date.

(E) in subsection (i)(1), as so redesignated, by striking “subsection (a)” and inserting “subsection (c)”; and

(F) by adding after subsection (i), as so redesignated, the following new subsection:

“(j) The Administrator of General Services may provide transportation audit and related technical assistance services, on a reimbursable basis, to any other agency. Such reimbursements may be credited to the appropriate revolving fund or appropriation from which the expenses were incurred.”.

31 USC 3322  
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective 18 months after the date of the enactment of this Act.

#### **SEC. 4. REIMBURSEMENT FOR TAXES ON MONEY RECEIVED FOR TRAVEL EXPENSES.**

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 5706b the following new section:

##### **“§ 5706c. Reimbursement for taxes incurred on money received for travel expenses**

“(a) Under regulations prescribed pursuant to section 5707 of this title, the head of an agency or department, or his or her designee, may use appropriations or other funds available to the agency for administrative expenses, for the reimbursement of Federal, State, and local income taxes incurred by an employee of the agency or by an employee and such employee’s spouse (if filing jointly), for any travel or transportation reimbursement made to an employee for which reimbursement or an allowance is provided.

“(b) Reimbursements under this section shall include an amount equal to all income taxes for which the employee and spouse, as the case may be, would be liable due to the reimbursement for the taxes referred to in subsection (a). In addition, reimbursements under this section shall include penalties and interest, for the tax years 1993 and 1994 only, as a result of agencies failing to withhold the appropriate amounts for tax liabilities of employees affected by the change in the deductibility of travel expenses made by Public Law 102-486.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5706b the following new item:

“5706c. Reimbursement for taxes incurred on money received for travel expenses.”.

5 USC 5706c  
note.

(c) EFFECTIVE DATE.—This section shall be effective as of January 1, 1993.

#### **SEC. 5. AUTHORITY FOR TEST PROGRAMS.**

(a) TRAVEL EXPENSES TEST PROGRAMS.—Subchapter I of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

##### **“§ 5710. Authority for travel expenses test programs**

“(a)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an agency may pay through the proper disbursing official for a period not to exceed 24 months any necessary travel expenses in lieu of any payment otherwise authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis

of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

“(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

“(3) Nothing in this section is intended to limit the authority of any agency to conduct test programs.

“(b) The Administrator shall transmit a copy of any test program approved by the Administrator under this section to the appropriate committees of the Congress at least 30 days before the effective date of the program.

“(c) An agency authorized to conduct a test program under subsection (a) shall provide to the Administrator and the appropriate committees of the Congress a report on the results of the program no later than 3 months after completion of the program.

Reports.  
Deadline.

“(d) No more than 10 test programs under this section may be conducted simultaneously.

“(e) The authority to conduct test programs under this section shall expire 7 years after the date of the enactment of the Travel and Transportation Reform Act of 1998.”.

Expiration date.

(b) RELOCATION EXPENSES TEST PROGRAMS.—Subchapter II of chapter 57 of title 5, United States Code, is further amended by adding at the end the following new section:

**“§ 5739. Authority for relocation expenses test programs**

“(a)(1) Notwithstanding any other provision of this subchapter, under a test program which the Administrator of General Services determines to be in the interest of the Government and approves, an agency may pay through the proper disbursing official for a period not to exceed 24 months any necessary relocation expenses in lieu of any payment otherwise authorized or required under this subchapter. An agency shall include in any request to the Administrator for approval of such a test program an analysis of the expected costs and benefits and a set of criteria for evaluating the effectiveness of the program.

“(2) Any test program conducted under this section shall be designed to enhance cost savings or other efficiencies that accrue to the Government.

“(3) Nothing in this section is intended to limit the authority of any agency to conduct test programs.

“(b) The Administrator shall transmit a copy of any test program approved by the Administrator under this section to the appropriate committees of the Congress at least 30 days before the effective date of the program.

“(c) An agency authorized to conduct a test program under subsection (a) shall provide to the Administrator and the appropriate committees of the Congress a report on the results of the program no later than 3 months after completion of the program.

Reports.  
Deadline.

“(d) No more than 10 test programs under this section may be conducted simultaneously.

“(e) The authority to conduct test programs under this section shall expire 7 years after the date of the enactment of the Travel and Transportation Reform Act of 1998.”.

Expiration date.

(c) CLERICAL AMENDMENTS.—The table of sections for chapter 57 of title 5, United States Code, is further amended by—

(1) inserting after the item relating to section 5709 the following new item:

“5710. Authority for travel expenses test programs.”;

and

(2) inserting after the item relating to section 5738 the following new item:

“5739. Authority for relocation expenses test programs.”.

#### **SEC. 6. DEFINITION OF UNITED STATES.**

Chapter 57 of title 5, United States Code, is amended—

(1) in section 5721—

(A) in paragraph (4), by striking “and” following the semicolon at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

“(6) ‘United States’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the territories and possessions of the United States, and the areas and installations in the Republic of Panama that are made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979); and

“(7) ‘Foreign Service of the United States’ means the Foreign Service as constituted under the Foreign Service Act of 1980.”;

(2) in section 5722—

(A) in subsection (a)(2), by striking “outside the United States” and inserting “outside the continental United States”; and

(B) in subsection (b), by striking “United States” each place it appears and inserting “Government”;

(3) in section 5723(b), by striking “United States” each place it appears and inserting “Government”;

(4) in section 5724—

(A) in subsection (a)(3), by striking “, its territories or possessions” and all that follows through “1979”; and

(B) in subsection (i), by striking “United States” each place it appears in the last sentence and inserting “Government”;

(5) in section 5724a, by striking subsection (j);

(6) in section 5725(a), by striking “United States” and inserting “Government”;

(7) in section 5727(d), by striking “United States” and inserting “continental United States”;

(8) in section 5728(b), by striking “an employee of the United States” and inserting “an employee of the Government”;

(9) in section 5729, by striking “or its territories or possessions” each place it appears;

(10) in section 5731(b), by striking “United States” and inserting “Government”; and

(11) in section 5732, by striking “United States” and inserting “Government”.

**SEC. 7. TECHNICAL CORRECTIONS TO THE FEDERAL EMPLOYEE TRAVEL REFORM ACT OF 1996.**

Section 5724a of title 5, United States Code, is amended—

(1) in subsections (a) and (d)(1) and (2), by striking “An agency shall pay” each place it appears and inserting “Under regulations prescribed under section 5738, an agency shall pay”;

(2) in subsections (b)(1), (c)(1), (d)(8), and (e), by striking “An agency may pay” each place it appears and inserting “Under regulations prescribed under section 5738, an agency may pay”;

(3) by amending subsection (b)(1)(B)(ii) to read as follows:

“(ii) an amount for subsistence expenses, that may not exceed a maximum amount determined by the Administrator of General Services.”;

(4) in subsection (c)(1)(B), by striking “an amount for subsistence expenses” and inserting “an amount for subsistence expenses, that may not exceed a maximum amount determined by the Administrator of General Services,”;

(5) in subsection (d)(2)(A), by striking “for the sale” and inserting “of the sale”;

(6) in subsection (d)(2)(B), by striking “for the purchase” and inserting “of the purchase”;

(7) in subsection (d)(8), by striking “paragraph (2) or (3)” and inserting “paragraph (1) or (2)”;

(8) in subsection (f)(1), by striking “Subject to paragraph (2),” and inserting “Under regulations prescribed under section 5738 and subject to paragraph (2),”; and

(9) by striking subsection (i).

Approved October 19, 1998.

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**LEGISLATIVE HISTORY—H.R. 930:**

SENATE REPORTS: No. 105-295 (Comm. on Governmental Affairs).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Apr. 16, considered and passed House.

Vol. 144 (1998): Sept. 1, considered and passed Senate, amended.

Oct. 5, House concurred in Senate amendments.



Public Law 105–265  
105th Congress

An Act

Oct. 19, 1998  
[H.R. 1481]

To amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study.

Great Lakes Fish  
and Wildlife  
Restoration Act  
of 1998.  
16 USC 941 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Great Lakes Fish and Wildlife Restoration Act of 1998”.

16 USC 941 note.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Great Lakes Fishery Resources Restoration Study, for which a report was submitted to Congress in 1995, was a comprehensive study of the status, and the assessment, management, and restoration needs, of the fishery resources of the Great Lakes Basin, and was conducted through the joint effort of the United States Fish and Wildlife Service, State fish and wildlife resource management agencies, Indian tribes, and the Great Lakes Fishery Commission; and

(2) the study—

(A) found that, although State, Provincial, Native American Tribal, and Federal agencies have made significant progress toward the goal of restoring a healthy fish community to the Great Lakes Basin, additional actions and better coordination are needed to protect and effectively manage the fisheries and related resources in the Great Lakes Basin; and

(B) recommended actions that are not currently funded but are considered essential to meet goals and objectives in managing the resources of the Great Lakes Basin.

**SEC. 3. REFERENCE; REPEAL.**

(a) **REFERENCE.**—Each reference in this Act (other than in subsection (b)) to the Great Lakes Fish and Wildlife Restoration Act of 1990 is a reference to the Act enacted by title I of Public Law 101–537 (104 Stat. 2370).

(b) **REPEAL OF DUPLICATIVE ENACTMENT.**—The Great Lakes Fish and Wildlife Restoration Act of 1990, enacted as title II of Public Law 101–646 (104 Stat. 4773), is repealed.

16 USC 941–  
941g and note.

**SEC. 4. PURPOSES.**

Section 1003 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941a) is amended—

- (1) in the matter preceding paragraph (1), by striking “this Act” and inserting “this title”;
- (2) by striking paragraph (1);
- (3) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;
- (4) by striking paragraph (1) (as so redesignated) and inserting the following:
  - “(1) to develop and implement proposals for the restoration of fish and wildlife resources in the Great Lakes Basin; and”;
  - and
- (5) in paragraph (2) (as redesignated by paragraph (3)), by striking “habitat of” and inserting “habitat in”.

#### **SEC. 5. DEFINITIONS.**

Section 1004 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941b) is amended—

- (1) in the matter preceding paragraph (1), by striking “this Act” and inserting “this title”;
- (2) by redesignating paragraphs (2), (3), (4), (5), (6), (7), (8), (9), and (10) as paragraphs (3), (4), (5), (6), (7), (14), (9), (12), and (13), respectively;
- (3) by moving paragraph (14) (as redesignated by paragraph (2)) to the end of the section;
- (4) in paragraph (9) (as redesignated by paragraph (2)), by striking “plant or animal” and inserting “plant, animal, or other organism”;
- (5) by inserting after paragraph (1) the following:
  - “(2) the term ‘Committee’ means the Great Lakes Fish and Wildlife Restoration Proposal Review Committee established by section 1005(c);”;
- (6) by inserting after paragraph (7) (as redesignated by paragraph (2)) the following:
  - “(8) the term ‘non-Federal source’ includes a State government, local government, Indian tribe, other non-Federal governmental entity, private entity, and individual;”;
- (7) by inserting after paragraph (9) (as redesignated by paragraph (2)) the following:
  - “(10) the term ‘Report’ means the United States Fish and Wildlife Service report entitled ‘Great Lakes Fishery Resources Restoration Study’, submitted to the President of the Senate and the Speaker of the House of Representatives on September 13, 1995;
  - “(11) the term ‘restoration’ means rehabilitation and maintenance of the structure, function, diversity, and dynamics of a biological system, including reestablishment of self-sustaining populations of fish and wildlife;”;
- (8) in paragraph (12) (as redesignated by paragraph (2)), by striking “and” at the end; and
- (9) in paragraph (13) (as redesignated by paragraph (2)), by striking the period at the end and inserting “; and”.

#### **SEC. 6. IDENTIFICATION; REVIEW; AND IMPLEMENTATION OF PROPOSALS.**

Section 1005 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941c) is amended to read as follows:

**“SEC. 1005. IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS.**

“(a) IN GENERAL.—The Director, in consultation with the Committee, shall encourage the development and, subject to the availability of appropriations, the implementation of proposals based on the results of the Report.

**“(b) IDENTIFICATION OF PROPOSALS.—**

“(1) REQUEST BY THE DIRECTOR.—The Director shall annually request that State Directors and Indian tribes, in cooperation or partnership with other interested entities and based on the results of the Report, submit proposals for the restoration of fish and wildlife resources.

“(2) REQUIREMENTS FOR PROPOSALS.—A proposal under paragraph (1) shall be submitted in the manner and form prescribed by the Director and shall be consistent with the goals of the Great Lakes Water Quality Agreement, as revised in 1987, the 1954 Great Lakes Fisheries Convention, the 1980 Joint Strategic Plan for the Management of Great Lakes fishery resources, the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.), and the North American Waterfowl Management Plan and joint ventures established under the plan.

“(3) SEA LAMPREY AUTHORITY.—The Great Lakes Fishery Commission shall retain authority and responsibility for formulation and implementation of a comprehensive program for eradicating or minimizing sea lamprey populations in the Great Lakes Basin.

**“(c) REVIEW OF PROPOSALS.—**

“(1) ESTABLISHMENT OF COMMITTEE.—There is established the Great Lakes Fish and Wildlife Restoration Proposal Review Committee, which shall operate under the guidance of the Council of Lake Committees of the Great Lakes Fishery Commission.

**“(2) MEMBERSHIP AND APPOINTMENT.—**

“(A) IN GENERAL.—The Committee shall consist of representatives of all State Directors and Indian tribes with Great Lakes fish and wildlife management authority in the Great Lakes Basin.

“(B) APPOINTMENTS.—State Directors and Tribal Chairs shall appoint their representatives, who shall serve at the pleasure of the appointing authority.

“(C) OBSERVER.—The Great Lakes Coordinator of the United States Fish and Wildlife Service shall participate as an observer of the Committee.

“(D) RECUSAL.—A member of the Committee shall recuse himself or herself from consideration of proposals that the member, or the entity that the member represents, has submitted.

**“(3) FUNCTIONS.—The Committee shall at least annually—**

“(A) review proposals developed in accordance with subsection (b) to assess their effectiveness and appropriateness in fulfilling the purposes of this title; and

“(B) recommend to the Director any of those proposals that should be funded and implemented under this section.

**“(d) IMPLEMENTATION OF PROPOSALS.—**After considering recommendations of the Committee and the goals specified in section 1006, the Director shall select proposals to be implemented



and, subject to the availability of appropriations and subsection (e), fund implementation of the proposals. In selecting and funding proposals, the Director shall take into account the effectiveness and appropriateness of the proposals in fulfilling the purposes of other laws applicable to restoration of the fishery resources and habitat of the Great Lakes Basin.

“(e) COST-SHARING.—

“(1) IN GENERAL.—Not less than 25 percent of the cost of implementing a proposal selected under subsection (d) (not including the cost of establishing sea lamprey barriers) shall be paid in cash or in-kind contributions by non-Federal sources.

“(2) EXCLUSION OF FEDERAL FUNDS FROM NON-FEDERAL SHARE.—The Director may not consider the expenditure, directly or indirectly, of Federal funds received by a State or local government to be a contribution by a non-Federal source for purposes of this subsection.”.

#### **SEC. 7. REPORTS TO CONGRESS.**

Section 1008 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941f) is amended to read as follows:

##### **“SEC. 1008. REPORTS TO CONGRESS.**

“On December 31, 2002, the Director shall submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

“(1) actions taken to solicit and review proposals under section 1005;

“(2) the results of proposals implemented under section 1005; and

“(3) progress toward the accomplishment of the goals specified in section 1006.”.

Deadline.

#### **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

Section 1009 of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941g) is amended to read as follows:

##### **“SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to the Director—

“(1) for the activities of the Great Lakes Coordination Office in East Lansing, Michigan, of the Upper Great Lakes Fishery Resources Office, and of the Lower Great Lakes Fishery Resources Office under section 1007, \$3,500,000 for each of fiscal years 1999 through 2004; and

“(2) for implementation of fish and wildlife restoration proposals selected by the Director under section 1005(d), \$4,500,000 for each of fiscal years 1999 through 2004, of which no funds shall be available for costs incurred in administering the proposals.”.

Approved October 19, 1998.

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LEGISLATIVE HISTORY—H.R. 1481 (S. 659):

HOUSE REPORTS: No. 105-715 (Comm. on Resources).

SENATE REPORTS: No. 105-283 accompanying S. 659 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 23, considered and passed House.

Oct. 2, considered and passed Senate.



Public Law 105–266  
105th Congress

An Act

To amend chapter 89 of title 5, United States Code, to improve administration of sanctions against unfit health care providers under the Federal Employees Health Benefits Program, and for other purposes.

Oct. 19, 1998  
[H.R. 1836]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Federal Employees Health Care Protection Act of 1998”.

Federal  
Employees  
Health Care  
Protection Act of  
1998.  
5 USC 8901 note.

**SEC. 2. DEBARMENT AND OTHER SANCTIONS.**

(a) AMENDMENTS.—Section 8902a of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “and” at the end of subparagraph

(B);

(ii) by striking the period at the end of subparagraph (C) and inserting “; and”; and

(iii) by adding at the end the following:

“(D) the term ‘should know’ means that a person, with respect to information, acts in deliberate ignorance of, or in reckless disregard of, the truth or falsity of the information, and no proof of specific intent to defraud is required;”;

(B) in paragraph (2)(A), by striking “subsection (b) or (c)” and inserting “subsection (b), (c), or (d)”;

(2) in subsection (b)—

(A) by striking “The Office of Personnel Management may bar” and inserting “The Office of Personnel Management shall bar”; and

(B) by amending paragraph (5) to read as follows:

“(5) Any provider that is currently debarred, suspended, or otherwise excluded from any procurement or nonprocurement activity (within the meaning of section 2455 of the Federal Acquisition Streamlining Act of 1994).”;

(3) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively, and by inserting after subsection (b) the following:

“(c) The Office may bar the following providers of health care services from participating in the program under this chapter:

“(1) Any provider—

“(A) whose license to provide health care services or supplies has been revoked, suspended, restricted, or not renewed, by a State licensing authority for reasons relating

to the provider's professional competence, professional performance, or financial integrity; or

“(B) that surrendered such a license while a formal disciplinary proceeding was pending before such an authority, if the proceeding concerned the provider's professional competence, professional performance, or financial integrity.

“(2) Any provider that is an entity directly or indirectly owned, or with a control interest of 5 percent or more held, by an individual who has been convicted of any offense described in subsection (b), against whom a civil monetary penalty has been assessed under subsection (d), or who has been debarred from participation under this chapter.

“(3) Any individual who directly or indirectly owns or has a control interest in a sanctioned entity and who knows or should know of the action constituting the basis for the entity's conviction of any offense described in subsection (b), assessment with a civil monetary penalty under subsection (d), or debarment from participation under this chapter.

“(4) Any provider that the Office determines, in connection with claims presented under this chapter, has charged for health care services or supplies in an amount substantially in excess of such provider's customary charge for such services or supplies (unless the Office finds there is good cause for such charge), or charged for health care services or supplies which are substantially in excess of the needs of the covered individual or which are of a quality that fails to meet professionally recognized standards for such services or supplies.

“(5) Any provider that the Office determines has committed acts described in subsection (d).

Any determination under paragraph (4) relating to whether a charge for health care services or supplies is substantially in excess of the needs of the covered individual shall be made by trained reviewers based on written medical protocols developed by physicians. In the event such a determination cannot be made based on such protocols, a physician in an appropriate specialty shall be consulted.”;

(4) in subsection (d) (as so redesignated by paragraph (3)) by amending paragraph (1) to read as follows:

“(1) in connection with claims presented under this chapter, that a provider has charged for a health care service or supply which the provider knows or should have known involves—

“(A) an item or service not provided as claimed;

“(B) charges in violation of applicable charge limitations under section 8904(b); or

“(C) an item or service furnished during a period in which the provider was debarred from participation under this chapter pursuant to a determination by the Office under this section, other than as permitted under subsection (g)(2)(B);”;

(5) in subsection (f) (as so redesignated by paragraph (3)) by inserting after “under this section” the first place it appears the following: “(where such debarment is not mandatory)”;

(6) in subsection (g) (as so redesignated by paragraph (3))—

(A) by striking “(g)(1)” and all that follows through the end of paragraph (1) and inserting the following:

“(g)(1)(A) Except as provided in subparagraph (B), debarment of a provider under subsection (b) or (c) shall be effective at such time and upon such reasonable notice to such provider, and to carriers and covered individuals, as shall be specified in regulations prescribed by the Office. Any such provider that is debarred from participation may request a hearing in accordance with subsection (h)(1).”

Regulations.

“(B) Unless the Office determines that the health or safety of individuals receiving health care services warrants an earlier effective date, the Office shall not make a determination adverse to a provider under subsection (c)(5) or (d) until such provider has been given reasonable notice and an opportunity for the determination to be made after a hearing as provided in accordance with subsection (h)(1).”;

(B) in paragraph (3)—

(i) by inserting “of debarment” after “notice”; and

(ii) by adding at the end the following: “In the case of a debarment under paragraph (1), (2), (3), or (4) of subsection (b), the minimum period of debarment shall not be less than 3 years, except as provided in paragraph (4)(B)(ii).”;

(C) in paragraph (4)(B)(i)(I) by striking “subsection (b) or (c)” and inserting “subsection (b), (c), or (d)”; and

(D) by striking paragraph (6);

(7) in subsection (h) (as so redesignated by paragraph (3)) by striking “(h)(1)” and all that follows through the end of paragraph (2) and inserting the following:

“(h)(1) Any provider of health care services or supplies that is the subject of an adverse determination by the Office under this section shall be entitled to reasonable notice and an opportunity to request a hearing of record, and to judicial review as provided in this subsection after the Office renders a final decision. The Office shall grant a request for a hearing upon a showing that due process rights have not previously been afforded with respect to any finding of fact which is relied upon as a cause for an adverse determination under this section. Such hearing shall be conducted without regard to subchapter II of chapter 5 and chapter 7 of this title by a hearing officer who shall be designated by the Director of the Office and who shall not otherwise have been involved in the adverse determination being appealed. A request for a hearing under this subsection shall be filed within such period and in accordance with such procedures as the Office shall prescribe by regulation.

Regulation.

“(2) Any provider adversely affected by a final decision under paragraph (1) made after a hearing to which such provider was a party may seek review of such decision in the United States District Court for the District of Columbia or for the district in which the plaintiff resides or has his or her principal place of business by filing a notice of appeal in such court within 60 days after the date the decision is issued, and by simultaneously sending copies of such notice by certified mail to the Director of the Office and to the Attorney General. In answer to the appeal, the Director of the Office shall promptly file in such court a certified copy of the transcript of the record, if the Office conducted a hearing, and other evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and evidence of record, a judgment affirming, modifying, or

Records.

Courts.

setting aside, in whole or in part, the decision of the Office, with or without remanding the case for a rehearing. The district court shall not set aside or remand the decision of the Office unless there is not substantial evidence on the record, taken as whole, to support the findings by the Office of a cause for action under this section or unless action taken by the Office constitutes an abuse of discretion.”; and

(8) in subsection (i) (as so redesignated by paragraph (3))—

(A) by striking “subsection (c)” and inserting “subsection (d)”;

(B) by adding at the end the following: “The amount of a penalty or assessment as finally determined by the Office, or other amount the Office may agree to in compromise, may be deducted from any sum then or later owing by the United States to the party against whom the penalty or assessment has been levied.”.

5 USC 8902a  
note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

Applicability.

(2) EXCEPTIONS.—(A) Paragraphs (2), (3), and (5) of section 8902a(c) of title 5, United States Code, as amended by subsection (a)(3), shall apply only to the extent that the misconduct which is the basis for debarment under paragraph (2), (3), or (5), as applicable, occurs after the date of the enactment of this Act.

(B) Paragraph (1)(B) of section 8902a(d) of title 5, United States Code, as amended by subsection (a)(4), shall apply only with respect to charges which violate section 8904(b) of such title for items or services furnished after the date of the enactment of this Act.

(C) Paragraph (3) of section 8902a(g) of title 5, United States Code, as amended by subsection (a)(6)(B), shall apply only with respect to debarments based on convictions occurring after the date of the enactment of this Act.

### SEC. 3. MISCELLANEOUS AMENDMENTS RELATING TO THE HEALTH BENEFITS PROGRAM FOR FEDERAL EMPLOYEES.

(a) DEFINITION OF A CARRIER.—Paragraph (7) of section 8901 of title 5, United States Code, is amended by striking “organization;” and inserting “organization and an association of organizations or other entities described in this paragraph sponsoring a health benefits plan;”.

(b) SERVICE BENEFIT PLAN.—Paragraph (1) of section 8903 of title 5, United States Code, is amended by striking “plan,” and inserting “plan, which may be underwritten by participating affiliates licensed in any number of States,”.

(c) PREEMPTION.—Section 8902(m) of title 5, United States Code, is amended by striking “(m)(1)” and all that follows through the end of paragraph (1) and inserting the following:

“(m)(1) The terms of any contract under this chapter which relate to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to health insurance or plans.”.

**SEC. 4. CONTINUED HEALTH INSURANCE COVERAGE FOR CERTAIN INDIVIDUALS.** 5 USC 8901 note.

(a) **ENROLLMENT IN CHAPTER 89 PLAN.**—For purposes of chapter 89 of title 5, United States Code, any period of enrollment—

(1) in a health benefits plan administered by the Federal Deposit Insurance Corporation before the termination of such plan on or before January 2, 1999; or

(2) subject to subsection (c), in a health benefits plan (not under chapter 89 of such title) with respect to which the eligibility of any employees or retired employees of the Board of Governors of the Federal Reserve System terminates on or before January 2, 1999,

shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title.

(b) **CONTINUED COVERAGE.**—(1) Subject to subsection (c), any individual who, on or before January 2, 1999, is enrolled in a health benefits plan described in subsection (a)(1) or (2) may enroll in an approved health benefits plan under chapter 89 of title 5, United States Code, either as an individual or for self and family, if, after taking into account the provisions of subsection (a), such individual—

(A) meets the requirements of such chapter for eligibility to become so enrolled as an employee, annuitant, or former spouse (within the meaning of such chapter); or

(B) would meet those requirements if, to the extent such requirements involve either retirement system under such title 5, such individual satisfies similar requirements or provisions of the Retirement Plan for Employees of the Federal Reserve System.

Any determination under subparagraph (B) shall be made under guidelines which the Office of Personnel Management shall establish in consultation with the Board of Governors of the Federal Reserve System.

Guidelines.

(2) Subject to subsection (c), any individual who, on or before January 2, 1999, is entitled to continued coverage under a health benefits plan described in subsection (a)(1) or (2) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, but only for the same remaining period as would have been allowable under the health benefits plan in which such individual was enrolled on or before January 2, 1999, if—

(A) such individual had remained enrolled in such plan; and

(B) such plan did not terminate, or the eligibility of such individual with respect to such plan did not terminate, as described in subsection (a).

(3) Subject to subsection (c), any individual (other than an individual under paragraph (2)) who, on or before January 2, 1999, is covered under a health benefits plan described in subsection (a)(1) or (2) as an unmarried dependent child, but who does not then qualify for coverage under chapter 89 of title 5, United States Code, as a family member (within the meaning of such chapter) shall be deemed to be entitled to continued coverage under section 8905a of such title, to the same extent and in the same manner as if such individual had, on or before January 2, 1999, ceased to meet the requirements for being considered an unmarried dependent child of an enrollee under such chapter.

(4) Coverage under chapter 89 of title 5, United States Code, pursuant to an enrollment under this section shall become effective on January 3, 1999 or such earlier date as established by the Office of Personnel Management after consultation with the Federal Deposit Insurance Corporation or the Board of Governors of the Federal Reserve System, as appropriate.

(c) **ELIGIBILITY FOR FEHBP LIMITED TO INDIVIDUALS LOSING ELIGIBILITY UNDER FORMER HEALTH PLAN.**—Nothing in subsection (a)(2) or any paragraph of subsection (b) (to the extent such paragraph relates to the plan described in subsection (a)(2)) shall be considered to apply with respect to any individual whose eligibility for coverage under such plan does not involuntarily terminate on or before January 2, 1999.

(d) **TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.**—The Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System shall transfer to the Employees Health Benefits Fund under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the Fund and used by the Office of Personnel Management in addition to amounts available under section 8906(g)(1) of such title.

(e) **ADMINISTRATION AND REGULATIONS.**—The Office of Personnel Management—

(1) shall administer the provisions of this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

5 USC 8902 note.

**SEC. 5. FULL DISCLOSURE IN HEALTH PLAN CONTRACTS.**

The Office of Personnel Management shall encourage carriers offering health benefits plans described by section 8903 or section 8903a of title 5, United States Code, with respect to contractual arrangements made by such carriers with any person for purposes of obtaining discounts from providers for health care services or supplies furnished to individuals enrolled in such plan, to seek assurance that the conditions for such discounts are fully disclosed to the providers who grant them.

**SEC. 6. PROVISIONS RELATING TO CERTAIN PLANS THAT HAVE DISCONTINUED THEIR PARTICIPATION IN FEHBP.**

(a) **AUTHORITY TO READMIT.**—

(1) **IN GENERAL.**—Chapter 89 of title 5, United States Code, is amended by inserting after section 8903a the following:

**“§ 8903b. Authority to readmit an employee organization plan**

“(a) In the event that a plan described by section 8903(3) or 8903a is discontinued under this chapter (other than in the circumstance described in section 8909(d)), that discontinuation



shall be disregarded, for purposes of any determination as to that plan's eligibility to be considered an approved plan under this chapter, but only for purposes of any contract year later than the third contract year beginning after such plan is so discontinued.

“(b) A contract for a plan approved under this section shall require the carrier—

“(1) to demonstrate experience in service delivery within a managed care system (including provider networks) throughout the United States; and

“(2) if the carrier involved would not otherwise be subject to the requirement set forth in section 8903a(c)(1), to satisfy such requirement.”.

(2) CONFORMING AMENDMENT.—The analysis for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8903a the following:

“8903b. Authority to readmit an employee organization plan.”.

(3) APPLICABILITY.—

(A) IN GENERAL.—The amendments made by this subsection shall apply as of the date of the enactment of this Act, including with respect to any plan which has been discontinued as of such date.

(B) TRANSITION RULE.—For purposes of applying section 8903b(a) of title 5, United States Code (as amended by this subsection) with respect to any plan seeking to be readmitted for purposes of any contract year beginning before January 1, 2000, such section shall be applied by substituting “second contract year” for “third contract year”.

(b) TREATMENT OF THE CONTINGENCY RESERVE OF A DISCONTINUED PLAN.—

(1) IN GENERAL.—Subsection (e) of section 8909 of title 5, United States Code, is amended by striking “(e)” and inserting “(e)(1)” and by adding at the end the following:

“(2) Any crediting required under paragraph (1) pursuant to the discontinuation of any plan under this chapter shall be completed by the end of the second contract year beginning after such plan is so discontinued.

“(3) The Office shall prescribe regulations in accordance with which this subsection shall be applied in the case of any plan which is discontinued before being credited with the full amount to which it would otherwise be entitled based on the discontinuation of any other plan.”.

(2) TRANSITION RULE.—In the case of any amounts remaining as of the date of the enactment of this Act in the contingency reserve of a discontinued plan, such amounts shall be disposed of in accordance with section 8909(e) of title 5, United States Code, as amended by this subsection, by—

(A) the deadline set forth in section 8909(e) of such title (as so amended); or

(B) if later, the end of the 6-month period beginning on such date of enactment.

#### **SEC. 7. MAXIMUM PHYSICIANS COMPARABILITY ALLOWANCE PAYABLE.**

(a) IN GENERAL.—Paragraph (2) of section 5948(a) of title 5, United States Code, is amended by striking “\$20,000” and inserting “\$30,000”.

(b) AUTHORITY TO MODIFY EXISTING AGREEMENTS.—

5 USC 8903b  
note.

Regulations.  
Applicability.

5 USC 8909 note.

5 USC 5948 note.

(1) **IN GENERAL.**—Any service agreement under section 5948 of title 5, United States Code, which is in effect on the date of the enactment of this Act may, with respect to any period of service remaining in such agreement, be modified based on the amendment made by subsection (a).

(2) **LIMITATION.**—A modification taking effect under this subsection in any year shall not cause an allowance to be increased to a rate which, if applied throughout such year, would cause the limitation under section 5948(a)(2) of such title (as amended by this section), or any other applicable limitation, to be exceeded.

5 USC 5948 note.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be considered to authorize additional or supplemental appropriations for the fiscal year in which occurs the date of the enactment of this Act.

**SEC. 8. CLARIFICATION RELATING TO SECTION 8902(k).**

Section 8902(k) of title 5, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

“(2) Nothing in this subsection shall be considered to preclude a health benefits plan from providing direct access or direct payment or reimbursement to a provider in a health care practice or profession other than a practice or profession listed in paragraph (1), if such provider is licensed or certified as such under Federal or State law.”.

Approved October 19, 1998.

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**LEGISLATIVE HISTORY—H.R. 1836:**

HOUSE REPORTS: No. 105–374 (Comm. on Government Reform and Oversight).

SENATE REPORTS: No. 105–257 (Comm. on Governmental Affairs).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Nov. 4, considered and passed House.

Vol. 144 (1998): Sept. 30, considered and passed Senate, amended.

Oct. 5, House concurred in Senate amendments.



Public Law 105–267  
105th Congress

An Act

To direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co. and other entities.

Oct. 19, 1998

[H.R. 3381]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Gallatin Land Consolidation Act of 1998”.

Gallatin Land  
Consolidation Act  
of 1998.  
Montana.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the land north of Yellowstone National Park possesses outstanding natural characteristics and wildlife habitats that make the land a valuable addition to the National Forest System;

(2) it is in the interest of the United States to establish a logical and effective ownership pattern for the Gallatin National Forest, reducing long-term costs for taxpayers and increasing and improving public access to the forest;

(3) it is in the interest of the United States for the Secretary of Agriculture to enter into an Option Agreement for the acquisition of land owned by Big Sky Lumber Co. to accomplish the purposes of this Act; and

(4) other private property owners are willing to enter into exchanges that further improve the ownership pattern of the Gallatin National Forest.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **BLM LAND.**—The term “BLM land” means approximately 2,000 acres of Bureau of Land Management land (including all appurtenances to the land) that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(2) **BSL.**—The term “BSL” means Big Sky Lumber Co., an Oregon joint venture, and its successors and assigns, and any other entities having a property interest in the BSL land.

(3) **BSL LAND.**—The term “BSL land” means approximately 54,000 acres of land (including all appurtenances to the land except as provided in section 4(e)(1)(D)(i)) owned by BSL that is proposed to be acquired by the Secretary of Agriculture, as depicted in Exhibit A to the Option Agreement.

(4) **EASTSIDE NATIONAL FORESTS.**—The term “Eastside National Forests” means national forests east of the Continental Divide in the State of Montana, including the Beaverhead National Forest, Deerlodge National Forest, Helena National Forest, Custer National Forest, and Lewis and Clark National Forest.

(5) **NATIONAL FOREST SYSTEM LAND.**—The term “National Forest System land” means approximately 29,000 acres of land (including all appurtenances to the land) owned by the United States in the Gallatin National Forest, Flathead National Forest, Deerlodge National Forest, Helena National Forest, Lolo National Forest, and Lewis and Clark National Forest that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(6) **OPTION AGREEMENT.**—The term “Option Agreement” means—

(A) the document signed by BSL, dated July 29, 1998, and entitled “Option Agreement for the Acquisition of Big Sky Lumber Co. Lands Pursuant to the Gallatin Range Consolidation and Protection Act of 1993”;

(B) the exhibits and maps attached to the document described in subparagraph (A); and

(C) an exchange agreement to be entered into between the Secretary and BSL and made part of the document described in subparagraph (A).

(7) **SECRETARY.**—The “Secretary” means the Secretary of Agriculture.

#### **SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, and subject to the terms and conditions of the Option Agreement—

(1) if BSL offers title acceptable to the Secretary to the BSL land—

(A) the Secretary shall accept a warranty deed to the BSL land and a quit claim deed to agreed to mineral interests in the BSL land;

(B) the Secretary shall convey to BSL, subject to valid existing rights and to other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary and BSL, fee title to the National Forest System land; and

(C) the Secretary of the Interior shall convey to BSL, by patent or otherwise, subject to valid existing rights and other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary of the Interior and BSL, fee title to the BLM land;

(2) if BSL places title in escrow acceptable to the Secretary to 11½ sections of the BSL land in the Taylor Fork area as set forth in the Option Agreement—

(A) the Secretary shall place Federal land in the Bangtail and Doe Creek areas of the Gallatin National Forest, as identified in the Option Agreement, in escrow pending conveyance to the Secretary of the Taylor Fork land, as identified in the Option Agreement in escrow;

(B) the Secretary, subject to the availability of funds, shall purchase 7½ sections of BSL land in the Taylor Fork area held in escrow and identified in the Option Agreement at a purchase price of \$4,150,000; and

(C) the Secretary shall acquire the 4 Taylor Fork sections identified in the Option Agreement remaining in escrow, and any of the 6 sections referred to in subparagraph (B) for which funds are not available, by providing BSL with timber sale receipts from timber sales on the Gallatin National Forest and other eastside national forests in the State of Montana in accordance with subsection (c); and

(3)(A) as funds or timber sale receipts are received by BSL—

(i) the deeds to an equivalent value of BSL Taylor Fork land held in escrow shall be released and conveyed to the Secretary; and

(ii) the escrow of deeds to an equivalent value of Federal land shall be released to the Secretary in accordance with the terms of the Option Agreement; or

(B) if funds or timber sale receipts are not provided to BSL as provided in the Option Agreement, BSL shall be entitled to receive patents and deeds to an equivalent value of the Federal land held in escrow.

(b) VALUATION.—

(1) IN GENERAL.—The property and other assets exchanged or conveyed by BSL and the United States under subsection (a) shall be approximately equal in value, as determined by the Secretary.

(2) DIFFERENCE IN VALUE.—To the extent that the property and other assets exchanged or conveyed by BSL or the United States under subsection (a) are not approximately equal in value, as determined by the Secretary, the values shall be equalized in accordance with methods identified in the Option Agreement.

(c) TIMBER SALE PROGRAM.—

(1) IN GENERAL.—The Secretary shall implement a timber sale program, according to the terms and conditions identified in the Option Agreement and subject to compliance with applicable environmental laws (including regulations), judicial decisions, memoranda of understanding, small business set-aside rules, and acts beyond the control of the Secretary, to generate sufficient timber receipts to purchase the portions of the BSL land in Taylor Fork identified in the Option Agreement.

(2) IMPLEMENTATION.—In implementing the timber sale program—

(A) the Secretary shall provide BSL with a proposed annual schedule of timber sales;

(B) as set forth in the Option Agreement, receipts generated from the timber sale program shall be deposited by the Secretary in a special account established by the Secretary and paid by the Secretary to BSL;

(C) receipts from the Gallatin National Forest shall not be subject to the Act of May 23, 1908 (16 U.S.C. 500); and

(D) the Secretary shall fund the timber sale program at levels determined by the Secretary to be commensurate with the preparation and administration of the identified timber sale program.

(d) RIGHTS-OF-WAY.—As specified in the Option Agreement—

(1) the Secretary, under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), shall convey to BSL such easements in or other rights-of-way over National Forest System land for access to the land acquired by BSL under this Act for all lawful purposes; and

(2) BSL shall convey to the United States such easements in or other rights-of-way over land owned by BSL for all lawful purposes, as may be agreed to by the Secretary and BSL.

(e) QUALITY OF TITLE.—

(1) DETERMINATION.—The Secretary shall review the title for the BSL land described in subsection (a) and, within 45 days after receipt of all applicable title documents from BSL, determine whether—

(A) the applicable title standards for Federal land acquisition have been satisfied and the quality of the title is otherwise acceptable to the Secretary of Agriculture;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the title includes both the surface and subsurface estates without reservation or exception (except as specifically provided in this Act), including—

(i) minerals, mineral rights, and mineral interests (including severed oil and gas surface rights), subject to and excepting other outstanding or reserved oil and gas rights;

(ii) timber, timber rights, and timber interests (except those reserved subject to section 251.14 of title 36, Code of Federal Regulations, by BSL and agreed to by the Secretary);

(iii) water, water rights, ditch, and ditch rights;

(iv) geothermal rights; and

(v) any other interest in the property.

(2) CONVEYANCE OF TITLE.—

(A) IN GENERAL.—If the quality of title does not meet Federal standards or is otherwise determined to be unacceptable to the Secretary of Agriculture, the Secretary shall advise BSL regarding corrective actions necessary to make an affirmative determination under paragraph (1).

(B) TITLE TO SUBSURFACE ESTATE.—Title to the subsurface estate shall be conveyed by BSL to the Secretary in the same form and content as that estate is received by BSL from Burlington Resources Oil & Gas Company Inc. and Glacier Park Company.

(f) TIMING OF IMPLEMENTATION.—

(1) LAND-FOR-LAND EXCHANGE.—The Secretary shall accept the conveyance of land described in subsection (a) not later than 45 days after the Secretary has made an affirmative determination of quality of title.

(2) LAND-FOR-TIMBER SALE RECEIPT EXCHANGE.—As provided in subsection (c) and the Option Agreement, the Secretary shall make timber receipts described in subsection (a)(3) available not later than December 31 of the fifth full calendar year that begins after the date of the enactment of this Act.

Deadlines.

(3) PURCHASE.—The Secretary shall complete the purchase of BSL land under subsection (a)(2)(B) not later than 30 days after the date on which funds are made available for such purchase and an affirmative determination of quality of title is made with respect to the BSL land.

#### SEC. 5. OTHER FACILITATED EXCHANGES.

(a) AUTHORIZED EXCHANGES.—

(1) IN GENERAL.—The Secretary shall enter into the following land exchanges if the landowners are willing:

(A) Wapiti land exchange, as outlined in the documents entitled “Non-Federal Lands in Facilitated Exchanges” and “Federal Lands in Facilitated Exchanges” and dated July 1998.

(B) Eightmile/West Pine land exchange as outlined in the documents entitled “Non-Federal Lands in Facilitated Exchanges” and “Federal Lands in Facilitated Exchanges” and dated July 1998.

(2) EQUAL VALUE.—Before entering into an exchange under paragraph (1), the Secretary shall determine that the parcels of land to be exchanged are of approximately equal value, based on an appraisal.

(b) SECTION ONE OF THE TAYLOR FORK LAND.—

(1) IN GENERAL.—The Secretary is encouraged to pursue a land exchange with the owner of section 1 of the Taylor Fork land after completing a full public process and an appraisal.

(2) REPORT.—The Secretary shall report to Congress on the implementation of paragraph (1) not later than 180 days after the date of the enactment of this Act.

Deadline.

#### SEC. 6. GENERAL PROVISIONS.

(a) MINOR CORRECTIONS.—

(1) IN GENERAL.—The Option Agreement shall be subject to such minor corrections and supplemental provisions as may be agreed to by the Secretary and BSL.

(2) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and each member of the Montana congressional delegation of any changes made under this subsection.

(3) BOUNDARY ADJUSTMENT.—

(A) IN GENERAL.—The boundary of the Gallatin National Forest is adjusted in the Wineglass and North Bridger area, as described on maps dated July 1998, upon completion of the conveyances.

(B) NO LIMITATION.—Nothing in this subsection limits the authority of the Secretary to adjust the boundary pursuant to section 11 of the Act of March 1, 1911 (commonly known as the “Weeks Act”; 16 U.S.C. 521).

(C) ALLOCATION OF LAND AND WATER CONSERVATION FUND MONEYS.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), boundaries of the Gallatin National Forest shall be considered to be the boundaries of the National Forest as of January 1, 1965.

(b) PUBLIC AVAILABILITY.—The Option Agreement—

(1) shall be on file and available for public inspection in the office of the Supervisor of the Gallatin National Forest; and

(2) shall be filed with the county clerk of each of Gallatin County, Park County, Madison County, Granite County, Broadwater County, Meagher County, Flathead County, and Missoula County, Montana.

(c) COMPLIANCE WITH OPTION AGREEMENT.—The Secretary, the Secretary of the Interior, and BSL shall comply with the terms and conditions of the Option Agreement except to the extent that any provision of the Option Agreement conflicts with this Act.

(d) STATUS OF LAND.—All land conveyed to the United States under this Act shall be added to and administered as part of the Gallatin National Forest and Deerlodge National Forest, as appropriate, in accordance with the Act of March 1, 1911 (5 U.S.C. 515 et seq.), and other laws (including regulations) pertaining to the National Forest System.

Deadlines.

(e) MANAGEMENT.—

(1) PUBLIC PROCESS.—Not later than 30 days after the date of completion of the land-for-land exchange under section 4(f)(1), the Secretary shall initiate a public process to amend the Gallatin National Forest Plan and the Deerlodge National Forest Plan to integrate the acquired land into the plans.

(2) PROCESS TIME.—The amendment process under paragraph (1) shall be completed as soon as practicable, and in no event later than 540 days after the date on which the amendment process is initiated.

(3) LIMITATION.—An amended management plan shall not permit surface occupancy on the acquired land for access to reserved or outstanding oil and gas rights or for exploration or development of oil and gas.

(4) INTERIM MANAGEMENT.—Pending completion of the forest plan amendment process under paragraph (1), the Secretary shall—

(A) manage the acquired land under the standards and guidelines in the applicable land and resource management plans for adjacent land managed by the Forest Service; and

(B) maintain all existing public access to the acquired land.

(f) RESTORATION.—

(1) IN GENERAL.—The Secretary shall implement a restoration program including reforestation and watershed enhancements to bring the acquired land and surrounding national forest land into compliance with Forest Service standards and guidelines.

(2) STATE AND LOCAL CONSERVATION CORPS.—In implementing the restoration program, the Secretary shall, when practicable, use partnerships with State and local conservation corps, including the Montana Conservation Corps, under the Public Lands Corps Act of 1993 (16 U.S.C. 1721 et seq.).

(g) IMPLEMENTATION.—The Secretary of Agriculture shall ensure that sufficient funds are made available to the Gallatin National Forest to carry out this Act.



(h) REVOCATIONS.—Notwithstanding any other provision of law, any public orders withdrawing lands identified in the Option Agreement from all forms of appropriation under the public land laws are revoked upon conveyance of the lands by the Secretary.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved October 19, 1998.

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**LEGISLATIVE HISTORY—H.R. 3381 (S. 1719):**

HOUSE REPORTS: No. 105-723, Pt. 1 (Comm. on Resources).

SENATE REPORTS: No. 105-329 accompanying S. 1719 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 23, considered and passed House.

Oct. 2, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 20, Presidential statement.



Public Law 105-268  
105th Congress

An Act

Oct. 19, 1998  
[H. R. 3790]

To require the Secretary of the Treasury to mint coins in commemoration of the  
bicentennial of the Library of Congress.

Library of  
Congress  
Bicentennial  
Commemorative  
Coin Act of 1998.  
31 USC 5112  
note.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Library of Congress Bicentennial  
Commemorative Coin Act of 1998”.

**SEC. 2. COIN SPECIFICATIONS.**

(a) **DENOMINATIONS.**—The Secretary of the Treasury (hereafter  
in this Act referred to as the “Secretary”) shall mint and issue  
the following coins:

(1) **\$5 GOLD COINS.**—Not more than 100,000 \$5 coins, which  
shall—

- (A) weigh 8.359 grams;
- (B) have a diameter of 0.850 inches; and
- (C) contain 90 percent gold and 10 percent alloy.

(2) **\$1 SILVER COINS.**—Not more than 500,000 \$1 coins,  
which shall—

- (A) weigh 26.73 grams;
- (B) have a diameter of 1.500 inches; and
- (C) contain 90 percent silver and 10 percent copper.

(b) **BIMETALLIC COINS.**—The Secretary may mint and issue  
not more than 200,000 \$10 bimetallic coins of gold and platinum  
instead of the gold coins required under subsection (a)(1) in accord-  
ance with such specifications as the Secretary determines to be  
appropriate.

(c) **LEGAL TENDER.**—The coins minted under this Act shall  
be legal tender, as provided in section 5103 of title 31, United  
States Code.

**SEC. 3. SOURCES OF BULLION.**

(a) **PLATINUM AND GOLD.**—The Secretary shall obtain platinum  
and gold for minting coins under this Act from available sources.

(b) **SILVER.**—The Secretary may obtain silver for minting coins  
under this Act from stockpiles established under the Strategic and  
Critical Materials Stock Piling Act and from other available sources.

**SEC. 4. DESIGN OF COINS.**

(a) **DESIGN REQUIREMENTS.**—

(1) **IN GENERAL.**—The design of the coins minted under  
this Act shall be emblematic of the Library of Congress.

(2) **DESIGNATION AND INSCRIPTIONS.**—On each coin minted  
under this Act there shall be—

- (A) a designation of the value of the coin;
- (B) an inscription of the year “2000”; and
- (C) inscriptions of the words “Liberty”, “In God We Trust”, “United States of America”, and “E Pluribus Unum”.

(b) SELECTION.—The design for the coins minted under this Act shall be—

- (1) selected by the Secretary after consultation with the Library of Congress and the Commission of Fine Arts; and
- (2) reviewed by the Citizens Commemorative Coin Advisory Committee.

#### SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only one facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on January 1, 2000, and ending on December 31, 2000.

(d) PROMOTION CONSULTATION.—The Secretary shall—

- (1) consult with the Library of Congress in order to establish a role for the Library of Congress in the promotion, advertising, and marketing of the coins minted under this Act; and
- (2) if the Secretary determines that such action would be beneficial to the sale of coins minted under this Act, enter into a contract with the Library of Congress to carry out the role established under paragraph (1).

#### SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

- (1) the face value of the coins;
- (2) the surcharge provided in subsection (d) with respect to such coins; and
- (3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge established by the Secretary, in an amount equal to not more than—

- (1) \$50 per coin for the \$10 coin or \$35 per coin for the \$5 coin; and
- (2) \$5 per coin for the \$1 coin.

**SEC. 7. DISTRIBUTION OF SURCHARGES.**

All surcharges received by the Secretary from the sale of coins issued under this Act shall be paid by the Secretary to the Library of Congress Trust Fund Board in accordance with section 5134(f) of title 31, United States Code (as added by section 529(b)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1997), to be used for the purpose of supporting bicentennial programs, educational outreach activities (including schools and libraries), and other activities of the Library of Congress.

Approved October 19, 1998.

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**LEGISLATIVE HISTORY—H.R. 3790:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

Aug. 4, considered and passed House.

Oct. 6, considered and passed Senate.



Public Law 105–269  
105th Congress

An Act

To authorize the use of receipts from the sale of the Migratory Bird Hunting and Conservation Stamps to promote additional stamp purchases.

Oct. 19, 1998

[H.R. 4248]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Migratory Bird Hunting and Conservation Stamp Promotion Act”.

Migratory Bird  
Hunting and  
Conservation  
Stamp Promotion  
Act.  
16 USC 718 note.

**SEC. 2. PROMOTION OF STAMP SALES.**

(a) IN GENERAL.—Section 4 of the Act of March 16, 1934 (chapter 71; 16 U.S.C. 718d), popularly known as the Migratory Bird Hunting Stamp Act, is amended—

(1) in subsection (b) by striking “subsection (c)” and inserting “subsections (c) and (d)”; and

(2) by adding at the end the following:

“(d) PROMOTION OF STAMP SALES.—(1) The Secretary of the Interior may utilize funds from the sale of migratory bird hunting and conservation stamps, not to exceed \$1,000,000 in each of fiscal years 1999, 2000, 2001, 2002, and 2003, for the promotion of additional sales of those stamps, in accordance with a Migratory Bird Conservation Commission approved annual marketing plan. Such promotion shall include the preparation of reports, brochures, or other appropriate materials to be made available to the public that describe the benefits to wildlife derived from stamp sales.

“(2) The Secretary of the Interior shall include in each annual report of the Commission under section 3 of the Migratory Bird Conservation Act (16 U.S.C. 715b) a description of activities conducted under this subsection in the year covered by the report.”.

Approved October 19, 1998.

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LEGISLATIVE HISTORY—H.R. 4248 (S. 2319):

SENATE REPORTS: No. 105–266 accompanying S. 2319 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 28, considered and passed House.

Oct. 6, considered and passed Senate.



Public Law 105–270  
105th Congress

An Act

Oct. 19, 1998  
[S. 314]

To provide a process for identifying the functions of the Federal Government that are not inherently governmental functions, and for other purposes.

Federal Activities  
Inventory Reform  
Act of 1998.  
31 USC 501 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Federal Activities Inventory Reform Act of 1998”.

Records.

**SEC. 2. ANNUAL LISTS OF GOVERNMENT ACTIVITIES NOT INHERENTLY GOVERNMENTAL IN NATURE.**

Deadline.

(a) **LISTS REQUIRED.**—Not later than the end of the third quarter of each fiscal year, the head of each executive agency shall submit to the Director of the Office of Management and Budget a list of activities performed by Federal Government sources for the executive agency that, in the judgment of the head of the executive agency, are not inherently governmental functions. The entry for an activity on the list shall include the following:

(1) The fiscal year for which the activity first appeared on a list prepared under this section.

(2) The number of full-time employees (or its equivalent) that are necessary for the performance of the activity by a Federal Government source.

(3) The name of a Federal Government employee responsible for the activity from whom additional information about the activity may be obtained.

(b) **OMB REVIEW AND CONSULTATION.**—The Director of the Office of Management and Budget shall review the executive agency’s list for a fiscal year and consult with the head of the executive agency regarding the content of the final list for that fiscal year.

(c) **PUBLIC AVAILABILITY OF LISTS.**—

(1) **PUBLICATION.**—Upon the completion of the review and consultation regarding a list of an executive agency—

(A) the head of the executive agency shall promptly transmit a copy of the list to Congress and make the list available to the public; and

(B) the Director of the Office of Management and Budget shall promptly publish in the Federal Register a notice that the list is available to the public.

(2) **CHANGES.**—If the list changes after the publication of the notice as a result of the resolution of a challenge under section 3, the head of the executive agency shall promptly—

(A) make each such change available to the public and transmit a copy of the change to Congress; and

Federal Register,  
Publication.

(B) publish in the Federal Register a notice that the change is available to the public.

Federal Register,  
Publication.

(d) **COMPETITION REQUIRED.**—Within a reasonable time after the date on which a notice of the public availability of a list is published under subsection (c), the head of the executive agency concerned shall review the activities on the list. Each time that the head of the executive agency considers contracting with a private sector source for the performance of such an activity, the head of the executive agency shall use a competitive process to select the source (except as may otherwise be provided in a law other than this Act, an Executive order, regulations, or any executive branch circular setting forth requirements or guidance that is issued by competent executive authority). The Director of the Office of Management and Budget shall issue guidance for the administration of this subsection.

(e) **REALISTIC AND FAIR COST COMPARISONS.**—For the purpose of determining whether to contract with a source in the private sector for the performance of an executive agency activity on the list on the basis of a comparison of the costs of procuring services from such a source with the costs of performing that activity by the executive agency, the head of the executive agency shall ensure that all costs (including the costs of quality assurance, technical monitoring of the performance of such function, liability insurance, employee retirement and disability benefits, and all other overhead costs) are considered and that the costs considered are realistic and fair.

### SEC. 3. CHALLENGES TO THE LIST.

(a) **CHALLENGE AUTHORIZED.**—An interested party may submit to an executive agency a challenge of an omission of a particular activity from, or an inclusion of a particular activity on, a list for which a notice of public availability has been published under section 2.

(b) **INTERESTED PARTY DEFINED.**—For the purposes of this section, the term “interested party”, with respect to an activity referred to in subsection (a), means the following:

(1) A private sector source that—

(A) is an actual or prospective offeror for any contract, or other form of agreement, to perform the activity; and

(B) has a direct economic interest in performing the activity that would be adversely affected by a determination not to procure the performance of the activity from a private sector source.

(2) A representative of any business or professional association that includes within its membership private sector sources referred to in paragraph (1).

(3) An officer or employee of an organization within an executive agency that is an actual or prospective offeror to perform the activity.

(4) The head of any labor organization referred to in section 7103(a)(4) of title 5, United States Code, that includes within its membership officers or employees of an organization referred to in paragraph (3).

(c) **TIME FOR SUBMISSION.**—A challenge to a list shall be submitted to the executive agency concerned within 30 days after the publication of the notice of the public availability of the list under section 2.

Deadline.

(d) INITIAL DECISION.—Within 28 days after an executive agency receives a challenge, an official designated by the head of the executive agency shall—

(1) decide the challenge; and

(2) transmit to the party submitting the challenge a written notification of the decision together with a discussion of the rationale for the decision and an explanation of the party's right to appeal under subsection (e).

(e) APPEAL.—

Deadline.

(1) AUTHORIZATION OF APPEAL.—An interested party may appeal an adverse decision of the official to the head of the executive agency within 10 days after receiving a notification of the decision under subsection (d).

(2) DECISION ON APPEAL.—Within 10 days after the head of an executive agency receives an appeal of a decision under paragraph (1), the head of the executive agency shall decide the appeal and transmit to the party submitting the appeal a written notification of the decision together with a discussion of the rationale for the decision.

#### SEC. 4. APPLICABILITY.

(a) EXECUTIVE AGENCIES COVERED.—Except as provided in subsection (b), this Act applies to the following executive agencies:

(1) EXECUTIVE DEPARTMENT.—An executive department named in section 101 of title 5, United States Code.

(2) MILITARY DEPARTMENT.—A military department named in section 102 of title 5, United States Code.

(3) INDEPENDENT ESTABLISHMENT.—An independent establishment, as defined in section 104 of title 5, United States Code.

(b) EXCEPTIONS.—This Act does not apply to or with respect to the following:

(1) GENERAL ACCOUNTING OFFICE.—The General Accounting Office.

(2) GOVERNMENT CORPORATION.—A Government corporation or a Government controlled corporation, as those terms are defined in section 103 of title 5, United States Code.

(3) NONAPPROPRIATED FUNDS INSTRUMENTALITY.—A part of a department or agency if all of the employees of that part of the department or agency are employees referred to in section 2105(c) of title 5, United States Code.

(4) CERTAIN DEPOT-LEVEL MAINTENANCE AND REPAIR.—Depot-level maintenance and repair of the Department of Defense (as defined in section 2460 of title 10, United States Code).

#### SEC. 5. DEFINITIONS.

In this Act:

(1) FEDERAL GOVERNMENT SOURCE.—The term “Federal Government source”, with respect to performance of an activity, means any organization within an executive agency that uses Federal Government employees to perform the activity.

(2) INHERENTLY GOVERNMENTAL FUNCTION.—

(A) DEFINITION.—The term “inherently governmental function” means a function that is so intimately related to the public interest as to require performance by Federal Government employees.



(B) **FUNCTIONS INCLUDED.**—The term includes activities that require either the exercise of discretion in applying Federal Government authority or the making of value judgments in making decisions for the Federal Government, including judgments relating to monetary transactions and entitlements. An inherently governmental function involves, among other things, the interpretation and execution of the laws of the United States so as—

(i) to bind the United States to take or not to take some action by contract, policy, regulation, authorization, order, or otherwise;

(ii) to determine, protect, and advance United States economic, political, territorial, property, or other interests by military or diplomatic action, civil or criminal judicial proceedings, contract management, or otherwise;

(iii) to significantly affect the life, liberty, or property of private persons;

(iv) to commission, appoint, direct, or control officers or employees of the United States; or

(v) to exert ultimate control over the acquisition, use, or disposition of the property, real or personal, tangible or intangible, of the United States, including the collection, control, or disbursement of appropriated and other Federal funds.

(C) **FUNCTIONS EXCLUDED.**—The term does not normally include—

(i) gathering information for or providing advice, opinions, recommendations, or ideas to Federal Government officials; or

(ii) any function that is primarily ministerial and internal in nature (such as building security, mail operations, operation of cafeterias, housekeeping, facilities operations and maintenance, warehouse operations, motor vehicle fleet management operations, or other routine electrical or mechanical services).

**SEC. 6. EFFECTIVE DATE.**

This Act shall take effect on October 1, 1998.

Approved October 19, 1998.

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**LEGISLATIVE HISTORY—S. 314:**

SENATE REPORTS: No. 105-269 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 30, considered and passed Senate.

Oct. 5, considered and passed House.

Public Law 105–271  
105th Congress

An Act

Oct. 19, 1998  
[S. 2392]

To encourage the disclosure and exchange of information about computer processing problems, solutions, test practices and test results, and related matters in connection with the transition to the year 2000.

Year 2000  
Information and  
Readiness  
Disclosure Act.  
15 USC 1 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Year 2000 Information and Readiness Disclosure Act”.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1)(A) At least thousands but possibly millions of information technology computer systems, software programs, and semiconductors are not capable of recognizing certain dates in 1999 and after December 31, 1999, and will read dates in the year 2000 and thereafter as if those dates represent the year 1900 or thereafter or will fail to process those dates.

(B) The problem described in subparagraph (A) and resulting failures could incapacitate systems that are essential to the functioning of markets, commerce, consumer products, utilities, government, and safety and defense systems, in the United States and throughout the world.

(C) Reprogramming or replacing affected systems before the problem incapacitates essential systems is a matter of national and global interest.

(2) The prompt, candid, and thorough disclosure and exchange of information related to year 2000 readiness of entities, products, and services—

(A) would greatly enhance the ability of public and private entities to improve their year 2000 readiness; and

(B) is therefore a matter of national importance and a vital factor in minimizing any potential year 2000 related disruption to the Nation’s economic well-being and security.

(3) Concern about the potential for legal liability associated with the disclosure and exchange of year 2000 readiness information is impeding the disclosure and exchange of such information.

(4) The capability to freely disseminate and exchange information relating to year 2000 readiness, solutions, test practices and test results, with the public and other entities without undue concern about litigation is critical to the ability of public and private entities to address year 2000 needs in a timely manner.

(5) The national interest will be served by uniform legal standards in connection with the disclosure and exchange of year 2000 readiness information that will promote disclosures and exchanges of such information in a timely fashion.

(b) PURPOSES.—Based upon the powers contained in article I, section 8, clause 3 of the Constitution of the United States, the purposes of this Act are—

(1) to promote the free disclosure and exchange of information related to year 2000 readiness;

(2) to assist consumers, small businesses, and local governments in effectively and rapidly responding to year 2000 problems; and

(3) to lessen burdens on interstate commerce by establishing certain uniform legal principles in connection with the disclosure and exchange of information related to year 2000 readiness.

### SEC. 3. DEFINITIONS.

In this Act:

(1) ANTITRUST LAWS.—The term “antitrust laws”—

(A) has the meaning given to it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in subparagraph (A).

(2) CONSUMER.—The term “consumer” means an individual who acquires a consumer product for purposes other than resale.

(3) CONSUMER PRODUCT.—The term “consumer product” means any personal property or service which is normally used for personal, family, or household purposes.

(4) COVERED ACTION.—The term “covered action” means a civil action of any kind, whether arising under Federal or State law, except for an action brought by a Federal, State, or other public entity, agency, or authority acting in a regulatory, supervisory, or enforcement capacity.

(5) MAKER.—The term “maker” means each person or entity, including the United States or a State or political subdivision thereof, that—

(A) issues or publishes any year 2000 statement;

(B) develops or prepares any year 2000 statement;

or

(C) assists in, contributes to, or reviews, reports or comments on during, or approves, or otherwise takes part in the preparing, developing, issuing, approving, or publishing of any year 2000 statement.

(6) REPUBLICATION.—The term “republication” means any repetition, in whole or in part, of a year 2000 statement originally made by another.

(7) YEAR 2000 INTERNET WEBSITE.—The term “year 2000 Internet website” means an Internet website or other similar electronically accessible service, clearly designated on the website or service by the person or entity creating or controlling the content of the website or service as an area where year

2000 statements concerning that person or entity are posted or otherwise made accessible to the general public.

(8) YEAR 2000 PROCESSING.—The term “year 2000 processing” means the processing (including calculating, comparing, sequencing, displaying, or storing), transmitting, or receiving of date data from, into, and between the 20th and 21st centuries, and during the years 1999 and 2000, and leap year calculations.

(9) YEAR 2000 READINESS DISCLOSURE.—The term “year 2000 readiness disclosure” means any written year 2000 statement—

(A) clearly identified on its face as a year 2000 readiness disclosure;

(B) inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form; and

(C) issued or published by or with the approval of a person or entity with respect to year 2000 processing of that person or entity or of products or services offered by that person or entity.

(10) YEAR 2000 REMEDIATION PRODUCT OR SERVICE.—The term “year 2000 remediation product or service” means a software program or service licensed, sold, or rendered by a person or entity and specifically designed to detect or correct year 2000 processing problems with respect to systems, products, or services manufactured or rendered by another person or entity.

(11) YEAR 2000 STATEMENT.—

(A) IN GENERAL.—The term “year 2000 statement” means any communication or other conveyance of information by a party to another or to the public, in any form or medium—

(i) concerning an assessment, projection, or estimate concerning year 2000 processing capabilities of an entity, product, service, or set of products and services;

(ii) concerning plans, objectives, or timetables for implementing or verifying the year 2000 processing capabilities of an entity, product, service, or set of products and services;

(iii) concerning test plans, test dates, test results, or operational problems or solutions related to year 2000 processing by—

(I) products; or

(II) services that incorporate or utilize products; or

(iv) reviewing, commenting on, or otherwise directly or indirectly relating to year 2000 processing capabilities.

(B) NOT INCLUDED.—For the purposes of any action brought under the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), the term “year 2000 statement” does not include statements contained in any documents or materials filed with the Securities and Exchange Commission, or with Federal banking regulators, pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C.

781(i)), or disclosures or writing that when made accompanied the solicitation of an offer or sale of securities.

**SEC. 4. PROTECTION FOR YEAR 2000 STATEMENTS.**

(a) **EVIDENCE EXCLUSION.**—No year 2000 readiness disclosure, in whole or in part, shall be admissible against the maker of that disclosure to prove the accuracy or truth of any year 2000 statement set forth in that disclosure, in any covered action brought by another party except that—

(1) a year 2000 readiness disclosure may be admissible to serve as the basis for a claim for anticipatory breach, or repudiation of a contract, or a similar claim against the maker, to the extent provided by applicable law; and

(2) the court in any covered action shall have discretion to limit application of this subsection in any case in which the court determines that the maker's use of the year 2000 readiness disclosure amounts to bad faith or fraud, or is otherwise beyond what is reasonable to achieve the purposes of this Act.

(b) **FALSE, MISLEADING AND INACCURATE YEAR 2000 STATEMENTS.**—Except as provided in subsection (c), in any covered action, to the extent that such action is based on an allegedly false, inaccurate, or misleading year 2000 statement, the maker of that year 2000 statement shall not be liable under Federal or State law with respect to that year 2000 statement unless the claimant establishes, in addition to all other requisite elements of the applicable action, by clear and convincing evidence, that—

(1) the year 2000 statement was material; and

(2)(A) to the extent the year 2000 statement was not a republication, that the maker made the year 2000 statement—

(i) with actual knowledge that the year 2000 statement was false, inaccurate, or misleading;

(ii) with intent to deceive or mislead; or

(iii) with a reckless disregard as to the accuracy of the year 2000 statement; or

(B) to the extent the year 2000 statement was a republication, that the maker of the republication made the year 2000 statement—

(i) with actual knowledge that the year 2000 statement was false, inaccurate, or misleading;

(ii) with intent to deceive or mislead; or

(iii) without notice in that year 2000 statement that—

(I) the maker has not verified the contents of the republication; or

(II) the maker is not the source of the republication and the republication is based on information supplied by another person or entity identified in that year 2000 statement or republication.

(c) **DEFAMATION OR SIMILAR CLAIMS.**—In a covered action arising under any Federal or State law of defamation, trade disparagement, or a similar claim, to the extent such action is based on an allegedly false, inaccurate, or misleading year 2000 statement, the maker of that year 2000 statement shall not be liable with respect to that year 2000 statement, unless the claimant establishes by clear and convincing evidence, in addition to all other requisite elements of the applicable action, that the year 2000 statement

was made with knowledge that the year 2000 statement was false or made with reckless disregard as to its truth or falsity.

(d) YEAR 2000 INTERNET WEBSITE.—

(1) IN GENERAL.—Except as provided in paragraph (2), in any covered action other than a covered action involving personal injury or serious physical damage to property, in which the adequacy of notice about year 2000 processing is at issue, the posting, in a commercially reasonable manner and for a commercially reasonable duration, of a notice by the entity charged with giving such notice on the year 2000 Internet website of that entity shall be deemed an adequate mechanism for providing that notice.

(2) EXCEPTION.—Paragraph (1) shall not apply if the court finds that the use of the mechanism of notice—

(A) is contrary to express prior representations regarding the mechanism of notice made by the party giving notice;

(B) is materially inconsistent with the regular course of dealing between the parties; or

(C) occurs where there have been no prior representations regarding the mechanism of notice, no regular course of dealing exists between the parties, and actual notice is clearly the most commercially reasonable means of providing notice.

(3) CONSTRUCTION.—Nothing in this subsection shall—

(A) alter or amend any Federal or State statute or regulation requiring that notice about year 2000 processing be provided using a different mechanism;

(B) create a duty to provide notice about year 2000 processing;

(C) preclude or suggest the use of any other medium for notice about year 2000 processing or require the use of an Internet website; or

(D) mandate the content or timing of any notices about year 2000 processing.

(e) LIMITATION ON EFFECT OF YEAR 2000 STATEMENTS.—

(1) IN GENERAL.—In any covered action, a year 2000 statement shall not be interpreted or construed as an amendment to or alteration of a contract or warranty, whether entered into by or approved for a public or private entity.

(2) NOT APPLICABLE.—

(A) IN GENERAL.—This subsection shall not apply—

(i) to the extent the party whose year 2000 statement is alleged to have amended or altered a contract or warranty has otherwise agreed in writing to so alter or amend the contract or warranty;

(ii) to a year 2000 statement made in conjunction with the formation of the contract or warranty; or

(iii) if the contract or warranty specifically provides for its amendment or alteration through the making of a year 2000 statement.

(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall affect applicable Federal or State law in effect as of the date of enactment of this Act with respect to determining the extent to which a year 2000 statement affects a contract or warranty.

(f) SPECIAL DATA GATHERING.—

(1) IN GENERAL.—A Federal entity, agency, or authority may expressly designate a request for the voluntary provision of information relating to year 2000 processing, including year 2000 statements, as a special year 2000 data gathering request made pursuant to this subsection.

(2) SPECIFICS.—A special year 2000 data gathering request made under this subsection shall specify a Federal entity, agency, or authority, or, with its consent, another public or private entity, agency, or authority, to gather responses to the request.

(3) PROTECTIONS.—Except with the express consent or permission of the provider of information described in paragraph (1), any year 2000 statements or other such information provided by a party in response to a special year 2000 data gathering request made under this subsection—

(A) shall be exempt from disclosure under subsection

(b)(4) of section 552 of title 5, United States Code, commonly known as the “Freedom of Information Act”;

(B) shall not be disclosed to any third party; and

(C) may not be used by any Federal entity, agency, or authority or by any third party, directly or indirectly, in any civil action arising under any Federal or State law.

(4) EXCEPTIONS.—

(A) INFORMATION OBTAINED ELSEWHERE.—Nothing in this subsection shall preclude a Federal entity, agency, or authority, or any third party, from separately obtaining the information submitted in response to a request under this subsection through the use of independent legal authorities, and using such separately obtained information in any action.

(B) VOLUNTARY DISCLOSURE.—A restriction on use or disclosure of information under this subsection shall not apply to any information disclosed to the public with the express consent of the party responding to a special year 2000 data gathering request or disclosed by such party separately from a response to a special year 2000 data gathering request.

#### **SEC. 5. TEMPORARY ANTITRUST EXEMPTION.**

(a) EXEMPTION.—Except as provided in subsection (b), the anti-trust laws shall not apply to conduct engaged in, including making and implementing an agreement, solely for the purpose of and limited to—

(1) facilitating responses intended to correct or avoid a failure of year 2000 processing in a computer system, in a component of a computer system, in a computer program or software, or services utilizing any such system, component, program, or hardware; or

(2) communicating or disclosing information to help correct or avoid the effects of year 2000 processing failure

(b) APPLICABILITY.—Subsection (a) shall apply only to conduct that occurs, or an agreement that is made and implemented, after the date of enactment of this Act and before July 14, 2001.

(c) EXCEPTION TO EXEMPTION.—Subsection (a) shall not apply with respect to conduct that involves or results in an agreement

to boycott any person, to allocate a market, or to fix prices or output.

(d) **RULE OF CONSTRUCTION.**—The exemption granted by this section shall be construed narrowly.

**SEC. 6. EXCLUSIONS.**

(a) **EFFECT ON INFORMATION DISCLOSURE.**—This Act does not affect, abrogate, amend, or alter the authority of a Federal or State entity, agency, or authority to enforce a requirement to provide or disclose, or not to provide or disclose, information under a Federal or State statute or regulation or to enforce such statute or regulation.

(b) **CONTRACTS AND OTHER CLAIMS.**—

(1) **IN GENERAL.**—Except as may be otherwise provided in subsections (a) and (e) of section 4, this Act does not affect, abrogate, amend, or alter any right established by contract or tariff between any person or entity, whether entered into by a public or private person or entity, under any Federal or State law.

(2) **OTHER CLAIMS.**—

(A) **IN GENERAL.**—In any covered action brought by a consumer, this Act does not apply to a year 2000 statement expressly made in a solicitation, including an advertisement or offer to sell, to that consumer by a seller, manufacturer, or provider of a consumer product.

(B) **SPECIFIC NOTICE REQUIRED.**—In any covered action, this Act shall not apply to a year 2000 statement, concerning a year 2000 remediation product or service, expressly made in an offer to sell or in a solicitation (including an advertisement) by a seller, manufacturer, or provider, of that product or service unless, during the course of the offer or solicitation, the party making the offer or solicitation provides the following notice in accordance with section 4(d):

“Statements made to you in the course of this sale are subject to the Year 2000 Information and Readiness Disclosure Act (\_\_\_ U.S.C. \_\_\_). In the case of a dispute, this Act may reduce your legal rights regarding the use of any such statements, unless otherwise specified by your contract or tariff.”

(3) **RULE OF CONSTRUCTION.**—Nothing in this Act shall be construed to preclude any claims that are not based exclusively on year 2000 statements.

(c) **DUTY OR STANDARD OF CARE.**—

(1) **IN GENERAL.**—This Act shall not impose upon the maker of any year 2000 statement any more stringent obligation, duty, or standard of care than is otherwise applicable under any other Federal law or State law.

(2) **ADDITIONAL DISCLOSURE.**—This Act does not preclude any party from making or providing any additional disclosure, disclaimer, or similar provisions in connection with any year 2000 readiness disclosure or year 2000 statement.

(3) **DUTY OF CARE.**—This Act shall not be deemed to alter any standard or duty of care owed by a fiduciary, as defined or determined by applicable Federal or State law.



(d) **INTELLECTUAL PROPERTY RIGHTS.**—This Act does not affect, abrogate, amend, or alter any right in a patent, copyright, semiconductor mask work, trade secret, trade name, trademark, or service mark, under any Federal or State law.

(e) **INJUNCTIVE RELIEF.**—Nothing in this Act shall be deemed to preclude a claimant from seeking injunctive relief with respect to a year 2000 statement.

**SEC. 7. APPLICABILITY.**

(a) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as otherwise provided in this section, this Act shall become effective on the date of enactment of this Act.

(2) **APPLICATION TO LAWSUITS PENDING.**—This Act shall not affect or apply to any lawsuit pending on July 14, 1998.

(3) **APPLICATION TO STATEMENTS AND DISCLOSURES.**—Except as provided in subsection (b)—

(A) this Act shall apply to any year 2000 statement made beginning on July 14, 1998 and ending on July 14, 2001; and

(B) this Act shall apply to any year 2000 readiness disclosure made beginning on the date of enactment of this Act and ending on July 14, 2001.

(b) **PREVIOUSLY MADE READINESS DISCLOSURE.**—

(1) **IN GENERAL.**—For the purposes of section 4(a), a person or entity that issued or published a year 2000 statement after January 1, 1996, and before the date of enactment of this Act, may designate that year 2000 statement as a year 2000 readiness disclosure if—

(A) the year 2000 statement complied with the requirements of section 3(9) when made, other than being clearly designated on its face as a disclosure; and

(B) within 45 days after the date of enactment of this Act, the person or entity seeking the designation— Deadline.

(i) provides individual notice that meets the requirements of paragraph (2) to all recipients of the applicable year 2000 statement; or

(ii) prominently posts notice that meets the requirements of paragraph (2) on its year 2000 Internet website, commencing prior to the end of the 45-day period under this subparagraph and extending for a minimum of 45 consecutive days and also uses the same method of notification used to originally provide the applicable year 2000 statement.

(2) **REQUIREMENTS.**—A notice under paragraph (1)(B) shall—

(A) state that the year 2000 statement that is the subject of the notice is being designated a year 2000 readiness disclosure; and

(B) include a copy of the year 2000 statement with a legend labeling the statement as a “Year 2000 Readiness Disclosure”.

(c) **EXCEPTION.**—No designation of a year 2000 statement as a year 2000 readiness disclosure under subsection (b) shall apply with respect to any person or entity that—

(1) proves, by clear and convincing evidence, that it relied on the year 2000 statement prior to the receipt of notice

described in subsection (b)(1)(B) and it would be prejudiced by the retroactive designation of the year 2000 statement as a year 2000 readiness disclosure; and

(2) provides to the person or entity seeking the designation a written notice objecting to the designation within 45 days after receipt of individual notice under subsection (b)(1)(B)(i), or within 180 days after the date of enactment of this Act, in the case of notice provided under subsection (b)(1)(B)(ii).

#### SEC. 8. YEAR 2000 COUNCIL WORKING GROUPS.

(a) IN GENERAL.—

(1) WORKING GROUPS.—The President's Year 2000 Council (referred to in this section as the "Council") may establish and terminate working groups composed of Federal employees who will engage outside organizations in discussions to address the year 2000 problems identified in section 2(a)(1) to share information related to year 2000 readiness, and otherwise to serve the purposes of this Act.

Records.  
Public  
information.

(2) LIST OF GROUPS.—The Council shall maintain and make available to the public a printed and electronic list of the working groups, the members of each working group, and a point of contact, together with an address, telephone number, and electronic mail address for the point of contact, for each working group created under this section.

(3) BALANCE.—The Council shall seek to achieve a balance of participation and representation among the working groups.

Records.  
Public  
information.

(4) ATTENDANCE.—The Council shall maintain and make available to the public a printed and electronic list of working group members who attend each meeting of a working group as well as any other individuals or organizations participating in each meeting.

(5) MEETINGS.—Each meeting of a working group shall be announced in advance in accordance with procedures established by the Council. The Council shall encourage working groups to hold meetings open to the public to the extent feasible and consistent with the activities of the Council and the purposes of this Act.

(b) FACAA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working groups established under this section.

(c) PRIVATE RIGHT OF ACTION.—This section creates no private right of action to sue for enforcement of the provisions of this section.

(d) EXPIRATION.—The authority conferred by this section shall expire on December 31, 2000.

#### SEC. 9. NATIONAL INFORMATION CLEARINGHOUSE AND WEBSITE.

(a) NATIONAL WEBSITE.—

(1) IN GENERAL.—The Administrator of General Services shall create and maintain until July 14, 2002, a national year 2000 website, and promote its availability, designed to assist consumers, small business, and local governments in obtaining information from other governmental websites, hotlines, or information clearinghouses about year 2000 processing of computers, systems, products, and services, including websites maintained by independent agencies and other departments.

(2) CONSULTATION.—In creating the national year 2000 website, the Administrator of General Services shall consult with—

(A) the Director of the Office of Management and Budget;

(B) the Administrator of the Small Business Administration;

(C) the Consumer Product Safety Commission;

(D) officials of State and local governments;

(E) the Director of the National Institute of Standards and Technology;

(F) representatives of consumer and industry groups; and

(G) representatives of other entities, as determined appropriate.

(b) REPORT.—The Administrator of General Services shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives not later than 60 days after the date of enactment of this Act regarding planning to comply with the requirements of this section.

Deadline.

Approved October 19, 1998.

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LEGISLATIVE HISTORY—S. 2392:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 28, considered and passed Senate.

Oct. 1, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 19, Presidential statement.



Public Law 105–272  
105th Congress

An Act

Oct. 20, 1998  
[H.R. 3694]

To authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Intelligence  
Authorization  
Act for Fiscal  
Year 1999.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 1999”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follow:

Sec. 1. Short title; table of contents.

**TITLE I—INTELLIGENCE ACTIVITIES**

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Community Management Account.

Sec. 105. Authorization of emergency supplemental appropriations for fiscal year 1998.

**TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND  
DISABILITY SYSTEM**

Sec. 201. Authorization of appropriations.

**TITLE III—GENERAL PROVISIONS**

Sec. 301. Increase in employee compensation and benefits authorized by law.

Sec. 302. Restriction on conduct of intelligence activities.

Sec. 303. One-year extension of application of sanctions laws to intelligence activities.

Sec. 304. Sense of Congress on intelligence community contracting.

Sec. 305. Modification of national security education program.

Sec. 306. Requirement to direct competitive analysis of analytical products having National importance.

Sec. 307. Annual reports to Congress.

Sec. 308. Quadrennial intelligence review.

Sec. 309. Designation of headquarters compound of Central Intelligence Agency as the George Bush Center for Intelligence.

**TITLE IV—CENTRAL INTELLIGENCE AGENCY**

Sec. 401. Enhanced protective authority for CIA personnel and family members.

Sec. 402. Authority for retroactive payment of specified special pay allowance.

Sec. 403. Technical amendments.

**TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES**

Sec. 501. Extension of authority to engage in commercial activities as security for intelligence collection activities.

TITLE VI—FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM  
INVESTIGATIONS

- Sec. 601. Pen registers and trap and trace devices in foreign intelligence and international terrorism investigations.  
Sec. 602. Access to certain business records for foreign intelligence and international terrorism investigations.  
Sec. 603. Conforming and clerical amendments.  
Sec. 604. Wire and electronic communications interception requirements.  
Sec. 605. Authority of Attorney General to accept voluntary services.

TITLE VII—WHISTLEBLOWER PROTECTION FOR INTELLIGENCE  
COMMUNITY EMPLOYEES REPORTING URGENT CONCERNS TO CONGRESS

- Sec. 701. Short title; findings.  
Sec. 702. Protection of intelligence community employees who report urgent concerns to Congress.

**TITLE I—INTELLIGENCE ACTIVITIES****SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.
- (10) The National Reconnaissance Office.
- (11) The National Imagery and Mapping Agency.

**SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1999, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 3694 of the 105th Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the Executive Branch.

President.

**SEC. 103. PERSONNEL CEILING ADJUSTMENTS.**

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1999 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel

employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate upon an exercise of the authority granted by this section.

#### SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1999 the sum of \$129,123,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee and the Advanced Technology Group shall remain available until September 30, 2000.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Community Management Account of the Director of Central Intelligence are authorized 283 full-time personnel as of September 30, 1999. Personnel serving in such elements may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Community Management Account by subsection (a), there is also authorized to be appropriated for the Community Management Account for fiscal year 1999 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2000.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Community Management Account as of September 30, 1999, there is authorized such additional personnel for such elements as of that date as is specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 1999, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of an element within the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than 1 year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount appropriated pursuant to the authorization in subsection (a), the amount of \$27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, test, and evaluation purposes shall remain available until September 30, 2000, and funds provided

for procurement purposes shall remain available until September 30, 2001.

(2) **TRANSFER OF FUNDS.**—The Director of Central Intelligence shall transfer to the Attorney General of the United States funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) **LIMITATION.**—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).

(4) **AUTHORITY.**—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

(f) **TRANSFER AUTHORITY FOR FUNDS FOR SECURITY REQUIREMENTS AT OVERSEAS LOCATIONS.**—

(1) **IN GENERAL.**—Of the amount appropriated pursuant to the authorization in subsection (a), the Director of Central Intelligence may transfer funds to departments or other agencies for the sole purpose of supporting certain intelligence community security requirements at overseas locations, as specified by the Director.

(2) **LIMITATION.**—Amounts made available for departments or agencies under paragraph (1) shall be—

(A) transferred to the specific appropriation;

(B) allocated to the specific account in the specific amount, as determined by the Director;

(C) merged with funds in such account that are available for architectural and engineering support expenses at overseas locations; and

(D) available only for the same purposes, and subject to the same terms and conditions, as the funds described in subparagraph (C).

**SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1998.**

(a) **AUTHORIZATION.**—Amounts authorized to be appropriated for fiscal year 1998 under section 101 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105-107) for the conduct of the intelligence activities of elements of the United States Government listed in such section are hereby increased, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased by the following:

(1) An emergency supplemental appropriation in title I of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105-174).

(2) An emergency supplemental appropriation in a supplemental appropriations Act for fiscal year 1998 that is enacted after September 28, 1998, for such amounts as are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

(b) **RATIFICATION.**—For purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414), any obligation or expenditure of those amounts deemed to have been specifically authorized by

Congress in the Act referred to in subsection (a)(1) and in the supplemental appropriations Act referred to in subsection (a)(2) is hereby ratified and confirmed.

## **TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABIL- ITY SYSTEM**

### **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1999 the sum of \$201,500,000.

## **TITLE III—GENERAL PROVISIONS**

### **SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.**

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

### **SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.**

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

### **SEC. 303. ONE-YEAR EXTENSION OF APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.**

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking out “January 6, 1999” and inserting in lieu thereof “January 6, 2000”.

### **SEC. 304. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.**

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

### **SEC. 305. MODIFICATION OF NATIONAL SECURITY EDUCATION PROGRAM.**

(a) ASSISTANCE FOR COUNTERPROLIFERATION STUDIES.—The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended as follows:

(1) Section 801 (50 U.S.C. 1901) is amended by inserting “counterproliferation studies,” after “area studies,” in subsections (b)(7) and (c)(2).

(2) Section 802 (50 U.S.C. 1902) is amended—



(A) in subsection (a), by inserting “counterproliferation studies,” after “area studies,” in paragraphs (1)(B)(i), (1)(C), and (4); and

(B) in subsection (b)(2), by inserting “counterproliferation study,” after “area study,” in subparagraphs (A)(ii) and (B)(ii).

(3) Section 803 (50 U.S.C. 1903) is amended by striking out “and area” in subsections (b)(8) and (d)(4) and inserting in lieu thereof “area, and counterproliferation”.

(4) Section 806(b)(1) (50 U.S.C. 1906(b)(1)) is amended by striking out “and area” and inserting in lieu thereof “area, and counterproliferation”.

(b) REVISION OF MEMBERSHIP OF NATIONAL SECURITY EDUCATION BOARD.—Section 803(b)(6) of such Act (50 U.S.C. 1903(b)(6)) is amended to read as follows:

“(6) The Secretary of Energy.”.

**SEC. 306. REQUIREMENT TO DIRECT COMPETITIVE ANALYSIS OF ANALYTICAL PRODUCTS HAVING NATIONAL IMPORTANCE.**

Section 102(g)(2) of the National Security Act of 1947 (50 U.S.C. 403(g)(2)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

“(D) direct competitive analysis of analytical products having National importance;”.

**SEC. 307. ANNUAL REPORTS TO CONGRESS.**

(a) ADDITIONAL ANNUAL REPORTS FROM THE DIRECTOR OF CENTRAL INTELLIGENCE.—Title I of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

“ADDITIONAL ANNUAL REPORTS FROM THE DIRECTOR OF CENTRAL INTELLIGENCE

“SEC. 114. (a) REPORT ON INTELLIGENCE COMMUNITY COOPERATION WITH FEDERAL LAW ENFORCEMENT AGENCIES.—(1) Not later than December 31 of each year, the Director of Central Intelligence shall submit to the congressional intelligence committees and the congressional leadership a report describing the nature and extent of cooperation and assistance provided by the intelligence community to Federal law enforcement agencies with respect to efforts to stop the illegal importation into the United States of controlled substances (as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) that are included in schedule I or II under part B of such Act.

50 USC 404i.  
Deadline.

“(2) Each such report shall include a discussion of the following:

“(A) Illegal importation of such controlled substances through transit zones such as the Caribbean Sea and across the Southwest and northern borders of the United States.

“(B) Methodologies used for such illegal importation.

“(C) Additional routes used for such illegal importation.

“(D) Quantities of such controlled substances transported through each route.

“(3) Each such report may be prepared in classified form, unclassified form, or unclassified form with a classified annex.

“(b) ANNUAL REPORT ON THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.—(1) The Director of Central Intelligence shall, on an annual basis, submit to the congressional intelligence committees and the congressional leadership an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

“(2) Each such report shall include a discussion of the following:

“(A) The ability of the Government of Russia to maintain its nuclear military forces.

“(B) The security arrangements at civilian and military nuclear facilities in Russia.

“(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

“(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

“(3) Each such report shall be submitted in unclassified form, but may contain a classified annex.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘congressional intelligence committees’ means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

“(2) The term ‘congressional leadership’ means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.”.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 113 the following new item:

“Sec. 114. Additional annual reports from the Director of Central Intelligence.”.

50 USC 404i  
note.

(c) DATE FOR FIRST REPORT ON COOPERATION WITH CIVILIAN LAW ENFORCEMENT AGENCIES.—The first report under section 114(a) of the National Security Act of 1947, as added by subsection (a), shall be submitted not later than December 31, 1999.

#### **SEC. 308. QUADRENNIAL INTELLIGENCE REVIEW.**

(a) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the Director of Central Intelligence and the Secretary of Defense should jointly complete, in 1999 and every 4 years thereafter, a comprehensive review of United States intelligence programs and activities, with each such review—

(A) to include assessments of intelligence policy, resources, manpower, organization, and related matters; and

(B) to encompass the programs and activities funded under the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) accounts;

(2) that the results of each review should be shared with the appropriate committees of Congress and the congressional leadership; and

(3) that the Director, in conjunction with the Secretary, should establish a nonpartisan, independent panel (with members chosen in consultation with the appropriate committees

of Congress and the congressional leadership from individuals in the private sector) in order to—

(A) assess each review under paragraph (1);

(B) conduct an assessment of alternative intelligence structures to meet the anticipated intelligence requirements for the national security and foreign policy of the United States through the year 2010; and

(C) make recommendations to the Director and the Secretary regarding the optimal intelligence structure for the United States in light of the assessment under subparagraph (B).

(b) **REPORT.**—(1) Not later than December 1, 1998, the Director of Central Intelligence and the Secretary of Defense shall jointly submit to the committees specified in paragraph (2) the views of the Director and the Secretary regarding—

(A) the potential value of conducting quadrennial intelligence reviews as described in subsection (a)(1); and

(B) the potential value of assessments of such reviews as described in subsection (a)(3)(A).

(2) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

(B) The Permanent Select Committee on Intelligence, the Committee on National Security, and the Committee on Appropriations of the House of Representatives.

**SEC. 309. DESIGNATION OF HEADQUARTERS COMPOUND OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE BUSH CENTER FOR INTELLIGENCE.**

(a) **DESIGNATION.**—The headquarters compound of the Central Intelligence Agency located in Langley, Virginia, shall be known and designated as the “George Bush Center for Intelligence”.

(b) **REFERENCES.**—Any reference in a law, map, regulation, document, paper, or other record of the United States to the headquarters compound referred to in subsection (a) shall be deemed to be a reference to the “George Bush Center for Intelligence”.

Deadline.

Virginia.  
50 USC 403-1  
note.

## **TITLE IV—CENTRAL INTELLIGENCE AGENCY**

**SEC. 401. ENHANCED PROTECTIVE AUTHORITY FOR CIA PERSONNEL AND FAMILY MEMBERS.**

Section 5(a)(4) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(4)) is amended by striking out “and the protection of Agency personnel and of defectors, their families,” and inserting in lieu thereof “and the protection of current and former Agency personnel and their immediate families, defectors and their immediate families,”.

**SEC. 402. AUTHORITY FOR RETROACTIVE PAYMENT OF SPECIFIED SPECIAL PAY ALLOWANCE.**

(a) **AUTHORIZATION.**—The Director of Central Intelligence may make payments with respect to the period beginning on January 30, 1998, and ending on April 7, 1998, of the special pay allowance

described in the Central Intelligence Agency notice dated April 7, 1998 (notwithstanding the otherwise applicable effective date for such payments of April 7, 1998).

(b) FUNDS AVAILABLE.—Payments authorized by subsection (a) may be made from amounts appropriated for the Central Intelligence Agency for fiscal year 1998 or for fiscal year 1999.

#### **SEC. 403. TECHNICAL AMENDMENTS.**

(a) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—The Central Intelligence Agency Act of 1949 is amended as follows:

(1) Section 5(a)(1) (50 U.S.C. 403f(a)(1)) is amended—

(A) by striking out “subparagraphs (B) and (C) of section 102(a)(2)” and inserting in lieu thereof “paragraphs (2) and (3) of section 102(a)”;

(B) by striking out “(c)(5)” and inserting in lieu thereof “(c)(6)”;

(C) by inserting “(3),” after “403(a)(2),”;

(D) by inserting “(c)(6), (d)” after “403–3”; and

(E) by inserting “(a), (g)” after “403–4”.

(2) Section 6 (50 U.S.C. 403g) is amended by striking out “(c)(5)” each place it appears and inserting in lieu thereof “(c)(6)”.

(b) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended by striking out “section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5))” and inserting in lieu thereof “paragraph (6) of section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c))”.

## **TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES**

#### **SEC. 501. EXTENSION OF AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLEC- TION ACTIVITIES.**

Section 431(a) of title 10, United States Code, is amended by striking out “December 31, 1998” and inserting in lieu thereof “December 31, 2000”.

## **TITLE VI—FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS**

#### **SEC. 601. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.**

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating title IV as title VI and section 401 as section 601, respectively; and

(2) by inserting after title III the following new title:

“TITLE IV—PEN REGISTERS AND TRAP AND TRACE  
DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

“DEFINITIONS

“SEC. 401. As used in this title:

50 USC 1841.

“(1) The terms ‘foreign power’, ‘agent of a foreign power’, ‘international terrorism’, ‘foreign intelligence information’, ‘Attorney General’, ‘United States person’, ‘United States’, ‘person’, and ‘State’ shall have the same meanings as in section 101 of this Act.

“(2) The terms ‘pen register’ and ‘trap and trace device’ have the meanings given such terms in section 3127 of title 18, United States Code.

“(3) The term ‘aggrieved person’ means any person—

“(A) whose telephone line was subject to the installation or use of a pen register or trap and trace device authorized by this title; or

“(B) whose communication instrument or device was subject to the use of a pen register or trap and trace device authorized by this title to capture incoming electronic or other communications impulses.

“PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN  
INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

“SEC. 402. (a)(1) Notwithstanding any other provision of law, the Attorney General or a designated attorney for the Government may make an application for an order or an extension of an order authorizing or approving the installation and use of a pen register or trap and trace device for any investigation to gather foreign intelligence information or information concerning international terrorism which is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

50 USC 1842.

“(2) The authority under paragraph (1) is in addition to the authority under title I of this Act to conduct the electronic surveillance referred to in that paragraph.

“(b) Each application under this section shall be in writing under oath or affirmation to—

“(1) a judge of the court established by section 103(a) of this Act; or

“(2) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications for and grant orders approving the installation and use of a pen register or trap and trace device on behalf of a judge of that court.

“(c) Each application under this section shall require the approval of the Attorney General, or a designated attorney for the Government, and shall include—

“(1) the identity of the Federal officer seeking to use the pen register or trap and trace device covered by the application;

“(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing foreign intelligence or international terrorism investigation being conducted by the Federal Bureau of Investigation under guidelines approved by the Attorney General; and

“(3) information which demonstrates that there is reason to believe that the telephone line to which the pen register or trap and trace device is to be attached, or the communication instrument or device to be covered by the pen register or trap and trace device, has been or is about to be used in communication with—

“(A) an individual who is engaging or has engaged in international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States; or

“(B) a foreign power or agent of a foreign power under circumstances giving reason to believe that the communication concerns or concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States.

“(d)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the installation and use of a pen register or trap and trace device if the judge finds that the application satisfies the requirements of this section.

“(2) An order issued under this section—

“(A) shall specify—

“(i) the identity, if known, of the person who is the subject of the foreign intelligence or international terrorism investigation;

“(ii) in the case of an application for the installation and use of a pen register or trap and trace device with respect to a telephone line—

“(I) the identity, if known, of the person to whom is leased or in whose name the telephone line is listed; and

“(II) the number and, if known, physical location of the telephone line; and

“(iii) in the case of an application for the use of a pen register or trap and trace device with respect to a communication instrument or device not covered by clause (ii)—

“(I) the identity, if known, of the person who owns or leases the instrument or device or in whose name the instrument or device is listed; and

“(II) the number of the instrument or device; and

“(B) shall direct that—

“(i) upon request of the applicant, the provider of a wire or electronic communication service, landlord, custodian, or other person shall furnish any information, facilities, or technical assistance necessary to accomplish the installation and operation of the pen register or trap and trace device in such a manner as will protect its secrecy and produce a minimum amount of interference with the services that such provider, landlord, custodian, or other person is providing the person concerned;

“(ii) such provider, landlord, custodian, or other person—

“(I) shall not disclose the existence of the investigation or of the pen register or trap and trace device to any person unless or until ordered by the court; and

“(II) shall maintain, under security procedures approved by the Attorney General and the Director of Central Intelligence pursuant to section 105(b)(2)(C) of this Act, any records concerning the pen register or trap and trace device or the aid furnished; and  
“(iii) the applicant shall compensate such provider, landlord, custodian, or other person for reasonable expenses incurred by such provider, landlord, custodian, or other person in providing such information, facilities, or technical assistance.

Records.

“(e) An order issued under this section shall authorize the installation and use of a pen register or trap and trace device for a period not to exceed 90 days. Extensions of such an order may be granted, but only upon an application for an order under this section and upon the judicial finding required by subsection (d). The period of extension shall be for a period not to exceed 90 days.

“(f) No cause of action shall lie in any court against any provider of a wire or electronic communication service, landlord, custodian, or other person (including any officer, employee, agent, or other specified person thereof) that furnishes any information, facilities, or technical assistance under subsection (d) in accordance with the terms of a court under this section.

“(g) Unless otherwise ordered by the judge, the results of a pen register or trap and trace device shall be furnished at reasonable intervals during regular business hours for the duration of the order to the authorized Government official or officials.

#### “AUTHORIZATION DURING EMERGENCIES

“SEC. 403. (a) Notwithstanding any other provision of this title, when the Attorney General makes a determination described in subsection (b), the Attorney General may authorize the installation and use of a pen register or trap and trace device on an emergency basis to gather foreign intelligence information or information concerning international terrorism if—

50 USC 1843.

“(1) a judge referred to in section 402(b) of this Act is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to install and use the pen register or trap and trace device, as the case may be, on an emergency basis; and

“(2) an application in accordance with section 402 of this Act is made to such judge as soon as practicable, but not more than 48 hours, after the Attorney General authorizes the installation and use of the pen register or trap and trace device, as the case may be, under this section.

“(b) A determination under this subsection is a reasonable determination by the Attorney General that—

“(1) an emergency requires the installation and use of a pen register or trap and trace device to obtain foreign intelligence information or information concerning international terrorism before an order authorizing the installation and use of the pen register or trap and trace device, as the case may be, can with due diligence be obtained under section 402 of this Act; and

“(2) the factual basis for issuance of an order under such section 402 to approve the installation and use of the pen register or trap and trace device, as the case may be, exists.

“(c)(1) In the absence of an order applied for under subsection (a)(2) approving the installation and use of a pen register or trap and trace device authorized under this section, the installation and use of the pen register or trap and trace device, as the case may be, shall terminate at the earlier of—

“(A) when the information sought is obtained;

“(B) when the application for the order is denied under section 402 of this Act; or

“(C) 48 hours after the time of the authorization by the Attorney General.

“(2) In the event that an application for an order applied for under subsection (a)(2) is denied, or in any other case where the installation and use of a pen register or trap and trace device under this section is terminated and no order under section 402 of this Act is issued approving the installation and use of the pen register or trap and trace device, as the case may be, no information obtained or evidence derived from the use of the pen register or trap and trace device, as the case may be, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from the use of the pen register or trap and trace device, as the case may be, shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

#### “AUTHORIZATION DURING TIME OF WAR

50 USC 1844.

“SEC. 404. Notwithstanding any other provision of law, the President, through the Attorney General, may authorize the use of a pen register or trap and trace device without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by Congress.

#### “USE OF INFORMATION

50 USC 1845.

“SEC. 405. (a)(1) Information acquired from the use of a pen register or trap and trace device installed pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the provisions of this section.

“(2) No information acquired from a pen register or trap and trace device installed and used pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

“(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

“(c) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body,



or other authority of the United States against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the United States shall, before the trial, hearing, or the other proceeding or at a reasonable time before an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

“(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the State or political subdivision thereof against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

“(e)(1) Any aggrieved person against whom evidence obtained or derived from the use of a pen register or trap and trace device is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, or a State or political subdivision thereof, may move to suppress the evidence obtained or derived from the use of the pen register or trap and trace device, as the case may be, on the grounds that—

“(A) the information was unlawfully acquired; or

“(B) the use of the pen register or trap and trace device, as the case may be, was not made in conformity with an order of authorization or approval under this title.

“(2) A motion under paragraph (1) shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the aggrieved person concerned was not aware of the grounds of the motion.

“(f)(1) Whenever a court or other authority is notified pursuant to subsection (c) or (d), whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to the use of a pen register or trap and trace device authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from the use of a pen register or trap and trace device authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other provision of law and if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the use of the pen register or trap and trace device, as the case may be, as may be necessary to determine whether the use

Courts.

of the pen register or trap and trace device, as the case may be, was lawfully authorized and conducted.

“(2) In making a determination under paragraph (1), the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the use of the pen register or trap and trace device, as the case may be, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the use of the pen register or trap and trace device, as the case may be.

“(g)(1) If the United States district court determines pursuant to subsection (f) that the use of a pen register or trap and trace device was not lawfully authorized or conducted, the court may, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the use of the pen register or trap and trace device, as the case may be, or otherwise grant the motion of the aggrieved person.

“(2) If the court determines that the use of the pen register or trap and trace device, as the case may be, was lawfully authorized or conducted, it may deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

“(h) Orders granting motions or requests under subsection (g), decisions under this section that the use of a pen register or trap and trace device was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the installation and use of a pen register or trap and trace device shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

#### “CONGRESSIONAL OVERSIGHT

50 USC 1846.

“SEC. 406. (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all uses of pen registers and trap and trace devices pursuant to this title.

Reports.

“(b) On a semiannual basis, the Attorney General shall also provide to the committees referred to in subsection (a) and to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

“(1) the total number of applications made for orders approving the use of pen registers or trap and trace devices under this title; and

“(2) the total number of such orders either granted, modified, or denied.”.

#### SEC. 602. ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 601 of this Act, is further amended by inserting after title IV, as added by such section 601, the following new title:

“TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR  
FOREIGN INTELLIGENCE PURPOSES

“DEFINITIONS

“SEC. 501. As used in this title:

50 USC 1861.

“(1) The terms ‘foreign power’, ‘agent of a foreign power’, ‘foreign intelligence information’, ‘international terrorism’, and ‘Attorney General’ shall have the same meanings as in section 101 of this Act.

“(2) The term ‘common carrier’ means any person or entity transporting people or property by land, rail, water, or air for compensation.

“(3) The term ‘physical storage facility’ means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof.

“(4) The term ‘public accommodation facility’ means any inn, hotel, motel, or other establishment that provides lodging to transient guests.

“(5) The term ‘vehicle rental facility’ means any person or entity that provides vehicles for rent, lease, loan, or other similar use to the public or any segment thereof.

“ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE  
AND INTERNATIONAL TERRORISM INVESTIGATIONS

“SEC. 502. (a) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order authorizing a common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to release records in its possession for an investigation to gather foreign intelligence information or an investigation concerning international terrorism which investigation is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

50 USC 1862.

“(b) Each application under this section—

“(1) shall be made to—

“(A) a judge of the court established by section 103(a) of this Act; or

“(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the release of records under this section on behalf of a judge of that court; and

“(2) shall specify that—

“(A) the records concerned are sought for an investigation described in subsection (a); and

“(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.

“(c)(1) Upon application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application satisfies the requirements of this section.

“(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

“(d)(1) Any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility shall comply with an order under subsection (c).

“(2) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or officer, employee, or agent thereof, shall disclose to any person (other than those officers, agents, or employees of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section) that the Federal Bureau of Investigation has sought or obtained records pursuant to an order under this section.

#### “CONGRESSIONAL OVERSIGHT

50 USC 1863.

“SEC. 503. (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for records under this title.

Reports.

“(b) On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

“(1) the total number of applications made for orders approving requests for records under this title; and

“(2) the total number of such orders either granted, modified, or denied.”.

#### **SEC. 603. CONFORMING AND CLERICAL AMENDMENTS.**

50 USC 1801  
note.

(a) CONFORMING AMENDMENT.—Section 601 of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 601(1) of this Act, is amended by striking out “other than title III” and inserting in lieu thereof “other than titles III, IV, and V”.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of the Foreign Intelligence Surveillance Act of 1978 is amended by striking out the items relating to title IV and section 401 and inserting in lieu thereof the following:

#### “TITLE IV—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

“401. Definitions.

“402. Pen registers and trap and trace devices for foreign intelligence and international terrorism investigations.

“403. Authorization during emergencies.

“404. Authorization during time of war.

“405. Use of information.

“406. Congressional oversight.

#### “TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

“501. Definitions.

“502. Access to certain business records for foreign intelligence and international terrorism investigations.

“503. Congressional oversight.

## “TITLE VI—EFFECTIVE DATE

“601. Effective date.”.

**SEC. 604. WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION REQUIREMENTS.**

(a) **IN GENERAL.**—Section 2518(11)(b) of title 18, United States Code, is amended—

(1) in clause (ii), by striking “of a purpose” and all that follows through the end of such clause and inserting “that there is probable cause to believe that the person’s actions could have the effect of thwarting interception from a specified facility;”;

(2) in clause (iii), by striking “such purpose” and all that follows through the end of such clause and inserting “such showing has been adequately made; and”; and

(3) by adding at the end the following clause:

“(iv) the order authorizing or approving the interception is limited to interception only for such time as it is reasonable to presume that the person identified in the application is or was reasonably proximate to the instrument through which such communication will be or was transmitted.”.

(b) **CONFORMING AMENDMENTS.**—Section 2518(12) of title 18, United States Code, is amended—

(1) by inserting “(a)” after “by reason of subsection (11)”;

(2) by striking “the facilities from which, or”; and

(3) by striking the comma following “where”.

**SEC. 605. AUTHORITY OF ATTORNEY GENERAL TO ACCEPT VOLUNTARY SERVICES.**

Section 524(d)(1) of title 28, United States Code, is amended by inserting “or services” after “property”.

**TITLE VII—WHISTLEBLOWER PROTECTION FOR INTELLIGENCE COMMUNITY EMPLOYEES REPORTING URGENT CONCERNS TO CONGRESS**

Intelligence  
Community  
Whistleblower  
Protection Act of  
1998.

**SEC. 701. SHORT TITLE; FINDINGS.**

(a) **SHORT TITLE.**—This title may be cited as the “Intelligence Community Whistleblower Protection Act of 1998”.

5 USC app. 1  
note.

(b) **FINDINGS.**—The Congress finds that—

5 USC app. 8H  
note.

(1) national security is a shared responsibility, requiring joint efforts and mutual respect by Congress and the President;

(2) the principles of comity between the branches of Government apply to the handling of national security information;

(3) Congress, as a co-equal branch of Government, is empowered by the Constitution to serve as a check on the executive branch; in that capacity, it has a “need to know” of allegations of wrongdoing within the executive branch, including allegations of wrongdoing in the Intelligence Community;

(4) no basis in law exists for requiring prior authorization of disclosures to the intelligence committees of Congress by

employees of the executive branch of classified information about wrongdoing within the Intelligence Community;

(5) the risk of reprisal perceived by employees and contractors of the Intelligence Community for reporting serious or flagrant problems to Congress may have impaired the flow of information needed by the intelligence committees to carry out oversight responsibilities; and

(6) to encourage such reporting, an additional procedure should be established that provides a means for such employees and contractors to report to Congress while safeguarding the classified information involved in such reporting.

**SEC. 702. PROTECTION OF INTELLIGENCE COMMUNITY EMPLOYEES WHO REPORT URGENT CONCERNS TO CONGRESS.**

(a) INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.—

(1) IN GENERAL.—Subsection (d) of section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended by adding at the end the following new paragraph:

“(5)(A) An employee of the Agency, or of a contractor to the Agency, who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

Deadline.

“(B) Not later than the end of the 14-calendar day period beginning on the date of receipt from an employee of a complaint or information under subparagraph (A), the Inspector General shall determine whether the complaint or information appears credible. If the Inspector General determines that the complaint or information appears credible, the Inspector General shall, before the end of such period, transmit the complaint or information to the Director.

“(C) Upon receipt of a transmittal from the Inspector General under subparagraph (B), the Director shall, within 7 calendar days of such receipt, forward such transmittal to the intelligence committees, together with any comments the Director considers appropriate.

“(D)(i) If the Inspector General does not transmit, or does not transmit in an accurate form, the complaint or information described in subparagraph (B), the employee (subject to clause (ii)) may submit the complaint or information to Congress by contacting either or both of the intelligence committees directly.

“(ii) The employee may contact the intelligence committees directly as described in clause (i) only if the employee—

“(I) before making such a contact, furnishes to the Director, through the Inspector General, a statement of the employee’s complaint or information and notice of the employee’s intent to contact the intelligence committees directly; and

“(II) obtains and follows from the Director, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

“(iii) A member or employee of one of the intelligence committees who receives a complaint or information under clause (i) does so in that member or employee’s official capacity as a member or employee of that committee.

Notification.

“(E) The Inspector General shall notify an employee who reports a complaint or information to the Inspector General under this paragraph of each action taken under this paragraph with respect

to the complaint or information. Such notice shall be provided Deadline.  
not later than 3 days after any such action is taken.

“(F) An action taken by the Director or the Inspector General under this paragraph shall not be subject to judicial review.

“(G) In this paragraph:

“(i) The term ‘urgent concern’ means any of the following:

“(I) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

“(II) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.

“(III) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under subsection (e)(3)(B) in response to an employee’s reporting an urgent concern in accordance with this paragraph.

“(ii) The term ‘intelligence committees’ means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.”

(2) CLERICAL AMENDMENT.—The heading to subsection (d) of such section is amended by inserting “; REPORTS TO CONGRESS ON URGENT CONCERNS” before the period.

50 USC 403q.

(b) ADDITIONAL PROVISIONS WITH RESPECT TO INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY.—

(1) IN GENERAL.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by redesignating section 8H as section 8I and by inserting after section 8G the following new section:

“SEC. 8H. (a)(1)(A) An employee of the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, or the National Security Agency, or of a contractor of any of those Agencies, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Defense (or designee).

“(B) An employee of the Federal Bureau of Investigation, or of a contractor of the Bureau, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the Department of Justice (or designee).

“(C) Any other employee of, or contractor to, an executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities, who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the appropriate Inspector General (or designee) under this Act or section 17 of the Central Intelligence Agency Act of 1949.

“(2) If a designee of an Inspector General under this section receives a complaint or information of an employee with respect to an urgent concern, that designee shall report the complaint

or information to the Inspector General within 7 calendar days of receipt.

Deadline.

“(b) Not later than the end of the 14-calendar day period beginning on the date of receipt of an employee complaint or information under subsection (a), the Inspector General shall determine whether the complaint or information appears credible. If the Inspector General determines that the complaint or information appears credible, the Inspector General shall, before the end of such period, transmit the complaint or information to the head of the establishment.

“(c) Upon receipt of a transmittal from the Inspector General under subsection (b), the head of the establishment shall, within 7 calendar days of such receipt, forward such transmittal to the intelligence committees, together with any comments the head of the establishment considers appropriate.

“(d)(1) If the Inspector General does not transmit, or does not transmit in an accurate form, the complaint or information described in subsection (b), the employee (subject to paragraph (2)) may submit the complaint or information to Congress by contacting either or both of the intelligence committees directly.

“(2) The employee may contact the intelligence committees directly as described in paragraph (1) only if the employee—

“(A) before making such a contact, furnishes to the head of the establishment, through the Inspector General, a statement of the employee’s complaint or information and notice of the employee’s intent to contact the intelligence committees directly; and

“(B) obtains and follows from the head of the establishment, through the Inspector General, direction on how to contact the intelligence committees in accordance with appropriate security practices.

“(3) A member or employee of one of the intelligence committees who receives a complaint or information under paragraph (1) does so in that member or employee’s official capacity as a member or employee of that committee.

Notification.

“(e) The Inspector General shall notify an employee who reports a complaint or information under this section of each action taken under this section with respect to the complaint or information. Such notice shall be provided not later than 3 days after any such action is taken.

“(f) An action taken by the head of an establishment or an Inspector General under this section shall not be subject to judicial review.

“(g) In this section:

“(1) The term ‘urgent concern’ means any of the following:

“(A) A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operations of an intelligence activity involving classified information, but does not include differences of opinions concerning public policy matters.

“(B) A false statement to Congress, or a willful withholding from Congress, on an issue of material fact relating to the funding, administration, or operation of an intelligence activity.



“(C) An action, including a personnel action described in section 2302(a)(2)(A) of title 5, United States Code, constituting reprisal or threat of reprisal prohibited under section 7(c) in response to an employee’s reporting an urgent concern in accordance with this section.

“(2) The term ‘intelligence committees’ means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.”.

(2) CONFORMING AMENDMENT.—Section 8I of such Act (as redesignated by paragraph (1)) is amended by striking out “or 8E” and inserting in lieu thereof “8E, or 8H”. 5 USC app.

Approved October 20, 1998.

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LEGISLATIVE HISTORY—H.R. 3694 (S. 2052):

HOUSE REPORTS: Nos. 105–508 (Select Comm. on Intelligence) and 105–780 (Comm. of Conference).

SENATE REPORTS: No. 105–185 accompanying S. 2052 (Select Comm. on Intelligence).

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 7, considered and passed House.

June 26, considered and passed Senate, amended, in lieu of S. 2052.

Oct. 7, House agreed to conference report.

Oct. 8, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 20, Presidential statement.



Public Law 105–273  
105th Congress

Joint Resolution

Oct. 20, 1998  
[H.J. Res. 137]

Making further continuing appropriations for the fiscal year 1999, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 106(c) of Public Law 105–240 is further amended by striking “October 20, 1998” and inserting in lieu thereof “October 21, 1998”.  
*Ante*, pp. 1569, 1868, 1888, 1901, 1919.

Approved October 20, 1998.

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LEGISLATIVE HISTORY—H.J. Res. 137:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 19, considered and passed House.

Oct. 20, considered and passed Senate.



Public Law 105–274  
105th Congress

An Act

To make technical corrections to the National Capital Revitalization and Self-Government Improvement Act of 1997 with respect to the courts and court system of the District of Columbia.

Oct. 21, 1998  
[H.R. 4566]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “District of Columbia Courts and Justice Technical Corrections Act of 1998”.

**SEC. 2. TECHNICAL AND CLARIFYING AMENDMENTS RELATING TO JUDICIAL RETIREMENT PROGRAM.**

(a) ADMINISTRATION OF JUDICIAL RETIREMENT AND SURVIVORS ANNUITY FUND.—Section 11–1570, District of Columbia Code, as amended by section 11251 of the Balanced Budget Act of 1997, is amended as follows:

(1) In subsection (b)(1)—

(A) by striking “title I of the National Capital Revitalization and Self-Government Improvement Act of 1997” and inserting “subtitle A of title XI of the Balanced Budget Act of 1997”; and

(B) by inserting after the second sentence the following new sentences: “Notwithstanding any other provision of District law or any other law, rule, or regulation, any Trustee, contractor, or enrolled actuary selected by the Secretary under this subsection may, with the approval of the Secretary, enter into one or more subcontracts with the District of Columbia government or any person to provide services to such Trustee, contractor, or enrolled actuary in connection with its performance of its agreement with the Secretary. Such Trustee, contractor, or enrolled actuary shall monitor the performance of any subcontract to which it is a party and enforce its provisions.”.

(2) In subsection (b)(2)—

(A) by striking “chief judges of the District of Columbia Court of Appeals and Superior Court of the District of Columbia” and inserting “Secretary”;

(B) by striking “and the Secretary”;

(C) by striking “and appropriations”; and

(D) by striking “and deficiency”.

(3) By amending subsection (c) to read as follows:

“(c)(1) Amounts in the Fund are available—

“(A) for the payment of judges retirement pay, annuities, refunds, and allowances under this subchapter;

District of  
Columbia Courts  
and Justice  
Technical  
Corrections Act  
of 1998.  
5 USC 8401 note.

“(B) to cover the reasonable and necessary expenses of administering the Fund under any agreement entered into with a Trustee, contractor, or enrolled actuary under subsection (b)(1), including any agreement with a department, agency, or instrumentality of the United States; and

“(C) to cover the reasonable and necessary administrative expenses incurred by the Secretary in carrying out the Secretary’s responsibilities under this subchapter.

“(2) Notwithstanding any other provision of District law or any other law (other than the Internal Revenue Code of 1986), rule, or regulation—

“(A) the Secretary may review benefit determinations under this subchapter made prior to the date of the enactment of the Balanced Budget Act of 1997, and shall make initial benefit determinations after such date; and

“(B) the Secretary may recoup or recover, or waive recoupment or recovery of, any amounts paid under this subchapter as a result of errors or omissions by any person.”.

(4) In subsection (d)(1)—

(A) by striking “Subject to the availability of appropriations, there shall be deposited into the Fund” and inserting “The Secretary shall pay into the Fund from the General Fund of the Treasury”; and

(B) by striking “(beginning with the first fiscal year which ends more than 6 months after the replacement plan adoption date described in section 103(13) of the National Capital Revitalization and Self-Government Improvement Act of 1997)”.

(5) In subsection (d)(2)(A)—

(A) by striking “June 30, 1997” and inserting “September 30, 1997”; and

(B) by striking “net the sum of future normal cost” and inserting “net of the sum of the present value of future normal costs”.

(6) In subsection (d)(3), by striking “shall be taken from sums available for that fiscal year for the payment of the expenses of the Court, and”.

(7) By adding at the end the following new subsections:

“(h) For purposes of the Employee Retirement Income Security Act of 1974, the benefits provided by the Fund shall be treated as benefits provided under a governmental plan maintained by the District of Columbia.

“(i) Federal obligations for benefits under this subchapter are backed by the full faith and credit of the United States.”.

(b) REGULATORY AUTHORITY OF SECRETARY.—Section 11251 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 756) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

“(b) REGULATIONS; EFFECT ON REFORM ACT.—Title 11, District of Columbia Code, is amended by adding the following new section:

**‘§ 11-1572. Regulations; effect on Reform Act.**

“(a) The Secretary is authorized to issue regulations to implement, interpret, administer, and carry out the purposes of this subchapter, and, in the Secretary’s discretion, those regulations

may have retroactive effect, except that nothing in this subsection may be construed to permit the Secretary to issue any regulation to retroactively reduce or eliminate the benefits to which any individual is entitled under this subchapter.

“(b) This subchapter supersedes any provision of the District of Columbia Retirement Reform Act (Public Law 96-122) inconsistent with this subchapter and the regulations thereunder.”; and

(3) by amending subsection (c) (as so redesignated) to read as follows:

“(c) CLERICAL AMENDMENTS.—

“(1) The table of sections for subchapter III of chapter 15 of title 11, District of Columbia Code, is amended by amending the item relating to section 11-1570 to read as follows:

‘11-1570. The District of Columbia Judicial Retirement and Survivors Annuity Fund.’.

“(2) The table of sections for subchapter III of chapter 15 of title 11, District of Columbia Code, is amended by adding at the end the following new item:

‘11-1572. Regulations; effect on Reform Act.’.”.

(c) TERMINATION OF PREVIOUS FUND AND PROGRAM.—Section 124 of the District of Columbia Retirement Reform Act (DC Code, sec. 1-714), as amended by section 11252(a) of the Balanced Budget Act of 1997, is amended—

(1) in subsection (a), by inserting “(except as provided in section 11-1570, District of Columbia Code)” after “the following”;

(2) in subsection (c)(1), by striking “title I of the National Capital Revitalization and Self-Government Improvement Act of 1997” and inserting “subtitle A of title XI of the Balanced Budget Act of 1997”; and

(3) in subsection (c)(2)—

(A) by striking “(2) The” and inserting “(2) In accordance with the direction of the Secretary, the”;

(B) by striking “in the Treasury” and inserting “at the Board”; and

(C) by striking “appropriated” and inserting “used”.

(d) ADMINISTRATION OF RETIREMENT FUNDS.—Section 11252 of the Balanced Budget Act of 1997 is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

“(b) TRANSITION FROM DISTRICT OF COLUMBIA ADMINISTRATION.—Sections 11023, 11032(b)(2), 11033(d), and 11041 shall apply to the administration of the District of Columbia Judges Retirement Fund established under section 124 of the District of Columbia Retirement Reform Act (D.C. Code, sec. 1-714), the District of Columbia Judicial Retirement and Survivors Annuity Fund established under section 11-1570, District of Columbia Code, and the retirement program for judges under subchapter III of chapter 15 of title 11, District of Columbia Code, except as follows:

“(1) In applying each such section—

“(A) any reference to this subtitle shall instead refer to subchapter III of chapter 15 of title 11, District of Columbia Code;

“(B) any reference to the District Retirement Program shall be deemed to include the retirement program for

111 Stat. 758.

Applicability.

judges under subchapter III of chapter 15 of title 11, District of Columbia Code;

“(C) any reference to the District Retirement Fund shall be deemed to include the District of Columbia Judges Retirement Fund established under section 124 of the District of Columbia Retirement Reform Act;

“(D) any reference to Federal benefit payments shall be deemed to include judges retirement pay, annuities, refunds, and allowances under subchapter III of chapter 15 of title 11, District of Columbia Code;

“(E) any reference to the Trust Fund shall instead refer to the District of Columbia Judicial Retirement and Survivors Annuity Fund established under section 11-1570, District of Columbia Code;

“(F) any reference to section 11033 shall instead refer to section 124 of the District of Columbia Retirement Reform Act, as amended by section 11252; and

“(G) any reference to chapter 2 shall instead refer to section 11-1570, District of Columbia Code.

“(2) In applying section 11023—

“(A) any reference to the contract shall instead refer to the agreement referred to in section 11-1570(b), District of Columbia Code; and

“(B) any reference to the Trustee shall instead refer to the Trustee or contractor referred to in section 11-1570(b), District of Columbia Code.

“(3) In applying section 11033(d)—

“(A) any reference to this section shall instead refer to section 124 of the District of Columbia Retirement Reform Act, as amended by section 11252; and

“(B) any reference to the Trustee shall instead refer to the Secretary or the Trustee or contractor referred to in section 11-1570(b), District of Columbia Code.

“(4) In applying section 11041(b), any reference to the Trustee shall instead refer to the Trustee or contractor referred to in section 11-1570(b), District of Columbia Code.”; and

(3) by adding at the end the following new subsection:

“(d) EFFECTIVE DATE.—The provisions of subsection (c) shall take effect on the date on which the assets of the District of Columbia Judges Retirement Fund are transferred to the District of Columbia Judicial Retirement and Survivors Annuity Fund.”.

(e) MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS.—(1) Sections 11-1568(d) and 11-1569, District of Columbia Code, are each amended by striking “Mayor” each place it appears and inserting “Secretary of the Treasury”.

(2) Section 11-1568.2, District of Columbia Code, is amended by striking “Mayor of the District of Columbia” each place it appears and inserting “Secretary of the Treasury”.

(3) Section 121(b)(1)(A) of the District of Columbia Retirement Reform Act (D.C. Code, sec. 1-711(b)(1)(A)), as amended by section 11252(c)(1) of the Balanced Budget Act of 1997 (as redesignated by subsection (d)(1)), is amended in the matter preceding clause (i), by striking “11” and inserting “12”.

(4) Section 11-1561(4), District of Columbia Code, as amended by section 11253(b) of the Balanced Budget Act of 1997, is amended by striking “sections” and inserting “section”.

(5) Section 11253(c) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 759) is amended to read as follows:

“(C) TREATMENT OF FEDERAL SERVICE OF JUDGES.—Section 11-1564, District of Columbia Code, is amended—

“(1) in subsection (d)(2)(A), by striking ‘section 1-1814’ and inserting ‘section 1-714) or the District of Columbia Judicial Retirement and Survivors Annuity Fund (established by section 11-1570)’; and

“(2) in subsection (d)(4), by striking ‘Judges Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act’ and inserting ‘Judicial Retirement and Survivors Annuity Fund under section 11-1570’.”.

(6) Section 11253 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 759) is amended by adding at the end the following new subsection:

“(d) REDEPOSITS TO FUND.—Section 11-1568.1(4)(A), District of Columbia Code, is amended by striking ‘Judges Retirement Fund’ and inserting ‘Judicial Retirement and Survivors Annuity Fund’.”.

(f) EFFECTIVE DATE.—The amendments made by subsections (a)(2), (a)(4), and (a)(6) shall take effect October 1, 1998.

### **SEC. 3. RETIREMENT ELECTION FOR CERTAIN FORMER EMPLOYEES OF THE DISTRICT OF COLUMBIA.**

(a) IN GENERAL.—Notwithstanding any provision of the District of Columbia Code, or of chapter 83 or chapter 84 of title 5, United States Code, a former employee of the District of Columbia who is hired by the Department of Justice, or by the agency established by section 11233(a) of the Balanced Budget Act of 1997 (hereafter in this section referred to as the “Agency”), on or after August 5, 1997, may elect, within 60 days after the issuance of regulations pursuant to subsection (c), or within 60 days of being hired, if later, to be covered by the retirement system of the District of Columbia under which the person was most recently covered. No election under this subsection may be made by a person who is hired more than one year after the date on which the Lorton Correctional Complex is closed, or more than one year after the date on which the Agency assumes its duties, whichever is later.

(b) PERIOD OF ELECTION.—The election authorized by subsection (a) shall remain in force until the employee is no longer employed by the agency in which he or she was employed at the time the election was made.

(c) REGULATIONS.—The election authorized by subsection (a) shall be in accordance with regulations issued by the Office of Personnel Management after consulting with the Department of Justice, the Agency, and the government of the District of Columbia. The government of the District of Columbia shall administer the retirement coverage for any employee making such an election.

### **SEC. 4. LEAVE FOR CERTAIN FORMER EMPLOYEES OF THE DISTRICT OF COLUMBIA.**

(a) IN GENERAL.—Notwithstanding any provision of law, a former employee of the District of Columbia who is hired by the Department of Justice, or by the agency established by section 11233(a) of the Balanced Budget Act of 1997 (hereafter in this section referred to as the “Agency”), on or after August 5, 1997, shall—

(1) in determining the rate of accrual of annual leave under section 6303 of title 5, United States Code, be entitled to credit for service as an employee of the District of Columbia;

(2) to the extent that the employee has not used or otherwise been compensated for annual leave accrued as an employee of the District of Columbia, have all such accrued annual leave transferred, in accordance with the procedures established under section 6308 of title 5, United States Code, to the credit of the employee in the new employing agency; and

(3) to the extent the employee has not used or otherwise been compensated for sick leave accrued as an employee of the District of Columbia, have all such accrued sick leave transferred, in accordance with the procedures established under section 6308 of title 5, United States Code, to the credit of the employee in the new employing agency.

(b) **TERMINATION.**—Subsection (a) is not applicable to any former employee of the District of Columbia who is hired by the Department of Justice or the Agency more than one year after the date on which the Lorton Correctional Complex is closed, or more than one year after the date on which the Agency assumes its duties, whichever is later.

**SEC. 5. CLARIFICATION OF PROVISIONS RELATING TO PRIORITY CONSIDERATION FOR SEPARATED EMPLOYEES OF THE DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS.**

(a) **IN GENERAL.**—Section 11203(b) of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1203(b)) is amended by amending the second sentence to read as follows: “The priority consideration program shall also include provisions under which an employee described in subsection (a) who has not been appointed to a Federal Bureau of Prisons law enforcement position and who applies for another Federal position in the competitive service shall receive priority consideration and may be given a competitive service appointment noncompetitively to such a competitive service position.”

(b) **RELOCATION ALLOWANCE.**—Section 11203(b) of such Act (D.C. Code, sec. 24-1203(b)) is amended by inserting after the second sentence the following: “The Director of the Bureau of Prisons may provide a relocation allowance to any individual who is hired by the Director under the program established under this section for a position outside of the Washington Metropolitan Area.”

(c) **EFFECTIVE DATE; TREATMENT OF INDIVIDUALS GIVEN PRIORITY PRIOR TO ENACTMENT.**—(1) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Individuals who have been appointed with excepted service appointments under section 11203(b) of the Balanced Budget Act of 1997 prior to the date of the enactment of this Act shall be converted noncompetitively to competitive service appointments in their current positions.

**SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO DISTRICT OF COLUMBIA COURTS.**

(a) **AUTHORITY OF JOINT COMMITTEE ON JUDICIAL ADMINISTRATION TO EXCLUDE TEMPORARY EMPLOYEES FROM FERS.**—Section 8402(c) of title 5, United States Code, is amended by adding at the end the following:



“(9) The Joint Committee on Judicial Administration in the District of Columbia may exclude from the operation of this chapter an employee of the District of Columbia Courts whose employment is temporary or of uncertain duration.”

(b) REPEAL OF FUNDING THROUGH STATE JUSTICE INSTITUTE.—

(1) FUNDING OF COURTS.—Section 11241(a) of the Balanced Budget Act of 1997 (D.C. Code, sec. 11-1743 note) and section 11-2608, District of Columbia Code (as amended by section 11262(b) of the Balanced Budget Act of 1997) are each amended by striking “through the State Justice Institute” and inserting “for payment to the Joint Committee on Judicial Administration in the District of Columbia”.

111 Stat. 751.

(2) FUNDING OF OTHER AGENCIES.—Section 11234 of such Act (D.C. Code, sec. 24-1234) is amended by striking “through the State Justice Institute”.

111 Stat. 751.

(c) OTHER MISCELLANEOUS TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 11241(b) of the Balanced Budget Act of 1997 (D.C. Code, sec. 11-1743 note) is amended by striking “Superior Court for” and inserting “Superior Court of”.

(2)(A) Section 1 of the Act entitled “An Act for the establishment of a probation system for the District of Columbia”, approved June 25, 1910 (36 Stat. 864), as amended and reenacted by the Act entitled “An Act to amend and reenact an Act for the establishment of a probation system for the District of Columbia”, approved March 4, 1919 (40 Stat. 1324-25; D.C. Code, sec. 24-101), is repealed.

(B) Section 5 of the Act entitled “An Act for the establishment of a probation system for the District of Columbia”, approved June 25, 1910 (36 Stat. 865), as amended and reenacted by the Act entitled “An Act to amend and reenact an Act for the establishment of a probation system for the District of Columbia”, approved March 14, 1919 (40 Stat. 1324-25; D.C. Code, sec. 24-105), is repealed.

#### SEC. 7. DISTRICT OF COLUMBIA PUBLIC DEFENDER SERVICE.

(a) REMOVING SERVICE FROM JURISDICTION OF OFFENDER SUPERVISION TRUSTEE AND AGENCY.—

(1) AUTHORITY OF TRUSTEE.—Section 11232(b)(2) of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1232(b)(2)) is amended by striking “, except that” and all that follows through “Service”.

111 Stat. 746.

(2) AUTHORITY OF AGENCY.—Section 11233(e) of such Act (D.C. Code, sec. 24-1233(e)) is amended as follows:

111 Stat. 748.

(A) In the subsection heading strike “AND PUBLIC DEFENDER SERVICE”.

(B) Amend paragraph (1) to read as follows:

“(1) INDEPENDENT ENTITY.—The District of Columbia Pretrial Services Agency established by subchapter I of chapter 13 of title 23, District of Columbia Code shall function as an independent entity within the Agency.”

(C) Strike paragraph (3) and redesignate paragraphs (4) and (5) as paragraphs (3) and (4).

(D) In paragraph (3) (as so redesignated)—

(i) strike “, the District of Columbia Public Defender Service,”; and

(ii) strike “or the District of Columbia Public Defender Service”.

(E) In paragraph (4)(A) (as so redesignated), strike “and the District of Columbia Public Defender Service” each place it appears.

111 Stat. 751. (3) AUTHORIZATION OF APPROPRIATIONS.—Section 11234 of such Act (D.C. Code, sec. 24-1234) is amended by striking paragraph (2) and redesignating the succeeding paragraphs accordingly.

111 Stat. 746. (4) PERMITTING TRUSTEE TO EXERCISE AUTHORITIES ON BEHALF OF SERVICE AT REQUEST OF DIRECTOR OF THE SERVICE.—Section 11232 of such Act (D.C. Code, sec. 24-1232) is amended by adding at the end the following new subsection:

“(i) EXERCISE OF AUTHORITY ON BEHALF OF PUBLIC DEFENDER SERVICE.—At the request of the Director of the District of Columbia Public Defender Service, the Trustee may exercise any of the powers and authorities of the Trustee on behalf of such Service in the same manner and to the same extent as the Trustee may exercise such powers and authorities in relation to any agency described in subsection (b).”.

(b) REVISING NAME OF TRUSTEE.—

(1) IN GENERAL.—Section 11232 of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1233) is amended—

(A) in the heading, by striking “**DEFENSE SERVICES**,”; and

(B) in subsection (a)(1), by striking “Defense Services,”.

(2) CLERICAL AMENDMENT.—The table of contents for title XI of the Balanced Budget Act of 1997 is amended in the item relating to section 11232 by striking “Defense Services,”.

(c) REVISING NAME OF AGENCY.—

111 Stat. 748. (1) IN GENERAL.—Section 11233 of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1233) is amended—

(A) in the heading, by striking “**OFFENDER SUPERVISION, DEFENDER AND COURTS SERVICES**” and inserting “**COURT SERVICES AND OFFENDER SUPERVISION**”; and

(B) in subsection (a), by striking “the District of Columbia Offender Supervision, Defender, and Courts Services Agency” and inserting “the Court Services and Offender Supervision Agency for the District of Columbia”.

111 Stat. 745. (2) CONFORMING AMENDMENTS.—(A) Section 11231 of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1231) is amended by striking “the District of Columbia Offender Supervision, Defender, and Courts Services Agency” each place it appears in subsections (a)(2), (a)(3), and (b) and inserting “the Court Services and Offender Supervision Agency for the District of Columbia”.

(B) Section 11232 of such Act (D.C. Code, sec. 24-1232) is amended by striking “the District of Columbia Offender Supervision, Defender, and Courts Services Agency” each place it appears in subsections (b) and (h) and inserting “the Court Services and Offender Supervision Agency for the District of Columbia”.

(C) Section 23-1304(a), District of Columbia Code (as amended by section 11271(a) of the Balanced Budget Act of 1997) is amended by striking “the District of Columbia Offender Supervision, Defender, and Courts Services Agency” and inserting “the Court Services and Offender Supervision Agency for the District of Columbia”.

(D) Section 23-1307, District of Columbia Code (as amended by section 11271(a) of the Balanced Budget Act of 1997) is amended—

(i) by striking “(a)”; and

(ii) by striking “the District of Columbia Offender Supervision, Defender, and Courts Services Agency” and inserting “the Court Services and Offender Supervision Agency for the District of Columbia”.

(E) Section 23-1308, District of Columbia Code (as amended by section 11271(a) of the Balanced Budget Act of 1997) is amended by striking “the District of Columbia Offender Supervision, Defender, and Courts Services Agency” each place it appears and inserting “the Court Services and Offender Supervision Agency for the District of Columbia”.

(3) CLERICAL AMENDMENT.—The table of contents for title XI of the Balanced Budget Act of 1997 is amended in the item relating to section 11233 by striking “Offender Supervision, Defender and Courts Services” and inserting “Court Services and Offender Supervision”.

111 Stat. 714.

(d) REPEAL OF CERTAIN AMENDMENTS AFFECTING PUBLIC DEFENDER SERVICES.—Section 11272 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 762) is hereby repealed, and any provision of law amended or repealed by such section shall be restored or revived as if such section had not been enacted into law.

(e) TRANSFER OF EMPLOYEES OF SERVICE TO FEDERAL RETIREMENT AND BENEFIT PROGRAMS.—

(1) IN GENERAL.—Section 305 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, sec. 1-2705) is amended by inserting at the end the following: “(c)(1) Employees of the Service shall be treated as employees of the Federal Government solely for purposes of any of the following provisions of title 5, United States Code: subchapter 1 of chapter 81 (relating to compensation for work injuries), chapter 83 (relating to retirement), chapter 84 (relating to Federal Employees’ Retirement System), chapter 87 (relating to life insurance), and chapter 89 (relating to health insurance).”

“(2) The Service shall make contributions under the provisions referred to in paragraph (1) at the same rates applicable to agencies of the Federal Government.

“(3) An individual who is an employee of the Service on the date of the enactment of this subsection may make, within 60 days after the issuance of regulations under paragraph (4), an election under section 8351 or 8432 of title 5, United States Code, to participate in the Thrift Savings Plan for Federal employees.

“(4) This subsection shall apply with respect to all months beginning after the date on which the Director of the Office of Personnel Management issues regulations to carry out this subsection.

Applicability.  
Regulations.

“(5) For purposes of vesting pursuant to section 2610(b) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-627.10(b)), creditable service with the District for employees whose participation in the District Defined Contribution Plan ceases as a result of implementation of this subsection shall include service performed thereafter for the Service.”.

(2) CONFORMING AMENDMENTS.—(A) Section 306 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, sec. 1-2706) is amended—

(i) in subsection (a), by striking “Mayor of the District of Columbia” and inserting “Office of Management and Budget”; and

(ii) in subsection (b), by striking “Administrative Office of the United States Courts” and inserting “Office of Management and Budget”.

(B) Section 307(a) of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, sec. 1-2707(a)) is amended to read as follows:

Appropriation  
authorization.

“(a) There are authorized to be appropriated through the Court Services and Offender Supervision Agency for the District of Columbia (or, until such Agency assumes its duties pursuant to section 11233(a) of the Balanced Budget Act of 1997, through the Trustee appointed pursuant to section 11232 of such Act) in each fiscal year such sums as may be necessary to carry out this chapter. Funds appropriated pursuant to this subsection shall be transmitted by the Agency (or, if applicable, by the Trustee) to the Service. The Service may arrange by contract or otherwise for the disbursement of appropriated funds, procurement, and the provision of other administrative support functions by the General Services Administration or by other agencies or entities, not subject to the provisions of the District of Columbia Code or any law or regulation adopted by the District of Columbia Government concerning disbursement of funds, procurement, or other administrative support functions. The Service shall submit an annual appropriations request to the Office of Management and Budget.”.

111 Stat. 748.

(C) Section 11233 of the Balanced Budget Act of 1997 (D.C. Code, sec. 24-1233) is amended by adding at the end the following new subsection:

“(f) RECEIPT AND TRANSMITTAL OF APPROPRIATIONS FOR PUBLIC DEFENDER SERVICE.—The Director of the Agency shall receive and transmit to the District of Columbia Public Defender Service all funds appropriated for such agency.”.

(f) EXEMPTION OF SERVICE FROM PERSONNEL AND BUDGET CEILINGS.—Section 307 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, sec. 1-2707) is amended by adding at the end the following new subsection:

“(c) The Service shall not be subject to any general personnel or budget limitations which otherwise apply to the District of Columbia government or its agencies in any appropriations Act.”.

#### **SEC. 8. SICK LEAVE BUYOUT FOR DEPARTMENT OF CORRECTIONS EMPLOYEES.**

Notwithstanding any provision of District of Columbia law, the Corrections Trustee appointed pursuant to section 11202 of the Balanced Budget Act of 1997 may set conditions and may provide that an employee of the District of Columbia Department of Corrections who meets such conditions will receive a lump-sum payment for his or her accumulated and accrued sick leave, if the employee is separated involuntarily and is not subsequently employed, without a break in service of more than 3 days, by the Bureau of Prisons or another Federal agency. The lump-sum payment for sick leave shall be calculated by multiplying 50 percent of the employee's rate of basic pay, exclusive of additional payments

of any kind, by the number of hours of accumulated sick leave to the employee's credit at the time of separation. The lump-sum payment shall be considered pay for taxation purposes only and shall not be used to confer any other benefit to the employee.

**SEC. 9. WAIVER OF MAXIMUM ENTRY AGE REQUIREMENT FOR LAW ENFORCEMENT OFFICER POSITIONS IN THE DEPARTMENT OF JUSTICE.**

(a) **IN GENERAL.**—Notwithstanding any maximum entry age which the Attorney General may have established for law enforcement officers in the Department of Justice under section 3307 of title 5, United States Code, an employee of the District of Columbia Department of Corrections may be hired by the Department of Justice pursuant to section 11203(b) of the Balanced Budget Act of 1997 in a law enforcement officer position if such employee will have completed at least 10 years of covered service when the employee attains the minimum retirement age described in section 8412(g) of title 5, United States Code.

(b) **SEPARATION.**—Notwithstanding section 8425(b) of title 5, United States Code, any employee hired by the Department of Justice in a law enforcement position who is described in subsection (a) shall be separated from service with the Department on the last day of the month in which such employee becomes 57 years of age, except that if the Attorney General judges that the public interest so requires, the Attorney General may exempt such an employee from automatic separation under this subsection until that employee becomes 60 years of age.

**SEC. 10. EFFECTIVE DATE.**

5 USC 8402 note.

Except as otherwise specifically provided, this Act and the amendments made by this Act shall take effect as if included in the enactment of title XI of the Balanced Budget Act of 1997.

Approved October 21, 1998.

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**LEGISLATIVE HISTORY—H.R. 4566:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 10, considered and passed House.

Oct. 14, considered and passed Senate.



Public Law 105–275  
105th Congress

An Act

Oct. 21, 1998  
[H.R. 4112]

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes.

Legislative  
Branch  
Appropriations  
Act, 1999.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes, namely:

Congressional  
Operations  
Appropriations  
Act, 1999.  
2 USC 60a note.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

EXPENSE ALLOWANCES

For expense allowances of the Vice President, \$10,000; the President Pro Tempore of the Senate, \$10,000; Majority Leader of the Senate, \$10,000; Minority Leader of the Senate, \$10,000; Majority Whip of the Senate, \$5,000; Minority Whip of the Senate, \$5,000; and Chairmen of the Majority and Minority Conference Committees, \$3,000 for each Chairman; in all, \$56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY  
LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, \$15,000 for each such Leader; in all, \$30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, \$87,233,000, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, \$1,659,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, \$402,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, \$2,436,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, \$1,416,000.

COMMITTEE ON APPROPRIATIONS

For salaries of the Committee on Appropriations, \$6,050,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, \$1,092,000 for each such committee; in all, \$2,184,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY  
AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, \$570,000.

POLICY COMMITTEES

For salaries of the Majority Policy Committee and the Minority Policy Committee, \$1,109,000 for each such committee; in all, \$2,218,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, \$267,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, \$13,694,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, \$33,805,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, \$1,200,000.

AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses, \$21,332,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, \$3,753,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, \$1,004,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE,  
SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SEC-  
RETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, \$3,000; Sergeant at Arms and Doorkeeper of the Senate, \$3,000; Secretary for the Majority of the Senate, \$3,000; Secretary for the Minority of the Senate, \$3,000; in all, \$12,000.

CONTINGENT EXPENSES OF THE SENATE

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, \$66,800,000.

EXPENSES OF THE UNITED STATES SENATE CAUCUS ON  
INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, \$370,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, \$1,511,000.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, \$60,511,000, of which \$5,000,000 shall remain available until September 30, 2000.

MISCELLANEOUS ITEMS

For miscellaneous items, \$8,655,000.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, \$239,156,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, \$300,000.

ADMINISTRATIVE PROVISIONS

Effective date.

SECTION 1. (a) Effective in the case of any fiscal year which begins on or after October 1, 1998, clause (iii) of paragraph (3)(A) of section 506(b) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(b)) is amended to read as follows:

“(iii) subject to subparagraph (B), in case the Senator represents Alabama, \$183,565, Alaska, \$252,505, Arizona, \$197,409, Arkansas, \$168,535, California, \$470,272, Colorado,



\$187,366, Connecticut, \$161,691, Delaware, \$127,384, Florida, \$302,307, Georgia, \$211,784, Hawaii, \$279,648, Idaho, \$163,841, Illinois, \$267,000, Indiana, \$195,391, Iowa, \$171,340, Kansas, \$168,912, Kentucky, \$176,975, Louisiana, \$186,714, Maine, \$148,205, Maryland, \$172,455, Massachusetts, \$196,819, Michigan, \$235,846, Minnesota, \$187,742, Mississippi, \$168,587, Missouri, \$198,365, Montana, \$161,857, Nebraska, \$160,550, Nevada, \$171,208, New Hampshire, \$142,497, New Jersey, \$207,754, New Mexico, \$166,721, New York, \$328,586, North Carolina, \$212,711, North Dakota, \$150,225, Ohio, \$262,252, Oklahoma, \$181,913, Oregon, \$189,258, Pennsylvania, \$267,240, Rhode Island, \$138,637, South Carolina, \$171,731, South Dakota, \$151,838, Tennessee, \$192,508, Texas, \$353,911, Utah, \$168,959, Vermont, \$136,315, Virginia, \$193,935, Washington, \$213,887, West Virginia, \$149,135, Wisconsin, \$191,314, Wyoming, \$153,016, plus”.

(b) Subparagraph (B) of section 506(b)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(b)(3)) is amended—

(1) by striking “the amount referred to in subparagraph (A)(iii)” and inserting “that part of the amount referred to in subparagraph (A)(iii) that is not specifically allocated for official mail expenses”; and

(2) by inserting before the period at the end the following: “; and the part of the amount referred to in subparagraph (A)(iii) that is allocated for official mail expenses shall be recalculated in accordance with regulations of the Committee on Rules and Administration”.

SEC. 2. (a) Section 2(b) of Public Law 104-53 (2 U.S.C. 61d-3(b)) is amended by striking “\$10,000” and inserting “\$35,000”.

(b) The amendment made by subsection (a) is effective on and after October 1, 1998.

SEC. 3. Subsection (a) of the first section of Senate Resolution 149, agreed to October 5, 1993 (103d Congress, 1st Session), as amended by Senate Resolution 299, agreed to September 24, 1996 (104th Congress, 2d Session), is amended by striking “until December 31, 1998” and inserting “until December 31, 2000”.

SEC. 4. (a) Section 101(a) of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h-6(a)) is amended—

(1) by inserting after the first sentence the following: “The President pro tempore of the Senate is authorized to appoint and fix the compensation of one consultant, on a temporary or intermittent basis, at a daily rate of compensation not in excess of that specified in the first sentence of this subsection.”; and

(2) in the sentence that begins “The provisions of”, by striking “section 8344” and inserting “sections 8344 and 8468”.

(b) Section 101(b) of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h-6(b)) is amended by striking all after “(b)” through “to such position” and inserting “Any or all appointments under this section may be”.

(c) This section is effective on and after the date of enactment of this Act.

SEC. 5. (a) There is established the Senate Leader’s Lecture Series (hereinafter referred to as the “lecture series”). Expenses incurred in connection with the lecture series shall be paid from the appropriations account “Secretary of the Senate” within the

Effective date.  
2 USC 61d-3  
note.

Effective date.  
2 USC 61h-6  
note.  
2 USC 61b.

contingent fund of the Senate and shall not exceed \$30,000 in any fiscal year.

(b) Payments for expenses in connection with the lecture series may cover expenses incurred by speakers, including travel, subsistence, and per diem, and the cost of receptions, including food, food related items, and hospitality.

(c) Payments for expenses of the lecture series shall be made on vouchers approved by the Secretary of the Senate.

(d) This section is effective on and after October 1, 1997.

Effective date.  
2 USC 121b-1.

SEC. 6. (a) The Sergeant at Arms and Doorkeeper of the Senate is authorized to appoint and fix the compensation of such employees as may be necessary to operate Senate Hair Care Services.

(b) There is established in the Treasury of the United States within the contingent fund of the Senate a revolving fund to be known as the Senate Hair Care Services Revolving Fund (hereafter in this section referred to as the “revolving fund”).

(c)(1) All moneys received by Senate Hair Care Services from fees for services or from any other source shall be deposited in the revolving fund.

(2) Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate—

(A) for the payment of salaries and agency contributions of employees of Senate Hair Care Services; and

(B) for necessary supplies, equipment, and other expenses of Senate Hair Care Services.

(d) Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

(e) At the direction of the Committee on Rules and Administration, the Secretary of the Senate shall withdraw from the revolving fund and deposit in the Treasury of the United States as miscellaneous receipts all moneys in the revolving fund that the Committee may determine are in excess of the current and reasonably foreseeable needs of Senate Hair Care Services.

(f) The Sergeant at Arms and Doorkeeper of the Senate are authorized to prescribe such regulations as may be necessary to carry out the provisions of this section, subject to the approval of the Committee on Rules and Administration.

(g) There is transferred to the revolving fund established by this section any unobligated balance in the fund established by section 106 of Public Law 94-440 on the effective date of this section.

2 USC 121a.  
2 USC 121b.  
Effective date.

(h)(1) Section 106 of Public Law 94-440 is repealed.

(2) Section 10(a) of Public Law 100-458 is repealed.

(i) This section shall be effective on and after October 1, 1998, or 30 days after the date of enactment of this Act, whichever is later.

SEC. 7. The amount available to the Committee on Rules and Administration for expenses under section 16(c) of Senate Resolution 54, agreed to February 13, 1997, is increased by \$150,000.

Effective date.  
2 USC 61-1.

SEC. 8. Effective on and after October 1, 1998, each of the dollar amounts contained in the table under section 105(d)(1)(A) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61-1(d)(1)(A)) shall be deemed to be the dollar amounts in that table,

as increased by section 5 of Public Law 105-55, increased by an additional \$50,000 each.

SEC. 9. (a) With the prior written approval of the Committee on Rules and Administration of the Senate, the Sergeant at Arms and Doorkeeper of the Senate may enter into agreements with public or private parties for the purpose of demonstrating the use of alternative fuel vehicles (as defined in section 301(2) of the Energy Policy Act of 1992 (Public Law 102-486)) in Senate fleet operations. Any such agreement may also provide for necessary fueling infrastructure in connection with the alternative fuel vehicles.

(b) A vehicle may be made available under subsection (a) for a period not exceeding 90 days.

SEC. 10. (a) The Committee on Appropriations is authorized in its discretion—

2 USC 72d.

(1) to hold hearings, report such hearings, and make investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate;

(2) to make expenditures from the contingent fund of the Senate;

(3) to employ personnel;

(4) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency;

(5) to procure the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 and Senate Resolution 140, agreed to May 14, 1975); and

(6) to provide for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(b) Senate Resolution 54, agreed to February 13, 1997, is amended by striking section 4.

(c) This section shall be effective on and after October 1, 1998, or the date of enactment of this Act, whichever is later.

Effective date.

SEC. 11. (a)(1) The Chairman of the Appropriations Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for salaries for the Appropriations Committee of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable for such committee.

2 USC 72d-1.

(2) The Chairman of the Appropriations Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for expenses, within the contingent fund of the Senate, for the Appropriations Committee of the Senate, to the account from which salaries are payable for such committee.

(b) Any funds transferred under this section shall be—

(1) available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account to which the funds were transferred; and

(2) made at such time or times as the Chairman shall specify in writing to the Senate Disbursing Office.

Effective date.

(c) This section shall take effect on October 1, 1998, and shall be effective with respect to fiscal years beginning on or after that date.

SEC. 12. USE OF FREQUENT FLYER MILES BY MEMBERS OF THE SENATE.—Section 507(a) of the Congressional Accountability Act of 1995 (2 U.S.C. 1436(a)) is amended—

(1) by striking “Notwithstanding” and inserting the following:

“(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding”; and

(2) by adding at the end the following:

“(2) TRAVEL BETWEEN THE WASHINGTON METROPOLITAN AREA AND A HOME STATE.—Paragraph (1) shall not apply to any travel award relating to air transportation for a Member of the Senate, the spouse of that Member, or a son or daughter of that Member, between the Washington metropolitan area and the State of that Member.”.

SEC. 13. Senate Resolution 286, 102d Congress, agreed to April 9, 1992, is amended by adding at the end of subsection (a) the following:

“Fees established under this subsection for services received from the Attending Physician by a Senator or an officer of the Senate shall be equal to the fees for such services received by a member of the House of Representatives.”.

## HOUSE OF REPRESENTATIVES

### PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

Marcia S. Schiff.

For payment to Marcia S. Schiff, widow of Steven H. Schiff, late a Representative from the State of New Mexico, \$136,700.

### SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, \$733,971,000, as follows:

#### HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, \$13,117,000, including: Office of the Speaker, \$1,686,000, including \$25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, \$1,652,000, including \$10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, \$1,675,000, including \$10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, \$1,043,000, including \$5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, \$1,020,000, including \$5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, \$397,000; Republican Steering Committee, \$738,000; Republican Conference, \$1,199,000; Democratic Steering and Policy Committee, \$1,295,000; Democratic Caucus, \$642,000; nine minority employees, \$1,190,000; training and program development—majority, \$290,000; and training and program development—minority, \$290,000.

## MEMBERS' REPRESENTATIONAL ALLOWANCES

## INCLUDING MEMBERS' CLERK HIRE, OFFICIAL

## EXPENSES OF MEMBERS, AND OFFICIAL MAIL

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, \$385,279,000.

## COMMITTEE EMPLOYEES

## STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by House resolutions, \$89,743,000: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2000.

## COMMITTEE ON APPROPRIATIONS

For salaries and expenses of the Committee on Appropriations, \$19,373,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2000.

## SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, \$89,991,000, including: for salaries and expenses of the Office of the Clerk, including not more than \$3,500, of which not more than \$2,500 is for the Family Room, for official representation and reception expenses, \$15,365,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than \$750 for official representation and reception expenses, \$3,501,000; for salaries and expenses of the Office of the Chief Administrative Officer, \$57,211,000, including \$24,282,000 for salaries, expenses and temporary personal services of House Information Resources, of which \$23,074,000 is provided herein: *Provided*, That of the amount provided for House Information Resources, \$7,130,000 shall be for net expenses of telecommunications: *Provided further*, That House Information Resources is authorized to receive reimbursement from Members of the House of Representatives and other governmental entities for services provided and such reimbursement shall be deposited in the Treasury for credit to this account; for salaries and expenses of the Office of the Inspector General, \$3,953,000; for salaries and expenses of the Office of General Counsel, \$840,000; for the Office of the Chaplain, \$133,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and \$2,000 for preparing the Digest of Rules, \$1,106,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, \$1,912,000; for salaries and expenses of the Office of the Legislative Counsel

of the House, \$4,980,000; for salaries and expenses of the Corrections Calendar Office, \$799,000; and for other authorized employees, \$191,000.

#### ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, \$136,468,000, including: supplies, materials, administrative costs and Federal tort claims, \$2,575,000; official mail for committees, leadership offices, and administrative offices of the House, \$410,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, \$132,832,000; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, \$651,000.

#### CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

#### ADMINISTRATIVE PROVISIONS

SEC. 101. (a) Section 2(a) of House Resolution 611, Ninety-seventh Congress, agreed to November 30, 1982, as enacted into permanent law by section 127 of Public Law 97-377 (2 U.S.C. 88b-3), is amended—

(1) by adding “and” at the end of paragraph (1);

(2) by striking “; and” at the end of paragraph (2) and inserting a period; and

(3) by striking paragraph (3).

Applicability.  
2 USC 88b-3  
note.

(b) The amendment made by subsection (a) shall apply with respect to the One Hundred Sixth Congress and each succeeding Congress.

SEC. 102. Subsection (b) of the first section of House Resolution 1047, Ninety-fifth Congress, agreed to April 4, 1978, as enacted into permanent law by section 111 of the Legislative Branch Appropriations Act, 1979 (2 U.S.C. 130-1(b)), is amended by striking “\$55,000” and inserting “\$80,000”.

2 USC 74a-8.

SEC. 103. (a) There is hereby established an account in the House of Representatives for purposes of carrying out training and program development activities of the Republican Conference and the Democratic Steering and Policy Committee.

(b) Subject to the allocation described in subsection (c), funds in the account established under subsection (a) shall be paid—

(1) for activities of the Republican Conference in such amounts, at such times, and under such terms and conditions as the Speaker of the House of Representatives may direct; and

(2) for activities of the Democratic Steering and Policy Committee in such amounts, at such times, and under such terms and conditions as the Minority Leader of the House of Representatives may direct.

(c) Of the total amount in the account established under subsection (a)—

(1) 50 percent shall be allocated to the Speaker for payments for activities of the Republican Conference; and

(2) 50 percent shall be allocated to the Minority Leader for payments for activities of the Democratic Steering and Policy Committee.

(d) There are authorized to be appropriated to the account under this section for fiscal year 1999 and each succeeding fiscal year such sums as may be necessary for training and program development activities of the Republican Conference and the Democratic Steering and Policy Committee during the fiscal year.

SEC. 104. (a) Section 311(e)(2) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59(e)(2)) is amended—

2 USC 59e.

(1) by adding “and” at the end of subparagraph (B);

(2) in subparagraph (C), by striking “; and” and inserting a period; and

(3) by striking subparagraph (D).

(b) Section 311(e) of such Act (2 U.S.C. 59e(e)) is amended by striking paragraph (4).

SEC. 105. Notwithstanding any other provision of law or any other rule or regulation, any information on payments made by the Committee on Standards of Official Conduct of the House of Representatives to an individual for attendance as a witness before the Committee in executive session during a Congress shall be reported not later than the second semiannual report filed under section 106 of the House of Representatives Administrative Reform Technical Corrections Act (2 U.S.C. 104b) in the following Congress.

2 USC 104b note.

SEC. 106. (a) Notwithstanding any other provision of law, the Committee on House Oversight may prescribe by regulation appropriate conditions for the incidental use, for other than official business, of equipment and supplies owned or leased by, or the cost of which is reimbursed by, the House of Representatives.

2 USC 112f.

(b) The authority of the Committee on House Oversight to prescribe regulations pursuant to subsection (a) shall apply with respect to fiscal year 1999 and each succeeding fiscal year.

Applicability.

SEC. 107. (a) The Speaker, Majority Leader, and Minority Leader of the House of Representatives are each authorized to appoint and fix the compensation of one consultant, on a temporary or intermittent basis, at a daily rate of compensation not in excess of the per diem equivalent of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the House.

2 USC 74a-9.

(b) This section shall apply with respect to fiscal year 1999 and each succeeding fiscal year.

Applicability.

SEC. 108. Any amount appropriated in this Act for “HOUSE OF REPRESENTATIVES—SALARIES AND EXPENSES—MEMBERS’ REPRESENTATIONAL ALLOWANCES” shall be available only for fiscal year 1999. Any amount remaining after all payments are made under such allowances for such fiscal year shall be deposited in the Treasury, to be used for deficit reduction.

SEC. 109. (a) Notwithstanding any other provision of law, official resources may be used during a fiscal year (beginning with fiscal year 1999), in accordance with regulations of the Committee on House Oversight, to reimburse a Member, officer, or employee of the House of Representatives for the ordinary and necessary

2 USC 127b.

Regulations. expenses related to the official use of telecommunications lines in the residence of the Member, officer, or employee.

(b) The Committee on House Oversight shall promulgate such regulations as are necessary to implement this section.

40 USC 175 note. SEC. 110. Section 121 of Public Law 104-99 is amended in subsection (b)(2)—

(1) by striking in subparagraph (B) “and” after the semicolon; and

(2) by striking the period at the end of subparagraph (C) and inserting “; and” therefor; and

(3) by adding after subparagraph (C) the following new subparagraph:

“(D) reimbursement of expenses incurred by the Chief Administrative Officer of the House of Representatives to cover the costs of furnishings and furniture to accommodate the needs of the House of Representatives Child Care Center.”.

#### JOINT ITEMS

For Joint Committees, as follows:

##### JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, \$3,096,000, to be disbursed by the Secretary of the Senate.

##### JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, \$202,000, together with an additional amount of \$150,000 if there is enacted into law legislation which transfers the legislative and oversight responsibilities of the Joint Committee on Printing to the Committee on House Oversight of the House of Representatives: *Provided*, That such additional amount shall be transferred to the Committee on House Oversight of the House of Representatives and made available beginning January 1, 1999: *Provided further*, That all such funds are to be disbursed by the Secretary of the Senate.

##### JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, \$5,965,400, to be disbursed by the Chief Administrative Officer of the House.

For other joint items, as follows:

##### OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including: (1) an allowance of \$1,500 per month to the Attending Physician; (2) an allowance of \$500 per month each to two medical officers while on duty in the Office of the Attending Physician; (3) an allowance of \$500 per month to one assistant and \$400 per month each not to exceed nine assistants on the basis heretofore provided for such assistants; and (4) \$893,000 for reimbursement to the Department of the Navy for expenses



incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, \$1,415,000, to be disbursed by the Chief Administrative Officer of the House.

#### CAPITOL POLICE BOARD

##### CAPITOL POLICE

##### SALARIES

For the Capitol Police Board for salaries of officers, members, and employees of the Capitol Police, including overtime, hazardous duty pay differential, clothing allowance of not more than \$600 each for members required to wear civilian attire, and Government contributions for health, retirement, Social Security, and other applicable employee benefits, \$76,844,000, of which \$37,037,000 is provided to the Sergeant at Arms of the House of Representatives, to be disbursed by the Chief Administrative Officer of the House, and \$39,807,000 is provided to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided*, That, of the amounts appropriated under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

##### GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, not more than \$2,000 for the awards program, postage, telephone service, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and \$85 per month for extra services performed for the Capitol Police Board by an employee of the Sergeant at Arms of the Senate or the House of Representatives designated by the Chairman of the Board, \$6,237,000, to be disbursed by the Chief Administrative Officer of the House of Representatives: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1999 shall be paid by the Secretary of the Treasury from funds available to the Department of the Treasury.

##### ADMINISTRATIVE PROVISION

SEC. 111. Amounts appropriated for fiscal year 1999 for the Capitol Police Board for the Capitol Police may be transferred between the headings "SALARIES" and "GENERAL EXPENSES" upon the approval of—

(1) the Committee on Appropriations of the House of Representatives, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms of the House of Representatives under the heading “SALARIES”;

(2) the Committee on Appropriations of the Senate, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms and Doorkeeper of the Senate under the heading “SALARIES”; and

(3) the Committees on Appropriations of the Senate and the House of Representatives, in the case of other transfers.

#### CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

For salaries and expenses of the Capitol Guide Service and Special Services Office, \$2,195,000, to be disbursed by the Secretary of the Senate: *Provided*, That no part of such amount may be used to employ more than forty-three individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than 120 days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

#### STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the second session of the One Hundred Fifth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, \$30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

#### OFFICE OF COMPLIANCE

##### SALARIES AND EXPENSES

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), \$2,086,000.

#### CONGRESSIONAL BUDGET OFFICE

##### SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), including not more than \$2,500 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, \$25,671,000: *Provided*, That no part of such amount may be used for the purchase or hire of a passenger motor vehicle.

## ARCHITECT OF THE CAPITOL

## CAPITOL BUILDINGS AND GROUNDS

## CAPITOL BUILDINGS

## SALARIES AND EXPENSES

For salaries for the Architect of the Capitol, the Assistant Architect of the Capitol, and other personal services, at rates of pay provided by law; for surveys and studies in connection with activities under the care of the Architect of the Capitol; for all necessary expenses for the maintenance, care and operation of the Capitol and electrical substations of the Senate and House office buildings under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment, including not more than \$1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; for purchase or exchange, maintenance and operation of a passenger motor vehicle; and not to exceed \$20,000 for attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, \$43,683,000, of which \$8,175,000 shall remain available until expended.

## CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, \$6,046,000, of which \$525,000 shall remain available until expended.

## SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate office buildings; and furniture and furnishings to be expended under the control and supervision of the Architect of the Capitol, \$54,144,000, of which \$14,615,000 shall remain available until expended.

## HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, \$42,139,000, of which \$11,449,000 shall remain available until expended: *Provided*, That of the total amount provided under this heading, not less than \$100,000 shall be used exclusively for waste recycling programs.

## CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, the

Union Station complex, the Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, \$38,174,000, of which \$5,100,000 shall remain available until expended: *Provided*, That not more than \$4,000,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1999.

#### LIBRARY OF CONGRESS

##### CONGRESSIONAL RESEARCH SERVICE

##### SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, \$67,124,000: *Provided*, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Oversight of the House of Representatives or the Committee on Rules and Administration of the Senate: *Provided further*, That, notwithstanding any other provision of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

2 USC 166 note.

#### GOVERNMENT PRINTING OFFICE

##### CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, \$74,465,000: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years: *Provided further*, That notwithstanding the 2-year limitation under section 718 of title 44, United States Code, none of the funds appropriated or made available under this Act or any other Act for printing and binding and related services provided to Congress under chapter 7 of title 44, United States Code, may be expended to print

a document, report, or publication after the 27-month period beginning on the date that such document, report, or publication is authorized by Congress to be printed, unless Congress reauthorizes such printing in accordance with section 718 of title 44, United States Code.

## ADMINISTRATIVE PROVISION

SEC. 112. (a) The Legislative Branch Appropriations Act, 1998 (Public Law 105–55; 111 Stat. 1191) is amended in the item relating to “CONGRESSIONAL PRINTING AND BINDING” under the heading “GOVERNMENT PRINTING OFFICE” by striking “\$81,669,000” and all that follows through “*Provided*,” and inserting the following: “\$70,652,000: *Provided*, That an additional amount of not more than \$11,017,000 may be derived by transfer from the Government Printing Office revolving fund under section 309 of title 44, United States Code: *Provided further*,”.

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 1998.

Effective date.

This title may be cited as the “Congressional Operations Appropriations Act, 1999”.

## TITLE II—OTHER AGENCIES

## BOTANIC GARDEN

## SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, \$3,052,000.

## ADMINISTRATIVE PROVISION

SEC. 201. Section 307E(b) of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c(b)) is amended by—

(1) redesignating paragraph (2) as paragraph (3); and

(2) inserting after paragraph (1) the following:

“(2) The Secretary of the Treasury shall invest any portion of the account designated in paragraph (1) that, as determined by the Architect, is not required to meet current expenses. Each investment shall be made in an interest-bearing obligation of the United States or an obligation guaranteed both as to principal and interest by the United States that, as determined by the Architect, has a maturity date suitable for the purposes of the account. The Secretary of the Treasury shall credit interest earned on the obligations to the account.”.

## LIBRARY OF CONGRESS

## SALARIES AND EXPENSES

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special

clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog records and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, \$238,373,000, of which not more than \$6,500,000 shall be derived from collections credited to this appropriation during fiscal year 1999, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150) and not more than \$350,000 shall be derived from collections during fiscal year 1999 and shall remain available until expended for the development and maintenance of an international legal information database and activities related thereto: *Provided*, That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the \$6,850,000: *Provided further*, That of the total amount appropriated, \$10,119,000 is to remain available until expended for acquisition of books, periodicals, newspapers, and all other materials including subscriptions for bibliographic services for the Library, including \$40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further*, That of the total amount appropriated, \$3,544,000 is to remain available until expended for the acquisition and partial support for implementation of an Integrated Library System (ILS): *Provided further*, That of the total amount appropriated, \$2,000,000 is to remain available until expended for a project to digitize collections for the Meeting of the Frontiers United States-Russian digital library: *Provided further*, That of the total amount appropriated, \$250,000 is to remain available until expended for the Library's efforts in connection with the commemoration of the Bicentennial of the Lewis and Clark expedition.

#### COPYRIGHT OFFICE

#### SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, \$34,891,000, of which not more than \$16,000,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 1999 under 17 U.S.C. 708(d): *Provided*, That the Copyright Office may not obligate or expend any funds derived from collections under 17 U.S.C. 708(d), in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That not more than \$5,170,000 shall be derived from collections during fiscal year 1999 under 17 U.S.C. 111(d)(2), 119(b)(2), 802(h), and 1005: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than \$21,170,000: *Provided further*, That not more than \$100,000 of the amount appropriated is available for the maintenance of an

“International Copyright Institute” in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further*, That not more than \$2,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute.

#### BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

##### SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), \$46,824,000, of which \$13,744,000 shall remain available until expended.

##### FURNITURE AND FURNISHINGS

For necessary expenses for the purchase, installation, maintenance, and repair of furniture, furnishings, office and library equipment, \$4,448,000.

##### ADMINISTRATIVE PROVISIONS

SEC. 202. Appropriations in this Act available to the Library of Congress shall be available, in an amount of not more than \$194,290, of which \$58,100 is for the Congressional Research Service, when specifically authorized by the Librarian, for attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 203. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants such manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term “manager or supervisor” means any management official or supervisor, as such terms are defined in section 7103(a)(10) and (11) of title 5, United States Code.

SEC. 204. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 205. Of the amounts appropriated to the Library of Congress in this Act, not more than \$5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

SEC. 206. Of the amount appropriated to the Library of Congress in this Act, not more than \$12,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Overseas Field Offices.

SEC. 207. (a) For fiscal year 1999, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed \$99,765,100.

(b) The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

Effective date.

SEC. 208. Effective October 1, 1998, the Library of Congress is authorized to receive funds from participants in and sponsors of an international legal information database led by the Law Library of Congress, and to credit any such funds to the Library of Congress appropriations, up to the extent authorized in appropriations Acts, for the development and maintenance of the database.

## ARCHITECT OF THE CAPITOL

### CONGRESSIONAL CEMETERY

For a grant for the perpetual care and maintenance of the historic Congressional Cemetery, \$1,000,000, to remain available until expended.

### LIBRARY BUILDINGS AND GROUNDS

#### STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, \$12,672,000, of which \$910,000 shall remain available until expended.

### ADMINISTRATIVE PROVISIONS

2 USC 51 note.

SEC. 209. (a) GRANT FOR CARE AND MAINTENANCE OF CONGRESSIONAL CEMETERY.—In order to assist in the perpetual care and maintenance of the historic Congressional Cemetery, the Architect of the Capitol shall make a grant to the National Trust for Historic Preservation (hereafter in this section referred to as the “National Trust”) in accordance with an agreement entered into by the Architect of the Capitol with the National Trust and the Association for the Preservation of Historic Congressional Cemetery (hereafter in this section referred to as the “Association”) which contains the terms and conditions described in subsection (b) and such other provisions as the Architect may deem necessary or desirable



for the implementation of this section or for the protection of the interests of the Federal Government.

(b) TERMS AND CONDITIONS OF AGREEMENT.—The terms and conditions described in this subsection are as follows:

(1) Upon receipt of the amounts provided under the grant made under subsection (a), the National Trust shall deposit the amounts in a permanently restricted account in its endowment and shall administer, invest, and manage such grant funds in the same manner as other National Trust endowment funds.

(2) The National Trust shall make distributions to the Association from the amounts deposited in the endowment pursuant to paragraph (1), in accordance with its regularly established spending rate, for the care and maintenance of the Cemetery (other than the cost of personnel), except that the National Trust may only make such distributions incrementally and proportionately upon receipt by the National Trust of contributions from the Association which incrementally match the amounts provided under the grant made under subsection (a) and which are to be added to the permanently restricted account described in paragraph (1).

(3) The Association shall use such distributions from the endowment and the match for the care and maintenance of Congressional Cemetery, except that the Association may not use such distributions for nonroutine restoration or capital projects.

(4) The Association, or any successor thereto, shall maintain adequate records and accounts of all financial transactions and operations carried out with such distributions, and such records shall be available at all times for audit and investigation by the Architect of the Capitol and the Comptroller General.

Records.

(c) NO TITLE IN UNITED STATES.—Nothing in this section shall be construed to vest title to the Congressional Cemetery in the United States.

SEC. 210. For fiscal year 1999, the amount available for expenditure by the Architect of the Capitol from the fund established under section 4 of the Act entitled “An Act to authorize acquisition of certain real property for the Library of Congress, and for other purposes”, approved December 15, 1997 (Public Law 105-144; 111 Stat. 2688), may not exceed \$2,500,000.

## GOVERNMENT PRINTING OFFICE

### OFFICE OF SUPERINTENDENT OF DOCUMENTS

#### SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, \$29,264,000: *Provided*, That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed \$150,000: *Provided further*, That amounts of not more than \$2,000,000 from current year appropriations are authorized for producing and disseminating Congressional serial sets and other

related publications for 1997 and 1998 to depository and other designated libraries.

#### GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: *Provided*, That not more than \$2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of not more than twelve passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: *Provided further*, That the revolving fund and the funds provided under the heading “OFFICE OF SUPERINTENDENT OF DOCUMENTS, SALARIES AND EXPENSES” together may not be available for the full-time equivalent employment of more than 3,383 workyears: *Provided further*, That activities financed through the revolving fund may provide information in any format: *Provided further*, That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15: *Provided further*, That expenses for attendance at meetings shall not exceed \$75,000.

#### GENERAL ACCOUNTING OFFICE

##### SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not more than \$7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6), and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6), and 4081(8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries, \$354,268,000: *Provided*, That notwithstanding 31 U.S.C. 9105 hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the General Accounting Office then available and remain available until expended, and not more than \$2,000,000

31 USC 9105  
note.

of such funds shall be available for use in fiscal year 1999: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of either Forum's costs as determined by the respective Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

#### ADMINISTRATIVE PROVISION

SEC. 211. The unexpended balance appropriated in Public Law 104-208 to the Secretary of Health and Human Services for carrying out section 301(l) of Public Law 104-191 is transferred to the "Salaries and Expenses" appropriation of Public Law 105-55 for necessary expenses of the General Accounting Office, to remain available until September 30, 1998.

#### TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Oversight and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 1999 unless expressly so provided in this Act.

SEC. 303. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: *Provided*, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available

Contracts.  
Public  
information.

for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 306. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of Public Law 104-1 to pay awards and settlements as authorized under such subsection.

SEC. 307. Amounts available for administrative expenses of any legislative branch entity which participates in the Legislative Branch Financial Managers Council (LBFMC) established by charter on March 26, 1996, shall be available to finance an appropriate share of LBFMC costs as determined by the LBFMC, except that the total LBFMC costs to be shared among all participating legislative branch entities (in such allocations among the entities as the entities may determine) may not exceed \$1,500.

SEC. 308. (a) SEVERANCE PAY FOR EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—Section 5595(a) of title 5, United States Code, as amended by section 310 of the Legislative Branch Appropriations Act, 1998, is amended—

(1) in paragraph (1)(F), by striking “, but only with respect to the United States Senate Restaurants”; and

(2) in paragraph (2), in clause (viii) in the matter following subparagraph (B), by striking “of the United States Senate Restaurants”.

(b) EARLY RETIREMENT FOR EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—Section 310(b)(1) of the Legislative Branch Appropriations Act, 1998 (40 U.S.C. 174j-1(b)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking “of the United States Senate Restaurants”; and

(2) in subparagraph (A), by striking “1999;” and inserting “1999 (or, in the case of an individual who is not an employee of the United States Senate Restaurants, on or after the date of the enactment of the Legislative Branch Appropriations Act, 1999 and before October 1, 2001);”.

(c) VOLUNTARY SEPARATION INCENTIVE PAYMENTS FOR EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—Section 310(c) of the Legislative Branch Appropriations Act, 1998 (40 U.S.C. 174j-1(c)) is amended—

(1) in paragraph (1), by striking “of the United States Senate Restaurants”; and

40 USC 174j-1  
note.

40 USC 174j-1  
note.

(2) in paragraph (2)—

(A) by striking “not more than 50”;

(B) by striking “1999” and inserting “1999 (or, in the case of an individual who is not an employee of the United States Senate Restaurants, on or after the date of the enactment of the Legislative Branch Appropriations Act, 1999 and before October 1, 2001)”;

(C) by adding at the end the following new sentence: “The number of employees of the United States Senate Restaurants to whom voluntary separation incentive payments may be offered under the program established under the previous sentence may not exceed 50.”;

(3) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(4) by inserting after paragraph (3) the following:

“(4)(A) No voluntary separation incentive payment may be paid under this section on or after the date of enactment of the Legislative Branch Appropriations Act, 1999, unless the Architect of the Capitol submits a plan described under subparagraph (B) to the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives and such committees approve the plan.

“(B) The plan referred to under subparagraph (A) shall include—

“(i) the positions and functions to be reduced or eliminated, identified by organizational unit, occupational category, and pay or grade level;

“(ii) the number and amounts of voluntary separation incentive payments to be offered; and

“(iii) a description of how the Architect of the Capitol will operate without the eliminated positions and functions.

“(5)(A) In addition to any other payments which the Architect of the Capitol is required to make under subchapter III of chapter 83 of title 5, United States Code, the Architect of the Capitol shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section. This subparagraph shall not apply to any employee of the United States Senate Restaurants.

“(B) For the purpose of this paragraph, the term ‘final basic pay’, with respect to an employee—

“(i) means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee’s final rate of basic pay; and

“(ii) includes an appropriate adjustment to the amount computed under clause (i) if the employee is last serving on other than a full-time basis.”.

(d) RETRAINING, JOB PLACEMENT, AND COUNSELING SERVICES FOR EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—Section 310(e) of the Legislative Branch Appropriations Act, 1998 (40 U.S.C. 174j-1(e)) is amended—

(1) in paragraph (1)(A), by striking “of the United States Senate Restaurants”; and

(2) in paragraph (3)(A), by striking “the United States Senate Restaurants of”.

44 USC 305 note.

SEC. 309. (a) SEVERANCE PAY.—Section 5595 of title 5, United States Code, as amended by section 310 of the Legislative Branch Appropriations Act, 1998, is amended—

(1) in subsection (a)(2)—

(A) in clause (viii), by striking “or” after the semicolon; and

(B) by redesignating clause (ix) as clause (x) and inserting after clause (viii) the following new clause:

“(ix) an employee of the Government Printing Office, who is employed on a temporary when actually employed basis; or”; and

(2) in subsection (b) by adding at the end the following: “The Public Printer may prescribe regulations to effect the application and operation of this section to the agency specified in subsection (a)(1)(G) of this section.”.

Applicability.

(b) EARLY RETIREMENT.—(1) This subsection applies to an employee of the Government Printing Office who—

(A) voluntarily separates from service on or after the date of enactment of this Act and before October 1, 2001; and

(B) on such date of separation—

(i) has completed 25 years of service as defined under section 8331(12) or 8401(26) of title 5, United States Code; or

(ii) has completed 20 years of such service and is at least 50 years of age.

(2) Notwithstanding any provision of chapter 83 or 84 of title 5, United States Code, an employee described under paragraph (1) is entitled to an annuity which shall be computed consistent with the provisions of law applicable to annuities under section 8336(d) or 8414(b) of title 5, United States Code.

(c) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—(1) In this subsection, the term “employee” means an employee of the Government Printing Office, serving without limitation, who has been currently employed for a continuous period of at least 12 months, except that such term shall not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A); or

(C) an employee who is employed on a temporary when actually employed basis.

(2) Notwithstanding any other provision of law, in order to avoid or minimize the need for involuntary separations due to a reduction in force, reorganization, transfer of function, or other similar action affecting the agency, the Public Printer shall establish a program under which voluntary separation incentive payments may be offered to encourage eligible employees to separate from service voluntarily (whether by retirement or resignation) during the period beginning on the date of the enactment of this Act through September 30, 2001.

(3) Such voluntary separation incentive payments shall be paid in accordance with the provisions of section 5597(d) of title 5, United States Code. Any such payment shall not be a basis of payment, and shall not be included in the computation, of any other type of Government benefit.

(4)(A) Not later than January 15, 1999, the Public Printer shall submit a plan described under subparagraph (C) to the Joint Committee on Printing (or any applicable successor committees).

Deadline.

(B) No voluntary separation incentive payment may be paid under this section unless the Public Printer submits a plan described under subparagraph (C) to the Joint Committee on Printing (or any applicable successor committees) and the Joint Committee on Printing approves the plan (or such successor committees approve the plan).

(C) The plan referred to under subparagraph (B) shall include—

(i) the positions and functions to be reduced or eliminated, identified by organizational unit, occupational category, and pay or grade level;

(ii) the number and amounts of voluntary separation incentive payments to be offered; and

(iii) a description of how the Government Printing Office will operate without the eliminated positions and functions.

(5)(A) In addition to any other payments which the Public Printer is required to make under subchapter III of chapter 83 of title 5, United States Code, the Public Printer shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(B) For the purpose of this paragraph, the term “final basic pay”, with respect to an employee—

(i) means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay; and

(ii) includes an appropriate adjustment to the amount computed under clause (i) if the employee is last serving on other than a full-time basis.

(6)(A) Subject to subparagraph (B), an employee who has received a voluntary separation incentive payment under this section and accepts employment with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to repay the entire amount of the incentive payment to the agency that paid the incentive payment.

(B)(i) If the employment is with an Executive agency (as defined by section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(ii) If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(iii) If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(C) For purposes of subparagraph (A) (but not subparagraph (B)), the term “employment” includes employment under a personal services contract with the United States.

Deadline.  
Regulations.

(7) Not later than January 15, 1999, the Public Printer shall prescribe regulations to carry out this subsection.

(d) RETRAINING, JOB PLACEMENT, AND COUNSELING SERVICES.—

(1) In this subsection, the term “employee”—

(A) means an employee of the Government Printing Office; and

(B) shall not include—

(i) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government; or

(ii) an employee who is employed on a temporary when actually employed basis.

(2) The Public Printer may establish a program to provide retraining, job placement, and counseling services to employees and former employees.

(3) A former employee may not participate in a program established under this subsection, if—

(A) the former employee was separated from service with the Government Printing Office for more than 1 year; or

(B) the separation was by removal for cause on charges of misconduct or delinquency.

(4) Retraining costs for the program established under this subsection may not exceed \$5,000 for each employee or former employee.

(e) ADMINISTRATIVE PROVISIONS.—(1) The Public Printer—

(A) may use employees of the Government Printing Office to establish and administer programs and carry out the provisions of this section; and

(B) may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, to carry out such provisions—

(i) not subject to the 1 year of service limitation under such section 3109(b); and

(ii) at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(2) Funds to carry out subsections (a) and (c) may be expended only from funds available for the basic pay of the employee who is receiving the applicable payment.

(3) Funds to carry out subsection (d) may be expended from any funds made available to the Public Printer.

SEC. 310. The Architect of the Capitol—

(1) shall develop and implement a cost-effective energy conservation strategy for all facilities currently administered by Congress to achieve a net reduction of 20 percent in energy consumption on the congressional campus compared to fiscal year 1991 consumption levels on a Btu-per-gross-square-foot basis not later than 7 years after the enactment of this Act;

40 USC 166i.  
Deadline.



(2) shall submit to Congress no later than 10 months after the enactment of this Act a comprehensive energy conservation and management plan which includes life cycle costs methods to determine the cost-effectiveness of proposed energy efficiency projects; Deadline.

(3) shall submit to the Committee on Appropriations in the Senate and the House of Representatives a request for the amount of appropriations necessary to carry out this section;

(4) shall present to Congress annually a report on congressional energy management and conservation programs which details energy expenditures for each facility, energy management and conservation projects, and future priorities to ensure compliance with the requirements of this section; Reports.

(5) shall perform energy surveys of all congressional buildings and update such surveys as needed;

(6) shall use such surveys to determine the cost and pay-back period of energy and water conservation measures likely to achieve the required energy consumption levels;

(7) shall install energy and water conservation measures that will achieve the requirements through previously determined life cycle cost methods and procedures;

(8) may contract with nongovernmental entities and employ private sector capital to finance energy conservation projects and achieve energy consumption targets;

(9) may develop innovative contracting methods that will attract private sector funding for the installation of energy-efficient and renewable energy technology to meet the requirements of this section;

(10) may participate in the Department of Energy's Financing Renewable Energy and Efficiency (FREE Savings) contracts program for Federal Government facilities; and

(11) shall produce information packages and "how-to" guides for each Member and employing authority of the Congress that detail simple, cost-effective methods to save energy and taxpayer dollars.

SEC. 311. Section 316 of Public Law 101-302 is amended in the first sentence of subsection (a) by striking "1998" and inserting "1999". 40 USC 188b-6.

SEC. 312. AMERICAN FOLKLIFE CENTER. (a) FINDINGS AND PURPOSE.— 20 USC 2101 note.

(1) FINDINGS.—Congress makes the following findings:

(A) The American Folklife Center in the Library of Congress was created by Congress in 1976, building on the vast expertise and archival material existing at the Library since 1928.

(B) As an instrumentality of the Congress, it is fitting that the American Folklife Center should have a direct and close relationship with the representatives of the people, who are best able to oversee the ongoing activities of the Center to preserve and promote the cultural traditions of the people, and to ensure that the resources of the Center be readily available to all Americans.

(C) In over 20 years since its creation, the American Folklife Center in the Library of Congress has—

(i) increased the size of the Archive of Folk Culture from 500,000 to 1,500,000 multi-format ethnographic items;

(ii) engaged in 15 cultural surveys and field documentation projects in all regions of the country;

(iii) provided publications, documentary equipment on loan, and advisory and reference service to persons and institutions in all 50 States;

(iv) produced exhibitions and other educational programs on American Folklife at the Library and around the country;

(v) begun sharing its unique collections in digital form via the Internet; and

(vi) served as a national center for the professions of folklore, ethnomusicology, and cultural studies.

(D) Congress has consistently provided encouragement and support of American Folklife as an appropriate matter of concern to the Federal Government, passing legislation to reauthorize the Center eight times since its creation in 1976.

(E) The American Folklife Center is the only unit in the Library of Congress which is not permanently authorized. Since its establishment in 1976, the Center's collections and activities have been fully and successfully integrated into the Library of Congress. It is useful to statutorily conform the American Folklife Center with the rest of the Library of Congress.

(2) PURPOSE.—It is the purpose of this section to authorize permanently the American Folklife Center in the Library of Congress to preserve and present American Folklife.

(b) REAUTHORIZATION AND AMENDMENT.—

(1) BOARD OF TRUSTEES; APPOINTMENT AND COMPENSATION OF DIRECTOR; ELIMINATION OF DEPUTY DIRECTOR POSITION.—Section 4 of the American Folklife Preservation Act (20 U.S.C. 2103) is amended—

(A) by striking subsection (b) and inserting the following:

“(b)(1) The Center shall be under the direction of a Board of Trustees. The Board shall be composed as follows:

President.

“(A) four members appointed by the President from among individuals who are officials of Federal departments and agencies concerned with some aspect of American Folklife traditions and arts;

“(B) four members appointed by the President pro tempore of the Senate from among individuals from private life who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American Folklife traditions and arts, and four members appointed by the Speaker of the House of Representatives from among such individuals;

“(C) four members appointed by the Librarian of Congress from among individuals who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and arts; and

“(D) seven ex officio members including—

“(i) the Librarian of Congress;

“(ii) the Secretary of the Smithsonian Institution;

“(iii) the Chairman of the National Endowment for the Arts;

“(iv) the Chairman of the National Endowment for the Humanities;

\*Note: In the fifth line of Sec. 312(b)(1)(A), which begins “(A) four members . . .” the word “President” has been added after “the” and before “from”.

“(v) the President of the American Folklore Society;  
“(vi) the President of the Society for Ethnomusicology;  
and

“(vii) the Director of the Center.

“(2) In making appointments from private life under paragraph (1)(B) and (C), the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Librarian of Congress shall give due consideration to the appointment of individuals who collectively will provide appropriate diversity and regional balance on the Board. Not more than three of the members appointed by the President pro tempore of the Senate or by the Speaker of the House of Representatives may be affiliated with the same political party.

“(3) In making appointments under paragraph (1)(C), the Librarian of Congress shall include at least two members who direct or are members of the boards of major American folklife organizations other than the American Folklore Society and the Society for Ethnomusicology.”;

(B) by striking subsection (d) and inserting the following:

“(d) Members of the Board shall serve without pay, but members who are not regular full-time employees of the United States may, at the discretion of the Librarian, be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Board.”;

(C) in subsection (e)—

(i) in paragraph (2), by inserting “currently serving” after “Board”; and

(ii) by adding at the end the following:

“(3) The Board shall meet at least once each fiscal year.”;

(D) by striking subsection (f) and inserting the following:

“(f) After consultation with the Board, the Librarian shall appoint the Director of the Center. The basic pay of the Director shall be at an annual rate that is not less than an amount equal to 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule nor more than an amount equal to the pay payable under level IV of the Executive Schedule under section 5315 of title 5, United States Code.”; and

(E) in subsection (g)—

(i) in paragraph (1), by striking the paragraph designation; and

(ii) by striking paragraph (2).

(2) ADMINISTRATIVE PROVISIONS.—Section 7(a)(4) of the American Folklife Preservation Act (20 U.S.C. 2106(a)(4)) is amended by striking “, but no individual so appointed shall receive compensation in excess of the rate received by the Deputy Director of the Center”.

(c) PERMANENT AUTHORIZATION OF APPROPRIATIONS.—Section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended to read as follows:

**“SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated to the Center to carry out this Act such sums as may be necessary for each fiscal year.”.

20 USC 2103  
note.

(d) BOARD OF TRUSTEES, TRANSITION PERIOD.—The term of office of members of the Board of Trustees appointed by the Librarian of Congress under the amendments made by subsection (b)(1) shall be 6 years, except that of the four members first appointed by the Librarian, one shall serve for a term of 2 years, two for a term of 4 years, and one for a term of 6 years.

5 USC 8147 note.

SEC. 313. For purposes of section 8147 of title 5, United States Code, the Government Printing Office is not considered an agency which is required by statute to submit an annual budget pursuant to or as provided by chapter 91 of title 31, United States Code, and is not required to pay an additional amount for the cost of administration.

This Act may be cited as the “Legislative Branch Appropriations Act, 1999”.

Approved October 21, 1998.

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LEGISLATIVE HISTORY—H.R. 4112:

HOUSE REPORTS: Nos. 105–595 (Comm. on Appropriations) and 105–734 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 25, considered and passed House.

July 20, 21, considered and passed Senate, amended.

Sept. 24, House agreed to conference report.

Sept. 25, Senate agreed to conference report.



Public Law 105–276  
105th Congress

An Act

Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes.

Oct. 21, 1998  
[H.R. 4194]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes, namely:

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

Departments of  
Veterans Affairs  
and Housing and  
Urban  
Development,  
and Independent  
Agencies  
Appropriations  
Act, 1999.

For the payment of compensation benefits to or on behalf of veterans and a pilot program for disability examinations as authorized by law (38 U.S.C. 107, chapters 11, 13, 18, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), \$21,857,058,000, to remain available until expended: *Provided*, That not to exceed \$24,534,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized.

## READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by 38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61, \$1,175,000,000, to remain available until expended: *Provided*, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98-77, as amended.

## VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by 38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487, \$46,450,000, to remain available until expended.

## VETERANS HOUSING BENEFIT PROGRAM FUND PROGRAM ACCOUNT

## (INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That during fiscal year 1999, within the resources available, not to exceed \$300,000 in gross obligations for direct loans are authorized for specially adapted housing loans: *Provided further*, That during 1999 any moneys that would be otherwise deposited into or paid from the Loan Guaranty Revolving Fund, the Guaranty and Indemnity Fund, or the Direct Loan Revolving Fund shall be deposited into or paid from the Veterans Housing Benefit Program Fund: *Provided further*, That any balances in the Loan Guaranty Revolving Fund, the Guaranty and Indemnity Fund, or the Direct Loan Revolving Fund on the effective date of this Act may be transferred to and merged with the Veterans Housing Benefit Program Fund.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, \$159,121,000, which may be transferred to and merged with the appropriation for "General operating expenses".

## EDUCATION LOAN FUND PROGRAM ACCOUNT

## (INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, \$1,000, as authorized by 38 U.S.C. 3698, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$3,000.

In addition, for administrative expenses necessary to carry out the direct loan program, \$206,000, which may be transferred to and merged with the appropriation for "General operating expenses".

## VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

## (INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, \$55,000, as authorized by 38 U.S.C. chapter 31, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$2,401,000.

In addition, for administrative expenses necessary to carry out the direct loan program, \$400,000, which may be transferred to and merged with the appropriation for “General operating expenses”.

## NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

## (INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by 38 U.S.C. chapter 37, subchapter V, as amended, \$515,000, which may be transferred to and merged with the appropriation for “General operating expenses”.

## VETERANS HEALTH ADMINISTRATION

## MEDICAL CARE

## (INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department; and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in the Department; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; aid to State homes as authorized by 38 U.S.C. 1741; administrative and legal expenses of the Department for collecting and recovering amounts owed the Department as authorized under 38 U.S.C. chapter 17, and the Federal Medical Care Recovery Act, 42 U.S.C. 2651 et seq.; and not to exceed \$8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5), \$17,306,000,000, plus reimbursements: *Provided*, That of the funds made available under this heading, \$778,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1999, and shall remain available until September 30, 2000: *Provided further*, That of the funds made available under this heading,

not to exceed \$27,420,000 may be transferred to and merged with the appropriation for “General operating expenses”: *Provided further*, That of the funds made available under this heading, up to \$10,000,000 shall be for implementation of the Primary Care Providers Incentive Act, contingent upon enactment of authorizing legislation.

In addition, in conformance with Public Law 105-33 establishing the Department of Veterans Affairs Medical Care Collections Fund, such sums as may be deposited to such Fund pursuant to 38 U.S.C. 1729A may be transferred to this account, to remain available until expended for the purposes of this account.

#### MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by 38 U.S.C. chapter 73, to remain available until September 30, 2000, \$316,000,000, plus reimbursements: *Provided*, That of the funds made available under this heading, \$6,000,000 is for the Musculoskeletal Disease Center, which amount shall remain available for obligation until expended.

#### MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology, \$63,000,000, plus reimbursements.

#### GENERAL POST FUND, NATIONAL HOMES

##### (INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, \$7,000, as authorized by Public Law 102-54, section 8, which shall be transferred from the “General post fund”: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$70,000.

In addition, for administrative expenses to carry out the direct loan programs, \$54,000, which shall be transferred from the “General post fund”, as authorized by Public Law 102-54, section 8.

#### DEPARTMENTAL ADMINISTRATION

##### GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor; not to exceed \$25,000 for official reception and representation expenses; hire of passenger motor vehicles; and



reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail, \$855,661,000: *Provided*, That funds under this heading shall be available to administer the Service Members Occupational Conversion and Training Act.

NATIONAL CEMETERY SYSTEM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the maintenance and operation of the National Cemetery System, not otherwise provided for, including uniforms or allowances therefor; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles for use in cemeterial operations; and hire of passenger motor vehicles, \$92,006,000: *Provided*, That of the amount made available under this heading, not to exceed \$90,000 may be transferred to and merged with the appropriation for “General operating expenses”.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, \$36,000,000: *Provided*, That of the amount made available under this heading, not to exceed \$30,000 may be transferred to and merged with the appropriation for “General operating expenses”.

CONSTRUCTION, MAJOR PROJECTS

(INCLUDING TRANSFER OF FUNDS)

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is \$4,000,000 or more or where funds for a project were made available in a previous major project appropriation, \$142,300,000, to remain available until expended: *Provided*, That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 1999, for each approved project shall be obligated: (1) by the awarding of a construction documents contract by September 30, 1999; and (2) by the awarding of a construction contract by September 30, 2000: *Provided further*, That the Secretary shall promptly report in writing to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above: *Provided further*, That no funds from any other account

Reports.

36 USC 2400  
note.

except the “Parking revolving fund”, may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further*, That not to exceed \$125,000 may be transferred to the Pershing Hall Revolving Fund, codified at section 493(d) of title 36, United States Code: *Provided further*, That during fiscal year 1999, or in subsequent fiscal years, the “Construction, major projects” account shall be reimbursed, in the amount transferred, from other funds as they become part of the Pershing Hall Revolving Fund.

#### CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than \$4,000,000, \$175,000,000, to remain available until expended, along with unobligated balances of previous “Construction, minor projects” appropriations which are hereby made available for any project where the estimated cost is less than \$4,000,000: *Provided*, That funds in this account shall be available for: (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department which are necessary because of loss or damage caused by any natural disaster or catastrophe; and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

#### PARKING REVOLVING FUND

For the parking revolving fund as authorized by 38 U.S.C. 8109, income from fees collected, to remain available until expended, which shall be available for all authorized expenses except operations and maintenance costs, which will be funded from “Medical care”.

#### GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by 38 U.S.C. 8131–8137, \$90,000,000, to remain available until expended.

#### GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by 38 U.S.C. 2408, \$10,000,000, to remain available until expended.

## ADMINISTRATIVE PROVISIONS

## (INCLUDING TRANSFER OF FUNDS)

SEC. 101. Any appropriation for fiscal year 1999 for “Compensation and pensions”, “Readjustment benefits”, and “Veterans insurance and indemnities” may be transferred to any other of the mentioned appropriations.

SEC. 102. Appropriations available to the Department of Veterans Affairs for fiscal year 1999 for salaries and expenses shall be available for services authorized by 5 U.S.C. 3109.

SEC. 103. No appropriations in this Act for the Department of Veterans Affairs (except the appropriations for “Construction, major projects”, “Construction, minor projects”, and the “Parking revolving fund”) shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 104. No appropriations in this Act for the Department of Veterans Affairs shall be available for hospitalization or examination of any persons (except beneficiaries entitled under the laws bestowing such benefits to veterans, and persons receiving such treatment under 5 U.S.C. 7901–7904 or 42 U.S.C. 5141–5204), unless reimbursement of cost is made to the “Medical care” account at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 105. Appropriations available to the Department of Veterans Affairs for fiscal year 1999 for “Compensation and pensions”, “Readjustment benefits”, and “Veterans insurance and indemnities” shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1998.

SEC. 106. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1999 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from “Compensation and pensions”.

SEC. 107. Notwithstanding any other provision of law, during fiscal year 1999, the Secretary of Veterans Affairs shall, from the National Service Life Insurance Fund (38 U.S.C. 1920), the Veterans’ Special Life Insurance Fund (38 U.S.C. 1923), and the United States Government Life Insurance Fund (38 U.S.C. 1955), reimburse the “General operating expenses” account for the cost of administration of the insurance programs financed through those accounts: *Provided*, That reimbursement shall be made only from the surplus earnings accumulated in an insurance program in fiscal year 1999, that are available for dividends in that program after claims have been paid and actuarially determined reserves have been set aside: *Provided further*, That if the cost of administration of an insurance program exceeds the amount of surplus earnings accumulated in that program, reimbursement shall be made only to the extent of such surplus earnings: *Provided further*, That the Secretary shall determine the cost of administration for fiscal year 1999, which is properly allocable to the provision of each insurance program and to the provision of any total disability income insurance included in such insurance program.

SEC. 108. In accordance with section 1557 of title 31, United States Code, the following obligated balances shall be exempt from subchapter IV of chapter 15 of such title and shall remain available

for expenditure without fiscal year limitation: (1) funds obligated by the Department of Veterans Affairs for lease numbers 084B-05-94, 084B-07-94, and 084B-027-94 from funds made available in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Public Law 103-124) under the heading “Medical care”; and (2) funds obligated by the Department of Veterans Affairs for lease number 084B-002-96 from funds made available in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995 (Public Law 103-327) under the heading “Medical care”.

W.G. (Bill)  
Hefner Salisbury  
Department of  
Veterans Affairs  
Medical Center.

SEC. 109. (a) The Department of Veterans Affairs medical center in Salisbury, North Carolina, is hereby designated as the “W.G. (Bill) Hefner Salisbury Department of Veterans Affairs Medical Center”. Any reference to such center in any law, regulation, map, document, record or other paper of the United States shall be considered to be a reference to the “W.G. (Bill) Hefner Salisbury Department of Veterans Affairs Medical Center”.

Effective date.

(b) The provisions of subsection (a) are effective on the latter of the first day of the 106th Congress or January 3, 1999.

SEC. 110. LAND CONVEYANCE, RIDGECREST CHILDREN’S CENTER, ALABAMA. (a) CONVEYANCE.—The Secretary of Veterans Affairs may convey, without consideration, to the Board of Trustees of the University of Alabama, all right, title, and interest of the United States in and to the parcel of real property, including any improvements thereon, described in subsection (b).

(b) COVERED PARCEL.—The parcel of real property to be conveyed under subsection (a) is the following: A parcel of property lying in the northeast quarter of the southwest quarter, section 28, township 21 south, range 9 west, Tuscaloosa County, Alabama, lying along and adjacent to Ridgcrest (Brewer’s Porch) Children’s Center being more particularly described as follows: As a point of commencement start at the southeast corner of the north half of the southwest quarter run in an easterly direction along an easterly projection of the north boundary of the southeast quarter of the southwest quarter for a distance of 888.52 feet to a point; thence with a deflection angle to the left of 134 degrees 41 minutes run in a northwesterly direction for a distance of 1164.38 feet to an iron pipe; thence with a deflection angle to the left of 75 degrees 03 minutes run in a southwesterly direction for a distance of 37.13 feet to the point of beginning of this parcel of property; thence continue in this same southwesterly direction along the projection of the chainlink fence for a distance of 169.68 feet to a point; thence with an interior angle to the left of 63 degrees 16 minutes run in a northerly direction for a distance of 233.70 feet to a point; thence with an interior angle to the left of 43 degrees 55 minutes run in a southeasterly direction for a distance of 218.48 feet to the point of beginning, said parcel having an interior angle of closure of 72 degrees 49 minutes, said parcel containing 0.40 acres more or less, said parcel of property is also subject to all rights-of-way, easements, and conveyances heretofore given for this parcel of property.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 111. (a) The Department of Veterans Affairs medical center in Cleveland, Ohio, is hereby designated as the “Louis Stokes Cleveland Department of Veterans Affairs Medical Center”. Any reference to such center in any law, regulation, map, document, record or other paper of the United States shall be considered to be a reference to the “Louis Stokes Cleveland Department of Veterans Affairs Medical Center”.

Louis Stokes  
Cleveland  
Department of  
Veterans Affairs  
Medical Center.

(b) The provisions of subsection (a) are effective on the latter of the first day of the 106th Congress or January 3, 1999.

Effective date.

## TITLE II—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Short title.

### PUBLIC AND INDIAN HOUSING

#### HOUSING CERTIFICATE FUND

##### (INCLUDING TRANSFERS AND RESCISSION OF FUNDS)

For activities and assistance to prevent the involuntary displacement of low-income families, the elderly and the disabled because of the loss of affordable housing stock, expiration of subsidy contracts (other than contracts for which amounts are provided under another heading in this Act) or expiration of use restrictions, or other changes in housing assistance arrangements, and for other purposes, \$10,326,542,030, to remain available until expended: *Provided*, That of the total amount provided under this heading, \$9,600,000,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts, for enhanced vouchers (including renewals) as provided under the “Preserving Existing Housing Investment” account in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Public Law 104–204), and contracts entered into pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act: *Provided further*, That in the case of enhanced vouchers provided under this heading, if the income of a family receiving assistance declines to a significant extent, the percentage of income paid by the family for rent shall not exceed the greater of 30 percent or the percentage of income paid at the time of mortgage prepayment: *Provided further*, That the Secretary may determine not to apply section 8(o)(6)(B) of the Act to housing vouchers during fiscal year 1999: *Provided further*, That of the total amount provided under this heading, \$433,542,030 shall be for section 8 rental assistance under the United States Housing Act of 1937 including assistance to relocate residents of properties: (1) that are owned by the Secretary and being disposed of; or (2) that are discontinuing section 8 project-based assistance; for relocation and replacement housing for units that are demolished or disposed of from the public housing inventory (in addition to amounts that may be available for such purposes under this and other headings); for the conversion of section 23 projects to assistance under section 8; for funds to carry out the family unification program; and for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency: *Provided further*, That of the total amount made available in the preceding proviso, \$40,000,000 shall be made available to nonelderly disabled

families affected by the designation of a public housing development under section 7 of such Act, the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992 (42 U.S.C. 13611), or the restriction of occupancy to elderly families in accordance with section 658 of such Act, and to the extent the Secretary determines that such amount is not needed to fund applications for such affected families, to other nonelderly disabled families: *Provided further*, That the amount made available under the fifth proviso under the heading “Prevention of Resident Displacement” in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, Public Law 104-204, shall also be made available to nonelderly disabled families affected by the restriction of occupancy to elderly families in accordance with section 658 of the Housing and Community Development Act of 1992: *Provided further*, That to the extent the Secretary determines that the amount made available under the fifth proviso under the heading “Prevention of Resident Displacement” in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, Public Law 104-204, is not needed to fund applications for affected families described in the fifth proviso, or in the preceding proviso under this heading in this Act, the amount not needed shall be made available to other nonelderly disabled families: *Provided further*, That of the total amount provided under this heading, \$10,000,000 shall be for Regional Opportunity Counseling: *Provided further*, That all balances, as of September 30, 1998, remaining in the “Prevention of Resident Displacement” account shall be transferred to and merged with the amounts provided for those purposes under this heading.

For tenant-based assistance under the United States Housing Act of 1937 to help eligible families make the transition from welfare to work, \$283,000,000 from the total amount provided under this heading, to be administered by public housing agencies (including Indian tribes and their tribally designated housing entities, as defined by the Secretary of Housing and Urban Development), and to remain available until expended: *Provided*, That families initially selected to receive assistance under this paragraph: (1) shall be eligible to receive, shall be currently receiving, or shall have received within the preceding two years, assistance or services funded under the Temporary Assistance for Needy Families (TANF) program under part A of title IV of the Social Security Act or as part of a State’s qualified State expenditure under section 409(a)(7)(B)(i) of such Act; (2) shall be determined by the agency to be families for which tenant-based housing assistance is critical to successfully obtaining or retaining employment; and (3) shall not already be receiving tenant-based assistance under the United States Housing Act of 1937: *Provided further*, That each application shall: (1) describe the proposed program, which shall be developed by the public housing agency in consultation with the State, local or Tribal entity administering the TANF program and the entity, if any, administering the Welfare-to-Work grants allocated by the United States Department of Labor pursuant to section 403(a)(5)(A) of the Social Security Act, and which shall take into account the particular circumstances of the community; (2) demonstrate that tenant-based housing assistance is critical to the success of assisting eligible families to obtain or retain employment; (3) specify the

criteria for selecting among eligible families to receive housing assistance under this paragraph; (4) describe the proposed strategy for tenant counseling and housing search assistance and landlord outreach; (5) include any requests for waivers of any administrative requirements or any provisions of the United States Housing Act of 1937, with a demonstration of how approval of the waivers would substantially further the objective of this paragraph; (6) include certifications from the State, local, or Tribal entity administering assistance under the TANF program and from the entity, if any, administering the Welfare-to-Work grants allocated by the United States Department of Labor, that the entity supports the proposed program and will cooperate with the public housing agency that administers the housing assistance to assure that such assistance is coordinated with other welfare reform and welfare to work initiatives; however, if either does not respond to the public housing agency within a reasonable time period, its concurrence shall be assumed, and if either objects to the application, its concerns shall accompany the application to the Secretary, who shall take them into account in this funding decision; and (7) include such other information as the Secretary may require and meet such other requirements as the Secretary may establish: *Provided further*, That the Secretary, after consultation with the Secretary of Health and Human Services and the Secretary of Labor, shall select public housing agencies to receive assistance under this paragraph on a competitive basis, taking into account the need for and quality of the proposed program (including innovative approaches), the extent to which the assistance will be coordinated with welfare reform and welfare to work initiatives, the extent to which the application demonstrates that tenant-based assistance is critical to the success of assisting eligible families to obtain or retain employment; and other appropriate criteria established by the Secretary: *Provided further*, That the Secretary may use up to one percent of the amount available under this paragraph, directly or indirectly, to conduct detailed evaluations of the effect of providing assistance under this paragraph: *Provided further*, That of the amount made available under this paragraph, at least \$4,000,000 each shall be made available for local self-sufficiency/welfare-to-work initiatives in San Bernardino County, California; Cleveland, Ohio; Kansas City, Missouri; Charlotte, North Carolina; Miami/Dade County, Florida; Prince Georges County, Maryland; New York City, New York; and Anchorage, Alaska.

From the sources and in the order hereinafter specified, \$1,650,000,000 is rescinded: *Provided*, That the first source shall be amounts that are available or may be recaptured from project-based contracts for section 8 assistance that expired or were terminated during fiscal year 1999 or any prior year: *Provided further*, That after all amounts that are available or may be recaptured from the first source have been exhausted, the second source shall be unobligated amounts from amendments to contracts for project-based section 8 assistance, other than contracts for projects developed under section 202 of the Housing Act of 1959, other than amounts described as the fourth source, in the fourth proviso in this paragraph, that are carried over into 1999: *Provided further*, That after all amounts that are available from the second source are exhausted, the third source shall be amounts recaptured from section 8 reserves in the section 8 moderate rehabilitation program: *Provided further*, That after all amounts that are available or

may be recaptured from the third source have been exhausted, the fourth source shall be all unobligated amounts for project-based assistance that are earmarked under the third proviso under this heading in Public Law 105-65, 111 Stat. 1351 (approved October 27, 1997): *Provided further*, That any amounts that are available or recaptured in connection with the first or third provisos of this paragraph that are in the Annual Contributions for Assisted Housing account, and are required to be rescinded by this paragraph, shall be rescinded from the Annual Contributions for Assisted Housing account.

PUBLIC HOUSING CAPITAL FUND

(INCLUDING TRANSFERS OF FUNDS)

For the Public Housing Capital Fund Program for modernization of existing public housing projects as authorized under section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), \$3,000,000,000, to remain available until expended: *Provided*, That of the total amount, up to \$100,000,000 shall be for carrying out activities under section 6(j) of such Act and technical assistance for the inspection of public housing units, contract expertise, and training and technical assistance directly or indirectly, under grants, contracts, or cooperative agreements, to assist in the oversight and management of public housing (whether or not the housing is being modernized with assistance under this proviso) or tenant-based assistance, including, but not limited to, an annual resident survey, data collection and analysis, training and technical assistance by or to officials and employees of the Department and of public housing agencies and to residents in connection with the public housing programs and for lease adjustments to section 23 projects: *Provided further*, That of the amount available under this heading, up to \$5,000,000 shall be for the Tenant Opportunity Program: *Provided further*, That all balances, as of September 30, 1998, of funds heretofore provided for section 673 public housing service coordinators shall be transferred to and merged with amounts made available under this heading.

PUBLIC HOUSING OPERATING FUND

For payments to public housing agencies for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), \$2,818,000,000, to remain available until expended.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

(INCLUDING TRANSFER OF FUNDS)

For grants to public housing agencies and Indian tribes and their tribally designated housing entities for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901-11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921-11925, \$310,000,000, to remain available until expended, of which \$10,000,000 shall be for grants, technical assistance, contracts and other assistance, training, and program assessment and execution for or on behalf of public housing agencies, resident organizations, and Indian tribes



and their tribally designated housing entities (including the cost of necessary travel for participants in such training), \$10,000,000 shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home Program administered by the Inspector General of the Department of Housing and Urban Development, \$10,000,000 shall be provided to the Office of Inspector General for Operation Safe Home; and \$20,000,000 shall be available for a program named the New Approach Anti-Drug program which will provide competitive grants to entities managing or operating public housing developments, federally assisted multifamily housing developments, or other multifamily housing developments for low-income families supported by non-Federal governmental entities or similar housing developments supported by nonprofit private sources in order to provide or augment security (including personnel costs), to assist in the investigation and/or prosecution of drug related criminal activity in and around such developments, and to provide assistance for the development of capital improvements at such developments directly relating to the security of such developments: *Provided*, That grants for the New Approach Anti-Drug program shall be made on a competitive basis as specified in section 102 of the Department of Housing and Urban Development Reform Act of 1989: *Provided further*, That the term “drug-related crime”, as defined in 42 U.S.C. 11905(2), shall also include other types of crime as determined by the Secretary: *Provided further*, That, notwithstanding section 5130(c) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(c)), the Secretary may determine not to use any such funds to provide public housing youth sports grants.

#### REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)

For grants to public housing agencies for assisting in the demolition of obsolete public housing projects or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such projects are located, replacement housing which will avoid or lessen concentrations of very low-income families, and tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937; and for providing replacement housing and assisting tenants displaced by the demolition (including appropriate homeownership down payment assistance for displaced tenants), \$625,000,000, to remain available until expended, of which the Secretary may use up to \$15,000,000 for technical assistance and contract expertise, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: *Provided*, That no funds appropriated under this heading shall be used for any purpose that is not provided for herein, in the United States Housing Act of 1937, in the Appropriations Acts for the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies, for the fiscal years 1993, 1994, 1995, 1997, and 1998, and the Omnibus Consolidated Rescissions and Appropriations Act of 1996: *Provided further*, That for purposes of environmental review pursuant to the National Environmental Policy Act of 1969, a grant under this heading or under prior appropriations Acts for use for the purposes under this heading shall be treated as assistance under title I of the United States Housing Act of

1937 and shall be subject to the regulations issued by the Secretary to implement section 26 of such Act: *Provided further*, That none of such funds shall be used directly or indirectly by granting competitive advantage in awards to settle litigation or pay judgments, unless expressly permitted herein.

NATIVE AMERICAN HOUSING BLOCK GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For the Native American Housing Block Grants program, as authorized under title I of the Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104-330), \$620,000,000, to remain available until expended, of which \$6,000,000 shall be used to support the inspection of Indian housing units, contract expertise, training, and technical assistance in the oversight and management of Indian housing and tenant-based assistance, including up to \$200,000 for related travel: *Provided*, That of the amount provided under this heading, \$6,000,000 shall be made available for the cost of guaranteed notes and other obligations, as authorized by title VI of the Native American Housing Assistance and Self-Determination Act of 1996: *Provided further*, That such costs, including the costs of modifying such notes and other obligations, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize the total principal amount of any notes and other obligations, any part of which is to be guaranteed, not to exceed \$54,600,000.

In addition, for administrative expenses to carry out the guaranteed loan program, up to \$200,000, which shall be transferred to and merged with the appropriation for departmental salaries and expenses, to be used only for the administrative costs of these guarantees: *Provided*, That the funds made available in the first proviso in the preceding paragraph are for a demonstration on ways to enhance economic growth, to increase access to private capital, and to encourage the investment and participation of traditional financial institutions in tribal and other Native American areas.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of guaranteed loans, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739), \$6,000,000, to remain available until expended: *Provided*, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$68,881,000.

In addition, for administrative expenses to carry out the guaranteed loan program, up to \$400,000, which shall be transferred to and merged with the appropriation for departmental salaries and expenses, to be used only for the administrative costs of these guarantees.

## RURAL HOUSING AND ECONOMIC DEVELOPMENT

## (INCLUDING TRANSFER OF FUNDS)

For an Office of Rural Housing and Economic Development to be established in the Department of Housing and Urban Development, \$25,000,000, to remain available until expended: *Provided*, That of the amount under this heading, \$4,000,000 shall be used to develop capacity at the State and local level for developing rural housing and for economic development, of which \$1,000,000 shall be used to develop a clearinghouse of ideas for innovative strategies for rural housing and economic development and revitalization and of which \$3,000,000 shall be awarded by June 1, 1999 directly to local rural nonprofits, community development corporations and Indian tribes to support capacity building and technical assistance: *Provided further*, That of the amount under this heading, \$21,000,000 shall be awarded by June 1, 1999 to Indian tribes, State housing finance agencies, State community and/or economic development agencies, local rural nonprofits and community development corporations to support innovative housing and economic development activities in rural areas, of which \$5,000,000 shall be awarded as seed support for Indian tribes, nonprofits and community development corporations that are located in areas that have limited capacity for the development of rural housing and for economic development: *Provided further*, That all grants shall be awarded on a competitive basis as specified in section 102 of the HUD Reform Act: *Provided further*, That all funds unobligated as of October 1, 1998 under the fifth paragraph of the Community Development Block Grants account in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriation Act, 1998 (Public Law 105-65; October 27, 1997) shall be transferred to this account to be awarded to Indian tribes, State housing finance agencies, State community and/or economic development agencies, local rural nonprofits and community development corporations for activities under this heading with any outstanding earmarks for a State to be awarded to that State's housing finance agency.

## COMMUNITY PLANNING AND DEVELOPMENT

## HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS

For carrying out the Housing Opportunities for Persons with AIDS program, as authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901), \$215,000,000, to remain available until expended: *Provided*, That the Secretary may use up to 1 percent of the funds under this heading for technical assistance: *Provided further*, That within 30 days of the close of fiscal year 1999, the Secretary shall submit a report to the Congress summarizing all technical assistance provided during the fiscal year.

Reports.

## COMMUNITY DEVELOPMENT BLOCK GRANTS

## (INCLUDING TRANSFER OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, to carry out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as

amended (the “Act” herein) (42 U.S.C. 5301), \$4,750,000,000, to remain available until September 30, 2001: *Provided*, That \$67,000,000 shall be for grants to Indian tribes notwithstanding section 106(a)(1) of such Act, \$3,000,000 shall be available as a grant to the Housing Assistance Council, \$3,000,000 shall be available for the Organizing Committee for the 1999 Special Olympics Summer Games to be used in support of related activities in the Triangle Area of North Carolina, \$1,800,000 shall be available as a grant to the National American Indian Housing Council, \$50,000,000 shall be for grants pursuant to section 107 of the Act: *Provided further*, That all funding decisions under section 107 except as specified herein shall be subject to a reprogramming request unless otherwise specified in accordance with the terms and conditions specified in the joint explanatory statement of the committee of conference accompanying this Act (H.R. 4194): *Provided further*, That \$27,500,000 shall be for grants pursuant to the Self Help Housing Opportunity program, subject to authorization, of which \$7,500,000 shall be for capacity building efforts: *Provided further*, That not to exceed 20 percent of any grant made with funds appropriated herein (other than a grant made available in this paragraph to the Housing Assistance Council or the National American Indian Housing Council, or a grant using funds under section 107(b)(3) of the Housing and Community Development Act of 1974, as amended) shall be expended for “Planning and Management Development” and “Administration” as defined in regulations promulgated by the Department.

Of the amount made available under this heading, \$15,000,000 shall be made available for “Capacity Building for Community Development and Affordable Housing,” for LIISC and the Enterprise Foundation for activities as authorized by section 4 of the HUD Demonstration Act of 1993 (Public Law 103-120), as in effect immediately before June 12, 1997, with not less than \$5,000,000 of the funding to be used in rural areas, including tribal areas.

Of the amount made available under this heading, \$12,000,000 is for the City of Oklahoma City, Oklahoma, for a revolving loan pool that shall be subject to the following requirements and conditions: (1) amounts in the pool shall be available only for the purposes of making loans to carry out economic development activities that primarily benefit the area in Oklahoma City bounded on the south by Robert S. Kerr Avenue, on the north by North 13th Street, on the east by Oklahoma Avenue, and on the west by Shartel Avenue, and covering costs involved in administering the loan pool; (2) amounts provided under this paragraph shall be available for use from the loan pool only to the extent that the amounts contributed to the loan pool (or committed to be contributed) from non-Federal sources equal or exceed two times the amounts provided under this paragraph; (3) any repayments of principal and interest from loans made by the pool shall be deposited in the pool and available for use for loans in accordance with this paragraph; (4) amounts in the pool may not be used to provide loans to any agency or entity of the Federal Government or any State government or unit of general local government; (5) amounts provided under this paragraph shall be available for use from the loan pool only if the City of Oklahoma City, Oklahoma agrees (to the satisfaction of the Secretary of Housing and Urban Development) to deposit in the pool (for use for loans in accordance with this paragraph) the net proceeds from any amounts that are repaid

to the City under loans made by the City using amounts provided under this same heading under chapter III of title III of Public Law 104-19 (109 Stat. 253).

Of the amount provided under this heading, the Secretary of Housing and Urban Development may use up to \$55,000,000 for a public and assisted housing self-sufficiency program, of which up to \$5,000,000 may be used for the Moving to Work Demonstration, and at least \$20,000,000 shall be used for grants for service coordinators and congregate services for the elderly and disabled: *Provided*, That for self-sufficiency activities, the Secretary may make grants to public housing agencies (including Indian tribes and their tribally designated housing entities), nonprofit corporations, and other appropriate entities for a supportive services program to assist residents of public and assisted housing, former residents of such housing receiving tenant-based assistance under section 8 of such Act (42 U.S.C. 1437f), and other low-income families and individuals: *Provided further*, That the program shall provide supportive services, principally for the benefit of public housing residents, to the elderly and the disabled, and to families with children where the head of household would benefit from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job training or educational programs: *Provided further*, That the supportive services may include congregate services for the elderly and disabled, service coordinators, and coordinated education, training, and other supportive services, including case management skills training, job search assistance, assistance related to retaining employment, vocational and entrepreneurship development and support programs, such as transportation, and child care: *Provided further*, That the Secretary shall require applications to demonstrate firm commitments of funding or services from other sources: *Provided further*, That the Secretary shall select public and Indian housing agencies to receive assistance under this heading on a competitive basis, taking into account the quality of the proposed program, including any innovative approaches, the extent of the proposed coordination of supportive services, the extent of commitments of funding or services from other sources, the extent to which the proposed program includes reasonably achievable, quantifiable goals for measuring performance under the program over a three-year period, the extent of success an agency has had in carrying out other comparable initiatives, and other appropriate criteria established by the Secretary (except that this proviso shall not apply to renewal of grants for service coordinators and congregate services for the elderly and disabled).

Of the amount made available under this heading, notwithstanding any other provision of law, \$42,500,000 shall be available for YouthBuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under this heading: *Provided*, That local YouthBuild programs that demonstrate an ability to leverage private and nonprofit funding shall be given a priority for YouthBuild funding: *Provided further*, That up to \$2,500,000 may be used for capacity buildings efforts.

Of the amount made available under this heading, \$225,000,000 shall be available for the Economic Development Initiative (EDI) to finance a variety of efforts, including \$190,000,000 for making

grants for targeted economic investments in accordance with the terms and conditions specified for such grants in the joint explanatory statement of the committee of conference accompanying this Act.

Of the amount made available under this heading, \$25,000,000 shall be available for neighborhood initiatives that are utilized to improve the conditions of distressed and blighted areas and neighborhoods, and to determine whether housing benefits can be integrated more effectively with welfare reform initiatives.

For the cost of guaranteed loans, \$29,000,000, as authorized by section 108 of the Housing and Community Development Act of 1974: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$1,261,000,000, notwithstanding any aggregate limitation on outstanding obligations guaranteed in section 108(k) of the Housing and Community Development Act of 1974: *Provided further*, That in addition, for administrative expenses to carry out the guaranteed loan program, \$1,000,000, which shall be transferred to and merged with the appropriation for departmental salaries and expenses.

42 USC 5305  
note.

For any fiscal year, of the amounts made available as emergency funds under the heading “Community Development Block Grants Fund” and notwithstanding any other provision of law, not more than \$250,000 may be used for the non-Federal cost-share of any project funded by the Secretary of the Army through the Corps of Engineers.

#### BROWNFIELDS REDEVELOPMENT

For Economic Development Grants, as authorized by section 108(q) of the Housing and Community Development Act of 1974, as amended, for Brownfields redevelopment projects, \$25,000,000, to remain available until expended: *Provided*, That the Secretary of Housing and Urban Development shall make these grants available on a competitive basis as specified in section 102 of the Department of Housing and Urban Development Reform Act of 1989.

#### HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), as amended, \$1,600,000,000, to remain available until expended: *Provided*, That up to \$7,000,000 of these funds shall be available for the development and operation of integrated community development management information systems: *Provided further*, That up to \$17,500,000 of these funds shall be available for Housing Counseling under section 106 of the Housing and Urban Development Act of 1968.

#### HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act, as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under

the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and the shelter plus care program (as authorized under subtitle F of title IV of such Act), \$975,000,000, to remain available until expended: *Provided*, That not less than 30 percent of these funds shall be used for permanent housing, and all funding for services must be matched by 25 percent in funding by each grantee: *Provided further*, That the Secretary of Housing and Urban Development shall conduct a review of any balances of amounts provided under this heading in this or any previous appropriations Act that have been obligated but remain unexpended and shall deobligate any such amounts that the Secretary determines were obligated for contracts that are unlikely to be performed and award such amounts during this fiscal year: *Provided further*, That up to 1 percent of the funds appropriated under this heading may be used for technical assistance and tracking systems needed to carry out the directives provided in House Report 105-610.

#### HOUSING PROGRAMS

##### HOUSING FOR SPECIAL POPULATIONS

For assistance for the purchase, construction, acquisition, or development of additional public and subsidized housing units for low income families not otherwise provided for, \$854,000,000, to remain available until expended: *Provided*, That of the total amount provided under this heading, \$660,000,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for the elderly under section 202(c)(2) of the Housing Act of 1959, and for supportive services associated with the housing; and \$194,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act, for project rental assistance, for amendments to contracts for project rental assistance, and supportive services associated with the housing for persons with disabilities as authorized by section 811 of such Act: *Provided further*, That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of such Act for tenant-based assistance, as authorized under that section, including such authority as may be waived under the next proviso, which assistance is five years in duration: *Provided further*, That the Secretary may waive any provision of section 202 of the Housing Act of 1959 and section 811 of the Cranston-Gonzalez National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance and tenant-based assistance) that the Secretary determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate.

## FLEXIBLE SUBSIDY FUND

## (TRANSFER OF FUNDS)

From the Rental Housing Assistance Fund, all uncommitted balances of excess rental charges as of September 30, 1998, and any collections made during fiscal year 1999, shall be transferred to the Flexible Subsidy Fund, as authorized by section 236(g) of the National Housing Act, as amended.

## FEDERAL HOUSING ADMINISTRATION

## FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

## (INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1999, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of \$110,000,000,000.

During fiscal year 1999, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed \$100,000,000: *Provided*, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under the Mutual Mortgage Insurance Fund.

For administrative expenses necessary to carry out the guaranteed and direct loan program, \$328,888,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed \$324,866,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which not to exceed \$4,022,000 shall be transferred to the appropriation for the Office of Inspector General.

## FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

## (INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z-3 and 1735c), including the cost of loan guarantee modifications (as that term is defined in section 502 of the Congressional Budget Act of 1974, as amended), \$81,000,000, to remain available until expended: *Provided*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, of up to \$18,100,000,000: *Provided further*, That any amounts made available in any prior appropriations Act for the cost (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans that are obligations of the funds established under section 238 or 519 of the National Housing Act that have not been obligated or that are deobligated shall be available to the Secretary of Housing and Urban Development in connection with the making of such guarantees and shall remain available until expended, notwithstanding the expiration of any period of availability otherwise applicable to such amounts.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238, and 519(a) of the National Housing Act, shall not exceed \$50,000,000; of which not to exceed



\$30,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed \$20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, \$211,455,000, of which \$193,134,000, shall be transferred to the appropriation for departmental salaries and expenses; and of which \$18,321,000 shall be transferred to the appropriation for the Office of Inspector General.

#### GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

##### GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

###### (INCLUDING TRANSFER OF FUNDS)

During fiscal year 1999, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed \$150,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, \$9,383,000, to be derived from the GNMA-guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed \$9,383,000 shall be transferred to the appropriation for departmental salaries and expenses.

#### POLICY DEVELOPMENT AND RESEARCH

##### RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, \$47,500,000, to remain available until September 30, 2000.

#### FAIR HOUSING AND EQUAL OPPORTUNITY

##### FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, \$40,000,000, to remain available until September 30, 2000, of which \$23,500,000 shall be to carry out activities pursuant to such section 561: *Provided*, That no funds made available under this heading shall be used to lobby the executive or legislative branches of the Federal Government in connection with a specific contract, grant or loan.

## OFFICE OF LEAD HAZARD CONTROL

## LEAD HAZARD REDUCTION

For the Lead Hazard Reduction Program, as authorized by sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992, \$80,000,000 to remain available until expended, of which \$2,500,000 shall be for CLEARCorps and \$10,000,000 shall be for a Healthy Homes Initiative, which shall be a program pursuant to sections 501 and 502 of the Housing and Urban Development Act of 1970 that shall include research, studies, testing, and demonstration efforts, including education and outreach concerning lead-based paint poisoning and other housing-related environmental diseases and hazards.

## MANAGEMENT AND ADMINISTRATION

## SALARIES AND EXPENSES

## (INCLUDING TRANSFER OF FUNDS)

For necessary administrative and non-administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed \$7,000 for official reception and representation expenses, \$985,826,000, of which \$518,000,000 shall be provided from the various funds of the Federal Housing Administration, \$9,383,000 shall be provided from funds of the Government National Mortgage Association, \$1,000,000 shall be provided from the "Community Development Grants Program" account, \$200,000 shall be provided by transfer from the "Title VI Indian Federal Guarantees Program" account, and \$400,000 shall be provided by transfer from the "Indian Housing Loan Guarantee Fund Program" account: *Provided*, That the Department is prohibited from employing more than 77 schedule C and 20 noncareer Senior Executive Service employees.

## OFFICE OF INSPECTOR GENERAL

## (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, \$81,910,000, of which \$22,343,000 shall be provided from the various funds of the Federal Housing Administration and \$10,000,000 shall be provided from the amount earmarked for Operation Safe Home in the "Drug Elimination Grants for Low-Income Housing" account: *Provided*, That the Inspector General shall have independent authority over all personnel issues within the Office of Inspector General.

## OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

## SALARIES AND EXPENSES

## (INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, \$16,000,000, to remain available until expended, to be derived from the Federal Housing Enterprise Oversight Fund: *Provided*, That not to exceed such amount shall

be available from the General Fund of the Treasury to the extent necessary to incur obligations and make expenditures pending the receipt of collections to the Fund: *Provided further*, That the General Fund amount shall be reduced as collections are received during the fiscal year so as to result in a final appropriation from the General Fund estimated at not more than \$0.

## ADMINISTRATIVE PROVISIONS

PUBLIC AND ASSISTED HOUSING RENTS, PREFERENCES, AND  
FLEXIBILITY

SEC. 201. Section 201(a)(2) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437l note), is amended to read as follows:

“(2) APPLICABILITY.—Section 14(q) of the United States Housing Act of 1937 shall be effective only with respect to assistance provided from funds made available for fiscal year 1999 or any preceding fiscal year, except that the authority in the first sentence of section 14(q)(1) to use up to 10 percent of the allocation of certain funds for any operating subsidy purpose shall not apply to amounts made available for fiscal years 1998 and 1999.”.

## GSE DEFAULT LOSS PROTECTION

SEC. 202. (a) Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended in the first sentence by—

12 USC 1454.

(1) striking “or” at the end of clause (B);

(2) striking the period at the end of the first sentence and inserting: “; or (D) the mortgage is subject to default loss protection that the Corporation determines is financially equal or superior, on an individual or pooled basis, to the protection provided by clause (C) of this sentence: *Provided*, That if the Director of the Office of Federal Housing Enterprise Oversight subsequently finds that such default loss protection determined by the Corporation does not provide such equal or superior protection, the Corporation shall provide such additional default loss protection for such mortgage, as approved by the Director of the Office of Federal Housing Enterprise Oversight, necessary to provide such equal or superior protection.”.

(b) Section 1313(b) of the Federal Housing Enterprises Financial Housing Safety and Soundness Act of 1992 is amended by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively, and inserting the following new paragraph (9):

12 USC 4513.

“(9) default loss protection levels under section 305(a)(2)(D) of the Federal Home Loan Mortgage Corporation Act;”.

## FINANCING ADJUSTMENT FACTORS

SEC. 203. Fifty percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted

to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section. Notwithstanding the previous sentence, the Secretary may award up to 15 percent of the budget authority or cash recaptured and not rescinded or remitted to the Treasury to provide project owners with incentives to refinance their project at a lower interest rate.

#### FAIR HOUSING AND FREE SPEECH

SEC. 204. None of the amounts made available under this Act may be used during fiscal year 1999 to investigate or prosecute under the Fair Housing Act any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of a nonfrivolous legal action, that is engaged in solely for the purpose of achieving or preventing action by a government official or entity, or a court of competent jurisdiction.

#### BROWNFIELDS AS ELIGIBLE CDBG ACTIVITY

42 USC 5305  
note.

SEC. 205. For fiscal years 1998, 1999, and all fiscal years thereafter, States and entitlement communities may use funds allocated under the community development block grants program under title I of the Housing and Community Development Act of 1974 for environmental cleanup and economic development activities related to Brownfields projects in conjunction with the appropriate environmental regulatory agencies, as if such activities were eligible under section 105(a) of such Act.

#### ENHANCED DISPOSITION AUTHORITY

12 USC 1715z–  
11a.

SEC. 206. Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, is amended by striking “fiscal years 1997 and 1998” and inserting “fiscal years 1997, 1998, and 1999”.

#### HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS GRANTS

SEC. 207. (a) ELIGIBILITY.—Notwithstanding section 854(c)(1)(A) of the AIDS Housing Opportunity Act (42 U.S.C. 12903(c)(1)(A)), from any amounts made available under this title for fiscal year 1999 that are allocated under such section, the Secretary of Housing and Urban Development shall allocate and make a grant, in the amount determined under subsection (b), for any State that—

(1) received an allocation in a prior fiscal year under clause (ii) of such section; and

(2) is not otherwise eligible for an allocation for fiscal year 1999 under such clause (ii) because the areas in the State outside of the metropolitan statistical areas that qualify under clause (i) in fiscal year 1999 do not have the number of cases of acquired immunodeficiency syndrome required under such clause.

(b) AMOUNT.—The amount of the allocation and grant for any State described in subsection (a) shall be an amount based on the cumulative number of AIDS cases in the areas of that State that are outside of metropolitan statistical areas that qualify under

clause (i) of such section 854(c)(1)(A) in fiscal year 1999 in proportion to AIDS cases among cities and States that qualify under clauses (i) and (ii) of such section and States deemed eligible under subsection (a).

(c) ENVIRONMENTAL REVIEW.—For purposes of environmental review, pursuant to the National Environmental Policy Act of 1969 and other provisions of law that further the purposes of such Act, a grant under the AIDS Housing Opportunity Act (42 U.S.C. 12901 et seq.) from amounts provided under this or prior Acts shall be treated as assistance for a special project that is subject to section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547), and shall be subject to the regulations issued by the Secretary to implement such section. Where the grantee under the AIDS Housing Opportunity Act is a nonprofit organization and the activity is proposed to be carried out within the jurisdiction of an Indian tribe or the community of an Alaska native village, the role of the State or unit of general local government under sections 305(c)(1)–(3) of such Act may be carried out by the Indian tribe or Alaska native village instead.

#### DRAWDOWN OF FUNDS

SEC. 208. Section 14(q)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437l(q)(1)) is amended by inserting after the first sentence the following sentence: “Such assistance may involve the drawdown of funds on a schedule commensurate with construction draws for deposit into an interest earning escrow account to serve as collateral or credit enhancement for bonds issued by a public agency for the construction or rehabilitation of the development.”.

#### ELIMINATION OF SHOPPING INCENTIVE FOR VOUCHER FAMILIES WHO REMAIN IN SAME UNIT UPON INITIAL RECEIPT OF ASSISTANCE

SEC. 209. (a) Section 8(o)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(2)) is amended by inserting the following new sentence at the end: “Notwithstanding the preceding sentence, for families being admitted to the voucher program who remain in the same unit or complex, where the rent (including the amount allowed for utilities) does not exceed the payment standard, the monthly assistance payment for any family shall be the amount by which such rent exceeds the greater of 30 percent of the family’s monthly adjusted income or 10 percent of the family’s monthly income.”.

(b) This section shall take effect 60 days after the later of October 1, 1998 or the date of the enactment of this Act.

Effective date.  
42 USC 1437f  
note.

#### RENEGOTIATION OF PERFORMANCE FUNDING SYSTEM

SEC. 210. Section 9(a)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(3)(A)) is amended—

(1) by inserting after the third sentence the following new sentence to read as follows:

“Notwithstanding the preceding sentences, the Secretary may revise the performance funding system in a manner that takes into account equity among public housing agencies and that includes appropriate incentives for sound management.”; and

(2) in the last sentence, by inserting after “vacant public housing units” the following: “, or any substantial change under the preceding sentence,”.

#### FHA MULTIFAMILY MORTGAGE CREDIT DEMONSTRATIONS

12 USC 1707  
note.

SEC. 211. Section 542 of the Housing and Community Development Act of 1992 is amended—

(1) in subsection (b)(5) by adding before the period at the end of the first sentence “, and not more than an additional 25,000 units during fiscal year 1999”, and

(2) in the first sentence of subsection (c)(4) by striking “1996 and” and inserting “1996,” and by inserting after “fiscal year 1997” the following: “and not more than an additional 25,000 units during fiscal year 1999”.

#### CALCULATION OF DOWNPAYMENT

12 USC 1709  
note.

SEC. 212. Section 203(b)(10) of the National Housing Act is amended by—

(1) striking out “ALASKA AND HAWAII” and inserting in lieu thereof “CALCULATION OF DOWNPAYMENT”; and

(2) striking out in subparagraph (A) “originated in the State of Alaska or the State of Hawaii and endorsed for insurance in fiscal years 1997 and 1998,” and inserting in lieu thereof “executed for insurance in fiscal years 1998, 1999, and 2000”.

#### STATE CDBG IDIS FUNDING

SEC. 213. During fiscal year 1999, from amounts received by a State under section 106(d)(1) of the Housing and Community Development Act of 1974 for distribution in nonentitlement areas, the State may deduct an amount, not to exceed the greater of 0.25 percent of the amount so received or \$50,000, for implementation of the integrated disbursement and information system established by the Secretary, in addition to any amounts used for this purpose from amounts retained by the State for administrative expenses under section 106(d)(3)(A).

#### NURSING HOME LEASE TERMS

12 USC 1715w.

SEC. 214. (a) TECHNICAL CORRECTION.—Section 216 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998, is amended by striking out “fifty years from the date” and inserting in lieu thereof “fifty years to run from the date”.

12 USC 1715w  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be construed to have taken effect on October 27, 1997.

#### TECHNICAL FOR EMERGENCY CDBG PROGRAM

SEC. 215. For purposes of eligibility for funding under the heading “Community Development Block Grants” in the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105-174; May 1, 1998) the term “States” shall be deemed to include “Indian tribes” as defined under section 102(a)(17) of the Housing and Community Development Act of 1974 and Guam, the Northern

Mariana Islands, the Virgin Islands, and American Samoa: *Provided*, That amounts made available by this section are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### USE OF HOME FUNDS FOR PUBLIC HOUSING MODERNIZATION

SEC. 216. Notwithstanding section 212(d)(5) of the Cranston-Gonzalez National Affordable Housing Act, amounts made available to the City of Bismarck, North Dakota, under subtitle A of title II of the Cranston-Gonzalez National Affordable Housing Act for fiscal years 1998, 1999, 2000, 2001 or 2002, may be used to carry out activities authorized under section 14 of the United States Housing Act of 1937 (42 U.S.C. 14371) for the purpose of modernizing the Crescent Manor public housing project located at 107 East Bowen Avenue, in Bismarck, North Dakota, if—

(1) the Burleigh County Housing Authority (or any successor public housing agency that owns or operates the Crescent Manor public housing project) has obligated all other Federal assistance made available to that public housing agency for that fiscal year; or

(2) the Secretary of Housing and Urban Development authorizes the use of those amounts for the purpose of modernizing that public housing project, which authorization may be made with respect to one or more of those fiscal years.

#### CDBG AND HOME EXEMPTION

SEC. 217. The City of Oxnard, California may use amounts available to the City under title I of the Housing and Community Development Act of 1974 and under subtitle A of title II of the Cranston-Gonzalez National Affordable Housing Act to reimburse the city for its cost in purchasing 19.89 acres of land, more or less, located at the northwest corner of Lombard Street and Camino del Sol in the city, on the north side of the 2100 block of Camino del Sol, for the purpose of providing affordable housing. The procedures set forth in sections 104(g)(2) and (3) of the Housing and Community Development Act of 1974 and sections 288(b) and (c) of the Cranston-Gonzalez National Affordable Housing Act shall not apply to any release of funds for such reimbursement.

#### CDBG PUBLIC SERVICES CAP

SEC. 218. Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended by striking “1998” and inserting “1999”.

#### CLARIFICATION OF OWNER’S RIGHT TO PREPAY

SEC. 219. (a) PREPAYMENT RIGHT.—Notwithstanding section 211 of the Housing and Community Development Act of 1987 or section 221 of the Housing and Community Development Act of 1987 (as in effect pursuant to section 604(c) of the Cranston-Gonzalez National Affordable Housing Act), subject to subsection (b), with respect to any project that is eligible low-income housing (as that term is defined in section 229 of the Housing and Community Development Act of 1987)—

(1) the owner of the project may prepay, and the mortgagee may accept prepayment of, the mortgage on the project, and

(2) the owner may request voluntary termination of a mortgage insurance contract with respect to such project and the contract may be terminated notwithstanding any requirements under sections 229 and 250 of the National Housing Act.

(b) CONDITIONS.—Any prepayment of a mortgage or termination of an insurance contract authorized under subsection (a) may be made—

(1) only to the extent that such prepayment or termination is consistent with the terms and conditions of the mortgage on or mortgage insurance contract for the project;

(2) only if the owner of the project involved agrees not to increase the rent charges for any dwelling unit in the project during the 60-day period beginning upon such prepayment or termination; and

(3) only if the owner of the project provides notice of intent to prepay or terminate, in such form as the Secretary of Housing and Urban Development may prescribe, to each tenant of the housing, the Secretary, and the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located, not less than 150 days, but not more than 270 days, before such prepayment or termination, except that such requirement shall not apply to a prepayment or termination that—

(A) occurs during the 150-day period immediately following the date of the enactment of this Act;

(B) is necessary to effect conversion to ownership by a priority purchaser (as defined in section 231(a) of the Low-Income Housing Preservation and Resident Ownership Act of 1990 (12 U.S.C. 4120(a)), or

(C) will otherwise ensure that the project will continue to operate, at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed prepayment or termination.

#### PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION ACT

SEC. 220. The Public and Assisted Housing Drug Elimination Act of 1990 is amended—

42 USC 11902. (1) in section 5123, by inserting “Indian tribes” before “and private”;

42 USC 11903. (2) in section 5124(a)(7), by inserting “, an Indian tribe,” before “or tribally designated”;

42 USC 11904. (3) in section 5125, by inserting “an Indian tribe” before “a tribally designated”; and

42 USC 11905. (4) in section 5126, by adding at the end the following new paragraph:

“(6) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4(12) of the Native American Housing Assistance and Self Determination Act of 1996, 25 U.S.C. 4103(12).”.



## MULTIFAMILY HOUSING INSTITUTE

SEC. 221. Notwithstanding any other provision of law, the Secretary may, from time to time, as determined necessary to assist the Department in managing its multifamily assets including analyzing, tracking and evaluating its portfolio of FHA-insured and other mortgages and properties and assisting the Department in understanding and reducing the risk involved in its mortgage restructuring, insuring and guaranteeing activities, provide data to, and purchase data from, any nonprofit, industry supported, on-line provider of nationwide, multifamily housing loan and property data services.

## MULTIFAMILY MORTGAGE AUCTIONS

SEC. 222. Section 221(g)(4)(C) of the National Housing Act 12 USC 1715l. is amended—

(1) in the first sentence of clause (viii), by striking “September 30, 1996” and inserting “December 31, 2002”; and

(2) by adding at the end the following:

“(ix) The authority of the Secretary to conduct multifamily auctions under this paragraph shall be effective for any fiscal year only to the extent and in such amounts as are approved in appropriations Acts for the costs of loan guarantees (as defined in section 502 of the Congressional Budget Act of 1974), including the cost of modifying loans.”.

## FUNDING CORRECTION

SEC. 223. Notwithstanding any other provision of law, of the \$1,250,000 made available pursuant to Public Law 102-389 for economic revitalization and infrastructure repair in Montpelier, Vermont, \$250,000 is available for the Central Vermont Revolving Loan Fund administered by the Central Vermont Community Action Council.

## ANNUAL REPORT ON MANAGEMENT DEFICIENCIES

SEC. 224.(a) IN GENERAL.—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following:

“(x) MANAGEMENT DEFICIENCIES REPORT.—

“(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this subsection, and annually thereafter, the Secretary shall submit to Congress a report on the plan of the Secretary to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation (as defined by the Director of the Office of Management and Budget) identified in the most recent audited financial statement of the Federal Housing Administration submitted under section 3515 of title 31, United States Code.

“(2) CONTENTS OF ANNUAL REPORT.—Each report submitted under paragraph (1) shall include—

“(A) an estimate of the resources, including staff, information systems, and contract assistance, required to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1), and the costs associated with those resources;

“(B) an estimated timetable for addressing each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1); and

“(C) the progress of the Secretary in implementing the plan of the Secretary included in the report submitted under paragraph (1) for the preceding year, except that this subparagraph does not apply to the initial report submitted under paragraph (1).”.

SEC. 225. (a) INFORMED CONSUMER CHOICE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by adding at the end the following:

“In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a one page analysis of mortgage products offered by that lender and for which the borrower would qualify. This notice shall include: (i) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under this subsection with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and (ii) a statement regarding when the mortgagor’s requirement to pay the mortgage insurance premiums for a mortgage insured under this section would terminate or a statement that the requirement will terminate only if the mortgage is refinanced, paid off, or otherwise terminated.”.

12 USC 1709  
note.

(b) REGULATION.—The Secretary of Housing and Urban Development shall develop the disclosure notice under subsection (a) within 150 days of the enactment through notice and comment rulemaking.

42 USC 1437  
note.

SEC. 226. FUNDING OF CERTAIN PUBLIC HOUSING.—Notwithstanding any other provision of law, no funds in this Act or any other Act may hereafter be used by the Secretary of Housing and Urban Development to determine allocations or provide assistance for operating subsidies or modernization for certain State and city funded and locally developed public housing units, as defined for purposes of a statutory paragraph, notwithstanding the deeming by statute of such units to be public housing units developed under the United States Housing Act of 1937, unless such unit was so assisted before October 1, 1998.

#### SECTION 236 PROGRAM REFORM

SEC. 227. Section 236(g) of the National Housing Act, as amended by section 221(c) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, is amended to read as follows:

12 USC 1715z-1.

“(g) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay the Secretary or such

other entity as determined by the Secretary and upon such terms and conditions as the Secretary deems appropriate, all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Unless otherwise directed by the Secretary, such excess charges shall be credited to a reserve used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f). Notwithstanding any other requirements of this subsection, an owner of a project with a mortgage insured under this section, or a project previously assisted under subsection (b) but without a mortgage insured under this section if the project mortgage was insured under section 207 of this Act before July 30, 1998 pursuant to section 223(f) of this Act and assisted under subsection (b), may retain some or all of such excess charges for project use if authorized by the Secretary and upon such terms and conditions as established by the Secretary.”.

#### FHA MORTGAGE INSURANCE INCREASE

SEC. 228. (a) Subparagraph (A) of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by striking clause (ii) and all that follows through the end of the subparagraph and inserting the following:

“(ii) 87 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; except that the dollar amount limitation in effect for any area under this subparagraph may not be less than 48 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; and”.

(b) The first sentence in the matter following section 203(b)(2)(B)(iii) of the National Housing Act (12 U.S.C. 1709(b)(2)(B)(iii)) is amended to read as follows: “For purposes of the preceding sentence, the term ‘area’ means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price.”.

#### HOPE VI GRANT FOR HOLLANDER RIDGE

SEC. 229. If the Secretary rescinds the grant award of \$20,000,000 made to the Housing Authority of Baltimore City for development efforts at Hollander Ridge in Baltimore, Maryland, involving funds appropriated for fiscal year 1996 under the heading “Public Housing Demolition, Site Revitalization, and Replacement Housing Grants”, all of the rescinded grant amount shall be recaptured by the Secretary and added to the amounts otherwise available under this heading. If, after the date of any such recapture, the Housing Authority of Baltimore City applies in response to a Notice of Funding Availability issued by the Secretary for a grant from funds available under this heading (not to exceed the amount recaptured) for development efforts at Hollander Ridge, then the Secretary shall grant priority status to such application and approve the grant award if the application meets the terms and criteria stated in the Notice of Funding Availability.

## DEBT FORGIVENESS

SEC. 230. The Secretary of Housing and Urban Development shall cancel the indebtedness of the Town of Hobson City, Alabama, relating to a public facilities loan under title II of the Housing Amendments of 1955, issued July 1, 1969 (Project No. ALA-01-PFL0139). The Town of Hobson City hereby is relieved of all liability to the Federal Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

## CONSIDERATION OF HOMELESS GRANT APPLICATION

SEC. 231. The Secretary shall consider without prejudice the application submitted August 5, 1998 by the City of Wichita and Sedgwick County, Kansas for assistance under the Continuum of Care Homeless Assistance program pursuant to the Notice at 63 Federal Register 23988, 23999 (April 30, 1998) notwithstanding the August 4, 1998 due date for such application, notwithstanding any provision that may be to the contrary in section 102 of the Department of Housing and Urban Development Reform Act of 1989.

## CDBG SERVICE CAP FOR MIAMI

42 USC 5305. SEC. 232. Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended by striking “fiscal year 1994” and all that follows through the end of the paragraph and inserting the following: “each of fiscal years 1999, 2000, and 2001, to the City of Miami, such city may use not more than 25 percent in each fiscal year for activities under this paragraph;”.

Short title.

## TITLE III—INDEPENDENT AGENCIES

## AMERICAN BATTLE MONUMENTS COMMISSION

## SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries, \$26,431,000, to remain available until expended.

## CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

## SALARIES AND EXPENSES

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, including hire of passenger vehicles, and for services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C.

5376, \$6,500,000: *Provided*, That the Chemical Safety and Hazard Investigation Board shall have not more than three career Senior Executive Service positions.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

FUND PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development lenders, and administrative expenses of the Fund, including services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for ES-3, \$80,000,000, to remain available until September 30, 2000, of which \$12,000,000 may be used for the cost of direct loans, and up to \$1,000,000 may be used for administrative expenses to carry out the direct loan program: *Provided*, That the cost of direct loans, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$32,000,000: *Provided further*, That not more than \$25,000,000 of the funds made available under this heading may be used for programs and activities authorized in section 114 of the Community Development Banking and Financial Institutions Act of 1994.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable under 5 U.S.C. 5376, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed \$500 for official reception and representation expenses, \$47,000,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), \$425,500,000, to remain available until September 30, 2000: *Provided*, That not more than \$28,500,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)) with not less

than \$3,000,000 targeted to administrative needs identified as urgent by the Corporation without regard to the provisions of section 501(a)(4)(B) of the Act: *Provided further*, That not more than \$2,500 shall be for official reception and representation expenses: *Provided further*, That not more than \$70,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.), of which not to exceed \$5,000,000 shall be available for national service scholarships for high school students performing community service: *Provided further*, That not more than \$227,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the AmeriCorps program), of which not more than \$40,000,000 may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): *Provided further*, That not more than \$5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): *Provided further*, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12571(b)): *Provided further*, That to the maximum extent feasible, funds appropriated under subtitle C of title I of the Act shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: *Provided further*, That not more than \$18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): *Provided further*, That not more than \$43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): *Provided further*, That not more than \$28,500,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): *Provided further*, That not more than \$5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639): *Provided further*, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal costs per participant in all programs.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, \$3,000,000.

## COURT OF VETERANS APPEALS

## SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. 7251-7298, \$10,195,000, of which \$865,000, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this heading in Public Law 102-229.

## DEPARTMENT OF DEFENSE—CIVIL

## CEMETERIAL EXPENSES, ARMY

## SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of one passenger motor vehicle for replacement only, and not to exceed \$1,000 for official reception and representation expenses, \$11,666,000, to remain available until expended.

## ENVIRONMENTAL PROTECTION AGENCY

## SCIENCE AND TECHNOLOGY

## (INCLUDING TRANSFER OF FUNDS)

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project, \$650,000,000, which shall remain available until September 30, 2000: *Provided*, That the obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000.

## ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which

issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project; and not to exceed \$6,000 for official reception and representation expenses, \$1,848,000,000, which shall remain available until September 30, 2000: *Provided*, That the obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000: *Provided further*, That none of the funds appropriated by this Act shall be used to propose or issue rules, regulations, decrees, or orders for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol which was adopted on December 11, 1997, in Kyoto, Japan at the Third Conference of the Parties to the United Nations Framework Convention on Climate Change, which has not been submitted to the Senate for advice and consent to ratification pursuant to article II, section 2, clause 2, of the United States Constitution, and which has not entered into force pursuant to article 25 of the Protocol: *Provided further*, That none of the funds made available in this Act may be used to implement or administer the interim guidance issued on February 5, 1998 by the Environmental Protection Agency relating to title VI of the Civil Rights Act of 1964 and designated as the “Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits” with respect to complaints filed under such title after the date of the enactment of this Act and until guidance is finalized. Nothing in this proviso may be construed to restrict the Environmental Protection Agency from developing or issuing final guidance relating to title VI of the Civil Rights Act of 1964.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project, \$31,154,000, to remain available until September 30, 2000: *Provided*, That the obligated balance of such sums shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000.

#### BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, \$56,948,000, to remain available until expended.

#### HAZARDOUS SUBSTANCE SUPERFUND

##### (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111(c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project; not to exceed \$1,500,000,000, consisting of \$650,000,000



as appropriated under this heading in Public Law 105-65, notwithstanding the second proviso under this heading of said Act, and not to exceed \$850,000,000 (of which \$100,000,000 shall not become available until September 1, 1999), all of which is to remain available until expended, consisting of \$1,175,000,000, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101-508, and \$325,000,000 as a payment from general revenues to the Hazardous Substance Superfund for purposes as authorized by section 517(b) of SARA, as amended by Public Law 101-508: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That \$12,237,000 of the funds appropriated under this heading shall be transferred to the “Office of Inspector General” appropriation to remain available until September 30, 2000: *Provided further*, That notwithstanding section 111(m) of CERCLA or any other provision of law, \$76,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of SARA: *Provided further*, That \$40,000,000 of the funds appropriated under this heading shall be transferred to the “Science and Technology” appropriation to remain available until September 30, 2000: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1999: *Provided further*, That an additional amount, \$650,000,000, shall become available for obligation on October 1, 1999, only upon enactment by August 1, 1999, of specific legislation which reauthorizes the Superfund program: *Provided further*, That if such reauthorization does not occur on or before August 1, 1999, such additional amount to be made available on October 1, 1999, is rescinded and the Congressional Budget Office is directed to make the appropriate scorekeeping adjustment no later than August 5, 1999.

Section 119(e)(2)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (42 U.S.C. 9619(e)(2)(C)) is amended by deleting “, and before January 1, 1996”.

Section 119(g)(5) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (42 U.S.C. 9619(g)(5)) is amended by deleting “, or after December 31, 1995”.

#### LEAKING UNDERGROUND STORAGE TANK PROGRAM

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for the uses authorized under section 9004(f) of the Solid Waste Disposal Act, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed \$75,000 per project, \$72,500,000, to remain available until expended: *Provided*, That hereafter, the Administrator is authorized to enter into assistance agreements with Federally recognized Indian tribes on such terms and conditions as the Administrator deems appropriate for the

42 USC 6991b  
note.

same purposes as are set forth in section 9003(h)(7) of the Resource Conservation and Recovery Act.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, \$15,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, \$3,386,750,000, to remain available until expended, of which \$1,350,000,000 shall be for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, and \$775,000,000 shall be for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act, as amended, except that, notwithstanding section 1452(n) of the Safe Drinking Water Act, as amended, none of the funds made available under this heading in this Act, or in previous appropriations acts, shall be reserved by the Administrator for health effects studies on drinking water contaminants, \$50,000,000 for architectural, engineering, planning, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission, \$30,000,000 for grants to the State of Alaska to address drinking water and wastewater infrastructure needs of rural and Alaska Native Villages, \$301,750,000 for making grants for the construction of wastewater and water treatment facilities and groundwater protection infrastructure in accordance with the terms and conditions specified for such grants in the joint explanatory statement of the committee of conference accompanying this Act (H.R. 4194); and \$880,000,000 for grants, including associated program support costs, to States, federally recognized tribes, interstate agencies, tribal consortia, and air pollution control agencies for multi-media or single media pollution prevention, control and abatement and related activities, including activities pursuant to the provisions set forth under this heading in Public Law 104-134, and for making grants under section 103 of the Clean Air Act for particulate matter monitoring and data collection activities: *Provided*, That, consistent with section 1452(g) of the Safe Drinking Water Act (42 U.S.C. 300j-12(g)), section 302 of the Safe Drinking Water Act Amendments of 1996 (Public Law 104-182) and the accompanying joint explanatory statement of the committee of conference (H. Rept. No. 104-741 to accompany S. 1316, the Safe Drinking Water Act Amendments of 1996), and notwithstanding any other provision of law, beginning in fiscal year 1999 and thereafter, States may combine the assets of State Revolving Funds (SRFs) established under section 1452 of the Safe Drinking Water Act, as amended, and title VI of the Federal Water Pollution Control Act, as amended, as security for bond issues to enhance the lending capacity of one or both SRFs, but not to acquire the state match

42 USC 300j-12  
note.

for either program, provided that revenues from the bonds are allocated to the purposes of the Safe Drinking Water Act and the Federal Water Pollution Control Act in the same portion as the funds are used as security for the bonds: *Provided further*, That, notwithstanding the matching requirement in Public Law 104-204 for funds appropriated under this heading for grants to the State of Texas for improving wastewater treatment for the Colonias, such funds that remain unobligated may also be used for improving water treatment for the Colonias, and shall be matched by State funds from State resources equal to 20 percent of such unobligated funds: *Provided further*, That, hereafter the Administrator is authorized to enter into assistance agreements with Federally recognized Indian tribes on such terms and conditions as the Administrator deems appropriate for the development and implementation of programs to manage hazardous waste, and underground storage tanks: *Provided further*, That beginning in fiscal year 1999 and thereafter, pesticide program implementation grants under section 23(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, shall be available for pesticide program development and implementation, including enforcement and compliance activities: *Provided further*, That, notwithstanding section 603(d)(7) of the Federal Water Pollution Control Act, as amended, the limitation on the amounts in a State water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts included as principal in loans made by such fund in fiscal year 1999 and prior years where such amounts represent costs of administering the fund, to the extent that such amounts are or were deemed reasonable by the Administrator, accounted for separately from other assets in the fund, and used for eligible purposes of the fund, including administration.

42 USC 6908a.

7 USC 1360 note.

## WORKING CAPITAL FUND

Under this heading in Public Law 104-204, after the phrase, “that such fund shall be paid in advance”, insert “or reimbursed”.

42 USC 4370e.

## ADMINISTRATIVE PROVISION

Not later than March 31, 1999, the Administrator of the Environmental Protection Agency shall issue regulations amending 40 C.F.R. 112 to comply with the requirements of the Edible Oil Regulatory Reform Act (Public Law 104-55). Such regulations shall differentiate between and establish separate classes for animal fats and oils and greases, and fish and marine mammal oils (as described in that Act), and other oils and greases, and shall apply standards to such different classes of fats and oils based on differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes. None of the funds made available by this Act or in subsequent Acts may be used by the Environmental Protection Agency to issue or to establish an interpretation or guidance relating to fats, oils, and greases (as described in Public Law 104-55) that does not comply with the requirements of the Edible Oil Regulatory Reform Act.

Regulations.  
33 USC 2720  
note.

## EXECUTIVE OFFICE OF THE PRESIDENT

## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed \$2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, \$5,026,000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF  
ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, \$2,675,000: *Provided*, That, notwithstanding any other provision of law, no funds other than those appropriated under this heading, shall be used for or by the Council on Environmental Quality and Office of Environmental Quality: *Provided further*, That notwithstanding section 202 of the National Environmental Policy Act of 1970, the Council shall consist of one member, appointed by the President, by and with the advice and consent of the Senate, serving as Chairman and exercising all powers, functions, and duties of the Council.

42 USC 4342  
note.

## FEDERAL DEPOSIT INSURANCE CORPORATION

## OFFICE OF INSPECTOR GENERAL

## (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$34,666,000, to be derived from the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund.

## FEDERAL EMERGENCY MANAGEMENT AGENCY

## DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), \$307,745,000, and, notwithstanding 42 U.S.C. 5203, to remain available until expended: *Provided*, That of the funds made available under this heading in this and prior Appropriations Acts which are eligible for grants to the State of California under section 404 of the Stafford Disaster Relief and Emergency Assistance Act, \$5,000,000 shall be for a pilot project of seismic retrofit technology at California State University, San Bernardino, \$5,000,000 shall be for seismic retrofit at the San Bernardino County Courthouse, and \$30,000,000 shall be for a project at the Loma Linda University Medical Center hospital using laser technology demonstrating non-disruptive retrofitting.

## DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, \$1,355,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$25,000,000.

In addition, for administrative expenses to carry out the direct loan program, \$440,000.

## SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles as authorized by 31 U.S.C. 1343; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed \$2,500 for official reception and representation expenses, \$171,138,000.

## OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, \$5,400,000.

## EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404-405), and Reorganization Plan No. 3 of 1978, \$240,824,000: *Provided*, That for purposes of pre-disaster mitigation pursuant to 42 U.S.C. 5131 (b) and (c) and 42 U.S.C. 5196 (e) and (i), \$25,000,000 of the funds made available under this heading shall be available until expended for project grants: *Provided further*, That the United States Fire Administration shall conduct a 12-month pilot project to promote the installation and maintenance of smoke detectors in the localities of highest risk for residential fires: *Provided further*, That the United States Fire Administration shall transmit the results of its pilot project to the Consumer Product Safety Commission and the Congress.

15 USC 2222  
note.

## RADIOLOGICAL EMERGENCY PREPAREDNESS FUND

42 USC 5196e.

There is hereby established in the Treasury a Radiological Emergency Preparedness Fund, which shall be available under the Atomic Energy Act of 1954, as amended, and Executive Order 12657, for offsite radiological emergency planning, preparedness, and response. Beginning in fiscal year 1999 and thereafter, the Director of the Federal Emergency Management Agency (FEMA) shall promulgate through rulemaking fees to be assessed and collected, applicable to persons subject to FEMA's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1999 shall not be less than 100 percent of the amounts anticipated by FEMA necessary for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable; and shall reflect costs of providing such services, including administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the Fund as offsetting collections and will become available for authorized purposes on October 1, 1999, and remain available until expended.

For necessary expenses of the Fund for fiscal year 1999, \$12,849,000, to remain available until expended.

## EMERGENCY FOOD AND SHELTER PROGRAM

To carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended, \$100,000,000: *Provided*, That total administrative costs shall not exceed three and one-half percent of the total appropriation.

## NATIONAL FLOOD INSURANCE FUND

## (INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, as amended, not to exceed \$22,685,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed \$78,464,000 for flood mitigation, including up to \$20,000,000 for expenses under section 1366 of the National Flood Insurance Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2000. In fiscal year 1999, no funds in excess of: (1) \$47,000,000 for operating expenses; (2) \$343,989,000 for agents' commissions and taxes; and (3) \$60,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations. For fiscal year 1999, flood insurance rates shall not exceed the level authorized by the National Flood Insurance Reform Act of 1994.

Section 1309(a)(2) of the National Flood Insurance Act (42 U.S.C. 4016(a)(2)), as amended by Public Law 104-208, is further amended by striking "1998" and inserting "1999".

Section 1319 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4026), is amended by striking "September 30, 1998" and inserting "September 30, 1999".

Section 1336 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4056), is amended by striking "September 30, 1998" and inserting "September 30, 1999".

The first sentence of section 1376(c) of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4127(c)), is amended by striking “September 30, 1998” and inserting “September 30, 1999”.

#### GENERAL SERVICES ADMINISTRATION

##### CONSUMER INFORMATION CENTER FUND

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, \$2,619,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of \$7,500,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1999 in excess of \$7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

##### HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, \$5,480,000,000, to remain available until September 30, 2000.

#### SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, in the conduct and support of science, aeronautics and technology research and development activities, including research, development, operations, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance and operation of mission and administrative aircraft, \$5,653,900,000, to remain available until September 30, 2000: *Provided*, That none of the funds provided under this heading may be utilized to support the development or operations of the International Space Station: *Provided further*, That this limitation shall not preclude the use of funds provided under this heading for the conduct of science, aeronautics, space transportation and technology activities utilizing or enabled by the International Space Station.

## MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed \$35,000 for official reception and representation expenses; and purchase (not to exceed \$33 for replacement only) and hire of passenger motor vehicles, \$2,511,100,000, to remain available until September 30, 2000.

## OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, \$20,000,000.

## ADMINISTRATIVE PROVISIONS

Notwithstanding the limitation on the availability of funds appropriated for “Human space flight”, “Science, aeronautics and technology”, or “Mission support” by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, such amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in “Mission support” pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for “Human space flight”, “Science, aeronautics and technology”, or “Mission support” by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 2001.

Notwithstanding the limitation on the availability of funds appropriated for “Mission support” and “Office of Inspector General”, amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1999 and may be used to enter into contracts for training, investigations, costs associated with personnel relocation, and for other services, to be provided during the next fiscal year.

NASA shall develop a revised appropriation structure for submission in the fiscal year 2000 budget request consisting of five appropriations accounts (International Space Station; Launch Vehicles and Payload Operations; Science, Aeronautics and Technology; Mission Support; and Office of Inspector General).



## NATIONAL CREDIT UNION ADMINISTRATION

## CENTRAL LIQUIDITY FACILITY

During fiscal year 1999, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions, as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795), shall not exceed \$600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1999 shall not exceed \$176,000: *Provided further*, That \$2,000,000, together with amounts of principal and interest on loans repaid, to be available until expended, is available for loans to community development credit unions.

## NATIONAL SCIENCE FOUNDATION

## RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft, \$2,770,000,000, of which not to exceed \$257,460,000, shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 2000: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That none of the funds appropriated or otherwise made available to the National Science Foundation in this or any prior Act may be obligated or expended by the National Science Foundation to enter into or extend a grant, contract, or cooperative agreement for the support of administering the domain name and numbering system of the Internet after September 30, 1998.

## MAJOR RESEARCH EQUIPMENT

For necessary expenses of major construction projects pursuant to the National Science Foundation Act of 1950, as amended, \$90,000,000, to remain available until expended.

## EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia,

\$662,000,000, to remain available until September 30, 2000: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That the Alliances for Minority Participation Program is renamed the Louis Stokes Alliances for Minority Participation Program.

#### SALARIES AND EXPENSES

For salaries and expenses necessary in carrying out the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed \$9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; \$144,000,000: *Provided*, That contracts may be entered into under “Salaries and expenses” in fiscal year 1999 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General as authorized by the Inspector General Act of 1978, as amended, \$5,200,000, to remain available until September 30, 2000.

#### NEIGHBORHOOD REINVESTMENT CORPORATION

##### PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), \$90,000,000: *Provided*, That \$25,000,000 shall be for a pilot homeownership initiative, including an evaluation by an independent third party to determine its effectiveness.

#### SELECTIVE SERVICE SYSTEM

##### SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by 5 U.S.C. 4101–4118 for civilian employees; and not to exceed \$1,000 for official reception and representation expenses, \$24,176,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

## TITLE IV—GENERAL PROVISIONS

Short title.

SEC. 401. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefore in the budget estimates submitted for the appropriations: *Provided*, That this provision does not apply to accounts that do not contain an object classification for travel: *Provided further*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefore set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made; or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between their domicile and their place of employment, with the exception of any officer or employee authorized such transportation under 31 U.S.C. 1344 or 5 U.S.C. 7905.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 409. None of the funds provided in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Contracts.  
Public  
information.  
Records.

SEC. 410. Except as otherwise provided under existing law, or under an existing Executive Order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are: (1) a matter of public record and available for public inspection; and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 411. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), for a contract for services unless such executive agency: (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder; and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning: (A) the contract pursuant to which the report was prepared; and (B) the contractor who prepared the report pursuant to such contract.

SEC. 412. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 413. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 414. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than \$300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations. Reports.

SEC. 415. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress. Notice.

SEC. 416. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A-21.

SEC. 417. Such sums as may be necessary for fiscal year 1999 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 418. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 419. Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1999 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

SEC. 420. Notwithstanding section 320(g) of the Federal Water Pollution Control Act (33 U.S.C. 1330(g)), funds made available pursuant to authorization under such section for fiscal year 1999 and prior fiscal years may be used for implementing comprehensive conservation and management plans.

SEC. 421. Notwithstanding any other provision of law, the term “qualified student loan” with respect to national service education awards shall mean any loan made directly to a student by the Alaska Commission on Postsecondary Education, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

SEC. 422. Notwithstanding any other law, funds made available by this or any other Act or previous Acts for the United States/Mexico Foundation for Science may be used for the endowment of such Foundation.

Deadline.  
Reports.  
15 USC 1201  
note.

SEC. 423. (a) Within 90 days of the enactment of this Act, the Consumer Product Safety Commission shall make all necessary arrangements for the Committee on Toxicology of the National Academy of Sciences (NAS) to conduct an independent 12-month study of the potential toxicologic risks of all flame-retardant chemicals identified by the NAS and the Commission as likely candidates for use in residential upholstered furniture for the purpose of meeting regulations proposed by the Commission for flame resistance of residential upholstered furniture.

(b) Upon completion of its report, the Academy shall send the report to the Commission, which shall provide it to the Congress.

(c) The Commission, before promulgating any notice of proposed rulemaking or final rulemaking setting flammability standards for residential upholstered furniture, shall consider fully the findings and conclusions of the Academy.

SEC. 424. None of the funds made available in this Act may be used for researching methods to reduce methane emissions from cows, sheep, or any other ruminant livestock.

SEC. 425. None of the funds made available in this Act may be used to carry out Executive Order No. 13083.

SEC. 426. Unless otherwise provided for in this Act, no part of any appropriation for the Department of Housing and Urban Development shall be available for any activity in excess of amounts set forth in the budget estimates submitted for the appropriations.

SEC. 427. NATIONAL FALLEN FIREFIGHTERS FOUNDATION. (a) ESTABLISHMENT AND PURPOSES.—Section 202 of the National Fallen Firefighters Foundation Act (36 U.S.C. 5201) is amended—

36 USC 151302  
note.

(1) by striking paragraph (1) and inserting the following:  
“(1) primarily—

“(A) to encourage, accept, and administer private gifts of property for the benefit of the National Fallen Firefighters’ Memorial and the annual memorial service associated with the memorial; and

“(B) to, in coordination with the Federal Government and fire services (as that term is defined in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203)), plan, direct, and manage the memorial service referred to in subparagraph (A) and related activities;”;

(2) in paragraph (2), by inserting “and Federal” after “non-Federal”;

(3) in paragraph (3)—

(A) by striking “State and local” and inserting “Federal, State, and local”; and

(B) by striking “and” at the end;

(4) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

“(5) to provide for a national program to assist families of fallen firefighters and fire departments in dealing with line-of-duty deaths of those firefighters; and

“(6) to promote national, State, and local initiatives to increase public awareness of fire and life safety.”.

(b) BOARD OF DIRECTORS OF FOUNDATION.—Section 203(g)(1) of the National Fallen Firefighters Foundation Act (36 U.S.C. 5202(g)(1)) is amended by striking subparagraph (A) and inserting the following:

36 USC 151304  
note.

“(A) appointing officers or employees;”.

(c) ADMINISTRATIVE SERVICES AND SUPPORT.—Section 205 of the National Fallen Firefighters Foundation Act (36 U.S.C. 5204) is amended to read as follows:

36 USC 151307  
note.

**“SEC. 205. ADMINISTRATIVE SERVICES AND SUPPORT.**

“(a) IN GENERAL.—During the 10-year period beginning on the date of the enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, the Administrator may—

“(1) provide personnel, facilities, and other required services for the operation of the Foundation; and

“(2) accept reimbursement for the assistance provided under paragraph (1).

“(b) REIMBURSEMENT.—Any amounts received under subsection (a)(2) as reimbursement for assistance shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing that assistance.

“(c) PROHIBITION.—Notwithstanding any other provision of law, no Federal personnel or stationery may be used to solicit funding for the Foundation.”.

SEC. 428. INELIGIBILITY OF INDIVIDUALS CONVICTED OF MANUFACTURING OR PRODUCING METHAMPHETAMINE FOR CERTAIN HOUSING ASSISTANCE. Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended by adding at the end the following:

“(f) INELIGIBILITY OF INDIVIDUALS CONVICTED OF MANUFACTURING OR PRODUCING METHAMPHETAMINE ON THE PREMISES.—Notwithstanding any other provision of law, a public housing agency shall establish standards for occupancy in public housing dwelling units and assistance under section 8 that—

“(1) permanently prohibit occupancy in any public housing dwelling unit by, and assistance under section 8 for, any person who has been convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law; and

“(2) immediately and permanently terminate the tenancy in any public housing unit of, and the assistance under section 8 for, any person who is convicted of manufacturing or otherwise producing methamphetamine on the premises in violation of any Federal or State law.”.

SEC. 429. (a) Not later than 90 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall propose for comment a revocation of the amendments to the standards for the flammability of children’s sleepwear sizes 0 through 6X (contained in regulations published at 16 CFR part 1615) and 7 through 14 (contained in regulations published at

Deadlines.  
Safety.

16 CFR part 1616) issued by the Commission on September 9, 1996 (61 FR 47634), and any subsequent amendments thereto.

(b) The General Accounting Office shall undertake a review of children's burn incident data relating to burns from the ignition of children's sleepwear from small open flame sources for the period July 1, 1997 through January 1, 1999. Such review shall be completed by April 1, 1999 and shall be submitted to the Congress and to the Consumer Product Safety Commission.

Regulations.

(c) Not later than July 1, 1999, the Consumer Product Safety Commission shall promulgate a final rule revoking, maintaining or modifying the amendments issued by the Commission on September 9, 1996 (61 FR 47634) and any subsequent amendments thereto amending the Flammable Fabrics Act standards for the flammability of children's sleepwear, considering and substantively addressing the findings of the General Accounting Office and other information available to the Commission.

(d) None of the following shall apply with respect to the promulgation of the amendment prescribed by subsection (a):

(1) The Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

(2) The Flammable Fabrics Act (15 U.S.C. 1191 et seq.).

(3) Chapter 6 of title 5, United States Code.

(4) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(5) The Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121).

(6) Any other statute or Executive order.

42 USC 6614  
note.

SEC. 430. COMPREHENSIVE ACCOUNTABILITY STUDY FOR FEDERALLY-FUNDED RESEARCH. (a) STUDY.—The Director of the Office of Science and Technology Policy, in consultation with the Director of the Office of Management and Budget, may enter into an agreement with the National Academy of Sciences for the Academy to conduct a comprehensive study to develop methods for evaluating federally-funded research and development programs. This study shall—

(1) recommend processes to determine an acceptable level of success for federally-funded research and development programs by—

(A) describing the research process in the various scientific and engineering disciplines;

(B) describing in the different sciences what measures and what criteria each community uses to evaluate the success or failure of a program, and on what time scales these measures are considered reliable—both for exploratory long-range work and for short-range goals; and

(C) recommending how these measures may be adapted for use by the Federal Government to evaluate federally-funded research and development programs;

(2) assess the extent to which agencies incorporate independent merit-based evaluation into the formulation of the strategic plans of funding agencies and if the quantity or quality of this type of input is unsatisfactory;

(3) recommend mechanisms for identifying federally-funded research and development programs which are unsuccessful or unproductive;



(4) evaluate the extent to which independent, merit-based evaluation of federally-funded research and development programs and projects achieves the goal of eliminating unsuccessful or unproductive programs and projects; and

(5) investigate and report on the validity of using quantitative performance goals for aspects of programs which relate to administrative management of the program and for which such goals would be appropriate, including aspects related to—

(A) administrative burden on contractors and recipients of financial assistance awards;

(B) administrative burdens on external participants in independent, merit-based evaluations;

(C) cost and schedule control for construction projects funded by the program;

(D) the ratio of overhead costs of the program relative to the amounts expended through the program for equipment and direct funding of research; and

(E) the timeliness of program responses to requests for funding, participation, or equipment use.

(b) INDEPENDENT MERIT-BASED EVALUATION DEFINED.—The term “independent merit-based evaluation” means review of the scientific or technical quality of research or development, conducted by experts who are chosen for their knowledge of scientific and technical fields relevant to the evaluation and who—

(1) in the case of the review of a program activity, do not derive long-term support from the program activity; or

(2) in the case of the review of a project proposal, are not seeking funds in competition with the proposal.

SEC. 431. INSURANCE; INDEMNIFICATION; LIABILITY. (a) IN GENERAL.—The Administrator may provide liability insurance for, or indemnification to, the developer of an experimental aerospace vehicle developed or used in execution of an agreement between the Administration and the developer.

42 USC 2458b  
note.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the insurance and indemnification provided by the Administration under subsection (a) to a developer shall be provided on the same terms and conditions as insurance and indemnification is provided by the Administration under section 308 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458b) to the user of a space vehicle.

(2) INSURANCE.—

(A) IN GENERAL.—A developer shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by—

(i) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with the development or use of an experimental aerospace vehicle; and

(ii) the United States Government for damage or loss to Government property resulting from such an activity.

(B) MAXIMUM REQUIRED.—The Administrator shall determine the amount of insurance required, but, except as provided in subparagraph (C), that amount shall not be greater than the amount required under section

Federal Register,  
publication.  
Notice.

70112(a)(3) of title 49, United States Code, for a launch. The Administrator shall publish notice of the Administrator's determination and the applicable amount or amounts in the Federal Register within 10 days after making the determination.

Public  
information.

(C) INCREASE IN DOLLAR AMOUNTS.—The Administrator may increase the dollar amounts set forth in section 70112(a)(3)(A) of title 49, United States Code, for the purpose of applying that section under this section to a developer after consultation with the Comptroller General and such experts and consultants as may be appropriate, and after publishing notice of the increase in the Federal Register not less than 180 days before the increase goes into effect. The Administrator shall make available for public inspection, not later than the date of publication of such notice, a complete record of any correspondence received by the Administration, and a transcript of any meetings in which the Administration participated, regarding the proposed increase.

(D) SAFETY REVIEW REQUIRED BEFORE ADMINISTRATOR PROVIDES INSURANCE.—The Administrator may not provide liability insurance or indemnification under subsection (a) unless the developer establishes to the satisfaction of the Administrator that appropriate safety procedures and practices are being followed in the development of the experimental aerospace vehicle.

(3) NO INDEMNIFICATION WITHOUT CROSS-WAIVER.—Notwithstanding subsection (a), the Administrator may not indemnify a developer of an experimental aerospace vehicle under this section unless there is an agreement between the Administration and the developer described in subsection (c).

(4) APPLICATION OF CERTAIN PROCEDURES.—If the Administrator requests additional appropriations to make payments under this section, like the payments that may be made under section 308(b) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458b(b)), then the request for those appropriations shall be made in accordance with the procedures established by subsections (d) and (e) of section 70113 of title 49, United States Code.

(c) CROSS-WAIVERS.—

(1) ADMINISTRATOR AUTHORIZED TO WAIVE.—The Administrator, on behalf of the United States, and its departments, agencies, and related entities, may reciprocally waive claims with a developer and with the related entities of that developer under which each party to the waiver agrees to be responsible, and agrees to ensure that its own related entities are responsible, for damage or loss to its property for which it is responsible, or for losses resulting from any injury or death sustained by its own employees or agents, as a result of activities connected to the agreement or use of the experimental aerospace vehicle.

(2) LIMITATIONS.—

(A) CLAIMS.—A reciprocal waiver under paragraph (1) may not preclude a claim by any natural person (including, but not limited to, a natural person who is an employee of the United States, the developer, or the developer's sub-contractors) or that natural person's estate, survivors, or

subrogees for injury or death, except with respect to a subrogee that is a party to the waiver or has otherwise agreed to be bound by the terms of the waiver.

(B) LIABILITY FOR NEGLIGENCE.—A reciprocal waiver under paragraph (1) may not absolve any party of liability to any natural person (including, but not limited to, a natural person who is an employee of the United States, the developer, or the developer's subcontractors) or such a natural person's estate, survivors, or subrogees for negligence, except with respect to a subrogee that is a party to the waiver or has otherwise agreed to be bound by the terms of the waiver.

(C) INDEMNIFICATION FOR DAMAGES.—A reciprocal waiver under paragraph (1) may not be used as the basis of a claim by the Administration or the developer for indemnification against the other for damages paid to a natural person, or that natural person's estate, survivors, or subrogees, for injury or death sustained by that natural person as a result of activities connected to the agreement or use of the experimental aerospace vehicle.

(3) EFFECT ON PREVIOUS WAIVERS.—Subsection (c) applies to any waiver of claims entered into by the Administration without regard to whether it was entered into before, on, or after the date of the enactment of this Act. Applicability.

(d) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term "Administration" means the National Aeronautics and Space Administration.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(3) COMMON TERMS.—Any term used in this section that is defined in the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) has the same meaning in this section as when it is used in that Act.

(4) DEVELOPER.—The term "developer" means a United States person (other than a natural person) who—

(A) is a party to an agreement that was in effect before the date of the enactment of this Act with the Administration for the purpose of developing new technology for an experimental aerospace vehicle;

(B) owns or provides property to be flown or situated on that vehicle; or

(C) employs a natural person to be flown on that vehicle.

(5) EXPERIMENTAL AEROSPACE VEHICLE.—The term "experimental aerospace vehicle" means an object intended to be flown in, or launched into, suborbital flight for the purpose of demonstrating technologies necessary for a reusable launch vehicle, developed under an agreement between the Administration and a developer that was in effect before the date of the enactment of this Act.

(6) RELATED ENTITY.—The term "related entity" includes a contractor or subcontractor at any tier, a supplier, a grantee, and an investigator or detailee.

(e) RELATIONSHIP TO OTHER LAWS.—

(1) SECTION 308 OF NATIONAL AERONAUTICS AND SPACE ACT OF 1958.—This section does not apply to any object, transaction,

or operation to which section 308 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2458b) applies.

(2) CHAPTER 701 OF TITLE 49, UNITED STATES CODE.—The Administrator may not provide indemnification to a developer under this section for launches subject to license under section 70117(g)(1) of title 49, United States Code.

(f) TERMINATION.—

(1) IN GENERAL.—The provisions of this section shall terminate on December 31, 2002, except that the Administrator may extend the termination date to a date not later than September 30, 2005, if the Administrator determines that such an extension is necessary to cover the operation of an experimental aerospace vehicle.

(2) EFFECT OF TERMINATION ON AGREEMENTS.—The termination of this section does not terminate or otherwise affect a cross-waiver agreement, insurance agreement, indemnification agreement, or any other agreement entered into under this section except as may be provided in that agreement.

SEC. 432. VIETNAM VETERANS ALLOTMENT. The Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) is amended by adding at the end:

“OPEN SEASON FOR CERTAIN ALASKA NATIVE VETERANS FOR ALLOTMENTS

43 USC 1629g.

“SEC. 41. (a) IN GENERAL.—(1) During the eighteen month period following promulgation of implementing rules pursuant to subsection (e), a person described in subsection (b) shall be eligible for an allotment of not more than two parcels of federal land totaling 160 acres or less under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971.

“(2) Allotments may be selected only from lands that were vacant, unappropriated, and unreserved on the date when the person eligible for the allotment first used and occupied those lands.

“(3) The Secretary may not convey allotments containing any of the following—

“(A) lands upon which a native or non-native campsite is located, except for a campsite used primarily by the person selecting the allotment;

“(B) lands selected by, but not conveyed to, the State of Alaska pursuant to the Alaska Statehood Act or any other provision of law;

“(C) lands selected by, but not conveyed to, a Village or Regional Corporation;

“(D) lands designated as wilderness by statute;

“(E) acquired lands;

“(F) lands containing a building, permanent structure, or other development owned or controlled by the United States, another unit of government, or a person other than the person selecting the allotment;

“(G) lands withdrawn or reserved for national defense purposes other than National Petroleum Reserve-Alaska;

“(H) National Forest Lands; and

“(I) lands selected or claimed, but not conveyed, under a public land law, including but not limited to the following:

“(1) Lands within a recorded mining claim.

“(2) Home sites.

“(3) Trade and Manufacturing sites.

“(4) Reindeer sites and Reindeer headquarters sites.

“(5) Cemetery sites.

“(4) A person who qualifies for an allotment on lands prohibited from conveyance by a provision of subsection (a)(3) may select an alternative allotment from the following lands located within the geographic boundaries of the same Regional Corporation as the excluded allotment—

“(A) lands withdrawn pursuant to section 11(a)(1) of this Act which were not selected, or were relinquished after selection;

“(B) lands contiguous to the outer boundary of lands withdrawn pursuant to section 11(a)(1)(C) of this Act, except lands excluded from selection by a provision of subsection (a)(3) and lands within a National Park; and

“(C) vacant, unappropriated and unreserved lands.

“(5) After consultation with a person entitled to an allotment within a Conservation System Unit, the Secretary may convey alternative lands of equal acreage, including lands within a Conservation System Unit, to that person if the Secretary determines that the allotment would be incompatible with a purpose for which the Conservation System Unit was established.

“(6) All conveyances under this section shall—

“(A) be subject to valid existing rights, including any right of the United States to income derived, directly or indirectly, from a lease, license, permit, right-of-way or easement; and

“(B) reserve to the United States deposits of oil, gas and coal, together with the right to explore, mine, and remove these minerals, on lands which the Secretary determines to be prospectively valuable for development.

“(b) ELIGIBLE PERSON.—(1) A person is eligible to select an allotment under this section if that person—

“(A) would have been eligible for an allotment under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as that Act was in effect before December 18, 1971; and

“(B) is a veteran who served during the period between January 1, 1969 and December 31, 1971 and—

“(i) served at least 6 months between January 1, 1969 and June 2, 1971; or

“(ii) enlisted or was drafted into military service after June 2, 1971 but before December 3, 1971.

“(2) The personal representative of the estate of a decedent who was eligible under subsection (b)(1) may, for the benefit of the heirs, select an allotment if, during the period specified in subsection (b)(1)(B), the decedent—

“(A) was killed in action;

“(B) was wounded in action and subsequently died as a direct consequence of that wound, as determined by the Department of Veterans Affairs; or

“(C) died while a prisoner of war.

“(3) No person who received an allotment or has a pending allotment under the Act of May 17, 1906 may receive an allotment under this section.

“(c) STUDY AND REPORT.—(1) The Secretary of the Interior shall conduct a study to identify and assess the circumstances of veterans of the Vietnam era who—

“(A) served during a period other than that specified in subsection (b)(1)(B);

“(B) were eligible for an allotment under the Act of May 17, 1906; and

“(C) did not apply for an allotment under that Act.

Deadline.

“(2) The Secretary shall, within one year of the enactment of this section, issue a written report on the study, including findings and recommendations, to the Committee on Appropriations and the Committee on Energy and Natural Resources in the Senate and the Committee on Appropriations and the Committee on Resources in the House of Representatives.

“(d) DEFINITIONS.—For the purposes of this section, the terms ‘veteran’ and ‘Vietnam era’ have the meanings given those terms by paragraphs (2) and (29), respectively, of section 101 of title 38, United States Code.

Deadline.

“(e) REGULATIONS.—No later than 18 months after enactment of this section, the Secretary of the Interior shall promulgate, after consultation with Alaska Natives groups, rules to carry out this section.”.

Deadline.

SEC. 433. The Administrator of the National Aeronautics and Space Administration shall develop and deliver to the House and Senate Committees on Appropriations, no later than 60 days after the date of the enactment of this Act, a study of alternative approaches whereby NASA could contract with a Russian entity or entities for goods and services related to the International Space Station. The study shall evaluate, at a minimum, government-to-government, government-to-industry, and industry-to-industry arrangements. The study shall evaluate the pros and cons of each possible approach, addressing the following requirements: (1) ensure that NASA receives value for each dollar spent; (2) ensure that the funds provided can be audited; (3) define appropriate milestones; and, (4) adhere to all relevant technology transfer and export control laws.

Federal buildings and facilities.

SEC. 434. The National Aeronautics and Space Administration Lewis Research Center in Cleveland, Ohio, shall be redesignated as the “National Aeronautics and Space Administration John H. Glenn Research Center at Lewis Field”. Any reference in a law, map, regulation, document, paper, or other record of the United States to the National Aeronautics and Space Administration Lewis Research Center in Ohio shall be deemed to be a reference to the “National Aeronautics and Space Administration John H. Glenn Research Center at Lewis Field”.

SEC. 435. The proposed Amendments to Accounting for Property, Plant, and Equipment (February 1998) (Amending Statements of Federal Financial Accounting Standards Nos. 6 and 8, “Accounting for Property, Plant, and Equipment” and “Supplementary Stewardship Reporting”) may be adopted without the prior notification and waiting period required by section 307 of the Chief Financial Officers Act of 1990 (Public Law 101-576).

Quality Housing and Work Responsibility Act of 1998.

## TITLE V—PUBLIC HOUSING AND TENANT-BASED ASSISTANCE REFORM

### SEC. 501. SHORT TITLE AND TABLE OF CONTENTS.

42 USC 1437 note.

(a) SHORT TITLE.—This title may be cited as the “Quality Housing and Work Responsibility Act of 1998”.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE V—PUBLIC HOUSING AND TENANT-BASED ASSISTANCE REFORM

Sec. 501. Short title and table of contents.

Sec. 502. Findings and purposes.

Sec. 503. Effective date and regulations.

Subtitle A—General Provisions

Sec. 505. Declaration of policy and public housing agency organization.

Sec. 506. Definitions.

Sec. 507. Minimum rent.

Sec. 508. Determination of adjusted income and median income.

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**SEC. 502. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) the inventory of public housing units owned, assisted, or operated by public housing agencies, an asset in which the Federal Government has invested over \$90,000,000,000, has traditionally provided rental housing that is affordable to low-income persons;

(3) despite serving this critical function, the public housing system is plagued by a series of problems, including the concentration of very poor people in very poor neighborhoods and disincentives for economic self-sufficiency;



(4) the Federal method of overseeing every aspect of public housing by detailed and complex statutes and regulations has aggravated the problem and has placed excessive administrative burdens on public housing agencies; and

(5) the interests of low-income persons, and the public interest, will best be served by a reformed public housing program that—

(A) consolidates many public housing programs into programs for the operation and capital needs of public housing;

(B) streamlines program requirements;

(C) vests in public housing agencies that perform well the maximum feasible authority, discretion, and control with appropriate accountability to public housing residents, localities, and the general public; and

(D) rewards employment and economic self-sufficiency of public housing residents.

(b) **PURPOSES.**—The purpose of this title is to promote homes that are affordable to low-income families in safe and healthy environments, and thereby contribute to the supply of affordable housing, by—

(1) deregulating and decontrolling public housing agencies, thereby enabling them to perform as property and asset managers;

(2) providing for more flexible use of Federal assistance to public housing agencies, allowing the authorities to leverage and combine assistance amounts with amounts obtained from other sources;

(3) facilitating mixed income communities and decreasing concentrations of poverty in public housing;

(4) increasing accountability and rewarding effective management of public housing agencies;

(5) creating incentives and economic opportunities for residents of dwelling units assisted by public housing agencies to work, become self-sufficient, and transition out of public housing and federally assisted dwelling units;

(6) consolidating the voucher and certificate programs for rental assistance under section 8 of the United States Housing Act of 1937 into a single market-driven program that will assist in making tenant-based rental assistance under such section more successful at helping low-income families obtain affordable housing and will increase housing choice for low-income families; and

(7) remedying the problems of troubled public housing agencies and replacing or revitalizing severely distressed public housing projects.

#### **SEC. 503. EFFECTIVE DATE AND REGULATIONS.**

(a) **IN GENERAL.**—The amendments under this title are made on the date of the enactment of this Act, but this title shall take effect, and the amendments made by this title shall apply beginning upon, October 1, 1999, except—

(1) as otherwise specifically provided in this title; or

(2) as otherwise specifically provided in any amendment made by this title.

The Secretary may, by notice, implement any provision of this title or any amendment made by this title before such date, except

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note.

to the extent that such provision or amendment specifically provides otherwise.

(b) SAVINGS PROVISION.—Notwithstanding any amendment under this title that is made (in accordance with subsection (a)) on the date of the enactment of this Act but applies beginning on October 1, 1999, the provisions of law amended by such amendment, as such provisions were in effect immediately before the making of such amendment, shall continue to apply during the period beginning on the date of the enactment of this Act and ending upon October 1, 1999, unless otherwise specifically provided by this title.

Deadline.

(c) TECHNICAL RECOMMENDATIONS.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives, recommended technical and conforming legislative changes necessary to carry out this title and the amendments made by this title.

Deadline.

Federal Register,  
publication.

(d) LIST OF OBSOLETE DOCUMENTS.—Not later than October 1, 1999, the Secretary of Housing and Urban Development shall cause to be published in the Federal Register a list of all rules, regulations, and orders (including all handbooks, notices, and related requirements) pertaining to public housing or section 8 tenant-based programs issued or promulgated under the United States Housing Act of 1937 before the date of the enactment of this Act that are or will be obsolete because of the enactment of this Act or are otherwise obsolete.

(e) PROTECTION OF CERTAIN REGULATIONS.—No provision of this title may be construed to repeal the regulations of the Secretary regarding tenant participation and tenant opportunities in public housing (24 C.F.R. 964).

(g) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

## Subtitle A—General Provisions

### SEC. 505. DECLARATION OF POLICY AND PUBLIC HOUSING AGENCY ORGANIZATION.

Section 2 of the United States Housing Act of 1937 (42 U.S.C. 1437) is amended to read as follows:

#### “SEC. 2. DECLARATION OF POLICY AND PUBLIC HOUSING AGENCY ORGANIZATION.

“(a) DECLARATION OF POLICY.—It is the policy of the United States—

“(1) to promote the general welfare of the Nation by employing the funds and credit of the Nation, as provided in this Act—

“(A) to assist States and political subdivisions of States to remedy the unsafe housing conditions and the acute shortage of decent and safe dwellings for low-income families;

“(B) to assist States and political subdivisions of States to address the shortage of housing affordable to low-income families; and

“(C) consistent with the objectives of this title, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to public housing residents, localities, and the general public;

“(2) that the Federal Government cannot through its direct action alone provide for the housing of every American citizen, or even a majority of its citizens, but it is the responsibility of the Government to promote and protect the independent and collective actions of private citizens to develop housing and strengthen their own neighborhoods;

“(3) that the Federal Government should act where there is a serious need that private citizens or groups cannot or are not addressing responsibly; and

“(4) that our Nation should promote the goal of providing decent and affordable housing for all citizens through the efforts and encouragement of Federal, State, and local governments, and by the independent and collective actions of private citizens, organizations, and the private sector.

“(b) PUBLIC HOUSING AGENCY ORGANIZATION.—

“(1) REQUIRED MEMBERSHIP.—Except as provided in paragraph (2), the membership of the board of directors or similar governing body of each public housing agency shall contain not less than 1 member—

“(A) who is directly assisted by the public housing agency; and

“(B) who may, if provided for in the public housing agency plan, be elected by the residents directly assisted by the public housing agency.

“(2) EXCEPTION.—Paragraph (1) shall not apply to any public housing agency—

“(A) that is located in a State that requires the members of the board of directors or similar governing body of a public housing agency to be salaried and to serve on a full-time basis; or

“(B) with less than 300 public housing units, if—

“(i) the agency has provided reasonable notice to the resident advisory board of the opportunity of not less than 1 resident described in paragraph (1) to serve on the board of directors or similar governing body of the public housing agency pursuant to such paragraph; and

“(ii) within a reasonable time after receipt by the resident advisory board established by the agency pursuant to section 5A(e) of notice under clause (i), the public housing agency has not been notified of the intention of any resident to participate on the board of directors.

“(3) NONDISCRIMINATION.—No person shall be prohibited from serving on the board of directors or similar governing body of a public housing agency because of the residence of that person in a public housing project or status as assisted under section 8.”.

#### SEC. 506. DEFINITIONS.

Section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)) is amended as follows:

(1) PUBLIC HOUSING.—In paragraph (1), by inserting after the second sentence the following new sentence: “The term ‘public housing’ includes dwelling units in a mixed finance project that are assisted by a public housing agency with capital or operating assistance.”.

(2) SINGLE PERSONS.—In paragraph (3)—

(A) in subparagraph (A), by striking the third sentence; and

(B) in subparagraph (B), in the second sentence, by striking “regulations of the Secretary” and inserting “public housing agency plan”.

(3) PERSON WITH DISABILITIES.—In paragraph (3)(E), by adding after the period at the end the following new sentences: “Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for low-income housing under this title, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.”.

(4) NEW TERMS.—Section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)) is amended by adding at the end the following new paragraphs:

“(9) DRUG-RELATED CRIMINAL ACTIVITY.—The term ‘drug-related criminal activity’ means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

“(10) MIXED-FINANCE PROJECT.—The term ‘mixed-finance project’ means a public housing project that meets the requirements of section 35.

“(11) PUBLIC HOUSING AGENCY PLAN.—The term ‘public housing agency plan’ means the plan of a public housing agency prepared in accordance with section 5A.

“(12) CAPITAL FUND.—The term ‘Capital Fund’ means the fund established under section 9(d).

“(13) OPERATING FUND.—The term ‘Operating Fund’ means the fund established under section 9(e).”.

#### SEC. 507. MINIMUM RENT.

(a) IN GENERAL.—Section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)) is amended by adding at the end the following new paragraph:

“(3) MINIMUM RENTAL AMOUNT.—

“(A) REQUIREMENT.—Notwithstanding paragraph (1) of this subsection, the method for rent determination elected pursuant to paragraph (2)(A) of this subsection by a family residing in public housing, section 8(o)(2) of this Act, or section 206(d) of the Housing and Urban-Rural Recovery Act of 1983 (including paragraph (5) of such section), the following entities shall require the following families to pay a minimum monthly rental amount (which amount shall include any amount allowed for utilities) of not more than \$50 per month, as follows:

“(i) Each public housing agency shall require the payment of such minimum monthly rental amount, which amount shall be determined by the agency, by—

“(I) each family residing in a dwelling unit in public housing by the agency;

“(II) each family who is assisted under the certificate or moderate rehabilitation program under section 8; and

“(III) each family who is assisted under the voucher program under section 8, and the agency shall reduce the monthly assistance payment on behalf of such family as may be necessary to ensure payment of such minimum monthly rental amount.

“(ii) The Secretary shall require each family who is assisted under any other program for rental assistance under section 8 to pay such minimum monthly rental amount, which amount shall be determined by the Secretary.

“(B) EXCEPTION FOR HARDSHIP CIRCUMSTANCES.—

“(i) IN GENERAL.—Notwithstanding subparagraph (A), a public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) shall immediately grant an exemption from application of the minimum monthly rental under such subparagraph to any family unable to pay such amount because of financial hardship, which shall include situations in which (I) the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; (II) the family would be evicted as a result of the imposition of the minimum rent requirement under subparagraph (A); (III) the income of the family has decreased because of changed circumstance, including loss of employment; (IV) a death in the family has occurred; and (V) other situations as may be determined by the agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)).

“(ii) WAITING PERIOD.—If a resident requests a hardship exemption under this subparagraph and the public housing agency (or the Secretary, in the case of a family described in subparagraph (A)(ii)) reasonably determines the hardship to be of a temporary nature, an exemption shall not be granted during the 90-day period beginning upon the making of a request for the exemption. A resident may not be evicted during such 90-day period for nonpayment of rent. In such a case, if the resident thereafter demonstrates that the financial hardship is of a long-term basis, the agency (or the Secretary) shall retroactively exempt the resident from the applicability of the minimum rent requirement for such 90-day period.”.

(b) REPEAL OF DUPLICATIVE PROVISIONS.—Section 402 of the Balanced Budget Downpayment Act, I (Public Law 104-99; 110 Stat. 40) is amended by striking subsection (a).

(c) CONFORMING AMENDMENT.—The third sentence of section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)) is amended by inserting “and subject to the requirement under paragraph (3)” before the first comma.

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note.

(d) **EFFECTIVE DATE.**—The amendments under this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

**SEC. 508. DETERMINATION OF ADJUSTED INCOME AND MEDIAN INCOME.**

(a) **ADJUSTED INCOME.**—Paragraph (5) of section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended to read as follows:

“(5) **ADJUSTED INCOME.**—The term ‘adjusted income’ means, with respect to a family, the amount (as determined by the public housing agency) of the income of the members of the family residing in a dwelling unit or the persons on a lease, after any income exclusions as follows:

“(A) **MANDATORY EXCLUSIONS.**—In determining adjusted income, a public housing agency shall exclude from the annual income of a family the following amounts:

“(i) **ELDERLY AND DISABLED FAMILIES.**—\$400 for any elderly or disabled family.

“(ii) **MEDICAL EXPENSES.**—The amount by which 3 percent of the annual family income is exceeded by the sum of—

“(I) unreimbursed medical expenses of any elderly family or disabled family;

“(II) unreimbursed medical expenses of any family that is not covered under subclause (I), except that this subclause shall apply only to the extent approved in appropriation Acts; and

“(III) unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed.

“(iii) **CHILD CARE EXPENSES.**—Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

“(iv) **MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.**—\$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is less than 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

“(v) **CHILD SUPPORT PAYMENTS.**—Any payment made by a member of the family for the support and maintenance of any child who does not reside in the household, except that the amount excluded under this clause may not exceed \$480 for each child for whom such payment is made; except that this clause shall apply only to the extent approved in appropriations Acts.

Applicability.

“(vi) **SPOUSAL SUPPORT EXPENSES.**—Any payment made by a member of the family for the support and maintenance of any spouse or former spouse who does not reside in the household, except that the amount excluded under this clause shall not exceed the lesser of (I) the amount that such family member has a legal obligation to pay, or (II) \$550 for each individual for whom such payment

is made; except that this clause shall apply only to the extent approved in appropriations Acts.

“(vii) EARNED INCOME OF MINORS.—The amount of any earned income of a member of the family who is not—

“(I) 18 years of age or older; and

“(II) the head of the household (or the spouse of the head of the household).

“(B) PERMISSIVE EXCLUSIONS FOR PUBLIC HOUSING.—In determining adjusted income, a public housing agency may, in the discretion of the agency, establish exclusions from the annual income of a family residing in a public housing dwelling unit. Such exclusions may include the following amounts:

“(i) EXCESSIVE TRAVEL EXPENSES.—Excessive travel expenses in an amount not to exceed \$25 per family per week, for employment- or education-related travel.

“(ii) EARNED INCOME.—An amount of any earned income of the family, established at the discretion of the public housing agency, which may be based on—

“(I) all earned income of the family,

“(II) the amount earned by particular members of the family;

“(III) the amount earned by families having certain characteristics; or

“(IV) the amount earned by families or members during certain periods or from certain sources.

“(iii) OTHERS.—Such other amounts for other purposes, as the public housing agency may establish.”

(b) DISALLOWANCE OF EARNED INCOME FROM PUBLIC HOUSING RENT DETERMINATIONS.—

(1) IN GENERAL.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a) is amended—

(A) by striking the undesignated paragraph that follows subsection (c)(3) (as added by section 515(b) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625; 104 Stat. 4199)); and

(B) by adding at the end the following new subsections:

“(d) DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the rent payable under subsection (a) by a family described in paragraph (3) of this subsection may not be increased as a result of the increased income due to such employment during the 12-month period beginning on the date on which the employment is commenced.

“(2) PHASE-IN OF RENT INCREASES.—Upon the expiration of the 12-month period referred to in paragraph (1), the rent payable by a family described in paragraph (3) may be increased due to the continued employment of the family member described in paragraph (3)(B), except that during the 12-month period beginning upon such expiration the amount of the increase may not be greater than 50 percent of the amount of the total rent increase that would be applicable but for this paragraph.

“(3) ELIGIBLE FAMILIES.—A family described in this paragraph is a family—

“(A) that—

“(i) occupies a dwelling unit in a public housing project; or

“(ii) receives assistance under section 8; and

“(B)(i) whose income increases as a result of employment of a member of the family who was previously unemployed for 1 or more years;

“(ii) whose earned income increases during the participation of a family member in any family self-sufficiency or other job training program; or

“(iii) who is or was, within 6 months, assisted under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act and whose earned income increases.

“(4) APPLICABILITY.—This subsection and subsection (e) shall apply beginning upon October 1, 1999, except that this subsection and subsection (e) shall apply with respect to any family described in paragraph 3(A)(ii) only to the extent provided in advance in appropriations Acts.

“(e) INDIVIDUAL SAVINGS ACCOUNTS.—

“(1) IN GENERAL.—In lieu of a disallowance of earned income under subsection (d), upon the request of a family that qualifies under subsection (d), a public housing agency may establish an individual savings account in accordance with this subsection for that family.

“(2) DEPOSITS TO ACCOUNT.—The public housing agency shall deposit in any savings account established under this subsection an amount equal to the total amount that otherwise would be applied to the family’s rent payment under subsection (a) as a result of employment.

“(3) WITHDRAWAL FROM ACCOUNT.—Amounts deposited in a savings account established under this subsection may only be withdrawn by the family for the purpose of—

“(A) purchasing a home;

“(B) paying education costs of family members;

“(C) moving out of public or assisted housing; or

“(D) paying any other expense authorized by the public housing agency for the purpose of promoting the economic self-sufficiency of residents of public and assisted housing.”.

(2) SAVINGS PROVISION.—Notwithstanding the amendment made by paragraph (1), the provisions of the undesignated paragraph at the end of section 3(c)(3) of the United States Housing Act of 1937, as such section was in effect immediately before the enactment of this Act, shall continue to apply until the effective date under section 503 of this Act. Notwithstanding the amendment made by subsection (a) of this section, nor the applicability under section 402(f) of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437a note) of the amendments made by such section 402, nor any repeal of such section 402(f), the provisions of section 3(b)(5)(G) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(G)), as such section was in effect immediately before the date of the enactment of this Act, shall continue to apply until the effective date under section 503 of this Act.

(c) MEDIAN INCOME.—

(1) IN GENERAL.—Section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) is amended—

(A) in the 4th sentence—

Applicability.  
42 USC 1437a  
note.



(i) by striking “County” and inserting “and Rockland Counties”; and

(ii) by inserting “each” before “such county”;

(B) in the last sentence—

(i) by striking “County” the 1st place it appears and inserting “or Rockland Counties”; and

(ii) by striking “County” the 2d place it appears and inserting “and Rockland Counties”; and

(C) by adding at the end the following new sentences: New York.  
 “In determining areas that are designated as difficult development areas for purposes of the low-income housing tax credit, the Secretary shall include Westchester and Rockland Counties, New York, in the New York City metropolitan area.”.

(2) APPLICABILITY.—The amendments made by this paragraph are made on, and shall apply beginning upon, the date of the enactment of this Act. 42 USC 1437a note.

(d) AVAILABILITY OF INCOME MATCHING INFORMATION.—

(1) AVAILABILITY.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

“(f) AVAILABILITY OF INCOME MATCHING INFORMATION.—

“(1) DISCLOSURE TO PHA.—A public housing agency shall require any family described in paragraph (2) who receives information regarding income, earnings, wages, or unemployment compensation from the Department of Housing and Urban Development pursuant to income verification procedures of the Department to disclose such information, upon receipt of the information, to the public housing agency that owns or operates the public housing dwelling unit in which such family resides or that provides the housing assistance under this Act on behalf of such family, as applicable.

“(2) FAMILIES COVERED.—A family described in this paragraph is a family that resides in a dwelling unit—

“(A) that is a public housing dwelling unit; or

“(B) for which tenant-based assistance is provided under section 8.”.

(2) PROTECTION OF APPLICANTS AND PARTICIPANTS.—Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) is amended—

(A) in subsection (b)—

(i) in paragraph (2), by striking “and” at the end;

(iii) in paragraph (3), by striking the period at the end and inserting “; and”; and

(ii) by adding at the end the following new paragraph:

“(4) only in the case of an applicant or participant that is a member of a family described in section 3(f)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(f)(2)), sign an agreement under which the applicant or participant agrees to provide to the appropriate public housing agency the information required under section 3(f)(1) of such Act for the sole purpose of the public housing agency verifying income information pertinent to the applicant’s or participant’s eligibility or level of benefits, and comply with such agreement.”; and

(B) in subsection (c)—

(i) in paragraph (2)(A), in the matter preceding clause (i)—

(I) by inserting before “or” the first place it appears the following: “, pursuant to section 3(d)(1) of the United States Housing Act of 1937 from the applicant or participant,”; and

(II) by inserting “or 3(d)(1)” after “such section 303(i)”;

(ii) in paragraph (3)—

(I) in subparagraph (A), by inserting “, section 3(d)(1) of the United States Housing Act of 1937,” after “Social Security Act”;

(II) in subparagraph (A), by inserting “or agreement, as applicable,” after “consent”;

(III) in subparagraph (B), by inserting “section 3(d)(1) of the United States Housing Act of 1937,” after “Social Security Act,”; and

(IV) in subparagraph (B), by inserting “ such section 3(d)(1),” after “such section 303(i),” each place it appears.

**SEC. 509. FAMILY SELF-SUFFICIENCY PROGRAM.**

(a) **IN GENERAL.**—Section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “and” at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting “, subject to the limitations in paragraph (4); and”;

(iii) by adding at the end the following new subparagraph:

“(C) effective on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, to the extent an agency is not required to carry out a program pursuant to subparagraph (B) of this paragraph and paragraph (4), may carry out a local Family Self-Sufficiency program under this section.”;

(B) in paragraph (3), by striking “Each” and inserting “Subject to paragraph (4), each”;

(C) by redesignating paragraph (4) as paragraph (5); and

(D) by inserting after paragraph (3) the following new paragraph:

“(4) **TERMINATION OF REQUIREMENT TO EXPAND PROGRAM.**—

“(A) **IN GENERAL.**—Notwithstanding any other provision of law, a public housing agency that receives incremental assistance under subsection (b) or (o) of section 8 or that makes available new public housing dwelling units shall not be required, after the enactment of the Quality Housing and Work Responsibility Act of 1998, to provide assistance under a local Family Self-Sufficiency program under this section to any families not required to be assisted under subparagraph (B) of this paragraph.

“(B) **CONTINUATION OF EXISTING OBLIGATIONS.**—

“(i) IN GENERAL.—Each public housing agency that, before the enactment of the Quality Housing and Work Responsibility Act of 1998, was required under this section to carry out a local Family Self-Sufficiency program shall continue to operate such local program for the number of families determined under paragraph (3), subject only to the availability under appropriations Acts of sufficient amounts for housing assistance.

“(ii) REDUCTION.—The number of families for which an agency is required under clause (i) to operate such local program shall be decreased by one for each family that, after enactment of the Quality Housing and Work Responsibility Act of 1998, fulfills its obligations under the contract of participation.”;

(2) in subsection (d), by striking the second paragraph that is designated as paragraph (3) (relating to use of escrow savings accounts for section 8 homeownership; as added by section 185(b) of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3747)); and

(3) in subsection (f)(1), by inserting “carrying out a local program under this section” after “Each public housing agency”.

(b) APPLICABILITY.—The amendments made by this subsection are made on, and shall apply beginning upon, the date of the enactment of this Act.

42 USC 1437o  
note.

#### **SEC. 510. PROHIBITION ON USE OF FUNDS.**

Section 5 of the United States Housing Act of 1937 (42 U.S.C. 1437c) is amended by adding at the end the following new subsection:

“(1) PROHIBITION ON USE OF FUNDS.—None of the funds made available to the Department of Housing and Urban Development to carry out this Act, which are obligated to State or local governments, public housing agencies, housing finance agencies, or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.”.

#### **SEC. 511. PUBLIC HOUSING AGENCY PLAN.**

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by inserting after section 5 the following new section:

##### **“SEC. 5A. PUBLIC HOUSING AGENCY PLANS.**

42 USC 1437c-1.

“(a) 5-YEAR PLAN.—

“(1) IN GENERAL.—Subject to paragraph (2), not less than once every 5 fiscal years, each public housing agency shall submit to the Secretary a plan that includes, with respect to the 5 fiscal years immediately following the date on which the plan is submitted—

“(A) a statement of the mission of the public housing agency for serving the needs of low-income and very low-income families in the jurisdiction of the public housing agency during such fiscal years; and

“(B) a statement of the goals and objectives of the public housing agency that will enable the public housing agency to serve the needs identified pursuant to subparagraph (A) during those fiscal years.

“(2) INITIAL PLAN.—The initial 5-year plan submitted by a public housing agency under this subsection shall be submitted for the 5-year period beginning on October 1, 1999, or the first fiscal year thereafter for which the public housing agency initially receives assistance under this Act.

“(b) ANNUAL PLAN.—

Effective date.

“(1) IN GENERAL.—Effective beginning upon October 1, 1999, each public housing agency shall submit to the Secretary an annual public housing agency plan under this subsection for each fiscal year for which the public housing agency receives assistance under section 8(o) or 9.

“(2) UPDATES.—For each fiscal year after the initial submission of an annual plan under this subsection by a public housing agency, the public housing agency may comply with requirements for submission of a plan under this subsection by submitting an update of the plan for the fiscal year.

“(c) PROCEDURES.—

“(1) IN GENERAL.—The Secretary shall establish requirements and procedures for submission and review of plans, including requirements for timing and form of submission, and for the contents of such plans.

“(2) CONTENTS.—The procedures established under paragraph (1) shall provide that a public housing agency shall—

“(A) in developing the plan consult with the resident advisory board established under subsection (e); and

“(B) ensure that the plan under this section is consistent with the applicable comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the jurisdiction in which the public housing agency is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act, and contains a certification by the appropriate State or local official that the plan meets the requirements of this paragraph and a description of the manner in which the applicable contents of the public housing agency plan are consistent with the comprehensive housing affordability strategy.

“(d) CONTENTS.—An annual public housing agency plan under subsection (b) for a public housing agency shall contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available:

“(1) NEEDS.—A statement of the housing needs of low-income and very low-income families residing in the jurisdiction served by the public housing agency, and of other low-income and very low-income families on the waiting list of the agency (including housing needs of elderly families and disabled families), and the means by which the public housing agency intends, to the maximum extent practicable, to address those needs.

“(2) FINANCIAL RESOURCES.—A statement of financial resources available to the agency and the planned uses of those resources.

“(3) ELIGIBILITY, SELECTION, AND ADMISSIONS POLICIES.—A statement of the policies governing eligibility, selection, admissions (including any preferences), assignment, and occupancy of families with respect to public housing dwelling units and housing assistance under section 8(o), including—

“(A) the procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include a system of site-based waiting lists under section 6(r); and

“(B) the admissions policy under section 16(a)(3)(B) for deconcentration of lower-income families.

“(4) RENT DETERMINATION.—A statement of the policies of the public housing agency governing rents charged for public housing dwelling units and rental contributions of families assisted under section 8(o).

“(5) OPERATION AND MANAGEMENT.—A statement of the rules, standards, and policies of the public housing agency governing maintenance and management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including by cockroaches), and management of the public housing agency and programs of the public housing agency.

“(6) GRIEVANCE PROCEDURE.—A statement of the grievance procedures of the public housing agency.

“(7) CAPITAL IMPROVEMENTS.—With respect to public housing projects owned, assisted, or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the projects.

“(8) DEMOLITION AND DISPOSITION.—With respect to public housing projects owned by the public housing agency—

“(A) a description of any housing for which the PHA will apply for demolition or disposition under section 18; and

“(B) a timetable for the demolition or disposition.

“(9) DESIGNATION OF HOUSING FOR ELDERLY AND DISABLED FAMILIES.—With respect to public housing projects owned, assisted, or operated by the public housing agency, a description of any projects (or portions thereof) that the public housing agency has designated or will apply for designation for occupancy by elderly and disabled families in accordance with section 7.

“(10) CONVERSION OF PUBLIC HOUSING.—With respect to public housing owned by a public housing agency—

“(A) a description of any building or buildings that the public housing agency is required to convert to tenant-based assistance under section 33 or that the public housing agency plans to voluntarily convert under section 22;

“(B) an analysis of the projects or buildings required to be converted under section 33; and

“(C) a statement of the amount of assistance received under this Act to be used for rental assistance or other housing assistance in connection with such conversion.

“(11) HOMEOWNERSHIP.—A description of any homeownership programs of the agency under section 8(y) or for which the public housing agency has applied or will apply for approval under section 32.

“(12) COMMUNITY SERVICE AND SELF-SUFFICIENCY.—A description of—

“(A) any programs relating to services and amenities provided or offered to assisted families;

“(B) any policies or programs of the public housing agency for the enhancement of the economic and social self-sufficiency of assisted families;

“(C) how the public housing agency will comply with the requirements of subsections (c) and (d) of section 12 (relating to community service and treatment of income changes resulting from welfare program requirements).

“(13) SAFETY AND CRIME PREVENTION.—A plan established by the public housing agency, which shall be subject to the following requirements:

“(A) SAFETY MEASURES.—The plan shall provide, on a project-by-project or jurisdiction-wide basis, for measures to ensure the safety of public housing residents.

“(B) ESTABLISHMENT.—The plan shall be established in consultation with the police officer or officers in command for the appropriate precinct or police department.

“(C) CONTENT.—The plan shall describe the need for measures to ensure the safety of public housing residents and for crime prevention measures, describe any such activities conducted or to be conducted by the agency, and provide for coordination between the agency and the appropriate police precincts for carrying out such measures and activities.

“(D) SECRETARIAL ACTION.—If the Secretary determines, at any time, that the security needs of a project are not being adequately addressed by the plan, or that the local police precinct is not complying with the plan, the Secretary may mediate between the public housing agency and the local precinct to resolve any issues of conflict.

“(14) PETS.—The requirements of the agency, pursuant to section 31, relating to pet ownership in public housing.

“(15) CIVIL RIGHTS CERTIFICATION.—A certification by the public housing agency that the public housing agency will carry out the public housing agency plan in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing.

“(16) ANNUAL AUDIT.—The results of the most recent fiscal year audit of the public housing agency under section 5(h)(2).

“(17) ASSET MANAGEMENT.—A statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory.

“(18) OTHER.—Any other information required by law to be included in a public housing agency plan.

“(e) RESIDENT ADVISORY BOARD.—

“(1) IN GENERAL.—Except as provided in paragraph (3), each public housing agency shall establish 1 or more resident advisory boards in accordance with this subsection, the membership of which shall adequately reflect and represent the residents assisted by the public housing agency.

“(2) FUNCTIONS.—Each resident advisory board established under this subsection by a public housing agency shall assist

Establishment.

and make recommendations regarding the development of the public housing agency plan for the agency. The agency shall consider the recommendations of the resident advisory boards in preparing the final public housing agency plan, and shall include, in the public housing agency plan submitted to the Secretary under this section, a copy of the recommendations and a description of the manner in which the recommendations were addressed.

“(3) WAIVER.—The Secretary may waive the requirements of this subsection with respect to the establishment of resident advisory boards for a public housing agency if the agency demonstrates to the satisfaction of the Secretary that there exist resident councils or other resident organizations of the public housing agency that—

“(A) adequately represent the interests of the residents of the public housing agency; and

“(B) have the ability to perform the functions described in paragraph (2).

“(1) IN GENERAL.—In developing a public housing agency plan under this section, the board of directors or similar governing body of a public housing agency shall conduct a public hearing to discuss the public housing agency plan and to invite public comment regarding that plan. The hearing shall be conducted at a location that is convenient to residents.

“(2) AVAILABILITY OF INFORMATION AND NOTICE.—Not later than 45 days before the date of a hearing conducted under paragraph (1), the public housing agency shall—

Deadline.

“(A) make the proposed public housing agency plan and all information relevant to the hearing and proposed plan available for inspection by the public at the principal office of the public housing agency during normal business hours; and

“(B) publish a notice informing the public that—

“(i) that the information is available as required under subparagraph (A); and

“(ii) that a public hearing under paragraph (1) will be conducted.

“(3) ADOPTION OF PLAN.—A public housing agency may adopt a public housing agency plan and submit the plan to the Secretary in accordance with this section only after—

“(A) conducting a public hearing under paragraph (1);

“(B) considering all public comments received; and

“(C) making any appropriate changes in the public housing agency plan, in consultation with the resident advisory board.

“(4) ADVISORY BOARD CONSULTATION ENFORCEMENT.—

Pursuant to a written request made by the resident advisory board for a public housing agency that documents a failure on the part of the agency to provide adequate notice and opportunity for comment under this subsection and a finding by the Secretary of good cause within the time period provided for in subsection (i)(4), the Secretary may require the public housing agency to adequately remedy such failure before final approval of the public housing agency plan under this section.

“(g) AMENDMENTS AND MODIFICATIONS TO PLANS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section shall preclude a public housing agency,

after submitting a plan to the Secretary in accordance with this section, from amending or modifying any policy, rule, regulation, or plan of the public housing agency, except that a significant amendment or modification may not—

“(A) be adopted, other than at a duly called meeting of board of directors (or similar governing body) of the public housing agency that is open to the public; and

“(B) be implemented, until notification of the amendment or modification is provided to the Secretary and approved in accordance with subsection (i).

“(2) CONSISTENCY AND NOTICE.—Each significant amendment or modification to a public housing agency plan submitted to the Secretary under this section shall—

“(A) meet the requirements under subsection (c)(2) (relating to consultation with resident advisory board and consistency with comprehensive housing affordability strategies); and

“(B) be subject to the notice and public hearing requirements of subsection (f).—

“(h) SUBMISSION OF PLANS.—

“(1) INITIAL SUBMISSION.—Each public housing agency shall submit the initial plan required by this section, and any amendment or modification to the initial plan, to the Secretary at such time and in such form as the Secretary shall require.

“(2) ANNUAL SUBMISSION.—Not later than 75 days before the start of the fiscal year of the public housing agency, after submission of the initial plan required by this section in accordance with subparagraph (A), each public housing agency shall annually submit to the Secretary a plan update, including any amendments or modifications to the public housing agency plan.

“(i) REVIEW AND DETERMINATION OF COMPLIANCE.—

“(1) REVIEW.—Subject to paragraph (2), after submission of the public housing agency plan or any amendment or modification to the plan to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this paragraph, the Secretary shall review the public housing agency plan (including any amendments or modifications thereto) and determine whether the contents of the plan—

“(A) set forth the information required by this section and this Act to be contained in a public housing agency plan;

“(B) are consistent with information and data available to the Secretary, including the approved comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act for the jurisdiction in which the public housing agency is located; and

“(C) are not prohibited by or inconsistent with any provision of this title or other applicable law.

“(2) ELEMENTS EXEMPTED FROM REVIEW.—The Secretary may, by regulation, provide that one or more elements of a public housing agency plan shall be reviewed only if the element is challenged, except that the Secretary shall review the information submitted in each plan pursuant to paragraphs (3)(B), (8), and (15) of subsection (d).



“(3) DISAPPROVAL.—The Secretary may disapprove a public housing agency plan (or any amendment or modification thereto) only if Secretary determines that the contents of the plan (or amendment or modification) do not comply with the requirements under subparagraph (A) through (C) of paragraph (1).

“(4) DETERMINATION OF COMPLIANCE.—

“(A) IN GENERAL.—Except as provided in subsection (j)(2), not later than 75 days after the date on which a public housing agency plan is submitted in accordance with this section, the Secretary shall make the determination under paragraph (1) and provide written notice to the public housing agency if the plan has been disapproved. If the Secretary disapproves the plan, the notice shall state with specificity the reasons for the disapproval.

“(B) FAILURE TO PROVIDE NOTICE OF DISAPPROVAL.—In the case of a plan disapproved, if the Secretary does not provide notice of disapproval under subparagraph (A) before the expiration of the period described in subparagraph (A), the Secretary shall be considered, for purposes of this Act, to have made a determination that the plan complies with the requirements under this section and the agency shall be considered to have been notified of compliance upon the expiration of such period. The preceding sentence shall not preclude judicial review regarding such compliance pursuant to chapter 7 of title 5, United States Code, or an action regarding such compliance under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983).

“(5) PUBLIC AVAILABILITY.—A public housing agency shall make the approved plan of the agency available to the general public.

“(j) TROUBLED AND AT-RISK PHAS.—

“(1) IN GENERAL.—The Secretary may require, for each public housing agency that is at risk of being designated as troubled under section 6(j)(2) or is designated as troubled under section 6(j)(2), that the public housing agency plan for such agency include such additional information as the Secretary determines to be appropriate, in accordance with such standards as the Secretary may establish or in accordance with such determinations as the Secretary may make on an agency-by-agency basis.

“(2) TROUBLED AGENCIES.—The Secretary shall provide explicit written approval or disapproval, in a timely manner, for a public housing agency plan submitted by any public housing agency designated by the Secretary as a troubled public housing agency under section 6(j)(2).

“(k) STREAMLINED PLAN.—In carrying out this section, the Secretary may establish a streamlined public housing agency plan for—

“(A) public housing agencies that are determined by the Secretary to be high performing public housing agencies;

“(B) public housing agencies with less than 250 public housing units that have not been designated as troubled under section 6(j)(2); and

“(C) public housing agencies that only administer tenant-based assistance and that do not own or operate public housing.

“(1) COMPLIANCE WITH PLAN.—

“(1) IN GENERAL.—In providing assistance under this title, a public housing agency shall comply with the rules, standards, and policies established in the public housing agency plan of the public housing agency approved under this section.

“(2) INVESTIGATION AND ENFORCEMENT.—In carrying out this title, the Secretary shall—

“(A) provide an appropriate response to any complaint concerning noncompliance by a public housing agency with the applicable public housing agency plan; and

“(B) if the Secretary determines, based on a finding of the Secretary or other information available to the Secretary, that a public housing agency is not complying with the applicable public housing agency plan, take such actions as the Secretary determines to be appropriate to ensure such compliance.”.

(b) IMPLEMENTATION.—

(1) INTERIM RULE.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall issue an interim rule to require the submission of an interim public housing agency plan by each public housing agency, as required by section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section). The interim rule shall provide for a public comment period of not less than 60 days.

(2) FINAL REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue final regulations implementing section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section).

(3) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under paragraph (2), in addition to public comments invited in connection with the publication of the interim rule, the Secretary shall—

(A) seek recommendations on the implementation of section 5A of the United States Housing Act of 1937 (as added by this subsection (a) of this section) from organizations representing—

- (i) State or local public housing agencies;
- (ii) residents, including resident management corporations; and
- (iii) other appropriate parties; and

(B) convene not less than 2 public forums at which the persons or organizations making recommendations under subparagraph (A) may express views concerning the proposed disposition of the recommendations.

The Secretary shall publish in the final rule a summary of the recommendations made and public comments received and the Department of Housing and Urban Development’s response to such recommendations and comments.

(c) AUDIT AND REVIEW; REPORT.—

(1) AUDIT AND REVIEW.—Not later than 1 year after the effective date of final regulations issued under subsection (b)(2), in order to determine the degree of compliance, by public housing agencies, with public housing agency plans approved under section 5A of the United States Housing Act of 1937 (as added

Deadline.  
42 USC 1437c-1  
note.

Deadline.

Publication.

42 USC 1437c-1  
note.

by subsection (a) of this section), the Comptroller General of the United States shall conduct—

(A) a review of a representative sample of the public housing agency plans approved under such section 5A before such date; and

(B) an audit and review of the public housing agencies submitting such plans.

(2) REPORT.—Not later than 2 years after the date on which public housing agency plans are initially required to be submitted under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section) the Comptroller General of the United States shall submit to the Congress a report, which shall include—

(A) a description of the results of each audit and review under paragraph (1); and

(B) any recommendations for increasing compliance by public housing agencies with their public housing agency plans approved under section 5A of the United States Housing Act of 1937 (as added by subsection (a) of this section).

(d) CONTRACT PROVISIONS.—Section 6(a) of the United States Housing Act of 1937 (42 U.S.C. 1437d(a)) is amended—

(1) in the first sentence, by inserting “, in a manner consistent with the public housing agency plan” before the period; and

(2) by striking the second sentence.

(e) APPLICABILITY.—This section shall take effect, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act. 42 USC 1437c-1.

**SEC. 512. COMMUNITY SERVICE AND FAMILY SELF-SUFFICIENCY REQUIREMENTS.**

(a) IN GENERAL.—Section 12 of the United States Housing Act of 1937 (42 U.S.C. 1437j) is amended—

(1) in the section heading, by inserting “AND COMMUNITY SERVICE REQUIREMENT” after “LABOR STANDARDS”; and

(2) by adding at the end the following new subsections:

“(c) COMMUNITY SERVICE REQUIREMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, each adult resident of a public housing project shall—

“(A) contribute 8 hours per month of community service (not including political activities) within the community in which that adult resides; or

“(B) participate in an economic self-sufficiency program (as that term is defined in subsection (g)) for 8 hours per month.

“(2) EXEMPTIONS.—The Secretary shall provide an exemption from the applicability of paragraph (1) for any individual who—

“(A) is 62 years of age or older;

“(B) is a blind or disabled individual, as defined under section 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who is unable to comply with this section, or is a primary caretaker of such individual;

“(C) is engaged in a work activity (as such term is defined in section 407(d) of the Social Security Act (42 U.S.C. 607(d)), as in effect on and after July 1, 1997));

“(D) meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program; or

“(E) is in a family receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State in which the public housing agency is located, including a State-administered welfare-to-work program, and has not been found by the State or other administering entity to be in noncompliance with such program.

“(3) ANNUAL DETERMINATIONS.—

“(A) REQUIREMENT.—For each public housing resident subject to the requirement under paragraph (1), the public housing agency shall, 30 days before the expiration of each lease term of the resident under section 6(l)(1), review and determine the compliance of the resident with the requirement under paragraph (1) of this subsection.

“(B) DUE PROCESS.—Such determinations shall be made in accordance with the principles of due process and on a nondiscriminatory basis.

“(C) NONCOMPLIANCE.— If an agency determines that a resident subject to the requirement under paragraph (1) has not complied with the requirement, the agency—

“(i) shall notify the resident—

“(I) of such noncompliance;

“(II) that the determination of noncompliance is subject to the administrative grievance procedure under subsection (k); and

“(III) that, unless the resident enters into an agreement under clause (ii) of this subparagraph, the resident’s lease will not be renewed; and

“(ii) may not renew or extend the resident’s lease upon expiration of the lease term and shall take such action as is necessary to terminate the tenancy of the household, unless the agency enters into an agreement, before the expiration of the lease term, with the resident providing for the resident to cure any noncompliance with the requirement under paragraph (1), by participating in an economic self-sufficiency program for or contributing to community service as many additional hours as the resident needs to comply in the aggregate with such requirement over the 12-month term of the lease.

“(4) INELIGIBILITY FOR OCCUPANCY FOR NONCOMPLIANCE.— A public housing agency may not renew or extend any lease, or provide any new lease, for a dwelling unit in public housing for any household that includes an adult member who was subject to the requirement under paragraph (1) and failed to comply with the requirement.

“(5) INCLUSION IN PLAN.—Each public housing agency shall include in its public housing plan a detailed description

of the manner in which the agency intends to implement and administer this subsection.

“(6) GEOGRAPHIC LOCATION.—The requirement under paragraph (1) may include community service or participation in an economic self-sufficiency program performed at a location not owned by the public housing agency.

“(7) PROHIBITION AGAINST REPLACEMENT OF EMPLOYEES.—In carrying out this subsection, a public housing agency may not—

“(A) substitute community service or participation in an economic self-sufficiency program, as described in paragraph (1), for work performed by a public housing employee; or

“(B) supplant a job at any location at which community work requirements are fulfilled.

“(8) THIRD-PARTY COORDINATING.—A public housing agency may administer the community service requirement under this subsection directly, through a resident organization, or through a contractor having experience in administering volunteer-based community service programs within the service area of the public housing agency. The Secretary may establish qualifications for such organizations and contractors.

“(d) TREATMENT OF INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS.—

“(1) COVERED FAMILY.—For purposes of this subsection, the term ‘covered family’ means a family that (A) receives benefits for welfare or public assistance from a State or other public agency under a program for which the Federal, State, or local law relating to the program requires, as a condition of eligibility for assistance under the program, participation of a member of the family in an economic self-sufficiency program, and (B) resides in a public housing dwelling unit or is provided tenant-based assistance under section 8.

“(2) DECREASES IN INCOME FOR FAILURE TO COMPLY.—

“(A) IN GENERAL.—Notwithstanding the provisions of section 3(a) (relating to family rental contributions) or paragraph (4) or (5) of section 3(b) (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced under a Federal, State, or local law regarding such an assistance program because of any failure of any member of the family to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement, the amount required to be paid by the family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction).

“(B) NO REDUCTION BASED ON TIME LIMIT FOR ASSISTANCE.—For purposes of this paragraph, a reduction in benefits as a result of the expiration of a lifetime time limit for a family receiving welfare or public assistance benefits shall not be considered to be a failure to comply with the conditions under the assistance program requiring participation in an economic self-sufficiency program or imposing a work activities requirement. This paragraph

shall apply beginning upon the date of the enactment of the Quality Housing and Work Responsibility Act of 1998.

“(3) EFFECT OF FRAUD.—Notwithstanding the provisions of section 3(a) (relating to family rental contributions) or paragraph (4) or (5) of section 3(b) (relating to definition of income and adjusted income), if the welfare or public assistance benefits of a covered family are reduced because of an act of fraud by a member of the family under the law or program, the amount required to be paid by the covered family as a monthly contribution toward rent may not be decreased, during the period of the reduction, as a result of any decrease in the income of the family (to the extent that the decrease in income is a result of the benefits reduction). This paragraph shall apply beginning upon the date of the enactment of the Quality Housing and Work Responsibility Act of 1998.

“(4) NOTICE.—Paragraphs (2) and (3) shall not apply to any covered family before the public housing agency providing assistance under this Act on behalf of the family obtains written notification from the relevant welfare or public assistance agency specifying that the family’s benefits have been reduced because of noncompliance with economic self-sufficiency program or work activities requirements or fraud, and the level of such reduction.

“(5) OCCUPANCY RIGHTS.—This subsection may not be construed to authorize any public housing agency to establish any time limit on tenancy in a public housing dwelling unit or on receipt of tenant-based assistance under section 8.

“(6) REVIEW.—Any covered family residing in public housing that is affected by the operation of this subsection shall have the right to review the determination under this subsection through the administrative grievance procedure established pursuant to section 6(k) for the public housing agency.

“(7) COOPERATION AGREEMENTS FOR ECONOMIC SELF-SUFFICIENCY ACTIVITIES.—

“(A) REQUIREMENT.—A public housing agency providing public housing dwelling units or tenant-based assistance under section 8 for covered families shall make its best efforts to enter into such cooperation agreements, with State, local, and other agencies providing assistance to covered families under welfare or public assistance programs, as may be necessary, to provide for such agencies to transfer information to facilitate administration of subsection (c) and paragraphs (2), (3), and (4) of this subsection and other information regarding rents, income, and assistance that may assist a public housing agency or welfare or public assistance agency in carrying out its functions.

“(B) CONTENTS.—A public housing agency shall seek to include in a cooperation agreement under this paragraph requirements and provisions designed to target assistance under welfare and public assistance programs to families residing in public housing projects and families receiving tenant-based assistance under section 8, which may include providing for economic self-sufficiency services within such housing, providing for services designed to meet the unique employment-related needs of residents of such housing and recipients of such assistance, providing for placement of

workfare positions on-site in such housing, and such other elements as may be appropriate.

“(C) CONFIDENTIALITY.—This paragraph may not be construed to authorize any release of information prohibited by, or in contravention of, any other provision of Federal, State, or local law.

“(e) LEASE PROVISIONS.—A public housing agency shall incorporate into leases under section 6(l) and into agreements for the provision of tenant-based assistance under section 8, provisions incorporating the conditions under subsection (d).

“(f) TREATMENT OF INCOME.—Notwithstanding any other provision of this section, in determining the income of a family who resides in public housing or receives tenant-based assistance under section 8, a public housing agency shall consider any decrease in the income of a family that results from the reduction of any welfare or public assistance benefits received by the family under any Federal, State, or local law regarding a program for such assistance if the family (or a member thereof, as applicable) has complied with the conditions for receiving such assistance and is unable to obtain employment notwithstanding such compliance.

“(g) DEFINITION.—For purposes of this section, the term ‘economic self-sufficiency program’ means any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training, education, workfare, financial or household management, apprenticeship, or other activities as the Secretary may provide.”.

(b) 1-YEAR LEASES.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(2) by redesignating paragraph (7) as paragraph (9); and

(3) by inserting before paragraph (2) the following new paragraph:

“(1) have a term of 12 months and shall be automatically renewed for all purposes except for noncompliance with the requirements under section 12(c) (relating to community service requirements); except that nothing in this title shall prevent a resident from seeking timely redress in court for failure to renew based on such noncompliance;”.

#### SEC. 513. INCOME TARGETING.

(a) IN GENERAL.—Section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended by striking the section designation and all that follows through the end of subsection (d) and inserting the following:

“SEC. 16. (a) INCOME ELIGIBILITY FOR PUBLIC HOUSING.—

“(1) INCOME MIX WITHIN PROJECTS.—A public housing agency may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing projects, subject to the requirements of this section.

“(2) PHA INCOME MIX.—

“(A) TARGETING.—Except as provided in paragraph (4), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year

by eligible families, not less than 40 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

“(3) PROHIBITION OF CONCENTRATION OF LOW-INCOME FAMILIES.—

“(A) PROHIBITION.—A public housing agency may not, in complying with the requirements under paragraph (2), concentrate very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing projects or certain buildings within projects. The Secretary shall review the income and occupancy characteristics of the public housing projects and the buildings of such projects of such agencies to ensure compliance with the provisions of this paragraph and paragraph (2).

“(B) DECONCENTRATION.—

“(i) IN GENERAL.—A public housing agency shall submit with its annual public housing agency plan under section 5A an admissions policy designed to provide for deconcentration of poverty and income-mixing by bringing higher income tenants into lower income projects and lower income tenants into higher income projects. This clause may not be construed to impose or require any specific income or racial quotas for any project or projects.

“(ii) INCENTIVES.—In implementing the policy under clause (i), a public housing agency may offer incentives for eligible families having higher incomes to occupy dwelling unit in projects predominantly occupied by eligible families having lower incomes, and provide for occupancy of eligible families having lower incomes in projects predominantly occupied by eligible families having higher incomes.

“(iii) FAMILY CHOICE.—Incentives referred to in clause (ii) may be made available by a public housing agency only in a manner that allows for the eligible family to have the sole discretion in determining whether to accept the incentive and an agency may not take any adverse action toward any eligible family for choosing not to accept an incentive and occupancy of a project described in clause (i)(II), *Provided*, That the skipping of a family on a waiting list to reach another family to implement the policy under clause (i) shall not be considered an adverse action. An agency implementing an admissions policy under this subparagraph shall implement the policy in a manner that does not prevent or interfere with the use of site-based waiting lists authorized under section 6(s).

“(4) FUNGIBILITY WITH TENANT-BASED ASSISTANCE.—

“(A) AUTHORITY.—Except as provided under subparagraph (D), the number of public housing dwelling units that a public housing agency shall otherwise make available in accordance with paragraph (2)(A) to comply with the percentage requirement under such paragraph for a



fiscal year shall be reduced by the credit number for the agency under subparagraph (B).

“(B) CREDIT FOR EXCEEDING TENANT-BASED ASSISTANCE TARGETING REQUIREMENT.—Subject to subparagraph (C), the credit number under this subparagraph for a public housing agency for a fiscal year shall be the number by which—

“(i) the aggregate number of qualified families who, in such fiscal year, are initially provided tenant-based assistance under section 8 by the agency; exceeds

“(ii) the number of qualified families that is required for the agency to comply with the percentage requirement under subsection (b)(1) for such fiscal year.

“(C) LIMITATIONS ON CREDIT NUMBER.—The credit number under subparagraph (B) for a public housing agency for a fiscal year may not in any case exceed the lesser of—

“(i) the number of dwelling units that is equivalent to 10 percent of the aggregate number of families initially provided tenant-based assistance under section 8 by the agency in such fiscal year; or

“(ii) the number of public housing dwelling units of the agency that—

“(I) are in projects that are located in census tracts having a poverty rate of 30 percent or more; and

“(II) are made available for occupancy during such fiscal year and are actually filled only by families whose incomes at the time of commencement of such occupancy exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

“(D) FUNGIBILITY FLOOR.—Notwithstanding any authority under subparagraph (A), of the public housing dwelling units of a public housing agency made available for occupancy in any fiscal year by eligible families, not less than 30 percent shall be occupied by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.

“(E) QUALIFIED FAMILY.—For purposes of this paragraph, the term ‘qualified family’ means a family having an income described in subsection (b)(1).

“(b) INCOME ELIGIBILITY FOR TENANT-BASED SECTION 8 ASSISTANCE.—

“(1) IN GENERAL.—Of the families initially provided tenant-based assistance under section 8 by a public housing agency in any fiscal year, not less than 75 percent shall be families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families; except that the Secretary may establish income ceilings higher or lower than 30 percent of the area median income on the basis of the Secretary’s findings

that such variations are necessary because of unusually high or low family incomes.

“(2) JURISDICTIONS SERVED BY MULTIPLE PHA’S.—In the case of any 2 or more public housing agencies that administer tenant-based assistance under section 8 with respect solely to identical geographical areas, such agencies shall be treated as a single public housing agency for purposes of paragraph (1).

“(c) INCOME ELIGIBILITY FOR PROJECT-BASED SECTION 8 ASSISTANCE.—

“(1) PRE-1981 ACT PROJECTS.—Not more than 25 percent of the dwelling units that were available for occupancy under section 8 housing assistance payments contracts under this Act before the effective date of the Housing and Community Development Amendments of 1981, and which will be leased on or after such effective date shall be available for leasing by low-income families other than very low-income families.

“(2) POST-1981 ACT PROJECTS.—Not more than 15 percent of the dwelling units which become available for occupancy under section 8 housing assistance payments contracts under this Act on or after the effective date of the Housing and Community Development Amendments of 1981 shall be available for leasing by low-income families other than very low-income families.

“(3) TARGETING.—For each project assisted under a contract for project-based assistance, of the dwelling units that become available for occupancy in any fiscal year that are assisted under the contract, not less than 40 percent

“(4) PROHIBITION OF SKIPPING.—In developing admission procedures implementing paragraphs (1), (2), and (3), the Secretary shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence. Nothing in this paragraph or this subsection may be construed to prevent an owner of housing assisted under a contract for project-based assistance from establishing a preference for occupancy in such housing for families containing a member who is employed.

“(5) EXCEPTION.—The limitations established in paragraphs (1), (2), and (3) shall not apply to dwelling units made available under project-based contracts under section 8 for the purpose of preventing displacement, or ameliorating the effects of displacement.

“(6) DEFINITION.—For purposes of this subsection, the term ‘project-based assistance’ means assistance under any of the following programs:

“(A) The new construction or substantial rehabilitation program under section 8(b)(2) (as in effect before October 1, 1983).

“(B) The property disposition program under section 8(b) (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998).

“(C) The loan management set-aside program under subsections (b) and (v) of section 8.

“(D) The project-based certificate program under section 8(d)(2).

“(E) The moderate rehabilitation program under section 8(e)(2) (as in effect before October 1, 1991).

“(F) The low-income housing preservation program under Low-Income Housing Preservation and Resident Homeownership Act of 1990 or the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect before November 28, 1990).

“(G) Section 8 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998), following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965 or section 236(f)(2) of the National Housing Act.

“(d) ESTABLISHMENT OF DIFFERENT STANDARDS.—Notwithstanding subsection (a)(2) or (b)(1), if approved by the Secretary, a public housing agency may for good cause establish and implement, in accordance with the public housing agency plan, an admission standard other than the standard under such subsection.”.

(b) EFFECTIVE DATE.—This section shall take effect on, and the amendments under this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

42 USC 1437n  
note.

#### SEC. 514. REPEAL OF FEDERAL PREFERENCES.

##### (a) PUBLIC HOUSING.—

(1) IN GENERAL.—Subparagraph (A) of section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437d)(c)(4)) is amended to read as follows:

“(A) making dwelling units in public housing available for occupancy, which shall provide that the public housing agency may establish a system for making dwelling units available that provides preference for such occupancy to families having certain characteristics; each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 5A(f) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction;”.

##### (2) CONFORMING AMENDMENTS.—

(A) PUBLIC HOUSING ASSISTANCE FOR FOSTER CARE CHILDREN.—Section 6(o) of the United States Housing Act of 1937 (42 U.S.C. 1437d(o)) is amended by striking “Subject” and all that follows through “, in” and inserting “In”.

(B) YOUTHBUILD PROGRAM.—Section 455(a)(2)(D)(iii) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899d(a)(2)(D)(iii)) is amended striking “section 6(c)(4)(A)” and inserting “any system of preferences established under section 6(c)(1)”.

##### (b) SECTION 8 EXISTING AND MODERATE REHABILITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 8(d)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

“(A) the selection of tenants shall be the function of the owner, subject to the annual contributions contract between the Secretary and the agency, except that with respect to the

certificate and moderate rehabilitation programs only, for the purpose of selecting families to be assisted, the public housing agency may establish local preferences, consistent with the public housing agency plan submitted under section 5A by the public housing agency;”.

(2) CONFORMING AMENDMENTS.—

(A) LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.—The second sentence of section 226(b)(6)(B) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4116(b)(6)(B)) is amended by striking “The requirement for giving preferences to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3)” and inserting “Any system for preferences established under section 8(d)(1)(A) or 8(o)(6)(A)”.

(B) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Section 655 of the Housing and Community Development Act of 1992 (42 U.S.C. 13615) is amended by striking “shall be given” and all that follows through the period at the end and inserting the following: “shall be given to disabled families according to any preferences established under any system established under section 8(d)(1)(A) by the public housing agency.”.

(C) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203(g)(2) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(g)(2)) is amended by striking “the preferences for assistance under sections 6(c)(4)(A)(i), 8(d)(1)(A)(i), and 8(o)(3)(B)” and inserting “any system of preferences established pursuant to section 6(c)(4)(A), 8(d)(1)(A), or 8(o)(6)(A)”.

(D) OTHER REFERENCES.—Subparagraph (D) of section 402(d)(6) of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437d note) is hereby repealed.

(c) SECTION 8 NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION.—

(1) PERMANENT REPEAL.—Subsection (c) of section 545 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is hereby repealed.

(2) PROHIBITION.—Notwithstanding any other provision of law (including subsection (f) of this section), section 402(d)(4)(B) of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437a note) shall apply to fiscal year 1999 and thereafter.

(d) RENT SUPPLEMENTS.—Subsection (k) of section 1010 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s(k)) is hereby repealed.

(e) SENSE OF CONGRESS REGARDING PREFERENCE FOR ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE.—It is the sense of Congress that, each public housing agency involved in the selection of eligible families for assistance under the United States Housing Act of 1937 (including residency in public housing and tenant-based assistance under section 8 of such Act) should, consistent with the public housing agency plan of the agency, consider preferences for individuals who are victims of domestic violence.

(f) TERMINATION OF TEMPORARY PROVISIONS.—Section 402 of The Balanced Budget Downpayment Act, I, and the amendments made by such section shall cease to be effective on the date of

42 USC 1437f  
note.

42 USC 1437f  
note.

the enactment of this Act. Notwithstanding the inclusion in this Act of any provision extending the effectiveness of such section or such amendments, such provision included in this Act shall not take effect.

(g) **APPLICABILITY.**—This section shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

12 USC 1701s  
note.

**SEC. 515. JOINT VENTURES AND CONSORTIA OF PUBLIC HOUSING AGENCIES; REPEAL OF ENERGY CONSERVATION PROVISIONS.**

Section 13 of the United States Housing Act of 1937 (42 U.S.C. 1437k) is amended to read as follows:

**“SEC. 13. CONSORTIA, JOINT VENTURES, AFFILIATES, AND SUBSIDIARIES OF PUBLIC HOUSING AGENCIES.**

**“(a) CONSORTIA.—**

**“(1) IN GENERAL.—**Any 2 or more public housing agencies may participate in a consortium for the purpose of administering any or all of the housing programs of those public housing agencies in accordance with this section.

**“(2) EFFECT.—**With respect to any consortium described in paragraph (1)—

**“(A)** any assistance made available under this title to each of the public housing agencies participating in the consortium shall be paid to the consortium; and

**“(B)** all planning and reporting requirements imposed upon each public housing agency participating in the consortium with respect to the programs operated by the consortium shall be consolidated.

**“(3) RESTRICTIONS.—**

**“(A) AGREEMENT.—**Each consortium described in paragraph (1) shall be formed and operated in accordance with a consortium agreement, and shall be subject to the requirements of a joint public housing agency plan, which shall be submitted by the consortium in accordance with section 5A.

**“(B) MINIMUM REQUIREMENTS.—**The Secretary shall specify minimum requirements relating to the formation and operation of consortia and the minimum contents of consortium agreements under this paragraph.

**“(b) JOINT VENTURES.—**

**“(1) IN GENERAL.—**Notwithstanding any other provision of law, a public housing agency, in accordance with the public housing agency plan, may—

**“(A)** form and operate wholly owned or controlled subsidiaries (which may be nonprofit corporations) and other affiliates, any of which may be directed, managed, or controlled by the same persons who constitute the board of directors or similar governing body of the public housing agency, or who serve as employees or staff of the public housing agency; or

**“(B)** enter into joint ventures, partnerships, or other business arrangements with, or contract with, any person, organization, entity, or governmental unit—

**“(i)** with respect to the administration of the programs of the public housing agency, including any program that is subject to this title; or

“(ii) for the purpose of providing or arranging for the provision of supportive or social services.

“(2) USE OF AND TREATMENT INCOME.—Any income generated under paragraph (1)—

“(A) shall be used for low-income housing or to benefit the residents assisted by the public housing agency; and

“(B) shall not result in any decrease in any amount provided to the public housing agency under this title, except as otherwise provided under the formulas established under section 9(d)(2) and 9(e)(2).

“(3) AUDITS.—The Comptroller General of the United States, the Secretary, or the Inspector General of the Department of Housing and Urban Development may conduct an audit of any activity undertaken under paragraph (1) at any time.”.

**SEC. 516. PUBLIC HOUSING AGENCY MORTGAGES AND SECURITY INTERESTS.**

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following:

42 USC 1437z-2.

**“SEC. 30. PUBLIC HOUSING MORTGAGES AND SECURITY INTERESTS.**

“(a) GENERAL AUTHORIZATION.—The Secretary may, upon such terms and conditions as the Secretary may prescribe, authorize a public housing agency to mortgage or otherwise grant a security interest in any public housing project or other property of the public housing agency.

“(b) TERMS AND CONDITIONS.—In making any authorization under subsection (a), the Secretary may consider—

“(1) the ability of the public housing agency to use the proceeds of the mortgage or security interest for low-income housing uses;

“(2) the ability of the public housing agency to make payments on the mortgage or security interest; and

“(3) such other criteria as the Secretary may specify.

“(c) NO FEDERAL LIABILITY.—No action taken under this section shall result in any liability to the Federal Government.”.

42 USC 1437  
note.

**SEC. 517. MENTAL HEALTH ACTION PLAN.**

The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, the Secretary of Labor, and appropriate State and local officials and representatives, shall—

(1) develop an action plan and list of recommendations for the improvement of means of providing severe mental illness treatment to families and individuals receiving housing assistance under the United States Housing Act of 1937, including public housing residents, residents of multifamily housing assisted with project-based assistance under section 8 of such Act, and recipients of tenant-based assistance under such section; and

(2) develop and disseminate a list of current practices among public housing agencies and owners of assisted housing that serve to benefit persons in need of mental health care.”.

**Subtitle B—Public Housing****PART 1—CAPITAL AND OPERATING  
ASSISTANCE****SEC. 518. CONTRIBUTIONS FOR LOWER INCOME HOUSING PROJECTS.****(a) REPEALS.—**

(1) **IN GENERAL.**—Section 5 of the United States Housing Act of 1937 (42 U.S.C. 1437c) is amended—

(A) by striking subsections (h) through (k); and

(B) by redesignating subsection (l), as added by the preceding provisions of this Act, as subsection (i).

(2) **CONFORMING AMENDMENTS.**—The United States Housing Act of 1937 is amended—

(A) in section 21(d) (42 U.S.C. 1437s(d)), by striking “section 5(h) or”; and

(C) in section 307 (42 U.S.C. 1437aaa-6), by striking “section 5(h) and”.

(b) **LOCAL NOTIFICATION.**—Section 5(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c(e)(2)) is amended by inserting before the period at the end the following: “; the Secretary shall require that each such agreement shall provide that, notwithstanding any order, judgment, or decree of any court (including any settlement order), before making any amounts that are provided pursuant to any contract for contributions under this title available for use for the development of any housing or other property not previously used as public housing, the public housing agency shall (A) notify the chief executive officer (or other appropriate official) of the unit of general local government in which the public housing for which such amounts are to be so used is located (or to be located) of such use, and (B) pursuant to the request of such unit of general local government, provide such information as may reasonably be requested by such unit of general local government regarding the public housing to be so assisted (except to the extent otherwise prohibited by law)”.

**SEC. 519. PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.**

(a) **IN GENERAL.**—Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended to read as follows:

**“SEC. 9. PUBLIC HOUSING CAPITAL AND OPERATING FUNDS.**

“(a) **MERGER INTO CAPITAL FUND.**—Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 14 of this Act before October 1, 1999, shall be merged into the Capital Fund established under subsection (d).

“(b) **MERGER INTO OPERATING FUND.**—Except as otherwise provided in the Quality Housing and Work Responsibility Act of 1998, any assistance made available for public housing under section 9 of this Act before October 1, 1999, shall be merged into the Operating Fund established under subsection (e).

**“(c) ALLOCATION AMOUNT.—**

“(1) **IN GENERAL.**—For fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate amounts in the Capital Fund and Operating Funds for assistance for public housing agencies eligible for such assistance. The Secretary shall determine the amount of the allocation for each eligible

agency, which shall be, for any fiscal year beginning after the effective date of the formulas described in subsections (d)(2) and (e)(2)—

“(A) for assistance from the Capital Fund, the amount determined for the agency under the formula under subsection (d)(2); and

“(B) for assistance from the Operating Fund, the amount determined for the agency under the formula under subsection (e)(2).

“(2) FUNDING.—There are authorized to be appropriated for assistance for public housing agencies under this section the following amounts:

“(A) CAPITAL FUND.—For allocations of assistance from the Capital Fund, \$3,000,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

“(B) OPERATING FUND.—For allocations of assistance from the Operating Fund, \$2,900,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003.

“(d) CAPITAL FUND.—

“(1) IN GENERAL.—The Secretary shall establish a Capital Fund for the purpose of making assistance available to public housing agencies to carry out capital and management activities, including—

“(A) the development, financing, and modernization of public housing projects, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings (including accessibility improvements) and the development of mixed-finance projects;

“(B) vacancy reduction;

“(C) addressing deferred maintenance needs and the replacement of obsolete utility systems and dwelling equipment;

“(D) planned code compliance;

“(E) management improvements;

“(F) demolition and replacement;

“(G) resident relocation;

“(H) capital expenditures to facilitate programs to improve the empowerment and economic self-sufficiency of public housing residents and to improve resident participation;

“(I) capital expenditures to improve the security and safety of residents; and

“(J) homeownership activities, including programs under section 32.

“(2) FORMULA.—The Secretary shall develop a formula for determining the amount of assistance provided to public housing agencies from the Capital Fund for a fiscal year, which shall include a mechanism to reward performance. The formula may take into account such factors as—

“(A) the number of public housing dwelling units owned, assisted, or operated by the public housing agency, the characteristics and locations of the projects, and the characteristics of the families served and to be served (including the incomes of the families);



“(B) the need of the public housing agency to carry out rehabilitation and modernization activities, replacement housing, and reconstruction, construction, and demolition activities related to public housing dwelling units owned, assisted, or operated by the public housing agency, including backlog and projected future needs of the agency;

“(C) the cost of constructing and rehabilitating property in the area;

“(D) the need of the public housing agency to carry out activities that provide a safe and secure environment in public housing units owned, assisted, or operated by the public housing agency;

“(E) any record by the public housing agency of exemplary performance in the operation of public housing, as indicated by the system of performance indicators established pursuant to section 6(j); and

“(F) any other factors that the Secretary determines to be appropriate.

“(3) CONDITIONS ON USE FOR DEVELOPMENT AND MODERNIZATION.—

“(A) DEVELOPMENT.—Except as otherwise provided in this Act, any public housing developed using amounts provided under this subsection, or under section 14 as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, shall be operated under the terms and conditions applicable to public housing during the 40-year period that begins on the date on which the project (or stage of the project) becomes available for occupancy.

“(B) MODERNIZATION.—Except as otherwise provided in this Act, any public housing or portion thereof that is modernized using amounts provided under this subsection or under section 14 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) shall be maintained and operated under the terms and conditions applicable to public housing during the 20-year period that begins on the latest date on which modernization is completed.

“(C) APPLICABILITY OF LATEST EXPIRATION DATE.—Public housing subject to this paragraph or to any other provision of law mandating the operation of the housing as public housing or under the terms and conditions applicable to public housing for a specified length of time, shall be maintained and operated as required until the latest such expiration date.

“(e) OPERATING FUND.—

“(1) IN GENERAL.—The Secretary shall establish an Operating Fund for the purpose of making assistance available to public housing agencies for the operation and management of public housing, including—

“(A) procedures and systems to maintain and ensure the efficient management and operation of public housing units (including amounts sufficient to pay for the reasonable costs of review by an independent auditor of the documentation or other information maintained pursuant to section 6(j)(6) by a public housing agency or resident

management corporation to substantiate the performance of that agency or corporation);

“(B) activities to ensure a program of routine preventative maintenance;

“(C) anticrime and antidrug activities, including the costs of providing adequate security for public housing residents, including above-baseline police service agreements;

“(D) activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;

“(E) activities to provide for management and participation in the management and policy making of public housing by public housing residents;

“(F) the costs of insurance;

“(G) the energy costs associated with public housing units, with an emphasis on energy conservation;

“(H) the costs of administering a public housing work program under section 12, including the costs of any related insurance needs;

“(I) the costs of repaying, together with rent contributions, debt incurred to finance the rehabilitation and development of public housing units, which shall be subject to such reasonable requirements as the Secretary may establish; and

“(J) the costs associated with the operation and management of mixed finance projects, to the extent appropriate.

“(2) FORMULA.—

“(A) IN GENERAL.—The Secretary shall establish a formula for determining the amount of assistance provided to public housing agencies from the Operating Fund for a fiscal year. The formula may take into account—

“(i) standards for the costs of operating and reasonable projections of income, taking into account the characteristics and locations of the public housing projects and characteristics of the families served and to be served (including the incomes of the families), or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed public housing project;

“(ii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency;

“(iii) the number of public housing dwelling units owned, assisted, or operated by the public housing agency that are chronically vacant and the amount of assistance appropriate for those units;

“(iv) to the extent quantifiable, the extent to which the public housing agency provides programs and activities designed to promote the economic self-sufficiency and management skills of public housing residents;

“(v) the need of the public housing agency to carry out anti-crime and anti-drug activities, including providing adequate security for public housing residents;

“(vi) the amount of public housing rental income foregone by the public housing agency as a result of escrow savings accounts under section 23(d)(2) for families participating in a family self-sufficiency program of the agency under such section 23; and

“(vii) any other factors that the Secretary determines to be appropriate.

“(B) INCENTIVE TO INCREASE CERTAIN RENTAL INCOME.—The formula shall provide an incentive to encourage public housing agencies to facilitate increases in earned income by families in occupancy. Any such incentive shall provide that the agency shall benefit from increases in such rental income and that such amounts accruing to the agency pursuant to such benefit may be used only for low-income housing or to benefit the residents of the public housing agency.

“(C) TREATMENT OF SAVINGS.—The treatment of utility and waste management costs under the formula shall provide that a public housing agency shall receive the full financial benefit from any reduction in the cost of utilities or waste management resulting from any contract with a third party to undertake energy conservation improvements in one or more of its public housing projects.

“(3) CONDITION ON USE.—No portion of any public housing project operated using amounts provided under this subsection, or under this section as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, may be disposed of before the expiration of the 10-year period beginning upon the conclusion of the fiscal year for which such amounts were provided, except as otherwise provided in this Act.

“(f) NEGOTIATED RULEMAKING PROCEDURE.—The formulas under subsections (d)(2) and (e)(2) shall be developed according to procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code.

“(g) LIMITATIONS ON USE OF FUNDS.—

“(1) FLEXIBILITY FOR CAPITAL FUND AMOUNTS.—Of any amounts appropriated for fiscal year 2000 or any fiscal year thereafter that are allocated for fiscal year 2000 or any fiscal year thereafter from the Capital Fund for any public housing agency, the agency may use not more than 20 percent for activities that are eligible under subsection (e) for assistance with amounts from the Operating Fund, but only if the public housing agency plan for the agency provides for such use.

“(2) FULL FLEXIBILITY FOR SMALL PHA'S.—Of any amounts allocated for any fiscal year for any public housing agency that owns or operates less than 250 public housing dwelling units, is not designated pursuant to section 6(j)(2) as a troubled public housing agency, and (in the determination of the Secretary) is operating and maintaining its public housing in a safe, clean, and healthy condition, the agency may use any such amounts for any eligible activities under subsections (d)(1) and (e)(1), regardless of the fund from which the amounts were allocated and provided. This subsection shall take effect on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998.

Effective date.

“(3) LIMITATION ON NEW CONSTRUCTION.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a public housing agency may not use any of the amounts allocated for the agency from the Capital Fund or Operating Fund for the purpose of constructing any public housing unit, if such construction would result in a net increase from the number of public housing units owned, assisted, or operated by the public housing agency on October 1, 1999, including any public housing units demolished as part of any revitalization effort.

“(B) EXCEPTION REGARDING USE OF ASSISTANCE.—A public housing agency may use amounts allocated for the agency from the Capital Fund or Operating Fund for the construction and operation of housing units that are available and affordable to low-income families in excess of the limitations on new construction set forth in subparagraph (A), but the formulas established under subsections (d)(2) and (e)(2) shall not provide additional funding for the specific purpose of allowing construction and operation of housing in excess of those limitations (except to the extent provided in subparagraph (C)).

“(C) EXCEPTION REGARDING FORMULAS.—Subject to reasonable limitations set by the Secretary, the formulas established under subsections (d)(2) and (e)(2) may provide additional funding for the operation and modernization costs (but not the initial development costs) of housing in excess of amounts otherwise permitted under this paragraph, and such amounts may be so used, if—

“(i) such units are part of a mixed-finance project or otherwise leverage significant additional private or public investment; and

“(ii) the estimated cost of the useful life of the project is less than the estimated cost of providing tenant-based assistance under section 8(o) for the same period of time.

Contracts.

“(h) TECHNICAL ASSISTANCE.—To the extent amounts are provided in advance in appropriations Acts, the Secretary may make grants or enter into contracts or cooperative agreements in accordance with this subsection for purposes of providing, either directly or indirectly—

“(1) technical assistance to public housing agencies, resident councils, resident organizations, and resident management corporations, including assistance relating to monitoring and inspections;

“(2) training for public housing agency employees and residents;

“(3) data collection and analysis;

“(4) training, technical assistance, and education to public housing agencies that are—

“(A) at risk of being designated as troubled under section 6(j), to assist such agencies from being so designated; and

“(B) designated as troubled under section 6(j), to assist such agencies in achieving the removal of that designation;

“(5) contract expertise;

“(6) training and technical assistance to assist in the oversight and management of public housing or tenant-based assistance; and

“(7) clearinghouse services in furtherance of the goals and activities of this subsection.

As used in this subsection, the terms ‘training’ and ‘technical assistance’ shall include training or technical assistance and the cost of necessary travel for participants in such training or technical assistance, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees.

“(i) ELIGIBILITY OF UNITS ACQUIRED FROM PROCEEDS OF SALES UNDER DEMOLITION OR DISPOSITION PLAN.—If a public housing agency uses proceeds from the sale of units under a homeownership program in accordance with section 32 to acquire additional units to be sold to low-income families, the additional units shall be counted as public housing for purposes of determining the amount of the allocation to the agency under this section until sale by the agency, but in no case longer than 5 years.

“(j) PENALTY FOR SLOW EXPENDITURE OF CAPITAL FUNDS.—

“(1) OBLIGATION OF AMOUNTS.—Except as provided in paragraph (4) and subject to paragraph (2), a public housing agency shall obligate any assistance received under this section not later than 24 months after, as applicable—

“(A) the date on which the funds become available to the agency for obligation in the case of modernization; or

“(B) the date on which the agency accumulates adequate funds to undertake modernization, substantial rehabilitation, or new construction of units.

“(2) EXTENSION OF TIME PERIOD FOR OBLIGATION.—The Secretary—

“(A) may, extend the time period under paragraph (1) for a public housing agency, for such period as the Secretary determines to be necessary, if the Secretary determines that the failure of the agency to obligate assistance in a timely manner is attributable to—

“(i) litigation;

“(ii) obtaining approvals of the Federal Government or a State or local government;

“(iii) complying with environmental assessment and abatement requirements;

“(iv) relocating residents;

“(v) an event beyond the control of the public housing agency; or

“(vi) any other reason established by the Secretary by notice published in the Federal Register;

“(B) shall disregard the requirements of paragraph (1) with respect to any unobligated amounts made available to a public housing agency, to the extent that the total of such amounts does not exceed 10 percent of the original amount made available to the public housing agency; and

“(C) may, with the prior approval of the Secretary, extend the time period under paragraph (1), for an additional period not to exceed 12 months, based on—

“(i) the size of the public housing agency;

Federal Register,  
publication.

“(ii) the complexity of capital program of the public housing agency;

“(iii) any limitation on the ability of the public housing agency to obligate the amounts allocated for the agency from the Capital Fund in a timely manner as a result of State or local law; or

“(iv) such other factors as the Secretary determines to be relevant.

“(3) EFFECT OF FAILURE TO COMPLY.—

“(A) PROHIBITION OF NEW ASSISTANCE.—A public housing agency shall not be awarded assistance under this section for any month during any fiscal year in which the public housing agency has funds unobligated in violation of paragraph (1) or (2).

“(B) WITHHOLDING OF ASSISTANCE.—During any fiscal year described in subparagraph (A), the Secretary shall withhold all assistance that would otherwise be provided to the public housing agency. If the public housing agency cures its failure to comply during the year, it shall be provided with the share attributable to the months remaining in the year.

“(C) REDISTRIBUTION.—The total amount of any funds not provided public housing agencies by operation of this paragraph shall be allocated for agencies determined under section 6(j) to be high-performing.

“(4) EXCEPTION TO OBLIGATION REQUIREMENTS.—

“(A) IN GENERAL.—Subject to subparagraph (B), if the Secretary has consented, before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, to an obligation period for any agency longer than provided under paragraph (1), a public housing agency that obligates its funds before the expiration of that period shall not be considered to be in violation of paragraph (1).

“(B) PRIOR FISCAL YEARS.—Notwithstanding subparagraph (A), any funds appropriated to a public housing agency for fiscal year 1997 or prior fiscal years shall be fully obligated by the public housing agency not later than September 30, 1999.

“(5) EXPENDITURE OF AMOUNTS.—

“(A) IN GENERAL.—A public housing agency shall spend any assistance received under this section not later than 4 years (plus the period of any extension approved by the Secretary under paragraph (2)) after the date on which funds become available to the agency for obligation.

“(B) ENFORCEMENT.—The Secretary shall enforce the requirement of subparagraph (A) through default remedies up to and including withdrawal of the funding.

“(6) RIGHT OF RECAPTURE.—Any obligation entered into by a public housing agency shall be subject to the right of the Secretary to recapture the obligated amounts for violation by the public housing agency of the requirements of this subsection.

“(k) EMERGENCY RESERVE AND USE OF AMOUNTS.—

“(1) SET-ASIDES.—In each fiscal year after fiscal year 1999, the Secretary shall set aside, for use in accordance with this subsection, not more than 2 percent of the total amount made

available to carry out this section for such fiscal year. In addition to amounts set aside under the preceding sentence, in each fiscal year the Secretary may set from the total amount made available to carry out this section for such fiscal year not more than \$20,000,000 for the Operation Safe Home program administered by the Office of the Inspector General of the Department of Housing and Urban Development, for law enforcement efforts to combat violent crime on or near the premises of public and federally assisted housing.

“(2) USE OF FUNDS.—Amounts set aside under paragraph (1) shall be available to the Secretary for use for assistance, as provided in paragraph (3), in connection with—

“(A) emergencies and other disasters; and

“(C) housing needs resulting from any settlement of litigation; and

“(3) ELIGIBLE USES.—In carrying out this subsection, the Secretary may use amounts set aside under this subsection to provide—

“(A) assistance for any eligible use under the Operating Fund or the Capital Fund established by this section; or

“(B) tenant-based assistance in accordance with section 8.

“(4) LIMITATION.—With respect to any fiscal year, the Secretary may carry over not more than a total of \$25,000,000 in unobligated amounts set aside under this subsection for use in connection with the activities described in paragraph (2) during the succeeding fiscal year.

“(5) PUBLICATION.—The Secretary shall publish the use of any amounts allocated under this subsection relating to emergencies (other than disasters and housing needs resulting from any settlement of litigation) in the Federal Register.

Federal Register,  
publication.

“(1) TREATMENT OF NONRENTAL INCOME.—A public housing agency that receives income from nonrental sources (as determined by the Secretary) may retain and use such amounts without any decrease in the amounts received under this section from the Capital or Operating Fund. Any such nonrental amounts retained shall be used only for low-income housing or to benefit the residents assisted by the public housing agency.

“(m) PROVISION OF ONLY CAPITAL OR OPERATING ASSISTANCE.—

“(1) AUTHORITY.—In appropriate circumstances, as determined by the Secretary, a public housing agency may commit capital assistance only, or operating assistance only, for public housing units, which assistance shall be subject to all of the requirements applicable to public housing except as otherwise provided in this subsection.

“(2) EXEMPTIONS.—In the case of any public housing unit assisted pursuant to the authority under paragraph (1), the Secretary may, by regulation, reduce the period under subsection (d)(3) or (e)(3), as applicable, during which such units must be operated under requirements applicable to public housing. In cases in which there is commitment of operating assistance but no commitment of capital assistance, the Secretary may make section 8 requirements applicable, as appropriate, by regulation.

“(n) TREATMENT OF PUBLIC HOUSING.—

“(1) CERTAIN STATE AND CITY FUNDED HOUSING.—

“(A) IN GENERAL.—Notwithstanding any other provision of this section—

“(i) for purposes of determining the allocations from the Operating and Capital Funds pursuant to the formulas under subsections (d)(2) and (e)(2) and determining assistance pursuant to section 519(e) of the Quality Housing and Work Responsibility Act of 1998 and under section 9 or 14 of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act), for any period before the implementation of such formulas, the Secretary shall deem any covered locally developed public housing units as public housing units developed under this title and such units shall be eligible for such assistance; and

“(ii) assistance provided under this section, under such section 518(d)(3), or under such section 9 or 14 to any public housing agency may be used with respect to any covered locally developed public housing units.

“(B) COVERED UNITS.—For purposes of this paragraph, the term ‘covered locally developed public housing units’ means—

“(i) not more than 7,000 public housing units developed pursuant to laws of the State of New York and that received debt service and operating subsidies pursuant to such laws; and

“(ii) not more than 5,000 dwelling units developed pursuant to section 34 of chapter 121B of the General Laws of the State of Massachusetts.

“(2) REDUCTION OF ASTHMA INCIDENCE.—Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before amounts are made available from such Funds, use not more than exceeding \$500,000 per year for the purpose of initiating, expanding or continuing a program for the reduction of the incidence of asthma among residents. The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Health and Human Services to identify and consider sources of funding for the reduction of the incidence of asthma among recipients of assistance under this title.

“(3) SERVICES FOR ELDERLY RESIDENTS.—Notwithstanding any other provision of this section, the New York City Housing Authority may, in its sole discretion, from amounts provided from the Operating and Capital Funds, or from amounts provided for public housing before the amounts are made available from such Funds, use not more than \$600,000 per year for the purpose of developing a comprehensive plan to address the need for services for elderly residents. Such plan may be developed by a partnership created by such Housing Authority and may include the creation of a model project for assisted living at one or more developments. The model project may provide for contracting with private parties for the delivery of services.

“(4) EFFECTIVE DATE.—This subsection shall apply to fiscal year 1999 and each fiscal year thereafter.”.



(b) ALLOCATION OF ASSISTANCE.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by striking subsection (p).

(c) CONFORMING AMENDMENTS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 303(b)(10) (42 U.S.C. 1437aaa-2(b)(10)), by striking “under section 9” the first place it appears and inserting “from the Operating Fund”; and

(2) in section 305(e) (42 U.S.C. 1437aaa-4(e)), by striking “Operating subsidies” and inserting “Amounts from an allocation from the Operating Fund”.

(d) TRANSITIONAL CEILING RENTS.—Notwithstanding section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(1)), during the period ending upon the later of the implementation of the formulas established pursuant to subsections (d)(2) and (e)(2) of such Act (as amended by this section) and October 1, 1999, a public housing agency may take any of the following actions with respect to public housing:

42 USC 1437a  
note.

(1) NEW PROVISIONS.—An agency may—

(A) adopt and apply ceiling rents that reflect the reasonable market value of the housing, but that are not less than—

(i) for housing other than housing predominantly for elderly or disabled families (or both), 75 percent of the monthly cost to operate the housing of the agency;

(ii) for housing predominantly for elderly or disabled families (or both), 100 percent of the monthly cost to operate the housing of the agency; and

(iii) the monthly cost to make a deposit to a replacement reserve (in the sole discretion of the public housing agency); and

(B) allow families to pay ceiling rents referred to in subparagraph (A), unless, with respect to any family, the ceiling rent established under this paragraph would exceed the amount payable as rent by that family under paragraph (1).

(2) CEILING RENTS FROM BALANCED BUDGET ACT, I.—An agency may utilize the authority under section 3(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)), as in effect immediately before the enactment of this Act, notwithstanding any amendment to such section made by this Act.

(3) TRANSITIONAL CEILING RENTS FOR BALANCED BUDGET ACT, I.—An agency may utilize the authority with respect to ceiling rents under section 402(b)(2) of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437a note), notwithstanding any other provision of law (including the expiration of the applicability of such section or the repeal of such section).

(e) TRANSITIONAL PROVISION OF ASSISTANCE.—

42 USC 1437g  
note.

(1) IN GENERAL.—Subject to paragraph (2), before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section), the Secretary shall provide that each public housing agency shall receive funding under sections 9 and 14 of the United States Housing Act of 1937, as those sections existed immediately before the enactment

of this Act (except that such sections shall be subject to any amendments to such sections that may be contained in title II of this Act).

(2) **QUALIFICATIONS.**—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section)—

(A) if a public housing agency establishes a rental amount that is based on a ceiling rent established pursuant to subsection (d)(1) of this section, the Secretary shall take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937;

(B) if a public housing agency establishes a rental amount that is based on an adjustment to income under section 3(b)(5)(G) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act), the Secretary shall not take into account any reduction of or any increase in the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937; and

(C) if a public housing agency establishes a rental amount other than as provided under subparagraph (A) or (B) that is less than the greatest of the amounts determined under subparagraphs (A), (B), and (C) of section 3(a)(1) of the United States Housing Act of 1937, the Secretary shall not take into account any reduction of the per unit dwelling rental income of the public housing agency resulting from the use of that rental amount in calculating the contributions for the public housing agency for the operation of the public housing under section 9 of the United States Housing Act of 1937.

42 USC 1437g  
note.

(f) **EFFECTIVE DATE OF OPERATING FORMULA.**—Notwithstanding the effective date under section 503(a), the Secretary may extend the effective date of the formula under section 9(e)(2) of the United States Housing Act of 1937 (as amended by subsection (a) of this section) for up to 6 months if such additional time is necessary to implement such formula.

42 USC 1437g  
note.

(g) **EFFECTIVE DATE.**—Subsections (d), (e), and (f) shall take effect upon the date of the enactment of this Act.

#### **SEC. 520. TOTAL DEVELOPMENT COSTS.**

(a) **DEFINITION.**—Section 3(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(c)(1)) is amended by inserting before the period at the end of the second sentence the following: ‘, but does not include the costs associated with the demolition of or remediation of environmental hazards associated with public housing units that will not be replaced on the project site, or other extraordinary site costs as determined by the Secretary’.

(b) DETERMINATION.—Section 6(b) of the United States Housing Act of 1937 (42 U.S.C. 1437d(b)) is amended by adding at the end the following new paragraphs:

“(3) In calculating the total development cost of a project under paragraph (2), the Secretary shall consider only capital assistance provided by the Secretary to a public housing agency that are authorized for use in connection with the development of public housing, and shall exclude all other amounts, including amounts provided under—

“(A) the HOME investment partnerships program authorized under title II of the Cranston-Gonzalez National Affordable Housing Act; or

“(B) the community development block grants program under title I of the Housing and Community Development Act of 1974.

“(4) The Secretary may restrict the amount of capital funds that a public housing agency may use to pay for housing construction costs. For purposes of this paragraph, housing construction costs include the actual hard costs for the construction of units, builders’ overhead and profit, utilities from the street, and finish landscaping.”.

#### SEC. 521. SANCTIONS FOR IMPROPER USE OF AMOUNTS.

Section 6(j) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) SANCTIONS FOR IMPROPER USE OF AMOUNTS.—

“(A) IN GENERAL.—In addition to any other actions authorized under this Act, if the Secretary finds that a public housing agency receiving assistance amounts under section 9 for public housing has failed to comply substantially with any provision of this Act relating to the public housing program, the Secretary may—

“(i) terminate assistance payments under this section 9 to the agency;

“(ii) withhold from the agency amounts from the total allocations for the agency pursuant to section 9;

“(iii) reduce the amount of future assistance payments under section 9 to the agency by an amount equal to the amount of such payments that were not expended in accordance with this Act;

“(iv) limit the availability of assistance amounts provided to the agency under section 9 to programs, projects, or activities not affected by such failure to comply;

“(v) withhold from the agency amounts allocated for the agency under section 8; or

“(vi) order other corrective action with respect to the agency.

“(B) TERMINATION OF COMPLIANCE ACTION.—If the Secretary takes action under subparagraph (A) with respect to a public housing agency, the Secretary shall—

“(i) in the case of action under subparagraph (A)(i), resume payments of assistance amounts under section 9 to the agency in the full amount of the total allocations

under section 9 for the agency at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to the public housing program;

“(ii) in the case of action under clause (ii) or (v) of subparagraph (A), make withheld amounts available as the Secretary considers appropriate to ensure that the agency complies with the provisions of this Act relating to such program;

“(iii) in the case of action under subparagraph (A)(iv), release such restrictions at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to such program; or

“(iv) in the case of action under subparagraph (vi), cease such action at the time that the Secretary first determines that the agency will comply with the provisions of this Act relating to such program.”.

#### SEC. 522. REPEAL OF MODERNIZATION FUND.

(a) IN GENERAL.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) FUNDS FOR PUBLIC HOUSING DEVELOPMENT.—Section 5(c)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(5)) is amended by striking “for use under section 14 or” and inserting “for use under section 9 or”.

(2) ALLOCATION OF ASSISTANCE.—Section 213(d)(1)(B)(ii) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)(B)(i)) is amended by striking “or 14”.

(3) MOVING TO WORK DEMONSTRATION.—Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996; 42 U.S.C. 1437f) is amended by adding at the end the following new subsection: “(j) CAPITAL AND OPERATING FUND ASSISTANCE.—With respect to any public housing agency participating in the demonstration under this section that receives assistance from the Capital or Operating Fund under section 9 of the United States Housing Act of 1937 (as amended by the Quality Housing and Work Responsibility Act of 1998), for purposes of this section—

“(1) any reference to assistance under section 9 of the United States Housing Act of 1937 shall be considered to refer also to assistance provided from the Operating Fund under section 9(e) of such Act (as so amended); and

“(2) any reference to assistance under section 14 of the United States Housing Act of 1937 shall be considered to refer also to assistance provided from the Capital Fund under section 9(d) of such Act (as so amended).”.

(4) LEAD-BASED PAINT POISONING PREVENTION ACT.—Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822) is amended—

(A) in subsection (d)(1)—

(i) by striking “assisted under section 14” and inserting “assisted with capital assistance provided under section 9”; and

42 USC 1437f  
note.

(ii) by striking “assistance under section 14” and inserting “capital assistance provided under section 9”; and

(B) in subsection (f), by striking “for comprehensive improvement assistance under section 14” and inserting “under the Capital Fund under section 9”.

(5) HOME PROGRAM ASSISTANCE.—Section 212(d)(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(d)(5)) is amended by striking “section 14” and inserting “section 9(d)(1)”.

(c) SAVINGS PROVISIONS.—

(1) IN GENERAL.—Section 14 of the United States Housing Act of 1937 shall apply as provided in section 519(e) of this Act.

42 USC 1437l  
note.  
Applicability.

(2) EXPANSION OF USE OF MODERNIZATION FUNDING.—Before the implementation of formulas pursuant to sections 9(d)(2) and 9(e)(2) of the United States Housing Act of 1937 (as amended by section 519(a) of this Act) an agency may utilize any authority provided under or pursuant to section 14(q) of such Act (including the authority under section 201(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (Public Law 104-134; 110 Stat. 1321-277)), as such provisions (including such section 201(a)) may be amended thereafter, including any amendment made by title II of this Act), notwithstanding any other provision of law (including the repeal made under this section, the expiration of the applicability of such section 201, or any repeal of such section 201).

(3) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act.

## **PART 2—ADMISSIONS AND OCCUPANCY REQUIREMENTS**

### **SEC. 523. FAMILY CHOICE OF RENTAL PAYMENT.**

Paragraph (2) of section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)) is amended to read as follows:

“(2) RENTAL PAYMENTS FOR PUBLIC HOUSING FAMILIES.—

“(A) AUTHORITY FOR FAMILY TO SELECT.—

“(i) IN GENERAL.—A family residing in a public housing dwelling shall pay as monthly rent for the unit the amount determined under clause (i) or (ii) of subparagraph (B), subject to the requirement under paragraph (3) (relating to minimum rents). Each public housing agency shall provide for each family residing in a public housing dwelling unit owned, assisted, or operated by the agency to elect annually whether the rent paid by such family shall be determined under clause (i) or (ii) of subparagraph (B). A public housing agency may not at any time fail to provide both such rent options for any public housing dwelling unit owned, assisted, or operated by the agency.

“(ii) AUTHORITY TO RETAIN FLAT AND CEILING RENTS.—Notwithstanding clause (i) or any other provision of law, any public housing agency that is administering flat rents or ceiling rents pursuant to any authority referred to in section 519(d) of the Quality Housing and Work Responsibility Act of 1998 before the effective day of such Act

may continue to charge rent in accordance with such rent provisions after such effective date, except that the agency shall provide for families residing in public housing dwelling units owned or operated by the agency to elect annually whether to pay rent under such provisions or in accordance with one of the rent options referred to in subparagraph (A).

“(B) ALLOWABLE RENT STRUCTURES.—

“(i) FLAT RENTS.—Except as otherwise provided under this clause, each public housing agency shall establish, for each dwelling unit in public housing owned or operated by the agency, a flat rental amount for the dwelling unit, which shall—

“(I) be based on the rental value of the unit, as determined by the public housing agency; and

“(II) be designed in accordance with subparagraph (D) so that the rent structures do not create a disincentive for continued residency in public housing by families who are attempting to become economically self-sufficient through employment or who have attained a level of self-sufficiency through their own efforts. The rental amount for a dwelling unit shall be considered to comply with the requirements of this clause if such amount does not exceed the actual monthly costs to the public housing agency attributable to providing and operating the dwelling unit. The preceding sentence may not be construed to require establishment of rental amounts equal to or based on operating costs or to prevent public housing agencies from developing flat rents required under this clause in any other manner that may comply with this clause.

“(ii) INCOME-BASED RENTS.—

“(I) IN GENERAL.—The monthly rental amount determined under this clause for a family shall be an amount, determined by the public housing agency, that does not exceed the greatest of the amounts (rounded to the nearest dollar) determined under subparagraphs (A), (B), and (C) of paragraph (1). This clause may not be construed to require a public housing agency to charge a monthly rent in the maximum amount permitted under this clause.

“(II) DISCRETION.—Subject to the limitation on monthly rental amount under subclause (I), a public housing agency may, in its discretion, implement a rent structure under this clause requiring that a portion of the rent be deposited to an escrow or savings account, imposing ceiling rents, or adopting income exclusions (such as those set forth in section 3(b)(5)(B)), or may establish another reasonable rent structure or amount.

“(C) SWITCHING RENT DETERMINATION METHODS BECAUSE OF HARDSHIP CIRCUMSTANCES.—Notwithstanding subparagraph (A), in the case of a family that has elected to pay rent in the amount determined under subparagraph (B)(i), a public housing agency shall immediately provide for the family to pay rent in the amount determined under subparagraph (B)(ii) during the period for which such election was made upon a

determination that the family is unable to pay the amount determined under subparagraph (B)(i) because of financial hardship, including—

“(i) situations in which the income of the family has decreased because of changed circumstances, loss of reduction of employment, death in the family, and reduction in or loss of income or other assistance;

“(ii) an increase, because of changed circumstances, in the family’s expenses for medical costs, child care, transportation, education, or similar items; and

“(iii) such other situations as may be determined by the agency.

“(D) ENCOURAGEMENT OF SELF-SUFFICIENCY.—The rental policy developed by each public housing agency shall encourage and reward employment and economic self-sufficiency.

“(E) INCOME REVIEWS.—Notwithstanding the second sentence of paragraph (1), in the case of families that are paying rent in the amount determined under subparagraph (B)(i), the agency shall review the income of such family not less than once every 3 years.”.

**SEC. 524. OCCUPANCY BY POLICE OFFICERS AND OVER-INCOME FAMILIES.**

(a) IN GENERAL.—Section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraphs:

“(4) OCCUPANCY BY POLICE OFFICERS.—

“(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan for the agency, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing dwelling unit. The number and location of units occupied by police officers under this paragraph and the terms and conditions of their tenancies shall be determined by the public housing agency.

“(B) INCREASED SECURITY.—A public housing agency may take the actions authorized in subparagraph (A) only for the purpose of increasing security for the residents of a public housing project.

“(C) DEFINITION.—In this paragraph, the term ‘police officer’ means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

“(5) OCCUPANCY BY OVER-INCOME FAMILIES IN CERTAIN PUBLIC HOUSING.—

“(A) AUTHORITY.—Notwithstanding any other provision of law, a public housing agency that owns or operates less than 250 units may, on a month-to-month basis, lease a dwelling unit in a public housing project to an over-income family in accordance with this paragraph, but only if there are no eligible families applying for housing assistance from the public housing agency for that month and

the agency provides not less than 30-day public notice of the availability of such assistance.

“(B) TERMS AND CONDITIONS.—The number and location of dwelling units of a public housing agency occupied under this paragraph by over-income families, and the terms and conditions of those tenancies, shall be determined by the public housing agency, except that—

“(i) notwithstanding paragraph (2), rent for a unit shall be in an amount that is not less than the costs to operate the unit;

“(ii) if an eligible family applies for residence after an over-income family moves in to the last available unit, the over-income family shall vacate the unit in accordance with notice of termination of tenancy provided by the agency, which shall be provided not less than 30 days before such termination; and

“(iii) if a unit is vacant and there is no one on the waiting list, the public housing agency may allow an over-income family to gain immediate occupancy in the unit, while simultaneously providing reasonable public notice and outreach with regard to availability of the unit.

“(C) DEFINITION.—For purposes of this paragraph, the term ‘over-income family’ means an individual or family that is not a low-income family at the time of initial occupancy.”.

42 USC 1437a  
note.

(b) APPLICABILITY.—The amendment made by this paragraph is made on, and shall apply beginning upon, the date of the enactment of this Act.

#### **SEC. 525. SITE-BASED WAITING LISTS.**

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by adding at the end the following new subsection:

“(s) SITE-BASED WAITING LISTS.—

“(1) AUTHORITY.—A public housing agency may establish procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include (notwithstanding any other law, regulation, handbook, or notice to the contrary) a system of site-based waiting lists under which applicants may apply directly at or otherwise designate the project or projects in which they seek to reside. All such procedures shall comply with all provisions of title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other applicable civil rights laws.

“(2) NOTICE.—Any system described in paragraph (1) shall provide for the full disclosure by the public housing agency to each applicant of any option available to the applicant in the selection of the project in which to reside.”.

#### **SEC. 526. PET OWNERSHIP.**

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

42 USC 1437z-3.

#### **“SEC. 31. PET OWNERSHIP IN PUBLIC HOUSING.**

“(a) OWNERSHIP CONDITIONS.—A resident of a dwelling unit in public housing (as such term is defined in subsection (c)) may



own 1 or more common household pets or have 1 or more common household pets present in the dwelling unit of such resident, subject to the reasonable requirements of the public housing agency, if the resident maintains each pet responsibly and in accordance with applicable State and local public health, animal control, and animal anti-cruelty laws and regulations and with the policies established in the public housing agency plan for the agency.

“(b) REASONABLE REQUIREMENTS.—The reasonable requirements referred to in subsection (a) may include—

“(1) requiring payment of a nominal fee, a pet deposit, or both, by residents owning or having pets present, to cover the reasonable operating costs to the project relating to the presence of pets and to establish an escrow account for additional costs not otherwise covered, respectively;

“(2) limitations on the number of animals in a unit, based on unit size;

“(3) prohibitions on—

“(A) types of animals that are classified as dangerous; and

“(B) individual animals, based on certain factors, including the size and weight of the animal; and

“(4) restrictions or prohibitions based on size and type of building or project, or other relevant conditions.

“(c) PET OWNERSHIP IN PUBLIC HOUSING DESIGNATED FOR OCCUPANCY BY ELDERLY OR HANDICAPPED FAMILIES.—For purposes of this section, the term ‘public housing’ has the meaning given the term in section 3(b), except that such term does not include any public housing that is federally assisted rental housing for the elderly or handicapped, as such term is defined in section 227(d) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701r-1(d)).

“(d) REGULATIONS.—This section shall take effect upon the date of the effectiveness of regulations issued by the Secretary to carry out this section. Such regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).”.

Effective date.

### **PART 3—MANAGEMENT, HOMEOWNERSHIP, AND DEMOLITION AND DISPOSITION**

#### **SEC. 529. CONTRACT PROVISIONS.**

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(1) in subsection (c)(4)(E), by striking “except in the case of agencies not receiving operating assistance under section 9” and inserting “for each agency that receives assistance under this title”; and

(2) by striking subsection (e).

#### **SEC. 530. HOUSING QUALITY REQUIREMENTS.**

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by inserting after subsection (e) the following new subsection:

“(f) HOUSING QUALITY REQUIREMENTS.—

“(1) IN GENERAL.—Each contract for contributions for a public housing agency shall require that the agency maintain its public housing in a condition that complies with standards which meet or exceed the housing quality standards established under paragraph (2).

“(2) FEDERAL STANDARDS.—The Secretary shall establish housing quality standards under this paragraph that ensure that public housing dwelling units are safe and habitable. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 8(o)(8)(B)(i). The Secretary may determine whether the laws, regulations, standards, or codes of any State or local jurisdiction meet or exceed these standards, for purposes of this subsection.

“(3) ANNUAL INSPECTIONS.—Each public housing agency that owns or operates public housing shall make an annual inspection of each public housing project to determine whether units in the project are maintained in accordance with the requirements under paragraph (1). The agency shall retain the results of such inspections and, upon the request of the Secretary, the Inspector General for the Department of Housing and Urban Development, or any auditor conducting an audit under section 5(h), shall make such results available.”.

**SEC. 531. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.**

(a) IN GENERAL.—Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended to read as follows:

**“SEC. 18. DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.**

“(a) APPLICATIONS FOR DEMOLITION AND DISPOSITION.—Except as provided in subsection (b), upon receiving an application by a public housing agency for authorization, with or without financial assistance under this title, to demolish or dispose of a public housing project or a portion of a public housing project (including any transfer to a resident-supported nonprofit entity), the Secretary shall approve the application, if the public housing agency certifies—

“(1) in the case of—

“(A) an application proposing demolition of a public housing project or a portion of a public housing project, that—

“(i) the project or portion of the public housing project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and

“(ii) no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

“(B) an application proposing the demolition of only a portion of a public housing project, that the demolition will help to ensure the viability of the remaining portion of the project;

“(2) in the case of an application proposing disposition by sale or other transfer of a public housing project or other real property subject to this title—

“(A) the retention of the property is not in the best interests of the residents or the public housing agency because—

“(i) conditions in the area surrounding the public housing project adversely affect the health or safety of the residents or the feasible operation of the project by the public housing agency; or

“(ii) disposition allows the acquisition, development, or rehabilitation of other properties that will be more efficiently or effectively operated as low-income housing;

“(B) the public housing agency has otherwise determined the disposition to be appropriate for reasons that are—

“(i) in the best interests of the residents and the public housing agency;

“(ii) consistent with the goals of the public housing agency and the public housing agency plan; and

“(iii) otherwise consistent with this title; or

“(C) for property other than dwelling units, the property is excess to the needs of a public housing project or the disposition is incidental to, or does not interfere with, continued operation of a public housing project;

“(3) that the public housing agency has specifically authorized the demolition or disposition in the public housing agency plan, and has certified that the actions contemplated in the public housing agency plan comply with this section;

“(4) that the public housing agency—

“(A) will notify each family residing in a project subject to demolition or disposition 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

Notification.

“(i) the public housing project will be demolished or disposed of;

“(ii) the demolition of the building in which the family resides will not commence until each resident of the building is relocated; and

“(iii) each family displaced by such action will be offered comparable housing—

“(I) that meets housing quality standards;

“(II) that is located in an area that is generally not less desirable than the location of the displaced person’s housing; and

“(III) which may include—

“(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

“(bb) project-based assistance; or

“(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

“(B) will provide for the payment of the actual and reasonable relocation expenses of each resident to be displaced;

“(C) will ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and

“(D) will provide any necessary counseling for residents who are displaced; and

“(E) will not commence demolition or complete disposition until all residents residing in the building are relocated;

“(5) that the net proceeds of any disposition will be used—

“(A) unless waived by the Secretary, for the retirement of outstanding obligations issued to finance the original public housing project or modernization of the project; and

“(B) to the extent that any proceeds remain after the application of proceeds in accordance with subparagraph (A), for—

“(i) the provision of low-income housing or to benefit the residents of the public housing agency; or

“(ii) leveraging amounts for securing commercial enterprises, on-site in public housing projects of the public housing agency, appropriate to serve the needs of the residents; and

“(6) that the public housing agency has complied with subsection (c).

“(b) DISAPPROVAL OF APPLICATIONS.—The Secretary shall disapprove an application submitted under subsection (a) if the Secretary determines that—

“(1) any certification made by the public housing agency under that subsection is clearly inconsistent with information and data available to the Secretary or information or data requested by the Secretary; or

“(2) the application was not developed in consultation with—

“(A) residents who will be affected by the proposed demolition or disposition;

“(B) each resident advisory board and resident council, if any, of the project (or portion thereof) that will be affected by the proposed demolition or disposition; and

“(C) appropriate government officials.

“(c) RESIDENT OPPORTUNITY TO PURCHASE IN CASE OF PROPOSED DISPOSITION.—

“(1) IN GENERAL.—In the case of a proposed disposition of a public housing project or portion of a project, the public housing agency shall, in appropriate circumstances, as determined by the Secretary, initially offer the property to any eligible resident organization, eligible resident management corporation, or nonprofit organization acting on behalf of the residents, if that entity has expressed an interest, in writing, to the public housing agency in a timely manner, in purchasing the property for continued use as low-income housing.

“(2) TIMING.—

“(A) EXPRESSION OF INTEREST.—A resident organization, resident management corporation, or other resident-supported nonprofit entity referred to in paragraph (1) may express interest in purchasing property that is the

subject of a disposition, as described in paragraph (1), during the 30-day period beginning on the date of notification of a proposed sale of the property.

“(B) OPPORTUNITY TO ARRANGE PURCHASE.—If an entity expresses written interest in purchasing a property, as provided in subparagraph (A), no disposition of the property shall occur during the 60-day period beginning on the date of receipt of that written notice (other than to the entity providing the notice), during which time that entity shall be given the opportunity to obtain a firm commitment for financing the purchase of the property.

“(d) REPLACEMENT UNITS.—Notwithstanding any other provision of law, replacement public housing units for public housing units demolished in accordance with this section may be built on the original public housing location or in the same neighborhood as the original public housing location if the number of the replacement public housing units is significantly fewer than the number of units demolished.

“(e) CONSOLIDATION OF OCCUPANCY WITHIN OR AMONG BUILDINGS.—Nothing in this section may be construed to prevent a public housing agency from consolidating occupancy within or among buildings of a public housing project, or among projects, or with other housing for the purpose of improving living conditions of, or providing more efficient services to, residents.

“(f) DE MINIMIS EXCEPTION TO DEMOLITION REQUIREMENTS.—Notwithstanding any other provision of this section, in any 5-year period a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned by the public housing agency, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents or the demolished unit was beyond repair.

“(g) UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION ACT.—The Uniform Relocation and Real Property Acquisition Policies Act of 1970 shall not apply to activities under this section.

“(h) RELOCATION AND REPLACEMENT.—Of the amounts appropriated for tenant-based assistance under section 8 in any fiscal year, the Secretary may use such sums as are necessary for relocation and replacement housing for dwelling units that are demolished and disposed of from the public housing inventory (in addition to other amounts that may be available for such purposes).”.

(b) HOMEOWNERSHIP REPLACEMENT PLAN.—

(1) IN GENERAL.—Notwithstanding subsections (b) and (c) of section 1002 of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred At Oklahoma City, and Rescissions Act, 1995 (Public Law 104-19; 109 Stat. 236), subsection (g) of section 304 of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-3(g)) is repealed.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to any plan for the demolition, disposition, or conversion to homeownership of public housing that is approved by the Secretary after September 30, 1995.

(c) TREATMENT OF FROST-LELAND PROVISIONS.—Notwithstanding any other provision of law, on and after the date of the enactment of this Act, the public housing projects described in section

42 USC  
1437aaa-3 note.

415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-213), as in effect on April 25, 1996, shall be eligible for demolition under—

(1) section 9 of the United States Housing Act of 1937, as amended by this Act; and

(2) section 14 of the United States Housing Act of 1937, as that section existed on the day before the date of the enactment of this Act.

42 USC 1437p  
note.

(c) **APPLICABILITY.**—This section shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

**SEC. 532. RESIDENT COUNCILS AND RESIDENT MANAGEMENT CORPORATIONS.**

(a) **RESIDENT MANAGEMENT.**—Section 20 of the United States Housing Act of 1937 (42 U.S.C. 1437r) is amended—

(1) in subsection (b)(4), by inserting after “materials” the following: “, rent determination, community service requirements,”;

(2) by striking subsection (c) and inserting the following new subsection:

“(c) **ASSISTANCE AMOUNTS.**—A contract under this section for management of a public housing project by a resident management corporation shall provide for—

“(1) the public housing agency to provide a portion of the assistance to agency from the Capital and Operating Funds to the resident management corporation in accordance with subsection (e) for purposes of operating the public housing project covered by the contract and performing such other eligible activities with respect to the project as may be provided under the contract;

“(2) the amount of income expected to be derived from the project itself (from sources such as rents and charges);

“(3) the amount of income to be provided to the project from the other sources of income of the public housing agency (such as interest income, administrative fees, and rents); and

“(4) any income generated by a resident management corporation of a public housing project that exceeds the income estimated under the contract shall be used for eligible activities under subsections (d)(1) and (e)(1) of section 9.”;

(3) in subsection (d), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3);

(4) in subsection (e)—

(A) by redesignating paragraph (4) as paragraph (6);

(B) by striking the subsection designation and heading and all that follows through the end of paragraph (3) and inserting the following:

“(e) **DIRECT PROVISION OF OPERATING AND CAPITAL ASSISTANCE.**—

“(1) **IN GENERAL.**—The Secretary shall directly provide assistance from the Operating and Capital Funds to a resident management corporation managing a public housing development pursuant to a contract under this section, but only if—

“(A) the resident management corporation petitions the Secretary for the release of the funds;

“(B) the contract provides for the resident management corporation to assume the primary management responsibilities of the public housing agency; and

“(C) the Secretary determines that the corporation has the capability to effectively discharge such responsibilities.

“(2) USE OF ASSISTANCE.—Any assistance from the Operating and Capital Funds provided to a resident management corporation pursuant to this subsection shall be used for purposes of operating the public housing developments of the agency and performing such other eligible activities with respect to public housing as may be provided under the contract.

“(3) RESPONSIBILITY OF PUBLIC HOUSING AGENCY.—If the Secretary provides direct funding to a resident management corporation under this subsection, the public housing agency shall not be responsible for the actions of the resident management corporation.

“(4) CALCULATION OF OPERATING FUND ALLOCATION.—Notwithstanding any provision of section 9 or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the amount received by a public housing agency under section 9 that is due to an allocation from the Operating Fund and that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.

“(5) CALCULATION OF TOTAL INCOME.—

“(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on the date of the enactment of the Housing and Community Development Act of 1987 or on any later date on which a resident management corporation is first established for the project.

“(B) If the total income of a public housing agency (including any amounts from the Capital or Operating Funds provided to the public housing agency under section 9) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in amounts from the Operating Fund that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.”; and

(C) in paragraph (6)(A) (as so redesignated by subparagraph (A) of this paragraph), by striking “the operating subsidies provided to” and inserting “the allocations from the Operating Fund for”; and

(5) by striking subsections (f) and (g).

(b) PURCHASE BY RESIDENT MANAGEMENT CORPORATIONS.—Section 21 of the United States Housing Act of 1937 (42 U.S.C. 1437s) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A), by striking “comprehensive improvement assistance under section 14” and inserting “assistance from the Capital Fund”;

(B) in paragraph (3)(A)(v), by striking “minimum safety and livability standards applicable under section 14” and inserting “housing quality standards applicable under section 6(f)”;

(C) in paragraph (7)—

(i) by striking “ANNUAL CONTRIBUTIONS” and inserting “CAPITAL AND OPERATING ASSISTANCE”;

(ii) in the first sentence, by striking “pay annual contributions” and inserting “provide assistance under section 9”; and

(iii) by striking the last sentence and inserting the following: “Such assistance may not exceed the allocation for the project under section 9.”; and

(D) in paragraph (8), by striking “OPERATING SUBSIDIES.—Operating subsidies” and inserting “OPERATING FUND ALLOCATION.—Amounts from the Operating Fund”;

(2) in subsection (b)(3)—

(A) by striking “a certificate under section 8(b)(1) or a housing voucher” and inserting “tenant-based assistance”; and

(B) by striking “fair market rent for such certificate” and inserting “payment standard for such assistance”; and

(3) in subsection (d), by inserting “, as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998,” after “section 6(c)(4)(D)”.

**SEC. 533. CONVERSION OF PUBLIC HOUSING TO VOUCHERS; REPEAL OF FAMILY INVESTMENT CENTERS.**

(a) IN GENERAL.—Section 22 of the United States Housing Act of 1937 (42 U.S.C. 1437t) is amended to read as follows:

**“SEC. 22. AUTHORITY TO CONVERT PUBLIC HOUSING TO VOUCHERS.**

“(a) AUTHORITY.—A public housing agency may convert any public housing project (or portion thereof) owned by the public housing agency to tenant-based assistance, but only in accordance with the requirements of this section.

“(b) CONVERSION ASSESSMENT.—

“(1) IN GENERAL.—To convert public housing under this section, a public housing agency shall conduct an assessment of the public housing that includes—

“(A) a cost analysis that demonstrates whether or not the cost (both on a net present value basis and in terms of new budget authority requirements) of providing tenant-based assistance under section 8 for the same families in substantially similar dwellings over the same period of time is less expensive than continuing public housing assistance in the public housing project for the remaining useful life of the project;

“(B) an analysis of the market value of the public housing project both before and after rehabilitation, and before and after conversion;

“(C) an analysis of the rental market conditions with respect to the likely success of the use of tenant-based assistance under section 8 in that market for the specific



residents of the public housing project, including an assessment of the availability of decent and safe dwellings renting at or below the payment standard established for tenant-based assistance under section 8 by the agency;

“(D) the impact of the conversion to tenant-based assistance under this section on the neighborhood in which the public housing project is located; and

“(E) a plan that identifies actions, if any, that the public housing agency would take with regard to converting any public housing project or projects (or portions thereof) of the public housing agency to tenant-based assistance.

“(2) TIMING.—Not later than 2 years after the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, each public housing agency shall conduct an assessment under paragraph (1) or (3) of the status of each public housing project owned by such agency and shall submit to the Secretary such assessment. A public housing agency may otherwise undertake an assessment under this subsection at any time and for any public housing project (or portion thereof) owned by the agency. A public housing agency may update a previously conducted assessment for a project (or portion thereof) for purposes of compliance with the one-year limitation under subsection (c). Deadline.

“(3) STREAMLINED ASSESSMENT.—At the discretion of the Secretary or at the request of a public housing agency, the Secretary may waive any or all of the requirements of paragraph (1) or (3) or otherwise require a streamlined assessment with respect to any public housing project or class of public housing projects.

“(C) CRITERIA FOR IMPLEMENTATION OF CONVERSION PLAN.—A public housing agency may convert a public housing project (or portion thereof) owned by the agency to tenant-based assistance only pursuant to a conversion assessment under subsection (b) that one year and that demonstrates that the conversion—

“(1) will not be more expensive than continuing to operate the public housing project (or portion thereof) as public housing;

“(2) will principally benefit the residents of the public housing project (or portion thereof) to be converted, the public housing agency, and the community; and

“(3) will not adversely affect the availability of affordable housing in such community.

“(d) CONVERSION PLAN REQUIREMENT.—A public housing project may be converted under this section to tenant-based assistance only as provided in a conversion plan under this subsection, which has not been disapproved by the Secretary pursuant to subsection (e). Each conversion plan shall—

“(1) be developed by the public housing agency, in consultation with the appropriate public officials, with significant participation by the residents of the project (or portion thereof) to be converted;

“(2) be consistent with and part of the public housing agency plan;

“(3) describe the conversion and future use or disposition of the project (or portion thereof) and include an impact analysis on the affected community;

“(4) provide that the public housing agency shall—

Notification.

“(A) notify each family residing in a public housing project (or portion) to be converted under the plan 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

“(i) the public housing project (or portion) will be removed from the inventory of the public housing agency; and

“(ii) each family displaced by such action will be offered comparable housing—

“(I) that meets housing quality standards;

“(II) that is located in an area that is generally not less desirable than the location of the displaced person’s housing; and

“(III) which may include—

“(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

“(bb) project-based assistance; or

“(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated;

“(B) provide any necessary counseling for families displaced by such action;

“(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit; and

“(D) provide any actual and reasonable relocation expenses for families displaced by the conversion; and

“(5) provide that any proceeds to the agency from the conversion will be used subject to the limitations that are applicable under section 18(a)(5) to proceeds resulting from the disposition or demolition of public housing.

“(e) REVIEW AND APPROVAL OF CONVERSION PLANS.—The Secretary shall disapprove a conversion plan only if—

“(1) the plan is plainly inconsistent with the conversion assessment for the agency developed under subsection (b);

“(2) there is reliable information and data available to the Secretary that contradicts that conversion assessment; or

“(3) the plan otherwise fails to meet the requirements of this section.

“(f) TENANT-BASED ASSISTANCE.—To the extent approved by the Secretary, the funds used by the public housing agency to provide tenant-based assistance under section 8 shall be added to the annual contribution contract administered by the public housing agency.”

(b) SAVINGS PROVISION.—The amendment made by subsection (a) shall not affect any contract or other agreement entered into under section 22 of the United States Housing Act of 1937, as

such section existed immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998.

**SEC. 534. TRANSFER OF MANAGEMENT OF CERTAIN HOUSING TO INDEPENDENT MANAGER AT REQUEST OF RESIDENTS.**

The United States Housing Act of 1937 is amended by striking section 25 (42 U.S.C. 1437w) and inserting the following new section:

**“SEC. 25. TRANSFER OF MANAGEMENT OF CERTAIN HOUSING TO INDEPENDENT MANAGER AT REQUEST OF RESIDENTS.**

42 USC 1437w.

“(a) **AUTHORITY.**—The Secretary may transfer the responsibility and authority for management of specified housing (as such term is defined in subsection (h)) from a public housing agency to an eligible management entity, in accordance with the requirements of this section, if—

“(1) a request for transfer of management of such housing is made and approved in accordance with subsection (b); and

“(2) the Secretary or the public housing agency, as appropriate pursuant to subsection (b), determines that—

“(A) due to the mismanagement of the agency, such housing has deferred maintenance, physical deterioration, or obsolescence of major systems and other deficiencies in the physical plant of the project;

“(B) such housing is located in an area such that the housing is subject to recurrent vandalism and criminal activity (including drug-related criminal activity); and

“(C) the residents can demonstrate that the elements of distress for such housing specified in subparagraphs (A) and (B) can be remedied by an entity or entities, identified by the residents, that has or have a demonstrated capacity to manage, with reasonable expenses for modernization.

“(b) **REQUEST FOR TRANSFER.**—The responsibility and authority for managing specified housing may be transferred only pursuant to a request made by a majority vote of the residents for the specified housing that—

“(1) in the case of specified housing that is owned by a public housing agency that is designated as a troubled agency under section 6(j)(2)—

“(A) is made to the public housing agency or the Secretary; and

“(B) is approved by the agency or the Secretary; or

“(2) in the case of specified housing that is owned by a public housing agency that is not designated as a troubled agency under section 6(j)(2)—

“(A) is made to and approved by the public housing agency; or

“(B) if a request is made to the agency pursuant to subparagraph (A) and is not approved, is subsequently made to and approved by the Secretary.

“(c) **CAPITAL AND OPERATING ASSISTANCE.**—Pursuant to a contract under subsection (d), the Secretary shall require the public housing agency for specified housing to provide to the manager for the housing, from any assistance from the Capital and Operating Funds under section 9 for the agency, fair and reasonable amounts for the housing for eligible capital and operating activities under

subsection (d)(1) and (e)(1) of section 9. The amount made available under this subsection to a manager shall be determined by the Secretary based on the share for the specified housing of the aggregate amount of assistance from such Funds for the public housing agency transferring the housing, taking into consideration the operating and capital improvement needs of the specified housing, the operating and capital improvement needs of the remaining public housing units managed by the public housing agency, and the public housing agency plan of such agency.

“(d) CONTRACT BETWEEN SECRETARY AND MANAGER.—

“(1) REQUIREMENTS.—Pursuant to the approval of a request under this section for transfer of the management of specified housing, the Secretary shall enter into a contract with the eligible management entity.

“(2) TERMS.—A contract under this subsection shall contain provisions establishing the rights and responsibilities of the manager with respect to the specified housing and the Secretary and shall be consistent with the requirements of this Act applicable to public housing projects.

“(e) COMPLIANCE WITH PUBLIC HOUSING AGENCY PLAN.—A manager of specified housing under this section shall comply with the approved public housing agency plan applicable to the housing and shall submit such information to the public housing agency from which management was transferred as may be necessary for such agency to prepare and update its public housing agency plan.

“(f) DEMOLITION AND DISPOSITION BY MANAGER.—A manager under this section may demolish or dispose of specified housing only if, and in the manner, provided for in the public housing agency plan for the agency transferring management of the housing.

“(g) LIMITATION ON PHA LIABILITY.—A public housing agency that is not a manager for specified housing shall not be liable for any act or failure to act by a manager or resident council for the specified housing.

“(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) ELIGIBLE MANAGEMENT ENTITY.—The term ‘eligible management entity’ means, with respect to any public housing project, any of the following entities:

“(A) NONPROFIT ORGANIZATION.—A public or private nonprofit organization, which may—

“(i) include a resident management corporation; and

“(ii) not include the public housing agency that owns or operates the project.

“(B) FOR-PROFIT ENTITY.—A for-profit entity that has demonstrated experience in providing low-income housing.

“(C) STATE OR LOCAL GOVERNMENT.—A State or local government, including an agency or instrumentality thereof.

“(D) PUBLIC HOUSING AGENCY.—A public housing agency (other than the public housing agency that owns or operates the project).

The term does not include a resident council.

“(2) MANAGER.—The term ‘manager’ means any eligible management entity that has entered into a contract under

this section with the Secretary for the management of specified housing.

“(3) **NONPROFIT.**—The term ‘nonprofit’ means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

“(4) **PRIVATE NONPROFIT ORGANIZATION.**—The term ‘private nonprofit organization’ means any private organization (including a State or locally chartered organization) that—

“(A) is incorporated under State or local law;

“(B) is nonprofit in character;

“(C) complies with standards of financial accountability acceptable to the Secretary; and

“(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

“(5) **PUBLIC NONPROFIT ORGANIZATION.**—The term ‘public nonprofit organization’ means any public entity that is nonprofit in character.

“(6) **SPECIFIED HOUSING.**—The term ‘specified housing’ means a public housing project or projects, or a portion of a project or projects, for which the transfer of management is requested under this section. The term includes one or more contiguous buildings and an area of contiguous row houses, but in the case of a single building, the building shall be sufficiently separable from the remainder of the project of which it is part to make transfer of the management of the building feasible for purposes of this section.”

**SEC. 535. DEMOLITION, SITE REVITALIZATION, REPLACEMENT HOUSING, AND TENANT-BASED ASSISTANCE GRANTS FOR PROJECTS.**

(a) **IN GENERAL.**—Section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) is amended to read as follows:

**“SEC. 24. DEMOLITION, SITE REVITALIZATION, REPLACEMENT HOUSING, AND TENANT-BASED ASSISTANCE GRANTS FOR PROJECTS.**

“(a) **PURPOSES.**—The purpose of this section is to provide assistance to public housing agencies for the purposes of—

“(1) improving the living environment for public housing residents of severely distressed public housing projects through the demolition, rehabilitation, reconfiguration, or replacement of obsolete public housing projects (or portions thereof);

“(2) revitalizing sites (including remaining public housing dwelling units) on which such public housing projects are located and contributing to the improvement of the surrounding neighborhood;

“(3) providing housing that will avoid or decrease the concentration of very low-income families; and

“(4) building sustainable communities.

“(b) **GRANT AUTHORITY.**—The Secretary may make grants as provided in this section to applicants whose applications for such grants are approved by the Secretary under this section.

“(c) **CONTRIBUTION REQUIREMENT.**—

“(1) **IN GENERAL.**—The Secretary may not make any grant under this section to any applicant unless the applicant certifies to the Secretary that the applicant will—

“(A) supplement the aggregate amount of assistance provided under this section with an amount of funds from sources other than this section equal to not less than 5 percent of the amount provided under this section; and

“(B) in addition to supplemental amounts provided in accordance with subparagraph (A), if the applicant uses more than 5 percent of the amount of assistance provided under this section for services under subsection (d)(1)(L), provide supplemental funds from sources other than this section in an amount equal to the amount so used in excess of 5 percent.

“(2) SUPPLEMENTAL FUNDS.—In calculating the amount of supplemental funds provided by a grantee for purposes of paragraph (1), the grantee may include amounts from other Federal sources, any State or local government sources, any private contributions, the value of any donated material or building, the value of any lease on a building, the value of the time and services contributed by volunteers, and the value of any other in-kind services or administrative costs provided.

“(3) EXEMPTION.—If assistance provided under this title will be used only for providing tenant-based assistance under section 8 or demolition of public housing (without replacement), the Secretary may exempt the applicant from the requirements under paragraph (1)(A).

“(d) ELIGIBLE ACTIVITIES.—

“(1) IN GENERAL.—Grants under this section may be used for activities to carry out revitalization programs for severely distressed public housing, including—

“(A) architectural and engineering work;

“(B) redesign, rehabilitation, or reconfiguration of a severely distressed public housing project, including the site on which the project is located;

“(C) the demolition, sale, or lease of the site, in whole or in part;

“(D) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this section as the Secretary may prescribe;

“(E) payment of reasonable legal fees;

“(F) providing reasonable moving expenses for residents displaced as a result of the revitalization of the project;

“(G) economic development activities that promote the economic self-sufficiency of residents under the revitalization program;

“(H) necessary management improvements;

“(I) leveraging other resources, including additional housing resources, retail supportive services, jobs, and other economic development uses on or near the project that will benefit future residents of the site;

“(J) replacement housing (including appropriate homeownership downpayment assistance for displaced residents or other appropriate replacement homeownership activities) and rental assistance under section 8;

“(K) transitional security activities; and

“(L) necessary supportive services, except that not more than 15 percent of the amount of any grant may be used for activities under this paragraph.

“(2) ENDOWMENT TRUST FOR SUPPORTIVE SERVICES.—In using grant amounts under this section made available in fiscal year 2000 or thereafter for supportive services under paragraph (1)(L), a public housing agency may deposit such amounts in an endowment trust to provide supportive services over such period of time as the agency determines. Such amounts shall be provided to the agency by the Secretary in a lump sum when requested by the agency, shall be invested in a wise and prudent manner, and shall be used (together with any interest thereon earned) only for eligible uses pursuant to paragraph (1)(L). A public housing agency may use amounts in an endowment trust under this paragraph in conjunction with other amounts donated or otherwise made available to the trust for similar purposes.

“(e) APPLICATION AND SELECTION.—

“(1) APPLICATION.—An application for a grant under this section shall demonstrate the appropriateness of the proposal in the context of the local housing market relative to other alternatives, and shall include such other information and be submitted at such time and in accordance with such procedures, as the Secretary shall prescribe.

“(2) SELECTION CRITERIA.—The Secretary shall establish selection criteria for the award of grants under this section and shall include such factors as—

“(A) the relationship of the grant to the public housing agency plan for the applicant and how the grant will result in a revitalized site that will enhance the neighborhood in which the project is located and enhance economic opportunities for residents;

“(B) the capability and record of the applicant public housing agency, or any alternative management entity for the agency, for managing large-scale redevelopment or modernization projects, meeting construction timetables, and obligating amounts in a timely manner;

“(C) the extent to which the applicant could undertake such activities without a grant under this section;

“(D) the extent of involvement of residents, State and local governments, private service providers, financing entities, and developers, in the development of a revitalization program for the project;

“(E) the need for affordable housing in the community;

“(F) the supply of other housing available and affordable to families receiving tenant-based assistance under section 8;

“(G) the amount of funds and other resources to be leveraged by the grant;

“(H) the extent of the need for, and the potential impact of, the revitalization program; and

“(I) such other factors as the Secretary considers appropriate.

“(3) APPLICABILITY OF SELECTION CRITERIA.—The Secretary may determine not to apply certain of the selection criteria established pursuant to paragraph (2) when awarding grants for demolition only, tenant-based assistance only, or other specific categories of revitalization activities. This section may not be construed to require any application for a grant under

this section to include demolition of public housing or to preclude use of grant amounts for rehabilitation or rebuilding of any housing on an existing site.

“(f) COST LIMITS.—Subject to the provisions of this section, the Secretary—

“(1) shall establish cost limits on eligible activities under this section sufficient to provide for effective revitalization programs; and

“(2) may establish other cost limits on eligible activities under this section.

“(g) DISPOSITION AND REPLACEMENT.—Any severely distressed public housing disposed of pursuant to a revitalization plan and any public housing developed in lieu of such severely distressed housing, shall be subject to the provisions of section 18. Severely distressed public housing demolished pursuant to a revitalization plan shall not be subject to the provisions of section 18.

“(h) ADMINISTRATION BY OTHER ENTITIES.—The Secretary may require a grantee under this section to make arrangements satisfactory to the Secretary for use of an entity other than the public housing agency to carry out activities assisted under the revitalization plan, if the Secretary determines that such action will help to effectuate the purposes of this section.

“(i) WITHDRAWAL OF FUNDING.—If a grantee under this section does not proceed within a reasonable timeframe, in the determination of the Secretary, the Secretary shall withdraw any grant amounts under this section that have not been obligated by the public housing agency. The Secretary shall redistribute any withdrawn amounts to one or more other applicants eligible for assistance under this section or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the revitalization plan of the original grantee.

“(j) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) APPLICANT.—The term ‘applicant’ means—

“(A) any public housing agency that is not designated as troubled pursuant to section 6(j)(2);

“(B) any public housing agency for which a private housing management agent has been selected, or a receiver has been appointed, pursuant to section 6(j)(3); and

“(C) any public housing agency that is designated as troubled pursuant to section 6(j)(2) and that—

“(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;

“(ii) is making substantial progress toward eliminating the deficiencies of the agency; or

“(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

“(2) SEVERELY DISTRESSED PUBLIC HOUSING.—The term ‘severely distressed public housing’ means a public housing project (or building in a project)—

“(A) that—

“(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of



major systems and other deficiencies in the physical plant of the project;

“(ii) is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood;

“(iii)(I) is occupied predominantly by families who are very low-income families with children, are unemployed, and dependent on various forms of public assistance; or

“(II) has high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area;

“(iv) cannot be revitalized through assistance under other programs, such as the program for capital and operating assistance for public housing under this Act, or the programs under sections 9 and 14 of the United States Housing Act of 1937 (as in effect before the effective date under section 503(a) the Quality Housing and Work Responsibility Act of 1998), because of cost constraints and inadequacy of available amounts; and

“(v) in the case of individual buildings, is, in the Secretary’s determination, sufficiently separable from the remainder of the project of which the building is part to make use of the building feasible for purposes of this section; or

“(B) that was a project described in subparagraph (A) that has been legally vacated or demolished, but for which the Secretary has not yet provided replacement housing assistance (other than tenant-based assistance).

“(3) SUPPORTIVE SERVICES.—The term ‘supportive services’ includes all activities that will promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing project involved, including literacy training, job training, day care, transportation, and economic development activities.

“(k) GRANTEE REPORTING.—The Secretary shall require grantees of assistance under this section to report the sources and uses of all amounts expended for revitalization plans.

“(l) ANNUAL REPORT.—The Secretary shall submit to the Congress an annual report setting forth—

“(1) the number, type, and cost of public housing units revitalized pursuant to this section;

“(2) the status of projects identified as severely distressed public housing;

“(3) the amount and type of financial assistance provided under and in conjunction with this section; and

“(4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.

“(m) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section \$600,000,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000, 2001, and 2002.

“(2) TECHNICAL ASSISTANCE AND PROGRAM OVERSIGHT.—Of the amount appropriated pursuant to paragraph (1) for

any fiscal year, the Secretary may use up to 2 percent for technical assistance or contract expertise. Such assistance or contract expertise may be provided directly or indirectly by grants, contracts, or cooperative agreements, and shall include training, and the cost of necessary travel for participants in such training, by or to officials of the Department of Housing and Urban Development, of public housing agencies, and of residents.

“(n) SUNSET.—No assistance may be provided under this section after September 30, 2002.”.

42 USC 1437v  
note.

(b) APPLICABILITY.—The amendment made by this section is made on, and shall apply beginning upon, the date of the enactment of this Act.

#### **SEC. 536. HOMEOWNERSHIP.**

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

42 USC 1437z-4.

#### **“SEC. 32. RESIDENT HOMEOWNERSHIP PROGRAMS.**

“(a) IN GENERAL.—A public housing agency may carry out a homeownership program in accordance with this section and the public housing agency plan of the agency to make public housing dwelling units, public housing projects, and other housing projects available for purchase by low-income families for use only as principal residences for such families. An agency may transfer a unit pursuant to a homeownership program only if the program is authorized under this section and approved by the Secretary.

“(b) PARTICIPATING UNITS.—A program under this section may cover any existing public housing dwelling units or projects, and may include other dwelling units and housing owned, assisted, or operated, or otherwise acquired for use under such program, by the public housing agency.

“(c) ELIGIBLE PURCHASERS.—

“(1) LOW-INCOME REQUIREMENT.—Only low-income families assisted by a public housing agency, other low-income families, and entities formed to facilitate such sales by purchasing units for resale to low-income families shall be eligible to purchase housing under a homeownership program under this section.

“(2) OTHER REQUIREMENTS.—A public housing agency may establish other requirements or limitations for families to purchase housing under a homeownership program under this section, including requirements or limitations regarding employment or participation in employment counseling or training activities, criminal activity, participation in homeownership counseling programs, evidence of regular income, and other requirements. In the case of purchase by an entity for resale to low-income families, the entity shall sell the units to low-income families within 5 years from the date of its acquisition of the units. The entity shall use any net proceeds from the resale and from managing the units, as determined in accordance with guidelines of the Secretary, for housing purposes, such as funding resident organizations and reserves for capital replacements.

“(d) RIGHT OF FIRST REFUSAL.—In making any sale under this section, the public housing agency shall initially offer the public housing unit at issue to the resident or residents occupying that

unit, if any, or to an organization serving as a conduit for sales to any such resident.

“(e) PROTECTION OF NONPURCHASING RESIDENTS.—If a public housing resident does not exercise the right of first refusal under subsection (d) with respect to the public housing unit in which the resident resides, the public housing agency—

“(1) shall notify the resident residing in the unit 90 days prior to the displacement date except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

Notification.

“(A) the public housing unit will be sold;

“(B) the transfer of possession of the unit will occur until the resident is relocated; and

“(C) each resident displaced by such action will be offered comparable housing—

“(i) that meets housing quality standards;

“(ii) that is located in an area that is generally not less desirable than the location of the displaced resident’s housing; and

“(iii) which may include—

“(I) tenant-based assistance, except that the requirement under this subclause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such resident into such housing;

“(II) project-based assistance; or

“(III) occupancy in a unit owned, operated, or assisted by the public housing agency at a rental rate paid by the resident that is comparable to the rental rate applicable to the unit from which the resident is vacated;

“(2) shall provide for the payment of the actual and reasonable relocation expenses of the resident to be displaced;

“(3) shall ensure that the displaced resident is offered comparable housing in accordance with the notice under paragraph (1);

“(4) shall provide any necessary counseling for the displaced resident; and

“(5) shall not transfer possession of the unit until the resident is relocated.

“(f) FINANCING AND ASSISTANCE.—A homeownership program under this section may provide financing for acquisition of housing by families purchasing under the program, or for acquisition of housing by the public housing agency for sale under the program, in any manner considered appropriate by the agency (including sale to a resident management corporation).

“(g) DOWNPAYMENT REQUIREMENT.—

“(1) IN GENERAL.—Each family purchasing housing under a homeownership program under this section shall be required to provide from its own resources a downpayment in connection with any loan for acquisition of the housing, in an amount determined by the public housing agency. Except as provided in paragraph (2), the agency shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase.

“(2) DIRECT FAMILY CONTRIBUTION.—In purchasing housing pursuant to this section, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

“(h) OWNERSHIP INTERESTS.—A homeownership program under this section may provide for sale to the purchasing family of any ownership interest that the public housing agency considers appropriate under the program, including ownership in fee simple, a condominium interest, an interest in a limited dividend cooperative, a shared appreciation interest with a public housing agency providing financing.

“(i) RESALE.—

“(1) AUTHORITY AND LIMITATION.—A homeownership program under this section shall permit the resale of a dwelling unit purchased under the program by an eligible family, but shall provide such limitations on resale as the agency considers appropriate (whether the family purchases directly from the agency or from another entity) for the agency to recapture—

“(A) some or all of the economic gain derived from any such resale occurring during the 5-year period beginning upon purchase of the dwelling unit by the eligible family; and

“(B) after the expiration of such 5-year period, only such amounts as are equivalent to the assistance provided under this section by the agency to the purchaser.

“(2) CONSIDERATIONS.—The limitations referred to in paragraph (1)(A) may provide for consideration of the aggregate amount of assistance provided under the program to the family, the contribution to equity provided by the purchasing eligible family, the period of time elapsed between purchase under the homeownership program and resale, the reason for resale, any improvements to the property made by the eligible family, any appreciation in the value of the property, and any other factors that the agency considers appropriate.

“(j) NET PROCEEDS.—The net proceeds of any sales under a homeownership program under this section remaining after payment of all costs of the sale shall be used for purposes relating to low-income housing and in accordance with the public housing agency plan of the agency carrying out the program.

“(k) HOMEOWNERSHIP ASSISTANCE.—From amounts distributed to a public housing agency under the Capital Fund under section 9(d), or from other income earned by the public housing agency, the public housing agency may provide assistance to public housing residents to facilitate the ability of those residents to purchase a principal residence, including a residence other than a residence located in a public housing project.

“(l) INAPPLICABILITY OF DISPOSITION REQUIREMENTS.—The provisions of section 18 shall not apply to disposition of public housing dwelling units under a homeownership program under this section.”.

**SEC. 537. REQUIRED CONVERSION OF DISTRESSED PUBLIC HOUSING TO TENANT-BASED ASSISTANCE.**

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by the preceding

provisions of this Act, is further amended by adding at the end the following new section:

**“SEC. 33. REQUIRED CONVERSION OF DISTRESSED PUBLIC HOUSING TO TENANT-BASED ASSISTANCE.** 42 USC 1437z-5.

“(a) IDENTIFICATION OF UNITS.—Each public housing agency shall identify all public housing projects of the public housing agency that meet all of the following requirements:

“(1) The project is on the same or contiguous sites.

“(2) The project is determined by the public housing agency to be distressed, which determination shall be made in accordance with guidelines established by the Secretary, which guidelines shall take into account the criteria established in the Final Report of the National Commission on Severely Distressed Public Housing (August 1992). Guidelines.

“(3) The project—

“(A) is identified as distressed housing under paragraph (2) for which the public housing agency cannot assure the long-term viability as public housing through reasonable modernization expenses, density reduction, achievement of a broader range of family income, or other measures; or

“(B) has an estimated cost, during the remaining useful life of the project, of continued operation and modernization as public housing that exceeds the estimated cost, during the remaining useful life of the project, of providing tenant-based assistance under section 8 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development costs required for modernization).

“(b) CONSULTATION.—Each public housing agency shall consult with the appropriate public housing residents and the appropriate unit of general local government in identifying any public housing projects under subsection (a).

“(c) PLAN FOR REMOVAL OF UNITS FROM INVENTORIES OF PHA’S.—

“(1) DEVELOPMENT.—Each public housing agency shall develop and carry out a 5-year plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) from the inventory of the public housing agency and the annual contributions contract.

“(2) APPROVAL.—Each plan required under paragraph (1) shall—

“(A) be included as part of the public housing agency plan;

“(B) be certified by the relevant local official to be in accordance with the comprehensive housing affordability strategy under title I of the Housing and Community Development Act of 1992; and

“(C) include a description of any disposition and demolition plan for the public housing units.

“(3) EXTENSIONS.—The Secretary may extend the 5-year deadline described in paragraph (1) by not more than an additional 5 years if the Secretary makes a determination that the deadline is impracticable.

“(4) REVIEW BY SECRETARY.—

“(A) FAILURE TO IDENTIFY PROJECTS.—If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has failed to identify 1 or more public housing projects that the Secretary determines should have been identified under subsection (a), the Secretary may designate the public housing projects to be removed from the inventory of the public housing agency pursuant to this section.

“(B) ERRONEOUS IDENTIFICATION OF PROJECTS.—If the Secretary determines, based on a plan submitted under this subsection, that a public housing agency has identified 1 or more public housing projects that should not have been identified pursuant to subsection (a), the Secretary shall—

“(i) require the public housing agency to revise the plan of the public housing agency under this subsection; and

“(ii) prohibit the removal of any such public housing project from the inventory of the public housing agency under this section.

“(d) CONVERSION TO TENANT-BASED ASSISTANCE.—

“(1) IN GENERAL.—To the extent approved in advance in appropriations Acts, the Secretary shall make budget authority available to a public housing agency to provide assistance under this Act to families residing in any public housing project that, pursuant to this section, is removed from the inventory of the agency and the annual contributions contract of the agency.

“(2) CONVERSION REQUIREMENTS.—Each agency carrying out a plan under subsection (c) for removal of public housing dwelling units from the inventory of the agency shall—

Notification.

“(A) notify each family residing in a public housing project to be converted under the plan 90 days prior to the displacement date, except in cases of imminent threat to health or safety, consistent with any guidelines issued by the Secretary governing such notifications, that—

“(i) the public housing project will be removed from the inventory of the public housing agency; and

“(ii) each family displaced by such action will be offered comparable housing—

“(I) that meets housing quality standards; and

“(II) which may include—

“(aa) tenant-based assistance, except that the requirement under this clause regarding offering of comparable housing shall be fulfilled by use of tenant-based assistance only upon the relocation of such family into such housing;

“(bb) project-based assistance; or

“(cc) occupancy in a unit operated or assisted by the public housing agency at a rental rate paid by the family that is comparable to the rental rate applicable to the unit from which the family is vacated.

“(B) provide any necessary counseling for families displaced by such action;

“(C) ensure that, if the project (or portion) converted is used as housing after such conversion, each resident may choose to remain in their dwelling unit in the project and use the tenant-based assistance toward rent for that unit;

“(D) ensure that each displaced resident is offered comparable housing in accordance with the notice under subparagraph (A); and

“(E) provide any actual and reasonable relocation expenses for families displaced by such action.

“(e) CESSATION OF UNNECESSARY SPENDING.—Notwithstanding any other provision of law, if, in the determination of the Secretary, a project or projects of a public housing agency meet or are likely to meet the criteria set forth in subsection (a), the Secretary may direct the agency to cease additional spending in connection with such project or projects until the Secretary determines or approves an appropriate course of action with respect to such project or projects under this section, except to the extent that failure to expend such amounts would endanger the health or safety of residents in the project or projects.

“(f) USE OF BUDGET AUTHORITY.—Notwithstanding any other provision of law, if a project or projects are identified pursuant to subsection (a), the Secretary may authorize or direct the transfer, to the tenant-based assistance program of such agency or to appropriate site revitalization or other capital improvements approved by the Secretary, of—

“(1) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such project or projects pursuant to section 14 of the United States Housing Act of 1937 (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

“(2) in the case of an agency receiving public housing modernization assistance by formula pursuant to such section 14, any amounts provided to the agency which are attributable pursuant to the formula for allocating such assistance to such project or projects;

“(3) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of such project or projects pursuant to section 5(j)(2) of the United States Housing Act of 1937, as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998; and

“(4) in the case of an agency receiving assistance pursuant to the formulas under section 9, any amounts provided to the agency which are attributable pursuant to the formulas for allocating such assistance to such project or projects.

“(g) REMOVAL BY SECRETARY.—The Secretary shall take appropriate actions to ensure removal of any public housing project identified under subsection (a) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under subsection (c) with respect to that project, or fails to adequately implement such plan in accordance with the terms of the plan.

“(h) ADMINISTRATION.—

“(1) IN GENERAL.—The Secretary may require a public housing agency to provide to the Secretary or to public housing residents such information as the Secretary considers to be necessary for the administration of this section.

“(2) APPLICABILITY OF SECTION 18.—Section 18 shall not apply to the demolition of public housing projects removed from the inventory of the public housing agency under this section.”.

(b) CONFORMING AMENDMENT.—Section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 14371 note) is repealed.

42 USC 1437z-5  
note.

(c) TRANSITION.—

(1) USE OF AMOUNTS.—Any amounts made available to a public housing agency to carry out section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (enacted as section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134; 110 Stat. 1321-279)) may be used, to the extent or in such amounts as are or have been provided in advance in appropriation Acts, to carry out section 33 of the United States Housing Act of 1937 (as added by subsection (a) of this section).

Applicability.

(2) SAVINGS PROVISION.—Notwithstanding the amendments made by this section, section 202 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 14371 note) and any regulations implementing such section, as in effect immediately before the enactment of this Act, shall continue to apply to public housing developments identified by the Secretary or a public housing agency for conversion pursuant to that section or for assessment of whether such conversion is required prior to enactment of this Act.

#### **SEC. 538. LINKING SERVICES TO PUBLIC HOUSING RESIDENTS.**

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

42 USC 1437z-6.

#### **“SEC. 34. SERVICES FOR PUBLIC HOUSING RESIDENTS.**

“(a) IN GENERAL.—To the extent that amounts are provided in advance in appropriations Acts, the Secretary may make grants to public housing agencies on behalf of public housing residents, or directly to resident management corporations, resident councils, or resident organizations (including nonprofit entities supported by residents), for the purposes of providing a program of supportive services and resident empowerment activities to provide supportive services to public housing residents or assist such residents in becoming economically self-sufficient.

“(b) ELIGIBLE ACTIVITIES.—Grantees under this section may use such amounts only for activities on or near the property of the public housing agency or public housing project that are designed to promote the self-sufficiency of public housing residents or provide supportive services for such residents, including activities relating to—

“(1) physical improvements to a public housing project in order to provide space for supportive services for residents;



“(2) the provision of service coordinators or a congregate housing services program for elderly individuals, elderly disabled individuals, nonelderly disabled individuals, or temporarily disabled individuals;

“(3) the provision of services related to work readiness, including education, job training and counseling, job search skills, business development training and planning, tutoring, mentoring, adult literacy, computer access, personal and family counseling, health screening, work readiness health services, transportation, and child care;

“(4) economic and job development, including employer linkages and job placement, and the start-up of resident microenterprises, community credit unions, and revolving loan funds, including the licensing, bonding, and insurance needed to operate such enterprises;

“(5) resident management activities and resident participation activities; and

“(6) other activities designed to improve the economic self-sufficiency of residents.

“(c) FUNDING DISTRIBUTION.—

“(1) IN GENERAL.—Except for amounts provided under subsection (d), the Secretary may distribute amounts made available under this section on the basis of a competition or a formula, as appropriate.

“(2) FACTORS FOR DISTRIBUTION.—Factors for distribution under paragraph (1) shall include—

“(A) the demonstrated capacity of the applicant to carry out a program of supportive services or resident empowerment activities;

“(B) the ability of the applicant to leverage additional resources for the provision of services; and

“(C) the extent to which the grant will result in a high quality program of supportive services or resident empowerment activities.

“(d) MATCHING REQUIREMENT.—The Secretary may not make any grant under this section to any applicant unless the applicant supplements amounts made available under this section with funds from sources other than this section in an amount equal to not less than 25 percent of the grant amount. Such supplemental amounts may include—

“(1) funds from other Federal sources;

“(2) funds from any State or local government sources;

“(3) funds from private contributions; and

“(4) the value of any in-kind services or administrative costs provided to the applicant.

“(e) FUNDING FOR RESIDENT ORGANIZATIONS.—To the extent that there are a sufficient number of qualified applications for assistance under this section, not less than 25 percent of any amounts appropriated to carry out this section shall be provided directly to resident councils, resident organizations, and resident management corporations. In any case in which a resident council, resident organization, or resident management corporation lacks adequate expertise, the Secretary may require the council, organization, or corporation to utilize other qualified organizations as contract administrators with respect to financial assistance provided under this section.”.

Deadline.

(b) **ASSESSMENT AND REPORT BY SECRETARY.**—Not later than 3 years after the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, the Secretary of Housing and Urban Development shall—

(1) conduct an evaluation and assessment of grants carried out by resident organizations, and particularly of the effect of the grants on living conditions in public housing; and

(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.

Effective date.

This subsection shall take effect on the date of the enactment of this Act.

**SEC. 539. MIXED-FINANCE PUBLIC HOUSING.**

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

42 USC 1437z-7.

**“SEC. 35. MIXED FINANCE PUBLIC HOUSING.**

“(a) **AUTHORITY.**—A public housing agency may own, operate, assist, or otherwise participate in 1 or more mixed-finance projects in accordance with this section.

“(b) **ASSISTANCE.**—

“(1) **FORMS.**—A public housing agency may provide to a mixed-finance project assistance from the Operating Fund under section 9, assistance from the Capital Fund under such section, or both forms of assistance. A public housing agency may, in accordance with regulations established by the Secretary, provide capital assistance to a mixed-finance project in the form of a grant, loan, guarantee, or other form of investment in the project, which may involve drawdown of funds on a schedule commensurate with construction draws for deposit into an interest-bearing escrow account to serve as collateral or credit enhancement for bonds issued by a public agency, or for other forms of public or private borrowings, for the construction or rehabilitation of the development.

“(2) **USE.**—To the extent deemed appropriate by the Secretary, assistance used in connection with the costs associated with the operation and management of mixed-finance projects may be used for funding of an operating reserve to ensure affordability for low-income and very low-income families in lieu of the availability of operating funds for public housing units in a mixed-finance project.

“(c) **COMPLIANCE WITH PUBLIC HOUSING REQUIREMENTS.**—The units assisted with capital or operating assistance in a mixed-finance project shall be developed, operated, and maintained in accordance with the requirements of this Act relating to public housing during the period required by under this Act, unless otherwise specified in this section. For purposes of this Act, any reference to public housing owned or operated by a public housing agency shall include dwelling units in a mixed finance project that are assisted by the agency with capital or operating assistance.

“(d) **MIXED-FINANCE PROJECTS.**—

“(1) **IN GENERAL.**—For purposes of this section, the term ‘mixed-finance project’ means a project that meets the requirements of paragraph (2) and is financially assisted by private

resources, which may include low-income housing tax credits, in addition to amounts provided under this Act.

“(2) TYPES OF PROJECTS.—The term includes a project that is developed—

“(A) by a public housing agency or by an entity affiliated with a public housing agency;

“(B) by a partnership, a limited liability company, or other entity in which the public housing agency (or an entity affiliated with a public housing agency) is a general partner, managing member, or otherwise participates in the activities of that entity;

“(C) by any entity that grants to the public housing agency the right of first refusal and first option to purchase, after the close of the compliance period, of the qualified low-income building in which the public housing units exist in accordance with section 42(i)(7) of the Internal Revenue Code of 1986; or

“(D) in accordance with such other terms and conditions as the Secretary may prescribe by regulation.

“(e) STRUCTURE OF PROJECTS.—Each mixed-finance project shall be developed—

“(1) in a manner that ensures that public housing units are made available in the project, by regulatory and operating agreement, master contract, individual lease, condominium or cooperative agreement, or equity interest;

“(2) in a manner that ensures that the number of public housing units bears approximately the same proportion to the total number of units in the mixed-finance project as the value of the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the project, or shall not be less than the number of units that could have been developed under the conventional public housing program with the assistance, or as may otherwise be approved by the Secretary; and

“(3) in accordance with such other requirements as the Secretary may prescribe by regulation.

“(f) TAXATION.—

“(1) IN GENERAL.—A public housing agency may elect to exempt all public housing units in a mixed-finance project—

“(A) from the provisions of section 6(d), and instead subject such units to local real estate taxes; and

“(B) from the finding of need and cooperative agreement provisions under section 5(e)(1)(ii) and 5(e)(2), but only if the development of the units is not inconsistent with the jurisdiction’s comprehensive housing affordability strategy.

“(2) LOW-INCOME HOUSING TAX CREDIT.—With respect to any unit in a mixed-finance project that is assisted pursuant to the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986, the rents charged to the residents may be set at levels not to exceed the amounts allowable under that section, provided that such levels for public housing residents do not exceed the amounts allowable under section 3.

“(g) USE OF SAVINGS.—Notwithstanding any other provision of this Act, to the extent deemed appropriate by the Secretary,

to facilitate the establishment of socioeconomically mixed communities, a public housing agency that uses assistance from the Capital Fund for a mixed-finance project, to the extent that income from such a project reduces the amount of assistance used for operating or other costs relating to public housing, may use such resulting savings to rent privately developed dwelling units in the neighborhood of the mixed-finance project. Such units shall be made available for occupancy only by low-income families eligible for residency in public housing.

“(h) EFFECT OF CERTAIN CONTRACT TERMS.—If an entity that owns or operates a mixed-finance project, that includes a significant number of units other than public housing units enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9 or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units to the maximum extent practicable.”

42 USC 1437z-7  
note.

(b) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to promote the development of mixed-finance projects, as that term is defined in section 3(b) of the United States Housing Act of 1937 (as amended by this Act).

## Subtitle C—Section 8 Rental and Homeownership Assistance

### SEC. 545. MERGER OF CERTIFICATE AND VOUCHER PROGRAMS.

(a) IN GENERAL.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended to read as follows:

“(o) VOUCHER PROGRAM.—

“(1) AUTHORITY.—

“(A) IN GENERAL.—The Secretary may provide assistance to public housing agencies for tenant-based assistance using a payment standard established in accordance with subparagraph (B). The payment standard shall be used to determine the monthly assistance that may be paid for any family, as provided in paragraph (2).

“(B) ESTABLISHMENT OF PAYMENT STANDARD.—Except as provided under subparagraph (D), the payment standard for each size of dwelling unit in a market area shall not exceed 110 percent of the fair market rental established under subsection (c) for the same size of dwelling unit in the same market area and shall be not less than 90 percent of that fair market rental.

“(C) SET-ASIDE.—The Secretary may set aside not more than 5 percent of the budget authority made available for assistance under this subsection as an adjustment pool.

The Secretary shall use amounts in the adjustment pool to make adjusted payments to public housing agencies under subparagraph (A), to ensure continued affordability, if the Secretary determines that additional assistance for such purpose is necessary, based on documentation submitted by a public housing agency.

“(D) APPROVAL.—The Secretary may require a public housing agency to submit the payment standard of the public housing agency to the Secretary for approval, if the payment standard is less than 90 percent of the fair market rental or exceeds 110 percent of the fair market rental.

“(E) REVIEW.—The Secretary—

“(i) shall monitor rent burdens and review any payment standard that results in a significant percentage of the families occupying units of any size paying more than 30 percent of adjusted income for rent; and

“(ii) may require a public housing agency to modify the payment standard of the public housing agency based on the results of that review.

“(2) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—Subject to the requirement under section 3(a)(3) (relating to minimum rental amount), the monthly assistance payment for a family receiving assistance under this subsection shall be determined as follows:

“(A) TENANT-BASED ASSISTANCE; RENT NOT EXCEEDING PAYMENT STANDARD.—For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) does not exceed the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the rent (including the amount allowed for tenant-paid utilities) exceeds the greatest of the following amounts, rounded to the nearest dollar:

“(i) 30 percent of the monthly adjusted income of the family.

“(ii) 10 percent of the monthly income of the family.

“(iii) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

“(B) TENANT-BASED ASSISTANCE; RENT EXCEEDING PAYMENT STANDARD.—For a family receiving tenant-based assistance, if the rent for the family (including the amount allowed for tenant-paid utilities) exceeds the applicable payment standard established under paragraph (1), the monthly assistance payment for the family shall be equal to the amount by which the applicable payment standard exceeds the greatest of amounts under clauses (i), (ii), and (iii) of subparagraph (A).

“(C) FAMILIES RECEIVING PROJECT-BASED ASSISTANCE.—For a family receiving project-based assistance, the rent that the family is required to pay shall be determined in accordance with section 3(a)(1), and the amount of the

housing assistance payment shall be determined in accordance with subsection (c)(3) of this section.

“(3) 40 PERCENT LIMIT.—At the time a family initially receives tenant-based assistance under this section with respect to any dwelling unit, the total amount that a family may be required to pay for rent may not exceed 40 percent of the monthly adjusted income of the family.

“(4) ELIGIBLE FAMILIES.—To be eligible to receive assistance under this subsection, a family shall, at the time a family initially receives assistance under this subsection, be a low-income family that is—

“(A) a very low-income family;

“(B) a family previously assisted under this title;

“(C) a low-income family that meets eligibility criteria specified by the public housing agency;

“(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act; or

“(E) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

“(5) ANNUAL REVIEW OF FAMILY INCOME.—

“(A) IN GENERAL.—Reviews of family incomes for purposes of this section shall be subject to the provisions of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and shall be conducted upon the initial provision of housing assistance for the family and thereafter not less than annually.

“(B) PROCEDURES.—Each public housing agency administering assistance under this subsection shall establish procedures that are appropriate and necessary to ensure that income data provided to the agency and owners by families applying for or receiving assistance from the agency is complete and accurate. Each public housing agency shall, not less frequently than annually, conduct a review of the family income of each family receiving assistance under this subsection.

“(6) SELECTION OF FAMILIES AND DISAPPROVAL OF OWNERS.—

“(A) PREFERENCES.—

“(i) AUTHORITY TO ESTABLISH.—Each public housing agency may establish a system for making tenant-based assistance under this subsection available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics, which may include a preference for families residing in public housing who are victims of a crime of violence (as such term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

“(ii) CONTENT.—Each system of preferences established pursuant to this subparagraph shall be based upon local housing needs and priorities, as determined by the public housing agency using generally accepted data sources, including any information obtained

pursuant to an opportunity for public comment as provided under section 5A(f) and under the requirements applicable to the comprehensive housing affordability strategy for the relevant jurisdiction.

“(B) SELECTION OF TENANTS.—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit) shall provide that the screening and selection of families for those units shall be the function of the owner. In addition, the public housing agency may elect to screen applicants for the program in accordance with such requirements as the Secretary may establish.

“(C) PHA DISAPPROVAL OF OWNERS.—In addition to other grounds authorized by the Secretary, a public housing agency may elect not to enter into a housing assistance payments contract under this subsection with an owner who refuses, or has a history of refusing, to take action to terminate tenancy for activity engaged in by the tenant, any member of the tenant’s household, any guest, or any other person under the control of any member of the household that—

“(i) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the public housing agency, owner, or other manager of the housing;

“(ii) threatens the health or safety of, or right to peaceful enjoyment of the residences by, persons residing in the immediate vicinity of the premises; or

“(iii) is drug-related or violent criminal activity.

“(7) LEASES AND TENANCY.—Each housing assistance payment contract entered into by the public housing agency and the owner of a dwelling unit—

“(A) shall provide that the lease between the tenant and the owner shall be for a term of not less than 1 year, except that the public housing agency may approve a shorter term for an initial lease between the tenant and the dwelling unit owner if the public housing agency determines that such shorter term would improve housing opportunities for the tenant and if such shorter term is considered to be a prevailing local market practice;

“(B) shall provide that the dwelling unit owner shall offer leases to tenants assisted under this subsection that—

“(i) are in a standard form used in the locality by the dwelling unit owner; and

“(ii) contain terms and conditions that—

“(I) are consistent with State and local law; and

“(II) apply generally to tenants in the property who are not assisted under this section;

“(C) shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause;

“(D) shall provide that during the term of the lease, any criminal activity that threatens the health, safety,

or right to peaceful enjoyment of the premises by other tenants, any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises, or any violent or drug-related criminal activity on or near such premises, engaged in by a tenant of any unit, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy;

“(E) shall provide that any termination of tenancy under this subsection shall be preceded by the provision of written notice by the owner to the tenant specifying the grounds for that action, and any relief shall be consistent with applicable State and local law; and

“(F) may include any addenda required by the Secretary to set forth the provisions of this subsection.

“(8) INSPECTION OF UNITS BY PHA'S.—

“(A) IN GENERAL.—Except as provided in paragraph (11), for each dwelling unit for which a housing assistance payment contract is established under this subsection, the public housing agency shall inspect the unit before any assistance payment is made to determine whether the dwelling unit meets the housing quality standards under subparagraph (B).

“(B) HOUSING QUALITY STANDARDS.—The housing quality standards under this subparagraph are standards for safe and habitable housing established—

“(i) by the Secretary for purposes of this subsection;

or

“(ii) by local housing codes or by codes adopted by public housing agencies that—

“(I) meet or exceed housing quality standards, except that the Secretary may waive the requirement under this subclause to significantly increase access to affordable housing and to expand housing opportunities for families assisted under this subsection, except where such waiver could adversely affect the health or safety of families assisted under this subsection; and

“(II) do not severely restrict housing choice

“(C) INSPECTION.—The determination required under subparagraph (A) shall be made by the public housing agency (or other entity, as provided in paragraph (11)) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit. Inspections of dwelling units under this subparagraph shall be made before the expiration of the 15-day period beginning upon a request by the resident or landlord to the public housing agency or, in the case of any public housing agency that provides assistance under this subsection on behalf of more than 1250 families, before the expiration of a reasonable period beginning upon such request. The performance of the agency in meeting the 15-day inspection deadline shall be taken into consideration in assessing the performance of the agency.

“(D) ANNUAL INSPECTIONS.—Each public housing agency providing assistance under this subsection (or other



entity, as provided in paragraph (11)) shall make an annual inspection of each assisted dwelling unit during the term of the housing assistance payments contract for the unit to determine whether the unit is maintained in accordance with the requirements under subparagraph (A). The agency (or other entity) shall retain the records of the inspection for a reasonable time and shall make the records available upon request to the Secretary, the Inspector General for the Department of Housing and Urban Development, and any auditor conducting an audit under section 5(h).

Records.

“(E) INSPECTION GUIDELINES.—The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of public housing agencies and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this subsection.

“(9) VACATED UNITS.—If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payment contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

“(10) RENT.—

“(A) REASONABLENESS.—The rent for dwelling units for which a housing assistance payment contract is established under this subsection shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted local market.

“(B) NEGOTIATIONS.—A public housing agency (or other entity, as provided in paragraph (11)) shall, at the request of a family receiving tenant-based assistance under this subsection, assist that family in negotiating a reasonable rent with a dwelling unit owner. A public housing agency (or such other entity) shall review the rent for a unit under consideration by the family (and all rent increases for units under lease by the family) to determine whether the rent (or rent increase) requested by the owner is reasonable. If a public housing agency (or other such entity) determines that the rent (or rent increase) for a dwelling unit is not reasonable, the public housing agency (or other such entity) shall not make housing assistance payments to the owner under this subsection with respect to that unit.

“(C) UNITS EXEMPT FROM LOCAL RENT CONTROL.—If a dwelling unit for which a housing assistance payment contract is established under this subsection is exempt from local rent control provisions during the term of that contract, the rent for that unit shall be reasonable in comparison with other units in the market area that are exempt from local rent control provisions.

“(D) TIMELY PAYMENTS.—Each public housing agency shall make timely payment of any amounts due to a dwelling unit owner under this subsection. The housing assistance payment contract between the owner and the public

housing agency may provide for penalties for the late payment of amounts due under the contract, which shall be imposed on the public housing agency in accordance with generally accepted practices in the local housing market.

“(E) PENALTIES.—Unless otherwise authorized by the Secretary, each public housing agency shall pay any penalties from administrative fees collected by the public housing agency, except that no penalty shall be imposed if the late payment is due to factors that the Secretary determines are beyond the control of the public housing agency.

“(11) LEASING OF UNITS OWNED BY PHA.—If an eligible family assisted under this subsection leases a dwelling unit (other than a public housing dwelling unit) that is owned by a public housing agency administering assistance under this subsection, the Secretary shall require the unit of general local government or another entity approved by the Secretary, to make inspections required under paragraph (8) and rent determinations required under paragraph (10). The agency shall be responsible for any expenses of such inspections and determinations.

“(12) ASSISTANCE FOR RENTAL OF MANUFACTURED HOUSING.—

“(A) IN GENERAL.—A public housing agency may make assistance payments in accordance with this subsection on behalf of a family that utilizes a manufactured home as a principal place of residence. Such payments may be made only for the rental of the real property on which the manufactured home owned by any such family is located.

“(B) RENT CALCULATION.—

“(i) CHARGES INCLUDED.—For assistance pursuant to this paragraph, the rent for the space on which a manufactured home is located and with respect to which assistance payments are to be made shall include maintenance and management charges and tenant-paid utilities.

“(ii) PAYMENT STANDARD.—The public housing agency shall establish a payment standard for the purpose of determining the monthly assistance that may be paid for any family under this paragraph. The payment standard may not exceed an amount approved or established by the Secretary.

“(iii) MONTHLY ASSISTANCE PAYMENT.—The monthly assistance payment for a family assisted under this paragraph shall be determined in accordance with paragraph (2).

“(13) PHA PROJECT-BASED ASSISTANCE.—

“(A) IN GENERAL.—If the Secretary enters into an annual contributions contract under this subsection with a public housing agency pursuant to which the public housing agency will enter into a housing assistance payment contract with respect to an existing structure under this subsection—

“(i) the housing assistance payment contract may not be attached to the structure unless the owner agrees to rehabilitate or newly construct the structure

other than with assistance under this Act, and otherwise complies with this section; and

“(ii) the public housing agency may approve a housing assistance payment contract for such existing structures for not more than 15 percent of the funding available for tenant-based assistance administered by the public housing agency under this section.

“(B) EXTENSION OF CONTRACT TERM.—In the case of a housing assistance payment contract that applies to a structure under this paragraph, a public housing agency may enter into a contract with the owner, contingent upon the future availability of appropriated funds for the purpose of renewing expiring contracts for assistance payments, as provided in appropriations Acts, to extend the term of the underlying housing assistance payment contract for such period as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying housing assistance payment contract accepted by the owner and the successors in interest of the owner.

“(C) RENT CALCULATION.—For project-based assistance under this paragraph, housing assistance payment contracts shall establish rents and provide for rent adjustments in accordance with subsection (c).

“(D) ADJUSTED RENTS.—With respect to rents adjusted under this paragraph—

“(i) the adjusted rent for any unit shall be reasonable in comparison with rents charged for comparable dwelling units in the private, unassisted, local market; and

“(ii) the provisions of subsection (c)(2)(C) shall not apply.

“(14) INAPPLICABILITY TO TENANT-BASED ASSISTANCE.—Subsection (c) shall not apply to tenant-based assistance under this subsection.

“(15) HOMEOWNERSHIP OPTION.—

“(A) IN GENERAL.—A public housing agency providing assistance under this subsection may, at the option of the agency, provide assistance for homeownership under subsection (y).

“(B) ALTERNATIVE ADMINISTRATION.—A public housing agency may contract with a nonprofit organization to administer a homeownership program under subsection (y).

“(16) RENTAL VOUCHERS FOR RELOCATION OF WITNESSES AND VICTIMS OF CRIME.—

“(A) WITNESSES.—Of amounts made available for assistance under this subsection in each fiscal year, the Secretary, in consultation with the Inspector General, shall make available such sums as may be necessary for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to requests from law enforcement or prosecution agencies.

“(B) VICTIMS OF CRIME.—

“(i) IN GENERAL.—Of amounts made available for assistance under this section in each fiscal year, the Secretary shall make available such sums as may be

necessary for the relocation of families residing in public housing who are victims of a crime of violence (as that term is defined in section 16 of title 18, United States Code) that has been reported to an appropriate law enforcement agency.

“(ii) NOTICE.—A public housing agency that receives amounts under this subparagraph shall establish procedures for providing notice of the availability of that assistance to families that may be eligible for that assistance.

“(17) DEED RESTRICTIONS.—Assistance under this subsection may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. This paragraph may not be construed to affect the provisions or applicability of the Fair Housing Act.”.

(b) CONFORMING AMENDMENT.—Section 8(f)(6) of the United States Housing Act (42 U.S.C. 1437f(f)(6)) is amended by inserting “or (o)(13)” after “(d)(2)”.

42 USC 1437f  
note.

(c) APPLICABILITY.—Notwithstanding the amendment made by subsection (a) of this section, any amendments to section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) that are contained in title II of this Act shall apply with respect to the provision of assistance under such section during the period before implementation (pursuant to section 559 of this title) of such section 8(o) as amended by subsection (a) of this section.

#### SEC. 546. PUBLIC HOUSING AGENCIES.

Section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)) is amended to read as follows:

“(6) PUBLIC HOUSING AGENCY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘public housing agency’ means any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of public housing.

“(B) SECTION 8 PROGRAM.—For purposes of the program for tenant-based assistance under section 8, such term includes—

“(i) a consortia of public housing agencies that the Secretary determines has the capacity and capability to administer a program for assistance under such section in an efficient manner;

“(ii) any other public or private nonprofit entity that, upon the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, was administering any program for tenant-based assistance under section 8 of this Act (as in effect before the effective date of such Act), pursuant to a contract with the Secretary or a public housing agency; and

“(iii) with respect to any area in which no public housing agency has been organized or where the Secretary determines that a public housing agency is unwilling or unable to implement a program for tenant-based assistance section 8, or is not performing effectively—

“(I) the Secretary or another public or private non-profit entity that by contract agrees to receive assistance amounts under section 8 and enter into housing assistance payments contracts with owners and perform the other functions of public housing agency under section 8; or

“(II) notwithstanding any provision of State or local law, a public housing agency for another area that contracts with the Secretary to administer a program for housing assistance under section 8, without regard to any otherwise applicable limitations on its area of operation.”.

**SEC. 547. ADMINISTRATIVE FEES.**

Subsection (q) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)) is amended to read as follows:

“(q) ADMINISTRATIVE FEES.—

“(1) FEE FOR ONGOING COSTS OF ADMINISTRATION.—

“(A) IN GENERAL.—The Secretary shall establish fees for the costs of administering the tenant-based assistance, certificate, voucher, and moderate rehabilitation programs under this section.

“(B) FISCAL YEAR 1999.—

“(i) CALCULATION.—For fiscal year 1999, the fee for each month for which a dwelling unit is covered by an assistance contract shall be—

“(I) in the case of a public housing agency that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

“(II) in the case of an agency that, on an annual basis, is administering a program for more than 600 dwelling units (aa) for the first 600 units, 7.65 percent of the base amount, and (bb) for any additional dwelling units under the program, 7.0 percent of the base amount.

“(ii) BASE AMOUNT.—For purposes of this subparagraph, the base amount shall be the higher of—

“(I) the fair market rental established under section 8(c) of this Act (as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the agency, and

“(II) the amount that is the lesser of (aa) such fair market rental for fiscal year 1994, or (bb) 103.5 percent of the amount determined under clause (i),

adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

“(C) SUBSEQUENT FISCAL YEARS.—For subsequent fiscal years, the Secretary shall publish a notice in the Federal

Federal Register,  
publication.  
Notice.

Register, for each geographic area, establishing the amount of the fee that would apply for public housing agencies administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

“(D) INCREASE.—The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

“(E) DECREASE.—The Secretary may decrease the fee for units owned by a public housing agency to reflect reasonable costs of administration.

“(2) FEE FOR PRELIMINARY EXPENSES.—The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

“(A) the costs of preliminary expenses, in the amount of \$500, for a public housing agency, except that such fee shall apply to an agency only in the first year that the agency administers a tenant-based assistance program under this section, and only if, immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, the agency was not administering a tenant-based assistance program under the United States Housing Act of 1937 (as in effect immediately before such effective date), in connection with its initial increment of assistance received;

“(B) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

“(C) extraordinary costs approved by the Secretary.

“(3) TRANSFER OF FEES IN CASES OF CONCURRENT GEOGRAPHICAL JURISDICTION.—In each fiscal year, if any public housing agency provides tenant-based assistance under this section on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdiction of such agency but is also within the jurisdiction of another public housing agency, the Secretary shall take such steps as may be necessary to ensure that the public housing agency that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

“(4) APPLICABILITY.—This subsection shall apply to fiscal year 1999 and fiscal years thereafter.”.

#### SEC. 548. LAW ENFORCEMENT AND SECURITY PERSONNEL IN ASSISTED HOUSING.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(1) by transferring and inserting subsection (z) after subsection (y) (and before subsection (aa)); and

(2) by adding at the end the following new subsection: “(cc) LAW ENFORCEMENT AND SECURITY PERSONNEL.—

“(1) IN GENERAL.—Notwithstanding any other provision of this Act, in the case of assistance attached to a structure, for the purpose of increasing security for the residents of a project, an owner may admit, and assistance under this section

may be provided to, police officers and other security personnel who are not otherwise eligible for assistance under the Act.

“(2) RENT REQUIREMENTS.—With respect to any assistance provided by an owner under this subsection, the Secretary may—

“(A) permit the owner to establish such rent requirements and other terms and conditions of occupancy that the Secretary considers to be appropriate; and

“(B) require the owner to submit an application for those rent requirements, which application shall include such information as the Secretary, in the discretion of the Secretary, determines to be necessary.

“(3) APPLICABILITY.—This subsection shall apply to fiscal year 1999 and fiscal years thereafter.”.

**SEC. 549. ADVANCE NOTICE TO TENANTS OF EXPIRATION, TERMINATION, OR OWNER NONRENEWAL OF ASSISTANCE CONTRACT.**

(a) PERMANENT APPLICABILITY OF NOTICE AND ENDLESS LEASE PROVISIONS.—

(1) NOTICE.—Section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)) is amended—

(A) by striking paragraphs (8) and (10); and

(B) in paragraph (9), by striking the first sentence and inserting the following new sentence: “Not less than one year before terminating any contract under which assistance payments are received under this section, other than a contract for tenant-based assistance under this section, an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination.”.

(2) ENDLESS LEASE.—Section 8(d)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(B)) is amended—

(A) in clause (ii) by striking “(ii)” and all that follows through “the owner” and inserting “(ii) during the term of the lease, the owner”; and

(B) in clause (iii), by striking “(iii)” and all that follows through “any criminal activity” the first place it appears and inserting “(iii) during the term of the lease, any criminal activity”.

(3) PERMANENT EFFECTIVENESS OF AMENDMENTS.—The amendments under this subsection are made on, and shall apply beginning upon, the date of the enactment of this Act, and shall apply thereafter, notwithstanding section 203 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437f note) or any other provision of law (including the expiration of the applicability of such section 203 or any repeal of such section 203).

42 USC 1437f  
note.

(b) EXEMPTION OF TENANT-BASED ASSISTANCE FROM CONTRACT PROVISIONS.—Paragraph (9) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(9)), as amended by subsection (a)(1) of this section, is further amended—

(1) by striking “(9)” and inserting “(8)(A)”; and

(2) by striking the third sentence and all that follows and inserting the following:

“(B) In the case of owner who has requested that the Secretary renew the contract, the owner’s notice under subparagraph (A) to the tenants shall include statements that—

“(i) the owner currently has a contract with the Department of Housing and Urban Development that pays the Government’s share of the tenant’s rent and the date on which the contract will expire;

“(ii) the owner intends to renew the contract for another year;

“(iii) renewal of the contract may depend upon the Congress making funds available for such renewal;

“(iv) the owner is required by law to notify tenants of the possibility that the contract may not be renewed if Congress does not provide funding for such renewals;

“(v) in the event of nonrenewal, the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent; and

“(vi) the notice itself does not indicate an intent to terminate the contract by either the owner or the Department of Housing and Urban Development, provided there is Congressional approval of funding availability.

“(C) Notwithstanding the preceding provisions of this paragraph, if the owner agrees to a 5-year contract renewal offered by the Secretary, payments under which shall be subject to the availability of appropriations for any year, the owner shall provide a written notice to the Secretary and the tenants not less than 180 days before the termination of such contract. In the event the owner does not provide the 180-day notice required in the immediately preceding sentence, the owner may not evict the tenants or increase the tenants’ rent payment until such time as the owner has provided the 180-day notice and such period has elapsed. The Secretary may allow the owner to renew the terminating contract for a period of time sufficient to give tenants 180 days of advance notice under such terms and conditions as the Secretary may require.

“(D) Any notice under this paragraph shall also comply with any additional requirements established by the Secretary.

“(E) For purposes of this paragraph, the term ‘termination’ means the expiration of the assistance contract or an owner’s refusal to renew the assistance contract, and such term shall include termination of the contract for business reasons.”.

(c) MULTIFAMILY ASSISTED HOUSING REFORM AND AFFORDABILITY ACT OF 1997.—Section 514(d) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by inserting at the end the following new sentences: ‘In addition, if after giving the notice required in the first sentence, an owner determines to terminate a contract, an owner shall provide an additional written notice with respect to the termination, in a form prescribed by the Secretary, not less than 120 days prior to the termination. In the event the owner does not provide the 120-day notice required in the preceding sentence, the owner may not evict the tenants or increase the tenants’ rent payment until such time as the owner has provided the 120-day notice and such period has elapsed. The Secretary may allow the



owner to renew the terminating contract for a period of time sufficient to give tenants 120 days of advance notice in accordance with section 524 of this Act.”.

**SEC. 550. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) **LOWER INCOME HOUSING ASSISTANCE.**—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(1) in subsection (a), by striking the second and third sentences;

(2) in subsection (b)—

(A) in the subsection heading, by striking “RENTAL CERTIFICATES AND”; and

(B) in the first undesignated paragraph—

(i) by striking “The Secretary” and inserting the following:

“(1) IN GENERAL.—The Secretary”; and

(ii) by striking the second sentence;

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by striking “(A)”; and

(ii) by striking subparagraph (B);

(B) in the first sentence of paragraph (4), by striking “or by a family that qualifies to receive” and all that follows through “1990”;

(C) by striking paragraphs (5) and (7); and

(D) redesignating paragraph (6) as paragraph (5);

(4) in subsection (d)(2)—

(A) in subparagraph (A), by striking the third sentence and all that follows through the end of the subparagraph;

(B) in subparagraph (H), by striking “(H)” and all that follows through “owner” and inserting “(H) An owner”; and

(C) by striking subparagraphs (B) through (E) and redesignating subparagraphs (F) through (H) (as amended by subparagraph (B) of this paragraph) as subparagraphs (B) through (D), respectively;

(5) in subsection (f)(7)—

(A) by striking “(b) or”; and

(B) by inserting before the period the following: “and that provides for the eligible family to select suitable housing and to move to other suitable housing”; and

(6) by striking subsection (j);

(7) by striking subsection (n);

(8) in subsection (u)—

(A) in paragraph (2), by striking “, certificates”; and

(B) by striking “certificates or” each place that term appears; and

(9) in subsection (x)(2), by striking “housing certificate assistance” and inserting “tenant-based assistance”.

(b) **HOPWA GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.**—Section 861(b)(1)(D) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12910(b)(1)(D)) is amended by striking “certificates or vouchers” and inserting “assistance”.

(c) **SECTION 8 CERTIFICATES AND VOUCHERS.**—Section 931 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437c note) is amended by striking “assistance under the certificate and voucher programs under sections 8(b) and (o) of such Act”

and inserting “tenant-based assistance under section 8 of the United States Housing Act of 1937”.

(d) ASSISTANCE FOR DISPLACED RESIDENTS.—Section 223(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 4113(a)) is amended by striking “assistance under the certificate and voucher programs under sections 8(b) and 8(o)” and inserting “tenant-based assistance under section 8”.

(e) RURAL HOUSING PRESERVATION GRANTS.—Section 533(a) of the Housing Act of 1949 (42 U.S.C. 1490m(a)) is amended in the second sentence by striking “assistance payments as provided by section 8(o)” and inserting “tenant-based assistance as provided under section 8”.

(f) REPEAL OF MOVING TO OPPORTUNITIES FOR FAIR HOUSING DEMONSTRATION.—Section 152 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437f note) is repealed.

(g) ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS.—Section 201(m)(2)(A) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(m)(2)(A)) is amended by striking “section 8(b)(1)” and inserting “section 8”.

#### **SEC. 551. FUNDING AND ALLOCATION.**

Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439) is amended—

(1) by striking subsection (c); and

(2) in subsection (d)—

(A) in paragraph (1)(A)—

(i) in clause (i), by adding at the end the following new sentence: “Amounts for tenant-based assistance under section 8(o) of the United States Housing Act of 1937 may not be provided to any public housing agency that has been disqualified from providing such assistance.”; and

(ii) in clause (ii), by striking “8(b)(1)” each place it appears and inserting “8(o)”;

(B) by striking paragraph (2); and

(C) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

#### **SEC. 552. TREATMENT OF COMMON AREAS.**

Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

“(6) TREATMENT OF COMMON AREAS.—The Secretary may not provide any assistance amounts pursuant to an existing contract for project-based assistance under this section for a housing project and may not enter into a new or renewal contract for such assistance for a project unless the owner of the project provides consent, to such local law enforcement agencies as the Secretary determines appropriate, for law enforcement officers of such agencies to enter common areas of the project at any time and without advance notice upon a determination of probable cause by such officers that criminal activity is taking place in such areas.”.

#### **SEC. 553. PORTABILITY.**

Section 8(r) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)) is amended—

(1) in paragraph (2), by striking the last sentence;

(2) in paragraph (3))—

(A) by striking “(b) or”; and

(B) by adding at the end the following: “The Secretary shall establish procedures for the compensation of public housing agencies that issue vouchers to families that move into or out of the jurisdiction of the public housing agency under portability procedures. The Secretary may reserve amounts available for assistance under subsection (o) to compensate those public housing agencies.”;

(3) by striking “(r)” and all that follows through the end of paragraph (1) and inserting the following:

“(r) PORTABILITY.—(1) IN GENERAL.—(A) Any family receiving tenant-based assistance under subsection (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within any area in which a program is being administered under this section.

“(B)(i) Notwithstanding subparagraph (A) and subject to any exceptions established under clause (ii) of this subparagraph, a public housing agency may require that any family not living within the jurisdiction of the public housing agency at the time the family applies for assistance from the agency shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from such agency, lease and occupy an eligible dwelling unit located within the jurisdiction served by the agency.

“(ii) The Secretary may establish such exceptions to the authority of public housing agencies established under clause (i).”; and

(5) by adding at the end the following new paragraph:

“(5) LEASE VIOLATIONS.—A family may not receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has moved out of the assisted dwelling unit of the family in violation of a lease.”.

#### SEC. 554. LEASING TO VOUCHER HOLDERS.

Notwithstanding section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134; 42 U.S.C. 1437f note)), section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by striking subsection (t). This section shall apply beginning upon, and the amendment made by this section is made on, and shall apply beginning upon, the date of the enactment of this Act.

42 USC 1437f  
note.

Applicability.

#### SEC. 555. HOMEOWNERSHIP OPTION.

(a) IN GENERAL.—Section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “A family receiving” and all that follows through “if the family” and inserting the following: “A public housing agency providing tenant-based assistance on behalf of an eligible family under this section may provide assistance for an eligible family that purchases a dwelling unit (including a unit under a lease-purchase agreement) that will

be owned by 1 or more members of the family, and will be occupied by the family, if the family”;

(B) in subparagraph (A), by inserting before the semicolon “, or owns or is acquiring shares in a cooperative”; and

(C) in subparagraph (B)—

(i) by striking “(i) participates” and all that follows through “(ii) demonstrates” and inserting “demonstrates”; and

(ii) by inserting “, except that the Secretary may provide for the consideration of public assistance in the case of an elderly family or a disabled family” after “other than public assistance”;

(2) by striking paragraph (2) and inserting the following new paragraph:

“(2) DETERMINATION OF AMOUNT OF ASSISTANCE.—

“(A) MONTHLY EXPENSES NOT EXCEEDING PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, do not exceed the payment standard, the monthly assistance payment shall be the amount by which the homeownership expenses exceed the highest of the following amounts, rounded to the nearest dollar:

“(i) 30 percent of the monthly adjusted income of the family.

“(ii) 10 percent of the monthly income of the family.

“(iii) If the family is receiving payments for welfare assistance from a public agency, and a portion of those payments, adjusted in accordance with the actual housing costs of the family, is specifically designated by that agency to meet the housing costs of the family, the portion of those payments that is so designated.

“(B) MONTHLY EXPENSES EXCEED PAYMENT STANDARD.—If the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceed the payment standard, the monthly assistance payment shall be the amount by which the applicable payment standard exceeds the highest of the amounts under clauses (i), (ii), and (iii) of subparagraph (A).”;

(3) by striking paragraphs (3), (4), and (5) and inserting the following new paragraphs:

“(3) INSPECTIONS AND CONTRACT CONDITIONS.—

“(A) IN GENERAL.—Each contract for the purchase of a unit to be assisted under this section shall—

“(i) provide for pre-purchase inspection of the unit by an independent professional; and

“(ii) require that any cost of necessary repairs be paid by the seller.

“(B) ANNUAL INSPECTIONS NOT REQUIRED.—The requirement under subsection (o)(8)(A)(ii) for annual inspections shall not apply to units assisted under this section.

“(4) OTHER AUTHORITY OF THE SECRETARY.—The Secretary may—

“(A) limit the term of assistance for a family assisted under this subsection; and

“(B) modify the requirements of this subsection as the Secretary determines to be necessary to make appropriate adaptations for lease-purchase agreements.”; and

(4) by redesignating paragraphs (6), (7) (as previously amended by this Act), and (8) as paragraphs (5), (6), and (7), respectively.

(b) DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—With the consent of the affected public housing agencies, the Secretary may carry out (or contract with 1 or more entities to carry out) a demonstration program under section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) to expand homeownership opportunities for low-income families.

(2) REPORT.—The Secretary shall report annually to Congress on activities conducted under this subsection.

(c) APPLICABILITY.—This section shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

42 USC 1437f  
note.

Effective date.  
42 USC 1437f  
note.

#### SEC. 556. RENEWALS.

(a) IN GENERAL.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

“(dd) TENANT-BASED CONTRACT RENEWALS.—Subject to amounts provided in appropriation Acts, starting in fiscal year 1999, the Secretary shall renew all expiring tenant-based annual contribution contracts under this section by applying an inflation factor based on local or regional factors to an allocation baseline. The allocation baseline shall be calculated by including, at a minimum, amounts sufficient to ensure continued assistance for the actual number of families assisted as of October 1, 1997, with appropriate upward adjustments for incremental assistance and additional families authorized subsequent to that date.”.

(b) IMPLEMENTATION.—The Secretary of Housing and Urban Development shall implement the provision added by the amendment made by subsection (a) through notice, not later than December 31, 1998, and shall issue final regulations which shall be developed pursuant to the procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code, not later than one year after the date of the enactment of this Act.

Notice.  
Deadline.  
Regulations.  
42 USC 1437f  
note.

#### SEC. 557. MANUFACTURED HOUSING DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program during fiscal years 1999, 2000, and 2001 to demonstrate the effectiveness of providing, directly to eligible families that own manufactured homes and rent real property on which their homes are located, tenant-based assistance for the rental of such property that would otherwise be provided directly to the owners of such real property under section 8(o)(12) of the United States Housing Act of 1937.

(b) REQUIREMENTS.—The demonstration program under this section shall be subject to the following requirements:

(1) SCOPE.—The Secretary of Housing and Urban Development shall carry out the demonstration program with respect

to the Housing Authority of the County of San Diego, in California, and the Housing Authority of the City of San Diego, in California.

(2) **ELIGIBLE FAMILIES.**—Under the demonstration program, each public housing agency shall provide tenant-based assistance under section 8(o) of the United States Housing Act of 1937 on behalf of eligible families who rent real property on which their manufactured homes are located and which is owned by an owner who has refused to participate in the section 8 program.

(3) **PARTICIPATION ARRANGEMENTS.**—Each public housing agency participating in the demonstration program shall enter into arrangements with families assisted under the program providing for their participation in the program and may, to the extent authorized by the Secretary, continue to provide assistance in the same manner as under the demonstration program after its conclusion to such participating families.

(4) **WAIVER OF OTHER REQUIREMENTS.**—Under the demonstration program, the Secretary may waive, or specify alternative requirements for, requirements established by or under section 8 of the United States Housing Act of 1937 relating to the provision of assistance under subsection (j) or (o)(12) of such section.

Deadline.

(c) **REPORT.**—Not later than March 31, 2002, the Secretary shall submit a report to the Congress describing and evaluating the demonstration program under this section.

(d) **EFFECTIVE DATE.**—This section shall take effect on the date of the enactment of this Act.

#### **SEC. 558. AUTHORIZATIONS OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There is authorized to be appropriated for providing public housing agencies with tenant-based housing assistance under section 8 of the United States Housing Act of 1937—

(1) to provide amounts for incremental assistance under such section 8—

(A) for each of fiscal years 2000 and 2001, the amount necessary to assist 100,000 incremental dwelling units in each such fiscal year; and

(B) for each of fiscal years 1999, 2002, and 2003, such sums as may be necessary; and

(2) such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003, for—

(A) relocation and replacement housing for units that are demolished and disposed of from the public housing inventory (in addition to other amounts that may be available for such purposes);

(B) relocation of residents of properties that are owned by the Secretary and being disposed of or that are discontinuing section 8 project-based assistance;

(C) the conversion of section 23 projects to assistance under section 8;

(D) carrying out the family unification program;

(E) relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency;

(F) nonelderly disabled families affected by the designation of a public housing development under section

7 of the United States Housing Act of 1937, the establishment of preferences in accordance with section 651 of the Housing and Community Development Act of 1992, or the restriction of occupancy to elderly families in accordance with section 658 of such Act, and to the extent the Secretary determines that such amount is not needed to fund applications for such affected families, to other nonelderly disabled families;

(G) housing vouchers for homeless individuals; and

(H) housing vouchers to compensate public housing agencies which issue vouchers to families that move into or out of the jurisdiction of the agency under portability procedures.

(b) ASSISTANCE FOR DISABLED FAMILIES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, for tenant-based assistance under section 8 of the United States Housing Act of 1937, to be used in accordance with paragraph (2), \$50,000,000 for fiscal year 2000, and such sums as may be necessary for each subsequent fiscal year.

(2) USE.—The Secretary shall provide amounts made available under paragraph (1) to public housing agencies only for use to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 for nonelderly disabled families (including such families relocating pursuant to designation of a public housing development under 7 of such Act or to the establishment of occupancy restrictions in accordance with section 658 of the Housing and Community Development Act of 1992, and other nonelderly disabled families who have applied to the agency for assistance under such section 8).

(3) ALLOCATION OF AMOUNTS.—The Secretary shall allocate and provide amounts made available under paragraph (1) to public housing agencies as the Secretary determines appropriate based on the relative levels of need among the authorities for assistance for families described in paragraph (1).

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

**SEC. 559. RULEMAKING AND IMPLEMENTATION.**

(a) INTERIM REGULATIONS.—The Secretary of Housing and Urban Development shall issue such interim regulations as may be necessary to implement the amendments made by this subtitle and other provisions in this title which relate to section 8(o) of the United States Housing Act of 1937.

(b) FINAL REGULATIONS.—The Secretary shall issue final regulations necessary to implement the amendments made by this subtitle and other provisions in this title which relate to section 8(o) of the United States Housing Act of 1937 not later than 1 year after the date of the enactment of this Act.

(c) FACTORS FOR CONSIDERATION.—Before the publication of the final regulations under subsection (b), in addition to public comments invited in connection with the publication of the interim rule, the Secretary shall—

(1) seek recommendations on the implementation of sections 8(o)(6)(B), 8(o)(7)(B), and 8(o)(10)(D) of the United States Housing Act of 1937 and of renewals of expiring tenant-based assistance from organizations representing—

42 USC 1437f  
note.

Deadline.

Public  
information.

- (A) State or local public housing agencies;
- (B) owners and managers of tenant-based housing assisted under section 8 of the United States Housing Act of 1937;
- (C) families receiving tenant-based assistance under section 8 of the United States Housing Act of 1937; and
- (D) legal service organizations; and

(2) convene not less than 2 public forums at which the persons or organizations making recommendations under paragraph (1) may express views concerning the proposed disposition of the recommendations.

(d) CONVERSION ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide for the conversion of assistance under the certificate and voucher programs under subsections (b) and (o) of section 8 of the United States Housing Act of 1937, as in effect before the applicability of the amendments made by this subtitle, to the voucher program established by the amendments made by this subtitle.

(2) CONTINUED APPLICABILITY.—The Secretary may apply the provisions of the United States Housing Act of 1937, or any other provision of law amended by this subtitle, as those provisions were in effect immediately before the date of the enactment of this Act (except that such provisions shall be subject to any amendments to such provisions that may be contained in title II of this Act), to assistance obligated by the Secretary before October 1, 1999, for the certificate or voucher program under section 8 of the United States Housing Act of 1937, if the Secretary determines that such action is necessary for simplification of program administration, avoidance of hardship, or other good cause.

(e) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

## **Subtitle D—Home Rule Flexible Grant Demonstration**

### **SEC. 561. HOME RULE FLEXIBLE GRANT DEMONSTRATION PROGRAM.**

The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new title:

## **“TITLE IV—HOME RULE FLEXIBLE GRANT DEMONSTRATION**

42 USC 1437bbb. **“SEC. 401. PURPOSE.**

The purpose of this title is to demonstrate the effectiveness of authorizing local governments and municipalities, in coordination with the public housing agencies for such jurisdictions—

“(1) to receive and combine program allocations of covered housing assistance; and

“(2) to design creative approaches for providing and administering Federal housing assistance based on the particular needs of the jurisdictions that—

“(A) provide incentives to low-income families with children whose head of the household is employed, seeking



employment, or preparing for employment by participating in a job training or educational program, or any program that otherwise assists individuals in obtaining employment and attaining economic self-sufficiency;

“(B) reduce costs of Federal housing assistance and achieve greater cost-effectiveness in Federal housing assistance expenditures;

“(C) increase the stock of affordable housing and housing choices for low-income families;

“(D) increase homeownership among low-income families;

“(E) reduce geographic concentration of assisted families;

“(F) reduce homelessness through providing permanent housing solutions;

“(G) improve program management; and

“(H) achieve such other purposes with respect to low-income families, as determined by the participating local governments and municipalities in coordination with the public housing agencies;

**“SEC. 402. FLEXIBLE GRANT PROGRAM.**

42 USC  
1437bbb-1.

“(a) **AUTHORITY AND USE.**—The Secretary shall carry out a demonstration program in accordance with the purposes under section 401 and the provisions of this title. A jurisdiction approved by the Secretary for participation in the program may receive and combine and enter into performance-based contracts for the use of amounts of covered housing assistance, in the manner determined appropriate by the participating jurisdiction, during the period of the jurisdiction’s participation—

“(1) to provide housing assistance and services for low-income families in a manner that facilitates the transition of such families to work;

“(2) to reduce homelessness through providing permanent housing solutions;

“(3) to increase homeownership among low-income families;

or

“(4) for other housing purposes for low-income families determined by the participating jurisdiction.

“(b) **PERIOD OF PARTICIPATION.**—A jurisdiction may participate in the demonstration program under this title for a period consisting of not less than 1 nor more than 5 fiscal years.

“(c) **PARTICIPATING JURISDICTIONS.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), during the 4-year period consisting of fiscal years 1999 through 2002, the Secretary may approve for participation in the program under this title not more than an aggregate of 100 jurisdictions over the entire term of the demonstration program. A jurisdiction that was approved for participation in the demonstration program under this title in a fiscal year and that is continuing such participation in any subsequent fiscal year shall count as a single jurisdiction for purposes of the numerical limitation under this paragraph.

“(2) **EXCLUSION OF HIGH PERFORMING AGENCIES.**—Notwithstanding any other provision of this title other than paragraph

(4) of this subsection, the Secretary may approve for participation in the demonstration program under this title only jurisdictions served by public housing agencies that—

“(A) are not designated as high-performing agencies, pursuant to their most recent scores under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies), as of the time of approval; and

“(B) have a most recent score under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies), as of the time of approval, that is among the lowest 40 percent of the scores of all agencies.

“(3) LIMITATION ON TROUBLED AND NON-TROUBLED PHAS.—Of the jurisdictions approved by the Secretary for participation in the demonstration program under this title—

“(A) not more than 55 may be jurisdictions served by a public housing agency that, at the time of approval, is designated as a troubled agency under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies); and

“(B) not more than 45 may be jurisdictions served by a public housing agency that, at the time of approval, is not designated as a troubled agency under the public housing management assessment program under section 6(j)(2) (or any successor assessment program for public housing agencies).

Indiana.

“(4) EXCEPTION.—If the City of Indianapolis, Indiana submits an application for participation in the program under this title and, upon review of the application under section 406(b), the Secretary determines that such application is approvable under this title, the Secretary shall approve such application, notwithstanding the second sentence of section 406(b)(2). Such City shall count for purposes of the numerical limitations on jurisdictions under paragraphs (1) and (3) of section 402(c), but the provisions of section 402(c)(2) (relating to exclusion of high-performing agencies) shall not apply to such City.

42 USC  
1437bbb-2.

**“SEC. 403. PROGRAM ALLOCATION AND COVERED HOUSING ASSISTANCE.**

“(a) PROGRAM ALLOCATION.—In each fiscal year, the amount made available to each participating jurisdiction under the demonstration program under this title shall be equal to the sum of the amounts of covered housing assistance that would otherwise be made available under the provisions of this Act to the public housing agency for the jurisdiction.

“(b) COVERED HOUSING ASSISTANCE.—For purposes of this title, the term ‘covered housing assistance’ means—

“(1) operating assistance under section 9 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

“(2) modernization assistance under section 14 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

“(3) assistance for the certificate and voucher programs under section 8 (as in effect before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998);

“(4) assistance from the Operating Fund under section 9(e);

“(5) assistance from the Capital Fund under section 9(d); and

“(6) tenant-based assistance under section 8 (as amended by the Quality Housing and Work Responsibility Act of 1998).

**“SEC. 404. APPLICABILITY OF REQUIREMENTS UNDER PROGRAMS FOR COVERED HOUSING ASSISTANCE.**

42 USC  
1437bbb-3.

“(a) IN GENERAL.—In each fiscal year of the demonstration program under this title, amounts made available to a participating jurisdiction under the demonstration program shall be subject to the same terms and conditions as such amounts would be subject to if made available under the provisions of this Act pursuant to which covered housing assistance is otherwise made available under this Act to the public housing agency for the jurisdiction, except that—

“(1) the Secretary may waive any such term or condition identified by the jurisdiction to the extent that the Secretary determines such action to be appropriate to carry out the purposes of the demonstration program under this title; and

“(2) the participating jurisdiction may combine the amounts made available and use the amounts for any activity eligible under the programs under sections 8 and 9.

“(b) NUMBER OF FAMILIES ASSISTED.—In carrying out the demonstration program under this title, each participating jurisdiction shall assist substantially the same total number of eligible low-income families as would have otherwise been served by the public housing agency for the jurisdiction had the jurisdiction not participated in the demonstration program under this title.

“(c) PROTECTION OF RECIPIENTS.—This title may not be construed to authorize the termination of assistance to any recipient receiving assistance under this Act before the date of the enactment of this title as a result of the implementation of the demonstration program under this title.

“(d) EFFECT ON ABILITY TO COMPETE FOR OTHER PROGRAMS.—This title may not be construed to affect the ability of any applying or participating jurisdiction (or a public housing agency for any such jurisdiction) to compete or otherwise apply for or receive assistance under any other housing assistance program administered by the Secretary.

**“SEC. 405. PROGRAM REQUIREMENTS.**

42 USC  
1437bbb-4.

“(a) APPLICABILITY OF CERTAIN PROVISIONS.—Notwithstanding section 404(a)(1), the Secretary may not waive, with respect to any participating jurisdiction, any of the following provisions:

“(1) The first sentence of paragraph (1) of section 3(a) (relating to eligibility of low-income families).

“(2) Section 16 (relating to income eligibility and targeting of assistance).

“(3) Paragraph (2) of section 3(a) (relating to rental payments for public housing families).

“(4) Paragraphs (2) and (3) of section 8(o) (to the extent such paragraphs limit the amount of rent paid by families assisted with tenant-based assistance).

“(5) Section 18 (relating to demolition or disposition of public housing).

“(b) COMPLIANCE WITH ASSISTANCE PLAN.—A participating jurisdiction shall provide assistance using amounts received pursuant to this title in the manner set forth in the plan of the jurisdiction approved by the Secretary under section 406(a)(2).

42 USC  
1437bbb-5.

**“SEC. 406. APPLICATION.**

“(a) IN GENERAL.—The Secretary shall provide for jurisdictions to submit applications for approval to participate in the demonstration program under this title. An application—

“(1) shall be submitted only after the jurisdiction provides for citizen participation through a public hearing and, if appropriate, other means;

“(2) shall include a plan for the provision of housing assistance with amounts received pursuant to this title that—

“(A) is developed by the jurisdiction;

“(B) takes into consideration comments from the public hearing, any other public comments on the proposed program, and comments from current and prospective residents who would be affected; and

“(C) identifies each term or condition for which the jurisdiction is requesting waiver under section 404 (a)(1);

“(3) shall describe how the plan for use of amounts will assist in meeting the purposes of, and be used in accordance with, sections 401 and 402(a), respectively;

“(4) shall propose standards for measuring performance in using assistance provided pursuant to this title based on the performance standards under subsection (b)(4);

“(5) shall propose the length of the period for participation of the jurisdiction in the demonstration program under this title;

“(6) shall—

“(A) in the case of the application of any jurisdiction within whose boundaries are areas subject to any other unit of general local government, include the signed consent of the appropriate executive official of such unit to the application; and

“(B) in the case of the application of a consortia of units of general local government (as provided under section 409(1)(B)), include the signed consent of the appropriate executive officials of each unit included in the consortia;

“(7) shall include information sufficient, in the determination of the Secretary—

“(A) to demonstrate that the jurisdiction has or will have management and administrative capacity sufficient to carry out the plan under paragraph (2), including a demonstration that the applicant has a history of effectively administering amounts provided under other programs of the Department of Housing and Urban Development, such as the community development block grant program, the

HOME investment partnerships program, and the programs for assistance for the homeless under the Stewart B. McKinney Homeless Assistance Act;

“(B) to demonstrate that carrying out the plan will not result in excessive duplication of administrative efforts and costs, particularly with respect to activities performed by public housing agencies operating within the boundaries of the jurisdiction;

“(C) to describe the function and activities to be carried out by such public housing agencies affected by the plan; and

“(D) to demonstrate that the amounts received by the jurisdiction will be maintained separate from other funds available to the jurisdiction and will be used only to carry out the plan;

“(8) shall include information describing how the jurisdiction will make decisions regarding asset management of housing for low-income families under programs for covered housing assistance or assisted with grant amounts under this title;

“(9) shall—

“(A) clearly identify any State or local laws that will affect implementation of the plan under paragraph (2) and any contractual rights and property interests that may be affected by the plan;

“(B) describe how the plan will be carried out with respect to such laws, rights, and interests; and

“(C) contain a legal memorandum sufficient to describe how the plan will comply with such laws and how the plan will be carried out without violating or impairing such rights and interests; and

“(10) shall identify procedures for how the jurisdiction shall return to providing covered assistance for the jurisdiction under the provisions of title I, in the case of determination under subsection (b)(4)(B).

A plan required under paragraph (2) to be included in the application may be contained in a memorandum of agreement or other document executed by a jurisdiction and public housing agency, if such document is submitted together with the application.

“(b) REVIEW, APPROVAL, AND PERFORMANCE STANDARDS.—

“(1) REVIEW.—The Secretary shall review each application for participation in the demonstration program under this title and shall determine and notify the jurisdiction submitting the application, not later than 90 days after its submission, of whether the application is approvable under this title. If the Secretary determines that the application of a jurisdiction is approvable under this title, the Secretary shall provide affected public housing agencies an opportunity to review and to provide written comments on the application for a period of not less than 30 days after notification under the preceding sentence. If the Secretary determines that an application is not approvable under this title, the Secretary shall notify the jurisdiction submitting the application of the reasons for such determination. Upon making a determination of whether an application is approvable or nonapprovable under this title, the Secretary shall make such determination publicly available in writing together with a written statement of the reasons for such determination.

Notification.  
Deadlines.

Public  
information.

“(2) APPROVAL.—The Secretary may approve jurisdictions for participation in the demonstration program under this title, but only from among applications that the Secretary has determined under paragraph are approvable under this title and only in accordance with section 402(c). The Secretary shall base the selection of jurisdictions to approve on the potential success, as evidenced by the application, in—

“(A) achieving the goals set forth in the performance standards under paragraph (4)(A); and

“(B) increasing housing choices for low-income families.

“(3) AGREEMENT.—The Secretary shall offer to enter into an agreement with each jurisdiction approved for participation in the program under this title providing for assistance pursuant to this title for a period in accordance with section 402(b) and incorporating a requirement that the jurisdiction achieve a particular level of performance in each of the areas for which performance standards are established under paragraph (4)(A) of this subsection. If the Secretary and the jurisdiction enter into an agreement, the Secretary shall provide any covered housing assistance for the jurisdiction in the manner authorized under this title. The Secretary may not provide covered housing assistance for a jurisdiction in the manner authorized under this title unless the Secretary and jurisdiction enter into an agreement under this paragraph.

“(4) PERFORMANCE STANDARDS.—

“(A) ESTABLISHMENT.—The Secretary and each participating jurisdiction may collectively establish standards for evaluating the performance of the participating jurisdiction in meeting the purposes under section 401 of this title, which may include standards for—

“(i) moving dependent low-income families to economic self-sufficiency;

“(ii) reducing the per-family cost of providing housing assistance;

“(iii) expanding the stock of affordable housing and housing choices for low-income families;

“(iv) improving program management;

“(v) increasing the number of homeownership opportunities for low-income families;

“(vi) reducing homelessness through providing permanent housing resources;

“(vii) reducing geographic concentration of assisted families; and

“(viii) any other performance goals that the Secretary and the participating jurisdiction may establish.

“(B) FAILURE TO COMPLY.—If, at any time during the participation of a jurisdiction in the program under this title, the Secretary determines that the jurisdiction is not sufficiently meeting, or making progress toward meeting, the levels of performance incorporated into the agreement of the jurisdiction pursuant to subparagraph (A), the Secretary shall terminate the participation of the jurisdiction in the program under this title and require the implementation of the procedures included in the application of the jurisdiction pursuant to subsection (a)(10).

“(5) TROUBLED AGENCIES.—The Secretary may establish requirements for the approval of applications under this section

submitted by public housing agencies designated under section 6(j)(2) as troubled, which may include additional or different criteria determined by the Secretary to be more appropriate for such agencies.

“(c) STATUS OF PHAS.—This title may not be construed to require any change in the legal status of any public housing agency or in any legal relationship between a jurisdiction and a public housing agency as a condition of participation in the program under this title.

“(d) PHA PLANS.—In carrying out this title, the Secretary may provide for a streamlined public housing agency plan and planning process under section 5A for participating jurisdictions.

**“SEC. 407. TRAINING.**

42 USC  
1437bbb-6.

“The Secretary, in consultation with representatives of public and assisted housing interests, may provide training and technical assistance relating to providing assistance under this title and may conduct detailed evaluations of up to 30 jurisdictions for the purpose of identifying replicable program models that are successful at carrying out the purposes of this title.

**“SEC. 408. ACCOUNTABILITY.**

42 USC  
1437bbb-7.

“(a) MAINTENANCE OF RECORDS.—Each participating jurisdiction shall maintain such records as the Secretary may require to—

“(1) document the amounts received by the jurisdiction under this Act and the disposition of such amounts under the demonstration program under this title;

“(2) ensure compliance by the jurisdiction with this title; and

“(3) evaluate the performance of the jurisdiction under the demonstration program under this title.

“(b) REPORTS.—Each participating jurisdiction shall annually submit to the Secretary a report in a form and at a time specified by the Secretary, which shall include—

“(1) documentation of the use of amounts made available to the jurisdiction under this title;

“(2) any information as the Secretary may request to assist the Secretary in evaluating the demonstration program under this title; and

“(3) a description and analysis of the effect of assisted activities in addressing the objectives of the demonstration program under this title.

“(c) ACCESS TO DOCUMENTS BY SECRETARY AND COMPTROLLER GENERAL.—The Secretary and the Comptroller General of the United States, or any duly authorized representative of the Secretary or the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records maintained by a participating jurisdiction that relate to the demonstration program under this title.

“(d) PERFORMANCE REVIEW AND EVALUATION.—

“(1) PERFORMANCE REVIEW.—Based on the performance standards established under section 406(b)(4), the Secretary shall monitor the performance of participating jurisdictions in providing assistance under this title.

“(2) STATUS REPORT.—Not later than 60 days after the conclusion of the second year of the demonstration program under this title, the Secretary shall submit to Congress an

Deadline.

interim report on the status of the demonstration program and the progress each participating jurisdiction in achieving the purposes of the demonstration program under section 401.

42 USC  
1437bbb–8.

**“SEC. 409. DEFINITIONS.**

“For purposes of this title, the following definitions shall apply:

“(1) JURISDICTION.—The term ‘jurisdiction’ means—

“(A) a unit of general local government (as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act) that has boundaries, for purposes of carrying out this title, that—

“(i) wholly contain the area within which a public housing agency is authorized to operate; and

“(ii) do not contain any areas contained within the boundaries of any other participating jurisdiction; and

“(B) a consortia of such units of general local government, organized for purposes of this title.

“(2) PARTICIPATING JURISDICTION.—The term ‘participating jurisdiction’ means, with respect to a period for which such an agreement is made, a jurisdiction that has entered into an agreement under section 406(b)(3) to receive assistance pursuant to this title for such fiscal year.

42 USC  
1437bbb–9.

**“SEC. 410. TERMINATION AND EVALUATION.**

“(a) TERMINATION.—The demonstration program under this title shall terminate not less than 2 and not more than 5 years after the date on which the demonstration program is commenced.

Deadline.  
Reports.

“(b) EVALUATION.—Not later than 6 months after the termination of the demonstration program under this title, the Secretary shall submit to the Congress a final report, which shall include—

“(1) an evaluation the effectiveness of the activities carried out under the demonstration program; and

“(2) any findings and recommendations of the Secretary for any appropriate legislative action.

42 USC 1437bbb  
note.

**“SEC. 411. APPLICABILITY.**

“This title shall take effect on the date of the enactment of the Quality Housing and Work Responsibility Act of 1998.”.

## Subtitle E—Accountability and Oversight of Public Housing Agencies

42 USC 1437d  
note.

**SEC. 563. STUDY OF ALTERNATIVE METHODS FOR EVALUATING PUBLIC HOUSING AGENCIES.**

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall provide under subsection (e) for a study to be conducted to determine the effectiveness of various alternative methods of evaluating the performance of public housing agencies and other providers of federally assisted housing.

(b) PURPOSES.—The purposes of the study under this section shall be—

(1) to identify and examine various methods of evaluating and improving the performance of public housing agencies in



administering public housing and tenant-based rental assistance programs and of other providers of federally assisted housing, which are alternatives to oversight by the Department of Housing and Urban Development; and

(2) to identify specific monitoring and oversight activities currently conducted by the Department of Housing and Urban Development and to evaluate whether such activities should be eliminated, expanded, modified, or transferred to other entities (including governmental and private entities) to increase accuracy and effectiveness and improve monitoring.

(c) EVALUATION OF VARIOUS PERFORMANCE EVALUATION SYSTEMS.—To carry out the purposes under subsection (b), the study under this section shall identify, and analyze the advantages and disadvantages of various methods of regulating and evaluating the performance of public housing agencies and other providers of federally assisted housing, including the following methods:

(1) CURRENT SYSTEM.—The system pursuant to the United States Housing Act of 1937, including the methods and requirements under such system for reporting, auditing, reviewing, sanctioning, and monitoring of such agencies and housing providers and the public housing management assessment program pursuant to section 6(j) of the United States Housing Act of 1937.

(2) ACCREDITATION MODELS.—Various models that are based upon accreditation of such agencies and housing providers, subject to the following requirements:

(A) The study shall identify and analyze various models used in other industries and professions for accreditation and determine the extent of their applicability to the programs for public housing and federally assisted housing.

(B) If any accreditation models are determined to be applicable to the public and federally assisted housing programs, the study shall identify appropriate goals, objectives, and procedures for an accreditation program for such agencies and housing providers.

(C) The study shall evaluate the feasibility and merit of establishing an independent accreditation and evaluation entity to assist, supplement, or replace the role of the Department of Housing and Urban Development in assessing and monitoring the performance of such agencies and housing providers.

(D) The study shall identify the necessary and appropriate roles and responsibilities of various entities that would be involved in an accreditation program, including the Department of Housing and Urban Development, the Inspector General of the Department, an accreditation entity, independent auditors and examiners, local entities, and public housing agencies.

(E) The study shall estimate the costs involved in developing and maintaining such an independent accreditation program.

(3) PERFORMANCE BASED MODELS.—Various performance-based models, including systems that establish performance goals or targets, assess the compliance with such goals or targets, and provide for incentives or sanctions based on performance relative to such goals or targets.

(4) LOCAL REVIEW AND MONITORING MODELS.—Various models providing for local, resident, and community review and monitoring of such agencies and housing providers, including systems for review and monitoring by local and State governmental bodies and agencies.

(5) PRIVATE MODELS.—Various models using private contractors for review and monitoring of such agencies and housing providers.

(6) OTHER MODELS.—Various models of any other systems that may be more effective and efficient in regulating and evaluating such agencies and housing providers.

(d) CONSULTATION.—The entity that, pursuant to subsection (e), carries out the study under this section shall, in carrying out the study, consult with individuals and organizations experienced in managing public housing, private real estate managers, representatives from State and local governments, residents of public housing, families and individuals receiving tenant-based assistance, the Secretary of Housing and Urban Development, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States.

(e) CONTRACT TO CONDUCT STUDY.—

Deadline.

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall enter into a contract, within 90 days of the enactment of this Act, with a public or nonprofit private entity to conduct the study under this section, using amounts made available pursuant to subsection (g).

(2) NATIONAL ACADEMY OF PUBLIC ADMINISTRATION.—The Secretary shall request the National Academy of Public Administration to enter into the contract under paragraph (1) to conduct the study under this section. If such Academy declines to conduct the study, the Secretary shall carry out such paragraph through other public or nonprofit private entities, selected through a competitive process.

Deadlines.

(f) REPORT.—

(1) INTERIM REPORT.—The Secretary shall ensure that, not later than the expiration of the 6-month period beginning on the date of the execution of the contract under subsection (e)(1), the entity conducting the study under this section submits to the Congress an interim report describing the actions taken to carry out the study, the actions to be taken to complete the study, and any findings and recommendations available at the time.

(2) FINAL REPORT.—The Secretary shall ensure that—

(A) not later than the expiration of the 12-month period beginning on the date of the execution of the contract under subsection (e)(1), the study required under this section is completed and a report describing the findings and recommendations as a result of the study is submitted to the Congress; and

(B) before submitting the report under this paragraph to the Congress, the report is submitted to the Secretary, national organizations for public housing agencies, and other appropriate national organizations at such time to provide the Secretary and such agencies an opportunity to review the report and provide written comments on the report, which shall be included together with the report upon submission to the Congress under subparagraph (A).

(g) **EFFECTIVE DATE.**—This section shall take effect on the date of the enactment of this Act.

**SEC. 564. PUBLIC HOUSING MANAGEMENT ASSESSMENT PROGRAM.**

Section 6(j) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)), as amended by the preceding provisions of this Act, is further amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B) and inserting the following new subparagraph:

“(B) The amount and percentage of funds provided to the public housing agency from the Capital Fund under section 9(d) which remain unobligated by the public housing agency after 3 years.”;

(B) in subparagraph (D), by striking “energy” and inserting “utility”;

(C) by transferring and inserting subparagraph (E) after subparagraph (D);

(D) by redesignating subparagraph (H) as subparagraph (K); and

(E) by inserting after subparagraph (G) the following new subparagraphs:

“(H) The extent to which the public housing agency—

“(i) coordinates, promotes, or provides effective programs and activities to promote the economic self-sufficiency of public housing residents; and

“(ii) provides public housing residents with opportunities for involvement in the administration of the public housing.

“(I) The extent to which the public housing agency—

“(i) implements effective screening and eviction policies and other anticrime strategies; and

“(ii) coordinates with local government officials and residents in the project and implementation of such strategies.

“(J) The extent to which the public housing agency is providing acceptable basic housing conditions.”;

(2) in paragraph (2)—

(A) in subparagraph (A)(i)—

(i) by inserting after the first sentence the following: “Such procedures shall provide that an agency that fails on a widespread basis to provide acceptable basic housing conditions for its residents shall be designated as a troubled public housing agency. The Secretary may use a simplified set of indicators for public housing agencies with less than 250 public housing units.”; and

(ii) by striking “under section 14” and inserting “for assistance from the Capital Fund under section 9(d);

(B) in subparagraph (A)(iii), by striking “under section 14” and inserting “for assistance from the Capital Fund under section 9(d);

(C) in subparagraph (B)(i)—

(i) by inserting “with more than 250 units” after “public housing agency”; and

(ii) by striking “review conducted under section 14(p)” and inserting “comparable and recent review”; and

(D) in the first sentence of subparagraph (C), by inserting “(if applicable)” after “subparagraph (B)”;

(3) in paragraph (5)(F), as so redesignated by the preceding provisions of this Act, by striking “program under section 14” and all that follows and inserting “program for assistance from the Capital Fund under section 9(d) and specifies the amount of assistance the agency received under such program.”; and

(4) by adding at the end the following new paragraphs:

“(6)(A) To the extent that the Secretary determines such action to be necessary in order to ensure the accuracy of any certification made under this section, the Secretary shall require an independent auditor to review documentation or other information maintained by a public housing agency pursuant to this section to substantiate each certification submitted by the agency or corporation relating to the performance of that agency or corporation.

“(B) The Secretary may withhold, from assistance otherwise payable to the agency or corporation under section 9, amounts sufficient to pay for the reasonable costs of any review under this paragraph.

Applicability.

“(7) The Secretary shall apply the provisions of this subsection to resident management corporations in the same manner as applied to public housing agencies.”.

**SEC. 565. EXPANSION OF POWERS FOR DEALING WITH PUBLIC HOUSING AGENCIES IN SUBSTANTIAL DEFAULT.**

(a) IN GENERAL.—Section 6(j)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking clause (i) and inserting the following new clause:

“(i) solicit competitive proposals from other public housing agencies and private housing management agents which (I) in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary, and (II) if appropriate, shall provide for such agents to manage all, or part, of the housing administered by the public housing agency or all or part of the other programs of the agency;”;

(B) in clause (iii), by striking “under section 14” and inserting “from the Capital Fund under section 9(d)”;

(C) by striking clause (iv) and inserting the following new clauses:

“(iv) take possession of all or part of the public housing agency, including all or part of any project or program of the agency, including any project or program under any other provision of this title; and

“(v) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and families assisted under section 8 for managing all, or part, of the public housing administered by the agency or of the programs of the agency.”; and

(2) by striking subparagraphs (B) through (D) and inserting the following new subparagraphs:

“(B)(i) If a public housing agency is identified as troubled under this subsection, the Secretary shall notify the agency of the troubled status of the agency.

Notification.

“(ii)(I) Upon the expiration of the 1-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), by at least 50 percent of the difference between the most recent performance measurement and the measurement necessary to remove that agency’s designation as troubled.

“(II) Upon the expiration of the 2-year period beginning on the later of the date on which the agency receives initial notice from the Secretary of the troubled status of the agency under clause (i) and the date of the enactment of the Quality Housing and Work Responsibility Act of 1998, the agency shall improve its performance, as measured by the performance indicators established pursuant to paragraph (1), such that the agency is no longer designated as troubled.

“(III) In the event that a public housing agency designated as troubled under this subsection fails to comply with the requirements set forth in subclause (I) or (II), the Secretary shall—

“(aa) in the case of a troubled public housing agency with 1,250 or more units, petition for the appointment of a receiver pursuant to subparagraph (A)(ii); or

“(bb) in the case of a troubled public housing agency with fewer than 1,250 units, either petition for the appointment of a receiver pursuant to subparagraph (A)(ii), or take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

This subparagraph shall not be construed to limit the courses of action available to the Secretary under subparagraph (A).

“(IV) During the period between the date on which a petition is filed under subclause (III)(aa) and the date on which a receiver assumes responsibility for the management of the public housing agency under such subclause, the Secretary may take possession of the public housing agency (including all or part of any project or program of the agency) pursuant to subparagraph (A)(iv) and may appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the responsibilities of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency).

“(C) If a receiver is appointed pursuant to subparagraph (A)(ii), in addition to the powers accorded by the court appointing the receiver, the receiver—

“(i) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the receiver’s written determination (which shall include the basis for such determination), substantially impedes correction

of the substantial default, but only after the receiver determines that reasonable efforts to renegotiate such contract have failed;

“(ii) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported non-profit entities;

“(iii) if determined to be appropriate by the Secretary, may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

“(iv) if determined to be appropriate by the Secretary, may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies; and

“(v) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the receiver’s written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default.

“(D)(i) If, pursuant to subparagraph (A)(iv), the Secretary takes possession of all or part of the public housing agency, including all or part of any project or program of the agency, the Secretary—

“(I) may abrogate any contract to which the United States or an agency of the United States is not a party that, in the written determination of the Secretary (which shall include the basis for such determination), substantially impedes correction of the substantial default, but only after the Secretary determines that reasonable efforts to renegotiate such contract have failed;

“(II) may demolish and dispose of all or part of the assets of the public housing agency (including all or part of any project of the agency) in accordance with section 18, including disposition by transfer of properties to resident-supported non-profit entities;

“(III) may seek the establishment, as permitted by applicable State and local law, of 1 or more new public housing agencies;

“(IV) may seek consolidation of all or part of the agency (including all or part of any project or program of the agency), as permitted by applicable State and local laws, into other well-managed public housing agencies with the consent of such well-managed agencies;

“(V) shall not be required to comply with any State or local law relating to civil service requirements, employee rights (except civil rights), procurement, or financial or administrative controls that, in the Secretary’s written determination (which shall include the basis for such determination), substantially impedes correction of the substantial default; and

“(VI) shall, without any action by a district court of the United States, have such additional authority as a district court of the United States would have the authority to confer upon a receiver to achieve the purposes of the receivership.

“(ii) If, pursuant to subparagraph (B)(ii)(III)(bb), the Secretary appoints an administrative receiver to assume the responsibilities

of the Secretary for the administration of all or part of the public housing agency (including all or part of any project or program of the agency), the Secretary may delegate to the administrative receiver any or all of the powers given the Secretary by this subparagraph, as the Secretary determines to be appropriate and subject to clause (iii).

“(iii) An administrative receiver may not take an action described in subclause (III) or (IV) of clause (i) unless the Secretary first approves an application by the administrative receiver to authorize such action.

“(E) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as the Secretary determines in the discretion of the Secretary is necessary and available to remedy the substantial deterioration of living conditions in individual public housing projects or other related emergencies that endanger the health, safety, and welfare of public housing residents or families assisted under section 8. A decision made by the Secretary under this paragraph shall not be subject to review in any court of the United States, or in any court of any State, territory, or possession of the United States.

“(F) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of all or part of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another public housing agency, a private management corporation, or any other person or appropriate entity. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

“(G) The appointment of a receiver pursuant to this paragraph may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the public housing agency is capable again of discharging its duties.

“(H) If the Secretary (or an administrative receiver appointed by the Secretary) takes possession of a public housing agency (including all or part of any project or program of the agency), or if a receiver is appointed by a court, the Secretary or receiver shall be deemed to be acting not in the official capacity of that person or entity, but rather in the capacity of the public housing agency, and any liability incurred, regardless of whether the incident giving rise to that liability occurred while the Secretary or receiver was in possession of all or part of the public housing agency (including all or part of any project or program of the agency), shall be the liability of the public housing agency.”.

(b) APPLICABILITY.—The provisions of, and duties and authorities conferred or confirmed by, the amendments made by subsection (a) shall apply with respect to any action taken before, on, or after the effective date of this Act and shall apply to any receiver appointed for a public housing agency before the date of the enactment of this Act.

42 USC 1437d  
note.

(c) TECHNICAL CORRECTION REGARDING APPLICABILITY TO SECTION 8.—Section 8(h) of the United States Housing Act of 1937 is amended by inserting “(except as provided in section 6(j)(3))” after “section 6”.

42 USC 1437f.

42 USC 1437d  
note.

(d) IMPLEMENTATION.—The Secretary may administer the amendments made by subsection (a) as necessary to ensure the efficient and effective initial implementation of this section.

42 USC 1437d  
note.

(e) APPLICABILITY.—This section shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

#### **SEC. 566. AUDITS.**

42 USC 1437c.

Section 5 of the United States Housing Act of 1937 (42 U.S.C. 1437d), as amended by the preceding provisions of this Act, is further amended by inserting after subsection (g) the following new subsection:

“(h) AUDITS.—

“(1) BY SECRETARY AND COMPTROLLER GENERAL.—Each contract for contributions for any assistance under this Act to a public housing agency shall provide that the Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, papers, and records of the public housing agency that are pertinent to this Act and to its operations with respect to financial assistance under the this Act.

“(2) WITHHOLDING OF AMOUNTS FOR AUDITS UNDER SINGLE AUDIT ACT.—The Secretary may, in the sole discretion of the Secretary, arrange for and pay the costs of an audit required under chapter 75 of title 31, United States Code. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this Act, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency’s books and records in auditable condition. As agreed to by the Secretary and the Inspector General, the Inspector General may arrange for an audit under this paragraph.”.

#### **SEC. 567. ADVISORY COUNCIL FOR HOUSING AUTHORITY OF NEW ORLEANS.**

(a) ESTABLISHMENT.—The Secretary and the Housing Authority of New Orleans (in this section referred to as the “Housing Authority”) shall, pursuant to the cooperative endeavor agreement in effect between the Secretary and the Housing Authority, establish an advisory council for the Housing Authority of New Orleans (in this section referred to as the “advisory council”) that complies with the requirements of this section.

(b) MEMBERSHIP.—

Deadline.

(1) IN GENERAL.—The advisory council shall be appointed by the Secretary, not later than 90 days after the date of the enactment of this Act, and shall be composed of the following members:

(A) The Inspector General of the Department of Housing and Urban Development (or the Inspector General’s designee).

(B) Not more than 7 other members, who shall be selected for appointment based on their experience in successfully reforming troubled public housing agencies or in providing affordable housing in coordination with State



and local governments, the private sector, affordable housing residents, or local nonprofit organizations.

(2) PROHIBITION ON ADDITIONAL PAY.—Members of the advisory council shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board using amounts made available for technical assistance under section 9(h) of the United States Housing Act of 1937 (as amended by this Act).

(c) FUNCTIONS.—The advisory council shall—

(1) establish standards and guidelines for assessing the performance of the Housing Authority in carrying out operational, asset management, and financial functions for purposes of the reports and finding under subsections (d) and (e), respectively;

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(2) provide advice, expertise, and recommendations to the Housing Authority regarding the management, operation, repair, redevelopment, revitalization, demolition, and disposition of public housing projects of the Housing Authority;

(3) report to the Congress under subsection (d) regarding any progress of the Housing Authority in improving the performance of its functions; and

Reports.

(4) make a final finding to the Congress under subsection (e) regarding the future of the Housing Authority.

(d) QUARTERLY REPORTS.—The advisory council shall report to the Congress and the Secretary not less than every 3 months regarding the performance of the Housing Authority and any progress of the authority in improving its performance and carrying out its functions.

(e) FINAL FINDING.—Upon the expiration of the 18-month period that begins upon the appointment under subsection (b)(1) of all members of the advisory council, the advisory council shall make and submit to the Congress and the Secretary a finding of whether the Housing Authority has substantially improved its performance, the performance of its functions, and the overall condition of the Authority such that the Authority should be allowed to continue to operate as the manager of the public housing of the Authority. In making the finding under this subsection, the advisory council shall consider whether the Housing Authority has made sufficient progress in the demolition and revitalization of the Desire Homes project, the revitalization of the St. Thomas Homes project, the appropriate allocation of operating subsidy amounts, and the appropriate expending of modernization amounts.

(f) RECEIVERSHIP.—If the advisory council finds under subsection (e) that the Housing Authority has not substantially improved its performance in a manner sufficient that the Authority should be allowed to continue to operate as the manager of the public housing of the Authority, the Secretary shall (notwithstanding the conditions required under section 6(j)(3)(A) of the United States Housing Act of 1937 for action under such section) petition under clause (ii) of section 6(j)(3)(A) for the appointment of a receiver for the Housing Authority, which receivership shall be subject to the provisions of such section.

(g) REGULAR REMEDIES.—Nothing in this section, or in the cooperative endeavor agreement in effect between the Secretary and the Housing Authority, may be construed to prevent the Secretary from taking any action with respect to the Housing Authority,

in accordance with such section 6(j)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)), as amended by this Act, that is authorized under section.

(f) **EFFECTIVE DATE.**—This section shall take effect on the date of the enactment of this Act.

**SEC. 568. TREATMENT OF TROUBLED PHA'S.**

Section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is amended by adding at the end the following new subsection:

“(g) **TREATMENT OF TROUBLED PUBLIC HOUSING AGENCIES.**—

“(1) **EFFECT OF TROUBLED STATUS ON CHAS.**—The comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the State or unit of general local government in which any troubled public housing agency is located shall not be considered to comply with the requirements under this section unless such plan includes a description of the manner in which the State or unit will provide financial or other assistance to such troubled agency in improving its operations to remove such designation.

“(2) **DEFINITION.**—For purposes of this subsection, the term ‘troubled public housing agency’ means a public housing agency that, upon the effective date of the Quality Housing and Work Responsibility Act of 1998, is designated under section 6(j)(2) of the United States Housing Act of 1937 as a troubled public housing agency.”.

## **Subtitle F—Safety and Security in Public and Assisted Housing**

**SEC. 575. PROVISIONS APPLICABLE ONLY TO PUBLIC HOUSING AND SECTION 8 ASSISTANCE.**

(a) **DRUG-RELATED AND CRIMINAL ACTIVITY UNDER PUBLIC HOUSING GRIEVANCE PROCEDURE.**—Section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) is amended, in the matter following paragraph (6)—

(1) by inserting “violent or” before “drug-related”; and

(2) by inserting “or any activity resulting in a felony conviction,” after “on or off such premises,”.

(b) **TERMINATION OF TENANCY IN PUBLIC HOUSING.**—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) in paragraph (4) (as so redesignated by the preceding provisions of this Act)—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

“(A) a reasonable period of time, but not to exceed 30 days—

“(i) if the health or safety of other tenants, public housing agency employees, or persons residing in the immediate vicinity of the premises is threatened; or

“(ii) in the event of any drug-related or violent criminal activity or any felony conviction;”;

(B) in subparagraph (C), by inserting before the semicolon at the end the following: “, except that if a State

or local law provides for a shorter period of time, such shorter period shall apply”;

(2) in paragraph (7) (as so redesignated by the preceding provisions of this Act), by striking “and” at the end;

(4) by inserting after paragraph (7) (as so redesignated by the preceding provisions of this Act), the following new paragraph:

“(7) provide that any occupancy in violation of section 576(b) of the Quality Housing and Work Responsibility Act of 1998 (relating to ineligibility of illegal drug users and alcohol abusers) or the furnishing of any false or misleading information pursuant to section 577 of such Act (relating to termination of tenancy and assistance for illegal drug users and alcohol abusers) shall be cause for termination of tenancy;”.

(c) AVAILABILITY OF CRIMINAL RECORDS FOR TENANT SCREENING AND EVICTION.—Section 6(q) of the United States Housing Act of 1937 (42 U.S.C. 1437d(q)(1)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking “subparagraph (B)” and inserting “subparagraph (C)”; and

(ii) by striking “public housing” and inserting “covered housing assistance”;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

“(B) REQUESTS BY OWNERS OF PROJECT-BASED SECTION 8 HOUSING.—A public housing agency may make a request under subparagraph (A) for information regarding applicants for, or tenants of, housing that is provided project-based assistance under section 8 only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency obtain such information on behalf of the owner. Upon such a request by the owner, the agency shall make a request under subparagraph (A) for the information. The agency may not make such information available to the owner but shall perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner.”;

(2) in paragraph (3)—

(A) by striking “FEE” and inserting “FEES”; and

(B) by adding at the end the following new sentence:

“In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pass such fee on to the owner initiating the request and may charge additional reasonable fees for making the request on behalf of the owner and taking other actions for owners under this subsection.”;

(3) by striking paragraph (5) and inserting the following new paragraph:

“(8) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) ADULT.—The term ‘adult’ means a person who is 18 years of age or older, or who has been convicted

of a crime as an adult under any Federal, State, or tribal law.

“(B) COVERED HOUSING ASSISTANCE.—The term ‘covered housing assistance’ means—

“(i) a dwelling unit in public housing;

“(ii) a dwelling unit in housing that is provided project-based assistance under section 8, including new construction and substantial rehabilitation projects; and

“(iii) tenant-based assistance under section 8.

“(C) OWNER.—The term ‘owner’ means, with respect to covered housing assistance described in subparagraph (B)(ii), the entity or private person (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in the housing assisted.”; and (4) by inserting after paragraph (4) the following new paragraphs:

“(5) CONFIDENTIALITY.—A public housing agency receiving information under this subsection may use such information only for the purposes provided in this subsection and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the agency and who has a job-related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this subsection to a public housing agency is used, and confidentiality of such information is maintained, as required under this subsection. The Secretary shall establish standards for confidentiality of information obtained under this subsection by public housing agencies on behalf of owners.

“(6) PENALTY.—Any person who knowingly and willfully requests or obtains any information concerning an applicant for, or tenant of, covered housing assistance pursuant to the authority under this subsection under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. The term ‘person’ as used in this paragraph include an officer, employee, or authorized representative of any public housing agency.

“(7) CIVIL ACTION.—Any applicant for, or tenant of, covered housing assistance affected by (A) a negligent or knowing disclosure of information referred to in this subsection about such person by an officer, employee, or authorized representative of any public housing agency, which disclosure is not authorized by this subsection, or (B) any other negligent or knowing action that is inconsistent with this subsection, may bring a civil action for damages and such other relief as may be appropriate against any public housing agency responsible for such unauthorized action. The district court of the United States in the district in which the affected applicant or tenant resides, in which such unauthorized action occurred, or in which the officer, employee, or representative alleged to be responsible for any such unauthorized action resides, shall have jurisdiction

Regulations.

Courts.

in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs."

(d) **AUTHORITY TO REQUIRE ACCESS TO CRIMINAL RECORDS.**—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(t) **AUTHORITY TO REQUIRE ACCESS TO CRIMINAL RECORDS.**—A public housing agency may require, as a condition of providing admission to the public housing program or assisted housing program under the jurisdiction of the public housing agency, that each adult member of the household provide a signed, written authorization for the public housing agency to obtain records described in subsection (q)(1) regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies."

(e) **OBTAINING INFORMATION FROM DRUG ABUSE TREATMENT FACILITIES.**—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(u) **OBTAINING INFORMATION FROM DRUG ABUSE TREATMENT FACILITIES.**—

"(1) **AUTHORITY.**—Notwithstanding any other provision of law other than the Public Health Service Act (42 U.S.C. 201 et seq.), a public housing agency may require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the agency to receive information from a drug abuse treatment facility that is solely related to whether the applicant is currently engaging in the illegal use of a controlled substance.

"(2) **CONFIDENTIALITY OF APPLICANT'S RECORDS.**—

"(A) **LIMITATION ON INFORMATION REQUESTED.**—In a form of written consent, a public housing agency may request only whether the drug abuse treatment facility has reasonable cause to believe that the applicant is currently engaging in the illegal use of a controlled substance.

"(B) **RECORDS MANAGEMENT.**—Each public housing agency that receives information under this subsection from a drug abuse treatment facility shall establish and implement a system of records management that ensures that any information received by the public housing agency under this subsection—

"(i) is maintained confidentially in accordance with section 543 of the Public Health Service Act (42 U.S.C. 290dd-2);

"(ii) is not misused or improperly disseminated; and

"(iii) is destroyed, as applicable—

"(I) not later than 5 business days after the date on which the public housing agency gives final approval for an application for admission; or

"(II) if the public housing agency denies the application for admission, in a timely manner after the date on which the statute of limitations for the commencement of a civil action from the

applicant based upon that denial of admission has expired.

“(C) EXPIRATION OF WRITTEN CONSENT.—In addition to the requirements of subparagraph (B), an applicant’s signed written consent shall expire automatically after the public housing agency has made a final decision to either approve or deny the applicant’s application for admittance to public housing.

“(3) PROHIBITION OF DISCRIMINATORY TREATMENT OF APPLICANTS.—

“(A) FORMS SIGNED.—A public housing agency may only require an applicant for admission to public housing to sign one or more forms of written consent under this subsection if the public housing agency requires all such applicants to sign the same form or forms of written consent.

“(B) CIRCUMSTANCES OF INQUIRY.—A public housing agency may only make an inquiry to a drug abuse treatment facility under this subsection if—

“(i) the public housing agency makes the same inquiry with respect to all applicants; or

“(ii) the public housing agency only makes the same inquiry with respect to each and every applicant with respect to whom—

“(I) the public housing agency receives information from the criminal record of the applicant that indicates evidence of a prior arrest or conviction; or

“(II) the public housing agency receives information from the records of prior tenancy of the applicant that demonstrates that the applicant—

“(aa) engaged in the destruction of property;

“(bb) engaged in violent activity against another person; or

“(cc) interfered with the right of peaceful enjoyment of the premises of another tenant.

“(4) FEE PERMITTED.—A drug abuse treatment facility may charge a public housing agency a reasonable fee for information provided under this subsection.

“(5) DISCLOSURE PERMITTED BY TREATMENT FACILITIES.—A drug abuse treatment facility shall not be liable for damages based on any information required to be disclosed pursuant to this subsection if such disclosure is consistent with section 543 of the Public Health Service Act (42 U.S.C. 290dd-2).

“(6) OPTION TO NOT REQUEST INFORMATION.—A public housing agency shall not be liable for damages based on its decision not to require each person who applies for admission to public housing to sign one or more forms of written consent authorizing the public housing agency to receive information from a drug abuse treatment facility under this subsection.

“(7) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) DRUG ABUSE TREATMENT FACILITY.—The term ‘drug abuse treatment facility’ means an entity that—

“(i) is—

“(I) an identified unit within a general medical care facility; or

“(II) an entity other than a general medical care facility; and

“(ii) holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal use of a controlled substance.

“(B) CONTROLLED SUBSTANCE.—The term ‘controlled substance’ has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

“(C) CURRENTLY ENGAGING IN THE ILLEGAL USE OF A CONTROLLED SUBSTANCE.—The term ‘currently engaging in the illegal use of a controlled substance’ means the illegal use of a controlled substance that occurred recently enough to justify a reasonable belief that an applicant’s illegal use of a controlled substance is current or that continuing illegal use of a controlled substance by the applicant is a real and ongoing problem.

“(8) EFFECTIVE DATE.—This subsection shall take effect upon enactment and without the necessity of guidance from, or any regulation issued by, the Secretary.”.

**SEC. 576. SCREENING OF APPLICANTS FOR FEDERALLY ASSISTED HOUSING.** 42 USC 13661.

(a) INELIGIBILITY BECAUSE OF EVICTION FOR DRUG CRIMES.—Any tenant evicted from federally assisted housing by reason of drug-related criminal activity (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))) shall not be eligible for federally assisted housing during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the public housing agency (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist).

(b) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing, as determined by the Secretary, shall establish standards that prohibit admission to the program or admission to federally assisted housing for any household with a member—

(A) who the public housing agency or owner determines is illegally using a controlled substance; or

(B) with respect to whom the public housing agency or owner determines that it has reasonable cause to believe that such household member’s illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(2) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to paragraph (1)(B), to deny admission to the program or federally assisted housing to any household based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, a public housing agency or an owner may consider whether such household member—

(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

(c) **AUTHORITY TO DENY ADMISSION TO CRIMINAL OFFENDERS.**—Except as provided in subsections (a) and (b) of this section and in addition to any other authority to screen applicants, in selecting among applicants for admission to the program or to federally assisted housing, if the public housing agency or owner of such housing (as applicable) determines that an applicant or any member of the applicant's household is or was, during a reasonable time preceding the date when the applicant household would otherwise be selected for admission, engaged in any drug-related or violent criminal activity or other criminal activity which would adversely affect the health, safety, or right to peaceful enjoyment of the premises by other residents, the owner, or public housing agency employees, the public housing agency or owner may—

(1) deny such applicant admission to the program or to federally assisted housing; and

(2) after the expiration of the reasonable period beginning upon such activity, require the applicant, as a condition of admission to the program or to federally assisted housing, to submit to the public housing agency or owner evidence sufficient (as the Secretary shall by regulation provide) to ensure that the individual or individuals in the applicant's household who engaged in criminal activity for which denial was made under paragraph (1) have not engaged in any criminal activity during such reasonable period.

(d) **CONFORMING AMENDMENTS.**—The United States Housing Act of 1937 is amended—

42 USC 1437d.

(1) in section 6—

(A) by striking subsection (r); and

(B) by redesignating subsections (s), (t), and (u) (as added by the preceding provisions of this Act) as subsections (r), (s), and (t), respectively; and

(2) in section 16 (42 U.S.C. 1437n), by striking subsection

(e).

42 USC 13662.

**SEC. 577. TERMINATION OF TENANCY AND ASSISTANCE FOR ILLEGAL DRUG USERS AND ALCOHOL ABUSERS IN FEDERALLY ASSISTED HOUSING.**

Standards.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, a public housing agency or an owner of federally assisted housing (as applicable), shall establish standards or lease provisions for continued assistance or occupancy in federally assisted housing that allow the agency or owner (as applicable) to terminate the tenancy or assistance for any household with a member—

(1) who the public housing agency or owner determines is illegally using a controlled substance; or



(2) whose illegal use (or pattern of illegal use) of a controlled substance, or whose abuse (or pattern of abuse) of alcohol, is determined by the public housing agency or owner to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

(b) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to subsection (a)(2), to terminate tenancy or assistance to any household based on a pattern of illegal use of a controlled substance or a pattern of abuse of alcohol by a household member, a public housing agency or an owner may consider whether such household member—

(1) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(2) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(3) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

**SEC. 578. INELIGIBILITY OF DANGEROUS SEX OFFENDERS FOR ADMISSION TO PUBLIC HOUSING.**

42 USC 13663.

(a) IN GENERAL.—Notwithstanding any other provision of law, an owner of federally assisted housing shall prohibit admission to such housing for any household that includes any individual who is subject to a lifetime registration requirement under a State sex offender registration program.

(b) OBTAINING INFORMATION.—As provided in regulations issued by the Secretary to carry out this section—

(1) a public housing agency shall carry out criminal history background checks on applicants for federally assisted housing and make further inquiry with State and local agencies as necessary to determine whether an applicant for federally assisted housing is subject to a lifetime registration requirement under a State sex offender registration program; and

(2) State and local agencies responsible for the collection or maintenance of criminal history record information or information on persons required to register as sex offenders shall comply with requests of public housing agencies for information pursuant to this section.

(c) REQUESTS BY OWNERS FOR PHA'S TO OBTAIN INFORMATION.—A public housing agency may take any action under subsection (b) regarding applicants for, or tenants of, federally assisted housing other than federally assisted housing described in subparagraph (A) or (B) of section 579(a)(2), but only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency take such action on behalf of the owner. Upon such a request by the owner, the agency shall take the action requested under subsection (b). The agency may not make any information obtained pursuant to the action under subsection (b) available to the owner but shall perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner.

Records.

(d) **OPPORTUNITY TO DISPUTE.**—Before an adverse action is taken with respect to an applicant for federally assisted housing on the basis that an individual is subject to a lifetime registration requirement under a State sex offender registration program, the public housing agency obtaining the record shall provide the tenant or applicant with a copy of the registration information and an opportunity to dispute the accuracy and relevance of that information.

(e) **FEE.**—A public housing agency may be charged a reasonable fee for taking actions under subsection (b). In the case of a public housing agency taking actions on behalf of another owner of federally assisted housing pursuant to subsection (c), the agency may pass such fee on to the owner making the request and may charge an additional reasonable fee for making the request on behalf of the owner.

(f) **RECORDS MANAGEMENT.**—Each public housing agency shall establish and implement a system of records management that ensures that any criminal record or information regarding a lifetime registration requirement under a State sex offender registration program that is obtained under this section by the public housing agency is—

- (1) maintained confidentially;
- (2) not misused or improperly disseminated; and
- (3) destroyed, once the purpose for which the record was requested has been accomplished.

42 USC 13664.

**SEC. 579. DEFINITIONS.**

(a) **DEFINITIONS.**—For purposes of this subtitle, the following definitions shall apply:

(1) **DRUG-RELATED CRIMINAL ACTIVITY.**—The term “drug-related criminal activity” has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(2) **FEDERALLY ASSISTED HOUSING.**—The term “federally assisted housing” means a dwelling unit—

(A) in public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a));

(B) assisted with tenant-based assistance under section 8 of the United States Housing Act of 1937;

(C) in housing that is provided project-based assistance under section 8 of the United States Housing Act of 1937, including new construction and substantial rehabilitation projects;

(D) in housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

(E) in housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzalez National Affordable Housing Act;

(F) in housing that is assisted under section 811 of the Cranston-Gonzalez National Affordable Housing Act;

(G) in housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(H) in housing insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

(I) in housing assisted under section 514 or 515 of the Housing Act of 1949.

(3) OWNER.—The term “owner” means, with respect to federally assisted housing, the entity or private person (including a cooperative or public housing agency) that has the legal right to lease or sublease dwelling units in such housing.

## Subtitle G—Repeals and Related Provisions

### SEC. 581. ANNUAL REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to the Congress on—

(1) the impact of the amendments made by this Act on—

(A) the demographics of public housing residents and families receiving tenant-based assistance under the United States Housing Act of 1937; and

(B) the economic viability of public housing agencies; and

(2) the effectiveness of the rent policies established by this Act and the amendments made by this Act on the employment status and earned income of public housing residents.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

42 USC 1437  
note.  
Deadline.

### SEC. 582. REPEALS RELATING TO PUBLIC HOUSING AND SECTION 8 PROGRAMS.

(a) IN GENERAL.—The following provisions of law are hereby repealed:

(1) PUBLIC HOUSING RENT WAIVERS FOR POLICE.—Section 519 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437a-1).

(2) TREATMENT OF CERTIFICATE AND VOUCHER HOLDERS.—Subsection (c) of section 183 of the Housing and Community Development Act of 1987 (42 U.S.C. 1437f note).

(3) REPORT REGARDING FAIR HOUSING OBJECTIVES.—Section 153 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437f note).

(4) MISCELLANEOUS PROVISIONS.—Subsections (b)(1) and (c) of section 326 of the Housing and Community Development Amendments of 1981 (Public Law 97-35, 95 Stat. 406; 42 U.S.C. 1437f note).

(5) PAYMENT FOR DEVELOPMENT MANAGERS.—Section 329A of the Housing and Community Development Amendments of 1981 (42 U.S.C. 1437j-1).

(6) PUBLIC HOUSING CHILDHOOD DEVELOPMENT.—Section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note).

(7) INDIAN HOUSING CHILDHOOD DEVELOPMENT.—Section 518 of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z-6 note).

(8) PUBLIC HOUSING COMPREHENSIVE TRANSITION DEMONSTRATION.—Section 126 of the Housing and Community Development Act of 1987 (42 U.S.C. 1437f note).

(9) PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.—Section 521 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437t note).

(10) PUBLIC HOUSING MINCS DEMONSTRATION.—Section 522 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note).

(11) PUBLIC HOUSING ENERGY EFFICIENCY DEMONSTRATION.—Section 523 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437g note).

(12) OMAHA HOMEOWNERSHIP DEMONSTRATION.—Section 132 of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3712).

(13) PUBLIC AND ASSISTED HOUSING YOUTH SPORTS PROGRAMS.—Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a).

(14) MULTIFAMILY FINANCING.—The penultimate sentence of section 302(b)(2) of the National Housing Act (12 U.S.C. 1717(b)(2)) and the penultimate sentence of section 305(a)(2) of the Emergency Home Finance Act of 1970 (12 U.S.C. 1454(a)(2)).

(15) SPECIAL PROJECTS FOR ELDERLY OR HANDICAPPED FAMILIES.—Section 209 of the Housing and Community Development Act of 1974 (42 U.S.C. 1438).

12 USC 1454  
note.

(b) SAVINGS PROVISION.—Except to the extent otherwise provided in this Act, the repeals made by subsection (a) shall not affect any legally binding obligations entered into before the effective date under section 503(a) of this Act.

#### SEC. 583. PUBLIC HOUSING FLEXIBILITY IN CHAS.

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by transferring and inserting the flush material that precedes the first paragraph that is designated as (17) (relating to abbreviated housing strategies and consisting of 2 sentences) to the end of the subsection (following the last numbered paragraph);

(2) by redesignating the second paragraph that is designated as paragraph (17) (as added by section 681(2) of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3830)) as paragraph (20);

(3) by redesignating paragraph (17) (as added by section 220(b)(3) of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3761)) as paragraph (19);

(4) in the second paragraph designated as paragraph (16) (as so designated by section 220(c)(1) of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3762))—

(A) by striking “and” at the end; and

(B) by striking “(16)” and inserting “(18)”;

(5) in paragraph (16) (as added by section 1014(3) of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3908))—

(A) by striking the period at the end and inserting a semicolon; and

- (B) by striking “(16)” and inserting “(17)”;
- (6) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively; and
- (7) by inserting after paragraph (10) the following new paragraph:  
“(11) describe the manner in which the plan of the jurisdiction will help address the needs of public housing;”.

**SEC. 584. USE OF AMERICAN PRODUCTS.**42 USC 1437  
note.

(a) **PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.**—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American made.

(b) **NOTICE REQUIREMENT.**—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) **EFFECTIVE DATE.**—This section shall take effect on the date of the enactment of this Act.

**SEC. 585. GAO STUDY ON HOUSING ASSISTANCE PROGRAM COSTS.**42 USC 1437  
note.

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study that provides an objective and independent accounting and analysis of the full cost to the Federal Government, public housing agencies, State and local governments, and other entities, per assisted household, of the Federal assisted housing programs, taking into account the qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

(b) **CONTENTS.**—The study under this section shall—

(1) analyze the full cost to the Federal Government, public housing agencies, State and local governments, and other parties, per assisted household, of the Federal assisted housing programs, in accordance with generally accepted accounting principles, and shall conduct the analysis on a nationwide and regional basis and in a manner such that accurate per unit cost comparisons may be made between Federal assisted housing programs, including grants, direct subsidies, tax concessions, Federal mortgage insurance liability, periodic renovation and rehabilitation, and modernization costs, demolition costs, and other ancillary costs such as security; and

(2) measure and evaluate qualitative differences among Federal assisted housing programs in accordance with applicable standards of the Department of Housing and Urban Development.

(c) **PROHIBITION OF RECOMMENDATIONS.**—In conducting the study under this section and reporting under subsection (e), the Comptroller General may not make any recommendations regarding Federal housing policy.

(d) **FEDERAL ASSISTED HOUSING PROGRAMS.**—For purposes of this section, the term “Federal assisted housing programs” means—

(1) the public housing program under the United States Housing Act of 1937, except that the study under this section shall differentiate between and compare the development and construction of new public housing and the assistance of existing public housing structures;

(2) the certificate program for rental assistance under section 8(b)(1) of the United States Housing Act of 1937;

(3) the voucher program for rental assistance under section 8(o) of the United States Housing Act of 1937;

(4) the programs for project-based assistance under section 8 of the United States Housing Act of 1937;

(5) the rental assistance payments program under section 521(a)(2)(A) of the Housing Act of 1949;

(6) the program for housing for the elderly under section 202 of the Housing Act of 1959;

(7) the program for housing for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act;

(8) the program for financing housing by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(9) the program under section 236 of the National Housing Act;

(10) the program for construction or substantial rehabilitation under section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983; and

(11) any other program for housing assistance administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture, under which occupancy in the housing assisted or housing assistance provided is based on income, as the Comptroller General may determine.

Deadline.

(e) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a final report which shall contain the results of the study under this section, including the analysis and estimates required under subsection (b).

(f) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

Public and  
Assisted Housing  
Drug Elimination  
Program  
Amendments of  
1998.  
Law enforcement  
and crime.  
42 USC 11901  
note.

**SEC. 586. AMENDMENTS TO PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION ACT OF 1990.**

(a) SHORT TITLE.—This section may be cited as the “Public and Assisted Housing Drug Elimination Program Amendments of 1998”.

(b) FINDINGS.—Section 5122 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901) is amended—

(1) in paragraph (2), by inserting “or violent” after “drug-related”;

(2) in paragraph (4)—

(A) by inserting “and violent” after “drug-related”; and

(B) by striking “and” at the end;

(3) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

“(6) the Federal Government should provide support for effective safety and security measures to combat drug-related and violent crime, primarily in and around public housing projects with severe crime problems;

“(7) closer cooperation should be encouraged between public and assisted housing managers, local law enforcement agencies,

and residents in developing and implementing anti-crime programs; and

“(8) anti-crime strategies should be improved through the expansion of community-oriented policing initiatives.”.

(c) **AUTHORITY TO MAKE GRANTS.**—Section 5123 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11902) is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “The”;

(2) by striking “tribally designated housing entities” and inserting “recipients of assistance under the Native American Housing Assistance and Self-Determination Act of 1996”;

(3) by inserting “and violent” after “drug-related”; and

(4) by adding at the end the following new subsection:

“(b) **CONSORTIA.**—Subject to terms and conditions established by the Secretary, public housing agencies may form consortia for purposes of applying for grants under this chapter.”.

(d) **ELIGIBLE ACTIVITIES.**—Section 5124 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11903) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A), by striking “drug-related crime on or about” and inserting “drug-related or violent crime in and around”;

(B) in paragraph (6), by striking “and” at the end;

(C) in paragraph (7)—

(i) by striking “tribally designated housing entity” and inserting “recipient of assistance under the Native American Housing Assistance and Self-Determination Act of 1996”; and

(ii) by striking the period at the end and inserting “; and”; and

(8) by adding at the end the following new paragraph:

“(8) sports programs and sports activities that serve primarily youths from public or other federally assisted low-income housing projects and are operated in conjunction with, or in furtherance of, an organized program or plan designed to reduce or eliminate drugs and drug-related problems in and around such projects.”; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “drug-related crime in” and inserting “drug-related crime in and around”; and

(B) in paragraph (2), by striking “drug-related activity at” and inserting “drug-related or violent activity in or around”.

(e) **APPLICATIONS.**—Section 5125 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11904) is amended—

(1) in subsection (a)—

(A) by striking “tribally designated housing entity” and inserting “recipient of assistance under the Native American Housing Assistance and Self-Determination Act of 1996”;

(B) by striking “crime on the premises” and inserting “or violent crime in and around”; and

(C) by inserting before the period at the end the following: “, which plan shall be coordinated with and may be included in the public housing agency plan submitted to the Secretary pursuant to section 5A of the United States Housing Act of 1937”;

(2) in subsection (b)—

(A) in the matter that precedes paragraph (1), by striking “Except as” and all that follows through “on—” and inserting the following: “The Secretary shall approve applications under subsection (b) that are not subject to a preference under subsection (b)(2)(A) on the basis of thresholds or criteria such as—”; and

(B) in paragraph (1), by striking “crime problem in” and inserting “or violent crime problem in and around”;  
(3) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking “subsection (b)” and inserting “subsection (c)”; and

(B) in paragraph (2), by inserting “or violent” after “drug-related” each place it appears;

(4) in subsection (d), by striking “subsection (b)” and inserting “subsection (c)”;  
(5) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(6) by inserting after subsection (a) the following new subsection:

“(b) One-Year Renewable Grants.—

“(1) IN GENERAL.—An eligible applicant that is a public housing agency may apply for a 1-year grant under this chapter that, subject to the availability of appropriated amounts, shall be renewed annually for a period of not more than 4 additional years, except that such renewal shall be contingent upon the Secretary finding, upon an annual or more frequent review, that the grantee agency is performing under the terms of the grant and applicable laws in a satisfactory manner and meets such other requirements as the Secretary may prescribe. The Secretary may adjust the amount of any grant received or renewed under this paragraph to take into account increases or decreases in amounts appropriated for these purposes or such other factors as the Secretary determines to be appropriate.

“(2) ELIGIBILITY AND PREFERENCE.—The Secretary may not provide assistance under this chapter to an applicant that is a public housing agency unless—

“(A) the agency will use the grants to continue or expand activities eligible for assistance under this chapter, as in effect immediately before the effective date under section 503(a) of the Quality Housing and Work Responsibility Act of 1998, in which case the Secretary shall provide preference to such applicant; except that preference under this subparagraph shall not preclude selection by the Secretary of other meritorious applications that address urgent or serious crime problems nor be construed to require continuation of activities determined by the Secretary to be unworthy of continuation; or

“(B) the agency is in the class established under paragraph (3).

“(3) PHA’S HAVING URGENT OR SERIOUS CRIME PROBLEMS.—The Secretary shall, by regulations issued after notice and opportunity for public comment, set forth criteria for establishing a class of public housing agencies that have urgent or serious crime problems. The Secretary may reserve a portion of the amount appropriated to carry out this chapter in each

Regulations.



fiscal year only for grants for public housing agencies in such class, except that any amounts from such portion reserved that are not obligated to agencies in the class shall be made available only for agencies that are subject to a preference under paragraph (2)(A).

“(4) INAPPLICABILITY TO FEDERALLY ASSISTED LOW-INCOME HOUSING.—The provisions of this subsection shall not apply to federally assisted low-income housing.”.

(f) DEFINITIONS.—Section 5126 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11905) is amended by striking paragraph (5) and inserting the following new paragraph:

“(5) RECIPIENT.—The term ‘recipient’, when used in reference to the Native American Housing Assistance and Self-Determination Act of 1996, has the meaning given such term in section 4 of such Act.”.

(g) REPORTS, MONITORING, AND FUNDING.—Chapter 2 of subtitle C of title V of the Anti-Drug Abuse Act of 1988 is amended by striking sections 5127, 5128, 5129, and 5130 and inserting the following new sections:

42 USC 11906–  
11909.

**“SEC. 5127. REPORTS.**

42 USC 11906.

“(a) GRANTEE REPORTS.—The Secretary shall require grantees under this chapter to provide periodic reports that include the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in section 5125(a), and any change in the incidence of drug-related crime in projects assisted under this chapter.

“(b) HUD REPORTS.—The Secretary shall submit a report to the Congress not later than 18 months after the date of the enactment of the Quality Housing and Work Responsibility Act of 1998 describing the system used to distribute funding to grantees under this section, which shall include descriptions of—

Deadline.

“(1) the methodology used to distribute amounts made available under this chapter among public housing agencies, including provisions used to provide for renewals of ongoing programs funded under this chapter; and

“(2) actions taken by the Secretary to ensure that amounts made available under this chapter are not used to fund baseline local government services, as described in section 5128(b).

“(c) NOTICE OF FUNDING AWARDS.—The Secretary shall cause to be published in the Federal Register notice of all grant awards made pursuant to this chapter, which shall identify the grantees and the amount of the grants. Such notice shall be published not less frequently than annually.

Federal Register,  
publication.

**“SEC. 5128. MONITORING.**

42 USC 11907.

“(a) IN GENERAL.—The Secretary shall audit and monitor the programs funded under this chapter to ensure that assistance provided under this chapter is administered in accordance with the provisions of this chapter.

“(b) PROHIBITION OF FUNDING BASELINE SERVICES.—

“(1) IN GENERAL.—Amounts provided under this chapter may not be used to reimburse or support any local law enforcement agency or unit of general local government for the provision of services that are included in the baseline of services required to be provided by any such entity pursuant to a local cooperation agreement under section 5(e)(2) of the United States Housing Act of 1937 or any provision of an annual

contributions contract for payments in lieu of taxation pursuant to section 6(d) of such Act.

“(2) DESCRIPTION.—Each public housing agency that receives grant amounts under this chapter shall describe, in the report under section 5127(a), such baseline of services for the unit of general local government in which the jurisdiction of the agency is located.

“(c) ENFORCEMENT.—The Secretary shall provide for the effective enforcement of this section, which may include the use of on-site monitoring, independent public audit requirements, certification by local law enforcement or local government officials regarding the performance of baseline services referred to in subsection (b), and entering into agreements with the Attorney General to achieve compliance, and verification of compliance, with the provisions of this chapter.

42 USC 11908.

**“SEC. 5129. AUTHORIZATION OF APPROPRIATIONS.**

“(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter \$310,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

“(b) SET-ASIDE FOR FEDERALLY ASSISTED LOW-INCOME HOUSING.—Of any amounts made available in any fiscal year to carry out this chapter not more than 6.25 percent shall be available for grants for federally assisted low-income housing.

“(c) SET-ASIDE FOR TECHNICAL ASSISTANCE AND PROGRAM OVERSIGHT.—Of any amounts appropriated in any fiscal year to carry out this chapter, amounts shall be available to the extent provided in appropriations Acts to provide training, technical assistance, contract expertise, program oversight, program assessment, execution, and other assistance for or on behalf of public housing agencies, recipients of assistance under the Native American Housing Assistance and Self-Determination Act of 1996, resident organizations, and officials and employees of the Department (including training and the cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies, and to residents and to other eligible grantees). Assistance and other activities carried out using amounts made available under this subsection may be provided directly or indirectly by grants, contracts, or cooperative agreements.”.

42 USC 11907  
note.

**SEC. 587. REVIEW OF DRUG ELIMINATION PROGRAM CONTRACTS.**

(a) REQUIREMENT.—The Secretary of Housing and Urban Development shall investigate all security contracts awarded by grantees under the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) that are public housing agencies that own or operate more than 4,500 public housing dwelling units—

(1) to determine whether the contractors under such contracts have complied with all laws and regulations regarding prohibition of discrimination in hiring practices;

(2) to determine whether such contracts were awarded in accordance with the applicable laws and regulations regarding the award of such contracts;

(3) to determine how many such contracts were awarded under emergency contracting procedures; and

(4) to evaluate the effectiveness of the contracts.

Deadline.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall complete the investigation

required under subsection (a) and submit a report to the Congress regarding the findings under the investigation. With respect to each such contract, the report shall (1) state whether the contract was made and is operating, or was not made or is not operating, in full compliance with applicable laws and regulations, and (2) for each contract that the Secretary determines is in such compliance issue a certification of such compliance by the Secretary of Housing and Urban Development.

(c) ACTIONS.—For each contract that is described in the report under subsection (b) as not made or not operating in full compliance with applicable laws and regulations, the Secretary of Housing and Urban Development shall promptly take any actions available under law or regulation that are necessary—

- (1) to bring such contract into compliance; or
- (2) to terminate the contract.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

**SEC. 588. PROHIBITION ON USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES.**

Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) is amended by adding at the end the following new subsection:

“(h) PROHIBITION ON USE OF ASSISTANCE FOR EMPLOYMENT RELOCATION ACTIVITIES.—Notwithstanding any other provision of law, no amount from a grant under section 106 made in fiscal year 1999 or any succeeding fiscal year may be used to assist directly in the relocation of any industrial or commercial plant, facility, or operation, from 1 area to another area, if the relocation is likely to result in a significant loss of employment in the labor market area from which the relocation occurs.”.

**SEC. 589. TREATMENT OF OCCUPANCY STANDARDS.**

(a) ESTABLISHMENT OF POLICY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall publish a notice in the Federal Register for effect that takes effect upon publication and provides that the specific and unmodified standards provided in the March 20, 1991, Memorandum from the General Counsel of the Department of Housing and Urban Development to all Regional Counsel shall be the policy of the Department of Housing and Urban Development with respect to complaints of discrimination under the Fair Housing Act (42 U.S.C. 3601 et seq.) on the basis of familial status which involve an occupancy standard established by a housing provider.

(b) PROHIBITION OF NATIONAL STANDARD.—The Secretary of Housing and Urban Development shall not directly or indirectly establish a national occupancy standard.

**SEC. 590. INCOME ELIGIBILITY FOR HOME AND CDBG PROGRAMS.**

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, for not less than 10 jurisdictions that are metropolitan cities or urban counties for purposes of title I of the Housing and Community Development Act of 1974, grant exceptions not later than 90 days after the date of the enactment of this Act for such jurisdictions that provide that—

- (1) for purposes of the HOME investment partnerships program under title II of the Cranston-Gonzalez National

42 USC 3608  
note.  
Deadline.  
Federal Register,  
publication.  
Notice.

42 USC 5301  
note.

Affordable Housing Act, the limitation based on percentage of median income that is applicable under section 104(10), 214(1)(A), or 215(a)(1)(A) for any area of the jurisdiction shall be the numerical percentage that is specified in such section; and

(2) for purposes of the community development block grant program under title I of the Housing and Community Development Act of 1974, the limitation based on percentage of median income that is applicable pursuant to section 102(a)(20) for any area within the State or unit of general local government shall be the numerical percentage that is specified in subparagraph (A) of such section.

(b) **EFFECTIVE DATE.**—This section shall take effect on the date of the enactment of this Act.

42 USC 3535  
note.  
Deadline.

**SEC 591. REPORT ON SINGLE FAMILY AND MULTIFAMILY HOMES.**

(a) **IN GENERAL.**—Not later than 12 months after the date of the enactment of this Act, the Inspector General of the Department of Housing and Urban Development shall submit to the Congress a report, which shall include information relating to—

(1) with respect to 1- to 4-family dwellings owned by the Department of Housing and Urban Development, on a monthly average basis—

(A) the total number of units in those dwellings;

(B) the number and percentage of units in those dwellings that are unoccupied, and their average period of vacancy, and the number and percentage of units in those dwellings that have been unoccupied for more than 1 year, as of that date; and

(C) the number and percentage of units in those projects that are determined by the Inspector General to be substandard, based on any—

(i) lack of hot or cold piped water;

(ii) lack of working toilets;

(iii) regular and prolonged breakdowns in heating;

(iv) dangerous electrical problems;

(v) unsafe hallways or stairways;

(vi) leaking roofs, windows, or pipes;

(vii) open holes in walls and ceilings; and

(viii) indications of rodent infestation; and

(2) with respect to multifamily housing projects (as that term is defined in section 203 of the Housing and Community Development Amendments of 1978) owned by the Department of Housing and Urban Development on a monthly average basis—

(A) the total number of units in those projects;

(B) the number and percentage of units in those projects that are unoccupied, and their average period of vacancy, and the number and percentage of units in those projects that have been unoccupied for more than 1 year, as of that date; and

(C) the number and percentage of units in those projects that are determined by the Inspector General to be substandard, based on any—

(i) lack of hot or cold piped water;

(ii) lack of working toilets;

(iii) regular and prolonged breakdowns in heating;

- (iv) dangerous electrical problems;
- (v) unsafe hallways or stairways;
- (vi) leaking roofs, windows, or pipes;
- (vii) open holes in walls and ceilings; and
- (viii) indications of rodent infestation; and

(3) the Department's plans and operations to address vacancies and substandard physical conditions described in paragraphs (1) and (2).

(b) **EFFECTIVE DATE.**—This section shall take effect on the date of the enactment of this Act.

**SEC. 592. USE OF ASSISTED HOUSING BY ALIENS.**

(a) **IN GENERAL.**—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended—

(1) in subsection (b)(2), by striking “Secretary of Housing and Urban Development” and inserting “applicable Secretary”;

(2) in subsection (c)(1)(B), by moving clauses (ii) and (iii) 2 ems to the left;

(3) in subsection (d)—

(A) in paragraph (1)(A)—

(i) by striking “Secretary of Housing and Urban Development” and inserting “applicable Secretary”; and

(ii) by striking “the Secretary” and inserting “the applicable Secretary”;

(B) in paragraph (2), in the matter following subparagraph (B)—

(i) by inserting “applicable” before “Secretary”; and

(ii) by moving such matter (as so amended by clause (i)) 2 ems to the right;

(C) in paragraph (4)(B)(ii), by inserting “applicable” before “Secretary”;

(D) in paragraph (5), by striking “the Secretary” and inserting “the applicable Secretary”; and

(E) in paragraph (6), by inserting “applicable” before “Secretary”;

(4) in subsection (h) (as added by section 576 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208))—

(A) in paragraph (1)—

(i) by striking “Except in the case of an election under paragraph (2)(A), no” and inserting “No”;

(ii) by striking “this section” and inserting “subsection (d)”;

(iii) by inserting “applicable” before “Secretary”; and

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following new subparagraph:

“(A) may, notwithstanding paragraph (1) of this subsection, elect not to affirmatively establish and verify eligibility before providing financial assistance”; and

(ii) in subparagraph (B), by striking “in complying with this section” and inserting “in carrying out subsection (d)”;

(5) by redesignating subsection (h) (as amended by paragraph (4)) as subsection (i).

42 USC 1436a  
note.

(b) **EFFECTIVE DATE.**—The amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

**SEC. 593. PROTECTION OF SENIOR HOMEOWNERS UNDER REVERSE MORTGAGE PROGRAM.**

(a) **MORTGAGE INSURANCE AUTHORITY.**—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking the first 2 sentences and inserting the following new sentence: “The aggregate number of mortgages insured under this section may not exceed 150,000.”.

(b) **OTHER APPROACHES TO CONSUMER EDUCATION.**—Section 255(f) of the National Housing Act (12 U.S.C. 1715z-20(f)) is amended by adding after paragraph (5) the following:

“The Secretary shall consult with consumer groups, industry representatives, representatives of counseling organizations, and other interested parties to identify alternative approaches to providing consumer information required by this subsection that may be feasible and desirable for home equity conversion mortgages insured under this section and other types of reverse mortgages. The Secretary may, in lieu of providing the consumer education required by this subsection, adopt alternative approaches to consumer education that may be developed as a result of such consultations, but only if the alternative approaches provide all of the information specified in this subsection.”.

(c) **FUNDING FOR COUNSELING AND CONSUMER EDUCATION AND OUTREACH.**—Section 255 of the National Housing Act (12 U.S.C. 1715z-20) is amended by adding at the end the following new subsection:

“(1) **FUNDING FOR COUNSELING AND CONSUMER EDUCATION AND OUTREACH.**—Of any amounts made available for any of fiscal years 2000 through 2003 for housing counseling under section 106 of the Housing and Urban Development Act of 1968, up to a total of \$1,000,000 shall be available to the Secretary in each such fiscal year, in such amounts as the Secretary determines appropriate, for the following purposes in connection with home equity conversion mortgages insured under this section:

“(1) **COUNSELING.**—For housing counseling authorized by section 106 of the Housing and Urban Development Act of 1968.

“(2) **CONSUMER EDUCATION.**—For transfer to the departmental salaries and expenses account for consumer education and outreach activities.”.

(d) **CONFORMING AMENDMENTS.**—Section 255 of the National Housing Act (12 U.S.C. 1715z-20) is amended—

(1) in the section heading, by striking “DEMONSTRATION PROGRAM OF”;

(2) in subsections (a) and (i)(1), by striking “demonstration” each place it appears;

(3) in subsection (a)—

(A) in paragraph (1), by inserting “and” after the semicolon at the end;

(B) in paragraph (2), by striking “; and” at the end and inserting a period; and

(C) by striking paragraph (3);

(4) by striking subsection (k) (relating to reports to Congress); and

(5) by redesignating subsection (l) (as added by subsection (c) of this section) as subsection (k).

(e) DISCLOSURE REQUIREMENTS AND PROHIBITION OF FUNDING OF UNNECESSARY OR EXCESSIVE COSTS.—

(1) IN GENERAL.—Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (B), by striking “and” at the end;

(ii) by redesignating subparagraph (C) as subparagraph (D); and

(iii) by inserting after subparagraph (B) the following:

“(C) has received full disclosure, as prescribed by the Secretary, of all costs charged to the mortgagor, including costs of estate planning, financial advice, and other services that are related to the mortgage but are not required to obtain the mortgage, which disclosure shall clearly state which charges are required to obtain the mortgage and which are not required to obtain the mortgage; and”

(B) in paragraph (9)(F), by striking “and”;

(C) in paragraph (10), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services.”.

(2) IMPLEMENTATION.—

(A) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by paragraph (1) in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under subparagraph (B) of this paragraph.

(B) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, issue final regulations to implement the amendments made by paragraph (1). Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(3)(B) of such section).

(f) EFFECTIVE DATE.—This section shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

12 USC 1715z-20  
note.

Deadline.

12 USC 1715z-20  
note.

#### SEC. 594. HOUSING COUNSELING.

(a) EXTENSION OF EMERGENCY HOMEOWNERSHIP COUNSELING.—Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking “September 30, 1994” and inserting “September 30, 2000”.

(b) NOTIFICATION OF DELINQUENCY ON VETERANS HOME LOANS.—

12 USC 1701x. Subparagraph (C) of section 106(c)(5) of the Housing and Urban Development Act of 1968 is amended to read as follows:

“(C) NOTIFICATION.—Notification under subparagraph (A) shall not be required with respect to any loan for which the eligible homeowner pays the amount overdue before the expiration of the 45-day period under subparagraph (B)(ii).”.

12 USC 1701x note. (c) EFFECTIVE DATE.—The amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

**SEC. 595. NATIVE AMERICAN HOUSING ASSISTANCE.**

(a) SUBSIDY LAYERING CERTIFICATION.—Section 206 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4136) is amended—

(1) by striking “certification by the Secretary” and inserting “certification by a recipient to the Secretary”; and

(2) by striking “any housing project” and inserting “the housing project involved”.

(b) INCLUSION OF HOMEBUYER SELECTION POLICIES AND CRITERIA.—Section 207(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4137(b)) is amended—

(1) by striking “TENANT SELECTION.—” and inserting “TENANT AND HOMEBUYER SELECTION.—”; and

(2) in the matter preceding paragraph (1), by inserting “and homebuyer” after “tenant”; and

(3) in paragraph (3)(A), by inserting “and homebuyers” after “tenants”.

(c) REPAYMENT OF GRANT AMOUNTS FOR VIOLATION OF AFFORDABLE HOUSING REQUIREMENT.—Section 209 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4139) is amended by striking “section 205(2)” and inserting “section 205(a)(2)”.

(d) AMENDMENT TO UNITED STATES HOUSING ACT OF 1937.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended by striking subsection (h).

(e) MISCELLANEOUS.—

(1) DEFINITION OF INDIAN AREAS.—Section 4(10) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(10)) is amended to read as follows:

“(10) INDIAN AREA.—The term ‘Indian area’ means the area within which an Indian tribe or a tribally designated housing entity, as authorized by 1 or more Indian tribes, provides assistance under this Act for affordable housing.”.

“(2) CROSS-REFERENCE.—Section 4(12)(C)(i)(II) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(12)(C)(i)(II)) is amended by striking “section 107” and inserting “section 705”.

(3) LOCAL COOPERATION AGREEMENTS.—Section 101(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(c)) is amended to read as follows:

“(c) LOCAL COOPERATION AGREEMENT.—Notwithstanding any other provision of this Act, grant amounts provided under this Act on behalf of an Indian tribe may not be used for rental or



lease-purchase homeownership units that are owned by the recipient for the tribe unless the governing body of the locality within which the property subject to the development activities to be assisted with the grant amounts is or will be situated has entered into an agreement with the recipient for the tribe providing for local cooperation required by the Secretary pursuant to this Act.”.

(4) EXEMPTION FROM TAXATION.—Section 101(d) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(d)) is amended—

“(A) by striking the subsection designation and subsection heading and all that follows through the end of paragraph (1) and inserting the following:

“(d) EXEMPTION FROM TAXATION.—Notwithstanding any other provision of this Act, grant amounts provided under this Act on behalf of an Indian tribe may not be used for affordable housing activities under this Act for rental or lease-purchase dwelling units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or with amounts provided under this Act that are owned by the recipient for the tribe unless—

“(1) such dwelling units (which, in the case of units in a multi-unit project, shall be exclusive of any portions of the project not developed under the United States Housing Act of 1937 or with amounts provided under this Act) are exempt from all real and personal property taxes levied or imposed by any State, tribe, city, county, or other political subdivision; and”;

(B) in paragraph (2), in the matter preceding subparagraph (A), by inserting “for the tribe” after “the recipient”.

(5) SUBMISSION OF INDIAN HOUSING PLAN.—Section 102(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112(a)) is amended—

(A) in paragraph (1), by inserting “(A)” after “(1)”;

(B) in paragraph (1)(A), as so designated by subparagraph (A) of this paragraph, by adding “or” at the end;

(C) by striking “(2)” and inserting “(B)”;

(D) by striking “(3)” and inserting “(2)”.

(6) CLARIFICATION.—Section 103(c)(3) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4113(c)(3)) is amended by inserting “not” before “prohibited”.

(7) APPLICABILITY OF PROVISIONS OF CIVIL RIGHTS.—Section 201(b)(5) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131(b)(5)) is amended—

(A) by striking “Indian tribes” and inserting “federally recognized tribes and the tribally designated housing entities of those tribes”; and

(B) by striking “under this subsection” and inserting “under this Act”.

(8) ELIGIBILITY.—Section 205(a)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4135(a)(1)) is amended—

(A) in subparagraph (A), by striking “and” at the end; and

(B) by striking subparagraph (B) and inserting the following:

“(B) in the case of a contract to purchase existing housing, is made available for purchase only by a family that is a low-income family at the time of purchase;

“(C) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, is made available for lease-purchase only by a family that is a low-income family at the time the agreement is entered into; and

“(D) in the case of a contract to purchase housing to be constructed, is made available for purchase only by a family that is a low-income family at the time the contract is entered into; and”.

(9) TENANT SELECTION.—Section 207(b)(3)(B) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4137(b)(3)(B)) is amended by striking “of any rejected applicant of the grounds for any rejection” and inserting “to any rejected applicant of that rejection and the grounds for that rejection”.

(10) AVAILABILITY OF RECORDS.—Section 208 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4138) is amended—

(A) in subsection (a), by striking “paragraph (2)” and inserting “subsection (b)”; and

(B) in subsection (b), by striking “paragraph (1)” and inserting “subsection (a)”.

(11) IHP REQUIREMENT.—Section 184(b)(2) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(b)(2)) is amended by striking “that is under the jurisdiction of an Indian tribe” and all that follows before the period at the end.

(12) AUTHORIZATION OF APPROPRIATIONS.—Section 184(i)(5)(C) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a(i)(5)(C)) is amended by striking “note” and inserting “not”.

(13) ENVIRONMENTAL REVIEW UNDER THE INDIAN HOUSING LOAN GUARANTEE PROGRAM.—Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a) is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following:

“(k) ENVIRONMENTAL REVIEW.—For purposes of environmental, review, decisionmaking, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law that furthers the purposes of that Act, a loan guarantee under this section shall—

“(1) be treated as a grant under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

“(2) be subject to the regulations promulgated by the Secretary to carry out section 105 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4115).”.

(14) PUBLIC AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Title IV of the Native American Housing Assistance and Self-Determination Act of 1996

(25 U.S.C. 4161 et seq.) is amended by adding at the end the following:

**“SEC. 408. PUBLIC AVAILABILITY OF INFORMATION.**

25 USC 4168.

“Each recipient shall make any housing plan, policy, or annual report prepared by the recipient available to the general public.”.

(B) TABLE OF CONTENTS.—Section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended in the table of contents by inserting after the item relating to section 407 the following:

“Sec. 408. Public availability of information.”.

(15) INELIGIBILITY OF INDIAN TRIBES.—Section 460 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899h-1) is amended by striking “fiscal year 1997” and inserting “fiscal year 1998”.

(16) TREATMENT OF PREVIOUS AMENDMENTS.—Section 402 of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437a note) is amended by striking subsection (e).

42 USC 1437  
note.

(f) EFFECTIVE DATE.—The amendments made by this section are made on, and shall apply beginning upon the date of the enactment of this Act.

12 USC 1715z-  
13a note.

**SEC. 596. CDBG PUBLIC SERVICES CAP.**

(a) IN GENERAL.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended by striking “1998” and inserting “2000”.

(b) EFFECTIVE DATE.—The amendment made by this section is made on, and shall apply beginning upon, the date of the enactment of this Act.

42 USC 5305  
note.

**SEC. 597. MODERATE REHABILITATION PROGRAM.**

(a) REPROGRAMMING.—Notwithstanding any other provision of law, but only to the extent specifically provided in advance in a subsequent appropriations Act, the Secretary of Housing and Urban Development shall reprogram funds under contracts NY36K113004 and NY36K113005 of the Department of Housing and Urban Development and shall allocate such funds to the City of New Rochelle, New York. Such allocation shall be consistent with the requirements of the HOME Investment Partnerships Act. This section shall take effect on the date of the enactment of this Act.

Effective date.

(b) EXCEPTION PROJECTS.—Section 524(a)(2) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended—

(1) by inserting “and subject to section 516 of this subtitle” after “Notwithstanding paragraph (1)”; and

(2) by striking “the base rent adjusted by an operating cost adjustment factor established by the Secretary” and inserting “the lesser of existing rents, adjusted by an operating cost adjustment factor established by the Secretary, fair market rents (less any amounts allowed for tenant-purchased utilities), or comparable market rents for the market area”.

(c) EFFECTIVE DATE.—This section shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

42 USC 1437f  
note.

**SEC. 598. NATIONAL CITIES IN SCHOOLS PROGRAM.**

From amounts that are or have been recaptured in the Annual Contributions for Assisted Housing account, before any rescissions of such amounts, \$5,000,000, shall be transferred to the National Cities in Schools Community Development Program account, to remain available until expended, that the Secretary of Housing and Urban Development shall make available to carry out the National Cities in Schools Community Development Program under section 930 of the Housing and Community Development Act of 1992 (Public Law 102-550, 106 Stat. 3672, 3887). This section shall take effect on the date of the enactment of this Act.

Effective date.

**SEC. 599. TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS.**

(a) **IN GENERAL.**—The last sentence of subsection (a) of section 202 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1b(a)) is amended by inserting before the period at the end the following: “, or a project which receives project-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) or enhanced vouchers under the Low-Income Housing Preservation and Resident Homeownership Act of 1990, the provisions of the Emergency Low Income Housing Preservation Act of 1987, or the Multifamily Assisted Housing Reform and Affordability Act of 1997”.

12 USC 1715z-1b  
note.

(b) **APPLICABILITY.**—The amendment made by this section is made on, and shall apply beginning upon, the date of the enactment of this Act.

**SEC. 599A. CLARIFICATION REGARDING RECREATIONAL VEHICLES.**

(a) **IN GENERAL.**—Section 603(6) of the Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402(6)) is amended by inserting before the semicolon at the end the following: “, and except that such term shall not include any self-propelled recreational vehicle”.

42 USC 5402  
note.

(b) **APPLICABILITY.**—The amendment made by this section is made on, and shall apply beginning upon, the date of the enactment of this Act.

**SEC. 599B. DETERMINATION OF LOW-INCOME ELIGIBILITY FOR HOMEOWNERSHIP ASSISTANCE.**

(a) **INCOME TARGETING.**—Section 214(2) of the Cranston-Gonzalez National Affordable Housing Act is amended by striking “at the time of occupancy or at the time funds are invested, whichever is later”.

42 USC 12744.

(b) **QUALIFICATION AS AFFORDABLE HOUSING.**—Section 215(b)(2) of such Act is amended to read as follows:

42 USC 12745.

“(2) is the principal residence of an owner whose family qualifies as a low-income family—

“(A) in the case of a contract to purchase existing housing, at the time of purchase;

“(B) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, at the time the agreement is signed; or

“(C) in the case of a contract to purchase housing to be constructed, at the time the contract is signed;”.

42 USC 12744  
note.

(c) **APPLICABILITY.**—The amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

**SEC. 599C. AMENDMENTS TO RURAL HOUSING PROGRAMS.**

(a) **PERMANENT EXTENSION OF UNDERSERVED AREAS PROGRAM.**—Section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended—

(1) in the first sentence, by striking “fiscal year 1998” and inserting “each fiscal year”; and

(2) in the second sentence, by striking “such fiscal year” and inserting “each fiscal year”.

(b) **PERMANENT EXTENSION OF SECTION 515 PROGRAM.**—

(1) **AUTHORITY TO MAKE LOANS.**—Section 515(b) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(2) **SET-ASIDE FOR NONPROFIT ENTITIES.**—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking “fiscal year 1998” and inserting “each fiscal year”.

(c) **LOAN GUARANTEE PROGRAM FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.**—Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p-2) is amended—

(1) in subsection (t), by striking “fiscal year 1998” and inserting “each fiscal year”; and

(2) by striking subsection (u) and inserting the following new subsection:

“(u) **TAX-EXEMPT FINANCING.**—The Secretary may not deny a guarantee under this section on the basis that the interest on the loan or on an obligation supporting the loan for which a guarantee is sought is exempt from inclusion in gross income for purposes of chapter I of the Internal Revenue Code of 1986.”.

(d) **FARM LABOR HOUSING ELIGIBILITY FOR LOW-INCOME HOUSING TAX CREDIT FINANCING.**—The first sentence of section 514(a) of the Housing Act of 1949 (42 U.S.C. 1484(a)) is amended by inserting “, or any nonprofit limited partnership in which the general partner is a nonprofit entity,” after “private nonprofit organization”.

(e) **OPTIONAL CONVERSION OF RENTAL ASSISTANCE PAYMENTS TO OPERATING SUBSIDY FOR MIGRANT FARMWORKER PROJECTS.**—

(1) **IN GENERAL.**—Section 521(a) of the Housing Act of 1949 (42 U.S.C. 1490(a)) is amended by adding at the end the following new paragraph:

42 USC 1490a.

“(5) **OPERATING ASSISTANCE FOR MIGRANT FARMWORKER PROJECTS.**—

“(A) **AUTHORITY.**—In the case of housing (and related facilities) for migrant farmworkers provided or assisted with a loan under section 514 or a grant under section 516, the Secretary may, at the request of the owner of the project, use amounts provided for rental assistance payments under paragraph (2) to provide assistance for the costs of operating the project. Any project assisted under this paragraph may not receive rental assistance under paragraph (2).

“(B) **AMOUNT.**—In any fiscal year, the assistance provided under this paragraph for any project shall not exceed an amount equal to 90 percent of the operating costs for the project for the year, as determined by the Secretary. The amount of assistance to be provided for a project under this paragraph shall be an amount that makes units in the project available to

migrant farmworkers in the area of the project at rates not exceeding 30 percent of the monthly adjusted incomes of such farmworkers, based on the prevailing incomes of such farmworkers in the area.

“(C) SUBMISSION OF INFORMATION.—The owner of a project assisted under this paragraph shall be required to provide to the Secretary, at least annually, a budget of operating expenses and estimated rental income, which the Secretary may use to determine the amount of assistance for the project.

“(D) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

“(i) The term ‘migrant farmworker’ has the same meaning given such term in section 516(k)(7).

“(ii) The term ‘operating cost’ means expenses incurred in operating a project, including expenses for—

“(I) administration, maintenance, repair, and security of the project;

“(II) utilities, fuel, furnishings, and equipment for the project; and

“(III) maintaining adequate reserve funds for the project.”.

(2) CONFORMING AMENDMENTS.—Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended—

(A) in section 502—

(i) in subsection (c)(1)(A)(i), by striking “or (a)(2)” and inserting “, (a)(2), or (5)”;

(ii) in subsection (c)(4)(B)(ii), by inserting before the period at the end the following: “, or additional assistance or an increase in assistance provided under section 521(a)(5)”;

(iii) in subsection (c)(4)(B)(iii), by “or 521(a)(5)” after “section 521(a)(2)”;

(iv) in subsection (c)(4)(B)(v), by inserting before the period at the end the following: “, or current tenants of projects not assisted under section 521(a)(5)”;

(v) in subsection (c)(5)(C)(iii)—

(I) by striking the second comma; and

(II) by inserting “or any assistance payments received under section 521(a)(5),” before “with respect”; and

(vi) in subsection (c)(5)(D), by inserting before the period at the end the following: “or, in the case of housing assisted under section 521(a)(5), does not exceed the rents established for the project under such section”;

(B) in the second sentence of subparagraph (A) of section 509(f)(4), by striking “an amount of section 521 rental assistance” and inserting “from amounts available for assistance under paragraphs (2) and (5) of section 521(a), an amount”;

(C) in section 513(c)(2)—

(i) in the matter preceding subparagraph (A), by inserting “or contracts for operating assistance under section 521(a)(5)” after “section 521(a)(2)(A)”;

(ii) in subparagraph (A), by inserting “or operating assistance contracts” after “contracts”;

42 USC 1472.

42 USC 1479.

42 USC 1483.

(iii) in subparagraph (B), by striking “rental” each place it appears; and

(iv) in subparagraph (C), by inserting “or operating assistance contracts” after “contracts”;

(D) in section 521(a)(2)(B)—

42 USC 1490a.

(i) by inserting “or paragraph (5)” after “this paragraph”; and

(ii) by striking “which shall” and all that follows through the period at the end and inserting the following: “. The budget (and the income, in the case of a project assisted under this paragraph) shall be used to determine the amount of the assistance for each project.”;

(E) in section 521(c), by striking “subsection (a)(2)” and inserting “subsections (a)(2) and (a)(5)”;

(F) in section 521(e), by inserting after “recipient” the following: “or any tenant in a project assisted under subsection (a)(5)”;

(G) in section 530, by striking “rental assistance payments with respect to such project under section 521(a)(2)(A)” and inserting “assistance payments with respect to such project under section 521(a)(2)(A) or 521(a)(5)”.

42 USC 1490j.

(f) **RURAL HOUSING GUARANTEED LOANS.**—Section 502(h)(6)(C) of the Housing Act of 1949 (42 U.S.C. 1472(h)(6)(C)) is amended by striking “, subject to the maximum dollar amount limitation of section 203(b)(2) of the National Housing Act” each place it appears.

(g) **APPLICABILITY.**—The amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

42 USC 1472 note.

#### **SEC. 599D. REAUTHORIZATION OF NATIONAL FLOOD INSURANCE PROGRAM.**

(a) **PROGRAM EXPIRATION.**—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking “September 30, 1998” and inserting “September 30, 2001”.

(b) **EMERGENCY IMPLEMENTATION OF PROGRAM.**—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking “September 30, 1998” and inserting “September 30, 2001”.

(c) **APPLICABILITY.**—The amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

42 USC 4026 note.

#### **SEC. 599E. ASSISTANCE FOR SELF-HELP HOUSING PROVIDERS**

(a) **NATIONAL COMPETITIVE GRANTS.**—Section 11 of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note) is amended—

(1) in subsection (a), by striking “to—” and all that follows and inserting the following: “to national and regional organizations and consortia that have experience in providing or facilitating self-help housing homeownership opportunities.”;

(2) in subsection (b)—

(A) in paragraph (4), by striking “Habitat for Humanity, its affiliates, and other”; and

(B) in paragraph (5), by striking “similar to the homeownership program carried out by Habitat for Humanity International.”;

(3) by striking subsection (c) and inserting the following new subsection:

“(c) NATIONAL COMPETITION.—The Secretary shall select organizations and consortia referred to in subsection (a) to receive grants through a national competitive process, which the Secretary shall establish.”;

(4) in subsection (e), by striking paragraph (2) and inserting the following new paragraph:

“(2) ASSISTANCE TO AFFILIATES.—Any organization or consortia that receives a grant under this section may use amounts in the fund established for such organization or consortia pursuant to paragraph (1) for the purposes under subsection (d) by providing assistance from the fund to local affiliates of such organization or consortia.”;

(5) in subsection (f)—

(A) in the subsection heading, by striking “TO OTHER ORGANIZATIONS”; and

(B) in the matter preceding paragraph (1), by striking “subsection (a)(2)” and inserting “subsection (a)”;

(6) by striking subsection (g);

(7) in subsection (h)—

(A) by striking the first sentence; and

(B) in the second sentence, by striking “subsection (a)(2)” and inserting “subsection (a)”;

(8) in subsection (i)(5), by inserting “(or, in the case of grant amounts from amounts made available for fiscal year 1996 to carry out this section, within 36 months)” before the comma;

(9) in subsection (j), by inserting “(or, in the case of grant amounts from amounts made available for fiscal year 1996 to carry out this section, within 36 months)” before the second comma;

(10) in subsection (k)(1), by striking “under subsection (a)(1) or (a)(2)”;

(11) by redesignating subsection (p) as subsection (q);

(12) by inserting after subsection (o) the following new subsection:

“(p) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated for fiscal years 1999 and 2000 such sums as may be necessary.”; and

(13) in the section heading, by striking “**HABITAT FOR HUMANITY AND OTHER**”.

(b) SAVINGS PROVISIONS.—Notwithstanding the amendments made by subsection (a), any grant under section 11 of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note) from amounts appropriated in fiscal year 1998 or any prior fiscal year shall be governed by the provisions of such section 11 as in effect immediately before the enactment of this Act, except that the amendments made by paragraphs (8) and (9) of subsection (a) of this section shall apply to such grants.

(c) EFFECTIVE DATE.—This section shall take effect, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

Applicability.  
42 USC 12805  
note.

42 USC 12805  
note.



**SEC. 599F. SPECIAL MORTGAGE INSURANCE ASSISTANCE.**

(a) IN GENERAL.—Section 237 of the National Housing Act (12 U.S.C. 1715z-2) is amended—

(1) in subsection (b), by inserting “not more than 26 percent of the total principal obligation (including such initial service charges, and such appraisal, inspection, and other fees as the Secretary shall approve) of” before “any mortgage”;

(2) in paragraph (c)(2) by striking “\$18,000:” and all that follows through the end of the paragraph and inserting “\$70,000;”;

(3) in paragraph (c)(3)—

(A) by inserting “, prior to and during the 12 months immediately following the purchase of the property, from a community development financial institution under section 103(5) of the Community Development Banking and Financial Institutions Act of 1994” after “budget, debt management, and related counseling”; and

(B) by striking “and” at the end;

(4) in paragraph (c)(4)—

(A) by striking “25” and inserting “36”; and

(B) by striking the period and inserting “; and”;

(5) in subsection (c), by adding at the end the following new paragraphs:

“(5) require the mortgagor to be subject, if necessary, to a default mitigation effort undertaken by an intermediary community development financial institution under section 103(5) of the Community Development Banking and Financial Institutions Act of 1994, that is acting as a sponsor and pass-through of insurance under section 203 and is approved by the Secretary;

“(6) involve a total principal obligation (including such initial service charges, and such appraisal, inspection, and other fees as the Secretary shall approve) that is not more than 90 percent of the value of the property for which the mortgage is provided; and

“(7) involve a total principal obligation (including such initial service charges, and such appraisal, inspection, and other fees as the Secretary shall approve) in which the mortgagor has equity (as defined by the Secretary) of not less than 10 percent and such equity shall be subordinate to the interest of the Secretary in the mortgaged property.”;

(6) in subsection (d), by striking “and (2)” and inserting “(2) to families living in empowerment zones and enterprise communities (as those terms are defined in section 1393(b) of the Internal Revenue Code of 1986 (26 U.S.C. 1393(b)) who are eligible for homeownership assistance, and (3)”;

(7) in subsection (e), by striking “public or private organizations” and inserting “community development financial institutions under section 103(5) of the Community Development Banking and Financial Institutions Act of 1994”;

(8) in subsection (f), by striking “all mortgages” and inserting “the portions of mortgages”;

(9) by redesignating subsection (g) as subsection (j); and

(10) by inserting after subsection (f), the following new subsections:

“(g) Mortgages insured under this section shall be subject to an insurance premium fee of not more than 1.25 percent of the

total mortgage principal obligation (including such initial service charges, and such appraisal, inspection, and other fees as the Secretary shall approve).

Contracts.

“(h) Before insuring a mortgage under this section, the Secretary shall enter into such contracts or other agreements as may be necessary to ensure that the mortgagee or other holder of the mortgage shall assume not less than 10 percent and not more than 50 percent of any loss on the insured mortgage, subject to any reasonable limit on the liability of the mortgagee or holder of the mortgage that may be specified in the event of unusual or catastrophic losses that may be incurred by any one mortgagee or mortgage holder.

“(i) No guarantees may be issued under section 306(g) for the timely payment of interest or principal on securities backed, in whole or in part, by mortgages insured under this section.”.

12 USC 1715z-2  
note.

(b) EFFECTIVE DATE.—The amendments under by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

12 USC 1701z-1  
note.

**SEC. 599G. REHABILITATION DEMONSTRATION GRANT PROGRAM.**

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, to the extent amounts are provided in appropriation Acts to carry out this section, carry out a program to demonstrate the effectiveness of making grants for rehabilitation of single family housing located within 10 demonstration areas designated by the Secretary. Of the areas designated by the Secretary under this section—

(1) 6 shall be areas that have primarily urban characteristics;

(2) 3 shall be areas that are outside of a metropolitan statistical area; and

(3) 1 shall be an area that has primarily rural characteristics.

In selecting areas, the Secretary shall provide for national geographic and demographic diversity.

(b) GRANTEEES.—Grants under the program under this section may be made only to agencies of State and local governments and non-profit organizations operating within the demonstration areas.

(c) SELECTION CRITERIA.—In selecting among applications for designation of demonstration areas and grants under this section, the Secretary shall consider—

(1) the extent of single family residences located in the proposed area that have rehabilitation needs;

(2) the ability and expertise of the applicant in carrying out the purposes of the demonstration program, including the availability of qualified housing counselors and contractors in the proposed area willing and able to participate in rehabilitation activities funded with grant amounts;

(3) the extent to which the designation of such area and the grant award would promote affordable housing opportunities;

(4) the extent to which selection of the proposed area would have a beneficial effect on the neighborhood or community in the area and on surrounding areas;

(5) the extent to which the applicant has demonstrated that grant amounts will be used to leverage additional public

or private funds to carry out the purposes of the demonstration program;

(6) the extent to which lenders (including local lenders and lenders outside the proposed area) are willing and able to make loans for rehabilitation activities assisted with grant funds; and

(7) the extent to which the application provides for the involvement of local residents in the planning of rehabilitation activities in the demonstration area.

(d) **USE OF GRANT FUNDS.**—Funds from grants made under this section may be used by grantees—

(1) to subsidize interest on loans, over a period of not more than 5 years from the origination date of the loan, made after the date of the enactment of this Act for rehabilitation of any owner-occupied 1- to 4-family residence, including the payment of interest during any period in which a residence is uninhabitable because of rehabilitation activities;

(2) to facilitate loans for rehabilitation of 1- to 4-family properties previously subject to a mortgage insured under the National Housing Act that has been foreclosed or for which insurance benefits have been paid, including to establish revolving loan funds, loan loss reserves, and other financial structures; and

(3) to provide technical assistance in conjunction with the rehabilitation of owner-occupied 1- to 4-family residences, including counseling, selection contractors, monitoring of work, approval of contractor payments, and final inspection of work.

(e) **DEFINITION OF REHABILITATION.**—For purposes of this section, the term “rehabilitation” has the meaning given such term in section 203(k)(2)(B) of the National Housing Act (12 U.S.C. 1709(k)(2)(B)).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary to carry out this section such sums as may be necessary for each of fiscal years 1999 through 2003.

(g) **EFFECTIVE DATE.**—This section shall take effect on the date of the enactment of this Act.

#### **SEC. 599H. ASSISTANCE FOR CERTAIN LOCALITIES.**

(a) **USE OF HOME FUNDS FOR PUBLIC HOUSING MODERNIZATION.**—Notwithstanding section 212(d)(5) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(d)(5)), amounts made available to the City of Bismarck, North Dakota or the State of North Dakota, under subtitle A of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12741 et seq.) for fiscal year 1998, 1999, 2000, 2001, or 2002, may be used to carry out activities authorized under section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) for the purpose of modernizing the Crescent Manor public housing project located at 107 East Bowen Avenue, in Bismarck, North Dakota, if—

(1) the Burleigh County Housing Authority (or any successor public housing agency that owns or operates the Crescent Manor public housing project) has obligated all other Federal assistance made available to that public housing agency for that fiscal year; or

(2) the Secretary of Housing and Urban Development authorizes the use of those amounts for the purpose of modernizing that public housing project, which authorization may be made with respect to 1 or more of those fiscal years.

42 USC 1436d.

(b) CONSULTATION WITH AFFECTED AREAS IN SETTLEMENT OF LITIGATION.—In negotiating any settlement of, or consent decree for, significant litigation regarding public housing or section 8 tenant-based assistance that involves the Secretary and any public housing agency or any unit of general local government, the Secretary shall seek the views of any units of general local government and public housing agencies having jurisdictions that are adjacent to the jurisdiction of the public housing agency involved, if the resolution of such litigation would involve the acquisition or development of public housing dwelling units or the use of vouchers under section 8 of the United States Housing Act of 1937 in jurisdictions that are adjacent to the jurisdiction of the public housing agency involved in the litigation.

(c) TREATMENT OF PHA REPAYMENT AGREEMENT.—

(1) LIMITATION ON SECRETARY.—During the 2-year period beginning on the date of the enactment of this Act, if the Housing Authority of the City of Las Vegas, Nevada, is otherwise in compliance with the Repayment Lien Agreement and Repayment Plan approved by the Secretary on February 12, 1997, the Secretary of Housing and Urban Development shall not take any action that has the effect of reducing the inventory of senior citizen housing owned by such housing authority that does not receive assistance from the Department of Housing and Urban Development.

(2) ALTERNATIVE REPAYMENT OPTIONS.—During the period referred to in paragraph (1), the Secretary shall assist the housing authority referred to in such paragraph to identify alternative repayment options to the plan referred to in such paragraph and to execute an amended repayment plan that will not adversely affect the housing referred to in such paragraph.

(3) RULE OF CONSTRUCTION.—This subsection may not be construed to alter—

(A) any lien held by the Secretary pursuant to the agreement referred to in paragraph (1); or

(B) the obligation of the housing authority referred to in paragraph (1) to close all remaining items contained in the Inspector General audits numbered 89 SF 1004 (issued January 20, 1989), 93 SF 1801 (issued October 30, 1993), and 96 SF 1002 (issued February 23, 1996).

Deadline.  
Chicago.

(d) CEILING RENTS FOR CERTAIN SECTION 8 PROPERTIES.—Notwithstanding any other provision of law, within 30 days after the date of the enactment of this Act, the Secretary shall establish ceiling rents for the Marshall Field Garden Apartments Homes in Chicago, Illinois, at rent levels, in the determination of the Secretary made in consultation with the owner, that facilitate retaining or attracting working class families.

(e) APPLICATION FOR MOVING TO WORK DEMONSTRATION PROGRAM.—Upon the submission of an application for participation in the moving to work demonstration program under section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996

(as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996; 42 U.S.C. 1437f note) by the Charlotte Housing Authority of Charlotte, North Carolina, or the Housing Authority of the City of Pittsburgh, Pennsylvania, the Secretary of Housing and Urban Development shall—

(1) consider such application, notwithstanding—

(A) the limitation under subsection (b) of such section on the number of public housing agencies that may participate in such program; or

(B) any limitation regarding the date for the submission of applications for participation in such program; and

(2) approve or disapprove the application based on the criteria for selection for participation in such program, notwithstanding the limitations referred to in paragraph (1) of this subsection.

(f) **USE OF PROJECT TO BENEFIT LOW-INCOME PERSONS.**—The project funded by the Secretary of Housing and Urban Development under the supportive housing program of title IV of the Stewart B. McKinney Homeless Assistance Act through grant number FL 29T90-1285 (commonly known as Royal Pointe) shall be considered to have been approved pursuant to section 423(b)(3) of such Act as of December 31, 1995 for use for the direct benefit of low-income persons.

(g) **RURAL HOUSING ASSISTANCE.**—The last sentence of section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by inserting before the period the following: “, and the city of Altus, Oklahoma, shall be considered a rural area for purposes of this title until the receipt of data from the decennial census in the year 2000”.

Oklahoma.

(h) **FUNDING FOR PURCHASE AND CONVERSION OF EXISTING ASSISTED HOUSING.**—Notwithstanding any other provision of law, and only to the extent specifically provided in a subsequent appropriations Act, from any amounts previously appropriated for Annual Contributions for Assisted Housing or for the Public Housing Capital Fund and not obligated by the Secretary, the Secretary may make available to the Lockport Housing Authority in Lockport, New York, such sums as may be necessary for use in accordance with section 5 of the United States Housing Act of 1937 (42 U.S.C. 1437c) for the purchase and rehabilitation of a project that is assisted under section 8 of such Act and located on a site contiguous to the site of a public housing project administered by the agency.

(i) **RURAL AND TRIBAL ASSISTANCE.**—From the amounts that were made available to the Secretary under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998, for grants for rural and tribal areas pursuant to the 5th undesignated paragraph of the heading “COMMUNITY PLANNING AND DEVELOPMENT—COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS” (Public Law 105-65; 111 Stat. 1357), the Secretary shall provide from any amounts remaining unobligated—

(1) \$2,800,000 for seed money for a multi-State rural homeownership campaign administered by the Rural Opportunities Affordable Housing Finance Alliance; and

(2) \$500,000 to the Rural Housing Institute of the Muscatine Center for Strategic Action.

Notwithstanding any other provision of this Act, this subsection shall take effect only to the extent specifically provided in a subsequent appropriations Act.

(j) COMMUNITY SERVICES DEMONSTRATION.—

Florida.  
Bethune-  
Cookman  
College.

(1) AUTHORITY.—The Secretary of Housing and Urban Development shall, to the extent amounts are appropriated to carry out this subsection, provide financial assistance to the Bethune-Cookman College in Volusia County, Florida (in this subsection referred to as the “College”), in accordance with the provisions of this subsection, for the College to establish and operate, as a national demonstration, the Bethune-Cookman Community Services Student Union Center.

(2) USE.—Any financial assistance provided to the College pursuant to this subsection shall be used by the College for the construction, maintenance, and endowment of the Bethune-Cookman Community Services Student Union Center through—

(A) the acquisition of necessary equipment, including utility vehicles; or

(B) the acquisition of necessary real property;

(3) APPLICATION.—The Secretary shall provide financial assistance under this subsection only pursuant to application by the College for such assistance at such time, in such manner, and providing such information as the Secretary of Housing and Urban Development may reasonably require.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for assistance under this subsection. Any amounts appropriated pursuant to this subsection shall remain available until expended.

Contracts.  
Rhode Island.

(k) INDEPENDENCE SQUARE FOUNDATION.—Notwithstanding any other provision of law, including 28 U.S.C. 516, the Secretary of Housing and Urban Development shall enforce the use agreement entered into between the Secretary and the Independence Square Foundation of Newport, Rhode Island: *Provided further*, That such enforcement shall include the option of instituting civil litigation to determine the current applicability of the aforementioned use agreement or petition for the issuance of an injunction to prevent the demolition of the property subject to the aforementioned use agreement.

(l) REMOVAL OF HOPE VI DEMOLITION REQUIREMENT.—The Secretary may approve otherwise qualified applications received in response to a notice published at 63 Federal Register 15489 (March 31, 1998) for grants from the \$26,000,000 set-aside of amounts made available under the head ‘**REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING (HOPE VI)**’ in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105-65, 111 Stat. 1354) without regard to whether such applications propose or plan demolition of obsolete public housing projects.

42 USC 1436d  
note.

(m) EFFECTIVE DATE.—This section shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act.

## TITLE VI—FHA PROPERTY DISPOSITION REFORM

SEC. 601. SINGLE FAMILY CLAIMS REFORM AND SALE OF PROPERTY. (a) REVISION OF CLAIMS PROCEDURES.—Section 204

of the National Housing Act (12 U.S.C. 1710) is amended by striking “SEC. 204.” and all that follows through the end of subsection (a) and inserting the following:

“SEC. 204. (a) IN GENERAL.—

“(1) AUTHORIZED CLAIMS PROCEDURES.—The Secretary may, in accordance with this subsection and terms and conditions prescribed by the Secretary, pay insurance benefits to a mortgagee for any mortgage insured under section 203 through any of the following methods:

“(A) ASSIGNMENT OF MORTGAGE.—The Secretary may pay insurance benefits whenever a mortgage has been in a monetary default for not less than 3 full monthly installments or whenever the mortgagee is entitled to foreclosure for a nonmonetary default. Insurance benefits shall be paid pursuant to this subparagraph only upon the assignment, transfer, and delivery to the Secretary of—

“(i) all rights and interests arising under the mortgage;

“(ii) all claims of the mortgagee against the mortgagor or others arising out of the mortgage transaction;

“(iii) title evidence satisfactory to the Secretary;

and

“(iv) such records relating to the mortgage transaction as the Secretary may require.

“(B) CONVEYANCE OF TITLE TO PROPERTY.—The Secretary may pay insurance benefits if the mortgagee has acquired title to the mortgaged property through foreclosure or has otherwise acquired such property from the mortgagor after a default upon—

“(i) the prompt conveyance to the Secretary of title to the property which meets the standards of the Secretary in force at the time the mortgage was insured and which is evidenced in the manner provided by such standards; and

“(ii) the assignment to the Secretary of all claims of the mortgagee against the mortgagor or others, arising out of mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Secretary.

The Secretary may permit the mortgagee to tender to the Secretary a satisfactory conveyance of title and transfer of possession directly from the mortgagor or other appropriate grantor, and may pay to the mortgagee the insurance benefits to which it would otherwise be entitled if such conveyance had been made to the mortgagee and from the mortgagee to the Secretary.

“(C) CLAIM WITHOUT CONVEYANCE OF TITLE.—The Secretary may pay insurance benefits upon sale of the mortgaged property at foreclosure where such sale is for at least the fair market value of the property (with appropriate adjustments), as determined by the Secretary, and upon assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B).

“(D) PREFORECLOSURE SALE.—The Secretary may pay insurance benefits upon the sale of the mortgaged property by the mortgagor after default and the assignment to the

Secretary of all claims referred to in clause (ii) of subparagraph (B), if—

“(i) the sale of the mortgaged property has been approved by the Secretary;

“(ii) the mortgagee receives an amount at least equal to the fair market value of the property (with appropriate adjustments), as determined by the Secretary; and

“(iii) the mortgagor has received an appropriate disclosure, as determined by the Secretary.

(2) PAYMENT FOR LOSS MITIGATION.—The Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for all or part of any costs of the mortgagee for taking loss mitigation actions that provide an alternative to foreclosure of a mortgage that is in default (including but not limited to actions such as special forbearance, loan modification, and deeds in lieu of foreclosure, but not including assignment of mortgages to the Secretary under section 204(a)(1)(A)). No actions taken under this paragraph, nor any failure to act under this paragraph, by the Secretary or by a mortgagee shall be subject to judicial review.

Publication.  
Guidelines.

“(3) DETERMINATION OF CLAIMS PROCEDURE.—The Secretary shall publish guidelines for determining which of the procedures for payment of insurance under paragraph (1) are available to a mortgagee when it claims insurance benefits. At least one of the procedures for payment of insurance benefits specified in paragraph (1)(A) or (1)(B) shall be available to a mortgagee with respect to a mortgage, but the same procedure shall not be required to be available for all of the mortgages held by a mortgagee.

“(4) SERVICING OF ASSIGNED MORTGAGES.—If a mortgage is assigned to the Secretary under paragraph (1)(A), the Secretary may permit the assigning mortgagee or its servicer to continue to service the mortgage for reasonable compensation and on terms and conditions determined by the Secretary. Neither the Secretary nor any servicer of the mortgage shall be required to forbear from collection of amounts due under the mortgage or otherwise pursue loss mitigation measures.

“(5) CALCULATION OF INSURANCE BENEFITS.—Insurance benefits shall be paid in accordance with section 520 and shall be equal to the original principal obligation of the mortgage (with such additions and deductions as the Secretary determines are appropriate) which was unpaid upon the date of—

“(A) assignment of the mortgage to the Secretary;

“(B) the institution of foreclosure proceedings;

“(C) the acquisition of the property after default other than by foreclosure; or

“(D) sale of the mortgaged property by the mortgagor.

“(6) FORBEARANCE AND RECASTING AFTER DEFAULT.—The mortgagee may, upon such terms and conditions as the Secretary may prescribe—

“(A) extend the time for the curing of the default and the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property, to such time as the mortgagee determines is necessary and desirable to enable the mortgagor to complete the mortgage payments, including an extension of time beyond the stated maturity of the mortgage, and in the event of a subsequent



foreclosure or acquisition of the property by other means the Secretary may include in the amount of insurance benefits an amount equal to any unpaid mortgage interest; or

“(B) provide for a modification of the terms of the mortgage for the purpose of recasting, over the remaining term of the mortgage or over such longer period pursuant to guidelines as may be prescribed by the Secretary, the total unpaid amount then due, with the modification to become effective currently or to become effective upon the termination of an agreed-upon extension of the period for curing the default; and the principal amount of the mortgage, as modified, shall be considered the ‘original principal obligation of the mortgage’ for purposes of paragraph (5).

“(7) TERMINATION OF PREMIUM OBLIGATION.—The obligation of the mortgagee to pay the premium charges for insurance shall cease upon fulfillment of the appropriate requirements under which the Secretary may pay insurance benefits, as described in paragraph (1). The Secretary may also terminate the mortgagee’s obligation to pay mortgage insurance premiums upon receipt of an application filed by the mortgagee for insurance benefits under paragraph (1), or in the event the contract of insurance is terminated pursuant to section 229.

“(8) EFFECT ON PAYMENT OF INSURANCE BENEFITS UNDER SECTION 230.—Nothing in this section shall limit the authority of the Secretary to pay insurance benefits under section 230.

“(9) TREATMENT OF MORTGAGE ASSIGNMENT PROGRAM.—Notwithstanding any other provision of law, or the Amended Stipulation entered as a consent decree on November 8, 1979, in *Ferrell v. Cuomo*, No. 73 C 334 (N.D. Ill.), or any other order intended to require the Secretary to operate the program of mortgage assignment and forbearance that was operated by the Secretary pursuant to the Amended Stipulation and under the authority of section 230, prior to its amendment by section 407(b) of The Balanced Budget Downpayment Act, I (Public Law 104-99; 110 Stat. 45), no mortgage assigned under this section may be included in any mortgage foreclosure avoidance program that is the same or substantially equivalent to such a program of mortgage assignment and forbearance.”.

(b) EFFECTIVE DATE.—The Secretary shall publish a notice in the Federal Register stating the effective date of the terms and conditions prescribed by the Secretary under section 204(a)(1) of the National Housing Act, as amended by subsection (a) of this section. Subsections (a) and (k) of section 204 of the National Housing Act, as in effect immediately before such effective date, shall continue to apply to any mortgage insured under section 203 of the National Housing Act before such effective date, except that the Secretary may, at the request of the mortgagee, pay insurance benefits as provided in subparagraphs (A) and (D) of section 204(a)(1) of such Act to calculate insurance benefits in accordance with section 204(a)(5) of such Act.

(c) REPEAL OF REDUNDANT PROVISION.—Subsection (k) of section 204 of the National Housing Act (12 U.S.C. 1710(k)) is hereby repealed.

(d) AUTHORITY TO SELL.—Section 204(g) of the National Housing Act (12 U.S.C. 1710(g)) is amended by adding at the end

Federal Register,  
publication.  
Notice.  
12 USC 1710  
note.

the following new sentence: “The Secretary may sell real and personal property acquired by the Secretary pursuant to the provisions of this Act on such terms and conditions as the Secretary may prescribe.”.

(e) **AUTHORITY TO INSURE MORTGAGE.**—Section 223(c) of the National Housing Act (12 U.S.C. 1715n(c)) is amended—

(1) by striking “him” each place it appears and inserting “the Secretary”; and

(2) by inserting before “of any property acquired”, the following: “, including a sale through another entity acting under authority of the fourth sentence of section 204(g),”.

12 USC 1715u. (f) **LOSS MITIGATION.**—Section 230 of the National Housing Act is amended—

(1) by redesignating subsections (a) through (e) as (b) through (f); and

(2) by inserting a new subsection (a) as follows:

“(a) Upon default of any mortgage insured under this title, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including but not limited to actions such as special forbearance, loss modification, and deeds in lieu of foreclosure, but not including assignment of mortgages to the Secretary under section 204(a)(1)(A)) as provided in regulations by the Secretary.”.

12 USC 1735f-14.

(g) **PENALTY.**—Section 536(a) of the National Housing Act is amended by inserting at the end of paragraph (2) the following:

“In the case of the mortgagee’s failure to engage in loss mitigation activities, as provided in section 536(b)(1)(I), the penalty shall be in the amount of three times the amount of any insurance benefits claimed by the mortgagee with respect to any mortgage for which the mortgagee failed to engage in such loss mitigation actions.”.

(h) **VIOLATION.**—Section 536(b)(1) of the National Housing Act is amended by inserting after subparagraph (h) the following:

“(I) Failure to engage in loss mitigation actions as provided in section 230(a) of this Act.”.

**SEC. 602. DISPOSITION OF HUD-OWNED SINGLE FAMILY ASSETS IN REVITALIZATION AREAS.**—Section 204 of the National Housing Act (12 U.S.C. 1710) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

“(h) **DISPOSITION OF ASSETS IN REVITALIZATION AREAS.**—

“(1) **IN GENERAL.**—The purpose of this subsection is to require the Secretary to carry out a program under which eligible assets (as such term is defined in paragraph (2)) shall be made available for sale in a manner that promotes the revitalization, through expanded homeownership opportunities, of revitalization areas. Notwithstanding the authority under the last sentence of subsection (g), the Secretary shall dispose of all eligible assets under the program and shall establish the program in accordance with the requirements under this subsection.

“(2) **ELIGIBLE ASSETS.**—For purposes of this subsection, the term ‘eligible asset’ means any of the following assets of the Secretary:

“(A) **PROPERTIES.**—Any property that—

“(i) is designed as a dwelling for occupancy by 1 to 4 families;

“(ii) is located in a revitalization area;

“(iii) was previously subject to a mortgage insured under the provisions of this Act; and

“(iv) is owned by the Secretary pursuant to the payment of insurance benefits under this Act.

“(B) MORTGAGES.—Any mortgage that—

“(i) is an interest in a property that meets the requirements of clauses (i) and (ii) of subparagraph (A);

“(ii) was previously insured under the provisions of this Act; and

“(iii) is held by the Secretary pursuant to the payment of insurance benefits under this Act.

For purposes of this subsection, an asset under this subparagraph shall be considered to be located in a revitalization area, or in the asset control area of a preferred purchaser, if the property described in clause (i) is located in such area.

“(C) FUTURE INTERESTS.—Any contingent future interest of the Secretary in an asset described in subparagraph (A) or (B).

“(3) REVITALIZATION AREAS.—The Secretary shall designate areas as revitalization areas for purposes of this subsection. Before designation of an area as a revitalization area, the Secretary shall consult with affected units of general local government and interested nonprofit organizations. The Secretary may designate as revitalization areas only areas that meet one of the following requirements:

“(A) VERY-LOW INCOME AREA.—The median household income for the area is less than 60 percent of the median household income for—

“(i) in the case of any area located within a metropolitan area, such metropolitan area; or

“(ii) in the case of any area not located within a metropolitan area, the State in which the area is located.

“(B) HIGH CONCENTRATION OF ELIGIBLE ASSETS.—A high rate of default or foreclosure for single family mortgages insured under the National Housing Act has resulted, or may result, in the area—

“(i) having a disproportionately high concentration of eligible assets, in comparison with the concentration of such assets in surrounding areas; or

“(ii) being detrimentally impacted by eligible assets in the vicinity of the area.

“(C) LOW HOME OWNERSHIP RATE.—The rate for home ownership of single family homes in the area is substantially below the rate for homeownership in the metropolitan area.

“(4) PREFERENCE FOR SALE TO PREFERRED PURCHASERS.—The Secretary shall provide a preference, among prospective purchasers of eligible assets, for sale of such assets to any purchaser who—

“(A) is—

“(i) the unit of general local government having jurisdiction with respect to the area in which are located the eligible assets to be sold; or

“(ii) a nonprofit organization;

“(B) in making a purchase under the program under this subsection—

“(i) establishes an asset control area, which shall be an area that consists of part or all of a revitalization area; and

“(ii) purchases all interests of the Secretary in all assets of the Secretary that, at any time during the period which shall be set forth in the sale agreement required under paragraph (7)—

“(I) are or become eligible assets; and

“(II) are located in the asset control area of the purchaser; and

“(C) has the capacity to carry out the purchase of eligible assets under the program under this subsection and under the provisions of this paragraph.

“(5) AGREEMENTS REQUIRED FOR PURCHASE.—

“(A) PREFERRED PURCHASERS.—Under the program under this subsection, the Secretary may sell an eligible asset as provided in paragraph (4) to a preferred purchaser only pursuant to a binding agreement by the preferred purchaser that the eligible asset will be used in conjunction with a home ownership plan that provides as follows:

“(i) The plan has as its primary purpose the expansion of home ownership in, and the revitalization of, the asset control area, established pursuant to paragraph (4)(B)(i) by the purchaser, in which the eligible asset is located.

“(ii) Under the plan, the preferred purchaser has established, and agreed to meet, specific performance goals for increasing the rate of home ownership for eligible assets in the asset control area that are under the purchaser’s control. The plan shall provide that the Secretary may waive or modify such goals or deadlines only upon a determination by the Secretary that a good faith effort has been made in complying with the goals through the homeownership plan and that exceptional neighborhood conditions prevented attainment of the goal.

“(iii) Under the plan, the preferred purchaser has established rehabilitation standards that meet or exceed the standards for housing quality established under subparagraph (B)(iii) by the Secretary, and has agreed that each asset property for an eligible asset purchased will be rehabilitated in accordance with such standards.

“(B) NON-PREFERRED PURCHASERS.—Under the program under this subsection, the Secretary may sell an eligible asset to a purchaser who is not a preferred purchaser only pursuant to a binding agreement by the purchaser that complies with the following requirements:

“(i) The purchaser has agreed to meet specific performance goals established by the Secretary for home ownership of the asset properties for the eligible

assets purchased by the purchaser, except that the Secretary may, by including a provision in the sale agreement required under paragraph (7), provide for a lower rate of home ownership in sales involving exceptional circumstances.

“(ii) The purchaser has agreed that each asset property for an eligible asset purchased will be rehabilitated to comply with minimum standards for housing quality established by the Secretary for purposes of the program under this subsection.

“(6) DISCOUNT FOR PREFERRED PURCHASERS.—

“(A) IN GENERAL.—For the purpose of providing a public purpose discount for the bulk sales of eligible assets made under the program under this subsection by preferred purchasers, each eligible asset sold through the program under this subsection to a preferred purchaser shall be sold at a price that is discounted from the value of the asset, as based on the appraised value of the asset property (as such term is defined in paragraph (8)).

“(B) APPRAISALS.—The Secretary shall require that each appraisal of an eligible asset under this paragraph is based upon—

“(i) the market value of the asset property in its ‘as is’ physical condition, which shall take into consideration age and condition of major mechanical and structural systems; and

“(ii) the value of the property appraised for home ownership.

“(C) DISCOUNT CLASSES.—The Secretary, in the sole discretion of the Secretary, shall establish the discount under this paragraph for an eligible asset, which shall be in one of the following amounts:

“(i) STANDARD DISCOUNT.—In the case only of eligible assets with asset properties that, at the time of sale under this subsection, do not meet the standards for housing quality established pursuant to paragraph (5)(B)(ii), an amount that—

“(I) is appropriate to provide reasonable resources for the improvement such assets; and

“(II) takes into consideration the financial safety and soundness of the Mutual Mortgage Insurance Fund.

“(ii) DEEP DISCOUNT.—In the case only of eligible assets described in clause (i) for which the Secretary determines a deep discount is appropriate, an amount that exceeds the amount of a standard discount under clause (i). In making a determination whether a deep discount is appropriate, the Secretary may consider the condition of the asset property, the extent of resources available to the preferred purchaser, the comprehensive revitalization plan undertaken by such purchaser, or any other circumstances the Secretary considers appropriate.

“(iii) MINIMAL DISCOUNT.—In the case only of eligible assets with asset properties that, at the time of sale under this subsection, meet or substantially meet the standards for housing quality established

pursuant to paragraph (5)(B)(ii), an amount that is less than the amount of a standard discount under clause (i) of this subparagraph and is sufficient to provide assistance to the preferred purchaser in meeting costs associated with compliance with the program requirements under this subsection.

“(D) DETERMINATION OF DISCOUNT CLASS.—The Secretary shall, in the sole discretion of the Secretary, establish a method for determining which discount under clause (i) or (ii) subparagraph (C) shall be provided for an eligible asset that is described in such clause (i) and sold to a preferred purchaser. The method may result in the assignment of discounts on any basis consistent with subparagraph (C) that the Secretary considers appropriate to carry out the purposes of this subsection.

“(7) SALE AGREEMENT.—The Secretary may sell an eligible asset under this subsection only pursuant to a sale agreement entered into under this paragraph with the purchaser, which shall include the following provisions:

“(A) ASSETS.—The sale agreement shall identify the eligible assets to be purchased and the interests sold.

“(B) REVITALIZATION AREA AND ASSET CONTROL AREA.—The sale agreement shall identify—

“(i) the boundaries of the specific revitalization areas (or portions thereof) in which are located the eligible assets that are covered by the agreement; and

“(ii) in the case of a preferred purchaser, the asset control area established pursuant to paragraph (4)(B)(i) that is covered by the agreement.

“(C) FINANCING.—The sale agreement shall identify the sources of financing for the purchase of the eligible assets.

“(D) BINDING AGREEMENTS.—The sale agreement shall contain binding agreements by the purchaser sufficient to comply with—

“(i) in the case of a preferred purchaser, the requirements under paragraph (5)(A), which agreements shall provide that the eligible assets purchased will be used in conjunction with a home ownership plan meeting the requirements of such paragraph, and shall set forth the terms of the homeownership plan, including—

“(I) the goals of the plan for the eligible assets purchased and for the asset control area subject to the plan;

“(II) the revitalization areas (or portions thereof) in which the homeownership plan is operating or will operate;

“(III) the specific use or disposition of the eligible assets under the plan; and

“(IV) any activities to be conducted and services to be provided under the plan; or

“(ii) in the case of a purchaser who is not a preferred purchaser, the requirements under paragraph (5)(B).

“(E) PURCHASE PRICE AND DISCOUNT.—The sale agreement shall establish the purchase price of the eligible

assets, which in the case of a preferred purchaser shall provide for a discount in accordance with paragraph (6).

“(F) HOUSING QUALITY.—The sale agreement shall provide for compliance of the eligible assets purchased with the rehabilitation standards established under paragraph (5)(A)(iii) or the minimum standards for housing quality established under paragraph (5)(B)(ii), as applicable, and shall specify such standards.

“(G) PERFORMANCE GOALS AND SANCTIONS.—The sale agreement shall set forth the specific performance goals applicable to the purchaser, in accordance with paragraph (5), shall set forth any sanctions for failure to meet such goals and deadlines, and shall require the purchaser to certify compliance with such goals.

“(H) PERIOD COVERED.—The sale agreement shall establish—

“(i) in the case of a preferred purchaser, the time period referred to in paragraph (4)(B)(ii); and

“(ii) in the case of a purchaser who is not a preferred purchaser, the time period for purchase of eligible assets that may be covered by the purchase.

“(I) OTHER TERMS.—The agreement shall contain such other terms and conditions as may be necessary to require that eligible assets purchased under the agreement are used in accordance with the program under this subsection.

“(8) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) ASSET CONTROL AREA.—The term ‘asset control area’ means the area established by a preferred purchaser pursuant to paragraph (4)(B)(i).

“(B) ASSET PROPERTY.—The term ‘asset property’ means—

“(i) with respect to an eligible asset that is a property, such property; and

“(ii) with respect to an eligible asset that is a mortgage, the property that is subject to the mortgage.

“(C) ELIGIBLE ASSET.—The term ‘eligible asset’ means an asset described in paragraph (2).

“(D) NONPROFIT ORGANIZATION.—The term ‘nonprofit organization’ means a private organization that—

“(i) is organized under State or local laws;

“(ii) has no part of its net earnings inuring to the benefit of any member, shareholder, founder, contributor, or individual; and

“(iii) complies with standards of financial responsibility that the Secretary may require.

“(E) PREFERRED PURCHASER.—The term ‘preferred purchaser’ means a purchaser described in paragraph (4).

“(F) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ‘unit of general local government’ means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

“(9) SECRETARY’S DISCRETION.—The Secretary shall have the authority to implement and administer the program under this subsection in such manner as the Secretary may determine. The Secretary may, in the sole discretion of the Secretary, enter into contracts to provide for the proper administration of the program with such public or nonprofit entities as the Secretary determines are qualified.

Effective date.

“(10) REGULATIONS.—The Secretary shall issue regulations to implement the program under this subsection through rule-making in accordance with the procedures established under section 553 of title 5, United States Code, regarding substantive rules. Such regulations shall take effect not later than the expiration of the 2-year period beginning on the date of the enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999.”.

Titles I, II, III, IV, and VI of this Act may be cited as the “Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999”.

Approved October 21, 1998.

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LEGISLATIVE HISTORY—H.R. 4194 (S. 2168):

HOUSE REPORTS: Nos. 105-610 (Comm. on Appropriations) and 105-769 (Comm. of Conference).

SENATE REPORTS: No. 105-216 accompanying S. 2168 (Comm. on Appropriations)  
CONGRESSIONAL RECORD, Vol. 144 (1998):

July 17, 23, 29, considered and passed House.

July 30, considered and passed Senate, amended, in lieu of S. 2168.

Oct. 6, House agreed to conference report.

Oct. 8, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 21, Presidential statement.





\*Public Law 105–277  
105th Congress

An Act

Making omnibus consolidated and emergency appropriations for the fiscal year ending September 30, 1999, and for other purposes.

Oct. 21, 1998

[H.R. 4328]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

DIVISION A—OMNIBUS CONSOLIDATED APPROPRIATIONS

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1999, and for other purposes, namely:

SEC. 101. (a) For programs, projects or activities in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

Omnibus  
Consolidated and  
Emergency  
Supplemental  
Appropriations  
Act, 1999.

Agriculture,  
Rural  
Development,  
Food and Drug  
Administration,  
and Related  
Agencies  
Appropriations  
Act, 1999.

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed \$75,000 for employment under 5 U.S.C. 3109, \$2,836,000: *Provided*, That not to exceed \$11,000 of this amount, along with any unobligated balances of representation funds in the Foreign Agricultural Service, shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to pay the salaries and expenses of personnel of the Department of Agriculture to carry out section 793(c)(1)(C) of Public Law 104–127: *Provided further*, That none of the funds made available by this Act may be used to enforce section 793(d) of Public Law 104–127.

\*Note: This is a typeset print of the original hand enrollment as signed by the President on October 21, 1998. The text is printed without corrections.

## EXECUTIVE OPERATIONS

## CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), and including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$5,000 is for employment under 5 U.S.C. 3109, \$5,620,000.

## NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$25,000 is for employment under 5 U.S.C. 3109, \$11,718,000.

## OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$5,000 is for employment under 5 U.S.C. 3109, \$6,120,000.

## OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$10,000 is for employment under 5 U.S.C. 3109, \$5,551,000.

## OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$10,000 is for employment under 5 U.S.C. 3109, \$4,283,000: *Provided*, That the Chief Financial Officer shall actively market cross-servicing activities of the National Finance Center.

## OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded by this Act, \$613,000.

## AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

## (INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services

to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for the operation, maintenance, and repair of Agriculture buildings, \$132,184,000: *Provided*, That in the event an agency within the Department should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account. In addition, for construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the programs of the Department, where not otherwise provided, \$5,000,000, to remain available until expended; making a total appropriation of \$137,184,000.

#### HAZARDOUS WASTE MANAGEMENT

##### (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, 42 U.S.C. 6961, \$15,700,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department for Hazardous Waste Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

#### DEPARTMENTAL ADMINISTRATION

##### (INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, \$32,168,000, to provide for necessary expenses for management support services to offices of the Department and for general administration and disaster management of the Department, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$10,000 is for employment under 5 U.S.C. 3109: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

#### OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), \$3,000,000, to remain available until expended.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL  
RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, \$3,668,000: *Provided*, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations: *Provided further*, That not less than \$2,241,000 shall be transferred to agencies funded by this Act to maintain personnel at the agency level.

## OFFICE OF COMMUNICATIONS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, \$8,138,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed \$10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed \$2,000,000 may be used for farmers' bulletins.

## OFFICE OF THE INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, \$65,128,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, including a sum not to exceed \$50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed \$100,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98: *Provided*, That for fiscal year 1999 and thereafter, funds transferred to the Office of the Inspector General through forfeiture proceedings or from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund, as a participating agency, as an equitable share from the forfeiture of property in investigations in which the Office of the Inspector General participates, or through the granting of a Petition for Remission or Mitigation, shall be deposited to the credit of this account for law enforcement activities authorized under the Inspector General Act of 1978, to remain available until expended.

7 USC 2270a.

## OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, \$29,194,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND  
ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, \$540,000.

## ECONOMIC RESEARCH SERVICE

## (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, \$65,757,000: *Provided*, That \$2,000,000 shall be transferred to and merged with the appropriation for "Food and Nutrition Service, Food Program Administration" for studies and evaluations: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

## NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), the Census of Agriculture Act of 1997 (Public Law 105-113), and other laws, \$103,964,000, of which up to \$23,599,000 shall be available until expended for the Census of Agriculture: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$40,000 shall be available for employment under 5 U.S.C. 3109.

## AGRICULTURAL RESEARCH SERVICE

## (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed \$100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, \$785,518,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That appropriations hereunder shall be available for the

7 USC 2254.

operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed \$250,000, except for headhouses or greenhouses which shall each be limited to \$1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed \$500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or \$250,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center, including an easement to the University of Maryland to construct the Transgenic Animal Facility which upon completion shall be accepted by the Secretary as a gift: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

In fiscal year 1999, the agency is authorized to charge fees, commensurate with the fair market value, for any permit, easement, lease, or other special use authorization for the occupancy or use of land and facilities (including land and facilities at the Beltsville Agricultural Research Center) issued by the agency, as authorized by law, and such fees shall be credited to this account and shall remain available until expended for authorized purposes.

#### BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, \$56,437,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

#### COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

##### RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including \$180,545,000 to carry into effect the provisions of the Hatch Act (7 U.S.C. 361a–i); \$21,932,000 for grants for cooperative forestry research (16 U.S.C. 582a–a7); \$29,676,000 for

payments to the 1890 land-grant colleges, including Tuskegee University (7 U.S.C. 3222); \$63,116,000 for special grants for agricultural research (7 U.S.C. 450i(c)); \$15,048,000 for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)); \$119,300,000 for competitive research grants (7 U.S.C. 450i(b)); \$5,109,000 for the support of animal health and disease programs (7 U.S.C. 3195); \$750,000 for supplemental and alternative crops and products (7 U.S.C. 3319d); \$600,000 for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318), to remain available until expended; \$3,000,000 for higher education graduate fellowship grants (7 U.S.C. 3152(b)(6)), to remain available until expended (7 U.S.C. 2209b); \$4,350,000 for higher education challenge grants (7 U.S.C. 3152(b)(1)); \$1,000,000 for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), to remain available until expended (7 U.S.C. 2209b); \$2,850,000 for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241); \$500,000 for a secondary agriculture education program and two-year postsecondary education (7 U.S.C. 3152 (h)); \$4,000,000 for aquaculture grants (7 U.S.C. 3322); \$8,000,000 for sustainable agriculture research and education (7 U.S.C. 5811); \$9,200,000 for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee University, to remain available until expended (7 U.S.C. 2209b); \$1,552,000 for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103-382; and \$10,688,000 for necessary expenses of Research and Education Activities, of which not to exceed \$100,000 shall be for employment under 5 U.S.C. 3109; in all, \$481,216,000.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

#### NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For establishment of a Native American institutions endowment fund, as authorized by Public Law 103-382 (7 U.S.C. 301 note), \$4,600,000.

#### EXTENSION ACTIVITIES

Payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa: For payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93-471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, \$276,548,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), \$2,060,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, \$58,695,000; payments for the pest management program under section 3(d) of the Act, \$10,783,000; payments for the farm safety program under section 3(d) of the Act, \$3,000,000; payments for the pesticide impact assessment program under section 3(d) of the Act, \$3,214,000; payments to upgrade research, extension, and

teaching facilities at the 1890 land-grant colleges, including Tuskegee University, as authorized by section 1447 of Public Law 95-113 (7 U.S.C. 3222b), \$8,426,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, \$908,000; payments for a groundwater quality program under section 3(d) of the Act, \$9,561,000; payments for youth-at-risk programs under section 3(d) of the Act, \$9,000,000; payments for a food safety program under section 3(d) of the Act, \$7,365,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, \$3,192,000; payments for Indian reservation agents under section 3(d) of the Act, \$1,714,000; payments for sustainable agriculture programs under section 3(d) of the Act, \$3,309,000; payments for rural health and safety education as authorized by section 2390 of Public Law 101-624 (7 U.S.C. 2661 note, 2662), \$2,628,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326 and 328) and Tuskegee University, \$25,843,000; and for Federal administration and coordination including administration of the Smith-Lever Act, and the Act of September 29, 1977 (7 U.S.C. 341-349), and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301 note), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, \$11,741,000; in all, \$437,987,000: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, shall not be paid to any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND  
REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, the Agricultural Marketing Service, and the Grain Inspection, Packers and Stockyards Administration, \$618,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947 (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, \$425,803,000, of which \$4,105,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided*, That no funds shall be used to formulate or



administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, and section 102 of the Act of September 21, 1944, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

21 USC 129.

In fiscal year 1999, the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

Of the total amount available under this heading in fiscal year 1999, \$88,000,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account.

#### BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, \$7,700,000, to remain available until expended.

#### AGRICULTURAL MARKETING SERVICE

##### MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed \$90,000

for employment under 5 U.S.C. 3109, \$48,831,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

#### LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$60,730,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Appropriations Committees.

#### FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

##### (INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than \$10,998,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

#### PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), \$1,200,000.

#### GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, including field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$25,000 for employment under 5 U.S.C. 3109, \$26,787,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

## LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed \$42,557,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Appropriations Committees.

## OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, \$446,000.

## FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, \$616,986,000, and in addition, \$1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102-237: *Provided*, That this appropriation shall not be available for shell egg surveillance under section 5(d) of the Egg Products Inspection Act (21 U.S.C. 1034(d)): *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN  
AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, \$572,000.

## FARM SERVICE AGENCY

## SALARIES AND EXPENSES

## (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, \$714,499,000: *Provided*, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further*, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment

pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$1,000,000 shall be available for employment under 5 U.S.C. 3109.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987 (7 U.S.C. 5101–5106), \$2,000,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of: (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer; or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968 (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, \$450,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of the farmer's willful failure to follow procedures prescribed by the Federal Government: *Provided further*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, \$510,682,000, of which \$425,031,000 shall be for guaranteed loans; operating loans, \$1,648,276,000, of which \$948,276,000 shall be for unsubsidized guaranteed loans and \$200,000,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, \$1,000,000; for emergency insured loans, \$25,000,000 to meet the needs resulting from natural disasters; and for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, \$100,000,000.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, \$19,580,000, of which \$6,758,000 shall be for guaranteed loans; operating loans, \$62,630,000, of which \$11,000,000 shall be for

unsubsidized guaranteed loans and \$17,480,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, \$153,000; for emergency insured loans, \$5,900,000 to meet the needs resulting from natural disasters; and for boll weevil eradication program loans as authorized by 7 U.S.C. 1989, \$1,440,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$219,861,000, of which \$209,861,000 shall be transferred to and merged with the appropriation for “Farm Service Agency, Salaries and Expenses”.

#### RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 6933), \$64,000,000: *Provided*, That not to exceed \$700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

#### CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

#### FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act, such sums as may be necessary, to remain available until expended (7 U.S.C. 2209b).

#### COMMODITY CREDIT CORPORATION FUND

##### REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1999, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be \$8,439,000,000 in the President's fiscal year 1999 Budget Request (H. Doc. 105-177)), but not to exceed \$8,439,000,000, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a-11).

#### OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1999, the Commodity Credit Corporation shall not expend more than \$5,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, 42 U.S.C. 6961: *Provided*, That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation in this Act.

## TITLE II

## CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND  
ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, \$693,000.

## NATURAL RESOURCES CONSERVATION SERVICE

## CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed \$100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, \$641,243,000, to remain available until expended (7 U.S.C. 2209b), of which not less than \$5,990,000 is for snow survey and water forecasting and not less than \$9,025,000 is for operation and establishment of the plant materials centers: *Provided*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed \$250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 in demonstration projects: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e-2).

## WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001-1009), \$10,368,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$110,000 shall be available for employment under 5 U.S.C. 3109.

## WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954 (16 U.S.C. 1001-1005 and 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, \$99,443,000, to remain available until expended (7 U.S.C. 2209b) (of which up to \$15,000,000 may be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701 and 16 U.S.C. 1006a)): *Provided*, That not to exceed \$47,000,000 of this appropriation shall be available for technical assistance: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed \$1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

## RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010-1011; 76 Stat. 607), the Act of April 27, 1935 (16 U.S.C. 590a-f), and the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), \$35,000,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$50,000 shall be available for employment under 5 U.S.C. 3109.

## FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized by the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, \$6,325,000, to remain available until expended, as authorized by that Act.

## TITLE III

RURAL ECONOMIC AND COMMUNITY DEVELOPMENT  
PROGRAMS

## OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, \$588,000.

## RURAL COMMUNITY ADVANCEMENT PROGRAM

## (INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, and 1932, except for sections 381E–H, 381N, and 381O of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009f), \$722,686,000, to remain available until expended, of which \$29,786,000 shall be for rural community programs described in section 381E(d)(1) of the Consolidated Farm and Rural Development Act; of which \$645,007,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act, as provided in 7 U.S.C. 1926(a) and 7 U.S.C. 1926C; and of which \$47,893,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided*, That of the amount appropriated for the rural business and cooperative development programs, not to exceed \$500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: *Provided further*, That not to exceed \$16,215,000 shall be for technical assistance grants for rural waste systems pursuant to section 306(a)(14) of such Act; and not to exceed \$5,300,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That of the total amount appropriated, not to exceed \$33,926,000 shall be available through June 30, 1999, for empowerment zones and enterprise communities, as authorized by Public Law 103–66, of which \$1,844,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which \$23,948,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act; of which \$8,134,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act.

## RURAL HOUSING SERVICE

## RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

## (INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: \$3,965,313,000 for loans to section 502 borrowers, as determined by the Secretary, of which \$3,000,000,000 shall be



for unsubsidized guaranteed loans; \$25,001,000 for section 504 housing repair loans; \$100,000,000 for section 538 guaranteed multi-family housing loans; \$20,000,000 for section 514 farm labor housing; \$114,321,000 for section 515 rental housing; \$5,152,000 for section 524 site loans; \$16,930,000 for credit sales of acquired property, of which up to \$5,001,000 may be for multi-family credit sales; and \$5,000,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, \$116,800,000, of which \$2,700,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, \$8,808,000; section 538 multi-family housing guaranteed loans, \$2,320,000; section 514 farm labor housing, \$10,406,000; section 515 rental housing, \$55,160,000; section 524 site loans, \$17,000; credit sales of acquired property, \$3,492,000, of which up to \$2,416,000 may be for multi-family credit sales; and section 523 self-help housing land development loans, \$282,000: *Provided*, That of the total amount appropriated in this paragraph, \$10,380,000 shall be for empowerment zones and enterprise communities, as authorized by Public Law 103-66: *Provided further*, That if such funds are not obligated for empowerment zones and enterprise communities by June 30, 1999, they shall remain available for other authorized purposes under this head.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$360,785,000, which shall be transferred to and merged with the appropriation for "Rural Housing Service, Salaries and Expenses".

#### RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, \$583,397,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided*, That of this amount, not more than \$5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed \$10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That agreements entered into or renewed during fiscal year 1999 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

#### MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), \$26,000,000, to remain available until expended (7 U.S.C. 2209b): *Provided*, That of the total amount appropriated, \$1,000,000 shall be for empowerment zones and enterprise communities, as authorized by Public Law

103-66: *Provided further*, That if such funds are not obligated for empowerment zones and enterprise communities by June 30, 1999, they shall remain available for other authorized purposes under this head.

#### RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for housing for domestic farm labor, very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1486, 1490e, and 1490m, \$41,000,000, to remain available until expended: *Provided*, That of the total amount appropriated, \$1,200,000 shall be for empowerment zones and enterprise communities, as authorized by Public Law 103-66: *Provided further*, That if such funds are not obligated for empowerment zones and enterprise communities by June 30, 1999, they shall remain available for other authorized purposes under this head.

#### SALARIES AND EXPENSES

For necessary expenses of the Rural Housing Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act, title V of the Housing Act of 1949, and cooperative agreements, \$60,978,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$520,000 may be used for employment under 5 U.S.C. 3109: *Provided further*, That the Administrator may expend not more than \$10,000 to provide modest nonmonetary awards to non-USDA employees.

#### RURAL BUSINESS-COOPERATIVE SERVICE

##### RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

##### (INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, \$16,615,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of \$33,000,000: *Provided further*, That through June 30, 1999, of the total amount appropriated, \$3,215,520 shall be available for the cost of direct loans for empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993, to subsidize gross obligations for the principal amount of direct loans, \$7,246,000: *Provided further*, That if such funds are not obligated for empowerment zones and enterprise communities by June 30, 1999, they shall remain available for other authorized purposes under this head.

In addition, for administrative expenses to carry out the direct loan programs, \$3,482,000 shall be transferred to and merged with the appropriation for "Rural Business-Cooperative Service, Salaries and Expenses".

## RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

## (INCLUDING TRANSFERS OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, \$15,000,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, \$3,783,000.

Of the funds derived from interest on the cushion of credit payments in fiscal year 1999, as authorized by section 313 of the Rural Electrification Act of 1936, \$3,783,000 shall not be obligated and \$3,783,000 are rescinded.

## RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), \$3,300,000, of which \$1,300,000 shall be available for cooperative agreements for the appropriate technology transfer for rural areas program and \$250,000 shall be available for an agribusiness and cooperative development program.

## SALARIES AND EXPENSES

For necessary expenses of the Rural Business-Cooperative Service, including administering the programs authorized by the Consolidated Farm and Rural Development Act; section 1323 of the Food Security Act of 1985; the Cooperative Marketing Act of 1926; for activities relating to the marketing aspects of cooperatives, including economic research findings, as authorized by the Agricultural Marketing Act of 1946; for activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; \$25,680,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$260,000 may be used for employment under 5 U.S.C. 3109.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION  
CORPORATION REVOLVING FUND

For necessary expenses to carry out the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901-5908), \$3,500,000 is appropriated to the Alternative Agricultural Research and Commercialization Corporation Revolving Fund.

## RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM  
ACCOUNT

## (INCLUDING TRANSFERS OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans, \$71,500,000; 5

percent rural telecommunications loans, \$75,000,000; cost of money rural telecommunications loans, \$300,000,000; municipal rate rural electric loans, \$295,000,000; and loans made pursuant to section 306 of that Act, rural electric, \$700,000,000 and rural telecommunications, \$120,000,000, to remain available until expended.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of direct loans, \$16,667,000; cost of municipal rate loans, \$25,842,000; cost of money rural telecommunications loans, \$810,000: *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, \$29,982,000, which shall be transferred to and merged with the appropriation for “Rural Utilities Service, Salaries and Expenses”.

#### RURAL TELEPHONE BANK PROGRAM ACCOUNT

##### (INCLUDING TRANSFERS OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs. During fiscal year 1999 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be \$157,509,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936 (7 U.S.C. 935), \$4,174,000.

In addition, for administrative expenses necessary to carry out the loan programs, \$3,000,000, which shall be transferred to and merged with the appropriation for “Rural Utilities Service, Salaries and Expenses”.

#### DISTANCE LEARNING AND TELEMEDICINE PROGRAM

For the cost of direct loans and grants, as authorized by 7 U.S.C. 950aaa et seq., \$12,680,000, to remain available until expended, to be available for loans and grants for telemedicine and distance learning services in rural areas: *Provided*, That the costs of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

#### SALARIES AND EXPENSES

For necessary expenses of the Rural Utilities Service, including administering the programs authorized by the Rural Electrification Act of 1936, and the Consolidated Farm and Rural Development Act, and for cooperative agreements, \$33,000,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$105,000 may be used for employment under 5 U.S.C. 3109.

## TITLE IV

## DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND  
CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, \$554,000.

## FOOD AND NUTRITION SERVICE

## CHILD NUTRITION PROGRAMS

## (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; \$9,176,897,000, to remain available through September 30, 2000, of which \$4,128,747,000 is hereby appropriated and \$5,048,150,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That up to \$4,300,000 shall be available for independent verification of school food service claims: *Provided further*, That none of the funds under this heading shall be available unless the value of bonus commodities provided under section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is included in meeting the minimum commodity assistance requirement of section 6(g) of the National School Lunch Act (42 U.S.C. 1755(g)).

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS,  
AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), \$3,924,000,000, to remain available through September 30, 2000: *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That of the total amount available, the Secretary shall obligate \$10,000,000 for the farmers' market nutrition program within 45 days of the enactment of this Act, and an additional \$5,000,000 for the farmers' market nutrition program from any funds not needed to maintain current caseload levels: *Provided further*, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further*, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of the Child Nutrition Act of 1966: *Provided further*, That State agencies required to procure infant formula using a competitive bidding system may use funds appropriated by this Act to

purchase infant formula under a cost containment contract entered into after September 30, 1996, only if the contract was awarded to the bidder offering the lowest net price, as defined by section 17(b)(20) of the Child Nutrition Act of 1966, unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than 5 percent.

#### FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), \$22,585,106,000, of which \$100,000,000 shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided*, That none of the funds made available under this head shall be used for studies and evaluations: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further*, That funds made available for Employment and Training under this head shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act.

#### COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) and the Emergency Food Assistance Act of 1983, \$131,000,000, to remain available through September 30, 2000: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

#### FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note), and section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a), \$141,081,000, to remain available through September 30, 2000.

#### FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, \$108,561,000, of which \$5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law and of which \$2,000,000 shall be available for obligation only after promulgation of a final rule to curb vendor related fraud: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$150,000 shall be available for employment under 5 U.S.C. 3109.

## TITLE V

## FOREIGN ASSISTANCE AND RELATED PROGRAMS

## FOREIGN AGRICULTURAL SERVICE AND GENERAL SALES MANAGER

## (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to saccordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed \$128,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), \$136,203,000: *Provided*, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

None of the funds in the foregoing paragraph shall be available to promote the sale or export of tobacco or tobacco products.

## PUBLIC LAW 480 PROGRAM AND GRANT ACCOUNTS

## (INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691, 1701-1704, 1721-1726a, 1727-1727e, 1731-1736g-3, and 1737), as follows: (1) \$203,475,000 for Public Law 480 title I credit, including Food for Progress programs; (2) \$16,249,000 is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985; (3) \$837,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) \$25,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided*, That not to exceed 15 percent of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act: *Provided further*, That such sums shall remain available until expended (7 U.S.C. 2209b).

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit agreements under said Act, \$176,596,000.

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 480 are utilized, \$1,850,000, of which \$1,035,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service and General Sales Manager" and \$815,000 may be transferred

to and merged with the appropriation for “Farm Service Agency, Salaries and Expenses”.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation’s export guarantee program, GSM 102 and GSM 103, \$3,820,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which \$3,231,000 may be transferred to and merged with the appropriation for “Foreign Agricultural Service and General Sales Manager” and \$589,000 may be transferred to and merged with the appropriation for “Farm Service Agency, Salaries and Expenses”.

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG  
ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary’s certificate, not to exceed \$25,000; \$1,103,140,000, of which not to exceed \$132,273,000 in fees pursuant to section 736 of the Federal Food, Drug, and Cosmetic Act may be credited to this appropriation and remain available until expended: *Provided*, That fees derived from applications received during fiscal year 1999 shall be subject to the fiscal year 1999 limitation: *Provided further*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the total amount appropriated: (1) \$231,580,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs, of which, and notwithstanding section 409(h)(5)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), an amount of \$500,000 shall be made available for the development of systems, regulations, and pilot programs, if any, that would be required to permit full implementation, consistent with section 409(h)(5) of that Act, in fiscal year 2000 of the food contact substance notification program under section 409(h) of such Act; (2) \$291,981,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) \$125,095,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office



of Regulatory Affairs; (4) \$41,973,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) \$145,736,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) \$31,579,000 shall be for the National Center for Toxicological Research; (7) \$34,000,000 shall be for the Office of Tobacco; (8) \$25,855,000 shall be for Rent and Related activities, other than the amounts paid to the General Services Administration; (9) \$88,294,000 shall be for payments to the General Services Administration for rent and related costs; and (10) \$87,047,000 shall be for other activities, including the Office of the Commissioner, the Office of Policy, the Office of External Affairs, the Office of Operations, the Office of Management and Systems, and central services for these offices: *Provided further*, That funds may be transferred from one specified activity to another with the prior approval of the Committee on Appropriations of both Houses of Congress.

In addition, fees pursuant to section 354 of the Public Health Service Act may be credited to this account, to remain available until expended.

In addition, fees pursuant to section 801 of the Federal Food, Drug, and Cosmetic Act may be credited to this account, to remain available until expended.

#### BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, \$11,350,000, to remain available until expended (7 U.S.C. 2209b).

### DEPARTMENT OF THE TREASURY

#### FINANCIAL MANAGEMENT SERVICE

##### PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1994, as authorized, \$2,565,000.

### INDEPENDENT AGENCIES

#### COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed \$25,000 for employment under 5 U.S.C. 3109, \$61,000,000, including not to exceed \$1,000 for official reception and representation expenses: *Provided*, That the Commission is authorized to charge reasonable fees to attendees of

Commission sponsored educational events and symposia to cover the Commission's costs of providing those events and symposia, and notwithstanding 31 U.S.C. 3302, said fees shall be credited to this account, to be available without further appropriation.

#### FARM CREDIT ADMINISTRATION

##### LIMITATION OF ADMINISTRATIVE EXPENSES

Not to exceed \$35,800,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided*, That this limitation shall not apply to expenses associated with receiverships.

#### TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1999 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 440 passenger motor vehicles, of which 437 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

7 USC 1623a.

SEC. 703. Not less than \$1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, and July 28, 1954 (7 U.S.C. 427 and 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 704. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed \$2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

7 USC 2209b.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended (7 U.S.C. 2209b): Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, fruit fly program, integrated systems acquisition project, and up to \$2,000,000 for costs associated with collocating regional offices; Farm Service Agency, salaries and expenses funds made available to county committees; and Foreign Agricultural Service, middle-income country training program.

New obligational authority for the boll weevil program; up to 10 percent of the screwworm program of the Animal and Plant Health Inspection Service; Food Safety and Inspection Service, field automation and information management project; funds appropriated for rental payments; funds for the Native American Institutions Endowment Fund in the Cooperative State Research, Education, and Extension Service; and funds for the competitive research grants (7 U.S.C. 450i(b)), shall remain available until expended.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed \$50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

7 USC 612c note.

SEC. 710. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 711. None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research, Education, and Extension Service that exceed 14 percent of total Federal funds provided under each award: *Provided*, That notwithstanding section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310), funds provided by this Act for grants awarded competitively by the Cooperative State Research, Education, and Extension Service shall be available to pay full allowable indirect costs for each grant awarded under the Small Business Innovation Development Act of 1982, Public Law 97-219 (15 U.S.C. 638).

SEC. 712. Notwithstanding any other provisions of this Act, all loan levels provided in this Act shall be considered estimates, not limitations.

SEC. 713. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in fiscal year 1999 shall remain available until expended to cover obligations made in fiscal year 1999 for the following accounts: the rural development loan fund program account; the Rural Telephone Bank program account; the rural electrification and telecommunications loans program account; and the rural economic development loans program account.

SEC. 714. Such sums as may be necessary for fiscal year 1999 pay raises for programs funded by this Act shall be absorbed within the levels appropriated by this Act.

SEC. 715. Notwithstanding the Federal Grant and Cooperative Agreement Act, marketing services of the Agricultural Marketing Service; Grain Inspection, Packers and Stockyards Administration;

and the Animal and Plant Health Inspection Service may use cooperative agreements to reflect a relationship between the Agricultural Marketing Service, the Grain Inspection, Packers and Stockyards Administration or the Animal and Plant Health Inspection Service and a State or Cooperator to carry out agricultural marketing programs or to carry out programs to protect the Nation's animal and plant resources.

SEC. 716. Notwithstanding the Federal Grant and Cooperative Agreement Act, the Natural Resources Conservation Service may enter into contracts, grants, or cooperative agreements with a State agency or subdivision, or a public or private organization, for the acquisition of goods or services, including personal services, to carry out natural resources conservation activities: *Provided*, That Commodity Credit Corporation funds obligated for such purposes shall not exceed the level obligated by the Commodity Credit Corporation for such purposes in fiscal year 1998.

SEC. 717. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 718. Hereafter, none of the funds made available in this Act may be used to provide assistance to, or to pay the salaries of personnel to carry out a market promotion/market access program pursuant to section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) that provides assistance to the United States Mink Export Development Council or any mink industry trade association.

SEC. 719. Of the funds made available by this Act, not more than \$1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants: *Provided*, That inter-agency funding is authorized to carry out the purposes of the National Drought Policy Commission.

SEC. 720. None of the funds appropriated in this Act may be used to carry out the provisions of section 918 of Public Law 104-127, the Federal Agriculture Improvement and Reform Act.

SEC. 721. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 722. None of the funds appropriated or otherwise made available to the Department of Agriculture shall be used to transmit or otherwise make available to any non-Department of Agriculture employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 723. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without the prior approval of the Committee on Appropriations of both Houses of Congress.

SEC. 724. (a) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committee on Appropriations of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committee on Appropriations of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 725. None of the funds appropriated or otherwise made available by this Act or any other Act may be used to pay the salaries and expenses of personnel to carry out section 793 of Public Law 104-127, with the exception of funds made available under that section on January 1, 1997.

SEC. 726. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel who carry out an environmental quality incentives program authorized by sections 334-341 of Public Law 104-127 in excess of \$174,000,000.

SEC. 727. None of the funds appropriated or otherwise available to the Department of Agriculture may be used to administer the provision of contract payments to a producer under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) for contract acreage

on which wild rice is planted unless the contract payment is reduced by an acre for each contract acre planted to wild rice.

SEC. 728. The Federal facility located in Stuttgart, Arkansas, and known as the “United States National Rice Germplasm Evaluation and Enhancement Center”, shall be known and designated as the “Dale Bumpers National Rice Research Center”: *Provided*, That any reference in law, map, regulation, document, paper, or other record of the United States to such federal facility shall be deemed to be a reference to the “Dale Bumpers National Rice Research Center”.

SEC. 729. Notwithstanding any other provision of law, the Secretary of Agriculture, subject to the reprogramming requirements established by this Act, may transfer up to \$26,000,000 in discretionary funds made available by this Act among programs of the Department, not otherwise appropriated for a specific purpose or a specific location, for distribution to or for the benefit of the Lower Mississippi Delta Region, as defined in Public Law 100–460, prior to normal state or regional allocation of funds: *Provided*, That any funds made available through Chapter Four of Subtitle D of Title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) may be included in any amount reprogrammed under this section if such funds are used for a purpose authorized by such Chapter: *Provided further*, That any funds made available from ongoing programs of the Department of Agriculture used for the benefit of the Lower Mississippi Delta Region shall be counted toward the level cited in this section.

SEC. 730. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to enroll in excess of 120,000 acres in the fiscal year 1999 wetlands reserve program as authorized by 16 U.S.C. 3837.

SEC. 731. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out the emergency food assistance program authorized by section 27(a) of the Food Stamp Act if such program exceeds \$90,000,000.

SEC. 732. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out the provisions of section 401 of Public Law 105–185.

SEC. 733. Notwithstanding any other provision of law, the City of Big Spring, Texas shall be eligible to participate in rural housing programs administered by the Rural Housing Service.

SEC. 734. Notwithstanding any other provision of law, the Municipality of Carolina, Puerto Rico shall be eligible for grants and loans administered by the Rural Utilities Service.

SEC. 735. Notwithstanding section 381A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009), the definitions of rural areas for certain business programs administered by the Rural Business-Cooperative Service and the community facilities programs administered by the Rural Housing Service shall be those provided for in statute and regulations prior to the enactment of Public Law 104–127.

SEC. 736. None of the funds appropriated or otherwise made available by this Act shall be used to carry out any commodity purchase program that would prohibit eligibility or participation by farmer-owned cooperatives.

SEC. 737. Section 512(d)(4)(D)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(4)(D)(iii)) is amended by inserting before the semicolon the following: “, except that for purposes of this clause, antibacterial ingredient or animal drug does not include the ionophore or arsenical classes of animal drugs”.

SEC. 738. (a) None of the funds appropriated or otherwise made available to the Secretary by this Act, any other Act, or any other source may be used to issue the final rule to implement the amendments to Federal milk marketing orders required by subsection (a)(1) of section 143 of the Agricultural Market Transition Act (7 U.S.C. 7253), other than during the period of February 1, 1999, through April 4, 1999, and only if the actual implementation of the amendments as part of Federal milk marketing orders takes effect on October 1, 1999, notwithstanding the penalties that would otherwise be imposed under subsection (c) of such section.

(b) None of such funds may be used to designate the State of California as a separate Federal milk marketing order under subsection (a)(2) of such section, other than during the period beginning on the date of the issuance of the final rule referred to in subsection (a) through September 30, 1999.

(c) For purposes of this section, a rule shall be considered to be a final rule when the rule is submitted to Congress as required by chapter 8 of title 5, United States Code, to permit congressional review of agency rulemaking and before the Secretary of Agriculture conducts the producer referendum required under section 8c(19) of the Agricultural Adjustment Act (7 U.S.C. 608c(19)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

SEC. 739. Whenever the Secretary of Agriculture announces the basic formula price for milk for purposes of Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, the Secretary shall include in the announcement an estimate, stated on a per hundredweight basis, of the costs incurred by milk producers, including transportation and marketing costs, to produce milk in the different regions of the United States.

SEC. 740. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out a conservation farm option program, as authorized by section 335 of Public Law 104-127.

SEC. 741. WAIVER OF STATUTE OF LIMITATIONS. (a) To the extent permitted by the Constitution, any civil action to obtain relief with respect to the discrimination alleged in an eligible complaint, if commenced not later than 2 years after the date of the enactment of this Act, shall not be barred by any statute of limitations.

7 USC 2279 note.

(b) The complainant may, in lieu of filing a civil action, seek a determination on the merits of the eligible complaint by the Department of Agriculture if such complaint was filed not later than 2 years after the date of enactment of this Act. The Department of Agriculture shall—

(1) provide the complainant an opportunity for a hearing on the record before making that determination;

(2) award the complainant such relief as would be afforded under the applicable statute from which the eligible complaint arose notwithstanding any statute of limitations; and

(3) to the maximum extent practicable within 180 days after the date a determination of an eligible complaint is sought under this subsection conduct an investigation, issue a written determination and propose a resolution in accordance with this subsection.

(c) Notwithstanding subsections (a) and (b), if an eligible claim is denied administratively, the claimant shall have at least 180 days to commence a cause of action in a Federal court of competent jurisdiction seeking a review of such denial.

(d) The United States Court of Federal Claims and the United States District Court shall have exclusive original jurisdiction over—

(1) any cause of action arising out of a complaint with respect to which this section waives the statute of limitations; and

(2) any civil action for judicial review of a determination in an administrative proceeding in the Department of Agriculture under this section.

(e) As used in this section, the term “eligible complaint” means a nonemployment related complaint that was filed with the Department of Agriculture before July 1, 1997 and alleges discrimination at any time during the period beginning on January 1, 1981 and ending December 31, 1996—

(1) in violation of the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) in administering—

(A) a farm ownership, farm operating, or emergency loan funded from the Agricultural Credit Insurance Program Account; or

(B) a housing program established under title V of the Housing Act of 1949; or

(2) in the administration of a commodity program or a disaster assistance program.

(f) This section shall apply in fiscal year 1999 and thereafter.

(g) The standard of review for judicial review of an agency action with respect to an eligible complaint is de novo review. Chapter 5 of title 5 of the United States Code shall apply with respect to an agency action under this section with respect to an eligible complaint, without regard to section 554(a)(1) of that title.

7 USC 2279d.

SEC. 742. In any claim brought under the Rehabilitation Act of 1973 and filed with the Secretary of Agriculture after January 1994 resulting in a finding that a farmer was subjected to discrimination under any farm loan program or activity conducted by the United States Department of Agriculture in violation of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Secretary of Agriculture shall be liable for compensatory damages. Such liability shall apply to any administrative action brought before the date of enactment of this Act, but only if the action is brought within the applicable statute of limitations and the complainant sought or seeks compensatory damages while the action is pending.

SEC. 743. Public Law 102–237, Title X, Section 1013(a) and (b) (7 U.S.C. 426 note) is amended by striking “, to the extent practicable,” in each instance in which it appears.

SEC. 744. Funds made available for conservation operations by this or any other Act, including prior-year balances, shall be available for financial assistance and technical assistance for the purpose of constructing the Franklin County Lake Project,



Mississippi, in the amounts earmarked in appropriations report language.

SEC. 745. Section 306D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d) is amended by inserting “25 percent in” in lieu of “equal” in subsection (b), and by inserting “\$20,000,000” in lieu of “\$15,000,000” in subsection (d).

SEC. 746. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Drug Analysis in St. Louis, Missouri.

SEC. 747. None of the funds made available by this Act or any other Act for any fiscal year may be used to carry out section 302(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) unless the Secretary of Agriculture inspects and certifies agricultural processing equipment, and imposes a fee for the inspection and certification, in a manner that is similar to the inspection and certification of agricultural products under that section, as determined by the Secretary: *Provided*, That this provision shall not affect the authority of the Secretary to carry out the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq.). 7 USC 1622 note.

SEC. 748. Notwithstanding the provisions of section 508(b)(5)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)(A)), for the 1999 reinsurance and subsequent reinsurance years, no producer shall pay more than \$50 per crop per county as an administrative fee for catastrophic risk protection under section 508(b)(5)(A) of the Act. 7 USC 1508 note.

SEC. 749. That notwithstanding section 4703(d)(1) of title 5, United States Code, the personnel management demonstration project established in the Department of Agriculture, as described at 55 FR 9062 and amended at 61 FR 9507 and 61 FR 49178, shall be continued indefinitely and become effective upon enactment of this Act.

SEC. 750. Strike the last sentence under the heading of Title IV—International Programs, Foreign Agricultural Service of Public Law 100-202 (101 STAT. 1329 et seq.) and insert in lieu thereof the following: “On or after August 1, 1998 such individuals employed by contract to perform such services shall not, by virtue of such employment, be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management. Such individuals may be considered employees within the meaning of the Federal Employee Compensation Act, 5 U.S.C. 8101 et seq.”. 7 USC 1762 note.

SEC. 751. Section 1237D(c)(1) of subchapter C of the Food Security Act of 1985 is amended by inserting after “perpetual” the following “or 30-year”. 16 USC 3837d.

SEC. 752. Section 1237(b)(2) of subchapter C of the Food Security Act of 1985 is amended by adding the following: 16 USC 3837.

“(C) For purposes of subparagraph (A), to the maximum extent practicable should be interpreted to mean that acceptance of wetlands reserve program bids may be in proportion to landowner interest expressed in program options.”.

SEC. 753. (a) Section 3(d)(3) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(d)(3)) (as amended by section 253(b) of the Agricultural Research,

Extension, and Education Reform Act of 1998) is amended by striking “The Secretary” and inserting “At the request of the Governor of the State of Maine, New Hampshire, New York, or Vermont, the Secretary”.

(b) Section 7(e)(2) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(e)(2)) (as amended by section 605(f)(3) of the Agricultural Research, Extension, and Education Reform Act of 1998) is amended by striking “\$0.0075” each place it appears and inserting “\$0.01”.

(c)(1) Section 793(c)(2)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f(c)(2)(B)) is amended—

(A) in clause (iii), by striking “or” at the end;

(B) in clause (iv), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(v) a State agricultural experiment station.”.

(2) Section 401(d) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(d)) is amended—

(A) in paragraph (3), by striking “or” at the end;

(B) in paragraph (4), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(5) a State agricultural experiment station.”.

(d) Section 3(d) of the Hatch Act of 1887 (7 U.S.C. 361c(d)) is amended—

(1) in paragraph (1), by striking “No” and inserting “Except as provided in paragraph (4), no”; and

(2) by adding at the end the following:

“(4) TERRITORIES.—In lieu of the matching funds requirement of paragraph (1), the Commonwealth of Puerto Rico, the Virgin Islands, and Guam shall be subject to the same matching funds requirements as those applicable to an eligible institution under section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d).”.

(e) Section 3(e) of the Smith-Lever Act (7 U.S.C. 343(e)) is amended—

(1) in paragraph (1), by inserting “paragraph (4) and” after “provided in”; and

(2) by adding at the end the following:

“(4) TERRITORIES.—In lieu of the matching funds requirement of paragraph (1), the Commonwealth of Puerto Rico, the Virgin Islands, and Guam shall be subject to the same matching funds requirements as those applicable to an eligible institution under section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d).”.

(f) The amendments made by this section shall take effect on the date of enactment of the Agricultural Research, Extension, and Education Reform Act of 1998.

SEC. 754. None of the funds appropriated by this Act or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President’s Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, and Related Agencies that assumes revenues or reflects a reduction from the previous

Effective date.  
7 USC 343 note.

year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the users fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2000 appropriations Act.

SEC. 755. (a) Section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended by adding at the end the following: "Shell eggs packed under the voluntary grading program of the Department of Agriculture shall not have been shipped for sale previous to being packed under the program, as determined under a regulation promulgated by the Secretary."

(b) Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, and the Secretary of Health and Human Services, shall submit a joint status report to the Committees on Appropriations of the House of Representatives and the Senate that describes actions taken by the Secretary of Agriculture and the Secretary of Health and Human Services—

(1) to enhance the safety of shell eggs and egg products;

(2) to prohibit the grading, under the voluntary grading program of the Department of Agriculture, of shell eggs previously shipped for sale; and

(3) to assess the feasibility and desirability of applying to all shell eggs the prohibition on repackaging to enhance food safety, consumer information, and consumer awareness.

SEC. 756. Expenses for computer-related activities of the Department of Agriculture funded through the Commodity Credit Corporation pursuant to section 161(b)(1)(A) of Public Law 104-127 in fiscal year 1999 shall not exceed \$65,000,000: *Provided*, That section 4(g) of the Commodity Credit Corporation Charter Act is amended by striking "\$193,000,000" and inserting \$188,000,000. 15 USC 714b.

SEC. 757. (a) The Secretary of Agriculture may use funds for tree assistance made available under Public Law 105-174, to carry out a tree assistance program to owners of trees that were lost or destroyed as a result of a disaster or emergency that was declared by the President or the Secretary of Agriculture during the period beginning May 1, 1998, and ending August 1, 1998, regardless of whether the damage resulted in loss or destruction after August 1, 1998.

(b) Subject to subsection (c), the Secretary shall carry out the program, to the maximum extent practicable, in accordance with the terms and conditions of the tree assistance program established under part 783 of title 7, Code of Federal Regulations.

(c) A person shall be presumed eligible for assistance under the program if the person demonstrates to the Secretary that trees owned by the person were lost or destroyed by May 31, 1999, as a direct result of fire blight infestation that was caused by a disaster or emergency described in subsection (a).

SEC. 758. None of the funds appropriated or otherwise made available by this Act shall be used to establish an Office of Community Food Security or any similar office within the United States Department of Agriculture without the prior approval of the Committee on Appropriations of both Houses of Congress.

SEC. 759. Notwithstanding any other provision of law, the city of Vineland, New Jersey, shall be eligible for programs

administered by the Rural Housing Service and the Rural Business-Cooperative Service.

SEC. 760. (a)(1) For purposes of this section, the term “Commission” means the Commodity Futures Trading Commission.

(2) For purposes of this section, the term “qualifying hybrid instrument or swap agreement” means a hybrid instrument or swap agreement that—

(A) was entered into before the start of the restraint period or is entered into during the restraint period; and

(B) is exempt under part 34 or part 35 of title 17, Code of Federal Regulations (as in effect on January 1, 1998), qualifies for the safe harbor contained in the Policy Statement of the Commission regarding swap agreements published in the Federal Register on July 21, 1989 (54 Fed. Reg. 30694), or qualifies for the exclusion set forth in the Statutory Interpretation of the Commission concerning certain hybrid instruments published in the Federal Register on April 11, 1990 (55 Fed. Reg. 13582).

(3) For purposes of this section, the term “restraint period” means the period—

(A) beginning on the date of the enactment of this Act; and

(B) ending on March 30, 1999, or the first date on which legislation is enacted that authorizes appropriations for the Commission for a fiscal year after fiscal year 2000, whichever occurs first.

(b) During the restraint period, the Commission may not propose or issue any rule or regulation, or issue any interpretation or policy statement, that restricts or regulates activity in a qualifying hybrid instrument or swap agreement.

(c) Notwithstanding subsection (b), during the restraint period, the Commission may—

(1) act on a petition for exemptive relief under section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c));

(2) enter such cease and desist orders and take such enforcement action, including the imposition of sanctions, as the Commission considers necessary to enforce any provision of the Commodity Exchange Act (7 U.S.C. 1 et seq.) or title 17, Code of Federal Regulations, in connection with a qualifying hybrid instrument or swap agreement, to the extent such provision is otherwise applicable to that qualifying hybrid instrument or swap agreement or a transaction involving that qualifying hybrid instrument or swap agreement;

(3) take such action as the Commission considers appropriate with regard to agricultural trade options; and

(4) take such action as the Commission considers appropriate to respond to a market emergency.

(d)(1) The legal status of contracts involving a qualifying hybrid instrument or swap agreement shall not differ from the legal status afforded such contracts during the period—

(A) beginning on—

(i) in the case of swap agreements, July 21, 1989, which was the date on which the Commission adopted a Policy Statement regarding swap agreements (54 Fed. Reg. 30694); and

(ii) in the case of hybrid instruments, April 11, 1990, which was the date that the Statutory Interpretation of

the Commission concerning hybrid instruments was published in the Federal Register; and

(B) ending on January 1, 1998.

(2) Neither the comment letter of the Commission submitted on February 26, 1998, to the Securities and Exchange Commission regarding the proposal known as “Broker-Dealer Lite”, nor the Concept Release of the Commission regarding over-the-counter derivatives published in the Federal Register on May 12, 1998 (63 Fed. Reg. 26114), shall alter or affect the legal status of a qualifying hybrid instrument or swap agreement under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(e) Nothing in this section shall be construed as reflecting or implying a determination that a qualifying hybrid instrument or swap agreement, or a transaction involving a qualifying hybrid instrument or swap agreement, is subject to the Commodity Exchange Act (7 U.S.C. 1 et seq.).

SEC. 761. None of the funds appropriated or otherwise made available by this or any other Act may be used to carry out provision of section 612 of Public Law 105-185.

SEC. 762. Section 136 of the Agricultural Market Transition Act (7 U.S.C. 7236) is amended by striking “1.25 cents” each place it appears in subsections (a) and (b) and inserting “3 cents”.

SEC. 763. In implementing section 1124 of subtitle C of title XI of this Act, the Secretary of Agriculture shall:

(a) provide \$18,000,000 to the states for distribution of emergency aid to individuals with family incomes below the federal poverty level who have been adversely affected utilizing Federal Emergency Management Agency guidelines;

(b) transfer to the Secretary of Commerce for obligation and expenditure (1) \$15,000,000 for programs pursuant to title IX of Public Law 91-304, as amended, of which six percent may be available for administrative costs; (2) \$5,000,000 for the Trade Adjustment Assistance program as provided by the Trade Act of 1974, as amended; and (3) \$7,000,000 for disaster research and prevention pursuant to section 402(d) of Public Law 94-265; and

(c) transfer to the Administrator of the Small Business Administration for obligation and expenditure, \$5,000,000 for the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, for eligible small businesses.

SEC. 764. (a) Section 604 of the Clean Air Act is amended by inserting at the end the following: 42 USC 7671c.

“(h) METHYL BROMIDE.—Notwithstanding subsection (d) and section 604(b), the Administrator shall not terminate production of methyl bromide prior to January 1, 2005. The Administrator shall promulgate rules for reductions in, and terminate the production, importation, and consumption of, methyl bromide under a schedule that is in accordance with, but not more stringent than, the phaseout schedule of the Montreal Protocol Treaty as in effect on the date of the enactment of this subsection.”

(b) Section 604(d) of the Clean Air Act is amended by inserting at the end the following:

“(5) SANITATION AND FOOD PROTECTION.—To the extent consistent with the Montreal Protocol’s quarantine and preshipment provisions, the Administrator shall exempt the production, importation, and consumption of methyl bromide to fumigate commodities entering or leaving the United States or any State (or political subdivision thereof) for purposes of

compliance with Animal and Plant Health Inspection Service requirements or with any international, Federal, State, or local sanitation or food protection standard.

“(6) CRITICAL USES.—To the extent consistent with the Montreal Protocol, the Administrator, after notice and the opportunity for public comment, and after consultation with other departments or instrumentalities of the Federal Government having regulatory authority related to methyl bromide, including the Secretary of Agriculture, may exempt the production, importation, and consumption of methyl bromide for critical uses.”.

42 USC 7671c.

(c) Section 604(e) of the Clean Air Act is amended by inserting at the end the following:

“(3) METHYL BROMIDE.—Notwithstanding the phaseout and termination of production of methyl bromide pursuant to section 604(h), the Administrator may, consistent with the Montreal Protocol, authorize the production of limited quantities of methyl bromide, solely for use in developing countries that are Parties to the Copenhagen Amendments to the Montreal Protocol.”.

16 USC 590h  
note.

SEC. 765. Notwithstanding any other provision of law, permanent employees of county committees employed on or after October 1, 1998, pursuant to 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) shall be considered as having Federal Civil Service status only for the purpose of applying for the United States Department of Agriculture Civil Service vacancies.

SEC. 766. For grants for the rural empowerment zone and enterprise communities programs, an additional \$15,000,000 is hereby appropriated, to remain available until expended, of which \$10,000,000 is for grants for entities designated under section 1391(g) of the Internal Revenue Code of 1986 for the Secretary of Agriculture to carry out a second round of the empowerment zone program in rural areas; and of which \$5,000,000 is for grants for rural enterprise communities for the Secretary of Agriculture to designate not more than 20 additional rural enterprise communities provided that such communities meet the designation and eligibility requirements of part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986: *Provided*, That the designation of rural enterprise communities pursuant to this section shall be solely for the purpose of this section and not for tax treatment under the Internal Revenue Code: *Provided further*, That these funds are in addition to any other funds made available for empowerment zones and enterprise communities.

## TITLE VIII—AGRICULTURAL CREDIT

SEC. 801. Section 373 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008h) is amended by striking subsection (b) and inserting the following:

“(b) PROHIBITION OF LOANS FOR BORROWERS THAT HAVE RECEIVED DEBT FORGIVENESS.—

“(1) PROHIBITIONS.—Except as provided in paragraph (2)—

“(A) the Secretary may not make a loan under this title to a borrower that has received debt forgiveness on a loan made or guaranteed under this title; and

“(B) the Secretary may not guarantee a loan under this title to a borrower that has received—

“(i) debt forgiveness after April 4, 1996, on a loan made or guaranteed under this title; or

“(ii) received debt forgiveness on more than 3 occasions on or before April 4, 1996.

“(2) EXCEPTIONS.—

“(A) IN GENERAL.—The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower who—

“(i) was restructured with a write-down under section 353; or

“(ii) is current on payments under a confirmed reorganization plan under chapters 11, 12, or 13 of Title 11 of the United States Code.

“(B) EMERGENCY LOANS.—The Secretary may make an emergency loan under section 321 to a borrower that—

“(i) on or before April 4, 1996, received not more than 1 debt forgiveness on a loan made or guaranteed under this title; and

“(ii) after April 4, 1996, has not received debt forgiveness on a loan made or guaranteed under this title.”.

SEC. 802. Section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)) is amended—

(1) by striking “(d) All loans” and inserting the following:

“(d) REPAYMENT.—

“(1) IN GENERAL.— All loans”; and

(2) by adding at the end the following:

“(2) NO BASIS FOR DENIAL OF LOAN.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not deny a loan under this subtitle to a borrower by reason of the fact that the borrower lacks a particular amount of collateral for the loan if the Secretary is reasonably certain that the borrower will be able to repay the loan.

“(B) REFUSAL TO PLEDGE AVAILABLE COLLATERAL.—The Secretary may deny or cancel a loan under this subtitle if a borrower refuses to pledge available collateral on request by the Secretary.”.

SEC. 803. (a) Section 508(n) of the Federal Crop Insurance Act (7 U.S.C. 1508(n)) is amended—

(1) by striking “If” and inserting the following:

“(1) IN GENERAL.—Except as provided in paragraph (2), if”; and

(2) by adding at the end the following:

“(2) EXCEPTION.—Paragraph (1) shall not apply to emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).”.

(b) Section 196(i)(3) of the Agricultural Market Transition Act (7 U.S.C. 7333(i)(3)) is amended—

(1) by striking “If” and inserting the following:

“(A) IN GENERAL.—Except as provided in subparagraph (B), if”; and

(2) by adding at the end the following:

“(B) EXCEPTION.—Subparagraph (A) shall not apply to emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).”.

SEC. 804. Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended by adding at the end the following:

“(D) NOTICE.—Beginning with fiscal year 2000 not later than 12 months before a borrower will become ineligible for direct loans under this subtitle by reason of this paragraph, the Secretary shall notify the borrower of such impending ineligibility.”.

SEC. 805. The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended—

(1) in section 302(a)(2) (7 U.S.C. 1922(a)(2)), by inserting “for direct loans only,” before “have either”;

(2) in section 311(a)(2) (7 U.S.C. 1941(a)(2)), by inserting “for direct loans only,” before “have either”; and

(3) in section 359 (7 U.S.C. 2006a)—

(A) in subsection (a), by striking “and guaranteed”; and

(B) in subsection (c), by striking “or guaranteed” each place it appears.

SEC. 806. (a) Section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended—

(1) by striking “Sec. 305. The Secretary” and inserting the following:

**“SEC. 305. LIMITATIONS ON AMOUNT OF FARM OWNERSHIP LOANS.**

“(a) IN GENERAL.—The Secretary”;

(2) by striking “\$300,000” and inserting “\$700,000 (increased, beginning with fiscal year 2000, by the inflation percentage applicable to the fiscal year in which the loan is guaranteed and reduced by the amount of any unpaid indebtedness of the borrower on loans under subtitle B that are guaranteed by the Secretary)”;

(3) by striking “In determining” and inserting the following:

“(b) DETERMINATION OF VALUE.—In determining”; and

(4) by adding at the end the following:

“(c) INFLATION PERCENTAGE.—For purposes of this section, the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

“(1) the average of the Prices Paid By Farmers Index (as compiled by the National Agricultural Statistics Service of the Department of Agriculture) for the 12-month period ending on August 31 of the immediately preceding fiscal year; exceeds

“(2) the average of such index (as so defined) for the 12-month period ending on August 31, 1996.”.

(b) Section 313 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943) is amended—

(1) by striking “Sec. 313. The Secretary” and inserting the following:

**“SEC. 313. LIMITATIONS ON AMOUNT OF OPERATING LOANS.**

“(a) IN GENERAL.—The Secretary”;

(2) by striking “this subtitle (1) that would cause” and inserting “this subtitle—

“(1) that would cause”;



(3) by striking “\$400,000; or (2) for the purchasing” and inserting “\$700,000 (increased, beginning with fiscal year 2000, by the inflation percentage applicable to the fiscal year in which the loan is guaranteed and reduced by the unpaid indebtedness of the borrower on loans under the sections specified in section 305 that are guaranteed by the Secretary); or

“(2) for the purchasing”; and

(4) by adding at the end the following:

“(b) INFLATION PERCENTAGE.—For purposes of this section, the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

“(1) the average of the Prices Paid By Farmers Index (as compiled by the National Agricultural Statistics Service of the Department of Agriculture) for the 12-month period ending on August 31 of the immediately preceding fiscal year; exceeds

“(2) the average of such index (as so defined) for the 12-month period ending on August 31, 1996.”.

SEC. 807. Section 353(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)) is amended by adding at the end the following:

“(6) NOTICE OF RECAPTURE.—Beginning with fiscal year 2000 not later than 12 months before the end of the term of a shared appreciation arrangement, the Secretary shall notify the borrower involved of the provisions of the arrangement.”.

SEC. 808. Section 353(c)(3)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(c)(3)(C)) is amended by striking “110 percent” and inserting “100 percent”.

## TITLE IX—INDIA-PAKISTAN RELIEF ACT

SEC. 901. SHORT TITLE. This title may be cited as the “India-Pakistan Relief Act of 1998”.

SEC. 902. WAIVER AUTHORITY. (a) AUTHORITY.—The President may waive for a period not to exceed one year upon enactment of this Act with respect to India or Pakistan the application of any sanction or prohibition (or portion thereof) contained in section 101 or 102 of the Arms Export Control Act, section 620E(e) of the Foreign Assistance Act of 1961, or section 2(b)(4) of the Export Import Bank Act of 1945.

(b) EXCEPTION.—The authority provided in subsection (a) shall not apply to any restriction in section 102(b)(2) (B), (C), or (G) of the Arms Export Control Act.

(c) AVAILABILITY OF AMOUNTS.—Amounts made available by this section are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided*, That such amounts shall be available only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

SEC. 903. CONSULTATION. Prior to each exercise of the authority provided in section 902, the President shall consult with the appropriate congressional committees.

SEC. 904. REPORTING REQUIREMENT. Not later than 30 days prior to the expiration of a one-year period described in section

India-Pakistan  
Relief Act of  
1998.

22 USC 2799aa-  
1 note.

22 USC 2799aa-  
1 note.

22 USC 2799aa-  
1 note.

22 USC 2799aa-  
1 note.

902, the Secretary of State shall submit a report to the appropriate congressional committees on economic and national security developments in India and Pakistan.

22 USC 2799aa–  
1 note.

SEC. 905. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED. In this title, the term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives and the Committees on Appropriations of the House of Representatives and the Senate.

## TITLE X—UNDER SECRETARY OF AGRICULTURE FOR MARKETING AND REGULATORY PROGRAMS

### SEC. 1001. GENERAL.

Title II of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6901 et seq.) is amended—

7 USC 6918.

- (1) in section 218(a)—
  - (A) in paragraph (1) by adding “and” at the end;
  - (B) in paragraph (2) by striking “; and” and inserting a period; and
  - (C) by striking paragraph (3);
- (2) by redesignating subtitle I as subtitle J;
- (3) by inserting after subtitle H the following:

### “Subtitle I—Marketing and Regulatory Programs

7 USC 7005.

### “SEC. 285. UNDER SECRETARY OF AGRICULTURE FOR MARKETING AND REGULATORY PROGRAMS.

“(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Marketing and Regulatory Programs.

“(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Marketing and Regulatory Programs authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

“(c) FUNCTIONS OF UNDER SECRETARY.—

“(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Marketing and Regulatory Programs those functions and duties under the jurisdiction of the Department that are related to agricultural marketing, animal and plant health inspection, grain inspection, and packers and stockyards.

“(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Marketing and Regulatory Programs shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

“(d) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Marketing and Regulatory Programs on the date of the enactment of this section and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of enactment of this section

(or such later date set by the Secretary if litigation delays rapid succession).

“(e) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Food Safety (as added by section 261(c)) the following:

‘Under Secretary of Agriculture for Marketing and Regulatory Programs.’; and

(4) in section 296(b)—

(A) in paragraph (2), by striking “or”;

(B) in paragraph (3), by striking the period and inserting “; or”; and

(C) by adding at the end the following:

“(4) the authority of the Secretary to establish in the Department the position of Under Secretary of Agriculture for Marketing and Regulatory Programs under section 285.”.

7 USC 7014.

#### **SEC. 1002. PAY INCREASE PROHIBITED.**

The compensation of any officer or employee of the Department of Agriculture on the date of enactment of this Act shall not be increased as a result of the enactment of this Act.

#### **SEC. 1003. CONFORMING AMENDMENT.**

Section 5315 of title 5, United States Code, is amended by striking “Assistant Secretaries of Agriculture (3).” and inserting “Assistant Secretaries of Agriculture (2).”.

### **TITLE XI—EMERGENCY AND MARKET LOSS ASSISTANCE**

#### **Subtitle A—Emergency Assistance for Crop and Livestock Feed Losses Due to Disasters**

#### **SEC. 1101. GENERAL PROVISIONS.**

7 USC 1421 note.

(a) FAIR AND EQUITABLE DISTRIBUTION.—Assistance made available under this subtitle shall be distributed in a fair and equitable manner to producers who have incurred crop and livestock feed losses in all affected geographic regions of the United States.

(b) PROGRAM ADMINISTRATION.—In carrying out this subtitle, the Secretary of Agriculture (referred to in this title as the “Secretary”) may determine—

(1) 1 or more loss thresholds producers on a farm must incur with respect to a crop to be eligible for assistance;

(2) the payment rate for crop and livestock feed losses incurred; and

(3) eligibility and payment limitation criteria (as defined by the Secretary) for persons to receive assistance under this subtitle, which, in the case of assistance received under any section of this subtitle, shall be in addition to—

(A) assistance made available under any other section of this subtitle and subtitle B;

(B) payments or loans received by a person under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.);

(C) payments received by a person for the 1998 crop under the noninsured crop assistance program established under section 196 of that Act (7 U.S.C. 7333);

(D) crop insurance indemnities provided for the 1998 crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

(E) emergency loans made available for the 1998 crop under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.).

7 USC 1421 note. **SEC. 1102. CROP LOSS ASSISTANCE.**

(a) **IN GENERAL.**—The Secretary shall administer a program under which emergency financial assistance is made available to producers on a farm who have incurred losses associated with crops due to disasters (as determined by the Secretary).

(b) **LOSSES INCURRED FOR 1998 CROP.**—Subject to section 1132, the Secretary shall use not more than \$1,500,000,000 to make available assistance to producers on a farm who have incurred losses in the 1998 crop due to disasters.

(c) **MULTIYEAR LOSSES.**—Subject to section 1132, the Secretary shall use not more than \$875,000,000 to make available assistance to producers on a farm who have incurred multiyear losses (as defined by the Secretary) in the 1998 and preceding crops of a commodity due to disasters (including, but not limited to, diseases such as scab).

(d) **RELATIONSHIP BETWEEN ASSISTANCE.**—The Secretary shall make assistance available to producers on a farm under either subsection (b) or (c).

(e) **QUALIFYING LOSSES.**—Assistance under this section may be made for losses associated with crops that are due to, as determined by the Secretary—

(1) quantity losses;

(2) quality (including, but not limited to, aflatoxin) losses;

or

(3) severe economic losses due to damaging weather or related condition.

(f) **CROPS COVERED.**—Assistance under this section shall be applicable to losses for all crops (including losses of trees from which a crop is harvested), as determined by the Secretary, due to disasters.

(g) **CROP INSURANCE.**—

(1) **ADMINISTRATION.**—In carrying out this section, the Secretary shall not discriminate against or penalize producers on a farm who have purchased crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(2) **ENCOURAGING FUTURE CROP INSURANCE PARTICIPATION.**—Subject to section 1132, the Secretary, acting through the Federal Crop Insurance Corporation, may use the funds made available under subsections (b) and (c), and only those funds, to provide premium refunds or other assistance to purchasers of crop insurance for their 1998 insured crops, or their preceding (including 1998) insured crops.

(3) **PRODUCERS WHO HAVE NOT PURCHASED CROP INSURANCE FOR 1998 CROP.**—As a condition of receiving assistance under this section, producers on a farm who have not purchased crop insurance for the 1998 crop under that Act shall agree by contract to purchase crop insurance for the 1999 and 2000 crops produced by the producers.

(4) **LIQUIDATED DAMAGES.**—

(A) IN GENERAL.—The contract under paragraph (3) shall provide for liquidated damages to be paid by the producers due to the failure of the producers to purchase crop insurance as provided in paragraph (3).

(B) NOTICE OF DAMAGES.—The amount of the liquidated damages shall be established by the Secretary and specified in the contract agreed to by the producers.

(5) FUNDING FOR CROP INSURANCE PURCHASE REQUIREMENT.—Subject to section 1132, such sums as may be necessary, to remain available until expended, shall be available to the Federal Crop Insurance Corporation to cover costs incurred by the Corporation as a result of the crop insurance purchase requirement of paragraph (3). Funds made available under subsections (b) and (c) may not be used to cover such costs.

**SEC. 1103. EMERGENCY LIVESTOCK FEED ASSISTANCE.**

7 USC 1421 note.

Subject to section 1132, the Secretary shall use not more than \$200,000,000 to make available livestock feed assistance to livestock producers affected by disasters during calendar year 1998.

**Subtitle B—Market Loss Assistance**

**SEC. 1111. MARKET LOSS ASSISTANCE.**

7 USC 1421 note.

(a) IN GENERAL.—Subject to section 1132 and except as provided in subsection (d), the Secretary shall use not more than \$3,057,000,000 for assistance to owners and producers on a farm who are eligible for final payments for fiscal year 1998 under a production flexibility contract for the farm under the Agricultural Market Transition Act (7 U.S.C. 7201 et seq.) to partially compensate the owners and producers for the loss of markets for the 1998 crop of a commodity.

(b) AMOUNT.—Except as provided in subsection (d), the amount of assistance made available to owners and producers on a farm under this section shall be proportional to the amount of the contract payment received by the owners and producers for fiscal year 1998 under a production flexibility contract for the farm under the Agricultural Market Transition Act.

(c) TIME FOR PAYMENT.—The assistance made available under this section for an eligible owner or producer shall be made as soon as practicable after the date of enactment of this Act.

(d) Of the total amount provided under subsection (a), \$200,000,000 shall be available to provide assistance to dairy producers in a manner determined by the Secretary: *Provided*, That no payments made under this section shall affect any decision with respect to rulemaking activities described under section 143 of Public Law 104-127.

**Subtitle C—Other Assistance**

**SEC. 1121. INDEMNITY PAYMENTS FOR COTTON PRODUCERS.**

7 USC 1421 note.

(a) FEDERAL CONTRIBUTION.—Subject to subsection (b), the Secretary of Agriculture shall pay \$5,000,000 to the State of Georgia to help fund an indemnity fund, to be established and managed by that State, to compensate cotton producers in that State for losses incurred in 1998 or 1999 from the loss of properly stored, harvested cotton as the result of the bankruptcy of a warehouseman or other party in possession of warehouse receipts evidencing title

to the commodity, an improper conversion or transfer of the cotton, or such other potential hazards as determined appropriate by the State.

(b) **CONDITIONS ON PAYMENT TO STATE.**—The Secretary of Agriculture shall make the payment to the State of Georgia under subsection (a) only if the State also contributes \$5,000,000 to the indemnity fund and agrees to expend all amounts in the indemnity fund by not later than January 1, 2000, to provide compensation to cotton producers as provided in such subsection. If the State of Georgia fails to make its contribution of \$5,000,000 to the indemnity fund by July 1, 1999, the funds that would otherwise be paid to the State shall be available to the Secretary for the purpose of providing partial compensation to cotton producers as provided in such subsection.

(c) **REPORTING REQUIREMENTS.**—Upon the establishment of the indemnity fund, and not later than October 1, 1999, the State of Georgia shall submit a report to the Secretary of Agriculture and the Congress describing the State's efforts to use the indemnity fund to provide compensation to injured cotton producers.

7 USC 1421 note.

**SEC. 1122. HONEY RECOURSE LOANS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, in order to assist producers of honey to market their honey in an orderly manner during a period of disastrously low prices, the Secretary shall make available recourse loans to producers of the 1998 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary.

(b) **LOAN RATE.**—The loan rate of the loans shall be 85 percent of the average price of honey during the 5-crop year period preceding the 1998 crop year, excluding the crop year in which the average price of honey was the highest and the crop year in which the average price of honey was the lowest in the period.

(c) **NO NET COST BASIS.**—Repayment of a loan under this section shall include repayment for interest and administrative costs as necessary to operate the program established under this section on a no net cost basis.

7 USC 1421 note.

**SEC. 1123. NONINSURED CROP ASSISTANCE TO RAISIN PRODUCERS.**

Notwithstanding any of the provisions of section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) that would exclude the following producers from benefits thereunder, the Secretary shall make Noninsured Crop Assistance Program payments in fiscal year 1999 to raisin producers who obtained catastrophic risk protection but because of adverse weather conditions were not able to comply with the policy deadlines for laying the raisins in trays.

7 USC 1421 note.

**SEC. 1124. EMERGENCY ASSISTANCE.**

In addition to amounts appropriated or otherwise made available by this Act, \$50,000,000 is appropriated to the Department of Agriculture, to remain available until expended, to provide emergency disaster assistance to persons or entities who have incurred losses from a failure under section 312(a) of Public Law 94–265.

**SEC. 1125. FOOD FOR PROGRESS.**

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (f)(3), by inserting after “\$30,000,000” the following: “(or, in the case of fiscal year 1999, \$35,000,000);”  
(2) in subsection (l)(1), by inserting after “\$10,000,000” the following: “(or, in the case of fiscal year 1999, \$12,000,000);”  
(3) by redesignating subsection (n) as subsection (o); and  
(4) by inserting after subsection (m) the following:  
“(n) During fiscal year 1999, to the maximum extent practicable, the Secretary shall utilize Private Voluntary Organizations to carry out this section.”

**SEC. 1126. TEMPORARY EXPANSION OF RECOURSE LOAN AUTHORITY.** 7 USC 1421 note.

Section 137 of the Agricultural Market Transition Act (7 U.S.C. 7237) is amended—

(1) in the section heading, by inserting “**AND OTHER FIBERS**” before the period at the end;

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

“(c) RECOURSE LOANS AVAILABLE FOR MOHAIR.—

“(1) RECOURSE LOANS AVAILABLE.—Notwithstanding any other provision of law, during fiscal year 1999, the Secretary shall make available recourse loans, as determined by the Secretary, to producers of mohair produced during or before that fiscal year.

“(2) LOAN RATE.—The loan rate for a loan under paragraph (1) shall be equal to \$2.00 per pound.

“(3) TERM OF LOAN.—A loan under paragraph (1) shall have a term of 1 year beginning on the first day of the first month after the month in which the loan is made.

“(4) WAIVER OF INTEREST.—Notwithstanding subsection (d), the Secretary shall not charge interest on a loan made under paragraph (1).”

**SEC. 1127. PILOT PROGRAMS.**

7 USC 1421 note.

(a) DOMESTIC MARKET REPORTING PILOT PROGRAM.—Title IV of the Packers and Stockyards Act is amended to include the following new section:

**“SEC. 416. MANDATORY DOMESTIC REPORTING PILOT INVESTIGATION.**

7 USC 229a.

“(1) IN GENERAL.—The Secretary of Agriculture shall conduct a twelve month pilot investigation, beginning upon the date of implementation of such pilot, under which the Secretary shall require any person or class of persons engaged in the business of buying, selling, or marketing domestic or imported cattle for immediate slaughter and fresh muscle cuts of beef, or domestic or imported sheep and fresh or frozen muscle cuts of lamb, to report to the Secretary, in the least intrusive manner possible, information relating to prices for the procurement of these items.

“(2) APPLICATION.—This section shall only apply to a person that is engaged in the business of buying, selling, or marketing a significant share of the national market, as determined by the Secretary, of the total volume of domestic or imported cattle for immediate slaughter and fresh muscle cuts of beef, or domestic or imported sheep and fresh or frozen muscle cuts of lamb, bought, sold, or marketed in the United States.

“(3) REPORT.—Not later than six months after the conclusion of the mandatory domestic reporting pilot investigation, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee

on Agriculture, Nutrition, and Forestry of the Senate on the effectiveness of the pilot investigation. No information collected under the pilot investigation may be disclosed until the report is submitted.”.

(b) EXPORT MARKET REPORTING PILOT INVESTIGATION.—

(1) IN GENERAL.—The Secretary shall implement a twelve month pilot investigation, beginning on the date of implementation, of a streamlined electronic system for collecting export data, in the least intrusive manner possible, for fresh or frozen muscle cuts of meat food products, and develop a data-reporting program to disseminate summary information in a timely manner, not to exceed two weeks after issuance.

(2) REPORT.—Not later than six months after the conclusion of the mandatory export reporting pilot investigation, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the effectiveness of the pilot investigation.

(c) FUNDING.—An amount of \$250,000 is hereby appropriated to carry out this section of the Act.

### Subtitle D—Administration

7 USC 1421 note. **SEC. 1131. COMMODITY CREDIT CORPORATION.**

Subject to section 1132, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out subtitles A, B, and C of this title.

7 USC 1421 note. **SEC. 1132. EMERGENCY REQUIREMENT.**

Notwithstanding the last sentence of section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, amounts made available by subtitles A, B, and C of this title are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided*, That such amounts shall be available only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress.

7 USC 1421 note. **SEC. 1133. REGULATIONS.**

(a) ISSUANCE OF REGULATIONS.—As soon as practicable after the date of enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement subtitles A, B, and C of this title. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.



## TITLE XII—BIODIESEL

**SEC. 1201. BIODIESEL FUEL USE CREDITS.**

(a) AMENDMENT.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13211–13219) is amended by adding at the end the following new section:

**“SEC. 312. BIODIESEL FUEL USE CREDITS.**

42 USC 13220.

“(a) ALLOCATION OF CREDITS.—

“(1) IN GENERAL.—The Secretary shall allocate one credit under this section to a fleet or covered person for each qualifying volume of the biodiesel component of fuel containing at least 20 percent biodiesel by volume purchased after the date of the enactment of this section for use by the fleet or covered person in vehicles owned or operated by the fleet or covered person that weigh more than 8,500 pounds gross vehicle weight rating.

“(2) EXCEPTIONS.—No credits shall be allocated under paragraph (1) for a purchase of biodiesel—

“(A) for use in alternative fueled vehicles; or

“(B) that is required by Federal or State law.

“(3) AUTHORITY TO MODIFY PERCENTAGE.—The Secretary may, by rule, lower the 20 percent biodiesel volume requirement in paragraph (1) for reasons related to cold start, safety, or vehicle function considerations.

“(4) DOCUMENTATION.—A fleet or covered person seeking a credit under this section shall provide written documentation to the Secretary supporting the allocation of a credit to such fleet or covered person under paragraph (1).

“(b) USE OF CREDITS.—

“(1) IN GENERAL.—At the request of a fleet or covered person allocated a credit under subsection (a), the Secretary shall, for the year in which the purchase of a qualifying volume is made, treat that purchase as the acquisition of one alternative fueled vehicle the fleet or covered person is required to acquire under this title, title IV, or title V.

“(2) LIMITATION.—Credits allocated under subsection (a) may not be used to satisfy more than 50 percent of the alternative fueled vehicle requirements of a fleet or covered person under this title, title IV, and title V. This paragraph shall not apply to a fleet or covered person that is a biodiesel alternative fuel provider described in section 501(a)(2)(A).

“(c) CREDIT NOT A SECTION 508 CREDIT.—A credit under this section shall not be considered a credit under section 508.

“(d) ISSUANCE OF RULE.—The Secretary shall, before January 1, 1999, issue a rule establishing procedures for the implementation of this section.

“(e) COLLECTION OF DATA.—The Secretary shall collect such data as are required to make a determination described in subsection (f)(2)(B).

“(f) DEFINITIONS.—For purposes of this section—

“(1) the term ‘biodiesel’ means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act; and

“(2) the term ‘qualifying volume’ means—

“(A) 450 gallons; or

“(B) if the Secretary determines by rule that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents, the amount of such average annual alternative fuel use.”.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end of the items relating to title III the following new item:

“Sec. 312. Biodiesel fuel use credits.”.

### TITLE XIII—EMERGENCY APPROPRIATIONS

#### DEPARTMENT OF AGRICULTURE

##### FARM SERVICE AGENCY

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$40,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

##### AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For an additional gross obligation for the principal amount of direct and guaranteed farm operating loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, \$540,510,000, of which \$150,000,000 shall be for unsubsidized guaranteed loans and \$156,704,000 shall be for subsidized guaranteed loans.

For the additional cost of direct and guaranteed farm operating loans, including the cost of modifying such loans as defined in section 502 of the Congressional Budget Act of 1974, farm operating loans, \$31,405,000, of which \$15,969,000 shall be for direct loans, \$13,696,000 for guaranteed subsidized loans, and \$1,740,000 for unsubsidized guaranteed loans: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

##### COMMODITY CREDIT CORPORATION FUND

##### DAIRY PRODUCTION DISASTER ASSISTANCE PROGRAM

An additional \$3,000,000 is provided for the dairy production indemnity program as established by Public Law 105–174: *Provided*, That the entire amount shall be available only to the extent that an official budget request for \$3,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

## NATURAL RESOURCES CONSERVATION SERVICE

## FORESTRY INCENTIVES PROGRAM

For an additional amount to carry out the program of forestry incentives, as authorized by the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, \$10,000,000, to remain available until expended, as authorized by that Act: *Provided*, That the entire amount shall be available only to the extent that an official budget request for \$10,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act.

This Act may be cited as the “Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999”.

(b) For programs, projects or activities in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

Departments of  
Commerce,  
Justice, and  
State, the  
Judiciary, and  
Related Agencies  
Appropriations  
Act, 1999.  
Department of  
Justice  
Appropriations  
Act, 1999.

## TITLE I—DEPARTMENT OF JUSTICE

## GENERAL ADMINISTRATION

## SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, \$79,448,000, of which not to exceed \$3,317,000 is for the Facilities Program 2000, to remain available until expended: *Provided*, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and \$8,136,000 shall be expended for the Department Leadership Program exclusive of augmentation that occurred in these offices in fiscal year 1998: *Provided further*, That not to exceed 41 permanent positions and 48 full-time equivalent workyears and \$4,811,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis: *Provided further*, That the Attorney General is authorized to transfer, under such terms and conditions as the Attorney General shall specify, forfeited real or personal property of limited or marginal value, as such value is determined by guidelines established by the Attorney General, to a State or local government agency, or its designated contractor or transferee, for use to support drug abuse treatment, drug and crime prevention and education, housing, job skills, and other community-based public health and safety programs: *Provided*

*further*, That any transfer under the preceding proviso shall not create or confer any private right of action in any person against the United States, and shall be treated as a reprogramming under section 605 of this Act.

#### COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, \$10,000,000, to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of any domestic or international terrorist incident; (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities; (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities; (4) the costs associated with ensuring the continuance of essential Government functions during a time of emergency; and (5) the costs of activities related to the protection of the Nation's critical infrastructure: *Provided*, That any Federal agency may be reimbursed for the costs of detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States: *Provided further*, That funds provided under this paragraph shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

In addition, for necessary expenses, as determined by the Attorney General, \$135,000,000, to remain available until expended, to reimburse or transfer to agencies of the Department of Justice for any costs incurred in connection with: (1) providing bomb training and response capabilities to State and local law enforcement agencies; (2) providing training and related equipment for chemical, biological, nuclear, and cyber attack prevention and response capabilities for States, cities, territories, and local jurisdictions; and (3) providing grants, contracts, cooperative agreements, and other assistance authorized by sections 819, 821, and 822 of the Antiterrorism and Effective Death Penalty Act of 1996: *Provided*, That such funds transferred to the Office of Justice Programs may include amounts for management and administration, which shall be transferred to and merged with the "Justice Assistance" account.

#### ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, \$75,312,000.

In addition, \$59,251,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$35,610,000; including not to exceed \$10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the

certificate of, the Attorney General; and for the acquisition, lease, maintenance, and operation of motor vehicles, without regard to the general purchase price limitation for the current fiscal year: *Provided*, That up to one-tenth of one percent of the Department of Justice's allocation from the Violent Crime Reduction Trust Fund grant programs may be transferred at the discretion of the Attorney General to this account for the audit or other review of such grant programs, as authorized by section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322).

#### UNITED STATES PAROLE COMMISSION

##### SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, \$7,400,000.

##### LEGAL ACTIVITIES

##### SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed \$20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia, \$466,840,000; of which not to exceed \$10,000,000 for litigation support contracts shall remain available until expended: *Provided*, That of the funds available in this appropriation, not to exceed \$17,834,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: *Provided further*, That of the total amount appropriated, not to exceed \$1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further*, That \$813,333 of funds made available to the Department of Justice in this Act shall be transferred by the Attorney General to the Presidential Advisory Commission on Holocaust Assets in the United States: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

In addition, \$8,160,000, to be derived from the Violent Crime Reduction Trust Fund, to remain available until expended for such purposes.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, as amended, not to exceed \$4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

## SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, \$68,275,000: *Provided*, That, notwithstanding any other provision of law, not to exceed \$68,275,000 of offsetting collections derived from fees collected in fiscal year 1999 for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than \$0.

## SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including intergovernmental and cooperative agreements, \$1,009,680,000; of which not to exceed \$2,500,000 shall be available until September 30, 2000, for (1) training personnel in debt collection, (2) locating debtors and their property, (3) paying the net costs of selling property, and (4) tracking debts owed to the United States Government: *Provided*, That of the total amount appropriated, not to exceed \$8,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed \$10,000,000 of those funds available for automated litigation support contracts shall remain available until expended: *Provided further*, That not to exceed \$2,500,000 for the operation of the National Advocacy Center shall remain available until expended: *Provided further*, That not to exceed \$1,000,000 shall remain available until expended for the expansion of existing Violent Crime Task Forces in United States Attorneys Offices into demonstration projects, including inter-governmental, inter-local, cooperative, and task-force agreements, however denominated, and contracts with State and local prosecutorial and law enforcement agencies engaged in the investigation and prosecution of violent crimes: *Provided further*, That, in addition to reimbursable full-time equivalent workyears available to the Offices of the United States Attorneys, not to exceed 9,044 positions and 9,312 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Attorneys: *Provided further*, That \$2,300,000 shall be used to provide for additional assistant United States attorneys and investigators to serve in Philadelphia, Pennsylvania, and Camden County, New Jersey, to enforce Federal laws designed to prevent the possession by criminals of firearms (as that term is defined in section 921(a) of title 18, United States Code), of which \$1,500,000 shall be used to provide for those attorneys and investigators in Philadelphia, Pennsylvania, and \$800,000 shall be used to provide for those attorneys and investigators in Camden County, New Jersey.

In addition, \$80,698,000, to be derived from the Violent Crime Reduction Trust Fund, to remain available until expended for such purposes.

## UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized by 28 U.S.C. 589a(a), \$114,248,000, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That, notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That, notwithstanding any other provision of law, \$114,248,000 of offsetting collections derived from fees collected pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the Fund estimated at \$0: *Provided further*, That any funds collected in fiscal year 1998 in excess of \$114,248,000 are not available for obligation.

## SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, \$1,227,000.

## SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles, and the purchase of passenger motor vehicles for police-type use, without regard to the general purchase price limitation for the current fiscal year, \$477,056,000, as authorized by 28 U.S.C. 561(i); of which not to exceed \$6,000 shall be available for official reception and representation expenses; and of which not to exceed \$4,000,000 for development, implementation, maintenance and support, and training for an automated prisoner information system shall remain available until expended.

In addition, \$25,553,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

## CONSTRUCTION

For planning, constructing, renovating, equipping, and maintaining United States Marshals Service prisoner-holding space in United States courthouses and federal buildings, including the renovation and expansion of prisoner movement areas, elevators, and sallyports, \$4,600,000, to remain available until expended.

JUSTICE PRISONER AND ALIEN TRANSPORTATION SYSTEM FUND,  
UNITED STATES MARSHALS SERVICE

There is hereby established a Justice Prisoner and Alien Transportation System Fund for the payment of necessary expenses related to the scheduling and transportation of United States prisoners and illegal and criminal aliens in the custody of the United States Marshals Service, as authorized in 18 U.S.C. 4013, including, without limitation, salaries and expenses, operations, and the acquisition, lease, and maintenance of aircraft and support facilities:

18 USC 4013  
note.

*Provided*, That the Fund shall be reimbursed or credited with advance payments from amounts available to the Department of Justice, other Federal agencies, and other sources at rates that will recover the expenses of Fund operations, including, without limitation, accrual of annual leave and depreciation of plant and equipment of the Fund: *Provided further*, That proceeds from the disposal of Fund aircraft shall be credited to the Fund: *Provided further*, That amounts in the Fund shall be available without fiscal year limitation, and may be used for operating equipment lease agreements that do not exceed 5 years.

#### FEDERAL PRISONER DETENTION

For expenses, related to United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General, \$425,000,000, as authorized by 28 U.S.C. 561(i), to remain available until expended.

#### FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, \$95,000,000, to remain available until expended; of which not to exceed \$6,000,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites; and of which not to exceed \$1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses.

#### SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, \$7,199,000 and, in addition, up to \$500,000 of funds made available to the Department of Justice in this Act may be transferred by the Attorney General to this account: *Provided*, That notwithstanding any other provision of law, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict prevention and resolution activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

#### ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (F), and (G), as amended, \$23,000,000, to be derived from the Department of Justice Assets Forfeiture Fund.



## RADIATION EXPOSURE COMPENSATION

## ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, \$2,000,000.

## INTERAGENCY LAW ENFORCEMENT

## INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, \$304,014,000, of which \$50,000,000 shall remain available until expended: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

## FEDERAL BUREAU OF INVESTIGATION

## SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,668 passenger motor vehicles, of which 2,000 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; and not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General, \$2,746,805,000; of which not to exceed \$50,000,000 for automated data processing and telecommunications and technical investigative equipment and not to exceed \$1,000,000 for undercover operations shall remain available until September 30, 2000; of which not less than \$292,473,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed \$61,800,000 shall remain available until expended; of which not to exceed \$10,000,000 is authorized to be made available for making advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which \$1,500,000 shall be available to maintain an independent program office dedicated solely to the automation of fingerprint identification services: *Provided*, That not to exceed \$45,000 shall be available for official reception and representation expenses: *Provided further*, That no funds in this Act may be used to provide ballistics imaging

equipment to any State or local authority which has obtained similar equipment through a Federal grant or subsidy unless the State or local authority agrees to return that equipment or to repay that grant or subsidy to the Federal Government.

In addition, \$223,356,000 for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund, as authorized by the Violent Crime Control and Law Enforcement Act of 1994, as amended, and the Antiterrorism and Effective Death Penalty Act of 1996.

#### CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; \$1,287,000, to remain available until expended.

#### DRUG ENFORCEMENT ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,428 passenger motor vehicles, of which 1,080 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; \$800,780,000, of which not to exceed \$1,800,000 for research and \$15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed \$4,000,000 for purchase of evidence and payments for information, not to exceed \$10,000,000 for contracting for automated data processing and telecommunications equipment, and not to exceed \$2,000,000 for laboratory equipment, \$4,000,000 for technical equipment, and \$2,000,000 for aircraft replacement retrofit and parts, shall remain available until September 30, 2000; and of which not to exceed \$50,000 shall be available for official reception and representation expenses.

In addition, \$405,000,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

#### CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; \$8,000,000, to remain available until expended.

## IMMIGRATION AND NATURALIZATION SERVICE

## SALARIES AND EXPENSES

For expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, as follows:

## ENFORCEMENT AND BORDER AFFAIRS

For salaries and expenses for the Border Patrol program, the detention and deportation program, the intelligence program, the investigations program, and the inspections program, including not to exceed \$50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police-type use (not to exceed 3,855 passenger motor vehicles, of which 2,535 are for replacement only), without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; research related to immigration enforcement; for protecting and maintaining the integrity of the borders of the United States including, without limitation, equipping, maintaining, and making improvements to the infrastructure; and for the care and housing of Federal detainees held in the joint Immigration and Naturalization Service and United States Marshals Service's Buffalo Detention Facility, \$1,069,754,000, of which not to exceed \$400,000 for research shall remain available until expended; of which not to exceed \$10,000,000 shall be available for costs associated with the training program for basic officer training, and \$5,000,000 is for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration; and of which not to exceed \$5,000,000 is to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of \$30,000 during the calendar year beginning January 1, 1999: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That none of the funds provided in this or any other Act shall be used for the continued operation of the San Clemente and Temecula checkpoints unless the checkpoints are open and traffic is being checked on a continuous 24-hour basis.

CITIZENSHIP AND BENEFITS, IMMIGRATION SUPPORT AND PROGRAM  
DIRECTION

For all programs of the Immigration and Naturalization Service not included under the heading "Enforcement and Border Affairs", \$552,083,000: *Provided*, That not to exceed \$5,000 shall be available for official reception and representation expenses: *Provided further*, That the Attorney General may transfer any funds appropriated under this heading and the heading "Enforcement and Border Affairs" between said appropriations notwithstanding any percentage transfer limitations imposed under this appropriation Act and

may direct such fees as are collected by the Immigration and Naturalization Service to the activities funded under this heading and the heading “Enforcement and Border Affairs” for performance of the functions for which the fees legally may be expended: *Provided further*, That not to exceed 43 permanent positions and 43 full-time equivalent workyears and \$4,284,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis, or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis: *Provided further*, That the number of positions filled through non-career appointment at the Immigration and Naturalization Service, for which funding is provided in this Act or is otherwise made available to the Immigration and Naturalization Service, shall not exceed 4 permanent positions and 4 full-time equivalent workyears: *Provided further*, That funds may be used, without limitation, for equipping, maintaining, and making improvements to the infrastructure and the purchase of vehicles for police type use within the limits of the Enforcement and Border Affairs appropriation: *Provided further*, That, notwithstanding any other provision of law, during fiscal year 1999, the Attorney General is authorized and directed to impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, for any employee of the Immigration and Naturalization Service who violates policies and procedures set forth by the Department of Justice relative to the granting of citizenship or who willfully deceives the Congress or department leadership on any matter.

#### VIOLENT CRIME REDUCTION PROGRAMS

In addition, \$842,490,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund: *Provided*, That the Attorney General may use the transfer authority provided under the heading “Citizenship and Benefits, Immigration Support and Program Direction” to provide funds to any program of the Immigration and Naturalization Service that heretofore has been funded by the Violent Crime Reduction Trust Fund.

#### CONSTRUCTION

For planning, construction, renovation, equipping, and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, \$90,000,000, to remain available until expended: *Provided*, That no funds shall be available for the site acquisition, design, or construction of any Border Patrol checkpoint in the Tucson sector.

#### FEDERAL PRISON SYSTEM

##### SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions,

including purchase (not to exceed 763, of which 599 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments, \$2,862,354,000: *Provided*, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further*, That not to exceed \$6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed \$90,000,000 for the activation of new facilities shall remain available until September 30, 2000: *Provided further*, That, of the amounts provided for Contract Confinement, not to exceed \$20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980, as amended, for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That, notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)), FPS may enter into contracts and other agreements with private entities for periods of not to exceed 3 years and 7 additional option years for the confinement of Federal prisoners.

42 USC 250a.

In addition, \$26,499,000, for such purposes, to remain available until expended, to be derived from the Violent Crime Reduction Trust Fund.

#### BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, \$410,997,000, to remain available until expended, of which not to exceed \$14,074,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That not to exceed 10 percent of the funds appropriated to “Buildings and Facilities” in this Act or any other Act may be transferred to “Salaries and Expenses”, Federal Prison System, upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act.

#### FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and

borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON  
INDUSTRIES, INCORPORATED

Not to exceed \$3,266,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, \$147,151,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Public Law 102-534 (106 Stat. 3524).

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, \$552,000,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102-534 (106 Stat. 3524), of which \$47,000,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs.

VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW  
ENFORCEMENT ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account)

authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended (“the 1994 Act”); the Omnibus Crime Control and Safe Streets Act of 1968, as amended (“the 1968 Act”); and the Victims of Child Abuse Act of 1990, as amended (“the 1990 Act”), \$2,369,950,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which \$523,000,000 shall be for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995, except that for purposes of this Act, the Commonwealth of Puerto Rico shall be considered a “unit of local government” as well as a “State”, for the purposes set forth in paragraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728 and for establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals: *Provided*, That no funds provided under this heading may be used as matching funds for any other Federal grant program: *Provided further*, That \$40,000,000 of this amount shall be for Boys and Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: *Provided further*, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers: *Provided further*, That, hereafter, for the purpose of eligibility for the Local Law Enforcement Block Grant Program in the State of Louisiana, parish sheriffs are to be considered the unit of local government at the parish level under section 108 of H.R. 728: *Provided further*, That \$20,000,000 shall be available to carry out section 102(2) of H.R. 728; of which \$45,000,000 shall be for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; of which \$420,000,000 shall be for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended; of which \$720,500,000 shall be for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the 1994 Act, of which \$165,000,000 shall be available for payments to States for incarceration of criminal aliens, of which \$25,000,000 shall be available for the Cooperative Agreement Program, and of which \$34,000,000 shall be reserved by the Attorney General for fiscal year 1999 under section 20109(a) of subtitle A of title II of the 1994 Act; of which \$9,000,000 shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; of which \$2,000,000 shall be for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; of which \$206,750,000 shall be for Grants to Combat Violence Against Women, to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act, including \$23,000,000 which shall be used exclusively for the purpose of strengthening civil legal assistance programs for victims of domestic violence, and \$10,000,000 which shall be used exclusively for violence on college campuses: *Provided further*, That, of these funds, \$5,200,000 shall be provided to the National Institute of Justice for research and evaluation of violence against women, \$1,196,000 shall be provided to the Office of the United States Attorney for the District of Columbia for domestic violence programs in D.C. Superior Court,

and \$10,000,000 shall be available to the Office of Juvenile Justice and Delinquency Prevention for the Safe Start Program, to be administered as authorized by part C of the Juvenile Justice and Delinquency Act of 1974, as amended; of which \$34,000,000 shall be for Grants to Encourage Arrest Policies to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act; of which \$25,000,000 shall be for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act; of which \$5,000,000 shall be for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the 1994 Act, and for local demonstration projects; of which \$1,000,000 shall be for grants for televised testimony, as authorized by section 1001(a)(7) of the 1968 Act; of which \$5,000,000 shall be for the Tribal Courts Initiative; of which \$63,000,000 shall be for grants for residential substance abuse treatment for State prisoners, as authorized by section 1001(a)(17) of the 1968 Act; of which \$15,000,000 shall be for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; of which \$900,000 shall be for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(c) of the 1994 Act; of which \$1,300,000 shall be for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act; of which \$40,000,000 shall be for Drug Courts, as authorized by title V of the 1994 Act; of which \$1,500,000 shall be for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act; of which \$2,000,000 shall be for public awareness programs addressing marketing scams aimed at senior citizens, as authorized by section 250005(3) of the 1994 Act; and of which \$250,000,000 shall be for Juvenile Accountability Incentive Block Grants, except that such funds shall be subject to the same terms and conditions as set forth in the provisions under this heading for this program in Public Law 105–119, but all references in such provisions to 1998 shall be deemed to refer instead to 1999: *Provided further*, That funds made available in fiscal year 1999 under subpart 1 of part E of title I of the 1968 Act may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions and for drug testing initiatives: *Provided further*, That, if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

#### WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement “Weed and Seed” program activities, \$33,500,000 to remain available until expended, for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in “Weed and Seed” designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the “Weed and Seed” program strategy: *Provided*, That funds des-



ignated by Congress through language for other Department of Justice appropriation accounts for “Weed and Seed” program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further*, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of “Weed and Seed” program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

#### COMMUNITY ORIENTED POLICING SERVICES

##### VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322 (“the 1994 Act”) (including administrative costs), \$1,400,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, for Public Safety and Community Policing Grants pursuant to title I of the 1994 Act: *Provided*, That not to exceed 266 permanent positions and 266 full-time equivalent workyears and \$32,023,000 shall be expended for program management and administration: *Provided further*, That of the funds made available under this heading and the unobligated balances available in this program, \$180,000,000 shall be used for innovative community policing programs, of which \$80,000,000 shall be used for a law enforcement technology program, \$35,000,000 shall be used for policing initiatives to combat methamphetamine production and trafficking and to enhance policing initiatives in drug “hot spots”, \$17,500,000 shall be used for programs to combat violence in schools, \$25,000,000 shall be used for the Matching Grant Program for Law Enforcement Armor Vests pursuant to section 2501 of part Y of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, \$5,000,000 shall be used for additional community law enforcement officers and related program support for the District of Columbia Offender Supervision, Defender, and Court Services Agency, \$12,500,000 shall be used for the Community Policing to Combat Domestic Violence Program pursuant to section 1701(d) of part Q of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and \$5,000,000 shall be used for Community Prosecutors programs: *Provided further*, That up to \$35,000,000 shall be available to improve tribal law enforcement including equipment and training.

In addition, for programs of Police Corps education, training, and service as set forth in sections 200101-200113 of the 1994 Act, \$30,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

##### JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, (“the Act”), including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, \$267,597,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of the Act, as amended by Public Law 102-586, of which (1) notwithstanding any other

provision of law, \$6,847,000 shall be available for expenses authorized by part A of title II of the Act, \$89,000,000 shall be available for expenses authorized by part B of title II of the Act, and \$42,750,000 shall be available for expenses authorized by part C of title II of the Act: *Provided*, That \$26,500,000 of the amounts provided for part B of title II of the Act, as amended, is for the purpose of providing additional formula grants under part B to States that provide assurances to the Administrator that the State has in effect (or will have in effect no later than one year after date of application) policies and programs, that ensure that juveniles are subject to accountability-based sanctions for every act for which they are adjudicated delinquent; (2) \$12,000,000 shall be available for expenses authorized by sections 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) \$10,000,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) \$12,000,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) \$95,000,000 shall be available for expenses authorized by title V of the Act for incentive grants for local delinquency prevention programs; of which \$10,000,000 shall be for delinquency prevention, control, and system improvement programs for tribal youth; of which \$25,000,000 shall be available for grants of \$360,000 to each state and \$6,640,000 shall be available for discretionary grants to states, for programs and activities to enforce state laws prohibiting the sale of alcoholic beverages to minors or the purchase or consumption of alcoholic beverages by minors, prevention and reduction of consumption of alcoholic beverages by minors, and for technical assistance and training: *Provided further*, That upon the enactment of reauthorization legislation for Juvenile Justice Programs under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, funding provisions in this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect: *Provided further*, That of amounts made available under the Juvenile Justice Programs of the Office of Justice Programs to carry out part B (relating to Federal Assistance for State and Local Programs), subpart II of part C (relating to Special Emphasis Prevention and Treatment Programs), part D (relating to Gang-Free Schools and Communities and Community-Based Gang Intervention), part E (relating to State Challenge Activities), and part G (relating to Mentoring) of title II of the Juvenile Justice and Delinquency Prevention Act of 1974, and to carry out the At-Risk Children's Program under title V of that Act, not more than 10 percent of each such amount may be used for research, evaluation, and statistics activities designed to benefit the programs or activities authorized under the appropriate part or title, and not more than 2 percent of each such amount may be used for training and technical assistance activities designed to benefit the programs or activities authorized under that part or title.

In addition, for grants, contracts, cooperative agreements, and other assistance, \$10,000,000 to remain available until expended, for developing, testing, and demonstrating programs designed to reduce drug use among juveniles.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act

of 1990, as amended, \$7,000,000, to remain available until expended, as authorized by section 214B of the Act.

PUBLIC SAFETY OFFICERS BENEFITS

To remain available until expended, for payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed \$45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Authorities contained in the Department of Justice Appropriation Authorization Act, Fiscal Year 1980 (Public Law 96-132; 93 Stat. 1040 (1979)), as amended, shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 105. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 106. Notwithstanding any other provision of law, not to exceed \$10,000,000 of the funds made available in this Act may be used to establish and publicize a program under which publicly advertised, extraordinary rewards may be paid, which shall not be subject to spending limitations contained in sections 3059 and 3072 of title 18, United States Code: *Provided*, That any reward of \$100,000 or more, up to a maximum of \$2,000,000, may not be made without the personal approval of the President or the Attorney General and such approval may not be delegated.

18 USC 3059  
note.

SEC. 107. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act, including those derived from the Violent Crime Reduction Trust Fund, may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated

18 USC 4043  
note.

as a reprogramming of funds under section 605 of this Act and shall not be available for obligation except in compliance with the procedures set forth in that section.

SEC. 108. For fiscal year 1999 and thereafter, the Director of the Bureau of Prisons may make expenditures out of the Commissary Fund of the Federal Prison System, regardless of whether any such expenditure is security-related, for programs, goods, and services for the benefit of inmates (to the extent the provision of those programs, goods, or services to inmates is not otherwise prohibited by law), including—

- (1) the installation, operation, and maintenance of the Inmate Telephone System;
- (2) the payment of all the equipment purchased or leased in connection with the Inmate Telephone System; and
- (3) the salaries, benefits, and other expenses of personnel who install, operate, and maintain the Inmate Telephone System.

SEC. 109. (a) Section 3201 of the Crime Control Act of 1990 (28 U.S.C. 509 note) is amended to read as follows—

“Appropriations in this or any other Act hereafter for the Federal Bureau of Investigation, the Drug Enforcement Administration, or the Immigration and Naturalization Service are available, in an amount of not to exceed \$25,000 each per fiscal year, to pay humanitarian expenses incurred by or for any employee thereof (or any member of the employee’s immediate family) that results from or is incident to serious illness, serious injury, or death occurring to the employee while on official duty or business.”.

(b) The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by striking section 626 (8 U.S.C. 1363b).

SEC. 110. Any amounts credited to the “Legalization Account” established under section 245(c)(7)(B) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(7)(B)) are transferred to the “Examinations Fee Account” established under section 286(m) of that Act (8 U.S.C. 1356(m)).

SEC. 111. The Director of the Bureau of Prisons shall conduct a study, not later than 270 days after the date of the enactment of this Act, of private prisons that evaluates the growth and development of the private prison industry during the past 15 years, training qualifications of personnel at private prisons, and the security procedures of such facilities, and compares the general standards and conditions between private prisons and Federal prisons. The results of such study shall be submitted to the Committees on the Judiciary and Appropriations of the House of Representatives and the Senate.

SEC. 112. Notwithstanding any other provision of law, during fiscal year 1999, the Assistant Attorney General for the Office of Justice Programs of the Department of Justice—

- (1) may make grants, or enter into cooperative agreements and contracts, for the Office of Justice Programs and the component organizations of that Office; and
- (2) shall have final authority over all grants, cooperative agreements, and contracts made, or entered into, for the Office of Justice Programs and the component organizations of that Office.

SEC. 113. Notwithstanding any other provision of law, with respect to any grant program for which amounts are made available under this title, the term “tribal” means of or relating to an Indian

tribe (as that term is defined in section 102(2) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a(2))).

SEC. 114. Section 286(e)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1356(e)(1)(C)) is amended by inserting “State” and a comma immediately before “territory”.

SEC. 115. (a)(1) Notwithstanding any other provision of law, for fiscal year 1999, the Attorney General may obligate any funds appropriated for or reimbursed to the Counterterrorism programs, projects or activities of the Department of Justice to purchase or lease equipment or any related items, or to acquire interim services, without regard to any otherwise applicable Federal acquisition rule, if the Attorney General determines that—

(A) there is an exigent need for the equipment, related items, or services in order to support an ongoing counterterrorism, national security, or computer-crime investigation or prosecution;

(B) the equipment, related items, or services required are not available within the Department of Justice; and

(C) adherence to that Federal acquisition rule would—

(i) delay the timely acquisition of the equipment, related items, or services; and

(ii) adversely affect an ongoing counterterrorism, national security, or computer-crime investigation or prosecution.

(2) In this subsection, the term “Federal acquisition rule” means any provision of title II or IX of the Federal Property and Administrative Services Act of 1949, the Office of Federal Procurement Policy Act, the Small Business Act, the Federal Acquisition Regulation, or any other provision of law or regulation that establishes policies, procedures, requirements, conditions, or restrictions for procurements by the head of a department or agency or the Federal Government.

(b) The Attorney General shall immediately notify the Committees on Appropriations of the House of Representatives and the Senate in writing of each expenditure under subsection (a), which notification shall include sufficient information to explain the circumstances necessitating the exercise of the authority under that subsection.

SEC. 116. Section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended—

(1) in the matter preceding paragraph (1), by striking “later than” and all that follows through “Attorney” and inserting “later than October 15, 1998 (and not later than March 30, 2001, in the case of land border ports of entry and sea ports), the Attorney”;

(2) in paragraph (1), by striking “and” at the end;

(3) in paragraph (2), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(3) not significantly disrupt trade, tourism, or other legitimate cross-border traffic at land border ports of entry.”.

SEC. 117. Section 402 of the Controlled Substances Act (21 U.S.C. 842) is amended—

(1) in subsection (a)(5), by inserting “negligently” before “fail”;

(2) in subsection (a)(10), by inserting “negligently” before “to fail”; and

(3) in subsection (c)(1)—

(A) by inserting “(A)” after “(1)”; and

(B) by inserting “subparagraph (B) of this paragraph and” before “paragraph (2)”; and

(C) by adding at the end the following:

“(B) In the case of a violation of paragraph (5) or (10) of subsection (a), the civil penalty shall not exceed \$10,000.”.

SEC. 118. The General Accounting Office shall—

(1) monitor the compliance of the Department of Justice and all United States Attorneys with the “Guidance on the Use of the False Claims Act in Civil Health Care Matters” issued by the Department of Justice on June 3, 1998, including any revisions to that guidance; and

(2) not later than February 1, 1999, and again not later than August 2, 1999, submit a report on such compliance to the Committees on the Judiciary and the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 119. FIREARMS SAFETY. (a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(34) The term ‘secure gun storage or safety device’ means—

“(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

“(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

“(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.”.

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER’S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking “and” at the end;

(2) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).”.

(c) REVOCATION OF DEALER’S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: “or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are

not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)”.

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed— 18 USC 923 note.

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act. 18 USC 921 note.

SEC. 120. FIREARM SAFETY EDUCATION GRANTS. (a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

“(1) undertaking educational and training programs for—

“(A) criminal justice personnel; and

“(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;”;

(2) in the first sentence of subsection (b), by inserting before the period the following: “and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)”;

(3) by adding at the end the following:

“(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

“(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

“(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice

Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

“(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

“(A) is not of a sufficient size to justify an evaluation;

or

“(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.”.

42 USC 3760  
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

#### FIREARMS

SEC. 121. Section 922 of title 18, United States Code, is amended—

(1) in subsection (d), by striking paragraph (5) and inserting the following:

“(5) who, being an alien—

“(A) is illegally or unlawfully in the United States;

or

“(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));”;

(2) in subsection (g), by striking paragraph (5) and inserting the following:

“(5) who, being an alien—

“(A) is illegally or unlawfully in the United States;

or

“(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));”;

(3) in subsection (s)(3)(B), by striking clause (v) and inserting the following:

“(v) is not an alien who—

“(I) is illegally or unlawfully in the United States; or

“(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));”;

(4) by inserting after subsection (x) the following:

“(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NON-IMMIGRANT VISAS.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘alien’ has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

“(B) the term ‘nonimmigrant visa’ has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).



“(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

“(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

“(B) an official representative of a foreign government who is—

“(i) accredited to the United States Government or the Government’s mission to an international organization having its headquarters in the United States; or

“(ii) en route to or from another country to which that alien is accredited;

“(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

“(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

“(3) WAIVER.—

“(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

“(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

“(ii) the Attorney General approves the petition.

“(B) PETITION.—Each petition under subparagraph (B) shall—

“(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

“(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

“(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

“(i) would be in the interests of justice; and

“(ii) would not jeopardize the public safety.”.

SEC. 122. Section 3486(a)(1) of title 18, United States Code, is amended by inserting “or any act or activity involving a Federal offense relating to the sexual exploitation or other abuse of children,” after “health care offense,”.

SEC. 123. Section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) is amended—  
(1) in subsection (a)(2), by striking “or”;

(2) in subsection (g)(3), by striking “minimally sufficient” and inserting “State sexual offender”; and

(3) by amending subsection (i) to read as follows:

“(i) PENALTY.—A person who is—

“(1) required to register under paragraph (1), (2), or (3) of subsection (g) of this section and knowingly fails to comply with this section;

“(2) required to register under a sexual offender registration program in the person’s State of residence and knowingly fails to register in any other State in which the person is employed, carries on a vocation, or is a student;

“(3) described in section 4042(c)(4) of title 18, United States Code, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation; or

“(4) sentenced by a court martial for conduct in a category specified by the Secretary of Defense under section 115(a)(8)(C) of title I of Public Law 105–119, and knowingly fails to register in any State in which the person resides, is employed, carries on a vocation, or is a student following release from prison or sentencing to probation, shall, in the case of a first offense under this subsection, be imprisoned for not more than 1 year and, in the case of a second or subsequent offense under this subsection, be imprisoned for not more than 10 years.”.

28 USC 534 note.

SEC. 124. (a)(1) A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General through the appropriate State agency or agency designated by the Attorney General a copy of an employment applicant’s fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and any other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after acquiring the fingerprints, signed statement, and information.

(b) Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State agency or agency designated by the Attorney General to receive such information.

(c) Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) The Attorney General may charge a reasonable fee, not to exceed \$50 per request, to any nursing facility or home health care agency requesting a search and exchange of records pursuant to this section.

(e) Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches and exchanges of records made under this section by nursing facilities and home health care agencies and the disposition of such requests.

(f) Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(g) A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees, and any necessary modifications to the definitions contained in subsection (i).

(i) In this section:

(1) The term “home health care agency” means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) The term “nursing facility” means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or nursing care.

(j) This section shall apply without fiscal year limitation.

SEC. 125. Effective with the enactment of this Act, and in any fiscal year hereafter, the Attorney General and the Secretary of the Treasury may, for their respective agencies, extend the payment of relocation expenses listed in section 5724a(b)(1) of Title 5 of the United States Code to include the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

5 USC 5724a  
note.

SEC. 126. Notwithstanding any other provision of this Act, the total of the amounts appropriated under this title of this Act is reduced by \$20,038,000, out of which the reductions for each account shall be made in accordance with the chart on Year 2000 funding dated September 17, 1998, provided to Congress by the Department of Justice.

SEC. 127. Notwithstanding any other provision of law, in any action brought by a prisoner under section 1979 of the Revised Statutes (42 U.S.C. 1983) against a Federal, State, or local jail, prison, or correctional facility, or any employee or former employee thereof, arising out of the incarceration of that prisoner—

(1) the financial records of a person employed or formerly employed by the Federal, State, or local jail, prison, or correctional facility, shall not be subject to disclosure without the written consent of that person or pursuant to a court order,

unless a verdict of liability has been entered against that person; and

(2) the home address, home phone number, social security number, identity of family members, personal tax returns, and personal banking information of a person described in paragraph (1), and any other records or information of a similar nature relating to that person, shall not be subject to disclosure without the written consent of that person, or pursuant to a court order.

SEC. 128. (a) The numerical limitation set forth in section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) shall not apply to any alien described in subsection (b).

(b) An alien described in subsection (a) is an alien who was a United States Government employee, employee of a nongovernmental organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government in 1996 or 1997 pursuant to an arrangement made by the United States Government, and who was granted asylum in the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

SEC. 129. (a) AMENDMENTS TO JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—

(1) IN GENERAL.—Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(A) by striking paragraph (8) and inserting the following:

“(8) the term ‘unit of local government’ means—

“(A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State;

“(B) any law enforcement district or judicial enforcement district that—

“(i) is established under applicable State law; and

“(ii) has the authority to, in a manner independent of other State entities, establish a budget and raise revenues;

“(C) an Indian Tribe that performs law enforcement functions, as determined by the Secretary of the Interior; or

“(D) for the purposes of assistance eligibility, any agency of the government of the District of Columbia or the Federal Government that performs law enforcement functions in and for—

“(i) the District of Columbia; or

“(ii) any Trust Territory of the United States;”;

and

(B) in paragraph (9), by striking “units of general local government” and inserting “units of local government”.

(2) CONFORMING AMENDMENTS.—

(A) Section 221(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631(a)) is amended by striking “units of general local government” each place that term appears and inserting “units of local government”.

(B) Section 222(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(c)) is

amended by striking “units of general local government” each place that term appears and inserting “units of local government”.

(C) Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended—

(i) in paragraph (4)—

(I) by striking “units of general local government” and inserting “units of local government”; and

(II) by striking “local governments” and inserting “units of local government”;

(ii) in paragraph (5)—

(I) in subparagraph (A), by striking “units of general local government” and inserting “units of local government”; and

(II) in subparagraph (B), by striking “unit of general local government” and inserting “unit of local government”;

(iii) in paragraph (6), by striking “unit of general local government” and inserting “unit of local government”; and

(iv) in paragraph (10), by striking “unit of general local government” and inserting “unit of local government”.

(D) Section 244(5) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654(5)) is amended by striking “units of general local government” and inserting “units of local government”.

(E) Section 372(a)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714b(a)(3)) is amended by striking “unit of general local government” and inserting “unit of local government”.

(F) Section 505(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5784(a)) is amended by striking “units of general local government” and inserting “units of local government”.

(b) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Section 901(3) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(3)) is amended to read as follows:

“(3) ‘unit of local government’ means—

“(A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State;

“(B) any law enforcement district or judicial enforcement district that—

“(i) is established under applicable State law; and

“(ii) has the authority to, in a manner independent of other State entities, establish a budget and impose taxes;

“(C) an Indian Tribe (as that term is defined in section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603)) that performs law enforcement functions, as determined by the Secretary of the Interior; or

“(D) for the purposes of assistance eligibility, any agency of the government of the District of Columbia or

the Federal Government that performs law enforcement functions in and for—

“(i) the District of Columbia; or

“(ii) any Trust Territory of the United States;”.

SEC. 130. For payments of judgments against the United States and compromise settlements of claims in suits against the United States arising from the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) and its implementation, such sums as may be necessary, to remain available until expended: *Provided*, That the foregoing authority is available solely for payment of judgments and compromise settlements: *Provided further*, That payment of litigation expenses is available under existing authority as set forth in the Memorandum of Understanding between the Federal Deposit Insurance Corporation and the Department of Justice, dated October 2, 1998, and may not be paid from amounts provided in this Act.

This title may be cited as the “Department of Justice Appropriations Act, 1999”.

Department of  
Commerce and  
Related Agencies  
Appropriations  
Act, 1999.

## TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

### TRADE AND INFRASTRUCTURE DEVELOPMENT

#### RELATED AGENCIES

##### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

###### SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, \$24,200,000, of which \$1,000,000 shall remain available until expended: *Provided*, That not to exceed \$98,000 shall be available for official reception and representation expenses.

##### INTERNATIONAL TRADE COMMISSION

###### SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, and not to exceed \$2,500 for official reception and representation expenses, \$44,495,000, to remain available until expended.

## DEPARTMENT OF COMMERCE

### INTERNATIONAL TRADE ADMINISTRATION

#### OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and

3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed \$327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed \$30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment, \$286,264,000, to remain available until expended, of which \$1,600,000 is to be derived from fees to be retained and used by the International Trade Administration, notwithstanding 31 U.S.C. 3302: *Provided*, That of the \$302,757,000 provided for in direct obligations (of which \$284,664,000 is appropriated from the General Fund, \$1,600,000 is derived from fee collections, and \$16,493,000 is derived from unobligated balances and deobligations from prior years), \$59,280,000 shall be for Trade Development, \$17,779,000 shall be for Market Access and Compliance, \$31,047,000 shall be for the Import Administration, \$182,736,000 shall be for the United States and Foreign Commercial Service, and \$11,915,000 shall be for Executive Direction and Administration: *Provided further*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to section 5412 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4912); and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

#### EXPORT ADMINISTRATION

##### OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed \$15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law, \$52,331,000 to remain available until expended, of which \$1,877,000 shall be for inspections and other activities

related to national security: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further*, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments: *Provided further*, That no funds may be obligated or expended for processing licenses for the export of satellites of United States origin (including commercial satellites and satellite components) to the People's Republic of China, unless, at least 15 days in advance, the Committees on Appropriations of the House and the Senate and other appropriate Committees of the Congress are notified of such proposed action.

#### ECONOMIC DEVELOPMENT ADMINISTRATION

##### ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, \$368,379,000: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further*, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

##### SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, \$24,000,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.



## MINORITY BUSINESS DEVELOPMENT AGENCY

## MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, \$27,000,000.

## ECONOMIC AND INFORMATION INFRASTRUCTURE

## ECONOMIC AND STATISTICAL ANALYSIS

## SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, \$48,490,000, to remain available until September 30, 2000.

## BUREAU OF THE CENSUS

## SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, \$136,147,000.

## PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to conduct the decennial census, \$1,026,936,000 to remain available until expended: *Provided*, That, of this amount, not less than \$75,000,000 shall be for the following activities: (1) \$23,000,000 for additional staffing requirements for local field offices; (2) \$17,000,000 for additional promotion, outreach, and marketing activities; and (3) \$35,000,000 for additional costs associated with modifications to decennial census questionnaires.

In addition, for necessary expenses of the Census Monitoring Board as authorized by section 210 of Public Law 105-119, \$4,000,000, to remain available until expended.

In addition, for expenses to collect and publish statistics for other periodic censuses and programs provided for by law, \$155,966,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION  
ADMINISTRATION

## SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration (NTIA), \$10,940,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce shall charge Federal agencies for costs incurred in spectrum management, analysis, and operations, and related services and such fees shall be retained and used as offsetting collections for costs of such spectrum services, to remain available until expended: *Provided further*, That hereafter, notwithstanding any other provision of law, NTIA shall not authorize spectrum use or provide any spectrum

47 USC 903 note.

functions pursuant to the NTIA Organization Act, 47 U.S.C. 902–903, to any Federal entity without reimbursement as required by NTIA for such spectrum management costs, and Federal entities withholding payment of such cost shall not use spectrum: *Provided further*, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA, in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND  
CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, \$21,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed \$1,800,000 shall be available for program administration as authorized by section 391 of the Act: *Provided further*, That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further*, That, hereafter, notwithstanding any other provision of law, the Pan-Pacific Education and Communication Experiments by Satellite (PEACESAT) Program is eligible to compete for Public Telecommunications Facilities, Planning and Construction funds.

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, \$18,000,000, to remain available until expended as authorized by section 391 of the Act, as amended: *Provided*, That not to exceed \$3,000,000 shall be available for program administration and other support activities as authorized by section 391: *Provided further*, That, of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: *Provided further*, That, notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety, or other social services: *Provided further*, That notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under this heading to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

## PATENT AND TRADEMARK OFFICE

## SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks, \$643,026,000, to remain available until expended: *Provided*, That of this amount, \$643,026,000 shall be derived from offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, and shall be retained and used for necessary expenses in this appropriation: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at \$0: *Provided further*, That, during fiscal year 1999, should the total amount of offsetting fee collections be less than \$643,026,000, the total amounts available to the Patent and Trademark Office shall be reduced accordingly: *Provided further*, That any amount received in excess of \$643,026,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999: *Provided further*, That the amounts charged for patent fees under 35 U.S.C. 41(a) and (b) shall be the amounts charged by the Patent and Trademark Office on September 30, 1998, including any applicable surcharges collected pursuant to section 8001 of Public Law 103-66: *Provided further*, That such fees shall be credited as offsetting collections and shall be retained and used for necessary expenses in this appropriation: *Provided further*, That upon enactment of a statute reauthorizing the Patent and Trademark Office or establishing a successor agency or agencies, and upon the subsequent enactment of a new patent fee schedule, the fifth proviso in this paragraph shall no longer have effect: *Provided further*, That, in addition to amounts otherwise made available under this heading, not to exceed \$102,000,000 of such amounts collected shall be available for obligation in fiscal year 1999 for purposes as authorized by law: *Provided further*, That any amount received in excess of \$102,000,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999.

## SCIENCE AND TECHNOLOGY

## TECHNOLOGY ADMINISTRATION

## UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

## SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, \$9,495,000, of which not to exceed \$1,600,000 shall remain available until September 30, 2000.

## NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

## SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, \$280,136,000, to remain available until expended,

of which not to exceed \$1,625,000 may be transferred to the “Working Capital Fund”.

#### INDUSTRIAL TECHNOLOGY SERVICES

15 USC 278k  
note.

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology, \$106,800,000, to remain available until expended: *Provided*, That notwithstanding the time limitations imposed by 15 U.S.C. 278k(c) (1) and (5) on the duration of Federal financial assistance that may be awarded by the Secretary of Commerce to Regional Centers for the transfer of Manufacturing Technology (“Centers”), such Federal financial assistance for a Center may continue beyond six years and may be renewed for additional periods, not to exceed one year, at a rate not to exceed one-third of the Center’s total annual costs or the level of funding in the sixth year, whichever is less, subject before any such renewal to a positive evaluation of the Center and to a finding by the Secretary of Commerce that continuation of Federal funding to the Center is in the best interest of the Regional Centers for the transfer of Manufacturing Technology Program: *Provided further*, That the Center’s most recent performance evaluation is positive, and the Center has submitted a reapplication which has successfully passed merit review.

In addition, for necessary expenses of the Advanced Technology Program of the National Institute of Standards and Technology, \$203,500,000, to remain available until expended, of which not to exceed \$66,000,000 shall be available for the award of new grants, and of which not to exceed \$500,000 may be transferred to the “Working Capital Fund”.

#### CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, \$56,714,000, to remain available until expended: *Provided*, That of the amounts provided under this heading, \$40,000,000 shall be available for obligation and expenditure only after submission of a plan for the expenditure of these funds, in accordance with section 605 of this Act.

#### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

##### OPERATIONS, RESEARCH, AND FACILITIES

##### (INCLUDING TRANSFERS OF FUNDS)

33 USC 851.

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including maintenance, operation, and hire of aircraft; not to exceed 250 commissioned officers on the active list as of September 30, 1999; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and relocation of facilities as authorized by 33 U.S.C. 883i; \$1,579,844,000, to remain available until expended: *Provided*, That fees and donations received by the National Ocean Service for

the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: *Provided further*, That in addition, \$63,381,000 shall be derived by transfer from the fund entitled “Promote and Develop Fishery Products and Research Pertaining to American Fisheries”: *Provided further*, That grants to States pursuant to sections 306 and 306A of the Coastal Zone Management Act of 1972, as amended, shall not exceed \$2,000,000: *Provided further*, That not to exceed \$31,439,000 shall be expended for Executive Direction and Administration, which consists of the Offices of the Under Secretary, the Executive Secretariat, Policy and Strategic Planning, International Affairs, Legislative Affairs, Public Affairs, Sustainable Development, the Chief Scientist, and the General Counsel: *Provided further*, That the aforementioned offices, excluding the Office of the General Counsel, shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis above the level of 33 personnel: *Provided further*, That the Secretary of Commerce shall make funds available to implement the mitigation recommendations identified subsequent to the “1995 Secretary’s Report to Congress on Adequacy of NEXRAD Coverage and Degradation of Weather Services”, and shall ensure continuation of weather service coverage for these communities until mitigation activities are completed: *Provided further*, That no general administrative charge shall be applied against any assigned activity included in this Act and, further, that any direct administrative expenses applied against assigned activities shall be limited to five percent of the funds provided for that assigned activity.

#### PROCUREMENT, ACQUISITION AND CONSTRUCTION

##### (INCLUDING TRANSFERS OF FUNDS)

For procurement, acquisition and construction of capital assets, including alteration and modification costs, of the National Oceanic and Atmospheric Administration, \$584,677,000, to remain available until expended: *Provided*, That not to exceed \$67,667,000 is available for the advanced weather interactive processing system, and may be available for obligation and expenditure only pursuant to a certification by the Secretary of Commerce that the total cost to complete the acquisition and deployment of the advanced weather interactive processing system through Build 4.2 and NOAA Port system, including program management, operations, and maintenance costs through deployment, will not exceed \$71,790,000: *Provided further*, That unexpended balances of amounts previously made available in the “Operations, Research, and Facilities” account for activities funded under this heading may be transferred to and merged with this account, to remain available until expended for the purposes for which the funds were originally appropriated.

#### COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a), not to exceed \$4,000,000, for purposes set forth in sections 308(b)(2)(A), 308(b)(2)(B)(v), and 315(e) of such Act.

## FISHERMEN’S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed \$953,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

## FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627), and the American Fisheries Promotion Act (Public Law 96–561), to be derived from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed \$189,000, to remain available until expended.

## FISHERIES FINANCE PROGRAM ACCOUNT

For the cost of direct loans, \$338,000, as authorized by the Merchant Marine Act of 1936, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That none of the funds made available under this heading may be used for direct loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

## GENERAL ADMINISTRATION

## SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed \$3,000 for official entertainment, \$30,000,000.

## OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$21,000,000.

## PATENT AND TRADEMARK OFFICE

## SALARIES AND EXPENSES

## (RESCISSION)

Of the unobligated balances available under this heading from prior year appropriations, fees collected in this fiscal year, and balances of prior year fees, \$71,000,000 are rescinded.

## GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized

only upon the certification of officials designated by the Secretary of Commerce that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefore, as authorized by law (5 U.S.C. 5901-5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce, shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

13 USC 23 note.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Should legislation be enacted to dismantle or reorganize the Department of Commerce, or any portion thereof, the Secretary of Commerce, no later than 90 days thereafter, shall submit to the Committees on Appropriations of the House and the Senate a plan for transferring funds provided in this Act to the appropriate successor organizations: *Provided*, That the plan shall include a proposal for transferring or rescinding funds appropriated herein for agencies or programs terminated under such legislation: *Provided further*, That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of Commerce or the appropriate head of any successor organization(s) may use any available funds to carry out legislation dismantling or reorganizing the Department of Commerce, or any portion thereof, to cover the costs of actions relating to the abolishment, reorganization, or transfer of functions and any related personnel action, including voluntary separation incentives if authorized by such legislation: *Provided*, That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 205 of this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 207. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title or from actions taken

for the care and protection of loan collateral or grant property shall be absorbed within the total budgetary resources available to such Department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 208. The Secretary of Commerce may award contracts for hydrographic, geodetic, and photogrammetric surveying and mapping services in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.).

SEC. 209. The Secretary of Commerce may use the Commerce franchise fund for expenses and equipment necessary for the maintenance and operation of such administrative services as the Secretary determines may be performed more advantageously as central services, pursuant to section 403 of Public Law 103–356: *Provided*, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made for the purpose of providing capital shall be used to capitalize such fund: *Provided further*, That such fund shall be paid in advance from funds available to the Department and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of automated data processing (ADP) software and systems (either acquired or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: *Provided further*, That such fund shall provide services on a competitive basis: *Provided further*, That an amount not to exceed 4 percent of the total annual income to such fund may be retained in the fund for fiscal year 1999 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment, and for the improvement and implementation of Department financial management, ADP, and other support systems: *Provided further*, That such amounts retained in the fund for fiscal year 1999 and each fiscal year thereafter shall be available for obligation and expenditure only in accordance with section 605 of this Act: *Provided further*, That no later than 30 days after the end of each fiscal year, amounts in excess of this reserve limitation shall be deposited as miscellaneous receipts in the Treasury: *Provided further*, That such franchise fund pilot program shall terminate pursuant to section 403(f) of Public Law 103–356.

31 USC 501 note.

SEC. 210. No funds may be used under this Act to process or register any application filed or submitted with the Patent and Trademark Office under the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946, commonly referred to as the Trademark Act of 1946, as amended, after the date of enactment of this Act for a mark identical to the official tribal insignia of any federally recognized Indian tribe for a period of one year from the date of enactment of this Act.



SEC. 211. (a)(1) Notwithstanding any other provision of law, no transaction or payment shall be authorized or approved pursuant to section 515.527 of title 31, Code of Federal Regulations, as in effect on September 9, 1998, with respect to a mark, trade name, or commercial name that is the same as or substantially similar to a mark, trade name, or commercial name that was used in connection with a business or assets that were confiscated unless the original owner of the mark, trade name, or commercial name, or the bona fide successor-in-interest has expressly consented.

(2) No U.S. court shall recognize, enforce or otherwise validate any assertion of rights by a designated national based on common law rights or registration obtained under such section 515.527 of such a confiscated mark, trade name, or commercial name.

(b) No U.S. court shall recognize, enforce or otherwise validate any assertion of treaty rights by a designated national or its successor-in-interest under sections 44 (b) or (e) of the Trademark Act of 1946 (15 U.S.C. 1126 (b) or (e)) for a mark, trade name, or commercial name that is the same as or substantially similar to a mark, trade name, or commercial name that was used in connection with a business or assets that were confiscated unless the original owner of such mark, trade name, or commercial name, or the bona fide successor-in-interest has expressly consented.

(c) The Secretary of the Treasury shall promulgate such rules and regulations as are necessary to carry out the provisions of this section.

Regulations.

(d) In this section:

(1) The term “designated national” has the meaning given such term in section 515.305 of title 31, Code of Federal Regulations, as in effect on September 9, 1998, and includes a national of any foreign country who is a successor-in-interest to a designated national.

(2) The term “confiscated” has the meaning given such term in section 515.336 of title 31, Code of Federal Regulations, as in effect on September 9, 1998.

SEC. 212. (a) Subject to subsection (b), the Secretary of Commerce shall convey, at fair market value (as determined by the Secretary), to the city of Two Harbors, Minnesota, or its designee, the parcel of land described in subsection (c).

(b) The Secretary may make the conveyance under subsection (a) only if the Secretary receives adequate assurances, as determined by the Secretary, that the conveyance is in accordance with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(c) The parcel of land referred to in subsection (a) consists of approximately 21.55 acres known as the J and J Casting site, in Lake County, Minnesota, together with a road easement, all as described in the deed of the United States Marshal, dated March 22, 1988, executed pursuant to the order of sale of the United States District Court for the District of Minnesota, dated May 15, 1987, in case Civil No. 5-86-300.

(d) The Secretary shall carry out this section acting through the Assistant Secretary of Commerce for Economic Development.

SEC. 213. The Secretary of Commerce, through the Under Secretary for Oceans and Atmosphere, is authorized to exchange, under such terms as the Secretary deems appropriate, all right, title, and interest in the 28.16 acre Lena Point property near Juneau, Alaska, to site a National Oceanic and Atmospheric Administration

facility: *Provided*, That the Secretary is authorized to enter into an agreement with the owner of the Lena Point site to modify existing rock quarry operations to minimize future site development costs, and to provide appropriated funds for project mitigation purposes: *Provided further*, That Section 2(b) of Public Law 104–91 is amended by striking “on Auke Cape near Juneau, Alaska” and inserting in lieu thereof “in Alaska”.

SEC. 214. The National Oceanic and Atmospheric Administration (NOAA) is authorized to provide an easement, lease, license or other long-term agreement to allow the State of Alaska to own, operate and maintain a laboratory, classroom, and office facility on the site of the NOAA facility and to accept and expend State funds for development of joint facilities that will be owned and operated by NOAA: *Provided*, That NOAA is authorized to collect operation and maintenance costs from the State of Alaska and to retain said funds for utility costs, and current and future facility maintenance costs.

This title may be cited as the “Department of Commerce and Related Agencies Appropriations Act, 1999”.

The Judiciary  
Appropriations  
Act, 1999.

### TITLE III—THE JUDICIARY

#### SUPREME COURT OF THE UNITED STATES

##### SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance, and operation of an automobile for the Chief Justice, not to exceed \$10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed \$10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve, \$31,059,000.

##### CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), \$5,400,000, of which \$2,364,000 shall remain available until expended.

#### UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

##### SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, \$16,101,000.

#### UNITED STATES COURT OF INTERNATIONAL TRADE

##### SALARIES AND EXPENSES

For salaries of the chief judge and 8 judges, salaries of the officers and employees of the court, services as authorized by 5

U.S.C. 3109, and necessary expenses of the court, as authorized by law, \$11,804,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL  
SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, \$2,821,821,000 (including the purchase of firearms and ammunition); of which not to exceed \$13,454,000 shall remain available until expended for space alteration projects; and of which not to exceed \$10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed \$2,515,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

VIOLENT CRIME REDUCTION PROGRAMS

For activities of the Federal Judiciary as authorized by law, \$41,043,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as authorized by section 190001(a) of Public Law 103-322, and sections 818 and 823 of Public Law 104-132.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations; the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended; the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)); the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel; the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences; and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), \$360,952,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

## FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)), \$66,861,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

## COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702), \$174,569,000, of which not to exceed \$10,000,000 shall remain available until expended for security systems, to be expended directly or transferred to the United States Marshals Service, which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

## ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

## SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, \$54,500,000, of which not to exceed \$7,500 is authorized for official reception and representation expenses.

## FEDERAL JUDICIAL CENTER

## SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, \$17,716,000; of which \$1,800,000 shall remain available through September 30, 2000, to provide education and training to Federal court personnel; and of which not to exceed \$1,000 is authorized for official reception and representation expenses.

## JUDICIAL RETIREMENT FUNDS

## PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), \$27,500,000; to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c),

\$7,800,000; and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), \$2,000,000.

#### UNITED STATES SENTENCING COMMISSION

##### SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, \$9,487,000, of which not to exceed \$1,000 is authorized for official reception and representation expenses.

#### GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and Other Judicial Services, Defender Services" and "Courts of Appeals, District Courts, and Other Judicial Services, Fees of Jurors and Commissioners", shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 303. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided*, That such available funds shall not exceed \$10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in the capacity as Secretary of the Judicial Conference.

This title may be cited as "The Judiciary Appropriations Act, 1999".

#### TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

##### DEPARTMENT OF STATE

##### ADMINISTRATION OF FOREIGN AFFAIRS

##### DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c), and

Department of  
State and  
Related Agencies  
Appropriations  
Act, 1999.

8 USC 1351 note.

22 U.S.C. 2674; and for expenses of general administration, \$1,644,300,000: *Provided*, That, of the amount made available under this heading, not to exceed \$4,000,000 may be transferred to, and merged with, funds in the “Emergencies in the Diplomatic and Consular Service” appropriations account, to be available only for emergency evacuations and terrorism rewards: *Provided further*, That of the amount made available under this heading, \$500,000 shall be available only for the National Law Center for Inter-American Free Trade: *Provided further*, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3), of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), fees may be collected during fiscal years 1999 and 2000 under the authority of section 140(a)(1) of that Act: *Provided further*, That all fees collected under the preceding proviso shall be deposited in fiscal years 1999 and 2000 as an offsetting collection to appropriations made under this heading to recover costs as set forth under section 140(a)(2) of that Act and shall remain available until expended.

In addition, not to exceed \$1,252,000 shall be derived from fees collected from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553), as amended; in addition, as authorized by section 5 of such Act, \$490,000, to be derived from the reserve authorized by that section, to be used for the purposes set out in that section; and, in addition, not to exceed \$15,000, which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts “Diplomatic and Consular Programs” and “Salaries and Expenses” under the heading “Administration of Foreign Affairs” may be transferred between such appropriation accounts: *Provided*, That any transfer pursuant to this sentence shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

#### SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, \$355,000,000: *Provided*, That, of this amount, \$813,333 shall be transferred to the Presidential Advisory Commission on Holocaust Assets in the United States.

#### CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, \$80,000,000, to remain available until expended, as authorized in Public Law 103–236: *Provided*, That section 135(e) of Public Law 103–236 shall not apply to funds available under this heading.

## OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), \$27,495,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980, as amended (Public Law 96-465), as it relates to post inspections.

## REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), \$4,350,000.

## PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, \$8,100,000, to remain available until September 30, 2000.

## SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), preserving, maintaining, repairing, and planning for, buildings that are owned or directly leased by the Department of State, renovating, in addition to funds otherwise available, the Main State Building, and carrying out the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), \$403,561,000, to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

## EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), \$5,500,000 to remain available until expended as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)), of which not to exceed \$1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

## REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, \$593,000, as authorized by section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, \$607,000, which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

## PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8, \$14,750,000.

## PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, \$132,500,000.

22 USC 269a  
note.

## INTERNATIONAL ORGANIZATIONS AND CONFERENCES

## CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, \$922,000,000: *Provided*, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings: *Provided further*, That, of the funds appropriated in this paragraph, \$100,000,000 may be made available only on a semi-annual basis pursuant to a certification by the Secretary of State on a semi-annual basis, that the United Nations has taken no action during the preceding 6 months to increase funding for any United Nations program without identifying an offsetting decrease during that 6-month period elsewhere in the United Nations budget and cause the United Nations to exceed the expected reform budget for the biennium 1998–1999 of \$2,533,000,000: *Provided further*, That not to exceed \$15,000,000 shall be transferred from funds made available under this heading to the “International Conferences and Contingencies” account for United States contributions to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission, except that such transferred funds may be obligated or expended only for Commission meetings and sessions, provisional technical secretariat salaries and expenses, other Commission administrative and training activities, including purchase of training equipment, and upgrades to existing internationally based monitoring systems involved in cooperative data sharing agreements with the United States as of the date of enactment of this Act, until the United States Senate ratifies the Comprehensive Nuclear Test Ban Treaty: *Provided further*, That notwithstanding section 402 of this Act, not to exceed \$1,223,000 may be transferred from the funds made available under this heading to the “International Conferences and Contingencies” account for assessed contributions to new or provisional international organizations or for travel expenses of official delegates to international conferences: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with



the procedures set forth in that section: *Provided further*, That not to exceed \$2,000,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons: *Provided further*, That funds appropriated under this paragraph may be obligated and expended to pay the full U.S. assessment to the civil budget of the North Atlantic Treaty Organization.

#### CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, \$231,000,000: *Provided*, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least 15 days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable): (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: *Provided further*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services, and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers: *Provided further*, That none of the funds made available under this heading are available to pay the United States share of the cost of court monitoring that is part of any United Nations peacekeeping mission.

#### ARREARAGE PAYMENTS

For an additional amount for payment of arrearages to meet obligations of membership in the United Nations, and to pay assessed expenses of international peacekeeping activities, \$475,000,000, to remain available until expended: *Provided*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended unless such obligation or expenditure is expressly authorized by law: *Provided further*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated or expended until such time as the share of the total of all assessed contributions for the regular budget of the United Nations does not exceed 22 percent for any single United Nations member, and the share of the budget for each assessed United Nations peacekeeping operation does not exceed 25 percent for any single United Nations member.

22 USC 269a  
note.

#### INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

##### INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed \$6,000 for representation; as follows:

##### SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, \$19,551,000.

##### CONSTRUCTION

For detailed plan preparation and construction of authorized projects, \$5,939,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

##### AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182, \$5,733,000, of which not to exceed \$9,000 shall be available for representation expenses incurred by the International Joint Commission.

##### INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, \$14,549,000: *Provided*, That the United States' share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

##### OTHER

##### PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, \$8,250,000, to remain available until expended, as authorized by section 24(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(c)).

## RELATED AGENCIES

## ARMS CONTROL AND DISARMAMENT AGENCY

## ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, \$41,500,000, of which not to exceed \$50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

## UNITED STATES INFORMATION AGENCY

## INTERNATIONAL INFORMATION PROGRAMS

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed \$700,000 of this appropriation), as authorized by section 801 of such Act of 1948 (22 U.S.C. 1471), and entertainment, including official receptions, within the United States, not to exceed \$25,000 as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1474(3)), \$455,246,000: *Provided*, That not to exceed \$1,400,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085): *Provided further*, That not to exceed \$6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of such Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other law, fees from educational advising and counseling, and exchange visitor program services: *Provided further*, That not to exceed \$920,000, to remain available until expended, may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

## EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), \$202,500,000, to remain available until expended as authorized by section 105 of such Act of 1961 (22 U.S.C. 2455): *Provided*, That not to exceed \$800,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching and publication programs as authorized by section 810 of the United States Information and Educational

Exchange Act of 1948 (22 U.S.C. 1475e) and, notwithstanding any other provision of law, fees from educational advising and counseling: *Provided further*, That notwithstanding section 402 of this Act, not to exceed \$2,000,000 may be transferred from the funds made available under this heading to the “Technology Fund” account.

#### EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–5205), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1999, to remain available until expended: *Provided*, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

#### ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1999, to remain available until expended.

#### INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities, \$362,365,000, of which not to exceed \$16,000 may be used for official receptions within the United States as authorized by section 804(3) of such Act of 1948 (22 U.S.C. 1747(3)), not to exceed \$35,000 may be used for representation abroad as authorized by section 302 of such Act of 1948 (22 U.S.C. 1452) and section 905 of the Foreign Service Act of 1980 (22 U.S.C. 4085), and not to exceed \$39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, notwithstanding any other provision of law, not to exceed \$2,000,000 in receipts from advertising and revenue from business ventures, not to exceed \$500,000 in receipts from cooperating international organizations, and not to exceed \$1,000,000 in receipts from privatization efforts of the Voice of America and the International Broadcasting Bureau, to remain available until expended for carrying out authorized purposes.

#### BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International

Broadcasting Act of 1994, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, \$22,095,000, to remain available until expended.

#### RADIO CONSTRUCTION

For the purchase, rent, construction, and improvement of facilities for radio transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by section 801 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471), \$13,245,000, to remain available until expended, as authorized by section 704(a) of such Act of 1948 (22 U.S.C. 1477b(a)).

#### EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054-2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, \$12,500,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

#### NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, \$1,750,000, to remain available until expended.

#### NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, \$31,000,000, to remain available until expended.

#### GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCIES

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of title 5, United States Code; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided*, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such

appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. (a) An employee who regularly commutes from his or her place of residence in the continental United States to an official duty station in Canada or Mexico shall receive a border equalization adjustment equal to the amount of comparability payments under section 5304 of title 5, United States Code, that he or she would receive if assigned to an official duty station within the United States locality pay area closest to the employee's official duty station.

(b) For purposes of this section, the term "employee" shall mean a person who—

(1) is an "employee" as defined under section 2105 of title 5, United States Code; and

(2) is employed by the United States Department of State, the United States Information Agency, the United States Agency for International Development, or the International Joint Commission, except that the term shall not include members of the Foreign Service as defined by section 103 of the Foreign Service Act of 1980 (Public Law 96-465), section 3903 of title 22, United States Code.

(c) An equalization adjustment payable under this section shall be considered basic pay for the same purposes as are comparability payments under section 5304 of title 5, United States Code, and its implementing regulations.

(d) The agencies referenced in subsection (c)(2) are authorized to promulgate regulations to carry out the purposes of this section.

SEC. 404. (a) Section 6(4) of the Japan-United States Friendship Act (22 U.S.C. 2905(4)) is amended by striking "needed, except" and all that follows through "United States" and inserting "needed".

(b) The second sentence of section 7(b) of the Japan-United States Friendship Act (22 U.S.C. 2906(b)) is amended to read as follows: "Such investment may be made only in interest-bearing obligations of the United States, in obligations guaranteed as to both principal and interest by the United States, in interest-bearing obligations of Japan, or in obligations guaranteed as to both principal and interest by Japan."

SEC. 405. The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to preplacement requirements.

SEC. 406. Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f-2) is amended by inserting "and the United Nations Industrial Development Organization" after "International Labor Organization".

SEC. 407. (a) Section 5545a of title 5, United States Code, is amended by adding at the end the following:

"(k)(1) For purposes of this section, the term 'criminal investigator' includes a special agent occupying a position under title II of Public Law 99-399 if such special agent—

"(A) meets the definition of such term under paragraph (2) of subsection (a) (applied disregarding the parenthetical matter before subparagraph (A) thereof); and

“(B) such special agent satisfies the requirements of subsection (d) without taking into account any hours described in paragraph (2)(B) thereof.

“(2) In applying subsection (h) with respect to a special agent under this subsection—

“(A) any reference in such subsection to ‘basic pay’ shall be considered to include amounts designated as ‘salary’;

“(B) paragraph (2)(A) of such subsection shall be considered to include (in addition to the provisions of law specified therein) sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980; and

“(C) paragraph (2)(B) of such subsection shall be applied by substituting for ‘Office of Personnel Management’ the following: ‘Office of Personnel Management or the Secretary of State (to the extent that matters exclusively within the jurisdiction of the Secretary are concerned)’.”.

(b) Not later than the date on which the amendments made by this section take effect, each special agent of the Diplomatic Security Service who satisfies the requirements of subsection (k)(1) of section 5545a of title 5, United States Code, as amended by this section, and the appropriate supervisory officer, to be designated by the Secretary of State, shall make an initial certification to the Secretary of State that the special agent is expected to meet the requirements of subsection (d) of such section 5545a. The Secretary of State may prescribe procedures necessary to administer this subsection.

(c)(1) Paragraph (2) of section 5545a(a) of title 5, United States Code, is amended (in the matter before subparagraph (A)) by striking “Public Law 99-399” and inserting “Public Law 99-399, subject to subsection (k))”.

(2) Section 5542(e) of such title is amended by striking “title 18, United States Code,” and inserting “title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956,”.

(d) The amendments made by this section shall take effect on the first day of the first applicable pay period—

(1) which begins on or after the 90th day following the date of the enactment of this Act; and

(2) on which date all regulations necessary to carry out such amendments are (in the judgment of the Director of the Office of Personnel Management and the Secretary of State) in effect.

SEC. 408. None of the funds made available in this Act may be used by the Department of State or the United States Information Agency to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

SEC. 409. During the current fiscal year and hereafter, the Secretary of State shall have discretionary authority to pay tort claims in the manner authorized by section 2672 of title 28, United States Code, when such claims arise in foreign countries in connection with the overseas operations of the Department of State.

SEC. 410. (a)(1)(A) Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall impose, for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act, a fee of \$13 (for recovery of

Effective date.  
5 USC 5542 note.

28 USC 2669-1.

the costs of manufacturing the combined card and visa) in the case of any alien under 15 years of age where the application for the machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(B) The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2)(A) Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been reduced under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15;

or

(ii) ten years after its date of issue.

(B) At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge the non-reduced fee for the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as is usually provided for visas issued under that section.

(3) Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1351 note) for the processing of machine readable nonimmigrant visas and machine readable combined border crossing cards and nonimmigrant visas at a level that will ensure the full recovery by the Department of State of the costs of processing such machine readable nonimmigrant visas and machine readable combined border crossing cards and nonimmigrant visas, including the costs of processing the machine readable combined border crossing cards and nonimmigrant visas for which the fee is reduced pursuant to this subsection.

(b) The Secretary of State shall continue, until the date that is 5 years after the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note et seq.), to process applications for visas under section 101(a)(15)(B) of the Immigration and Nationality Act at the following cities in Mexico located near the international border with the United States: Nogales, Nuevo Laredo, Ciudad Acuna, Piedras Negras, Agua Prieta, and Reynosa.



(c) Section 104(b)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended by striking “3 years” and inserting “5 years”.

SEC. 411. Funds appropriated by this Act for the United States Information Agency, the Arms Control and Disarmament Agency, and the Department of State may be obligated and expended notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948 and section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, section 53 of the Arms Control and Disarmament Act, and section 15 of the State Department Basic Authorities Act of 1956.

This title may be cited as the “Department of State and Related Agencies Appropriations Act, 1999”.

## TITLE V—RELATED AGENCIES

### DEPARTMENT OF TRANSPORTATION

#### MARITIME ADMINISTRATION

##### MARITIME SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$89,650,000, to remain available until expended.

##### OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, \$69,303,000.

##### MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act, 1936, \$6,000,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$1,000,000,000.

In addition, for administrative expenses to carry out the guaranteed loan program, not to exceed \$3,725,000, which shall be transferred to and merged with the appropriation for Operations and Training.

##### ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefore shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine

Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE  
ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, \$265,000, as authorized by section 1303 of Public Law 99-83.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, \$8,900,000: *Provided*, That not to exceed \$50,000 may be used to employ consultants: *Provided further*, That none of the funds appropriated in this paragraph shall be used to employ in excess of 4 full-time individuals under Schedule C of the Excepted Service exclusive of 1 special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the chairperson who is permitted 125 billable days.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, \$1,170,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); non-monetary awards to private citizens; and not to exceed \$29,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, \$279,000,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed \$2,500 from available funds.

## FEDERAL COMMUNICATIONS COMMISSION

## SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901-02; not to exceed \$600,000 for land and structure; not to exceed \$500,000 for improvement and care of grounds and repair to buildings; not to exceed \$4,000 for official reception and representation expenses; purchase (not to exceed 16) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109, \$192,000,000, of which not to exceed \$300,000 shall remain available until September 30, 2000, for research and policy studies: *Provided*, That \$172,523,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1999 so as to result in a final fiscal year 1999 appropriation estimated at \$19,477,000: *Provided further*, That any offsetting collections received in excess of \$172,523,000 in fiscal year 1999 shall remain available until expended, but shall not be available for obligation until October 1, 1999.

## FEDERAL MARITIME COMMISSION

## SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act, 1936, as amended (46 U.S.C. App. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02, \$14,150,000: *Provided*, That not to exceed \$2,000 shall be available for official reception and representation expenses.

## FEDERAL TRADE COMMISSION

## SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$2,000 for official reception and representation expenses, \$86,679,000: *Provided*, That not to exceed \$300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: *Provided further*, That, notwithstanding any other provision of law, not to exceed \$76,500,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced as such

offsetting collections are received during fiscal year 1999, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at not more than \$10,179,000, to remain available until expended: *Provided further*, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285).

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, \$300,000,000, of which \$289,000,000 is for basic field programs and required independent audits; \$2,015,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; and \$8,985,000 is for management and administration.

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of, sections 501, 502, 503, 504, 505, and 506 of Public Law 105–119, and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such sections, except that all references in sections 502 and 503 to 1997 and 1998 shall be deemed to refer instead to 1998 and 1999, respectively.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, \$1,240,000.

COMMISSION ON OCEAN POLICY

SALARIES AND EXPENSES

For necessary expenses of the Commission on Ocean Policy, \$3,500,000, to remain available until expended: *Provided*, That the funds provided in this Act for the Commission on Ocean Policy shall become available only upon the enactment of authorizing legislation.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed \$3,000 for official

reception and representation expenses, \$23,000,000; and, in addition, to remain available until expended, from fees collected in fiscal year 1998, \$87,000,000, and from fees collected in fiscal year 1999, \$214,000,000; of which not to exceed \$10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions; and of which not to exceed \$100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (1) such incidental expenses as meals taken in the course of such attendance; (2) any travel and transportation to or from such meetings; and (3) any other related lodging or subsistence: *Provided*, That fees and charges authorized by sections 6(b)(4) of the Securities Act of 1933 (15 U.S.C. 77f(b)(4)) and 31(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78ee(d)) shall be credited to this account as offsetting collections.

#### SMALL BUSINESS ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103-403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed \$3,500 for official reception and representation expenses, \$288,300,000, of which: \$3,500,000 shall be available for a grant to the NTTC at Wheeling Jesuit University to continue the outreach program to assist small business development; \$4,000,000 shall be available for a grant for Western Carolina University to develop a facility to assist in small business and rural economic development; \$2,000,000 shall be available for a grant for the City of Hazard, Kentucky for a Center for Rural Law Enforcement Technology and Training; \$1,500,000 shall be available for a grant to the State University of New York to develop a facility and operate the Institute of Entrepreneurship for small business and workforce development; \$1,500,000 shall be available for a grant for Pikeville College for a telemedicine learning and resource center; \$1,000,000 shall be available for a grant for the Center for Excellence in Marine Science Education at Southampton College; \$1,000,000 shall be for a grant to King's College in Wilkes-Barre, Pennsylvania, for the commercialization of pulverization technologies; \$850,000 shall be available for a grant for the Carbondale Technology Transfer Center in Lackawanna County, Pennsylvania; \$1,000,000 shall be available for a grant for the Institute for Software Research in Fairmont, West Virginia, for Institute operations and to further develop their capability to perform basic and applied research aimed at software engineering, biometrics, image processing and networks; \$500,000 shall be available for a grant for the Altoona Science and Technology Research Academy in Altoona, Pennsylvania; \$200,000 shall be available for a grant to the City of Prestonburg, Kentucky for a regional

arts and tourism center; \$300,000 shall be available for a grant for the City of Parkersburg, West Virginia for infrastructure improvements, facility upgrades, and property acquisition associated with community non-profit service and enrichment projects; \$200,000 shall be available for a grant for the Vandalia Heritage Foundation to fulfill its charter purposes; \$1,000,000 shall be available for a grant for the Moundsville Economic Development Council to work in conjunction with the Office of Law Enforcement Technology Commercialization for the establishment of the National Corrections and Law Enforcement Training and Technology Center, and for infrastructure improvements associated with this initiative; and \$250,000 shall be available for a grant for the Johnstown Area Regional Industries Defense Procurement Center to establish a Year 2000 challenge grant program to assist small businesses that rely heavily on the Federal Government's acquisition system for their livelihood, and help provide a solution to the Year 2000 computer problem: *Provided*, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: *Provided further*, That, notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations: *Provided further*, That \$82,000,000 shall be available to fund grants for performance in fiscal year 1999 or fiscal year 2000 as authorized by section 21 of the Small Business Act, as amended.

## OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), \$10,800,000.

## BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, \$2,200,000, to be available until expended; and for the cost of guaranteed loans, \$128,030,000, as authorized by 15 U.S.C. 631 note, of which \$45,000,000 shall remain available until September 30, 2000: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That of the funds previously made available under Public Law 105-135, section 507(g), for the Delta Loan program, up to \$20,000,000 may be transferred to and merged with the appropriations for salaries and expenses: *Provided further*, That during fiscal year 1999, commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, as amended, shall not exceed the amount of financings authorized under section 20(d)(1)(B)(ii) of the Small Business Act, as amended: *Provided further*, That during fiscal year 1999, commitments for general business loans authorized under section 7(a) of the Small Business Act, as amended, shall not exceed \$10,000,000,000 without prior notification of the Committees on Appropriations of the House of Representatives and Senate in accordance with section 605 of this Act.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, \$94,000,000, which may be

transferred to and merged with the appropriations for Salaries and Expenses.

#### DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, \$76,329,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the direct loan program, \$116,000,000, which may be transferred to and merged with appropriations for Salaries and Expenses, including \$500,000 for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program, and said sums shall be transferred to and merged with appropriations for the Office of Inspector General.

#### SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the “Surety Bond Guarantees Revolving Fund”, authorized by the Small Business Investment Act, as amended, \$3,300,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

#### ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided*, That any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

#### STATE JUSTICE INSTITUTE

##### SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by the State Justice Institute Authorization Act of 1992 (Public Law 102-572 (106 Stat. 4515-4516)), \$6,850,000, to remain available until expended: *Provided*, That not to exceed \$2,500 shall be available for official reception and representation expenses.

#### TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available

for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions, or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any



inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 609. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for: (1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995; (2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995; or (3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995; unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the intent of providing surviving relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

SEC. 610. None of the funds made available by this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds: (1) that the United Nations undertaking is a peacekeeping mission; (2) that such undertaking will involve United States Armed Forces under the command or operational control of a foreign national; and (3) that the President's military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

SEC. 611. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC–17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 612. None of the funds made available in title II for the National Oceanic and Atmospheric Administration (NOAA) under the headings “Operations, Research, and Facilities” and “Procurement, Acquisition and Construction” may be used to implement sections 603, 604, and 605 of Public Law 102–567: *Provided*, That NOAA may develop a modernization plan for its fisheries research vessels that takes fully into account opportunities for contracting for fisheries surveys.

SEC. 613. Any costs incurred by a department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such department or agency: *Provided*, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this section is provided in addition to authorities included elsewhere in this Act: *Provided further*, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 614. None of the funds made available in this Act to the Federal Bureau of Prisons may be used to distribute or make available any commercially published information or material to a prisoner when it is made known to the Federal official having authority to obligate or expend such funds that such information or material is sexually explicit or features nudity.

SEC. 615. Of the funds appropriated in this Act under the heading “Office of Justice Programs—State and Local Law Enforcement Assistance”, not more than 90 percent of the amount to be awarded to an entity under the Local Law Enforcement Block Grant shall be made available to such an entity when it is made known to the Federal official having authority to obligate or expend such funds that the entity that employs a public safety officer (as such term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide such a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health

insurance benefits at the time of retirement or separation as they received while on duty.

SEC. 616. (a) None of the funds appropriated or otherwise made available in this Act shall be used to issue visas to any person who—

(1) has been credibly alleged to have ordered, carried out, or materially assisted in the extrajudicial and political killings of Antoine Izmary, Guy Malary, Father Jean-Marie Vincent, Pastor Antoine Leroy, Jacques Fleurival, Mireille Durocher Bertin, Eugene Baillergeau, Michelange Hermann, Max Mayard, Romulus Dumarsais, Claude Yves Marie, Mario Beaubrun, Leslie Grimar, Joseph Chilove, Michel Gonzalez, and Jean-Hubert Feuille;

(2) has been included in the list presented to former President Jean-Bertrand Aristide by former National Security Council Advisor Anthony Lake in December 1995, and acted upon by President Rene Preval;

(3) was sought for an interview by the Federal Bureau of Investigation as part of its inquiry into the March 28, 1995, murder of Mireille Durocher Bertin and Eugene Baillergeau, Jr., and was credibly alleged to have ordered, carried out, or materially assisted in those murders, per a June 28, 1995, letter to the then Minister of Justice of the Government of Haiti, Jean-Joseph Exume;

(4) was a member of the Haitian High Command during the period 1991 through 1994, and has been credibly alleged to have planned, ordered, or participated with members of the Haitian Armed Forces in—

(A) the September 1991 coup against any person who was a duly elected government official of Haiti (or a member of the family of such official), or

(B) the murders of thousands of Haitians during the period 1991 through 1994; or

(5) has been credibly alleged to have been a member of the paramilitary organization known as FRAPH who planned, ordered, or participated in acts of violence against the Haitian people.

(b) EXEMPTION.—Subsection (a) shall not apply if the Secretary of State finds, on a case-by-case basis, that the entry into the United States of a person who would otherwise be excluded under this section is necessary for medical reasons or such person has cooperated fully with the investigation of these political murders. If the Secretary of State exempts any such person, the Secretary shall notify the appropriate congressional committees in writing.

(c) REPORTING REQUIREMENT.—(1) The United States chief of mission in Haiti shall provide the Secretary of State a list of those who have been credibly alleged to have ordered or carried out the extrajudicial and political killings mentioned in paragraph (1) of subsection (a).

(2) The Secretary of State shall submit the list provided under paragraph (1) to the appropriate congressional committees not later than 3 months after the date of enactment of this Act.

(3) The Secretary of State shall submit to the appropriate congressional committees a list of aliens denied visas, and the Attorney General shall submit to the appropriate congressional committees a list of aliens refused entry to the United States as a result of this provision.

(4) The Secretary of State shall submit a report under this subsection not later than 6 months after the date of enactment of this Act and not later than March 1 of each year thereafter as long as the Government of Haiti has not completed the investigation of the extrajudicial and political killings and has not prosecuted those implicated for the killings specified in paragraph (1) of subsection (a).

(d) DEFINITION.—In this section, the term “appropriate congressional committees” means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

SEC. 617. (a) None of the funds made available in this Act may be used to issue or renew a fishing permit or authorization for any fishing vessel of the United States greater than 165 feet in registered length or of more than 750 gross registered tons, and that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower—

(1) as specified in the permit application required under part 648.4(a)(5) of title 50, Code of Federal Regulations, part 648.12 of title 50, Code of Federal Regulations, and the authorization required under part 648.80(d)(2) of title 50, Code of Federal Regulations, to engage in fishing for Atlantic mackerel or herring (or both) under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); or

(2) that would allow such a vessel to engage in the catching, taking, or harvesting of fish in any other fishery within the exclusive economic zone of the United States (except territories), unless a certificate of documentation had been issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997, and such fishery endorsement was not surrendered at any time thereafter.

(b) Any fishing permit or authorization issued or renewed prior to the date of the enactment of this Act for a fishing vessel to which the prohibition in subsection (a)(1) applies that would allow such vessel to engage in fishing for Atlantic mackerel or herring (or both) during fiscal year 1999 shall be null and void, and none of the funds made available in this Act may be used to issue a fishing permit or authorization that would allow a vessel whose permit or authorization was made null and void pursuant to this subsection to engage in the catching, taking, or harvesting of fish in any other fishery within the exclusive economic zone of the United States.

SEC. 618. None of the funds provided by this Act shall be available to promote the sale or export of tobacco or tobacco products, or to seek the reduction or removal by any foreign country of restrictions on the marketing of tobacco or tobacco products, except for restrictions which are not applied equally to all tobacco or tobacco products of the same type.

SEC. 619. None of the funds made available in this Act may be used to pay the expenses of an election officer appointed by a court to oversee an election of any officer or trustee for the International Brotherhood of Teamsters.

SEC. 620. Section 1303 of the International Security and Development Corporation Act of 1985 (16 U.S.C. 469j) is amended in subsection (e), by striking “three” and inserting “six”.

SEC. 621. None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t); (2) any system to implement 18 U.S.C. 922(t) that does not require and result in the destruction of any identifying information submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm.

SEC. 622. Not later than 60 days after the date of enactment of this Act, the United States Trade Representative (in this section referred to as the “Trade Representative”) shall report to Congress on the Trade Representative’s analysis regarding—

(1) whether the Korean Government provided subsidies to Hanbo Steel;

(2) whether such subsidies had an adverse effect on United States companies;

(3) the status of the Trade Representative’s contacts with the Korean Government with respect to industry concerns regarding Hanbo Steel and efforts to eliminate subsidies; and

(4) the status of the Trade Representative’s contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

(b) The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell steel in Korea at a price that is 30 percent lower than the international market prices.

SEC. 623. None of the funds made available in this or any other Act may be used to implement, administer, or enforce Executive Order No. 13083 (titled “Federalism” and dated May 14, 1998).

SEC. 624. (a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking “Philadelphia, and Schuylkill” and inserting “and Philadelphia”; and

(2) in subsection (b) by inserting “Schuylkill,” after “Potter,”.

(b)(1) This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

Effective date.  
28 USC 118 note.

(2) This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

SEC. 625. Beginning 60 days from the date of enactment of this Act, none of the funds appropriated or otherwise made available by this Act may be made available for the participation by delegates of the United States to the Standing Consultative Commission unless the President certifies and so reports to the Committees on Appropriations that the United States Government is not implementing the Memorandum of Understanding Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the limitation of Anti-Ballistic Missile

Systems of May 26, 1972, entered into in New York on September 26, 1997, by the United States, Russia, Kazakhstan, Belarus, and Ukraine, or until the Senate provides its advice and consent to the Memorandum of Understanding.

TIME LIMITATION ON FUNDING

SEC. 626. (a) Notwithstanding any other provisions of this Act, appropriations and funds made available and authority granted pursuant to this Act (the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999) shall cease to be available after June 15, 1999.

(b) Appropriations and funds made available by or authority granted pursuant to the Act referenced in subsection (a) shall be apportioned under section 1513 of title 31, United States Code, in the manner established for funds provided by a joint resolution making continuing appropriations.

(c) Appropriations made and authority granted pursuant to the Act referenced in subsection (a) shall cover all obligations or expenditures incurred for any program, project or activity during the period for which funds or authority for such project or activity are available under such Act.

(d) Expenditures made during the period for which funds or authority are available under such Act shall be charged to the full-year amount provided for the applicable appropriation, fund, or authorization.

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading on September 30, 1998, \$99,000,000 are rescinded.

LEGAL ACTIVITIES

ASSET FORFEITURE FUND

(RESCISSION)

Of the unobligated balances available under this heading, \$2,000,000 are rescinded.

FEDERAL BUREAU OF INVESTIGATION

(RESCISSIONS)

Of the funds provided in previous Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

“Construction, 1998”, \$4,000,000;

“Salaries and Expenses, no year”, \$6,400,000;

“Violent Crime Reduction Program, 1996”, \$2,000,000; and

“Violent Crime Reduction Program, 1997”, \$300,000.

IMMIGRATION AND NATURALIZATION SERVICE

IMMIGRATION EMERGENCY FUND

(RESCISSION)

Of the unobligated balances available under this heading, \$5,000,000 are rescinded.

DEPARTMENT OF COMMERCE

(RESCISSIONS)

Of the funds provided in previous Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

“United States Travel and Tourism Administration, no year”, \$915,000; and

“Endowment for Children’s Educational TV, no year”, \$1,175,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

INDUSTRIAL TECHNOLOGY SERVICES

(RESCISSION)

Of the unobligated balances available under this heading for the Advanced Technology Program, \$6,000,000 are rescinded.

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

SHIP CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, \$17,000,000 are rescinded.

TITLE VIII

**SEC. 801. ETHICAL STANDARDS FOR FEDERAL PROSECUTORS.**

(a) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

**“§ 530B. Ethical standards for attorneys for the Government**

“(a) An attorney for the Government shall be subject to State laws and rules, and local Federal court rules, governing attorneys in each State where such attorney engages in that attorney’s duties, to the same extent and in the same manner as other attorneys in that State.

“(b) The Attorney General shall make and amend rules of the Department of Justice to assure compliance with this section.

“(c) As used in this section, the term ‘attorney for the Government’ includes any attorney described in section 77.2(a) of part

77 of title 28 of the Code of Federal Regulations and also includes any independent counsel, or employee of such a counsel, appointed under chapter 40.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 28, United States Code, is amended by adding at the end the following new item:

“530B. Ethical standards for attorneys for the Government.”.

28 USC 530B  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act and shall apply during that portion of fiscal year 1999 that follows that taking effect, and in each succeeding fiscal year.

National Whale  
Conservation  
Fund Act of 1998.  
16 USC 3701  
note.  
16 USC 3703  
note.

# TITLE IX NATIONAL WHALE CONSERVATION FUND ACT

SEC. 901. SHORT TITLE. This title may be cited as the “National Whale Conservation Fund Act of 1998”.

SEC. 902. FINDINGS. Congress finds that—

(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socioeconomic, and esthetic value;

(2) whale populations—

(A) form a significant component of marine ecosystems;

(B) are the subject of intense research;

(C) provide for a multimillion dollar whale watching tourist industry that provides the public an opportunity to enjoy and learn about great whales and the ecosystems of which the whales are a part; and

(D) are of importance to Native Americans for cultural and subsistence purposes;

(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (*Eubaleana glacialis*) remain perilously close to extinction;

(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

(5) the exploration and development of oil, gas, and hard mineral resources, marine debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitat of whales may affect whale populations adversely;

(6) the conservation of whale populations is subject to difficult challenges related to—

(A) the migration of whale populations across international boundaries;

(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

(D) the occurrence of whale populations in offshore waters where undertaking research, monitoring, and conservation measures is difficult and costly;

(7)(A) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration,



has research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.); and

(B) the heads of other Federal agencies and the Marine Mammal Commission established under section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401) have related research and management activities under the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(8) the funding available for the activities described in paragraph (8) is insufficient to support all necessary whale conservation and recovery activities; and

(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.

SEC. 903. NATIONAL WHALE CONSERVATION FUND. Section 4 of the National Fish and Wildlife Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

“(f)(1) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States.

“(2)(A) In a manner consistent with subsection (c)(1), the Foundation may—

“(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

“(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

“(B) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

“(C)(i) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375(a)(1)) as a civil penalty assessed by the Secretary under that section.

“(ii) The Directors of the Board shall ensure that any amounts transferred to the Foundation under clause (i) for the endowment fund under paragraph (1) are deposited in that fund in accordance with this subparagraph.

“(3) It is the intent of Congress that in making expenditures from the endowment fund under paragraph (1) to carry out activities specified in that paragraph, the Foundation should give priority to funding projects that address the conservation of populations of whales that the Foundation determines—

“(A) are the most endangered (including the northern right whale (*Eubaleana glacialis*)); or

“(B) most warrant, and are most likely to benefit from, research management, or educational activities that may be funded with amounts made available from the fund.

“(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission.”.

This Act may be cited as the “Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999”.

(c) For programs, projects or activities in the District of Columbia Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

District of  
Columbia  
Appropriations  
Act, 1999.

AN ACT Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 1999, and for other purposes.

## FEDERAL FUNDS

### METRORAIL IMPROVEMENTS AND EXPANSION

For a Federal contribution to the Washington Metropolitan Area Transit Authority for improvements and expansion of the Mount Vernon Square Metrorail station located at the site of the proposed Washington Convention Center project, \$25,000,000, to remain available until expended.

### FEDERAL PAYMENT FOR MANAGEMENT REFORM

For payment to the District of Columbia, \$25,000,000, to remain available until September 30, 1999, which shall be deposited into an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority and shall be disbursed from such escrow account by the Authority pursuant to the instructions of the Authority only for a program of management reform pursuant to sections 11101–11106 of the District of Columbia Management Reform Act of 1997, Public Law 105–33.

### FEDERAL PAYMENT FOR BOYS TOWN U.S.A. OPERATIONS IN THE DISTRICT OF COLUMBIA

For a Federal contribution of \$7,100,000 to be paid to the Board of Trustees of Boys Town U.S.A. for expansion of the operations of Boys Town of Washington, located at 4801 Sargent Road, Northeast, said funds to be allocated as follows: \$4,700,000 in capital costs for the construction of one emergency short-term residential center and four long-term residential homes in the District of Columbia; and \$2,400,000 in first-year operating expenses for said facilities: *Provided*, That said Board of Trustees shall provide quarterly financial reports during fiscal year 1999 on the expenditure of said funds to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform and Oversight of the House of Representatives.

## NATION'S CAPITAL INFRASTRUCTURE FUND

For a Federal contribution to the District of Columbia towards the costs of infrastructure needs, which shall be deposited into an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority and disbursed by the Authority from such account for the repair and maintenance of public safety facilities in the District of Columbia, \$18,778,000, to remain available until expended.

ENVIRONMENTAL STUDY AND RELATED ACTIVITIES AT LORTON  
CORRECTIONAL COMPLEX

For a Federal contribution for an environmental study and related activities at the property on which the Lorton Correctional Complex is located, to be transferred to the Federal agency with authority over the Complex, \$7,000,000, to remain available until expended.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA CORRECTIONS  
TRUSTEE OPERATIONS

For payment to the District of Columbia Corrections Trustee, \$184,800,000 for the administration and operation of correctional facilities and for the administrative operating costs of the Office of the Corrections Trustee, as authorized by section 11202 of the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105-33; of which \$177,385,000 shall be available for expenses incurred in connection with the housing, in both private, District of Columbia and Federal facilities, of the sentenced adult felon population of the District of Columbia; \$4,225,000 shall be available for personnel initiatives in the District of Columbia Department of Corrections; \$750,000 shall be available for a system of internal controls and audits within the Department of Corrections; and \$2,440,000 shall be available for administrative expenses: *Provided*, That, notwithstanding any other provision of law, and consistent with regulations and guidance governing the use of Federal funds by grantees, funds appropriated in this Act for the District of Columbia Corrections Trustee shall be transferred by the Secretary of the Treasury to said Trustee only as funds are needed to pay properly incurred obligations.

## FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

Notwithstanding any other provision of law, \$128,000,000 for payment to the Joint Committee on Judicial Administration in the District of Columbia; of which not to exceed \$121,000,000 shall be for District of Columbia Courts operation, to be allocated as follows: for the District of Columbia Court of Appeals, \$7,839,000 and 96 full-time equivalent (FTE) positions; for the District of Columbia Superior Court, \$72,419,000 and 1,017 FTE's; for the District of Columbia court system, \$40,742,000 and 120 FTE's; and \$7,000,000 shall be for capital improvements for District of Columbia courthouse facilities: *Provided*, That of amounts available for District of Columbia Courts operation, not to exceed \$6,900,000 shall be for the Counsel for Child Abuse and Neglect program pursuant to section 1101 of title 11, D.C. Code, and section 2304 of title 16, D.C. Code, and of which not to exceed \$25,036,000

shall be to carry out sections 2602 and 2604 of title 11, D.C. Code, relating to representation of indigents in criminal cases under the Criminal Justice Act, in total, \$31,936,000: *Provided further*, That subject to normal reprogramming requirements contained in section 116 of this Act, this \$31,936,000 may be used for other purposes under this heading: *Provided further*, That all amounts under this heading shall be paid quarterly by the Treasury of the United States based on quarterly apportionments approved by the Office of Management and Budget, with payroll and financial services to be provided on a contractual basis with the General Services Administration [GSA], said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform and Oversight of the House of Representatives.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA OFFENDER  
SUPERVISION, DEFENDER, AND COURT SERVICES AGENCY

For payment to the District of Columbia Offender Supervision, Defender, and Court Services Agency, \$59,400,000, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, Public Law 105-33; of which \$33,802,000 shall be for necessary expenses of Parole Revocation, Adult Probation and Offender Supervision, to include expenses relating to supervision of adults subject to protection orders or provision of services for or related to such persons; \$14,486,000 shall be available to the Public Defender Service; and \$11,112,000 shall be available to the Pretrial Services Agency: *Provided*, That, notwithstanding any other provision of law, and consistent with regulations and guidance governing the use of Federal funds by grantees, funds appropriated in this Act for the District of Columbia Offender Trustee shall be transferred by the Secretary of the Treasury to said Trustee only as funds are needed to pay properly incurred obligations.

FEDERAL PAYMENT FOR METROPOLITAN POLICE DEPARTMENT

For payment to the Metropolitan Police Department, \$1,200,000, for the administration and operating costs of the Citizen Complaint Review Office.

FEDERAL PAYMENT FOR FIRE DEPARTMENT

For payment to the Fire Department, \$3,240,000, for a 5.5 percent pay increase to be effective and paid to firefighters beginning October 1, 1998.

FEDERAL PAYMENT TO THE GEORGETOWN WATERFRONT PARK FUND

For payment to the Georgetown Waterfront Park Fund, \$1,000,000 for the construction and landscaping of Georgetown Waterfront Park, property described on the District of Columbia Surveyor's Plat Number S.O. 84-230: *Provided*, That the Georgetown Waterfront Park Fund provide an amount equal to one dollar

for every dollar expended, in cash or in kind, to carry out the activities supported by the grant.

#### FEDERAL PAYMENT TO HISTORICAL SOCIETY FOR CITY MUSEUM

For a Federal payment to the Historical Society of Washington, D.C., for the establishment and operation of a Museum of the City of Washington, D.C. at the Carnegie Library at Mount Vernon Square, \$2,000,000, to remain available until expended, to be deposited in a separate account of the Society used exclusively for the establishment and operation of such Museum: *Provided*, That the Secretary of the Treasury shall make such payment in quarterly installments, and the amount of the installment for a quarter shall be equal to the amount of matching funds that the Society has deposited into such account for the quarter (as certified by the Inspector General of the District of Columbia): *Provided further*, That notwithstanding any other provision of law, not later than January 1, 1999, the District of Columbia shall enter into an agreement with the Society under which the District of Columbia shall lease the Carnegie Library at Mount Vernon Square to the Society beginning on such date for 99 years at a rent of \$1 per year for use as a city museum.

#### FEDERAL PAYMENT FOR A NATIONAL MUSEUM OF AMERICAN MUSIC AND FOR DOWNTOWN REVITALIZATION

For a Federal contribution to the District of Columbia to establish a National Museum of American Music and for downtown revitalization, \$700,000 which shall be deposited into an escrow account held by the District of Columbia Financial Responsibility and Management Assistance Authority, to remain available until expended: *Provided*, That \$300,000 shall be available from this appropriation for the Federal City Council to conduct a needs and design study for a National Museum of American Music: *Provided further*, That \$300,000 shall be available from this appropriation for the Washington Center Alliance to further and promote the objectives of the Interactive Downtown Task Force: *Provided further*, That \$100,000 shall be paid to Save New York Avenue, Inc., for the further improvement of that portion of New York Avenue designated as the Capital Gateway Corridor.

#### UNITED STATES PARK POLICE

For a Federal payment to the United States Park Police, \$8,500,000, to acquire, modify and operate a helicopter and to make necessary capital expenditures to the Park Police aviation unit base: *Provided*, That the Chief of the United States Park Police shall provide quarterly financial reports during fiscal year 1999 on the expenditure of said funds to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform and Oversight of the House of Representatives.

#### FEDERAL PAYMENT FOR WATERFRONT IMPROVEMENTS

For a Federal payment to the District of Columbia Department of Housing and Community Development for a study in consultation

with the United States Army Corps of Engineers of necessary improvements to the Southwest Waterfront in the District of Columbia (including upgrading marina dock pilings and paving and restoring walkways in the marina and fish market areas) for the portions of Federal property in the Southwest quadrant of the District of Columbia within Lots 847 and 848, a portion of Lot 846, and the unassessed Federal real property adjacent to Lot 848 in Square 473, and for carrying out the improvements recommended by the study, \$3,000,000: *Provided*, That no portion of such funds shall be available to the District of Columbia unless the District of Columbia executes a 30-year lease with the existing lessees, or with their successors in interest, of such portions of property not later than 30 days after the existing lessees or their successors in interest have submitted to the District of Columbia acceptable plans for improvements and private financing: *Provided further*, That the District of Columbia shall report its progress on this project on a quarterly basis to the Committees on Appropriations of the House of Representatives and the Senate.

#### FEDERAL PAYMENT FOR MENTORING SERVICES

For a Federal payment to the International Youth Service and Development Corps, Inc. for a mentoring program for at-risk children in the District of Columbia, \$200,000: *Provided*, That the International Youth Service and Development Corps, Inc. shall submit to the Committees on Appropriations of the House of Representatives and the Senate an annual report due November 30, 1999, on the activities carried out with such funds.

#### FEDERAL PAYMENT FOR HOTLINE SERVICES

For a Federal payment to the International Youth Service and Development Corps, Inc. for the operation of a resource hotline for low-income individuals in the District of Columbia, \$50,000: *Provided*, That the International Youth Service and Development Corps, Inc. shall submit to the Committees on Appropriations of the House of Representatives and the Senate an annual report due November 30, 1999, on the activities carried out with such funds.

#### FEDERAL PAYMENT FOR PUBLIC EDUCATION

For a Federal contribution to the public education system for public charter schools, \$15,622,000.

#### FEDERAL PAYMENT FOR MEDICARE COORDINATED CARE DEMONSTRATION PROJECT IN THE DISTRICT OF COLUMBIA

For payment to the District of Columbia Financial Responsibility and Management Assistance Authority, \$3,000,000 for the continued funding of a Medicare Coordinated Care Demonstration Project in the District of Columbia as specified in section 4016(b)(2)(C) of the Balanced Budget Act of 1997.

#### FEDERAL PAYMENT FOR CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal contribution to the Children's National Medical Center in the District of Columbia, \$1,000,000 for construction,

renovation, and information technology infrastructure costs associated with establishing community pediatric health clinics for high risk children in medically underserved areas of the District of Columbia.

## DISTRICT OF COLUMBIA FUNDS

### OPERATING EXPENSES

#### DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

#### GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, \$164,144,000 (including \$136,485,000 from local funds, \$13,955,000 from Federal funds, and \$13,704,000 from other funds): *Provided*, That not to exceed \$2,500 for the Mayor, \$2,500 for the Chairman of the Council of the District of Columbia, and \$2,500 for the Chief Management Officer shall be available from this appropriation for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further*, That all employees permanently assigned to work in the Office of the Mayor shall be paid from funds allocated to the Office of the Mayor.

#### ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, \$159,039,000 (including \$45,162,000 from local funds, \$83,365,000 from Federal funds, and \$30,512,000 from other funds), of which \$12,000,000 collected by the District of Columbia in the form of BID tax revenue shall be paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11-134; D.C. Code, sec. 1-2271 et seq.), and the Business Improvement Districts Temporary Amendment Act of 1997 (D.C. Law 12-23): *Provided*, That such funds are available for acquiring services provided by the General Services Administration: *Provided further*, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia.

#### PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase or lease of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, \$755,786,000 (including \$530,945,000 from local funds, \$30,327,000 from Federal funds, and \$194,514,000 from other funds): *Provided*,

That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Department of Fire and Emergency Medical Services of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed \$500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be \$500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved: *Provided further*, That the Metropolitan Police Department is authorized to maintain 3,800 sworn officers, with leave for a 50 officer attrition: *Provided further*, That no more than 15 members of the Metropolitan Police Department shall be detailed or assigned to the Executive Protection Unit, until the Chief of Police submits a recommendation to the Council for its review: *Provided further*, That \$100,000 shall be available for inmates released on medical and geriatric parole: *Provided further*, That commencing on December 31, 1998, the Metropolitan Police Department shall provide to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform and Oversight of the House of Representatives, quarterly reports on the status of crime reduction in each of the 83 police service areas established throughout the District of Columbia: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1999, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1999, shall be available for obligations incurred under the Act in each fiscal year



since inception in the fiscal year 1985: *Provided further*, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6-204; D.C. Code, sec. 21-2060), for the fiscal year ending September 30, 1999, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989.

#### PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, \$788,956,000 (including \$640,135,000 from local funds, \$125,869,000 from Federal funds, and \$22,952,000 from other funds), to be allocated as follows: \$644,805,000 (including \$545,000,000 from local funds, \$95,121,000 from Federal funds, and \$4,684,000 from other funds), for the public schools of the District of Columbia; \$18,600,000 from local funds for the District of Columbia Teachers' Retirement Fund; \$27,857,000 (including \$12,235,000 from local funds and \$15,622,000 from Federal funds not including funds already made available for District of Columbia public schools) for public charter schools: *Provided*, That if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall be available for new public charter schools on a per pupil basis: *Provided further*, That \$480,000 of this amount shall be available to the District of Columbia Public Charter School Board for administrative costs: *Provided further*, That the Emergency Transitional Education Board of Trustees shall report to Congress not later than February 1, 1999, on the implementation of their policy to give preference to newly created District of Columbia public charter schools for surplus public school property; \$72,088,000 (including \$40,148,000 from local funds, \$14,079,000 from Federal funds, and \$17,861,000 from other funds) for the University of the District of Columbia; \$23,419,000 (including \$22,326,000 from local funds, \$686,000 from Federal funds, and \$407,000 from other funds) for the Public Library; \$2,187,000 (including \$1,826,000 from local funds and \$361,000 from Federal funds) for the Commission on the Arts and Humanities: *Provided further*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed \$2,500 for the Superintendent of Schools, \$2,500 for the President of the University of the District of Columbia, and \$2,000 for the Public Librarian shall be available from this appropriation for official purposes: *Provided further*, That \$244,078 shall be used to reimburse the National Capital Area Council of the Boy Scouts of America for services provided on behalf of 12,600 students at 39 public schools in the District of Columbia during fiscal year 1998 (including staff, curriculum, and support materials): *Provided further*, That the Inspector General of the District of Columbia shall certify not later than 30 days after the date of the enactment of this Act whether or not the services were so provided: *Provided further*, That the reimbursement shall be made not later than 15 days after the Inspector General certifies that the services were provided: *Provided further*, That none of the funds contained in this Act may be made available to pay the salaries of any District of Columbia Public School teacher, principal,

administrator, official, or employee who knowingly provides false enrollment or attendance information under article II, section 5 of the Act entitled “An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes”, approved February 4, 1925 (D.C. Code, sec. 31-401 et seq.): *Provided further*, That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary or secondary school during fiscal year 1999 unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia which are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1999, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

#### HUMAN SUPPORT SERVICES

Human support services, \$1,514,751,000 (including \$614,679,000 from local funds, \$886,682,000 from Federal funds, and \$13,390,000 from other funds): *Provided*, That \$21,089,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees’ disability compensation: *Provided further*, That a peer review committee shall be established to review medical payments and the type of service received by a disability compensation claimant: *Provided further*, That the District of Columbia shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization, as defined in section 411(5) of the Stewart B. McKinney Homeless Assistance Act (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11371), providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to such Act (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.).

#### PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, \$266,912,000 (including \$257,242,000 from local funds, \$3,216,000 from Federal funds, and \$6,454,000 from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

#### WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

For payment to the Washington Convention Center Enterprise Fund, \$5,400,000 from local funds.

## REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with the Act entitled “An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia”, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of the Act entitled “An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation’s Capital City”, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of the Act entitled “An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system”, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); sections 723 and 743(f) of the District of Columbia Home Rule Act, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note; 91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, \$382,170,000 from local funds.

## REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the \$331,589,000 general fund accumulated deficit as of September 30, 1990, \$38,453,000 from local funds, as authorized by section 461(a) of the District of Columbia Home Rule Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102-106; D.C. Code, sec. 47-321(a)(1)).

## PAYMENT OF INTEREST ON SHORT-TERM BORROWING

For payment of interest on short-term borrowing, \$11,000,000 from local funds.

## CERTIFICATES OF PARTICIPATION

For lease payments in accordance with the Certificates of Participation involving the land site underlying the building located at One Judiciary Square, \$7,926,000 from local funds.

## HUMAN RESOURCES DEVELOPMENT

For human resources development, including costs of increased employee training, administrative reforms, and an executive compensation system, \$6,674,000 from local funds.

## PRODUCTIVITY SAVINGS

The Chief Financial Officer of the District of Columbia shall, under the direction of the District of Columbia Financial Responsibility and Management Assistance Authority, make reductions of \$10,000,000 in local funds to one or more of the appropriation headings in this Act for productivity savings.

## RECEIVERSHIP PROGRAMS

For all agencies of the District of Columbia government under court ordered receivership, \$318,979,000 (including \$189,154,000 from local funds, \$96,691,000 from Federal funds, and \$33,134,000 from other funds): *Provided*, That, of the sums made available to the Commission on Mental Health Services, \$5,000,000 shall be available to a 501(c)(3) nonprofit organization formed in 1991 and located in the District of Columbia to finance capital improvements to community-based housing facilities dedicated for use only by seriously and chronically mentally ill individuals in the District of Columbia.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND  
MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), \$7,840,000: *Provided*, That none of the funds contained in this Act may be used to pay any compensation of the Executive Director or General Counsel of the Authority at a rate in excess of the maximum rate of compensation which may be paid to such individual during fiscal year 1999 under section 102 of such Act, as determined by the Comptroller General (as described in GAO letter report B–279095.2).

## ENTERPRISE FUNDS

## WATER AND SEWER AUTHORITY AND THE WASHINGTON AQUEDUCT

For the Water and Sewer Authority and the Washington Aqueduct, \$273,314,000 from other funds (including \$239,493,000 for the Water and Sewer Authority and \$33,821,000 for the Washington Aqueduct) of which \$39,933,000 shall be apportioned and payable to the District's debt service fund for repayment of loans and interest incurred for capital improvement projects.

## LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), \$225,200,000: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), \$2,108,000 from local funds.

PUBLIC SERVICE COMMISSION

For the Public Service Commission, \$5,026,000 (including \$252,000 from Federal funds and \$4,774,000 from other funds).

OFFICE OF THE PEOPLE'S COUNSEL

For the Office of the People's Counsel, \$2,501,000 from other funds.

DEPARTMENT OF INSURANCE AND SECURITIES REGULATION

For the Department of Insurance and Securities Regulation, \$7,001,000 from other funds.

OFFICE OF BANKING AND FINANCIAL INSTITUTIONS

For the Office of Banking and Financial Institutions, \$640,000 (including \$390,000 from local funds and \$250,000 from other funds).

STARPLEX FUND

For the Starplex Fund, \$8,751,000 from other funds for expenses incurred by the Armory Board in the exercise of its powers granted by the Act entitled "An Act To Establish A District of Columbia Armory Board, and for other purposes", approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2-301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85-300; D.C. Code, sec. 2-321 et seq.): *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 824; Public Law 93-198; D.C. Code, sec. 47-301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, \$113,599,000 of which \$46,835,000 shall be derived by transfer from the general fund and \$66,764,000 shall be derived from other funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat. 866; D.C. Code, sec. 1-711), \$18,202,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board:

*Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

#### CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88-622), \$3,332,000 from other funds.

#### WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, \$53,539,000, of which \$5,400,000 shall be derived by transfer from the general fund.

#### PERSONNEL

The government of the District of Columbia shall employ no more than 32,900 FTE positions, exclusive of intra-District FTE positions, during fiscal year 1999.

#### CAPITAL OUTLAY

##### (INCLUDING RESCISSIONS)

For construction projects, a net increase of \$1,711,160,737 (including a rescission of \$114,430,742 of which \$24,437,811 is from local funds and \$89,992,931 is from highway trust funds appropriated under this heading in prior fiscal years, and an additional \$1,825,591,479 of which \$718,234,161 is from local funds, \$24,452,538 is from the highway trust fund, and \$1,082,904,780 is from Federal funds), to remain available until expended: *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 2000, except authorizations for projects for which funds have been obligated in whole or in part prior to September 30, 2000: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

## GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official, and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That, in the case of the Council of the District of Columbia, funds may be expended with the authorization of the chair of the Council.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for payment of the non-Federal share of funds necessary to qualify for grants under subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994.

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit

the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the Subcommittee on the District of Columbia of the House Committee on Government Reform and Oversight, the Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 111. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 112. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 113. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 114. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 115. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 116. None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 1999, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for an agency through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) establishes or changes allocations specifically denied, limited or increased by Congress in the Act; (4) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (5) reestablishes through reprogramming any program or project previously deferred through reprogramming; (6) augments existing programs, projects, or activities through a reprogramming of funds in excess of \$1,000,000 or 10 percent, whichever is less; or (7) increases by 20 percent or more personnel assigned to a specific program, project or activity; unless the Appropriations Committees of both the Senate and House of Representatives are notified in writing thirty days in advance of any reprogramming as set forth in this section.

SEC. 117. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur,



or other personal servants to any officer or employee of the District of Columbia.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 119. (a) Notwithstanding section 422(7) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for Level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1998 shall be deemed to be the rate of pay payable for that position for September 30, 1998.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 120. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 121. The Director of the Office of Property Management may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), based upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 122. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1999, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1999 revenue estimates as of the end of the first quarter of fiscal year 1999. These estimates shall be used in the budget request for the fiscal year ending September 30, 2000. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 123. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended

without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical: *Provided*, That the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and said determination has been reviewed and approved by the District of Columbia Financial Responsibility and Management Assistance Authority.

SEC. 124. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term “program, project, and activity” shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 125. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 126. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1999 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided*, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term “entity of the District of Columbia government” includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 127. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator

or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Code, sec. 1-113(d)).

SEC. 128. (a) The University of the District of Columbia shall submit to the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this section referred to as “Authority”), and the Council of the District of Columbia (hereafter in this section referred to as “Council”) no later than 15 calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections versus budget, broken out on the basis of control center, responsibility center, and object class, and for all funds, non-appropriated funds, and capital financing;

(2) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(3) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged, broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(4) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(5) changes made in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

(b) The Mayor, the Authority, and the Council shall provide the Congress by February 1, 2000, a summary, analysis, and recommendations on the information provided in the monthly reports.

SEC. 129. Funds authorized or previously appropriated to the government of the District of Columbia by this or any other Act to procure the necessary hardware and installation of new software, conversion, testing, and training to improve or replace its financial management system are also available for the acquisition of accounting and financial management services and the leasing of necessary hardware, software or any other related goods or services, as determined by the District of Columbia Financial Responsibility and Management Assistance Authority.

SEC. 130. None of the funds contained in this Act may be made available to pay the fees of an attorney who represents a party who prevails in an action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) if—

(1) the hourly rate of compensation of the attorney exceeds the hourly rate of compensation under section 11–2604(a), District of Columbia Code; or

(2) the maximum amount of compensation of the attorney exceeds the maximum amount of compensation under section 11–2604(b)(1), District of Columbia Code, except that compensation and reimbursement in excess of such maximum may be approved for extended or complex representation in accordance with section 11–2604(c), District of Columbia Code.

Abortion.

SEC. 131. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 132. U.S. ARMY CORPS OF ENGINEERS SERVICES TO DISTRICT OF COLUMBIA PUBLIC SCHOOLS. In using funds made available under this Act or any other Act for the repair and improvement of the District of Columbia's public school facilities, any entity of the District of Columbia government, including the District of Columbia Financial Responsibility and Management Assistance Authority, or its designee, may place orders for engineering and construction and related services with the Chief of Engineers of the U.S. Army Corps of Engineers. The Chief of Engineers may accept such orders on a reimbursable basis and may provide any part of such services by contract. In providing such services, the Chief of Engineers shall follow the Federal Acquisition Regulations and the implementing Department of Defense regulations. This section shall apply to fiscal year 1999 and each fiscal year thereafter.

SEC. 133. None of the funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9–114; D.C. Code, sec. 36–1401 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples (whether homosexual, heterosexual, or lesbian), including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 134. The Emergency Transitional Education Board of Trustees shall submit to the Congress, the Mayor, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Council of the District of Columbia no later than 15 calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections versus budget, broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(3) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged, broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the District

of Columbia Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(4) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(5) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

SEC. 135. (a) IN GENERAL.—The Emergency Transitional Education Board of Trustees of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia public schools and the University of the District of Columbia for fiscal year 1998, fiscal year 1999, and thereafter on full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia public schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) SUBMISSION.—The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 15 of each year.

SEC. 136. (a) No later than October 1, 1998, or within 30 calendar days after the date of the enactment of this Act, whichever occurs later, and each succeeding year, the Superintendent of the District of Columbia Public Schools and the University of the District of Columbia shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the District of Columbia Financial Responsibility and Management Assistance Authority, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Superintendent of the District of Columbia Public Schools and the University of the District of Columbia submit to the Mayor of the District

of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Home Rule Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301).

SEC. 137. The Emergency Transitional Education Board of Trustees, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the University of the District of Columbia School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Home Rule Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301), or before submitting their respective budgets directly to the Council.

SEC. 138. (a) CEILING ON TOTAL OPERATING EXPENSES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1999 under the caption "Division of Expenses" shall not exceed the lesser of—

(A) the sum of the total revenues of the District of Columbia for such fiscal year; or

(B) \$5,211,920,000 (of which \$132,912,000 shall be from intra-District funds and \$2,865,763,000 shall be from local funds), which amount may be increased by the following:

(i) proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs approved by the District of Columbia Financial Responsibility and Management Assistance Authority; or

(ii) after notification to the Council, additional expenditures which the Chief Financial Officer of the District of Columbia certifies will produce additional revenues during such fiscal year at least equal to 200 percent of such additional expenditures, and that are approved by the Authority.

(2) ENFORCEMENT.—The Chief Financial Officer of the District of Columbia and the Authority shall take such steps as are necessary to assure that the District of Columbia meets the requirements of this section, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 1999, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Mayor, in consultation with the Chief Financial Officer, during a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (Public Law 104-8; 109 Stat. 152), may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District of Columbia submits to the Authority a report setting forth detailed information regarding such grant; and

(B) the Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) of this subsection or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District of Columbia shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

(c) REPORT ON EXPENDITURES BY FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY.—Not later than 20 calendar days after the end of each fiscal quarter starting October 1, 1998, the Authority shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Government Reform and Oversight of the House, and the Committee on Governmental Affairs of the Senate providing an itemized accounting of all non-appropriated funds obligated or expended by the Authority for the quarter. The report shall include information on the date, amount, purpose, and vendor name, and a description of the services or goods provided with respect to the expenditures of such funds.

(d) APPLICATION OF EXCESS REVENUES.—Local revenues collected in excess of amounts required to support appropriations in this Act for operating expenses for the District of Columbia for fiscal year 1999 under the caption “Division of Expenses” shall be applied first to the elimination of the general fund accumulated deficit; second to a reserve account not to exceed \$250,000,000 to be used to finance seasonal cash needs (in lieu of short term borrowings); third to accelerate repayment of cash borrowed from the Water and Sewer Fund; and fourth to reduce the outstanding long-term debt.

SEC. 139. UNIVERSITY OF THE DISTRICT OF COLUMBIA INVESTMENT AUTHORITY. Section 108(b) of the District of Columbia Public Education Act (D.C. Code, sec. 31-1408) is amended by striking the period at the end of the sentence and adding the phrase “, except that the funds appropriated in this section also may be invested in equity-based securities if approved by the Chief Financial Officer of the District of Columbia.”.

SEC. 140. If a department or agency of the government of the District of Columbia is under the administration of a court-appointed receiver or other court-appointed official during fiscal year 1999 or any succeeding fiscal year, the receiver or official shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia for the year, annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the department or agency. All such estimates shall be forwarded by the Mayor to the Council, for its action pursuant to sections 446 and 603(c) of the District of Columbia Home Rule Act, without revision but subject to the Mayor's recommendations. Notwithstanding any provision of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code sec. 1-101 et seq.) the Council may comment or make recommendations concerning such annual estimates but shall have no authority under such Act to revise such estimates.

SEC. 141. The District of Columbia Financial Responsibility and Management Assistance Authority and the Superintendent of the District of Columbia Public Schools are hereby directed to report to the Appropriations Committees of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform and Oversight of the House of Representatives not later than April 1, 1999, on all measures necessary and steps to be taken to ensure that the District's Public Schools open on time to begin the 1999-2000 academic year.

SEC. 142. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia public schools shall be—

- (1) classified as an Educational Service employee;
- (2) placed under the personnel authority of the Board of Education; and
- (3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

SEC. 143. (a) RESTRICTIONS ON USE OF OFFICIAL VEHICLES.—(1) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace (except in the case of an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department).

(2) Paragraph (1) shall not apply with respect to any vehicle provided to the officer of the Metropolitan Police Department who was wounded in the line of duty and who is referred to in the letter of July 15, 1998, from the Chief of the Department to the Chair of the Subcommittee on the District of Columbia of the Committee on Appropriations of the House of Representatives. Notwithstanding any other provision of law, the Chief may donate the vehicle to such officer as a gift on behalf of the District of



Columbia, and the donation shall not be subject to any Federal, State, or local income or gift tax.

(3) The Chief Financial Officer of the District of Columbia shall submit, by November 15, 1998, an inventory, as of September 30, 1998, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 144. (a) SOURCE OF PAYMENT FOR EMPLOYEES DETAILED WITHIN GOVERNMENT.—For purposes of determining the amount of funds expended by any entity within the District of Columbia government during fiscal year 1999 and each succeeding fiscal year, any expenditures of the District government attributable to any officer or employee of the District government who provides services which are within the authority and jurisdiction of the entity (including any portion of the compensation paid to the officer or employee attributable to the time spent in providing such services) shall be treated as expenditures made from the entity's budget, without regard to whether the officer or employee is assigned to the entity or otherwise treated as an officer or employee of the entity.

(b) MODIFICATION OF REDUCTION IN FORCE PROCEDURES.—The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1-601.1 et seq.), as amended, is further amended in section 2408(a) by deleting "1998" and inserting, "1999"; in subsection (b), by deleting "1998" and inserting, "1999"; in subsection (i), by deleting "1998" and inserting, "1999"; and in subsection (k), by deleting "1998" and inserting, "1999".

SEC. 145. ASSESSMENT AND PLACEMENT OF SPECIAL EDUCATION STUDENTS. Notwithstanding any other provision of law, not later than 120 days after the date that a District of Columbia Public Schools [DCPS] student is referred for evaluation or assessment—

(1) the District of Columbia Board of Education (referred to in this section as the "Board"), or its successor and DCPS shall assess or evaluate a student who may have a disability and who may require special education services; and

(2) if a student is classified as having a disability, as defined in section 101(a)(1) of the Individuals with Disabilities Education Act (84 Stat. 175; 20 U.S.C. 1401(a)(1)) or in section 7(8) of the Rehabilitation Act of 1973 (87 Stat. 359; 29 U.S.C. 706(8)), the Board and DCPS shall place that student in an appropriate program of special education services.

SEC. 146. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a-10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense

of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each agency of the Federal or District of Columbia government shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

36 USC 151106  
note.

SEC. 147. Notwithstanding any provision of any Federally-granted charter or any other provision of law, beginning with fiscal year 1999 and for each fiscal year hereafter, the real property of the National Education Association located in the District of Columbia shall be subject to taxation by the District of Columbia in the same manner as any similar organization.

SEC. 148. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government (including the District of Columbia Financial Responsibility and Management Assistance Authority) for fiscal year 1999 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Code, sec. 1–1182.8(a)(4)); and

(2) the audit includes a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year.

SEC. 149. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this section referred to as “Authority”). Appropriations made by this Act for such programs or functions are conditioned only on the approval by the Authority of the required reorganization plans.

SEC. 150. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

SEC. 151. None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

SEC. 152. The District of Columbia Financial Responsibility and Management Assistance Authority (hereafter in this section referred to as “Authority”) shall report to the Appropriations Committees of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform and Oversight of the House of Representatives, by February 15, 1999, on the status of all partnerships or agreements entered into from January 1, 1994 through September 30, 1998, between the District of Columbia government and any nonprofit organization that provides medical care, substance abuse treatment, low income housing, food and shelter services, abstinence programs, or educational services to children, adults and families residing in the District. For those partnerships or agreements that have been terminated, the Authority shall report to Congress on the plans by the District government for reinitiating the partnerships or agreements with the respective nonprofit organization.

SEC. 153. The Residency Requirement Reinstatement Amendment Act of 1998 (D.C. Act 12-340) is hereby repealed.

SEC. 154. None of the funds contained in this Act may be used after April 1, 1999, to transfer or confine inmates classified above the medium security level, as defined by the Federal Bureau of Prisons classification instrument, to the Northeast Ohio Correctional Center located in Youngstown, Ohio.

SEC. 155. RESERVE.—The District of Columbia Financial Responsibility and Management Assistance Act of 1995, Public Law 104-8, sec. 202 is amended to include the following:

“(i) RESERVE.—Beginning with fiscal year 2000, the plan or budget submitted pursuant to this Act shall contain \$150,000,000 for a reserve to be established by the Chief Financial Officer for the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority: *Provided*, That the reserve shall only be expended according to criteria established by the Chief Financial Officer and approved by the District of Columbia Financial Responsibility and Management Assistance Authority.”.

SEC. 156. LIBRARY FUNDRAISING AUTHORITY.—D.C. Code Section 37-105 is amended by striking the word “and” after section (11) and striking the period after section (12) and adding the following phrase:

“, (13) Notwithstanding any other provision of law, the Board of Trustees of the District of Columbia Public Library is authorized to hire a fundraiser and to raise funds from private sources and expend those funds for the benefit of the District of Columbia Public Library, with the prior review and approval of the Chief Financial Officer for the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority.”.

SEC. 157. DISTRICT OF COLUMBIA ADOPTION IMPROVEMENT ACT OF 1998. (a) SHORT TITLE.—This section may be cited as the “District of Columbia Adoption Improvement Act of 1998”.

(b) DATABASE.—The District of Columbia Child and Family Services Agency (referred to as “CFSA”) shall maintain an accurate database listing and tracking any child found by the Family Division of the District of Columbia Superior Court to be abused or neglected and who is in the custody of the District of Columbia, including any child with the goal of adoption or legally free for adoption.

(c) CONTRACTING WITH PRIVATE SERVICE PROVIDERS.—

(1) PRIVATE CONTRACTS.—Not later than September 30, 1999, CFSA shall enter into contracts with private service providers to perform some of the adoption recruitment and placement functions of CFSA, which may include recruitment, homestudy, and placement services.

(2) COMPETITIVE BIDDING.—Any contract entered into pursuant to paragraph (1) shall be subject to a competitive bidding process when required by CFSA contracting policies and procedures.

(3) PERFORMANCE-BASED COMPENSATION.—

(A) IN GENERAL.—Any contract entered into pursuant to paragraph (1) shall compensate the winning bidder pursuant to paragraph (2) upon completion of contract deliverables.

(B) CONTRACT DELIVERABLES.—In identifying contract deliverables, CFSA shall consider—

(i) in the case of recruitment, receipt of a list of potential adoptive families;

(ii) in the case of homestudies, receipt of a completed homestudy in a form specified in advance by CFSA; or

(iii) in the case of placements, the child is placed in an adoptive home approved by CFSA or the adoption is finalized.

(4) TYPES OF CONTRACTS.—Nothing in this section shall be construed to prevent CFSA from entering into contracts that provide for multiple deliverables or conditions for partial payment.

(5) REMOVAL OF BARRIERS TO ADOPTION.—CFSA shall meet with contractors to address issues identified during the term of a contract entered into pursuant to this section, including issues related to barriers to timely adoptions.

SEC. 158. CLARIFICATION OF RESPONSIBILITY FOR ADULT OFFENDER SUPERVISION IN THE DISTRICT OF COLUMBIA. (a) Section 11233(b)(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105-33) is amended by—

(1) striking “; and” in subparagraph (F) and inserting “;”;

(2) striking “Columbia.” in subparagraph (G) and inserting “Columbia; and”; and

(3) inserting after subparagraph (G) the following:

“(H) carry out all functions which have heretofore been carried out by the Social Services Division of the Superior Court relating to supervision of adults subject to protection orders or provision of services for or related to such persons.”.

(b) Section 11-1722 of the District of Columbia Code is amended—

(1) in subsection (a)—

(A) by inserting “juvenile” after “all” in the first sentence; and

(B) by amending the second sentence to read as follows: “The Director shall have no jurisdiction over any adult under supervision.”;

(2) in subsection (b), inserting “including the agency established by section 11233(a) of the National Capital Revitalization

and Self-Government Improvement Act of 1997,” after “Columbia,”; and

(3) in subsection (c), by inserting “juvenile” after “of”.

SEC. 159. Public Law 104-8 is amended by adding new section 109 as follows:

**“SEC. 109. CHIEF MANAGEMENT OFFICER.**

“(a) The Authority may employ a Chief Management Officer of the District of Columbia, who shall be appointed by the Chair with the consent of the Authority. The Chief Management Officer shall assist the Authority in the fulfillment of its responsibilities under the District of Columbia Management Reform Act of 1997, subtitle B of the National Capital Revitalization and Self-Government Improvement Act of 1997, title XI of Public Law 105-33, to improve the effectiveness and efficiency of the District of Columbia Government. The Authority may delegate to the Chief Management Officer responsibility for oversight and supervision of departments and functions of the District of Columbia Government, or successor departments and functions, consistent with the District of Columbia Management Reform Act of 1997, subtitle B of the National Capital Revitalization and Self-Government Improvement Act of 1997, title XI of Public Law 105-33. The Chief Management Officer shall report directly to the Authority, through the Chair of the Authority, and shall be directed in his or her performance by a majority of the Authority. The Chief Management Officer shall be paid at an annual rate determined by the Authority sufficient in the judgment of the Authority to obtain the services of an individual with the skills and experience required to discharge the duties of the office.

“(b) EMPLOYMENT CONTRACT.—Notwithstanding any other provision of law, the employment agreement entered into as of January 15, 1998, between the Chief Management Officer and the District of Columbia Financial Responsibility and Management Assistance Authority shall be valid in all respects.”.

SEC. 160. Section 1-1182.8(a)(4)(A) of the D.C. Code is amended to read as follows—

“(A) Audit the financial statement and report described in paragraph (3)(H) for a fiscal year, except that the financial statement and report may not be audited by the same auditor (or an auditor employed by or affiliated with the same auditor) for more than 5 consecutive fiscal years; and”.

SEC. 161. DEFICIT REDUCTION AND REVITALIZATION.—Notwithstanding any other provision of law or this Act, funds allocated to management reform by the District of Columbia Financial Responsibility and Management Assistance Authority under this heading in Public Law 105-100 (111 Stat. 2159), as contained in the Authority’s notification of June 24, 1998, shall remain available for management reform until September 30, 1999: *Provided*, That said funds shall not exceed \$3,200,000.

SEC. 162. PROMPT PAYMENTS. (a) Section 3901 of title 31, United States Code is amended by adding at the end the following new subsection (d):

“(d)(1) Notwithstanding subsection (a)(1) of this section, this chapter, except section 3907 of this title, applies to the District of Columbia Courts.

“(2) A claim for an interest penalty not paid under this chapter may be filed in the same manner as claims are filed with respect

to contracts to provide property or services for the District of Columbia Courts.

“(3)(A) Except as provided in subparagraph (B), an interest penalty under this chapter does not continue to accrue for more than one year or after a claim for an interest penalty is filed in the manner described in paragraph (2), whichever is earlier.

“(B) If a claim for an interest penalty is filed in the manner described in paragraph (2) and interest is not available for such claims under the laws and regulations governing claims under contracts to provide property or services for the District of Columbia Courts, interest will accrue under this chapter as provided in paragraph (A) and from the date the claim is filed until the date the claim is paid.

“(4) Paragraph (3) of this subsection does not prevent an interest penalty from accruing on a claim if such interest is available for such claim under the laws and regulations governing claims under contracts to provide property or services for the District of Columbia Courts. Such interest may accrue on an unpaid contract payment and on the unpaid penalty under this chapter.

“(5) Except as provided in section 3904 of this title, this chapter does not require an interest penalty on a payment that is not made because of a dispute between the head of an agency and a business concern over the amount of payment or compliance with the contract. A claim related to the dispute, and any interest payable for the period during which the dispute is being resolved, is subject to the laws and regulations governing claims under contracts to provide property or services for the District of Columbia Courts.”.

SEC. 163. Section 147 of the Nation’s Capital Bicentennial Designation Act (Public Law 105–100; 111 Stat. 2180) is amended—

(1) in subsection (a)(3)(B) by striking “President’s Day” and inserting “Washington’s Birthday”;

(2) in subsection (b)(1) by striking “President’s Day” and inserting “Washington’s Birthday”.

SEC. 164. Section 101(b) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, Public Law 104–8, 109 Stat. 97, is amended by adding at the end of paragraph (5) the following new subparagraph:

“(D) CONTINUATION OF SERVICE UNTIL SUCCESSOR APPOINTED.—Upon the expiration of a term of office, a member of the Authority may continue to serve until a successor has been appointed.”

SEC. 165. Section 456(d)(2) of the District of Columbia Home Rule Act (87 Stat. 774; Public Law 93–198, as amended) is amended by adding at the end:

“(H) A statement of the balance of each account held by the District of Columbia Financial Responsibility and Management Assistance Authority as of the end of the quarter, together with a description of the activities within each such account during the quarter based on information supplied by the Authority.”.

SEC. 166. No funds made available pursuant to any provision of this Act or any other act now or hereafter enacted shall be used to capitalize the National Capital Revitalization Corporation or for the purpose of implementing the National Capital Revitalization Act of 1998 (D.C. Act 12–355) until at least 30 days after the District of Columbia Financial Responsibility and Management

Assistance Authority submits to the appropriate committees of Congress an economic development strategy.

SEC. 167. The District of Columbia government shall maintain for fiscal year 1999 the same funding levels as provided in fiscal year 1997 for homeless services in the District of Columbia: *Provided*, That in addition to such amounts, \$1,000,000 shall be paid to The Doe Fund for its Ready, Willing & Able program in Washington, D.C.

SEC. 168. (a) No later than November 1, 1998, or within 30 calendar days after the date of the enactment of this Act, whichever occurs later, the Chief Financial Officer shall submit to the appropriate committees of Congress, the Mayor, and the District of Columbia Financial Responsibility and Management Assistance Authority a revised appropriated funds operating budget for all agencies of the District of Columbia government for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301).

SEC. 169. Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973, as amended (87 Stat. 813; Public Law 93-198; D.C. Code, sec. 1-233(c)(1), D.C. Act 12-421), "Oyster Elementary School Construction and Revenue Bond Act of 1998", shall take effect upon the date of enactment of this Act.

SEC. 170. None of the funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug, or for any payment to any individual or entity who carries out any such program.

SEC. 171. None of the funds contained in this Act may be used to conduct any ballot initiative which seeks to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

This Act may be cited as the "District of Columbia Appropriations Act, 1999".

(d) For programs, projects or activities in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes.

Foreign  
Operations,  
Export  
Financing, and  
Related Agencies  
Appropriations  
Act, 1999.

## TITLE I—EXPORT AND INVESTMENT ASSISTANCE

### EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the

Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

#### SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, \$765,000,000 to remain available until September 30, 2002: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That such sums shall remain available until 2013 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 1999, 2000, 2001, and 2002: *Provided further*, That none of the funds appropriated by this Act or any prior Act appropriating funds for foreign operations, export financing, or related programs for tied-aid credits or grants may be used for any other purpose except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State or any agency or national thereof.

#### ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs (to be computed on an accrual basis), including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed \$22,500 for official reception and representation expenses for members of the Board of Directors, \$50,000,000: *Provided*, That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the collection of moneys owed the Export-Import Bank, repossession or sale of pledged collateral or other assets acquired by the Export-Import Bank in satisfaction of moneys owed the Export-Import Bank, or the investigation or appraisal of any property, or the evaluation of the legal or technical aspects of any transaction for which an application for a loan, guarantee or insurance commitment has been made, shall be considered nonadministrative expenses for the purposes of this heading: *Provided further*, That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 1999.

12 USC 635a  
note.



## OVERSEAS PRIVATE INVESTMENT CORPORATION

## NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided*, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed \$35,000) shall not exceed \$32,500,000 of which not more than \$27,500,000 may be made available until the Corporation reports to the Committees on Appropriations on measures taken to (1) establish sector specific investment funds; and (2) support regional investment initiatives in Georgia, Armenia and Azerbaijan through the Caucasus Fund: *Provided further*, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

## PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, \$50,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961 to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 1999 and 2000: *Provided further*, That such sums shall remain available through fiscal year 2007 for the disbursement of direct and guaranteed loans obligated in fiscal year 1999, and through fiscal year 2008 for the disbursement of direct and guaranteed loans obligated in fiscal year 2000: *Provided further*, That in addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

## FUNDS APPROPRIATED TO THE PRESIDENT

## TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, \$44,000,000, to remain available until September 30, 2000: *Provided*, That the Trade and Development Agency may receive reimbursements from corporations and other entities for the costs of grants for feasibility studies and other project planning services, to be deposited as an offsetting collection to this account and to be available for obligation until September 30, 2000, for necessary expenses under this paragraph: *Provided further*, That such reimbursements shall not cover, or

be allocated against, direct or indirect administrative costs of the agency.

## TITLE II—BILATERAL ECONOMIC ASSISTANCE

### FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1999, unless otherwise specified herein, as follows:

#### AGENCY FOR INTERNATIONAL DEVELOPMENT

##### CHILD SURVIVAL AND DISEASE PROGRAMS FUND

For necessary expenses to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, basic education, assistance to combat tropical and other diseases, and related activities, in addition to funds otherwise available for such purposes, \$650,000,000, to remain available until expended: *Provided*, That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health and nutrition programs, and related education programs, which address the needs of mothers and children; (4) water and sanitation programs; (5) assistance for displaced and orphaned children; (6) programs for the prevention, treatment, and control of, and research on, tuberculosis, HIV/AIDS, polio, malaria and other diseases; and (7) up to \$98,000,000 for basic education programs for children: *Provided further*, That none of the funds appropriated under this heading may be made available for nonproject assistance for health and child survival programs, except that funds may be made available for such assistance for ongoing health programs.

#### DEVELOPMENT ASSISTANCE

##### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of sections 103 through 106, and chapter 10 of part I of the Foreign Assistance Act of 1961, title V of the International Security and Development Cooperation Act of 1980 (Public Law 96–533) and the provisions of section 401 of the Foreign Assistance Act of 1969, \$1,225,000,000, to remain available until September 30, 2000: *Provided*, That of the amount appropriated under this heading, up to \$20,000,000 may be made available for the Inter-American Foundation and shall be apportioned directly to that Agency: *Provided further*, That of the amount appropriated under this heading, up to \$11,000,000 may be made available for the African Development Foundation and shall be apportioned directly to that agency: *Provided further*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person

to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services, and that any such voluntary family planning project shall meet the following requirements: (1) service providers or referral agents in the project shall not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes), (2) the project shall not include payment of incentives, bribes, gratuities, or financial reward to (A) an individual in exchange for becoming a family planning acceptor, or (B) program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning, (3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services, (4) the project shall provide family planning acceptors comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method, (5) the project shall ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits; and, not less than 60 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of the requirements contained in paragraph (1), (2), (3), or (5) of this proviso, or a pattern or practice of violations of the requirements contained in paragraph (4) of this proviso, the Administrator shall submit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report containing a description of such violation and the corrective action taken by the Agency: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further*, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further*, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further*, That, notwithstanding section 109 of the Foreign Assistance Act of 1961, of the funds appropriated under this heading in this Act, and of the unobligated balances of funds previously appropriated under this heading,

\$2,500,000 may be transferred to “International Organizations and Programs” for a contribution to the International Fund for Agricultural Development (IFAD): *Provided further*, That none of the funds appropriated under this heading may be made available for any activity which is in contravention to the Convention on International Trade in Endangered Species of Flora and Fauna (CITES): *Provided further*, That none of the funds appropriated under this heading may be made available for assistance for the central Government of the Republic of South Africa, until the Secretary of State reports in writing to the appropriate committees of the Congress on the steps being taken by the United States Government to work with the Government of the Republic of South Africa to negotiate the repeal, suspension, or termination of section 15(c) of South Africa’s Medicines and Related Substances Control Amendment Act No. 90 of 1997: *Provided further*, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed \$25,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: *Provided further*, That of the funds appropriated under this heading, not less than \$1,500,000 should be made available for agriculture programs in Laos: *Provided further*, That of the funds appropriated under this heading not less than \$500,000 should be made available for support of the United States Telecommunications Training Institute: *Provided further*, That, of the funds made available by this Act for the “Microenterprise Initiative” (including any local currencies made available for the purposes of the Initiative), not less than 50 percent of the funds used for microcredit should be made available for support of programs providing loans of less than \$300 to very poor people, particularly women, or for institutional support of organizations primarily engaged in making such loans.

## CYPRUS

Of the funds appropriated under the headings “Development Assistance” and “Economic Support Fund”, not less than \$15,000,000 shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus.

## BURMA

Of the funds appropriated under the headings “Economic Support Fund” and “Development Assistance”, not less than \$6,500,000 shall be made available to support democracy activities in Burma, democracy and humanitarian activities along the Burma-Thailand border, and for Burmese student groups and other organizations located outside Burma: *Provided*, That funds made available for Burma-related activities under this heading may be made available notwithstanding any other provision of law: *Provided further*, That the provision of such funds shall be made available subject to the regular notification procedures of the Committees on Appropriations.

## CAMBODIA

None of the funds appropriated by this Act may be made available for activities or programs for Cambodia until the Secretary of State determines and reports to the Committees on Appropriations that the Government of Cambodia has: (1) thoroughly and credibly resolved all election-related disputes and complaints filed by all political parties to the National Election Commission and the Constitutional Council; (2) discontinued all political violence and intimidation of journalists and members of opposition parties; and (3) been formed through credible, democratic elections: *Provided*, That the restrictions under this heading shall not apply to demining or activities administered by nongovernmental organizations: *Provided further*, That such funds shall be subject to the regular notification procedures of the Committees on Appropriations.

## INDONESIA

Of the funds appropriated under the headings “Economic Support Fund” and “Development Assistance”, not less than \$75,000,000 shall be made available for assistance for Indonesia: *Provided*, That of this amount, not less than \$15,000,000 should be made available for activities administered by the Office of Transition Initiatives: *Provided further*, That of the amount made available under this heading up to \$25,000,000 may be derived from funds that are available for obligation pursuant to section 511 of this Act or any comparable provision of law.

## PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 percent of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the Administrator of the Agency for International Development may, on a case-by-case basis, waive the restriction contained in this paragraph, after taking into account the effectiveness of the overseas development activities of the organization, its level of volunteer support, its financial viability and stability, and the degree of its dependence for its financial support on the agency: *Provided further*, That section 123(g) of the Foreign Assistance Act of 1961 and the paragraph entitled “Private and Voluntary Organizations” in title II of the Foreign Assistance and Related Programs Appropriations Act, 1985 (as enacted in Public Law 98-473) are hereby repealed.

22 USC 2151u  
note.

22 USC 2151u  
and note.

Funds appropriated or otherwise made available under title II of this Act should be made available to private and voluntary organizations at a level which is at least equivalent to the level provided in fiscal year 1995. Such private and voluntary organizations shall include those which operate on a not-for-profit basis, receive contributions from private sources, receive voluntary support from the public and are deemed to be among the most cost-effective and successful providers of development assistance.

## INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, \$200,000,000, to remain available until expended.

## MICRO AND SMALL ENTERPRISE DEVELOPMENT PROGRAM ACCOUNT

For the cost of direct loans and loan guarantees, \$1,500,000, as authorized by section 108 of the Foreign Assistance Act of 1961, as amended: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That guarantees of loans made under this heading in support of microenterprise activities may guarantee up to 70 percent of the principal amount of any such loans notwithstanding section 108 of the Foreign Assistance Act of 1961. In addition, for administrative expenses to carry out programs under this heading, \$500,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development: *Provided further*, That funds made available under this heading shall remain available until September 30, 2000.

## URBAN AND ENVIRONMENTAL CREDIT PROGRAM ACCOUNT

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of guaranteed loans authorized by sections 221 and 222 of the Foreign Assistance Act of 1961, including the cost of guaranteed loans designed to promote the urban and environmental policies and objectives of part I of such Act, \$1,500,000, to remain available until expended: *Provided*, That these funds are available to subsidize loan principal, 100 per centum of which shall be guaranteed, pursuant to the authority of such sections. In addition, for administrative expenses to carry out guaranteed loan programs, \$5,000,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development: *Provided further*, That commitments to guarantee loans under this heading may be entered into notwithstanding the second and third sentences of section 222(a) of the Foreign Assistance Act of 1961, and the third and fourth sentences of section 223(j) of such Act are repealed.

22 USC 2183.

## PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the “Foreign Service Retirement and Disability Fund”, as authorized by the Foreign Service Act of 1980, \$44,552,000.

## OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, \$479,950,000: *Provided*, That none of the funds appropriated by this Act for programs administered by the Agency for International Development may be used to finance printing costs of any report or study (except feasibility, design, or evaluation reports

or studies) in excess of \$25,000 without the approval of the Administrator of the Agency or the Administrator's designee.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL  
DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, \$30,750,000, to remain available until September 30, 2000, which sum shall be available for the Office of the Inspector General of the Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, \$2,367,000,000, to remain available until September 30, 2000: *Provided*, That of the funds appropriated under this heading, not less than \$1,080,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1998, whichever is later: *Provided further*, That not less than \$775,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to such country: *Provided further*, That of the funds appropriated under this heading, not less than \$150,000,000 should be made available for assistance for Jordan: *Provided further*, That notwithstanding any other provision of law, not to exceed \$10,000,000 may be used to support victims of the Holocaust.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, \$19,600,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until September 30, 2000.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, \$430,000,000, to remain available until September 30, 2000, which shall be available, notwithstanding any other provision of law, for economic assistance and for related programs for Eastern Europe and the Baltic States.

(b) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(c) None of the funds appropriated under this heading may be made available for new housing construction or repair or reconstruction of existing housing in Bosnia and Herzegovina unless directly related to the efforts of United States troops to promote peace in said country.

(d) With regard to funds appropriated under this heading for the economic revitalization program in Bosnia and Herzegovina, and local currencies generated by such funds (including the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program)—

(1) the Administrator of the Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and prior to the use of funds that have been returned or repaid to any lending facility or grantee; and

(2) the provisions of section 533 of this Act shall apply.

(e) The President is authorized to withhold funds appropriated under this heading made available for economic revitalization programs in Bosnia and Herzegovina, if he determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has not complied with article III of annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between Iranian officials and Bosnian officials has not been terminated.

(f) Not to exceed \$200,000,000 of the funds appropriated under this heading may be made available for Bosnia and Herzegovina.

(g) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

#### ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapter 11 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the New Independent States of the former Soviet Union and for related programs, \$801,000,000, to remain available until September 30, 2000: *Provided*, That the provisions of such chapter shall apply to funds appropriated by this paragraph: *Provided further*, That such sums as may be necessary may be transferred to the Export-Import Bank of the United States for the cost of any financing under the Export-Import Bank Act of 1945 for activities for the New Independent States.



(b) Funds appropriated under title II of this Act, including funds appropriated under this heading, should be made available for assistance for Mongolia at a level which is at least equivalent to the level provided in fiscal year 1998: *Provided*, That funds made available for assistance for Mongolia may be made available in accordance with the purposes and utilizing the authorities provided in chapter 11 of part I of the Foreign Assistance Act of 1961.

(c)(1) Of the funds appropriated under this heading that are allocated for assistance for the Government of Russia, 50 percent shall be withheld from obligation until the President determines and certifies in writing to the Committees on Appropriations that the Government of Russia has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor, related nuclear research facilities or programs, or ballistic missile capability.

(2) Notwithstanding paragraph (1) assistance may be provided for the Government of Russia if the President determines and certifies to the Committees on Appropriations that making such funds available: (A) is vital to the national security interest of the United States; and (B) that the Government of Russia is taking meaningful steps to limit major supply contracts and to curtail the transfer of technology and technological expertise related to activities referred to in paragraph (1).

(d) Not more than 30 percent of the funds appropriated under this heading may be made available for assistance for any country in the region.

(e) Of the funds appropriated under this heading, not less than \$228,000,000 shall be made available for assistance for the Southern Caucasus region: *Provided*, That of the funds made available for the Southern Caucasus region, 17.5 percent should be used for reconstruction and other activities relating to the peaceful resolution of conflicts within the region, especially those in the vicinity of Abkhazia and Nagorno-Karabakh: *Provided further*, That if the Secretary of State after May 30, 1999, determines and reports to the relevant committees of Congress that the full amount of funds that may be made available under the first proviso cannot be effectively utilized, the amount provided may be used for other purposes under this heading: *Provided further*, That of the funds provided under this subsection, 37 percent shall be made available for assistance for Georgia and 35 percent shall be made available for assistance for Armenia: *Provided further*, That of funds made available for Armenia, not less than 12 percent shall be made available for an endowment for the American University in Armenia.

(f) Section 907 of the FREEDOM Support Act shall not apply to—

(1) activities to support democracy or assistance under title V of the FREEDOM Support Act and section 1424 of Public Law 104-201;

(2) any assistance provided by the Trade and Development Agency under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421);

(3) any activity carried out by a member of the United States and Foreign Commercial Service while acting within his or her official capacity;

(4) any insurance, reinsurance, guarantee, or other assistance provided by the Overseas Private Investment Corporation under title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.);

(5) any financing provided under the Export-Import Bank Act of 1945; or

(6) humanitarian assistance.

(g) Of the funds appropriated under this heading, not less than \$195,000,000 shall be made available for assistance for Ukraine: *Provided*, That not less than \$25,000,000 of such funds should be made available for nuclear reactor safety programs, of which not less than \$1,000,000 shall be made available for personnel security initiatives at all nuclear reactor installations: *Provided further*, That 50 percent of the amount made available in this subsection, exclusive of funds made available for nuclear safety and law enforcement reforms, shall be withheld from obligation and expenditure until the Secretary of State reports to the Committees on Appropriations that Ukraine has undertaken significant economic reforms additional to those achieved in fiscal year 1998, and include: (1) reform and effective enforcement of commercial and tax codes; and (2) continued progress on resolution of complaints by United States investors: *Provided further*, That the report in the previous proviso shall be provided 120 days after the date of enactment of this Act: *Provided further*, That for the purposes of the agreement with Ukraine submitted to the Congress under section 123 of the Atomic Energy Act of 1954, as amended, the requirement to submit the agreement and related documents to the Congress and the appropriate congressional committees for the periods described in that Act shall be deemed satisfied upon the enactment of this Act.

(h) The Coordinator for Assistance to the New Independent States of the Former Soviet Union shall inform the Committees on Appropriations prior to the obligation of funds made available under this heading for a United States national lab to administer nuclear safety activities if the management costs exceed 9 percent of the costs associated with the program or activity.

#### INDEPENDENT AGENCY

##### PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), \$240,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further*, That funds appropriated under this heading shall remain available until September 30, 2000.

#### DEPARTMENT OF STATE

##### INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For necessary expenses to carry out section 481 of the Foreign Assistance Act of 1961, \$261,000,000: *Provided*, That none of the funds under this heading may be made available to establish or operate an International Law Enforcement Academy for the Western Hemisphere outside the United States: *Provided further*, That

in addition to any funds previously made available for an International Law Enforcement Academy for the Western Hemisphere, not less than \$5,000,000 should be made available to establish and operate the International Law Enforcement Academy for the Western Hemisphere at the deBremond Training Center in Roswell, New Mexico: *Provided further*, That during fiscal year 1999, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations.

#### MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, \$640,000,000: *Provided*, That not more than \$13,000,000 shall be available for administrative expenses: *Provided further*, That not less than \$70,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

#### UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), \$30,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

#### NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For necessary expenses for nonproliferation, anti-terrorism and related programs and activities, \$198,000,000, to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 for anti-terrorism assistance, section 504 of the FREEDOM Support Act for the Nonproliferation and Disarmament Fund, section 23 of the Arms Export Control Act or the Foreign Assistance Act of 1961 for demining activities, the clearance of unexploded ordnance, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, section 301 of the Foreign Assistance Act of 1961 for a voluntary contribution to the

International Atomic Energy Agency (IAEA) and a voluntary contribution to the Korean Peninsula Energy Development Organization (KEDO), and for a United States contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided*, That the Secretary of State shall inform the Committees on Appropriations at least twenty days prior to the obligation of funds for the Comprehensive Nuclear Test Ban Treaty Preparatory Commission: *Provided further*, That of this amount not to exceed \$15,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided further*, That such funds may also be used for such countries other than the New Independent States of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further*, That such funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the funds appropriated under this heading not less than \$35,000,000 should be made available for demining, clearance of unexploded ordnance, and related activities: *Provided further*, That of the funds made available for demining and related activities, not to exceed \$500,000, in addition to funds otherwise available for such purposes, may be used for expenses related to the operation and management of the demining program: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.

#### DEPARTMENT OF THE TREASURY

##### DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts, through debt buybacks and swaps, owed to the United States as a result of concessional loans made to eligible Latin American and Caribbean countries, pursuant to part IV of the Foreign Assistance Act of 1961; of modifying concessional credit agreements with least developed countries, as authorized under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as amended; and concessional loans, guarantees and credit agreements with any country in sub-Saharan Africa, as authorized under section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100–461); and of modifying any obligation, or portion of such obligation for Latin American countries to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89–808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95–501), \$33,000,000, to remain available

until expended: *Provided*, That not to exceed \$2,900,000 of such funds may be used for implementation of improvements in the foreign credit reporting system of the United States Government: *Provided further*, That the authority provided by section 572 of Public Law 100-461 may be exercised only with respect to countries that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as “IDA-only” countries: *Provided further*, That the authorities and appropriation under this heading shall also satisfy the requirement of section 808(a)(3) of part V of the Foreign Assistance Act, as amended, for the purpose of debt buybacks and swaps which incur no costs (as defined under section 502(5) of the Federal Credit Reform Act of 1990) in fiscal year 1999.

#### INTERNATIONAL AFFAIRS TECHNICAL ASSISTANCE

For necessary expenses to carry out Department of the Treasury international affairs technical assistance activities, \$1,500,000, to remain available until expended, which shall be available, pursuant to section 589 of this Act, for economic technical assistance and for related programs.

#### UNITED STATES COMMUNITY ADJUSTMENT AND INVESTMENT PROGRAM

For the United States Community Adjustment and Investment Program authorized by section 543 of the North American Free Trade Agreement Implementation Act, \$10,000,000 to remain available until September 30, 2000: *Provided*, That the Secretary may transfer such funds to the North American Development Bank and/or to one or more Federal agencies for the purpose of enabling the Bank or such Federal agencies to assist in carrying out the program by providing technical assistance, grants, loans, loan guarantees, and other financial subsidies endorsed by the inter-agency finance committee established by section 7 of Executive Order 12916: *Provided further*, That no portion of such funds may be transferred to the Bank unless the Secretary shall have first entered into an agreement with the Bank that provides that any such funds may not be used for the Bank’s administrative expenses: *Provided further*, That any funds transferred to the Bank under this head will be in addition to the 10 percent of the paid-in capital paid to the Bank by the United States referred to in section 543 of the Act: *Provided further*, That any funds transferred to any Federal agency under this head will be in addition to amounts otherwise provided to such agency: *Provided further*, That any funds transferred to an agency under this head shall be subject to the same terms and conditions as the account to which transferred.

### TITLE III—MILITARY ASSISTANCE

#### FUNDS APPROPRIATED TO THE PRESIDENT

##### INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, \$50,000,000 of which up to \$1,000,000 may remain available until expended: *Provided*, That the civilian personnel for whom military education and

training may be provided under this heading may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights: *Provided further*, That funds appropriated under this heading for grant financed military education and training for Indonesia and Guatemala may only be available for expanded international military education and training and funds made available for Guatemala may only be provided through the regular notification procedures of the Committees on Appropriations: *Provided further*, That none of the funds appropriated under this heading may be made available to support grant financed military education and training at the School of the Americas unless the Secretary of Defense certifies that the instruction and training provided by the School of the Americas is fully consistent with training and doctrine, particularly with respect to the observance of human rights, provided by the Department of Defense to United States military students at Department of Defense institutions whose primary purpose is to train United States military personnel.

#### FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, \$3,330,000,000: *Provided*, That of the funds appropriated under this heading, not less than \$1,860,000,000 shall be available for grants only for Israel, and not less than \$1,300,000,000 shall be made available for grants only for Egypt: *Provided further*, That the funds appropriated by this paragraph for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1998, whichever is later: *Provided further*, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than \$490,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further*, That of the funds appropriated by this paragraph, not less than \$45,000,000 should be available for assistance for Jordan: *Provided further*, That during fiscal year 1999 the President is authorized to, and shall, direct drawdowns of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training of an aggregate value of not less than \$25,000,000 under the authority of this proviso for Jordan for the purposes of part II of the Foreign Assistance Act of 1961: *Provided further*, That section 506(c) of the Foreign Assistance Act of 1961 shall apply, and section 632(d) of the Foreign Assistance Act of 1961 shall not apply, to any such drawdown: *Provided further*, That none of the funds made available under this heading shall be available for any non-NATO country participating in the Partnership for Peace Program except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the funds appropriated by this paragraph, not less than \$7,000,000 shall be made available for assistance for Tunisia: *Provided further*, That during fiscal year 1999, the President is authorized to, and shall, direct the drawdowns of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and

military education and training of an aggregate value of not less than \$5,000,000 under the authority of this proviso for Tunisia for the purposes of part II of the Foreign Assistance Act of 1961 and any amount so directed shall count toward meeting the earmark in the previous proviso: *Provided further*, That section 506(c) of the Foreign Assistance Act of 1961 shall apply and section 632(d) of the Foreign Assistance Act of 1961 shall not apply to any such drawdown: *Provided further*, That funds appropriated by this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further*, That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans authorized by section 23 of the Arms Export Control Act as follows: cost of direct loans, \$20,000,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed \$167,000,000.

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided*, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further*, That none of the funds appropriated under this heading shall be available for assistance for Sudan and Liberia: *Provided further*, That funds made available under this heading may be used, notwithstanding any other provision of law, for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations: *Provided further*, That none of the funds under this heading shall be available for assistance for Guatemala: *Provided further*, That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further*, That, subject to the regular notification procedures of the Committees on Appropriations, funds made available under this heading for the cost of direct loans may also be used to supplement the funds available under this heading for grants, and funds made available under this heading for grants may also be used to supplement the funds available under this heading for the cost of direct loans: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That not more than \$29,910,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military

assistance and sales: *Provided further*, That not more than \$340,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 1999 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations.

#### PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, \$76,500,000: *Provided*, That none of the funds appropriated under this heading shall be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

### TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

#### FUNDS APPROPRIATED TO THE PRESIDENT

##### INTERNATIONAL FINANCIAL INSTITUTIONS

##### CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

##### GLOBAL ENVIRONMENT FACILITY

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States contribution to the Global Environment Facility (GEF), \$192,500,000 to remain available until expended for contributions previously due: *Provided*, That such funds shall be subject to the regular notification procedures of the Committees on Appropriations.

##### CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association (IDA) by the Secretary of the Treasury, \$800,000,000, to remain available until expended: *Provided*, That none of these funds may be obligated or expended until the Secretary of the Treasury certifies that a procedure has been established for the Comptroller General of the United States to be provided full access to: (1) the financial and related records of the International Bank for Reconstruction and Development and IDA for the purposes of conducting audits of current loans and financial assistance provided by these institutions; and (2) management personnel manuals, procedures, and policy guidelines: *Provided further*, That following the review conducted in the previous proviso, the Comptroller General shall report to the Committees on Appropriations on the results of the audit and recommendations to improve institutional financial and personnel procedures, especially regarding the protection of individuals alleging mismanagement, fraud, or abuses: *Provided further*, That at least ten days prior to the obligation of funds appropriated under this heading the Secretary of Treasury shall report to the Committees on Appropriations of his intent to obligate such funds.



CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, \$25,610,667.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

FUND FOR SPECIAL OPERATIONS

For payment to the Inter-American Bank by the Secretary of the Treasury, for the United States share of the increase in resources for the Fund for Special Operations, \$21,152,000, to remain available until expended for contributions previously due.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed \$1,503,718,910.

CONTRIBUTION TO THE ENTERPRISE FOR AMERICAS MULTILATERAL  
INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the Fund, \$50,000,000 to remain available until expended for contributions previously due.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury for the United States share of the paid-in portion of the increase in capital stock, \$13,221,596, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed \$647,858,204.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), \$210,000,000, to remain available until expended, of which \$187,000,000 shall be available for contributions previously due.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increase in resources of the African Development Fund, \$128,000,000, to remain available until expended, of which \$88,300,000 shall be available for contributions previously due.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND  
DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, \$35,778,717, for the United States share of the paid-in portion of the increase in capital stock, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed \$123,237,803.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, \$187,000,000: *Provided*, That none of the funds appropriated under this heading shall be made available for the United Nations Fund for Science and Technology: *Provided further*, That none of the funds appropriated under this heading may be made available for the United Nations Population Fund (UNFPA): *Provided further*, That not less than \$5,000,000 should be made available to the World Food Program: *Provided further*, That none of the funds made available under this heading, may be provided to the Climate Stabilization Fund until fifteen days after the Department of State provides a report to the Committees on Foreign Relations and Appropriations in the Senate and the Committees on International Relations and Appropriations in the House of Representatives detailing the number of Fund employees and associated salaries and the fiscal year 1998 and 1999 Fund activities, programs or projects and associated costs: *Provided further*, That none of the funds appropriated under this heading may be made available to the Korean Peninsula Energy Development Organization (KEDO) or the International Atomic Energy Agency (IAEA).

TITLE V—GENERAL PROVISIONS

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 501. Except for the appropriations entitled “International Disaster Assistance”, and “United States Emergency Refugee and Migration Assistance Fund”, not more than 15 percent of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL  
INSTITUTIONS

SEC. 502. Notwithstanding section 614 of the Foreign Assistance Act of 1961, none of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

## LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed \$126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

## LIMITATION ON EXPENSES

SEC. 504. Of the funds appropriated or made available pursuant to this Act, not to exceed \$5,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

## LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed \$95,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading “Foreign Military Financing Program”, not to exceed \$2,000 shall be available for entertainment expenses and not to exceed \$50,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading “International Military Education and Training”, not to exceed \$50,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed \$2,000 shall be available for entertainment and representation allowances: *Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed a total of \$4,000 shall be available for entertainment expenses: *Provided further*, That of the funds made available by this Act under the heading “Trade and Development Agency”, not to exceed \$2,000 shall be available for representation and entertainment allowances.

## PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 506. None of the funds appropriated or made available (other than funds for “Nonproliferation, Anti-terrorism, Demining and Related Programs”) pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used, except for purposes of nuclear safety, to finance the export of nuclear equipment, fuel, or technology.

## PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Sudan, or Syria: *Provided*, That for purposes of this section, the prohibition on obligations or expenditures shall

include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

#### MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected head of government is deposed by military coup or decree: *Provided*, That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

#### TRANSFERS BETWEEN ACCOUNTS

SEC. 509. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

#### DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 510. (a) Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under title II of this Act are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1999, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified 15 days in advance of the reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

(b) Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: *Provided*, That the authority of this subsection may not be used in fiscal year 1999.

#### AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapters 1, 8, and 11 of part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, and funds provided under the heading "Assistance for Eastern Europe and the Baltic

States”, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further*, That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

#### LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act or during the current fiscal year for Nicaragua, Brazil, Liberia, and for any narcotics-related assistance for Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961 or the Arms Export Control Act.

#### COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity, and the Chairman of the Board so notifies the Committees on Appropriations.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

#### SURPLUS COMMODITIES

22 USC 262h.

SEC. 514. (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

(b) The Secretary of the Treasury should instruct the United States executive directors of international financial institutions listed in subsection (a) of this section to use the voice and vote of the United States to support the purchase of American produced agricultural commodities with funds appropriated or made available pursuant to this Act.

#### NOTIFICATION REQUIREMENTS

SEC. 515. (a) For the purposes of providing the executive branch with the necessary administrative flexibility, none of the funds made available under this Act for “Child Survival and Disease Programs Fund”, “Development assistance”, “International Organizations and Programs”, “Trade and Development Agency”, “International narcotics control and law enforcement”, “Assistance for Eastern Europe and the Baltic States”, “Assistance for the New Independent States of the Former Soviet Union”, “Economic Support Fund”, “Peacekeeping operations”, “Operating expenses of the Agency for International Development”, “Operating expenses of the Agency for International Development Office of Inspector General”, “Nonproliferation, anti-terrorism, demining and related programs”, “Foreign Military Financing Program”, “International military education and training”, “Peace Corps”, “Migration and refugee assistance”, shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified 15 days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not

previously justified to Congress or 20 percent in excess of the quantities justified to Congress unless the Committees on Appropriations are notified 15 days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 10 percent of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of this Act or any other Act, including any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations, may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

(b) Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

#### LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. Subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of section 307(a) of the Foreign Assistance Act of 1961, shall remain available for obligation until September 30, 2000: *Provided*, That section 307(a) of the Foreign Assistance Act of 1961, is amended by inserting before the period at the end thereof “, or at the discretion of the President, Communist countries listed in section 620(f) of this Act”.

22 USC 2227.

#### NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 517. (a) None of the funds appropriated under the heading “Assistance for the New Independent States of the Former Soviet Union” shall be made available for assistance for a Government of the New Independent States of the former Soviet Union—

(1) unless that Government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that Government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures. Assistance may be furnished without regard to this subsection if the President determines that to do so is in the national interest.

(b) None of the funds appropriated under the heading “Assistance for the New Independent States of the Former Soviet Union”

22 USC 5814  
note.

shall be made available for assistance for a Government of the New Independent States of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other new independent state, such as those violations included in the Helsinki Final Act: *Provided*, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States.

(c) None of the funds appropriated under the heading “Assistance for the New Independent States of the Former Soviet Union” shall be made available for any state to enhance its military capability: *Provided*, That this restriction does not apply to demilitarization, demining or nonproliferation programs.

(d) Funds appropriated under the heading “Assistance for the New Independent States of the Former Soviet Union” shall be subject to the regular notification procedures of the Committees on Appropriations.

(e) Funds made available in this Act for assistance to the New Independent States of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(f) Funds appropriated in this or prior appropriations Acts that are or have been made available for an Enterprise Fund in the New Independent States of the Former Soviet Union may be deposited by such Fund in interest-bearing accounts prior to the disbursement of such funds by the Fund for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(g) In issuing new task orders, entering into contracts, or making grants, with funds appropriated in this Act or prior appropriations Acts under the heading “Assistance for the New Independent States of the Former Soviet Union” for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to the New Independent States and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

(h)(1) WITHHOLDING OF ASSISTANCE.—None of the funds appropriated by this Act may be made available for assistance for the Government of the Russian Federation, after 180 days from the date of enactment of this Act, until agreement has been reached that assistance provided with funds appropriated by this Act will not be subject to customs duties or that legislation has been enacted and is in force that exempts such assistance from being subject to customs duties.

(2) WAIVER.—Notwithstanding paragraph (1), assistance may be provided for the Government of the Russian Federation if the President determines that significant progress has been made on reaching an agreement, or enacting and enforcing legislation, that meets the objectives of this section to provide exemption from customs duties for assistance furnished under this Act.



PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY  
STERILIZATION

SEC. 518. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations: *Provided*, That none of the funds made available under this Act may be used to lobby for or against abortion.

## EXCESS DEFENSE ARTICLES FOR CENTRAL EUROPEAN COUNTRIES

SEC. 519. Section 105 of Public Law 104-164 (110 Stat. 1427) is amended by striking “1996 and 1997” and inserting “1999 and 2000”.

## SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated by this Act shall be obligated or expended for Colombia, Honduras, Haiti, Liberia, Pakistan, Serbia, Sudan, or the Democratic Republic of Congo except as provided through the regular notification procedures of the Committees on Appropriations.

## DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act, “program, project, and activity” shall be defined at the appropriations Act account level and shall include all appropriations and authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, “program, project, and activity” shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development “program, project, and activity” shall also be considered to include central program level funding, either as: (1) justified to the Congress; or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within 30 days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

## CHILD SURVIVAL, AIDS, AND OTHER ACTIVITIES

SEC. 522. Up to \$10,000,000 of the funds made available by this Act for assistance for family planning, health, child survival, basic education, AIDS and other infectious diseases, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the Agency for International Development for the purpose of carrying out family planning activities, child survival, and basic education activities, and activities relating to research on, and the prevention, treatment and control of acquired immune deficiency syndrome or other diseases in developing countries: *Provided*, That funds appropriated by this Act that are made available for child survival activities or disease programs including activities relating to research on, and the prevention, treatment and control of, acquired immune deficiency syndrome may be made available notwithstanding any provision of law that restricts assistance to foreign countries: *Provided further*, That funds appropriated under title II of this Act may be made available pursuant to section 301 of the Foreign Assistance Act of 1961 if a primary purpose of the assistance is for child survival and related programs: *Provided further*, That funds appropriated by this Act that are made available for family planning activities may be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

## PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 523. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, Iran, Syria, North Korea, or the People's Republic of China, unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

## RECIPROCAL LEASING

SEC. 524. Section 61(a) of the Arms Export Control Act is amended by striking out “1998” and inserting in lieu thereof “the current fiscal year”.

22 USC 2796.

## NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 525. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided*, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

## AUTHORIZATION REQUIREMENT

SEC. 526. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

## DEMOCRACY IN CHINA

SEC. 527. Notwithstanding any other provision of law that restricts assistance to foreign countries, funds appropriated by this Act for “Economic Support Fund” may be made available to provide general support for nongovernmental organizations located outside the People’s Republic of China that have as their primary purpose fostering democracy in that country, and for activities of nongovernmental organizations located outside the People’s Republic of China to foster democracy in that country: *Provided*, That none of the funds made available for activities to foster democracy in the People’s Republic of China may be made available for assistance to the government of that country.

## PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 528. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

Federal Register,  
publication.

## COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 529. Notwithstanding any other provision of law, and subject to the regular notification procedures of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel, Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

22 USC 2763  
note.

## COMPETITIVE INSURANCE

SEC. 530. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States insurance companies have a fair opportunity to bid for insurance when such insurance is necessary or appropriate.

## STINGERS IN THE PERSIAN GULF REGION

SEC. 531. Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

## DEBT-FOR-DEVELOPMENT

SEC. 532. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including endowments, debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and any interest earned on such investment shall be used for the purpose for which the assistance was provided to that organization.

## SEPARATE ACCOUNTS

22 USC 2362  
note.

SEC. 533. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities, or

(ii) debt and deficit financing, or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all necessary steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) CONFORMING AMENDMENTS.—The tenth and eleventh provisos contained under the heading “Sub-Saharan Africa, Development Assistance” as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961 are repealed.

22 USC 2346,  
2359.

(6) REPORTING REQUIREMENT.—The Administrator of the Agency for International Development shall report on an annual basis as part of the justification documents submitted to the Committees on Appropriations on the use of local currencies for the administrative requirements of the United States Government as authorized in subsection (a)(2)(B), and such report shall include the amount of local currency (and United States dollar equivalent) used and/or to be used for such purpose in each applicable country.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapters 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98-1159).

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO  
INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 534. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, “international financial institutions” are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

## COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

50 USC 1701  
note.

SEC. 535. None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

## COMPETITIVE PRICING FOR SALES OF DEFENSE ARTICLES

22 USC 2762  
note.

SEC. 536. Direct costs associated with meeting a foreign customer’s additional or unique requirements will continue to be allowable under contracts under section 22(d) of the Arms Export Control Act. Loadings applicable to such direct costs shall be permitted at the same rates applicable to procurement of like items purchased by the Department of Defense for its own use.

AUTHORITIES FOR THE PEACE CORPS, THE INTER-AMERICAN FOUNDATION,  
THE AFRICAN DEVELOPMENT FOUNDATION AND THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

SEC. 537. (a) Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act, or the African

Development Foundation Act. The appropriate agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

(b) Unless expressly provided to the contrary, limitations on the availability of funds for “International Organizations and Programs” in this or any other Act, including prior appropriations Acts, shall not be construed to be applicable to the International Fund for Agricultural Development.

#### IMPACT ON JOBS IN THE UNITED STATES

SEC. 538. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States;

(b) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided*, That in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

#### SERBIA-MONTENEGRO AND KOSOVA

SEC. 539.(a) RESTRICTIONS.—None of the funds in this or any other Act may be made available to modify or remove any sanction, prohibition or requirement with respect to Serbia-Montenegro unless the President first submits to the Congress a certification described in subsection (c).

50 USC 1701  
note.

(b) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury shall instruct the United States executive directors of the international financial institutions to work in opposition to, and vote against, any extension by such institutions of any financial or technical assistance or grants of any kind to the government of Serbia-Montenegro, unless the President first submits to the Congress a certification described in subsection (c).

(c) CERTIFICATION.—A certification described in this subsection is a certification that—

(1) there is substantial improvement in the human rights situation in Kosova;

(2) international human rights observers are allowed to return to Kosova;

(3) Serbian, Serbian-Montenegrin federal government officials, and representatives of the ethnic Albanian community in Kosova have agreed on and begun implementation of a negotiated settlement on the future status of Kosova; and

(4) the government of Serbia-Montenegro is fully complying with its obligations as a signatory to the General Framework Agreement for Peace in Bosnia-Herzegovina including fully cooperating with the International Criminal Tribunal for the Former Yugoslavia.

(d) WAIVER AUTHORITY.—The President may waive the application, in whole or in part, of subsections (a) and (b) if he certifies in writing to the Congress that the waiver is necessary to meet emergency humanitarian needs or to advance negotiations toward a peaceful settlement of the conflict in Kosova that is acceptable to the parties.

(e) EXEMPTION FOR MONTENEGRO.—This section shall not apply to Montenegro.

#### SPECIAL AUTHORITIES

SEC. 540. (a) Funds appropriated in titles I and II of this Act that are made available for Afghanistan, Lebanon, Montenegro, and for victims of war, displaced children, displaced Burmese, humanitarian assistance for Romania, and humanitarian assistance for the peoples of Kosova, may be made available notwithstanding any other provision of law.

(b) Funds appropriated by this Act to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and biodiversity conservation activities and, subject to the regular notification procedures of the Committees on Appropriations, energy programs aimed at reducing greenhouse gas emissions: *Provided*, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) The Agency for International Development may employ personal services contractors, notwithstanding any other provision of law, for the purpose of administering programs for the West Bank and Gaza.

(d)(1) WAIVER.—The President may waive the provisions of section 1003 of Public Law 100–204 if the President determines and certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that it is important to the national security interests of the United States.

(2) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to paragraph (1) shall be effective for no more than a period of six months at a time and shall not apply beyond twelve months after enactment of this Act.

#### POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 541. It is the sense of the Congress that—

(1) the Arab League countries should immediately and publicly renounce the primary boycott of Israel and the secondary and tertiary boycott of American firms that have commercial ties with Israel;



(2) the decision by the Arab League in 1997 to reinstate the boycott against Israel was deeply troubling and disappointing;

(3) the Arab League should immediately rescind its decision on the boycott and its members should develop normal relations with their neighbor Israel; and

(4) the President should—

(A) take more concrete steps to encourage vigorously Arab League countries to renounce publicly the primary boycotts of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel as a confidence-building measure;

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel when determining whether to sell weapons to said country;

(C) report to Congress on the specific steps being taken by the President to bring about a public renunciation of the Arab primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel and to expand the process of normalizing ties between Arab League countries and Israel; and

(D) encourage the allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

#### ANTI-NARCOTICS ACTIVITIES

SEC. 542. (a) Of the funds appropriated by this Act for “Economic Support Fund”, assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean and in other regions consistent with the provisions of section 534(b) of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act.

(b) Funds made available pursuant to this section may be made available notwithstanding section 534(c) and the second and third sentences of section 534(e) of the Foreign Assistance Act of 1961.

#### ELIGIBILITY FOR ASSISTANCE

SEC. 543. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1, 10, and 11 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and from funds appropriated under the heading “Assistance for Eastern Europe and the Baltic States”: *Provided*, That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: *Provided further*, That before using the authority of this subsection to furnish assistance

in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 1999, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided*, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that violate internationally recognized human rights.

#### EARMARKS

SEC. 544. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; however, before exercising the authority of this subsection with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided*, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: *Provided*, That such

earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

#### CEILINGS AND EARMARKS

SEC. 545. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

#### PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 546. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress: *Provided*, That not to exceed \$750,000 may be made available to carry out the provisions of section 316 of Public Law 96-533.

#### PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

SEC. 547. (a) To the maximum extent possible, assistance provided under this Act should make full use of American resources, including commodities, products, and services.

(b) It is the sense of the Congress that, to the greatest extent practicable, all agriculture commodities, equipment and products purchased with funds made available in this Act should be American-made.

(c) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (b) by the Congress.

#### PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 548. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

#### CONSULTING SERVICES

SEC. 549. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

#### PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 550. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 551. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act or any other comparable provision of law. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after October 1, 1997.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance estimated to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 552. (a) IN GENERAL.—Of the funds made available for a foreign country under part I of the Foreign Assistance Act of 1961, an amount equivalent to 110 percent of the total unpaid fully adjudicated parking fines and penalties owed to the District of Columbia by such country as of the date of enactment of this Act shall be withheld from obligation for such country until the Secretary of State certifies and reports in writing to the appropriate congressional committees that such fines and penalties are fully paid to the government of the District of Columbia.

(b) DEFINITION.—For purposes of this section, the term “appropriate congressional committees” means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 553. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 604(a) of the Middle East Peace Facilitation Act of 1995 (title VI of Public Law 104–107) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided*, That if the President fails to make the certification under section 604(b)(2) of the Middle East Peace Facilitation Act of 1995 or to suspend the prohibition under other legislation, funds

appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

#### WAR CRIMES TRIBUNALS DRAWDOWN

SEC. 554. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the President may direct a drawdown pursuant to section 552(c) of the Foreign Assistance Act of 1961, as amended, of up to \$30,000,000 of commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided*, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further*, That sixty days after the date of enactment of this Act, and every one hundred eighty days thereafter, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps the United States Government is taking to collect information regarding allegations of genocide or other violations of international law in the former Yugoslavia and to furnish that information to the United Nations War Crimes Tribunal for the former Yugoslavia: *Provided further*, That the drawdown made under this section for any tribunal shall not be construed as an endorsement or precedent for the establishment of any standing or permanent international criminal tribunal or court: *Provided further*, That funds made available for tribunals or commissions other than for Yugoslavia or Rwanda shall be made available subject to the regular notification procedures of the Committees on Appropriations.

22 USC 2656  
note.

#### LANDMINES

SEC. 555. Notwithstanding any other provision of law, demining equipment available to the Agency for International Development and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

#### RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 556. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided*, That this restriction shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: *Provided further*, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in

locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

#### PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 557. None of the funds appropriated or otherwise made available by this Act under the heading “International Military Education and Training” or “Foreign Military Financing Program” for Informational Program activities may be obligated or expended to pay for—

- (1) alcoholic beverages;
- (2) food (other than food provided at a military installation) not provided in conjunction with Informational Program trips where students do not stay at a military installation; or
- (3) entertainment expenses for activities that are substantially of a recreational character, including entrance fees at sporting events and amusement parks.

#### EQUITABLE ALLOCATION OF FUNDS

SEC. 558. Not more than 17 percent of the funds appropriated by this Act to carry out the provisions of sections 103 through 106 and chapter 4 of part II of the Foreign Assistance Act of 1961, that are made available for Latin America and the Caribbean region may be made available, through bilateral and Latin America and the Caribbean regional programs, to provide assistance for any country in such region.

#### SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 559. (a) **AUTHORITY TO REDUCE DEBT.**—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

- (1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961;
- (2) credits extended or guarantees issued under the Arms Export Control Act; or
- (3) any obligation or portion of such obligation for a Latin American country, to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act of June 29, 1948, as amended, section 4(b) of the Food for Peace Act of 1966, as amended (Public Law 89-808), or section 202 of the Agricultural Trade Act of 1978, as amended (Public Law 95-501).

(b) **LIMITATIONS.**—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief ad referendum agreements, commonly referred to as “Paris Club Agreed Minutes”.

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as “IDA-only” countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading “Debt restructuring”.

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961.

#### AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 560. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with sections 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATIONS.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President should consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading “Debt restructuring”.

#### LIMITATION ON ASSISTANCE FOR HAITI

SEC. 561. (a) LIMITATION.—Funds appropriated by this Act may be made available for assistance for the central Government of Haiti only if the President reports to the Committee on Appropriations and the Committee on International Relations of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate that the Government of Haiti—

(1) has completed privatization of (or placed under long-term private management or concession) three major public entities including the completion of all required incorporating documents, the transfer of assets, and the eviction of unauthorized occupants of the land or facility;

(2) has re-signed or is implementing the bilateral Repatriation Agreement with the United States and in the preceding six months that the central Government of Haiti is cooperating with the United States in halting illegal emigration from Haiti;

(3) is conducting thorough investigations of extrajudicial and political killings and has made substantial progress in bringing to justice a person or persons responsible for one or more extrajudicial or political killings in Haiti, and is



cooperating with United States authorities and with United States-funded technical advisors to the Haitian National Police in such investigations;

(4) has taken action to remove from the Haitian National Police, national palace and residential guard, ministerial guard, and any other public security entity or unit of Haiti those individuals who are credibly alleged to have engaged in or conspired to conceal gross violations of internationally recognized human rights or credibly alleged to have engaged in or conspired to engage in narcotics trafficking; and

(5) has ratified or is implementing the maritime counter-narcotics agreements signed in October 1997.

(b) AVAILABILITY OF ELECTORAL ASSISTANCE.—The limitation in subsection (a) shall not apply to funds appropriated by this Act that are made available to support elections in Haiti if the President reports to the Congress that the central Government of Haiti:

(1) has achieved a transparent settlement of the contested April 1997 elections; and

(2) has made concrete progress on the constitution of a credible and competent provisional electoral council that is acceptable to a broad spectrum of political parties and civic groups.

(c) EXCEPTIONS.—The limitations in subsections (a) and (b) shall not apply to the provision of—

(1) counter-narcotics assistance, support for the Haitian National Police's Special Investigations Unit and anti-corruption programs, the International Criminal Investigative Assistance Program, and assistance in support of Haitian customs and maritime officials;

(2) food assistance management and support;

(3) assistance for urgent humanitarian needs, such as medical and other supplies and services in support of community health services, schools, and orphanages; and

(4) not more than \$3,000,000 for the development and support of political parties and civic groups.

(d) WAIVER.—At any time after 150 days from the date of enactment of this Act, the Secretary of State may waive the requirements contained in subsection (a)(1) if she reports to the Committees specified in subsection (a) that the Government of Haiti has satisfied the requirements of subsection (a)(1) with regard to one major public entity and has satisfied the remaining requirements of subsection (a).

(e) REPORTS.—The Secretary of State shall provide to the Committees specified in subsection (a) on a quarterly basis—

(1) in consultation with the Secretary of Defense and the Administrator of the Drug Enforcement Administration, a report on the status and number of United States personnel deployed in and around Haiti on Department of Defense, Drug Enforcement Administration, and United Nations missions, including displays by functional or operational assignment for such personnel and the cost to the United States of these operations; and

(2) the monthly reports, prepared during the previous quarter, of the Organization of American States/United Nations International Civilian Mission to Haiti (MICIVIH).

(f) ADMINISTRATION OF JUSTICE ASSISTANCE.—(1) The limitation in subsection (a) shall not apply to funds appropriated under this Act that are made available for the Ministry of Justice for the training of judges if the President determines and reports to the Committee on Appropriations and the Committee on Foreign Relations of the Senate, and the Committee on Appropriations and the Committee on International Relations of the House of Representatives, that Haiti’s Minister of Justice—

(A) has demonstrated a commitment to the professionalism of judicial personnel by consistently placing students graduated by the Judicial School in appropriate judicial positions and has made a commitment to share program costs associated with the Judicial School; and

(B) is making progress in making the judicial branch in Haiti independent from the executive branch.

(2) The limitation in subsection (a) shall not apply to funds to support the training of prosecutors, judicial mentoring, legal assistance, and case management.

REQUIREMENT FOR DISCLOSURE OF FOREIGN AID IN REPORT OF  
SECRETARY OF STATE

22 USC 2414a  
note.

SEC. 562. (a) FOREIGN AID REPORTING REQUIREMENT.—In addition to the voting practices of a foreign country, the report required to be submitted to Congress under section 406(a) of the Foreign Relations Authorization Act, fiscal years 1990 and 1991 (22 U.S.C. 2414a), shall include a side-by-side comparison of individual countries’ overall support for the United States at the United Nations and the amount of United States assistance provided to such country in fiscal year 1998.

(b) UNITED STATES ASSISTANCE.—For purposes of this section, the term “United States assistance” has the meaning given the term in section 481(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

RESTRICTIONS ON VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS  
AGENCIES

SEC. 563. (a) PROHIBITION ON VOLUNTARY CONTRIBUTIONS FOR THE UNITED NATIONS.—None of the funds appropriated by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) if the United Nations implements or imposes any taxation on any United States persons.

(b) CERTIFICATION REQUIRED FOR DISBURSEMENT OF FUNDS.—None of the funds appropriated by this Act may be made available to pay any voluntary contribution of the United States to the United Nations (including the United Nations Development Program) unless the President certifies to the Congress 15 days in advance of such payment that the United Nations is not engaged in any effort to implement or impose any taxation on United States persons in order to raise revenue for the United Nations or any of its specialized agencies.

(c) DEFINITIONS.—As used in this section the term “United States person” refers to—

(1) a natural person who is a citizen or national of the United States; or

(2) a corporation, partnership, or other legal entity organized under the United States or any State, territory, possession, or district of the United States.

#### BURMA LABOR REPORT

SEC. 564. Not later than ninety days after enactment of this Act, the Secretary of Labor shall provide to the Committees on Appropriations a report addressing labor practices in Burma: *Provided*, That the report shall provide comprehensive details on child labor practices, worker's rights, forced relocation of laborers, forced labor performed to support the tourism industry, and forced labor performed in conjunction with, and in support of, the Yadonna gas pipeline: *Provided further*, That the report should address whether the government is in compliance with international labor standards: *Provided further*, That the report should provide details regarding the United States government's efforts to address and correct practices of forced labor in Burma.

#### HAITI

SEC. 565. The Government of Haiti shall be eligible to purchase defense articles and services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), for the civilian-led Haitian National Police and Coast Guard: *Provided*, That the authority provided by this section shall be subject to the regular notification procedures of the Committees on Appropriations.

#### LIMITATION ON ASSISTANCE TO THE PALESTINIAN AUTHORITY

SEC. 566. (a) PROHIBITION OF FUNDS.—None of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 may be obligated or expended with respect to providing funds to the Palestinian Authority.

(b) WAIVER.—The prohibition included in subsection (a) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such prohibition is important to the national security interests of the United States.

(c) PERIOD OF APPLICATION OF WAIVER.—Any waiver pursuant to subsection (b) shall be effective for no more than a period of six months at a time and shall not apply beyond twelve months after enactment of this Act.

#### LIMITATION ON ASSISTANCE TO THE GOVERNMENT OF CROATIA

SEC. 567. None of the funds appropriated by title II of this Act may be made available to the Government of Croatia to relocate the remains of Croatian Ustashe soldiers, at the site of the World War II concentration camp at Jasenovac, Croatia.

#### LIMITATION ON ASSISTANCE TO SECURITY FORCES

SEC. 568. None of the funds made available by this Act may be provided to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the Committees on Appropriations that

the government of such country is taking effective measures to bring the responsible members of the security forces unit to justice: *Provided*, That nothing in this section shall be construed to withhold funds made available by this Act from any unit of the security forces of a foreign country not credibly alleged to be involved in gross violations of human rights: *Provided further*, That in the event that funds are withheld from any unit pursuant to this section, the Secretary of State shall promptly inform the foreign government of the basis for such action and shall, to the maximum extent practicable, assist the foreign government in taking effective measures to bring the responsible members of the security forces to justice.

#### LIMITATIONS ON TRANSFER OF MILITARY EQUIPMENT TO EAST TIMOR

SEC. 569. In any agreement for the sale, transfer, or licensing of any lethal equipment or helicopter for Indonesia entered into by the United States pursuant to the authority of this Act or any other Act, the agreement shall state that the United States expects that the items will not be used in East Timor: *Provided*, That nothing in this section shall be construed to limit Indonesia's inherent right to legitimate national self-defense as recognized under the United Nations Charter and international law.

#### RESTRICTIONS ON ASSISTANCE TO COUNTRIES PROVIDING SANCTUARY TO INDICTED WAR CRIMINALS

SEC. 570. (a) BILATERAL ASSISTANCE.—None of the funds made available by this or any prior Act making appropriations for foreign operations, export financing and related programs, may be provided for any country, entity or canton described in subsection (e).

##### (b) MULTILATERAL ASSISTANCE.—

(1) PROHIBITION.—The Secretary of the Treasury shall instruct the United States executive directors of the international financial institutions to work in opposition to, and vote against, any extension by such institutions of any financial or technical assistance or grants of any kind to any country or entity described in subsection (e).

(2) NOTIFICATION.—Not less than 15 days before any vote in an international financial institution regarding the extension of financial or technical assistance or grants to any country or entity described in subsection (e), the Secretary of the Treasury, in consultation with the Secretary of State, shall provide to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Banking and Financial Services of the House of Representatives a written justification for the proposed assistance, including an explanation of the United States position regarding any such vote, as well as a description of the location of the proposed assistance by municipality, its purpose, and its intended beneficiaries.

(3) DEFINITION.—The term “international financial institution” includes the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the European Bank for Reconstruction and Development.

##### (c) EXCEPTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), subsections (a) and (b) shall not apply to the provision of—

(A) humanitarian assistance;

(B) democratization assistance;

(C) assistance for cross border physical infrastructure projects involving activities in both a sanctioned country, entity, or canton and a nonsanctioned contiguous country, entity, or canton, if the project is primarily located in and primarily benefits the nonsanctioned country, entity, or canton and if the portion of the project located in the sanctioned country, entity, or canton is necessary only to complete the project;

(D) small-scale assistance projects or activities requested by United States Armed Forces that promote good relations between such forces and the officials and citizens of the areas in the United States SFOR sector of Bosnia;

(E) implementation of the Brcko Arbitral Decision;

(F) lending by the international financial institutions to a country or entity to support common monetary and fiscal policies at the national level as contemplated by the Dayton Agreement; or

(G) direct lending to a non-sanctioned entity, or lending passed on by the national government to a non-sanctioned entity.

(H) assistance to the International Police Task Force for the training of a civilian police force.

(2) NOTIFICATION.—Every 30 days the Secretary of State, in consultation with the Administrator of the Agency for International Development, shall publish in the Federal Register and/or in a comparable publicly accessible document or internet site, a listing and justification of any assistance that is obligated within that period of time for any country, entity, or canton described in subsection (e), including a description of the purpose of the assistance, project and its location, by municipality.

Federal Register,  
publication.

(d) FURTHER LIMITATIONS.—Notwithstanding subsection (c)—

(1) no assistance may be made available by this Act, or any prior Act making appropriations for foreign operations, export financing and related programs, in any country, entity, or canton described in subsection (e), for a program, project, or activity in which a publicly indicted war criminal is known to have any financial or material interest; and

(2) no assistance (other than emergency foods or medical assistance or demining assistance) may be made available by this Act, or any prior Act making appropriations for foreign operations, export financing and related programs for any program, project, or activity in a community within any country, entity or canton described in subsection (e) if competent authorities within that community are not complying with the provisions of Article IX and Annex 4, Article II, paragraph 8 of the Dayton Agreement relating to war crimes and the Tribunal.

(e) SANCTIONED COUNTRY, ENTITY, OR CANTON.—A sanctioned country, entity, or canton described in this section is one whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to apprehend and transfer to the Tribunal all persons who have been publicly indicted by the Tribunal.

## (f) WAIVER.—

(1) IN GENERAL.—The Secretary of State may waive the application of subsection (a) or subsection (b) with respect to specified bilateral programs or international financial institution projects or programs in a sanctioned country, entity, or canton upon providing a written determination to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives that such assistance directly supports the implementation of the Dayton Agreement and its Annexes, which include the obligation to apprehend and transfer indicted war criminals to the Tribunal.

(2) REPORT.—Not later than 15 days after the date of any written determination under paragraph (1) the Secretary of State shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives regarding the status of efforts to secure the voluntary surrender or apprehension and transfer of persons indicted by the Tribunal, in accordance with the Dayton Agreement, and outlining obstacles to achieving this goal; and

(3) ASSISTANCE PROGRAMS AND PROJECTS AFFECTED.—Any waiver made pursuant to this subsection shall be effective only with respect to a specified bilateral program or multilateral assistance project or program identified in the determination of the Secretary of State to Congress.

(g) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to subsections (a) and (b) with respect to a country or entity shall cease to apply only if the Secretary of State determines and certifies to Congress that the authorities of that country, entity, or canton have apprehended and transferred to the Tribunal all persons who have been publicly indicted by the Tribunal.

## (h) DEFINITIONS.—As used in this section—

(1) COUNTRY.—The term “country” means Bosnia-Herzegovina, Croatia, Serbia, and Montenegro.

(2) ENTITY.—The term “entity” refers to the Federation of Bosnia and Herzegovina and the Republika Srpska.

(3) CANTON.—The term “canton” means the administrative units in Bosnia and Herzegovina.

(4) DAYTON AGREEMENT.—The term “Dayton Agreement” means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

(5) TRIBUNAL.—The term “Tribunal” means the International Criminal Tribunal for the Former Yugoslavia.

(i) ROLE OF HUMAN RIGHTS ORGANIZATIONS AND GOVERNMENT AGENCIES.—In carrying out this section, the Secretary of State, the Administrator of the Agency for International Development, and the executive directors of the international financial institutions shall consult with representatives of human rights organizations and all government agencies with relevant information to help prevent publicly indicted war criminals from benefitting from any financial or technical assistance or grants provided to any country or entity described in subsection (e).

ADDITIONAL REQUIREMENTS RELATING TO STOCKPILING OF DEFENSE  
ARTICLES FOR FOREIGN COUNTRIES

SEC. 571. (a) VALUE OF ADDITIONS TO STOCKPILES.—Section 514(b)(2)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)(A)) is amended by striking the word “and” after “1997”, and inserting in lieu thereof a comma and inserting before the period at the end the following: “and \$340,000,000 for fiscal year 1999”.

(b) REQUIREMENTS RELATING TO THE REPUBLIC OF KOREA AND THAILAND.—Section 514(b)(2)(B) of such Act (22 U.S.C. 2321h(b)(2)(B)) is amended by adding at the end the following: “Of the amount specified in subparagraph (A) for fiscal year 1999, not more than \$320,000,000 may be made available for stockpiles in the Republic of Korea and not more than \$20,000,000 may be made available for stockpiles in Thailand.”.

TO PROHIBIT FOREIGN ASSISTANCE TO THE GOVERNMENT OF RUSSIA  
SHOULD IT ENACT LAWS WHICH WOULD DISCRIMINATE AGAINST MI-  
NORITY RELIGIOUS FAITHS IN THE RUSSIAN FEDERATION

SEC. 572. None of the funds appropriated under this Act may be made available for the Government of Russian Federation, after 180 days from the date of enactment of this Act, unless the President determines and certifies in writing to the Committee on Appropriations and the Committee on Foreign Relations of the Senate that the Government of the Russian Federation has implemented no statute, executive order, regulation or similar government action that would discriminate, or would have as its principal effect discrimination, against religious groups or religious communities in the Russian Federation in violation of accepted international agreements on human rights and religious freedoms to which the Russian Federation is a party.

GREENHOUSE GAS EMISSIONS

SEC. 573. (a) Funds made available in this Act to support programs or activities promoting country participation in the Kyoto Protocol to the Framework Convention on Climate Change (FCCC) shall only be made available subject to the regular notification procedures of the Committees on Appropriations.

(b) The President shall provide a detailed account of all Federal agency obligations and expenditures for climate change programs and activities, domestic and international, for fiscal year 1998, planned obligations for such activities in fiscal year 1999, and any plan for programs thereafter related to the implementation or the furtherance of protocols pursuant to, or related to negotiations to amend the FCCC in conjunction with the President’s submission of the Budget of the United States Government for Fiscal Year 2000: *Provided*, That such report shall include an accounting of expenditures by agency with each agency identifying climate change activities and associated costs by line item as presented in the President’s Budget Appendix.

WITHHOLDING ASSISTANCE TO COUNTRIES VIOLATING UNITED  
NATIONS SANCTIONS AGAINST LIBYA

SEC. 574. (a) WITHHOLDING OF ASSISTANCE.—Except as provided in subsection (b), whenever the President determines and

certifies to Congress that the government of any country is violating any sanction against Libya imposed pursuant to United Nations Security Council Resolution 731, 748, or 883, then not less than 5 percent of the funds allocated for the country under section 653(a) of the Foreign Assistance Act of 1961 out of appropriations in this Act shall be withheld from obligation or expenditure for that country.

(b) EXCEPTION.—The requirement to withhold funds under subsection (a) shall not apply to funds appropriated in this Act for allocation under section 653(a) of the Foreign Assistance Act of 1961 for development assistance or for humanitarian assistance.

(c) WAIVER.—Funds may be provided for a country without regard to subsection (a) if the President determines that to do so is in the national security interest of the United States.

#### AID TO THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF CONGO

SEC. 575. (a) None of the funds appropriated by this Act may be provided for assistance for the central Government of the Democratic Government of Congo until such time as the President reports in writing to the Congress that the central Government is—

(1) investigating and prosecuting those responsible for human rights violations committed in the Democratic Republic of Congo; and

(2) implementing a credible democratic transition program.

(b) This section shall not apply to assistance to promote democracy and the rule of law as part of a plan to implement a credible democratic transition program.

#### ASSISTANCE FOR THE MIDDLE EAST

SEC. 576. Of the funds appropriated by this Act under the headings “Economic Support Fund”, “Foreign Military Financing”, “International Military Education and Training”, “Peacekeeping Operations”, for refugees resettling in Israel under the heading “Migration and Refugee Assistance”, and for assistance for Israel to carry out provisions of chapter 8 of part II of the Foreign Assistance Act of 1961 under the heading “Nonproliferation, Anti-Terrorism, Demining, and Related Programs”, not more than a total of \$5,402,850,000 may be made available for Israel, Egypt, Jordan, Lebanon, the West Bank and Gaza, the Israel-Lebanon Monitoring Group, the Multinational Force and Observers, the Middle East Regional Democracy Fund, Middle East Regional Cooperation, and Middle East Multilateral Working Groups: *Provided*, That any funds that were appropriated under such headings in prior fiscal years and that were at the time of enactment of this Act obligated or allocated for other recipients may not during fiscal year 1999 be made available for activities that, if funded under this Act, would be required to count against this ceiling: *Provided further*, That funds may be made available notwithstanding the requirements of this section if the President determines and certifies to the Committees on Appropriations that it is important to the national security interest of the United States to do so and any such additional funds shall only be provided through the regular notification procedures of the Committees on Appropriations.



## ENTERPRISE FUND RESTRICTIONS

SEC. 577. Prior to the distribution of any assets resulting from any liquidation, dissolution, or winding up of an Enterprise Fund, in whole or in part, the President shall submit to the Committees on Appropriations, in accordance with the regular notification procedures of the Committees on Appropriations, a plan for the distribution of the assets of the Enterprise Fund.

## CAMBODIA

SEC. 578. The Secretary of the Treasury should instruct the United States executive directors of the international financial institutions to use the voice and vote of the United States to oppose loans to the Government of Cambodia, except loans to support basic human needs.

## EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 579. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 1999 for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

## AUTHORIZATION FOR POPULATION PLANNING

SEC. 580. (a) Not to exceed \$385,000,000 of the funds appropriated in title II of this Act may be available for population planning activities or other population assistance.

(b) Such funds may be apportioned only on a monthly basis, and such monthly apportionments may not exceed 8.34 percent of the total available for such activities.

REPORT ON ALL UNITED STATES MILITARY TRAINING PROVIDED TO  
FOREIGN MILITARY PERSONNEL

SEC. 581. (a) The Secretary of Defense and the Secretary of State shall jointly provide to the Congress by January 31, 1999, a report on all military training provided to foreign military personnel under programs administered by the Department of Defense and the Department of State during fiscal years 1998 and 1999, including those proposed for fiscal year 1999. This report shall include, for each such military training activity, the foreign policy justification and purpose for the training activity, the cost of the training activity, the number of foreign students trained and their units of operation, and the location of the training. In addition, this report shall also include, with respect to United States personnel, the operational benefits to United States forces derived from each such training activity and the United States military units involved in each such training activity. This report may include a classified annex if deemed necessary and appropriate.

(b) For purposes of this section a report to Congress shall be deemed to mean a report to the Appropriations and Foreign

Relations Committees of the Senate and the Appropriations and International Relations Committees of the House of Representatives.

KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

SEC. 582. (a) of the funds made available under the heading “Nonproliferation, Anti-terrorism, Demining and Related Programs”, not to exceed \$35,000,000 may be made available for the Korean Peninsula Energy Development Organization (hereafter referred to in this section as “KEDO”), notwithstanding any other provision of law, only for the administrative expenses and heavy fuel oil costs associated with the Agreed Framework: *Provided*, that none of these funds may be made available until March 1, 1999.

(b) Of the funds made available for KEDO, up to \$15,000,000 may be made available prior to June 1, 1999, if, thirty days prior to such obligation of funds, the President certifies and so reports to Congress that—

(1)(A) the parties to the Agreed Framework have taken and continue to take demonstrable steps to assure that progress is made on the implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula in which the government of North Korea has committed not to test, manufacture, produce, receive, possess, store, deploy or use nuclear weapons;

(B) the parties to the Agreed Framework have taken and continue to take demonstrable steps to assure that progress is made on the implementation of the North-South dialogue; and

(C) North Korea is complying with all provisions of the Agreed Framework and with the Confidential Minute between North Korea and the United States;

(2) North Korea is cooperating fully in the canning and safe storage of all spent fuel from its graphite-moderated nuclear reactors;

(3) North Korea has not significantly diverted assistance provided by the United States for purposes for which it was not intended; and

(4) the United States is fully engaged in efforts to impede North Korea’s development and export of ballistic missiles; and

(c) Of the funds made available for KEDO, up to \$20,000,000 may be made available on or after June 1, 1999, if, thirty days prior to such obligation of funds, the President certifies and so reports to Congress that:

(1) the United States has initiated meaningful discussions with North Korea on implementation of the Joint Declaration on the Denuclearization of the Korean Peninsula;

(2) the United States has reached agreement with North Korea on the means for satisfying U.S. concerns regarding suspect underground construction; and;

(3) the United States is making significant progress on reducing and eliminating the North Korean ballistic missile threat, including its ballistic missile exports.

(d) The President may waive the certification requirements of subsections (b) and (c) if the President determines that it is vital to the national security interests of the United States and

provides written policy justifications to the appropriate congressional committees prior to his exercise of such waiver. No funds may be obligated for KEDO until 30 days after submission to Congress of such waiver.

(e) Not later than January 1, 1999, the President shall name a “North Korea Policy Coordinator”, who shall conduct a full and complete interagency review of United States policy toward North Korea, shall provide policy direction for negotiations with North Korea related to nuclear weapons, ballistic missiles, and other security related issues, and shall also provide leadership for United States participation in KEDO.

(f) The Secretary of State shall submit to the appropriate congressional committees an annual report (to be submitted with the annual presentation for appropriations) providing a full and detailed accounting of the fiscal year request for the United States contribution to KEDO, the expected operating budget of the KEDO, to include unpaid debt, proposed annual costs associated with heavy fuel oil purchases, and the amount of funds pledged by other donor nations and organizations to support KEDO activities on a per country basis, and other related activities.

(g) The Secretary of Defense shall submit to the appropriate congressional committees an annual report on the degree to which KEDO’s mission and the Agreed Framework continue to promote important United States national security interests, contribute to delaying North Korean indigenous development of nuclear weapons-related technology, and positively impact the level of tension on the Korean Peninsula.

NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND  
FINANCIAL POLICIES

SEC. 583. (a) Notwithstanding any other provision of law, each annual report required by subsection 1701(a) of the International Financial Institutions Act, as amended (Public Law 95-118, 22 U.S.C. 262r), shall comprise—

22 USC 262r  
note.

(1) an assessment of the effectiveness of the major policies and operations of the international financial institutions;

(2) the major issues affecting United States participation;

(3) the major developments in the past year;

(4) the prospects for the coming year;

(5) the progress made and steps taken to achieve United States policy goals (including major policy goals embodied in current law) with respect to the international financial institutions; and

(6) such data and explanations concerning the effectiveness, operations, and policies of the international financial institutions, such recommendations concerning the international financial institutions, and such other data and material as the Chairman may deem appropriate.

(b) The requirements of Sections 1602(e), 1603(c), 1604(c), and 1701(b) of the International Financial Institutions Act, as amended (Public Law 95-118, 22 U.S.C. 262p-1, 262p-2, 262p-3 and 262(r)), Section 2018(c) of the International Narcotics Control Act of 1986, as amended (Public Law 99-570, 22 U.S.C. 2291 note), Section 407(c) of the Foreign Debt Reserving Act of 1989 (Public Law 101-240, 22 U.S.C. 2291 note), Section 14(c) of the Inter-American Development Bank Act, as amended (Public Law 86-147, 22 U.S.C. 283j-1(c)), and Section 1002 of the Freedom for Russia and

Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511) (22 U.S.C. 286ll(b)) shall no longer apply to the contents of such annual reports.

PROHIBITION ON ASSISTANCE TO THE PALESTINIAN BROADCASTING CORPORATION

SEC. 584. None of the funds appropriated or otherwise made available by this Act may be used to provide equipment, technical support, consulting services, or any other form of assistance to the Palestinian Broadcasting Corporation.

REPORT ON IRAQI DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION

SEC. 585. (a) FINDINGS.—Congress finds that—

(1) Iraq is continuing efforts to mask the extent of its weapons of mass destruction and missile programs;

(2) proposals to relax the current international inspection regime would have potentially dangerous consequences for international security; and

(3) Iraq has demonstrated time and again that it cannot be trusted to abide by international norms or by its own agreements, and that the only way the international community can be assured of Iraqi compliance is by ongoing inspection.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the international agencies charged with inspections in Iraq—the International Atomic Energy Agency (IAEA) and the United Nations Special Commission (UNSCOM) should maintain vigorous inspections, including surprise inspections, within Iraq; and

(2) the United States should oppose any efforts to ease the inspections regimes on Iraq until there is clear, credible evidence that the Government of Iraq is in full compliance with all relevant United Nations' resolutions.

(c) REPORT.—Not later than 30 days after the date of enactment of this Act, the President shall submit a report to Congress on the United States Government's assessment of Iraq's nuclear and other weapons of mass destruction programs and its efforts to move toward procurement of nuclear weapons and the means to deliver weapons of mass destruction. The report shall also—

(1) assess the United States view of the International Atomic Energy Agency's action team reports and other IAEA efforts to monitor the extent and nature of Iraq's nuclear program; and

(2) include the United States Government's opinion on the value of maintaining the ongoing inspection regime rather than replacing it with a passive monitoring system.

SENSE OF CONGRESS REGARDING IRAN

SEC. 586. (a) The Congress finds that—

(1) according to the Department of State, Iran continues to support international terrorism, providing training, financing, and weapons to such terrorist groups as Hizballah, Islamic Jihad and Hamas;

(2) Iran continues to oppose the Arab-Israeli peace process and refuses to recognize Israel's right to exist;

(3) Iran continues aggressively to seek weapons of mass destruction and the missiles to deliver them;

(4) it is long-standing United States policy to offer official government-to-government dialogue with the Iranian regime, such offers having been repeatedly rebuffed by Tehran;

(5) more than a year after the election of President Khatemi, Iranian foreign policy continues to threaten American security and that of our allies in the Middle East; and

(6) despite repeated offers and tentative steps toward rapprochement with Iran by the Clinton Administration, including a decision to waive sanctions under the Iran-Libya Sanctions Act and the President's veto of the Iran Missile Proliferation Sanctions Act, Iran has failed to reciprocate in a meaningful manner.

(b) Therefore it is the sense of the Congress that—

(1) the Administration should make no concessions to the Government of Iran unless and until that government moderates its objectionable policies, including taking steps to end its support of international terrorism, opposition to the Middle East peace process, and the development and proliferation of weapons of mass destruction and their means of delivery; and

(2) there should be no change in United States policy toward Iran until there is credible and sustained evidence of a change in Iranian policies.

#### AID OFFICE OF SECURITY

SEC. 587. (a) ESTABLISHMENT OF OFFICE.—There shall be established within the Office of the Administrator of the Agency for International Development, an Office of Security. Such Office of Security shall, notwithstanding any other provision of law except section 207 of the Foreign Service Act of 1980 and section 103 of Public Law 199-339, have the responsibility for the supervision, direction, and control of all security activities relating to the programs and operations of that Agency.

22 USC 2381  
note.

(b) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—There are transferred to the Office of Security all security functions exercised by the Office of Inspector General of the Agency for International Development exercised before the date of enactment of this Act. The Administrator shall transfer from the Office of the Inspector General of such Agency to the Office of Security established by subsection (a), the personnel (including the Senior Executive Service position designated for the Assistant Inspector General for Security), assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, and other funds held, used, available to, or to be made available in connection with such functions. Unexpended balances of appropriations, and other funds made available or to be made available in connection with such functions, shall be transferred to and merged with funds appropriated by this Act under the heading "Operating Expenses of the Agency for International Development".

(c) TRANSFER OF EMPLOYEES.—Any employee in the career service who is transferred pursuant to this section shall be placed in a position in the Office of Security established by subsection (a) which is comparable to the position the employee held in the Office of the Inspector General of the Agency for International Development.

SENSE OF CONGRESS REGARDING BALLISTIC MISSILE DEVELOPMENT BY  
NORTH KOREA

SEC. 588. (a) Congress makes the following findings:

(1) North Korea has been active in developing new generations of medium-range and intermediate-range ballistic missiles, including both the Nodong and Taepo Dong class missiles.

(2) North Korea is not an adherent to the Missile Technology Control Regime, actively cooperates with Iran and Pakistan in ballistic missile programs, and has declared its intention to continue to export ballistic missile technology.

(3) North Korea has shared technology involved in the Taepo Dong I missile program with Iran, which is concurrently developing the Shahab–3 intermediate-range ballistic missile.

(4) North Korea is developing the Taepo Dong II intermediate-range ballistic missile, which is expected to have sufficient range to put at risk United States territories, forces, and allies throughout the Asia-Pacific area.

(5) Multistage missiles like the Taepo Dong class missile can ultimately be extended to intercontinental range.

(6) The bipartisan Commission to Assess the Ballistic Missile Threat to the United States emphasized the need for the United States intelligence community and United States policy makers to review the methodology by which they assess foreign missile programs in order to guard against surprise developments with respect to such programs.

(b) It is the sense of Congress that—

(1) North Korea should be forcefully condemned for its August 31, 1998, firing of a Taepo Dong I intermediate-range ballistic missile over the sovereign territory of another country, specifically Japan, an event that demonstrated an advanced capability for employing multistage missiles, which are by nature capable of extended range, including intercontinental range;

(2) the United States should reassess its cooperative space launch programs with countries that continue to assist North Korea and Iran in their ballistic missile and cruise missile programs;

(3) any financial or technical assistance provided to North Korea should take into account the continuing conduct by that country of activities which destabilize the region, including the missile firing referred to in paragraph (1), continued submarine incursions into South Korean territorial waters, and violations of the demilitarized zone separating North Korea and South Korea;

(4) the recommendations of the Commission to Assess the Ballistic Missile Threat to the United States should be incorporated into the analytical processes of the United States intelligence community as soon as possible; and

(5) the United States should accelerate cooperative theater missile defense programs with Japan.

TECHNICAL ASSISTANCE TO FOREIGN GOVERNMENTS

SEC. 589. (a) ESTABLISHMENT OF PROGRAM.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following:

**“SEC. 129. PROGRAM TO PROVIDE TECHNICAL ASSISTANCE TO FOREIGN GOVERNMENTS AND FOREIGN CENTRAL BANKS OF DEVELOPING OR TRANSITIONAL COUNTRIES.** 22 USC 2151aa.

“(a) ESTABLISHMENT OF PROGRAM.—

“(1) IN GENERAL.—Not later than 150 days after the date of the enactment of this section, the Secretary of the Treasury, after consultation with the Secretary of State and the Administrator of the United States Agency for International Development, is authorized to establish a program to provide technical assistance to foreign governments and foreign central banks of developing or transitional countries.

“(2) ROLE OF SECRETARY OF STATE.—The Secretary of State shall provide foreign policy guidance to the Secretary to ensure that the program established under this subsection is effectively integrated into the foreign policy of the United States.

“(b) CONDUCT OF PROGRAM.—

“(1) IN GENERAL.—In carrying out the program established under subsection (a), the Secretary shall provide economic and financial technical assistance to foreign governments and foreign central banks of developing and transitional countries by providing advisers with appropriate expertise to advance the enactment of laws and establishment of administrative procedures and institutions in such countries to promote macroeconomic and fiscal stability, efficient resource allocation, transparent and market-oriented processes and sustainable private sector growth.

“(2) ADDITIONAL REQUIREMENTS.—To the extent practicable, such technical assistance shall be designed to establish—

“(A) tax systems that are fair, objective, and efficiently gather sufficient revenues for governmental operations;

“(B) debt issuance and management programs that rely on market forces;

“(C) budget planning and implementation that permits responsible fiscal policy management;

“(D) commercial banking sector development that efficiently intermediates between savers and investors; and

“(E) financial law enforcement to protect the integrity of financial systems, financial institutions, and government programs.

“(c) ADMINISTRATIVE REQUIREMENTS.—In carrying out the program established under subsection (a), the Secretary—

“(1) shall establish a methodology for identifying and selecting foreign governments and foreign central banks to receive assistance under the program;

“(2) prior to selecting a foreign government or foreign central bank to receive assistance under the program, shall receive the concurrence of the Secretary of State with respect to the selection of such government or central bank and with respect to the cost of the assistance to such government or central bank;

“(3) shall consult with the heads of appropriate Executive agencies of the United States, including the Secretary of State and the Administrator of the United States Agency for International Development, and appropriate international financial institutions to avoid duplicative efforts with respect to those foreign countries for which such agencies or organizations provide similar assistance;

“(4) shall ensure that the program is consistent with the International Affairs Strategic Plan and Mission Performance Plan of the United States Agency for International Development;

“(5) shall establish and carry out a plan to evaluate the program.

“(d) ADMINISTRATIVE AUTHORITIES.—In carrying out the program established under subsection (a), the Secretary shall have the following administrative authorities:

“(1) The Secretary may provide allowances and benefits under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) to any officer or employee of any agency of the United States Government performing functions under this section outside the United States.

“(2)(A) The Secretary may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out this section, including any advance to the United States Government by any country or international organization for the procurement of commodities, supplies, or services.

“(B) Such funds shall be available for obligation and expenditure for the purposes for which such funds were authorized, in accordance with authority granted in this section or under authority governing the activities of the agency of the United States Government to which such funds are allocated or transferred.

“(3) Appropriations for the purposes of or pursuant to this section, and allocations to any agency of the United States Government from other appropriations for functions directly related to the purposes of this section, shall be available for—

“(A) contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management;

“(B) the purchase and hire of passenger motor vehicles, except that passenger motor vehicles may be purchased only—

“(i) for use in foreign countries; and

“(ii) if the Secretary or the Secretary’s designee has determined that the vehicle is necessary to accomplish the mission;

“(C) the purchase of insurance for official motor vehicles acquired for use in foreign countries;

“(D)(i) the rent or lease outside the United States, not to exceed 5 years, of offices, buildings, grounds, and quarters, including living quarters to house personnel, consistent with the relevant interagency housing board policy, and payments therefor in advance;

“(ii) maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for use to the United States Government outside the United States; and

“(iii) costs of insurance, fuel, water, and utilities for such properties;



“(E) expenses of preparing and transporting to their former homes or places of burial the remains of foreign participants or members of the family of foreign participants, who may die while such participants are away from their homes participating in activities carried out with funds covered by this section;

“(F) notwithstanding any other provision of law, transportation and payment of per diem in lieu of subsistence to foreign participants engaged in activities of the program under this section while such participants are away from their homes in countries other than the United States, at rates not in excess of those prescribed by the standardized Government travel regulations;

“(G) expenses in connection with travel of personnel outside the United States, including travel expenses of dependents (including expenses during necessary stop-overs while engaged in such travel), and transportation of personal effects, household goods, and automobiles of such personnel when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year, and cost of transporting automobiles to and from a place of storage, and the cost of storing automobiles of such personnel when it is in the public interest or more economical to authorize storage; and

“(H) grants to, and cooperative agreements and contracts with, any individual, corporation, or other body of persons, nonprofit organization, friendly government or government agency, whether within or without the United States, and international organizations, as the Secretary determines is appropriate to carry out the purposes of this section.

“(4) Whenever the Secretary determines it to be consistent with the purposes of this section, the Secretary is authorized to furnish services and commodities on an advance-of-funds basis to any friendly country or international organization that is not otherwise prohibited from receiving assistance under this Act. Such advances may be credited to the currently applicable appropriation, account, or fund of the Department of the Treasury and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

“(e) ISSUANCE OF REGULATIONS.—The Secretary is authorized to issue such regulations with respect to personal service contractors as the Secretary deems necessary to carry out this section.

“(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to infringe upon the powers or functions of the Secretary of State (including the powers or functions described in section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4802)) or of any chief of mission (including the powers or functions described in section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)).

“(g) TERMINATION OF ASSISTANCE.—The Secretary shall conclude assistance activities for a recipient foreign government or foreign central bank under the program established under subsection (a) if the Secretary, after consultation with the appropriate

officers of the United States, determines that such assistance has resulted in the enactment of laws or the establishment of institutions in that country that promote fiscal stability and administrative procedures, efficient resource allocation, transparent and market-oriented processes and private sector growth in a sustainable manner.

“(h) REPORT.—

“(1) IN GENERAL.—Not later than 3 months after the date of the enactment of this section, and every 6 months thereafter, the Secretary shall prepare and submit to the appropriate congressional committees a report on the conduct of the program established under this section during the preceding 6-month period.

“(2) DEFINITION.—In this subsection, the term ‘appropriate congressional committees’ means—

“(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

“(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

“(i) DEFINITIONS.—In this section:

“(1) DEVELOPING OR TRANSITIONAL COUNTRY.—The term ‘developing or transitional country’ means a country eligible to receive development assistance under this chapter.

“(2) INTERNATIONAL FINANCIAL INSTITUTION.—The term ‘international financial institution’ means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the Asian Development Bank, the African Development Bank, the African Development Fund, the Inter-American Development Bank, the Inter-American Investment Corporation, the European Bank for Reconstruction and Development, and the Bank for Economic Cooperation and Development in the Middle East and North Africa.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(4) TECHNICAL ASSISTANCE.—The term ‘technical assistance’ includes—

“(A) the use of short-term and long-term expert advisers to assist foreign governments and foreign central banks for the purposes described in subsection (b)(1);

“(B) training in the recipient country, the United States, or elsewhere for the purposes described in subsection (b)(1);

“(C) grants of goods, services, or funds to foreign governments and foreign central banks;

“(D) grants to United States nonprofit organizations to provide services or products which contribute to the provision of advice to foreign governments and foreign central banks; and

“(E) study tours for foreign officials in the United States or elsewhere for the purpose of providing technical information to such officials.

“(5) FOREIGN PARTICIPANT.—The term ‘foreign participant’ means the national of a developing or transitional country that is receiving assistance under the program established

under subsection (a) who has been designated to participate in activities under such program.

“(j) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section \$5,000,000 for fiscal year 1999.

“(2) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated under paragraph (1) are authorized to remain available until expended.”.

(b) TRANSPORTATION OF REMAINS, DEPENDENTS, AND EFFECTS OF UNITED STATES GOVERNMENT EMPLOYEES; DEATH OCCURRING AWAY FROM OFFICIAL STATION ABROAD.—Section 5742(b) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking the “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(3) the travel expenses of not more than 2 persons to escort the remains of a deceased employee, if death occurred while the employee was in travel status away from his official station in the United States or while performing official duties outside the United States or in transit thereto or therefrom, from the place of death to the home or official station of such person, or such other place appropriate for interment as is determined by the head of the agency concerned.”.

#### IRAQ OPPOSITION

SEC. 590. Notwithstanding any other provision of law, of the funds made available in this Act and prior Acts making appropriations for foreign operations, export financing and related programs, not less than \$8,000,000 shall be made available only for assistance to the Iraqi democratic opposition for such activities as organization, training, communication and dissemination of information, and developing and implementing agreements among opposition groups: *Provided further*, That any agreement reached regarding the obligation of funds under the previous proviso shall include provisions to ensure appropriate monitoring on the use of such funds: *Provided further*, That of this amount not less than \$3,000,000 should be made available as a grant to Iraqi National Congress, to be administered by its Executive Committee for the benefit of all constituent groups of the Iraqi National Congress: *Provided further*, That within 30 days of enactment of this Act the Secretary of State shall submit a detailed report to the Appropriations Committees of Congress on implementation of this section.

#### NATIONAL COMMISSION ON TERRORISM

SEC. 591. (a) ESTABLISHMENT OF NATIONAL COMMISSION ON TERRORISM.—

(1) ESTABLISHMENT.—There is established a national commission on terrorism to review counter-terrorism policies regarding the prevention and punishment of international acts of terrorism directed at the United States. The commission shall be known as “The National Commission on Terrorism”.

(2) COMPOSITION.—The commission shall be composed of 10 members appointed as follows:

(A) Three members shall be appointed by the Majority Leader of the Senate.

(B) Three members shall be appointed by the Speaker of the House of Representatives.

(C) Two members shall be appointed by the Minority Leader of the Senate.

(D) Two members shall be appointed by the Minority Leader of the House of Representatives.

(E) The appointments of the members of the commission should be made no later than 3 months after the date of the enactment of this Act.

(3) QUALIFICATIONS.—The members should have a knowledge and expertise in matters to be studied by the commission.

(4) CHAIR.—The Speaker of the House of Representatives, after consultation with the majority leader of the Senate and the minority leaders of the House of Representatives and the Senate, shall designate one of the members of the Commission to serve as chair of the Commission.

(5) PERIOD OF APPOINTMENT: VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(6) SECURITY CLEARANCES.—All Members of the Commission should hold appropriate security clearances.

(b) DUTIES.—

(1) IN GENERAL.—The commission shall consider issues relating to international terrorism directed at the United States as follows:

(A) Review the laws, regulations, policies, directives, and practices relating to counterterrorism in the prevention and punishment of international terrorism directed towards the United States.

(B) Assess the extent to which laws, regulations, policies, directives, and practices relating to counterterrorism have been effective in preventing or punishing international terrorism directed towards the United States. At a minimum, the assessment should include a review of the following:

(i) Evidence that terrorist organizations have established an infrastructure in the western hemisphere for the support and conduct of terrorist activities.

(ii) Executive branch efforts to coordinate counterterrorism activities among Federal, State, and local agencies and with other nations to determine the effectiveness of such coordination efforts.

(iii) Executive branch efforts to prevent the use of nuclear, biological, and chemical weapons by terrorists.

(C) Recommend changes to counterterrorism policy in preventing and punishing international terrorism directed toward the United States.

(2) REPORT.—Not later than 6 months after the date on which the Commission first meets, the Commission shall submit to the President and the Congress a final report of the findings and conclusions of the commission, together with any recommendations.

(c) ADMINISTRATIVE MATTERS.—

(1) MEETINGS.—

(A) The commission shall hold its first meeting on a date designated by the Speaker of the House which is not later than 30 days after the date on which all members have been appointed.

(B) After the first meeting, the commission shall meet upon the call of the chair.

(C) A majority of the members of the commission shall constitute a quorum, but a lesser number may hold meetings.

(2) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—

Any member or agent of the commission may, if authorized by the commission, take any action which the commission is authorized to take under this section.

(3) POWERS.—

(A) The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out its duties.

(B) The commission may secure directly from any agency of the Federal Government such information as the commission considers necessary to carry out its duties. Upon the request of the chair of the commission, the head of a department or agency shall furnish the requested information expeditiously to the commission.

(C) The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) PAY AND EXPENSES OF COMMISSION MEMBERS.—

(A) Subject to appropriations, each member of the commission who is not an employee of the government shall be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in performing the duties of the commission.

(B) Members and personnel for the commission may travel on aircraft, vehicles, or other conveyances of the Armed Forces of the United States when travel is necessary in the performance of a duty of the commission except when the cost of commercial transportation is less expensive.

(C) The members of the commission may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

(D)(i) A member of the commission who is an annuitant otherwise covered by section 8344 of 8468 of title 5, United States Code, by reason of membership on the commission shall not be subject to the provisions of such section with respect to membership on the commission.

(ii) A member of the commission who is a member or former member of a uniformed service shall not be subject to the provisions of subsections (b) and (c) of section

5532 of such title with respect to membership on the commission.

(5) STAFF AND ADMINISTRATIVE SUPPORT.—

(A) The chairman of the commission may, without regard to civil service laws and regulations, appoint and terminate an executive director and up to three additional staff members as necessary to enable the commission to perform its duties. The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51, and subchapter III of chapter 53, of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay may not exceed the maximum rate of pay for GS–15 under the General Schedule.

(B) Upon the request of the chairman of the commission, the head of any department or agency of the Federal Government may detail, without reimbursement, any personnel of the department or agency to the commission to assist in carrying out its duties. The detail of an employee shall be without interruption or loss of civil service status or privilege.

(d) TERMINATION OF COMMISSION.—The commission shall terminate 30 days after the date on which the commission submits a final report.

(e) FUNDING.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SPECIAL AUTHORITIES AMENDMENT

SEC. 592. The authority of section 614 of the Foreign Assistance Act of 1961, as amended, may not be used during fiscal year 1999 for the Korean Peninsula Energy Development Organization to authorize the use of more than \$35,000,000 of funds made available for use under that Act or the Arms Export Control Act.

ECONOMIC AND POLITICAL TRANSITION IN INDONESIA

SEC. 593. (a) POLITICAL AND ECONOMIC REFORM.—It is the sense of Congress that—

(1) expanding the availability of wheat, wheat products, and rice for distribution to the most needy and vulnerable Indonesians is vital to the well-being of all Indonesians;

(2) the Administration should adopt a more active approach in support of democratic institutions and processes in Indonesia and provide assistance for continued economic and political development in Indonesia, including—

(A) support for humanitarian programs;

(B) leading a multinational effort to expand humanitarian and food aid programs to meet the needs of Indonesia;

(C) working with international financial institutions to recapitalize and reform the banking system, restructure corporate debt, and introduce economic and legal transparency in Indonesia;

(D) urging the Government of Indonesia to remove, to the maximum extent possible, barriers to trade and

investment which impede economic recovery in Indonesia, including tariffs, quotas, export taxes, nontariff barriers, and prohibitions against foreign ownership and investment;

(E) urging the Government of Indonesia to—

(i) recognize and protect the participation of all Indonesians, including ethnic and religious minorities, in the political and economic life of Indonesia; and

(ii) release individuals detained or imprisoned for their political views;

(F) supporting efforts to establish a timetable for elections and building democracy by strengthening political parties and institutions and the rule of law including the repeal of laws and regulations that discriminate on the basis of religion or ethnicity.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a report containing a description and assessment of the actions taken by the Government of the United States and the Government of Indonesia to further the objectives referred to in subsection (a).

(c) ETHNIC VIOLENCE.—It is the sense of Congress that—

(1) the mistreatment of ethnic Chinese in Indonesia and the criminal acts carried out against them during the May 1998 riots in Indonesia are deplorable and condemned;

(2) a full and fair investigation of such criminal acts should be completed by the earliest possible date, and those identified as responsible for perpetrating such criminal acts should be brought to justice;

(3) the investigation by the Government of Indonesia, through its Military Honor Council, of those members of the armed forces of Indonesia suspected of possible involvement in the May 1998 riots, and of any member of the armed forces of Indonesia who may have participated in criminal acts against the people of Indonesia during the riots, is commended and should be supported;

(4) the Government of Indonesia should take action to assure—

(A) the implementation of appropriate measures to prevent ethnic-related violence and rapes in Indonesia and to protect the human rights and physical safety of the ethnic Chinese community in Indonesia; and

(B) the provision of just compensation for victims of the rape and violence that occurred during the May 1998 riots in Indonesia, including medical care;

(5) the Administration and the United Nations should continue to support and assist the Government of Indonesia and nongovernmental organizations, in the investigations into the May 1998 riots in Indonesia in order to expedite such investigations.

(d) REPORT.—(1) Not later than 6 months after the date of enactment of this Act, the Secretary of State shall submit to Congress a report containing the following:

(A) An assessment of—

(i) whether or not there was a systematic and organized campaign of violence, including the use of rape, against the ethnic Chinese community in Indonesia during the May 1998 riots in Indonesia; and

(ii) the level and degree of participation, if any, of members of the Government or armed forces of Indonesia in the riots.

(B) An assessment of the actions taken by the Government of Indonesia to investigate the May 1998 riots in Indonesia, bring the perpetrators of the riots to justice, and ensure that similar riots do not recur.

#### REPORTING REQUIREMENTS

22 USC 2753  
note.

SEC. 594. (a) NOTIFICATION.—No less than 15 days prior to the export to any country identified pursuant to subparagraph (C) of any lethal defense article or service in the amount of \$14,000,000 or less, the President shall provide a detailed notification to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives.

(b) CONTENT OF NOTIFICATION.—A detailed notification transmitted pursuant to subparagraph (a) shall include the same type and quantity of information required of a notification submitted pursuant to section 36(b) of the Arms Export Control Act (22 U.S.C. 2776(b)).

(c) COUNTRIES DEFINED.—This section shall apply to any country that is—

(1) identified in section 521 of the annual appropriations Act for Foreign Operations, Export Financing, and Related Programs, or a comparable provision in a subsequent appropriations Act; or

(2) currently ineligible, in whole or in part, under an annual appropriations Act to receive funds for International Military Education and Training or under the Foreign Military Financing Program, excluding high-income countries as defined pursuant to section 546(b) of the Foreign Assistance Act of 1961.

(d) EXCLUSIONS.—Information reportable under title V of the National Security Act of 1947 is excluded from the requirements of this section.

#### SENSE OF CONGRESS CONCERNING THE MURDER OF FOUR AMERICAN CHURCHWOMEN IN EL SALVADOR

SEC. 595. (a) FINDINGS.—Congress makes the following findings—

(1) the December 2, 1980 brutal assault and murder of four American churchwomen by members of the Salvadoran National Guard was covered up and never fully investigated;

(2) on July 22 and July 23, 1998, Salvadoran authorities granted three of the National Guardsmen convicted of the crimes early release from prison;

(3) the United Nations Truth Commission for El Salvador determined in 1993 that there was sufficient evidence that the Guardsmen were acting on orders from their superiors;

(4) in March 1998, four of the convicted Guardsmen confessed that they acted after receiving orders from their superiors;

(5) recently declassified documents from the State Department show that United States Government officials were aware of information suggesting the involvement of superior officers in the murders;



(6) United States officials granted permanent residence to a former Salvadoran military official involved in the cover-up of the murders, enabling him to remain in Florida; and

(7) despite the fact that the murders occurred over 17 years ago, the families of the four victims continue to seek the disclosure of information relevant to the murders.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) information relevant to the murders should be made public to the fullest extent possible;

(2) the Secretary of State and the Department of State are to be commended for fully releasing information regarding the murders to the victims' families and to the American public, in prompt response to congressional requests;

(3) the President should order all other Federal agencies and departments that possess relevant information to make every effort to declassify and release to the victims' families relevant information as expeditiously as possible;

(4) in making determinations concerning the declassification and release of relevant information, the Federal agencies and departments should presume in favor of releasing, rather than of withholding, such information; and

(5) the President should direct the Attorney General to review the circumstances under which individuals involved in either the murders or the cover-up of the murders obtained residence in the United States, and the Attorney General should submit a report to the Congress on the results of such review not later than January 1, 1999.

SENSE OF CONGRESS REGARDING THE TRIAL IN THE NETHERLANDS OF  
THE SUSPECTS INDICTED IN THE BOMBING OF PAN AM FLIGHT 103

SEC. 596. (a) FINDINGS.—Congress makes the following findings:

(1) On December 21, 1988, 270 people, including 189 United States citizens, were killed in a terrorist bombing on Pan Am Flight 103 over Lockerbie, Scotland.

(2) Britain and the United States indicted 2 Libyan intelligence agents—Abdel Basset Al-Megrahi and Lamen Khalifa Fhimah—in 1991 and sought their extradition from Libya to the United States or the United Kingdom to stand trial for this heinous terrorist act.

(3) The United Nations Security Council called for the extradition of the suspects in Security Council Resolution 731 and imposed sanctions on Libya in Security Council Resolutions 748 and 883 because Libyan leader, Colonel Muammar Qaddafi, refused to transfer the suspects to either the United States or the United Kingdom to stand trial.

(4) The sanctions in Security Council Resolutions 748 and 883 include a worldwide ban on Libya's national airline, a ban on flights into and out of Libya by other nations' airlines, a prohibition on supplying arms, airplane parts, and certain oil equipment to Libya, and a freeze on Libyan government funds in other countries.

(5) Colonel Qaddafi has continually refused to extradite the suspects to either the United States or the United Kingdom and has insisted that he will only transfer the suspects to a third and neutral country to stand trial.

(6) On August 24, 1998, the United States and the United Kingdom proposed that Colonel Qaddafi transfer the suspects

to the Netherlands, where they would stand trial before a Scottish court, under Scottish law, and with a panel of Scottish judges.

(7) The United States-United Kingdom proposal is consistent with those previously endorsed by the Organization of African Unity, the League of Arab States, the Non-Aligned Movement, and the Islamic Conference.

(8) The United Nations Security Council endorsed the United States-United Kingdom proposal on August 27, 1998, in United Nations Security Council Resolution 1192.

(9) The United States Government has stated that this proposal is nonnegotiable and has called on Colonel Qadaffi to respond promptly, positively, and unequivocally to this proposal by ensuring the timely appearance of the two accused individuals in the Netherlands for trial before the Scottish court.

(10) The United States Government has called on Libya to ensure the production of evidence, including the presence of witnesses before the court, and to comply fully with all the requirements of the United Nations Security Council resolutions.

(11) Secretary of State Albright has said that the United States will urge a multilateral oil embargo against Libya in the United Nations Security Council if Colonel Muammar Qadaffi does not transfer the suspects to the Netherlands to stand trial.

(12) The United Nations Security Council will convene on October 30, 1998, to review sanctions imposed on Libya.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Colonel Qadaffi should promptly transfer the indicted suspects Abdel Basset Al-Megrahi and Lamen Khalifa Fhimah to the Netherlands to stand trial before the Scottish court;

(2) the United States Government should remain firm in its commitment not to negotiate with Colonel Qadaffi on any of the details of the proposal approved by the United Nations in United Nations Security Council Resolution 1192; and

(3) if Colonel Qadaffi does not transfer the indicted suspects Abdel Basset Al-Megrahi and Lamen Khalifa Fhimah to the Netherlands by October 29, 1998, the United States Permanent Representative to the United Nations should—

(A) introduce a resolution in the United Nations Security Council to impose a multilateral oil embargo against Libya;

(B) actively promote adoption of the resolution by the United Nations Security Council; and

(C) assure that a vote will occur in the United Nations Security Council on such a resolution.

SENSE OF THE CONGRESS REGARDING INTERNATIONAL COOPERATION IN RECOVERING CHILDREN ABDUCTED IN THE UNITED STATES AND TAKEN TO OTHER COUNTRIES.

SEC. 597. (a) FINDINGS.—Congress finds that—

(1) many children in the United States have been abducted by family members who are foreign nationals and living in foreign countries;

(2) children who have been abducted by an estranged father are very rarely returned, through legal remedies, from countries that only recognize the custody rights of the father;

(3) there are at least 140 cases that need to be resolved in which children have been abducted by family members and taken to foreign countries;

(4) although the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, has made progress in aiding the return of abducted children, the Convention does not address the criminal aspects of child abduction, and there is a need to reach agreements regarding child abduction with countries that are not parties to the Convention; and

(5) decisions on awarding custody of children should be made in the children's best interest, and persons who violate laws of the United States by abducting their children should not be rewarded by being granted custody of those children.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the United States Government should promote international cooperation in working to resolve those cases in which children in the United States are abducted by family members who are foreign nationals and taken to foreign countries, and in seeing that justice is served by holding accountable the abductors for violations of criminal law.

## TITLE VI—INTERNATIONAL FINANCIAL PROGRAMS AND REFORM

### FUNDS APPROPRIATED TO THE PRESIDENT

#### INTERNATIONAL MONETARY PROGRAMS

##### UNITED STATES QUOTA IN THE INTERNATIONAL MONETARY FUND

For an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 10,622,500,000 Special Drawing Rights, to remain available until expended.

##### LOANS TO THE INTERNATIONAL MONETARY FUND—NEW ARRANGEMENTS TO BORROW

For loans to the International Monetary Fund under section 17 of the Bretton Woods Agreements Act pursuant to the New Arrangements to Borrow, the dollar equivalent of 2,462,000,000 Special Drawing Rights, to remain available until expended. In addition, the amounts appropriated by title III of the Foreign Aid and Related Agencies Appropriations Act, 1963 (Public Law 87-872) and section 1101(b) of the Supplemental Appropriations Act, 1984 (Public Law 98-181) may also be used under section 17 of the Bretton Woods Agreements Act pursuant to the New Arrangements to Borrow.

### GENERAL PROVISIONS—THIS TITLE

#### CONDITIONS FOR THE USE OF APPROPRIATED FUNDS FOR THE INTERNATIONAL MONETARY FUND

SEC. 601. None of the funds appropriated in this title may be obligated or made available to the International Monetary Fund

until 15 days after the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System jointly provide written notification to the appropriate committees that the major shareholders of the Fund have publicly agreed to, and will act to implement in the Fund the following policies:

(1) Policies providing that conditions in standby or other arrangements regarding the use of Fund resources include, in addition to appropriate monetary policy conditions, requirements that the recipient country, in accordance with a schedule for action—

(A) liberalize restrictions on trade in goods and services, consistent with the terms of all international trade agreements of which the borrowing country is a signatory;

(B) eliminate the systemic practice or policy of government directed lending on non-commercial terms or provision of market distorting subsidies to favored industries, enterprises, parties, or institutions; and

(C) provide a legal basis for nondiscriminatory treatment in insolvency proceedings between domestic and foreign creditors, and for debtors and other concerned persons.

(2) Policies providing that within 3 months after any meeting of the Executive Board of the Fund at which a Letter of Intent, a Policy Framework Paper, an Article IV economic review consultation with a member country, or a change in a general policy of the Fund is discussed, a full written summary of the meeting should be made available for public inspection, with the following information redacted:

(A) Information which, if released, would adversely affect the national security of a country, and which is of the type that would be classified by the United States Government.

(B) Market-sensitive information.

(C) Proprietary information.

(3) Policies providing that within 3 months after any meeting of the Executive Board of the Fund at which a Letter of Intent, a Memorandum of Understanding, or a Policy Framework Paper is discussed, a copy of the Letter of Intent, Memorandum of Understanding, or Policy Framework Paper should be made available for public inspection with the following information redacted:

(A) Information which, if released, would adversely affect the national security of a country, and which is of the type that would be classified by the United States Government.

(B) Market-sensitive information.

(C) Proprietary information.

(4) Policies providing that, in circumstances where a country is experiencing balance of payments difficulties due to a large short-term financing need resulting from a sudden and disruptive loss of market confidence and in order to provide an incentive for early repayment and encourage private market financing, loans made from the Fund's general resources after the date of the enactment of this section are—

(A) made available at an interest rate that reflects an adjustment for risk that is not less than 300 basis points in excess of the average of the market-based short-term cost of financing of its largest members; and

(B) repaid within 1 to 2½ years from each disbursement.

REPORTS ON FINANCIAL STABILIZATION PROGRAMS IN THE REPUBLIC  
OF KOREA

SEC. 602. (a) The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to exert the influence of the United States to oppose further disbursement of funds to the Republic of Korea under the Republic of Korea's standby arrangement of December 4, 1997 (in this section referred to as the "Arrangement"), unless there is in effect a certification by the Secretary of the Treasury to the appropriate committees that—

(1) no Fund resources made available pursuant to the Arrangement have been used to provide financial assistance to the semiconductor, steel, automobile, shipbuilding, or textile and apparel industries;

(2) the Fund has neither guaranteed nor underwritten the private loans of semiconductor, steel, automobile, shipbuilding, or textile and apparel manufacturers under the Arrangement; and

(3) officials from the Fund and the Department of the Treasury have monitored the implementation of the provisions contained in the Arrangement, and all of the conditions have either been met or the Republic of Korea has committed itself to fulfill all of these conditions according to an explicit timetable for completion; which timetable has been provided to the Fund and the Department of the Treasury and approved by the Fund.

(b) Before each disbursement of Fund resources to the Republic of Korea under the Arrangement, the Secretary of the Treasury shall report to the appropriate committees on whether a certification by the Secretary pursuant to subsection (a) is in effect.

ADVISORY COMMISSION

SEC. 603. (a) IN GENERAL.—The Secretary of the Treasury shall establish an International Financial Institution Advisory Commission (in this section referred to as the "Commission").

Establishment.  
22 USC 262r  
note.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 11 members, as follows:

(A) 3 members appointed by the Speaker of the House of Representatives.

(B) 3 members appointed by the Majority Leader of the Senate.

(C) 5 members appointed jointly by the Minority Leader of the House of Representatives and the Minority Leader of the Senate.

(2) TIMING OF APPOINTMENTS.—All appointments to the Commission shall be made not later than 45 days after the date of enactment of this Act.

(3) CHAIRMAN.—The Majority Leader of the Senate, after consultation with the Speaker of the House of Representatives and the Minority Leaders of the House of Representatives and the Senate, shall designate 1 of the members of the Commission to serve as Chairman of the Commission.

(c) QUALIFICATIONS.—

(1) EXPERTISE.—Members of the Commission shall be appointed from among those with knowledge and expertise in the workings of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), the World Trade Organization, and the Bank for International Settlements.

(2) FORMER AFFILIATION.—At least 4 members of the Commission shall be individuals who were officers or employees of the Executive Branch before January 20, 1992, and not more than half of such 4 members shall have served under Presidents from the same political party.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(e) DUTIES OF THE COMMISSION.—The Commission shall advise and report to the Congress on the future role and responsibilities of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), the World Trade Organization, and the Bank for International Settlements. In carrying out such duties, the Commission shall meet with and advise the Secretary of the Treasury or the Deputy Secretary of the Treasury, and shall examine—

(1) the effect of globalization, increased trade, capital flows, and other relevant factors on such institutions;

(2) the adequacy, efficacy, and desirability of current policies and programs at such institutions as well as their suitability for respective beneficiaries of such institutions;

(3) cooperation or duplication of functions and responsibilities of such institutions; and

(4) other matters the Commission deems necessary to make recommendations pursuant to subsection (g).

(f) POWERS AND PROCEDURES OF THE COMMISSION.—

(1) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission may, for the purpose of carrying out the provisions of this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(2) INFORMATION.—The Commission may secure directly information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section.

(3) MEETINGS.—The Commission shall meet at the call of the Chairman.

(g) REPORT.—On the termination of the Commission, the Commission shall submit to the Secretary of the Treasury and the appropriate committees a report that contains recommendations regarding the following matters:

(1) Changes to policy goals set forth in the Bretton Woods Agreements Act and the International Financial Institutions Act.

(2) Changes to the charters, organizational structures, policies and programs of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act).

(3) Additional monitoring tools, global standards, or regulations for, among other things, global capital flows, bankruptcy standards, accounting standards, payment systems, and safety and soundness principles for financial institutions.

(4) Possible mergers or abolition of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), including changes to the manner in which such institutions coordinate their policy and program implementation and their roles and responsibilities.

(5) Any additional changes necessary to stabilize currencies, promote continued trade liberalization and to avoid future financial crises.

(h) TERMINATION.—The Commission shall terminate 6 months after the first meeting of the Commission, which shall be not later than 30 days after the appointment of all members of the Commission.

(i) REPORTS BY THE EXECUTIVE BRANCH.—

(1) Within three months after receiving the report of the Commission under subsection (g), the President of the United States through the Secretary of the Treasury shall report to the appropriate committees on the desirability and feasibility of implementing the recommendations contained in the report.

(2) Annually, for three years after the termination of the Commission, the President of the United States through the Secretary of the Treasury shall submit to the appropriate committees a report on the steps taken, if any, through relevant international institutions and international fora to implement such recommendations as are deemed feasible and desirable under paragraph (1).

#### INTERNATIONAL ADVISORY COMMITTEE

SEC. 604. The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to exert the influence of the United States to seek the establishment of a permanent advisory committee to the Interim Committee of the Board of Governors of the Fund, that is to consist of elected members of the national legislatures of the member countries directly represented by appointed members of the Executive Board of the Fund, and to seek to ensure that the permanent advisory committee has the same access to Fund documents as is afforded to the Executive Board of the Fund.

#### STRENGTHENING PROCEDURES FOR MONITORING USE OF IMF FUNDS

SEC. 605. (a) The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to exert the influence of the United States to strengthen Fund procedures for ascertaining that funds disbursed by the Fund are used by the central bank (or other fiscal agent) of a borrowing country in a manner that complies with the conditions of the Fund program for the country.

(b) On request of the appropriate committees, the United States Executive Director shall obtain from the Fund and make available to such committees, on a confidential basis if necessary, data concerning such compliance.

(c) Within 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall report to the appropriate

committees on the progress made toward achieving the requirements of this section.

(d) On a quarterly basis, the Secretary of the Treasury shall report to the appropriate committees on the standby or other arrangements of the Fund made during the preceding quarter, identifying separately the arrangements to which the policies described in section 601(4) of this title apply and the arrangements to which such policies do not apply.

PROGRESS REPORTS TO CONGRESS ON UNITED STATES INITIATIVES TO  
UPDATE THE ARCHITECTURE OF THE INTERNATIONAL MONETARY  
SYSTEM

22 USC 262r  
note.

SEC. 606. Not later than July 15, 1999, and July 15, 2000, the Secretary of the Treasury shall report to the Chairmen and Ranking Members of the appropriate committees on the progress of efforts to reform the architecture of the international monetary system. The reports shall include a discussion of the substance of the United States position in consultations with other governments and the degree of progress in achieving international acceptance and implementation of such position with respect to the following issues:

(1) Adapting the mission and capabilities of the International Monetary Fund to take better account of the increased importance of cross-border capital flows in the world economy and improving the coordination of its responsibilities and activities with those of the International Bank for Reconstruction and Development.

(2) Advancing measures to prevent, and improve the management of, international financial crises, including by—

(A) integrating aspects of national bankruptcy principles into the management of international financial crises where feasible; and

(B) changing investor expectations about official rescues, thereby reducing moral hazard and systemic risk in international financial markets, in order to help minimize the adjustment costs that the resolution of financial crises may impose on the real economy, in the form of disrupted patterns of trade, employment, and progress in living standards, and reduce the frequency and magnitude of claims on United States taxpayer resources.

(3) Improving international economic policy cooperation, including among the Group of Seven countries, to take better account of the importance of cross-border capital flows in the determination of exchange rate relationships.

(4) Improving international cooperation in the supervision and regulation of financial institutions and markets.

(5) Strengthening the financial sector in emerging economies, including by improving the coordination of financial sector liberalization with the establishment of strong public and private institutions in the areas of prudential supervision, accounting and disclosure conventions, bankruptcy laws and administrative procedures, and the collection and dissemination of economic and financial statistics, including the maturity structure of foreign indebtedness.

(6) Advocating that implementation of European Economic and Monetary Union and the advent of the European Currency Unit, or euro, proceed in a manner that is consistent with



strong global economic growth and stability in world financial markets.

#### DEFINITION

SEC. 607. For purposes of sections 601 through 606 of this title, the term “appropriate committees” means the Committees on Appropriations, Foreign Relations, and Banking, Housing, and Urban Affairs of the Senate and the Committees on Appropriations and Banking and Financial Services of the House of Representatives. 22 USC 262r note.

#### PARTICIPATION IN QUOTA INCREASE

SEC. 608. The Bretton Woods Agreements Act (22 U.S.C. 286-286mm) is amended by adding at the end the following:

**“SEC. 61. QUOTA INCREASE.**

“(a) IN GENERAL.—The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 10,622,500,000 Special Drawing Rights.

“(b) SUBJECT TO APPROPRIATIONS.—The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.”.

22 USC 286e-1m.

#### NEW ARRANGEMENTS TO BORROW

SEC. 609. Section 17 of the Bretton Woods Agreements Act (22 U.S.C. 286e-2 et seq.) is amended—

(1) in subsection (a)—

(A) by striking “and February 24, 1983” and inserting “February 24, 1983, and January 27, 1997”; and

(B) by striking “4,250,000,000” and inserting “6,712,000,000”;

(2) in subsection (b), by striking “4,250,000,000” and inserting “6,712,000,000”; and

(3) in subsection (d)—

(A) by inserting “or the Decision of January 27, 1997,” after “February 24, 1983,”; and

(B) by inserting “or the New Arrangements to Borrow, as applicable” before the period at the end.

22 USC 286e-2.

#### ADVOCACY OF POLICIES TO ENHANCE THE GENERAL EFFECTIVENESS OF THE INTERNATIONAL MONETARY FUND

SEC. 610. (a) IN GENERAL.—Title XV of the International Financial Institutions Act (22 U.S.C. 262o-262o-1) is amended by adding at the end the following:

**“SEC. 1503. ADVOCACY OF POLICIES TO ENHANCE THE GENERAL EFFECTIVENESS OF THE INTERNATIONAL MONETARY FUND.**

22 USC 262o-2.

“(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use aggressively the voice and vote of the Executive Director to do the following:

“(1) Vigorously promote policies to increase the effectiveness of the International Monetary Fund in structuring programs and assistance so as to promote policies and actions

that will contribute to exchange rate stability and avoid competitive devaluations that will further destabilize the international financial and trading systems.

“(2) Vigorously promote policies to increase the effectiveness of the International Monetary Fund in promoting market-oriented reform, trade liberalization, economic growth, democratic governance, and social stability through—

“(A) establishing an independent monetary authority, with full power to conduct monetary policy, that provides for a non-inflationary domestic currency that is fully convertible in foreign exchange markets;

“(B) opening domestic markets to fair and open internal competition among domestic enterprises by eliminating inappropriate favoritism for small or large businesses, eliminating elite monopolies, creating and effectively implementing anti-trust and anti-monopoly laws to protect free competition, and establishing fair and accessible legal procedures for dispute settlement among domestic enterprises;

“(C) privatizing industry in a fair and equitable manner that provides economic opportunities to a broad spectrum of the population, eliminating government and elite monopolies, closing loss-making enterprises, and reducing government control over the factors of production;

“(D) economic deregulation by eliminating inefficient and overly burdensome regulations and strengthening the legal framework supporting private contract and intellectual property rights;

“(E) establishing or strengthening key elements of a social safety net to cushion the effects on workers of unemployment and dislocation; and

“(F) encouraging the opening of markets for agricultural commodities and products by requiring recipient countries to make efforts to reduce trade barriers.

“(3) Vigorously promote policies to increase the effectiveness of the International Monetary Fund, in concert with appropriate international authorities and other international financial institutions (as defined in section 1701(c)(2)), in strengthening financial systems in developing countries, and encouraging the adoption of sound banking principles and practices, including the development of laws and regulations that will help to ensure that domestic financial institutions meet strong standards regarding capital reserves, regulatory oversight, and transparency.

“(4) Vigorously promote policies to increase the effectiveness of the International Monetary Fund, in concert with appropriate international authorities and other international financial institutions (as defined in section 1701(c)(2)), in facilitating the development and implementation of internationally acceptable domestic bankruptcy laws and regulations in developing countries, including the provision of technical assistance as appropriate.

“(5) Vigorously promote policies that aim at appropriate burden-sharing by the private sector so that investors and creditors bear more fully the consequences of their decisions, and accordingly advocate policies which include—

“(A) strengthening crisis prevention and early warning signals through improved and more effective surveillance of the national economic policies and financial market development of countries (including monitoring of the structure and volume of capital flows to identify problematic imbalances in the inflow of short and medium term investment capital, potentially destabilizing inflows of offshore lending and foreign investment, or problems with the maturity profiles of capital to provide warnings of imminent economic instability), and fuller disclosure of such information to market participants;

“(B) accelerating work on strengthening financial systems in emerging market economies so as to reduce the risk of financial crises;

“(C) consideration of provisions in debt contracts that would foster dialogue and consultation between a sovereign debtor and its private creditors, and among those creditors;

“(D) consideration of extending the scope of the International Monetary Fund’s policy on lending to members in arrears and of other policies so as to foster the dialogue and consultation referred to in subparagraph (C);

“(E) intensified consideration of mechanisms to facilitate orderly workout mechanisms for countries experiencing debt or liquidity crises;

“(F) consideration of establishing ad hoc or formal linkages between the provision of official financing to countries experiencing a financial crisis and the willingness of market participants to meaningfully participate in any stabilization effort led by the International Monetary Fund;

“(G) using the International Monetary Fund to facilitate discussions between debtors and private creditors to help ensure that financial difficulties are resolved without inappropriate resort to public resources; and

“(H) the International Monetary Fund accompanying the provision of funding to countries experiencing a financial crisis resulting from imprudent borrowing with efforts to achieve a significant contribution by the private creditors, investors, and banks which had extended such credits.

“(6) Vigorously promote policies that would make the International Monetary Fund a more effective mechanism, in concert with appropriate international authorities and other international financial institutions (as defined in section 1701(c)(2)), for promoting good governance principles within recipient countries by fostering structural reforms, including procurement reform, that reduce opportunities for corruption and bribery, and drug-related money laundering.

“(7) Vigorously promote the design of International Monetary Fund programs and assistance so that governments that draw on the International Monetary Fund channel public funds away from unproductive purposes, including large ‘show case’ projects and excessive military spending, and toward investment in human and physical capital as well as social programs to protect the neediest and promote social equity.

“(8) Work with the International Monetary Fund to foster economic prescriptions that are appropriate to the individual economic circumstances of each recipient country, recognizing that inappropriate stabilization programs may only serve to

further destabilize the economy and create unnecessary economic, social, and political dislocation.

“(9) Structure International Monetary Fund programs and assistance so that the maintenance and improvement of core labor standards are routinely incorporated as an integral goal in the policy dialogue with recipient countries, so that—

“(A) recipient governments commit to affording workers the right to exercise internationally recognized core worker rights, including the right of free association and collective bargaining through unions of their own choosing;

“(B) measures designed to facilitate labor market flexibility are consistent with such core worker rights; and

“(C) the staff of the International Monetary Fund surveys the labor market policies and practices of recipient countries and recommends policy initiatives that will help to ensure the maintenance or improvement of core labor standards.

“(10) Vigorously promote International Monetary Fund programs and assistance that are structured to the maximum extent feasible to discourage practices which may promote ethnic or social strife in a recipient country.

“(11) Vigorously promote recognition by the International Monetary Fund that macroeconomic developments and policies can affect and be affected by environmental conditions and policies, and urge the International Monetary Fund to encourage member countries to pursue macroeconomic stability while promoting environmental protection.

“(12) Facilitate greater International Monetary Fund transparency, including by enhancing accessibility of the International Monetary Fund and its staff, fostering a more open release policy toward working papers, past evaluations, and other International Monetary Fund documents, seeking to publish all Letters of Intent to the International Monetary Fund and Policy Framework Papers, and establishing a more open release policy regarding Article IV consultations.

“(13) Facilitate greater International Monetary Fund accountability and enhance International Monetary Fund self-evaluation by vigorously promoting review of the effectiveness of the Office of Internal Audit and Inspection and the Executive Board’s external evaluation pilot program and, if necessary, the establishment of an operations evaluation department modeled on the experience of the International Bank for Reconstruction and Development, guided by such key principles as usefulness, credibility, transparency, and independence.

“(14) Vigorously promote coordination with the International Bank for Reconstruction and Development and other international financial institutions (as defined in section 1701(c)(2)) in promoting structural reforms which facilitate the provision of credit to small businesses, including microenterprise lending, especially in the world’s poorest, heavily indebted countries.

“(b) COORDINATION WITH OTHER EXECUTIVE DEPARTMENTS.—To the extent that it would assist in achieving the goals described in subsection (a), the Secretary of the Treasury shall pursue the goals in coordination with the Secretary of State, the Secretary of Labor, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Administrator of the Agency

for International Development, and the United States Trade Representative.”

(b) ADVISORY COMMITTEE ON IMF POLICY.—Section 1701 of such Act (22 U.S.C. 262p-5) is amended by adding at the end the following: 22 USC 262r.

“(e) ADVISORY COMMITTEE ON IMF POLICY.—

“(1) IN GENERAL.—The Secretary of the Treasury should establish an International Monetary Fund Advisory Committee (in this subsection referred to as the ‘Advisory Committee’).

“(2) MEMBERSHIP.—The Advisory Committee should consist of members appointed by the Secretary of the Treasury, after appropriate consultations with the relevant organizations. Such members should include representatives from industry, representatives from agriculture, representatives from organized labor, representatives from banking and financial services, and representatives from nongovernmental environmental and human rights organizations.”.

#### REDUCTION OF BARRIERS TO AGRICULTURAL TRADE

SEC. 611. Title XIV of the International Financial Institutions Act (22 U.S.C. 262n-262n-2) is amended by adding at the end the following:

“SEC. 1404. REDUCTION OF BARRIERS TO AGRICULTURAL TRADE.

22 USC 262n-3.

“The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use aggressively the voice and vote of the United States to vigorously promote policies to encourage the opening of markets for agricultural commodities and products by requiring recipient countries to make efforts to reduce trade barriers.”.

#### SEMIANNUAL REPORTS ON FINANCIAL STABILIZATION PROGRAMS LED BY THE INTERNATIONAL MONETARY FUND IN CONNECTION WITH FINANCING FROM THE EXCHANGE STABILIZATION FUND

SEC. 612. Title XVII of the International Financial Institutions Act (22 U.S.C. 262r-262r-2) is amended by adding at the end the following:

“SEC. 1704. REPORTS ON FINANCIAL STABILIZATION PROGRAMS LED BY THE INTERNATIONAL MONETARY FUND IN CONNECTION WITH FINANCING FROM THE EXCHANGE STABILIZATION FUND.

22 USC 262r-3.

“(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Commerce and other appropriate Federal agencies, shall prepare reports on the implementation of financial stabilization programs (and any material terms and conditions thereof) led by the International Monetary Fund in countries in connection with which the United States has made a commitment to provide, or has provided financing from the stabilization fund established under section 5302 of title 31, United States Code. The reports shall include the following:

“(1) A description of the condition of the economies of countries requiring the financial stabilization programs, including the monetary, fiscal, and exchange rate policies of the countries.

“(2) A description of the degree to which the countries requiring the financial stabilization programs have fully

implemented financial sector restructuring and reform measures required by the International Monetary Fund, including—

“(A) ensuring full respect for the commercial orientation of commercial bank lending;

“(B) ensuring that governments will not intervene in bank management and lending decisions (except in regard to prudential supervision);

“(C) the enactment and implementation of appropriate financial reform legislation;

“(D) strengthening the domestic financial system and improving transparency and supervision; and

“(E) the opening of domestic capital markets.

“(3) A description of the degree to which the countries requiring the financial stabilization programs have fully implemented reforms required by the International Monetary Fund that are directed at corporate governance and corporate structure, including—

“(A) making nontransparent conglomerate practices more transparent through the application of internationally accepted accounting practices, independent external audits, full disclosure, and provision of consolidated statements; and

“(B) ensuring that no government subsidized support or tax privileges will be provided to bail out individual corporations, particularly in the semiconductor, steel, and paper industries.

“(4) A description of the implementation of reform measures required by the International Monetary Fund to deregulate and privatize economic activity by ending domestic monopolies, undertaking trade liberalization, and opening up restricted areas of the economy to foreign investment and competition.

“(5) A detailed description of the trade policies of the countries, including any unfair trade practices or adverse effects of the trade policies on the United States.

“(6) A description of the extent to which the financial stabilization programs have resulted in appropriate burden-sharing among private sector creditors, including rescheduling of outstanding loans by lengthening maturities, agreements on debt reduction, and the extension of new credit.

“(7) A description of the extent to which the economic adjustment policies of the International Monetary Fund and the policies of the government of the country adequately balance the need for financial stabilization, economic growth, environmental protection, social stability, and equity for all elements of the society.

“(8) Whether International Monetary Fund involvement in labor market flexibility measures has had a negative effect on core worker rights, particularly the rights of free association and collective bargaining.

“(9) A description of any pattern of abuses of core worker rights in recipient countries.

“(10) The amount, rate of interest, and disbursement and repayment schedules of any funds disbursed from the stabilization fund established under section 5302 of title 31, United States Code, in the form of loans, credits, guarantees, or swaps, in support of the financial stabilization programs.

“(11) The amount, rate of interest, and disbursement and repayment schedules of any funds disbursed by the International Monetary Fund to the countries in support of the financial stabilization programs.

“(b) TIMING.—Not later than March 15, 1999, and semiannually thereafter, the Secretary of the Treasury shall submit to the Committees on Banking and Financial Services and International Relations of the House of Representatives and the Committees on Foreign Relations, and Banking, Housing, and Urban Affairs of the Senate a report on the matters described in subsection (a).”.

ANNUAL REPORT AND TESTIMONY ON THE STATE OF THE INTERNATIONAL FINANCIAL SYSTEM, IMF REFORM, AND COMPLIANCE WITH IMF AGREEMENTS

SEC. 613. Title XVII of the International Financial Institutions Act (22 U.S.C. 262r-2) is further amended by adding at the end the following:

**“SEC. 1705. ANNUAL REPORT AND TESTIMONY ON THE STATE OF THE INTERNATIONAL FINANCIAL SYSTEM, IMF REFORM, AND COMPLIANCE WITH IMF AGREEMENTS.** 22 USC 262r-4.

“(a) REPORTS.—Not later than October 1 of each year, the Secretary of the Treasury shall submit to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate a written report on the progress (if any) made by the United States Executive Director at the International Monetary Fund in influencing the International Monetary Fund to adopt the policies and reform its internal procedures in the manner described in section 1503.

“(b) TESTIMONY.—After submitting the report required by subsection (a) but not later than March 1 of each year, the Secretary of the Treasury shall appear before the Committee on Banking and Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate and present testimony on—

“(1) any progress made in reforming the International Monetary Fund;

“(2) the status of efforts to reform the international financial system; and

“(3) the compliance of countries which have received assistance from the International Monetary Fund with agreements made as a condition of receiving the assistance.”.

AUDITS OF THE INTERNATIONAL MONETARY FUND

SEC. 614. Title XVII of the International Financial Institutions Act (22 U.S.C. 262r-2) is further amended by adding at the end the following:

**“SEC. 1706. AUDITS OF THE INTERNATIONAL MONETARY FUND.** 22 USC 262r-5.

“(a) ACCESS TO MATERIALS.—Not later than 30 days after the date of the enactment of this section, the Secretary of the Treasury shall certify to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate that the Secretary has instructed the United States Executive Director at the International Monetary Fund to facilitate timely access by the General Accounting Office to

information and documents of the International Monetary Fund needed by the Office to perform financial reviews of the International Monetary Fund that will facilitate the conduct of United States policy with respect to the Fund.

“(b) REPORTS.—Not later than June 30, 1999, and annually thereafter, the Comptroller General of the United States shall prepare and submit to the committees specified in subsection (a), the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate a report on the financial operations of the Fund during the preceding year, which shall include—

“(1) the current financial condition of the International Monetary Fund;

“(2) the amount, rate of interest, disbursement schedule, and repayment schedule for any loans that were initiated or outstanding during the preceding calendar year, and with respect to disbursement schedules, the report shall identify and discuss in detail any conditions required to be fulfilled by a borrower country before a disbursement is made;

“(3) a detailed description of whether the trade policies of borrower countries permit free and open trade by the United States and other foreign countries in the borrower countries;

“(4) a detailed description of the export policies of borrower countries and whether the policies may result in increased export of their products, goods, or services to the United States which may have significant adverse effects on, or result in unfair trade practices against or affecting United States companies, farmers, or communities;

“(5) a detailed description of any conditions of International Monetary Fund loans which have not been met by borrower countries, including a discussion of the reasons why such conditions were not met, and the actions taken by the International Monetary Fund due to the borrower country’s noncompliance;

“(6) an identification of any borrower country and loan on which any loan terms or conditions were renegotiated in the preceding calendar year, including a discussion of the reasons for the renegotiation and any new loan terms and conditions; and

“(7) a specification of the total number of loans made by the International Monetary Fund from its inception through the end of the period covered by the report, the number and percentage (by number) of such loans that are in default or arrears, and the identity of the countries in default or arrears, and the number of such loans that are outstanding as of the end of period covered by the report and the aggregate amount of the outstanding loans and the average yield (weighted by loan principal) of the historical and outstanding loan portfolios of the International Monetary Fund.”

This Act may be cited as the “Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999”.

(e) For programs, projects or activities in the Department of the Interior and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:



AN ACT Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

Department of  
the Interior and  
Related Agencies  
Appropriations  
Act, 1999.

## TITLE I—DEPARTMENT OF THE INTERIOR

### BUREAU OF LAND MANAGEMENT

#### MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96-487 (16 U.S.C. 3150(a)), \$619,311,000, to remain available until expended, of which \$2,082,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96-487 (16 U.S.C. 3150); and of which \$3,000,000 shall be derived from the special receipt account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l-6a(i)); and of which \$1,500,000 shall be available in fiscal year 1999 subject to a match by at least an equal amount by the National Fish and Wildlife Foundation, to such Foundation for cost-shared projects supporting conservation of Bureau lands; in addition, \$32,650,000 for Mining Law Administration program operations, including the cost of administering the mining claim fee program; to remain available until expended, to be reduced by amounts collected by the Bureau and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than \$619,311,000, and \$2,000,000, to remain available until expended, from communication site rental fees established by the Bureau for the cost of administering communication site activities: *Provided*, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors.

#### WILDLAND FIRE MANAGEMENT

For necessary expenses for fire preparedness, suppression operations, emergency rehabilitation; and hazardous fuels reduction by the Department of the Interior, \$286,895,000, to remain available until expended, of which not to exceed \$6,950,000 shall be for the renovation or construction of fire facilities: *Provided*, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further*, That unobligated balances of amounts previously appropriated to the "Fire Protection" and "Emergency Department of the Interior Firefighting Fund" may be transferred and merged with this appropriation: *Provided further*, That persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: *Provided further*, That notwithstanding 42 U.S.C. 1856d, sums received by a Bureau or office of the Department of the Interior for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., Protection of United States Property, may be credited to the appropriation from which funds were expended

to provide that protection, and are available without fiscal year limitation.

CENTRAL HAZARDOUS MATERIALS FUND

For necessary expenses of the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), \$10,000,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to section 107 or 113(f) of such Act, shall be credited to this account to be available until expended without further appropriation: *Provided further*, That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary and which shall be credited to this account.

CONSTRUCTION

For construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, \$10,997,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–6907), \$125,000,000, of which not to exceed \$400,000 shall be available for administrative expenses: *Provided*, That no payment shall be made to otherwise eligible units of local government if the computed amount of the payment is less than \$100.

LAND ACQUISITION

For expenses necessary to carry out sections 205, 206, and 318(d) of Public Law 94–579, including administrative expenses and acquisition of lands or waters, or interests therein, \$14,600,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; \$97,037,000, to remain available until expended: *Provided*, That 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred

to the General Fund in the Treasury in accordance with the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

#### FOREST ECOSYSTEMS HEALTH AND RECOVERY FUND

##### (REVOLVING FUND, SPECIAL ACCOUNT)

In addition to the purposes authorized in Public Law 102-381, funds made available in the Forest Ecosystem Health and Recovery Fund can be used for the purpose of planning, preparing, and monitoring salvage timber sales and forest ecosystem health and recovery activities such as release from competing vegetation and density control treatments. The Federal share of receipts (defined as the portion of salvage timber receipts not paid to the counties under 43 U.S.C. 1181f and 43 U.S.C. 1181f-1 et seq., and Public Law 103-66) derived from treatments funded by this account shall be deposited into the Forest Ecosystem Health and Recovery Fund.

#### RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 percent of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than \$10,000,000, to remain available until expended: *Provided*, That not to exceed \$600,000 shall be available for administrative expenses.

#### SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94-579, as amended, and Public Law 93-153, to remain available until expended: *Provided*, That notwithstanding any provision to the contrary of section 305(a) of Public Law 94-579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: *Provided further*, That any such moneys that are in excess of amounts needed

43 USC 1735  
note.

to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands.

#### MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing laws, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

#### ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to \$100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed \$10,000: *Provided*, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

Section 28f(a) of title 30, United States Code, is amended by striking the first sentence and inserting, “The holder of each unpatented mining claim, mill, or tunnel site, located pursuant to the mining laws of the United States, whether located before or after the enactment of this Act, shall pay to the Secretary of the Interior, on or before September 1 of each year for years 1999 through 2001, a claim maintenance fee of \$100 per claim or site.”

Section 28f(d) of title 30, United States Code, is amended by adding the following new subsection at the end:

“(3) If a small miner waiver application is determined to be defective for any reason, the claimant shall have a period of 60 days after receipt of written notification of the defect or defects by the Bureau of Land Management to: (A) cure such defect or defects, or (B) pay the \$100 claim maintenance fee due for such period.”

Section 28g of title 30, United States Code, is amended by striking “and before September 30, 1998” and inserting in lieu thereof “and before September 30, 2001”.

#### UNITED STATES FISH AND WILDLIFE SERVICE

##### RESOURCE MANAGEMENT

For necessary expenses of the United States Fish and Wildlife Service, for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and

wildlife resources, except whales, seals, and sea lions, maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, general administration, and for the performance of other authorized functions related to such resources by direct expenditure, contracts, grants, cooperative agreements and reimbursable agreements with public and private entities, \$661,136,000, to remain available until September 30, 2000, except as otherwise provided herein, of which \$11,648,000 shall remain available until expended for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976, to compensate for loss of fishery resources from water development projects on the Lower Snake River, and of which not less than \$2,000,000 shall be provided to local governments in southern California for planning associated with the Natural Communities Conservation Planning (NCCP) program and shall remain available until expended: *Provided*, That not less than \$1,000,000 for high priority projects which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended: *Provided further*, That not to exceed \$5,756,000 shall be used for implementing subsections (a), (b), (c), and (e) of section 4 of the Endangered Species Act, as amended, for species that are indigenous to the United States (except for processing petitions, developing and issuing proposed and final regulations, and taking any other steps to implement actions described in subsections (c)(2)(A), (c)(2)(B)(i), or (c)(2)(B)(ii)): *Provided further*, That of the amount available for law enforcement, up to \$400,000 to remain available until expended, may at the discretion of the Secretary, be used for payment for information, rewards, or evidence concerning violations of laws administered by the Service, and miscellaneous and emergency expenses of enforcement activity, authorized or approved by the Secretary and to be accounted for solely on his certificate: *Provided further*, That hereafter, all fees collected for Federal migratory bird permits shall be available to the Secretary, without further appropriation, to be used for the expenses of the U.S. Fish and Wildlife Service in administering such Federal migratory bird permits, and shall remain available until expended: *Provided further*, That hereafter, pursuant to 31 U.S.C. 9701 and notwithstanding 31 U.S.C. 3302, the Secretary shall charge reasonable fees for the full costs of the U.S. Fish and Wildlife Service in operating and maintaining the M/V Tiglax and other vessels, to be credited to this account and to be available until expended: *Provided further*, That of the amount provided for environmental contaminants, up to \$1,000,000 may remain available until expended for contaminant sample analyses.

16 USC 718k.

16 USC 746a.

## CONSTRUCTION

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; \$50,453,000, to remain available until expended: *Provided*, That under this heading in Public Law 105-174, the word “fire,” is inserted before the word “floods”.

## LAND ACQUISITION

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, \$48,024,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which \$1,000,000, together with such other sums as may become available, is for a grant to the State of Ohio for acquisition of the Howard Farm near Metzger Marsh in the State of Ohio.

## COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended, \$14,000,000, to be derived from the Cooperative Endangered Species Conservation Fund, and to remain available until expended.

## NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), \$10,779,000.

## NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, as amended, \$15,000,000, to remain available until expended.

## WILDLIFE CONSERVATION AND APPRECIATION FUND

For necessary expenses of the Wildlife Conservation and Appreciation Fund, \$800,000, to remain available until expended.

## MULTINATIONAL SPECIES CONSERVATION FUND

For expenses necessary to carry out the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), the Asian Elephant Conservation Act of 1997 (Public Law 105–96), and the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301–5306), \$2,000,000, to remain available until expended: *Provided*, That unexpended balances of amounts previously appropriated to the African Elephant Conservation Fund, Rewards and Operations account, and Rhinoceros and Tiger Conservation Fund may be transferred to and merged with this appropriation: *Provided further*, That in fiscal year 1999 and thereafter, donations to provide assistance under section 5304 of the Rhinoceros and Tiger Conservation Act, subchapter I of the African Elephant Conservation Act, and section 6 of the Asian Elephant Conservation Act of 1997 shall be deposited to this Fund and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, all penalties received by the United States under 16 U.S.C. 4224 which are not used to pay rewards under 16 U.S.C. 4225 shall be deposited to this Fund to provide assistance under 16 U.S.C. 4211 and shall be available without further appropriation: *Provided further*, That in fiscal year 1999 and thereafter, not more than three percent of amounts appropriated to this Fund

may be used by the Secretary of the Interior to administer the Fund.

#### ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 104 passenger motor vehicles, of which 89 are for replacement only (including 38 for police-type use); repair of damage to public roads within and adjacent to reservation areas caused by operations of the Service; options for the purchase of land at not to exceed \$1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the Service and to which the United States has title, and which are used pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: *Provided further*, That the Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in Senate Report 105-56: *Provided further*, That hereafter the Secretary may sell land and interests in land, other than surface water rights, acquired in conformance with subsections 206(a) and 207(c) of Public Law 101-618, the receipts of which shall be deposited to the Lahontan Valley and Pyramid Lake Fish and Wildlife Fund and used exclusively for the purposes of such subsections, without regard to the limitation on the distribution of benefits in subsection 206(f)(2) of such law: *Provided further*, That section 104(c)(50)(B) of the Marine Mammal Protection Act (16 U.S.C. 1361-1407) is amended by inserting the words “until expended” after the word “Secretary” in the second sentence.

16 USC 1374.

#### TECHNICAL CORRECTIONS

Unit SC-03—

(1) The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such corrections to the map described in paragraph (2) as are necessary to ensure that depictions of areas on that map are consistent with the depictions of areas appearing on the map entitled “Amendments to the Coastal Barrier Resources System”, dated May 15, 1997, and on file with the Committee on Resources of the House of Representatives.

(2) The map described in this paragraph is the map that—

16 USC 3503  
note.

(A) is included in a set of maps entitled “Coastal Barrier Resources System”, dated October 24, 1990; and

(B) relates to unit SC–03 of the Coastal Barrier Resources System.

Unit FL–35P—

(1) The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such corrections to the map described in paragraph (2) as are necessary to ensure that depictions of areas on that map are consistent with the depictions of areas appearing on the map entitled “Amendments to the Coastal Barrier Resources System”, dated August 31, 1998, and on file with the Committee on Resources of the House of Representatives.

(2) The map described in this paragraph is the map that—

(A) is included in a set of maps entitled “Coastal Barrier Resources System”, dated October 24, 1990; and

(B) relates to unit FL–35P of the Coastal Barrier Resources System.

Unit FL–35—

The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, revise the the map depicting unit FL–35 of the Coastal Barrier Resources System to exclude Pumpkin Key from the System.

#### NATIONAL PARK SERVICE

##### OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not less than \$1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by 16 U.S.C. 1706, \$1,285,604,000, of which not less than \$600,000 is for salaries and expenses by, at, and exclusively for new hires of mineral examiners on site at the Mojave National Preserve, none of which may be used for staff or administrative expenses for the geological resources division in Denver, Colorado or any other location, and of which \$12,800,000 is for research, planning and interagency coordination in support of land acquisition for Everglades restoration shall remain available until expended, and of which not to exceed \$10,000,000, to remain available until expended, is to be derived from the special fee account established pursuant to title V, section 5201 of Public Law 100–203.

##### NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, \$46,225,000.



## HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333), \$72,412,000, to be derived from the Historic Preservation Fund, to remain available until September 30, 2000, of which \$7,000,000 pursuant to section 507 of Public Law 104-333 shall remain available until expended: *Provided*, That of the total amount provided, \$30,000,000 shall be for Save America's Treasures for priority preservation projects, including preservation of intellectual and cultural artifacts and of historic structures and sites, of the National Archives and Records Administration and of Federal agencies to which funds were appropriated in the Fiscal Year 1998 Interior and Related Agencies Appropriations Act: *Provided further*, That individual Save America's Treasures grants shall be subject to a fifty percent non-Federal match, and shall be available by transfer to appropriate accounts of individual agencies, after approval of projects by the Secretary: *Provided further*, That the agencies shall develop a common list of project selection criteria for Save America's Treasures which shall include national significance, urgency of need, and educational value, and which shall be approved by the House and Senate Committees on Appropriations prior to any commitment of grant funds: *Provided further*, That individual projects shall only be eligible for one grant, and all projects to be funded shall be approved by the House and Senate Committees on Appropriations prior to any commitment of grant funds: *Provided further*, That within the amount provided for Save America's Treasures, \$3,000,000 shall be transferred immediately to the Smithsonian Institution for restoration of the Star Spangled Banner, \$500,000 shall be available for the Sewall-Belmont House and sufficient funds to complete the restoration of the Declaration of Independence and the U.S. Constitution located in the National Archives: *Provided further*, That none of the funds provided for Save America's Treasures may be used for administrative expenses, and staffing for the program shall be available from the existing staffing levels in the National Park Service.

## CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, \$226,058,000, to remain available until expended: *Provided*, That \$550,000 for the Susan B. Anthony House, \$1,000,000 for the Virginia City Historic District, \$2,000,000 for the Field Museum, \$500,000 for the Hecksher Museum, \$600,000 for the Sotterly Plantation House, \$1,500,000 for the Kendall County Courthouse, \$1,000,000 for the U-505, and \$600,000 for the Wheeling National Heritage Area shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a.

## LAND AND WATER CONSERVATION FUND

## (RESCISSION)

The contract authority provided for fiscal year 1999 by 16 U.S.C. 460l-10a is rescinded.

16 USC 460l-10a  
note.

## LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, \$147,925,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which \$500,000 is to administer the State assistance program: *Provided*, That any funds made available for the purpose of acquisition of the Elwha and Glines dams shall be used solely for acquisition, and shall not be expended until the full purchase amount has been appropriated by the Congress: *Provided further*, That the Secretary may acquire interests in the property known as George Washington’s Boyhood Home, Ferry Farm, from the funds provided under this heading without regard to any restrictions of the Land and Water Conservation Fund Act of 1965: *Provided further*, That from the funds made available for land acquisition at Everglades National Park and Big Cypress National Preserve, the Secretary may provide for Federal assistance to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys) under terms and conditions deemed necessary by the Secretary, to improve and restore the hydrological function of the Everglades watershed: *Provided further*, That funds provided under this heading to the State of Florida are contingent upon new matching non-Federal funds by the State and shall be subject to an agreement that the lands to be acquired will be managed in perpetuity for the restoration of the Everglades.

## ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 375 passenger motor vehicles, of which 291 shall be for replacement only, including not to exceed 305 for police-type use, 12 buses, and 6 ambulances: *Provided*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may distribute to operating units based on the safety record of each unit the costs of programs designed to improve workplace and employee safety, and to

encourage employees receiving workers' compensation benefits pursuant to chapter 81 of title 5, United States Code, to return to appropriate positions for which they are medically able.

#### UNITED STATES GEOLOGICAL SURVEY

#### SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its territories and possessions, and other areas as authorized by 43 U.S.C. 31, 1332, and 1340; classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; \$797,896,000, of which \$69,596,000 shall be available only for cooperation with States or municipalities for water resources investigations; and of which \$16,400,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries; and of which \$2,000,000 shall remain available until expended for ongoing development of a mineral and geologic data base; and of which \$161,221,000 shall be available until September 30, 2000 for the biological research activity and the operation of the Cooperative Research Units: *Provided*, That of the funds available for the biological research activity, \$6,600,000 shall be made available by grant to the University of Alaska for conduct of, directly or through subgrants, basic marine research activities in the North Pacific Ocean pursuant to a plan approved by the Department of Commerce, the Department of the Interior, and the State of Alaska: *Provided further*, That none of these funds provided for the biological research activity shall be used to conduct new surveys on private property, unless specifically authorized in writing by the property owner: *Provided further*, That no part of this appropriation shall be used to pay more than one-half the cost of topographic mapping or water resources data collection and investigations carried on in cooperation with States and municipalities.

43 USC 50.

#### ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for the purchase of not to exceed 53 passenger motor vehicles, of which 48 are for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Survey duly appointed to represent

the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302 et seq.: *Provided further*, That the United States Geological Survey may contract directly with individuals or indirectly with institutions or nonprofit organizations, without regard to 41 U.S.C. 5, for the temporary or intermittent services of students or recent graduates, who shall be considered employees for the purposes of chapters 57 and 81 of title 5, United States Code, relating to compensation for travel and work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, but shall not be considered to be Federal employees for any other purposes.

#### MINERALS MANAGEMENT SERVICE

##### ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; \$117,902,000, of which \$72,729,000 shall be available for royalty management activities; and an amount not to exceed \$100,000,000, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for Outer Continental Shelf administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for Outer Continental Shelf administrative activities established after September 30, 1993: *Provided*, That \$3,000,000 for computer acquisitions shall remain available until September 30, 2000: *Provided further*, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721(b) and (d): *Provided further*, That not to exceed \$3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further*, That notwithstanding any other provision of law, \$15,000 under this heading shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due, to pay amounts owed to Indian allottees or Tribes, or to correct prior unrecoverable erroneous payments.

##### OIL SPILL RESEARCH

For necessary expenses to carry out title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, \$6,118,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

## OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

## REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not to exceed 10 passenger motor vehicles, for replacement only; \$93,078,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1999 and thereafter: *Provided*, That the Secretary of the Interior, pursuant to regulations, may use directly or through grants to States, moneys collected in fiscal year 1999 for civil penalties assessed under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training: *Provided further*, That beginning in fiscal year 1999 and thereafter, cost-based fees for the products of the Mine Map Repository shall be established (and revised as needed) in Federal Register Notices, and shall be collected and credited to this account, to be available until expended for the costs of administering this program.

30 USC 1302  
note.30 USC 1211  
note.30 USC 1302  
note.

## ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, as amended, including the purchase of not more than 10 passenger motor vehicles for replacement only, \$185,416,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended; of which up to \$7,000,000, to be derived from the cumulative balance of interest earned to date on the Fund, shall be for supplemental grants to States for the reclamation of abandoned sites with acid mine rock drainage from coal mines, and for associated activities, through the Appalachian Clean Streams Initiative: *Provided*, That grants to minimum program States will be \$1,500,000 per State in fiscal year 1999: *Provided further*, That of the funds herein provided up to \$18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95-87, as amended, of which no more than 25 percent shall be used for emergency reclamation projects in any one State and funds for federally administered emergency reclamation projects under this proviso shall not exceed \$11,000,000: *Provided further*, That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 percent limitation per State and may be used without fiscal year limitation for emergency projects: *Provided further*, That pursuant to Public Law 97-365, the Department of the Interior is authorized to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That funds made available to States under title IV of Public Law 95-87 may be used, at their discretion, for any required non-Federal share of the cost of projects funded by the Federal Government

30 USC 1231  
note.

for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: *Provided further*, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act: *Provided further*, That the State of Maryland may set aside the greater of \$1,000,000 or 10 percent of the total of the grants made available to the State under title IV of the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1231 et seq.), if the amount set aside is deposited in an acid mine drainage abatement and treatment fund established under a State law, pursuant to which law the amount (together with all interest earned on the amount) is expended by the State to undertake acid mine drainage abatement and treatment projects, except that before any amounts greater than 10 percent of its title IV grants are deposited in an acid mine drainage abatement and treatment fund, the State of Maryland must first complete all Surface Mining Control and Reclamation Act priority one projects: *Provided further*, That hereafter, donations received to support projects under the Appalachian Clean Streams Initiative and under the Western Mine Lands Restoration Partnerships Initiative, pursuant to 30 U.S.C. 1231, shall be credited to this account and remain available until expended without further appropriation for projects sponsored under these initiatives, directly through agreements with other Federal agencies, or through grants to States, and funding to local governments, or tax exempt private entities.

#### BUREAU OF INDIAN AFFAIRS

##### OPERATION OF INDIAN PROGRAMS

For expenses necessary for the operation of Indian programs, as authorized by law, including the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450 et seq.), as amended, the Education Amendments of 1978 (25 U.S.C. 2001–2019), and the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), as amended, \$1,584,124,000, to remain available until September 30, 2000 except as otherwise provided herein, of which not to exceed \$94,010,000 shall be for welfare assistance payments and notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, not to exceed \$114,871,000 shall be available for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts, grants, compacts, or annual funding agreements entered into with the Bureau prior to or during fiscal year 1999, as authorized by such Act, except that tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, or compacts, or annual funding agreements and for unmet welfare assistance costs, and of which not to exceed \$387,365,000 for school operations costs of Bureau-funded schools and other education programs shall become available on July 1, 1999, and shall remain available until September 30, 2000; and of which not to exceed \$52,889,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian Self-Determination Fund, land records improvement, the Navajo-Hopi Settlement Program: *Provided*, That notwithstanding any other provision of law, including but not limited to the Indian

Self-Determination Act of 1975, as amended, and 25 U.S.C. 2008, not to exceed \$42,160,000 within and only from such amounts made available for school operations shall be available to tribes and tribal organizations for administrative cost grants associated with the operation of Bureau-funded schools: *Provided further*, That hereafter funds made available to tribes and tribal organizations through contracts, compact agreements, or grants, as authorized by the Indian Self-Determination Act of 1975 or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee: *Provided further*, That hereafter, to provide funding uniformity within a Self-Governance Compact, any funds provided in this Act with availability for more than two years may be reprogrammed to two year availability but shall remain available within the Compact until expended: *Provided further*, That hereafter notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals within the service area of such tribe who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated and, that any savings realized by such changes shall be available for use in meeting other priorities of the tribes and, that any net increase in costs to the Federal Government which result solely from tribally increased payment levels for general assistance shall be met exclusively from funds available to the tribe from within its tribal priority allocation: *Provided further*, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 2000, may be transferred during fiscal year 2001 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further*, That any such unobligated balances not so transferred shall expire on September 30, 2001: *Provided further*, That hereafter tribes may use tribal priority allocations funds for the replacement and repair of school facilities in compliance with 25 U.S.C. 2005(a), so long as such replacement or repair is approved by the Secretary and completed with non-Federal tribal and/or tribal priority allocation funds: *Provided further*, That the sixth proviso under Operation of Indian Programs in Public Law 102-154, for the fiscal year ending September 30, 1992 (105 Stat. 1004), is hereby amended to read as follows: "*Provided further*, That until such time as legislation is enacted to the contrary, no funds shall be used to take land into trust within the boundaries of the original Cherokee territory in Oklahoma without consultation with the Cherokee Nation."

25 USC 450j  
note.

25 USC 13d-3.

25 USC 2005  
note.

#### CONSTRUCTION

For construction, repair, improvement, and maintenance of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands, and interests in lands; and preparation of lands for farming, and for construction of the Navajo Indian Irrigation Project pursuant to Public Law 87-483, \$123,421,000, to remain available until expended: *Provided*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided*

*further*, That not to exceed 6 percent of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau: *Provided further*, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a nonreimbursable basis: *Provided further*, That for fiscal year 1999, in implementing new construction or facilities improvement and repair project grants in excess of \$100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further*, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: *Provided further*, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: *Provided further*, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): *Provided further*, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e): *Provided further*, That funds appropriated in Public Law 105–18, making emergency supplemental appropriations for the Bureau of Indian Affairs for the repair of irrigation projects damaged in the severe winter conditions and ensuing flooding, are available on a nonreimbursable basis.

#### INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, \$28,882,000, to remain available until expended; of which \$27,530,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 101–618 and 102–575, and for implementation of other enacted water rights settlements; and of which \$1,352,000 shall be available pursuant to Public Laws 99–264, 100–383, 103–402, and 100–580: *Provided*, That in fiscal year 1999 and thereafter, the Secretary is directed to sell land and interests in land, other than surface water rights, acquired in conformance with section 2 of the Truckee River Water Quality Settlement Agreement, the receipts of which shall be deposited to the Lahontan Valley and Pyramid Lake Fish and Wildlife Fund, and be available for the purposes of section 2 of such agreement, without regard to the limitation on the distribution of benefits in the second sentence of paragraph 206(f)(2) of Public Law 101–618.

#### INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans, \$4,501,000, as authorized by the Indian Financing Act of 1974, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be



as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$59,681,698.

In addition, for administrative expenses to carry out the guaranteed loan programs, \$500,000.

#### INDIAN LAND CONSOLIDATION PILOT

For implementation of a pilot program for consolidation of fractional interests in Indian lands by direct expenditure or cooperative agreement, \$5,000,000 to remain available until expended, of which not to exceed \$250,000 shall be available for administrative expenses: *Provided*, That the Secretary may enter into a cooperative agreement, which shall not be subject to Public Law 93-638, as amended, with a tribe having jurisdiction over the pilot reservation to implement the program to acquire fractional interests on behalf of such tribe: *Provided further*, That the Secretary may develop a reservation-wide system for establishing the fair market value of various types of lands and improvements to govern the amounts offered for acquisition of fractional interests: *Provided further*, That acquisitions shall be limited to one or more pilot reservations as determined by the Secretary: *Provided further*, That funds shall be available for acquisition of fractional interests in trust or restricted lands with the consent of its owners and at fair market value, and the Secretary shall hold in trust for such tribe all interests acquired pursuant to this pilot program: *Provided further*, That all proceeds from any lease, resource sale contract, right-of-way or other transaction derived from the fractional interest shall be credited to this appropriation, and remain available until expended, until the purchase price paid by the Secretary under this appropriation has been recovered from such proceeds: *Provided further*, That once the purchase price has been recovered, all subsequent proceeds shall be managed by the Secretary for the benefit of the applicable tribe or paid directly to the tribe.

#### ADMINISTRATIVE PROVISIONS

The Bureau of Indian Affairs may carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts and grants, either directly or in cooperation with States and other organizations.

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 229 passenger motor vehicles, of which not to exceed 187 shall be for replacement only.

Notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs for central office operations or pooled overhead general administration (except facilities operations and maintenance) shall be available for tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act or the Tribal Self-Governance Act of 1994 (Public Law 103-413).

Notwithstanding any other provision of law, no funds available to the Bureau, other than the amounts provided herein for assistance to public schools under 25 U.S.C. 452 et seq., shall be available

to support the operation of any elementary or secondary school in the State of Alaska.

Appropriations made available in this or any other Act for schools funded by the Bureau shall be available only to the schools in the Bureau school system as of September 1, 1996. No funds available to the Bureau shall be used to support expanded grades for any school or dormitory beyond the grade structure in place or approved by the Secretary of the Interior at each school in the Bureau school system as of October 1, 1995.

#### DEPARTMENTAL OFFICES

##### INSULAR AFFAIRS

##### ASSISTANCE TO TERRITORIES

48 USC 1469b.

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, \$66,175,000, of which: (1) \$62,326,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) \$3,849,000 shall be available for salaries and expenses of the Office of Insular Affairs: *Provided*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or used by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99–396, or any subsequent legislation related to Commonwealth of the Northern Mariana Islands grant funding: *Provided further*, That of the Covenant grant funding for the Government of the Northern Mariana Islands \$5,000,000 shall be used for the construction of prison facilities and \$500,000 shall be used for construction and equipping of a crime laboratory unless the Secretary determines that acceptable alternative financing for these projects is already in place: *Provided further*, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance improvement of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations maintenance needs, improved capability of local operations and maintenance institutions and agencies (including

management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): *Provided further*, That any appropriation for disaster assistance under this heading in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

#### COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, \$20,930,000, to remain available until expended, as authorized by Public Law 99-239 and Public Law 99-658.

#### DEPARTMENTAL MANAGEMENT

##### SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, \$64,686,000, of which not to exceed \$8,500 may be for official reception and representation expenses, of which not to exceed \$5,000,000 shall be available for payments pursuant to section 123 of this Act and up to \$1,000,000 shall be available for workers compensation payments and unemployment compensation payments associated with the orderly closure of the United States Bureau of Mines.

#### OFFICE OF THE SOLICITOR

##### SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, \$36,784,000.

#### OFFICE OF INSPECTOR GENERAL

##### SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, \$25,486,000.

#### OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

##### FEDERAL TRUST PROGRAMS

For operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, \$39,499,000, to remain available until expended: *Provided*, That funds for trust management improvements may be transferred to the Bureau of Indian Affairs: *Provided further*, That funds made available to Tribes and Tribal organizations through contracts or grants obligated during fiscal year 1999, as authorized by the

25 USC 4011  
note.

Indian Self-Determination Act of 1975 (25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: *Provided further*, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of the enactment of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with an accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further*, That notwithstanding any other provision of law, the Secretary shall not be required to provide a quarterly statement of performance for any Indian trust account that has not had activity for at least eighteen months and has a balance of \$1.00 or less: *Provided further*, That the Secretary shall issue an annual account statement and maintain a record of any such accounts and shall permit the balance in each such account to be withdrawn upon the express written request of the accountholder.

#### NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION

##### NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and Public Law 101–337; \$4,492,000, to remain available until expended: *Provided*, That unobligated and unexpended balances in the United States Fish and Wildlife Service, Natural Resource Damage Assessment Fund account at the end of fiscal year 1998 shall be transferred to and made a part of the Departmental Offices, Natural Resource Damage Assessment and Restoration, Natural Resource Damage Assessment Fund account and shall remain available until expended.

#### MANAGEMENT OF FEDERAL LANDS FOR SUBSISTENCE USES

##### SUBSISTENCE MANAGEMENT, DEPARTMENT OF THE INTERIOR

For necessary expenses of bureaus and offices of the Department of the Interior to manage federal lands in Alaska for subsistence uses under the provisions of Title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487 et seq.) except in areas described in section 339(a)(1)(A) and (B) of this Act, \$8,000,000 to become available on September 30, 1999, and remain available until expended: *Provided*, That if prior to October 1, 1999, the Secretary of the Interior determines that the Alaska State Legislature has approved a bill or resolution to amend the Constitution of the State of Alaska that, if approved by the electorate, would enable the implementation of state laws of general applicability which are consistent with, and which provide for the definition, preference and participation specified in sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act, the Secretary of the Interior shall make an \$8,000,000 grant to the State of Alaska for the purpose of assisting that State in fulfilling its responsibilities under sections 803, 804, and 805

of that Act: *Provided further*, That if, on June 1, 1999, the Secretary is unable to make a determination that the Alaska State Legislature has approved a bill or resolution to amend the Constitution of the State of Alaska that, if approved by the electorate, would enable the implementation of state laws of general applicability which are consistent with and which provide for the definition, preference and participation specified in sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act, \$1,000,000 of these funds shall become available on June 1, 1999, and shall remain available until expended (with expended amounts to be subtracted from the amount that could be granted to the State), for the Secretary to conduct data gathering and research on subsistence uses, and formulate plans for operational aspects and in-season management, but not to implement and enforce subsistence use management beyond those public lands which as of October 1, 1998, were subject to federal management for subsistence uses pursuant to Title VIII of the Alaska National Interest Lands Conservation Act.

#### ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further*, That no programs funded with appropriated funds in the “Departmental Management”, “Office of the Solicitor”, and “Office of Inspector General” may be augmented through the Working Capital Fund or the Consolidated Working Fund.

#### GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be “emergency requirements” pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent

to actual oil spills; for response and natural resource damage assessment activities related to actual oil spills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to “Wildland Fire Management” shall have been exhausted: *Provided further*, That all funds used pursuant to this section are hereby designated by Congress to be “emergency requirements” pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further*, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, United States Code: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed \$500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of northern, central, and southern California; the North Atlantic; Washington and Oregon; and the eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore oil and natural gas preleasing, leasing, and related activities, on lands within the North Aleutian Basin planning area.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior to conduct offshore oil and natural gas preleasing, leasing and related activities in the eastern Gulf of Mexico planning area for any lands located outside Sale 181, as identified in the final Outer Continental Shelf 5-Year Oil and Gas Leasing Program, 1997-2002.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior to conduct oil and natural gas preleasing, leasing and related activities in the Mid-Atlantic and South Atlantic planning areas.

SEC. 111. Advance payments made under this title to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) may be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are—

(1) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States; or

(2) deposited only into accounts that are insured by an agency or instrumentality of the United States, or are fully collateralized to ensure protection of the Funds, even in the event of a bank failure.

SEC. 112. (a) Employees of Helium Operations, Bureau of Land Management, entitled to severance pay under 5 U.S.C. 5595, may apply for, and the Secretary of the Interior may pay, the total amount of the severance pay to the employee in a lump sum. Employees paid severance pay in a lump sum and subsequently reemployed by the Federal Government shall be subject to the repayment provisions of 5 U.S.C. 5595(i)(2) and (3), except that any repayment shall be made to the Helium Fund.

50 USC 167 note.

(b) Helium Operations employees who elect to continue health benefits after separation shall be liable for not more than the required employee contribution under 5 U.S.C. 8905a(d)(1)(A). The Helium Fund shall pay for 18 months the remaining portion of required contributions.

(c) The Secretary of the Interior may provide for training to assist Helium Operations employees in the transition to other Federal or private sector jobs during the facility shut-down and disposition process and for up to 12 months following separation from

Federal employment, including retraining and relocation incentives on the same terms and conditions as authorized for employees of the Department of Defense in section 348 of the National Defense Authorization Act for Fiscal Year 1995.

(d) For purposes of the annual leave restoration provisions of 5 U.S.C. 6304(d)(1)(B), the cessation of helium production and sales, and other related Helium Program activities shall be deemed to create an exigency of public business under, and annual leave that is lost during leave years 1997 through 2001 because of 5 U.S.C. 6304 (regardless of whether such leave was scheduled in advance) shall be restored to the employee and shall be credited and available in accordance with 5 U.S.C. 6304(d)(2). Annual leave so restored and remaining unused upon the transfer of a Helium Program employee to a position of the executive branch outside of the Helium Program shall be liquidated by payment to the employee of a lump sum from the Helium Fund for such leave.

(e) Benefits under this section shall be paid from the Helium Fund in accordance with section 4(c)(4) of the Helium Privatization Act of 1996. Funds may be made available to Helium Program employees who are or will be separated before October 1, 2002 because of the cessation of helium production and sales and other related activities. Retraining benefits, including retraining and relocation incentives, may be paid for retraining commencing on or before September 30, 2002.

43 USC 1473e.

SEC. 113. In fiscal year 1999 and thereafter, the Secretary may accept donations and bequests of money, services, or other personal property for the management and enhancement of the Department's Natural Resources Library. The Secretary may hold, use, and administer such donations until expended and without further appropriation.

SEC. 114. Notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended, funds available under this title for Indian self-determination or self-governance contract or grant support costs may be expended only for costs directly attributable to contracts, grants and compacts pursuant to the Indian Self-Determination Act and no funds appropriated in this title shall be available for any contract support costs or indirect costs associated with any contract, grant, cooperative agreement, self-governance compact or funding agreement entered into between an Indian tribe or tribal organization and any entity other than an agency of the Department of the Interior.

SEC. 115. Notwithstanding any other provisions of law, the National Park Service shall not develop or implement a reduced entrance fee program to accommodate non-local travel through a unit. The Secretary may provide for and regulate local non-recreational passage through units of the National Park System, allowing each unit to develop guidelines and permits for such activity appropriate to that unit.

SEC. 116. (a) Denver Service Center, Presidio, and Golden Gate National Recreation Area employees who voluntarily resign or retire from the National Park Service on or before December 31, 1998, shall receive, from the National Park Service, a lump sum voluntary separation incentive payment that shall be equal to the lesser of an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code,



if the employee were entitled to payment under such section; or \$25,000.

(1) The voluntary separation incentive payment—

(A) shall not be a basis for payment, and shall not be included in the computation of any other type of Government benefit; and

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

(2) Employees receiving a voluntary separation incentive payment and accepting employment with the Federal Government within five years of the date of separation shall be required to repay the entire amount of the incentive payment to the National Park Service.

(3) The Secretary may, at the request of the head of an Executive branch agency, waive the repayment under paragraph (2) if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(4) In addition to any other payment which it is required to make under Subchapter III of chapter 83 of title 5, United States Code, the National Park Service shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the National Park Service—

(A) who retires under section 8336(d)(2) of Title 5, United States Code; and,

(B) to whom a voluntary separation incentive payment has been or is to be paid under the provisions of this section.

(b) Employees of Denver Service Center, Presidio, and Golden Gate National Recreation Area entitled to severance pay under 5 U.S.C. 5595, may apply for, and the National Park Service may pay, the total amount of severance pay to the employee in a lump sum. Employees paid severance pay in a lump sum and subsequently reemployed by the Federal Government shall be subject to the repayment provisions of 5 U.S.C. 5595(i)(2) and (3), except that any repayment shall be made to the National Park Service.

(c) Employees of the Denver Service Center, Presidio, and Golden Gate National Recreation Area who voluntarily resign on or before December 31, 1998, or who are separated in a reduction in force, shall be liable for not more than the required employee contribution under 5 U.S.C. 8905a(d)(1)(A) if they elect to continue health benefits after separation. The National Park Service shall pay for 12 months the remaining portion of required contributions.

SEC. 117. Notwithstanding any other provision of law, the Secretary is authorized to permit persons, firms or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 612a of title 40, United States Code) not currently occupying such space to use courtyards, auditoriums, meeting rooms, and other space of the main and south Interior building complex, Washington, D.C., the maintenance, operation, and protection of which has been delegated to the Secretary from the Administrator of General Services pursuant to the Federal Property and Administrative Services Act of 1949, and to assess reasonable charges therefore, subject to such procedures as the Secretary deems appropriate for such uses. Charges may be for the space, utilities, maintenance, repair, and other services. Charges

for such space and services may be at rates equivalent to the prevailing commercial rate for comparable space and services devoted to a similar purpose in the vicinity of the main and south Interior building complex, Washington, D.C. for which charges are being assessed. The Secretary may without further appropriation hold, administer, and use such proceeds within the Departmental Management Working Capital Fund to offset the operation of the buildings under his jurisdiction, whether delegated or otherwise, and for related purposes, until expended.

16 USC 460o  
note.

SEC. 118. The 37 mile River Valley Trail from the town of Delaware Gap to the edge of the town of Milford, Pennsylvania located within the Delaware Water Gap National Recreation Area shall hereafter be referred to in any law, regulation, document, or record of the United States as the Joseph M. McDade Recreational Trail.

SEC. 119. (a) In this section—

(1) the term “Huron Cemetery” means the lands that form the cemetery that is popularly known as the Huron Cemetery, located in Kansas City, Kansas, as described in subsection (b)(3); and

(2) the term “Secretary” means the Secretary of the Interior.

(b)(1) The Secretary shall take such action as may be necessary to ensure that the lands comprising the Huron Cemetery (as described in paragraph (3)) are used only in accordance with this subsection.

(2) The lands of the Huron Cemetery shall be used only—

(A) for religious and cultural uses that are compatible with the use of the lands as a cemetery; and

(B) as a burial ground.

(3) The description of the lands of the Huron Cemetery is as follows:

The tract of land in the NW quarter of sec. 10, T. 11 S., R. 25 E., of the sixth principal meridian, in Wyandotte County, Kansas (as surveyed and marked on the ground on August 15, 1888, by William Millor, Civil Engineer and Surveyor), described as follows:

“Commencing on the Northwest corner of the Northwest Quarter of the Northwest Quarter of said Section 10;

“Thence South 28 poles to the ‘true point of beginning’;

“Thence South 71 degrees East 10 poles and 18 links;

“Thence South 18 degrees and 30 minutes West 28 poles;

“Thence West 11 and one-half poles;

“Thence North 19 degrees 15 minutes East 31 poles and 15 feet to the ‘true point of beginning’, containing 2 acres or more.”.

SEC. 120. (a) STUDY.—The Secretary shall enter into an agreement with and provide funding, to the National Academy of Sciences (NAS), the Board on Earth Sciences and Resources (Board), to conduct a detailed, comprehensive study of the environmental and reclamation requirements relating to mining of locatable minerals on federal lands and the adequacy of those requirements to prevent unnecessary or undue degradation of federal lands in each state in which such mining occurs.

(1) CONTENTS.—The study shall identify and consider—

(A) the operating, reclamation and permitting requirements for locatable minerals mining and exploration

operations on federal lands by federal and state air, water, solid waste, reclamation and other environmental statutes, including surface management regulations promulgated by federal land management agencies and state primacy programs under applicable federal statutes and state laws and the time requirements applicable to project environmental review and permitting;

(B) the adequacy of federal and state environmental, reclamation and permitting statutes and regulations applicable in any state or states where mining or exploration of locatable minerals on federal lands is occurring, to prevent unnecessary or undue degradation; and

(C) recommendations and conclusions regarding how federal and state environmental, reclamation and permitting requirements and programs can be coordinated to ensure environmental protection, increase efficiency, avoid duplication and delay, and identify the most cost-effective manner for implementation.

(b) REPORT.—

No later than July 31, 1999, the Board shall submit a report addressing areas described under (a)(1) to the appropriate federal agencies, the Congress and the Governors of affected states.

(c) FUNDS.—From the funds collected for mining law administration, the Secretary shall provide to the NAS such funds as it requests, not to exceed \$800,000, for the purpose of conducting this analysis.

(d) SURFACE MANAGEMENT REGULATIONS.—The Secretary of the Interior shall not promulgate any final regulations to change the Bureau of Land Management regulations found at 43 CFR Part 3809 prior to September 30, 1999.

SEC. 121. Overhead charges levied by the Fish and Wildlife Service on any and all funds transferred from the Bureau of Reclamation for the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin and for the Recovery Implementation Program for Endangered Fish Species in the San Juan River Basin shall be limited to no more than 50 percent of the biennially determined full indirect cost recovery rate.

SEC. 122. (a) ANCSA DETERMINATION.—

(1) Within 180 days following the enactment of this Act, the Bureau of Land Management shall conduct a determination under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) of the property described as Lot 1, Block 12; the north 50 feet of Lots 43 and 44, Block 12; Lots 50, 51 and 52, Block 12; Lots 28 and 29, Block 33; and a strip of land 25 feet in length running east and west by 24 feet in width running north and south in the southwest corner of Lot 15, Block 33, all within the Nome Townsite, Records of the Cape Nome Recording District, Second Judicial District, State of Alaska.

(2) The ANCSA section 3(e) determination will determine if the lands must be conveyed to the Sitnasuak Native Corporation (the village corporation for Nome).

(3) If and only if the Bureau of Land Management's ANCSA section 3(e) determination concludes that the Sitnasuak Native Corporation is not entitled to the lands, and following the settlement of any and all claims filed appealing the decision,

the Secretary shall carry out subsection (b) of this section, and the provisions of subsection (c) shall take effect.

(b) CONVEYANCE.—The Secretary shall convey to Kawerak, Inc., a non-profit tribal organization in Nome, Alaska, without consideration, all right, title, and interest of the United States, subject to all valid existing rights and to the rights-of-way described in subsection (c), in the property described as Lot 1, Block 12; the north 50 feet of Lots 43 and 44, Block 12; Lots 50, 51 and 52, Block 12; Lots 28 and 29, Block 33; and a strip of land 25 feet in length running east and west by 24 feet in width running north and south in the southwest corner of Lot 15, Block 33, all within the Nome Townsite, Records of the Cape Nome Recording District, Second Judicial District, State of Alaska.

(c) RIGHTS-OF-WAY.—The property conveyed under subsection (b) shall be subject to—

(1) title of the State of Alaska, Department of Highways, as to the south three feet of Lots 50, 51, and 52 of Block 12; and

(2) rights of the public or of any governmental agencies in and to any portion of the property lying within any roads, streets, or highways.

16 USC 410hh–4  
note.

SEC. 123. COMMERCIAL FISHING IN GLACIER BAY NATIONAL PARK. (a) GENERAL.—

(1) The Secretary of the Interior and the State of Alaska shall cooperate in the development of a management plan for the regulation of commercial fisheries in Glacier Bay National Park pursuant to existing State and Federal statutes and any applicable international conservation and management treaties. Such management plan shall provide for commercial fishing in the marine waters within Glacier Bay National Park outside of Glacier Bay Proper, and in the marine waters within Glacier Bay Proper as specified in paragraphs (a)(2) through (a)(5), and shall provide for the protection of park values and purposes, for the prohibition of any new or expanded fisheries, and for the opportunity for the study of marine resources.

(2) In the nonwilderness waters within Glacier Bay Proper, commercial fishing shall be limited, by means of non-transferable lifetime access permits, solely to individuals who—

(A) hold a valid commercial fishing permit for a fishery in a geographic area that includes the nonwilderness waters within Glacier Bay Proper;

(B) provide a sworn and notarized affidavit and other available corroborating documentation to the Secretary of the Interior sufficient to establish that such individual engaged in commercial fishing for halibut, tanner crab, or salmon in Glacier Bay Proper during qualifying years which shall be established by the Secretary of the Interior within one year of the date of the enactment of this Act; and

(C) fish only with—

(i) longline gear for halibut;

(ii) pots or ring nets for tanner crab; or

(iii) trolling gear for salmon.

(3) With respect to the individuals engaging in commercial fishing in Glacier Bay Proper pursuant to paragraph (2), no fishing shall be allowed in the West Arm of Glacier Bay Proper (West Arm) north of 58 degrees, 50 minutes north latitude,

except for trolling for king salmon during the period from October 1 through April 30. The waters of Johns Hopkins Inlet, Tarr Inlet and Reid Inlet shall remain closed to all commercial fishing.

(4) With respect to the individuals engaging in commercial fishing in Glacier Bay Proper pursuant to paragraph (2), no fishing shall be allowed in the East Arm of Glacier Bay Proper (East Arm) north of a line drawn from Point Caroline, through the southern end of Garforth Island to the east side of Muir Inlet, except that trolling for king salmon during the period from October 1 through April 30 shall be allowed south of a line drawn across Muir Inlet at the southernmost point of Adams Inlet.

(5) With respect to the individuals engaging in commercial fishing in Glacier Bay Proper pursuant to paragraph (2), no fishing shall be allowed in Geikie Inlet.

(b) THE BEARDSLEE ISLANDS AND UPPER DUNDAS BAY.—Commercial fishing is prohibited in the designated wilderness waters within Glacier Bay National Park and Preserve, including the waters of the Beardslee Islands and Upper Dundas Bay. Any individual who—

(1) on or before February 1, 1999, provides a sworn and notarized affidavit and other available corroborating documentation to the Secretary of the Interior sufficient to establish that he or she has engaged in commercial fishing for Dungeness crab in the designated wilderness waters of the Beardslee Islands or Dundas Bay within Glacier Bay National Park pursuant to a valid commercial fishing permit in at least six of the years during the period 1987 through 1996;

(2) at the time of receiving compensation based on the Secretary of the Interior's determination as described below—

(A) agrees in writing not to engage in commercial fishing for Dungeness crab within Glacier Bay Proper;

(B) relinquishes to the State of Alaska for the purposes of its retirement any commercial fishing permit for Dungeness crab for areas within Glacier Bay Proper;

(C) at the individual's option, relinquishes to the United States the Dungeness crab pots covered by the commercial fishing permit; and

(D) at the individual's option, relinquishes to the United States the fishing vessel used for Dungeness crab fishing in Glacier Bay Proper; and

(3) holds a current valid commercial fishing permit that allows such individual to engage in commercial fishing for Dungeness crab in Glacier Bay National Park, shall be eligible to receive from the United States compensation that is the greater of (i) \$400,000, or (ii) an amount equal to the fair market value (as of the date of relinquishment) of the commercial fishing permit for Dungeness crab, of any Dungeness crab pots or other Dungeness crab gear, and of not more than one Dungeness crab fishing vessel, together with an amount equal to the present value of the foregone net income from commercial fishing for Dungeness crab for the period January 1, 1999, through December 31, 2004, based on the individual's net earnings from the Dungeness crab fishery during the period January 1, 1991, through December 31, 1996. Any individual seeking such compensation shall provide the consent necessary for the Secretary of the

Interior to verify such net earnings in the fishery. The Secretary of the Interior's determination of the amount to be paid shall be completed and payment shall be made within six months from the date of application by the individuals described in this subsection and shall constitute final agency action subject to review pursuant to the Administrative Procedures Act in the United States District Court for the District of Alaska.

(c) DEFINITION AND SAVINGS CLAUSE.—

(1) As used in this section, the term “Glacier Bay Proper” shall mean the marine waters within Glacier Bay, including coves and inlets, north of a line drawn from Point Gustavus to Point Carolus.

(2) Nothing in this section is intended to enlarge or diminish Federal or State title, jurisdiction, or authority with respect to the waters of the State of Alaska, the waters within the boundaries of Glacier Bay National Park, or the tidal or submerged lands under any provision of State or Federal law.

SEC. 124. Notwithstanding any other provision of law, grazing permits which expire during fiscal year 1999 shall be renewed for the balance of fiscal year 1999 on the same terms and conditions as contained in the expiring permits, or until the Bureau of Land Management completes processing these permits in compliance with all applicable laws, whichever comes first. Upon completion of processing by the Bureau, the terms and conditions of existing grazing permits may be modified, if necessary, and reissued for a term not to exceed ten years. Nothing in this language shall be deemed to affect the Bureau's authority to otherwise modify or terminate grazing permits.

SEC. 125. CONVEYANCE TO THE TOWN OF PAHRUMP, NEVADA.

(a) CONVEYANCE.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall convey to the town of Pahrump, Nevada, without consideration, subject to the requirements of 43 U.S.C. 869, all right, title, and interest of the land subject to all valid existing rights in the public lands located south and west of Highway 160 within Sections 32 and 33, T. 20 S., R. 54 E., Mount Diablo Meridian.

(b) USE.—The conveyance of the property under subsection (a) shall be subject to reversion to the United States if the property is used for a purpose other than the purpose of a public fairground or a related public purpose.

SEC. 126. Special Federal Aviation Regulation No. 78, regarding commercial air tour operators in the vicinity of the Rocky Mountain National Park, as published in the Federal Register on January 8, 1997, shall remain in effect until otherwise provided by an Act of Congress.

16 USC 3192a.

SEC. 127. Notwithstanding any other provision of law, none of the funds provided in this Act or any other Act hereafter enacted may be used by the Secretary of the Interior, except with respect to land exchange costs and costs associated with the preparation of land acquisitions, in the acquisition of State, private, or other non-federal lands (or any interest therein) in the State of Alaska, unless, in the acquisition of any State, private, or other non-federal lands (or interest therein) in the State of Alaska, the Secretary seeks to exchange unreserved public lands before purchasing all or any portion of such lands (or interest therein) in the State of Alaska.

SEC. 128. CHARLESTON, ARKANSAS NATIONAL COMMEMORATIVE SITE. (a) The Congress finds that—

(1) the 1954 U.S. Supreme Court decision of *Brown v. Board of Education*, which mandated an end to the segregation of public schools, was one of the most significant Court decisions in the history of the United States;

(2) the Charleston Public School District in Charleston, Arkansas, in September, 1954, became the first previously-segregated public school district in the former Confederacy to integrate following the *Brown* decision;

(3) the orderly and peaceful integration of the public schools in Charleston served as a model and inspiration in the development of the Civil Rights movement in the United States, particularly with respect to public education; and

(4) notwithstanding the important role of the Charleston School District in the successful implementation of integrated public schools, the role of the district has not been adequately commemorated and interpreted for the benefit and understanding of the nation.

(b) The Charleston Public School complex in Charleston, Arkansas is hereby designated as the “Charleston National Commemorative Site” in commemoration of the Charleston schools’ role as the first public school district in the South to integrate following the 1954 United States Supreme Court decision, *Brown v. Board of Education*.

(c) The Secretary, after consultation with the Charleston Public School District, shall establish an appropriate commemorative monument and interpretive exhibit at the Charleston National Commemorative Site to commemorate the 1954 integration of Charleston’s public schools.

SEC. 129. (a) In the event any tribe returns appropriations made available by this Act to the Bureau of Indian Affairs for distribution to other tribes, this action shall not diminish the Federal Government’s trust responsibility to that tribe, or the government-to-government relationship between the United States and that tribe, or that tribe’s ability to access future appropriations.

(b) The Bureau of Indian Affairs (BIA) shall develop alternative methods to fund tribal priority allocations (TPA) base programs in future years. The alternatives shall consider tribal revenues and relative needs of tribes and tribal members. No later than April 1, 1999, the BIA shall submit a report to Congress containing its recommendations and other alternatives. The report shall also identify the methods proposed to be used by BIA to acquire data that is not currently available to BIA and any data gathering mechanisms that may be necessary to encourage tribal compliance. Notwithstanding any other provision of law, for the purposes of developing recommendations, the Bureau of Indian Affairs is hereby authorized access to tribal revenue-related data held by any Federal agency, excluding information held by the Internal Revenue Service.

(c) Except as provided in subsection (d), tribal revenue shall include the sum of tribal net income, however derived, from any business venture owned, held, or operated, in whole or in part, by any tribal entity which is eligible to receive TPA on behalf of the members of any tribe, all amounts distributed as per capita payments which are not otherwise included in net income, and any income from fees, licenses or taxes collected by any tribe.

(d) The calculation of tribal revenues shall exclude payments made by the Federal Government in settlement of claims or judgments and income derived from lands, natural resources, funds, and assets held in trust by the Secretary of the Interior.

(e) In developing alternative TPA distribution methods, the Bureau of Indian Affairs will take into account the financial obligations of a tribe, such as budgeted health, education and public works service costs; its compliance, obligations and spending requirements under the Indian Gaming Regulatory Act; its compliance with the Single Audit Act; and its compact with its State.

SEC. 130. None of the funds in this or any other Act shall be used to issue a notice of final rulemaking with respect to the valuation of crude oil for royalty purposes, including a rulemaking derived from proposed rules published in 63 Federal Register 6113 (1998), 62 Federal Register 36030, and 62 Federal Register 3742 (1997) until June 1, 1999, or until there is a negotiated agreement on the rule.

SEC. 131. Up to \$8,000,000 of funds available in fiscal years 1998 and 1999 shall be available for grants, not covering more than 33 percent of the total cost of any acquisition to be made with such funds, to States and local communities for purposes of acquiring lands or interests in lands to preserve and protect Civil War battlefield sites identified in the July 1993 Report on the Nation's Civil War Battlefields prepared by the Civil War Sites Advisory Commission. Lands or interests in lands acquired pursuant to this section shall be subject to the requirements of paragraph 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8(f)(3)).

SEC. 132. LEASING OF CERTAIN RESERVED MINERAL INTERESTS.  
(a) APPLICATION OF MINERAL LEASING ACT.—Notwithstanding section 4 of Public Law 88–608 (78 Stat. 988), the Federal reserved mineral interests in land conveyed under that Act by United States land patents No. 49–71–0059 and No. 49–71–0065 shall be subject to the Act of February 25, 1920 (commonly known as the “Mineral Leasing Act”) (30 U.S.C. 181 et seq.).

(b) ENTRY.—

(1) IN GENERAL.—A person that acquires a lease under the Act of February 25, 1920 (30 U.S.C. 181 et seq.) for the interests referred to in subsection (a) may exercise the right of entry that is reserved to the United States and persons authorized by the United States in the patents conveying the land described in subsection (a) by occupying so much of the surface the land as may be required for purposes reasonably incident to the exploration for, and extraction and removal of, the leased minerals.

(2) CONDITION.—A person that exercises a right of entry under paragraph (1), shall, before commencing occupancy—

(A) secure the written consent or waiver of the patentee; or

(B) post a bond or other financial guarantee with the Secretary of the Interior in an amount sufficient to ensure—

(i) the completion of reclamation pursuant to the requirements of the Secretary under the Act of February 25, 1920 (30 U.S.C. 181 et seq.); and

(ii) the payment to the surface owner for—



(I) any damage to a crop or tangible improvement of the surface owner that results from activity under the mineral lease; and

(II) any permanent loss of income to the surface owner due to loss or impairment of grazing use or of other uses of the land by the surface owner at the time of commencement of activity under the mineral lease.

(c) **EFFECTIVE DATE.**—In the case of the land conveyed by United States patent No. 49-71-0065, this section takes effect January 1, 1997.

**SEC. 133.** Notwithstanding any other provision of law, the Tribal Self-Governance Act (25 U.S.C. § 458aa et seq.) is amended at § 458ff(c) by inserting “450c(d),” following the word “sections”. 25 USC 458ff.

**SEC. 134. CORRECTION TO COASTAL BARRIER RESOURCES SYSTEM MAP.** (a) **IN GENERAL.**—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the map described in subsection (b) as are necessary to restore on that map the September 30, 1982, boundary for Unit M09 on the portion of Edisto Island located immediately to the south and west of the Jeremy Cay Causeway. 16 USC 3503 note.

(b) **MAP DESCRIBED.**—The map described in this subsection is the map included in a set of maps entitled “Coastal Barrier Resources System”, dated October 24, 1990, that relates to the unit of the Coastal Barrier Resources System entitled “Edisto Complex M09/M09P”.

**SEC. 135. KATMAI NATIONAL PARK LAND EXCHANGE.** (a) **RATIFICATION OF AGREEMENT.**— 16 USC 410hh-1 note.

(1) **RATIFICATION.**—

(A) **IN GENERAL.**—The terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled “Agreement for the Sale, Purchase and Conveyance of Lands between the Heirs, Designees and/or Assigns of Palakia Melgenak and the United States of America” (hereinafter referred to in this section as the “Agreement”), executed by its signatories, including the heirs, designees and/or assigns of Palakia Melgenak (hereinafter referred to in this section as the “Heirs”) effective on September 1, 1998 are authorized, ratified and confirmed, and set forth the obligations and commitments of the United States and all other signatories, as a matter of Federal law.

(B) **NATIVE ALLOTMENT.**—Notwithstanding any provision of law to the contrary, all lands described in section 2(c) of the Agreement for conveyance to the Heirs shall be deemed a replacement transaction under “An Act to relieve restricted Indians in the Five Civilized Tribes whose nontaxable lands are required for State, county or municipal improvements or sold to other persons or for other purposes” (25 U.S.C. 409a, 46 Stat. 1471), as amended, and the Secretary shall convey such lands by a patent consistent with the terms of the Agreement and subject to the same restraints on alienation and tax-exempt status as provided for Native allotments pursuant to “An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska” (34 Stat. 197), as amended, repealed by section 18(a) the Alaska Native Claims

Settlement Act (85 Stat. 710), with a savings clause for applications pending on December 18, 1971.

(C) LAND ACQUISITION.—Lands and interests in land acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the “Secretary”) as part of the Katmai National Park, subject to the laws and regulations applicable thereto.

(2) MAPS AND DEEDS.—The maps and deeds set forth in the Agreement generally depict the lands subject to the conveyances, the retention of consultation rights, the conservation easement, the access rights, Alaska Native Allotment Act status, and the use and transfer restrictions.

16 USC 1132  
note.

(b) KATMAI NATIONAL PARK AND PRESERVE WILDERNESS.—Upon the date of closing of the conveyance of the approximately 10 acres of Katmai National Park Wilderness lands to be conveyed to the Heirs under the Agreement, the following lands shall hereby be designated part of the Katmai Wilderness as designated by section 701(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 1132 note; 94 Stat. 2417):

A strip of land approximately one half mile long and 165 feet wide lying within Section 1, Township 24 South, Range 33 West, Seward Meridian, Alaska, the center line of which is the center of the unnamed stream from its mouth at Geographic Harbor to the north line of said Section 1. Said unnamed stream flows from the unnamed lake located in Sections 25 and 26, Township 23 South, Range 33 West, Seward Meridian. This strip of land contains approximately 10 acres.

(c) AVAILABILITY OF APPROPRIATION.—None of the funds appropriated in this Act or any other Act hereafter enacted for the implementation of the Agreement may be expended until the Secretary determines that the Heirs have signed a valid and full relinquishment and release of any and all claims described in section 2(d) of the Agreement.

(d) GENERAL PROVISIONS.—

(1) All of the lands designated as Wilderness pursuant to this section shall be subject to any valid existing rights.

(2) Subject to the provisions of the Alaska National Interest Lands Conservation Act, the Secretary shall ensure that the lands in the Geographic Harbor area not directly affected by the Agreement remain accessible for the public, including its mooring and mechanized transportation needs.

(3) The Agreement shall be placed on file and available for public inspection at the Alaska Regional Office of the National Park Service, at the office of the Katmai National Park and Preserve in King Salmon, Alaska, and at least one public facility managed by the Federal, State or local government located in each of Homer, Alaska, and Kodiak, Alaska and such other public facilities which the Secretary determines are suitable and accessible for such public inspections. In addition, as soon as practicable after enactment of this provision, the Secretary shall make available for public inspection in those same offices, copies of all maps and legal descriptions of lands prepared in implementing either the Agreement or this section. Such legal descriptions shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate.

SEC. 136. WATERSHED RESTORATION AND ENHANCEMENT AGREEMENTS. Section 124(a) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (16 U.S.C. 1011(a)) is amended by striking “with willing private landowners for restoration and enhancement of fish, wildlife, and other biotic resources on public or private land or both” and inserting “with the heads of other Federal agencies, tribal, State, and local governments, private and nonprofit entities, and landowners for the protection, restoration, and enhancement of fish and wildlife habitat and other resources on public or private land and the reduction of risk from natural disaster where public safety is threatened”.

SEC. 137. None of the funds made available in this or any other Act may be expended before March 31, 1999 to publish final regulations based on the regulations proposed at 63 Fed. Reg. 3289 on January 22, 1998.

SEC. 138. ACQUISITION OF REAL PROPERTY INTERESTS FOR ADDITION TO CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARK. The Act of August 19, 1890 (16 U.S.C. 424), is amended by adding at the end the following:

**“SEC. 12. ACQUISITION OF LAND.**

16 USC 424-1.

“(a) IN GENERAL.—The Secretary of the Interior may acquire private land, easements, and buildings within the areas authorized for acquisition for the Chickamauga and Chattanooga National Military Park, by donation, purchase with donated or appropriated funds, or exchange.

“(b) LIMITATION.—Land, easements, and buildings described in subsection (a) may be acquired only from willing sellers.

“(c) ADMINISTRATION.—Land, easements, and buildings acquired by the Secretary under subsection (a) shall be administered by the Secretary as part of the park.”.

SEC. 139. Amounts invoiced by the Secretary of the Interior and paid in full before the date of enactment of this Act for the purchase of Federal royalty oil by a refiner pursuant to the preference for small refiners in section 36 of the Mineral Leasing Act (30 U.S.C. 192) or section 27(b)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(b)(2)) are hereby ratified and deemed to be the refiner’s total obligation to the United States for such purchases notwithstanding any other provision of law, including the regulations set forth in 30 C.F.R. 208.13 (1997), subject to adjustment to reconcile billed volumes with delivered volumes: *Provided*, That all delivered royalty oil volumes so invoiced were processed, used, or exchanged for other crude oil on a volume or equivalent basis that was processed or used, in the refiner’s refineries located in the United States.

SEC. 140. Remaining funds in the amount of \$250,000, appropriated as part of Public Law 105-83 in the National Park Service construction account for fiscal year 1998 for an environmental impact statement of a site for an interpretive center along the Blue Ridge Parkway near Roanoke, Virginia, may be used for the construction of an interpretive center outside of the boundaries of the Blue Ridge Parkway, near Roanoke, Virginia.

SEC. 141. Section 5(a)(3) of the Act entitled “An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes”, approved November 5, 1966 (16 U.S.C. 460u-5(a)(3)), is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by—

(A) striking “as of that date”; and

(B) inserting “, subject to subparagraph (B),” after “term ending”; and

(2) in subparagraph (B), by striking “Subparagraph (A)” and inserting “Subparagraph (A)(ii)”.

SEC. 142. Notwithstanding any other provision of law, any settlement or judgment against the United States for the legislative taking by section 817 of Public Law 104–333 (110 Stat. 4200–4201) of real property on the eastern end of Santa Cruz Island known as the Gherini Ranch shall be paid solely from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

16 USC 410rr *et seq.*

SEC. 143. Public Law 102–350 (16 U.S.C. 410) is amended to strike “Marsh-Billings” each place it appears and insert “Marsh-Billings-Rockefeller”.

SEC. 144. Refunds or rebates received on an on-going basis from a credit card services provider under the Department of the Interior’s charge card programs may be deposited to and retained without fiscal year limitation in the Departmental Working Capital Fund established under 43 U.S.C. 1467 and used to fund management initiatives of general benefit to the Department of the Interior’s bureaus and offices as determined by the Secretary or his designee.

16 USC 460kkk note.

SEC. 145. The principal visitor center for the Santa Monica Mountains National Recreation Area, regardless of location, shall be named for Anthony C. Beilenson and shall be referred to in any law, document or record of the United States as the “Anthony C. Beilenson Visitor Center”.

16 USC 79a note.

SEC. 146. The Redwood Information Center located at 119231 Highway 101 in Orick, California is hereby named the “Thomas H. Kuchel Visitor Center” and shall be referred to in any law, document or record of the United States as the “Thomas H. Kuchel Visitor Center”.

SEC. 147. Appropriations made in this title under the headings Bureau of Indian Affairs and Office of Special Trustee for American Indians and any available unobligated balances from prior appropriations Acts made under the same headings, shall be available for expenditure or transfer for Indian trust management activities pursuant to the Trust Management Improvement Project High Level Implementation Plan.

SEC. 148. All funds received by the United States as a result of the sale or the exchange and subsequent sale of lands under section 412(a)(1) of the “Treasury and General Government Appropriations Act, 1999” shall be deposited in the “Everglades restoration” account in accordance with section 390(f)(2)(A) of the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104–127, 110 Stat. 1022.

SEC. 149. Notwithstanding any other provision of law, the Secretary of the Interior shall transfer a road easement, no wider than 50 feet, across lot 1 (USS 3811, First Judicial District, Juneau Recording District, State of Alaska), administered by the National Park Service, identified as road alternative 1 on the map entitled “Traffic and Environmental Feasibility Study for Access to Proposed Auke Cape Facility” in the document for the NOAA/NMFS Juneau Consolidated Facility Preliminary Draft Environmental Impact

Statement, dated July 1996, to the City and Borough of Juneau, Alaska. The Secretary of the Interior shall also transfer to the City and Borough of Juneau all right, title and interest of the United States in the right of way described by the plat recorded in Book 54, page 371, of the Juneau Recording District. Such transfers shall occur as soon as practical after the Secretary of Commerce has exchanged all, or a portion, of the right, title and interest in the 28.16 acres known as the Auke Cape property for the 22.35 acres known as the Lena Point property, near Juneau, Alaska to the City and Borough of Juneau, Alaska. The Secretary of the Interior shall deliver to the City and Borough of Juneau, Alaska a deed or patent establishing the conveyance to the City and Borough of Juneau, Alaska of said easements. The Secretary of the Interior shall retain the right of access and use of such right of way, easement and road.

SEC. 150. All properties administered by the National Park Service at Fort Baker, Golden Gate National Recreation Area, and leases, concessions, permits and other agreements associated with those properties, shall be exempt from all taxes and special assessments, except sales tax, by the State of California and its political subdivisions, including the County of Marin and the City of Sausalito. Such areas of Fort Baker shall remain under exclusive federal jurisdiction.

SEC. 151. Notwithstanding any provision of law, the Secretary of the Interior is authorized to negotiate and enter into agreements and leases, without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b), with any person, firm, association, organization, corporation, or governmental entity for all or part of the property within Fort Baker administered by the Secretary as part of Golden Gate National Recreation Area. The proceeds of the agreements or leases shall be retained by the Secretary and such proceeds shall be available, without future appropriation, for the preservation, restoration, operation, maintenance and interpretation and related expenses incurred with respect to Fort Baker properties.

SEC. 152. In implementing section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197), the Secretary of the Interior shall deem the holder (on the date of enactment of this Act) of the concession contract KATM001-81 to be a person who, on or before January 1, 1979, was engaged in adequately providing visitor services of the type authorized in said contract with Katmai National Park and Preserve.

## TITLE II—RELATED AGENCIES

### DEPARTMENT OF AGRICULTURE

#### FOREST SERVICE

##### FOREST AND RANGELAND RESEARCH

For necessary expenses of forest and rangeland research as authorized by law, \$197,444,000, to remain available until expended.

## STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with and providing technical and financial assistance to States, territories, possessions, and others, and for forest health management, cooperative forestry, and education and land conservation activities, \$170,722,000, to remain available until expended, as authorized by law.

## NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for administrative expenses associated with the management of funds provided under the headings “Forest and Rangeland Research”, “State and Private Forestry”, “National Forest System”, “Wildland Fire Management”, “Reconstruction and Construction”, and “Land Acquisition”, \$1,298,570,000, to remain available until expended, which shall include 50 percent of all moneys received during prior fiscal years as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)): *Provided*, That up to \$3,000,000 of funds provided herein may be used to construct or reconstruct facilities of the Forest Service: *Provided further*, That no more than \$150,000 shall be used on any single project, exclusive of planning and design costs: *Provided further*, That any unobligated balances remaining in this appropriation in the road maintenance extended budget line item at the end of fiscal year 1998 may be transferred to and made a part of the “Reconstruction and Construction” appropriation, road maintenance and decommissioning extended budget line item.

## WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to such lands or other lands under fire protection agreement, and for emergency rehabilitation of burned-over National Forest System lands and water, \$560,176,000, to remain available until expended: *Provided*, That such funds are available for repayment of advances from other appropriations accounts previously transferred for such purposes.

For an additional amount to cover necessary expenses for emergency rehabilitation, presuppression due to emergencies, and wild-fire suppression activities of the Forest Service, \$102,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That these funds shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## RECONSTRUCTION AND CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, \$297,352,000, to remain available until expended for construction, reconstruction and acquisition of buildings and other facilities, and for construction, reconstruction, repair and maintenance of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That up to \$15,000,000 of the funds provided herein for road maintenance shall be available for the decommissioning of roads, including unauthorized roads not part of the transportation system, which are no longer needed: *Provided further*, That no funds shall be expended to decommission any system road until notice and an opportunity for public comment has been provided: *Provided further*, That the Forest Service may make an advance of up to \$200,000 from the funds provided under this heading in this Act and up to \$800,000 provided under this heading in Public Law 105-83 to the City of Colorado Springs, Colorado, for the design and reconstruction of the Pikes Peak Summit House in accordance with terms and conditions agreed to.

## LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4 through 11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, \$117,918,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

## ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, \$1,069,000, to be derived from forest receipts.

## ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, such sums, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

## RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 percent of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND  
RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), \$92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

## MANAGEMENT OF NATIONAL FOREST LANDS FOR SUBSISTENCE USES

## SUBSISTENCE MANAGEMENT, FOREST SERVICE

For necessary expenses of the Forest Service to manage federal lands in Alaska for subsistence uses under the provisions of Title VIII of the Alaska National Interest Lands Conservation Act (Public Law 96–487 et seq.) except in areas described in section 339(a)(1)(A) and (B) of this Act, \$3,000,000 to become available on September 30, 1999, and remain available until expended: *Provided*, That if prior to October 1, 1999, the Secretary of the Interior determines that the Alaska State Legislature has approved a bill or resolution to amend the Constitution of the State of Alaska that, if approved by the electorate, would enable the implementation of state laws of general applicability which are consistent with, and which provide for the definition, preference and participation specified in sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act, the Secretary of Agriculture shall make a \$3,000,000 grant to the State of Alaska for the purpose of assisting that State in fulfilling its responsibilities under sections 803, 804, and 805 of that Act.

## ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (1) purchase of not to exceed 177 passenger motor vehicles of which 22 will be used primarily for law enforcement purposes and of which 176 shall be for replacement; acquisition of 25 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of sufficient aircraft from excess sources to maintain the operable fleet at 213 aircraft for use in Forest Service wildland fire programs and other Forest Service programs; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (2) services pursuant to 7 U.S.C. 2225, and not to exceed \$100,000 for employment under 5 U.S.C. 3109; (3) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (4) acquisition of land, waters, and interests therein, pursuant to 7 U.S.C. 428a; (5) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, and 558a note); (6) the cost of uniforms as authorized by 5 U.S.C. 5901–5902; and (7) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to abolish any region, to move or close any regional office for National Forest System administration of the Forest Service, Department of Agriculture without the consent of the House and Senate Committees on Appropriations.



Any appropriations or funds available to the Forest Service may be transferred to the Wildland Fire Management appropriation for forest firefighting, emergency rehabilitation of burned-over or damaged lands or waters under its jurisdiction, and fire preparedness due to severe burning conditions.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 105-163.

None of the funds available to the Forest Service may be reprogrammed without the advance approval of the House and Senate Committees on Appropriations in accordance with the procedures contained in House Report 105-163.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, hereafter any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs. 16 USC 556h.

Notwithstanding any other provision of law, hereafter money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93-153 (30 U.S.C. 185(1)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged. 30 USC 185 note.

Funds available to the Forest Service shall be available to conduct a program of not less than \$1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: *Provided*, That this limitation shall not apply to hardwood stands damaged by natural disaster: *Provided further*, That landscape architects shall be used to maintain a visually pleasing forest.

16 USC 2106b. Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall hereafter be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 note, 2101–2110, 1606, and 2111.

Of the funds available to the Forest Service, \$1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

16 USC 554e. Notwithstanding any other provision of law, hereafter the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even-aged management in hardwood stands in the Shawnee National Forest, Illinois.

Pursuant to sections 405(b) and 410(b) of Public Law 101–593, of the funds available to the Forest Service, up to \$2,250,000 may be advanced in a lump sum as Federal financial assistance to the National Forest Foundation, without regard to when the Foundation incurs expenses, for administrative expenses or projects on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That of the Federal funds made available to the Foundation, no more than \$400,000 shall be available for administrative expenses: *Provided further*, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds made available by the Forest Service: *Provided further*, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same rate that the recipient has obtained the non-Federal matching funds: *Provided further*, That hereafter, the National Forest Foundation may hold Federal funds made available but not immediately disbursed and may use any interest or other investment income earned (before, on, or after the date of enactment of this Act) on Federal funds to carry out the purposes of Public Law 101–593: *Provided further*, That such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

16 USC 583j–9.

Pursuant to section 2(b)(2) of Public Law 98–244, up to \$2,650,000 of the funds available to the Forest Service shall be available for matching funds to the National Fish and Wildlife Foundation, as authorized by 16 U.S.C. 3701–3709, and may be advanced in a lump sum as Federal financial assistance, without regard to when expenses are incurred, for projects on or benefitting National Forest System lands or related to Forest Service programs: *Provided*, That the Foundation shall obtain, by the end of the period of Federal financial assistance, private contributions to match on at least one-for-one basis funds advanced by the Forest Service: *Provided further*, That the Foundation may transfer Federal funds to a non-Federal recipient for a project at the same

rate that the recipient has obtained the non-Federal matching funds.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, 80 percent of the funds appropriated to the Forest Service in the “National Forest System” and “Reconstruction and Construction” accounts and planned to be allocated to activities under the “Jobs in the Woods” program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

Funds appropriated to the Forest Service shall be available for payments to counties within the Columbia River Gorge National Scenic Area, pursuant to sections 14(c)(1) and (2), and section 16(a)(2) of Public Law 99-663.

The Secretary of Agriculture is authorized to enter into grants, contracts, and cooperative agreements as appropriate with the Pinchot Institute for Conservation, as well as with public and other private agencies, organizations, institutions, and individuals, to provide for the development, administration, maintenance, or restoration of land, facilities, or Forest Service programs, at the Grey Towers National Historic Landmark: *Provided*, That, subject to such terms and conditions as the Secretary of Agriculture may prescribe, any such public or private agency, organization, institution, or individual may solicit, accept, and administer private gifts of money and real or personal property for the benefit of, or in connection with, the activities and services at the Grey Towers National Historic Landmark: *Provided further*, That such gifts may be accepted notwithstanding the fact that a donor conducts business with the Department of Agriculture in any capacity.

Funds appropriated to the Forest Service shall be available, as determined by the Secretary, for payments to Del Norte County, California, pursuant to sections 13(e) and 14 of the Smith River National Recreation Area Act (Public Law 101-612).

For purposes of the Southeast Alaska Economic Disaster Fund as set forth in section 101(c) of Public Law 104-134, the direct grants provided in subsection (c) shall be considered direct payments for purposes of all applicable law except that these direct grants may not be used for lobbying activities.

No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual’s employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

The Forest Service shall fund overhead, national commitments, indirect expenses, and any other category for use of funds which are expended at any units, that are not directly related to the accomplishment of specific work on-the-ground (referred to as “indirect expenditures”), from funds available to the Forest Service, unless otherwise prohibited by law: *Provided*, That not later than

90 days after the date of the enactment of this Act, the Forest Service shall provide, to the Committees on Appropriations of the House of Representatives and Senate, proposed definitions, which are consistent with Federal Accounting Standards Advisory Board standards, to be used with the fiscal year 2000 budget, for indirect expenditures: *Provided further*, That the Forest Service shall implement and adhere to the definitions on a nationwide basis without flexibility for modification by any organizational level except the Washington Office, and when changed by the Washington Office, such changes in definition shall be reported in budget requests submitted by the Forest Service: *Provided further*, That the Forest Service shall provide in the fiscal year 2000 budget justification, planned indirect expenditures in accordance with the definitions, summarized and displayed to the Regional, Station, Area, and detached unit office level. The justification shall display the estimated source and amount of indirect expenditures, by expanded budget line item, of funds in the agency's annual budget justification. The display shall include appropriated funds and the Knutson-Vandenberg, Brush Disposal, Cooperative Work-Other, and Salvage Sale funds. Changes between estimated and actual indirect expenditures shall be reported in subsequent budget justifications: *Provided further*, That during fiscal year 2000 the Secretary shall limit total annual indirect obligations from the Brush Disposal, Cooperative Work-Other, Knutson-Vandenberg, Reforestation, Salvage Sale, and Roads and Trails funds to 20 percent of the total obligations from each fund: *Provided further*, That not later than 90 days after the date of the enactment of this Act, the Forest Service shall provide a plan which addresses how the agency will fully integrate all indirect expenditure information into the agency's general ledger system.

## DEPARTMENT OF ENERGY

### CLEAN COAL TECHNOLOGY

#### (DEFERRAL)

Of the funds made available under this heading for obligation in prior years, \$10,000,000 of such funds shall not be available until October 1, 1999; \$15,000,000 shall not be available until October 1, 2000; and \$15,000,000 shall not be available until October 1, 2001: *Provided*, That funds made available in previous appropriations Acts shall be available for any ongoing project regardless of the separate request for proposal under which the project was selected.

### FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), performed under the minerals and materials science programs at the Albany

Research Center in Oregon, \$384,056,000, to remain available until expended: *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

#### ALTERNATIVE FUELS PRODUCTION

##### (INCLUDING TRANSFER OF FUNDS)

Moneys received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1998, shall be deposited in this account and immediately transferred to the general fund of the Treasury. Moneys received as revenue sharing from operation of the Great Plains Gasification Plant shall be immediately transferred to the general fund of the Treasury.

#### NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, \$14,000,000, to remain available until expended: *Provided*, That the requirements of 10 U.S.C. 7430(b)(2)(B) shall not apply to fiscal year 1999: *Provided further*, That, notwithstanding any other provision of law, funds available pursuant to the first proviso under this heading in Public Law 101-512 shall be immediately available for all naval petroleum and oil shale reserve activities.

10 USC 7430  
note.

#### ELK HILLS SCHOOL LANDS FUND

For necessary expenses in fulfilling the first installment payment under the Settlement Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104-106, \$36,000,000 for payment to the State of California for the State Teachers' Retirement Fund from the Elk Hills School Lands Fund.

#### ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, \$691,701,000, to remain available until expended, including, notwithstanding any other provision of law, \$64,000,000, which shall be transferred to this account from amounts held in escrow under section 3002(d) of Public Law 95-509 (15 U.S.C. 4501(d)): *Provided*, That \$166,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507): *Provided further*, That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs as follows: \$133,000,000 for weatherization assistance grants and \$33,000,000 for State energy conservation grants.

#### ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Office of Hearings and Appeals, \$1,801,000, to remain available until expended.

## STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), \$160,120,000, to remain available until expended.

## ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, \$70,500,000, to remain available until expended.

## ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

In addition to other authorities set forth in this Act, the Secretary may accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and

prosecute projects using such fees and contributions in cooperation with other Federal, State or private agencies or concerns.

The Secretary in fiscal year 1999 and thereafter, shall continue the process begun in fiscal year 1998 of accepting funds from other Federal agencies in return for assisting agencies in achieving energy efficiency in Federal facilities and operations by the use of privately financed, energy savings performance contracts and other private financing mechanisms. The funds may be provided after agencies begin to realize energy cost savings; may be retained by the Secretary until expended; and may be used only for the purpose of assisting Federal agencies in achieving greater efficiency, water conservation and use of renewable energy by means of privately financed mechanisms, including energy savings performance contracts and utility incentive programs. These recovered funds will continue to be used to administer even greater energy efficiency, water conservation and use of renewable energy by means of privately financed mechanisms such as utility efficiency service contracts and energy savings performance contracts. The recoverable funds will be used for all necessary program expenses, including contractor support and resources needed, to achieve overall Federal energy management program objectives for greater energy savings. Any such privately financed contracts shall meet the provisions of the Energy Policy Act of 1992, Public Law 102-486 regarding energy savings performance contracts and utility incentive programs.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### INDIAN HEALTH SERVICE

#### INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, \$1,950,322,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 238(b) for services furnished by the Indian Health Service: *Provided*, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That \$12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That \$373,801,000 for contract medical care shall remain available for obligation until September 30, 2000: *Provided further*, That of the funds provided, up to \$17,000,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of

title IV of the Indian Health Care Improvement Act shall remain available until expended for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 2000: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: *Provided further*, That, notwithstanding any other provision of law, of the amounts provided herein, not to exceed \$203,781,000 shall be for payments to tribes and tribal organizations for contract or grant support costs associated with contracts, grants, self-governance compacts or annual funding agreements between the Indian Health Service and a tribe or tribal organization pursuant to the Indian Self-Determination Act of 1975, as amended, prior to or during fiscal year 1999: *Provided further*, That funds provided to the Ponca Indian Tribe of Nebraska in previous fiscal years that were retained by the tribe to carry out the programs and functions of the Indian Health Service may be used by the tribe to obtain approved clinical space to carry out the program.

#### INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act, and the Indian Health Care Improvement Act, and for expenses necessary to carry out such Acts and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, \$289,465,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

#### ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefore as authorized by 5 U.S.C. 5901–5902; and for expenses of attendance at meetings which are concerned with



the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-2653) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: *Provided further*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act) and Public Law 93-638, as amended: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant, or agreement authorized by title I or title III of the Indian Self-Determination and Education Assistance Act of 1975 (25 U.S.C. 450), may be deobligated and reobligated to a self-determination contract under title I, or a self-governance agreement under title III of such Act and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to the eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further*, That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: *Provided further*, That with respect to functions transferred by the Indian Health Service to tribes or tribal organizations, the Indian Health Service is authorized to provide goods and services to those entities, on a reimbursable basis, including payment in advance with subsequent adjustment, and the reimbursements received therefrom, along with the funds received from those entities pursuant to the Indian Self-Determination Act, may be credited to the same or subsequent appropriation account which provided the funding, said amounts to remain available until expended: *Provided further*, That, heretofore and hereafter and notwithstanding any other provision of law, funds available to the Indian Health Service in this Act or any other Act for Indian self-determination or self-governance contract or grant support costs may be expended only for costs directly attributable to contracts, grants and compacts pursuant to the Indian Self-Determination Act and no funds appropriated by this or any other Act shall be available for any contract support costs or indirect costs associated with any contract, grant, cooperative agreement, self-governance compact, or funding agreement entered into between an Indian tribe or tribal organization

25 USC 450j-2.

and any entity other than the Indian Health Service: *Provided further*, That reimbursements for training, technical assistance, or services provided by the Indian Health Service will contain total costs, including direct, administrative, and overhead associated with the provision of goods, services, or technical assistance: *Provided further*, That the appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

#### OTHER RELATED AGENCIES

##### OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

###### SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, \$13,000,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

##### INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

###### PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498, as amended (20 U.S.C. 56 part A), \$4,250,000.

##### SMITHSONIAN INSTITUTION

###### SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches; not to exceed \$100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger

vehicles; purchase, rental, repair, and cleaning of uniforms for employees; \$347,154,000, of which not to exceed \$38,165,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, the repatriation of skeletal remains program, research equipment, information management, and Latino programming shall remain available until expended, and including such funds as may be necessary to support American overseas research centers and a total of \$125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

#### CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, \$4,400,000, to remain available until expended.

#### REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed \$10,000 for services as authorized by 5 U.S.C. 3109, \$40,000,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

#### CONSTRUCTION

For necessary expenses for construction, \$16,000,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, a single procurement for the construction of the National Museum of the American Indian may be issued which includes the full scope of the project: *Provided further*, That the solicitation and the contract shall contain the clause “availability of funds” found at 48 CFR 52.232.18.

#### ADMINISTRATIVE PROVISIONS, SMITHSONIAN INSTITUTION

None of the funds in this or any other Act may be used to initiate the design of any expansion of current space or new facility without consultation with the House and Senate Appropriations Committees.

None of the funds in this or any other Act may be used to prepare a historic structures report, or for any other purpose, involving the Holt House located at the National Zoological Park in Washington, D.C.

The Smithsonian Institution shall not use Federal funds in excess of the amount specified in Public Law 101-185 for the construction of the National Museum of the American Indian.

## NATIONAL GALLERY OF ART

## SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, \$57,938,000 of which not to exceed \$3,026,000 for the special exhibition program shall remain available until expended.

## REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, \$6,311,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

## JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

## OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, \$12,187,000.

## CONSTRUCTION

For necessary expenses for capital repair and rehabilitation of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, \$20,000,000, to remain available until expended.

## WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

## SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including

hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, \$5,840,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$83,500,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 5(c) and 5(g) of the Act, for program support, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$14,500,000, to remain available until expended, to the National Endowment for the Arts: *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$96,800,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until expended.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$13,900,000, to remain available until expended, of which \$9,900,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out subtitle C of the Museum and Library Services Act of 1996, as amended, \$23,405,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: *Provided further*, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), \$898,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (20 U.S.C. 956(a)), as amended, \$7,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For necessary expenses of the Advisory Council on Historic Preservation (Public Law 89–665, as amended), \$2,800,000: *Provided*, That none of these funds shall be available for compensation of level V of the Executive Schedule or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, \$5,954,000: *Provided*, That all appointed members will be compensated at a rate not to exceed the rate for level IV of the Executive Schedule.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96–388 (36 U.S.C. 1401), as amended, \$32,107,000, of which \$1,575,000 for the museum’s repair and rehabilitation program and \$1,264,000 for the museum’s exhibitions program shall remain available until expended.

## PRESIDIO TRUST

## PRESIDIO TRUST FUND

For necessary expenses to carry out title I of the Omnibus Parks and Public Lands Management Act of 1996, \$14,913,000 shall be available to the Presidio Trust, to remain available until expended. The Trust is authorized to issue obligations to the Secretary of the Treasury pursuant to section 104(d)(3) of the Act, in an amount not to exceed \$20,000,000.

## TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless advance notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 307. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c; popularly known as the “Buy American Act”).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should,

in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 308. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (*Sequoiadendron giganteum*) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 1995.

SEC. 309. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 310. None of the funds appropriated or otherwise made available by this Act may be used for the AmeriCorps program, unless the relevant agencies of the Department of the Interior and/or Agriculture follow appropriate reprogramming guidelines: *Provided*, That if no funds are provided for the AmeriCorps program by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, then none of the funds appropriated or otherwise made available by this Act may be used for the AmeriCorps programs.

SEC. 311. None of the funds made available in this Act may be used: (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when it is made known to the Federal official having authority to obligate or expend such funds that such pedestrian use is consistent with generally accepted safety standards.

SEC. 312. (a) LIMITATION OF FUNDS.—None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994; and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.



(c) REPORT.—On September 30, 1999, the Secretary of the Interior shall file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on actions taken by the Department under the plan submitted pursuant to section 314(c) of the Department of the Interior and Related Agencies Appropriations Act, 1997 (Public Law 104-208).

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 313. None of the funds appropriated or otherwise made available by this Act may be used for the purposes of acquiring lands in the counties of Gallia, Lawrence, Monroe, or Washington, Ohio, for the Wayne National Forest.

SEC. 314. Notwithstanding any other provision of law, amounts appropriated to or earmarked in committee reports for the Bureau of Indian Affairs and the Indian Health Service by Public Laws 103-138, 103-332, 104-134, 104-208 and 105-83 for payments to tribes and tribal organizations for contract support costs associated with self-determination or self-governance contracts, grants, compacts, or annual funding agreements with the Bureau of Indian Affairs or the Indian Health Service as funded by such Acts, are the total amounts available for fiscal years 1994 through 1998 for such purposes, except that, for the Bureau of Indian Affairs, tribes and tribal organizations may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants, self-governance compacts or annual funding agreements.

SEC. 315. Notwithstanding any other provision of law, for fiscal year 1999 the Secretaries of Agriculture and the Interior are authorized to limit competition for watershed restoration project contracts as part of the “Jobs in the Woods” component of the President’s Forest Plan for the Pacific Northwest to individuals and entities in historically timber-dependent areas in the States of Washington, Oregon, and northern California that have been affected by reduced timber harvesting on Federal lands.

SEC. 316. None of the funds collected under the Recreational Fee Demonstration program may be used to plan, design, or construct a visitor center or any other permanent structure without prior approval of the House and the Senate Committees on Appropriations if the estimated total cost of the facility exceeds \$500,000.

SEC. 317. (a) None of the funds made available in this Act or any other Act providing appropriations for the Department of the Interior, the Forest Service or the Smithsonian Institution may be used to submit nominations for the designation of Biosphere Reserves pursuant to the Man and Biosphere program administered by the United Nations Educational, Scientific, and Cultural Organization.

16 USC 459j–4  
note.

(b) The provisions of this section shall be repealed upon enactment of subsequent legislation specifically authorizing United States participation in the Man and Biosphere program.

SEC. 318. None of the funds made available in this or any other Act for any fiscal year may be used to designate, or to post any sign designating, any portion of Canaveral National Seashore in Brevard County, Florida, as a clothing-optional area or as an area in which public nudity is permitted, if such designation would be contrary to county ordinance.

SEC. 319. Of the funds provided to the National Endowment for the Arts—

(1) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(2) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(3) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 320. The National Endowment for the Arts and the National Endowment for the Humanities are authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate Endowment for the purposes specified in each case.

SEC. 321. No part of any appropriation contained in this Act shall be expended or obligated to fund new revisions of national forest land management plans until new final or interim final rules for forest land management planning are published in the Federal Register. Those national forests which are currently in a revision process, having formally published a Notice of Intent to revise prior to October 1, 1997; those national forests having been court-ordered to revise; those national forests where plans reach the fifteen year legally mandated date to revise before or during calendar year 2000; national forests within the Interior Columbia Basin Ecosystem study area; and the White Mountain National Forest are exempt from this section and may use funds in this Act and proceed to complete the forest plan revision in accordance with current forest planning regulations.

SEC. 322. No part of any appropriation contained in this Act shall be expended or obligated to complete and issue the five-year program under the Forest and Rangeland Renewable Resources Planning Act.

SEC. 323. (a) WATERSHED RESTORATION AND ENHANCEMENT AGREEMENTS.—For fiscal year 1999, 2000 and 2001, to the extent funds are otherwise available, appropriations for the Forest Service may be used by the Secretary of Agriculture for the purpose of entering into cooperative agreements with willing Federal, tribal, State and local governments, private and nonprofit entities and landowners for the protection, restoration and enhancement of fish and wildlife habitat, and other resources on public or private land, the reduction of risk from natural disaster where public safety is threatened, or a combination thereof or both that benefit these resources within the watershed. 16 USC 1011 note.

(b) DIRECT AND INDIRECT WATERSHED AGREEMENTS.—The Secretary of Agriculture may enter into a watershed restoration and enhancement agreement—

- (1) directly with a willing private landowner; or
- (2) indirectly through an agreement with a State, local or tribal government or other public entity, educational institution, or private nonprofit organization.

(c) TERMS AND CONDITIONS.—In order for the Secretary to enter into a watershed restoration and enhancement agreement—

(1) the agreement shall—

(A) include such terms and conditions mutually agreed to by the Secretary and the landowner, state or local government, or private or nonprofit entity;

(B) improve the viability of and otherwise benefit the fish, wildlife, and other resources on national forests lands within the watershed;

(C) authorize the provision of technical assistance by the Secretary in the planning of management activities that will further the purposes of the agreement;

(D) provide for the sharing of costs of implementing the agreement among the Federal Government, the landowner(s), and other entities, as mutually agreed on by the affected interests; and

(E) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to be in the public interest; and

(2) the Secretary may require such other terms and conditions as are necessary to protect the public investment on non-Federal lands, provided such terms and conditions are mutually agreed to by the Secretary and other landowners, State and local governments or both.

(d) REPORTING REQUIREMENTS.—Not later than December 31, 1999, the Secretary shall submit a report to the Committees on Appropriations of the House and Senate, which contains—

(1) A concise description of each project, including the project purpose, location on federal and non-federal land, key activities, and all parties to the agreement.

(2) the funding and/or other contributions provided by each party for each project agreement.

SEC. 324. (a) In providing services or awarding financial assistance under the National Foundation on the Arts and the Humanities Act of 1965 from funds appropriated under this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

(b) In this section:

(1) The term “underserved population” means a population of individuals who have historically been outside the purview of arts and humanities programs due to factors such as a high incidence of income below the poverty line or to geographic isolation.

(2) The term “poverty line” means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965—

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1);

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act; and

(4) the Chairperson shall encourage the use of grants to improve and support community-based music performance and education.

SEC. 325. None of the funds in this Act may be used for planning, design or construction of improvements to Pennsylvania Avenue in front of the White House without the advance approval of the House and Senate Committees on Appropriations.

40 USC 1003  
note.

SEC. 326. Notwithstanding the provisions of section 1010(b) of the Commemorative Works Act (40 U.S.C. 1001 et seq.), the legislative authority for the international memorial to honor the victims of communism, authorized under section 905 of Public Law 103–199 (107 Stat. 2331), shall expire December 17, 2007.

16 USC 460l–6a  
note.

SEC. 327. Section 101(c) of Public Law 104–134, as amended, is further amended as follows: Under the heading “Title III—General Provisions” amend section 315(f) (16 U.S.C. 460l–6a note) by striking “September 30, 1999” after the words “and end on” and inserting “September 30, 2001” and striking “September 30, 2002” after the words “remain available through” and inserting “September 30, 2004”.

SEC. 328. Notwithstanding any other provision of law, none of the funds in this Act may be used to enter into any new or expanded self-determination contract or grant or self-governance compact pursuant to the Indian Self-Determination Act of 1975, as amended, for any activities not previously covered by such contracts, compacts or grants. Nothing in this section precludes the continuation of those specific activities for which self-determination

and self-governance contracts, compacts and grants currently exist or the renewal of contracts, compacts and grants for those activities; implementation of section 325 of Public Law 105-83 (111 Stat. 1597); or compliance with 25 U.S.C. 2005.

SEC. 329. (a) PROHIBITION ON TIMBER PURCHASER ROAD CREDITS.—In financing any forest development road pursuant to section 4 of Public Law 88-657 (16 U.S.C. 535, commonly known as the National Forest Roads and Trails Act), the Secretary of Agriculture may not provide effective credit for road construction to any purchaser of national forest timber or other forest products. 16 USC 535a.

(b)(1) CONSTRUCTION OF ROADS BY TIMBER PURCHASERS.—Whenever the Secretary of Agriculture makes a determination that a forest development road referred to in subsection (a) shall be constructed or paid for, in whole or in part, by a purchaser of national forest timber or other forest products, the Secretary shall include notice of the determination in the notice of sale of the timber or other forest products. The notice of sale shall contain, or announce the availability of, sufficient information related to the road described in the notice to permit a prospective bidder on the sale to calculate the likely cost that would be incurred by the bidder to construct or finance the construction of the road so that the bidder may reflect such cost in the bid.

(2) If there is an increase or decrease in the cost of roads constructed by the timber purchaser, caused by variations in quantities, changes or modifications subsequent to the sale of timber made in accordance with applicable timber sale contract provisions, then an adjustment to the price paid for timber harvested by the purchaser shall be made. The adjustment shall be applied by the Secretary as soon as practicable after any such design change is implemented.

(c) SPECIAL ELECTION BY SMALL BUSINESS CONCERNS.—(1) A notice of sale referred to in subsection (b) containing specified road construction of \$50,000 or more, shall give a purchaser of national forest timber or other forest products that qualifies as a “small business concern” under the Small Business Act (15 U.S.C. 631 et seq.), and regulations issued thereunder, the option to elect that the Secretary of Agriculture build the roads described in the notice. The Secretary shall provide the small business concern with an estimate of the cost that would be incurred by the Secretary to construct the roads on behalf of the small business concern. The notice of sale shall also include the date on which the roads described in the notice will be completed by the Secretary if the election is made.

(2) If the election referred to in paragraph (1) is made, the purchaser of the national forest timber or other forest products shall pay to the Secretary of Agriculture, in addition to the price paid for the timber or other forest products, an amount equal to the estimated cost of the roads which otherwise would be paid by the purchaser as provided in the notice of sale. Pending receipt of such amount, the Secretary may use receipts from the sale of national forest timber or other forest products and such additional sums as may be appropriated for the construction of roads, such funds to be available until expended, to accomplish the requested road construction.

(d) POST CONSTRUCTION HARVESTING.—In each sale of national forest timber or other forest products referred to in this section, the Secretary of Agriculture is encouraged to authorize harvest

of the timber or other forest products in a unit included in the sale as soon as road work for that unit is completed and the road work is approved by the Secretary.

(e) CONSTRUCTION STANDARD.—For any forest development road that is to be constructed or paid for by a purchaser of national forest timber or other forest products, the Secretary of Agriculture may not require the purchaser to design, construct, or maintain the road (or pay for the design, construction, or maintenance of the road) to a standard higher than the standard, consistent with applicable environmental laws and regulations, that is sufficient for the harvesting and removal of the timber or other forest products, unless the Secretary bears that part of the cost necessary to meet the higher standard.

(f) TREATMENT OF ROAD VALUE.—For any forest development road that is constructed or paid for by a purchaser of national forest timber or other forest products, the estimated cost of the road construction, including subsequent design changes, shall be considered to be money received for purposes of the payments required to be made under the sixth paragraph under the heading “FOREST SERVICE” in the Act of May 23, 1908 (35 Stat. 260, 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (35 Stat. 963; commonly known as the Weeks Act; 16 U.S.C. 500). To the extent that the appraised value of road construction determined under this subsection reflects funds contributed by the Secretary of Agriculture to build the road to a higher standard pursuant to subsection (e), the Secretary shall modify the appraisal of the road construction to exclude the effect of the Federal funds.

(g) EFFECTIVE DATE.—(1) This section and the requirements of this section shall take effect (and apply thereafter) upon the earlier of—

(A) April 1, 1999; or

(B) the date that is the later of—

(i) the effective date of regulations issued by the Secretary of Agriculture to implement this section; and

(ii) the date on which new timber sale contract provisions designed to implement this section, that have been published for public comment, are approved by the Secretary.

(2) Notwithstanding paragraph (1), any sale of national forest timber or other forest products for which notice of sale is provided before the effective date of this section, and any effective purchaser road credit earned pursuant to a contract resulting from such a notice of sale or otherwise earned before that effective date shall remain in effect, and shall continue to be subject to section 4 of Public Law 88–657 and section 14(i) of the National Forest Management Act of 1976 (16 U.S.C. 472a(i)), and rules issued thereunder, as in effect on the day before the date of the enactment of this Act.

SEC. 330. Section 6(b)(1)(B)(iii) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 955(b)(1)(B)(iii)) is amended by striking “One” and inserting “Two”.

43 USC 1474d.

SEC. 331. Section 401(f) of Public Law 105–83 (111 Stat. 1610) is hereby amended by striking “1998” and inserting in lieu thereof “1999”.

SEC. 332. Amounts deposited during fiscal year 1998 in the roads and trails fund provided for in the fourteenth paragraph under the heading “FOREST SERVICE” of the Act of March 4,

1913 (37 Stat. 843; 16 U.S.C. 501), shall be used by the Secretary of Agriculture, without regard to the State in which the amounts were derived, to repair or reconstruct roads, bridges, and trails on National Forest System lands or to carry out and administer projects to improve forest health conditions, which may include the repair or reconstruction of roads, bridges, and trails on National Forest System lands in the wildland-community interface where there is an abnormally high risk of fire. The projects shall emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity. The Secretary shall commence the projects during fiscal year 1999, but the projects may be completed in a subsequent fiscal year. Funds shall not be expended under this section to replace funds which would otherwise appropriately be expended from the timber salvage sale fund. Nothing in this section shall be construed to exempt any project from any environmental law.

SEC. 333. Section 5 of the Arts and Artifacts Indemnity Act (20 U.S.C. 974) is amended—

(1) in subsection (b) by striking “\$3,000,000,000” and inserting “\$5,000,000,000”;

(2) in subsection (c) by striking “\$300,000,000” and inserting “\$500,000,000”;

(3) by striking “or” at the end of subsection (d)(4);

(4) in subsection (d)(5) by striking “\$200,000,000 or more” and inserting “not less than \$200,000,000 but less than \$300,000,000” and by striking the final period and inserting a semicolon; and

(5) by inserting the following two new subsections after subsection (d)(5):

“(6) not less than \$300,000,000 but less than \$400,000,000, then coverage under this chapter shall extend only to loss or damage in excess of the first \$300,000 of loss or damage to items covered; or

“(7) \$400,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first \$400,000 of loss or damage to items covered.”.

SEC. 334. TULARE CONVEYANCE. (a) IN GENERAL.—Subject to subsections (c) and (d), all conveyances to the Redevelopment Agency of the City of Tulare, California, of lands described in subsection (b), heretofore or hereafter, made directly by the Southern Pacific Transportation Company, or its successors, are hereby validated to the extent that the conveyances would be legal or valid if all right, title, and interest of the United States, except minerals, were held by the Southern Pacific Transportation Company.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are the parcels shown on the map entitled “Tulare Redevelopment Agency-Railroad Parcels Proposed to be Acquired”, dated May 29, 1997, that formed part of a railroad right-of-way granted to the Southern Pacific Railroad Company, or its successors, agents, or assigns, by the Federal Government (including the right-of-way approved by an Act of Congress on July 27, 1866). The map referred to in this subsection shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management.

(c) PRESERVATION OF EXISTING RIGHTS OF ACCESS.—Nothing in this section shall impair any existing rights of access in favor of the public or any owner of adjacent lands over, under or across the lands which are referred to in subsection (a).

(d) MINERALS.—The United States disclaims any and all right of surface entry to the mineral estate of lands described in subsection (b).

16 USC 3503  
note.

SEC. 335. The final set of maps entitled “Coastal Barrier Resources System”, dated “October 24, 1990, revised November 12, 1996”, and relating to the following units of the Coastal Barrier Resources System: P04A, P05/P05P; P05A/P05AP, FL–06P; P10/P10P; P11; P11AP; P11A; P18/P18P; P25/P25P; and P32/P32P (which set of maps were created by the Department of the Interior to comply with section 220 of Public Law 104–333, 110 Stat. 4115, and notice of which was published in the Federal Register on May 28, 1997) shall have the force and effect of law and replace and substitute for any other inconsistent Coastal Barrier Resource System map in the possession of the Department of the Interior. This provision is effective immediately upon enactment of this Act and the Secretary of the Interior or his designee shall immediately make this ministerial substitution.

25 USC 1645.

SEC. 336. Section 405(c)(2) of the Indian Health Care Improvement Act (42 U.S.C. 1645(c)(2)) is amended by striking “September 30, 1998” and inserting “September 30, 2000”.

SEC. 337. Section 3003 of the Petroleum Overcharge Distribution and Restitution Act of 1986 (15 U.S.C. 4502) is amended by adding after subsection (d) the following new subsection:

“(e) Subsections (b), (c), and (d) of this section are repealed, and any rights that may have arisen are extinguished, on the date of the enactment of the Department of the Interior and Related Agencies Appropriations Act, 1999. After that date, the amount available for direct restitution to current and future refined petroleum product claimants under this Act is reduced by the amounts specified in title II of that Act as being derived from amounts held in escrow under section 3002(d). The Secretary shall assure that the amount remaining in escrow to satisfy refined petroleum product claims for direct restitution is allocated equitably among the claimants.”.

25 USC 2717  
note.

SEC. 338. Section 123(a)(2)(C) of the Department of the Interior and Related Agencies Appropriations Act, 1998 (111 Stat. 1566), is amended by striking “self-regulated tribes such as”.

16 USC 3102  
note.

SEC. 339. (a) RESTRICTION ON FEDERAL MANAGEMENT UNDER TITLE VIII OF THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—

(1) Notwithstanding any other provision of law, hereafter neither the Secretary of the Interior nor the Secretary of Agriculture may, prior to December 1, 2000, implement or enforce any final rule, regulation, or policy pursuant to title VIII of the Alaska National Interest Lands Conservation Act to manage and to assert jurisdiction, authority, or control over land, water, and wild, renewable resources, including fish and wildlife, in Alaska for subsistence uses, except within—

(A) areas listed in 50 C.F.R. 100.3(b) (October 1, 1998)

and

(B) areas constituting “public land or public lands” under the definition of such term found at 50 C.F.R. 100.4 (October 1, 1998).



(2) The areas in subparagraphs (A) and (B) of paragraph (1) shall only be construed to mean those public lands which as of October 1, 1998, were subject to federal management for subsistence uses pursuant to Title VIII of the Alaska National Interest Lands Conservation Act.

(b) SUBSECTION (a) REPEALED.—

(1) The Secretary of the Interior shall certify before October 1, 1999, if a bill or resolution has been passed by the Alaska State Legislature to amend the Constitution of the State of Alaska that, if approved by the electorate, would enable the implementation of state laws of general applicability consistent with, and which provide for the definition, preference, and participation specified in sections 803, 804, and 805 of the Alaska National Interest Lands Conservation Act.

(2) Subsection (a) shall be repealed on October 1, 1999, unless prior to that date the Secretary of the Interior makes such a certification described in paragraph (1).

(c) TECHNICAL AMENDMENTS TO THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Section 805 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3115) is amended—

(1) in subsection (a) by striking “one year after the date of enactment of this Act,”

(2) in subsection (d) by striking “within one year from the date of enactment of this Act,”.

(d) EFFECT ON TIDAL AND SUBMERGED LAND.—Nothing in this section invalidates, validates, or in any other way affects any claim of the State of Alaska to title to any tidal or submerged land in Alaska.

SEC. 340. None of the funds made available in this Act may be used to establish a national wildlife refuge in the Kankakee River watershed in northwestern Indiana and northeastern Illinois.

SEC. 341. Upon the condition that Skamania County conveys title acceptable to the Secretary of Agriculture to all right, title and interest in lands identified on a map dated September 29, 1998 entitled “Skamania County Lands to be Transferred”, such lands being located on Table Mountain lying within the Columbia River Gorge National Scenic Area, there is hereby conveyed to Skamania County, notwithstanding any other provision of law, the Wind River Nursery Site lands and facilities and all interests therein, except for the corridor of the Pacific Crest National Scenic Trail, as depicted on a map dated September 29, 1998, entitled “Wind River Conveyance”, which is on file and available for public inspection in the Office of the Chief, USDA Forest Service, Washington, D.C.

The conveyance of lands to Skamania County shall become automatically effective upon a determination by the Secretary that Skamania County has conveyed acceptable title to the United States to the Skamania County lands. Lands conveyed to the United States shall become part of the Gifford Pinchot National Forest and shall have the status of lands acquired under the Act of March 1, 1911, (commonly called the Weeks Act) and shall be managed in accordance with the laws and regulations applicable to the National Forest System.

SEC. 342. (a) BOUNDARY ADJUSTMENTS.—

(1) LAKE CHELAN NATIONAL RECREATION AREA.—The boundary of the Lake Chelan National Recreation Area, established

16 USC 544g  
note.

16 USC 90a-1  
note.

by section 202 of Public Law 90–544 (16 U.S.C. 90a–1), is hereby adjusted to exclude a parcel of land and waters consisting of approximately 88 acres, as depicted on the map entitled “Proposed Management Units, North Cascades, Washington”, numbered NP–CAS–7002A, originally dated October 1967, and revised July 13, 1994.

(2) WENATCHEE NATIONAL FOREST.—The boundary of the Wenatchee National Forest is hereby adjusted to include the parcel of land and waters described in paragraph (1).

(3) AVAILABILITY OF MAP.—The map referred to in paragraph (1) shall be on file and available for public inspection in the offices of the superintendent of the Lake Chelan National Recreation Area and the Director of the National Park Service, Department of the Interior, and in the office of the Chief of the Forest Service, Department of Agriculture.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over Federal land and waters in the parcel covered by the boundary adjustments in subsection (a) is transferred from the Secretary of the Interior to the Secretary of Agriculture, and the transferred land and waters shall be managed by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Wenatchee National Forest, as adjusted by subsection (a), shall be considered to be the boundaries of the Wenatchee National Forest as of January 1, 1965.

16 USC 1642  
note.

SEC. 343. HARDWOOD TECHNOLOGY TRANSFER AND APPLIED RESEARCH. (a) The Secretary of Agriculture (hereinafter the “Secretary”) is hereby authorized to conduct technology transfer and development, training, dissemination of information and applied research in the management, processing and utilization of the hardwood forest resource. This authority is in addition to any other authorities which may be available to the Secretary including, but not limited to, the Cooperative Forestry Assistance Act of 1978, as amended (16 U.S.C. 2101 et. seq.), and the Forest and Rangeland Renewable Resources Act of 1978, as amended (16 U.S.C. 1600–1614).

(b) In carrying out this authority, the Secretary may enter into grants, contracts, and cooperative agreements with public and private agencies, organizations, corporations, institutions and individuals. The Secretary may accept gifts and donations pursuant to the Act of October 10, 1978 (7 U.S.C. 2269) including gifts and donations from a donor that conducts business with any agency of the Department of Agriculture or is regulated by the Secretary of Agriculture.

(c) The Secretary is authorized, on such terms and conditions as the Secretary may prescribe, to assume all rights, title, and interest, including all outstanding assets, of the Robert C. Byrd Hardwood Technology Center, Inc. (hereinafter the “Center”), a non-profit corporation existing under the laws of the State of West Virginia: *Provided*, That the Board of Directors of the Center requests such an action and dissolves the corporation consistent with the Articles of Incorporation and the laws of the State of West Virginia.

(d) The Secretary is authorized to operate and utilize the assets of the Center as part of a newly formed “Institute of Hardwood Technology Transfer and Applied Research” (hereinafter the “Institute”). The Institute, in addition to the Center, will consist of a Director, technology transfer specialists from State and Private Forestry, the Forestry Sciences Laboratory in Princeton, West Virginia, and any other organizational unit of the Department of Agriculture as the Secretary deems appropriate. The overall management of the Institute will be the responsibility of the USDA Forest Service, State and Private Forestry.

(e) The Secretary is authorized to generate revenue using the authorities provided herein. Any revenue received as part of the operation of the Institute shall be deposited into a special fund in the Treasury of the United States, known as the “Hardwood Technology Transfer and Applied Research Fund”, which shall be available to the Secretary until expended, without further appropriation, in furtherance of the purposes of this section, including upkeep, management, and operation of the Institute and the payment of salaries and expenses.

(f) There are hereby authorized to be appropriated such sums as necessary to carry out the provisions of this section.

SEC. 344. Notwithstanding the requirements of section 1203(a) of Public Law 99-662 [100 Stat. 4263], the non-Federal share of the cost of correcting the spillway deficiency at Beach City Lake, Muskingum River Basin, Ohio, shall not exceed \$141,000.

SEC. 345. Notwithstanding section 343 of Public Law 105-83, increases in recreation residence fees on the Sawtooth National Forest shall be implemented in fiscal year 1999 only to the extent that such fee increases do not exceed 25 percent. 16 USC 497d note.

SEC. 346. Section 7 of the Granger-Thye Act of April 24, 1950 is amended by deleting the words “recondition and maintain,” substituting in lieu thereof the words “renovate, recondition, improve, and maintain”. 16 USC 580d.

SEC. 347. STEWARDSHIP END RESULT CONTRACTING DEMONSTRATION PROJECT. (a) IN GENERAL.—Until September 30, 2002, the Forest Service may enter into no more than twenty-eight (28) contracts with private persons and entities, of which Region One of the Forest Service shall have the authority to enter into nine (9) such contracts, to perform services to achieve land management goals for the national forests that meet local and rural community needs. 16 USC 2104 note.

(b) LAND MANAGEMENT GOALS.—The land management goals of a contract under subsection (a) may include, among other things—

- (1) road and trail maintenance or obliteration to restore or maintain water quality;
  - (2) soil productivity, habitat for wildlife and fisheries, or other resource values;
  - (3) setting of prescribed fires to improve the composition, structure, condition, and health of stands or to improve wildlife habitat;
  - (4) noncommercial cutting or removing of trees or other activities to promote healthy forest stands, reduce fire hazards, or achieve other non-commercial objectives;
  - (5) watershed restoration and maintenance;
  - (6) restoration and maintenance of wildlife and fish habitat;
- and

(7) control of noxious and exotic weeds and reestablishing native plant species.

(c) CONTRACTS.—

(1) PROCUREMENT PROCEDURE.—A source for performance of a contract under subsection (a) shall be selected on a best-value basis, including consideration of source under other public and private contracts.

(2) TERM.—A multiyear contract may be entered into under subsection (a) in accordance with section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c), except that the period of the contract may exceed 5 years but may not exceed 10 years.

(3) OFFSETS.—

(A) IN GENERAL.—In connection with contracts under subsection (a), the Forest Service may apply the value of timber or other forest products removed as an offset against the cost of services received.

(B) METHODS OF APPRAISAL.—The value of timber or other forest products used as offsets under subparagraph (A)—

(i) shall be determined using appropriate methods of appraisal commensurate with the quantity of products to be removed;

(ii) may be determined using a unit of measure appropriate to the contracts; and

(iii) may include valuing products on a per-acre basis.

(4) RELATION TO OTHER LAWS.—The Forest Service may enter into contracts under subsection (a), notwithstanding subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a).

(d) RECEIPTS.—

(1) IN GENERAL.—The Forest Service may collect monies from a contract under subsection (a) so long as such collection is a secondary objective of negotiating contracts that will best achieve the purposes of this section.

(2) USE.—Monies from a contract under subsection (a) may be retained by the Forest Service and shall be available for expenditure without further appropriation at the demonstration project site from which the monies are collected or at another demonstration project site.

(3) RELATION TO OTHER LAWS.—The value of services received by the Secretary under a stewardship contract project conducted under this section, and any payments made or resources provided by the contractor or the Secretary under such a project, shall not be considered to be monies received from the National Forest System under any provision of law. The Act of June 9, 1930 (16 U.S.C. 576 et seq.; commonly known as the Knutson-Vandenberg Act), shall not apply to stewardship contracts entered into under this section.

(e) COSTS OF REMOVAL.—The Forest Service may collect deposits from contractors covering the costs of removal of timber or other forest products pursuant to the Act of August 11, 1916 (39 Stat. 462, chapter 313; 16 U.S.C. 490); and the next to the last paragraph under the heading “Forest Service.” under the heading “Department of Agriculture” in the Act of June 30, 1914 (38

Stat. 430, chapter 131; 16 U.S.C. 498); notwithstanding the fact that the timber purchasers did not harvest the timber.

(f) PERFORMANCE AND PAYMENT GUARANTEES.—

(1) IN GENERAL.—The Forest Service may require performance and payment bonds, in accordance with sections 103-2 and 103-2 of part 28 of the Federal Acquisition Regulation (48 C.F.R. 28.103-2, 28.103-3), in an amount that the contracting officer considers sufficient to protect the Government's investment in receipts generated by the contractor from the estimated value of the forest products to be removed under contract under subsection (a).

(2) EXCESS OFFSET VALUE.—If the offset value of the forest products exceeds the value of the resource improvement treatments, the Forest Service may—

(A) collect any residual receipts pursuant to the Act of June 9, 1930 (46 Stat. 527, chapter 416; 16 U.S.C. 576b); and

(B) apply the excess to other authorized stewardship demonstration projects.

(g) MONITORING, EVALUATION AND REPORTING.—The Forest Service shall establish a multiparty monitoring and evaluation process that accesses each individual stewardship contract conducted under this section. Besides the Forest Service, participants in this process may include any cooperating governmental agencies, including tribal governments, and any interested groups or individuals. The Forest Service shall report annually to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate on—

(1) the status of development, execution, and administration of contracts under subsection (a);

(2) the specific accomplishments that have resulted; and

(3) the role of local communities in development of contract plans.

SEC. 348. The Forest Service and the Federal Highway Administration shall make available to the State of Utah, \$15,000,000 for construction of the Trappers Loop connector road. Such funds shall be made available from the Federal Land Highway Program, Public Lands Highways (Forests) funds. Such funds shall be made available prior to computation and aggregation of the state shares of such funds for other projects.

SECTION 349. PROTECTION OF SANCTITY OF CONTRACTS AND LEASES OF SURFACE PATENT HOLDERS WITH RESPECT TO COALBED METHANE GAS. (a) IN GENERAL.—Subject to subsection (b), the United States shall recognize as not infringing upon any ownership rights of the United States to coalbed methane any—

30 USC 81 note.

(1) contract or lease covering any land that was conveyed by the United States under the Act entitled “An Act for the protection of surface rights of entrymen”, approved March 3, 1909 (30 U.S.C. 81), or the Act entitled “An Act to provide for agricultural entries on coal lands”, approved June 22, 1910 (30 U.S.C. 83 et seq.), that was—

(A) entered into by a person who has title to said land derived under said Acts, and

(B) that conveys rights to explore for, extract, and sell coalbed methane from said land; or

(2) coalbed methane production from the lands described in subsection (a)(1) by a person who has title to said land

and who, on or before the date of enactment of this Act, has filed an application with the State oil and gas regulating agency for a permit to drill an oil and gas well to a completion target located in a coal formation.

(b) APPLICATION.—Subsection (a)

(1) shall apply only to a valid contract or lease described in subsection (a) that is in effect on the date of enactment of this Act;

(2) shall not otherwise change the terms or conditions of, or affect the rights or obligations of any person under such a contract or lease;

(3) shall apply only to land with respect to which the United States is the owner of coal reserved to the United States in a patent issued under the Act of March 3, 1909 (30 U.S.C. 81), or the Act of June 22, 1910 (30 U.S.C. 83 et seq.), the position of the United States as the owner of the coal not having passed to a third party by deed, patent or other conveyance by the United States;

(4) shall not apply to any interest in coal or land conveyed, restored, or transferred by the United States to a federally recognized Indian tribe, including any conveyance, restoration, or transfer made pursuant to the Indian Recorganization Act, June 18, 1934 (c. 576, 48 Stat. 984, as amended); the Act of June 28, 1938, (c. 776, 52 Stat. 1209 as implemented by the order of September 14, 1938, 3 Fed. Reg. 1425); and including the area described in § 3 of P.L. 98-290; or any executive order;

(5) shall not be construed to constitute a waiver of any rights of the United States with respect to coalbed methane production that is not subject to subsection (a);

(6) shall not limit the right of any person who entered into a contract or lease before the date of enactment of this Act, or enters into a contract or lease on or after the date of enactment of this Act, for coal owned by the United States, to mine and remove the coal and to release coalbed methane without liability to any person referred to in subsection (a)(1)(A) or (a)(2).

SEC. 350. No timber in Region 10 of the Forest Service shall be advertised for sale which, when using domestic Alaska western red cedar selling values and manufacturing costs, fails to provide at least 60 percent of normal profit and risk of the appraised timber, except at the written request by a prospective bidder. Program accomplishments shall be based on volume sold. Should Region 10 sell, in fiscal year 1999, the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan which provides greater than 60 percent of normal profit and risk at the time of the sale advertisement, all of the western red cedar timber from those sales which is surplus to the needs of domestic processors in Alaska, shall be made available to domestic processors in the contiguous 48 United States based on values in the Pacific Northwest as determined by the Forest Service and stated in the timber sale contract. Should Region 10 sell, in fiscal year 1999, less than the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan meeting the 60 percent of normal profit and risk standard at the time of sale advertisement, the volume of western red cedar timber available

to domestic processors at rates specified in the timber sale contract in the contiguous 48 states shall be that volume: (i) which is surplus to the needs of domestic processors in Alaska; and (ii) is that percent of the surplus western red cedar volume determined by calculating the ratio of the total timber volume which has been sold on the Tongass to the annual average portion of the decadal allowable sale quantity called for in the current Tongass Land Management Plan. The percentage shall be calculated by Region 10 on a rolling basis as each sale is sold. (For purposes of this amendment, a “rolling basis” shall mean that the determination of how much western red cedar is eligible for sale to various markets shall be made at the time each sale is awarded.) Western red cedar shall be deemed “surplus to the needs of domestic processors in Alaska” when the timber sale holder has presented to the Forest Service documentation of the inability to sell western red cedar logs from a given sale to domestic Alaska processors at a price equal to or greater than the log selling value stated in the contract. All additional western red cedar volume not sold to Alaska or contiguous 48 United States domestic processors may be exported to foreign markets at the election of the timber sale holder. All Alaska yellow cedar may be sold at prevailing export prices at the election of the timber sale holder.

SEC. 351. (a) Notwithstanding any other provision of law, prior to September 30, 2001 the Indian Health Service may not disburse funds for the provision of health care services pursuant to Public Law 93-638 (25 U.S.C. 450 et seq.), with any Alaska native village or Alaska Native village corporation that is located within the area served by an Alaska Native regional health entity.

(b) Nothing in this section shall be construed to prohibit the disbursal of funds to any Alaska Native village or Alaska Native village corporation under any contract or compact entered into prior to August 27, 1997, or to prohibit the renewal of any such agreement.

SEC. 352. None of the funds in this or any other Act shall be expended in Fiscal Year 1999 by the Department of the Interior, the Forest Service, or any other Federal agency for the capture and physical relocation of grizzly bears in the Selway-Bitterroot area of Idaho and adjacent Montana. Nothing in this section shall prohibit the Department of the Interior, the Forest Service, or any other Federal agency from using funds to produce a final environmental impact statement that will include an analysis of the habitat based population viability study completed in 1998, receive public comment on such final environmental impact statement, or issue a Record of Decision.

SEC. 353. KING COVE HEALTH AND SAFETY. (a) ROAD ON KING COVE CORPORATION LANDS.—Of the funds appropriated in this section, not later than 60 days after the date of enactment of this Act, \$20,000,000 shall be made available to the Aleutians East Borough for the construction of an unpaved road not more than 20 feet in width, a dock, and marine facilities and equipment. Such road shall be constructed on King Cove Corporation Lands and shall extend from King Cove to such dock. The Aleutians East Borough, in consultation with the State of Alaska, shall determine the appropriate location of such dock and marine facilities. In no instance may any part of such road, dock, marine facilities or equipment enter or pass over any land within the Congressionally-designated wilderness in the Izembek National Wildlife Refuge

(for purposes of this section, the lands within the Refuge boundary already conveyed to the King Cove Corporation are not within the wilderness area).

(b) KING COVE AIR STRIP.—Of the funds appropriated in this section, not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall make available up to \$15,000,000 to the State of Alaska for the cost of improvements to the air strip at King Cove, Alaska, including to enable jet aircraft with the capability of flying non-stop between Anchorage, Alaska and King Cove, Alaska to land and take off from such air strip.

(c) KING COVE INDIAN HEALTH SERVICE FACILITY.—Of the funds appropriated in this section, not later than 60 days after the enactment of this Act, the Secretary of Health and Human Services shall make available \$2,500,000 to the Indian Health Service for the cost of new construction or improvements to the clinic in King Cove, Alaska, and telemedicine and other medical equipment for such clinic.

(d) APPLICABILITY OF OTHER LAWS.—All actions undertaken pursuant to this section must be in accordance with all other applicable laws.

(e) APPROPRIATION.—In addition to funds in this or any other Act, \$37,500,000 is appropriated and shall remain available until expended for the King Cove Health and Safety projects specifically identified within this section.

SEC. 354. (a) IN GENERAL.—To reflect the intent of Congress set forth in Public Law 98–396, section 4(a)(2) of the Columbia River Gorge National Scenic Area Act (16 U.S.C. 544(a)(2)) is amended—

16 USC 544b.

(1) by striking “(2) The boundaries” and inserting the following:

“(2) BOUNDARIES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the boundaries”; and

(2) by adding at the end the following:

“(B) EXCLUSIONS.—The scenic area shall not include the approximately 29 acres of land owned by the Port of Camas-Washougal in the South ½ of Section 16, Township 1 North, Range 4 East, and the North ½ of Section 21, Township 1 North, Range 4 East, Willamete Meridian, Clark County, Washington, that consists of—

“(i) the approximately 19 acres of Port land acquired from the Corps of Engineers under the Second Supplemental Appropriations Act, 1984 (Public Law 98–396); and

“(ii) the approximately 10 acres of adjacent Port land to the west of the land described in clause (i).”.

16 USC 544b  
note.

(b) INTENT.—The amendment made by subsection (a)—

(1) is intended to achieve the intent of Congress set forth in Public Law 98–396; and

(2) is not intended to set a precedent regarding adjustment or amendment of any boundaries of the Columbia River Gorge National Scenic Area or any other provisions of the Columbia River Gorge National Scenic Area Act.

SEC. 355. Section 5580 of the Revised Statutes (20 U.S.C. 42) is amended—

(1) by inserting “(a)” before “The business”; and

(2) by adding at the end the following:



“(b) Notwithstanding any other provision of law, the Board of Regents of the Smithsonian Institution may modify the number of members, manner of appointment of members, or tenure of members, of the boards or commissions under the jurisdiction of the Smithsonian Institution, other than—

“(1) the Board of Regents of the Smithsonian Institution;

and

“(2) the boards or commissions of the National Gallery of Art, the John F. Kennedy Center for the Performing Arts, and the Woodrow Wilson International Center for Scholars.”.

SEC. 356. (a) The Act entitled “An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes”, approved August 27, 1935 (25 U.S.C. 305 et seq.), is amended by adding at the end the following:

25 USC 305f.

“SEC. 7. (a) Notwithstanding any other provision of law, the Secretary of the Interior is directed to transfer all right, title and interest in that portion of the Indian Arts and Crafts Board art collection maintained permanently by the Indian Arts and Crafts Board in Washington, District of Columbia, to the Secretary of the Smithsonian Institution to be a part of the collection of the National Museum of the American Indian, subject to subsection (b). Transfer of the collection and costs thereof shall be carried out in accordance with terms, conditions, and standards mutually agreed upon by the Secretary of the Interior and the Secretary of the Smithsonian Institution.

“(b) The Indian Arts and Crafts Board shall retain a permanent license to the use of images of the collection for promotional, economic development, educational and related nonprofit purposes. The Indian Arts and Crafts Board shall not be required to pay any royalty or fee for such license.”.

(b) The Secretary of the Interior is authorized to use funds appropriated in this Act under the heading ‘SALARIES AND EXPENSES’ under the heading ‘DEPARTMENTAL MANAGEMENT’ for the costs associated with the transfer of the collection.

SEC. 357. None of the funds provided in this or any other Act shall be available for the acquisition of lands or interests in lands within the tract known as the Baca Location No. 1 in New Mexico until such time as—

(1) an appraisal is completed for such tract which conforms with the Uniform Appraisal Standards for Federal Land Acquisitions; and

(2) legislation is enacted authorizing the acquisition of lands or interests in lands within such tract.

SEC. 358. The Federal building located at 15013 Denver West Parkway, Golden, Colorado, and known as the National Renewable Energy Laboratory Visitors Center, shall be known and designated as the “Dan Schaefer Federal Building”. Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States court house referred to in this provision shall be deemed to be a reference to the “Dan Schaefer Federal Building”. This provision shall take effect on January 3, 1999.

SEC. 359. The new Federal building under construction at 325 Broadway in Boulder, Colorado, shall be known and designated as the “David Skaggs Federal Building”. Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in this provision shall

be deemed to be a reference to the “David Skaggs Federal Building”. This provision shall take effect on January 3, 1999.

SEC. 360. The Federal building located at 201 14th Street, S.W. in Washington, D.C., shall be known and redesignated as the “Sidney R. Yates Federal Building”. Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in this provision shall be deemed to be a reference to the “Sidney R. Yates Federal Building”. This provision shall take effect on January 3, 1999.

SEC. 361. If all of the funding approved for release by the Committees on September 3, 1998, pursuant to Title V—Priority Land Acquisitions, Land Exchanges, and Maintenance in Public Law 105–83 is not apportioned to and made available for obligation by the relevant land management agencies within five days of the enactment of this Act, those funds are rescinded.

SEC. 362. Section 219 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Pub. L. 103–354, 7 U.S.C. § 6919, is hereby repealed.

#### TITLE IV

#### THE HERGER-FEINSTEIN QUINCY LIBRARY GROUP FOREST RECOVERY ACT

Herger-Feinstein  
Quincy Library  
Group Forest  
Recovery Act.  
16 USC 2104  
note.

SEC. 401. PILOT PROJECT FOR PLUMAS, LASSEN, AND TAHOE NATIONAL FORESTS TO IMPLEMENT QUINCY LIBRARY GROUP PROPOSAL. (a) DEFINITION.—For purposes of this section, the term “Quincy Library Group-Community Stability Proposal” means the agreement by a coalition of representatives of fisheries, timber, environmental, county government, citizen groups, and local communities that formed in northern California to develop a resource management program that promotes ecologic and economic health for certain Federal lands and communities in the Sierra Nevada area. Such proposal includes the map entitled “QUINCY LIBRARY GROUP Community Stability Proposal”, dated October 12, 1993, and prepared by VESTRA Resources of Redding, California.

(b) PILOT PROJECT REQUIRED.—

(1) PILOT PROJECT AND PURPOSE.—The Secretary of Agriculture (in this section referred to as the “Secretary”), acting through the Forest Service and after completion of an environmental impact statement (a record of decision for which shall be adopted within 300 days), shall conduct a pilot project on the Federal lands described in paragraph (2) to implement and demonstrate the effectiveness of the resource management activities described in subsection (d) and the other requirements of this section, as recommended in the Quincy Library Group-Community Stability Proposal.

(2) PILOT PROJECT AREA.—The Secretary shall conduct the pilot project on the Federal lands within Plumas National Forest, Lassen National Forest, and the Sierraville Ranger District of Tahoe National Forest in the State of California designated as “Available for Group Selection” on the map entitled “QUINCY LIBRARY GROUP Community Stability Proposal”, dated October 12, 1993 (in this section referred to as the “pilot project area”). Such map shall be on file and available for inspection in the appropriate offices of the Forest Service.

(c) EXCLUSION OF CERTAIN LANDS, RIPARIAN PROTECTION AND COMPLIANCE.—

(1) EXCLUSION.—All spotted owl habitat areas and protected activity centers located within the pilot project area designated under subsection (b)(2) will be deferred from resource management activities required under subsection (d) and timber harvesting during the term of the pilot project.

(2) RIPARIAN PROTECTION.—

(A) IN GENERAL.—The Scientific Analysis Team guidelines for riparian system protection described in subparagraph (B) shall apply to all resource management activities conducted under subsection (d) and all timber harvesting activities that occur in the pilot project area during the term of the pilot project.

(B) GUIDELINES DESCRIBED.—The guidelines referred to in subparagraph (A) are those in the document entitled “Viability Assessments and Management Considerations for Species Associated with Late-Successional and Old-Growth Forests of the Pacific Northwest”, a Forest Service research document dated March 1993 and co-authored by the Scientific Analysis Team, including Dr. Jack Ward Thomas.

(C) LIMITATION.—Nothing in this section shall be construed to require the application of the Scientific Analysis Team guidelines to any livestock grazing in the pilot project area during the term of the pilot project, unless the livestock grazing is being conducted in the specific location at which the Scientific Analysis Team guidelines are being applied to an activity under subsection (d).

(3) COMPLIANCE.—All resource management activities required by subsection (d) shall be implemented to the extent consistent with applicable Federal law and the standards and guidelines for the conservation of the California spotted owl as set forth in the California Spotted Owl Sierran Provenance Interim Guidelines or the subsequently issued guidelines, whichever are in effect.

(4) ROADLESS AREA PROTECTION.—The Regional Forester for Region 5 shall direct that any resource management activity required by subsection (d)(1) and (2), all road building, all timber harvesting activities, and any riparian management under subsection (d)(4) that utilizes road construction or timber harvesting shall not be conducted on Federal lands within the Plumas National Forest, Lassen National Forest, and the Sierraville Ranger District of the Tahoe National Forest that are designated as either “Off Base” or “Deferred” on the map referred to in subsection (a). Such direction shall be effective during the term of the pilot project.

(d) RESOURCE MANAGEMENT ACTIVITIES.—During the term of the pilot project, the Secretary shall implement and carry out the following resource management activities on an acreage basis on the Federal lands included within the pilot project area designated under subsection (b)(2):

(1) FUELBREAK CONSTRUCTION.—Construction of a strategic system of defensible fuel profile zones, including shaded fuelbreaks, utilizing thinning, individual tree selection, and other methods of vegetation management consistent with the Quincy Library Group-Community Stability Proposal, on not less than 40,000, but not more than 60,000, acres per year.

(2) GROUP SELECTION AND INDIVIDUAL TREE SELECTION.—Utilization of group selection and individual tree selection uneven-aged forest management prescriptions described in the Quincy Library Group-Community Stability Proposal to achieve a desired future condition of all-age, multistory, fire resilient forests as follows:

(A) GROUP SELECTION.—Group selection on an average acreage of .57 percent of the pilot project area land each year of the pilot project.

(B) INDIVIDUAL TREE SELECTION.—Individual tree selection may also be utilized within the pilot project area.

(3) TOTAL ACREAGE.—The total acreage on which resource management activities are implemented under this subsection shall not exceed 70,000 acres each year.

(4) RIPARIAN MANAGEMENT.—A program of riparian management, including wide protection zones and riparian restoration projects, consistent with riparian protection guidelines in subsection (c)(2)(B).

(e) COST-EFFECTIVENESS.—In conducting the pilot project, Secretary shall use the most cost-effective means available, as determined by the Secretary, to implement resource management activities described in subsection (d).

(f) FUNDING.—

(1) SOURCE OF FUNDS.—In conducting the pilot project, the Secretary shall use, subject to the relevant reprogramming guidelines of the House and Senate Committees on Appropriations—

(A) those funds specifically provided to the Forest Service by the Secretary to implement resource management activities according to the Quincy Library Group-Community Stability Proposal; and

(B) year-end excess funds that are allocated for the administration and management of Plumas National Forest, Lassen National Forest, and the Sierraville Ranger District of Tahoe National Forest.

(2) PROHIBITION ON USE OF CERTAIN FUNDS.—The Secretary may not conduct the pilot project using funds appropriated for any other unit of the National Forest System.

(3) FLEXIBILITY.—Subject to normal reprogramming guidelines, during the term of the pilot project, the forest supervisors of Plumas National Forest, Lassen National Forest, and Tahoe National Forest may allocate and use all accounts that contain year-end excess funds and all available excess funds for the administration and management of Plumas National Forest, Lassen National Forest, and the Sierraville Ranger District of Tahoe National Forest to perform the resource management activities described in subsection (d).

(4) RESTRICTION.—The Secretary or the forest supervisors, as the case may be, shall not utilize authority provided under paragraphs (1)(B) and (3) if, in their judgment, doing so will limit other nontimber related multiple use activities for which such funds were available.

(5) OVERHEAD.—The Secretary shall seek to ensure that of amounts available to carry out this section—

(A) not more than 12 percent is used or allocated for general administration or other overhead; and

(B) at least 88 percent is used to implement and carry out activities required by this section.

(6) AUTHORIZED SUPPLEMENTAL FUNDS.—There are authorized to be appropriated to implement and carry out the pilot project such sums as are necessary.

(7) BASELINE FUNDS.—Amounts available for resource management activities authorized under subsection (d) shall at a minimum include existing baseline funding levels.

(g) TERM OF PILOT PROJECT.—The Secretary shall conduct the pilot project until the earlier of: (1) the date on which the Secretary completes amendment or revision of the land and resource management plans directed under and in compliance with subsection (i) for the Plumas National Forest, Lassen National Forest, and Tahoe National Forest; or (2) five years after the date of the commencement of the pilot project.

(h) CONSULTATION.—(1) The statement required by subsection (b)(1) shall be prepared in consultation with interested members of the public, including the Quincy Library Group.

(2) CONTRACTING.—The Forest Service, subject to the availability of appropriations, may carry out any (or all) of the requirements of this section using private contracts.

(i) CORRESPONDING FOREST PLAN AMENDMENTS.—Within 2 years after the date of the enactment of this Act, the Regional Forester for Region 5 shall initiate the process to amend or revise the land and resource management plans for Plumas National Forest, Lassen National Forest, and Tahoe National Forest. The process shall include preparation of at least one alternative that—

(1) incorporates the pilot project and area designations made by subsection (b), the resource management activities described in subsection (d), and other aspects of the Quincy Library Group-Community Stability Proposal; and

(2) makes other changes warranted by the analyses conducted in compliance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)), section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), and other applicable laws.

(j) STATUS REPORTS.—

(1) IN GENERAL.—Not later than February 28 of each year during the term of the pilot project, the Secretary shall submit to Congress a report on the status of the pilot project. The report shall include at least the following:

(A) A complete accounting of the use of funds made available under subsection (f)(1)(A) until such funds are fully expended.

(B) A complete accounting of the use of funds and accounts made available under subsection (f)(1) for the previous fiscal year, including a schedule of the amounts drawn from each account used to perform resource management activities described in subsection (d).

(C) A description of total acres treated for each of the resource management activities required under subsection (d), forest health improvements, fire risk reductions, water yield increases, and other natural resources-related benefits achieved by the implementation of the resource management activities described in subsection (d).

(D) A description of the economic benefits to local communities achieved by the implementation of the pilot project.

(E) A comparison of the revenues generated by, and costs incurred in, the implementation of the resource management activities described in subsection (d) on the Federal lands included in the pilot project area with the revenues and costs during each of the fiscal years 1992 through 1997 for timber management of such lands before their inclusion in the pilot project.

(F) A proposed schedule for the resource management activities to be undertaken in the pilot project area during the 1-year period beginning on the date of submittal of the report.

(G) A description of any adverse environmental impacts from the pilot project.

(2) LIMITATION ON EXPENDITURES.—The amount of Federal funds expended on each annual report under this subsection shall not exceed \$125,000.

(k) FINAL REPORT.—

(1) IN GENERAL.—The Secretary shall establish an independent scientific panel to review and report on whether, and to what extent, implementation of the pilot project under this section achieved the goals stated in the Quincy Library Group-Community Stability Proposal, including improved ecological health and community stability. The membership of the panel shall reflect expertise in diverse disciplines in order to adequately address all of those goals.

(2) PREPARATION.—The panel shall initiate such review no sooner than 18 months after the first day of the term of the pilot project under subsection (g). The panel shall prepare the report in consultation with interested members of the public, including the Quincy Library Group. The report shall include, but not be limited to, the following:

(A) A description of any adverse environmental impacts resulting from implementation of the pilot project.

(B) An assessment of watershed monitoring data on lands treated pursuant to this section. Such assessment shall address the following issues on a priority basis: timing of water releases; water quality changes; and water yield changes over the short- and long-term in the pilot project area.

(3) SUBMISSION TO THE CONGRESS.—The panel shall submit the final report to the Congress as soon as practicable, but in no case later than 18 months after completion of the pilot project.

(4) LIMITATION ON EXPENDITURES.—The amount of Federal funds expended for the report under this subsection, other than for watershed monitoring, shall not exceed \$350,000. The amount of Federal funds expended for watershed monitoring under this subsection shall not exceed \$175,000 for each fiscal year in which the report is prepared.

(l) RELATIONSHIP TO OTHER LAWS.—Nothing in this section exempts the pilot project from any Federal environmental law.

(m) LOANS FOR DEMONSTRATION PROJECTS FOR WOOD WASTE OR LOW-QUALITY WOOD BYPRODUCTS.—

(1) **EVALUATION OF LOAN ADVISABILITY.**—The Alternative Agricultural Research and Commercialization Corporation established under section 1658 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5902) (in this section referred to as the “Corporation”) shall evaluate the advisability of making commercialization assistance loans under section 1661 of such Act (7 U.S.C. 5905) to support a minimum of 2 demonstration projects for the development and demonstration of commercial application of technology to convert wood waste or low-quality wood byproducts into usable, higher value products.

(2) **LOCATION OF DEMONSTRATION PROJECTS.**—If the Corporation determines to make loans under this subsection to support the development and demonstration of commercial application of technology to convert wood waste or low-quality wood byproducts into usable, higher value products, the Corporation shall consider making one loan with regard to a demonstration project to be conducted in the pilot project area and one loan with regard to a demonstration project to be conducted in southeast Alaska.

(3) **ELIGIBILITY REQUIREMENTS.**—To be eligible for a loan under this subsection, a demonstration project shall be required to satisfy the eligibility requirements imposed by the Corporation under section 1661 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5905).

SEC. 402. **SHORT TITLE.** Section 401 of this title may be cited as the “Herger-Feinstein Quincy Library Group Forest Recovery Act”.

## TITLE V—LAND BETWEEN THE LAKES PROTECTION ACT

### SEC. 501. **SHORT TITLE.**

This title may be referred to as “The Land Between the Lakes Protection Act of 1998”.

### SEC. 502. **DEFINITIONS.**

In this title:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) **ADVISORY BOARD.**—The term “Advisory Board” means the Land Between the Lakes Advisory Board established under section 522.

(3) **CHAIRMAN.**—The term “Chairman” means the Chairman of the Board of Directors of the Tennessee Valley Authority.

(4) **ELIGIBLE EMPLOYEE.**—The term “eligible employee” means a person that was, on the date of transfer pursuant to section 541, a full-time or part-time annual employee of the Tennessee Valley Authority at the Recreation Area.

(5) **ENVIRONMENTAL LAW.**—

(A) **IN GENERAL.**—The term “environmental law” means all applicable Federal, State, and local laws (including regulations) and requirements related to protection of human health, natural and cultural resources, or the environment.

(B) **INCLUSIONS.**—The term “environmental law” includes—

The Land Between the Lakes Protection Act of 1998.

16 USC 460///  
note.

16 USC 460///  
note.

(i) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(ii) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(iv) the Clean Air Act (42 U.S.C. 7401 et seq.);

(v) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(vi) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(vii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(viii) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ix) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(6) **FOREST HIGHWAY.**—The term “forest highway” has the meaning given the term in section 101(a) of title 23, United States Code.

(7) **GOVERNMENTAL UNIT.**—The term “governmental unit” means an agency of the Federal Government or a State or local government, local governmental unit, public or municipal corporation, or unit of a State university system.

(8) **HAZARDOUS SUBSTANCE.**—The term “hazardous substance” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(9) **PERSON.**—The term “person” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(10) **POLLUTANT OR CONTAMINANT.**—The term “pollutant or contaminant” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(11) **RECREATION AREA.**—The term “Recreation Area” means the Land Between the Lakes National Recreation Area.

(12) **RELEASE.**—The term “release” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(13) **RESPONSE ACTION.**—The term “response action” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(14) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(15) **STATE.**—The term “State” means the State of Kentucky and the State of Tennessee.

16 USC 460111–1. **SEC. 503. PURPOSES.**

The purposes of this title are—

(1) to transfer without consideration administrative jurisdiction over the Recreation Area from the Tennessee Valley



Authority to the Secretary so that the Recreation Area may be managed as a unit of the National Forest System;

(2) to protect and manage the resources of the Recreation Area for optimum yield of outdoor recreation and environmental education through multiple use management by the Forest Service;

(3) to authorize, research, test, and demonstrate innovative programs and cost-effective management of the Recreation Area;

(4) to authorize the Secretary to cooperate between and among the States, Federal agencies, private organizations, and corporations, and individuals, as appropriate, in the management of the Recreation Area and to help stimulate the development of the surrounding region and extend the beneficial results as widely as practicable; and

(5) to provide for the smooth and equitable transfer of jurisdiction from the Tennessee Valley Authority to the Secretary.

### **Subtitle A—Establishment, Administration, and Jurisdiction**

#### **SEC. 511. ESTABLISHMENT.**

16 USC 460///-  
11.

(a) **IN GENERAL.**—On the transfer of administrative jurisdiction under section 541, the Land Between the Lakes National Recreation Area in the States of Kentucky and Tennessee is established as a unit of the National Forest System.

(b) **MANAGEMENT.**—

(1) **IN GENERAL.**—The Secretary shall manage the Recreation Area for multiple use as a unit of the National Forest System.

(2) **EMPHASES.**—The emphases in the management of the Recreation Area shall be—

(A) to provide public recreational opportunities;

(B) to conserve fish and wildlife and their habitat;

and

(C) to provide for diversity of native and desirable non-native plants, animals, opportunities for hunting and fishing, and environmental education.

(3) **STATUS OF UNIT.**—The Secretary may administer the Recreation Area as a separate unit of the National Forest System or in conjunction with an existing national forest.

(c) **AREA INCLUDED.**—

(1) **IN GENERAL.**—The Recreation Area shall comprise the federally owned land, water, and interests in the land and water lying between Kentucky Lake and Lake Barkley in the States of Kentucky and Tennessee, as generally depicted on the map entitled “Land Between the Lakes National Recreation Area—January, 1998”.

(2) **MAP.**—The map described in paragraph (1) shall be available for public inspection in the Office of the Chief of the Forest Service, Washington, D.C.

(d) **WATERS.**—

(1) **WATER LEVELS AND NAVIGATION.**—Nothing in this title affects the jurisdiction of the Tennessee Valley Authority or the Army Corps of Engineers to manage and regulate water levels and navigation of Kentucky Lake and Lake Barkley and areas subject to flood easements.

(2) OCCUPANCY AND USE.—Subject to the jurisdiction of the Tennessee Valley Authority and the Army Corps of Engineers, the Secretary shall have jurisdiction to regulate the occupancy and use of the surface waters of the lakes for recreational purposes.

16 USC 460III–  
12.

**SEC. 512. CIVIL AND CRIMINAL JURISDICTION.**

(a) ADMINISTRATION.—The Secretary, acting through the Chief of the Forest Service, shall administer the Recreation Area in accordance with this title and the laws, rules, and regulations pertaining to the National Forest System.

(b) STATUS.—Land within the Recreation Area shall have the status of land acquired under the Act of March 1, 1911 (commonly known as the “Weeks Act”) (16 U.S.C. 515 et seq.).

(c) LAW ENFORCEMENT.—In order to provide for a cost-effective transfer of the law enforcement responsibilities between the Forest Service and the Tennessee Valley Authority, the law enforcement authorities designated under section 4A of the Tennessee Valley Authority Act 1933 (16 U.S.C. 831c–3) are hereby granted to special agents and law enforcement officers of the Forest Service. The law enforcement authorities designated under the eleventh undesignated paragraph under the heading “Surveying the public lands” of the Act of June 4, 1897 (30 Stat. 35; 16 U.S.C. 551), the first paragraph of that portion designated “General Expenses, Forest Service” of the Act of March 3, 1905 (33 U.S.C. 873; 16 U.S.C. 559), the National Forest System Drug Control Act of 1986 (16 U.S.C. 559b–559g) are hereby granted to law enforcement agents of the Tennessee Valley Authority, within the boundaries of the Recreation Area, for a period of 1 year from the date on which this section takes effect.

16 USC 460III–  
13.

**SEC. 513. PAYMENTS TO STATES AND COUNTIES.**

(a) PAYMENTS IN LIEU OF TAXES.—Land within the Recreation Area shall be subject to the provisions for payments in lieu of taxes under chapter 69 of title 31, United States Code.

(b) DISTRIBUTION.—All amounts received from charges, use fees, and natural resource utilization, including timber and agricultural receipts, shall not be subject to distribution to States under the Act of May 23, 1908 (16 U.S.C. 500).

(c) PAYMENTS BY THE TENNESSEE VALLEY AUTHORITY.—After the transfer of administrative jurisdiction is made under section 541—

(1) the Tennessee Valley Authority shall continue to calculate the amount of payments to be made to States and counties under section 13 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831l); and

(2) each State (including, for the purposes of this subsection, the State of Kentucky, the State of Tennessee, and any other State) that receives a payment under that section shall continue to calculate the amounts to be distributed to the State and local governments, as though the transfer had not been made.

16 USC 460III–  
14.

**SEC. 514. FOREST HIGHWAYS.**

(a) IN GENERAL.—For purposes of section 204 of title 23, United States Code, the road known as “The Trace” and every other paved road within the Recreation Area (including any road constructed to secondary standards) shall be considered to be a forest highway.

## (b) STATE RESPONSIBILITY.—

(1) IN GENERAL.—The States shall be responsible for the maintenance of forest highways within the Recreation Area.

(2) REIMBURSEMENT.—To the maximum extent provided by law, from funds appropriated to the Department of Transportation and available for purposes of highway construction and maintenance, the Secretary of Transportation shall reimburse the States for all or a portion of the costs of maintenance of forest highways in the Recreation Area.

**Subtitle B—Management Provisions****SEC. 521. LAND AND RESOURCE MANAGEMENT PLAN.**

16 USC 460lll–21.

(a) IN GENERAL.—As soon as practicable after the effective date of the transfer of jurisdiction under section 541, the Secretary shall prepare a land and resource management plan for the Recreation Area in conformity with the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.) and other applicable law.

(b) INTERIM PROVISION.—Until adoption of the land and resource management plan, the Secretary may use, as appropriate, the existing Tennessee Valley Authority Natural Resource Management Plan to provide interim management direction. Use of all or a portion of the management plan by the Secretary shall not be considered to be a major Federal action significantly affecting the quality of the human environment.

**SEC. 522. ADVISORY BOARD.**

16 USC 460lll–22.

(a) ESTABLISHMENT.—Not later than 90 days after the date of transfer pursuant to section 541, the Secretary shall establish the Land Between the Lakes Advisory Board.

(b) MEMBERSHIP.—The Advisory Board shall be composed of 17 members, of whom—

(1) 4 individuals shall be appointed by the Secretary, including—

(A) 2 residents of the State of Kentucky; and

(B) 2 residents of the State of Tennessee;

(2) 2 individuals shall be appointed by the Kentucky Fish and Wildlife Commissioner or designee;

(3) 1 individual shall be appointed by the Tennessee Fish and Wildlife Commission or designee;

(4) 2 individuals shall be appointed by the Governor of the State of Tennessee;

(5) 2 individuals shall be appointed by the Governor of the State of Kentucky; and

(6) 2 individuals shall be appointed by appropriate officials of each of the 3 counties containing the Recreation Area.

(c) TERM.—

(1) IN GENERAL.—The term of a member of the Advisory Board shall be 5 years.

(2) SUCCESSION.—Members of the Advisory Board may not succeed themselves.

(d) CHAIRPERSON.—The Regional Forester shall serve as chairperson of the Advisory Board.

(e) RULES OF PROCEDURE.—The Secretary shall prescribe the rules of procedure for the Advisory Board.

(f) FUNCTIONS.—The Advisory Board may advise the Secretary on—

(1) means of promoting public participation for the land and resource management plan for the Recreation Area; and  
(2) environmental education.

(g) MEETINGS.—

(1) FREQUENCY.—The Advisory Board shall meet at least biannually.

(2) PUBLIC MEETING.—A meeting of the Advisory Board shall be open to the general public.

(3) NOTICE OF MEETINGS.—The chairperson, through the placement of notices in local news media and by other appropriate means shall give 2 weeks' public notice of each meeting of the Advisory Board.

(h) NO TERMINATION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

16 USC 460III–  
23.

**SEC. 523. FEES.**

(a) AUTHORITY.—The Secretary may charge reasonable fees for admission to and the use of the designated sites, or for activities, within the Recreation Area.

(b) FACTORS.—In determining whether to charge fees, the Secretary may consider the costs of collection weighed against potential income.

(c) LIMITATION.—No general entrance fees shall be charged within the Recreation Area.

16 USC 460III–  
24.

**SEC. 524. DISPOSITION OF RECEIPTS.**

(a) IN GENERAL.—All amounts received from charges, use fees, and natural resource utilization, including timber and agricultural receipts, shall be deposited in a special fund in the Treasury of the United States to be known as the “Land Between the Lakes Management Fund”.

(b) USE.—Amounts in the Fund shall be available to the Secretary until expended, without further Act of appropriation, for the management of the Recreation Area, including payment of salaries and expenses.

16 USC 460III–  
25.

**SEC. 525. SPECIAL USE AUTHORIZATIONS.**

(a) IN GENERAL.—In addition to other authorities for the authorization of special uses within the National Forest System, within the Recreation Area, the Secretary may, on such terms and conditions as the Secretary may prescribe—

(1) convey for no consideration perpetual easements to governmental units for public roads over United States Route 68 and the Trace, and such other rights-of-way as the Secretary and a governmental unit may agree;

(2) transfer or lease to governmental units developed recreation sites or other facilities to be managed for public purposes; and

(3) lease or authorize recreational sites or other facilities, consistent with sections 503(2) and 511(b)(2).

(b) CONSIDERATION.—

(1) IN GENERAL.—Consideration for a lease or other special use authorization within the Recreation Area shall be based on fair market value.

(2) REDUCTION OR WAIVER.—The Secretary may reduce or waive a fee to a governmental unit or nonprofit organization

commensurate with other consideration provided to the United States, as determined by the Secretary.

(c) **PROCEDURE.**—The Secretary may use any fair and equitable method for authorizing special uses within the Recreation Area, including public solicitation of proposals.

(d) **EXISTING AUTHORIZATIONS.**—

(1) **IN GENERAL.**—A permit or other authorization granted by the Tennessee Valley Authority that is in effect on the date of transfer pursuant to section 541 may continue on transfer of administration of the Recreation Area to the Secretary.

(2) **REISSUANCE.**—A permit or authorization described in paragraph (1) may be reissued or terminated under terms and conditions prescribed by the Secretary.

(3) **EXERCISE OF RIGHTS.**—The Secretary may exercise any of the rights of the Tennessee Valley Authority contained in any permit or other authorization, including any right to amend, modify, and revoke the permit or authorization.

**SEC. 526. COOPERATIVE AUTHORITIES AND GIFTS.**

16 USC 460lll–  
26.

(a) **FISH AND WILDLIFE SERVICE.**—

(1) **MANAGEMENT.**—

(A) **IN GENERAL.**—Subject to such terms and conditions as the Secretary may prescribe, the Secretary may issue a special use authorization to the United States Fish and Wildlife Service for the management by the Service of facilities and land agreed on by the Secretary and the Secretary of the Interior.

(B) **FEES.**—

(i) **IN GENERAL.**—Reasonable admission and use fees may be charged for all areas administered by the United States Fish and Wildlife Service.

(ii) **DEPOSIT.**—The fees shall be deposited in accordance with section 524.

(2) **COOPERATION.**—The Secretary and the Secretary of the Interior may cooperate or act jointly on activities such as population monitoring and inventory of fish and wildlife with emphasis on migratory birds and endangered and threatened species, environmental education, visitor services, conservation demonstration projects and scientific research.

(3) **SUBORDINATION OF FISH AND WILDLIFE ACTIVITIES TO OVERALL MANAGEMENT.**—The management and use of areas and facilities under permit to the United States Fish and Wildlife Service as authorized pursuant to this section shall be subordinate to the overall management of the Recreation Area as directed by the Secretary.

(b) **AUTHORITIES.**—For the management, maintenance, operation, and interpretation of the Recreation Area and its facilities, the Secretary may—

(1) make grants and enter into contracts and cooperative agreements with Federal agencies, governmental units, non-profit organizations, corporations, and individuals; and

(2) accept gifts under Public Law 95-442 (7 U.S.C. 2269) notwithstanding that the donor conducts business with any agency of the Department of Agriculture or is regulated by the Secretary of Agriculture.

16 USC 460///–  
27.

**SEC. 527. DESIGNATION OF NATIONAL RECREATION TRAIL.**

Effective on the date of transfer pursuant to section 541, the North-South Trail is designated as a national recreation trail under section 4 of the National Trails System Act (16 U.S.C. 1243).

16 USC 460///–  
28.

**SEC. 528. CEMETERIES.**

The Secretary shall maintain an inventory of and ensure access to cemeteries within the Recreation Area for purposes of burial, visitation, and maintenance.

16 USC 460///–  
29.

**SEC. 529. RESOURCE MANAGEMENT.**

(a) MINERALS.—

(1) WITHDRAWAL.—The land within the Recreation Area is withdrawn from the operation of the mining and mineral leasing laws of the United States.

(2) USE OF MINERAL MATERIALS.—The Secretary may permit the use of common varieties of mineral materials for the development and maintenance of the Recreation Area.

(b) HUNTING AND FISHING.—

(1) IN GENERAL.—The Secretary shall permit hunting and fishing on land and water under the jurisdiction of the Secretary within the boundaries of the Recreation Area in accordance with applicable laws of the United States and of each State, respectively.

(2) PROHIBITION.—

(A) IN GENERAL.—The Secretary may designate areas where, and establish periods when, hunting or fishing is prohibited for reasons of public safety, administration, or public use and enjoyment.

(B) CONSULTATION.—Except in emergencies, a prohibition under subparagraph (A) shall become effective only after consultation with the appropriate fish and game departments of the States.

(3) FISH AND WILDLIFE.—Nothing in this title affects the jurisdiction or responsibilities of the States with respect to wildlife and fish on national forests.

16 USC 460///–  
30.

**SEC. 530. HEMATITE DAM.**

Within one year from the date of transfer pursuant to section 541, the Tennessee Valley Authority shall cause any breach in the Hematite Dam to be repaired, or if such repairs have previously been made, the Tennessee Valley Authority shall certify in a letter to the Secretary the sound condition of the dam. Future repair costs and maintenance of the Hematite Dam shall be the responsibility of the Secretary.

16 USC 460///–  
31.

**SEC. 531. TRUST FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a special interest-bearing fund known as the “Land Between the Lakes Trust Fund”.

(b) AVAILABILITY.—Amounts in the Fund shall be available to the Secretary, until expended, for—

(1) public education, grants, and internships related to recreation, conservation, and multiple use land management in the Recreation Area; and

(2) regional promotion in the Recreation Area, in cooperation with development districts, chambers of commerce, and State and local governments.

(c) **DEPOSITS.**—The Tennessee Valley Authority shall deposit into the Fund \$1,000,000 annually for each of the 5 fiscal years commencing in the first fiscal year of the transfer. Funding to carry out this section shall be derived from funding described in section 549.

### Subtitle C—Transfer Provisions

#### SEC. 541. EFFECTIVE DATE OF TRANSFER.

16 USC 460lll–  
41.

Effective on October 1 of the first fiscal year for which Congress does not appropriate to the Tennessee Valley Authority at least \$6,000,000 for the Recreation Area, or, if this Act is enacted during a fiscal year for which Congress has not made such an appropriation, effective as of the date of enactment of this Act, administrative jurisdiction over the Recreation Area is transferred from the Tennessee Valley Authority to the Secretary.

#### SEC. 542. STATEMENT OF POLICY.

16 USC 460lll–  
42.

It is the policy of the United States that, to the maximum extent practicable—

- (1) the transfer of jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary should be effected in an efficient and cost-effective manner; and
- (2) due consideration should be given to minimizing—
  - (A) disruption of the personal lives of the Tennessee Valley Authority and Forest Service employees; and
  - (B) adverse impacts on permittees, contractees, and others owning or operating businesses affected by the transfer.

#### SEC. 543. MEMORANDUM OF AGREEMENT.

16 USC 460lll–  
43.

(a) **IN GENERAL.**—Not later than 30 days after the date of transfer pursuant to section 541, the Secretary and the Tennessee Valley Authority shall enter into a memorandum of agreement concerning implementation of this title.

(b) **PROVISIONS.**—The memorandum of understanding shall provide procedures for—

- (1) the orderly withdrawal of officers and employees of the Tennessee Valley Authority;
- (2) the transfer of property, fixtures, and facilities;
- (3) the interagency transfer of officers and employees;
- (4) the transfer of records; and
- (5) other transfer issues.

(c) **TRANSITION TEAM.**—

(1) **IN GENERAL.**—The memorandum of understanding may provide for a transition team consisting of the Tennessee Valley Authority and Forest Service employees.

(2) **DURATION.**—The team may continue in existence after the date of transfer.

(3) **PERSONNEL COSTS.**—The Tennessee Valley Authority and the Forest Service shall pay personnel costs of their respective team members.

#### SEC. 544. RECORDS.

16 USC 460lll–  
44.

(a) **RECREATION AREA RECORDS.**—The Secretary shall have access to all records of the Tennessee Valley Authority pertaining to the management of the Recreation Area.

(b) **PERSONNEL RECORDS.**—The Tennessee Valley Authority personnel records shall be made available to the Secretary, on request, to the extent the records are relevant to Forest Service administration.

(c) **CONFIDENTIALITY.**—The Tennessee Valley Authority may prescribe terms and conditions on the availability of records to protect the confidentiality of private or proprietary information.

(d) **LAND TITLE RECORDS.**—The Tennessee Valley Authority shall provide to the Secretary original records pertaining to land titles, surveys, and other records pertaining to transferred personal property and facilities.

16 USC 460lll–  
45.

**SEC. 545. TRANSFER OF PERSONAL PROPERTY.**

(a) **SUBJECT PROPERTY.**—

(1) **INVENTORY.**—Not later than 60 days after the date of transfer pursuant to section 541, the Tennessee Valley Authority shall provide the Secretary with an inventory of all property and facilities at the Recreation Area.

(2) **AVAILABILITY FOR TRANSFER.**—

(A) **IN GENERAL.**—All Tennessee Valley Authority property associated with the administration of the Recreation Area, including any property purchased with Federal funds appropriated for the management of the Tennessee Valley Authority land, shall be available for transfer to the Secretary.

(B) **PROPERTY INCLUDED.**—Property under subparagraph (A) includes buildings, office furniture and supplies, computers, office equipment, buildings, vehicles, tools, equipment, maintenance supplies, boats, engines, and publications.

(3) **EXCLUSION OF PROPERTY.**—At the request of the authorized representative of the Tennessee Valley Authority, the Secretary may exclude movable property from transfer based on a showing by the Tennessee Valley Authority that the property is vital to the mission of the Tennessee Valley Authority and cannot be replaced in a cost-effective manner, if the Secretary determines that the property is not needed for management of the Recreation Area.

(b) **DESIGNATION.**—Pursuant to such procedures as may be prescribed in the memorandum of agreement entered into under section 543, the Secretary shall identify and designate, in writing, all Tennessee Valley Authority property to be transferred to the Secretary.

(c) **FACILITATION OF TRANSFER.**—The Tennessee Valley Authority shall, to the maximum extent practicable, use current personnel to facilitate the transfer of necessary property and facilities to the Secretary, including replacement of signs and insignia, repainting of vehicles, printing of public information, and training of new personnel. Funding for these costs shall be derived from funding described in section 549.

(d) **SURPLUS PROPERTY.**—

(1) **DISPOSITION.**—Any personal property, including structures and facilities, that the Secretary determines cannot be efficiently managed and maintained either by the Forest Service or by lease or permit to other persons may be declared excess by the Secretary and—



(A) sold by the Secretary on such terms and conditions as the Secretary may prescribe to achieve the maximum benefit to the Federal Government; or

(B) disposed of under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(2) DEPOSIT OF PROCEEDS.—All net proceeds from the disposal of any property shall be deposited into the Fund established by section 531.

**SEC. 546. COMPLIANCE WITH ENVIRONMENTAL LAWS.**

16 USC 460lll-46.

(a) DOCUMENTATION OF EXISTING CONDITIONS.—

(1) IN GENERAL.—Not later than 60 days after the date of transfer pursuant to section 541, the Chairman and the Administrator shall provide the Secretary all documentation and information that exists on the environmental condition of the land and waters comprising the Recreation Area property.

(2) ADDITIONAL DOCUMENTATION.—The Chairman and the Administrator shall provide the Secretary with any additional documentation and information regarding the environmental condition of the Recreation Area property as such documentation and information becomes available.

(b) ACTION REQUIRED.—

(1) ASSESSMENT.—Not later than 120 days after the date of transfer pursuant to section 541, the Chairman shall provide to the Secretary an assessment indicating what action, if any, is required under any environmental law on Recreation Area property.

(2) MEMORANDUM OF UNDERSTANDING.—If the assessment concludes action is required under any environmental law with respect to any portion of the Recreation Area property, the Secretary and the Chairman shall enter into a memorandum of understanding that—

(A) provides for the performance by the Chairman of the required actions identified in the assessment; and

(B) includes a schedule providing for the prompt completion of the required actions to the satisfaction of the Secretary.

(c) DOCUMENTATION DEMONSTRATING ACTION.—On the transfer of jurisdiction over the Recreation Area from the Tennessee Valley Authority to the Secretary, the Chairman shall provide the Secretary with documentation demonstrating that all actions required under any environmental law have been taken, including all response actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) that are necessary to protect human health and the environment with respect to any hazardous substance, pollutant, contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product on Recreation Area property.

(d) CONTINUATION OF RESPONSIBILITIES AND LIABILITIES.—

(1) IN GENERAL.—The transfer of the Recreation Area property under this title, and the requirements of this section, shall not in any way affect the responsibilities and liabilities of the Tennessee Valley Authority at the Recreation Area under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or any other environmental law.

(2) ACCESS.—After transfer of the Recreation Area property, the Chairman shall be accorded any access to the property that may be reasonably required to carry out the responsibility or satisfy the liability referred to in paragraph (1).

(3) NO LIABILITY.—The Secretary shall not be liable under any environmental law for matters that are related directly or indirectly to present or past activities of the Tennessee Valley Authority on the Recreation Area property, including liability for—

(A) costs or performance of response actions required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) at or related to the Recreation Area; or

(B) costs, penalties, fines, or performance of actions related to noncompliance with any environmental law at or related to the Recreation Area or related to the presence, release, or threat of release of any hazardous substance, pollutant, or contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product of any kind at or related to the Recreation Area, including contamination resulting from migration.

(4) NO EFFECT ON RESPONSIBILITIES OR LIABILITIES.—Except as provided in paragraph (3), nothing in this title affects, modifies, amends, repeals, alters, limits or otherwise changes, directly or indirectly, the responsibilities or liabilities under any environmental law with respect to the Secretary.

(e) OTHER FEDERAL AGENCIES.—Subject to the other provisions of this section, a Federal agency that carried or carries out operations at the Recreation Area resulting in the release or threatened release of a hazardous substance, pollutant, or contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product for which that agency would be liable under any environmental law shall pay the costs of related response actions and shall pay the costs of related actions to remediate petroleum products or their derivatives.

16 USC 460lll–47.

**SEC. 547. PERSONNEL.**

(a) IN GENERAL.—

(1) HIRING.—Notwithstanding section 3503 of title 5, United States Code, and subject to paragraph (2), the Secretary may—

(A) appoint, hire, and discharge officers and employees to administer the Recreation Area; and

(B) pay the officers and employees at levels that are commensurate with levels at other units of the National Forest System.

(2) INTERIM RETENTION OF ELIGIBLE EMPLOYEES.—

(A) IN GENERAL.—For a period of not less than 5 months after the effective date of transfer to the Forest Service—

(i) all eligible employees shall be retained in the employment of the Tennessee Valley Authority;

(ii) those eligible employees shall be considered to be placed on detail to the Secretary and shall be subject to the direction of the Secretary; and

(iii) the Secretary shall reimburse the Tennessee Valley Authority for the amount of the basic pay and all other compensation of those eligible employees.

(B) NOTICE TO EMPLOYEES.—The Secretary shall provide eligible employees a written notice of not less than 60 days before termination.

(C) TERMINATION FOR CAUSE.—Subparagraph (A) does not preclude a termination for cause during the period described in subparagraph (A).

(b) APPLICATIONS FOR TRANSFER AND APPOINTMENT.—An eligible employee shall have the right to apply for employment by the Secretary under procedures for transfer and appointment of Federal employees outside the Department of Agriculture.

(c) HIRING BY THE SECRETARY.—

(1) IN GENERAL.—Subject to subsection (b), in filling personnel positions within the Recreation Area, the Secretary shall follow all laws (including regulations) and policies applicable to the Department of Agriculture.

(2) NOTIFICATION AND HIRING.—Notwithstanding paragraph (1), the Secretary—

(A) shall notify all eligible employees of all openings for positions with the Forest Service at the Recreation Area before notifying other individuals or considering applications by other individuals for the positions; and

(B) after applications by eligible employees have received consideration, if any positions remain unfilled, shall notify other individuals of the openings.

(3) NONCOMPETITIVE APPOINTMENTS.—Notwithstanding any other placement of career transition programs authorized by the Office of Personnel Management of the United States Department of Agriculture, the Secretary may noncompetitively appoint eligible employees to positions in the Recreation Area.

(4) PERIOD OF SERVICE.—Except to the extent that an eligible employee that is appointed by the Secretary may be otherwise compensated for the period of service as an employee of the Tennessee Valley Authority, that period of service shall be treated as a period of service as an employee of the Secretary for the purposes of probation, career tenure, time-in-grade, and leave.

(d) TRANSFER TO POSITIONS IN OTHER UNITS OF THE TENNESSEE VALLEY AUTHORITY.—The Tennessee Valley Authority—

(1) shall notify all eligible employees of all openings for positions in other units of the Tennessee Valley Authority before notifying other individuals or considering applications by other individuals for the positions; and

(2) after applications by eligible employees have received consideration, if any positions remain unfilled, shall notify other individuals of the openings.

(e) EMPLOYEE BENEFIT TRANSITION.—

(1) MEMORANDUM OF UNDERSTANDING.—

(A) IN GENERAL.—The Secretary and the heads of the Office of Personnel Management, the Tennessee Valley Authority and the Tennessee Valley Authority Retirement System shall enter into a memorandum of understanding providing for the transition for all eligible employees of compensation made available through the Tennessee Valley Authority Retirement System.

(B) EMPLOYEE PARTICIPATION.—In deciding on the terms of the memorandum of understanding, the Secretary and the heads of the Office of Personnel Management, the Tennessee Valley Authority and the Tennessee Valley Authority Retirement System shall meet and consult with and give full consideration to the views of employees and representatives of the employees of the Tennessee Valley Authority.

(2) ELIGIBLE EMPLOYEES THAT ARE TRANSFERRED TO OTHER UNITS OF TVA.—An eligible employee that is transferred to another unit of the Tennessee Valley Authority shall experience no interruption in coverage for or reduction of any retirement, health, leave, or other employee benefit.

(3) ELIGIBLE EMPLOYEES THAT ARE HIRED BY THE SECRETARY.—

(A) LEVEL OF BENEFITS.—The Secretary shall provide to an eligible employee that is hired by the Forest Service a level of retirement and health benefits that is equivalent to the level to which the eligible employee would have been entitled if the eligible employee had remained an employee of the Tennessee Valley Authority.

(B) TRANSFER OF RETIREMENT BENEFITS.—

(i) IN GENERAL.—Eligible employees hired by the Forest Service shall become members of the Civil Service Retirement System (CSRS) Offset Plan and shall have the option to transfer into the Federal Employees Retirement System (FERS) within six months of their date of transfer. Such employees shall have the option at any time to receive credit in CSRS Offset or FERS for all of their TVA service in accordance with applicable procedures. Any deposits necessary to receive credit for such service shall be considered transfers to a qualified plan for purposes of favorable tax treatment of such amount under the Internal Revenue Code.

(ii) FUNDING SHORTFALL.—

(I) IN GENERAL.—For all eligible employees that are not part of the Civil Service Retirement System, the Tennessee Valley Authority shall meet any funding shortfall resulting from the transfer of retirement benefits.

(II) NOTIFICATION.—The Secretary shall notify the Tennessee Valley Authority Board of the cost associated with the transfer of retirement benefits.

(III) PAYMENT.—The Tennessee Valley Authority shall fully compensate the Secretary for the costs associated with the transfer of retirement benefits.

(IV) NO INTERRUPTION.—An eligible employee that is hired by the Forest Service and is eligible for Civil Service Retirement shall not experience any interruption in retirement benefits.

(C) NO INTERRUPTION.—An eligible employee that is hired by the Secretary—

(i) shall experience no interruption in coverage for any health, leave, or other employee benefit; and

(ii) shall be entitled to carry over any leave time accumulated during employment by the Tennessee Valley Authority.

(D) PERIOD OF SERVICE.—Notwithstanding section 8411(b)(3) of title 5, United States Code, except to the extent that an eligible employee may be otherwise compensated (including the provision of retirement benefits in accordance with the memorandum of understanding) for the period of service as an employee of the Tennessee Valley Authority, that period of service shall be treated as a period of service as an employee of the U.S. Department of Agriculture for all purposes relating to the Federal employment of the eligible employee.

(4) ELIGIBLE EMPLOYEES THAT ARE DISCHARGED NOT FOR CAUSE.—

(A) LEVEL OF BENEFITS.—The parties to the memorandum of understanding shall have authority to deem any applicable requirement to be met, to make payments to an employee, or take any other action necessary to provide to an eligible employee that is discharged as being excess to the needs of the Tennessee Valley Authority or the Secretary and not for cause and that does not accept an offer of employment from the Secretary, an optimum level of retirement and health benefits that is equivalent to the level that has been afforded employees discharged in previous reductions in force by the Tennessee Valley Authority.

(B) MINIMUM BENEFITS.—An eligible employee that is discharged as being excess to the needs of the Tennessee Valley Authority or the Secretary and not for cause shall, at a minimum be entitled to—

(i) at the option of the eligible employee—

(I) a lump-sum equal to \$1,000, multiplied by the number of years of service of the eligible employee (but not less than \$15,000 nor more than \$25,000);

(II) a lump-sum payment equal to the amount of pay earned by the eligible employee for the last 26 weeks of the eligible employee's service; or

(III) the deemed addition of 5 years to the age and the years of service of an eligible employee;

(ii) 15 months of health benefits for employees and dependents at the same level provided as of the date of transfer pursuant to section 541;

(iii) 1 week of pay per year of service as provided by the Tennessee Valley Authority Retirement System;

(iv) a lump-sum payment of all accumulated annual leave;

(v) unemployment compensation in accordance with State law;

(vi) eligible pension benefits as provided by the Tennessee Valley Authority Retirement System; and

(vii) retraining assistance provided by the Tennessee Valley Authority.

(C) SHORTFALL.—If the board of directors of the Tennessee Valley Authority Retirement System determines

that the cost of providing the benefits described in subparagraphs (A) and (B) would have a negative impact on the overall retirement system, the Tennessee Valley Authority shall be required to meet any funding shortfalls.

16 USC 460111–  
48.

**SEC. 548. TENNESSEE VALLEY AUTHORITY TRANSFER COSTS.**

Any costs incurred by Tennessee Valley Authority associated with the transfer under this subtitle shall be derived from funding described in section 549.

16 USC 460111–  
49.

**SEC. 549. TENNESSEE VALLEY AUTHORITY TRANSFER FUNDING.**

(a) IN GENERAL.—The funding described in this section is funding derived from only 1 or more of the following sources:

- (1) Nonpower fund balances and collections.
- (2) Investment returns of the nonpower program.
- (3) Applied programmatic savings in the power and nonpower programs.
- (4) Savings from the suspension of bonuses and awards.
- (5) Savings from reductions in memberships and contributions.
- (6) Increases in collections resulting from nonpower activities, including user fees.
- (7) Increases in charges to private and public utilities both investor and cooperatively owned, as well as to direct load customers.

(b) AVAILABILITY.—Funds from the sources described in subsection (a) shall be available notwithstanding section 11, 14, 15, or 29 or any other provision of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) or any provisions of the covenants contained in any power bonds issued by the Tennessee Valley Authority.

(c) SUFFICIENCY OF SAVINGS.—The savings from and the revenue adjustment to the budget of the Tennessee Valley Authority for the first fiscal year of the transfer and each fiscal year thereafter shall be sufficient so that the net spending authority and resulting outlays to carry out activities with funding described in subsection (a) shall not exceed \$0 for the first fiscal year of the transfer and each fiscal year thereafter.

(d) ITEMIZED LIST OF REDUCTIONS AND INCREASED RECEIPTS.—

(1) PROPOSED CHANGES.—Not later than 30 days after the date of transfer pursuant to section 541, the Chairman of the Tennessee Valley Authority shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate an itemized list of the amounts of reductions in spending and increases in receipts that are proposed to be made as a result of activities under this subsection during the first fiscal year of the transfer.

(2) ACTUAL CHANGES.—Not later than 24 months after the effective date of the transfer, the Chairman of the Tennessee Valley Authority shall submit to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate an itemized list of the amounts of reductions in spending and increases in receipts as a result of activities under this subsection during the first fiscal year of the transfer.

**Subtitle D—Funding****SEC. 551. AUTHORIZATION OF APPROPRIATIONS.**

16 USC 460lll-61.

(a) AGRICULTURE.—There are authorized to be appropriated to the Secretary of Agriculture such sums as are necessary to—

(1) permit the Secretary to exercise administrative jurisdiction over the Recreation Area under this title; and

(2) administer the Recreation Area area as a unit of the National Forest System.

(b) INTERIOR.—There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to carry out activities within the Recreation Area.

**TITLE VI****INTERSTATE 90 LAND EXCHANGE ACT**

Interstate 90 Land Exchange Act of 1998. 16 USC 539k note.

**SEC. 601. SHORT TITLE.**

This Act may be cited as the “Interstate 90 Land Exchange Act of 1998”.

**SEC. 602. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) certain parcels of private land located in central and southwest Washington are intermingled with National Forest System land owned by the United States and administered by the Secretary of Agriculture as parts of the Mt. Baker-Snoqualmie National Forest, Wenatchee National Forest, and Gifford Pinchot National Forest;

(2) the private land surface estate and some subsurface is owned by the Plum Creek Timber Company, L.P. in an intermingled checkerboard pattern, with the United States or Plum Creek owning alternate square mile sections of land or fractions of square mile sections;

(3) the checkerboard land ownership pattern in the area has frustrated sound and efficient land management on both private and National Forest lands by complicating fish and wildlife habitat management, watershed protection, recreation use, road construction and timber harvest, boundary administration, and protection and management of threatened and endangered species and old growth forest habitat;

(4) acquisition by the United States of certain parcels of land that have been offered by Plum Creek for addition to the Mt. Baker-Snoqualmie National Forest and Wenatchee National Forest will serve important public objectives, including—

(A) enhancement of public access, aesthetics and recreation opportunities within or near areas of very heavy public recreational use including—

(i) the Alpine Lakes Wilderness Area;

(ii) the Pacific Crest Trail;

(iii) Snoqualmie Pass;

(iv) Cle Elum Lake, Kachess Lake and Keechulus Lake; and

(v) other popular recreation areas along the Interstate 90 corridor east of the Seattle-Tacoma Metropolitan Area;

(B) protection and enhancement of old growth forests and habitat for threatened, endangered and sensitive species, including a net gain of approximately 28,500 acres of habitat for the northern spotted owl;

(C) consolidation of National Forest holdings for more efficient administration and to meet a broad array of ecosystem protection and other public land management goals, including net public gains of approximately 283 miles of stream ownership, 14 miles of the route of the Pacific Crest Trail, 20,000 acres of unroaded land, and 7,360 acres of riparian land; and

(D) a significant reduction in administrative costs to the United States through—

(i) consolidation of Federal land holdings for more efficient land management and planning;

(ii) elimination of approximately 300 miles of boundary identification and posting;

(iii) reduced right-of-way, special use, and other permit processing and issuance for roads and other facilities on National Forest System land; and

(iv) other administrative cost savings;

(5) Plum Creek has selected certain parcels of National Forest System land that are logical for consolidation into Plum Creek ownership utilizing a land exchange because the parcels—

(A) are intermingled with parcels owned by Plum Creek; and

(B)(i) are generally located in less environmentally sensitive areas than the Plum Creek offered land; and

(ii) have lower public recreation and other public values than the Plum Creek offered land;

(6) time is of the essence in consummating a land exchange because delays may force Plum Creek to road or log the offered land and thereby diminish the public values for which the offered land is to be acquired; and

(7) it is in the public interest to complete the land exchange at the earliest practicable date so that the offered land can be acquired and preserved by the United States for permanent public management, use, and enjoyment.

(b) PURPOSE.—It is the purpose of this Act to further the public interest by authorizing, directing, facilitating, and expediting the consummation of the Interstate 90 land exchange so as to ensure that the offered land is expeditiously acquired for permanent public use and enjoyment.

#### SEC. 603. DEFINITIONS.

In this Act:

(1) OFFERED LAND.—The term “offered land” means all right, title and interest, including the surface and subsurface interests, in land described in section 604(a) to be conveyed into the public ownership of the United States under this Act.

(2) PLUM CREEK.—The term “Plum Creek” means Plum Creek Timber Company, L.P., a Delaware Limited Partnership, or its successors, heirs, or assigns.

(3) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.



(4) **SELECTED LAND.**—The term “selected land” means all right, title and interest, including the surface and subsurface interests, unless Plum Creek agrees otherwise, in land described in section 604(b) to be conveyed into the private ownership of Plum Creek under this Act.

**SEC. 604. LAND EXCHANGE.**

(a) **CONDITION AND CONVEYANCE OF OFFERED LAND.**—The exchange directed by this Act shall be consummated if Plum Creek conveys title acceptable to the Secretary in and to the lands described in subsection (d), the offered lands described in paragraphs (1) and (2), or, if necessary, the lands and interests in land as provided in subsection (c).

(1) Certain land comprising approximately 8,808 acres and located within the exterior boundaries of the Mt. Baker-Snoqualmie National Forest, Washington, as generally depicted on a map entitled “Interstate 90 Land Exchange”, dated October 1998; and

(2) Certain land comprising approximately 53,576 acres and located within or adjacent to the exterior boundaries of the Wenatchee National Forest, Washington, as generally depicted on a map entitled “Interstate 90 Land Exchange”, dated October 1998.

(b) **CONVEYANCE OF SELECTED LAND BY THE UNITED STATES.**—Upon receipt of acceptable title to the offered land, and lands and interests described in subsection (d), the Secretary shall simultaneously convey to Plum Creek all right, title and interest of the United States, subject to valid existing rights, in and to the following selected land:

(1) Certain land administered, as of the date of enactment of this Act, by the Secretary of Agriculture as part of the Mt. Baker-Snoqualmie National Forest, Washington, and comprising approximately 5,697 acres, as generally depicted on a map entitled “Interstate 90 Land Exchange”, dated October 1998.

(2) Certain land administered, as of the date of enactment of this Act, by the Secretary of Agriculture as part of the Wenatchee National Forest, Washington, and comprising approximately 5,197 acres, as generally depicted on a map entitled “Interstate 90 Land Exchange”, dated October 1998.

(3) Certain land administered, as of the date of enactment of this Act, by the Secretary of Agriculture as part of the Gifford Pinchot National Forest, Washington, and comprising approximately 5,601 acres, as generally depicted on a map entitled “Interstate 90 Land Exchange”, dated October 1998.

(c) **OFFERED LAND TITLE.**—If Plum Creek conveys title acceptable to the Secretary to less than all rights and interests in the offered lands, but conveys title acceptable to the Secretary to all rights and interests that Plum Creek owns and acquires under previous agreements in the lands described in subsection (d), the offered lands, and lands on the east and west sides of Cle Elum Lake, comprising approximately 252 acres, described as Township 21 North, Range 14 East, Section 5, and Lost Lake lands comprising approximately 272 acres, described as Township 21 North, Range 11 East, W½ of Section 3, the Secretary shall convey to Plum Creek all rights and interest in the selected land after the values of the offered and selected land are equalized. The values of the

16 USC 1132  
note.

offered and selected lands shall be equalized as provided in section 605(c)–(e) without regard to the value of lands described in subsection (d) or the Cle Elum or Lost Lake lands.

(d) LAND DONATION.—Plum Creek agrees that it will convey, in the form of a voluntary donation, title acceptable to the Secretary in and to lands and interests in lands comprising approximately 320 acres, described as Township 22 North, Range 11 East, S½ of Section 13, if Plum Creek conveys title to lands and interests pursuant to subsections (a) or (c). It is the intention of Congress that any portion of such donated land which the Secretary determines qualifies as wilderness be, upon the date of its acquisition by the United States, incorporated in and managed as part of the adjacent Alpine Lakes Wilderness (as designated by Public Law 94–357) in accordance with section 6(a) of the Wilderness Act (16 U.S.C. 1135).

#### SEC. 605. EXCHANGE VALUATION, APPRAISALS AND EQUALIZATION.

##### (a) EQUAL VALUE EXCHANGE.—

(1) IN GENERAL.—The values of the offered and selected land—

(A) shall be equal; or

(B) if the values are not equal, shall be equalized as set forth in subsections (c)–(e).

(2) APPRAISAL ASSUMPTION.—In order to ensure the equitable and uniform appraisal of both the offered and selected land directed for exchange by this Act, all appraisals shall determine the highest and best use of the offered and selected land in accordance with applicable provisions of the Washington State Forest Practices Act and rules and regulations thereunder, including alternative measures for protecting critical habitat pursuant to a habitat conservation plan as provided in Washington Administrative Code 222–16–080–(6).

(3) APPRAISALS.—The values of the offered land and selected land shall be determined by appraisals utilizing nationally recognized appraisal standards, including applicable provisions of the Uniform Appraisal Standards for Federal Land Acquisitions (1992), the Uniform Standards of Professional Appraisal Practice, and section 206(d) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716(d)).

(4) APPROVAL BY THE SECRETARY.—The appraisals, if not already completed by the date of enactment of this Act, shall be completed and submitted to the Secretary for approval not later than 180 days after the date of enactment of this Act: *Provided*, That all timber harvest cease no later than November 30, 1998, except for any cleanup, reforestation, or other post-harvest work which cannot be completed by November 30, 1998. A comprehensive summary of the appraisal consistent with 7 CFR Part 1.11 shall be made available for public inspection in the Office of the Supervisor, Wenatchee National Forest, not less than 30 days nor more than 45 days prior to the exchange of deeds.

(b) APPRAISAL PERIOD.—After the final appraised values of the offered and selected lands, or any portion of the land, have been approved by the Secretary or otherwise determined under section 206(d) of the Federal Land Policy and Management Act (43 U.S.C. 1716(d)), the value shall not be reappraised or updated before

consummation of the land exchange, except to account for any timber harvest that might occur after completion of the final appraisal, or for any adjustments under section 606(g).

(c) EQUALIZATION IF SURPLUS OF OFFERED LAND.—

(1) IN GENERAL.—If the final appraised value of the offered land or lands and interest in lands conveyed by Plum Creek under section 604(c), except for the Cle Elum and Lost Lake lands, exceeds the final appraised value of the selected land, Plum Creek shall delete offered land parcels from the exchange in the exact order each land Section (or offered portion thereof) is listed in paragraph (2) until the values are approximately equal.

(2) ORDER OF DELETION.—Offered land deletions under paragraph (1) shall be made in the following order:

- (A) Township 22 North, Range 13 East, Section 31, Willamette Meridian;
- (B) Township 21 North, Range 11 East, Section 35;
- (C) Township 19 North, Range 11 East, Section 35;
- (D) Township 19 North, Range 12 East, Section 1;
- (E) Township 20 North, Range 11 East, Sections 1 and 13;
- (F) Township 19 North, Range 12 East, Section 15;
- (G) Township 20 North, Range 11 East, Section 11;
- (H) Township 21 North, Range 11 East, Section 27;
- (I) Township 19 North, Range 13 East, Sections 27 and 15;
- (J) Township 21 North, Range 11 East, Sections 21 and 25;
- (K) Township 19 North, Range 11 East, Section 23;
- (L) Township 19 North, Range 13 East, Sections 21, 9 and 35;
- (M) Township 20 North, Range 12 East, Sections 35 and 27;
- (N) Township 19 North, Range 12 East, Section 11;
- (O) Township 21 North, Range 11 East, Section 17;
- (P) Township 21 North, Range 11 East, Section 5;
- (Q) Township 18 North, Range 15 East, Section 3;
- (R) Township 19 North, Range 14 East, Section 25;
- (S) Township 19 North, Range 15 East, Sections 29 and 31; and
- (T) Township 19 North, Range 13 East, Section 7.

(d) EQUALIZATION IF SURPLUS OF SELECTED LAND.—

(1) IN GENERAL.—If the final appraised value of the selected land exceeds the final appraised value of the offered land or lands and interest in lands conveyed by Plum Creek under section 604(c), except for the Cle Elum and Lost Lake lands, the Secretary shall delete selected land parcels from the exchange in the exact order each land Section (or selected portion thereof) is listed in paragraph (2) until the values are approximately equal.

(2) ORDER OF DELETION.—Selected land deletions under paragraph 1 shall be made in the following listed order:

- (A) the portion of Township 20 North, Range 11 East, Section 30 lying east of the thread of Sawmill Creek;
- (B) the portion of Township 19 North, Range 11 East, Section 6 lying east of the thread of Sawmill Creek;
- (C) Township 20 North, Range 11 East, Section 32;

(D) Township 21 North, Range 14 East, Sections 28, 22, 36, 26 and 16;

(E) Township 18 North, Range 15 East, Sections 13, 12 and 2;

(F) Township 18 North, Range 15 East, Section 1; and

(G) Township 18 North, Range 15 East, Section 17, Willamette Meridian.

(e) Once the values of the offered and selected lands are equalized to the maximum extent practicable under subsections (c) or (d), any cash equalization balance due the Secretary or Plum Creek shall be made through cash equalization payments under subsection 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(f) **USE OF PROCEEDS BY THE SECRETARY.**—The amount of any cash equalization payment received by the Secretary under this section shall be retained by the Secretary and shall be used by the Secretary until fully expended to purchase land from willing sellers in the State of Washington for addition to the National Forest System.

**SEC. 606. MISCELLANEOUS PROVISIONS.**

(a) **STATUS OF LANDS AFTER EXCHANGE.**—

(1) **LAND ACQUIRED BY THE SECRETARY.**—

(A) **IN GENERAL.**—Land acquired by the Secretary under this Act shall become part of the Mt. Baker-Snoqualmie, Gifford Pinchot or Wenatchee National Forests, as appropriate.

(B) **MODIFICATION OF BOUNDARIES.**—

(1) If any land acquired by the Secretary lies outside the exterior boundaries of the national forests identified in subparagraph (A), the boundaries of the appropriate national forest are hereby modified to include such land.

(2) Nothing in this section shall limit the authority of the Secretary to adjust the boundaries of such National Forests pursuant to section 11 of the Act of March 1, 1911 (commonly known as the “Weeks Act”).

(3) For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9) the boundaries of Mt. Baker-Snoqualmie, Wenatchee and Gifford Pinchot as modified by this Act shall be considered to be the boundaries of such forests as of January 1, 1965.

(C) **MANAGEMENT.**—Land acquired by the Secretary under this Act shall have the status of lands acquired under the Act of March 1, 1911 and shall be managed in accordance with the laws, rules, regulations and guidelines applicable to the National Forest System.

(2) **LAND ACQUIRED BY PLUM CREEK.**—Land acquired by Plum Creek under this Act shall become private land for all purposes of law, unless the deed by which conveyance is made to Plum Creek contains a specific reservation.

(b) **POST-EXCHANGE ACCESS TO LAND.**—

(1) **FINDING.**—Congress finds that Plum Creek and the Secretary should have adequate and timely post-exchange

access to lands acquired pursuant to this Act over existing primary, secondary, or other national forest system roads as may be needed.

(2) INTENTION.—It is the intention of Congress that Plum Creek have access to all lands it acquires under this Act, and when such access requires construction of new roads, it shall be granted in compliance with the National Environmental Policy Act, the Endangered Species Act, the National Historic Preservation Act, and other applicable laws, rules, and regulations.

(3) ACCESS WITHIN COST SHARE AGREEMENT AREAS.—Within Cost Share Construction and Use Agreement Areas, Plum Creek and the Secretary will convey road access, at no cost, to the lands acquired by each party upon consummation of the exchange pursuant to this Act in accordance with the appropriate terms and procedures of said cost share construction and use agreements.

(4) ACCESS OUTSIDE COST SHARE AGREEMENT AREAS.—Outside of Cost Share Construction and Use Agreement Areas, the Secretary shall grant Plum Creek road access easements at no cost in a form set out in Forest Service Handbook 2709.12, 35. In the case of new road construction, they shall conform to the Secretary's rules and regulations 36 CFR 251, subpart B, for the roads identified on the map entitled "Plum Creek Access Road Needs", dated September 1998, including mitigation under existing law.

(c) ACCESS TO CERTAIN LANDS ACQUIRED BY THE UNITED STATES.—Outside of Cost Share Construction and Use Agreement Areas, Plum Creek shall grant the Secretary road access easements at no cost on the locations identified by the Secretary in a format acceptable to the Secretary.

(d) TIMING.—It is the intent of Congress that the land exchange authorized and directed by this Act be consummated no later than 270 days after the date of enactment of this Act, unless the Secretary and Plum Creek mutually agree to extend the consummation date.

(e) WITHDRAWAL OF SELECTED LAND.—Effective upon the date of enactment of this Act, all selected land identified for exchange to Plum Creek under section 604(b) is hereby withdrawn from all forms of entry and appropriation under the U.S. mining and mineral leasing laws, including the Geothermal Steam Act of 1970, until such time as the exchange is consummated, or until a particular parcel or parcels are deleted from the exchange under section 605(d).

(f) WITHDRAWAL OF CLE ELUM RIVER LANDS.—Lands acquired by the Secretary under this Act that are located in Township 23 North, Range 14 East, and Township 22 North, Range 14 East, Willamette Meridian, shall upon the date of their acquisition be permanently withdrawn from all forms of entry and appropriation under the U.S. mining and mineral leasing laws, including the Geothermal Steam Act of 1970.

(g) PARCELS SUBJECT TO HISTORIC OR CULTURAL RESOURCE RESTRICTIONS.—

(1) REPORT TO PLUM CREEK.—No later than 180 days after enactment of this Act, the Secretary shall complete determinations and consultation under the National Historic Preservation Act and submit a report to Plum Creek and other consulting

parties under the National Historic Preservation Act listing by exact aliquot part description any parcel or parcels of selected land on which cultural properties have been identified and for which protection, use restrictions or mitigation requirements will be imposed. Such report shall include an exact description of each restriction or mitigation action required.

(2) PLUM CREEK RESPONSE.—Within 30 days of receipt of the Secretary's report under paragraph (1), Plum Creek shall notify the Secretary as to: (i) those parcels it will accept subject to the identified use restrictions or mitigation requirements; and (ii) those parcels it will not accept because the restrictions or mitigation requirements are deemed by Plum Creek to be an unacceptable encumbrance on the land.

(3) PARCEL DELETION.—The Secretary shall delete from the selected land those parcels identified by Plum Creek as unacceptable for conveyance under paragraph (2).

(4) APPRAISAL ADJUSTMENT.—The fair market value of any parcels deleted under paragraph (3), or any modification in fair market value caused by the use restrictions or mitigation requirements on land accepted by Plum Creek, shall be based on their contributory value to the final approved appraised value of the selected land and subtracted from such value prior to consummation of the exchange.

(h) ACCESS LIMITATION.—The Secretary shall not grant any road easements that would access the offered lands listed in section 604(a) prior to consummation of the exchange: *Provided*, That this provision shall not apply should either party withdraw from the exchange.

#### **SEC. 607. LAND PURCHASE.**

(a) FINDING.—The Congress finds that certain lands owned by Plum Creek in the vicinity of the offered lands (but which are not included in the land exchange under this Act, or are deleted under section 605(c)) are highly desirable for addition to the National Forest System, and that Plum Creek has indicated its willingness to sell certain such lands to the United States. It is the intention of Congress that such lands be acquired by the United States, subject to the availability of funds, by purchase at fair market value consistent with the land acquisition procedures of the Secretary, and with the consent of Plum Creek, in order to preserve their outstanding scenic and natural values for the benefit of future generations.

(b) PURCHASE CONSULTATION.—In furtherance of subsection (a), the Secretary is authorized and directed to consult with Plum Creek to determine the precise lands Plum Creek is willing to sell.

(c) OTHER AGREEMENTS.—Nothing in this Act shall be construed to prohibit the Secretary from entering into additional agreements or contracts with Plum Creek to purchase, exchange or otherwise acquire lands from Plum Creek in Washington or any other state under the laws, rules and regulations generally applicable to Federal land acquisitions.

#### **SEC. 608. TIETON RIVER STUDY.**

The Secretary is authorized and directed to consult with Plum Creek concerning opportunities for the United States to acquire by exchange or purchase Plum Creek lands along the Tieton River in Township 14 North, Range 15 East, Willamette Meridian.

**SEC. 609. FUTURE LAND EXCHANGE OPPORTUNITY.**

(a) **FINDING.**—The Congress finds that certain lands which were identified for exchange to the United States in the I-90 Land Exchange process have been, or may be, deleted from the final exchange under this Act due to value equalization or other reasons. However, some or all of such deleted lands, or other Plum Creek lands, may possess attributes that merit their conveyance to the United States in a follow-up land exchange, including lands in or around the Carbon River, the Yakima River, the Pacific Crest Trail, Watch Mountain and Goat Mountain on the Gifford Pinchot National Forest, the Green River and the Manastash late successional reserve.

(b) **FUTURE EXCHANGE.**—In furtherance of subsection (a), the Secretary is authorized and directed to consult with Plum Creek in examining opportunities for the United States to acquire such deleted lands, or other Plum Creek lands in the State of Washington, in a future exchange.

(c) **REPORT TO CONGRESS.**—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives briefly outlining future land exchange opportunities with Plum Creek, including those for which the Secretary is required to consult under section 608, which the Secretary determines merit detailed analysis and consideration. The Secretary should identify the most urgent acquisitions for purchase or exchange in the report.

**SEC. 610. WILDERNESS STUDY AREA.**

In furtherance of the purposes of the Wilderness Act, if the land exchange directed by this Act is consummated, the area of land comprising approximately 15,000 acres, as generally depicted on a map entitled “Alpine Lakes Wilderness Study Area”, dated October 1998, shall be reviewed by the Secretary of Agriculture as to its suitability for preservation as wilderness. The Secretary shall submit a report and findings to the President, and the President shall submit his recommendations to the United States House of Representatives and United States Senate no later than three years after the date of enactment of this Act. Subject to valid existing rights and existing uses, such lands shall, until Congress determines otherwise or until December 31, 2003, be administered by the Secretary to maintain their wilderness character existing as of the date of enactment of this Act and potential for inclusion in the National Wilderness Preservation System, and shall be withdrawn from all forms of entry and appropriation under the U.S. mining and mineral leasing laws, including the Geothermal Steam Act of 1970.

**SEC. 611. KELLY BUTTE SPECIAL MANAGEMENT AREA.**

16 USC 539k.

(a) **ESTABLISHMENT.**—Upon conveyance to the United States of the Plum Creek offered lands in the Kelly Butte area, there is hereby established the Kelly Butte Special Management Area in the Mt. Baker-Snoqualmie National Forest, Washington, comprising approximately 5,642 acres, as generally depicted on a map entitled “Kelly Butte Special Management Area”, dated October 1998.

(b) **MANAGEMENT.**—The Kelly Butte Special Management Area shall be managed by the Secretary in accordance with the laws, rules and regulations generally applicable to National Forest System lands, and subject to the following additional provisions:

(1) the Area shall be managed with special emphasis on:

(A) preserving its natural character and protecting and enhancing water quality in the upper Green River watershed;

(B) permitting hunting and fishing;

(C) providing opportunities for primitive and semi-primitive recreation and scientific research and study;

(D) protecting and enhancing populations of fish, wildlife and native plant species; and

(E) allowing for traditional uses by native American peoples;

(2) commercial timber harvest and road construction shall be prohibited;

(3) the Area shall be closed to the use of motor vehicles, except as may be necessary for administrative purposes or in emergencies (including rescue operations) to protect public health and safety; and

(4) the Area shall, subject to valid existing rights, be permanently withdrawn from all forms of entry and appropriation under the U.S. mining laws and mineral leasing laws, including the Geothermal Steam Act of 1970.

(c) **NO BUFFER ZONES.**—Congress does not intend that the designation of the Kelly Butte Special Management Area lead to the creation of protective perimeters or buffer zones around the Area. The fact that non-compatible activities or uses can be seen or heard from within the Kelly Butte Special Management Area shall not, of itself, preclude such activities or uses up to the boundary of the Area.

**SEC. 612. EFFECT ON COUNTY REVENUES.**

The Secretary shall consult with the appropriate Committees of Congress, and local elected officials in the counties in the State of Washington in which the offered lands are located, regarding options to minimize the adverse effect on county revenues of the transfer of the offered lands from private to Federal ownership.

**TITLE VII**

**INDIAN TRIBAL TORT CLAIMS AND RISK MANAGEMENT**

**SEC. 701. SHORT TITLE.**

This title may be cited as the “Indian Tribal Tort Claims and Risk Management Act of 1998”.

**SEC. 702. FINDINGS AND PURPOSE.**

(a) **FINDINGS.**—Congress finds that—

(1) Indian tribes have made significant achievements toward developing a foundation for economic self-sufficiency and self-determination, and that economic self-sufficiency and self-determination have increased opportunities for the Indian tribes and other entities and persons to interact more frequently in commerce and intergovernmental relationships;

(2) although Indian tribes have sought and secured liability insurance coverage to meet their needs, many Indian tribes are faced with significant barriers to obtaining liability insurance because of the high cost or unavailability of such coverage in the private market;

Indian Tribal  
Tort Claims and  
Risk  
Management Act  
of 1998.  
25 USC 450f  
note.



(3) as a result, Congress has extended liability coverage provided to Indian tribes to organizations to carry out activities under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); and

(4) there is an emergent need for comprehensive and cost-efficient insurance that allows the economy of Indian tribes to continue to grow and provides compensation to persons that may suffer personal injury or loss of property.

(b) PURPOSE.—The purpose of this title is to provide for a study to facilitate relief for a person who is injured as a result of an official action of a tribal government.

#### **SEC. 703. DEFINITIONS.**

In this title:

(1) INDIAN TRIBE.—The term “Indian tribe” has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(3) TRIBAL ORGANIZATION.—The term “tribal organization” has the meaning given that term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

#### **SEC. 704. STUDY AND REPORT TO CONGRESS.**

(a) IN GENERAL.—

(1) STUDY.—In order to minimize and, if possible, eliminate redundant or duplicative liability insurance coverage and to ensure that the provision of insurance to Indian tribes is cost-effective, the Secretary shall conduct a comprehensive survey of the degree, type, and adequacy of liability insurance coverage of Indian tribes at the time of the study.

(2) CONTENTS OF STUDY.—The study conducted under this subsection shall include—

(A) an analysis of loss data;

(B) risk assessments;

(C) projected exposure to liability, and related matters;

and

(D) the category of risk and coverage involved, which may include—

(i) general liability;

(ii) automobile liability;

(iii) the liability of officials of the Indian tribe;

(iv) law enforcement liability;

(v) workers’ compensation; and

(vi) other types of liability contingencies.

(3) ASSESSMENT OF COVERAGE BY CATEGORIES OF RISK.—For each Indian tribe, for each category of risk identified under paragraph (2), the Secretary, in conducting the study, shall determine whether insurance coverage or coverage under chapter 171 of title 28, United States Code, applies to that Indian tribe for that activity.

(b) REPORT.—Not later than June 1, 1999, and annually thereafter, the Secretary shall submit a report to Congress that contains legislative recommendations that the Secretary determines to—

(1) be appropriate to improve the provision of insurance coverage to Indian tribes; or

(2) otherwise achieve the purpose of providing relief to persons who are injured as a result of an official action of a tribal government.

#### SEC. 705. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out this title.

This Act may be cited as the “Department of the Interior and Related Agencies Appropriations Act, 1999”.

(f) For programs, projects or activities in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

Departments of  
Labor, Health  
and Human  
Services, and  
Education, and  
Related Agencies  
Appropriations  
Act, 1999.  
Department of  
Labor  
Appropriations  
Act, 1999.

AN ACT Making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 1999, and for other purposes.

### TITLE I—DEPARTMENT OF LABOR

#### EMPLOYMENT AND TRAINING ADMINISTRATION

##### TRAINING AND EMPLOYMENT SERVICES

##### (INCLUDING RESCISSION)

For necessary expenses of the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act; the Stewart B. McKinney Homeless Assistance Act; the Women in Apprenticeship and Nontraditional Occupations Act; the National Skill Standards Act of 1994; section 166(j) of the Workforce Investment Act of 1998; and the School-to-Work Opportunities Act; \$5,272,324,000 plus reimbursements, of which \$3,740,287,000 is available for obligation for the period July 1, 1999 through June 30, 2000; of which \$1,250,965,000 is available for obligation for the period April 1, 1999 through June 30, 2000, including \$250,000,000 for activities authorized by section 127(b)(1) of the Workforce Investment Act; of which \$152,072,000 is available for the period July 1, 1999 through June 30, 2002, including \$1,500,000 under authority of part B of title III of the Job Training Partnership Act for use by The Organizing Committee for The 2001 Special Olympics World Winter Games in Alaska to promote employment opportunities for individuals with mental disabilities, and \$150,572,000 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers; and of which \$125,000,000 shall be available from July 1, 1999 through September 30, 2000, for carrying out activities of the School-to-Work Opportunities Act: *Provided*, That funds made available under this heading to carry out the Job Training Partnership Act may be used for transition to, and implementation of, the provisions of the Workforce Investment Act of 1998: *Provided further*, That \$57,815,000 shall be for carrying out section 401 of the Job Training Partnership Act, \$71,517,000 shall be for carrying out section 402 of such Act, \$7,300,000 shall be for carrying out section 441 of such Act, \$9,000,000 shall be

for all activities conducted by and through the National Occupational Information Coordinating Committee under such Act, \$955,000,000 shall be for carrying out title II, part A of such Act, and \$129,965,000 shall be for carrying out title II, part C of such Act: *Provided further*, That funding appropriated herein under authority of part B of title III of the Job Training Partnership Act includes \$5,000,000 for use by The Organizing Committee for The 1999 Special Olympics World Summer Games to promote employment opportunities for individuals with mental disabilities: *Provided further*, That the National Occupational Information Coordinating Committee is authorized, effective upon enactment, to charge fees for publications, training and technical assistance developed by the National Occupational Information Coordinating Committee: *Provided further*, That revenues received from publications and delivery of technical assistance and training, notwithstanding 31 U.S.C. 3302, shall be credited to the National Occupational Information Coordinating Committee program account and shall be available to the National Occupational Information Coordinating Committee without further appropriations, so long as such revenues are used for authorized activities of the National Occupational Information Coordinating Committee: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That funds provided for title III of the Job Training Partnership Act shall not be subject to the limitation contained in subsection (b) of section 315 of such Act; that the waiver described in section 315(a)(2) may be granted if a substate grantee demonstrates to the Governor that such waiver is appropriate due to the availability of low-cost retraining services, is necessary to facilitate the provision of needs-related payments to accompany long-term training, or is necessary to facilitate the provision of appropriate basic readjustment services; and that funds provided for discretionary grants under part B of such title III may be used to provide needs-related payments to participants who, in lieu of meeting the enrollment requirements under section 314(e) of such Act, are enrolled in training by the end of the sixth week after grant funds have been awarded: *Provided further*, That funds provided to carry out section 324 of such Act may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: *Provided further*, That service-delivery areas may transfer funding provided herein under authority of title II, parts B and C of the Job Training Partnership Act between the programs authorized by those titles of the Act, if the transfer is approved by the Governor: *Provided further*, That service delivery areas and substate areas may transfer up to 20 percent of the funding provided herein under authority of title II, part A and title III of the Job Training Partnership Act between the programs authorized by those titles of the Act, if such transfer is approved by the Governor: *Provided further*, That, notwithstanding any other provision of law, any proceeds from the sale of Job Corps center facilities shall be retained by the Secretary of Labor to carry out the Job Corps program: *Provided further*, That notwithstanding any other provision of law, the Secretary of Labor may waive any of the statutory or regulatory requirements of titles I-III of the Job Training Partnership Act (except for requirements relating to wage and labor standards, worker rights, participation and protection, grievance procedures and judicial review, nondiscrimination, allocation of

funds to local areas, eligibility, review and approval of plans, the establishment and functions of service delivery areas and private industry councils, and the basic purposes of the Act), and any of the statutory or regulatory requirements of sections 8-10 of the Wagner-Peyser Act (except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to job seekers), only for funds available for expenditure in program year 1999, pursuant to a request submitted by a State which identifies the statutory or regulatory requirements that are requested to be waived and the goals which the State or local service delivery areas intend to achieve, describes the actions that the State or local service delivery areas have undertaken to remove State or local statutory or regulatory barriers, describes the goals of the waiver and the expected programmatic outcomes if the request is granted, describes the individuals impacted by the waiver, and describes the process used to monitor the progress in implementing a waiver, and for which notice and an opportunity to comment on such request has been provided to the organizations identified in section 105(a)(1) of the Job Training Partnership Act, if and only to the extent that the Secretary determines that such requirements impede the ability of the State to implement a plan to improve the workforce development system and the State has executed a Memorandum of Understanding with the Secretary requiring such State to meet agreed upon outcomes and implement other appropriate measures to ensure accountability.

Of the funds made available beginning on October 1, 1998 under this heading in Public Law 105-78 for Opportunity Areas of Out-of-School Youth, \$250,000,000 are rescinded.

#### COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, \$343,356,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, \$96,844,000.

#### FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I; and for training, allowances for job search and relocation, and related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, \$360,700,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

#### STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, \$162,097,000, together with not to exceed \$3,132,076,000 (including not to exceed

\$1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund including the cost of administering section 1201 of the Small Business Job Protection Act of 1996, section 7(d) of the Wagner-Peyser Act, as amended, section 461 of the Job Training Partnership Act, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1999, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2001; and of which \$162,097,000, together with not to exceed \$746,138,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 1999 through June 30, 2000, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose, and of which \$180,933,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1999 is projected by the Department of Labor to exceed 2,629,000, an additional \$28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further*, That funds appropriated in this Act which are used to establish a national one-stop career center network may be obligated in contracts, grants or agreements with non-State entities: *Provided further*, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A-87.

#### ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 2000, \$357,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September

15, 1999, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, \$94,410,000, including \$6,360,000 to support up to 75 full-time equivalent staff, the majority of which will be term Federal appointments lasting no more than two years, to administer welfare-to-work grants, together with not to exceed \$43,716,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Pension and Welfare Benefits Administration, \$90,000,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1999, for such Corporation: *Provided*, That not to exceed \$10,958,000 shall be available for administrative expenses of the Corporation: *Provided further*, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$312,076,000, together with \$1,924,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That \$1,000,000 shall be for the development of an alternative system for the electronic submission of reports as required to be filed under the Labor-Management Reporting and Disclosure Act of 1959, as amended, and for a computer database of the information for each submission by whatever means, that is indexed and easily searchable by the public via the Internet: *Provided further*, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the

Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91-0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

#### SPECIAL BENEFITS

##### (INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head “Civilian War Benefits” in the Federal Security Agency Appropriation Act, 1947; the Employees’ Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers’ Compensation Act, as amended, \$179,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 1998, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 1999: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration, \$20,250,000 shall be made available to the Secretary as follows: for the operation of and enhancement to the automated data processing systems in support of Federal Employees’ Compensation Act administration, \$11,969,000; for expenditures relating to the expansion of the periodic roll management project, \$6,652,000; for the financial management improvement project, \$1,629,000; and the remaining funds shall be paid into the Treasury as miscellaneous receipts: *Provided further*, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information

(including Social Security account number) as such regulations may prescribe.

#### BLACK LUNG DISABILITY TRUST FUND

##### (INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, \$1,021,000,000, of which \$969,725,000 shall be available until September 30, 2000, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which \$30,191,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, \$20,422,000 for transfer to Departmental Management, Salaries and Expenses, \$306,000 for transfer to Departmental Management, Office of Inspector General, and \$356,000 for payment into miscellaneous receipts for the expenses of the Department of Treasury, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That, in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year.

#### OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$353,000,000, including not to exceed \$80,084,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to \$750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided*, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 1999, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the

29 USC 670 note.



Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act: *Provided further*, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

#### MINE SAFETY AND HEALTH ADMINISTRATION

##### SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, \$211,165,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; and, in addition, not to exceed \$750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement

30 USC 962 note.

of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine: *Provided further*, That the Mine Safety and Health Administration may obligate or expend funds to promulgate final training regulations that are designed for the above named industries by no later than September 30, 1999.

## BUREAU OF LABOR STATISTICS

## SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$344,724,000, of which \$11,159,000 shall be for expenses of revising the Consumer Price Index and shall remain available until September 30, 2000, together with not to exceed \$54,146,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

## DEPARTMENTAL MANAGEMENT

## SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including up to \$6,750,000 for the President's Committee on Employment of People With Disabilities, and including \$500,000 to fund the activities of the Twenty-First Century Workforce Commission authorized by section 334 of the Workforce Investment Act of 1998, \$190,832,000; together with not to exceed \$299,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in *Director, Office of Workers' Compensation Programs v. Newport News Shipbuilding*, 115 S. Ct. 1278 (1995), notwithstanding any provisions to the contrary contained in Rule 15 of the Federal Rules of Appellate Procedure: *Provided further*, That no funds made available by this Act may be used by the Secretary of Labor to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: *Provided further*, That any such decision pending a review by the Benefits Review Board for more than one year shall be considered affirmed by the Benefits Review Board on the one-year anniversary of the filing of the appeal, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: *Provided further*, That these provisions shall not be applicable to the review or appeal of any decision issued under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

33 USC 921 note.

## ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed \$182,719,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100-4110A, 4212, 4214 and 4321-4327, and Public Law 103-353, and which shall be available for obligation by the States through December 31, 1999.

## OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$43,852,000, together with not to exceed \$3,648,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

## GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level III.

SEC. 102. REVERSION OF UNALLOTTED FORMULA FUNDS UNDER WELFARE-TO-WORK. Section 403(a)(5)(A) of the Social Security Act is amended by adding the following clause:

42 USC 603.

“(ix) REVERSION OF UNALLOTTED FORMULA FUNDS.—If at the end of any fiscal year any funds available under this subparagraph have not been allotted due to a determination by the Secretary that any State has not met the requirements of clause (ii), such funds shall be transferred to the General Fund of the Treasury of the United States.”.

## (TRANSFER OF FUNDS)

SEC. 103. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 104. Funds shall be available for carrying out title IV-B of the Job Training Partnership Act, notwithstanding section 427(c) of that Act, if a Job Corps center fails to meet national performance standards established by the Secretary.

This title may be cited as the “Department of Labor Appropriations Act, 1999”.

Department of  
Health and  
Human Services  
Appropriations  
Act, 1999.

## TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

### HEALTH RESOURCES AND SERVICES ADMINISTRATION

#### HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and section 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, and the Native Hawaiian Health Care Act of 1988, as amended, \$4,108,040,000, of which \$150,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act, and of which \$65,345,000 shall be available for the construction and renovation of health care and other facilities, and of which \$25,000,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act: *Provided*, That the Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative and occupational health professionals: *Provided further*, That of the funds made available under this heading, \$250,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further*, That no more than \$5,000,000 is available for carrying out the provisions of Public Law 104–73: *Provided further*, That of the funds made available under this heading, \$215,000,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: *Provided further*, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: *Provided further*, That \$461,000,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: *Provided further*, That notwithstanding any other provision of law, funds made available under this heading may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408: *Provided further*, That, notwithstanding section 502(a)(1) of the Social Security Act, not to exceed \$107,434,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act: *Provided further*, That of the amount provided, \$2,000,000 shall be for support of the Center for Sustainable Health Outreach at the University of Southern Mississippi in affiliation with Harrison Institute at Georgetown University for the establishment of demonstration programs that create model health access programs, health-related jobs and

sustainability of community-based providers of health services in rural and urban communities; and \$1,250,000 shall be for the American Federation for Negro Affairs Education and Research Fund.

#### MEDICAL FACILITIES GUARANTEE AND LOAN FUND

##### FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, \$1,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

#### HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

Such sums as may be necessary to carry out the purpose of the program, as authorized by Title VII of the Public Health Service Act, as amended. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, \$3,688,000.

#### VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed \$3,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

#### VACCINE INJURY COMPENSATION

For payment of claims resolved by the United States Court of Federal Claims related to the administration of vaccines before October 1, 1988, \$100,000,000, to remain available until expended.

#### CENTERS FOR DISEASE CONTROL AND PREVENTION

##### DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, sections 20, 21 and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, \$2,558,520,000, of which \$17,800,000 shall remain available until expended for equipment and construction and renovation of facilities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That in addition to amounts provided herein, up to \$67,793,000 shall

42 USC 238k  
note.

be available from amounts available under section 241 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further*, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used to advocate or promote gun control: *Provided further*, That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: *Provided further*, That the Congress is to be notified promptly of any such transfer: *Provided further*, That notwithstanding any other provision of law, a single contract or related contracts for the development and construction of the infectious disease laboratory through the General Services Administration may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause “availability of funds” found at 48 CFR 52.232–18: *Provided further*, That hereinafter obligations may be incurred related to agreement with private entities without receipt of advance payment.

In addition, \$51,000,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out sections 40151 and 40261 of Public Law 103–322.

#### NATIONAL INSTITUTES OF HEALTH

##### NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, \$2,927,187,000.

##### NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, \$1,793,697,000.

##### NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, \$234,338,000.

##### NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, \$994,218,000.

##### NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, \$903,278,000.

##### NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$1,570,102,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, \$1,197,825,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, \$750,982,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, \$395,857,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, \$375,743,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, \$596,521,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, \$308,164,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, \$229,887,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, \$69,834,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, \$259,747,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, \$603,274,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, \$861,208,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, \$264,892,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, \$554,819,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: *Provided further*, That \$30,000,000 shall be for extramural facilities construction grants.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, \$35,426,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, \$181,309,000, of which \$4,000,000 shall be available until expended for improvement of information systems: *Provided*, That in fiscal year 1999, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, \$306,559,000, of which \$43,493,000 shall be for the Office of AIDS Research: *Provided*, That funding shall be available for the purchase of not to exceed twenty-nine passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this or any other Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further*, That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: *Provided further*, That NIH is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: *Provided further*, That all funds credited to the NIH Management Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: *Provided further*, That up to \$500,000 shall be available to carry out section 499 of the Public Health Service Act: *Provided further*, That, notwithstanding section 499(k)(10) of the Public Health Service Act, funds from the National Foundation for Biomedical Research may be transferred to the National Institutes of Health: *Provided further*, That \$50,000,000 shall be available to carry out section 404E of the Public Health Service Act.



## BUILDINGS AND FACILITIES

For the study of, construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, \$237,519,000, to remain available until expended, of which \$90,000,000 of the fiscal year 1999 funds shall be for the clinical research center and \$40,000,000 shall become available on October 1, 1999 and \$9,143,000 shall be for the Vaccine Facility: *Provided*, That notwithstanding any other provision of law, a single contract or related contracts for the development and construction of the clinical research center may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause “availability of funds” found at 48 CFR 52.232-18.

## SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

## SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, \$2,488,005,000: *Provided*, That of the amount provided, \$300,000 shall be for the Philadelphia City-wide Improvement and Planning Agency.

## RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

## AGENCY FOR HEALTH CARE POLICY AND RESEARCH

## HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, \$100,408,000; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed \$70,647,000.

## HEALTH CARE FINANCING ADMINISTRATION

## GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, \$74,593,733,000, to remain available until expended.

For making, after May 31, 1999, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1999 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 2000, \$28,733,605,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

## PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, \$62,953,000,000.

## PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed \$1,946,500,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, and together with administrative fees collected relative to Medicare overpayment recovery activities, which shall remain available until expended: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: *Provided further*, That \$1,000,000 shall be for carrying out section 4021 of Public Law 105–33: *Provided further*, That \$45,000,000 appropriated under this heading for the transition to a single Part A and Part B processing system and for Year 2000 century date change conversion requirements of external contractor systems shall remain available until expended: *Provided further*, That \$2,000,000 of the amount available for research, demonstration, and evaluation activities shall be available to continue carrying out demonstration projects on Medicaid coverage of community-based attendant care services for people with disabilities which ensures maximum control by the consumer to select and manage their attendant care services:

*Provided further*, That funds appropriated under this heading may be obligated to increase Medicare provider audits and implement the Department's corrective action plan to the Chief Financial Officer's audit of the Health Care Financing Administration's oversight of Medicare: *Provided further*, That the Secretary of Health and Human Services is directed to collect, in aggregate, \$95,000,000 in fees in fiscal year 1999 from Medicare+Choice organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE  
FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1999, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), to remain available until expended, \$1,989,000,000; and for such purposes for the first quarter of fiscal year 2000, \$750,000,000.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV-A of the Social Security Act before the effective date of the program of Temporary Assistance to Needy Families (TANF) with respect to such State, such sums as may be necessary: *Provided*, That the sum of the amounts available to a State with respect to expenditures under such title IV-A in fiscal year 1997 under this appropriation and under such title IV-A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$1,100,000,000, to be available for obligation in the period October 1, 1999 through September 30, 2000.

For making payments under title XXVI of such Act, \$300,000,000: *Provided*, That these funds are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(A) of the Balanced Budget and Deficit Emergency Control Act of 1985: *Provided further*, That these funds shall be made

available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act.

#### REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), \$415,000,000: *Provided*, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 104–208 for fiscal year 1997 shall be available for the costs of assistance provided and other activities conducted in such year and in fiscal years 1998 and 1999.

#### CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), to become available on October 1, 1999 and remain available through September 30, 2000, \$1,182,672,000: *Provided*, That \$19,120,000 shall be available for child care resource and referral and school-aged child care activities: *Provided further*, That of the funds provided for fiscal year 1999 under Public Law 105–78, \$50,000,000 shall be reserved by the States for activities authorized under section 658G of the Omnibus Budget Reconciliation Act of 1981 (the Child Care and Development Block Grant Act of 1990), such funds to be in addition to the amounts required to be reserved by States under such section 658G: *Provided further*, That of the funds provided for fiscal year 2000 \$222,672,000 shall be reserved by the States for activities authorized under section 658G of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), such funds to be in addition to the amounts required to be reserved by the States under such section 658G: *Provided further*, That of the funds provided for fiscal year 2000, \$10,000,000 shall be for use by the Secretary for child care research, demonstration and evaluation activities (directly or by grants or contracts).

#### SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, \$1,909,000,000: *Provided*, That (1) notwithstanding section 2003(c) of such Act, as amended, the amount specified for allocation under such section for fiscal year 1999 shall be \$1,909,000,000 and (2) notwithstanding subparagraph (B) of section 404(d)(2) of such Act, the applicable percent specified under such subparagraph for a State to carry out State programs pursuant to title XX of such Act for fiscal years 1999 and 2000 shall be 10 percent.

#### CHILDREN AND FAMILIES SERVICES PROGRAMS

##### (INCLUDING RESCISSIONS)

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance

and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act (including section 105(a)(2) of the Child Abuse Prevention and Treatment Act), the Native American Programs Act of 1974, title II of Public Law 95-266 (adoption opportunities), the Adoption and Safe Families Act of 1997 (Public Law 105-89), the Abandoned Infants Assistance Act of 1988, part B(1) of title IV and sections 413, 429A, 1110, and 1115 of the Social Security Act; for making payments under the Community Services Block Grant Act; and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, sections 40155, 40211 and 40241 of Public Law 103-322 and section 126 and titles IV and V of Public Law 100-485, \$6,032,087,000, of which \$10,000,000 shall be used to establish Individual Development Accounts, for the purpose of encouraging low-income families and individuals to acquire productive assets, contingent upon enactment of authorizing legislation, and of which \$20,000,000, to remain available until September 30, 2000, shall be for grants to States for adoption incentive payments, as authorized by section 473A of title IV of the Social Security Act (42 U.S.C. 670-679); of which \$563,565,000 shall be for making payments under the Community Services Block Grant Act; and of which \$4,660,000,000 shall be for making payments under the Head Start Act: *Provided*, That, notwithstanding section 640(a)(6), of the funds made available for the Head Start Act, \$337,500,000 shall be set aside for the Head Start Program for Families with Infants and Toddlers (Early Head Start): *Provided further*, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes.

In addition, \$105,000,000, to be derived from the Violent Crime Reduction Trust Fund for carrying out sections 40155, 40211 and 40241 of Public Law 103-322.

Funds appropriated for fiscal year 1999 under section 429A(e), part B of title IV of the Social Security Act shall be reduced by \$6,000,000.

Funds appropriated for fiscal year 1999 under section 413(h)(1) of the Social Security Act shall be reduced by \$15,000,000.

#### FAMILY PRESERVATION AND SUPPORT

For carrying out section 430 of the Social Security Act, \$275,000,000.

#### PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV-E of the Social Security Act, \$3,764,000,000.

For making payments to States or other non-Federal entities under title IV-E of the Social Security Act, for the first quarter of fiscal year 2000, \$1,355,000,000.

## ADMINISTRATION ON AGING

## AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and sections 339A, 398, and 399 of the Public Health Service Act, \$882,020,000: *Provided*, That notwithstanding section 308(b)(1) of the Older Americans Act of 1965, as amended, the amounts available to each State for administration of the State plan under title III of such Act shall be reduced not more than 5 percent below the amount that was available to such State for such purpose for fiscal year 1995: *Provided further*, That in considering grant applications for nutrition services for elder Indian recipients, the Assistant Secretary shall provide maximum flexibility to applicants who seek to take into account subsistence, local customs, and other characteristics that are appropriate to the unique cultural, regional, and geographic needs of the American Indian, Alaska and Hawaiian Native communities to be served.

## OFFICE OF THE SECRETARY

## GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, and XX of the Public Health Service Act, and the United States-Mexico Border Health Commission Act, \$180,051,000, together with \$5,851,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund: *Provided*, That of the funds made available under this heading for carrying out title XVII of the Public Health Service Act, \$1,000,000 shall be available until expended for extramural construction: *Provided further*, That \$890,000 shall be for a contract with the National Academy of Sciences to conduct a study of all the available scientific literature examining the cause-and-effect relationship between repetitive tasks in the workplace and musculoskeletal disorders: *Provided further*, That said contract shall be awarded not later than January 1, 1999.

## OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$29,000,000.

## OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, \$17,345,000, together with not to exceed \$3,314,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

## POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, \$14,000,000.

## PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to support activities related to counter-ing potential biological, disease and chemical threats to civilian populations, \$216,922,000: *Provided*, That the entire amount is hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$216,922,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That of the amount provided under this heading, \$51,000,000, to remain available until expended, shall be for pharmaceutical and vaccine stockpiling activities at the Centers for Disease Control and Prevention; and \$3,000,000 shall be for the renovation and modernization of the Noble Army Hospital facility at Fort McClellan, Alabama; and \$322,000 shall be in payment to the health department of Calhoun County, Michigan: *Provided further*, That no funds shall be obligated until the Department of Health and Human Services submits an operating plan to the House and Senate Committees on Appropriations.

## GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed \$37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103-43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level III.

SEC. 205. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

42 USC 3015  
note.

SEC. 206. None of the funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be obligated or expended for the Federal Council on Aging under the Older Americans Act or the Advisory Board on Child Abuse and Neglect under the Child Abuse Prevention and Treatment Act.

(TRANSFER OF FUNDS)

SEC. 207. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 208. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes, centers, and divisions from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: *Provided*, That the Congress is promptly notified of the transfer.

SEC. 209. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of NIH and the Director of the Office of AIDS Research, shall be made available to the “Office of AIDS Research” account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

5 USC 7905 note.

SEC. 210. Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, for the National Institutes of Health may be used to provide transit subsidies in amounts consistent with the transportation subsidy programs authorized under section 629 of Public Law 101–509 to non-FTE bearing positions including trainees, visiting fellows and volunteers.

SEC. 211. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 212. Subsection (b)(1)(H) of section 401 of the Public Health Service Act (42 U.S.C. 281 (b)(1)(H)) is amended by striking “National Institute of Dental Research” and inserting “National Institute of Dental and Craniofacial Research”.

SEC. 213. (a) The final rule entitled “Organ Procurement and Transplantation Network”, promulgated by the Secretary of Health and Human Services on April 2, 1998 (63 FR 16295 et seq.) (relating to part 121 of title 42, Code of Federal Regulations), shall not become effective before the expiration of the 1-year period beginning on the date of the enactment of this Act.

(b)(1) The Institute of Medicine under contract with and subject to review by the Comptroller General, in consultation with the



Secretary and with the Organ Procurement and Transplantation Network (in this section referred to as the “OPTN”), shall conduct a review of the current policies of the OPTN and the final rule specified in subsection (a) in order to determine the following:

(A) The potential impact on access to transplantation services for low-income populations and for racial and ethnic minority groups. With respect to State policies in carrying out the program under title XIX of the Social Security Act, the determination made under this subparagraph shall include determining the impact of such policies regarding payment for services for patients that are provided to the patients outside of the States in which the patients reside.

(B) With respect to organ procurement organizations (qualified under section 371 of the Public Health Service Act):

(i) The potential impact on the ability of the organizations to facilitate an appropriate rate of organ donation within the service areas of the organizations.

(ii) The reasons underlying the variations in performance among such organizations.

(iii) The potential impact of requiring sharing of organs based on medical criteria instead of geography on the ability of the organizations to facilitate an appropriate rate of organ donation within the service areas of the organizations.

(C) The potential impact on waiting times for organ transplants, including determinations specific to the various geographic regions of the United States, and if practicable, waiting times for each transplant center by organ and medical status category. The determination made under this subparagraph shall include determining the impact of recent changes made by the OPTN in patient listing criteria and in measures of medical status.

(D) The potential impact on patient survival rates and organ failure rates which lead to retransplantation, including any variance by income status, ethnicity, gender, race, or blood type.

(E) The potential impact on the costs of organ transplantation services.

(F) The potential impact on the liability, under State laws and procedures regarding peer review, of members of the OPTN.

(G) The potential impact on the confidential status of information that relates to the transplantation of organs.

(H) Recommendations, if any, to change existing policies and the final rule.

(2)(A) Not later than May 1, 1999, the Comptroller General of the United States shall submit to the congressional committees specified in subparagraph (B) a report describing the results of the review conducted under paragraph (1).

(B) The congressional committees referred to in subparagraph (A) are the Committee on Commerce of the House of Representatives, the Committee on Appropriations of the House, the Committee on Labor and Human Resources of the Senate, and the Committee on Appropriations of the Senate.

(c)(1) Beginning promptly after the date of the enactment of this Act, the Secretary may conduct a series of discussions with the OPTN in order to resolve issues raised by the final rule referred to in subsection (a).

(2) The Secretary and the OPTN may utilize the services of a mediator in conducting the discussions under paragraph (1). An individual may not be selected to serve as the mediator unless the Secretary and the OPTN both approve the selection of the individual to so serve, and the individual agrees that, not later than June 30, 1999, the individual will submit to the congressional committees specified in subsection (b)(2)(B) a report describing the extent of progress that has been made through the discussions under paragraph (1).

(d)(1) Beginning on the date of enactment of this Act, the OPTN shall provide to the Secretary, the Institutes of Medicine, and the Comptroller General, upon request, any data necessary to assess the effectiveness of the Nation's organ donation, procurement and organ allocation systems, or to assess the quality of care provided to all transplant patients, and analysis of such data in a scientifically and clinically valid manner. If necessary, the OPTN may provide additional data as they deem appropriate.

(2) The OPTN shall make available to the public timely and accurate program-specific information on the performance of transplant programs. These data shall be updated as frequently as possible, and the OPTN shall work to shorten the time period for data collection and analysis in producing its center-specific outcomes report, including severity adjusted long term survival rates. Such data shall also include such other cost or performance information including but not limited to transplant program-specific information on waiting time within medical status, organ waitings, and refusal of organ offers.

(e) Data provided under subsection (d) shall be specific (if possible) to individual transplant centers and must be determined in a scientifically and clinically valid manner.

(f) Any disclosure of patient specific medical information under subsection (d) shall be subject to the restrictions contained in the Freedom of Information Act, the Privacy Act, and State laws.

(g) Of the amount appropriated in this title for “OFFICE OF THE SECRETARY-GENERAL DEPARTMENTAL MANAGEMENT”, \$500,000 shall, not later than 30 days after the date of the enactment of this Act, be transferred to the Comptroller General for purposes of carrying out the studies required and specified in this section.

(h) For purposes of this section:

(1) The term “Comptroller General” means the Comptroller General of the United States.

(2) The term “Organ Procurement and Transplantation Network” means the network operated under section 372 of the Public Health Service Act.

(3) The term “Secretary” means the Secretary of Health and Human Services.

SEC. 214. (a) Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended by striking paragraph (8) and inserting the following:

“(8) \$2,299,000,000 for the fiscal year 1998;”.

(b) The amendment made by this section takes effect immediately after the amendments made by section 8401 of the Transportation Equity Act for the 21st Century take effect.

SEC. 215. The Consolidated Laboratory Building (Building 50) at the National Institutes of Health is hereby named the Louis Stokes Laboratories.

Effective date.  
42 USC 1397b  
note.

SEC. 216. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare + Choice program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: *Provided*, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): *Provided further*, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare + Choice organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 217. The Vaccine Research Facility (Building 40) at the National Institutes of Health is hereby named the Dale and Betty Bumpers Vaccine Research Facility.

SEC. 218. (a) MENTAL HEALTH.—Section 1918(b) of the Public Health Service Act (42 U.S.C. 300x-7(b)) is amended to read as follows:

“(b) MINIMUM ALLOTMENTS FOR STATES.—

“(1) IN GENERAL.—With respect to fiscal year 1999, the amount of the allotment of a State under section 1911 shall not be less than the amount the State received under section 1911 for fiscal year 1998.

(b) SUBSTANCE ABUSE.—Section 1933(b) of the Public Health Service Act (42 U.S.C. 300x-33(b)) is amended to read as follows:

“(b) MINIMUM ALLOTMENTS FOR STATES.—

“(1) IN GENERAL.—With respect to fiscal year 1999, the amount of the allotment of a State under section 1921 shall not be less than the amount the State received under section 1921 for fiscal year 1998 increased by 30.65 percent of the percentage by which the amount allotted to the States for fiscal year 1999 exceeds the amount allotted to the States for fiscal year 1998.

“(2) LIMITATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a State shall not receive an allotment under section 1921 for fiscal year 1999 in an amount that is less than an amount equal to 0.375 percent of the amount appropriated under section 1935(a) for such fiscal year.

“(B) EXCEPTION.—In applying subparagraph (A), the Secretary shall ensure that no State receives an increase in its allotment under section 1921 for fiscal year 1999 (as compared to the amount allotted to the State in the fiscal year 1998) that is in excess of an amount equal to 300 percent of the percentage by which the amount appropriated under section 1935(a) for fiscal year 1999 exceeds the amount appropriated for the prior fiscal year.

“(3) Only for the purposes of calculating minimum allotments under this subsection, any reference to the amount appropriated under section 1935(a) for fiscal year 1998, allotments to States under section 21 and any references to amounts received by States in fiscal year 1998 shall include amounts appropriated or received under the amendments made by

42 USC 300x–7  
note.

section 105 of the Contract with America Advancement Act of 1996 (Public Law 104–121).”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall become effective as if enacted on October 1, 1998 and shall only apply during fiscal year 1999.

(2) APPLICATION.—Upon the expiration of the fiscal year described in paragraph (1), the provisions of sections 1918(b) and 1933(b) of the Public Health Service Act (42 U.S.C. 300x–7(b) and 300x–33(b)), as in effect on September 30, 1998, shall be applied as if the amendments made by this section had not been enacted.

SEC. 219. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

This title may be cited as the “Department of Health and Human Services Appropriations Act, 1999”.

Department of  
Education  
Appropriations  
Act, 1999.

### TITLE III—DEPARTMENT OF EDUCATION

#### EDUCATION REFORM

For carrying out activities authorized by titles III and IV of the Goals 2000: Educate America Act, the School-to-Work Opportunities Act, and sections 3122, 3132, 3136, and 3141 and parts B, C, and D of title III of the Elementary and Secondary Education Act of 1965, \$1,314,100,000, of which \$491,000,000 for the Goals 2000: Educate America Act and \$125,000,000 for the School-to-Work Opportunities Act shall become available on July 1, 1999 and remain available through September 30, 2000, and of which \$87,000,000 shall be for section 3122: *Provided*, That none of the funds appropriated under this heading shall be obligated or expended to carry out section 304(a)(2)(A) of the Goals 2000: Educate America Act, except that no more than \$1,500,000 may be used to carry out activities under section 314(a)(2) of that Act: *Provided further*, That section 315(a)(2) of the Goals 2000 Act shall not apply: *Provided further*, That up to one-half of 1 percent of the amount available under section 3132 shall be set aside for the outlying areas, to be distributed on the basis of their relative need as determined by the Secretary in accordance with the purposes of the program: *Provided further*, That if any State educational agency does not apply for a grant under section 3132, that State’s allotment under section 3131 shall be reserved by the Secretary for grants to local educational agencies in that State that apply directly to the Secretary according to the terms and conditions published by the Secretary in the Federal Register: *Provided further*, That \$22,000,000 of the funds made available under section 3136 shall be for a competition consistent with the subjects outlined in the House and Senate reports and the statement of the managers, and that such competition should be administered in a manner consistent with the authorizing legislation and current departmental practices and policies: *Provided further*, That \$9,850,000 of the funds made available for star schools shall be for a competition consistent with the language outlined in the House and Senate reports and the statement of the managers, and that such competition should be administered in a manner

consistent with current departmental practices and policies: *Provided further*, That \$8,000,000 shall be awarded to continue and expand the Iowa Communications Network statewide fiber optic demonstration project, and \$800,000 shall be awarded to the School of Agriculture and Land Resources Management at the University of Alaska, Fairbanks to enhance distance delivery of natural resources management courses; \$350,000 shall be for multi-media classrooms for the rural education technology center at the Western Montana College in Dillon, Montana: *Provided further*, That of the funds made available for section 3136, \$2,500,000 shall be to establish the RUNet 2000 project at Rutgers, The State University of New Jersey; \$500,000 shall be for state-of-the-art information technology systems at Mansfield University, Mansfield, Pennsylvania; \$1,000,000 shall be for professional development for technology training at the Krell Institute, Ames, Iowa; \$850,000 shall be for Internet-based curriculum at the State of Alaska, Department of Education; \$2,000,000 shall be for “Magnet E-School” technology training and curriculum initiative at the Hawaii Department of Education; \$600,000 shall be for technology in the classroom pilot program for the Green Bay Public School System, Green Bay, Wisconsin; \$250,000 shall be for the “Passport to Chicago Community Network” technology training project; \$1,200,000 for LEARN North Carolina and the University of North Carolina at Chapel Hill; and \$1,500,000 for the Iowa Department of Education for community college grants to low-income schools for technology.

#### EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965, and section 418A of the Higher Education Act, \$8,370,520,000, of which \$2,198,134,000 shall become available on July 1, 1999, and shall remain available through September 30, 2000, and of which \$6,148,386,000 shall become available on October 1, 1999 and shall remain available through September 30, 2000, for academic year 1999-2000: *Provided*, That \$6,574,000,000 shall be available for basic grants under section 1124: *Provided further*, That up to \$3,500,000 of these funds shall be available to the Secretary on October 1, 1998, to obtain updated local-educational-agency-level census poverty data from the Bureau of the Census: *Provided further*, That \$1,102,020,000 shall be available for concentration grants under section 1124A, \$7,500,000 shall be available for evaluations under section 1501 and not more than \$8,500,000 shall be reserved for section 1308, of which not more than \$3,000,000 shall be reserved for section 1308(d): *Provided further*, That grant awards under section 1124 and 1124A of title I of the Elementary and Secondary Education Act shall be made to each State or local educational agency at no less than 100 percent of the amount such State or local educational agency received under this authority for fiscal year 1998: *Provided further*, That \$120,000,000 shall be available under section 1002(g)(2) to demonstrate effective approaches to comprehensive school reform to be allocated and expended in accordance with the instructions relating to this activity in the statement of the managers on the conference report accompanying Public Law 105-78 and in the statement of the managers on the conference report accompanying this Act: *Provided further*, That in carrying out this initiative, the Secretary and the States shall support only approaches that show the most promise of enabling children served by title I to

meet challenging State content standards and challenging State student performance standards based on reliable research and effective practices, and include an emphasis on basic academics and parental involvement: *Provided further*, That no funds appropriated under section 1002(g)(2) shall be available for section 1503.

## IMPACT AID

20 USC 7702.

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, \$864,000,000, of which \$704,000,000 shall be for basic support payments under section 8003(b), \$50,000,000 shall be for payments for children with disabilities under section 8003(d), \$70,000,000, to remain available until expended, shall be for payments under section 8003(f), \$7,000,000 shall be for construction under section 8007, and \$28,000,000 shall be for Federal property payments under section 8002 and \$5,000,000 to remain available until expended shall be for facilities maintenance under section 8008: *Provided*, That Section 8002(f) of the Elementary and Secondary Education Act of 1965 is amended—

- (1) by inserting “(1)” after the subsection heading; and
- (2) by adding a new paragraph (2) at the end to read as follows:

“(2) For each fiscal year beginning with fiscal year 1999, the Secretary shall treat the Webster School District, Day County, South Dakota as meeting the eligibility requirements of subsection (a)(1)(C) of this section.”:

*Provided further*, That Section 8002 of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof a new subsection (k) to read as follows:

“(k) SPECIAL RULE.—For purposes of payments under this section for each fiscal year beginning with fiscal year 1998—

“(1) the Secretary shall, for the Stanley County, South Dakota local educational agency, calculate payments as if subsection (e) had been in effect for fiscal year 1994; and

“(2) the Secretary shall treat the Delaware Valley, Pennsylvania local educational agency as if it had filed a timely application under section 2 of Public Law 81–874 for fiscal year 1994.”:

*Provided further*, That (a) from the funds appropriated for payments to local educational agencies under section 8003(f) of the Elementary and Secondary Education Act of 1965 (ESEA) for fiscal year 1999, the Secretary of Education shall distribute supplemental payments for certain local educational agencies, as follows:

(1) First, from the amount of \$68,000,000, the Secretary shall make supplemental payments to the following agencies under section 8003(b) of the ESEA:

(A) Local educational agencies that received assistance under section 8003(f) for fiscal year 1998.

(B) Local educational agencies with Impact Aid applicant numbers 20–0019, 51–0504, 51–2801, 51–1903, 51–0010, 51–4203, 51–2101, 51–0811, and 51–0904.

(C) Any eligible local educational agency with at least 25,000 children in average daily attendance, at least 55 percent federally connected children described in section 8003(a)(1) in average daily attendance, and at least 6,500 children described in sections 8003(a)(1)(A) and (B) in average daily attendance.

(2) From the remaining \$2,000,000 and any amounts available after making payments under paragraph (1), the Secretary shall then make supplemental payments to local educational agencies that are not described in paragraph (1) of this subsection, but that meet the requirements of paragraphs (2) and (4) of section 8003(f) of the ESEA for fiscal year 1999, except that such agencies may count for purposes of eligibility for these supplemental payments, all students described in section 8003(a)(1).

(3) After making payments under section 8003(f) to all eligible applicants for fiscal years before fiscal year 1999, the Secretary shall use the combined amount of any funds remaining available under that subsection, and any amounts that may remain for fiscal year 1999 after making payments under paragraphs (1) and (2) of this subsection, to make the following payments:

(A) First, an amount not to exceed \$3,000,000 to Impact Aid applicant number 20-0019.

(B) Second, from any remaining funds, an amount not to exceed \$3,000,000 to Impact Aid applicant number 53-0061.

(C) Third, from any remaining funds, increased basic support payments under section 8003(b) for all eligible applicants.

(b) In calculating the amounts of supplemental payments for agencies described in subparagraphs (1)(A) and (B) and paragraph (2) of subsection (a), the Secretary shall use the formula contained in section 8003(b)(1)(C) of the ESEA, except that—

(1) eligible local educational agencies may count all children described in section 8003(a)(1) in computing the amount of those payments;

(2) maximum payments for any of those agencies that use local contribution rates identified in section 8003(b)(1)(C)(i) or (ii) shall be computed by using four-fifths instead of one-half of those rates;

(3) the learning opportunity threshold percentage of all such agencies under section 8003(b)(2)(B) shall be deemed to be 100;

(4) for an eligible local educational agency with 35 percent or more of its children in average daily attendance described in either subparagraph (D) or (E) of section 8003(a)(1), the weighted student unit figure from its regular basic support payment shall be recomputed by using a factor of 0.55 for such children;

(5) for an eligible local educational agency with fewer than 100 children in average daily attendance, the weighted student unit figure from its regular basic support payment shall be recomputed by multiplying the total number of children described in section 8003(a)(1) by a factor of 1.5; and

(6) for an eligible local educational agency whose total number of children in average daily attendance is at least 100, but fewer than 750, the weighted student unit figure from its regular basic support payment shall be recomputed by multiplying the total number of children described in section 8003(a)(1) by a factor of 1.25.

(c) For a local educational agency described in subsection (a)(1)(C) above, the Secretary shall use the formula contained in

section 8003(b)(1)(C) of the ESEA, except that the weighted student unit total from its regular basic support payment shall be increased by 35 percent and its learning opportunity threshold percentage shall be deemed to be 100.

(d) For each eligible local educational agency, the calculated supplemental basic support payment shall be reduced by subtracting the agency's regular fiscal year 1999 section 8003(b) basic support payment.

(e) The actual supplemental basic support payment that local educational agencies receive shall be treated under section 8009 in the same manner as payments under section 8003(f).

(f) If the sums described in subsections (a)(1) and (2) above are insufficient to pay in full the calculated supplemental basic support payments for the local educational agencies identified in those subsections, the Secretary shall ratably reduce the supplemental basic support payment to each local educational agency: *Provided further*, That the Secretary of Education shall treat as timely filed, and shall process for payment, an application for a fiscal year 1998 payment from the local educational agency for Prince Georges County, Maryland, under section 8003 of the Elementary and Secondary Education Act of 1965 if the Secretary has received that application not later than 30 days after the enactment of this Act: *Provided further*, That from the amount appropriated for section 8008 the Secretary shall award \$500,000 to the Randolph Field Independent School District, Texas: *Provided further*, That for the purposes of computing the amount of payment for a local educational agency for children identified under section 8003, children residing in housing initially acquired or constructed under section 801 of the Military Construction Authorization Act of 1984, (Public Law 98–115) (“Build to Lease” program) shall be considered as children described under section 8003(a)(1)(B) if the property described is within the fenced security perimeter of the military facility upon which such housing is situated: *Provided further*, That if such property is not owned by the Federal Government, is subject to taxation by a State or political subdivision of a State, and thereby generates revenues for a local educational agency which received a payment from the Secretary under section 8003, the Secretary shall:

(A) require such local educational agency to provide certification from an appropriate official of the Department of Defense that such property is being used to provide military housing; and

(B) reduce the amount of such payment by an amount equal to the amount of revenue from such taxation received in the second preceding fiscal year by such local educational agency, unless the amount of such revenue was taken into account by the State for such second preceding fiscal year and already resulted in a reduction in the amount of State aid paid to such local educational agency: *Provided further*, That of the funds available for payments under section 8002, the Secretary shall pay the San Diego, California, Centennial, Pennsylvania, and Hatboro-Horsham, Pennsylvania, local educational agencies the sum of \$500,000 each, in addition to their regularly calculated payments, except that the total funds these agencies receive under this section may not exceed 50 percent of their maximum section 8002 payments.



## SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, IV, V-A and B, VI, IX, X, XII and XIII of the Elementary and Secondary Education Act of 1965; the Stewart B. McKinney Homeless Assistance Act; and the Civil Rights Act of 1964 and part B of VIII of the Higher Education Act; \$2,811,134,000, of which \$2,381,300,000 shall become available on July 1, 1999, and remain available through September 30, 2000: *Provided*, That of the amount appropriated, \$335,000,000 shall be for Eisenhower professional development State grants under title II-B of the Elementary and Secondary Education Act of 1965, and \$1,575,000,000 shall be for title VI, of which \$1,200,000,000 shall be available, notwithstanding any other provision of law, to carry out title VI of the Elementary and Secondary Education Act of 1965 in accordance with section 307 of this Act, in order to reduce class size, particularly in the early grades, using highly qualified teachers to improve educational achievement for regular and special needs children.

## READING EXCELLENCE

For necessary expenses to carry out the Reading Excellence Act, \$260,000,000, which shall become available on July 1, 1999, and shall remain available through September 30, 2000.

## INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title IX, part A of the Elementary and Secondary Education Act of 1965, as amended, \$66,000,000.

## BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual, foreign language and immigrant education activities authorized by parts A and C and section 7203 of title VII of the Elementary and Secondary Education Act of 1965, without regard to section 7103(b), \$380,000,000: *Provided*, That State educational agencies may use all, or any part of, their part C allocation for competitive grants to local educational agencies.

## SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, \$5,124,146,000, of which \$4,879,885,000 shall become available for obligation on July 1, 1999, and shall remain available through September 30, 2000: *Provided*, That \$1,500,000 shall be awarded to The Organizing Committee for The 1999 Special Olympics World Summer Games and \$1,500,000, to remain available until expended, shall be for preparation and planning and shall be awarded to The Organizing Committee of The 2001 Special Olympics World Winter Games: *Provided further*, That \$600,000 shall be for the Early Childhood Development Project of the National Easter Seal Society for the Mississippi Delta Region, which funds shall be used to provide training, technical support, services, and equipment to address personnel and other needs.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Technology-Related Assistance for Individuals with Disabilities Act, or successor legislation and the Helen Keller National Center Act, as amended, \$2,652,584,000.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), \$8,661,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), \$45,500,000: *Provided*, That from the amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), \$83,480,000: *Provided*, That from the amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act and the Adult Education and Family Literacy Act, \$1,539,247,000, of which \$1,535,147,000 shall become available on July 1, 1999 and shall remain available through September 30, 2000: *Provided*, That of the amounts made available for title II of the Carl D. Perkins Vocational and Applied Technology Education Act, \$13,497,000 shall be used by the Secretary for national programs under title IV, without regard to section 451: *Provided further*, That, of the amounts made available for the Adult Education and Family Literacy Act, \$6,000,000 shall be for national leadership activities under section 243 and \$6,000,000 shall be for the National Institute for Literacy under section 242: *Provided further*, That no funds shall be awarded to a State Council under section 112(f) of the Carl D. Perkins Vocational and Applied Technology Education Act, and no State shall be required to operate such a Council.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3 and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, \$9,348,000,000, which shall remain available through September 30, 2000.

The maximum Pell Grant for which a student shall be eligible during award year 1999–2000 shall be \$3,125: *Provided*, That notwithstanding section 401(g) of the Act, if the Secretary determines,

prior to publication of the payment schedule for such award year, that the amount included within this appropriation for Pell Grant awards in such award year, and any funds available from the fiscal year 1998 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose: *Provided further*, That if the Secretary determines that the funds available to fund Pell Grants for award year 1999-2000 exceed the amount needed to fund Pell Grants at a maximum award of \$3,125 for that award year, the Secretary may increase the income protection allowances in sections 475(g)(2)(D), and 476(b)(1)(A)(iv)(I), (II) and (III) up to the amounts at which Pell Grant awards calculated using the increased income protection allowances equal the funds available to make Pell Grants in award year 1999-2000 with a \$3,125 maximum award, except that the income protection allowance in section 475(g)(2)(D) may not exceed \$2,200, the income protection allowance in sections 476(b)(1)(A)(iv)(I) and (II) may not exceed \$4,250, and the income protection allowance in section 476(b)(1)(A)(iv)(III) may not exceed \$7,250.

#### FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act, as amended, \$46,482,000.

#### HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, section 121 and titles II, III, IV, V, VI, VII, and VIII of the Higher Education Act of 1965, as amended, and the Mutual Educational and Cultural Exchange Act of 1961 and Public Law 102-73; \$1,307,846,000, of which \$13,000,000 for interest subsidies authorized by section 121 of the Higher Education Act, shall remain available until expended: *Provided*, That \$16,723,000 shall be for Youth Offender Grants, of which \$4,723,000, which shall become available on July 1, 1999, and remain available until September 30, 2000, shall be used in accordance with section 601 of Public Law 102-73 as that section was in effect prior to enactment of Public Law 105-220: *Provided further*, That \$4,800,000, to be available until expended, shall be for Salem State College in Salem, Massachusetts for activities authorized under Title III, part A, section 311(c)(2), of the Higher Education Act of 1965, as amended: *Provided further*, That of the funds made available under title VII, part B, \$5,000,000 shall be awarded to the St. Petersburg Junior College for a demonstration of a national method for increasing access to four year degrees and work force training for students attending community college; \$2,000,000 shall be for the Technology-Assisted Learning Campus in New Rochelle, New York for high-tech equipment; \$250,000 shall be awarded to the Center for Urban Research and Learning, Loyola University, Chicago; \$1,150,000 shall be awarded to the Southeast Community College in Letcher County, Kentucky; \$3,000,000 shall be for the Oregon State University Distance Education Alliance; \$1,000,000 shall be

for the Appalachian Center for Economic Networks in Athens, Ohio; \$6,000,000 shall be to establish the Robert J. Dole Institute for Public Service and Public Policy on the University of Kansas campus in Lawrence, Kansas; \$1,000,000 shall be for the Oregon Institute of Public Service and Constitutional Studies at the Mark O. Hatfield School of Government at Portland State University; \$2,150,000 shall be awarded to the College of Natural Resources, University of Wisconsin at Stevens Point for technology-enhanced learning; \$1,500,000 shall be for the Touro Law Center in Central Islip, New York for the use of technology to bridge the gap between legal education and the actual practice of law; \$1,000,000 shall be for the International Center for Educational Technology and Distance Learning at Empire State College; \$500,000 shall be for the University of Northern Iowa National Institute of Technology for Inclusive Education; \$1,500,000 shall be for a demonstration project to expand the successful college student preparation at Prairie View A&M, Texas; \$750,000 shall be to identify and provide models of alcohol and drug abuse prevention and education in higher education at the college level; \$500,000 shall be for a teacher training program in experiential learning to be awarded to the Department of Language Teacher Education, School for International Training, Brattleboro, Vermont; and \$1,000,000 shall be for the Paul Simon Public Policy Institute at Southern Illinois University at Carbondale, Illinois: *Provided further*, That \$9,500,000 of the funds made available for title VII, part B shall be for a competition consistent with the subject areas outlined in the House and Senate reports and the statement of the managers, and that such competition should be administered in a manner consistent with current departmental practices and policies.

#### HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), \$214,489,000, of which not less than \$3,530,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended.

#### COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses authorized under section 121 of the Higher Education Act, \$698,000 to carry out activities related to existing facility loans entered into under the Higher Education Act.

#### HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING, PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 344 of title III, part D of the Higher Education Act shall not exceed \$357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title III, part D of the Higher Education Act, as amended, \$96,000.

## EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994, including part E; the National Education Statistics Act of 1994; section 2102 of title II, and parts A, B, I, and K and section 10601 of title X, and part C of title XIII of the Elementary and Secondary Education Act of 1965, as amended, and title VI of Public Law 103-227, \$664,867,000: *Provided*, That \$25,000,000 shall be available to demonstrate effective approaches to comprehensive school reform to be allocated and expended in accordance with the instructions relating to this activity in the statement of managers on the conference report accompanying Public Law 105-78 and in the statement of the managers on the conference report accompanying this Act: *Provided further*, That the funds made available for comprehensive school reform shall become available on July 1, 1999, and remain available through September 30, 2000, and in carrying out this initiative, the Secretary and the States shall support only approaches that show the most promise of enabling children to meet challenging State content standards and challenging State student performance standards based on reliable research and effective practices, and include an emphasis on basic academics and parental involvement: *Provided further*, That \$16,000,000 of the funds made available for title X, part A of the Elementary and Secondary Education Act, shall be carried out consistent with the subject areas outlined in the House and Senate reports and the statement of the managers, and should be administered in a manner consistent with current departmental practices and policies: *Provided further*, That, in addition to the \$6,000,000 for Title VI of Public Law 103-227 and notwithstanding the provisions of section 601(c)(1)(C) of that Act, \$1,000,000 shall be available to the Center for Civic Education to conduct a civic education program with Northern Ireland and the Republic of Ireland and, consistent with the civics and government activities authorized in section 601(c)(3) of Public Law 103-227, to provide civic education assistance to democracies in developing countries. The term “developing countries” shall have the same meaning as the term “developing country” in the Education for the Deaf Act: *Provided further*, That of the amount provided for part A of title X of the Elementary and Secondary Education Act of 1965, \$2,000,000 shall be for a demonstration of full service community school sites in Charles County, Maryland, Westchester County, New York, Cranston, Rhode Island, and Skagit County, Washington; \$2,000,000 shall be awarded to First Book for literacy programs; \$1,750,000 shall be awarded to the Whitaker Center for Science and the Arts, Harrisburg, Pennsylvania for teaching of science education using the arts; \$350,000 shall be awarded to the School of Education at the University of Montana and the Montana Board of Crime Control for community-based initiatives to promote non-violent behavior in schools; \$1,000,000 shall be awarded to the NetDay organization to assist schools in connecting K-12 classrooms to the Internet; \$1,000,000 shall be awarded to the National Museum of Women in the Arts; \$1,000,000 shall be awarded to Youth Friends of Kansas City to improve attendance and academic performance; \$750,000 shall be awarded to the Thornberry Center for Youth and Families, Kansas City, Missouri to assist at-risk children; \$400,000 shall be for Bay Shore, New York for Literacy

Education and Assessment Partnerships; \$1,150,000 shall be awarded to provide technology assistance and for operation of a math/science learning center in Perry County, Kentucky; \$100,000 shall be for Presidio School District, Texas for library equipment and materials; \$1,200,000 shall be for the Southeastern Pennsylvania Consortium for Higher Education; \$1,000,000 shall be for the Dowling College Global Learning Center at the former LaSalle Academy in New York for a master teacher training and education center; \$10,000,000 for continuing a demonstration of public school facilities repair and construction to the Iowa Department of Education; and \$1,000,000 shall be awarded to the Hechkscher Museum of Art, Long Island, New York for incorporating arts into education curriculum: *Provided further*, That of the amount provided for part I of title X of the Elementary and Secondary Education Act of 1965, \$500,000 shall be for after school programs for the Chippewa Falls Area United School System, Wisconsin; \$400,000 shall be for after-school programs for the Wausau School System, Wisconsin; \$350,000 shall be for the New Rochelle School System, New York, after-school programs; \$100,000 shall be for the New York Hall of Science, Queens, New York, after-school program; \$25,000 shall be for Louisville Central Community Centers Youth Education Program to support after-school programming; \$25,000 shall be for Canaan's Community Development Corporation in Louisville, Kentucky for the Village Learning Center after-school program; \$300,000 shall be for the Bay Shore Community Learning Wellness and Fitness Center for Drug Free Lifestyles in Bay Shore, New York; \$2,500,000 shall be for an after school anti-drug pilot program in the Chicago Public Schools; and \$400,000 shall be for the Green Bay, Wisconsin Public School System after school program: *Provided further*, That \$10,000,000 of the funds provided for the national education research institutes shall be allocated notwithstanding section 931(c)(2)(B) of Public Law 103–227.

#### DEPARTMENTAL MANAGEMENT

##### PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of two passenger motor vehicles, \$362,000,000.

##### OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$66,000,000.

##### OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$31,242,000.

#### GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial

imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: *Provided*, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfer.

SEC. 305. NATIONAL TESTING. (a) IN GENERAL.—Part C of the General Education Provisions Act (20 U.S.C. 1231 et seq.) is amended by adding at the end the following:

**“SEC. 447. PROHIBITION ON FEDERALLY SPONSORED TESTING.**

20 USC 1232j.

“(a) GENERAL PROHIBITION.—Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided to the Department of Education or to an applicable program, may be used to pilot test, field test, implement, administer or distribute in any way any federally sponsored national test in reading, mathematics, or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law.

“(b) EXCEPTIONS.—Subsection (a) shall not apply to the Third International Mathematics and Science Study or other international comparative assessments developed under the authority of section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6) et seq.) and administered to only a representative sample of pupils in the United States and in foreign nations.”

(b) AUTHORITY OF NATIONAL ASSESSMENT GOVERNING BOARD.—Subject to section 447 of the General Education Provisions Act, the exclusive authority over the direction and all policies and guidelines for developing voluntary national tests pursuant to contract RJ97153001 previously entered into between the United States Department of Education and the American Institutes for Research and executed on August 15, 1997, and subsequently modified by the National Assessment Governing Board on February 11, 1998, shall continue to be vested in the National Assessment Governing

Board established under section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011).

(c) STUDIES.—

(1) PURPOSE, DEFINITION, AND ACHIEVEMENT LEVELS.—The National Assessment Governing Board shall determine and clearly articulate in a report the purpose and intended use of any proposed federally sponsored national test. Such report shall also include—

(A) a definition of the meaning of the term “voluntary” in regards to the administration of any national test; and

(B) a description of the achievement levels and reporting methods to be used in grading any national test.

The report shall be submitted to the White House, the Committees on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate not later than September 30, 1999.

(2) RESPONSE TO REPORT.—The National Assessment Governing Board shall develop and submit to the entities identified in paragraph (1) a report, not later than September 30, 1999, that addresses and responds to the findings reported by the National Academy of Sciences in the report entitled “Grading the Nation’s Report Card: Evaluating NAEP and Transforming the Assessment of Educational Progress” that assert that the achievement levels of the National Assessment of Educational Progress (NAEP) are fundamentally flawed.

(3) TECHNICAL FEASIBILITY.—The National Academy of Sciences shall conduct a study regarding the technical feasibility, validity, and reliability of including test items from the National Assessment of Educational Progress (NAEP) for 4th grade reading and 8th grade mathematics or from other tests in State and district assessments for the purpose of providing a common measure of individual student performance. The National Academy of Sciences shall submit, to the entities identified under paragraph (1), an interim progress report not later than June 30, 1999 and a final report not later than September 30, 1999.

SEC. 306. Notwithstanding any other provision of law, any institution of higher education which receives funds under title III of the Higher Education Act, except for grants made under section 326, may use up to 20 percent of its award under part A or part B of the Act for endowment building purposes authorized under section 331. Any institution seeking to use part A or part B funds for endowment building purposes shall indicate such intention in its application to the Secretary and shall abide by departmental regulations governing the endowment challenge grant program.

SEC. 307. (a) From the amount appropriated for title VI of the Elementary and Secondary Education Act of 1965 in accordance with this section, the Secretary of Education—

(1) shall make available a total of \$6,000,000 to the Secretary of the Interior (on behalf of the Bureau of Indian Affairs) and the outlying areas for activities under this section; and

(2) shall allocate the remainder by providing each State the greater of the amount the State would receive if a total of \$1,124,620,000 were allocated under section 1122 of the



Elementary and Secondary Education Act of 1965 or under section 2202(b) of the Act for fiscal year 1998, except that such allocations shall be ratably increased or decreased as may be necessary.

(b)(1) Each State that receives funds under this section shall distribute 100 percent of such funds to local educational agencies, of which—

(A) 80 percent of such amount shall be allocated to such local educational agencies in proportion to the number of children, aged 5 to 17, who reside in the school district served by such local educational agency from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved for the most recent fiscal year for which satisfactory data is available compared to the number of such individuals who reside in the school districts served by all the local educational agencies in the State for that fiscal year; and

(B) 20 percent of such amount shall be allocated to such local educational agencies in accordance with the relative enrollments of children, aged 5 to 17, in public and private nonprofit elementary and secondary schools within the boundaries of such agencies;

(2) Notwithstanding paragraph (1), if the award to a local educational agency under this section is less than the starting salary for a new teacher in that agency, the State shall not make the award unless the local educational agency agrees to form a consortium with not less than 1 other local educational agency for the purpose of reducing class size.

(c)(1) Each local educational agency that receives funds under this section shall use such funds to carry out effective approaches to reducing class size with highly qualified teachers to improve educational achievement for both regular and special-needs children, with particular consideration given to reducing class size in the early elementary grades for which some research has shown class size reduction is most effective.

(2)(A) Each such local educational agency may pursue the goal of reducing class size through—

(i) recruiting, hiring, and training certified regular and special education teachers and teachers of special-needs children, including teachers certified through State and local alternative routes;

(ii) testing new teachers for academic content knowledge, and to meet State certification requirements that are consistent with title II of the Higher Education Act of 1965; and

(iii) providing professional development to teachers, including special education teachers and teachers of special-needs children, consistent with title II of the Higher Education Act of 1965.

(B) A local educational agency may use not more than a total of 15 percent of the award received under this section for activities described in clauses (ii) and (iii) of subparagraph (A).

(C) A local educational agency that has already reduced class size in the early grades to 18 or less children may use funds received under this section—

- (i) to make further class-size reductions in grades 1 through 3;
- (ii) to reduce class size in kindergarten or other grades;
- or
- (iii) to carry out activities to improve teacher quality, including professional development.

(3) Each such agency shall use funds under this section only to supplement, and not to supplant, State and local funds that, in the absence of such funds, would otherwise be spent for activities under this section.

(4) No funds made available under this section may be used to increase the salaries or provide benefits, other than participation in professional development and enrichment programs, to teachers who are, or have been, employed by the local educational agency.

(d)(1) Each State receiving funds under this section shall report on activities in the State under this section, consistent with section 6202(a)(2) of the Elementary and Secondary Education Act of 1965.

(2) Each school benefiting from this section, or the local educational agency serving that school, shall produce an annual report to parents, the general public, and the State educational agency, in easily understandable language, on student achievement that is a result of hiring additional highly qualified teachers and reducing class size.

(e) If a local educational agency uses funds made available under this section for professional development activities, the agency shall ensure for the equitable participation of private non-profit elementary and secondary schools in such activities. Section 6402 of the Elementary and Secondary Education Act of 1965 shall not apply to other activities under this section.

(f) ADMINISTRATIVE EXPENSES.—A local educational agency that receives funds under this section may use not more than 3 percent of such funds for local administrative costs.

(g) REQUEST FOR FUNDS.—Each local educational agency that desires to receive funds under this section shall include in the application required under section 6303 of the Elementary and Secondary Education Act of 1965 a description of the agency's program to reduce class size by hiring additional highly qualified teachers.

This title may be cited as the “Department of Education Appropriations Act, 1999”.

#### TITLE IV—RELATED AGENCIES

##### ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, \$70,745,000, of which \$15,717,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home: *Provided*, That, notwithstanding any other provision of law, a single contract or related contracts for the development and construction at the United States Soldiers' and Airmen's Home, to include construction of a long-term care facility at the United States Naval Home and conversion of space in the

Scott building at the United States Soldiers' and Airmen's Home, may be employed which collectively include the full scope of the project: *Provided further*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18 and 252.232-7007, Limitation of Government Obligations.

#### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

##### DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, \$276,039,000.

#### CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2001, \$340,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: *Provided further*, That in addition to the amounts provided above, \$15,000,000 shall be for digitalization, only if specifically authorized by subsequent legislation enacted by September 30, 1999.

#### FEDERAL MEDIATION AND CONCILIATION SERVICE

##### SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. ch. 71), \$34,620,000, including \$1,500,000, to remain available through September 30, 2000, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): *Provided*, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: *Provided further*, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: *Provided further*, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), \$6,060,000.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

For carrying out subtitle B of the Museum and Library Services Act, \$166,175,000, of which \$25,000,000 shall be for national leadership projects, notwithstanding section 221(a)(1)(B): *Provided*, That of the amount provided, \$10,000,000, to remain available until expended, shall be awarded to the National Constitution Center, established by Public Law 100–433, for exhibition design, program planning, and operation of the Center to serve as a model between museums and libraries; \$750,000 shall be for a Digital Geospatial and Numerical Data Library at the University of Idaho; \$1,250,000 shall be awarded to the Franklin Institute, Philadelphia, Pennsylvania; \$2,000,000 shall be to enhance digitization at the New York Public Library; \$35,000 shall be for the Children’s Museum of Manhattan; \$300,000 shall be for the State Historical Society of Iowa; and \$1,100,000 shall be for the Museum of Science and Industry in Chicago.

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, \$7,015,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended by Public Law 102–95), \$1,000,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, \$2,344,000.

NATIONAL EDUCATION GOALS PANEL

For expenses necessary for the National Education Goals Panel, as authorized by title II, part A of the Goals 2000: Educate America Act, \$2,100,000.

## NATIONAL LABOR RELATIONS BOARD

## SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$184,451,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes: *Provided further*, That none of the funds made available by this Act shall be used in any way to promulgate a final rule (altering 29 CFR part 103) regarding single location bargaining units in representation cases.

## NATIONAL MEDIATION BOARD

## SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, \$8,400,000: *Provided*, That unobligated balances at the end of fiscal year 1999 not needed for emergency boards shall remain available for other statutory purposes through September 30, 2000.

## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

## SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), \$8,100,000.

## RAILROAD RETIREMENT BOARD

## DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, \$189,000,000, which shall include amounts becoming available in fiscal year 1999 pursuant to section 224(c)(1)(B) of Public Law 98-76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds \$189,000,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

## FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, \$150,000, to remain available through September 30, 2000, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

## LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, \$90,000,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

## LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than \$5,600,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office: *Provided further*, That none of the funds made available under this heading in this Act, or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be used for any audit, investigation, or review of the Medicare Program.

45 USC 231f  
note.

## SOCIAL SECURITY ADMINISTRATION

## PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, \$19,689,000.

## SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, \$382,803,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 2000, \$141,000,000, to remain available until expended.

## SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, \$21,552,000,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

From funds provided under the previous paragraph, not less than \$100,000,000 shall be available for payment to the Social Security trust funds for administrative expenses for conducting continuing disability reviews.

In addition, \$177,000,000, to remain available until September 30, 2000, for payment to the Social Security trust funds for administrative expenses for continuing disability reviews as authorized by section 103 of Public Law 104-121 and section 10203 of Public Law 105-33. The term “continuing disability reviews” means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act, as amended.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2000, \$9,550,000,000, to remain available until expended.

## LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed \$10,000 for official reception and representation expenses, not more than \$5,996,000,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That not less than \$1,600,000 shall be for the Social Security Advisory Board: *Provided further*, That unobligated balances at the end of fiscal year 1999 not needed for fiscal year 1999 shall remain available until expended to invest in the Social Security Administration computing network, including related equipment and non-payroll administrative expenses associated solely with this network: *Provided further*, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made.

From funds provided under the previous paragraph, notwithstanding the provision under this heading in Public Law 105-78 regarding unobligated balances at the end of fiscal year 1998 not needed for such fiscal year, an amount not to exceed \$50,000,000 from such unobligated balances shall, in addition to funding already

available under this heading for fiscal year 1999, be available for necessary expenses.

From funds provided under the first paragraph, not less than \$200,000,000 shall be available for conducting continuing disability reviews.

From funds provided under the first paragraph, the Commissioner of Social Security shall direct \$6,000,000 for Federal-State partnerships which will evaluate means to promote Medicare buy-in programs targeted to elderly and disabled individuals under titles XVIII and XIX of the Social Security Act.

In addition to funding already available under this heading, and subject to the same terms and conditions, \$355,000,000, to remain available until September 30, 2000, for continuing disability reviews as authorized by section 103 of Public Law 104–121 and section 10203 of Public Law 105–33. The term “continuing disability reviews” means reviews and redeterminations as defined under section 201(g)(1)(A) of the Social Security Act as amended.

In addition, \$75,000,000 to be derived from administration fees in excess of \$5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93–66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 1999 exceed \$75,000,000, the amounts shall be available in fiscal year 2000 only to the extent provided in advance in appropriations Acts.

#### OFFICE OF INSPECTOR GENERAL

##### (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$12,000,000, together with not to exceed \$44,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the “Limitation on Administrative Expenses”, Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: *Provided*, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

#### UNITED STATES INSTITUTE OF PEACE

##### OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, \$12,160,000.

#### TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred



balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are each authorized to make available not to exceed \$15,000 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed \$2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 506. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act,

including but not limited to State and local governments and recipients of Federal research grants, shall clearly state: (1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

Abortions.

SEC. 508. (a) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for any abortion.

(b) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term “health benefits coverage” means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 509. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State’s or locality’s contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State’s or locality’s contribution of Medicaid matching funds).

31 USC 1301  
note.

SEC. 510. Notwithstanding any other provision of law, hereafter—

(1) no amount may be transferred from an appropriation account for the Departments of Labor, Health and Human Services, and Education except as authorized in this or any subsequent appropriation Act, or in the Act establishing the program or activity for which funds are contained in this Act;

(2) no department, agency, or other entity, other than the one responsible for administering the program or activity for which an appropriation is made in this Act, may exercise authority for the timing of the obligation and expenditure of such appropriation, or for the purpose for which it is obligated and expended, except to the extent and in the manner otherwise provided in sections 1512 and 1513 of title 31, United States Code; and

(3) no funds provided under this Act shall be available for the salary (or any part thereof) of an employee who is reassigned on a temporary detail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.

SEC. 511. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term “human embryo or embryos” includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 512. (a) LIMITATION ON USE OF FUNDS FOR PROMOTION OF LEGALIZATION OF CONTROLLED SUBSTANCES.—None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 513. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 514. None of the funds made available in this Act may be used to pay the expenses of an election officer appointed by a court to oversee an election of any officer or trustee for the International Brotherhood of Teamsters.

SEC. 515. Except as otherwise specifically provided by law, unobligated balances remaining available at the end of fiscal year 1999 from appropriations made available for salaries and expenses for fiscal year 1999 in this Act, shall remain available through December 31, 1999, for each such account for the purposes authorized: *Provided*, That the House and Senate Committees on Appropriations shall be notified at least fifteen days prior to the obligation of such funds.

SEC. 516. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d-2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

TITLE VI—NATIONAL CENTER FOR COMPLEMENTARY AND  
ALTERNATIVE MEDICINE

SEC. 601. ESTABLISHMENT OF NATIONAL CENTER FOR COM-  
PLEMENTARY AND ALTERNATIVE MEDICINE.

IN GENERAL.—Title IV of the Public Health Service Act (42  
U.S.C. 281 et seq.) is amended—

42 USC 283g.

- (1) by striking section 404E; and
- (2) in part E, by adding at the end the following:

“Subpart 5—National Center for Complementary and Alternative  
Medicine

42 USC 287c–21.

“SEC. 485D. PURPOSE OF CENTER.

“(a) IN GENERAL.—The general purposes of the National Center for Complementary and Alternative Medicine (in this subpart referred to as the ‘Center’) are the conduct and support of basic and applied research (including both intramural and extramural research), research training, the dissemination of health information, and other programs with respect to identifying, investigating, and validating complementary and alternative treatment, diagnostic and prevention modalities, disciplines and systems. The Center shall be headed by a director, who shall be appointed by the Secretary. The Director of the Center shall report directly to the Director of NIH.

“(b) ADVISORY COUNCIL.—The Secretary shall establish an advisory council for the Center in accordance with section 406, except that at least half of the members of the advisory council who are not ex officio members shall include practitioners licensed in one or more of the major systems with which the Center is concerned, and at least 3 individuals representing the interests of individual consumers of complementary and alternative medicine.

“(c) COMPLEMENT TO CONVENTIONAL MEDICINE.—In carrying out subsection (a), the Director of the Center shall, as appropriate, study the integration of alternative treatment, diagnostic and prevention systems, modalities, and disciplines with the practice of conventional medicine as a complement to such medicine and into health care delivery systems in the United States.

“(d) APPROPRIATE SCIENTIFIC EXPERTISE AND COORDINATION WITH INSTITUTES AND FEDERAL AGENCIES.—The Director of the Center, after consultation with the advisory council for the Center and the division of research grants, shall ensure that scientists with appropriate expertise in research on complementary and alternative medicine are incorporated into the review, oversight, and management processes of all research projects and other activities funded by the Center. In carrying out this subsection, the Director of the Center, as necessary, may establish review groups with appropriate scientific expertise. The Director of the Center shall coordinate efforts with other Institutes and Federal agencies to ensure appropriate scientific input and management.

“(e) EVALUATION OF VARIOUS DISCIPLINES AND SYSTEMS.—In carrying out subsection (a), the Director of the Center shall identify and evaluate alternative and complementary medical treatment, diagnostic and prevention modalities in each of the disciplines and systems with which the Center is concerned, including each discipline and system in which accreditation, national certification, or a State license is available.

“(f) ENSURING HIGH QUALITY, RIGOROUS SCIENTIFIC REVIEW.—In order to ensure high quality, rigorous scientific review of complementary and alternative, diagnostic and prevention modalities, disciplines and systems, the Director of the Center shall conduct or support the following activities:

- “(1) Outcomes research and investigations.
- “(2) Epidemiological studies.
- “(3) Health services research.
- “(4) Basic science research.
- “(5) Clinical trials.
- “(6) Other appropriate research and investigational activities.

The Director of NIH, in coordination with the Director of the Center, shall designate specific personnel in each Institute to serve as full-time liaisons with the Center in facilitating appropriate coordination and scientific input.

“(g) DATA SYSTEM; INFORMATION CLEARINGHOUSE.—

“(1) DATA SYSTEM.—The Director of the Center shall establish a bibliographic system for the collection, storage, and retrieval of worldwide research relating to complementary and alternative treatment, diagnostic and prevention modalities, disciplines and systems. Such a system shall be regularly updated and publicly accessible.

“(2) CLEARINGHOUSE.—The Director of the Center shall establish an information clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of alternative medical treatment, diagnostic and prevention practices by health professionals, patients, industry, and the public.

“(h) RESEARCH CENTERS.—The Director of the Center, after consultation with the advisory council for the Center, shall provide support for the development and operation of multipurpose centers to conduct research and other activities described in subsection (a) with respect to complementary and alternative treatment, diagnostic and prevention modalities, disciplines and systems. The provision of support for the development and operation of such centers shall include accredited complementary and alternative medicine research and education facilities.

“(i) AVAILABILITY OF RESOURCES.—After consultation with the Director of the Center, the Director of NIH shall ensure that resources of the National Institutes of Health, including laboratory and clinical facilities, fellowships (including research training fellowship and junior and senior clinical fellowships), and other resources are sufficiently available to enable the Center to appropriately and effectively carry out its duties as described in subsection (a). The Director of NIH, in coordination with the Director of the Center, shall designate specific personnel in each Institute to serve as full-time liaisons with the Center in facilitating appropriate coordination and scientific input.

“(j) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated to carry out this section for fiscal year 1999 are available for obligation through September 30, 2001. Amounts appropriated to carry out this section for fiscal year 2000 are available for obligation through September 30, 2001.”.

(k) TECHNICAL AND CONFORMING AMENDMENT.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

“(F) The National Center for Complementary and Alternative Medicine.”.

# TITLE VII—MISCELLANEOUS PROVISIONS

## RATES OF PAY FOR PUBLIC BROADCASTING AND NATIONAL PUBLIC RADIO

SEC. 701. Section 396(k)(9) of Title 47, United States Code, is amended by striking “at an annual rate of pay which exceeds the rate of basic pay in effect from time to time for level I of the Executive Schedule under 5312 of title 5, United States Code” and inserting “in excess of reasonable compensation as determined pursuant to Section 4958 of the Internal Revenue Code for services that the officer or employee renders to organization” after “compensated.”

42 USC 1396r–4  
note.

SEC. 702. The amount of the DSH allotment for the State of Minnesota for fiscal year 1999, specified in the table under section 1923(f)(2) of the Social Security Act (as amended by section 4721(a)(1) of Public Law 105–33) is deemed to be \$33,000,000.

42 USC 1396r–4  
note.

SEC. 703. The amount of the DSH allotment for the State of New Mexico for fiscal year 1999, specified in the table under section 1923(f)(2) of the Social Security Act (as amended by section 4721(a)(1) of Public Law 105–33) is deemed to be \$9,000,000.

42 USC 1396r–4  
note.

SEC. 704. Notwithstanding section 1923(f)(2) of the Social Security Act (42 U.S.C. 1396r–4(f)(2)) (as amended by section 4721(a)(1) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 511), the amount of the DSH allotment for Wyoming for fiscal year 1999 is deemed to be \$95,000.

SEC. 705. EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking “1997 and 1998” and inserting “1997, 1998, and 1999”; and

(B) in subsection (e), by striking “October 1, 1998” each place it appears and inserting “October 1, 1999” and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking “September 30, 1998” and inserting “September 30, 1999”.

SEC. 706. (a) Section 2104(c) of the Social Security Act (42 U.S.C. 1397dd(c)) is amended by adding at the end the following new paragraph:

“(4) ADDITIONAL ALLOTMENT.—

“(A) IN GENERAL.—In addition to the allotment under paragraph (1), the Secretary shall allot each commonwealth and territory described in paragraph (3) the applicable percentage specified in paragraph (2) of the amount appropriated under subparagraph (B).

“(B) APPROPRIATIONS.—For purposes of providing allotments pursuant to subparagraph (A), there is appropriated, out of any money in the Treasury not otherwise appropriated \$32,000,000 for fiscal year 1999.”.

(b) Section 2104(b)(1) of such Act (42 U.S.C. 1397dd(b)(1)) is amended by inserting “(determined without regard to paragraph (4) thereof)” after “subsection (c)”.

42 USC 1397dd  
note.

SEC. 707. DETERMINATION OF NUMBER OF CHILDREN AND STATE COST FACTORS FOR FISCAL YEARS 1998 AND 1999 FOR PURPOSES

OF STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP).—Notwithstanding any other provision of law, for purposes of determining the product under section 2104(b)(1)(A) of the Social Security Act (42 U.S.C. 1397dd(b)(1)(A)) for a State for each of fiscal years 1998 and 1999—

(1) the number of children under clause (i) of such section shall be the number of low-income children specified for the State in Column B of the table on pages 48101-48102 of the Federal Register published on September 12, 1997, adjusted by the Census Bureau as necessary to treat children as being without health insurance if they have access to health care funded by the Indian Health Service but do not have health insurance; and

(2) the State cost factor under clause (ii) of such section shall be the State cost factor specified for the State in Column C of such table.

SEC. 708. (a) EXTENSION OF DEADLINE FOR SUBMISSION OF REPORT BY COMMISSION TO ASSESS THE ORGANIZATION OF THE FEDERAL GOVERNMENT TO COMBAT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.—Section 712(c)(1) of the Combating Proliferation of Weapons of Mass Destruction Act of 1996 (subtitle A of title VII of Public Law 104-293; 110 Stat. 3470; 50 U.S.C. 2351 note) is amended by striking out “the date of the enactment of this Act” and inserting in lieu thereof “January 18, 1998”.

(b) MEMBERSHIP OF COMMISSION.—Section 711 of that Act is amended—

50 USC 2351  
note.

(1) in the matter preceding subsection (b)(1), by striking out “eight members” and inserting in lieu thereof “twelve members, none of whom may, during the period of their service on the Commission, be an officer or employee of any department, agency, or other establishment of the Executive Branch (other than the Commission), and”;

(2) in subsection (b)(2), by striking out “one” and inserting in lieu thereof “three”;

(3) in subsection (b)(4), by striking out “one” and inserting in lieu thereof “three”; and

(4) in subsection (e), by striking out “the date on which all members of the Commission have been appointed” and inserting in lieu thereof “the date of enactment of an Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, regardless of whether all the members of the Commission have been appointed as of that date.”.

(c) RESTRICTIONS ON ACTIVITIES OF COMMISSION.—Section 712(a) of that Act is amended by adding at the end the following:

50 USC 2351  
note.

(4) RESTRICTIONS.—In carrying out the study under paragraph (1), making the assessments under paragraph (2), and addressing the matters identified in paragraph (3), the Commission shall not review, evaluate, or report on—

“(A) United States domestic response capabilities with respect to weapons of mass destruction; or

“(B) the adequacy or usefulness of United States laws that provide for the imposition of sanctions on countries or entities that engage in the proliferation of weapons of mass destruction.”.

50 USC 2351  
note. (d) LIMITATION ON COMMISSION EXPENDITURES.—Section 717 of that Act is amended by striking out “shall be paid” and inserting in lieu thereof “shall not exceed \$1,000,000, and shall be paid”.

SEC. 709. PROTECTION OF DIVORCED SPOUSES. (a) IN GENERAL.—Section 6(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231e(c)) is amended—

(1) in the last sentence of paragraph (1), by inserting “(other than to a survivor in the circumstances described in paragraph (3))” after “no further benefits shall be paid”; and

(2) by adding at the end the following:

“(3) Notwithstanding the last sentence of paragraph (1), benefits shall be paid to a survivor who—

“(A) is a divorced wife; and

“(B) through administrative error received benefits otherwise precluded by the making of a lump sum payment under this section to a widow;

if that divorced wife makes an election to repay to the Board the lump sum payment. The Board may withhold up to 10 percent of each benefit amount paid after the date of the enactment of this paragraph toward such reimbursement. The Board may waive such repayment to the extent the Board determines it would cause an unjust financial hardship for the beneficiary.”.

45 USC 231e  
note.

(b) APPLICATION OF AMENDMENT.—The amendment made by this section shall apply with respect to any benefits paid before the date of enactment of this Act as well as to benefits payable on or after the date of the enactment of this Act.

42 USC 1396a  
note.

SEC. 710. For purposes of payments to States for medical assistance under title XIX of the Social Security Act from amounts appropriated to carry out such title for fiscal year 1999 and for any subsequent fiscal year, individuals who are PACE program eligible individuals under section 1934 of that Act and who meet the income and resource eligibility requirements of individuals who are eligible for medical assistance under section 1902(a)(10)(A)(ii)(VI) of that Act shall be treated as individuals described in such section 1902(a)(10)(A)(ii)(VI) during the period of their enrollment in the PACE program.

## TITLE VIII—READING EXCELLENCE ACT

### SUBTITLE I—READING AND LITERACY GRANTS

#### SEC. 101. AMENDMENT TO ESEA FOR READING AND LITERACY GRANTS.

(a) IN GENERAL.—Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended—

(1) by redesignating parts C and D as parts D and E, respectively; and

(2) by inserting after part B the following:

### “PART C—READING AND LITERACY GRANTS

20 USC 6661.

#### “SEC. 2251. PURPOSES.

“The purposes of this part are as follows:

“(1) To provide children with the readiness skills they need to learn to read once they enter school.

“(2) To teach every child to read in the child’s early childhood years—



“(A) as soon as the child is ready to read; or

“(B) as soon as possible once the child enters school, but not later than 3d grade.

“(3) To improve the reading skills of students, and the instructional practices for current teachers (and, as appropriate, other instructional staff) who teach reading, through the use of findings from scientifically based reading research, including findings relating to phonemic awareness, systematic phonics, fluency, and reading comprehension.

“(4) To expand the number of high-quality family literacy programs.

“(5) To provide early literacy intervention to children who are experiencing reading difficulties in order to reduce the number of children who are incorrectly identified as a child with a disability and inappropriately referred to special education.

**“SEC. 2252. DEFINITIONS.**

20 USC 6661a.

“For purposes of this part:

“(1) **ELIGIBLE PROFESSIONAL DEVELOPMENT PROVIDER.**—The term ‘eligible professional development provider’ means a provider of professional development in reading instruction to teachers that is based on scientifically based reading research.

“(2) **FAMILY LITERACY SERVICES.**—The term ‘family literacy services’ means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

“(A) Interactive literacy activities between parents and their children.

“(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

“(C) Parent literacy training that leads to economic self-sufficiency.

“(D) An age-appropriate education to prepare children for success in school and life experiences.

“(3) **INSTRUCTIONAL STAFF.**—The term ‘instructional staff’—

“(A) means individuals who have responsibility for teaching children to read; and

“(B) includes principals, teachers, supervisors of instruction, librarians, library school media specialists, teachers of academic subjects other than reading, and other individuals who have responsibility for assisting children to learn to read.

“(4) **READING.**—The term ‘reading’ means a complex system of deriving meaning from print that requires all of the following:

“(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print.

“(B) The ability to decode unfamiliar words.

“(C) The ability to read fluently.

“(D) Sufficient background information and vocabulary to foster reading comprehension.

“(E) The development of appropriate active strategies to construct meaning from print.

“(F) The development and maintenance of a motivation to read.

“(5) SCIENTIFICALLY BASED READING RESEARCH.—The term ‘scientifically based reading research’—

“(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

“(B) shall include research that—

“(i) employs systematic, empirical methods that draw on observation or experiment;

“(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

“(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

“(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

20 USC 6661b.

**“SEC. 2253. READING AND LITERACY GRANTS TO STATE EDUCATIONAL AGENCIES.**

“(a) PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—Subject to the provisions of this part, the Secretary shall award grants to State educational agencies to carry out the reading and literacy activities authorized under this section and sections 2254 through 2256.

“(2) LIMITATIONS.—

“(A) SINGLE GRANT PER STATE.—A State educational agency may not receive more than one grant under paragraph (1).

“(B) 3-YEAR TERM.—A State educational agency that receives a grant under paragraph (1) may expend the funds provided under the grant only during the 3-year period beginning on the date on which the grant is made.

“(b) APPLICATION.—

“(1) IN GENERAL.—A State educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time and in such form as the Secretary may require. The application shall contain the information described in paragraph (2).

“(2) CONTENTS.—An application under this subsection shall contain the following:

“(A) An assurance that the Governor of the State, in consultation with the State educational agency, has established a reading and literacy partnership described in subsection (d), and a description of how such partnership—

“(i) assisted in the development of the State plan;

“(ii) will be involved in advising on the selection of subgrantees under sections 2255 and 2256; and

“(iii) will assist in the oversight and evaluation of such subgrantees.

“(B) A description of the following:

“(i) How the State educational agency will ensure that professional development activities related to reading instruction and provided under this part are—

“(I) coordinated with other State and local level funds and used effectively to improve instructional practices for reading; and

“(II) based on scientifically based reading research.

“(ii) How the activities assisted under this part will address the needs of teachers and other instructional staff, and will effectively teach students to read, in schools receiving assistance under section 2255 and 2256.

“(iii) The extent to which the activities will prepare teachers in all the major components of reading instruction (including phonemic awareness, systematic phonics, fluency, and reading comprehension).

“(iv) How the State educational agency will use technology to enhance reading and literacy professional development activities for teachers, as appropriate.

“(v) How parents can participate in literacy-related activities assisted under this part to enhance their children’s reading.

“(vi) How subgrants made by the State educational agency under sections 2255 and 2256 will meet the requirements of this part, including how the State educational agency will ensure that subgrantees will use practices based on scientifically based reading research.

“(vii) How the State educational agency will, to the extent practicable, make grants to subgrantees in both rural and urban areas.

“(viii) The process that the State used to establish the reading and literacy partnership described in subsection (d).

“(C) An assurance that each local educational agency to which the State educational agency makes a subgrant—

“(i) will provide professional development for the classroom teacher and other appropriate instructional staff on the teaching of reading based on scientifically based reading research;

“(ii) will provide family literacy services based on programs such as the Even Start family literacy model authorized under part B of title I, to enable parents to be their child’s first and most important teacher;

“(iii) will carry out programs to assist those kindergarten students who are not ready for the transition to first grade, particularly students experiencing difficulty with reading skills; and

“(iv) will use supervised individuals (including tutors), who have been appropriately trained using scientifically based reading research, to provide additional support, before school, after school, on weekends, during noninstructional periods of the school day, or during the summer, for children preparing to enter kindergarten and students in kindergarten through grade 3 who are experiencing difficulty reading.

“(D) An assurance that instruction in reading will be provided to children with reading difficulties who—

“(i) are at risk of being referred to special education based on these difficulties; or

“(ii) have been evaluated under section 614 of the Individuals with Disabilities Education Act but, in accordance with section 614(b)(5) of such Act, have not been identified as being a child with a disability (as defined in section 602 of the such Act).

“(E) A description of how the State educational agency—

“(i) will build on, and promote coordination among, literacy programs in the State (including federally funded programs such as the Adult Education and Family Literacy Act and the Individuals with Disabilities Education Act), in order to increase the effectiveness of the programs in improving reading for adults and children and to avoid duplication of the efforts of the programs;

“(ii) will promote reading and library programs that provide access to engaging reading material;

“(iii) will make local educational agencies described in sections 2255(a)(1) and 2256(a)(1) aware of the availability of subgrants under sections 2255 and 2256; and

“(iv) will assess and evaluate, on a regular basis, local educational agency activities assisted under this part, with respect to whether they have been effective in achieving the purposes of this part.

“(F) A description of the evaluation instrument the State educational agency will use for purposes of the assessments and evaluations under subparagraph (E)(iv).

“(c) APPROVAL OF APPLICATIONS.—

“(1) IN GENERAL.—The Secretary shall approve an application of a State educational agency under this section only—

“(A) if such application meets the requirement of this section; and

“(B) after taking into account the extent to which the application furthers the purposes of this part and the overall quality of the application.

“(2) PEER REVIEW.—

“(A) IN GENERAL.—The Secretary, in consultation with the National Institute for Literacy, shall convene a panel to evaluate applications under this section. At a minimum, the panel shall include—

“(i) representatives of the National Institute for Literacy, the National Research Council of the National Academy of Sciences, and the National Institute of Child Health and Human Development;

“(ii) 3 individuals selected by the Secretary;

“(iii) 3 individuals selected by the National Institute for Literacy;

“(iv) 3 individuals selected by the National Research Council of the National Academy of Sciences; and

“(v) 3 individuals selected by the National Institute of Child Health and Human Development.

“(B) EXPERTS.—The panel shall include experts who are competent, by virtue of their training, expertise, or

experience, to evaluate applications under this section, and experts who provide professional development to teachers of reading to children and adults, and experts who provide professional development to other instructional staff, based on scientifically based reading research.

“(C) PRIORITY.—The panel shall recommend grant applications from State educational agencies under this section to the Secretary for funding or for disapproval. In making such recommendations, the panel shall give priority to applications from State educational agencies whose States have modified, are modifying, or provide an assurance that not later than 18 months after receiving a grant under this section the State educational agencies will increase the training and the methods of teaching reading required for certification as an elementary school teacher to reflect scientifically based reading research, except that nothing in this Act shall be construed to establish a national system of teacher certification.

“(D) MINIMUM GRANT AMOUNTS.—

“(i) STATES.—Each State educational agency selected to receive a grant under this section shall receive an amount for the grant period that is not less than \$500,000.

“(ii) OUTLYING AREAS.—The Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands selected to receive a grant under this section shall receive an amount for the grant period that is not less than \$100,000.

“(E) LIMITATION.—The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not be eligible to receive a grant under this part.

“(d) READING AND LITERACY PARTNERSHIPS.—

“(1) REQUIRED PARTICIPANTS.—In order for a State educational agency to receive a grant under this section, the Governor of the State, in consultation with the State educational agency, shall establish a reading and literacy partnership consisting of at least the following participants:

“(A) The Governor of the State.

“(B) The chief State school officer.

“(C) The chairman and the ranking member of each committee of the State legislature that is responsible for education policy.

“(D) A representative, selected jointly by the Governor and the chief State school officer, of at least one local educational agency that is eligible to receive a subgrant under section 2255.

“(E) A representative, selected jointly by the Governor and the chief State school officer, of a community-based organization working with children to improve their reading skills, particularly a community-based organization using tutors and scientifically based reading research.

“(F) State directors of appropriate Federal or State programs with a strong reading component.

“(G) A parent of a public or private school student or a parent who educates their child or children in their

home, selected jointly by the Governor and the chief State school officer.

“(H) A teacher who successfully teaches reading and an instructional staff member, selected jointly by the Governor and the chief State school officer.

“(I) A family literacy service provider selected jointly by the Governor and the chief State school officer.

“(2) OPTIONAL PARTICIPANTS.—A reading and literacy partnership may include additional participants, who shall be selected jointly by the Governor and the chief State school officer, and who may include a representative of—

“(A) an institution of higher education operating a program of teacher preparation based on scientifically based reading research in the State;

“(B) a local educational agency;

“(C) a private nonprofit or for-profit eligible professional development provider providing instruction based on scientifically based reading research;

“(D) an adult education provider;

“(E) a volunteer organization that is involved in reading programs; or

“(F) a school library or a public library that offers reading or literacy programs for children or families.

“(3) PREEXISTING PARTNERSHIP.—If, before the date of the enactment of the Reading Excellence Act, a State established a consortium, partnership, or any other similar body, that includes the Governor and the chief State school officer and has, as a central part of its mission, the promotion of literacy for children in their early childhood years through the 3d grade and family literacy services, but that does not satisfy the requirements of paragraph (1), the State may elect to treat that consortium, partnership, or body as the reading and literacy partnership for the State notwithstanding such paragraph, and it shall be considered a reading and literacy partnership for purposes of the other provisions of this part.

20 USC 6661c.

**“SEC. 2254. USE OF AMOUNTS BY STATE EDUCATIONAL AGENCIES.**

“A State educational agency that receives a grant under section 2253—

“(1) shall use not more than 5 percent of the funds made available under the grant for the administrative costs of carrying out this part (excluding section 2256), of which not more than 2 percent may be used to carry out section 2259; and

“(2) shall use not more than 15 percent of the funds made available under the grant to solicit applications for, award, and oversee the performance of, not less than one subgrant pursuant to section 2256.

20 USC 6661d.

**“SEC. 2255. LOCAL READING IMPROVEMENT SUBGRANTS.**

“(a) IN GENERAL.—

“(1) SUBGRANTS.—A State educational agency that receives a grant under section 2253 shall make subgrants, on a competitive basis, to local educational agencies that either—

“(A) have at least one school that is identified for school improvement under section 1116(c) in the geographic area served by the agency;

“(B) have the largest, or second largest, number of children who are counted under section 1124(c), in

comparison to all other local educational agencies in the State; or

“(C) have the highest, or second highest, school-age child poverty rate, in comparison to all other local educational agencies in the State.

For purposes of subparagraph (C), the term ‘school-age child poverty rate’ means the number of children counted under section 1124(c) who are living within the geographic boundaries of the local educational agency, expressed as a percentage of the total number of children aged 5–17 years living within the geographic boundaries of the local educational agency.

“(2) SUBGRANT AMOUNT.—A subgrant under this section shall consist of an amount sufficient to enable the subgrant recipient to operate a program for a 2-year period and may not be revoked or terminated on the grounds that a school ceases, during the grant period, to meet the requirements of subparagraph (A), (B), or (C) of paragraph (1).

“(b) APPLICATIONS.—A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and including such information as the agency may require. The application—

“(1) shall describe how the local educational agency will work with schools selected by the agency to receive assistance under subsection (d)(1)—

“(A) to select one or more programs of reading instruction, developed using scientifically based reading research, to improve reading instruction by all academic teachers for all children in each of the schools selected by the agency under such subsection and, where appropriate, for their parents; and

“(B) to enter into an agreement with a person or entity responsible for the development of each program selected under subparagraph (A), or a person with experience or expertise about the program and its implementation, under which the person or entity agrees to work with the local educational agency and the schools in connection with such implementation and improvement efforts;

“(2) shall include an assurance that the local educational agency—

“(A) will carry out professional development for the classroom teacher and other instructional staff on the teaching of reading based on scientifically based reading research;

“(B) will provide family literacy services based on programs such as the Even Start family literacy model authorized under part B of title I, to enable parents to be their child’s first and most important teacher;

“(C) will carry out programs to assist those kindergarten students who are not ready for the transition to first grade, particularly students experiencing difficulty with reading skills; and

“(D) will use supervised individuals (including tutors), who have been appropriately trained using scientifically based reading research, to provide additional support, before school, after school, on weekends, during noninstructional periods of the school day, or during the summer,

for children preparing to enter kindergarten and students in kindergarten through grade 3 who are experiencing difficulty reading;

“(3) shall describe how the applicant will ensure that funds available under this part, and funds available for reading instruction for kindergarten through grade 6 from other appropriate sources, are effectively coordinated, and, where appropriate, integrated with funds under this Act in order to improve existing activities in the areas of reading instruction, professional development, program improvement, parental involvement, technical assistance, and other activities that can help meet the purposes of this part;

“(4) shall describe, if appropriate, how parents, tutors, and early childhood education providers will be assisted by, and participate in, literacy-related activities receiving financial assistance under this part to enhance children’s reading fluency;

“(5) shall describe how the local educational agency—

“(A) provides instruction in reading to children with reading difficulties who—

“(i) are at risk of being referred to special education based on these difficulties; or

“(ii) have been evaluated under section 614 of the Individuals with Disabilities Education Act but, in accordance with section 614(b)(5) of such Act, have not been identified as being a child with a disability (as defined in section 602 of the such Act); and

“(B) will promote reading and library programs that provide access to engaging reading material; and

“(6) shall include an assurance that the local educational agency will make available, upon request and in an understandable and uniform format, to any parent of a student attending any school selected to receive assistance under subsection (d)(1) in the geographic area served by the local educational agency, information regarding the professional qualifications of the student’s classroom teacher to provide instruction in reading.

“(c) SPECIAL RULE.—To the extent feasible, a local educational agency that desires to receive a grant under this section shall form a partnership with one or more community-based organizations of demonstrated effectiveness in early childhood literacy, and reading readiness, reading instruction, and reading achievement for both adults and children, such as a Head Start program, family literacy program, public library, or adult education program, to carry out the functions described in paragraphs (1) through (6) of subsection (b). In evaluating subgrant applications under this section, a State educational agency shall consider whether the applicant has satisfied the requirement in the preceding sentence. If not, the applicant must provide information on why it would not have been feasible for the applicant to have done so.

“(d) USE OF FUNDS.—

“(1) IN GENERAL.—Subject to paragraph (2), a local educational agency that receives a subgrant under this section shall use amounts from the subgrant to carry out activities to advance reform of reading instruction in any school that (A) is described in subsection (a)(1)(A), (B) has the largest, or second largest, number of children who are counted under section 1124(c), in comparison to all other schools in the local educational agency, or (C) has the highest, or second highest,



school-age child poverty rate (as defined in the second sentence of subsection (a)(1)), in comparison to all other schools in the local educational agency. Such activities shall include the following:

“(A) Securing technical and other assistance from—

“(i) a program of reading instruction based on scientifically based reading research;

“(ii) a person or entity with experience or expertise about such program and its implementation, who has agreed to work with the recipient in connection with its implementation; or

“(iii) a program providing family literacy services.

“(B) Providing professional development activities to teachers and other instructional staff (including training of tutors), using scientifically based reading research and purchasing of curricular and other supporting materials.

“(C) Promoting reading and library programs that provide access to engaging reading material.

“(D) Providing, on a voluntary basis, training to parents of children enrolled in a school selected to receive assistance under subsection (d)(1) on how to help their children with school work, particularly in the development of reading skills. Such training may be provided directly by the subgrant recipient, or through a grant or contract with another person. Such training shall be consistent with reading reforms taking place in the school setting. No parent shall be required to participate in such training.

“(E) Carrying out family literacy services based on programs such as the Even Start family literacy model authorized under part B of title I, to enable parents to be their child’s first and most important teacher.

“(F) Providing instruction for parents of children enrolled in a school selected to receive assistance under subsection (d)(1), and others who volunteer to be reading tutors for such children, in the instructional practices based on scientifically based reading research used by the applicant.

“(G) Programs to assist those kindergarten students enrolled in a school selected to receive assistance under subsection (d)(1) who are not ready for the transition to first grade, particularly students experiencing difficulty with reading skills.

“(H) Providing additional support for children preparing to enter kindergarten and students in kindergarten through grade 3 who are enrolled in a school selected to receive assistance under subsection (d)(1), who are experiencing difficulty reading, before school, after school, on weekends, during noninstructional periods of the school day, or during the summer, using supervised individuals (including tutors), who have been appropriately trained using scientifically based reading research.

“(I) Providing instruction in reading to children with reading difficulties who—

“(i) are at risk of being referred to special education based on these difficulties; or

“(ii) have been evaluated under section 614 of the Individuals with Disabilities Education Act but, in

accordance with section 614(b)(5) of such Act, have not been identified as being a child with a disability (as defined in section 602 of the such Act).

“(J) Providing coordination of reading, library, and literacy programs within the local educational agency to avoid duplication and increase the effectiveness of reading, library, and literacy activities.

“(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—A recipient of a subgrant under this section may use not more than 5 percent of the subgrant funds for administrative costs.

“(e) TRAINING NONRECIPIENTS.—A recipient of a subgrant under this section may train, on a fee-for-service basis, personnel from schools, or local educational agencies, that are not a beneficiary of, or receiving, such a subgrant, in the instructional practices based on scientifically based reading research used by the recipient. Such a nonrecipient school or agency may use funds received under title I of this Act, and other appropriate Federal funds used for reading instruction, to pay for such training, to the extent consistent with the law under which such funds were received.

20 USC 6661e.

**“SEC. 2256. TUTORIAL ASSISTANCE SUBGRANTS.**

“(a) IN GENERAL.—

“(1) SUBGRANTS.—Except as provided in paragraph (4), a State educational agency that receives a grant under section 2253 shall make at least one subgrant on a competitive basis to—

“(A) local educational agencies that have at least one school in the geographic area served by the agency that—

“(i) is located in an area designated as an empowerment zone under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986; or

“(ii) is located in an area designated as an enterprise community under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986;

“(B) local educational agencies that have at least one school that is identified for school improvement under section 1116(c) in the geographic area served by the agency;

“(C) local educational agencies with the largest, or second largest, number of children who are counted under section 1124(c), in comparison to all other local educational agencies in the State; or

“(D) local educational agencies with the highest, or second highest, school-age child poverty rate, in comparison to all other local educational agencies in the State.

For purposes of subparagraph (D), the term ‘school-age child poverty rate’ means the number of children counted under section 1124(c) who are living within the geographic boundaries of the local educational agency, expressed as a percentage of the total number of children aged 5–17 years living within the geographic boundaries of the local educational agency.

“(2) NOTIFICATION.—

“(A) TO LOCAL EDUCATIONAL AGENCIES.—A State educational agency shall provide notice to all local educational agencies within the State regarding the availability of the subgrants under this section.

“(B) TO PROVIDERS AND PARENTS.—Not later than 30 days after the date on which the State educational agency

provides notice under subparagraph (A), each local educational agency described in paragraph (1) shall, as a condition on the agency's receipt of funds made available under title I of this Act, provide public notice to potential providers of tutorial assistance operating in the jurisdiction of the agency, and parents residing in such jurisdiction, regarding the availability of the subgrants under this section.

“(3) APPLICATION.—A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and including such information as the agency may require. The application shall include an assurance that the local educational agency will use the subgrant funds to carry out the duties described in subsection (b) for children enrolled in any school selected by the agency that (A) is described in paragraph (1)(A), (B) is described in paragraph (1)(B), (C) has the largest, or second largest, number of children who are counted under section 1124(c), in comparison to all other schools in the local educational agency, or (D) has the highest, or second highest, school-age child poverty rate (as defined in the second sentence of paragraph (1)), in comparison to all other schools in the local educational agency.

“(4) EXCEPTION.—If no local educational agency within the State submits an application to receive a subgrant under this section within the 6-month period beginning on the date on which the State educational agency provided notice to the local educational agencies regarding the availability of the subgrants, the State educational agency may use funds otherwise reserved under 2254(2) for the purpose of providing local reading improvement subgrants under section 2255 if the State educational agency certifies to the Secretary that the requirements of paragraph (2) have been met and each local educational agency in the State described in subparagraph (B) of such paragraph has demonstrated to the State educational agency that no provider of tutorial assistance described in such subparagraph requested the local educational agency to submit under paragraph (3) an application for a tutorial assistance subgrant.

“(b) USE OF FUNDS.—

“(1) IN GENERAL.—A local educational agency that receives a subgrant under this section shall carry out, using the funds provided under the subgrant, each of the duties described in paragraph (2).

“(2) DUTIES.—The duties described in this paragraph are the provision of tutorial assistance in reading, before school, after school, on weekends, or during the summer, to children who have difficulty reading, using instructional practices based on scientifically based reading research, through the following:

“(A) The creation and implementation of objective criteria to determine in a uniform manner the eligibility of tutorial assistance providers and tutorial assistance programs desiring to provide tutorial assistance under the subgrant. Such criteria shall include the following:

“(i) A record of effectiveness with respect to reading readiness, reading instruction for children in

kindergarten through 3d grade, and early childhood literacy, as appropriate.

“(ii) Location in a geographic area convenient to the school or schools attended by the children who will be receiving tutorial assistance.

“(iii) The ability to provide tutoring in reading to children who have difficulty reading, using instructional practices based on scientifically based reading research and consistent with the reading instructional methods and content used by the school the child attends.

“(B) The provision, to parents of a child eligible to receive tutorial assistance pursuant to this section, of multiple choices among tutorial assistance providers and tutorial assistance programs determined to be eligible under the criteria described in subparagraph (A). Such choices shall include a school-based program and at least one tutorial assistance program operated by a provider pursuant to a contract with the local educational agency.

“(C) The development of procedures—

“(i) for the provision of information to parents of an eligible child regarding such parents’ choices for tutorial assistance for the child;

“(ii) for considering children for tutorial assistance who are identified under subparagraph (D) and for whom no parent has selected a tutorial assistance provider or tutorial assistance program that give such parents additional opportunities to select a tutorial assistance provider or tutorial assistance program referred to in subparagraph (B); and

“(iii) that permit a local educational agency to recommend a tutorial assistance provider or tutorial assistance program in a case where a parent asks for assistance in the making of such selection.

“(D) The development of a selection process for providing tutorial assistance in accordance with this paragraph that limits the provision of assistance to children identified, by the school the child attends, as having difficulty reading, including difficulty mastering phonemic awareness, systematic phonics, fluency, and reading comprehension.

“(E) The development of procedures for selecting children to receive tutorial assistance, to be used in cases where insufficient funds are available to provide assistance with respect to all children identified by a school under subparagraph (D), that—

“(i) give priority to children who are determined, through State or local reading assessments, to be most in need of tutorial assistance; and

“(ii) give priority, in cases where children are determined, through State or local reading assessments, to be equally in need of tutorial assistance, based on a random selection principle.

“(F) The development of a methodology by which payments are made directly to tutorial assistance providers who are identified and selected pursuant to this section and selected for funding. Such methodology shall include the making of a contract, consistent with State and local

law, between the provider and the local educational agency. Such contract shall satisfy the following requirements:

“(i) It shall contain specific goals and timetables with respect to the performance of the tutorial assistance provider.

“(ii) It shall require the tutorial assistance provider to report to the local educational agency on the provider’s performance in meeting such goals and timetables.

“(iii) It shall specify the measurement techniques that will be used to evaluate the performance of the provider.

“(iv) It shall require the provider to meet all applicable Federal, State, and local health, safety, and civil rights laws.

“(v) It shall ensure that the tutorial assistance provided under the contract is consistent with reading instruction and content used by the local educational agency.

“(vi) It shall contain an agreement by the provider that information regarding the identity of any child eligible for, or enrolled in the program, will not be publicly disclosed without the permission of a parent of the child.

“(vii) It shall include the terms of an agreement between the provider and the local educational agency with respect to the provider’s purchase and maintenance of adequate general liability insurance.

“(viii) It shall contain provisions with respect to the making of payments to the provider by the local educational agency.

“(G) The development of procedures under which the local educational agency carrying out this paragraph—

“(i) will ensure oversight of the quality and effectiveness of the tutorial assistance provided by each tutorial assistance provider that is selected for funding;

“(ii) will provide for the termination of contracts with ineffective and unsuccessful tutorial assistance providers (as determined by the local educational agency based upon the performance of the provider with respect to the goals and timetables contained in the contract between the agency and the provider under subparagraph (F));

“(iii) will provide to each parent of a child identified under subparagraph (D) who requests such information for the purpose of selecting a tutorial assistance provider for the child, in a comprehensible format, information with respect to the quality and effectiveness of the tutorial assistance referred to in clause (i);

“(iv) will ensure that each school identifying a child under subparagraph (D) will provide upon request, to a parent of the child, assistance in selecting, from among the tutorial assistance providers who are identified pursuant to subparagraph (B) the provider who is best able to meet the needs of the child;

“(v) will ensure that parents of a child receiving tutorial assistance pursuant to this section are

informed of their child's progress in the tutorial program; and

“(vi) will ensure that it does not disclose the name of any child who may be eligible for tutorial assistance pursuant to this section, the name of any parent of such a child, or any other personally identifiable information about such a parent or child, to any tutorial assistance provider (excluding the agency itself), without the prior written consent of such parent.

20 USC 6661f.

**“SEC. 2257. NATIONAL EVALUATION.**

“From funds reserved under section 2260(b)(1), the Secretary, through grants or contracts, shall conduct a national assessment of the programs under this part. In developing the criteria for the assessment, the Secretary shall receive recommendations from the peer review panel convened under section 2253(c)(2).

20 USC 6661g.

**“SEC. 2258. INFORMATION DISSEMINATION.**

“(a) IN GENERAL.—From funds reserved under section 2260(b)(2), the National Institute for Literacy shall disseminate information on scientifically based reading research and information on subgrantee projects under section 2255 or 2256 that have proven effective. At a minimum, the institute shall disseminate such information to all recipients of Federal financial assistance under titles I and VII of this Act, the Head Start Act, the Individuals with Disabilities Education Act, and the Adult Education and Family Literacy Act.

“(b) COORDINATION.—In carrying out this section, the National Institute for Literacy—

“(1) shall use, to the extent practicable, information networks developed and maintained through other public and private persons, including the Secretary, the National Center for Family Literacy, and the Readline Program;

“(2) shall work in conjunction with any panel convened by the National Institute of Child Health and Human Development and the Secretary and any panel convened by the Office of Educational Research and Improvement to assess the current status of research-based knowledge on reading development, including the effectiveness of various approaches to teaching children to read, with respect to determining the criteria by which the National Institute for Literacy judges scientifically based reading research and the design of strategies to disseminate such information; and

“(3) may assist any State educational agency selected to receive a grant under section 2253, and that requests such assistance—

“(A) in determining whether applications submitted under section 2253 meet the requirements of this title relating to scientifically based reading research; and

“(B) in the development of subgrant application forms.

20 USC 6661h.

**“SEC. 2259. STATE EVALUATIONS; PERFORMANCE REPORTS.**

“(a) STATE EVALUATIONS.—

“(1) IN GENERAL.—Each State educational agency that receives a grant under section 2253 shall evaluate the success of the agency's subgrantees in meeting the purposes of this part. At a minimum, the evaluation shall measure the extent to which students who are the intended beneficiaries of the

subgrants made by the agency have improved their reading skills.

“(2) CONTRACT.—A State educational agency shall carry out the evaluation under this subsection by entering into a contract with an entity that conducts scientifically based reading research, under which contract the entity will perform the evaluation.

“(3) SUBMISSION.—A State educational agency shall submit the findings from the evaluation under this subsection to the Secretary. The Secretary shall submit a summary of the findings from the evaluations under this subsection and the national assessment conducted under section 2257 to the appropriate committees of the Congress, including the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

“(b) PERFORMANCE REPORTS.—A State educational agency that receives a grant under section 2253 shall submit performance reports to the Secretary pursuant to a schedule to be determined by the Secretary, but not more frequently than annually. Such reports shall include—

“(1) with respect to subgrants under section 2255, the program or programs of reading instruction, based on scientifically based reading research, selected by subgrantees;

“(2) the results of use of the evaluation referred to in section 2253(b)(2)(E)(iv); and

“(3) a description of the subgrantees receiving funds under this part.

**“SEC. 2260. AUTHORIZATIONS OF APPROPRIATIONS; RESERVATIONS FROM APPROPRIATIONS; SUNSET.** 20 USC 6661i.

“(a) AUTHORIZATIONS.—

“(1) FY 1999.—There are authorized to be appropriated to carry out this part and section 1202(c) \$260,000,000 for fiscal year 1999.

“(2) FY 2000.—There are authorized to be appropriated to carry out this part and section 1202(c) \$260,000,000 for fiscal year 2000.

“(b) RESERVATIONS.—From each of the amounts appropriated under subsection (a) for a fiscal year, the Secretary—

“(1) shall reserve 1.5 percent to carry out section 2257(a);

“(2) shall reserve \$5,000,000 to carry out section 2258;

and

“(3) shall reserve \$10,000,000 to carry out section 1202(c).

“(c) SUNSET.—Notwithstanding section 422(a) of the General Education Provisions Act, this part is not subject to extension under such section.”.

(b) CONFORMING AMENDMENTS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 2003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6603) is amended—

(A) in subsection (a), by striking “title,” and inserting “title (other than part C),”; and

(B) in subsection (b)(3), by striking “part C” and inserting “part D”.

(2) PRIORITY FOR PROFESSIONAL DEVELOPMENT IN MATHEMATICS AND SCIENCE.—Section 2206 of the Elementary and

Secondary Education Act of 1965 (20 U.S.C. 6646) is amended by inserting “(other than part C)” after “for this title” each place such term appears.

(3) REPORTING AND ACCOUNTABILITY.—Section 2401 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6701) is amended by striking “under this part” each place such term appears and inserting “under this title (other than part C)”.

20 USC 6702.

(4) DEFINITIONS.—Section 2402 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6701) is amended by striking “this part—” and inserting “this title (other than part C)—”.

(5) GENERAL DEFINITIONS.—Section 14101(10)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(10)(C)) is amended by striking “part C” and inserting “part D”.

(6) PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.—Section 14503(b)(1)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8893(b)(1)(B)) is amended by striking “part C” and inserting “part D”.

## **SUBTITLE II—AMENDMENTS TO EVEN START FAMILY LITERACY PROGRAMS**

### **SEC. 201. RESERVATION FOR GRANTS.**

Section 1202(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(c)) is amended to read as follows:

“(c) RESERVATION FOR GRANTS.—

“(1) GRANTS AUTHORIZED.—From funds reserved under section 2260(b)(3), the Secretary shall award grants, on a competitive basis, to States to enable such States to plan and implement statewide family literacy initiatives to coordinate and, where appropriate, integrate existing Federal, State, and local literacy resources consistent with the purposes of this part. Such coordination and integration shall include funds available under the Adult Education and Family Literacy Act, the Head Start Act, this part, part A of this title, and part A of title IV of the Social Security Act.

“(2) CONSORTIA.—

“(A) ESTABLISHMENT.—To receive a grant under this subsection, a State shall establish a consortium of State-level programs under the following laws:

“(i) This title (other than part D).

“(ii) The Head Start Act.

“(iii) The Adult Education and Family Literacy Act.

“(iv) All other State-funded preschool programs and programs providing literacy services to adults.

“(B) PLAN.—To receive a grant under this subsection, the consortium established by a State shall create a plan to use a portion of the State’s resources, derived from the programs referred to in subparagraph (A), to strengthen and expand family literacy services in such State.

“(C) COORDINATION WITH PART C OF TITLE II.—The consortium shall coordinate its activities with the activities of the reading and literacy partnership for the State



established under section 2253(d), if the State educational agency receives a grant under section 2253.

“(3) **READING INSTRUCTION.**—Statewide family literacy initiatives implemented under this subsection shall base reading instruction on scientifically based reading research (as such term is defined in section 2252).

“(4) **TECHNICAL ASSISTANCE.**—The Secretary shall provide, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to States receiving a grant under this subsection.

“(5) **MATCHING REQUIREMENT.**—The Secretary shall not make a grant to a State under this subsection unless the State agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.”.

#### **SEC. 202. DEFINITIONS.**

Section 1202(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6362(e)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

“(3) the term ‘family literacy services’ means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

“(A) Interactive literacy activities between parents and their children.

“(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

“(C) Parent literacy training that leads to economic self-sufficiency.

“(D) An age-appropriate education to prepare children for success in school and life experiences.

#### **SEC. 203. EVALUATION.**

Section 1209 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6369) is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(3) to provide States and eligible entities receiving a subgrant under this part, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to ensure local evaluations undertaken under section 1205(10) provide accurate information on the effectiveness of programs assisted under this part.”.

#### **SEC. 204. INDICATORS OF PROGRAM QUALITY.**

(a) **IN GENERAL.**—The Elementary and Secondary Education Act of 1965 is amended—

20 USC 6370. (1) by redesignating section 1210 as section 1212; and  
(2) by inserting after section 1209 the following:

20 USC 6369a. **“SEC. 1210. INDICATORS OF PROGRAM QUALITY.**

“Each State receiving funds under this part shall develop, based on the best available research and evaluation data, indicators of program quality for programs assisted under this part. Such indicators shall be used to monitor, evaluate, and improve such programs within the State. Such indicators shall include the following:

“(1) With respect to eligible participants in a program who are adults—

“(A) achievement in the areas of reading, writing, English language acquisition, problem solving, and numeracy;

“(B) receipt of a high school diploma or a general equivalency diploma;

“(C) entry into a postsecondary school, job retraining program, or employment or career advancement, including the military; and

“(D) such other indicators as the State may develop.

“(2) With respect to eligible participants in a program who are children—

“(A) improvement in ability to read on grade level or reading readiness;

“(B) school attendance;

“(C) grade retention and promotion; and

“(D) such other indicators as the State may develop.”.

(b) STATE LEVEL ACTIVITIES.—Section 1203(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6363(a)) is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(3) carrying out section 1210.”.

(c) AWARD OF SUBGRANTS.—Paragraphs (3) and (4) of section 1208(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6368) are amended to read as follows:

“(3) CONTINUING ELIGIBILITY.—In awarding subgrant funds to continue a program under this part for the second, third, or fourth year, the State educational agency shall evaluate the program based on the indicators of program quality developed by the State under section 1210. Such evaluation shall take place after the conclusion of the startup period, if any.

“(4) INSUFFICIENT PROGRESS.—The State educational agency may refuse to award subgrant funds if such agency finds that the eligible entity has not sufficiently improved the performance of the program, as evaluated based on the indicators of program quality developed by the State under section 1210, after—

“(A) providing technical assistance to the eligible entity; and

“(B) affording the eligible entity notice and an opportunity for a hearing.”.

**SEC. 205. RESEARCH.**

The Elementary and Secondary Education Act of 1965, as amended by section 204 of this Act, is further amended by inserting after section 1210 the following:

**“SEC. 1211. RESEARCH.**

20 USC 6369b.

“(a) IN GENERAL.—The Secretary shall carry out, through grant or contract, research into the components of successful family literacy services, to use—

“(1) to improve the quality of existing programs assisted under this part or other family literacy programs carried out under this Act or the Adult Education and Family Literacy Act; and

“(2) to develop models for new programs to be carried out under this Act or the Adult Education and Family Literacy Act.

“(b) DISSEMINATION.—The National Institute for Literacy shall disseminate, pursuant to section 2258, the results of the research described in subsection (a) to States and recipients of subgrants under this part.”.

**SUBTITLE III—REPEALS****SEC. 301. REPEAL OF CERTAIN UNFUNDED EDUCATION PROGRAMS.**

(a) COMMUNITY SCHOOL PARTNERSHIPS.—The Community School Partnership Act (contained in part B of title V of the Improving America’s Schools Act of 1994 (20 U.S.C. 1070 note) is repealed.

(b) EDUCATIONAL RESEARCH, DEVELOPMENT, DISSEMINATION, AND IMPROVEMENT ACT OF 1994.—Section 941(j) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(j)) is repealed.

(c) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The following provisions are repealed:

(1) INNOVATIVE ELEMENTARY SCHOOL TRANSITION PROJECTS.—Section 1503 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6493).

(2) DE LUGO TERRITORIAL EDUCATION IMPROVEMENT PROGRAM.—Part H of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8221 et seq.).

(3) EXTENDED TIME FOR LEARNING AND LONGER SCHOOL YEAR.—Part L of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8351).

(4) TERRITORIAL ASSISTANCE.—Part M of title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8371).

(d) FAMILY AND COMMUNITY ENDEAVOR SCHOOLS.—The Family and Community Endeavor Schools Act (42 U.S.C. 13792) is repealed.

(e) GOALS 2000: EDUCATE AMERICA ACT.—Subsections (b) and (d)(1) of section 601 of the Goals 2000: Educate America Act (20 U.S.C. 5951) are repealed.

**SUBTITLE IV—TECHNICAL AND CONFORMING  
AMENDMENTS**

**SEC. 401. TECHNICAL AMENDMENTS TO THE WORKFORCE INVEST-  
MENT ACT OF 1998.**

- 29 USC 2821. (1) Section 111(c) of the Workforce Investment Act of 1998 is amended by striking “CHAIRMAN” and inserting “CHAIRPERSON”.
- 29 USC 2822. (2) Section 112(c)(1) of such Act is amended by striking “; and” and inserting “; or”.
- 29 USC 2831. (3) Section 116(a)(3)(D)(ii)(I)(aa) of such Act is amended by striking “; or” and inserting “; and”.
- 29 USC 2832. (4) Section 117 of such Act is amended—  
 (A) in subsection (f)(1)(D), by striking “State” and inserting “Governor”; and  
 (B) in subsection (i)(1)(D)(ii), by striking subclause (II), and inserting the following:  
 “(II) other representatives of employees in the local area (for a local area in which no employees are represented by such organizations).”.
- 29 USC 2864. (5) Section 134(d)(4)(F) of such Act is amended by adding at the end the following:  
 “(iii) INDIVIDUAL TRAINING ACCOUNTS.—An individual who seeks training services and who is eligible pursuant to subparagraph (A), may, in consultation with a case manager, select an eligible provider of training services from the list or identifying information for providers described in clause (ii)(I). Upon such selection, the one-stop operator involved shall, to the extent practicable, refer such individual to the eligible provider of training services, and arrange for payment for such services through an individual training account.”.
- 29 USC 2899. (6) Section 159 of such Act is amended—  
 (A) in subsections (c)(1)(G) and (d)(4), by striking “postsecondary” and inserting “postsecondary”; and  
 (B) in subsection (c)(3), by striking “containing” and inserting “containing,”.
- 29 USC 2911. (7) Section 166(h)(3)(A) of such Act is amended by striking “paragraph (2)” and inserting “subparagraph (B)”.
- 29 USC 2912. (8) Section 167(d) of such Act is amended by inserting “and section 127(b)(1)(A)(iii)” after “this section”.
- 29 USC 2915. (9) Section 170(a)(1) of such Act is amended by striking “carry out” and inserting “carrying out”.
- 29 USC 2916. (10) Section 170(b)(2) of such Act is amended by striking “174(b)” and inserting “173(b)”.
- 29 USC 2918. (11) Section 171(b)(2) of such Act is amended by striking “only on a competitive” and all that follows through the period and inserting “in accordance with generally applicable Federal requirements.”.
- 29 USC 2918. (12) Section 173(a)(2) of such Act is amended by striking “the Robert” and inserting “The Robert”.
- 29 USC 2939. (13) Section 189(i)(1) of such Act is amended by striking “1997 (Public Law 104–208; 110 Stat. 3009–234)” and inserting “1998 (Public Law 105–78; 111 Stat. 1467).”.
- 29 USC 2942. (14) Paragraphs (2) and (3) of section 192(a) of such Act are amended by striking “), to” and inserting “) to”.

(15) Section 334(b) of such Act is amended by striking paragraph (2) and inserting the following: 29 USC 2701 note.

“(2) DATE.—The appointments of the members of the Commission shall be made by February 1, 1999.”.

(16) Section 405 of such Act is amended by striking “et seq.” and inserting “et seq.”. 29 USC 760-765.

(17) Section 501(b)(1) of such Act is amended by adding at the end the following: “For purposes of this paragraph, the activities and programs described in subparagraphs (A) and (B) of paragraph (2) shall not be considered to be 2 or more activities or programs for purposes of the unified plan. Such activities or programs shall be considered to be 1 activity or program.”. 20 USC 9271.

(18) Section 505 of such Act is amended— 20 USC 9275.

(A) in subsection (a), by striking “in this Act” and inserting “under title I, II, or III or this title”; and

(B) in subsection (b), by striking “under this Act” each place it appears and inserting “under title I, II, or III or this title”.

(19) Section 506(d) of such Act is amended— 20 USC 9276.

(A) in paragraph (1), by striking “subsection (b)” and inserting “subsection (c)”; and

(B) in paragraph (2)—

(i) by inserting “planning authorized under” after “carry out” each place that such appears; and

(ii) by striking “the purposes” and inserting “the planning purposes”.

#### SEC. 402. TECHNICAL AMENDMENTS TO THE REHABILITATION ACT OF 1973.

(a) REDESIGNATION.—

(1) The Rehabilitation Act of 1973 (as amended by title IV of the Workforce Investment Act of 1998) is further amended by redesignating sections 6 through 19 as sections 7, 8, and 10 through 21, respectively. 29 USC 705-718.

(2) The table of contents for the Rehabilitation Act of 1973 (as amended by section 403 of the Workforce Investment Act of 1998) is further amended by striking the items relating to sections 6 through 19 and inserting the following:

“Sec. 7. Definitions.  
 “Sec. 8. Allotment percentage.  
 “Sec. 10. Nonduplication.  
 “Sec. 11. Application of other laws.  
 “Sec. 12. Administration of the Act.  
 “Sec. 13. Reports.  
 “Sec. 14. Evaluation.  
 “Sec. 15. Information clearinghouse.  
 “Sec. 16. Transfer of funds.  
 “Sec. 17. State administration.  
 “Sec. 18. Review of applications.  
 “Sec. 19. Carryover.  
 “Sec. 20. Client assistance information.  
 “Sec. 21. Traditionally underserved populations.”.

(b) SECTION HEADINGS.—

(1) Section 1 of such Act (as so amended) is further amended by striking the section heading and all that follows through “SHORT TITLE.—” and inserting the following: 29 USC 701 note.

#### “SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

“(a) SHORT TITLE.—”.

29 USC 701. (2) Section 2 of such Act (as so amended) is further amended by striking the section heading and all that follows through “FINDINGS.—” and inserting the following:

**“SEC. 2. FINDINGS; PURPOSE; POLICY.**

“(a) FINDINGS.—”.

29 USC 705. (3) Section 7 of such Act (as so amended and redesignated in subsection (a)) is further amended by striking the section heading and all that follows through “(1) The term” and inserting the following:

**“SEC. 7. DEFINITIONS.**

“For the purposes of this Act:

“(1) ADMINISTRATIVE COSTS.—The term”.

29 USC 716. (4) Section 19 of such Act (as so amended and redesignated in subsection (a)) is further amended by striking the section heading and all that follows through “IN GENERAL.—” and inserting the following:

**“SEC. 19. CARRYOVER.**

“(a) IN GENERAL.—”.

29 USC 717. (5) Section 20 of such Act (as so amended and redesignated in subsection (a)) is further amended by striking the section heading and all that follows through “All” and inserting the following:

**“SEC. 20. CLIENT ASSISTANCE INFORMATION.**

“All”.

29 USC 718. (6) Section 21 of such Act (as so amended and redesignated in subsection (a)) is further amended by striking the section heading and all that follows through “FINDINGS.—” and inserting the following:

**“SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS.**

“(a) FINDINGS.—”.

29 USC 730. (7) Section 110 of such Act (as so amended) is further amended by striking the section heading and all that follows through “(a)(1) Subject” and inserting the following:

**“STATE ALLOTMENTS**

“SEC. 110. (a)(1) Subject”.

29 USC 731. (8) Section 111 of such Act (as so amended) is further amended by striking the section heading and all that follows through “(a)(1) Except” and inserting the following:

**“PAYMENTS TO STATES**

“SEC. 111. (a)(1) Except”.

29 USC 732. (9) Section 112 of such Act (as so amended) is further amended by striking the section heading and all that follows through “(a) From” and inserting the following:

**“CLIENT ASSISTANCE PROGRAM**

“SEC. 112. (a) From”.

29 USC 741. (10) Section 121 of such Act (as so amended) is further amended by striking the section heading and all that follows through “(a) The” and inserting the following:

“VOCATIONAL REHABILITATION SERVICES GRANTS

“SEC. 121. (a) The”.

(11) Section 205 of such Act (as so amended) is further amended by striking the section heading and all that follows through “ESTABLISHMENT.—” and inserting the following: 29 USC 765.

“SEC. 205. REHABILITATION RESEARCH ADVISORY COUNCIL.

“(a) ESTABLISHMENT.—”.

(12) Section 621 of such Act (as so amended) is further amended by striking the section heading and all that follows through “It” and inserting the following: 29 USC 795g.

“SEC. 621. PURPOSE.

“It”.

(13) Section 622 of such Act (as so amended) is further amended by striking the section heading and all that follows through “IN GENERAL.—” and inserting the following: 29 USC 795h.

“SEC. 622. ALLOTMENTS.

“(a) IN GENERAL.—”.

(14) Section 623 of such Act (as so amended) is further amended by striking the section heading and all that follows through “Funds provided under this part may” and inserting the following: 29 USC 795i.

“SEC. 623. AVAILABILITY OF SERVICES.

“Funds provided under this part may”.

(15) Section 624 of such Act (as so amended) is further amended by striking the section heading and all that follows through “An” and inserting the following: 29 USC 795j.

“SEC. 624. ELIGIBILITY.

“An”.

(16) Section 625 of such Act (as so amended) is further amended by striking the section heading and all that follows through “STATE PLAN SUPPLEMENTS.—” and inserting the following: 29 USC 795k.

“SEC. 625. STATE PLAN.

“(a) STATE PLAN SUPPLEMENTS.—”.

(17) Section 626 of such Act (as so amended) is further amended by striking the section heading and all that follows through “Each” and inserting the following: 29 USC 795l.

“SEC. 626. RESTRICTION.

“Each”.

(18) Section 627 of such Act (as so amended) is further amended by striking the section heading and all that follows through “SUPPORTED EMPLOYMENT SERVICES.—” and inserting the following: 29 USC 795m.

“SEC. 627. SAVINGS PROVISION.

“(a) SUPPORTED EMPLOYMENT SERVICES.—”.

(19) Section 628 of such Act (as so amended) is further amended by striking the section heading and all that follows through “There” and inserting the following: 29 USC 795n.

“SEC. 628. AUTHORIZATION OF APPROPRIATIONS.

“There”.

(c) OTHER AMENDMENTS.—

29 USC 705. (1) Section 7 of such Act (as so amended and redesignated in subsection (a)) is further amended—

(A) in paragraph (2)(B), by striking “objectives, nature,” and inserting “nature”;

(B) by striking paragraph (7);

(C) in paragraph (16)(A)(iii), by striking “client” and inserting “eligible individual”; and

(D) in paragraph (36)(C), by striking “rehabilitation objectives” and inserting “employment outcome”.

29 USC 707. (2) Section 10 of such Act (as so amended and redesignated in subsection (a)) is further amended—

(A) by striking “disregarded: (1)” and inserting the following: “disregarded—  
“(1)”;

(B) by striking “(2)” and inserting the following: “(2)”;

(C) by striking “No payment” and inserting the following: “No payment”.

29 USC 718. (3) The second and third sentences of section 21(a)(3) of such Act (as so amended and redesignated in subsection (a)) are further amended by striking “are” and inserting “is”.

29 USC 721. (4) Section 101(a) of such Act (as so amended) is further amended—

(A) in paragraph (18)(C), by striking “will be utilized” and inserting “were utilized during the preceding year”; and

(B) in paragraph (21)(A)(i)(II)(bb), by striking “Commission” and inserting “commission”.

29 USC 722. (5) Section 102(c)(5)(F) (as so amended) is further amended—

(A) in clause (ii), by striking “and” at the end thereof;

(B) in clause (iii), by striking the period and inserting “; and”;

(C) by adding at the end the following:

“(iv) not delegate the responsibility for making the final decision to any officer or employee of the designated State unit.”.

29 USC 725. (6) Section 105(b) of such Act (as so amended) is further amended—

(A) in paragraph (3)—

(i) by striking “Governor” the first place it appears and inserting “Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this Act in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity”; and

(ii) in the second and third sentences, by striking “Governor” and inserting “appointing authority”;

(B) in paragraph (4)(A)(i), by striking “section 7(20)(A)” and inserting “section 7(20)(B)”;

(C) in paragraph (5)(B)—

(i) in the subparagraph heading, by striking “GOVERNOR” and inserting “CHIEF EXECUTIVE OFFICER”; and



(ii) by striking “Governor shall” and inserting “appointing authority described in paragraph (3) shall”; and

(D) in paragraphs (6)(A)(ii) and (7)(B), by striking “Governor” and inserting “appointing authority described in paragraph (3)”.

(7) Section 705(b) of such Act (as so amended) is further amended—

29 USC 769d.

(A) in paragraph (1)—

(i) by striking “Governor” the first place it appears and inserting “Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this Act in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity”; and

(ii) in the second sentence, by striking “Governor” and inserting “appointing authority”;

(B) in paragraph (5)(B)—

(i) in the subparagraph heading, by striking “GOVERNOR” and inserting “CHIEF EXECUTIVE OFFICER”; and

(ii) by striking “Governor shall” and inserting “appointing authority described in paragraph (3) shall”; and

(C) in paragraphs (6)(A)(ii) and (7)(B), by striking “Governor” and inserting “appointing authority described in paragraph (3)”.

#### SEC. 403. TECHNICAL AMENDMENTS TO OTHER ACTS.

(a) WAGNER-PEYSER ACT.—

(1) IN GENERAL.—Section 15 of the Wagner-Peyser Act (as added by section 309 of the Workforce Investment Act of 1998) is amended—

29 USC 491-2.

(A) in subsection (a)(2)(A)(i), by striking “of this section” the second place it appears; and

(B) in subsection (e)(2)(G), by striking “complementary” and inserting “complementarity”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on July 2, 1999.

29 USC 491-2 note.

(b) OLDER AMERICANS ACT OF 1965.—Subparagraph (Q) of section 502(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)) (as added by section 323 of the Workforce Investment Act of 1998) is amended by aligning the margins of the subparagraph with the margins of subparagraph (P) of such section.

#### SEC. 404. TECHNICAL AMENDMENTS REGARDING ADULT EDUCATION.

(a) REFERENCES TO TITLE.—The matter preceding paragraph (1) of section 203, and sections 204 and 205, of the Adult Education and Family Literacy Act (20 U.S.C. 9202, 9203, and 9204) are each amended by striking “this subtitle” and inserting “this title”.

(b) QUALIFYING ADULT.—Section 211(d)(1) of the Adult Education and Family Literacy Act (20 U.S.C. 9211(d)(1)) is amended by striking “, but less than 61 years of age”.

(c) LEVELS OF PERFORMANCE.—Section 212(b)(3)(A)(vi) of the Adult Education and Family Literacy Act (20 U.S.C. 9212(b)(3)(A)(vi)) is amended by striking “136(j)” and inserting “136(i)(1)”.

(d) CORRECTIONS EDUCATION.—Section 225(a) of the Adult Education and Family Literacy Act (20 U.S.C. 9225) is amended—

(1) in subsection (a), by striking “or education” and inserting “and education”; and

(2) in subsection (c), by striking “with” and inserting “within”.

(e) NATIONAL LEADERSHIP ACTIVITIES.—Section 243(2)(B) of the Adult Education and Family Literacy Act (20 U.S.C. 9253(2)(B)) is amended by striking “qualify” and inserting “quality”.

(f) INCENTIVE GRANTS.—Section 503(a) of the Workforce Investment Act of 1998 (20 U.S.C. 9273(a)) is amended by striking “expected” and inserting “adjusted”.

**SEC. 405. CONFORMING AMENDMENTS.**

(a) REFERENCES TO SECTION 204 OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.—The table of contents for the Immigration Reform and Control Act of 1986 is amended by striking the item relating to section 204 of such Act.

(b) REFERENCES TO TITLE II OF PUBLIC LAW 95–250.—Section 103 of Public Law 95–250 (16 U.S.C. 791) is amended—

(1) by striking the second sentence of subsection (a); and

(2) by striking the second sentence of subsection (b).

(c) REFERENCES TO SUBTITLE C OF TITLE VII OF THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—

(1) TABLE OF CONTENTS RELATING TO SUBTITLE C OF TITLE VII.—The table of contents of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.) is amended by striking the items relating to sections 731 through 737, and sections 739 through 741, of such Act.

(2) TITLE VII.—Title VII of such Act is amended by inserting before section 738 the following:

**“Subtitle C—Job Training for the Homeless”.**

(3) TITLE 31, UNITED STATES CODE.—Section 6703(a) of title 31, United States Code, is amended—

(A) by striking paragraph (15); and

(B) by redesignating paragraphs (16) through (19) as paragraphs (15) through (18), respectively.

(d) REFERENCES TO JOB TRAINING PARTNERSHIP ACT PRIOR TO REPEAL.—

(1) TITLE 5, UNITED STATES CODE.—Section 3502(d) of title 5, United States Code, is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

“(i) the appropriate State dislocated worker unit or office (referred to in section 311(b)(2) of the Job Training Partnership Act), or the State or entity designated by the State to carry out rapid response activities under section 134(a)(2)(A) of the Workforce Investment Act of 1998; and”; and

(ii) in subparagraph (B)(iii), by striking “other services under the Job Training Partnership Act” and inserting “other services under the Job Training Partnership Act or under title I of the Workforce Investment Act of 1998”; and

(B) in paragraph (4), in the second sentence, by striking “Secretary of Labor on matters relating to the Job Training Partnership Act” and inserting “Secretary of Labor on matters relating to the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(2) FOOD STAMP ACT OF 1977.—

(A) SECTION 5.—Section 5(l) of the Food Stamp Act of 1977 (7 U.S.C. 2014(l)) is amended by striking “Notwithstanding section 142(b) of the Job Training Partnership Act (29 U.S.C. 1552(b)), earnings to individuals participating in on-the-job training programs under section 204(b)(1)(C) or section 264(c)(1)(A) of the Job Training Partnership Act” and inserting “Notwithstanding section 142(b) of the Job Training Partnership Act or section 181(a)(2) of the Workforce Investment Act of 1998, earnings to individuals participating in on-the-job training programs under section 204(b)(1)(C) or 264(c)(1)(A) of the Job Training Partnership Act or in on-the-job training under title I of the Workforce Investment Act of 1998”.

(B) SECTION 6.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(i) in subsection (d)(4)(M), by striking “the State public employment offices and agencies operating programs under the Job Training Partnership Act” and inserting “the State public employment offices and agencies operating programs under the Job Training Partnership Act or of the State public employment offices and other State agencies and providers carrying out activities under title I of the Workforce Investment Act of 1998”;

(ii) in subsection (e)(3), by striking subparagraph (A) and inserting the following:

“(A) a program under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998;”  
and

(iii) in subsection (o)(1)(A), by striking “Job Training Partnership Act (29 U.S.C. 1501 et seq.)” and inserting “Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(C) SECTION 17.—The second sentence of section 17(b)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(2)) is amended—

(i) by striking “to accept an offer of employment from a political subdivision or a prime sponsor pursuant to the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 812),” and inserting “to accept an offer of employment from a political subdivision or provider pursuant to a program carried out under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998;” and

(ii) by striking “: *Provided*, That all of the political subdivision’s” and all that follows and inserting “, if all of the jobs supported under the program have been made available to participants in the program before the political subdivision or provider providing the jobs extends an offer of employment under this paragraph, and if the political subdivision or provider, in

employing the person, complies with the requirements of Federal law that relate to the program.”.

(3) PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.—

(A) Section 403(c)(2)(K) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)(K)) is amended by striking “Job Training Partnership Act” and inserting “Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(B) Section 423(d)(11) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1183a note) is amended by striking “Job Training Partnership Act” and inserting “Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(4) IMMIGRATION AND NATIONALITY ACT.—Section 245A(h)(4)(F) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(F)) is amended by striking “The Job Training Partnership Act.” and inserting “The Job Training Partnership Act or title I of the Workforce Investment Act of 1998.”.

(5) REFUGEE EDUCATION ASSISTANCE ACT OF 1980.—Section 402(a)(4) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking “the Comprehensive Employment and Training Act of 1973” and inserting “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(6) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991.—Section 4003(5)(C) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2391 note) is amended by inserting before the period the following: “, as in effect on the day before the date of enactment of the Workforce Investment Act of 1998”.

(7) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—

(A) SECTION 3161.—Section 3161(c)(6) of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h(c)(6)) is amended by striking subparagraph (A) and inserting the following:

“(A) programs carried out by the Secretary of Labor under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998;”.

(B) SECTION 4461.—Section 4461(1) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended by striking “The Job Training Partnership Act (29 U.S.C. 1501 et seq.)” and inserting “The Job Training Partnership Act or title I of the Workforce Investment Act of 1998.”.

(C) SECTION 4471.—Section 4471 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 2501 note) is amended—

(i) in subsection (c)(2), by striking “the State dislocated” and all that follows through “and the chief” and inserting “the State dislocated worker unit or office referred to in section 311(b)(2) of the Job Training Partnership Act, or the State or entity designated by the State to carry out rapid response activities under section 134(a)(2)(A) of the Workforce Investment Act of 1998, and the chief”;

(ii) in subsection (d)—

(I) in the first sentence, by striking “for training, adjustment assistance, and employment services” and all that follows through “except where” and inserting “for training, adjustment assistance, and employment services under section 325 or 325A of the Job Training Partnership Act or to participate in employment and training activities carried out under title I of the Workforce Investment Act of 1998, except in a case in which”; and

(II) by striking the second sentence; and

(iii) in subsection (e), by striking “for training,” and all that follows through “beginning” and inserting “, on the basis of any related reduction in funding under the contract, for training, adjustment assistance, and employment services under section 325 or 325A of the Job Training Partnership Act or to participate in employment and training activities under title I of the Workforce Investment Act of 1998, beginning”.

(D) SECTION 4492.—Section 4492(b) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended by striking “the Job Training Partnership Act” and inserting “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(8) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994.—Section 1333(c)(2)(B) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2701 note) is amended by striking “Private industry councils (as described in section 102 of the Job Training Partnership Act (29 U.S.C. 1512)).” and inserting “Private industry councils as described in section 102 of the Job Training Partnership Act or local workforce investment boards established under section 117 of the Workforce Investment Act of 1998.”.

(9) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998.—Section 2824(c)(5) of the National Defense Authorization Act for Fiscal Year 1998 (10 U.S.C. 2687 note) is amended by striking “Job Training Partnership Act” and inserting “Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(10) SMALL BUSINESS ACT.—The fourth sentence of section 7(j)(13)(E) of the Small Business Act (15 U.S.C. 636(j)(13)(E)) is amended by striking “the Job Training Partnership Act (29 U.S.C. 1501 et seq.)” and inserting “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(11) EMPLOYMENT ACT OF 1946.—Section 4(f)(2)(B) of the Employment Act of 1946 (15 U.S.C. 1022a(f)(2)(B)) is amended by striking “and include these in the annual Employment and Training Report of the President required under section 705(a) of the Comprehensive Employment and Training Act of 1973 (hereinafter in this Act referred to as ‘CETA’)” and inserting “and prepare and submit to the President an annual report containing the recommendations”.

(12) FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978.—

(A) SECTION 206.—Section 206 of the Full Employment and Balanced Growth Act of 1978 (15 U.S.C. 3116) is amended—

(i) in subsection (b)—

(I) in the matter preceding paragraph (1), by striking “CETA” and inserting “the Job Training Partnership Act and title I of the Workforce Investment Act of 1998”; and

(II) in paragraph (1), by striking “(including use of section 110 of CETA when necessary)”; and

(ii) in subsection (c)(1), by striking “CETA” and inserting “activities carried out under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(B) SECTION 401.—Section 401(d) of the Full Employment and Balanced Growth Act of 1978 (15 U.S.C. 3151(d)) is amended by striking “include, in the annual Employment and Training Report of the President provided under section 705(a) of CETA,” and inserting “include, in the annual report referred to in section 4(f)(2)(B) of the Employment Act of 1946 (15 U.S.C. 1022a(f)(2)(B)),”.

(13) TITLE 18, UNITED STATES CODE.—Subsections (a), (b), and (c) of section 665 of title 18, United States Code are amended by striking “the Comprehensive Employment and Training Act or the Job Training Partnership Act” and inserting “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(14) TRADE ACT OF 1974.—

(A) SECTION 236.—Section 236(a)(5)(B) of the Trade Act of 1974 (19 U.S.C. 2296(a)(5)(B)) is amended by striking “section 303 of the Job Training Partnership Act” and inserting “section 303 of the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(B) SECTION 239.—Section 239(e) of the Trade Act of 1974 (19 U.S.C. 2311(e)) is amended by striking “under title III of the Job Training Partnership Act” and inserting “under title III of the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(15) HIGHER EDUCATION ACT OF 1965.—

(A) SECTION 418A.—Subsections (b)(1)(B)(ii) and (c)(1)(A) of section 418A of the Higher Education Act of 1965 (20 U.S.C. 1070d–2) are amended by striking “section 402 of the Job Training Partnership Act” and inserting “section 402 of the Job Training Partnership Act or section 167 of the Workforce Investment Act of 1998”.

(B) SECTION 480.—Section 480(b)(14) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(b)(14)) is amended by striking “Job Training Partnership Act noneducational benefits” and inserting “Job Training Partnership Act noneducational benefits or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998”.

(16) DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Subsection (a) of section 302 of the Department of Education Organization Act (20 U.S.C. 3443(a)) is amended by striking “under section 303(c)(2) of the Comprehensive Employment and Training Act” and inserting “relating to such education”.

## (17) NATIONAL SKILL STANDARDS ACT OF 1994.—

(A) SECTION 504.—Section 504(c)(3) of the National Skill Standards Act of 1994 (20 U.S.C. 5934(c)(3)) is amended by striking “the Capacity Building and Information and Dissemination Network established under section 453(b) of the Job Training Partnership Act (29 U.S.C. 1733(b)) and”.

(B) SECTION 508.—Section 508(1) of the National Skill Standards Act of 1994 (20 U.S.C. 5938(1)) is amended to read as follows:

“(1) COMMUNITY-BASED ORGANIZATION.—The term ‘community-based organization’ means a private nonprofit organization that is representative of a community or a significant segment of a community and that has demonstrated expertise and effectiveness in the field of workforce investment.”.

## (18) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) SECTION 1205.—Section 1205(8)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6365(8)(B)) is amended by striking “the Job Training Partnership Act” and inserting “the Job Training Partnership Act and title I of the Workforce Investment Act of 1998”.

(B) SECTION 1414.—Section 1414(c)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6434(c)(8)) is amended by striking “programs under the Job Training Partnership Act,” and inserting “programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998,”.

(C) SECTION 1423.—Section 1423(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6453(9)) is amended by striking “programs under the Job Training and Partnership Act” and inserting “programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(D) SECTION 1425.—Section 1425(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6455(9)) is amended by striking “, such as funds under the Job Training Partnership Act,” and inserting “, such as funds made available under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998,”.

(19) DISTRICT OF COLUMBIA SCHOOL REFORM ACT OF 1995.—  
Section 2604(c)(2)(B)(ii) of the District of Columbia School Reform Act of 1995 (Public Law 104-134; 110 Stat. 1321-145) is amended by striking “Job Training Partnership Act (29 U.S.C. 1501 et seq.)” and inserting “Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(20) FREEDOM SUPPORT ACT.—The last sentence of section 505 of the FREEDOM Support Act (22 U.S.C. 5855) is amended by striking “, through the Defense Conversion” and all that follows through “or through” and inserting “or through”.

## (21) EMERGENCY JOBS AND UNEMPLOYMENT ASSISTANCE ACT OF 1974.—

(A) SECTION 204.—Section 204(b) of the Emergency Jobs and Unemployment Assistance Act of 1974 (26 U.S.C. 3304 note) is amended by striking “designate as an area” and all that follows and inserting “designate as an area

under this section an area that is a service delivery area established under section 101 of the Job Training Partnership Act (except that after local workforce investment areas are designated under section 116 of the Workforce Investment Act of 1998 for the State involved, the corresponding local workforce investment area shall be considered to be the area designated under this section) or a local workforce investment area designated under section 116 of the Workforce Investment Act of 1998.”

(B) SECTION 223.—Section 223 of the Emergency Jobs and Unemployment Assistance Act of 1974 (26 U.S.C. 3304 note) is amended—

(i) in paragraph (3), by striking “assistance provided” and all that follows and inserting “assistance provided under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998;”, and

(ii) in paragraph (4), by striking “funds provided” and all that follows and inserting “funds provided under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998;”.

(22) JOB TRAINING REFORM AMENDMENTS OF 1992.—Section 701 of the Job Training Reform Amendments of 1992 (29 U.S.C. 1501 note) is repealed.

(23) PUBLIC LAW 98–524.—Section 7 of Public Law 98–524 (29 U.S.C. 1551 note) is repealed.

(24) VETERANS’ BENEFITS AND PROGRAMS IMPROVEMENT ACT OF 1988.—Section 402 of the Veterans’ Benefits and Programs Improvement Act of 1988 (29 U.S.C. 1721 note) is amended—

(A) in subsection (a), by striking “title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.)” and inserting “title III of the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”;

(B) in subsection (c), by striking “Training, in consultation with the office designated or created under section 322(b) of the Job Training Partnership Act,” and inserting “Training, in consultation with the unit or office designated or created under section 322(b) of the Job Training Partnership Act or any successor to such unit or office under title I of the Workforce Investment Act of 1998;”, and

(C) in subsection (d)—

(i) in paragraph (1)(A), by striking “part C” and all that follows through “; and” and inserting “part C of title IV of the Job Training Partnership Act or title I of the Workforce Investment Act of 1998; and”; and

(ii) in paragraph (2), by striking “Employment and training” and all that follows and inserting “Employment and training activities for dislocated workers under title III of the Job Training Partnership Act or title I of the Workforce Investment Act of 1998.”.

(25) VETERANS’ JOB TRAINING ACT.—

(A) SECTION 13.—Section 13(b) of the Veterans’ Job Training Act (29 U.S.C. 1721 note) is amended by striking “assistance under the Job Training Partnership Act (29 U.S.C. 1501 et seq.)” and inserting “assistance under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.



(B) SECTION 14.—Section 14(b)(3)(B)(i)(II) of the Veterans' Job Training Act (29 U.S.C. 1721 note) is amended by striking “under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.)” and inserting “under part C of title IV the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(C) SECTION 15.—Section 15(c)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note) is amended—

(i) in the second sentence, by striking “part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.)” and inserting “part C of title IV of the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”; and

(ii) in the third sentence, by striking “title III of that Act” and inserting “title III of the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(26) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.—Section 3(a)(2) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102(a)(2)) is amended by striking “to the State” and all that follows through “and the chief” and inserting “to the State dislocated worker unit or office (referred to in section 311(b)(2) of the Job Training and Partnership Act), or the State or entity designated by the State to carry out rapid response activities under section 134(a)(2)(A) of the Workforce Investment Act of 1998, and the chief”.

(27) TITLE 31, UNITED STATES CODE.—Section 6703(a) of title 31, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) Programs under title II or IV of the Job Training Partnership Act or under title I of the Workforce Investment Act of 1998.”

(28) VETERANS' REHABILITATION AND EDUCATION AMENDMENTS OF 1980.—Section 512 of the Veterans' Rehabilitation and Education Amendments of 1980 (38 U.S.C. 4101 note) is amended by striking “the Comprehensive Employment and Training Act (29 U.S.C. et seq.),” and inserting “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998,”.

(29) TITLE 38, UNITED STATES CODE.—

(A) SECTION 4102A.—Section 4102A(d) of title 38, United States Code, is amended by striking “the Job Training Partnership Act” and inserting “the Job Training Partnership Act and title I of the Workforce Investment Act of 1998”.

(B) SECTION 4103A.—Section 4103A(c)(4) of title 38, United States Code, is amended by striking “(including part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.))” and inserting “including part C of title IV of the Job Training Partnership Act and title I of the Workforce Investment Act of 1998”.

(C) SECTION 4213.—Section 4213 of title 38, United States Code, is amended by striking “program assisted under the Job Training Partnership Act (29 U.S.C. 1501 et seq.),” and inserting “program carried out under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998,”.

(30) SOCIAL SECURITY ACT.—Section 403(a)(5) of Social Security Act (42 U.S.C. 603(a)(5)) is amended—

(A) in subparagraph (A)(vii)(I), by striking “(as described in section 103(c) of the Job Training Partnership Act)” and inserting “(as described in section 103(c) of the Job Training Partnership Act or defined in section 101 of the Workforce Investment Act of 1998)”; and

(B) in subparagraph (D)—

(i) in clause (ii), by striking “means, with respect to a service delivery area, the private industry council (or successor entity) established for the service delivery area pursuant to the Job Training Partnership Act” and inserting “means, with respect to a service delivery area, the private industry council or local workforce investment board established for the service delivery area pursuant to the Job Training Partnership Act or title I of the Workforce Investment Act of 1998, as appropriate”; and

(ii) in clause (iii), by striking “shall have the meaning given such term (or the successor to such term) for purposes of the Job Training Partnership Act” and inserting “shall have the meaning given such term for purposes of the Job Training Partnership Act or shall mean a local area as defined in section 101 of the Workforce Investment Act of 1998, as appropriate”.

(31) UNITED STATES HOUSING ACT.—Section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended—

(A) in subsection (b)(2)(A), by striking “the Job Training” and all that follows through “or the” and inserting “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or the”;

(B) in the first sentence of subsection (f)(2), by striking “programs under the” and all that follows through “and the” and inserting “programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or the”; and

(C) in subsection (g)—

(i) in paragraph (2), by striking “programs under the” and all that follows through “and the” and inserting “programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or the”; and

(ii) in paragraph (3)(H), by striking “program under” and all that follows through “and any other” and inserting “programs under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 and any other”.

(32) HOUSING ACT OF 1949.—Section 504(c)(3) of the Housing Act of 1949 (42 U.S.C. 1474(c)(3)) is amended by striking “pursuant to” and all that follows through “or the” and inserting “pursuant to the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 or the”.

(33) OLDER AMERICANS ACT OF 1965.—

(A) SECTION 203.—Section 203 of the Older Americans Act of 1965 (42 U.S.C. 3013) is amended—

(i) in subsection (a)(2), by striking the last sentence and inserting the following: “In particular, the

Secretary of Labor shall consult and cooperate with the Assistant Secretary in carrying out the Job Training Partnership Act and title I of the Workforce Investment Act of 1998.”; and

(ii) in subsection (b), by striking paragraph (1) and inserting the following:

“(1) the Job Training Partnership Act or title I of the Workforce Investment Act of 1998,”.

(B) SECTION 502.—Section 502 of the Older Americans Act of 1965 (42 U.S.C. 3056) is amended—

(i) in subsection (b)(1)(N)(i), by striking “the Job Training Partnership Act (29 U.S.C. 1501 et seq.)” and inserting “the Job Training Partnership Act and title I of the Workforce Investment Act of 1998”; and

(ii) in subsection (e)(2)(C), by striking “programs carried out under section 124 of the Job Training Partnership Act (29 U.S.C. 1534)” and inserting “programs carried out under the Job Training Partnership Act and title I of the Workforce Investment Act of 1998”.

(C) SECTION 503.—Section 503(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056a(b)(1)) is amended—

(i) in the first sentence, by striking “the Job Training Partnership Act” and inserting “the Job Training Partnership Act and title I of the Workforce Investment Act of 1998”; and

(ii) in the first sentence, by striking “the Job Training Partnership Act” and inserting “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(D) SECTION 510.—Section 510 of the Older Americans Act of 1965 (42 U.S.C. 3056h) is amended by striking the matter following the section heading and inserting the following:

“In the case of projects under this title carried out jointly with programs carried out under the Job Training Partnership Act, eligible individuals shall be deemed to satisfy the requirements of sections 203 and 204(d)(5)(A) of such Act (29 U.S.C. 1603, 1604(d)(5)(A)) that are applicable to adults. In the case of projects under this title carried out jointly with programs carried out under subtitle B of title I of the Workforce Investment Act of 1998, eligible individuals shall be deemed to satisfy the requirements of section 134 of such Act.”.

(34) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Section 1801(b)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)(3)) is amended by striking “activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.)” and inserting “activities carried out under part B of title IV of the Job Training Partnership Act or subtitle C of title I of the Workforce Investment Act of 1998 (relating to Job Corps)”.

(35) ENVIRONMENTAL PROGRAMS ASSISTANCE ACT OF 1984.—The second sentence of section 2(a) of the Environmental Programs Assistance Act of 1984 (42 U.S.C. 4368a(a)) is amended by striking “and title IV of the Job Training Partnership Act” and inserting “and title IV of the Job Training Partnership

Act or subtitle D of title I of the Workforce Investment Act of 1998”.

(36) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—

(A) SECTION 103.—The second sentence of section 103(d) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4953(d)) is amended to read as follows: “Whenever feasible, such efforts shall be coordinated with an appropriate private industry council established under the Job Training Partnership Act or local workforce investment board established under section 117 of the Workforce Investment Act of 1998.”.

(B) SECTION 109.—Subsections (c)(2) and (d)(2) of section 109 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4959) is amended by striking “administrative entities designated to administer job training plans under the Job Training Partnership Act” and inserting “administrative entities designated to administer job training plans under the Job Training Partnership Act and eligible providers of employment and training activities under subtitle B of title I of the Workforce Investment Act of 1998”.

(37) AGE DISCRIMINATION ACT OF 1975.—Section 304(c)(1) of the Age Discrimination Act of 1975 (42 U.S.C. 6103(c)(1)) is amended by striking “Except with” and all that follows through “nothing” and inserting “Nothing”.

(38) ENERGY CONSERVATION AND PRODUCTION ACT.—Section 414(b)(3) of the Energy Conservation and Production Act (42 U.S.C. 6864(b)(3)) is amended by striking “the Comprehensive Employment and Training Act of 1973” and inserting “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(39) NATIONAL ENERGY CONSERVATION POLICY ACT.—Section 233 of the National Energy Conservation Policy Act (42 U.S.C. 6873) is amended, in the matter preceding paragraph (1), by striking “the Comprehensive Employment and Training Act of 1973” and inserting “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(40) COMMUNITY ECONOMIC DEVELOPMENT ACT OF 1981.—Section 617(a)(3) of the Community Economic Development Act of 1981 (42 U.S.C. 9806(a)(3)) is amended by striking “activities such as those described in the Comprehensive Employment and Training Act” and inserting “activities such as the activities described in the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(41) STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—Section 103(b)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(b)(2)) is amended by striking “the Job Training Partnership Act” and inserting “the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(42) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(A) SECTION 177.—Section 177(d) of the National and Community Service Act of 1990 (42 U.S.C. 12637(d)) is amended to read as follows:

“(d) TREATMENT OF BENEFITS.—Allowances, earnings, and payments to individuals participating in programs that receive assistance under this title shall not be considered to be income for the purposes of determining eligibility for and the amount of income

transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).”

(B) SECTION 198C.—Section 198C of the National and Community Service Act of 1990 (42 U.S.C. 12653c) is amended—

(i) in subsection (b)(1), by striking “a military installation described in section 325(e)(1) of the Job Training Partnership Act (29 U.S.C. 1662d(e)(1)).” and inserting “a military installation being closed or realigned under—

“(A) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of division B of Public Law 101-510; 10 U.S.C. 2687 note); and

“(B) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).”; and

(ii) in subsection (e)(1)(B), by striking clause (iii) and inserting the following:

“(iii) an eligible youth described in section 423 of the Job Training Partnership Act or an individual described in section 144 of the Workforce Investment Act of 1998.”.

(C) SECTION 199L.—Section 199L(a) of the National and Community Service Act of 1990 (42 U.S.C. 12655m(a)) is amended by striking “the Job Training Partnership Act (29 U.S.C. 1501 et seq.)” and inserting “the Job Training Partnership Act and title I of the Workforce Investment Act of 1998”.

(43) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—

(A) SECTION 454.—Subparagraphs (H) and (M) of subsection (c)(2), and subsection (d)(7), of section 454 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899c) are amended by striking “the Job Training Partnership Act” and inserting “the Job Training Partnership Act and title I of the Workforce Investment Act of 1998”.

(B) SECTION 456.—The first sentence of section 456(e) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899e(e)) is amended by inserting “(as in effect on the day before the date of enactment of the Workforce Investment Act of 1998)” after “the Job Training Partnership Act” each place it appears.

(44) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Section 31113(a)(4)(C) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13823(a)(4)(C)) is amended by striking “authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.)” and inserting “authorized under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998”.

(e) OTHER REFERENCES TO TITLE VII OF THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—

(1) TABLE OF CONTENTS.—The table of contents of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.) is amended by striking the items relating to title VII of such Act, except the items relating to the title heading, and subtitles B and C, of such title.

(2) TITLE VII.—The Stewart B. McKinney Homeless Assistance Act (as amended by section 199(b)(1) of the Workforce Investment Act of 1998) is further amended by inserting before subtitle B (relating to education for homeless children and families) the following:

**“SUBTITLE VII—EDUCATION AND TRAINING”.**

(f) REFERENCES TO JOB TRAINING PARTNERSHIP ACT SUBSEQUENT TO REPEAL.—

(1) TITLE 5, UNITED STATES CODE.—Section 3502(d) of title 5, United States Code, is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

“(i) the State or entity designated by the State to carry out rapid response activities under section 134(a)(2)(A) of the Workforce Investment Act of 1998; and”;

and

(ii) in subparagraph (B)(iii), by striking “under the Job Training Partnership Act or”; and

(B) in paragraph (4), in the second sentence, by striking “the Job Training Partnership Act or”.

(2) FOOD STAMP ACT OF 1977.—

(A) SECTION 5.—Section 5(l) of the Food Stamp Act of 1977 (7 U.S.C. 2014(l)) is amended by striking “Notwithstanding section 142(b) of the Job Training Partnership Act or section 181(a)(2) of the Workforce Investment Act of 1998, earnings to individuals participating in on-the-job training programs under section 204(b)(1)(C) or 264(c)(1)(A) of the Job Training Partnership Act or in on-the-job training under title I of the Workforce Investment Act of 1998” and inserting “Notwithstanding section 181(a)(2) of the Workforce Investment Act of 1998, earnings to individuals participating in on-the-job training under title I of the Workforce Investment Act of 1998”

(B) SECTION 6.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(i) in subsection (d)(4)(M), by striking “the State public employment offices and agencies operating programs under the Job Training Partnership Act or of”;

(ii) in subsection (e)(3), by striking subparagraph (A) and inserting the following:

“(A) a program under title I of the Workforce Investment Act of 1998;”;

and

(iii) in subsection (o)(1)(A), by striking “Job Training Partnership Act or”.

(C) SECTION 17.—The second sentence of section 17(b)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(2)) is amended by striking “the Job Training Partnership Act or”.

(3) PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.—

(A) Section 403(c)(2)(K) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)(K)) is amended by striking “Job Training Partnership Act or”.

(B) Section 423(d)(11) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1183a note) is amended by striking “Job Training Partnership Act or”.

(4) IMMIGRATION AND NATIONALITY ACT.—Section 245A(h)(4)(F) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(F)) is amended by striking “The Job Training Partnership Act or title” and inserting “Title”.

(5) REFUGEE EDUCATION ASSISTANCE ACT OF 1980.—Section 402(a)(4) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking “the Comprehensive Employment and Training Act of 1973” and inserting “the Job Training Partnership Act or”.

(6) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—

(A) SECTION 3161.—Section 3161(c)(6) of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h(c)(6)) is amended by striking subparagraph (A) and inserting the following:

“(A) programs carried out by the Secretary of Labor under title I of the Workforce Investment Act of 1998;”.

(B) SECTION 4461.—Section 4461(1) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended by striking “The Job Training Partnership Act of title” and inserting “Title”.

(C) SECTION 4471.—Section 4471 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 2501 note) is amended—

(i) in subsection (c)(2), by striking “the State dislocated worker unit or office referred to in section 311(b)(2) of the Job Training Partnership Act, or”;

(ii) in subsection (d), in the first sentence, by striking “for training, adjustment assistance, and employment services under section 325 or 325A of the Job Training Partnership Act or”; and

(iii) in subsection (e), by striking “for training, adjustment assistance, and employment services under section 325 or 325A of the Job Training Partnership Act or”.

(D) SECTION 4492.—Section 4492(b) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended by striking “the Job Training Partnership Act or”.

(7) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994.—Section 1333(c)(2)(B) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2701 note) is amended by striking “Private industry councils as described in section 102 of the Job Training Partnership Act or local” and inserting “local”.

(8) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998.—Section 2824(c)(5) of the National Defense Authorization Act for Fiscal Year 1998 (10 U.S.C. 2687 note) is amended by striking “Job Training Partnership Act or”.

(9) SMALL BUSINESS ACT.—The fourth sentence of section 7(j)(13)(E) of the Small Business Act (15 U.S.C. 636(j)(13)(E)) is amended by striking “the Job Training Partnership Act or”.

(10) FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978.—Section 206 of the Full Employment and Balanced Growth Act of 1978 (15 U.S.C. 3116) is amended—

(A) in subsection (b), in the matter preceding paragraph (1), by striking “CETA” and inserting “the Job Training Partnership Act and”; and

(B) in subsection (c)(1), by striking “activities carried out under the Job Training Partnership Act or”.

(11) TRADE ACT OF 1974.—

(A) SECTION 236.—Section 236(a)(5)(B) of the Trade Act of 1974 (19 U.S.C. 2296(a)(5)(B)) is amended by striking “section 303 of the Job Training Partnership Act or”.

(B) SECTION 239.—Section 239(e) of the Trade Act of 1974 (19 U.S.C. 2311(e)) is amended by striking “title III of the Job Training Partnership Act or”.

(12) HIGHER EDUCATION ACT OF 1965.—

(A) SECTION 418A.—Subsections (b)(1)(B)(ii) and (c)(1)(A) of section 418A of the Higher Education Act of 1965 (20 U.S.C. 1070d–2) are amended by striking “section 402 of the Job Training Partnership Act or”.

(B) SECTION 480.—Section 480(b)(14) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(b)(14)) is amended by striking “Job Training Partnership Act noneducational benefits or”.

(13) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) SECTION 1205.—Section 1205(8)(B) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6365(8)(B)) is amended by striking “the Job Training Partnership Act and”.

(B) SECTION 1414.—Section 1414(c)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6434(c)(8)) is amended by striking “the Job Training Partnership Act or”.

(C) SECTION 1423.—Section 1423(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6453(9)) is amended by striking “the Job Training Partnership Act or”.

(D) SECTION 1425.—Section 1425(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6455(9)) is amended by striking “the Job Training Partnership Act or”.

(14) DISTRICT OF COLUMBIA SCHOOL REFORM ACT OF 1995.—Section 2604(c)(2)(B)(ii) of the District of Columbia School Reform Act of 1995 (Public Law 104–134; 110 Stat. 1321–145) is amended by striking “Job Training Partnership Act or”.

(15) EMERGENCY JOBS AND UNEMPLOYMENT ASSISTANCE ACT OF 1974.—

(A) SECTION 204.—Section 204(b) of the Emergency Jobs and Unemployment Assistance Act of 1974 (26 U.S.C. 3304 note) is amended by striking “service delivery area established” and all that follows through “this section) or a”.

(B) SECTION 223.—Section 223 of the Emergency Jobs and Unemployment Assistance Act of 1974 (26 U.S.C. 3304 note) is amended—



(i) in paragraph (3), by striking “the Job Training Partnership Act or”; and

(ii) in paragraph (4), by striking “the Job Training Partnership Act or”.

(16) VETERANS’ BENEFITS AND PROGRAMS IMPROVEMENT ACT OF 1988.—Section 402 of the Veterans’ Benefits and Programs Improvement Act of 1988 (29 U.S.C. 1721 note) is amended—

(A) in subsection (a), by striking “title III of the Job Training Partnership Act or”; and

(B) in subsection (d)—

(i) in paragraph (1)(A), by striking “part C of title IV of the Job Training Partnership Act or”; and

(ii) in paragraph (2), by striking “title III of the Job Training Partnership Act or”.

(17) VETERANS’ JOB TRAINING ACT.—

(A) SECTION 13.—Section 13(b) of the Veterans’ Job Training Act (29 U.S.C. 1721 note) is amended by striking “the Job Training Partnership Act or”.

(B) SECTION 14.—Section 14(b)(3)(B)(i)(II) of the Veterans’ Job Training Act (29 U.S.C. 1721 note) is amended by striking “part C of title IV the Job Training Partnership Act or”.

(C) SECTION 15.—Section 15(c)(2) of the Veterans’ Job Training Act (29 U.S.C. 1721 note) is amended—

(i) in the second sentence, by striking “part C of title IV of the Job Training Partnership Act or”; and

(ii) in the third sentence, by striking “title III of the Job Training Partnership Act or”.

(18) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.—Section 3(a)(2) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102(a)(2)) is amended by striking “the State dislocated worker unit or office (referred to in section 311(b)(2) of the Job Training and Partnership Act), or”.

(19) TITLE 31, UNITED STATES CODE.—Section 6703(a) of title 31, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) Programs under title I of the Workforce Investment Act of 1998.”.

(20) VETERANS’ REHABILITATION AND EDUCATION AMENDMENTS OF 1980.—Section 512 of the Veterans’ Rehabilitation and Education Amendments of 1980 (38 U.S.C. 4101 note) is amended by striking “the Job Training Partnership Act or”.

(21) TITLE 38, UNITED STATES CODE.—

(A) SECTION 4102A.—Section 4102A(d) of title 38, United States Code, is amended by striking “the Job Training Partnership Act and”.

(B) SECTION 4103A.—Section 4103A(c)(4) of title 38, United States Code, is amended by striking “part C of title IV of the Job Training Partnership Act and”.

(C) SECTION 4213.—Section 4213 of title 38, United States Code, is amended by striking “the Job Training Partnership Act or”.

(22) SOCIAL SECURITY ACT.—Section 403(a)(5) of Social Security Act (42 U.S.C. 603(a)(5)) is amended—

(A) in subparagraph (A)(vii)(I), by striking “described in section 103(c) of the Job Training Partnership Act or”; and

(B) in subparagraph (D)—

(i) in clause (ii), by striking “the Job Training Partnership Act or”; and

(ii) in clause (iii), by striking “shall mean a local area as defined in section 101 of the Workforce Investment Act of 1998, as appropriate”.

(23) UNITED STATES HOUSING ACT.—Section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended—

(A) in subsection (b)(2)(A), by striking “the Job Training Partnership Act or”; and

(B) in the first sentence of subsection (f)(2), by striking “the Job Training Partnership Act or”; and

(C) in subsection (g)—

(i) in paragraph (2), by striking “the Job Training Partnership Act or”; and

(ii) in paragraph (3)(H), by striking “the Job Training Partnership Act or”.

(24) HOUSING ACT OF 1949.—Section 504(c)(3) of the Housing Act of 1949 (42 U.S.C. 1474(c)(3)) is amended by striking “the Job Training Partnership Act or”.

(25) OLDER AMERICANS ACT OF 1965.—

(A) SECTION 203.—Section 203 of the Older Americans Act of 1965 (42 U.S.C. 3013) is amended—

(i) in subsection (a)(2), by striking “the Job Training Partnership Act and”; and

(ii) in subsection (b), by striking paragraph (1) and inserting the following:

“(1) title I of the Workforce Investment Act of 1998.”.

(B) SECTION 502.—Section 502 of the Older Americans Act of 1965 (42 U.S.C. 3056) is amended—

(i) in subsection (b)(1)(N)(i), by striking “the Job Training Partnership Act and”; and

(ii) in subsection (e)(2)(C), by striking “the Job Training Partnership Act and”.

(C) SECTION 503.—Section 503(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056a(b)(1)) is amended—

(i) in the first sentence, by striking “the Job Training Partnership Act and”; and

(ii) in the first sentence, by striking “the Job Training Partnership Act or”.

(D) SECTION 510.—Section 510 of the Older Americans Act of 1965 (42 U.S.C. 3056h) is amended by striking the matter following the section heading and inserting the following:

“In the case of projects under this title carried out jointly with programs carried out under subtitle B of title I of the Workforce Investment Act of 1998, eligible individuals shall be deemed to satisfy the requirements of section 134 of such Act.”.

(26) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Section 1801(b)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee(b)(3)) is amended by striking “part B of title IV of the Job Training Partnership Act or”.

(27) ENVIRONMENTAL PROGRAMS ASSISTANCE ACT OF 1984.—The second sentence of section 2(a) of the Environmental Programs Assistance Act of 1984 (42 U.S.C. 4368a(a)) is amended by striking “title IV of the Job Training Partnership Act or”.

(28) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—

(A) SECTION 103.—The second sentence of section 103(d) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4953(d)) is amended to read as follows: “private industry council established under the Job Training Partnership Act or”.

(B) SECTION 109.—Subsections (c)(2) and (d)(2) of section 109 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4959) is amended by striking “administrative entities designated to administer job training plans under the Job Training Partnership Act and”.

(29) ENERGY CONSERVATION AND PRODUCTION ACT.—Section 414(b)(3) of the Energy Conservation and Production Act (42 U.S.C. 6864(b)(3)) is amended by striking “the Job Training Partnership Act or”.

(30) NATIONAL ENERGY CONSERVATION POLICY ACT.—Section 233 of the National Energy Conservation Policy Act (42 U.S.C. 6873) is amended, in the matter preceding paragraph (1), by striking “the Job Training Partnership Act or”.

(31) COMMUNITY ECONOMIC DEVELOPMENT ACT OF 1981.—Section 617(a)(3) of the Community Economic Development Act of 1981 (42 U.S.C. 9806(a)(3)) is amended by striking “the Job Training Partnership Act or”.

(32) STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—Section 103(b)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(b)(2)) is amended by striking “the Job Training Partnership Act or”.

(33) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(A) SECTION 198C.—Section 198C(e)(1)(B) of the National and Community Service Act of 1990 (42 U.S.C. 12653c(e)(1)(C)) is amended by striking clause (iii) and inserting the following:

“(iii) an individual described in section 144 of the Workforce Investment Act of 1998.”.

(B) SECTION 199L.—Section 199L(a) of the National and Community Service Act of 1990 (42 U.S.C. 12655m(a)) is amended by striking “the Job Training Partnership Act and”.

(34) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Subparagraphs (H) and (M) of subsection (c)(2), and subsection (d)(7), of section 454 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899c) are amended by striking “the Job Training Partnership Act and”.

(35) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—Section 31113(a)(4)(C) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13823(a)(4)(C)) is amended by striking “the Job Training Partnership Act or”.

(g) EFFECTIVE DATES.—

(1) IMMEDIATELY EFFECTIVE AMENDMENTS.—The amendments made by subsections (a) through (d) shall take effect on the date of the enactment of this Act.

(2) SUBSEQUENTLY EFFECTIVE AMENDMENTS.—

5 USC 3502 note.

(A) STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—The amendments made by subsection (e) shall take effect on July 1, 1999.

(B) JOB TRAINING PARTNERSHIP ACT.—The amendments made by subsection (f) shall take effect on July 1, 2000.

(h) REFERENCES.—

(1) IN GENERAL.—Section 190 of the Workforce Investment Act of 1998 is amended to read as follows:

29 USC 2940.

**“SEC. 190. REFERENCES.**

“(a) REFERENCES TO COMPREHENSIVE EMPLOYMENT AND TRAINING ACT.—Except as otherwise specified, a reference in a Federal law (other than a reference in a provision amended by the Reading Excellence Act) to a provision of the Comprehensive Employment and Training Act—

“(1) effective on the date of enactment of this Act, shall be deemed to refer to the corresponding provision of the Job Training Partnership Act or of the Workforce Investment Act of 1998; and

“(2) effective on July 1, 2000, shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998.

“(b) REFERENCES TO JOB TRAINING PARTNERSHIP ACT.—Except as otherwise specified, a reference in a Federal law (other than a reference in this Act or a reference in a provision amended by the Reading Excellence Act) to a provision of the Job Training Partnership Act—

“(1) effective on the date of enactment of this Act, shall be deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998; and

“(2) effective on July 1, 2000, shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998.”.

29 USC 2940  
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the Workforce Investment Act of 1998.

29 USC 2940  
note.

(3) CONFORMING AMENDMENT.—Section 199A of such Act is amended by striking subsection (c)

**“SUBTITLE VIII—AMENDMENT TO  
WORKFORCE INVESTMENT ACT OF 1998”.**

Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following new subsection:

“(e) ADDITIONAL ASSISTANCE.—

“(1) IN GENERAL.—From the amount appropriated and made available to carry out this section for any program year, the Secretary shall use not more than \$15,000,000 to make grants to not more than 8 States to provide employment and training activities under section 134, in accordance with subtitle B.

“(2) ELIGIBLE STATES.—The Secretary shall make a grant under paragraph (1) to a State for a program year if—

“(A)(i) the amount of the allotment that would be made to the State for the program year under the formula specified in section 202(a) of the Job Training Partnership Act, as in effect on July 1, 1998; is greater than

“(ii) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B); and

“(B) the State is 1 of the 8 States with the greatest quotient obtained by dividing—

“(i) the amount described in subparagraph (A)(i);

by

“(ii) the amount described in subparagraph (A)(ii).

“(3) AMOUNT OF GRANTS.—Subject to paragraph (1), the amount of the grant made under paragraph (1) to a State for a program year shall be based on the difference between—

“(A) the amount of the allotment that would be made to the State for the program year under the formula specified in section 202(a) of the Job Training Partnership Act, as in effect on July 1, 1998; and

“(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).

“(4) ALLOCATION OF FUNDS.—A State that receives a grant under paragraph (1) for a program year—

“(A) shall allocate funds made available through the grant on the basis of the formula used by the State to allocate funds within the State for that program year under—

“(i) paragraph (2)(A) or (3) of section 133(b); or

“(ii) paragraph (2)(B) of section 133(b); and

“(B) shall use the funds in the same manner as the State uses other funds allocated under the appropriate paragraph of section 133(b).”.

## TITLE IX—WOMEN’S HEALTH AND CANCER RIGHTS

Women’s Health  
and Cancer  
Rights Act of  
1998.

### SEC. 901. SHORT TITLE.

This title may be cited as the “Women’s Health and Cancer Rights Act of 1998”.

42 USC 201 note.

### SEC. 902. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

#### “SEC. 713. REQUIRED COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.

29 USC 1185b.

“(a) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, that provides medical and surgical benefits with respect to a mastectomy shall provide, in a case of a participant or beneficiary who is receiving benefits in connection with a mastectomy and who elects breast reconstruction in connection with such mastectomy, coverage for—

“(1) all stages of reconstruction of the breast on which the mastectomy has been performed;

“(2) surgery and reconstruction of the other breast to produce a symmetrical appearance; and

“(3) prostheses and physical complications of mastectomy, including lymphedemas;

in a manner determined in consultation with the attending physician and the patient. Such coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan or coverage. Written notice of the availability of such coverage shall be delivered to the participant upon enrollment and annually thereafter.

“(b) NOTICE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan shall provide notice to each participant and beneficiary under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the plan or issuer and shall be transmitted—

“(1) in the next mailing made by the plan or issuer to the participant or beneficiary;

“(2) as part of any yearly informational packet sent to the participant or beneficiary; or

“(3) not later than January 1, 1999;

whichever is earlier.

“(c) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

“(1) deny to a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section; and

“(2) penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section.

“(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

“(e) PREEMPTION, RELATION TO STATE LAWS.—

“(1) IN GENERAL.—Nothing in this section shall be construed to preempt any State law in effect on the date of enactment of this section with respect to health insurance coverage that requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section.

“(2) ERISA.—Nothing in this section shall be construed to affect or modify the provisions of section 514 with respect to group health plans.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 712 the following new item:

“Sec. 713. Required coverage reconstructive surgery following mastectomies.”.

## (c) EFFECTIVE DATES.—

29 USC 1185b  
note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning on or after the date of enactment of this Act.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

**SEC. 903. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.**

(a) GROUP MARKET.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4 et seq.) is amended by adding at the end the following new section:

**“SEC. 2706. REQUIRED COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.** 42 USC 300gg-6.

“The provisions of section 713 of the Employee Retirement Income Security Act of 1974 shall apply to group health plans, and health insurance issuers providing health insurance coverage in connection with group health plans, as if included in this subpart.”.

(b) INDIVIDUAL MARKET.—Subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-51 et seq.) is amended by adding at the end the following new section:

**“SEC. 2752. REQUIRED COVERAGE FOR RECONSTRUCTIVE SURGERY FOLLOWING MASTECTOMIES.** 42 USC 300gg-52.

“The provisions of section 2706 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.”.

## (c) EFFECTIVE DATES.—

42 USC 300gg-6  
note.

## (1) GROUP PLANS.—

(A) IN GENERAL.—The amendment made by subsection (a) shall apply to group health plans for plan years beginning on or after the date of enactment of this Act.

(B) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by the amendment made by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

(2) INDIVIDUAL PLANS.—The amendment made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the date of enactment of this Act.

42 USC 300gg-52  
note.

This Act may be cited as the “Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999”.

(g) For programs, projects or activities in the Department of Transportation and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

Department of  
Transportation  
and Related  
Agencies  
Appropriations  
Act, 1999.

AN ACT Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes

## TITLE I

### DEPARTMENT OF TRANSPORTATION

#### OFFICE OF THE SECRETARY

##### IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, \$1,624,000.

##### IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Immediate Office of the Deputy Secretary, \$585,000.

##### OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, \$8,750,000.

##### OFFICE OF THE ASSISTANT SECRETARY FOR POLICY

For necessary expenses of the Office of the Assistant Secretary for Policy, \$2,808,000.

##### OFFICE OF THE ASSISTANT SECRETARY FOR AVIATION AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Aviation and International Affairs, \$7,650,300: *Provided*, That notwithstanding any other provision of law, there may be credited to this appropriation up to \$1,000,000 in funds received in user fees.

##### OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, \$6,349,000, including not to exceed \$40,000 for allocation within the Department for official reception and representation expenses as the Secretary may determine.

##### OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, \$1,940,600.



OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, \$19,721,600.

OFFICE OF PUBLIC AFFAIRS

For necessary expenses of the Office of Public Affairs, \$1,565,500.

EXECUTIVE SECRETARIAT

For necessary expenses of the Executive Secretariat, \$1,046,900.

BOARD OF CONTRACT APPEALS

For necessary expenses of the Board of Contract Appeals, \$561,100.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, \$1,020,400.

OFFICE OF INTELLIGENCE AND SECURITY

For necessary expenses of the Office of Intelligence and Security, \$1,036,100.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, \$4,874,600.

OFFICE OF INTERMODALISM

For necessary expenses of the Office of Intermodalism, \$956,900.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, \$6,966,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, \$9,000,000.

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed \$124,124,000, shall be paid from appropriations made available to the Department of Transportation: *Provided*, That the preceding limitation shall not apply to activities associated with departmental Year 2000 conversion activities: *Provided further*, That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further*, That the above

limitation on operating expenses shall not apply to non-DOT entities: *Provided further*, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: *Provided further*, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

#### MINORITY BUSINESS RESOURCE CENTER

For the cost of direct loans, \$1,500,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$13,775,000. In addition, for administrative expenses to carry out the direct loan program, \$400,000.

#### MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, \$2,900,000, of which \$2,635,000 shall remain available until September 30, 2000: *Provided*, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

#### COAST GUARD

##### OPERATING EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; \$2,700,000,000, of which \$300,000,000 shall be available for defense-related activities; and of which \$25,000,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided*, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further*, That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839: *Provided further*, That up to \$615,000 in user fees collected pursuant to section 1111 of Public Law 104-324 shall be credited to this appropriation as offsetting collections in fiscal year 1999: *Provided further*, That the Secretary may transfer funds to this account, from Federal Aviation Administration "Operations", not to exceed \$71,705,000 in total for the fiscal year,

fifteen days after written notification to the House and Senate Committees on Appropriations, solely for the purpose of providing additional funds for drug interdiction activities: *Provided further*, That none of the funds in this Act shall be available for the Coast Guard to plan, finalize, or implement any regulation that would promulgate new maritime user fees not specifically authorized by law after the date of enactment of this Act.

#### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

##### (INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, \$395,465,000, of which \$20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which \$219,923,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2003; \$35,700,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 2001; \$36,569,000 shall be available for other equipment, to remain available until September 30, 2001; \$54,823,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 2001; and \$48,450,000 shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 2000: *Provided*, That funds received from the sale of HU-25 aircraft shall be credited to this appropriation for the purpose of acquiring new aircraft and increasing aviation capacity: *Provided further*, That the Commandant may dispose of surplus real property by sale or lease and the proceeds shall be credited to this appropriation, of which not more than \$1,000,000 shall be credited as offsetting collections to this account, to be available for the purposes of this account: *Provided further*, That the amount herein appropriated from the General Fund shall be reduced by such amount: *Provided further*, That any proceeds from the sale or lease of Coast Guard surplus real property in excess of \$1,000,000 shall be retained and remain available until expended, but shall not be available for obligation until October 1, 1999: *Provided further*, That the Secretary, with funds made available under this heading, acting through the Commandant, may enter into a long-term Use Agreement with the City of Homer for dedicated pier space on the Homer dock necessary to support Coast Guard vessels when such vessels call on Homer, Alaska.

#### ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, \$21,000,000, to remain available until expended.

#### ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, \$14,000,000, to remain available until expended.

## RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), \$684,000,000.

## RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; \$69,000,000: *Provided*, That no more than \$20,000,000 of funds made available under this heading may be transferred to Coast Guard "Operating expenses" or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserve: *Provided further*, That none of the funds in this Act may be used by the Coast Guard to assess direct charges on the Coast Guard Reserves for items or activities which were not so charged during fiscal year 1997.

## RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, \$12,000,000, to remain available until expended, of which \$3,500,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided*, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

## FEDERAL AVIATION ADMINISTRATION

## OPERATIONS

Notwithstanding any other provision of law, for necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, and carrying out the provisions of subchapter I of chapter 471 of title 49, United States Code, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 104-264, \$5,562,558,000 of which \$4,112,174,000 shall be derived from the Airport and Airway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the Federal Aviation Administration to plan, finalize, or implement any regulation that would promulgate new aviation user

fees not specifically authorized by law after the date of enactment of this Act: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further*, That of the funds appropriated under this heading, \$6,000,000 shall be for the contract tower cost-sharing program: *Provided further*, That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further*, That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further*, That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further*, That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: *Provided further*, That no more than \$28,600,000 of funds appropriated to the Federal Aviation Administration in this Act may be used for activities conducted by, or coordinated through, the Transportation Administrative Service Center (TASC): *Provided further*, That none of the funds in this Act may be used for the Federal Aviation Administration to enter into a multiyear lease greater than five years in length or greater than \$100,000,000 in value unless such lease is specifically authorized by the Congress and appropriations have been provided to fully cover the Federal Government's contingent liabilities: *Provided further*, That none of the funds in this Act may be used for the Federal Aviation Administration (FAA) to sign a lease for satellite services related to the global positioning system (GPS) wide area augmentation system until the administrator of the FAA certifies in writing to the House and Senate Committees on Appropriations that FAA has conducted a lease versus buy analysis which indicates that such lease will result in the lowest overall cost to the agency.

#### FACILITIES AND EQUIPMENT

##### (AIRPORT AND AIRWAY TRUST FUND)

Notwithstanding any other provision of law, for necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this head; to be derived from the Airport and Airway Trust Fund, \$1,900,000,000, of which \$1,652,000,000 shall remain

available until September 30, 2001, and of which \$248,000,000 shall remain available until September 30, 1999: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That none of the funds in this Act or any other Act making appropriations for fiscal year 1999 may be obligated for bulk explosive detection systems until 30 days after the FAA Administrator certifies to the House and Senate Committees on Appropriations, in writing, that the major air carriers responsible for providing aircraft security at Category X airports have agreed to: (1) begin assuming the operation and maintenance costs of such machines beginning in fiscal year 1999; and (2) substantially increase the usage of such machines above the level experienced as of April 1, 1998: *Provided further*, That none of the funds provided under this heading for “Next Generation Navigation Systems” may be obligated or expended for activities related to phase two or phase three of the wide area augmentation system.

#### RESEARCH, ENGINEERING, AND DEVELOPMENT

##### (AIRPORT AND AIRWAY TRUST FUND)

Notwithstanding any other provision of law, for necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, \$150,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2001: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

#### GRANTS-IN-AID FOR AIRPORTS

##### (LIQUIDATION OF CONTRACT AUTHORIZATION)

##### (AIRPORT AND AIRWAY TRUST FUND)

Notwithstanding any other provision of law, for liquidation of obligations incurred for grants-in-aid for airport planning and development, and for noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations, \$1,600,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of \$1,950,000,000 in fiscal year 1999 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 47117(h) of title 49, United States Code: *Provided further*, That no more than \$975,000,000 of funds limited under this heading may be obligated prior to the enactment of a bill extending contract

authorization for the Grants-in-Aid for Airports program to the third and fourth quarters of fiscal year 1999.

#### AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

#### AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

None of the funds in this Act shall be available for activities under this heading during fiscal year 1999. 49 USC 40113 note.

#### FEDERAL HIGHWAY ADMINISTRATION

##### LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration and operation of the Federal Highway Administration not to exceed \$327,413,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided further*, That \$53,375,000 shall be available to carry out the functions and operations of the office of motor carriers.

#### FEDERAL-AID HIGHWAYS

##### (LIMITATION ON OBLIGATIONS)

##### (HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of \$25,511,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1999: *Provided*, That, notwithstanding any other provision of law, within the \$25,511,000,000 obligation limitation on Federal-aid highways and highway safety construction programs, not more than \$200,000,000 shall be available for the implementation or execution of programs for Intelligent Transportation Systems (Sections 5204, 5205, 5206, 5207, 5208, and 5209 of Public Law 105–178) for fiscal year 1999; not more than \$178,150,000 shall be available for the implementation or execution of programs for transportation research (Sections 502, 503, 504, 506, 507, and 508 of title 23, United States Code, as amended; section 5505 of title 49, United States Code, as amended; and section 5112 of Public Law 105–178) for fiscal year 1999; not more than \$38,000,000 shall be available for the implementation or execution of programs for Ferry Boat and Ferry Terminal Facility Program (Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005) as amended)) for fiscal year 1999; not more than \$15,000,000 shall be available for the implementation or execution of programs for the Magnetic Levitation Transportation Technology Deployment 23 USC 104 note.

Program (Section 1218 of Public Law 105-178) for fiscal year 1999, of which not to exceed \$500,000 shall be available to the Federal Railroad Administration for administrative expenses and technical assistance in connection with such program; not more than \$31,000,000 shall be available for the implementation or execution of programs for the Bureau of Transportation Statistics (Section 111 of title 49, United States Code) for fiscal year 1999: *Provided further*, That notwithstanding any other provision of law, within the \$25,511,000,000 obligation limitation, \$4,000,000 of the amounts made available as contract authority under section 1221(e) of the Transportation Equity Act for the 21st Century (Public Law 105-178) shall be made available to carry out section 5113 of that Act: *Provided further*, That within the \$200,000,000 obligation limitation on Intelligent Transportation Systems, not less than the following sums shall be made available for Intelligent Transportation system projects in the following specified areas:

Amherst, Massachusetts, \$1,000,000;  
 Arlington County, Virginia, \$750,000;  
 Atlanta, Georgia, \$2,000,000;  
 Brandon, Vermont, \$375,000;  
 Buffalo, New York, \$500,000;  
 Centre Valley, Pennsylvania, \$500,000;  
 Cleveland, Ohio, \$1,000,000;  
 Columbus, Ohio, \$1,000,000;  
 Corpus Christi, Texas, \$900,000;  
 Dade County, Florida, \$1,000,000;  
 Del Rio, Texas, \$1,000,000;  
 Delaware River, Pennsylvania, \$1,000,000;  
 Fairfield, California, \$1,000,000;  
 Fitchburg, Massachusetts, \$500,000;  
 Greater metropolitan capital region, DC, \$5,000,000;  
 Hammond, Louisiana, \$4,000,000;  
 Houston, Texas, \$2,000,000;  
 Huntington Beach, California, \$1,000,000;  
 Huntsville, Alabama, \$1,000,000;  
 Inglewood, California, \$1,500,000;  
 Jackson, Mississippi, \$1,000,000;  
 Kansas City, Missouri, \$500,000;  
 Laredo, Texas, \$1,000,000;  
 Middlesboro, Kentucky, \$3,000,000;  
 Mission Viejo, California, \$1,000,000;  
 Mobile, Alabama, \$2,500,000;  
 Monroe County, New York, \$400,000;  
 Montgomery, Alabama, \$1,250,000;  
 Nashville, Tennessee, \$500,000;  
 New Orleans, Louisiana, \$1,500,000;  
 New York City, New York, \$2,500,000;  
 New York/Long Island, New York, \$2,300,000;  
 Oakland County, Michigan, \$1,000,000;  
 Onandaga County, New York, \$400,000;  
 Port Angeles, Washington, \$500,000;  
 Raleigh-Wake County, North Carolina, \$2,000,000;  
 Riverside, California, \$1,000,000;  
 San Francisco, California, \$1,500,000;  
 Scranton, Pennsylvania, \$1,000,000;  
 Silicon Valley, California, \$1,500,000;  
 Spokane, Washington, \$450,000;



Springfield, Virginia, \$500,000;  
 St. Louis, Missouri, \$750,000;  
 State of Alaska, \$1,500,000;  
 State of Idaho, \$1,000,000;  
 State of Maryland, \$2,500,000;  
 State of Minnesota, \$7,100,000;  
 State of Mississippi, \$1,000,000;  
 State of Missouri, \$500,000;  
 State of Montana, \$700,000;  
 State of Nevada, \$575,000;  
 State of New Jersey, \$3,000,000;  
 State of New Mexico, \$1,000,000;  
 State of New York, \$2,500,000;  
 State of North Dakota, \$1,450,000;  
 Commonwealth of Pennsylvania, \$14,000,000;  
 State of Texas, \$1,000,000;  
 State of Utah, \$3,600,000;  
 State of Washington, \$2,000,000;  
 State of Wisconsin, \$1,500,000;  
 Temucula, California, \$250,000;  
 Tucson, Arizona, \$1,000,000;  
 Volusia County, Florida, \$1,000,000;  
 Warren County, Virginia, \$250,000;  
 Wausau-Stevens Point-Wisconsin Rapids, Wisconsin,  
 \$1,000,000;  
 Westchester and Putnam Counties, New York, \$500,000;  
 and  
 White Plains, New York, \$1,000,000.

## FEDERAL-AID HIGHWAYS

## (LIQUIDATION OF CONTRACT AUTHORIZATION)

## (HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for carrying out the provisions of title 23, U.S.C., that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, \$24,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

## MOTOR CARRIER SAFETY GRANTS

## (LIQUIDATION OF CONTRACT AUTHORIZATION)

## (HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 31102, \$100,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of \$100,000,000 for "Motor Carrier Safety Grants".

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary, to be derived from the Highway Trust Fund, \$87,400,000 for traffic and highway safety under chapter 301 of title 49, U.S.C., and part C of subtitle VI of title 49, U.S.C., of which \$58,558,000 shall remain available until September 30, 2001: *Provided*, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, \$72,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1999, are in excess of \$72,000,000 for programs authorized under 23 U.S.C. 403.

NATIONAL DRIVER REGISTER

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under chapter 303 of title 49, United States Code, \$2,000,000 to be derived from the Highway Trust Fund, and to remain available until expended.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402, 405, 410, and 411 to remain available until expended, \$200,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1999, are in excess of \$200,000,000 for programs authorized under 23 U.S.C. 402, 405, 410, and 411 of which

\$150,000,000 shall be for “Highway Safety Programs” under 23 U.S.C. 402, \$10,000,000 shall be for “Occupant Protection Incentive Grants” under 23 U.S.C. 405, \$35,000,000 shall be for “Alcohol-Impaired Driving Countermeasures Grants” under 23 U.S.C. 410, \$5,000,000 shall be for the “State Highway Safety Data Grants” under 23 U.S.C. 411: *Provided further*, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That not to exceed \$7,500,000 of the funds made available for section 402, not to exceed \$500,000 of the funds made available for section 405, not to exceed \$1,750,000 of the funds made available for section 410, and not to exceed \$193,000 of the funds made available for section 411 shall be available to NHTSA for administering highway safety grants under Chapter 4 of title 23, U.S.C.: *Provided further*, That not to exceed \$500,000 of the funds made available for section 410 “Alcohol-Impaired Driving Countermeasures Grants” shall be available for technical assistance to the States.

## FEDERAL RAILROAD ADMINISTRATION

### OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, \$21,215,000, of which \$1,784,000 shall remain available until expended: *Provided*, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary’s behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further*, That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

40 USC 817 note.

### RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, \$61,488,000, of which \$3,825,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated under this heading are available for the reimbursement of out-of-state travel and per diem costs incurred by employees of State governments directly supporting the Federal railroad safety program, including regulatory development and compliance-related activities.

### RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, \$22,364,000, to remain available until expended: *Provided*, That the Secretary is authorized to sell aluminum reaction rail, power rail base, and other related materials located at the Transportation

Technology Center, near Pueblo, Colorado, and shall credit the receipts from such sale to this account, notwithstanding 31 U.S.C. 3302, to remain available until expended.

#### RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 1999.

#### NEXT GENERATION HIGH-SPEED RAIL

For necessary expenses for the Next Generation High-Speed Rail program as authorized under 49 United States Code sections 26101 and 26102, \$20,494,000, to remain available until expended.

#### ALASKA RAILROAD REHABILITATION

To enable the Secretary of Transportation to make grants to the Alaska Railroad, \$10,000,000 shall be for capital rehabilitation and improvements benefiting its passenger operations.

#### RHODE ISLAND RAIL DEVELOPMENT

For the costs associated with construction of a third track on the Northeast Corridor between Davisville and Central Falls, Rhode Island, with sufficient clearance to accommodate double stack freight cars, \$5,000,000 to be matched by the State of Rhode Island or its designee on a dollar-for-dollar basis and to remain available until expended.

#### CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by U.S.C. 24104(a), \$609,230,000, to remain available until expended.

#### FEDERAL TRANSIT ADMINISTRATION

##### ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, \$10,800,000, to remain available until expended: *Provided*, That no more than \$54,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the funds in this Act available for the execution of contracts under section 5327(c) of title 49, United States Code, \$800,000 shall be transferred to the Department of Transportation Inspector

General for costs associated with the audit and review of new fixed guideway systems.

#### FORMULA GRANTS

For necessary expenses to carry out 49 U.S.C. 5307, 5308, 5310, 5311, 5327, and section 3038 of Public Law 105-178, \$570,000,000, to remain available until expended: *Provided*, That no more than \$2,850,000,000 of budget authority shall be available for these purposes: *Provided further*, That notwithstanding section 3008 of Public Law 105-178, the \$50,000,000 to carry out 49 U.S.C. 5308 shall be transferred to and merged with funding provided for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities under “Federal Transit Administration, Capital investment grants”.

#### UNIVERSITY TRANSPORTATION RESEARCH

For necessary expenses to carry out 49 U.S.C. 5505, \$1,200,000, to remain available until expended: *Provided*, That no more than \$6,000,000 of budget authority shall be available for these purposes.

#### TRANSIT PLANNING AND RESEARCH

For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, \$19,800,000, to remain available until expended: *Provided*, That no more than \$98,000,000 of budget authority shall be available for these purposes: *Provided further*, That \$5,250,000 is available to provide rural transportation assistance (49 U.S.C. 5311(b)(2)); \$4,000,000 is available to carry out programs under the National Transit Institute (49 U.S.C. 5315); \$8,250,000 is available to carry out transit cooperative research programs (49 U.S.C. 5313(a)); \$43,841,600 is available for metropolitan planning (49 U.S.C. 5303, 5304, and 5305); \$9,158,400 is available for state planning (49 U.S.C. 5313(b)); and \$27,500,000 is available for the national planning and research program (49 U.S.C. 5314): *Provided further*, That of the total budget authority made available for the national planning and research program, the Federal Transit Administration shall provide the following amounts for the projects and activities listed below:

- City of Branson, MO congestion study, \$450,000;
- Skagit County, WA North Sound connecting communities project, Skagit County Council of Governments, \$50,000;
- Desert air quality comprehensive analysis, Las Vegas, NV, \$1,000,000;
- Vegetation control on rail rights-of-way survey, \$250,000;
- Zinc-air battery bus technology demonstration, \$1,500,000;
- North Orange-South Seminole County, FL fixed guideway technology, \$750,000;
- Galveston, TX fixed guideway activities, \$750,000;
- Washoe County, NV transit technology, \$1,250,000;
- Massachusetts Bay Transit Authority advanced electric transit buses and related infrastructure, \$1,500,000;
- Palm Springs, CA fuel cell buses, \$1,000,000;
- Gloucester, MA intermodal technology center, \$1,500,000;
- Southeastern Pennsylvania Transit Authority advanced propulsion control system, \$2,000,000;

Project ACTION, \$3,000,000;  
 Advanced transportation and alternative fuel vehicle technology consortium (CALSTART), \$2,000,000;  
 Rural transportation assistance program, \$750,000;  
 JOBLINKS, \$1,000,000;  
 Fleet operations, including bus rapid transit, \$1,500,000;  
 Northern tier community transportation, Massachusetts, \$500,000;  
 Hennepin County community transportation, Minnesota, \$1,000,000; and  
 Seattle, Washington livable city, \$200,000.

## TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 5303-5308, 5310-5315, 5317(b), 5322, 5327, 5334, 5505, and sections 3037 and 3038 of Public Law 105-178, \$4,251,800,000, to remain available until expended and to be derived from the Mass Transit Account of the Highway Trust Fund: *Provided*, That \$2,280,000,000 shall be paid to the Federal Transit Administration's formula grants account: *Provided further*, That \$78,200,000 shall be paid to the Federal Transit Administration's transit planning and research account: *Provided further*, That \$43,200,000 shall be paid to the Federal Transit Administration's administrative expenses account: *Provided further*, That \$4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: *Provided further*, That \$40,000,000 shall be paid to the Federal Transit Administration's job access and reverse commute grants program: *Provided further*, That \$1,805,600,000 shall be paid to the Federal Transit Administration's Capital Investment Grants account.

## CAPITAL INVESTMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, \$451,400,000, to remain available until expended: *Provided*, That no more than \$2,257,000,000 of budget authority shall be available for these purposes: *Provided further*, That notwithstanding any other provision of law, there shall be available for fixed guideway modernization, \$902,800,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, \$451,400,000, together with \$50,000,000 transferred from "Federal Transit Administration, Formula grants", to be available for the following projects in amounts specified below:

No.	State	Project	Conference
1	Alaska .....	Anchorage Ship Creek intermodal facility .....	\$4,300,000
2	Alaska .....	Fairbanks intermodal rail/bus transfer facility .....	2,000,000
3	Alaska .....	North Slope Borough buses .....	500,000
4	Alaska .....	Whittier intermodal facility and pedestrian overpass.	700,000

No.	State	Project	Conference
5	Alabama	Birmingham intermodal facility	2,000,000
6	Alabama	Birmingham-Jefferson County, buses	1,250,000
7	Alabama	Dothan Wiregrass Transit Authority demand response shuttle vehicles and transit facility.	500,000
8	Alabama	Huntsville, intermodal space centers	5,000,000
9	Alabama	Huntsville, transit facility	1,000,000
10	Alabama	Jasper buses	50,000
11	Alabama	Lee-Russell Council buses	790,000
12	Alabama	Mobile, GM&O building	5,000,000
13	Alabama	Montgomery Union Station intermodal center and buses.	5,000,000
14	Alabama	Pritchard, bus transfer facility	500,000
15	Alabama	Tuscaloosa, intermodal center	1,950,000
16	Alabama	University of North Alabama pedestrian walkways	800,000
17	Arkansas	Arkansas Highway and Transit Department buses	200,000
18	Arkansas	Fayetteville, University of Arkansas Transit System buses.	500,000
19	Arkansas	Hot Springs, transportation depot and plaza	560,000
20	Arkansas	Little Rock, Central Arkansas Transit buses	300,000
21	Arkansas	Statewide bus needs	1,500,000
22	Arizona	Phoenix bus and bus facilities	4,000,000
23	Arizona	Tucson alternatively fueled buses	2,000,000
24	Arizona	Tucson intermodal facility	1,000,000
25	California	Central Contra Costa County transit vans	200,000
26	California	Culver City, CityBus buses	1,250,000
27	California	Davis, Unitrans transit maintenance facility	625,000
28	California	Davis/Sacramento area hydrogen bus technology program.	950,000
29	California	Folsom multimodal facility	1,000,000
30	California	Healdsburg, intermodal facility	1,000,000
31	California	Humboldt, intermodal facility	1,000,000
32	California	Huntington Beach buses	200,000
33	California	I-5 corridor intermodal transit centers	2,500,000
34	California	Lake Tahoe intermodal transit center	500,000
35	California	Livermore automatic vehicle locator program	1,000,000
36	California	Los Angeles County Metropolitan transportation authority buses.	3,000,000
37	California	Los Angeles Foothills Transit maintenance facility	1,000,000
38	California	Los Angeles municipal transit operators consortium.	2,500,000
39	California	Los Angeles, Union Station Gateway Intermodal Transit Center.	1,250,000
40	California	Modesto, bus maintenance facility	1,355,000
41	California	Monterey, Monterey-Salinas buses	625,000
42	California	Morongo Basin, Transit Authority bus facility	650,000
43	California	North San Diego County transit district buses	1,750,000
44	California	Perris, bus maintenance facility	1,250,000
45	California	Riverside Transit Agency buses and facilities and ITS applications.	1,000,000
46	California	Sacramento, CNG buses	1,250,000
47	California	San Bernardino buses	1,000,000
48	California	San Diego City College multimodal center (12th Avenue/College Station).	1,000,000
49	California	San Fernando Valley smart shuttle buses	300,000
50	California	San Francisco, Islais Creek maintenance facility	1,250,000
51	California	San Joaquin (Stockton) buses and bus facilities	1,000,000
52	California	Santa Clara Valley Transportation Authority buses and bus facilities.	1,000,000
53	California	Santa Clarita transit maintenance facility	2,250,000
54	California	Santa Cruz metropolitan bus facilities	625,000
55	California	Santa Cruz transit facility	1,000,000
56	California	Santa Rosa/Cotati, and Rohnert Park facilities	750,000
57	California	Santa Rosa/Cotati, intermodal transportation facilities.	750,000
58	California	Solano Links intercity transit consortium	1,000,000
59	California	Ukiah Transit Center	500,000
60	California	Windsor, Intermodal Facility	750,000
61	California	Woodland Hills, Warner Center Transportation Hub.	325,000

No.	State	Project	Conference
62	California	Yolo County, bus facility	1,200,000
63	Colorado	Boulder/Denver, RTD buses	625,000
64	Colorado	Colorado buses and bus facilities	6,800,000
65	Colorado	Denver, Stapleton Intermodal Center	1,250,000
66	Connecticut	Hartford, Transportation Access Project	800,000
67	Connecticut	New Haven, bus facility	2,250,000
68	Connecticut	Norwich, buses	2,250,000
69	Connecticut	Waterbury, bus facility	2,250,000
70	District/Columbia	Fuel cell bus and bus facilities program (section 3015(b)).	4,850,000
71	District/Columbia	Washington, D.C. Intermodal Transportation Center.	2,500,000
72	Delaware	Delaware statewide buses	1,000,000
73	Florida	Broward County, buses	1,000,000
74	Florida	Clearwater multimodal facility	2,500,000
75	Florida	Daytona Beach, Intermodal Center	2,500,000
76	Florida	Gainesville buses and equipment	1,500,000
77	Florida	Jacksonville buses and bus facilities	1,000,000
78	Florida	Lakeland, Citrus Connection transit vehicles and related equipment.	1,250,000
79	Florida	Lynx buses and bus facilities	1,000,000
80	Florida	Miami, bus security and surveillance	1,000,000
81	Florida	Miami Beach multimodal transit center	1,000,000
82	Florida	Miami Beach, Electric Shuttle Service	750,000
83	Florida	Miami-Dade, buses	2,250,000
84	Florida	Orlando, Intermodal Facility	2,500,000
85	Florida	Tampa Hartline buses	1,250,000
86	Georgia	Atlanta, MARTA buses	12,000,000
87	Georgia	Savannah/Chatham Area transit bus transfer centers and buses.	3,500,000
88	Hawaii	Honolulu, bus facility and buses	3,250,000
89	Illinois	Illinois statewide buses and bus-related equipment	6,800,000
90	Illinois	Rock Island, buses	2,500,000
91	Indiana	City of East Chicago buses	200,000
92	Indiana	Gary, Transit Consortium buses	1,250,000
93	Indiana	Indianapolis, buses	5,000,000
94	Indiana	South Bend, Urban Intermodal Transportation Facility.	1,250,000
95	Iowa	Fort Dodge, Intermodal Facility (Phase II)	885,000
96	Iowa	Iowa statewide buses and bus facilities	3,000,000
97	Iowa	Iowa/Illinois Transit Consortium bus safety and security.	1,000,000
98	Iowa	Sioux City park and ride bus facility	1,800,000
99	Kansas	Johnson County bus maintenance/operations facility.	2,000,000
100	Kentucky	Louisville, Kentucky University of Louisville and River City buses.	3,000,000
101	Kentucky	Northern Kentucky Area Development District senior citizen buses.	100,000
102	Kentucky	Owensboro buses	200,000
103	Kentucky	Southern and eastern Kentucky buses and bus facilities.	2,000,000
104	Louisiana	Statewide buses and bus-related facilities	11,000,000
105	Massachusetts	Essex and Middlesex buses	3,128,000
106	Massachusetts	New Bedford/Fall River Mobile Access to health care.	250,000
107	Massachusetts	Pittsfield intermodal center	4,600,000
108	Massachusetts	Springfield, Union Station	1,250,000
109	Massachusetts	Westfield intermodal center	2,000,000
110	Massachusetts	Worcester, Union Station Intermodal Transportation Center.	2,500,000
111	Maryland	Maryland statewide bus facilities and buses	10,000,000
112	Michigan	Lansing, CATA bus technology improvements	600,000
113	Michigan	Michigan statewide buses	10,000,000
114	Minnesota	Duluth, Transit Authority community circulation vehicles.	1,000,000
115	Minnesota	Duluth, Transit Authority intelligent transportation systems.	500,000
116	Minnesota	Duluth, Transit Authority Transit Hub	500,000



No.	State	Project	Conference
117	Minnesota .....	Northstar Corridor, Intermodal Facilities and buses.	6,000,000
118	Minnesota .....	Twin Cities area metro transit buses and bus facilities.	9,500,000
119	Missouri .....	Kansas City Union Station redevelopment .....	2,500,000
120	Missouri .....	OATS Transit .....	2,500,000
121	Missouri .....	Southwest Missouri State University park and ride facility.	1,000,000
122	Missouri .....	St. Louis, Bi-state Intermodal Center .....	1,250,000
123	Missouri .....	Statewide bus and bus facilities .....	4,500,000
124	Mississippi .....	Harrison County multimodal center/hybrid electric shuttle buses.	1,900,000
125	Mississippi .....	High Street, Jackson intermodal center .....	2,000,000
126	Mississippi .....	Jackson buses and facilities .....	1,600,000
127	Montana .....	Butte bus replacements .....	1,500,000
128	Nevada .....	Clark County Regional Transportation Commission buses and bus facilities.	2,615,000
129	Nevada .....	Reno, RTC transit passenger and facility security improvements.	1,250,000
130	Nevada .....	Washoe County, transit improvements .....	2,250,000
131	New Hampshire .....	Berlin Tri-County Community Action transit garage.	120,000
132	New Hampshire .....	Carroll County transportation alliance buses .....	200,000
133	New Hampshire .....	Concord Area Transit buses .....	750,000
134	New Hampshire .....	Greater Laconia Transit Agency buses .....	450,000
135	New Hampshire .....	Keene HCS community care buses and equipment	100,000
136	New Hampshire .....	Lebanon advance transit buses .....	150,000
137	New Hampshire .....	Statewide transit systems .....	1,000,000
138	New Jersey .....	New Jersey Transit jitney shuttle buses .....	1,750,000
139	New Jersey .....	Newark, Morris & Essex Station access and buses	1,250,000
140	New Jersey .....	South Amboy, Regional Intermodal Transportation Initiative.	1,250,000
141	New Jersey .....	Statewide alternatively fueled vehicles .....	7,500,000
142	New Mexico .....	Albuquerque, buses, paratransit vehicles, and bus facility.	3,750,000
143	New Mexico .....	Northern New Mexico park and ride facilities .....	2,000,000
144	New York .....	Babylon, Intermodal Center .....	1,250,000
145	New York .....	Brookhaven Town, elderly and disabled buses and vans.	225,000
146	New York .....	Brooklyn-Staten Island, Mobility Enhancement buses.	800,000
147	New York .....	Broome County buses and fare collection equipment.	900,000
148	New York .....	Buffalo, Auditorium Intermodal Center .....	3,000,000
149	New York .....	Dutchess County, Loop System buses .....	521,000
150	New York .....	East Hampton, elderly and disabled buses and vans.	100,000
151	New York .....	Ithaca, TCAT bus technology improvements .....	1,250,000
152	New York .....	Long Beach central bus facility .....	750,000
153	New York .....	Long Island, CNG transit vehicles and facilities and bus replacement.	1,250,000
154	New York .....	Mineola/Hicksville, LIRR Intermodal Centers .....	1,250,000
155	New York .....	Nassau County CNG buses .....	1,000,000
156	New York .....	New York City Midtown West Ferry Terminal .....	1,500,000
157	New York .....	New York, West 72nd St. Intermodal Station .....	1,750,000
158	New York .....	Niagara Frontier Transportation Authority Hublink.	500,000
159	New York .....	Rensselaer intermodal bus facility .....	1,000,000
160	New York .....	Riverhead, elderly and disabled buses and vans ...	125,000
161	New York .....	Rochester central bus facility .....	1,000,000
162	New York .....	Rome, Intermodal Center .....	400,000
163	New York .....	Shelter Island, elderly and disabled buses and vans.	100,000
164	New York .....	Smithtown, elderly and disabled buses and vans ...	125,000
165	New York .....	Southampton, elderly and disabled buses and vans	125,000
166	New York .....	Southold, elderly and disabled buses and vans .....	100,000
167	New York .....	Suffolk County, elderly and disabled buses and vans.	100,000
168	New York .....	Syracuse CNG buses and facilities .....	2,000,000

No.	State	Project	Conference
169	New York	Ulster County bus facilities and equipment	1,000,000
170	New York	Utica and Rome, bus facilities and buses	500,000
171	New York	Utica, Union Station	2,100,000
172	New York	Westchester County, Bee-Line transit system fareboxes.	979,000
173	New York	Westchester County, Bee-Line transit system shuttle buses.	1,000,000
174	New York	Westchester County, DOT articulated buses	1,250,000
175	North Carolina	Greensboro, Multimodal Center	3,340,000
176	North Carolina	Greensboro, Transit Authority buses	1,500,000
177	North Carolina	Greensboro, Transit Authority small buses and vans.	321,000
178	North Carolina	Statewide buses and bus facilities	5,000,000
179	North Dakota	Statewide buses and bus-related facilities	2,000,000
180	Ohio	Cleveland, Triskett Garage bus maintenance facility.	625,000
181	Ohio	Dayton, Multimodal Transportation Center	625,000
182	Ohio	Statewide buses and bus facilities	12,000,000
183	Ohio	Toledo Mud Hens transit center study	200,000
184	Oklahoma	Oklahoma statewide bus facilities and buses	5,000,000
185	Oregon	Lane County, Bus Rapid Transit	4,400,000
186	Oregon	Portland, Tri-Met buses	1,750,000
187	Oregon	Rogue Valley transit district bus purchase	1,000,000
188	Oregon	Salem area mass transit system buses	1,000,000
189	Oregon	Wilsonville, buses and shelters	400,000
190	Pennsylvania	Altoona bus testing facility (section 3009)	3,000,000
191	Pennsylvania	Altoona, Metro Transit Authority buses and transit system improvements.	842,000
192	Pennsylvania	Altoona, Metro Transit Authority Logan Valley Mall Suburban Transfer Center.	80,000
193	Pennsylvania	Altoona, Metro Transit Authority Transit Center improvements.	424,000
194	Pennsylvania	Altoona, pedestrian crossover	800,000
195	Pennsylvania	Armstrong County-Mid-County, PA bus facilities and buses.	150,000
196	Pennsylvania	Beaver County bus facility	1,000,000
197	Pennsylvania	Bradford County, Endless Mountain Transportation Authority buses.	1,000,000
198	Pennsylvania	Cambria County, bus facilities and buses	575,000
199	Pennsylvania	Centre Area, Transportation Authority buses	1,250,000
200	Pennsylvania	Chambersburg, Transit Authority buses	300,000
201	Pennsylvania	Chambersburg, Transit Authority Intermodal Center.	1,000,000
202	Pennsylvania	Chester County, Paoli Transportation Center	1,000,000
203	Pennsylvania	Crawford Area, Transportation buses	500,000
204	Pennsylvania	Erie, Metropolitan Transit Authority buses	1,000,000
205	Pennsylvania	Fayette County, Intermodal Facilities and buses	1,270,000
206	Pennsylvania	Lackawanna County, Transit System buses	600,000
207	Pennsylvania	Mercer County, buses	750,000
208	Pennsylvania	Monroe County, Transportation Authority buses	1,000,000
209	Pennsylvania	Philadelphia, Frankford Transportation Center	5,000,000
210	Pennsylvania	Philadelphia, Intermodal 30th Street Station	1,250,000
211	Pennsylvania	Philadelphia, Regional Transportation System for Elderly and Disabled.	750,000
212	Pennsylvania	Reading, BARTA Intermodal Transportation Facility.	1,750,000
213	Pennsylvania	Red Rose, Transit Bus Terminal	1,000,000
214	Pennsylvania	Robinson, Towne Center Intermodal Facility	1,500,000
215	Pennsylvania	Schuylkill County buses	220,000
216	Pennsylvania	Somerset County, bus facilities and buses	175,000
217	Pennsylvania	Towamencin Township, Intermodal Bus Transportation Center.	1,500,000
218	Pennsylvania	Washington County, Intermodal Facilities	630,000
219	Pennsylvania	Westmoreland County, Intermodal Facility	200,000
220	Pennsylvania	Wilkes-Barre, Intermodal Facility	1,250,000
221	Pennsylvania	Williamsport, Bus Facility	1,200,000
222	Puerto Rico	San Juan Intermodal access	950,000
223	Rhode Island	Providence, buses and bus maintenance facility	2,250,000
224	Rhode Island	Rhode Island Public Transit Authority buses	3,200,000
225	South Carolina	Columbia Bus replacement	1,100,000

No.	State	Project	Conference
226	South Carolina .....	Pee Dee buses and facilities .....	1,250,000
227	South Carolina .....	South Carolina statewide Virtual Transit Enterprise.	1,220,000
228	South Carolina .....	Spartanburg buses and facilities .....	1,000,000
229	South Dakota .....	Computerized bus dispatch system, radios, money boxes, and lift replacements.	800,000
230	South Dakota .....	Sioux Falls buses .....	1,000,000
231	South Dakota .....	South Dakota statewide bus facilities and buses ....	3,500,000
232	Tennessee .....	Statewide buses and bus facilities .....	2,000,000
233	Texas .....	Austin, buses .....	2,250,000
234	Texas .....	Brazos Transit Authority buses and facilities .....	1,500,000
235	Texas .....	Corpus Christi transit authority buses and facilities.	1,000,000
236	Texas .....	Dallas Area Rapid transit buses .....	2,750,000
237	Texas .....	Fort Worth bus and paratransit vehicle project .....	2,500,000
238	Texas .....	Galveston buses and bus facilities .....	1,000,000
239	Texas .....	Texas statewide small urban and rural buses .....	6,000,000
240	Utah .....	Ogden, Intermodal Center .....	800,000
241	Utah .....	Utah Hybrid electric vehicle bus purchase .....	1,500,000
242	Utah .....	Utah Transit Authority, Intermodal Facilities .....	1,500,000
243	Utah .....	Utah Transit Authority/Park City Transit, buses ..	6,500,000
244	Vermont .....	Brattleboro Union Station multimodal center .....	2,500,000
245	Vermont .....	Burlington intermodal center .....	1,000,000
246	Vermont .....	Deerfield Valley Transit authority .....	500,000
247	Virginia .....	Alexandria, bus maintenance facility and Crystal City canopy project.	1,000,000
248	Virginia .....	Alexandria, King Street Station access .....	1,100,000
249	Virginia .....	Harrisonburg, buses .....	200,000
250	Virginia .....	Lynchburg, buses .....	200,000
251	Virginia .....	Richmond, GRTC bus maintenance facility .....	1,250,000
252	Virginia .....	Roanoke, buses .....	200,000
253	Virginia .....	Statewide buses and bus facilities .....	10,000,000
254	Washington .....	Anacortes ferry terminal information system .....	500,000
255	Washington .....	Ben Franklin transit operating facility .....	1,000,000
256	Washington .....	Bremerton transportation center .....	1,000,000
257	Washington .....	Central Puget Sound Seattle bus program .....	8,000,000
258	Washington .....	Chelan-Douglas multimodal center .....	900,000
259	Washington .....	Everett, Multimodal Transportation Center .....	1,950,000
260	Washington .....	Grant County, buses and vans .....	600,000
261	Washington .....	Mount Vernon, Multimodal Center .....	1,750,000
262	Washington .....	Port Angeles center .....	1,000,000
263	Washington .....	Seattle, Intermodal Transportation Terminal .....	1,250,000
264	Washington .....	Snohomish County, Community transit buses .....	1,000,000
265	Washington .....	Tacoma Dome, buses and bus facilities .....	1,750,000
266	Washington .....	Thurston County intercity buses .....	1,000,000
267	Washington .....	Vancouver, Clark County (C-Tran) bus facilities ....	1,000,000
268	Wisconsin .....	Milwaukee County, buses .....	4,000,000
269	Wisconsin .....	Wisconsin statewide bus facilities and buses .....	12,875,000
270	West Virginia .....	Huntington, Intermodal Facility .....	8,000,000
271	West Virginia .....	West Virginia statewide Intermodal Facility and buses.	6,500,000

and there shall be available for new fixed guideway systems, \$902,800,000, to be available as follows:

- \$10,400,000 for the Alaska or Hawaii ferry projects;
- \$5,000,000 for the Albuquerque light rail project;
- \$52,110,000 for the Atlanta-North Springs project;
- \$1,000,000 for the Austin Capital metro project;
- \$500,000 for the Baltimore central downtown transit alternatives major investment study;
- \$1,000,000 for the Baltimore light rail double track project;
- \$1,000,000 for the Birmingham, Alabama alternatives analysis study and preliminary engineering;
- \$500,000 for the Boston North-South rail link project;
- \$750,000 for the Boston urban ring project;

\$2,000,000 for the Burlington-Essex, Vermont commuter rail project;  
 \$2,200,000 for the Canton-Akron-Cleveland commuter rail project;  
 \$2,200,000 for the Charleston, South Carolina monobeam rail project;  
 \$3,000,000 for the Charlotte, North Carolina South-North corridor transitway project;  
 \$6,000,000 for the Chicago Metra commuter rail extensions and upgrades project;  
 \$3,000,000 for the Chicago Transit Authority Ravenswood and Douglas branch lines projects: *Provided*, That recognizing the nature of these projects, of the requirements of 49 U.S.C. section 5309(e), only sections 5309(e)(1)(C) and 5309(e)(4) shall apply;  
 \$1,800,000 for the Cincinnati Northeast/Northern Kentucky rail line project;  
 \$4,000,000 for the Clark County, Nevada fixed guideway project;  
 \$1,000,000 for the Cleveland Berea Red Line extension to the Hopkins International Airport project;  
 \$2,000,000 for the Cleveland Euclid corridor improvement project;  
 \$500,000 for the Colorado-North Front Range corridor feasibility study;  
 \$12,000,000 for the Dallas-Fort Worth RAILTRAN project;  
 \$16,000,000 for the DART North Central light rail extension project;  
 \$1,000,000 for the Dayton, Ohio light rail study;  
 \$40,000,000 for the Denver Southwest Corridor project;  
 \$500,000 for the Denver Southeast Corridor multimodal corridor project;  
 \$17,000,000 for the Dulles corridor project;  
 \$4,000,000 for the Fort Lauderdale, Florida Tri-County commuter rail project;  
 \$1,000,000 for the Harrisburg, Pennsylvania capital area transit/corridor one project;  
 \$1,500,000 for the Hartford, Connecticut light rail project;  
 \$3,000,000 for the Honolulu, Hawaii major investment analysis of transit alternatives;  
 \$2,000,000 for the Houston advanced regional transit program;  
 \$59,670,000 for the Houston Regional Bus project;  
 \$1,000,000 for the Johnson County, Kansas I-35 commuter rail project;  
 \$500,000 for the Kansas City, Missouri commuter rail study;  
 \$500,000 for the Kenosha-Racine-Milwaukee, Wisconsin commuter rail project;  
 \$250,000 for the King County, Washington Elliot Bay water taxi;  
 \$1,500,000 for the Knoxville, Tennessee electric transit project;  
 \$1,000,000 for the Largo, Maryland Metro Blue Line extension project;  
 \$1,000,000 for the Little Rock, Arkansas River rail project;

\$24,000,000 for the Long Island Railroad East Side access project, New York;  
\$38,000,000 for the Los Angeles MOS-3 project;  
\$1,000,000 for the Massachusetts North Shore corridor project;  
\$17,041,000 for the MARC commuter rail project;  
\$1,000,000 for the Maryland Route 5 corridor;  
\$2,200,000 for the Memphis, Tennessee Medical Center rail extension project;  
\$3,000,000 for the Miami Metro-Dade Transit east-west corridor project;  
\$3,000,000 for the Miami Metro-Dade North 27th Avenue corridor project;  
\$8,000,000 for the Mid-City and East Side projects, Los Angeles;  
\$4,000,000 for the Morgantown, West Virginia fixed guideway modernization project;  
\$1,000,000 for the Nashville, Tennessee regional commuter rail project;  
\$70,000,000 for the New Jersey urban core Hudson-Bergen LRT project;  
\$6,000,000 for the New Jersey urban core Newark-Elizabeth rail link project;  
\$500,000 for the New London, Connecticut waterfront access project;  
\$22,000,000 for the New Orleans Canal Street corridor project;  
\$2,000,000 for the New Orleans Desire Streetcar project;  
\$8,000,000 for the Norfolk-Virginia Beach regional rail project;  
\$500,000 for the Northeast Ohio commuter rail study, Phase 2;  
\$3,000,000 for the Northern Indiana South Shore commuter rail project;  
\$3,000,000 for the Oceanside-Escondido passenger rail project;  
\$500,000 for the Old Saybrook-Hartford, Connecticut rail extension project;  
\$1,000,000 for the Omaha, Nebraska trolley system;  
\$2,500,000 for the Orange County, California transitway project;  
\$17,500,000 for the Orlando Lynx light rail project;  
\$3,000,000 for the Philadelphia-Reading SEPTA Schuylkill Valley Metro project;  
\$1,000,000 for the Philadelphia SEPTA Cross County Metro project;  
\$5,000,000 for the Phoenix metropolitan area transit project;  
\$4,000,000 for the Pittsburgh Allegheny County Stage II light rail project;  
\$1,000,000 for the Pittsburgh North Shore central business district transit options MIS;  
\$25,718,000 for the Portland-Westside/Hillsboro project;  
\$5,000,000 for the Puget Sound RTA Link light rail project;  
\$41,000,000 for the Puget Sound RTA Sounder commuter rail project;

\$10,000,000 for the Raleigh-Durham-Chapel Hill Triangle Transit project;  
 \$23,480,000 for the Sacramento south corridor LRT project;  
 \$70,000,000 for the Salt Lake City South LRT project;  
 \$5,000,000 for the Salt Lake City/Airport to University (West-East) light rail project: *Provided further*, That the non-governmental share for these funds shall be determined in accordance with Section 3030(c)(2)(B)(ii) of the Transportation Equity Act for the 21st Century, as amended (Public Law 105–178);  
 \$1,000,000 for the San Bernardino Metrolink extension project;  
 \$2,000,000 for the San Diego Mid-Coast corridor project;  
 \$1,500,000 for the San Diego Mission Valley East light rail transit project;  
 \$40,000,000 for the San Francisco BART extension to the airport project;  
 \$500,000 for the San Jacinto-Branch Line (Riverside County) project;  
 \$27,000,000 for the San Jose Tasman LRT project;  
 \$20,000,000 for the San Juan Tren Urbano;  
 \$500,000 for the Savannah, Georgia water taxi;  
 \$250,000 for the Sioux City micro rail trolley system;  
 \$53,983,000 for the South Boston Piers MOS–2 project;  
 \$1,000,000 for the South Dekalb-Lindburgh corridor LRT project;  
 \$200,000 for the Southeast Michigan commuter rail viability project;  
 \$1,000,000 for the Spokane, Washington light rail project;  
 \$500,000 for the St. Louis-Jefferson City-Kansas City, Missouri commuter rail project;  
 \$35,000,000 for the St. Louis-St. Clair LRT extension project;  
 \$1,000,000 for the Stamford, Connecticut fixed guideway connector;  
 \$1,000,000 for the Tampa Bay regional rail project;  
 \$17,000,000 for the Twin Cities Transitways project;  
 \$2,000,000 for the Virginia Railway Express Woodbridge station improvements project; and  
 \$1,000,000 for the West Trenton, New Jersey rail project: *Provided further*, That funds provided in Public Law 105–66 for the Pennsylvania Strawberry Hill/Diamond Branch rail project shall be available for the Laurel Rail line project in Lackawanna County, Pennsylvania.

#### MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of previous obligations incurred in carrying out 49 U.S.C. 5338(b), \$2,000,000,000, to remain available until expended and to be derived from the Mass Transit Account of the Highway Trust Fund.

JOB ACCESS AND REVERSE COMMUTE GRANTS

For necessary expenses to carry out section 3037 of the Federal Transit Act of 1998, \$35,000,000, to remain available until expended: *Provided*, That no more than \$75,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the amounts appropriated under this head, not more than \$10,000,000 shall be used for grants for reverse commute projects.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184 and Public Law 101-551, \$50,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, \$11,496,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, \$29,280,000, of which \$574,000 shall be derived from the Pipeline Safety Fund, and of which \$3,460,000 shall remain available until September 30, 2001: *Provided*, That up to \$1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, \$33,248,000, of which \$4,248,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2001; and of which \$29,000,000 shall be derived from the Pipeline Safety Fund, of which \$16,219,000 shall remain available until September 30, 2001: *Provided*, That in addition to amounts made available for the Pipeline Safety Fund, \$1,400,000 shall be available for grants to States for the development and establishment of one-call notification systems and public education activities, and shall be derived from amounts previously collected under 49 U.S.C. 60301.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), \$200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2001: *Provided*, That not more than \$11,000,000 shall be made available for obligation in fiscal year 1999 from amounts made available by 49 U.S.C. 5116(i) and 5127(d): *Provided further*, That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, \$43,495,000.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, \$16,000,000: *Provided*, That notwithstanding any other provision of law, not to exceed \$2,600,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 1999, to result in a final appropriation from the general fund estimated at no more than \$16,000,000: *Provided further*, That any fees received in excess of \$2,600,000 in fiscal year 1999



shall remain available until expended, but shall not be available for obligation until October 1, 1999.

## TITLE II

### RELATED AGENCIES

#### ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

##### SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, \$3,847,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

#### NATIONAL TRANSPORTATION SAFETY BOARD

##### SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), \$53,473,000, of which not to exceed \$2,000 may be used for official reception and representation expenses.

##### EMERGENCY FUND

For necessary expenses of the National Transportation Safety Board for accident investigations, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), \$1,000,000, to remain available until expended.

## TITLE III

### GENERAL PROVISIONS

#### (INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Such sums as may be necessary for fiscal year 1999 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available: (1) except

49 USC 106 note.

as otherwise authorized by title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents; and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 305. None of the funds in this Act shall be available for salaries and expenses of more than 100 political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 308. The Secretary of Transportation may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity in execution of the Technology Reinvestment Project authorized under the Defense Conversion, Reinvestment and Transition Assistance Act of 1992 and related legislation: *Provided*, That the authority provided in this section may be exercised without regard to section 3324 of title 31, United States Code.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

23 USC 104 note.

SEC. 310. (a) For fiscal year 1999, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-aid Highways amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, and amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics.

(2) not distribute an amount from the obligation limitation for Federal-aid Highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund

(other than the Mass Transit Account) for Federal-aid highways and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid Highways less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation limitation for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) for section 117 of title 23, United States Code (relating to high priority projects program), section 201 of the Appalachian Regional Development Act of 1965, the Woodrow Wilson Memorial Bridge Authority Act of 1995, and \$2,000,000,000 for such fiscal year under section 105 of the Transportation Equity Act for the 21st Century (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, \$2,000,000,000) for such fiscal year;

(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed \$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid Highways shall not apply to obligations

(1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under section 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century; and (8) under section 105 of title 23, United States Code (but, only in an amount equal to \$639,000,000 for such fiscal year).

(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall after August 1 for such fiscal year revise a distribution of the obligation limitation made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, section 160 (as in effect on the day before the enactment of the Transportation Equity Act for the 21st Century) of title 23, United States Code, and under section 1015 of the Intermodal Surface Transportation Act of 1991 (105 Stat. 1943–1945).

(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapters 3 and 5 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds (1) that are authorized to be appropriated for such fiscal year for Federal-aid highways programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and chapter 4 of title 23, United States Code, and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) SPECIAL RULE.—Obligation limitation distributed for a fiscal year under subsection (a)(4) for a section set forth in subsection (a)(4) shall remain available until used for obligation of funds for such section and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

SEC. 311. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 312. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 313. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 314. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant. The FAA shall accept such equipment, which shall thereafter be operated and maintained by the FAA in accordance with agency criteria.

49 USC 44502  
note.

SEC. 315. None of the funds in this Act shall be available to award a multiyear contract for production end items that: (1) includes economic order quantity or long lead time material procurement in excess of \$10,000,000 in any one year of the contract; (2) includes a cancellation charge greater than \$10,000,000 which at the time of obligation has not been appropriated to the limits of the Government's liability; or (3) includes a requirement that permits performance under the contract during the second and subsequent years of the contract without conditioning such performance upon the appropriation of funds: *Provided*, That this limitation does not apply to a contract in which the Federal Government incurs no financial liability from not buying additional systems, subsystems, or components beyond the basic contract requirements.

SEC. 316. Section 218 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking “the south Alaskan border” and inserting “Haines” in lieu thereof;

(B) in the third sentence by striking “highway” and inserting “highway or the Alaska Marine Highway System” in lieu thereof;

(C) in the fourth sentence by striking “any other fiscal year thereafter” and inserting “any other fiscal year thereafter, including any portion of any other fiscal year thereafter, prior to the date of the enactment of the Transportation Equity Act for the 21st Century” in lieu thereof;

(D) in the fifth sentence by striking “construction of such highways until an agreement” and inserting “construction of the portion of such highways that are in Canada until an agreement” in lieu thereof; and

(2) in subsection (b) by inserting “in Canada” after “undertaken”.

SEC. 317. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under “Federal Transit Administration, Capital investment grants” for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2001, and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 318. Notwithstanding any other provision of law, any funds appropriated before October 1, 1998, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 319. None of the funds in this Act may be used to compensate in excess of 350 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 1999.

SEC. 320. Funds provided in this Act for the Transportation Administrative Service Center (TASC) shall be reduced by \$15,000,000, which limits fiscal year 1999 TASC obligational authority for elements of the Department of Transportation funded in this Act to no more than \$109,124,000: *Provided*, That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the Transportation Administrative Service Center.

SEC. 321. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's "Limitation on General Operating Expenses" account, the Federal Transit Administration's "Transit Planning and Research" account, and to the Federal Railroad Administration's "Railroad Safety" account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 322. None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations pursuant to title V of the Motor Vehicle Information and Cost Savings Act (49 U.S.C. 32901 et seq.) prescribing corporate average fuel economy standards for automobiles, as defined in such title, in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.

SEC. 323. Notwithstanding any other provision of law, the Secretary of Transportation shall convey, without consideration, all right, title, and interest of the United States in and to the parcels of real property described in this section, together with any improvements thereon, as the Secretary considers appropriate for purposes of the conveyance, to the entities described in this section, namely: (1) United States Coast Guard Pass Manchac Light in Tangipahoa Parish, Louisiana, to the State of Louisiana; and (2) Tchefuncte River Range Rear Light in Madisonville, Louisiana, to the Town of Madisonville, Louisiana.

SEC. 324. None of the funds made available in this Act may be used for the purpose of promulgating or enforcing any regulation that has the practical effect of (a) requiring more than one attendant during unloading of liquefied compressed gases, or (b) preventing the attendant from monitoring the customer's liquefied compressed gas storage tank during unloading.

SEC. 325. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such

funds shall be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 326. None of the funds in this Act may be obligated or expended for employee training which: (1) does not meet identified needs for knowledge, skills and abilities bearing directly upon the performance of official duties; (2) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations; (4) contains any methods or content associated with religious or quasi-religious belief systems or “new age” belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; (5) is offensive to, or designed to change, participants’ personal values or lifestyle outside the workplace; or (6) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

SEC. 327. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation: *Provided*, That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

SEC. 328. Not to exceed \$1,000,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees: *Provided*, That this limitation shall not apply to advisory committees established for the purpose of conducting negotiated rulemaking in accordance with the Negotiated Rulemaking Act, 5 U.S.C. 561-570a, or the Coast Guard’s advisory council on roles and missions

SEC. 329. BULK FUEL STORAGE TANK. (a) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the remainder of the balance in the Trans-Alaska Pipeline Liability Fund that is transferred and deposited into the Oil Spill Liability Trust Fund under section 8102(a)(2)(B)(ii) of the Oil Pollution Act of 1990 (43 U.S.C. 1653 note) after June 16, 1998 shall be used in accordance with this section.

43 USC 1653  
note.

(b) USE OF INTEREST ONLY.—The interest produced from the investment of the Trans-Alaska Pipeline Liability Fund balance that is transferred and deposited into the Oil Spill Liability Trust Fund under section 8102(a)(2)(B)(ii) of the Oil Pollution Act of 1990 (43 U.S.C. 1653 note) after June 16, 1998 shall be transferred annually by the National Pollution Funds Center to the Denali Commission for a program, to be developed in consultation with the Coast Guard, to repair or replace bulk fuel storage tanks in Alaska which are not in compliance with federal law, including the Oil Pollution Act of 1990, or State law.

(c) TAPS PAYMENT TO ALASKA DEDICATED TO BULK FUEL STORAGE TANK REPAIR AND REPLACEMENT.—Section 8102(a)(2)(B)(i) of Public Law 101–380 (43 U.S.C. 1653 note) is amended by inserting immediately before the semicolon, “, which, except as otherwise provided under article IX, section 15, of the Alaska Constitution, shall be used for the remediation of above-ground storage tanks”.

SEC. 330. No funds other than those appropriated to the Surface Transportation Board or fees collected by the Board shall be used for conducting the activities of the Board.

SEC. 331. (a) None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 332. Notwithstanding any other provision of law, receipts, in amounts determined by the Secretary, collected from users of fitness centers operated by or for the Department of Transportation shall be available to support the operation and maintenance of those facilities.

SEC. 333. None of the funds in this Act shall be available to implement or enforce regulations that would result in the withdrawal of a slot from an air carrier at O’Hare International Airport under section 93.223 of title 14 of the Code of Federal Regulations in excess of the total slots withdrawn from that air carrier as of October 31, 1993 if such additional slot is to be allocated to an air carrier or foreign air carrier under section 93.217 of title 14 of the Code of Federal Regulations.

SEC. 334. Notwithstanding 49 U.S.C. 41742, no essential air service shall be provided to communities in the 48 contiguous States that are located fewer than 70 highway miles from the nearest large or medium hub airport, or that require a rate of subsidy per passenger in excess of \$200 unless such point is greater than 210 miles from the nearest large or medium hub airport.



SEC. 335. Rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department and allocated to elements of the Department using fair and equitable criteria and such funds shall be available until December 31, 1999.

SEC. 336. Notwithstanding any other provision of law, rule or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by the Secretary.

SEC. 337. The unobligated balances of the funds made available in previous appropriations Acts for the National Civil Aviation Review Commission and for Urban Discretionary Grants are rescinded.

SEC. 338. (a) Notwithstanding any other provision of law—

(1) the land and improvements thereto comprising the Coast Guard Reserve Training Facility in Jacksonville, Florida, is deemed to be surplus property; and

(2) the Commandant of the Coast Guard shall dispose of all right, title, and interest of the United States in and to that property, by sale, at fair market value.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other person, the Commandant of the Coast Guard shall give to the City of Jacksonville, Florida, the right of first refusal to purchase all or any part of the property required to be sold under that subsection.

SEC. 339. Of the funds provided under Federal Aviation Administration “Operations”, \$250,000 is only for activities and operations of the Centennial of Flight Commission.

SEC. 340. Notwithstanding any other provision of law, the Secretary of Transportation shall waive repayment of any Federal-aid highway funds expended on the construction of those high occupancy lanes or auxiliary lanes constructed on I-287 in the State of New Jersey, pursuant to section 338 of the fiscal year 1993 Department of Transportation and Related Agencies Appropriations Act (Public Law 102-388), if the State of New Jersey presents the Secretary with its determination that such high occupancy vehicle lanes or auxiliary lanes are not in the public interest.

SEC. 341. (a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey, without consideration, to the State of North Carolina (in this section referred to as the “State”), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, in Ocracoke, North Carolina, consisting of such portion of the Coast Guard Station Ocracoke, North Carolina, as the Secretary considers appropriate for purposes of the conveyance.

(b) CONDITIONS.—The conveyance under subsection (a) shall be subject to the following conditions:

(1) That the State accept the property to be conveyed under that subsection subject to such easements or rights of way in favor of the United States as the Secretary considers to be appropriate for—

(A) utilities;

(B) access to and from the property;

(C) the use of the boat launching ramp on the property;  
and

(D) the use of pier space on the property by search  
and rescue assets.

(2) That the State maintain the property in a manner  
so as to preserve the usefulness of the easements or rights  
of way referred to in paragraph (1).

(3) That the State utilize the property for transportation,  
education, environmental, or other public purposes.

(c) REVERSION.—(1) If the Secretary determines at any time  
that the property conveyed under subsection (a) is not to be used  
in accordance with subsection (b), all right, title, and interest in  
and to the property, including any improvements thereon, shall  
revert to the United States, and the United States shall have  
the right of immediate entry thereon.

(2) Upon reversion under paragraph (1), the property shall  
be under the administrative jurisdiction of the Administrator of  
General Services.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal  
description of the property conveyed under subsection (a), and any  
easements or rights of way granted under subsection (b)(1), shall  
be determined by a survey satisfactory to the Secretary. The cost  
of the survey shall be borne by the State.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may  
require such additional terms and conditions with respect to the  
conveyance under subsection (a), and any easements or rights of  
way granted under subsection (b)(1), as the Secretary considers  
appropriate to protect the interests of the United States.

SEC. 342. Notwithstanding any other provision of law, funds  
appropriated in this or any other Act intended for highway dem-  
onstration projects, railroad-highway crossings demonstration  
projects or railroad relocation projects in Augusta, Georgia are  
available for implementation of a project consisting of modifications  
and additions to streets, railroads, and related improvements in  
the vicinity of the grade crossing of the CSX railroad and 15th  
Street in Augusta, Georgia.

33 USC 2720  
note.

SEC. 343. (a) None of the funds made available by this Act  
or subsequent Acts may be used by the Coast Guard to issue,  
implement, or enforce a regulation or to establish an interpretation  
or guideline under the Edible Oil Regulatory Reform Act (Public  
Law 104–55), or the amendments made by that Act, that does  
not recognize and provide for, with respect to fats, oils, and greases  
(as described in that Act, or the amendments made by that Act)  
differences in—

(1) physical, chemical, biological and other relevant prop-  
erties; and

(2) environmental effects.

Regulations.

(b) Not later than March 31, 1999, the Secretary of Transpor-  
tation shall issue regulations amending 33 CFR 154 to comply  
with the requirements of Public Law 104–55.

SEC. 344. Funding made available in Public Law 105–174 for  
emergency railroad rehabilitation and repair shall be available for  
repairs resulting from natural disasters occurring from September  
1996 through July 10, 1998.

SEC. 345. For purposes of evaluating environmental impacts  
of the toll road in Orange and San Diego counties, California,  
the Administrator of the Federal Highway Administration and other

participating Federal agencies shall consider only those transportation alternatives previously identified by regional planning processes and shall restrict agency comments to those matters over which the agency has direct jurisdiction: *Provided*, That notwithstanding any inter-agency memoranda of understanding, the Administrator of the Federal Highway Administration shall retain and exercise all authority regarding the form, content and timing of any environmental impact statement and record of decision regarding the toll road, including the evaluation and selection of alternatives and distribution of draft and final environmental impact statements.

SEC. 346. (a) Notwithstanding any other law, the Commandant, United States Coast Guard, shall convey to the University of South Alabama (in this section referred to as “the recipient”), the right, title, and interest of the United States Government in and to a decommissioned vessel of the Coast Guard, as determined appropriate by the Commandant and the recipient, if—

(1) the recipient agrees to use the vessel for the purposes of supporting archaeological and historical research in the Mobile Bay Delta;

(2) the recipient agrees not to use the vessel for commercial transportation purposes, except as incident to the provision of logistics services in connection with the Old Mobile Archaeological Project;

(3) The recipient agrees to make the vessel available to the Government if the Commandant requires use of the vessel by the Government in times of war or national emergency;

(4) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous materials including, but not limited to, asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3);

(5) the recipient has funds available to be committed for use to restore the vessel to operation and thereafter maintain it in good working condition, in the amount of at least \$400,000; and

(6) the recipient agrees to any other conditions that the Secretary considers appropriate.

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, without cost to the Government. The conveyance of this vessel shall not be considered a distribution in commerce for purposes of section 2605(e) of title 15, United States Code.

(c) OTHER UNNEEDED EQUIPMENT.—The Commandant may convey to the recipient any unneeded equipment or parts from other decommissioned vessels pending disposition for use to restore the vessel to operability. The Commandant may require compensation from the recipient for such items.

(d) APPLICABLE LAWS AND REGULATIONS.—The vessel shall at all times remain subject to applicable vessel safety laws and regulations.

SEC. 347. Item 1132 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Mississippi, is amended by striking “Pirate Cove” and inserting “Pirates’ Cove and 4-lane connector to Mississippi Highway 468”.

SEC. 348. (a) AUTHORITY TO CONVEY COAST GUARD PROPERTY TO JACKSONVILLE UNIVERSITY IN JACKSONVILLE, FLORIDA.—

(1) IN GENERAL.—The Secretary of Transportation may convey to Jacksonville University, located in Jacksonville, Florida, without consideration, all right, title, and interest of the United States in and to the property comprising the Long Branch Rear Range Light, Jacksonville, Florida.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—Any conveyance of any property under this section shall be made—

(1) subject to such terms and conditions as the Commandant may consider appropriate; and

(2) subject to the condition that all right, title, and interest in and to the property conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by Jacksonville University.

SEC. 349. For necessary expenses of the Amtrak Reform Council authorized under section 203 of Public Law 105–134, \$450,000, to remain available until September 30, 2000: *Provided*, That none of the funds provided under this heading shall be for payments to outside consultants: *Provided further*, That the duties of the Amtrak Reform Council described in section 203(g)(1) of Public Law 105–134 shall include the identification of Amtrak routes which are candidates for closure or realignment, based on performance rankings developed by Amtrak which incorporate information on each route’s fully allocated costs and ridership on core intercity passenger service, and which assume, for purposes of closure or realignment candidate identification, that federal subsidies for Amtrak will decline over the 4-year period from fiscal year 1999 to fiscal year 2002: *Provided further*, That these closure or realignment recommendations shall be included in the Amtrak Reform Council’s annual report to the Congress required by section 203(h) of Public Law 105–134.

SEC. 350. Notwithstanding any other provision of law, the Secretary shall approve and the State of New York is authorized to proceed with engineering, final design and construction of additional entrances and exits between exits 57 and 58 on Interstate 495 in Suffolk County, New York. The Secretary may review final design of such project.

SEC. 351. (a) Section 30113 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting “or passenger motor vehicles from a bumper standard prescribed under chapter 325 of this title,” after “a motor vehicle safety standard prescribed under this chapter”; and

(B) in paragraph (3)(A), by inserting “or chapter 325 of this title (as applicable)” after “this chapter”;

(2) in subsection (c)(1), by inserting “, or a bumper standard prescribed under chapter 325 of this title,” after “motor vehicle safety standard prescribed under this chapter”;

(3) in subsection (d), by inserting “(including an exemption under subsection (b)(3)(B)(i) relating to a bumper standard referred to in subsection (b)(1))” after “subsection (b)(3)(B)(i) of this section”; and

(4) in subsection (h), by inserting “or bumper standard prescribed under chapter 325 of this title” after “each motor vehicle safety standard prescribed under this chapter”.

(b) CONFORMING AMENDMENTS.—

(1) Section 32502(c) of title 49, United States Code, is amended—

(A) in the matter preceding paragraph (1), by striking “any part of a standard” and inserting “all or any part of a standard”;

(B) in paragraph (1), by striking “or” at the end;

(C) in paragraph (2), by striking the period and inserting “; or”; and

(D) by adding at the end the following:

“(3) a passenger motor vehicle for which an application for an exemption under section 30013(b) of this title has been filed in accordance with the requirements of that section.”.

(2) Section 32506(a) of title 49, United States Code, is amended by inserting “and section 32502 of this title” after “Except as provided in this section”.

SEC. 352. Notwithstanding any other provision of law, \$10,000,000 of funds available under section 104(a) of title 23 U.S.C., shall be made available to the University of Alabama in Tuscaloosa, Alabama, for research activities at the Transportation Research Institute and to construct a building to house the Institute, and shall remain available until expended.

SEC. 353. Discretionary grants funds for bus and bus-related facilities made available in this Act and in Public Law 105-66 and its accompanying conference report for the Virtual Transit Enterprise project shall be used to fund any aspect of the Virtual Transit Enterprise integration of information project in South Carolina.

SEC. 354. Section 3021 of the Transportation Equity Act for the 21st Century (Public Law 105-178) is amended—

(1) in subsection (a), by inserting “or the State of Vermont” after “the State of Oklahoma”; and

(2) in subsection (b)(2)(A), by inserting “and the State of Vermont” after “within the State of Oklahoma”.

SEC. 355. Section 3 of the Act of July 17, 1952 (66 Stat. 746, chapter 921), and section 3 of the Act of July 17, 1952 (66 Stat. 571, chapter 922), are each amended in the proviso—

(1) by striking “That” and all that follows through “the collection of” and inserting “That the commission may collect”; and

(2) by striking “, shall cease” and all that follows through the period at the end and inserting a period.

SEC. 356. Section 1212(m) of Public Law 105-178 is amended—

(1) in the subsection heading, by inserting “, Idaho, Alaska and West Virginia” after “Minnesota”; and (2) by inserting “or the States of Idaho, Alaska or West Virginia” after “Minnesota”.

SEC. 357. Notwithstanding any other provision of law, funds obligated and awarded in fiscal year 1994 by the Economic Development Administration in the amount of \$912,000 to the City of Pittsburg, Kansas, as Project Number 05-19-61200 for water, sewer and street improvements shall be disbursed to the City upon determination by the EDA that the improvements have been completed in accordance with the project description in the award documents.

49 USC 5307  
note.

SEC. 358. Section 3030(d)(3) of the Transportation Equity Act for the 21st Century (Public Law 105-178) is amended by adding at the end the following:

“(C) Saint Barnard Parish, Louisiana intermodal facility.”.

SEC. 359. The Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided*, That no appropriation shall be increased or decreased by more than 12 per centum by all such transfers: *Provided further*, That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 360. Section 3027 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 112 Stat. 366) is amended by adding at the end the following:

“(3) SERVICES FOR ELDERLY AND PERSONS WITH DISABILITIES.—In addition to assistance made available under paragraph (1), the Secretary may provide assistance under section 5307 of title 49, United States Code, to a transit provider that operates 20 or fewer vehicles in an urbanized area with a population of at least 200,000 to finance the operating costs of equipment and facilities used by the transit provider in providing mass transportation services to elderly and persons with disabilities, provided that such assistance to all entities shall not exceed \$1,000,000 annually.”.

SEC. 361. Hereafter, the Commonwealth of Virginia shall have the exclusive authority to determine the high-occupancy vehicle restrictions applicable to Interstate Highway 66 in Virginia.

SEC. 362. None of the funds appropriated by this Act may be used to issue a final standard under docket number NHTSA 98-3945 (relating to section 656(b) of the Illegal Immigration Reform and Responsibility Act of 1996).

SEC. 363. Items 178 and 1547 in section 1602 of the Transportation Equity Act for the 21st Century (Public Law 105-178), relating to Georgia, are amended by adding at the end the following: “and construct improvements to said corridor”.

SEC. 364. Notwithstanding any other provision of law, the Secretary shall approve the construction of Type II noise barriers from funds apportioned under sections 104(b)(1) and 104(b)(3) of title 23, United States Code, at the following locations:

(a) beginning on the north and south sides of Interstate Route 20 extending from H.E. Holmes Road to Fulton Industrial Boulevard in Fulton County, Georgia;

(b) beginning on the north and south sides of Interstate Route 20 extending from Flat Shoals Road to Columbia Drive in DeKalb County, Georgia; and

(c) beginning on the west side of Interstate Route 75 extending from Howell Mill Road to West Paces Ferry Road in Fulton County, Georgia.

SEC. 365. Notwithstanding any other provision of law, except as otherwise provided in this section, the Secretary shall approve and the State of Alabama is authorized to proceed with construction of the East Foley corridor project from Baldwin County Highway 20 to State Highway 59, identified in items 857 and 1501 in the table contained in Section 1602 of the Transportation Equity Act for the 21st Century (Public Law 105-178). Environmental reviews performed by the Alabama Department of Environmental

Management and the Mobile District of the U.S. Army Corps of Engineers and all other non-environmental federal laws shall remain in effect.

SEC. 366. Item 1083 contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 297) is amended by striking “between Southwest Drive and U.S. 277”.

SEC. 367. Notwithstanding any other provision of Federal law, the State of Minnesota may obligate funds apportioned in fiscal years 1998 through 2003 pursuant to section 117 of title 23, United States Code, for high priority project numbers 1628 and 1195 authorized in section 1602 of the Transportation Equity Act for the 21st Century (Public Law 105-178): *Provided*, That such obligation shall be subject to the allocation percentages of section 1602(b) as modified by section 1212(m) of the Transportation Equity Act for the 21st Century (Public Law 105-178).

SEC. 368. Item number 577 in the table contained in Section 1602 of the Transportation Equity Act for the 21st Century (Public Law 105-178) is amended by striking “Construct” and all that follows through “Ketchikan” and insert “For the purposes set forth in item number 1496”.

SEC. 3769. Section 5117(b)(6) of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 450) is amended by striking “Pennsylvania Transportation Institute” and inserting “Commonwealth of Pennsylvania”.

SEC. 370. Section 5204 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 453-455) is amended by adding at the end the following:

“(k) USE OF RIGHTS-OF-WAY.—Intelligent transportation system projects specified in section 5117(b)(3) and 5117(b)(6) and involving privately owned intelligent transportation system components that is carried out using funds made available from the Highway Trust Fund shall not be subject to any law or regulation of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been utilized for planning, design, construction, or maintenance, if the Secretary of Transportation determines that such use is in the public interest. Nothing in this subsection shall affect the authority of a State or political subdivision of a State to regulate highway safety.”.

SEC. 371. (a) The Commandant of the Coast Guard shall convey, without consideration, to the Town of New Castle, New Hampshire (in this section referred to as the “Town”), all right, title, and interest of the United States in and to a parcel of real property comprising approximately 2 acres and having approximately 100 feet of ocean front that is located in New Castle, New Hampshire. The property is bordered to the west by property owned by the Town and to the east by Coast Guard Station Portsmouth Harbor, New Hampshire.

(b)(1) The Commandant shall, in connection with the conveyance required by subsection (a), grant to the Town such easements and rights-of-way as the Commandant considers necessary to permit access to the property conveyed under that subsection.

(2) The Commandant may, in connection with the conveyance required by subsection (a), reserve in favor of the United States such easements and rights-of-way as the Commandant considers necessary to protect the interests of the United States.

(c)(1) The conveyance of property under subsection (a) shall be subject to the following conditions:

(A) That the property, or any portion thereof, shall revert to the United States if the Commandant determines that such property is required by the United States for purposes of the national security of the United States.

(B) That the property, or any portion thereof, shall revert to the United States if the Commandant determines that such property is required by the United States for purposes of a site for an aid to navigation.

(2)(A) At least 30 days before the date of the reversion of property under paragraph (1)(A), the Commandant shall provide the Town written notice that the property is required for purposes of the national security of the United States.

(B) At least 30 days before the date of the reversion of property under paragraph (1)(B), the Commandant shall provide the Town written notice that the property is required for purposes of a site for an aid to navigation.

(d)(1) Notwithstanding any other provision of the Land and Water Conservation Fund Act of 1965, Public Law 88–578, as amended, or other law, the Coast Guard property conveyed to New Castle, New Hampshire pursuant to subsection (a) may be used to replace a portion of Land and Water Conservation Fund-assisted land in New Castle, New Hampshire under project number 33–00077: *Provided*, That the replacement property satisfactorily meets the conversion criteria regarding reasonably equivalent recreation usefulness and location.

(2) The Town may not use the property referred to in paragraph (1) for the purpose specified in that paragraph unless the property conveyed under subsection (a) provides opportunities for recreational activities that are reasonably similar to the opportunities for recreational activities provided by the property referred to in paragraph (1).

(e) The Commandant may require such additional terms and conditions in connection with the conveyance under subsection (a), and the grants of any easements or rights-of-way under subsection (b), as the Commandant considers appropriate to protect the interests of the United States.

SEC. 372. None of the Funds made available under this Act or any other Act, may be used to implement, carry out, or enforce any regulation issued under section 41705 of title 49, United States Code, including any regulation contained in part 382 of title 14, Code of Federal Regulations, or any other provision of law (including any Act of Congress, regulation, or Executive order or any official guidance or correspondence thereto), that requires or encourages an air carrier (as that term is defined in section 40102 of title 49, United States Code) to, on intrastate or interstate air transportation (as those terms are defined in section 40102 of title 49, United States Code)—

(1) provide a peanut-free buffer zone or any other related peanut-restricted area; or

(2) restrict the distribution of peanuts, until 90 days after submission to the Congress and the Secretary of a peer-reviewed scientific study that determines that there are severe reactions by passengers to peanuts as a result of contact with very small airborne peanut particles of the kind that passengers might encounter in an aircraft.



## SEC. 373. MODIFICATION OF SUBSTITUTE PROJECT IN WISCONSIN—

Section 1045 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1994) is amended in subsection (a) by striking paragraph (a)(2) and inserting the following:

“(2)(A) For six months after the date of enactment of this paragraph, the provisions set forth in paragraph (2)(B) shall apply to all of the funds identified in this section. After such time, the provisions set forth in paragraph (2)(B) shall apply to fifty percent of the funds identified in this section, and the provisions of paragraph (2)(C) shall apply to fifty percent of the funds identified in this section.”

“(B) Notwithstanding paragraph (1) and subsection (c) of this section, upon the request of the Governor of the State of Wisconsin, after consultation with appropriate local government officials, submitted by October 1, 2000, the Secretary may approve one or more substitute projects in lieu of the substitute project approved by the Secretary under paragraph (1) and subsection (c) of this section.”

“(C) Notwithstanding paragraph (1) and subsection (c) of this section, upon the request of the Governor of the State of Wisconsin, submitted by October 1, 2000, the Secretary shall approve one or more substitute projects in lieu of the substitute project approved by the Secretary under paragraph (1) and subsection (c) of this section.”

This Act may be cited as the “Department of Transportation and Related Agencies Appropriations Act, 1999”.

(h) For programs, projects or activities in the Treasury and General Government Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes

Treasury and  
General  
Government  
Appropriations  
Act, 1999.  
Treasury  
Department  
Appropriations  
Act, 1999.

## TITLE I—DEPARTMENT OF THE TREASURY

## DEPARTMENTAL OFFICES

## SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed \$2,900,000 for official travel expenses; not to exceed \$150,000 for official reception and representation expenses; not to exceed \$258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate, \$123,151,000: *Provided*, That the Office of Foreign Assets Control shall be funded at no less than \$6,560,800: *Provided further*, That the Department is authorized to charge both direct and indirect costs to the Office of Foreign Assets Control in the implementation of this floor: *Provided further*, That the methodology for applying such charges will be the same

method used in developing the Departmental Offices Fiscal Year 1999 President’s Budget Justification to the Congress.

#### AUTOMATION ENHANCEMENT

##### (INCLUDING TRANSFER OF FUNDS)

For development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, \$28,690,000: *Provided*, That these funds shall remain available until September 30, 2000: *Provided further*, That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department’s offices, bureaus, and other organizations: *Provided further*, That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further*, That none of the funds appropriated shall be used to support or supplement the Internal Revenue Service appropriations for Information Systems: *Provided further*, That \$6,000,000 of the funds appropriated for the Customs Modernization project may not be transferred to the United States Customs Service or obligated until the Treasury’s Chief Information Officer, through the Treasury Investment Review Board, concurs on the plan and milestone schedule for the deployment of the system: *Provided further*, That \$6,000,000 of the funds made available for the Customs Modernization project may not be obligated for any major system investments prior to the development of an architecture which is compliant with the Treasury Information Systems Architecture Framework (TISAF) and the establishment of measures to enforce compliance with the architecture.

#### OFFICE OF INSPECTOR GENERAL

##### SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, not to exceed \$2,000,000 for official travel expenses; including hire of passenger motor vehicles; and not to exceed \$100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury, \$30,678,000.

#### TREASURY BUILDING AND ANNEX REPAIR AND RESTORATION

For the repair, alteration, and improvement of the Treasury Building and Annex, \$27,000,000, to remain available until expended: *Provided*, That none of the funds provided shall be available for obligation until September 30, 1999.

#### FINANCIAL CRIMES ENFORCEMENT NETWORK

##### SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; not to exceed \$14,000 for official reception and representation expenses; and for assistance to Federal law

enforcement agencies, with or without reimbursement, \$24,000,000: *Provided*, That funds appropriated in this account may be used to procure personal services contracts.

#### VIOLENT CRIME REDUCTION PROGRAMS

##### (INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 103-322, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as follows:

(1) As authorized by section 190001(e), \$119,000,000; of which \$3,000,000 shall be available to the Bureau of Alcohol, Tobacco and Firearms for administering the Gang Resistance Education and Training program; of which \$1,400,000 shall be available to the Financial Crimes Enforcement Network; of which \$22,628,000 shall be available to the United States Secret Service, including \$6,700,000 for vehicle replacement, \$5,000,000 for investigations of counterfeiting, \$7,732,000 for the 2000 candidate/nominee protection program, and \$3,196,000 for forensic and related support of investigations of missing and exploited children, of which \$1,196,000 shall be available as a grant for activities related to the investigations of exploited children and shall remain available until expended; of which \$65,472,000 shall be available for the United States Customs Service, including \$54,000,000 for narcotics detection technology, \$9,500,000 for the passenger processing initiative, \$972,000 for construction of canopies for inspection of outbound vehicles along the Southwest border, and \$1,000,000 for technology investments related to the Cyber-Smuggling Center; of which \$2,500,000 shall be available to the Office of National Drug Control Policy, including \$1,000,000 for Model State Drug Law Conferences, and \$1,500,000 to expand the Milwaukee, Wisconsin High Intensity Drug Trafficking Area; and of which \$24,000,000 shall be available for Interagency Crime and Drug Enforcement;

(2) As authorized by section 32401, \$13,000,000 to the Bureau of Alcohol, Tobacco and Firearms for disbursement through grants, cooperative agreements, or contracts to local governments for Gang Resistance Education and Training: *Provided*, That notwithstanding sections 32401 and 310001, such funds shall be allocated to State and local law enforcement and prevention organizations.

#### FEDERAL LAW ENFORCEMENT TRAINING CENTER

##### SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including materials and support costs of Federal law enforcement basic training; purchase (not to exceed 52 for police-type use, without regard to the general purchase price limitation) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement

42 USC 3771  
note.

training; not to exceed \$9,500 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109; \$71,923,000, of which up to \$13,843,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2001: *Provided*, That the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes, including funding of a gift of intrinsic value which shall be awarded annually by the Director of the Center to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, which shall be funded only by gifts received through the Center's gift authority: *Provided further*, That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further*, That funds appropriated in this account shall be available, at the discretion of the Director, for the following: training United States Postal Service law enforcement personnel and Postal police officers; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation, except that reimbursement may be waived by the Secretary for law enforcement training activities in foreign countries undertaken pursuant to section 801 of the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104–32; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; and travel expenses of non-Federal personnel to attend course development meetings and training sponsored by the Center: *Provided further*, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Federal Law Enforcement Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further*, That the Federal Law Enforcement Training Center is authorized to provide training for the Gang Resistance Education and Training program to Federal and non-Federal personnel at any facility in partnership with the Bureau of Alcohol, Tobacco and Firearms: *Provided further*, That the Federal Law Enforcement Training Center is authorized to provide short-term medical services for students undergoing training at the Center.

#### ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, \$34,760,000, to remain available until expended.

#### INTERAGENCY LAW ENFORCEMENT

##### INTERAGENCY CRIME AND DRUG ENFORCEMENT

For expenses necessary for the detection and investigation of individuals involved in organized crime drug trafficking, including

cooperative efforts with State and local law enforcement, \$51,900,000, of which \$7,827,000 shall remain available until expended.

#### FINANCIAL MANAGEMENT SERVICE

##### SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, \$196,490,000, of which not to exceed \$13,235,000 shall remain available until September 30, 2001, for information systems modernization initiatives.

#### FEDERAL FINANCING BANK

For liquidation of certain debts to the United States Treasury incurred by the Federal Financing Bank pursuant to section 9(b) of the Federal Financing Bank Act of 1973, \$3,317,960,000.

#### BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

##### SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed 812 vehicles for police-type use, of which 650 shall be for replacement only, and hire of passenger motor vehicles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; for payment of per diem and/or subsistence allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty; not to exceed \$15,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; and provision of laboratory assistance to State and local agencies, with or without reimbursement; \$541,574,000, of which \$2,206,000 shall not be available for obligation until September 30, 1999; of which \$27,000,000 may be used for the Youth Crime Gun Interdiction Initiative; of which not to exceed \$1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); and of which \$1,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms and for the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement personnel, including sworn officers and support personnel, that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms: *Provided*, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco and Firearms to other agencies or Departments in fiscal year 1999: *Provided further*, That of the funds made available, \$4,500,000 shall be made available for the expansion of the National Tracing Center: *Provided further*, That no funds appropriated herein shall be available for salaries or administrative

expenses in connection with consolidating or centralizing, within the Department of the Treasury, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further*, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of “Curios or relics” in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: *Provided further*, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further*, That no funds in this Act may be used to provide ballistics imaging equipment to any State or local authority who has obtained similar equipment through a Federal grant or subsidy unless the State or local authority agrees to return that equipment or to repay that grant or subsidy to the Federal Government: *Provided further*, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code.

#### UNITED STATES CUSTOMS SERVICE

##### SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase and lease of up to 1,050 motor vehicles of which 550 are for replacement only and of which 1,030 are for police-type use and commercial operations; hire of motor vehicles; contracting with individuals for personal services abroad; not to exceed \$40,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service, \$1,642,565,000, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed \$150,000 shall be available for payment for rental space in connection with preclearance operations, not to exceed \$4,000,000 shall be available until expended for research, not to exceed \$5,000,000 shall be available until expended for conducting special operations pursuant to 19 U.S.C. 2081, and up to \$8,000,000 shall be available until expended for the procurement of automation infrastructure items, including hardware, software, and installation: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That of the amount provided, an additional \$2,400,000 shall be made available for staffing and resources for the child pornography cybers-mugging initiative: *Provided further*, That \$500,000 shall be available to fund the expansion of services at the Vermont World Trade Office: *Provided further*, That not to exceed \$2,500,000 shall be available until expended for relocation of the Customs Air Branch from Belle Chase to Hammond, Louisiana: *Provided further*, That notwithstanding any other provision of law, the fiscal year aggregate overtime limitation

prescribed in subsection 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 261 and 267) shall be \$30,000: *Provided further*, That of the amount provided, \$9,500,000 shall not be available for obligation until September 30, 1999.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE  
INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the operation and maintenance of marine vessels, aircraft, and other related equipment of the Air and Marine Programs, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Customs and other Federal, State, and local agencies in the enforcement or administration of laws enforced by the Customs Service; and, at the discretion of the Commissioner of Customs, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, \$113,688,000, which shall remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft which is one of a kind and has been identified as excess to Customs requirements and aircraft which has been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of the Treasury, during fiscal year 1999 without the prior approval of the Committees on Appropriations.

HARBOR MAINTENANCE FEE COLLECTION  
(INCLUDING TRANSFER OF FUNDS)

For administrative expenses related to the collection of the Harbor Maintenance Fee, pursuant to Public Law 103-182, \$3,000,000, to be derived from the Harbor Maintenance Trust Fund and to be transferred to and merged with the Customs "Salaries and Expenses" account for such purposes.

BUREAU OF THE PUBLIC DEBT  
ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States, \$176,500,000, of which not to exceed \$2,500 shall be available for official reception and representation expenses, and of which not to exceed \$2,000,000 shall remain available until September 30, 2001, for information systems modernization initiatives: *Provided*, That the sum appropriated herein from the General Fund for fiscal year 1999 shall be reduced by not more than \$4,400,000 as definitive security issue fees and Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 1999 appropriation from the General Fund estimated at \$172,100,000, and in addition, \$20,000, to be derived from the Oil Spill Liability Trust Fund to reimburse the Bureau for administrative and personnel expenses for financial management of the Fund, as authorized by section 102 of Public Law 101-380: *Provided further*, That notwithstanding any other provisions of law, effective upon enactment and thereafter, the Bureau

31 USC 306 note.

of the Public Debt shall be fully and directly reimbursed by the funds described in section 104 of Public Law 101–136 (103 Stat. 789) for costs and services performed by the Bureau in the administration of such funds.

#### INTERNAL REVENUE SERVICE

##### PROCESSING, ASSISTANCE, AND MANAGEMENT

For necessary expenses of the Internal Revenue Service for tax returns processing; revenue accounting; tax law and account assistance to taxpayers by telephone and correspondence; programs to match information returns and tax returns; management services; rent and utilities; and inspection; including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; \$3,086,208,000, of which up to \$3,700,000 shall be for the Tax Counseling for the Elderly Program, and of which not to exceed \$25,000 shall be for official reception and representation expenses: *Provided*, That of the amount provided, \$105,000,000 shall remain available until expended for postage and shall not be obligated before September 30, 1999: *Provided further*, That, pursuant to 39 U.S.C. 3206(a), funds shall continue to be provided to the United States Postal Service for postage due: *Provided further*, That of the amount provided, \$25,000,000 shall not be available for obligation until September 30, 1999.

##### TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; providing litigation support; issuing technical rulings; examining employee plans and exempt organizations; conducting criminal investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; compiling statistics of income and conducting compliance research; purchase (for police-type use, not to exceed 850) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$3,164,189,000.

##### EARNED INCOME TAX CREDIT COMPLIANCE INITIATIVE

For funding essential earned income tax credit compliance and error reduction initiatives pursuant to section 5702 of the Balanced Budget Act of 1997 (Public Law 105–33), \$143,000,000, of which not to exceed \$10,000,000 may be used to reimburse the Social Security Administration for the costs of implementing section 1090 of the Taxpayer Relief Act of 1997.

##### INFORMATION SYSTEMS

For necessary expenses of the Internal Revenue Service for information systems and telecommunications support, including developmental information systems and operational information systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner, \$1,265,456,000, which shall remain available until September 30, 2000, and of which



\$103,000,000 shall be available only for improvements to customer service.

#### INFORMATION TECHNOLOGY INVESTMENTS

For necessary expenses of the Internal Revenue Service, \$211,000,000, to remain available until September 30, 2002, for the capital asset acquisition of information technology systems, including management and related contractual costs of such acquisition, and including contractual costs associated with operations authorized by 5 U.S.C. 3109: *Provided*, That none of these funds is available for obligation until September 30, 1999: *Provided further*, That none of these funds shall be obligated until the Internal Revenue Service and the Department of the Treasury submit to Congress for approval, a plan for expenditure that: (1) implements the Internal Revenue Service's Modernization Blueprint submitted to Congress on May 15, 1997; (2) meets the information systems investment guidelines established by the Office of Management and Budget and in the fiscal year 1998 budget; (3) is reviewed and approved by the Office of Management and Budget, the Department of the Treasury's IRS Management Board, and is reviewed by the General Accounting Office; (4) meets the requirements of the May 15, 1997 Internal Revenue Service's Systems Life Cycle program; and (5) is in compliance with acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government.

#### ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 101. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations.

SEC. 102. The Internal Revenue Service shall maintain a training program to ensure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

26 USC 7803  
note.

SEC. 103. The funds provided in this Act for the Internal Revenue Service shall be used to provide, as a minimum, the fiscal year 1995 level of service, staffing, and funding for Taxpayer Services.

SEC. 104. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1986 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection, including any private sector employees under contract to the Internal Revenue Service, complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 105. The Internal Revenue Service shall institute and enforce policies and procedures which will safeguard the confidentiality of taxpayer information.

26 USC 6103  
note.

SEC. 106. Funds made available by this or any other Act to the Internal Revenue Service shall be available for improved facilities and increased manpower to provide sufficient and effective

1–800 help line for taxpayers. The Commissioner shall continue to make the improvement of the Internal Revenue Service 1–800 help line service a priority and allocate resources necessary to increase phone lines and staff to improve the Internal Revenue Service 1–800 help line service.

SEC. 107. Notwithstanding any other provision of law, no reorganization of the field office structure of the Internal Revenue Service Criminal Investigation Division will result in a reduction of criminal investigators in Wisconsin and South Dakota from the 1996 level.

#### UNITED STATES SECRET SERVICE

##### SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 739 vehicles for police-type use, of which 675 shall be for replacement only, and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed \$20,000 for official reception and representation expenses; not to exceed \$50,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year, \$600,302,000: *Provided*, That \$18,000,000 provided for protective travel shall remain available until September 30, 2000; *Provided further*, That of the amount provided, \$5,000,000 shall not be available for obligation until September 30, 1999.

##### ACQUISITION, CONSTRUCTION, IMPROVEMENT, AND RELATED EXPENSES

For necessary expenses of construction, repair, alteration, and improvement of facilities, \$8,068,000, to remain available until expended.

#### GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SEC. 110. Any obligation or expenditure by the Secretary of the Treasury in connection with law enforcement activities of a

Federal agency or a Department of the Treasury law enforcement organization in accordance with 31 U.S.C. 9703(g)(4)(B) from unobligated balances remaining in the Fund on September 30, 1999, shall be made in compliance with reprogramming guidelines.

SEC. 111. Appropriations to the Department of the Treasury in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 112. The funds provided to the Bureau of Alcohol, Tobacco and Firearms for fiscal year 1999 in this Act for the enforcement of the Federal Alcohol Administration Act shall be expended in a manner so as not to diminish enforcement efforts with respect to section 105 of the Federal Alcohol Administration Act.

SEC. 113. Not to exceed 2 percent of any appropriations in this Act made available to the Federal Law Enforcement Training Center, Financial Crimes Enforcement Network, Bureau of Alcohol, Tobacco and Firearms, United States Customs Service, and United States Secret Service may be transferred between such appropriations upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 114. Not to exceed 2 percent of any appropriations in this Act made available to the Departmental Offices, Office of Inspector General, Financial Management Service, and Bureau of the Public Debt, may be transferred between such appropriations upon the advance approval of the Committees on Appropriations. No transfer may increase or decrease any such appropriation by more than 2 percent.

SEC. 115. Section 921(a) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking “the explosive in a fixed shotgun shell” and inserting “an explosive”;

(2) in paragraph (7), by striking “the explosive in a fixed metallic cartridge” and inserting “an explosive”; and

(3) by striking paragraph (16) and inserting the following: “(16) The term ‘antique firearm’ means—

“(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or

“(B) any replica of any firearm described in subparagraph (A) if such replica—

“(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

“(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

“(C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed

ammunition. For purposes of this subparagraph, the term ‘antique firearm’ shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.”

SEC. 116. Of the funds available for the purchase of law enforcement vehicles, no funds may be obligated until the Secretary of the Treasury certifies that the purchase by the respective Treasury bureau is consistent with the vehicle management principles: *Provided*, That the Secretary may delegate this authority to the Assistant Secretary for Management.

SEC. 117. EXCEPTION TO IMMUNITY FROM ATTACHMENT OR EXECUTION. (a) Section 1610 of title 28, United States Code, is amended by adding at the end the following new subsection:

“(f)(1)(A) Notwithstanding any other provision of law, including but not limited to section 208(f) of the Foreign Missions Act (22 U.S.C. 4308(f)), and except as provided in subparagraph (B), any property with respect to which financial transactions are prohibited or regulated pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1702), or any other proclamation, order, regulation, or license issued pursuant thereto, shall be subject to execution or attachment in aid of execution of any judgment relating to a claim for which a foreign state (including any agency or instrumentality or such state) claiming such property is not immune under section 1605(a)(7).

“(B) Subparagraph (A) shall not apply if, at the time the property is expropriated or seized by the foreign state, the property has been held in title by a natural person or, if held in trust, has been held for the benefit of a natural person or persons.

“(2)(A) At the request of any party in whose favor a judgment has been issued with respect to a claim for which the foreign state is not immune under section 1605(a)(7), the Secretary of the Treasury and the Secretary of State shall fully, promptly, and effectively assist any judgment creditor or any court that has issued any such judgment in identifying, locating, and executing against the property of that foreign state or any agency or instrumentality of such state.

“(B) In providing such assistance, the Secretaries—

“(i) may provide such information to the court under seal; and

“(ii) shall provide the information in a manner sufficient to allow the court to direct the United States Marshall’s office to promptly and effectively execute against that property.”.

(b) CONFORMING AMENDMENT.—Section 1606 of title 28, United States Code, is amended by inserting after “punitive damages” the following: “, except any action under section 1605(a)(7) or 1610(f)”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to any claim for which a foreign state is not immune under section 1605(a)(7) of title 28, United States Code, arising before, on, or after the date of enactment of this Act.

(d) **WAIVER.**—The President may waive the requirements of this section in the interest of national security. 28 USC 1610 note.

This title may be cited as the “Treasury Department Appropriations Act, 1999”.

## TITLE II—POSTAL SERVICE

Postal Service  
Appropriations  
Act, 1999.

### PAYMENTS TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, \$71,195,000, which shall remain available until September 30, 2000: *Provided*, That none of the funds provided shall be available for obligation until October 1, 1999: *Provided further*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1999.

39 USC 403 note.

This title may be cited as the “Postal Service Appropriations Act, 1999”.

## TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

Executive Office  
Appropriations  
Act, 1999.

### COMPENSATION OF THE PRESIDENT AND THE WHITE HOUSE OFFICE

#### COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of \$50,000 per annum as authorized by 3 U.S.C. 102, \$250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

3 USC 102 note.

#### SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed \$3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed \$100,000 to be expended and accounted for as provided by 3 U.S.C. 103); and not to exceed \$19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President, \$52,344,000: *Provided*, That \$10,100,000

of the funds appropriated shall be available for reimbursements to the White House Communications Agency.

#### EXECUTIVE RESIDENCE AT THE WHITE HOUSE

##### OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, \$8,061,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109, 110, and 112–114: *Provided*, That such amount shall not be available for expenses for domestic staff overtime.

In addition, for necessary expenses for domestic staff overtime, \$630,000: *Provided*, That such amount shall not become available for obligation until the Comptroller General of the United States notifies the Committees on Appropriations that (1) the Executive Office of the President has received, reviewed, and commented on the draft report of the General Accounting Office with respect to its audit of the Executive Residence at the White House; and (2) the General Accounting Office has received the comments of the Executive Office of the President.

##### REIMBURSABLE EXPENSES

For the reimbursable expenses of the Executive Residence at the White House, such sums as may be necessary: *Provided*, That all reimbursable operating expenses of the Executive Residence shall be made in accordance with the provisions of this paragraph: *Provided further*, That, notwithstanding any other provision of law, such amount for reimbursable operating expenses shall be the exclusive authority of the Executive Residence to incur obligations and to receive offsetting collections, for such expenses: *Provided further*, That the Executive Residence shall require each person sponsoring a reimbursable political event to pay in advance an amount equal to the estimated cost of the event, and all such advance payments shall be credited to this account and remain available until expended: *Provided further*, That the Executive Residence shall require the national committee of the political party of the President to maintain on deposit \$25,000, to be separately accounted for and available for expenses relating to reimbursable political events sponsored by such committee during such fiscal year: *Provided further*, That the Executive Residence shall ensure that a written notice of any amount owed for a reimbursable operating expense under this paragraph is submitted to the person owing such amount within 60 days after such expense is incurred, and that such amount is collected within 30 days after the submission of such notice: *Provided further*, That the Executive Residence shall charge interest and assess penalties and other charges on any such amount that is not reimbursed within such 30 days, in accordance with the interest and penalty provisions applicable to an outstanding debt on a United States Government claim under section 3717 of title 31, United States Code: *Provided further*, That each such amount that is reimbursed, and any accompanying interest and charges, shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That the Executive Residence shall prepare and submit to the Committees on Appropriations, by not later than

90 days after the end of the fiscal year covered by this Act, a report setting forth the reimbursable operating expenses of the Executive Residence during the preceding fiscal year, including the total amount of such expenses, the amount of such total that consists of reimbursable official and ceremonial events, the amount of such total that consists of reimbursable political events, and the portion of each such amount that has been reimbursed as of the date of the report: *Provided further*, That the Executive Residence shall maintain a system for the tracking of expenses related to reimbursable events within the Executive Residence that includes a standard for the classification of any such expense as political or nonpolitical: *Provided further*, That no provision of this paragraph may be construed to exempt the Executive Residence from any other applicable requirement of subchapter I or II of chapter 37 of title 31, United States Code.

SPECIAL ASSISTANCE TO THE PRESIDENT AND THE OFFICIAL  
RESIDENCE OF THE VICE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions; services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles, \$3,512,000.

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For the care, operation, refurnishing, improvement, heating, and lighting, including electric power and fixtures, of the official residence of the Vice President; the hire of passenger motor vehicles; and not to exceed \$90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate, \$334,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), \$3,666,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, \$4,032,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, \$6,806,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles, \$28,350,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget (OMB), including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, \$60,617,000, of which not to exceed \$5,000,000 shall be available to carry out the provisions of chapter 35 of title 44, United States Code: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committees on Appropriations or the Committees on Veterans' Affairs or their subcommittees: *Provided further*, That the preceding shall not apply to printed hearings released by the Committees on Appropriations or the Committees on Veterans' Affairs: *Provided further*, That the Director of OMB amends Section \_\_.36 of OMB Circular A–110 to require Federal awarding agencies to ensure that all data produced under an award will be made available to the public through the procedures established under the Freedom of Information Act: *Provided further*, That if the agency obtaining the data does so solely at the request of a private party, the agency may authorize a reasonable user fee equaling the incremental cost of obtaining the data: *Provided further*, That OMB is directed to submit a report by March 31, 1999, to the Committees on Appropriations, the Senate Committee on Governmental Affairs, and the House Committee on Government Reform and Oversight that: (1) identifies specific paperwork reduction accomplishments expected, constituting annual five percent reductions in paperwork expected in fiscal year 1999 and fiscal year 2000; and (2) issues guidance on the requirements of 5 U.S.C. Sec. 801(a)(1) and (3); sections 804(3), and 808(2), including a standard new rule reporting form for use under section 801(a)(1)(A)–(B).



## OFFICE OF NATIONAL DRUG CONTROL POLICY

## SALARIES AND EXPENSES

## (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100-690; not to exceed \$8,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; \$48,042,000, of which \$30,100,000 shall remain available until expended, consisting of \$1,100,000 for policy research and evaluation, and \$16,000,000 for the Counterdrug Technology Assessment Center for counternarcotics research and development projects, and \$13,000,000 for the continued operation of the technology transfer program: *Provided*, That the \$16,000,000 for the Counterdrug Technology Assessment Center shall be available for transfer to other Federal departments or agencies: *Provided further*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Office.

21 USC 1702  
note.

## FEDERAL DRUG CONTROL PROGRAMS

## HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

## (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, \$182,477,000 for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than 51 percent shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of the date of enactment of this Act: *Provided*, That funding shall be provided for existing High Intensity Drug Trafficking Areas at no less than the total fiscal year 1998 level consisting of funding from this account as well as the Violent Crime Reduction Trust Fund.

## SPECIAL FORFEITURE FUND

## (INCLUDING TRANSFER OF FUNDS)

For activities to support a national anti-drug campaign for youth, and other purposes, authorized by Public Law 100-690, as amended, \$214,500,000, to remain available until expended: *Provided*, That such funds may be transferred to other Federal departments and agencies to carry out such activities: *Provided further*, That of the funds provided, \$185,000,000 shall be to support a national media campaign to reduce and prevent drug use among young Americans: *Provided further*, That none of the funds provided for the support of a national media campaign may be obligated for the following purposes: to supplant current anti-drug community based coalitions; to supplant current pro bono public service time donated by national and local broadcasting networks; for partisan

political purposes; or to fund media campaigns that feature any elected officials, persons seeking elected office, cabinet-level officials, or other Federal officials employed pursuant to Schedule C of title 5, Code of Federal Regulations, section 213, absent advance notice to the Committees on Appropriations and the Senate Judiciary Committee: *Provided further*, That (1) ONDCP will require a pro bono match commitment up-front as part of its media buy from each and every seller of ad time and space, (2) ONDCP, or any agent acting on its behalf, may not obligate any funds for the creative development of advertisements from for-profit organizations, not including out-of-pocket production costs and talent re-use payments, unless (A) the advertisements are intended to reach a minority, ethnic or other special audience that cannot be obtained on a pro bono basis within the time frames required by ONDCP's advertising and buying agencies, and (B) ONDCP receives prior approval from the Committees on Appropriations, (3) ONDCP will submit within three months of enactment of this Act an implementation plan to the Committees on Appropriations to secure corporate sponsorship equaling 40 percent of the appropriated amount in fiscal year 1999, the definition of which is a contribution that is not received as a result of leveraging funds to receive said sponsorship, corporate sponsorship equaling 60 percent of the appropriated amount in fiscal year 2000, corporate sponsorship equaling 80 percent of the appropriated amount in fiscal year 2001, corporate sponsorship equaling 100 percent of the appropriated amount in fiscal year 2002, (4) the funds provided for the support of a national media campaign may be used to fund the purchase of media time and space, talent re-use payments, out-of-pocket advertising production costs, testing and evaluation of advertising, evaluation of the effectiveness of the media campaign, the negotiated fees for the winning bidder on the request for proposal recently issued by ONDCP, partnership with community, civic, and professional groups, and government organizations related to the media campaign, entertainment industry collaborations to fashion anti-drug messages in movies, television programming, and popular music, interactive (Internet and new) media projects/activities, public information (News Media Outreach), and corporate sponsorship/participation, (5) ONDCP shall not obligate funds provided for the national media campaign for fiscal year 1999 until ONDCP has submitted the evaluation and results of Phase I of the campaign to the Committees on Appropriations, and may obligate not more than 75 percent of these funds until ONDCP has submitted the evaluation and results of Phase II of the campaign to the Committees on Appropriations, and (6) ONDCP is required to report to the Committees on Appropriations not only quarterly, but also to provide monthly itemized reports of all expenditures and obligations relating to the media campaign as well as the specific parameters of the national media campaign, and shall report to Congress within one year on the effectiveness of the national media campaign based upon the measurable outcomes provided to Congress previously: *Provided further*, That of the funds provided, \$4,500,000 shall be available for transfer to the Agricultural Research Service for anti-drug research and related matters: *Provided further*, That of the funds provided, \$20,000,000 shall be to continue a program of matching grants to drug-free communities, as authorized in the Drug-Free Communities Act of 1997: *Provided further*, That of

the funds provided, \$5,000,000 shall be available for the chronic users study.

#### UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, \$1,000,000.

This title may be cited as the “Executive Office Appropriations Act, 1999”.

### TITLE IV—INDEPENDENT AGENCIES

Independent  
Agencies  
Appropriations  
Act, 1999.

#### COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

##### SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by the Act of June 23, 1971, Public Law 92-28, \$2,464,000.

#### FEDERAL ELECTION COMMISSION

##### SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, \$36,500,000, of which no less than \$4,402,500 shall be available for internal automated data processing systems, and of which not to exceed \$5,000 shall be available for reception and representation expenses: *Provided*, That of the amounts appropriated for salaries and expenses, \$1,120,000 may not be obligated until the Federal Election Commission submits a plan for approval to the House Committee on Appropriations for the expenditure of such funds.

#### FEDERAL LABOR RELATIONS AUTHORITY

##### SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia and elsewhere, \$22,586,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further*, That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

## GENERAL SERVICES ADMINISTRATION

## FEDERAL BUILDINGS FUND

## LIMITATIONS ON AVAILABILITY OF REVENUE

## (INCLUDING TRANSFER OF FUNDS)

For additional expenses necessary to carry out the purpose of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), \$450,018,000 to be deposited into the Fund. The revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, and any other obligations for public buildings acquired by installment purchase and purchase contract; in the aggregate amount of \$5,605,018,000, of which: (1) \$492,190,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses and associated design and construction services) as follows:

## New construction:

## Arkansas:

Little Rock, U.S. courthouse, \$3,436,000

## California:

San Diego, U.S. courthouse, \$15,400,000

San Jose, U.S. courthouse, \$10,800,000

## Colorado:

Denver, U.S. courthouse, \$83,959,000

## District of Columbia:

Southeast Federal Center remediation,  
\$10,000,000

## Florida:

Jacksonville, U.S. courthouse, \$86,010,000

Orlando, U.S. courthouse, \$1,930,000

## Massachusetts:

Springfield, U.S. courthouse, \$5,563,000

## Michigan:

Sault Sainte Marie, border station, \$572,000

## Mississippi:

Biloxi-Gulfport, U.S. courthouse, \$7,543,000

## Missouri:

Cape Girardeau, U.S. courthouse, \$2,196,000

Montana:

Babb, Piegan border station, \$6,165,000

New York:

Brooklyn, U.S. courthouse, \$152,626,000

New York, U.S. Mission to the United Nations,  
\$3,163,000

Oregon:

Eugene, U.S. courthouse, \$7,190,000

Tennessee:

Greenville, U.S. courthouse, \$28,229,000

Texas:

Laredo, U.S. courthouse, \$28,105,000

West Virginia:

Wheeling, U.S. courthouse, \$29,303,000

Nationwide:

Non-prospectus, \$10,000,000:

*Provided*, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount: *Provided further*, That notwithstanding any other provision of law in order to rescind a General Services Administration property sale, the General Services Administration is authorized to re-acquire that parcel of land on Block 111, East Denver, Denver, Colorado, which was sold at public auction by the Federal government to its present owner pursuant to paragraphs (6) and (7) of section 12 of Public Law 94-204 (43 U.S.C. 1611 note) at a price equivalent to the 1988 auction sale price plus the amount of cumulative consumer price index, pursuant to the methodology as used in Public Law 104-42, Sec. 107(a), from the closing date of the sale until the date of re-acquisition by the Federal government, offset by any net income received from the property by the present owner since the 1988 sale: *Provided further*, That the funds provided in Public Law 102-393 for Hilo, Hawaii, shall be expended for the planning and design of the Mauna Kea Astronomy Educational Center, notwithstanding Public Law 103-123, and of the funds provided not more than \$475,000 is to be disbursed in this fiscal year: *Provided further*, That all funds for direct construction projects shall expire on September 30, 2000, and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That of the funds provided for non-prospectus construction projects, \$2,100,000 shall be available until expended for acquisition, lease, construction, and equipping of flexiplace telecommuting centers: *Provided further*, That from the funds made available under this heading in this or prior Acts of Congress, the Administrator of General Services may purchase at a price he determines appropriate, notwithstanding any other provision of law, property adjacent to the new courthouse currently under construction in Scranton, Pennsylvania; (2) \$668,031,000 shall remain available until expended, for repairs and alterations which includes associated design and construction services: *Provided further*, That of the amount provided, \$161,500,000 shall not be available for obligation until September 30, 1999: *Provided further*, That funds in the Federal Buildings Fund for Repairs and

Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 percent unless advance approval is obtained from the Committees on Appropriations of a greater amount:

Repairs and alterations:

California:

San Francisco, Appraisers Building, \$29,778,000

Colorado:

Lakewood, Denver Federal Center, Building 25, \$29,351,000

District of Columbia:

Federal Office Building, 10B, \$13,844,000

Interstate Commerce Commission, Connecting Wing Complex, Customs Building, Phase 3/3, \$83,959,000

Old Executive Office Building, \$25,210,000

Department of State, Phase 1, \$29,779,000

New York:

Brookhaven, Internal Revenue Service, Service Center, \$20,019,000

New York, U.S. Courthouse, 40 Foley Square, \$4,782,000

Pennsylvania:

Philadelphia, Byrne-Green, Federal Building-U.S. Courthouse, \$11,212,000

Virginia:

Reston, J.W. Powell Building, \$9,151,000

Nationwide:

Chlorofluorocarbons Program, \$25,000,000

Energy Program, \$25,000,000

Design Program, \$16,710,000

Basic Repairs and Alteration, \$344,236,000:

*Provided further*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations: *Provided further*, That the amounts provided in this or any prior Act for “Repairs and Alterations” may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further*, That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading “Repairs and Alterations”, may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 2000, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That of the amount provided, \$100,000 shall be used to address the lighting issues at the Byrne-Green Federal Courthouse in Philadelphia, Pennsylvania: *Provided further*, That of the amount provided in this or any prior Act for Basic Repairs and Alterations, \$1,600,000 shall be provided to complete the alterations required at the Milwaukee, Wisconsin Courthouse: *Provided further*, That of the amount provided in this or any prior Act for Basic Repairs and Alterations, \$1,100,000 may be used to

provide a new fence surrounding the Suitland Federal Complex in Suitland, Maryland: *Provided further*, That \$5,700,000 of the funds provided under this heading in Public Law 103-329 for the Holtsville, New York, IRS Service Center shall remain available until September 30, 1999: *Provided further*, That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading “Repairs and Alterations” or used to fund authorized increases in prospectus projects; (3) \$215,764,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (4) \$2,583,261,000 for rental of space which shall remain available until expended: *Provided further*, That of the amount provided, \$15,000,000 shall not be available for obligation until September 30, 1999; and (5) \$1,554,772,000 for building operations which shall remain available until expended: *Provided further*, That of the amount provided \$68,000,000 shall not be available for obligation until September 30, 1999: *Provided further*, That funds available to the General Services Administration shall not be available for expenses of any construction, repair, alteration and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus: *Provided further*, That for the purposes of this authorization, and hereafter, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), buildings occupied pursuant to installment purchase contracts, and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, shall be available from such revenues and collections: *Provided further*, That the remaining balances and associated assets and liabilities of the Pennsylvania Avenue Activities account are hereby transferred to the Federal Buildings Fund to be effective October 1, 1998, and that all income earned after that effective date that would otherwise have been deposited to the Pennsylvania Avenue Activities account shall thereafter be deposited to the Federal Buildings Fund, to be available for the purposes authorized by Public Laws 104-134 and 104-208, notwithstanding subsection 210(f)(2) of the Federal Property and Administrative Services Act, as amended: *Provided further*, That of the amount provided, \$475,000 shall be made available for the 1999 Women’s World Cup Soccer event: *Provided further*, That of the amount provided, \$600,000 shall be made available

40 USC 490i.

40 USC 872 note.

for the 1999 World Alpine Ski Championships: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 1999, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of \$5,605,018,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

#### POLICY AND OPERATIONS

For expenses authorized by law, not otherwise provided for, for Government-wide policy and oversight activities associated with asset management activities; utilization and donation of surplus personal property; transportation; procurement and supply; Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related technology activities; utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; agency-wide policy direction; Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed \$5,000 for official reception and representation expenses; \$109,594,000: *Provided*, That none of the funds appropriated from this Act shall be available to convert the Old Post Office at 1100 Pennsylvania Avenue in Northwest Washington, D.C., from office use to any other use until a comprehensive plan, which shall include street-level retail use, has been approved by the Senate Committee on Appropriations, the House Committee on Transportation and Infrastructure, and the Senate Committee on Environment and Public Works: *Provided further*, That no funds from this Act shall be available to acquire by purchase, condemnation, or otherwise the leasehold rights of the existing lease with private parties at the Old Post Office prior to the approval of the comprehensive plan by the Senate Committee on Appropriations, the House Committee on Transportation and Infrastructure, and the Senate Committee on Environment and Public Works: *Provided further*, That \$100,000 is provided to the property disposal activity for the Racine, Wisconsin, property transfer identified in General Services Administration General Provision section 409.

#### OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, \$32,000,000: *Provided*, That not to exceed \$10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed \$2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.



## ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

## (INCLUDING TRANSFER OF FUNDS)

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138, \$2,241,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

## GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

SEC. 401. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 402. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 403. Funds in the Federal Buildings Fund made available for fiscal year 1999 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements: *Provided*, That any proposed transfers shall be approved in advance by the Committees on Appropriations.

SEC. 404. No funds made available by this Act shall be used to transmit a fiscal year 2000 request for United States Courthouse construction that: (1) does not meet the design guide standards for construction as established and approved by the General Services Administration, the Judicial Conference of the United States, and the Office of Management and Budget; and (2) does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided*, That the fiscal year 2000 request must be accompanied by a standardized courtroom utilization study of each facility to be constructed, replaced, or expanded.

SEC. 405. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency which does not pay the rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92-313).

SEC. 406. Funds provided to other Government agencies by the Information Technology Fund, General Services Administration, under 40 U.S.C. 757 and sections 5124(b) and 5128 of Public Law 104-106, Information Technology Management Reform Act of 1996, for performance of pilot information technology projects which have potential for Government-wide benefits and savings, may be repaid to this Fund from any savings actually incurred by these projects or other funding, to the extent feasible.

SEC. 407. From funds made available under the heading "Federal Buildings Fund Limitations on Revenue", claims against the Government of less than \$250,000 arising from direct construction projects and acquisition of buildings may be liquidated from savings effected in other construction projects with prior notification to the Committees on Appropriations.

SEC. 408. From the funds made available under the heading “Federal Buildings Fund Limitations on Revenue”, in addition to amounts provided in budget activities above, up to \$5,000,000 shall be available for the demolition, cleanup and conveyance of the property at block 35 and lot 2 of block 36 in Anchorage, Alaska: *Provided*, That notwithstanding any other provision of law, the Administrator of General Services shall, not later than 18 months after the date of enactment of this Act, demolish and remove all buildings, structures and other fixtures on the property at block 35 and lot 2 of block 36, Anchorage Original Townsite East Addition, Anchorage, Alaska, excluding any portion dedicated for use by the Centers for Disease Control and Prevention: *Provided further*, That the remediation of said parcel shall include the removal of all asbestos, lead and any other contamination, and restoration of the property, to the extent practicable, to an undeveloped condition: *Provided further*, That upon completion of the activities required for the demolition and removal of buildings, and notwithstanding any other provision of law, the Administrator of General Services shall convey to the municipality of Anchorage, without reimbursement, all right, title, and interest of the United States to the property.

SEC. 409. The Administrator of General Services may convey to the City of Racine, Wisconsin, all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located on 2310 Center Street, commencing at the intersection of the North line of 24th Street and the center line of Center Street, being the point of the beginning; thence Northerly along the center line of Center Street, 426 feet to the South line of 23rd Street extended East; thence Westerly along the South line of 23rd Street extended East; 325 feet to the West line of Franklin Street extended South; thence southerly along the West line of Franklin Street extended South to a point on the North line of 24th Street; thence Easterly along the North line of 24th Street to the point of beginning located in Racine, Wisconsin, and which contains the U.S. Army Reserve Center.

SEC. 410. DEPARTMENT OF TRANSPORTATION HEADQUARTERS.

(a) IN GENERAL.—The Administrator of General Services shall—

(1) enter into an operating lease to acquire space for the Department of Transportation headquarters; and

(2) commence procurement of the lease not later than November 1, 1998:

*Provided*, That the annual rent payment does not exceed \$55,000,000.

(b) TERMS.—The authority granted in subsection (a) is effective only to the extent that the lease acquisition meets the guidelines for operating leases set forth in the joint statement of the managers for the conference report to the Balanced Budget Agreement of 1997, as determined by the Director of the Office of Management and Budget.

SEC. 411. Notwithstanding any other provision of law, the requirement under section 407 of Public Law 104-208 (110 Stat. 3009-337-38), that the Administrator of General Services charge user fees for flexiplace telecommuting centers that approximate commercial charges for comparable space and services but in no instance less than the amount necessary to pay the cost of establishing and operating such centers, shall not apply to the user fees charged for the period beginning October 1, 1996, and ending

September 30, 1998, for the telecommuting centers established as part of a pilot telecommuting demonstration program in the Washington, D.C. metropolitan area by Public Laws 102-393, 103-123, 103-329, 104-52, and 104-208: *Provided*, That for these centers in the pilot demonstration program for the period beginning October 1, 1998, and ending September 30, 2000, the Administrator shall charge fees for Federal agency use of a telecenter based on 50 percent of the Administrator's annual costs of operating the center, including the reasonable cost of replacement for furniture, fixtures, and equipment: *Provided further*, That effective October 1, 2000, the Administrator shall charge fees for Federal agency use of the demonstration telecommuting centers based on 100 percent of the annual operating costs, including the reasonable cost of replacement for furniture, fixtures, and equipment: *Provided further*, That, to the extent such user charges do not cover the Administrator's costs in operating these centers, appropriations to the General Services Administration are authorized to reimburse the Federal Buildings Fund for any loss of revenue.

SEC. 412. (a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall convey to the University of Miami, by negotiated sale or by negotiated land exchange and by not later than September 30, 1999, all right, title, and interest of the United States in and to the property described in paragraph (2).

(2) PROPERTY DESCRIBED.—The property referred to in paragraph (1) is real property in Miami-Dade County, Florida, including improvements thereon, comprising the Federal facility known as the United States Naval Observatory/Alternate Time Service Laboratory, consisting of approximately 76 acres. The exact acreage and legal description of the property shall be determined by a survey that is satisfactory to the Administrator.

(b) CONDITION REGARDING USE.—Any conveyance under subsection (a) shall be subject to the condition that during the 10-year period beginning on the date of the conveyance, the University shall use the property, or provide for use of the property, only for—

(1) a research, education, and training facility complementary to longstanding national research missions, subject to such incidental exceptions as may be approved by the Administrator;

(2) research-related purposes other than the use specified in paragraph (1), under an agreement entered into by the Administrator and the University; or

(3) a combination of uses described in paragraph (1) and paragraph (2), respectively.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions with respect to the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

(d) REVERSION.—If the Administrator determines at any time that the property conveyed under subsection (a) is not being used in accordance with this section, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

SEC. 413. The Administrator of General Services is directed to reincorporate the elements of the original proposed design for the façade of the United States Courthouse, London, Kentucky, project into the revised design of the building in order to ensure compatibility of this new facility with the historic U.S. Courthouse in London, Kentucky, to maintain the stateliness of the building. Construction or design of the London, Kentucky, project should not be diminished in any way to achieve this goal.

#### ENVIRONMENTAL DISPUTE RESOLUTION FUND

For payment to the Environmental Dispute Resolution Fund to carry out activities authorized in the Environmental Policy and Conflict Resolution Act of 1997, \$4,250,000, to remain available until expended, of which \$3,000,000 will be for capitalization of the Fund, and \$1,250,000 will be for annual operating expenses.

#### MERIT SYSTEMS PROTECTION BOARD

##### SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, \$25,805,000, together with not to exceed \$2,430,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

#### NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

##### OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives (including the Information Security Oversight Office) and records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, \$224,614,000: *Provided*, That of the amount provided, \$7,861,000 shall not be available for obligation until September 30, 1999: *Provided further*, That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to provide adequate storage for holdings.

##### REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities, and to provide adequate storage for holdings, \$11,325,000, to remain available until expended, of which \$2,000,000 is for an architectural and engineering study for the renovation of the Archives I facility, of which \$4,000,000 is for encasement of the Charters of Freedom, and of which \$875,000 is for a requirements

study and design of the National Archives Anchorage, Alaska, facility.

#### NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

##### GRANTS PROGRAM

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, \$10,000,000, to remain available until expended: *Provided*, That of the amount provided, \$4,000,000 shall not be available for obligation until September 30, 1999.

#### OFFICE OF GOVERNMENT ETHICS

##### SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended and the Ethics Reform Act of 1989, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed \$1,500 for official reception and representation expenses, \$8,492,000.

#### OFFICE OF PERSONNEL MANAGEMENT

##### SALARIES AND EXPENSES

##### (INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed \$2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order No. 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty, \$85,350,000; and in addition \$91,236,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printed materials, for the retirement and insurance programs: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, United States Code: *Provided further*, That, except as may be consistent with 5 U.S.C. 8902a(f)(1) and (i), no payment may be made from the Employees Health Benefits Fund to any physician, hospital, or other provider of health care services or supplies who is, at the time such services or supplies are provided to an individual covered under chapter 89 of title 5, United States Code, excluded, pursuant to section 1128 or 1128A of the Social Security Act (42 U.S.C. 1320a-7 through

1320a–7a), from participation in any program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.): *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order No. 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President’s Commission on White House Fellows, established by Executive Order No. 11183 of October 3, 1964, may, during fiscal year 1999, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

## OFFICE OF INSPECTOR GENERAL

## SALARIES AND EXPENSES

## (INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, \$960,000; and in addition, not to exceed \$9,145,000 for administrative expenses to audit the Office of Personnel Management’s retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH  
BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE  
INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

## PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

## OFFICE OF SPECIAL COUNSEL

## SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95-454), the Whistleblower Protection Act of 1989 (Public Law 101-12), Public Law 103-424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103-353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles, \$8,720,000.

## UNITED STATES TAX COURT

## SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, \$32,765,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

26 USC 7443  
note.

This title may be cited as the “Independent Agencies Appropriations Act, 1999”.

## TITLE V—GENERAL PROVISIONS

## THIS ACT

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 503. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 504. None of the funds made available by this Act shall be available in fiscal year 1999 for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, and Artesia, New Mexico, out of the Department of the Treasury.

SEC. 505. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service, and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of

not more than 1 year, made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 506. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the “Buy American Act”).

SEC. 507. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 508. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 509. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 510. The provision of section 509 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.

SEC. 511. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 1999 from appropriations made available for salaries and expenses for fiscal year 1999 in this Act, shall remain available through September 30, 2000, for each such account for the purposes authorized: *Provided*, That a request shall be submitted to the Committees on Appropriations for approval prior to the expenditure of such funds: *Provided further*, That these requests shall be made in compliance with reprogramming guidelines.

SEC. 512. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.



SEC. 513. Funds provided in this Act may be used to initiate or continue projects or activities to the extent necessary, consistent with existing agency plans, to achieve Year 2000 (Y2K) computer conversion until such time as supplemental appropriations are made available for that purpose: *Provided*, That the program, project, or activity from which funds are obligated for Y2K conversion activities shall be reimbursed when such supplemental appropriations are made available.

SEC. 515. Hereafter, any payment of attorneys fees, costs, and sanctions required to be made by the Federal Government pursuant to the order of the district court in the case *Association of American Physicians and Surgeons, Inc. v. Clinton*, 989 F. Supp. 8 (1997), or any appeal of such case, shall be derived by transfer from amounts made available in this or any other Act for any fiscal year for “Compensation of the President and the White House Office—Salaries and Expenses”.

SEC. 516. Notwithstanding Section 515 of Public Law 104-208, fifty percent of the unobligated balances available to the White House Office, Salaries and Expenses appropriations in fiscal year 1997, shall remain available through September 30, 1999, for the purposes of satisfying the conditions of Section 515 of this Act.

SEC. 517. The Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992, as amended (20 U.S.C. 5601 et seq.), is amended as follows:

(a) in section 11, by—

(1) deleting the heading and inserting “Use of the Institute by a Federal Agency or Other Entity.”; and

(2) adding the following new subsection at the end:

“(e) NON-FEDERAL ENTITIES.—

“(1) Non-Federal entities, including state and local governments, Native American tribal governments, nongovernmental organizations and persons, as defined in 1 U.S.C. 1, may use the Foundation and the Institute to provide assessment, mediation, or other related services in connection with a dispute or conflict involving the Federal government related to the environment, public lands, or natural resources.

“(2) PAYMENT INTO THE ENVIRONMENTAL DISPUTE RESOLUTION FUND.—Entities utilizing services pursuant to this subsection shall reimburse the Institute for the costs of services provided. Such amounts shall be deposited into the Environmental Dispute Resolution Fund established under section 10.”; and

(b) in section 12, by:

(1) deleting “IN GENERAL—” and inserting “(a) IN GENERAL—”; and

(2) adding the following new subsection:

“(b) THE INSTITUTE.—The authorities set forth above shall, with the exception of paragraph (4), apply to the Institute established pursuant to section 10.”; and

(c) in section 10(b), by adding before the period as follows: “, including not to exceed \$1,000 annually for official reception and representation expenses”.

SEC. 518. The cost accounting standards promulgated under section 26 of the Office of Federal Procurement Policy Act (Public Law 93-400; 41 U.S.C. 422) shall not apply with respect to a contract under the Federal Employees Health Benefits Program established under chapter 89 of title 5, United States Code.

20 USC 5607b.

20 USC 5608.

20 USC 5607a.

## TITLE VI—GENERAL PROVISIONS

## DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1999 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

40 USC 490b  
note.

SEC. 603. Notwithstanding 31 U.S.C. 1345, any agency, department, or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may, in fiscal year 1999 and thereafter, reimburse any Federal employee or any person employed to provide such services for travel, transportation, and subsistence expenses incurred for training classes, conferences, or other meetings in connection with the provision of such services: *Provided*, That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

31 USC 1343  
note.

SEC. 604. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at \$8,100 except station wagons for which the maximum shall be \$9,100: *Provided*, That these limits may be exceeded by not to exceed \$3,700 for police-type vehicles, and by not to exceed \$4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further*, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 605. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel, or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–5924.

5 USC 3101 note.

SEC. 606. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person: (1) is a citizen of the United States; (2) is a person in the service of the United States on

the date of enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States; (3) is a person who owes allegiance to the United States; (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence; (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975; or (6) is a national of the People's Republic of China who qualifies for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than \$4,000 or imprisoned for not more than 1 year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in a current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

SEC. 607. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 608. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, including Federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order No. 12873 (October 20, 1993), including any such programs adopted prior to the effective date of the Executive order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 609. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States

Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 610. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 611. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards (except Federal Executive Boards), commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 612. Funds made available by this or any other Act to the Postal Service Fund (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a and 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 613. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

5 USC 5343 note.

SEC. 614. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for fiscal year 1999, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

(1) during the period from the date of expiration of the limitation imposed by section 614 of the Treasury and General Government Appropriations Act, 1998, until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 1999, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 614; and

(2) during the period consisting of the remainder of fiscal year 1999, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 1999 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 1999 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in fiscal year 1998 under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 1998, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1998, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 1998.

(f) For the purpose of administering any provision of law (including any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 615. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of \$5,000 to furnish or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations. For the purposes of this section, the word "office" shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 616. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 617. Notwithstanding section 1346 of title 31, United States Code, or section 611 of this Act, funds made available for fiscal year 1999 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order No. 12472 (April 3, 1984).

SEC. 618. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

- (1) the Central Intelligence Agency;
- (2) the National Security Agency;
- (3) the Defense Intelligence Agency;
- (4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (5) the Bureau of Intelligence and Research of the Department of State;
- (6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and
- (7) the Director of Central Intelligence.

SEC. 619. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1999 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 620. No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, not directly

responsible for the discharge of official governmental tasks and duties: *Provided*, That this restriction shall not apply to the family of the President, Members of Congress or their spouses, Heads of State of a foreign country or their designees, persons providing assistance to the President for official purposes, or other individuals so designated by the President.

SEC. 621. For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1999 in the rates of basic pay for the statutory pay systems. 5 USC 5303 note.

SEC. 622. None of the funds appropriated in this or any other Act shall be used to acquire information technologies which do not comply with part 39.106 (Year 2000 compliance) of the Federal Acquisition Regulation, unless an agency's Chief Information Officer determines that noncompliance with part 39.106 is necessary to the function and operation of the requesting agency or the acquisition is required by a signed contract with the agency in effect before the date of enactment of this Act. Any waiver granted by the Chief Information Officer shall be reported to the Office of Management and Budget, and copies shall be provided to Congress.

SEC. 623. None of the funds made available in this Act for the United States Customs Service may be used to allow the importation into the United States of any good, ware, article, or merchandise mined, produced, or manufactured by forced or indentured child labor, as determined pursuant to section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 624. Notwithstanding any other provision of law, no part of any funds provided by this Act or any other Act beginning in fiscal year 1999 and thereafter shall be available for paying Sunday premium pay to any employee unless such employee actually performed work during the time corresponding to such premium pay. 5 USC 5546 note.

SEC. 625. No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any other officer or employee of the Federal Government, or attempts or threatens to commit any of the foregoing actions with respect to such other officer or employee, by reason of any communication or contact of such other officer

or employee with any Member, committee, or subcommittee of the Congress as described in paragraph (1).

SEC. 626. Section 626(b) of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in section 101(f) of Public Law 104–208 (110 Stat. 3009–360), the Omnibus Consolidated Appropriations Act, 1997, is amended to read as follows: “(b) Until September 30, 1999, or until the end of the current FTS 2000 contracts, whichever is earlier, subsection (a) shall continue to apply to the use of the funds appropriated by this or any other Act.”

SEC. 627. (a) DEFINITIONS.—In this section—

(1) the term “crime of violence” has the meaning given that term in section 16 of title 18, United States Code; and

(2) the term “law enforcement officer” means any employee described in subparagraph (A), (B), or (C) of section 8401(17) of title 5, United States Code; and any special agent in the Diplomatic Security Service of the Department of State.

(b) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, for purposes of chapter 171 of title 28, United States Code, or any other provision of law relating to tort liability, a law enforcement officer shall be construed to be acting within the scope of his or her office or employment, if the officer takes reasonable action, including the use of force, to—

(1) protect an individual in the presence of the officer from a crime of violence;

(2) provide immediate assistance to an individual who has suffered or who is threatened with bodily harm; or

(3) prevent the escape of any individual who the officer reasonably believes to have committed in the presence of the officer a crime of violence.

SEC. 628. FEDERAL FIREFIGHTERS OVERTIME PAY REFORM ACT OF 1998. (a) IN GENERAL.—Subchapter V of chapter 55 of title 5, United States Code, is amended—

(1) in section 5542 by adding at the end the following new subsection:

“(f) In applying subsection (a) of this section with respect to a firefighter who is subject to section 5545b—

“(1) such subsection shall be deemed to apply to hours of work officially ordered or approved in excess of 106 hours in a biweekly pay period, or, if the agency establishes a weekly basis for overtime pay computation, in excess of 53 hours in an administrative workweek; and

“(2) the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay under section 5545b (b)(1)(A) or (c)(1)(B), as applicable, and such overtime hourly rate of pay may not be less than such hourly rate of basic pay in applying the limitation on the overtime rate provided in paragraph (2) of such subsection (a).”; and

(2) by inserting after section 5545a the following new section:

#### **“§ 5545b. Pay for firefighters**

“(a) This section applies to an employee whose position is classified in the firefighter occupation in conformance with the GS–081 standard published by the Office of Personnel Management, and whose normal work schedule, as in effect throughout the year,



consists of regular tours of duty which average at least 106 hours per biweekly pay period.

“(b)(1) If the regular tour of duty of a firefighter subject to this section generally consists of 24-hour shifts, rather than a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

“(A) paragraph (1) of such section shall be deemed to require that the annual rate be divided by 2756 to derive the hourly rate; and

“(B) the computation of such firefighter’s daily, weekly, or biweekly rate shall be based on the hourly rate under subparagraph (A);

“(2) For the purpose of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include an amount equal to the firefighter’s basic hourly rate (as computed under paragraph (1)(A)) for all hours in such firefighter’s regular tour of duty (including overtime hours).

“(c)(1) If the regular tour of duty of a firefighter subject to this section includes a basic 40-hour workweek (as determined under regulations prescribed by the Office of Personnel Management), section 5504(b) shall be applied as follows in computing pay—

“(A) the provisions of such section shall apply to the hours within the basic 40-hour workweek;

“(B) for hours outside the basic 40-hour workweek, such section shall be deemed to require that the hourly rate be derived by dividing the annual rate by 2756; and

“(C) the computation of such firefighter’s daily, weekly, or biweekly rate shall be based on subparagraphs (A) and (B), as each applies to the hours involved.

“(2) For purposes of sections 5595(c), 5941, 8331(3), and 8704(c), and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe, the basic pay of a firefighter subject to this subsection shall include—

“(A) an amount computed under paragraph (1)(A) for the hours within the basic 40-hour workweek; and

“(B) an amount equal to the firefighter’s basic hourly rate (as computed under paragraph (1)(B)) for all hours outside the basic 40-hour workweek that are within such firefighter’s regular tour of duty (including overtime hours).

“(d)(1) A firefighter who is subject to this section shall receive overtime pay in accordance with section 5542, but shall not receive premium pay provided by other provisions of this subchapter.

“(2) For the purpose of applying section 7(k) of the Fair Labor Standards Act of 1938 to a firefighter who is subject to this section, no violation referred to in such section 7(k) shall be deemed to have occurred if the requirements of section 5542(a) are met, applying section 5542(a) as provided in subsection (f) of that section: *Provided*, That the overtime hourly rate of pay for such firefighter shall in all cases be an amount equal to one and one-half times the firefighter’s hourly rate of basic pay under subsection (b)(1)(A) or (c)(1)(B) of this section, as applicable.

“(3) The Office of Personnel Management may prescribe regulations, with respect to firefighters subject to this section, that would permit an agency to reduce or eliminate the variation in the amount of firefighters’ biweekly pay caused by work scheduling cycles that result in varying hours in the regular tours of duty from pay period to pay period. Under such regulations, the pay that a firefighter would otherwise receive for regular tours of duty over the work scheduling cycle shall, to the extent practicable, remain unaffected.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5545a the following:

“5545b. Pay for firefighters.”.

(c) TRAINING.—Section 4109 of title 5, United States Code, is amended by adding at the end the following new subsection:

“(d) Notwithstanding subsection (a)(1), a firefighter who is subject to section 5545b of this title shall be paid basic pay and overtime pay for the firefighter’s regular tour of duty while attending agency sanctioned training.”.

(d) INCLUSION IN BASIC PAY FOR FEDERAL RETIREMENT.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking “and” after subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (G);

(3) by inserting the following:

“(E) with respect to a criminal investigator, availability pay under section 5545a of this title;

“(F) pay as provided in section 5545b(b)(2) and (c)(2); and ”; and

(4) by striking “subparagraphs (B), (C), (D), and (E)” and inserting “subparagraphs (B) through (G)”.

5 USC 4109 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period which begins on or after October 1, 1998.

5 USC 5545b note.

(f) REGULATIONS.—Under regulations prescribed by the Office of Personnel Management, a firefighter subject to section 5545b of title 5, United States Code, as added by this section, whose regular tours of duty average 60 hours or less per workweek and do not include a basic 40-hour workweek, shall, upon implementation of this section, be granted an increase in basic pay equal to 2 step-increases of the applicable General Schedule grade, and such increase shall not be an equivalent increase in pay. If such increase results in a change to a longer waiting period for the firefighter’s next step increase, the firefighter shall be credited with an additional year of service for the purpose of such waiting period. If such increase results in a rate of basic pay which is above the maximum rate of the applicable grade, such resulting pay rate shall be treated as a retained rate of basic pay in accordance with section 5363 of title 5, United States Code.

5 USC 5545b note.

(g) NO REDUCTION IN REGULAR PAY.—Under regulations prescribed by the Office of Personnel Management, the regular pay (over the established work scheduling cycle) of a firefighter subject to section 5545b of title 5, United States Code, as added by this section, shall not be reduced as a result of the implementation of this section.

SEC. 629. (1) Not later than 180 days after the date of enactment of this Act, the Director of the Office of National Drug Control Policy, the Secretary of the Treasury, and the Attorney General shall conduct a joint review of Federal efforts and submit to the appropriate congressional committees, including the Committees on Appropriations, a plan to improve coordination among the Federal agencies with responsibility to protect the borders against drug trafficking. The review shall also include consideration of Federal agencies' coordination with State and local law enforcement agencies. The plan shall include an assessment and action plan, including the activities of the following departments and agencies:

- (A) Department of the Treasury;
- (B) Department of Justice;
- (C) United States Coast Guard;
- (D) Department of Defense;
- (E) Department of Transportation;
- (F) Department of State; and
- (G) Department of Interior.

(2) The purpose of the plan under paragraph (1) is to maximize the effectiveness of the border control efforts in achieving the objectives of the national drug control strategy in a manner that is also consistent with the goal of facilitating trade. In order to maximize the effectiveness, the plan shall:

- (A) specify the methods used to enhance cooperation, planning and accountability among the Federal, State, and local agencies with responsibilities along the Southwest border;
- (B) specify mechanisms to ensure cooperation among the agencies, including State and local agencies, with responsibilities along the Southwest border;
- (C) identify new technologies that will be used in protecting the borders including conclusions regarding appropriate deployment of technology;
- (D) identify new initiatives for infrastructure improvements;
- (E) recommend reinforcements in terms of resources, technology and personnel necessary to ensure capacity to maintain appropriate inspections;
- (F) integrate findings of the White House Intelligence Architecture Review into the plan; and
- (G) make recommendations for strengthening the HIDTA program along the Southwest border.

SEC. 630. (a) FLEXIPLACE WORK TELECOMMUTING PROGRAMS.—For fiscal year 1999 and each fiscal year thereafter, of the funds made available to each Executive agency for salaries and expenses, at a minimum \$50,000 shall be available only for the necessary expenses of the Executive agency to carry out a flexiplace work telecommuting program.

40 USC 490 note.

(b) DEFINITIONS.—For purposes of this section:

(1) EXECUTIVE AGENCY.—The term “Executive agency” means the following list of departments and agencies: Department of State, Treasury, Defense, Justice, Interior, Labor, Health and Human Services, Agriculture, Commerce, Housing and Urban Development, Transportation, Energy, Education, Veterans' Affairs, General Services Administration, Office of Personnel Management, Small Business Administration, Social Security Administration, Environmental Protection Agency, U.S. Postal Service.

(2) FLEXIPLACE WORK TELECOMMUTING PROGRAM.—The term “flexiplace work telecommuting program” means a program under which employees of an Executive agency are permitted to perform all or a portion of their duties at a flexiplace work telecommuting center established under section 210(l) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(l)) or other Federal law.

SEC. 631. (a) MERITORIOUS EXECUTIVE.—Section 4507(e)(1) of title 5, United States Code, is amended by striking “\$10,000” and inserting “an amount equal to 20 percent of annual basic pay”.

(b) DISTINGUISHED EXECUTIVE.—Section 4507(e)(2) of title 5, United States Code, is amended by striking “\$20,000” and inserting “an amount equal to 35 percent of annual basic pay”.

5 USC 4507 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998, or the date of enactment of this Act, whichever is later.

SEC. 632. (a) CAREER SES PERFORMANCE AWARDS.—Section 5384(b)(3) of title 5, United States Code, is amended—

(1) by striking “3 percent” and inserting “10 percent”; and

(2) by striking “15 percent” and inserting “20 percent”.

5 USC 5384 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998, or the date of enactment of this Act, whichever is later.

SEC. 633. (a) INTERNATIONAL POSTAL ARRANGEMENTS.—Section 407 of title 39, United States Code, is amended to read as follows:

**“§ 407. International Postal Arrangements.**

“(a)(1) The Secretary of State shall have primary responsibility for formulation, coordination and oversight of policy with respect to United States participation in the Universal Postal Union, including the Universal Postal Convention and other Acts of the Universal Postal Union, amendments thereto, and all postal treaties and conventions concluded within the framework of the Convention and such Acts.

“(2) Subject to subsection (d), the Secretary may, with the consent of the President, negotiate and conclude treaties, conventions and amendments referred to in paragraph (1).

“(b)(1) Subject to subsections (a), (c), and (d), the Postal Service may, with the consent of the President, negotiate and conclude postal treaties and conventions.

“(2) The Postal Service may, with the consent of the President, establish rates of postage or other charges on mail matter conveyed between the United States and other countries.

“(3) The Postal Service shall transmit a copy of each postal treaty or convention concluded with other governments under the authority of this subsection to the Secretary of State, who shall furnish a copy to the Public Printer for publication.

“(c) The Postal Service shall not conclude any treaty or convention under the authority of this section or any other arrangement related to the delivery of international postal services that is inconsistent with any policy developed pursuant to subsection (a).

“(d) In carrying out their responsibilities under this section, the Secretary and the Postal Service shall consult with such federal agencies as the Secretary or the Postal Service considers appropriate, private providers of international postal services, users of international postal services, the general public, and such other

persons as the Secretary or the Postal Service considers appropriate.”

(b) SENSE OF CONGRESS.—It is the sense of Congress that any treaty, convention or amendment entered into under the authority of section 407 of title 39 of the United States Code, as amended by this section, should not grant any undue or unreasonable preference to the Postal Service, a private provider of postal services, or any other person.

(c) TRADE-IN-SERVICE PROGRAMS.—The second sentence of paragraph (5) of section 306(a) of the Trade and Tariff Act of 1984 (19 U.S.C. 2114b(5)) is amended by inserting “postal and delivery services,” after “transportation.”

(d) TRANSFER OF FUNDS.—In fiscal year 1999 and each fiscal year hereafter, the Postal Service shall allocate to the Department of State from any funds available to the Postal Service such sums as may be reasonable, documented and auditable for the Department of State to carry out the activities of Section 407 of title 39 of the United States Code.

39 USC 407 note.

SEC. 634. Notwithstanding any provision of law, the President, or his designee, must certify to Congress, annually, that no person or persons with direct or indirect responsibility for administering the Executive Office of the President’s Drug-Free Workplace Plan are themselves subject to a program of individual random drug testing.

5 USC 7301 note.

SEC. 635. (a) None of the funds made available in this or any other Act may be obligated or expended for any employee training that—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or “new age” belief systems as defined in Equal Employment Opportunity Commission Notice N-915.022, dated September 2, 1988; or

(5) is offensive to, or designed to change, participants’ personal values or lifestyle outside the workplace.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 636. No funds appropriated in this or any other Act for fiscal year 1999 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: “These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing

disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.”: *Provided*, That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 637. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 638. (a) IN GENERAL.—For calendar year 2000, the Director of the Office of Management and Budget shall prepare and submit to Congress, with the budget submitted under section 1105 of title 31, United States Code, an accounting statement and associated report containing—

(1) an estimate of the total annual costs and benefits (including quantifiable and nonquantifiable effects) of Federal rules and paperwork, to the extent feasible—

- (A) in the aggregate;
- (B) by agency and agency program; and
- (C) by major rule;

(2) an analysis of impacts of Federal regulation on State, local, and tribal government, small business, wages, and economic growth; and

(3) recommendations for reform.

(b) NOTICE.—The Director of the Office of Management and Budget shall provide public notice and an opportunity to comment on the statement and report under subsection (a) before the statement and report are submitted to Congress.

(c) GUIDELINES.—To implement this section, the Director of the Office of Management and Budget shall issue guidelines to agencies to standardize—

- (1) measures of costs and benefits; and
- (2) the format of accounting statements.

(d) PEER REVIEW.—The Director of the Office of Management and Budget shall provide for independent and external peer review of the guidelines and each accounting statement and associated report under this section. Such peer review shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 639. None of the funds appropriated by this Act or any other Act, may be used by an agency to provide a Federal employee's home address to any labor organization except when it is made known to the Federal official having authority to obligate or expend such funds that the employee has authorized such disclosure or that such disclosure has been ordered by a court of competent jurisdiction.

SEC. 640. The Secretary of the Treasury is authorized to establish scientific certification standards for explosives detection canines, and shall provide, on a reimbursable basis, for the certification of explosives detection canines employed by Federal agencies, or other agencies providing explosives detection services at airports in the United States.

18 USC 846 note.

SEC. 641. None of the funds made available in this Act or any other Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the Committees on Appropriations.

SEC. 642. No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 643. The Director of the United States Marshals Service is directed to conduct a quarterly threat assessment on the Director of the Office of National Drug Control Policy.

SEC. 644. Section 636(c) of Public Law 104-208 is amended as follows:

5 USC note prec. 5941.

(1) In subparagraph (1) by inserting after "United States Code" the following: "any agency or court in the Judicial Branch,";

(2) In subparagraph (2) by amending "prosecution, or detention" to read: "prosecution, detention, or supervision"; and

(3) In subparagraph (3) by inserting after "title 5," the following: "and, with regard to the Judicial Branch, mean a justice or judge of the United States as defined in 28 U.S.C. 451 in regular active service or retired from regular active service, other judicial officers as authorized by the Judicial Conference of the United States, and supervisors and managers within the Judicial Branch as authorized by the Judicial Conference of the United States,".

SEC. 645. (a) In this section the term "agency"—

(1) means an Executive agency as defined under section 105 of title 5, United States Code;

(2) includes a military department as defined under section 102 of such title, the Postal Service, and the Postal Rate Commission; and

(3) shall not include the General Accounting Office.

(b) Unless authorized in accordance with law or regulations to use such time for other purposes, an employee of an agency shall use official time in an honest effort to perform official duties. An employee not under a leave system, including a Presidential appointee exempted under section 6301(2) of title 5, United States Code, has an obligation to expend an honest effort and a reasonable

proportion of such employee's time in the performance of official duties.

SEC. 646. Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to, upon submission of proper documentation (as determined by the Secretary), reimburse importers of large capacity military magazine rifles as defined in the Treasury Department's April 6, 1998 "Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles", for which authority had been granted to import such firearms into the United States on or before November 14, 1997, and released under bond to the importer by the U.S. Customs Service on or before February 10, 1998: *Provided*, That the importer abandons title to the firearms to the United States: *Provided further*, That reimbursements are submitted to the Secretary for his approval within 120 days of enactment of this provision. In no event shall reimbursements under this provision exceed the importers cost for the weapons, plus any shipping, transportation, duty, and storage costs related to the importation of such weapons. Money made available for expenditure under 31 U.S.C. section 1304(a) in an amount not to exceed \$1,000,000 shall be available for reimbursements under this provision: *Provided*, That accepting the compensation provided under this provision is final and conclusive and constitutes a complete release of any and all claims, demands, rights, and causes of action whatsoever against the United States, its agencies, officers, or employees arising from the denial by the Department of the Treasury of the entry of such firearms into the United States. Such compensation is not otherwise required by law and is not intended to create or recognize any legally enforceable right to any person.

5 USC 5303 note.

SEC. 647. (a) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 1999 under sections 5303 and 5304 of title 5, United States Code, shall be an increase of 3.6 percent.

(b) Funds used to carry out this section shall be paid from appropriations which are made to each applicable department or agency for salaries and expenses for fiscal year 1999.

SEC. 648. INTERNATIONAL MAIL REPORTING REQUIREMENT. (a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by adding after section 3662 the following:

**“§ 3663. Annual report on international services**

“(a) Not later than July 1 of each year, the Postal Rate Commission shall transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes accrued by the Postal Service in connection with mail matter conveyed between the United States and other countries for the previous fiscal year.

“(b) Not later than March 15 of each year, the Postal Service shall provide to the Postal Rate Commission such data as the Commission may require to prepare the report required under subsection (a) of this section. Data shall be provided in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for the analysis of rates for domestic mail.”.



(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 39, United States Code, is amended by adding after the item relating to section 3662 the following:

“3663. Annual report on international services.”.

SEC. 649. EXTENSION OF SUNSET PROVISION. Section 2(f)(2) of the Undetectable Firearms Act of 1988 (18 U.S.C. 922 note) is amended by striking “(2)” and all that follows through “10 years” and inserting the following:

“(2) SUNSET.—Effective 15 years”.

SEC. 650. IMPORTATION OF CERTAIN GRAINS. (a) FINDINGS.—The Congress finds that—

(1) importation of grains into the United States at less than the cost to produce those grains is causing injury to the United States producers of those grains;

(2) importation of grains into the United States at less than the fair value of those grains is causing injury to the United States producers of those grains;

(3) the Canadian Government and the Canadian Wheat Board have refused to disclose pricing and cost information necessary to determine whether grains are being exported to the United States at prices in violation of United States trade laws or agreements.

(b) REQUIREMENTS.—

(1) The Customs Service, consulting with the United States Trade Representative and the Department of Commerce, shall conduct a study of the efficiency and effectiveness of requiring that all spring wheat, durum or barley imported into the United States be imported into the United States through a single port of entry.

(2) The Customs Service shall report to the Committees on Appropriations and the Senate Committee on Finance and the House Committee on Ways and Means not later than ninety days after the effective date of this Act on the results of the study required by paragraph (1).

SEC. 651. DESIGNATION OF EUGENE J. MCCARTHY POST OFFICE BUILDING. (a) IN GENERAL.—The building of the United States Postal Service located at 180 East Kellogg Boulevard in Saint Paul, Minnesota, shall be known and designated as the “Eugene J. McCarthy Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the “Eugene J. McCarthy Post Office Building”.

SEC. 652. The Administrator of General Services may provide, from government-wide credit card rebates, up to \$3,000,000 in support of the Joint Financial Management Improvement Program as approved by the Chief Financial Officer’s Council.

SEC. 653. Section 6302(g) of title 5, United States Code, is amended by inserting after “chapter 35” the following: “or section 3595”.

SEC. 654. ASSESSMENT OF FEDERAL REGULATIONS AND POLICIES ON FAMILIES. (a) PURPOSES.—The purposes of this section are to—

(1) require agencies to assess the impact of proposed agency actions on family well-being; and

(2) improve the management of executive branch agencies.

(b) DEFINITIONS.—In this section—

5 USC 601 note.

(1) the term “agency” has the meaning given the term “Executive agency” by section 105 of title 5, United States Code, except such term does not include the General Accounting Office; and

(2) the term “family” means—

(A) a group of individuals related by blood, marriage, adoption, or other legal custody who live together as a single household; and

(B) any individual who is not a member of such group, but who is related by blood, marriage, or adoption to a member of such group, and over half of whose support in a calendar year is received from such group.

(c) FAMILY POLICYMAKING ASSESSMENT.—Before implementing policies and regulations that may affect family well-being, each agency shall assess such actions with respect to whether—

(1) the action strengthens or erodes the stability or safety of the family and, particularly, the marital commitment;

(2) the action strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children;

(3) the action helps the family perform its functions, or substitutes governmental activity for the function;

(4) the action increases or decreases disposable income or poverty of families and children;

(5) the proposed benefits of the action justify the financial impact on the family;

(6) the action may be carried out by State or local government or by the family; and

(7) the action establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth, and the norms of society.

(d) GOVERNMENTWIDE FAMILY POLICY COORDINATION AND REVIEW.—

(1) CERTIFICATION AND RATIONALE.—With respect to each proposed policy or regulation that may affect family well-being, the head of each agency shall—

(A) submit a written certification to the Director of the Office of Management and Budget and to Congress that such policy or regulation has been assessed in accordance with this section; and

(B) provide an adequate rationale for implementation of each policy or regulation that may negatively affect family well-being.

(2) OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall—

(A) ensure that policies and regulations proposed by agencies are implemented consistent with this section; and

(B) compile, index, and submit annually to the Congress the written certifications received pursuant to paragraph (1)(A).

(3) OFFICE OF POLICY DEVELOPMENT.—The Office of Policy Development shall—

(A) assess proposed policies and regulations in accordance with this section;

(B) provide evaluations of policies and regulations that may affect family well-being to the Director of the Office of Management and Budget; and

(C) advise the President on policy and regulatory actions that may be taken to strengthen the institutions of marriage and family in the United States.

(e) ASSESSMENTS UPON REQUEST BY MEMBERS OF CONGRESS.—Upon request by a Member of Congress relating to a proposed policy or regulation, an agency shall conduct an assessment in accordance with subsection (c), and shall provide a certification and rationale in accordance with subsection (d).

(f) JUDICIAL REVIEW.—This section is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

SEC. 655. None of the funds appropriated pursuant to this Act or any other provision of law may be used for any system to implement section 922(t) of title 18, United States Code, unless the system allows, in connection with a person's delivery of a firearm to a Federal firearms licensee as collateral for a loan, the background check to be performed at the time the collateral is offered for delivery to such licensee: *Provided*, That the licensee notifies local law enforcement within 48 hours of the licensee receiving a denial on the person offering the collateral: *Provided further*, That the provisions of section 922(t) shall apply at the time of the redemption of the firearm.

SEC. 656. (a) None of the funds appropriated by this Act may be used to enter into or renew a contract which includes a provision providing prescription drug coverage, except where the contract also includes a provision for contraceptive coverage.

(b) Nothing in this section shall apply to a contract with:

(1) any of the following religious plans:

- (a) SelectCare
- (b) Personal CaresHMO
- (c) Care Choices
- (d) OSF Health Plans, Inc.
- (e) Yellowstone Community Health Plan; and

(2) any existing or future plan, if the plan objects to such coverage on the basis of religious beliefs.

(c) In implementing this section, any plan that enters into or renews a contract under this section may not subject any individual to discrimination on the basis that the individual refuses to prescribe contraceptives because such activities would be contrary to the individual's religious beliefs or moral convictions.

(d) Nothing in this section shall be construed to require coverage of abortion or abortion-related services.

## TITLE VIII—TECHNICAL AND CLARIFYING AMENDMENTS

### SEC. 801. TECHNICAL AND CLARIFYING AMENDMENTS RELATING TO DISTRICT OF COLUMBIA RETIREMENT FUNDS.

(a) PERMITTING OTHER FEDERAL ENTITIES TO ADMINISTER PROGRAM.—Section 11003 of the Balanced Budget Act of 1997 (DC Code, sec. 1-761.2) is amended—

(1) in paragraph (1), by inserting “, and includes any agreement with a department, agency, or instrumentality of the United States entered into under that section” after “the Trustee”; and

(2) in paragraph (10), by striking “, partnership, joint venture, corporation, mutual company, joint-stock company, trust,

estate, unincorporated organization, association, or employee organization” and inserting “; partnership; joint venture; corporation; mutual company; joint-stock company; trust; estate; unincorporated organization; association; employee organization; or department, agency, or instrumentality of the United States”.

(b) PERMITTING WAIVER OF RECOVERY OF AMOUNTS PAID IN ERROR.—Section 11021(3) of such Act (DC Code, sec. 1-763.1(3)) is amended by inserting “, or waive recoupment or recovery of,” after “recover”.

(c) PERMITTING USE OF TRUST FUND TO COVER ADMINISTRATIVE EXPENSES.—Section 11032 of such Act (DC Code, sec. 1-764.2) is amended—

(1) by amending subsection (a) to read as follows:

“(a) IN GENERAL.—Amounts in the Trust Fund shall be used—

“(1) to make Federal benefit payments under this subtitle;

“(2) subject to subsection (b)(1), to cover the reasonable and necessary expenses of administering the Trust Fund under the contract entered into pursuant to section 11035(b);

“(3) to cover the reasonable and necessary administrative expenses incurred by the Secretary in carrying out the Secretary’s responsibilities under this subtitle; and

“(4) for such other purposes as are specified in this subtitle.”; and

(2) in subsection (b)(2), by inserting “(including expenses described in section 11041(b))” after “to administer the Trust Fund”.

(d) PROMOTING FLEXIBILITY IN ADMINISTRATION OF PROGRAM.—Section 11035 of such Act (DC Code, sec. 1-764.5) is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following new subsections:

“(c) SUBCONTRACTS.—Notwithstanding any provision of a District Retirement Program or any other law, rule, or regulation, the Trustee may, with the approval of the Secretary, enter into one or more subcontracts with the District Government or any person to provide services to the Trustee in connection with its performance of the contract. The Trustee shall monitor the performance of any such subcontract and enforce its provisions.

“(d) DETERMINATION BY THE SECRETARY.—Notwithstanding subsection (b) or any other provision of this subtitle, the Secretary may determine, with respect to any function otherwise to be performed by the Trustee, that in the interest of economy and efficiency such function shall be performed by the Secretary rather than the Trustee.”.

(e) PROCESS FOR REIMBURSEMENT OF DISTRICT GOVERNMENT FOR EXPENSES OF INTERIM ADMINISTRATION.—Section 11041 of such Act (DC Code, sec. 1-765.1) is amended—

(1) in subsection (b), by striking “The Trustee shall” and inserting “The Secretary or the Trustee shall, at such times during or after the period of interim administration described in subsection (a) as are deemed appropriate by the Secretary or the Trustee”;

(2) in subsection (b)(1), by inserting “the Secretary or” after “if”; and

(3) in subsection (c), by striking “the replacement plan adoption date” and inserting “such time as the Secretary

notifies the District Government that the Secretary has directed the Trustee to carry out the duties and responsibilities required under the contract”.

(f) ANNUAL FEDERAL PAYMENT INTO FEDERAL SUPPLEMENTAL FUND.—Section 11053 of such Act (DC Code, sec. 1-766.3) is amended—

(1) by amending subsection (a) to read as follows:

“(a) ANNUAL AMORTIZATION AMOUNT.—At the end of each applicable fiscal year the Secretary shall promptly pay into the Federal Supplemental Fund from the General Fund of the Treasury an amount equal to the annual amortization amount for the year (which may not be less than zero).”;

(2) in subsection (b), by striking “freeze date” and inserting “effective date of this Act”;

(3) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(4) by inserting after subsection (a) the following new subsection:

“(b) ADMINISTRATIVE EXPENSES.—During each applicable fiscal year, the Secretary shall pay into the Federal Supplemental Fund from the General Fund of the Treasury amounts not to exceed the covered administrative expenses for the year.”.

(g) TECHNICAL CORRECTIONS.—(1) Section 11012(c) of such Act (DC Code, sec. 1-752.2(c)) is amended by striking “District of Columbia Retirement Board” and inserting “District Government”.

(2) Section 11033(c)(1) of such Act (DC Code, sec. 1-764.3(c)(1)) is amended by striking “consisting” in the first place that it appears.

(3) Section 11052 of such Act (DC Code, sec. 1-766.2) is amended by inserting “to” after “may be made only”.

**SEC. 802. CLARIFYING TREATMENT OF DISTRICT OF COLUMBIA EMPLOYEES TRANSFERRED TO FEDERAL RETIREMENT SYSTEMS.**

(a) ELIGIBILITY OF NONJUDICIAL EMPLOYEES OF DISTRICT OF COLUMBIA COURTS FOR MEDICARE AND SOCIAL SECURITY BENEFITS.—Section 11246(b) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 755) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(2) by inserting after paragraph (1) the following new paragraph:

“(2) CONFORMING AMENDMENTS TO INTERNAL REVENUE CODE AND SOCIAL SECURITY.—(A) Section 3121(b)(7)(C) of the Internal Revenue Code of 1986 (relating to the definition of employment for service performed in the employ of the District of Columbia) is amended by inserting ‘(other than the Federal Employees Retirement System provided in chapter 84 of title 5, United States Code)’ after ‘law of the United States’.

“(B) Section 210(a)(7)(D) of the Social Security Act (42 U.S.C. 410(a)(7)(D)) (relating to the definition of employment for service performed in the employ of the District of Columbia), is amended by inserting ‘(other than the Federal Employees Retirement System provided in chapter 84 of title 5, United States Code)’ after ‘law of the United States.’”.

(b) VESTING UNDER PREVIOUS DISTRICT OF COLUMBIA RETIREMENT PROGRAM.—For purposes of vesting pursuant to section 2610(b) of the District of Columbia Government Comprehensive

26 USC 3121  
note.

26 USC 3121; 42  
USC 410.

Merit Personnel Act of 1978 (DC Code, sec. 1–627.10(b)), creditable service with the District for employees whose participation in the District Defined Contribution Plan ceases as a result of the implementation of the Balanced Budget Act of 1997 shall include—

(1) continuous service performed by nonjudicial employees of the District of Columbia courts after September 30, 1997; and

(2) service performed for a successor employer, including the Department of Justice or the District of Columbia Offender Supervision, Defender, and Courts Services Agency established under section 11233 of the Balanced Budget Act of 1997, that provides services previously performed by the District government.

**SEC. 803. METHODOLOGY FOR DESIGNATING ASSETS OF RETIREMENT FUND.**

Section 11033 of the Balanced Budget Act of 1997 (DC Code, sec. 1–764.3) is amended by adding at the end the following new subsection:

“(e) METHODOLOGY FOR DESIGNATING ASSETS.—

“(1) IN GENERAL.—In carrying out subsection (b), the Secretary may develop and implement a methodology for designating assets after the replacement plan adoption date that takes into account the value of the District Retirement Fund as of the replacement plan adoption date and the proportion of such value represented by \$1.275 billion, together with the income (including returns on investments) earned on the assets of and withdrawals from and deposits to the Fund during the period between such date and the date on which the Secretary designates assets under subsection (b). In implementing a methodology under the previous sentence, the Secretary shall not be required to determine the value of designated assets as of the replacement plan adoption date. Nothing in this paragraph may be deemed to effect the entitlement of the District Retirement Fund to income (including returns on investments) earned after the replacement plan adoption date on assets designated for retention by the Fund.

“(2) EMPLOYEE CONTRIBUTIONS; JUDICIAL RETIREMENT AND SURVIVORS ANNUITY FUND.—The Secretary may develop and implement a methodology comparable to the methodology described in paragraph (1) in carrying out the requirements of subsection (c) and in designating assets to be transferred to the District of Columbia Judicial Retirement and Survivors Annuity Fund pursuant to section 124(c)(1) of the District of Columbia Retirement Reform Act (as amended by section 11252).

“(3) DISCRETION OF THE SECRETARY.—The Secretary’s development and implementation of methodologies for designating assets under this subsection shall be final and binding.”.

**SEC. 804. TECHNICAL AND CLARIFYING AMENDMENTS RELATING TO JUDICIAL RETIREMENT PROGRAM.**

(a) ADMINISTRATION OF JUDICIAL RETIREMENT AND SURVIVORS ANNUITY FUND.—Section 11–1570, District of Columbia Code, as amended by section 11251 of the Balanced Budget Act of 1997, is amended as follows:

(1) In subsection (b)(1)—

(A) by striking “title I of the National Capital Revitalization and Self-Government Improvement Act of 1997” and inserting “subtitle A of title XI of the Balanced Budget Act of 1997”; and

(B) by inserting after the second sentence the following new sentences: “Notwithstanding any other provision of District law or any other law, rule, or regulation, any Trustee, contractor, or enrolled actuary selected by the Secretary under this subsection may, with the approval of the Secretary, enter into one or more subcontracts with the District of Columbia government or any person to provide services to such Trustee, contractor, or enrolled actuary in connection with its performance of its agreement with the Secretary. Such Trustee, contractor, or enrolled actuary shall monitor the performance of any subcontract to which it is a party and enforce its provisions.”.

(2) In subsection (b)(2)—

(A) by striking “chief judges of the District of Columbia Court of Appeals and Superior Court of the District of Columbia” and inserting “Secretary”;

(B) by striking “and the Secretary”;

(C) by striking “and appropriations”; and

(D) by striking “and deficiency”.

(3) By amending subsection (c) to read as follows:

“(c)(1) Amounts in the Fund are available—

“(A) for the payment of judges retirement pay, annuities, refunds, and allowances under this subchapter;

“(B) to cover the reasonable and necessary expenses of administering the Fund under any agreement entered into with a Trustee, contractor, or enrolled actuary under subsection (b)(1), including any agreement with a department, agency or instrumentality of the United States; and

“(C) to cover the reasonable and necessary administrative expenses incurred by the Secretary in carrying out the Secretary’s responsibilities under this subchapter.

“(2) Notwithstanding any other provision of District law or any other law, rule, or regulation—

“(A) the Secretary may review benefit determinations under this subchapter made prior to the date of the enactment of the Balanced Budget Act of 1997, and shall make initial benefit determinations after such date; and

“(B) the Secretary may recoup or recover, or waive recoupment or recovery of, any amounts paid under this subchapter as a result of errors or omissions by any person.”.

(4) In subsection (d)(1)—

(A) by striking “Subject to the availability of appropriations, there shall be deposited into the Fund” and inserting “The Secretary shall pay into the Fund from the General Fund of the Treasury”; and

(B) by striking “(beginning with the first fiscal year which ends more than 6 months after the replacement plan adoption date described in section 103(13) of the National Capital Revitalization and Self-Government Improvement Act of 1997)”.

(5) In subsection (d)(2)(A)—

(A) by striking “June 30, 1997” and inserting “September 30, 1997”; and

(B) by striking “net the sum of future normal cost” and inserting “net of the sum of the present value of future normal costs”.

(6) In subsection (d)(3), by striking “shall be taken from sums available for that fiscal year for the payment of the expenses of the Court, and”.

(7) By adding at the end the following new subsections:

“(h) For purposes of the Internal Revenue Code of 1986—

“(1) the Fund shall be treated as a trust described in section 401(a) of the Code that is exempt from taxation under section 501(a) of the Code;

“(2) any transfer to or distribution from the Fund shall be treated in the same manner as a transfer to or distribution from a trust described in section 401(a) of the Code; and

“(3) the benefits provided by the Fund shall be treated as benefits provided under a governmental plan maintained by the District of Columbia.

“(i) For purposes of the Employee Retirement Income Security Act of 1974, the benefits provided by the Fund shall be treated as benefits provided under a governmental plan maintained by the District of Columbia.

“(j) To the extent that any provision of subpart A of part I of subchapter D of the chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 401 et seq.) is amended after the date of the enactment of this subsection, such provision as amended shall apply to the Fund only to the extent the Secretary determines that application of the provision as amended is consistent with the administration of this subchapter.

“(k) Federal obligations for benefits under this subchapter are backed by the full faith and credit of the United States.”.

(b) REGULATORY AUTHORITY OF SECRETARY.—Section 11251 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 756) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

“(b) REGULATIONS; EFFECT ON REFORM ACT.—Title 11, District of Columbia Code, is amended by adding the following new section:

**‘§ 11–1572. Regulations; effect on Reform Act.**

“(a) The Secretary is authorized to issue regulations to implement, interpret, administer and carry out the purposes of this subchapter, and, in the Secretary’s discretion, those regulations may have retroactive effect, except that nothing in this subsection may be construed to permit the Secretary to issue any regulation to retroactively reduce or eliminate the benefits to which any individual is entitled under this subchapter.

“(b) This subchapter supersedes any provision of the District of Columbia Retirement Reform Act (Public Law 96–122) inconsistent with this subchapter and the regulations thereunder.”; and

(3) by amending subsection (c) (as so redesignated) to read as follows:

“(c) CLERICAL AMENDMENTS.—



“(1) The table of sections for subchapter III of chapter 15 of title 11, District of Columbia Code, is amended by amending the item relating to section 11-1570 to read as follows:

‘11-1570. The District of Columbia Judicial Retirement and Survivors Annuity Fund.’.

“(2) The table of sections for subchapter III of chapter 15 of title 11, District of Columbia Code, is amended by adding at the end the following new item:

‘11-1572. Regulations; effect on Reform Act.’.”

(c) TERMINATION OF PREVIOUS FUND AND PROGRAM.—Section 124 of the District of Columbia Retirement Reform Act (DC Code, sec. 1-714), as amended by section 11252(a) of the Balanced Budget Act of 1997, is amended—

(1) in subsection (a), by inserting “(except as provided in section 11-1570, District of Columbia Code)” after “the following”;

(2) in subsection (c)(1), by striking “title I of the National Capital Revitalization and Self-Government Improvement Act of 1997” and inserting “subtitle A of title XI of the Balanced Budget Act of 1997”; and

(3) in subsection (c)(2)—

(A) by striking “(2) The” and inserting “(2) In accordance with the direction of the Secretary, the”;

(B) by striking “in the Treasury” and inserting “at the Board”; and

(C) by striking “appropriated” and inserting “used”.

(d) ADMINISTRATION OF RETIREMENT FUNDS.—Section 11252 of the Balanced Budget Act of 1997 is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

“(b) TRANSITION FROM DISTRICT OF COLUMBIA ADMINISTRATION.—Sections 11023, 11032(b)(2), 11033(d), and 11041 shall apply to the administration of the District of Columbia Judges Retirement Fund established under section 124 of the District of Columbia Retirement Reform Act (DC Code, sec. 1-714), the District of Columbia Judicial Retirement and Survivors Annuity Fund established under section 11-1570, District of Columbia Code, and the retirement program for judges under subchapter III of chapter 15 of title 11, District of Columbia Code, except as follows:

“(1) In applying each such section—

“(A) any reference to this subtitle shall instead refer to subchapter III of chapter 15 of title 11, District of Columbia Code;

“(B) any reference to the District Retirement Program shall be deemed to include the retirement program for judges under subchapter III of chapter 15 of title 11, District of Columbia Code;

“(C) any reference to the District Retirement Fund shall be deemed to include the District of Columbia Judges Retirement Fund established under section 124 of the District of Columbia Retirement Reform Act;

“(D) any reference to Federal benefit payments shall be deemed to include judges retirement pay, annuities,

refunds and allowances under subchapter III of chapter 15 of title 11, District of Columbia Code;

“(E) any reference to the Trust Fund shall instead refer to the District of Columbia Judicial Retirement and Survivors Annuity Fund established under section 11–1570, District of Columbia Code;

“(F) any reference to section 11033 shall instead refer to section 124 of the District of Columbia Retirement Reform Act, as amended by section 11252; and

“(G) any reference to chapter 2 shall instead refer to section 11–1570, District of Columbia Code.

“(2) In applying section 11023—

“(A) any reference to the contract shall instead refer to the agreement referred to in section 11–1570(b), District of Columbia Code; and

“(B) any reference to the Trustee shall instead refer to the Trustee or contractor referred to in section 11–1570(b), District of Columbia Code.

“(3) In applying section 11033(d)—

“(A) any reference to this section shall instead refer to section 124 of the District of Columbia Retirement Reform Act, as amended by section 11252; and

“(B) any reference to the Trustee shall instead refer to the Secretary or the Trustee or contractor referred to in section 11–1570(b), District of Columbia Code.

“(4) In applying section 11041(b), any reference to the Trustee shall instead refer to the Trustee or contractor referred to in section 11–1570(b), District of Columbia Code.”; and

(3) by adding at the end the following new subsection:

“(d) EFFECTIVE DATE.—The provisions of subsection (c) shall take effect on the date on which the assets of the District of Columbia Judges Retirement Fund are transferred to the District of Columbia Judicial Retirement and Survivors Annuity Fund.”.

(e) MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS.—

(1) Sections 11–1568(d) and 11–1569, District of Columbia Code, are each amended by striking “Mayor” each place it appears and inserting “Secretary of the Treasury”.

(2) Section 11–1568.2, District of Columbia Code, is amended by striking “Mayor of the District of Columbia” each place it appears and inserting “Secretary of the Treasury”.

(3) Section 121(b)(1)(A) of the District of Columbia Retirement Reform Act (DC Code, sec. 1–711(b)(1)(A)), as amended by section 11252(c)(1) of the Balanced Budget Act of 1997 (as redesignated by subsection (d)(1)), is amended in the matter preceding clause (i), by striking “11” and inserting “12”.

(4) Section 11–1561(4), District of Columbia Code, as amended by section 11253(b) of the Balanced Budget Act of 1997, is amended by striking “sections” and inserting “section”.

(5) Section 11253(c) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 759) is amended to read as follows:

“(c) TREATMENT OF FEDERAL SERVICE OF JUDGES.—Section 11–1564, District of Columbia Code, is amended—

“(1) in subsection (d)(2)(A), by striking ‘section 1–1814’ and inserting ‘section 1–714) or the District of Columbia Judicial Retirement and Survivors Annuity Fund (established by section 11–1570)’; and

“(2) in subsection (d)(4), by striking ‘Judges Retirement Fund established by section 124(a) of the District of Columbia Retirement Reform Act’ and inserting ‘Judicial Retirement and Survivors Annuity Fund under section 11-1570’.”.

(6) Section 11253 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 759) is amended by adding at the end the following new subsection:

“(d) REDEPOSITS TO FUND.—Section 11-1568.1(4)(A), District of Columbia Code, is amended by striking ‘Judges Retirement Fund’ and inserting ‘Judicial Retirement and Survivors Annuity Fund’.”.

(f) EFFECTIVE DATE.—The amendments made by subsections (a)(2), (a)(4), and (a)(6) shall take effect October 1, 1998.

**SEC. 805. EFFECTIVE DATE.**

26 USC 3121  
note.

Except as otherwise specifically provided, this title and the amendments made by this title shall take effect as if included in the enactment of title XI of the Balanced Budget Act of 1997.

**TITLE IX—HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998**

Haitian Refugee  
Immigration  
Fairness Act of  
1998.  
8 USC 1101 note.

SEC. 901. SHORT TITLE. This title may be cited as the “Haitian Refugee Immigration Fairness Act of 1998”.

SEC. 902. ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS. (a) ADJUSTMENT OF STATUS.—

8 USC 1255 note.

(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti who—

(1) was present in the United States on December 31, 1995, who—

(A) filed for asylum before December 31, 1995,

(B) was paroled into the United States prior to December 31, 1995, after having been identified as having a

credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, or

(C) was a child (as defined in the text above subparagraph (A) of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) at the time of arrival in the United States and on December 31, 1995, and who—

(i) arrived in the United States without parents in the United States and has remained without parents in the United States since such arrival,

(ii) became orphaned subsequent to arrival in the United States, or

(iii) was abandoned by parents or guardians prior to April 1, 1998 and has remained abandoned since such abandonment; and

(2) has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date the application for such adjustment is filed, except that an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien who is subject to a final order of deportation or removal or exclusion to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act, the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has made a final determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with an “employment authorized” endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Haiti;

(B) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that he or she has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not

earlier than the date the application for such adjustment is filed;

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act shall not apply.

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act; or

(2) aliens subject to removal proceedings under section 240 of such Act.

(f) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent resident pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under any provision of the Immigration and Nationality Act.

(h) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(i) ADJUSTMENT OF STATUS HAS NO EFFECT ON ELIGIBILITY FOR WELFARE AND PUBLIC BENEFITS.—No alien whose status has been adjusted in accordance with this section and who was not a qualified alien on the date of enactment of this Act may, solely on the basis of such adjusted status, be considered to be a qualified alien under section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b)), as amended by section 5302 of the Balanced Budget Act of 1997 (Public

Law 105–33; 111 Stat. 598), for purposes of determining the alien’s eligibility for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.).

(j) PERIOD OF APPLICABILITY.—Subsection (i) shall not apply after October 1, 2003.

(k) Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter (until all applications for adjustment of status under this section have been finally adjudicated), the Comptroller General of the United States shall submit to the Committees on the Judiciary and the Committees on Appropriations of the United States House of Representatives and the United States Senate a report containing the following:

(1)(A) The number of aliens who applied for adjustment of status under subsection (a), including a breakdown specifying the number of such applicants who are described in subparagraph (A), (B), or (C) of subsection (b)(1), respectively.

(B) The number of aliens described in subparagraph (A) whose status was adjusted under this section, including a breakdown described in the subparagraph.

(2)(A) The number of aliens who applied for adjustment of status under subsection (d), including a breakdown specifying the number of such applicants who are sponsors, children, or unmarried sons or daughters described in such subsection, respectively.

(B) The number of aliens described in subparagraph (A) whose status was adjusted under this section, including a breakdown described in the subparagraph.

8 USC 1377.

SEC. 903. COLLECTION OF DATA ON DETAINED ASYLUM SEEKERS.

(a) IN GENERAL.—The Attorney General shall regularly collect data on a nation-wide basis with respect to asylum seekers in detention in the United States, including the following information:

(1) The number of detainees.

(2) An identification of the countries of origin of the detainees.

(3) The percentage of each gender within the total number of detainees.

(4) The number of detainees listed by each year of age of the detainees.

(5) The location of each detainee by detention facility.

(6) With respect to each facility where detainees are held, whether the facility is also used to detain criminals and whether any of the detainees are held in the same cells as criminals.

(7) The number and frequency of the transfers of detainees between detention facilities.

(8) The average length of detention and the number of detainees by category of the length of detention.

(9) The rate of release from detention of detainees for each district of the Immigration and Naturalization Service.

(10) A description of the disposition of cases.

(b) ANNUAL REPORTS.—Beginning October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsection (a) for the fiscal year ending September 30 of that year.

(c) AVAILABILITY TO PUBLIC.—Copies of the data collected under subsection (a) shall be made available to members of the public

upon request pursuant to such regulations as the Attorney General shall prescribe.

SEC. 904. COLLECTION OF DATA ON OTHER DETAINED ALIENS. 8 USC 1378.

(a) IN GENERAL.—The Attorney General shall regularly collect data on a nationwide basis on aliens being detained in the United States by the Immigration and Naturalization Service other than the aliens described in section 903, including the following information:

(1) The number of detainees who are criminal aliens and the number of detainees who are noncriminal aliens who are not seeking asylum.

(2) An identification of the ages, gender, and countries of origin of detainees within each category described in paragraph (1).

(3) The types of facilities, whether facilities of the Immigration and Naturalization Service or other Federal, State, or local facilities, in which each of the categories of detainees described in paragraph (1) are held.

(b) LENGTH OF DETENTION, TRANSFERS, AND DISPOSITIONS.—With respect to detainees who are criminal aliens and detainees who are noncriminal aliens who are not seeking asylum, the Attorney General shall also collect data concerning—

(1) the number and frequency of transfers between detention facilities for each category of detainee;

(2) the average length of detention of each category of detainee;

(3) for each category of detainee, the number of detainees who have been detained for the same length of time, in 3-month increments;

(4) for each category of detainee, the rate of release from detention for each district of the Immigration and Naturalization Service; and

(5) for each category of detainee, the disposition of detention, including whether detention ended due to deportation, release on parole, or any other release.

(c) CRIMINAL ALIENS.—With respect to criminal aliens, the Attorney General shall also collect data concerning—

(1) the number of criminal aliens apprehended under the immigration laws and not detained by the Attorney General; and

(2) a list of crimes committed by criminal aliens after the decision was made not to detain them, to the extent this information can be derived by cross-checking the list of criminal aliens not detained with other databases accessible to the Attorney General.

(d) ANNUAL REPORTS.—Beginning on October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsections (a), (b), and (c) for the fiscal year ending September 30 of that year.

(e) AVAILABILITY TO PUBLIC.—Copies of the data collected under subsections (a), (b), and (c) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

This Act may be cited as the “Treasury and General Government Appropriations Act, 1999”.

SEC. 102. For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, \$50,000,000 is hereby appropriated: *Provided*, That use of the funds provided herein is limited to the purposes for which funds were provided under this heading in Public Law 105–62: *Provided further*, That of the amounts appropriated under this section, \$7,000,000 shall be available for operation, maintenance, surveillance, and improvement of Land Between the Lakes.

SEC. 103. REPURCHASE OF BONDS BY THE TENNESSEE VALLEY AUTHORITY. (a) REPURCHASE.—Notwithstanding any other provision of law or any term contained in any bond issued by the Tennessee Valley Authority to the Federal Financing Bank—

(1) subject to subsection (b), the Tennessee Valley Authority shall have the right to repurchase all such bonds by payment of the principal amount of the bonds plus interest to the date of repurchase;

(2) the Federal Financing Bank shall not require payment from the Tennessee Valley Authority of any additional amount in connection with the repurchase; and

(3) there is hereby appropriated to the Federal Financing Bank such amounts as may be necessary to pay the difference between (1) the amount that the Tennessee Valley Authority paid to the Federal Financing Bank to prepay its outstanding loans from the Federal Financing Bank under this section and (2) the amount that the Federal Financing Bank would have received otherwise.

(b) NO FURTHER FINANCING.—Notwithstanding any other law, after the date of repurchase of bonds under subsection (a), the Tennessee Valley Authority shall not be entitled or permitted to obtain financing from the Federal Financing Bank.

(c) USE OF SAVINGS.—

(1) IN GENERAL.—From non-appropriated funds, beginning on the date of repurchase of bonds and ending on the date on which the bonds would have matured but for this section, amounts that, as determined under paragraph (2), are equivalent to amounts that the Tennessee Valley Authority saves as a result of the repurchase of bonds shall be used to reduce debt of the Tennessee Valley Authority.

(2) DETERMINATION OF AMOUNT OF SAVINGS.—On each date on which a payment of interest would have been made on a repurchased bond if the bond had not been repurchased, the Tennessee Valley Authority shall be considered to realize a saving in the amount of the difference between—

(A) the amount of interest that would have been due at the rate of interest specified in the bond; and

(B) the amount of interest that would have been due if the rate of interest specified in the bond had been the yield to maturity of a marketable public obligation of the United States with a maturity of 10 years as of September 30, 1997.

SEC. 104. Section 312 of Public Law 105–245, the Energy and Water Development Appropriations Act, 1999, is repealed.

SEC. 105. An additional amount of \$35,000,000, to remain available until expended, for Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, “Construction, General”,



is hereby appropriated for the Columbia River Fish Mitigation, Washington, Oregon, and Idaho, project.

SEC. 106. The Secretary of the Army, acting through the Chief of Engineers, is directed to use \$1,500,000 of the funds previously appropriated in “Construction, General”, for the Lackawanna River, Scranton, Pennsylvania, project to initiate construction of the Delaware River Mainstem and Channel Deepening, Delaware, New Jersey, and Pennsylvania, project. The Secretary of the Army, acting through the Chief of Engineers, is directed to use \$400,000 of the funds previously appropriated in “Construction, General”, for the Lackawanna River, Scranton, Pennsylvania, project to initiate a comprehensive review of aquatic ecosystem restoration initiatives in the Upper Susquehanna-Lackawanna Watershed under the Aquatic Ecosystem Restoration (Section 206) program. Subject to enactment of authorizing legislation, the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$340,000 of the available “Construction, General” funds to initiate construction of the Pierre, South Dakota, flood mitigation project. The Secretary of the Army, acting through the Chief of Engineers, is directed to use \$1,500,000 of the funds appropriated in “Construction, General”, in Public Law 105-245 for the South Central Pennsylvania Environment Improvement Program only for water-related environmental infrastructure and resource protection and development projects in Allegheny County, Pennsylvania, in accordance with the purposes of subsection (a) and requirements of subsections (b) through (e) of section 313 of the Water Resources Development Act of 1992, as amended.

SEC. 107. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to use \$750,000 of available “Construction, General” funds for engineering and design, and repair of the Archusa Dam and appurtenant structures located in Quitman, Mississippi.

SEC. 108. An additional amount of \$60,000,000 for Department of Energy—Energy Programs, “Energy Supply”, is hereby appropriated to remain available until September 30, 2000.

SEC. 109. An additional amount of \$15,000,000, to remain available until expended, for Department of Energy—Energy Programs, “Science”, is hereby appropriated.

SEC. 110. LAKE POWELL. No funds appropriated by this Act or any other Act for fiscal year 1999 shall be used to study or implement any plan to drain Lake Powell or decommission the Glen Canyon Dam.

SEC. 111. Notwithstanding any other provision of law, for necessary expenses relating to construction of, and improvements to, surface transportation projects located in the Commonwealth of Massachusetts, \$100,000,000, to remain available until expended.

SEC. 112. Notwithstanding any other provision of law, for necessary expenses relating to construction of, and improvements to, Corridor X of the Appalachian development highway system located in the State of Alabama, \$100,000,000, to remain available until expended.

SEC. 113. Notwithstanding any other provision of law, for necessary expenses relating to construction of, and improvements to, the Appalachian development highway system in the State of West Virginia, \$32,000,000, to remain available until expended.

SEC. 114. Notwithstanding any other provision of law, for necessary expenses relating to construction of, and improvements to,

highway projects in the corridor designated by section 1105(c)(18)(C)(ii) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032–2033), as amended by section 1211(i) of the Transportation Equity Act for the 21st Century, \$100,000,000, to remain available until expended.

SEC. 115. Notwithstanding any other provision of law, to enable the Secretary of Transportation to make grants to the Alaska Railroad, \$28,000,000, to remain available until expended, which shall be for capital improvements benefiting its passenger rail operations.

SEC. 116. Of the unobligated balances authorized in Public Law 102–240 under 49 U.S.C. 5338(b)(1), \$392,000,000 is rescinded.

SEC. 117. Notwithstanding any other provision of law, within the funding made available in the Department of Transportation and Related Agencies Appropriations Act, 1999 for discretionary grants under the obligation limitation for Federal Aviation Administration, “Grants-in-Aid for Airports” in fiscal year 1999, not less than \$11,250,000 shall be made available for capital improvement projects at the Wilkes-Barre/Scranton International Airport.

SEC. 118. Notwithstanding any other provision of law, within the funding made available in the Department of Transportation and Related Agencies Appropriations Act, 1999 for discretionary grants under the obligation limitation for Federal Aviation Administration, “Grants-in-Aid for Airports” in fiscal year 1999, not less than \$7,000,000 shall be made available for capital improvement projects at the Minneapolis-St. Paul International Airport.

SEC. 119. The Legislative Branch Appropriations Act, 1999, is amended by amending the item relating to “JOINT ITEMS—Joint Committee on Printing” to read as follows:

“JOINT COMMITTEE ON PRINTING

“For salaries and expenses of the Joint Committee on Printing, \$202,000, to be disbursed by the Secretary of the Senate, together with an additional amount of \$150,000 if there is enacted into law legislation which transfers the legislative and oversight responsibilities of the Joint Committee on Printing to the Committee on House Oversight of the House of Representatives: *Provided*, That such additional amount shall be transferred to the Committee on House Oversight of the House of Representatives and made available beginning January 1, 1999: *Provided further*, That such additional amount shall be disbursed by the Chief Administrative Officer of the House of Representatives.”

SEC. 120. For carrying out the provisions of division C, title II of this Act, \$30,000,000, including \$750,000 for the cost of the direct loan under section 207(a), \$20,000,000 for the payments in section 207(d), \$250,000 for the cost of direct loans under section 211(e), \$1,000,000 for the cost of a direct loan in the Bering Sea and Aleutian Islands crab fisheries under the authority of section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)), and \$6,000,000 and \$2,000,000 for the Secretary of Commerce and Secretary of Transportation, respectively, to implement division C, title II.

SEC. 121. In addition to amounts provided in the conference report accompanying H.R. 4194 (H. Rept. 105–769), the following funds are hereby appropriated: \$10,000,000 for “Housing opportunities for persons with AIDS”, to remain available until expended; \$45,000,000 to the Secretary of Housing and Urban Development

for “Urban Empowerment Zones” for grants in connection with a second round of the empowerment zones program in urban areas, designated by the Secretary of Housing and Urban Development in fiscal year 1999 pursuant to the Taxpayer Relief Act of 1997, including \$3,000,000 for each empowerment zone for use in conjunction with economic development activities consistent with the strategic plan of each empowerment zone, to remain available until expended; \$20,000,000 for “State and tribal assistance grants” for a grant for construction and related activities for wastewater treatment for Boston, Massachusetts, to remain available until expended; \$10,000,000 for “National and community service programs operating expenses” for grants under the National Service Trust program authorized under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.) (relating to activities including the AmeriCorps program), to remain available until September 30, 2000: *Provided*, That none of the funds provided herein for “National and community service programs operating expenses” may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of the aforementioned Act; \$10,000,000 for “Science and technology”, for research associated with the Climate Change Technology Initiative, to remain available until September 30, 2000: *Provided further*, That the obligated balance of such \$10,000,000 shall remain available through September 30, 2007 for liquidating obligations made in fiscal years 1999 and 2000; and \$15,000,000 for “Community development financial institutions fund program account”, to remain available until September 30, 2000.

Of the amount appropriated in H.R. 4194, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, under the heading “Community development block grants”, \$4,750,000 shall be available as a grant to Cayuga County, New York, to repair and rehabilitate the seawalls at the Owasco Lake outlet, and \$250,000 shall be available as a grant to Jackson, Michigan, to remove a portion of the Grand River culvert in Jackson, Michigan.

SEC. 122. Upon enactment of H.R. 4194, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, section 202 of that Act is hereby repealed.

12 USC 1454,  
4513.

SEC. 123. Section 513(a) of the “Quality Housing and Work Responsibility Act of 1998” is amended, upon enactment, by inserting after “40 percent” at the end of proposed section 16(c)(3) of the United States Housing Act of 1937, as set forth in section 513(a), the following: “shall be available for leasing only by families whose incomes at the time of commencement of occupancy do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families.”.

42 USC 1437n.

SEC. 124. Notwithstanding the third undesignated paragraph under the heading “Community development block grants” under title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, of the amount made available under such heading for the city of Oklahoma City, Oklahoma, up to 50 percent of such amount shall be available to such city for payment of claims for bomb damage and repairs for infrastructure located in the area described in clause (1) of such undesignated paragraph. Any amounts available for use under such undesignated paragraph that are not

expended to pay such claims or for such repairs shall be utilized for the revolving loan pool described in such undesignated paragraph.

SEC. 125. Of the amounts earmarked in the Joint Explanatory Statement of the Committee of Conference accompanying H.R. 4194 for grants targeted for economic investments, \$2,000,000 made available to the Hawaii Housing Authority for work associated with the construction of the Community Resource Center at Kuhio Homes/Kuhio Park Terrace in Honolulu, Hawaii shall instead be made available to the Housing and Community Development Corporation of Hawaii for the same purpose.

SEC. 126. If the President makes the appointment to the position of Under Secretary for Health of the Department of Veterans Affairs authorized by section 907 of the Veterans Programs Enhancement Act of 1998, the individual appointed shall receive the pay and allowances authorized for that position as if the appointment had been made on September 29, 1998, except that the amount of such pay and allowances that is attributable to the period beginning on September 29, 1998, and ending on the day before the date of that appointment shall be reduced by any amount paid that individual by the United States for personal services performed during that period.

SEC. 127. TRADE DEFICIT REVIEW COMMISSION. (a) SHORT TITLE.—This section may be cited as the “Trade Deficit Review Commission Act”.

(b) FINDINGS.—Congress makes the following findings:

(1) The United States continues to run substantial merchandise trade and current account deficits.

(2) Economic forecasts anticipate continued growth in such deficits in the next few years.

(3) The positive net international asset position that the United States built up over many years was eliminated in the 1980s. The United States today has become the world’s largest debtor nation.

(4) The United States merchandise trade deficit is characterized by large bilateral trade imbalances with a handful of countries.

(5) The United States has one of the most open borders and economies in the world. The United States faces significant tariff and nontariff trade barriers with its trading partners. The United States does not benefit from fully reciprocal market access.

(6) The United States is once again at a critical juncture in trade policy development. The nature of the United States trade deficit and its causes and consequences must be analyzed and documented.

(c) ESTABLISHMENT OF COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the Trade Deficit Review Commission (hereafter in this section referred to as the “Commission”).

(2) PURPOSE.—The purpose of the Commission is to study the nature, causes, and consequences of the United States merchandise trade and current account deficits.

(3) MEMBERSHIP OF COMMISSION.—

(A) COMPOSITION.—The Commission shall be composed of 12 members as follows:

Trade Deficit  
Review  
Commission Act.  
19 USC 2213  
note.

(i) Three persons shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader of the Senate, after consultation with the Chairman of the Committee on Finance.

(ii) Three persons shall be appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate, after consultation with the ranking minority member of the Committee on Finance.

(iii) Three persons shall be appointed by the Speaker of the House of Representatives, after consultation with the Chairman of the Committee on Ways and Means.

(iv) Three persons shall be appointed by the Minority Leader of the House of Representatives, after consultation with the ranking minority member of the Committee on Ways and Means.

(B) QUALIFICATIONS OF MEMBERS.—

(i) APPOINTMENTS.—Persons who are appointed under subparagraph (A) shall be persons who—

(I) have expertise in economics, international trade, manufacturing, labor, environment, business, or have other pertinent qualifications or experience; and

(II) are not officers or employees of the United States.

(ii) OTHER CONSIDERATIONS.—In appointing Commission members, every effort shall be made to ensure that the members—

(I) are representative of a broad cross-section of economic and trade perspectives within the United States; and

(II) provide fresh insights to analyzing the causes and consequences of United States merchandise trade and current account deficits.

(4) PERIOD OF APPOINTMENT; VACANCIES.—

(A) IN GENERAL.—Members shall be appointed not later than 60 days after the date of enactment of this Act and the appointment shall be for the life of the Commission.

(B) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(5) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(7) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the Commission shall elect a chairperson and vice chairperson from among the members of the Commission.

(8) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(9) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(d) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall be responsible for examining the nature, causes, and consequences of, and the accuracy of available data on, the United States merchandise trade and current account deficits.

(2) ISSUES TO BE ADDRESSED.—The Commission shall examine and report to the President, the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and other appropriate committees of Congress on the following:

(A) The relationship of the merchandise trade and current account balances to the overall well-being of the United States economy, and to wages and employment in various sectors of the United States economy.

(B) The impact that United States monetary and fiscal policies may have on United States merchandise trade and current account deficits.

(C) The extent to which the coordination, allocation, and accountability of trade responsibilities among Federal agencies may contribute to the trade and current account deficits.

(D) The causes and consequences of the merchandise trade and current account deficits and specific bilateral trade deficits, including—

(i) identification and quantification of—

(I) the macroeconomic factors and bilateral trade barriers that may contribute to the United States merchandise trade and current account deficits;

(II) any impact of the merchandise trade and current account deficits on the domestic economy, industrial base, manufacturing capacity, technology, number and quality of jobs, productivity, wages, and the United States standard of living;

(III) any impact of the merchandise trade and current account deficits on the defense production and innovation capabilities of the United States; and

(IV) trade deficits within individual industrial, manufacturing, and production sectors, and any relationship between such deficits and the increasing volume of intra-industry and intra-company transactions;

(ii) a review of the adequacy and accuracy of the current collection and reporting of import and export data, and the identification and development of additional data bases and economic measurements that may be needed to properly quantify the merchandise trade and current account balances, and any impact the merchandise trade and current account balances may have on the United States economy; and

(iii) the extent to which there is reciprocal market access substantially equivalent to that afforded by the United States in each country with which the United States has a persistent and substantial bilateral trade deficit, and the extent to which such deficits have become structural.

(E) Any relationship of United States merchandise trade and current account deficits to both comparative and competitive trade advantages within the global economy, including—

(i) a systematic analysis of the United States trade patterns with different trading partners and to what extent the trade patterns are based on comparative and competitive trade advantages;

(ii) the extent to which the increased mobility of capital and technology has changed both comparative and competitive trade advantages;

(iii) any impact that labor, environmental, or health and safety standards may have on comparative and competitive trade advantages;

(iv) the effect that offset and technology transfer agreements have on the long-term competitiveness of the United States manufacturing sectors; and

(v) any effect that international trade, labor, environmental, or other agreements may have on United States competitiveness.

(F) The extent to which differences in the growth rates of the United States and its trading partners may impact on United States merchandise trade and current account deficits.

(G) The impact that currency exchange rate fluctuations and any manipulation of exchange rates may have on United States merchandise trade and current account deficits.

(H) The flow of investments both into and out of the United States, including—

(i) any consequences for the United States economy of the current status of the United States as a debtor nation;

(ii) any relationship between such investment flows and the United States merchandise trade and current account deficits and living standards of United States workers;

(iii) any impact such investment flows may have on United States labor, community, environmental, and health and safety standards, and how such investment flows influence the location of manufacturing facilities; and

(iv) the effect of barriers to United States foreign direct investment in developed and developing nations, particularly nations with which the United States has a merchandise trade and current account deficit.

(e) FINAL REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of the initial meeting of the Commission, the Commission shall submit to the President and Congress a final report which contains—

(A) the findings and conclusions of the Commission described in subsection (d); and

(B) recommendations for addressing the problems identified as part of the Commission's analysis.

(2) SEPARATE VIEWS.—Any member of the Commission may submit additional findings and recommendations as part of the final report.

(f) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may find advisable to fulfill the requirements of this section. The Commission shall hold at least 1 or more hearings in Washington, D.C., and 4 in different regions of the United States.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(g) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title



5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(h) SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(i) APPROPRIATIONS.—There are appropriated \$2,000,000 to the Commission to carry out the provisions of this section.

SEC. 128. None of the funds provided or otherwise made available in this Division of this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 130. Notwithstanding section 11031 of the National Capital Revitalization and Self-Government Improvement Act of 1997 or any other provision of law and not later than September 30, 1999, the Secretary of the Treasury shall invest, or direct the Trustee to invest, the assets of the Trust Fund in public debt securities with maturities suitable to the needs of the Trust Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

SEC. 131. To capitalize the District of Columbia National Capital Revitalization Corporation, as authorized by the District Council, \$25,000,000 to remain available until expended for economic development planning, project development, capital investments, loans, grants, administrative expenses and other purposes included in the District Council's authorizing legislation: *Provided*, That no funds shall be available unless the Secretary of the Treasury, in consultation with the Director of the Office of Management and Budget, determines that the Corporation advances the purposes of the National Capital Revitalization and Self-Government Improvement Act of 1997: *Provided further*, That the Secretary, after apportionment pursuant to 31 U.S.C. 1512, may provide for the disbursement of funds in the manner provided for Federal grant programs.

SEC. 132. For a Federal payment to the District of Columbia Public Schools, \$30,000,000, for special education costs.

SEC. 133. For payment to the District of Columbia, \$20,000,000 which shall be deposited into an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority, and shall be disbursed from such escrow account by the Authority for Year 2000 information technology and related chip replacement projects approved by the Authority: *Provided*, That, for purposes of any appropriations made by this or any other Act, for emergency expenses related to Year 2000 conversion of Federal information technology systems, and related expenses, the Government of the District of Columbia shall be considered an agency of the United States Government: *Provided further*, That, any funds provided pursuant to the preceding proviso shall be in addition to funds appropriated directly under this paragraph.

SEC. 134. For a Federal contribution to the District of Columbia for the costs of infrastructure needs, which shall be deposited into an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority and disbursed by the Authority from such account for the repair and maintenance of

roads, highways, bridges and transit in the District of Columbia and other economic development projects and planning in the District of Columbia, \$50,000,000, to remain available until expended.

DIVISION B—EMERGENCY SUPPLEMENTAL  
APPROPRIATIONS

TITLE I—MILITARY READINESS AND OVERSEAS  
CONTINGENCY OPERATIONS

CHAPTER 1

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$10,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$10,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$33,300,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$33,300,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$8,900,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$8,900,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## RESERVE PERSONNEL, NAVY

For an additional amount for “Reserve Personnel, Navy”, \$10,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$10,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## OPERATION AND MAINTENANCE

## OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$314,500,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$314,500,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## OPERATION AND MAINTENANCE, NAVY

For an additional amount for “Operation and Maintenance, Navy”, \$232,600,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$232,600,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for “Operation and Maintenance, Marine Corps”, \$52,400,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$52,400,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$303,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$303,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## OPERATION AND MAINTENANCE, DEFENSE-WIDE

## (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$1,496,600,000, to remain available for obligation until expended: *Provided*, That the Secretary of Defense may transfer these funds to appropriations accounts for operation and maintenance; procurement; and research, development, test and evaluation: *Provided further*, That the funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for “Operation and Maintenance, Army Reserve”, \$3,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$3,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, \$3,300,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement

pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$3,300,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for “Operation and Maintenance, Air Force Reserve”, \$9,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$9,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Army National Guard”, \$50,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$50,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Air National Guard”, \$21,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$21,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Overseas Contingency Operations Transfer Fund”, \$1,858,600,000, to remain available for obligation until expended: *Provided*, That of the amounts provided under

this heading, the following amounts shall be transferred to the specified accounts:

“Military Personnel, Army”, \$310,600,000;  
 “Military Personnel, Navy”, \$9,275,000;  
 “Military Personnel, Marine Corps”, \$2,748,000;  
 “Military Personnel, Air Force”, \$17,000,000; and  
 “Reserve Personnel, Navy”, \$2,295,000:

*Provided further*, That of the remaining funds made available under this heading, the Secretary of Defense may transfer these funds only to operation and maintenance accounts, procurement accounts, the defense health program appropriation, and working capital funds accounts: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### MORALE, WELFARE AND RECREATION AND PERSONNEL SUPPORT FOR CONTINGENCY DEPLOYMENTS

##### (INCLUDING TRANSFER OF FUNDS)

In addition to amounts appropriated or otherwise made available in the Department of Defense Appropriations Act, 1999, \$50,000,000, to remain available for obligation until expended, is hereby made available only for expenses, not otherwise provided for, to provide necessary morale, welfare and recreation support, family support, and to sustain necessary retention and re-enlistment of military personnel in critical military occupational specialties, resulting from the deployment of military personnel to Bosnia and Southwest Asia: *Provided*, That the Secretary of Defense may transfer these funds only to operation and maintenance accounts of the military services: *Provided further*, That the funds transferred shall be available only for the purposes described under this heading: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$50,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### OTHER DEPARTMENT OF DEFENSE PROGRAMS

##### DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$200,000,000: *Provided*, That these funds shall be for Operation

and maintenance, of which not to exceed two per centum shall remain available until September 30, 2000: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$200,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

##### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Drug Interdiction and Counter-Drug Activities, Defense”, \$42,000,000: *Provided*, That funds appropriated under this heading may be transferred to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation: *Provided further*, That funds appropriated under this heading shall be available for obligation for the same time period and for the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$42,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### GENERAL PROVISIONS, THIS CHAPTER

SEC. 101. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 102. In addition to the amounts appropriated or otherwise made available in the Department of Defense Appropriations Act, 1999, \$1,000,000,000, to remain available for obligation until expended, is hereby appropriated under the heading “Research, Development, Test and Evaluation, Defense-Wide”: *Provided*, That these funds shall be made available only for the enhanced testing, accelerated development, construction, and integration and infrastructure efforts in support of ballistic missile defense systems: *Provided further*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*,

That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

SEC. 103. In addition to amounts appropriated or otherwise made available in the Department of Defense Appropriations Act, 1999, \$259,853,000 is hereby appropriated to the Department of Defense, only for emergency expenses incurred at United States military facilities or installations in the United States or overseas directly resulting from storm damage or other natural disasters, as follows:

- “Military Personnel, Marine Corps”, \$232,000;
- “Reserve Personnel, Army”, \$343,000;
- “Reserve Personnel, Navy”, \$100,000;
- “Operation and Maintenance, Army”, \$139,056,000;
- “Operation and Maintenance, Navy”, \$57,179,000;
- “Operation and Maintenance, Marine Corps”, \$8,470,000;
- “Operation and Maintenance, Air Force”, \$34,254,000;
- “Operation and Maintenance, Army Reserve”, \$853,000;
- “Operation and Maintenance, Navy Reserve”, \$5,058,000;
- “Operation and Maintenance, Army National Guard”, \$5,750,000;
- “Operation and Maintenance, Air National Guard”, \$4,355,000;
- “Defense Health Program”, \$2,120,000; and
- “Navy Working Capital Fund”, \$2,083,000:

*Provided*, That these funds may be used to execute projects or programs that were deferred in order to carry out emergency repairs resulting from such storm damage or natural disasters: *Provided further*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That of the amounts provided in this section, \$153,551,000 shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That of the amount referred to in the third proviso in this section, up to \$29,454,000 may be transferred from “Operation and Maintenance, Army”, to “Military Construction, Army”.

SEC. 104. In addition to amounts provided in this Act, \$2,000,000 is hereby appropriated for “Defense Health Program”, to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

SEC. 105. Section 8136 of the Department of Defense Appropriations Act, 1999, is amended by striking out “\$502,000,000” and inserting in lieu thereof “\$569,000,000”, and further amended by striking out “\$176,000,000” and inserting in lieu thereof “\$243,000,000”.



## CHAPTER 2

## DEPARTMENT OF ENERGY

## ATOMIC ENERGY DEFENSE ACTIVITIES

## OTHER DEFENSE ACTIVITIES

For an additional amount for “Other Defense Activities”, for expenditures in the Russian Federation to implement a United States/Russian accord for the disposition of excess weapons plutonium, \$200,000,000, to remain available until expended: *Provided*, That none of the funds may be obligated until the Department of Energy submits to Congress a detailed budget justification for use of these funds, and the proposal has been approved by the House and Senate Committees on Appropriations: *Provided further*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount to purchase natural uranium associated with the 1997 and 1998 deliveries under the United States-Russia HEU Purchase Agreement (hereinafter, “the Agreement”), \$325,000,000, to remain available until expended, which shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That such uranium is located in the United States at the time of purchase, and shall become part of the inventory of the Department of Energy: *Provided further*, That such funds shall be available only upon conclusion of a long-term agreement by the Government of the Russian Federation and commercial partners for the sale of uranium to be derived from deliveries scheduled for 1999 and thereafter under the Agreement.

## CHAPTER 3

## DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

## MILITARY CONSTRUCTION, ARMY

For an additional amount for “Military Construction, Army” to replace facilities destroyed by monsoons in the Republic of Korea during August of 1998, \$118,000,000, as authorized by 10 U.S.C. 2854, to remain available until September 30, 1999: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided*

*further*, That from amounts made available in this or any other Act for military construction, the Secretary of the Army may acquire real property and carry out a military construction project at Camp Casey in Korea, in the amount of \$12,016,000.

#### MILITARY CONSTRUCTION, NAVY

For an additional amount for “Military Construction, Navy” to cover the incremental costs arising from the consequences of Hurricanes Georges and Bonnie, \$5,860,000, as authorized by 10 U.S.C. 2854, to remain available until September 30, 1999: *Provided*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$29,200,000, to remain available until September 30, 1999: *Provided*, That of this amount, \$2,200,000 shall be available to cover the incremental costs arising from force protection, as authorized by 10 U.S.C. 2803: *Provided further*, That of this amount \$27,000,000 shall be available to cover the incremental costs arising from the consequences of Hurricane Georges, as authorized by 10 U.S.C. 2854: *Provided further*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for “Military Construction, Army National Guard” to cover the incremental costs arising from the consequences of Hurricane Georges, \$2,500,000, as authorized by 10 U.S.C. 2854, to remain available until September 30, 1999: *Provided*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For an additional amount for “Military Construction, Air National Guard” to cover the incremental costs arising from the consequences of Hurricane Georges, \$15,900,000, as authorized by 10 U.S.C. 2854, to remain available until September 30, 1999: *Provided*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## FAMILY HOUSING, ARMY

For an additional amount for “Family Housing, Army” to cover the incremental costs arising from the consequences of Hurricane Georges and for the rehabilitation of family housing, \$5,200,000, to remain available until September 30, 1999: *Provided*, That notwithstanding any other provision of law, of this amount \$4,000,000 shall be available only for the rehabilitation of family housing referred to in Section 8142 of the Department of Defense Appropriations Act of 1999: *Provided further*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## FAMILY HOUSING, NAVY AND MARINE CORPS

For an additional amount for “Family Housing, Navy and Marine Corps” to cover the incremental costs arising from the consequences of Hurricane Bonnie, \$10,599,000, as authorized by 10 U.S.C. 2854, to remain available until September 30, 1999: *Provided*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## FAMILY HOUSING, AIR FORCE

For an additional amount for “Family Housing, Air Force” to cover the incremental costs arising from the consequences of Hurricane Georges, \$22,233,000, as authorized by 10 U.S.C. 2854, to remain available until September 30, 1999: *Provided*, That the

entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### GENERAL PROVISION, THIS CHAPTER

*Ante*, p. 2192. Section 2304(c)(2) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 is amended by striking “\$2,000,000,000” and inserting “\$2,000,000”.

### CHAPTER 4

#### DEPARTMENT OF TRANSPORTATION

##### COAST GUARD

##### OPERATING EXPENSES

For an additional amount for necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for, \$100,000,000, of which \$28,000,000 is only available for expenses related to expansion of drug interdiction activities around Puerto Rico, the United States Virgin Islands, and other transit zone areas of operation, including costs to operate and maintain PC–170 patrol craft offered by the Department of Defense: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

##### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for acquisition, construction, renovation, and improvement of facilities and equipment, to be available for expansion of Coast Guard drug interdiction activities, \$100,000,000, to remain available until expended and to be distributed as follows:

Acquisition and construction of Barracuda class coastal patrol boats, \$33,000,000;

Reactivation costs for up to 3 HU–25 aircraft for maritime patrol, \$7,500,000;

Acquisition of installed or deployable electronic sensors and communication systems for Coast Guard cutters or boats, \$13,000,000;

Operational test and evaluation of the use of force from aircraft, \$2,500,000; and

Acquisition of installed or deployable electronic sensors for maritime patrol aircraft and not to exceed \$5,800,000 for C-130 engine upgrade, \$44,000,000:

*Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### RESERVE TRAINING

For an additional amount for operating, maintenance, and training expenses of the Coast Guard Reserve, including supplies, equipment and services, \$5,000,000: *Provided*, That none of these funds may be transferred to Coast Guard “Operating expenses” or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserves: *Provided further*, That the highest priority for use of these funds shall be for enhancing drug interdiction activities conducted by the Coast Guard Reserves: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For an additional amount for necessary expenses for applied scientific research, development, test, and evaluation, maintenance, rehabilitation, lease and operation of facilities and equipment, \$5,000,000, to remain available until expended: *Provided*, That the highest priority for use of these funds shall be the development of new technologies or operational procedures which enhance drug interdiction activities of the Coast Guard: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## TITLE II—ANTITERRORISM

## CHAPTER 1

## DEPARTMENT OF JUSTICE

## FEDERAL BUREAU OF INVESTIGATION

## SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$21,680,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## DEPARTMENT OF STATE

## ADMINISTRATION OF FOREIGN AFFAIRS

## DIPLOMATIC AND CONSULAR PROGRAMS

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for “Diplomatic and Consular Programs”, \$773,700,000, to remain available until expended, of which \$25,700,000 shall be available only to the extent that an official budget request that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That as determined by the Secretary of State, such funds may be used to procure services and equipment overseas necessary to improve worldwide security and reconstitute embassy operations in Kenya and Tanzania on behalf of any other agency: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## SALARIES AND EXPENSES

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for “Salaries and Expenses”, \$12,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## OFFICE OF INSPECTOR GENERAL

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for “Office of Inspector General”, \$1,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for “Security and Maintenance of United States Missions”, \$627,000,000, to remain available until expended; of which \$56,000,000 is for security projects, relocations, and security equipment on behalf of missions of other U.S. Government agencies, which amount may be transferred to any appropriation for this purpose, to be merged with and available for the same time period as the appropriation to which transferred; and of which \$185,000,000 is for capital improvements or relocation of office and residential facilities to improve security, which amount shall become available fifteen days after notice thereof has been transmitted to the Appropriations Committees of both Houses of Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for “Emergencies in the Diplomatic and Consular Service”, \$10,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## CHAPTER 2

## DEPARTMENT OF DEFENSE—MILITARY

## OPERATION AND MAINTENANCE

## OPERATION AND MAINTENANCE, DEFENSE-WIDE

## (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$358,427,000, to remain available for obligation until expended: *Provided*, That the Secretary of Defense may transfer these funds to fiscal year 1999 appropriations for operation and maintenance; procurement; research, development, test and evaluation; and family housing: *Provided further*, That the funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$358,427,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control

Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 201. MAINTENANCE AND OPERATION OF EQUIPMENT.—Section 374 of title 10, United States Code, is amended—

(1) in subsection (b)(1)(A), by striking “or”;

(2) in subsection (b)(1)(B), by striking the period at the end, inserting in lieu thereof a semicolon and the following new subparagraphs:

“(C) a foreign or domestic counter-terrorism operation;

or

“(D) a rendition of a suspected terrorist from a foreign country to the United States to stand trial.”;

(3) in subsection (b)(2)(F)(i)—

(A) by inserting “along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel,” after “the transportation of civilian law enforcement personnel”; and

(B) by striking “and”;

(4) in subsection (b)(2)(F)(ii)—

(A) by inserting “and supporting” after “the operation of a base of operations for civilian law enforcement”;

(B) by striking the period at the end and inserting in lieu thereof “; and”;

(C) by inserting at the end the following new clause:

“(iii) the transportation of suspected terrorists from foreign countries to the United States for trial (so long as the requesting Federal law enforcement agency provides all security for such transportation and maintains custody over the suspect through the duration of the transportation).”;

(5) in subsection (b)(4)(A), by striking “an” and inserting in lieu thereof “a Federal”; and

(6) in subsection (b)(4)(A), by inserting a new clause “(v) Any law, foreign or domestic, prohibiting terrorist activities.” after “(iv) The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).”.

(INCLUDING TRANSFER OF FUNDS)

SEC. 202. In addition to amounts appropriated or otherwise made available in the Department of Defense Appropriations Act, 1999, \$50,000,000 is hereby appropriated, only to initiate and expand activities of the Department of Defense to prevent, prepare for, and respond to a terrorist attack in the United States involving weapons of mass destruction: *Provided*, That \$35,000,000 of the funds made available in this section shall be transferred to the following accounts in the specified amounts:

“National Guard Personnel, Army”, \$4,000,000;

“National Guard Personnel, Air Force”, \$1,000,000;

“Operation and Maintenance, Army”, \$2,000,000;

“Operation and Maintenance, Army National Guard”, \$20,000,000; and

“Procurement, Defense-Wide”, \$8,000,000:



*Provided further*, That of the funds made available in this section, \$15,000,000 shall be transferred to “Research, Development, Test and Evaluation, Army”, only to develop and support a long term, sustainable Weapons of Mass Destruction emergency preparedness training program: *Provided further*, That funds transferred pursuant to this section shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the entire amount provided in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$50,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

SEC. 203. In addition to amounts appropriated or otherwise made available in the Department of Defense Appropriations Act, 1999, \$120,500,000, to remain available for obligation until expended, is appropriated to the proper accounts within the Department of the Air Force: *Provided*, That the additional amount shall be made available only for the provision of crisis response aviation support for critical national security, law enforcement and emergency response agencies: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for \$120,500,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the President of the United States shall submit to the Congress by March 15, 1999, an interagency agreement for the utilization of Department of Defense assets to support the crisis response requirements of the Federal Bureau of Investigation and the Federal Emergency Management Agency.

### CHAPTER 3

#### FUNDS APPROPRIATED TO THE PRESIDENT

##### INTERNATIONAL SECURITY ASSISTANCE

##### ECONOMIC SUPPORT FUND

##### (INCLUDING TRANSFERS OF FUNDS)

Notwithstanding section 10 of Public Law 91-672, for an additional amount for “Economic Support Fund” for assistance for Kenya and Tanzania, \$50,000,000, to remain available until September 30, 2000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That funds appropriated

under this paragraph may be made available for administrative costs associated with assistance provided under this paragraph: *Provided further*, That \$2,500,000 shall be transferred to and merged with “Operating Expenses of the Agency for International Development” for security and related expenses: *Provided further*, That \$1,269,000 shall be transferred to and merged with “Peace Corps” for security and related expenses: *Provided further*, That the transfers authorized in the preceding provisos shall be in addition to sums otherwise available for such purposes: *Provided further*, That funds appropriated under this paragraph shall only be available through the regular notification procedures of the Committees on Appropriations.

#### NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 10 of Public Law 91–672, for an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs” for anti-terrorism assistance, \$20,000,000, to remain available until September 30, 2000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### CHAPTER 4

#### DEPARTMENT OF THE INTERIOR

##### NATIONAL PARK SERVICE

##### OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for “Operation of the National Park System” for emergency security related expenses, \$2,320,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

##### CONSTRUCTION

For an additional amount for “Construction” for emergency security related expenses, \$3,680,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### CHAPTER 5

#### ARCHITECT OF THE CAPITOL

##### CAPITOL VISITOR CENTER

For necessary expenses for the planning, engineering, design, and construction, as each such milestone is approved by the Committee on Rules and Administration of the Senate, the

Committee on House Oversight of the House of Representatives, the Committees on Appropriations of the House of Representatives and of the Senate, and other appropriate committees of the House of Representatives and of the Senate, of a new facility to provide greater security for all persons working in or visiting the United States Capitol and to enhance the educational experience of those who have come to learn about the Capitol building and Congress, \$100,000,000, to be supplemented by private funds, which shall remain available until expended: *Provided*, That Section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) shall not apply to the funds made available under this heading: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### CAPITOL POLICE BOARD

#### SECURITY ENHANCEMENTS

For the Capitol Police Board for security enhancements to the Capitol complex, including the buildings and grounds of the Library of Congress, \$106,782,000, to remain available until expended: *Provided*, That such security enhancements shall be carried out in accordance with a plan or plans approved by the Committee on House Oversight of the House of Representatives, the Committee on Rules and Administration of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate: *Provided further*, That the Capitol Police Board shall transfer to the Architect of the Capitol such portion of the funds made available under this heading as the Architect may require for expenses necessary to provide support for the security enhancements, subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate: *Provided further*, That the Capitol Police Board shall transfer to the Librarian of Congress such portion of the funds made available under this heading as the Librarian may require for expenses necessary to provide support for the security enhancements, subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Government  
organization.

Government  
organization.

#### GENERAL PROVISION, THIS CHAPTER

The responsibility for design, installation, and maintenance of security systems to protect the physical security of the buildings and grounds of the Library of Congress is transferred from the Architect of the Capitol to the Capitol Police Board. Such design, installation, and maintenance shall be carried out under the direction of the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate, and without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5). Any alteration to a structural, mechanical, or architectural feature of the buildings

2 USC 141a.

and grounds of the Library of Congress that is required for a security system under the preceding sentence may be carried out only with the approval of the Architect of the Capitol.

## CHAPTER 6

### DEPARTMENT OF TRANSPORTATION

#### FEDERAL AVIATION ADMINISTRATION

##### FACILITIES AND EQUIPMENT

##### (AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for “Facilities and Equipment”, \$100,000,000, for necessary expenses for acquisition, installation and related activities supporting the deployment of bulk and trace explosives detection systems and other advanced security equipment at airports in the United States, to remain available until September 30, 2001: *Provided*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985.

## CHAPTER 7

### DEPARTMENT OF THE TREASURY

#### FEDERAL LAW ENFORCEMENT TRAINING CENTER

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$3,548,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### UNITED STATES SECRET SERVICE

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$80,808,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

TITLE III—YEAR 2000 CONVERSION OF FEDERAL  
INFORMATION TECHNOLOGY SYSTEMSFISCAL YEAR 1999 EMERGENCY SUPPLEMENTAL  
APPROPRIATIONS

## FUNDS APPROPRIATED TO THE PRESIDENT

## INFORMATION TECHNOLOGY SYSTEMS AND RELATED EXPENSES

## (INCLUDING TRANSFER OF FUNDS)

For an additional amount for emergency expenses related to Year 2000 conversion of Federal information technology systems, and related expenses, \$2,250,000,000, to remain available until September 30, 2001, of which \$5,500,000 shall be transferred to the Legislative Branch for “SENATE”, “Contingent Expenses of the Senate”, “Sergeant at Arms and Doorkeeper of the Senate” for salaries and expenses related to Year 2000 conversion of Senate information technology systems: *Provided*, That the funds may be obligated with the prior approval of the Senate Committee on Appropriations; and of which, \$6,373,000 shall be transferred to the Legislative Branch for “HOUSE OF REPRESENTATIVES”, “Salaries and Expenses”, “Salaries, Officers and Employees” for salaries and expenses related to Year 2000 conversion of House of Representatives information technology systems; and of which \$5,000,000 shall be transferred to the Legislative Branch for “GENERAL ACCOUNTING OFFICE”, “Information Technology Systems and Related Expenses” for expenses related to Year 2000 conversion of information technology systems and related expenses of all entities in the Legislative Branch other than the “Senate” and “House of Representatives” covered by the Legislative Branch Appropriations Act, 1998 (Public Law 105-55), which the Comptroller General shall transfer to the affected entities in the Legislative Branch, upon the approval of the House and Senate Committees on Appropriations; and of which \$13,044,000 shall be transferred to the Judiciary to the Judiciary Information Technology Fund for expenses related to Year 2000 conversion of Judicial Branch information technology and security systems: *Provided further*, That the remaining funds made available shall be transferred, as necessary, by the Director of the Office of Management and Budget to all affected Federal Departments and Agencies, except the Department of Defense, for expenses necessary to ensure the information technology that is used or acquired by the Federal government meets the definition of Year 2000 compliant under Federal Acquisition Regulations (concerning accurate processing of date/time data, including calculating, comparing, and sequencing from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations) and to meet other criteria for Year 2000 compliance as the head of each Department or Agency considers appropriate: *Provided further*, That none of the funds provided under this heading, except those transferred to the Legislative Branch and the Judiciary, may be transferred to any Department or Agency until fifteen days after the Director of the Office of Management and Budget has submitted to the House and Senate Committees on Appropriations, the Senate Special Committee on the Year 2000 Technology Problem, the House Committee on Science, and the House Committee on Government

Reform and Oversight, a proposed allocation and plan for that Department or Agency to achieve Year 2000 compliance for technology information systems: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this or any other Act: *Provided further*, That funds provided under this heading shall be in addition to funds available in this or any other Act for Year 2000 compliance by any Federal Department or Agency: *Provided further*, That the entire amount, except those amounts transferred to the Legislative Branch and the Judiciary, shall be available only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### DEPARTMENT OF DEFENSE—MILITARY

##### OPERATION AND MAINTENANCE

##### INFORMATION TECHNOLOGY SYSTEMS AND SECURITY TRANSFER ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses relating to Year 2000 conversion of information technology and national security systems, for information technology, and infrastructure protection to include computer security/information assurance programs, and for related expenses, \$1,100,000,000, to remain available until September 30, 2001: *Provided*, That the funds made available shall be transferred, as necessary, by the Secretary of Defense to any account in any previously enacted Department of Defense Appropriations Act for expenses necessary to ensure the information technology that is used or acquired by the Federal government meets the definition of Year 2000 compliant under Federal Acquisition Regulations (concerning accurate processing of date/time data, including calculating, comparing, and sequencing from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations) and to meet other criteria for Year 2000 compliance as the Secretary considers appropriate: *Provided further*, That none of the funds provided under this heading may be transferred to any other account until fifteen days after the Secretary of Defense has submitted to the House and Senate Committees on Appropriations, the Senate Special Committee on the Year 2000 Technology Problem, the House Committee on Science, and the House Committee on Government Reform and Oversight, a proposed allocation and plan for the Department of Defense to achieve Year 2000 compliance for technology information systems: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That funds provided under this heading

shall be in addition to funds available in this or any other Act making appropriations for the Department of Defense for Year 2000 compliance and related activities: *Provided further*, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount made available under this heading shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### TITLE IV—OTHER EMERGENCIES

##### CHAPTER 1

##### DEPARTMENT OF COMMERCE

##### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

##### OPERATIONS, RESEARCH, AND FACILITIES

In addition to the amounts appropriated or otherwise made available for this purpose, \$5,000,000 is appropriated to the Department of Commerce to remain available until expended to provide emergency disaster assistance to persons or entities in the Northeast multispecies fishery who have incurred losses from a commercial fishery failure under section 308(b) of the Interjurisdictional Fisheries Act of 1986, as amended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to the Congress.

##### RELATED AGENCY

##### SMALL BUSINESS ADMINISTRATION

##### DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, \$71,000,000, to remain available until expended to subsidize additional gross obligations for the principal amount of direct loans: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974; and for administrative expenses to carry out the disaster loan program, an additional \$30,000,000 to remain available until expended, which may be transferred to and merged with appropriations for “Salaries and Expenses”: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced

Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## CHAPTER 2

### DEPARTMENT OF DEFENSE—CIVIL—

#### DEPARTMENT OF THE ARMY

#### CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For an additional amount for emergency repairs and dredging due to flooding, \$2,500,000, to remain available until expended, which shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### OPERATION AND MAINTENANCE, GENERAL

For an additional amount for emergency repairs and dredging due to flooding, \$99,700,000, to remain available until expended, of which such amounts for eligible navigation projects which may be derived from the Harbor Maintenance Trust Fund pursuant to Public Law 99–662, shall be derived from that Fund: *Provided*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## CHAPTER 3

### FUNDS APPROPRIATED TO THE PRESIDENT

#### AGENCY FOR INTERNATIONAL DEVELOPMENT

#### CHILD SURVIVAL AND DISEASE PROGRAMS FUND

Notwithstanding section 10 of Public Law 91–672, for an additional amount for “Child Survival and Disease Programs Fund”,



\$50,000,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### OTHER BILATERAL ECONOMIC ASSISTANCE

##### ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

Notwithstanding section 10 of Public Law 91-672, for an additional amount for “Assistance for the New Independent States of the former Soviet Union,” \$46,000,000, to remain available until September 30, 2000: *Provided*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### UNANTICIPATED NEEDS

For an additional amount for “Unanticipated Needs”, \$30,000,000, to remain available until expended, only for a grant to the American Red Cross for reimbursement of disaster relief, recovery expenditures, and emergency services: *Provided*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the balanced Budget and Emergency Deficit Control Act of 1985, as amended.

#### CHAPTER 4

##### DEPARTMENT OF THE INTERIOR

##### UNITED STATES FISH AND WILDLIFE SERVICE

##### CONSTRUCTION

For an additional amount for “Construction”, \$25,000,000, to remain available until expended, to repair damage due to hurricanes, floods and other acts of nature: *Provided*, That the entire amount is designated by the Congress as an emergency requirement

pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the amount provided shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### NATIONAL PARK SERVICE

##### CONSTRUCTION

For an additional amount for “Construction”, \$10,000,000, to remain available until expended, to repair damage due to hurricanes, floods and other acts of nature: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the amount provided shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### UNITED STATES GEOLOGICAL SURVEY

##### SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for “Surveys, Investigations, and Research”, \$1,000,000, to remain available until expended, to repair damage due to hurricanes, floods and other acts of nature: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the amount provided shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

#### CHAPTER 5

#### DEPARTMENT OF LABOR

##### EMPLOYMENT AND TRAINING ADMINISTRATION

##### TRAINING AND EMPLOYMENT SERVICES

For an additional amount for “Training and Employment Services” to carry out section 402 of the Job Training Partnership Act, \$7,000,000, to be available upon enactment and remain available through June 30, 1999: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## CHAPTER 6

## DEPARTMENT OF TRANSPORTATION

## COAST GUARD

## ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for “Acquisition, Construction, and Improvements”, for facility replacement or repairs arising from the consequences of Hurricane Georges, \$12,600,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

## CHAPTER 7

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## COMMUNITY PLANNING AND DEVELOPMENT

## COMMUNITY DEVELOPMENT BLOCK GRANTS

For an additional amount for “Community development block grants”, as authorized under title I of the Housing and Community Development Act of 1974, \$250,000,000, which shall remain available until September 30, 2002, for use only for disaster relief, long-term recovery, and mitigation in communities affected by Presidentially-declared natural disasters designated during fiscal years 1998 and 1999, except for those activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency, the Small Business Administration, or the Army Corps of Engineers: *Provided*, That in administering these amounts and except as provided in the next proviso, the Secretary of Housing and Urban Development (the Secretary) may waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds, except for statutory requirements related to civil rights, fair housing and nondiscrimination, the environment, and labor standards, upon a finding that such waiver is required to facilitate the use of such funds and would not be inconsistent with the overall purpose of the statute: *Provided further*, That the Secretary may waive the requirements that activities benefit persons of low and moderate income, except that at least 50 percent of the funds under this heading must benefit primarily persons of low and moderate income unless the Secretary makes a finding of compelling need: *Provided further*, That, upon a finding of compelling need, the Secretary must provide an explanation of the finding to the Committees on Appropriations: *Provided further*, That all funds under this heading shall be allocated by the Secretary to states (including Indian tribes for all purposes under this heading) to be administered

by each state in conjunction with its Federal Emergency Management Agency program or its community development block grants program or by the entity designated by its Chief Executive Officer to administer the HOME Investment Partnerships Program: *Provided further*, That each state shall provide not less than 25 percent in non-Federal public matching funds or its equivalent value (other than administrative costs) for any funds allocated to the state under this heading: *Provided further*, That, in conjunction with the Director of the Federal Emergency Management Agency (the Director), the Secretary shall allocate funds based on the unmet needs identified by the Director as those which have not or will not be addressed by other federal disaster assistance programs: *Provided further*, That, in conjunction with the Director, the Secretary shall utilize annual disaster cost estimates in order that the funds under this heading shall be available, to the maximum extent feasible, to assist states with all Presidentially declared disasters designated during these fiscal years: *Provided further*, That the Secretary shall publish a notice in the Federal Register governing the allocation and use of the community development block grants funds made available under this heading for disaster areas: *Provided further*, That any project or activity underway prior to a Presidentially declared disaster may not receive funds under this heading unless the disaster directly impacted the project: *Provided further*, That 10 days prior to distribution of funds, the Secretary and the Director shall submit a list to the Committees on Appropriations, setting forth the proposed uses of funds, including an explanation of why other Federal disaster assistance programs do not cover the costs of unmet needs identified by the Director, the most recent estimates of unmet needs (including all uses of waivers and the reasons therefore), and an explanation of how the disaster impacted the proposed project: *Provided further*, That the Secretary and the Director shall submit quarterly reports to the Committees on Appropriations regarding the actual projects, localities and needs for which funds have been provided: *Provided further*, That these reports shall be based upon quarterly reports submitted to the Secretary and the Director by each state receiving funds under this heading: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Federal Register,  
publication.

Records.

## INDEPENDENT AGENCY

### FEDERAL EMERGENCY MANAGEMENT AGENCY

#### DISASTER RELIEF

For an additional amount for “Disaster relief”, \$906,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that

an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## TITLE V—COUNTER-DRUG ACTIVITIES AND INTERDICTION

### CHAPTER 1

#### DEPARTMENT OF AGRICULTURE

##### AGRICULTURE RESEARCH SERVICE

“Agriculture Research Service”, Department of Agriculture, \$23,000,000, for additional counterdrug research and development activities: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That such amounts shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in such Act is transmitted by the President to the Congress.

### CHAPTER 2

#### DEPARTMENT OF JUSTICE

##### DRUG ENFORCEMENT ADMINISTRATION

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$10,200,000, to remain available until expended, of which the entire amount shall be available only to the extent that an official budget request that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

##### IMMIGRATION AND NATURALIZATION SERVICE

##### SALARIES AND EXPENSES

##### ENFORCEMENT AND BORDER AFFAIRS

For an additional amount for “Salaries and Expenses, Enforcement and Border Affairs,” \$10,000,000, to remain available until expended, of which the entire amount shall be available only to the extent that an official budget request that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section

251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### CHAPTER 3

#### DEPARTMENT OF STATE

##### INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement”, \$232,600,000, to remain available until expended: *Provided*, That such funds shall be made available subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

### CHAPTER 4

#### DEPARTMENT OF TRANSPORTATION

##### COAST GUARD

##### OPERATING EXPENSES

For an additional amount for necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for, \$16,300,000, available solely for expenses related to the expansion of drug interdiction activities around Puerto Rico, the United States Virgin Islands, and other transit zone areas of operation, including costs to operate and maintain PC–170 patrol craft offered by the Department of Defense: *Provided*, That \$4,000,000 of these funds shall be used only for the establishment and operating costs of a Caribbean International Support Tender, to train and support foreign coast guards in the Caribbean region: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

##### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for acquisition, construction, renovation, and improvement of facilities and equipment, to be available for expansion of Coast Guard drug interdiction activities, \$117,400,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency

requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

## CHAPTER 5

## DEPARTMENT OF THE TREASURY

## DEPARTMENTAL OFFICES

## SALARIES AND EXPENSES

## (INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Salaries and Expenses”, \$1,500,000, to remain available until expended for necessary expenses for an interagency money laundering initiative: *Provided*, That funds shall be available for transfer to the National Foreign Intelligence Program: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That none of the funds provided under this heading may be obligated until fifteen days after notice thereof has been transmitted to the Committees on Appropriations.

## UNITED STATES CUSTOMS SERVICE

## SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$106,300,000, to remain available until expended for counterdrug initiatives: *Provided*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That none of the funds provided under this heading may be obligated until fifteen days after notice thereof has been transmitted to the Committees on Appropriations.

OPERATION, MAINTENANCE AND PROCUREMENT, AIR AND MARINE  
INTERDICTION PROGRAMS

For an additional amount for “Operation, Maintenance and Procurement, Air and Marine Interdiction Programs”, \$162,700,000, to remain available until expended: *Provided*, That of the amount provided, \$153,000,000 shall be available for the procurement and conversion of two P-3B AEW aircraft and four P-3B Slick aircraft to be transferred from the Department of Defense to the Customs Service: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That none of the funds provided under this heading may be obligated until fifteen days after notice thereof has been transmitted to the Committees on Appropriations.

CUSTOMS FACILITIES, CONSTRUCTION, IMPROVEMENTS AND RELATED  
EXPENSES

For an additional amount for “Customs Facilities, Construction, Improvements and Related Expenses”, \$7,000,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That none of the funds provided under this heading may be obligated until fifteen days after notice thereof has been transmitted to the Committees on Appropriations.

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS  
APPROPRIATED TO THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$1,200,000: *Provided*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That none of the funds provided under this heading may



be obligated until fifteen days after notice thereof has been transmitted to the Committees on Appropriations.

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to support the National Drug Court Institute, \$2,000,000, to remain available until expended: *Provided*, That the entire amount shall be available for transfer to the National Drug Court Institute: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That none of the funds provided under this heading may be obligated until fifteen days after notice thereof has been transmitted to the Committees on Appropriations.

TITLE VI—GENERAL PROVISION

No part of any appropriation contained in this Division of this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

DIVISION C—OTHER MATTERS

TITLE I—OTHER MATTERS

SEC. 101. ACTING TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION. (a) IN GENERAL.—Notwithstanding any other provision of law, the President may appoint an acting Treasury Inspector General for Tax Administration to serve during the period—

5 USC app. 3  
note.

(1) beginning on the date of the enactment of this section (or, if later, the date of the appointment), and

(2) ending on the earlier of—

(A) April 30, 1999, or

(B) the date on which the first Treasury Inspector General for Tax Administration takes office (other than pursuant to this section).

(b) DUTIES BEFORE JANUARY 18, 1999.—The acting Treasury Inspector General for Tax Administration appointed under subsection (a) shall, before January 18, 1999, take only such actions as are necessary to begin operation of the Office of Treasury Inspector General for Tax Administration, including—

(1) making interim arrangements for administrative support for the Office,

(2) establishing interim positions in the Office into which personnel will be transferred upon the transfer of functions and duties to the Office on January 18, 1999,

(3) appointing such acting personnel on an interim basis as may be necessary upon the transfer of functions and duties to the Office on January 18, 1999, and

(4) providing guidance and input for the fiscal year 2000 budget process for the Office.

(c) ACTIONS NOT TO LIMIT AUTHORITY OF IG.—None of the actions taken by an individual appointed under subsection (a) shall affect the future authority of any Treasury Inspector General for Tax Administration not appointed under subsection (a).

(d) LIMITATIONS.—

(1) NOMINATION.—No individual appointed under subsection (a) may serve on or after January 19, 1999, unless on or before such date the President has submitted to the Senate his nomination of an individual to serve as the first Treasury Inspector General for Tax Administration.

(2) TREASURY INSPECTOR GENERAL MAY NOT SERVE.—No individual appointed under subsection (a) may serve during any period such individual is serving as the Inspector General of the Treasury of the United States or the acting Inspector General of the Treasury of the United States.

(3) EMPLOYMENT RESTRICTIONS.—The provisions of section 8D(j) of the Inspector General Act of 1978 (5 U.S.C. App.) shall apply to any individual appointed under subsection (a). SEC. 102. Section 122 of Public Law 105–119 (5 U.S.C. 3104 note) is amended—

(1) by amending subsection (g) to read as follows:

Establishment.

“(g)(1) Notwithstanding any other provision of law and subject to paragraph (2), the Secretary of the Treasury is authorized to establish, for a period of three years from date of enactment of this provision, a personnel management demonstration project providing for the compensation and performance management of not more than a combined total of 950 employees who fill critical scientific, technical, engineering, intelligence analyst, language translator, and medical positions in the Bureau of Alcohol, Tobacco and Firearms, the United States Customs Service, and the United States Secret Service.

“(2) The provisions of subsections (b) through (f) and subsection (h) shall apply to the demonstration project authorized by paragraph (1) except that—

“(A) any reference in such subsections to the Director of the Federal Bureau of Investigation shall include a reference to the Secretary of the Treasury;

“(B) the operating plan required by subsection (d) shall be submitted not later than February 1, 1999 to the House and Senate Committees on Appropriations, the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, the House Committee on Ways and Means, and the Senate Committee on Finance; and

“(C) the report required by subsection (f) shall be submitted not later than March 31, 2001.”; and

(2) by amending subsection (h) to read as follows—

Termination  
date.

“(h) The authority to establish a demonstration project under this section shall terminate on November 26, 2000.”.

22 USC 4064.

SEC. 103. Section 824 of the Foreign Service Act is amended:

(1) in subsection (a)(1)(A) by inserting “or in the case of a waiver under subsection (g)” after “subsection (b)”; and

(2) by adding the following new subsections (g) and (h) at the end:

“(g) The Secretary of State may waive the application of the paragraphs (a) through (d) of this section, on a case-by-case basis,

for an annuitant reemployed on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

“(h) A reemployed annuitant as to whom a waiver under subsection (g) is in effect shall not be considered a participant for purposes of subchapter I or subchapter II, or an employee for purposes of chapter 83 or 84 of title 5, United States Code.”.

SEC. 104. Title II of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399) is amended by adding the following new section at the end:

**“SEC. 206. CONTRACTING AUTHORITY.**

22 USC 4824.

“The Secretary of State is authorized to employ individuals or organizations by contract to carry out the purposes of this Act, and individuals employed by contract to perform such services shall not by virtue of such employment be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management (except that the Secretary may determine the applicability to such individuals of any law administered by the Secretary concerning the employment of such individuals); and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making and performance of contracts and performance of work in the United States.”.

SEC. 106. INTRASTATE BUS TRANSPORTATION IN HAWAII. Section 14501(a)(1) of Title 49, United States Code, is amended by striking “operations” and inserting “operations, or to intrastate bus transportation of any nature in the State of Hawaii”.

SEC. 107. Provisions of 23 U.S.C. 125(b)(1) shall not apply to emergency relief projects resulting from the flooding in the State of California in January and March 1995.

SEC. 108. For the purpose of any Rule of the House of Representatives, notwithstanding any other provision of law, any obligation limitation relating to surface transportation projects under section 1602 of P.L. 105-178 shall be assumed to be administered on the basis of sound program management practices that are consistent with past practices of the administering agency permitting States to decide High Priority Project funding priorities within state program allocations.

SEC. 109. OPERATION OF TRAILERS. (a) REGISTRATION OF TRAILERS.—A State that requires annual registration of container chassis and the apportionment of fees for such registrations in accordance with the International Registration Plan (as defined under section 31701 of title 49, United States Code) shall not limit the operation, or require the registration, in the State of a container chassis (or impose fines or penalties on the operation of a container chassis for being operated in the State without a registration issued by the State) if such chassis—

49 USC 31701  
note.

- (1) is registered under the laws of another State; and
- (2) is operating under a trip permit issued by the State.

(b) LIMITATION ON REGISTRATION OF TRAILERS.—A State described in subsection (a) may not deny the use of trip permits for the operation in the State of a container chassis that is registered under the laws of another State.

(c) SAFETY REGULATION.—This section shall apply to registration requirements only and shall not affect the ability of the State to regulate for safety.

(d) PENALTIES.—No State described in subsection (a), political subdivision of such a State, or person may impose or collect any fee, penalty, fine, or other form of damages which is based in whole or in part upon the nonpayment of a State registration fee (including related weight and licensing fees assessed as part of registration) attributable to a container chassis operated in the State (and registered in another State) before the date of enactment of this Act, unless it is shown by the State, political subdivision, or person that such container chassis was not operated in the State under a trip permit issued by the State.

(e) CONTAINER CHASSIS DEFINED.—In this section, the term “container chassis” means a trailer, semi-trailer, or auxiliary axle used exclusively for the transportation of ocean shipping containers.

Effective date.

SEC. 110. REAUTHORIZATION OF THE FEDERAL AVIATION ADMINISTRATION. (a) PERIOD OF APPLICABILITY OF CERTAIN AMENDMENTS.—Effective September 29, 1998, section 125 of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 47114 note; 110 Stat. 3220) is repealed.

(b) AIRPORT IMPROVEMENT PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 48103 of title 49, United States Code, is amended—

(A) by striking “September 30, 1996” and inserting “September 30, 1998”; and

(B) by striking “\$2,280,000,000” and all that follows through the period at the end and inserting the following: “\$1,205,000,000 for the six-month period beginning October 1, 1998”.

(2) OBLIGATIONAL AUTHORITY.—Section 47104(c) of title 49, United States Code, is amended by striking “September 30, 1998” and inserting “March 31, 1999”.

(c) AVIATION INSURANCE PROGRAM AMENDMENTS.—

(1) REIMBURSEMENT OF INSURED PARTY’S SUBROGEE.—Section 44309(a) of title 49, United States Code, is amended to read as follows:

“(a) LOSSES.—

“(1) ACTIONS AGAINST UNITED STATES.—A person may bring a civil action in a district court of the United States or in the United States Court of Federal Claims against the United States Government when—

“(A) a loss insured under this chapter is in dispute;

or

“(B)(i) the person is subrogated under a contract between the person and a party insured under this chapter (other than section 44305(b)) to the rights of the insured party against the United States Government; and

“(ii) the person has paid to the insured party, with the approval of the Secretary of Transportation, an amount for a physical damage loss that the Secretary has determined is a loss covered by insurance issued under this chapter (other than section 44305(b)).

“(2) LIMITATION.—A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter.

“(3) PROCEDURE.—To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28, United States Code, applies to an action under this subsection.”.

(2) EXTENSION OF AVIATION INSURANCE PROGRAM.—Section 44310 of such title is amended by striking “December 31, 1998.” and inserting “March 31, 1999.”.

(d) ELIGIBILITY OF AIP FUNDS TO ASSESS Y2K COMPLIANCE.—

(1) ELIGIBILITY.—For fiscal year 1999 the term “airport development” under section 47102(3) of title 49, United States Code, may include activities of an airport sponsor of a commercial service airport (as defined by section 47102(7) of such title) to assess the Year 2000 processing capabilities of any airport facilities, technology systems, or equipment owned by the airport sponsor and directly related to airport activities, regardless of whether such facilities, systems, or equipment are otherwise eligible for assistance under chapter 471 of such title. Such activities may include testing associated with such assessment.

(2) LIMITATIONS.—

(A) Only funds apportioned to sponsors under section 47114(c) of title 49, United States Code, or to States under subsections (d) and (e) of section 47114 of such title, may be used for activities described in paragraph (1).

(B) The expanded eligibility under paragraph (1) applies only to the assessment (and associated testing) with respect to the Year 2000 processing capabilities of airport facilities, systems, and equipment owned by the airport sponsor.

(3) DEFINITION.—In this subsection, the term “Year 2000 processing” means the processing (including, without limitation, calculating, comparing, sequencing, displaying, or storing), transmitting, or receiving of date or date/time data from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, and leap year calculations.

(e) SCOREKEEPING ADJUSTMENT.—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the Joint Explanatory Statement of the Committee of Conference accompanying Conference Report No. 105-217, legislation in this section that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were it included in an Act other than an appropriation Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(f) JOINT VENTURE AGREEMENTS.

(1) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following:

**“§ 41716. Joint venture agreements**

49 USC 41716.

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) JOINT VENTURE AGREEMENT.—The term ‘joint venture agreement’ means an agreement entered into by a major air carrier on or after January 1, 1998, with regard to (A) code-sharing, blocked-space arrangements, long-term wet leases (as defined in section 207.1 of title 14, Code of Federal Regulations)

of a substantial number (as defined by the Secretary by regulation) of aircraft, or frequent flyer programs, or (B) any other cooperative working arrangement (as defined by the Secretary by regulation) between 2 or more major air carriers that affects more than 15 percent of the total number of available seat miles offered by the major air carriers.

“(2) MAJOR AIR CARRIER.—The term ‘major air carrier’ means a passenger air carrier that is certificated under chapter 411 of this title and included in Carrier Group III under criteria contained in section 04 of part 241 of title 14, Code of Federal Regulations.

“(b) SUBMISSION OF JOINT VENTURE AGREEMENT.—At least 30 days before a joint venture agreement may take effect, each of the major air carriers that entered into the agreement shall submit to the Secretary—

“(1) a complete copy of the joint venture agreement and all related agreements; and

“(2) other information and documentary material that the Secretary may require by regulation.

“(c) EXTENSION OF WAITING PERIOD.—

“(1) IN GENERAL.—The Secretary may extend the 30-day period referred to in subsection (b) until—

“(A) in the case of a joint venture agreement with regard to code-sharing, the 150th day following the last day of such period; and

“(B) in the case of any other joint venture agreement, the 60th day following the last day of such period.

“(2) PUBLICATION OF REASONS FOR EXTENSION.—If the Secretary extends the 30-day period referred to in subsection (b), the Secretary shall publish in the Federal Register the Secretary’s reasons for making the extension.

“(d) TERMINATION OF WAITING PERIOD.—At any time after the date of submission of a joint venture agreement under subsection (b), the Secretary may terminate the waiting periods referred to in subsections (b) and (c) with respect to the agreement.

“(e) REGULATIONS.—The effectiveness of a joint venture agreement may not be delayed due to any failure of the Secretary to issue regulations to carry out this section.

“(f) MEMORANDUM TO PREVENT DUPLICATIVE REVIEWS.—Promptly after the date of enactment of this section, the Secretary shall consult with the Assistant Attorney General of the Antitrust Division of the Department of Justice in order to establish, through a written memorandum of understanding, preclearance procedures to prevent unnecessary duplication of effort by the Secretary and the Assistant Attorney General under this section and the antitrust laws of the United States, respectively.

“(g) PRIOR AGREEMENTS.—With respect to a joint venture agreement entered into before the date of enactment of this section as to which the Secretary finds that—

“(1) the parties submitted the agreement to the Secretary before such date of enactment; and

“(2) the parties submitted all information on the agreement requested by the Secretary,

the waiting period described in paragraphs (2) and (3) shall begin on the date, as determined by the Secretary, on which all such information was submitted and end on the last day to which the period could be extended under this section.

Federal Register,  
publication.

“(h) LIMITATION ON STATUTORY CONSTRUCTION.—The authority granted to the Secretary under this section shall not in any way limit the authority of the Attorney General to enforce the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).”.

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 417 is amended by adding at the end the following:

“41716. Joint venture agreements.”.

(g) COMPETITIVE PRACTICES IN THE AIRLINE INDUSTRY.—

(1) NATIONAL RESEARCH COUNCIL.—

(a) STUDY.—The National Research Council of the National Academy of Sciences shall complete a comprehensive update of the 1991 study of airline deregulation prepared by the Transportation Research Board of the Council. The update shall include updated versions of the chapters contained in the study pertaining to competitive issues in the airline industry as well as recommendations for changes in the statutory framework under which the airline industry operates.

(b) REPORT BY NATIONAL RESEARCH COUNCIL.—Not later than 6 months after the date of enactment of this Act, the National Research Council shall transmit to Congress and the Secretary of Transportation a report containing the results of the study conducted under paragraph (a).

(c) REPORT BY THE SECRETARY.—Not later than 2 months after the date on which the Secretary receives the report of the National Research Council under paragraph (b), the Secretary shall transmit to Congress a report containing the response of the Secretary to the findings and recommendations of the National Research Council.

(2) REPORT TO CONGRESS.—The Secretary shall conduct a study and transmit to Congress a report that includes—

(a) a description of any complaints received by the Secretary concerning acts of unfair competition or predatory pricing in the airline industry (including the number of such complaints) and of specific examples of such acts;

(b) a description of the options of the Secretary for addressing any acts of unfair competition or predatory pricing identified under paragraph (a);

(c) an analysis of the guidelines proposed in Docket OST-98-3713, including information documenting and quantifying the impact of the guidelines on the items listed in subsection (3)(c); and

(d) a description of the manner in which the Secretary plans to coordinate the handling of predatory pricing and unfair competition complaints against air carriers filed with the Secretary and similar complaints filed with the Attorney General, including methods to ensure efficient use of limited government resources and to ensure that all parties avoid duplicate requests by government agencies for information unless each of the agencies needs the information to carry out its statutory responsibilities.

(3) GUIDELINES.—

(a) ISSUANCE.—The Secretary shall not issue final guidelines in Docket OST–98–3713 before the date of transmittal to Congress of a report under subsection (2).

(b) TRANSMITTAL TO CONGRESS.—If the Secretary issues final guidelines in Docket OST–98–3713, the Secretary shall transmit the guidelines to Congress.

(c) IMPACT OF GUIDELINES.—If, as a result of the study conducted under subsection (2), the Secretary decides to issue final guidelines in Docket OST–98–3713 that are different from the guidelines originally proposed, the Secretary shall, as part of the transmittal under paragraph (b), include information that documents and quantifies the impact of the guidelines on the following:

(i) Scheduled service to small- and medium-sized communities.

(ii) Airfares, including the availability of senior citizen, Internet, and standby discounts on routes covered by the guidelines.

(iii) The incentive and ability of major air carriers to offer low airfares.

(iv) The incentive of new entrant air carriers to offer low airfares.

(v) The ability of air carriers to offer inclusive leisure travel for which airfares are not separately advertised.

(vi) Members of frequent flyer programs.

(vii) The ability of air carriers to carry nonorigination and destination traffic on the portion of routes that are served by new entrant air carriers covered by the guidelines.

(viii) Airline employees.

(4) CONSULTATION.—In conducting the study under section (2), the Secretary shall consult with the Attorney General, major air carriers, new entrant air carriers, airport and community leaders, academic and economic experts, and airline employees and passengers.

(5) EFFECTIVE DATE.—The guidelines adopted in Docket OST–98–3713, or any similar guidelines, shall not become effective before the last day of the 12-week period beginning on the date of transmittal to Congress of final guidelines in Docket OST–98–3713, except that a week shall not count toward such 12-week period unless the House of Representatives is in session for legislative business at least 1 day during the week.

SEC. 111. STEEL IMPORTS INTO THE UNITED STATES. (a) FINDINGS.—Congress makes the following findings:

(1) The current financial crises in Asia, the independent States of the former Soviet Union (as defined in section 3 of the FREEDOM Support Act), Russia, and other areas of the world, involve significant depreciation in the currencies of several key steel-producing and steel-consuming countries, along with a collapse in the domestic demand for steel in the countries.

(2) The crises have generated and will continue to generate increases in United States imports of steel, both from the countries whose currencies have been depreciated and from other Asian steel-producing countries that are no longer able



to export steel to the countries that are experiencing an economic crisis.

(3) United States imports of finished steel mill products from Asian steel-producing countries, such as the People's Republic of China, Japan, Korea, India, Taiwan, Indonesia, Thailand, and Malaysia, increased by 79 percent in the first 5 months of 1998.

(4) Year-to-date imports of steel from Russia now exceed the record import levels of 1997, and steel imports from Russia and the Ukraine now approach 2,500,000 net tons.

(5) Foreign government trade restrictions and private restraints of trade distort international trade and investment patterns and result in burdens on United States commerce, including absorption of a disproportionate share of steel diverted from other countries.

(6) The European Union, for example, despite also being a major economy, in 1997 imported only one-tenth as much finished steel products from Asian steel-producing countries as the United States did and has restricted imports of steel from the independent states of the former Soviet Union and Russia.

(7) The United States is simultaneously facing a substantial increase in steel imports from the independent states of the former Soviet Union and Russia, caused in part by the closure of Asian markets to steel imports.

(8) There is a well recognized need for improvement in the enforcement of the United States trade laws to provide an effective response to situations of such increased imports.

(b) SENSE OF CONGRESS.—Congress calls upon the President to—

(1) pursue enhanced enforcement of the United States trade laws with respect to the increase in steel imports into the United States, using all remedies available under United States laws including imposition of offsetting duties, quantitative restrictions, and other appropriate remedial measures;

(2) pursue with all methods at the President's disposal to achieve a more equitable sharing of the burden of accepting imports of finished steel products from Asia and the independent states of the former Soviet Union;

(3) establish a task force within the executive branch that has responsibility for closely monitoring imports of steel into the United States; and

(4) report to Congress not later than January 5, 1999, with a comprehensive plan for responding to the increase in steel imports, including ways of limiting the deleterious effects on employment, prices, and investment in the United States steel industry.

SEC. 112. INCLUSION OF SPIRIT MOUND, SOUTH DAKOTA, ON THE LEWIS AND CLARK TRAIL. (a) ACQUISITION.—The Secretary of the Interior is authorized to acquire on a willing seller basis, at a cost of not to exceed \$600,000, the tract of land known as "Spirit Mound", located on South Dakota Highway 19 near Vermilion, South Dakota.

(b) INCLUSION ON THE LEWIS AND CLARK TRAIL.—The tract described in subsection (a) shall be administered as part of the Lewis and Clark National Historic Trail.

(c) COOPERATIVE AGREEMENT.—The Secretary of the Interior shall enter into a cooperative agreement with Lewis and Clark/Spirit Mound Trust Inc., providing for the restoration, interpretation, and long-term preservation of, and public access to, Spirit Mound.

SEC. 113. (a) DESIGNATION OF DICK CHENEY FEDERAL BUILDING.—The Federal Building and Post Office located at 100 East B Street, Casper, Wyoming, shall be known and designated as the “Dick Cheney Federal Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal Building and Post Office referred to in subsection (a) shall be deemed to be a reference to the “Dick Cheney Federal Building”.

SEC. 114. (a) DESIGNATION.—The United States Post Office located at 297 Larkfield Road in East Northport, New York, shall be known and designated as the “Jerome Anthony Ambro, Jr. Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in subsection (a) shall be deemed to be a reference to the “Jerome Anthony Ambro, Jr. Post Office Building”.

SEC. 115. DESIGNATION OF LIEUTENANT HENRY O. FLIPPER STATION. (a) IN GENERAL.—The facility of the United States Postal Service located at Tall Timbers Village Square, United States Highway 19 South, in Thomasville, Georgia, shall be known and designated as the “Lieutenant Henry O. Flipper Station”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility of the United States Postal Service referred to in subsection (a) shall be deemed to be a reference to the “Lieutenant Henry O. Flipper Station”.

SEC. 116. WILLIAM R. “BILLY” ROLLE POST OFFICE BUILDING. (a) DESIGNATION.—The United States Postal Service building located at 3191 Grand Avenue in Coconut Grove, Florida, shall be known and designated as the “William R. ‘Billy’ Rolle Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the “William R. ‘Billy’ Rolle Post Office Building”.

SEC. 117. HELEN MILLER POST OFFICE BUILDING. (a) DESIGNATION.—The United States Postal Service building located at 550 Fisherman Street in Opa Locka, Florida, shall be known and designated as the “Helen Miller Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the “Helen Miller Post Office Building”.

SEC. 118. ESSIE SILVA POST OFFICE BUILDING. (a) DESIGNATION.—The United States Postal Service building located at 18690 N.W. 37th Avenue in Carol City, Florida, shall be known and designated as the “Essie Silva Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the “Essie Silva Post Office Building”.

SEC. 119. ATHALIE RANGE POST OFFICE BUILDING. (a) DESIGNATION.—The United States Postal Service building located at 500 North West 2d Avenue in Miami, Florida, shall be known and designated as the “Athalie Range Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the “Athalie Range Post Office Building”.

SEC. 120. GARTH REEVES, SR. POST OFFICE BUILDING. (a) DESIGNATION.—The United States Postal Service building located at 995 North West 119th Street in Miami, Florida, shall be known and designated as the “Garth Reeves, Sr. Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the “Garth Reeves, Sr. Post Office Building”.

SEC. 121. (a) DESIGNATION.—The United States Post Office located at 16250 Highway 603 in Kiln, Mississippi, shall be known and designated as the “Ray J. Favre Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in subsection (a) shall be deemed to be a reference to the “Ray J. Favre Post Office Building”.

SEC. 122. (a) REDESIGNATION.—The building of the United States Postal Service located at 2419 West Monroe Street, in Chicago, Illinois, and known as the Midwest Post Office Building, shall be known and designated as the “Nancy B. Jefferson Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the “Nancy B. Jefferson Post Office Building”.

SEC. 123. (a) REDESIGNATION.—The facility of the United States Postal Service located at 9719 Candelaria Road NE in Albuquerque, New Mexico, and known as the Eldorado Station Post Office, shall be known and designated as the “Steve Schiff Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Steve Schiff Post Office”.

SEC. 124. (a) DESIGNATION.—The United States Post Office located at 860 Penniman Avenue in Plymouth, Michigan, shall be known and designated as the “Carl D. Pursell Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in subsection (a) shall be deemed to be a reference to the “Carl D. Pursell Post Office”.

SEC. 125. (a) DESIGNATION.—The United States Post Office located at 202 Center Street in Garwood, New Jersey, shall be known and designated as the “James T. Leonard, Sr. Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in subsection (a) shall be deemed to be a reference to the “James T. Leonard, Sr. Post Office”.

SEC. 126. EDGAR C. CAMPBELL, SR., POST OFFICE BUILDING. (a) DESIGNATION.—The United States Postal Service building located at 658 63rd Street, in Philadelphia, Pennsylvania, shall

be known and designated as the “Edgar C. Campbell, Sr., Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the “Edgar C. Campbell, Sr., Post Office Building”.

SEC. 127. DAVID P. RICHARDSON, JR., POST OFFICE BUILDING. (a) DESIGNATION.—The United States Postal Service building located at 5209 Greene Street, in Philadelphia, Pennsylvania, shall be known and designated as the “David P. Richardson, Jr., Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the “David P. Richardson, Jr., Post Office Building”.

SEC. 128. (a) REDESIGNATION.—The building of the United States Postal Service located at 324 South Laramie Street, in Chicago, Illinois, and known as the Austin Post Office Building, shall be known and designated as the “Reverend Milton R. Brunson Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the “Reverend Milton R. Brunson Post Office Building”.

SEC. 129. DESIGNATION. (a) IN GENERAL.—The facility of the United States Postal Service located at 3750 North Kedzie Avenue in Chicago, Illinois, shall be known and designated as the “Daniel J. Doffyn Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in subsection (a) shall be deemed to be a reference to the “Daniel J. Doffyn Post Office Building”.

SEC. 130. (a) DESIGNATION.—The United States Post Office located at 215 East Jackson Street in Painesville, Ohio, as the “Karl Bernal Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in subsection (a) shall be deemed to be a reference to the “Karl Bernal Post Office Building”.

SEC. 131. (a) DESIGNATION.—The United States Post Office located at 95 West #100 South in Provo, Utah, shall be known and designated as the “Howard C. Nielson Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in subsection (a) shall be deemed to be a reference to the “Howard C. Nielson Post Office Building”.

SEC. 132. (a) DESIGNATION.—The United States Postal Service building located at 11550 Livingston Road, in Fort Washington, Maryland, shall be known and designated as the “Jacob Joseph Chestnut Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the “Jacob Joseph Chestnut Post Office Building”.

SEC. 133. (a) DESIGNATION.—The Federal building located at 309 North Church Street in Dyersburg, Tennessee, shall be known and designated as the “Jere Cooper Federal Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the “Jere Cooper Federal Building”.

SEC. 134. Notwithstanding any other law, sections 101 (d), (k), (p), (s) and (x) of the Omnibus Personnel Reform Amendment Act of 1998, D.C. Law 12-124, effective June 11, 1998, are enacted into law.

SEC. 135. (a) Any right, title, or interest of the United States in the property described in subsection (b) is hereby waived.

(b) The property described in this subsection is certain real property comprised of approximately 106.94 acres of land located in Anne Arundel County in the State of Maryland, said property being originally approximately 144.5 acres of land granted to the United States to be held in title by the “Commissioners of the District of Columbia on behalf of the United States of America”, in fee simple, by a Judgment of Taking in U.S. District Court, Civil Action Number 2391, saving and excepting therefrom approximately 37.57 acres of land by deed dated June 17, 1947, and recorded at Liber 584, Folio 591.

SEC. 136. FLOOD MITIGATION NEAR PIERRE, SOUTH DAKOTA.  
(a) IN GENERAL.—

(1) LAND ACQUISITION.—To provide full operational capability to carry out the authorized purposes of the Missouri River Main Stem dams that are part of the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes”, approved December 22, 1944, the Secretary may acquire from willing sellers such land and property in the vicinity of Pierre, South Dakota, or floodproof or relocate such property within the project area, as the Secretary determines is adversely affected by the full wintertime Oahe Powerplant releases.

(2) OWNERSHIP AND USE.—Any land that is acquired under this authority shall be kept in public ownership and will be dedicated and maintained in perpetuity for a use that is compatible with any remaining flood threat.

(3) REPORT.—

(A) IN GENERAL.—The Secretary shall not obligate funds to implement this paragraph until the Secretary has completed a report addressing the criteria for selecting which properties are to be acquired, relocated or floodproofed, and a plan for implementing such measures and has made a determination that the measures are economically justified.

(B) DEADLINE.—The report shall be completed not later than 180 days after funding is made available.

(4) COORDINATION AND COOPERATION.—The report and implementation plan—

(A) shall be coordinated with the Federal Emergency Management Agency; and

(B) shall be prepared in consultation with other Federal agencies, and State and local officials, and residents.

(5) CONSIDERATIONS.—Such report should take into account information from prior and ongoing studies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$35,000,000.

SEC. 137. GRAND FORKS, NORTH DAKOTA, AND EAST GRAND FORKS, MINNESOTA.—The following project for water resources development and conservation and other purposes is authorized to be carried out by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans, and subject to the conditions recommended in a final report of the Chief of Engineers as approved by the Secretary, if the report of the Chief is completed not later than December 31, 1998: The project for flood damage reduction and recreation, Grand Forks, North Dakota, and East Grand Forks, Minnesota, at a total cost of \$307,750,000, with an estimated Federal cost of \$154,360,000 and an estimated non-Federal cost of \$153,390,000.

SEC. 138. POLICE CORPS ACT. (a) TRAINING PERIOD.—

(1) IN GENERAL.—Section 200108 of the Police Corps Act (42 U.S.C. 14097) is amended by striking subsection (b) and inserting the following:

“(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend up to 24 weeks, but no less than 16 weeks, of training at a training center. The Director may approve training conducted in not more than 3 separate sessions.”.

(2) CONFORMING AMENDMENT.—Section 200108(c) of the Police Corps Act (42 U.S.C. 14097(c)) is amended by striking “16 weeks of”.

(b) REAUTHORIZATION.—Section 200112 of the Police Corps Act (42 U.S.C. 14101) is amended by striking “\$20,000” and all that follows before the period and inserting “\$50,000,000 for fiscal year 1999, \$70,000,000 for fiscal year 2000, \$90,000,000 for fiscal year 2001, and \$90,000,000 for fiscal year 2002”.

SEC. 139. CONGRESSIONAL GOLD MEDALS AND COMMEMORATIVE COINS. (a) LITTLE ROCK NINE.—

(1) The Congress hereby finds the following:

(A) Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, hereafter in this section referred to as the “Little Rock Nine”, voluntarily subjected themselves to the bitter stinging pains of racial bigotry.

(B) The Little Rock Nine are civil rights pioneers whose selfless acts considerably advanced the civil rights debate in this country.

(C) The Little Rock Nine risked their lives to integrate Central High School in Little Rock, Arkansas, and subsequently the Nation.

(D) The Little Rock Nine sacrificed their innocence to protect the American principle that we are all “one Nation, under God, indivisible”.

(E) The Little Rock Nine have indelibly left their mark on the history of the Nation.

(F) The Little Rock Nine have continued to work toward equality for all Americans.

(2)(A) The President is authorized to present, on behalf of Congress, to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark,

Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred to as the “Little Rock Nine”, gold medals of appropriate design, in recognition of the selfless heroism such individuals exhibited and the pain they suffered in the cause of civil rights by integrating Central High School in Little Rock, Arkansas.

(B) For purposes of the presentation referred to in subsection (A) the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary for each recipient.

(C) Effective October 1, 1998, there be authorized to be appropriated such sums as may be necessary to carry out this subsection.

Effective date.

(3)(A) The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medals struck pursuant to subsection (a)(2)(B) under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(B) The appropriation used to carry out this subsection shall be reimbursed out of the proceeds of sales under subsection (a)(3)(A).

(4) The medals struck pursuant to this subsection are national medals for purposes of chapter 51 of title 31, United States Code.

(b) GERALD R. AND BETTY FORD.—

(1) The President is authorized to present, on behalf of the Congress, to Gerald R. and Betty Ford a gold medal of appropriate design—

(A) in recognition of their dedicated public service and outstanding humanitarian contributions to the people of the United States; and

(B) in commemoration of the following occasions in 1998:

(i) The 85th anniversary of the birth of President Ford.

(ii) The 80th anniversary of the birth of Mrs. Ford.

(iii) The 50th wedding anniversary of President and Mrs. Ford.

(iv) The 50th anniversary of the 1st election of Gerald R. Ford to the United States to the United States House of Representatives.

(v) The 25th anniversary of the approval of Gerald R. Ford by the Congress to become Vice President of the United States.

(2) For purposes of the presentation referred to in subsection (b)(1), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(3) There are authorized to be appropriated not to exceed \$20,000 to carry out this subsection.

(4) The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to subsection (b)(2) under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(5) The appropriation used to carry out this subsection shall be reimbursed out of the proceeds of sales under subsection (b)(4).

(6) The medals struck pursuant to this subsection are national medals for purposes of chapter 51 of title 31, United States Code.

31 USC 5112  
note.

(c) 6-MONTH EXTENSION FOR CERTAIN SALES.—Notwithstanding section 101(7)(D) of the United States Commemorative Coin Act of 1996, the Secretary of the Treasury may, at any time before January 1, 1999, make bulk sales at a reasonable discount to the Jackie Robinson Foundation of not less than 20 percent of any denomination of proof and uncirculated coins minted under section 101(7) of such Act which remained unissued as of July 1, 1998, except that the total number of coins of any such denomination which were issued under such section or this section may not exceed the amount of such denomination of coins which were authorized to be minted and issued under section 101(7)(A) of such Act.

SEC. 140. (a) LAND CONVEYANCE, SAN JOAQUIN COUNTY, CALIFORNIA.—Notwithstanding any other provision of law (including the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)), the Attorney General shall convey, by quit claim deed and by negotiated sale, to the City of Tracy, California (in this section referred to as the “City”), the interest of the United States in a parcel of real property consisting of approximately 200 acres located in San Joaquin County, California, and currently administered by the Federal Bureau of Prisons of the Department of Justice. The Attorney General shall complete the conveyance to the City not later than 120 days after the date of the enactment of this Act.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Attorney General. The cost of the survey shall be borne by the City.

(c) PURPOSE OF CONVEYANCE.—The purpose of the real property conveyance under subsection (a) is to permit the City to use approximately 150 acres of the conveyed property as the location of a joint secondary and post secondary educational facility and for other educational purposes and to use approximately 50 acres of the conveyed property for economic development. In the event that the City determines that a joint secondary and post secondary educational facility is unfeasible for the 150-acre portion of the conveyed property, the City shall use up to 50 acres of that portion for at least 30 years as the location for a secondary school and for other educational purposes and use up to 100 acres of that portion as a public park and for other recreational purposes.

(d) CONDITIONS ON USE.—(1) The use of the real property conveyed under subsection (a) for educational purposes, as provided in subsection (c), shall be subject to the approval of the Secretary of Education.

(2) The use of the conveyed real property for economic development, as provided in subsection (c), shall be subject to the approval of the Attorney General.

(3) If a portion of the conveyed real property is used as a public park or for other recreational purposes, as provided in subsection (c), the use of such portion shall be subject to the approval of the Secretary of the Interior.



(e) REVERSIONARY INTERESTS.—(1) If the Secretary of Education determines at any time that the portion of the real property conveyed under subsection (a) that is to be used for educational purposes is not being used for such purposes, all right, title, and interest in and to that portion of the property, including any improvements thereon, shall revert to the United States.

(2) If the Attorney General determines at any time that the portion of the real property conveyed under subsection (a) that is to be used for economic development is not being used for such purposes, all right, title, and interest in and to that portion of the property, including any improvements thereon, shall revert to the United States.

(3) If a portion of the real property conveyed under subsection (a) is used as a public park or for other recreational purposes, as provided in subsection (c), and the Secretary of the Interior determines that such portion is no longer being used for such purposes, all right, title, and interest in and to that portion of the property, including any improvements thereon, shall revert to the United States.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Attorney General may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Attorney General considers appropriate to protect the interests of the United States.

SEC. 141. (a) SHORT TITLE. This section may be cited as the “Lorton Technical Corrections Act of 1998”.

Lorton Technical  
Corrections Act  
of 1998.

(b) TRANSFER OF LAND TO GENERAL SERVICES ADMINISTRATION. Section 11201 of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105-33; D.C. Code 24-1201) is amended—

(1) by redesignating the second subsection (g) and subsection (h) as subsections (h) and (i);

(2) in subsection (g)(1)—

(A) by inserting “(A)” before “Notwithstanding”;

(B) by striking “Except as provided in paragraph (2)” and all that follows through “Department of the Interior.”; and

(C) by adding at the end the following new subparagraphs:

“(B) Contingent on the General Services Administration (GSA) receiving the necessary appropriations to carry out the requirements of this paragraph and subsection (g), and notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), not later than 60 days after the date of the enactment of the Lorton Technical Corrections Act of 1998, any property on which the Lorton Correctional Complex is located shall be transferred to the GSA.

Government  
organization.

“(C) Not later than 1 year after the date of the enactment of the Lorton Technical Corrections Act of 1998, Fairfax County shall submit a reuse plan that complies with all requisite approvals to the Administrator of General Services, that aims to maximize use of the land for open space, park land, or recreation, while delineating permissible or required uses, potential development densities, and any time limits on such development factors of the property on which the Lorton Correctional Complex is located.

“(D) Not later than 180 days after the date of the enactment of the Lorton Technical Corrections Act of 1998, the Secretary

of the Interior shall notify GSA of any property it requests to be transferred to the Department of the Interior for the purpose of a land exchange by the United States Fish and Wildlife Service within the Commonwealth of Virginia or such other purposes consistent with the reuse plan developed by Fairfax County as the Secretary may request. The Administrator of General Services shall approve the Secretary's request to the extent that the request is consistent with the reuse plan developed by Fairfax County and does not result in a significant reduction in the marketability or value of any remaining property. The Administrator of General Services shall coordinate with the Secretary of the Interior to resolve any conflicts presented by the Department of the Interior's request and shall transfer the property to the Department of the Interior at no cost.

“(E) Any property not transferred to the Department of the Interior under subparagraph (D) shall be disposed of according to paragraphs (2) and (4).”;

(3) in subsection (g)(2)(A)(ii) by striking “Department of Parks and Recreation” each place it appears and inserting “Park Authority”;

(4) in subsection (g) by adding at the end the following new paragraphs:

“(4) CONDITIONS ON TRANSFER OF LORTON PROPERTY EAST OF OX ROAD (STATE ROUTE 123).—

“(A) IN GENERAL.—With respect to property east of Ox Road (State Route 123) on which the Lorton Correctional Complex is located, the Administrator of General Services shall—

“(i) cooperate with the District of Columbia Corrections Trustee to determine property necessary for the Trustee to maintain the security of the Lorton Correctional Complex until its closure;

“(ii) prepare a report of title, complete a property description, provide protection and maintenance, conduct an environmental assessment of the property to determine the extent of contamination, complete National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) and National Historic Preservation Act (16 U.S.C. 470 et seq.) processes for closure and disposal of the property, and provide an estimate of the cost for remediation and contingent on receiving the necessary appropriations complete the remediation in compliance with applicable Federal and State environmental laws;

“(iii) develop a disposition strategy incorporating the Fairfax County reuse plan and the Department of the Interior's land transfer request, and resolve conflicts between the plan and the transfer request, or between the reuse plan, the transfer request and the results of the environmental studies;

“(iv) negotiate with any entity that has a lease, agreement, memorandum of understanding, right-of-way, or easement with the District of Columbia to occupy or utilize any parcels of such property on the date of the enactment of this title, to perfect or extend

such lease, agreement, memorandum of understanding, right-of-way, or easement;

“(v) transfer any property identified for use for open space, park land, or recreation in the Fairfax County reuse plan to the Northern Virginia Regional Park Authority, the Fairfax County Park Authority, or another public entity, subject to the condition that the recipient use the conveyed property only for open space, park land, or recreation and that the transfer be at fair market value considering the highest and best use of the property to be open space, park land, and recreation;

“(vi) not later than 60 days after the property is transferred to the General Services Administration, transfer at fair market value the six-acre parcel east of Shirley Highway on Interstate 95 to Amtrak, subject to such terms and conditions as the Administrator determines to be in the best interest of the United States;

“(vii) dispose of any parcels not reserved by the Department of the Interior and not otherwise addressed under this subparagraph at fair market value, subject to such terms and conditions as the Administrator determines to be in the best interest of the United States;

“(viii) deposit any proceeds from the sale of property on which the Lorton Correctional Complex is located into a special fund established in the treasury for purposes of covering real property utilization and disposal related expenses, including environmental compliance and remediation for the Lorton Correctional Complex until all property has been conveyed; and

“(ix) deposit any remaining funds in the Policy and Operations appropriation account of the General Services Administration to be used for real property utilization and disposal activities until expended.

“(B) REPORT.—Not later than 90 days after the date of the receipt of the Fairfax County reuse plan and the Department of the Interior property transfer request by the Administrator of General Services, the Administrator shall report to the Committees on Appropriations and Government Reform and Oversight of the House of Representatives, and the Committees on Appropriations and Governmental Affairs of the Senate on plans to comply with the terms of this paragraph and any estimated costs associated with such compliance.

“(C) AUTHORIZATION.—There is authorized to be appropriated such sums as are necessary from the general funds of the Treasury, to remain available until expended, to the Policy and Operations appropriation account of the General Services Administration for the real property utilization and disposal activities in carrying out the provisions of this title.

“(5) JURISDICTION.—Any property disposed of according to paragraphs (2) and (4) shall be under the jurisdiction of the Commonwealth of Virginia. Any development of such property and any property transferred to the Department of the Interior

Olympic and  
Amateur Sports  
Act Amendments  
of 1998.  
36 USC 101 note.

Short title.  
*Ante*, p. 1465.

for exchange purposes shall comply with any applicable planning and zoning requirements of Fairfax County and the Fairfax County reuse plan.”.

SEC. 142. OLYMPIC AND AMATEUR SPORTS. (a) SHORT TITLE.—This section may be cited as the “Olympic and Amateur Sports Act Amendments of 1998”.

(b) AMENDMENT OF TITLE 36, UNITED STATES CODE; TITLE OF CHAPTER.—

(1) Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 36, United States Code.

(2) Section 220501 is amended—

(A) by striking “**Definitions**” in the heading and inserting “**Title and Definitions**”;

(B) by inserting after the heading the following:

“(a) TITLE.—This chapter may be cited as the ‘Ted Stevens Olympic and Amateur Sports Act’.”; and

(C) by inserting “(b) DEFINITIONS.—” immediately before “For the purposes of”.

(c) DEFINITIONS.—Section 220501 is amended by—

(1) inserting “or paralympic sports organization” after “national governing body” in paragraph (1);

(2) redesignating paragraph (7) as paragraph (8); and

(3) inserting after paragraph (6) the following:

“(7) ‘paralympic sports organization’ means an amateur sports organization which is recognized by the corporation under section 220521 of this title.”.

(d) PURPOSES.—Section 220503 is amended by—

(1) striking “Olympic Games” each place it appears in paragraphs (3) and (4) and inserting “Olympic Games, the Paralympic Games,”; and

(2) striking paragraph (13) and inserting the following:

“(13) to encourage and provide assistance to amateur athletic programs and competition for amateur athletes with disabilities, including, where feasible, the expansion of opportunities for meaningful participation by such amateur athletes in programs of athletic competition for able-bodied amateur athletes; and”.

(e) MEMBERSHIP.—Section 220504(b) is amended by—

(1) striking paragraphs (1) and (2) and inserting the following:

“(1) amateur sports organizations recognized as national governing bodies and paralympic sports organizations in accordance with section 220521 of this title, including through provisions which establish and maintain a National Governing Bodies’ Council composed of representatives of the national governing bodies and any paralympic sports organizations and selected by their boards of directors or such other governing boards to ensure effective communication between the corporation and such national governing bodies and paralympic sports organizations;

“(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States in international amateur athletic competition within the preceding 10 years, including through provisions which—

“(A) establish and maintain an Athletes’ Advisory Council composed of, and elected by, such amateur athletes to ensure communication between the corporation and such amateur athletes; and

“(B) ensure that the membership and voting power held by such amateur athletes is not less than 20 percent of the membership and voting power held in the board of directors of the corporation and in the committees and entities of the corporation;” and

(2) inserting a comma and “the Paralympic Games,” after “Olympic Games” in paragraph (3).

(f) POWERS.—

(1) GENERAL CORPORATE POWERS.—Section 220505(b)(9) is amended by striking “sued; and” and inserting “sued, except that any civil action brought in a State court against the corporation and solely relating to the corporation’s responsibilities under this Act shall be removed, at the request of the corporation, to the district court of the United States in the district in which the action was brought, and such district court shall have original jurisdiction over the action without regard to the amount in controversy or citizenship of the parties involved, and except that neither this paragraph nor any other provision of this chapter shall create a private right of action under this chapter; and”.

(2) POWERS RELATED TO AMATEUR ATHLETICS AND THE OLYMPIC GAMES.—Section 220505(c) is amended by—

(A) striking “Organization;” in paragraph (2) and inserting “Organization and as its national Paralympic committee in relations with the International Paralympic Committee;”;

(B) striking “Games and of” in paragraph (3) and inserting “Games, the Paralympic Games, and”;

(C) striking “Games;” in paragraph (4) and inserting “Games, or as paralympic sports organizations for any sport that is included on the program of the Paralympic Games;” and

(D) striking “Games,” in paragraph (5) and inserting “Games, the Paralympic Games, the Pan-American Games, world championship competition,”.

(g) USE OF OLYMPIC, PARALYMPIC, AND PAN-AMERICAN SYMBOLS.—Section 220506 is amended by—

(1) striking “rings;” in subsection (a)(2) and inserting “rings, the symbol of the International Paralympic Committee, consisting of 3 TaiGeuks, or the symbol of the Pan-American Sports Organization, consisting of a torch surrounded by concentric rings;”;

(2) inserting “‘Paralympic’, ‘Paralympiad’, ‘Pan-American’, ‘America Espirito Sport Fraternite’,” before “or any combination” in subsection (a)(4);

(3) inserting a comma and “International Paralympic Committee, the Pan-American Sports Organization,” after “International Olympic Committee” in subsection (b);

(4) inserting “the Paralympic team,” before “the Pan-American team” in subsection (b);

(5) inserting a comma and “Paralympic, or Pan-American Games” after “any Olympic” in subsection (c)(3);

(6) inserting a comma and “the International Paralympic Committee, the Pan-American Sports Organization,” after “International Olympic Committee” in subsection (c)(4);

(7) inserting “AND GEOGRAPHIC REFERENCE” after “PRE-EXISTING” in subsection (d); and

(8) adding at the end of subsection (d) the following:

“(3) Use of the word ‘Olympic’ to identify a business or goods or services is permitted by this section where—

“(A) such use is not combined with any of the intellectual properties referenced in subsections (a) or (c) of this section;

“(B) it is evident from the circumstances that such use of the word ‘Olympic’ refers to the naturally occurring mountains or geographical region of the same name that were named prior to February 6, 1998, and not to the corporation or any Olympic activity; and

“(C) such business, goods, or services are operated, sold, and marketed in the State of Washington west of the Cascade Mountain range and operations, sales, and marketing outside of this area are not substantial.”.

(h) RESOLUTION OF DISPUTES.—Section 220509 is amended by—

(1) inserting “(a) GENERAL.—” before “The corporation”;

(2) inserting “the Paralympic Games,” before “the Pan-American Games”;

(3) inserting after “the corporation.” the following: “In any lawsuit relating to the resolution of a dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, or the Pan-American Games, a court shall not grant injunctive relief against the corporation within 21 days before the beginning of such games if the corporation, after consultation with the chair of the Athletes’ Advisory Council, has provided a sworn statement in writing executed by an officer of the corporation to such court that its constitution and bylaws cannot provide for the resolution of such dispute prior to the beginning of such games.”; and

(4) adding at the end thereof the following:

“(b) OMBUDSMAN.—

“(1) The corporation shall hire and provide salary, benefits, and administrative expenses for an ombudsman for athletes, who shall—

“(A) provide independent advice to athletes at no cost about the applicable provisions of this chapter and the constitution and bylaws of the corporation, national governing bodies, a paralympic sports organizations, international sports federations, the International Olympic Committee, the International Paralympic Committee, and the Pan-American Sports Organization, and with respect to the resolution of any dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition or other protected competition as defined in the constitution and bylaws of the corporation;

“(B) assist in mediating any such disputes; and

“(C) report to the Athletes’ Advisory Council on a regular basis.

“(2)(A) The procedure for hiring the ombudsman for athletes shall be as follows:

“(i) The Athletes’ Advisory Council shall provide the corporation’s executive director with the name of one qualified person to serve as ombudsman for athletes.

“(ii) The corporation’s executive director shall immediately transmit the name of such person to the corporation’s executive committee.

“(iii) The corporation’s executive committee shall hire or not hire such person after fully considering the advice and counsel of the Athletes’ Advisory Council.

“If there is a vacancy in the position of the ombudsman for athletes, the nomination and hiring procedure set forth in this paragraph shall be followed in a timely manner.

“(B) The corporation may terminate the employment of an individual serving as ombudsman for athletes only if—

“(i) the termination is carried out in accordance with the applicable policies and procedures of the corporation;

“(ii) the termination is initially recommended to the corporation’s executive committee by either the corporation’s executive director or by the Athletes’ Advisory Council; and

“(iii) the corporation’s executive committee fully considers the advice and counsel of the Athletes’ Advisory Council prior to deciding whether or not to terminate the employment of such individual.”.

(i) AGENT FOR SERVICE OF PROCESS.—The text of section 220510 is amended to read as follows: “As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall have a designated agent in the State of Colorado to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.”.

(j) REPORT.—

(1) Section 220511(a) is amended to read as follows:

“(a) SUBMISSION TO PRESIDENT AND CONGRESS.—The corporation shall, on or before the first day of June, 2001, and every fourth year thereafter, transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding 4 years, including—

“(1) a complete statement of its receipts and expenditures;

“(2) a comprehensive description of the activities and accomplishments of the corporation during such 4-year period;

“(3) data concerning the participation of women, disabled individuals, and racial and ethnic minorities in the amateur athletic activities and administration of the corporation and national governing bodies; and

“(4) a description of the steps taken to encourage the participation of women, disabled individuals, and racial minorities in amateur athletic activities.”.

(2) The chapter analysis for chapter 2205 is amended by striking the item relating to section 220511 and inserting the following:

“220511. Report.”.

(k) COMPLETE TEAMS.—

(1) GENERAL.—Subchapter I of chapter 2205 is amended by adding at the end thereof the following:

**“§ 220512. Complete teams**

“In obtaining representation for the United States in each competition and event of the Olympic Games, Paralympic Games, and Pan-American Games, the corporation, either directly or by delegation to the appropriate national governing body or paralympic sports organization, may select, but is not obligated to select (even if not selecting will result in an incomplete team for an event), athletes who have not met the eligibility standard of the national governing body and the Corporation, when the number of athletes who have met the eligibility standards of such entities is insufficient to fill the roster for an event.”.

(2) The chapter analysis for chapter 2205 is amended by inserting after the item relating to section 220511 the following:

“220512. Complete teams.”.

(l) RECOGNITION OF AMATEUR SPORTS ORGANIZATIONS.—Section 220521 is amended by—

(1) striking the first sentence of subsection (a) and inserting the following: “For any sport which is included on the program of the Olympic Games, the Paralympic Games, or the Pan-American Games, the corporation is authorized to recognize as a national governing body (in the case of a sport on the program of the Olympic Games or Pan-American Games) or as a paralympic sports organization (in the case of a sport on the program of the Paralympic Games for which a national governing body has not been designated under section 220522(b)) an amateur sports organization which files an application and is eligible for such recognition in accordance with the provisions of subsections (a) or (b) of section 220522.”;

(2) striking “approved.” in subsection (a) and inserting “approved, except as provided in section 220522(b) with respect to a paralympic sports organization.”;

(3) striking “hold a public hearing” in subsection (b) and inserting “hold at least 2 public hearings”;

(4) striking “hearing.” each place it appears in subsection (b) and inserting “hearings.”; and

(5) adding at the end of subsection (b) the following: “The corporation shall send written notice, which shall include a copy of the application, at least 30 days prior to the date of any such public hearing to all amateur sports organizations known to the corporation in that sport.”.

(m) ELIGIBILITY REQUIREMENTS.—Section 220522 is amended by—

(1) inserting “(a) GENERAL.—” before “An amateur”;

(2) striking paragraph (4) and inserting the following:

“(4) agrees to submit to binding arbitration in any controversy involving—

“(A) its recognition as a national governing body, as provided for in section 220529 of this title, upon demand of the corporation; and

“(B) the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition, upon demand of the corporation or any aggrieved amateur athlete, coach, trainer, manager, administrator or official, conducted in accordance with the Commercial Rules of the American Arbitration Association, as modified and provided for in the



corporation's constitution and bylaws, except that if the Athletes' Advisory Council and National Governing Bodies' Council do not concur on any modifications to such Rules, and if the corporation's executive committee is not able to facilitate such concurrence, the Commercial Rules of Arbitration shall apply unless at least two-thirds of the corporation's board of directors approves modifications to such Rules;"

(3) striking paragraph (10) and inserting the following:

"(10) demonstrates, based on guidelines approved by the corporation, the Athletes' Advisory Council, and the National Governing Bodies' Council, that its board of directors and other such governing boards have established criteria and election procedures for and maintain among their voting members individuals who are actively engaged in amateur athletic competition in the sport for which recognition is sought or who have represented the United States in international amateur athletic competition within the preceding 10 years, that any exceptions to such guidelines by such organization have been approved by the corporation, and that the voting power held by such individuals is not less than 20 percent of the voting power held in its board of directors and other such governing boards;"

(4) inserting "or to participation in the Olympic Games, the Paralympic Games, or the Pan-American Games" after "amateur status" in paragraph (14); and

(5) adding at the end thereof the following:

"(b) RECOGNITION OF PARALYMPIC SPORTS ORGANIZATIONS.—

For any sport which is included on the program of the Paralympic Games, the corporation is authorized to designate, where feasible and when such designation would serve the best interest of the sport, and with the approval of the affected national governing body, a national governing body recognized under subsection (a) to govern such sport. Where such designation is not feasible or would not serve the best interest of the sport, the corporation is authorized to recognize another amateur sports organization as a paralympic sports organization to govern such sport, except that, notwithstanding the other requirements of this chapter, any such paralympic sports organization—

"(1) shall comply only with those requirements, perform those duties, and have those powers that the corporation, in its sole discretion, determines are appropriate to meet the objects and purposes of this chapter; and

"(2) may, with the approval of the corporation, govern more than one sport included on the program of the Paralympic Games."

(n) AUTHORITY OF NATIONAL GOVERNING BODIES.—Section 220523 is amended by—

(1) striking "Games and" in paragraph (6) and inserting "Games, the Paralympic Games, and"; and

(2) striking "Games and" in paragraph (7) and inserting "Games, the Paralympic Games, and".

(o) DUTIES OF NATIONAL GOVERNING BODIES.—Section 220524 is amended by—

(1) redesignating paragraphs (4) through (8) as paragraphs (5) through (9); and

(2) inserting after paragraph (3) the following:

“(4) disseminate and distribute to amateur athletes, coaches, trainers, managers, administrators, and officials in a timely manner the applicable rules and any changes to such rules of the national governing body, the corporation, the appropriate international sports federation, the International Olympic Committee, the International Paralympic Committee, and the Pan-American Sports Organization;”.

(p) REPLACEMENT OF NATIONAL GOVERNING BODY.—Section 220528 is amended by—

(1) striking “Olympic Games or both” in subsection (c)(1)(A) and inserting “Olympic Games or the Paralympic Games, or in both”;

(2) striking “registered” in subsection (c)(2) and inserting “certified”;

(3) striking “body.” in subsection (c)(2) and inserting “body and with any other organization that has filed an application.”;

(4) inserting “open to the public” in subsection (d) after “formal hearing” in the first sentence;

(5) inserting after the second sentence in subsection (d) the following: “The corporation also shall send written notice, including a copy of the application, at least 30 days prior to the date of the hearing to all amateur sports organizations known to the corporation in that sport.”; and

(6) striking “title.” in subsection (f)(4) and inserting “title and notify such national governing body of such probation and of the actions needed to comply with such requirements.”.

36 USC 220501  
note.

(q) SPECIAL REPORT TO CONGRESS.—Five years from the date of the enactment of this Act, the United States Olympic Committee shall submit a special report to the Congress on the effectiveness of the provisions of chapter 2205 of title 36, United States Code, as amended by this Act, together with any additional proposed changes to that chapter the United States Olympic Committee determines are appropriate.

SEC. 143. Section 8106(a) of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under section 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note), is amended by striking “\$3,000,000” and inserting “\$1,000,000”.

*Ante*, p. 2332.

SEC. 144. Section 8120 of the Department of Defense Appropriations Act, 1999, is amended by striking out “owned, or partially owned by” and inserting in lieu thereof “if the Secretary of Defense determines that”, and is further amended by inserting before the period “owns more than a fifty per centum interest in the company”.

110 Stat. 2650.

SEC. 145. MODIFICATION OF LAND CONVEYANCE AUTHORITY, ARMED FORCES RETIREMENT HOME. (a) POSTPONEMENT OF SALE.—Subsection (a) of section 1053 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201), as amended by section 1043 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, is further amended—

(1) by inserting “(1)” before “Notwithstanding”; and

(2) by adding at the end the following:

“(2) The sale under paragraph (1) may not occur before April 30, 1999.”.

(b) DEPOSIT OF PROCEEDS OF SALE.—Subsection (b) of such section 1053, as so amended, is further amended by adding at the end the following:

“(3) The payment received under paragraph (2) shall be deposited in the Armed Forces Retirement Home Trust Fund in accordance with section 1519(a)(2) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1730; 24 U.S.C. 419(a)(2)).”.

SEC. 146. CERTIFICATION OF EXPORTS OF MISSILE EQUIPMENT OR TECHNOLOGY TO CHINA. (a) CERTIFICATION.—Section 1512 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 is amended—

22 USC 2778  
note.

(1) by striking “The” and inserting “(a) CERTIFICATION.—The”; and

(2) by adding at the end the following:

“(b) EXCEPTION.—The certification requirement contained in subsection (a) shall not apply to the export of inertial reference units and components in manned civilian aircraft or supplied as spare or replacement parts for such aircraft.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

22 USC 2778  
note.

(1) the enactment of this Act; or

(2) the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.

SEC. 147. The Secretary of the Navy, in consultation with the Commandant of the Marine Corps, shall assess the requirement for Marine Corps warfighting and attrition reserve F/A-18 aircraft and monitor the viability of the existing F/A-18 production line to meet these requirements: *Provided*, That, pursuant to section 8005 of the Department of Defense Appropriations Act, 1999, the Secretary of the Navy may transfer funds sufficient to ensure that the F/A-18 production capability remains available to meet Marine Corps F/A-18 warfighting and attrition reserve aircraft requirements through additional aircraft production.

SEC. 148. Section 8135 of the Department of Defense Appropriations Act, 1992 (Public Law 102-172; 105 Stat. 1212; 37 U.S.C. 301b note), is amended—

(1) in subsection (a), by inserting before the period at the end the following: “or as a supplemental payment if the officer’s final military pay account is already settled”; and

(2) in subsection (b)—

(A) by inserting “applies” after “subsection (a)”;

(B) by striking “January 17, 1991” and inserting “August 2, 1990”;

(C) by inserting “(regardless of the date of the commencement of combatant activities in such zone as specified in that Executive Order)” after “as a combat zone”; and

(D) by striking “section 302b” and inserting “section 301b”.

SEC. 149. (a) Chapter 12 of title 11 of the United States Code, as in effect on September 30, 1998, is hereby reenacted for the period beginning on October 1, 1998, and ending on April 1, 1999.

Effective date.  
Termination  
date.  
11 USC 1201 *et*  
*seq.*, 1201 note.

(b) All cases commenced or pending under chapter 12 of title 11, United States Code, as reenacted under subsection (a), and all matters and proceedings in or relating to such cases, shall be conducted and determined under such chapter as if such chapter were continued in effect after April 1, 1999. The substantive rights of parties in connection with such cases, matters, and proceedings shall continue to be governed under the laws applicable to such

cases, matters, and proceedings as if such chapter were continued in effect after April 1, 1999.

(c) This section shall take effect on October 1, 1998.

SEC. 150. (a) EXTENSION OF AGREEMENT FOR STATE OF MISSISSIPPI.—The Secretary of the Interior shall offer to reinstate the Memorandum of Agreement between the Mississippi Department of Wildlife Conservation and the United States Fish and Wildlife Service concerning the framework closing dates for the 1979–1980 through 1981–1982 duck hunting seasons, executed in November 1979, for the 1998–1999 duck hunting season in the State of Mississippi, except that—

(1) the duck hunting season shall end on January 31, 1999; and

(2) the total number of days for the duck hunting season in the State of Mississippi shall not exceed 51 days.

(b) EXTENSION OF AGREEMENT TO OTHER STATES.—At the request of any other State represented on the Lower-Region Regulations Committee of the Mississippi Flyway Council, the Secretary of the Interior shall extend the agreement described in subsection (a) to that State for the 1998–1999 duck hunting season if the State agrees to reduce the total number of days of the duck hunting season in the State to the extent necessary to result in no net increase in the duck harvest in the State for that season.

#### SEC. 151. FEDERAL VACANCIES AND APPOINTMENTS.

(a) SHORT TITLE.—This section may be cited as the “Federal Vacancies Reform Act of 1998”.

(b) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended by striking sections 3345 through 3349 and inserting the following:

##### “§ 3345. Acting officer

“(a) If an officer of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office—

“(1) the first assistant to the office of such officer shall perform the functions and duties of the office temporarily in an acting capacity subject to the time limitations of section 3346;

“(2) notwithstanding paragraph (1), the President (and only the President) may direct a person who serves in an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate, to perform the functions and duties of the vacant office temporarily in an acting capacity subject to the time limitations of section 3346; or

“(3) notwithstanding paragraph (1), the President (and only the President) may direct an officer or employee of such Executive agency to perform the functions and duties of the vacant office temporarily in an acting capacity, subject to the time limitations of section 3346, if—

“(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of

Federal  
Vacancies  
Reform Act of  
1998.  
5 USC 3301 note.

the applicable officer, the officer or employee served in a position in such agency for not less than 90 days; and

“(B) the rate of pay for the position described under subparagraph (A) is equal to or greater than the minimum rate of pay payable for a position at GS-15 of the General Schedule.

“(b)(1) Notwithstanding subsection (a)(1), a person may not serve as an acting officer for an office under this section, if—

“(A) during the 365-day period preceding the date of the death, resignation, or beginning of inability to serve, such person—

“(i) did not serve in the position of first assistant to the office of such officer; or

“(ii) served in the position of first assistant to the office of such officer for less than 90 days; and

“(B) the President submits a nomination of such person to the Senate for appointment to such office.

“(2) Paragraph (1) shall not apply to any person if—

“(A) such person is serving as the first assistant to the office of an officer described under subsection (a);

“(B) the office of such first assistant is an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate; and

“(C) the Senate has approved the appointment of such person to such office.

“(c)(1) Notwithstanding subsection (a)(1), the President (and only the President) may direct an officer who is nominated by the President for reappointment for an additional term to the same office in an Executive department without a break in service, to continue to serve in that office subject to the time limitations in section 3346, until such time as the Senate has acted to confirm or reject the nomination, notwithstanding adjournment sine die.

“(2) For purposes of this section and sections 3346, 3347, 3348, 3349, 3349a, and 3349d, the expiration of a term of office is an inability to perform the functions and duties of such office.

#### **“§ 3346. Time limitation**

“(a) Except in the case of a vacancy caused by sickness, the person serving as an acting officer as described under section 3345 may serve in the office—

“(1) for no longer than 210 days beginning on the date the vacancy occurs; or

“(2) subject to subsection (b), once a first or second nomination for the office is submitted to the Senate, from the date of such nomination for the period that the nomination is pending in the Senate.

“(b)(1) If the first nomination for the office is rejected by the Senate, withdrawn, or returned to the President by the Senate, the person may continue to serve as the acting officer for no more than 210 days after the date of such rejection, withdrawal, or return.

“(2) Notwithstanding paragraph (1), if a second nomination for the office is submitted to the Senate after the rejection, withdrawal, or return of the first nomination, the person serving as the acting officer may continue to serve—

“(A) until the second nomination is confirmed; or

“(B) for no more than 210 days after the second nomination is rejected, withdrawn, or returned.

“(c) If a vacancy occurs during an adjournment of the Congress sine die, the 210-day period under subsection (a) shall begin on the date that the Senate first reconvenes.

**“§ 3347. Exclusivity**

“(a) Sections 3345 and 3346 are the exclusive means for temporarily authorizing an acting official to perform the functions and duties of any office of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) for which appointment is required to be made by the President, by and with the advice and consent of the Senate, unless—

“(1) a statutory provision expressly—

“(A) authorizes the President, a court, or the head of an Executive department, to designate an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity; or

“(B) designates an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity; or

“(2) the President makes an appointment to fill a vacancy in such office during the recess of the Senate pursuant to clause 3 of section 2 of article II of the United States Constitution.

“(b) Any statutory provision providing general authority to the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) to delegate duties statutorily vested in that agency head to, or to reassign duties among, officers or employees of such Executive agency, is not a statutory provision to which subsection (a)(2) applies.

**“§ 3348. Vacant office**

“(a) In this section—

“(1) the term ‘action’ includes any agency action as defined under section 551(13); and

“(2) the term ‘function or duty’ means any function or duty of the applicable office that—

“(A)(i) is established by statute; and

“(ii) is required by statute to be performed by the applicable officer (and only that officer); or

“(B)(i)(I) is established by regulation; and

“(II) is required by such regulation to be performed by the applicable officer (and only that officer); and

“(ii) includes a function or duty to which clause (i) (I) and (II) applies, and the applicable regulation is in effect at any time during the 180-day period preceding the date on which the vacancy occurs.

“(b) Unless an officer or employee is performing the functions and duties in accordance with sections 3345, 3346, and 3347, if an officer of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office—

“(1) the office shall remain vacant; and

“(2) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office), only the head of such Executive agency may perform any function or duty of such office.

“(c) If the last day of any 210-day period under section 3346 is a day on which the Senate is not in session, the second day the Senate is next in session and receiving nominations shall be deemed to be the last day of such period.

“(d)(1) An action taken by any person who is not acting under section 3345, 3346, or 3347, or as provided by subsection (b), in the performance of any function or duty of a vacant office to which this section and sections 3346, 3347, 3349, 3349a, 3349b, and 3349c apply shall have no force or effect.

“(2) An action that has no force or effect under paragraph (1) may not be ratified.

“(e) This section shall not apply to—

“(1) the General Counsel of the National Labor Relations Board;

“(2) the General Counsel of the Federal Labor Relations Authority;

“(3) any Inspector General appointed by the President, by and with the advice and consent of the Senate;

“(4) any Chief Financial Officer appointed by the President, by and with the advice and consent of the Senate; or

“(5) an office of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) if a statutory provision expressly prohibits the head of the Executive agency from performing the functions and duties of such office.

#### **“§ 3349. Reporting of vacancies**

“(a) The head of each Executive agency (including the Executive Office of the President, and other than the General Accounting Office) shall submit to the Comptroller General of the United States and to each House of Congress—

“(1) notification of a vacancy in an office to which this section and sections 3345, 3346, 3347, 3348, 3349a, 3349b, 3349c, and 3349d apply and the date such vacancy occurred immediately upon the occurrence of the vacancy;

“(2) the name of any person serving in an acting capacity and the date such service began immediately upon the designation;

“(3) the name of any person nominated to the Senate to fill the vacancy and the date such nomination is submitted immediately upon the submission of the nomination; and

“(4) the date of a rejection, withdrawal, or return of any nomination immediately upon such rejection, withdrawal, or return.

“(b) If the Comptroller General of the United States makes a determination that an officer is serving longer than the 210-day period including the applicable exceptions to such period under section 3346 or section 3349a, the Comptroller General shall report such determination immediately to—

“(1) the Committee on Governmental Affairs of the Senate;

“(2) the Committee on Government Reform and Oversight of the House of Representatives;

“(3) the Committees on Appropriations of the Senate and House of Representatives;

“(4) the appropriate committees of jurisdiction of the Senate and House of Representatives;

“(5) the President; and

“(6) the Office of Personnel Management.

**“§ 3349a. Presidential inaugural transitions**

“(a) In this section, the term ‘transitional inauguration day’ means the date on which any person swears or affirms the oath of office as President, if such person is not the President on the date preceding the date of swearing or affirming such oath of office.

“(b) With respect to any vacancy that exists during the 60-day period beginning on a transitional inauguration day, the 210-day period under section 3346 or 3348 shall be deemed to begin on the later of the date occurring—

“(1) 90 days after such transitional inauguration day; or

“(2) 90 days after the date on which the vacancy occurs.

**“§ 3349b. Holdover provisions**

“Sections 3345 through 3349a shall not be construed to affect any statute that authorizes a person to continue to serve in any office—

“(1) after the expiration of the term for which such person is appointed; and

“(2) until a successor is appointed or a specified period of time has expired.

**“§ 3349c. Exclusion of certain officers**

“Sections 3345 through 3349b shall not apply to—

“(1) any member who is appointed by the President, by and with the advice and consent of the Senate to any board, commission, or similar entity that—

“(A) is composed of multiple members; and

“(B) governs an independent establishment or Government corporation;

“(2) any commissioner of the Federal Energy Regulatory Commission;

“(3) any member of the Surface Transportation Board; or

“(4) any judge appointed by the President, by and with the advice and consent of the Senate, to a court constituted under article I of the United States Constitution.

**“§ 3349d. Notification of intent to nominate during certain recesses or adjournments**

“(a) The submission to the Senate, during a recess or adjournment of the Senate in excess of 15 days, of a written notification by the President of the President’s intention to submit a nomination after the recess or adjournment shall be considered a nomination for purposes of sections 3345 through 3349c if such notification contains the name of the proposed nominee and the office for which the person is nominated.

“(b) If the President does not submit a nomination of the person named under subsection (a) within 2 days after the end



of such recess or adjournment, effective after such second day the notification considered a nomination under subsection (a) shall be treated as a withdrawn nomination for purposes of sections 3345 through 3349c.”.

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the matter relating to subchapter III and inserting the following:

“SUBCHAPTER III—DETAILS, VACANCIES, AND APPOINTMENTS

“3341. Details; within Executive or military departments.

“[3342. Repealed.]

“3343. Details; to international organizations.

“3344. Details; administrative law judges.

“3345. Acting officer.

“3346. Time limitation.

“3347. Exclusivity.

“3348. Vacant office.

“3349. Reporting of vacancies.

“3349a. Presidential inaugural transitions.

“3349b. Holdover provisions relating to certain independent establishments.

“3349c. Exclusion of certain officers.

“3349d. Notification of intent to nominate during certain recesses or adjournments.”.

(2) SUBCHAPTER HEADING.—The subchapter heading for subchapter III of chapter 33 of title 5, United States Code, is amended to read as follows:

“SUBCHAPTER III—DETAILS, VACANCIES, AND APPOINTMENTS”

(d) EFFECTIVE DATE AND APPLICATION.—

5 USC 3345 note.

(1) EFFECTIVE DATE.—Subject to paragraph (2), this section and the amendments made by this section shall take effect 30 days after the date of enactment of this section.

(2) APPLICATION.—

(A) IN GENERAL.—This section shall apply to any office that becomes vacant after the effective date of this section.

(B) IMMEDIATE APPLICATION OF TIME LIMITATION.—Notwithstanding subparagraph (A), for any office vacant on the effective date of this section, the time limitations under section 3346 of title 5, United States Code (as amended by this section) shall apply to such office. Such time limitations shall apply as though such office first became vacant on the effective date of this section.

(C) CERTAIN NOMINATIONS.—If the President submits to the Senate the nomination of any person after the effective date of this section for an office for which such person had been nominated before such date, the next nomination of such person after such date shall be considered a first nomination of such person to that office for purposes of sections 3345 through 3349 and section 3349d of title 5, United States Code (as amended by this section).

## TITLE II—FISHERIES

### Subtitle I—Fishery Endorsements

#### SEC. 201. SHORT TITLE.

This title may be cited as the “American Fisheries Act”.

American  
Fisheries Act.

46 USC 2101  
note.

**SEC. 202. STANDARD FOR FISHERY ENDORSEMENTS.**

(a) STANDARD.—Section 12102(c) of title 46, United States Code, is amended to read as follows—

“(c)(1) A vessel owned by a corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or any other entity is not eligible for a fishery endorsement under section 12108 of this title unless at least 75 per centum of the interest in such entity, at each tier of ownership of such entity and in the aggregate, is owned and controlled by citizens of the United States.

Applicability.

“(2) The Secretary shall apply section 2(c) of the Shipping Act, 1916 (46 App. U.S.C. 802(c)) in determining under this subsection whether at least 75 per centum of the interest in a corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or any other entity is owned and controlled by citizens of the United States. For the purposes of this subsection and of applying the restrictions on controlling interest in section 2(c) of such Act, the terms ‘control’ or ‘controlled’—

“(A) shall include—

“(i) the right to direct the business of the entity which owns the vessel;

“(ii) the right to limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity which owns the vessel; or

“(iii) the right to direct the transfer, operation or manning of a vessel with a fishery endorsement; and

“(B) shall not include the right to simply participate in the activities under subparagraph (A), or the use by a mortgagee under paragraph (4) of loan covenants approved by the Secretary.

“(3) A fishery endorsement for a vessel that is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement and used as a fishing vessel shall be invalid immediately upon such use.

“(4)(A) An individual or entity that is otherwise eligible to own a vessel with a fishery endorsement shall be ineligible by reason of an instrument or evidence of indebtedness, secured by a mortgage of the vessel to a trustee eligible to own a vessel with a fishery endorsement that is issued, assigned, transferred or held in trust for a person not eligible to own a vessel with a fishery endorsement, unless the Secretary determines that the issuance, assignment, transfer, or trust arrangement does not result in an impermissible transfer of control of the vessel and that the trustee—

“(i) is organized as a corporation, and is doing business, under the laws of the United States or of a State;

“(ii) is authorized under those laws to exercise corporate trust powers;

“(iii) is subject to supervision or examination by an official of the United States Government or a State;

“(iv) has a combined capital and surplus (as stated in its most recent published report of condition) of at least \$3,000,000; and

“(v) meets any other requirements prescribed by the Secretary.

“(B) A vessel with a fishery endorsement may be operated by a trustee only with the approval of the Secretary.

“(C) A right under a mortgage of a vessel with a fishery endorsement may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under section 31322(a)(4) of this title only with the approval of the Secretary.

“(D) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this paragraph is voidable by the Secretary.

“(5) The requirements of this subsection shall not apply to a vessel when it is engaged in fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(a)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone of the United States or pursuant to the South Pacific Regional Fisheries Treaty, provided that the owner of the vessel continues to comply with the eligibility requirements for a fishery endorsement under the federal law that was in effect on October 1, 1998. A fishery endorsement issued by the Secretary pursuant to this paragraph shall be valid for engaging only in fisheries in the exclusive economic zone under the authority of such Council, in such tuna fishing in the Pacific Ocean, or pursuant to such Treaty.

“(6) A vessel greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower is not eligible for a fishery endorsement under section 12108 of this title unless—

“(A)(i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997;

“(ii) the vessel is not placed under foreign registry after the date of the enactment of the American Fisheries Act; and

“(iii) in the event of the invalidation of the fishery endorsement after the date of the enactment of the American Fisheries Act, application is made for a new fishery endorsement within fifteen (15) business days of such invalidation; or

“(B) the owner of such vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after the date of the enactment of the American Fisheries Act, and the Secretary of Commerce has approved, conservation and management measures in accordance with such Act to allow such vessel to be used in fisheries under such council’s authority.”.

(b) PREFERRED MORTGAGE.—Section 31322(a) of title 46, United States Code is amended—

(1) by striking “and” at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3)(B) and inserting in lieu thereof a semicolon and “and”; and

(3) by inserting at the end the following new paragraph:

“(4) with respect to a vessel with a fishery endorsement that is 100 feet or greater in registered length, has as the mortgagee—

“(A) a person eligible to own a vessel with a fishery endorsement under section 12102(c) of this title;

“(B) a state or federally chartered financial institution that satisfies the controlling interest criteria of section 2(b) of the Shipping Act, 1916 (46 U.S.C. 802(b)); or

“(C) a person that complies with the provisions of section 12102(c)(4) of this title.”.

#### SEC. 203. ENFORCEMENT OF STANDARD.

(a) EFFECTIVE DATE.—The amendments made by section 202 shall take effect on October 1, 2001.

Federal Register,  
publication.  
46 USC 12102  
note.

(b) REGULATIONS.—Final regulations to implement this subtitle shall be published in the Federal Register by April 1, 2000. Letter rulings and other interim interpretations about the effect of this subtitle and amendments made by this subtitle on specific vessels may not be issued prior to the publication of such final regulations. The regulations to implement this subtitle shall prohibit impermissible transfers of ownership or control, specify any transactions which require prior approval of an implementing agency, identify transactions which do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of such industry, and to the opportunity to form fishery cooperatives.

46 USC 12102  
note.

(c) VESSELS MEASURING 100 FEET AND GREATER.—(1) The Administrator of the Maritime Administration shall administer section 12102(c) of title 46, United States Code, as amended by this subtitle, with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator of the Maritime Administration on an annual basis to demonstrate compliance with such section. Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement under this paragraph shall be written in a manner to allow the owner of each such vessel to satisfy any annual renewal requirements for a certificate of documentation for such vessel and to comply with this subsection and section 12102(c) of title 46, United States Code, as amended by this Act, and shall not be required to be notarized.

(2) After October 1, 2001, transfers of ownership and control of vessels subject to section 12102(c) of title 46, United States Code, as amended by this Act, which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of such section, with particular attention given to leases, charters, mortgages, financing, and similar arrangements, to the control of persons not eligible to own a vessel with a fishery endorsement under section 12102(c) of title 46, United States Code, as amended by this Act, over the management, sales, financing, or other operations of an entity, and to contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

(d) **VESSELS MEASURING LESS THAN 100 FEET.**—The Secretary of Transportation shall establish such requirements as are reasonable and necessary to demonstrate compliance with section 12102(c) of title 46, United States Code, as amended by this Act, with respect to vessels measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate such vessels. 46 USC 12102 note.

(e) **ENDORSEMENTS REVOKED.**—The Secretary of Transportation shall revoke the fishery endorsement of any vessel subject to section 12102(c) of title 46, United States Code, as amended by this Act, whose owner does not comply with such section. 46 USC 12102 note.

(f) **PENALTY.**—Section 12122 of title 46, United States Code, is amended by inserting at the end the following new subsection:

“(c) In addition to penalties under subsections (a) and (b), the owner of a documented vessel for which a fishery endorsement has been issued is liable to the United States Government for a civil penalty of up to \$100,000 for each day in which such vessel has engaged in fishing (as such term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) within the exclusive economic zone of the United States, if the owner or the representative or agent of the owner knowingly falsified or concealed a material fact, or knowingly made a false statement or representation with respect to the eligibility of the vessel under section 12102(c) of this title in applying for or applying to renew such fishery endorsement.”

(g) **CERTAIN VESSELS.**—The vessels EXCELLENCE (United States official number 967502), GOLDEN ALASKA (United States official number 651041), OCEAN PHOENIX (United States official number 296779), NORTHERN TRAVELER (United States official number 635986), and NORTHERN VOYAGER (United States official number 637398) (or a replacement vessel for the NORTHERN VOYAGER that complies with paragraphs (2), (5), and (6) of section 208(g) of this Act) shall be exempt from section 12102(c), as amended by this Act, until such time after October 1, 2001 as more than 50 percent of the interest owned and controlled in the vessel changes, provided that the vessel maintains eligibility for a fishery endorsement under the federal law that was in effect the day before the date of the enactment of this Act, and unless, in the case of the NORTHERN TRAVELER or the NORTHERN VOYAGER (or such replacement), the vessel is used in any fishery under the authority of a regional fishery management council other than the New England Fishery Management Council or Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1) (A) and (B)), or in the case of the EXCELLENCE, GOLDEN ALASKA, or OCEAN PHOENIX, the vessel is used to harvest any fish.

#### **SEC. 204. REPEAL OF OWNERSHIP SAVINGS CLAUSE.**

(a) **REPEAL.**—Section 7(b) of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100-239; 46 U.S.C. 12102 note) is hereby repealed.

(b) **EFFECTIVE DATE.**—Subsection (a) shall take effect on October 1, 2001. 46 USC 12102 note.

16 USC 1851  
note.

**Subtitle II—Bering Sea Pollock Fishery**

**SEC. 205. DEFINITIONS.**

As used in this subtitle—

(1) the term “Bering Sea and Aleutian Islands Management Area” has the same meaning as the meaning given for such term in part 679.2 of title 50, Code of Federal Regulations, as in effect on October 1, 1998;

(2) the term “catcher/processor” means a vessel that is used for harvesting fish and processing that fish;

(3) the term “catcher vessel” means a vessel that is used for harvesting fish and that does not process pollock onboard;

(4) the term “directed pollock fishery” means the fishery for the directed fishing allowances allocated under paragraphs (1), (2), and (3) of section 206(b);

(5) the term “harvest” means to commercially engage in the catching, taking, or harvesting of fish or any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish;

(6) the term “inshore component” means the following categories that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area:

(A) shoreside processors, including those eligible under section 208(f); and

(B) vessels less than 125 feet in length overall that process less than 126 metric tons per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod;

(7) the term “Magnuson-Stevens Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(8) the term “mothership” means a vessel that receives and processes fish from other vessels in the exclusive economic zone of the United States and is not used for, or equipped to be used for, harvesting fish;

(9) the term “North Pacific Council” means the North Pacific Fishery Management Council established under section 302(a)(1)(G) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(G));

(10) the term “offshore component” means all vessels not included in the definition of “inshore component” that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area;

(11) the term “Secretary” means the Secretary of Commerce; and

(12) the term “shoreside processor” means any person or vessel that receives unprocessed fish, except catcher/processors, motherships, buying stations, restaurants, or persons receiving fish for personal consumption or bait.

**SEC. 206. ALLOCATIONS.**

Effective date.

(a) **POLLOCK COMMUNITY DEVELOPMENT QUOTA.**—Effective January 1, 1999, 10 percent of the total allowable catch of pollock in the Bering Sea and Aleutian Islands Management Area shall be allocated as a directed fishing allowance to the western Alaska community development quota program established under section 305(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)).

(b) **INSHORE/OFFSHORE.**—Effective January 1, 1999, the remainder of the pollock total allowable catch in the Bering Sea and Aleutian Islands Management Area, after the subtraction of the allocation under subsection (a) and the subtraction of allowances for the incidental catch of pollock by vessels harvesting other groundfish species (including under the western Alaska community development quota program) shall be allocated as directed fishing allowances as follows—

Effective date.

(1) 50 percent to catcher vessels harvesting pollock for processing by the inshore component;

(2) 40 percent to catcher/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component; and

(3) 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component.

#### **SEC. 207. BUYOUT.**

(a) **FEDERAL LOAN.**—Under the authority of sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) and notwithstanding the requirements of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a), the Secretary shall, subject to the availability of appropriations for the cost of the direct loan, provide up to \$75,000,000 through a direct loan obligation for the payments required under subsection (d).

(b) **INSHORE FEE SYSTEM.**—Notwithstanding the requirements of section 304(d) or 312 of the Magnuson-Stevens Act (16 U.S.C. 1854(d) and 1861a), the Secretary shall establish a fee for the repayment of such loan obligation which—

(1) shall be six-tenths (0.6) of one cent for each pound round-weight of all pollock harvested from the directed fishing allowance under section 206(b)(1); and

(2) shall begin with such pollock harvested on or after January 1, 2000, and continue without interruption until such loan obligation is fully repaid; and

(3) shall be collected in accordance with section 312(d)(2)(C) of the Magnuson-Stevens Act (16 U.S.C. 1861a(d)(2)(C)) and in accordance with such other conditions as the Secretary establishes.

(c) **FEDERAL APPROPRIATION.**—Under the authority of section 312(c)(1)(B) of the Magnuson-Stevens Act (16 U.S.C. 1861a(c)(1)(B)), there are authorized to be appropriated \$20,000,000 for the payments required under subsection (d).

(d) **PAYMENTS.**—Subject to the availability of appropriations for the cost of the direct loan under subsection (a) and funds under subsection (c), the Secretary shall pay by not later than December 31, 1998—

(1) up to \$90,000,000 to the owner or owners of the catcher/processors listed in paragraphs (1) through (9) of section 209, in such manner as the owner or owners, with the concurrence of the Secretary, agree, except that—

(A) the portion of such payment with respect to the catcher/processor listed in paragraph (1) of section 209 shall be made only after the owner submits a written certification acceptable to the Secretary that neither the owner nor a purchaser from the owner intends to use such catcher/processor outside of the exclusive economic

zone of the United States to harvest any stock of fish (as such term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) that occurs within the exclusive economic zone of the United States; and

(B) the portion of such payment with respect to the catcher/processors listed in paragraphs (2) through (9) of section 209 shall be made only after the owner or owners of such catcher/processors submit a written certification acceptable to the Secretary that such catcher/processors will be scrapped by December 31, 2000 and will not, before that date, be used to harvest or process any fish; and

(2)(A) if a contract has been filed under section 210(a) by the catcher/processors listed in section 208(e), \$5,000,000 to the owner or owners of the catcher/processors listed in paragraphs (10) through (14) of such section in such manner as the owner or owners, with the concurrence of the Secretary, agree; or

(B) if such a contract has not been filed by such date, \$5,000,000 to the owners of the catcher vessels eligible under section 208(b) and the catcher/processors eligible under paragraphs (1) through (20) of section 208(e), divided based on the amount of the harvest of pollock in the directed pollock fishery by each such vessel in 1997 in such manner as the Secretary deems appropriate,

except that any such payments shall be reduced by any obligation to the federal government that has not been satisfied by such owner or owners of any such vessels.

(e) **PENALTY.**—If the catcher/processor under paragraph (1) of section 209 is used outside of the exclusive economic zone of the United States to harvest any stock of fish that occurs within the exclusive economic zone of the United States while the owner who received the payment under subsection (d)(1)(A) has an ownership interest in such vessel, or if the catcher/processors listed in paragraphs (2) through (9) of section 209 are determined by the Secretary not to have been scrapped by December 31, 2000 or to have been used in a manner inconsistent with subsection (d)(1)(B), the Secretary may suspend any or all of the federal permits which allow any vessels owned in whole or in part by the owner or owners who received payments under subsection (d)(1) to harvest or process fish within the exclusive economic zone of the United States until such time as the obligations of such owner or owners under subsection (d)(1) have been fulfilled to the satisfaction of the Secretary.

(f) **PROGRAM DEFINED; MATURITY.**—For the purposes of section 1111 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f), the fishing capacity reduction program in this subtitle shall be within the meaning of the term “program” as defined and used in such section. Notwithstanding section 1111(b)(4) of such Act (46 U.S.C. App. 1279f(b)(4)), the debt obligation under subsection (a) of this section may have a maturity not to exceed 30 years.

(g) **FISHERY CAPACITY REDUCTION REGULATIONS.**—The Secretary of Commerce shall by not later than October 15, 1998 publish proposed regulations to implement subsections (b), (c), (d), and (e) of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a) and sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g).

Publication.



**SEC. 208. ELIGIBLE VESSELS AND PROCESSORS.**

(a) **CATCHER VESSELS ONSHORE.**—Effective January 1, 2000, Effective date.  
only catcher vessels which are—

(1) determined by the Secretary—

(A) to have delivered at least 250 metric tons of pollock;

or

(B) to be less than 60 feet in length overall and to have delivered at least 40 metric tons of pollock,

for processing by the inshore component in the directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998 and September 1, 1998;

(2) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary; and

(3) not listed in subsection (b),

shall be eligible to harvest the directed fishing allowance under section 206(b)(1) pursuant to a federal fishing permit.

(b) **CATCHER VESSELS TO CATCHER/PROCESSORS.**—Effective January 1, 1999, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:

(1) **AMERICAN CHALLENGER** (United States official number 615085);

(2) **FORUM STAR** (United States official number 925863);

(3) **MUIR MILACH** (United States official number 611524);

(4) **NEAHKAHNIE** (United States official number 599534);

(5) **OCEAN HARVESTER** (United States official number 549892);

(6) **SEA STORM** (United States official number 628959);

(7) **TRACY ANNE** (United States official number 904859);

and

(8) any catcher vessel—

(A) determined by the Secretary to have delivered at least 250 metric tons and at least 75 percent of the pollock it harvested in the directed pollock fishery in 1997 to catcher/processors for processing by the offshore component; and

(B) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary.

(c) **CATCHER VESSELS TO MOTHERSHIPS.**—Effective January 1, 2000, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit:

(1) **ALEUTIAN CHALLENGER** (United States official number 603820);

(2) **ALYESKA** (United States official number 560237);

(3) **AMBER DAWN** (United States official number 529425);

(4) **AMERICAN BEAUTY** (United States official number 613847);

(5) **CALIFORNIA HORIZON** (United States official number 590758);

(6) **MAR-GUN** (United States official number 525608);

(7) **MARGARET LYN** (United States official number 615563);

(8) **MARK I** (United States official number 509552);

(9) **MISTY DAWN** (United States official number 926647);

- (10) NORDIC FURY (United States official number 542651);
- (11) OCEAN LEADER (United States official number 561518);
- (12) OCEANIC (United States official number 602279);
- (13) PACIFIC ALLIANCE (United States official number 612084);
- (14) PACIFIC CHALLENGER (United States official number 518937);
- (15) PACIFIC FURY (United States official number 561934);
- (16) PAPADO II (United States official number 536161);
- (17) TRAVELER (United States official number 929356);
- (18) VESTERAALEN (United States official number 611642);
- (19) WESTERN DAWN (United States official number 524423); and
- (20) any vessel—
  - (A) determined by the Secretary to have delivered at least 250 metric tons of pollock for processing by motherships in the offshore component of the directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998 and September 1, 1998;
  - (B) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary; and
  - (C) not listed in subsection (b).

Effective date.

(d) MOTHERSHIPS.—Effective January 1, 2000, only the following motherships shall be eligible to process the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit:

- (1) EXCELLENCE (United States official number 967502);
- (2) GOLDEN ALASKA (United States official number 651041); and
- (3) OCEAN PHOENIX (United States official number 296779).

(e) CATCHER/PROCESSORS.—Effective January 1, 1999, only the following catcher/processors shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:

- (1) AMERICAN DYNASTY (United States official number 951307);
- (2) KATIE ANN (United States official number 518441);
- (3) AMERICAN TRIUMPH (United States official number 646737);
- (4) NORTHERN EAGLE (United States official number 506694);
- (5) NORTHERN HAWK (United States official number 643771);
- (6) NORTHERN JAEGER (United States official number 521069);
- (7) OCEAN ROVER (United States official number 552100);
- (8) ALASKA OCEAN (United States official number 637856);
- (9) ENDURANCE (United States official number 592206);

(10) AMERICAN ENTERPRISE (United States official number 594803);

(11) ISLAND ENTERPRISE (United States official number 610290);

(12) KODIAK ENTERPRISE (United States official number 579450);

(13) SEATTLE ENTERPRISE (United States official number 904767);

(14) US ENTERPRISE (United States official number 921112);

(15) ARCTIC STORM (United States official number 903511);

(16) ARCTIC FJORD (United States official number 940866);

(17) NORTHERN GLACIER (United States official number 663457);

(18) PACIFIC GLACIER (United States official number 933627);

(19) HIGHLAND LIGHT (United States official number 577044);

(20) STARBOUND (United States official number 944658); and

(21) any catcher/processor not listed in this subsection and determined by the Secretary to have harvested more than 2,000 metric tons of the pollock in the 1997 directed pollock fishery and determined to be eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary, except that catcher/processors eligible under this paragraph shall be prohibited from harvesting in the aggregate a total of more than one-half (0.5) of a percent of the pollock apportioned for the directed pollock fishery under section 206(b)(2).

Notwithstanding section 213(a), failure to satisfy the requirements of section 4(a) of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100-239; 46 U.S.C. 12108 note) shall not make a catcher/processor listed under this subsection ineligible for a fishery endorsement.

(f) SHORESIDE PROCESSORS.—(1) Effective January 1, 2000 and except as provided in paragraph (2), the catcher vessels eligible under subsection (a) may deliver pollock harvested from the directed fishing allowance under section 206(b)(1) only to—

Effective date.

(A) shoreside processors (including vessels in a single geographic location in Alaska State waters) determined by the Secretary to have processed more than 2,000 metric tons round-weight of pollock in the inshore component of the directed pollock fishery during each of 1996 and 1997; and

(B) shoreside processors determined by the Secretary to have processed pollock in the inshore component of the directed pollock fishery in 1996 or 1997, but to have processed less than 2,000 metric tons round-weight of such pollock in each year, except that effective January 1, 2000, each such shoreside processor may not process more than 2,000 metric tons round-weight from such directed fishing allowance in any year.

(2) Upon recommendation by the North Pacific Council, the Secretary may approve measures to allow catcher vessels eligible under subsection (a) to deliver pollock harvested from the directed

fishing allowance under section 206(b)(1) to shoreside processors not eligible under paragraph (1) if the total allowable catch for pollock in the Bering Sea and Aleutian Islands Management Area increases by more than 10 percent above the total allowable catch in such fishery in 1997, or in the event of the actual total loss or constructive total loss of a shoreside processor eligible under paragraph (1)(A).

(g) REPLACEMENT VESSELS.—In the event of the actual total loss or constructive total loss of a vessel eligible under subsections (a), (b), (c), (d), or (e), the owner of such vessel may replace such vessel with a vessel which shall be eligible in the same manner under that subsection as the eligible vessel, provided that—

(1) such loss was caused by an act of God, an act of war, a collision, an act or omission of a party other than the owner or agent of the vessel, or any other event not caused by the willful misconduct of the owner or agent;

(2) the replacement vessel was built in the United States and if ever rebuilt, was rebuilt in the United States;

(3) the fishery endorsement for the replacement vessel is issued within 36 months of the end of the last year in which the eligible vessel harvested or processed pollock in the directed pollock fishery;

(4) if the eligible vessel is greater than 165 feet in registered length, of more than 750 gross registered tons, or has engines capable of producing more than 3,000 shaft horsepower, the replacement vessel is of the same or lesser registered length, gross registered tons, and shaft horsepower;

(5) if the eligible vessel is less than 165 feet in registered length, of fewer than 750 gross registered tons, and has engines incapable of producing less than 3,000 shaft horsepower, the replacement vessel is less than each of such thresholds and does not exceed by more than 10 percent the registered length, gross registered tons or shaft horsepower of the eligible vessel; and

(6) the replacement vessel otherwise qualifies under federal law for a fishery endorsement, including under section 12102(c) of title 46, United States Code, as amended by this Act.

(h) ELIGIBILITY DURING IMPLEMENTATION.—In the event the Secretary is unable to make a final determination about the eligibility of a vessel under subsection (b)(8) or subsection (e)(21) before January 1, 1999, or a vessel or shoreside processor under subsection (a), subsection (c)(21), or subsection (f) before January 1, 2000, such vessel or shoreside processor, upon the filing of an application for eligibility, shall be eligible to participate in the directed pollock fishery pending final determination by the Secretary with respect to such vessel or shoreside processor.

(i) ELIGIBILITY NOT A RIGHT.—Eligibility under this section shall not be construed—

(1) to confer any right of compensation, monetary or otherwise, to the owner of any catcher vessel, catcher/processor, mothership, or shoreside processor if such eligibility is revoked or limited in any way, including through the revocation or limitation of a fishery endorsement or any federal permit or license;

(2) to create any right, title, or interest in or to any fish in any fishery; or

(3) to waive any provision of law otherwise applicable to such catcher vessel, catcher/processor, mothership, or shoreside processor.

**SEC. 209. LIST OF INELIGIBLE VESSELS.**

Effective date.

Effective December 31, 1998, the following vessels shall be permanently ineligible for fishery endorsements, and any claims (including relating to catch history) associated with such vessels that could qualify any owners of such vessels for any present or future limited access system permit in any fishery within the exclusive economic zone of the United States (including a vessel moratorium permit or license limitation program permit in fisheries under the authority of the North Pacific Council) are hereby extinguished:

- (1) AMERICAN EMPRESS (United States official number 942347);
  - (2) PACIFIC SCOUT (United States official number 934772);
  - (3) PACIFIC EXPLORER (United States official number 942592);
  - (4) PACIFIC NAVIGATOR (United States official number 592204);
  - (5) VICTORIA ANN (United States official number 592207);
  - (6) ELIZABETH ANN (United States official number 534721);
  - (7) CHRISTINA ANN (United States official number 653045);
  - (8) REBECCA ANN (United States official number 592205);
- and
- (9) BROWNS POINT (United States official number 587440).

**SEC. 210. FISHERY COOPERATIVE LIMITATIONS.**

(a) PUBLIC NOTICE.—(1) Any contract implementing a fishery cooperative under section 1 of the Act of June 25, 1934 (15 U.S.C. 521) in the directed pollock fishery and any material modifications to any such contract shall be filed not less than 30 days prior to the start of fishing under the contract with the North Pacific Council and with the Secretary, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request. Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a) or any other provision of law, but taking into account the interest of parties to any such contract in protecting the confidentiality of proprietary information, the North Pacific Council and Secretary shall—

(A) make available to the public such information about the contract, contract modifications, or fishery cooperative the North Pacific Council and Secretary deem appropriate, which at a minimum shall include a list of the parties to the contract, a list of the vessels involved, and the amount of pollock and other fish to be harvested by each party to such contract; and

(B) make available to the public in such manner as the North Pacific Council and Secretary deem appropriate information about the harvest by vessels under a fishery cooperative of all species (including bycatch) in the directed pollock fishery on a vessel-by-vessel basis.

- Effective date.
- (b) CATCHER VESSELS ONSHORE.—
- (1) CATCHER VESSEL COOPERATIVES.—Effective January 1, 2000, upon the filing of a contract implementing a fishery cooperative under subsection (a) which—
- (A) is signed by the owners of 80 percent or more of the qualified catcher vessels that delivered pollock for processing by a shoreside processor in the directed pollock fishery in the year prior to the year in which the fishery cooperative will be in effect; and
- (B) specifies, except as provided in paragraph (6), that such catcher vessels will deliver pollock in the directed pollock fishery only to such shoreside processor during the year in which the fishery cooperative will be in effect and that such shoreside processor has agreed to process such pollock,
- the Secretary shall allow only such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) to harvest the aggregate percentage of the directed fishing allowance under section 206(b)(1) in the year in which the fishery cooperative will be in effect that is equivalent to the aggregate total amount of pollock harvested by such catcher vessels (and by such catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) in the directed pollock fishery for processing by the inshore component during 1995, 1996, and 1997 relative to the aggregate total amount of pollock harvested in the directed pollock fishery for processing by the inshore component during such years and shall prevent such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) from harvesting in aggregate in excess of such percentage of such directed fishing allowance.
- (2) VOLUNTARY PARTICIPATION.—Any contract implementing a fishery cooperative under paragraph (1) must allow the owners of other qualified catcher vessels to enter into such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the qualified catcher vessels who entered into such contract upon filing.
- (3) QUALIFIED CATCHER VESSEL.—For the purposes of this subsection, a catcher vessel shall be considered a “qualified catcher vessel” if, during the year prior to the year in which the fishery cooperative will be in effect, it delivered more pollock to the shoreside processor to which it will deliver pollock under the fishery cooperative in paragraph (1) than to any other shoreside processor.
- (4) CONSIDERATION OF CERTAIN VESSELS.—Any contract implementing a fishery cooperative under paragraph (1) which has been entered into by the owner of a qualified catcher vessel eligible under section 208(a) that harvested pollock for processing by catcher/processors or motherships in the directed pollock fishery during 1995, 1996, and 1997 shall, to the extent practicable, provide fair and equitable terms and conditions for the owner of such qualified catcher vessel.
- (5) OPEN ACCESS.—A catcher vessel eligible under section 208(a) the catch history of which has not been attributed to a fishery cooperative under paragraph (1) may be used to deliver pollock harvested by such vessel from the directed fishing allowance under section 206(b)(1) (other than pollock

reserved under paragraph (1) for a fishery cooperative) to any of the shoreside processors eligible under section 208(f). A catcher vessel eligible under section 208(a) the catch history of which has been attributed to a fishery cooperative under paragraph (1) during any calendar year may not harvest any pollock apportioned under section 206(b)(1) in such calendar year other than the pollock reserved under paragraph (1) for such fishery cooperative.

(6) TRANSFER OF COOPERATIVE HARVEST.—A contract implementing a fishery cooperative under paragraph (1) may, notwithstanding the other provisions of this subsection, provide for up to 10 percent of the pollock harvested under such cooperative to be processed by a shoreside processor eligible under section 208(f) other than the shoreside processor to which pollock will be delivered under paragraph (1).

(c) CATCHER VESSELS TO CATCHER/PROCESSORS.—Effective January 1, 1999, not less than 8.5 percent of the directed fishing allowance under section 206(b)(2) shall be available for harvest only by the catcher vessels eligible under section 208(b). The owners of such catcher vessels may participate in a fishery cooperative with the owners of the catcher/processors eligible under paragraphs (1) through (20) of the section 208(e). The owners of such catcher vessels may participate in a fishery cooperative that will be in effect during 1999 only if the contract implementing such cooperative establishes penalties to prevent such vessels from exceeding in 1999 the traditional levels harvested by such vessels in all other fisheries in the exclusive economic zone of the United States.

Effective date.

(d) CATCHER VESSELS TO MOTHERSHIPS.—

(1) PROCESSING.—Effective January 1, 2000, the authority in section 1 of the Act of June 25, 1934 (48 Stat. 1213 and 1214; 15 U.S.C. 521 et seq.) shall extend to processing by motherships eligible under section 208(d) solely for the purposes of forming or participating in a fishery cooperative in the directed pollock fishery upon the filing of a contract to implement a fishery cooperative under subsection (a) which has been entered into by the owners of 80 percent or more of the catcher vessels eligible under section 208(c) for the duration of such contract, provided that such owners agree to the terms of the fishery cooperative involving processing by the motherships.

Effective date.

(2) VOLUNTARY PARTICIPATION.—Any contract implementing a fishery cooperative described in paragraph (1) must allow the owners of any other catcher vessels eligible under section 208(c) to enter such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the catcher vessels who entered into such contract upon filing.

(e) EXCESSIVE SHARES.—

(1) HARVESTING.—No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.

(2) PROCESSING.—Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from processing an excessive

share of the pollock available to be harvested in the directed pollock fishery. In the event the North Pacific Council recommends and the Secretary approves an excessive processing share that is lower than 17.5 percent, any individual or entity that previously processed a percentage greater than such share shall be allowed to continue to process such percentage, except that their percentage may not exceed 17.5 percent (excluding pollock processed by catcher/processors that was harvested in the directed pollock fishery by catcher vessels eligible under 208(b)) and shall be reduced if their percentage decreases, until their percentage is below such share. In recommending the excessive processing share, the North Pacific Council shall consider the need of catcher vessels in the directed pollock fishery to have competitive buyers for the pollock harvested by such vessels.

(3) REVIEW BY MARITIME ADMINISTRATION.—At the request of the North Pacific Council or the Secretary, any individual or entity believed by such Council or the Secretary to have exceeded the percentage in either paragraph (1) or (2) shall submit such information to the Administrator of the Maritime Administration as the Administrator deems appropriate to allow the Administrator to determine whether such individual or entity has exceeded either such percentage. The Administrator shall make a finding as soon as practicable upon such request and shall submit such finding to the North Pacific Council and the Secretary. For the purposes of this subsection, any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

(f) LANDING TAX JURISDICTION.—Any contract filed under subsection (a) shall include a contract clause under which the parties to the contract agree to make payments to the State of Alaska for any pollock harvested in the directed pollock fishery which is not landed in the State of Alaska, in amounts which would otherwise accrue had the pollock been landed in the State of Alaska subject to any landing taxes established under Alaska law. Failure to include such a contract clause or for such amounts to be paid shall result in a revocation of the authority to form fishery cooperatives under section 1 of the Act of June 25, 1934 (15 U.S.C. 521 et seq.).

(g) PENALTIES.—The violation of any of the requirements of this section or section 211 shall be considered the commission of an act prohibited by section 307 of the Magnuson-Stevens Act (16 U.S.C. 1857). In addition to the civil penalties and permit sanctions applicable to prohibited acts under section 308 of such Act (16 U.S.C. 1858), any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have violated a requirement of this section shall be subject to the forfeiture to the Secretary of Commerce of any fish harvested or processed during the commission of such act.

#### **SEC. 211. PROTECTIONS FOR OTHER FISHERIES; CONSERVATION MEASURES.**

(a) GENERAL.—The North Pacific Council shall recommend for approval by the Secretary such conservation and management



measures as it determines necessary to protect other fisheries under its jurisdiction and the participants in those fisheries, including processors, from adverse impacts caused by this Act or fishery cooperatives in the directed pollock fishery.

(b) CATCHER/PROCESSOR RESTRICTIONS.—

(1) GENERAL.—The restrictions in this subsection shall take effect on January 1, 1999 and shall remain in effect thereafter except that they may be superceded (with the exception of paragraph (4)) by conservation and management measures recommended after the date of the enactment of this Act by the North Pacific Council and approved by the Secretary in accordance with the Magnuson-Stevens Act.

Effective date.

(2) BERING SEA FISHING.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from, in the aggregate—

(A) exceeding the percentage of the harvest available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total harvest by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997;

(B) exceeding the percentage of the prohibited species available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total of the prohibited species harvested by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount of prohibited species available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997; and

(C) fishing for Atka mackerel in the eastern area of the Bering Sea and Aleutian Islands and from exceeding the following percentages of the directed harvest available in the Bering Sea and Aleutian Islands Atka mackerel fishery—

- (i) 11.5 percent in the central area; and
- (ii) 20 percent in the western area.

(3) BERING SEA PROCESSING.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from—

(A) processing any of the directed fishing allowances under paragraphs (1) or (3) of section 206(b); and

(B) processing any species of crab harvested in the Bering Sea and Aleutian Islands Management Area.

(4) GULF OF ALASKA.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from—

(A) harvesting any fish in the Gulf of Alaska;

(B) processing any groundfish harvested from the portion of the exclusive economic zone off Alaska known as area 630 under the fishery management plan for Gulf of Alaska groundfish; or

(C) processing any pollock in the Gulf of Alaska (other than as bycatch in non-pollock groundfish fisheries) or processing, in the aggregate, a total of more than 10 percent

of the cod harvested from areas 610, 620, and 640 of the Gulf of Alaska under the fishery management plan for Gulf of Alaska groundfish.

(5) FISHERIES OTHER THAN NORTH PACIFIC.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) and motherships eligible under section 208(d) are hereby prohibited from harvesting fish in any fishery under the authority of any regional fishery management council established under section 302(a) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)) other than the North Pacific Council, except for the Pacific whiting fishery, and from processing fish in any fishery under the authority of any such regional fishery management council other than the North Pacific Council, except in the Pacific whiting fishery, unless the catcher/processor or mothership is authorized to harvest or process fish under a fishery management plan recommended by the regional fishery management council of jurisdiction and approved by the Secretary.

(6) OBSERVERS AND SCALES.—The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) shall—

(A) have two observers onboard at all times while groundfish is being harvested, processed, or received from another vessel in any fishery under the authority of the North Pacific Council; and

(B) weigh its catch on a scale onboard approved by the National Marine Fisheries Service while harvesting groundfish in fisheries under the authority of the North Pacific Council.

Effective dates.

This paragraph shall take effect on January 1, 1999 for catcher/processors eligible under paragraphs (1) through (20) of section 208(e) that will harvest pollock allocated under section 206(a) in 1999, and shall take effect on January 1, 2000 for all other catcher/processors eligible under such paragraphs of section 208(e).

(c) CATCHER VESSEL AND SHORESIDE PROCESSOR RESTRICTIONS.—

(1) REQUIRED COUNCIL RECOMMENDATIONS.—By not later than July 1, 1999, the North Pacific Council shall recommend for approval by the Secretary conservation and management measures to—

(A) prevent the catcher vessels eligible under subsections (a), (b), and (c) of section 208 from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the North Pacific Council as a result of fishery cooperatives in the directed pollock fishery; and

(B) protect processors not eligible to participate in the directed pollock fishery from adverse effects as a result of this Act or fishery cooperatives in the directed pollock fishery.

If the North Pacific Council does not recommend such conservation and management measures by such date, or if the Secretary determines that such conservation and management measures recommended by the North Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may by regulation restrict or change the authority in section

210(b) to the extent the Secretary deems appropriate, including by preventing fishery cooperatives from being formed pursuant to such section and by providing greater flexibility with respect to the shoreside processor or shoreside processors to which catcher vessels in a fishery cooperative under section 210(b) may deliver pollock.

(2) BERING SEA CRAB AND GROUND FISH.—

(A) Effective January 1, 2000, the owners of the motherships eligible under section 208(d) and the shoreside processors eligible under section 208(f) that receive pollock from the directed pollock fishery under a fishery cooperative are hereby prohibited from processing, in the aggregate for each calendar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, 1997. For the purposes of this subparagraph, the term “facilities” means any processing plant, catcher/processor, mothership, floating processor, or any other operation that processes fish. Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity for the purposes of this subparagraph.

Effective date.

(B) Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from harvesting or processing an excessive share of crab or of groundfish in fisheries in the Bering Sea and Aleutian Islands Management Area.

(C) The catcher vessels eligible under section 208(b) are hereby prohibited from participating in a directed fishery for any species of crab in the Bering Sea and Aleutian Islands Management Area unless the catcher vessel harvested crab in the directed fishery for that species of crab in such Area during 1997 and is eligible to harvest such crab in such directed fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary. The North Pacific Council is directed to recommend measures for approval by the Secretary to eliminate latent licenses under such program, and nothing in this subparagraph shall preclude the Council from recommending measures more restrictive than under this paragraph.

(3) FISHERIES OTHER THAN NORTH PACIFIC.—

(A) By not later than July 1, 2000, the Pacific Fishery Management Council established under section 302(a)(1)(F) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(F)) shall recommend for approval by the Secretary conservation and management measures to protect fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by this Act or by any fishery cooperatives in the directed pollock fishery.

(B) If the Pacific Council does not recommend such conservation and management measures by such date, or

if the Secretary determines that such conservation and management measures recommended by the Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may by regulation implement adequate measures including, but not limited to, restrictions on vessels which harvest pollock under a fishery cooperative which will prevent such vessels from harvesting Pacific groundfish, and restrictions on the number of processors eligible to process Pacific groundfish.

(d) **BYCATCH INFORMATION.**—Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a), the North Pacific Council may recommend and the Secretary may approve, under such terms and conditions as the North Pacific Council and Secretary deem appropriate, the public disclosure of any information from the groundfish fisheries under the authority of such Council that would be beneficial in the implementation of section 301(a)(9) or section 303(a)(11) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(9) and 1853(a)(11)).

(e) **COMMUNITY DEVELOPMENT LOAN PROGRAM.**—Under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), and subject to the availability of appropriations, the Secretary is authorized to provide direct loan obligations to communities eligible to participate in the western Alaska community development quota program established under 304(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)) for the purposes of purchasing all or part of an ownership interest in vessels and shoreside processors eligible under subsections (a), (b), (c), (d), (e), or (f) of section 208. Notwithstanding the eligibility criteria in section 208(a) and section 208(c), the LISA MARIE (United States official number 1038717) shall be eligible under such sections in the same manner as other vessels eligible under such sections.

46 USC app.  
1274 note.

#### **SEC. 212. RESTRICTION ON FEDERAL LOANS.**

Section 302(b) of the Fisheries Financing Act (46 U.S.C. 1274 note) is amended—

- (1) by inserting “(1)” before “Until October 1, 2001”; and
- (2) by inserting at the end the following new paragraph:

“(2) No loans may be provided or guaranteed by the Federal Government for the construction or rebuilding of a vessel intended for use as a fishing vessel (as defined in section 2101 of title 46, United States Code), if such vessel will be greater than 165 feet in registered length, of more than 750 gross registered tons, or have an engine or engines capable of producing a total of more than 3,000 shaft horsepower, after such construction or rebuilding is completed. This prohibition shall not apply to vessels to be used in the menhaden fishery or in tuna purse seine fisheries outside the exclusive economic zone of the United States or the area of the South Pacific Regional Fisheries Treaty.”

#### **SEC. 213. DURATION.**

Effective date.

Termination  
date.

(a) **GENERAL.**—Except as otherwise provided in this title, the provisions of this title shall take effect upon the date of the enactment of this Act. Sections 206, 208, and 210 shall remain in effect until December 31, 2004, and shall be repealed on such date, except that the North Pacific Council may recommend and the Secretary may approve conservation and management measures

as part of a fishery management plan under the Magnuson-Stevens Act to give effect to the measures in such sections thereafter.

(b) EXISTING AUTHORITY.—Except for the measures required by this subtitle, nothing in this subtitle shall be construed to limit the authority of the North Pacific Council or the Secretary under the Magnuson-Stevens Act.

(c) CHANGES TO FISHERY COOPERATIVE LIMITATIONS AND POLLOCK CDQ ALLOCATION.—The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act—

(1) that supersede the provisions of this title, except for sections 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery;

(2) that supersede the allocation in section 206(a) for any of the years 2002, 2003, and 2004, upon the finding by such Council that the western Alaska community development quota program for pollock has been adversely affected by the amendments in this title; or

(3) that supersede the criteria required in paragraph (1) of section 210(b) to be used by the Secretary to set the percentage allowed to be harvested by catcher vessels pursuant to a fishery cooperative under such paragraph.

(d) REPORT TO CONGRESS.—Not later than October 1, 2000, the North Pacific Council shall submit a report to the Secretary and to Congress on the implementation and effects of this Act, including the effects on fishery conservation and management, on bycatch levels, on fishing communities, on business and employment practices of participants in any fishery cooperatives, on the western Alaska community development quota program, on any fisheries outside of the authority of the North Pacific Council, and such other matters as the North Pacific Council deems appropriate.

(e) REPORT ON FILLET PRODUCTION.—Not later than June 1, 2000, the General Accounting Office shall submit a report to the North Pacific Council, the Secretary, and the Congress on whether this Act has negatively affected the market for fillets and fillet blocks, including through the reduction in the supply of such fillets and fillet blocks. If the report determines that such market has been negatively affected, the North Pacific Council shall recommend measures for the Secretary's approval to mitigate any negative effects.

(f) SEVERABILITY.—If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

(g) INTERNATIONAL AGREEMENTS.—In the event that any provision of section 12102(c) or section 31322(a) of title 46, United States Code, as amended by this Act, is determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party with respect

to the owner or mortgagee on October 1, 2001 of a vessel with a fishery endorsement, such provision shall not apply to that owner or mortgagee with respect to such vessel to the extent of any such inconsistency. The provisions of section 12102(c) and section 31322(a) of title 46, United States Code, as amended by this Act, shall apply to all subsequent owners and mortgagees of such vessel, and shall apply, notwithstanding the preceding sentence, to the owner on October 1, 2001 of such vessel if any ownership interest in that owner is transferred to or otherwise acquired by a foreign individual or entity after such date.

Denali  
Commission Act  
of 1998.  
42 USC 3121  
note.

### TITLE III—DENALI COMMISSION

#### SEC. 301. SHORT TITLE.

This title may be cited as the “Denali Commission Act of 1998”.

#### SEC. 302. PURPOSES.

The purposes of this title are as follows:

(1) To deliver the services of the Federal Government in the most cost-effective manner practicable by reducing administrative and overhead costs.

(2) To provide job training and other economic development services in rural communities particularly distressed communities (many of which have a rate of unemployment that exceeds 50 percent).

(3) To promote rural development, provide power generation and transmission facilities, modern communication systems, water and sewer systems and other infrastructure needs.

#### SEC. 303. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Denali Commission (referred to in this title as the “Commission”).

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 7 members, who shall be appointed by the Secretary of Commerce (referred to in this title as the “Secretary”), of whom—

(A) one shall be the Governor of the State of Alaska, or an individual selected from nominations submitted by the Governor, who shall serve as the State Cochairperson;

(B) one shall be the President of the University of Alaska, or an individual selected from nominations submitted by the President of the University of Alaska;

(C) one shall be the President of the Alaska Municipal League or an individual selected from nominations submitted by the President of the Alaska Municipal League;

(D) one shall be the President of the Alaska Federation or Natives or an individual selected from nominations submitted by the President of the Alaska Federation or Natives;

(E) one shall be the Executive President of the Alaska State AFL–CIO or an individual selected from nominations submitted by the Executive President;

(F) one shall be the President of the Associated General Contractors of Alaska or an individual selected from nominations submitted by the President of the Associated General Contractors of Alaska; and

Alaska.

(G) one shall be the Federal Cochairperson, who shall be selected in accordance with the requirements of paragraph (2).

(2) FEDERAL COCHAIRPERSON.—

(A) IN GENERAL.—The President pro tempore of the Senate and the Speaker of the House of Representatives shall each submit a list of nominations for the position of the Federal Cochairperson under paragraph (1)(G), including pertinent biographical information, to the Secretary.

(B) APPOINTMENT.—The Secretary shall appoint the Federal Cochairperson from among the list of nominations submitted under subparagraph (A). The Federal Cochairperson shall serve as an employee of the Department of Commerce, and may be removed by the Secretary for cause.

(C) FEDERAL COCHAIRPERSON VOTE.—The Federal Cochairperson appointed under this paragraph shall break any tie in the voting of the Commission.

(4) DATE.—The appointments of the members of the Commission shall be made no later than January 1, 1999.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at the call of the Federal Cochairperson not less frequently than 2 times each year, and may, as appropriate, conduct business by telephone or other electronic means.

(2) NOTIFICATION.—Not later than 2 weeks before calling a meeting under this subsection, the Federal Cochairperson shall—

(A) notify each member of the Commission of the time, date and location of that meeting; and

(B) provide each member of the Commission with a written agenda for the meeting, including any proposals for discussion and consideration, and any appropriate background materials.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

#### SEC. 304. DUTIES OF THE COMMISSION.

(a) WORK PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Commission shall develop a proposed work plan for Alaska that meets the requirements of paragraph (2) and submit that plan to the Federal Cochairperson for review in accordance with the requirements of subsection (b).

(2) WORK PLAN.—In developing the work plan, the Commission shall—

(A) solicit project proposals from local governments and other entities and organizations; and

(B) provide for a comprehensive work plan for rural and infrastructure development and necessary job training in the area covered under the work plan.

Federal Register,  
publication.

(3) REPORT.—Upon completion of a work plan under this subsection, the Commission shall prepare, and submit to the Secretary, the Federal Cochairperson, and the Director of the Office of Management and Budget, a report that outlines the work plan and contains recommendations for funding priorities.

(b) REVIEW BY FEDERAL COCHAIRPERSON.—

(1) IN GENERAL.—Upon receiving a work plan under this section, the Secretary, acting through the Federal Cochairperson, shall publish the work plan in the Federal Register, with notice and an opportunity for public comment. The period for public review and comment shall be the 30-day period beginning on the date of publication of that notice.

(2) CRITERIA FOR REVIEW.—In conducting a review under paragraph (1), the Secretary, acting through the Federal Cochairperson, shall—

(A) take into consideration the information, views, and comments received from interested parties through the public review and comment process specified in paragraph (1); and

(B) consult with appropriate Federal officials in Alaska including but not limited to Bureau of Indian Affairs, Economic Development Administration, and Rural Development Administration.

(3) APPROVAL.—Not later than 30 days after the end of the period specified in paragraph (1), the Secretary acting through the Federal Cochairperson, shall—

(A) approve, disapprove, or partially approve the work plan that is the subject of the review; and

(B) issue to the Commission a notice of the approval, disapproval, or partial approval that—

(i) specifies the reasons for disapproving any portion of the work plan; and

(ii) if applicable, includes recommendations for revisions to the work plan to make the plan subject to approval.

(4) REVIEW OF DISAPPROVAL OR PARTIAL APPROVAL.—If the Secretary, acting through the Federal Cochairperson, disapproves or partially approves a work plan, the Federal Cochairperson shall submit that work plan to the Commission for review and revision.

#### SEC. 305. POWERS OF THE COMMISSION.

(a) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as it considers necessary to carry out the provisions of this Act. Upon request of the Federal Cochairperson of the Commission, the head of such department or agency shall furnish such information to the Commission. Agencies must provide the Commission with the requested information in a timely manner. Agencies are not required to provide the Commission any information that is exempt from disclosure by the Freedom of Information Act. Agencies may, upon request by the Commission, make services and personnel available to the Commission to carry out the duties of the Commission. To the maximum extent practicable, the Commission shall contract for completion of necessary work utilizing local firms and labor to minimize costs.



(b) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) **GIFTS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

**SEC. 306. COMMISSION PERSONNEL MATTERS.**

(a) **COMPENSATION OF MEMBERS.**—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during the time such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation that is in addition to that received for their services as officers or employees of the United States.

(b) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **STAFF.**—

(1) **IN GENERAL.**—The Federal Cochairperson of the Commission may, without regard to the civil service laws and regulations, appoint such personnel as may be necessary to enable the Commission to perform its duties.

(2) **COMPENSATION.**—The Chairman of the Commission may fix the compensation of personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Federal Cochairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) **OFFICES.**—The principal office of the Commission shall be located in Alaska, at a location that the Commission shall select.

**SEC. 307. SPECIAL FUNCTIONS.**

(a) **RURAL UTILITIES.**—In carrying out its functions under this title, the Commission shall as appropriate, provide assistance, seek to avoid duplicating services and assistance, and complement the water and sewer wastewater programs under section 306D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d) and section 303 of the Safe Drinking Water Act Amendments of 1996 (33 U.S.C. 1263a).

(b) **BULK FUELS.**—The Commission, in consultation with the Commandant of the Coast Guard, shall develop a plan to provide

for the repair or replacement of bulk fuel storage tanks in Alaska that are not in compliance with applicable—

- (1) Federal law, including the Oil Pollution Act of 1990 (104 Stat. 484); or
- (2) State law.

**SEC. 308. EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.**

The Federal Advisory Committee Act shall not apply to the Commission.

**SEC. 309. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated to the Commission to carry out the duties of the Commission consistent with the purposes of this title and pursuant to the work plan approved under section 4 under this Act, \$20,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003

(b) **AVAILABILITY.**—Any sums appropriated under the authorization contained in this section shall remain available until expended.

American  
Competitiveness  
and Workforce  
Improvement Act  
of 1998.

**TITLE IV—AMERICAN COMPETITIVENESS AND WORKFORCE IMPROVEMENT ACT**

**SEC. 401. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.**

8 USC 1101 note.

(a) **SHORT TITLE.**—This title may be cited as the “American Competitiveness and Workforce Improvement Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents of this title is as follows:

Sec. 401. Short title; table of contents; amendments to Immigration and Nationality Act.

**SUBTITLE A—PROVISIONS RELATING TO H-1B NONIMMIGRANTS**

Sec. 411. Temporary increase in access to temporary skilled personnel under H-1B program.

Sec. 412. Protection against displacement of United States workers in case of H-1B-dependent employers.

Sec. 413. Changes in enforcement and penalties.

Sec. 414. Collection and use of H-1B nonimmigrant fees for scholarships for low-income math, engineering, and computer science students and job training of United States workers.

Sec. 415. Computation of prevailing wage level.

Sec. 416. Improving count of H-1B and H-2B nonimmigrants.

Sec. 417. Report on older workers in the information technology field.

Sec. 418. Report on high technology labor market needs; reports on economic impact of increase in H-1B nonimmigrants.

**SUBTITLE B—SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES**

Sec. 421. Special immigrant status for certain NATO civilian employees.

**SUBTITLE C—MISCELLANEOUS PROVISION**

Sec. 431. Academic honoraria.

(c) **AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.**—Except as otherwise specifically provided in this title, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to that section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

## SUBTITLE A—PROVISIONS RELATING TO H-1B NONIMMIGRANTS

**SEC. 411. TEMPORARY INCREASE IN ACCESS TO TEMPORARY SKILLED PERSONNEL UNDER H-1B PROGRAM.**

(a) TEMPORARY INCREASE IN SKILLED NONIMMIGRANT WORKERS.—Paragraph (1)(A) of section 214(g) (8 U.S.C. 1184(g)) is amended to read as follows:

- “(A) under section 101(a)(15)(H)(i)(b), may not exceed—  
 “(i) 65,000 in each fiscal year before fiscal year 1999;  
 “(ii) 115,000 in fiscal year 1999;  
 “(iii) 115,000 in fiscal year 2000;  
 “(iv) 107,500 in fiscal year 2001; and  
 “(v) 65,000 in each succeeding fiscal year; or”.

(b) EFFECTIVE DATES.—The amendment made by subsection (a) applies beginning with fiscal year 1999. 8 USC 1184 note.

**SEC. 412. PROTECTION AGAINST DISPLACEMENT OF UNITED STATES WORKERS IN CASE OF H-1B-DEPENDENT EMPLOYERS.**

(a) PROTECTION AGAINST LAYOFF AND REQUIREMENT FOR PRIOR RECRUITMENT OF UNITED STATES WORKERS.—

(1) ADDITIONAL STATEMENTS ON APPLICATION.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following:

“(E)(i) In the case of an application described in clause (ii), the employer did not displace and will not displace a United States worker (as defined in paragraph (4)) employed by the employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition supported by the application.

“(ii) An application described in this clause is an application filed on or after the date final regulations are first promulgated to carry out this subparagraph, and before October 1, 2001, by an H-1B-dependent employer (as defined in paragraph (3)) or by an employer that has been found, on or after the date of the enactment of the American Competitiveness and Workforce Improvement Act of 1998, under paragraph (2)(C) or (5) to have committed a willful failure or misrepresentation during the 5-year period preceding the filing of the application. An application is not described in this clause if the only H-1B nonimmigrants sought in the application are exempt H-1B nonimmigrants.

“(F) In the case of an application described in subparagraph (E)(ii), the employer will not place the nonimmigrant with another employer (regardless of whether or not such other employer is an H-1B-dependent employer) where—

“(i) the nonimmigrant performs duties in whole or in part at one or more worksites owned, operated, or controlled by such other employer; and

“(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; unless the employer has inquired of the other employer as to whether, and has no knowledge that, within the period beginning 90 days before and ending 90 days after the date of the placement of the nonimmigrant with the other employer, the other employer has displaced or intends to displace a United States worker employed by the other employer.

“(G)(i) In the case of an application described in subparagraph (E)(ii), subject to clause (ii), the employer, prior to filing the application—

“(I) has taken good faith steps to recruit, in the United States using procedures that meet industry-wide standards and offering compensation that is at least as great as that required to be offered to H–1B nonimmigrants under subparagraph (A), United States workers for the job for which the nonimmigrant or nonimmigrants is or are sought; and

“(II) has offered the job to any United States worker who applies and is equally or better qualified for the job for which the nonimmigrant or nonimmigrants is or are sought.

“(ii) The conditions described in clause (i) shall not apply to an application filed with respect to the employment of an H–1B nonimmigrant who is described in subparagraph (A), (B), or (C) of section 203(b)(1).”.

(2) NOTICE ON APPLICATION OF POTENTIAL LIABILITY OF PLACING EMPLOYERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by adding at the end the following: “The application form shall include a clear statement explaining the liability under subparagraph (F) of a placing employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.”.

(3) CONSTRUCTION.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is further amended by adding at the end the following: “Nothing in subparagraph (G) shall be construed to prohibit an employer from using legitimate selection criteria relevant to the job that are normal or customary to the type of job involved, so long as such criteria are not applied in a discriminatory manner.”.

(b) H–1B-DEPENDENT EMPLOYER AND OTHER DEFINITIONS.—

(1) IN GENERAL.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following:

“(3)(A) For purposes of this subsection, the term ‘H–1B-dependent employer’ means an employer that—

“(i)(I) has 25 or fewer full-time equivalent employees who are employed in the United States; and (II) employs more than 7 H–1B nonimmigrants;

“(ii)(I) has at least 26 but not more than 50 full-time equivalent employees who are employed in the United States; and (II) employs more than 12 H–1B nonimmigrants; or

“(iii)(I) has at least 51 full-time equivalent employees who are employed in the United States; and (II) employs H–1B nonimmigrants in a number that is equal to at least 15 percent of the number of such full-time equivalent employees.

“(B) For purposes of this subsection—

“(i) the term ‘exempt H–1B nonimmigrant’ means an H–1B nonimmigrant who—

“(I) receives wages (including cash bonuses and similar compensation) at an annual rate equal to at least \$60,000; or

“(II) has attained a master’s or higher degree (or its equivalent) in a specialty related to the intended employment; and

“(ii) the term ‘nonexempt H-1B nonimmigrant’ means an H-1B nonimmigrant who is not an exempt H-1B nonimmigrant.

“(C) For purposes of subparagraph (A)—

“(i) in computing the number of full-time equivalent employees and the number of H-1B nonimmigrants, exempt H-1B nonimmigrants shall not be taken into account during the longer of—

“(I) the 6-month period beginning on the date of the enactment of the American Competitiveness and Workforce Improvement Act of 1998; or

“(II) the period beginning on the date of the enactment of the American Competitiveness and Workforce Improvement Act of 1998 and ending on the date final regulations are issued to carry out this paragraph; and

“(ii) any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer.

“(4) For purposes of this subsection:

“(A) The term ‘area of employment’ means the area within normal commuting distance of the worksite or physical location where the work of the H-1B nonimmigrant is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

“(B) In the case of an application with respect to one or more H-1B nonimmigrants by an employer, the employer is considered to ‘displace’ a United States worker from a job if the employer lays off the worker from a job that is essentially the equivalent of the job for which the nonimmigrant or nonimmigrants is or are sought. A job shall not be considered to be essentially equivalent of another job unless it involves essentially the same responsibilities, was held by a United States worker with substantially equivalent qualifications and experience, and is located in the same area of employment as the other job.

“(C) The term ‘H-1B nonimmigrant’ means an alien admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b).

“(D)(i) The term ‘lays off’, with respect to a worker—

“(I) means to cause the worker’s loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract (other than a temporary employment contract entered into in order to evade a condition described in subparagraph (E) or (F) of paragraph (1)); but

“(II) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under paragraph (1)(F), with either employer described in such paragraph) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

“(ii) Nothing in this subparagraph is intended to limit an employee’s rights under a collective bargaining agreement or other employment contract.

“(E) The term ‘United States worker’ means an employee who—

“(i) is a citizen or national of the United States; or

“(ii) is an alien who is lawfully admitted for permanent residence, is admitted as a refugee under section 207, is granted asylum under section 208, or is an immigrant otherwise authorized, by this Act or by the Attorney General, to be employed.”.

(2) CONFORMING AMENDMENTS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by striking “a nonimmigrant described in section 101(a)(15)(H)(i)(b)” each place it appears and inserting “an H–1B nonimmigrant”.

(c) IMPROVED POSTING OF NOTICE OF APPLICATION.—Section 212(n)(1)(C)(ii) (8 U.S.C. 1182(n)(1)(C)(ii)) is amended to read as follows:

“(ii) if there is no such bargaining representative, has provided notice of filing in the occupational classification through such methods as physical posting in conspicuous locations at the place of employment or electronic notification to employees in the occupational classification for which H–1B nonimmigrants are sought.”.

8 USC 1182 note.

(d) EFFECTIVE DATES.—The amendments made by subsection (a) apply to applications filed under section 212(n)(1) of the Immigration and Nationality Act on or after the date final regulations are issued to carry out such amendments, and the amendments made by subsections (b) and (c) take effect on the date of the enactment of this Act.

8 USC 1182 note.

(e) REDUCTION OF PERIOD FOR PUBLIC COMMENT.—In first promulgating regulations to implement the amendments made by this section in a timely manner, the Secretary of Labor and the Attorney General may reduce to not less than 30 days the period of public comment on proposed regulations.

#### SEC. 413. CHANGES IN ENFORCEMENT AND PENALTIES.

(a) INCREASED ENFORCEMENT AND PENALTIES.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended to read as follows:

“(C)(i) If the Secretary finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(B), (1)(E), or (1)(F), a substantial failure to meet a condition of paragraph (1)(C), (1)(D), or (1)(G)(i)(I), or a misrepresentation of material fact in an application—

Notification.

“(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$1,000 per violation) as the Secretary determines to be appropriate; and

“(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

“(ii) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1), a willful misrepresentation of material fact in an application, or a violation of clause (iv)—

“(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$5,000 per violation) as the Secretary determines to be appropriate; and Notification.

“(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 2 years for aliens to be employed by the employer.

“(iii) If the Secretary finds, after notice and opportunity for a hearing, a willful failure to meet a condition of paragraph (1) or a willful misrepresentation of material fact in an application, in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer within the period beginning 90 days before and ending 90 days after the date of filing of any visa petition supported by the application—

“(I) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$35,000 per violation) as the Secretary determines to be appropriate; and Notification.

“(II) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 3 years for aliens to be employed by the employer.

“(iv) It is a violation of this clause for an employer who has filed an application under this subsection to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this clause, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of this subsection, or any rule or regulation pertaining to this subsection, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer’s compliance with the requirements of this subsection or any rule or regulation pertaining to this subsection.

“(v) The Secretary of Labor and the Attorney General shall devise a process under which an H-1B nonimmigrant who files a complaint regarding a violation of clause (iv) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

“(vi)(I) It is a violation of this clause for an employer who has filed an application under this subsection to require an H-1B nonimmigrant to pay a penalty for ceasing employment with the employer prior to a date agreed to by the nonimmigrant and the employer. The Secretary shall determine whether a required payment is a penalty (and not liquidated damages) pursuant to relevant State law.

“(II) It is a violation of this clause for an employer who has filed an application under this subsection to require an alien who is the subject of a petition filed under section 214(c)(1), for which a fee is imposed under section 214(c)(9), to reimburse, or otherwise compensate, the employer for part or all of the cost of such fee.

It is a violation of this clause for such an employer otherwise to accept such reimbursement or compensation from such an alien.

“(III) If the Secretary finds, after notice and opportunity for a hearing, that an employer has committed a violation of this clause, the Secretary may impose a civil monetary penalty of \$1,000 for each such violation and issue an administrative order requiring the return to the nonimmigrant of any amount paid in violation of this clause, or, if the nonimmigrant cannot be located, requiring payment of any such amount to the general fund of the Treasury.

“(vii)(I) It is a failure to meet a condition of paragraph (1)(A) for an employer, who has filed an application under this subsection and who places an H–1B nonimmigrant designated as a full-time employee on the petition filed under section 214(c)(1) by the employer with respect to the nonimmigrant, after the nonimmigrant has entered into employment with the employer, in nonproductive status due to a decision by the employer (based on factors such as lack of work), or due to the nonimmigrant’s lack of a permit or license, to fail to pay the nonimmigrant full-time wages in accordance with paragraph (1)(A) for all such nonproductive time.

“(II) It is a failure to meet a condition of paragraph (1)(A) for an employer, who has filed an application under this subsection and who places an H–1B nonimmigrant designated as a part-time employee on the petition filed under section 214(c)(1) by the employer with respect to the nonimmigrant, after the nonimmigrant has entered into employment with the employer, in nonproductive status under circumstances described in subclause (I), to fail to pay such a nonimmigrant for such hours as are designated on such petition consistent with the rate of pay identified on such petition.

“(III) In the case of an H–1B nonimmigrant who has not yet entered into employment with an employer who has had approved an application under this subsection, and a petition under section 214(c)(1), with respect to the nonimmigrant, the provisions of subclauses (I) and (II) shall apply to the employer beginning 30 days after the date the nonimmigrant first is admitted into the United States pursuant to the petition, or 60 days after the date the nonimmigrant becomes eligible to work for the employer (in the case of a nonimmigrant who is present in the United States on the date of the approval of the petition).

“(IV) This clause does not apply to a failure to pay wages to an H–1B nonimmigrant for nonproductive time due to non-work-related factors, such as the voluntary request of the nonimmigrant for an absence or circumstances rendering the nonimmigrant unable to work.

“(V) This clause shall not be construed as prohibiting an employer that is a school or other educational institution from applying to an H–1B nonimmigrant an established salary practice of the employer, under which the employer pays to H–1B nonimmigrants and United States workers in the same occupational classification an annual salary in disbursements over fewer than 12 months, if—

“(aa) the nonimmigrant agrees to the compressed annual salary payments prior to the commencement of the employment; and

“(bb) the application of the salary practice to the nonimmigrant does not otherwise cause the nonimmigrant to



violate any condition of the nonimmigrant's authorization under this Act to remain in the United States.

“(VI) This clause shall not be construed as superseding clause (viii).

“(viii) It is a failure to meet a condition of paragraph (1)(A) for an employer who has filed an application under this subsection to fail to offer to an H-1B nonimmigrant, during the nonimmigrant's period of authorized employment, benefits and eligibility for benefits (including the opportunity to participate in health, life, disability, and other insurance plans; the opportunity to participate in retirement and savings plans; and cash bonuses and noncash compensation, such as stock options (whether or not based on performance)) on the same basis, and in accordance with the same criteria, as the employer offers to United States workers.”.

(b) USE OF ARBITRATION PROCESS FOR DISPUTES INVOLVING QUALIFICATIONS OF UNITED STATES WORKERS NOT HIRED.—

(1) IN GENERAL.—Section 212(n) (8 U.S.C. 1182(n)), as amended by section 412(b), is further amended by adding at the end the following:

“(5)(A) This paragraph shall apply instead of subparagraphs (A) through (E) of paragraph (2) in the case of a violation described in subparagraph (B), but shall not be construed to limit or affect the authority of the Secretary or the Attorney General with respect to any other violation.

Applicability.

“(B) The Attorney General shall establish a process for the receipt, initial review, and disposition in accordance with this paragraph of complaints respecting an employer's failure to meet the condition of paragraph (1)(G)(i)(II) or a petitioner's misrepresentation of material facts with respect to such condition. Complaints may be filed by an aggrieved individual who has submitted a resume or otherwise applied in a reasonable manner for the job that is the subject of the condition. No proceeding shall be conducted under this paragraph on a complaint concerning such a failure or misrepresentation unless the Attorney General determines that the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively.

Establishment.

“(C) If the Attorney General finds that a complaint has been filed in accordance with subparagraph (B) and there is reasonable cause to believe that such a failure or misrepresentation described in such complaint has occurred, the Attorney General shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Attorney General shall pay the fee and expenses of the arbitrator.

“(D)(i) The arbitrator shall make findings respecting whether a failure or misrepresentation described in subparagraph (B) occurred. If the arbitrator concludes that failure or misrepresentation was willful, the arbitrator shall make a finding to that effect. The arbitrator may not find such a failure or misrepresentation (or that such a failure or misrepresentation was willful) unless the complainant demonstrates such a failure or misrepresentation (or its willful character) by clear and convincing evidence. The arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Attorney General. Such findings shall be final and conclusive, and, except as provided

in this subparagraph, no official or court of the United States shall have power or jurisdiction to review any such findings.

“(ii) The Attorney General may review and reverse or modify the findings of an arbitrator only on the same bases as an award of an arbitrator may be vacated or modified under section 10 or 11 of title 9, United States Code.

“(iii) With respect to the findings of an arbitrator, a court may review only the actions of the Attorney General under clause (ii) and may set aside such actions only on the grounds described in subparagraph (A), (B), or (C) of section 706(a)(2) of title 5, United States Code. Notwithstanding any other provision of law, such judicial review may only be brought in an appropriate United States court of appeals.

“(E) If the Attorney General receives a finding of an arbitrator under this paragraph that an employer has failed to meet the condition of paragraph (1)(G)(i)(II) or has misrepresented a material fact with respect to such condition, unless the Attorney General reverses or modifies the finding under subparagraph (D)(ii)—

“(i) the Attorney General may impose administrative remedies (including civil monetary penalties in an amount not to exceed \$1,000 per violation or \$5,000 per violation in the case of a willful failure or misrepresentation) as the Attorney General determines to be appropriate; and

“(ii) the Attorney General is authorized to not approve petitions filed, with respect to that employer and for aliens to be employed by the employer, under section 204 or 214(c)—

“(I) during a period of not more than 1 year; or

“(II) in the case of a willful failure or willful misrepresentation, during a period of not more than 2 years.

“(F) The Attorney General shall not delegate, to any other employee or official of the Department of Justice, any function of the Attorney General under this paragraph, until 60 days after the Attorney General has submitted a plan for such delegation to the Committees on the Judiciary of the United States House of Representatives and the Senate.”

(2) CONFORMING AMENDMENT.—The first sentence of section 212(n)(2)(A) (8 U.S.C. 1182(n)(2)(A)) is amended by striking “The Secretary” and inserting “Subject to paragraph (5)(A), the Secretary”.

(c) LIABILITY OF PETITIONING EMPLOYER IN CASE OF PLACEMENT OF H-1B NONIMMIGRANT WITH ANOTHER EMPLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following:

“(E) If an H-1B-dependent employer places a nonexempt H-1B nonimmigrant with another employer as provided under paragraph (1)(F) and the other employer has displaced or displaces a United States worker employed by such other employer during the period described in such paragraph, such displacement shall be considered for purposes of this paragraph a failure, by the placing employer, to meet a condition specified in an application submitted under paragraph (1); except that the Attorney General may impose a sanction described in subclause (II) of subparagraph (C)(i), (C)(ii), or (C)(iii) only if the Secretary of Labor found that such placing employer—

“(i) knew or had reason to know of such displacement at the time of the placement of the nonimmigrant with the other employer; or

“(ii) has been subject to a sanction under this subparagraph based upon a previous placement of an H-1B nonimmigrant with the same other employer.”.

(d) SPOT INVESTIGATIONS DURING PROBATIONARY PERIOD.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (c), is further amended by adding at the end the following:

“(F) The Secretary may, on a case-by-case basis, subject an employer to random investigations for a period of up to 5 years, beginning on the date (on or after the date of the enactment of the American Competitiveness and Workforce Improvement Act of 1998) on which the employer is found by the Secretary to have committed a willful failure to meet a condition of paragraph (1) (or has been found under paragraph (5) to have committed a willful failure to meet the condition of paragraph (1)(G)(i)(II)) or to have made a willful misrepresentation of material fact in an application. The preceding sentence shall apply to an employer regardless of whether or not the employer is an H-1B-dependent employer. The authority of the Secretary under this subparagraph shall not be construed to be subject to, or limited by, the requirements of subparagraph (A).”.

(e) ADDITIONAL INVESTIGATIVE AUTHORITY.—

(1) IN GENERAL.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (d), is further amended by adding at the end the following:

“(G)(i) If the Secretary receives specific credible information from a source, who is likely to have knowledge of an employer’s practices or employment conditions, or an employer’s compliance with the employer’s labor condition application under paragraph (1), and whose identity is known to the Secretary, and such information provides reasonable cause to believe that the employer has committed a willful failure to meet a condition of paragraph (1)(A), (1)(B), (1)(E), (1)(F), or (1)(G)(i)(I), has engaged in a pattern or practice of failures to meet such a condition, or has committed a substantial failure to meet such a condition that affects multiple employees, the Secretary may conduct a 30-day investigation into the alleged failure or failures. The Secretary (or the Acting Secretary in the case of the Secretary’s absence or disability) shall personally certify that the requirements for conducting such an investigation have been met and shall approve commencement of the investigation. The Secretary may withhold the identity of the source from the employer, and the source’s identity shall not be subject to disclosure under section 552 of title 5, United States Code.

Certification.

“(ii) The Secretary shall establish a procedure for any person, desiring to provide to the Secretary information described in clause (i) that may be used, in whole or in part, as the basis for commencement of an investigation described in such clause, to provide the information in writing on a form developed and provided by the Secretary and completed by or on behalf of the person. The person may not be an officer or employee of the Department of Labor, unless the information satisfies the requirement of clause (iii)(II) (although an officer or employee of the Department of Labor may complete the form on behalf of the person).

“(iii) Any investigation initiated or approved by the Secretary under clause (i) shall be based on information that satisfies the requirements of such clause and that (I) originates from a source other than an officer or employee of the Department of Labor,

or (II) was lawfully obtained by the Secretary of Labor in the course of lawfully conducting another Department of Labor investigation under this Act or any other Act.

“(iv) The receipt by the Secretary of information submitted by an employer to the Attorney General or the Secretary for purposes of securing the employment of an H–1B nonimmigrant shall not be considered a receipt of information for purposes of clause (i).

“(v) No investigation described in clause (i) (or hearing described in clause (vii)) may be conducted with respect to information about a failure to meet a condition described in clause (i), unless the Secretary receives the information not later than 12 months after the date of the alleged failure.

Notice.

“(vi) The Secretary shall provide notice to an employer with respect to whom the Secretary has received information described in clause (i), prior to the commencement of an investigation under such clause, of the receipt of the information and of the potential for an investigation. The notice shall be provided in such a manner, and shall contain sufficient detail, to permit the employer to respond to the allegations before an investigation is commenced. The Secretary is not required to comply with this clause if the Secretary determines that to do so would interfere with an effort by the Secretary to secure compliance by the employer with the requirements of this subsection. There shall be no judicial review of a determination by the Secretary under this clause.

Notice.

“(vii) If the Secretary determines under this subparagraph that a reasonable basis exists to make a finding that a failure described in clause (i) has occurred, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 60 days after the date of the hearing.”.

8 USC 1182 note.

(2) SUNSET.—The amendment made by paragraph (1) shall cease to be effective on September 30, 2001.

(f) CONSTRUCTION.—Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by subsection (e), is further amended by adding at the end the following:

“(H) Nothing in this subsection shall be construed as superseding or preempting any other enforcement-related authority under this Act (such as the authorities under section 274B), or any other Act.”.

**SEC. 414. COLLECTION AND USE OF H-1B NONIMMIGRANT FEES FOR SCHOLARSHIPS FOR LOW-INCOME MATH, ENGINEERING, AND COMPUTER SCIENCE STUDENTS AND JOB TRAINING OF UNITED STATES WORKERS.**

(a) IMPOSITION OF FEE.—Section 214(c) (8 U.S.C. 1184(c)) is amended by adding at the end the following:

“(9)(A) The Attorney General shall impose a fee on an employer (excluding an employer described in subparagraph (A) or (B) of section 212(p)(1)) filing (on or after December 1, 1998, and before October 1, 2001) a petition under paragraph (1)—

“(i) initially to grant an alien nonimmigrant status described in section 101(a)(15)(H)(i)(b);

“(ii) to extend the stay of an alien having such status (unless the employer previously has obtained an extension for such alien); or

“(iii) to obtain authorization for an alien having such status to change employers.

“(B) The amount of the fee shall be \$500 for each such petition.

“(C) Fees collected under this paragraph shall be deposited in the Treasury in accordance with section 286(s).”.

(b) ESTABLISHMENT OF ACCOUNT; USE OF FEES.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

“(s) H-1B NONIMMIGRANT PETITIONER ACCOUNT.—

“(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ‘H-1B Nonimmigrant Petitioner Account’. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(9).

“(2) USE OF FEES FOR JOB TRAINING.—56.3 percent of amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for demonstration programs and projects described in section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998.

“(3) USE OF FEES FOR LOW-INCOME SCHOLARSHIP PROGRAM.—28.2 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended for scholarships described in section 414(d) of the American Competitiveness and Workforce Improvement Act of 1998 for low-income students enrolled in a program of study leading to a degree in mathematics, engineering, or computer science.

“(4) ADDITIONAL NSF USES.—

“(A) GRANTS FOR MATHEMATICS, ENGINEERING, OR SCIENCE ENRICHMENT COURSES.—4 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to make merit-reviewed grants, under section 3(a)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(1)), for programs that provide opportunities for enrollment in year-round academic enrichment courses in mathematics, engineering, or science.

“(B) SYSTEMIC REFORM ACTIVITIES.—4 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to carry out systemic reform activities administered by the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(1)).

“(5) USE OF FEES FOR DUTIES RELATING TO PETITIONS.—1.5 percent of the amounts deposited into the H-1B Nonimmigrant Petitioner Account shall remain available to the Attorney General until expended to carry out duties under paragraphs (1) and (9) of section 214(c) related to petitions made for nonimmigrants described in section 101(a)(15)(H)(i)(b), to decrease the processing time for such petitions, and to carry

out duties under section 416 of the American Competitiveness and Workforce Improvement Act of 1998. Such amounts shall be available in addition to any other fees authorized to be collected by the Attorney General with respect to such petitions.

“(6) USE OF FEES FOR APPLICATION PROCESSING AND ENFORCEMENT.—For fiscal year 1999, 6 percent of the amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for decreasing the processing time for applications under section 212(n)(1) and for carrying out section 212(n)(2). Beginning with fiscal year 2000, 3 percent of the amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for decreasing the processing time for applications under section 212(n)(1), and 3 percent of such amounts shall remain available to such Secretary until expended for carrying out section 212(n)(2). Notwithstanding the preceding sentence, both of the amounts made available for any fiscal year (beginning with fiscal year 2000) pursuant to the preceding sentence shall be available to such Secretary, and shall remain available until expended, only for decreasing the processing time for applications under section 212(n)(1) until the Secretary submits to the Congress a report containing a certification that, during the most recently concluded calendar year, the Secretary substantially complied with the requirement in section 212(n)(1) relating to the provision of the certification described in section 101(a)(15)(H)(i)(b) within a 7-day period.”.

29 USC 2916  
note.

(c) DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.—

(1) IN GENERAL.—In establishing demonstration programs under section 452(c) of the Job Training Partnership Act (29 U.S.C. 1732(c)), as in effect on the date of the enactment of this Act, or demonstration programs or projects under section 171(b) of the Workforce Investment Act of 1998, the Secretary of Labor shall use funds available under section 286(s)(2) to establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

(2) GRANTS.—The Secretary of Labor shall award grants to carry out the programs and projects described in paragraph (1) to—

(A)(i) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512), as in effect on the date of the enactment of this Act; or

(ii) local boards that will carry out such programs or projects through one-stop delivery systems established under section 121 of the Workforce Investment Act of 1998; or

(B) regional consortia of councils or local boards described in subparagraph (A).

42 USC 1869c.

(d) LOW-INCOME SCHOLARSHIP PROGRAM.—

(1) ESTABLISHMENT.—The Director of the National Science Foundation (referred to in this subsection as the “Director”) shall award scholarships to low-income individuals to enable such individuals to pursue associate, undergraduate, or

graduate level degrees in mathematics, engineering, or computer science.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to receive a scholarship under this subsection, an individual—

(i) must be a citizen of the United States, a national of the United States (as defined in section 101(a) of the Immigration and Nationality Act), an alien admitted as a refugee under section 207 of the Immigration and Nationality, or an alien lawfully admitted to the United States for permanent residence;

(ii) shall prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director may require; and

(iii) shall certify to the Director that the individual intends to use amounts received under the scholarship to enroll or continue enrollment at an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965) in order to pursue an associate, undergraduate, or graduate level degree in mathematics, engineering, or computer science.

(B) ABILITY.—Awards of scholarships under this subsection shall be made by the Director solely on the basis of the ability of the applicant, except that in any case in which 2 or more applicants for scholarships are deemed by the Director to be possessed of substantially equal ability, and there are not sufficient scholarships available to grant one to each of such applicants, the available scholarship or scholarships shall be awarded to the applicants in a manner that will tend to result in a geographically wide distribution throughout the United States of recipients' places of permanent residence.

(3) LIMITATION.—The amount of a scholarship awarded under this subsection shall be determined by the Director, except that the Director shall not award a scholarship in an amount exceeding \$2,500 per year.

(4) FUNDING.—The Director shall carry out this subsection only with funds made available under section 286(s)(3) of the Immigration and Nationality Act.

**SEC. 415. COMPUTATION OF PREVAILING WAGE LEVEL.**

(a) IN GENERAL.—Section 212 (8 U.S.C. 1182) is amended by adding at the end the following:

“(p)(1) In computing the prevailing wage level for an occupational classification in an area of employment for purposes of subsections (n)(1)(A)(i)(II) and (a)(5)(A) in the case of an employee of—

“(A) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity; or

“(B) a nonprofit research organization or a Governmental research organization,

the prevailing wage level shall only take into account employees at such institutions and organizations in the area of employment.

“(2) With respect to a professional athlete (as defined in subsection (a)(5)(A)(iii)(II)) when the job opportunity is covered by professional sports league rules or regulations, the wage set forth

in those rules or regulations shall be considered as not adversely affecting the wages of United States workers similarly employed and be considered the prevailing wage.”.

8 USC 1182 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) applies to prevailing wage computations made—

(1) for applications filed on or after the date of the enactment of this Act; and

(2) for applications filed before such date, but only to the extent that the computation is subject to an administrative or judicial determination that is not final as of such date.

8 USC 1184 note.

**SEC. 416. IMPROVING COUNT OF H-1B AND H-2B NONIMMIGRANTS.**

(a) **ENSURING ACCURATE COUNT.**—The Attorney General shall take such steps as are necessary to maintain an accurate count of the number of aliens subject to the numerical limitations of section 214(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)) who are issued visas or otherwise provided non-immigrant status.

(b) **REVISION OF PETITION FORMS.**—The Attorney General shall take such steps as are necessary to revise the forms used for petitions for visas or nonimmigrant status under clause (i)(b) or (ii)(b) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) so as to ensure that the forms provide the Attorney General with sufficient information to permit the Attorney General accurately to count the number of aliens subject to the numerical limitations of section 214(g)(1) of such Act (8 U.S.C. 1184(g)(1)) who are issued visas or otherwise provided non-immigrant status.

(c) **PROVISION OF INFORMATION.**—

(1) **QUARTERLY NOTIFICATION.**—Beginning not later than 60 days after the first day of fiscal year 1999, the Attorney General shall notify, on a quarterly basis, the Committees on the Judiciary of the United States House of Representatives and the Senate of the numbers of aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act during the preceding 3-month period.

(2) **ANNUAL SUBMISSION.**—Beginning with fiscal year 2000, the Attorney General shall submit on an annual basis, to the Committees on the Judiciary of the United States House of Representatives and the Senate, information on the countries of origin and occupations of, educational levels attained by, and compensation paid to, aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act during the previous fiscal year. With respect to the first submission under this paragraph, the information shall relate solely to aliens provided nonimmigrant status after the date that is 60 days after the date on which final regulations are issued to carry out section 412(a).

(3) **SPECIFICATION OF NUMBER OF PETITIONS FILED BY CERTAIN EMPLOYERS.**—Each notification under paragraph (1), and each submission under paragraph (2), shall include the number of aliens who were issued visas or otherwise provided non-immigrant status pursuant to petitions filed by institutions or organizations described in section 212(p)(1) of the Immigration and Nationality Act (as added by section 415 of this title).



**SEC. 417. REPORT ON OLDER WORKERS IN THE INFORMATION TECHNOLOGY FIELD.** 29 USC 2701 note.

(a) **STUDY.**—The Director of the National Science Foundation shall enter into a contract with the President of the National Academy of Sciences to conduct a study, using the best available data, assessing the status of older workers in the information technology field. The study shall consider the following:

(1) The existence and extent of age discrimination in the information technology workplace.

(2) The extent to which there is a difference, based on age, in—

(A) promotion and advancement;

(B) working hours;

(C) telecommuting;

(D) salary; and

(E) stock options, bonuses, and other benefits.

(3) The relationship between rates of advancement, promotion, and compensation to experience, skill level, education, and age.

(4) Differences in skill level on the basis of age.

(b) **REPORT.**—Not later than October 1, 2000, the Director of the National Science Foundation shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in subsection (a).

**SEC. 418. REPORT ON HIGH TECHNOLOGY LABOR MARKET NEEDS; REPORTS ON ECONOMIC IMPACT OF INCREASE IN H-1B NONIMMIGRANTS.** 29 USC 2701 note.

(a) **NATIONAL SCIENCE FOUNDATION STUDY AND REPORT.**—

(1) **IN GENERAL.**—The Director of the National Science Foundation shall conduct a study to assess labor market needs for workers with high technology skills during the next 10 years. The study shall investigate and analyze the following:

(A) Future training and education needs of companies in the high technology and information technology sectors and future training and education needs of United States students to ensure that students' skills at various levels are matched to the needs in such sectors.

(B) An analysis of progress made by educators, employers, and government entities to improve the teaching and educational level of American students in the fields of math, science, computer science, and engineering since 1998.

(C) An analysis of the number of United States workers currently or projected to work overseas in professional, technical, and managerial capacities.

(D) The relative achievement rates of United States and foreign students in secondary schools in a variety of subjects, including math, science, computer science, English, and history.

(E) The relative performance, by subject area, of United States and foreign students in postsecondary and graduate schools as compared to secondary schools.

(F) The needs of the high technology sector for foreign workers with specific skills and the potential benefits and costs to United States employers, workers, consumers,

postsecondary educational institutions, and the United States economy, from the entry of skilled foreign professionals in the fields of science and engineering.

(G) The needs of the high technology sector to adapt products and services for export to particular local markets in foreign countries.

(H) An examination of the amount and trend of moving the production or performance of products and services now occurring in the United States abroad.

(2) REPORT.—Not later than October 1, 2000, the Director of the National Science Foundation shall submit to the Committees on the Judiciary of the United States House of Representatives and the Senate a report containing the results of the study described in paragraph (1).

(3) INVOLVEMENT.—The study under paragraph (1) shall be conducted in a manner that ensures the participation of individuals representing a variety of points of view.

8 USC 1184 note.

(b) REPORTING ON STUDIES SHOWING ECONOMIC IMPACT OF H-1B NONIMMIGRANT INCREASE.—The Chairman of the Board of Governors of the Federal Reserve System, the Director of the Office of Management and Budget, the Chair of the Council of Economic Advisers, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Labor, and any other member of the Cabinet, shall promptly report to the Congress the results of any reliable study that suggests, based on legitimate economic analysis, that the increase effected by section 411(a) of this title in the number of aliens who may be issued visas or otherwise provided non-immigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act has had an impact on any national economic indicator, such as the level of inflation or unemployment, that warrants action by the Congress.

#### SUBTITLE B—SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES

#### SEC. 421. SPECIAL IMMIGRANT STATUS FOR CERTAIN NATO CIVILIAN EMPLOYEES.

(a) IN GENERAL.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking “or” at the end of subparagraph (J);

(2) by striking the period at the end of subparagraph (K) and inserting “; or”; and

(3) by adding at the end the following new subparagraph:  
“(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (I) if any reference in such a clause—

“(i) to an international organization described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);

“(ii) to a nonimmigrant under paragraph (15)(G)(iv) were treated as a reference to a nonimmigrant classifiable under NATO–6 (as a member of a civilian component accompanying a force entering in accordance with the provisions of the NATO Status-of-Forces Agreement, a member of a civilian component attached to or employed by an Allied Headquarters under the ‘Protocol on the Status of

International Military Headquarters' set up pursuant to the North Atlantic Treaty, or as a dependent); and

“(iii) to the Immigration Technical Corrections Act of 1988 or to the Immigration and Nationality Technical Corrections Act of 1994 were a reference to the American Competitiveness and Workforce Improvement Act of 1998.”.

(b) CONFORMING NONIMMIGRANT STATUS FOR CERTAIN PARENTS OF SPECIAL IMMIGRANT CHILDREN.—Section 101(a)(15)(N) (8 U.S.C. 1101(a)(15)(N)) is amended—

(1) by inserting “(or under analogous authority under paragraph (27)(L))” after “(27)(I)(i)”; and

(2) by inserting “(or under analogous authority under paragraph (27)(L))” after “(27)(I)”.

#### SUBTITLE C—MISCELLANEOUS PROVISION

##### SEC. 431. ACADEMIC HONORARIA.

(a) IN GENERAL.—Section 212 (8 U.S.C. 1182), as amended by section 415, is further amended by adding at the end the following:

“(q) Any alien admitted under section 101(a)(15)(B) may accept an honorarium payment and associated incidental expenses for a usual academic activity or activities (lasting not longer than 9 days at any single institution), as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution or organization described in subsection (p)(1) and is made for services conducted for the benefit of that institution or entity and if the alien has not accepted such payment or expenses from more than 5 institutions or organizations in the previous 6-month period.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to activities occurring on or after the date of the enactment of this Act. 8 USC 1182 note.

#### TITLE V—SALTON SEA FEASIBILITY STUDY

(a) IN GENERAL.—No later than January 1, 2000, the Secretary of the Interior, in accordance with this section, shall complete all feasibility studies and cost analyses for the options set forth in subsection (b)(2)(A) necessary for Congress to fully evaluate such options.

(b) FEASIBILITY STUDY.—

(1) IN GENERAL.—

(A) The Secretary shall complete all studies, including, but not limited to environmental and other reviews, of the feasibility and benefit-cost of various options that permit the continued use of the Salton Sea as a reservoir for irrigation drainage and (1) reduce and stabilize the overall salinity of the Salton Sea, (2) stabilize the surface elevation of the Salton Sea, (3) reclaim, in the long term, healthy fish and wildlife resources and their habitats, and (4) enhance the potential for recreational uses and economic development of the Salton Sea.

(B) Based solely on whatever information is available at the time of submission of the report, the Secretary shall (1) identify any options he deems economically feasible and cost effective, (2) identify any additional

information necessary to develop construction specifications, and (3) submit any recommendations, along with the results of the study to the Committees no later than January 1, 2000.

(i) The Secretary shall carry out the feasibility study in accordance with a memorandum of understanding entered into by the Secretary, the Salton Sea Authority, and the Governor of California.

(ii) The memorandum of understanding shall, at a minimum, establish criteria for evaluation and selection of options under subparagraph (2)(A), including criteria for determining benefits and the magnitude and practicability of costs of construction, operation, and maintenance of each option evaluated.

(2) OPTIONS TO BE CONSIDERED.—Options considered in the feasibility study—

(A) shall consist of, but need not be limited to—

(i) use of impoundments to segregate a portion of the waters of the Salton Sea in one or more evaporation ponds located in the Salton Sea basin;

(ii) pumping water out of the Salton Sea;

(iii) augmented flows of water into the Salton Sea;

(iv) a combination of the options referred to in clauses (i), (ii), and (iii); and

(v) any other economically feasible remediation option the Secretary considers appropriate and for which feasibility analyses and cost estimates can be completed by January 1, 2000;

(B) shall be limited to proven technologies; and

(C) shall not include any option that—

(i) relies on the importation of any new or additional water from the Colorado River; or

(ii) is inconsistent with the provisions of subsection

(c).

(3) ASSUMPTIONS.—In evaluating options, the Secretary shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water conservation, account for transfers of water out of the Salton Sea Basin, and are based on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet or less per year.

(4) CONSIDERATION OF COSTS.—In evaluating the feasibility of options, the Secretary shall consider the ability of Federal, tribal, State and local government sources and private sources to fund capital construction costs and annual operation, maintenance, energy, and replacement costs and shall set forth the basis for any cost sharing allocations as well as anticipated repayment, if any, of federal contributions.

(c) RELATIONSHIP TO OTHER LAW.—

(1) RECLAMATION LAWS.—Activities authorized by this title shall not be subject to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391 et seq.), and Acts amendatory thereof and supplemental thereto. Amounts expended for those activities shall be considered nonreimbursable for purposes of those laws and shall not be considered to be a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

(2) PRESERVATION OF RIGHTS AND OBLIGATIONS WITH RESPECT TO THE COLORADO RIVER.—This Act shall not be considered to supersede or otherwise affect any treaty, law, decree, contract, or agreement governing use of water from the Colorado River. All activities taken under this Act must be carried out in a manner consistent with rights and obligations of persons under those treaties, laws, decrees, contracts, and agreements.

**TITLE VI—CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION**

**SEC. 601. DEFINITIONS.**

In this title, the following definitions apply:

(1) RESTORATION.—The term “restoration” means mitigation of the habitat of wildlife.

(2) TERRESTRIAL WILDLIFE HABITAT.—The term “terrestrial wildlife habitat” means a habitat for a wildlife species (including game and nongame species) that existed or exists on an upland habitat (including a prairie grassland, woodland, bottom land forest, scrub, or shrub) or an emergent wetland habitat.

(3) WILDLIFE.—The term “wildlife” has the meaning given the term in section 8 of the Fish and Wildlife Coordination Act (16 U.S.C. 666b).

**SEC. 602. TERRESTRIAL WILDLIFE HABITAT RESTORATION.**

(a) TERRESTRIAL WILDLIFE HABITAT RESTORATION PLANS.—

(1) IN GENERAL.—In accordance with this subsection and in consultation with the Secretary and the Secretary of the Interior, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall, as a condition of the receipt of funds under this title, each develop a plan for the restoration of terrestrial wildlife habitat loss that occurred as a result of flooding related to the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

(2) SUBMISSION OF PLAN TO SECRETARY.—On completion of a plan for terrestrial wildlife habitat restoration, the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe shall submit the plan to the Secretary.

(3) REVIEW BY SECRETARY AND SUBMISSION TO COMMITTEES.—The Secretary shall review the plan and submit the plan, with any comments, to the appropriate committees of the Senate and the House of Representatives.

(4) FUNDING FOR CARRYING OUT PLANS.—

(A) STATE OF SOUTH DAKOTA.—

(i) NOTIFICATION.—On receipt of the plan for terrestrial wildlife habitat restoration submitted by the State of South Dakota, each of the Committees referred to in paragraph (3) shall notify the Secretary of the Treasury of the receipt of the plan.

(ii) AVAILABILITY OF FUNDS.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the State of South Dakota funds from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund established under section

803, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the State and only after the Trust Fund is fully capitalized.

(B) CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE.—

(i) NOTIFICATION.—On receipt of the plan for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, each of the Committees referred to in paragraph (3) shall notify the Secretary of the Treasury of the receipt of each of the plans.

(ii) AVAILABILITY OF FUNDS.—On notification in accordance with clause (i), the Secretary of the Treasury shall make available to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe funds from the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund, respectively, established under section 804, to be used to carry out the plan for terrestrial wildlife habitat restoration submitted by the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, respectively, and only after the Trust Fund is fully capitalized.

(C) TRANSITION PERIOD.—

(i) IN GENERAL.—During the period described in clause (ii), the Secretary shall—

(I) fund the terrestrial wildlife habitat restoration programs being carried out on the date of enactment of this Act on Oahe and Big Bend project land and the plans established under this section at a level that does not exceed the highest amount of funding that was provided for the programs during a previous fiscal year; and

(II) fund the activities described in sections 803(d)(3) and 804(d)(3).

(ii) PERIOD.—Clause (i) shall apply during the period—

(I) beginning on the date of enactment of this Act; and

(II) ending on the date on which funds are made available for use from the South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund under section 803(d)(3)(A)(i) and the Cheyenne River Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund and the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund under section 804(d)(3)(A)(i).

(b) PROGRAMS FOR THE PURCHASE OF WILDLIFE HABITAT LEASES.—

(1) IN GENERAL.—The State of South Dakota may use funds made available under section 803(d)(3)(A)(iii) to develop a program for the purchase of wildlife habitat leases that meets the requirements of this subsection.

(2) DEVELOPMENT OF A PLAN.—

(A) IN GENERAL.—If the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux

Tribe elects to conduct a program under this subsection, the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe (in consultation with the United States Fish and Wildlife Service and the Secretary and with an opportunity for public comment) shall develop a plan to lease land for the protection and development of wildlife habitat, including habitat for threatened and endangered species, associated with the Missouri River ecosystem.

(B) USE FOR PROGRAM.—The plan shall be used by the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe in carrying out the program carried out under paragraph (1).

(3) CONDITIONS OF LEASES.—Each lease covered under a program carried out under paragraph (1) shall specify that the owner of the property that is subject to the lease shall provide—

(A) public access for sportsmen during hunting season; and

(B) public access for other outdoor uses covered under the lease, as negotiated by the landowner and the State of South Dakota, the Cheyenne River Sioux Tribe, or the Lower Brule Sioux Tribe.

(4) USE OF ASSISTANCE.—

(A) STATE OF SOUTH DAKOTA.—If the State of South Dakota conducts a program under this subsection, the State may use funds made available under section 803(d)(3)(A)(iii) to—

(i) acquire easements, rights-of-way, or leases for management and protection of wildlife habitat, including habitat for threatened and endangered species, and public access to wildlife on private property in the State of South Dakota;

(ii) create public access to Federal or State land through the purchase of easements or rights-of-way that traverse such private property; or

(iii) lease land for the creation or restoration of a wetland on such private property.

(B) CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE.—If the Cheyenne River Sioux Tribe or the Lower Brule Sioux Tribe conducts a program under this subsection, the Tribe may use funds made available under section 804(d)(3)(A)(iii) for the purposes described in subparagraph (A).

(c) FEDERAL OBLIGATION FOR TERRESTRIAL WILDLIFE HABITAT MITIGATION FOR THE BIG BEND AND OAHE PROJECTS IN SOUTH DAKOTA.—The establishment of the trust funds under sections 803 and 804 and the development and implementation of plans for terrestrial wildlife habitat restoration developed by the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe in accordance with this section shall be considered to satisfy the Federal obligation under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) for terrestrial wildlife habitat mitigation for the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe for the Big Bend and Oahe projects carried out as part of the Pick-Sloan Missouri River Basin program.

**SEC. 603. SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUND.**

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the “South Dakota Terrestrial Wildlife Habitat Restoration Trust Fund” (referred to in this section as the “Fund”).

(b) **FUNDING.**—For the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Fund under this subsection is equal to at least \$108,000,000, the Secretary of the Treasury shall deposit \$10,000,000 in the Fund.

(c) **INVESTMENTS.**—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed by the United States as to both principal and interest.

(d) **PAYMENTS.**—

(1) **IN GENERAL.**—All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the State of South Dakota for use in accordance with paragraph (3) after the Fund has been fully capitalized.

(2) **WITHDRAWAL AND TRANSFER OF FUNDS.**—Subject to section 802(a)(4)(A), the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the State of South Dakota for use as State funds in accordance with paragraph (3) after the Fund has been fully capitalized.

(3) **USE OF TRANSFERRED FUNDS.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the State of South Dakota shall use the amounts transferred under paragraph (2) only to—

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the State developed under section 802(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural sites located along the Missouri River on land transferred to the State;

(II) fund all costs associated with the ownership, management, operation, administration, maintenance, and development of recreation areas and other lands that are transferred to the State of South Dakota by the Secretary;

(III) purchase and administer wildlife habitat leases under section 802(b);

(IV) carry out other activities described in section 802; and

(V) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River.

(B) **PROHIBITION.**—The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) **TRANSFERS AND WITHDRAWALS.**—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).



(f) **ADMINISTRATIVE EXPENSES.**—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

**SEC. 604. CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUNDS.**

(a) **ESTABLISHMENT.**—There are established in the Treasury of the United States 2 funds to be known as the “Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund” and the “Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund” (each of which is referred to in this section as a “Fund”).

(b) **FUNDING.**—

(1) **IN GENERAL.**—Subject to paragraph (2), for the fiscal year during which this Act is enacted and each fiscal year thereafter until the aggregate amount deposited in the Funds under this subsection is equal to at least \$57,400,000, the Secretary of the Treasury shall deposit \$5,000,000 in the Funds.

(2) **ALLOCATION.**—Of the total amount of funds deposited into the Funds for a fiscal year, the Secretary of the Treasury shall deposit—

(A) 74 percent of the funds into the Cheyenne River Sioux Tribe Terrestrial Wildlife Restoration Trust Fund; and

(B) 26 percent of the funds into the Lower Brule Sioux Tribe Terrestrial Wildlife Habitat Restoration Trust Fund.

(c) **INVESTMENTS.**—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) **PAYMENTS.**—

(1) **IN GENERAL.**—All amounts credited as interest under subsection (c) shall be available after the Trust Funds are fully capitalized, without fiscal year limitation, to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for their use in accordance with paragraph (3).

(2) **WITHDRAWAL AND TRANSFER OF FUNDS.**—Subject to section 802(a)(4)(B), the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe for use in accordance with paragraph (3).

(3) **USE OF TRANSFERRED FUNDS.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe shall use the amounts transferred under paragraph

(2) only to—

(i) fully fund the annually scheduled work described in the terrestrial wildlife habitat restoration plan of the respective Tribe developed under section 802(a); and

(ii) with any remaining funds—

(I) protect archaeological, historical, and cultural sites located along the Missouri River on land transferred to the respective Tribe;

(II) fund all costs associated with the ownership, management, operation, administration,

maintenance, and development of recreation areas and other lands that are transferred to the respective Tribe by the Secretary;

(III) purchase and administer wildlife habitat leases under section 802(b);

(IV) carry out other activities described in section 802; and

(V) develop and maintain public access to, and protect, wildlife habitat and recreation areas along the Missouri River.

(B) PROHIBITION.—The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

#### SEC. 605. TRANSFER OF FEDERAL LAND TO STATE OF SOUTH DAKOTA.

(a) IN GENERAL.—

(1) TRANSFER.—

(A) IN GENERAL.—The Secretary shall transfer to the Department of Game, Fish and Parks of the State of South Dakota (referred to in this section as the “Department”) the land and recreation areas described in subsections (b) and (c) for fish and wildlife purposes, or public recreation uses, in perpetuity.

(B) PERMITS, RIGHTS-OF-WAY, AND EASEMENTS.—All permits, rights-of-way, and easements granted by the Secretary to the Oglala Sioux Tribe for land on the west side of the Missouri River between the Oahe Dam and Highway 14, and all permits, rights-of-way, and easements on any other land administered by the Secretary and used by the Oglala Sioux Rural Water Supply System, are granted to the Oglala Sioux Tribe in perpetuity to be held in trust under section 3(e) of the Mni Wiconi Project Act of 1988 (102 Stat. 2568).

(2) USES.—The Department shall maintain and develop the land outside the recreation areas for fish and wildlife purposes in accordance with—

(A) fish and wildlife purposes in effect on the date of enactment of this Act; or

(B) a plan developed under section 802.

(3) CORPS OF ENGINEERS.—The transfer shall not interfere with the Corps of Engineers operation of a project under this section for an authorized purpose of the project under the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.), or other applicable law.

(4) SECRETARY.—The Secretary shall retain the right to inundate with water the land transferred to the Department under this section or draw down a project reservoir, as necessary to carry out an authorized purpose of a project.

(b) LAND TRANSFERRED.—The land described in this subsection is land that—

(1) is located above the top of the exclusive flood pool of the Oahe, Big Bend, Fort Randall, and Gavin's Point projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary for the implementation of the Pick-Sloan Missouri River Basin program;

(3) is located outside the external boundaries of a reservation of an Indian Tribe; and

(4) is located within the State of South Dakota.

(c) RECREATION AREAS TRANSFERRED.—A recreation area described in this section includes the land and waters within a recreation area that—

(1) the Secretary determines, at the time of the transfer, is a recreation area classified for recreation use by the Corps of Engineers on the date of enactment of this Act;

(2) is located outside the external boundaries of a reservation of an Indian Tribe;

(3) is located within the State of South Dakota;

(4) is not the recreation area known as "Cottonwood", "Training Dike", or "Tailwaters"; and

(5) is located below Gavin's Point Dam in the State of South Dakota in accordance with boundary agreements and reciprocal fishing agreements between the State of South Dakota and the State of Nebraska in effect on the date of enactment of this Act, which agreements shall continue to be honored by the State of South Dakota as the agreements apply to any land or recreation areas transferred under this title to the State of South Dakota below Gavin's Point Dam and on the waters of the Missouri River.

(d) MAP.—

(1) IN GENERAL.—The Secretary, in consultation with the Department, shall prepare a map of the land and recreation areas transferred under this section.

(2) LAND.—The map shall identify—

(A) land reasonably expected to be required for project purposes during the 20-year period beginning on the date of enactment of this Act; and

(B) dams and related structures; which shall be retained by the Secretary.

(3) AVAILABILITY.—The map shall be on file in the appropriate offices of the Secretary.

(e) SCHEDULE FOR TRANSFER.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army and the Secretary of the Department shall jointly develop a schedule for transferring the land and recreation areas under this section.

(2) TRANSFER DEADLINE.—All land and recreation areas shall be transferred not later than 1 year after the full capitalization of the Trust Fund described in section 803.

(f) TRANSFER CONDITIONS.—The land and recreation areas described in subsections (b) and (c) shall be transferred in fee title to the Department on the following conditions:

(1) RESPONSIBILITY FOR DAMAGE.—The Secretary shall not be responsible for any damage to the land caused by flooding, sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) EASEMENTS, RIGHTS-OF-WAY, LEASES, AND COST-SHARING AGREEMENTS.—The Department shall maintain all easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(g) HUNTING AND FISHING.—

(1) IN GENERAL.—Nothing in this title affects jurisdiction over the land and water below the exclusive flood pool of the Missouri River within the State of South Dakota, including affected Indian reservations. The State of South Dakota, the Lower Brule Sioux Tribe, and the Cheyenne River Sioux Tribe shall continue in perpetuity to exercise the jurisdiction the State and Tribes possess on the date of enactment of this Act.

(2) NO EFFECT ON RESPECTIVE JURISDICTIONS.—The Secretary may not adopt any regulation or otherwise affect the respective jurisdictions of the State of South Dakota, the Lower Brule River Sioux Tribe, or the Cheyenne River Sioux Tribe described in paragraph (1).

(h) APPLICABILITY OF LAW.—Notwithstanding any other provision of this Act, the following provisions of law shall apply to land transferred under this section:

(1) The National Historic Preservation Act (16 U.S.C. 470 et seq.), including sections 106 and 304 of that Act (16 U.S.C. 470f, 470w-3).

(2) The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), including sections 4, 6, 7, and 9 of that Act (16 U.S.C. 470cc, 470ee, 470ff, 470hh).

(3) The Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), including subsections (a) and (d) of section 3 of that Act (25 U.S.C. 3003).

**SEC. 606. TRANSFER OF CORPS OF ENGINEERS LAND FOR INDIAN TRIBES.**

(a) IN GENERAL.—

(1) TRANSFER.—The Secretary of the Army shall transfer to the Secretary of the Interior the land and recreation areas described in subsections (b) and (c).

(2) CORPS OF ENGINEERS.—The transfer shall not interfere with the Corps of Engineers operation of a project under this section for an authorized purpose of the project under the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701-1 et seq.), or other applicable law.

(3) SECRETARY OF THE ARMY.—The Secretary of the Army shall retain the right to inundate with water the land transferred to the Secretary of the Interior under this section or draw down a project reservoir, as necessary to carry out an authorized purpose of a project.

(4) TRUST.—The Secretary of the Interior shall hold in trust for the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe the land transferred under this section that is located within the external boundaries of the reservation of the Indian Tribes.

(b) LAND TRANSFERRED.—The land described in this subsection is land that—

(1) is located above the top of the exclusive flood pool of the Big Bend and Oahe projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary of the Army for the implementation of the Pick-Sloan Missouri River Basin program; and

(3) is located within the external boundaries of the reservation of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe.

(c) RECREATION AREAS TRANSFERRED.—A recreation area described in this section includes the land and waters within a recreation area that—

(1) the Secretary determines, at the time of the transfer, is a recreation area classified for recreation use by the Corps of Engineers on the date of enactment of this Act;

(2) is located within the external boundaries of a reservation of an Indian Tribe; and

(3) is located within the State of South Dakota.

(d) MAP.—

(1) IN GENERAL.—The Secretary, in consultation with the governing bodies of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe, shall prepare a map of the land transferred under this section.

(2) LAND.—The map shall identify—

(A) land reasonably expected to be required for project purposes during the 20-year period beginning on the date of enactment of this Act; and

(B) dams and related structures;

which shall be retained by the Secretary.

(3) AVAILABILITY.—The map shall be on file in the appropriate offices of the Secretary.

(e) SCHEDULE FOR TRANSFER.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Chairmen of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe shall jointly develop a schedule for transferring the land and recreation areas under this section.

(2) TRANSFER DEADLINE.—All land and recreation areas shall be transferred not later than 1 year after the full capitalization of the State and tribal Trust Fund described in section 804.

(f) TRANSFER CONDITIONS.—The land and recreation areas described in subsections (b) and (c) shall be transferred to, and held in trust by, the Secretary of the Interior on the following conditions:

(1) RESPONSIBILITY FOR DAMAGE.—The Secretary shall not be responsible for any damage to the land caused by flooding, sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) HUNTING AND FISHING.—Nothing in this title affects jurisdiction over the land and waters below the exclusive flood pool and within the external boundaries of the Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe reservations. The State of South Dakota, the Lower Brule Sioux Tribe, and the Cheyenne River Sioux Tribe shall continue to exercise, in perpetuity, the jurisdiction they possess on the date of enactment of this Act with regard to those lands and waters. The Secretary may not adopt any regulation or otherwise affect the respective jurisdictions of the State of South Dakota, the

Lower Brule River Sioux Tribe, or the Cheyenne River Sioux Tribe described in the preceding sentence. Jurisdiction over the land transferred under this section shall be the same as that over other land held in trust by the Secretary of the Interior on the Cheyenne River Sioux Tribe reservation and the Lower Brule Sioux Tribe reservation.

(3) EASEMENTS, RIGHTS-OF-WAY, LEASES, AND COST-SHARING AGREEMENTS.—

(A) MAINTENANCE.—The Secretary of the Interior shall maintain all easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(B) PAYMENTS TO COUNTY.—The Secretary of the Interior shall pay any affected county 100 percent of the receipts from the easements, rights-of-way, leases, and cost-sharing agreements described in subparagraph (A).

#### SEC. 607. ADMINISTRATION.

(a) IN GENERAL.—Nothing in this title diminishes or affects—

- (1) any water right of an Indian Tribe;
- (2) any other right of an Indian Tribe, except as specifically provided in another provision of this title;
- (3) any treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian Tribe;

(5) any authority of the State of South Dakota that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including—

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled “An Act for the protection of the bald eagle”, approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (commonly known as the “Clean Water Act”) (33 U.S.C. 1251 et seq.);

(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(J) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) FEDERAL LIABILITY FOR DAMAGE.—Nothing in this title relieves the Federal Government of liability for damage to private land caused by the operation of the Pick-Sloan Missouri River Basin program.

(c) FLOOD CONTROL.—Notwithstanding any other provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan Missouri River Basin program for purposes of meeting the requirements of the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701-1 et seq.).

**SEC. 608. STUDY.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall arrange for the United States Geological Survey, in consultation with the Bureau of Indian Affairs and other appropriate Federal agencies, to conduct a comprehensive study of the potential impacts of the transfer of land under sections 805(b) and 806(b), including potential impacts on South Dakota Sioux Tribes having water claims within the Missouri River Basin, on water flows in the Missouri River.

(b) NO TRANSFER PENDING DETERMINATION.—No transfer of land under section 805(b) or 806(b) shall occur until the Secretary determines, based on the study, that the transfer of land under either section will not significantly reduce the amount of water flow to the downstream States of the Missouri River.

**SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

(a) SECRETARY.—There are authorized to be appropriated to the Secretary such sums as are necessary—

(1) to pay the administrative expenses incurred by the Secretary in carrying out this title; and

(2) to fund the implementation of terrestrial wildlife habitat restoration plans under section 802(a) and other activities under sections 803(d)(3) and 804(d)(3).

(b) SECRETARY OF THE INTERIOR.—There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to pay the administrative expenses incurred by the Secretary of the Interior in carrying out this title.

**TITLE VII—OFFICE OF NATIONAL DRUG CONTROL POLICY  
REAUTHORIZATION**

Office of National  
Drug Control  
Policy  
Reauthorization  
Act of 1998.

**SEC. 701. SHORT TITLE.**

This title may be cited as the “Office of National Drug Control Policy Reauthorization Act of 1998”.

21 USC 1701  
note.

**SEC. 702. DEFINITIONS.**

21 USC 1701.

In this title:

(1) DEMAND REDUCTION.—The term “demand reduction” means any activity conducted by a National Drug Control Program agency, other than an enforcement activity, that is intended to reduce the use of drugs, including—

- (A) drug abuse education;
- (B) drug abuse prevention;
- (C) drug abuse treatment;
- (D) drug abuse research;
- (E) drug abuse rehabilitation;
- (F) drug-free workplace programs; and
- (G) drug testing.

(2) DIRECTOR.—The term “Director” means the Director of National Drug Control Policy.

(3) DRUG.—The term “drug” has the meaning given the term “controlled substance” in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(4) DRUG CONTROL.—The term “drug control” means any activity conducted by a National Drug Control Program agency involving supply reduction or demand reduction.

(5) FUND.—The term “Fund” means the fund established under section 703(d).

(6) NATIONAL DRUG CONTROL PROGRAM.—The term “National Drug Control Program” means programs, policies, and activities undertaken by National Drug Control Program agencies pursuant to the responsibilities of such agencies under the National Drug Control Strategy.

(7) NATIONAL DRUG CONTROL PROGRAM AGENCY.—The term “National Drug Control Program agency” means any agency that is responsible for implementing any aspect of the National Drug Control Strategy, including any agency that receives Federal funds to implement any aspect of the National Drug Control Strategy, but does not include any agency that receives funds for drug control activity solely under the National Foreign Intelligence Program, the Joint Military Intelligence Program or Tactical Intelligence and Related Activities, unless such agency has been designated—

(A) by the President; or

(B) jointly by the Director and the head of the agency.

(8) NATIONAL DRUG CONTROL STRATEGY.—The term “National Drug Control Strategy” means the strategy developed and submitted to Congress under section 706.

(9) OFFICE.—Unless the context clearly implicates otherwise, the term “Office” means the Office of National Drug Control Policy established under section 703(a).

(10) STATE AND LOCAL AFFAIRS.—The term “State and local affairs” means domestic activities conducted by a National Drug Control Program agency that are intended to reduce the availability and use of drugs, including—

(A) coordination and facilitation of Federal, State, and local law enforcement drug control efforts;

(B) promotion of coordination and cooperation among the drug supply reduction and demand reduction agencies of the various States, territories, and units of local government; and

(C) such other cooperative governmental activities which promote a comprehensive approach to drug control at the national, State, territory, and local levels.

(11) SUPPLY REDUCTION.—The term “supply reduction” means any activity of a program conducted by a National Drug Control Program agency that is intended to reduce the availability or use of drugs in the United States and abroad, including—

(A) international drug control;

(B) foreign and domestic drug intelligence;

(C) interdiction; and

(D) domestic drug law enforcement, including law enforcement directed at drug users.



**SEC. 703. OFFICE OF NATIONAL DRUG CONTROL POLICY.**

21 USC 1702.

(a) **ESTABLISHMENT OF OFFICE.**—There is established in the Executive Office of the President an Office of National Drug Control Policy, which shall—

- (1) develop national drug control policy;
- (2) coordinate and oversee the implementation of that national drug control policy;
- (3) assess and certify the adequacy of national drug control programs and the budget for those programs; and
- (4) evaluate the effectiveness of the national drug control programs.

(b) **DIRECTOR AND DEPUTY DIRECTORS.**—

(1) **DIRECTOR.**—There shall be at the head of the Office a Director of National Drug Control Policy.

(2) **DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY.**—There shall be in the Office a Deputy Director of National Drug Control Policy, who shall assist the Director in carrying out the responsibilities of the Director under this title.

(3) **OTHER DEPUTY DIRECTORS.**—There shall be in the Office—

(A) a Deputy Director for Demand Reduction, who shall be responsible for the activities described in subparagraphs (A) through (G) of section 702(1);

(B) a Deputy Director for Supply Reduction, who shall be responsible for the activities described in subparagraphs (A) through (C) of section 702(11); and

(C) a Deputy Director for State and Local Affairs, who shall be responsible for the activities described in subparagraphs (A) through (C) of section 702(10) and subparagraph (D) of section 702(11).

(c) **ACCESS BY CONGRESS.**—The location of the Office in the Executive Office of the President shall not be construed as affecting access by Congress, or any committee of the House of Representatives or the Senate, to any—

- (1) information, document, or study in the possession of, or conducted by or at the direction of the Director; or
- (2) personnel of the Office.

(d) **OFFICE OF NATIONAL DRUG CONTROL POLICY GIFT FUND.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund for the receipt of gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office under section 704(c).

(2) **CONTRIBUTIONS.**—The Office may accept, hold, and administer contributions to the Fund.

(3) **USE OF AMOUNTS DEPOSITED.**—Amounts deposited in the Fund are authorized to be appropriated, to remain available until expended for authorized purposes at the discretion of the Director.

**SEC. 704. APPOINTMENT AND DUTIES OF DIRECTOR AND DEPUTY DIRECTORS.**

21 USC 1703.

(a) **APPOINTMENT.**—

(1) **IN GENERAL.**—The Director, the Deputy Director of National Drug Control Policy, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Deputy Director for State and Local Affairs, shall each be appointed by the President, by and with the advice and consent

of the Senate, and shall serve at the pleasure of the President. In appointing the Deputy Director for Demand Reduction under this paragraph, the President shall take into consideration the scientific, educational or professional background of the individual, and whether the individual has experience in the fields of substance abuse prevention, education, or treatment.

(2) DUTIES OF DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—The Deputy Director of National Drug Control Policy shall—

(A) carry out the duties and powers prescribed by the Director; and

(B) serve as the Director in the absence of the Director or during any period in which the office of the Director is vacant.

(3) DESIGNATION OF OTHER OFFICERS.—In the absence of the Deputy Director, or if the Office of the Deputy Director is vacant, the Director shall designate such other permanent employee of the Office to serve as the Director, if the Director is absent or unable to serve.

(4) PROHIBITION.—No person shall serve as Director or a Deputy Director while serving in any other position in the Federal Government.

(5) PROHIBITION ON POLITICAL CAMPAIGNING.—Any officer or employee of the Office who is appointed to that position by the President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such official is not prohibited by this paragraph from making contributions to individual candidates.

(b) RESPONSIBILITIES.—The Director—

(1) shall assist the President in the establishment of policies, goals, objectives, and priorities for the National Drug Control Program;

(2) shall promulgate the National Drug Control Strategy under section 706(a) and each report under section 706(b) in accordance with section 706;

(3) shall coordinate and oversee the implementation by the National Drug Control Program agencies of the policies, goals, objectives, and priorities established under paragraph (1) and the fulfillment of the responsibilities of such agencies under the National Drug Control Strategy and make recommendations to National Drug Control Program agency heads with respect to implementation of Federal counter-drug programs;

(4) shall make such recommendations to the President as the Director determines are appropriate regarding changes in the organization, management, and budgets of Federal departments and agencies engaged in drug enforcement, and changes in the allocation of personnel to and within those departments and agencies, to implement the policies, goals, priorities, and objectives established under paragraph (1) and the National Drug Control Strategy;

(5) shall consult with and assist State and local governments with respect to the formulation and implementation of National Drug Control Policy and their relations with the National Drug Control Program agencies;

(6) shall appear before duly constituted committees and subcommittees of the House of Representatives and of the Senate to represent the drug policies of the executive branch;

(7) shall notify any National Drug Control Program agency if its policies are not in compliance with the responsibilities of the agency under the National Drug Control Strategy, transmit a copy of each such notification to the President, and maintain a copy of each such notification;

(8) shall provide, by July 1 of each year, budget recommendations, including requests for specific initiatives that are consistent with the priorities of the President under the National Drug Control Strategy, to the heads of departments and agencies with responsibilities under the National Drug Control Program, which recommendations shall—

(A) apply to the next budget year scheduled for formulation under the Budget and Accounting Act of 1921, and each of the 4 subsequent fiscal years; and

(B) address funding priorities developed in the National Drug Control Strategy;

(9) may serve as representative of the President in appearing before Congress on all issues relating to the National Drug Control Program;

(10) shall, in any matter affecting national security interests, work in conjunction with the Assistant to the President for National Security Affairs;

(11) may serve as spokesperson of the Administration on drug issues;

(12) shall ensure that no Federal funds appropriated to the Office of National Drug Control Policy shall be expended for any study or contract relating to the legalization (for a medical use or any other use) of a substance listed in schedule I of section 202 of the Controlled Substances Act (21 U.S.C. 812) and take such actions as necessary to oppose any attempt to legalize the use of a substance (in any form) that—

(A) is listed in schedule I of section 202 of the Controlled Substances Act (21 U.S.C. 812); and

(B) has not been approved for use for medical purposes by the Food and Drug Administration;

(13) shall require each National Drug Control Program agency to submit to the Director on an annual basis (beginning in 1999) an evaluation of progress by the agency with respect to drug control program goals using the performance measures for the agency developed under section 706(c), including progress with respect to—

(A) success in reducing domestic and foreign sources of illegal drugs;

(B) success in protecting the borders of the United States (and in particular the Southwestern border of the United States) from penetration by illegal narcotics;

(C) success in reducing violent crime associated with drug use in the United States;

(D) success in reducing the negative health and social consequences of drug use in the United States; and

(E) implementation of drug treatment and prevention programs in the United States and improvements in the adequacy and effectiveness of such programs;

(14) shall submit to the Appropriations committees and the authorizing committees of jurisdiction of the House of Representatives and the Senate on an annual basis, not later than 60 days after the date of the last day of the applicable period, a summary of—

(A) each of the evaluations received by the Director under paragraph (13); and

(B) the progress of each National Drug Control Program agency toward the drug control program goals of the agency using the performance measures for the agency developed under section 706(c); and

(15) shall ensure that drug prevention and drug treatment research and information is effectively disseminated by National Drug Control Program agencies to State and local governments and nongovernmental entities involved in demand reduction by—

(A) encouraging formal consultation between any such agency that conducts or sponsors research, and any such agency that disseminates information in developing research and information product development agendas;

(B) encouraging such agencies (as appropriate) to develop and implement dissemination plans that specifically target State and local governments and nongovernmental entities involved in demand reduction; and

(C) developing a single interagency clearinghouse for the dissemination of research and information by such agencies to State and local governments and nongovernmental agencies involved in demand reduction.

(c) NATIONAL DRUG CONTROL PROGRAM BUDGET.—

(1) RESPONSIBILITIES OF NATIONAL DRUG CONTROL PROGRAM AGENCIES.—

(A) IN GENERAL.—For each fiscal year, the head of each department, agency, or program of the Federal Government with responsibilities under the National Drug Control Program Strategy shall transmit to the Director a copy of the proposed drug control budget request of the department, agency, or program at the same time as that budget request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

(B) SUBMISSION OF DRUG CONTROL BUDGET REQUESTS.—The head of each National Drug Control Program agency shall ensure timely development and submission to the Director of each proposed drug control budget request transmitted pursuant to this paragraph, in such format as may be designated by the Director with the concurrence of the Director of the Office of Management and Budget.

(2) NATIONAL DRUG CONTROL PROGRAM BUDGET PROPOSAL.—For each fiscal year, following the transmission of proposed drug control budget requests to the Director under paragraph (1), the Director shall, in consultation with the head of each National Drug Control Program agency—

(A) develop a consolidated National Drug Control Program budget proposal designed to implement the National Drug Control Strategy;

(B) submit the consolidated budget proposal to the President; and

(C) after submission under subparagraph (B), submit the consolidated budget proposal to Congress.

(3) REVIEW AND CERTIFICATION OF BUDGET REQUESTS AND BUDGET SUBMISSIONS OF NATIONAL DRUG CONTROL PROGRAM AGENCIES.—

(A) IN GENERAL.—The Director shall review each drug control budget request submitted to the Director under paragraph (1).

(B) REVIEW OF BUDGET REQUESTS.—

(i) INADEQUATE REQUESTS.—If the Director concludes that a budget request submitted under paragraph (1) is inadequate, in whole or in part, to implement the objectives of the National Drug Control Strategy with respect to the department, agency, or program at issue for the year for which the request is submitted, the Director shall submit to the head of the applicable National Drug Control Program agency a written description of funding levels and specific initiatives that would, in the determination of the Director, make the request adequate to implement those objectives.

(ii) ADEQUATE REQUESTS.—If the Director concludes that a budget request submitted under paragraph (1) is adequate to implement the objectives of the National Drug Control Strategy with respect to the department, agency, or program at issue for the year for which the request is submitted, the Director shall submit to the head of the applicable National Drug Control Program agency a written statement confirming the adequacy of the request.

(iii) RECORD.—The Director shall maintain a record of each description submitted under clause (i) and each statement submitted under clause (ii).

(C) AGENCY RESPONSE.—

(i) IN GENERAL.—The head of a National Drug Control Program agency that receives a description under subparagraph (B)(i) shall include the funding levels and initiatives described by the Director in the budget submission for that agency to the Office of Management and Budget.

(ii) IMPACT STATEMENT.—The head of a National Drug Control Program agency that has altered its budget submission under this subparagraph shall include as an appendix to the budget submission for that agency to the Office of Management and Budget an impact statement that summarizes—

(I) the changes made to the budget under this subparagraph; and

(II) the impact of those changes on the ability of that agency to perform its other responsibilities, including any impact on specific missions or programs of the agency.

(iii) CONGRESSIONAL NOTIFICATION.—The head of a National Drug Control Program agency shall submit a copy of any impact statement under clause (ii) to the Senate and the House of Representatives at the

time the budget for that agency is submitted to Congress under section 1105(a) of title 31, United States Code.

(D) CERTIFICATION OF BUDGET SUBMISSIONS.—

(i) IN GENERAL.—At the time a National Drug Control Program agency submits its budget request to the Office of Management and Budget, the head of the National Drug Control Program agency shall submit a copy of the budget request to the Director.

(ii) CERTIFICATION.—The Director—

(I) shall review each budget submission submitted under clause (i); and

(II) based on the review under subclause (I), if the Director concludes that the budget submission of a National Drug Control Program agency does not include the funding levels and initiatives described under subparagraph (B)—

(aa) may issue a written decertification of that agency's budget; and

(bb) in the case of a decertification issued under item (aa), shall submit to the Senate and the House of Representatives a copy of—

(aaa) the decertification issued under item (aa);

(bbb) the description made under subparagraph (B); and

(ccc) the budget recommendations made under subsection (b)(8).

(4) REPROGRAMMING AND TRANSFER REQUESTS.—

(A) IN GENERAL.—No National Drug Control Program agency shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds in an amount exceeding \$5,000,000 that is included in the National Drug Control Program budget unless the request has been approved by the Director.

(B) APPEAL.—The head of any National Drug Control Program agency may appeal to the President any disapproval by the Director of a reprogramming or transfer request under this paragraph.

(d) POWERS OF THE DIRECTOR.—In carrying out subsection (b), the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees of the Office as may be necessary to carry out the functions of the Office under this title;

(2) subject to subsection (e)(3), request the head of a department or agency, or program of the Federal Government to place department, agency, or program personnel who are engaged in drug control activities on temporary detail to another department, agency, or program in order to implement the National Drug Control Strategy, and the head of the department or agency shall comply with such a request;

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of

compensation for individuals not to exceed the daily equivalent of the rate of pay payable under level IV of the Executive Schedule under section 5311 of title 5, United States Code;

(5) accept and use gifts and donations of property from Federal, State, and local government agencies, and from the private sector, as authorized in section 703(d);

(6) use the mails in the same manner as any other department or agency of the executive branch;

(7) monitor implementation of the National Drug Control Program, including—

(A) conducting program and performance audits and evaluations; and

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations;

(8) transfer funds made available to a National Drug Control Program agency for National Drug Control Strategy programs and activities to another account within such agency or to another National Drug Control Program agency for National Drug Control Strategy programs and activities, except that—

(A) the authority under this paragraph may be limited in an annual appropriations Act or other provision of Federal law;

(B) the Director may exercise the authority under this paragraph only with the concurrence of the head of each affected agency;

(C) in the case of an interagency transfer, the total amount of transfers under this paragraph may not exceed 3 percent of the total amount of funds made available for National Drug Control Strategy programs and activities to the agency from which those funds are to be transferred;

(D) funds transferred to an agency under this paragraph may only be used to increase the funding for programs or activities have been authorized by Congress; and

(E) the Director shall—

(i) submit to Congress, including to the Committees on Appropriations of the Senate and the House of Representatives, the authorizing committees for the Office, and any other applicable committees of jurisdiction, a reprogramming or transfer request in advance of any transfer under this paragraph in accordance with the regulations of the affected agency or agencies; and

(ii) annually submit to Congress a report describing the effect of all transfers of funds made pursuant to this paragraph or subsection (c)(4) during the 12-month period preceding the date on which the report is submitted;

Reports.

(9) issue to the head of a National Drug Control Program agency a fund control notice described in subsection (f) to ensure compliance with the National Drug Control Program Strategy; and

(10) participate in the drug certification process pursuant to section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j).

(e) PERSONNEL DETAILED TO OFFICE.—

(1) EVALUATIONS.—Notwithstanding any provision of chapter 43 of title 5, United States Code, the Director shall perform the evaluation of the performance of any employee detailed to the Office for purposes of the applicable performance appraisal system established under such chapter for any rating period, or part thereof, that such employee is detailed to such office.

(2) COMPENSATION.—

(A) BONUS PAYMENTS.—Notwithstanding any other provision of law, the Director may provide periodic bonus payments to any employee detailed to the Office.

(B) RESTRICTIONS.—An amount paid under this paragraph to an employee for any period—

(i) shall not be greater than 20 percent of the basic pay paid or payable to such employee for such period; and

(ii) shall be in addition to the basic pay of such employee.

(C) AGGREGATE AMOUNT.—The aggregate amount paid during any fiscal year to an employee detailed to the Office as basic pay, awards, bonuses, and other compensation shall not exceed the annual rate payable at the end of such fiscal year for positions at level III of the Executive Schedule.

(3) MAXIMUM NUMBER OF DETAILEES.—The maximum number of personnel who may be detailed to another department or agency (including the Office) under subsection (d)(2) during any fiscal year is—

(A) for the Department of Defense, 50; and

(B) for any other department or agency, 10.

(f) FUND CONTROL NOTICES.—

(1) IN GENERAL.—A fund control notice may direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated by—

(A) months, fiscal year quarters, or other time periods; and

(B) activities, functions, projects, or object classes.

(2) UNAUTHORIZED OBLIGATION OR EXPENDITURE PROHIBITED.—An officer or employee of a National Drug Control Program agency shall not make or authorize an expenditure or obligation contrary to a fund control notice issued by the Director.

(3) DISCIPLINARY ACTION FOR VIOLATION.—In the case of a violation of paragraph (2) by an officer or employee of a National Drug Control Program agency, the head of the agency, upon the request of and in consultation with the Director, may subject the officer or employee to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office.

(g) INAPPLICABILITY TO CERTAIN PROGRAMS.—The provisions of this section shall not apply to the National Foreign Intelligence Program, the Joint Military Intelligence Program and Tactical Intelligence and Related Activities unless the agency that carries out such program is designated as a National Drug Control Program agency by the President or jointly by the Director and the head of the agency.



(h) CONSTRUCTION.—Nothing in this Act shall be construed as derogating the authorities and responsibilities of the Director of Central Intelligence contained in sections 104 and 504 of the National Security Act of 1947 or any other law.

**SEC. 705. COORDINATION WITH NATIONAL DRUG CONTROL PROGRAM AGENCIES IN DEMAND REDUCTION, SUPPLY REDUCTION, AND STATE AND LOCAL AFFAIRS.** 21 USC 1704.

(a) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Upon the request of the Director, the head of any National Drug Control Program agency shall cooperate with and provide to the Director any statistics, studies, reports, and other information prepared or collected by the agency concerning the responsibilities of the agency under the National Drug Control Strategy that relate to—

(A) drug abuse control; or

(B) the manner in which amounts made available to that agency for drug control are being used by that agency.

(2) PROTECTION OF INTELLIGENCE INFORMATION.—

(A) IN GENERAL.—The authorities conferred on the Office and the Director by this title shall be exercised in a manner consistent with provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.). The Director of Central Intelligence shall prescribe such regulations as may be necessary to protect information provided pursuant to this title regarding intelligence sources and methods.

Regulations.

(B) DUTIES OF DIRECTOR.—The Director of Central Intelligence shall, to the maximum extent practicable in accordance with subparagraph (A), render full assistance and support to the Office and the Director.

(3) ILLEGAL DRUG CULTIVATION.—The Secretary of Agriculture shall annually submit to the Director an assessment of the acreage of illegal drug cultivation in the United States.

(b) CERTIFICATION OF POLICY CHANGES TO DIRECTOR.—

(1) IN GENERAL.—Subject to paragraph (2), the head of a National Drug Control Program agency shall, unless exigent circumstances require otherwise, notify the Director in writing regarding any proposed change in policies relating to the activities of that agency under the National Drug Control Program prior to implementation of such change. The Director shall promptly review such proposed change and certify to the head of that agency in writing whether such change is consistent with the National Drug Control Strategy.

(2) EXCEPTION.—If prior notice of a proposed change under paragraph (1) is not practicable—

(A) the head of the National Drug Control Program agency shall notify the Director of the proposed change as soon as practicable; and

Notification.

(B) upon such notification, the Director shall review the change and certify to the head of that agency in writing whether the change is consistent with the National Drug Control Program.

(c) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Director, in a reimbursable basis, such administrative support services as the Director may request.

(d) ACCOUNTING OF FUNDS EXPENDED.—The Director shall—

(A) require the National Drug Control Program agencies to submit to the Director not later than February 1 of each year a detailed accounting of all funds expended by the agencies for National Drug Control Program activities during the previous fiscal year, and require such accounting to be authenticated by the Inspector General for each agency prior to submission to the Director; and

(B) submit to Congress not later than April 1 of each year the information submitted to the Director under subparagraph (A).

21 USC 1705.

**SEC. 706. DEVELOPMENT, SUBMISSION, IMPLEMENTATION, AND ASSESSMENT OF NATIONAL DRUG CONTROL STRATEGY.**

(a) **TIMING, CONTENTS, AND PROCESS FOR DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.**—

(1) **TIMING.**—Not later than February 1, 1999, the President shall submit to Congress a National Drug Control Strategy, which shall set forth a comprehensive plan, covering a period of not more than 5 years, for reducing drug abuse and the consequences of drug abuse in the United States, by limiting the availability of and reducing the demand for illegal drugs.

(2) **CONTENTS.**—

(A) **IN GENERAL.**—The National Drug Control Strategy submitted under paragraph (1) shall include—

(i) comprehensive, research-based, long-range, quantifiable, goals for reducing drug abuse and the consequences of drug abuse in the United States;

(ii) annual, quantifiable, and measurable objectives and specific targets to accomplish long-term quantifiable goals that the Director determines may be achieved during each year of the period beginning on the date on which the National Drug Control Strategy is submitted;

(iii) 5-year projections for program and budget priorities; and

(iv) a review of international, State, local, and private sector drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.

(B) **CLASSIFIED INFORMATION.**—Any contents of the National Drug Control Strategy that involves information properly classified under criteria established by an Executive order shall be presented to Congress separately from the rest of the National Drug Control Strategy.

(3) **PROCESS FOR DEVELOPMENT AND SUBMISSION.**—

(A) **CONSULTATION.**—In developing and effectively implementing the National Drug Control Strategy, the Director—

(i) shall consult with—

(I) the heads of the National Drug Control Program agencies;

(II) Congress;

(III) State and local officials;

(IV) private citizens and organizations with experience and expertise in demand reduction;

(V) private citizens and organizations with experience and expertise in supply reduction; and

(VI) appropriate representatives of foreign governments;

(ii) with the concurrence of the Attorney General, may require the El Paso Intelligence Center to undertake specific tasks or projects to implement the National Drug Control Strategy; and

(iii) with the concurrence of the Director of Central Intelligence and the Attorney General, may request that the National Drug Intelligence Center undertake specific tasks or projects to implement the National Drug Control Strategy.

(B) INCLUSION IN STRATEGY.—The National Drug Control Strategy under this subsection, and each report submitted under subsection (b), shall include a list of each entity consulted under subparagraph (A)(i).

(4) SPECIFIC TARGETS.—The targets in the National Drug Control Strategy shall include the following:

(A) Reduction of unlawful drug use to 3 percent of the population of the United States or less by December 31, 2003 (as measured in terms of overall illicit drug use during the past 30 days by the National Household Survey), and achievement of at least 20 percent of such reduction during each of 1999, 2000, 2001, 2002, and 2003.

(B) Reduction of adolescent unlawful drug use (as measured in terms of illicit drug use during the past 30 days by the Monitoring the Future Survey of the University of Michigan or the National PRIDE Survey conducted by the National Parents' Resource Institute for Drug Education) to 3 percent of the adolescent population of the United States or less by December 31, 2003, and achievement of at least 20 percent of such reduction during each of 1999, 2000, 2001, 2002, and 2003.

(C) Reduction of the availability of cocaine, heroin, marijuana, and methamphetamine in the United States by 80 percent by December 31, 2003.

(D) Reduction of the respective nationwide average street purity levels for cocaine, heroin, marijuana, and methamphetamine (as estimated by the interagency drug flows assessment led by the Office of National Drug Control Policy, and based on statistics collected by the Drug Enforcement Administration and other National Drug Control Program agencies identified as relevant by the Director) by 60 percent by December 31, 2003, and achievement of at least 20 percent of each such reduction during each of 1999, 2000, 2001, 2002, and 2003.

(E) Reduction of drug-related crime in the United States by 50 percent by December 31, 2003, and achievement of at least 20 percent of such reduction during each of 1999, 2000, 2001, 2002, and 2003, including—

(i) reduction of State and Federal unlawful drug trafficking and distribution;

(ii) reduction of State and Federal crimes committed by persons under the influence of unlawful drugs;

(iii) reduction of State and Federal crimes committed for the purpose of obtaining unlawful drugs or obtaining property that is intended to be used for the purchase of unlawful drugs; and

(iv) reduction of drug-related emergency room incidents in the United States (as measured by data of the Drug Abuse Warning Network on illicit drug abuse), including incidents involving gunshot wounds and automobile accidents in which illicit drugs are identified in the bloodstream of the victim, by 50 percent by December 31, 2003.

(5) FURTHER REDUCTIONS IN DRUG USE, AVAILABILITY, AND CRIME.—Following the submission of a National Drug Control Strategy under this section to achieve the specific targets described in paragraph (4), the Director may formulate a strategy for additional reductions in drug use and availability and drug-related crime beyond the 5-year period covered by the National Drug Control Strategy that has been submitted.

(b) ANNUAL STRATEGY REPORT.—

(1) IN GENERAL.—Not later than February 1, 1999, and on February 1 of each year thereafter, the President shall submit to Congress a report on the progress in implementing the Strategy under subsection (a), which shall include—

(A) an assessment of the Federal effectiveness in achieving the National Drug Control Strategy goals and objectives using the performance measurement system described in subsection (c), including—

(i) an assessment of drug use and availability in the United States; and

(ii) an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect during the preceding year, or in effect as of the date on which the report is submitted;

(B) any modifications of the National Drug Control Strategy or the performance measurement system described in subsection (c);

(C) an assessment of the manner in which the budget proposal submitted under section 704(c) is intended to implement the National Drug Control Strategy and whether the funding levels contained in such proposal are sufficient to implement such Strategy;

(D) measurable data evaluating the success or failure in achieving the annual measurable objectives described in subsection (a)(2)(A)(ii);

(E) an assessment of current drug use (including inhalants) and availability, impact of drug use, and treatment availability, which assessment shall include—

(i) estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of—

(I) casual and chronic drug use;

(II) high-risk populations, including school dropouts, the homeless and transient, arrestees, parolees, probationers, and juvenile delinquents; and

(III) drug use in the workplace and the productivity lost by such use;

(ii) an assessment of the reduction of drug availability against an ascertained baseline, as measured by—

(I) the quantities of cocaine, heroin, marijuana, methamphetamine, and other drugs available for consumption in the United States;

(II) the amount of marijuana, cocaine, heroin, and precursor chemicals entering the United States;

(III) the number of hectares of marijuana, poppy, and coca cultivated and destroyed domestically and in other countries;

(IV) the number of metric tons of marijuana, heroin, cocaine, and methamphetamine seized;

(V) the number of cocaine and methamphetamine processing laboratories destroyed domestically and in other countries;

(VI) changes in the price and purity of heroin and cocaine, changes in the price of methamphetamine, and changes in tetrahydrocannabinol level of marijuana;

(VII) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

(VIII) the effectiveness of Federal technology programs at improving drug detection capabilities in interdiction, and at United States ports of entry;

(iii) an assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

(I) the burden drug users placed on hospital emergency departments in the United States, such as the quantity of drug-related services provided;

(II) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other infectious diseases as a result of drug use;

(III) the extent of drug-related crime and criminal activity; and

(IV) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States;

(iv) a determination of the status of drug treatment in the United States, by assessing—

(I) public and private treatment capacity within each State, including information on the treatment capacity available in relation to the capacity actually used;

(II) the extent, within each State, to which treatment is available;

(III) the number of drug users the Director estimates could benefit from treatment; and

(IV) the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals; and

(v) a review of the research agenda of the Counter-Drug Technology Assessment Center to reduce the availability and abuse of drugs; and

(F) an assessment of private sector initiatives and cooperative efforts between the Federal Government and State and local governments for drug control.

(2) SUBMISSION OF REVISED STRATEGY.—The President may submit to Congress a revised National Drug Control Strategy that meets the requirements of this section—

(A) at any time, upon a determination by the President, in consultation with the Director, that the National Drug Control Strategy in effect is not sufficiently effective; and

(B) if a new President or Director takes office.

(3) 1999 STRATEGY REPORT.—With respect to the Strategy report required to be submitted by this subsection on February 1, 1999, the President shall prepare the report using such information as is available for the period covered by the report.

(c) PERFORMANCE MEASUREMENT SYSTEM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the targets described in subsection (a) are important to the reduction of overall drug use in the United States;

(B) the President should seek to achieve those targets during the 5 years covered by the National Drug Control Strategy required to be submitted under subsection (a);

(C) the purpose of such targets and the annual reports to Congress on the progress towards achieving the targets is to allow for the annual restructuring of appropriations by the Appropriations Committees and authorizing committees of jurisdiction of Congress to meet the goals described in this Act;

(D) the performance measurement system developed by the Director described in this subsection is central to the National Drug Control Program targets, programs, and budget;

(E) the Congress strongly endorses the performance measurement system for establishing clear outcomes for reducing drug use nationwide during the next five years, and the linkage of this system to all agency drug control programs and budgets receiving funds scored as drug control agency funding.

(2) SUBMISSION TO CONGRESS.—Not later than February 1, 1999, the Director shall submit to Congress a description of the national drug control performance measurement system, designed in consultation with affected National Drug Control Program agencies, that—

(A) develops performance objectives, measures, and targets for each National Drug Control Strategy goal and objective;

(B) revises performance objectives, measures, and targets, to conform with National Drug Control Program Agency budgets;

(C) identifies major programs and activities of the National Drug Control Program agencies that support the goals and objectives of the National Drug Control Strategy;

(D) evaluates in detail the implementation by each National Drug Control Program agency of program activities supporting the National Drug Control Strategy;

(E) monitors consistency between the drug-related goals and objectives of the National Drug Control Program agencies and ensures that drug control agency goals and budgets support and are fully consistent with the National Drug Control Strategy; and

(F) coordinates the development and implementation of national drug control data collection and reporting systems to support policy formulation and performance measurement, including an assessment of—

(i) the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

(ii) the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups that are at risk for drug use; and

(iii) the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B) of subsection (b)(4).

(3) MODIFICATIONS.—A description of any modifications made during the preceding year to the national drug control performance measurement system described in paragraph (2) shall be included in each report submitted under subsection (b).

**SEC. 707. HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM.**

21 USC 1706.

(a) ESTABLISHMENT.—There is established in the Office a program to be known as the High Intensity Drug Trafficking Areas Program.

(b) DESIGNATION.—The Director, upon consultation with the Attorney General, the Secretary of the Treasury, heads of the National Drug Control Program agencies, and the Governor of each applicable State, may designate any specified area of the United States as a high intensity drug trafficking area. After making such a designation and in order to provide Federal assistance to the area so designated, the Director may—

(1) obligate such sums as appropriated for the High Intensity Drug Trafficking Areas Program;

(2) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the head of the department or agency that employs such personnel;

(3) take any other action authorized under section 704 to provide increased Federal assistance to those areas;

(4) coordinate activities under this subsection (specifically administrative, recordkeeping, and funds management activities) with State and local officials.

(c) FACTORS FOR CONSIDERATION.—In considering whether to designate an area under this section as a high intensity drug trafficking area, the Director shall consider, in addition to such other criteria as the Director considers to be appropriate, the extent to which—

(1) the area is a center of illegal drug production, manufacturing, importation, or distribution;

(2) State and local law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

(3) drug-related activities in the area are having a harmful impact in other areas of the country; and

(4) a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

(d) USE OF FUNDS.—The Director shall ensure that no Federal funds appropriated for the High Intensity Drug Trafficking Program are expended for the establishment or expansion of drug treatment programs.

21 USC 1707.

**SEC. 708. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.**

(a) ESTABLISHMENT.—There is established within the Office the Counter-Drug Technology Assessment Center (referred to in this section as the “Center”). The Center shall operate under the authority of the Director of National Drug Control Policy and shall serve as the central counter-drug technology research and development organization of the United States Government.

(b) DIRECTOR OF TECHNOLOGY.—There shall be at the head of the Center the Director of Technology, who shall be appointed by the Director of National Drug Control Policy from among individuals qualified and distinguished in the area of science, medicine, engineering, or technology.

(c) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR OF NATIONAL DRUG CONTROL POLICY.—

(1) IN GENERAL.—The Director, acting through the Director of Technology shall—

(A) identify and define the short-, medium-, and long-term scientific and technological needs of Federal, State, and local drug supply reduction agencies, including—

(i) advanced surveillance, tracking, and radar imaging;

(ii) electronic support measures;

(iii) communications;

(iv) data fusion, advanced computer systems, and artificial intelligence; and

(v) chemical, biological, radiological (including neutron, electron, and graviton), and other means of detection;

(B) identify demand reduction basic and applied research needs and initiatives, in consultation with affected National Drug Control Program agencies, including—

(i) improving treatment through neuroscientific advances;

(ii) improving the transfer of biomedical research to the clinical setting; and

(iii) in consultation with the National Institute on Drug Abuse, and through interagency agreements or grants, examining addiction and rehabilitation research and the application of technology to expanding the effectiveness or availability of drug treatment;

(C) make a priority ranking of such needs identified in subparagraphs (A) and (B) according to fiscal and



technological feasibility, as part of a National Counter-Drug Enforcement Research and Development Program;

(D) oversee and coordinate counter-drug technology initiatives with related activities of other Federal civilian and military departments;

(E) provide support to the development and implementation of the national drug control performance measurement system; and

(F) pursuant to the authority of the Director of National Drug Control Policy under section 704, submit requests to Congress for the reprogramming or transfer of funds appropriated for counter-drug technology research and development.

(2) LIMITATION ON AUTHORITY.—The authority granted to the Director under this subsection shall not extend to the award of contracts, management of individual projects, or other operational activities.

(d) ASSISTANCE AND SUPPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.—The Secretary of Defense and the Secretary of Health and Human Services shall, to the maximum extent practicable, render assistance and support to the Office and to the Director in the conduct of counter-drug technology assessment.

**SEC. 709. PRESIDENT'S COUNCIL ON COUNTER-NARCOTICS.**

21 USC 1708.

(a) ESTABLISHMENT.—There is established a council to be known as the President's Council on Counter-Narcotics (referred to in this section as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—Subject to paragraph (2), the Council shall be composed of 18 members, of whom—

(A) 1 shall be the President, who shall serve as Chairman of the Council;

(B) 1 shall be the Vice President;

(C) 1 shall be the Secretary of State;

(D) 1 shall be the Secretary of the Treasury;

(E) 1 shall be the Secretary of Defense;

(F) 1 shall be the Attorney General;

(G) 1 shall be the Secretary of Transportation;

(H) 1 shall be the Secretary of Health and Human Services;

(I) 1 shall be the Secretary of Education;

(J) 1 shall be the Representative of the United States of America to the United Nations;

(K) 1 shall be the Director of the Office of Management and Budget;

(L) 1 shall be the Chief of Staff to the President;

(M) 1 shall be the Director of the Office, who shall serve as the Executive Director of the Council;

(N) 1 shall be the Director of Central Intelligence;

(O) 1 shall be the Assistant to the President for National Security Affairs;

(P) 1 shall be the Counsel to the President;

(Q) 1 shall be the Chairman of the Joint Chiefs of Staff; and

(R) 1 shall be the National Security Adviser to the Vice President.

(2) **ADDITIONAL MEMBERS.**—The President may, in the discretion of the President, appoint additional members to the Council.

(c) **FUNCTIONS.**—The Council shall advise and assist the President in—

(1) providing direction and oversight for the national drug control strategy, including relating drug control policy to other national security interests and establishing priorities; and

(2) ensuring coordination among departments and agencies of the Federal Government concerning implementation of the National Drug Control Strategy.

(d) **ADMINISTRATION.**—

(1) **IN GENERAL.**—The Council may utilize established or ad hoc committees, task forces, or interagency groups chaired by the Director (or a representative of the Director) in carrying out the functions of the Council under this section.

(2) **STAFF.**—The staff of the Office, in coordination with the staffs of the Vice President and the Assistant to the President for National Security Affairs, shall act as staff for the Council.

(3) **COOPERATION FROM OTHER AGENCIES.**—Each department and agency of the executive branch shall—

(A) cooperate with the Council in carrying out the functions of the Council under this section; and

(B) provide such assistance, information, and advice as the Council may request, to the extent permitted by law.

21 USC 1709.

**SEC. 710. PARENTS ADVISORY COUNCIL ON YOUTH DRUG ABUSE.**

(a) **IN GENERAL.**—

(1) **ESTABLISHMENT.**—There is established a Council to be known as the Parents Advisory Council on Youth Drug Abuse (referred to in this section as the “Council”).

(2) **MEMBERSHIP.**—

(A) **COMPOSITION.**—The Council shall be composed of 16 members, of whom—

(i) 4 shall be appointed by the President, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(ii) 4 shall be appointed by the Majority Leader of the Senate, 3 of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(iii) 2 shall be appointed by the Minority Leader of the Senate, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(iv) 4 shall be appointed by the Speaker of the House of Representatives, 3 of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made; and

(v) 2 shall be appointed by the Minority Leader of the House of Representatives, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made.

(B) REQUIREMENTS.—

(i) IN GENERAL.—Each member of the Council shall be an individual from the private sector with a demonstrated interest and expertise in research, education, treatment, or prevention activities related to youth drug abuse.

(ii) REPRESENTATIVES OF NONPROFIT ORGANIZATIONS.—Not less than 1 member appointed under each of clauses (i) through (v) of paragraph (2)(A) shall be a representative of a nonprofit organization focused on involving parents in antidrug education and prevention.

(C) DATE.—The appointments of the initial members of the Council shall be made not later than 60 days after the date of enactment of this section.

(D) EXECUTIVE DIRECTOR.—The Director shall appoint the Executive Director of the Council, who shall be an employee of the Office of National Drug Control Policy.

(3) PERIOD OF APPOINTMENT; VACANCIES.—

(A) PERIOD OF APPOINTMENT.—Each member of the Council shall be appointed for a term of 3 years, except that, of the initial members of the Council—

(i) 1 member appointed under each of clauses (i) through (v) of paragraph (2)(A) shall be appointed for a term of 1 year; and

(ii) 1 member appointed under each of clauses (i) through (v) of paragraph (2)(A) shall be appointed for a term of 2 years.

(B) VACANCIES.—Any vacancy in the Council shall not affect its powers, provided that a quorum is present, but shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(C) APPOINTMENT OF SUCCESSOR.—To the extent necessary to prevent a vacancy in the membership of the Council, a member of the Council may serve for not more than 6 months after the expiration of the term of that member, if the successor of that member has not been appointed.

(4) INITIAL MEETING.—Not later than 120 days after the date on which all initial members of the Council have been appointed, the Council shall hold its first meeting.

(5) MEETINGS.—The Council shall meet at the call of the Chairperson.

(6) QUORUM.—Nine members of the Council shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON AND VICE CHAIRPERSON.—

(A) IN GENERAL.—The members of the Council shall select a Chairperson and Vice Chairperson from among the members of the Council.

(B) DUTIES OF CHAIRPERSON.—The Chairperson of the Council shall assign committee duties relating to the Council and direct the Executive Director to convene hearings and conduct other necessary business of the Council.

(C) DUTIES OF VICE CHAIRPERSON.—If the Chairperson of the Council is unable to serve, the Vice Chairperson shall serve as the Chairperson.

(b) DUTIES OF THE COUNCIL.—

(1) IN GENERAL.—The Council—

(A) shall advise the Director on drug prevention, education, and treatment and assist the Deputy Director of Demand Reduction in the responsibilities for the coordination of the demand reduction programs of the Federal Government and the analysis and consideration of prevention and treatment alternatives; and

(B) may issue reports and recommendations on drug prevention, education, and treatment, in addition to the reports detailed in paragraph (2), as the Council considers appropriate.

(2) SUBMISSION OF REPORTS.—Any report or recommendation issued by the Council shall be submitted to the Director and subsequently to Congress.

(3) ADVICE ON THE NATIONAL DRUG CONTROL STRATEGY.—Not later than December 1, 1999, and on December 1 of each year thereafter, the Council shall submit to the Director an annual report containing drug control strategy recommendations on drug prevention, education, and treatment. The Director may include any recommendations submitted under this paragraph in the report submitted by the Director under section 706(b).

(c) EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Council such sums as may be necessary carry out this section.

21 USC 1710.

**SEC. 711. DRUG INTERDICTION.**

(a) DEFINITION.—In this section, the term “Federal drug control agency” means—

- (1) the Office of National Drug Control Policy;
- (2) the Department of Defense;
- (3) the Drug Enforcement Administration;
- (4) the Federal Bureau of Investigation;
- (5) the Immigration and Naturalization Service;
- (6) the United States Coast Guard;
- (7) the United States Customs Service; and

(8) any other department or agency of the Federal Government that the Director determines to be relevant.

(b) REPORT.—In order to assist Congress in determining the personnel, equipment, funding, and other resources that would be required by Federal drug control agencies in order to achieve a level of interdiction success at or above the highest level achieved before the date of enactment of this title, not later than 90 days

after the date of enactment of this Act, the Director shall submit to Congress and to each Federal drug control program agency a report, which shall include—

(1) with respect to the southern and western border regions of the United States (including the Pacific coast, the border with Mexico, the Gulf of Mexico coast, and other ports of entry) and in overall totals, data relating to—

(A) the amount of marijuana, heroin, methamphetamine, and cocaine—

(i) seized during the year of highest recorded seizures for each drug in each region and during the year of highest recorded overall seizures; and

(ii) disrupted during the year of highest recorded disruptions for each drug in each region and during the year of highest recorded overall seizures; and

(B) the number of persons arrested for violations of section 1010(a) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)) and related offenses during the year of the highest number of arrests on record for each region and during the year of highest recorded overall arrests;

(2) the price of cocaine, heroin, methamphetamine, and marijuana during the year of highest price on record during the preceding 10-year period, adjusted for purity where possible; and

(3) a description of the personnel, equipment, funding, and other resources of the Federal drug control agency devoted to drug interdiction and securing the borders of the United States against drug trafficking for each of the years identified in paragraphs (1) and (2) for each Federal drug control agency.

(c) BUDGET PROCESS.—

(1) INFORMATION TO DIRECTOR.—Based on the report submitted under subsection (b), each Federal drug control agency shall submit to the Director, at the same time as each annual drug control budget request is submitted by the Federal drug control agency to the Director under section 704(c)(1), a description of the specific personnel, equipment, funding, and other resources that would be required for the Federal drug control agency to meet or exceed the highest level of interdiction success for that agency identified in the report submitted under subsection (b).

(2) INFORMATION TO CONGRESS.—The Director shall include each submission under paragraph (1) in each annual consolidated National Drug Control Program budget proposal submitted by the Director to Congress under section 704(c)(2), which submission shall be accompanied by a description of any additional resources that would be required by the Federal drug control agencies to meet the highest level of interdiction success identified in the report submitted under subsection (b).

## SEC. 712. ESTABLISHMENT OF SPECIAL FORFEITURE FUND.

Section 6073 of the Asset Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is amended—

(1) in subsection (b)—

(A) by striking “section 524(c)(9)” and inserting “section 524(c)(8)”; and

(B) by striking “section 9307(g)” and inserting “section 9703(g)”; and  
 (2) in subsection (e), by striking “strategy” and inserting “Strategy”.

**SEC. 713. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) TITLE 5, UNITED STATES CODE.—Chapter 53 of title 5, United States Code, is amended—

- (1) in section 5312, by adding at the end the following: “Director of National Drug Control Policy.”;
- (2) in section 5313, by adding at the end the following: “Deputy Director of National Drug Control Policy.”; and
- (3) in section 5314, by adding at the end the following: “Deputy Director for Demand Reduction, Office of National Drug Control Policy.  
 “Deputy Director for Supply Reduction, Office of National Drug Control Policy.  
 “Deputy Director for State and Local Affairs, Office of National Drug Control Policy.”.

(b) NATIONAL SECURITY ACT OF 1947.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following:

“(f) The Director of National Drug Control Policy may, in the role of the Director as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.”.

(c) SUBMISSION OF NATIONAL DRUG CONTROL PROGRAM BUDGET WITH ANNUAL BUDGET REQUEST OF PRESIDENT.—Section 1105(a) of title 31, United States Code, is amended by inserting after paragraph (25) the following:

“(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.”.

21 USC 1711.

**SEC. 714. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this title, to remain available until expended, such sums as may be necessary for each of fiscal years 1999 through 2003.

21 USC 1712.

**SEC. 715. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.**

(a) IN GENERAL.—Except as provided in subsection (b), effective on September 30, 2003, this title and the amendments made by this title are repealed.

(b) EXCEPTION.—Subsection (a) does not apply to section 713 or the amendments made by that section.

Western Hemisphere Drug Elimination Act.  
 21 USC 801 note.

**TITLE VIII—WESTERN HEMISPHERE DRUG ELIMINATION**

**SEC. 801. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the “Western Hemisphere Drug Elimination Act”.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

- Sec. 801. Short title; table of contents.
- Sec. 802. Findings and statement of policy.

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SUBTITLE A—ENHANCED SOURCE AND TRANSIT COUNTRY COVERAGE

- Sec. 811. Expansion of radar coverage and operation in source and transit countries.
- Sec. 812. Expansion of Coast Guard drug interdiction.
- Sec. 813. Expansion of aircraft coverage and operation in source and transit countries.

SUBTITLE B—ENHANCED ERADICATION AND INTERDICTION STRATEGY IN SOURCE COUNTRIES

- Sec. 821. Additional eradication resources for Colombia.
- Sec. 822. Additional eradication resources for Peru.
- Sec. 823. Additional eradication resources for Bolivia.
- Sec. 824. Miscellaneous additional eradication resources.
- Sec. 825. Bureau of International Narcotics and Law Enforcement Affairs.

SUBTITLE C—ENHANCED ALTERNATIVE CROP DEVELOPMENT SUPPORT IN SOURCE ZONE

- Sec. 831. Alternative crop development support.
- Sec. 832. Authorization of appropriations for Agricultural Research Service counterdrug research and development activities.
- Sec. 833. Master plan for herbicides to control narcotic crops.
- Sec. 834. Authorization of use of environmentally-approved herbicides to eliminate illicit narcotics crops.

SUBTITLE D—ENHANCED INTERNATIONAL LAW ENFORCEMENT TRAINING

- Sec. 841. Enhanced international law enforcement academy training.
- Sec. 842. Enhanced United States drug enforcement international training.
- Sec. 843. Provision of nonlethal equipment to foreign law enforcement organizations for cooperative illicit narcotics control activities.

SUBTITLE E—ENHANCED DRUG TRANSIT AND SOURCE ZONE LAW ENFORCEMENT OPERATIONS AND EQUIPMENT

- Sec. 851. Increased funding for operations and equipment; report.
- Sec. 852. Funding for computer software and hardware to facilitate direct communication between drug enforcement agencies.
- Sec. 853. Sense of Congress regarding priority of drug interdiction and counterdrug activities.

SUBTITLE F—RELATIONSHIP TO OTHER LAWS

- Sec. 861. Authorizations of appropriations.

SUBTITLE G—TRAFFICKING IN CONTROLLED SUBSTANCES

- Sec. 871. Short title.
- Sec. 872. Limitation.

**SEC. 802. FINDINGS AND STATEMENT OF POLICY.**

(a) FINDINGS.—Congress makes the following findings:

(1) Teenage drug use in the United States has doubled since 1993.

(2) The drug crisis facing the United States is a top national security threat.

(3) The spread of illicit drugs through United States borders cannot be halted without an effective drug interdiction strategy.

(4) Effective drug interdiction efforts have been shown to limit the availability of illicit narcotics, drive up the street price, support demand reduction efforts, and decrease overall drug trafficking and use.

(5) A prerequisite for reducing youth drug use is increasing the price of drugs. To increase price substantially, at least 60 percent of drugs must be interdicted.

(6) In 1987, the national drug control budget maintained a significant balance between demand and supply reduction efforts, illustrated as follows:

(A) 29 percent of the total drug control budget expenditures for demand reduction programs.

(B) 38 percent of the total drug control budget expenditures for domestic law enforcement.

(C) 33 percent of the total drug control budget expenditures for international drug interdiction efforts.

(7) In the late 1980's and early 1990's, counternarcotic efforts were successful, specifically in protecting the borders of the United States from penetration by illegal narcotics through increased seizures by the United States Coast Guard and other agencies, including a 302 percent increase in pounds of cocaine seized between 1987 and 1991.

(8) Limiting the availability of narcotics to drug traffickers in the United States had a promising effect as illustrated by the decline of illicit drug use between 1988 and 1991, through a—

(A) 13 percent reduction in total drug use;

(B) 35 percent drop in cocaine use; and

(C) 16 percent decrease in marijuana use.

(9) In 1993, drug interdiction efforts in the transit zones were reduced due to an imbalance in the national drug control strategy. This trend has continued through 1995 as shown by the following figures:

(A) 35 percent for demand reduction programs.

(B) 53 percent for domestic law enforcement.

(C) 12 percent for international drug interdiction efforts.

(10) Supply reduction efforts became a lower priority for the Administration and the seizures by the United States Coast Guard and other agencies decreased as shown by a 68 percent decrease in the pounds of cocaine seized between 1991 and 1996.

(11) Reductions in funding for comprehensive interdiction operations like OPERATION GATEWAY and OPERATION STEELWEB, initiatives that encompassed all areas of interdiction and attempted to disrupt the operating methods of drug smugglers along the entire United States border, have created unprotected United States border areas which smugglers exploit to move their product into the United States.

(12) The result of this new imbalance in the national drug control strategy caused the drug situation in the United States to become a crisis with serious consequences including—

(A) doubling of drug-abuse-related arrests for minors between 1992 and 1996;

(B) 70 percent increase in overall drug use among children aged 12 to 17;

(C) 80 percent increase in drug use for graduating seniors since 1992;

(D) a sharp drop in the price of 1 pure gram of heroin from \$1,647 in 1992 to \$966 in February 1996; and

(E) a reduction in the street price of 1 gram of cocaine from \$123 to \$104 between 1993 and 1994.

(13) The percentage change in drug use since 1992, among graduating high school students who used drugs in the past 12 months, has substantially increased—marijuana use is up 80 percent, cocaine use is up 80 percent, and heroin use is up 100 percent.

(14) The Department of Defense has been called upon to support counter-drug efforts of Federal law enforcement



agencies that are carried out in source countries and through transit zone interdiction, but in recent years Department of Defense assets critical to those counter-drug activities have been consistently diverted to missions that the Secretary of Defense and the Chairman of the Joint Chiefs of Staff consider a higher priority.

(15) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff, through the Department of Defense policy referred to as the Global Military Force Policy, has established the priorities for the allocation of military assets in the following order: (1) war; (2) military operations other than war that might involve contact with hostile forces (such as peacekeeping operations and noncombatant evacuations); (3) exercises and training; and (4) operational tasking other than those involving hostilities (including counter-drug activities and humanitarian assistance).

(16) Use of Department of Defense assets is critical to the success of efforts to stem the flow of illegal drugs from source countries and through transit zones to the United States.

(17) The placement of counter-drug activities in the fourth and last priority of the Global Military Force Policy list of priorities for the allocation of military assets has resulted in a serious deficiency in assets vital to the success of source country and transit zone efforts to stop the flow of illegal drugs into the United States.

(18) At present the United States faces few, if any, threats from abroad greater than the threat posed to the Nation's youth by illegal and dangerous drugs.

(19) The conduct of counter-drug activities has the potential for contact with hostile forces.

(20) The Department of Defense counter-drug activities mission should be near the top, not among the last, of the priorities for the allocation of Department of Defense assets after the first priority for those assets for the war-fighting mission of the Department of Defense.

(b) STATEMENT OF POLICY.—It is the policy of the United States to—

(1) reduce the supply of drugs and drug use through an enhanced drug interdiction effort in the major drug transit countries, as well support a comprehensive supply country eradication and crop substitution program, because a commitment of increased resources in international drug interdiction efforts will create a balanced national drug control strategy among demand reduction, law enforcement, and international drug interdiction efforts; and

(2) develop and establish comprehensive drug interdiction and drug eradication strategies, and dedicate the required resources, to achieve the goal of reducing the flow of illegal drugs into the United States by 80 percent by as early as January 1, 2003.

#### **Subtitle A—Enhanced Source and Transit Country Coverage**

##### **SEC. 811. EXPANSION OF RADAR COVERAGE AND OPERATION IN SOURCE AND TRANSIT COUNTRIES.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for the Department of the Treasury for fiscal

years 1999, 2000, and 2001 for the enhancement of radar coverage in drug source and transit countries in the total amount of \$14,300,000 which shall be available for the following purposes:

(1) For restoration of radar, and operation and maintenance of radar, in the Bahamas.

(2) For operation and maintenance of ground-based radar at Guantanamo Bay Naval Base, Cuba.

(b) REPORT.—Not later than January 31, 1999, the Secretary of Defense, in conjunction with the Director of Central Intelligence, shall submit to the Committee on National Security, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate a report examining the options available to the United States for improving Relocatable Over the Horizon (ROTHR) capability to provide enhanced radar coverage of narcotics source zone countries in South America and transit zones in the Eastern Pacific. The report shall include—

(1) a discussion of the need and costs associated with the establishment of a proposed fourth ROTHR site located in the source or transit zones; and

(2) an assessment of the intelligence specific issues raised if such a ROTHR facility were to be established in conjunction with a foreign government.

#### **SEC. 812. EXPANSION OF COAST GUARD DRUG INTERDICTION.**

(a) OPERATING EXPENSES.—For operating expenses of the Coast Guard associated with expansion of drug interdiction activities around Puerto Rico, the United States Virgin Islands, and other transit zone areas of operation, there is authorized to be appropriated to the Secretary of Transportation \$151,500,000 for each of fiscal years 1999, 2000, and 2001. Such amounts shall include (but are not limited to) amounts for the following:

(1) For deployment of intelligent acoustic detection buoys in the Florida Straits and Bahamas.

(2) For a nonlethal technology program to enhance countermeasures against the threat of transportation of drugs by so-called Go-Fast boats.

(b) ACQUISITION, CONSTRUCTION, AND IMPROVEMENT.—

(1) IN GENERAL.—For acquisition, construction, and improvement of facilities and equipment to be used for expansion of Coast Guard drug interdiction activities, there is authorized to be appropriated to the Secretary of Transportation for fiscal year 1999 the total amount of \$630,300,000 which shall be available for the following purposes:

(A) For maritime patrol aircraft sensors.

(B) For acquisition of deployable pursuit boats.

(C) For the acquisition and construction of up to 15 United States Coast Guard Coastal Patrol Boats.

(D) For—

(i) the reactivation of up to 3 United States Coast Guard HU–25 Falcon jets;

(ii) the procurement of up to 3 C–37A aircraft;

or

(iii) the procurement of up to 3 C–20H aircraft.

(E) For acquisition of installed or deployable electronic sensors and communications systems for Coast Guard Cutters.

(F) For acquisition and construction of facilities and equipment to support regional and international law enforcement training and support in Puerto Rico, the United States Virgin Islands, and the Caribbean Basin.

(G) For acquisition or conversion of maritime patrol aircraft.

(H) For acquisition or conversion of up to 2 vessels to be used as Coast Guard Medium or High Endurance Cutters.

(I) For acquisition or conversion of up to 2 vessels to be used as Coast Guard Cutters as support, command, and control platforms for drug interdiction operations.

(J) For acquisition of up to 6 Coast Guard Medium Endurance Cutters.

(2) CONTINUED AVAILABILITY.—Amounts appropriated under this subsection may remain available until expended.

(c) REQUIREMENT TO ACCEPT PATROL CRAFT FROM DEPARTMENT OF DEFENSE.—The Secretary of Transportation shall accept, for use by the Coast Guard for expanded drug interdiction activities, 7 PC-170 patrol craft if offered by the Department of Defense.

**SEC. 813. EXPANSION OF AIRCRAFT COVERAGE AND OPERATION IN SOURCE AND TRANSIT COUNTRIES.**

(a) DEPARTMENT OF THE TREASURY.—Funds are authorized to be appropriated for the Department of the Treasury for fiscal years 1999, 2000, and 2001 for the enhancement of air coverage and operation for drug source and transit countries in the total amount of \$886,500,000 which shall be available for the following purposes:

(1) For procurement of 10 P-3B Early Warning aircraft for the United States Customs Service to enhance overhead air coverage of drug source zone countries.

(2) For the procurement and deployment of 10 P-3B Slick airplanes for the United States Customs Service to enhance overhead air coverage of the drug source zone.

(3) In fiscal years 2000 and 2001, for operation and maintenance of 10 P-3B Early Warning aircraft for the United States Customs Service to enhance overhead air coverage of drug source zone countries.

(4) For personnel for the 10 P-3B Early Warning aircraft for the United States Customs Service to enhance overhead air coverage of drug source zone countries.

(5) In fiscal years 2000 and 2001, for operation and maintenance of 10 P-3B Slick airplanes for the United States Customs Service to enhance overhead coverage of the drug source zone.

(6) For personnel for the 10 P-3B Slick airplanes for the United States Customs Service to enhance overhead air coverage of drug source zone countries.

(7) For construction and furnishing of an additional facility for the P-3B aircraft.

(8) For operation and maintenance for overhead air coverage for source countries.

(9) For operation and maintenance for overhead coverage for the Caribbean and Eastern Pacific regions.

(10) For purchase and for operation and maintenance of 3 RU–38A observation aircraft (to be piloted by pilots under contract with the United States).

(b) REPORT.—Not later than January 31, 1999, the Secretary of Defense, in consultation with the Secretary of State and the Director of Central Intelligence, shall submit to the Committee on National Security, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives and to the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate a report examining the options available in the source and transit zones to replace Howard Air Force Base in Panama and specifying the requirements of the United States to establish an airbase or airbases for use in support of counter-narcotics operations to optimize operational effectiveness in the source and transit zones. The report shall identify the following:

(1) The specific requirements necessary to support the national drug control policy of the United States.

(2) The estimated construction, operation, and maintenance costs for a replacement counterdrug airbase or airbases in the source and transit zones.

(3) Possible interagency cost sharing arrangements for a replacement airbase or airbases.

(4) Any legal or treaty-related issues regarding the replacement airbase or airbases.

(5) A summary of completed alternative site surveys for the airbase or airbases.

(c) TRANSFER OF AIRCRAFT.—The Secretary of the Navy shall transfer to the United States Customs Service—

(1) ten currently retired and previously identified heavy-weight P–3B aircraft for modification into P–3 AEW&C aircraft; and

(2) ten currently retired and previously identified heavy-weight P–3B aircraft for modification into P–3 Slick aircraft.

## **Subtitle B—Enhanced Eradication and Interdiction Strategy in Source Countries**

### **SEC. 821. ADDITIONAL ERADICATION RESOURCES FOR COLOMBIA.**

(a) DEPARTMENT OF STATE.—Funds are authorized to be appropriated for the Department of State for fiscal years 1999, 2000, and 2001 for the enhancement of drug-related eradication efforts in Colombia in the total amount of \$201,250,000 which shall be available for the following purposes:

(1) For each such fiscal year for sustaining support of the helicopters and fixed wing fleet of the national police of Colombia.

(2) For the purchase of DC–3 transport aircraft for the national police of Colombia.

(3) For acquisition of resources needed for prison security in Colombia.

(4) For the purchase of minigun systems for the national police of Colombia.

(5) For the purchase of 6 UH–60L Black Hawk utility helicopters for the national police of Colombia and for operation, maintenance, and training relating to such helicopters.

(6) For procurement, for upgrade of 50 UH-1H helicopters to the Huey II configuration equipped with miniguns for the use of the national police of Colombia.

(7) For the repair and rebuilding of the antinarcotics base in southern Colombia.

(8) For providing sufficient and adequate base and force security for any rebuilt facility in southern Colombia, and the other forward operating antinarcotics bases of the Colombian National Police antinarcotics unit.

(b) COUNTERNARCOTICS ASSISTANCE.—

22 USC 2291  
note.

(1) LIMITATION ON PROVISION OF ASSISTANCE.—Except as provided in paragraph (2), United States counternarcotics assistance may not be provided for the Government of Colombia under this title or under any other provision of law on or after the date of enactment of this Act if the Government of Colombia negotiates or permits the establishment of any demilitarized zone in which the eradication of drug production by the security forces of Colombia, including the Colombian National Police antinarcotics unit, is prohibited.

(2) EXCEPTION.—If the Government of Colombia negotiates or permits the establishment of a demilitarized zone described in paragraph (1), United States counternarcotics assistance may be provided for the Government of Colombia for a period of up to 90 consecutive days upon a finding by the President that providing such assistance is in the national interest of the United States.

(3) NOTIFICATION.—In each case in which counternarcotics assistance is provided for the Government of Colombia as a result of a finding by the President described in paragraph (2), the President shall notify the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate not later than 5 days after such assistance is provided.

#### SEC. 822. ADDITIONAL ERADICATION RESOURCES FOR PERU.

(a) DEPARTMENT OF STATE.—Funds are authorized to be appropriated for the Department of State for fiscal years 1999, 2000, and 2001 for the establishment of a third drug interdiction site in Peru to support air bridge and riverine missions for enhancement of drug-related eradication efforts in Peru, in the total amount of \$3,000,000, and an additional amount of \$1,000,000 for each of fiscal years 2000 and 2001 for operation and maintenance.

(b) DEPARTMENT OF DEFENSE STUDY.—The Secretary of Defense shall conduct a study of Peruvian counternarcotics air interdiction requirements and, not later than 90 days after the date of enactment of this Act, submit to Congress a report on the results of the study. The study shall include a review of the Peruvian Air Force's current and future requirements for counternarcotics air interdiction to complement the Peruvian Air Force's A-37 capability.

#### SEC. 823. ADDITIONAL ERADICATION RESOURCES FOR BOLIVIA.

Funds are authorized to be appropriated for the Department of State for fiscal years 1999, 2000, and 2001 for enhancement of drug-related eradication efforts in Bolivia in the total amount of \$17,000,000 which shall be available for the following purposes:

- (1) For support of air operations in Bolivia.
- (2) For support of riverine operations in Bolivia.
- (3) For support of coca eradication programs.

(4) For procurement of 2 mobile x-ray machines, with operation and maintenance support.

**SEC. 824. MISCELLANEOUS ADDITIONAL ERADICATION RESOURCES.**

Funds are authorized to be appropriated for the Department of State for fiscal years 1999, 2000, and 2001 for enhanced precursor chemical control projects, in the total amount of \$500,000.

**SEC. 825. BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS.**

(a) SENSE OF CONGRESS RELATING TO PROFESSIONAL QUALIFICATIONS OF OFFICIALS RESPONSIBLE FOR INTERNATIONAL NARCOTICS CONTROL.—It is the sense of Congress that any individual serving in the position of assistant secretary in any department or agency of the Federal Government who has primary responsibility for international narcotics control and law enforcement, and the principal deputy of any such assistant secretary, shall have substantial professional qualifications in the fields of—

- (1) management;
- (2) Federal law enforcement or intelligence; and
- (3) foreign policy.

(b) SENSE OF CONGRESS RELATING TO DEFICIENCIES IN INTERNATIONAL NARCOTICS ASSISTANCE ACTIVITIES.—It is the sense of Congress that the responsiveness and effectiveness of international narcotics assistance activities under the Department of State have been severely hampered due, in part, to the lack of law enforcement expertise by responsible personnel in the Department of State.

**Subtitle C—Enhanced Alternative Crop Development Support in Source Zone**

**SEC. 831. ALTERNATIVE CROP DEVELOPMENT SUPPORT.**

Funds are authorized to be appropriated for the United States Agency for International Development for fiscal years 1999, 2000, and 2001 for alternative development programs in the total amount of \$180,000,000 which shall be available as follows:

- (1) In the Guaviare, Putumayo, and Caqueta regions in Colombia.
- (2) In the Ucayali, Apurimac, and Huallaga Valley regions in Peru.
- (3) In the Chapare and Yungas regions in Bolivia.

**SEC. 832. AUTHORIZATION OF APPROPRIATIONS FOR AGRICULTURAL RESEARCH SERVICE COUNTERDRUG RESEARCH AND DEVELOPMENT ACTIVITIES.**

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary of Agriculture for each of fiscal years 1999, 2000, and 2001, \$23,000,000 to support the counternarcotics research efforts of the Agricultural Research Service of the Department of Agriculture. Of that amount, funds are authorized as follows:

- (1) \$5,000,000 shall be used for crop eradication technologies.
- (2) \$2,000,000 shall be used for narcotics plant identification, chemistry, and biotechnology.
- (3) \$1,000,000 shall be used for worldwide crop identification, detection tagging, and production estimation technology.
- (4) \$5,000,000 shall be used for improving the disease resistance, yield, and economic competitiveness of commercial

crops that can be promoted as alternatives to the production of narcotics plants.

(5) \$10,000,000 to contract with entities meeting the criteria described in subsection (b) for the product development, environmental testing, registration, production, aerial distribution system development, product effectiveness monitoring, and modification of multiple herbicides to control narcotic crops (including coca, poppy, and cannabis) in the United States and internationally.

(b) **CRITERIA FOR ELIGIBLE ENTITIES.**—An entity under this subsection is an entity which possesses—

- (1) experience in diseases of narcotic crops;
- (2) intellectual property involving seed-borne dispersal formulations;
- (3) the availability of state-of-the-art containment or quarantine facilities;
- (4) country-specific herbicide formulations;
- (5) specialized fungicide resistant formulations; or
- (6) special security arrangements.

**SEC. 833. MASTER PLAN FOR HERBICIDES TO CONTROL NARCOTIC CROPS.**

(a) **IN GENERAL.**—The Director of the Office of National Drug Control Policy shall develop a 10-year master plan for the use of herbicides to control narcotic crops (including coca, poppy, and cannabis) in the United States and internationally.

(b) **COORDINATION.**—The Director shall develop the plan in coordination with—

- (1) the Department of Agriculture;
- (2) the Drug Enforcement Administration of the Department of Justice;
- (3) the Department of Defense;
- (4) the Environmental Protection Agency;
- (5) the Bureau for International Narcotics and Law Enforcement Activities of the Department of State;
- (6) the United States Information Agency; and
- (7) other appropriate agencies.

(c) **REPORT.**—Not later than March 1, 1999, the Director of the Office of National Drug Control Policy shall submit to Congress a report describing the activities undertaken to carry out this section.

**SEC. 834. AUTHORIZATION OF USE OF ENVIRONMENTALLY-APPROVED HERBICIDES TO ELIMINATE ILLICIT NARCOTICS CROPS.** 21 USC 1713.

The Secretary of State, the Attorney General, the Secretary of Agriculture, the Secretary of Defense, the Director of the Office of National Drug Control Policy, and the Administrator of the Environmental Protection Agency are authorized to support the development and use of environmentally-approved herbicides to eliminate illicit narcotics crops, including coca, cannabis, and opium poppy, both in the United States and in foreign countries.

**Subtitle D—Enhanced International Law Enforcement Training**

**SEC. 841. ENHANCED INTERNATIONAL LAW ENFORCEMENT ACADEMY TRAINING.**

(a) **MARITIME LAW ENFORCEMENT TRAINING CENTER.**—Funds are authorized to be appropriated for the Department of Transportation and the Department of the Treasury for fiscal years 1999, 2000, and 2001 for the joint establishment, operation, and maintenance in San Juan, Puerto Rico, of a center for training law enforcement personnel of countries located in the Latin American and Caribbean regions in matters relating to maritime law enforcement, including customs-related ports management matters, as follows:

(1) For each such fiscal year for funding by the Department of Transportation, \$1,500,000.

(2) For each such fiscal year for funding by the Department of the Treasury, \$1,500,000.

(b) **UNITED STATES COAST GUARD INTERNATIONAL MARITIME TRAINING VESSEL.**—Funds are authorized to be appropriated for the Department of Transportation for fiscal years 1999, 2000, and 2001 for the establishment, operation, and maintenance of maritime training vessels in the total amount of \$15,000,000 which shall be available for the following purposes:

(1) For a vessel for international maritime training, which shall visit participating Latin American and Caribbean nations on a rotating schedule in order to provide law enforcement training and to perform maintenance on participating national assets.

(2) For support of the United States Coast Guard Balsam Class Buoy Tender training vessel.

**SEC. 842. ENHANCED UNITED STATES DRUG ENFORCEMENT INTERNATIONAL TRAINING.**

(a) **MEXICO.**—Funds are authorized to be appropriated for the Department of Justice for fiscal years 1999, 2000, and 2001 for substantial exchanges for Mexican judges, prosecutors, and police, in the total amount of \$2,000,000 for each such fiscal year. The Attorney General shall consult with the Secretary of State regarding such exchanges.

(b) **BRAZIL.**—Funds are authorized to be appropriated for the Department of Justice for fiscal years 1999, 2000, and 2001 for enhanced support for the Brazilian Federal Police Training Center, in the total amount of \$1,000,000 for each such fiscal year. The Attorney General shall consult with the Secretary of State regarding such enhanced support.

(c) **PANAMA.**—

(1) **IN GENERAL.**—Funds are authorized to be appropriated for the Department of Transportation for fiscal years 1999, 2000, and 2001 for operation and maintenance, for locating and operating Coast Guard assets so as to strengthen the capability of the Coast Guard of Panama to patrol the Atlantic and Pacific coasts of Panama for drug enforcement and interdiction activities, in the total amount of \$1,000,000 for each such fiscal year. The Secretary of Transportation shall consult with the Secretary of State regarding the location and operation of such assets for such purposes.



(2) ELIGIBILITY TO RECEIVE TRAINING.—Notwithstanding any other provision of law, members of the national police of Panama shall be eligible to receive training through the International Military Education Training program.

(d) VENEZUELA.—There are authorized to be appropriated for the Department of Justice for each of fiscal years 1999, 2000, and 2001, \$1,000,000 for operation and maintenance, for support for the Venezuelan Judicial Technical Police Counterdrug Intelligence Center. The Attorney General shall consult with the Secretary of State regarding such support.

(e) ECUADOR.—

(1) IN GENERAL.—Funds are authorized to be appropriated for the Department of Transportation and the Department of the Treasury for each of fiscal years 1999, 2000, and 2001 for the buildup of local coast guard and port control in Guayaquil and Esmeraldas, Ecuador, as follows:

(A) For each such fiscal year for the Department of Transportation, \$500,000.

(B) For each such fiscal year for the Department of the Treasury, \$500,000.

(2) CONSULTATION.—The Secretary of Transportation and the Secretary of the Treasury shall consult with the Secretary of State regarding the buildup described in paragraph (1).

(f) HAITI AND THE DOMINICAN REPUBLIC.—Funds are authorized to be appropriated for the Department of the Treasury for each of fiscal years 1999, 2000, and 2001, \$500,000 for the buildup of local coast guard and port control in Haiti and the Dominican Republic. The Secretary of the Treasury shall consult with the Secretary of State regarding such buildup of local coast guard and port patrol.

(g) CENTRAL AMERICA.—There are authorized to be appropriated for the Department of the Treasury for each of fiscal years 1999, 2000, and 2001, \$12,000,000 for the buildup of local coast guard and port control in Belize, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. The Secretary of the Treasury shall consult with the Secretary of State regarding such buildup of local coast guard and port patrol.

**SEC. 843. PROVISION OF NONLETHAL EQUIPMENT TO FOREIGN LAW ENFORCEMENT ORGANIZATIONS FOR COOPERATIVE ILLICIT NARCOTICS CONTROL ACTIVITIES.** 22 USC 2291-5.

(a) IN GENERAL.—(1) Subject to paragraph (2), the Administrator of the Drug Enforcement Administration, in consultation with the Secretary of State, may transfer or lease each year nonlethal equipment to foreign law enforcement organizations for the purpose of establishing and carrying out cooperative illicit narcotics control activities.

(2)(A) The Administrator may transfer or lease equipment under paragraph (1) only if the equipment is not designated as a munitions item or controlled on the United States Munitions List pursuant to section 38 of the Arms Export Control Act.

(B) The value of each piece of equipment transferred or leased under paragraph (1) may not exceed \$100,000.

(b) ADDITIONAL REQUIREMENT.—The Administrator shall provide for the maintenance and repair of any equipment transferred or leased under subsection (a).

(c) NOTIFICATION REQUIREMENT.—Before the export of any item authorized for transfer under subsection (a), the Administrator shall provide written notice to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(d) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) all United States law enforcement personnel serving in Mexico should be accredited the same status under the Vienna Convention on Diplomatic Immunity as other diplomatic personnel serving at United States posts in Mexico; and

(2) all Mexican narcotics law enforcement personnel serving in the United States should be accorded the same diplomatic status as Drug Enforcement Administration personnel serving in Mexico.

### **Subtitle E—Enhanced Drug Transit and Source Zone Law Enforcement Operations and Equipment**

#### **SEC. 851. INCREASED FUNDING FOR OPERATIONS AND EQUIPMENT; REPORT.**

(a) DRUG ENFORCEMENT ADMINISTRATION.—Funds are authorized to be appropriated for the Drug Enforcement Administration for fiscal years 1999, 2000, and 2001 for enhancement of counternarcotic operations in drug transit and source countries in the total amount of \$58,900,000 which shall be available for the following purposes:

(1) For support of the Merlin program.

(2) For support of the intercept program.

(3) For support of the development and implementation of automation systems to support investigative and intelligence requirements.

(4) For support of the Caribbean Initiative.

(5) For the hire of special agents, administrative and investigative support personnel, and intelligence analysts for the support of overseas investigations.

(b) DEPARTMENT OF STATE.—Funds are authorized to be appropriated for the Department of State for fiscal year 1999, 2000, and 2001 for the deployment of commercial unclassified intelligence and imaging data and a Passive Coherent Location System for counternarcotics and interdiction purposes in the Western Hemisphere, the total amount of \$20,000,000.

(c) DEPARTMENT OF THE TREASURY.—Funds are authorized to be appropriated for the United States Customs Service for fiscal years 1999, 2000, and 2001 for enhancement of counternarcotic operations in drug transit and source countries in the total amount of \$71,500,000 which shall be available for the following purposes:

(1) For refurbishment of up to 30 interceptor and Blue Water Platform vessels in the Caribbean maritime fleet.

(2) For purchase of up to 9 new interceptor vessels in the Caribbean maritime fleet.

(3) For the hire and training of up to 25 special agents for maritime operations in the Caribbean.

(4) For purchase of up to 60 automotive vehicles for ground use in South Florida.

(5) For each such fiscal year for operation and maintenance support for up to 10 United States Customs Service Citations Aircraft to be dedicated for the source and transit zone.

(6) For purchase of non-intrusive inspection systems consistent with the United States Customs Service 5-year technology plan, including truck x-rays and gamma-imaging for drug interdiction purposes at high-threat seaports and land border ports of entry.

(d) DEPARTMENT OF DEFENSE REPORT.—Not later than January 31, 1999, the Secretary of Defense, in consultation with the Director of the Office of National Drug Control Policy, shall submit to Congress a report examining and proposing recommendations regarding any organizational changes to optimize counterdrug activities, including alternative cost-sharing arrangements regarding the following facilities:

(1) The Joint Inter-Agency Task Force, East, Key West, Florida.

(2) The Joint Inter-Agency Task Force, West, Alameda, California.

(3) The Joint Inter-Agency Task Force, South, Panama City, Panama.

(4) The Joint Task Force 6, El Paso, Texas.

**SEC. 852. FUNDING FOR COMPUTER SOFTWARE AND HARDWARE TO FACILITATE DIRECT COMMUNICATION BETWEEN DRUG ENFORCEMENT AGENCIES.**

(a) AUTHORIZATION.—Funds are authorized to be appropriated for the development and purchase of computer software and hardware to facilitate direct communication between agencies that perform work relating to the interdiction of drugs at United States borders, including the United States Customs Service, the Border Patrol, the Federal Bureau of Investigation, the Drug Enforcement Agency, and the Immigration and Naturalization Service, in the total amount of \$50,000,000.

(b) AVAILABILITY.—Funds authorized pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

**SEC. 853. SENSE OF CONGRESS REGARDING PRIORITY OF DRUG INTERDICTION AND COUNTERDRUG ACTIVITIES.**

It is the sense of Congress that the Secretary of Defense should revise the Global Military Force Policy of the Department of Defense in order—

(1) to treat the international drug interdiction and counterdrug activities of the Department as a military operation other than war, thereby elevating the priority given such activities under the Policy to the next priority below the priority given to war under the Policy and to the same priority as is given to peacekeeping operations under the Policy; and

(2) to allocate the assets of the Department to drug interdiction and counter-drug activities in accordance with the priority given those activities.

**Subtitle F—Relationship to Other Laws**

**SEC. 861. AUTHORIZATIONS OF APPROPRIATIONS.**

The funds authorized to be appropriated for any department or agency of the Federal Government for fiscal years 1999, 2000,

or 2001 by this title are in addition to funds authorized to be appropriated for that department or agency for fiscal year 1999, 2000, or 2001 by any other provision of law.

Controlled  
Substances  
Trafficking  
Prohibition Act.  
21 USC 801 note.

### Subtitle G—Trafficking in Controlled Substances

#### SEC. 871. SHORT TITLE.

This subtitle may be cited as the “Controlled Substances Trafficking Prohibition Act”.

#### SEC. 872. LIMITATION.

(a) AMENDMENT.—Section 1006(a) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)) is amended—

(1) by striking “The Attorney General” and inserting “(1) Subject to paragraph (2), the Attorney General”; and

(2) by adding at the end the following:

“(2) Notwithstanding any exemption under paragraph (1), a United States resident who enters the United States through an international land border with a controlled substance (except a substance in schedule I) for which the individual does not possess a valid prescription issued by a practitioner (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in accordance with applicable Federal and State law (or documentation that verifies the issuance of such a prescription to that individual) may not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.”.

21 USC 956 note.

(b) FEDERAL MINIMUM REQUIREMENT.—Section 1006(a)(2) of the Controlled Substances Import and Export Act, as added by subsection (a), is a minimum Federal requirement and shall not be construed to limit a State from imposing any additional requirement.

21 USC 956 note.

(c) EXTENT.—The amendment made by subsection (a) shall not be construed to affect the jurisdiction of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.).

Drug-Free  
Workplace Act of  
1998.  
15 USC 631 note.

### TITLE IX—DRUG-FREE WORKPLACE ACT

#### SEC. 901. SHORT TITLE.

This title may be cited as the “Drug-Free Workplace Act of 1998”.

15 USC 654 note.

#### SEC. 902. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) 74 percent of adults who use illegal drugs are employed;  
(2) small business concerns employ over 50 percent of the Nation’s workforce;

(3) in more than 88 percent of families with children under the age of 18, at least 1 parent is employed; and

(4) employees who use and abuse addictive illegal drugs and alcohol increase costs for businesses and risk the health and safety of all employees because—

(A) absenteeism is 66 percent higher among drug users than individuals who do not use drugs;

(B) health benefit utilization is 300 percent higher among drug users than individuals who do not use drugs;

(C) 47 percent of workplace accidents are drug-related;

(D) disciplinary actions are 90 percent higher among drug users than among individuals who do not use drugs; and

(E) employee turnover is significantly higher among drug users than among individuals who do not use drugs.

(b) PURPOSES.—The purposes of this title are to—

(1) educate small business concerns about the advantages of a drug-free workplace;

(2) provide grants and technical assistance in addition to financial incentives to enable small business concerns to create a drug-free workplace;

(3) assist working parents in keeping their children drug-free; and

(4) encourage small business employers and employees alike to participate in drug-free workplace programs.

**SEC. 903. SENSE OF CONGRESS.**

15 USC 654 note.

It is the sense of Congress that—

(1) businesses should adopt drug-free workplace programs;

(2) States should consider incentives to encourage businesses to adopt drug-free workplace programs; and

(3) such incentives may include—

(A) financial incentives, including—

(i) a reduction in workers' compensation premiums;

(ii) a reduction in unemployment insurance premiums; and

(iii) tax deductions in an amount equal to the amount of expenditures for employee assistance programs, treatment, or illegal drug testing; and

(B) other incentives, such as the adoption of liability limitations, as recommended by the President's Commission on Model State Drug Laws.

**SEC. 904. DRUG-FREE WORKPLACE DEMONSTRATION PROGRAM.**

15 USC 654.

Section 27 of the Small Business Act (15 U.S.C. 654) is amended to read as follows:

**“SEC. 27. DRUG-FREE WORKPLACE DEMONSTRATION PROGRAM.**

“(a) DEFINITIONS.—In this section:

“(1) DRUG-FREE WORKPLACE PROGRAM.—The term ‘drug-free workplace program’ means a program that includes—

“(A) a written policy, including a clear statement of expectations for workplace behavior, prohibitions against reporting to work or working under the influence of illegal drugs or alcohol, prohibitions against the use or possession of illegal drugs in the workplace, and the consequences of violating those expectations and prohibitions;

“(B) drug and alcohol abuse prevention training for a total of not less than 2 hours for each employee, and additional voluntary drug and alcohol abuse prevention training for employees who are parents;

“(C) employee illegal drug testing, with analysis conducted by a drug testing laboratory certified by the Substance Abuse and Mental Health Services Administration, or approved by the College of American Pathologists for forensic drug testing, and a review of each positive test result by a medical review officer;

“(D) employee access to an employee assistance program, including confidential assessment, referral, and short-term problem resolution; and

“(E) continuing alcohol and drug abuse prevention education.

“(2) ELIGIBLE INTERMEDIARY.—The term ‘eligible intermediary’ means an organization—

“(A) that has not less than 2 years of experience in carrying out drug-free workplace programs;

“(B) that has a drug-free workplace policy in effect;

“(C) that is located in a State, the District of Columbia, or a territory of the United States; and

“(D) the purpose of which is—

“(i) to develop comprehensive drug-free workplace programs or to supply drug-free workplace services; or

“(ii) to provide other forms of assistance and services to small business concerns.

“(3) EMPLOYEE.—The term ‘employee’ includes any—

“(A) applicant for employment;

“(B) employee;

“(C) supervisor;

“(D) manager;

“(E) officer of a small business concern who is active in management of the concern; and

“(F) owner of a small business concern who is active in management of the concern.

“(4) MEDICAL REVIEW OFFICER.—The term ‘medical review officer’—

“(A) means a licensed physician with knowledge of substance abuse disorders; and

“(B) does not include any—

“(i) employee of the small business concern; or

“(ii) employee or agent of, or any person having a financial interest in, the laboratory for which the illegal drug test results are being reviewed.

“(b) ESTABLISHMENT.—There is established a drug-free workplace demonstration program, under which the Administrator may make grants to, or enter into cooperative agreements or contracts with, eligible intermediaries for the purpose of providing financial and technical assistance to small business concerns seeking to establish a drug-free workplace program.

“(c) PRIVACY PROTECTION FOR EMPLOYEES PARTICIPATING IN A DRUG-FREE WORKPLACE PROGRAM.—Each drug-free workplace program established with assistance made available under this section shall—

“(1) include, as reasonably necessary and appropriate, practices and procedures to ensure the confidentiality of illegal drug test results and of any participation by an employee in a rehabilitation program;

“(2) prohibit the mandatory disclosure of medical information by an employee prior to a confirmed positive illegal drug test; and

“(3) require that a medical review officer reviewing illegal drug test results shall report only the final results, limited to those drugs for which the employee tests positive, in writing

and in a manner designed to ensure the confidentiality of the results.

“(d) EVALUATION AND COORDINATION.—Not later than 18 months after the date of enactment of the Drug-Free Workplace Act of 1998, the Administrator, in coordination with the Secretary of Labor, the Secretary of Health and Human Services, and the Director of National Drug Control Policy, shall—

“(1) evaluate the drug-free workplace programs established with assistance made available under this section; and

“(2) submit to Congress a report describing the results of the evaluation under paragraph (1). Reports.

“(e) CONTRACT AUTHORITY.—In carrying out this section, the Administrator may—

“(1) contract with public and private entities to provide assistance related to carrying out the program under this section; and

“(2) compensate those entities for provision of that assistance.

“(f) CONSTRUCTION.—Nothing in this section may be construed to require an employer who attends a program offered by an intermediary to contract for any service offered by the intermediary.

“(g) AUTHORIZATION.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, \$10,000,000 for fiscal years 1999 and 2000. Amounts made available under this subsection shall remain available until expended.

“(2) SMALL BUSINESS DEVELOPMENT CENTERS.—Of the total amount made available under this subsection, not more than the greater of 10 percent or \$1,000,000 may be used to carry out section 21(c)(3)(T).”.

#### SEC. 905. SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (R), by striking “and” at the end;

(2) in subparagraph (S), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(T) providing information and assistance to small business concerns with respect to establishing drug-free workplace programs on or before October 1, 2000.”.

### TITLE X—CANYON FERRY RESERVOIR, MONTANA, ACT

#### SECTION 1001. FINDINGS.

Congress finds that the conveyance of the properties described in section 4(b) to the lessees of those properties for fair market value would have the beneficial results of—

(1) reducing Pick-Sloan project debt for the Canyon Ferry Unit;

(2) providing a permanent source of funding to acquire publicly accessible land and interests in land, including easements and conservation easements, in the State from willing sellers at fair market value to—

(A) restore and conserve fisheries habitat, including riparian habitat;

(B) restore and conserve wildlife habitat;

- (C) enhance public hunting, fishing, and recreational opportunities; and
- (D) improve public access to public land;
- (3) eliminating Federal payments in lieu of taxes and associated management expenditures in connection with the Federal Government's ownership of the properties while increasing local tax revenues from the new owners; and
- (4) eliminating expensive and contentious disputes between the Secretary and leaseholders while ensuring that the Federal Government receives full and fair value for the properties.

**SEC. 1002. PURPOSES.**

The purposes of this Act are to—

- (1) establish terms and conditions under which the Secretary of the Interior shall, for fair market value, convey certain properties around Canyon Ferry Reservoir, Montana, to private parties; and
- (2) acquire certain land for fish and wildlife conservation purposes.

**SEC. 1003. DEFINITIONS.**

In this Act:

(1) CANYON FERRY-BROADWATER COUNTY TRUST.—The term “Canyon Ferry-Broadwater County Trust” means the Canyon Ferry-Broadwater County Trust established under section 8.

(2) CFRA.—The term “CFRA” means the Canyon Ferry Recreation Association, Incorporated, a Montana corporation.

(3) COMMISSIONERS.—The term “Commissioners” means the Board of Commissioners for Broadwater County, Montana.

(4) LEASE.—The term “lease” means a lease or permit in effect on the date of enactment of this Act that gives a leaseholder the right to occupy a property.

(5) LESSEE.—The term “lessee” means—

(A) the leaseholder of 1 of the properties on the date of enactment of this Act; and

(B) the leaseholder's heirs, executors, and assigns of the leasehold interest in the property.

(6) MONTANA FISH AND WILDLIFE CONSERVATION TRUST.—The term “Montana Fish and Wildlife Conservation Trust” means the Montana Fish and Wildlife Conservation Trust established under section 7.

(7) PROJECT.—The term “project” means the Canyon Ferry Unit of the Pick-Sloan Missouri River Basin Project.

(8) PROPERTY.—

(A) IN GENERAL.—The term “property” means 1 of the cabin sites described in section 4(b).

(B) USE IN THE PLURAL.—The term “properties” means all 265 of the properties and any contiguous parcels referred to in section 4(b)(1)(B).

(9) PURCHASER.—The term “purchaser” means a person or entity, excluding CFRA or a lessee, that purchases the properties under section 4.

(10) RESERVOIR.—The term “Reservoir” means the Canyon Ferry Reservoir, Montana.

(11) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(12) STATE.—The term “State” means the State of Montana.



**SEC. 1004. SALE OF PROPERTIES.**

(a) **IN GENERAL.**—Consistent with the Act of June 17, 1902 (32 Stat. 388, chapter 1093) and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.), the Secretary shall convey to CFRA or a purchaser—

(1) all right, title, and interest (except the mineral estate) of the United States in and to the properties, subject to valid existing rights and the operational requirements of the Pick-Sloan Missouri River Basin Program; and

(2) perpetual easements for—

(A) vehicular access to each property;

(B) access to and use of 1 dock per property; and

(C) access to and use of all boathouses, ramps, retaining walls, and other improvements for which access is provided in the leases as of the date of enactment of this Act.

(b) **DESCRIPTION OF PROPERTIES.**—

(1) **IN GENERAL.**—The properties to be conveyed are—

(A) the 265 cabin sites of the Bureau of Reclamation located along the northern end of the Reservoir in portions of sections 2, 11, 12, 13, 15, 22, 23, and 26, Township 10 North, Range 1 West; and

(B) any small parcel contiguous to any property (not including shoreline or land needed to provide public access to the shoreline of the Reservoir) that the Secretary determines should be conveyed in order to eliminate an inholding and facilitate administration of surrounding land remaining in Federal ownership.

(2) **ACREAGE; LEGAL DESCRIPTION.**—The acreage and legal description of each property and of each parcel shall be determined by the Secretary in consultation with CFRA.

(3) **RESTRICTIVE USE COVENANT.**—

(A) **IN GENERAL.**—In order to maintain the unique character of the Reservoir area, the Secretary, the purchaser, CFRA, and each subsequent owner of each property shall covenant that the use restrictions to carry out subparagraphs (B) and (C) shall—

(i) be appurtenant to, and run, with each property; and

(ii) be binding on each subsequent owner of each property.

(B) **ACCESS TO RESERVOIR.**—

(i) **IN GENERAL.**—The Secretary, the purchaser, CFRA, and the subsequent owners of each property shall ensure that—

(I) public access to and along the shoreline of the Reservoir in existence on the date of enactment of this Act is not obstructed; and

(II) adequate public access to and along the shoreline of the Reservoir is maintained.

(ii) **FEDERAL RECLAMATION LAW.**—

(I) **IN GENERAL.**—No conveyance of property under this Act shall restrict or limit the authority or ability of the Secretary to fulfill the duties of the Secretary under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental

to and amendatory of that Act (43 U.S.C. 371 et seq.).

(II) NO LIABILITY.—The operation of the Reservoir by the Secretary in fulfillment of the duties described in subclause (I) shall not result in liability for damages, direct or indirect, to the owner of any property conveyed under section 4(a) or damages from any loss of use or enjoyment of the property.

(C) HISTORICAL USE.—The Secretary, the purchaser, CFRA, and each subsequent owner of each property shall covenant that future uses of the property shall be limited to the type and intensity of uses in existence on the date of enactment of this Act, as limited by the prohibitions contained in the annual operating plan of the Bureau of Reclamation for the Reservoir in effect on October 1, 1998.

(c) PURCHASE PROCESS.—

(1) IN GENERAL.—The Secretary shall—

(A) solicit sealed bids for the properties;

(B) subject to paragraph (2), sell the properties to the bidder that submits the highest bid above the minimum bid determined under paragraph (2); and

(C) not accept any bid for less than all of the properties in 1 transaction.

(2) MINIMUM BID.—

(A) IN GENERAL.—Before accepting bids, the Secretary shall establish a minimum bid, which shall be equal to the fair market value of the properties determined by an appraisal of each property, exclusive of the value of private improvements made by the leaseholders before the date of the conveyance, in conformance with the Uniform Appraisal Standards for Federal Land Acquisition.

(B) FAIR MARKET VALUE.—Any dispute over the fair market value of a property under subparagraph (A) shall be resolved in accordance with section 2201.4 of title 43, Code of Federal Regulations.

(3) RIGHT OF FIRST REFUSAL.—If the highest bidder is other than CFRA, CFRA shall have the right to match the highest bid and purchase the properties at a price equal to the amount of the highest bid.

(d) TERMS OF CONVEYANCE.—

(1) PURCHASER.—If the highest bidder is other than CFRA, and CFRA does not match the highest bid, the following shall apply:

(A) PAYMENT.—The purchaser shall pay the amount bid to the Secretary for distribution in accordance with section 6.

(B) CONVEYANCE.—The Secretary shall convey the properties to the purchaser.

(C) OPTION TO PURCHASE.—The purchaser shall give each lessee of a property conveyed under this section an option to purchase the property at fair market value, as determined under subsection (c)(2).

(D) NONPURCHASING LESSEES.—

(i) RIGHT TO CONTINUE LEASE.—A lessee that is unable or unwilling to purchase a property shall be provided the opportunity to continue to lease the

property for fair market value rent under the same terms and conditions as apply under the existing lease for the property, and shall have the right to renew the term of the existing lease for 2 consecutive 5-year terms.

(ii) COMPENSATION FOR IMPROVEMENTS.—If a lessee declines to purchase a property, the purchaser shall compensate the lessee for the fair market value, as determined pursuant to customary appraisal procedures, of all improvements made to the property by the lessee. The lessee may sell the improvements to the purchaser at any time, but the sale shall be completed by the final termination of the lease, after all renewals under clause (i).

(2) CFRA.—If CFRA is the highest bidder, or matches the highest bid, the following shall apply:

(A) CLOSING.—On receipt of a purchase request from a lessee or CFRA, the Secretary shall close on the property and prepare all other properties for closing within 45 days.

(B) PAYMENT.—At the closing for a property—

(i) the lessee or CFRA shall deliver to the Secretary payment for the property, which the Secretary shall distribute in accordance with section 6; and

(ii) the Secretary shall convey the property to the lessee or CFRA.

(C) APPRAISAL.—The Secretary shall determine the purchase amount of each property based on the appraisal conducted under subsection (c)(2), the amount of the bid under subsection (c)(1), and the proportionate share of administrative costs pursuant to subsection (e). The total purchase amount for all properties shall equal the total bid amount plus administrative costs under subsection (e).

(D) TIMING.—CFRA and the lessees shall purchase at least 75 percent of the properties not later than August 1 of the year that begins at least 12 months after title to the first property is conveyed by the Secretary to a lessee.

(E) RIGHT TO RENEW.—The Secretary shall afford the lessees who have not purchased properties under this section the right to renew the term of the existing lease for 2 (but not more than 2) consecutive 5-year terms.

(F) REIMBURSEMENT.—A lessee shall reimburse CFRA for a proportionate share of the costs to CFRA of completing the transactions contemplated by this Act, including any interest charges.

(G) RENTAL PAYMENTS.—All rent received from the leases shall be distributed by the Secretary in accordance with section 6.

(e) ADMINISTRATIVE COSTS.—Any reasonable administrative costs incurred by the Secretary, including the costs of survey and appraisals, incident to the conveyance under subsection (a) shall be reimbursed by the purchaser or CFRA.

(f) TIMING.—The Secretary shall make every effort to complete the conveyance under subsection (a) not later than 1 year after the satisfaction of the condition established by section 8(b).

(g) CLOSINGS.—Real estate closings to complete the conveyance under subsection (a) may be staggered to facilitate the conveyance as agreed to by the Secretary and the purchaser or CFRA.

(h) CONVEYANCE TO LESSEE.—If a lessee purchases a property from the purchaser or CFRA, the Secretary, at the request of the lessee, shall have the conveyance documents prepared in the name or names of the lessee so as to minimize the amount of time and number of documents required to complete the closing for the property.

#### **SEC. 1005. AGREEMENT.**

(a) MANAGEMENT OF SILO'S CAMPGROUND.—Not later than 180 days after the date of enactment of this Act, the Secretary, acting through the Commissioner of Reclamation, shall—

(1) offer to contract with the Commissioners to manage the Silo's campground;

(2) enter into such a contract if agreed to by the Secretary and the Commissioners; and

(3) grant necessary easements for access roads within and adjacent to the Silo's campground.

(b) CONCESSION INCOME.—Any income generated by any concession that may be granted by the Commissioners at the Silo's recreation area—

(1) shall be deposited in the Canyon Ferry-Broadwater County Trust; and

(2) may be disbursed by the Canyon Ferry-Broadwater County Trust manager as part of the income of the Trust.

#### **SEC. 1006. USE OF PROCEEDS.**

Notwithstanding any other provision of law, proceeds of conveyances under this Act shall be available, without further Act of appropriation, as follows:

(1) 10 percent of the proceeds shall be applied by the Secretary of the Treasury to reduce the outstanding debt for the Pick-Sloan project at the Reservoir.

(2) 90 percent of the proceeds shall be deposited in the Montana Fish and Wildlife Conservation Trust.

#### **SEC. 1007. MONTANA FISH AND WILDLIFE CONSERVATION TRUST.**

(a) ESTABLISHMENT.—The Secretary, in consultation with the State congressional delegation and the Governor of the State, shall establish a nonprofit charitable permanent perpetual public trust in the State, to be known as the "Montana Fish and Wildlife Conservation Trust" (referred to in this section as the "Trust").

(b) PURPOSE.—The purpose of the Trust shall be to provide a permanent source of funding to acquire publicly accessible land and interests in land, including easements and conservation easements, in the State from willing sellers at fair market value to—

(1) restore and conserve fisheries habitat, including riparian habitat;

(2) restore and conserve wildlife habitat;

(3) enhance public hunting, fishing, and recreational opportunities; and

(4) improve public access to public land.

(c) ADMINISTRATION.—

(1) TRUST MANAGER.—The Trust shall be managed by a trust manager, who—

(A) shall be responsible for investing the corpus of the Trust; and

(B) shall disburse funds from the Trust on receiving a request for disbursement from a majority of the members of the Joint State-Federal Agency Board established under paragraph (2) and after determining, in consultation with the Citizen Advisory Board established under paragraph (3) and after consideration of any comments submitted by members of the public, that the request meets the purpose of the Trust under subsection (b) and the requirements of subsections (d) and (e).

(2) JOINT STATE-FEDERAL AGENCY BOARD.—

(A) ESTABLISHMENT.—There is established a Joint State-Federal agency Board, which shall consist of—

(i) 1 Forest Service employee employed in the State designated by the Forest Service;

(ii) 1 Bureau of Land Management employee employed in the State designated by the Bureau of Land Management;

(iii) 1 Bureau of Reclamation employee employed in the State designated by the Bureau of Reclamation;

(iv) 1 United States Fish and Wildlife Service employee employed in the State designated by the United States Fish and Wildlife Service; and

(v) 1 Montana Department of Fish, Wildlife and Parks employee designated by the Department.

(B) REQUESTS FOR DISBURSEMENT.—After consulting with the Citizen Advisory Board established under paragraph (3) and after consideration of the Trust plan prepared under paragraph (3)(C) and of any comments or requests submitted by members of the public, the Joint State-Federal Agency Board, by a vote of a majority of its members, may submit to the Trust Manager a request for disbursement if the Board determines that the request meets the purpose of the Trust.

(3) CITIZEN ADVISORY BOARD.—

(A) IN GENERAL.—The Secretary shall nominate, and the Joint State-Federal Agency Board shall approve by a majority vote, a Citizen Advisory Board.

(B) MEMBERSHIP.—The Citizen Advisory Board shall consist of 4 members, including 1 with a demonstrated commitment to improving public access to public land and to fish and wildlife conservation, from each of—

(i) a Montana organization representing agricultural landowners;

(ii) a Montana organization representing hunters;

(iii) a Montana organization representing fishermen; and

(iv) a Montana nonprofit land trust or environmental organization.

(C) DUTIES.—The Citizen Advisory Board, in consultation with the Joint State-Federal Agency Board and the Montana Association of Counties, shall prepare and periodically update a Trust plan including recommendations for requests for disbursement by the Joint State-Federal Agency Board.

(D) OBJECTIVES OF PLAN.—The Trust plan shall be designed to maximize the effectiveness of Montana Fish and Wildlife Conservation Trust expenditures considering—

- (i) public needs and requests;
- (ii) availability of property;
- (iii) alternative sources of funding; and
- (iv) availability of matching funds.

(4) PUBLIC NOTICE AND COMMENT.—Before requesting any disbursements under paragraph (2), the Joint State-Federal Agency Board shall—

- (A) notify members of the public, including local governments; and
- (B) provide opportunity for public comment.

(d) USE.—

(1) PRINCIPAL.—The principal of the Trust shall be inviolate.

(2) EARNINGS.—Earnings on amounts in the Trust shall be used to carry out subsection (b) and to administer the Trust and Citizen Advisory Board.

(3) LOCAL PURPOSES.—Not more than 50 percent of the income from the Trust in any year shall be used outside the watershed of the Missouri River in the State, from Holter Dam upstream to the confluence of the Jefferson River, Gallatin River, and Madison River.

(e) MANAGEMENT.—Land and interests in land acquired under this section shall be managed for the purpose described in subsection (b).

**SEC. 1008. CANYON FERRY-BROADWATER COUNTY TRUST.**

(a) ESTABLISHMENT.—The Commissioners shall establish a non-profit charitable permanent perpetual public trust to be known as the “Canyon Ferry-Broadwater County Trust” (referred to in this section as the “Trust”).

(b) PRIORITY OF TRUST ESTABLISHMENT.—

(1) CONDITION TO SALE.—No sale of property under section 4 shall be made until at least \$3,000,000, or a lesser amount as offset by in-kind contributions made before full funding of the trust, is deposited as the initial corpus of the Trust.

(2) IN-KIND CONTRIBUTIONS.—

(A) IN GENERAL.—In-kind contributions—

(i) shall be approved in advance by the Commissioners;

(ii) shall be made in Broadwater County;

(iii) shall be related to the improvement of access to the portions of the Reservoir lying within Broadwater County or to the creation and improvement of new and existing recreational areas within Broadwater County; and

(iv) shall not include any contribution made by Broadwater County.

(B) APPROVAL.—Approval by the Commissioners of an in-kind contribution under subparagraph (A) shall include approval of the value, nature, and type of the contribution and of the entity that makes the contribution.

(3) INTEREST.—Notwithstanding any other provision of this Act, all interest earned on the principal of the Trust shall

be reinvested and considered part of its corpus until the condition stated in paragraph (1) is met.

(c) TRUST MANAGEMENT.—

(1) TRUST MANAGER.—The Trust shall be managed by a nonprofit foundation or other independent trustee to be selected by the Commissioners.

(2) USE.—The Trust manager shall invest the corpus of the Trust and disburse funds as follows:

(A) PRINCIPAL.—A sum not to exceed \$500,000 may be expended from the corpus to pay for the planning and construction of a harbor at the Silo's recreation area.

(B) INTEREST.—The balance of the Trust shall be held and the income shall be expended annually for the improvement of access to the portions of the Reservoir lying within Broadwater County, Montana, and for the creation and improvement of new and existing recreational areas within Broadwater County.

(3) DISBURSEMENT.—The Trust manager—

(A) shall approve or reject any request for disbursement; and

(B) shall not make any expenditure except on the recommendation of the advisory committee established under subsection (d).

(d) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Commissioners shall appoint an advisory committee consisting of not fewer than 3 nor more than 5 persons.

(2) DUTIES.—The advisory committee shall meet on a regular basis to establish priorities and make requests for the disbursement of funds to the Trust manager.

(3) APPROVAL BY THE COMMISSIONERS.—The advisory committee shall recommend only such expenditures as are approved by the Commissioners.

(e) NO OFFSET.—Neither the corpus nor the income of the Trust shall be used to reduce or replace the regular operating expenses of the Secretary at the Reservoir, unless approved by the Commissioners.

#### SEC. 1009. AUTHORIZATION.

(a) IN GENERAL.—The Secretary is authorized to—

(1) investigate, plan, construct, operate, and maintain public recreational facilities on land withdrawn or acquired for the development of the project;

(2) conserve the scenery, the natural historic, paleontologic, and archaeologic objects, and the wildlife on the land;

(3) provide for public use and enjoyment of the land and of the water areas created by the project by such means as are consistent with but subordinate to the purposes of the project; and

(4) investigate, plan, construct, operate, and maintain facilities for the conservation of fish and wildlife resources.

(b) COSTS.—The costs (including operation and maintenance costs) of carrying out subsection (a) shall be nonreimbursable and nonreturnable under Federal reclamation law.

Internet Tax  
Freedom Act.  
47 USC 151 note.

TITLE XI—MORATORIUM ON CERTAIN TAXES

**SEC. 1100. SHORT TITLE.**

This title may be cited as the “Internet Tax Freedom Act”.

**SEC. 1101. MORATORIUM.**

(a) **MORATORIUM.**—No State or political subdivision thereof shall impose any of the following taxes during the period beginning on October 1, 1998, and ending 3 years after the date of the enactment of this Act—

- (1) taxes on Internet access, unless such tax was generally imposed and actually enforced prior to October 1, 1998; and
- (2) multiple or discriminatory taxes on electronic commerce.

(b) **PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.**—Except as provided in this section, nothing in this title shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.

(c) **LIABILITIES AND PENDING CASES.**—Nothing in this title affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this title affect ongoing litigation relating to such taxes.

(d) **DEFINITION OF GENERALLY IMPOSED AND ACTUALLY ENFORCED.**—For purposes of this section, a tax has been generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

- (1) a provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

- (2) a State or political subdivision thereof generally collected such tax on charges for Internet access.

(e) **EXCEPTION TO MORATORIUM.**—

(1) **IN GENERAL.**—Subsection (a) shall also not apply in the case of any person or entity who knowingly and with knowledge of the character of the material, in interstate or foreign commerce by means of the World Wide Web, makes any communication for commercial purposes that is available to any minor and that includes any material that is harmful to minors unless such person or entity has restricted access by minors to material that is harmful to minors—

- (A) by requiring use of a credit card, debit account, adult access code, or adult personal identification number;
- (B) by accepting a digital certificate that verifies age;

or

- (C) by any other reasonable measures that are feasible under available technology.

(2) **SCOPE OF EXCEPTION.**—For purposes of paragraph (1), a person shall not be considered to making a communication for commercial purposes of material to the extent that the person is—

- (A) a telecommunications carrier engaged in the provision of a telecommunications service;



(B) a person engaged in the business of providing an Internet access service;

(C) a person engaged in the business of providing an Internet information location tool; or

(D) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the communication.

(3) DEFINITIONS.—In this subsection:

(A) BY MEANS OF THE WORLD WIDE WEB.—The term “by means of the World Wide Web” means by placement of material in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol, file transfer protocol, or other similar protocols.

(B) COMMERCIAL PURPOSES; ENGAGED IN THE BUSINESS.—

(i) COMMERCIAL PURPOSES.—A person shall be considered to make a communication for commercial purposes only if such person is engaged in the business of making such communications.

(ii) ENGAGED IN THE BUSINESS.—The term “engaged in the business” means that the person who makes a communication, or offers to make a communication, by means of the World Wide Web, that includes any material that is harmful to minors, devotes time, attention, or labor to such activities, as a regular course of such person’s trade or business, with the objective of earning a profit as a result of such activities (although it is not necessary that the person make a profit or that the making or offering to make such communications be the person’s sole or principal business or source of income). A person may be considered to be engaged in the business of making, by means of the World Wide Web, communications for commercial purposes that include material that is harmful to minors, only if the person knowingly causes the material that is harmful to minors to be posted on the World Wide Web or knowingly solicits such material to be posted on the World Wide Web.

(C) INTERNET.—The term “Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(D) INTERNET ACCESS SERVICE.—The term “Internet access service” means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(E) INTERNET INFORMATION LOCATION TOOL.—The term “Internet information location tool” means a service that

refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

(F) MATERIAL THAT IS HARMFUL TO MINORS.—The term “material that is harmful to minors” means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that is obscene or that—

(i) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

(ii) depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(G) MINOR.—The term “minor” means any person under 17 years of age.

(H) TELECOMMUNICATIONS CARRIER; TELECOMMUNICATIONS SERVICE.—The terms “telecommunications carrier” and “telecommunications service” have the meanings given such terms in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(f) ADDITIONAL EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply with respect to an Internet access provider, unless, at the time of entering into an agreement with a customer for the provision of Internet access services, such provider offers such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

(2) DEFINITIONS.—In this subsection:

(A) INTERNET ACCESS PROVIDER.—The term ‘Internet access provider’ means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

(B) INTERNET ACCESS SERVICES.—The term ‘Internet access services’ means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

(C) SCREENING SOFTWARE.—The term “screening software” means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

(3) APPLICABILITY.—Paragraph (1) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

**SEC. 1102. ADVISORY COMMISSION ON ELECTRONIC COMMERCE.**

(a) **ESTABLISHMENT OF COMMISSION.**—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the “Commission”). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax and one representative shall be from a State that does not impose an income tax).

(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

(2) **APPOINTMENTS.**—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) **VACANCIES.**—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) **ACCEPTANCE OF GIFTS AND GRANTS.**—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) **OTHER RESOURCES.**—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) **SUNSET.**—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable intrastate, interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on electronic commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of model State legislation that—

(i) would provide uniform definitions of categories of property, goods, service, or information subject to or exempt from sales and use taxes; and

(ii) would ensure that Internet access services, online services, and communications and transactions using the Internet, Internet access service, or online services would be treated in a tax and technologically neutral manner relative to other forms of remote sales;

(E) an examination of the effects of taxation, including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on retail businesses and on State and local governments, which examination may include a review of the efforts of State

and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers; and

(F) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

(3) EFFECT ON THE COMMUNICATIONS ACT OF 1934.—Nothing in this section shall include an examination of any fees or charges imposed by the Federal Communications Commission or States related to—

(A) obligations under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(B) the implementation of the Telecommunications Act of 1996 (or of amendments made by that Act).

(h) NATIONAL TAX ASSOCIATION COMMUNICATIONS AND ELECTRONIC COMMERCE TAX PROJECT.—The Commission shall, to the extent possible, ensure that its work does not undermine the efforts of the National Tax Association Communications and Electronic Commerce Tax Project.

#### SEC. 1103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress for its consideration a report reflecting the results, including such legislative recommendations as required to address the findings of the Commission's study under this title. Any recommendation agreed to by the Commission shall be tax and technologically neutral and apply to all forms of remote commerce. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

#### SEC. 1104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term “bit tax” means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term “discriminatory tax” means—

(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

(iv) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

(B) any tax imposed by a State or political subdivision thereof, if—

(i) except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to October 1, 1998, the sole ability to access a site on a remote seller's out-of-State computer server is considered a factor in determining a remote seller's tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations solely as a result of—

(I) the display of a remote seller's information or content on the out-of-State computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.

(3) **ELECTRONIC COMMERCE.**—The term “electronic commerce” means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) **INTERNET.**—The term “Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(5) **INTERNET ACCESS.**—The term “Internet access” means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to users. Such term does not include telecommunications services.

(6) **MULTIPLE TAX.**—

(A) **IN GENERAL.**—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) **EXCEPTION.**—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or

a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term “tax” means—

(i) any charge imposed by any governmental entity for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred; or

(ii) the imposition on a seller of an obligation to collect and to remit to a governmental entity any sales or use tax imposed on a buyer by a governmental entity.

(B) EXCEPTION.—Such term does not include any franchise fee or similar fee imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573), or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(9) TELECOMMUNICATIONS SERVICE.—The term “telecommunications service” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

(10) TAX ON INTERNET ACCESS.—The term “tax on Internet access” means a tax on Internet access, including the enforcement or application of any new or preexisting tax on the sale or use of Internet services unless such tax was generally imposed and actually enforced prior to October 1, 1998.

## TITLE XII—OTHER PROVISIONS

### SEC. 1201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 1101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

### SEC. 1202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii);

and

(iii) by inserting after clause (ii) the following new clause:

“(iii) United States electronic commerce,”; and

(B) in subparagraph (C)—

(i) by striking “and” at the end of clause (i);

(ii) by inserting “and” at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

“(iii) the value of additional United States electronic commerce,”; and

(iv) by inserting “or transacted with,” after “or invested in”;

(2) in subsection (a)(2)(E)—

(A) by striking “and” at the end of clause (i);

(B) by inserting “and” at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

“(iii) the value of electronic commerce transacted with,”; and

(3) by adding at the end the following new subsection:

“(d) ELECTRONIC COMMERCE.—For purposes of this section, the term ‘electronic commerce’ has the meaning given that term in section 1104(3) of the Internet Tax Freedom Act.”.

19 USC 2241  
note.

**SEC. 1203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.**

(a) IN GENERAL.—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term “electronic commerce” has the meaning given that term in section 1104(3).



**SEC. 1204. NO EXPANSION OF TAX AUTHORITY.**19 USC 2241  
note.

Nothing in this title shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

**SEC. 1205. PRESERVATION OF AUTHORITY.**19 USC 2241  
note.

Nothing in this title shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

**SEC. 1206. SEVERABILITY.**19 USC 2241  
note.

If any provision of this title, or any amendment made by this title, or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that title, and the application of that provision to other persons and circumstances, shall not be affected.

**TITLE XIII—CHILDREN’S ONLINE PRIVACY PROTECTION**Children’s Online  
Privacy  
Protection Act of  
1998.**SEC. 1301. SHORT TITLE.**

This title may be cited as the “Children’s Online Privacy Protection Act of 1998”.

15 USC 6501  
note.**SEC. 1302. DEFINITIONS.**

15 USC 6501.

In this title:

(1) **CHILD.**—The term “child” means an individual under the age of 13.

(2) **OPERATOR.**—The term “operator”—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) **COMMISSION.**—The term “Commission” means the Federal Trade Commission.

(4) **DISCLOSURE.**—The term “disclosure” means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the

internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

- (i) a home page of a website;
- (ii) a pen pal service;
- (iii) an electronic mail service;
- (iv) a message board; or
- (v) a chat room.

(5) FEDERAL AGENCY.—The term “Federal agency” means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term “Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term “parent” includes a legal guardian.

(8) PERSONAL INFORMATION.—The term “personal information” means individually identifiable information about an individual collected online, including—

- (A) a first and last name;
- (B) a home or other physical address including street name and name of a city or town;
- (C) an e-mail address;
- (D) a telephone number;
- (E) a Social Security number;
- (F) any other identifier that the Commission determines permits the physical or online contacting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term “verifiable parental consent” means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection, use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator’s personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term “website or online service directed to children” means—

- (i) a commercial website or online service that is targeted to children; or
- (ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term “person” means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term “online contact information” means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

**SEC. 1303. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.**

15 USC 6502.

(a) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator’s agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator’s disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator’s further use or maintenance in

Notice.

retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site, if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used,

and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

- (i) to protect the security or integrity of its website;
- (ii) to take precautions against liability;
- (iii) to respond to judicial process; or
- (iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) **TERMINATION OF SERVICE.**—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) **ENFORCEMENT.**—Subject to sections 1304 and 1306, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) **INCONSISTENT STATE LAW.**—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

#### **SEC. 1304. SAFE HARBORS.**

15 USC 6503.

(a) **GUIDELINES.**—An operator may satisfy the requirements of regulations issued under section 1303(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) **INCENTIVES.**—

(1) **SELF-REGULATORY INCENTIVES.**—In prescribing regulations under section 1303, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) **DEEMED COMPLIANCE.**—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 1303 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 1303.

(3) **EXPEDITED RESPONSE TO REQUESTS.**—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) **APPEALS.**—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection

(b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

15 USC 6504.

**SEC. 1305. ACTIONS BY STATES.**

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 1303(b), the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

- (A) enjoin that practice;
- (B) enforce compliance with the regulation;
- (C) obtain damage, restitution, or other compensation on behalf of residents of the State; or
- (D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

- (i) written notice of that action; and
- (ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

- (A) to be heard with respect to any matter that arises in that action; and
- (B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file *amicus curiae* in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

- (1) conduct investigations;
- (2) administer oaths or affirmations; or
- (3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 1303, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

- (A) is an inhabitant; or
- (B) may be found.

**SEC. 1306. ADMINISTRATION AND APPLICABILITY OF ACT.**

15 USC 6505.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7

U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 1303 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

15 USC 6506.

#### **SEC. 1307. REVIEW.**

Not later than 5 years after the effective date of the regulations initially issued under section 1303, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

Reports.

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

15 USC 6501  
note.

#### **SEC. 1308. EFFECTIVE DATE.**

Sections 1303(a), 1305, and 1306 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application filed for safe harbor treatment under section 1304 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.



## TITLE XIV—CHILD ONLINE PROTECTION

Child Online  
Protection Act.  
47 USC 609 note.**SEC. 1401. SHORT TITLE.**

This title may be cited as the “Child Online Protection Act”.

**SEC. 1402. CONGRESSIONAL FINDINGS.**

47 USC 231 note.

The Congress finds that—

(1) while custody, care, and nurture of the child resides first with the parent, the widespread availability of the Internet presents opportunities for minors to access materials through the World Wide Web in a manner that can frustrate parental supervision or control;

(2) the protection of the physical and psychological well-being of minors by shielding them from materials that are harmful to them is a compelling governmental interest;

(3) to date, while the industry has developed innovative ways to help parents and educators restrict material that is harmful to minors through parental control protections and self-regulation, such efforts have not provided a national solution to the problem of minors accessing harmful material on the World Wide Web;

(4) a prohibition on the distribution of material harmful to minors, combined with legitimate defenses, is currently the most effective and least restrictive means by which to satisfy the compelling government interest; and

(5) notwithstanding the existence of protections that limit the distribution over the World Wide Web of material that is harmful to minors, parents, educators, and industry must continue efforts to find ways to protect children from being exposed to harmful material found on the Internet.

**SEC. 1403. REQUIREMENT TO RESTRICT ACCESS BY MINORS TO MATERIALS COMMERCIALY DISTRIBUTED BY MEANS OF THE WORLD WIDE WEB THAT ARE HARMFUL TO MINORS.**

Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

**“SEC. 231. RESTRICTION OF ACCESS BY MINORS TO MATERIALS COMMERCIALY DISTRIBUTED BY MEANS OF WORLD WIDE WEB THAT ARE HARMFUL TO MINORS.**

47 USC 231.

“(a) REQUIREMENT TO RESTRICT ACCESS.—

“(1) PROHIBITED CONDUCT.—Whoever knowingly and with knowledge of the character of the material, in interstate or foreign commerce by means of the World Wide Web, makes any communication for commercial purposes that is available to any minor and that includes any material that is harmful to minors shall be fined not more than \$50,000, imprisoned not more than 6 months, or both.

“(2) INTENTIONAL VIOLATIONS.—In addition to the penalties under paragraph (1), whoever intentionally violates such paragraph shall be subject to a fine of not more than \$50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

“(3) CIVIL PENALTY.—In addition to the penalties under paragraphs (1) and (2), whoever violates paragraph (1) shall be subject to a civil penalty of not more than \$50,000 for

each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

“(b) INAPPLICABILITY OF CARRIERS AND OTHER SERVICE PROVIDERS.—For purposes of subsection (a), a person shall not be considered to make any communication for commercial purposes to the extent that such person is—

“(1) a telecommunications carrier engaged in the provision of a telecommunications service;

“(2) a person engaged in the business of providing an Internet access service;

“(3) a person engaged in the business of providing an Internet information location tool; or

“(4) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the content of the communication, except that such person’s deletion of a particular communication or material made by another person in a manner consistent with subsection (c) or section 230 shall not constitute such selection or alteration of the content of the communication.

“(c) AFFIRMATIVE DEFENSE.—

“(1) DEFENSE.—It is an affirmative defense to prosecution under this section that the defendant, in good faith, has restricted access by minors to material that is harmful to minors—

“(A) by requiring use of a credit card, debit account, adult access code, or adult personal identification number;

“(B) by accepting a digital certificate that verifies age;

or  
“(C) by any other reasonable measures that are feasible under available technology.

“(2) PROTECTION FOR USE OF DEFENSES.—No cause of action may be brought in any court or administrative agency against any person on account of any activity that is not in violation of any law punishable by criminal or civil penalty, and that the person has taken in good faith to implement a defense authorized under this subsection or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

“(d) PRIVACY PROTECTION REQUIREMENTS.—

“(1) DISCLOSURE OF INFORMATION LIMITED.—A person making a communication described in subsection (a)—

“(A) shall not disclose any information collected for the purposes of restricting access to such communications to individuals 17 years of age or older without the prior written or electronic consent of—

“(i) the individual concerned, if the individual is an adult; or

“(ii) the individual’s parent or guardian, if the individual is under 17 years of age; and

“(B) shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the person making such communication and the recipient of such communication.

“(2) EXCEPTIONS.—A person making a communication described in subsection (a) may disclose such information if the disclosure is—

“(A) necessary to make the communication or conduct a legitimate business activity related to making the communication; or

“(B) made pursuant to a court order authorizing such disclosure.

“(e) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(1) BY MEANS OF THE WORLD WIDE WEB.—The term ‘by means of the World Wide Web’ means by placement of material in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol or any successor protocol.

“(2) COMMERCIAL PURPOSES; ENGAGED IN THE BUSINESS.—

“(A) COMMERCIAL PURPOSES.—A person shall be considered to make a communication for commercial purposes only if such person is engaged in the business of making such communications.

“(B) ENGAGED IN THE BUSINESS.—The term ‘engaged in the business’ means that the person who makes a communication, or offers to make a communication, by means of the World Wide Web, that includes any material that is harmful to minors, devotes time, attention, or labor to such activities, as a regular course of such person’s trade or business, with the objective of earning a profit as a result of such activities (although it is not necessary that the person make a profit or that the making or offering to make such communications be the person’s sole or principal business or source of income). A person may be considered to be engaged in the business of making, by means of the World Wide Web, communications for commercial purposes that include material that is harmful to minors, only if the person knowingly causes the material that is harmful to minors to be posted on the World Wide Web or knowingly solicits such material to be posted on the World Wide Web.

“(3) INTERNET.—The term ‘Internet’ means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol or any successor protocol to transmit information.

“(4) INTERNET ACCESS SERVICE.—The term ‘Internet access service’ means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

“(5) INTERNET INFORMATION LOCATION TOOL.—The term ‘Internet information location tool’ means a service that refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

“(6) MATERIAL THAT IS HARMFUL TO MINORS.—The term ‘material that is harmful to minors’ means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that is obscene or that—

“(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

“(B) depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

“(C) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

“(7) MINOR.—The term ‘minor’ means any person under 17 years of age.”.

#### SEC. 1404. NOTICE REQUIREMENT.

(a) NOTICE.—Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) in subsection (d)(1), by inserting “or 231” after “section 223”;

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (c) the following new subsection:

“(d) OBLIGATIONS OF INTERACTIVE COMPUTER SERVICE.—A provider of interactive computer service shall, at the time of entering an agreement with a customer for the provision of interactive computer service and in a manner deemed appropriate by the provider, notify such customer that parental control protections (such as computer hardware, software, or filtering services) are commercially available that may assist the customer in limiting access to material that is harmful to minors. Such notice shall identify, or provide the customer with access to information identifying, current providers of such protections.”.

(b) CONFORMING AMENDMENT.—Section 223(h)(2) of the Communications Act of 1934 (47 U.S.C. 223(h)(2)) is amended by striking “230(e)(2)” and inserting “230(f)(2)”.

47 USC 231 note.

#### SEC. 1405. STUDY BY COMMISSION ON ONLINE CHILD PROTECTION.

(a) ESTABLISHMENT.—There is hereby established a temporary Commission to be known as the Commission on Online Child Protection (in this section referred to as the “Commission”) for the purpose of conducting a study under this section regarding methods to help reduce access by minors to material that is harmful to minors on the Internet.

(b) MEMBERSHIP.—The Commission shall be composed of 19 members, as follows:

(1) INDUSTRY MEMBERS.—The Commission shall include—

(A) 2 members who are engaged in the business of providing Internet filtering or blocking services or software;

(B) 2 members who are engaged in the business of providing Internet access services;

(C) 2 members who are engaged in the business of providing labeling or ratings services;

(D) 2 members who are engaged in the business of providing Internet portal or search services;

(E) 2 members who are engaged in the business of providing domain name registration services;

(F) 2 members who are academic experts in the field of technology; and

(G) 4 members who are engaged in the business of making content available over the Internet.

Of the members of the Commission by reason of each subparagraph of this paragraph, an equal number shall be appointed by the Speaker of the House of Representatives and by the Majority Leader of the Senate.

(2) EX OFFICIO MEMBERS.—The Commission shall include the following officials:

(A) The Assistant Secretary (or the Assistant Secretary's designee).

(B) The Attorney General (or the Attorney General's designee).

(C) The Chairman of the Federal Trade Commission (or the Chairman's designee).

(c) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a study to identify technological or other methods that—

(A) will help reduce access by minors to material that is harmful to minors on the Internet; and

(B) may meet the requirements for use as affirmative defenses for purposes of section 231(c) of the Communications Act of 1934 (as added by this title).

Any methods so identified shall be used as the basis for making legislative recommendations to the Congress under subsection (d)(3).

(2) SPECIFIC METHODS.—In carrying out the study, the Commission shall identify and analyze various technological tools and methods for protecting minors from material that is harmful to minors, which shall include (without limitation)—

(A) a common resource for parents to use to help protect minors (such as a “one-click-away” resource);

(B) filtering or blocking software or services;

(C) labeling or rating systems;

(D) age verification systems;

(E) the establishment of a domain name for posting of any material that is harmful to minors; and

(F) any other existing or proposed technologies or methods for reducing access by minors to such material.

(3) ANALYSIS.—In analyzing technologies and other methods identified pursuant to paragraph (2), the Commission shall examine—

(A) the cost of such technologies and methods;

(B) the effects of such technologies and methods on law enforcement entities;

(C) the effects of such technologies and methods on privacy;

(D) the extent to which material that is harmful to minors is globally distributed and the effect of such technologies and methods on such distribution;

(E) the accessibility of such technologies and methods to parents; and

(F) such other factors and issues as the Commission considers relevant and appropriate.

(d) REPORT.—Not later than 1 year after the enactment of this Act, the Commission shall submit a report to the Congress

containing the results of the study under this section, which shall include—

(1) a description of the technologies and methods identified by the study and the results of the analysis of each such technology and method;

(2) the conclusions and recommendations of the Commission regarding each such technology or method;

(3) recommendations for legislative or administrative actions to implement the conclusions of the committee; and

(4) a description of the technologies or methods identified by the study that may meet the requirements for use as affirmative defenses for purposes of section 231(c) of the Communications Act of 1934 (as added by this title).

(e) **STAFF AND RESOURCES.**—The Assistant Secretary for Communication and Information of the Department of Commerce shall provide to the Commission such staff and resources as the Assistant Secretary determines necessary for the Commission to perform its duty efficiently and in accordance with this section.

(f) **TERMINATION.**—The Commission shall terminate 30 days after the submission of the report under subsection (d).

(g) **INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

47 USC 223 note.

**SEC. 1406. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect 30 days after the date of enactment of this Act.

Vaccine Injury  
Compensation  
Program  
Modification Act.  
26 USC 1 note.

**TITLE XV—VACCINE INJURY COMPENSATION PROGRAM  
MODIFICATION ACT**

**SECTION 1501. SHORT TITLE.**

This title may be cited as the “Vaccine Injury Compensation Program Modification Act”.

**SEC. 1502. ELIMINATION OF THRESHOLD REQUIREMENT OF UNREIMBURSABLE EXPENSES.**

Section 2111(c)(1)(D)(i) of the Public Health Service Act (42 U.S.C. 300aa–11(c)(1)(D)(i)) is amended by striking “and incurred unreimbursable expenses due in whole or in part to such illness, disability, injury, or condition in an amount greater than \$1,000”.

**SEC. 1503. INCLUSION OF ROTAVIRUS GASTROENTERITIS AS A TAXABLE VACCINE.**

26 USC 4132.

(a) **IN GENERAL.**—Section 4132(1) of the Internal Revenue Code of 1986 (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

“(K) Any vaccine against rotavirus gastroenteritis.”.

26 USC 4132  
note.

(b) **EFFECTIVE DATE.**—

(1) **SALES.**—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

(2) **DELIVERIES.**—For purposes of paragraph (1), in the case of sales on or before the date of the enactment of this Act for which delivery is made after such date, the delivery date shall be considered the sale date.

**SEC. 1504. VACCINE INJURY COMPENSATION TRUST FUND.**

(a) **AMENDMENTS RELATED TO SECTION 904 OF 1997 ACT.**—

(1) Paragraph (1) of section 9510(c) of the 1986 Code is amended to read as follows: 26 USC 9510.

“(1) IN GENERAL.—Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for—

“(A) the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on August 6, 1997) for vaccine-related injury or death with respect to any vaccine—

“(i) which is administered after September 30, 1988, and

“(ii) which is a taxable vaccine (as defined in section 4132(a)(1)) at the time the vaccine was administered, or

“(B) the payment of all expenses of administration incurred by the Federal Government in administering such subtitle.”.

(2) Section 9510(b) of the 1986 Code is amended by adding at the end the following new paragraph:

“(3) LIMITATION ON TRANSFERS TO VACCINE INJURY COMPENSATION TRUST FUND.—No amount may be appropriated to the Vaccine Injury Compensation Trust Fund on and after the date of any expenditure from the Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

“(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

“(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate. 26 USC 9510 note.

## TITLE XVI—SERVICE CONNECTION FOR PERSIAN GULF WAR ILLNESSES

Persian Gulf War Veterans Act of 1998.

### SEC. 1601. SHORT TITLE.

38 USC 101 note.

This title may be cited as the “Persian Gulf War Veterans Act of 1998”.

### SEC. 1602. PRESUMPTION OF SERVICE CONNECTION FOR ILLNESSES ASSOCIATED WITH SERVICE IN THE PERSIAN GULF DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by adding at the end the following:

#### “§ 1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War

“(a)(1) For purposes of section 1110 of this title, and subject to section 1113 of this title, each illness, if any, described in paragraph (2) shall be considered to have been incurred in or aggravated by service referred to in that paragraph, notwithstanding that there is no record of evidence of such illness during the period of such service.

“(2) An illness referred to in paragraph (1) is any diagnosed or undiagnosed illness that—

Regulations.

“(A) the Secretary determines in regulations prescribed under this section to warrant a presumption of service connection by reason of having a positive association with exposure to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; and

“(B) becomes manifest within the period, if any, prescribed in such regulations in a veteran who served on active duty in that theater of operations during that war and by reason of such service was exposed to such agent, hazard, or medicine or vaccine.

“(3) For purposes of this subsection, a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and has an illness described in paragraph (2) shall be presumed to have been exposed by reason of such service to the agent, hazard, or medicine or vaccine associated with the illness in the regulations prescribed under this section unless there is conclusive evidence to establish that the veteran was not exposed to the agent, hazard, or medicine or vaccine by reason of such service.

Regulations.

“(b)(1)(A) Whenever the Secretary makes a determination described in subparagraph (B), the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for the illness covered by that determination for purposes of this section.

“(B) A determination referred to in subparagraph (A) is a determination based on sound medical and scientific evidence that a positive association exists between—

“(i) the exposure of humans or animals to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Southwest Asia theater of operations during the Persian Gulf War; and

“(ii) the occurrence of a diagnosed or undiagnosed illness in humans or animals.

“(2)(A) In making determinations for purposes of paragraph (1), the Secretary shall take into account—

“(i) the reports submitted to the Secretary by the National Academy of Sciences under section 1603 of the Persian Gulf War Veterans Act of 1998; and

“(ii) all other sound medical and scientific information and analyses available to the Secretary.

“(B) In evaluating any report, information, or analysis for purposes of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

“(3) An association between the occurrence of an illness in humans or animals and exposure to an agent, hazard, or medicine or vaccine shall be considered to be positive for purposes of this subsection if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

“(c)(1) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences



under section 1603 of the Persian Gulf War Veterans Act of 1998, the Secretary shall determine whether or not a presumption of service connection is warranted for each illness, if any, covered by the report.

“(2) If the Secretary determines under this subsection that a presumption of service connection is warranted, the Secretary shall, not later than 60 days after making the determination, issue proposed regulations setting forth the Secretary’s determination.

Regulations.

“(3)(A) If the Secretary determines under this subsection that a presumption of service connection is not warranted, the Secretary shall, not later than 60 days after making the determination, publish in the Federal Register a notice of the determination. The notice shall include an explanation of the scientific basis for the determination.

Federal Register, publication.

“(B) If an illness already presumed to be service connected under this section is subject to a determination under subparagraph (A), the Secretary shall, not later than 60 days after publication of the notice under that subparagraph, issue proposed regulations removing the presumption of service connection for the illness.

Regulations.

“(4) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

Regulations.

Effective date.

“(d) Whenever the presumption of service connection for an illness under this section is removed under subsection (c)—

“(1) a veteran who was awarded compensation for the illness on the basis of the presumption before the effective date of the removal of the presumption shall continue to be entitled to receive compensation on that basis; and

“(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the illness on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

“(e) Subsections (b) through (d) shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 1603 of the Persian Gulf War Veterans Act of 1998.”.

Termination date.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1117 the following new item:

“1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.”.

(b) CONFORMING AMENDMENTS.—Section 1113 of title 38, United States Code, is amended—

(1) by striking out “or 1117” each place it appears and inserting in lieu thereof “1117, or 1118”; and

(2) in subsection (a), by striking out “or 1116” and inserting in lieu thereof “, 1116, or 1118”.

(c) COMPENSATION FOR UNDIAGNOSED GULF WAR ILLNESSES.—Section 1117 of title 38, United States Code, is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

“(c)(1) Whenever the Secretary determines under section 1118(c) of this title that a presumption of service connection for an undiagnosed illness (or combination of undiagnosed illnesses) previously established under this section is no longer warranted—

“(A) a veteran who was awarded compensation under this section for such illness (or combination of illnesses) on the basis of the presumption shall continue to be entitled to receive compensation under this section on that basis; and

“(B) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the disease on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

Termination  
date.

“(2) This subsection shall cease to be effective 10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 1603 of the Persian Gulf War Veterans Act of 1998.”.

38 USC 1117  
note.

**SEC. 1603. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES.**

(a) **PURPOSE.**—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise, to review and evaluate the available scientific evidence regarding associations between illnesses and exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(b) **AGREEMENT.**—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities covered by this section. The Secretary shall seek to enter into the agreement not later than two months after the date of enactment of this Act.

(c) **IDENTIFICATION OF AGENTS AND ILLNESSES.**—(1) Under the agreement under subsection (b), the National Academy of Sciences shall—

(A) identify the biological, chemical, or other toxic agents, environmental or wartime hazards, or preventive medicines or vaccines to which members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War may have been exposed by reason of such service; and

(B) identify the illnesses (including diagnosed illnesses and undiagnosed illnesses) that are manifest in such members.

(2) In identifying illnesses under paragraph (1)(B), the Academy shall review and summarize the relevant scientific evidence regarding illnesses among the members described in paragraph (1)(A) and among other appropriate populations of individuals, including mortality, symptoms, and adverse reproductive health outcomes among such members and individuals.

(d) **INITIAL CONSIDERATION OF SPECIFIC AGENTS.**—(1) In identifying under subsection (c) the agents, hazards, or preventive medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of the first report under subsection (i), the National Academy of Sciences shall consider, within the first six months after the date of enactment of this Act, the following:

(A) The following organophosphorous pesticides:  
(i) Chlorpyrifos.

- (ii) Diazinon.
    - (iii) Dichlorvos.
    - (iv) Malathion.
  - (B) The following carbamate pesticides:
    - (i) Proxpur.
    - (ii) Carbaryl.
    - (iii) Methomyl.
  - (C) The carbamate pyridostigmine bromide used as nerve agent prophylaxis.
  - (D) The following chlorinated hydrocarbon and other pesticides and repellents:
    - (i) Lindane.
    - (ii) Pyrethrins.
    - (iii) Permethrins.
    - (iv) Rodenticides (bait).
    - (v) Repellent (DEET).
  - (E) The following low-level nerve agents and precursor compounds at exposure levels below those which produce immediately apparent incapacitating symptoms:
    - (i) Sarin.
    - (ii) Tabun.
  - (F) The following synthetic chemical compounds:
    - (i) Mustard agents at levels below those which cause immediate blistering.
    - (ii) Volatile organic compounds.
    - (iii) Hydrazine.
    - (iv) Red fuming nitric acid.
    - (v) Solvents.
    - (vi) Uranium.
  - (G) The following ionizing radiation:
    - (i) Depleted uranium.
    - (ii) Microwave radiation.
    - (iii) Radio frequency radiation.
  - (H) The following environmental particulates and pollutants:
    - (i) Hydrogen sulfide.
    - (ii) Oil fire byproducts.
    - (iii) Diesel heater fumes.
    - (iv) Sand micro-particles.
  - (I) Diseases endemic to the region (including the following):
    - (i) Leishmaniasis.
    - (ii) Sandfly fever.
    - (iii) Pathogenic escherechia coli.
    - (iv) Shigellosis.
  - (J) Time compressed administration of multiple live, ‘attenuated’, and toxoid vaccines.
- (2) The consideration of agents, hazards, and medicines and vaccines under paragraph (1) shall not preclude the Academy from identifying other agents, hazards, or medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of any report under subsection (i).
- (3) Not later than six months after the date of enactment of this Act, the Academy shall submit to the designated congressional committees a report specifying the agents, hazards, and medicines and vaccines considered under paragraph (1). Reports.
- (e) DETERMINATIONS OF ASSOCIATIONS BETWEEN AGENTS AND ILLNESSES.—(1) For each agent, hazard, or medicine or vaccine

and illness identified under subsection (c), the National Academy of Sciences shall determine, to the extent that available scientific data permit meaningful determinations—

(A) whether a statistical association exists between exposure to the agent, hazard, or medicine or vaccine and the illness, taking into account the strength of the scientific evidence and the appropriateness of the scientific methodology used to detect the association;

(B) the increased risk of the illness among human or animal populations exposed to the agent, hazard, or medicine or vaccine; and

(C) whether a plausible biological mechanism or other evidence of a causal relationship exists between exposure to the agent, hazard, or medicine or vaccine and the illness.

(2) The Academy shall include in its reports under subsection (i) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

(f) REVIEW OF POTENTIAL TREATMENT MODELS FOR CERTAIN ILLNESSES.—Under the agreement under subsection (b), the National Academy of Sciences shall separately review, for each chronic undiagnosed illness identified under subsection (c)(1)(B) and for any other chronic illness that the Academy determines to warrant such review, the available scientific data in order to identify empirically valid models of treatment for such illnesses which employ successful treatment modalities for populations with similar symptoms.

(g) RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC STUDIES.—

(1) Under the agreement under subsection (b), the National Academy of Sciences shall make any recommendations that it considers appropriate for additional scientific studies (including studies relating to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(2) In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

(h) SUBSEQUENT REVIEWS.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall conduct on a periodic and ongoing basis additional reviews of the evidence and data relating to its activities under this section.

(2) As part of each review under this subsection, the Academy shall—

(A) conduct as comprehensive a review as is practicable of the evidence referred to in subsection (c) and the data referred to in subsections (e), (f), and (g) that became available since the last review of such evidence and data under this section; and

(B) make determinations under the subsections referred to in subparagraph (A) on the basis of the results of such review and all other reviews previously conducted for purposes of this section.

(i) REPORTS.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall submit to the committees and officials referred to in paragraph (5) periodic written reports regarding the Academy's activities under the agreement.

(2) The first report under paragraph (1) shall be submitted not later than 18 months after the date of enactment of this Act. That report shall include—

(A) the determinations and discussion referred to in subsection (e);

(B) the results of the review of models of treatment under subsection (f); and

(C) any recommendations of the Academy under subsection (g).

(3) Reports shall be submitted under this subsection at least once every two years, as measured from the date of the report under paragraph (2).

(4) In any report under this subsection (other than the report under paragraph (2)), the Academy may specify an absence of meaningful developments in the scientific or medical community with respect to the activities of the Academy under this section during the 2-year period ending on the date of such report.

(5) Reports under this subsection shall be submitted to the following:

(A) The designated congressional committees.

(B) The Secretary of Veterans Affairs.

(C) The Secretary of Defense.

(j) SUNSET.—This section shall cease to be effective 10 years after the last day of the fiscal year in which the National Academy of Sciences submits the first report under subsection (i).

(k) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZATION.—(1) If the Secretary is unable within the time period set forth in subsection (b) to enter into an agreement with the National Academy of Sciences for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for purposes of this section with another appropriate scientific organization that is not part of the Government, operates as a not-for-profit entity, and has expertise and objectivity comparable to that of the National Academy of Sciences.

(2) If the Secretary enters into an agreement with another organization under this subsection, any reference in this section and section 1118 of title 38, United States Code (as added by section 1602(a)), to the National Academy of Sciences shall be treated as a reference to such other organization.

#### **SEC. 1604. REPEAL OF INCONSISTENT PROVISIONS OF LAW.**

In the event of the enactment, before, on, or after the date of the enactment of this Act, of section 101 of the Veterans Programs Enhancement Act of 1998, or any similar provision of law enacted during the second session of the 105th Congress requiring an agreement with the National Academy of Sciences regarding an evaluation of health consequences of service in Southwest Asia during the Persian Gulf War, such section 101 (or other provision of law) shall be treated as if never enacted, and shall have no force or effect.

38 USC 1117  
note.

#### **SEC. 1605. DEFINITIONS.**

In this title:

(1) The term “toxic agent, environmental or wartime hazard, or preventive medicine or vaccine associated with Gulf War service” means a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine that is known or presumed to be associated with service

38 USC 1117  
note.

in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War, whether such association arises as a result of single, repeated, or sustained exposure and whether such association arises through exposure singularly or in combination.

(2) The term “designated congressional committees” means the following:

(A) The Committees on Veterans’ Affairs and Armed Services of the Senate.

(B) The Committees on Veterans’ Affairs and National Security of the House of Representatives.

(3) The term “Persian Gulf War” has the meaning given that term in section 101(33) of title 38, United States Code.

Government  
Paperwork  
Elimination Act.  
44 USC 3504  
note.

## TITLE XVII—GOVERNMENT PAPERWORK ELIMINATION ACT

### SEC. 1701. SHORT TITLE.

This title may be cited as the “Government Paperwork Elimination Act”.

### SEC. 1702. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

“(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.”.

### SEC. 1703. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

(a) IN GENERAL.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

(b) REQUIREMENTS FOR PROCEDURES.—(1) The procedures developed under subsection (a)—

(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

(B) may not inappropriately favor one industry or technology;

(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic

means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

**SEC. 1704. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.**

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide—

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

**SEC. 1705. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.**

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

**SEC. 1706. STUDY ON USE OF ELECTRONIC SIGNATURES.**

(a) **ONGOING STUDY REQUIRED.**—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on—

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) **REPORTS.**—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

**SEC. 1707. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.**

Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

**SEC. 1708. DISCLOSURE OF INFORMATION.**

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

**SEC. 1709. APPLICATION WITH INTERNAL REVENUE LAWS.**

No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

- (1) involves the administration of the internal revenue laws; or
- (2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

**SEC. 1710. DEFINITIONS.**

For purposes of this title:

- (1) **ELECTRONIC SIGNATURE.**—The term “electronic signature” means a method of signing an electronic message that—
  - (A) identifies and authenticates a particular person as the source of the electronic message; and
  - (B) indicates such person’s approval of the information contained in the electronic message.
- (2) **EXECUTIVE AGENCY.**—The term “Executive agency” has the meaning given that term in section 105 of title 5, United States Code.

**DIVISION D—DRUG DEMAND REDUCTION ACT**

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

- (a) **SHORT TITLE.**—This division may be cited as the “Drug Demand Reduction Act”.
- (b) **TABLE OF CONTENTS.**—The table of contents for this division is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—TARGETED SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAMS**

**Subtitle A—National Youth Anti-Drug Media Campaign**

- Sec. 101. Short title.
- Sec. 103. Use of funds.
- Sec. 104. Reports to Congress.
- Sec. 105. Authorization of appropriations.

**Subtitle B—Drug-Free Prisons and Jails**

Sec. 111. Short title.

Drug Demand  
Reduction Act.  
21 USC 1801  
note.



- Sec. 112. Purpose.
- Sec. 113. Program authorization.
- Sec. 114. Grant application.
- Sec. 115. Uses of funds.
- Sec. 116. Evaluation and recommendation report to Congress.
- Sec. 117. Definitions.
- Sec. 118. Authorization of appropriations.

Subtitle C—Drug-Free Schools Quality Assurance

- Sec. 121. Short title.
- Sec. 122. Amendment to Safe and Drug-Free Schools and Communities Act.

TITLE II—STATEMENT OF NATIONAL ANTIDRUG POLICY

Subtitle A—Congressional Leadership in Community Coalitions

- Sec. 201. Sense of Congress.

Subtitle B—Rejection of Legalization of Drugs

- Sec. 211. Sense of Congress.

Subtitle C—Report on Streamlining Federal Prevention and Treatment Efforts

- Sec. 221. Report on streamlining Federal prevention and treatment efforts.

**TITLE I—TARGETED SUBSTANCE ABUSE PREVENTION  
AND TREATMENT PROGRAMS**

Drug-Free Media  
Campaign Act of  
1998.

**Subtitle A—National Youth Anti-Drug Media Campaign**

**SEC. 101. SHORT TITLE.**

21 USC 1801  
note.

This subtitle may be cited as the “Drug-Free Media Campaign Act of 1998”.

**SEC. 102. REQUIREMENT TO CONDUCT NATIONAL MEDIA CAMPAIGN.**

21 USC 1801.

(a) IN GENERAL.—The Director of the Office of National Drug Control Policy (in this subtitle referred to as the “Director”) shall conduct a national media campaign in accordance with this subtitle for the purpose of reducing and preventing drug abuse among young people in the United States.

(b) LOCAL TARGET REQUIREMENT.—The Director shall, to the maximum extent feasible, use amounts made available to carry out this subtitle under section 105 for media that focuses on, or includes specific information on, prevention or treatment resources for consumers within specific local areas.

**SEC. 103. USE OF FUNDS.**

21 USC 1802.

(a) AUTHORIZED USES.—

(1) IN GENERAL.—Amounts made available to carry out this subtitle for the support of the national media campaign may only be used for—

- (A) the purchase of media time and space;
- (B) talent reuse payments;
- (C) out-of-pocket advertising production costs;
- (D) testing and evaluation of advertising;
- (E) evaluation of the effectiveness of the media campaign;
- (F) the negotiated fees for the winning bidder on request for proposals issued by the Office of National Drug Control Policy;
- (G) partnerships with community, civic, and professional groups, and government organizations related to the media campaign; and

(H) entertainment industry collaborations to fashion antidrug messages in motion pictures, television programming, popular music, interactive (Internet and new) media projects and activities, public information, news media outreach, and corporate sponsorship and participation.

(2) ADVERTISING.—In carrying out this subtitle, the Director shall devote sufficient funds to the advertising portion of the national media campaign to meet the stated reach and frequency goals of the campaign.

(b) PROHIBITIONS.—None of the amounts made available under section 105 may be obligated or expended—

(1) to supplant current antidrug community based coalitions;

(2) to supplant current pro bono public service time donated by national and local broadcasting networks;

(3) for partisan political purposes; or

(4) to fund media campaigns that feature any elected officials, persons seeking elected office, cabinet level officials, or other Federal officials employed pursuant to section 213 of Schedule C of title 5, Code of Federal Regulations, unless the Director provides advance notice to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Government Reform and Oversight of the House of Representatives and the Committee on the Judiciary of the Senate.

(c) MATCHING REQUIREMENT.—Amounts made available under section 105 should be matched by an equal amount of non-Federal funds for the national media campaign, or be matched with in-kind contributions to the campaign of the same value.

21 USC 1803.

**SEC. 104. REPORTS TO CONGRESS.**

The Director shall—

(1) submit to Congress on an annual basis a report on the activities for which amounts made available under section 105 have been obligated during the preceding year, including information for each quarter of such year, and on the specific parameters of the national media campaign; and

(2) not later than 1 year after the date of enactment of this Act, submit to Congress a report on the effectiveness of the national media campaign based on measurable outcomes provided to Congress previously.

21 USC 1804.

**SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to the Office of National Drug Control Policy to carry out this subtitle \$195,000,000 for each of fiscal years 1999 through 2002.

Drug-Free  
Prisons and Jails  
Act of 1998.  
42 USC 3751  
note.

**Subtitle B—Drug-Free Prisons and Jails**

**SEC. 111. SHORT TITLE.**

This subtitle may be cited as the “Drug-Free Prisons and Jails Act of 1998”.

**SEC. 112. PURPOSE.**

The purpose of this subtitle is to provide for the establishment of model programs for comprehensive treatment of substance-involved offenders in the criminal justice system to reduce drug abuse and drug-related crime, and reduce the costs of the criminal

justice system, that can be successfully replicated by States and local units of government through a comprehensive evaluation.

**SEC. 113. PROGRAM AUTHORIZATION.**

(a) **ESTABLISHMENT.**—The Director of the Bureau of Justice Assistance shall establish a model substance abuse treatment program for substance-involved offenders by—

- (1) providing financial assistance to grant recipients selected in accordance with section 114(b); and
- (2) evaluating the success of programs conducted pursuant to this subtitle.

(b) **GRANT AWARDS.**—The Director may award not more than 5 grants to units of local government and not more than 5 grants to States.

(c) **ADMINISTRATIVE COSTS.**—Not more than 5 percent of a grant award made pursuant to this subtitle may be used for administrative costs.

**SEC. 114. GRANT APPLICATION.**

(a) **CONTENTS.**—An application submitted by a unit of local government or a State for a grant award under this subtitle shall include each of the following:

- (1) **STRATEGY.**—A strategy to coordinate programs and services for substance-involved offenders provided by the unit of local government or the State, as the case may be, developed in consultation with representatives from all components of the criminal justice system within the jurisdiction, including judges, law enforcement personnel, prosecutors, corrections personnel, probation personnel, parole personnel, substance abuse treatment personnel, and substance abuse prevention personnel.

(2) **CERTIFICATION.**—A certification that—

(A) Federal funds made available under this subtitle will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities; and

(B) the programs developed pursuant to this subtitle meet all requirements of this subtitle.

(b) **REVIEW AND APPROVAL.**—Subject to section 113(b), the Director shall approve applications and make grant awards to units of local governments and States that show the most promise for accomplishing the purposes of this subtitle consistent with the provisions of section 115.

**SEC. 115. USES OF FUNDS.**

A unit of local government or State that receives a grant award under this subtitle shall use such funds to provide comprehensive treatment programs to inmates in prisons or jails, including not less than 3 of the following:

- (1) Tailored treatment programs to meet the special needs of different types of substance-involved offenders.
- (2) Random and frequent drug testing, including a system of sanctions.
- (3) Training and assistance for corrections officers and personnel to assist substance-involved offenders in correctional facilities.

(4) Clinical assessment of incoming substance-involved offenders.

(5) Availability of religious and spiritual activity and counseling to provide an environment that encourages recovery from substance involvement in correctional facilities.

(6) Education and vocational training.

(7) A substance-free correctional facility policy.

**SEC. 116. EVALUATION AND RECOMMENDATION REPORT TO CONGRESS.**

(a) EVALUATION.—

Contracts.

(1) IN GENERAL.—The Director shall enter into a contract, with an evaluating agency that has demonstrated experience in the evaluation of substance abuse treatment, to conduct an evaluation that incorporates the criteria described in paragraph (2).

(2) EVALUATION CRITERIA.—The Director, in consultation with the Directors of the appropriate National Institutes of Health, shall establish minimum criteria for evaluating each program. Such criteria shall include—

(A) reducing substance abuse among participants;

(B) reducing recidivism among participants;

(C) cost effectiveness of providing services to participants; and

(D) a data collection system that will produce data comparable to that used by the Office of Applied Studies of the Substance Abuse and Mental Health Services Administration and the Bureau of Justice Statistics of the Office of Justice Programs.

(b) REPORT.—The Director shall submit to the appropriate committees, at the same time as the President’s budget for fiscal year 2001 is submitted, a report that—

(1) describes the activities funded by grant awards under this subtitle;

(2) includes the evaluation submitted pursuant to subsection (a); and

(3) makes recommendations regarding revisions to the authorization of the program, including extension, expansion, application requirements, reduction, and termination.

**SEC. 117. DEFINITIONS.**

In this subtitle:

(1) APPROPRIATE COMMITTEES.—The term “appropriate committees” means the Committees on the Judiciary and the Committees on Appropriations of the House of Representatives and the Senate.

(2) DIRECTOR.—The term “Director” means the Director of the Bureau of Justice Assistance.

(3) SUBSTANCE-INVOLVED OFFENDER.—The term “substance-involved offender” means an individual under the supervision of a State or local criminal justice system, awaiting trial or serving a sentence imposed by the criminal justice system, who—

(A) violated or has been arrested for violating a drug or alcohol law;

(B) was under the influence of alcohol or an illegal drug at the time the crime was committed;

(C) stole property to buy illegal drugs; or

(D) has a history of substance abuse and addiction.

(4) **UNIT OF LOCAL GOVERNMENT.**—The term “unit of local government” means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior and any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia, and the Trust Territory of the Pacific Islands.

**SEC. 118. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this subtitle from the Violent Crime Reduction Trust Fund as authorized by title 31 of the Violent Crime and Control and Law Enforcement Act of 1994 (42 U.S.C. 14211)—

(1) for fiscal year 1999, \$30,000,000; and

(2) for fiscal year 2000, \$20,000,000.

(b) **RESERVATION.**—The Director may reserve each fiscal year not more than 20 percent of the funds appropriated pursuant to subsection (a) for activities required under section 116.

**Subtitle C—Drug-Free Schools Quality Assurance**

**SEC. 121. SHORT TITLE.**

This subtitle may be cited as the “Drug-Free Schools Quality Assurance Act”.

Drug-Free  
Schools Quality  
Assurance Act.  
20 USC 6301  
note.

**SEC. 122. AMENDMENT TO SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT.**

Subpart 3 of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7141 et seq.) is amended by adding at the end the following:

**“SEC. 4134. QUALITY RATING.**

20 USC 7144.

“(a) **IN GENERAL.**—The chief executive officer of each State, or in the case of a State in which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for education activities, such individual, entity, or agency, is authorized and encouraged—

“(1) to establish a standard of quality for drug, alcohol, and tobacco prevention programs implemented in public elementary schools and secondary schools in the State in accordance with subsection (b); and

“(2) to identify and designate, upon application by a public elementary school or secondary school, any such school that achieves such standard as a quality program school.

“(b) **CRITERIA.**—The standard referred to in subsection (a) shall address, at a minimum—

“(1) a comparison of the rate of illegal use of drugs, alcohol, and tobacco by students enrolled in the school for a period of time to be determined by the chief executive officer of the State;

“(2) the rate of suspensions or expulsions of students enrolled in the school for drug, alcohol, or tobacco-related offenses;

“(3) the effectiveness of the drug, alcohol, or tobacco prevention program as proven by research;

“(4) the involvement of parents and community members in the design of the drug, alcohol, and tobacco prevention program; and

“(5) the extent of review of existing community drug, alcohol, and tobacco prevention programs before implementation of the public school program.

“(c) REQUEST FOR QUALITY PROGRAM SCHOOL DESIGNATION.—A school that wishes to receive a quality program school designation shall submit a request and documentation of compliance with this section to the chief executive officer of the State or the individual, entity, or agency described in subsection (a), as the case may be.

“(d) PUBLIC NOTIFICATION.—Not less than once a year, the chief executive officer of each State or the individual, entity, or agency described in subsection (a), as the case may be, shall make available to the public a list of the names of each public school in the State that has received a quality program school designation in accordance with this section.”.

## **TITLE II—STATEMENT OF NATIONAL ANTIDRUG POLICY**

### **Subtitle A—Congressional Leadership in Community Coalitions**

#### **SEC. 201. SENSE OF CONGRESS.**

(a) FINDINGS.—Congress finds the following:

(1) Illegal drug use is dangerous to the physical well-being of the Nation’s youth.

(2) Illegal drug use can destroy the lives of the Nation’s youth by diminishing their sense of morality and with it everything in life that is important and worthwhile.

(3) According to recently released national surveys, drug use among the Nation’s youth remains at alarmingly high levels.

(4) National leadership is critical to conveying to the Nation’s youth the message that drug use is dangerous and wrong.

(5) National leadership can help mobilize every sector of the community to support the implementation of comprehensive, sustainable, and effective programs to reduce drug abuse.

(6) As of September 1, 1998, 76 Members of the House of Representatives were establishing community-based antidrug coalitions in their congressional districts or were actively supporting such coalitions that already existed.

(7) The individual Members of the House of Representatives can best help their constituents prevent drug use among the Nation’s youth by establishing community-based antidrug coalitions in their congressional districts or by actively supporting such coalitions that already exist.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the individual Members of the House of Representatives, including the Delegates and the Resident Commissioner, should establish community-based antidrug coalitions in their congressional districts or should actively support any such coalitions that have been established.

**Subtitle B—Rejection of Legalization of Drugs**

**SEC. 211. SENSE OF CONGRESS.**

(a) FINDINGS.—Congress finds the following:

- (1) Illegal drug use is harmful and wrong.
  - (2) Illegal drug use can kill the individuals involved or cause the individuals to hurt or kill others, and such use strips the individuals of their moral sense.
  - (3) The greatest threat presented by such use is to the youth of the United States, who are illegally using drugs in increasingly greater numbers.
  - (4) The people of the United States are more concerned about illegal drug use and crimes associated with such use than with any other current social problem.
  - (5) Efforts to legalize or otherwise legitimize drug use present a message to the youth of the United States that drug use is acceptable.
  - (6) Article VI, clause 2 of the Constitution of the United States states that “[t]his Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding.”.
  - (7) The courts of the United States have repeatedly found that any State law that conflicts with a Federal law or treaty is preempted by such law or treaty.
  - (8) The Controlled Substances Act (21 U.S.C. 801 et seq.) strictly regulates the use and possession of drugs.
  - (9) The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances Treaty similarly regulates the use and possession of drugs.
  - (10) Any attempt to authorize under State law an activity prohibited under such Treaty or the Controlled Substances Act would conflict with that Treaty or Act.
- (b) SENSE OF CONGRESS.—It is the sense of Congress that—
- (1) the several States, and the citizens of such States, should reject the legalization of drugs through legislation, ballot proposition, constitutional amendment, or any other means; and
  - (2) each State should make efforts to be a drug-free State.

**Subtitle C—Report on Streamlining Federal Prevention and Treatment Efforts**

**SEC. 221. REPORT ON STREAMLINING FEDERAL PREVENTION AND TREATMENT EFFORTS.**

21 USC 1703  
note.

- (a) SENSE OF CONGRESS.—It is the sense of Congress that—
- (1) the efforts of the Federal Government to reduce the demand for illegal drugs in the United States are frustrated by the fragmentation of those efforts across multiple departments and agencies; and
  - (2) improvement of those efforts can best be achieved through consolidation and coordination.
- (b) REPORT REQUIREMENT.—

(1) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, the Director of the Office of National Drug Control Policy shall prepare and submit to the appropriate committees a report evaluating options for increasing the efficacy of drug prevention and treatment programs and activities by the Federal Government. Such option shall include the merits of a consolidation of programs into a single agency, transferring programs from 1 agency to another, and improving coordinating mechanisms and authorities. The report shall also include a thorough review of the activities and potential consolidation of existing Federal drug information clearinghouses.

(2) **RECOMMENDATION AND EXPLANATORY STATEMENT.**—The study submitted under paragraph (1) shall identify options that are determined by the Director to have merit, and an explanation which options should be implemented.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Office of National Drug Control Policy to carry out this subsection \$1,000,000 for contracting, policy research, and related costs.

(c) **APPROPRIATE COMMITTEES DEFINED.**—In this section, the term “appropriate committees” means the Committee on Appropriations, the Committee on Commerce, and the Committee on Education and the Workforce of the House of Representatives, and the Committee on Appropriations, and Committee on Labor and Human Resources of the Senate.

Methampheta-  
mine Trafficking  
Penalty  
Enhancement  
Act of 1998.  
21 USC 801 note.

## **DIVISION E—METHAMPHETAMINE TRAFFICKING PENALTY ENHANCEMENT ACT OF 1998**

### **SECTION 1. SHORT TITLE.**

This division may be cited as the “Methamphetamine Trafficking Penalty Enhancement Act of 1998”.

### **SEC. 2. METHAMPHETAMINE PENALTY INCREASES.**

(a) **CONTROLLED SUBSTANCES ACT.**—Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in subparagraph (A)(viii)—

(A) by striking “100 grams” and inserting “50 grams”;

and

(B) by striking “1 kilogram” and inserting “500 grams”;

and

(2) in subparagraph (B)(viii)—

(A) by striking “10 grams” and inserting “5 grams”;

and

(B) by striking “100 grams” and inserting “50 grams”.

(b) **CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.**—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraph (1)(H)—

(A) by striking “100 grams” and inserting “50 grams”;

and

(B) by striking “1 kilogram” and inserting “500 grams”;

and

(2) in paragraph (2)(H)—

(A) by striking “10 grams” and inserting “5 grams”;

and

(B) by striking “100 grams” and inserting “50 grams”.



**SEC. 3. ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS UNDER  
THE VIOLENT OFFENDER INCARCERATION AND TRUTH-  
IN-SENTENCING GRANTS PROGRAM.**

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

42 USC 13705.

“(b) ADDITIONAL REQUIREMENTS.—

“(1) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 20103 or section 20104, a State shall—

“(A) provide assurances to the Attorney General that the State has implemented or will implement not later than 18 months after the date of the enactment of this subtitle, policies that provide for the recognition of the rights of crime victims; and

“(B) subject to the limitation of paragraph (2), no later than September 1, 2000, consider a program of drug testing and intervention for appropriate categories of convicted offenders during periods of incarceration and post-incarceration and criminal justice supervision, with sanctions including denial or revocation of release for positive drug tests, consistent with guidelines issued by the Attorney General.

“(2) USE OF FUNDS.—Beginning in fiscal year 1999, not more than 10 percent of the funds provided under section 20103 or section 20104 of this subtitle may be applied to the cost of offender drug testing and intervention programs during periods of incarceration and post-incarceration criminal justice supervision, consistent with guidelines issued by the Attorney General. Further, such funds may be used by the States to pay the costs of providing to the Attorney General a baseline study on their prison drug abuse problem. Such studies shall be consistent with guidelines issued by the Attorney General.”.

**DIVISION F—NOT LEGALIZING MARIJUANA FOR  
MEDICINAL USE**

It is the sense of the Congress that—

(1) certain drugs are listed on Schedule I of the Controlled Substances Act if they have a high potential for abuse, lack any currently accepted medical use in treatment, and are unsafe, even under medical supervision;

(2) the consequences of illegal use of Schedule I drugs are well documented, particularly with regard to physical health, highway safety, and criminal activity;

(3) pursuant to section 401 of the Controlled Substances Act, it is illegal to manufacture, distribute, or dispense marijuana, heroin, LSD, and more than 100 other Schedule I drugs;

(4) pursuant to section 505 of the Federal Food, Drug and Cosmetic Act, before any drug can be approved as a medication in the United States, it must meet extensive scientific and medical standards established by the Food and Drug Administration to ensure it is safe and effective;

(5) marijuana and other Schedule I drugs have not been approved by the Food and Drug Administration to treat any disease or condition;

(6) the Federal Food, Drug and Cosmetic Act already prohibits the sale of any unapproved drug, including marijuana, that

has not been proven safe and effective for medical purposes and grants the Food and Drug Administration the authority to enforce this prohibition through seizure and other civil action, as well as through criminal penalties;

(7) marijuana use by children in grades 8 through 12 declined steadily from 1980 to 1992, but, from 1992 to 1996, has dramatically increased by 253 percent among 8th graders, 151 percent among 10th graders, and 84 percent among 12th graders, and the average age of first-time use of marijuana is now younger than it has ever been;

(8) according to the 1997 survey by the Center on Addiction and Substance Abuse at Columbia University, 500,000 8th graders began using marijuana in the 6th and 7th grades;

(9) according to that same 1997 survey, youths between the ages of 12 and 17 who use marijuana are 85 times more likely to use cocaine than those who abstain from marijuana, and 60 percent of adolescents who use marijuana before the age of 15 will later use cocaine; and

(10) the rate of illegal drug use among youth is linked to their perceptions of the health and safety risks of those drugs, and the ambiguous cultural messages about marijuana use are contributing to a growing acceptance of marijuana use among children and teenagers;

(11) Congress continues to support the existing Federal legal process for determining the safety and efficacy of drugs and opposes efforts to circumvent this process by legalizing marijuana, and other Schedule I drugs, for medicinal use without valid scientific evidence and the approval of the Food and Drug Administration; and

(12) not later than 90 days after the date of the enactment of this Act—

Reports.

(A) the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on—

(i) the total quantity of marijuana eradicated in the United States during the period from 1992 through 1997; and

(ii) the annual number of arrests and prosecutions for Federal marijuana offenses during the period described in clause (i); and

Reports.

(B) the Commissioner of Foods and Drugs shall submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the specific efforts underway to enforce sections 304 and 505 of the Federal Food, Drug and Cosmetic Act with respect to marijuana and other Schedule I drugs.

Foreign Affairs  
Reform and  
Restructuring  
Act of 1998.  
22 USC 6501  
note.

## DIVISION G—FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF 1998

### SEC. 1001. SHORT TITLE.

This division may be cited as the “Foreign Affairs Reform and Restructuring Act of 1998”.

**SEC. 1002. ORGANIZATION OF DIVISION INTO SUBDIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This division is organized into three subdivisions as follows:

(1) SUBDIVISION A.—Foreign Affairs Agencies Consolidation Act of 1998.

(2) SUBDIVISION B.—Foreign Relations Authorization Act, Fiscal Years 1998 and 1999.

(3) SUBDIVISION C.—United Nations Reform Act of 1998.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

DIVISION —FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF  
1998

Sec. 1001. Short title.

Sec. 1002. Organization of division into subdivisions; table of contents.

SUBDIVISION A—CONSOLIDATION OF FOREIGN AFFAIRS AGENCIES

TITLE XI—GENERAL PROVISIONS

Sec. 1101. Short title.

Sec. 1102. Purposes.

Sec. 1103. Definitions.

Sec. 1104. Report on budgetary cost savings resulting from reorganization.

TITLE XII—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

CHAPTER 1—GENERAL PROVISIONS

Sec. 1201. Effective date.

CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

Sec. 1211. Abolition of United States Arms Control and Disarmament Agency.

Sec. 1212. Transfer of functions to Secretary of State.

Sec. 1213. Under Secretary for Arms Control and International Security.

CHAPTER 3—CONFORMING AMENDMENTS

Sec. 1221. References.

Sec. 1222. Repeals.

Sec. 1223. Amendments to the Arms Control and Disarmament Act.

Sec. 1224. Compensation of officers.

Sec. 1225. Additional conforming amendments.

TITLE XIII—UNITED STATES INFORMATION AGENCY

CHAPTER 1—GENERAL PROVISIONS

Sec. 1301. Effective date.

CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

Sec. 1311. Abolition of United States Information Agency.

Sec. 1312. Transfer of functions.

Sec. 1313. Under Secretary of State for Public Diplomacy.

Sec. 1314. Abolition of Office of Inspector General of United States Information Agency and transfer of functions.

CHAPTER 3—INTERNATIONAL BROADCASTING

Sec. 1321. Congressional findings and declaration of purpose.

Sec. 1322. Continued existence of Broadcasting Board of Governors.

Sec. 1323. Conforming amendments to the United States International Broadcasting Act of 1994.

Sec. 1324. Amendments to the Radio Broadcasting to Cuba Act.

Sec. 1325. Amendments to the Television Broadcasting to Cuba Act.

Sec. 1326. Transfer of broadcasting related funds, property, and personnel.

Sec. 1327. Savings provisions.

Sec. 1328. Report on the privatization of RFE/RL, Incorporated.

CHAPTER 4—CONFORMING AMENDMENTS

Sec. 1331. References.

- Sec. 1332. Amendments to title 5, United States Code.
- Sec. 1333. Application of certain laws.
- Sec. 1334. Abolition of United States Advisory Commission on Public Diplomacy.
- Sec. 1335. Conforming amendments.
- Sec. 1336. Repeals.

TITLE XIV—UNITED STATES INTERNATIONAL DEVELOPMENT  
COOPERATION AGENCY

CHAPTER 1—GENERAL PROVISIONS

- Sec. 1401. Effective date.

CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS

- Sec. 1411. Abolition of United States International Development Cooperation Agency.
- Sec. 1412. Transfer of functions and authorities.
- Sec. 1413. Status of AID.

CHAPTER 3—CONFORMING AMENDMENTS

- Sec. 1421. References.
- Sec. 1422. Conforming amendments.

TITLE XV—AGENCY FOR INTERNATIONAL DEVELOPMENT

CHAPTER 1—GENERAL PROVISIONS

- Sec. 1501. Effective date.

CHAPTER 2—REORGANIZATION AND TRANSFER OF FUNCTIONS

- Sec. 1511. Reorganization of Agency for International Development.

CHAPTER 3—AUTHORITIES OF THE SECRETARY OF STATE

- Sec. 1521. Definition of United States assistance.
- Sec. 1522. Administrator of AID reporting to the Secretary of State.
- Sec. 1523. Assistance programs coordination and oversight.

TITLE XVI—TRANSITION

CHAPTER 1—REORGANIZATION PLAN

- Sec. 1601. Reorganization plan and report.

CHAPTER 2—REORGANIZATION AUTHORITY

- Sec. 1611. Reorganization authority.
- Sec. 1612. Transfer and allocation of appropriations.
- Sec. 1613. Transfer, appointment, and assignment of personnel.
- Sec. 1614. Incidental transfers.
- Sec. 1615. Savings provisions.
- Sec. 1616. Authority of Secretary of State to facilitate transition.
- Sec. 1617. Final report.

SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION

TITLE XX—GENERAL PROVISIONS

- Sec. 2001. Short title.
- Sec. 2002. Definition of appropriate congressional committees.

TITLE XXI—AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF  
STATE

- Sec. 2101. Administration of foreign affairs.
- Sec. 2102. International commissions.
- Sec. 2103. Grants to The Asia Foundation.
- Sec. 2104. Voluntary contributions to international organizations.
- Sec. 2105. Voluntary contributions to peacekeeping operations.
- Sec. 2106. Limitation on United States voluntary contributions to United Nations Development Program.

TITLE XXII—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

CHAPTER 1—AUTHORITIES AND ACTIVITIES

- Sec. 2201. Reimbursement of Department of State for assistance to overseas educational facilities.

- Sec. 2202. Revision of Department of State rewards program.
- Sec. 2203. Retention of additional defense trade controls registration fees.
- Sec. 2204. Fees for commercial services.
- Sec. 2205. Pilot program for foreign affairs reimbursement.
- Sec. 2206. Fee for use of diplomatic reception rooms.
- Sec. 2207. Budget presentation documents.
- Sec. 2208. Office of the Inspector General.
- Sec. 2209. Capital Investment Fund.
- Sec. 2210. Contracting for local guards services overseas.
- Sec. 2211. Authority of the Foreign Claims Settlement Commission.
- Sec. 2212. Expenses relating to certain international claims and proceedings.
- Sec. 2213. Grants to remedy international abductions of children.
- Sec. 2214. Counterdrug and anticrime activities of the Department of State.
- Sec. 2215. Annual report on overseas surplus properties.
- Sec. 2216. Human rights reports.
- Sec. 2217. Reports and policy concerning diplomatic immunity.
- Sec. 2218. Reaffirming United States international telecommunications policy.
- Sec. 2219. Reduction of reporting.

#### CHAPTER 2—CONSULAR AUTHORITIES OF THE DEPARTMENT OF STATE

- Sec. 2221. Use of certain passport processing fees for enhanced passport services.
- Sec. 2222. Consular officers.
- Sec. 2223. Repeal of outdated consular receipt requirements.
- Sec. 2224. Elimination of duplicate Federal Register publication for travel advisories.
- Sec. 2225. Denial of visas to confiscators of American property.
- Sec. 2226. Inadmissibility of any alien supporting an international child abductor.

#### CHAPTER 3—REFUGEES AND MIGRATION

##### SUBCHAPTER A—AUTHORIZATION OF APPROPRIATIONS

- Sec. 2231. Migration and refugee assistance.

##### SUBCHAPTER B—AUTHORITIES

- Sec. 2241. United States policy regarding the involuntary return of refugees.
- Sec. 2242. United States policy with respect to the involuntary return of persons in danger of subjection to torture.
- Sec. 2243. Reprogramming of migration and refugee assistance funds.
- Sec. 2244. Eligibility for refugee status.
- Sec. 2245. Reports to Congress concerning Cuban emigration policies.

### TITLE XXIII—ORGANIZATION OF THE DEPARTMENT OF STATE; DEPARTMENT OF STATE PERSONNEL; THE FOREIGN SERVICE

#### CHAPTER 1—ORGANIZATION OF THE DEPARTMENT OF STATE

- Sec. 2301. Coordinator for Counterterrorism.
- Sec. 2302. Elimination of Deputy Assistant Secretary of State for Burdensharing.
- Sec. 2303. Personnel management.
- Sec. 2304. Diplomatic security.
- Sec. 2305. Number of senior official positions authorized for the Department of State.
- Sec. 2306. Nomination of Under Secretaries and Assistant Secretaries of State.

#### CHAPTER 2—PERSONNEL OF THE DEPARTMENT OF STATE; THE FOREIGN SERVICE

- Sec. 2311. Foreign Service reform.
- Sec. 2312. Retirement benefits for involuntary separation.
- Sec. 2313. Authority of Secretary to separate convicted felons from the Foreign Service.
- Sec. 2314. Career counseling.
- Sec. 2315. Limitations on management assignments.
- Sec. 2316. Availability pay for certain criminal investigators within the Diplomatic Security Service.
- Sec. 2317. Nonovertime differential pay.
- Sec. 2318. Report concerning minorities and the Foreign Service.

### TITLE XXIV—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

#### CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

- Sec. 2401. International information activities and educational and cultural exchange programs.

CHAPTER 2—AUTHORITIES AND ACTIVITIES

- Sec. 2411. Retention of interest.
- Sec. 2412. Use of selected program fees.
- Sec. 2413. Muskie Fellowship Program.
- Sec. 2414. Working Group on United States Government-Sponsored International Exchanges and Training.
- Sec. 2415. Educational and cultural exchanges and scholarships for Tibetans and Burmese.
- Sec. 2416. Surrogate broadcasting study.
- Sec. 2417. Radio broadcasting to Iran in the Farsi language.
- Sec. 2418. Authority to administer summer travel and work programs.
- Sec. 2419. Permanent administrative authorities regarding appropriations.
- Sec. 2420. Voice of America broadcasts.

TITLE XXV—INTERNATIONAL ORGANIZATIONS OTHER THAN UNITED NATIONS

- Sec. 2501. International conferences and contingencies.
- Sec. 2502. Restriction relating to United States accession to any new international criminal tribunal.
- Sec. 2503. United States membership in the Bureau of the Interparliamentary Union.
- Sec. 2504. Service in international organizations.
- Sec. 2505. Reports regarding foreign travel.

TITLE XXVI—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

- Sec. 2601. Authorization of appropriations.
- Sec. 2602. Statutory construction.

TITLE XXVII—EUROPEAN SECURITY ACT OF 1998

- Sec. 2701. Short title.
- Sec. 2702. Statement of policy.
- Sec. 2703. Authorities relating to NATO enlargement.
- Sec. 2704. Sense of Congress with respect to the Treaty on Conventional Armed Forces in Europe.
- Sec. 2705. Restrictions and requirements relating to ballistic missile defense.

TITLE XXVIII—OTHER FOREIGN POLICY PROVISIONS

- Sec. 2801. Reports on claims by United States firms against the Government of Saudi Arabia.
- Sec. 2802. Reports on determinations under title IV of the Libertad Act.
- Sec. 2803. Report on compliance with the Hague Convention on International Child Abduction.
- Sec. 2804. Sense of Congress relating to recognition of the Ecumenical Patriarchate by the Government of Turkey.
- Sec. 2805. Report on relations with Vietnam.
- Sec. 2806. Reports and policy concerning human rights violations in Laos.
- Sec. 2807. Report on an alliance against narcotics trafficking in the Western Hemisphere.
- Sec. 2808. Congressional statement regarding the accession of Taiwan to the World Trade Organization.
- Sec. 2809. Programs or projects of the International Atomic Energy Agency in Cuba.
- Sec. 2810. Limitation on assistance to countries aiding Cuba nuclear development.
- Sec. 2811. International Fund for Ireland.
- Sec. 2812. Support for democratic opposition in Iraq.
- Sec. 2813. Development of democracy in the Republic of Serbia.

Foreign Affairs  
Agencies  
Consolidation Act  
of 1998.

**SUBDIVISION A—CONSOLIDATION OF FOREIGN AFFAIRS AGENCIES**

**TITLE XI—GENERAL PROVISIONS**

22 USC 6501  
note.

**SEC. 1101. SHORT TITLE.**

This subdivision may be cited as the “Foreign Affairs Agencies Consolidation Act of 1998”.

22 USC 6501.

**SEC. 1102. PURPOSES.**

The purposes of this subdivision are—

(1) to strengthen—

(A) the coordination of United States foreign policy; and

(B) the leading role of the Secretary of State in the formulation and articulation of United States foreign policy;

(2) to consolidate and reinvigorate the foreign affairs functions of the United States within the Department of State by—

(A) abolishing the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency, and transferring the functions of these agencies to the Department of State while preserving the special missions and skills of these agencies;

(B) transferring certain functions of the Agency for International Development to the Department of State; and

(C) providing for the reorganization of the Department of State to maximize the efficient use of resources, which may lead to budget savings, eliminated redundancy in functions, and improvement in the management of the Department of State;

(3) to ensure that programs critical to the promotion of United States national interests be maintained;

(4) to assist congressional efforts to balance the Federal budget and reduce the Federal debt;

(5) to ensure that the United States maintains effective representation abroad within budgetary restraints; and

(6) to encourage United States foreign affairs agencies to maintain a high percentage of the best qualified, most competent United States citizens serving in the United States Government.

#### SEC. 1103. DEFINITIONS.

22 USC 6502.

In this subdivision:

(1) ACDA.—The term “ACDA” means the United States Arms Control and Disarmament Agency.

(2) AID.—The term “AID” means the United States Agency for International Development.

(3) AGENCY; FEDERAL AGENCY.—The term “agency” or “Federal agency” means an Executive agency as defined in section 105 of title 5, United States Code.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(5) COVERED AGENCY.—The term “covered agency” means any of the following agencies: ACDA, USIA, IDCA, and AID.

(6) DEPARTMENT.—The term “Department” means the Department of State.

(7) FUNCTION.—The term “function” means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(8) IDCA.—The term “IDCA” means the United States International Development Cooperation Agency.

(9) OFFICE.—The term “office” includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(10) SECRETARY.—The term “Secretary” means the Secretary of State.

(11) USIA.—The term “USIA” means the United States Information Agency.

22 USC 6503.

**SEC. 1104. REPORT ON BUDGETARY COST SAVINGS RESULTING FROM REORGANIZATION.**

The Secretary of State shall submit a report, together with the congressional presentation document for the budget of the Department of State for each of the fiscal years 2000 and 2001, to the appropriate congressional committees describing the total anticipated and achieved cost savings in budget outlays and budget authority related to the reorganization implemented under this subdivision, including cost savings by each of the following categories:

- (1) Reductions in personnel.
- (2) Administrative consolidation, including procurement.
- (3) Program consolidation.
- (4) Consolidation of real properties and leases.

**TITLE XII—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY**

**CHAPTER 1—GENERAL PROVISIONS**

22 USC 6511  
note.

**SEC. 1201. EFFECTIVE DATE.**

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) April 1, 1999; or
- (2) the date of abolition of the United States Arms Control and Disarmament Agency pursuant to the reorganization plan described in section 1601.

**CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS**

22 USC 6511.

**SEC. 1211. ABOLITION OF UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.**

The United States Arms Control and Disarmament Agency is abolished.

22 USC 6512.

**SEC. 1212. TRANSFER OF FUNCTIONS TO SECRETARY OF STATE.**

There are transferred to the Secretary of State all functions of the Director of the United States Arms Control and Disarmament Agency, and all functions of the United States Arms Control and Disarmament Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this title.

**SEC. 1213. UNDER SECRETARY FOR ARMS CONTROL AND INTERNATIONAL SECURITY.**

22 USC 2651a.

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651(b)) is amended—

- (1) by striking “There” and inserting the following:  
“(1) IN GENERAL.—There”; and



(2) by adding at the end the following:

“(2) UNDER SECRETARY FOR ARMS CONTROL AND INTERNATIONAL SECURITY.—There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Arms Control and International Security, who shall assist the Secretary and the Deputy Secretary in matters related to international security policy, arms control, and nonproliferation. Subject to the direction of the President, the Under Secretary may attend and participate in meetings of the National Security Council in his role as Senior Advisor to the President and the Secretary of State on Arms Control and Nonproliferation Matters.”.

### CHAPTER 3—CONFORMING AMENDMENTS

#### SEC. 1221. REFERENCES.

22 USC 6521.

Except as otherwise provided in section 1223 or 1225, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Arms Control and Disarmament Agency, the Director of the Arms Control and Disarmament Agency, or any other officer or employee of the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Secretary of State; or

(2) the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Department of State.

#### SEC. 1222. REPEALS.

The following sections of the Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) are repealed: Sections 21 through 26 (22 U.S.C. 2561-2566), section 35 (22 U.S.C. 2575), section 42 (22 U.S.C. 2582), section 43 (22 U.S.C. 2583), sections 45 through 50 (22 U.S.C. 2585-2593), section 53 (22 U.S.C. 2593c), section 54 (22 U.S.C. 2593d), and section 63 (22 U.S.C. 2595b).

#### SEC. 1223. AMENDMENTS TO THE ARMS CONTROL AND DISARMAMENT ACT.

The Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) is amended—

(1) in section 2 (22 U.S.C. 2551)—

(A) in the first undesignated paragraph, by striking “creating a new agency of peace to deal with” and inserting “addressing”;

(B) by striking the second undesignated paragraph; and

(C) in the third undesignated paragraph—

(i) by striking “This organization” and inserting “The Secretary of State”;

(ii) by striking “It shall have” and inserting “The Secretary shall have”;

(iii) by striking “and the Secretary of State”;

(iv) by inserting “, nonproliferation,” after “arms control” in paragraph (1);

(v) by striking paragraph (2);

- (vi) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and
- (vii) by striking “, as appropriate,” in paragraph (3) (as redesignated);
- (2) in section 3 (22 U.S.C. 2552), by striking subsection (c);
- (3) in the heading for title II, by striking “**ORGANIZATION**” and inserting “**SPECIAL REPRESENTATIVES AND VISITING SCHOLARS**”;
- (4) in section 27 (22 U.S.C. 2567)—
  - (A) by striking the third sentence;
  - (B) in the fourth sentence, by striking “, acting through the Director”; and
  - (C) in the fifth sentence, by striking “Agency” and inserting “Department of State”;
- (5) in section 28 (22 U.S.C. 2568)—
  - (A) by striking “Director” each place it appears and inserting “Secretary of State”;
  - (B) in the second sentence—
    - (i) by striking “Agency” each place it appears and inserting “Department of State”; and
    - (ii) by striking “Agency’s” and inserting “Department of State’s”; and
- (6) in section 31 (22 U.S.C. 2571)—
  - (A) by inserting “this title in” after “powers in”;
  - (B) by striking “Director” each place it appears and inserting “Secretary of State”;
  - (C) by striking “insure” each place it appears and inserting “ensure”;
  - (D) in the second sentence, by striking “in accordance with procedures established under section 35 of this Act”;
  - (E) in the fourth sentence by striking “The authority” and all that follows through “disarmament,” and inserting the following: “The authority of the Secretary under this Act with respect to research, development, and other studies concerning arms control, nonproliferation, and disarmament shall be limited to participation in the following.”; and
  - (F) in subsection (1), by inserting “and” at the end;
- (7) in section 32 (22 U.S.C. 2572)—
  - (A) by striking “Director” and inserting “Secretary of State”; and
  - (B) by striking “subsection” and inserting “section”;
- (8) in section 33(a) (22 U.S.C. 2573(a))—
  - (A) by striking “the Secretary of State,”; and
  - (B) by striking “Director” and inserting “Secretary of State”;
- (9) in section 34 (22 U.S.C. 2574)—
  - (A) in subsection (a)—
    - (i) in the first sentence, by striking “Director” and inserting “Secretary of State”;
    - (ii) in the first sentence, by striking “and the Secretary of State”;
    - (iii) in the first sentence, by inserting “, nonproliferation,” after “in the fields of arms control”;
    - (iv) in the first sentence, by striking “and shall have primary responsibility, whenever directed by the

President, for the preparation, conduct, and management of the United States participation in international negotiations and implementation fora in the field of nonproliferation”;

(v) in the second sentence, by striking “section 27” and inserting “section 201”; and

(vi) in the second sentence, by striking “the” after “serve as”;

(B) by striking subsection (b);

(C) by redesignating subsection (c) as subsection (b);

and

(D) in subsection (b) (as redesignated)—

(i) in the text above paragraph (1), by striking “Director” and inserting “Secretary of State”;

(ii) by striking paragraph (1); and

(iii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(10) in section 36 (22 U.S.C. 2576)—

(A) by striking “Director” each place it appears and inserting “Secretary of State”; and

(B) by striking “, in accordance with the procedures established pursuant to section 35 of this Act,”;

(11) in section 37 (22 U.S.C. 2577)—

(A) by striking “Director” and “Agency” each place it appears and inserting “Secretary of State” or “Department of State”, respectively; and

(B) by striking subsection (d);

(12) in section 38 (22 U.S.C. 2578)—

(A) by striking “Director” each place it appears and inserting “Secretary of State”; and

(B) by striking subsection (c);

(13) in section 41 (22 U.S.C. 2581)—

(A) by striking “In the performance of his functions, the Director” and inserting “In addition to any authorities otherwise available, the Secretary of State in the performance of functions under this Act”;

(B) by striking “Agency”, “Agency’s”, “Director”, and “Director’s” each place they appear and inserting “Department of State”, “Department of State’s”, “Secretary of State”, or “Secretary of State’s”, as appropriate;

(C) in subsection (a), by striking the sentence that begins “It is the intent”;

(D) in subsection (b)—

(i) by striking “appoint officers and employees, including attorneys, for the Agency in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and fix their compensation in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the Director may, to the extent the Director determines necessary to the discharge of his responsibilities.”;

(ii) in paragraph (1), by striking “exception” and inserting “subsection”; and

(iii) in paragraph (2)—

(I) by striking “exception” and inserting “subsection”; and

(II) by striking “ceiling” and inserting “positions allocated to carry out the purpose of this Act”;

(E) by striking subsection (g);

(F) by redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively;

(G) by amending subsection (f) to read as follows:

“(f) establish a scientific and policy advisory board to advise with and make recommendations to the Secretary of State on United States arms control, nonproliferation, and disarmament policy and activities. A majority of the board shall be composed of individuals who have a demonstrated knowledge and technical expertise with respect to arms control, nonproliferation, and disarmament matters and who have distinguished themselves in any of the fields of physics, chemistry, mathematics, biology, or engineering, including weapons engineering. The members of the board may receive the compensation and reimbursement for expenses specified for consultants by subsection (d) of this section.”; and

(H) in subsection (h) (as redesignated), by striking “Deputy Director” and inserting “Under Secretary for Arms Control and International Security”;

(14) in section 44 (22 U.S.C. 2584)—

(A) by striking “CONFLICT-OF-INTEREST AND”;

(B) by striking “The members” and all that follows through “(5 U.S.C. 2263), or any other” and inserting “Members of advisory boards and consultants may serve as such without regard to any”; and

(C) by inserting at the end the following new sentence: “This section shall apply only to individuals carrying out activities related to arms control, nonproliferation, and disarmament.”;

(15) in section 51 (22 U.S.C. 2593a)—

(A) in subsection (a)—

(i) in paragraphs (1) and (3), by inserting “, nonproliferation,” after “arms control” each place it appears;

(ii) by striking “Director, in consultation with the Secretary of State,” and inserting “Secretary of State with the concurrence of the Director of Central Intelligence and in consultation with”;

(iii) by striking “the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence” and inserting “and the Chairman of the Joint Chiefs of Staff”;

(iv) by striking paragraphs (2) and (4); and

(v) by redesignating paragraphs (3), (5), (6), and

(7) as paragraphs (2) through (5), respectively; and

(B) by adding at the end of subsection (b) the following: “The portions of this report described in paragraphs (4) and (5) of subsection (a) shall summarize in detail, at least in classified annexes, the information, analysis, and conclusions relevant to possible noncompliance by other nations that are provided by United States intelligence agencies.”;

Applicability.

(16) in section 52 (22 U.S.C. 2593b), by striking “Director” and inserting “Secretary of State”;

(17) in section 61 (22 U.S.C. 2593a)—

(A) in paragraph (1), by striking “United States Arms Control and Disarmament Agency” and inserting “Department of State”;

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (7) as paragraphs (2) through (6), respectively;

(D) in paragraph (4) (as redesignated), by striking “paragraph (4)” and inserting “paragraph (3)”;

(E) in paragraph (6) (as redesignated), by striking “United States Arms Control and Disarmament Agency and the”;

(18) in section 62 (22 U.S.C. 2595a)—

(A) in subsection (c)—

(i) in the subsection heading, by striking “DIRECTOR” and inserting “SECRETARY OF STATE”; and

(ii) by striking “2(d), 22, and 34(c)” and inserting “102(3) and 304(b)”;

(B) by striking “Director” and inserting “Secretary of State”;

(19) in section 64 (22 U.S.C. 2595b-1)—

(A) by striking the section title and inserting “**SEC. 503. REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.**”;

(B) by striking subsection (a); and

(C) in subsection (b)—

(i) by striking “(b) REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.—”; and

(ii) by striking “Foreign Affairs” and inserting “International Relations”;

(20) in section 65(1) (22 U.S.C. 2595c(1)) by inserting “of America” after “United States”; and

(21) by redesignating sections 1, 2, 3, 27, 28, 31, 32, 33, 34, 36, 37, 38, 39, 41, 44, 51, 52, 61, 62, 64, and 65, as amended by this section, as sections 101, 102, 103, 201, 202, 301, 302, 303, 304, 305, 306, 307, 308, 401, 402, 403, 404, 501, 502, 503, and 504, respectively.

22 USC 2551 *et seq.*

#### SEC. 1224. COMPENSATION OF OFFICERS.

Title 5, United States Code, is amended—

(1) in section 5313, by striking “Director of the United States Arms Control and Disarmament Agency.”;

(2) in section 5314, by striking “Deputy Director of the United States Arms Control and Disarmament Agency.”;

(3) in section 5315—

(A) by striking “Assistant Directors, United States Arms Control and Disarmament Agency (4).”; and

(B) by striking “Special Representatives of the President for arms control, nonproliferation, and disarmament matters, United States Arms Control and Disarmament Agency”, and inserting “Special Representatives of the President for arms control, nonproliferation, and disarmament matters, Department of State”; and

(4) in section 5316, by striking “General Counsel of the United States Arms Control and Disarmament Agency.”.

**SEC. 1225. ADDITIONAL CONFORMING AMENDMENTS.**

(a) **ARMS EXPORT CONTROL ACT.**—The Arms Export Control Act is amended—

(1) in section 36(b)(1)(D) (22 U.S.C. 2776(b)(1)(D)), by striking “Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense” and inserting “Secretary of State in consultation with the Secretary of Defense and the Director of Central Intelligence”;

(2) in section 38(a)(2) (22 U.S.C. 2778(a)(2))—

(A) in the first sentence, by striking “be made in coordination with the Director of the United States Arms Control and Disarmament Agency, taking into account the Director’s assessment as to” and inserting “take into account”; and

(B) by striking the second sentence;

(3) in section 42(a) (22 U.S.C. 2791(a))—

(A) in paragraph (1)(C), by striking “the assessment of the Director of the United States Arms Control and Disarmament Agency as to”;

(B) by striking “(1)” after “(a)”; and

(C) by striking paragraph (2);

(4) in section 71(a) (22 U.S.C. 2797(a)), by striking “, the Director of the Arms Control and Disarmament Agency,”;

(5) in section 71(b)(1) (22 U.S.C. 2797(b)(1)), by striking “and the Director of the United States Arms Control and Disarmament Agency”;

(6) in section 71(b)(2) (22 U.S.C. 2797(b)(2))—

(A) by striking “, the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency” and inserting “and the Secretary of Commerce”; and

(B) by striking “or the Director”;

(7) in section 71(c) (22 U.S.C. 2797(c)), by striking “with the Director of the United States Arms Control and Disarmament Agency,”; and

(8) in section 73(d) (22 U.S.C. 2797b(d)), by striking “, the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency” and inserting “and the Secretary of Commerce”.

(b) **FOREIGN ASSISTANCE ACT.**—Section 511 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321d) is amended by striking “be made in coordination with the Director of the United States Arms Control and Disarmament Agency and shall take into account his opinion as to” and inserting “take into account”.

(c) **UNITED STATES INSTITUTE OF PEACE ACT.**—

(1) Section 1706(b) of the United States Institute of Peace Act (22 U.S.C. 4605(b)) is amended—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(C) in paragraph (4) (as redesignated), by striking “Eleven” and inserting “Twelve”.

(2) Section 1707(d)(2) of that Act (22 U.S.C. 4606(d)(2)) is amended by striking “, Director of the Arms Control and Disarmament Agency”.

(d) ATOMIC ENERGY ACT OF 1954.—The Atomic Energy Act of 1954 is amended—

(1) in section 57b. (42 U.S.C. 2077(b))—

(A) in the first sentence, by striking “the Arms Control and Disarmament Agency,”; and

(B) in the second sentence, by striking “the Director of the Arms Control and Disarmament Agency,”;

(2) in section 109b. (42 U.S.C. 2129(b)), by striking “and the Director”; 42 USC 2139.

(3) in section 111b. (42 U.S.C. 2131(b)) by striking “the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission,” and inserting “the Nuclear Regulatory Commission”; 42 USC 2141.

(4) in section 123 (42 U.S.C. 2153)—

(A) in subsection a., in the third sentence—

(i) by striking “and in consultation with the Director of the Arms Control and Disarmament Agency (the Director)”;

(ii) by inserting “and” after “Energy,”;

(iii) by striking “Commission, and the Director, who” and inserting “Commission. The Secretary of State”; and

(iv) after “nuclear explosive purpose.”, by inserting the following new sentence: “Each Nuclear Proliferation Assessment Statement prepared pursuant to this Act shall be accompanied by a classified annex, prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information.”;

(B) in subsection d., in the first proviso—

(i) by striking “Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency,” and inserting “Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto,”; and

(ii) by striking “has been” and inserting “have been”; and

(C) in the first undesignated paragraph following subsection d., by striking “the Arms Control and Disarmament Agency,”;

(5) in section 126a.(1), by striking “the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission” and inserting “and the Nuclear Regulatory Commission,”; 42 USC 2155.

(6) in section 131a. (42 U.S.C. 2160(a))—

(A) in paragraph (1)—

(i) in the first sentence, by striking “the Director,”;

(ii) in the third sentence, by striking “the Director declares that he intends” and inserting “the Secretary of State is required”; and

(iii) in the third sentence, by striking “the Director’s declaration” and inserting “the requirement to prepare a Nuclear Proliferation Assessment Statement”;

(B) in paragraph (2)—

(i) by striking “Director’s view” and inserting “view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission”; and

- (ii) by striking “he may prepare” and inserting “the Secretary of State, in consultation with such Secretary or the Commission, shall prepare”; and
- (7) in section 131c. (42 U.S.C. 2160(c))—
  - (A) in the first sentence, by striking “, the Director of the Arms Control and Disarmament Agency,”;
  - (B) in the sixth and seventh sentences, by striking “Director” each place it appears and inserting “Secretary of State”; and
  - (C) in the seventh sentence, by striking “Director’s” and inserting “Secretary of State’s”.
- (e) NUCLEAR NON-PROLIFERATION ACT OF 1978.—The Nuclear Non-Proliferation Act of 1978 is amended—
  - (1) in section 4 (22 U.S.C. 3203)—
    - (A) by striking paragraph (2); and
    - (B) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively;
  - (2) in section 102 (22 U.S.C. 3222), by striking “, the Secretary of State, and the Director of the Arms Control and Disarmament Agency” and inserting “and the Secretary of State”;
  - (3) in section 304(d) (42 U.S.C. 2156a), by striking “the Secretary of Defense, and the Director,” and inserting “and the Secretary of Defense,”;
  - (4) in section 309 (42 U.S.C. 2139a)—
    - (A) in subsection (b), by striking “the Department of Commerce, and the Arms Control and Disarmament Agency” and inserting “and the Department of Commerce”; and
    - (B) in subsection (c), by striking “the Arms Control and Disarmament Agency,”;
  - (5) in section 406 (42 U.S.C. 2160a), by inserting “, or any annexes thereto,” after “Statement”; and
  - (6) in section 602 (22 U.S.C. 3282)—
    - (A) in subsection (c), by striking “the Arms Control and Disarmament Agency,”; and
    - (B) in subsection (e), by striking “and the Director”.
- (f) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—Section 23(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2695(a)) is amended by striking “the Agency for International Development, and the Arms Control and Disarmament Agency” and inserting “and the Agency for International Development”.
- (g) FOREIGN RELATIONS AUTHORIZATION ACT OF 1972.—Section 502 of the Foreign Relations Authorization Act of 1972 (2 U.S.C. 194a) is amended by striking “the United States Arms Control and Disarmament Agency,”.
- (h) TITLE 49.—Section 40118(d) of title 49, United States Code, is amended by striking “, or the Director of the Arms Control and Disarmament Agency”.



**TITLE XIII—UNITED STATES INFORMATION AGENCY****CHAPTER 1—GENERAL PROVISIONS****SEC. 1301. EFFECTIVE DATE.**22 USC 6531  
note.

This title, and the amendments made by this title, shall take effect on the earlier of—

- (1) October 1, 1999; or
- (2) the date of abolition of the United States Information Agency pursuant to the reorganization plan described in section 1601.

**CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS****SEC. 1311. ABOLITION OF UNITED STATES INFORMATION AGENCY.**

22 USC 6531.

The United States Information Agency (other than the Broadcasting Board of Governors and the International Broadcasting Bureau) is abolished.

**SEC. 1312. TRANSFER OF FUNCTIONS.**

22 USC 6532.

(a) IN GENERAL.—There are transferred to the Secretary of State all functions of the Director of the United States Information Agency and all functions of the United States Information Agency and any office or component of such agency, under any statute, reorganization plan, Executive order, or other provision of law, as of the day before the effective date of this title.

(b) EXCEPTION.—Subsection (a) does not apply to the Broadcasting Board of Governors, the International Broadcasting Bureau, or any function performed by the Board or the Bureau.

**SEC. 1313. UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.**

Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)), as amended by this division, is further amended by adding at the end the following new paragraph:

“(3) UNDER SECRETARY FOR PUBLIC DIPLOMACY.—There shall be in the Department of State, among the Under Secretaries authorized by paragraph (1), an Under Secretary for Public Diplomacy, who shall have primary responsibility to assist the Secretary and the Deputy Secretary in the formation and implementation of United States public diplomacy policies and activities, including international educational and cultural exchange programs, information, and international broadcasting.”.

**SEC. 1314. ABOLITION OF OFFICE OF INSPECTOR GENERAL OF UNITED STATES INFORMATION AGENCY AND TRANSFER OF FUNCTIONS.**

22 USC 6533.

(a) ABOLITION OF OFFICE.—The Office of Inspector General of the United States Information Agency is abolished.

(b) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking “the Office of Personnel Management, the United States Information Agency” and inserting “or the Office of Personnel Management”; and

(2) in paragraph (2), by striking “the United States Information Agency,”.

(c) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking the following:

“Inspector General, United States Information Agency.”.

(d) AMENDMENTS TO PUBLIC LAW 103–236.—Subsections (i) and (j) of section 308 of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207 (i) and (j)) are amended—

(1) by striking “Inspector General of the United States Information Agency” each place it appears and inserting “Inspector General of the Department of State and the Foreign Service”; and

(2) by striking “, the Director of the United States Information Agency,”.

(e) TRANSFER OF FUNCTIONS.—There are transferred to the Office of the Inspector General of the Department of State and the Foreign Service the functions that the Office of Inspector General of the United States Information Agency exercised before the effective date of this title (including all related functions of the Inspector General of the United States Information Agency).

### CHAPTER 3—INTERNATIONAL BROADCASTING

22 USC 6541.

#### SEC. 1321. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

Congress finds that—

(1) it is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom “to seek, receive, and impart information and ideas through any media and regardless of frontiers”, in accordance with Article 19 of the Universal Declaration of Human Rights;

(2) open communication of information and ideas among the peoples of the world contributes to international peace and stability, and the promotion of such communication is in the interests of the United States;

(3) it is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this chapter and the United States International Broadcasting Act of 1994; and

(4) international broadcasting is, and should remain, an essential instrument of United States foreign policy.

#### SEC. 1322. CONTINUED EXISTENCE OF BROADCASTING BOARD OF GOVERNORS.

Section 304(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6203(a)) is amended to read as follows:

“(a) CONTINUED EXISTENCE WITHIN EXECUTIVE BRANCH.—

“(1) IN GENERAL.—The Broadcasting Board of Governors shall continue to exist within the Executive branch of Government as an entity described in section 104 of title 5, United States Code.

“(2) RETENTION OF EXISTING BOARD MEMBERS.—The members of the Broadcasting Board of Governors appointed by the President pursuant to subsection (b)(1)(A) before the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1998 and holding office as of that date may serve the remainder of their terms of office without reappointment.

“(3) INSPECTOR GENERAL AUTHORITIES.—

“(A) IN GENERAL.—The Inspector General of the Department of State and the Foreign Service shall exercise the same authorities with respect to the Broadcasting

Board of Governors and the International Broadcasting Bureau as the Inspector General exercises under the Inspector General Act of 1978 and section 209 of the Foreign Service Act of 1980 with respect to the Department of State.

“(B) RESPECT FOR JOURNALISTIC INTEGRITY OF BROADCASTERS.—The Inspector General shall respect the journalistic integrity of all the broadcasters covered by this title and may not evaluate the philosophical or political perspectives reflected in the content of broadcasts.”.

**SEC. 1323. CONFORMING AMENDMENTS TO THE UNITED STATES INTERNATIONAL BROADCASTING ACT OF 1994.**

(a) REFERENCES IN SECTION.—Whenever in this section an amendment or repeal is expressed as an amendment or repeal of a provision, the reference shall be deemed to be made to the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.).

(b) SUBSTITUTION OF SECRETARY OF STATE.—Sections 304(b)(1)(B), 304(b) (2) and (3), 304(c), and 304(e) (22 U.S.C. 6203(b)(1)(B), 6203(b) (2) and (3), 6203(c), and 6203(e)) are amended by striking “Director of the United States Information Agency” each place it appears and inserting “Secretary of State”.

(c) SUBSTITUTION OF ACTING SECRETARY OF STATE.—Section 304(c) (22 U.S.C. 6203(c)) is amended by striking “acting Director of the agency” and inserting “Acting Secretary of State”.

(d) STANDARDS AND PRINCIPLES OF INTERNATIONAL BROADCASTING.—Section 303(b) (22 U.S.C. 6202(b)) is amended—

(1) in paragraph (3), by inserting “, including editorials, broadcast by the Voice of America, which present the views of the United States Government” after “policies”;

(2) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively; and

(3) by inserting after paragraph (3) the following:

“(4) the capability to provide a surge capacity to support United States foreign policy objectives during crises abroad.”;

(e) AUTHORITIES OF THE BOARD.—Section 305(a) (22 U.S.C. 6204(a)) is amended—

(1) in paragraph (1)—

(A) by striking “direct and”; and

(B) by striking “and the Television Broadcasting to Cuba Act” and inserting “, the Television Broadcasting to Cuba Act, and Worldnet Television, except as provided in section 306(b)”;

(2) in paragraph (4), by inserting “, after consultation with the Secretary of State,” after “annually,”;

(3) in paragraph (9)—

(A) by striking “, through the Director of the United States Information Agency,”; and

(B) by adding at the end the following new sentence: “Each annual report shall place special emphasis on the assessment described in paragraph (2).”;

(4) in paragraph (12)—

(A) by striking “1994 and 1995” and inserting “1998 and 1999”; and

(B) by striking “to the Board for International Broadcasting for such purposes for fiscal year 1993” and inserting

“to the Board and the International Broadcasting Bureau for such purposes for fiscal year 1997”; and

(5) by adding at the end the following new paragraphs:

“(15)(A) To procure temporary and intermittent personal services to the same extent as is authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the rate provided for positions classified above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code.

“(B) To allow those providing such services, while away from their homes or their regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

“(16) To procure, pursuant to section 1535 of title 31, United States Code (commonly known as the ‘Economy Act’), such goods and services from other departments or agencies for the Board and the International Broadcasting Bureau as the Board determines are appropriate.

“(17) To utilize the provisions of titles III, IV, V, VII, VIII, IX, and X of the United States Information and Educational Exchange Act of 1948, and section 6 of Reorganization Plan Number 2 of 1977, as in effect on the day before the effective date of title XIII of the Foreign Affairs Agencies Consolidation Act of 1998, to the extent the Board considers necessary in carrying out the provisions and purposes of this title.

“(18) To utilize the authorities of any other statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding that had been available to the Director of the United States Information Agency, the Bureau, or the Board before the effective date of title XIII of the Foreign Affairs Consolidation Act of 1998 for carrying out the broadcasting activities covered by this title.”.

(f) DELEGATION OF AUTHORITY.—Section 305 (22 U.S.C. 6204) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

“(b) DELEGATION OF AUTHORITY.—The Board may delegate to the Director of the International Broadcasting Bureau, or any other officer or employee of the United States, to the extent the Board determines to be appropriate, the authorities provided in this section, except those authorities provided in paragraph (1), (2), (3), (4), (5), (6), (9), or (11) of subsection (a).”.

(g) BROADCASTING BUDGETS.—Section 305(c)(1) (as redesignated) is amended—

(1) by striking “(1)” before “The Director”; and

(2) by striking “the Director of the United States Information Agency for the consideration of the Director as a part of the Agency’s budget submission to”.

(h) REPEAL.—Section 305(c)(2) (as redesignated) is repealed.

(i) IMPLEMENTATION.—Section 305(d) (as redesignated) is amended to read as follows:

“(d) PROFESSIONAL INDEPENDENCE OF BROADCASTERS.—The Secretary of State and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting Bureau, its broadcasting services, and the grantees of the Board.”.

(j) FOREIGN POLICY GUIDANCE.—Section 306 (22 U.S.C. 6205) is amended—

(1) in the section heading, by striking “**FOREIGN POLICY GUIDANCE**” and inserting “**ROLE OF THE SECRETARY OF STATE**”;

(2) by inserting “(a) FOREIGN POLICY GUIDANCE.—” immediately before “To”;

(3) by striking “State, acting through the Director of the United States Information Agency,” and inserting “State”;

(4) by inserting before the period at the end the following: “, as the Secretary may deem appropriate”; and

(5) by adding at the end the following:

“(b) CERTAIN WORLDNET PROGRAMMING.—The Secretary of State is authorized to use Worldnet broadcasts for the purposes of continuing interactive dialogues with foreign media and other similar overseas public diplomacy programs sponsored by the Department of State. The Chairman of the Broadcasting Board of Governors shall provide access to Worldnet for this purpose on a nonreimbursable basis.”.

(k) INTERNATIONAL BROADCASTING BUREAU.—Section 307 (22 U.S.C. 6206) is amended—

(1) in subsection (a), by striking “within the United States Information Agency” and inserting “under the Board”;

(2) in subsection (b)(1), by striking “Chairman of the Board, in consultation with the Director of the United States Information Agency and with the concurrence of a majority of the Board” and inserting “President, by and with the advice and consent of the Senate”;

(3) by redesignating subsection (b)(1) as subsection (b);

(4) by striking subsection (b)(2); and

(5) by adding at the end the following new subsection:

“(c) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall organize and chair a coordinating committee to examine and make recommendations to the Board on long-term strategies for the future of international broadcasting, including the use of new technologies, further consolidation of broadcast services, and consolidation of currently existing public affairs and legislative relations functions in the various international broadcasting entities. The coordinating committee shall include representatives of Radio Free Asia, RFE/RL, Incorporated, the Broadcasting Board of Governors, and, as appropriate, the Office of Cuba Broadcasting, the Voice of America, and Worldnet.”.

(l) REPEALS.—The following provisions of law are repealed:

(1) Subsections (k) and (l) of section 308 (22 U.S.C. 6207 (k), (l)).

(2) Section 310 (22 U.S.C. 6209).

#### SEC. 1324. AMENDMENTS TO THE RADIO BROADCASTING TO CUBA ACT.

The Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.) is amended—

22 USC 1465a,  
1465d, 1465f.

22 USC 1465a,  
1465d, 1465e,  
1465f.  
22 USC 1465a,  
1465b.

22 USC 1465b.

(1) by striking “United States Information Agency” each place it appears and inserting “Broadcasting Board of Governors”;

(2) by striking “Agency” each place it appears and inserting “Board”;

(3) by striking “the Director of the United States Information Agency” each place it appears and inserting “the Broadcasting Board of Governors”;

(4) in section 4 (22 U.S.C. 1465b), by striking “the Voice of America” and inserting “the International Broadcasting Bureau”;

(5) in section 5 (22 U.S.C. 1465c)—

(A) by striking “Board” each place it appears and inserting “Advisory Board”; and

(B) in subsection (a), by striking the first sentence and inserting “There is established within the Office of the President the Advisory Board for Cuba Broadcasting (in this division referred to as the ‘Advisory Board’).”; and

(6) by striking any other reference to “Director” not amended by paragraph (3) each place it appears and inserting “Board”.

**SEC. 1325. AMENDMENTS TO THE TELEVISION BROADCASTING TO CUBA ACT.**

The Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) is amended—

(1) in section 243(a) (22 U.S.C. 1465bb(a)) and section 246 (22 U.S.C. 1465dd), by striking “United States Information Agency” each place it appears and inserting “Broadcasting Board of Governors”;

(2) in section 243(c) (22 U.S.C. 1465bb(c))—

(A) in the subsection heading, by striking “USIA”; and

(B) by striking “USIA Television” and inserting “the Television”;

(3) in section 244(c) (22 U.S.C. 1465cc(c)) and section 246 (22 U.S.C. 1465dd), by striking “Agency” each place it appears and inserting “Board”;

(4) in section 244 (22 U.S.C. 1465cc)—

(A) in the section heading, by striking “**OF THE UNITED STATES INFORMATION AGENCY**”;

(B) in subsection (a)—

(i) in the first sentence, by striking “The Director of the United States Information Agency shall establish” and inserting “There is”; and

(ii) in the second sentence—

(I) by striking “Director of the United States Information Agency” and inserting “Broadcasting Board of Governors”; and

(II) by striking “the Director of the Voice of America” and inserting “the International Broadcasting Bureau”;

(C) in subsection (b)—

(i) by striking “Agency facilities” and inserting “Board facilities”; and

(ii) by striking “Information Agency” and inserting “International”; and

(D) in the heading of subsection (c), by striking “USIA”;

and

(5) in section 245(d) (22 U.S.C. 1465c note), by striking “Board” and inserting “Advisory Board”.

**SEC. 1326. TRANSFER OF BROADCASTING RELATED FUNDS, PROPERTY, AND PERSONNEL.** 22 USC 6542.

(a) **TRANSFER AND ALLOCATION OF PROPERTY AND APPROPRIATIONS.**—

(1) **IN GENERAL.**—The assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1327(d)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices of USIA transferred to the Broadcasting Board of Governors by this chapter shall be transferred to the Broadcasting Board of Governors for appropriate allocation.

(2) **ADDITIONAL TRANSFERS.**—In addition to the transfers made under paragraph (1), there shall be transferred to the Chairman of the Broadcasting Board of Governors the assets, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds, as determined by the Secretary, in concurrence with the Broadcasting Board of Governors, to support the functions transferred by this chapter.

(b) **TRANSFER OF PERSONNEL.**—Notwithstanding any other provision of law—

(1) except as provided in subsection (c), all personnel and positions of USIA employed or maintained to carry out the functions transferred by this chapter to the Broadcasting Board of Governors shall be transferred to the Broadcasting Board of Governors at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer; and

(2) the personnel and positions of USIA, as determined by the Secretary of State, with the concurrence of the Broadcasting Board of Governors and the Director of USIA, to support the functions transferred by this chapter shall be transferred to the Broadcasting Board of Governors, including the International Broadcasting Bureau, at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) **TRANSFER AND ALLOCATION OF PROPERTY, APPROPRIATIONS, AND PERSONNEL ASSOCIATED WITH WORLDNET.**—USIA personnel responsible for carrying out interactive dialogs with foreign media and other similar overseas public diplomacy programs using the Worldnet television broadcasting system, and funds associated with such personnel, shall be transferred to the Department of State in accordance with the provisions of title XVI of this subdivision.

(d) **INCIDENTAL TRANSFERS.**—The Director of the Office of Management and Budget, when requested by the Broadcasting Board of Governors, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions and offices

transferred from USIA, as may be necessary to carry out the provisions of this section.

22 USC 6543.

**SEC. 1327. SAVINGS PROVISIONS.**

(a) CONTINUING LEGAL FORCE AND EFFECT.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions exercised by the Broadcasting Board of Governors of the United States Information Agency on the day before the effective date of this title, and

(2) that are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Broadcasting Board of Governors, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PENDING PROCEEDINGS.—

(1) IN GENERAL.—The provisions of this chapter, or amendments made by this chapter, shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Broadcasting Board of Governors of the United States Information Agency at the time this title takes effect, with respect to functions exercised by the Board as of the effective date of this title but such proceedings and applications shall be continued.

(2) ORDERS, APPEALS, AND PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(c) NONABATEMENT OF PROCEEDINGS.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of the Broadcasting Board of Governors, or any commission or component thereof, shall abate by reason of the enactment of this chapter. No cause of action by or against the Broadcasting Board of Governors, or any commission or component thereof, or by or against any officer thereof in the official capacity of such officer, shall abate by reason of the enactment of this chapter.

(d) CONTINUATION OF PROCEEDINGS WITH SUBSTITUTION OF PARTIES.—

(1) SUBSTITUTION OF PARTIES.—If, before the effective date of this title, USIA or the Broadcasting Board of Governors,



or any officer thereof in the official capacity of such officer, is a party to a suit which is related to the functions transferred by this chapter, then effective on such date such suit shall be continued with the Broadcasting Board of Governors or other appropriate official of the Board substituted or added as a party.

(2) **LIABILITY OF THE BOARD.**—The Board shall participate in suits continued under paragraph (1) where the Broadcasting Board of Governors or other appropriate official of the Board is added as a party and shall be liable for any judgments or remedies in those suits or proceedings arising from the exercise of the functions transferred by this chapter to the same extent that USIA would have been liable if such judgment or remedy had been rendered on the day before the abolition of USIA.

(e) **ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.**—Any administrative action relating to the preparation or promulgation of a regulation by the Broadcasting Board of Governors relating to a function exercised by the Board before the effective date of this title may be continued by the Board with the same effect as if this chapter had not been enacted.

(f) **REFERENCES.**—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Broadcasting Board of Governors of the United States Information Agency with regard to functions exercised before the effective date of this title, shall be deemed to refer to the Board.

**SEC. 1328. REPORT ON THE PRIVATIZATION OF RFE/RL, INCORPORATED.** 22 USC 6544.

Not later than March 1 of each year, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report on the progress of the Board and of RFE/RL, Incorporated, on any steps taken to further the policy declared in section 312(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995. The report under this subsection shall include the following:

(1) Efforts by RFE/RL, Incorporated, to terminate individual language services.

(2) A detailed description of steps taken with regard to section 312(a) of that Act.

(3) An analysis of prospects for privatization over the coming year.

(4) An assessment of the extent to which United States Government funding may be appropriate in the year 2000 and subsequent years for surrogate broadcasting to the countries to which RFE/RL, Incorporated, broadcast during the year. This assessment shall include an analysis of the environment for independent media in those countries, noting the extent of government control of the media, the ability of independent journalists and news organizations to operate, relevant domestic legislation, level of government harassment and efforts to censor, and other indications of whether the people of such countries enjoy freedom of expression.

## CHAPTER 4—CONFORMING AMENDMENTS

22 USC 6551.

### SEC. 1331. REFERENCES.

(a) IN GENERAL.—Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

(b) CONTINUING REFERENCES TO USIA OR DIRECTOR.—Subsection (a) shall not apply to section 146 (a), (b), or (c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4069a(f), 4069b(g), or 4069c(f)).

### SEC. 1332. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Title 5, United States Code, is amended—

(1) in section 5313, by striking “Director of the United States Information Agency.”;

(2) in section 5315—

(A) by striking “Deputy Director of the United States Information Agency.”; and

(B) by striking “Director of the International Broadcasting Bureau, the United States Information Agency.” and inserting “Director of the International Broadcasting Bureau.”; and

(3) in section 5316—

(A) by striking “Deputy Director, Policy and Plans, United States Information Agency.”; and

(B) by striking “Associate Director (Policy and Plans), United States Information Agency.”.

22 USC 6552.

### SEC. 1333. APPLICATION OF CERTAIN LAWS.

(a) APPLICATION TO FUNCTIONS OF DEPARTMENT OF STATE.—Section 501 of Public Law 80–402 (22 U.S.C. 1461), section 202 of Public Law 95–426 (22 U.S.C. 1461–1), and section 208 of Public Law 99–93 (22 U.S.C. 1461–1a) shall not apply to public affairs and other information dissemination functions of the Secretary of State as carried out prior to any transfer of functions pursuant to this subdivision.

(b) APPLICATION TO FUNCTIONS TRANSFERRED TO DEPARTMENT OF STATE.—Section 501 of Public Law 80–402 (22 U.S.C. 1461), section 202 of Public Law 95–426 (22 U.S.C. 1461–1), and section 208 of Public Law 99–93 (22 U.S.C. 1461–1a) shall apply only to public diplomacy programs of the Director of the United States Information Agency as carried out prior to any transfer of functions pursuant to this subdivision to the same extent that such programs were covered by these provisions prior to such transfer.

(c) LIMITATION ON USE OF FUNDS.—Except as provided in section 501 of Public Law 80–402 and section 208 of Public Law 99–93, funds specifically authorized to be appropriated for such public diplomacy programs shall not be used to influence public opinion in the United States, and no program material prepared

using such funds shall be distributed or disseminated in the United States.

(d) **REPORTING REQUIREMENTS.**—The report submitted pursuant to section 1601(f) of this subdivision shall include a detailed statement of the manner in which the special mission of public diplomacy carried out by USIA prior to the transfer of functions under this subdivision shall be preserved within the Department of State, including the planned duties and responsibilities of any new bureaus that will perform such public diplomacy functions. Such report shall also include the best available estimates of—

(1) the amounts expended by the Department of State for public affairs programs during fiscal year 1998, and on the personnel and support costs for such programs;

(2) the amounts expended by USIA for its public diplomacy programs during fiscal year 1998, and on the personnel and support costs for such programs; and

(3) the amounts, including funds to be transferred from USIA and funds appropriated to the Department, that will be allocated for the programs described in paragraphs (1) and (2), respectively, during the fiscal year in which the transfer of functions from USIA to the Department occurs.

(e) **CONGRESSIONAL PRESENTATION DOCUMENT.**—The Department of State's Congressional Presentation Document for fiscal year 2000 and each fiscal year thereafter shall include—

(1) the aggregated amounts that the Department will spend on such public diplomacy programs and on costs of personnel for such programs, and a detailed description of the goals and purposes for which such funds shall be expended; and

(2) the amount of funds allocated to and the positions authorized for such public diplomacy programs, including bureaus to be created upon the transfer of functions from USIA to the Department.

**SEC. 1334. ABOLITION OF UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.** 22 USC 6553.

(a) **ABOLITION.**—The United States Advisory Commission on Public Diplomacy is abolished.

(b) **REPEALS.**—Section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) and section 8 of Reorganization Plan Numbered 2 of 1977 are repealed.

**SEC. 1335. CONFORMING AMENDMENTS.**

(a) The United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.) is amended—

(1) in section 505 (22 U.S.C. 1464a)—

(A) by striking “Director of the United States Information Agency” each place it appears and inserting “Broadcasting Board of Governors”;

(B) by striking “United States Information Agency” each place it appears and inserting “Broadcasting Board of Governors”;

(C) in subsection (b)—

(i) by striking “Agency’s” and all that follows through “USIA-TV”) and inserting “television broadcasts of the United States International Television Service”; and

- (ii) in paragraphs (1), (2), and (3), by striking “USIA-TV” each place it appears and inserting “The United States International Television Service”; and
  - (D) in subsections (d) and (e), by striking “USIA-TV” each place it appears and inserting “the United States International Television Service”;
- (2) in section 506(c) (22 U.S.C. 1464b(c))—
  - (A) by striking “Director of the United States Information Agency” and inserting “Broadcasting Board of Governors”;
  - (B) by striking “Agency” and inserting “Board”; and
  - (C) by striking “Director” and inserting “Board”;
- (3) in section 705 (22 U.S.C. 1477c)—
  - (A) by striking subsections (a) and (c); and
  - (B) in subsection (b)—
    - (i) by striking “(b) In addition, the United States Information Agency” and inserting “The Department of State”; and
    - (ii) by striking “program grants” and inserting “grants for overseas public diplomacy programs”;
- (4) in section 801(7) (22 U.S.C. 1471(7))—
  - (A) by striking “Agency” and inserting “overseas public diplomacy”; and
  - (B) by inserting “other” after “together with”; and
- (5) in section 812 (22 U.S.C. 1475g)—
  - (A) by striking “United States Information Agency post” each place it appears and inserting “overseas public diplomacy post”;
  - (B) in subsection (a), by striking “United States Information Agency” the first place it appears and inserting “Department of State”;
  - (C) in subsection (b), by striking “Director of the United States Information Agency” and inserting “Secretary of State”; and
  - (D) in the section heading, by striking “USIA” and inserting “**OVERSEAS PUBLIC DIPLOMACY**”.
- (b) Section 212 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 1475h) is amended—
  - (1) by striking “United States Information Agency” each place it appears and inserting “Department of State”;
  - (2) in subsection (a), by inserting “for carrying out its overseas public diplomacy functions” after “grants”;
  - (3) in subsection (b)—
    - (A) by striking “a grant” the first time it appears and inserting “an overseas public diplomacy grant”; and
    - (B) in paragraph (1), by inserting “such” before “a grant” the first place it appears;
  - (4) in subsection (c)(1), by inserting “overseas public diplomacy” before “grants”;
  - (5) in subsection (c)(3), by inserting “such” before “grant”; and
  - (6) by striking subsection (d).
- (c) Section 602 of the National and Community Service Act of 1990 (22 U.S.C. 2452a) is amended—
  - (1) in the second sentence of subsection (a), by striking “United States Information Agency” and inserting “Department of State”; and

(2) in subsection (b)—

(A) by striking “appropriations account of the United States Information Agency” and inserting “appropriate appropriations account of the Department of State”; and

(B) by striking “and the United States Information Agency”.

(d) Section 305 of Public Law 97-446 (19 U.S.C. 2604) is amended in the first sentence, by striking “, after consultation with the Director of the United States Information Agency,”.

(e) Section 601 of Public Law 103-227 (20 U.S.C. 5951(a)) is amended by striking “of the Director of the United States Information Agency and with” and inserting “and”.

(f) Section 1003(b) of the Fascell Fellowship Act (22 U.S.C. 4902(b)) is amended—

(1) in the text above paragraph (1), by striking “9 members” and inserting “7 members”;

(2) in paragraph (4), by striking “Six” and inserting “Five”;

(3) by striking paragraph (3); and

(4) by redesignating paragraph (4) as paragraph (3).

(g) Section 803 of the Intelligence Authorization Act, Fiscal Year 1992 (50 U.S.C. 1903) is amended—

(1) in subsection (b)—

(A) by striking paragraph (6); and

(B) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(2) in subsection (c), by striking “subsection (b)(7)” and inserting “subsection (b)(6)”.

(h) Section 7 of the Federal Triangle Development Act (40 U.S.C. 1106) is amended—

(1) in subsection (c)(1)—

(A) in the text above subparagraph (A), by striking “15 members” and inserting “14 members”;

(B) by striking subparagraph (F); and

(C) by redesignating subparagraphs (G) through (J) as subparagraphs (F) through (I), respectively;

(2) in paragraphs (3) and (5) of subsection (c), by striking “paragraph (1)(J)” each place it appears and inserting “paragraph (1)(I)”; and

(3) in subsection (d)(3) and subsection (e), by striking “the Administrator and the Director of the United States Information Agency” each place it appears and inserting “and the Administrator”.

(i) Section 3 of the Woodrow Wilson Memorial Act of 1968 (Public Law 90-637; 20 U.S.C. 80f) is amended—

(1) in subsection (b)—

(A) in the text preceding paragraph (1), by striking “19 members” and inserting “17 members”;

(B) by striking paragraph (7);

(C) by striking “10” in paragraph (10) and inserting “9”; and

(D) by redesignating paragraphs (8) through (10) as paragraphs (7) through (9), respectively; and

(2) in subsection (c), by striking “(9)” and inserting “(8)”.

(j) Section 624 of Public Law 89-329 (20 U.S.C. 1131c) is amended by striking “the United States Information Agency,”.

(k) The Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended—

(1) in section 202(a)(1) (22 U.S.C. 3922(a)(1)), by striking “Director of the United States Information Agency” and inserting “Broadcasting Board of Governors”;

(2) in section 210 (22 U.S.C. 3930), by striking “United States Information Agency” and inserting “Broadcasting Board of Governors”;

(3) in section 1003(a) (22 U.S.C. 4103(a)), by striking “United States Information Agency” and inserting “Broadcasting Board of Governors”; and

(4) in section 1101(c) (22 U.S.C. 4131(c)), by striking “the United States Information Agency,” and inserting “Broadcasting Board of Governors.”

(l) The State Department Authorities Act of 1956, as amended by this division, is further amended—

(1) in section 23(a) (22 U.S.C. 2695(a)), by striking “United States Information Agency” and inserting “Broadcasting Board of Governors”;

(2) in section 25(f) (22 U.S.C. 2697(f))—

(A) by striking “Director of the United States Information Agency” and inserting “Broadcasting Board of Governors”; and

(B) by striking “with respect to their respective agencies” and inserting “with respect to the Board and the Agency”;

(3) in section 26(b) (22 U.S.C. 2698(b)), as amended by this division—

(A) by striking “Director of the United States Information Agency, the chairman of the Board for International Broadcasting,” and inserting “Broadcasting Board of Governors,”; and

(B) by striking “with respect to their respective agencies” and inserting “with respect to the Board and the Agency”; and

(4) in section 32 (22 U.S.C. 2704), as amended by this division, by striking “the Director of the United States Information Agency” and inserting “the Broadcasting Board of Governors”.

(m) Section 507(b)(3) of Public Law 103–317 (22 U.S.C. 2669a(b)(3)) is amended by striking “, the United States Information Agency,”.

(n) Section 502 of Public Law 92–352 (2 U.S.C. 194a) is amended by striking “the United States Information Agency,”.

(o) Section 6 of Public Law 104–288 (22 U.S.C. 2141d) is amended—

(1) in subsection (a), by striking “Director of the United States Information Agency,”; and

(2) in subsection (b), by striking “the Director of the United States Information Agency” and inserting “the Under Secretary of State for Public Diplomacy”.

(p) Section 40118(d) of title 49, United States Code, is amended by striking “, the Director of the United States Information Agency,”.

(q) Section 155 of Public Law 102–138 is amended—

(1) by striking the comma before “Department of Commerce” and inserting “and”; and

(2) by striking “, and the United States Information Agency”.

(r) Section 107 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6037) is amended by striking “Director of the United States Information Agency” each place it appears and inserting “Director of the International Broadcasting Bureau”.

**SEC. 1336. REPEALS.**

The following provisions are repealed:

(1) Sections 701 (22 U.S.C. 1476), 704 (22 U.S.C. 1477b), 807 (22 U.S.C. 1475b), 808 (22 U.S.C. 1475c), 811 (22 U.S.C. 1475f), and 1009 (22 U.S.C. 1440) of the United States Information and Educational Exchange Act of 1948.

(2) Section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2456(c)).

(3) Section 565(e) of the Anti-Economic Discrimination Act of 1994 (22 U.S.C. 2679c(e)).

(4) Section 206(b) of Public Law 102–138.

(5) Section 2241 of Public Law 104–66.

(6) Sections 1 through 6 of Reorganization Plan Numbered 2 of 1977 (91 Stat. 636).

(7) Section 207 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 22 U.S.C. 1463 note).

22 USC 1475g  
note.  
22 USC 4001  
note.  
5 USC app.; 22  
USC 1461 note.  
22 USC 1464a  
note.

**TITLE XIV—UNITED STATES INTERNATIONAL  
DEVELOPMENT COOPERATION AGENCY**

**CHAPTER 1—GENERAL PROVISIONS**

**SEC. 1401. EFFECTIVE DATE.**

This title, and the amendments made by this title, shall take effect on the earlier of—

(1) April 1, 1999; or

(2) the date of abolition of the United States International Development Cooperation Agency pursuant to the reorganization plan described in section 1601.

22 USC 6561  
note.

**CHAPTER 2—ABOLITION AND TRANSFER OF FUNCTIONS**

**SEC. 1411. ABOLITION OF UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY.**

22 USC 6561.

(a) IN GENERAL.—Except for the components specified in subsection (b), the United States International Development Cooperation Agency (including the Institute for Scientific and Technological Cooperation) is abolished.

(b) AID AND OPIC EXEMPTED.—Subsection (a) does not apply to the Agency for International Development or the Overseas Private Investment Corporation.

**SEC. 1412. TRANSFER OF FUNCTIONS AND AUTHORITIES.**

22 USC 6562.

(a) ALLOCATION OF FUNDS.—

(1) ALLOCATION TO THE SECRETARY OF STATE.—Funds made available under the categories of assistance deemed allocated to the Director of the International Development Cooperation Agency under section 1–801 of Executive Order No. 12163 (22 U.S.C. 2381 note) as of October 1, 1997, shall be allocated

to the Secretary of State on and after the effective date of this title without further action by the President.

(2) PROCEDURES FOR REALLOCATIONS OR TRANSFERS.—The Secretary of State may allocate or transfer as appropriate any funds received under paragraph (1) in the same manner as previously provided for the Director of the International Development Cooperation Agency under section 1–802 of that Executive Order, as in effect on October 1, 1997.

(b) WITH RESPECT TO THE OVERSEAS PRIVATE INVESTMENT CORPORATION.—There are transferred to the Administrator of the Agency for International Development all functions of the Director of the United States International Development Cooperation Agency as of the day before the effective date of this title with respect to the Overseas Private Investment Corporation.

(c) OTHER ACTIVITIES.—The authorities and functions transferred to the United States International Development Cooperation Agency or the Director of that Agency by section 6 of Reorganization Plan Numbered 2 of 1979 shall, to the extent such authorities and functions have not been repealed, be transferred to those agencies or heads of agencies, as the case may be, in which those authorities and functions were vested by statute as of the day before the effective date of such reorganization plan.

22 USC 6563.

#### **SEC. 1413. STATUS OF AID.**

(a) IN GENERAL.—Unless abolished pursuant to the reorganization plan submitted under section 1601, and except as provided in section 1412, there is within the Executive branch of Government the United States Agency for International Development as an entity described in section 104 of title 5, United States Code.

(b) RETENTION OF OFFICERS.—Nothing in this section shall require the reappointment of any officer of the United States serving in the Agency for International Development of the United States International Development Cooperation Agency as of the day before the effective date of this title.

### **CHAPTER 3—CONFORMING AMENDMENTS**

22 USC 6571.

#### **SEC. 1421. REFERENCES.**

Except as otherwise provided in this subdivision, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the United States International Development Cooperation Agency (IDCA) or to the Director or any other officer or employee of IDCA—

(1) insofar as such reference relates to any function or authority transferred under section 1412(a), shall be deemed to refer to the Secretary of State;

(2) insofar as such reference relates to any function or authority transferred under section 1412(b), shall be deemed to refer to the Administrator of the Agency for International Development;

(3) insofar as such reference relates to any function or authority transferred under section 1412(c), shall be deemed to refer to the head of the agency to which such function or authority is transferred under such section; and

(4) insofar as such reference relates to any function or authority not transferred by this title, shall be deemed to



refer to the President or such agency or agencies as may be specified by Executive order.

**SEC. 1422. CONFORMING AMENDMENTS.**

(a) **TERMINATION OF REORGANIZATION PLANS AND DELEGATIONS.**—The following shall cease to be effective: 5 USC app.; 22 USC 2381 note.

(1) Reorganization Plan Numbered 2 of 1979 (5 U.S.C. App.).

(2) Section 1-101 through 1-103, sections 1-401 through 1-403, section 1-801(a), and such other provisions that relate to the United States International Development Cooperation Agency or the Director of IDCA, of Executive Order No. 12163 (22 U.S.C. 2381 note; relating to administration of foreign assistance and related functions).

(3) The International Development Cooperation Agency Delegation of Authority Numbered 1 (44 Fed. Reg. 57521), except for section 1-6 of such Delegation of Authority.

(4) Section 3 of Executive Order No. 12884 (58 Fed. Reg. 64099; relating to the delegation of functions under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, the Foreign Assistance Act of 1961, the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1993, and section 301 of title 3, United States Code). 22 USC 5812 note.

(b) **OTHER STATUTORY AMENDMENTS AND REPEAL.**—

(1) **TITLE 5.**—Section 7103(a)(2)(B)(iv) of title 5, United States Code, is amended by striking “United States International Development Cooperation Agency” and inserting “Agency for International Development”.

(2) **INSPECTOR GENERAL ACT OF 1978.**—Section 8A of the Inspector General Act of 1978 (5 U.S.C. App. 3) is amended—

(A) in subsection (a)—

(i) by striking “Development” through “(1) shall” and inserting “Development shall”;

(ii) by striking “; and” at the end of subsection (a)(1) and inserting a period; and

(iii) by striking paragraph (2);

(B) by striking subsections (c) and (f); and

(C) by redesignating subsections (d), (e), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(3) **STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.**—The State Department Basic Authorities Act of 1956 is amended—

(A) in section 25(f) (22 U.S.C. 2697(f)), as amended by this division, by striking “Director of the United States International Development Cooperation Agency” and inserting “Administrator of the Agency for International Development”;

(B) in section 26(b) (22 U.S.C. 2698(b)), as amended by this division, by striking “Director of the United States International Development Cooperation Agency” and inserting “Administrator of the Agency for International Development”; and

(C) in section 32 (22 U.S.C. 2704), by striking “Director of the United States International Development Cooperation Agency” and inserting “Administrator of the Agency for International Development”.

(4) FOREIGN SERVICE ACT OF 1980.—The Foreign Service Act of 1980 is amended—

(A) in section 202(a)(1) (22 U.S.C. 3922(a)(1)), by striking “Director of the United States International Development Cooperation Agency” and inserting “Administrator of the Agency for International Development”;

(B) in section 210 (22 U.S.C. 3930), by striking “United States International Development Cooperation Agency” and inserting “Agency for International Development”;

(C) in section 1003(a) (22 U.S.C. 4103(a)), by striking “United States International Development Cooperation Agency” and inserting “Agency for International Development”; and

(D) in section 1101(c) (22 U.S.C. 4131(c)), by striking “United States International Development Cooperation Agency” and inserting “Agency for International Development”.

(5) REPEAL.—Section 413 of Public Law 96–53 (22 U.S.C. 3512) is repealed.

(6) TITLE 49.—Section 40118(d) of title 49, United States Code, is amended by striking “the Director of the United States International Development Cooperation Agency” and inserting “or the Administrator of the Agency for International Development”.

(7) EXPORT ADMINISTRATION ACT OF 1979.—Section 2405(g) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(g)) is amended—

(A) by striking “Director of the United States International Development Cooperation Agency” each place it appears and inserting “Administrator of the Agency for International Development”; and

(B) in the fourth sentence, by striking “Director” and inserting “Administrator”.

## TITLE XV—AGENCY FOR INTERNATIONAL DEVELOPMENT

### CHAPTER 1—GENERAL PROVISIONS

22 USC 6581  
note.

#### SEC. 1501. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on the earlier of—

(1) April 1, 1999; or

(2) the date of reorganization of the Agency for International Development pursuant to the reorganization plan described in section 1601.

### CHAPTER 2—REORGANIZATION AND TRANSFER OF FUNCTIONS

22 USC 6581.

#### SEC. 1511. REORGANIZATION OF AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) IN GENERAL.—The Agency for International Development shall be reorganized in accordance with this subdivision and the reorganization plan transmitted pursuant to section 1601.

(b) FUNCTIONS TO BE TRANSFERRED.—The reorganization of the Agency for International Development shall provide, at a

minimum, for the transfer to and consolidation with the Department of State of the following functions of AID:

- (1) The Press office.
- (2) Certain administrative functions.

### **CHAPTER 3—AUTHORITIES OF THE SECRETARY OF STATE**

#### **SEC. 1521. DEFINITION OF UNITED STATES ASSISTANCE.**

22 USC 6591.

In this chapter, the term “United States assistance” means development and other economic assistance, including assistance made available under the following provisions of law:

- (1) Chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance).
- (2) Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund).
- (3) Chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to the Development Fund for Africa).
- (4) Chapter 11 of part I of the Foreign Assistance Act of 1961 (relating to assistance for the independent states of the former Soviet Union).
- (5) The Support for East European Democracy Act (22 U.S.C. 5401 et seq.).

#### **SEC. 1522. ADMINISTRATOR OF AID REPORTING TO THE SECRETARY OF STATE.**

22 USC 6592.

The Administrator of the Agency for International Development, appointed pursuant to section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)), shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.

#### **SEC. 1523. ASSISTANCE PROGRAMS COORDINATION AND OVERSIGHT.**

22 USC 6593.

##### **(a) AUTHORITY OF THE SECRETARY OF STATE.—**

(1) **IN GENERAL.**—Under the direction of the President, the Secretary of State shall coordinate all United States assistance in accordance with this section, except as provided in paragraphs (2) and (3).

(2) **EXPORT PROMOTION ACTIVITIES.**—Coordination of activities relating to promotion of exports of United States goods and services shall continue to be primarily the responsibility of the Secretary of Commerce.

(3) **INTERNATIONAL ECONOMIC ACTIVITIES.**—Coordination of activities relating to United States participation in international financial institutions and relating to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury.

(4) **AUTHORITIES AND POWERS OF THE SECRETARY OF STATE.**—The powers and authorities of the Secretary provided in this chapter are in addition to the powers and authorities provided to the Secretary under any other Act, including section 101(b) and section 622(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(b), 2382(c)).

(b) **COORDINATION ACTIVITIES.**—Coordination activities of the Secretary of State under subsection (a) shall include—

(1) approving an overall assistance and economic cooperation strategy;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in the Foreign Assistance Act of 1961, the Arms Export Control Act, and other relevant assistance Acts;

(3) pursuing coordination with other countries and international organizations; and

(4) resolving policy, program, and funding disputes among United States Government agencies.

(c) **STATUTORY CONSTRUCTION.**—Nothing in this section may be construed to lessen the accountability of any Federal agency administering any program, project, or activity of United States assistance for any funds made available to the Federal agency for that purpose.

(d) **AUTHORITY TO PROVIDE PERSONNEL OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.**—The Administrator of the Agency for International Development is authorized to detail to the Department of State on a nonreimbursable basis such personnel employed by the Agency as the Secretary of State may require to carry out this section.

## TITLE XVI—TRANSITION

### CHAPTER 1—REORGANIZATION PLAN

President.  
22 USC 6601.

#### SEC. 1601. REORGANIZATION PLAN AND REPORT.

(a) **SUBMISSION OF PLAN AND REPORT.**—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan and report regarding—

(1) the abolition of the United States Arms Control and Disarmament Agency, the United States Information Agency, and the United States International Development Cooperation Agency in accordance with this subdivision;

(2) with respect to the Agency for International Development, the consolidation and streamlining of the Agency and the transfer of certain functions of the Agency to the Department in accordance with section 1511;

(3) the termination of functions of each covered agency as may be necessary to effectuate the reorganization under this subdivision, and the termination of the affairs of each agency abolished under this subdivision;

(4) the transfer to the Department of the functions and personnel of each covered agency consistent with the provisions of this subdivision; and

(5) the consolidation, reorganization, and streamlining of the Department in connection with the transfer of such functions and personnel in order to carry out such functions.

(b) **COVERED AGENCIES.**—The agencies covered by this section are the following:

(1) The United States Arms Control and Disarmament Agency.

(2) The United States Information Agency.

(3) The United States International Development Cooperation Agency.

(4) The Agency for International Development.

(c) **PLAN ELEMENTS.**—The plan transmitted under subsection (a) shall contain, consistent with this subdivision, such elements as the President deems appropriate, including elements that—

(1) identify the functions of each covered agency that will be transferred to the Department under the plan;

(2) specify the steps to be taken by the Secretary of State to reorganize internally the functions of the Department, including the consolidation of offices and functions, that will be required under the plan in order to permit the Department to carry out the functions transferred to it under the plan;

(3) specify the funds available to each covered agency that will be transferred to the Department as a result of the transfer of functions of such agency to the Department;

(4) specify the proposed allocations within the Department of unexpended funds transferred in connection with the transfer of functions under the plan; and

(5) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of each covered agency in connection with the transfer of the functions of such agency to the Department.

(d) **REORGANIZATION PLAN OF AGENCY FOR INTERNATIONAL DEVELOPMENT.**—In addition to applicable provisions of subsection (c), the reorganization plan transmitted under this section for the Agency for International Development—

(1) may provide for the abolition of the Agency for International Development and the transfer of all its functions to the Department of State; or

(2) in lieu of the abolition and transfer of functions under paragraph (1)—

(A) shall provide for the transfer to and consolidation within the Department of the functions set forth in section 1511; and

(B) may provide for additional consolidation, reorganization, and streamlining of AID, including—

(i) the termination of functions and reductions in personnel of AID;

(ii) the transfer of functions of AID, and the personnel associated with such functions, to the Department; and

(iii) the consolidation, reorganization, and streamlining of the Department upon the transfer of such functions and personnel in order to carry out the functions transferred.

(e) **MODIFICATION OF PLAN.**—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan transmitted under subsection (a) until that part of the plan becomes effective in accordance with subsection (g).

(f) **REPORT.**—The report accompanying the reorganization plan for the Department and the covered agencies submitted pursuant to this section shall describe the implementation of the plan and shall include—

(1) a detailed description of—

(A) the actions necessary or planned to complete the reorganization,

(B) the anticipated nature and substance of any orders, directives, and other administrative and operational actions

which are expected to be required for completing or implementing the reorganization, and

(C) any preliminary actions which have been taken in the implementation process;

(2) the number of personnel and positions of each covered agency (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred to the Department, separated from service with such agency, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(3) the number of personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and detailees) that are expected to be transferred within the Department, separated from service with the Department, or eliminated under the plan, and a projected schedule for such transfers, separations, and terminations;

(4) a projected schedule for completion of the implementation process; and

(5) recommendations, if any, for legislation necessary to carry out changes made by this subdivision relating to personnel and to incidental transfers.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (e), shall become effective on the earlier of the date for the respective covered agency specified in paragraph (2) or the date announced by the President under paragraph (3).

(2) STATUTORY EFFECTIVE DATES.—The effective dates under this paragraph for the reorganization plan described in this section are the following:

(A) April 1, 1999, with respect to functions of the Agency for International Development described in section 1511.

(B) April 1, 1999, with respect to the abolition of the United States Arms Control and Disarmament Agency and the United States International Development Cooperation Agency.

(C) October 1, 1999, with respect to the abolition of the United States Information Agency.

(3) EFFECTIVE DATE BY PRESIDENTIAL DETERMINATION.—An effective date under this paragraph for a reorganization plan described in this section is such date as the President shall determine to be appropriate and announce by notice published in the Federal Register, which date may be not earlier than 90 calendar days after the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a).

(4) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balance of appropriations, or other assets of a covered agency on a single date.

(5) SUPERSEDES EXISTING LAW.—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

(h) PUBLICATION.—The reorganization plan described in this section shall be printed in the Federal Register after the date upon which it first becomes effective.

Federal Register,  
publication.

Applicability.

Federal Register,  
publication.

**CHAPTER 2—REORGANIZATION AUTHORITY****SEC. 1611. REORGANIZATION AUTHORITY.**

22 USC 6611.

(a) **IN GENERAL.**—The Secretary is authorized, subject to the requirements of this subdivision, to allocate or reallocate any function transferred to the Department under any title of this subdivision, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate to carry out any reorganization under this subdivision, but this subsection does not authorize the Secretary to modify the terms of any statute that establishes or defines the functions of any bureau, office, or officer of the Department.

(b) **REQUIREMENTS AND LIMITATIONS ON REORGANIZATION PLAN.**—The reorganization plan transmitted under section 1601 may not have the effect of—

- (1) creating a new executive department;
- (2) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;
- (3) authorizing a Federal agency to exercise a function which is not authorized by law at the time the plan is transmitted to Congress;
- (4) creating a new Federal agency which is not a component or part of an existing executive department or independent agency; or
- (5) increasing the term of an office beyond that provided by law for the office.

**SEC. 1612. TRANSFER AND ALLOCATION OF APPROPRIATIONS.**

22 USC 6612.

(a) **IN GENERAL.**—Except as otherwise provided in this subdivision, the assets, liabilities (including contingent liabilities arising from suits continued with a substitution or addition of parties under section 1615(e)), contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof, transferred by any title of this subdivision shall be transferred to the Secretary for appropriate allocation.

(b) **LIMITATION ON USE OF TRANSFERRED FUNDS.**—Except as provided in subsection (c), unexpended and unobligated funds transferred pursuant to any title of this subdivision shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) **FUNDS TO FACILITATE TRANSITION.**—

(1) **CONGRESSIONAL NOTIFICATION.**—Funds transferred pursuant to subsection (a) may be available for the purposes of reorganization subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

(2) **TRANSFER AUTHORITY.**—Funds in any account appropriated to the Department of State may be transferred to another such account for the purposes of reorganization, subject to notification of the appropriate congressional committees in accordance with the procedures applicable to a reprogramming of funds under section 34 of the State Department Basic

Authorities Act of 1956 (22 U.S.C. 2706). The authority in this paragraph is in addition to any other transfer authority available to the Secretary of State and shall expire September 30, 2000.

22 USC 6613.

**SEC. 1613. TRANSFER, APPOINTMENT, AND ASSIGNMENT OF PERSONNEL.**

(a) TRANSFER OF PERSONNEL FROM ACDA AND USIA.—Except as otherwise provided in title XIII—

(1) not later than the date of abolition of ACDA, all personnel and positions of ACDA, and

(2) not later than the date of abolition of USIA, all personnel and positions of USIA,

shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(b) TRANSFER OF PERSONNEL FROM AID.—Except as otherwise provided in title XIII, not later than the date of transfer of any function of AID to the Department of State under this subdivision, all AID personnel performing such functions and all positions associated with such functions shall be transferred to the Department of State at the same grade or class and the same rate of basic pay or basic salary rate and with the same tenure held immediately preceding transfer.

(c) ASSIGNMENT AUTHORITY.—The Secretary, for a period of not more than 6 months commencing on the effective date of the transfer to the Department of State of personnel under subsections (a) and (b), is authorized to assign such personnel to any position or set of duties in the Department of State regardless of the position held or duties performed by such personnel prior to transfer, except that, by virtue of such assignment, such personnel shall not have their grade or class or their rate of basic pay or basic salary rate reduced, nor their tenure changed. The Secretary shall consult with the relevant exclusive representatives (as defined in section 1002 of the Foreign Service Act and in section 7103 of title 5, United States Code) with regard to the exercise of this authority. This subsection does not authorize the Secretary to assign any individual to any position that by law requires appointment by the President, by and with the advice and consent of the Senate.

(d) SUPERSEDING OTHER PROVISIONS OF LAW.—Subsections (a) through (c) shall be exercised notwithstanding any other provision of law.

22 USC 6614.

**SEC. 1614. INCIDENTAL TRANSFERS.**

The Director of the Office of Management and Budget, when requested by the Secretary, is authorized to make such incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of any title of this subdivision. The Director of the Office of Management and Budget, in consultation with the Secretary, shall provide for the termination of the affairs of all entities terminated by this subdivision and for such further measures and dispositions as may be necessary to effectuate the purposes of any title of this subdivision.



**SEC. 1615. SAVINGS PROVISIONS.**

22 USC 6615.

(a) **CONTINUING LEGAL FORCE AND EFFECT.**—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under any title of this subdivision; and

(2) that are in effect as of the effective date of such title, or were final before the effective date of such title and are to become effective on or after the effective date of such title, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) **PENDING PROCEEDINGS.**—

(1) **IN GENERAL.**—The provisions of any title of this subdivision shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of any title of this subdivision before any Federal agency, commission, or component thereof, functions of which are transferred by any title of this subdivision. Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(2) **ORDERS, APPEALS, PAYMENTS.**—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this subdivision had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

(3) **STATUTORY CONSTRUCTION.**—Nothing in this subdivision shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subdivision had not been enacted.

(4) **REGULATIONS.**—The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under this subsection to the Department.

(c) **NO EFFECT ON JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.**—Except as provided in subsection (e) and section 1327(d)—

(1) the provisions of this subdivision shall not affect suits commenced prior to the effective dates of the respective titles of this subdivision; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this subdivision had not been enacted.

(d) **NONABATEMENT OF PROCEEDINGS.**—No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any Federal agency, or any commission or component thereof, functions of which are transferred by any title of this subdivision, shall abate by reason of the enactment of this subdivision. No cause of action by or

against any Federal agency, or any commission or component thereof, functions of which are transferred by any title of this subdivision, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this subdivision.

(e) CONTINUATION OF PROCEEDING WITH SUBSTITUTION OF PARTIES.—If, before the effective date of any title of this subdivision, any Federal agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this subdivision any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then effective on such date such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) REVIEWABILITY OF ORDERS AND ACTIONS UNDER TRANSFERRED FUNCTIONS.—Orders and actions of the Secretary in the exercise of functions transferred under any title of this subdivision shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Federal agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by any title of this subdivision shall apply to the exercise of such function by the Secretary.

22 USC 6616.

#### **SEC. 1616. AUTHORITY OF SECRETARY OF STATE TO FACILITATE TRANSITION.**

Notwithstanding any provision of this subdivision, the Secretary of State, with the concurrence of the head of the appropriate Federal agency exercising functions transferred under this subdivision, may transfer the whole or part of such functions prior to the effective dates established in this subdivision, including the transfer of personnel and funds associated with such functions.

President.  
22 USC 6617.

#### **SEC. 1617. FINAL REPORT.**

Not later than January 1, 2001, the President, in consultation with the Secretary of the Treasury and the Director of the Office of Management and Budget, shall submit to the appropriate congressional committees a report which provides a final accounting of the finances and operations of the agencies abolished under this subdivision.

Foreign Relations  
Authorization  
Act, Fiscal Years  
1998 and 1999.  
22 USC 2651  
note.

### **SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION**

#### **TITLE XX—GENERAL PROVISIONS**

#### **SEC. 2001. SHORT TITLE.**

This subdivision may be cited as the “Foreign Relations Authorization Act, Fiscal Years 1998 and 1999”.

#### **SEC. 2002. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.**

In this subdivision, the term “appropriate congressional committees” means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

**TITLE XXI—AUTHORIZATION OF APPROPRIATIONS FOR  
DEPARTMENT OF STATE****SEC. 2101. ADMINISTRATION OF FOREIGN AFFAIRS.**

The following amounts are authorized to be appropriated for the Department of State under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including the diplomatic security program:

(1) **DIPLOMATIC AND CONSULAR PROGRAMS.**—For “Diplomatic and Consular Programs”, of the Department of State \$1,730,000,000 for the fiscal year 1998 and \$1,644,300,000 for the fiscal year 1999.

(2) **SALARIES AND EXPENSES.**—

(A) **AUTHORIZATION OF APPROPRIATIONS.**—For “Salaries and Expenses”, of the Department of State \$363,513,000 for the fiscal year 1998 and \$355,000,000 for the fiscal year 1999.

(B) **LIMITATIONS.**—Of the amounts authorized to be appropriated by subparagraph (A), \$2,000,000 for fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be appropriated only for the recruitment of minorities for careers in the Foreign Service and international affairs.

(3) **CAPITAL INVESTMENT FUND.**—For “Capital Investment Fund”, of the Department of State \$86,000,000 for the fiscal year 1998 and \$80,000,000 for the fiscal year 1999.

(4) **SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS.**—For “Security and Maintenance of United States Missions”, \$404,000,000 for the fiscal year 1998 and \$403,561,000 for the fiscal year 1999.

(5) **REPRESENTATION ALLOWANCES.**—For “Representation Allowances”, \$4,200,000 for the fiscal year 1998 and \$4,350,000 for the fiscal year 1999.

(6) **EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.**—For “Emergencies in the Diplomatic and Consular Service”, \$5,500,000 for the fiscal year 1998 and \$5,500,000 for the fiscal year 1999.

(7) **OFFICE OF THE INSPECTOR GENERAL.**—For “Office of the Inspector General”, \$27,495,000 for the fiscal year 1998 and \$27,495,000 for the fiscal year 1999.

(8) **PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.**—For “Payment to the American Institute in Taiwan”, \$14,000,000 for the fiscal year 1998 and \$14,750,000 for the fiscal year 1999.

(9) **PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.**—(A) For “Protection of Foreign Missions and Officials”, \$7,900,000 for the fiscal year 1998 and \$8,100,000 for the fiscal year 1999.

(B) Each amount appropriated pursuant to this paragraph is authorized to remain available through September 30 of the fiscal year following the fiscal year for which the amount appropriated was made.

(10) **REPATRIATION LOANS.**—For “Repatriation Loans”, \$1,200,000 for the fiscal year 1998 and \$1,200,000 for the fiscal year 1999, for administrative expenses.

**SEC. 2102. INTERNATIONAL COMMISSIONS.**

The following amounts are authorized to be appropriated under “International Commissions” for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A) for “Salaries and Expenses” \$17,490,000 for the fiscal year 1998 and \$19,551,000 for the fiscal year 1999; and

(B) for “Construction” \$6,463,000 for the fiscal year 1998 and \$6,463,000 for the fiscal year 1999.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission, United States and Canada”, \$761,000 for the fiscal year 1998 and \$761,000 for the fiscal year 1999.

(3) INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$3,189,000 for the fiscal year 1998 and \$3,432,000 for the fiscal year 1999.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$14,549,000 for the fiscal year 1998 and \$14,549,000 for the fiscal year 1999.

**SEC. 2103. GRANTS TO THE ASIA FOUNDATION.**

22 USC 4403. Section 404 of The Asia Foundation Act (title IV of Public Law 98–164) is amended to read as follows:

“SEC. 404. There are authorized to be appropriated to the Secretary of State \$10,000,000 for each of the fiscal years 1998 and 1999 for grants to The Asia Foundation pursuant to this title.”.

**SEC. 2104. VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for “Voluntary Contributions to International Organizations”, \$194,500,000 for the fiscal year 1998 and \$214,000,000 for the fiscal year 1999.

(b) LIMITATIONS.—

(1) WORLD FOOD PROGRAM.—Of the amounts authorized to be appropriated under subsection (a), \$4,000,000 for the fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the World Food Program.

(2) UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.—Of the amount authorized to be appropriated under subsection (a), \$3,000,000 for the fiscal year 1998 and \$3,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the United Nations Voluntary Fund for Victims of Torture.

(3) INTERNATIONAL PROGRAM ON THE ELIMINATION OF CHILD LABOR.—Of the amounts authorized to be appropriated under subsection (a), \$5,000,000 for the fiscal year 1998 and \$5,000,000 for the fiscal year 1999 are authorized to be appropriated only for a United States contribution to the

International Labor Organization for the activities of the International Program on the Elimination of Child Labor.

(c) AVAILABILITY OF FUNDS.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

**SEC. 2105. VOLUNTARY CONTRIBUTIONS TO PEACEKEEPING OPERATIONS.**

There are authorized to be appropriated for “Peacekeeping Operations”, \$77,500,000 for the fiscal year 1998 and \$83,000,000 for the fiscal year 1999 for the Department of State to carry out section 551 of Public Law 87-195.

**SEC. 2106. LIMITATION ON UNITED STATES VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS DEVELOPMENT PROGRAM.**

President.

(a) LIMITATION.—Of the amounts made available for fiscal years 1998 and 1999 for United States voluntary contributions to the United Nations Development Program an amount equal to the amount the United Nations Development Program will spend in Burma during each fiscal year shall be withheld unless during such fiscal year the President submits to the appropriate congressional committees the certification described in subsection (b).

(b) CERTIFICATION.—The certification referred to in subsection (a) is a certification by the President that all programs and activities of the United Nations Development Program (including United Nations Development Program—Administered Funds) in Burma—

(1) are focused on eliminating human suffering and addressing the needs of the poor;

(2) are undertaken only through international or private voluntary organizations that have been deemed independent of the State Law and Order Restoration Council (SLORC), after consultation with the leadership of the National League for Democracy and the leadership of the National Coalition Government of the Union of Burma;

(3) provide no financial, political, or military benefit to the SLORC; and

(4) are carried out only after consultation with the leadership of the National League for Democracy and the leadership of the National Coalition Government of the Union of Burma.

**TITLE XXII—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES**

**CHAPTER 1—AUTHORITIES AND ACTIVITIES**

**SEC. 2201. REIMBURSEMENT OF DEPARTMENT OF STATE FOR ASSISTANCE TO OVERSEAS EDUCATIONAL FACILITIES.**

Section 29 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2701) is amended by adding at the end the following: “Notwithstanding any other provision of law, where the child of a United States citizen employee of an agency of the United States Government who is stationed outside the United States attends an educational facility assisted by the Secretary of State under this section, the head of that agency is authorized to reimburse, or credit with advance payment, the Department of State for funds used in providing assistance to such educational facilities, by grant or otherwise, under this section.”.

**SEC. 2202. REVISION OF DEPARTMENT OF STATE REWARDS PROGRAM.**

Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended to read as follows:

22 USC 2708.

**“SEC. 36. DEPARTMENT OF STATE REWARDS PROGRAM.**

**“(a) ESTABLISHMENT.—**

**“(1) IN GENERAL.—**There is established a program for the payment of rewards to carry out the purposes of this section.

**“(2) PURPOSE.—**The rewards program shall be designed to assist in the prevention of acts of international terrorism, international narcotics trafficking, and other related criminal acts.

**“(3) IMPLEMENTATION.—**The rewards program shall be administered by the Secretary of State, in consultation, as appropriate, with the Attorney General.

**“(b) REWARDS AUTHORIZED.—**In the sole discretion of the Secretary (except as provided in subsection (c)(2)) and in consultation, as appropriate, with the Attorney General, the Secretary may pay a reward to any individual who furnishes information leading to—

**“(1)** the arrest or conviction in any country of any individual for the commission of an act of international terrorism against a United States person or United States property;

**“(2)** the arrest or conviction in any country of any individual conspiring or attempting to commit an act of international terrorism against a United States person or United States property;

**“(3)** the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

**“(A)** a violation of United States narcotics laws such that the individual would be a major violator of such laws;

**“(B)** the killing or kidnapping of—

**“(i)** any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual’s official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

**“(ii)** a member of the immediate family of any such individual on account of that individual’s official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

**“(C)** an attempt or conspiracy to commit any act described in subparagraph (A) or (B);

**“(4)** the arrest or conviction in any country of any individual aiding or abetting in the commission of an act described in paragraph (1), (2), or (3); or

**“(5)** the prevention, frustration, or favorable resolution of an act described in paragraph (1), (2), or (3).

**“(c) COORDINATION.—**

**“(1) PROCEDURES.—**To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized to the Department of Justice, the

offering, administration, and payment of rewards under this section, including procedures for—

“(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;

“(B) the publication of rewards;

“(C) the offering of joint rewards with foreign governments;

“(D) the receipt and analysis of data; and

“(E) the payment and approval of payment, shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

“(2) PRIOR APPROVAL OF ATTORNEY GENERAL REQUIRED.—

Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

“(d) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 408), but subject to paragraph (2), there are authorized to be appropriated to the Department of State from time to time such amounts as may be necessary to carry out this section.

“(2) LIMITATION.—No amount of funds may be appropriated under paragraph (1) which, when added to the unobligated balance of amounts previously appropriated to carry out this section, would cause such amounts to exceed \$15,000,000.

“(3) ALLOCATION OF FUNDS.—To the maximum extent practicable, funds made available to carry out this section should be distributed equally for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking.

“(4) PERIOD OF AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

“(e) LIMITATIONS AND CERTIFICATION.—

“(1) MAXIMUM AMOUNT.—No reward paid under this section may exceed \$2,000,000.

“(2) APPROVAL.—A reward under this section of more than \$100,000 may not be made without the approval of the Secretary.

“(3) CERTIFICATION FOR PAYMENT.—Any reward granted under this section shall be approved and certified for payment by the Secretary.

“(4) NONDELEGATION OF AUTHORITY.—The authority to approve rewards of more than \$100,000 set forth in paragraph (2) may not be delegated.

“(5) PROTECTION MEASURES.—If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he considers necessary to effect such protection.

“(f) INELIGIBILITY.—An officer or employee of any entity of Federal, State, or local government or of a foreign government who, while in the performance of his or her official duties, furnishes information described in subsection (b) shall not be eligible for a reward under this section.

“(g) REPORTS.—

“(1) REPORTS ON PAYMENT OF REWARDS.—Not later than 30 days after the payment of any reward under this section, the Secretary shall submit a report to the appropriate congressional committees with respect to such reward. The report, which may be submitted in classified form if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid. The report shall also discuss the significance of the information for which the reward was paid in dealing with those acts.

“(2) ANNUAL REPORTS.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit a report to the appropriate congressional committees with respect to the operation of the rewards program. The report shall provide information on the total amounts expended during the fiscal year ending in that year to carry out this section, including amounts expended to publicize the availability of rewards.

“(h) PUBLICATION REGARDING REWARDS OFFERED BY FOREIGN GOVERNMENTS.—Notwithstanding any other provision of this section, in the sole discretion of the Secretary, the resources of the rewards program shall be available for the publication of rewards offered by foreign governments regarding acts of international terrorism which do not involve United States persons or property or a violation of the narcotics laws of the United States.

“(i) DETERMINATIONS OF THE SECRETARY.—A determination made by the Secretary under this section shall be final and conclusive and shall not be subject to judicial review.

“(j) DEFINITIONS.—As used in this section:

“(1) ACT OF INTERNATIONAL TERRORISM.—The term ‘act of international terrorism’ includes—

“(A) any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in paragraph (8) of section 830 of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 3201 note)) or any nuclear explosive device (as defined in paragraph (4) of that section) by an individual, group, or non-nuclear-weapon state (as defined in paragraph (5) of that section); and

“(B) any act, as determined by the Secretary, which materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments by an individual, group, or country supporting international terrorism as determined for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)).

“(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

“(3) MEMBER OF THE IMMEDIATE FAMILY.—The term ‘member of the immediate family’, with respect to an individual, includes—

“(A) a spouse, parent, brother, sister, or child of the individual;

“(B) a person with respect to whom the individual stands in loco parentis; and



“(C) any person not covered by subparagraph (A) or (B) who is living in the individual’s household and is related to the individual by blood or marriage.

“(4) REWARDS PROGRAM.—The term ‘rewards program’ means the program established in subsection (a)(1).

“(5) UNITED STATES NARCOTICS LAWS.—The term ‘United States narcotics laws’ means the laws of the United States for the prevention and control of illicit trafficking in controlled substances (as such term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))).

“(6) UNITED STATES PERSON.—The term ‘United States person’ means—

“(A) a citizen or national of the United States; and

“(B) an alien lawfully present in the United States.”.

**SEC. 2203. RETENTION OF ADDITIONAL DEFENSE TRADE CONTROLS REGISTRATION FEES.**

Section 45(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717(a)) is amended—

(1) at the end of paragraph (1), by striking “and”;

(2) in paragraph (2)—

(A) by striking “functions” and inserting “functions, including compliance and enforcement activities,”; and

(B) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(3) the enhancement of defense trade export compliance and enforcement activities, including compliance audits of United States and foreign parties, the conduct of administrative proceedings, monitoring of end-uses in cases of direct commercial arms sales or other transfers, and cooperation in proceedings for enforcement of criminal laws related to defense trade export controls.”.

**SEC. 2204. FEES FOR COMMERCIAL SERVICES.**

Section 52(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2724(b)) is amended by adding at the end the following: “Funds deposited under this subsection shall remain available for obligation through September 30 of the fiscal year following the fiscal year in which the funds were deposited.”.

**SEC. 2205. PILOT PROGRAM FOR FOREIGN AFFAIRS REIMBURSEMENT.**

(a) FOREIGN AFFAIRS REIMBURSEMENT.—

(1) IN GENERAL.—Section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021) is amended—

(A) by redesignating subsection (d)(4) as subsection (g); and

(B) by inserting after subsection (d) the following new subsections:

“(e)(1) The Secretary may provide appropriate training or related services, except foreign language training, through the institution to any United States person (or any employee or family member thereof) that is engaged in business abroad.

“(2) The Secretary may provide job-related training or related services, including foreign language training, through the institution to a United States person under contract to provide services to the United States Government or to any employee thereof that is performing such services.

“(3) Training under this subsection may be provided only to the extent that space is available and only on a reimbursable or advance-of-funds basis. Reimbursements and advances shall be credited to the currently available applicable appropriation account.

“(4) Training and related services under this subsection is authorized only to the extent that it will not interfere with the institution’s primary mission of training employees of the Department and of other agencies in the field of foreign relations.

“(5) In this subsection, the term ‘United States person’ means—

“(A) any individual who is a citizen or national of the United States; or

“(B) any corporation, company, partnership, association, or other legal entity that is 50 percent or more beneficially owned by citizens or nationals of the United States.

“(f)(1) The Secretary is authorized to provide, on a reimbursable basis, training programs to Members of Congress or the Judiciary.

“(2) Employees of the legislative branch and employees of the judicial branch may participate, on a reimbursable basis, in training programs offered by the institution.

“(3) Reimbursements collected under this subsection shall be credited to the currently available applicable appropriation account.

“(4) Training under this subsection is authorized only to the extent that it will not interfere with the institution’s primary mission of training employees of the Department and of other agencies in the field of foreign relations.”

22 USC 4021  
note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 1, 1998.

(3) TERMINATION OF PILOT PROGRAM.—Effective October 1, 2002, section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021), as amended by this subsection, is further amended—

(A) by striking subsections (e) and (f); and

(B) by redesignating subsection (g) as paragraph (4) of subsection (d).

(b) FEES FOR USE OF NATIONAL FOREIGN AFFAIRS TRAINING CENTER.—Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by adding at the end the following new section:

22 USC 2725.

**“SEC. 53. FEES FOR USE OF THE NATIONAL FOREIGN AFFAIRS TRAINING CENTER.**

“The Secretary is authorized to charge a fee for use of the National Foreign Affairs Training Center of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.”

22 USC 2725  
note.

(c) REPORTING ON PILOT PROGRAM.—Two years after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees containing—

(1) the number of persons who have taken advantage of the pilot program established under subsections (e) and (f) of section 701 of the Foreign Service Act of 1980 and section 53 of the State Department Basic Authorities Act of 1956, as added by this section;

(2) the business or government affiliation of such persons;

(3) the amount of fees collected; and

(4) the impact of the program on the primary mission of the National Foreign Affairs Training Center.

**SEC. 2206. FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section:

**“SEC. 54. FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.**

22 USC 2726.

“The Secretary is authorized to charge a fee for use of the diplomatic reception rooms of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.”.

**SEC. 2207. ACCOUNTING OF COLLECTIONS IN BUDGET PRESENTATION DOCUMENTS.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section:

**“SEC. 55. ACCOUNTING OF COLLECTIONS IN BUDGET PRESENTATION DOCUMENTS.**

22 USC 2727.

“The Secretary shall include in the annual Congressional Presentation Document and the Budget in Brief a detailed accounting of the total collections received by the Department of State from all sources, including fee collections. Reporting on total collections shall also cover collections from the preceding fiscal year and the projected expenditures from all collections accounts.”.

**SEC. 2208. OFFICE OF THE INSPECTOR GENERAL.**

(a) PROCEDURES.—Section 209(c) of the Foreign Service Act of 1980 (22 U.S.C. 3929(c)) is amended by adding at the end the following:

“(4) The Inspector General shall develop and provide to employees—

“(A) information detailing their rights to counsel; and

“(B) guidelines describing in general terms the policies and procedures of the Office of Inspector General with respect to individuals under investigation other than matters exempt from disclosure under other provisions of law.”.

(b) NOTICE.—Section 209(e) of the Foreign Service Act of 1980 (22 U.S.C. 3929(e)) is amended by adding at the end the following new paragraph:

“(3) The Inspector General shall ensure that only officials from the Office of the Inspector General may participate in formal interviews or other formal meetings with the individual who is the subject of an investigation, other than an intelligence-related or sensitive undercover investigation, or except in those situations when the Inspector General has a reasonable basis to believe that such notice would cause tampering with witnesses, destroying evidence, or endangering the lives of individuals, unless that individual receives prior adequate notice regarding participation by officials of any other agency, including the Department of Justice, in such interviews or meetings.”.

(c) REPORT.—

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Inspector General of the Department of State and the Foreign Service shall submit a report to the appropriate congressional committees which includes the following:

(A) Detailed descriptions of the internal guidance developed or used by the Office of the Inspector General with respect to public disclosure of any information related to an ongoing investigation of any officer or employee of the Department of State, the United States Information Agency, or the United States Arms Control and Disarmament Agency.

(B) Detailed descriptions of those instances for the year ending December 31, 1997, in which any disclosure of information to the public by an employee of the Office of Inspector General about an ongoing investigation occurred, including details on the recipient of the information, the date of the disclosure, and the internal clearance process for the disclosure.

(2) **STATUTORY CONSTRUCTION.**—Disclosure of information to the public under this section shall not be construed to include information shared with Congress by an employee of the Office of the Inspector General.

**SEC. 2209. CAPITAL INVESTMENT FUND.**

Section 135 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2684a) is amended—

(1) in subsection (a), by inserting “and enhancement” after “procurement”;

(2) in subsection (c), by striking “are authorized to” and inserting “shall”;

(3) in subsection (d), by striking “for expenditure to procure capital equipment and information technology” and inserting “for purposes of subsection (a)”;

(4) by amending subsection (e) to read as follows:

“(e) **REPROGRAMMING PROCEDURES.**—Funds credited to the Capital Investment Fund shall not be available for obligation or expenditure except in compliance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).”.

**SEC. 2210. CONTRACTING FOR LOCAL GUARDS SERVICES OVERSEAS.**

Section 136(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4864(c)) is amended—

(1) by amending paragraph (3) to read as follows:

“(3) in evaluating proposals for such contracts, award contracts to the technically acceptable firm offering the lowest evaluated price, except that proposals of United States persons and qualified United States joint venture persons (as defined in subsection (d)) shall be evaluated by reducing the bid price by 10 percent;”;

(2) by inserting “and” at the end of paragraph (5);

(3) by striking “; and” at the end of paragraph (6) and inserting a period; and

(4) by striking paragraph (7).

**SEC. 2211. AUTHORITY OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION.**

Section 4(a) of the International Claims Settlement Act of 1949 (22 U.S.C. 1623(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) in the first sentence, by striking “(a) The” and all that follows through the period and inserting the following: “(a)(1) The Commission shall have jurisdiction to receive, examine, adjudicate, and render a final decision with respect to any claim of the Government of the United States or of any national of the United States—

“(A) included within the terms of the Yugoslav Claims Agreement of 1948;

“(B) included within the terms of any claims agreement concluded on or after March 10, 1954, between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II) similarly providing for the settlement and discharge of claims of the Government of the United States and of nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in en bloc settlement thereof; or

“(C) included in a category of claims against a foreign government which is referred to the Commission by the Secretary of State.”; and

(3) by redesignating the second sentence as paragraph (2).

**SEC. 2212. EXPENSES RELATING TO CERTAIN INTERNATIONAL CLAIMS AND PROCEEDINGS.**

(a) **RECOVERY OF CERTAIN EXPENSES.**—The Department of State Appropriation Act of 1937 (22 U.S.C. 2661) is amended in the fifth undesignated paragraph under the heading entitled “INTERNATIONAL FISHERIES COMMISSION” by inserting “(including such expenses as salaries and other personnel expenses)” after “extraordinary expenses”.

(b) **PROCUREMENT OF SERVICES.**—Section 38(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710(c)) is amended in the first sentence by inserting “personal and” before “other support services”.

**SEC. 2213. GRANTS TO REMEDY INTERNATIONAL ABDUCTIONS OF CHILDREN.**

Section 7 of the International Child Abduction Remedies Act (42 U.S.C. 11606; Public Law 100-300) is amended by adding at the end the following new subsection:

“(e) **GRANT AUTHORITY.**—The United States Central Authority is authorized to make grants to, or enter into contracts or agreements with, any individual, corporation, other Federal, State, or local agency, or private entity or organization in the United States for purposes of accomplishing its responsibilities under the Convention and this Act.”.

**SEC. 2214. COUNTERDRUG AND ANTICRIME ACTIVITIES OF THE DEPARTMENT OF STATE.** 22 USC 6561.

(a) **COUNTERDRUG AND LAW ENFORCEMENT STRATEGY.**—

(1) **REQUIREMENT.**—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall establish, implement, and submit to Congress a comprehensive, long-term strategy to carry out the counterdrug responsibilities of the Department of State in a manner consistent with the National Drug Control Strategy. The strategy shall involve all elements of the Department in the United States and abroad.

(2) **OBJECTIVES.**—In establishing the strategy, the Secretary shall—

(A) coordinate with the Office of National Drug Control Policy in the development of clear, specific, and measurable counterdrug objectives for the Department that support the goals and objectives of the National Drug Control Strategy;

(B) develop specific and, to the maximum extent practicable, quantifiable measures of performance relating to the objectives, including annual and long-term measures of performance, for purposes of assessing the success of the Department in meeting the objectives;

(C) assign responsibilities for meeting the objectives to appropriate elements of the Department;

(D) develop an operational structure within the Department that minimizes impediments to meeting the objectives;

(E) ensure that every United States ambassador or chief of mission is fully briefed on the strategy, and works to achieve the objectives; and

(F) ensure that—

(i) all budgetary requests and transfers of equipment (including the financing of foreign military sales and the transfer of excess defense articles) relating to international counterdrug efforts conforms with the objectives; and

(ii) the recommendations of the Department regarding certification determinations made by the President on March 1 as to the counterdrug cooperation, or adequate steps on its own, of each major illicit drug producing and drug trafficking country to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances also conform to meet such objectives.

(3) **REPORTS.**—Not later than February 15 of each year subsequent to the submission of the strategy described in paragraph (1), the Secretary shall submit to Congress an update of the strategy. The update shall include—

(A) an outline of the proposed activities with respect to the strategy during the succeeding year, including the manner in which such activities will meet the objectives set forth in paragraph (2); and

(B) detailed information on how certification determinations described in paragraph (2)(F) made the previous year affected achievement of the objectives set forth in paragraph (2) for the previous calendar year.

(4) **LIMITATION ON DELEGATION.**—The Secretary shall designate an official in the Department who reports directly to

the Secretary to oversee the implementation of the strategy throughout the Department.

(b) INFORMATION ON INTERNATIONAL CRIMINALS.—

(1) INFORMATION SYSTEM.—The Secretary shall, in consultation with the heads of appropriate United States law enforcement agencies, including the Attorney General and the Secretary of the Treasury, take appropriate actions to establish an information system or improve existing information systems containing comprehensive information on serious crimes committed by foreign nationals. The information system shall be available to United States embassies and missions abroad for use in consideration of applications for visas for entry into the United States.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the actions taken under paragraph (1).

(c) OVERSEAS COORDINATION OF COUNTERDRUG AND ANTICRIME PROGRAMS, POLICY, AND ASSISTANCE.—

(1) STRENGTHENING COORDINATION.—The responsibilities of every diplomatic mission of the United States shall include the strengthening of cooperation between and among the United States and foreign governmental entities and multilateral entities with respect to activities relating to international narcotics and crime.

(2) DESIGNATION OF OFFICERS.—

(A) IN GENERAL.—Consistent with existing memoranda of understanding between the Department of State and other departments and agencies of the United States, including the Department of Justice, the chief of mission of every diplomatic mission of the United States shall designate an officer or officers within the mission to carry out the responsibility of the mission under paragraph (1), including the coordination of counterdrug, law enforcement, rule of law, and administration of justice programs, policy, and assistance. Such officer or officers shall report to the chief of mission, or the designee of the chief of mission, on a regular basis regarding activities undertaken in carrying out such responsibility.

(B) REPORTS.—The chief of mission of every diplomatic mission of the United States shall submit to the Secretary on a regular basis a report on the actions undertaken by the mission to carry out such responsibility.

(3) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the status of any proposals for action or on action undertaken to improve staffing and personnel management at diplomatic missions of the United States in order to carry out the responsibility set forth in paragraph (1).

**SEC. 2215. ANNUAL REPORT ON OVERSEAS SURPLUS PROPERTIES.**

22 USC 303.

The Foreign Service Buildings Act, 1926 (22 U.S.C. 292 et seq.) is amended by adding at the end the following new section:

22 USC 303.

“SEC. 12. Not later than March 1 of each year, the Secretary of State shall submit to Congress a report listing overseas United States surplus properties that are administered under this Act and that have been identified for sale.”.

**SEC. 2216. HUMAN RIGHTS REPORTS.**

Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(1) by striking “January 31” and inserting “February 25”;

(2) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph:

“(3) the status of child labor practices in each country, including—

“(A) whether such country has adopted policies to protect children from exploitation in the workplace, including a prohibition of forced and bonded labor and policies regarding acceptable working conditions; and

“(B) the extent to which each country enforces such policies, including the adequacy of the resources and oversight dedicated to such policies;”.

**SEC. 2217. REPORTS AND POLICY CONCERNING DIPLOMATIC IMMUNITY.**

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by this division, is further amended by adding at the end the following new section:

22 USC 2728.

**“SEC. 56. CRIMES COMMITTED BY DIPLOMATS.**

“(a) ANNUAL REPORT CONCERNING DIPLOMATIC IMMUNITY.—

“(1) REPORT TO CONGRESS.—180 days after the date of enactment, and annually thereafter, the Secretary of State shall prepare and submit to the Congress, a report concerning diplomatic immunity entitled “Report on Cases Involving Diplomatic Immunity”.

“(2) CONTENT OF REPORT.—In addition to such other information as the Secretary of State may consider appropriate, the report under paragraph (1) shall include the following:

“(A) The number of persons residing in the United States who enjoy full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

“(B) Each case involving an alien described in subparagraph (A) in which an appropriate authority of a State, a political subdivision of a State, or the United States reported to the Department of State that the authority had reasonable cause to believe the alien committed a serious criminal offense within the United States, and any additional information provided to the Secretary relating to other serious criminal offenses that any such authority had reasonable cause to believe the alien committed before the period covered by the report. The Secretary may omit from such report any matter the provision of which the Secretary reasonably believes would compromise a criminal investigation or prosecution or which would directly compromise law enforcement or intelligence sources or methods.



“(C) Each case described in subparagraph (B) in which the Secretary of State has certified that a person enjoys full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

“(D) The number of United States citizens who are residing in a receiving state and who enjoy full immunity from the criminal jurisdiction of such state under laws extending diplomatic privileges and immunities.

“(E) Each case involving a United States citizen under subparagraph (D) in which the United States has been requested by the government of a receiving state to waive the immunity from criminal jurisdiction of the United States citizen.

“(F) Whether the Secretary has made the notifications referred to in subsection (c) during the period covered by the report.

“(3) SERIOUS CRIMINAL OFFENSE DEFINED.—For the purposes of this section, the term ‘serious criminal offense’ means—

“(A) any felony under Federal, State, or local law;

“(B) any Federal, State, or local offense punishable by a term of imprisonment of more than 1 year;

“(C) any crime of violence as defined for purposes of section 16 of title 18, United States Code; or

“(D)(i) driving under the influence of alcohol or drugs;

“(ii) reckless driving; or

“(iii) driving while intoxicated.

“(b) UNITED STATES POLICY CONCERNING REFORM OF DIPLOMATIC IMMUNITY.—It is the sense of the Congress that the Secretary of State should explore, in appropriate fora, whether states should enter into agreements and adopt legislation—

“(1) to provide jurisdiction in the sending state to prosecute crimes committed in the receiving state by persons entitled to immunity from criminal jurisdiction under laws extending diplomatic privileges and immunities; and

“(2) to provide that where there is probable cause to believe that an individual who is entitled to immunity from the criminal jurisdiction of the receiving state under laws extending diplomatic privileges and immunities committed a serious crime, the sending state will waive such immunity or the sending state will prosecute such individual.

“(c) NOTIFICATION OF DIPLOMATIC CORPS.—The Secretary should periodically notify each foreign mission of United States policies relating to criminal offenses committed by individuals with immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.”.

**SEC. 2218. REAFFIRMING UNITED STATES INTERNATIONAL TELECOMMUNICATIONS POLICY.** 22 USC 2669b.

(a) PROCUREMENT POLICY.—It is the policy of the United States to foster and support procurement of goods and services from private, commercial companies.

(b) IMPLEMENTATION.—In order to achieve the policy set forth in subsection (a), the Diplomatic Telecommunications Service Program Office (DTS-PO) shall—

(1) utilize full and open competition, to the maximum extent practicable, in the procurement of telecommunications

services, including satellite space segment, for the Department of State and each other Federal entity represented at United States diplomatic missions and consular posts overseas;

(2) make every effort to ensure and promote the participation in the competition for such procurement of commercial private sector providers of satellite space segment who have no ownership or other connection with an intergovernmental satellite organization; and

(3) implement the competitive procedures required by paragraphs (1) and (2) at the prime contracting level and, to the maximum extent practicable, the subcontracting level.

#### SEC. 2219. REDUCTION OF REPORTING.

(a) REPEALS.—The following provisions of law are repealed:

(1) MODEL FOREIGN LANGUAGE COMPETENCE POSTS.—The second sentence of section 161(c) of the Foreign Relations Authorization Act, Fiscal Year 1990 and 1991 (22 U.S.C. 4171 note).

(2) ACTIONS OF THE GOVERNMENT OF HAITI.—Section 705(c) of the International Security and Development Cooperation Act of 1985 (Public Law 99–83).

(3) TRAINING FACILITY FOR THE FOREIGN SERVICE INSTITUTE.—Section 123(e)(2) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93).

(4) MILITARY ASSISTANCE FOR HAITI.—Section 203(c) of the Special Foreign Assistance Act of 1986 (Public Law 99–529).

(5) INTERNATIONAL SUGAR AGREEMENT, 1977.—Section 5 of the Act entitled “An Act providing for the implementation of the International Sugar Agreement, 1977, and for other purposes” (Public Law 96–236; 7 U.S.C. 3605 and 3606).

(6) AUDIENCE SURVEY OF WORLDNET PROGRAM.—Section 209 (c) and (d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204).

(7) RESEARCH ON THE NEAR AND MIDDLE EAST.—Section 228(b) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138; 22 U.S.C. 2452 note).

(b) PROGRESS TOWARD REGIONAL NONPROLIFERATION.—Section 620F(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2376(c); relating to periodic reports on progress toward regional nonproliferation) is amended by striking “Not later than April 1, 1993 and every six months thereafter,” and inserting “Not later than April 1 of each year,”.

(c) REPORT ON PARTICIPATION BY UNITED STATES MILITARY PERSONNEL ABROAD IN UNITED STATES ELECTIONS.—Section 101(b)(6) of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (42 U.S.C. 1973ff(b)(6)) is amended by striking “of voter participation” and inserting “of uniformed services voter participation, a general assessment of overseas nonmilitary participation,”.

**CHAPTER 2—CONSULAR AUTHORITIES OF THE  
DEPARTMENT OF STATE****SEC. 2221. USE OF CERTAIN PASSPORT PROCESSING FEES FOR  
ENHANCED PASSPORT SERVICES.**

For each of the fiscal years 1998 and 1999, of the fees collected for expedited passport processing and deposited to an offsetting collection pursuant to title V of the Department of State and Related Agencies Appropriations Act for Fiscal Year 1995 (Public Law 103-317; 22 U.S.C. 214 note), 30 percent shall be available only for enhancing passport services for United States citizens, improving the integrity and efficiency of the passport issuance process, improving the secure nature of the United States passport, investigating passport fraud, and deterring entry into the United States by terrorists, drug traffickers, or other criminals.

**SEC. 2222. CONSULAR OFFICERS.**

(a) **PERSONS AUTHORIZED TO ISSUE REPORTS OF BIRTHS ABROAD.**—Section 33 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2705) is amended in paragraph (2) by adding at the end the following: “For purposes of this paragraph, the term ‘consular officer’ includes any United States citizen employee of the Department of State who is designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe.”

(b) **PROVISIONS APPLICABLE TO CONSULAR OFFICERS.**—Section 1689 of the Revised Statutes (22 U.S.C. 4191) is amended by inserting “and to such other United States citizen employees of the Department of State as may be designated by the Secretary of State pursuant to such regulations as the Secretary may prescribe” after “such officers”.

(c) **PERSONS AUTHORIZED TO AUTHENTICATE FOREIGN DOCUMENTS.**—

(1) **DESIGNATED UNITED STATES CITIZENS PERFORMING NOTARIAL ACTS.**—Section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221) is further amended by inserting after the first sentence: “At any post, port, or place where there is no consular officer, the Secretary of State may authorize any other officer or employee of the United States Government who is a United States citizen serving overseas, including any contract employee of the United States Government, to perform such acts, and any such contractor so authorized shall not be considered to be a consular officer.”

(2) **DEFINITION OF CONSULAR OFFICERS.**—Section 3492(c) of title 18, United States Code, is amended by adding at the end the following: “For purposes of this section and sections 3493 through 3496 of this title, the term ‘consular officers’ includes any United States citizen who is designated to perform notarial functions pursuant to section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221).”

(d) **PERSONS AUTHORIZED TO ADMINISTER OATHS.**—Section 115 of title 35, United States Code, is amended by adding at the end the following: “For purposes of this section, a consular officer shall include any United States citizen serving overseas, authorized to perform notarial functions pursuant to section 1750 of the Revised Statutes, as amended (22 U.S.C. 4221).”

(e) **DEFINITION OF CONSULAR OFFICER.**—Section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)) is amended by—

(1) inserting “or employee” after “officer” the second place it appears; and

(2) inserting before the period at the end of the sentence “or, when used in title III, for the purpose of adjudicating nationality”.

(f) **TRAINING FOR EMPLOYEES PERFORMING CONSULAR FUNCTIONS.**—Section 704 of the Foreign Service Act of 1980 (22 U.S.C. 4024) is amended by adding at the end the following new subsection:

“(d)(1) Before a United States citizen employee (other than a diplomatic or consular officer of the United States) may be designated by the Secretary of State, pursuant to regulation, to perform a consular function abroad, the United States citizen employee shall—

“(A) be required to complete successfully a program of training essentially equivalent to the training that a consular officer who is a member of the Foreign Service would receive for purposes of performing such function; and

“(B) be certified by an appropriate official of the Department of State to be qualified by knowledge and experience to perform such function.

“(2) As used in this subsection, the term ‘consular function’ includes the issuance of visas, the performance of notarial and other legalization functions, the adjudication of passport applications, the adjudication of nationality, and the issuance of citizenship documentation.”.

**SEC. 2223. REPEAL OF OUTDATED CONSULAR RECEIPT REQUIREMENTS.**

Sections 1726, 1727, and 1728 of the Revised Statutes of the United States (22 U.S.C. 4212, 4213, and 4214), as amended (relating to accounting for consular fees) are repealed.

**SEC. 2224. ELIMINATION OF DUPLICATE FEDERAL REGISTER PUBLICATION FOR TRAVEL ADVISORIES.**

(a) **FOREIGN AIRPORTS.**—Section 44908(a) of title 49, United States Code, is amended—

(1) by inserting “and” at the end of paragraph (1);

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) **FOREIGN PORTS.**—Section 908(a) of the International Maritime and Port Security Act of 1986 (46 U.S.C. App. 1804(a)) is amended by striking the second sentence, relating to Federal Register publication by the Secretary of State.

8 USC 1182d.

**SEC. 2225. DENIAL OF VISAS TO CONFISCATORS OF AMERICAN PROPERTY.**

(a) **DENIAL OF VISAS.**—Except as otherwise provided in section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (Public Law 104–114), and subject to subsection (b), the Secretary of State may deny the issuance of a visa to any alien who—

(1) through the abuse of position, including a governmental or political party position, converts or has converted for personal gain real property that has been confiscated or expropriated,

a claim to which is owned by a national of the United States, or who is complicit in such a conversion; or

(2) induces any of the actions or omissions described in paragraph (1) by any person.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any country established by international mandate through the United Nations; or

(2) any territory recognized by the United States Government to be in dispute.

(c) REPORTING REQUIREMENT.—Not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report, including—

(1) a list of aliens who have been denied a visa under this subsection; and

(2) a list of aliens who could have been denied a visa under subsection (a) but were issued a visa and an explanation as to why each such visa was issued.

**SEC. 2226. INADMISSIBILITY OF ANY ALIEN SUPPORTING AN INTERNATIONAL CHILD ABDUCTOR.**

(a) AMENDMENT OF IMMIGRATION AND NATIONALITY ACT.—Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)) is amended by striking clause (ii) and inserting the following:

“(ii) ALIENS SUPPORTING ABDUCTORS AND RELATIVES OF ABDUCTORS.—Any alien who—

“(I) is known by the Secretary of State to have intentionally assisted an alien in the conduct described in clause (i),

“(II) is known by the Secretary of State to be intentionally providing material support or safe haven to an alien described in clause (i), or

“(III) is a spouse (other than the spouse who is the parent of the abducted child), child (other than the abducted child), parent, sibling, or agent of an alien described in clause (i), if such person has been designated by the Secretary of State at the Secretary’s sole and unreviewable discretion, is inadmissible until the child described in clause (i) is surrendered to the person granted custody by the order described in that clause, and such person and child are permitted to return to the United States or such person’s place of residence.

“(iii) EXCEPTIONS.—Clauses (i) and (ii) shall not apply—

“(I) to a government official of the United States who is acting within the scope of his or her official duties;

“(II) to a government official of any foreign government if the official has been designated by the Secretary of State at the Secretary’s sole and unreviewable discretion; or

“(III) so long as the child is located in a foreign state that is a party to the Convention on the

Civil Aspects of International Child Abduction,  
done at The Hague on October 25, 1980.”

8 USC 1182 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to aliens seeking admission to the United States on or after the date of enactment of this Act.

## CHAPTER 3—REFUGEES AND MIGRATION

### Subchapter A—Authorization of Appropriations

#### SEC. 2231. MIGRATION AND REFUGEE ASSISTANCE.

(a) **MIGRATION AND REFUGEE ASSISTANCE.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for “Migration and Refugee Assistance” for authorized activities, \$650,000,000 for the fiscal year 1998 and \$704,500,000 for the fiscal year 1999.

(2) **LIMITATIONS.**—

(A) **LIMITATION REGARDING TIBETAN REFUGEES IN INDIA AND NEPAL.**—Of the amounts authorized to be appropriated in paragraph (1), not more than \$2,000,000 for the fiscal year 1998 and \$2,000,000 for the fiscal year 1999 are authorized to be available only for humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet.

(B) **REFUGEES RESETTLING IN ISRAEL.**—Of the amounts authorized to be appropriated in paragraph (1), \$80,000,000 for the fiscal year 1998 and \$80,000,000 for the fiscal year 1999 are authorized to be available for assistance for refugees resettling in Israel from other countries.

(C) **HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.**—Of the amounts authorized to be appropriated in paragraph (1), \$1,500,000 for the fiscal year 1998 and \$1,500,000 for the fiscal year 1999 for humanitarian assistance are authorized to be available, including food, medicine, clothing, and medical and vocational training, to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(b) **AVAILABILITY OF FUNDS.**—Funds appropriated pursuant to this section are authorized to remain available until expended.

### Subchapter B—Authorities

22 USC 2601  
note.

#### SEC. 2241. UNITED STATES POLICY REGARDING THE INVOLUNTARY RETURN OF REFUGEES.

(a) **IN GENERAL.**—None of the funds made available by this subdivision shall be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, except on grounds recognized as precluding protection as a refugee under the United Nations Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in the United States Senate Resolution of Ratification.

(b) **MIGRATION AND REFUGEE ASSISTANCE.**—None of the funds made available by section 2231 of this division or by section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)) shall be available to effect the involuntary return of any person to any country unless the Secretary of State first notifies the appropriate congressional committees, except that in the case of an emergency involving a threat to human life the Secretary of State shall notify the appropriate congressional committees as soon as practicable.

(c) **INVOLUNTARY RETURN DEFINED.**—As used in this section, the term “to effect the involuntary return” means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person’s will, regardless of whether the person is physically present in the United States and regardless of whether the United States acts directly or through an agent.

**SEC. 2242. UNITED STATES POLICY WITH RESPECT TO THE INVOLUNTARY RETURN OF PERSONS IN DANGER OF SUBJECTION TO TORTURE.**

8 USC 1231 note.

(a) **POLICY.**—It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States.

(b) **REGULATIONS.**—Not later than 120 days after the date of enactment of this Act, the heads of the appropriate agencies shall prescribe regulations to implement the obligations of the United States under Article 3 of the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention.

(c) **EXCLUSION OF CERTAIN ALIENS.**—To the maximum extent consistent with the obligations of the United States under the Convention, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention, the regulations described in subsection (b) shall exclude from the protection of such regulations aliens described in section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)).

(d) **REVIEW AND CONSTRUCTION.**—Notwithstanding any other provision of law, and except as provided in the regulations described in subsection (b), no court shall have jurisdiction to review the regulations adopted to implement this section, and nothing in this section shall be construed as providing any court jurisdiction to consider or review claims raised under the Convention or this section, or any other determination made with respect to the application of the policy set forth in subsection (a), except as part of the review of a final order of removal pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(e) **AUTHORITY TO DETAIN.**—Nothing in this section shall be construed as limiting the authority of the Attorney General to detain any person under any provision of law, including, but not limited to, any provision of the Immigration and Nationality Act.

(f) **DEFINITIONS.**—

(1) CONVENTION DEFINED.—In this section, the term “Convention” means the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(2) SAME TERMS AS IN THE CONVENTION.—Except as otherwise provided, the terms used in this section have the meanings given those terms in the Convention, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention.

**SEC. 2243. REPROGRAMMING OF MIGRATION AND REFUGEE ASSISTANCE FUNDS.**

Section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) is amended—

(1) in subsection (a)—

(A) by striking “Foreign Affairs” and inserting “International Relations and the Committee on Appropriations”; and

(B) by inserting “and the Committee on Appropriations” after “Foreign Relations”; and

(2) by adding at the end the following new subsection:

“(c) The Secretary of State may waive the notification requirement of subsection (a), if the Secretary determines that failure to do so would pose a substantial risk to human health or welfare. In the case of any waiver under this subsection, notification to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives shall be provided as soon as practicable, but not later than 3 days after taking the action to which the notification requirement was applicable, and shall contain an explanation of the emergency circumstances.”.

**SEC. 2244. ELIGIBILITY FOR REFUGEE STATUS.**

Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–171) is amended—

(1) in subsection (a)—

(A) by striking “For purposes” and inserting “Notwithstanding any other provision of law, for purposes”; and

(B) by striking “fiscal year 1997” and inserting “fiscal years 1997, 1998, and 1999”; and

(2) by amending subsection (b) to read as follows:

“(b) ALIENS COVERED.—

“(1) IN GENERAL.— An alien described in this subsection is an alien who—

“(A) is the son or daughter of a qualified national;

“(B) is 21 years of age or older; and

“(C) was unmarried as of the date of acceptance of the alien’s parent for resettlement under the Orderly Departure Program.

“(2) QUALIFIED NATIONAL.—For purposes of paragraph (1), the term ‘qualified national’ means a national of Vietnam who—

“(A)(i) was formerly interned in a reeducation camp in Vietnam by the Government of the Socialist Republic of Vietnam; or



“(ii) is the widow or widower of an individual described in clause (i); and  
 “(B)(i) qualified for refugee processing under the reeducation camp internees subprogram of the Orderly Departure Program; and  
 “(ii) on or after April 1, 1995, is or has been accepted—  
 “(I) for resettlement as a refugee; or  
 “(II) for admission as an immigrant under the Orderly Departure Program.”.

**SEC. 2245. REPORTS TO CONGRESS CONCERNING CUBAN EMIGRATION POLICIES.**

Beginning not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the Secretary of State shall supplement the monthly report to Congress entitled “Update on Monitoring of Cuban Migrant Returnees” with additional information concerning the methods employed by the Government of Cuba to enforce the United States-Cuba agreement of September 1994 and the treatment by the Government of Cuba of persons who have returned to Cuba pursuant to the United States-Cuba agreement of May 1995.

**TITLE XXIII—ORGANIZATION OF THE DEPARTMENT OF STATE; DEPARTMENT OF STATE PERSONNEL; THE FOREIGN SERVICE**

**CHAPTER 1—ORGANIZATION OF THE DEPARTMENT OF STATE**

**SEC. 2301. COORDINATOR FOR COUNTERTERRORISM.**

(a) ESTABLISHMENT.—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended by adding at the end the following new subsection:

“(f) COORDINATOR FOR COUNTERTERRORISM.—

“(1) IN GENERAL.—There is within the office of the Secretary of State a Coordinator for Counterterrorism (in this paragraph referred to as the ‘Coordinator’) who shall be appointed by the President, by and with the advice and consent of the Senate.

President.  
Congress.

“(2) DUTIES.—

“(A) IN GENERAL.—The Coordinator shall perform such duties and exercise such powers as the Secretary of State shall prescribe.

“(B) DUTIES DESCRIBED.—The principal duty of the Coordinator shall be the overall supervision (including policy oversight of resources) of international counterterrorism activities. The Coordinator shall be the principal adviser to the Secretary of State on international counterterrorism matters. The Coordinator shall be the principal counterterrorism official within the senior management of the Department of State and shall report directly to the Secretary of State.

“(3) RANK AND STATUS OF AMBASSADOR.—The Coordinator shall have the rank and status of Ambassador at Large.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) is amended by striking subsection (e).

22 USC 2651a  
note.

**SEC. 2302. ELIMINATION OF DEPUTY ASSISTANT SECRETARY OF STATE FOR BURDENSARING.**

Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2651a note) is amended by striking subsection (f).

**SEC. 2303. PERSONNEL MANAGEMENT.**

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended by adding at the end the following new subsection:

“(g) **QUALIFICATIONS OF OFFICER HAVING PRIMARY RESPONSIBILITY FOR PERSONNEL MANAGEMENT.**—The officer of the Department of State with primary responsibility for assisting the Secretary of State with respect to matters relating to personnel in the Department of State, or that officer’s principal deputy, shall have substantial professional qualifications in the field of human resource policy and management.”.

**SEC. 2304. DIPLOMATIC SECURITY.**

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended by adding at the end the following new subsection:

“(h) **QUALIFICATIONS OF OFFICER HAVING PRIMARY RESPONSIBILITY FOR DIPLOMATIC SECURITY.**—The officer of the Department of State with primary responsibility for assisting the Secretary of State with respect to diplomatic security, or that officer’s principal deputy, shall have substantial professional qualifications in the fields of (1) management, and (2) Federal law enforcement, intelligence, or security.”.

**SEC. 2305. NUMBER OF SENIOR OFFICIAL POSITIONS AUTHORIZED FOR THE DEPARTMENT OF STATE.**

(a) **UNDER SECRETARIES.**—

(1) **IN GENERAL.**—Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(b)) is amended by striking “5” and inserting “6”.

(2) **CONFORMING AMENDMENT TO TITLE 5.**—Section 5314 of title 5, United States Code, is amended by striking “Under Secretaries of State (5)” and inserting “Under Secretaries of State (6)”.

(b) **ASSISTANT SECRETARIES.**—

(1) **IN GENERAL.**—Section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) is amended by striking “20” and inserting “24”.

(2) **CONFORMING AMENDMENT TO TITLE 5.**—Section 5315 of title 5, United States Code, is amended by striking “Assistant Secretaries of State (20)” and inserting “Assistant Secretaries of State (24)”.

(c) **DEPUTY ASSISTANT SECRETARIES.**—Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a), as amended by this division, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

**SEC. 2306. NOMINATION OF UNDER SECRETARIES AND ASSISTANT SECRETARIES OF STATE.** President.

(a) UNDER SECRETARIES OF STATE.—Section 1(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)), as amended by this division, is further amended by adding at the end the following new paragraph:

“(4) NOMINATION OF UNDER SECRETARIES.—Whenever the President submits to the Senate a nomination of an individual for appointment to a position in the Department of State that is described in paragraph (1), the President shall designate the particular Under Secretary position in the Department of State that the individual shall have.”.

(b) ASSISTANT SECRETARIES OF STATE.—Section 1(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)), as amended by this division, is further amended by adding at the end the following new paragraph:

“(3) NOMINATION OF ASSISTANT SECRETARIES.—Whenever the President submits to the Senate a nomination of an individual for appointment to a position in the Department of State that is described in paragraph (1), the President shall designate the regional or functional bureau or bureaus of the Department of State with respect to which the individual shall have responsibility.”.

**CHAPTER 2—PERSONNEL OF THE DEPARTMENT OF STATE; THE FOREIGN SERVICE****SEC. 2311. FOREIGN SERVICE REFORM.**

(a) PERFORMANCE PAY.—Section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) is amended—

(1) in subsection (a), by striking “Members” and inserting “Subject to subsection (e), members”; and

(2) by adding at the end the following new subsection:

“(e) Notwithstanding any other provision of law, the Secretary of State may provide for recognition of the meritorious or distinguished service of any member of the Foreign Service described in subsection (a) (including any member of the Senior Foreign Service) by means other than an award of performance pay in lieu of making such an award under this section.”.

(b) EXPEDITED SEPARATION OUT.—

(1) SEPARATION OF LOWEST RANKED FOREIGN SERVICE MEMBERS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall develop and implement procedures to identify, and recommend for separation, any member of the Foreign Service ranked by promotion boards of the Department of State in the bottom 5 percent of his or her class for 2 or more of the 5 years preceding the date of enactment of this Act (in this subsection referred to as the “years of lowest ranking”) if the rating official for such member was not the same individual for any two of the years of lowest ranking.

(2) SPECIAL INTERNAL REVIEWS.—In any case where the member was evaluated by the same rating official in any 2 of the years of lowest ranking, an internal review of the member’s file shall be conducted to determine whether the member should be considered for action leading to separation.

Procedures.

(3) PROCEDURES.—The Secretary of State shall develop procedures for the internal reviews required under paragraph (2).

**SEC. 2312. RETIREMENT BENEFITS FOR INVOLUNTARY SEPARATION.**

(a) BENEFITS.—Section 609 of the Foreign Service Act of 1980 (22 U.S.C. 4009) is amended—

(1) in subsection (a)(2)(A), by inserting “or any other applicable provision of chapter 84 of title 5, United States Code,” after “section 811”;

(2) in subsection (a), by inserting “or section 855, as appropriate” after “section 806”; and

(3) in subsection (b)(2)—

(A) by striking “(2)” and inserting “(2)(A) for those participants in the Foreign Service Retirement and Disability System,”; and

(B) by inserting before the period at the end “; and (B) for those participants in the Foreign Service Pension System, benefits as provided in section 851”; and

(4) in subsection (b) in the matter following paragraph (2), by inserting “(for participants in the Foreign Service Retirement and Disability System) or age 62 (for participants in the Foreign Service Pension System)” after “age 60”.

(b) ENTITLEMENT TO ANNUITY.—Section 855(b) of the Foreign Service Act of 1980 (22 U.S.C. 4071d(b)) is amended—

(1) in paragraph (1)—

(A) by inserting “611,” after “608,”;

(B) by inserting “or for participants in the Foreign Service Pension System,” after “for participants in the Foreign Service Retirement and Disability System”; and

(C) by striking “Service shall” and inserting “Service, shall”; and

(2) in paragraph (3), by striking “or 610” and inserting “610, or 611”.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTIONS.—The amendments made by paragraphs (2) and (3) of subsection (a) and paragraphs (1)(A) and (2) of subsection (b) shall apply with respect to any actions taken under section 611 of the Foreign Service Act of 1980 on or after January 1, 1996.

**SEC. 2313. AUTHORITY OF SECRETARY TO SEPARATE CONVICTED FELONS FROM THE FOREIGN SERVICE.**

Section 610(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4010(a)(2)) is amended in the first sentence by striking “A member” and inserting “Except in the case of an individual who has been convicted of a crime for which a sentence of imprisonment of more than 1 year may be imposed, a member”.

**SEC. 2314. CAREER COUNSELING.**

(a) IN GENERAL.—Section 706(a) of the Foreign Service Act of 1980 (22 U.S.C. 4026(a)) is amended by adding at the end the following new sentence: “Career counseling and related services provided pursuant to this Act shall not be construed to permit an assignment that consists primarily of paid time to conduct

22 USC 4009 *et seq.*

Applicability.

a job search and without other substantive duties for more than one month.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall be effective 180 days after the date of the enactment of this Act. 22 USC 4026 note.

**SEC. 2315. LIMITATIONS ON MANAGEMENT ASSIGNMENTS.**

Section 1017(e)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4117(e)(2)) is amended to read as follows:

“(2) For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term ‘management official’ does not include—

“(A) any chief of mission;

“(B) any principal officer or deputy principal officer;

“(C) any administrative or personnel officer abroad;

or

“(D) any individual described in section 1002(12) (B), (C), or (D) who is not involved in the administration of this chapter or in the formulation of the personnel policies and programs of the Department.”.

**SEC. 2316. AVAILABILITY PAY FOR CERTAIN CRIMINAL INVESTIGATORS WITHIN THE DIPLOMATIC SECURITY SERVICE.**

(a) **IN GENERAL.**—Section 5545a of title 5, United States Code, is amended by adding at the end the following:

“(k)(1) For purposes of this section, the term ‘criminal investigator’ includes a special agent occupying a position under title II of Public Law 99-399 if such special agent—

“(A) meets the definition of such term under paragraph (2) of subsection (a) (applied disregarding the parenthetical matter before subparagraph (A) thereof); and

“(B) such special agent satisfies the requirements of subsection (d) without taking into account any hours described in paragraph (2)(B) thereof.

“(2) In applying subsection (h) with respect to a special agent under this subsection—

“(A) any reference in such subsection to ‘basic pay’ shall be considered to include amounts designated as ‘salary’;

“(B) paragraph (2)(A) of such subsection shall be considered to include (in addition to the provisions of law specified therein) sections 609(b)(1), 805, 806, and 856 of the Foreign Service Act of 1980; and

“(C) paragraph (2)(B) of such subsection shall be applied by substituting for ‘Office of Personnel Management’ the following: ‘Office of Personnel Management or the Secretary of State (to the extent that matters exclusively within the jurisdiction of the Secretary are concerned)’.”.

(b) **IMPLEMENTATION.**—Not later than the date on which the amendments made by this section take effect, each special agent of the Diplomatic Security Service who satisfies the requirements of subsection (k)(1) of section 5545a of title 5, United States Code, as amended by this section, and the appropriate supervisory officer, to be designated by the Secretary of State, shall make an initial certification to the Secretary of State that the special agent is expected to meet the requirements of subsection (d) of such section 5545a. The Secretary of State may prescribe procedures necessary to administer this subsection.

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—(1) Paragraph (2) of section 5545a(a) of title 5, United States Code, is amended

(in the matter before subparagraph (A)) by striking “Public Law 99–399” and inserting “Public Law 99–399, subject to subsection (k)”.

(2) Section 5542(e) of such title is amended by striking “title 18, United States Code,” and inserting “title 18 or section 37(a)(3) of the State Department Basic Authorities Act of 1956,”.

5 USC 5542 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period—

(1) which begins on or after the 90th day following the date of the enactment of this Act; and

(2) on which date all regulations necessary to carry out such amendments are (in the judgment of the Director of the Office of Personnel Management and the Secretary of State) in effect.

#### SEC. 2317. NONOVERTIME DIFFERENTIAL PAY.

Title 5 of the United States Code is amended—

(1) in section 5544(a), by inserting after the fourth sentence the following new sentence: “For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.”; and

(2) at the end of section 5546(a), by adding the following new sentence: “For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which the preceding sentence shall apply instead of Sunday.”.

22 USC 3922a note.

#### SEC. 2318. REPORT CONCERNING MINORITIES AND THE FOREIGN SERVICE.

The Secretary of State shall during each of calendar years 1998 and 1999 submit a report to the Congress concerning minorities and the Foreign Service officer corps. In addition to such other information as is relevant to this issue, the report shall include the following data for the last preceding examination and promotion cycles for which such information is available (reported in terms of real numbers and percentages and not as ratios):

(1) The numbers and percentages of all minorities taking the written Foreign Service examination.

(2) The numbers and percentages of all minorities successfully completing and passing the written Foreign Service examination.

(3) The numbers and percentages of all minorities successfully completing and passing the oral Foreign Service examination.

(4) The numbers and percentages of all minorities entering the junior officers class of the Foreign Service.

(5) The numbers and percentages of all minority Foreign Service officers at each grade.

(6) The numbers of and percentages of minorities promoted at each grade of the Foreign Service officer corps.

**TITLE XXIV—UNITED STATES INFORMATIONAL,  
EDUCATIONAL, AND CULTURAL PROGRAMS**

**CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 2401. INTERNATIONAL INFORMATION ACTIVITIES AND EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.**

The following amounts are authorized to be appropriated to carry out international information activities and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the North/South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) **INTERNATIONAL INFORMATION PROGRAMS.**—For “International Information Programs”, \$427,097,000 for the fiscal year 1998 and \$455,246,000 for the fiscal year 1999.

(2) **TECHNOLOGY FUND.**—For the “Technology Fund” for the United States Information Agency, \$5,050,000 for the fiscal year 1998 and \$5,050,000 for the fiscal year 1999.

(3) **EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.**—

(A) **FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.**—

(i) **FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.**—There are authorized to be appropriated for the “Fulbright Academic Exchange Programs” (other than programs described in subparagraph (B)), \$99,236,000 for the fiscal year 1998 and \$100,000,000 for the fiscal year 1999.

(ii) **VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.**—Of the amounts authorized to be appropriated under clause (i), \$5,000,000 for the fiscal year 1998 and \$5,000,000 for the fiscal year 1999 are authorized to be available for the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).

(B) **OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.**—

(i) **IN GENERAL.**—There are authorized to be appropriated for other educational and cultural exchange programs authorized by law, \$100,764,000 for the fiscal year 1998 and \$102,500,000 for the fiscal year 1999.

(ii) **SOUTH PACIFIC EXCHANGES.**—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “South Pacific Exchanges”.

(iii) **EAST TIMORESE SCHOLARSHIPS.**—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “East Timorese Scholarships”.

(iv) **TIBETAN EXCHANGES.**—Of the amounts authorized to be appropriated under clause (i), \$500,000 for the fiscal year 1998 and \$500,000 for the fiscal year 1999 are authorized to be available for “Educational and Cultural Exchanges with Tibet” under section 236 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236).

(4) **INTERNATIONAL BROADCASTING ACTIVITIES.**—

(A) **AUTHORIZATION OF APPROPRIATIONS.**—For “International Broadcasting Activities”, \$340,315,000 for the fiscal year 1998, and \$340,365,000 for the fiscal year 1999.

(B) **ALLOCATION.**—Of the amounts authorized to be appropriated under subparagraph (A), the Director of the United States Information Agency and the Broadcasting Board of Governors shall seek to ensure that the amounts made available for broadcasting to nations whose people do not fully enjoy freedom of expression do not decline in proportion to the amounts made available for broadcasting to other nations.

(5) **RADIO CONSTRUCTION.**—For “Radio Construction”, \$40,000,000 for the fiscal year 1998, and \$13,245,000 for the fiscal year 1999.

(6) **RADIO FREE ASIA.**—For “Radio Free Asia”, \$24,100,000 for the fiscal year 1998 and \$22,000,000 for the fiscal year 1999, and an additional \$8,000,000 in fiscal year 1998 for one-time capital costs.

(7) **BROADCASTING TO CUBA.**—For “Broadcasting to Cuba”, \$22,095,000 for the fiscal year 1998 and \$22,095,000 for the fiscal year 1999.

(8) **CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.**—For the “Center for Cultural and Technical Interchange between East and West”, not more than \$12,000,000 for the fiscal year 1998 and not more than \$12,500,000 for the fiscal year 1999.

(9) **NATIONAL ENDOWMENT FOR DEMOCRACY.**—For the “National Endowment for Democracy”, \$30,000,000 for the fiscal year 1998 and \$31,000,000 for the fiscal year 1999.

(10) **CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.**—For “Center for Cultural and Technical Interchange between North and South” not more than \$1,500,000 for the fiscal year 1998 and not more than \$1,750,000 for the fiscal year 1999.

## CHAPTER 2—AUTHORITIES AND ACTIVITIES

22 USC 4416.

### SEC. 2411. RETENTION OF INTEREST.

Notwithstanding any other provision of law, with the approval of the National Endowment for Democracy, grant funds made available by the National Endowment for Democracy may be deposited in interest-bearing accounts pending disbursement, and any interest which accrues may be retained by the grantee without returning such interest to the Treasury of the United States and interest earned may be obligated and expended for the purposes for which the grant was made without further appropriation.



**SEC. 2412. USE OF SELECTED PROGRAM FEES.**

Section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) is amended to read as follows:

**“USE OF ENGLISH-TEACHING PROGRAM FEES**

“SEC. 810. (a) IN GENERAL.—Notwithstanding section 3302 of title 31, United States Code, or any other law or limitation of authority, fees and receipts described in subsection (b) are authorized to be credited each fiscal year for authorized purposes to the appropriate appropriations of the United States Information Agency to such extent as may be provided in advance in appropriations acts.

“(b) FEES AND RECEIPTS DESCRIBED.—The fees and receipts described in this subsection are fees and payments received by or for the use of the United States Information Agency from or in connection with—

- “(1) English-teaching and library services,
- “(2) educational advising and counseling,
- “(3) Exchange Visitor Program Services,
- “(4) advertising and business ventures of the Voice of America and the International Broadcasting Bureau,
- “(5) cooperating international organizations, and
- “(6) Agency-produced publications,
- “(7) an amount not to exceed \$100,000 of the payments from motion picture and television programs produced or conducted by or on behalf of the Agency under the authority of this Act or the Mutual Education and Cultural Exchange Act of 1961.”

**SEC. 2413. MUSKIE FELLOWSHIP PROGRAM.**

(a) GUIDELINES.—Section 227(c)(5) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended by inserting “journalism and communications, education administration, public policy, library and information science,” after “business administration,” each of the two places it appears.

(b) REDESIGNATION OF SOVIET UNION.—Section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended—

- (1) in subsections (a), (b), and (c)(5), by striking “Soviet Union” each place it appears and inserting “independent states of the former Soviet Union”;
- (2) in subsection (c)(11), by striking “Soviet republics” and inserting “independent states of the former Soviet Union”; and
- (3) in the section heading, by inserting “**INDEPENDENT STATES OF THE FORMER**” after “**FROM THE**”.

**SEC. 2414. WORKING GROUP ON UNITED STATES GOVERNMENT-SPONSORED INTERNATIONAL EXCHANGES AND TRAINING.**

Establishment.

Section 112 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460) is amended by adding at the end the following new subsection:

“(g) WORKING GROUP ON UNITED STATES GOVERNMENT SPONSORED INTERNATIONAL EXCHANGES AND TRAINING.—(1) In order to carry out the purposes of subsection (f) and to improve the coordination, efficiency, and effectiveness of United States Government-

sponsored international exchanges and training, there is established within the United States Information Agency a senior-level inter-agency working group to be known as the Working Group on United States Government-Sponsored International Exchanges and Training (in this section referred to as the ‘Working Group’).

“(2) For purposes of this subsection, the term ‘Government-sponsored international exchanges and training’ means the movement of people between countries to promote the sharing of ideas, to develop skills, and to foster mutual understanding and cooperation, financed wholly or in part, directly or indirectly, with United States Government funds.

“(3) The Working Group shall be composed as follows:

“(A) The Associate Director for Educational and Cultural Affairs of the United States Information Agency, who shall act as Chair.

“(B) A senior representative of the Department of State, who shall be designated by the Secretary of State.

“(C) A senior representative of the Department of Defense, who shall be designated by the Secretary of Defense.

“(D) A senior representative of the Department of Education, who shall be designated by the Secretary of Education.

“(E) A senior representative of the Department of Justice, who shall be designated by the Attorney General.

“(F) A senior representative of the Agency for International Development, who shall be designated by the Administrator of the Agency.

“(G) Senior representatives of such other departments and agencies as the Chair determines to be appropriate.

“(4) Representatives of the National Security Adviser and the Director of the Office of Management and Budget may participate in the Working Group at the discretion of the Adviser and the Director, respectively.

“(5) The Working Group shall be supported by an interagency staff office established in the Bureau of Educational and Cultural Affairs of the United States Information Agency.

“(6) The Working Group shall have the following purposes and responsibilities:

“(A) To collect, analyze, and report data provided by all United States Government departments and agencies conducting international exchanges and training programs.

“(B) To promote greater understanding and cooperation among concerned United States Government departments and agencies of common issues and challenges in conducting international exchanges and training programs, including through the establishment of a clearinghouse for information on international exchange and training activities in the governmental and nongovernmental sectors.

“(C) In order to achieve the most efficient and cost-effective use of Federal resources, to identify administrative and programmatic duplication and overlap of activities by the various United States Government departments and agencies involved in Government-sponsored international exchange and training programs, to identify how each Government-sponsored international exchange and training program promotes United States foreign policy, and to report thereon.

“(D)(i) Not later than 1 year after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998

and 1999, the Working Group shall develop a coordinated and cost-effective strategy for all United States Government-sponsored international exchange and training programs, including an action plan with the objective of achieving a minimum of 10 percent cost savings through greater efficiency, the consolidation of programs, or the elimination of duplication, or any combination thereof.

“(ii) Not later than 1 year after the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, the Working Group shall submit a report to the appropriate congressional committees setting forth the strategy and action plan required by clause (i). Reports.

“(iii) Each year thereafter the Working Group shall assess the strategy and plan required by clause (i).

“(E) Not later than 2 years after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, to develop recommendations on common performance measures for all United States Government-sponsored international exchange and training programs, and to issue a report. Reports.

“(F) To conduct a survey of private sector international exchange activities and develop strategies for expanding public and private partnerships in, and leveraging private sector support for, United States Government-sponsored international exchange and training activities.

“(G) Not later than 6 months after the date of the enactment of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999, to report on the feasibility and advisability of transferring funds and program management for the ATLAS or the Mandela Fellows programs, or both, in South Africa from the Agency for International Development to the United States Information Agency. The report shall include an assessment of the capabilities of the South African Fulbright Commission to manage such programs and the cost effects of consolidating such programs under one entity. Reports.

“(7) All reports prepared by the Working Group shall be submitted to the President, through the Director of the United States Information Agency.

“(8) The Working Group shall meet at least on a quarterly basis.

“(9) All decisions of the Working Group shall be by majority vote of the members present and voting.

“(10) The members of the Working Group shall serve without additional compensation for their service on the Working Group. Any expenses incurred by a member of the Working Group in connection with service on the Working Group shall be compensated by that member’s department or agency.

“(11) With respect to any report issued under paragraph (6), a member may submit dissenting views to be submitted as part of the report of the Working Group.”.

**SEC. 2415. EDUCATIONAL AND CULTURAL EXCHANGES AND SCHOLARSHIPS FOR TIBETANS AND BURMESE.**

(a) IN GENERAL.—Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319; 22 U.S.C. 2151 note) is amended— 22 USC 2452 note.

(1) by striking “for fiscal year 1997” and inserting “for the fiscal year 1999”; and

(2) by inserting after “who are outside Tibet” the following:  
 “(if practicable, including individuals active in the preservation  
 of Tibet’s unique culture, religion, and language)”.

22 USC 2452  
 note.

(b) EFFECTIVE DATE.—The amendments made by subsection  
 (a) shall take effect on October 1, 1998.

**SEC. 2416. SURROGATE BROADCASTING STUDY.**

Not later than 6 months after the date of enactment of this  
 Act, the Broadcasting Board of Governors, acting through the Inter-  
 national Broadcasting Bureau, should conduct and complete a study  
 of the appropriateness, feasibility, and projected costs of providing  
 surrogate broadcasting service to Africa and transmit the results  
 of the study to the appropriate congressional committees.

**SEC. 2417. RADIO BROADCASTING TO IRAN IN THE FARSI LANGUAGE.**

(a) RADIO FREE IRAN.—Not more than \$2,000,000 of the funds  
 made available under section 2401(a)(4) of this division for each  
 of the fiscal years 1998 and 1999 for grants to RFE/RL, Incor-  
 porated, shall be available only for surrogate radio broadcasting  
 by RFE/RL, Incorporated, to the Iranian people in the Farsi lan-  
 guage, such broadcasts to be designated as “Radio Free Iran”.

(b) REPORT TO CONGRESS.—Not later than 60 days after the  
 date of enactment of this Act, the Broadcasting Board of Governors  
 of the United States Information Agency shall submit a detailed  
 report to Congress describing the costs, implementation, and plans  
 for creation of the surrogate broadcasting service described in sub-  
 section (a).

(c) AVAILABILITY OF FUNDS.—None of the funds made available  
 under subsection (a) may be made available until submission of  
 the report required under subsection (b).

22 USC 1474  
 note.

**SEC. 2418. AUTHORITY TO ADMINISTER SUMMER TRAVEL AND WORK  
 PROGRAMS.**

The Director of the United States Information Agency is author-  
 ized to administer summer travel and work programs without  
 regard to preplacement requirements.

**SEC. 2419. PERMANENT ADMINISTRATIVE AUTHORITIES REGARDING  
 APPROPRIATIONS.**

Section 701(f) of the United States Information and Educational  
 Exchange Act of 1948 (22 U.S.C. 1476(f)) is amended by striking  
 paragraph (4).

22 USC 6202  
 note.

**SEC. 2420. VOICE OF AMERICA BROADCASTS.**

(a) IN GENERAL.—The Voice of America shall devote program-  
 ming each day to broadcasting information on the individual States  
 of the United States. The broadcasts shall include—

(1) information on the products, tourism, and cultural and  
 educational facilities of each State;

(2) information on the potential for trade with each State;  
 and

(3) discussions with State officials with respect to the mat-  
 ters described in paragraphs (1) and (2).

(b) REPORT.—Not later than one year after the date of enact-  
 ment of this Act, the Broadcasting Board of Governors of the United  
 States Information Agency shall submit a report to Congress detail-  
 ing the actions that have been taken to carry out subsection (a).

(c) **STATE DEFINED.**—In this section, the term “State” means any of the several States of the United States, the District of Columbia, or any commonwealth or territory of the United States.

## **TITLE XXV—INTERNATIONAL ORGANIZATIONS OTHER THAN UNITED NATIONS**

### **SEC. 2501. INTERNATIONAL CONFERENCES AND CONTINGENCIES.**

There are authorized to be appropriated for “International Conferences and Contingencies”, \$6,537,000 for the fiscal year 1998 and \$16,223,000 for the fiscal year 1999 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

### **SEC. 2502. RESTRICTION RELATING TO UNITED STATES ACCESSION TO ANY NEW INTERNATIONAL CRIMINAL TRIBUNAL.** 22 USC 262-1.

(a) **PROHIBITION.**—The United States shall not become a party to any new international criminal tribunal, nor give legal effect to the jurisdiction of such a tribunal over any matter described in subsection (b), except pursuant to—

(1) a treaty made under Article II, section 2, clause 2 of the Constitution of the United States on or after the date of enactment of this Act; or

(2) any statute enacted by Congress on or after the date of enactment of this Act.

(b) **JURISDICTION DESCRIBED.**—The jurisdiction described in this section is jurisdiction over—

(1) persons found, property located, or acts or omissions committed, within the territory of the United States; or

(2) nationals of the United States, wherever found.

(c) **STATUTORY CONSTRUCTION.**—Nothing in this section precludes sharing information, expertise, or other forms of assistance with such tribunal.

(d) **DEFINITION.**—The term “new international criminal tribunal” means any permanent international criminal tribunal established on or after the date of enactment of this Act and does not include—

(1) the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia, as established by United Nations Security Council Resolution 827 of May 25, 1993; or

(2) the International Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States, as established by United Nations Security Council Resolution 955 of November 8, 1994.

### **SEC. 2503. UNITED STATES MEMBERSHIP IN THE BUREAU OF THE INTERPARLIAMENTARY UNION.** 22 USC 276 note.

(a) **INTERPARLIAMENTARY UNION LIMITATION.**—Unless the Secretary of State certifies to Congress that the United States will be assessed not more than \$500,000 for its annual contribution to the Bureau of the Interparliamentary Union during fiscal year

Certification.  
Effective date.

1999, then effective October 1, 1999, the authority for further participation by the United States in the Bureau shall terminate in accordance with subsection (d).

(b) **ELIMINATION OF AUTHORITY TO PAY EXPENSES OF THE AMERICAN GROUP.**—Section 1 of the Act entitled “An Act to authorize participation by the United States in the Interparliamentary Union”, approved June 28, 1935 (22 U.S.C. 276) is amended—

(1) in the first sentence—

(A) by striking “fiscal year” and all that follows through “(1) for” and inserting “fiscal year for”;

(B) by striking “; and”; and

(C) by striking paragraph (2); and

(2) by striking the second sentence.

(c) **ELIMINATION OF PERMANENT APPROPRIATION.**—Section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988 (Public Law 100–202; 22 U.S.C. 276 note)) is amended—

(1) by striking “\$440,000” and inserting “\$350,000”; and

(2) by striking “paragraph (2) of the first section of Public Law 74–170,”.

(d) **CONDITIONAL TERMINATION OF AUTHORITY.**—Unless Congress receives the certification described in subsection (a) before October 1, 1999, effective on that date the Act entitled “An Act to authorize participation by the United States in the Interparliamentary Union”, approved June 28, 1935 (22 U.S.C. 276–276a–4) is repealed.

22 USC 276 note.

(e) **TRANSFER OF FUNDS TO THE TREASURY.**—Unobligated balances of appropriations made under section 303 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act 1988 (as contained in section 101(a) of the Continuing Appropriations Act, 1988; Public Law 100–202) that are available as of the day before the date of enactment of this Act shall be transferred on such date to the general fund of the Treasury of the United States.

#### **SEC. 2504. SERVICE IN INTERNATIONAL ORGANIZATIONS.**

(a) **IN GENERAL.**—Section 3582(b) of title 5, United States Code, is amended by striking all after the first sentence and inserting the following: “On reemployment, an employee entitled to the benefits of subsection (a) is entitled to the rate of basic pay to which the employee would have been entitled had the employee remained in the civil service. On reemployment, the agency shall restore the sick leave account of the employee, by credit or charge, to its status at the time of transfer. The period of separation caused by the employment of the employee with the international organization and the period necessary to effect reemployment are deemed creditable service for all appropriate civil service employment purposes. This subsection does not apply to a congressional employee.”.

5 USC 3582 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to transfers that take effect on or after the date of enactment of this Act.

5 USC 5707 note.

#### **SEC. 2505. REPORTS REGARDING FOREIGN TRAVEL.**

(a) **PROHIBITION.**—Except as provided in subsection (e), none of the funds authorized to be appropriated by this division for fiscal year 1999 may be used to pay for the expenses of foreign travel by an officer or employee of an Executive branch agency

to attend an international conference, or for the routine services that a United States diplomatic mission or consular post provides in support of foreign travel by such an officer or employee to attend an international conference, unless that officer or employee has submitted a preliminary report with respect to that foreign travel in accordance with subsection (b), and has not previously failed to submit a final report with respect to foreign travel to attend an international conference required by subsection (c).

(b) **PRELIMINARY REPORTS.**—A preliminary report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to proposed foreign travel to attend an international conference, submitted to the Director prior to commencement of the travel, setting forth—

(1) the name and employing agency of the officer or employee;

(2) the name of the official who authorized the travel; and

(3) the purpose and duration of the travel.

(c) **FINAL REPORTS.**—A final report referred to in subsection (a) is a report by an officer or employee of an Executive branch agency with respect to foreign travel to attend an international conference, submitted to the Director not later than 30 days after the conclusion of the travel—

(1) setting forth the actual duration and cost of the travel; and

(2) updating any other information included in the preliminary report.

(d) **REPORT TO CONGRESS.**—The Director shall submit a report not later than April 1, 1999, to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on International Relations and Appropriations of the House of Representatives, setting forth with respect to each international conference for which reports described in subsection (c) were required to be submitted to the Director during the preceding six months—

(1) the names and employing agencies of all officers and employees of Executive branch agencies who attended the international conference;

(2) the names of all officials who authorized travel to the international conference, and the total number of officers and employees who were authorized to travel to the conference by each such official; and

(3) the total cost of travel by officers and employees of Executive branch agencies to the international conference.

(e) **EXCEPTIONS.**—This section shall not apply to travel by—

(1) the President or the Vice President;

(2) any officer or employee who is carrying out an intelligence or intelligence-related activity, who is performing a protective function, or who is engaged in a sensitive diplomatic mission; or

(3) any officer or employee who travels prior to January 1, 1999.

(f) **DEFINITIONS.**—In this section:

(1) **DIRECTOR.**—The term “Director” means the Director of the Office of International Conferences of the Department of State.

(2) **EXECUTIVE BRANCH AGENCY.**—The terms “Executive branch agency” and “Executive branch agencies” mean—

(A) an entity or entities, other than the General Accounting Office, defined in section 105 of title 5, United States Code; and

(B) the Executive Office of the President (except as provided in subsection (e)).

(3) INTERNATIONAL CONFERENCE.—The term “international conference” means any meeting held under the auspices of an international organization or foreign government, at which representatives of more than two foreign governments are expected to be in attendance, and to which United States Executive branch agencies will send a total of ten or more representatives.

(g) REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional committees a report describing—

(1) the total Federal expenditure of all official international travel in each Executive branch agency during the previous fiscal year; and

(2) the total number of individuals in each agency who engaged in such travel.

## **TITLE XXVI—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY**

### **SEC. 2601. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out the purposes of the Arms Control and Disarmament Act \$41,500,000 for the fiscal year 1999.

### **SEC. 2602. STATUTORY CONSTRUCTION.**

Section 303 of the Arms Control and Disarmament Act (22 U.S.C. 2573), as redesignated by section 2223 of this division, is amended by adding at the end the following new subsection:

“(c) STATUTORY CONSTRUCTION.—Nothing contained in this chapter shall be construed to authorize any policy or action by any Government agency which would interfere with, restrict, or prohibit the acquisition, possession, or use of firearms by an individual for the lawful purpose of personal defense, sport, recreation, education, or training.”.

## **TITLE XXVII—EUROPEAN SECURITY ACT OF 1998**

### **SEC. 2701. SHORT TITLE.**

This title may be cited as the “European Security Act of 1998”.

### **SEC. 2702. STATEMENT OF POLICY.**

(a) POLICY WITH RESPECT TO NATO ENLARGEMENT.—Congress urges the President to outline a clear and complete strategic rationale for the enlargement of the North Atlantic Treaty Organization (NATO), and declares that—

(1) Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO;

(2) the United States should ensure that NATO continues a process whereby all other emerging democracies in Central and Eastern Europe that wish to join NATO will be considered

European  
Security Act of  
1998.  
22 USC 1928  
note.



for membership in NATO as soon as they meet the criteria for such membership;

(3) the United States should ensure that no limitations are placed on the numbers of NATO troops or types of equipment, including tactical nuclear weapons, to be deployed on the territory of new member states;

(4) the United States should reject all efforts to condition NATO decisions on review or approval by the United Nations Security Council;

(5) the United States should clearly delineate those NATO deliberations, including but not limited to discussions on arms control, further Alliance enlargement, procurement matters, and strategic doctrine, that are not subject to review or discussion in the NATO-Russia Permanent Joint Council;

(6) the United States should work to ensure that countries invited to join the Alliance are provided an immediate seat in NATO discussions; and

(7) the United States already pays more than a proportionate share of the costs of the common defense of Europe and should obtain, in advance, agreement on an equitable distribution of the cost of NATO enlargement to ensure that the United States does not continue to bear a disproportionate burden.

(b) POLICY WITH RESPECT TO NEGOTIATIONS WITH RUSSIA.—

(1) IMPLEMENTATION.—NATO enlargement should be carried out in such a manner as to underscore the Alliance's defensive nature and demonstrate to Russia that NATO enlargement will enhance the security of all countries in Europe, including Russia. Accordingly, the United States and its NATO allies should make this intention clear in negotiations with Russia, including negotiations regarding adaptation of the Conventional Armed Forces in Europe (CFE) Treaty of November 19, 1990.

(2) LIMITATIONS ON COMMITMENTS TO RUSSIA.—In seeking to demonstrate to Russia NATO's defensive and security-enhancing intentions, it is essential that neither fundamental United States security interests in Europe nor the effectiveness and flexibility of NATO as a defensive alliance be jeopardized. In particular, no commitments should be made to Russia that would have the effect of—

(A) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;

(B) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

(C) providing any international organization, or any country that is not a member of NATO, with authority to delay, veto, or otherwise impede deliberations and decisions of the North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO;

(D) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance;

(E) establishing a nuclear weapons-free zone in Central or Eastern Europe;

(F) requiring NATO to subsidize Russian arms sales, service, or support to the militaries of those former Warsaw Pact countries invited to join the Alliance; or

(G) legitimizing Russian efforts to link concessions in arms control negotiations to NATO enlargement.

(3) COMMITMENTS FROM RUSSIA.—In order to enhance security and stability in Europe, the United States should seek commitments from Russia—

(A) to demarcate and respect all its borders with neighboring states;

(B) to achieve the immediate and complete withdrawal of any armed forces and military equipment under the control of Russia that are deployed on the territories of the independent states of the former Soviet Union without the full and complete agreement of those states;

(C) to station its armed forces on the territory of other states only with the full and complete agreement of that state and in strict accordance with international law; and

(D) to take steps to reduce further its nuclear and conventional forces in Kaliningrad.

(4) CONSULTATIONS.—As negotiations on adaptation of the Treaty on Conventional Armed Forces in Europe proceed, the United States should engage in close and continuous consultations not only with its NATO allies, but also with the emerging democracies of Central and Eastern Europe, Ukraine, and the South Caucasus.

(c) POLICY WITH RESPECT TO BALLISTIC MISSILE DEFENSE COOPERATION.—

(1) IN GENERAL.—As the United States proceeds with efforts to develop defenses against ballistic missile attack, it should seek to foster a climate of cooperation with Russia on matters related to missile defense. In particular, the United States and its NATO allies should seek to cooperate with Russia in such areas as early warning.

(2) DISCUSSIONS WITH NATO ALLIES.—The United States should initiate discussions with its NATO allies for the purpose of examining the feasibility of deploying a ballistic missile defense capable of protecting NATO's southern and eastern flanks from a limited ballistic missile attack.

(3) CONSTITUTIONAL PREROGATIVES.—Even as the Congress seeks to promote ballistic missile defense cooperation with Russia, it must insist on its constitutional prerogatives regarding consideration of arms control agreements with Russia that bear on ballistic missile defense.

#### SEC. 2703. AUTHORITIES RELATING TO NATO ENLARGEMENT.

(a) POLICY OF SECTION.—This section is enacted in order to implement the policy set forth in section 2702(a).

(b) DESIGNATION OF ADDITIONAL COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.—

(1) DESIGNATION OF ADDITIONAL COUNTRIES.—Romania, Estonia, Latvia, Lithuania, and Bulgaria are each designated

as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (22 U.S.C. 1928 note) and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(2) RULE OF CONSTRUCTION.—The designation of countries pursuant to paragraph (1) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

(A) is in addition to the designation of other countries by law or pursuant to section 203(d)(2) of such Act as eligible to receive assistance under the program established under section 203(a) of such Act; and

(B) shall not preclude the designation by the President of other emerging democracies in Central and Eastern Europe pursuant to section 203(d)(2) of such Act as eligible to receive assistance under the program established under section 203(a) of such Act.

(3) SENSE OF CONGRESS.—It is the sense of Congress that Romania, Estonia, Latvia, Lithuania, and Bulgaria—

(A) are to be commended for their progress toward political and economic reform and meeting the guidelines for prospective NATO members;

(B) would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members; and

(C) upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date.

(c) REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.—

(1) IN GENERAL.—Funds described in paragraph (2) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—

(A) the procurement of items in support of these programs; and

(B) the transfer of such items to countries participating in these programs.

(2) FUNDS DESCRIBED.—Funds described in this paragraph are funds that are available—

(A) during any fiscal year under the NATO Participation Act of 1994 with respect to countries eligible for assistance under that Act; or

(B) during fiscal year 1998 under any Act to carry out the Warsaw Initiative.

(d) EXTENSION OF AUTHORITY REGARDING EXCESS DEFENSE ARTICLES.—Section 105 of Public Law 104-164 (110 Stat. 1427) is amended by striking “1996 and 1997” and inserting “1997, 1998, and 1999”.

(e) CONFORMING AMENDMENTS TO THE NATO PARTICIPATION ACT OF 1994.—Section 203(c) of the NATO Participation Act of 1994 (22 U.S.C. 1928 note) is amended—

(1) in paragraph (1), by striking “, without regard to the restrictions” and all that follows through “section”;

(2) by striking paragraph (2);

(3) in paragraph (6), by striking “appropriated under the ‘Nonproliferation and Disarmament Fund’ account” and inserting “made available for the ‘Nonproliferation and Disarmament Fund’”; and

(4) in paragraph (8)—

(A) by striking “any restrictions in sections 516 and 519” and inserting “section 516(e)”; and

(B) by striking “as amended,”; and

(C) by striking “paragraphs (1) and (2)” and inserting “paragraph (1)”; and

(5) by redesignating paragraphs (3) through (8) as paragraphs (2) through (7), respectively.

**SEC. 2704. SENSE OF CONGRESS WITH RESPECT TO THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE.**

It is the sense of Congress that no revisions to the Treaty on Conventional Armed Forces in Europe will be approved for entry into force with respect to the United States that jeopardize fundamental United States security interests in Europe or the effectiveness and flexibility of NATO as a defensive alliance by—

(1) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;

(2) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

(3) providing any international organization, or any country that is not a member of NATO, with the authority to delay, veto, or otherwise impede deliberations and decisions of the North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO; or

(4) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance.

**SEC. 2705. RESTRICTIONS AND REQUIREMENTS RELATING TO BALLISTIC MISSILE DEFENSE.**

(a) **POLICY OF SECTION.**—This section is enacted in order to implement the policy set forth in section 2702(c).

(b) **RESTRICTION ON ENTRY INTO FORCE OF ABM/TMD DEMARCATION AGREEMENTS.**—An ABM/TMD demarcation agreement shall not be binding on the United States, and shall not enter into force with respect to the United States, unless, after the date of enactment of this Act, that agreement is specifically approved with the advice and consent of the United States Senate pursuant to Article II, section 2, clause 2 of the Constitution.

(c) **SENSE OF CONGRESS WITH RESPECT TO DEMARCATION AGREEMENTS.**—

(1) **RELATIONSHIP TO MULTILATERALIZATION OF ABM TREATY.**—It is the sense of Congress that no ABM/TMD demarcation agreement will be considered for advice and consent to ratification unless, consistent with the certification of the President pursuant to condition (9) of the resolution of

ratification of the CFE Flank Document, the President submits for Senate advice and consent to ratification any agreement, arrangement, or understanding that would—

(A) add one or more countries as State Parties to the ABM Treaty, or otherwise convert the ABM Treaty from a bilateral treaty to a multilateral treaty; or

(B) change the geographic scope or coverage of the ABM Treaty, or otherwise modify the meaning of the term “national territory” as used in Article VI and Article IX of the ABM Treaty.

(2) PRESERVATION OF UNITED STATES THEATER BALLISTIC MISSILE DEFENSE POTENTIAL.—It is the sense of Congress that no ABM/TMD demarcation agreement that would reduce the capabilities of United States theater missile defense systems, or the numbers or deployment patterns of such systems, will be approved for entry into force with respect to the United States.

(d) REPORT ON COOPERATIVE PROJECTS WITH RUSSIA.—Not later than January 1, 1999, and January 1, 2000, the President shall submit to the Committees on International Relations, National Security, and Appropriations of the House of Representatives and the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate a report on cooperative projects with Russia in the area of ballistic missile defense, including in the area of early warning. Each such report shall include the following:

(1) COOPERATIVE PROJECTS.—A description of all cooperative projects conducted in the area of early warning and ballistic missile defense during the preceding fiscal year and the fiscal year during which the report is submitted.

(2) FUNDING.—A description of the funding for such projects during the preceding fiscal year and the year during which the report is submitted and the proposed funding for such projects for the next fiscal year.

(3) STATUS OF DIALOGUE OR DISCUSSIONS.—A description of the status of any dialogue or discussions conducted during the preceding fiscal year between the United States and Russia aimed at exploring the potential for mutual accommodation of outstanding issues between the two nations on matters relating to ballistic missile defense and the ABM Treaty, including the possibility of developing a strategic relationship not based on mutual nuclear threats.

(e) DEFINITIONS.—In this section:

(1) ABM/TMD DEMARCATION AGREEMENT.—The term “ABM/TMD demarcation agreement” means any agreement that establishes a demarcation between theater ballistic missile defense systems and strategic antiballistic missile defense systems for purposes of the ABM Treaty.

(2) ABM TREATY.—The term “ABM Treaty” means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972 (23 UST 3435), and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974 (27 UST 1645).

## **TITLE XXVIII—OTHER FOREIGN POLICY PROVISIONS**

### **SEC. 2801. REPORTS ON CLAIMS BY UNITED STATES FIRMS AGAINST THE GOVERNMENT OF SAUDI ARABIA.**

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act and every 180 days thereafter, the Secretary of State, after consultation with the Secretary of Defense and the Secretary of Commerce, shall submit a report to the appropriate congressional committees on specific actions taken by the Department of State, the Department of Defense, and the Department of Commerce toward progress in resolving the commercial disputes between United States firms and the Government of Saudi Arabia that are described in the June 30, 1993, report by the Secretary of Defense pursuant to section 9140(c) of the Department of Defense Appropriations Act, 1993 (Public Law 102–396), including the additional claims noticed by the Department of Commerce on page 2 of that report.

(b) **TERMINATION.**—Subsection (a) shall cease to have effect on the earlier of—

(1) the date of submission of the third report under that subsection; or

(2) the date that the Secretary of State, after consultation with the Secretary of Defense and the Secretary of Commerce, certifies in writing to the appropriate congressional committees that the commercial disputes referred to in subsection (a) have been resolved satisfactorily.

### **SEC. 2802. REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT.**

(a) **REPORTS REQUIRED.**—Not later than 30 days after the date of the enactment of this Act and every 3 months thereafter during the period ending September 30, 1999, the Secretary of State shall submit to the appropriate congressional committees a report on the implementation of section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6091). Each report shall include—

(1) an unclassified list, by economic sector, of the number of entities then under review pursuant to that section;

(2) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined to be subject to that section;

(3) an unclassified list of all entities and a classified list of all individuals that the Secretary of State has determined are no longer subject to that section;

(4) an explanation of the status of the review underway for the cases referred to in paragraph (1); and

(5) an unclassified explanation of each determination of the Secretary of State under section 401(a) of that Act and each finding of the Secretary under section 401(c) of that Act—

(A) since the date of the enactment of this Act, in the case of the first report under this subsection; and

(B) in the preceding 3-month period, in the case of each subsequent report.

(b) **PROTECTION OF IDENTITY OF CONCERNED ENTITIES.**—In preparing the report under subsection (a), the names of entities shall not be identified under paragraph (1) or (4).

**SEC. 2803. REPORT ON COMPLIANCE WITH THE HAGUE CONVENTION ON INTERNATIONAL CHILD ABDUCTION.**

(a) **IN GENERAL.**—Beginning 6 months after the date of the enactment of this Act and every 12 months thereafter during the period ending September 30, 1999, the Secretary of State shall submit a report to the appropriate congressional committees on the compliance with the provisions of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, by the signatory countries of the Convention. Each such report shall include the following information:

(1) The number of applications for the return of children submitted by United States citizens to the Central Authority for the United States that remain unresolved more than 18 months after the date of filing.

(2) A list of the countries to which children in unresolved applications described in paragraph (1) are alleged to have been abducted.

(3) A list of the countries that have demonstrated a pattern of noncompliance with the obligations of the Convention with respect to applications for the return of children submitted by United States citizens to the Central Authority for the United States.

(4) Detailed information on each unresolved case described in paragraph (1) and on actions taken by the Department of State to resolve each such case.

(5) Information on efforts by the Department of State to encourage other countries to become signatories of the Convention.

(b) **DEFINITION.**—In this section, the term “Central Authority for the United States” has the meaning given the term in Article 6 of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980.

**SEC. 2804. SENSE OF CONGRESS RELATING TO RECOGNITION OF THE ECUMENICAL PATRIARCHATE BY THE GOVERNMENT OF TURKEY.**

It is the sense of Congress that the United States should use its influence with the Government of Turkey to suggest that the Government of Turkey—

(1) recognize the Ecumenical Patriarchate and its nonpolitical, religious mission;

(2) ensure the continued maintenance of the institution’s physical security needs, as provided for under Turkish and international law, including the Treaty of Lausanne, the 1968 Protocol, the Helsinki Final Act (1975), and the Charter of Paris;

(3) provide for the proper protection and safety of the Ecumenical Patriarch and Patriarchate personnel; and

(4) reopen the Ecumenical Patriarchate’s Halki Patriarchal School of Theology.

**SEC. 2805. REPORT ON RELATIONS WITH VIETNAM.**

In order to provide Congress with the necessary information by which to evaluate the relationship between the United States

and Vietnam, the Secretary of State shall submit a report to the appropriate congressional committees, not later than 90 days after the date of enactment of this Act and every 180 days thereafter during the period ending September 30, 1999, on the extent to which—

(1) the Government of the Socialist Republic of Vietnam is cooperating with the United States in providing the fullest possible accounting of all unresolved cases of prisoners of war (POWs) or persons missing-in-action (MIAs) through the provision of records and the unilateral and joint recovery and repatriation of American remains;

(2) the Government of the Socialist Republic of Vietnam has made progress toward the release of all political and religious prisoners, including Catholic, Protestant, and Buddhist clergy;

(3) the Government of the Socialist Republic of Vietnam is cooperating with requests by the United States to obtain full and free access to persons of humanitarian interest to the United States for interviews under the Orderly Departure (ODP) and Resettlement Opportunities for Vietnamese Refugees (ROVR) programs, and in providing exit visas for such persons;

(4) the Government of the Socialist Republic of Vietnam has taken vigorous action to end extortion, bribery, and other corrupt practices in connection with such exit visas; and

(5) the Government of the United States is making vigorous efforts to interview and resettle former reeducation camp victims, their immediate families including unmarried sons and daughters, former United States Government employees, and other persons eligible for the ODP program, and to give such persons the full benefit of all applicable United States laws including sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1990 (Public Law 101–167).

#### **SEC. 2806. REPORTS AND POLICY CONCERNING HUMAN RIGHTS VIOLATIONS IN LAOS.**

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees on the allegations of persecution and abuse of the Hmong and Laotian refugees who have returned to Laos. The report shall include the following:

(1) A full investigation, including full documentation of individual cases of persecution, of the Lao Government's treatment of Hmong and Laotian refugees who have returned to Laos.

(2) The steps the Department of State will take to continue to monitor any systematic human rights violations by the Government of Laos.

(3) The actions which the Department of State will take to seek to ensure the cessation of human rights violations.

#### **SEC. 2807. REPORT ON AN ALLIANCE AGAINST NARCOTICS TRAFFICKING IN THE WESTERN HEMISPHERE.**

(a) SENSE OF CONGRESS ON DISCUSSIONS FOR ALLIANCE.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President should discuss with the democratically-elected governments of the Western Hemisphere, the prospect of



forming a multilateral alliance to address problems relating to international drug trafficking in the Western Hemisphere.

(2) CONSULTATIONS.—In the consultations on the prospect of forming an alliance described in paragraph (1), the President should seek the input of such governments on the possibility of forming one or more structures within the alliance—

(A) to develop a regional, multilateral strategy to address the threat posed to nations in the Western Hemisphere by drug trafficking; and

(B) to establish a new mechanism for improving multilateral coordination of drug interdiction and drug-related law enforcement activities in the Western Hemisphere.

(b) REPORT.—

(1) REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report on the proposal discussed under subsection (a). The report shall include the following: President.

(A) An analysis of the reactions of the governments concerned to the proposal.

(B) An assessment of the proposal, including an evaluation of the feasibility and advisability of forming the alliance.

(C) A determination in light of the analysis and assessment whether or not the formation of the alliance is in the national interests of the United States.

(D) If the President determines that the formation of the alliance is in the national interests of the United States, a plan for encouraging and facilitating the formation of the alliance.

(E) If the President determines that the formation of the alliance is not in the national interests of the United States, an alternative proposal to improve significantly efforts against the threats posed by narcotics trafficking in the Western Hemisphere, including an explanation of how the alternative proposal will—

(i) improve upon current cooperation and coordination of counter-drug efforts among nations in the Western Hemisphere;

(ii) provide for the allocation of the resources required to make significant progress in disrupting and disbanding the criminal organizations responsible for the trafficking of illegal drugs in the Western Hemisphere; and

(iii) differ from and improve upon past strategies adopted by the United States Government which have failed to make sufficient progress against the trafficking of illegal drugs in the Western Hemisphere.

(2) UNCLASSIFIED FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may contain a classified annex.

**SEC. 2808. CONGRESSIONAL STATEMENT REGARDING THE ACCESSION OF TAIWAN TO THE WORLD TRADE ORGANIZATION.**

(a) FINDINGS.—The Congress makes the following findings:

(1) The people of the United States and the people of the Republic of China on Taiwan have long enjoyed extensive ties.

(2) Taiwan is currently the 8th largest trading partner of the United States.

(3) The executive branch of Government has committed publicly to support Taiwan's bid to join the World Trade Organization and has declared that the United States will not oppose this bid solely on the grounds that the People's Republic of China, which also seeks membership in the World Trade Organization, is not yet eligible because of its unacceptable trade practices.

(4) The United States and Taiwan have concluded discussions on a variety of outstanding trade issues that remain unresolved with the People's Republic of China and that are necessary for the United States to support Taiwan's membership in the World Trade Organization.

(5) The reversion of control over Hong Kong—a member of the World Trade Organization—to the People's Republic of China in many respects affords to the People's Republic of China the practical benefit of membership in the World Trade Organization for a substantial portion of its trade in goods despite the fact that the trade practices of the People's Republic of China currently fall far short of what the United States expects for membership in the World Trade Organization.

(6) The executive branch of Government has announced its interest in the admission of the People's Republic of China to the World Trade Organization; the fundamental sense of fairness of the people of the United States warrants the United States Government's support for Taiwan's relatively more meritorious application for membership in the World Trade Organization.

(7) Despite having made significant progress in negotiations for its accession to the World Trade Organization, Taiwan has yet to offer acceptable terms of accession in agricultural and certain other market sectors.

(8) It is in the economic interest of United States consumers and exporters for Taiwan to complete those requirements for accession to the World Trade Organization at the earliest possible moment.

(b) CONGRESSIONAL STATEMENT.—The Congress favors public support by officials of the Department of State for the accession of Taiwan to the World Trade Organization.

**SEC. 2809. PROGRAMS OR PROJECTS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY IN CUBA.**

(a) WITHHOLDING OF UNITED STATES PROPORTIONAL SHARE OF ASSISTANCE.—Section 307(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(c)) is amended—

(1) by striking “The limitations” and inserting “(1) Subject to paragraph (2), the limitations”; and

(2) by adding at the end the following:

“(2)(A) Except as provided in subparagraph (B), with respect to funds authorized to be appropriated by this chapter and available for the International Atomic Energy Agency, the limitations of subsection (a) shall apply to programs or projects of such Agency in Cuba.

“(B)(i) Subparagraph (A) shall not apply with respect to programs or projects of the International Atomic Energy Agency that provide for the discontinuation, dismantling, or safety inspection

Applicability.

of nuclear facilities or related materials, or for inspections and similar activities designed to prevent the development of nuclear weapons by a country described in subsection (a).

“(ii) Clause (i) shall not apply with respect to the Juragua Nuclear Power Plant near Cienfuegos, Cuba, or the Pedro Pi Nuclear Research Center unless Cuba—

“(I) ratifies the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty for the Prohibition of Nuclear Weapons in Latin America (commonly known as the Treaty of Tlatelolco);

“(II) negotiates full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

“(III) incorporates internationally accepted nuclear safety standards.”.

(b) **OPPOSITION TO CERTAIN PROGRAMS OR PROJECTS.**—The Secretary of State shall direct the United States representative to the International Atomic Energy Agency to oppose the following:

22 USC 2021  
note.

(1) Technical assistance programs or projects of the Agency at the Juragua Nuclear Power Plant near Cienfuegos, Cuba, and at the Pedro Pi Nuclear Research Center.

(2) Any other program or project of the Agency in Cuba that is, or could become, a threat to the security of the United States.

(c) **REPORTING REQUIREMENTS.**—

22 USC 2021  
note.

(1) **REQUEST FOR IAEA REPORTS.**—The Secretary of State shall direct the United States representative to the International Atomic Energy Agency to request the Director-General of the Agency to submit to the United States all reports prepared with respect to all programs or projects of the Agency that are of concern to the United States, including the programs or projects described in subsection (b).

(2) **ANNUAL REPORTS TO THE CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, and on an annual basis thereafter, the Secretary of State, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to the Congress a report containing a description of all programs or projects of the Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)).

#### **SEC. 2810. LIMITATION ON ASSISTANCE TO COUNTRIES AIDING CUBA NUCLEAR DEVELOPMENT.**

(a) **IN GENERAL.**—Section 620 of the Foreign Assistance Act of 1961 (22 U.S.C. 2370), as amended by this division, is further amended by adding at the end the following:

“(y)(1) Except as provided in paragraph (2), the President shall withhold from amounts made available under this Act or any other Act and allocated for a country for a fiscal year an amount equal to the aggregate value of nuclear fuel and related assistance and credits provided by that country, or any entity of that country, to Cuba during the preceding fiscal year.

“(2) The requirement to withhold assistance for a country for a fiscal year under paragraph (1) shall not apply if Cuba—

“(A) has ratified the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) or the Treaty of Tlatelolco,

and Cuba is in compliance with the requirements of either such Treaty;

“(B) has negotiated and is in compliance with full-scope safeguards of the International Atomic Energy Agency not later than two years after ratification by Cuba of such Treaty; and

“(C) incorporates and is in compliance with internationally accepted nuclear safety standards.

“(3) The Secretary of State shall prepare and submit to the Congress each year a report containing a description of the amount of nuclear fuel and related assistance and credits provided by any country, or any entity of a country, to Cuba during the preceding year, including the terms of each transfer of such fuel, assistance, or credits.”.

22 USC 2370  
note.

(b) **EFFECTIVE DATE.**—Section 620(y) of the Foreign Assistance Act of 1961, as added by subsection (a), shall apply with respect to assistance provided in fiscal years beginning on or after the date of the enactment of this Act.

#### **SEC. 2811. INTERNATIONAL FUND FOR IRELAND.**

(a) **PURPOSES.**—Section 2(b) of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415; 100 Stat. 947) is amended by adding at the end the following new sentences: “United States contributions should be used in a manner that effectively increases employment opportunities in communities with rates of unemployment higher than the local or urban average of unemployment in Northern Ireland. In addition, such contributions should be used to benefit individuals residing in such communities.”.

(b) **CONDITIONS AND UNDERSTANDINGS.**—Section 5(a) of such Act is amended—

(1) in the first sentence—

(A) by striking “The United States” and inserting the following:

“(1) **IN GENERAL.**—The United States”;

(B) by striking “in this Act may be used” and inserting the following: “in this Act—

“(A) may be used”;

(C) by striking the period and inserting “; and”; and

(D) by adding at the end the following:

“(B) should be provided to individuals or entities in Northern Ireland which employ practices consistent with the principles of economic justice.”; and

(2) in the second sentence, by striking “The restrictions” and inserting the following:

“(2) **ADDITIONAL REQUIREMENTS.**—The restrictions”.

(c) **PRIOR CERTIFICATIONS.**—Section 5(c)(2) of such Act is amended—

(1) in subparagraph (A), by striking “in accordance with the principle of equality” and all that follows and inserting “to individuals and entities whose practices are consistent with principles of economic justice; and”; and

(2) in subparagraph (B), by inserting before the period at the end the following: “and will create employment opportunities in regions and communities of Northern Ireland suffering from high rates of unemployment”.

(d) **ANNUAL REPORTS.**—Section 6 of such Act is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(4) the extent to which the practices of each individual or entity receiving assistance from United States contributions to the International Fund has been consistent with the principles of economic justice.”.

(e) REQUIREMENTS RELATING TO FUNDS.—Section 7 of such Act is amended by adding at the end the following:

“(c) PROHIBITION.—Nothing included herein shall require quotas or reverse discrimination or mandate their use.”.

(f) DEFINITIONS.—Section 8 of such Act is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(3) the term ‘principles of economic justice’ means the following principles:

“(A) Increasing the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory, administrative, clerical, and technical jobs.

“(B) Providing adequate security for the protection of minority employees at the workplace.

“(C) Banning provocative sectarian or political emblems from the workplace.

“(D) Providing that all job openings be advertised publicly and providing that special recruitment efforts be made to attract applicants from underrepresented religious groups.

“(E) Providing that layoff, recall, and termination procedures do not favor a particular religious group.

“(F) Abolishing job reservations, apprenticeship restrictions, and differential employment criteria which discriminate on the basis of religion.

“(G) Providing for the development of training programs that will prepare substantial numbers of minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.

“(H) Establishing procedures to assess, identify, and actively recruit minority employees with the potential for further advancement.

“(I) Providing for the appointment of a senior management staff member to be responsible for the employment efforts of the entity and, within a reasonable period of time, the implementation of the principles described in subparagraphs (A) through (H).”.

#### **SEC. 2812. SUPPORT FOR DEMOCRATIC OPPOSITION IN IRAQ.**

(a) ASSISTANCE FOR JUSTICE IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$3,000,000 for assistance to an international commission to establish an international record for the criminal culpability of Saddam Hussein and other Iraqi officials and for an international criminal tribunal established for the purpose of indicting, prosecuting, and punishing Saddam

Hussein and other Iraqi officials responsible for crimes against humanity, genocide, and other violations of international law.

(b) ASSISTANCE TO THE DEMOCRATIC OPPOSITION IN IRAQ.—There are authorized to be appropriated for fiscal year 1998 \$15,000,000 to provide support for democratic opposition forces in Iraq, of which—

(1) not more than \$10,000,000 shall be for assistance to the democratic opposition, including leadership organization, training political cadre, maintaining offices, disseminating information, and developing and implementing agreements among opposition elements; and

(2) not more than \$5,000,000 of the funds made available under this subsection shall be available only for grants to RFE/RL, Incorporated, for surrogate radio broadcasting by RFE/RL, Incorporated, to the Iraqi people in the Arabic language, such broadcasts to be designated as “Radio Free Iraq”.

(c) ASSISTANCE FOR HUMANITARIAN RELIEF AND RECONSTRUCTION.—There are authorized to be appropriated for fiscal year 1998 \$20,000,000 for the relief, rehabilitation, and reconstruction of people living in Iraq, and communities located in Iraq, who are not under the control of the Saddam Hussein regime.

(d) AVAILABILITY.—Amounts authorized to be appropriated by this section shall be provided in addition to amounts otherwise made available and shall remain available until expended.

(e) NOTIFICATION.—All assistance provided pursuant to this section shall be notified to Congress in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(f) RELATION TO OTHER LAWS.—Funds made available to carry out the provisions of this section may be made available notwithstanding any other provision of law.

(g) REPORT.—Not later than 45 days after the date of enactment of this Act, the Secretary of State and the Broadcasting Board of Governors of the United States Information Agency shall submit a detailed report to Congress describing—

(1) the costs, implementation, and plans for the establishment of an international war crimes tribunal described in subsection (a);

(2) the establishment of a political assistance program, and the surrogate broadcasting service, as described in subsection (b); and

(3) the humanitarian assistance program described in subsection (c).

#### **SEC. 2813. DEVELOPMENT OF DEMOCRACY IN THE REPUBLIC OF SERBIA.**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States stands as the beacon of democracy and freedom in the world.

(2) A stable and democratic Republic of Serbia is important to the interests of the United States, the international community, and to peace in the Balkans.

(3) Democratic forces in the Republic of Serbia are beginning to emerge, notwithstanding the efforts of Europe’s longest-standing communist dictator, Slobodan Milosevic.

(4) The Serbian authorities have sought to continue to hinder the growth of free and independent news media in

the Republic of Serbia, in particular the broadcast news media, and have harassed journalists performing their professional duties.

(5) Under Slobodan Milosevic, the political opposition in Serbia has been denied free, fair, and equal opportunity to participate in the democratic process.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States, the international community, non-governmental organizations, and the private sector should continue to promote the building of democratic institutions and civic society in the Republic of Serbia, help strengthen the independent news media, and press for the Government of the Republic of Serbia to respect the rule of law; and

(2) the normalization of relations between the “Federal Republic of Yugoslavia” (Serbia and Montenegro) and the United States requires, among other things, that President Milosevic and the leadership of Serbia—

(A) promote the building of democratic institutions, including strengthening the independent news media and respecting the rule of law;

(B) promote the respect for human rights throughout the “Federal Republic of Yugoslavia” (Serbia and Montenegro); and

(C) promote and encourage free, fair, and equal conditions for the democratic opposition in Serbia.

#### DIVISION—H

##### SECTION 1. SHORT TITLE.

This Division may be cited as the “Depository Institution-GSE Affiliation Act of 1998”.

##### SEC. 2. CERTAIN AFFILIATION PERMITTED.

Section 18(s) of the Federal Deposit Insurance Act (12 U.S.C. 1828(s)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) STUDENT LOANS.—

“(A) IN GENERAL.—This subsection shall not apply to any arrangement between the Holding Company (or any subsidiary of the Holding Company other than the Student Loan Marketing Association) and a depository institution, if the Secretary approves the affiliation and determines that—

“(i) the reorganization of such Association in accordance with section 440 of the Higher Education Act of 1965, as amended, will not be adversely affected by the arrangement;

“(ii) the dissolution of the Association pursuant to such reorganization will occur before the end of the 2-year period beginning on the date on which such arrangement is consummated or on such earlier date as the Secretary deems appropriate: *Provided*, That the Secretary may extend this period for not more than 1 year at a time if the Secretary determines that such extension is in the public interest and is

Depository  
Institution-GSE  
Affiliation Act of  
1998.  
12 USC 1811  
note.

appropriate to achieve an orderly reorganization of the Association or to prevent market disruptions in connection with such reorganization, but no such extensions shall in the aggregate exceed 2 years;

“(iii) the Association will not purchase or extend credit to, or guarantee or provide credit enhancement to, any obligation of the depository institution;

“(iv) the operations of the Association will be separate from the operations of the depository institution; and

“(v) until the ‘dissolution date’ (as that term is defined in section 440 of the Higher Education Act of 1965, as amended) has occurred, such depository institution will not use the trade name or service mark ‘Sallie Mae’ in connection with any product or service it offers if the appropriate Federal banking agency for such depository institution determines that—

“(I) the depository institution is the only institution offering such product or service using the ‘Sallie Mae’ name; and

“(II) such use would result in the depository institution having an unfair competitive advantage over other depository institutions.

“(B) TERMS AND CONDITIONS.—In approving any arrangement referred to in subparagraph (A) the Secretary may impose any terms and conditions on such an arrangement that the Secretary considers appropriate, including—

“(i) imposing additional restrictions on the issuance of debt obligations by the Association; or

“(ii) restricting the use of proceeds from the issuance of such debt.

“(C) ADDITIONAL LIMITATIONS.—In the event that the Holding Company (or any subsidiary of the Holding Company) enters into such an arrangement, the value of the Association’s ‘investment portfolio’ shall not at any time exceed the lesser of—

“(i) the value of such portfolio on the date of the enactment of this subsection; or

“(ii) the value of such portfolio on the date such an arrangement is consummated. The term ‘investment portfolio’ shall mean all investments shown on the consolidated balance sheet of the Association other than—

“(I) any instrument or assets described in section 439(d) of the Higher Education Act of 1965, as amended;

“(II) any direct noncallable obligations of the United States or any agency thereof for which the full faith and credit of the United States is pledged; or

“(III) cash or cash equivalents.

“(D) ENFORCEMENT.—The terms and conditions imposed under subparagraph (B) may be enforced by the Secretary in accordance with section 440 of the Higher Education Act of 1965.

“(E) DEFINITIONS.—For purposes of this paragraph, the following definition shall apply—



“(i) ASSOCIATION; HOLDING COMPANY.—Notwithstanding any provision in section 3, the terms ‘Association’ and ‘Holding Company’ have the same meanings as in section 440(i) of the Higher Education Act of 1965.

“(ii) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.”.

## DIVISION I—CHEMICAL WEAPONS CONVENTION

### SECTION 1. SHORT TITLE.

This Division may be cited as the “Chemical Weapons Convention Implementation Act of 1998”.

### SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

#### TITLE I—GENERAL PROVISIONS

- Sec. 101. Designation of United States National Authority.
- Sec. 102. No abridgement of constitutional rights.
- Sec. 103. Civil liability of the United States.

#### TITLE II—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES

##### Subtitle A—Criminal and Civil Penalties

- Sec. 201. Criminal and civil provisions.

##### Subtitle B—Revocations of Export Privileges

- Sec. 211. Revocations of export privileges.

#### TITLE III—INSPECTIONS

- Sec. 301. Definitions in the title.
- Sec. 302. Facility agreements.
- Sec. 303. Authority to conduct inspections.
- Sec. 304. Procedures for inspections.
- Sec. 305. Warrants.
- Sec. 306. Prohibited acts relating to inspections.
- Sec. 307. National security exception.
- Sec. 308. Protection of constitutional rights of contractors.
- Sec. 309. Annual report on inspections.
- Sec. 310. United States assistance in inspections at private facilities.

#### TITLE IV—REPORTS

- Sec. 401. Reports required by the United States National Authority.
- Sec. 402. Prohibition relating to low concentrations of schedule 2 and 3 chemicals.
- Sec. 403. Prohibition relating to unscheduled discrete organic chemicals and coincidental byproducts in waste streams.
- Sec. 404. Confidentiality of information.
- Sec. 405. Recordkeeping violations.

#### TITLE V—ENFORCEMENT

- Sec. 501. Penalties.
- Sec. 502. Specific enforcement.
- Sec. 503. Expedited judicial review.

#### TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Repeal.
- Sec. 602. Prohibition.
- Sec. 603. Bankruptcy actions.

### SEC. 3. DEFINITIONS.

In this Act:

Chemical  
Weapons  
Convention  
Implementation  
Act of 1998.  
22 USC 6701  
note.

22 USC 6701.

(1) **CHEMICAL WEAPON.**—The term “chemical weapon” means the following, together or separately:

(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this Act as long as the type and quantity is consistent with such a purpose.

(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

(2) **CHEMICAL WEAPONS CONVENTION; CONVENTION.**—The terms “Chemical Weapons Convention” and “Convention” mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(3) **KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.**—The term “key component of a binary or multicomponent chemical system” means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

(4) **NATIONAL OF THE UNITED STATES.**—The term “national of the United States” has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(5) **ORGANIZATION.**—The term “Organization” means the Organization for the Prohibition of Chemical Weapons.

(6) **PERSON.**—The term “person”, except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

(7) **PRECURSOR.**—

(A) **IN GENERAL.**—The term “precursor” means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

(B) **LIST OF PRECURSORS.**—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(8) **PURPOSES NOT PROHIBITED BY THIS ACT.**—The term “purposes not prohibited by this Act” means the following:

(A) **PEACEFUL PURPOSES.**—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

(B) **PROTECTIVE PURPOSES.**—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon and that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

(9) TECHNICAL SECRETARIAT.—The term “Technical Secretariat” means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

(10) SCHEDULE 1 CHEMICAL AGENT.—The term ‘Schedule 1 chemical agent’ means any of the following, together or separately:

- (A) O-Alkyl ( $\leq C_{10}$ , incl. cycloalkyl) alkyl  
(Me, Et, n-Pr or i-Pr)-phosphonofluoridates  
(e.g. Sarin: O-Isopropyl methylphosphonofluoridate  
Soman: O-Pinacolyl methylphosphonofluoridate).
- (B) O-Alkyl ( $\leq C_{10}$ , incl. cycloalkyl) N,N-dialkyl  
(Me, Et, n-Pr or i-Pr)-phosphoramidocyanidates  
(e.g. Tabun: O-Ethyl N,N-dimethyl  
phosphoramidocyanidate).
- (C) O-Alkyl (H or  $\leq C_{10}$ , incl. cycloalkyl) S-2-dialkyl  
(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl  
(Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts  
(e.g. VX: O-Ethyl S-2-diisopropylaminoethyl  
methyl phosphonothiolate).
- (D) Sulfur mustards:  
2-Chloroethylchloromethylsulfide  
Mustard gas: (Bis(2-chloroethyl)sulfide  
Bis(2-chloroethylthio)methane  
Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane  
1,3-Bis(2-chloroethylthio)-n-propane  
1,4-Bis(2-chloroethylthio)-n-butane  
1,5-Bis(2-chloroethylthio)-n-pentane  
Bis(2-chloroethylthiomethyl)ether  
O-Mustard: Bis(2-chloroethylthioethyl)ether.
- (E) Lewisites:  
Lewisite 1: 2-Chlorovinylchloroarsine  
Lewisite 2: Bis(2-chlorovinyl)chloroarsine  
Lewisite 3: Tris (2-chlorovinyl)arsine.
- (F) Nitrogen mustards:  
HN1: Bis(2-chloroethyl)ethylamine  
HN2: Bis(2-chloroethyl)methylamine  
HN3: Tris(2-chloroethyl)amine.
- (G) Saxitoxin.
- (H) Ricin.
- (I) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides  
e.g. DF: Methylphosphonyldifluoride.
- (J) O-Alkyl (H or  $\leq C_{10}$ , incl. cycloalkyl) O-2-dialkyl  
(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl  
(Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts  
e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite.
- (K) Chlorosarin: O-Isopropyl methylphosphonochloridate.

- (L) Chlorosoman: O-Pinacolyl methylphosphonochloridate.
- (11) SCHEDULE 2 CHEMICAL AGENT.—The term ‘Schedule 2 chemical agent’ means the following, together or separately:
  - (A) Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated salts.
  - (B) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene.
  - (C) BZ: 3-Quinuclidinyl benzilate
  - (D) Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms, e.g. Methylphosphonyl dichloride Dimethyl methylphosphonate
  - Exemption: Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate.
  - (E) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides.
  - (F) Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates.
  - (G) arsenic trichloride.
  - (H) 2,2-Diphenyl-2-hydroxyacetic acid.
  - (I) Quinuclidine-3-ol.
  - (J) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts.
  - (K) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts
  - Exemptions: N,N-Dimethylaminoethanol and corresponding protonated salts N,N-Diethylaminoethanol and corresponding protonated salts.
  - (L) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts.
  - (M) Thiodiglycol: Bis(2-hydroxyethyl)sulfide.
  - (N) Pinacolyl alcohol: 3,3-Dimethylbutane-2-ol.
- (12) SCHEDULE 3 CHEMICAL AGENT.—The term ‘Schedule 3 chemical agent’ means any of the following, together or separately:
  - (A) Phosgene: carbonyl dichloride.
  - (B) Cyanogen chloride.
  - (C) Hydrogen cyanide.
  - (D) Chloropicrin: trichloronitromethane.
  - (E) Phosphorous oxychloride.
  - (F) Phosphorous trichloride.
  - (G) Phosphorous pentachloride.
  - (H) Trimethyl phosphite.
  - (I) Triethyl phosphite.
  - (J) Dimethyl phosphite.
  - (K) Diethyl phosphite.
  - (L) Sulfur monochloride.
  - (M) Sulfur dichloride.
  - (N) Thionyl chloride.
  - (O) Ethyldiethanolamine.
  - (P) Methyldiethanolamine.
  - (Q) Triethanolamine.
- (13) TOXIC CHEMICAL.—
  - (A) IN GENERAL.—The term “toxic chemical” means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(B) **LIST OF TOXIC CHEMICALS.**—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(14) **UNITED STATES.**—The term “United States” means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) any of the places within the provisions of paragraph (41) of section 40102 of title 49, United States Code;

(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (37), respectively, of section 40102 of title 49, United States Code; and

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).

(15) **UNSCHEDULED DISCRETE ORGANIC CHEMICAL.**—The term “unscheduled discrete organic chemical” means any chemical not listed on any schedule contained in the Annex on Chemicals of the Convention that belongs to the class of chemical compounds consisting of all compounds of carbon, except for its oxides, sulfides, and metal carbonates.

## **TITLE I—GENERAL PROVISIONS**

### **SEC. 101. DESIGNATION OF UNITED STATES NATIONAL AUTHORITY.** 22 USC 6711.

(a) **DESIGNATION.**—Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President shall designate the Department of State to be the United States National Authority.

(b) **PURPOSES.**—The United States National Authority shall—

(1) serve as the national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention; and

(2) implement the provisions of this Act in coordination with an interagency group designated by the President consisting of the Secretary of Commerce, Secretary of Defense, Secretary of Energy, the Attorney General, and the heads of agencies considered necessary or advisable by the President.

(c) **DIRECTOR.**—The Secretary of State shall serve as the Director of the United States National Authority.

(d) **POWERS.**—The Director may utilize the administrative authorities otherwise available to the Secretary of State in carrying out the responsibilities of the Director set forth in this Act.

(e) **IMPLEMENTATION.**—The President is authorized to implement and carry out the provisions of this Act and the Convention and shall designate through Executive order which agencies of the United States shall issue, amend, or revise the regulations in order to implement this Act and the provisions of the Convention. The Director of the United States National Authority shall report to the Congress on the regulations that have been issued, implemented, or revised pursuant to this section.

22 USC 6712.

**SEC. 102. NO ABRIDGEMENT OF CONSTITUTIONAL RIGHTS.**

No person may be required, as a condition for entering into a contract with the United States or as a condition for receiving any benefit from the United States, to waive any right under the Constitution for any purpose related to this Act or the Convention.

22 USC 6713.

**SEC. 103. CIVIL LIABILITY OF THE UNITED STATES.**

(a) CLAIMS FOR TAKING OF PROPERTY.—

(1) JURISDICTION OF COURTS OF THE UNITED STATES.—

(A) UNITED STATES COURT OF FEDERAL CLAIMS.—The United States Court of Federal Claims shall, subject to subparagraph (B), have jurisdiction of any civil action or claim against the United States for any taking of property without just compensation that occurs by reason of the action of any officer or employee of the Organization for the Prohibition of Chemical Weapons, including any member of an inspection team of the Technical Secretariat, or by reason of the action of any officer or employee of the United States pursuant to this Act or the Convention. For purposes of this subsection, action taken pursuant to or under the color of this Act or the Convention shall be deemed to be action taken by the United States for a public purpose.

(B) DISTRICT COURTS.—The district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action or claim described in subparagraph (A) that does not exceed \$10,000.

(2) NOTIFICATION.—Any person intending to bring a civil action pursuant to paragraph (1) shall notify the United States National Authority of that intent at least one year before filing the claim in the United States Court of Federal Claims. Action on any claim filed during that one-year period shall be stayed. The one-year period following the notification shall not be counted for purposes of any law limiting the period within which the civil action may be commenced.

(3) INITIAL STEPS BY UNITED STATES GOVERNMENT TO SEEK REMEDIES.—During the period between a notification pursuant to paragraph (2) and the filing of a claim covered by the notification in the United States Court of Federal Claims, the United States National Authority shall pursue all diplomatic and other remedies that the United States National Authority considers necessary and appropriate to seek redress for the claim including, but not limited to, the remedies provided for in the Convention and under this Act.

(4) BURDEN OF PROOF.—In any civil action under paragraph (1), the plaintiff shall have the burden to establish a prima facie case that, due to acts or omissions of any official of the Organization or any member of an inspection team of the Technical Secretariat taken under the color of the Convention, proprietary information of the plaintiff has been divulged or taken without authorization. If the United States Court of Federal Claims finds that the plaintiff has demonstrated such a prima facie case, the burden shall shift to the United States to disprove the plaintiff's claim. In deciding whether

the plaintiff has carried its burden, the United States Court of Federal Claims shall consider, among other things—

- (A) the value of proprietary information;
- (B) the availability of the proprietary information;
- (C) the extent to which the proprietary information is based on patents, trade secrets, or other protected intellectual property;
- (D) the significance of proprietary information; and
- (E) the emergence of technology elsewhere a reasonable time after the inspection.

(b) TORT LIABILITY.—The district courts of the United States shall have exclusive jurisdiction of civil actions for money damages for any tort under the Constitution or any Federal or State law arising from the acts or omissions of any officer or employee of the United States or the Organization, including any member of an inspection team of the Technical Secretariat, taken pursuant to or under color of the Convention or this Act.

(c) WAIVER OF SOVEREIGN IMMUNITY OF THE UNITED STATES.—In any action under subsection (a) or (b), the United States may not raise sovereign immunity as a defense.

(d) AUTHORITY FOR CAUSE OF ACTION.—

(1) UNITED STATES ACTIONS IN UNITED STATES DISTRICT COURT.—Notwithstanding any other law, the Attorney General of the United States is authorized to bring an action in the United States District Court for the District of Columbia against any foreign nation for money damages resulting from that nation's refusal to provide indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat who is a national of that foreign nation acting at the direction or the behest of that foreign nation.

(2) UNITED STATES ACTIONS IN COURTS OUTSIDE THE UNITED STATES.—The Attorney General is authorized to seek any and all available redress in any international tribunal for indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat, and to seek such redress in the courts of the foreign nation from which the inspector is a national.

(3) ACTIONS BROUGHT BY INDIVIDUALS AND BUSINESSES.—Notwithstanding any other law, any national of the United States, or any business entity organized and operating under the laws of the United States, may bring a civil action in a United States District Court for money damages against any foreign national or any business entity organized and operating under the laws of a foreign nation for an unauthorized or unlawful acquisition, receipt, transmission, or use of property by or on behalf of such foreign national or business entity as a result of any tort under the Constitution or any Federal or State law arising from acts or omissions by any officer or employee of the United States or any member of an inspection team of the Technical Secretariat taken pursuant to or under the color of the Convention or this Act.

(e) RECOUPMENT.—

(1) POLICY.—It is the policy of the United States to recoup all funds withdrawn from the Treasury of the United States in payment for any tort under Federal or State law or taking

under the Constitution arising from the acts or omissions of any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, taken under color of the Chemical Weapons Convention or this Act.

(2) SANCTIONS ON FOREIGN COMPANIES.—

(A) IMPOSITION OF SANCTIONS.—The sanctions provided in subparagraph (B) shall be imposed for a period of not less than ten years upon—

(i) any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, for whose actions or omissions the United States has been held liable for a tort or taking pursuant to this Act; and

(ii) any foreign person or business entity organized and operating under the laws of a foreign nation which knowingly assisted, encouraged or induced, in any way, a foreign person described in clause (i) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information.

(B) SANCTIONS.—

(i) ARMS EXPORT TRANSACTIONS.—The United States Government shall not sell to a person described in subparagraph (A) any item on the United States Munitions List and shall terminate sales of any defense articles, defense services, or design and construction services to a person described in subparagraph (A) under the Arms Export Control Act.

(ii) SANCTIONS UNDER EXPORT ADMINISTRATION ACT OF 1979.—The authorities under section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act to a person described in subparagraph (A).

(iii) INTERNATIONAL FINANCIAL ASSISTANCE.—The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 701 of the International Financial Institutions Act to a person described in subparagraph (A).

(iv) EXPORT-IMPORT BANK TRANSACTIONS.—The United States shall not give approval to guarantee, insure, or extend credit, or to participate in the extension of credit to a person described in subparagraph (A) through the Export-Import Bank of the United States.

(v) PRIVATE BANK TRANSACTIONS.—Regulations shall be issued to prohibit any United States bank from making any loan or providing any credit to a person described in subparagraph (A).

(vi) BLOCKING OF ASSETS.—The President shall take all steps necessary to block any transactions in any property subject to the jurisdiction of the United States in which a person described in subparagraph (A) has any interest whatsoever, for the purpose of



recouping funds in accordance with the policy in paragraph (1).

(vii) DENIAL OF LANDING RIGHTS.—Landing rights in the United States shall be denied to any private aircraft or air carrier owned by a person described in subparagraph (A) except as necessary to provide for emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(3) SANCTIONS ON FOREIGN GOVERNMENTS.—

(A) IMPOSITION OF SANCTIONS.—Whenever the President determines that persuasive information is available indicating that a foreign country has knowingly assisted, encouraged or induced, in any way, a person described in paragraph (2)(A) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information, the President shall, within 30 days after the receipt of such information by the executive branch of Government, notify the Congress in writing of such determination and, subject to the requirements of paragraphs (4) and (5), impose the sanctions provided under subparagraph (B) for a period of not less than five years.

(B) SANCTIONS.—

(i) ARMS EXPORT TRANSACTIONS.—The United States Government shall not sell a country described in subparagraph (A) any item on the United States Munitions List, shall terminate sales of any defense articles, defense services, or design and construction services to that country under the Arms Export Control Act, and shall terminate all foreign military financing for that country under the Arms Export Control Act.

(ii) DENIAL OF CERTAIN LICENSES.—Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List or commercial satellites.

(iii) DENIAL OF ASSISTANCE.—No appropriated funds may be used for the purpose of providing economic assistance, providing military assistance or grant military education and training, or extending military credits or making guarantees to a country described in subparagraph (A).

(iv) SANCTIONS UNDER EXPORT ADMINISTRATION ACT OF 1979.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act to a country described in subparagraph (A).

(v) INTERNATIONAL FINANCIAL ASSISTANCE.—The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 701 of the International Financial Institutions Act to a country described in subparagraph (A).

(vi) TERMINATION OF ASSISTANCE UNDER FOREIGN ASSISTANCE ACT OF 1961.—The United States shall terminate all assistance to a country described in

subparagraph (A) under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance.

(vii) PRIVATE BANK TRANSACTIONS.—The United States shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit through the Export-Import Bank of the United States to a country described in subparagraph (A).

(viii) PRIVATE BANK TRANSACTIONS.—Regulations shall be issued to prohibit any United States bank from making any loan or providing any credit to a country described in subparagraph (A).

(ix) DENIAL OF LANDING RIGHTS.—Landing rights in the United States shall be denied to any air carrier owned by a country described in subparagraph (A), except as necessary to provide for emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(4) SUSPENSION OF SANCTIONS UPON RECOUPMENT BY PAYMENT.—Sanctions imposed under paragraph (2) or (3) may be suspended if the sanctioned person, business entity, or country, within the period specified in that paragraph, provides full and complete compensation to the United States Government, in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, in satisfaction of a tort or taking for which the United States has been held liable pursuant to this Act.

(5) WAIVER OF SANCTIONS ON FOREIGN COUNTRIES.—The President may waive some or all of the sanctions provided under paragraph (3) in a particular case if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that such waiver is necessary to protect the national security interests of the United States. The certification shall set forth the reasons supporting the determination and shall take effect on the date on which the certification is received by the Congress.

(6) NOTIFICATION TO CONGRESS.—Not later than five days after sanctions become effective against a foreign person pursuant to this Act, the President shall transmit written notification of the imposition of sanctions against that foreign person to the chairmen and ranking members of the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(f) SANCTIONS FOR UNAUTHORIZED DISCLOSURE OF UNITED STATES CONFIDENTIAL BUSINESS INFORMATION.—The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States any alien who, after the date of enactment of this Act—

(1) is, or previously served as, an officer or employee of the Organization and who has willfully published, divulged, disclosed, or made known in any manner or to any extent not authorized by the Convention any United States confidential business information coming to him in the course of his employment or official duties, or by reason of any examination or investigation of any return, report, or record made to or filed with the Organization, or any officer or employee thereof, such practice or disclosure having resulted in financial losses

or damages to a United States person and for which actions or omissions the United States has been found liable of a tort or taking pursuant to this Act;

(2) traffics in United States confidential business information, a proven claim to which is owned by a United States national;

(3) is a corporate officer, principal, shareholder with a controlling interest of an entity which has been involved in the unauthorized disclosure of United States confidential business information, a proven claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(g) UNITED STATES CONFIDENTIAL BUSINESS INFORMATION DEFINED.—In this section, the term “United States confidential business information” means any trade secrets or commercial or financial information that is privileged and confidential—

(1) including—

(A) data described in section 304(e)(2) of this Act,

(B) any chemical structure,

(C) any plant design process, technology, or operating method,

(D) any operating requirement, input, or result that identifies any type or quantity of chemicals used, processed, or produced, or

(E) any commercial sale, shipment, or use of a chemical, or

(2) as described in section 552(b)(4) of title 5, United States Code,

and that is obtained—

(i) from a United States person; or

(ii) through the United States Government or the conduct of an inspection on United States territory under the Convention.

## **TITLE II—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES**

### **Subtitle A—Criminal and Civil Penalties**

#### **SEC. 201. CRIMINAL AND CIVIL PROVISIONS.**

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 11A the following new chapter:

### **“CHAPTER 11B—CHEMICAL WEAPONS**

“Sec.

“229. Prohibited activities.

“229A. Penalties.

“229B. Criminal forfeitures; destruction of weapons.

“229C. Individual self-defense devices.

“229D. Injunctions.

“229E. Requests for military assistance to enforce prohibition in certain emergencies.

“229F. Definitions.

#### **“§ 229. Prohibited activities**

“(a) UNLAWFUL CONDUCT.—Except as provided in subsection (b), it shall be unlawful for any person knowingly—

“(1) to develop, produce, otherwise acquire, transfer directly or indirectly, receive, stockpile, retain, own, possess, or use, or threaten to use, any chemical weapon; or

“(2) to assist or induce, in any way, any person to violate paragraph (1), or to attempt or conspire to violate paragraph (1).

“(b) EXEMPTED AGENCIES AND PERSONS.—

“(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, possession, transfer, or receipt of a chemical weapon by a department, agency, or other entity of the United States, or by a person described in paragraph (2), pending destruction of the weapon.

“(2) EXEMPTED PERSONS.—A person referred to in paragraph (1) is—

“(A) any person, including a member of the Armed Forces of the United States, who is authorized by law or by an appropriate officer of the United States to retain, own, possess, transfer, or receive the chemical weapon; or

“(B) in an emergency situation, any otherwise nonculpable person if the person is attempting to destroy or seize the weapon.

“(c) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

“(1) takes place in the United States;

“(2) takes place outside of the United States and is committed by a national of the United States;

“(3) is committed against a national of the United States while the national is outside the United States; or

“(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.

## “§ 229A. Penalties

“(a) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Any person who violates section 229 of this title shall be fined under this title, or imprisoned for any term of years, or both.

“(2) DEATH PENALTY.—Any person who violates section 229 of this title and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

“(b) CIVIL PENALTIES.—

“(1) IN GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any person who violates section 229 of this title and, upon proof of such violation by a preponderance of the evidence, such person shall be subject to pay a civil penalty in an amount not to exceed \$100,000 for each such violation.

“(2) RELATION TO OTHER PROCEEDINGS.—The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

“(c) REIMBURSEMENT OF COSTS.—The court shall order any person convicted of an offense under subsection (a) to reimburse the United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

**“§ 229B. Criminal forfeitures; destruction of weapons**

“(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—Any person convicted under section 229A(a) shall forfeit to the United States irrespective of any provision of State law—

“(1) any property, real or personal, owned, possessed, or used by a person involved in the offense;

“(2) any property constituting, or derived from, and proceeds the person obtained, directly or indirectly, as the result of such violation; and

“(3) any of the property used in any manner or part, to commit, or to facilitate the commission of, such violation. The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to section 229A(a), that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by section 229A(a), a defendant who derived profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

“(b) PROCEDURES.—

“(1) GENERAL.—Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (b) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except that any reference under those subsections to—

“(A) ‘this subchapter or subchapter II’ shall be deemed to be a reference to section 229A(a); and

“(B) ‘subsection (a)’ shall be deemed to be a reference to subsection (a) of this section.

“(2) TEMPORARY RESTRAINING ORDERS.—

“(A) IN GENERAL.—For the purposes of forfeiture proceedings under this section, a temporary restraining order may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if, in addition to the circumstances described in section 413(e)(2) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(e)(2)), the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and exigent circumstances exist that place the life or health of any person in danger.

“(B) WARRANT OF SEIZURE.—If the court enters a temporary restraining order under this paragraph, it shall also issue a warrant authorizing the seizure of such property.

“(C) APPLICABLE PROCEDURES.—The procedures and time limits applicable to temporary restraining orders under section 413(e) (2) and (3) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(e) (2) and (3)) shall apply to temporary restraining orders under this paragraph.

“(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (b) that the property—

“(1) is for a purpose not prohibited under the Chemical Weapons Convention; and

“(2) is of a type and quantity that under the circumstances is consistent with that purpose.

“(d) DESTRUCTION OR OTHER DISPOSITION.—The Attorney General shall provide for the destruction or other appropriate disposition of any chemical weapon seized and forfeited pursuant to this section.

“(e) ASSISTANCE.—The Attorney General may request the head of any agency of the United States to assist in the handling, storage, transportation, or destruction of property seized under this section.

“(f) OWNER LIABILITY.—The owner or possessor of any property seized under this section shall be liable to the United States for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation, and destruction or other disposition of the seized property.

**“§ 229C. Individual self-defense devices**

“Nothing in this chapter shall be construed to prohibit any individual self-defense device, including those using a pepper spray or chemical mace.

**“§ 229D. Injunctions**

“The United States may obtain in a civil action an injunction against—

“(1) the conduct prohibited under section 229 or 229C of this title; or

“(2) the preparation or solicitation to engage in conduct prohibited under section 229 or 229D of this title.

**“§ 229E. Requests for military assistance to enforce prohibition in certain emergencies**

“The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 229 of this title in an emergency situation involving a chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

**“§ 229F. Definitions**

“In this chapter:

“(1) CHEMICAL WEAPON.—The term ‘chemical weapon’ means the following, together or separately:

“(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this chapter as long as the type and quantity is consistent with such a purpose.

“(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

“(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

“(2) CHEMICAL WEAPONS CONVENTION; CONVENTION.—The terms ‘Chemical Weapons Convention’ and ‘Convention’ mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

“(3) KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.—The term ‘key component of a binary or multicomponent chemical system’ means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

“(4) NATIONAL OF THE UNITED STATES.—The term ‘national of the United States’ has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

“(5) PERSON.—The term ‘person’, except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

“(6) PRECURSOR.—

“(A) IN GENERAL.—The term ‘precursor’ means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

“(B) LIST OF PRECURSORS.—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

“(7) PURPOSES NOT PROHIBITED BY THIS CHAPTER.—The term ‘purposes not prohibited by this chapter’ means the following:

“(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

“(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

“(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent

on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

“(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

“(8) TOXIC CHEMICAL.—

“(A) IN GENERAL.—The term ‘toxic chemical’ means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

“(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

“(9) UNITED STATES.—The term ‘United States’ means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

“(A) any of the places within the provisions of paragraph (41) of section 40102 of title 49, United States Code;

“(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (37), respectively, of section 40102 of title 49, United States Code; and

“(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).”.

(b) CONFORMING AMENDMENTS.—

(1) WEAPONS OF MASS DESTRUCTION.—Section 2332a of title 18, United States Code, is amended—

(A) by striking “§ 2332a. Use of weapons of mass destruction” and inserting “§ 2332a. Use of certain weapons of mass destruction”;

(B) in subsection (a), by inserting “(other than a chemical weapon as that term is defined in section 229F)” after “weapon of mass destruction”; and

(C) in subsection (b), by inserting “(other than a chemical weapon (as that term is defined in section 229F))” after “weapon of mass destruction”.

(2) TABLE OF CHAPTERS.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 11A the following new item:

“11B. Chemical Weapons ..... 229”.

(c) REPEALS.—The following provisions of law are repealed:

(1) Section 2332c of title 18, United States Code, relating to chemical weapons.

(2) In the table of sections for chapter 113B of title 18, United States Code, the item relating to section 2332c.



**Subtitle B—Revocations of Export Privileges****SEC. 211. REVOCATIONS OF EXPORT PRIVILEGES.**

18 USC 229 note.

If the President determines, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that any person within the United States, or any national of the United States located outside the United States, has committed any violation of section 229 of title 18, United States Code, the President may issue an order for the suspension or revocation of the authority of the person to export from the United States any goods or technology (as such terms are defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415)).

**TITLE III—INSPECTIONS****SEC. 301. DEFINITIONS IN THE TITLE.**

22 USC 6721.

(a) **IN GENERAL.**—In this title, the terms “challenge inspection”, “plant site”, “plant”, “facility agreement”, “inspection team”, and “requesting state party” have the meanings given those terms in Part I of the Annex on Implementation and Verification of the Chemical Weapons Convention. The term “routine inspection” means an inspection, other than an “initial inspection”, undertaken pursuant to Article VI of the Convention.

(b) **DEFINITION OF JUDGE OF THE UNITED STATES.**—In this title, the term “judge of the United States” means a judge or magistrate judge of a district court of the United States.

**SEC. 302. FACILITY AGREEMENTS.**

22 USC 6722.

(a) **AUTHORIZATION OF INSPECTIONS.**—Inspections by the Technical Secretariat of plants, plant sites, or other facilities or locations for which the United States has a facility agreement with the Organization shall be conducted in accordance with the facility agreement. Any such facility agreement may not in any way limit the right of the owner or operator of the facility to withhold consent to an inspection request.

(b) **TYPES OF FACILITY AGREEMENTS.**—

(1) **SCHEDULE TWO FACILITIES.**—The United States National Authority shall ensure that facility agreements for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 4 of Article VI of the Convention are concluded unless the owner, operator, occupant, or agent in charge of the facility and the Technical Secretariat agree that such an agreement is not necessary.

(2) **SCHEDULE THREE FACILITIES.**—The United States National Authority shall ensure that facility agreements are concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 5 or 6 of Article VI of the Convention if so requested by the owner, operator, occupant, or agent in charge of the facility.

(c) **NOTIFICATION REQUIREMENTS.**—The United States National Authority shall ensure that the owner, operator, occupant, or agent in charge of a facility prior to the development of the agreement relating to that facility is notified and, if the person notified so requests, the person may participate in the preparations for the negotiation of such an agreement. To the maximum extent practicable consistent with the Convention, the owner and the operator,

occupant or agent in charge of a facility may observe negotiations of the agreement between the United States and the Organization concerning that facility.

(d) **CONTENT OF FACILITY AGREEMENTS.**—Facility agreements shall—

(1) identify the areas, equipment, computers, records, data, and samples subject to inspection;

(2) describe the procedures for providing notice of an inspection to the owner, occupant, operator, or agent in charge of a facility;

(3) describe the timeframes for inspections; and

(4) detail the areas, equipment, computers, records, data, and samples that are not subject to inspection.

22 USC 6723.

**SEC. 303. AUTHORITY TO CONDUCT INSPECTIONS.**

(a) **PROHIBITION.**—No inspection of a plant, plant site, or other facility or location in the United States shall take place under the Convention without the authorization of the United States National Authority in accordance with the requirements of this title.

(b) **AUTHORITY.**—

(1) **TECHNICAL SECRETARIAT INSPECTION TEAMS.**—Any duly designated member of an inspection team of the Technical Secretariat may inspect any plant, plant site, or other facility or location in the United States subject to inspection pursuant to the Convention.

(2) **UNITED STATES GOVERNMENT REPRESENTATIVES.**—The United States National Authority shall coordinate the designation of employees of the Federal Government to accompany members of an inspection team of the Technical Secretariat and, in doing so, shall ensure that—

(A) a special agent of the Federal Bureau of Investigation, as designated by the Federal Bureau of Investigation, accompanies each inspection team visit pursuant to paragraph (1);

(B) no employee of the Environmental Protection Agency or the Occupational Safety and Health Administration accompanies any inspection team visit conducted pursuant to paragraph (1); and

(C) the number of duly designated representatives shall be kept to the minimum necessary.

(3) **OBJECTIONS TO INDIVIDUALS SERVING AS INSPECTORS.**—

(A) **IN GENERAL.**—In deciding whether to exercise the right of the United States under the Convention to object to an individual serving as an inspector, the President shall give great weight to his reasonable belief that—

(i) such individual is or has been a member of, or a participant in, any group or organization that has engaged in, or attempted or conspired to engage in, or aided or abetted in the commission of, any terrorist act or activity;

(ii) such individual has committed any act or activity which would be a felony under the laws of the United States; or

(iii) the participation of such individual as a member of an inspection team would pose a risk to the

national security or economic well-being of the United States.

(B) NOT SUBJECT TO JUDICIAL REVIEW.—Any objection by the President to an individual serving as an inspector, whether made pursuant to this section or otherwise, shall not be reviewable in any court.

**SEC. 304. PROCEDURES FOR INSPECTIONS.**

22 USC 6724.

(a) TYPES OF INSPECTIONS.—Each inspection of a plant, plant site, or other facility or location in the United States under the Convention shall be conducted in accordance with this section and section 305, except where other procedures are provided in a facility agreement entered into under section 302.

(b) NOTICE.—

(1) IN GENERAL.—An inspection referred to in subsection (a) may be made only upon issuance of an actual written notice by the United States National Authority to the owner and to the operator, occupant, or agent in charge of the premises to be inspected.

(2) TIME OF NOTIFICATION.—The notice for a routine inspection shall be submitted to the owner and to the operator, occupant, or agent in charge within six hours of receiving the notification of the inspection from the Technical Secretariat or as soon as possible thereafter. Notice for a challenge inspection shall be provided at any appropriate time determined by the United States National Authority. Notices may be posted prominently at the plant, plant site, or other facility or location if the United States is unable to provide actual written notice to the owner, operator, or agent in charge of the premises.

(3) CONTENT OF NOTICE.—

(A) IN GENERAL.—The notice under paragraph (1) shall include all appropriate information supplied by the Technical Secretariat to the United States National Authority concerning—

- (i) the type of inspection;
- (ii) the basis for the selection of the plant, plant site, or other facility or location for the type of inspection sought;
- (iii) the time and date that the inspection will begin and the period covered by the inspection; and
- (iv) the names and titles of the inspectors.

(B) SPECIAL RULE FOR CHALLENGE INSPECTIONS.—In the case of a challenge inspection pursuant to Article IX of the Convention, the notice shall also include all appropriate evidence or reasons provided by the requesting state party to the Convention for seeking the inspection.

(4) SEPARATE NOTICES REQUIRED.—A separate notice shall be provided for each inspection, except that a notice shall not be required for each entry made during the period covered by the inspection.

(c) CREDENTIALS.—The head of the inspection team of the Technical Secretariat and the accompanying employees of the Federal government shall display appropriate identifying credentials to the owner, operator, occupant, or agent in charge of the premises before the inspection is commenced.

(d) TIMEFRAME FOR INSPECTIONS.—Consistent with the provisions of the Convention, each inspection shall be commenced and

completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.

(e) SCOPE.—

(1) IN GENERAL.—Except as provided in a warrant issued under section 305 or a facility agreement entered into under section 302, an inspection conducted under this title may extend to all things within the premises inspected (including records, files, papers, processes, controls, structures and vehicles) related to whether the requirements of the Convention applicable to such premises have been complied with.

(2) EXCEPTION.—Unless required by the Convention, no inspection under this title shall extend to—

- (A) financial data;
- (B) sales and marketing data (other than shipment data);
- (C) pricing data;
- (D) personnel data;
- (E) research data;
- (F) patent data;
- (G) data maintained for compliance with environmental or occupational health and safety regulations; or
- (H) personnel and vehicles entering and personnel and personal passenger vehicles exiting the facility.

(f) SAMPLING AND SAFETY.—

(1) IN GENERAL.—The Director of the United States National Authority is authorized to require the provision of samples to a member of the inspection team of the Technical Secretariat in accordance with the provisions of the Convention. The owner or the operator, occupant or agent in charge of the premises to be inspected shall determine whether the sample shall be taken by representatives of the premises or the inspection team or other individuals present. No sample collected in the United States pursuant to an inspection permitted by this Act may be transferred for analysis to any laboratory outside the territory of the United States.

(2) COMPLIANCE WITH REGULATIONS.—In carrying out their activities, members of the inspection team of the Technical Secretariat and representatives of agencies or departments accompanying the inspection team shall observe safety regulations established at the premises to be inspected, including those for protection of controlled environments within a facility and for personal safety.

(g) COORDINATION.—The appropriate representatives of the United States, as designated, if present, shall assist the owner and the operator, occupant or agent in charge of the premises to be inspected in interacting with the members of the inspection team of the Technical Secretariat.

22 USC 6725.

**SEC. 305. WARRANTS.**

(a) IN GENERAL.—The United States Government shall seek the consent of the owner or the operator, occupant, or agent in charge of the premises to be inspected prior to any inspection referred to in section 304(a). If consent is obtained, a warrant is not required for the inspection. The owner or the operator, occupant, or agent in charge of the premises to be inspected may withhold consent for any reason or no reason. After providing

notification pursuant to subsection (b), the United States Government may seek a search warrant from a United States magistrate judge. Proceedings regarding the issuance of a search warrant shall be conducted ex parte, unless otherwise requested by the United States Government.

(b) ROUTINE INSPECTIONS.—

(1) OBTAINING ADMINISTRATIVE SEARCH WARRANTS.—For any routine inspection conducted on the territory of the United States pursuant to Article VI of the Convention, where consent has been withheld, the United States Government shall first obtain an administrative search warrant from a judge of the United States. The United States Government shall provide to the judge of the United States all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought. The United States Government shall also provide any other appropriate information available to it relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection.

(2) CONTENT OF AFFIDAVITS FOR ADMINISTRATIVE SEARCH WARRANTS.—The judge of the United States shall promptly issue a warrant authorizing the requested inspection upon an affidavit submitted by the United States Government showing that—

(A) the Chemical Weapons Convention is in force for the United States;

(B) the plant site, plant, or other facility or location sought to be inspected is required to report data under title IV of this Act and is subject to routine inspection under the Convention;

(C) the purpose of the inspection is—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, to verify that the facility is not used to produce any Schedule 1 chemical agent except for declared chemicals; quantities of Schedule 1 chemicals produced, processed, or consumed are correctly declared and consistent with needs for the declared purpose; and Schedule 1 chemicals are not diverted or used for other purposes;

(ii) in the case of any facility related to Schedule 2 chemical agents, to verify that activities are in accordance with obligations under the Convention and consistent with the information provided in data declarations; and

(iii) in the case of any facility related to Schedule 3 chemical agents and any other chemical production facility, to verify that the activities of the facility are consistent with the information provided in data declarations;

(D) the items, documents, and areas to be searched and seized;

(E) in the case of a facility related to Schedule 2 or Schedule 3 chemical agents or unscheduled discrete organic chemicals, the plant site has not been subject to more than 1 routine inspection in the current calendar

year, and, in the case of facilities related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the inspection will not cause the number of routine inspections in the United States to exceed 20 in a calendar year;

(F) the selection of the site was made in accordance with procedures established under the Convention and, in particular—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, the intensity, duration, timing, and mode of the requested inspection is based on the risk to the object and purpose of the Convention by the quantities of chemical produced, the characteristics of the facility and the nature of activities carried out at the facility, and the requested inspection, when considered with previous such inspections of the facility undertaken in the current calendar year, shall not exceed the number reasonably required based on the risk to the object and purpose of the Convention as described above;

(ii) in the case of any facility related to Schedule 2 chemical agents, the Technical Secretariat gave due consideration to the risk to the object and purpose of the Convention posed by the relevant chemical, the characteristics of the plant site and the nature of activities carried out there, taking into account the respective facility agreement as well as the results of the initial inspections and subsequent inspections; and

(iii) in the case of any facility related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the facility was selected randomly by the Technical Secretariat using appropriate mechanisms, such as specifically designed computer software, on the basis of two weighting factors: (I) equitable geographical distribution of inspections; and (II) the information on the declared sites available to the Technical Secretariat, related to the relevant chemical, the characteristics of the plant site, and the nature of activities carried out there;

(G) the earliest commencement and latest closing dates and times of the inspection; and

(H) the duration of inspection will not exceed time limits specified in the Convention unless agreed by the owner, operator, or agent in charge of the plant.

(3) CONTENT OF WARRANTS.—A warrant issued under paragraph (2) shall specify the same matters required of an affidavit under that paragraph. In addition to the requirements for a warrant issued under this paragraph, each warrant shall contain, if known, the identities of the representatives of the Technical Secretariat conducting the inspection and the observers of the inspection and, if applicable, the identities of the representatives of agencies or departments of the United States accompanying those representatives.

(4) CHALLENGE INSPECTIONS.—

(A) CRIMINAL SEARCH WARRANT.—For any challenge inspection conducted on the territory of the United States

pursuant to Article IX of the Chemical Weapons Convention, where consent has been withheld, the United States Government shall first obtain from a judge of the United States a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the person or things to be seized.

(B) INFORMATION PROVIDED.—The United States Government shall provide to the judge of the United States—

(i) all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought;

(ii) any other appropriate information relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection;

(iii) information concerning—

(I) the duration and scope of the inspection;

(II) areas to be inspected;

(III) records and data to be reviewed; and

(IV) samples to be taken;

(iv) appropriate evidence or reasons provided by the requesting state party for the inspection;

(v) any other evidence showing probable cause to believe that a violation of this Act has occurred or is occurring; and

(vi) the identities of the representatives of the Technical Secretariat on the inspection team and the Federal Government employees accompanying the inspection team.

(C) CONTENT OF WARRANT.—The warrant shall specify—

(i) the type of inspection authorized;

(ii) the purpose of the inspection;

(iii) the type of plant site, plant, or other facility or location to be inspected;

(iv) the areas of the plant site, plant, or other facility or location to be inspected;

(v) the items, documents, data, equipment, and computers that may be inspected or seized;

(vi) samples that may be taken;

(vii) the earliest commencement and latest concluding dates and times of the inspection; and

(viii) the identities of the representatives of the Technical Secretariat on the inspection teams and the Federal Government employees accompanying the inspection team.

#### **SEC. 306. PROHIBITED ACTS RELATING TO INSPECTIONS.**

22 USC 6726.

It shall be unlawful for any person willfully to fail or refuse to permit entry or inspection, or to disrupt, delay, or otherwise impede an inspection, authorized by this Act.

#### **SEC. 307. NATIONAL SECURITY EXCEPTION.**

22 USC 6727.

Consistent with the objective of eliminating chemical weapons, the President may deny a request to inspect any facility in the

United States in cases where the President determines that the inspection may pose a threat to the national security interests of the United States.

**SEC. 308. PROTECTION OF CONSTITUTIONAL RIGHTS OF CONTRACTORS.**

(a) The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following:

41 USC 436.

**“SEC. 39. PROTECTION OF CONSTITUTIONAL RIGHTS OF CONTRACTORS.**

“(a) PROHIBITION.—A contractor may not be required, as a condition for entering into a contract with the Federal Government, to waive any right under the Constitution for any purpose related to Chemical Weapons Convention Implementation Act of 1997 or the Chemical Weapons Convention (as defined in section 3 of such Act).

“(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to prohibit an executive agency from including in a contract a clause that requires the contractor to permit inspections for the purpose of ensuring that the contractor is performing the contract in accordance with the provisions of the contract.”.

(b) The table of contents in section 1(b) of such Act is amended by adding at the end the following:

“Sec. 39. Protection of constitutional rights of contractors.”.

22 USC 6728.

**SEC. 309. ANNUAL REPORT ON INSPECTIONS.**

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, and annually thereafter, the President shall submit a report in classified and unclassified form to the appropriate congressional committees on inspections made under the Convention during the preceding year.

(b) CONTENT OF REPORTS.—Each report shall contain the following information for the reporting period:

(1) The name of each company or entity subject to the jurisdiction of the United States reporting data pursuant to title IV of this Act.

(2) The number of inspections under the Convention conducted on the territory of the United States.

(3) The number and identity of inspectors conducting any inspection described in paragraph (2) and the number of inspectors barred from inspection by the United States.

(4) The cost to the United States for each inspection described in paragraph (2).

(5) The total costs borne by United States business firms in the course of inspections described in paragraph (2).

(6) A description of the circumstances surrounding inspections described in paragraph (2), including instances of possible industrial espionage and misconduct of inspectors.

(7) The identity of parties claiming loss of trade secrets, the circumstances surrounding those losses, and the efforts taken by the United States Government to redress those losses.

(8) A description of instances where inspections under the Convention outside the United States have been disrupted or delayed.

(c) DEFINITION.—The term “appropriate congressional committees” means the Committee on the Judiciary, the Committee on Foreign Relations, and the Select Committee on Intelligence of



the Senate and the Committee on the Judiciary, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

**SEC. 310. UNITED STATES ASSISTANCE IN INSPECTIONS AT PRIVATE FACILITIES.** 22 USC 6729.

(a) **ASSISTANCE IN PREPARATION FOR INSPECTIONS.**—At the request of an owner of a facility not owned or operated by the United States Government, or contracted for use by or for the United States Government, the Secretary of Defense may assist the facility to prepare the facility for possible inspections pursuant to the Convention.

(b) **REIMBURSEMENT REQUIREMENT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the owner of a facility provided assistance under subsection (a) shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(2) **EXCEPTION.**—In the case of assistance provided under subsection (a) to a facility owned by a person described in subsection (c), the United States National Authority shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(c) **OWNERS COVERED BY UNITED STATES NATIONAL AUTHORITY REIMBURSEMENTS.**—Subsection (b)(2) applies in the case of assistance provided to the following:

(1) **SMALL BUSINESS CONCERNS.**—A small business concern as defined in section 3 of the Small Business Act.

(2) **DOMESTIC PRODUCERS OF SCHEDULE 3 OR UNSCHEDULED DISCRETE ORGANIC CHEMICALS.**—Any person located in the United States that—

(A) does not possess, produce, process, consume, import, or export any Schedule 1 or Schedule 2 chemical; and

(B) in the calendar year preceding the year in which the assistance is to be provided, produced—

(i) more than 30 metric tons of Schedule 3 or unscheduled discrete organic chemicals that contain phosphorous, sulfur, or fluorine; or

(ii) more than 200 metric tons of unscheduled discrete organic chemicals.

## **TITLE IV—REPORTS**

**SEC. 401. REPORTS REQUIRED BY THE UNITED STATES NATIONAL AUTHORITY.** 22 USC 6741.

(a) **REGULATIONS ON RECORDKEEPING.**—

(1) **REQUIREMENTS.**—The United States National Authority shall ensure that regulations are prescribed that require each person located in the United States who produces, processes, consumes, exports, or imports, or proposes to produce, process, consume, export, or import, a chemical substance that is subject to the Convention to—

(A) maintain and permit access to records related to that production, processing, consumption, export, or import of such substance; and

(B) submit to the Director of the United States National Authority such reports as the United States National Authority may reasonably require to provide to the Organization, pursuant to subparagraph 1(a) of the Annex on Confidentiality of the Convention, the minimum amount of information and data necessary for the timely and efficient conduct by the Organization of its responsibilities under the Convention.

(2) RULEMAKING.—The Director of the United States National Authority shall ensure that regulations pursuant to this section are prescribed expeditiously.

(b) COORDINATION.—

(1) AVOIDANCE OF DUPLICATION.—To the extent feasible, the United States Government shall not require the submission of any report that is unnecessary or duplicative of any report required by or under any other law. The head of each Federal agency shall coordinate the actions of that agency with the heads of the other Federal agencies in order to avoid the imposition of duplicative reporting requirements under this Act or any other law.

(2) DEFINITION.—As used in paragraph (1), the term “Federal agency” has the meaning given the term “agency” in section 551(1) of title 5, United States Code.

22 USC 6742.

**SEC. 402. PROHIBITION RELATING TO LOW CONCENTRATIONS OF SCHEDULE 2 AND 3 CHEMICALS.**

(a) PROHIBITION.—Notwithstanding any other provision of this Act, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that contains less than—

(1) 10 percent concentration of a Schedule 2 chemical;

or

(2) 80 percent concentration of a Schedule 3 chemical.

(b) STANDARD FOR MEASUREMENT OF CONCENTRATION.—The percent concentration of a chemical in a substance shall be measured on the basis of volume or total weight, which measurement yields the lesser percent.

22 USC 6743.

**SEC. 403. PROHIBITION RELATING TO UNSCHEDULED DISCRETE ORGANIC CHEMICALS AND COINCIDENTAL BYPRODUCTS IN WASTE STREAMS.**

(a) PROHIBITION.—Notwithstanding any other provision of this Act, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that is—

(1) an unscheduled discrete organic chemical; and

(2) a coincidental byproduct of a manufacturing or production process that is not isolated or captured for use or sale during the process and is routed to, or escapes, from the waste stream of a stack, incinerator, or wastewater treatment system or any other waste stream.

**SEC. 404. CONFIDENTIALITY OF INFORMATION.**

22 USC 6744.

(a) **FREEDOM OF INFORMATION ACT EXEMPTION FOR CERTAIN CONVENTION INFORMATION.**—Except as provided in subsection (b) or (c), any confidential business information, as defined in section 103(g), reported to, or otherwise acquired by, the United States Government under this Act or under the Convention shall not be disclosed under section 552(a) of title 5, United States Code.

(b) **EXCEPTIONS.**—

(1) **INFORMATION FOR THE TECHNICAL SECRETARIAT.**—Information shall be disclosed or otherwise provided to the Technical Secretariat or other states parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information.

(2) **INFORMATION FOR CONGRESS.**—Information shall be made available to any committee or subcommittee of Congress with appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, and no member and no staff member of such committee or subcommittee, shall disclose such information or material except as otherwise required or authorized by law.

(3) **INFORMATION FOR ENFORCEMENT ACTIONS.**—Information shall be disclosed to other Federal agencies for enforcement of this Act or any other law, and shall be disclosed or otherwise provided when relevant in any proceeding under this Act or any other law, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

(c) **INFORMATION DISCLOSED IN THE NATIONAL INTEREST.**—

(1) **AUTHORITY.**—The United States Government shall disclose any information reported to, or otherwise required by the United States Government under this Act or the Convention, including categories of such information, that it determines is in the national interest to disclose and may specify the form in which such information is to be disclosed.

(2) **NOTICE OF DISCLOSURE.**—

(A) **REQUIREMENT.**—If any Department or agency of the United States Government proposes pursuant to paragraph (1) to publish or disclose or otherwise provide information exempt from disclosure under subsection (a), the United States National Authority shall, unless contrary to national security or law enforcement needs, provide notice of intent to disclose the information—

- (i) to the person that submitted such information;
- and
- (ii) in the case of information about a person received from another source, to the person to whom that information pertains.

The information may not be disclosed until the expiration of 30 days after notice under this paragraph has been provided.

(B) **PROCEEDINGS ON OBJECTIONS.**—In the event that the person to which the information pertains objects to the disclosure, the agency shall promptly review the grounds for each objection of the person and shall afford

the objecting person a hearing for the purpose of presenting the objections to the disclosure. Not later than 10 days before the scheduled or rescheduled date for the disclosure, the United States National Authority shall notify such person regarding whether such disclosure will occur notwithstanding the objections.

(d) **CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.**—Any officer or employee of the United States, and any former officer or employee of the United States, who by reason of such employment or official position has obtained possession of, or has access to, information the disclosure or other provision of which is prohibited by subsection (a), and who, knowing that disclosure or provision of such information is prohibited by such subsection, willfully discloses or otherwise provides the information in any manner to any person (including any person located outside the territory of the United States) not authorized to receive it, shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

(e) **CRIMINAL FORFEITURE.**—The property of any person who violates subsection (d) shall be subject to forfeiture to the United States in the same manner and to the same extent as is provided in section 229C of title 18, United States Code, as added by this Act.

(f) **INTERNATIONAL INSPECTORS.**—The provisions of this section shall also apply to employees of the Technical Secretariat.

22 USC 6745.

#### **SEC. 405. RECORDKEEPING VIOLATIONS.**

It shall be unlawful for any person willfully to fail or refuse—

(1) to establish or maintain any record required by this Act or any regulation prescribed under this Act;

(2) to submit any report, notice, or other information to the United States Government in accordance with this Act or any regulation prescribed under this Act; or

(3) to permit access to or copying of any record that is exempt from disclosure under this Act or any regulation prescribed under this Act.

## **TITLE V—ENFORCEMENT**

22 USC 6761.

#### **SEC. 501. PENALTIES.**

(a) **CIVIL.**—

(1) **PENALTY AMOUNTS.**—

(A) **PROHIBITED ACTS RELATING TO INSPECTIONS.**—Any person that is determined, in accordance with paragraph (2), to have violated section 306 of this Act shall be required by order to pay a civil penalty in an amount not to exceed \$25,000 for each such violation. For purposes of this paragraph, each day such a violation of section 306 continues shall constitute a separate violation of that section.

(B) **RECORDKEEPING VIOLATIONS.**—Any person that is determined, in accordance with paragraph (2), to have violated section 405 of this Act shall be required by order to pay a civil penalty in an amount not to exceed \$5,000 for each such violation.

(2) **HEARING.**—

(A) IN GENERAL.—Before imposing an order described in paragraph (1) against a person under this subsection for a violation of section 306 or 405, the Secretary of State shall provide the person or entity with notice and, upon request made within 15 days of the date of the notice, a hearing respecting the violation.

(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. If no hearing is so requested, the Secretary of State's imposition of the order shall constitute a final and unappealable order.

(C) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated section 306 or 405, the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (1).

(D) FACTORS FOR DETERMINATION OF PENALTY AMOUNTS.—In determining the amount of any civil penalty, the administrative law judge shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(3) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the head of the United States National Authority unless, within 30 days, the head of the United States National Authority modifies or vacates the decision and order, with or without conditions, in which case the decision and order of the head of the United States National Authority shall become a final order under this subsection.

(4) OFFSETS.—The amount of the civil penalty under a final order of the United States National Authority may be deducted from any sums owed by the United States to the person.

(5) JUDICIAL REVIEW.—A person adversely affected by a final order respecting an assessment may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business.

(6) ENFORCEMENT OF ORDERS.—If a person fails to comply with a final order issued under this subsection against the person or entity—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (5), or

(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the United States National Authority,

the Secretary of State shall file a suit to seek compliance with the order in any appropriate district court of the United States, plus interest at currently prevailing rates calculated from the date of expiration of the 30-day period referred to in paragraph (5) or the date of such final judgment, as the case may be. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly violates any provision of section 306 or 405 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than one year, or both.

22 USC 6762.

**SEC. 502. SPECIFIC ENFORCEMENT.**

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over civil actions to—

(1) restrain any violation of section 306 or 405 of this Act; and

(2) compel the taking of any action required by or under this Act or the Convention.

(b) CIVIL ACTIONS.—

(1) IN GENERAL.—A civil action described in subsection (a) may be brought—

(A) in the case of a civil action described in subsection (a)(1), in the United States district court for the judicial district in which any act, omission, or transaction constituting a violation of section 306 or 405 occurred or in which the defendant is found or transacts business; or

(B) in the case of a civil action described in subsection (a)(2), in the United States district court for the judicial district in which the defendant is found or transacts business.

(2) SERVICE OF PROCESS.—In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

22 USC 6763.

**SEC. 503. EXPEDITED JUDICIAL REVIEW.**

(a) CIVIL ACTION.—Any person or entity subject to a search under this Act may file a civil action challenging the constitutionality of any provision of this Act. Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following, the enactment of this Act, the district court shall accord such a case a priority in its disposition ahead of all other civil actions except for actions challenging the legality and conditions of confinement.

(b) EN BANC REVIEW.—Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following, the enactment of this Act, any appeal from a final order entered by a district court in an action brought under subsection (a) shall be heard promptly by the full Court of Appeals sitting en banc.

## TITLE VI—MISCELLANEOUS PROVISIONS

### SEC. 601. REPEAL.

Section 808 of the Department of Defense Appropriation Authorization Act, 1978 (50 U.S.C. 1520; relating to the use of human subjects for the testing of chemical or biological agents) is repealed.

### SEC. 602. PROHIBITION.

22 USC 6771.

(a) IN GENERAL.—Neither the Secretary of Defense nor any other officer or employee of the United States may, directly or by contract—

- (1) conduct any test or experiment involving the use of any chemical or biological agent on a civilian population; or
- (2) use human subjects for the testing of chemical or biological agents.

(b) CONSTRUCTION.—Nothing in subsection (a) may be construed to prohibit actions carried out for purposes not prohibited by this Act (as defined in section 3(8)).

(c) BIOLOGICAL AGENT DEFINED.—In this section, the term “biological agent” means any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

- (1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;
- (2) deterioration of food, water, equipment, supplies, or materials of any kind; or
- (3) deleterious alteration of the environment.

### SEC. 603. BANKRUPTCY ACTIONS.

Section 362(b) of title 11, United States Code, is amended—

- (1) by striking paragraphs (4) and (5); and
- (2) by inserting after paragraph (3) the following:

“(4) under paragraph (1), (2), (3), or (6) of subsection (a) of this section, of the commencement or continuation of an action or proceeding by a governmental unit or any organization exercising authority under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993, to enforce such governmental unit’s or organization’s police and regulatory power, including the enforcement of a judgment other than a money judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit’s or organization’s police or regulatory power;”.

## DIVISION J—REVENUES AND MEDICARE

### SEC. 1000. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

Tax and Trade  
Relief Extension  
Act of 1998.  
26 USC 1 note.

(a) SHORT TITLE.—This division may be cited as the “Tax and Trade Relief Extension Act of 1998”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

DIVISION J—REVENUES AND MEDICARE

Sec. 1000. Short title; amendment of 1986 Code; table of contents.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Tax Provisions

- Sec. 1001. Research credit.
- Sec. 1002. Work opportunity credit.
- Sec. 1003. Welfare-to-work credit.
- Sec. 1004. Contributions of stock to private foundations; expanded public inspection of private foundations' annual returns.
- Sec. 1005. Subpart F exemption for active financing income.
- Sec. 1006. Disclosure of return information on income contingent student loans.

Subtitle B—Trade Provisions

- Sec. 1011. Extension of duty-free treatment under Generalized System of Preferences.
- Sec. 1012. Trade adjustment assistance.

TITLE II—OTHER TAX PROVISIONS

Subtitle A—Provisions Relating to Individuals

- Sec. 2001. Nonrefundable personal credits fully allowed against regular tax liability during 1998.
- Sec. 2002. 100 percent deduction for health insurance costs of self-employed individuals.
- Sec. 2003. Modification of estimated tax safe harbors.

Subtitle B—Provisions Relating to Farmers

- Sec. 2011. Income averaging for farmers made permanent.
- Sec. 2012. Production flexibility contract payments.
- Sec. 2013. 5-year net operating loss carryback for farming losses.

Subtitle C—Miscellaneous Provisions

- Sec. 2021. Increase in volume cap on private activity bonds.
- Sec. 2022. Depreciation study.
- Sec. 2023. Exemption for students employed by State schools, colleges, or universities.

TITLE III—REVENUE OFFSETS

- Sec. 3001. Treatment of certain deductible liquidating distributions of regulated investment companies and real estate investment trusts.
- Sec. 3002. Inclusion of rotavirus gastroenteritis as a taxable vaccine.
- Sec. 3003. Clarification and expansion of mathematical error assessment procedures.
- Sec. 3004. Clarification of definition of specified liability loss.

TITLE IV—TECHNICAL CORRECTIONS

- Sec. 4001. Definitions; coordination with other subtitles.
- Sec. 4002. Amendments related to Internal Revenue Service Restructuring and Reform Act of 1998.
- Sec. 4003. Amendments related to Taxpayer Relief Act of 1997.
- Sec. 4004. Amendments related to Tax Reform Act of 1984.
- Sec. 4005. Amendments related to Uruguay Round Agreements Act.
- Sec. 4006. Other amendments.

TITLE V—MEDICARE-RELATED PROVISIONS

Subtitle A—Home Health

- Sec. 5101. Increase in per beneficiary limits and per visit payment limits for payment for home health services.



Subtitle B—Other Medicare-Related Provisions

- Sec. 5201. Authorization of additional exceptions to imposition of penalties for providing inducements to beneficiaries.  
 Sec. 5202. Expansion of membership of MedPAC to 17.

Subtitle C—Revenue Offsets

- Sec. 5301. Tax treatment of cash option for qualified prizes.

**TITLE I—EXTENSION AND MODIFICATION OF CERTAIN EXPIRING PROVISIONS**

**Subtitle A—Tax Provisions**

**SEC. 1001. RESEARCH CREDIT.**

(a) TEMPORARY EXTENSION.—Paragraph (1) of section 41(h) (relating to termination) is amended—

- (1) by striking “June 30, 1998” and inserting “June 30, 1999”;
- (2) by striking “24-month” and inserting “36-month”; and
- (3) by striking “24 months” and inserting “36 months”.

(b) TECHNICAL AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking “June 30, 1998” and inserting “June 30, 1999”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1998. 26 USC 41 note.

**SEC. 1002. WORK OPPORTUNITY CREDIT.**

(a) TEMPORARY EXTENSION.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking “June 30, 1998” and inserting “June 30, 1999”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after June 30, 1998. 26 USC 51 note.

**SEC. 1003. WELFARE-TO-WORK CREDIT.**

Subsection (f) of section 51A (relating to termination) is amended by striking “April 30, 1999” and inserting “June 30, 1999”.

**SEC. 1004. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS; EXPANDED PUBLIC INSPECTION OF PRIVATE FOUNDATIONS’ ANNUAL RETURNS.**

(a) SPECIAL RULE FOR CONTRIBUTIONS OF STOCK MADE PERMANENT.—

(1) IN GENERAL.—Paragraph (5) of section 170(e) is amended by striking subparagraph (D) (relating to termination).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contributions made after June 30, 1998. 26 USC 170 note.

(b) EXPANDED PUBLIC INSPECTION OF PRIVATE FOUNDATIONS’ ANNUAL RETURNS, ETC.—

(1) IN GENERAL.—Section 6104 (relating to publicity of information required from certain exempt organizations and certain trusts) is amended by striking subsections (d) and (e) and inserting after subsection (c) the following new subsection: “(d) PUBLIC INSPECTION OF CERTAIN ANNUAL RETURNS AND APPLICATIONS FOR EXEMPTION.—

“(1) IN GENERAL.—In the case of an organization described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a)—

“(A) a copy of—

“(i) the annual return filed under section 6033 (relating to returns by exempt organizations) by such organization, and

“(ii) if the organization filed an application for recognition of exemption under section 501, the exempt status application materials of such organization,

shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

“(B) upon request of an individual made at such principal office or such a regional or district office, a copy of such annual return and exempt status application materials shall be provided to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

The request described in subparagraph (B) must be made in person or in writing. If such request is made in person, such copy shall be provided immediately and, if made in writing, shall be provided within 30 days.

“(2) 3-YEAR LIMITATION ON INSPECTION OF RETURNS.—Paragraph (1) shall apply to an annual return filed under section 6033 only during the 3-year period beginning on the last day prescribed for filing such return (determined with regard to any extension of time for filing).

“(3) EXCEPTIONS FROM DISCLOSURE REQUIREMENT.—

“(A) NONDISCLOSURE OF CONTRIBUTORS, ETC.—In the case of an organization which is not a private foundation (within the meaning of section 509(a)), paragraph (1) shall not require the disclosure of the name or address of any contributor to the organization. In the case of an organization described in section 501(d), paragraph (1) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization.

“(B) NONDISCLOSURE OF CERTAIN OTHER INFORMATION.—Paragraph (1) shall not require the disclosure of any information if the Secretary withheld such information from public inspection under subsection (a)(1)(D).

“(4) LIMITATION ON PROVIDING COPIES.—Paragraph (1)(B) shall not apply to any request if, in accordance with regulations promulgated by the Secretary, the organization has made the requested documents widely available, or the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest.

“(5) EXEMPT STATUS APPLICATION MATERIALS.—For purposes of paragraph (1), the term ‘exempt status application materials’ means the application for recognition of exemption under section 501 and any papers submitted in support of such application and any letter or other document issued by the Internal Revenue Service with respect to such application.”.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 6033 is amended by adding “and” at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(B) Subparagraph (C) of section 6652(c)(1) is amended by striking “subsection (d) or (e)(1) of section 6104 (relating to public inspection of annual returns)” and inserting “section 6104(d) with respect to any annual return”.

(C) Subparagraph (D) of section 6652(c)(1) is amended by striking “section 6104(e)(2) (relating to public inspection of applications for exemption)” and inserting “section 6104(d) with respect to any exempt status application materials (as defined in such section)”.

(D) Section 6685 is amended by striking “or (e)”.

(E) Section 7207 is amended by striking “or (e)”.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to requests made after the later of December 31, 1998, or the 60th day after the Secretary of the Treasury first issues the regulations referred to in section 6104(d)(4) of the Internal Revenue Code of 1986, as amended by this section.

(B) PUBLICATION OF ANNUAL RETURNS.—Section 6104(d) of such Code, as in effect before the amendments made by this subsection, shall not apply to any return the due date for which is after the date such amendments take effect under subparagraph (A).

26 USC 6104  
note.

#### SEC. 1005. SUBPART F EXEMPTION FOR ACTIVE FINANCING INCOME.

(a) INCOME DERIVED FROM BANKING, FINANCING, OR SIMILAR BUSINESSES.—Section 954(h) (relating to income derived in the active conduct of banking, financing, or similar businesses) is amended to read as follows:

“(h) SPECIAL RULE FOR INCOME DERIVED IN THE ACTIVE CONDUCT OF BANKING, FINANCING, OR SIMILAR BUSINESSES.—

“(1) IN GENERAL.—For purposes of subsection (c)(1), foreign personal holding company income shall not include qualified banking or financing income of an eligible controlled foreign corporation.

“(2) ELIGIBLE CONTROLLED FOREIGN CORPORATION.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘eligible controlled foreign corporation’ means a controlled foreign corporation which—

“(i) is predominantly engaged in the active conduct of a banking, financing, or similar business, and

“(ii) conducts substantial activity with respect to such business.

“(B) PREDOMINANTLY ENGAGED.—A controlled foreign corporation shall be treated as predominantly engaged in the active conduct of a banking, financing, or similar business if—

“(i) more than 70 percent of the gross income of the controlled foreign corporation is derived directly from the active and regular conduct of a lending or finance business from transactions with customers which are not related persons,

“(ii) it is engaged in the active conduct of a banking business and is an institution licensed to do business as a bank in the United States (or is any other

corporation not so licensed which is specified by the Secretary in regulations), or

“(iii) it is engaged in the active conduct of a securities business and is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934 or is registered as a Government securities broker or dealer under section 15C(a) of such Act (or is any other corporation not so registered which is specified by the Secretary in regulations).

“(3) QUALIFIED BANKING OR FINANCING INCOME.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified banking or financing income’ means income of an eligible controlled foreign corporation which—

“(i) is derived in the active conduct of a banking, financing, or similar business by—

“(I) such eligible controlled foreign corporation,

or

“(II) a qualified business unit of such eligible controlled foreign corporation,

“(ii) is derived from one or more transactions—

“(I) with customers located in a country other than the United States, and

“(II) substantially all of the activities in connection with which are conducted directly by the corporation or unit in its home country, and

“(iii) is treated as earned by such corporation or unit in its home country for purposes of such country’s tax laws.

“(B) LIMITATION ON NONBANKING AND NONSECURITIES BUSINESSES.—No income of an eligible controlled foreign corporation not described in clause (ii) or (iii) of paragraph (2)(B) (or of a qualified business unit of such corporation) shall be treated as qualified banking or financing income unless more than 30 percent of such corporation’s or unit’s gross income is derived directly from the active and regular conduct of a lending or finance business from transactions with customers which are not related persons and which are located within such corporation’s or unit’s home country.

“(C) SUBSTANTIAL ACTIVITY REQUIREMENT FOR CROSS BORDER INCOME.—The term ‘qualified banking or financing income’ shall not include income derived from 1 or more transactions with customers located in a country other than the home country of the eligible controlled foreign corporation or a qualified business unit of such corporation unless such corporation or unit conducts substantial activity with respect to a banking, financing, or similar business in its home country.

“(D) DETERMINATIONS MADE SEPARATELY.—For purposes of this paragraph, the qualified banking or financing income of an eligible controlled foreign corporation and each qualified business unit of such corporation shall be determined separately for such corporation and each such unit by taking into account—

“(i) in the case of the eligible controlled foreign corporation, only items of income, deduction, gain, or

loss and activities of such corporation not properly allocable or attributable to any qualified business unit of such corporation, and

“(ii) in the case of a qualified business unit, only items of income, deduction, gain, or loss and activities properly allocable or attributable to such unit.

“(4) LENDING OR FINANCE BUSINESS.—For purposes of this subsection, the term ‘lending or finance business’ means the business of—

“(A) making loans,

“(B) purchasing or discounting accounts receivable, notes, or installment obligations,

“(C) engaging in leasing (including entering into leases and purchasing, servicing, and disposing of leases and leased assets),

“(D) issuing letters of credit or providing guarantees,

“(E) providing charge and credit card services, or

“(F) rendering services or making facilities available in connection with activities described in subparagraphs (A) through (E) carried on by—

“(i) the corporation (or qualified business unit) rendering services or making facilities available, or

“(ii) another corporation (or qualified business unit of a corporation) which is a member of the same affiliated group (as defined in section 1504, but determined without regard to section 1504(b)(3)).

“(5) OTHER DEFINITIONS.—For purposes of this subsection—

“(A) CUSTOMER.—The term ‘customer’ means, with respect to any controlled foreign corporation or qualified business unit, any person which has a customer relationship with such corporation or unit and which is acting in its capacity as such.

“(B) HOME COUNTRY.—Except as provided in regulations—

“(i) CONTROLLED FOREIGN CORPORATION.—The term ‘home country’ means, with respect to any controlled foreign corporation, the country under the laws of which the corporation was created or organized.

“(ii) QUALIFIED BUSINESS UNIT.—The term ‘home country’ means, with respect to any qualified business unit, the country in which such unit maintains its principal office.

“(C) LOCATED.—The determination of where a customer is located shall be made under rules prescribed by the Secretary.

“(D) QUALIFIED BUSINESS UNIT.—The term ‘qualified business unit’ has the meaning given such term by section 989(a).

“(E) RELATED PERSON.—The term ‘related person’ has the meaning given such term by subsection (d)(3).

“(6) COORDINATION WITH EXCEPTION FOR DEALERS.—Paragraph (1) shall not apply to income described in subsection (c)(2)(C)(ii) of a dealer in securities (within the meaning of section 475) which is an eligible controlled foreign corporation described in paragraph (2)(B)(iii).

“(7) ANTI-ABUSE RULES.—For purposes of applying this subsection and subsection (c)(2)(C)(ii)—

“(A) there shall be disregarded any item of income, gain, loss, or deduction with respect to any transaction or series of transactions one of the principal purposes of which is qualifying income or gain for the exclusion under this section, including any transaction or series of transactions a principal purpose of which is the acceleration or deferral of any item in order to claim the benefits of such exclusion through the application of this subsection,

“(B) there shall be disregarded any item of income, gain, loss, or deduction of an entity which is not engaged in regular and continuous transactions with customers which are not related persons,

“(C) there shall be disregarded any item of income, gain, loss, or deduction with respect to any transaction or series of transactions utilizing, or doing business with—

“(i) one or more entities in order to satisfy any home country requirement under this subsection, or

“(ii) a special purpose entity or arrangement, including a securitization, financing, or similar entity or arrangement,

if one of the principal purposes of such transaction or series of transactions is qualifying income or gain for the exclusion under this subsection, and

“(D) a related person, an officer, a director, or an employee with respect to any controlled foreign corporation (or qualified business unit) which would otherwise be treated as a customer of such corporation or unit with respect to any transaction shall not be so treated if a principal purpose of such transaction is to satisfy any requirement of this subsection.

“(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, subsection (c)(1)(B)(i), subsection (c)(2)(C)(ii), and the last sentence of subsection (e)(2).

“(9) APPLICATION.—This subsection, subsection (c)(2)(C)(ii), and the last sentence of subsection (e)(2) shall apply only to the first taxable year of a foreign corporation beginning after December 31, 1998, and before January 1, 2000, and to taxable years of United States shareholders with or within which such taxable year of such foreign corporation ends.”.

(b) INCOME DERIVED FROM INSURANCE BUSINESS.—

(1) INCOME ATTRIBUTABLE TO ISSUANCE OR REINSURANCE.—

(A) IN GENERAL.—Section 953(a) (defining insurance income) is amended to read as follows:

“(a) INSURANCE INCOME.—

“(1) IN GENERAL.—For purposes of section 952(a)(1), the term ‘insurance income’ means any income which—

“(A) is attributable to the issuing (or reinsuring) of an insurance or annuity contract, and

“(B) would (subject to the modifications provided by subsection (b)) be taxed under subchapter L of this chapter if such income were the income of a domestic insurance company.

“(2) EXCEPTION.—Such term shall not include any exempt insurance income (as defined in subsection (e)).”.

(B) EXEMPT INSURANCE INCOME.—Section 953 (relating to insurance income) is amended by adding at the end the following new subsection:

“(e) EXEMPT INSURANCE INCOME.—For purposes of this section—

“(1) EXEMPT INSURANCE INCOME DEFINED.—

“(A) IN GENERAL.—The term ‘exempt insurance income’ means income derived by a qualifying insurance company which—

“(i) is attributable to the issuing (or reinsuring) of an exempt contract by such company or a qualifying insurance company branch of such company, and

“(ii) is treated as earned by such company or branch in its home country for purposes of such country’s tax laws.

“(B) EXCEPTION FOR CERTAIN ARRANGEMENTS.—Such term shall not include income attributable to the issuing (or reinsuring) of an exempt contract as the result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect of issuing (or reinsuring) a contract which is not an exempt contract.

“(C) DETERMINATIONS MADE SEPARATELY.—For purposes of this subsection and section 954(i), the exempt insurance income and exempt contracts of a qualifying insurance company or any qualifying insurance company branch of such company shall be determined separately for such company and each such branch by taking into account—

“(i) in the case of the qualifying insurance company, only items of income, deduction, gain, or loss, and activities of such company not properly allocable or attributable to any qualifying insurance company branch of such company, and

“(ii) in the case of a qualifying insurance company branch, only items of income, deduction, gain, or loss and activities properly allocable or attributable to such branch.

“(2) EXEMPT CONTRACT.—

“(A) IN GENERAL.—The term ‘exempt contract’ means an insurance or annuity contract issued or reinsured by a qualifying insurance company or qualifying insurance company branch in connection with property in, liability arising out of activity in, or the lives or health of residents of, a country other than the United States.

“(B) MINIMUM HOME COUNTRY INCOME REQUIRED.—

“(i) IN GENERAL.—No contract of a qualifying insurance company or of a qualifying insurance company branch shall be treated as an exempt contract unless such company or branch derives more than 30 percent of its net written premiums from exempt contracts (determined without regard to this subparagraph)—

“(I) which cover applicable home country risks, and

“(II) with respect to which no policyholder, insured, annuitant, or beneficiary is a related person (as defined in section 954(d)(3)).

“(ii) APPLICABLE HOME COUNTRY RISKS.—The term ‘applicable home country risks’ means risks in connection with property in, liability arising out of activity in, or the lives or health of residents of, the home country of the qualifying insurance company or qualifying insurance company branch, as the case may be, issuing or reinsuring the contract covering the risks.

“(C) SUBSTANTIAL ACTIVITY REQUIREMENTS FOR CROSS BORDER RISKS.—A contract issued by a qualifying insurance company or qualifying insurance company branch which covers risks other than applicable home country risks (as defined in subparagraph (B)(ii)) shall not be treated as an exempt contract unless such company or branch, as the case may be—

“(i) conducts substantial activity with respect to an insurance business in its home country, and

“(ii) performs in its home country substantially all of the activities necessary to give rise to the income generated by such contract.

“(3) QUALIFYING INSURANCE COMPANY.—The term ‘qualifying insurance company’ means any controlled foreign corporation which—

“(A) is subject to regulation as an insurance (or reinsurance) company by its home country, and is licensed, authorized, or regulated by the applicable insurance regulatory body for its home country to sell insurance, reinsurance, or annuity contracts to persons other than related persons (within the meaning of section 954(d)(3)) in such home country,

“(B) derives more than 50 percent of its aggregate net written premiums from the issuance or reinsurance by such controlled foreign corporation and each of its qualifying insurance company branches of contracts—

“(i) covering applicable home country risks (as defined in paragraph (2)) of such corporation or branch, as the case may be, and

“(ii) with respect to which no policyholder, insured, annuitant, or beneficiary is a related person (as defined in section 954(d)(3)),

except that in the case of a branch, such premiums shall only be taken into account to the extent such premiums are treated as earned by such branch in its home country for purposes of such country’s tax laws, and

“(C) is engaged in the insurance business and would be subject to tax under subchapter L if it were a domestic corporation.

“(4) QUALIFYING INSURANCE COMPANY BRANCH.—The term ‘qualifying insurance company branch’ means a qualified business unit (within the meaning of section 989(a)) of a controlled foreign corporation if—

“(A) such unit is licensed, authorized, or regulated by the applicable insurance regulatory body for its home country to sell insurance, reinsurance, or annuity contracts to persons other than related persons (within the meaning of section 954(d)(3)) in such home country, and



“(B) such controlled foreign corporation is a qualifying insurance company, determined under paragraph (3) as if such unit were a qualifying insurance company branch.

“(5) LIFE INSURANCE OR ANNUITY CONTRACT.—For purposes of this section and section 954, the determination of whether a contract issued by a controlled foreign corporation or a qualified business unit (within the meaning of section 989(a)) is a life insurance contract or an annuity contract shall be made without regard to sections 72(s), 101(f), 817(h), and 7702 if—

“(A) such contract is regulated as a life insurance or annuity contract by the corporation’s or unit’s home country, and

“(B) no policyholder, insured, annuitant, or beneficiary with respect to the contract is a United States person.

“(6) HOME COUNTRY.—For purposes of this subsection, except as provided in regulations—

“(A) CONTROLLED FOREIGN CORPORATION.—The term ‘home country’ means, with respect to a controlled foreign corporation, the country in which such corporation is created or organized.

“(B) QUALIFIED BUSINESS UNIT.—The term ‘home country’ means, with respect to a qualified business unit (as defined in section 989(a)), the country in which the principal office of such unit is located and in which such unit is licensed, authorized, or regulated by the applicable insurance regulatory body to sell insurance, reinsurance, or annuity contracts to persons other than related persons (as defined in section 954(d)(3)) in such country.

“(7) ANTI-ABUSE RULES.—For purposes of applying this subsection and section 954(i)—

“(A) the rules of section 954(h)(7) (other than subparagraph (B) thereof) shall apply,

“(B) there shall be disregarded any item of income, gain, loss, or deduction of, or derived from, an entity which is not engaged in regular and continuous transactions with persons which are not related persons,

“(C) there shall be disregarded any change in the method of computing reserves a principal purpose of which is the acceleration or deferral of any item in order to claim the benefits of this subsection or section 954(i),

“(D) a contract of insurance or reinsurance shall not be treated as an exempt contract (and premiums from such contract shall not be taken into account for purposes of paragraph (2)(B) or (3)) if—

“(i) any policyholder, insured, annuitant, or beneficiary is a resident of the United States and such contract was marketed to such resident and was written to cover a risk outside the United States, or

“(ii) the contract covers risks located within and without the United States and the qualifying insurance company or qualifying insurance company branch does not maintain such contemporaneous records, and file such reports, with respect to such contract as the Secretary may require,

“(E) the Secretary may prescribe rules for the allocation of contracts (and income from contracts) among 2 or more qualifying insurance company branches of a qualifying

Regulations.

insurance company in order to clearly reflect the income of such branches, and

“(F) premiums from a contract shall not be taken into account for purposes of paragraph (2)(B) or (3) if such contract reinsures a contract issued or reinsured by a related person (as defined in section 954(d)(3)).

For purposes of subparagraph (D), the determination of where risks are located shall be made under the principles of section 953.

“(8) COORDINATION WITH SUBSECTION (c).—In determining insurance income for purposes of subsection (c), exempt insurance income shall not include income derived from exempt contracts which cover risks other than applicable home country risks.

“(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and section 954(i).

“(10) APPLICATION.—This subsection and section 954(i) shall apply only to the first taxable year of a foreign corporation beginning after December 31, 1998, and before January 1, 2000, and to taxable years of United States shareholders with or within which such taxable year of such foreign corporation ends.

“(11) CROSS REFERENCE.—

**“For income exempt from foreign personal holding company income, see section 954(i).”.**

(2) EXEMPTION FROM FOREIGN PERSONAL HOLDING COMPANY INCOME.—Section 954 (defining foreign base company income) is amended by adding at the end the following new subsection:

“(i) SPECIAL RULE FOR INCOME DERIVED IN THE ACTIVE CONDUCT OF INSURANCE BUSINESS.—

“(1) IN GENERAL.—For purposes of subsection (c)(1), foreign personal holding company income shall not include qualified insurance income of a qualifying insurance company.

“(2) QUALIFIED INSURANCE INCOME.—The term ‘qualified insurance income’ means income of a qualifying insurance company which is—

“(A) received from a person other than a related person (within the meaning of subsection (d)(3)) and derived from the investments made by a qualifying insurance company or a qualifying insurance company branch of its reserves allocable to exempt contracts or of 80 percent of its unearned premiums from exempt contracts (as both are determined in the manner prescribed under paragraph (4)), or

“(B) received from a person other than a related person (within the meaning of subsection (d)(3)) and derived from investments made by a qualifying insurance company or a qualifying insurance company branch of an amount of its assets allocable to exempt contracts equal to—

“(i) in the case of property, casualty, or health insurance contracts, one-third of its premiums earned on such insurance contracts during the taxable year (as defined in section 832(b)(4)), and

“(ii) in the case of life insurance or annuity contracts, 10 percent of the reserves described in subparagraph (A) for such contracts.

“(3) PRINCIPLES FOR DETERMINING INSURANCE INCOME.—Except as provided by the Secretary, for purposes of subparagraphs (A) and (B) of paragraph (2)—

“(A) in the case of any contract which is a separate account-type contract (including any variable contract not meeting the requirements of section 817), income credited under such contract shall be allocable only to such contract, and

“(B) income not allocable under subparagraph (A) shall be allocated ratably among contracts not described in subparagraph (A).

“(4) METHODS FOR DETERMINING UNEARNED PREMIUMS AND RESERVES.—For purposes of paragraph (2)(A)—

“(A) PROPERTY AND CASUALTY CONTRACTS.—The unearned premiums and reserves of a qualifying insurance company or a qualifying insurance company branch with respect to property, casualty, or health insurance contracts shall be determined using the same methods and interest rates which would be used if such company or branch were subject to tax under subchapter L, except that—

“(i) the interest rate determined for the functional currency of the company or branch, and which, except as provided by the Secretary, is calculated in the same manner as the Federal mid-term rate under section 1274(d), shall be substituted for the applicable Federal interest rate, and

“(ii) such company or branch shall use the appropriate foreign loss payment pattern.

“(B) LIFE INSURANCE AND ANNUITY CONTRACTS.—The amount of the reserve of a qualifying insurance company or qualifying insurance company branch for any life insurance or annuity contract shall be equal to the greater of—

“(i) the net surrender value of such contract (as defined in section 807(e)(1)(A)), or

“(ii) the reserve determined under paragraph (5).

“(C) LIMITATION ON RESERVES.—In no event shall the reserve determined under this paragraph for any contract as of any time exceed the amount which would be taken into account with respect to such contract as of such time in determining foreign statement reserves (less any catastrophe, deficiency, equalization, or similar reserves).

“(5) AMOUNT OF RESERVE.—The amount of the reserve determined under this paragraph with respect to any contract shall be determined in the same manner as it would be determined if the qualifying insurance company or qualifying insurance company branch were subject to tax under subchapter L, except that in applying such subchapter—

“(A) the interest rate determined for the functional currency of the company or branch, and which, except as provided by the Secretary, is calculated in the same manner as the Federal mid-term rate under section 1274(d), shall be substituted for the applicable Federal interest rate,

“(B) the highest assumed interest rate permitted to be used in determining foreign statement reserves shall

be substituted for the prevailing State assumed interest rate, and

“(C) tables for mortality and morbidity which reasonably reflect the current mortality and morbidity risks in the company’s or branch’s home country shall be substituted for the mortality and morbidity tables otherwise used for such subchapter.

The Secretary may provide that the interest rate and mortality and morbidity tables of a qualifying insurance company may be used for 1 or more of its qualifying insurance company branches when appropriate.

“(6) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 953(e) shall have the meaning given such term by section 953.”.

(3) RESERVES.—Section 953(b) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) Reserves for any insurance or annuity contract shall be determined in the same manner as under section 954(i).”.

(c) SPECIAL RULES FOR DEALERS.—Section 954(c)(2)(C) is amended to read as follows:

“(C) EXCEPTION FOR DEALERS.—Except as provided by regulations, in the case of a regular dealer in property which is property described in paragraph (1)(B), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), there shall not be taken into account in computing foreign personal holding company income—

“(i) any item of income, gain, deduction, or loss (other than any item described in subparagraph (A), (E), or (G) of paragraph (1)) from any transaction (including hedging transactions) entered into in the ordinary course of such dealer’s trade or business as such a dealer, and

“(ii) if such dealer is a dealer in securities (within the meaning of section 475), any interest or dividend or equivalent amount described in subparagraph (E) or (G) of paragraph (1) from any transaction (including any hedging transaction or transaction described in section 956(c)(2)(J)) entered into in the ordinary course of such dealer’s trade or business as such a dealer in securities, but only if the income from the transaction is attributable to activities of the dealer in the country under the laws of which the dealer is created or organized (or in the case of a qualified business unit described in section 989(a), is attributable to activities of the unit in the country in which the unit both maintains its principal office and conducts substantial business activity).”.

(d) EXEMPTION FROM FOREIGN BASE COMPANY SERVICES INCOME.—Paragraph (2) of section 954(e) is amended by inserting “or” at the end of subparagraph (A), by striking “, or” at the end of subparagraph (B) and inserting a period, by striking subparagraph (C), and by adding at the end the following new flush sentence:

“Paragraph (1) shall also not apply to income which is exempt insurance income (as defined in section 953(e)) or which is not treated as foreign personal holding income by reason of subsection (c)(2)(C)(ii), (h), or (i).”.

(e) EXEMPTION FOR GAIN.—Section 954(c)(1)(B)(i) (relating to net gains from certain property transactions) is amended by inserting “other than property which gives rise to income not treated as foreign personal holding company income by reason of subsection (h) or (i) for the taxable year” before the comma at the end.

**SEC. 1006. DISCLOSURE OF RETURN INFORMATION ON INCOME CONTINGENT STUDENT LOANS.**

Subparagraph (D) of section 6103(l)(13) (relating to disclosure of return information to carry out income contingent repayment of student loans) is amended by striking “September 30, 1998” and inserting “September 30, 2003”.

**Subtitle B—Trade Provisions**

**SEC. 1011. EXTENSION OF DUTY-FREE TREATMENT UNDER GENERALIZED SYSTEM OF PREFERENCES.**

(a) IN GENERAL.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking “June 30, 1998” and inserting “June 30, 1999”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply to articles entered on or after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (3), any entry—

(i) of an article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if such entry had been made on July 1, 1998, and such title had been in effect on July 1, 1998, and

(ii) that was made—

(I) after June 30, 1998, and

(II) before the date of enactment of this Act, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(B) ENTRY.—As used in this paragraph, the term “entry” includes a withdrawal from warehouse for consumption.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

**SEC. 1012. TRADE ADJUSTMENT ASSISTANCE.**

(a) ASSISTANCE FOR WORKERS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended—

19 USC 2465  
note.

(1) in subsection (a), by striking “for each of” and all that follows through “1998,” and inserting “for the period beginning October 1, 1998, and ending June 30, 1999,”; and

(2) in subsection (b), by striking “for each of” and all that follows through “1998,” and inserting “for the period beginning October 1, 1998, and ending June 30, 1999,”.

(b) NAFTA TRANSITIONAL PROGRAM.—Section 250(d)(2) of the Trade Act of 1974 (19 U.S.C. 2331(d)(2)) is amended by striking “for any fiscal year shall not exceed \$30,000,000” and inserting “for the period beginning October 1, 1998, and ending June 30, 1999, shall not exceed \$15,000,000”.

(c) ADJUSTMENT ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking “for fiscal years” and all that follows through “1998” and inserting “for the period beginning October 1, 1998, and ending June 30, 1999”.

(d) TERMINATION.—Section 285(c) of the Trade Act of 1974 (19 U.S.C. 2271 note preceding) is amended—

(1) in paragraph (1), by striking “September 30, 1998” and inserting “June 30, 1999”; and

(2) in paragraph (2)(A), by striking “the day that is” and all that follows through “effective” and inserting “June 30, 1999”.

## TITLE II—OTHER TAX PROVISIONS

### Subtitle A—Provisions Relating to Individuals

#### SEC. 2001. NONREFUNDABLE PERSONAL CREDITS FULLY ALLOWED AGAINST REGULAR TAX LIABILITY DURING 1998.

(a) IN GENERAL.—Subsection (a) of section 26 is amended by adding at the end the following flush sentence:  
“For purposes of paragraph (2), the taxpayer’s tentative minimum tax for any taxable year beginning during 1998 shall be treated as being zero.”

(b) CONFORMING AMENDMENT.—Section 24(d)(2) is amended by striking “The credit” and inserting “For taxable years beginning after December 31, 1998, the credit”.

26 USC 24 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

#### SEC. 2002. 100 PERCENT DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in subparagraph (B) of section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

“For taxable years beginning in calendar year—	The applicable percentage is—
1999 through 2001 .....	60
2002 .....	70
2003 and thereafter .....	100.”

Applicability.  
26 USC 162 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

#### SEC. 2003. MODIFICATION OF ESTIMATED TAX SAFE HARBORS.

(a) IN GENERAL.—The table contained in clause (i) of section 6654(d)(1)(C) (relating to limitation on use of preceding year’s tax)

is amended by striking the item relating to 1998, 1999, or 2000 and inserting the following new items:

“1998 .....	105
1999 or 2000 .....	106”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 1999.

Effective date.  
26 USC 6654  
note.

### Subtitle B—Provisions Relating to Farmers

#### SEC. 2011. INCOME AVERAGING FOR FARMERS MADE PERMANENT.

Subsection (c) of section 933 of the Taxpayer Relief Act of 1997 is amended by striking “, and before January 1, 2001”.

26 USC 1301  
note.

#### SEC. 2012. PRODUCTION FLEXIBILITY CONTRACT PAYMENTS.

(a) IN GENERAL.—The options under paragraphs (2) and (3) of section 112(d) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7212(d) (2) and (3)), as in effect on the date of the enactment of this Act, shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under subtitle B of title I of such Act (as so in effect) is properly includible in gross income for purposes of the Internal Revenue Code of 1986.

7 USC 7212 note.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years ending after December 31, 1995.

Applicability.

#### SEC. 2013. 5-YEAR NET OPERATING LOSS CARRYBACK FOR FARMING LOSSES.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to net operating loss deduction) is amended by adding at the end the following new subparagraph:

“(G) FARMING LOSSES.—In the case of a taxpayer which has a farming loss (as defined in subsection (i)) for a taxable year, such farming loss shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss.”.

(b) FARMING LOSS.—Section 172 is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

“(i) RULES RELATING TO FARMING LOSSES.—For purposes of this section—

“(1) IN GENERAL.—The term ‘farming loss’ means the lesser of—

“(A) the amount which would be the net operating loss for the taxable year if only income and deductions attributable to farming businesses (as defined in section 263A(e)(4)) are taken into account, or

“(B) the amount of the net operating loss for such taxable year.

“(2) COORDINATION WITH SUBSECTION (b)(2).—For purposes of applying subsection (b)(2), a farming loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated.

“(3) ELECTION.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(G) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(G). Such election shall be made in such manner as may be prescribed

by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.”.

(c) COORDINATION WITH FARM DISASTER LOSSES.—Clause (ii) of section 172(b)(1)(F) is amended by adding at the end the following flush sentence:

“Such term shall not include any farming loss (as defined in subsection (i)).”.

Applicability.  
26 USC 172 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years beginning after December 31, 1997.

### Subtitle C—Miscellaneous Provisions

#### SEC. 2021. INCREASE IN VOLUME CAP ON PRIVATE ACTIVITY BONDS.

(a) IN GENERAL.—Subsection (d) of section 146 (relating to volume cap) is amended by striking paragraphs (1) and (2) and inserting the following new paragraphs:

“(1) IN GENERAL.—The State ceiling applicable to any State for any calendar year shall be the greater of—

“(A) an amount equal to the per capita limit for such year multiplied by the State population, or

“(B) the aggregate limit for such year.

Subparagraph (B) shall not apply to any possession of the United States.

“(2) PER CAPITA LIMIT; AGGREGATE LIMIT.—For purposes of paragraph (1), the per capita limit, and the aggregate limit, for any calendar year shall be determined in accordance with the following table:

Calendar Year	Per Capita Limit	Aggregate Limit
1999 through 2002 .....	\$50	\$150,000,000
2003 .....	55	165,000,000
2004 .....	60	180,000,000
2005 .....	65	195,000,000
2006 .....	70	210,000,000
2007 and thereafter .....	75	225,000,000.”

26 USC 146 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years after 1998.

26 USC 168 note.

#### SEC. 2022. DEPRECIATION STUDY.

The Secretary of the Treasury (or the Secretary's delegate)—  
(1) shall conduct a comprehensive study of the recovery periods and depreciation methods under section 168 of the Internal Revenue Code of 1986, and

(2) not later than March 31, 2000, shall submit the results of such study, together with recommendations for determining such periods and methods in a more rational manner, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.



**SEC. 2023. EXEMPTION FOR STUDENTS EMPLOYED BY STATE SCHOOLS, COLLEGES, OR UNIVERSITIES.** 42 USC 418 note.

(a) IN GENERAL.—Notwithstanding section 218 of the Social Security Act, any agreement with a State (or any modification thereof) entered into pursuant to such section may, at the option of such State, be modified at any time on or after January 1, 1999, and on or before March 31, 1999, so as to exclude service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

(b) EFFECTIVE DATE OF MODIFICATION.—Any modification of an agreement pursuant to subsection (a) shall be effective with respect to services performed after June 30, 2000.

(c) IRREVOCABILITY OF MODIFICATION.—If any modification of an agreement pursuant to subsection (a) terminates coverage with respect to service performed in the employ of a school, college, or university, by a student who is enrolled and regularly attending classes at such school, college, or university, the Commissioner of Social Security and the State may not thereafter modify such agreement so as to again make the agreement applicable to such service performed in the employ of such school, college, or university.

**TITLE III—REVENUE OFFSETS****SEC. 3001. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.**

(a) IN GENERAL.—Section 332 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

“(c) DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.”.

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 332(b) is amended by striking “subsection (a)” and inserting “this section”.

(2) Paragraph (1) of section 334(b) is amended by striking “section 332(a)” and inserting “section 332”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after May 21, 1998. 26 USC 332 note.

(d) ASSUMPTIONS.—In making the estimate required for this Act by section 252(d)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, that part of the estimate that measures the change in receipts resulting from the amendments made by this section shall be based on the economic and technical assumptions underlying the supplemental summary of the budget for fiscal year 1999, submitted on May 26, 1998, pursuant to section 1106 of title 31, United States Code, notwithstanding section 252(d)(2)(B).

All other parts of such estimate required by such section 252(d)(2) shall be made pursuant to the requirements of such section 252(d)(2)(B).

**SEC. 3002. INCLUSION OF ROTAVIRUS GASTROENTERITIS AS A TAXABLE VACCINE.**

(a) **IN GENERAL.**—Paragraph (1) of section 4132(a) (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

“(K) Any vaccine against rotavirus gastroenteritis.”.

(b) **EFFECTIVE DATE.**—

(1) **SALES.**—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

(2) **DELIVERIES.**—For purposes of paragraph (1), in the case of sales on or before the date of the enactment of this Act for which delivery is made after such date, the delivery date shall be considered the sale date.

**SEC. 3003. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.**

(a) **TIN DEEMED INCORRECT IF INFORMATION ON RETURN DIFFERS WITH AGENCY RECORDS.**—Paragraph (2) of section 6213(g) (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

“A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN.”.

(b) **EXPANSION OF MATHEMATICAL ERROR PROCEDURES TO CASES WHERE TIN ESTABLISHES INDIVIDUAL NOT ELIGIBLE FOR TAX CREDIT.**—Paragraph (2) of section 6213(g) is amended by striking “and” at the end of subparagraph (J), by striking the period at the end of the subparagraph (K) and inserting “, and”, and by inserting after subparagraph (K) the following new subparagraph:

“(L) the inclusion on a return of a TIN required to be included on the return under section 21, 24, or 32 if—

“(i) such TIN is of an individual whose age affects the amount of the credit under such section, and

“(ii) the computation of the credit on the return reflects the treatment of such individual as being of an age different from the individual’s age based on such TIN.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

**SEC. 3004. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.**

(a) **IN GENERAL.**—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

“(B)(i) Any amount allowable as a deduction under this chapter (other than section 468(a)(1) or 468A(a)) which is in satisfaction of a liability under a Federal or State law requiring—

“(I) the reclamation of land,

26 USC 4132  
note.

26 USC 6213  
note.

“(II) the decommissioning of a nuclear power plant (or any unit thereof),

“(III) the dismantlement of a drilling platform,

“(IV) the remediation of environmental contamination, or

“(V) a payment under any workers compensation act (within the meaning of section 461(h)(2)(C)(i)).

“(ii) A liability shall be taken into account under this subparagraph only if—

“(I) the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year, and

“(II) the taxpayer used an accrual method of accounting throughout the period or periods during which such act (or failure to act) occurred.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to net operating losses arising in taxable years ending after the date of the enactment of this Act. 26 USC 172 note.

#### **TITLE IV—TECHNICAL CORRECTIONS**

##### **SEC. 4001. DEFINITIONS; COORDINATION WITH OTHER TITLES.**

26 USC 1 note.

(a) **DEFINITIONS.**—For purposes of this title—

(1) **1986 CODE.**—The term “1986 Code” means the Internal Revenue Code of 1986.

(2) **1998 ACT.**—The term “1998 Act” means the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206).

(3) **1997 ACT.**—The term “1997 Act” means the Taxpayer Relief Act of 1997 (Public Law 105-34).

(b) **COORDINATION WITH OTHER TITLES.**—For purposes of applying the amendments made by any title of this division other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

##### **SEC. 4002. AMENDMENTS RELATED TO INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998.**

(a) **AMENDMENT RELATED TO SECTION 1101 OF 1998 ACT.**—Paragraph (5) of section 6103(h) of the 1986 Code, as added by section 1101(b) of the 1998 Act, is redesignated as paragraph (6).

(b) **AMENDMENT RELATED TO SECTION 3001 OF 1998 ACT.**—Paragraph (2) of section 7491(a) of the 1986 Code is amended by adding at the end the following flush sentence:

“Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645(b)(1)) with respect to liability for tax for any taxable year ending after the date of the decedent’s death and before the applicable date (as defined in section 645(b)(2)).”.

(c) **AMENDMENTS RELATED TO SECTION 3201 OF 1998 ACT.**—

(1) Section 7421(a) of the 1986 Code is amended by striking “6015(d)” and inserting “6015(e)”.

(2) Subparagraph (A) of section 6015(e)(3) is amended by striking “of this section” and inserting “of subsection (b) or (f)”.

(d) **AMENDMENT RELATED TO SECTION 3301 OF 1998 ACT.**—Paragraph (2) of section 3301(c) of the 1998 Act is amended by striking “The amendments” and inserting “Subject to any applicable 26 USC 6601 note.”

statute of limitation not having expired with regard to either a tax underpayment or a tax overpayment, the amendments”.

26 USC 7443A.

(e) AMENDMENT RELATED TO SECTION 3401 OF 1998 ACT.—Section 3401(c) of the 1998 Act is amended—

(1) in paragraph (1), by striking “7443(b)” and inserting “7443A(b)”; and

(2) in paragraph (2), by striking “7443(c)” and inserting “7443A(c)”.

(f) AMENDMENT RELATED TO SECTION 3433 OF 1998 ACT.—Section 7421(a) of the 1986 Code is amended by inserting “6331(i),” after “6246(b),”.

(g) AMENDMENT RELATED TO SECTION 3467 OF 1998 ACT.—The subsection (d) of section 6159 of the 1986 Code relating to cross reference is redesignated as subsection (e).

(h) AMENDMENT RELATED TO SECTION 3708 OF 1998 ACT.—Subparagraph (A) of section 6103(p)(3) of the 1986 Code is amended by inserting “(f)(5),” after “(c), (e),”.

(i) AMENDMENTS RELATED TO SECTION 5001 OF 1998 ACT.—

(1) Subparagraph (B) of section 1(h)(13) of the 1986 Code is amended by striking “paragraph (7)(A)” and inserting “paragraph (7)(A)(i)”.

26 USC 1 note.

(2)(A) Subparagraphs (A)(i)(II), (A)(ii)(II), and (B)(ii) of section 1(h)(13) of the 1986 Code shall not apply to any distribution after December 31, 1997, by a regulated investment company or a real estate investment trust with respect to—

(i) gains and losses recognized directly by such company or trust, and

(ii) amounts properly taken into account by such company or trust by reason of holding (directly or indirectly) an interest in another such company or trust to the extent that such subparagraphs did not apply to such other company or trust with respect to such amounts.

(B) Subparagraph (A) shall not apply to any distribution which is treated under section 852(b)(7) or 857(b)(8) of the 1986 Code as received on December 31, 1997.

(C) For purposes of subparagraph (A), any amount which is includible in gross income of its shareholders under section 852(b)(3)(D) or 857(b)(3)(D) of the 1986 Code after December 31, 1997, shall be treated as distributed after such date.

(D)(i) For purposes of subparagraph (A), in the case of a qualified partnership with respect to which a regulated investment company meets the holding requirement of clause (iii)—

(I) the subparagraphs referred to in subparagraph (A) shall not apply to gains and losses recognized directly by such partnership for purposes of determining such company’s distributive share of such gains and losses, and

(II) such company’s distributive share of such gains and losses (as so determined) shall be treated as recognized directly by such company.

Applicability.

The preceding sentence shall apply only if the qualified partnership provides the company with written documentation of such distributive share as so determined.

(ii) For purposes of clause (i), the term “qualified partnership” means, with respect to a regulated investment company, any partnership if—

(I) the partnership is an investment company registered under the Investment Company Act of 1940,

(II) the regulated investment company is permitted to invest in such partnership by reason of section 12(d)(1)(E) of such Act or an exemptive order of the Securities and Exchange Commission under such section, and

(III) the regulated investment company and the partnership have the same taxable year.

(iii) A regulated investment company meets the holding requirement of this clause with respect to a qualified partnership if (as of January 1, 1998)—

(I) the value of the interests of the regulated investment company in such partnership is 35 percent or more of the value of such company's total assets, or

(II) the value of the interests of the regulated investment company in such partnership and all other qualified partnerships is 90 percent or more of the value of such company's total assets.

(3) Paragraph (13) of section 1(h) of the 1986 Code is amended by adding at the end the following new subparagraph:

“(D) CHARITABLE REMAINDER TRUSTS.—Subparagraphs (A) and (B)(ii) shall not apply to any capital gain distribution made by a trust described in section 664.”

(j) AMENDMENT RELATED TO SECTION 7004 OF 1998 ACT.—Clause (i) of section 408A(c)(3)(C) of the 1986 Code, as amended by section 7004 of the 1998 Act, is amended by striking the period at the end of subclause (II) and inserting “, and”.

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the 1998 Act to which they relate. 26 USC 1 note.

#### SEC. 4003. AMENDMENTS RELATED TO TAXPAYER RELIEF ACT OF 1997.

(a) AMENDMENTS RELATED TO SECTION 202 OF 1997 ACT.—

(1) Paragraph (2) of section 163(h) of the 1986 Code is amended by striking “and” at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting “, and”, and by adding at the end the following new subparagraph:

“(F) any interest allowable as a deduction under section 221 (relating to interest on educational loans).”

(2)(A) Subparagraph (C) of section 221(b)(2) of the 1986 Code is amended—

(i) by striking “135, 137,” in clause (i),

(ii) by inserting “135, 137,” after “sections 86,” in clause (ii), and

(iii) by striking the last sentence.

(B) Sections 86(b)(2)(A), 135(c)(4)(A), and 219(g)(3)(A)(ii) of the 1986 Code are each amended by inserting “221,” after “137,”.

(C) Subparagraph (A) of section 137(b)(3) of the 1986 Code is amended by inserting “221,” before “911,”.

(D) Clause (iii) of section 469(i)(3)(E) of the 1986 Code is amended to read as follows:

“(iii) the amounts allowable as a deduction under sections 219 and 221, and”.

(3) The last sentence of section 221(e)(1) of the 1986 Code is amended by inserting before the period “or to any person by reason of a loan under any qualified employer plan (as

defined in section 72(p)(4)) or under any contract referred to in section 72(p)(5)”.

26 USC 1 note.

(b) PROVISION RELATED TO SECTION 311 OF 1997 ACT.—In the case of any capital gain distribution made after 1997 by a trust to which section 664 of the 1986 Code applies with respect to amounts properly taken into account by such trust during 1997, paragraphs (5)(A)(i)(I), (5)(A)(ii)(I), and (13)(A) of section 1(h) of the 1986 Code (as in effect for taxable years ending on December 31, 1997) shall not apply.

(c) AMENDMENT RELATED TO SECTION 506 OF 1997 ACT.—Section 2001(f)(2) of the 1986 Code is amended by adding at the end the following:

“For purposes of subparagraph (A), the value of an item shall be treated as shown on a return if the item is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item.”.

(d) AMENDMENTS RELATED TO SECTION 904 OF 1997 ACT.—

(1) Paragraph (1) of section 9510(c) of the 1986 Code is amended to read as follows:

“(1) IN GENERAL.—Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for—

“(A) the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on August 5, 1997) for vaccine-related injury or death with respect to any vaccine—

“(i) which is administered after September 30, 1988, and

“(ii) which is a taxable vaccine (as defined in section 4132(a)(1)) at the time compensation is paid under such subtitle 2, or

“(B) the payment of all expenses of administration (but not in excess of \$9,500,000 for any fiscal year) incurred by the Federal Government in administering such subtitle.”.

(2) Section 9510(b) of the 1986 Code is amended by adding at the end the following new paragraph:

“(3) LIMITATION ON TRANSFERS TO VACCINE INJURY COMPENSATION TRUST FUND.—No amount may be appropriated to the Vaccine Injury Compensation Trust Fund on and after the date of any expenditure from the Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

“(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

“(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.”.

(e) AMENDMENTS RELATED TO SECTION 915 OF 1997 ACT.—

(1) Section 915(b) of the 1997 Act is amended by inserting “or 1998” after “1997”.

(2) Paragraph (2) of section 6404(h) of the 1986 Code is amended by inserting “Robert T. Stafford” before “Disaster”.

(f) AMENDMENTS RELATED TO SECTION 1012 OF 1997 ACT.—

26 USC 7508A note.

(1) Paragraph (2) of section 351(c) of the 1986 Code, as amended by section 6010(c) of the 1998 Act, is amended by inserting “, or the fact that the corporation whose stock was distributed issues additional stock,” after “dispose of part or all of the distributed stock”.

(2) Clause (ii) of section 368(a)(2)(H) of the 1986 Code, as amended by section 6010(c) of the 1998 Act, is amended by inserting “, or the fact that the corporation whose stock was distributed issues additional stock,” after “dispose of part or all of the distributed stock”.

(g) PROVISION RELATED TO SECTION 1042 OF 1997 ACT.—Rules similar to the rules of section 1.1502-75(d)(5) of the Treasury Regulations shall apply with respect to any organization described in section 1042(b) of the 1997 Act. 26 USC 833 note.

(h) AMENDMENT RELATED TO SECTION 1082 OF 1997 ACT.—Subparagraph (F) of section 172(b)(1) of the 1986 Code is amended by adding at the end the following new clause:

“(iv) COORDINATION WITH PARAGRAPH (2).—For purposes of applying paragraph (2), an eligible loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated.”

(i) AMENDMENT RELATED TO SECTION 1084 OF 1997 ACT.—Paragraph (3) of section 264(f) of the 1986 Code is amended by adding at the end the following flush sentence:

“If the amount described in subparagraph (A) with respect to any policy or contract does not reasonably approximate its actual value, the amount taken into account under subparagraph (A) shall be the greater of the amount of the insurance company liability or the insurance company reserve with respect to such policy or contract (as determined for purposes of the annual statement approved by the National Association of Insurance Commissioners) or shall be such other amount as is determined by the Secretary.”

(j) AMENDMENT RELATED TO SECTION 1175 OF 1997 ACT.—Subparagraph (C) of section 954(e)(2) of the 1986 Code is amended by striking “subsection (h)(8)” and inserting “subsection (h)(9)”.

(k) AMENDMENT RELATED TO SECTION 1205 OF 1997 ACT.—Paragraph (2) of section 6311(d) of the 1986 Code is amended by striking “under such contracts” in the last sentence and inserting “under any such contract for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A”.

(l) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the 1997 Act to which they relate. 26 USC 86 note.

#### SEC. 4004. AMENDMENTS RELATED TO TAX REFORM ACT OF 1984.

(a) IN GENERAL.—Subparagraph (C) of section 172(d)(4) of the 1986 Code is amended to read as follows:

“(C) any deduction for casualty or theft losses allowable under paragraph (2) or (3) of section 165(c) shall be treated as attributable to the trade or business; and”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 67(b) of the 1986 Code is amended by striking “for losses described in subsection (c)(3) or (d) of section 165” and inserting “for casualty or theft losses

described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)”.

(2) Paragraph (3) of section 68(c) of the 1986 Code is amended by striking “for losses described in subsection (c)(3) or (d) of section 165” and inserting “for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)”.

(3) Paragraph (1) of section 873(b) is amended to read as follows:

“(1) LOSSES.—The deduction allowed by section 165 for casualty or theft losses described in paragraph (2) or (3) of section 165(c), but only if the loss is of property located within the United States.”

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b)(3) shall apply to taxable years beginning after December 31, 1983.

(2) The amendment made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1986.

(3) The amendment made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1990.

Applicability.

26 USC 172 note.

26 USC 67 note.

26 USC 68 note.

#### SEC. 4005. AMENDMENTS RELATED TO URUGUAY ROUND AGREEMENTS ACT.

(a) INAPPLICABILITY OF ASSIGNMENT PROHIBITION.—Section 207 of the Social Security Act (42 U.S.C. 407) is amended by adding at the end the following new subsection:

“(c) Nothing in this section shall be construed to prohibit withholding taxes from any benefit under this title, if such withholding is done pursuant to a request made in accordance with section 3402(p)(1) of the Internal Revenue Code of 1986 by the person entitled to such benefit or such person’s representative payee.”.

(b) PROPER ALLOCATION OF COSTS OF WITHHOLDING BETWEEN THE TRUST FUNDS AND THE GENERAL FUND.—Section 201(g) of such Act (42 U.S.C. 401(g)) is amended—

(1) by inserting before the period in paragraph (1)(A)(ii) the following: “and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons’ representative payee”;

(2) by inserting before the period at the end of paragraph (1)(A) the following: “and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons’ representative payee”;

(3) in paragraph (1)(B)(i)(I), by striking “subparagraph (A),” and inserting “subparagraph (A)) and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons’ representative payee,”;

(4) in paragraph (1)(C)(iii), by inserting before the period the following: “and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by



persons entitled to such benefits or such persons' representative payee";

(5) in paragraph (1)(D), by inserting after "section 232" the following: "and the functions of the Social Security Administration in connection with the withholding of taxes from benefits as described in section 207(c)"; and

(6) in paragraph (4), by inserting after the first sentence the following: "The Board of Trustees of such Trust Funds shall prescribe the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to benefits paid on or after the first day of the second month beginning after the month in which this Act is enacted. 42 USC 401 note.

#### SEC. 4006. OTHER AMENDMENTS.

(a) AMENDMENTS RELATED TO SECTION 6103 OF 1986 CODE.—

(1) Subsection (j) of section 6103 of the 1986 Code is amended by adding at the end the following new paragraph:

"(5) DEPARTMENT OF AGRICULTURE.—Upon request in writing by the Secretary of Agriculture, the Secretary shall furnish such returns, or return information reflected thereon, as the Secretary may prescribe by regulation to officers and employees of the Department of Agriculture whose official duties require access to such returns or information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the census of agriculture pursuant to the Census of Agriculture Act of 1997 (Public Law 105-113)."

(2) Paragraph (4) of section 6103(p) of the 1986 Code is amended by striking "(j)(1) or (2)" in the material preceding subparagraph (A) and in subparagraph (F) and inserting "(j)(1), (2), or (5)".

(3) The amendments made by this subsection shall apply to requests made on or after the date of the enactment of this Act. Applicability. 26 USC 6103 note.

(b) AMENDMENT RELATED TO SECTION 9004 OF TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—

(1) Paragraph (2) of section 9503(f) of the 1986 Code is amended to read as follows:

"(2) notwithstanding section 9602(b), obligations held by such Fund after September 30, 1998, shall be obligations of the United States which are not interest-bearing."

(2) The amendment made by paragraph (1) shall take effect on October 1, 1998. Effective date. 26 USC 9503 note.

(c) CLERICAL AMENDMENTS.—

(1) Clause (i) of section 51(d)(6)(B) of the 1986 Code is amended by striking "rehabilitation plan" and inserting "plan for employment". The reference to "plan for employment" in such clause shall be treated as including a reference to the rehabilitation plan referred to in such clause as in effect before the amendment made by the preceding sentence.

(2) Paragraph (3) of section 56(a) of the 1986 Code is amended by striking "section 460(b)(2)" and inserting "section 26 USC 51 note."

460(b)(1)” and by striking “section 460(b)(4)” and inserting “section 460(b)(3)”.

(3) Paragraph (10) of section 2031(c) of the 1986 Code is amended by striking “section 2033A(e)(3)” and inserting “section 2057(e)(3)”.

(4) Subparagraphs (C) and (D) of section 6693(a)(2) of the 1986 Code are each amended by striking “Section” and inserting “section”.

## TITLE V—MEDICARE-RELATED PROVISIONS

### Subtitle A—Home Health

#### SEC. 5101. INCREASE IN PER BENEFICIARY LIMITS AND PER VISIT PAYMENT LIMITS FOR PAYMENT FOR HOME HEALTH SERVICES.

(a) INCREASE IN PER BENEFICIARY LIMITS.—Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended—

(1) in the first sentence of clause (v), by inserting “subject to clause (viii)(I),” before “the Secretary”;

(2) in clause (vi)(I), by inserting “subject to clauses (viii)(II) and (viii)(III)” after “fiscal year 1994”; and

(3) by adding at the end the following new clause:

“(viii)(I) In the case of a provider with a 12-month cost reporting period ending in fiscal year 1994, if the limit imposed under clause (v) (determined without regard to this subclause) for a cost reporting period beginning during or after fiscal year 1999 is less than the median described in clause (vi)(I) (but determined as if any reference in clause (v) to ‘98 percent’ were a reference to ‘100 percent’), the limit otherwise imposed under clause (v) for such provider and period shall be increased by  $\frac{1}{3}$  of such difference.

“(II) Subject to subclause (IV), for new providers and those providers without a 12-month cost reporting period ending in fiscal year 1994, but for which the first cost reporting period begins before fiscal year 1999, for cost reporting periods beginning during or after fiscal year 1999, the per beneficiary limitation described in clause (vi)(I) shall be equal to the median described in such clause (determined as if any reference in clause (v) to ‘98 percent’ were a reference to ‘100 percent’).

“(III) Subject to subclause (IV), in the case of a new provider for which the first cost reporting period begins during or after fiscal year 1999, the limitation applied under clause (vi)(I) (but only with respect to such provider) shall be equal to 75 percent of the median described in clause (vi)(I).

“(IV) In the case of a new provider or a provider without a 12-month cost reporting period ending in fiscal year 1994, subclause (II) shall apply, instead of subclause (III), to a home health agency which filed an application for home health agency provider status under this title before September 15, 1998, or which was approved as a branch of its parent agency before such date and becomes a subunit of the parent agency or a separate agency on or after such date.

“(V) Each of the amounts specified in subclauses (I) through (III) are such amounts as adjusted under clause (iii) to reflect variations in wages among different areas.”.

(b) REVISION OF PER VISIT LIMITS.—Section 1861(v)(1)(L)(i) of such Act (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in subclause (III), by striking “or”;

(2) in subclause (IV)—

(A) by inserting “and before October 1, 1998,” after “October 1, 1997.”; and

(B) by striking the period at the end and inserting “, or”; and

(3) by adding at the end the following new subclause: “(V) October 1, 1998, 106 percent of such median.”.

(c) ONE-YEAR DELAY IN 15 PERCENT REDUCTION IN PAYMENT LIMITS; CHANGE IN TIMING OF IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—

(1) PROSPECTIVE PAYMENT SYSTEM.—Section 1895 of such Act (42 U.S.C. 1395fff) is amended—

(A) in subsection (a), by striking “for cost reporting periods beginning on or after October 1, 1999” and inserting “for portions of cost reporting periods occurring on or after October 1, 2000”; and

(B) in subsection (b)(3)—

(i) in subparagraph (A)(i), by striking “fiscal year 2000” and inserting “fiscal year 2001”;

(ii) in subparagraph (A)(ii), by striking “September 30, 1999” and inserting “September 30, 2000”; and

(iii) in subparagraph (B)(i), by striking “fiscal year 2001” and inserting “fiscal year 2002”.

(2) CHANGE IN EFFECTIVE DATE.—Section 4603(d) of the Balanced Budget Act of 1997 (42 U.S.C. 1395fff note) is amended by striking “cost reporting periods beginning on or after October 1, 1999” and inserting “portions of cost reporting periods occurring on or after October 1, 2000”.

(3) CONTINGENCY REDUCTION.—Section 4603(e) of the Balanced Budget Act of 1997 (42 U.S.C. 1395fff note) is amended—

(A) by striking “cost reporting periods described in subsection (d), for such cost reporting periods” and inserting “portions of cost reporting periods described in subsection (d), for such portions”; and

(B) by striking “September 30, 1999” and inserting “September 30, 2000”.

(d) CHANGE IN HOME HEALTH MARKET BASKET INCREASE.—

(1) INTERIM PAYMENT SYSTEM.—Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)), as amended by subsection (a)(3), is amended by adding at the end the following: “(ix) Notwithstanding any other provision of this subparagraph, in updating any limit under this subparagraph by a home health market basket index for cost reporting periods beginning during each of fiscal years 2000, 2001, 2002, and 2003, the update otherwise provided shall be reduced by 1.1 percentage points.”.

(2) PROSPECTIVE PAYMENT SYSTEM.—Section 1895(b)(3)(B) of such Act (42 U.S.C. 1395fff(b)(3)(B)) is amended—

(A) in clause (i), by striking “home health market basket percentage increase” and inserting “home health applicable increase percentage (as defined in clause (ii))”;

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

“(ii) HOME HEALTH APPLICABLE INCREASE PERCENTAGE.—For purposes of this subparagraph, the term

‘home health applicable increase percentage’ means, with respect to—

“(I) fiscal year 2002 or 2003, the home health market basket percentage increase (as defined in clause (iii)) minus 1.1 percentage points; or

“(II) any subsequent fiscal year, the home health market basket percentage increase.”.

(e) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839 of such Act (42 U.S.C. 1395r) is amended—

(1) in subsection (a)(3), by inserting “(except as provided in subsection (g))” after “year that”; and

(2) by adding at the end the following new subsection:

“(g) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year for purposes of determining the monthly premium rate under subsection (a)(3), the Secretary shall exclude an estimate of any benefits and administrative costs attributable to the application of section 1861(v)(1)(L)(viii) or to the establishment under section 1861(v)(1)(L)(i)(V) of a per visit limit at 106 percent of the median (instead of 105 percent of the median), but only to the extent payment for home health services under this title is not being made under section 1895 (relating to prospective payment for home health services).”.

(f) REPORTS ON SUMMARY OF RESEARCH CONDUCTED BY THE SECRETARY ON THE PROSPECTIVE PAYMENT SYSTEM.—By not later than January 1, 1999, the Secretary of Health and Human Services shall submit to Congress a report on the following matters:

(1) RESEARCH.—A description of any research paid for by the Secretary on the development of a prospective payment system for home health services furnished under the medicare program under title XVIII of the Social Security Act, and a summary of the results of such research.

(2) SCHEDULE FOR IMPLEMENTATION OF SYSTEM.—The Secretary’s schedule for the implementation of the prospective payment system for home health services under section 1895 of the Social Security Act (42 U.S.C. 1395fff).

(g) MEDPAC REPORTS.—

(1) REVIEW OF SECRETARY’S REPORT.—Not later than 60 days after the date the Secretary of Health and Human Services submits to Congress the report under subsection (f), the Medicare Payment Advisory Commission (established under section 1805 of the Social Security Act (42 U.S.C. 1395b–6)) shall submit to Congress a report describing the Commission’s analysis of the Secretary’s report, and shall include the Commission’s recommendations with respect to the matters contained in such report.

(2) ANNUAL REPORT.—The Commission shall include in its annual report to Congress for June 1999 an analysis of whether changes in law made by the Balanced Budget Act of 1997, as modified by the amendments made by this section, with respect to payments for home health services furnished under the medicare program under title XVIII of the Social Security Act, impede access to such services by individuals entitled to benefits under such program.

(h) GAO AUDIT OF RESEARCH EXPENDITURES.—The Comptroller General of the United States shall conduct an audit of sums

obligated or expended by the Health Care Financing Administration for the research described in subsection (f)(1), and of the data, reports, proposals, or other information provided by such research.

(i) PROMPT IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall promptly issue (without regard to chapter 8 of title 5, United States Code) such regulations or program memoranda as may be necessary to effect the amendments made by this section for cost reporting periods beginning during fiscal year 1999.

42 USC 1395x  
note.

(2) USE OF PAYMENT AMOUNTS AND LIMITS FROM PUBLISHED TABLES.—

(A) PER BENEFICIARY LIMITS.—In effecting the amendments made by subsection (a) for cost reporting periods beginning in fiscal year 1999, the “median” referred to in section 1861(v)(1)(L)(vi)(I) of the Social Security Act for such periods shall be the national standardized per beneficiary limitation specified in Table 3C published in the Federal Register on August 11, 1998 (63 FR 42926) and the “standardized regional average of such costs” referred to in section 1861(v)(1)(L)(v)(I) of such Act for a census division shall be the sum of the labor and nonlabor components of the standardized per beneficiary limitation for that census division specified in Table 3B published in the Federal Register on that date (63 FR 42926) (or in Table 3D as so published with respect to Puerto Rico and Guam), and adjusted to reflect variations in wages among different geographic areas as specified in Tables 4a and 4b published in the Federal Register on that date (63 FR 42926-42933).

(B) PER VISIT LIMITS.—In effecting the amendments made by subsection (b) for cost reporting periods beginning in fiscal year 1999, the limits determined under section 1861(v)(1)(L)(i)(V) of such Act for cost reporting periods beginning during such fiscal year shall be equal to the per visit limits as specified in Table 3A published in the Federal Register on August 11, 1998 (63 FR 42925) and as subsequently corrected, multiplied by  $^{106}_{105}$ , and adjusted to reflect variations in wages among different geographic areas as specified in Tables 4a and 4b published in the Federal Register on August 11, 1998 (63 FR 42926-42933).

## Subtitle B—Other Medicare-Related Provisions

### SEC. 5201. AUTHORIZATION OF ADDITIONAL EXCEPTIONS TO IMPOSITION OF PENALTIES FOR PROVIDING INDUCEMENTS TO BENEFICIARIES.

(a) IN GENERAL.—Subparagraph (B) of section 1128A(i)(6) of the Social Security Act (42 U.S.C. 1320a-7a(i)(6)) is amended to read as follows:

“(B) subject to subsection (n), any permissible practice described in any subparagraph of section 1128B(b)(3) or in regulations issued by the Secretary;”.

(b) SPECIAL PROVISIONS CONCERNING A SAFE HARBOR FOR PAYMENT OF MEDIGAP PREMIUMS OF ESRD BENEFICIARIES.—

(1) 2-YEAR LIMITATION.—Section 1128A of such Act (42 U.S.C. 1320a–7a) is amended by adding at the end the following:

“(n)(1) Subparagraph (B) of subsection (i)(6) shall not apply to a practice described in paragraph (2) unless—

“(A) the Secretary, through the Inspector General of the Department of Health and Human Services, promulgates a rule authorizing such a practice as an exception to remuneration; and

“(B) the remuneration is offered or transferred by a person under such rule during the 2-year period beginning on the date the rule is first promulgated.

“(2) A practice described in this paragraph is a practice under which a health care provider or facility pays, in whole or in part, premiums for medicare supplemental policies for individuals entitled to benefits under part A of title XVIII pursuant to section 226A.”.

42 USC 1320a–7a note.

(2) GAO STUDY AND REPORT ON IMPACT OF SAFE HARBOR ON MEDIGAP POLICIES.—If a permissible practice is promulgated under section 1128A(n)(1)(A) of the Social Security Act (as added by paragraph (1)), the Comptroller General of the United States shall conduct a study that compares any disproportionate impact on specific issuers of medicare supplemental policies (including the impact on premiums for non-ESRD medicare beneficiaries enrolled in such policies) due to adverse selection in enrolling medicare ESRD beneficiaries before the enactment of the Health Insurance Portability and Accountability Act of 1996 and 1 year after the date of promulgation of such permissible practice under section 1128A(n)(1)(A) of the Social Security Act. Not later than 18 months after the date of promulgation of such practice, the Comptroller General shall submit a report to Congress on such study and shall include in the report recommendations concerning whether the time limitation imposed under section 1128A(n)(1)(B) of such Act should be extended.

(c) EXTENSION OF ADVISORY OPINION AUTHORITY.—Section 1128D(b)(2)(A) of such Act (42 U.S.C. 1320a–7d(b)(2)(A)) is amended by inserting “or section 1128A(i)(6)” after “1128B(b)”.

42 USC 1320a–7a note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

42 USC 1320a–7a note.

(e) INTERIM FINAL RULEMAKING AUTHORITY.—The Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment, in order to implement the amendments made by this section in a timely manner.

#### SEC. 5202. EXPANSION OF MEMBERSHIP OF MEDPAC TO 17.

(a) IN GENERAL.—Section 1805(c)(1) of the Social Security Act (42 U.S.C. 1395b–6(c)(1)), as added by section 4022 of the Balanced Budget Act of 1997, is amended by striking “15” and inserting “17”.

42 USC 1395b–6 note.

(b) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(1) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission (under section 1805(c)(3) of such Act (42 U.S.C. 1395b–6(c)(3))), the initial terms of the two additional members of

the Commission provided for by the amendment under subsection (a) are as follows:

(A) One member shall be appointed for one year.

(B) One member shall be appointed for two years.

(2) COMMENCEMENT OF TERMS.—Such terms shall begin on May 1, 1999.

### Subtitle C—Revenue Offsets

#### SEC. 5301. TAX TREATMENT OF CASH OPTION FOR QUALIFIED PRIZES.

(a) IN GENERAL.—Section 451 (relating to taxable year for which items of gross income included) is amended by adding at the end the following new subsection:

“(h) SPECIAL RULE FOR CASH OPTIONS FOR RECEIPT OF QUALIFIED PRIZES.—

“(1) IN GENERAL.—For purposes of this title, in the case of an individual on the cash receipts and disbursements method of accounting, a qualified prize option shall be disregarded in determining the taxable year for which any portion of the qualified prize is properly includible in gross income of the taxpayer.

“(2) QUALIFIED PRIZE OPTION; QUALIFIED PRIZE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified prize option’ means an option which—

“(i) entitles an individual to receive a single cash payment in lieu of receiving a qualified prize (or remaining portion thereof), and

“(ii) is exercisable not later than 60 days after such individual becomes entitled to the qualified prize.

“(B) QUALIFIED PRIZE.—The term ‘qualified prize’ means any prize or award which—

“(i) is awarded as a part of a contest, lottery, jackpot, game, or other similar arrangement,

“(ii) does not relate to any past services performed by the recipient and does not require the recipient to perform any substantial future service, and

“(iii) is payable over a period of at least 10 years.

“(3) PARTNERSHIP, ETC.—The Secretary shall provide for the application of this subsection in the case of a partnership or other pass-through entity consisting entirely of individuals described in paragraph (1).”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to any prize to which a person first becomes entitled after the date of enactment of this Act.

(2) TRANSITION RULE.—The amendment made by this section shall apply to any prize to which a person first becomes entitled on or before the date of enactment of this Act, except that in determining whether an option is a qualified prize option as defined in section 451(h)(2)(A) of the Internal Revenue Code of 1986 (as added by such amendment)—

(A) clause (ii) of such section 451(h)(2)(A) shall not apply, and

(B) such option shall be treated as a qualified prize option if it is exercisable only during all or part of the 18-month period beginning on July 1, 1999.

Applicability.  
26 USC 451 note.

DIVISION K—PAY-AS-YOU-GO PROVISION

Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the Joint Explanatory Statement of the Committee of Conference accompanying Conference Report No. 105–217, legislation in section 103 of Division A and in divisions C through J of this Act that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were it included in an Act other than an appropriation Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

This Act may be cited as the “Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999”.

Approved October 21, 1998.

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LEGISLATIVE HISTORY—H.R. 4328 (S. 2307):

HOUSE REPORTS: No. 105–648 (Comm. on Appropriations) and 105–825 (Comm. of Conference).

SENATE REPORTS: No. 105–249 accompanying S. 2307 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 29, considered and passed House.

July 30, considered and passed Senate, amended, in lieu of S. 2307.

Oct. 20, House agreed to conference report.

Oct. 21, Senate agreed to conference report.





Public Law 105–278  
105th Congress

An Act

Oct. 22, 1998  
[H.R. 2616]

To amend title VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools.

Charter School  
Expansion Act of  
1998.  
Grants.  
20 USC 6301  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Charter School Expansion Act of 1998”.

**SEC. 2. INNOVATIVE CHARTER SCHOOLS.**

Title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7301 et seq.) is amended—

(1) in section 6201(a) (20 U.S.C. 7331(a))—

(A) in paragraph (1)(C), by striking “and” after the semicolon;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

“(2) support for planning, designing, and initial implementation of charter schools as described in part C of title X; and”; and

(2) in section 6301(b) (20 U.S.C. 7351(b))—

(A) in paragraph (7), by striking “and” after the semicolon;

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following:

“(8) planning, designing, and initial implementation of charter schools as described in part C of title X; and”.

**SEC. 3. CHARTER SCHOOLS.**

(a) **PURPOSE.**—Section 10301(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8061(b)) is amended—

(1) in paragraph (1)—

(A) by inserting “planning, program” before “design”; and

(B) by striking “and” after the semicolon;

(2) in paragraph (2), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(3) expanding the number of high-quality charter schools available to students across the Nation.”.

(b) **CRITERIA FOR PRIORITY TREATMENT.**—Section 10302 of such Act of 1965 (20 U.S.C. 8062) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (A), by striking “and” after the semicolon;

(B) in subparagraph (B), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(C) not more than 2 years to carry out dissemination activities described in section 10304(f)(6)(B).”;

(2) by amending subsection (d) to read as follows:

“(d) LIMITATION.—A charter school may not receive—

“(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2); or

“(2) more than one grant for activities under subparagraph (C) of subsection (c)(2).”; and

(3) by adding at the end the following:

“(e) PRIORITY TREATMENT.—

“(1) IN GENERAL.—

“(A) FISCAL YEARS 1999, 2000, AND 2001.—In awarding grants under this part for any of the fiscal years 1999, 2000, and 2001 from funds appropriated under section 10311 that are in excess of \$51,000,000 for the fiscal year, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

“(B) SUCCEEDING FISCAL YEARS.—In awarding grants under this part for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 10311, the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

“(2) REVIEW AND EVALUATION PRIORITY CRITERIA.—The criteria referred to in paragraph (1) is that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school’s charter, and is meeting or exceeding the academic performance requirements and goals for charter schools as set forth under State law or the school’s charter.

“(3) PRIORITY CRITERIA.—The criteria referred to in paragraph (1) are the following:

“(A) The State has demonstrated progress, in increasing the number of high quality charter schools that are held accountable in the terms of the schools’ charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this part.

“(B) The State—

“(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

“(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

“(C) The State ensures that each charter school has a high degree of autonomy over the charter school’s budgets and expenditures.

“(f) AMOUNT CRITERIA.—In determining the amount of a grant to be awarded under this part to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.”.

(c) APPLICATIONS.—Section 10303 of such Act (20 U.S.C. 8063) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting “and” after the semicolon;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

“(2) describe how the State educational agency—

“(A) will inform each charter school in the State regarding—

“(i) Federal funds that the charter school is eligible to receive; and

“(ii) Federal programs in which the charter school may participate;

“(B) will ensure that each charter school in the State receives the charter school’s commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

“(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and”; and

(D) in paragraph (3) (as redesignated by subparagraph (B))—

(i) in subparagraph (E), insert “planning, program” before “design”;

(ii) in subparagraph (K), by striking “and” after the semicolon;

(iii) by redesignating subparagraph (L) as subparagraph (N); and

(iv) by inserting after subparagraph (K) the following:

“(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 613(a)(5) and 613(e)(1)(B) of the Individuals with Disabilities Education Act;

“(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 10302(c)(2)(C), a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and”; and

(2) in subsection (c), by striking “10302(e)(1) or”; and

(3) in subsection (d)(1)—

(A) by striking “subparagraphs (A) through (L)” and inserting “subparagraphs (A) through (N)”;

(B) by striking “subparagraphs (I), (J), and (K)” and inserting “subparagraphs (J), (K), and (N)”.

(d) ADMINISTRATION.—Section 10304 of such Act (20 U.S.C. 8064) is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking “and” after the semicolon;

(B) in paragraph (5), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

“(6) the number of high quality charter schools created under this part in the State; and

“(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.”;

(2) in subsection (b)—

(A) in paragraph (5), by striking “and” after the semicolon;

(B) in paragraph (6), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under section 10302(c)(2)(C), the quality of those activities and the likelihood that those activities will improve student achievement.”;

(3) in subsection (f)—

(A) in paragraph (1), by inserting before the period the following: “, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6)”;

(B) in paragraph (2), by inserting “, or to disseminate information about the charter school and successful practices in the charter school,” after “charter school”;

(C) in paragraph (5), by striking “20 percent” and inserting “10 percent”; and

(D) by adding at the end the following:

“(6) DISSEMINATION.—

“(A) IN GENERAL.—A charter school may apply for funds under this part, whether or not the charter school has applied for or received funds under this part for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

“(i) substantial progress in improving student achievement;

“(ii) high levels of parent satisfaction; and

“(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

“(B) ACTIVITIES.—A charter school described in subparagraph (A) may use funds reserved under paragraph

(1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

“(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

“(ii) developing partnerships with other public schools, including charter schools, designed to improve student performance in each of the schools participating in the partnership;

“(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

“(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.”.

(f) NATIONAL ACTIVITIES.—Section 10305 of such Act (20 U.S.C. 8065) is amended to read as follows:

**“SEC. 10305. NATIONAL ACTIVITIES.**

“(a) IN GENERAL.—The Secretary shall reserve for each fiscal year the greater of 5 percent or \$5,000,000 of the amount appropriated to carry out this part, except that in no fiscal year shall the total amount so reserved exceed \$8,000,000, to carry out the following activities:

“(1) To provide charter schools, either directly or through State educational agencies, with—

“(A) information regarding—

“(i) Federal funds that charter schools are eligible to receive; and

“(ii) other Federal programs in which charter schools may participate; and

“(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

“(2) To provide for the completion of the 4-year national study (which began in 1995) of charter schools.

“(3) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student achievement, including information regarding—

“(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

“(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

“(4) To provide—

“(A) information to applicants for assistance under this part;

“(B) assistance to applicants for assistance under this part with the preparation of applications under section 10303;

“(C) assistance in the planning and startup of charter schools;

“(D) training and technical assistance to existing charter schools; and

“(E) for the dissemination to other public schools of best or promising practices in charter schools.

“(5) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

“(b) CONSTRUCTION.—Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a).”

(g) COMMENSURATE TREATMENT; RECORDS TRANSFER; PAPERWORK REDUCTION.—Part C of title X of such Act (20 U.S.C. 8061 et seq.) is amended—

(1) by redesignating sections 10306 and 10307 as sections 10310 and 10311, respectively; and

(2) by inserting after section 10305 the following:

20 USC 8066,  
8067.

**“SEC. 10306. FEDERAL FORMULA ALLOCATION DURING FIRST YEAR AND FOR SUCCESSIVE ENROLLMENT EXPANSIONS.**

20 USC 8065a.

“(a) IN GENERAL.—For purposes of the allocation to schools by the States or their agencies of funds under part A of title I, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures not later than 6 months after the date of the enactment of the Charter School Expansion Act of 1998 as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

Deadline.

“(b) ADJUSTMENT AND LATE OPENINGS.—

“(1) IN GENERAL.—The measures described in subsection (a) shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

“(2) RULE.—For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) for

such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

20 USC 8065b. **“SEC. 10307. SOLICITATION OF INPUT FROM CHARTER SCHOOL OPERATORS.”**

“To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this part, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of title I, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

20 USC 8065c. **“SEC. 10308. RECORDS TRANSFER.”**

“State educational agencies and local educational agencies, to the extent practicable, shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 602(11) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(11)), are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

20 USC 8065d. **“SEC. 10309. PAPERWORK REDUCTION.”**

“To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this part results in a minimum of paperwork for any eligible applicant or charter school.”

(h) PART C DEFINITIONS.—Section 10310(1) of such Act (as redesignated by subsection (e)(1)) (20 U.S.C. 8066(1)) is amended—

(1) in subparagraph (A), by striking “an enabling statute” and inserting “a specific State statute authorizing the granting of charters to schools”;

(2) in subparagraph (H), by inserting “is a school to which parents choose to send their children, and that” before “admits”;

(3) in subparagraph (J), by striking “and” after the semicolon;

(4) in subparagraph (K), by striking the period and inserting “; and”; and

(5) by adding at the end the following:

“(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.”

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 10311 of such Act (as redesignated by subsection (e)(1)) (20 U.S.C. 8067) is amended by striking “\$15,000,000 for fiscal year 1995” and inserting “\$100,000,000 for fiscal year 1999”.

(j) TITLE XIV DEFINITIONS.—Section 14101 of such Act (20 U.S.C. 8801) is amended—

(1) in paragraph (14), by inserting “, including a public elementary charter school,” after “residential school”; and

(2) in paragraph (25), by inserting “, including a public secondary charter school,” after “residential school”.

(k) CONFORMING AMENDMENT.—The matter preceding paragraph (1) of section 10304(e) of such Act (20 U.S.C. 8064(e)) is amended by striking “10306(1)” and inserting “10310(1)”.

Approved October 22, 1998.

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LEGISLATIVE HISTORY—H.R. 2616 (S. 1380):

HOUSE REPORTS: No. 105–321 (Comm. on Education and the Workforce).

SENATE REPORTS: No. 105–301 accompanying S. 1380 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Nov. 4, 7, considered and passed House.

Vol. 144 (1998): Oct. 8, considered and passed Senate, amended.

Oct. 9, 10, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 22, Presidential statement.





Public Law 105-279  
105th Congress

An Act

Oct. 23, 1998  
[H.R. 1659]

Mount St. Helens  
National Volcanic  
Monument  
Completion Act.  
16 USC 431 note.

To provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION. 1. SHORT TITLE.**

This Act may be cited as the “Mount St. Helens National Volcanic Monument Completion Act”.

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds the following:

(1) The Act entitled “An Act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes”, approved August 26, 1982 (96 Stat. 301; 16 U.S.C. 431 note), required the United States to acquire all land and interests in land in the Mount St. Helens National Volcanic Monument.

(2) The Act directed the Secretary of Agriculture to acquire the surface interests and the mineral and geothermal interests by separate exchanges and expressed the sense of the Congress that the exchanges be completed by November 24, 1982, and August 26, 1983, respectively.

(3) The surface interests exchange was consummated timely, but the exchange of all mineral and geothermal interests has not yet been completed a decade and a half after the enactment of the Act.

(b) PURPOSE.—The purpose of this Act is to facilitate and otherwise provide for the expeditious completion of the previously mandated Federal acquisition of private mineral and geothermal interests within the Mount St. Helens National Volcanic Monument.

**SEC. 3. ACQUISITION OF MINERAL AND GEOTHERMAL INTERESTS WITHIN MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT.**

Section 3 of the Act entitled “An Act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes”, approved August 26, 1982 (Public Law 97-243; 96 Stat. 302; 16 U.S.C. 431 note), is amended by adding at the end the following new subsections:

“(g) EXCHANGES FOR MINERAL AND GEOTHERMAL INTERESTS HELD BY CERTAIN COMPANIES.—

“(1) DEFINITION OF COMPANY.—In this subsection, the term ‘company’ means a company referred to in subsection (c) or its assigns or successors.

“(2) EXCHANGE REQUIRED.—Within 60 days after the date of enactment of this subsection, the Secretary of the Interior shall acquire by exchange the mineral and geothermal interests in the Monument of each company.

“(3) MONETARY CREDITS.—

“(A) ISSUANCE.—In exchange for all mineral and geothermal interests acquired by the Secretary of the Interior from each company under paragraph (2), the Secretary of the Interior shall issue to each such company monetary credits with a value of \$2,100,000 that may be used for the payment of—

“(i) not more than 50 percent of the bonus or other payments made by successful bidders in any sales of mineral, oil, gas, or geothermal leases under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) in the contiguous 48 States;

“(ii) not more than 10 percent of the bonus or other payments made by successful bidders in any sales of mineral, oil, gas, or geothermal leases in Alaska under the laws specified in clause (i);

“(iii) not more than 50 percent of any royalty, rental, or advance royalty payment made to the United States to maintain any mineral, oil or gas, or geothermal lease in the contiguous 48 States issued under the laws specified in clause (i); or

“(iv) not more than 10 percent of any royalty, rental, or advance royalty payment made to the United States to maintain any mineral, oil or gas, or geothermal lease in Alaska issued under the laws specified in clause (i).

“(B) VALUE OF CREDITS.—The total credits of \$4,200,000 in value issued under subparagraph (A) are deemed to equal the fair market value of all mineral and geothermal interests to be conveyed by exchange under paragraph (2).

“(4) ACCEPTANCE OF CREDITS.—The Secretary of the Interior shall accept credits issued under paragraph (3)(A) in the same manner as cash for the payments described in such paragraph. The use of the credits shall be subject to the laws (including regulations) governing such payments, to the extent the laws are consistent with this subsection.

“(5) TREATMENT OF CREDITS FOR DISTRIBUTION TO STATES.—All amounts in the form of credits accepted by the Secretary of the Interior under paragraph (4) for the payments described in paragraph (3)(A) shall be considered to be money received for the purpose of section 35 of the Mineral Leasing Act (30 U.S.C. 191) and section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019).

“(6) EXCHANGE ACCOUNT.—

“(A) ESTABLISHMENT.—Notwithstanding any other provision of law, not later than 30 days after the completion of the exchange with a company required by paragraph

(2), the Secretary of the Interior shall establish an exchange account for that company for the monetary credits issued to that company under paragraph (3). The account for a company shall be established with the Minerals Management Service of the Department of the Interior and have an initial balance of credits equal to \$2,100,000.

“(B) USE OF CREDITS.—The credits in a company’s account shall be available to the company for the purposes specified in paragraph (3)(A). The Secretary of the Interior shall adjust the balance of credits in the account to reflect credits accepted by the Secretary of the Interior pursuant to paragraph (4).

“(C) TRANSFER OR SALE OF CREDITS.—

“(i) TRANSFER OR SALE AUTHORIZED.—A company may transfer or sell any credits in the company’s account to another person.

“(ii) USE OF TRANSFERRED CREDITS.—Credits transferred or sold under clause (i) may be used in accordance with this subsection only by a person that is qualified to bid on, or that holds, a mineral, oil, or gas lease under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

“(iii) NOTIFICATION.—Within 30 days after the transfer or sale of any credits by a company, that company shall notify the Secretary of the Interior of the transfer or sale. The transfer or sale of any credit shall not be considered valid until the Secretary of the Interior has received the notification required under this clause.

“(D) TIME LIMIT ON USE OF CREDITS.—On the date that is 5 years after the date on which an account is created under subparagraph (A) for a company, the Secretary of the Interior shall terminate that company’s account. Any credits that originated in the terminated account and have not been used as of the termination date, including any credits transferred or sold under subparagraph (C), shall become unusable.

“(7) TITLE TO INTERESTS.—On the date of the establishment of an exchange account for a company under paragraph (6)(A), title to any mineral and geothermal interests that are held by the company and are to be acquired by the Secretary of the Interior under paragraph (2) shall transfer to the United States.

“(h) OTHER MINERAL AND GEOTHERMAL INTERESTS.—Within 180 days after the date of the enactment of this subsection, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report—

Reports.

“(1) identifying all remaining privately held mineral interests within the boundaries of the Monument referred to in section 1(a); and

“(2) setting forth a plan and a timetable by which the Secretary would propose to complete the acquisition of such interests.”.

Approved October 23, 1998.

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**LEGISLATIVE HISTORY—H.R. 1659 (S. 638):**

HOUSE REPORTS: No. 105-704 (Comm. on Resources).

SENATE REPORTS: No. 105-229 accompanying S. 638 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 23, considered and passed House.

Oct. 7, considered and passed Senate.



Public Law 105–280  
105th Congress

An Act

Oct. 26, 1998  
[H.R. 2411]

To provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CAPE COD NATIONAL SEASHORE.**

(a) LAND EXCHANGE AND BOUNDARY ADJUSTMENT.—Section 2 of Public Law 87–126 (16 U.S.C. 459b–1) is amended—

- (1) by redesignating subsection (d) as subsection (e); and
- (2) by inserting after subsection (c) the following new subsection:

Massachusetts.

“(d) The Secretary may convey to the town of Provincetown, Massachusetts, a parcel of real property consisting of approximately 7.62 acres of Federal land within such area in exchange for approximately 11.157 acres of land outside of such area, as depicted on the map entitled ‘Cape Cod National Seashore Boundary Revision Map’, dated May, 1997, and numbered 609/80,801, to allow for the establishment of a municipal facility to serve the town that is restricted to solid waste transfer and recycling facilities and for other municipal activities that are compatible with National Park Service laws and regulations. Upon completion of the exchange, the Secretary shall modify the boundary of the Cape Cod National Seashore to include the land that has been added.”.

Termination  
date.

(b) REAUTHORIZATION OF ADVISORY COMMISSION.—Section 8(a) of such Act (16 U.S.C. 459b–7(a)) is amended by striking the second sentence and inserting the following new sentence: “The Commission shall terminate September 26, 2008.”.

Approved October 26, 1998.

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LEGISLATIVE HISTORY—H.R. 2411:

HOUSE REPORTS: No. 105–568 (Comm. on Resources)

SENATE REPORTS: No. 105–392 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 22, considered and passed House.

Oct. 7, considered and passed Senate.



Public Law 105–281  
105th Congress

An Act

To provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform multiple resource management activities for that unit of the National Forest System.

Oct. 26, 1998  
[H.R. 2886]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Granite Watershed Enhancement and Protection Act of 1998”.

Granite  
Watershed  
Enhancement  
and Protection  
Act of 1998.

**SEC. 2. DEMONSTRATION RESOURCE MANAGEMENT PROJECT,  
STANISLAUS NATIONAL FOREST, CALIFORNIA, TO  
ENHANCE AND PROTECT THE GRANITE WATERSHED.**

(a) **RESOURCE MANAGEMENT CONTRACT AUTHORIZED.**—The Secretary of Agriculture may enter into a contract with a single private contractor to perform multiple resource management activities on Federal lands within the Stanislaus National Forest in the State of California for the purpose of demonstrating enhanced ecosystem health and water quality, and significantly reducing the risk of catastrophic wildfire, in the Granite watershed at a reduced cost to the Government. The contract shall be for a term of 5 years.

(b) **AUTHORIZED MANAGEMENT ACTIVITIES.**—The types of resource management activities performed under the contract shall include the following:

(1) Reduction of forest fuel loads through the use of precommercial and commercial thinning and prescribed burns in the Granite watershed.

(2) Monitoring of ecosystem health and water quality in the Granite watershed.

(3) Monitoring of the presence of wildlife in the area in which management activities are performed and the effect of the activities on wildlife presence.

(4) Such other resource management activities as the Secretary considers appropriate to demonstrate enhanced ecosystem health and water quality in the Granite watershed.

(c) **COMPLIANCE WITH FEDERAL LAW AND SPOTTED OWL GUIDELINES.**—All resource management activities performed under the contract shall be performed in a manner consistent with applicable Federal law and the standards and guidelines for the conservation of the California spotted owl (as set forth in the California Spotted Owl Sierran Province Interim Guidelines or the subsequently issued final guidelines, whichever is in effect).

(d) **FUNDING.**—

(1) SOURCES OF FUNDS.—To provide funds for the resource management activities to be performed under the contract, the Secretary may use—

(A) funds appropriated to carry out this section;

(B) funds specifically provided to the Forest Service to implement projects to demonstrate enhanced water quality and protect aquatic and upland resources;

(C) excess funds that are allocated for the administration and management of the Stanislaus National Forest, California;

(D) hazardous fuels reduction funds allocated for Region 5 of the Forest Service; and

(E) a contract provision allowing the cost of performing authorized management activities described in subsection (b) to be offset by the values owed to the United States for any forest products removed by the contractor.

(2) PROHIBITION ON USE OF CERTAIN FUNDS.—Except as provided in paragraph (1), the Secretary may not carry out the contract using funds appropriated for any other unit of the National Forest System.

(3) CONDITIONS ON FUNDS TRANSFERS.—Any transfer of funds under paragraph (1) may be made only in accordance with the procedures concerning notice to, and review by, the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate that are applied by the Secretary in the case of a transfer of funds between appropriations.

(e) ACCEPTANCE AND USE OF STATE FUNDS.—The Secretary may accept and use funds provided by the State of California to assist in the implementation of the contract under this section.

(f) REPORTING REQUIREMENTS.—Not later than February 28 of each year during the term of the contract, the Secretary shall submit to Congress a report describing—

(1) the resource management activities performed under the contract during the period covered by the report;

(2) the source and amount of funds used under subsection (d) to carry out the contract; and

(3) the resource management activities to be performed under the contract during the calendar year in which the report is submitted.

(g) RELATIONSHIP TO OTHER LAWS.—Nothing in this section exempts the contract, or resource management activities to be performed under the contract, from any Federal environmental law.

Approved October 26, 1998.

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LEGISLATIVE HISTORY—H.R. 2886:

HOUSE REPORTS: No. 105–527 (Comm. on Resources).

SENATE REPORTS: No. 105–292 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 12, considered and passed House.

Oct. 2, considered and passed Senate, amended.

Oct. 10, House concurred in Senate amendment.





Public Law 105–282  
105th Congress

An Act

Oct. 26, 1998  
[H.R. 3796]

To authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DEFINITION.**

In this Act, the term “Secretary” means the Secretary of Agriculture.

**SEC. 2. SALE OR EXCHANGE OF ADMINISTRATIVE SITE.**

(a) **IN GENERAL.**—The Secretary, under such terms and conditions as the Secretary may prescribe, may sell or exchange any or all right, title, and interest of the United States in and to the Rogue River National Forest administrative site depicted on the map entitled “Rogue River Administrative Conveyance” dated April 23, 1998, consisting of approximately 5.1 acres.

(b) **EXCHANGE ACQUISITIONS.**—The Secretary may accept for the construction of administrative facilities in exchange for a conveyance of the administrative site under subsection (a).

(c) **APPLICABLE AUTHORITIES.**—Except as otherwise provided in this Act, any sale or exchange of an administrative site shall be subject to the laws (including regulations) applicable to the conveyance and acquisition of land for National Forest System purposes.

(d) **CASH EQUALIZATION.**—Notwithstanding any other provision of law, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of an administrative site in an exchange under subsection (a).

(e) **SOLICITATIONS OF OFFERS.**—In carrying out this Act, the Secretary may—

(1) use solicitations of offers for sale or exchange on such terms and conditions as the Secretary may prescribe; and

(2) reject any offer if the Secretary determines that the offer is not adequate or not in the public interest.

**SEC. 3. DISPOSITION OF FUNDS.**

The proceeds of a sale or exchange under section 2 shall be deposited in the fund established under Public Law 90–171 (16 U.S.C. 484a) (commonly known as the “Sisk Act”) and shall be available, until expended, for the construction or improvement of offices and support buildings for combined use by the Forest Service

for the Rogue River National Forest, and by the Bureau of Land Management.

**SEC. 4. REVOCATIONS.**

(a) **PUBLIC LAND ORDERS.**—Notwithstanding any other provision of law, to facilitate the sale or exchange of the administrative site, public land orders withdrawing the administrative site from all forms of appropriation under the public land laws are revoked for any portion of the administrative site, upon conveyance of that portion by the Secretary.

(b) **EFFECTIVE DATE.**—The effective date of a revocation made by this section shall be the date of the patent or deed conveying the administrative site (or portion thereof).

Approved October 26, 1998.

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**LEGISLATIVE HISTORY—H.R. 3796 (S. 2513):**

HOUSE REPORTS: No. 105–561 (Comm. on Resources).

SENATE REPORTS: Nos. 105–293 (Comm. on Energy and Natural Resources) and 105–391 accompanying S. 2513 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 16, considered and passed House.

Oct. 2, considered and passed Senate, amended.

Oct. 10, House concurred in Senate amendment.



Public Law 105–284  
105th Congress

An Act

To authorize the Government of India to establish a memorial to honor Mahatma Gandhi in the District of Columbia.

Oct. 26, 1998  
[H.R. 4284]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.**

40 USC 1003  
note.

(a) **IN GENERAL.**—The Government of India may establish a memorial to honor Mahatma Gandhi on the Federal land in the District of Columbia.

(b) **COOPERATIVE AGREEMENTS.**—The Secretary of the Interior or any other head of a Federal agency may enter into cooperative agreements with the Government of India to maintain features associated with the memorial.

(c) **COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.**—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.), except that sections 2(c) and 6(b) of that Act shall not apply with respect to the memorial.

(d) **LIMITATION ON PAYMENT OF EXPENSES.**—The Government of the United States shall not pay any expense of the establishment of the memorial or its maintenance.

Approved October 26, 1998.

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**LEGISLATIVE HISTORY—H.R. 4284:**

HOUSE REPORTS: No. 105–666 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 15, considered and passed House.

Oct. 8, considered and passed Senate.



Public Law 105–285  
105th Congress

An Act

Oct. 27, 1998

[S. 2206]

Community  
Opportunities,  
Accountability,  
and Training and  
Educational  
Services Act of  
1998.  
Children, youth,  
and families.  
Education.  
Grants.  
Housing.  
Inter-  
governmental  
relations.  
42 USC 9801  
note.

To amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Community Opportunities, Accountability, and Training and Educational Services Act of 1998” or the “Coats Human Services Reauthorization Act of 1998”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

**TITLE I—HEAD START PROGRAMS**

Sec. 101. Short title.

Sec. 102. Statement of purpose.

Sec. 103. Definitions.

Sec. 104. Financial assistance for Head Start programs.

Sec. 105. Authorization of appropriations.

Sec. 106. Allotment of funds.

Sec. 107. Designation of Head Start agencies.

Sec. 108. Quality standards.

Sec. 109. Powers and functions of Head Start agencies.

Sec. 110. Head Start transition.

Sec. 111. Submission of plans to Governors.

Sec. 112. Participation in Head Start programs.

Sec. 113. Early Head Start programs for families with infants and toddlers.

Sec. 114. Technical assistance and training.

Sec. 115. Professional requirements.

Sec. 116. Research and evaluation.

Sec. 117. Reports.

Sec. 118. Repeal of consultation requirement.

Sec. 119. Repeal of Head Start Transition Project Act.

**TITLE II—COMMUNITY SERVICES BLOCK GRANT PROGRAM**

Sec. 201. Reauthorization.

Sec. 202. Conforming amendments.

**TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE**

Sec. 301. Short title.

Sec. 302. Authorization.

Sec. 303. Definitions.

Sec. 304. Natural disasters and other emergencies.

Sec. 305. State allotments.

Sec. 306. Administration.

Sec. 307. Payments to States.

- Sec. 308. Residential Energy Assistance Challenge option.  
 Sec. 309. Technical assistance, training, and compliance reviews.

## TITLE IV—ASSETS FOR INDEPENDENCE

- Sec. 401. Short title.  
 Sec. 402. Findings.  
 Sec. 403. Purposes.  
 Sec. 404. Definitions.  
 Sec. 405. Applications.  
 Sec. 406. Demonstration authority; annual grants.  
 Sec. 407. Reserve Fund.  
 Sec. 408. Eligibility for participation.  
 Sec. 409. Selection of individuals to participate.  
 Sec. 410. Deposits by qualified entities.  
 Sec. 411. Local control over demonstration projects.  
 Sec. 412. Annual progress reports.  
 Sec. 413. Sanctions.  
 Sec. 414. Evaluations.  
 Sec. 415. Treatment of funds.  
 Sec. 416. Authorization of appropriations.

## TITLE I—HEAD START PROGRAMS

Head Start  
 Amendments of  
 1998.  
 42 USC 9801  
 note.

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Head Start Amendments of 1998”.

**SEC. 102. STATEMENT OF PURPOSE.**

Section 636 of the Head Start Act (42 U.S.C. 9831) is amended to read as follows:

**“SEC. 636. STATEMENT OF PURPOSE.**

“It is the purpose of this subchapter to promote school readiness by enhancing the social and cognitive development of low-income children through the provision, to low-income children and their families, of health, educational, nutritional, social, and other services that are determined, based on family needs assessments, to be necessary.”.

**SEC. 103. DEFINITIONS.**

Section 637 of the Head Start Act (42 U.S.C. 9832) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (16) and (17) and inserting the paragraphs at the end of the section;

(2) by inserting before paragraph (3) the following:

“(1) The term ‘child with a disability’ means—

“(A) a child with a disability, as defined in section 602(3) of the Individuals with Disabilities Education Act; and

“(B) an infant or toddler with a disability, as defined in section 632(5) of such Act.

“(2) The term ‘delegate agency’ means a public, private nonprofit, or for-profit organization or agency to which a grantee has delegated all or part of the responsibility of the grantee for operating a Head Start program.”;

(3) by striking paragraph (4);

(4) by redesignating paragraph (3) as paragraph (4);

(5) by inserting after paragraph (2) the following:

“(3) The term ‘family literacy services’ means services that are of sufficient intensity in terms of hours, and of sufficient

duration, to make sustainable changes in a family, and that integrate all of the following activities:

“(A) Interactive literacy activities between parents and their children.

“(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

“(C) Parent literacy training that leads to economic self-sufficiency.

“(D) An age-appropriate education to prepare children for success in school and life experiences.”;

(6) in paragraph (6), by adding at the end the following: “Nothing in this paragraph shall be construed to require an agency to provide services to a child who has not reached the age of compulsory school attendance for more than the number of hours per day permitted by State law (including regulation) for the provision of services to such a child.”;

(7) by striking paragraph (12) and inserting the following:

“(12) The term ‘migrant and seasonal Head Start program’ means—

“(A) with respect to services for migrant farmworkers, a Head Start program that serves families who are engaged in agricultural labor and who have changed their residence from one geographic location to another in the preceding 2-year period; and

“(B) with respect to services for seasonal farmworkers, a Head Start program that serves families who are engaged primarily in seasonal agricultural labor and who have not changed their residence to another geographic location in the preceding 2-year period.”;

(8) by inserting after paragraph (14) the following:

“(15) The term ‘scientifically based reading research’—

“(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

“(B) shall include research that—

“(i) employs systematic, empirical methods that draw on observation or experiment;

“(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

“(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

“(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.”; and

(9) in paragraph (17) (as redesignated in paragraph (1))—

(A) by striking “Term” and inserting “term”;

(B) by striking “Virgin Islands,” and inserting “Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands, but for fiscal years ending

before October 1, 2001 (and fiscal year 2002, if the legislation described in section 640(a)(2)(B)(iii) has not been enacted before September 30, 2001), also means”; and

(C) by striking “Palau, and the Commonwealth of the Northern Mariana Islands.” and inserting “and the Republic of Palau.”.

**SEC. 104. FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS.**

Section 638(1) of the Head Start Act (42 U.S.C. 9833(1)) is amended—

(1) by striking “aid the” and inserting “enable the”; and

(2) by striking the semicolon and inserting “and attain school readiness;”.

**SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—

(1) in subsection (a), by striking “1995 through 1998” and inserting “1999 through 2003”; and

(2) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

“(1) for each of fiscal years 1999 through 2003 to carry out activities authorized under section 642A, not more than \$35,000,000 but not less than the amount that was made available for such activities for fiscal year 1998;

“(2) not more than \$5,000,000 for each of fiscal years 1999 through 2003 to carry out impact studies under section 649(g); and

“(3) not more than \$12,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000 through 2003, to carry out other research, demonstration, and evaluation activities, including longitudinal studies, under section 649.”.

**SEC. 106. ALLOTMENT OF FUNDS.**

(a) ALLOTMENTS.—Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “and migrant” the first place it appears and all that follows through “handicapped children”, and inserting “Head Start programs, services for children with disabilities, and migrant and seasonal Head Start programs”;

(ii) by striking “and migrant” each other place it appears and inserting “Head Start programs and by migrant and seasonal”; and

(iii) by striking “1994” and inserting “1998”;

(B) in subparagraph (B), by striking “(B) payments” and all that follows through “Virgin Islands according” and inserting the following:

“(B) payments, subject to paragraph (7)—

“(i) to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States;

“(ii) for fiscal years ending before October 1, 2001, to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau; and

“(iii) if legislation approving renegotiated Compacts of Free Association for the jurisdictions described in clause (ii) has not been enacted before September 30, 2001, for fiscal year 2002 to those jurisdictions; according”;

(C) in subparagraph (C), by striking “; and” and inserting “, of which not less than \$3,000,000 of the amount appropriated for such fiscal year shall be made available to carry out activities described in section 648(c)(4);”;

(D) in subparagraph (D), by striking “related to the development and implementation of quality improvement plans under section 641A(d)(2).” and inserting “carried out under paragraph (1), (2), or (3) of section 641A(d) related to correcting deficiencies and conducting proceedings to terminate the designation of Head Start agencies; and”;

(E) by inserting after subparagraph (D) the following: “(E) payments for research, demonstration, and evaluation activities under section 649.”; and

(F) by adding at the end the following: “No Freely Associated State may receive financial assistance under this subchapter after fiscal year 2002.”;

(2) in paragraph (3)—

(A) in subparagraph (A)(i), by striking “equal” and all that follows through “amount;” and inserting “equal to the sum of—

“(I) 60 percent of such excess amount for fiscal year 1999, 50 percent of such excess amount for fiscal year 2000, 47.5 percent of such excess amount for fiscal year 2001, 35 percent of such excess amount for fiscal year 2002, and 25 percent of such excess amount for fiscal year 2003;”;

(B) in subparagraph (B)—

(i) in clause (ii)—

(I) by striking “adequate qualified staff” and inserting “adequate numbers of qualified staff”; and

(II) by inserting “and children with disabilities” before “, when”;

(ii) in clause (iv), by inserting before the period the following: “, and to encourage the staff to continually improve their skills and expertise by informing the staff of the availability of Federal and State incentive and loan forgiveness programs for professional development”;

(iii) in clause (v), by inserting “and collaboration efforts for such programs” before the period;

(iv) in clause (vi), by striking the period and inserting “, and are accessible to children with disabilities and their parents.”;

(v) by redesignating clause (vii) as clause (viii); and

(vi) by inserting after clause (vi) the following: “(vii) Ensuring that such programs have qualified staff that can promote language skills and literacy growth of children and that can provide children with a variety of skills that have been identified, through scientifically based reading research, as predictive of later reading achievement.”;

(C) in subparagraph (C)—



(i) in clause (i)—

(I) in subclause (I)—

(aa) by striking “this subparagraph” and inserting “this paragraph”;

(bb) by striking “of staff” and inserting “of classroom teachers and other staff”;

(cc) by striking “such staff” and inserting “qualified staff, including recruitment and retention pursuant to achieving the requirements set forth in section 648A(a)”;

(dd) by adding at the end the following: “Preferences in awarding salary increases, in excess of cost-of-living allowances, with such funds shall be granted to classroom teachers and staff who obtain additional training or education related to their responsibilities as employees of a Head Start program.”;

(II) in subclause (II), by striking “the subparagraph” and inserting “this subparagraph”;

(III) by adding at the end the following:

“(III) From the remainder of the amount reserved under this paragraph (after the Secretary carries out subclause (I)), the Secretary shall carry out any or all of the activities described in clauses (ii) through (vii), placing the highest priority on the activities described in clause (ii).”;

(ii) by amending clause (ii) to read as follows:

“(ii) To train classroom teachers and other staff to meet the education performance standards described in section 641A(a)(1)(B), through activities—

“(I) to promote children’s language and literacy growth, through techniques identified through scientifically based reading research;

“(II) to promote the acquisition of the English language for non-English background children and families;

“(III) to foster children’s school readiness skills through activities described in section 648A(a)(1); and

“(IV) to provide training necessary to improve the qualifications of the staff of the Head Start agencies and to support staff training, child counseling, and other services necessary to address the problems of children participating in Head Start programs, including children from dysfunctional families, children who experience chronic violence in their communities, and children who experience substance abuse in their families.”;

(iii) by striking clause (v); and

(iv) by redesignating clauses (vi) and (vii) as clauses (v) and (vi), respectively; and

(D) in subparagraph (D)(i)(II), by striking “and migrant” and inserting “Head Start programs and migrant and seasonal”;

(3) in paragraph (4)—

(A) in subparagraph (A), by striking “1981” and inserting “1998”;

(B) by amending subparagraph (B) to read as follows:

“(B) any amount available after all allotments are made under subparagraph (A) for such fiscal year shall be distributed proportionately on the basis of the number of children less

than 5 years of age from families whose income is below the poverty line.”; and

(C) by adding at the end the following:

“For purposes of this paragraph, for each fiscal year the Secretary shall use the most recent data available on the number of children less than 5 years of age from families whose income is below the poverty line, as published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the most recent data available would be inappropriate or unreliable. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, the Secretaries shall issue a report setting forth their reasons in detail.”;

(4) in paragraph (5)—

(A) in subparagraph (A), by striking “subparagraph (B)” and inserting “subparagraphs (B) and (D)”;

(B) in subparagraph (B), by inserting before the period the following: “and to encourage Head Start agencies to collaborate with entities involved in State and local planning processes (including the State lead agency administering the financial assistance received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) and the entities providing resource and referral services in the State) in order to better meet the needs of low-income children and families”;

(C) in subparagraph (C)—

(i) in clause (i)(I), by inserting “the appropriate regional office of the Administration for Children and Families and” before “agencies”;

(ii) in clause (iii), by striking “and” at the end;

(iii) in clause (iv)—

(I) by striking “education, and national service activities,” and inserting “education, and community service activities,”;

(II) by striking “and activities” and inserting “activities”; and

(III) by striking the period and inserting “(including coordination of services with those State officials who are responsible for administering part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431–1445, 1419)), and services for homeless children;”; and

(iv) by adding at the end the following:

“(v) include representatives of the State Head Start Association and local Head Start agencies in unified planning regarding early care and education services at both the State and local levels, including collaborative efforts to plan for the provision of full-working-day, full calendar year early care and education services for children; and

“(vi) encourage local Head Start agencies to appoint a State level representative to represent Head Start agencies within the State in conducting collaborative efforts described in subparagraphs (B) and (D), and in clause (v).”;

(D) by redesignating subparagraph (D) as subparagraph (F); and

(E) by inserting after subparagraph (C) the following:

“(D) Following the award of collaboration grants described in subparagraph (B), the Secretary shall provide, from the reserved sums, supplemental funding for collaboration grants—

“(i) to States that (in consultation with their State Head Start Associations) develop statewide, regional, or local unified plans for early childhood education and child care that include the participation of Head Start agencies; and

“(ii) to States that engage in other innovative collaborative initiatives, including plans for collaborative training and professional development initiatives for child care, early childhood education and Head Start service managers, providers, and staff.

“(E)(i) The Secretary shall—

“(I) review on an ongoing basis evidence of barriers to effective collaboration between Head Start programs and other Federal, State, and local child care and early childhood education programs and resources;

“(II) develop initiatives, including providing additional training and technical assistance and making regulatory changes, in necessary cases, to eliminate barriers to the collaboration; and

“(III) develop a mechanism to resolve administrative and programmatic conflicts between programs described in subclause (I) that would be a barrier to service providers, parents, or children related to the provision of unified services and the consolidation of funding for child care services.

“(ii) In the case of a collaborative activity funded under this subchapter and another provision of law providing for Federal child care or early childhood education, the use of equipment and nonconsumable supplies purchased with funds made available under this subchapter or such provision shall not be restricted to children enrolled or otherwise participating in the program carried out under that subchapter or provision, during a period in which the activity is predominantly funded under this subchapter or such provision.”; and

(5) in paragraph (6)—

(A) by inserting “(A)” before “From”;

(B) by striking “3 percent” and all that follows and inserting the following: “7.5 percent for fiscal year 1999, 8 percent for fiscal year 2000, 9 percent for fiscal year 2001, 10 percent for fiscal year 2002, and 10 percent for fiscal year 2003, of the amount appropriated pursuant to section 639(a), except as provided in subparagraph (B).”; and

(C) by adding at the end the following:

“(B)(i) If the Secretary does not submit an interim report on the preliminary findings of the Early Head Start impact study currently being conducted by the Secretary (as of the date of enactment of the Head Start Amendments of 1998) to the appropriate committees by June 1, 2001, the amount of the reserved portion for fiscal year 2002 that exceeds the reserved portion for fiscal year 2001, if any, shall be used for quality improvement activities described in section 640(a)(3) and shall not be used to serve an increased number of eligible children under section 645A.

“(ii) If the Secretary does not submit a final report on the Early Head Start impact study to the appropriate committees by June 1, 2002, or if the Secretary finds in the report that there

are substantial deficiencies in the programs carried out under section 645A, the amount of the reserved portion for fiscal year 2003 that exceeds the reserved portion for fiscal year 2002, if any, shall be used for quality improvement activities described in section 640(a)(3) and shall not be used to serve an increased number of eligible children under section 645A.

“(iii) In this subparagraph:

“(I) The term ‘appropriate committees’ means the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate.

“(II) The term ‘reserved portion’, used with respect to a fiscal year, means the amount required to be used in accordance with subparagraph (A) for that fiscal year.

“(C)(i) For any fiscal year for which the Secretary determines that the amount appropriated under section 639(a) is not sufficient to permit the Secretary to reserve the portion described in subparagraph (A) without reducing the number of children served by Head Start programs or adversely affecting the quality of Head Start services, relative to the number of children served and the quality of the services during the preceding fiscal year, the Secretary may reduce the percentage of funds required to be reserved for the portion described in subparagraph (A) for the fiscal year for which the determination is made, but not below the percentage required to be so reserved for the preceding fiscal year.

“(ii) For any fiscal year for which the amount appropriated under section 639(a) is reduced to a level that requires a lower amount to be made available under this subchapter to Head Start agencies and entities described in section 645A, relative to the amount made available to the agencies and entities for the preceding fiscal year, adjusted as described in paragraph (3)(A)(ii), the Secretary shall proportionately reduce—

“(I) the amounts made available to the entities for programs carried out under section 645A; and

“(II) the amounts made available to Head Start agencies for Head Start programs.”.

(b) CHILDREN WITH DISABILITIES.—Section 640(d) of the Head Start Act (42 U.S.C. 9835(d)) is amended—

(1) by striking “1982” and inserting “1999”;

(2) by striking “(as defined in section 602(a) of the Individuals with Disabilities Education Act)”; and

(3) by adding at the end the following: “Such policies and procedures shall require Head Start agencies to coordinate programmatic efforts with efforts to implement part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C 1431–1445, 1419).”.

(c) INCREASED APPROPRIATIONS.—Section 640(g) of the Head Start Act (42 U.S.C. 9835(g)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking the semicolon and inserting “, and the performance history of the applicant in providing services under other Federal programs (other than the program carried out under this subchapter);”;

(B) in subparagraph (C), by striking the semicolon and inserting “, and organizations and public entities serving children with disabilities;”;

(C) in subparagraph (D), by striking the semicolon and inserting “and the extent to which, and manner in which, the applicant demonstrates the ability to collaborate and participate with other local community providers of child care or preschool services to provide full-working-day full calendar year services;”;

(D) in subparagraph (E), by striking “program; and” and inserting “program or any other early childhood program;”;

(E) in subparagraph (F), by striking the period and inserting a semicolon; and

(F) by adding at the end the following:

“(G) the extent to which the applicant proposes to foster partnerships with other service providers in a manner that will enhance the resource capacity of the applicant; and

“(H) the extent to which the applicant, in providing services, plans to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, regarding such services and the education services provided by such local educational agency.”; and

(2) by adding at the end the following:

“(4) Notwithstanding subsection (a)(2), after taking into account paragraph (1), the Secretary may allocate a portion of the remaining additional funds under subsection (a)(2)(A) for the purpose of increasing funds available for activities described in such subsection.”.

(d) MIGRANT AND SEASONAL HEAD START PROGRAMS.—Section 640(l) (42 U.S.C. 9835(l)) is amended—

(1) by striking “(l)” and inserting “(l)(1)”;

(2) by striking “migrant Head Start programs” each place it appears and inserting “migrant and seasonal Head Start programs”;

(3) by striking “migrant families” and inserting “migrant and seasonal farmworker families”; and

(4) by adding at the end the following:

“(2) For purposes of subsection (a)(2)(A), in determining the need and demand for migrant and seasonal Head Start programs (and services provided through such programs), the Secretary shall consult with appropriate entities, including providers of services for migrant and seasonal Head Start programs. The Secretary shall, after taking into consideration the need and demand for migrant and seasonal Head Start programs (and such services), ensure that there is an adequate level of such services for eligible children of migrant farmworkers before approving an increase in the allocation of funds provided under such subsection for unserved eligible children of seasonal farmworkers. In serving the eligible children of seasonal farmworkers, the Secretary shall ensure that services provided by migrant and seasonal Head Start programs do not duplicate or overlap with other Head Start services available to eligible children of such farmworkers.

“(3) In carrying out this subchapter, the Secretary shall continue the administrative arrangement responsible for meeting the

needs of children of migrant and seasonal farmworkers and Indian children and shall ensure that appropriate funding is provided to meet such needs.”.

(e) CONFORMING AMENDMENT.—Section 644(f)(2) of the Head Start Act (42 U.S.C. 9839(f)(2)) is amended by striking “Except” and all that follows through “financial” and inserting “Financial”.

**SEC. 107. DESIGNATION OF HEAD START AGENCIES.**

Section 641 of the Head Start Act (42 U.S.C. 9836) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting “or for-profit” after “nonprofit”; and

(B) by inserting “(in consultation with the chief executive officer of the State involved, if such State expends non-Federal funds to carry out Head Start programs)” after “Secretary” the last place it appears;

(2) in subsection (b), by striking “area designated by the Bureau of Indian Affairs as near-reservation” and inserting “off-reservation area designated by an appropriate tribal government in consultation with the Secretary”;

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting “, in consultation with the chief executive officer of the State involved if such State expends non-Federal funds to carry out Head Start programs,” after “shall”;

(ii) by inserting “or for-profit” after “nonprofit”; and

(iii) by striking “makes a finding” and all that follows through the period at the end, and inserting the following: “determines that the agency involved fails to meet program and financial management requirements, performance standards described in section 641A(a)(1), results-based performance measures developed by the Secretary under section 641A(b), or other requirements established by the Secretary.”;

(B) in paragraph (2), by inserting “, in consultation with the chief executive officer of the State if such State expends non-Federal funds to carry out Head Start programs,” after “shall”; and

(C) by aligning the margins of paragraphs (2) and (3) with the margin of paragraph (1);

(4) in subsection (d)—

(A) in the matter preceding paragraph (1), by inserting after the first sentence the following: “In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall give priority to any qualified agency that functioned as a Head Start delegate agency in the community and carried out a Head Start program that the Secretary determines met or exceeded such performance standards and such results-based performance measures.”;

(B) in paragraph (3), by inserting “and programs under part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431–1445, 1419)” after “(20 U.S.C. 2741 et seq.)”;

(C) in paragraph (4)—

(i) in subparagraph (A), by inserting “(at home and in the center involved where practicable)” after “activities”;

(ii) in subparagraph (D)—

(I) in clause (iii), by adding “or” at the end;

(II) by striking clause (iv); and

(III) by redesignating clause (v) as clause (iv);

(iii) in subparagraph (E), by striking “and (D)” and inserting “, (D), and (E)”;

(iv) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(v) by inserting after subparagraph (C) the following:

“(D) to offer to parents of participating children substance abuse counseling (either directly or through referral to local entities), including information on drug-exposed infants and fetal alcohol syndrome;”;

(D) by amending paragraph (7) to read as follows:

“(7) the plan of such applicant to meet the needs of non-English background children and their families, including needs related to the acquisition of the English language;”;

(E) in paragraph (8)—

(i) by striking the period at the end and inserting “; and”; and

(ii) by redesignating such paragraph as paragraph (9);

(F) by inserting after paragraph (7) the following:

“(8) the plan of such applicant to meet the needs of children with disabilities;”;

(G) by adding at the end the following:

“(10) the plan of such applicant to collaborate with other entities carrying out early childhood education and child care programs in the community.”;

(5) by striking subsection (e) and inserting the following:

“(e) If no agency in the community receives priority designation under subsection (c), and there is no qualified applicant in the community, the Secretary shall designate a qualified agency to carry out the Head Start program in the community on an interim basis until a qualified applicant from the community is so designated.”; and

(6) by adding at the end the following:

“(g) If the Secretary determines that a nonprofit agency and a for-profit agency have submitted applications for designation of equivalent quality under subsection (d), the Secretary may give priority to the nonprofit agency. In selecting from among qualified applicants for designation as a Head Start agency under subsection (d), the Secretary shall give priority to applicants that have demonstrated capacity in providing comprehensive early childhood services to children and their families.”.

#### SEC. 108. QUALITY STANDARDS.

(a) QUALITY STANDARDS.—Section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting “, including minimum levels of overall accomplishment,” after “regulation standards”;

(B) in subparagraph (A), by striking “education,”;

(C) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(D) by inserting after subparagraph (A) the following:

“(B)(i) education performance standards to ensure the school readiness of children participating in a Head Start program, on completion of the Head Start program and prior to entering school; and

“(ii) additional education performance standards to ensure that the children participating in the program, at a minimum—

“(I) develop phonemic, print, and numeracy awareness;

“(II) understand and use language to communicate for various purposes;

“(III) understand and use increasingly complex and varied vocabulary;

“(IV) develop and demonstrate an appreciation of books; and

“(V) in the case of non-English background children, progress toward acquisition of the English language.”;

(2) by striking paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2) (as redesignated in paragraph (3))—

(A) in subparagraph (B)(iii), by striking “child” and inserting “early childhood education and”; and

(B) in subparagraph (C)—

(i) in clause (i)—

(I) by striking “not later than 1 year after the date of enactment of this section,”; and

(II) by striking “section 651(b)” and all that follows and inserting “this subsection; and”; and

(ii) in subclause (ii), by striking “November 2, 1978” and inserting “the date of enactment of the Coats Human Services Reauthorization Act of 1998”; and

(5) in paragraph (3) (as redesignated in paragraph (3)), by striking “to an agency (referred to in this subchapter as the ‘delegate agency’)” and inserting “to a delegate agency”.

(b) PERFORMANCE MEASURES.—Section 641A(b) of the Head Start Act (42 U.S.C. 9836a(b)) is amended—

(1) in the heading, by inserting “RESULTS-BASED” before “PERFORMANCE”;

(2) in paragraph (1)—

(A) by striking “Not later than 1 year after the date of enactment of this section, the” and inserting “The”;

(B) by striking “child” and inserting “early childhood education and”;

(C) by inserting before “(referred)” the following: “, and the impact of the services provided through the programs to children and their families”; and



(D) by striking “performance measures” and inserting “results-based performance measures”; and  
(3) in paragraph (2)—

(A) in the paragraph heading, by striking “DESIGN” and inserting “CHARACTERISTICS”;

(B) in the matter preceding subparagraph (A), by striking “shall be designed—” and inserting “shall—”;

(C) in subparagraph (A), by striking “to assess” and inserting “be used to assess the impact of”;

(D) in subparagraph (B)—

(i) by striking “to”;

(ii) by striking “and peer review” and inserting “, peer review, and program evaluation”; and

(iii) by inserting “, not later than July 1, 1999” before the semicolon;

(E) in subparagraph (C), by inserting “be developed” before “for other”; and

(F) by adding at the end the following: “The performance measures shall include the performance standards described in subsection (a)(1)(B)(ii).”;

(4) in paragraph (3)(A), by striking “and by region” and inserting “, regionally, and locally”; and

(5) by adding at the end the following:

“(4) EDUCATIONAL PERFORMANCE MEASURES.—Such results-based performance measures shall include educational performance measures that ensure that children participating in Head Start programs—

“(A) know that letters of the alphabet are a special category of visual graphics that can be individually named;

“(B) recognize a word as a unit of print;

“(C) identify at least 10 letters of the alphabet; and

“(D) associate sounds with written words.

“(5) ADDITIONAL LOCAL RESULTS-BASED PERFORMANCE MEASURES.—In addition to other applicable results-based performance measures, Head Start agencies may establish local results-based educational performance measures.”.

(c) MONITORING.—Section 641A(c) of the Head Start Act (42 U.S.C. 9836a(c)) is amended—

(1) in paragraph (1), by inserting “and results-based performance measures developed by the Secretary under subsection (b)” after “standards established under this subchapter”; and

(2) in paragraph (2)—

(A) in subparagraph (B), by striking “and” at the end;

(B) in subparagraph (C)—

(i) by inserting “(including children with disabilities)” after “eligible children”; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(D) include as part of the reviews of the programs, a review and assessment of program effectiveness, as measured in accordance with the results-based performance measures developed by the Secretary pursuant to subsection (b) and with the performance standards established pursuant to subparagraphs (A) and (B) of subsection (a)(1); and

“(E) seek information from the communities and the States involved about the performance of the programs and the efforts of the Head Start agencies to collaborate with other entities carrying out early childhood education and child care programs in the community.”.

(d) **TERMINATION.**—Section 641A(d) of the Head Start Act (42 U.S.C. 9836a(d)) is amended—

(1) in paragraph (1)—

(A) by inserting “or results-based performance measures developed by the Secretary under subsection (b)” after “subsection (a)”; and

(B) by amending subparagraph (B) to read as follows: “(B) with respect to each identified deficiency, require the agency—

“(i) to correct the deficiency immediately, if the Secretary finds that the deficiency threatens the health or safety of staff or program participants or poses a threat to the integrity of Federal funds;

“(ii) to correct the deficiency not later than 90 days after the identification of the deficiency if the Secretary finds, in the discretion of the Secretary, that such a 90-day period is reasonable, in light of the nature and magnitude of the deficiency; or

“(iii) in the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and”; and

(2) in paragraph (2)(A), in the matter preceding clause (i), by striking “able to correct a deficiency immediately” and inserting “required to correct a deficiency immediately or during a 90-day period under clause (i) or (ii) of paragraph (1)(B)”.

(e) **REPORT.**—Section 641A(e) of the Head Start Act (42 U.S.C. 9836a(e)) is amended by adding at the end the following: “Such report shall be widely disseminated and available for public review in both written and electronic formats.”.

Public  
information.  
Internet.

#### **SEC. 109. POWERS AND FUNCTIONS OF HEAD START AGENCIES.**

Section 642 of the Head Start Act (42 U.S.C. 9837) is amended—

(1) in subsection (a), by inserting “or for-profit” after “non-profit”;

(2) in subsection (b)—

(A) in paragraph (6)—

(i) by striking subparagraph (D); and

(ii) by redesignating subparagraphs (E) and (F) and subparagraphs (D) and (E), respectively;

(B) in paragraph (8), by striking “and” at the end;

(C) in paragraph (9), by striking the period at the end and inserting “; and”;

(D) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively;

(E) by inserting after paragraph (5) the following:

“(6) offer to parents of participating children substance abuse counseling (either directly or through referral to local entities), including information on drug-exposed infants and fetal alcohol syndrome;”;

(F) in paragraph (8) (as redesignated in subparagraph (D)), by striking “paragraphs (4) through (6)” and inserting “paragraphs (4) through (7)”; and

(G) by adding at the end the following:

“(11)(A) inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this subchapter about the availability of child support services for purposes of establishing paternity and acquiring child support; and

“(B) refer eligible parents to the child support offices of State and local governments.”;

(3) in subsection (c)—

(A) by inserting “and collaborate” after “coordinate”;

(B) by striking “section 402(g) of the Social Security Act, and other” and inserting “the State program carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), and other early childhood education and development”; and

(C) by inserting “and programs under part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431–1445, 1419)” after “(20 U.S.C. 2741 et seq.)”;

(4) in subsection (d)—

(A) in paragraph (1)—

(i) by striking “carry out” and all that follows through “maintain” and inserting “take steps to ensure, to the maximum extent possible, that children maintain”;

(ii) by inserting “and educational” after “developmental”; and

(iii) by striking “to build” and inserting “build”;

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(D) in subparagraph (A) of paragraph (4) (as redesignated in subparagraph (C)), by striking “the Head Start Transition Project Act (42 U.S.C. 9855 et seq.)” and inserting “section 642A”; and

(5) by adding at the end the following:

“(e) Head Start agencies shall adopt, in consultation with experts in child development and with classroom teachers, an assessment to be used when hiring or evaluating any classroom teacher in a center-based Head Start program. Such assessment shall measure whether such teacher has mastered the functions described in section 648A(a)(1).”.

#### **SEC. 110. HEAD START TRANSITION.**

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by inserting after section 642 the following:

##### **“SEC. 642A. HEAD START TRANSITION.**

42 USC 9837a.

“Each Head Start agency shall take steps to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

“(1) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program

records for each participating child to the school in which such child will enroll;

“(2) establishing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, and health staff) to facilitate coordination of programs;

“(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start program teachers to discuss the educational, developmental, and other needs of individual children;

“(4) organizing and participating in joint transition-related training of school staff and Head Start staff;

“(5) developing and implementing a family outreach and support program in cooperation with entities carrying out parental involvement efforts under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

“(6) assisting families, administrators, and teachers in enhancing educational and developmental continuity between Head Start services and elementary school classes; and

“(7) linking the services provided in such Head Start program with the education services provided by such local educational agency.”.

#### **SEC. 111. SUBMISSION OF PLANS TO GOVERNORS.**

The first sentence of section 643 of the Head Start Act (42 U.S.C. 9838) is amended—

(1) by striking “30 days” and inserting “45 days”;

(2) by striking “so disapproved” and inserting “disapproved (for reasons other than failure of the program to comply with State health, safety, and child care laws, including regulations applicable to comparable child care programs in the State)”;

and

(3) by inserting before the period “, as evidenced by a written statement of the Secretary’s findings that is transmitted to such officer”.

#### **SEC. 112. PARTICIPATION IN HEAD START PROGRAMS.**

(a) REGULATIONS.—Section 645(a)(1) of the Head Start Act (42 U.S.C. 9840(a)(1)) is amended—

(1) by striking “provide (A) that” and inserting the following: “provide—

“(A) that”;

(2) by striking “assistance; and (B) pursuant” and inserting the following: “assistance; and

“(B) pursuant”;

(3) in subparagraph (B), by striking “that programs” and inserting “that—

“(i) programs”; and

(4) by striking “clause (A).” and inserting the following: “subparagraph (A); and

“(ii) a child who has been determined to meet the low-income criteria and who is participating in a Head Start program in a program year shall be considered to continue to meet the low-income criteria through the end of the succeeding program year.

In determining, for purposes of this paragraph, whether a child who has applied for enrollment in a Head Start program meets the low-income criteria, an entity may consider evidence of family

income during the 12 months preceding the month in which the application is submitted, or during the calendar year preceding the calendar year in which the application is submitted, whichever more accurately reflects the needs of the family at the time of application.”.

(b) **SLIDING FEE SCALE.**—Section 645(b) of the Head Start Act (42 U.S.C. 9840(b)) is amended by adding at the end the following: “A Head Start agency that provides a Head Start program with full-working-day services in collaboration with other agencies or entities may collect a family copayment to support extended day services if a copayment is required in conjunction with the collaborative. The copayment charged to families receiving services through the Head Start program shall not exceed the copayment charged to families with similar incomes and circumstances who are receiving the services through participation in a program carried out by another agency or entity.”.

(c) **CONTINUOUS RECRUITMENT AND ACCEPTANCE OF APPLICATIONS.**—Section 645(c) of the Head Start Act (42 U.S.C. 9840(c)) is amended by adding at the end the following: “Each Head Start program operated in a community shall be permitted to recruit and accept applications for enrollment of children throughout the year.”.

(d) **OFF-RESERVATION AREA.**—Section 645(d)(1)(B) of the Head Start Act (42 U.S.C. 9840(d)(1)(B)) is amended by striking “a community with” and all that follows through “Indian Affairs” and inserting “a community that is an off-reservation area, designated by an appropriate tribal government, in consultation with the Secretary”.

**SEC. 113. EARLY HEAD START PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.**

Section 645A of the Head Start Act (42 U.S.C. 9840a) is amended—

(1) in the section heading, by inserting “**EARLY HEAD START**” before “**PROGRAMS FOR**”;

(2) in subsection (a)—

(A) in paragraph (1), by striking “; and” and inserting a period;

(B) by striking paragraph (2); and

(C) by striking “for—” and all that follows through “(1)” and inserting “for”;

(3) in subsection (b)—

(A) in paragraph (5), by inserting “(including programs for infants and toddlers with disabilities)” after “community”;

(B) in paragraph (7), by striking “and” at the end;

(C) by redesignating paragraph (8) as paragraph (9);

and

(D) by inserting after paragraph (7) the following:

“(8) ensure formal linkages with the agencies and entities described in section 644(b) of the Individuals with Disabilities Education Act (20 U.S.C. 1444(b)) and providers of early intervention services for infants and toddlers with disabilities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and”;

(4) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking “subsection (a)(1)” and inserting “subsection (a)”; and

(B) in paragraph (2), by striking “3 (or under” and all that follows and inserting “3;”;

(5) in subsection (d)—

(A) in paragraph (1), by adding “and” at the end;

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2);

and

(D) in paragraph (2), as redesignated in subparagraph (C), by inserting “or for-profit” after “nonprofit”;

(6) by striking subsection (e);

(7) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively;

(8) in subsection (e) (as redesignated in paragraph (7))—

(A) in the subsection heading, by striking “OTHER”;

and

(B) by striking “From the balance remaining of the portion specified in section 640(a)(6), after making grants to the eligible entities specified in subsection (e),” and inserting “From the portion specified in section 640(a)(6);”;

(9) by striking subsection (h); and

(10) by adding at the end the following:

“(g) MONITORING, TRAINING, TECHNICAL ASSISTANCE, AND EVALUATION.—

“(1) REQUIREMENT.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds from the portion specified in section 640(a)(6) to monitor the operation of such programs, evaluate their effectiveness, and provide training and technical assistance tailored to the particular needs of such programs.

“(2) TRAINING AND TECHNICAL ASSISTANCE ACCOUNT.—

“(A) IN GENERAL.—Of the amount made available to carry out this section for any fiscal year, not less than 5 percent and not more than 10 percent shall be reserved to fund a training and technical assistance account.

“(B) ACTIVITIES.—Funds in the account may be used by the Secretary for purposes including—

“(i) making grants to, and entering into contracts with, organizations with specialized expertise relating to infants, toddlers, and families and the capacity needed to provide direction and support to a national training and technical assistance system, in order to provide such direction and support;

“(ii) providing ongoing training and technical assistance for regional and program staff charged with monitoring and overseeing the administration of the program carried out under this section;

“(iii) providing ongoing training and technical assistance for existing recipients (as of the date of such training or assistance) of grants under subsection (a) and support and program planning and implementation assistance for new recipients of such grants; and

“(iv) providing professional development and personnel enhancement activities, including the provision of funds to recipients of grants under subsection

(a) for the recruitment and retention of qualified staff with an appropriate level of education and experience.”.

**SEC. 114. TECHNICAL ASSISTANCE AND TRAINING.**

(a) IN GENERAL.—Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(3) ensure the provision of technical assistance to assist Head Start agencies, entities carrying out other child care and early childhood programs, communities, and States in collaborative efforts to provide quality full-working-day, full calendar year services, including technical assistance related to identifying and assisting in resolving barriers to collaboration.”; and

(2) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

“(1) give priority consideration to—

“(A) activities to correct program and management deficiencies identified through reviews carried out pursuant to section 641A(c) (including the provision of assistance to local programs in the development of quality improvement plans under section 641A(d)(2)); and

“(B) assisting Head Start agencies in—

“(i) ensuring the school readiness of children; and

“(ii) meeting the educational performance measures described in section 641A(b)(4).”;

(B) in paragraph (2), by inserting “supplement amounts provided under section 640(a)(3)(C)(ii) in order to” after “(2)”; and

(C) in paragraph (4)—

(i) by inserting “and implementing” after “developing”; and

(ii) by striking “a longer day” and inserting the following: “the day, and assist the agencies and programs in expediting the sharing of information about innovative models for providing full-working-day, full calendar year services for children”;

(D) in paragraph (7), by striking “; and” and inserting a semicolon;

(E) in paragraph (8), by striking the period and inserting “; and”;

(F) by redesignating paragraphs (3) through (8) as paragraphs (5) through (10), respectively;

(G) by inserting after paragraph (2) the following:

“(3) assist Head Start agencies in the development of collaborative initiatives with States and other entities within the States, to foster effective early childhood professional development systems;

“(4) provide technical assistance and training, either directly or through a grant, contract, or cooperative agreement with an entity that has experience in the development and operation of successful family literacy services programs, for the purpose of—

“(A) assisting Head Start agencies providing family literacy services, in order to improve the quality of such family literacy services; and

“(B) enabling those Head Start agencies that demonstrate effective provision of family literacy services, based on improved outcomes for children and their parents, to provide technical assistance and training to other Head Start agencies and to service providers that work in collaboration with such agencies to provide family literacy services;” and

(H) by adding at the end the following:

“(11) provide support for Head Start agencies (including policy councils and policy committees, as defined in regulation) that meet the standards described in section 641A(a) but that have, as documented by the Secretary through reviews conducted pursuant to section 641A(c), significant programmatic, quality, and fiscal issues to address.”.

(b) SERVICES.—Section 648(e) of the Head Start Act (42 U.S.C. 9843(e)) is amended by inserting “(including services to promote the acquisition of the English language)” after “non-English language background children”.

#### **SEC. 115. PROFESSIONAL REQUIREMENTS.**

Section 648A of the Head Start Act (42 U.S.C. 9843a) is amended—

(1) by amending subsection (a) to read as follows:

“(a) CLASSROOM TEACHERS.—

“(1) PROFESSIONAL REQUIREMENTS.—The Secretary shall ensure that each Head Start classroom in a center-based program is assigned one teacher who has demonstrated competency to perform functions that include—

“(A) planning and implementing learning experiences that advance the intellectual and physical development of children, including improving the readiness of children for school by developing their literacy and phonemic, print, and numeracy awareness, their understanding and use of language, their understanding and use of increasingly complex and varied vocabulary, their appreciation of books, and their problem solving abilities;

“(B) establishing and maintaining a safe, healthy learning environment;

“(C) supporting the social and emotional development of children; and

“(D) encouraging the involvement of the families of the children in a Head Start program and supporting the development of relationships between children and their families.

“(2) DEGREE REQUIREMENTS.—

“(A) IN GENERAL.—The Secretary shall ensure that not later than September 30, 2003, at least 50 percent of all Head Start teachers nationwide in center-based programs have—

“(i) an associate, baccalaureate, or advanced degree in early childhood education; or

“(ii) an associate, baccalaureate, or advanced degree in a field related to early childhood education, with experience in teaching preschool children.

Deadline.



“(B) PROGRESS.—The Secretary shall require Head Start agencies to demonstrate continuing progress each year to reach the result described in subparagraph (A).

“(3) ALTERNATIVE CREDENTIALING REQUIREMENTS.—The Secretary shall ensure that, for center-based programs, each Head Start classroom that does not have a teacher that meets the requirements of clause (i) or (ii) of paragraph (2)(A) is assigned one teacher who has—

“(A) a child development associate credential that is appropriate to the age of the children being served in center-based programs;

“(B) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential; or

“(C) a degree in a field related to early childhood education with experience in teaching preschool children and a State-awarded certificate to teach in a preschool program.

“(4) WAIVER.—

“(A) IN GENERAL.—On request, the Secretary shall grant a 180-day waiver of the requirements of paragraph (3), for a Head Start agency that can demonstrate that the agency has unsuccessfully attempted to recruit an individual who has a credential, certificate, or degree described in paragraph (3), with respect to an individual who—

“(i) is enrolled in a program that grants any such credential, certificate, or degree; and

“(ii) will receive such credential, certificate, or degree under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.

“(B) LIMITATION.—The Secretary may not grant more than one such waiver with respect to such individual.”; and

(2) in subsection (b)(2)(B)—

(A) by striking “staff,” and inserting “staff or”; and

(B) by striking “, or that” and all that follows through “families”.

#### SEC. 116. RESEARCH AND EVALUATION.

Section 649 of the Head Start Act (42 U.S.C. 9844) is amended—

(1) in subsection (d)—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7), by striking the period at the end and inserting a semicolon;

(C) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively;

(D) by inserting after paragraph (1) the following:

“(2) establish evaluation methods that measure the effectiveness and impact of family literacy services program models, including models for the integration of family literacy services with Head Start services;”; and

(E) by adding at the end the following:

“(9) study the experiences of small, medium, and large States with Head Start programs in order to permit comparisons of children participating in the programs with eligible children who did not participate in the programs, which study—

“(A) may include the use of a data set that existed prior to the initiation of the study; and

“(B) shall compare the educational achievement, social adaptation, and health status of the participating children and the eligible nonparticipating children; and

“(10) provide for—

“(A) using the Survey of Income and Program Participation to conduct an analysis of the different income levels of Head Start participants compared to comparable persons who did not attend Head Start programs;

“(B) using the National Longitudinal Survey of Youth, which began gathering data in 1988 on children who attended Head Start programs, to examine the wide range of outcomes measured within the Survey, including outcomes related to cognitive, socio-emotional, behavioral, and academic development;

“(C) using the Survey of Program Dynamics, the new longitudinal survey required by section 414 of the Social Security Act (42 U.S.C. 614), to begin annual reporting, through the duration of the Survey, on Head Start program attendees’ academic readiness performance and improvements;

“(D) ensuring that the Survey of Program Dynamics is linked with the National Longitudinal Survey of Youth at least once by the use of a common performance test, to be determined by the expert panel, for the greater national usefulness of the National Longitudinal Survey of Youth database; and

“(E) disseminating the results of the analysis, examination, reporting, and linkage described in subparagraphs (A) through (D) to persons conducting other studies under this subchapter.

Reports.

The Secretary shall ensure that an appropriate entity carries out a study described in paragraph (9), and prepares and submits to the appropriate committees of Congress a report containing the results of the study, not later than September 30, 2002.”; and (2) by adding at the end the following:

“(g) NATIONAL HEAD START IMPACT RESEARCH.—

“(1) EXPERT PANEL.—

“(A) IN GENERAL.—The Secretary shall appoint an independent panel consisting of experts in program evaluation and research, education, and early childhood programs—

“(i) to review, and make recommendations on, the design and plan for the research (whether conducted as a single assessment or as a series of assessments) described in paragraph (2), within 1 year after the date of enactment of the Coats Human Services Reauthorization Act of 1998;

“(ii) to maintain and advise the Secretary regarding the progress of the research; and

“(iii) to comment, if the panel so desires, on the interim and final research reports submitted under paragraph (7).

“(B) TRAVEL EXPENSES.—The members of the panel shall not receive compensation for the performance of services for the panel, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the panel. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the panel.

“(2) GENERAL AUTHORITY.—After reviewing the recommendations of the expert panel, the Secretary shall make a grant to, or enter into a contract or cooperative agreement with, an organization to conduct independent research that provides a national analysis of the impact of Head Start programs. The Secretary shall ensure that the organization shall have expertise in program evaluation, and research, education, and early childhood programs. Contracts.

“(3) DESIGNS AND TECHNIQUES.—The Secretary shall ensure that the research uses rigorous methodological designs and techniques (based on the recommendations of the expert panel), including longitudinal designs, control groups, nationally recognized standardized measures, and random selection and assignment, as appropriate. The Secretary may provide that the research shall be conducted as a single comprehensive assessment or as a group of coordinated assessments designed to provide, when taken together, a national analysis of the impact of Head Start programs.

“(4) PROGRAMS.—The Secretary shall ensure that the research focuses primarily on Head Start programs that operate in the 50 States, the Commonwealth of Puerto Rico, or the District of Columbia and that do not specifically target special populations.

“(5) ANALYSIS.—The Secretary shall ensure that the organization conducting the research—

“(A)(i) determines if, overall, the Head Start programs have impacts consistent with their primary goal of increasing the social competence of children, by increasing the everyday effectiveness of the children in dealing with their present environments and future responsibilities, and increasing their school readiness;

“(ii) considers whether the Head Start programs—

“(I) enhance the growth and development of children in cognitive, emotional, and physical health areas;

“(II) strengthen families as the primary nurturers of their children; and

“(III) ensure that children attain school readiness; and

“(iii) examines—

“(I) the impact of the Head Start programs on increasing access of children to such services as educational, health, and nutritional services, and linking

children and families to needed community services; and

“(II) how receipt of services described in subclause (I) enriches the lives of children and families participating in Head Start programs;

“(B) examines the impact of Head Start programs on participants on the date the participants leave Head Start programs, at the end of kindergarten and at the end of first grade (whether in public or private school), by examining a variety of factors, including educational achievement, referrals for special education or remedial course work, and absenteeism;

“(C) makes use of random selection from the population of all Head Start programs described in paragraph (4) in selecting programs for inclusion in the research; and

“(D) includes comparisons of individuals who participate in Head Start programs with control groups (including comparison groups) composed of—

“(i) individuals who participate in other early childhood programs (such as public or private preschool programs and day care); and

“(ii) individuals who do not participate in any other early childhood program.

“(6) CONSIDERATION OF SOURCES OF VARIATION.—In designing the research, the Secretary shall, to the extent practicable, consider addressing possible sources of variation in impact of Head Start programs, including variations in impact related to such factors as—

“(A) Head Start program operations;

“(B) Head Start program quality;

“(C) the length of time a child attends a Head Start program;

“(D) the age of the child on entering the Head Start program;

“(E) the type of organization (such as a local educational agency or a community action agency) providing services for the Head Start program;

“(F) the number of hours and days of program operation of the Head Start program (such as whether the program is a full-working-day, full calendar year program, a part-day program, or a part-year program); and

“(G) other characteristics and features of the Head Start program (such as geographic location, location in an urban or a rural service area, or participant characteristics), as appropriate.

“(7) REPORTS.—

“(A) SUBMISSION OF INTERIM REPORTS.—The organization shall prepare and submit to the Secretary two interim reports on the research. The first interim report shall describe the design of the research, and the rationale for the design, including a description of how potential sources of variation in impact of Head Start programs have been considered in designing the research. The second interim report shall describe the status of the research and preliminary findings of the research, as appropriate.

“(B) SUBMISSION OF FINAL REPORT.—The organization shall prepare and submit to the Secretary a final report containing the findings of the research.

“(C) TRANSMITTAL OF REPORTS TO CONGRESS.—

“(i) IN GENERAL.—The Secretary shall transmit, to the committees described in clause (ii), the first interim report by September 30, 1999, the second interim report by September 30, 2001, and the final report by September 30, 2003.

“(ii) COMMITTEES.—The committees referred to in clause (i) are the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

“(8) DEFINITION.—In this subsection, the term ‘impact’, used with respect to a Head Start program, means a difference in an outcome for a participant in the program that would not have occurred without the participation in the program.

“(h) QUALITY IMPROVEMENT STUDY.—

“(1) STUDY.—The Secretary shall conduct a study regarding the use and effects of use of the quality improvement funds made available under section 640(a)(3) since fiscal year 1991.

“(2) REPORT.—The Secretary shall prepare and submit to Congress not later than September 2000 a report containing the results of the study, including information on—

Deadline.

“(A) the types of activities funded with the quality improvement funds;

“(B) the extent to which the use of the quality improvement funds has accomplished the goals of section 640(a)(3)(B);

“(C) the effect of use of the quality improvement funds on teacher training, salaries, benefits, recruitment, and retention; and

“(D) the effect of use of the quality improvement funds on the development of children receiving services under this subchapter.”.

#### SEC. 117. REPORTS.

Section 650 of the Head Start Act (42 U.S.C. 9846) is amended—

(1) by inserting “(a) STATUS OF CHILDREN.—” before “At”;

(2) by striking “and Labor” each place it appears and inserting “and the Workforce”; and

(3) by adding at the end the following:

“(b) FACILITIES.—At least once during every 5-year period, the Secretary shall prepare and submit, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the condition, location, and ownership of facilities used, or available to be used, by Indian Head Start agencies (including Native Alaskan Head Start agencies) and Native Hawaiian Head Start agencies.”.

#### SEC. 118. REPEAL OF CONSULTATION REQUIREMENT.

Section 657A of the Head Start Act (42 U.S.C. 9852a) is repealed.

42 USC 9801  
note.

**SEC. 119. REPEAL OF HEAD START TRANSITION PROJECT ACT.**

The Head Start Transition Project Act (42 U.S.C. 9855–9855g) is repealed.

## **TITLE II—COMMUNITY SERVICES BLOCK GRANT PROGRAM**

**SEC. 201. REAUTHORIZATION.**

The Community Services Block Grant Act (42 U.S.C. 9901 et seq.) is amended to read as follows:

Community  
Services Block  
Grant Act.

### **“Subtitle B—Community Services Block Grant Program**

42 USC 9901  
note.

**“SEC. 671. SHORT TITLE.**

“This subtitle may be cited as the ‘Community Services Block Grant Act’.

42 USC 9901.

**“SEC. 672. PURPOSES AND GOALS.**

“The purposes of this subtitle are—

“(1) to provide assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

“(2) to accomplish the goals described in paragraph (1) through—

“(A) the strengthening of community capabilities for planning and coordinating the use of a broad range of Federal, State, local, and other assistance (including private resources) related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions;

“(B) the organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;

“(C) the greater use of innovative and effective community-based approaches to attacking the causes and effects of poverty and of community breakdown;

“(D) the maximum participation of residents of the low-income communities and members of the groups served by programs assisted through the block grants made under this subtitle to empower such residents and members to respond to the unique problems and needs within their communities; and

“(E) the broadening of the resource base of programs directed to the elimination of poverty so as to secure a more active role in the provision of services for—

“(i) private, religious, charitable, and neighborhood-based organizations; and

“(ii) individual citizens, and business, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor.

**“SEC. 673. DEFINITIONS.**

42 USC 9902.

“In this subtitle:

“(1) ELIGIBLE ENTITY; FAMILY LITERACY SERVICES.—

“(A) ELIGIBLE ENTITY.—The term ‘eligible entity’ means an entity—

“(i) that is an eligible entity described in section 673(1) (as in effect on the day before the date of enactment of the Coats Human Services Reauthorization Act of 1998) as of the day before such date of enactment or is designated by the process described in section 676A (including an organization serving migrant or seasonal farmworkers that is so described or designated); and

“(ii) that has a tripartite board or other mechanism described in subsection (a) or (b), as appropriate, of section 676B.

“(B) FAMILY LITERACY SERVICES.—The term ‘family literacy services’ has the meaning given the term in section 637 of the Head Start Act (42 U.S.C. 9832).

“(2) POVERTY LINE.—The term ‘poverty line’ means the official poverty line defined by the Office of Management and Budget based on the most recent data available from the Bureau of the Census. The Secretary shall revise annually (or at any shorter interval the Secretary determines to be feasible and desirable) the poverty line, which shall be used as a criterion of eligibility in the community services block grant program established under this subtitle. The required revision shall be accomplished by multiplying the official poverty line by the percentage change in the Consumer Price Index for All Urban Consumers during the annual or other interval immediately preceding the time at which the revision is made. Whenever a State determines that it serves the objectives of the block grant program established under this subtitle, the State may revise the poverty line to not to exceed 125 percent of the official poverty line otherwise applicable under this paragraph.

“(3) PRIVATE, NONPROFIT ORGANIZATION.—The term ‘private, nonprofit organization’ includes a religious organization, to which the provisions of section 679 shall apply.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(5) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

42 USC 9903.

**“SEC. 674. AUTHORIZATION OF APPROPRIATIONS.**

“(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1999 through 2003 to carry out the provisions of this subtitle (other than sections 681 and 682).

“(b) RESERVATIONS.—Of the amounts appropriated under subsection (a) for each fiscal year, the Secretary shall reserve—

“(1)  $\frac{1}{2}$  of 1 percent for carrying out section 675A (relating to payments for territories);

“(2)  $1\frac{1}{2}$  percent for activities authorized in sections 678A through 678F, of which—

“(A) not less than  $\frac{1}{2}$  of the amount reserved by the Secretary under this paragraph shall be distributed directly to eligible entities, organizations, or associations described in section 678A(c)(2) for the purpose of carrying out activities described in section 678A(c); and

“(B)  $\frac{1}{2}$  of the remainder of the amount reserved by the Secretary under this paragraph shall be used by the Secretary to carry out evaluation and to assist States in carrying out corrective action activities and monitoring (to correct programmatic deficiencies of eligible entities), as described in sections 678B(c) and 678A; and

“(3) 9 percent for carrying out section 680 (relating to discretionary activities) and section 678E(b)(2).

42 USC 9904.

**“SEC. 675. ESTABLISHMENT OF BLOCK GRANT PROGRAM.**

“The Secretary is authorized to establish a community services block grant program and make grants through the program to States to ameliorate the causes of poverty in communities within the States.

42 USC 9905.

**“SEC. 675A. DISTRIBUTION TO TERRITORIES.**

“(a) APPORTIONMENT.—The Secretary shall apportion the amount reserved under section 674(b)(1) for each fiscal year on the basis of need among Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

“(b) APPLICATION.—Each jurisdiction to which subsection (a) applies may receive a grant under this section for the amount apportioned under subsection (a) on submitting to the Secretary, and obtaining approval of, an application, containing provisions that describe the programs for which assistance is sought under this section, that is prepared in accordance with, and contains the information described in, section 676.

42 USC 9906.

**“SEC. 675B. ALLOTMENTS AND PAYMENTS TO STATES.**

“(a) ALLOTMENTS IN GENERAL.—The Secretary shall, from the amount appropriated under section 674(a) for each fiscal year that remains after the Secretary makes the reservations required in section 674(b), allot to each State (subject to section 677) an amount that bears the same ratio to such remaining amount as the amount received by the State for fiscal year 1981 under section 221 of the Economic Opportunity Act of 1964 bore to the total amount received by all States for fiscal year 1981 under such section, except—

“(1) that no State shall receive less than  $\frac{1}{4}$  of 1 percent of the amount appropriated under section 674(a) for such fiscal year; and



“(2) as provided in subsection (b).

“(b) ALLOTMENTS IN YEARS WITH GREATER AVAILABLE FUNDS.—

“(1) MINIMUM ALLOTMENTS.—Subject to paragraphs (2) and (3), if the amount appropriated under section 674(a) for a fiscal year that remains after the Secretary makes the reservations required in section 674(b) exceeds \$345,000,000, the Secretary shall allot to each State not less than  $\frac{1}{2}$  of 1 percent of the amount appropriated under section 674(a) for such fiscal year.

“(2) MAINTENANCE OF FISCAL YEAR 1990 LEVELS.—Paragraph (1) shall not apply with respect to a fiscal year if the amount allotted under subsection (a) to any State for that year is less than the amount allotted under section 674(a)(1) (as in effect on September 30, 1989) to such State for fiscal year 1990.

“(3) MAXIMUM ALLOTMENTS.—The amount allotted under paragraph (1) to a State for a fiscal year shall be reduced, if necessary, so that the aggregate amount allotted to such State under such paragraph and subsection (a) does not exceed 140 percent of the aggregate amount allotted to such State under the corresponding provisions of this subtitle for the preceding fiscal year.

“(c) PAYMENTS.—The Secretary shall make grants to eligible States for the allotments described in subsections (a) and (b). The Secretary shall make payments for the grants in accordance with section 6503(a) of title 31, United States Code.

“(d) DEFINITION.—In this section, the term ‘State’ does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

**“SEC. 675C. USES OF FUNDS.**

42 USC 9907.

“(a) GRANTS TO ELIGIBLE ENTITIES AND OTHER ORGANIZATIONS.—

“(1) IN GENERAL.—Not less than 90 percent of the funds made available to a State under section 675A or 675B shall be used by the State to make grants for the purposes described in section 672 to eligible entities.

“(2) OBLIGATIONAL AUTHORITY.—Funds distributed to eligible entities through grants made in accordance with paragraph (1) for a fiscal year shall be available for obligation during that fiscal year and the succeeding fiscal year, subject to paragraph (3).

“(3) RECAPTURE AND REDISTRIBUTION OF UNOBLIGATED FUNDS.—

“(A) AMOUNT.—Beginning on October 1, 2000, a State may recapture and redistribute funds distributed to an eligible entity through a grant made under paragraph (1) that are unobligated at the end of a fiscal year if such unobligated funds exceed 20 percent of the amount so distributed to such eligible entity for such fiscal year.

“(B) REDISTRIBUTION.—In redistributing funds recaptured in accordance with this paragraph, States shall redistribute such funds to an eligible entity, or require the original recipient of the funds to redistribute the funds to a private, nonprofit organization, located within the community served by the original recipient of the funds, for activities consistent with the purposes of this subtitle.

“(b) STATEWIDE ACTIVITIES.—

“(1) USE OF REMAINDER.—If a State uses less than 100 percent of the grant or allotment received under section 675A or 675B to make grants under subsection (a), the State shall use the remainder of the grant or allotment under section 675A or 675B (subject to paragraph (2)) for activities that may include—

“(A) providing training and technical assistance to those entities in need of such training and assistance;

“(B) coordinating State-operated programs and services, and at the option of the State, locally-operated programs and services, targeted to low-income children and families with services provided by eligible entities and other organizations funded under this subtitle, including detailing appropriate employees of State or local agencies to entities funded under this subtitle, to ensure increased access to services provided by such State or local agencies;

“(C) supporting statewide coordination and communication among eligible entities;

“(D) analyzing the distribution of funds made available under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need;

“(E) supporting asset-building programs for low-income individuals, such as programs supporting individual development accounts;

“(F) supporting innovative programs and activities conducted by community action agencies or other neighborhood-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization;

“(G) supporting State charity tax credits as described in subsection (c); and

“(H) supporting other activities, consistent with the purposes of this subtitle.

“(2) ADMINISTRATIVE CAP.—No State may spend more than the greater of \$55,000, or 5 percent, of the grant received under section 675A or State allotment received under section 675B for administrative expenses, including monitoring activities. Funds to be spent for such expenses shall be taken from the portion of the grant under section 675A or State allotment that remains after the State makes grants to eligible entities under subsection (a). The cost of activities conducted under paragraph (1)(A) shall not be considered to be administrative expenses. The startup cost and cost of administrative activities conducted under subsection (c) shall be considered to be administrative expenses.

“(c) CHARITY TAX CREDIT.—

“(1) IN GENERAL.—Subject to paragraph (2), if there is in effect under State law a charity tax credit, the State may use for any purpose the amount of the allotment that is available for expenditure under subsection (b).

“(2) LIMIT.—The aggregate amount a State may use under paragraph (1) during a fiscal year shall not exceed 100 percent of the revenue loss of the State during the fiscal year that is attributable to the charity tax credit, as determined by the Secretary of the Treasury without regard to any such revenue loss occurring before January 1, 1999.

“(3) DEFINITIONS AND RULES.—In this subsection:

“(A) CHARITY TAX CREDIT.—The term ‘charity tax credit’ means a nonrefundable credit against State income tax (or, in the case of a State that does not impose an income tax, a comparable benefit) that is allowable for contributions, in cash or in kind, to qualified charities.

“(B) QUALIFIED CHARITY.—

“(i) IN GENERAL.—The term ‘qualified charity’ means any organization—

“(I) that is—

“(aa) described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

“(bb) an eligible entity; or

“(cc) a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6));

“(II) that is certified by the appropriate State authority as meeting the requirements of clauses (iii) and (iv); and

“(III) if such organization is otherwise required to file a return under section 6033 of such Code, that elects to treat the information required to be furnished by clause (v) as being specified in section 6033(b) of such Code.

“(ii) CERTAIN CONTRIBUTIONS TO COLLECTION ORGANIZATIONS TREATED AS CONTRIBUTIONS TO QUALIFIED CHARITY.—

“(I) IN GENERAL.—A contribution to a collection organization shall be treated as a contribution to a qualified charity if the donor designates in writing that the contribution is for the qualified charity.

“(II) COLLECTION ORGANIZATION.—The term ‘collection organization’ means an organization described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code—

“(aa) that solicits and collects gifts and grants that, by agreement, are distributed to qualified charities;

“(bb) that distributes to qualified charities at least 90 percent of the gifts and grants the organization receives that are designated for such qualified charities; and

“(cc) that meets the requirements of clause (vi).

“(iii) CHARITY MUST PRIMARILY ASSIST POOR INDIVIDUALS.—

“(I) IN GENERAL.—An organization meets the requirements of this clause only if the appropriate State authority reasonably expects that the predominant activity of such organization will be the provision of direct services within the United States to individuals and families whose annual incomes generally do not exceed 185 percent of the poverty line in order to prevent or alleviate poverty among such individuals and families.

“(II) NO RECORDKEEPING IN CERTAIN CASES.—

An organization shall not be required to establish or maintain records with respect to the incomes of individuals and families for purposes of subclause (I) if such individuals or families are members of groups that are generally recognized as including substantially only individuals and families described in subclause (I).

“(III) FOOD AID AND HOMELESS SHELTERS.—

Except as otherwise provided by the appropriate State authority, for purposes of subclause (I), services to individuals in the form of—

“(aa) donations of food or meals; or

“(bb) temporary shelter to homeless individuals;

shall be treated as provided to individuals described in subclause (I) if the location and provision of such services are such that the service provider may reasonably conclude that the beneficiaries of such services are predominantly individuals described in subclause (I).

“(iv) MINIMUM EXPENSE REQUIREMENT.—

“(I) IN GENERAL.—An organization meets the requirements of this clause only if the appropriate State authority reasonably expects that the annual poverty program expenses of such organization will not be less than 75 percent of the annual aggregate expenses of such organization.

“(II) POVERTY PROGRAM EXPENSE.—For purposes of subclause (I)—

“(aa) IN GENERAL.—The term ‘poverty program expense’ means any expense in providing direct services referred to in clause (iii).

“(bb) EXCEPTIONS.—Such term shall not include any management or general expense, any expense for the purpose of influencing legislation (as defined in section 4911(d) of the Internal Revenue Code of 1986), any expense for the purpose of fundraising, any expense for a legal service provided on behalf of any individual referred to in clause (iii), any expense for providing tuition assistance relating to compulsory school attendance, and any expense that consists of a payment to an affiliate of the organization.

“(v) REPORTING REQUIREMENT.—The information required to be furnished under this clause about an organization is—

“(I) the percentages determined by dividing the following categories of the organization’s expenses for the year by the total expenses of the organization for the year: expenses for direct services, management expenses, general expenses, fundraising expenses, and payments to affiliates; and

“(II) the category or categories (including food, shelter, education, substance abuse prevention or

treatment, job training, or other) of services that constitute predominant activities of the organization.

“(vi) ADDITIONAL REQUIREMENTS FOR COLLECTION ORGANIZATIONS.—The requirements of this clause are met if the organization—

“(I) maintains separate accounting for revenues and expenses; and

“(II) makes available to the public information on the administrative and fundraising costs of the organization, and information as to the organizations receiving funds from the organization and the amount of such funds.

“(vii) SPECIAL RULE FOR STATES REQUIRING TAX UNIFORMITY.—In the case of a State—

“(I) that has a constitutional requirement of tax uniformity; and

“(II) that, as of December 31, 1997, imposed a tax on personal income with—

“(aa) a single flat rate applicable to all earned and unearned income (except insofar as any amount is not taxed pursuant to tax forgiveness provisions); and

“(bb) no generally available exemptions or deductions to individuals;

the requirement of paragraph (2) shall be treated as met if the amount of the credit described in paragraph (2) is limited to a uniform percentage (but not greater than 25 percent) of State personal income tax liability (determined without regard to credits).

“(4) LIMITATION ON USE OF FUNDS FOR STARTUP AND ADMINISTRATIVE ACTIVITIES.—Except to the extent provided in subsection (b)(2), no part of the aggregate amount a State uses under paragraph (1) may be used to pay for the cost of the startup and administrative activities conducted under this subsection.

“(5) PROHIBITION ON USE OF FUNDS FOR LEGAL SERVICES OR TUITION ASSISTANCE.—No part of the aggregate amount a State uses under paragraph (1) may be used to provide legal services or to provide tuition assistance related to compulsory education requirements (not including tuition assistance for tutoring, camps, skills development, or other supplemental services or training).

“(6) PROHIBITION ON SUPPLANTING FUNDS.—No part of the aggregate amount a State uses under paragraph (1) may be used to supplant non-Federal funds that would be available, in the absence of Federal funds, to offset a revenue loss of the State attributable to a charity tax credit.

**“SEC. 676. APPLICATION AND PLAN.**

42 USC 9908.

“(a) DESIGNATION OF LEAD AGENCY.—

“(1) DESIGNATION.—The chief executive officer of a State desiring to receive a grant or allotment under section 675A or 675B shall designate, in an application submitted to the Secretary under subsection (b), an appropriate State agency that complies with the requirements of paragraph (2) to act

as a lead agency for purposes of carrying out State activities under this subtitle.

“(2) DUTIES.—The lead agency shall—

“(A) develop the State plan to be submitted to the Secretary under subsection (b);

“(B) in conjunction with the development of the State plan as required under subsection (b), hold at least one hearing in the State with sufficient time and statewide distribution of notice of such hearing, to provide to the public an opportunity to comment on the proposed use and distribution of funds to be provided through the grant or allotment under section 675A or 675B for the period covered by the State plan; and

“(C) conduct reviews of eligible entities under section 678B.

“(3) LEGISLATIVE HEARING.—In order to be eligible to receive a grant or allotment under section 675A or 675B, the State shall hold at least one legislative hearing every 3 years in conjunction with the development of the State plan.

“(b) STATE APPLICATION AND PLAN.—Beginning with fiscal year 2000, to be eligible to receive a grant or allotment under section 675A or 675B, a State shall prepare and submit to the Secretary an application and State plan covering a period of not less than 1 fiscal year and not more than 2 fiscal years. The plan shall be submitted not later than 30 days prior to the beginning of the first fiscal year covered by the plan, and shall contain such information as the Secretary shall require, including—

“(1) an assurance that funds made available through the grant or allotment will be used—

“(A) to support activities that are designed to assist low-income families and individuals, including families and individuals receiving assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), homeless families and individuals, migrant or seasonal farmworkers, and elderly low-income individuals and families, and a description of how such activities will enable the families and individuals—

“(i) to remove obstacles and solve problems that block the achievement of self-sufficiency (including self-sufficiency for families and individuals who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act);

“(ii) to secure and retain meaningful employment;

“(iii) to attain an adequate education, with particular attention toward improving literacy skills of the low-income families in the communities involved, which may include carrying out family literacy initiatives;

“(iv) to make better use of available income;

“(v) to obtain and maintain adequate housing and a suitable living environment;

“(vi) to obtain emergency assistance through loans, grants, or other means to meet immediate and urgent family and individual needs; and

“(vii) to achieve greater participation in the affairs of the communities involved, including the development of public and private grassroots partnerships with local

law enforcement agencies, local housing authorities, private foundations, and other public and private partners to—

“(I) document best practices based on successful grassroots intervention in urban areas, to develop methodologies for widespread replication; and

“(II) strengthen and improve relationships with local law enforcement agencies, which may include participation in activities such as neighborhood or community policing efforts;

“(B) to address the needs of youth in low-income communities through youth development programs that support the primary role of the family, give priority to the prevention of youth problems and crime, and promote increased community coordination and collaboration in meeting the needs of youth, and support development and expansion of innovative community-based youth development programs that have demonstrated success in preventing or reducing youth crime, such as—

“(i) programs for the establishment of violence-free zones that would involve youth development and intervention models (such as models involving youth mediation, youth mentoring, life skills training, job creation, and entrepreneurship programs); and

“(ii) after-school child care programs; and

“(C) to make more effective use of, and to coordinate with, other programs related to the purposes of this subtitle (including State welfare reform efforts);

“(2) a description of how the State intends to use discretionary funds made available from the remainder of the grant or allotment described in section 675C(b) in accordance with this subtitle, including a description of how the State will support innovative community and neighborhood-based initiatives related to the purposes of this subtitle;

“(3) information provided by eligible entities in the State, containing—

“(A) a description of the service delivery system, for services provided or coordinated with funds made available through grants made under section 675C(a), targeted to low-income individuals and families in communities within the State;

“(B) a description of how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and followup consultations;

“(C) a description of how funds made available through grants made under section 675C(a) will be coordinated with other public and private resources; and

“(D) a description of how the local entity will use the funds to support innovative community and neighborhood-based initiatives related to the purposes of this subtitle, which may include fatherhood initiatives and other initiatives with the goal of strengthening families and encouraging effective parenting;

“(4) an assurance that eligible entities in the State will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals;

“(5) an assurance that the State and the eligible entities in the State will coordinate, and establish linkages between, governmental and other social services programs to assure the effective delivery of such services to low-income individuals and to avoid duplication of such services, and a description of how the State and the eligible entities will coordinate the provision of employment and training activities, as defined in section 101 of such Act, in the State and in communities with entities providing activities through statewide and local workforce investment systems under the Workforce Investment Act of 1998;

“(6) an assurance that the State will ensure coordination between antipoverty programs in each community in the State, and ensure, where appropriate, that emergency energy crisis intervention programs under title XXVI (relating to low-income home energy assistance) are conducted in such community;

“(7) an assurance that the State will permit and cooperate with Federal investigations undertaken in accordance with section 678D;

“(8) an assurance that any eligible entity in the State that received funding in the previous fiscal year through a community services block grant made under this subtitle will not have its funding terminated under this subtitle, or reduced below the proportional share of funding the entity received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the State determines that cause exists for such termination or such reduction, subject to review by the Secretary as provided in section 678C(b);

“(9) an assurance that the State and eligible entities in the State will, to the maximum extent possible, coordinate programs with and form partnerships with other organizations serving low-income residents of the communities and members of the groups served by the State, including religious organizations, charitable groups, and community organizations;

“(10) an assurance that the State will require each eligible entity in the State to establish procedures under which a low-income individual, community organization, or religious organization, or representative of low-income individuals that considers its organization, or low-income individuals, to be inadequately represented on the board (or other mechanism) of the eligible entity to petition for adequate representation;

“(11) an assurance that the State will secure from each eligible entity in the State, as a condition to receipt of funding by the entity through a community services block grant made under this subtitle for a program, a community action plan (which shall be submitted to the Secretary, at the request of the Secretary, with the State plan) that includes a community-needs assessment for the community served, which may be coordinated with community-needs assessments conducted for other programs;

“(12) an assurance that the State and all eligible entities in the State will, not later than fiscal year 2001, participate



in the Results Oriented Management and Accountability System, another performance measure system for which the Secretary facilitated development pursuant to section 678E(b), or an alternative system for measuring performance and results that meets the requirements of that section, and a description of outcome measures to be used to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization; and

“(13) information describing how the State will carry out the assurances described in this subsection.

“(c) FUNDING TERMINATION OR REDUCTIONS.—For purposes of making a determination in accordance with subsection (b)(8) with respect to—

“(1) a funding reduction, the term ‘cause’ includes—

“(A) a statewide redistribution of funds provided through a community services block grant under this subtitle to respond to—

“(i) the results of the most recently available census or other appropriate data;

“(ii) the designation of a new eligible entity; or

“(iii) severe economic dislocation; or

“(B) the failure of an eligible entity to comply with the terms of an agreement or a State plan, or to meet a State requirement, as described in section 678C(a); and

“(2) a termination, the term ‘cause’ includes the failure of an eligible entity to comply with the terms of an agreement or a State plan, or to meet a State requirement, as described in section 678C(a).

“(d) PROCEDURES AND INFORMATION.—The Secretary may prescribe procedures for the purpose of assessing the effectiveness of eligible entities in carrying out the purposes of this subtitle.

“(e) REVISIONS AND INSPECTION.—

“(1) REVISIONS.—The chief executive officer of each State may revise any plan prepared under this section and shall submit the revised plan to the Secretary.

“(2) PUBLIC INSPECTION.—Each plan or revised plan prepared under this section shall be made available for public inspection within the State in such a manner as will facilitate review of, and comment on, the plan.

“(f) TRANSITION.—For fiscal year 2000, to be eligible to receive a grant or allotment under section 675A or 675B, a State shall prepare and submit to the Secretary an application and State plan in accordance with the provisions of this subtitle (as in effect on the day before the date of enactment of the Coats Human Services Reauthorization Act of 1998), rather than the provisions of subsections (a) through (c) relating to applications and plans.

**“SEC. 676A. DESIGNATION AND REDESIGNATION OF ELIGIBLE ENTITIES IN UNSERVED AREAS.** 42 USC 9909.

“(a) QUALIFIED ORGANIZATION IN OR NEAR AREA.—

“(1) IN GENERAL.—If any geographic area of a State is not, or ceases to be, served by an eligible entity under this subtitle, and if the chief executive officer of the State decides to serve such area, the chief executive officer may solicit applications from, and designate as an eligible entity—

“(A) a private nonprofit organization (which may include an eligible entity) that is geographically located

in the unserved area, that is capable of providing a broad range of services designed to eliminate poverty and foster self-sufficiency, and that meets the requirements of this subtitle; and

“(B) a private nonprofit eligible entity that is geographically located in an area contiguous to or within reasonable proximity of the unserved area and that is already providing related services in the unserved area.

“(2) REQUIREMENT.—In order to serve as the eligible entity for the area, an entity described in paragraph (1)(B) shall agree to add additional members to the board of the entity to ensure adequate representation—

“(A) in each of the three required categories described in subparagraphs (A), (B), and (C) of section 676B(a)(2), by members that reside in the community comprised by the unserved area; and

“(B) in the category described in section 676B(a)(2)(B), by members that reside in the neighborhood to be served.

“(b) SPECIAL CONSIDERATION.—In designating an eligible entity under subsection (a), the chief executive officer shall grant the designation to an organization of demonstrated effectiveness in meeting the goals and purposes of this subtitle and may give priority, in granting the designation, to eligible entities that are providing related services in the unserved area, consistent with the needs identified by a community-needs assessment.

“(c) NO QUALIFIED ORGANIZATION IN OR NEAR AREA.—If no private, nonprofit organization is identified or determined to be qualified under subsection (a) to serve the unserved area as an eligible entity the chief executive officer may designate an appropriate political subdivision of the State to serve as an eligible entity for the area. In order to serve as the eligible entity for that area, the political subdivision shall have a board or other mechanism as required in section 676B(b).

42 USC 9910.

**“SEC. 676B. TRIPARTITE BOARDS.**

“(a) PRIVATE NONPROFIT ENTITIES.—

“(1) BOARD.—In order for a private, nonprofit entity to be considered to be an eligible entity for purposes of section 673(1), the entity shall administer the community services block grant program through a tripartite board described in paragraph (2) that fully participates in the development, planning, implementation, and evaluation of the program to serve low-income communities.

“(2) SELECTION AND COMPOSITION OF BOARD.—The members of the board referred to in paragraph (1) shall be selected by the entity and the board shall be composed so as to assure that—

“(A)  $\frac{1}{3}$  of the members of the board are elected public officials, holding office on the date of selection, or their representatives, except that if the number of such elected officials reasonably available and willing to serve on the board is less than  $\frac{1}{3}$  of the membership of the board, membership on the board of appointive public officials or their representatives may be counted in meeting such  $\frac{1}{3}$  requirement;

“(B)(i) not fewer than  $\frac{1}{3}$  of the members are persons chosen in accordance with democratic selection procedures

adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; and

“(ii) each representative of low-income individuals and families selected to represent a specific neighborhood within a community under clause (i) resides in the neighborhood represented by the member; and

“(C) the remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

“(b) PUBLIC ORGANIZATIONS.—In order for a public organization to be considered to be an eligible entity for purposes of section 673(1), the entity shall administer the community services block grant program through—

“(1) a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than  $\frac{1}{3}$  of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members—

“(A) are representative of low-income individuals and families in the neighborhood served;

“(B) reside in the neighborhood served; and

“(C) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this subtitle; or

“(2) another mechanism specified by the State to assure decisionmaking and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this subtitle.

**“SEC. 677. PAYMENTS TO INDIAN TRIBES.**

42 USC 9911.

“(a) RESERVATION.—If, with respect to any State, the Secretary—

“(1) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this subtitle be made directly to such tribe or organization; and

“(2) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this subtitle,

the Secretary shall reserve from amounts that would otherwise be allotted to such State under section 675B for the fiscal year the amount determined under subsection (b).

“(b) DETERMINATION OF RESERVED AMOUNT.—The Secretary shall reserve for the purpose of subsection (a) from amounts that would otherwise be allotted to such State, not less than 100 percent of an amount that bears the same ratio to the State allotment for the fiscal year involved as the population of all eligible Indians for whom a determination has been made under subsection (a) bears to the population of all individuals eligible for assistance through a community services block grant made under this subtitle in such State.

“(c) AWARDS.—The sums reserved by the Secretary on the basis of a determination made under subsection (a) shall be made available by grant to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

“(d) PLAN.—In order for an Indian tribe or tribal organization to be eligible for a grant award for a fiscal year under this section, the tribe or organization shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe by regulation.

“(e) DEFINITIONS.—In this section:

“(1) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms ‘Indian tribe’ and ‘tribal organization’ mean a tribe, band, or other organized group recognized in the State in which the tribe, band, or group resides, or considered by the Secretary of the Interior, to be an Indian tribe or an Indian organization for any purpose.

“(2) INDIAN.—The term ‘Indian’ means a member of an Indian tribe or of a tribal organization.

42 USC 9912.

**“SEC. 678. OFFICE OF COMMUNITY SERVICES.**

Establishment.

“(a) OFFICE.—The Secretary shall carry out the functions of this subtitle through an Office of Community Services, which shall be established in the Department of Health and Human Services. The Office shall be headed by a Director.

“(b) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Secretary shall carry out functions of this subtitle through grants, contracts, or cooperative agreements.

42 USC 9913.

**“SEC. 678A. TRAINING, TECHNICAL ASSISTANCE, AND OTHER ACTIVITIES.**

“(a) ACTIVITIES.—

“(1) IN GENERAL.—The Secretary shall use amounts reserved in section 674(b)(2)—

“(A) for training, technical assistance, planning, evaluation, and performance measurement, to assist States in carrying out corrective action activities and monitoring (to correct programmatic deficiencies of eligible entities), and for reporting and data collection activities, related to programs carried out under this subtitle; and

“(B) to distribute amounts in accordance with subsection (c).

“(2) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The activities described in paragraph (1)(A) may be carried out by the Secretary through grants, contracts, or cooperative agreements with appropriate entities.

“(b) TERMS AND TECHNICAL ASSISTANCE PROCESS.—The process for determining the training and technical assistance to be carried out under this section shall—

“(1) ensure that the needs of eligible entities and programs relating to improving program quality (including quality of financial management practices) are addressed to the maximum extent feasible; and

“(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the national and State networks of eligible entities.

“(c) DISTRIBUTION REQUIREMENT.—

“(1) IN GENERAL.—The amounts reserved under section 674(b)(2)(A) for activities to be carried out under this subsection shall be distributed directly to eligible entities, organizations, or associations described in paragraph (2) for the purpose of improving program quality (including quality of financial management practices), management information and reporting

systems, and measurement of program results, and for the purpose of ensuring responsiveness to identified local needs.

“(2) ELIGIBLE ENTITIES, ORGANIZATIONS, OR ASSOCIATIONS.—Eligible entities, organizations, or associations described in this paragraph shall be eligible entities, or statewide or local organizations or associations, with demonstrated expertise in providing training to individuals and organizations on methods of effectively addressing the needs of low-income families and communities.

**“SEC. 678B. MONITORING OF ELIGIBLE ENTITIES.**

42 USC 9914.

“(a) IN GENERAL.—In order to determine whether eligible entities meet the performance goals, administrative standards, financial management requirements, and other requirements of a State, the State shall conduct the following reviews of eligible entities:

“(1) A full onsite review of each such entity at least once during each 3-year period.

“(2) An onsite review of each newly designated entity immediately after the completion of the first year in which such entity receives funds through the community services block grant program.

“(3) Followup reviews including prompt return visits to eligible entities, and their programs, that fail to meet the goals, standards, and requirements established by the State.

“(4) Other reviews as appropriate, including reviews of entities with programs that have had other Federal, State, or local grants (other than assistance provided under this subtitle) terminated for cause.

“(b) REQUESTS.—The State may request training and technical assistance from the Secretary as needed to comply with the requirements of this section.

“(c) EVALUATIONS BY THE SECRETARY.—The Secretary shall conduct in several States in each fiscal year evaluations (including investigations) of the use of funds received by the States under this subtitle in order to evaluate compliance with the provisions of this subtitle, and especially with respect to compliance with section 676(b). The Secretary shall submit, to each State evaluated, a report containing the results of such evaluations, and recommendations of improvements designed to enhance the benefit and impact of the activities carried out with such funds for people in need. On receiving the report, the State shall submit to the Secretary a plan of action in response to the recommendations contained in the report. The results of the evaluations shall be submitted annually to the Chairperson of the Committee on Education and the Workforce of the House of Representatives and the Chairperson of the Committee on Labor and Human Resources of the Senate as part of the report submitted by the Secretary in accordance with section 678E(b)(2).

Reports.

**“SEC. 678C. CORRECTIVE ACTION; TERMINATION AND REDUCTION OF FUNDING.**

42 USC 9915.

“(a) DETERMINATION.—If the State determines, on the basis of a final decision in a review pursuant to section 678B, that an eligible entity fails to comply with the terms of an agreement, or the State plan, to provide services under this subtitle or to meet appropriate standards, goals, and other requirements established by the State (including performance objectives), the State shall—

“(1) inform the entity of the deficiency to be corrected;

“(2) require the entity to correct the deficiency;

“(3)(A) offer training and technical assistance, if appropriate, to help correct the deficiency, and prepare and submit to the Secretary a report describing the training and technical assistance offered; or

“(B) if the State determines that such training and technical assistance are not appropriate, prepare and submit to the Secretary a report stating the reasons for the determination;

“(4)(A) at the discretion of the State (taking into account the seriousness of the deficiency and the time reasonably required to correct the deficiency), allow the entity to develop and implement, within 60 days after being informed of the deficiency, a quality improvement plan to correct such deficiency within a reasonable period of time, as determined by the State; and

“(B) not later than 30 days after receiving from an eligible entity a proposed quality improvement plan pursuant to subparagraph (A), either approve such proposed plan or specify the reasons why the proposed plan cannot be approved; and

“(5) after providing adequate notice and an opportunity for a hearing, initiate proceedings to terminate the designation of or reduce the funding under this subtitle of the eligible entity unless the entity corrects the deficiency.

“(b) REVIEW.—A determination to terminate the designation or reduce the funding of an eligible entity is reviewable by the Secretary. The Secretary shall, upon request, review such a determination. The review shall be completed not later than 90 days after the Secretary receives from the State all necessary documentation relating to the determination to terminate the designation or reduce the funding. If the review is not completed within 90 days, the determination of the State shall become final at the end of the 90th day.

“(c) DIRECT ASSISTANCE.—Whenever a State violates the assurances contained in section 676(b)(8) and terminates or reduces the funding of an eligible entity prior to the completion of the State hearing described in that section and the Secretary’s review as required in subsection (b), the Secretary is authorized to provide financial assistance under this subtitle to the eligible entity affected until the violation is corrected. In such a case, the grant or allotment for the State under section 675A or 675B for the earliest appropriate fiscal year shall be reduced by an amount equal to the funds provided under this subsection to such eligible entity.

Deadline.

42 USC 9916.

**“SEC. 678D. FISCAL CONTROLS, AUDITS, AND WITHHOLDING.**

“(a) FISCAL CONTROLS, PROCEDURES, AUDITS, AND INSPECTIONS.—

“(1) IN GENERAL.—A State that receives funds under this subtitle shall—

“(A) establish fiscal control and fund accounting procedures necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under this subtitle, including procedures for monitoring the funds provided under this subtitle;

“(B) ensure that cost and accounting standards of the Office of Management and Budget apply to a recipient of the funds under this subtitle;

“(C) subject to paragraph (2), prepare, at least every year, an audit of the expenditures of the State of amounts received under this subtitle and amounts transferred to carry out the purposes of this subtitle; and

“(D) make appropriate books, documents, papers, and records available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request for the items.

“(2) AUDITS.—

“(A) IN GENERAL.—Subject to subparagraph (B), each audit required by subsection (a)(1)(C) shall be conducted by an entity independent of any agency administering activities or services carried out under this subtitle and shall be conducted in accordance with generally accepted accounting principles.

“(B) SINGLE AUDIT REQUIREMENTS.—Audits shall be conducted under this paragraph in the manner and to the extent provided in chapter 75 of title 31, United States Code (commonly known as the ‘Single Audit Act Amendments of 1996’).

“(C) SUBMISSION OF COPIES.—Within 30 days after the completion of each such audit in a State, the chief executive officer of the State shall submit a copy of such audit to any eligible entity that was the subject of the audit at no charge, to the legislature of the State, and to the Secretary.

“(3) REPAYMENTS.—The State shall repay to the United States amounts found not to have been expended in accordance with this subtitle or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subtitle.

“(b) WITHHOLDING.—

“(1) IN GENERAL.—The Secretary shall, after providing adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State that does not utilize the grant or allotment under section 675A or 675B in accordance with the provisions of this subtitle, including the assurances such State provided under section 676.

“(2) RESPONSE TO COMPLAINTS.—The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this subtitle, including the assurances provided by the State under section 676. For purposes of this paragraph, a complaint of a failure to meet any one of the assurances provided under section 676 that constitutes disregarding that assurance shall be considered to be a complaint of a serious nature.

“(3) INVESTIGATIONS.—Whenever the Secretary determines that there is a pattern of complaints of failures described in paragraph (2) from any State in any fiscal year, the Secretary shall conduct an investigation of the use of funds received under this subtitle by such State in order to ensure compliance with the provisions of this subtitle.

42 USC 9917.

**“SEC. 678E. ACCOUNTABILITY AND REPORTING REQUIREMENTS.****“(a) STATE ACCOUNTABILITY AND REPORTING REQUIREMENTS.—****“(1) PERFORMANCE MEASUREMENT.—**

“(A) IN GENERAL.—By October 1, 2001, each State that receives funds under this subtitle shall participate, and shall ensure that all eligible entities in the State participate, in a performance measurement system, which may be a performance measurement system for which the Secretary facilitated development pursuant to subsection (b), or an alternative system that the Secretary is satisfied meets the requirements of subsection (b).

“(B) LOCAL AGENCIES.—The State may elect to have local agencies that are subcontractors of the eligible entities under this subtitle participate in the performance measurement system. If the State makes that election, references in this section to eligible entities shall be considered to include the local agencies.

“(2) ANNUAL REPORT.—Each State shall annually prepare and submit to the Secretary a report on the measured performance of the State and the eligible entities in the State. Prior to the participation of the State in the performance measurement system, the State shall include in the report any information collected by the State relating to such performance. Each State shall also include in the report an accounting of the expenditure of funds received by the State through the community services block grant program, including an accounting of funds spent on administrative costs by the State and the eligible entities, and funds spent by eligible entities on the direct delivery of local services, and shall include information on the number of and characteristics of clients served under this subtitle in the State, based on data collected from the eligible entities. The State shall also include in the report a summary describing the training and technical assistance offered by the State under section 678C(a)(3) during the year covered by the report.

**“(b) SECRETARY’S ACCOUNTABILITY AND REPORTING REQUIREMENTS.—**

“(1) PERFORMANCE MEASUREMENT.—The Secretary, in collaboration with the States and with eligible entities throughout the Nation, shall facilitate the development of one or more model performance measurement systems, which may be used by the States and by eligible entities to measure their performance in carrying out the requirements of this subtitle and in achieving the goals of their community action plans. The Secretary shall provide technical assistance, including support for the enhancement of electronic data systems, to States and to eligible entities to enhance their capability to collect and report data for such a system and to aid in their participation in such a system.

“(2) REPORTING REQUIREMENTS.—At the end of each fiscal year beginning after September 30, 1999, the Secretary shall, directly or by grant or contract, prepare a report containing—

“(A) a summary of the planned use of funds by each State, and the eligible entities in the State, under the community services block grant program, as contained in each State plan submitted pursuant to section 676;



“(B) a description of how funds were actually spent by the State and eligible entities in the State, including a breakdown of funds spent on administrative costs and on the direct delivery of local services by eligible entities;

“(C) information on the number of entities eligible for funds under this subtitle, the number of low-income persons served under this subtitle, and such demographic data on the low-income populations served by eligible entities as is determined by the Secretary to be feasible;

“(D) a comparison of the planned uses of funds for each State and the actual uses of the funds;

“(E) a summary of each State’s performance results, and the results for the eligible entities, as collected and submitted by the States in accordance with subsection (a)(2); and

“(F) any additional information that the Secretary considers to be appropriate to carry out this subtitle, if the Secretary informs the States of the need for such additional information and allows a reasonable period of time for the States to collect and provide the information.

“(3) SUBMISSION.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate the report described in paragraph (2), and any comments the Secretary may have with respect to such report. The report shall include definitions of direct and administrative costs used by the Department of Health and Human Services for programs funded under this subtitle.

“(4) COSTS.—Of the funds reserved under section 674(b)(3), not more than \$350,000 shall be available to carry out the reporting requirements contained in paragraph (2).

**“SEC. 678F. LIMITATIONS ON USE OF FUNDS.**

42 USC 9918.

“(a) CONSTRUCTION OF FACILITIES.—

“(1) LIMITATIONS.—Except as provided in paragraph (2), grants made under this subtitle (other than amounts reserved under section 674(b)(3)) may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subtitle, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.

“(2) WAIVER.—The Secretary may waive the limitation contained in paragraph (1) upon a State request for such a waiver, if the Secretary finds that the request describes extraordinary circumstances to justify the purchase of land or the construction of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subtitle.

“(b) POLITICAL ACTIVITIES.—

“(1) TREATMENT AS A STATE OR LOCAL AGENCY.—For purposes of chapter 15 of title 5, United States Code, any entity that assumes responsibility for planning, developing, and coordinating activities under this subtitle and receives assistance under this subtitle shall be deemed to be a State or local agency. For purposes of paragraphs (1) and (2) of section

1502(a) of such title, any entity receiving assistance under this subtitle shall be deemed to be a State or local agency.

“(2) PROHIBITIONS.—Programs assisted under this subtitle shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel, in a manner supporting or resulting in the identification of such programs with—

“(A) any partisan or nonpartisan political activity or any political activity associated with a candidate, or contending faction or group, in an election for public or party office;

“(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

“(C) any voter registration activity.

“(3) RULES AND REGULATIONS.—The Secretary, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this subsection, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

“(c) NONDISCRIMINATION.—

“(1) IN GENERAL.—No person shall, on the basis of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subtitle. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified individual with a disability as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) shall also apply to any such program or activity.

Notification.

“(2) ACTION OF SECRETARY.—Whenever the Secretary determines that a State that has received a payment under this subtitle has failed to comply with paragraph (1) or an applicable regulation, the Secretary shall notify the chief executive officer of the State and shall request that the officer secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to—

“(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

“(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), as may be applicable; or

“(C) take such other action as may be provided by law.

“(3) ACTION OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to paragraph (2), or whenever the Attorney General has reason to believe that

the State is engaged in a pattern or practice of discrimination in violation of the provisions of this subsection, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

**“SEC. 678G. DRUG AND CHILD SUPPORT SERVICES AND REFERRALS.** 42 USC 9919.

“(a) DRUG TESTING AND REHABILITATION.—

“(1) IN GENERAL.—Nothing in this subtitle shall be construed to prohibit a State from testing participants in programs, activities, or services carried out or provided under this subtitle for controlled substances. A State that conducts such testing shall inform the participants who test positive for any of such substances about the availability of treatment or rehabilitation services and refer such participants for appropriate treatment or rehabilitation services.

“(2) ADMINISTRATIVE EXPENSES.—Any funds provided under this subtitle expended for such testing shall be considered to be expended for administrative expenses and shall be subject to the limitation specified in section 675C(b)(2).

“(3) DEFINITION.—In this subsection, the term ‘controlled substance’ has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

“(b) CHILD SUPPORT SERVICES AND REFERRALS.—During each fiscal year for which an eligible entity receives a grant under section 675C, such entity shall—

“(1) inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this subtitle about the availability of child support services; and

“(2) refer eligible parents to the child support offices of State and local governments.

**“SEC. 679. OPERATIONAL RULE.**

42 USC 9920.

“(a) RELIGIOUS ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.—For any program carried out by the Federal Government, or by a State or local government under this subtitle, the government shall consider, on the same basis as other nongovernmental organizations, religious organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this subtitle shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subtitle, on the basis that the organization has a religious character.

“(b) RELIGIOUS CHARACTER AND INDEPENDENCE.—

“(1) IN GENERAL.—A religious organization that provides assistance under a program described in subsection (a) shall retain its religious character and control over the definition, development, practice, and expression of its religious beliefs.

“(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State or local government shall require a religious organization—

“(A) to alter its form of internal governance, except (for purposes of administration of the community services block grant program) as provided in section 676B; or

“(B) to remove religious art, icons, scripture, or other symbols;

in order to be eligible to provide assistance under a program described in subsection (a).

“(3) EMPLOYMENT PRACTICES.—A religious organization’s exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in subsection (a).

“(c) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided directly to a religious organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization.

“(d) FISCAL ACCOUNTABILITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization providing assistance under any program described in subsection (a) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

“(2) LIMITED AUDIT.—Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

“(e) TREATMENT OF ELIGIBLE ENTITIES AND OTHER INTERMEDIATE ORGANIZATIONS.—If an eligible entity or other organization (referred to in this subsection as an ‘intermediate organization’), acting under a contract, or grant or other agreement, with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (a), the intermediate organization shall have the same duties under this section as the government.

42 USC 9921.

**“SEC. 680. DISCRETIONARY AUTHORITY OF THE SECRETARY.**

“(a) GRANTS, CONTRACTS, ARRANGEMENTS, LOANS, AND GUARANTEES.—

“(1) IN GENERAL.—The Secretary shall, from funds reserved under section 674(b)(3), make grants, loans, or guarantees to States and public agencies and private, nonprofit organizations, or enter into contracts or jointly financed cooperative arrangements with States and public agencies and private, nonprofit organizations (and for-profit organizations, to the extent specified in paragraph (2)(E)) for each of the objectives described in paragraphs (2) through (4).

“(2) COMMUNITY ECONOMIC DEVELOPMENT.—

“(A) ECONOMIC DEVELOPMENT ACTIVITIES.—The Secretary shall make grants described in paragraph (1) on a competitive basis to private, nonprofit organizations that are community development corporations to provide technical and financial assistance for economic development activities designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

“(B) CONSULTATION.—The Secretary shall exercise the authority provided under subparagraph (A) after consultation with other relevant Federal officials.

“(C) GOVERNING BOARDS.—For a community development corporation to receive funds to carry out this paragraph, the corporation shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing, or managing low-income housing or community development projects.

“(D) GEOGRAPHIC DISTRIBUTION.—In making grants to carry out this paragraph, the Secretary shall take into consideration the geographic distribution of funding among States and the relative proportion of funding among rural and urban areas.

“(E) RESERVATION.—Of the amounts made available to carry out this paragraph, the Secretary may reserve not more than 1 percent for each fiscal year to make grants to private, nonprofit organizations or to enter into contracts with private, nonprofit or for-profit organizations to provide technical assistance to aid community development corporations in developing or implementing activities funded to carry out this paragraph and to evaluate activities funded to carry out this paragraph.

“(3) RURAL COMMUNITY DEVELOPMENT ACTIVITIES.—The Secretary shall provide the assistance described in paragraph (1) for rural community development activities, which shall include providing—

“(A) grants to private, nonprofit corporations to enable the corporations to provide assistance concerning home repair to rural low-income families and concerning planning and developing low-income rural rental housing units; and

“(B) grants to multistate, regional, private, nonprofit organizations to enable the organizations to provide training and technical assistance to small, rural communities concerning meeting their community facility needs.

“(4) NEIGHBORHOOD INNOVATION PROJECTS.—The Secretary shall provide the assistance described in paragraph (1) for neighborhood innovation projects, which shall include providing grants to neighborhood-based private, nonprofit organizations to test or assist in the development of new approaches or methods that will aid in overcoming special problems identified by communities or neighborhoods or otherwise assist in furthering the purposes of this subtitle, and which may include providing assistance for projects that are designed to serve low-income individuals and families who are not being effectively served by other programs.

“(b) EVALUATION.—The Secretary shall require all activities receiving assistance under this section to be evaluated for their effectiveness. Funding for such evaluations shall be provided as a stated percentage of the assistance or through a separate grant awarded by the Secretary specifically for the purpose of evaluation of a particular activity or group of activities.

“(c) ANNUAL REPORT.—The Secretary shall compile an annual report containing a summary of the evaluations required in subsection (b) and a listing of all activities assisted under this section. The Secretary shall annually submit the report to the Chairperson of the Committee on Education and the Workforce of the House of Representatives and the Chairperson of the Committee on Labor and Human Resources of the Senate.

Records.

42 USC 9922.

**“SEC. 681. COMMUNITY FOOD AND NUTRITION PROGRAMS.**

“(a) GRANTS.—The Secretary may, through grants to public and private, nonprofit agencies, provide for community-based, local, statewide, and national programs—

“(1) to coordinate private and public food assistance resources, wherever the grant recipient involved determines such coordination to be inadequate, to better serve low-income populations;

“(2) to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate such programs in underserved or unserved areas; and

“(3) to develop innovative approaches at the State and local level to meet the nutrition needs of low-income individuals.

“(b) ALLOTMENTS AND DISTRIBUTION OF FUNDS.—

“(1) NOT TO EXCEED \$6,000,000 IN APPROPRIATIONS.—Of the amount appropriated for a fiscal year to carry out this section (but not to exceed \$6,000,000), the Secretary shall distribute funds for grants under subsection (a) as follows:

“(A) ALLOTMENTS.—From a portion equal to 60 percent of such amount (but not to exceed \$3,600,000), the Secretary shall allot for grants to eligible agencies for statewide programs in each State the amount that bears the same ratio to such portion as the low-income and unemployed population of such State bears to the low-income and unemployed population of all the States.

“(B) COMPETITIVE GRANTS.—From a portion equal to 40 percent of such amount (but not to exceed \$2,400,000), the Secretary shall make grants on a competitive basis to eligible agencies for local and statewide programs.

“(2) GREATER AVAILABLE APPROPRIATIONS.—Any amounts appropriated for a fiscal year to carry out this section in excess of \$6,000,000 shall be allotted as follows:

“(A) ALLOTMENTS.—The Secretary shall use 40 percent of such excess to allot for grants under subsection (a) to eligible agencies for statewide programs in each State an amount that bears the same ratio to 40 percent of such excess as the low-income and unemployed population of such State bears to the low-income and unemployed population of all the States.

“(B) COMPETITIVE GRANTS FOR LOCAL AND STATEWIDE PROGRAMS.—The Secretary shall use 40 percent of such excess to make grants under subsection (a) on a competitive basis to eligible agencies for local and statewide programs.

“(C) COMPETITIVE GRANTS FOR NATIONWIDE PROGRAMS.—The Secretary shall use the remaining 20 percent of such excess to make grants under subsection (a) on a competitive basis to eligible agencies for nationwide programs, including programs benefiting Indians, as defined in section 677, and migrant or seasonal farmworkers.

“(3) ELIGIBILITY FOR ALLOTMENTS FOR STATEWIDE PROGRAMS.—To be eligible to receive an allotment under paragraph (1)(A) or (2)(A), an eligible agency shall demonstrate that the proposed program is statewide in scope and represents a comprehensive and coordinated effort to alleviate hunger within the State.

“(4) MINIMUM ALLOTMENTS FOR STATEWIDE PROGRAMS.—

“(A) IN GENERAL.—From the amounts allotted under paragraphs (1)(A) and (2)(A), the minimum total allotment for each State for each fiscal year shall be—

“(i) \$15,000 if the total amount appropriated to carry out this section is not less than \$7,000,000 but less than \$10,000,000;

“(ii) \$20,000 if the total amount appropriated to carry out this section is not less than \$10,000,000 but less than \$15,000,000; or

“(iii) \$30,000 if the total amount appropriated to carry out this section is not less than \$15,000,000.

“(B) DEFINITION.—In this paragraph, the term ‘State’ does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

“(5) MAXIMUM GRANTS.—From funds made available under paragraphs (1)(B) and (2)(B) for any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding \$50,000. From funds made available under paragraph (2)(C) for any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding \$300,000.

“(c) REPORT.—For each fiscal year, the Secretary shall prepare and submit, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the grants made under this section. Such report shall include—

“(1) a list of grant recipients;

Records.

“(2) information on the amount of funding awarded to each grant recipient; and

“(3) a summary of the activities performed by the grant recipients with funding awarded under this section and a description of the manner in which such activities meet the objectives described in subsection (a).

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999 through 2003.

**“SEC. 682. NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.**

42 USC 9923.

“(a) GENERAL AUTHORITY.—The Secretary is authorized to make a grant to an eligible service provider to administer national or regional programs to provide instructional activities for low-income youth. In making such a grant, the Secretary shall give priority to eligible service providers that have a demonstrated ability to operate such a program.

“(b) PROGRAM REQUIREMENTS.—Any instructional activity carried out by an eligible service provider receiving a grant under this section shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) and shall include—

“(1) access to the facilities and resources of such an institution;

“(2) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

“(3) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

“(4) high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)); and

“(5) enrichment instruction and information on matters relating to the well-being of youth, to include educational opportunities and information on study practices, education for the prevention of drug and alcohol abuse, and information on health and nutrition, career opportunities, and family and job responsibilities.

“(c) ADVISORY COMMITTEE; PARTNERSHIPS.—The eligible service provider shall, in each community in which a program is funded under this section—

“(1) ensure that—

“(A) a community-based advisory committee is established, with representatives from local youth, family, and social service organizations, schools, entities providing park and recreation services, and other community-based organizations serving high-risk youth; or

“(B) an existing community-based advisory board, commission, or committee with similar membership is utilized to serve as the committee described in subparagraph (A); and

“(2) enter into formal partnerships with youth-serving organizations or other appropriate social service entities in order to link program participants with year-round services in their home communities that support and continue the objectives of this subtitle.

“(d) ELIGIBLE PROVIDERS.—A service provider that is a national private, nonprofit organization, a coalition of such organizations, or a private, nonprofit organization applying jointly with a business concern shall be eligible to apply for a grant under this section if—

“(1) the applicant has demonstrated experience in operating a program providing instruction to low-income youth;

“(2) the applicant agrees to contribute an amount (in cash or in kind, fairly evaluated) of not less than 25 percent of the amount requested, for the program funded through the grant;

“(3) the applicant agrees to use no funds from a grant authorized under this section for administrative expenses; and

“(4) the applicant agrees to comply with the regulations or program guidelines promulgated by the Secretary for use of funds made available through the grant.

“(e) APPLICATION PROCESS.—To be eligible to receive a grant under this section, a service provider shall submit to the Secretary, for approval, an application at such time, in such manner, and containing such information as the Secretary may require.

“(f) PROMULGATION OF REGULATIONS OR PROGRAM GUIDELINES.—The Secretary shall promulgate regulations or program guidelines to ensure funds made available through a grant made



under this section are used in accordance with the objectives of this subtitle.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$15,000,000 for each of fiscal years 1999 through 2003 for grants to carry out this section.

**“SEC. 683. REFERENCES.**

42 USC 9924.

“Any reference in any provision of law to the poverty line set forth in section 624 or 625 of the Economic Opportunity Act of 1964 shall be construed to be a reference to the poverty line defined in section 673. Except as otherwise provided, any reference in any provision of law to any community action agency designated under title II of the Economic Opportunity Act of 1964 shall be construed to be a reference to an entity eligible to receive funds under the community services block grant program.”.

**SEC. 202. CONFORMING AMENDMENTS.**

(a) OLDER AMERICANS ACT OF 1965.—Section 306(a)(6)(E)(ii) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(E)(ii)) is amended by striking “section 675(c)(3) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(3))” and inserting “section 676B of the Community Services Block Grant Act”.

(b) COMMUNITY ECONOMIC DEVELOPMENT ACT OF 1981.—

(1) SOURCE OF FUNDS.—Section 614 of the Community Economic Development Act of 1981 (42 U.S.C. 9803) is repealed.

(2) ADVISORY COMMUNITY INVESTMENT BOARD.—Section 615(a)(2) of the Community Economic Development Act of 1981 (42 U.S.C. 9804(a)(2)) is amended by striking “through the Office” and all that follows and inserting “through an appropriate office.”.

(c) HUMAN SERVICES REAUTHORIZATION ACT OF 1986.—Section 407 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9812a) is amended—

(1) in subsection (a)—

(A) by inserting after “funds available” the following: “(before the date of enactment of the Coats Human Services Reauthorization Act of 1998)”; and

(B) by inserting after “9910(a))” the following: “(as in effect before such date)”; and

(2) in subsection (b)(2)—

(A) by inserting after “funds available” the following: “(before the date of enactment of the Coats Human Services Reauthorization Act of 1998)”; and

(B) by inserting after “9910(a))” the following: “(as in effect before such date)”.

(d) ANTI-DRUG ABUSE ACT OF 1988.—Section 3521(c)(2) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11841(c)(2)) is amended by striking “, such as activities authorized by section 681(a)(2)(F) of the Community Services Block Grant Act (42 U.S.C. section 9910(a)(2)(F)),”.

Low-Income  
Home Energy  
Assistance  
Amendments of  
1998.  
42 USC 8621  
note.

## TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE

### SEC. 301. SHORT TITLE.

This title may be cited as the “Low-Income Home Energy Assistance Amendments of 1998”.

### SEC. 302. AUTHORIZATION.

(a) IN GENERAL.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by inserting “, such sums as may be necessary for each of fiscal years 2000 and 2001, and \$2,000,000,000 for each of fiscal years 2002 through 2004” after “1995 through 1999”.

(b) PROGRAM YEAR.—Section 2602(c) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(c)) is amended to read as follows:

“(c) Amounts appropriated under this section for any fiscal year for programs and activities under this title shall be made available for obligation in the succeeding fiscal year.”.

(c) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL RESOURCES.—Section 2602(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(d)) is amended—

(1) by striking “(d)” and inserting “(d)(1)”;

(2) by striking “are authorized” and inserting “is authorized”;

(3) by striking “\$50,000,000” and all that follows and inserting the following: “\$30,000,000 for each of fiscal years 1999 through 2004, except as provided in paragraph (2).”; and

(4) by adding at the end the following:

“(2) For any of fiscal years 1999 through 2004 for which the amount appropriated under subsection (b) is not less than \$1,400,000,000, there is authorized to be appropriated \$50,000,000 to carry out section 2607A.”.

(d) TECHNICAL AMENDMENTS.—Section 2602(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(e)) is amended—

(1) by striking “are authorized” and inserting “is authorized”; and

(2) by striking “subsection (g)” and inserting “subsection (e) of such section”.

### SEC. 303. DEFINITIONS.

Section 2603(4) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622(4)) is amended—

(1) by striking “the term” and inserting “The term”; and

(2) by striking the semicolon and inserting a period.

### SEC. 304. NATURAL DISASTERS AND OTHER EMERGENCIES.

(a) DEFINITIONS.—Section 2603 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622) is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (8) through (11), respectively;

(2) by inserting before paragraph (8) (as redesignated in paragraph (1)) the following:

“(7) The term ‘natural disaster’ means a weather event (relating to cold or hot weather), flood, earthquake, tornado,

hurricane, or ice storm, or an event meeting such other criteria as the Secretary, in the discretion of the Secretary, may determine to be appropriate.”;

(3) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(4) by inserting before paragraph (2) (as redesignated in paragraph (3)) the following:

“(1) The term ‘emergency’ means—

“(A) a natural disaster;

“(B) a significant home energy supply shortage or disruption;

“(C) a significant increase in the cost of home energy, as determined by the Secretary;

“(D) a significant increase in home energy disconnections reported by a utility, a State regulatory agency, or another agency with necessary data;

“(E) a significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the national program to provide supplemental security income carried out under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or the State temporary assistance for needy families program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), as determined by the head of the appropriate Federal agency;

“(F) a significant increase in unemployment, layoffs, or the number of households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

“(G) an event meeting such criteria as the Secretary, in the discretion of the Secretary, may determine to be appropriate.”.

(b) CONSIDERATIONS.—Section 2604(g) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(g)) is amended by striking the last two sentences and inserting the following: “In determining whether to make such an allotment to a State, the Secretary shall take into account the extent to which the State was affected by the natural disaster or other emergency involved, the availability to the State of other resources under the program carried out under this title or any other program, and such other factors as the Secretary may find to be relevant. Not later than 30 days after making the determination, but prior to releasing an allotted amount to a State, the Secretary shall notify Congress of the allotments made pursuant to this subsection.”.

Notification.

#### SEC. 305. STATE ALLOTMENTS.

Section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623) is amended—

(1) in subsection (b)(1), by striking “the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.” and inserting “and the Commonwealth of the Northern Mariana Islands.”;

(2) in subsection (c)(3)(B)(ii), by striking “application” and inserting “applications”;

(3) by striking subsection (f);

- (4) in the first sentence of subsection (g), by striking “(a) through (f)” and inserting “(a) through (d)”; and
- (5) by redesignating subsection (g) as subsection (e).

**SEC. 306. ADMINISTRATION.**

Section 2605 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624) is amended—

- (1) in subsection (b)—
  - (A) in paragraph (9)(A), by striking “and not transferred pursuant to section 2604(f) for use under another block grant”;
  - (B) in paragraph (14), by striking “; and” and inserting a semicolon;
  - (C) in the matter following paragraph (14), by striking “The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.”; and
  - (D) in the matter following paragraph (16), by inserting before “The Secretary shall issue” the following: “The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.”;
- (2) in subsection (c)(1)—
  - (A) in subparagraph (B), by striking “States” and inserting “State”; and
  - (B) in subparagraph (G)(i), by striking “has” and inserting “had”; and
- (3) in paragraphs (1) and (2)(A) of subsection (k) by inserting “, particularly those low-income households with the lowest incomes that pay a high proportion of household income for home energy” before the period.

**SEC. 307. PAYMENTS TO STATES.**

Section 2607(b)(2)(B) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626(b)(2)(B)) is amended—

- (1) in the first sentence, by striking “and not transferred pursuant to section 2604(f)”; and
- (2) in the second sentence, by striking “but not transferred by the State”.

**SEC. 308. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION.**

(a) **EVALUATION.**—The Comptroller General of the United States shall conduct an evaluation of the Residential Energy Assistance Challenge program described in section 2607B of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b).

(b) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit to Congress a report containing—

- (1) the findings resulting from the evaluation described in subsection (a); and
- (2) the State evaluations described in paragraphs (1) and (2) of subsection (b) of such section 2607B.

(c) **INCENTIVE GRANTS.**—Section 2607B(b)(1) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b(b)(1)) is amended by striking “For each of the fiscal years 1996 through 1999” and inserting “For each fiscal year”.

(d) **TECHNICAL AMENDMENTS.**—Section 2607B of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626b) is amended—

42 USC 8626b  
note.

Deadline.  
42 USC 8626b  
note.

(1) in subsection (e)(2)—

(A) by redesignating subparagraphs (F) through (N) as subparagraphs (E) through (M), respectively; and

(B) in clause (i) of subparagraph (I) (as redesignated in subparagraph (A)), by striking “on” and inserting “of”; and

(2) by redesignating subsection (g) as subsection (f).

**SEC. 309. TECHNICAL ASSISTANCE, TRAINING, AND COMPLIANCE REVIEWS.**

(a) IN GENERAL.—Section 2609A(a) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8628a(a)) is amended—

(1) in the matter preceding paragraph (1), by striking “\$250,000” and inserting “\$300,000”;

(2) by striking “Secretary—” and all that follows through “(1) to make” and inserting the following: “Secretary—

“(1) to—

“(A) make”;

(3) by striking “organizations; or” and all that follows through “(2) to enter” and inserting the following: “organizations; or

“(B) enter”;

(4) by striking the following:

“to provide” and inserting the following:

“to provide”;

(5) by striking “title.” and inserting the following: “title; or

“(2) to conduct onsite compliance reviews of programs supported under this title.”; and

(6) in paragraph (1)(B) (as redesignated in paragraphs (2) and (3))—

(A) by inserting “or interagency agreements” after “cooperative arrangements”; and

(B) by inserting “(including Federal agencies)” after “public agencies”.

(b) CONFORMING AMENDMENT.—The section heading of section 2609A of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8628a) is amended to read as follows:

“TECHNICAL ASSISTANCE, TRAINING, AND COMPLIANCE REVIEWS”.

## TITLE IV—ASSETS FOR INDEPENDENCE

**SEC. 401. SHORT TITLE.**

This title may be cited as the “Assets for Independence Act”.

**SEC. 402. FINDINGS.**

Congress makes the following findings:

(1) Economic well-being does not come solely from income, spending, and consumption, but also requires savings, investment, and accumulation of assets because assets can improve economic independence and stability, connect individuals with a viable and hopeful future, stimulate development of human and other capital, and enhance the welfare of offspring.

(2) Fully ½ of all Americans have either no, negligible, or negative assets available for investment, just as the price of entry to the economic mainstream, the cost of a house,

Assets for  
Independence  
Act.  
42 USC 604 note.

an adequate education, and starting a business, is increasing. Further, the household savings rate of the United States lags far behind other industrial nations, presenting a barrier to economic growth.

(3) In the current tight fiscal environment, the United States should invest existing resources in high-yield initiatives. There is reason to believe that the financial returns, including increased income, tax revenue, and decreased welfare cash assistance, resulting from individual development accounts will far exceed the cost of investment in those accounts.

(4) Traditional public assistance programs concentrating on income and consumption have rarely been successful in promoting and supporting the transition to increased economic self-sufficiency. Income-based domestic policy should be complemented with asset-based policy because, while income-based policies ensure that consumption needs (including food, child care, rent, clothing, and health care) are met, asset-based policies provide the means to achieve greater independence and economic well-being.

#### **SEC. 403. PURPOSES.**

The purposes of this title are to provide for the establishment of demonstration projects designed to determine—

(1) the social, civic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income;

(2) the extent to which an asset-based policy that promotes saving for postsecondary education, homeownership, and micro-enterprise development may be used to enable individuals and families with limited means to increase their economic self-sufficiency; and

(3) the extent to which an asset-based policy stabilizes and improves families and the community in which the families live.

#### **SEC. 404. DEFINITIONS.**

In this title:

(1) **APPLICABLE PERIOD.**—The term “applicable period” means, with respect to amounts to be paid from a grant made for a project year, the calendar year immediately preceding the calendar year in which the grant is made.

(2) **ELIGIBLE INDIVIDUAL.**—The term “eligible individual” means an individual who is selected to participate in a demonstration project by a qualified entity under section 409.

(3) **EMERGENCY WITHDRAWAL.**—The term “emergency withdrawal” means a withdrawal by an eligible individual that—

(A) is a withdrawal of only those funds, or a portion of those funds, deposited by the individual in the individual development account of the individual;

(B) is permitted by a qualified entity on a case-by-case basis; and

(C) is made for—

(i) expenses for medical care or necessary to obtain medical care, for the individual or a spouse or dependent of the individual described in paragraph (8)(D);

(ii) payments necessary to prevent the eviction of the individual from the residence of the individual,

or foreclosure on the mortgage for the principal residence of the individual, as defined in paragraph (8)(B); or

(iii) payments necessary to enable the individual to meet necessary living expenses following loss of employment.

(4) HOUSEHOLD.—The term “household” means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(5) INDIVIDUAL DEVELOPMENT ACCOUNT.—

(A) IN GENERAL.—The term “individual development account” means a trust created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, or enabling the eligible individual to make an emergency withdrawal, but only if the written governing instrument creating the trust contains the following requirements:

(i) No contribution will be accepted unless the contribution is in cash or by check.

(ii) The trustee is a federally insured financial institution, or a State insured financial institution if no federally insured financial institution is available.

(iii) The assets of the trust will be invested in accordance with the direction of the eligible individual after consultation with the qualified entity providing deposits for the individual under section 410.

(iv) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

(v) Except as provided in clause (vi), any amount in the trust that is attributable to a deposit provided under section 410 may be paid or distributed out of the trust only for the purpose of paying the qualified expenses of the eligible individual, or enabling the eligible individual to make an emergency withdrawal.

(vi) Any balance in the trust on the day after the date on which the individual for whose benefit the trust is established dies shall be distributed within 30 days of that date as directed by that individual to another individual development account established for the benefit of an eligible individual.

(B) CUSTODIAL ACCOUNTS.—For purposes of subparagraph (A), a custodial account shall be treated as a trust if the assets of the custodial account are held by a bank (as defined in section 408(n) of the Internal Revenue Code of 1986) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which such person will administer the custodial account will be consistent with the requirements of this title, and if the custodial account would, except for the fact that it is not a trust, constitute an individual development account described in subparagraph (A). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of that custodial account shall be treated as the trustee of the account.

(6) PROJECT YEAR.—The term “project year” means, with respect to a demonstration project, any of the 5 consecutive

12-month periods beginning on the date the project is originally authorized to be conducted.

(7) QUALIFIED ENTITY.—

(A) IN GENERAL.—The term “qualified entity” means—

(i) one or more not-for-profit organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

(ii) a State or local government agency, or a tribal government, submitting an application under section 405 jointly with an organization described in clause (i).

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing an organization described in subparagraph (A)(i) from collaborating with a financial institution or for-profit community development corporation to carry out the purposes of this title.

(8) QUALIFIED EXPENSES.—The term “qualified expenses” means one or more of the following, as provided by a qualified entity:

(A) POSTSECONDARY EDUCATIONAL EXPENSES.—Postsecondary educational expenses paid from an individual development account directly to an eligible educational institution. In this subparagraph:

(i) POSTSECONDARY EDUCATIONAL EXPENSES.—The term “postsecondary educational expenses” means the following:

(I) TUITION AND FEES.—Tuition and fees required for the enrollment or attendance of a student at an eligible educational institution.

(II) FEES, BOOKS, SUPPLIES, AND EQUIPMENT.—Fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

(ii) ELIGIBLE EDUCATIONAL INSTITUTION.—The term “eligible educational institution” means the following:

(I) INSTITUTION OF HIGHER EDUCATION.—An institution described in section 101 or 102 of the Higher Education Act of 1965.

(II) POSTSECONDARY VOCATIONAL EDUCATION SCHOOL.—An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4))) which is in any State (as defined in section 521(33) of such Act), as such sections are in effect on the date of enactment of this title.

(B) FIRST-HOME PURCHASE.—Qualified acquisition costs with respect to a principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. In this subparagraph:

(i) PRINCIPAL RESIDENCE.—The term “principal residence” means a main residence, the qualified acquisition costs of which do not exceed 100 percent



of the average area purchase price applicable to such residence.

(ii) **QUALIFIED ACQUISITION COSTS.**—The term “qualified acquisition costs” means the costs of acquiring, constructing, or reconstructing a residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

(iii) **QUALIFIED FIRST-TIME HOMEBUYER.**—

(I) **IN GENERAL.**—The term “qualified first-time homebuyer” means an individual participating in the project involved (and, if married, the individual’s spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this subparagraph applies.

(II) **DATE OF ACQUISITION.**—The term “date of acquisition” means the date on which a binding contract to acquire, construct, or reconstruct the principal residence to which this subparagraph applies is entered into.

(C) **BUSINESS CAPITALIZATION.**—Amounts paid from an individual development account directly to a business capitalization account that is established in a federally insured financial institution (or in a State insured financial institution if no federally insured financial institution is available) and is restricted to use solely for qualified business capitalization expenses. In this subparagraph:

(i) **QUALIFIED BUSINESS CAPITALIZATION EXPENSES.**—The term “qualified business capitalization expenses” means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan.

(ii) **QUALIFIED EXPENDITURES.**—The term “qualified expenditures” means expenditures included in a qualified plan, including capital, plant, equipment, working capital, and inventory expenses.

(iii) **QUALIFIED BUSINESS.**—The term “qualified business” means any business that does not contravene any law or public policy (as determined by the Secretary).

(iv) **QUALIFIED PLAN.**—The term “qualified plan” means a business plan, or a plan to use a business asset purchased, which—

(I) is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;

(II) includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

(III) may require the eligible individual to obtain the assistance of an experienced entrepreneurial adviser.

(D) **TRANSFERS TO IDAS OF FAMILY MEMBERS.**—Amounts paid from an individual development account directly into

another such account established for the benefit of an eligible individual who is—

(i) the individual's spouse; or

(ii) any dependent of the individual with respect to whom the individual is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

(9) **QUALIFIED SAVINGS OF THE INDIVIDUAL FOR THE PERIOD.**—The term “qualified savings of the individual for the period” means the aggregate of the amounts contributed by an individual to the individual development account of the individual during the period.

(10) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services, acting through the Director of Community Services.

(11) **TRIBAL GOVERNMENT.**—The term “tribal government” means a tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) or a Native Hawaiian organization, as defined in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

#### **SEC. 405. APPLICATIONS.**

Deadline.  
Public  
information.

(a) **ANNOUNCEMENT OF DEMONSTRATION PROJECTS.**—Not later than 3 months after the date of enactment of this title, the Secretary shall publicly announce the availability of funding under this title for demonstration projects and shall ensure that applications to conduct the demonstration projects are widely available to qualified entities.

Deadline.

(b) **SUBMISSION.**—Not later than 6 months after the date of enactment of this title, a qualified entity may submit to the Secretary an application to conduct a demonstration project under this title.

(c) **CRITERIA.**—In considering whether to approve an application to conduct a demonstration project under this title, the Secretary shall assess the following:

(1) **SUFFICIENCY OF PROJECT.**—The degree to which the project described in the application appears likely to aid project participants in achieving economic self-sufficiency through activities requiring one or more qualified expenses.

(2) **ADMINISTRATIVE ABILITY.**—The experience and ability of the applicant to responsibly administer the project.

(3) **ABILITY TO ASSIST PARTICIPANTS.**—The experience and ability of the applicant in recruiting, educating, and assisting project participants to increase their economic independence and general well-being through the development of assets.

(4) **COMMITMENT OF NON-FEDERAL FUNDS.**—The aggregate amount of direct funds from non-Federal public sector and from private sources that are formally committed to the project as matching contributions.

(5) **ADEQUACY OF PLAN FOR PROVIDING INFORMATION FOR EVALUATION.**—The adequacy of the plan for providing information relevant to an evaluation of the project.

(6) **OTHER FACTORS.**—Such other factors relevant to the purposes of this title as the Secretary may specify.

(d) **PREFERENCES.**—In considering an application to conduct a demonstration project under this title, the Secretary shall give preference to an application that—

(1) demonstrates the willingness and ability to select individuals described in section 408 who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardian;

(2) provides a commitment of non-Federal funds with a proportionately greater amount of such funds committed from private sector sources; and

(3) targets such individuals residing within one or more relatively well-defined neighborhoods or communities (including rural communities) that experience high rates of poverty or unemployment.

(e) APPROVAL.—Not later than 9 months after the date of enactment of this title, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration projects under this title as the Secretary considers to be appropriate, taking into account the assessments required by subsections (c) and (d). The Secretary shall ensure, to the maximum extent practicable, that the applications that are approved involve a range of communities (both rural and urban) and diverse populations. Deadline.

(f) CONTRACTS WITH NONPROFIT ENTITIES.—The Secretary may contract with an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code to carry out any responsibility of the Secretary under this section or section 412 if—

(1) such entity demonstrates the ability to carry out such responsibility; and

(2) the Secretary can demonstrate that such responsibility would not be carried out by the Secretary at a lower cost.

(g) GRANDFATHERING OF EXISTING STATEWIDE PROGRAMS.—Any statewide individual asset-building program that is carried out in a manner consistent with the purposes of this title, that is established under State law as of the date of enactment of this Act, and that as of such date is operating with an annual State appropriation of not less than \$1,000,000 in non-Federal funds, shall be deemed to meet the eligibility requirements of this subtitle, and the entity carrying out the program shall be deemed to be a qualified entity. The Secretary shall consider funding the statewide program as a demonstration project described in this subtitle. In considering the statewide program for funding, the Secretary shall review an application submitted by the entity carrying out such statewide program under this section, notwithstanding the preference requirements listed in subsection (d). Any program requirements under sections 407 through 411 that are inconsistent with State statutory requirements in effect on the date of enactment of this Act, governing such statewide program, shall not apply to the program.

#### SEC. 406. DEMONSTRATION AUTHORITY; ANNUAL GRANTS.

(a) DEMONSTRATION AUTHORITY.—If the Secretary approves an application to conduct a demonstration project under this title, the Secretary shall, not later than 10 months after the date of enactment of this title, authorize the applicant to conduct the project for 5 project years in accordance with the approved application and the requirements of this title. Deadline.

(b) GRANT AUTHORITY.—For each project year of a demonstration project conducted under this title, the Secretary may make

a grant to the qualified entity authorized to conduct the project. In making such a grant, the Secretary shall make the grant on the first day of the project year in an amount not to exceed the lesser of—

- (1) the aggregate amount of funds committed as matching contributions from non-Federal public or private sector sources; or
- (2) \$1,000,000.

**SEC. 407. RESERVE FUND.**

(a) **ESTABLISHMENT.**—A qualified entity under this title, other than a State or local government agency or a tribal government, shall establish a Reserve Fund that shall be maintained in accordance with this section.

(b) **AMOUNTS IN RESERVE FUND.**—

(1) **IN GENERAL.**—As soon after receipt as is practicable, a qualified entity shall deposit in the Reserve Fund established under subsection (a)—

(A) all funds provided to the qualified entity from any public or private source in connection with the demonstration project; and

(B) the proceeds from any investment made under subsection (c)(2).

(2) **UNIFORM ACCOUNTING REGULATIONS.**—The Secretary shall prescribe regulations with respect to accounting for amounts in the Reserve Fund established under subsection (a).

(c) **USE OF AMOUNTS IN THE RESERVE FUND.**—

(1) **IN GENERAL.**—A qualified entity shall use the amounts in the Reserve Fund established under subsection (a) to—

(A) assist participants in the demonstration project in obtaining the skills (including economic literacy, budgeting, credit, and counseling skills) and information necessary to achieve economic self-sufficiency through activities requiring qualified expenses;

(B) provide deposits in accordance with section 410 for individuals selected by the qualified entity to participate in the demonstration project;

(C) administer the demonstration project; and

(D) provide the research organization evaluating the demonstration project under section 414 with such information with respect to the demonstration project as may be required for the evaluation.

(2) **AUTHORITY TO INVEST FUNDS.**—

(A) **GUIDELINES.**—The Secretary shall establish guidelines for investing amounts in the Reserve Fund established under subsection (a) in a manner that provides an appropriate balance between return, liquidity, and risk.

(B) **INVESTMENT.**—A qualified entity shall invest the amounts in its Reserve Fund that are not immediately needed to carry out the provisions of paragraph (1), in accordance with the guidelines established under subparagraph (A).

(3) **LIMITATION ON USES.**—Not more than 9.5 percent of the amounts provided to a qualified entity under section 406(b) shall be used by the qualified entity for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1), of which

not less than 2 percent of the amounts shall be used by the qualified entity for the purposes described in paragraph (1)(D). If two or more qualified entities are jointly administering a project, no qualified entity shall use more than its proportional share for the purposes described in subparagraphs (A), (C), and (D) of paragraph (1).

(d) **UNUSED FEDERAL GRANT FUNDS TRANSFERRED TO THE SECRETARY WHEN PROJECT TERMINATES.**—Notwithstanding subsection (c), upon the termination of any demonstration project authorized under this section, the qualified entity conducting the project shall transfer to the Secretary an amount equal to—

(1) the amounts in its Reserve Fund at the time of the termination; multiplied by

(2) a percentage equal to—

(A) the aggregate amount of grants made to the qualified entity under section 406(b); divided by

(B) the aggregate amount of all funds provided to the qualified entity from all sources to conduct the project.

**SEC. 408. ELIGIBILITY FOR PARTICIPATION.**

(a) **IN GENERAL.**—Any individual who is a member of a household that is eligible for assistance under the State temporary assistance for needy families program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or that meets each of the following requirements shall be eligible to participate in a demonstration project conducted under this title:

(1) **INCOME TEST.**—The adjusted gross income of the household does not exceed the earned income amount described in section 32 of the Internal Revenue Code of 1986 (taking into account the size of the household).

(2) **NET WORTH TEST.**—

(A) **IN GENERAL.**—The net worth of the household, as of the end of the calendar year preceding the determination of eligibility, does not exceed \$10,000.

(B) **DETERMINATION OF NET WORTH.**—For purposes of subparagraph (A), the net worth of a household is the amount equal to—

(i) the aggregate market value of all assets that are owned in whole or in part by any member of the household; minus

(ii) the obligations or debts of any member of the household.

(C) **EXCLUSIONS.**—For purposes of determining the net worth of a household, a household's assets shall not be considered to include the primary dwelling unit and one motor vehicle owned by a member of the household.

(b) **INDIVIDUALS UNABLE TO COMPLETE THE PROJECT.**—The Secretary shall establish such regulations as are necessary to ensure compliance with this title if an individual participating in the demonstration project moves from the community in which the project is conducted or is otherwise unable to continue participating in that project, including regulations prohibiting future eligibility to participate in any other demonstration project conducted under this title.

Regulations.

**SEC. 409. SELECTION OF INDIVIDUALS TO PARTICIPATE.**

From among the individuals eligible to participate in a demonstration project conducted under this title, each qualified entity shall select the individuals—

- (1) that the qualified entity determines to be best suited to participate; and
- (2) to whom the qualified entity will provide deposits in accordance with section 410.

**SEC. 410. DEPOSITS BY QUALIFIED ENTITIES.**

(a) **IN GENERAL.**—Not less than once every 3 months during each project year, each qualified entity under this title shall deposit in the individual development account of each individual participating in the project, or into a parallel account maintained by the qualified entity—

- (1) from the non-Federal funds described in section 405(c)(4), a matching contribution of not less than \$0.50 and not more than \$4 for every \$1 of earned income (as defined in section 911(d)(2) of the Internal Revenue Code of 1986) deposited in the account by a project participant during that period;

- (2) from the grant made under section 406(b), an amount equal to the matching contribution made under paragraph (1); and

- (3) any interest that has accrued on amounts deposited under paragraph (1) or (2) on behalf of that individual into the individual development account of the individual or into a parallel account maintained by the qualified entity.

(b) **LIMITATION ON DEPOSITS FOR AN INDIVIDUAL.**—Not more than \$2,000 from a grant made under section 406(b) shall be provided to any one individual over the course of the demonstration project.

(c) **LIMITATION ON DEPOSITS FOR A HOUSEHOLD.**—Not more than \$4,000 from a grant made under section 406(b) shall be provided to any one household over the course of the demonstration project.

(d) **WITHDRAWAL OF FUNDS.**—The Secretary shall establish such guidelines as may be necessary to ensure that funds held in an individual development account are not withdrawn, except for one or more qualified expenses, or for an emergency withdrawal. Such guidelines shall include a requirement that a responsible official of the qualified entity conducting a project approve a withdrawal from such an account in writing. The guidelines shall provide that no individual may withdraw funds from an individual development account earlier than 6 months after the date on which the individual first deposits funds in the account.

(e) **REIMBURSEMENT.**—An individual shall reimburse an individual development account for any funds withdrawn from the account for an emergency withdrawal, not later than 12 months after the date of the withdrawal. If the individual fails to make the reimbursement, the qualified entity administering the account shall transfer the funds deposited into the account or a parallel account under this section to the Reserve Fund of the qualified entity, and use the funds to benefit other individuals participating in the demonstration project involved.

**SEC. 411. LOCAL CONTROL OVER DEMONSTRATION PROJECTS.**

A qualified entity under this title, other than a State or local government agency or a tribal government, shall, subject to the provisions of section 413, have sole authority over the administration of the project. The Secretary may prescribe only such regulations or guidelines with respect to demonstration projects conducted under this title as are necessary to ensure compliance with the approved applications and the requirements of this title.

**SEC. 412. ANNUAL PROGRESS REPORTS.**

(a) **IN GENERAL.**—Each qualified entity under this title shall prepare an annual report on the progress of the demonstration project. Each report shall include both program and participant information and shall specify for the period covered by the report the following information:

(1) The number and characteristics of individuals making a deposit into an individual development account.

(2) The amounts in the Reserve Fund established with respect to the project.

(3) The amounts deposited in the individual development accounts.

(4) The amounts withdrawn from the individual development accounts and the purposes for which such amounts were withdrawn.

(5) The balances remaining in the individual development accounts.

(6) The savings account characteristics (such as threshold amounts and match rates) required to stimulate participation in the demonstration project, and how such characteristics vary among different populations or communities.

(7) What service configurations of the qualified entity (such as configurations relating to peer support, structured planning exercises, mentoring, and case management) increased the rate and consistency of participation in the demonstration project and how such configurations varied among different populations or communities.

(8) Such other information as the Secretary may require to evaluate the demonstration project.

(b) **SUBMISSION OF REPORTS.**—The qualified entity shall submit each report required to be prepared under subsection (a) to—

(1) the Secretary; and

(2) the Treasurer (or equivalent official) of the State in which the project is conducted, if the State or a local government or a tribal government committed funds to the demonstration project.

(c) **TIMING.**—The first report required by subsection (a) shall be submitted not later than 60 days after the end of the calendar year in which the Secretary authorized the qualified entity to conduct the demonstration project, and subsequent reports shall be submitted every 12 months thereafter, until the conclusion of the project.

**SEC. 413. SANCTIONS.**

(a) **AUTHORITY TO TERMINATE DEMONSTRATION PROJECT.**—If the Secretary determines that a qualified entity under this title is not operating a demonstration project in accordance with the entity's approved application under section 405 or the requirements

of this title (and has not implemented any corrective recommendations directed by the Secretary), the Secretary shall terminate such entity's authority to conduct the demonstration project.

(b) ACTIONS REQUIRED UPON TERMINATION.—If the Secretary terminates the authority to conduct a demonstration project, the Secretary—

(1) shall suspend the demonstration project;

(2) shall take control of the Reserve Fund established pursuant to section 407;

(3) shall make every effort to identify another qualified entity (or entities) willing and able to conduct the project in accordance with the approved application (or, if modification is necessary to incorporate the recommendations, the application as modified) and the requirements of this title;

(4) shall, if the Secretary identifies an entity (or entities) described in paragraph (3)—

(A) authorize the entity (or entities) to conduct the project in accordance with the approved application (or, if modification is necessary to incorporate the recommendations, the application as modified) and the requirements of this title;

(B) transfer to the entity (or entities) control over the Reserve Fund established pursuant to section 407; and

(C) consider, for purposes of this title—

(i) such other entity (or entities) to be the qualified entity (or entities) originally authorized to conduct the demonstration project; and

(ii) the date of such authorization to be the date of the original authorization; and

(5) if, by the end of the 1-year period beginning on the date of the termination, the Secretary has not found a qualified entity (or entities) described in paragraph (3), shall—

(A) terminate the project; and

(B) from the amount remaining in the Reserve Fund established as part of the project, remit to each source that provided funds under section 405(c)(4) to the entity originally authorized to conduct the project, an amount that bears the same ratio to the amount so remaining as the amount provided from the source under section 405(c)(4) bears to the amount provided from all such sources under that section.

#### SEC. 414. EVALUATIONS.

Deadline.  
Contracts.

(a) IN GENERAL.—Not later than 10 months after the date of enactment of this title, the Secretary shall enter into a contract with an independent research organization to evaluate the demonstration projects conducted under this title, individually and as a group, including evaluating all qualified entities participating in and sources providing funds for the demonstration projects conducted under this title.

(b) FACTORS TO EVALUATE.—In evaluating any demonstration project conducted under this title, the research organization shall address the following factors:

(1) The effects of incentives and organizational or institutional support on savings behavior in the demonstration project.



(2) The savings rates of individuals in the demonstration project based on demographic characteristics including gender, age, family size, race or ethnic background, and income.

(3) The economic, civic, psychological, and social effects of asset accumulation, and how such effects vary among different populations or communities.

(4) The effects of individual development accounts on savings rates, homeownership, level of postsecondary education attained, and self-employment, and how such effects vary among different populations or communities.

(5) The potential financial returns to the Federal Government and to other public sector and private sector investors in individual development accounts over a 5-year and 10-year period of time.

(6) The lessons to be learned from the demonstration projects conducted under this title and if a permanent program of individual development accounts should be established.

(7) Such other factors as may be prescribed by the Secretary.

(c) **METHODOLOGICAL REQUIREMENTS.**—In evaluating any demonstration project conducted under this title, the research organization shall—

(1) for at least one site, use control groups to compare participants with nonparticipants;

(2) before, during, and after the project, obtain such quantitative data as are necessary to evaluate the project thoroughly; and

(3) develop a qualitative assessment, derived from sources such as in-depth interviews, of how asset accumulation affects individuals and families.

(d) **REPORTS BY THE SECRETARY.**—

(1) **INTERIM REPORTS.**—Not later than 90 days after the end of the calendar year in which the Secretary first authorizes a qualified entity to conduct a demonstration project under this title, and every 12 months thereafter until all demonstration projects conducted under this title are completed, the Secretary shall submit to Congress an interim report setting forth the results of the reports submitted pursuant to section 412(b).

(2) **FINAL REPORTS.**—Not later than 12 months after the conclusion of all demonstration projects conducted under this title, the Secretary shall submit to Congress a final report setting forth the results and findings of all reports and evaluations conducted pursuant to this title.

(e) **EVALUATION EXPENSES.**—The Secretary shall expend 2 percent of the amount appropriated under section 416 for a fiscal year, to carry out the objectives of this section.

Deadlines.

#### **SEC. 415. TREATMENT OF FUNDS.**

Of the funds deposited in individual development accounts for eligible individuals, only the funds deposited by the individuals (including interest accruing on those funds) may be considered to be the income, assets, or resources of the individuals, for purposes of determining eligibility for, or the amount of assistance furnished under, any Federal or federally assisted program based on need.

**SEC. 416. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this title, \$25,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003, to remain available until expended.

Approved October 27, 1998.

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**LEGISLATIVE HISTORY—S. 2206:**

HOUSE REPORTS: No. 105-788 (Comm. of Conference).

SENATE REPORTS: No. 105-256 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 27, considered and passed Senate.

Sept. 14, considered and passed House, amended.

Oct. 8, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 27, Presidential statement.



Public Law 105–286  
105th Congress

An Act

To amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicle emissions, and for other purposes.

Oct. 27, 1998  
[H.R. 8]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Border Smog Reduction Act of 1998”.

Border Smog  
Reduction Act  
of 1998.  
42 USC 7401  
note.

**SEC. 2. AMENDMENT OF CLEAN AIR ACT.**

Section 183 of the Clean Air Act (42 U.S.C. 7511b) is amended by adding at the end the following:

“(h) VEHICLES ENTERING OZONE NONATTAINMENT AREAS.—

“(1) AUTHORITY REGARDING OZONE INSPECTION AND MAINTENANCE TESTING.—

“(A) IN GENERAL.—No noncommercial motor vehicle registered in a foreign country and operated by a United States citizen or by an alien who is a permanent resident of the United States, or who holds a visa for the purposes of employment or educational study in the United States, may enter a covered ozone nonattainment area from a foreign country bordering the United States and contiguous to the nonattainment area more than twice in a single calendar-month period, if State law has requirements for the inspection and maintenance of such vehicles under the applicable implementation plan in the nonattainment area.

“(B) APPLICABILITY.—Subparagraph (A) shall not apply if the operator presents documentation at the United States border entry point establishing that the vehicle has complied with such inspection and maintenance requirements as are in effect and are applicable to motor vehicles of the same type and model year.

“(2) SANCTIONS FOR VIOLATIONS.—The President may impose and collect from the operator of any motor vehicle who violates, or attempts to violate, paragraph (1) a civil penalty of not more than \$200 for the second violation or attempted violation and \$400 for the third and each subsequent violation or attempted violation.

President.

“(3) STATE ELECTION.—The prohibition set forth in paragraph (1) shall not apply in any State that elects to be exempt from the prohibition. Such an election shall take effect upon

the President's receipt of written notice from the Governor of the State notifying the President of such election.

"(4) ALTERNATIVE APPROACH.—The prohibition set forth in paragraph (1) shall not apply in a State, and the President may implement an alternative approach, if—

"(A) the Governor of the State submits to the President a written description of an alternative approach to facilitate the compliance, by some or all foreign-registered motor vehicles, with the motor vehicle inspection and maintenance requirements that are—

"(i) related to emissions of air pollutants;

"(ii) in effect under the applicable implementation plan in the covered ozone nonattainment area; and

"(iii) applicable to motor vehicles of the same types and model years as the foreign-registered motor vehicles; and

"(B) the President approves the alternative approach as facilitating compliance with the motor vehicle inspection and maintenance requirements referred to in subparagraph (A).

"(5) DEFINITION OF COVERED OZONE NONATTAINMENT AREA.—In this section, the term 'covered ozone nonattainment area' means a Serious Area, as classified under section 181 as of the date of the enactment of this subsection."

42 USC 7511b  
note.  
Effective date.

### SEC. 3. GENERAL PROVISIONS.

(a) IN GENERAL.—The amendment made by section 2 takes effect 180 days after the date of the enactment of this Act. Nothing in that amendment shall require action that is inconsistent with the obligations of the United States under any international agreement.

(b) INFORMATION.—As soon as practicable after the date of the enactment of this Act, the appropriate agency of the United States shall distribute information to publicize the prohibition set forth in the amendment made by section 2.

### SEC. 4. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the impact of the amendment made by section 2.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall compare—

(1) the potential impact of the amendment made by section 2 on air quality in ozone nonattainment areas affected by the amendment; with

(2) the impact on air quality in those areas caused by the increase in the number of vehicles engaged in commerce operating in the United States and registered in, or operated from, Mexico, as a result of the implementation of the North American Free Trade Agreement.

(c) REPORT.—Not later than July 1, 1999, the Comptroller General of the United States shall submit to the Committee on Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the findings of the study under subsection (a).

Approved October 27, 1998.

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**LEGISLATIVE HISTORY—H.R. 8:**

HOUSE REPORTS: No. 105–634 (Comm. on Commerce).

SENATE REPORTS: No. 105–355 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 20, considered and passed House.

Oct. 5, considered and passed Senate, amended.

Oct. 7, House concurred in Senate amendment.



Public Law 105-287  
105th Congress

An Act

Oct. 27, 1998  
[H.R. 624]

To amend the Armored Car Industry Reciprocity Act of 1993 to clarify certain requirements and to improve the flow of interstate commerce.

Armored Car  
Reciprocity  
Amendments of  
1998.  
15 USC 5901  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Armored Car Reciprocity Amendments of 1998”.

**SEC. 2. CLARIFICATION OF STATE RECIPROCITY OF WEAPONS LICENSES ISSUED TO ARMORED CAR COMPANY CREW MEMBERS.**

(a) IN GENERAL.—Section 3(a) of the Armored Car Industry Reciprocity Act of 1993 (15 U.S.C. 5902(a)) is amended to read as follows:

“(a) IN GENERAL.—If an armored car crew member employed by an armored car company—

“(1) has in effect a license issued by the appropriate State agency (in the State in which such member is primarily employed by such company) to carry a weapon while acting in the services of such company in that State, and such State agency meets the minimum requirements under subsection (b); and

“(2) has met all other applicable requirements to act as an armored car crew member in the State in which such member is primarily employed by such company, then such crew member shall be entitled to lawfully carry any weapon to which such license relates and function as an armored car crew member in any State while such member is acting in the service of such company.”.

(b) MINIMUM STATE REQUIREMENTS.—Section 3(b) of such Act (15 U.S.C. 5902(b)) is amended to read as follows:

“(b) MINIMUM STATE REQUIREMENTS.—A State agency meets the minimum State requirements of this subsection if—

“(1) in issuing an initial weapons license to an armored car crew member described in subsection (a), the agency determines to its satisfaction that—

“(A) the crew member has received classroom and range training in weapons safety and marksmanship during the current year from a qualified instructor for each weapon that the crew member will be licensed to carry; and

“(B) the receipt or possession of a weapon by the crew member would not violate Federal law, determined on the

basis of a criminal record background check conducted during the current year;

“(2) in issuing a renewal of a weapons license to an armored car crew member described in subsection (a), the agency determines to its satisfaction that—

“(A) the crew member has received continuing training in weapons safety and marksmanship from a qualified instructor for each weapon that the crew member is licensed to carry; and

“(B) the receipt or possession of a weapon by the crew member would not violate Federal law, as determined by the agency; and

“(3) in issuing a weapons license under paragraph (1) or paragraph (2), as the case may be—

“(A) the agency issues such license for a period not to exceed 2 years; or

“(B) the agency issues such license for a period not to exceed 5 years in the case of a State that enacted a State law before October 1, 1996, that provides for the issuance of an initial weapons license or a renewal of a weapons license, as the case may be, for a period not to exceed 5 years.”.

**SEC. 3. EFFECTIVE DATE.**

The amendments made by section 2 shall take effect 30 days after the date of the enactment of this Act.

15 USC 5902  
note.

Approved October 27, 1998.

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**LEGISLATIVE HISTORY—H.R. 624:**

HOUSE REPORTS: No. 105–6 (Comm. on Commerce).

SENATE REPORTS: No. 105–297 (Comm. on Commerce, Science, and Transportation).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Feb. 26, considered and passed House.

Vol. 144 (1998): Oct. 9, considered and passed Senate.

Public Law 105–288  
105th Congress

An Act

Oct. 27, 1998  
[H.R. 1021]

To provide for a land exchange involving certain National Forest System lands within the Routt National Forest in the State of Colorado.

Miles Land  
Exchange Act of  
1998.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Miles Land Exchange Act of 1998”.

**SEC. 2. LAND EXCHANGE, ROUTT NATIONAL FOREST, COLORADO.**

(a) **AUTHORIZATION OF EXCHANGE.**—If the non-Federal lands described in subsection (b) are conveyed to the United States in accordance with this section, the Secretary of Agriculture shall convey to the party conveying the non-Federal lands all right, title, and interest of the United States in and to a parcel of land consisting of approximately 84 acres within the Routt National Forest in the State of Colorado, as generally depicted on the map entitled “Miles Land Exchange”, Routt National Forest, dated May 1996.

(b) **RECEIPT OF NON-FEDERAL LANDS.**—The parcel of non-Federal lands referred to in subsection (a) consists of approximately 84 acres, known as the Miles parcel, located adjacent to the Routt National Forest, as generally depicted on the map entitled “Miles Land Exchange”, Routt National Forest, dated May 1996. Title to the non-Federal lands must be acceptable to the Secretary, and the conveyance shall be subject to such valid existing rights of record as may be acceptable to the Secretary. The parcel shall conform with the title approval standards applicable to Federal land acquisitions.

(c) **APPROXIMATELY EQUAL IN VALUE.**—The values of both the Federal and non-Federal lands to be exchanged under this section are deemed to be approximately equal in value, and no additional valuation determinations are required.

(d) **APPLICABILITY OF OTHER LAWS.**—Except as otherwise provided in this section, the Secretary shall process the land exchange authorized by this section in the manner provided in subpart A of part 254 of title 36, Code of Federal Regulations.

(e) **MAPS.**—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Forest Supervisor, Routt National Forest, and in the office of the Chief of the Forest Service.

(f) **BOUNDARY ADJUSTMENT.**—Upon approval and acceptance of title by the Secretary, the non-Federal lands conveyed to the United States under this section shall become part of the Routt



National Forest, and the boundaries of the Routt National Forest shall be adjusted to reflect the land exchange. Upon receipt of the non-Federal lands, the Secretary shall manage the lands in accordance with the laws and regulations pertaining to the National Forest System. For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Routt National Forest, as adjusted by this section, shall be considered to be the boundaries of the National Forest as of January 1, 1965.

(g) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

Approved October 27, 1998.

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**LEGISLATIVE HISTORY—H.R. 1021 (S. 590):**

HOUSE REPORTS: No. 105-506 (Comm. on Resources).

SENATE REPORTS: No. 105-79 accompanying S. 590 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 12, considered and passed House.

Oct. 9, considered and passed Senate.



Public Law 105–289  
105th Congress

An Act

Oct. 27, 1998  
[H.R. 1197]

To amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes.

Plant Patent  
Amendments Act  
of 1998.  
35 USC 1 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Plant Patent Amendments Act of 1998”.

35 USC 163 note.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—The Congress makes the following findings:

(1) The protection provided by plant patents under title 35, United States Code, dating back to 1930, has historically benefited American agriculture and horticulture and the public by providing an incentive for breeders to develop new plant varieties.

(2) Domestic and foreign agricultural trade is rapidly expanding and is very different from the trade of the past. An unforeseen ambiguity in the provisions of title 35, United States Code, is undermining the orderly collection of royalties due breeders holding United States plant patents.

(3) Plant parts produced from plants protected by United States plant patents are being taken from illegally reproduced plants and traded in United States markets to the detriment of plant patent holders.

(4) Resulting lost royalty income inhibits investment in domestic research and breeding activities associated with a wide variety of crops—an area where the United States has historically enjoyed a strong international position. Such research is the foundation of a strong horticultural industry.

(5) Infringers producing such plant parts from unauthorized plants enjoy an unfair competitive advantage over producers who pay royalties on varieties protected by United States plant patents.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to clearly and explicitly provide that title 35, United States Code, protects the owner of a plant patent against the unauthorized sale of plant parts taken from plants illegally reproduced;

(2) to make the protections provided under such title more consistent with those provided breeders of sexually reproduced plants under the Plant Variety Protection Act (7 U.S.C. 2321

et seq.), as amended by the Plant Variety Protection Act Amendments of 1994 (Public Law 103–349); and

(3) to strengthen the ability of United States plant patent holders to enforce their patent rights with regard to importation of plant parts produced from plants protected by United States plant patents, which are propagated without the authorization of the patent holder.

**SEC. 3. AMENDMENT TO TITLE 35, UNITED STATES CODE.**

(a) **RIGHTS IN PLANT PATENTS.**—Section 163 of title 35, United States Code, is amended to read as follows:

**“§ 163. Grant**

“In the case of a plant patent, the grant shall include the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to any plant patent issued on or after the date of the enactment of this Act. 35 USC 163 note.

**SEC. 4. ACCESS TO ELECTRONIC PATENT INFORMATION.**

35 USC 41 note.

(a) **IN GENERAL.**—The United States Patent and Trademark Office shall develop and implement statewide computer networks with remote library sites in requesting rural States such that citizens in those States will have enhanced access to information in their State’s patent and trademark depository library.

(b) **DEFINITION.**—In this section, the term “rural States” means the States that qualified on January 1, 1997, as rural States under section 1501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 379bb(b)).

Approved October 27, 1998.

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**LEGISLATIVE HISTORY—H.R. 1197:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 9, considered and passed House.

Oct. 15, considered and passed Senate, amended.

Oct. 16, House concurred in Senate amendment.



Public Law 105–290  
105th Congress

An Act

Oct. 27, 1998  
[H.R. 2186]

To authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming.

16 USC 1244  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds and declares the following:

(1) The City of Casper, Wyoming, is nationally significant as the only geographic location in the western United States where four congressionally recognized historic trails (the Oregon Trail, the Mormon Trail, the California Trail, and the Pony Express Trail), the Bridger Trail, the Bozeman Trail, and many Indian routes converged.

(2) The historic trails that passed through the Casper area are a distinctive part of the national character and possess important historical and cultural values representing themes of migration, settlement, transportation, and commerce that shaped the landscape of the West.

(3) The Bureau of Land Management has not yet established a historic trails interpretive center in Wyoming or in any adjacent State to educate and focus national attention on the history of the mid-19th century immigrant trails that crossed public lands in the Intermountain West.

(4) At the invitation of the Bureau of Land Management, the City of Casper and the National Historic Trails Foundation, Inc. (a nonprofit corporation established under the laws of the State of Wyoming) entered into a memorandum of understanding in 1992, and have since signed an assistance agreement in 1993 and a cooperative agreement in 1997, to create, manage, and sustain a National Historic Trails Interpretive Center to be located in Casper, Wyoming, to professionally interpret the historic trails in the Casper area for the benefit of the public.

(5) The National Historic Trails Interpretive Center authorized by this Act is consistent with the purposes and objectives of the National Trails System Act (16 U.S.C. 1241 et seq.), which directs the Secretary of the Interior to protect, interpret, and manage the remnants of historic trails on public lands.

(6) The State of Wyoming effectively joined the partnership to establish the National Historic Trails Interpretive Center through a legislative allocation of supporting funds, and the citizens of the City of Casper have increased local taxes to meet their financial obligations under the assistance agreement and the cooperative agreement referred to in paragraph (4).

(7) The National Historic Trails Foundation, Inc. has secured most of the \$5,000,000 of non-Federal funding pledged by State and local governments and private interests pursuant to the cooperative agreement referred to in paragraph (4).

(8) The Bureau of Land Management has completed the engineering and design phase of the National Historic Trails Interpretive Center, and the National Historic Trails Foundation, Inc. is ready for Federal financial and technical assistance to construct the Center pursuant to the cooperative agreement referred to in paragraph (4).

(b) PURPOSES.—The purposes of this Act are the following:

(1) To recognize the importance of the historic trails that passed through the Casper, Wyoming, area as a distinctive aspect of American heritage worthy of interpretation and preservation.

(2) To assist the City of Casper, Wyoming, and the National Historic Trails Foundation, Inc. in establishing the National Historic Trails Interpretive Center to memorialize and interpret the significant role of those historic trails in the history of the United States.

(3) To highlight and showcase the Bureau of Land Management's stewardship of public lands in Wyoming and the West.

## SEC. 2. NATIONAL HISTORIC TRAILS INTERPRETIVE CENTER.

(a) ESTABLISHMENT.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (in this section referred to as the "Secretary"), shall establish in Casper, Wyoming, a center for the interpretation of the historic trails in the vicinity of Casper, including the Oregon Trail, the Mormon Trail, the California Trail, and the Pony Express Trail, the Bridger Trail, the Bozeman Trail, and various Indian routes. The Center shall be known as the National Historic Trails Interpretive Center (in this section referred to as the "Center").

(b) FACILITIES.—The Secretary, subject to the availability of appropriations, shall construct, operate, and maintain facilities for the Center—

(1) on land provided by the City of Casper, Wyoming;

(2) in cooperation with the City of Casper and the National Historic Trails Interpretive Center Foundation, Inc. (a nonprofit corporation established under the laws of the State of Wyoming); and

(3) in accordance with—

(A) the Memorandum of Understanding entered into on March 4, 1993, by the city, the foundation, and the Wyoming State Director of the Bureau of Land Management; and

(B) the cooperative agreement between the foundation and the Wyoming State Director of the Bureau of Land Management, numbered K910A970020.

(c) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept, retain, and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of development and operation of the Center.

(d) ENTRANCE FEE.—Notwithstanding section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a), the Secretary may—

(1) collect an entrance fee from visitors to the Center;  
and

(2) use amounts received by the United States from that  
fee for expenses of operation of the Center.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized  
to be appropriated to the Secretary \$5,000,000 to carry out this  
section.

Approved October 27, 1998.

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LEGISLATIVE HISTORY—H.R. 2186:

HOUSE REPORTS: No. 105-459 (Comm. on Resources).

SENATE REPORTS: No. 105-323 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Mar. 30, considered and passed House.

Oct. 2, considered and passed Senate, amended.

Oct. 10, House concurred in Senate amendments.



Public Law 105–291  
105th Congress

An Act

To amend the Organic Act of Guam to clarify local executive and legislative provisions in such Act, and for other purposes.

Oct. 27, 1998

[H.R. 2370]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Guam Organic Act Amendments of 1998”.

Guam Organic  
Act Amendments  
of 1998.  
48 USC 1421  
note.

**SEC. 2. ATTORNEY GENERAL OF GUAM.**

Section 29 of the Organic Act of Guam (48 U.S.C. 1421g) is amended by adding at the end the following new subsection:

“(d)(1) The Attorney General of Guam shall be the Chief Legal Officer of the Government of Guam. At such time as the Office of the Attorney General of Guam shall next become vacant, the Attorney General of Guam shall be appointed by the Governor of Guam with the advice and consent of the legislature, and shall serve at the pleasure of the Governor of Guam.

“(2) Instead of an appointed Attorney General, the legislature may, by law, provide for the election of the Attorney General of Guam by the qualified voters of Guam in general elections after 1998 in which the Governor of Guam is elected. The term of an elected Attorney General shall be 4 years. The Attorney General may be removed by the people of Guam according to the procedures specified in section 9–A of this Act or may be removed for cause in accordance with procedures established by the legislature in law. A vacancy in the office of an elected Attorney General shall be filled—

“(A) by appointment by the Governor of Guam if such vacancy occurs less than 6 months before a general election for the Office of Attorney General of Guam; or

“(B) by a special election held no sooner than 3 months after such vacancy occurs and no later than 6 months before a general election for Attorney General of Guam, and by appointment by the Governor of Guam pending a special election under this subparagraph.”.

**SEC. 3. LEGISLATIVE QUORUM.**

Section 12 of the Organic Act of Guam (48 U.S.C. 1423b) is amended by striking “eleven” and inserting “a simple majority”.

**SEC. 4. CLARIFICATION OF LEGISLATIVE POWER.**

The first sentence of section 11 of the Organic Act of Guam (48 U.S.C. 1423a) is amended—

- (1) by inserting “rightful” before “subjects”; and
- (2) by striking “legislation of local application” and inserting “legislation”.

Approved October 27, 1998.

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**LEGISLATIVE HISTORY—H.R. 2370:**

HOUSE REPORTS: No. 105–742 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 5, considered and passed House.

Oct. 15, considered and passed Senate.





Public Law 105–292  
105th Congress

An Act

To express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted in foreign countries on account of religion; to authorize United States actions in response to violations of religious freedom in foreign countries; to establish an Ambassador at Large for International Religious Freedom within the Department of State, a Commission on International Religious Freedom, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

Oct. 27, 1998  
[H.R. 2431]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “International Religious Freedom Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; policy.
- Sec. 3. Definitions.

**TITLE I—DEPARTMENT OF STATE ACTIVITIES**

- Sec. 101. Office on International Religious Freedom; Ambassador at Large for International Religious Freedom.
- Sec. 102. Reports.
- Sec. 103. Establishment of a religious freedom Internet site.
- Sec. 104. Training for Foreign Service officers.
- Sec. 105. High-level contacts with nongovernmental organizations.
- Sec. 106. Programs and allocations of funds by United States missions abroad.
- Sec. 107. Equal access to United States missions abroad for conducting religious activities.
- Sec. 108. Prisoner lists and issue briefs on religious freedom concerns.

**TITLE II—COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM**

- Sec. 201. Establishment and composition.
- Sec. 202. Duties of the Commission.
- Sec. 203. Report of the Commission.
- Sec. 204. Applicability of other laws.
- Sec. 205. Authorization of appropriations.
- Sec. 206. Termination.

**TITLE III—NATIONAL SECURITY COUNCIL**

- Sec. 301. Special Adviser on International Religious Freedom.

**TITLE IV—PRESIDENTIAL ACTIONS**

**Subtitle I—Targeted Responses to Violations of Religious Freedom Abroad**

- Sec. 401. Presidential actions in response to violations of religious freedom.
- Sec. 402. Presidential actions in response to particularly severe violations of religious freedom.
- Sec. 403. Consultations.
- Sec. 404. Report to Congress.
- Sec. 405. Description of Presidential actions.

International  
Religious  
Freedom Act of  
1998.  
22 USC 6401  
note.

- Sec. 406. Effects on existing contracts.
- Sec. 407. Presidential waiver.
- Sec. 408. Publication in Federal Register.
- Sec. 409. Termination of Presidential actions.
- Sec. 410. Preclusion of judicial review.

#### Subtitle II—Strengthening Existing Law

- Sec. 421. United States assistance.
- Sec. 422. Multilateral assistance.
- Sec. 423. Exports of certain items used in particularly severe violations of religious freedom.

#### TITLE V—PROMOTION OF RELIGIOUS FREEDOM

- Sec. 501. Assistance for promoting religious freedom.
- Sec. 502. International broadcasting.
- Sec. 503. International exchanges.
- Sec. 504. Foreign Service awards.

#### TITLE VI—REFUGEE, ASYLUM, AND CONSULAR MATTERS

- Sec. 601. Use of Annual Report.
- Sec. 602. Reform of refugee policy.
- Sec. 603. Reform of asylum policy.
- Sec. 604. Inadmissibility of foreign government officials who have engaged in particularly severe violations of religious freedom.
- Sec. 605. Studies on the effect of expedited removal provisions on asylum claims.

#### TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 701. Business codes of conduct.

22 USC 6401.

#### **SEC. 2. FINDINGS; POLICY.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) The right to freedom of religion undergirds the very origin and existence of the United States. Many of our Nation's founders fled religious persecution abroad, cherishing in their hearts and minds the ideal of religious freedom. They established in law, as a fundamental right and as a pillar of our Nation, the right to freedom of religion. From its birth to this day, the United States has prized this legacy of religious freedom and honored this heritage by standing for religious freedom and offering refuge to those suffering religious persecution.

(2) Freedom of religious belief and practice is a universal human right and fundamental freedom articulated in numerous international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Helsinki Accords, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, the United Nations Charter, and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(3) Article 18 of the Universal Declaration of Human Rights recognizes that “Everyone has the right to freedom of thought, conscience, and religion. This right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.”. Article 18(1) of the International Covenant on Civil and Political Rights recognizes that “Everyone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief

in worship, observance, practice, and teaching". Governments have the responsibility to protect the fundamental rights of their citizens and to pursue justice for all. Religious freedom is a fundamental right of every individual, regardless of race, sex, country, creed, or nationality, and should never be arbitrarily abridged by any government.

(4) The right to freedom of religion is under renewed and, in some cases, increasing assault in many countries around the world. More than one-half of the world's population lives under regimes that severely restrict or prohibit the freedom of their citizens to study, believe, observe, and freely practice the religious faith of their choice. Religious believers and communities suffer both government-sponsored and government-tolerated violations of their rights to religious freedom. Among the many forms of such violations are state-sponsored slander campaigns, confiscations of property, surveillance by security police, including by special divisions of "religious police", severe prohibitions against construction and repair of places of worship, denial of the right to assemble and relegation of religious communities to illegal status through arbitrary registration laws, prohibitions against the pursuit of education or public office, and prohibitions against publishing, distributing, or possessing religious literature and materials.

(5) Even more abhorrent, religious believers in many countries face such severe and violent forms of religious persecution as detention, torture, beatings, forced marriage, rape, imprisonment, enslavement, mass resettlement, and death merely for the peaceful belief in, change of or practice of their faith. In many countries, religious believers are forced to meet secretly, and religious leaders are targeted by national security forces and hostile mobs.

(6) Though not confined to a particular region or regime, religious persecution is often particularly widespread, systematic, and heinous under totalitarian governments and in countries with militant, politicized religious majorities.

(7) Congress has recognized and denounced acts of religious persecution through the adoption of the following resolutions:

(A) House Resolution 515 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide.

(B) Senate Concurrent Resolution 71 of the One Hundred Fourth Congress, expressing the sense of the Senate regarding persecution of Christians worldwide.

(C) House Concurrent Resolution 102 of the One Hundred Fourth Congress, expressing the sense of the House of Representatives concerning the emancipation of the Iranian Baha'i community.

(b) **POLICY.**—It shall be the policy of the United States, as follows:

(1) To condemn violations of religious freedom, and to promote, and to assist other governments in the promotion of, the fundamental right to freedom of religion.

(2) To seek to channel United States security and development assistance to governments other than those found to be engaged in gross violations of the right to freedom of religion, as set forth in the Foreign Assistance Act of 1961, in the

International Financial Institutions Act of 1977, and in other formulations of United States human rights policy.

(3) To be vigorous and flexible, reflecting both the unwavering commitment of the United States to religious freedom and the desire of the United States for the most effective and principled response, in light of the range of violations of religious freedom by a variety of persecuting regimes, and the status of the relations of the United States with different nations.

(4) To work with foreign governments that affirm and protect religious freedom, in order to develop multilateral documents and initiatives to combat violations of religious freedom and promote the right to religious freedom abroad.

(5) Standing for liberty and standing with the persecuted, to use and implement appropriate tools in the United States foreign policy apparatus, including diplomatic, political, commercial, charitable, educational, and cultural channels, to promote respect for religious freedom by all governments and peoples.

22 USC 6402.

### SEC. 3. DEFINITIONS.

In this Act:

(1) **AMBASSADOR AT LARGE.**—The term “Ambassador at Large” means the Ambassador at Large for International Religious Freedom appointed under section 101(b).

(2) **ANNUAL REPORT.**—The term “Annual Report” means the Annual Report on International Religious Freedom described in section 102(b).

(3) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives; and

(B) in the case of any determination made with respect to the taking of President action under paragraphs (9) through (15) of section 405(a), the term includes the committees described in subparagraph (A) and, where appropriate, the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) **COMMENSURATE ACTION.**—The term “commensurate action” means action taken by the President under section 405(b).

(5) **COMMISSION.**—The term “Commission” means the United States Commission on International Religious Freedom established in section 201(a).

(6) **COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.**—The term “Country Reports on Human Rights Practices” means the annual reports required to be submitted by the Department of State to Congress under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961.

(7) **EXECUTIVE SUMMARY.**—The term “Executive Summary” means the Executive Summary to the Annual Report, as described in section 102(b)(1)(F).

(8) **GOVERNMENT OR FOREIGN GOVERNMENT.**—The term “government” or “foreign government” includes any agency or instrumentality of the government.

(9) HUMAN RIGHTS REPORTS.—The term “Human Rights Reports” means all reports submitted by the Department of State to Congress under sections 116 and 502B of the Foreign Assistance Act of 1961.

(10) OFFICE.—The term “Office” means the Office on International Religious Freedom established in section 101(a).

(11) PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—The term “particularly severe violations of religious freedom” means systematic, ongoing, egregious violations of religious freedom, including violations such as—

- (A) torture or cruel, inhuman, or degrading treatment or punishment;
- (B) prolonged detention without charges;
- (C) causing the disappearance of persons by the abduction or clandestine detention of those persons; or
- (D) other flagrant denial of the right to life, liberty, or the security of persons.

(12) SPECIAL ADVISER.—The term “Special Adviser” means the Special Adviser to the President on International Religious Freedom described in section 101(i) of the National Security Act of 1947, as added by section 301 of this Act.

(13) VIOLATIONS OF RELIGIOUS FREEDOM.—The term “violations of religious freedom” means violations of the internationally recognized right to freedom of religion and religious belief and practice, as set forth in the international instruments referred to in section 2(a)(2) and as described in section 2(a)(3), including violations such as—

- (A) arbitrary prohibitions on, restrictions of, or punishment for—
  - (i) assembling for peaceful religious activities such as worship, preaching, and prayer, including arbitrary registration requirements;
  - (ii) speaking freely about one’s religious beliefs;
  - (iii) changing one’s religious beliefs and affiliation;
  - (iv) possession and distribution of religious literature, including Bibles; or
  - (v) raising one’s children in the religious teachings and practices of one’s choice; or
- (B) any of the following acts if committed on account of an individual’s religious belief or practice: detention, interrogation, imposition of an onerous financial penalty, forced labor, forced mass resettlement, imprisonment, forced religious conversion, beating, torture, mutilation, rape, enslavement, murder, and execution.

## **TITLE I—DEPARTMENT OF STATE ACTIVITIES**

### **SEC. 101. OFFICE ON INTERNATIONAL RELIGIOUS FREEDOM; AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM.**

22 USC 6411.

(a) ESTABLISHMENT OF OFFICE.—There is established within the Department of State an Office on International Religious Freedom that shall be headed by the Ambassador at Large for International Religious Freedom appointed under subsection (b).

(b) **APPOINTMENT.**—The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate.

(c) **DUTIES.**—The Ambassador at Large shall have the following responsibilities:

(1) **IN GENERAL.**—The primary responsibility of the Ambassador at Large shall be to advance the right to freedom of religion abroad, to denounce the violation of that right, and to recommend appropriate responses by the United States Government when this right is violated.

(2) **ADVISORY ROLE.**—The Ambassador at Large shall be a principal adviser to the President and the Secretary of State regarding matters affecting religious freedom abroad and, with advice from the Commission on International Religious Freedom, shall make recommendations regarding—

(A) the policies of the United States Government toward governments that violate freedom of religion or that fail to ensure the individual's right to religious belief and practice; and

(B) policies to advance the right to religious freedom abroad.

(3) **DIPLOMATIC REPRESENTATION.**—Subject to the direction of the President and the Secretary of State, the Ambassador at Large is authorized to represent the United States in matters and cases relevant to religious freedom abroad in—

(A) contacts with foreign governments, intergovernmental organizations, and specialized agencies of the United Nations, the Organization on Security and Cooperation in Europe, and other international organizations of which the United States is a member; and

(B) multilateral conferences and meetings relevant to religious freedom abroad.

(4) **REPORTING RESPONSIBILITIES.**—The Ambassador at Large shall have the reporting responsibilities described in section 102.

(d) **FUNDING.**—The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for the hiring of staff for the Office, for the conduct of investigations by the Office, and for necessary travel to carry out the provisions of this section.

22 USC 6412.

#### **SEC. 102. REPORTS.**

(a) **PORTIONS OF ANNUAL HUMAN RIGHTS REPORTS.**—The Ambassador at Large shall assist the Secretary of State in preparing those portions of the Human Rights Reports that relate to freedom of religion and freedom from discrimination based on religion and those portions of other information provided Congress under sections 116 and 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151m, 2304) that relate to the right to freedom of religion.

(b) **ANNUAL REPORT ON INTERNATIONAL RELIGIOUS FREEDOM.**—

(1) **DEADLINE FOR SUBMISSION.**—On September 1 of each year or the first day thereafter on which the appropriate House of Congress is in session, the Secretary of State, with the assistance of the Ambassador at Large, and taking into consideration the recommendations of the Commission, shall prepare and transmit to Congress an Annual Report on International Religious Freedom supplementing the most recent Human

Rights Reports by providing additional detailed information with respect to matters involving international religious freedom. Each Annual Report shall contain the following:

(A) STATUS OF RELIGIOUS FREEDOM.—A description of the status of religious freedom in each foreign country, including—

(i) trends toward improvement in the respect and protection of the right to religious freedom and trends toward deterioration of such right;

(ii) violations of religious freedom engaged in or tolerated by the government of that country; and

(iii) particularly severe violations of religious freedom engaged in or tolerated by the government of that country.

(B) VIOLATIONS OF RELIGIOUS FREEDOM.—An assessment and description of the nature and extent of violations of religious freedom in each foreign country, including persecution of one religious group by another religious group, religious persecution by governmental and non-governmental entities, persecution targeted at individuals or particular denominations or entire religions, the existence of government policies violating religious freedom, and the existence of government policies concerning—

(i) limitations or prohibitions on, or lack of availability of, openly conducted, organized religious services outside of the premises of foreign diplomatic missions or consular posts; and

(ii) the forced religious conversion of minor United States citizens who have been abducted or illegally removed from the United States, and the refusal to allow such citizens to be returned to the United States.

(C) UNITED STATES POLICIES.—A description of United States actions and policies in support of religious freedom in each foreign country engaging in or tolerating violations of religious freedom, including a description of the measures and policies implemented during the preceding 12 months by the United States under titles I, IV, and V of this Act in opposition to violations of religious freedom and in support of international religious freedom.

(D) INTERNATIONAL AGREEMENTS IN EFFECT.—A description of any binding agreement with a foreign government entered into by the United States under section 401(b) or 402(c).

(E) TRAINING AND GUIDELINES OF GOVERNMENT PERSONNEL.—A description of—

(i) the training described in section 602(a) and (b) and section 603(b) and (c) on violations of religious freedom provided to immigration judges and consular, refugee, immigration, and asylum officers; and

(ii) the development and implementation of the guidelines described in sections 602(c) and 603(a).

(F) EXECUTIVE SUMMARY.—An Executive Summary to the Annual Report highlighting the status of religious freedom in certain foreign countries and including the following:

(i) COUNTRIES IN WHICH THE UNITED STATES IS ACTIVELY PROMOTING RELIGIOUS FREEDOM.—An identification of foreign countries in which the United States is actively promoting religious freedom. This section of the report shall include a description of United States actions taken to promote the internationally recognized right to freedom of religion and oppose violations of such right under title IV and title V of this Act during the period covered by the Annual Report. Any country designated as a country of particular concern for religious freedom under section 402(b)(1) shall be included in this section of the report.

(ii) COUNTRIES OF SIGNIFICANT IMPROVEMENT IN RELIGIOUS FREEDOM.—An identification of foreign countries the governments of which have demonstrated significant improvement in the protection and promotion of the internationally recognized right to freedom of religion during the period covered by the Annual Report. This section of the report shall include a description of the nature of the improvement and an analysis of the factors contributing to such improvement, including actions taken by the United States under this Act.

(2) CLASSIFIED ADDENDUM.—If the Secretary of State determines that it is in the national security interests of the United States or is necessary for the safety of individuals to be identified in the Annual Report or is necessary to further the purposes of this Act, any information required by paragraph (1), including measures or actions taken by the United States, may be summarized in the Annual Report or the Executive Summary and submitted in more detail in a classified addendum to the Annual Report or the Executive Summary.

(c) PREPARATION OF REPORTS REGARDING VIOLATIONS OF RELIGIOUS FREEDOM.—

(1) STANDARDS AND INVESTIGATIONS.—The Secretary of State shall ensure that United States missions abroad maintain a consistent reporting standard and thoroughly investigate reports of violations of the internationally recognized right to freedom of religion.

(2) CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.—In compiling data and assessing the respect of the right to religious freedom for the Human Rights Reports, the Annual Report on International Religious Freedom, and the Executive Summary, United States mission personnel shall, as appropriate, seek out and maintain contacts with religious and human rights nongovernmental organizations, with the consent of those organizations, including receiving reports and updates from such organizations and, when appropriate, investigating such reports.

(d) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.—

(1) CONTENT OF HUMAN RIGHTS REPORTS FOR COUNTRIES RECEIVING ECONOMIC ASSISTANCE.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(A) by striking “and” at the end of paragraph (4);

(B) by striking the period at the end of paragraph

(5) and inserting “; and ”; and

(C) by adding at the end the following:



“(6) wherever applicable, violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998).”.

(2) CONTENTS OF HUMAN RIGHTS REPORTS FOR COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended—

(A) by inserting “and with the assistance of the Ambassador at Large for International Religious Freedom” after “Labor”; and

(B) by inserting after the second sentence the following new sentence: “Such report shall also include, wherever applicable, information on violations of religious freedom, including particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998).”.

**SEC. 103. ESTABLISHMENT OF A RELIGIOUS FREEDOM INTERNET SITE.** 22 USC 6413.

In order to facilitate access by nongovernmental organizations (NGOs) and by the public around the world to international documents on the protection of religious freedom, the Secretary of State, with the assistance of the Ambassador at Large, shall establish and maintain an Internet site containing major international documents relating to religious freedom, the Annual Report, the Executive Summary, and any other documentation or references to other sites as deemed appropriate or relevant by the Ambassador at Large.

**SEC. 104. TRAINING FOR FOREIGN SERVICE OFFICERS.**

Chapter 2 of title I of the Foreign Service Act of 1980 is amended by adding at the end the following new section:

**“SEC. 708. TRAINING FOR FOREIGN SERVICE OFFICERS.**

22 USC 4028.

“The Secretary of State, with the assistance of other relevant officials, such as the Ambassador at Large for International Religious Freedom appointed under section 101(b) of the International Religious Freedom Act of 1998 and the director of the National Foreign Affairs Training Center, shall establish as part of the standard training provided after January 1, 1999, for officers of the Service, including chiefs of mission, instruction in the field of internationally recognized human rights. Such training shall include—

“(1) instruction on international documents and United States policy in human rights, which shall be mandatory for all members of the Service having reporting responsibilities relating to human rights and for chiefs of mission; and

“(2) instruction on the internationally recognized right to freedom of religion, the nature, activities, and beliefs of different religions, and the various aspects and manifestations of violations of religious freedom.”.

**SEC. 105. HIGH-LEVEL CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.** 22 USC 6414.

United States chiefs of mission shall seek out and contact religious nongovernmental organizations to provide high-level meetings with religious nongovernmental organizations where appropriate and beneficial. United States chiefs of mission and Foreign

Service officers abroad shall seek to meet with imprisoned religious leaders where appropriate and beneficial.

22 USC 6415.

**SEC. 106. PROGRAMS AND ALLOCATIONS OF FUNDS BY UNITED STATES MISSIONS ABROAD.**

It is the sense of the Congress that—

(1) United States diplomatic missions in countries the governments of which engage in or tolerate violations of the internationally recognized right to freedom of religion should develop, as part of annual program planning, a strategy to promote respect for the internationally recognized right to freedom of religion; and

(2) in allocating or recommending the allocation of funds or the recommendation of candidates for programs and grants funded by the United States Government, United States diplomatic missions should give particular consideration to those programs and candidates deemed to assist in the promotion of the right to religious freedom.

22 USC 6416.

**SEC. 107. EQUAL ACCESS TO UNITED STATES MISSIONS ABROAD FOR CONDUCTING RELIGIOUS ACTIVITIES.**

(a) **IN GENERAL.**—Subject to this section, the Secretary of State shall permit, on terms no less favorable than that accorded other nongovernmental activities unrelated to the conduct of the diplomatic mission, access to the premises of any United States diplomatic mission or consular post by any United States citizen seeking to conduct an activity for religious purposes.

(b) **TIMING AND LOCATION.**—The Secretary of State shall make reasonable accommodations with respect to the timing and location of such access in light of—

(1) the number of United States citizens requesting the access (including any particular religious concerns regarding the time of day, date, or physical setting for services);

(2) conflicts with official activities and other nonofficial United States citizen requests;

(3) the availability of openly conducted, organized religious services outside the premises of the mission or post;

(4) availability of space and resources; and

(5) necessary security precautions.

(c) **DISCRETIONARY ACCESS FOR FOREIGN NATIONALS.**—The Secretary of State may permit access to the premises of a United States diplomatic mission or consular post to foreign nationals for the purpose of attending or participating in religious activities conducted pursuant to this section.

22 USC 6417.

**SEC. 108. PRISONER LISTS AND ISSUE BRIEFS ON RELIGIOUS FREEDOM CONCERNS.**

(a) **SENSE OF THE CONGRESS.**—To encourage involvement with religious freedom concerns at every possible opportunity and by all appropriate representatives of the United States Government, it is the sense of the Congress that officials of the executive branch of Government should promote increased advocacy on such issues during meetings between foreign dignitaries and executive branch officials or Members of Congress.

(b) **PRISONER LISTS AND ISSUE BRIEFS ON RELIGIOUS FREEDOM CONCERNS.**—The Secretary of State, in consultation with the Ambassador at Large, the Assistant Secretary of State for Democracy, Human Rights and Labor, United States chiefs of mission

abroad, regional experts, and nongovernmental human rights and religious groups, shall prepare and maintain issue briefs on religious freedom, on a country-by-country basis, consisting of lists of persons believed to be imprisoned, detained, or placed under house arrest for their religious faith, together with brief evaluations and critiques of the policies of the respective country restricting religious freedom. In considering the inclusion of names of prisoners on such lists, the Secretary of State shall exercise appropriate discretion, including concerns regarding the safety, security, and benefit to such prisoners.

(c) **AVAILABILITY OF INFORMATION.**—The Secretary shall, as appropriate, provide religious freedom issue briefs under subsection (b) to executive branch officials and Members of Congress in anticipation of bilateral contacts with foreign leaders, both in the United States and abroad.

## **TITLE II—COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM**

### **SEC. 201. ESTABLISHMENT AND COMPOSITION.**

22 USC 6431.

(a) **IN GENERAL.**—There is established the United States Commission on International Religious Freedom.

(b) **MEMBERSHIP.**—

(1) **APPOINTMENT.**—The Commission shall be composed of—

(A) the Ambassador at Large, who shall serve ex officio as a nonvoting member of the Commission; and

(B) Nine other members, who shall be United States citizens who are not being paid as officers or employees of the United States, and who shall be appointed as follows:

(i) Three members of the Commission shall be appointed by the President.

(ii) Three members of the Commission shall be appointed by the President pro tempore of the Senate, of which two of the members shall be appointed upon the recommendation of the leader in the Senate of the political party that is not the political party of the President, and of which one of the members shall be appointed upon the recommendation of the leader in the Senate of the other political party.

(iii) three members of the Commission shall be appointed by the Speaker of the House of Representatives, of which two of the members shall be appointed upon the recommendation of the leader in the House of the political party that is not the political party of the President, and of which one of the members shall be appointed upon the recommendation of the leader in the House of the other political party.

(2) **SELECTION.**—

(A) **IN GENERAL.**—Members of the Commission shall be selected among distinguished individuals noted for their knowledge and experience in fields relevant to the issue of international religious freedom, including foreign affairs, direct experience abroad, human rights, and international law.

(B) SECURITY CLEARANCES.—Each member of the Commission shall be required to obtain a security clearance.

(3) TIME OF APPOINTMENT.—The appointments required by paragraph (1) shall be made not later than 120 days after the date of the enactment of this Act.

(c) TERMS.—The term of office of each member of the Commission shall be 2 years. Members of the Commission shall be eligible for reappointment to a second term.

(d) ELECTION OF CHAIR.—At the first meeting of the Commission in each calendar year, a majority of the members of the Commission present and voting shall elect the Chair of the Commission.

(e) QUORUM.—Six voting members of the Commission shall constitute a quorum for purposes of transacting business.

(f) MEETINGS.—Each year, within 15 days, or as soon as practicable, after the issuance of the Country Report on Human Rights Practices, the Commission shall convene. The Commission shall otherwise meet at the call of the Chair or, if no Chair has been elected for that calendar year, at the call of six voting members of the Commission.

(g) VACANCIES.—Any vacancy of the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(h) ADMINISTRATIVE SUPPORT.—The Secretary of State shall assist the Commission by providing to the Commission such staff and administrative services of the Office as may be necessary and appropriate for the Commission to perform its functions. Any employee of the executive branch of Government may be detailed to the Commission without reimbursement to the agency of that employee and such detail shall be without interruption or loss of civil service status or privilege.

(i) FUNDING.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

22 USC 6432.

#### **SEC. 202. DUTIES OF THE COMMISSION.**

(a) IN GENERAL.—The Commission shall have as its primary responsibility—

(1) the annual and ongoing review of the facts and circumstances of violations of religious freedom presented in the Country Reports on Human Rights Practices, the Annual Report, and the Executive Summary, as well as information from other sources as appropriate; and

(2) the making of policy recommendations to the President, the Secretary of State, and Congress with respect to matters involving international religious freedom.

(b) POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO VIOLATIONS.—The Commission, in evaluating United States Government policies in response to violations of religious freedom, shall consider and recommend options for policies of the United States Government with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom,

including particularly severe violations of religious freedom, including diplomatic inquiries, diplomatic protest, official public protest demarche of protest, condemnation within multilateral fora, delay or cancellation of cultural or scientific exchanges, delay or cancellation of working, official, or state visits, reduction of certain assistance funds, termination of certain assistance funds, imposition of targeted trade sanctions, imposition of broad trade sanctions, and withdrawal of the chief of mission.

(c) **POLICY REVIEW AND RECOMMENDATIONS IN RESPONSE TO PROGRESS.**—The Commission, in evaluating the United States Government policies with respect to countries found to be taking deliberate steps and making significant improvement in respect for the right of religious freedom, shall consider and recommend policy options, including private commendation, diplomatic commendation, official public commendation, commendation within multilateral fora, an increase in cultural or scientific exchanges, or both, termination or reduction of existing Presidential actions, an increase in certain assistance funds, and invitations for working, official, or state visits.

(d) **EFFECTS ON RELIGIOUS COMMUNITIES AND INDIVIDUALS.**—Together with specific policy recommendations provided under subsections (b) and (c), the Commission shall also indicate its evaluation of the potential effects of such policies, if implemented, on the religious communities and individuals whose rights are found to be violated in the country in question.

(e) **MONITORING.**—The Commission shall, on an ongoing basis, monitor facts and circumstances of violations of religious freedom, in consultation with independent human rights groups and non-governmental organizations, including churches and other religious communities, and make such recommendations as may be necessary to the appropriate officials and offices in the United States Government.

(f) **HEARINGS AND SESSIONS.**—The Commission may, for the purpose of carrying out its duties under this title, hold hearings, sit and act at times and places in the United States, take testimony, and receive evidence as the Commission considers advisable to carry out the purposes of this Act.

#### **SEC. 203. REPORT OF THE COMMISSION.**

22 USC 6433.

(a) **IN GENERAL.**—Not later than May 1 of each year, the Commission shall submit a report to the President, the Secretary of State, and Congress setting forth its recommendations for United States policy options based on its evaluations under section 202.

(b) **CLASSIFIED FORM OF REPORT.**—The report may be submitted in classified form, together with a public summary of recommendations, if the classification of information would further the purposes of this Act.

(c) **INDIVIDUAL OR DISSENTING VIEWS.**—Each member of the Commission may include the individual or dissenting views of the member.

#### **SEC. 204. APPLICABILITY OF OTHER LAWS.**

22 USC 6434.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

22 USC 6435.

**SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated to the Commission \$3,000,000 for each of the fiscal years 1999 and 2000 to carry out the provisions of this title.

(b) **AVAILABILITY OF FUNDS.**—Amounts authorized to be appropriated under subparagraph (a) are authorized to remain available until expended but not later than the date of termination of the Commission.

22 USC 6436.

**SEC. 206. TERMINATION.**

The Commission shall terminate 4 years after the initial appointment of all of the Commissioners.

## **TITLE III—NATIONAL SECURITY COUNCIL**

**SEC. 301. SPECIAL ADVISER ON INTERNATIONAL RELIGIOUS FREEDOM.**

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

“(i) It is the sense of the Congress that there should be within the staff of the National Security Council a Special Adviser to the President on International Religious Freedom, whose position should be comparable to that of a director within the Executive Office of the President. The Special Adviser should serve as a resource for executive branch officials, compiling and maintaining information on the facts and circumstances of violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998), and making policy recommendations. The Special Adviser should serve as liaison with the Ambassador at Large for International Religious Freedom, the United States Commission on International Religious Freedom, Congress and, as advisable, religious nongovernmental organizations.”.

## **TITLE IV—PRESIDENTIAL ACTIONS**

### **Subtitle I—Targeted Responses to Violations of Religious Freedom Abroad**

22 USC 6441.

**SEC. 401. PRESIDENTIAL ACTIONS IN RESPONSE TO VIOLATIONS OF RELIGIOUS FREEDOM.**

(a) **RESPONSE TO VIOLATIONS OF RELIGIOUS FREEDOM.**—

(1) **IN GENERAL.**—

(A) **UNITED STATES POLICY.**—It shall be the policy of the United States—

(i) to oppose violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(ii) to promote the right to freedom of religion in those countries through the actions described in subsection (b).

(B) **REQUIREMENT OF PRESIDENTIAL ACTION.**—For each foreign country the government of which engages in or tolerates violations of religious freedom, the President shall

oppose such violations and promote the right to freedom of religion in that country through the actions described in subsection (b).

(2) BASIS OF ACTIONS.—Each action taken under paragraph (1)(B) shall be based upon information regarding violations of religious freedom, as described in the latest Country Reports on Human Rights Practices, the Annual Report and Executive Summary, and on any other evidence available, and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(b) PRESIDENTIAL ACTIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the President, in consultation with the Secretary of State, the Ambassador at Large, the Special Adviser, and the Commission, shall, as expeditiously as practicable in response to the violations described in subsection (a) by the government of a foreign country—

(A) take one or more of the actions described in paragraphs (1) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to such country; or

(B) negotiate and enter into a binding agreement with the government of such country, as described in section 405(c).

(2) DEADLINE FOR ACTIONS.—Not later than September 1 of each year, the President shall take action under any of paragraphs (1) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to each foreign country the government of which has engaged in or tolerated violations of religious freedom at any time since September 1 of the preceding year, except that in the case of action under any of paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto)—

(A) the action may only be taken after the requirements of sections 403 and 404 have been satisfied; and

(B) the September 1 limitation shall not apply.

(3) AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS.—The President may delay action under paragraph (2) described in any of paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) if he determines and certifies to Congress that a single, additional period of time, not to exceed 90 days, is necessary pursuant to the same provisions applying to countries of particular concern for religious freedom under section 402(c)(3).

(c) IMPLEMENTATION.—

(1) IN GENERAL.—In carrying out subsection (b), the President shall—

(A) take the action or actions that most appropriately respond to the nature and severity of the violations of religious freedom;

(B) seek to the fullest extent possible to target action as narrowly as practicable with respect to the agency or instrumentality of the foreign government, or specific officials thereof, that are responsible for such violations; and

(C) when appropriate, make every reasonable effort to conclude a binding agreement concerning the cessation

of such violations in countries with which the United States has diplomatic relations.

(2) **GUIDELINES FOR PRESIDENTIAL ACTIONS.**—In addition to the guidelines under paragraph (1), the President, in determining whether to take a Presidential action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto), shall seek to minimize any adverse impact on—

(A) the population of the country whose government is targeted by the Presidential action or actions; and

(B) the humanitarian activities of United States and foreign nongovernmental organizations in such country.

22 USC 6442.

**SEC. 402. PRESIDENTIAL ACTIONS IN RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.**

(a) **RESPONSE TO PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.**—

(1) **UNITED STATES POLICY.**—It shall be the policy of the United States—

(A) to oppose particularly severe violations of religious freedom that are or have been engaged in or tolerated by the governments of foreign countries; and

(B) to promote the right to freedom of religion in those countries through the actions described in subsection (c).

(2) **REQUIREMENT OF PRESIDENTIAL ACTION.**—Whenever the President determines that the government of a foreign country has engaged in or tolerated particularly severe violations of religious freedom, the President shall oppose such violations and promote the right to religious freedom through one or more of the actions described in subsection (c).

(b) **DESIGNATIONS OF COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.**—

(1) **ANNUAL REVIEW.**—

(A) **IN GENERAL.**—Not later than September 1 of each year, the President shall review the status of religious freedom in each foreign country to determine whether the government of that country has engaged in or tolerated particularly severe violations of religious freedom in that country during the preceding 12 months or since the date of the last review of that country under this subparagraph, whichever period is longer. The President shall designate each country the government of which has engaged in or tolerated violations described in this subparagraph as a country of particular concern for religious freedom.

(B) **BASIS OF REVIEW.**—Each review conducted under subparagraph (A) shall be based upon information contained in the latest Country Reports on Human Rights Practices, the Annual Report, and on any other evidence available and shall take into account any findings or recommendations by the Commission with respect to the foreign country.

(C) **IMPLEMENTATION.**—Any review under subparagraph (A) of a foreign country may take place singly or jointly with the review of one or more countries and may take place at any time prior to September 1 of the respective year.



(2) DETERMINATIONS OF RESPONSIBLE PARTIES.—For the government of each country designated as a country of particular concern for religious freedom under paragraph (1)(A), the President shall seek to determine the agency or instrumentality thereof and the specific officials thereof that are responsible for the particularly severe violations of religious freedom engaged in or tolerated by that government in order to appropriately target Presidential actions under this section in response.

(3) CONGRESSIONAL NOTIFICATION.—Whenever the President designates a country as a country of particular concern for religious freedom under paragraph (1)(A), the President shall, as soon as practicable after the designation is made, transmit to the appropriate congressional committees—

(A) the designation of the country, signed by the President; and

(B) the identification, if any, of responsible parties determined under paragraph (2).

(c) PRESIDENTIAL ACTIONS WITH RESPECT TO COUNTRIES OF PARTICULAR CONCERN FOR RELIGIOUS FREEDOM.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4) with respect to each country of particular concern for religious freedom designated under subsection (b)(1)(A), the President shall, after the requirements of sections 403 and 404 have been satisfied, but not later than 90 days (or 180 days in case of a delay under paragraph (3)) after the date of designation of the country under that subsection, carry out one or more of the following actions under subparagraph (A) or subparagraph (B):

(A) PRESIDENTIAL ACTIONS.—One or more of the Presidential actions described in paragraphs (9) through (15) of section 405(a), as determined by the President.

(B) COMMENSURATE ACTIONS.—Commensurate action in substitution to any action described in subparagraph (A).

(2) SUBSTITUTION OF BINDING AGREEMENTS.—

(A) IN GENERAL.—In lieu of carrying out action under paragraph (1), the President may conclude a binding agreement with the respective foreign government as described in section 405(c). The existence of a binding agreement under this paragraph with a foreign government may be considered by the President prior to making any determination or taking any action under this title.

(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph may be construed to authorize the entry of the United States into an agreement covering matters outside the scope of violations of religious freedom.

(3) AUTHORITY FOR DELAY OF PRESIDENTIAL ACTIONS.—If, on or before the date that the President is required (but for this paragraph) to take action under paragraph (1), the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary—

(A) for a continuation of negotiations that have been commenced with the government of that country to bring about a cessation of the violations by the foreign country;

(B) for a continuation of multilateral negotiations into which the United States has entered to bring about a cessation of the violations by the foreign country;

(C)(i) for a review of corrective action taken by the foreign country after designation of such country as a country of particular concern; or

(ii) in anticipation that corrective action will be taken by the foreign country during the 90-day period, then the President shall not be required to take action until the expiration of that period of time.

(4) EXCEPTION FOR ONGOING PRESIDENTIAL ACTION.—The President shall not be required to take action pursuant to this subsection in the case of a country of particular concern for religious freedom, if with respect to such country—

(A) the President has taken action pursuant to this Act in a preceding year;

(B) such action is in effect at the time the country is designated as a country of particular concern for religious freedom under this section;

(C) the President reports to Congress the information described in section 404(a)(1), (2), (3), and (4) regarding the actions in effect with respect to the country; and

(D) at the time the President determines a country to be a country of particular concern, if that country is already subject to multiple, broad-based sanctions imposed in significant part in response to human rights abuses, and such sanctions are ongoing, the President may determine that one or more of these sanctions also satisfies the requirements of this subsection. In a report to Congress pursuant to section 404(a)(1), (2), (3), and (4), and, as applicable, to section 408, the President must designate the specific sanction or sanctions which he determines satisfy the requirements of this subsection. The sanctions so designated shall remain in effect subject to section 409 of this Act.

(d) STATUTORY CONSTRUCTION.—A determination under this Act, or any amendment made by this Act, that a foreign country has engaged in or tolerated particularly severe violations of religious freedom shall not be construed to require the termination of assistance or other activities with respect to that country under any other provision of law, including section 116 or 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n, 2304).

22 USC 6443.

#### **SEC. 403. CONSULTATIONS.**

(a) IN GENERAL.—As soon as practicable after the President decides to take action under section 401 in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 402, as the case may be, the President shall carry out the consultations required in this section.

(b) DUTY TO CONSULT WITH FOREIGN GOVERNMENTS PRIOR TO TAKING PRESIDENTIAL ACTIONS.—

(1) IN GENERAL.—The President shall—

(A) request consultation with the government of such country regarding the violations giving rise to designation of that country as a country of particular concern for religious freedom or to Presidential action under section 401; and

(B) if agreed to, enter into such consultations, privately or publicly.

(2) **USE OF MULTILATERAL FORA.**—If the President determines it to be appropriate, such consultations may be sought and may occur in a multilateral forum, but, in any event, the President shall consult with appropriate foreign governments for the purposes of achieving a coordinated international policy on actions that may be taken with respect to a country described in subsection (a), prior to implementing any such action.

(3) **ELECTION OF NONDISCLOSURE OF NEGOTIATIONS TO PUBLIC.**—If negotiations are undertaken or an agreement is concluded with a foreign government regarding steps to cease the pattern of violations by that government, and if public disclosure of such negotiations or agreement would jeopardize the negotiations or the implementation of such agreement, as the case may be, the President may refrain from disclosing such negotiations and such agreement to the public, except that the President shall inform the appropriate congressional committees of the nature and extent of such negotiations and any agreement reached.

(c) **DUTY TO CONSULT WITH HUMANITARIAN ORGANIZATIONS.**—The President should consult with appropriate humanitarian and religious organizations concerning the potential impact of United States policies to promote freedom of religion in countries described in subsection (a).

(d) **DUTY TO CONSULT WITH UNITED STATES INTERESTED PARTIES.**—The President shall, as appropriate, consult with United States interested parties as to the potential impact of intended Presidential action or actions in countries described in subsection (a) on economic or other interests of the United States.

#### **SEC. 404. REPORT TO CONGRESS.**

22 USC 6444.

(a) **IN GENERAL.**—Subject to subsection (b), not later than 90 days after the President decides to take action under section 401 in response to violations of religious freedom and the President decides to take action under paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to that country, or not later than 90 days after the President designates a country as a country of particular concern for religious freedom under section 402, as the case may be, the President shall submit a report to Congress containing the following:

(1) **IDENTIFICATION OF PRESIDENTIAL ACTIONS.**—An identification of the Presidential action or actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) to be taken with respect to the foreign country.

(2) **DESCRIPTION OF VIOLATIONS.**—A description of the violations giving rise to the Presidential action or actions to be taken.

(3) **PURPOSE OF PRESIDENTIAL ACTIONS.**—A description of the purpose of the Presidential action or actions.

## (4) EVALUATION.—

(A) DESCRIPTION.—An evaluation, in consultation with the Secretary of State, the Ambassador at Large, the Commission, the Special Adviser, the parties described in section 403(c) and (d), and whoever else the President deems appropriate, of—

- (i) the impact upon the foreign government;
- (ii) the impact upon the population of the country;
- and
- (iii) the impact upon the United States economy and other interested parties.

(B) AUTHORITY TO WITHHOLD DISCLOSURE.—The President may withhold part or all of such evaluation from the public but shall provide the entire evaluation to Congress.

(5) STATEMENT OF POLICY OPTIONS.—A statement that non-economic policy options designed to bring about cessation of the particularly severe violations of religious freedom have reasonably been exhausted, including the consultations required in section 403.

(6) DESCRIPTION OF MULTILATERAL NEGOTIATIONS.—A description of multilateral negotiations sought or carried out, if appropriate and applicable.

(b) DELAY IN TRANSMITTAL OF REPORT.—If, on or before the date that the President is required (but for this subsection) to submit a report under subsection (a) to Congress, the President determines and certifies to Congress that a single, additional period of time not to exceed 90 days is necessary pursuant to section 401(b)(3) or 402(c)(3), then the President shall not be required to submit the report to Congress until the expiration of that period of time.

22 USC 6445.

**SEC. 405. DESCRIPTION OF PRESIDENTIAL ACTIONS.**

(a) DESCRIPTION OF PRESIDENTIAL ACTIONS.—Except as provided in subsection (d), the Presidential actions referred to in this subsection are the following:

- (1) A private demarche.
- (2) An official public demarche.
- (3) A public condemnation.
- (4) A public condemnation within one or more multilateral fora.
- (5) The delay or cancellation of one or more scientific exchanges.
- (6) The delay or cancellation of one or more cultural exchanges.
- (7) The denial of one or more working, official, or state visits.
- (8) The delay or cancellation of one or more working, official, or state visits.
- (9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961.
- (10) Directing the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect

to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961.

(12) Consistent with section 701 of the International Financial Institutions Act of 1977, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402, under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or

(D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.

(14) Prohibiting any United States financial institution from making loans or providing credits totaling more than \$10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.

(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 401 or 402.

(b) COMMENSURATE ACTION.—Except as provided in subsection (d), the President may substitute any other action authorized by law for any action described in paragraphs (1) through (15) of subsection (a) if such action is commensurate in effect to the action substituted and if the action would further the policy of the United States set forth in section 2(b) of this Act. The President shall seek to take all appropriate and feasible actions authorized by law to obtain the cessation of the violations. If commensurate action is taken, the President shall report such action, together with an explanation for taking such action, to the appropriate congressional committees.

(c) BINDING AGREEMENTS.—The President may negotiate and enter into a binding agreement with a foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. The entry into force of a binding agreement for the cessation of the violations shall be a primary objective for the President in responding to a foreign government that has engaged in or tolerated particularly severe violations of religious freedom.

(d) EXCEPTIONS.—Any action taken pursuant to subsection (a) or (b) may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other humanitarian assistance.

22 USC 6446.

**SEC. 406. EFFECTS ON EXISTING CONTRACTS.**

The President shall not be required to apply or maintain any Presidential action under this subtitle—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities, to satisfy requirements essential to the national security of the United States;

(B) if the President determines in writing and so reports to Congress that the person or other entity to which the Presidential action would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines in writing and so reports to Congress that such articles or services are essential to the national security under defense coproduction agreements; or

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to take the Presidential action.

22 USC 6447.

**SEC. 407. PRESIDENTIAL WAIVER.**

(a) IN GENERAL.—Subject to subsection (b), the President may waive the application of any of the actions described in paragraphs (9) through (15) of section 405(a) (or commensurate action in substitution thereto) with respect to a country, if the President determines and so reports to the appropriate congressional committees that—

(1) the respective foreign government has ceased the violations giving rise to the Presidential action;

(2) the exercise of such waiver authority would further the purposes of this Act; or

(3) the important national interest of the United States requires the exercise of such waiver authority.

(b) CONGRESSIONAL NOTIFICATION.—Not later than the date of the exercise of a waiver under subsection (a), the President shall notify the appropriate congressional committees of the waiver or the intention to exercise the waiver, together with a detailed justification thereof.

22 USC 6448.

**SEC. 408. PUBLICATION IN FEDERAL REGISTER.**

(a) IN GENERAL.—Subject to subsection (b), the President shall cause to be published in the Federal Register the following:

(1) DETERMINATIONS OF GOVERNMENTS, OFFICIALS, AND ENTITIES OF PARTICULAR CONCERN.—Any designation of a country of particular concern for religious freedom under section 402(b)(1), together with, when applicable and to the extent practicable, the identities of the officials or entities determined to be responsible for the violations under section 402(b)(2).

(2) PRESIDENTIAL ACTIONS.—A description of any Presidential action under paragraphs (9) through (15) of section

405(a) (or commensurate action in substitution thereto) and the effective date of the Presidential action.

(3) DELAYS IN TRANSMITTAL OF PRESIDENTIAL ACTION REPORTS.—Any delay in transmittal of a Presidential action report, as described in section 404(b).

(4) WAIVERS.—Any waiver under section 407.

(b) LIMITED DISCLOSURE OF INFORMATION.—The President may limit publication of information under this section in the same manner and to the same extent as the President may limit the publication of findings and determinations described in section 654(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2414(c)), if the President determines that the publication of information under this section—

(1) would be harmful to the national security of the United States; or

(2) would not further the purposes of this Act.

#### **SEC. 409. TERMINATION OF PRESIDENTIAL ACTIONS.**

22 USC 6449.

Any Presidential action taken under this Act with respect to a foreign country shall terminate on the earlier of the following dates:

(1) TERMINATION DATE.—Within 2 years of the effective date of the Presidential action unless expressly reauthorized by law.

(2) FOREIGN GOVERNMENT ACTIONS.—Upon the determination by the President, in consultation with the Commission, and certification to Congress that the foreign government has ceased or taken substantial and verifiable steps to cease the particularly severe violations of religious freedom.

#### **SEC. 410. PRECLUSION OF JUDICIAL REVIEW.**

22 USC 6450.

No court shall have jurisdiction to review any Presidential determination or agency action under this Act or any amendment made by this Act.

## **Subtitle II—Strengthening Existing Law**

#### **SEC. 421. UNITED STATES ASSISTANCE.**

(a) IMPLEMENTATION OF PROHIBITION ON ECONOMIC ASSISTANCE.—Section 116(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(c)) is amended—

(1) in the text above paragraph (1), by inserting “and in consultation with the Ambassador at Large for International Religious Freedom” after “Labor”;

(2) by striking “and” at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting “; and”;

(4) by adding at the end the following new paragraph:

“(3) whether the government—

“(A) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998; or

“(B) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998), when such efforts could have been reasonably undertaken.”.

(b) IMPLEMENTATION OF PROHIBITION ON MILITARY ASSISTANCE.—Section 502B(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)) is amended by adding at the end the following new paragraph:

“(4) In determining whether the government of a country engages in a consistent pattern of gross violations of internationally recognized human rights, the President shall give particular consideration to whether the government—

“(A) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998; or

“(B) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom when such efforts could have been reasonably undertaken.”.

**SEC. 422. MULTILATERAL ASSISTANCE.**

Section 701 of the International Financial Institutions Act (22 U.S.C. 262d) is amended by adding at the end the following new subsection:

“(g) In determining whether the government of a country engages in a pattern of gross violations of internationally recognized human rights, as described in subsection (a), the President shall give particular consideration to whether a foreign government—

“(1) has engaged in or tolerated particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998; or

“(2) has failed to undertake serious and sustained efforts to combat particularly severe violations of religious freedom when such efforts could have been reasonably undertaken.”.

22 USC 6461.

**SEC. 423. EXPORTS OF CERTAIN ITEMS USED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.**

(a) MANDATORY LICENSING.—Notwithstanding any other provision of law, the Secretary of Commerce, with the concurrence of the Secretary of State, shall include on the list of crime control and detection instruments or equipment controlled for export and reexport under section 6(n) of the Export Administration Act of 1979 (22 U.S.C. App. 2405(n)), or under any other provision of law, items being exported or reexported to countries of particular concern for religious freedom that the Secretary of Commerce, with the concurrence of the Secretary of State, and in consultation with appropriate officials including the Assistant Secretary of State for Democracy, Human Rights and Labor and the Ambassador at Large, determines are being used or are intended for use directly and in significant measure to carry out particularly severe violations of religious freedom.

(b) LICENSING BAN.—The prohibition on the issuance of a license for export of crime control and detection instruments or equipment under section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) shall apply to the export and reexport of any item included pursuant to subsection (a) on the list of crime control instruments.



## TITLE V—PROMOTION OF RELIGIOUS FREEDOM

### SEC. 501. ASSISTANCE FOR PROMOTING RELIGIOUS FREEDOM.

(a) FINDINGS.—Congress makes the following findings:

(1) In many nations where severe violations of religious freedom occur, there is not sufficient statutory legal protection for religious minorities or there is not sufficient cultural and social understanding of international norms of religious freedom.

(2) Accordingly, in the provision of foreign assistance, the United States should make a priority of promoting and developing legal protections and cultural respect for religious freedom.

(b) ALLOCATION OF FUNDS FOR INCREASED PROMOTION OF RELIGIOUS FREEDOMS.—Section 116(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(e)) is amended by inserting “, including the right to free religious belief and practice” after “adherence to civil and political rights”.

21 USC 2151n  
note.

### SEC. 502. INTERNATIONAL BROADCASTING.

Section 303(a) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6202(a)) is amended—

(1) by striking “and” at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting “; and”; and

(3) by adding at the end the following:

“(8) promote respect for human rights, including freedom of religion.”.

### SEC. 503. INTERNATIONAL EXCHANGES.

Section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)) is amended—

(1) by striking “and” after paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting “; and”; and

(3) by adding at the end the following:

“(12) promoting respect for and guarantees of religious freedom abroad by interchanges and visits between the United States and other nations of religious leaders, scholars, and religious and legal experts in the field of religious freedom.”.

### SEC. 504. FOREIGN SERVICE AWARDS.

(a) PERFORMANCE PAY.—Section 405(d) of the Foreign Service Act of 1980 (22 U.S.C. 3965(d)) is amended by inserting after the first sentence the following: “Such service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.”.

(b) FOREIGN SERVICE AWARDS.—Section 614 of the Foreign Service Act of 1980 (22 U.S.C. 4013) is amended by adding at the end the following new sentence: “Distinguished, meritorious service in the promotion of internationally recognized human rights, including the right to freedom of religion, shall serve as a basis for granting awards under this section.”.

## TITLE VI—REFUGEE, ASYLUM, AND CONSULAR MATTERS

22 USC 6471.

**SEC. 601. USE OF ANNUAL REPORT.**

The Annual Report, together with other relevant documentation, shall serve as a resource for immigration judges and consular, refugee, and asylum officers in cases involving claims of persecution on the grounds of religion. Absence of reference by the Annual Report to conditions described by the alien shall not constitute the sole grounds for a denial of the alien's claim.

22 USC 6472.

**SEC. 602. REFORM OF REFUGEE POLICY.**

(a) **TRAINING.**—Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is amended by adding at the end the following new subsection:

“(f)(1) The Attorney General, in consultation with the Secretary of State, shall provide all United States officials adjudicating refugee cases under this section with the same training as that provided to officers adjudicating asylum cases under section 208.

“(2) Such training shall include country-specific conditions, instruction on the internationally recognized right to freedom of religion, instruction on methods of religious persecution practiced in foreign countries, and applicable distinctions within a country between the nature of and treatment of various religious practices and believers.”.

(b) **TRAINING FOR FOREIGN SERVICE OFFICERS.**—Section 708 of the Foreign Service Act of 1980, as added by section 104 of this Act, is further amended—

(1) by inserting “(a)” before “The Secretary of State”; and

(2) by adding at the end the following:

“(b) The Secretary of State shall provide sessions on refugee law and adjudications and on religious persecution to each individual seeking a commission as a United States consular officer. The Secretary shall also ensure that any member of the Service who is assigned to a position that may be called upon to assess requests for consideration for refugee admissions, including any consular officer, has completed training on refugee law and refugee adjudications in addition to the training required in this section.”.

(c) **GUIDELINES FOR REFUGEE-PROCESSING POSTS.**—

(1) **GUIDELINES FOR ADDRESSING HOSTILE BIASES.**—The Attorney General and the Secretary of State shall develop and implement guidelines that address potential biases in personnel of the Immigration and Naturalization Service that are hired abroad and involved with duties which could constitute an effective barrier to a refugee claim if such personnel carries a bias against the claimant on the grounds of religion, race, nationality, membership in a particular social group, or political opinion. The subject matter of this training should be culturally sensitive and tailored to provide a nonbiased, nonadversarial atmosphere for the purpose of refugee adjudications.

(2) **GUIDELINES FOR REFUGEE-PROCESSING POSTS IN ESTABLISHING AGREEMENTS WITH UNITED STATES GOVERNMENT-DESIGNATED REFUGEE PROCESSING ENTITIES.**—The Attorney General and the Secretary of State shall develop and implement

guidelines to ensure uniform procedures for establishing agreements with United States Government-designated refugee processing entities and personnel, and uniform procedures for such entities and personnel responsible for preparing refugee case files for use by the Immigration and Naturalization Service during refugee adjudications. These procedures should ensure, to the extent practicable, that case files prepared by such entities accurately reflect information provided by the refugee applicants and that genuine refugee applicants are not disadvantaged or denied refugee status due to faulty case file preparation.

(d) ANNUAL CONSULTATION.—The President shall include in each annual report on proposed refugee admissions under section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)) information about religious persecution of refugee populations eligible for consideration for admission to the United States. The Secretary of State shall include information on religious persecution of refugee populations in the formal testimony presented to the Committees on the Judiciary of the House of Representatives and the Senate during the consultation process under section 207(e) of the Immigration and Nationality Act (8 U.S.C. 1157(e)).

President.

**SEC. 603. REFORM OF ASYLUM POLICY.**

22 USC 6473.

(a) GUIDELINES.—The Attorney General and the Secretary of State shall develop guidelines to ensure that persons with potential biases against individuals on the grounds of religion, race, nationality, membership in a particular social group, or political opinion, including interpreters and personnel of airlines owned by governments known to be involved in practices which would meet the definition of persecution under international refugee law, shall not in any manner be used to interpret conversations between aliens and inspection or asylum officers.

(b) TRAINING FOR ASYLUM AND IMMIGRATION OFFICERS.—The Attorney General, in consultation with the Secretary of State, the Ambassador at Large, and other relevant officials such as the Director of the National Foreign Affairs Training Center, shall provide training to all officers adjudicating asylum cases, and to immigration officers performing duties under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)), on the nature of religious persecution abroad, including country-specific conditions, instruction on the internationally recognized right to freedom of religion, instruction on methods of religious persecution practiced in foreign countries, and applicable distinctions within a country in the treatment of various religious practices and believers.

(c) TRAINING FOR IMMIGRATION JUDGES.—The Executive Office of Immigration Review of the Department of Justice shall incorporate into its initial and ongoing training of immigration judges training on the extent and nature of religious persecution internationally, including country-specific conditions, and including use of the Annual Report. Such training shall include governmental and nongovernmental methods of persecution employed, and differences in the treatment of religious groups by such persecuting entities.

**SEC. 604. INADMISSIBILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE ENGAGED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.**

(a) **INELIGIBILITY FOR VISAS OR ADMISSION.**—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following new subparagraph:

“(G) **FOREIGN GOVERNMENT OFFICIALS WHO HAVE ENGAGED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.**—Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time during the preceding 24-month period, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998, and the spouse and children, if any, are inadmissible.”.

8 USC 1182 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to aliens seeking to enter the United States on or after the date of the enactment of this Act.

22 USC 6474.

**SEC. 605. STUDIES ON THE EFFECT OF EXPEDITED REMOVAL PROVISIONS ON ASYLUM CLAIMS.**

(a) **STUDIES.**—

(1) **COMMISSION REQUEST FOR PARTICIPATION BY EXPERTS ON REFUGEE AND ASYLUM ISSUES.**—If the Commission so requests, the Attorney General shall invite experts designated by the Commission, who are recognized for their expertise and knowledge of refugee and asylum issues, to conduct a study, in cooperation with the Comptroller General of the United States, to determine whether immigration officers described in paragraph (2) are engaging in any of the conduct described in such paragraph.

(2) **DUTIES OF COMPTROLLER GENERAL.**—The Comptroller General of the United States shall conduct a study alone or, upon request by the Commission, in cooperation with experts designated by the Commission, to determine whether immigration officers performing duties under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) with respect to aliens who may be eligible to be granted asylum are engaging in any of the following conduct:

(A) Improperly encouraging such aliens to withdraw their applications for admission.

(B) Incorrectly failing to refer such aliens for an interview by an asylum officer for a determination of whether they have a credible fear of persecution (within the meaning of section 235(b)(1)(B)(v) of such Act).

(C) Incorrectly removing such aliens to a country where they may be persecuted.

(D) Detaining such aliens improperly or in inappropriate conditions.

(b) **REPORTS.**—

(1) **PARTICIPATION BY EXPERTS.**—In the case of a Commission request under subsection (a), the experts designated by the Commission under that subsection may submit a report to the committees described in paragraph (2). Such report may be submitted with the Comptroller General’s report under subsection (a)(2) or independently.

(2) **DUTIES OF COMPTROLLER GENERAL.**—Not later than September 1, 2000, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate a report containing the results of the study conducted under subsection (a)(2). If the Commission requests designated experts to participate with the Comptroller General in the preparation and submission of the report, the Comptroller General shall grant the request.

Reports.

(c) **ACCESS TO PROCEEDINGS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), to facilitate the studies and reports, the Attorney General shall permit the Comptroller General of the United States and, in the case of a Commission request under subsection (a), the experts designated under subsection (a) to have unrestricted access to all stages of all proceedings conducted under section 235(b) of the Immigration and Nationality Act.

(2) **EXCEPTIONS.**—Paragraph (1) shall not apply in cases in which the alien objects to such access, or the Attorney General determines that the security of a particular proceeding would be threatened by such access, so long as any restrictions on the access of experts designated by the Commission under subsection (a) do not contravene international law.

## TITLE VII—MISCELLANEOUS PROVISIONS

### SEC. 701. BUSINESS CODES OF CONDUCT.

22 USC 6481.

(a) **CONGRESSIONAL FINDING.**—Congress recognizes the increasing importance of transnational corporations as global actors, and their potential for providing positive leadership in their host countries in the area of human rights.

(b) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that transnational corporations operating overseas, particularly those corporations operating in countries the governments of which have engaged in or tolerated violations of religious freedom, as identified in the Annual Report, should adopt codes of conduct—

(1) upholding the right to freedom of religion of their employees; and

(2) ensuring that a worker's religious views and peaceful practices of belief in no way affect, or be allowed to affect, the status or terms of his or her employment.

Approved October 27, 1998.

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#### LEGISLATIVE HISTORY—H.R. 2431:

HOUSE REPORTS: No. 105-480, Pt. 1 (Comm. on International Relations), Pt. 2 (Comm. on Ways and Means), and Pt. 3 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 14, considered and passed House.

Oct. 8, 9, considered and passed Senate, amended.

Oct. 10, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 27, Presidential statement.



Public Law 105–293  
105th Congress

An Act

Oct. 27, 1998

[H.R. 2795]

To extend certain contracts between the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from Glendo Reservoir.

Irrigation Project  
Contract  
Extension Act of  
1998.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Irrigation Project Contract Extension Act of 1998”.

**SEC. 2. EXTENSION OF CONTRACTS.**

(a) IN GENERAL.—The Secretary of the Interior shall extend each of the water service or repayment contracts for the Glendo Unit of the Missouri River Basin Project identified in subsection (c) until December 31, 2000.

(b) EXTENSIONS COTERMINOUS WITH COOPERATIVE AGREEMENT.—If the cooperative agreement entitled “Cooperative Agreement for Platte River Research and other Efforts Relating to Endangered Species Habitats Along the Central Platte River, Nebraska”, entered into by the Governors of the States of Wyoming, Nebraska, and Colorado and the Secretary of the Interior, is extended for a term beyond December 31, 2000, the contracts identified in subsection (c) shall be extended for the same term, but not to go beyond December 31, 2001. If the cooperative agreement terminates prior to December 31, 2000, the contracts identified in subsection (c) shall be subject to renewal on the date that the cooperative agreement terminates.

(c) CONTRACTS.—The contracts identified in this subsection are—

(1) the contract between the United States and the New Grattan Ditch Company for water service from Glendo Reservoir (Contract No. 14–06–700–7591), dated March 7, 1974;

(2) the contract between the United States and Burbank Ditch for water service from Glendo Reservoir (Contract No. 14–06–700–6614), dated May 23, 1969;

(3) the contract between the United States and the Torrington Irrigation District for water service from Glendo Reservoir (Contract No. 14–06–700–1771), dated July 14, 1958;

(4) the contract between the United States and the Lucerne Canal and Power Company for water service from Glendo Reservoir (Contract No. 14–06–700–1740, as amended), dated June 12, 1958, and amended June 10, 1960;

(5) the contract between the United States and the Wright and Murphy Ditch Company for water service from Glendo Reservoir (Contract No. 14-06-700-1741), dated June 12, 1958;

(6) the contract between the United States and the Bridgeport Irrigation District for water service from Glendo Reservoir (Contract No. 14-06-700-8376, renumbered 6-07-70-W0126), dated July 9, 1976;

(7) the contract between the United States and the Enterprises Irrigation District for water service from Glendo Reservoir (Contract No. 14-06-700-1742), dated June 12, 1958;

(8)(A) the contract between the United States and the Mitchell Irrigation District for an increase in carryover storage capacity in Glendo Reservoir (Contract No. 14-06-700-1743, renumbered 8-07-70-W0056 Amendment No. 1), dated March 22, 1985; and

(B) the contract between the United States and the Mitchell Irrigation District for water service from Glendo Reservoir (Contract No. 14-06-700-1743, renumbered 8-07-70-W0056), dated June 12, 1958; and

(9) the contract between the United States and the Central Nebraska Public Power and Irrigation District for repayment of allocated irrigation costs of Glendo Reservoir (Contract No. 5-07-70-W0734), dated December 31, 1984.

(d) STATUTORY CONSTRUCTION.—Nothing in this section precludes the Secretary of the Interior from making an extension under subsection (a) or (b) in the form of annual extensions.

Approved October 27, 1998.

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LEGISLATIVE HISTORY—H.R. 2795 (S. 1398):

HOUSE REPORTS: No. 105-604 (Comm. on Resources).

SENATE REPORTS: No. 105-288 accompanying S. 1398 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 15, considered and passed House.

Oct. 7, considered and passed Senate.



Public Law 105–294  
105th Congress

An Act

Oct. 27, 1998  
[H.R. 3069]

To extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementation of the proposals and recommendations of the Advisory Council.

Advisory Council  
on California  
Indian Policy  
Extension Act of  
1998.  
25 USC 651 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Advisory Council on California Indian Policy Extension Act of 1998”.

**SEC. 2. FINDING AND PURPOSE.**

(a) **FINDING.**—Congress finds that the Advisory Council on California Indian Policy, pursuant to the Advisory Council on California Indian Policy Act of 1992 (Public Law 102–416; 25 U.S.C. 651 note), submitted its proposals and recommendations regarding remedial measures to address the special status of California’s terminated and unacknowledged Indian tribes and the needs of California Indians relating to economic self-sufficiency, health, and education.

(b) **PURPOSE.**—The purpose of this Act is to allow the Advisory Council on California Indian Policy to advise Congress on the implementation of such proposals and recommendations.

**SEC. 3. DUTIES OF ADVISORY COUNCIL REGARDING IMPLEMENTATION OF PROPOSALS AND RECOMMENDATIONS.**

25 USC 651 note.

(a) **IN GENERAL.**—Section 5 of the Advisory Council on California Indian Policy Act of 1992 (106 Stat. 2133) is amended by striking “and” at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting “; and”, and by adding at the end the following new paragraph:

“(8) work with Congress, the Secretary, the Secretary of Health and Human Services, and the California Indian tribes, to implement the Council’s proposals and recommendations contained in the report submitted made under paragraph (6), including—

“(A) consulting with Federal departments and agencies to identify those recommendations that can be implemented immediately, or in the very near future, and those which will require long-term changes in law, regulations, or policy;

“(B) working with Federal departments and agencies to expedite to the greatest extent possible the implementation of the Council’s recommendations;



“(C) presenting draft legislation to Congress for implementation of the recommendations requiring legislative changes;

“(D) initiating discussions with the State of California and its agencies to identify specific areas where State actions or tribal-State cooperation can complement actions by the Federal Government to implement specific recommendations;

“(E) providing timely information to and consulting with California Indian tribes on discussions between the Council and Federal and State agencies regarding implementation of the recommendations; and

“(F) providing annual progress reports to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives on the status of the implementation of the recommendations.”.

(b) TERMINATION.—The first sentence of section 8 of the Advisory Council on California Indian Policy Act of 1992 (106 Stat. 2136) is amended to read as follows: “The Council shall cease to exist on March 31, 2000.”. 25 USC 651 note.

Approved October 27, 1998.

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LEGISLATIVE HISTORY—H.R. 3069:

HOUSE REPORTS: No. 105–571 (Comm. on Resources).

SENATE REPORTS: No. 105–342 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 16, considered and passed House.

Oct. 9, considered and passed Senate.

Public Law 105–295  
105th Congress

An Act

Oct. 27, 1998  
[H.R. 4079]

To authorize the construction of temperature control devices at Folsom Dam in California.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AUTHORIZATION TO CONSTRUCT TEMPERATURE CONTROL DEVICES.**

(a) FOLSOM DAM.—The Secretary of the Interior is hereby authorized to construct in accordance with the draft environmental impact statement/environmental impact report for the Central Valley Supply contracts under Public Law 101–514 (section 206) and the report entitled “Assessment of the Beneficial and Adverse Impacts of Operating a Temperature Control Device (TCD) at the Water Supply Intakes of Folsom Dam”, a temperature control device on Folsom Dam and necessary associated temperature monitoring facilities. The temperature control device and said associated temperature monitoring facilities shall be operated as an integral part of the Central Valley Project for the benefit and propagation of fall-run chinook salmon and steelhead trout in the American River, California.

(b) DEVICE ON NON-CVP FACILITIES.—The Secretary of the Interior is hereby authorized to construct or assist in the construction of one or more temperature control devices on existing non-Federal facilities delivering Central Valley Project water supplies from Folsom Reservoir and necessary associated temperature monitoring facilities. These costs of construction of temperature control device and associated temperature monitoring facilities shall be nonreimbursable and operated by the non-Federal facility owner at its expense, in coordination with the Central Valley Project for the benefit and propagation of chinook salmon and steelhead trout in the American River, California.

(c) AUTHORIZATION.—There is hereby authorized to be appropriated for the construction of a temperature control device on Folsom Dam and necessary associated temperature monitoring facilities the sum of \$5,000,000 (adjusted for inflation based on October 1997 prices). There is also authorized to be appropriated for the construction of a temperature control device on existing non-Federal facilities and necessary associated temperature monitoring facilities the sum of \$1,000,000 (October 1997 prices). There is also authorized to be appropriated, in addition thereto, such

amounts as are required for operation, maintenance, and replacement of the temperature control devices on Folsom Dam and associated temperature monitoring facilities.

Approved October 27, 1998.

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LEGISLATIVE HISTORY—H.R. 4079:

HOUSE REPORTS: No. 105–717 (Comm. on Resources).

SENATE REPORTS: No. 105–378 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 15, considered and passed House..

Oct. 7, considered and passed Senate.



Public Law 105-296  
105th Congress

An Act

Oct. 27, 1998  
[H.R. 4166]

To amend the Idaho Admission Act regarding the sale or lease of school land.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SALE, LEASE, OR EXCHANGE OF IDAHO SCHOOL LAND.**

The Act of July 3, 1890 (commonly known as the “Idaho Admission Act”) (26 Stat. 215, chapter 656), is amended by striking section 5 and inserting the following:

**“SEC. 5. SALE, LEASE, OR EXCHANGE OF SCHOOL LAND.**

“(a) SALE.—

“(1) IN GENERAL.—Except as provided in subsection (c), all land granted under this Act for educational purposes shall be sold only at public sale.

“(2) USE OF PROCEEDS.—

“(A) IN GENERAL.—Proceeds of the sale of school land—

“(i) except as provided in clause (ii), shall be deposited in the public school permanent endowment fund and expended only for the support of public schools; and

“(ii)(I) may be deposited in a land bank fund to be used to acquire, in accordance with State law, other land in the State for the benefit of the beneficiaries of the public school permanent endowment fund; or

“(II) if the proceeds are not used to acquire other land in the State within a period specified by State law, shall be transferred to the public school permanent endowment fund.

“(B) EARNINGS RESERVE FUND.—Earnings on amounts in the public school permanent endowment fund shall be deposited in an earnings reserve fund to be used for the support of public schools of the State in accordance with State law.

“(b) LEASE.—Land granted under this Act for educational purposes may be leased in accordance with State law.

“(c) EXCHANGE.—

“(1) IN GENERAL.—Land granted for educational purposes under this Act may be exchanged for other public or private land.

“(2) VALUATION.—The values of exchanged lands shall be approximately equal, or, if the values are not approximately equal, the values shall be equalized by the payment of funds by the appropriate party.

“(3) EXCHANGES WITH THE UNITED STATES.—

“(A) IN GENERAL.—A land exchange with the United States shall be limited to Federal land within the State that is subject to exchange under the law governing the administration of the Federal land.

“(B) PREVIOUS EXCHANGES.—All land exchanges made with the United States before the date of the enactment of this paragraph are approved.

“(d) RESERVATION FOR SCHOOL PURPOSES.—Land granted for educational purposes, whether surveyed or unsurveyed, shall not be subject to preemption, homestead entry, or any other form of entry under the land laws of the United States, but shall be reserved for school purposes only.”.

Approved October 27, 1998.

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LEGISLATIVE HISTORY—H.R. 4166:

HOUSE REPORTS: No. 105–705 (Comm. on Resources).

SENATE REPORTS: No. 105–393 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 15, considered and passed House.

Oct. 7, considered and passed Senate.



Public Law 105–297  
105th Congress

An Act

Oct. 27, 1998 [S. 53]	To require the general application of the antitrust laws to major league baseball, and for other purposes.
Curt Flood Act of 1998. 15 USC 1 note.	<p><i>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,</i></p> <p><b>SECTION 1. SHORT TITLE.</b></p> <p>This Act may be cited as the “Curt Flood Act of 1998”.</p>
15 USC 27a note.	<p><b>SEC. 2. PURPOSE.</b></p> <p>It is the purpose of this legislation to state that major league baseball players are covered under the antitrust laws (i.e., that major league baseball players will have the same rights under the antitrust laws as do other professional athletes, e.g., football and basketball players), along with a provision that makes it clear that the passage of this Act does not change the application of the antitrust laws in any other context or with respect to any other person or entity.</p>
15 USC 27a.	<p><b>SEC. 3. APPLICATION OF THE ANTITRUST LAWS TO PROFESSIONAL MAJOR LEAGUE BASEBALL.</b></p> <p>The Clayton Act (15 U.S.C. § 12 et seq.) is amended by adding at the end the following new section:</p> <p>“SEC. 27. (a) Subject to subsections (b) through (d), the conduct, acts, practices, or agreements of persons in the business of organized professional major league baseball directly relating to or affecting employment of major league baseball players to play baseball at the major league level are subject to the antitrust laws to the same extent such conduct, acts, practices, or agreements would be subject to the antitrust laws if engaged in by persons in any other professional sports business affecting interstate commerce.</p> <p>“(b) No court shall rely on the enactment of this section as a basis for changing the application of the antitrust laws to any conduct, acts, practices, or agreements other than those set forth in subsection (a). This section does not create, permit or imply a cause of action by which to challenge under the antitrust laws, or otherwise apply the antitrust laws to, any conduct, acts, practices, or agreements that do not directly relate to or affect employment of major league baseball players to play baseball at the major league level, including but not limited to—</p> <p>“(1) any conduct, acts, practices, or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting employment to play baseball at the minor league level, any organized</p>

professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players;

“(2) the agreement between organized professional major league baseball teams and the teams of the National Association of Professional Baseball Leagues, commonly known as the ‘Professional Baseball Agreement’, the relationship between organized professional major league baseball and organized professional minor league baseball, or any other matter relating to organized professional baseball’s minor leagues;

“(3) any conduct, acts, practices, or agreements of persons engaging in, conducting or participating in the business of organized professional baseball relating to or affecting franchise expansion, location or relocation, franchise ownership issues, including ownership transfers, the relationship between the Office of the Commissioner and franchise owners, the marketing or sales of the entertainment product of organized professional baseball and the licensing of intellectual property rights owned or held by organized professional baseball teams individually or collectively;

“(4) any conduct, acts, practices, or agreements protected by Public Law 87-331 (15 U.S.C. §1291 et seq.) (commonly known as the ‘Sports Broadcasting Act of 1961’);

“(5) the relationship between persons in the business of organized professional baseball and umpires or other individuals who are employed in the business of organized professional baseball by such persons; or

“(6) any conduct, acts, practices, or agreements of persons not in the business of organized professional major league baseball.

“(c) Only a major league baseball player has standing to sue under this section. For the purposes of this section, a major league baseball player is—

“(1) a person who is a party to a major league player’s contract, or is playing baseball at the major league level; or

“(2) a person who was a party to a major league player’s contract or playing baseball at the major league level at the time of the injury that is the subject of the complaint; or

“(3) a person who has been a party to a major league player’s contract or who has played baseball at the major league level, and who claims he has been injured in his efforts to secure a subsequent major league player’s contract by an alleged violation of the antitrust laws: *Provided however*, That for the purposes of this paragraph, the alleged antitrust violation shall not include any conduct, acts, practices, or agreements of persons in the business of organized professional baseball relating to or affecting employment to play baseball at the minor league level, including any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players; or

“(4) a person who was a party to a major league player’s contract or who was playing baseball at the major league level at the conclusion of the last full championship season immediately preceding the expiration of the last collective bargaining agreement between persons in the business of organized professional major league baseball and the exclusive collective bargaining representative of major league baseball players.

“(d)(1) As used in this section, ‘person’ means any entity, including an individual, partnership, corporation, trust or unincorporated association or any combination or association thereof. As used in this section, the National Association of Professional Baseball Leagues, its member leagues and the clubs of those leagues, are not ‘in the business of organized professional major league baseball’.

“(2) In cases involving conduct, acts, practices, or agreements that directly relate to or affect both employment of major league baseball players to play baseball at the major league level and also relate to or affect any other aspect of organized professional baseball, including but not limited to employment to play baseball at the minor league level and the other areas set forth in subsection (b), only those components, portions or aspects of such conduct, acts, practices, or agreements that directly relate to or affect employment of major league players to play baseball at the major league level may be challenged under subsection (a) and then only to the extent that they directly relate to or affect employment of major league baseball players to play baseball at the major league level.

“(3) As used in subsection (a), interpretation of the term ‘directly’ shall not be governed by any interpretation of section 151 et seq. of title 29, United States Code (as amended).

“(4) Nothing in this section shall be construed to affect the application to organized professional baseball of the nonstatutory labor exemption from the antitrust laws.

“(5) The scope of the conduct, acts, practices, or agreements covered by subsection (b) shall not be strictly or narrowly construed.”.

Approved October 27, 1998.

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LEGISLATIVE HISTORY—S. 53:

SENATE REPORTS: No. 105-118 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 30, considered and passed Senate.

Oct. 7, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 27, Presidential statement.





Public Law 105–298  
105th Congress

An Act

To amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

Oct. 27, 1998  
[S. 505]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# **TITLE I—COPYRIGHT TERM EXTENSION**

Sonny Bono  
Copyright Term  
Extension Act.  
17 USC 101 note.

## **SEC. 101. SHORT TITLE.**

This title may be referred to as the “Sonny Bono Copyright Term Extension Act”.

## **SEC. 102. DURATION OF COPYRIGHT PROVISIONS.**

(a) **PREEMPTION WITH RESPECT TO OTHER LAWS.**—Section 301(c) of title 17, United States Code, is amended by striking “February 15, 2047” each place it appears and inserting “February 15, 2067”.

(b) **DURATION OF COPYRIGHT: WORKS CREATED ON OR AFTER JANUARY 1, 1978.**—Section 302 of title 17, United States Code, is amended—

- (1) in subsection (a) by striking “fifty” and inserting “70”;
- (2) in subsection (b) by striking “fifty” and inserting “70”;
- (3) in subsection (c) in the first sentence—

- (A) by striking “seventy-five” and inserting “95”; and
- (B) by striking “one hundred” and inserting “120”;

and

- (4) in subsection (e) in the first sentence—

- (A) by striking “seventy-five” and inserting “95”;
- (B) by striking “one hundred” and inserting “120”;

and

- (C) by striking “fifty” each place it appears and inserting “70”.

(c) **DURATION OF COPYRIGHT: WORKS CREATED BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANUARY 1, 1978.**—Section 303 of title 17, United States Code, is amended in the second sentence by striking “December 31, 2027” and inserting “December 31, 2047”.

(d) **DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.**—

(1) **IN GENERAL.**—Section 304 of title 17, United States Code, is amended—

- (A) in subsection (a)—

- (i) in paragraph (1)—

- (I) in subparagraph (B) by striking “47” and inserting “67”; and

- (II) in subparagraph (C) by striking “47” and inserting “67”;

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking “47” and inserting “67”; and

(II) in subparagraph (B) by striking “47” and inserting “67”; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking “47” and inserting “67”; and

(II) in subparagraph (B) by striking “47” and inserting “67”;

(B) by amending subsection (b) to read as follows:

“(b) COPYRIGHTS IN THEIR RENEWAL TERM AT THE TIME OF THE EFFECTIVE DATE OF THE SONNY BONO COPYRIGHT TERM EXTENSION ACT.—Any copyright still in its renewal term at the time that the Sonny Bono Copyright Term Extension Act becomes effective shall have a copyright term of 95 years from the date copyright was originally secured.”;

(C) in subsection (c)(4)(A) in the first sentence by inserting “or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2),” after “specified by clause (3) of this subsection,”; and

(D) by adding at the end the following new subsection:

“(d) TERMINATION RIGHTS PROVIDED IN SUBSECTION (c) WHICH HAVE EXPIRED ON OR BEFORE THE EFFECTIVE DATE OF THE SONNY BONO COPYRIGHT TERM EXTENSION ACT.—In the case of any copyright other than a work made for hire, subsisting in its renewal term on the effective date of the Sonny Bono Copyright Term Extension Act for which the termination right provided in subsection (c) has expired by such date, where the author or owner of the termination right has not previously exercised such termination right, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated in subsection (a)(1)(C) of this section, other than by will, is subject to termination under the following conditions:

“(1) The conditions specified in subsections (c) (1), (2), (4), (5), and (6) of this section apply to terminations of the last 20 years of copyright term as provided by the amendments made by the Sonny Bono Copyright Term Extension Act.

“(2) Termination of the grant may be effected at any time during a period of 5 years beginning at the end of 75 years from the date copyright was originally secured.”.

(2) COPYRIGHT AMENDMENTS ACT OF 1992.—Section 102 of the Copyright Amendments Act of 1992 (Public Law 102-307; 106 Stat. 266; 17 U.S.C. 304 note) is amended—

(A) in subsection (c)—

(i) by striking “47” and inserting “67”;

(ii) by striking “(as amended by subsection (a) of this section)”;

(iii) by striking “effective date of this section” each place it appears and inserting “effective date of the Sonny Bono Copyright Term Extension Act”; and

(B) in subsection (g)(2) in the second sentence by inserting before the period the following: “, except each reference to forty-seven years in such provisions shall be deemed to be 67 years”.

**SEC. 103. TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM.**

Sections 203(a)(2) and 304(c)(2) of title 17, United States Code, are each amended—

(1) by striking “by his widow or her widower and his or her children or grandchildren”; and

(2) by inserting after subparagraph (C) the following:

“(D) In the event that the author’s widow or widower, children, and grandchildren are not living, the author’s executor, administrator, personal representative, or trustee shall own the author’s entire termination interest.”.

**SEC. 104. REPRODUCTION BY LIBRARIES AND ARCHIVES.**

Section 108 of title 17, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

“(h)(1) For purposes of this section, during the last 20 years of any term of copyright of a published work, a library or archives, including a nonprofit educational institution that functions as such, may reproduce, distribute, display, or perform in facsimile or digital form a copy or phonorecord of such work, or portions thereof, for purposes of preservation, scholarship, or research, if such library or archives has first determined, on the basis of a reasonable investigation, that none of the conditions set forth in subparagraphs (A), (B), and (C) of paragraph (2) apply.

“(2) No reproduction, distribution, display, or performance is authorized under this subsection if—

“(A) the work is subject to normal commercial exploitation;

“(B) a copy or phonorecord of the work can be obtained at a reasonable price; or

“(C) the copyright owner or its agent provides notice pursuant to regulations promulgated by the Register of Copyrights that either of the conditions set forth in subparagraphs (A) and (B) applies.

“(3) The exemption provided in this subsection does not apply to any subsequent uses by users other than such library or archives.”.

**SEC. 105. VOLUNTARY NEGOTIATION REGARDING DIVISION OF ROYALTIES.**

It is the sense of the Congress that copyright owners of audiovisual works for which the term of copyright protection is extended by the amendments made by this title, and the screenwriters, directors, and performers of those audiovisual works, should negotiate in good faith in an effort to reach a voluntary agreement or voluntary agreements with respect to the establishment of a fund or other mechanism for the amount of remuneration to be divided among the parties for the exploitation of those audiovisual works.

**SEC. 106. EFFECTIVE DATE.**

17 USC 108 note.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

Fairness In  
Music Licensing  
Act of 1998.

## **TITLE II—MUSIC LICENSING EXEMPTION FOR FOOD SERVICE OR DRINKING ESTABLISHMENTS**

17 USC 101 note. **SEC. 201. SHORT TITLE.**

This title may be cited as the “Fairness In Music Licensing Act of 1998”.

**SEC. 202. EXEMPTIONS.**

(a) EXEMPTIONS FOR CERTAIN ESTABLISHMENTS.—Section 110 of title 17, United States Code, is amended—

(1) in paragraph (5)—

(A) by striking “(5)” and inserting “(5)(A) except as provided in subparagraph (B),”; and

(B) by adding at the end the following:

“(B) communication by an establishment of a transmission or retransmission embodying a performance or display of a nondramatic musical work intended to be received by the general public, originated by a radio or television broadcast station licensed as such by the Federal Communications Commission, or, if an audiovisual transmission, by a cable system or satellite carrier, if—

“(i) in the case of an establishment other than a food service or drinking establishment, either the establishment in which the communication occurs has less than 2,000 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 2,000 or more gross square feet of space (excluding space used for customer parking and for no other purpose) and—

“(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

“(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than 1 audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

“(ii) in the case of a food service or drinking establishment, either the establishment in which the communication occurs has less than 3,750 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 3,750 gross

square feet of space or more (excluding space used for customer parking and for no other purpose) and—

“(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

“(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than one audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

“(iii) no direct charge is made to see or hear the transmission or retransmission;

“(iv) the transmission or retransmission is not further transmitted beyond the establishment where it is received; and

“(v) the transmission or retransmission is licensed by the copyright owner of the work so publicly performed or displayed;” and

(2) by adding after paragraph (10) the following:

“The exemptions provided under paragraph (5) shall not be taken into account in any administrative, judicial, or other governmental proceeding to set or adjust the royalties payable to copyright owners for the public performance or display of their works. Royalties payable to copyright owners for any public performance or display of their works other than such performances or displays as are exempted under paragraph (5) shall not be diminished in any respect as a result of such exemption.”.

(b) EXEMPTION RELATING TO PROMOTION.—Section 110(7) of title 17, United States Code, is amended by inserting “or of the audiovisual or other devices utilized in such performance,” after “phonorecords of the work,”.

#### SEC. 203. LICENSING BY PERFORMING RIGHTS SOCIETIES.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by adding at the end the following:

##### “§ 512. Determination of reasonable license fees for individual proprietors

“In the case of any performing rights society subject to a consent decree which provides for the determination of reasonable license rates or fees to be charged by the performing rights society, notwithstanding the provisions of that consent decree, an individual proprietor who owns or operates fewer than 7 non-publicly traded establishments in which nondramatic musical works are performed publicly and who claims that any license agreement offered by that performing rights society is unreasonable in its license rate or fee as to that individual proprietor, shall be entitled to determination of a reasonable license rate or fee as follows:

“(1) The individual proprietor may commence such proceeding for determination of a reasonable license rate or fee by filing an application in the applicable district court under paragraph (2) that a rate disagreement exists and by serving a copy of the application on the performing rights society. Such proceeding shall commence in the applicable district court within 90 days after the service of such copy, except that such 90-day requirement shall be subject to the administrative requirements of the court.

“(2) The proceeding under paragraph (1) shall be held, at the individual proprietor’s election, in the judicial district of the district court with jurisdiction over the applicable consent decree or in that place of holding court of a district court that is the seat of the Federal circuit (other than the Court of Appeals for the Federal Circuit) in which the proprietor’s establishment is located.

“(3) Such proceeding shall be held before the judge of the court with jurisdiction over the consent decree governing the performing rights society. At the discretion of the court, the proceeding shall be held before a special master or magistrate judge appointed by such judge. Should that consent decree provide for the appointment of an advisor or advisors to the court for any purpose, any such advisor shall be the special master so named by the court.

“(4) In any such proceeding, the industry rate shall be presumed to have been reasonable at the time it was agreed to or determined by the court. Such presumption shall in no way affect a determination of whether the rate is being correctly applied to the individual proprietor.

“(5) Pending the completion of such proceeding, the individual proprietor shall have the right to perform publicly the copyrighted musical compositions in the repertoire of the performing rights society by paying an interim license rate or fee into an interest bearing escrow account with the clerk of the court, subject to retroactive adjustment when a final rate or fee has been determined, in an amount equal to the industry rate, or, in the absence of an industry rate, the amount of the most recent license rate or fee agreed to by the parties.

“(6) Any decision rendered in such proceeding by a special master or magistrate judge named under paragraph (3) shall be reviewed by the judge of the court with jurisdiction over the consent decree governing the performing rights society. Such proceeding, including such review, shall be concluded within 6 months after its commencement.

“(7) Any such final determination shall be binding only as to the individual proprietor commencing the proceeding, and shall not be applicable to any other proprietor or any other performing rights society, and the performing rights society shall be relieved of any obligation of nondiscrimination among similarly situated music users that may be imposed by the consent decree governing its operations.

“(8) An individual proprietor may not bring more than one proceeding provided for in this section for the determination of a reasonable license rate or fee under any license agreement with respect to any one performing rights society.

“(9) For purposes of this section, the term ‘industry rate’ means the license fee a performing rights society has agreed

to with, or which has been determined by the court for, a significant segment of the music user industry to which the individual proprietor belongs.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding after the item relating to section 511 the following:

“512. Determination of reasonable license fees for individual proprietors.”.

#### SEC. 204. PENALTIES.

Section 504 of title 17, United States Code, is amended by adding at the end the following:

“(d) ADDITIONAL DAMAGES IN CERTAIN CASES.—In any case in which the court finds that a defendant proprietor of an establishment who claims as a defense that its activities were exempt under section 110(5) did not have reasonable grounds to believe that its use of a copyrighted work was exempt under such section, the plaintiff shall be entitled to, in addition to any award of damages under this section, an additional award of two times the amount of the license fee that the proprietor of the establishment concerned should have paid the plaintiff for such use during the preceding period of up to 3 years.”.

#### SEC. 205. DEFINITIONS.

Section 101 of title 17, United States Code, is amended—

(1) by inserting after the definition of “display” the following:

“An ‘establishment’ is a store, shop, or any similar place of business open to the general public for the primary purpose of selling goods or services in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.

“A ‘food service or drinking establishment’ is a restaurant, inn, bar, tavern, or any other similar place of business in which the public or patrons assemble for the primary purpose of being served food or drink, in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.”;

(2) by inserting after the definition of “fixed” the following:

“The ‘gross square feet of space’ of an establishment means the entire interior space of that establishment, and any adjoining outdoor space used to serve patrons, whether on a seasonal basis or otherwise.”;

(3) by inserting after the definition of “perform” the following:

“A ‘performing rights society’ is an association, corporation, or other entity that licenses the public performance of nondramatic musical works on behalf of copyright owners of such works, such as the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc.”; and

(4) by inserting after the definition of “pictorial, graphic and sculptural works” the following:

“A ‘proprietor’ is an individual, corporation, partnership, or other entity, as the case may be, that owns an establishment or a food service or drinking establishment, except that no

owner or operator of a radio or television station licensed by the Federal Communications Commission, cable system or satellite carrier, cable or satellite carrier service or programmer, provider of online services or network access or the operator of facilities therefor, telecommunications company, or any other such audio or audiovisual service or programmer now known or as may be developed in the future, commercial subscription music service, or owner or operator of any other transmission service, shall under any circumstances be deemed to be a proprietor.”.

17 USC 101 note. **SEC. 206. CONSTRUCTION OF TITLE.**

Except as otherwise provided in this title, nothing in this title shall be construed to relieve any performing rights society of any obligation under any State or local statute, ordinance, or law, or consent decree or other court order governing its operation, as such statute, ordinance, law, decree, or order is in effect on the date of the enactment of this Act, as it may be amended after such date, or as it may be issued or agreed to after such date.

17 USC 101 note. **SEC. 207. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act.

Approved October 27, 1998.

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**LEGISLATIVE HISTORY—S. 505 (H.R. 2589):**

HOUSE REPORTS: No. 105-452 accompanying H.R. 2589 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 7, considered and passed House and Senate.





Public Law 105–299  
105th Congress

An Act

To designate a Federal building located in Florence, Alabama, as the “Justice John McKinley Federal Building”.

Oct. 27, 1998  
[S. 1298]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DESIGNATION OF JUSTICE JOHN MCKINLEY FEDERAL BUILDING.**

The Federal building located at 210 North Seminary Street in Florence, Alabama, shall be known and designated as the “Justice John McKinley Federal Building”.

**SEC. 2. REFERENCES.**

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the “Justice John McKinley Federal Building”.

Approved October 27, 1998.

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**LEGISLATIVE HISTORY—S. 1298:**

CONGRESSIONAL RECORD, Vol. 144 (1998):  
June 2, considered and passed Senate.  
Oct. 9, considered and passed House.



Public Law 105–300  
105th Congress

An Act

Oct. 27, 1998  
[S. 1892]

To provide that a person closely related to a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. LIMITATION ON CLOSELY RELATED PERSONS SERVING AS FEDERAL JUDGES ON THE SAME COURT.**

(a) IN GENERAL.—Section 458 of title 28, United States Code, is amended—

(1) by inserting “(a)(1)” before “No person”; and

(2) by adding at the end the following:

“(2) With respect to the appointment of a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court), subsection (b) shall apply in lieu of this subsection.

“(b)(1) In this subsection, the term—

“(A) ‘same court’ means—

“(i) in the case of a district court, the court of a single judicial district; and

“(ii) in the case of a court of appeals, the court of appeals of a single circuit; and

“(B) ‘member’—

“(i) means an active judge or a judge retired in senior status under section 371(b); and

“(ii) shall not include a retired judge, except as described under clause (i).

“(2) No person may be appointed to the position of judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) who is related by affinity or consanguinity within the degree of first cousin to any judge who is a member of the same court.”.

(b) EFFECTIVE DATE.—This Act shall take effect on the date of enactment of this Act and shall apply only to any individual whose nomination is submitted to the Senate on or after such date. 28 USC 458 note.

Approved October 27, 1998.

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LEGISLATIVE HISTORY—S. 1892:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 6, considered and passed Senate.

Oct. 7, considered and passed House.



Public Law 105–301  
105th Congress

An Act

Oct. 27, 1998  
[S. 1976]

Crime Victims  
With Disabilities  
Awareness Act.  
42 USC 3732  
note.

To increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Crime Victims With Disabilities Awareness Act”.

**SEC. 2. FINDINGS; PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) although research conducted abroad demonstrates that individuals with developmental disabilities are at a 4 to 10 times higher risk of becoming crime victims than those without disabilities, there have been no significant studies on this subject conducted in the United States;

(2) in fact, the National Crime Victim’s Survey, conducted annually by the Bureau of Justice Statistics of the Department of Justice, does not specifically collect data relating to crimes against individuals with developmental disabilities;

(3) studies in Canada, Australia, and Great Britain consistently show that victims with developmental disabilities suffer repeated victimization because so few of the crimes against them are reported, and even when they are, there is sometimes a reluctance by police, prosecutors, and judges to rely on the testimony of a disabled individual, making individuals with developmental disabilities a target for criminal predators;

(4) research in the United States needs to be done to—

(A) understand the nature and extent of crimes against individuals with developmental disabilities;

(B) describe the manner in which the justice system responds to crimes against individuals with developmental disabilities; and

(C) identify programs, policies, or laws that hold promises for making the justice system more responsive to crimes against individuals with developmental disabilities; and

(5) the National Academy of Science Committee on Law and Justice of the National Research Council is a premier research institution with unique experience in developing seminal, multidisciplinary studies to establish a strong research base from which to make public policy.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase public awareness of the plight of victims of crime who are individuals with developmental disabilities;

(2) to collect data to measure the extent of the problem of crimes against individuals with developmental disabilities; and

(3) to develop a basis to find new strategies to address the safety and justice needs of victims of crime who are individuals with developmental disabilities.

**SEC. 3. DEFINITION OF DEVELOPMENTAL DISABILITY.**

In this Act, the term “developmental disability” has the meaning given the term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001).

**SEC. 4. STUDY.**

(a) IN GENERAL.—The Attorney General shall conduct a study to increase knowledge and information about crimes against individuals with developmental disabilities that will be useful in developing new strategies to reduce the incidence of crimes against those individuals.

(b) ISSUES ADDRESSED.—The study conducted under this section shall address such issues as—

(1) the nature and extent of crimes against individuals with developmental disabilities;

(2) the risk factors associated with victimization of individuals with developmental disabilities;

(3) the manner in which the justice system responds to crimes against individuals with developmental disabilities; and

(4) the means by which States may establish and maintain a centralized computer database on the incidence of crimes against individuals with disabilities within a State.

(c) NATIONAL ACADEMY OF SCIENCES.—In carrying out this section, the Attorney General shall consider contracting with the Committee on Law and Justice of the National Research Council of the National Academy of Sciences to provide research for the study conducted under this section.

Contracts.

(d) REPORT.—Not later than 18 months after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing the results of the study conducted under this section.

**SEC. 5. NATIONAL CRIME VICTIM'S SURVEY.**

Not later than 2 years after the date of enactment of this Act, as part of each National Crime Victim's Survey, the Attorney General shall include statistics relating to—

- (1) the nature of crimes against individuals with developmental disabilities; and
- (2) the specific characteristics of the victims of those crimes.

Approved October 27, 1998.

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**LEGISLATIVE HISTORY—S. 1976:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 13, considered and passed Senate.

Oct. 7, considered and passed House.



Public Law 105–302  
105th Congress

An Act

To amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968  
to encourage the use of school resource officers.

Oct. 27, 1998  
[S. 2235]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SCHOOL RESOURCE OFFICERS.**

Part Q of title I of the Omnibus Crime Control and Safe  
Streets Act of 1968 (42 U.S.C. 3796dd et seq.) is amended—

(1) in section 1701(d)—

42 USC 3796dd.

(A) by redesignating paragraphs (8) through (10) as  
paragraphs (9) through (11), respectively; and

(B) by inserting after paragraph (7) the following:

“(8) establish school-based partnerships between local law  
enforcement agencies and local school systems by using school  
resource officers who operate in and around elementary and  
secondary schools to combat school-related crime and disorder  
problems, gangs, and drug activities;” and

(2) in section 1709—

42 USC  
3796dd–8.

(A) by redesignating the first 3 undesignated para-  
graphs as paragraphs (1) through (3), respectively; and

(B) by adding at the end the following:

“(4) ‘school resource officer’ means a career law enforcement  
officer, with sworn authority, deployed in community-oriented  
policing, and assigned by the employing police department or  
agency to work in collaboration with schools and community-  
based organizations—

“(A) to address crime and disorder problems, gangs,  
and drug activities affecting or occurring in or around  
an elementary or secondary school;

“(B) to develop or expand crime prevention efforts for  
students;

“(C) to educate likely school-age victims in crime  
prevention and safety;

“(D) to develop or expand community justice initiatives  
for students;

“(E) to train students in conflict resolution, restorative  
justice, and crime awareness;

“(F) to assist in the identification of physical changes in the environment that may reduce crime in or around the school; and

“(G) to assist in developing school policy that addresses crime and to recommend procedural changes.”.

Approved October 27, 1998.

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LEGISLATIVE HISTORY—S. 2235:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 7, considered and passed Senate.

Oct. 9, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 27, Presidential statement.





Public Law 105–303  
105th Congress

An Act

To encourage the development of a commercial space industry in the United States,  
and for other purposes.

Oct. 28, 1998

[H.R. 1702]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Commercial  
Space Act of 1998”.

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

**TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES**

Sec. 101. Commercialization of Space Station.

Sec. 102. Commercial space launch amendments.

Sec. 103. Launch voucher demonstration program.

Sec. 104. Promotion of United States Global Positioning System standards.

Sec. 105. Acquisition of space science data.

Sec. 106. Administration of Commercial Space Centers.

Sec. 107. Sources of Earth science data.

**TITLE II—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES**

Sec. 201. Requirement to procure commercial space transportation services.

Sec. 202. Acquisition of commercial space transportation services.

Sec. 203. Launch Services Purchase Act of 1990 amendments.

Sec. 204. Shuttle privatization.

Sec. 205. Use of excess intercontinental ballistic missiles.

Sec. 206. National launch capability study.

**SEC. 2. DEFINITIONS.**

42 USC 14701.

For purposes of this Act—

(1) the term “Administrator” means the Administrator of  
the National Aeronautics and Space Administration;

(2) the term “commercial provider” means any person  
providing space transportation services or other space-related  
activities, primary control of which is held by persons other  
than Federal, State, local, and foreign governments;

(3) the term “payload” means anything that a person under-  
takes to transport to, from, or within outer space, or in sub-  
orbital trajectory, by means of a space transportation vehicle,  
but does not include the space transportation vehicle itself  
except for its components which are specifically designed or  
adapted for that payload;

(4) the term “space-related activities” includes research  
and development, manufacturing, processing, service, and other  
associated and support activities;

(5) the term “space transportation services” means the  
preparation of a space transportation vehicle and its payloads

Commercial  
Space Act of  
1998.

42 USC 14701  
note.

for transportation to, from, or within outer space, or in sub-orbital trajectory, and the conduct of transporting a payload to, from, or within outer space, or in suborbital trajectory;

(6) the term “space transportation vehicle” means any vehicle constructed for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory, and includes any component of such vehicle not specifically designed or adapted for a payload;

(7) the term “State” means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(8) the term “United States commercial provider” means a commercial provider, organized under the laws of the United States or of a State, which is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company’s subsidiary in the United States, as evidenced by—

(I) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(II) providing no barriers, to companies described in subparagraph (A) with respect to local investment opportunities, that are not provided to foreign companies in the United States; and

(III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).

## TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

### SEC. 101. COMMERCIALIZATION OF SPACE STATION.

42 USC 14711.

(a) **POLICY.**—The Congress declares that a priority goal of constructing the International Space Station is the economic development of Earth orbital space. The Congress further declares that free and competitive markets create the most efficient conditions for promoting economic development, and should therefore govern the economic development of Earth orbital space. The Congress further declares that the use of free market principles in operating, servicing, allocating the use of, and adding capabilities to the Space Station, and the resulting fullest possible engagement of commercial providers and participation of commercial users, will reduce Space Station operational costs for all partners and the Federal Government's share of the United States burden to fund operations.

(b) **REPORTS.**—(1) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 90 days after the date of the enactment of this Act, a study that identifies and examines—

(A) the opportunities for commercial providers to play a role in International Space Station activities, including operation, use, servicing, and augmentation;

(B) the potential cost savings to be derived from commercial providers playing a role in each of these activities;

(C) which of the opportunities described in subparagraph (A) the Administrator plans to make available to commercial providers in fiscal years 1999 and 2000;

(D) the specific policies and initiatives the Administrator is advancing to encourage and facilitate these commercial opportunities; and

(E) the revenues and cost reimbursements to the Federal Government from commercial users of the Space Station.

(2) The Administrator shall deliver to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, within 180 days after the date of the enactment of this Act, an independently conducted market study that examines and evaluates potential industry interest in providing commercial goods and services for the operation, servicing, and augmentation of the International Space Station, and in the commercial use of the International Space Station. This study shall also include updates to the cost savings and revenue estimates made in the study described in paragraph (1) based on the external market assessment.

(3) The Administrator shall deliver to the Congress, no later than the submission of the President's annual budget request for fiscal year 2000, a report detailing how many proposals (whether solicited or not) the National Aeronautics and Space Administration received during calendar years 1997 and 1998 regarding commercial operation, servicing, utilization, or augmentation of the International Space Station, broken down by each of these four categories, and specifying how many agreements the National Aeronautics and Space Administration has entered into in response to these proposals, also broken down by these four categories.

(4) Each of the studies and reports required by paragraphs (1), (2), and (3) shall include consideration of the potential role of State governments as brokers in promoting commercial participation in the International Space Station program.

**SEC. 102. COMMERCIAL SPACE LAUNCH AMENDMENTS.**

(a) AMENDMENTS.—Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

“70104. Restrictions on launches, operations, and reentries.”;

(B) by amending the item relating to section 70108 to read as follows:

“70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries.”;

(C) by amending the item relating to section 70109 to read as follows:

“70109. Preemption of scheduled launches or reentries.”;

and

(D) by adding at the end the following new items:

“70120. Regulations.

“70121. Report to Congress.”.

(2) in section 70101—

(A) by inserting “microgravity research,” after “information services,” in subsection (a)(3);

(B) by inserting “, reentry,” after “launching” both places it appears in subsection (a)(4);

(C) by inserting “, reentry vehicles,” after “launch vehicles” in subsection (a)(5);

(D) by inserting “and reentry services” after “launch services” in subsection (a)(6);

(E) by inserting “, reentries,” after “launches” both places it appears in subsection (a)(7);

(F) by inserting “, reentry sites,” after “launch sites” in subsection (a)(8);

(G) by inserting “and reentry services” after “launch services” in subsection (a)(8);

(H) by inserting “reentry sites,” after “launch sites,” in subsection (a)(9);

(I) by inserting “and reentry site” after “launch site” in subsection (a)(9);

(J) by inserting “, reentry vehicles,” after “launch vehicles” in subsection (b)(2);

(K) by striking “launch” in subsection (b)(2)(A);

(L) by inserting “and reentry” after “conduct of commercial launch” in subsection (b)(3);

(M) by striking “launch” after “and transfer commercial” in subsection (b)(3); and

(N) by inserting “and development of reentry sites,” after “launch-site support facilities,” in subsection (b)(4);

(3) in section 70102—

(A) in paragraph (3)—

(i) by striking “and any payload” and inserting in lieu thereof “or reentry vehicle and any payload from Earth”;

(ii) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a comma; and

(iii) by adding after subparagraph (C) the following:

“including activities involved in the preparation of a launch vehicle or payload for launch, when those activities take place at a launch site in the United States.”;

(B) by inserting “or reentry vehicle” after “means of a launch vehicle” in paragraph (8);

(C) by redesignating paragraphs (10), (11), and (12) as paragraphs (14), (15), and (16), respectively;

(D) by inserting after paragraph (9) the following new paragraphs:

“(10) ‘reenter’ and ‘reentry’ mean to return or attempt to return, purposefully, a reentry vehicle and its payload, if any, from Earth orbit or from outer space to Earth.

“(11) ‘reentry services’ means—

“(A) activities involved in the preparation of a reentry vehicle and its payload, if any, for reentry; and

“(B) the conduct of a reentry.

“(12) ‘reentry site’ means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the Secretary issues or transfers under this chapter).

“(13) ‘reentry vehicle’ means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from Earth orbit or outer space to Earth, substantially intact.”; and

(E) by inserting “or reentry services” after “launch services” each place it appears in paragraph (15), as so redesignated by subparagraph (C) of this paragraph;

(4) in section 70103(b)—

(A) by inserting “AND REENTRIES” after “LAUNCHES” in the subsection heading;

(B) by inserting “and reentries” after “commercial space launches” in paragraph (1); and

(C) by inserting “and reentry” after “space launch” in paragraph (2);

(5) in section 70104—

(A) by amending the section designation and heading to read as follows:

**“§ 70104. Restrictions on launches, operations, and reentries”;**

(B) by inserting “or reentry site, or to reenter a reentry vehicle,” after “operate a launch site” each place it appears in subsection (a);

(C) by inserting “or reentry” after “launch or operation” in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking “launch license” and inserting in lieu thereof “license”;

(ii) by inserting “or reenter” after “may launch”; and

(iii) by inserting “or reentering” after “related to launching”; and

(E) in subsection (c)—

(i)

by amending the subsection heading to read as follows:

“PREVENTING LAUNCHES AND REENTRIES.—”;

(ii) by inserting “or reentry” after “prevent the launch”; and

(iii) by inserting “or reentry” after “decides the launch”;

(6) in section 70105—

(A) by inserting “(1)” before “A person may apply” in subsection (a);

(B) by striking “receiving an application” both places it appears in subsection (a) and inserting in lieu thereof “accepting an application in accordance with criteria established pursuant to subsection (b)(2)(D)”;

(C) by adding at the end of subsection (a) the following: “The Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written notice not later than 30 days after any occurrence when a license is not issued within the deadline established by this subsection.

“(2) In carrying out paragraph (1), the Secretary may establish procedures for safety approvals of launch vehicles, reentry vehicles, safety systems, processes, services, or personnel that may be used in conducting licensed commercial space launch or reentry activities.”;

(D) by inserting “or a reentry site, or the reentry of a reentry vehicle,” after “operation of a launch site” in subsection (b)(1);

(E) by striking “or operation” and inserting in lieu thereof “, operation, or reentry” in subsection (b)(2)(A);

(F) by striking “and” at the end of subsection (b)(2)(B);

(G) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof “; and”;

(H) by adding at the end of subsection (b)(2) the following new subparagraph:

“(D) regulations establishing criteria for accepting or rejecting an application for a license under this chapter within 60 days after receipt of such application.”; and

(I) by inserting “, including the requirement to obtain a license,” after “waive a requirement” in subsection (b)(3);

(7) in section 70106(a)—

(A) by inserting “or reentry site” after “observer at a launch site”;

(B) by inserting “or reentry vehicle” after “assemble a launch vehicle”; and

(C) by inserting “or reentry vehicle” after “with a launch vehicle”;

(8) in section 70108—

(A) by amending the section designation and heading to read as follows:

Notice.  
Deadline.

**“§ 70108. Prohibition, suspension, and end of launches, operation of launch sites and reentry sites, and reentries”;**

and

(B) in subsection (a)—

(i) by inserting “or reentry site, or reentry of a reentry vehicle,” after “operation of a launch site”; and

(ii) by inserting “or reentry” after “launch or operation”;

(9) in section 70109—

(A) by amending the section designation and heading to read as follows:

**“§ 70109. Preemption of scheduled launches or reentries”;**

(B) in subsection (a)—

(i) by inserting “or reentry” after “ensure that a launch”;

(ii) by inserting “, reentry site,” after “United States Government launch site”;

(iii) by inserting “or reentry date commitment” after “launch date commitment”;

(iv) by inserting “or reentry” after “obtained for a launch”;

(v) by inserting “, reentry site,” after “access to a launch site”;

(vi) by inserting “, or services related to a reentry,” after “amount for launch services”; and

(vii) by inserting “or reentry” after “the scheduled launch”; and

(C) in subsection (c), by inserting “or reentry” after “prompt launching”;

(10) in section 70110—

(A) by inserting “or reentry” after “prevent the launch” in subsection (a)(2); and

(B) by inserting “or reentry site, or reentry of a reentry vehicle,” after “operation of a launch site” in subsection (a)(3)(B);

(11) in section 70111—

(A) by inserting “or reentry” after “launch” in subsection (a)(1)(A);

(B) by inserting “and reentry services” after “launch services” in subsection (a)(1)(B);

(C) by inserting “or reentry services” after “or launch services” in subsection (a)(2);

(D) by striking “source.” in subsection (a)(2) and inserting “source, whether such source is located on or off a Federal range.”;

(E) by inserting “or reentry” after “commercial launch” both places it appears in subsection (b)(1);

(F) by inserting “or reentry services” after “launch services” in subsection (b)(2)(C);

(G) by inserting after subsection (b)(2) the following new paragraph:

“(3) The Secretary shall ensure the establishment of uniform guidelines for, and consistent implementation of, this section by all Federal agencies.”;

(H) by striking “or its payload for launch” in subsection (d) and inserting in lieu thereof “or reentry vehicle, or the payload of either, for launch or reentry”; and

(I) by inserting “, reentry vehicle,” after “manufacturer of the launch vehicle” in subsection (d);

(12) in section 70112—

(A) in subsection (a)(1), by inserting “launch or reentry” after “(1) When a”;

(B) by inserting “or reentry” after “one launch” in subsection (a)(3);

(C) by inserting “or reentry services” after “launch services” in subsection (a)(4);

(D) in subsection (b)(1), by inserting “launch or reentry” after “(1) A”;

(E) by inserting “or reentry services” after “launch services” each place it appears in subsection (b);

(F) by inserting “applicable” after “carried out under the” in paragraphs (1) and (2) of subsection (b);

(G) by inserting “OR REENTRIES” after “LAUNCHES” in the heading for subsection (e);

(H) by inserting “or reentry site or a reentry” after “launch site” in subsection (e); and

(I) in subsection (f), by inserting “launch or reentry” after “carried out under a”;

(13) in section 70113(a)(1) and (d)(1) and (2), by inserting “or reentry” after “one launch” each place it appears;

(14) in section 70115(b)(1)(D)(i)—

(A) by inserting “reentry site,” after “launch site,”; and

(B) by inserting “or reentry vehicle” after “launch vehicle” both places it appears;

(15) in section 70117—

(A) by inserting “or reentry site, or to reenter a reentry vehicle” after “operate a launch site” in subsection (a);

(B) by inserting “or reentry” after “approval of a space launch” in subsection (d);

(C) by amending subsection (f) to read as follows:

“(f) LAUNCH NOT AN EXPORT; REENTRY NOT AN IMPORT.—A launch vehicle, reentry vehicle, or payload that is launched or reentered is not, because of the launch or reentry, an export or import, respectively, for purposes of a law controlling exports or imports, except that payloads launched pursuant to foreign trade zone procedures as provided for under the Foreign Trade Zones Act (19 U.S.C. 81a–81u) shall be considered exports with regard to customs entry.”; and

(D) in subsection (g)—

(i) by striking “operation of a launch vehicle or launch site,” in paragraph (1) and inserting in lieu thereof “reentry, operation of a launch vehicle or reentry vehicle, operation of a launch site or reentry site,”; and

(ii) by inserting “reentry,” after “launch,” in paragraph (2); and

(16) by adding at the end the following new sections:



**“§ 70120. Regulations**

“(a) IN GENERAL.—The Secretary of Transportation, within 9 months after the date of the enactment of this section, shall issue regulations to carry out this chapter that include— Deadline.

“(1) guidelines for industry and State governments to obtain sufficient insurance coverage for potential damages to third parties;

“(2) procedures for requesting and obtaining licenses to launch a commercial launch vehicle;

“(3) procedures for requesting and obtaining operator licenses for launch;

“(4) procedures for requesting and obtaining launch site operator licenses; and

“(5) procedures for the application of government indemnification.

“(b) REENTRY.—The Secretary of Transportation, within 6 months after the date of the enactment of this section, shall issue a notice of proposed rulemaking to carry out this chapter that includes—

“(1) procedures for requesting and obtaining licenses to reenter a reentry vehicle;

“(2) procedures for requesting and obtaining operator licenses for reentry; and

“(3) procedures for requesting and obtaining reentry site operator licenses.

**“§ 70121. Report to Congress**

“The Secretary of Transportation shall submit to Congress an annual report to accompany the President’s budget request that—

“(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

“(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 70119 of title 49, United States Code, is amended to read as follows:

**“§ 70119. Authorization of appropriations**

“There are authorized to be appropriated to the Secretary of Transportation for the activities of the Office of the Associate Administrator for Commercial Space Transportation—

“(1) \$6,275,000 for the fiscal year ending September 30, 1999; and

“(2) \$6,600,000 for the fiscal year ending September 30, 2000.”.

(c) EFFECTIVE DATE.—The amendments made by subsection (a)(6)(B) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by subsection (a)(6)(H).

49 USC 70105  
note.

**SEC. 103. LAUNCH VOUCHER DEMONSTRATION PROGRAM.**

Section 504 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (15 U.S.C. 5803) is amended—

- (1) in subsection (a)—
  - (A) by striking “the Office of Commercial Programs within”; and
  - (B) by striking “Such program shall not be effective after September 30, 1995.”;
- (2) by striking subsection (c); and
- (3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

42 USC 14712.

**SEC. 104. PROMOTION OF UNITED STATES GLOBAL POSITIONING SYSTEM STANDARDS.**

(a) **FINDING.**—The Congress finds that the Global Positioning System, including satellites, signal equipment, ground stations, data links, and associated command and control facilities, has become an essential element in civil, scientific, and military space development because of the emergence of a United States commercial industry which provides Global Positioning System equipment and related services.

(b) **INTERNATIONAL COOPERATION.**—In order to support and sustain the Global Positioning System in a manner that will most effectively contribute to the national security, public safety, scientific, and economic interests of the United States, the Congress encourages the President to—

(1) ensure the operation of the Global Positioning System on a continuous worldwide basis free of direct user fees;

(2) enter into international agreements that promote cooperation with foreign governments and international organizations to—

(A) establish the Global Positioning System and its augmentations as an acceptable international standard; and

(B) eliminate any foreign barriers to applications of the Global Positioning System worldwide; and

(3) provide clear direction and adequate resources to the Assistant Secretary of Commerce for Communications and Information so that on an international basis the Assistant Secretary can—

(A) achieve and sustain efficient management of the electromagnetic spectrum used by the Global Positioning System; and

(B) protect that spectrum from disruption and interference.

42 USC 14713.

**SEC. 105. ACQUISITION OF SPACE SCIENCE DATA.**

(a) **ACQUISITION FROM COMMERCIAL PROVIDERS.**—The Administrator shall, to the extent possible and while satisfying the scientific or educational requirements of the National Aeronautics and Space Administration, and where appropriate, of other Federal agencies and scientific researchers, acquire, where cost effective, space science data from a commercial provider.

(b) **TREATMENT OF SPACE SCIENCE DATA AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.**—Acquisitions of space science data by the Administrator shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code). For purposes of such law and regulations, space science data shall be considered to be a commercial item. Nothing in this subsection shall be construed to preclude

the United States from acquiring, through contracts with commercial providers, sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) **DEFINITION.**—For purposes of this section, the term “space science data” includes scientific data concerning—

- (1) the elemental and mineralogical resources of the moon, asteroids, planets and their moons, and comets;
- (2) microgravity acceleration; and
- (3) solar storm monitoring.

(d) **SAFETY STANDARDS.**—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) **LIMITATION.**—This section does not authorize the National Aeronautics and Space Administration to provide financial assistance for the development of commercial systems for the collection of space science data.

**SEC. 106. ADMINISTRATION OF COMMERCIAL SPACE CENTERS.**

42 USC 14714.

The Administrator shall administer the Commercial Space Center program in a coordinated manner from National Aeronautics and Space Administration headquarters in Washington, D.C.

**SEC. 107. SOURCES OF EARTH SCIENCE DATA.**

42 USC 14715.

(a) **ACQUISITION.**—The Administrator shall, to the extent possible and while satisfying the scientific or educational requirements of the National Aeronautics and Space Administration, and where appropriate, of other Federal agencies and scientific researchers, acquire, where cost-effective, space-based and airborne Earth remote sensing data, services, distribution, and applications from a commercial provider.

(b) **TREATMENT AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.**—Acquisitions by the Administrator of the data, services, distribution, and applications referred to in subsection (a) shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code). For purposes of such law and regulations, such data, services, distribution, and applications shall be considered to be a commercial item. Nothing in this subsection shall be construed to preclude the United States from acquiring, through contracts with commercial providers, sufficient rights in data to meet the needs of the scientific and educational community or the needs of other government activities.

(c) **STUDY.**—(1) The Administrator shall conduct a study to determine the extent to which the baseline scientific requirements of Earth Science can be met by commercial providers, and how the National Aeronautics and Space Administration will meet such requirements which cannot be met by commercial providers.

(2) The study conducted under this subsection shall—

(A) make recommendations to promote the availability of information from the National Aeronautics and Space Administration to commercial providers to enable commercial providers to better meet the baseline scientific requirements of Earth Science;

(B) make recommendations to promote the dissemination to commercial providers of information on advanced technology research and development performed by or for the National Aeronautics and Space Administration; and

(C) identify policy, regulatory, and legislative barriers to the implementation of the recommendations made under this subsection.

(3) The results of the study conducted under this subsection shall be transmitted to the Congress within 6 months after the date of the enactment of this Act.

(d) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

(e) ADMINISTRATION AND EXECUTION.—This section shall be carried out as part of the Commercial Remote Sensing Program at the Stennis Space Center.

(f) REMOTE SENSING.—

(1) APPLICATION CONTENTS.—Section 201(b) of the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5621(b)) is amended—

(A) by inserting “(1)” after “NATIONAL SECURITY.—”;

and

(B) by adding at the end the following new paragraph:

“(2) The Secretary, within 6 months after the date of the enactment of the Commercial Space Act of 1998, shall publish in the Federal Register a complete and specific list of all information required to comprise a complete application for a license under this title. An application shall be considered complete when the applicant has provided all information required by the list most recently published in the Federal Register before the date the application was first submitted. Unless the Secretary has, within 30 days after receipt of an application, notified the applicant of information necessary to complete an application, the Secretary may not deny the application on the basis of the absence of any such information.”.

(2) NOTIFICATION OF AGREEMENTS.—Section 202(b)(6) of the Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5622(b)(6)) is amended by inserting “significant or substantial” after “Secretary of any”.

Federal Register,  
publication.

## TITLE II—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

42 USC 14731.

### SEC. 201. REQUIREMENT TO PROCURE COMMERCIAL SPACE TRANSPORTATION SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the Federal Government shall acquire space transportation services from United States commercial providers whenever such services are required in the course of its activities. To the maximum extent practicable, the Federal Government shall plan missions to accommodate the space transportation services capabilities of United States commercial providers.

(b) EXCEPTIONS.—The Federal Government shall not be required to acquire space transportation services under subsection (a) if, on a case-by-case basis, the Administrator or, in the case of a national security issue, the Secretary of the Air Force, determines that—

(1) a payload requires the unique capabilities of the Space Shuttle;

(2) cost effective space transportation services that meet specific mission requirements would not be reasonably available from United States commercial providers when required;

(3) the use of space transportation services from United States commercial providers poses an unacceptable risk of loss of a unique scientific opportunity;

(4) the use of space transportation services from United States commercial providers is inconsistent with national security objectives;

(5) the use of space transportation services from United States commercial providers is inconsistent with international agreements for international collaborative efforts relating to science and technology;

(6) it is more cost effective to transport a payload in conjunction with a test or demonstration of a space transportation vehicle owned by the Federal Government; or

(7) a payload can make use of the available cargo space on a Space Shuttle mission as a secondary payload, and such payload is consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

Nothing in this section shall prevent the Administrator from planning or negotiating agreements with foreign entities for the launch of Federal Government payloads for international collaborative efforts relating to science and technology.

(c) DELAYED EFFECT.—Subsection (a) shall not apply to space transportation services and space transportation vehicles acquired or owned by the Federal Government before the date of the enactment of this Act, or with respect to which a contract for such acquisition or ownership has been entered into before such date.

(d) HISTORICAL PURPOSES.—This section shall not be construed to prohibit the Federal Government from acquiring, owning, or maintaining space transportation vehicles solely for historical display purposes.

**SEC. 202. ACQUISITION OF COMMERCIAL SPACE TRANSPORTATION SERVICES.** 42 USC 14732.

(a) TREATMENT OF COMMERCIAL SPACE TRANSPORTATION SERVICES AS COMMERCIAL ITEM UNDER ACQUISITION LAWS.—Acquisitions of space transportation services by the Federal Government shall be carried out in accordance with applicable acquisition laws and regulations (including chapters 137 and 140 of title 10, United States Code). For purposes of such law and regulations, space transportation services shall be considered to be a commercial item.

(b) SAFETY STANDARDS.—Nothing in this section shall be construed to prohibit the Federal Government from requiring compliance with applicable safety standards.

**SEC. 203. LAUNCH SERVICES PURCHASE ACT OF 1990 AMENDMENTS.**

The Launch Services Purchase Act of 1990 (42 U.S.C. 2465b et seq.) is amended—

(1) by striking section 202;

42 USC 2465b.

(2) in section 203—

42 USC 2465c.

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively;

(3) by striking sections 204 and 205; and

42 USC 2465d,  
2465e.

(4) in section 206—

42 USC 2465f.

- (A) by striking “(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—”; and  
(B) by striking subsection (b).

42 USC 14733.

**SEC. 204. SHUTTLE PRIVATIZATION.**

(a) **POLICY AND PREPARATION.**—The Administrator shall prepare for an orderly transition from the Federal operation, or Federal management of contracted operation, of space transportation systems to the Federal purchase of commercial space transportation services for all nonemergency space transportation requirements for transportation to and from Earth orbit, including human, cargo, and mixed payloads. In those preparations, the Administrator shall take into account the need for short-term economies, as well as the goal of restoring the National Aeronautics and Space Administration's research focus and its mandate to promote the fullest possible commercial use of space. As part of those preparations, the Administrator shall plan for the potential privatization of the Space Shuttle program. Such plan shall keep safety and cost effectiveness as high priorities. Nothing in this section shall prohibit the National Aeronautics and Space Administration from studying, designing, developing, or funding upgrades or modifications essential to the safe and economical operation of the Space Shuttle fleet.

(b) **FEASIBILITY STUDY.**—The Administrator shall conduct a study of the feasibility of implementing the recommendation of the Independent Shuttle Management Review Team that the National Aeronautics and Space Administration transition toward the privatization of the Space Shuttle. The study shall identify, discuss, and, where possible, present options for resolving, the major policy and legal issues that must be addressed before the Space Shuttle is privatized, including—

(1) whether the Federal Government or the Space Shuttle contractor should own the Space Shuttle orbiters and ground facilities;

(2) whether the Federal Government should indemnify the contractor for any third party liability arising from Space Shuttle operations, and, if so, under what terms and conditions;

(3) whether payloads other than National Aeronautics and Space Administration payloads should be allowed to be launched on the Space Shuttle, how missions will be prioritized, and who will decide which mission flies and when;

(4) whether commercial payloads should be allowed to be launched on the Space Shuttle and whether any classes of payloads should be made ineligible for launch consideration;

(5) whether National Aeronautics and Space Administration and other Federal Government payloads should have priority over non-Federal payloads in the Space Shuttle launch assignments, and what policies should be developed to prioritize among payloads generally;

(6) whether the public interest requires that certain Space Shuttle functions continue to be performed by the Federal Government; and

(7) how much cost savings, if any, will be generated by privatization of the Space Shuttle.

(c) **REPORT TO CONGRESS.**—Within 60 days after the date of the enactment of this Act, the National Aeronautics and Space Administration shall complete the study required under subsection

(b) and shall submit a report on the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

**SEC. 205. USE OF EXCESS INTERCONTINENTAL BALLISTIC MISSILES.** 42 USC 14734.

(a) **IN GENERAL.**—The Federal Government shall not—

(1) convert any missile described in subsection (c) to a space transportation vehicle configuration; or

(2) transfer ownership of any such missile to another person, except as provided in subsection (b).

(b) **AUTHORIZED FEDERAL USES.**—(1) A missile described in subsection (c) may be converted for use as a space transportation vehicle by the Federal Government if, except as provided in paragraph (2) and at least 30 days before such conversion, the agency seeking to use the missile as a space transportation vehicle transmits to the Committee on National Security and the Committee on Science of the House of Representatives, and to the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate, a certification that the use of such missile—

(A) would result in cost savings to the Federal Government when compared to the cost of acquiring space transportation services from United States commercial providers;

(B) meets all mission requirements of the agency, including performance, schedule, and risk requirements;

(C) is consistent with international obligations of the United States; and

(D) is approved by the Secretary of Defense or his designee.

(2) The requirement under paragraph (1) that the certification described in that paragraph must be transmitted at least 30 days before conversion of the missile shall not apply if the Secretary of Defense determines that compliance with that requirement would be inconsistent with meeting immediate national security requirements.

(c) **MISSILES REFERRED TO.**—The missiles referred to in this section are missiles owned by the United States that—

(1) were formerly used by the Department of Defense for national defense purposes as intercontinental ballistic missiles; and

(2) have been declared excess to United States national defense needs and are in compliance with international obligations of the United States.

**SEC. 206. NATIONAL LAUNCH CAPABILITY STUDY.**

42 USC 14735.

(a) **FINDINGS.**—Congress finds that a robust satellite and launch industry in the United States serves the interest of the United States by—

(1) contributing to the economy of the United States;

(2) strengthening employment, technological, and scientific interests of the United States; and

(3) serving the foreign policy and national security interests of the United States.

(b) **DEFINITIONS.**—In this section:

(1) **SECRETARY.**—The term “Secretary” means the Secretary of Defense.

(2) **TOTAL POTENTIAL NATIONAL MISSION MODEL.**—The term “total potential national mission model” means a model that—

(A) is determined by the Secretary, in consultation with the Administrator, to assess the total potential space missions to be conducted in the United States during a specified period of time; and

(B) includes all launches in the United States (including launches conducted on or off a Federal range).

(c) REPORT.—

Deadline.

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall, in consultation with the Administrator and appropriate representatives of the satellite and launch industry and the governments of States and political subdivisions thereof—

(A) prepare a report that meets the requirements of this subsection; and

(B) submit that report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(2) REQUIREMENTS FOR REPORT.—The report prepared under this subsection shall—

(A) identify the total potential national mission model for the period beginning on the date of the report and ending on December 31, 2007;

(B) identify the resources that are necessary or available to carry out the total potential national mission model described in subparagraph (A), including—

(i) launch property and services of the Department of Defense, the National Aeronautics and Space Administration, and non-Federal facilities; and

(ii) the ability to support commercial launch-on-demand on short notification, taking into account Federal requirements, at launch sites or test ranges in the United States;

(C) identify each deficiency in the resources referred to in subparagraph (B); and

(D) with respect to the deficiencies identified under subparagraph (C), include estimates of the level of funding necessary to address those deficiencies for the period described in subparagraph (A).

(d) RECOMMENDATIONS.—Based on the reports under subsection (c), the Secretary, after consultation with the Secretary of Transportation, the Secretary of Commerce, and representatives from interested private sector entities, States, and local governments, shall—

(1) identify opportunities for investment by non-Federal entities (including States and political subdivisions thereof and private sector entities) to assist the Federal Government in providing launch capabilities for the commercial space industry in the United States;

(2) identify one or more methods by which, if sufficient resources referred to in subsection (c)(2)(D) are not available to the Department of Defense and the National Aeronautics and Space Administration, the control of the launch property and launch services of the Department of Defense and the National Aeronautics and Space Administration may be transferred from the Department of Defense and the National Aeronautics and Space Administration to—

(A) one or more other Federal agencies;



- (B) one or more States (or subdivisions thereof);
  - (C) one or more private sector entities; or
  - (D) any combination of the entities described in subparagraphs (A) through (C); and
- (3) identify the technical, structural, and legal impediments associated with making launch sites or test ranges in the United States viable and competitive.

Approved October 28, 1998.

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LEGISLATIVE HISTORY—H.R. 1702:

HOUSE REPORTS: No. 105–347 (Comm. on Science).

SENATE REPORTS: No. 105–198 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Nov. 4, considered and passed House.

Vol. 144 (1998): July 30, considered and passed Senate, amended.

Oct. 5, House concurred in Senate amendment with an amendment.

Oct. 8, Senate concurred in House amendment.



Public Law 105–304  
105th Congress

An Act

Oct. 28, 1998  
[H.R. 2281]

To amend title 17, United States Code, to implement the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, and for other purposes.

Digital  
Millennium  
Copyright Act.  
17 USC 101 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Digital Millennium Copyright Act”.

**SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.  
Sec. 2. Table of contents.

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Sec. 101. Short title.  
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**TITLE II—ONLINE COPYRIGHT INFRINGEMENT LIABILITY LIMITATION**

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**TITLE III—COMPUTER MAINTENANCE OR REPAIR COPYRIGHT EXEMPTION**

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Sec. 302. Limitations on exclusive rights; computer programs.

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## TITLE I—WIPO TREATIES IMPLEMENTATION

WIPO Copyright  
and  
Performances  
and Phonograms  
Treaties  
Implementation  
Act of 1998.  
17 USC 101 note.

### SEC. 101. SHORT TITLE.

This title may be cited as the “WIPO Copyright and Performances and Phonograms Treaties Implementation Act of 1998”.

### SEC. 102. TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 101 of title 17, United States Code, is amended—

(1) by striking the definition of “Berne Convention work”;

(2) in the definition of “The ‘country of origin’ of a Berne Convention work”—

(A) by striking “The ‘country of origin’ of a Berne Convention work, for purposes of section 411, is the United States if” and inserting “For purposes of section 411, a work is a ‘United States work’ only if”;

(B) in paragraph (1)—

(i) in subparagraph (B) by striking “nation or nations adhering to the Berne Convention” and inserting “treaty party or parties”;

(ii) in subparagraph (C) by striking “does not adhere to the Berne Convention” and inserting “is not a treaty party”; and

(iii) in subparagraph (D) by striking “does not adhere to the Berne Convention” and inserting “is not a treaty party”; and

(C) in the matter following paragraph (3) by striking “For the purposes of section 411, the ‘country of origin’ of any other Berne Convention work is not the United States.”;

(3) by inserting after the definition of “fixed” the following: “The ‘Geneva Phonograms Convention’ is the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, concluded at Geneva, Switzerland, on October 29, 1971.”;

(4) by inserting after the definition of “including” the following:

“An ‘international agreement’ is—

“(1) the Universal Copyright Convention;

“(2) the Geneva Phonograms Convention;

“(3) the Berne Convention;

“(4) the WTO Agreement;

“(5) the WIPO Copyright Treaty;

“(6) the WIPO Performances and Phonograms Treaty;

and

“(7) any other copyright treaty to which the United States is a party.”;

(5) by inserting after the definition of “transmit” the following:

“A ‘treaty party’ is a country or intergovernmental organization other than the United States that is a party to an international agreement.”;

(6) by inserting after the definition of “widow” the following:

“The ‘WIPO Copyright Treaty’ is the WIPO Copyright Treaty concluded at Geneva, Switzerland, on December 20, 1996.”;

(7) by inserting after the definition of “The ‘WIPO Copyright Treaty’” the following:

“The ‘WIPO Performances and Phonograms Treaty’ is the WIPO Performances and Phonograms Treaty concluded at Geneva, Switzerland, on December 20, 1996.”; and

(8) by inserting after the definition of “work made for hire” the following:

“The terms ‘WTO Agreement’ and ‘WTO member country’ have the meanings given those terms in paragraphs (9) and (10), respectively, of section 2 of the Uruguay Round Agreements Act.”.

(b) SUBJECT MATTER OF COPYRIGHT; NATIONAL ORIGIN.—Section 104 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking “foreign nation that is a party to a copyright treaty to which the United States is also a party” and inserting “treaty party”;

(B) in paragraph (2) by striking “party to the Universal Copyright Convention” and inserting “treaty party”;

(C) by redesignating paragraph (5) as paragraph (6);

(D) by redesignating paragraph (3) as paragraph (5) and inserting it after paragraph (4);

(E) by inserting after paragraph (2) the following:

“(3) the work is a sound recording that was first fixed in a treaty party; or”;

(F) in paragraph (4) by striking “Berne Convention work” and inserting “pictorial, graphic, or sculptural work that is incorporated in a building or other structure, or an architectural work that is embodied in a building and the building or structure is located in the United States or a treaty party”; and

(G) by inserting after paragraph (6), as so redesignated, the following:

“For purposes of paragraph (2), a work that is published in the United States or a treaty party within 30 days after publication in a foreign nation that is not a treaty party shall be considered to be first published in the United States or such treaty party, as the case may be.”; and

(2) by adding at the end the following new subsection:

“(d) EFFECT OF PHONOGRAMS TREATIES.—Notwithstanding the provisions of subsection (b), no works other than sound recordings shall be eligible for protection under this title solely by virtue of the adherence of the United States to the Geneva Phonograms Convention or the WIPO Performances and Phonograms Treaty.”.

(c) COPYRIGHT IN RESTORED WORKS.—Section 104A(h) of title 17, United States Code, is amended—

(1) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

“(A) a nation adhering to the Berne Convention;

“(B) a WTO member country;

“(C) a nation adhering to the WIPO Copyright Treaty;

“(D) a nation adhering to the WIPO Performances and Phonograms Treaty; or

“(E) subject to a Presidential proclamation under subsection (g).”;

(2) by amending paragraph (3) to read as follows:

“(3) The term ‘eligible country’ means a nation, other than the United States, that—

“(A) becomes a WTO member country after the date of the enactment of the Uruguay Round Agreements Act;

“(B) on such date of enactment is, or after such date of enactment becomes, a nation adhering to the Berne Convention;

“(C) adheres to the WIPO Copyright Treaty;

“(D) adheres to the WIPO Performances and Phonograms Treaty; or

“(E) after such date of enactment becomes subject to a proclamation under subsection (g).”;

(3) in paragraph (6)—

(A) in subparagraph (C)(iii) by striking “and” after the semicolon;

(B) at the end of subparagraph (D) by striking the period and inserting “; and”; and

(C) by adding after subparagraph (D) the following:

“(E) if the source country for the work is an eligible country solely by virtue of its adherence to the WIPO Performances and Phonograms Treaty, is a sound recording.”;

(4) in paragraph (8)(B)(i)—

(A) by inserting “of which” before “the majority”; and

(B) by striking “of eligible countries”; and

(5) by striking paragraph (9).

(d) **REGISTRATION AND INFRINGEMENT ACTIONS.**—Section 411(a) of title 17, United States Code, is amended in the first sentence—

(1) by striking “actions for infringement of copyright in Berne Convention works whose country of origin is not the United States and”; and

(2) by inserting “United States” after “no action for infringement of the copyright in any”.

(e) **STATUTE OF LIMITATIONS.**—Section 507(a) of title 17, United States Code, is amended by striking “No” and inserting “Except as expressly provided otherwise in this title, no”.

### **SEC. 103. COPYRIGHT PROTECTION SYSTEMS AND COPYRIGHT MANAGEMENT INFORMATION.**

(a) **IN GENERAL.**—Title 17, United States Code, is amended by adding at the end the following new chapter:

## **“CHAPTER 12—COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS**

“Sec.

“1201. Circumvention of copyright protection systems.

“1202. Integrity of copyright management information.

“1203. Civil remedies.

“1204. Criminal offenses and penalties.

“1205. Savings clause.

### **“§ 1201. Circumvention of copyright protection systems**

“(a) **VIOLATIONS REGARDING CIRCUMVENTION OF TECHNOLOGICAL MEASURES.**—(1)(A) No person shall circumvent a technological measure that effectively controls access to a work protected

Effective date.	<p>under this title. The prohibition contained in the preceding sentence shall take effect at the end of the 2-year period beginning on the date of the enactment of this chapter.</p> <p>“(B) The prohibition contained in subparagraph (A) shall not apply to persons who are users of a copyrighted work which is in a particular class of works, if such persons are, or are likely to be in the succeeding 3-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works under this title, as determined under subparagraph (C).</p>
Reports. Regulations.	<p>“(C) During the 2-year period described in subparagraph (A), and during each succeeding 3-year period, the Librarian of Congress, upon the recommendation of the Register of Copyrights, who shall consult with the Assistant Secretary for Communications and Information of the Department of Commerce and report and comment on his or her views in making such recommendation, shall make the determination in a rulemaking proceeding on the record for purposes of subparagraph (B) of whether persons who are users of a copyrighted work are, or are likely to be in the succeeding 3-year period, adversely affected by the prohibition under subparagraph (A) in their ability to make noninfringing uses under this title of a particular class of copyrighted works. In conducting such rulemaking, the Librarian shall examine—</p> <ul style="list-style-type: none"> <li>“(i) the availability for use of copyrighted works;</li> <li>“(ii) the availability for use of works for nonprofit archival, preservation, and educational purposes;</li> <li>“(iii) the impact that the prohibition on the circumvention of technological measures applied to copyrighted works has on criticism, comment, news reporting, teaching, scholarship, or research;</li> <li>“(iv) the effect of circumvention of technological measures on the market for or value of copyrighted works; and</li> <li>“(v) such other factors as the Librarian considers appropriate.</li> </ul>
Publication.	<p>“(D) The Librarian shall publish any class of copyrighted works for which the Librarian has determined, pursuant to the rulemaking conducted under subparagraph (C), that noninfringing uses by persons who are users of a copyrighted work are, or are likely to be, adversely affected, and the prohibition contained in subparagraph (A) shall not apply to such users with respect to such class of works for the ensuing 3-year period.</p> <p>“(E) Neither the exception under subparagraph (B) from the applicability of the prohibition contained in subparagraph (A), nor any determination made in a rulemaking conducted under subparagraph (C), may be used as a defense in any action to enforce any provision of this title other than this paragraph.</p> <p>“(2) No person shall manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof, that—</p> <ul style="list-style-type: none"> <li>“(A) is primarily designed or produced for the purpose of circumventing a technological measure that effectively controls access to a work protected under this title;</li> <li>“(B) has only limited commercially significant purpose or use other than to circumvent a technological measure that effectively controls access to a work protected under this title;</li> </ul> <p>or</p>

“(C) is marketed by that person or another acting in concert with that person with that person’s knowledge for use in circumventing a technological measure that effectively controls access to a work protected under this title.

“(3) As used in this subsection—

“(A) to ‘circumvent a technological measure’ means to descramble a scrambled work, to decrypt an encrypted work, or otherwise to avoid, bypass, remove, deactivate, or impair a technological measure, without the authority of the copyright owner; and

“(B) a technological measure ‘effectively controls access to a work’ if the measure, in the ordinary course of its operation, requires the application of information, or a process or a treatment, with the authority of the copyright owner, to gain access to the work.

“(b) ADDITIONAL VIOLATIONS.—(1) No person shall manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof, that—

“(A) is primarily designed or produced for the purpose of circumventing protection afforded by a technological measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof;

“(B) has only limited commercially significant purpose or use other than to circumvent protection afforded by a technological measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof; or

“(C) is marketed by that person or another acting in concert with that person with that person’s knowledge for use in circumventing protection afforded by a technological measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof.

“(2) As used in this subsection—

“(A) to ‘circumvent protection afforded by a technological measure’ means avoiding, bypassing, removing, deactivating, or otherwise impairing a technological measure; and

“(B) a technological measure ‘effectively protects a right of a copyright owner under this title’ if the measure, in the ordinary course of its operation, prevents, restricts, or otherwise limits the exercise of a right of a copyright owner under this title.

“(c) OTHER RIGHTS, ETC., NOT AFFECTED.—(1) Nothing in this section shall affect rights, remedies, limitations, or defenses to copyright infringement, including fair use, under this title.

“(2) Nothing in this section shall enlarge or diminish vicarious or contributory liability for copyright infringement in connection with any technology, product, service, device, component, or part thereof.

“(3) Nothing in this section shall require that the design of, or design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to any particular technological measure, so long as such part or component, or the product in which such part or component is integrated, does not otherwise fall within the prohibitions of subsection (a)(2) or (b)(1).

“(4) Nothing in this section shall enlarge or diminish any rights of free speech or the press for activities using consumer electronics, telecommunications, or computing products.

“(d) EXEMPTION FOR NONPROFIT LIBRARIES, ARCHIVES, AND EDUCATIONAL INSTITUTIONS.—(1) A nonprofit library, archives, or educational institution which gains access to a commercially exploited copyrighted work solely in order to make a good faith determination of whether to acquire a copy of that work for the sole purpose of engaging in conduct permitted under this title shall not be in violation of subsection (a)(1)(A). A copy of a work to which access has been gained under this paragraph—

“(A) may not be retained longer than necessary to make such good faith determination; and

“(B) may not be used for any other purpose.

“(2) The exemption made available under paragraph (1) shall only apply with respect to a work when an identical copy of that work is not reasonably available in another form.

“(3) A nonprofit library, archives, or educational institution that willfully for the purpose of commercial advantage or financial gain violates paragraph (1)—

“(A) shall, for the first offense, be subject to the civil remedies under section 1203; and

“(B) shall, for repeated or subsequent offenses, in addition to the civil remedies under section 1203, forfeit the exemption provided under paragraph (1).

“(4) This subsection may not be used as a defense to a claim under subsection (a)(2) or (b), nor may this subsection permit a nonprofit library, archives, or educational institution to manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, component, or part thereof, which circumvents a technological measure.

“(5) In order for a library or archives to qualify for the exemption under this subsection, the collections of that library or archives shall be—

“(A) open to the public; or

“(B) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field.

“(e) LAW ENFORCEMENT, INTELLIGENCE, AND OTHER GOVERNMENT ACTIVITIES.—This section does not prohibit any lawfully authorized investigative, protective, information security, or intelligence activity of an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting pursuant to a contract with the United States, a State, or a political subdivision of a State. For purposes of this subsection, the term ‘information security’ means activities carried out in order to identify and address the vulnerabilities of a government computer, computer system, or computer network.

“(f) REVERSE ENGINEERING.—(1) Notwithstanding the provisions of subsection (a)(1)(A), a person who has lawfully obtained the right to use a copy of a computer program may circumvent a technological measure that effectively controls access to a particular portion of that program for the sole purpose of identifying and analyzing those elements of the program that are necessary to achieve interoperability of an independently created computer program with other programs, and that have not previously been



readily available to the person engaging in the circumvention, to the extent any such acts of identification and analysis do not constitute infringement under this title.

“(2) Notwithstanding the provisions of subsections (a)(2) and (b), a person may develop and employ technological means to circumvent a technological measure, or to circumvent protection afforded by a technological measure, in order to enable the identification and analysis under paragraph (1), or for the purpose of enabling interoperability of an independently created computer program with other programs, if such means are necessary to achieve such interoperability, to the extent that doing so does not constitute infringement under this title.

“(3) The information acquired through the acts permitted under paragraph (1), and the means permitted under paragraph (2), may be made available to others if the person referred to in paragraph (1) or (2), as the case may be, provides such information or means solely for the purpose of enabling interoperability of an independently created computer program with other programs, and to the extent that doing so does not constitute infringement under this title or violate applicable law other than this section.

“(4) For purposes of this subsection, the term ‘interoperability’ means the ability of computer programs to exchange information, and of such programs mutually to use the information which has been exchanged.

“(g) ENCRYPTION RESEARCH.—

“(1) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘encryption research’ means activities necessary to identify and analyze flaws and vulnerabilities of encryption technologies applied to copyrighted works, if these activities are conducted to advance the state of knowledge in the field of encryption technology or to assist in the development of encryption products; and

“(B) the term ‘encryption technology’ means the scrambling and descrambling of information using mathematical formulas or algorithms.

“(2) PERMISSIBLE ACTS OF ENCRYPTION RESEARCH.—Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to circumvent a technological measure as applied to a copy, phonorecord, performance, or display of a published work in the course of an act of good faith encryption research if—

“(A) the person lawfully obtained the encrypted copy, phonorecord, performance, or display of the published work;

“(B) such act is necessary to conduct such encryption research;

“(C) the person made a good faith effort to obtain authorization before the circumvention; and

“(D) such act does not constitute infringement under this title or a violation of applicable law other than this section, including section 1030 of title 18 and those provisions of title 18 amended by the Computer Fraud and Abuse Act of 1986.

“(3) FACTORS IN DETERMINING EXEMPTION.—In determining whether a person qualifies for the exemption under paragraph (2), the factors to be considered shall include—

“(A) whether the information derived from the encryption research was disseminated, and if so, whether

it was disseminated in a manner reasonably calculated to advance the state of knowledge or development of encryption technology, versus whether it was disseminated in a manner that facilitates infringement under this title or a violation of applicable law other than this section, including a violation of privacy or breach of security;

“(B) whether the person is engaged in a legitimate course of study, is employed, or is appropriately trained or experienced, in the field of encryption technology; and

“(C) whether the person provides the copyright owner of the work to which the technological measure is applied with notice of the findings and documentation of the research, and the time when such notice is provided.

“(4) USE OF TECHNOLOGICAL MEANS FOR RESEARCH ACTIVITIES.—Notwithstanding the provisions of subsection (a)(2), it is not a violation of that subsection for a person to—

“(A) develop and employ technological means to circumvent a technological measure for the sole purpose of that person performing the acts of good faith encryption research described in paragraph (2); and

“(B) provide the technological means to another person with whom he or she is working collaboratively for the purpose of conducting the acts of good faith encryption research described in paragraph (2) or for the purpose of having that other person verify his or her acts of good faith encryption research described in paragraph (2).

Deadline.

“(5) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this chapter, the Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce shall jointly report to the Congress on the effect this subsection has had on—

“(A) encryption research and the development of encryption technology;

“(B) the adequacy and effectiveness of technological measures designed to protect copyrighted works; and

“(C) protection of copyright owners against the unauthorized access to their encrypted copyrighted works.

The report shall include legislative recommendations, if any.

“(h) EXCEPTIONS REGARDING MINORS.—In applying subsection (a) to a component or part, the court may consider the necessity for its intended and actual incorporation in a technology, product, service, or device, which—

“(1) does not itself violate the provisions of this title; and

“(2) has the sole purpose to prevent the access of minors to material on the Internet.

“(i) PROTECTION OF PERSONALLY IDENTIFYING INFORMATION.—

(1) CIRCUMVENTION PERMITTED.—Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to circumvent a technological measure that effectively controls access to a work protected under this title, if—

“(A) the technological measure, or the work it protects, contains the capability of collecting or disseminating personally identifying information reflecting the online activities of a natural person who seeks to gain access to the work protected;

“(B) in the normal course of its operation, the technological measure, or the work it protects, collects or disseminates personally identifying information about the person who seeks to gain access to the work protected, without providing conspicuous notice of such collection or dissemination to such person, and without providing such person with the capability to prevent or restrict such collection or dissemination;

“(C) the act of circumvention has the sole effect of identifying and disabling the capability described in subparagraph (A), and has no other effect on the ability of any person to gain access to any work; and

“(D) the act of circumvention is carried out solely for the purpose of preventing the collection or dissemination of personally identifying information about a natural person who seeks to gain access to the work protected, and is not in violation of any other law.

“(2) INAPPLICABILITY TO CERTAIN TECHNOLOGICAL MEASURES.—This subsection does not apply to a technological measure, or a work it protects, that does not collect or disseminate personally identifying information and that is disclosed to a user as not having or using such capability.

“(j) SECURITY TESTING.—

“(1) DEFINITION.—For purposes of this subsection, the term ‘security testing’ means accessing a computer, computer system, or computer network, solely for the purpose of good faith testing, investigating, or correcting, a security flaw or vulnerability, with the authorization of the owner or operator of such computer, computer system, or computer network.

“(2) PERMISSIBLE ACTS OF SECURITY TESTING.—Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to engage in an act of security testing, if such act does not constitute infringement under this title or a violation of applicable law other than this section, including section 1030 of title 18 and those provisions of title 18 amended by the Computer Fraud and Abuse Act of 1986.

“(3) FACTORS IN DETERMINING EXEMPTION.—In determining whether a person qualifies for the exemption under paragraph (2), the factors to be considered shall include—

“(A) whether the information derived from the security testing was used solely to promote the security of the owner or operator of such computer, computer system or computer network, or shared directly with the developer of such computer, computer system, or computer network; and

“(B) whether the information derived from the security testing was used or maintained in a manner that does not facilitate infringement under this title or a violation of applicable law other than this section, including a violation of privacy or breach of security.

“(4) USE OF TECHNOLOGICAL MEANS FOR SECURITY TESTING.—Notwithstanding the provisions of subsection (a)(2), it is not a violation of that subsection for a person to develop, produce, distribute or employ technological means for the sole purpose of performing the acts of security testing described

in subsection (2), provided such technological means does not otherwise violate section (a)(2).

“(k) CERTAIN ANALOG DEVICES AND CERTAIN TECHNOLOGICAL MEASURES.—

“(1) CERTAIN ANALOG DEVICES.—

Effective date.

“(A) Effective 18 months after the date of the enactment of this chapter, no person shall manufacture, import, offer to the public, provide or otherwise traffic in any—

“(i) VHS format analog video cassette recorder unless such recorder conforms to the automatic gain control copy control technology;

“(ii) 8mm format analog video cassette camcorder unless such camcorder conforms to the automatic gain control technology;

“(iii) Beta format analog video cassette recorder, unless such recorder conforms to the automatic gain control copy control technology, except that this requirement shall not apply until there are 1,000 Beta format analog video cassette recorders sold in the United States in any one calendar year after the date of the enactment of this chapter;

“(iv) 8mm format analog video cassette recorder that is not an analog video cassette camcorder, unless such recorder conforms to the automatic gain control copy control technology, except that this requirement shall not apply until there are 20,000 such recorders sold in the United States in any one calendar year after the date of the enactment of this chapter; or

“(v) analog video cassette recorder that records using an NTSC format video input and that is not otherwise covered under clauses (i) through (iv), unless such device conforms to the automatic gain control copy control technology.

Effective date.

“(B) Effective on the date of the enactment of this chapter, no person shall manufacture, import, offer to the public, provide or otherwise traffic in—

“(i) any VHS format analog video cassette recorder or any 8mm format analog video cassette recorder if the design of the model of such recorder has been modified after such date of enactment so that a model of recorder that previously conformed to the automatic gain control copy control technology no longer conforms to such technology; or

“(ii) any VHS format analog video cassette recorder, or any 8mm format analog video cassette recorder that is not an 8mm analog video cassette camcorder, if the design of the model of such recorder has been modified after such date of enactment so that a model of recorder that previously conformed to the four-line colorstripe copy control technology no longer conforms to such technology.

Manufacturers that have not previously manufactured or sold a VHS format analog video cassette recorder, or an 8mm format analog cassette recorder, shall be required to conform to the four-line colorstripe copy control technology in the initial model of any such recorder manufactured after the date of the enactment of this chapter,

and thereafter to continue conforming to the four-line colorstripe copy control technology. For purposes of this subparagraph, an analog video cassette recorder 'conforms to' the four-line colorstripe copy control technology if it records a signal that, when played back by the playback function of that recorder in the normal viewing mode, exhibits, on a reference display device, a display containing distracting visible lines through portions of the viewable picture.

"(2) CERTAIN ENCODING RESTRICTIONS.—No person shall apply the automatic gain control copy control technology or colorstripe copy control technology to prevent or limit consumer copying except such copying—

"(A) of a single transmission, or specified group of transmissions, of live events or of audiovisual works for which a member of the public has exercised choice in selecting the transmissions, including the content of the transmissions or the time of receipt of such transmissions, or both, and as to which such member is charged a separate fee for each such transmission or specified group of transmissions;

"(B) from a copy of a transmission of a live event or an audiovisual work if such transmission is provided by a channel or service where payment is made by a member of the public for such channel or service in the form of a subscription fee that entitles the member of the public to receive all of the programming contained in such channel or service;

"(C) from a physical medium containing one or more prerecorded audiovisual works; or

"(D) from a copy of a transmission described in subparagraph (A) or from a copy made from a physical medium described in subparagraph (C).

In the event that a transmission meets both the conditions set forth in subparagraph (A) and those set forth in subparagraph (B), the transmission shall be treated as a transmission described in subparagraph (A).

"(3) INAPPLICABILITY.—This subsection shall not—

"(A) require any analog video cassette camcorder to conform to the automatic gain control copy control technology with respect to any video signal received through a camera lens;

"(B) apply to the manufacture, importation, offer for sale, provision of, or other trafficking in, any professional analog video cassette recorder; or

"(C) apply to the offer for sale or provision of, or other trafficking in, any previously owned analog video cassette recorder, if such recorder was legally manufactured and sold when new and not subsequently modified in violation of paragraph (1)(B).

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) An 'analog video cassette recorder' means a device that records, or a device that includes a function that records, on electromagnetic tape in an analog format the electronic impulses produced by the video and audio portions of a television program, motion picture, or other form of audiovisual work.

“(B) An ‘analog video cassette camcorder’ means an analog video cassette recorder that contains a recording function that operates through a camera lens and through a video input that may be connected with a television or other video playback device.

“(C) An analog video cassette recorder ‘conforms’ to the automatic gain control copy control technology if it—

“(i) detects one or more of the elements of such technology and does not record the motion picture or transmission protected by such technology; or

“(ii) records a signal that, when played back, exhibits a meaningfully distorted or degraded display.

“(D) The term ‘professional analog video cassette recorder’ means an analog video cassette recorder that is designed, manufactured, marketed, and intended for use by a person who regularly employs such a device for a lawful business or industrial use, including making, performing, displaying, distributing, or transmitting copies of motion pictures on a commercial scale.

“(E) The terms ‘VHS format’, ‘8mm format’, ‘Beta format’, ‘automatic gain control copy control technology’, ‘colorstripe copy control technology’, ‘four-line version of the colorstripe copy control technology’, and ‘NTSC’ have the meanings that are commonly understood in the consumer electronics and motion picture industries as of the date of the enactment of this chapter.

“(5) VIOLATIONS.—Any violation of paragraph (1) of this subsection shall be treated as a violation of subsection (b)(1) of this section. Any violation of paragraph (2) of this subsection shall be deemed an ‘act of circumvention’ for the purposes of section 1203(c)(3)(A) of this chapter.

#### **“§ 1202. Integrity of copyright management information**

“(a) FALSE COPYRIGHT MANAGEMENT INFORMATION.—No person shall knowingly and with the intent to induce, enable, facilitate, or conceal infringement—

“(1) provide copyright management information that is false, or

“(2) distribute or import for distribution copyright management information that is false.

“(b) REMOVAL OR ALTERATION OF COPYRIGHT MANAGEMENT INFORMATION.—No person shall, without the authority of the copyright owner or the law—

“(1) intentionally remove or alter any copyright management information,

“(2) distribute or import for distribution copyright management information knowing that the copyright management information has been removed or altered without authority of the copyright owner or the law, or

“(3) distribute, import for distribution, or publicly perform works, copies of works, or phonorecords, knowing that copyright management information has been removed or altered without authority of the copyright owner or the law,

knowing, or, with respect to civil remedies under section 1203, having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right under this title.

“(c) DEFINITION.—As used in this section, the term ‘copyright management information’ means any of the following information conveyed in connection with copies or phonorecords of a work or performances or displays of a work, including in digital form, except that such term does not include any personally identifying information about a user of a work or of a copy, phonorecord, performance, or display of a work:

“(1) The title and other information identifying the work, including the information set forth on a notice of copyright.

“(2) The name of, and other identifying information about, the author of a work.

“(3) The name of, and other identifying information about, the copyright owner of the work, including the information set forth in a notice of copyright.

“(4) With the exception of public performances of works by radio and television broadcast stations, the name of, and other identifying information about, a performer whose performance is fixed in a work other than an audiovisual work.

“(5) With the exception of public performances of works by radio and television broadcast stations, in the case of an audiovisual work, the name of, and other identifying information about, a writer, performer, or director who is credited in the audiovisual work.

“(6) Terms and conditions for use of the work.

“(7) Identifying numbers or symbols referring to such information or links to such information.

“(8) Such other information as the Register of Copyrights may prescribe by regulation, except that the Register of Copyrights may not require the provision of any information concerning the user of a copyrighted work.

“(d) LAW ENFORCEMENT, INTELLIGENCE, AND OTHER GOVERNMENT ACTIVITIES.—This section does not prohibit any lawfully authorized investigative, protective, information security, or intelligence activity of an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting pursuant to a contract with the United States, a State, or a political subdivision of a State. For purposes of this subsection, the term ‘information security’ means activities carried out in order to identify and address the vulnerabilities of a government computer, computer system, or computer network.

“(e) LIMITATIONS ON LIABILITY.—

“(1) ANALOG TRANSMISSIONS.—In the case of an analog transmission, a person who is making transmissions in its capacity as a broadcast station, or as a cable system, or someone who provides programming to such station or system, shall not be liable for a violation of subsection (b) if—

“(A) avoiding the activity that constitutes such violation is not technically feasible or would create an undue financial hardship on such person; and

“(B) such person did not intend, by engaging in such activity, to induce, enable, facilitate, or conceal infringement of a right under this title.

“(2) DIGITAL TRANSMISSIONS.—

“(A) If a digital transmission standard for the placement of copyright management information for a category of works is set in a voluntary, consensus standard-setting process involving a representative cross-section of broadcast

stations or cable systems and copyright owners of a category of works that are intended for public performance by such stations or systems, a person identified in paragraph (1) shall not be liable for a violation of subsection (b) with respect to the particular copyright management information addressed by such standard if—

“(i) the placement of such information by someone other than such person is not in accordance with such standard; and

“(ii) the activity that constitutes such violation is not intended to induce, enable, facilitate, or conceal infringement of a right under this title.

“(B) Until a digital transmission standard has been set pursuant to subparagraph (A) with respect to the placement of copyright management information for a category or works, a person identified in paragraph (1) shall not be liable for a violation of subsection (b) with respect to such copyright management information, if the activity that constitutes such violation is not intended to induce, enable, facilitate, or conceal infringement of a right under this title, and if—

“(i) the transmission of such information by such person would result in a perceptible visual or aural degradation of the digital signal; or

“(ii) the transmission of such information by such person would conflict with—

“(I) an applicable government regulation relating to transmission of information in a digital signal;

“(II) an applicable industry-wide standard relating to the transmission of information in a digital signal that was adopted by a voluntary consensus standards body prior to the effective date of this chapter; or

“(III) an applicable industry-wide standard relating to the transmission of information in a digital signal that was adopted in a voluntary, consensus standards-setting process open to participation by a representative cross-section of broadcast stations or cable systems and copyright owners of a category of works that are intended for public performance by such stations or systems.

“(3) DEFINITIONS.—As used in this subsection—

“(A) the term ‘broadcast station’ has the meaning given that term in section 3 of the Communications Act of 1934 (47 U.S.C. 153); and

“(B) the term ‘cable system’ has the meaning given that term in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

### “§ 1203. Civil remedies

“(a) CIVIL ACTIONS.—Any person injured by a violation of section 1201 or 1202 may bring a civil action in an appropriate United States district court for such violation.

“(b) POWERS OF THE COURT.—In an action brought under subsection (a), the court—



“(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain a violation, but in no event shall impose a prior restraint on free speech or the press protected under the 1st amendment to the Constitution;

“(2) at any time while an action is pending, may order the impounding, on such terms as it deems reasonable, of any device or product that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation;

“(3) may award damages under subsection (c);

“(4) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof;

“(5) in its discretion may award reasonable attorney’s fees to the prevailing party; and

“(6) may, as part of a final judgment or decree finding a violation, order the remedial modification or the destruction of any device or product involved in the violation that is in the custody or control of the violator or has been impounded under paragraph (2).

“(c) AWARD OF DAMAGES.—

“(1) IN GENERAL.—Except as otherwise provided in this title, a person committing a violation of section 1201 or 1202 is liable for either—

“(A) the actual damages and any additional profits of the violator, as provided in paragraph (2), or

“(B) statutory damages, as provided in paragraph (3).

“(2) ACTUAL DAMAGES.—The court shall award to the complaining party the actual damages suffered by the party as a result of the violation, and any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages, if the complaining party elects such damages at any time before final judgment is entered.

“(3) STATUTORY DAMAGES.—(A) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1201 in the sum of not less than \$200 or more than \$2,500 per act of circumvention, device, product, component, offer, or performance of service, as the court considers just.

“(B) At any time before final judgment is entered, a complaining party may elect to recover an award of statutory damages for each violation of section 1202 in the sum of not less than \$2,500 or more than \$25,000.

“(4) REPEATED VIOLATIONS.—In any case in which the injured party sustains the burden of proving, and the court finds, that a person has violated section 1201 or 1202 within 3 years after a final judgment was entered against the person for another such violation, the court may increase the award of damages up to triple the amount that would otherwise be awarded, as the court considers just.

“(5) INNOCENT VIOLATIONS.—

“(A) IN GENERAL.—The court in its discretion may reduce or remit the total award of damages in any case in which the violator sustains the burden of proving, and

the court finds, that the violator was not aware and had no reason to believe that its acts constituted a violation.

“(B) NONPROFIT LIBRARY, ARCHIVES, OR EDUCATIONAL INSTITUTIONS.—In the case of a nonprofit library, archives, or educational institution, the court shall remit damages in any case in which the library, archives, or educational institution sustains the burden of proving, and the court finds, that the library, archives, or educational institution was not aware and had no reason to believe that its acts constituted a violation.

**“§ 1204. Criminal offenses and penalties**

“(a) IN GENERAL.—Any person who violates section 1201 or 1202 willfully and for purposes of commercial advantage or private financial gain—

“(1) shall be fined not more than \$500,000 or imprisoned for not more than 5 years, or both, for the first offense; and

“(2) shall be fined not more than \$1,000,000 or imprisoned for not more than 10 years, or both, for any subsequent offense.

“(b) LIMITATION FOR NONPROFIT LIBRARY, ARCHIVES, OR EDUCATIONAL INSTITUTION.—Subsection (a) shall not apply to a nonprofit library, archives, or educational institution.

“(c) STATUTE OF LIMITATIONS.—No criminal proceeding shall be brought under this section unless such proceeding is commenced within 5 years after the cause of action arose.

**“§ 1205. Savings clause**

“Nothing in this chapter abrogates, diminishes, or weakens the provisions of, nor provides any defense or element of mitigation in a criminal prosecution or civil action under, any Federal or State law that prevents the violation of the privacy of an individual in connection with the individual’s use of the Internet.”.

(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by adding after the item relating to chapter 11 the following:

**“12. Copyright Protection and Management Systems ..... 1201”.**

17 USC 109 note.

**SEC. 104. EVALUATION OF IMPACT OF COPYRIGHT LAW AND AMENDMENTS ON ELECTRONIC COMMERCE AND TECHNOLOGICAL DEVELOPMENT.**

(a) EVALUATION BY THE REGISTER OF COPYRIGHTS AND THE ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION.—The Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce shall jointly evaluate—

(1) the effects of the amendments made by this title and the development of electronic commerce and associated technology on the operation of sections 109 and 117 of title 17, United States Code; and

(2) the relationship between existing and emergent technology and the operation of sections 109 and 117 of title 17, United States Code.

Deadline.

(b) REPORT TO CONGRESS.—The Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce shall, not later than 24 months after the date of the enactment of this Act, submit to the Congress a joint report on the evaluation conducted under subsection (a),

including any legislative recommendations the Register and the Assistant Secretary may have.

**SEC. 105. EFFECTIVE DATE.**

17 USC 101 note.

(a) **IN GENERAL.**—Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) **AMENDMENTS RELATING TO CERTAIN INTERNATIONAL AGREEMENTS.**—(1) The following shall take effect upon the entry into force of the WIPO Copyright Treaty with respect to the United States:

(A) Paragraph (5) of the definition of “international agreement” contained in section 101 of title 17, United States Code, as amended by section 102(a)(4) of this Act.

(B) The amendment made by section 102(a)(6) of this Act.

(C) Subparagraph (C) of section 104A(h)(1) of title 17, United States Code, as amended by section 102(c)(1) of this Act.

(D) Subparagraph (C) of section 104A(h)(3) of title 17, United States Code, as amended by section 102(c)(2) of this Act.

(2) The following shall take effect upon the entry into force of the WIPO Performances and Phonograms Treaty with respect to the United States:

(A) Paragraph (6) of the definition of “international agreement” contained in section 101 of title 17, United States Code, as amended by section 102(a)(4) of this Act.

(B) The amendment made by section 102(a)(7) of this Act.

(C) The amendment made by section 102(b)(2) of this Act.

(D) Subparagraph (D) of section 104A(h)(1) of title 17, United States Code, as amended by section 102(c)(1) of this Act.

(E) Subparagraph (D) of section 104A(h)(3) of title 17, United States Code, as amended by section 102(c)(2) of this Act.

(F) The amendments made by section 102(c)(3) of this Act.

## **TITLE II—ONLINE COPYRIGHT INFRINGEMENT LIABILITY LIMITATION**

Online Copyright  
Infringement  
Liability  
Limitation Act.

**SEC. 201. SHORT TITLE.**

17 USC 101 note.

This title may be cited as the “Online Copyright Infringement Liability Limitation Act”.

**SEC. 202. LIMITATIONS ON LIABILITY FOR COPYRIGHT INFRINGEMENT.**

(a) **IN GENERAL.**—Chapter 5 of title 17, United States Code, is amended by adding after section 511 the following new section:

**“§ 512. Limitations on liability relating to material online**

**“(a) TRANSITORY DIGITAL NETWORK COMMUNICATIONS.**—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief,

for infringement of copyright by reason of the provider's transmitting, routing, or providing connections for, material through a system or network controlled or operated by or for the service provider, or by reason of the intermediate and transient storage of that material in the course of such transmitting, routing, or providing connections, if—

“(1) the transmission of the material was initiated by or at the direction of a person other than the service provider;

“(2) the transmission, routing, provision of connections, or storage is carried out through an automatic technical process without selection of the material by the service provider;

“(3) the service provider does not select the recipients of the material except as an automatic response to the request of another person;

“(4) no copy of the material made by the service provider in the course of such intermediate or transient storage is maintained on the system or network in a manner ordinarily accessible to anyone other than anticipated recipients, and no such copy is maintained on the system or network in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary for the transmission, routing, or provision of connections; and

“(5) the material is transmitted through the system or network without modification of its content.

“(b) SYSTEM CACHING.—

“(1) LIMITATION ON LIABILITY.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the intermediate and temporary storage of material on a system or network controlled or operated by or for the service provider in a case in which—

“(A) the material is made available online by a person other than the service provider;

“(B) the material is transmitted from the person described in subparagraph (A) through the system or network to a person other than the person described in subparagraph (A) at the direction of that other person; and

“(C) the storage is carried out through an automatic technical process for the purpose of making the material available to users of the system or network who, after the material is transmitted as described in subparagraph (B), request access to the material from the person described in subparagraph (A),

if the conditions set forth in paragraph (2) are met.

(2) CONDITIONS.—The conditions referred to in paragraph (1) are that—

“(A) the material described in paragraph (1) is transmitted to the subsequent users described in paragraph (1)(C) without modification to its content from the manner in which the material was transmitted from the person described in paragraph (1)(A);

“(B) the service provider described in paragraph (1) complies with rules concerning the refreshing, reloading, or other updating of the material when specified by the person making the material available online in accordance

with a generally accepted industry standard data communications protocol for the system or network through which that person makes the material available, except that this subparagraph applies only if those rules are not used by the person described in paragraph (1)(A) to prevent or unreasonably impair the intermediate storage to which this subsection applies;

“(C) the service provider does not interfere with the ability of technology associated with the material to return to the person described in paragraph (1)(A) the information that would have been available to that person if the material had been obtained by the subsequent users described in paragraph (1)(C) directly from that person, except that this subparagraph applies only if that technology—

“(i) does not significantly interfere with the performance of the provider’s system or network or with the intermediate storage of the material;

“(ii) is consistent with generally accepted industry standard communications protocols; and

“(iii) does not extract information from the provider’s system or network other than the information that would have been available to the person described in paragraph (1)(A) if the subsequent users had gained access to the material directly from that person;

“(D) if the person described in paragraph (1)(A) has in effect a condition that a person must meet prior to having access to the material, such as a condition based on payment of a fee or provision of a password or other information, the service provider permits access to the stored material in significant part only to users of its system or network that have met those conditions and only in accordance with those conditions; and

“(E) if the person described in paragraph (1)(A) makes that material available online without the authorization of the copyright owner of the material, the service provider responds expeditiously to remove, or disable access to, the material that is claimed to be infringing upon notification of claimed infringement as described in subsection (c)(3), except that this subparagraph applies only if—

“(i) the material has previously been removed from the originating site or access to it has been disabled, or a court has ordered that the material be removed from the originating site or that access to the material on the originating site be disabled; and

“(ii) the party giving the notification includes in the notification a statement confirming that the material has been removed from the originating site or access to it has been disabled or that a court has ordered that the material be removed from the originating site or that access to the material on the originating site be disabled.

“(c) INFORMATION RESIDING ON SYSTEMS OR NETWORKS AT DIRECTION OF USERS.—

“(1) IN GENERAL.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the storage at the direction of a user of

material that resides on a system or network controlled or operated by or for the service provider, if the service provider—

“(A)(i) does not have actual knowledge that the material or an activity using the material on the system or network is infringing;

“(ii) in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or

“(iii) upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

“(B) does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

“(C) upon notification of claimed infringement as described in paragraph (3), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity.

“(2) DESIGNATED AGENT.—The limitations on liability established in this subsection apply to a service provider only if the service provider has designated an agent to receive notifications of claimed infringement described in paragraph (3), by making available through its service, including on its website in a location accessible to the public, and by providing to the Copyright Office, substantially the following information:

“(A) the name, address, phone number, and electronic mail address of the agent.

“(B) other contact information which the Register of Copyrights may deem appropriate.

The Register of Copyrights shall maintain a current directory of agents available to the public for inspection, including through the Internet, in both electronic and hard copy formats, and may require payment of a fee by service providers to cover the costs of maintaining the directory.

“(3) ELEMENTS OF NOTIFICATION.—

“(A) To be effective under this subsection, a notification of claimed infringement must be a written communication provided to the designated agent of a service provider that includes substantially the following:

“(i) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

“(ii) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.

“(iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.

“(iv) Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.

Records.  
Public  
information.

“(v) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.

“(vi) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

“(B)(i) Subject to clause (ii), a notification from a copyright owner or from a person authorized to act on behalf of the copyright owner that fails to comply substantially with the provisions of subparagraph (A) shall not be considered under paragraph (1)(A) in determining whether a service provider has actual knowledge or is aware of facts or circumstances from which infringing activity is apparent.

“(ii) In a case in which the notification that is provided to the service provider’s designated agent fails to comply substantially with all the provisions of subparagraph (A) but substantially complies with clauses (ii), (iii), and (iv) of subparagraph (A), clause (i) of this subparagraph applies only if the service provider promptly attempts to contact the person making the notification or takes other reasonable steps to assist in the receipt of notification that substantially complies with all the provisions of subparagraph (A).

“(d) INFORMATION LOCATION TOOLS.—A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the provider referring or linking users to an online location containing infringing material or infringing activity, by using information location tools, including a directory, index, reference, pointer, or hypertext link, if the service provider—

“(1)(A) does not have actual knowledge that the material or activity is infringing;

“(B) in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or

“(C) upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

“(2) does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

“(3) upon notification of claimed infringement as described in subsection (c)(3), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity, except that, for purposes of this paragraph, the information described in subsection (c)(3)(A)(iii) shall be identification of the reference or link, to material or activity claimed to be infringing, that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate that reference or link.

“(e) LIMITATION ON LIABILITY OF NONPROFIT EDUCATIONAL INSTITUTIONS.—(1) When a public or other nonprofit institution of higher education is a service provider, and when a faculty member or graduate student who is an employee of such institution

is performing a teaching or research function, for the purposes of subsections (a) and (b) such faculty member or graduate student shall be considered to be a person other than the institution, and for the purposes of subsections (c) and (d) such faculty member's or graduate student's knowledge or awareness of his or her infringing activities shall not be attributed to the institution, if—

“(A) such faculty member's or graduate student's infringing activities do not involve the provision of online access to instructional materials that are or were required or recommended, within the preceding 3-year period, for a course taught at the institution by such faculty member or graduate student;

“(B) the institution has not, within the preceding 3-year period, received more than two notifications described in subsection (c)(3) of claimed infringement by such faculty member or graduate student, and such notifications of claimed infringement were not actionable under subsection (f); and

“(C) the institution provides to all users of its system or network informational materials that accurately describe, and promote compliance with, the laws of the United States relating to copyright.

Applicability.

“(2) INJUNCTIONS.—For the purposes of this subsection, the limitations on injunctive relief contained in subsections (j)(2) and (j)(3), but not those in (j)(1), shall apply.

“(f) MISREPRESENTATIONS.—Any person who knowingly materially misrepresents under this section—

“(1) that material or activity is infringing, or

“(2) that material or activity was removed or disabled by mistake or misidentification,

shall be liable for any damages, including costs and attorneys' fees, incurred by the alleged infringer, by any copyright owner or copyright owner's authorized licensee, or by a service provider, who is injured by such misrepresentation, as the result of the service provider relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing, or in replacing the removed material or ceasing to disable access to it.

“(g) REPLACEMENT OF REMOVED OR DISABLED MATERIAL AND LIMITATION ON OTHER LIABILITY.—

“(1) NO LIABILITY FOR TAKING DOWN GENERALLY.—Subject to paragraph (2), a service provider shall not be liable to any person for any claim based on the service provider's good faith disabling of access to, or removal of, material or activity claimed to be infringing or based on facts or circumstances from which infringing activity is apparent, regardless of whether the material or activity is ultimately determined to be infringing.

“(2) EXCEPTION.—Paragraph (1) shall not apply with respect to material residing at the direction of a subscriber of the service provider on a system or network controlled or operated by or for the service provider that is removed, or to which access is disabled by the service provider, pursuant to a notice provided under subsection (c)(1)(C), unless the service provider—

“(A) takes reasonable steps promptly to notify the subscriber that it has removed or disabled access to the material;



“(B) upon receipt of a counter notification described in paragraph (3), promptly provides the person who provided the notification under subsection (c)(1)(C) with a copy of the counter notification, and informs that person that it will replace the removed material or cease disabling access to it in 10 business days; and

“(C) replaces the removed material and ceases disabling access to it not less than 10, nor more than 14, business days following receipt of the counter notice, unless its designated agent first receives notice from the person who submitted the notification under subsection (c)(1)(C) that such person has filed an action seeking a court order to restrain the subscriber from engaging in infringing activity relating to the material on the service provider’s system or network.

“(3) CONTENTS OF COUNTER NOTIFICATION.—To be effective under this subsection, a counter notification must be a written communication provided to the service provider’s designated agent that includes substantially the following:

“(A) A physical or electronic signature of the subscriber.

“(B) Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.

“(C) A statement under penalty of perjury that the subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.

“(D) The subscriber’s name, address, and telephone number, and a statement that the subscriber consents to the jurisdiction of Federal District Court for the judicial district in which the address is located, or if the subscriber’s address is outside of the United States, for any judicial district in which the service provider may be found, and that the subscriber will accept service of process from the person who provided notification under subsection (c)(1)(C) or an agent of such person.

“(4) LIMITATION ON OTHER LIABILITY.—A service provider’s compliance with paragraph (2) shall not subject the service provider to liability for copyright infringement with respect to the material identified in the notice provided under subsection (c)(1)(C).

“(h) SUBPOENA TO IDENTIFY INFRINGER.—

“(1) REQUEST.—A copyright owner or a person authorized to act on the owner’s behalf may request the clerk of any United States district court to issue a subpoena to a service provider for identification of an alleged infringer in accordance with this subsection.

“(2) CONTENTS OF REQUEST.—The request may be made by filing with the clerk—

“(A) a copy of a notification described in subsection (c)(3)(A);

“(B) a proposed subpoena; and

“(C) a sworn declaration to the effect that the purpose for which the subpoena is sought is to obtain the identity of an alleged infringer and that such information will only

be used for the purpose of protecting rights under this title.

“(3) CONTENTS OF SUBPOENA.—The subpoena shall authorize and order the service provider receiving the notification and the subpoena to expeditiously disclose to the copyright owner or person authorized by the copyright owner information sufficient to identify the alleged infringer of the material described in the notification to the extent such information is available to the service provider.

“(4) BASIS FOR GRANTING SUBPOENA.—If the notification filed satisfies the provisions of subsection (c)(3)(A), the proposed subpoena is in proper form, and the accompanying declaration is properly executed, the clerk shall expeditiously issue and sign the proposed subpoena and return it to the requester for delivery to the service provider.

“(5) ACTIONS OF SERVICE PROVIDER RECEIVING SUBPOENA.—Upon receipt of the issued subpoena, either accompanying or subsequent to the receipt of a notification described in subsection (c)(3)(A), the service provider shall expeditiously disclose to the copyright owner or person authorized by the copyright owner the information required by the subpoena, notwithstanding any other provision of law and regardless of whether the service provider responds to the notification.

“(6) RULES APPLICABLE TO SUBPOENA.—Unless otherwise provided by this section or by applicable rules of the court, the procedure for issuance and delivery of the subpoena, and the remedies for noncompliance with the subpoena, shall be governed to the greatest extent practicable by those provisions of the Federal Rules of Civil Procedure governing the issuance, service, and enforcement of a subpoena duces tecum.

“(i) CONDITIONS FOR ELIGIBILITY.—

“(1) ACCOMMODATION OF TECHNOLOGY.—The limitations on liability established by this section shall apply to a service provider only if the service provider—

“(A) has adopted and reasonably implemented, and informs subscribers and account holders of the service provider’s system or network of, a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider’s system or network who are repeat infringers; and

“(B) accommodates and does not interfere with standard technical measures.

“(2) DEFINITION.—As used in this subsection, the term ‘standard technical measures’ means technical measures that are used by copyright owners to identify or protect copyrighted works and—

“(A) have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process;

“(B) are available to any person on reasonable and nondiscriminatory terms; and

“(C) do not impose substantial costs on service providers or substantial burdens on their systems or networks.

“(j) INJUNCTIONS.—The following rules shall apply in the case of any application for an injunction under section 502 against a service provider that is not subject to monetary remedies under this section:

Applicability.

“(1) SCOPE OF RELIEF.—(A) With respect to conduct other than that which qualifies for the limitation on remedies set forth in subsection (a), the court may grant injunctive relief with respect to a service provider only in one or more of the following forms:

“(i) An order restraining the service provider from providing access to infringing material or activity residing at a particular online site on the provider’s system or network.

“(ii) An order restraining the service provider from providing access to a subscriber or account holder of the service provider’s system or network who is engaging in infringing activity and is identified in the order, by terminating the accounts of the subscriber or account holder that are specified in the order.

“(iii) Such other injunctive relief as the court may consider necessary to prevent or restrain infringement of copyrighted material specified in the order of the court at a particular online location, if such relief is the least burdensome to the service provider among the forms of relief comparably effective for that purpose.

“(B) If the service provider qualifies for the limitation on remedies described in subsection (a), the court may only grant injunctive relief in one or both of the following forms:

“(i) An order restraining the service provider from providing access to a subscriber or account holder of the service provider’s system or network who is using the provider’s service to engage in infringing activity and is identified in the order, by terminating the accounts of the subscriber or account holder that are specified in the order.

“(ii) An order restraining the service provider from providing access, by taking reasonable steps specified in the order to block access, to a specific, identified, online location outside the United States.

“(2) CONSIDERATIONS.—The court, in considering the relevant criteria for injunctive relief under applicable law, shall consider—

Courts.

“(A) whether such an injunction, either alone or in combination with other such injunctions issued against the same service provider under this subsection, would significantly burden either the provider or the operation of the provider’s system or network;

“(B) the magnitude of the harm likely to be suffered by the copyright owner in the digital network environment if steps are not taken to prevent or restrain the infringement;

“(C) whether implementation of such an injunction would be technically feasible and effective, and would not interfere with access to noninfringing material at other online locations; and

“(D) whether other less burdensome and comparably effective means of preventing or restraining access to the infringing material are available.

“(3) NOTICE AND EX PARTE ORDERS.—Injunctive relief under this subsection shall be available only after notice to the service provider and an opportunity for the service provider

to appear are provided, except for orders ensuring the preservation of evidence or other orders having no material adverse effect on the operation of the service provider's communications network.

“(k) DEFINITIONS.—

“(1) SERVICE PROVIDER.—(A) As used in subsection (a), the term ‘service provider’ means an entity offering the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user's choosing, without modification to the content of the material as sent or received.

“(B) As used in this section, other than subsection (a), the term ‘service provider’ means a provider of online services or network access, or the operator of facilities therefor, and includes an entity described in subparagraph (A).

“(2) MONETARY RELIEF.—As used in this section, the term ‘monetary relief’ means damages, costs, attorneys’ fees, and any other form of monetary payment.

“(l) OTHER DEFENSES NOT AFFECTED.—The failure of a service provider's conduct to qualify for limitation of liability under this section shall not bear adversely upon the consideration of a defense by the service provider that the service provider's conduct is not infringing under this title or any other defense.

“(m) PROTECTION OF PRIVACY.—Nothing in this section shall be construed to condition the applicability of subsections (a) through (d) on—

“(1) a service provider monitoring its service or affirmatively seeking facts indicating infringing activity, except to the extent consistent with a standard technical measure complying with the provisions of subsection (i); or

“(2) a service provider gaining access to, removing, or disabling access to material in cases in which such conduct is prohibited by law.

“(n) CONSTRUCTION.—Subsections (a), (b), (c), and (d) describe separate and distinct functions for purposes of applying this section. Whether a service provider qualifies for the limitation on liability in any one of those subsections shall be based solely on the criteria in that subsection, and shall not affect a determination of whether that service provider qualifies for the limitations on liability under any other such subsection.”

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding at the end the following:

“512. Limitations on liability relating to material online.”.

17 USC 512 note.

**SEC. 203. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

Computer  
Maintenance  
Competition  
Assurance Act.

## **TITLE III—COMPUTER MAINTENANCE OR REPAIR COPYRIGHT EXEMPTION**

17 USC 101 note.

**SEC. 301. SHORT TITLE.**

This title may be cited as the “Computer Maintenance Competition Assurance Act”.

**SEC. 302. LIMITATIONS ON EXCLUSIVE RIGHTS; COMPUTER PROGRAMS.**

Section 117 of title 17, United States Code, is amended—

(1) by striking “Notwithstanding” and inserting the following:  
“(a) MAKING OF ADDITIONAL COPY OR ADAPTATION BY OWNER OF COPY.—Notwithstanding”;

(2) by striking “Any exact” and inserting the following:

“(b) LEASE, SALE, OR OTHER TRANSFER OF ADDITIONAL COPY OR ADAPTATION.—Any exact”; and

(3) by adding at the end the following:

“(c) MACHINE MAINTENANCE OR REPAIR.—Notwithstanding the provisions of section 106, it is not an infringement for the owner or lessee of a machine to make or authorize the making of a copy of a computer program if such copy is made solely by virtue of the activation of a machine that lawfully contains an authorized copy of the computer program, for purposes only of maintenance or repair of that machine, if—

“(1) such new copy is used in no other manner and is destroyed immediately after the maintenance or repair is completed; and

“(2) with respect to any computer program or part thereof that is not necessary for that machine to be activated, such program or part thereof is not accessed or used other than to make such new copy by virtue of the activation of the machine.

“(d) DEFINITIONS.—For purposes of this section—

“(1) the ‘maintenance’ of a machine is the servicing of the machine in order to make it work in accordance with its original specifications and any changes to those specifications authorized for that machine; and

“(2) the ‘repair’ of a machine is the restoring of the machine to the state of working in accordance with its original specifications and any changes to those specifications authorized for that machine.”.

## **TITLE IV—MISCELLANEOUS PROVISIONS**

**SEC. 401. PROVISIONS RELATING TO THE COMMISSIONER OF PATENTS AND TRADEMARKS AND THE REGISTER OF COPYRIGHTS**

(a) COMPENSATION.—(1) Section 3(d) of title 35, United States Code, is amended by striking “prescribed by law for Assistant Secretaries of Commerce” and inserting “in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code”.

(2) Section 701(e) of title 17, United States Code, is amended—

(A) by striking “IV” and inserting “III”; and

(B) by striking “5315” and inserting “5314”.

(3) Section 5314 of title 5, United States Code, is amended by adding at the end the following:

“Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

“Register of Copyrights.”.

(b) CLARIFICATION OF AUTHORITY OF THE COPYRIGHT OFFICE.—Section 701 of title 17, United States Code, is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following:

“(b) In addition to the functions and duties set out elsewhere in this chapter, the Register of Copyrights shall perform the following functions:

“(1) Advise Congress on national and international issues relating to copyright, other matters arising under this title, and related matters.

“(2) Provide information and assistance to Federal departments and agencies and the Judiciary on national and international issues relating to copyright, other matters arising under this title, and related matters.

“(3) Participate in meetings of international intergovernmental organizations and meetings with foreign government officials relating to copyright, other matters arising under this title, and related matters, including as a member of United States delegations as authorized by the appropriate Executive branch authority.

“(4) Conduct studies and programs regarding copyright, other matters arising under this title, and related matters, the administration of the Copyright Office, or any function vested in the Copyright Office by law, including educational programs conducted cooperatively with foreign intellectual property offices and international intergovernmental organizations.

“(5) Perform such other functions as Congress may direct, or as may be appropriate in furtherance of the functions and duties specifically set forth in this title.”.

#### **SEC. 402. EPHEMERAL RECORDINGS.**

Section 112(a) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting “(1)” after “(a)”;

(3) by inserting after “under a license” the following: “, including a statutory license under section 114(f),”;

(4) by inserting after “114(a),” the following: “or for a transmitting organization that is a broadcast radio or television station licensed as such by the Federal Communications Commission and that makes a broadcast transmission of a performance of a sound recording in a digital format on a nonsubscription basis,”; and

(5) by adding at the end the following:

“(2) In a case in which a transmitting organization entitled to make a copy or phonorecord under paragraph (1) in connection with the transmission to the public of a performance or display of a work is prevented from making such copy or phonorecord by reason of the application by the copyright owner of technical measures that prevent the reproduction of the work, the copyright owner shall make available to the transmitting organization the necessary means for permitting the making of such copy or phonorecord as permitted under that paragraph, if it is technologically feasible and economically reasonable for the copyright owner to do so. If the copyright owner fails to do so in a timely manner in light of the transmitting organization’s reasonable business requirements, the transmitting organization shall not be liable for

a violation of section 1201(a)(1) of this title for engaging in such activities as are necessary to make such copies or phonorecords as permitted under paragraph (1) of this subsection.”.

**SEC. 403. LIMITATIONS ON EXCLUSIVE RIGHTS; DISTANCE EDUCATION.**

(a) **RECOMMENDATIONS BY REGISTER OF COPYRIGHTS.**—Not later than 6 months after the date of the enactment of this Act, the Register of Copyrights, after consultation with representatives of copyright owners, nonprofit educational institutions, and nonprofit libraries and archives, shall submit to the Congress recommendations on how to promote distance education through digital technologies, including interactive digital networks, while maintaining an appropriate balance between the rights of copyright owners and the needs of users of copyrighted works. Such recommendations shall include any legislation the Register of Copyrights considers appropriate to achieve the objective described in the preceding sentence. Deadline.

(b) **FACTORS.**—In formulating recommendations under subsection (a), the Register of Copyrights shall consider—

(1) the need for an exemption from exclusive rights of copyright owners for distance education through digital networks;

(2) the categories of works to be included under any distance education exemption;

(3) the extent of appropriate quantitative limitations on the portions of works that may be used under any distance education exemption;

(4) the parties who should be entitled to the benefits of any distance education exemption;

(5) the parties who should be designated as eligible recipients of distance education materials under any distance education exemption;

(6) whether and what types of technological measures can or should be employed to safeguard against unauthorized access to, and use or retention of, copyrighted materials as a condition of eligibility for any distance education exemption, including, in light of developing technological capabilities, the exemption set out in section 110(2) of title 17, United States Code;

(7) the extent to which the availability of licenses for the use of copyrighted works in distance education through interactive digital networks should be considered in assessing eligibility for any distance education exemption; and

(8) such other issues relating to distance education through interactive digital networks that the Register considers appropriate.

**SEC. 404. EXEMPTION FOR LIBRARIES AND ARCHIVES.**

Section 108 of title 17, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “Notwithstanding” and inserting “Except as otherwise provided in this title and notwithstanding”;

(B) by inserting after “no more than one copy or phonorecord of a work” the following: “, except as provided in subsections (b) and (c)”;

(C) in paragraph (3) by inserting after “copyright” the following: “that appears on the copy or phonorecord that is reproduced under the provisions of this section, or

includes a legend stating that the work may be protected by copyright if no such notice can be found on the copy or phonorecord that is reproduced under the provisions of this section”;

(2) in subsection (b)—

(A) by striking “a copy or phonorecord” and inserting “three copies or phonorecords”;

(B) by striking “in facsimile form”; and

(C) by striking “if the copy or phonorecord reproduced is currently in the collections of the library or archives.” and inserting “if—

“(1) the copy or phonorecord reproduced is currently in the collections of the library or archives; and

“(2) any such copy or phonorecord that is reproduced in digital format is not otherwise distributed in that format and is not made available to the public in that format outside the premises of the library or archives.”; and

(3) in subsection (c)—

(A) by striking “a copy or phonorecord” and inserting “three copies or phonorecords”;

(B) by striking “in facsimile form”;

(C) by inserting “or if the existing format in which the work is stored has become obsolete,” after “stolen.”;

(D) by striking “if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.” and inserting “if—

“(1) the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price; and

“(2) any such copy or phonorecord that is reproduced in digital format is not made available to the public in that format outside the premises of the library or archives in lawful possession of such copy.”; and

(E) by adding at the end the following:

“For purposes of this subsection, a format shall be considered obsolete if the machine or device necessary to render perceptible a work stored in that format is no longer manufactured or is no longer reasonably available in the commercial marketplace.”.

**SEC. 405. SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS; EPHEMERAL RECORDINGS.**

(a) SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.—Section 114 of title 17, United States Code, is amended as follows:

(1) Subsection (d) is amended—

(A) in paragraph (1) by striking subparagraph (A) and inserting the following:

“(A) a nonsubscription broadcast transmission;”;

(B) by amending paragraph (2) to read as follows:

“(2) STATUTORY LICENSING OF CERTAIN TRANSMISSIONS.—

The performance of a sound recording publicly by means of a subscription digital audio transmission not exempt under paragraph (1), an eligible nonsubscription transmission, or a transmission not exempt under paragraph (1) that is made by a preexisting satellite digital audio radio service shall be subject to statutory licensing, in accordance with subsection (f) if—



“(A)(i) the transmission is not part of an interactive service;

“(ii) except in the case of a transmission to a business establishment, the transmitting entity does not automatically and intentionally cause any device receiving the transmission to switch from one program channel to another; and

“(iii) except as provided in section 1002(e), the transmission of the sound recording is accompanied, if technically feasible, by the information encoded in that sound recording, if any, by or under the authority of the copyright owner of that sound recording, that identifies the title of the sound recording, the featured recording artist who performs on the sound recording, and related information, including information concerning the underlying musical work and its writer;

“(B) in the case of a subscription transmission not exempt under paragraph (1) that is made by a preexisting subscription service in the same transmission medium used by such service on July 31, 1998, or in the case of a transmission not exempt under paragraph (1) that is made by a preexisting satellite digital audio radio service—

“(i) the transmission does not exceed the sound recording performance complement; and

“(ii) the transmitting entity does not cause to be published by means of an advance program schedule or prior announcement the titles of the specific sound recordings or phonorecords embodying such sound recordings to be transmitted; and

“(C) in the case of an eligible nonsubscription transmission or a subscription transmission not exempt under paragraph (1) that is made by a new subscription service or by a preexisting subscription service other than in the same transmission medium used by such service on July 31, 1998—

“(i) the transmission does not exceed the sound recording performance complement, except that this requirement shall not apply in the case of a retransmission of a broadcast transmission if the retransmission is made by a transmitting entity that does not have the right or ability to control the programming of the broadcast station making the broadcast transmission, unless—

“(I) the broadcast station makes broadcast transmissions—

“(aa) in digital format that regularly exceed the sound recording performance complement; or

“(bb) in analog format, a substantial portion of which, on a weekly basis, exceed the sound recording performance complement; and

“(II) the sound recording copyright owner or its representative has notified the transmitting entity in writing that broadcast transmissions of the copyright owner’s sound recordings exceed the sound recording performance complement as provided in this clause;

“(ii) the transmitting entity does not cause to be published, or induce or facilitate the publication, by means of an advance program schedule or prior announcement, the titles of the specific sound recordings to be transmitted, the phonorecords embodying such sound recordings, or, other than for illustrative purposes, the names of the featured recording artists, except that this clause does not disqualify a transmitting entity that makes a prior announcement that a particular artist will be featured within an unspecified future time period, and in the case of a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, the requirement of this clause shall not apply to a prior oral announcement by the broadcast station, or to an advance program schedule published, induced, or facilitated by the broadcast station, if the transmitting entity does not have actual knowledge and has not received written notice from the copyright owner or its representative that the broadcast station publishes or induces or facilitates the publication of such advance program schedule, or if such advance program schedule is a schedule of classical music programming published by the broadcast station in the same manner as published by that broadcast station on or before September 30, 1998;

“(iii) the transmission—

“(I) is not part of an archived program of less than 5 hours duration;

“(II) is not part of an archived program of 5 hours or greater in duration that is made available for a period exceeding 2 weeks;

“(III) is not part of a continuous program which is of less than 3 hours duration; or

“(IV) is not part of an identifiable program in which performances of sound recordings are rendered in a predetermined order, other than an archived or continuous program, that is transmitted at—

“(aa) more than 3 times in any 2-week period that have been publicly announced in advance, in the case of a program of less than 1 hour in duration, or

“(bb) more than 4 times in any 2-week period that have been publicly announced in advance, in the case of a program of 1 hour or more in duration,

except that the requirement of this subclause shall not apply in the case of a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, unless the transmitting entity is given notice in writing by the copyright owner of the sound recording that the broadcast station makes broadcast

transmissions that regularly violate such requirement;

“(iv) the transmitting entity does not knowingly perform the sound recording, as part of a service that offers transmissions of visual images contemporaneously with transmissions of sound recordings, in a manner that is likely to cause confusion, to cause mistake, or to deceive, as to the affiliation, connection, or association of the copyright owner or featured recording artist with the transmitting entity or a particular product or service advertised by the transmitting entity, or as to the origin, sponsorship, or approval by the copyright owner or featured recording artist of the activities of the transmitting entity other than the performance of the sound recording itself;

“(v) the transmitting entity cooperates to prevent, to the extent feasible without imposing substantial costs or burdens, a transmission recipient or any other person or entity from automatically scanning the transmitting entity’s transmissions alone or together with transmissions by other transmitting entities in order to select a particular sound recording to be transmitted to the transmission recipient, except that the requirement of this clause shall not apply to a satellite digital audio service that is in operation, or that is licensed by the Federal Communications Commission, on or before July 31, 1998;

“(vi) the transmitting entity takes no affirmative steps to cause or induce the making of a phonorecord by the transmission recipient, and if the technology used by the transmitting entity enables the transmitting entity to limit the making by the transmission recipient of phonorecords of the transmission directly in a digital format, the transmitting entity sets such technology to limit such making of phonorecords to the extent permitted by such technology;

“(vii) phonorecords of the sound recording have been distributed to the public under the authority of the copyright owner or the copyright owner authorizes the transmitting entity to transmit the sound recording, and the transmitting entity makes the transmission from a phonorecord lawfully made under the authority of the copyright owner, except that the requirement of this clause shall not apply to a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, unless the transmitting entity is given notice in writing by the copyright owner of the sound recording that the broadcast station makes broadcast transmissions that regularly violate such requirement;

“(viii) the transmitting entity accommodates and does not interfere with the transmission of technical measures that are widely used by sound recording copyright owners to identify or protect copyrighted works, and that are technically feasible of being

transmitted by the transmitting entity without imposing substantial costs on the transmitting entity or resulting in perceptible aural or visual degradation of the digital signal, except that the requirement of this clause shall not apply to a satellite digital audio service that is in operation, or that is licensed under the authority of the Federal Communications Commission, on or before July 31, 1998, to the extent that such service has designed, developed, or made commitments to procure equipment or technology that is not compatible with such technical measures before such technical measures are widely adopted by sound recording copyright owners; and

“(ix) the transmitting entity identifies in textual data the sound recording during, but not before, the time it is performed, including the title of the sound recording, the title of the phonorecord embodying such sound recording, if any, and the featured recording artist, in a manner to permit it to be displayed to the transmission recipient by the device or technology intended for receiving the service provided by the transmitting entity, except that the obligation in this clause shall not take effect until 1 year after the date of the enactment of the Digital Millennium Copyright Act and shall not apply in the case of a retransmission of a broadcast transmission by a transmitting entity that does not have the right or ability to control the programming of the broadcast transmission, or in the case in which devices or technology intended for receiving the service provided by the transmitting entity that have the capability to display such textual data are not common in the marketplace.”.

(2) Subsection (f) is amended—

(A) in the subsection heading by striking “NONEXEMPT SUBSCRIPTION” and inserting “CERTAIN NONEXEMPT”;

(B) in paragraph (1)—

(i) in the first sentence—

(I) by striking “(1) No” and inserting “(1)(A) No”;

(II) by striking “the activities” and inserting “subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services”; and

(III) by striking “2000” and inserting “2001”; and

(ii) by amending the third sentence to read as follows: “Any copyright owners of sound recordings, preexisting subscription services, or preexisting satellite digital audio radio services may submit to the Librarian of Congress licenses covering such subscription transmissions with respect to such sound recordings.”; and

(C) by striking paragraphs (2), (3), (4), and (5) and inserting the following:

“(B) In the absence of license agreements negotiated under subparagraph (A), during the 60-day period commencing 6

months after publication of the notice specified in subparagraph (A), and upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph. In establishing rates and terms for preexisting subscription services and preexisting satellite digital audio radio services, in addition to the objectives set forth in section 801(b)(1), the copyright arbitration royalty panel may consider the rates and terms for comparable types of subscription digital audio transmission services and comparable circumstances under voluntary license agreements negotiated as provided in subparagraph (A).

“(C)(i) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in subparagraph (A) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe—

Regulations.

“(I) no later than 30 days after a petition is filed by any copyright owners of sound recordings, any preexisting subscription services, or any preexisting satellite digital audio radio services indicating that a new type of subscription digital audio transmission service on which sound recordings are performed is or is about to become operational; and

“(II) in the first week of January 2001, and at 5-year intervals thereafter.

“(ii) The procedures specified in subparagraph (B) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, upon filing of a petition in accordance with section 803(a)(1) during a 60-day period commencing—

“(I) 6 months after publication of a notice of the initiation of voluntary negotiation proceedings under subparagraph (A) pursuant to a petition under clause (i)(I) of this subparagraph; or

“(II) on July 1, 2001, and at 5-year intervals thereafter.

“(iii) The procedures specified in subparagraph (B) shall be concluded in accordance with section 802.

“(2)(A) No later than 30 days after the date of the enactment of the Digital Millennium Copyright Act, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining reasonable terms and rates of royalty payments for public performances of sound recordings by means of eligible nonsubscription transmissions and transmissions by new subscription services specified by subsection (d)(2) during the period beginning on the date of the enactment of such Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates and terms shall distinguish among the different types of eligible nonsubscription transmission services and new subscription services then in operation and shall include a minimum fee for each such type of service. Any copyright owners of sound recordings or any entities performing sound recordings affected by this paragraph may submit to the Librarian of Congress licenses covering

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such eligible nonsubscription transmissions and new subscription services with respect to such sound recordings. The parties to each negotiation proceeding shall bear their own costs.

“(B) In the absence of license agreements negotiated under subparagraph (A), during the 60-day period commencing 6 months after publication of the notice specified in subparagraph (A), and upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the period beginning on the date of the enactment of the Digital Millennium Copyright Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates and terms shall distinguish among the different types of eligible nonsubscription transmission services then in operation and shall include a minimum fee for each such type of service, such differences to be based on criteria including, but not limited to, the quantity and nature of the use of sound recordings and the degree to which use of the service may substitute for or may promote the purchase of phonorecords by consumers. In establishing rates and terms for transmissions by eligible nonsubscription services and new subscription services, the copyright arbitration royalty panel shall establish rates and terms that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller. In determining such rates and terms, the copyright arbitration royalty panel shall base its decision on economic, competitive and programming information presented by the parties, including—

“(i) whether use of the service may substitute for or may promote the sales of phonorecords or otherwise may interfere with or may enhance the sound recording copyright owner’s other streams of revenue from its sound recordings; and

“(ii) the relative roles of the copyright owner and the transmitting entity in the copyrighted work and the service made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, and risk.

In establishing such rates and terms, the copyright arbitration royalty panel may consider the rates and terms for comparable types of digital audio transmission services and comparable circumstances under voluntary license agreements negotiated under subparagraph (A).

Regulations.

“(C)(i) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in subparagraph (A) shall be repeated in accordance with regulations that the Librarian of Congress shall prescribe—

“(I) no later than 30 days after a petition is filed by any copyright owners of sound recordings or any eligible nonsubscription service or new subscription service indicating that a new type of eligible nonsubscription service or new subscription service on which sound recordings are performed is or is about to become operational; and

“(II) in the first week of January 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with subparagraph (A).

“(ii) The procedures specified in subparagraph (B) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, upon filing of a petition in accordance with section 803(a)(1) during a 60-day period commencing—

“(I) 6 months after publication of a notice of the initiation of voluntary negotiation proceedings under subparagraph (A) pursuant to a petition under clause (i)(I); or

“(II) on July 1, 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with subparagraph (A).

“(iii) The procedures specified in subparagraph (B) shall be concluded in accordance with section 802.

“(3) License agreements voluntarily negotiated at any time between 1 or more copyright owners of sound recordings and 1 or more entities performing sound recordings shall be given effect in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress.

“(4)(A) The Librarian of Congress shall also establish requirements by which copyright owners may receive reasonable notice of the use of their sound recordings under this section, and under which records of such use shall be kept and made available by entities performing sound recordings.

“(B) Any person who wishes to perform a sound recording publicly by means of a transmission eligible for statutory licensing under this subsection may do so without infringing the exclusive right of the copyright owner of the sound recording—

“(i) by complying with such notice requirements as the Librarian of Congress shall prescribe by regulation and by paying royalty fees in accordance with this subsection; or

“(ii) if such royalty fees have not been set, by agreeing to pay such royalty fees as shall be determined in accordance with this subsection.

“(C) Any royalty payments in arrears shall be made on or before the twentieth day of the month next succeeding the month in which the royalty fees are set.”.

(3) Subsection (g) is amended—

(A) in the subsection heading by striking “SUBSCRIPTION”;

(B) in paragraph (1) in the matter preceding subparagraph (A), by striking “subscription transmission licensed” and inserting “transmission licensed under a statutory license”;

(C) in subparagraphs (A) and (B) by striking “subscription”; and

(D) in paragraph (2) by striking “subscription”.

(4) Subsection (j) is amended—

(A) by striking paragraphs (4) and (9) and redesignating paragraphs (2), (3), (5), (6), (7), and (8) as paragraphs (3), (5), (9), (12), (13), and (14), respectively;

Regulations.

(B) by inserting after paragraph (1) the following:

“(2) An ‘archived program’ is a predetermined program that is available repeatedly on the demand of the transmission recipient and that is performed in the same order from the beginning, except that an archived program shall not include a recorded event or broadcast transmission that makes no more than an incidental use of sound recordings, as long as such recorded event or broadcast transmission does not contain an entire sound recording or feature a particular sound recording.”;

(C) by inserting after paragraph (3), as so redesignated, the following:

“(4) A ‘continuous program’ is a predetermined program that is continuously performed in the same order and that is accessed at a point in the program that is beyond the control of the transmission recipient.”;

(D) by inserting after paragraph (5), as so redesignated, the following:

“(6) An ‘eligible nonsubscription transmission’ is a noninteractive nonsubscription digital audio transmission not exempt under subsection (d)(1) that is made as part of a service that provides audio programming consisting, in whole or in part, of performances of sound recordings, including retransmissions of broadcast transmissions, if the primary purpose of the service is to provide to the public such audio or other entertainment programming, and the primary purpose of the service is not to sell, advertise, or promote particular products or services other than sound recordings, live concerts, or other music-related events.

“(7) An ‘interactive service’ is one that enables a member of the public to receive a transmission of a program specially created for the recipient, or on request, a transmission of a particular sound recording, whether or not as part of a program, which is selected by or on behalf of the recipient. The ability of individuals to request that particular sound recordings be performed for reception by the public at large, or in the case of a subscription service, by all subscribers of the service, does not make a service interactive, if the programming on each channel of the service does not substantially consist of sound recordings that are performed within 1 hour of the request or at a time designated by either the transmitting entity or the individual making such request. If an entity offers both interactive and noninteractive services (either concurrently or at different times), the noninteractive component shall not be treated as part of an interactive service.

“(8) A ‘new subscription service’ is a service that performs sound recordings by means of noninteractive subscription digital audio transmissions and that is not a preexisting subscription service or a preexisting satellite digital audio radio service.”;

(E) by inserting after paragraph (9), as so redesignated, the following:

“(10) A ‘preexisting satellite digital audio radio service’ is a subscription satellite digital audio radio service provided pursuant to a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998, and any renewal of such license to the extent of



the scope of the original license, and may include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service.

“(11) A ‘preexisting subscription service’ is a service that performs sound recordings by means of noninteractive audio-only subscription digital audio transmissions, which was in existence and was making such transmissions to the public for a fee on or before July 31, 1998, and may include a limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service.”; and

(F) by adding at the end the following:

“(15) A ‘transmission’ is either an initial transmission or a retransmission.”.

(5) The amendment made by paragraph (2)(B)(i)(III) of this subsection shall be deemed to have been enacted as part of the Digital Performance Right in Sound Recordings Act of 1995, and the publication of notice of proceedings under section 114(f)(1) of title 17, United States Code, as in effect upon the effective date of that Act, for the determination of royalty payments shall be deemed to have been made for the period beginning on the effective date of that Act and ending on December 1, 2001.

17 USC 114 note.

(6) The amendments made by this subsection do not annul, limit, or otherwise impair the rights that are preserved by section 114 of title 17, United States Code, including the rights preserved by subsections (c), (d)(4), and (i) of such section.

17 USC 114 note.

(b) EPHEMERAL RECORDINGS.—Section 112 of title 17, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

“(e) STATUTORY LICENSE.—(1) A transmitting organization entitled to transmit to the public a performance of a sound recording under the limitation on exclusive rights specified by section 114(d)(1)(C)(iv) or under a statutory license in accordance with section 114(f) is entitled to a statutory license, under the conditions specified by this subsection, to make no more than 1 phonorecord of the sound recording (unless the terms and conditions of the statutory license allow for more), if the following conditions are satisfied:

“(A) The phonorecord is retained and used solely by the transmitting organization that made it, and no further phonorecords are reproduced from it.

“(B) The phonorecord is used solely for the transmitting organization’s own transmissions originating in the United States under a statutory license in accordance with section 114(f) or the limitation on exclusive rights specified by section 114(d)(1)(C)(iv).

“(C) Unless preserved exclusively for purposes of archival preservation, the phonorecord is destroyed within 6 months from the date the sound recording was first transmitted to the public using the phonorecord.

“(D) Phonorecords of the sound recording have been distributed to the public under the authority of the copyright owner or the copyright owner authorizes the transmitting entity to transmit the sound recording, and the transmitting entity

makes the phonorecord under this subsection from a phonorecord lawfully made and acquired under the authority of the copyright owner.

“(3) Notwithstanding any provision of the antitrust laws, any copyright owners of sound recordings and any transmitting organizations entitled to a statutory license under this subsection may negotiate and agree upon royalty rates and license terms and conditions for making phonorecords of such sound recordings under this section and the proportionate division of fees paid among copyright owners, and may designate common agents to negotiate, agree to, pay, or receive such royalty payments.

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“(4) No later than 30 days after the date of the enactment of the Digital Millennium Copyright Act, the Librarian of Congress shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by paragraph (2) of this subsection during the period beginning on the date of the enactment of such Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates shall include a minimum fee for each type of service offered by transmitting organizations. Any copyright owners of sound recordings or any transmitting organizations entitled to a statutory license under this subsection may submit to the Librarian of Congress licenses covering such activities with respect to such sound recordings. The parties to each negotiation proceeding shall bear their own costs.

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“(5) In the absence of license agreements negotiated under paragraph (3), during the 60-day period commencing 6 months after publication of the notice specified in paragraph (4), and upon the filing of a petition in accordance with section 803(a)(1), the Librarian of Congress shall, pursuant to chapter 8, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of reasonable rates and terms which, subject to paragraph (6), shall be binding on all copyright owners of sound recordings and transmitting organizations entitled to a statutory license under this subsection during the period beginning on the date of the enactment of the Digital Millennium Copyright Act and ending on December 31, 2000, or such other date as the parties may agree. Such rates shall include a minimum fee for each type of service offered by transmitting organizations. The copyright arbitration royalty panel shall establish rates that most clearly represent the fees that would have been negotiated in the marketplace between a willing buyer and a willing seller. In determining such rates and terms, the copyright arbitration royalty panel shall base its decision on economic, competitive, and programming information presented by the parties, including—

“(A) whether use of the service may substitute for or may promote the sales of phonorecords or otherwise interferes with or enhances the copyright owner’s traditional streams of revenue; and

“(B) the relative roles of the copyright owner and the transmitting organization in the copyrighted work and the service made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, and risk.

In establishing such rates and terms, the copyright arbitration royalty panel may consider the rates and terms under voluntary

license agreements negotiated as provided in paragraphs (3) and (4). The Librarian of Congress shall also establish requirements by which copyright owners may receive reasonable notice of the use of their sound recordings under this section, and under which records of such use shall be kept and made available by transmitting organizations entitled to obtain a statutory license under this subsection.

“(6) License agreements voluntarily negotiated at any time between 1 or more copyright owners of sound recordings and 1 or more transmitting organizations entitled to obtain a statutory license under this subsection shall be given effect in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress.

“(7) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in paragraph (4) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, in the first week of January 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with paragraph (4). The procedures specified in paragraph (5) shall be repeated, in accordance with regulations that the Librarian of Congress shall prescribe, upon filing of a petition in accordance with section 803(a)(1), during a 60-day period commencing on July 1, 2000, and at 2-year intervals thereafter, except to the extent that different years for the repeating of such proceedings may be determined in accordance with paragraph (4). The procedures specified in paragraph (5) shall be concluded in accordance with section 802.

Regulations.

“(8)(A) Any person who wishes to make a phonorecord of a sound recording under a statutory license in accordance with this subsection may do so without infringing the exclusive right of the copyright owner of the sound recording under section 106(1)—

“(i) by complying with such notice requirements as the Librarian of Congress shall prescribe by regulation and by paying royalty fees in accordance with this subsection; or

“(ii) if such royalty fees have not been set, by agreeing to pay such royalty fees as shall be determined in accordance with this subsection.

“(B) Any royalty payments in arrears shall be made on or before the 20th day of the month next succeeding the month in which the royalty fees are set.

“(9) If a transmitting organization entitled to make a phonorecord under this subsection is prevented from making such phonorecord by reason of the application by the copyright owner of technical measures that prevent the reproduction of the sound recording, the copyright owner shall make available to the transmitting organization the necessary means for permitting the making of such phonorecord as permitted under this subsection, if it is technologically feasible and economically reasonable for the copyright owner to do so. If the copyright owner fails to do so in a timely manner in light of the transmitting organization's reasonable business requirements, the transmitting organization shall not be liable for a violation of section 1201(a)(1) of this title for engaging in such activities as are necessary to make such phonorecords as permitted under this subsection.

“(10) Nothing in this subsection annuls, limits, impairs, or otherwise affects in any way the existence or value of any of

the exclusive rights of the copyright owners in a sound recording, except as otherwise provided in this subsection, or in a musical work, including the exclusive rights to reproduce and distribute a sound recording or musical work, including by means of a digital phonorecord delivery, under sections 106(1), 106(3), and 115, and the right to perform publicly a sound recording or musical work, including by means of a digital audio transmission, under sections 106(4) and 106(6).”.

17 USC 112 note.

(c) SCOPE OF SECTION 112(a) OF TITLE 17 NOT AFFECTED.—Nothing in this section or the amendments made by this section shall affect the scope of section 112(a) of title 17, United States Code, or the entitlement of any person to an exemption thereunder.

(d) PROCEDURAL AMENDMENTS TO CHAPTER 8.—Section 802 of title 17, United States Code, is amended—

(1) in subsection (f)—

(A) in the first sentence by striking “60” and inserting “90”; and

(B) in the third sentence by striking “that 60-day period” and inserting “an additional 30-day period”; and

(2) in subsection (g) by inserting after the second sentence the following: “When this title provides that the royalty rates or terms that were previously in effect are to expire on a specified date, any adjustment by the Librarian of those rates or terms shall be effective as of the day following the date of expiration of the rates or terms that were previously in effect, even if the Librarian’s decision is rendered on a later date.”.

(e) CONFORMING AMENDMENTS.—(1) Section 801(b)(1) of title 17, United States Code, is amended in the second sentence by striking “sections 114, 115, and 116” and inserting “sections 114(f)(1)(B), 115, and 116”.

(2) Section 802(c) of title 17, United States Code, is amended by striking “section 111, 114, 116, or 119, any person entitled to a compulsory license” and inserting “section 111, 112, 114, 116, or 119, any transmitting organization entitled to a statutory license under section 112(f), any person entitled to a statutory license”.

(3) Section 802(g) of title 17, United States Code, is amended by striking “sections 111, 114” and inserting “sections 111, 112, 114”.

(4) Section 802(h)(2) of title 17, United States Code, is amended by striking “section 111, 114” and inserting “section 111, 112, 114”.

(5) Section 803(a)(1) of title 17, United States Code, is amended by striking “sections 114, 115” and inserting “sections 112, 114, 115”.

(6) Section 803(a)(5) of title 17, United States Code, is amended—

(A) by striking “section 114” and inserting “section 112 or 114”; and

(B) by striking “that section” and inserting “those sections”.

#### **SEC. 406. ASSUMPTION OF CONTRACTUAL OBLIGATIONS RELATED TO TRANSFERS OF RIGHTS IN MOTION PICTURES.**

(a) IN GENERAL.—Part VI of title 28, United States Code, is amended by adding at the end the following new chapter:

## **“CHAPTER 180—ASSUMPTION OF CERTAIN CONTRACTUAL OBLIGATIONS**

“Sec. 4001. Assumption of contractual obligations related to transfers of rights in motion pictures.

### **“§ 4001. Assumption of contractual obligations related to transfers of rights in motion pictures**

“(a) ASSUMPTION OF OBLIGATIONS.—(1) In the case of a transfer of copyright ownership under United States law in a motion picture (as the terms ‘transfer of copyright ownership’ and ‘motion picture’ are defined in section 101 of title 17) that is produced subject to 1 or more collective bargaining agreements negotiated under the laws of the United States, if the transfer is executed on or after the effective date of this chapter and is not limited to public performance rights, the transfer instrument shall be deemed to incorporate the assumption agreements applicable to the copyright ownership being transferred that are required by the applicable collective bargaining agreement, and the transferee shall be subject to the obligations under each such assumption agreement to make residual payments and provide related notices, accruing after the effective date of the transfer and applicable to the exploitation of the rights transferred, and any remedies under each such assumption agreement for breach of those obligations, as those obligations and remedies are set forth in the applicable collective bargaining agreement, if—

“(A) the transferee knows or has reason to know at the time of the transfer that such collective bargaining agreement was or will be applicable to the motion picture; or

“(B) in the event of a court order confirming an arbitration award against the transferor under the collective bargaining agreement, the transferor does not have the financial ability to satisfy the award within 90 days after the order is issued.

“(2) For purposes of paragraph (1)(A), ‘knows or has reason to know’ means any of the following:

“(A) Actual knowledge that the collective bargaining agreement was or will be applicable to the motion picture.

“(B)(i) Constructive knowledge that the collective bargaining agreement was or will be applicable to the motion picture, arising from recordation of a document pertaining to copyright in the motion picture under section 205 of title 17 or from publication, at a site available to the public on-line that is operated by the relevant union, of information that identifies the motion picture as subject to a collective bargaining agreement with that union, if the site permits commercially reasonable verification of the date on which the information was available for access.

“(ii) Clause (i) applies only if the transfer referred to in subsection (a)(1) occurs— Applicability.

“(I) after the motion picture is completed, or

“(II) before the motion picture is completed and—

“(aa) within 18 months before the filing of an application for copyright registration for the motion picture under section 408 of title 17, or

“(bb) if no such application is filed, within 18 months before the first publication of the motion picture in the United States.

“(C) Awareness of other facts and circumstances pertaining to a particular transfer from which it is apparent that the collective bargaining agreement was or will be applicable to the motion picture.

“(b) SCOPE OF EXCLUSION OF TRANSFERS OF PUBLIC PERFORMANCE RIGHTS.—For purposes of this section, the exclusion under subsection (a) of transfers of copyright ownership in a motion picture that are limited to public performance rights includes transfers to a terrestrial broadcast station, cable system, or programmer to the extent that the station, system, or programmer is functioning as an exhibitor of the motion picture, either by exhibiting the motion picture on its own network, system, service, or station, or by initiating the transmission of an exhibition that is carried on another network, system, service, or station. When a terrestrial broadcast station, cable system, or programmer, or other transferee, is also functioning otherwise as a distributor or as a producer of the motion picture, the public performance exclusion does not affect any obligations imposed on the transferee to the extent that it is engaging in such functions.

“(c) EXCLUSION FOR GRANTS OF SECURITY INTERESTS.—Subsection (a) shall not apply to—

“(1) a transfer of copyright ownership consisting solely of a mortgage, hypothecation, or other security interest; or

“(2) a subsequent transfer of the copyright ownership secured by the security interest described in paragraph (1) by or under the authority of the secured party, including a transfer through the exercise of the secured party’s rights or remedies as a secured party, or by a subsequent transferee. The exclusion under this subsection shall not affect any rights or remedies under law or contract.

“(d) DEFERRAL PENDING RESOLUTION OF BONA FIDE DISPUTE.—A transferee on which obligations are imposed under subsection (a) by virtue of paragraph (1) of that subsection may elect to defer performance of such obligations that are subject to a bona fide dispute between a union and a prior transferor until that dispute is resolved, except that such deferral shall not stay accrual of any union claims due under an applicable collective bargaining agreement.

“(e) SCOPE OF OBLIGATIONS DETERMINED BY PRIVATE AGREEMENT.—Nothing in this section shall expand or diminish the rights, obligations, or remedies of any person under the collective bargaining agreements or assumption agreements referred to in this section.

“(f) FAILURE TO NOTIFY.—If the transferor under subsection (a) fails to notify the transferee under subsection (a) of applicable collective bargaining obligations before the execution of the transfer instrument, and subsection (a) is made applicable to the transferee solely by virtue of subsection (a)(1)(B), the transferor shall be liable to the transferee for any damages suffered by the transferee as a result of the failure to notify.

“(g) DETERMINATION OF DISPUTES AND CLAIMS.—Any dispute concerning the application of subsections (a) through (f) shall be determined by an action in United States district court, and the court in its discretion may allow the recovery of full costs by or against any party and may also award a reasonable attorney’s fee to the prevailing party as part of the costs.

“(h) **STUDY.**—The Comptroller General, in consultation with the Register of Copyrights, shall conduct a study of the conditions in the motion picture industry that gave rise to this section, and the impact of this section on the motion picture industry. The Comptroller General shall report the findings of the study to the Congress within 2 years after the effective date of this chapter.”.

Reports.

(b) **CONFORMING AMENDMENT.**—The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

“**180. Assumption of Certain Contractual Obligations** ..... **4001**”.

**SEC. 407. EFFECTIVE DATE.**

17 USC 108 note.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

## TITLE V—PROTECTION OF CERTAIN ORIGINAL DESIGNS

Vessel Hull  
Design Protection  
Act.

**SEC. 501. SHORT TITLE.**

17 USC 101 note.

This Act may be referred to as the “Vessel Hull Design Protection Act”.

**SEC. 502. PROTECTION OF CERTAIN ORIGINAL DESIGNS.**

Title 17, United States Code, is amended by adding at the end the following new chapter:

**“CHAPTER 13—PROTECTION OF ORIGINAL DESIGNS**

“Sec.

“1301. Designs protected.

“1302. Designs not subject to protection.

“1303. Revisions, adaptations, and rearrangements.

“1304. Commencement of protection.

“1305. Term of protection.

“1306. Design notice.

“1307. Effect of omission of notice.

“1308. Exclusive rights.

“1309. Infringement.

“1310. Application for registration.

“1311. Benefit of earlier filing date in foreign country.

“1312. Oaths and acknowledgments.

“1313. Examination of application and issue or refusal of registration.

“1314. Certification of registration.

“1315. Publication of announcements and indexes.

“1316. Fees.

“1317. Regulations.

“1318. Copies of records.

“1319. Correction of errors in certificates.

“1320. Ownership and transfer.

“1321. Remedy for infringement.

“1322. Injunctions.

“1323. Recovery for infringement.

“1324. Power of court over registration.

“1325. Liability for action on registration fraudulently obtained.

“1326. Penalty for false marking.

“1327. Penalty for false representation.

“1328. Enforcement by Treasury and Postal Service.

“1329. Relation to design patent law.

“1330. Common law and other rights unaffected.

“1331. Administrator; Office of the Administrator.

“1332. No retroactive effect.

**“§ 1301. Designs protected**

“(a) **DESIGNS PROTECTED.**—

“(1) IN GENERAL.—The designer or other owner of an original design of a useful article which makes the article attractive or distinctive in appearance to the purchasing or using public may secure the protection provided by this chapter upon complying with and subject to this chapter.

“(2) VESSEL HULLS.—The design of a vessel hull, including a plug or mold, is subject to protection under this chapter, notwithstanding section 1302(4).

“(b) DEFINITIONS.—For the purpose of this chapter, the following terms have the following meanings:

“(1) A design is ‘original’ if it is the result of the designer’s creative endeavor that provides a distinguishable variation over prior work pertaining to similar articles which is more than merely trivial and has not been copied from another source.

“(2) A ‘useful article’ is a vessel hull, including a plug or mold, which in normal use has an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article which normally is part of a useful article shall be deemed to be a useful article.

“(3) A ‘vessel’ is a craft, especially one larger than a rowboat, designed to navigate on water, but does not include any such craft that exceeds 200 feet in length.

“(4) A ‘hull’ is the frame or body of a vessel, including the deck of a vessel, exclusive of masts, sails, yards, and rigging.

“(5) A ‘plug’ means a device or model used to make a mold for the purpose of exact duplication, regardless of whether the device or model has an intrinsic utilitarian function that is not only to portray the appearance of the product or to convey information.

“(6) A ‘mold’ means a matrix or form in which a substance for material is used, regardless of whether the matrix or form has an intrinsic utilitarian function that is not only to portray the appearance of the product or to convey information.

#### **“§ 1302. Designs not subject to protection**

“Protection under this chapter shall not be available for a design that is—

“(1) not original;

“(2) staple or commonplace, such as a standard geometric figure, a familiar symbol, an emblem, or a motif, or another shape, pattern, or configuration which has become standard, common, prevalent, or ordinary;

“(3) different from a design excluded by paragraph (2) only in insignificant details or in elements which are variants commonly used in the relevant trades;

“(4) dictated solely by a utilitarian function of the article that embodies it; or

“(5) embodied in a useful article that was made public by the designer or owner in the United States or a foreign country more than 1 year before the date of the application for registration under this chapter.

#### **“§ 1303. Revisions, adaptations, and rearrangements**

“Protection for a design under this chapter shall be available notwithstanding the employment in the design of subject matter excluded from protection under section 1302 if the design is a substantial revision, adaptation, or rearrangement of such subject



matter. Such protection shall be independent of any subsisting protection in subject matter employed in the design, and shall not be construed as securing any right to subject matter excluded from protection under this chapter or as extending any subsisting protection under this chapter.

**“§ 1304. Commencement of protection**

“The protection provided for a design under this chapter shall commence upon the earlier of the date of publication of the registration under section 1313(a) or the date the design is first made public as defined by section 1310(b).

**“§ 1305. Term of protection**

“(a) IN GENERAL.—Subject to subsection (b), the protection provided under this chapter for a design shall continue for a term of 10 years beginning on the date of the commencement of protection under section 1304.

“(b) EXPIRATION.—All terms of protection provided in this section shall run to the end of the calendar year in which they would otherwise expire.

“(c) TERMINATION OF RIGHTS.—Upon expiration or termination of protection in a particular design under this chapter, all rights under this chapter in the design shall terminate, regardless of the number of different articles in which the design may have been used during the term of its protection.

**“§ 1306. Design notice**

“(a) CONTENTS OF DESIGN NOTICE.—(1) Whenever any design for which protection is sought under this chapter is made public under section 1310(b), the owner of the design shall, subject to the provisions of section 1307, mark it or have it marked legibly with a design notice consisting of—

“(A) the words ‘Protected Design’, the abbreviation ‘Prot’d Des.’, or the letter ‘D’ with a circle, or the symbol ‘\*D\*’;

“(B) the year of the date on which protection for the design commenced; and

“(C) the name of the owner, an abbreviation by which the name can be recognized, or a generally accepted alternative designation of the owner.

Any distinctive identification of the owner may be used for purposes of subparagraph (C) if it has been recorded by the Administrator before the design marked with such identification is registered.

“(2) After registration, the registration number may be used instead of the elements specified in subparagraphs (B) and (C) of paragraph (1).

“(b) LOCATION OF NOTICE.—The design notice shall be so located and applied as to give reasonable notice of design protection while the useful article embodying the design is passing through its normal channels of commerce.

“(c) SUBSEQUENT REMOVAL OF NOTICE.—When the owner of a design has complied with the provisions of this section, protection under this chapter shall not be affected by the removal, destruction, or obliteration by others of the design notice on an article.

**“§ 1307. Effect of omission of notice**

“(a) ACTIONS WITH NOTICE.—Except as provided in subsection (b), the omission of the notice prescribed in section 1306 shall

not cause loss of the protection under this chapter or prevent recovery for infringement under this chapter against any person who, after receiving written notice of the design protection, begins an undertaking leading to infringement under this chapter.

“(b) ACTIONS WITHOUT NOTICE.—The omission of the notice prescribed in section 1306 shall prevent any recovery under section 1323 against a person who began an undertaking leading to infringement under this chapter before receiving written notice of the design protection. No injunction shall be issued under this chapter with respect to such undertaking unless the owner of the design reimburses that person for any reasonable expenditure or contractual obligation in connection with such undertaking that was incurred before receiving written notice of the design protection, as the court in its discretion directs. The burden of providing written notice of design protection shall be on the owner of the design.

**“§ 1308. Exclusive rights**

“The owner of a design protected under this chapter has the exclusive right to—

“(1) make, have made, or import, for sale or for use in trade, any useful article embodying that design; and

“(2) sell or distribute for sale or for use in trade any useful article embodying that design.

**“§ 1309. Infringement**

“(a) ACTS OF INFRINGEMENT.—Except as provided in subsection (b), it shall be infringement of the exclusive rights in a design protected under this chapter for any person, without the consent of the owner of the design, within the United States and during the term of such protection, to—

“(1) make, have made, or import, for sale or for use in trade, any infringing article as defined in subsection (e); or

“(2) sell or distribute for sale or for use in trade any such infringing article.

“(b) ACTS OF SELLERS AND DISTRIBUTORS.—A seller or distributor of an infringing article who did not make or import the article shall be deemed to have infringed on a design protected under this chapter only if that person—

“(1) induced or acted in collusion with a manufacturer to make, or an importer to import such article, except that merely purchasing or giving an order to purchase such article in the ordinary course of business shall not of itself constitute such inducement or collusion; or

“(2) refused or failed, upon the request of the owner of the design, to make a prompt and full disclosure of that person’s source of such article, and that person orders or reorders such article after receiving notice by registered or certified mail of the protection subsisting in the design.

“(c) ACTS WITHOUT KNOWLEDGE.—It shall not be infringement under this section to make, have made, import, sell, or distribute, any article embodying a design which was created without knowledge that a design was protected under this chapter and was copied from such protected design.

“(d) ACTS IN ORDINARY COURSE OF BUSINESS.—A person who incorporates into that person’s product of manufacture an infringing article acquired from others in the ordinary course of business,

or who, without knowledge of the protected design embodied in an infringing article, makes or processes the infringing article for the account of another person in the ordinary course of business, shall not be deemed to have infringed the rights in that design under this chapter except under a condition contained in paragraph (1) or (2) of subsection (b). Accepting an order or reorder from the source of the infringing article shall be deemed ordering or reordering within the meaning of subsection (b)(2).

“(e) INFRINGING ARTICLE DEFINED.—As used in this section, an ‘infringing article’ is any article the design of which has been copied from a design protected under this chapter, without the consent of the owner of the protected design. An infringing article is not an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium. A design shall not be deemed to have been copied from a protected design if it is original and not substantially similar in appearance to a protected design.

“(f) ESTABLISHING ORIGINALITY.—The party to any action or proceeding under this chapter who alleges rights under this chapter in a design shall have the burden of establishing the design’s originality whenever the opposing party introduces an earlier work which is identical to such design, or so similar as to make prima facie showing that such design was copied from such work.

“(g) REPRODUCTION FOR TEACHING OR ANALYSIS.—It is not an infringement of the exclusive rights of a design owner for a person to reproduce the design in a useful article or in any other form solely for the purpose of teaching, analyzing, or evaluating the appearance, concepts, or techniques embodied in the design, or the function of the useful article embodying the design.

#### “§ 1310. Application for registration

“(a) TIME LIMIT FOR APPLICATION FOR REGISTRATION.—Protection under this chapter shall be lost if application for registration of the design is not made within 2 years after the date on which the design is first made public.

“(b) WHEN DESIGN IS MADE PUBLIC.—A design is made public when an existing useful article embodying the design is anywhere publicly exhibited, publicly distributed, or offered for sale or sold to the public by the owner of the design or with the owner’s consent.

“(c) APPLICATION BY OWNER OF DESIGN.—Application for registration may be made by the owner of the design.

“(d) CONTENTS OF APPLICATION.—The application for registration shall be made to the Administrator and shall state—

“(1) the name and address of the designer or designers of the design;

“(2) the name and address of the owner if different from the designer;

“(3) the specific name of the useful article embodying the design;

“(4) the date, if any, that the design was first made public, if such date was earlier than the date of the application;

“(5) affirmation that the design has been fixed in a useful article; and

“(6) such other information as may be required by the Administrator.

The application for registration may include a description setting forth the salient features of the design, but the absence of such a description shall not prevent registration under this chapter.

“(e) SWORN STATEMENT.—The application for registration shall be accompanied by a statement under oath by the applicant or the applicant’s duly authorized agent or representative, setting forth, to the best of the applicant’s knowledge and belief—

“(1) that the design is original and was created by the designer or designers named in the application;

“(2) that the design has not previously been registered on behalf of the applicant or the applicant’s predecessor in title; and

“(3) that the applicant is the person entitled to protection and to registration under this chapter.

If the design has been made public with the design notice prescribed in section 1306, the statement shall also describe the exact form and position of the design notice.

“(f) EFFECT OF ERRORS.—(1) Error in any statement or assertion as to the utility of the useful article named in the application under this section, the design of which is sought to be registered, shall not affect the protection secured under this chapter.

“(2) Errors in omitting a joint designer or in naming an alleged joint designer shall not affect the validity of the registration, or the actual ownership or the protection of the design, unless it is shown that the error occurred with deceptive intent.

“(g) DESIGN MADE IN SCOPE OF EMPLOYMENT.—In a case in which the design was made within the regular scope of the designer’s employment and individual authorship of the design is difficult or impossible to ascribe and the application so states, the name and address of the employer for whom the design was made may be stated instead of that of the individual designer.

“(h) PICTORIAL REPRESENTATION OF DESIGN.—The application for registration shall be accompanied by two copies of a drawing or other pictorial representation of the useful article embodying the design, having one or more views, adequate to show the design, in a form and style suitable for reproduction, which shall be deemed a part of the application.

“(i) DESIGN IN MORE THAN ONE USEFUL ARTICLE.—If the distinguishing elements of a design are in substantially the same form in different useful articles, the design shall be protected as to all such useful articles when protected as to one of them, but not more than one registration shall be required for the design.

“(j) APPLICATION FOR MORE THAN ONE DESIGN.—More than one design may be included in the same application under such conditions as may be prescribed by the Administrator. For each design included in an application the fee prescribed for a single design shall be paid.

#### “§ 1311. Benefit of earlier filing date in foreign country

“An application for registration of a design filed in the United States by any person who has, or whose legal representative or predecessor or successor in title has, previously filed an application for registration of the same design in a foreign country which extends to designs of owners who are citizens of the United States, or to applications filed under this chapter, similar protection to that provided under this chapter shall have that same effect as if filed in the United States on the date on which the application

was first filed in such foreign country, if the application in the United States is filed within 6 months after the earliest date on which any such foreign application was filed.

**“§ 1312. Oaths and acknowledgments**

“(a) IN GENERAL.—Oaths and acknowledgments required by this chapter—

“(1) may be made—

“(A) before any person in the United States authorized by law to administer oaths; or

“(B) when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any official authorized to administer oaths in the foreign country concerned, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States; and

“(2) shall be valid if they comply with the laws of the State or country where made.

“(b) WRITTEN DECLARATION IN LIEU OF OATH.—(1) The Administrator may by rule prescribe that any document which is to be filed under this chapter in the Office of the Administrator and which is required by any law, rule, or other regulation to be under oath, may be subscribed to by a written declaration in such form as the Administrator may prescribe, and such declaration shall be in lieu of the oath otherwise required.

“(2) Whenever a written declaration under paragraph (1) is used, the document containing the declaration shall state that willful false statements are punishable by fine or imprisonment, or both, pursuant to section 1001 of title 18, and may jeopardize the validity of the application or document or a registration resulting therefrom.

**“§ 1313. Examination of application and issue or refusal of registration**

“(a) DETERMINATION OF REGISTRABILITY OF DESIGN; REGISTRATION.—Upon the filing of an application for registration in proper form under section 1310, and upon payment of the fee prescribed under section 1316, the Administrator shall determine whether or not the application relates to a design which on its face appears to be subject to protection under this chapter, and, if so, the Register shall register the design. Registration under this subsection shall be announced by publication. The date of registration shall be the date of publication.

Publication.

“(b) REFUSAL TO REGISTER; RECONSIDERATION.—If, in the judgment of the Administrator, the application for registration relates to a design which on its face is not subject to protection under this chapter, the Administrator shall send to the applicant a notice of refusal to register and the grounds for the refusal. Within 3 months after the date on which the notice of refusal is sent, the applicant may, by written request, seek reconsideration of the application. After consideration of such a request, the Administrator shall either register the design or send to the applicant a notice of final refusal to register.

“(c) APPLICATION TO CANCEL REGISTRATION.—Any person who believes he or she is or will be damaged by a registration under this chapter may, upon payment of the prescribed fee, apply to the Administrator at any time to cancel the registration on the

Regulations.

Publication.

ground that the design is not subject to protection under this chapter, stating the reasons for the request. Upon receipt of an application for cancellation, the Administrator shall send to the owner of the design, as shown in the records of the Office of the Administrator, a notice of the application, and the owner shall have a period of 3 months after the date on which such notice is mailed in which to present arguments to the Administrator for support of the validity of the registration. The Administrator shall also have the authority to establish, by regulation, conditions under which the opposing parties may appear and be heard in support of their arguments. If, after the periods provided for the presentation of arguments have expired, the Administrator determines that the applicant for cancellation has established that the design is not subject to protection under this chapter, the Administrator shall order the registration stricken from the record. Cancellation under this subsection shall be announced by publication, and notice of the Administrator's final determination with respect to any application for cancellation shall be sent to the applicant and to the owner of record.

**“§ 1314. Certification of registration**

“Certificates of registration shall be issued in the name of the United States under the seal of the Office of the Administrator and shall be recorded in the official records of the Office. The certificate shall state the name of the useful article, the date of filing of the application, the date of registration, and the date the design was made public, if earlier than the date of filing of the application, and shall contain a reproduction of the drawing or other pictorial representation of the design. If a description of the salient features of the design appears in the application, the description shall also appear in the certificate. A certificate of registration shall be admitted in any court as prima facie evidence of the facts stated in the certificate.

**“§ 1315. Publication of announcements and indexes**

“(a) PUBLICATIONS OF THE ADMINISTRATOR.—The Administrator shall publish lists and indexes of registered designs and cancellations of designs and may also publish the drawings or other pictorial representations of registered designs for sale or other distribution.

“(b) FILE OF REPRESENTATIVES OF REGISTERED DESIGNS.—The Administrator shall establish and maintain a file of the drawings or other pictorial representations of registered designs. The file shall be available for use by the public under such conditions as the Administrator may prescribe.

**“§ 1316. Fees**

“The Administrator shall by regulation set reasonable fees for the filing of applications to register designs under this chapter and for other services relating to the administration of this chapter, taking into consideration the cost of providing these services and the benefit of a public record.

**“§ 1317. Regulations**

“The Administrator may establish regulations for the administration of this chapter.

**“§ 1318. Copies of records**

“Upon payment of the prescribed fee, any person may obtain a certified copy of any official record of the Office of the Administrator that relates to this chapter. That copy shall be admissible in evidence with the same effect as the original.

**“§ 1319. Correction of errors in certificates**

“The Administrator may, by a certificate of correction under seal, correct any error in a registration incurred through the fault of the Office, or, upon payment of the required fee, any error of a clerical or typographical nature occurring in good faith but not through the fault of the Office. Such registration, together with the certificate, shall thereafter have the same effect as if it had been originally issued in such corrected form.

**“§ 1320. Ownership and transfer**

“(a) PROPERTY RIGHT IN DESIGN.—The property right in a design subject to protection under this chapter shall vest in the designer, the legal representatives of a deceased designer or of one under legal incapacity, the employer for whom the designer created the design in the case of a design made within the regular scope of the designer’s employment, or a person to whom the rights of the designer or of such employer have been transferred. The person in whom the property right is vested shall be considered the owner of the design.

“(b) TRANSFER OF PROPERTY RIGHT.—The property right in a registered design, or a design for which an application for registration has been or may be filed, may be assigned, granted, conveyed, or mortgaged by an instrument in writing, signed by the owner, or may be bequeathed by will.

“(c) OATH OR ACKNOWLEDGEMENT OF TRANSFER.—An oath or acknowledgment under section 1312 shall be prima facie evidence of the execution of an assignment, grant, conveyance, or mortgage under subsection (b).

“(d) RECORDATION OF TRANSFER.—An assignment, grant, conveyance, or mortgage under subsection (b) shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, unless it is recorded in the Office of the Administrator within 3 months after its date of execution or before the date of such subsequent purchase or mortgage.

**“§ 1321. Remedy for infringement**

“(a) IN GENERAL.—The owner of a design is entitled, after issuance of a certificate of registration of the design under this chapter, to institute an action for any infringement of the design.

“(b) REVIEW OF REFUSAL TO REGISTER.—(1) Subject to paragraph (2), the owner of a design may seek judicial review of a final refusal of the Administrator to register the design under this chapter by bringing a civil action, and may in the same action, if the court adjudges the design subject to protection under this chapter, enforce the rights in that design under this chapter.

“(2) The owner of a design may seek judicial review under this section if—

“(A) the owner has previously duly filed and prosecuted to final refusal an application in proper form for registration of the design;

“(B) the owner causes a copy of the complaint in the action to be delivered to the Administrator within 10 days after the commencement of the action; and

“(C) the defendant has committed acts in respect to the design which would constitute infringement with respect to a design protected under this chapter.

“(c) ADMINISTRATOR AS PARTY TO ACTION.—The Administrator may, at the Administrator’s option, become a party to the action with respect to the issue of registrability of the design claim by entering an appearance within 60 days after being served with the complaint, but the failure of the Administrator to become a party shall not deprive the court of jurisdiction to determine that issue.

“(d) USE OF ARBITRATION TO RESOLVE DISPUTE.—The parties to an infringement dispute under this chapter, within such time as may be specified by the Administrator by regulation, may determine the dispute, or any aspect of the dispute, by arbitration. Arbitration shall be governed by title 9. The parties shall give notice of any arbitration award to the Administrator, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Administrator from determining whether a design is subject to registration in a cancellation proceeding under section 1313(c).

### **§ 1322. Injunctions**

“(a) IN GENERAL.—A court having jurisdiction over actions under this chapter may grant injunctions in accordance with the principles of equity to prevent infringement of a design under this chapter, including, in its discretion, prompt relief by temporary restraining orders and preliminary injunctions.

“(b) DAMAGES FOR INJUNCTIVE RELIEF WRONGFULLY OBTAINED.—A seller or distributor who suffers damage by reason of injunctive relief wrongfully obtained under this section has a cause of action against the applicant for such injunctive relief and may recover such relief as may be appropriate, including damages for lost profits, cost of materials, loss of good will, and punitive damages in instances where the injunctive relief was sought in bad faith, and, unless the court finds extenuating circumstances, reasonable attorney’s fees.

### **“§ 1323. Recovery for infringement**

“(a) DAMAGES.—Upon a finding for the claimant in an action for infringement under this chapter, the court shall award the claimant damages adequate to compensate for the infringement. In addition, the court may increase the damages to such amount, not exceeding \$50,000 or \$1 per copy, whichever is greater, as the court determines to be just. The damages awarded shall constitute compensation and not a penalty. The court may receive expert testimony as an aid to the determination of damages.

“(b) INFRINGER’S PROFITS.—As an alternative to the remedies provided in subsection (a), the court may award the claimant the infringer’s profits resulting from the sale of the copies if the court finds that the infringer’s sales are reasonably related to the use of the claimant’s design. In such a case, the claimant shall be required to prove only the amount of the infringer’s sales and



the infringer shall be required to prove its expenses against such sales.

“(c) STATUTE OF LIMITATIONS.—No recovery under subsection (a) or (b) shall be had for any infringement committed more than 3 years before the date on which the complaint is filed.

“(d) ATTORNEY’S FEES.—In an action for infringement under this chapter, the court may award reasonable attorney’s fees to the prevailing party.

“(e) DISPOSITION OF INFRINGING AND OTHER ARTICLES.—The court may order that all infringing articles, and any plates, molds, patterns, models, or other means specifically adapted for making the articles, be delivered up for destruction or other disposition as the court may direct.

#### **“§ 1324. Power of court over registration**

“In any action involving the protection of a design under this chapter, the court, when appropriate, may order registration of a design under this chapter or the cancellation of such a registration. Any such order shall be certified by the court to the Administrator, who shall make an appropriate entry upon the record.

#### **“§ 1325. Liability for action on registration fraudulently obtained**

“Any person who brings an action for infringement knowing that registration of the design was obtained by a false or fraudulent representation materially affecting the rights under this chapter, shall be liable in the sum of \$10,000, or such part of that amount as the court may determine. That amount shall be to compensate the defendant and shall be charged against the plaintiff and paid to the defendant, in addition to such costs and attorney’s fees of the defendant as may be assessed by the court.

#### **“§ 1326. Penalty for false marking**

“(a) IN GENERAL.—Whoever, for the purpose of deceiving the public, marks upon, applies to, or uses in advertising in connection with an article made, used, distributed, or sold, a design which is not protected under this chapter, a design notice specified in section 1306, or any other words or symbols importing that the design is protected under this chapter, knowing that the design is not so protected, shall pay a civil fine of not more than \$500 for each such offense.

“(b) SUIT BY PRIVATE PERSONS.—Any person may sue for the penalty established by subsection (a), in which event one-half of the penalty shall be awarded to the person suing and the remainder shall be awarded to the United States.

#### **“§ 1327. Penalty for false representation**

“Whoever knowingly makes a false representation materially affecting the rights obtainable under this chapter for the purpose of obtaining registration of a design under this chapter shall pay a penalty of not less than \$500 and not more than \$1,000, and any rights or privileges that individual may have in the design under this chapter shall be forfeited.

**“§ 1328. Enforcement by Treasury and Postal Service**

“(a) REGULATIONS.—The Secretary of the Treasury and the United States Postal Service shall separately or jointly issue regulations for the enforcement of the rights set forth in section 1308 with respect to importation. Such regulations may require, as a condition for the exclusion of articles from the United States, that the person seeking exclusion take any one or more of the following actions:

“(1) Obtain a court order enjoining, or an order of the International Trade Commission under section 337 of the Tariff Act of 1930 excluding, importation of the articles.

“(2) Furnish proof that the design involved is protected under this chapter and that the importation of the articles would infringe the rights in the design under this chapter.

“(3) Post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

“(b) SEIZURE AND FORFEITURE.—Articles imported in violation of the rights set forth in section 1308 are subject to seizure and forfeiture in the same manner as property imported in violation of the customs laws. Any such forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be, except that the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of the law.

**“§ 1329. Relation to design patent law**

“The issuance of a design patent under title 35, United States Code, for an original design for an article of manufacture shall terminate any protection of the original design under this chapter.

**“§ 1330. Common law and other rights unaffected**

“Nothing in this chapter shall annul or limit—

“(1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been registered under this chapter; or

“(2) any right under the trademark laws or any right protected against unfair competition.

**“§ 1331. Administrator; Office of the Administrator**

“In this chapter, the ‘Administrator’ is the Register of Copyrights, and the ‘Office of the Administrator’ and the ‘Office’ refer to the Copyright Office of the Library of Congress.

**“§ 1332. No retroactive effect**

“Protection under this chapter shall not be available for any design that has been made public under section 1310(b) before the effective date of this chapter.”

**SEC. 503. CONFORMING AMENDMENTS.**

(a) TABLE OF CHAPTERS.—The table of chapters for title 17, United States Code, is amended by adding at the end the following:

**“13. Protection of Original Designs ..... 1301”.**

(b) JURISDICTION OF DISTRICT COURTS OVER DESIGN ACTIONS.—

(1) Section 1338(c) of title 28, United States Code, is amended by inserting “, and to exclusive rights in designs under chapter 13 of title 17,” after “title 17”.

(2)(A) The section heading for section 1338 of title 28, United States Code, is amended by inserting “**designs**,” after “**mask works**,”.

(B) The item relating to section 1338 in the table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by inserting “designs,” after “mask works,”.

(c) PLACE FOR BRINGING DESIGN ACTIONS.—(1) Section 1400(a) of title 28, United States Code, is amended by inserting “or designs” after “mask works”.

(2) The section heading for section 1400 of title 28, United States Code, is amended to read as follows:

**“Patents and copyrights, mask works, and designs”.**

(3) The item relating to section 1400 in the table of sections at the beginning of chapter 87 of title 28, United States Code, is amended to read as follows:

“1400. Patents and copyrights, mask works, and designs.”.

(d) ACTIONS AGAINST THE UNITED STATES.—Section 1498(e) of title 28, United States Code, is amended by inserting “, and to exclusive rights in designs under chapter 13 of title 17,” after “title 17”.

**SEC. 504. JOINT STUDY OF THE EFFECT OF THIS TITLE.**

17 USC 1301  
note.  
Deadlines.  
Reports.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and not later than 2 years after such date of enactment, the Register of Copyrights and the Commissioner of Patents and Trademarks shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a joint report evaluating the effect of the amendments made by this title.

(b) ELEMENTS FOR CONSIDERATION.—In carrying out subsection (a), the Register of Copyrights and the Commissioner of Patents and Trademarks shall consider—

(1) the extent to which the amendments made by this title has been effective in suppressing infringement of the design of vessel hulls;

(2) the extent to which the registration provided for in chapter 13 of title 17, United States Code, as added by this title, has been utilized;

(3) the extent to which the creation of new designs of vessel hulls have been encouraged by the amendments made by this title;

(4) the effect, if any, of the amendments made by this title on the price of vessels with hulls protected under such amendments; and

(5) such other considerations as the Register and the Commissioner may deem relevant to accomplish the purposes of the evaluation conducted under subsection (a).

17 USC 1301  
note.

**SEC. 505. EFFECTIVE DATE.**

The amendments made by sections 502 and 503 shall take effect on the date of the enactment of this Act and shall remain in effect until the end of the 2-year period beginning on such date of enactment. No cause of action based on chapter 13 of title 17, United States Code, as added by this title, may be filed after the end of that 2-year period.

Approved October 28, 1998.

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**LEGISLATIVE HISTORY—H.R. 2281 (S. 2037):**

HOUSE REPORTS: Nos. 105–551, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Commerce) and 105–796 (Comm. of Commerce).

SENATE REPORTS: No. 105–190 accompanying S. 2037 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 144 (1998):

Aug. 4, considered and passed House.

Sept. 17, considered and passed Senate, amended, in lieu of S. 2037.

Oct. 8, Senate agreed to conference report.

Oct. 12, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 28, Presidential statement.



Public Law 105–305  
105th Congress

An Act

To amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the President's Information Technology Advisory Committee to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress on its activities, and for other purposes.

Oct. 28, 1998  
[H.R. 3332]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Next Generation Internet Research Act of 1998”.

Next Generation  
Internet  
Research Act of  
1998.  
15 USC 5501  
note.

**SEC. 2. FINDINGS.**

15 USC 5501  
note.

(a) IN GENERAL.—The Congress finds that—

(1) United States leadership in science and technology has been vital to the Nation's prosperity, national and economic security, and international competitiveness, and there is every reason to believe that maintaining this tradition will lead to long-term continuation of United States strategic advantages in information technology;

(2) the United States investment in science and technology has yielded a scientific and engineering enterprise without peer, and that Federal investment in research is critical to the maintenance of United States leadership;

(3) previous Federal investment in computer networking technology and related fields has resulted in the creation of new industries and new jobs in the United States;

(4) the Internet is playing an increasingly important role in keeping citizens informed of the actions of their government; and

(5) continued inter-agency cooperation is necessary to avoid wasteful duplication in Federal networking research and development programs.

(b) ADDITIONAL FINDINGS FOR THE 1991 ACT.—Section 2 of the High-Performance Computing Act of 1991 (15 U.S.C. 5501) is amended by—

(1) striking paragraph (4) and inserting the following:

“(4) A high-capacity, flexible, high-speed national research and education computer network is needed to provide researchers and educators with access to computational and information resources, act as a test bed for further research and development for high-capacity and high-speed computer networks, and

provide researchers the necessary vehicle for continued network technology improvement through research.”; and

(2) adding at the end thereof the following:

“(7) Additional research must be undertaken to lay the foundation for the development of new applications that can result in economic growth, improved health care, and improved educational opportunities.

“(8) Research in new networking technologies holds the promise of easing the economic burdens of information access disproportionately borne by rural users of the Internet.

“(9) Information security is an important part of computing, information, and communications systems and applications, and research into security architectures is a critical aspect of computing, information, and communications research programs.”.

### SEC. 3. PURPOSES.

15 USC 5501  
note.

(a) IN GENERAL.—The purposes of this Act are—

(1) to authorize, through the High-Performance Computing Act of 1991 (15 U.S.C. 5501 et seq.), research programs related to—

(A) high-end computing and computation;

(B) human-centered systems;

(C) high confidence systems; and

(D) education, training, and human resources; and

(2) to provide, through the High-Performance Computing Act of 1991 (15 U.S.C. 5501 et seq.), for the development and coordination of a comprehensive and integrated United States research program which will—

(A) focus on the research and development of a coordinated set of technologies that seeks to create a network infrastructure that can support greater speed, robustness, and flexibility than is currently available and promote connectivity and interoperability among advanced computer networks of Federal agencies and departments;

(B) focus on research in technology that may result in high-speed data access for users that is both economically viable and does not impose a geographic penalty; and

(C) encourage researchers to pursue approaches to networking technology that lead to maximally flexible and extensible solutions wherever feasible.

(b) MODIFICATION OF PURPOSES OF THE 1991 ACT.—Section 3 of the High-Performance Computing Act of 1991 (15 U.S.C. 5502) is amended by—

(1) striking the section caption and inserting the following:

### “SEC. 3. PURPOSES.”;

(2) striking “purpose of this Act is” and inserting “purposes of this Act are”;

(3) striking subparagraph (A) of paragraph (1) and redesignating subparagraphs (B) through (I) as subparagraphs (A) through (H), respectively;

(4) striking “Network” and inserting “Internet” in paragraph (1)(B), as so redesignated by paragraph (3) of this subsection;

(5) striking “and” at the end of paragraph (1)(H), as so redesignated by paragraph (3) of this subsection;

(6) in paragraph (2), by striking “efforts.” and inserting “network research and development programs;”; and

(7) adding at the end thereof the following:

“(3) promoting the more rapid development and wider distribution of networking management and development tools; and

“(4) promoting the rapid adoption of open network standards.”.

#### **SEC. 4. NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.**

(a) **PROGRAM ELEMENTS.**—Subparagraphs (A) and (B) of section 101(a)(2) of the High-Performance Computing Act of 1991 (15 U.S.C. 5511(a)(2)(A) and (B)) are amended to read as follows:

“(A) provide for the development of technologies to advance the capacity and capabilities of the Internet;

“(B) provide for high performance testbed networks to enable the research, development, and demonstration of advanced networking technologies and to develop and demonstrate advanced applications made possible by the existence of such testbed networks;”.

(b) **ADVISORY COMMITTEE.**—Section 101(b) of the High-Performance Computing Act of 1991 (15 U.S.C. 5511(b)) is amended by striking “HIGH-PERFORMANCE COMPUTING” in the subsection heading.

#### **SEC. 5. NEXT GENERATION INTERNET.**

Title I of the High-Performance Computing Act of 1991 (15 U.S.C. 5511 et seq.) is amended by adding at the end the following new section:

##### **“SEC. 103. NEXT GENERATION INTERNET.**

15 USC 5513.

“(a) **ESTABLISHMENT.**—The National Science Foundation, the Department of Energy, the National Institutes of Health, the National Aeronautics and Space Administration, and the National Institute of Standards and Technology may support the Next Generation Internet program. The objectives of the Next Generation Internet program shall be to—

“(1) support research, development, and demonstration of advanced networking technologies to increase the capabilities and improve the performance of the Internet;

“(2) develop an advanced testbed network connecting a significant number of research sites, including universities, Federal research institutions, and other appropriate research partner institutions, to support networking research and to demonstrate new networking technologies; and

“(3) develop and demonstrate advanced Internet applications that meet important national goals or agency mission needs, and that are supported by the activities described in paragraphs (1) and (2).

“(b) **DUTIES OF ADVISORY COMMITTEE.**—The President’s Information Technology Advisory Committee (established pursuant to section 101(b) by Executive Order No. 13035 of February 11, 1997 (62 F.R. 7131), as amended by Executive Order No. 13092 of July 24, 1998), in addition to its functions under section 101(b), shall—

“(1) assess the extent to which the Next Generation Internet program—

“(A) carries out the purposes of this Act; and

“(B) addresses concerns relating to, among other matters—

“(i) geographic penalties (as defined in section 7(1) of the Next Generation Internet Research Act of 1998);

“(ii) the adequacy of access to the Internet by Historically Black Colleges and Universities, Hispanic Serving Institutions, and small colleges and universities (whose enrollment is less than 5,000) and the degree of participation of those institutions in activities described in subsection (a); and

“(iii) technology transfer to and from the private sector;

“(2) review the extent to which the role of each Federal agency and department involved in implementing the Next Generation Internet program is clear and complementary to, and non-duplicative of, the roles of other participating agencies and departments;

“(3) assess the extent to which Federal support of fundamental research in computing is sufficient to maintain the Nation’s critical leadership in this field; and

“(4) make recommendations relating to its findings under paragraphs (1), (2), and (3).

“(c) **REPORTS.**—The Advisory Committee shall review implementation of the Next Generation Internet program and shall report, not less frequently than annually, to the President, the Committee on Commerce, Science, and Transportation, the Committee on Appropriations, and the Committee on Armed Services of the Senate, and the Committee on Science, the Committee on Appropriations, and the Committee on National Security of the House of Representatives on its findings and recommendations for the preceding fiscal year. The first such report shall be submitted 6 months after the date of the enactment of the Next Generation Internet Research Act of 1998 and the last report shall be submitted by September 30, 2000.

Deadline.

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for the purposes of this section—

“(1) for the Department of Energy, \$22,000,000 for fiscal year 1999 and \$25,000,000 for fiscal year 2000;

“(2) for the National Science Foundation, \$25,000,000 for fiscal year 1999 and \$25,000,000 for fiscal year 2000, as authorized in the National Science Foundation Authorization Act of 1998;

“(3) for the National Institutes of Health, \$5,000,000 for fiscal year 1999 and \$7,500,000 for fiscal year 2000;

“(4) for the National Aeronautics and Space Administration, \$10,000,000 for fiscal year 1999 and \$10,000,000 for fiscal year 2000; and

“(5) for the National Institute of Standards and Technology, \$5,000,000 for fiscal year 1999 and \$7,500,000 for fiscal year 2000.

Such funds may not be used for routine upgrades to existing federally funded communication networks.

#### **SEC. 6. STUDY OF EFFECTS ON TRADEMARK RIGHTS OF ADDING GENERIC TOP-LEVEL DOMAINS.**

(a) **STUDY BY NATIONAL RESEARCH COUNCIL.**—Not later than 30 days after the date of the enactment of this Act, the Secretary

Deadline.



of Commerce shall request the National Research Council of the National Academy of Sciences to conduct a comprehensive study, taking into account the diverse needs of domestic and international Internet users, of the short-term and long-term effects on trademark rights of adding new generic top-level domains and related dispute resolution procedures.

(b) MATTERS TO BE ASSESSED IN STUDY.—The study shall assess and, as appropriate, make recommendations for policy, practice, or legislative changes relating to—

(1) the short-term and long-term effects on the protection of trademark rights and consumer interests of increasing or decreasing the number of generic top-level domains;

(2) trademark rights clearance processes for domain names, including—

(A) whether domain name databases should be readily searchable through a common interface to facilitate the clearing of trademark rights and proposed domain names across a range of generic top-level domains;

(B) the identification of what information from domain name databases should be accessible for the clearing of trademark rights; and

(C) whether generic top-level domain registrants should be required to provide certain information;

(3) domain name trademark rights dispute resolution mechanisms, including how to—

(A) reduce trademark rights conflicts associated with the addition of any new generic top-level domains; and

(B) reduce trademark rights conflicts through new technical approaches to Internet addressing;

(4) choice of law or jurisdiction for resolution of trademark rights disputes relating to domain names, including which jurisdictions should be available for trademark rights owners to file suit to protect such trademark rights;

(5) trademark rights infringement liability for registrars, registries, or technical management bodies;

(6) short-term and long-term technical and policy options for Internet addressing schemes and the impact of such options on current trademark rights issues; and

(7) public comments on the interim report and on any reports that are issued by intergovernmental bodies.

(c) COOPERATION WITH STUDY.—

(1) INTERAGENCY COOPERATION.—The Secretary of Commerce shall—

(A) direct the Patent and Trademark Office, the National Telecommunications and Information Administration, and other Department of Commerce entities to cooperate fully with the National Research Council in its activities in carrying out the study under this section; and

(B) request all other appropriate Federal departments, Federal agencies, Government contractors, and similar entities to provide similar cooperation to the National Research Council.

(2) PRIVATE CORPORATION COOPERATION.—The Secretary of Commerce shall request that any private, not-for-profit corporation established to manage the Internet root server system

and the top-level domain names provide similar cooperation to the National Research Council.

Deadlines.

(d) REPORTS.—

(1) IN GENERAL.—

(A) INTERIM REPORT.—After a period of public comment and not later than 4 months after the date of the enactment of this Act, the National Research Council shall submit an interim report on the study to the Secretary of Commerce.

(B) FINAL REPORT.—After a period of public comment and not later than 9 months after the date of the enactment of this Act, the National Research Council shall complete the study under this section and submit a final report on the study to the Secretary of Commerce. The final report shall set forth the findings, conclusions, and recommendations of the Council concerning the effects of adding new generic top-level domains and related dispute resolution procedures on trademark rights.

(2) SUBMISSION TO CONGRESSIONAL COMMITTEES.—

(A) INTERIM REPORT.—Not later than 7 days after the date on which the interim report is submitted to the Secretary of Commerce, the Secretary shall submit the interim report to the Committee on Commerce, Science, and Transportation and the Committee on the Judiciary of the Senate, and to the Committee on Commerce, the Committee on Science, and the Committee on the Judiciary of the House of Representatives.

(B) FINAL REPORT.—Not later than 7 days after the date on which the final report is submitted to the Secretary of Commerce, the Secretary shall submit the final report to the Committee on Commerce, Science, and Transportation and the Committee on the Judiciary of the Senate, and to the Committee on Commerce, the Committee on Science, and the Committee on the Judiciary of the House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$800,000 for the study conducted under this section.

**SEC. 7. DEFINITIONS.**

15 USC 5501  
note.

(a) IN GENERAL.—For purposes of this Act—

(1) GEOGRAPHIC PENALTY.—The term “geographic penalty” means the imposition of costs on users of the Internet in rural or other locations, attributable to the distance of the user from network facilities, the low population density of the area in which the user is located, or other factors, that are disproportionately greater than the costs imposed on users in locations closer to such facilities or on users in locations with significantly greater population density.

(2) INTERNET.—The term “Internet” means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

(b) ADDITIONAL DEFINITION FOR THE 1991 ACT.—Section 4 of the High-Performance Computing Act of 1991 (15 U.S.C. 5503) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) ‘Internet’ means the international computer network of both Federal and non-Federal interoperable packet switched data networks;”.

Approved October 28, 1998.

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LEGISLATIVE HISTORY—H.R. 3332 (S. 1609):

SENATE REPORTS: No. 105-173 accompanying S. 1609 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 14, considered and passed House.

Oct. 8, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 28, Presidential statement.



Public Law 105–306  
105th Congress

An Act

Oct. 28, 1998  
[H.R. 4558]

To make technical amendments to clarify the provision of benefits for noncitizens, and to improve the provision of unemployment insurance, child support, and supplemental security income benefits.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Noncitizen  
Benefit  
Clarification and  
Other Technical  
Amendments Act  
of 1998.  
42 USC 1305  
note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998”.

**SEC. 2. CONTINUING ELIGIBILITY FOR SSI AND RELATED BENEFIT FOR NONQUALIFIED ALIENS WHO WERE RECEIVING BENEFITS ON THE DATE OF THE ENACTMENT OF THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.**

Section 401(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(b)) is amended by inserting after paragraph (4) the following new paragraph:

“(5) Subsection (a) shall not apply to eligibility for benefits for the program defined in section 402(a)(3)(A) (relating to the supplemental security income program), or to eligibility for benefits under any other program that is based on eligibility for benefits under the program so defined, for an alien who was receiving such benefits on August 22, 1996.”.

**SEC. 3. EXTENSION OF AUTHORIZATION OF SELF-EMPLOYMENT ASSISTANCE PROGRAMS.**

(a) IN GENERAL.—Paragraph (2) of section 507(e) of the North American Free Trade Agreement Implementation Act (26 U.S.C. 3306 note) is hereby repealed.

(b) CONFORMING AMENDMENTS.—Subsection (e) of section 507 of such Act is further amended—

(1) by amending the heading after the subsection designation to read “EFFECTIVE DATE.—”; and

(2) by striking “(1) EFFECTIVE DATE.—” and by running in the remaining text of subsection (e) immediately after the heading therefor, as amended by paragraph (1).

**SEC. 4. CORRECTIONS TO THE CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998.**

(a) REDUCTION OF PENALTY FOR STATE FAILURE TO MEET DEADLINE FOR COMPLIANCE WITH CHILD SUPPORT DATA PROCESSING AND INFORMATION RETRIEVAL REQUIREMENTS IF PERFORMANCE OF CERTAIN ASPECT OF STATE IV-D PROGRAM MEETS PERFORMANCE THRESHOLD.—

(1) IN GENERAL.—Section 455(a)(4)(C) of the Social Security Act (42 U.S.C. 655(a)(4)(C)) is amended by adding at the end the following:

“(iii) The Secretary shall reduce the amount of any reduction that, in the absence of this clause, would be required to be made under this paragraph by reason of the failure of a State to achieve compliance with section 454(24)(B) during the fiscal year, by an amount equal to 20 percent of the amount of the otherwise required reduction, for each State performance measure described in section 458A(b)(4) with respect to which the applicable percentage under section 458A(b)(6) for the fiscal year is 100 percent, if the Secretary has made the determination described in section 458A(b)(5)(B) with respect to the State for the fiscal year.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall take effect as if included in the enactment of section 101(a) of the Child Support Performance and Incentive Act of 1998, and the amendment shall be considered to have been added by section 101(a) of such Act for purposes of section 201(f)(2)(B) of such Act. 42 USC 655 note.

(b) CLARIFICATION OF EFFECTIVE DATE FOR CERTAIN MEDICAL CHILD SUPPORT PROVISIONS.—

(1) IN GENERAL.—Section 401(c)(3) of the Child Support Performance and Incentive Act of 1998 (42 U.S.C. 652 note) is amended by striking “of the enactment of this Act” and inserting “specified in subparagraph (A)”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall take effect as if included in the enactment of section 401(c)(3) of the Child Support Performance and Incentive Act of 1998. 42 USC 652 note.

#### SEC. 5. ELIGIBILITY OF NONRESIDENT ALIENS TO RENEW PROFESSIONAL LICENSES.

(a) FEDERAL.—Section 401(c)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1611(c)(2)) is amended—

- (1) at the end of subparagraph (A) by striking “or”;
- (2) at the end of subparagraph (B) by striking the period and inserting “; or”; and
- (3) by inserting after subparagraph (B) the following new subparagraph:

“(C) to the issuance of a professional license to, or the renewal of a professional license by, a foreign national not physically present in the United States.”.

(b) STATE OR LOCAL.—Section 411(c)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1621(c)(2)) is amended—

- (1) at the end of subparagraph (A) by striking “or”;
- (2) at the end of subparagraph (B) by striking the period and inserting “; or”; and
- (3) by inserting after subparagraph (B) the following new subparagraph:

“(C) to the issuance of a professional license to, or the renewal of a professional license by, a foreign national not physically present in the United States.”.

**SEC. 6. CLARIFICATION OF OBLIGATION OF WELFARE-TO-WORK FUNDS.**

(a) **IN GENERAL.**—Section 403(a)(5)(A)(iv)(II) of the Social Security Act (42 U.S.C. 603(a)(5)(A)(iv)(II)) is amended by striking “or sub-State entity” and inserting “, other than funds reserved by the State for distribution under clause (vi)(III) and funds distributed pursuant to clause (vi)(I) in any State in which the service delivery area is the State”.

Effective date.  
42 USC 603 note.

(b) **RETROACTIVITY.**—The amendment made by subsection (a) shall take effect as if included in the enactment of section 5001 of the Balanced Budget Act of 1997.

**SEC. 7. DISREGARD OF LIMITED AWARDS MADE TO CHILDREN WITH LIFE-THREATENING CONDITIONS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.**

(a) **INCOME DISREGARD.**—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

- (1) by striking “and” at the end of paragraph (20);
- (2) by striking the period at the end of paragraph (21) and inserting “; and”; and
- (3) by adding at the end the following:

“(22) any gift to, or for the benefit of, an individual who has not attained 18 years of age and who has a life-threatening condition, from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code—

“(A) in the case of an in-kind gift, if the gift is not converted to cash; or

“(B) in the case of a cash gift, only to the extent that the total amount excluded from the income of the individual pursuant to this paragraph in the calendar year in which the gift is made does not exceed \$2,000.”.

(b) **RESOURCE DISREGARD.**—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)) is amended—

- (1) by striking “and” at the end of paragraph (11);
- (2) by striking the period at the end of paragraph (12) and inserting “; and”; and
- (3) by inserting after paragraph (12) the following:

“(13) any gift to, or for the benefit of, an individual who has not attained 18 years of age and who has a life-threatening condition, from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code—

“(A) in the case of an in-kind gift, if the gift is not converted to cash; or

“(B) in the case of a cash gift, only to the extent that the total amount excluded from the resources of the individual pursuant to this paragraph in the calendar year in which the gift is made does not exceed \$2,000.”.

Effective date.  
42 USC 1382a  
note.

(c) **RETROACTIVITY.**—The amendments made by this section shall apply to gifts made on or after the date that is 2 years before the date of the enactment of this Act.

**SEC. 8. ENHANCED RECOVERY OF SSI OVERPAYMENTS FROM SOCIAL SECURITY BENEFITS.**

(a) **IN GENERAL.**—Part A of title XI of the Social Security Act is amended by adding at the end the following new section:

## “RECOVERY OF SSI OVERPAYMENTS FROM SOCIAL SECURITY BENEFITS

“SEC. 1147. (a) IN GENERAL.—(1) Whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made under the supplemental security income program under title XVI of this Act (including, for purposes of this section, under section 1616(a) of this Act or section 212(b) of Public Law 93-66) to a person who is not currently eligible for cash benefits under the program, the Commissioner, notwithstanding section 207 of this Act but subject to paragraph (2) of this subsection, may recover the amount incorrectly paid by decreasing any amount which is payable to the person under title II of this Act in any month by not more than 10 percent of the amount payable under title II.

42 USC  
1320b-17.

“(2) The 10 percent limitation set forth in paragraph (1) shall not apply to an overpayment made to a person if—

“(A) the person or the spouse of the person was involved in willful misrepresentation or concealment of material information in connection with the overpayment; or

“(B) the person so requests.

“(b) NO EFFECT ON SSI ELIGIBILITY OR BENEFIT AMOUNT.—In any case in which the Commissioner of Social Security takes action in accordance with subsection (a) to recover an amount incorrectly paid to any person, neither that person, nor any individual whose eligibility for benefits under the supplemental security income program under title XVI, or whose amount of such benefits, is determined by considering any part of that person’s income, shall, as a result of such action—

“(1) become eligible for benefits under such program; or

“(2) if such person or individual is otherwise so eligible, become eligible for increased benefits under such program.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 204 of such Act (42 U.S.C. 404) is amended by adding at the end the following:

“(g) For payments which are adjusted or withheld to recover an overpayment of supplemental security income benefits paid under title XVI of this Act (including State supplementary payments paid under an agreement pursuant to section 1616(a) of this Act or section 212(b) of Public Law 93-66), see section 1147.”.

(2) Section 1631(b) of such Act (42 U.S.C. 1383(b)) is amended by adding at the end the following:

“(5) For provisions relating to the recovery of benefits incorrectly paid under this title from benefits payable under title II, see section 1147.”.

42 USC 404 note. (c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to amounts incorrectly paid which remain outstanding on or after such date.

Approved October 28, 1998.

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LEGISLATIVE HISTORY—H.R. 4558:

HOUSE REPORTS: No. 105–735, Pt. 1 (Comm. on Ways and Means).  
CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 23, considered and passed House.

Oct. 8, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 28, Presidential statement.





Public Law 105–307  
105th Congress

An Act

To designate the Biscayne National Park Visitor Center as the Dante Fascell Visitor Center.

Oct. 29, 1998  
[S. 2468]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Dante Fascell Biscayne National Park Visitor Center Designation Act”.

**SEC. 2. DESIGNATION OF THE DANTE FASCELL VISITOR CENTER AT BISCAYNE NATIONAL PARK.**

(a) DESIGNATION.—The Biscayne National Park visitor center, located on the shore of Biscayne Bay on Convoy Point, Florida, is designated as the “Dante Fascell Visitor Center”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other document of the United States to the Biscayne National Park visitor center shall be deemed to be a reference to the “Dante Fascell Visitor Center”.

Dante Fascell  
Biscayne  
National Park  
Visitor Center  
Designation Act.  
Florida.  
16 USC 410gg  
note.  
16USC 410gg  
note.

Approved October 29, 1998.

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**LEGISLATIVE HISTORY—S. 2468:**

SENATE REPORTS: No. 105–407 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 7, considered and passed Senate.

Oct. 10, considered and passed House.



Public Law 105–308  
105th Congress

An Act

Oct. 30, 1998  
[H.R. 700]

To remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

25 USC 951 note.

**SECTION 1. FINDINGS.**

Congress finds that—

(1) among its purposes, the Act entitled “An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes”, approved September 21, 1959, commonly known as the “Agua Caliente Equalization Act of 1959” (25 U.S.C. 951 et seq.) (referred to in this section as the “Act”) was intended to provide for a reasonable degree of equalization of the value of allotments made to members of the Agua Caliente Band of Cahuilla Indians;

(2) the Act was enacted in response to litigation in Federal courts in *Segundo, et al. v. United States*, 123 F. Supp. 554 (1954);

(3) the case referred to in paragraph (2) was appealed under the case name *United States v. Pierce*, 235 F. 2d 885 (1956) and that case affirmed the entitlement of certain members of the Band to allotments of approximately equal value to lands allotted to other members of the Band;

(4)(A) to achieve the equalization referred to in paragraph (3), section 3 of the Act (25 U.S.C. 953) provided for the allotment or sale of all remaining tribal lands, with the exception of several specifically designated parcels, including 2 parcels in the Mineral Springs area known as parcel A and parcel B;

(B) section 3 of the Act restricted the distribution of any net rents, profits, or other revenues derived from parcel B to members of the Band and their heirs entitled to equalization of the value of the allotments of those members;

(C) from 1959 through 1984, each annual budget of the Band, as approved by the Bureau of Indian Affairs, provided for expenditure of all revenues derived from both parcel A and parcel B solely for tribal governmental purposes; and

(D) as a result of the annual budgets referred to in subparagraph (C), no net revenues from parcel B were available for distribution to tribal members entitled to equalization under section 3 of the Act referred to in paragraph (1);

(5) by letter of December 6, 1961, the Director of the Sacramento Area Office of the Bureau of Indian Affairs

informed the regional solicitor of the Bureau of Indian Affairs that the equalization of allotments on the Agua Caliente Reservation with respect to those members of the Band who were eligible for equalization had been completed using all available excess tribal land in a manner consistent with—

(A) the decree of the court in the case referred to in paragraph (2); and

(B) the Act;

(6) in 1968, the files of the Department of the Interior with respect to the case referred to in paragraph (3), the closure of which was contingent upon completion of the equalization program, were retired to the Federal Record Center, where they were subsequently destroyed;

(7) on March 16, 1983, the Secretary of the Interior published notice in the Federal Register that full equalization had been achieved within the meaning of section 7 of the Act (25 U.S.C. 957);

(8) section 7 of the Act states that “allotments in accordance with the provisions of this Act shall be deemed complete and full equalization of allotments on the Agua Caliente Reservation”; and

(9) the regulations governing the equalization of allotments under the Act referred to in paragraph (1) were rescinded by the Secretary, effective March 31, 1983.

## SEC. 2. DEFINITIONS.

25 USC 951 note.

In this Act:

(1) **BAND.**—The term “Band” means the Agua Caliente Band.

(2) **PARCEL B.**—The term “parcel B” means the parcel of land in the Mineral Springs area referred to as “parcel B” in section 3(b) of the Act entitled “An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes”, approved September 21, 1959, commonly known as the “Agua Caliente Equalization Act of 1959” (25 U.S.C. 953(b)).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

## SEC. 3. EQUALIZATION OF ALLOTMENTS.

25 USC 951 note.

(a) **IN GENERAL.**—The full equalization of allotments within the meaning of section 7 of the Act entitled “An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes”, approved September 21, 1959, commonly known as the “Agua Caliente Equalization Act of 1959” (25 U.S.C. 957) is deemed to have been completed.

(b) **EXPIRATION OF ENTITLEMENT.**—By reason of the achievement of the full equalization of allotments described in subsection (a), the entitlement of holders of equalized allotments to distribution of net revenues from parcel B under section 3(b) of the Act entitled “An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes”, approved September 21, 1959, commonly known as the “Agua Caliente Equalization Act of 1959” (25 U.S.C. 953(b)) shall be deemed to have expired.

25 USC 951 note. **SEC. 4. REMOVAL OF RESTRICTION.**

(a) **IN GENERAL.**—The fourth undesignated paragraph in section 3(b) of the Act entitled “An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes”, approved September 21, 1959, commonly known as the “Agua Caliente Equalization Act of 1959” (25 U.S.C. 953(b)), is amended by striking “*east: Provided,*” and all that follows through the end of the paragraph and inserting “*east.*”.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply as if this section had been enacted on March 31, 1983.

(c) **SUBSEQUENT DISTRIBUTIONS.**—Any per capita distribution of tribal revenues of the Band made after the date of enactment of this Act shall be made to all members of the Band in equal amounts.

Approved October 30, 1998.

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**LEGISLATIVE HISTORY—H.R. 700:**

HOUSE REPORTS: No. 105-241 (Comm. on Resources).

SENATE REPORTS: No. 105-349 (Comm. on Indian Affairs).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Sept. 8, considered and passed House.

Vol. 144 (1998): Oct. 12, considered and passed Senate, amended.  
Oct. 15, House concurred in Senate amendment.



Public Law 105–309  
105th Congress

An Act

To authorize appropriations for the National Institute of Standards and Technology for fiscal years 1998 and 1999, and for other purposes.

Oct. 30, 1998

[H.R. 1274]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Technology Administration Act of 1998”.

Technology  
Administration  
Act of 1998.  
15 USC 271 note.

**SEC. 2. MANUFACTURING EXTENSION PARTNERSHIP PROGRAM CENTER EXTENSION.**

Section 25(c)(5) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(5)) is amended by striking “, which are designed” and all that follows through “operation of a Center.” and inserting in lieu thereof “. After the sixth year, a Center may receive additional financial support under this section if it has received a positive evaluation through an independent review, under procedures established by the Institute. Such an independent review shall be required at least every two years after the sixth year of operation. Funding received for a fiscal year under this section after the sixth year of operation shall not exceed one third of the capital and annual operating and maintenance costs of the Center under the program.”.

**SEC. 3. MALCOLM BALDRIGE QUALITY AWARD.**

(a) **ADDITIONAL AWARDS.**—Section 17(c)(3) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(3)) is amended by inserting “, unless the Secretary determines that a third award is merited and can be given at no additional cost to the Federal Government” after “in any year”.

(b) **CATEGORIES.**—Section 17(c)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(1)) is amended by adding at the end the following:

“(D) Health care providers.

“(E) Education providers.”.

**SEC. 4. NOTICE.**

(a) **REDESIGNATION.**—Section 31 of the National Institute of Standards and Technology Act is redesignated as section 32.

(b) **NOTICE.**—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by inserting after section 30 the following new section:

15 USC 271 note.

## “NOTICE

15 USC 278p. “SEC. 31. (a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this Act are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(b) NOTICE OF REORGANIZATION.—

“(1) REQUIREMENT.—The Secretary shall provide notice to the Committees on Science and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 15 days before any major reorganization of any program, project, or activity of the Institute.

“(2) DEFINITION.—For purposes of this subsection, the term ‘major reorganization’ means any reorganization of the Institute that involves the reassignment of more than 25 percent of the employees of the Institute.”

**SEC. 5. SENSE OF THE CONGRESS ON THE YEAR 2000 PROBLEM.**

With the year 2000 fast approaching, it is the sense of the Congress that the National Institute of Standards and Technology should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond; and

(2) develop contingency plans for those systems that the Institute is unable to correct in time.

15 USC 272 note. **SEC. 6. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.**

(a) DEFINITIONS.—In this section—

(1) EDUCATIONALLY USEFUL FEDERAL EQUIPMENT.—The term “educationally useful Federal equipment” means computers and related peripheral tools and research equipment that is appropriate for use in schools.

(2) SCHOOL.—The term “school” means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

(b) SENSE OF THE CONGRESS.—

(1) IN GENERAL.—It is the sense of the Congress that the Director of the National Institute of Standards and Technology should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

(2) REPORTS.—

Deadline.

(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Director of the National Institute of Standards and Technology shall prepare and submit to the President a report. The President shall submit the report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

President.

(B) CONTENTS OF REPORT.—The report prepared by the Director under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report.

**SEC. 7. TEACHER SCIENCE AND TECHNOLOGY ENHANCEMENT INSTITUTE PROGRAM.**

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended by inserting after section 19 the following:

“SEC. 19A. (a) The Director shall establish within the Institute a teacher science and technology enhancement program to provide for professional development of mathematics and science teachers of elementary, middle, and secondary schools (as those terms are defined by the Director), including providing for the improvement of those teachers with respect to the understanding of science and the impacts of science on commerce. 15 USC 278g-2a.

“(b) In carrying out the program under this section, the Director shall focus on the areas of—

- “(1) scientific measurements;
- “(2) tests and standards development;
- “(3) industrial competitiveness and quality;
- “(4) manufacturing;
- “(5) technology transfer; and
- “(6) any other area of expertise of the Institute that the

Director determines to be appropriate.

“(c) The Director shall develop and issue procedures and selection criteria for participants in the program.

“(d) The program under this section shall be conducted on an annual basis during the summer months, during the period of time when a majority of elementary, middle, and secondary schools have not commenced a school year.

“(e) The program shall provide for teachers’ participation in activities at the laboratory facilities of the Institute, or shall utilize other means of accomplishing the goals of the program as determined by the Director, which may include the Internet, video conferencing and recording, and workshops and conferences.”.

**SEC. 8. OFFICE OF SPACE COMMERCIALIZATION.**

15 USC 1511e.

(a) ESTABLISHMENT.—There is established within the Department of Commerce an Office of Space Commercialization (referred to in this section as the “Office”).

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be a senior executive and shall be compensated at a level in the Senior Executive Service under section 5382 of title 5, United States Code, as determined by the Secretary of Commerce.

(c) FUNCTIONS OF THE OFFICE; DUTIES OF THE DIRECTOR.—The Office shall be the principal unit for the coordination of space-related issues, programs, and initiatives within the Department of Commerce. The primary responsibilities of the Director, in carrying out the functions of the Office, shall include—

(1) promoting commercial provider investment in space activities by collecting, analyzing, and disseminating information on space markets, and conducting workshops and seminars to increase awareness of commercial space opportunities;

(2) assisting United States commercial providers in the efforts of those providers to conduct business with the United States Government;

(3) acting as an industry advocate within the executive branch of the Federal Government to ensure that the Federal Government meets the space-related requirements of the Federal Government, to the fullest extent feasible, using commercially available space goods and services;

(4) ensuring that the United States Government does not compete with United States commercial providers in the provision of space hardware and services otherwise available from United States commercial providers;

(5) promoting the export of space-related goods and services;

(6) representing the Department of Commerce in the development of United States policies and in negotiations with foreign countries to ensure free and fair trade internationally in the area of space commerce; and

(7) seeking the removal of legal, policy, and institutional impediments to space commerce.

#### **SEC. 9. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY.**

Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended by adding at the end the following:

“(f) **EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE TECHNOLOGY.**—

“(1) **IN GENERAL.**—The Secretary, acting through the Under Secretary, shall establish for fiscal year 1999 a program to be known as the Experimental Program to Stimulate Competitive Technology (referred to in this subsection as the ‘program’). The purpose of the program shall be to strengthen the technological competitiveness of those States that have historically received less Federal research and development funds than those received by a majority of the States.

“(2) **ARRANGEMENTS.**—In carrying out the program, the Secretary, acting through the Under Secretary, shall—

“(A) enter into such arrangements as may be necessary to provide for the coordination of the program through the State committees established under the Experimental Program to Stimulate Competitive Research of the National Science Foundation; and

“(B) cooperate with—

“(i) any State science and technology council established under the program under subparagraph (A); and

“(ii) representatives of small business firms and other appropriate technology-based businesses.

“(3) **GRANTS AND COOPERATIVE AGREEMENTS.**—In carrying out the program, the Secretary, acting through the Under Secretary, may make grants or enter into cooperative agreements to provide for—

“(A) technology research and development;

“(B) technology transfer from university research;

“(C) technology deployment and diffusion; and

“(D) the strengthening of technological capabilities through consortia comprised of—

“(i) technology-based small business firms;

“(ii) industries and emerging companies;



“(iii) universities; and

“(iv) State and local development agencies and entities.

“(4) REQUIREMENTS FOR MAKING AWARDS.—

“(A) IN GENERAL.—In making awards under this subsection, the Secretary, acting through the Under Secretary, shall ensure that the awards are awarded on a competitive basis that includes a review of the merits of the activities that are the subject of the award.

“(B) MATCHING REQUIREMENT.—The non-Federal share of the activities (other than planning activities) carried out under an award under this subsection shall be not less than 25 percent of the cost of those activities.

“(5) CRITERIA FOR STATES.—The Secretary, acting through the Under Secretary, shall establish criteria for achievement by each State that participates in the program. Upon the achievement of all such criteria, a State shall cease to be eligible to participate in the program.

“(6) COORDINATION.—To the extent practicable, in carrying out this subsection, the Secretary, acting through the Under Secretary, shall coordinate the program with other programs of the Department of Commerce.

“(7) REPORT.—

“(A) IN GENERAL.—Not later than 90 days after the date of the enactment of the Technology Administration Act of 1998, the Under Secretary shall prepare and submit a report that meets the requirements of this paragraph to the Secretary. Upon receipt of the report, the Secretary shall transmit a copy of the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

“(B) REQUIREMENTS FOR REPORT.—The report prepared under this paragraph shall contain with respect to the program—

“(i) a description of the structure and procedures of the program;

“(ii) a management plan for the program;

“(iii) a description of the merit-based review process to be used in the program;

“(iv) milestones for the evaluation of activities to be assisted under the program in fiscal year 1999;

“(v) an assessment of the eligibility of each State that participates in the Experimental Program to Stimulate Competitive Research of the National Science Foundation to participate in the program under this subsection; and

“(vi) the evaluation criteria with respect to which the overall management and effectiveness of the program will be evaluated.”.

**SEC. 10. NATIONAL TECHNOLOGY MEDAL FOR ENVIRONMENTAL TECHNOLOGY.**

15 USC 3711  
note.

In the administration of section 16 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711), Environmental Technology shall be established as a separate nomination category with appropriate unique criteria for that category.

**SEC. 11. INTERNATIONAL ARCTIC RESEARCH CENTER.**

The Congress finds that the International Arctic Research Center is an internationally-supported effort to conduct important weather and climate studies, and other research projects of benefit to the United States. It is, therefore, the sense of the Congress that, as with similar research conducted in the Antarctic, the United States should provide similar support for this important effort.

Approved October 30, 1998.

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**LEGISLATIVE HISTORY—H.R. 1274:**

HOUSE REPORTS: No. 105-64 (Comm. on Science).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): Apr. 24, considered and passed House.

Vol. 144 (1998): Oct. 9, considered and passed Senate, amended.

Oct. 13, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 30, Presidential statement.



Public Law 105–310  
105th Congress

An Act

To amend chapter 53 of title 31, United States Code, to require the development and implementation by the Secretary of the Treasury of a national money laundering and related financial crimes strategy to combat money laundering and related financial crimes, and for other purposes.

Oct. 30, 1998  
[H.R. 1756]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Money Laundering and Financial Crimes Strategy Act of 1998”.

Money  
Laundering and  
Financial Crimes  
Strategy Act of  
1998.  
31 USC 5301  
note.

**SEC. 2. MONEY LAUNDERING AND RELATED FINANCIAL CRIMES.**

(a) IN GENERAL.—Chapter 53 of title 31, United States Code is amended by adding at the end the following new subchapter:

**“SUBCHAPTER III—MONEY LAUNDERING AND RELATED  
FINANCIAL CRIMES**

**“§ 5340. Definitions**

“For purposes of this subchapter, the following definitions shall apply:

“(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATIONS.—The term ‘Department of the Treasury law enforcement organizations’ has the meaning given to such term in section 9703(p)(1).

“(2) MONEY LAUNDERING AND RELATED FINANCIAL CRIME.—The term ‘money laundering and related financial crime’—

“(A) means the movement of illicit cash or cash equivalent proceeds into, out of, or through the United States, or into, out of, or through United States financial institutions, as defined in section 5312 of title 31, United States Code; or

“(B) has the meaning given that term (or the term used for an equivalent offense) under State and local criminal statutes pertaining to the movement of illicit cash or cash equivalent proceeds.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(4) ATTORNEY GENERAL.—The term ‘Attorney General’ means the Attorney General of the United States.

“PART 1—NATIONAL MONEY LAUNDERING AND RELATED FINANCIAL  
CRIMES STRATEGY

“§ 5341. **National money laundering and related financial  
crimes strategy**

President.

“(a) DEVELOPMENT AND TRANSMITTAL TO CONGRESS.—

“(1) DEVELOPMENT.—The President, acting through the Secretary and in consultation with the Attorney General, shall develop a national strategy for combating money laundering and related financial crimes.

“(2) TRANSMITTAL TO CONGRESS.—By February 1 of 1999, 2000, 2001, 2002, and 2003, the President shall submit a national strategy developed in accordance with paragraph (1) to the Congress.

“(3) SEPARATE PRESENTATION OF CLASSIFIED MATERIAL.—Any part of the strategy that involves information which is properly classified under criteria established by Executive Order shall be submitted to the Congress separately in classified form.

“(b) DEVELOPMENT OF STRATEGY.—The national strategy for combating money laundering and related financial crimes shall address any area the President, acting through the Secretary and in consultation with the Attorney General, considers appropriate, including the following:

“(1) GOALS, OBJECTIVES, AND PRIORITIES.—Comprehensive, research-based goals, objectives, and priorities for reducing money laundering and related financial crime in the United States.

“(2) PREVENTION.—Coordination of regulatory and other efforts to prevent the exploitation of financial systems in the United States for money laundering and related financial crimes, including a requirement that the Secretary shall—

Regulations.

“(A) regularly review enforcement efforts under this subchapter and other provisions of law and, when appropriate, modify existing regulations or prescribe new regulations for purposes of preventing such criminal activity; and

“(B) coordinate prevention efforts and other enforcement action with the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, the Federal Trade Commission, other Federal banking agencies, the National Credit Union Administration Board, and such other Federal agencies as the Secretary, in consultation with the Attorney General, determines to be appropriate.

“(3) DETECTION AND PROSECUTION INITIATIVES.—A description of operational initiatives to improve detection and prosecution of money laundering and related financial crimes and the seizure and forfeiture of proceeds and instrumentalities derived from such crimes.

“(4) ENHANCEMENT OF THE ROLE OF THE PRIVATE FINANCIAL SECTOR IN PREVENTION.—The enhancement of partnerships between the private financial sector and law enforcement agencies with regard to the prevention and detection of money laundering and related financial crimes, including providing incentives to strengthen internal controls and to adopt on an industrywide basis more effective policies.

“(5) ENHANCEMENT OF INTERGOVERNMENTAL COOPERATION.—The enhancement of—

“(A) cooperative efforts between the Federal Government and State and local officials, including State and local prosecutors and other law enforcement officials; and

“(B) cooperative efforts among the several States and between State and local officials, including State and local prosecutors and other law enforcement officials, for financial crimes control which could be utilized or should be encouraged.

“(6) PROJECT AND BUDGET PRIORITIES.—A 3-year projection for program and budget priorities and achievable projects for reductions in financial crimes.

“(7) ASSESSMENT OF FUNDING.—A complete assessment of how the proposed budget is intended to implement the strategy and whether the funding levels contained in the proposed budget are sufficient to implement the strategy.

“(8) DESIGNATED AREAS.—A description of geographical areas designated as ‘high-risk money laundering and related financial crime areas’ in accordance with, but not limited to, section 5342.

“(9) PERSONS CONSULTED.—Persons or officers consulted by the Secretary pursuant to subsection (d).

“(10) DATA REGARDING TRENDS IN MONEY LAUNDERING AND RELATED FINANCIAL CRIMES.—The need for additional information necessary for the purpose of developing and analyzing data in order to ascertain financial crime trends.

“(11) IMPROVED COMMUNICATIONS SYSTEMS.—A plan for enhancing the compatibility of automated information and facilitating access of the Federal Government and State and local governments to timely, accurate, and complete information.

“(c) EFFECTIVENESS REPORT.—At the time each national strategy for combating financial crimes is transmitted by the President to the Congress (other than the first transmission of any such strategy) pursuant to subsection (a), the Secretary shall submit a report containing an evaluation of the effectiveness of policies to combat money laundering and related financial crimes.

“(d) CONSULTATIONS.—In addition to the consultations required under this section with the Attorney General, in developing the national strategy for combating money laundering and related financial crimes, the Secretary shall consult with—

“(1) the Board of Governors of the Federal Reserve System and other Federal banking agencies and the National Credit Union Administration Board;

“(2) State and local officials, including State and local prosecutors;

“(3) the Securities and Exchange Commission;

“(4) the Commodities and Futures Trading Commission;

“(5) the Director of the Office of National Drug Control Policy, with respect to money laundering and related financial crimes involving the proceeds of drug trafficking;

“(6) the Chief of the United States Postal Inspection Service;

“(7) to the extent appropriate, State and local officials responsible for financial institution and financial market regulation;

“(8) any other State or local government authority, to the extent appropriate;

“(9) any other Federal Government authority or instrumentality, to the extent appropriate; and

“(10) representatives of the private financial services sector, to the extent appropriate.

**“§ 5342. High-risk money laundering and related financial crime areas**

“(a) FINDINGS AND PURPOSE.—

“(1) FINDINGS.—The Congress finds the following:

“(A) Money laundering and related financial crimes frequently appear to be concentrated in particular geographic areas, financial systems, industry sectors, or financial institutions.

“(B) While the Secretary has the responsibility to act with regard to Federal offenses which are being committed in a particular locality or are directed at a single institution, because modern financial systems and institutions are interconnected to a degree which was not possible until recently, money laundering and other related financial crimes are likely to have local, State, national, and international effects wherever they are committed.

“(2) PURPOSE AND OBJECTIVE.—It is the purpose of this section to provide a mechanism for designating any area where money laundering or a related financial crime appears to be occurring at a higher than average rate such that—

“(A) a comprehensive approach to the problem of such crime in such area can be developed, in cooperation with State and local law enforcement agencies, which utilizes the authority of the Secretary to prevent such activity; or

“(B) such area can be targeted for law enforcement action.

“(b) ELEMENT OF NATIONAL STRATEGY.—The designation of certain areas as areas in which money laundering and related financial crimes are extensive or present a substantial risk shall be an element of the national strategy developed pursuant to section 5341(b).

“(c) DESIGNATION OF AREAS.—

“(1) DESIGNATION BY SECRETARY.—The Secretary, after taking into consideration the factors specified in subsection (d), shall designate any geographical area, industry, sector, or institution in the United States in which money laundering and related financial crimes are extensive or present a substantial risk as a ‘high-risk money laundering and related financial crimes area’.

“(2) CASE-BY-CASE DETERMINATION IN CONSULTATION WITH THE ATTORNEY GENERAL.—In addition to the factors specified in subsection (d), any designation of any area under paragraph (1) shall be made on the basis of a determination by the Secretary, in consultation with the Attorney General, that the particular area, industry, sector, or institution is being victimized by, or is particularly vulnerable to, money laundering and related financial crimes.

“(3) SPECIFIC INITIATIVES.—Any head of a department, bureau, or law enforcement agency, including any State or

local prosecutor, involved in the detection, prevention, and suppression of money laundering and related financial crimes and any State or local official or prosecutor may submit—

“(A) a written request for the designation of any area as a high-risk money laundering and related financial crimes area; or

“(B) a written request for funding under section 5351 for a specific prevention or enforcement initiative, or to determine the extent of financial criminal activity, in an area.

“(d) FACTORS.—In considering the designation of any area as a high-risk money laundering and related financial crimes area, the Secretary shall, to the extent appropriate and in consultation with the Attorney General, take into account the following factors:

“(1) The population of the area.

“(2) The number of bank and nonbank financial institution transactions which originate in such area or involve institutions located in such area.

“(3) The number of stock or commodities transactions which originate in such area or involve institutions located in such area.

“(4) Whether the area is a key transportation hub with any international ports or airports or an extensive highway system.

“(5) Whether the area is an international center for banking or commerce.

“(6) The extent to which financial crimes and financial crime-related activities in such area are having a harmful impact in other areas of the country.

“(7) The number or nature of requests for information or analytical assistance which—

“(A) are made to the analytical component of the Department of the Treasury; and

“(B) originate from law enforcement or regulatory authorities located in such area or involve institutions or businesses located in such area or residents of such area.

“(8) The volume or nature of suspicious activity reports originating in the area.

“(9) The volume or nature of currency transaction reports or reports of cross-border movements of currency or monetary instruments originating in, or transported through, the area.

“(10) Whether, and how often, the area has been the subject of a geographical targeting order.

“(11) Observed changes in trends and patterns of money laundering activity.

“(12) Unusual patterns, anomalies, growth, or other changes in the volume or nature of core economic statistics or indicators.

“(13) Statistics or indicators of unusual or unexplained volumes of cash transactions.

“(14) Unusual patterns, anomalies, or changes in the volume or nature of transactions conducted through financial institutions operating within or outside the United States.

“(15) The extent to which State and local governments and State and local law enforcement agencies have committed resources to respond to the financial crime problem in the area and the degree to which the commitment of such resources

reflects a determination by such government and agencies to address the problem aggressively.

“(16) The extent to which a significant increase in the allocation of Federal resources to combat financial crimes in such area is necessary to provide an adequate State and local response to financial crimes and financial crime-related activities in such area.

“PART 2—FINANCIAL CRIME-FREE COMMUNITIES SUPPORT PROGRAM

**“§ 5351. Establishment of financial crime-free communities support program**

“(a) ESTABLISHMENT.—The Secretary of the Treasury, in consultation with the Attorney General, shall establish a program to support local law enforcement efforts in the development and implementation of a program for the detection, prevention, and suppression of money laundering and related financial crimes.

“(b) PROGRAM.—In carrying out the program, the Secretary of the Treasury, in consultation with the Attorney General, shall—

“(1) make and track grants to grant recipients;

“(2) provide for technical assistance and training, data collection, and dissemination of information on state-of-the-art practices that the Secretary determines to be effective in detecting, preventing, and suppressing money laundering and related financial crimes; and

“(3) provide for the general administration of the program.

“(c) ADMINISTRATION.—The Secretary shall appoint an administrator to carry out the program.

“(d) CONTRACTING.—The Secretary may employ any necessary staff and may enter into contracts or agreements with Federal and State law enforcement agencies to delegate authority for the execution of grants and for such other activities necessary to carry out this chapter.

**“§ 5352. Program authorization**

“(a) GRANT ELIGIBILITY.—To be eligible to receive an initial grant or a renewal grant under this part, a State or local law enforcement agency or prosecutor shall meet each of the following criteria:

“(1) APPLICATION.—The State or local law enforcement agency or prosecutor shall submit an application to the Secretary in accordance with section 5353(a)(2).

“(2) ACCOUNTABILITY.—The State or local law enforcement agency or prosecutor shall—

“(A) establish a system to measure and report outcomes—

“(i) consistent with common indicators and evaluation protocols established by the Secretary, in consultation with the Attorney General; and

“(ii) approved by the Secretary;

“(B) conduct biennial surveys (or incorporate local surveys in existence at the time of the evaluation) to measure the progress and effectiveness of the coalition; and

“(C) provide assurances that the entity conducting an evaluation under this paragraph, or from which the applicant receives information, has experience in gathering

Grants.



data related to money laundering and related financial crimes.

“(b) GRANT AMOUNTS.—

“(1) GRANTS.—

“(A) IN GENERAL.—Subject to subparagraph (D), for a fiscal year, the Secretary of the Treasury, in consultation with the Attorney General, may grant to an eligible applicant under this section for that fiscal year, an amount determined by the Secretary of the Treasury, in consultation with the Attorney General, to be appropriate.

“(B) SUSPENSION OF GRANTS.—If such grant recipient fails to continue to meet the criteria specified in subsection (a), the Secretary may suspend the grant, after providing written notice to the grant recipient and an opportunity to appeal.

“(C) RENEWAL GRANTS.—Subject to subparagraph (D), the Secretary may award a renewal grant to a grant recipient under this subparagraph for each fiscal year following the fiscal year for which an initial grant is awarded.

“(D) LIMITATION.—The amount of a grant award under this paragraph may not exceed \$750,000 for a fiscal year.

“(2) GRANT AWARDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may, with respect to a community, make a grant to one eligible applicant that represents that community.

“(B) EXCEPTION.—The Secretary may make a grant to more than one eligible applicant that represent a community if—

“(i) the eligible coalitions demonstrate that the coalitions are collaborating with one another; and

“(ii) each of the coalitions has independently met the requirements set forth in subsection (a).

“(c) CONDITION RELATING TO PROCEEDS OF ASSET FORFEITURES.—

“(1) IN GENERAL.—No grant may be made or renewed under this part to any State or local law enforcement agency or prosecutor unless the agency or prosecutor agrees to donate to the Secretary of the Treasury for the program established under this part any amount received by such agency or prosecutor (after the grant is made) pursuant to any criminal or civil forfeiture under chapter 46 of title 18, United States Code, or any similar provision of State law.

“(2) SCOPE OF APPLICATION.—Paragraph (1) shall not apply to any amount received by a State or local law enforcement agency or prosecutor pursuant to any criminal or civil forfeiture referred to in such paragraph in excess of the aggregate amount of grants received by such agency or prosecutor under this part.

“(d) ROLLING GRANT APPLICATION PERIODS.—In establishing the program under this part, the Secretary shall take such action as may be necessary to ensure, to the extent practicable, that—

“(1) applications for grants under this part may be filed at any time during a fiscal year; and

“(2) some portion of the funds appropriated under this part for any such fiscal year will remain available for grant applications filed later in the fiscal year.

**“§ 5353. Information collection and dissemination with respect to grant recipients**

“(a) APPLICANT AND GRANTEE INFORMATION.—

“(1) APPLICATION PROCESS.—The Secretary shall issue requests for proposal, as necessary, regarding, with respect to the grants awarded under section 5352, the application process, grant renewal, and suspension or withholding of renewal grants. Each application under this paragraph shall be in writing and shall be subject to review by the Secretary.

“(2) REPORTING.—The Secretary shall, to the maximum extent practicable and in a manner consistent with applicable law, minimize reporting requirements by a grant recipient and expedite any application for a renewal grant made under this part.

“(b) ACTIVITIES OF SECRETARY.—The Secretary may—

“(1) evaluate the utility of specific initiatives relating to the purposes of the program;

“(2) conduct an evaluation of the program; and

“(3) disseminate information described in this subsection to—

“(A) eligible State local law enforcement agencies or prosecutors; and

“(B) the general public.

**“§ 5354. Grants for fighting money laundering and related financial crimes**

“(a) IN GENERAL.— After the end of the 1-year period beginning on the date the first national strategy for combating money laundering and related financial crimes is submitted to the Congress in accordance with section 5341, and subject to subsection (b), the Secretary may review, select, and award grants for State or local law enforcement agencies and prosecutors to provide funding necessary to investigate and prosecute money laundering and related financial crimes in high-risk money laundering and related financial crime areas.

“(b) SPECIAL PREFERENCE.—Special preference shall be given to applications submitted to the Secretary which demonstrate collaborative efforts of two or more State and local law enforcement agencies or prosecutors who have a history of Federal, State, and local cooperative law enforcement and prosecutorial efforts in responding to such criminal activity.

**“§ 5355. Authorization of appropriations**

“There are authorized to be appropriated the following amounts for the following fiscal years to carry out the purposes of this subchapter:

<b>“For fiscal year:</b>	<b>The amount authorized is:</b>
1999 .....	\$5,000,000.
2000 .....	\$7,500,000.
2001 .....	\$10,000,000.
2002 .....	\$12,500,000.
2003 .....	\$15,000,000.”.

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 53 of title 31, United States Code, is amended by adding at the end the following item:

“SUBCHAPTER III—MONEY LAUNDERING AND RELATED FINANCIAL  
CRIMES

“5340. Definitions.

“PART 1—NATIONAL MONEY LAUNDERING AND RELATED FINANCIAL CRIMES  
STRATEGY

“5341. National money laundering and related financial crimes strategy.

“5342. High-risk money laundering and related financial crime areas.

## “PART 2—FINANCIAL CRIME-FREE COMMUNITIES SUPPORT PROGRAM

“5351. Establishment of financial crime-free communities support program.

“5352. Program authorization.

“5353. Information collection and dissemination with respect to grant recipients.

“5354. Grants for fighting money laundering and related financial crimes.

“5355. Authorization of appropriations.”.

(c) REPORT AND RECOMMENDATIONS.—Before the end of the 5-year period beginning on the date the first national strategy for combating money laundering and related financial crimes is submitted to the Congress pursuant to section 5341(a)(1) of title 31, United States Code (as added by section 2(a) of this Act), the Secretary of the Treasury, in consultation with the Attorney General, shall submit a report to the Committee on Banking and Financial Services and the Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate on the effectiveness of and the need for the designation of areas, under section 5342 of title 31, United States Code (as added by such section 2(a)), as high-risk money laundering and related financial crime areas, together with recommendations for such legislation as the Secretary and the Attorney General may determine to be appropriate to carry out the purposes of such section.

31 USC 5342  
note.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—H.R. 1756:HOUSE REPORTS: No. 105–608, Pt. 1 (Comm. on Banking and Financial Services).  
CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 5, considered and passed House.

Oct. 15, considered and passed Senate, amended.

Oct. 16, House concurred in Senate amendment.



Public Law 105–311  
105th Congress

An Act

Oct. 30, 1998

[H.R. 2675]

To provide for the Office of Personnel Management to conduct a study and submit a report to Congress on the provision of certain options for universal life insurance coverage and additional death and dismemberment insurance under chapter 87 of title 5, United States Code, to improve the administration of such chapter, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Federal  
Employees Life  
Insurance  
Improvement  
Act.  
5 USC 8701 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Federal Employees Life Insurance Improvement Act”.

**SEC. 2. STUDY AND REPORT ON CERTAIN LIFE INSURANCE OPTIONS OFFERED TO FEDERAL EMPLOYEES.**

(a) **IN GENERAL.**—Not later than July 31, 1998, the Office of Personnel Management shall conduct a study on life insurance options for Federal employees described under subsection (b) and submit a report to Congress.

(b) **STUDY AND REPORT.**—The study and report referred to under subsection (a) shall—

(1) survey and ascertain the interest of Federal employees in an offering under chapter 87 of title 5, United States Code, of insurance coverage options relating to—

(A) group universal life insurance;

(B) group variable universal life insurance; and

(C) additional voluntary accidental death and dismemberment insurance; and

(2) include any comments, analysis, and recommendations of the Office of Personnel Management relating to such options.

**SEC. 3. REPEAL OF MAXIMUM LIMITATION ON EMPLOYEE INSURANCE.**

Chapter 87 of title 5, United States Code, is amended—

(1) in section 8701(c), in the first sentence, by striking the comma immediately following “\$10,000” and all that follows and inserting a period; and

(2) in section 8714b(b), in the first sentence, by striking “except” and all that follows and inserting a period.

**SEC. 4. FOSTER CHILD COVERAGE.**

Section 8701(d)(1)(B) of title 5, United States Code, is amended by inserting “or foster child” after “stepchild” both places it appears.

**SEC. 5. INCONTESTABILITY OF ERRONEOUS COVERAGE.**

Section 8706 of title 5, United States Code, as amended by section 5(2), is further amended by adding at the end the following new subsection:

“(g) The insurance of an employee under a policy purchased under section 8709 shall not be invalidated based on a finding that the employee erroneously became insured, or erroneously continued insurance upon retirement or entitlement to compensation under subchapter I of chapter 81 of this title, if such finding occurs after the erroneous insurance and applicable withholdings have been in force for 2 years during the employee’s lifetime.”.

**SEC. 6. DIRECT PAYMENT OF INSURANCE CONTRIBUTIONS.**

Chapter 87 of title 5, United States Code, is amended—

(1) in section 8707—

(A) in subsection (a), by striking “(a) During” and inserting “(a) Subject to subsection (c)(2), during”;

(B) in subsection (b), by striking “(b)(1) Whenever” and inserting “(b)(1) Subject to subsection (c)(2), whenever”;

and

(C) in subsection (c), by inserting “(1)” immediately after “(c)” and by adding at the end the following new paragraph:

“(2) An employee who is subject to withholdings under this section and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue insurance if the employee arranges to pay currently into the Employees’ Life Insurance Fund, through the agency or retirement system that administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this section.”;

(2) in section 8714a(d), by adding at the end the following new paragraph:

“(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional insurance if the employee arranges to pay currently into the Employees’ Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.”;

(3) in section 8714b(d), by adding at the end the following new paragraph:

“(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue additional optional insurance if the employee arranges to pay currently into the Employees’ Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.”; and

(4) in section 8714c(d), by adding at the end the following new paragraph:

“(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional life insurance on family members

if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system that administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.”.

**SEC. 7. ADDITIONAL OPTIONAL LIFE INSURANCE CONTINUATION AND PORTABILITY.**

(a) IN GENERAL.—Section 8714b of title 5, United States Code, is amended—

(1) in subsection (c)—

(A) by striking the last 2 sentences of paragraph (2);

and

(B) by adding at the end the following:

“(3) The amount of additional optional insurance continued under paragraph (2) shall be continued, with or without reduction, in accordance with the employee’s written election at the time eligibility to continue insurance during retirement or receipt of compensation arises, as follows:

“(A) The employee may elect to have withholdings cease in accordance with subsection (d), in which case—

“(i) the amount of additional optional insurance continued under paragraph (2) shall be reduced each month by 2 percent effective at the beginning of the second calendar month after the date the employee becomes 65 years of age and is retired or is in receipt of compensation; and

“(ii) the reduction under clause (i) shall continue for 50 months at which time the insurance shall stop.

“(B) The employee may, instead of the option under subparagraph (A), elect to have the full cost of additional optional insurance continue to be withheld from such employee’s annuity or compensation on and after the date such withholdings would otherwise cease pursuant to an election under subparagraph (A), in which case the amount of additional optional insurance continued under paragraph (2) shall not be reduced, subject to paragraph (4).

“(C) An employee who does not make any election under the preceding provisions of this paragraph shall be treated as if such employee had made an election under subparagraph (A).

“(4) If an employee makes an election under paragraph (3)(B), that individual may subsequently cancel such election, in which case additional optional insurance shall be determined as if the individual had originally made an election under paragraph (3)(A).

“(5)(A) An employee whose additional optional insurance under this section would otherwise stop in accordance with paragraph (1) and who is not eligible to continue insurance under paragraph (2) may elect, under conditions prescribed by the Office of Personnel Management, to continue all or a portion of so much of the additional optional insurance as has been in force for not less than—

“(i) the 5 years of service immediately preceding the date of the event which would cause insurance to stop under paragraph (1); or

“(ii) the full period or periods of service during which the insurance was available to the employee, if fewer than 5 years,

at group rates established for purposes of this section, in lieu of conversion to an individual policy. The amount of insurance continued under this paragraph shall be reduced by 50 percent effective at the beginning of the second calendar month after the date the employee or former employee attains age 70 and shall stop at the beginning of the second calendar month after attainment of age 80, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office. Alternatively, insurance continued under this paragraph may be reduced or stopped at any time the employee or former employee elects.

“(B) When an employee or former employee elects to continue additional optional insurance under this paragraph following separation from service or 12 months without pay, the insured individual shall submit timely payment of the full cost thereof, plus any amount the Office determines necessary to cover associated administrative expenses, in such manner as the Office shall prescribe by regulation. Amounts required under this subparagraph shall be deposited, used, and invested as provided under section 8714 and shall be reported and accounted for together with amounts withheld under section 8714a(d).

“(C)(i) Subject to clause (ii), no election to continue additional optional insurance may be made under this paragraph 3 years after the effective date of this paragraph.

“(ii) On and after the date on which an election may not be made under clause (i), all additional optional insurance under this paragraph for former employees shall terminate, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office.”; and

(2) in the second sentence of subsection (d)(1) by inserting “if insurance is continued as provided under subsection (c)(3)(A),” after “except that,”.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Office of Personnel Management shall submit a report to Congress on additional optional insurance provided under section 8714b(c)(5) of title 5, United States Code (as added by subsection (a) of this section). Such report shall include recommendations on whether continuation for such additional optional insurance should terminate as provided under such section, be extended, or be made permanent.

(c) TECHNICAL AMENDMENT.—The last sentence of section 8714b(d)(1) of title 5, United States Code, is amended by inserting “(and any amounts withheld as provided in subsection (c)(3)(B))” after “Amounts so withheld”.

#### **SEC. 8. IMPROVED OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS.**

(a) IN GENERAL.—Section 8714c(b) of title 5, United States Code, is amended to read as follows:

“(b)(1) The optional life insurance on family members provided under this section shall be made available to each eligible employee who has elected coverage under this section, under conditions the Office shall prescribe, in multiples, at the employee’s election, of 1, 2, 3, 4, or 5 times—

“(A) \$5,000 for a spouse; and

“(B) \$2,500 for each child described under section 8701(d).

Deadline.  
5 USC 8714b  
note.

“(2) An employee may reduce or stop coverage elected pursuant to this section at any time.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 8714c of title 5, United States Code, is amended—

(1) in subsection (c)(2), by striking “section 8714b(c)(2) of this title” and inserting “section 8714b(c) (2) through (4)”; and

(2) in subsection (d)(1), by inserting before the last sentence the following: “Notwithstanding the preceding sentence, the full cost shall be continued after the calendar month in which the former employee becomes 65 years of age if, and for so long as, an election under this section corresponding to that described in section 8714b(c)(3)(B) remains in effect with respect to such former employee.”.

Deadline.

5 USC 8701 note.

#### **SEC. 9. OPEN SEASON.**

Beginning not later than 180 days after the date of enactment of this Act, the Office of Personnel Management shall conduct an open enrollment opportunity for purposes of chapter 87 of title 5, United States Code, over a period of not less than 8 weeks. During this period, an employee (as defined under section 8701(a) of such title)—

(1) may, if the employee previously declined or voluntarily terminated any coverage under chapter 87 of such title, elect to begin, resume, or increase group life insurance (and acquire applicable accidental death and dismemberment insurance) under all sections of such chapter without submitting evidence of insurability; and

(2) may, if currently insured for optional life insurance on family members, elect an amount above the minimum insurance on a spouse.

#### **SEC. 10. MERIT SYSTEM JUDICIAL REVIEW.**

(a) IN GENERAL.—Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1) by striking “within 30 days” and inserting “within 60 days”; and

(2) in subsection (d) in the first sentence, by inserting after “filing” the following: “, within 60 days after the date the Director received notice of the final order or decision of the Board,”.

5 USC 7703 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and apply to any suit, action, or other administrative or judicial proceeding pending on such date or commenced on or after such date.

5 USC 8701 note.

#### **SEC. 11. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) MAXIMUM LIMITATION ON EMPLOYEE INSURANCE.—Section 3 shall take effect on the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(c) ERRONEOUS COVERAGE.—Section 5 shall be effective in any case in which a finding of erroneous insurance coverage is made on or after the date of enactment of this Act.

(d) DIRECT PAYMENT OF INSURANCE CONTRIBUTIONS.—Section 6 shall take effect on the first day of the first applicable pay



period beginning on or after the date of enactment of this Act.

(e) ADDITIONAL OPTIONAL LIFE INSURANCE.—

(1) IN GENERAL.—Section 7 shall take effect on the first day of the first pay period that begins on or after the 180th day following the date of enactment of this Act, or on any earlier date that the Office of Personnel Management may prescribe that is at least 60 days after the date of enactment of this Act.

(2) REGULATIONS.—The Office shall prescribe regulations under which an employee may elect to continue additional optional insurance that remains in force on such effective date without subsequent reduction and with the full cost withheld from annuity or compensation on and after such effective date if that employee—

(A) separated from service before such effective date due to retirement or entitlement to compensation under subchapter I of chapter 81 of title 5, United States Code; and

(B) continued additional optional insurance pursuant to section 8714b(c)(2) as in effect immediately before such effective date.

(f) IMPROVED OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS.—The amendments made by section 8 shall take effect on the first day of the first pay period which begins on or after the 180th day following the date of enactment of this Act or on any earlier date that the Office of Personnel Management may prescribe.

(g) OPEN SEASON.—Any election made by an employee under section 9, and applicable withholdings, shall be effective on the first day of the first applicable pay period that—

(1) begins on or after the date occurring 365 days after the first day of the election period authorized under section 9; and

(2) follows a pay period in which the employee was in a pay and duty status.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—H.R. 2675:

HOUSE REPORTS: No. 105-373 (Comm. on Government Reform and Oversight).

SENATE REPORTS: No. 105-337 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Nov. 4, considered and passed House.

Vol. 144 (1998): Oct. 5, considered and passed Senate, amended.

Oct. 8, House concurred in Senate amendments.



Public Law 105–312  
105th Congress

An Act

Oct. 30, 1998  
[H.R. 2807]

To clarify restrictions under the Migratory Bird Treaty Act on baiting and to facilitate acquisition of migratory bird habitat, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Migratory Bird  
Reform Act of  
1998.

**TITLE I—MIGRATORY BIRD TREATY  
REFORM**

16 USC 710 note.

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Migratory Bird Treaty Reform Act of 1998”.

**SEC. 102. ELIMINATING STRICT LIABILITY FOR BAITING.**

Section 3 of the Migratory Bird Treaty Act (16 U.S.C. 704) is amended—

- (1) by inserting “(a)” after “SEC. 3.”; and
- (2) by adding at the end the following:

“(b) It shall be unlawful for any person to—

“(1) take any migratory game bird by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area; or

“(2) place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting on or over the baited area.”.

**SEC. 103. CRIMINAL PENALTIES.**

Section 6 of the Migratory Bird Treaty Act (16 U.S.C. 707) is amended—

- (1) in subsection (a), by striking “\$500” and inserting “\$15,000”;
- (2) by redesignating subsection (c) as subsection (d); and
- (3) by inserting after subsection (b) the following:

“(c) Whoever violates section 3(b)(2) shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.”.

Deadline.  
16 USC 704 note.

**SEC. 104. REPORT.**

Not later than 5 years after the date of enactment of this Act, the Secretary of the Interior shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report analyzing the effect of the amendments made by section 2, and the general

practice of baiting, on migratory bird conservation and law enforcement efforts under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.).

## **TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT**

National Wildlife  
Refuge System  
Improvement Act  
of 1998.

### **SEC. 201. SHORT TITLE.**

This title may be cited as the “National Wildlife Refuge System Improvement Act of 1998”.

16 USC 668dd  
note.

### **SEC. 202. UPPER MISSISSIPPI RIVER NATIONAL WILDLIFE AND FISH REFUGE.**

(a) **IN GENERAL.**—In accordance with section 4(a)(5) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(5)), there are transferred to the Corps of Engineers, without reimbursement, approximately 37.36 acres of land of the Upper Mississippi River Wildlife and Fish Refuge in the State of Minnesota, as designated on the map entitled “Upper Mississippi National Wildlife and Fish Refuge lands transferred to Corps of Engineers”, dated January 1998, and available, with accompanying legal descriptions of the land, for inspection in appropriate offices of the United States Fish and Wildlife Service.

16 USC 722 note.

(b) **CONFORMING AMENDMENTS.**—The first section and section 2 of the Upper Mississippi River Wild Life and Fish Refuge Act (16 U.S.C. 721, 722) are amended by striking “Upper Mississippi River Wild Life and Fish Refuge” each place it appears and inserting “Upper Mississippi River National Wildlife and Fish Refuge”.

### **SEC. 203. KILLCOHOOK COORDINATION AREA.**

(a) **IN GENERAL.**—In accordance with section 4(a)(5) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(5)), the jurisdiction of the United States Fish and Wildlife Service over approximately 1,439.26 acres of land in the States of New Jersey and Delaware, known as the “Killcohook Coordination Area”, as established by Executive Order No. 6582, issued February 3, 1934, and Executive Order No. 8648, issued January 23, 1941, is terminated.

(b) **EXECUTIVE ORDERS.**—Executive Order No. 6582, issued February 3, 1934, and Executive Order No. 8648, issued January 23, 1941, are revoked.

### **SEC. 204. LAKE ELSIE NATIONAL WILDLIFE REFUGE.**

(a) **IN GENERAL.**—In accordance with section 4(a)(5) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(5)), the jurisdiction of the United States Fish and Wildlife Service over approximately 634.7 acres of land and water in Richland County, North Dakota, known as the “Lake Elsie National Wildlife Refuge”, as established by Executive Order No. 8152, issued June 12, 1939, is terminated.

(b) **EXECUTIVE ORDER.**—Executive Order No. 8152, issued June 12, 1939, is revoked.

### **SEC. 205. KLAMATH FOREST NATIONAL WILDLIFE REFUGE.**

Section 28 of the Act of August 13, 1954 (25 U.S.C. 564w–1), is amended in subsections (f) and (g) by striking “Klamath

Forest National Wildlife Refuge” each place it appears and inserting “Klamath Marsh National Wildlife Refuge”.

**SEC. 206. VIOLATION OF NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT.**

Section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) is amended—

(1) in the first sentence of subsection (c), by striking “knowingly”; and

(2) in subsection (f)—

(A) by striking “(f) Any” and inserting the following: “(f) PENALTIES.—

“(1) KNOWING VIOLATIONS.—Any”;

(B) by inserting “knowingly” after “who”; and

(C) by adding at the end the following:

“(2) OTHER VIOLATIONS.—Any person who otherwise violates or fails to comply with any of the provisions of this Act (including a regulation issued under this Act) shall be fined under title 18, United States Code, or imprisoned not more than 180 days, or both.”.

Wetlands and  
Wildlife  
Enhancement  
Act of 1998.

16 USC 4401  
note.

## **TITLE III—WETLANDS AND WILDLIFE ENHANCEMENT**

**SEC. 301. SHORT TITLE.**

This title may be cited as the “Wetlands and Wildlife Enhancement Act of 1998”.

**SEC. 302. REAUTHORIZATION OF NORTH AMERICAN WETLANDS CONSERVATION ACT.**

Section 7(c) of the North American Wetlands Conservation Act (16 U.S.C. 4406(c)) is amended by striking “not to exceed” and all that follows and inserting “not to exceed \$30,000,000 for each of fiscal years 1999 through 2003.”.

**SEC. 303. REAUTHORIZATION OF PARTNERSHIPS FOR WILDLIFE ACT.**

Section 7105(h) of the Partnerships for Wildlife Act (16 U.S.C. 3744(h)) is amended by striking “for each of fiscal years” and all that follows and inserting “not to exceed \$6,250,000 for each of fiscal years 1999 through 2003.”.

16 USC 4403  
note.

**SEC. 304. MEMBERSHIP OF THE NORTH AMERICAN WETLANDS CONSERVATION COUNCIL.**

(a) IN GENERAL.—Notwithstanding section 4(a)(1)(D) of the North American Wetlands Conservation Act (16 U.S.C. 4403(a)(1)(D)), during the period of 1999 through 2002, the membership of the North American Wetlands Conservation Council under section 4(a)(1)(D) of that Act shall consist of—

(1) 1 individual who shall be the Group Manager for Conservation Programs of Ducks Unlimited, Inc. and who shall serve for 1 term of 3 years beginning in 1999; and

(2) 2 individuals who shall be appointed by the Secretary of the Interior in accordance with section 4 of that Act and who shall each represent a different organization described in section 4(a)(1)(D) of that Act.

Federal Register,  
publication.  
Notice.

(b) PUBLICATION OF POLICY.—Not later than June 30, 1999, the Secretary of the Interior shall publish in the Federal Register,

after notice and opportunity for public comment, a policy for making appointments under section 4(a)(1)(D) of the North American Wetlands Conservation Act (16 U.S.C. 4403(a)(1)(D)).

## TITLE IV—RHINOCEROS AND TIGER CONSERVATION

Rhinoceros and  
Tiger  
Conservation Act  
of 1998.

### SEC. 401. SHORT TITLE.

This title may be cited as the “Rhinoceros and Tiger Conservation Act of 1998”.

16 USC 5301  
note.

### SEC. 402. FINDINGS.

Congress finds that—

(1) the populations of all but 1 species of rhinoceros, and the tiger, have significantly declined in recent years and continue to decline;

(2) these species of rhinoceros and tiger are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973 (27 UST 1087; TIAS 8249) (referred to in this title as “CITES”);

(3) the Parties to CITES have adopted several resolutions—

(A) relating to the conservation of tigers (Conf. 9.13 (Rev.)) and rhinoceroses (Conf. 9.14), urging Parties to CITES to implement legislation to reduce illegal trade in parts and products of the species; and

(B) relating to trade in readily recognizable parts and products of the species (Conf. 9.6), and trade in traditional medicines (Conf. 10.19), recommending that Parties ensure that their legislation controls trade in those parts and derivatives, and in medicines purporting to contain them;

(4) a primary cause of the decline in the populations of tiger and most rhinoceros species is the poaching of the species for use of their parts and products in traditional medicines;

(5) there are insufficient legal mechanisms enabling the United States Fish and Wildlife Service to interdict products that are labeled or advertised as containing substances derived from rhinoceros or tiger species and prosecute the merchandisers for sale or display of those products; and

(6) legislation is required to ensure that—

(A) products containing, or labeled or advertised as containing, rhinoceros parts or tiger parts are prohibited from importation into, or exportation from, the United States; and

(B) efforts are made to educate persons regarding alternatives for traditional medicine products, the illegality of products containing, or labeled or advertised as containing, rhinoceros parts and tiger parts, and the need to conserve rhinoceros and tiger species generally.

16 USC 5301  
note.

### SEC. 403. PURPOSES OF THE RHINOCEROS AND TIGER CONSERVATION ACT OF 1994.

Section 3 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5302) is amended by adding at the end the following:

“(3) To prohibit the sale, importation, and exportation of products intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.”.

**SEC. 404. DEFINITION OF PERSON.**

Section 4 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5303) is amended—

- (1) in paragraph (4), by striking “and” at the end;
- (2) in paragraph (5), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:
  - “(6) ‘person’ means—
  - “(A) an individual, corporation, partnership, trust, association, or other private entity;
  - “(B) an officer, employee, agent, department, or instrumentality of—
    - “(i) the Federal Government;
    - “(ii) any State, municipality, or political subdivision of a State; or
    - “(iii) any foreign government;
  - “(C) a State, municipality, or political subdivision of a State; or
  - “(D) any other entity subject to the jurisdiction of the United States.”.

**SEC. 405. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED OR ADVERTISED AS RHINOCEROS OR TIGER PRODUCTS.**

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) is amended—

- 16 USC 5306. (1) by redesignating section 7 as section 9; and
- (2) by inserting after section 6 the following:

16 USC 5305a. **“SEC. 7. PROHIBITION ON SALE, IMPORTATION, OR EXPORTATION OF PRODUCTS LABELED OR ADVERTISED AS RHINOCEROS OR TIGER PRODUCTS.**

“(a) PROHIBITION.—A person shall not sell, import, or export, or attempt to sell, import, or export, any product, item, or substance intended for human consumption or application containing, or labeled or advertised as containing, any substance derived from any species of rhinoceros or tiger.

“(b) PENALTIES.—

“(1) CRIMINAL PENALTY.—A person engaged in business as an importer, exporter, or distributor that knowingly violates subsection (a) shall be fined under title 18, United States Code, imprisoned not more than 6 months, or both.

“(2) CIVIL PENALTIES.—

“(A) IN GENERAL.—A person that knowingly violates subsection (a), and a person engaged in business as an importer, exporter, or distributor that violates subsection (a), may be assessed a civil penalty by the Secretary of not more than \$12,000 for each violation.

“(B) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this paragraph shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

“(c) **PRODUCTS, ITEMS, AND SUBSTANCES.**—Any product, item, or substance sold, imported, or exported, or attempted to be sold, imported, or exported, in violation of this section or any regulation issued under this section shall be subject to seizure and forfeiture to the United States.

“(d) **REGULATIONS.**—After consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the United States Trade Representative, the Secretary shall issue such regulations as are appropriate to carry out this section.

“(e) **ENFORCEMENT.**—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

“(f) **USE OF PENALTY AMOUNTS.**—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).”.

#### **SEC. 406. EDUCATIONAL OUTREACH PROGRAM.**

The Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5301 et seq.) (as amended by section 405) is amended by inserting after section 7 the following:

##### **“SEC. 8. EDUCATIONAL OUTREACH PROGRAM.**

16 USC 5305b.

“(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this section, the Secretary shall develop and implement an educational outreach program in the United States for the conservation of rhinoceros and tiger species.

Deadline.

“(b) **GUIDELINES.**—The Secretary shall publish in the Federal Register guidelines for the program.

“(c) **CONTENTS.**—Under the program, the Secretary shall publish and disseminate information regarding—

“(1) laws protecting rhinoceros and tiger species, in particular laws prohibiting trade in products containing, or labeled or advertised as containing, their parts;

“(2) use of traditional medicines that contain parts or products of rhinoceros and tiger species, health risks associated with their use, and available alternatives to the medicines; and

“(3) the status of rhinoceros and tiger species and the reasons for protecting the species.”.

#### **SEC. 407. AUTHORIZATION OF APPROPRIATIONS.**

Section 9 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5306) (as redesignated by section 405(1)) is amended by striking “1996, 1997, 1998, 1999, and 2000” and inserting “1996 through 2002”.

## **TITLE V—CHESAPEAKE BAY INITIATIVE**

#### **SEC. 501. SHORT TITLE.**

This title may be cited as the “Chesapeake Bay Initiative Act of 1998”.

Chesapeake Bay Initiative Act of 1998.  
16 USC 461 note.

#### **SEC. 502. CHESAPEAKE BAY GATEWAYS AND WATERTRAILS.**

(a) **CHESAPEAKE BAY GATEWAYS AND WATERTRAILS NETWORK.**—

(1) IN GENERAL.—The Secretary of the Interior (referred to in this section as the “Secretary”), in cooperation with the Administrator of the Environmental Protection Agency (referred to in this section as the “Administrator”), shall provide technical and financial assistance, in cooperation with other Federal agencies, State and local governments, nonprofit organizations, and the private sector—

(A) to identify, conserve, restore, and interpret natural, recreational, historical, and cultural resources within the Chesapeake Bay Watershed;

(B) to identify and utilize the collective resources as Chesapeake Bay Gateways sites for enhancing public education of and access to the Chesapeake Bay;

(C) to link the Chesapeake Bay Gateways sites with trails, tour roads, scenic byways, and other connections as determined by the Secretary;

(D) to develop and establish Chesapeake Bay Watertrails comprising water routes and connections to Chesapeake Bay Gateways sites and other land resources within the Chesapeake Bay Watershed; and

(E) to create a network of Chesapeake Bay Gateways sites and Chesapeake Bay Watertrails.

(2) COMPONENTS.—Components of the Chesapeake Bay Gateways and Watertrails Network may include—

(A) State or Federal parks or refuges;

(B) historic seaports;

(C) archaeological, cultural, historical, or recreational sites; or

(D) other public access and interpretive sites as selected by the Secretary.

(b) CHESAPEAKE BAY GATEWAYS GRANTS ASSISTANCE PROGRAM.—

Establishment.

(1) IN GENERAL.—The Secretary, in cooperation with the Administrator, shall establish a Chesapeake Bay Gateways Grants Assistance Program to aid State and local governments, local communities, nonprofit organizations, and the private sector in conserving, restoring, and interpreting important historic, cultural, recreational, and natural resources within the Chesapeake Bay Watershed.

(2) CRITERIA.—The Secretary, in cooperation with the Administrator, shall develop appropriate eligibility, prioritization, and review criteria for grants under this section.

(3) MATCHING FUNDS AND ADMINISTRATIVE EXPENSES.—A grant under this section—

(A) shall not exceed 50 percent of eligible project costs;

(B) shall be made on the condition that non-Federal sources, including in-kind contributions of services or materials, provide the remainder of eligible project costs; and

(C) shall be made on the condition that not more than 10 percent of all eligible project costs be used for administrative expenses.



(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$3,000,000 for each of fiscal years 1999 through 2003.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—H.R. 2807 (H.R. 2863) (S. 361):

HOUSE REPORTS: Nos. 105–495 (Comm. on Resources) and 105–542 accompanying H.R. 2863 (Comm. on Resources).

SENATE REPORTS: Nos. 105–366 accompanying H.R. 2863 and 105–282 accompanying S. 361 both (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Apr. 28, considered and passed House.

Oct. 13, considered and passed Senate, amended, in lieu of H.R. 2863.

Oct. 14, House concurred in Senate amendments with amendments.

Oct. 15, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 30, Presidential statement.



Public Law 105–313  
105th Congress

An Act

Oct. 30, 1998  
[H.R. 3055]

To deem the activities of the Miccosukee Tribe on the Miccosukee Reserved Area to be consistent with the purposes of the Everglades National Park, and for other purposes.

Miccosukee  
Reserved Area  
Act.  
Native  
Americans.  
Florida.  
16 USC 410 note.  
16 USC 410 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Miccosukee Reserved Area Act”.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Since 1964, the Miccosukee Tribe of Indians of Florida have lived and governed their own affairs on a strip of land on the northern edge of the Everglades National Park pursuant to permits from the National Park Service and other legal authority. The current permit expires in 2014.

(2) Since the commencement of the Tribe’s permitted use and occupancy of the Special Use Permit Area, the Tribe’s membership has grown, as have the needs and desires of the Tribe and its members for modern housing, governmental and administrative facilities, schools and cultural amenities, and related structures.

(3) The United States, the State of Florida, the Miccosukee Tribe, and the Seminole Tribe of Florida are participating in a major intergovernmental effort to restore the South Florida ecosystem, including the restoration of the environment of the Park.

(4) The Special Use Permit Area is located within the northern boundary of the Park, which is critical to the protection and restoration of the Everglades, as well as to the cultural values of the Miccosukee Tribe.

(5) The interests of both the Miccosukee Tribe and the United States would be enhanced by a further delineation of the rights and obligations of each with respect to the Special Use Permit Area and to the Park as a whole.

(6) The amount and location of land allocated to the Tribe fulfills the purposes of the Park.

(7) The use of the Miccosukee Reserved Area by the Miccosukee Tribe does not constitute an abandonment of the Park.

16 USC 410 note. **SEC. 3. PURPOSES.**

The purposes of this Act are as follows:

(1) To replace the special use permit with a legal framework under which the Tribe can live permanently and govern the Tribe's own affairs in a modern community within the Park.

(2) To protect the Park outside the boundaries of the Miccosukee Reserved Area from adverse effects of structures or activities within that area, and to support restoration of the South Florida ecosystem, including restoring the environment of the Park.

#### SEC. 4. DEFINITIONS.

16 USC 410 note.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) EVERGLADES.—The term “Everglades” means the areas within the Florida Water Conservation Areas, Everglades National Park, and Big Cypress National Preserve.

(3) FEDERAL AGENCY.—The term “Federal agency” means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(4) MICCOSUKEE RESERVED AREA; MRA.—

(A) IN GENERAL.—The term “Miccosukee Reserved Area” or “MRA” means, notwithstanding any other provision of law and subject to the limitations specified in section 6(d) of this Act, the portion of the Everglades National Park described in subparagraph (B) that is depicted on the map entitled “Miccosukee Reserved Area” numbered NPS-160/41,038, and dated September 30, 1998, copies of which shall be kept available for public inspection in the offices of the National Park Service, Department of the Interior, and shall be filed with appropriate officers of Miami-Dade County and the Miccosukee Tribe of Indians of Florida.

(B) DESCRIPTION.—The description of the lands referred to in subparagraph (A) is as follows: “Beginning at the western boundary of Everglades National Park at the west line of sec. 20, T. 54 S., R. 35 E., thence E. following the Northern boundary of said Park in T. 54 S., Rs. 35 and 36 E., to a point in sec. 19, T. 54 S., R. 36 E., 500 feet west of the existing road known as Seven Mile Road, thence 500 feet south from said point, thence west paralleling the Park boundary for 3,200 feet, thence south for 600 feet, thence west, paralleling the Park boundary to the west line of sec. 20, T. 54 S., R. 35 E., thence N. 1,100 feet to the point of beginning.”.

(5) PARK.—The term “Park” means the Everglades National Park, including any additions to that Park.

(6) PERMIT.—The term “permit”, unless otherwise specified, means any federally issued permit, license, certificate of public convenience and necessity, or other permission of any kind.

(7) SECRETARY.—The term “Secretary” means the Secretary of the Interior or the designee of the Secretary.

(8) SOUTH FLORIDA ECOSYSTEM.—The term “South Florida ecosystem” has the meaning given that term in section 528(a)(4) of the Water Resources Development Act of 1996 (Public Law 104-303).

(9) SPECIAL USE PERMIT AREA.—The term “special use permit area” means the area of 333.3 acres on the northern boundary of the Park reserved for the use, occupancy, and governance of the Tribe under a special use permit before the date of the enactment of this Act.

(10) TRIBE.—The term “Tribe”, unless otherwise specified, means the Miccosukee Tribe of Indians of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

(11) TRIBAL.—The term “tribal” means of or pertaining to the Miccosukee Tribe of Indians of Florida.

(12) TRIBAL CHAIRMAN.—The term “tribal chairman” means the duly elected chairman of the Miccosukee Tribe of Indians of Florida, or the designee of that chairman.

16 USC 410 note. **SEC. 5. TRIBAL RIGHTS AND AUTHORITY ON THE MICCOSUKEE RESERVED AREA.**

(a) SPECIAL USE PERMIT TERMINATED.—

(1) TERMINATION.—The special use permit dated February 1, 1973, issued by the Secretary to the Tribe, and any amendments to that permit, are terminated.

(2) EXPANSION OF SPECIAL USE PERMIT AREA.—The geographical area contained in the former special use permit area referred to in paragraph (1) shall be expanded pursuant to this Act and known as the Miccosukee Reserved Area.

(3) GOVERNANCE OF AFFAIRS IN MICCOSUKEE RESERVED AREA.—Subject to the provisions of this Act and other applicable Federal law, the Tribe shall govern its own affairs and otherwise make laws and apply those laws in the MRA as though the MRA were a Federal Indian reservation.

(b) PERPETUAL USE AND OCCUPANCY.—The Tribe shall have the exclusive right to use and develop the MRA in perpetuity in a manner consistent with this Act for purposes of the administration, education, housing, and cultural activities of the Tribe, including commercial services necessary to support those purposes.

(c) INDIAN COUNTRY STATUS.—The MRA shall be—

(1) considered to be Indian country (as that term is defined in section 1151 of title 18, United States Code); and

(2) treated as a federally recognized Indian reservation solely for purposes of—

(A) determining the authority of the Tribe to govern its own affairs and otherwise make laws and apply those laws within the MRA; and

(B) the eligibility of the Tribe and its members for any Federal health, education, employment, economic assistance, revenue sharing, or social welfare programs, or any other similar Federal program for which Indians are eligible because of their—

(i) status as Indians; and

(ii) residence on or near an Indian reservation.

(d) EXCLUSIVE FEDERAL JURISDICTION PRESERVED.—The exclusive Federal legislative jurisdiction as applied to the MRA as in effect on the date of the enactment of this Act shall be preserved. The Act of August 15, 1953, 67 Stat. 588, chapter 505 and the amendments made by that Act, including section 1162 of title

18, United States Code, as added by that Act and section 1360 of title 28, United States Code, as added by that Act, shall not apply with respect to the MRA.

(e) OTHER RIGHTS PRESERVED.—Nothing in this Act shall affect any rights of the Tribe under Federal law, including the right to use other lands or waters within the Park for other purposes, including, fishing, boating, hiking, camping, cultural activities, or religious observances.

**SEC. 6. PROTECTION OF EVERGLADES NATIONAL PARK.**

16 USC 410 note.

(a) ENVIRONMENTAL PROTECTION AND ACCESS REQUIREMENTS.—

(1) IN GENERAL.—The MRA shall remain within the boundaries of the Park and be a part of the Park in a manner consistent with this Act.

(2) COMPLIANCE WITH APPLICABLE LAWS.—The Tribe shall be responsible for compliance with all applicable laws, except as otherwise provided by this Act.

(3) PREVENTION OF DEGRADATION; ABATEMENT.—

(A) PREVENTION OF DEGRADATION.—Pursuant to the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Tribe shall prevent and abate degradation of the quality of surface or groundwater that is released into other parts of the Park, as follows:

(i) With respect to water entering the MRA which fails to meet applicable water quality standards approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), actions of the Tribe shall not further degrade water quality.

(ii) With respect to water entering the MRA which meets applicable water quality standards approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Tribe shall not cause the water to fail to comply with applicable water quality standards.

(B) PREVENTION AND ABATEMENT.—The Tribe shall prevent and abate disruption of the restoration or preservation of the quantity, timing, or distribution of surface or groundwater that would enter the MRA and flow, directly or indirectly, into other parts of the Park, but only to the extent that such disruption is caused by conditions, activities, or structures within the MRA.

(C) PREVENTION OF SIGNIFICANT PROPAGATION OF EXOTIC PLANTS AND ANIMALS.—The Tribe shall prevent significant propagation of exotic plants or animals outside the MRA that may otherwise be caused by conditions, activities, or structures within the MRA.

(D) PUBLIC ACCESS TO CERTAIN AREAS OF THE PARK.—The Tribe shall not impede public access to those areas of the Park outside the boundaries of the MRA, and to and from the Big Cypress National Preserve, except that the Tribe shall not be required to allow individuals who are not members of the Tribe access to the MRA other than Federal employees, agents, officers, and officials (as provided in this Act).

(E) PREVENTION OF SIGNIFICANT CUMULATIVE ADVERSE ENVIRONMENTAL IMPACTS.—

- Deadline. (i) IN GENERAL.—The Tribe shall prevent and abate any significant cumulative adverse environmental impact on the Park outside the MRA resulting from development or other activities within the MRA.
- (ii) PROCEDURES.—Not later than 12 months after the date of the enactment of this Act, the Tribe shall develop, publish, and implement procedures that shall ensure adequate public notice and opportunity to comment on major tribal actions within the MRA that may contribute to a significant cumulative adverse impact on the Everglades ecosystem.
- (iii) WRITTEN NOTICE.—The procedures in clause (ii) shall include timely written notice to the Secretary and consideration of the Secretary's comments.
- Deadline. (F) WATER QUALITY STANDARDS.—
- (i) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Tribe shall adopt and comply with water quality standards within the MRA that are at least as protective as the water quality standards for the area encompassed by Everglades National Park approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).
- (ii) TRIBAL WATER QUALITY STANDARDS.—The Tribe may not adopt water quality standards for the MRA under clause (i) that are more restrictive than the water quality standards adopted by the Tribe for contiguous reservation lands that are not within the Park.
- (iii) EFFECT OF FAILURE TO ADOPT OR PRESCRIBE STANDARDS.—In the event the Tribe fails to adopt water quality standards referred to in clause (i), the water quality standards applicable to the Everglades National Park, approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), shall be deemed to apply by operation of Federal law to the MRA until such time as the Tribe adopts water quality standards that meet the requirements of this subparagraph.
- (iv) MODIFICATION OF STANDARDS.—If, after the date of the enactment of this Act, the standards referred to in clause (iii) are revised, not later than 1 year after those standards are revised, the Tribe shall make such revisions to water quality standards of the Tribe as are necessary to ensure that those water quality standards are at least as protective as the revised water quality standards approved by the Administrator.
- (v) EFFECT OF FAILURE TO MODIFY WATER QUALITY STANDARDS.—If the Tribe fails to revise water quality standards in accordance with clause (iv), the revised water quality standards applicable to the Everglades Park, approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) shall be deemed to apply by operation of Federal law to the MRA until such time as the Tribe adopts water quality standards that are at least as protective as

the revised water quality standards approved by the Administrator.

(G) NATURAL EASEMENTS.—The Tribe shall not engage in any construction, development, or improvement in any area that is designated as a natural easement.

(b) HEIGHT RESTRICTIONS.—

(1) RESTRICTIONS.—Except as provided in paragraphs (2) through (4), no structure constructed within the MRA shall exceed the height of 45 feet or exceed 2 stories, except that a structure within the Miccosukee Government Center, as shown on the map referred to in section 4(4), shall not exceed the height of 70 feet.

(2) EXCEPTIONS.—The following types of structures are exempt from the restrictions of this section to the extent necessary for the health, safety, or welfare of the tribal members, and for the utility of the structures:

(A) Water towers or standpipes.

(B) Radio towers.

(C) Utility lines.

(3) WAIVER.—The Secretary may waive the restrictions of this subsection if the Secretary finds that the needs of the Tribe for the structure that is taller than structures allowed under the restrictions would outweigh the adverse effects to the Park or its visitors.

(4) GRANDFATHER CLAUSE.—Any structure approved by the Secretary before the date of the enactment of this Act, and for which construction commences not later than 12 months after the date of the enactment of this Act, shall not be subject to the provisions of this subsection.

(5) MEASUREMENT.—The heights specified in this subsection shall be measured from mean sea level.

(c) OTHER CONDITIONS.—

(1) GAMING.—No class II or class III gaming (as those terms are defined in section 4 (7) and (8) of the Indian Gaming Regulatory Act (25 U.S.C. 2703 (7) and (8)) shall be conducted within the MRA.

(2) AVIATION.—

(A) IN GENERAL.—No commercial aviation may be conducted from or to the MRA.

(B) EMERGENCY OPERATORS.—Takeoffs and landings of aircraft shall be allowed for emergency operations and administrative use by the Tribe or the United States, including resource management and law enforcement.

(C) STATE AGENCIES AND OFFICIALS.—The Tribe may permit the State of Florida, as agencies or municipalities of the State of Florida to provide for takeoffs or landings of aircraft on the MRA for emergency operations or administrative purposes.

(3) VISUAL QUALITY.—

(A) IN GENERAL.—In the planning, use, and development of the MRA by the Tribe, the Tribe shall consider the quality of the visual experience from the Shark River Valley visitor use area, including limitations on the height and locations of billboards or other commercial signs or other advertisements visible from the Shark Valley visitor center, tram road, or observation tower.

(B) EXEMPTION OF MARKINGS.—The Tribe may exempt markings on a water tower or standpipe that merely identify the Tribe.

(d) EASEMENTS AND RANGER STATION.—Notwithstanding any other provision of this Act, the following provisions shall apply:

(1) NATURAL EASEMENTS.—

(A) IN GENERAL.—The use and occupancy of the MRA by the Tribe shall be perpetually subject to natural easements on parcels of land that are—

(i) bounded on the north and south by the boundaries of the MRA, specified in the legal description under section 4(4); and

(ii) bounded on the east and west by boundaries that run perpendicular to the northern and southern boundaries of the MRA, as provided in the description under subparagraph (B).

(B) DESCRIPTION.—The description referred to in subparagraph (A)(ii) is as follows:

(i) Easement number 1, being 445 feet wide with western boundary 525 feet, and eastern boundary 970 feet, east of the western boundary of the MRA.

(ii) Easement number 2, being 443 feet wide with western boundary 3,637 feet, and eastern boundary 4,080 feet, east of the western boundary of the MRA.

(iii) Easement number 3, being 320 feet wide with western boundary 5,380 feet, and eastern boundary 5,700 feet, east of the western boundary of the MRA.

(iv) Easement number 4, being 290 feet wide with western boundary 6,020 feet, and eastern boundary 6,310 feet, east of the western boundary of the MRA.

(v) Easement number 5, being 290 feet wide with western boundary 8,170 feet, and eastern boundary 8,460 feet, east of the western boundary of the MRA.

(vi) Easement number 6, being 312 feet wide with western boundary 8,920 feet, and eastern boundary 9,232 feet, east of the western boundary of the MRA.

(2) EXTENT OF EASEMENTS.—The aggregate extent of the east-west parcels of lands subject to easements under paragraph (1) shall not exceed 2,100 linear feet, as depicted on the map referred to in section 4(4).

(3) USE OF EASEMENTS.—At the discretion of the Secretary, the Secretary may use the natural easements specified in paragraph (1) to fulfill a hydrological or other environmental objective of the Everglades National Park.

(4) ADDITIONAL REQUIREMENTS.—In addition to providing for the easements specified in paragraph (1), the Tribe shall not impair or impede the continued function of the water control structures designated as “S-12A” and “S-12B”, located north of the MRA on the Tamiami Trail and any existing water flow ways under the Old Tamiami Trail.

(5) USE BY DEPARTMENT OF THE INTERIOR.—The Department of the Interior shall have a right, in perpetuity, to use and occupy, and to have vehicular and airboat access to, the Tamiami Ranger Station identified on the map referred to in section 4(4), except that the pad on which such station is constructed shall not be increased in size without the consent of the Tribe.



**SEC. 7. IMPLEMENTATION PROCESS.**

16 USC 410 note.

(a) **GOVERNMENT-TO-GOVERNMENT AGREEMENTS.**—The Secretary and the tribal chairman shall make reasonable, good faith efforts to implement the requirements of this Act. Those efforts may include government-to-government consultations, and the development of standards of performance and monitoring protocols.

(b) **FEDERAL MEDIATION AND CONCILIATION SERVICE.**—If the Secretary and the tribal chairman concur that they cannot reach agreement on any significant issue relating to the implementation of the requirements of this Act, the Secretary and the tribal chairman may jointly request that the Federal Mediation and Conciliation Service assist them in reaching a satisfactory agreement.

(c) **60-DAY TIME LIMIT.**—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 60 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance, unless the Secretary and the tribal chairman agree to an extension of period of time.

(d) **OTHER RIGHTS PRESERVED.**—The facilitated dispute resolution specified in this section shall not prejudice any right of the parties to—

(1) commence an action in a court of the United States at any time; or

(2) any other resolution process that is not prohibited by law.

**SEC. 8. MISCELLANEOUS.**

16 USC 410 note.

(a) **NO GENERAL APPLICABILITY.**—Nothing in this Act creates any right, interest, privilege, or immunity affecting any other Tribe or any other park or Federal lands.

(b) **NONINTERFERENCE WITH FEDERAL AGENTS.**—

(1) **IN GENERAL.**—Federal employees, agents, officers, and officials shall have a right of access to the MRA—

(A) to monitor compliance with the provisions of this Act; and

(B) for other purposes, as though it were a Federal Indian reservation.

(2) **STATUTORY CONSTRUCTION.**—Nothing in this Act shall authorize the Tribe or members or agents of the Tribe to interfere with any Federal employee, agent, officer, or official in the performance of official duties (whether within or outside the boundaries of the MRA) except that nothing in this paragraph may prejudice any right under the Constitution of the United States.

(c) **FEDERAL PERMITS.**—

(1) **IN GENERAL.**—No Federal permit shall be issued to the Tribe for any activity or structure that would be inconsistent with this Act.

(2) **CONSULTATIONS.**—Any Federal agency considering an application for a permit for construction or activities on the MRA shall consult with, and consider the advice, evidence, and recommendations of the Secretary before issuing a final decision.

(3) **RULE OF CONSTRUCTION.**—Except as otherwise specifically provided in this Act, nothing in this Act supersedes any requirement of any other applicable Federal law.

(d) VOLUNTEER PROGRAMS AND TRIBAL INVOLVEMENT.—The Secretary may establish programs that foster greater involvement by the Tribe with respect to the Park. Those efforts may include internships and volunteer programs with tribal schoolchildren and with adult tribal members.

(e) SAVING ECOSYSTEM RESTORATION.—

(1) IN GENERAL.—Nothing in this Act shall be construed to amend or prejudice the authority of the United States to design, construct, fund, operate, permit, remove, or degrade canals, levees, pumps, impoundments, wetlands, flow ways, or other facilities, structures, or systems, for the restoration or protection of the South Florida ecosystem pursuant to Federal laws.

(2) USE OF NONEASEMENT LANDS.—

(A) IN GENERAL.—The Secretary may use all or any part of the MRA lands to the extent necessary to restore or preserve the quality, quantity, timing, or distribution of surface or groundwater, if other reasonable alternative measures to achieve the same purpose are impractical.

(B) SECRETARIAL AUTHORITY.—The Secretary may use lands referred to in subparagraph (A) either under an agreement with the tribal chairman or upon an order of the United States district court for the district in which the MRA is located, upon petition by the Secretary and finding by the court that—

(i) the proposed actions of the Secretary are necessary; and

(ii) other reasonable alternative measures are impractical.

(3) COSTS.—

(A) IN GENERAL.—In the event the Secretary exercises the authority granted the Secretary under paragraph (2), the United States shall be liable to the Tribe or the members of the Tribe for—

(i) cost of modification, removal, relocation, or reconstruction of structures lawfully erected in good faith on the MRA; and

(ii) loss of use of the affected land within the MRA.

(B) PAYMENT OF COMPENSATION.—Any compensation paid under subparagraph (A) shall be paid as cash payments with respect to taking structures and other fixtures and in the form of rights to occupy similar land adjacent to the MRA with respect to taking land.

(4) RULE OF CONSTRUCTION.—Paragraphs (2) and (3) shall not apply to a natural easement described in section 6(d)(1).

(f) PARTIES HELD HARMLESS.—

(1) UNITED STATES HELD HARMLESS.—

(A) IN GENERAL.—Subject to subparagraph (B) with respect to any tribal member, tribal employee, tribal contractor, tribal enterprise, or any person residing within the MRA, notwithstanding any other provision of law, the United States (including an officer, agent, or employee of the United States), shall not be liable for any action or failure to act by the Tribe (including an officer, employee, or member of the Tribe), including any failure to perform any of the obligations of the Tribe under this Act.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to alter any liability or other obligation that the United States may have under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(2) TRIBE HELD HARMLESS.—Notwithstanding any other provision of law, the Tribe and the members of the Tribe shall not be liable for any injury, loss, damage, or harm that—

(A) occurs with respect to the MRA; and

(B) is caused by an action or failure to act by the United States, or the officer, agent, or employee of the United States (including the failure to perform any obligation of the United States under this Act).

(g) COOPERATIVE AGREEMENTS.—Nothing in this Act shall alter the authority of the Secretary and the Tribe to enter into any cooperative agreement, including any agreement concerning law enforcement, emergency response, or resource management.

(h) WATER RIGHTS.—Nothing in this Act shall enhance or diminish any water rights of the Tribe, or members of the Tribe, or the United States (with respect to the Park).

(i) ENFORCEMENT.—

(1) ACTIONS BROUGHT BY ATTORNEY GENERAL.—The Attorney General may bring a civil action in the United States district court for the district in which the MRA is located, to enjoin the Tribe from violating any provision of this Act.

(2) ACTION BROUGHT BY TRIBE.—The Tribe may bring a civil action in the United States district court for the district in which the MRA is located to enjoin the United States from violating any provision of this Act.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—H.R. 3055 (S. 1419):

HOUSE REPORTS: No. 105-708, Pt. 1 (Comm. on Resources).

SENATE REPORTS: No. 105-361 accompanying S. 1419 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 12, considered and passed House.

Oct. 15, considered and passed Senate.

Public Law 105–314  
105th Congress

An Act

Oct. 30, 1998  
[H.R. 3494]

To amend title 18, United States Code, to protect children from sexual abuse and exploitation, and for other purposes.

Protection of  
Children From  
Sexual Predators  
Act of 1998.  
18 USC 1 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Protection of Children From Sexual Predators Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—PROTECTION OF CHILDREN FROM PREDATORS**

Sec. 101. Use of interstate facilities to transmit identifying information about a minor for criminal sexual purposes.

Sec. 102. Coercion and enticement.

Sec. 103. Increased penalties for transportation of minors or assumed minors for illegal sexual activity and related crimes.

Sec. 104. Repeat offenders in transportation offense.

Sec. 105. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense.

Sec. 106. Transportation generally.

**TITLE II—PROTECTION OF CHILDREN FROM CHILD PORNOGRAPHY**

Sec. 201. Additional jurisdictional base for prosecution of production of child pornography.

Sec. 202. Increased penalties for child pornography offenses.

Sec. 203. “Zero tolerance” for possession of child pornography.

**TITLE III—SEXUAL ABUSE PREVENTION**

Sec. 301. Elimination of redundancy and ambiguities.

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Sec. 501. Death or life in prison for certain offenses whose victims are children.

Sec. 502. Sentencing enhancement for chapter 117 offenses.

Sec. 503. Increased penalties for use of a computer in the sexual abuse or exploitation of a child.

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Sec. 505. Increased penalties for pattern of activity of sexual exploitation of children.

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## TITLE VI—CRIMINAL, PROCEDURAL, AND ADMINISTRATIVE REFORMS

- Sec. 601. Pretrial detention of sexual predators.
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## TITLE VII—MURDER AND KIDNAPPING INVESTIGATIONS

- Sec. 701. Authority to investigate serial killings.
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## TITLE VIII—RESTRICTED ACCESS TO INTERACTIVE COMPUTER SERVICES

- Sec. 801. Prisoner access.
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- Sec. 803. Survey.

## TITLE IX—STUDIES

- Sec. 901. Study on limiting the availability of pornography on the Internet.
- Sec. 902. Study of hotlines.

## TITLE I—PROTECTION OF CHILDREN FROM PREDATORS

### SEC. 101. USE OF INTERSTATE FACILITIES TO TRANSMIT IDENTIFYING INFORMATION ABOUT A MINOR FOR CRIMINAL SEXUAL PURPOSES.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

#### **“§ 2425. Use of interstate facilities to transmit information about a minor**

“Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly initiates the transmission of the name, address, telephone number, social security number, or electronic mail address of another individual, knowing that such other individual has not attained the age of 16 years, with the intent to entice, encourage, offer, or solicit any person to engage in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 5 years, or both.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

“2425. Use of interstate facilities to transmit information about a minor.”.

### SEC. 102. COERCION AND ENTICEMENT.

Section 2422 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “or attempts to do so,” before “shall be fined”; and

(B) by striking “five” and inserting “10”; and

(2) by striking subsection (b) and inserting the following:

“(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.”.

**SEC. 103. INCREASED PENALTIES FOR TRANSPORTATION OF MINORS OR ASSUMED MINORS FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.**

Section 2423 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.**—A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.”; and

(2) in subsection (b), by striking “10 years” and inserting “15 years”.

**SEC. 104. REPEAT OFFENDERS IN TRANSPORTATION OFFENSE.**

(a) **IN GENERAL.**—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

**“§ 2426. Repeat offenders**

“(a) **MAXIMUM TERM OF IMPRISONMENT.**—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term of imprisonment otherwise provided by this chapter.

“(b) **DEFINITIONS.**—In this section—

“(1) the term ‘prior sex offense conviction’ means a conviction for an offense—

“(A) under this chapter, chapter 109A, or chapter 110;

or

“(B) under State law for an offense consisting of conduct that would have been an offense under a chapter referred to in paragraph (1) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States; and

“(2) the term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

“2426. Repeat offenders.”.

**SEC. 105. INCLUSION OF OFFENSES RELATING TO CHILD PORNOGRAPHY IN DEFINITION OF SEXUAL ACTIVITY FOR WHICH ANY PERSON CAN BE CHARGED WITH A CRIMINAL OFFENSE.**

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

**“§ 2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense**

“In this chapter, the term ‘sexual activity for which any person can be charged with a criminal offense’ includes the production of child pornography, as defined in section 2256(8).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

“2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense.”.

**SEC. 106. TRANSPORTATION GENERALLY.**

Section 2421 of title 18, United States Code, is amended—

(1) by inserting “or attempts to do so,” before “shall be fined”; and

(2) by striking “five years” and inserting “10 years”.

## **TITLE II—PROTECTION OF CHILDREN FROM CHILD PORNOGRAPHY**

**SEC. 201. ADDITIONAL JURISDICTIONAL BASE FOR PROSECUTION OF PRODUCTION OF CHILD PORNOGRAPHY.**

(a) USE OF A CHILD.—Section 2251(a) of title 18, United States Code, is amended by inserting “if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer,” before “or if”.

(b) ALLOWING USE OF A CHILD.—Section 2251(b) of title 18, United States Code, is amended by inserting “, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer,” before “or if”.

(c) INCREASED PENALTIES IN SECTION 2251(d).—Section 2251(d) of title 18, United States Code, is amended by striking “or chapter 109A” each place it appears and inserting “, chapter 109A, or chapter 117”.

**SEC. 202. INCREASED PENALTIES FOR CHILD PORNOGRAPHY OFFENSES.**

(a) INCREASED PENALTIES IN SECTION 2252.—Section 2252(b) of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2), by striking “or chapter 109A” and inserting “, chapter 109A, or chapter 117”; and

(2) in paragraph (2), by striking “the possession of child pornography” and inserting “aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography”.

(b) INCREASED PENALTIES IN SECTION 2252A.—Section 2252A(b) of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2), by striking “or chapter 109A” and inserting “, chapter 109A, or chapter 117”; and

(2) in paragraph (2), by striking “the possession of child pornography” and inserting “aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography”.

**SEC. 203. “ZERO TOLERANCE” FOR POSSESSION OF CHILD PORNOGRAPHY.**

(a) MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Section 2252 of title 18, United States Code, is amended—

(1) in subsection (a)(4), by striking “3 or more” each place that term appears and inserting “1 or more”; and

(2) by adding at the end the following:

“(c) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating paragraph (4) of subsection (a) that the defendant—

“(1) possessed less than three matters containing any visual depiction proscribed by that paragraph; and

“(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof—

“(A) took reasonable steps to destroy each such visual depiction; or

“(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.”.

(b) MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A of title 18, United States Code, is amended—

(1) in subsection (a)(5), by striking “3 or more images” each place that term appears and inserting “an image”; and

(2) by adding at the end the following:

“(d) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating subsection (a)(5) that the defendant—

“(1) possessed less than three images of child pornography; and

“(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—

“(A) took reasonable steps to destroy each such image; or

“(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.”.

## **TITLE III—SEXUAL ABUSE PREVENTION**

**SEC. 301. ELIMINATION OF REDUNDANCY AND AMBIGUITIES.**

(a) MAKING CONSISTENT LANGUAGE ON AGE DIFFERENTIAL.—Section 2241(c) of title 18, United States Code, is amended by striking “younger than that person” and inserting “younger than the person so engaging”.



(b) **REDUNDANCY.**—Section 2243(a) of title 18, United States Code, is amended by striking “crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or”.

(c) **STATE DEFINED.**—Section 2246 of title 18, United States Code, is amended—

(1) in paragraph (5), by striking the period at the end and inserting “; and”; and

(2) by adding at the end the following:

“(6) the term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.”.

#### **SEC. 302. INCREASED PENALTIES FOR ABUSIVE SEXUAL CONTACT.**

Section 2244 of title 18, United States Code, is amended by adding at the end the following:

“(c) **OFFENSES INVOLVING YOUNG CHILDREN.**—If the sexual contact that violates this section is with an individual who has not attained the age of 12 years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provided in this section.”.

#### **SEC. 303. REPEAT OFFENDERS IN SEXUAL ABUSE CASES.**

Section 2247 of title 18, United States Code, is amended to read as follows:

##### **“§ 2247. Repeat offenders**

“(a) **MAXIMUM TERM OF IMPRISONMENT.**—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter.

“(b) **PRIOR SEX OFFENSE CONVICTION DEFINED.**—In this section, the term ‘prior sex offense conviction’ has the meaning given that term in section 2426(b).”.

## **TITLE IV—PROHIBITION ON TRANSFER OF OBSCENE MATERIAL TO MINORS**

#### **SEC. 401. TRANSFER OF OBSCENE MATERIAL TO MINORS.**

(a) **IN GENERAL.**—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

##### **“§ 1470. Transfer of obscene material to minors**

“Whoever, using the mail or any facility or means of interstate or foreign commerce, knowingly transfers obscene matter to another individual who has not attained the age of 16 years, knowing that such other individual has not attained the age of 16 years, or attempts to do so, shall be fined under this title, imprisoned not more than 10 years, or both.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The analysis for chapter 71 of title 18, United States Code, is amended by adding at the end the following:

“1470. Transfer of obscene material to minors.”.

## **TITLE V—INCREASED PENALTIES FOR OFFENSES AGAINST CHILDREN AND FOR REPEAT OFFENDERS**

28 USC 994 note. **SEC. 501. DEATH OR LIFE IN PRISON FOR CERTAIN OFFENSES WHOSE VICTIMS ARE CHILDREN.**

Section 3559 of title 18, United States Code, is amended by adding at the end the following:

“(d) DEATH OR IMPRISONMENT FOR CRIMES AGAINST CHILDREN.—

“(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, a person who is convicted of a Federal offense that is a serious violent felony (as defined in subsection (c)) or a violation of section 2422, 2423, or 2251 shall, unless the sentence of death is imposed, be sentenced to imprisonment for life, if—

“(A) the victim of the offense has not attained the age of 14 years;

“(B) the victim dies as a result of the offense; and

“(C) the defendant, in the course of the offense, engages in conduct described in section 3591(a)(2).

“(2) EXCEPTION.—With respect to a person convicted of a Federal offense described in paragraph (1), the court may impose any lesser sentence that is authorized by law to take into account any substantial assistance provided by the defendant in the investigation or prosecution of another person who has committed an offense, in accordance with the Federal Sentencing Guidelines and the policy statements of the Federal Sentencing Commission pursuant to section 994(p) of title 28, or for other good cause.”.

28 USC 944 note. **SEC. 502. SENTENCING ENHANCEMENT FOR CHAPTER 117 OFFENSES.**

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal Sentencing Guidelines to provide a sentencing enhancement for offenses under chapter 117 of title 18, United States Code.

(b) INSTRUCTION TO COMMISSION.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that the sentences, guidelines, and policy statements for offenders convicted of offenses described in subsection (a) are appropriately severe and reasonably consistent with other relevant directives and with other Federal Sentencing Guidelines.

28 USC 944 note. **SEC. 503. INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.**

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines for—

(A) aggravated sexual abuse under section 2241 of title 18, United States Code;

(B) sexual abuse under section 2242 of title 18, United States Code;

(C) sexual abuse of a minor or ward under section 2243 of title 18, United States Code; and

(D) coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant used a computer with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in any prohibited sexual activity.

**SEC. 504. INCREASED PENALTIES FOR KNOWING MISREPRESENTATION  
IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.**

28 USC 944 note.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in a prohibited sexual activity.

**SEC. 505. INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL  
EXPLOITATION OF CHILDREN.**

28 USC 944 note.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to increase penalties applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

28 USC 944 note. **SEC. 506. CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.**

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal Sentencing Guidelines as are necessary to clarify that the term “distribution of pornography” applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

28 USC 944 note. **SEC. 507. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.**

In carrying out this title, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal Sentencing Guidelines subject to this title, ensure reasonable consistency with other guidelines of the Federal Sentencing Guidelines; and

(2) with respect to an offense subject to the Federal Sentencing Guidelines, avoid duplicative punishment under the Federal Sentencing Guidelines for substantially the same offense.

## **TITLE VI—CRIMINAL, PROCEDURAL, AND ADMINISTRATIVE REFORMS**

**SEC. 601. PRETRIAL DETENTION OF SEXUAL PREDATORS.**

Section 3156(a)(4) of title 18, United States Code, is amended by striking subparagraph (C) and inserting the following:

“(C) any felony under chapter 109A, 110, or 117; and”.

**SEC. 602. CRIMINAL FORFEITURE FOR OFFENSES AGAINST MINORS.**

Section 2253 of title 18, United States Code, is amended by striking “or 2252 of this chapter” and inserting “2252, 2252A, or 2260 of this chapter, or who is convicted of an offense under section 2421, 2422, or 2423 of chapter 117,”.

**SEC. 603. CIVIL FORFEITURE FOR OFFENSES AGAINST MINORS.**

Section 2254(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking “or 2252 of this chapter” and inserting “2252, 2252A, or 2260 of this chapter, or used or intended to be used to commit or to promote the commission of an offense under section 2421, 2422, or 2423 of chapter 117,”; and

(2) in paragraph (3), by striking “or 2252 of this chapter” and inserting “2252, 2252A, or 2260 of this chapter, or obtained from a violation of section 2421, 2422, or 2423 of chapter 117,”.

**SEC. 604. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS.**

(a) IN GENERAL.—The Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) is amended by inserting after section 226 the following:

**“SEC. 227. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS. 42 USC 13032.**

“(a) DEFINITIONS.—In this section—

“(1) the term ‘electronic communication service’ has the meaning given the term in section 2510 of title 18, United States Code; and

“(2) the term ‘remote computing service’ has the meaning given the term in section 2711 of title 18, United States Code.

“(b) REQUIREMENTS.—

“(1) DUTY TO REPORT.—Whoever, while engaged in providing an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, obtains knowledge of facts or circumstances from which a violation of section 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code, involving child pornography (as defined in section 2256 of that title), is apparent, shall, as soon as reasonably possible, make a report of such facts or circumstances to a law enforcement agency or agencies designated by the Attorney General.

“(2) DESIGNATION OF AGENCIES.—Not later than 180 days after the date of enactment of this section, the Attorney General shall designate the law enforcement agency or agencies to which a report shall be made under paragraph (1).

“(3) FAILURE TO REPORT.—A provider of electronic communication services or remote computing services described in paragraph (1) who knowingly and willfully fails to make a report under that paragraph shall be fined—

“(A) in the case of an initial failure to make a report, not more than \$50,000; and

“(B) in the case of any second or subsequent failure to make a report, not more than \$100,000.

“(c) CIVIL LIABILITY.—No provider or user of an electronic communication service or a remote computing service to the public shall be held liable on account of any action taken in good faith to comply with this section.

“(d) LIMITATION OF INFORMATION OR MATERIAL REQUIRED IN REPORT.—A report under subsection (b)(1) may include additional information or material developed by an electronic communication service or remote computing service, except that the Federal Government may not require the production of such information or material in that report.

“(e) MONITORING NOT REQUIRED.—Nothing in this section may be construed to require a provider of electronic communication services or remote computing services to engage in the monitoring of any user, subscriber, or customer of that provider, or the content of any communication of any such person.

“(f) CONDITIONS OF DISCLOSURE OF INFORMATION CONTAINED WITHIN REPORT.—

“(1) IN GENERAL.—No law enforcement agency that receives a report under subsection (b)(1) shall disclose any information

contained in that report, except that disclosure of such information may be made—

“(A) to an attorney for the government for use in the performance of the official duties of the attorney;

“(B) to such officers and employees of the law enforcement agency, as may be necessary in the performance of their investigative and recordkeeping functions;

“(C) to such other government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist the attorney in the performance of the official duties of the attorney in enforcing Federal criminal law; or

“(D) as permitted by a court at the request of an attorney for the government, upon a showing that such information may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.

“(2) DEFINITIONS.—In this subsection, the terms ‘attorney for the government’ and ‘State’ have the meanings given those terms in Rule 54 of the Federal Rules of Criminal Procedure.”.

(b) EXCEPTION TO PROHIBITION ON DISCLOSURE.—Section 2702(b)(6) of title 18, United States Code, is amended to read as follows:

“(6) to a law enforcement agency—

“(A) if the contents—

“(i) were inadvertently obtained by the service provider; and

“(ii) appear to pertain to the commission of a crime;

or

“(B) if required by section 227 of the Crime Control Act of 1990.”.

#### **SEC. 605. CIVIL REMEDY FOR PERSONAL INJURIES RESULTING FROM CERTAIN SEX CRIMES AGAINST CHILDREN.**

Section 2255(a) of title 18, United States Code, is amended by striking “2251 or 2252” and inserting “2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423”.

#### **SEC. 606. ADMINISTRATIVE SUBPOENAS.**

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended—

(1) in section 3486, by striking the section designation and heading and inserting the following:

#### **“§ 3486. Administrative subpoenas in Federal health care investigations”; and**

(2) by adding at the end the following:

#### **“§ 3486A. Administrative subpoenas in cases involving child abuse and child sexual exploitation**

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—In any investigation relating to any act or activity involving a violation of section 1201, 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title in which the victim is an individual who has not attained the age of 18 years, the Attorney General, or

the designee of the Attorney General, may issue in writing and cause to be served a subpoena—

“(A) requiring a provider of electronic communication service or remote computing service to disclose the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of such service and the types of services the subscriber or customer utilized, which may be relevant to an authorized law enforcement inquiry; or

“(B) requiring a custodian of records to give testimony concerning the production and authentication of such records or information.

“(2) ATTENDANCE OF WITNESSES.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Fees.

“(b) PROCEDURES APPLICABLE.—The same procedures for service and enforcement as are provided with respect to investigative demands in section 3486 apply with respect to a subpoena issued under this section.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3486 and inserting the following:

“3486. Administrative subpoenas in Federal health care investigations.

“3486A. Administrative subpoenas in cases involving child abuse and child sexual exploitation.”

**SEC. 607. GRANTS TO STATES TO OFFSET COSTS ASSOCIATED WITH SEXUALLY VIOLENT OFFENDER REGISTRATION REQUIREMENTS.**

(a) IN GENERAL.—Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended—

(1) by redesignating the second subsection designated as subsection (g) as subsection (h); and

(2) by adding at the end the following:

“(i) GRANTS TO STATES FOR COSTS OF COMPLIANCE.—

“(1) PROGRAM AUTHORIZED.—

“(A) IN GENERAL.—The Director of the Bureau of Justice Assistance (in this subsection referred to as the ‘Director’) shall carry out a program, which shall be known as the ‘Sex Offender Management Assistance Program’ (in this subsection referred to as the ‘SOMA program’), under which the Director shall award a grant to each eligible State to offset costs directly associated with complying with this section.

“(B) USES OF FUNDS.—Each grant awarded under this subsection shall be—

“(i) distributed directly to the State for distribution to State and local entities; and

“(ii) used for training, salaries, equipment, materials, and other costs directly associated with complying with this section.

“(2) ELIGIBILITY.—

“(A) APPLICATION.—To be eligible to receive a grant under this subsection, the chief executive of a State shall, on an annual basis, submit to the Director an application

(in such form and containing such information as the Director may reasonably require) assuring that—

“(i) the State complies with (or made a good faith effort to comply with) this section; and

“(ii) where applicable, the State has penalties comparable to or greater than Federal penalties for crimes listed in this section, except that the Director may waive the requirement of this clause if a State demonstrates an overriding need for assistance under this subsection.

“(B) REGULATIONS.—

Deadline.

“(i) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Director shall promulgate regulations to implement this subsection (including the information that must be included and the requirements that the States must meet) in submitting the applications required under this subsection. In allocating funds under this subsection, the Director may consider the annual number of sex offenders registered in each eligible State’s monitoring and notification programs.

“(ii) CERTAIN TRAINING PROGRAMS.—Prior to implementing this subsection, the Director shall study the feasibility of incorporating into the SOMA program the activities of any technical assistance or training program established as a result of section 40152 of this Act. In a case in which incorporating such activities into the SOMA program will eliminate duplication of efforts or administrative costs, the Director shall take administrative actions, as allowable, and make recommendations to Congress to incorporate such activities into the SOMA program prior to implementing the SOMA program.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, \$25,000,000 for each of fiscal years 1999 and 2000.”

Deadline.  
42 USC 14071  
note.

(b) STUDY.—Not later than March 1, 2000, the Director shall conduct a study to assess the efficacy of the Sex Offender Management Assistance Program under section 170101(i) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(i)), as added by this section, and submit recommendations to Congress.

## TITLE VII—MURDER AND KIDNAPPING INVESTIGATIONS

### SEC. 701. AUTHORITY TO INVESTIGATE SERIAL KILLINGS.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

#### “§ 540B. Investigation of serial killings

“(a) IN GENERAL.—The Attorney General and the Director of the Federal Bureau of Investigation may investigate serial killings in violation of the laws of a State or political subdivision, if such investigation is requested by the head of a law enforcement agency with investigative or prosecutorial jurisdiction over the offense.



“(b) DEFINITIONS.—In this section:

“(1) KILLING.—The term ‘killing’ means conduct that would constitute an offense under section 1111 of title 18, United States Code, if Federal jurisdiction existed.

“(2) SERIAL KILLINGS.—The term ‘serial killings’ means a series of three or more killings, not less than one of which was committed within the United States, having common characteristics such as to suggest the reasonable possibility that the crimes were committed by the same actor or actors.

“(3) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 33 of title 28, United States Code, is amended by adding at the end the following:

“540B. Investigation of serial killings.”.

#### **SEC. 702. KIDNAPPING.**

(a) CLARIFICATION OF ELEMENT OF OFFENSE.—Section 1201(a)(1) of title 18, United States Code, is amended by inserting “, regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began” before the semicolon.

(b) TECHNICAL AMENDMENT.—Section 1201(a)(5) of title 18, United States Code, is amended by striking “designated” and inserting “described”.

(c) 24-HOUR RULE.—Section 1201(b) of title 18, United States Code, is amended by adding at the end the following: “Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.”.

#### **SEC. 703. MORGAN P. HARDIMAN CHILD ABDUCTION AND SERIAL MURDER INVESTIGATIVE RESOURCES CENTER.**

28 USC 531 note.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall establish within the Federal Bureau of Investigation a Child Abduction and Serial Murder Investigative Resources Center to be known as the “Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center” (in this section referred to as the “CASMIRC”).

Deadline.

(b) PURPOSE.—The CASMIRC shall be managed by the National Center for the Analysis of Violent Crime of the Critical Incident Response Group of the Federal Bureau of Investigation (in this section referred to as the “NCAVC”), and by multidisciplinary resource teams in Federal Bureau of Investigation field offices, in order to provide investigative support through the coordination and provision of Federal law enforcement resources, training, and application of other multidisciplinary expertise, to assist Federal, State, and local authorities in matters involving child abductions, mysterious disappearances of children, child homicide, and serial murder across the country. The CASMIRC shall be co-located with the NCAVC.

(c) DUTIES OF THE CASMIRC.—The CASMIRC shall perform such duties as the Attorney General determines appropriate to carry out the purposes of the CASMIRC, including—

(1) identifying, developing, researching, acquiring, and refining multidisciplinary information and specialties to provide for the most current expertise available to advance investigative knowledge and practices used in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(2) providing advice and coordinating the application of current and emerging technical, forensic, and other Federal assistance to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(3) providing investigative support, research findings, and violent crime analysis to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(4) providing, if requested by a Federal, State, or local law enforcement agency, on site consultation and advice in child abduction, mysterious disappearances of children, child homicide and serial murder investigations;

(5) coordinating the application of resources of pertinent Federal law enforcement agencies, and other Federal entities including, but not limited to, the United States Customs Service, the Secret Service, the Postal Inspection Service, and the United States Marshals Service, as appropriate, and with the concurrence of the agency head to support Federal, State, and local law enforcement involved in child abduction, mysterious disappearance of a child, child homicide, and serial murder investigations;

(6) conducting ongoing research related to child abductions, mysterious disappearances of children, child homicides, and serial murder, including identification and investigative application of current and emerging technologies, identification of investigative searching technologies and methods for physically locating abducted children, investigative use of offender behavioral assessment and analysis concepts, gathering statistics and information necessary for case identification, trend analysis, and case linkages to advance the investigative effectiveness of outstanding abducted children cases, develop investigative systems to identify and track serious serial offenders that repeatedly victimize children for comparison to unsolved cases, and other investigative research pertinent to child abduction, mysterious disappearance of a child, child homicide, and serial murder covered in this section;

(7) working under the NCAVC in coordination with the National Center For Missing and Exploited Children and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to provide appropriate training to Federal, State, and local law enforcement in matters regarding child abductions, mysterious disappearances of children, child homicides; and

(8) establishing a centralized repository based upon case data reflecting child abductions, mysterious disappearances of children, child homicides and serial murder submitted by State and local agencies, and an automated system for the efficient collection, retrieval, analysis, and reporting of information regarding CASMIRC investigative resources, research, and requests for and provision of investigative support services.

## (d) APPOINTMENT OF PERSONNEL TO THE CASMIRC.—

(1) SELECTION OF MEMBERS OF THE CASMIRC AND PARTICIPATING STATE AND LOCAL LAW ENFORCEMENT PERSONNEL.—The Director of the Federal Bureau of Investigation shall appoint the members of the CASMIRC. The CASMIRC shall be staffed with Federal Bureau of Investigation personnel and other necessary personnel selected for their expertise that would enable them to assist in the research, data collection, and analysis, and provision of investigative support in child abduction, mysterious disappearances of children, child homicide and serial murder investigations. The Director may, with concurrence of the appropriate State or local agency, also appoint State and local law enforcement personnel to work with the CASMIRC.

(2) STATUS.—Each member of the CASMIRC (and each individual from any State or local law enforcement agency appointed to work with the CASMIRC) shall remain as an employee of that member's or individual's respective agency for all purposes (including the purpose of performance review), and service with the CASMIRC shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis, except if appropriate to reimburse State and local law enforcement for overtime costs for an individual appointed to work with the resource team. Additionally, reimbursement of travel and per diem expenses will occur for State and local law enforcement participation in resident fellowship programs at the NCAVC when offered.

(3) TRAINING.—CASMIRC personnel, under the guidance of the Federal Bureau of Investigation's National Center for the Analysis of Violent Crime and in consultation with the National Center For Missing and Exploited Children, shall develop a specialized course of instruction devoted to training members of the CASMIRC consistent with the purpose of this section. The CASMIRC shall also work with the National Center For Missing and Exploited Children and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to develop a course of instruction for State and local law enforcement personnel to facilitate the dissemination of the most current multidisciplinary expertise in the investigation of child abductions, mysterious disappearances of children, child homicides, and serial murder of children.

(e) REPORT TO CONGRESS.—One year after the establishment of the CASMIRC, the Attorney General shall submit to Congress a report, which shall include—

(1) a description of the goals and activities of the CASMIRC; and

(2) information regarding—

(A) the number and qualifications of the members appointed to the CASMIRC;

(B) the provision of equipment, administrative support, and office space for the CASMIRC; and

(C) the projected resource needs for the CASMIRC.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, and 2001.

(g) CONFORMING AMENDMENT.—Subtitle C of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 5776a et seq.) is repealed.

42 USC 5601  
note, 5776a, and  
note, 5777.

## TITLE VIII—RESTRICTED ACCESS TO INTERACTIVE COMPUTER SERVICES

18 USC 4042  
note.

### SEC. 801. PRISONER ACCESS.

Notwithstanding any other provision of law, no agency, officer, or employee of the United States shall implement, or provide any financial assistance to, any Federal program or Federal activity in which a Federal prisoner is allowed access to any electronic communication service or remote computing service without the supervision of an official of the Federal Government.

### SEC. 802. RECOMMENDED PROHIBITION.

(a) FINDINGS.—Congress finds that—

(1) a Minnesota State prisoner, serving 23 years for molesting teenage girls, worked for a nonprofit work and education program inside the prison, through which the prisoner had unsupervised access to the Internet;

(2) the prisoner, through his unsupervised access to the Internet, trafficked in child pornography over the Internet;

(3) Federal law enforcement authorities caught the prisoner with a computer disk containing 280 pictures of juveniles engaged in sexually explicit conduct;

(4) a jury found the prisoner guilty of conspiring to trade in child pornography and possessing child pornography;

(5) the United States District Court for the District of Minnesota sentenced the prisoner to 87 months in Federal prison, to be served upon the completion of his 23-year State prison term; and

(6) there has been an explosion in the use of the Internet in the United States, further placing our Nation's children at risk of harm and exploitation at the hands of predators on the Internet and increasing the ease of trafficking in child pornography.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that State Governors, State legislators, and State prison administrators should prohibit unsupervised access to the Internet by State prisoners.

### SEC. 803. SURVEY.

Deadline.

(a) SURVEY.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall conduct a survey of the States to determine to what extent each State allows prisoners access to any interactive computer service and whether such access is supervised by a prison official.

(b) REPORT.—The Attorney General shall submit a report to Congress of the findings of the survey conducted pursuant to subsection (a).

(c) STATE DEFINED.—In this section, the term “State” means each of the 50 States and the District of Columbia.

## TITLE IX—STUDIES

### SEC. 901. STUDY ON LIMITING THE AVAILABILITY OF PORNOGRAPHY ON THE INTERNET.

18 USC 1470  
note.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall request that the National Academy of Sciences, acting through its National Research Council, enter into a contract to conduct a study of computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet, in order to develop possible amendments to Federal criminal law and other law enforcement techniques to respond to the problem.

Deadline.

(b) CONTENTS OF STUDY.—The study under this section shall address each of the following:

(1) The capabilities of present-day computer-based control technologies for controlling electronic transmission of pornographic images.

(2) Research needed to develop computer-based control technologies to the point of practical utility for controlling the electronic transmission of pornographic images.

(3) Any inherent limitations of computer-based control technologies for controlling electronic transmission of pornographic images.

(4) Operational policies or management techniques needed to ensure the effectiveness of these control technologies for controlling electronic transmission of pornographic images.

(c) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a final report of the study under this section, which report shall—

Deadline.

(1) set forth the findings, conclusions, and recommendations of the Council; and

(2) be submitted by the Committees on the Judiciary of the House of Representatives and the Senate to relevant Government agencies and committees of Congress.

### SEC. 902. STUDY OF HOTLINES.

42 USC 14071  
note.  
Deadline.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall conduct a study in accordance with subsection (b) and submit to Congress a report on the results of that study.

(b) CONTENTS OF STUDY.—The study under this section shall include an examination of—

(1) existing State programs for informing the public about the presence of sexual predators released from prison, as required in section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071), including the use of CD-ROMs, Internet databases, and Sexual Offender Identification Hotlines, such as those used in the State of California; and

(2) the feasibility of establishing a national hotline for parents to access a Federal Bureau of Investigation database that tracks the location of convicted sexual predators established under section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) and, in determining that feasibility, the Attorney General shall examine issues including the cost, necessary changes to Federal and State laws necessitated by the creation of such a hotline, consistency with Federal and State case law pertaining to community notification, and the need for, and accuracy and reliability of, the information available through such a hotline.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—H.R. 3494:

HOUSE REPORTS: No. 105-557 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 11, considered and passed House.

Oct. 9, considered and passed Senate, amended.

Oct. 12, House concurred in Senate amendments.



Public Law 105–315  
105th Congress

An Act

To amend title 28, United States Code, with respect to the use of alternative dispute resolution processes in United States district courts, and for other purposes

Oct. 30, 1998  
[H.R. 3528]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Alternative Dispute Resolution Act of 1998”.

Alternative  
Dispute  
Resolution Act of  
1998.  
28 USC 1 note.

**SEC. 2. FINDINGS AND DECLARATION OF POLICY.**

28 USC 651 note.

Congress finds that—

(1) alternative dispute resolution, when supported by the bench and bar, and utilizing properly trained neutrals in a program adequately administered by the court, has the potential to provide a variety of benefits, including greater satisfaction of the parties, innovative methods of resolving disputes, and greater efficiency in achieving settlements;

(2) certain forms of alternative dispute resolution, including mediation, early neutral evaluation, minitrials, and voluntary arbitration, may have potential to reduce the large backlog of cases now pending in some Federal courts throughout the United States, thereby allowing the courts to process their remaining cases more efficiently; and

(3) the continued growth of Federal appellate court-annexed mediation programs suggests that this form of alternative dispute resolution can be equally effective in resolving disputes in the Federal trial courts; therefore, the district courts should consider including mediation in their local alternative dispute resolution programs.

**SEC. 3. ALTERNATIVE DISPUTE RESOLUTION PROCESSES TO BE AUTHORIZED IN ALL DISTRICT COURTS.**

Section 651 of title 28, United States Code, is amended to read as follows:

**“§ 651. Authorization of alternative dispute resolution**

“(a) **DEFINITION.**—For purposes of this chapter, an alternative dispute resolution process includes any process or procedure, other than an adjudication by a presiding judge, in which a neutral third party participates to assist in the resolution of issues in controversy, through processes such as early neutral evaluation, mediation, minitrial, and arbitration as provided in sections 654 through 658.

“(b) **AUTHORITY.**—Each United States district court shall authorize, by local rule adopted under section 2071(a), the use of alternative dispute resolution processes in all civil actions, including adversary proceedings in bankruptcy, in accordance with this chapter, except that the use of arbitration may be authorized only as provided in section 654. Each United States district court shall devise and implement its own alternative dispute resolution program, by local rule adopted under section 2071(a), to encourage and promote the use of alternative dispute resolution in its district.

“(c) **EXISTING ALTERNATIVE DISPUTE RESOLUTION PROGRAMS.**—In those courts where an alternative dispute resolution program is in place on the date of the enactment of the Alternative Dispute Resolution Act of 1998, the court shall examine the effectiveness of that program and adopt such improvements to the program as are consistent with the provisions and purposes of this chapter.

“(d) **ADMINISTRATION OF ALTERNATIVE DISPUTE RESOLUTION PROGRAMS.**—Each United States district court shall designate an employee, or a judicial officer, who is knowledgeable in alternative dispute resolution practices and processes to implement, administer, oversee, and evaluate the court’s alternative dispute resolution program. Such person may also be responsible for recruiting, screening, and training attorneys to serve as neutrals and arbitrators in the court’s alternative dispute resolution program.

“(e) **TITLE 9 NOT AFFECTED.**—This chapter shall not affect title 9, United States Code.

“(f) **PROGRAM SUPPORT.**—The Federal Judicial Center and the Administrative Office of the United States Courts are authorized to assist the district courts in the establishment and improvement of alternative dispute resolution programs by identifying particular practices employed in successful programs and providing additional assistance as needed and appropriate.”.

#### **SEC. 4. JURISDICTION.**

Section 652 of title 28, United States Code, is amended to read as follows:

##### **“§ 652. Jurisdiction**

“(a) **CONSIDERATION OF ALTERNATIVE DISPUTE RESOLUTION IN APPROPRIATE CASES.**—Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c), each district court shall, by local rule adopted under section 2071(a), require that litigants in all civil cases consider the use of an alternative dispute resolution process at an appropriate stage in the litigation. Each district court shall provide litigants in all civil cases with at least one alternative dispute resolution process, including, but not limited to, mediation, early neutral evaluation, minitrial, and arbitration as authorized in sections 654 through 658. Any district court that elects to require the use of alternative dispute resolution in certain cases may do so only with respect to mediation, early neutral evaluation, and, if the parties consent, arbitration.

“(b) **ACTIONS EXEMPTED FROM CONSIDERATION OF ALTERNATIVE DISPUTE RESOLUTION.**—Each district court may exempt from the requirements of this section specific cases or categories of cases in which use of alternative dispute resolution would not be appropriate. In defining these exemptions, each district court shall consult



with members of the bar, including the United States Attorney for that district.

“(c) **AUTHORITY OF THE ATTORNEY GENERAL.**—Nothing in this section shall alter or conflict with the authority of the Attorney General to conduct litigation on behalf of the United States, with the authority of any Federal agency authorized to conduct litigation in the United States courts, or with any delegation of litigation authority by the Attorney General.

“(d) **CONFIDENTIALITY PROVISIONS.**—Until such time as rules are adopted under chapter 131 of this title providing for the confidentiality of alternative dispute resolution processes under this chapter, each district court shall, by local rule adopted under section 2071(a), provide for the confidentiality of the alternative dispute resolution processes and to prohibit disclosure of confidential dispute resolution communications.”.

#### **SEC. 5. MEDIATORS AND NEUTRAL EVALUATORS.**

Section 653 of title 28, United States Code, is amended to read as follows:

##### **“§ 653. Neutrals**

“(a) **PANEL OF NEUTRALS.**—Each district court that authorizes the use of alternative dispute resolution processes shall adopt appropriate processes for making neutrals available for use by the parties for each category of process offered. Each district court shall promulgate its own procedures and criteria for the selection of neutrals on its panels.

“(b) **QUALIFICATIONS AND TRAINING.**—Each person serving as a neutral in an alternative dispute resolution process should be qualified and trained to serve as a neutral in the appropriate alternative dispute resolution process. For this purpose, the district court may use, among others, magistrate judges who have been trained to serve as neutrals in alternative dispute resolution processes, professional neutrals from the private sector, and persons who have been trained to serve as neutrals in alternative dispute resolution processes. Until such time as rules are adopted under chapter 131 of this title relating to the disqualification of neutrals, each district court shall issue rules under section 2071(a) relating to the disqualification of neutrals (including, where appropriate, disqualification under section 455 of this title, other applicable law, and professional responsibility standards).”.

#### **SEC. 6. ACTIONS REFERRED TO ARBITRATION.**

Section 654 of title 28, United States Code, is amended to read as follows:

##### **“§ 654. Arbitration**

“(a) **REFERRAL OF ACTIONS TO ARBITRATION.**—Notwithstanding any provision of law to the contrary and except as provided in subsections (a), (b), and (c) of section 652 and subsection (d) of this section, a district court may allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it when the parties consent, except that referral to arbitration may not be made where—

“(1) the action is based on an alleged violation of a right secured by the Constitution of the United States;

“(2) jurisdiction is based in whole or in part on section 1343 of this title; or

“(3) the relief sought consists of money damages in an amount greater than \$150,000.

“(b) SAFEGUARDS IN CONSENT CASES.—Until such time as rules are adopted under chapter 131 of this title relating to procedures described in this subsection, the district court shall, by local rule adopted under section 2071(a), establish procedures to ensure that any civil action in which arbitration by consent is allowed under subsection (a)—

“(1) consent to arbitration is freely and knowingly obtained; and

“(2) no party or attorney is prejudiced for refusing to participate in arbitration.

“(c) PRESUMPTIONS.—For purposes of subsection (a)(3), a district court may presume damages are not in excess of \$150,000 unless counsel certifies that damages exceed such amount.

“(d) EXISTING PROGRAMS.—Nothing in this chapter is deemed to affect any program in which arbitration is conducted pursuant to section title IX of the Judicial Improvements and Access to Justice Act (Public Law 100-702), as amended by section 1 of Public Law 105-53.”.

#### SEC. 7. ARBITRATORS.

Section 655 of title 28, United States Code, is amended to read as follows:

##### “§ 655. Arbitrators

“(a) POWERS OF ARBITRATORS.—An arbitrator to whom an action is referred under section 654 shall have the power, within the judicial district of the district court which referred the action to arbitration—

“(1) to conduct arbitration hearings;

“(2) to administer oaths and affirmations; and

“(3) to make awards.

“(b) STANDARDS FOR CERTIFICATION.—Each district court that authorizes arbitration shall establish standards for the certification of arbitrators and shall certify arbitrators to perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

“(1) shall take the oath or affirmation described in section 453; and

“(2) shall be subject to the disqualification rules under section 455.

“(c) IMMUNITY.—All individuals serving as arbitrators in an alternative dispute resolution program under this chapter are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.”.

#### SEC. 8. SUBPOENAS.

Section 656 of title 28, United States Code, is amended to read as follows:

##### “§ 656. Subpoenas

“Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.”.

**SEC. 9. ARBITRATION AWARD AND JUDGMENT.**

Section 657 of title 28, United States Code, is amended to read as follows:

**“§ 657. Arbitration award and judgment**

“(a) **FILING AND EFFECT OF ARBITRATION AWARD.**—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall be filed promptly after the arbitration hearing is concluded with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

“(b) **SEALING OF ARBITRATION AWARD.**—The district court shall provide, by local rule adopted under section 2071(a), that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case until the district court has entered final judgment in the action or the action has otherwise terminated.

“(c) **TRIAL DE NOVO OF ARBITRATION AWARDS.**—

“(1) **TIME FOR FILING DEMAND.**—Within 30 days after the filing of an arbitration award with a district court under subsection (a), any party may file a written demand for a trial de novo in the district court.

“(2) **ACTION RESTORED TO COURT DOCKET.**—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration.

“(3) **EXCLUSION OF EVIDENCE OF ARBITRATION.**—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

“(A) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence; or

“(B) the parties have otherwise stipulated.”.

**SEC. 10. COMPENSATION OF ARBITRATORS AND NEUTRALS.**

Section 658 of title 28, United States Code, is amended to read as follows:

**“§ 658. Compensation of arbitrators and neutrals**

“(a) **COMPENSATION.**—The district court shall, subject to regulations approved by the Judicial Conference of the United States, establish the amount of compensation, if any, that each arbitrator or neutral shall receive for services rendered in each case under this chapter.

“(b) **TRANSPORTATION ALLOWANCES.**—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators and other neutrals for actual transportation expenses necessarily incurred in the performance of duties under this chapter.”.

Regulations.

28 USC 651 note. **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out chapter 44 of title 28, United States Code, as amended by this Act.

**SEC. 12. CONFORMING AMENDMENTS.**

(a) **LIMITATION ON MONEY DAMAGES.**—Section 901 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 652 note), is amended by striking subsection (c).

(b) **OTHER CONFORMING AMENDMENTS.**—(1) The chapter heading for chapter 44 of title 28, United States Code, is amended to read as follows:

**“CHAPTER 44—ALTERNATIVE DISPUTE RESOLUTION”.**

(2) The table of contents for chapter 44 of title 28, United States Code, is amended to read as follows:

“Sec.  
 “651. Authorization of alternative dispute resolution.  
 “652. Jurisdiction.  
 “653. Neutrals.  
 “654. Arbitration.  
 “655. Arbitrators.  
 “656. Subpoenas.  
 “657. Arbitration award and judgment.  
 “658. Compensation of arbitrators and neutrals.”.

(3) The item relating to chapter 44 in the table of chapters for Part III of title 28, United States Code, is amended to read as follows:

**“44. Alternative Dispute Resolution ..... 651”.**

Approved October 30, 1998.

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**LEGISLATIVE HISTORY—H.R. 3528:**

HOUSE REPORTS: No. 105-487 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Apr. 21, considered and passed House.

Oct. 7, considered and passed Senate, amended.

Oct. 10, House concurred in Senate amendments.



Public Law 105–316  
105th Congress

An Act

To authorize prepayment of amounts due under a water reclamation project contract for the Canadian River Project, Texas.

Oct. 30, 1998  
[H.R. 3687]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Canadian River Project Prepayment Act”.

Canadian River  
Project  
Prepayment Act.  
43 USC 600b  
note.

**SEC. 2. DEFINITIONS.**

For the purposes of this Act:

43 USC 600b  
note.

(1) The term “Authority” means the Canadian River Municipal Water Authority, a conservation and reclamation district of the State of Texas.

(2) The term “Canadian River Project Authorization Act” means the Act entitled “An Act to authorize the construction, operation, and maintenance by the Secretary of the Interior of the Canadian River reclamation project, Texas”, approved December 29, 1950 (ch. 1183; 64 Stat. 1124).

(3) The term “Project” means all of the right, title and interest in and to all land and improvements comprising the pipeline and related facilities of the Canadian River Project authorized by the Canadian River Project Authorization Act.

(4) The term “Secretary” means the Secretary of the Interior.

**SEC. 3. PREPAYMENT AND CONVEYANCE OF PROJECT.**

43 USC 600b  
note.

(a) IN GENERAL.—(1) In consideration of the Authority accepting the obligation of the Federal Government for the Project and subject to the payment by the Authority of the applicable amount under paragraph (2) within the 360-day period beginning on the date of the enactment of this Act, the Secretary shall convey the Project to the Authority, as provided in section 2(c)(3) of the Canadian River Project Authorization Act (64 Stat. 1124).

(2) For purposes of paragraph (1), the applicable amount shall be—

(A) \$34,806,731, if payment is made by the Authority within the 270-day period beginning on the date of the enactment of this Act; or

(B) the amount specified in subparagraph (A) adjusted to include interest on that amount since the date of the enactment of this Act at the appropriate Treasury bill rate for an equivalent term, if payment is made by the Authority after the period referred to in subparagraph (A).

(3) If payment under paragraph (1) is not made by the Authority within the period specified in paragraph (1), this Act shall have no force or effect.

(b) FINANCING.—Nothing in this Act shall be construed to affect the right of the Authority to use a particular type of financing.

43 USC 600b  
note.

#### **SEC. 4. RELATIONSHIP TO EXISTING OPERATIONS.**

(a) IN GENERAL.—Nothing in this Act shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) FUTURE ALTERATIONS.—If the Authority alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such alteration at that time.

(c) RECREATION.—The Secretary of the Interior, acting through the National Park Service, shall continue to operate the Lake Meredith National Recreation Area at Lake Meredith.

(d) FLOOD CONTROL.—The Secretary of the Army, acting through the Corps of Engineers, shall continue to prescribe regulations for the use of storage allocated to flood control at Lake Meredith as prescribed in the Letter of Understanding entered into between the Corps, the Bureau of Reclamation, and the Authority in March and May 1980.

(e) SANFORD DAM PROPERTY.—The Authority shall have the right to occupy and use without payment of lease or rental charges or license or use fees the property retained by the Bureau of Reclamation at Sanford Dam and all buildings constructed by the United States thereon for use as the Authority's headquarters and maintenance facility. Buildings constructed by the Authority on such property, or past and future additions to Government constructed buildings, shall be allowed to remain on the property. The Authority shall operate and maintain such property and facilities without cost to the United States.

43 USC 600b  
note.

#### **SEC. 5. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.**

(a) PAYMENT OBLIGATIONS EXTINGUISHED.—Provision of consideration by the Authority in accordance with section 3(b) shall extinguish all payment obligations under contract numbered 14-06-500-485 between the Authority and the Secretary.

(b) OPERATION AND MAINTENANCE COSTS.—After completion of the conveyance provided for in section 3, the Authority shall have full responsibility for the cost of operation and maintenance of Sanford Dam, and shall continue to have full responsibility for operation and maintenance of the Project pipeline and related facilities.

(c) IN GENERAL.—Rights and obligations under the existing contract No. 14-06-500-485 between the Authority and the United States, other than provisions regarding repayment of construction charge obligation by the Authority and provisions relating to the Project aqueduct, shall remain in full force and effect for the remaining term of the contract.

43 USC 600b  
note.

#### **SEC. 6. RELATIONSHIP TO OTHER LAWS.**

Upon conveyance of the Project under this Act, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

**SEC. 7. LIABILITY.**43 USC 600b  
note.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this Act, the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed property.

Approved October 30, 1998.

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**LEGISLATIVE HISTORY—H.R. 3687:**

SENATE REPORTS: No. 105–410 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Aug. 6, considered and passed House.

Oct. 14, considered and passed Senate.

Public Law 105–317  
105th Congress

An Act

Oct. 30, 1998  
[H.R. 3903]

To provide for an exchange of lands located near Gustavus, Alaska, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Glacier Bay  
National Park  
Boundary  
Adjustment Act  
of 1998.  
16 USC 410hh–1  
note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Glacier Bay National Park Boundary Adjustment Act of 1998”.

**SEC. 2. LAND EXCHANGE AND WILDERNESS DESIGNATION.**

(a) IN GENERAL.—(1) Subject to conditions set forth in subsection (c), if the State of Alaska, in a manner consistent with this Act, offers to transfer to the United States the lands identified in paragraph (2) in exchange for the lands identified in paragraph (4), selected from the area described in section 3(b)(1), the Secretary of the Interior (in this Act referred to as the “Secretary”) shall complete such exchange no later than 6 months after the issuance of a license to Gustavus Electric Company by the Federal Energy Regulatory Commission (in this Act referred to as “FERC”), in accordance with this Act. This land exchange shall be subject to the laws applicable to exchanges involving lands managed by the Secretary as part of the National Park System in Alaska and the appropriate process for the exchange of State lands required by State law.

(2) The lands to be conveyed to the United States by the State of Alaska shall be determined by mutual agreement of the Secretary and the State of Alaska. Lands that will be considered for conveyance to the United States pursuant to the process required by State law are lands owned by the State of Alaska in the Long Lake area within Wrangell-St. Elias National Park and Preserve, or other lands owned by the State of Alaska.

(3) If the Secretary and the State of Alaska have not agreed on which lands the State of Alaska will convey by a date not later than 6 months after a license is issued pursuant to this Act, the United States shall accept, within 1 year after a license is issued, title to land having a sufficiently equal value to satisfy State and Federal law, subject to clear title and valid existing rights, and absence of environmental contamination, and as provided by the laws applicable to exchanges involving lands managed by the Secretary as part of the National Park System in Alaska and the appropriate process for the exchange of State lands required by State law. Such land shall be accepted by the United States, subject to the other provisions of this Act, from among the following State lands in the priority listed:



## COPPER RIVER MERIDIAN

(A) T.6 S., R. 12 E., partially surveyed, Sec. 5, lots 1, 2, and 3, NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , and S $\frac{1}{2}$ . Containing 617.68 acres, as shown on the plat of survey accepted June 9, 1922.

(B) T.6 S., R. 11 E., partially surveyed, Sec. 11, lots 1 and 2, NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ; Sec. 12; Sec. 14, lots 1 and 2, NW $\frac{1}{4}$ NW $\frac{1}{4}$ . Containing 1,191.75 acres, as shown on the plat of survey accepted June 9, 1922.

(C) T.6 S., R. 11 E., partially surveyed, Sec. 2, NW $\frac{1}{4}$ NE $\frac{1}{4}$  and NW $\frac{1}{4}$ . Containing 200.00 acres, as shown on the plat of survey accepted June 9, 1922.

(D) T.6 S., R. 12 E., partially surveyed, Sec. 6, lots 1 through 10, E $\frac{1}{2}$ SW $\frac{1}{4}$  and SE $\frac{1}{4}$ . Containing approximately 529.94 acres, as shown on the plat of survey accepted June 9, 1922.

(4) The lands to be conveyed to the State of Alaska by the United States under paragraph (1) are lands to be designated by the Secretary and the State of Alaska, consistent with sound land management principles, based on those lands determined by FERC with the concurrence of the Secretary and the State of Alaska, in accordance with section 3(b), to be the minimum amount of land necessary for the construction and operation of a hydroelectric project.

(5) The time periods set forth for the completion of the land exchanges described in this Act may be extended as necessary by the Secretary should the processes of State law or Federal law delay completion of an exchange.

(6) For purposes of this Act, the term "land" means lands, waters, and interests therein.

(b) WILDERNESS.—(1) To ensure that this transaction maintains, within the National Wilderness Preservation System, approximately the same amount of area of designated wilderness as currently exists, the following lands in Alaska shall be designated as wilderness in the priority listed, upon consummation of the land exchange authorized by this Act and shall be administered according to the laws governing national wilderness areas in Alaska:

(A) An unnamed island in Glacier Bay National Park lying southeasterly of Blue Mouse Cove in sections 5, 6, 7, and 8, T. 36 S., R. 54 E., CRM, and shown on United States Geological Survey quadrangle Mt. Fairweather (D-2), Alaska, containing approximately 789 acres.

(B) Cenotaph Island of Glacier Bay National Park lying within Lituya Bay in sections 23, 24, 25, and 26, T. 37 S., R. 47 E., CRM, and shown on United States Geological Survey quadrangle Mt. Fairweather (C-5), Alaska, containing approximately 280 acres.

(C) An area of Glacier Bay National Park lying in T. 31. S., R. 43 E. and T. 32 S., R. 43 E., CRM, that is not currently designated wilderness, containing approximately 2,270 acres.

(2) The specific boundaries and acreage of these wilderness designations may be reasonably adjusted by the Secretary, consistent with sound land management principles, to approximately equal, in sum, the total wilderness acreage deleted from Glacier Bay National Park and Preserve pursuant to the land exchange authorized by this Act.

(c) **CONDITIONS.**—Any exchange of lands under this Act may occur only if—

(1) following the submission of a complete license application, FERC has conducted economic and environmental analyses under the Federal Power Act (16 U.S.C. 791–828) (notwithstanding provisions of that Act and the Federal regulations that otherwise exempt this project from economic analyses), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370), and the Fish and Wildlife Coordination Act (16 U.S.C. 661–666), that conclude, with the concurrence of the Secretary of the Interior with respect to subparagraphs (A) and (B), that the construction and operation of a hydroelectric power project on the lands described in section 3(b)—

(A) will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (as constituted after the consummation of the land exchange authorized by this section);

(B) will comply with the requirements of the National Historic Preservation Act (16 U.S.C. 470–470w); and

(C) can be accomplished in an economically feasible manner;

(2) FERC held at least one public meeting in Gustavus, Alaska, allowing the citizens of Gustavus to express their views on the proposed project;

(3) FERC has determined, with the concurrence of the Secretary and the State of Alaska, the minimum amount of land necessary to construct and operate this hydroelectric power project; and

(4) Gustavus Electric Company has been granted a license by FERC that requires Gustavus Electric Company to submit an acceptable financing plan to FERC before project construction may commence, and the FERC has approved such plan.

Gustavus  
Electric Co.

### **SEC. 3. ROLE OF FERC.**

(a) **LICENSE APPLICATION.**—(1) The FERC licensing process shall apply to any application submitted by Gustavus Electric Company to the FERC for the right to construct and operate a hydropower project on the lands described in subsection (b).

(2) FERC is authorized to accept and consider an application filed by Gustavus Electric Company for the construction and operation of a hydropower plant to be located on lands within the area described in subsection (b), notwithstanding section 3(2) of the Federal Power Act (16 U.S.C. 796(2)). Such application must be submitted within 3 years after the date of the enactment of this Act.

(3) FERC will retain jurisdiction over any hydropower project constructed on this site.

(b) **ANALYSES.**—(1) The lands referred to in subsection (a) of this section are lands in the State of Alaska described as follows:

#### **COPPER RIVER MERIDIAN**

Township 39 South, Range 59 East, partially surveyed, Section 36 (unsurveyed), SE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ . Containing approximately 130 acres.

Township 40 South, Range 59 East, partially surveyed, Section 1 (unsurveyed), NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , and SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,

excluding U.S. Survey 944 and Native allotment A-442; Section 2 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and U.S. Survey 945; Section 11 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944; Section 12 (unsurveyed), fractional, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and those portions of NW $\frac{1}{4}$  and SW $\frac{1}{4}$  lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and Native allotment A-442. Containing approximately 1,015 acres.

(2) Additional lands and acreage will be included as needed in the study area described in paragraph (1) to account for accretion to these lands from natural forces.

(3) With the concurrence of the Secretary and the State of Alaska, the FERC shall determine the minimum amount of lands necessary for construction and operation of such project.

(4) The National Park Service shall participate as a joint lead agency in the development of any environmental document under the National Environmental Policy Act of 1969 in the licensing of such project. Such environmental document shall consider both the impacts resulting from licensing and any land exchange necessary to authorize such project.

(c) ISSUANCE OF LICENSE.—(1) A condition of the license to construct and operate any portion of the hydroelectric power project shall be FERC's approval, prior to any commencement of construction, of a finance plan submitted by Gustavus Electric Company.

(2) The National Park Service, as the existing supervisor of potential project lands ultimately to be deleted from the Federal reservation in accordance with this Act, waives its right to impose mandatory conditions on such project lands pursuant to section 4(e) of the Federal Power Act (16 U.S.C. 797(e)).

(3) FERC shall not license or relicense the project, or amend the project license unless it determines, with the Secretary's concurrence, that the project will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (as constituted after the consummation of the land exchange authorized by this Act). Additionally, a condition of the license, or any succeeding license, to construct and operate any portion of the hydroelectric power project shall require the licensee to mitigate any adverse effects of the project on the purposes and values of Glacier Bay National Park and Preserve identified by the Secretary after the initial licensing.

(4) A condition of the license to construct and operate any portion of the hydroelectric power project shall be the completion, prior to any commencement of construction, of the land exchange described in this Act.

#### SEC. 4. ROLE OF SECRETARY OF THE INTERIOR.

(a) SPECIAL USE PERMIT.—Notwithstanding the provisions of the Wilderness Act (16 U.S.C. 1133–1136), the Secretary shall issue a special use permit to Gustavus Electric Company to allow the completion of the analyses referred to in section 3. The Secretary shall impose conditions in the permit as needed to protect the purposes and values of Glacier Bay National Park and Preserve.

(b) PARK SYSTEM.—The lands acquired from the State of Alaska under this Act shall be added to and administered as part of the National Park System, subject to valid existing rights. Upon

Gustavus  
Electric Co.

completion of the exchange of lands under this Act, the Secretary shall adjust, as necessary, the boundaries of the affected National Park System units to include the lands acquired from the State of Alaska; and adjust the boundary of Glacier Bay National Park and Preserve to exclude the lands transferred to the State of Alaska under this Act. Any such adjustment to the boundaries of National Park System units resulting from this Act shall not be charged against any acreage limitations under section 103(b) of Public Law 96–487.

(c) **WILDERNESS AREA BOUNDARIES.**—The Secretary shall make any necessary modifications or adjustments of boundaries of wilderness areas as a result of the additions and deletions caused by the land exchange referenced in section 2. Any such adjustment to the boundaries of National Park System units shall not be considered in applying any acreage limitations under section 103(b) of Public Law 96–487.

(d) **CONCURRENCE OF THE SECRETARY.**—Whenever in this Act the concurrence of the Secretary is required, it shall not be unlawfully withheld or unreasonably delayed.

**SEC. 5. APPLICABLE LAW.**

The authorities and jurisdiction provided in this Act shall continue in effect until such time as this Act is expressly modified or repealed by Congress.

Approved October 30, 1998.

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**LEGISLATIVE HISTORY—H.R. 3903 (S. 2109):**

HOUSE REPORTS: No. 105–706, Pt. 1 (Comm. on Resources).

SENATE REPORTS: No. 105–306 accompanying S. 2109 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 15, considered and passed House.

Oct. 2, considered and passed Senate.

Oct. 8, Senate vitiated passage; reconsidered and passed, amended.

Oct. 10, House concurred in Senate amendments.



Public Law 105–318  
105th Congress

An Act

To amend chapter 47 of title 18, United States Code, relating to identity fraud,  
and for other purposes.

Oct. 30, 1998  
[H.R. 4151]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Identity Theft and Assumption  
Deterrence Act of 1998”.

Identity Theft  
and Assumption  
Deterrence Act of  
1998.  
18 USC 1001  
note.

**SEC. 2. CONSTITUTIONAL AUTHORITY TO ENACT THIS LEGISLATION.**

The constitutional authority upon which this Act rests is the  
power of Congress to regulate commerce with foreign nations and  
among the several States, and the authority to make all laws  
which shall be necessary and proper for carrying into execution  
the powers vested by the Constitution in the Government of the  
United States or in any department or officer thereof, as set forth  
in article I, section 8 of the United States Constitution.

18 USC 1028  
note.

**SEC. 3. IDENTITY THEFT.**

(a) ESTABLISHMENT OF OFFENSE.—Section 1028(a) of title 18,  
United States Code, is amended—

- (1) in paragraph (5), by striking “or” at the end;
- (2) in paragraph (6), by adding “or” at the end;
- (3) in the flush matter following paragraph (6), by striking  
“or attempts to do so,”; and
- (4) by inserting after paragraph (6) the following:  
“(7) knowingly transfers or uses, without lawful authority,  
a means of identification of another person with the intent  
to commit, or to aid or abet, any unlawful activity that con-  
stitutes a violation of Federal law, or that constitutes a felony  
under any applicable State or local law;”.

(b) PENALTIES.—Section 1028(b) of title 18, United States Code,  
is amended—

- (1) in paragraph (1)—
  - (A) in subparagraph (B), by striking “or” at the end;
  - (B) in subparagraph (C), by adding “or” at the end;
 and
  - (C) by adding at the end the following:  
“(D) an offense under paragraph (7) of such subsection  
that involves the transfer or use of 1 or more means of  
identification if, as a result of the offense, any individual  
committing the offense obtains anything of value aggregat-  
ing \$1,000 or more during any 1-year period;”;
- (2) in paragraph (2)—

(A) in subparagraph (A), by striking “or transfer of an identification document or” and inserting “, transfer, or use of a means of identification, an identification document, or a”; and

(B) in subparagraph (B), by inserting “or (7)” after “(3)”;

(3) by amending paragraph (3) to read as follows:

“(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed—

“(A) to facilitate a drug trafficking crime (as defined in section 929(a)(2));

“(B) in connection with a crime of violence (as defined in section 924(c)(3)); or

“(C) after a prior conviction under this section becomes final;”;

(4) in paragraph (4), by striking “and” at the end;

(5) by redesignating paragraph (5) as paragraph (6); and

(6) by inserting after paragraph (4) the following:

“(5) in the case of any offense under subsection (a), forfeiture to the United States of any personal property used or intended to be used to commit the offense; and”.

(c) CIRCUMSTANCES.—Section 1028(c) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) either—

“(A) the production, transfer, possession, or use prohibited by this section is in or affects interstate or foreign commerce; or

“(B) the means of identification, identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section.”.

(d) DEFINITIONS.—Subsection (d) of section 1028 of title 18, United States Code, is amended to read as follows:

“(d) In this section—

“(1) the term ‘document-making implement’ means any implement, impression, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement;

“(2) the term ‘identification document’ means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

“(3) the term ‘means of identification’ means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any—

“(A) name, social security number, date of birth, official State or government issued driver’s license or identification

number, alien registration number, government passport number, employer or taxpayer identification number;

“(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

“(C) unique electronic identification number, address, or routing code; or

“(D) telecommunication identifying information or access device (as defined in section 1029(e));

“(4) the term ‘personal identification card’ means an identification document issued by a State or local government solely for the purpose of identification;

“(5) the term ‘produce’ includes alter, authenticate, or assemble; and

“(6) the term ‘State’ includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.”

(e) ATTEMPT AND CONSPIRACY.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

“(f) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.”

(f) FORFEITURE PROCEDURES.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

“(g) FORFEITURE PROCEDURES.—The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).”

(g) RULE OF CONSTRUCTION.—Section 1028 of title 18, United States Code, is amended by adding at the end the following:

“(h) RULE OF CONSTRUCTION.—For purpose of subsection (a)(7), a single identification document or false identification document that contains 1 or more means of identification shall be construed to be 1 means of identification.”

(h) CONFORMING AMENDMENTS.—Chapter 47 of title 18, United States Code, is amended—

(1) in the heading for section 1028, by adding “**AND INFORMATION**” at the end; and

(2) in the table of sections at the beginning of the chapter, in the item relating to section 1028, by adding “and information” at the end.

**SEC. 4. AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR OFFENSES UNDER SECTION 1028.** 28 USC 994 note.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate penalty for each offense under section 1028 of title 18, United States Code, as amended by this Act.

(b) FACTORS FOR CONSIDERATION.—In carrying out subsection (a), the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

(1) the extent to which the number of victims (as defined in section 3663A(a) of title 18, United States Code) involved in the offense, including harm to reputation, inconvenience, and other difficulties resulting from the offense, is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(2) the number of means of identification, identification documents, or false identification documents (as those terms are defined in section 1028(d) of title 18, United States Code, as amended by this Act) involved in the offense, is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(3) the extent to which the value of the loss to any individual caused by the offense is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(4) the range of conduct covered by the offense;

(5) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to sentence above the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(6) the extent to which Federal sentencing guidelines sentences for the offense have been constrained by statutory maximum penalties;

(7) the extent to which Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code; and

(8) any other factor that the United States Sentencing Commission considers to be appropriate.

18 USC 1028  
note.

Deadline.

**SEC. 5. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF IDENTITY THEFT.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Trade Commission shall establish procedures to—

(1) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that 1 or more of their means of identification (as defined in section 1028 of title 18, United States Code, as amended by this Act) have been assumed, stolen, or otherwise unlawfully acquired in violation of section 1028 of title 18, United States Code, as amended by this Act;

(2) provide informational materials to individuals described in paragraph (1); and

(3) refer complaints described in paragraph (1) to appropriate entities, which may include referral to—

(A) the 3 major national consumer reporting agencies;

and

(B) appropriate law enforcement agencies for potential law enforcement action.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 6. TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE.**

(a) TECHNICAL CORRECTION RELATING TO CRIMINAL FORFEITURE PROCEDURES.—Section 982(b)(1) of title 18, United States Code,



is amended to read as follows: “(1) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).”.

(b) ECONOMIC ESPIONAGE AND THEFT OF TRADE SECRETS AS PREDICATE OFFENSES FOR WIRE INTERCEPTION.—Section 2516(1)(a) of title 18, United States Code, is amended by inserting “chapter 90 (relating to protection of trade secrets),” after “to espionage),”.

**SEC. 7. REDACTION OF ETHICS REPORTS FILED BY JUDICIAL OFFICERS AND EMPLOYEES.**

Section 105(b) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following new paragraph:

“(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section 109(8) or 109(10) of this Act if a finding is made by the Judicial Conference, in consultation with United States Marshall Service, that revealing personal and sensitive information could endanger that individual.

“(B) A report may be redacted pursuant to this paragraph only—

“(i) to the extent necessary to protect the individual who filed the report; and

“(ii) for as long as the danger to such individual exists.

“(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate an annual report with respect to the operation of this paragraph including—

“(i) the total number of reports redacted pursuant to this paragraph;

“(ii) the total number of individuals whose reports have been redacted pursuant to this paragraph; and

“(iii) the types of threats against individuals whose reports are redacted, if appropriate.

“(D) The Judicial Conference, in consultation with the Department of Justice, shall issue regulations setting forth the circumstances under which redaction is appropriate under this paragraph and the procedures for redaction.

Regulations.

112 STAT. 3012

PUBLIC LAW 105–318—OCT. 30, 1998

Expiration date.       “(E) This paragraph shall expire on December 31, 2001, and apply to filings through calendar year 2001.”.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—H.R. 4151 (S. 512):

SENATE REPORTS: No. 105–274 accompanying S. 512 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 7, considered and passed House.

Oct. 14, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 30, Presidential statement.



Public Law 105–319  
105th Congress

An Act

To establish a cultural training program for disadvantaged individuals to assist the Irish peace process.

Oct. 30, 1998  
[H.R. 4293]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Irish Peace Process Cultural and Training Program Act of 1998”.

Irish Peace  
Process Cultural  
and Training  
Program Act of  
1998.

8 USC 1101 note.

**SEC. 2. IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM.**

8 USC 1101 note.

(a) PURPOSE.—

(1) IN GENERAL.—The Secretary of State and the Attorney General shall establish a program to allow young people from disadvantaged areas of designated counties suffering from sectarian violence and high structural unemployment to enter the United States for the purpose of developing job skills and conflict resolution abilities in a diverse, cooperative, peaceful, and prosperous environment, so that those young people can return to their homes better able to contribute toward economic regeneration and the Irish peace process. The program shall promote cross-community and cross-border initiatives to build grassroots support for long-term peaceful coexistence. The Secretary of State and the Attorney General shall cooperate with nongovernmental organizations to assist those admitted to participate fully in the economic, social, and cultural life of the United States.

(2) SCOPE AND DURATION OF PROGRAM.—

(A) IN GENERAL.—The program under paragraph (1) shall provide for the admission of not more than 4,000 aliens under section 101(a)(15)(Q)(ii) of the Immigration and Nationality Act (including spouses and minor children) in each of 3 consecutive program years.

(B) OFFSET IN NUMBER OF H–2B NONIMMIGRANT ADMISSIONS ALLOWED.—Notwithstanding any other provision of law, for each alien so admitted in a fiscal year, the numerical limitation specified under section 214(g)(1)(B) of the Immigration and Nationality Act shall be reduced by 1 for that fiscal year or the subsequent fiscal year.

(3) RECORDS AND REPORT.—The Immigration and Naturalization Service shall maintain records of the nonimmigrant status and place of residence of each alien admitted under the program. Not later than 120 days after the end of the third program year and for the 3 subsequent years, the

Immigration and Naturalization Service shall compile and submit to the Congress a report on the number of aliens admitted with nonimmigrant status under section 101(a)(15)(Q)(ii) who have overstayed their visas.

(4) DESIGNATED COUNTIES DEFINED.—For the purposes of this Act, the term “designated counties” means the six counties of Northern Ireland and the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland.

(b) TEMPORARY NONIMMIGRANT VISA.—

(1) IN GENERAL.—Section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

(A) by inserting “(i)” after “(Q)”; and

(B) by inserting after the semicolon at the end the following: “or (ii)(I) an alien 35 years of age or younger having a residence in Northern Ireland, or the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland, which the alien has no intention of abandoning who is coming temporarily (for a period not to exceed 36 months) to the United States as a participant in a cultural and training program approved by the Secretary of State and the Attorney General under section 2(a) of the Irish Peace Process Cultural and Training Program Act of 1998 for the purpose of providing practical training, employment, and the experience of coexistence and conflict resolution in a diverse society, and (II) the alien spouse and minor children of any such alien if accompanying the alien or following to join the alien;”.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of this section. Amounts appropriated pursuant to this subsection are authorized to be available until expended.

(d) SUNSET.—

(1) Effective October 1, 2005, the Irish Peace Process Cultural and Training Program Act of 1998 is repealed.

Effective date.

(2) Effective October 1, 2005, section 101(a)(15)(Q) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(Q)) is amended—

Effective date.

- (A) by striking “or” at the end of clause (i);
- (B) by striking “(i)” after “(Q)”; and
- (C) by striking clause (ii).

Approved October 30, 1998.

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LEGISLATIVE HISTORY—H.R. 4293:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 7, considered and passed House.

Oct. 8, considered and passed Senate.



Public Law 105–320  
105th Congress

An Act

Oct. 30, 1998

[H.R. 4309]

Torture Victims  
Relief Act of  
1998.  
22 USC 2152  
note.

22 USC 2152  
note.

To provide a comprehensive program of support for victims of torture.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Torture Victims Relief Act of 1998”.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) The American people abhor torture by any government or person. The existence of torture creates a climate of fear and international insecurity that affects all people.

(2) Torture is the deliberate mental and physical damage caused by governments to individuals to destroy individual personality and terrorize society. The effects of torture are long term. Those effects can last a lifetime for the survivors and affect future generations.

(3) By eliminating the leadership of their opposition and frightening the general public, repressive governments often use torture as a weapon against democracy.

(4) Torture survivors remain under physical and psychological threats, especially in communities where the perpetrators are not brought to justice. In many nations, even those who treat torture survivors are threatened with reprisals, including torture, for carrying out their ethical duty to provide care. Both the survivors of torture and their treatment providers should be accorded protection from further repression.

(5) A significant number of refugees and asylees entering the United States have been victims of torture. Those claiming asylum deserve prompt consideration of their applications for political asylum to minimize their insecurity and sense of danger. Many torture survivors now live in the United States. They should be provided with the rehabilitation services which would enable them to become productive members of our communities.

(6) The development of a treatment movement for torture survivors has created new opportunities for action by the United States and other nations to oppose state-sponsored and other acts of torture.

(7) There is a need for a comprehensive strategy to protect and support torture victims and their treatment providers, together with overall efforts to eliminate torture.

(8) By acting to heal the survivors of torture and protect their families, the United States can help to heal the effects of torture and prevent its use around the world.

**SEC. 3. DEFINITION.**22 USC 2152  
note.

As used in this Act, the term “torture” has the meaning given the term in section 2340(1) of title 18, United States Code, and includes the use of rape and other forms of sexual violence by a person acting under the color of law upon another person under his custody or physical control.

**SEC. 4. FOREIGN TREATMENT CENTERS.**22 USC 2152  
note.

(a) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.—Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end of chapter 1 the following new section:

**“SEC. 129. ASSISTANCE FOR VICTIMS OF TORTURE.**

22 USC 2152.

“(a) IN GENERAL.—The President is authorized to provide assistance for the rehabilitation of victims of torture.

President.

“(b) ELIGIBILITY FOR GRANTS.—Such assistance shall be provided in the form of grants to treatment centers and programs in foreign countries that are carrying out projects or activities specifically designed to treat victims of torture for the physical and psychological effects of the torture.

“(c) USE OF FUNDS.—Such assistance shall be available—

“(1) for direct services to victims of torture; and

“(2) to provide research and training to health care providers outside of treatment centers or programs described in subsection (b), for the purpose of enabling such providers to provide the services described in paragraph (1).”.

(b) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for fiscal years 1999 and 2000 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the President \$5,000,000 for fiscal year 1999 and \$7,500,000 for fiscal year 2000 to carry out section 129 of the Foreign Assistance Act of 1961, as added by subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1998.

**SEC. 5. DOMESTIC TREATMENT CENTERS.**22 USC 2152  
note.

(a) ASSISTANCE FOR TREATMENT OF TORTURE VICTIMS.—The Secretary of Health and Human Services may provide grants to programs in the United States to cover the cost of the following services:

(1) Services for the rehabilitation of victims of torture, including treatment of the physical and psychological effects of torture.

(2) Social and legal services for victims of torture.

(3) Research and training for health care providers outside of treatment centers, or programs for the purpose of enabling such providers to provide the services described in paragraph (1).

## (b) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 1999 and 2000, there are authorized to be appropriated to carry out subsection (a) (relating to assistance for domestic centers and programs for the treatment of victims of torture) \$5,000,000 for fiscal year 1999, and \$7,500,000 for fiscal year 2000.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to this subsection shall remain available until expended.

22 USC 2152  
note.

**SEC. 6. MULTILATERAL ASSISTANCE.**

(a) FUNDING.—Of the amounts authorized to be appropriated for fiscal years 1999 and 2000 pursuant to chapter 3 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the United Nations Voluntary Fund for Victims of Torture (in this section referred to as the “Fund”) the following amounts for the following fiscal years:

(1) FISCAL YEAR 1999.—For fiscal year 1999, \$3,000,000.

(2) FISCAL YEAR 2000.—For fiscal year 2000, \$3,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President, acting through the United States Permanent Representative to the United Nations, should—

(1) request the Fund—

(A) to find new ways to support and protect treatment centers and programs that are carrying out rehabilitative services for victims of torture; and

(B) to encourage the development of new such centers and programs;

(2) use the voice and vote of the United States to support the work of the Special Rapporteur on Torture and the Committee Against Torture established under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and

(3) use the voice and vote of the United States to establish a country rapporteur or similar procedural mechanism to investigate human rights violations in a country if either the Special Rapporteur or the Committee Against Torture indicates that a systematic practice of torture is prevalent in that country.

22 USC 2152  
note.

**SEC. 7. SPECIALIZED TRAINING FOR FOREIGN SERVICE OFFICERS.**

(a) IN GENERAL.—The Secretary of State shall provide training for foreign service officers with respect to—

(1) the identification of torture;

(2) the identification of the surrounding circumstances in which torture is most often practiced;

(3) the long-term effects of torture upon a victim;

(4) the identification of the physical, cognitive, and emotional effects of torture, and the manner in which these effects can affect the interview or hearing process; and

(5) the manner of interviewing victims of torture so as not to retraumatize them, eliciting the necessary information to document the torture experience, and understanding the difficulties victims often have in recounting their torture experience.



(b) GENDER-RELATED CONSIDERATIONS.—In conducting training under subsection (a)(4) or (5), gender-specific training shall be provided on the subject of interacting with women and men who are victims of torture by rape or any other form of sexual violence.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—H.R. 4309:

HOUSE REPORTS: No. 105–709, Pt. 1 (Comm. on International Relations).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 14, considered and passed House.

Oct. 8, considered and passed Senate, amended.

Oct. 10, House concurred in Senate amendment.



Public Law 105-321  
105th Congress

An Act

Oct. 30, 1998  
[H.R. 4326]

Oregon Public  
Lands Transfer  
and Protection  
Act of 1998.  
43 USC 390h  
note.

To transfer administrative jurisdiction over certain Federal lands located within or adjacent to the Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal lands in Oregon.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Oregon Public Lands Transfer and Protection Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Land transfers involving Rogue River National Forest and other public lands in Oregon.
- Sec. 3. Protection of Oregon and California Railroad grant lands.
- Sec. 4. Hart Mountain jurisdictional transfers, Oregon.
- Sec. 5. Boundary expansion, Bandon Marsh National Wildlife Refuge, Oregon.
- Sec. 6. Willow Lake Natural Treatment System Project, Salem, Oregon.
- Sec. 7. Conveyance to Deschutes County, Oregon.

**SEC. 2. LAND TRANSFERS INVOLVING ROGUE RIVER NATIONAL FOREST AND OTHER PUBLIC LANDS IN OREGON.**

(a) **MAP REFERENCES.**—In this section:

(1) The term “maps 1 and 2” refers to the maps entitled “BLM/Rogue River NF Administrative Jurisdiction Transfer, North Half” and “BLM/Rogue River NF Administrative Jurisdiction Transfer, South Half”, both dated April 28, 1998.

(2) The term “maps 3 and 4” refers to the maps entitled “BLM/Rogue River NF Boundary Adjustment, North Half” and “BLM/Rogue River NF Boundary Adjustment, South Half”, both dated April 28, 1998.

(b) **TRANSFER FROM PUBLIC DOMAIN TO NATIONAL FOREST.**—

(1) **LAND TRANSFER.**—The public domain lands depicted on maps 1 and 2 consisting of approximately 2,058 acres within the external boundaries of Rogue River National Forest in the State of Oregon are hereby added to and made a part of Rogue River National Forest.

(2) **ADMINISTRATIVE JURISDICTION.**—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of the Interior to the Secretary of Agriculture. Subject to valid existing rights, the Secretary of Agriculture shall manage such lands as part of Rogue River National Forest in accordance with the Act of March 1, 1911 (commonly known as the Weeks Law), and under the laws, rules, and regulations applicable to the National Forest System.

(c) TRANSFER FROM NATIONAL FOREST TO PUBLIC DOMAIN.—

(1) LAND TRANSFER.—The Federal lands depicted on maps 1 and 2 consisting of approximately 1,632 acres within the external boundaries of Rogue River National Forest are hereby transferred to unreserved public domain status, and their status as part of Rogue River National Forest and the National Forest System is hereby revoked.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of Agriculture to the Secretary of the Interior. Subject to valid existing rights, the Secretary of the Interior shall administer such lands under the laws, rules, and regulations applicable to unreserved public domain lands.

(d) RESTORATION OF STATUS OF CERTAIN NATIONAL FOREST LANDS AS REVESTED RAILROAD GRANT LANDS.—

(1) RESTORATION OF EARLIER STATUS.—The Federal lands depicted on maps 1 and 2 consisting of approximately 4,298 acres within the external boundaries of Rogue River National Forest are hereby restored to the status of revested Oregon and California Railroad grant lands, and their status as part of Rogue River National Forest and the National Forest System is hereby revoked.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of Agriculture to the Secretary of the Interior. Subject to valid existing rights, the Secretary of the Interior shall administer such lands under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.), and other laws, rules, and regulations applicable to revested Oregon and California Railroad grant lands under the administrative jurisdiction of the Secretary of the Interior.

(e) ADDITION OF CERTAIN REVESTED RAILROAD GRANT LANDS TO NATIONAL FOREST.—

(1) LAND TRANSFER.—The revested Oregon and California Railroad grant lands depicted on maps 1 and 2 consisting of approximately 960 acres within the external boundaries of Rogue River National Forest are hereby added to and made a part of Rogue River National Forest.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of the Interior to the Secretary of Agriculture. Subject to valid existing rights, the Secretary of Agriculture shall manage such lands as part of the Rogue River National Forest in accordance with the Act of March 1, 1911 (commonly known as the Weeks Law), and under the laws, rules, and regulations applicable to the National Forest System.

(3) DISTRIBUTION OF RECEIPTS.—Notwithstanding the sixth paragraph under the heading “FOREST SERVICE” in the Act of May 23, 1908 and section 13 of the Act of March 1, 1911 (16 U.S.C. 500), revenues derived from the lands described in paragraph (1) shall be distributed in accordance with the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(f) **BOUNDARY ADJUSTMENT.**—The boundaries of Rogue River National Forest are hereby adjusted to encompass the lands transferred to the administrative jurisdiction of the Secretary of Agriculture under this section and to exclude private property interests adjacent to the exterior boundaries of Rogue River National Forest, as depicted on maps 3 and 4.

(g) **MAPS.**—Within 60 days after the date of the enactment of this Act, the maps referred to in subsection (a) shall be available for public inspection in the office of the Chief of the Forest Service.

(h) **MISCELLANEOUS REQUIREMENTS.**—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall revise the public land records relating to the lands transferred under this section to reflect the administrative, boundary, and other changes made by this section. The Secretaries shall publish in the Federal Register appropriate notice to the public of the changes in administrative jurisdiction made by this section with regard to lands described in this section.

Federal Register,  
publication.

### **SEC. 3. PROTECTION OF OREGON AND CALIFORNIA RAILROAD GRANT LANDS**

(a) **DEFINITIONS.**—For purposes of this section:

(1) **O & C LAND.**—The term “O & C land” means the land (commonly known as “Oregon and California Railroad grant land”) that—

(A) reverted in the United States under the Act of June 9, 1916 (39 Stat. 218, chapter 137); and

(B) is managed by the Secretary of the Interior through the Bureau of Land Management under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(2) **CBWR LAND.**—The term “CBWR land” means the land (commonly known as “Coos Bay Wagon Road grant land”) that—

(A) was reconveyed to the United States under the Act of February 26, 1919 (40 Stat. 1179, chapter 47); and

(B) is managed by the Secretary of the Interior through the Bureau of Land Management under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(3) **PUBLIC DOMAIN LAND.**—

(A) **IN GENERAL.**—The term “public domain land” has the meaning given the term “public lands” in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(B) **EXCLUSIONS.**—The term “public domain land” does not include O & C land or CBWR land.

(4) **GEOGRAPHIC AREA.**—The term “geographic area” means the area in the State of Oregon within the boundaries of the Medford District, Roseburg District, Eugene District, Salem District, Coos Bay District, and Klamath Resource Area of the Lakeview District of the Bureau of Land Management, as the districts and the resource area were constituted on January 1, 1998.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(b) **POLICY OF NO-NET-LOSS OF O & C LAND, CBWR LAND, OR PUBLIC DOMAIN LAND.**—In carrying out sales, purchases, and exchanges of land in the geographic area, the Secretary shall ensure

that on expiration of the 10-year period beginning on the date of the enactment of this Act and on expiration of each 10-year period thereafter, the number of acres of O & C land and CBWR land in the geographic area, and the number of acres of O & C land, CBWR land, and public domain land in the geographic area that are available for timber harvesting, are not less than the number of acres of such land on the date of the enactment of this Act.

(c) RELATIONSHIP TO UMPQUA LAND EXCHANGE AUTHORITY.—Notwithstanding any other provision of this section, this section shall not apply to an exchange of land authorized pursuant to section 1028 of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 110 Stat. 4231), or any implementing legislation or administrative rule, if the land exchange is consistent with the memorandum of understanding between the Umpqua Land Exchange Project and the Association of Oregon and California Land Grant Counties dated February 19, 1998.

#### SEC. 4. HART MOUNTAIN JURISDICTIONAL TRANSFERS, OREGON.

16 USC 668dd  
note.

(a) TRANSFER FROM THE BUREAU OF LAND MANAGEMENT TO THE UNITED STATES FISH AND WILDLIFE SERVICE.—

(1) IN GENERAL.—Administrative jurisdiction over the parcels of land identified for transfer to the United States Fish and Wildlife Service on the map entitled “Hart Mountain Jurisdictional Transfer”, dated February 26, 1998, comprising approximately 12,100 acres of land in Lake County, Oregon, located adjacent to or within the Hart Mountain National Antelope Refuge, is transferred from the Bureau of Land Management to the United States Fish and Wildlife Service.

(2) INCLUSION IN REFUGE.—The parcels of land described in paragraph (1) shall be included in the Hart Mountain National Antelope Refuge.

(3) WITHDRAWAL.—Subject to valid existing rights, the parcels of land described in paragraph (1)—

(A) are withdrawn from—

(i) surface entry under the public land laws;

(ii) leasing under the mineral leasing laws and Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); and

(iii) location and entry under the mining laws; and

(B) shall be treated as parcels of land subject to the provisions of Executive Order No. 7523 of December 21, 1936, as amended by Executive Order No. 7895 of May 23, 1938, and Presidential Proclamation No. 2416 of July 25, 1940, that withdrew parcels of land for the Hart Mountain National Antelope Refuge.

(4) MANAGEMENT.—The land described in paragraph (1) shall be included in the Hart Mountain National Antelope Refuge and managed in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), and other applicable law and with management plans and agreements between the Bureau of Land Management and the United States Fish and Wildlife Service for the Hart Mountain Refuge.

(b) CONTINUED MANAGEMENT OF GUANO CREEK WILDERNESS STUDY AREA BY THE BUREAU OF LAND MANAGEMENT.—

(1) IN GENERAL.—The parcels of land identified for cooperative management on the map entitled “Hart Mountain Jurisdictional Transfer”, dated February 26, 1998, comprising approximately 10,900 acres of land in Lake County, Oregon, located south of the Hart Mountain National Antelope Refuge, shall be retained under the jurisdiction of the Bureau of Land Management.

(2) MANAGEMENT.—The parcels of land described in paragraph (1) that are within the Guano Creek Wilderness Study Area Act shall be managed so as not to impair the suitability of the area for designation as wilderness, in accordance with current and future management plans and agreements (including the agreement known as the “Shirk Ranch Agreement” dated September 30, 1997), until such date as Congress enacts a law directing otherwise.

(c) TRANSFER FROM THE UNITED STATES FISH AND WILDLIFE SERVICE TO THE BUREAU OF LAND MANAGEMENT.—

(1) IN GENERAL.—Administrative jurisdiction over the parcels of land identified for transfer to the Bureau of Land Management on the map entitled “Hart Mountain Jurisdictional Transfer”, dated February 26, 1998, comprising approximately 7,700 acres of land in Lake County, Oregon, located adjacent to or within the Hart Mountain National Antelope Refuge, is transferred from the United States Fish and Wildlife Service to the Bureau of Land Management.

(2) REMOVAL FROM REFUGE.—The parcels of land described in paragraph (1) are removed from the Hart Mountain National Antelope Refuge, and the boundary of the refuge is modified to reflect that removal.

(3) REVOCATION OF WITHDRAWAL.—The provisions of Executive Order No. 7523 of December 21, 1936, as amended by Executive Order No. 7895 of May 23, 1938, and Presidential Proclamation No. 2416 of July 25, 1940, that withdrew the parcels of land for the refuge, shall be of no effect with respect to the parcels of land described in paragraph (1).

(4) STATUS.—The parcels of land described in paragraph (1)—

(A) are designated as public land; and

(B) shall be open to—

(i) surface entry under the public land laws;

(ii) leasing under the mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); and

(iii) location and entry under the mining laws.

(5) MANAGEMENT.—The land described in paragraph (1) shall be managed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, and the agreement known as the “Shirk Ranch Agreement” dated September 30, 1997.

(d) MAP.—A copy of the map described in subsections (a), (b), and (c) and such additional legal descriptions as are applicable shall be kept on file and available for public inspection in the Office of the Regional Director of Region 1 of the United States Fish and Wildlife Service, the local District Office of the Bureau of Land Management, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives.

(e) CORRECTION OF REFERENCE TO WILDLIFE REFUGE.—Section 28 of the Act of August 13, 1954 (68 Stat. 718, chapter 732; 72 Stat. 818; 25 U.S.C. 564w-1), is amended in subsections (f) and (g) by striking “Klamath Forest National Wildlife Refuge” each place it appears and inserting “Klamath Marsh National Wildlife Refuge”.

**SEC. 5. BOUNDARY EXPANSION, BANDON MARSH NATIONAL WILDLIFE REFUGE, OREGON.**

Section 102 of Public Law 97-137 (95 Stat. 1709; 16 U.S.C. 668dd note) is amended by striking “three hundred acres” and inserting “1,000 acres”.

**SEC. 6. WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT, SALEM, OREGON.**

(a) IN GENERAL.—Title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

**“SEC. 1634. WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT.** 43 USC 390h-16.

“(a) AUTHORIZATION.—The Secretary, in cooperation with the city of Salem, Oregon, is authorized to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project to reclaim and reuse wastewater within and without the service area of the city of Salem.

“(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

“(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.”.

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of such Act is amended by inserting after the item relating to section 1633 the following:

“Sec. 1634. Willow Lake Natural Treatment System Project.”.

**SEC. 7. CONVEYANCE TO DESCHUTES COUNTY, OREGON.**

(a) PURPOSES.—The purposes of this section are to authorize the Secretary of the Interior to sell at fair market value to Deschutes County, Oregon, certain land to be used to protect the public's interest in clean water in the aquifer that provides drinking water for residents of Deschutes County and to promote the public interest in the efficient delivery of social services and public amenities in southern Deschutes County by—

(1) providing land for private residential development to compensate for development prohibitions on private land that is currently zoned for residential development, but the development of which would cause increased pollution of ground and surface water;

(2) providing for the streamlined and low-cost acquisition of land by nonprofit and governmental social service entities that offer needed community services to residents of the area;

(3) allowing Deschutes County to provide land for community amenities and services, such as open space, parks, roads, and other public spaces and uses, to area residents at little or no cost to the public; and

(4) otherwise assist in the implementation of the Deschutes County Regional Problem Solving Project.

(b) **SALE OF LAND.**—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the “Secretary”) may make available for sale at fair market value to Deschutes County, Oregon, a parcel of the land in Deschutes County comprising approximately 544 acres and lying in township 22 south, range 10 east, Willamette meridian, as more fully described as follows:

(1) Section 1:

(A) Government Lot 3, the portion west of Highway 97;

(B) Government Lot 4;

(C) SENW, the portion west of Highway 97; SWNW, the portion west of Highway 97; NWSW, the portion west of Highway 97; SWSW, the portion west of Highway 97;

(2) Section 2:

(A) Government Lot 1;

(B) SENE, SESW, the portion east of Huntington Road; NESE, NWSE, SWSE, SESE, the portion west of Highway 97;

(3) Section 11:

(A) Government Lot 10;

(B) NENE, the portion west of Highway 97; NWNE, SWNE, the portion west of Highway 97; NENW, the portion east of Huntington Road; SWNW, the portion east of Huntington Road; SENW.

(c) **SUITABILITY FOR SALE.**—The Secretary shall convey the land under subsection (b) only if the Secretary determines that the land is suitable for sale through the land use planning process.

(d) **SPECIAL ACCOUNT.**—The amount paid by the County for the conveyance of land under subsection (b)—

(1) shall be deposited in a special account in the Treasury of the United States; and

(2) may be used by the Secretary for the purchase of environmentally sensitive land east of range 9 east, Willamette meridian, in the State of Oregon that is consistent with the goals and objectives of the land use planning process of the Bureau of Land Management.

Approved October 30, 1998.

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**LEGISLATIVE HISTORY—H.R. 4326:**

HOUSE REPORTS: No. 105-810 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 12, considered and passed House.

Oct. 14, considered and passed Senate.





Public Law 105–322  
105th Congress

An Act

To authorize the Secretary of the Interior to provide financial assistance to the State of Maryland for a pilot program to develop measures to eradicate or control nutria and restore marshland damaged by nutria.

Oct. 30, 1998

[H.R. 4337]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. NUTRIA ERADICATION AND CONTROL PILOT PROGRAM.**

(a) **GRANT AUTHORITY.**—The Secretary of the Interior (in this section referred to as the “Secretary”), subject to the availability of appropriations, may provide financial assistance to the State of Maryland for a pilot program to develop measures to eradicate or control nutria and restore marshland damaged by nutria.

(b) **GOALS.**—The pilot program shall develop methods to—

- (1) eradicate nutria in Maryland;
- (2) eradicate or control nutria in other States; and
- (3) develop methods to restore marshland damaged by nutria.

(c) **ACTIVITIES.**—The Secretary shall require that the pilot program consist of management, research, and public education activities carried out in accordance with the document entitled “Marsh Restoration: Nutria Control in Maryland Pilot Program Proposal”, dated July 10, 1998.

(d) **COST SHARING.**—

(1) **FEDERAL SHARE.**—The Federal share of the costs of the pilot program may not exceed 75 percent of the total costs of the pilot program.

(2) **IN-KIND CONTRIBUTIONS.**—The non-Federal share of the costs of the pilot program may be provided in the form of in-kind contributions of materials or services.

(e) **LIMITATION ON ADMINISTRATIVE EXPENSES.**—Not more than 10 percent of financial assistance provided by the Secretary under this section may be used for administrative expenses.

(f) AUTHORIZATION OF APPROPRIATIONS.—For financial assistance under this section, there are authorized to be appropriated to the Secretary \$2,900,000 for fiscal years 2000, 2001, and 2002.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—H.R. 4337:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 28, considered and passed House.

Oct. 9, considered and passed Senate.



Public Law 105–323  
105th Congress

An Act

To amend the State Department Basic Authorities Act of 1956 to provide rewards for information leading to the arrest or conviction of any individual for the commission of an act, or conspiracy to act, of international terrorism, narcotics related offenses, or for serious violations of international humanitarian law relating to the Former Yugoslavia, and for other purposes.

Oct. 30, 1998

[H.R. 4660]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**TITLE I—DEPARTMENT OF STATE  
REWARDS PROGRAM**

**SEC. 101. REVISION OF PROGRAM.**

Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended to read as follows:

**“SEC. 36. DEPARTMENT OF STATE REWARDS PROGRAM.**

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established a program for the payment of rewards to carry out the purposes of this section.

“(2) PURPOSE.—The rewards program shall be designed to assist in the prevention of acts of international terrorism, international narcotics trafficking, and other related criminal acts.

“(3) IMPLEMENTATION.—The rewards program shall be administered by the Secretary of State, in consultation, as appropriate, with the Attorney General.

“(b) REWARDS AUTHORIZED.—In the sole discretion of the Secretary (except as provided in subsection (c)(2)) and in consultation, as appropriate, with the Attorney General, the Secretary may pay a reward to any individual who furnishes information leading to—

“(1) the arrest or conviction in any country of any individual for the commission of an act of international terrorism against a United States person or United States property;

“(2) the arrest or conviction in any country of any individual conspiring or attempting to commit an act of international terrorism against a United States person or United States property;

“(3) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

“(A) a violation of United States narcotics laws such that the individual would be a major violator of such laws;

“(B) the killing or kidnapping of—

“(i) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual’s official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

“(ii) a member of the immediate family of any such individual on account of that individual’s official duties, in connection with the enforcement of United States narcotics laws or the implementing of United States narcotics control objectives; or

“(C) an attempt or conspiracy to commit any act described in subparagraph (A) or (B);

“(4) the arrest or conviction in any country of any individual aiding or abetting in the commission of an act described in paragraph (1), (2), or (3); or

“(5) the prevention, frustration, or favorable resolution of an act described in paragraph (1), (2), or (3).

“(c) COORDINATION.—

“(1) PROCEDURES.—To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under this section, including procedures for—

“(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;

“(B) the publication of rewards;

“(C) the offering of joint rewards with foreign governments;

“(D) the receipt and analysis of data; and

“(E) the payment and approval of payment, shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

“(2) PRIOR APPROVAL OF ATTORNEY GENERAL REQUIRED.—Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

“(d) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93; 99 Stat. 408), but subject to paragraph (2), there are authorized to be appropriated to the Department of State from time to time such amounts as may be necessary to carry out this section.

“(2) LIMITATION.—No amount of funds may be appropriated under paragraph (1) which, when added to the unobligated balance of amounts previously appropriated to carry out this section, would cause such amounts to exceed \$15,000,000.

“(3) ALLOCATION OF FUNDS.—To the maximum extent practicable, funds made available to carry out this section should be distributed equally for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking.

“(4) PERIOD OF AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

“(e) LIMITATIONS AND CERTIFICATION.—

“(1) MAXIMUM AMOUNT.—No reward paid under this section may exceed \$5,000,000.

“(2) APPROVAL.—A reward under this section of more than \$100,000 may not be made without the approval of the Secretary.

“(3) CERTIFICATION FOR PAYMENT.—Any reward granted under this section shall be approved and certified for payment by the Secretary.

“(4) NONDELEGATION OF AUTHORITY.—The authority to approve rewards of more than \$100,000 set forth in paragraph (2) may not be delegated.

“(5) PROTECTION MEASURES.—If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient’s immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he considers necessary to effect such protection.

“(f) INELIGIBILITY.—An officer or employee of any entity of Federal, State, or local government or of a foreign government who, while in the performance of his or her official duties, furnishes information described in subsection (b) shall not be eligible for a reward under this section.

“(g) REPORTS.—

“(1) REPORTS ON PAYMENT OF REWARDS.—Not later than 30 days after the payment of any reward under this section, the Secretary shall submit a report to the appropriate congressional committees with respect to such reward. The report, which may be submitted in classified form if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid. The report shall also discuss the significance of the information for which the reward was paid in dealing with those acts. Deadline.

“(2) ANNUAL REPORTS.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit a report to the appropriate congressional committees with respect to the operation of the rewards program. The report shall provide information on the total amounts expended during the fiscal year ending in that year to carry out this section, including amounts expended to publicize the availability of rewards. Deadline.

“(h) PUBLICATION REGARDING REWARDS OFFERED BY FOREIGN GOVERNMENTS.—Notwithstanding any other provision of this section, in the sole discretion of the Secretary, the resources of the rewards program shall be available for the publication of rewards offered by foreign governments regarding acts of international terrorism which do not involve United States persons or property or a violation of the narcotics laws of the United States.

“(i) DETERMINATIONS OF THE SECRETARY.—A determination made by the Secretary under this section shall be final and conclusive and shall not be subject to judicial review.

“(j) DEFINITIONS.—As used in this section:

“(1) ACT OF INTERNATIONAL TERRORISM.—The term ‘act of international terrorism’ includes—

“(A) any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined

in paragraph (8) of section 830 of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 3201 note)) or any nuclear explosive device (as defined in paragraph (4) of that section) by an individual, group, or non-nuclear-weapon state (as defined in paragraph (5) of that section); and

“(B) any act, as determined by the Secretary, which materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments by an individual, group, or country supporting international terrorism as determined for purposes of section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)).

“(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

“(3) MEMBER OF THE IMMEDIATE FAMILY.—The term ‘member of the immediate family’, with respect to an individual, includes—

“(A) a spouse, parent, brother, sister, or child of the individual;

“(B) a person with respect to whom the individual stands in loco parentis; and

“(C) any person not covered by subparagraph (A) or (B) who is living in the individual’s household and is related to the individual by blood or marriage.

“(4) REWARDS PROGRAM.—The term ‘rewards program’ means the program established in subsection (a)(1).

“(5) UNITED STATES NARCOTICS LAWS.—The term ‘United States narcotics laws’ means the laws of the United States for the prevention and control of illicit trafficking in controlled substances (as such term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))).

“(6) UNITED STATES PERSON.—The term ‘United States person’ means—

“(A) a citizen or national of the United States; and

“(B) an alien lawfully present in the United States.”.

22 USC 2708  
note.

**SEC. 102. REWARDS FOR INFORMATION CONCERNING INDIVIDUALS SOUGHT FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW RELATING TO THE FORMER YUGOSLAVIA.**

(a) **AUTHORITY.**—In the sole discretion of the Secretary of State (except as provided in subsection (b)(2)) and in consultation, as appropriate, with the Attorney General, the Secretary may pay a reward to any individual who furnishes information leading to—

(1) the arrest or conviction in any country; or

(2) the transfer to, or conviction by, the International Criminal Tribunal for the Former Yugoslavia, of any individual who is the subject of an indictment confirmed by a judge of such tribunal for serious violations of international humanitarian law as defined under the statute of such tribunal.

(b) **PROCEDURES.**—

(1) To ensure that the payment of rewards pursuant to this section does not duplicate or interfere with the payment

of informants or the obtaining of evidence or information, as authorized to the Department of Justice, subject to paragraph (3), the offering, administration, and payment of rewards under this section, including procedures for—

- (A) identifying individuals, organizations, and offenses with respect to which rewards will be offered;
- (B) the publication of rewards;
- (C) the offering of joint rewards with foreign governments;
- (D) the receipt and analysis of data; and
- (E) the payment and approval of payment,

shall be governed by procedures developed by the Secretary of State, in consultation with the Attorney General.

(2) Before making a reward under this section in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.

(3) Rewards under this section shall be subject to any requirements or limitations that apply to rewards under section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) with respect to the ineligibility of government employees for rewards, maximum reward amount, and procedures for the approval and certification of rewards for payment.

(c) REFERENCE.—For the purposes of subsection (a), the statute of the International Criminal Tribunal for the Former Yugoslavia means the Annex to the Report of the Secretary General of the United Nations pursuant to paragraph 2 of Security Council Resolution 827 (1993) (S/25704).

(d) DETERMINATION OF THE SECRETARY.—A determination made by the Secretary of State under this section shall be final and conclusive and shall not be subject to judicial review.

(e) PRIORITY.—Rewards under this section may be paid from funds authorized to carry out section 36 of the State Department Basic Authorities Act of 1956. In the Administration and payment of rewards under the rewards program of section 36 of the State Department Basic Authorities Act of 1956, the Secretary of State shall ensure that priority is given for payments to individuals described in section 36 of that Act and that funds paid under this section are paid only after any and all due and payable demands are met under section 36 of that Act.

(f) REPORTS.—The Secretary shall inform the appropriate committees of rewards paid under this section in the same manner as required by section 36(g) of the State Department Basic Authorities Act of 1956.

## TITLE II—EXTRADITION TREATIES INTERPRETATION ACT OF 1998

### SEC. 201. SHORT TITLE.

This title may be cited as the “Extradition Treaties Interpretation Act of 1998”.

### SEC. 202. FINDINGS.

Congress finds that—

- (1) each year, several hundred children are kidnapped by a parent in violation of law, court order, or legally binding agreement and brought to, or taken from, the United States;

Extradition  
Treaties  
Interpretation  
Act of 1998.

18 USC 3181  
note.

18 USC 3181  
note.

(2) until the mid-1970's, parental abduction generally was not considered a criminal offense in the United States;

(3) since the mid-1970's, United States criminal law has evolved such that parental abduction is now a criminal offense in each of the 50 States and the District of Columbia;

(4) in enacting the International Parental Kidnapping Crime Act of 1993 (Public Law 103-173; 107 Stat. 1998; 18 U.S.C. 1204), Congress recognized the need to combat parental abduction by making the act of international parental kidnapping a Federal criminal offense;

(5) many of the extradition treaties to which the United States is a party specifically list the offenses that are extraditable and use the word "kidnapping", but it has been the practice of the United States not to consider the term to include parental abduction because these treaties were negotiated by the United States prior to the development in United States criminal law described in paragraphs (3) and (4);

(6) the more modern extradition treaties to which the United States is a party contain dual criminality provisions, which provide for extradition where both parties make the offense a felony, and therefore it is the practice of the United States to consider such treaties to include parental abduction if the other foreign state party also considers the act of parental abduction to be a criminal offense; and

(7) this circumstance has resulted in a disparity in United States extradition law which should be rectified to better protect the interests of children and their parents.

18 USC 3181  
note.

**SEC. 203. INTERPRETATION OF EXTRADITION TREATIES.**

For purposes of any extradition treaty to which the United States is a party, Congress authorizes the interpretation of the terms "kidnaping" and "kidnapping" to include parental kidnapping.

Approved October 30, 1998.

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**LEGISLATIVE HISTORY—H.R. 4660 (S. 1266):**

SENATE REPORTS: No. 105-101 accompanying S. 1266 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 8, considered and passed House.

Oct. 14, considered and passed Senate, amended.

Oct. 15, House concurred in Senate amendment.





Public Law 105–324  
105th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such Act, and for other purposes.

Oct. 30, 1998  
[H.R. 4679]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Antimicrobial Regulation Technical Corrections Act of 1998”.

Antimicrobial  
Regulation  
Technical  
Corrections Act  
of 1998.  
21 USC 301 note.

**SEC. 2. DEFINITION OF PESTICIDE CHEMICAL UNDER FEDERAL FOOD, DRUG, AND COSMETIC ACT.**

(a) IN GENERAL.—Section 201(q) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(q)) is amended by striking “(q)(1)” and all that follows through the end of subparagraph (1) and inserting the following:

“(q)(1)(A) Except as provided in clause (B), the term ‘pesticide chemical’ means any substance that is a pesticide within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act, including all active and inert ingredients of such pesticide. Notwithstanding any other provision of law, the term ‘pesticide’ within such meaning includes ethylene oxide and propylene oxide when such substances are applied on food.

“(B) In the case of the use, with respect to food, of a substance described in clause (A) to prevent, destroy, repel, or mitigate microorganisms (including bacteria, viruses, fungi, protozoa, algae, and slime), the following applies for purposes of clause (A):

“(i) The definition in such clause for the term ‘pesticide chemical’ does not include the substance if the substance is applied for such use on food, or the substance is included for such use in water that comes into contact with the food, in the preparing, packing, or holding of the food for commercial purposes. The substance is not excluded under this subclause from such definition if the substance is ethylene oxide or propylene oxide, and is applied for such use on food. The substance is not so excluded if the substance is applied for such use on a raw agricultural commodity, or the substance is included for such use in water that comes into contact with the commodity, as follows:

“(I) The substance is applied in the field.

“(II) The substance is applied at a treatment facility where raw agricultural commodities are the only food treated, and the treatment is in a manner that does not change the status of the food as a raw agricultural commodity

(including treatment through washing, waxing, fumigating, and packing such commodities in such manner).

“(III) The substance is applied during the transportation of such commodity between the field and such a treatment facility.

“(ii) The definition in such clause for the term ‘pesticide chemical’ does not include the substance if the substance is a food contact substance as defined in section 409(h)(6), and any of the following circumstances exist: The substance is included for such use in an object that has a food contact surface but is not intended to have an ongoing effect on any portion of the object; the substance is included for such use in an object that has a food contact surface and is intended to have an ongoing effect on a portion of the object but not on the food contact surface; or the substance is included for such use in or is applied for such use on food packaging (without regard to whether the substance is intended to have an ongoing effect on any portion of the packaging). The food contact substance is not excluded under this subclause from such definition if any of the following circumstances exist: The substance is applied for such use on a semipermanent or permanent food contact surface (other than being applied on food packaging); or the substance is included for such use in an object that has a semipermanent or permanent food contact surface (other than being included in food packaging) and the substance is intended to have an ongoing effect on the food contact surface.

With respect to the definition of the term ‘pesticide’ that is applicable to the Federal Insecticide, Fungicide, and Rodenticide Act, this clause does not exclude any substance from such definition.”.

(b) REGULATIONS.—Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)) is amended by adding at the end the following paragraph:

“(4) CERTAIN SUBSTANCES.—With respect to a substance that is not included in the definition of the term ‘pesticide chemical’ under section 201(q)(1) but was so included on the day before the date of the enactment of the Antimicrobial Regulation Technical Corrections Act of 1998, the following applies as of such date of enactment:

“(A) Notwithstanding paragraph (2), any regulation applying to the use of the substance that was in effect on the day before such date, and was on such day deemed in such paragraph to have been issued under this section, shall be considered to have been issued under section 409.

“(B) Notwithstanding paragraph (3), any regulation applying to the use of the substance that was in effect on such day and was issued under this section (including any such regulation issued before the date of the enactment of the Food Quality Protection Act of 1996) is deemed to have been issued under section 409.”.

(c) TECHNICAL AMENDMENT.—Section 201(q)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(q)(3)) is amended in the matter preceding clause (A) by striking “paragraphs (1) and (2)” and inserting “subparagraphs (1) and (2)”.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—H.R. 4679:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 7, considered and passed House.

Oct. 9, considered and passed Senate.



Public Law 105–325  
105th Congress

An Act

Oct. 30, 1998  
[S. 231]

To establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes.

National Cave  
and Karst  
Research  
Institute Act of  
1998.  
16 USC 4310  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Cave and Karst Research Institute Act of 1998”.

**SEC. 2. PURPOSES.**

The purposes of this Act are—

- (1) to further the science of speleology;
- (2) to centralize and standardize speleological information;
- (3) to foster interdisciplinary cooperation in cave and karst research programs;
- (4) to promote public education;
- (5) to promote national and international cooperation in protecting the environment for the benefit of cave and karst landforms; and
- (6) to promote and develop environmentally sound and sustainable resource management practices.

**SEC. 3. ESTABLISHMENT OF THE INSTITUTE.**

(a) **IN GENERAL.**—The Secretary of the Interior (referred to in this Act as the “Secretary”), acting through the Director of the National Park Service, shall establish the National Cave and Karst Research Institute (referred to in this Act as the “Institute”).

(b) **PURPOSES.**—The Institute shall, to the extent practicable, further the purposes of this Act.

(c) **LOCATION.**—The Institute shall be located in the vicinity of Carlsbad Caverns National Park, in the State of New Mexico. The Institute shall not be located inside the boundaries of Carlsbad Caverns National Park.

**SEC. 4. ADMINISTRATION OF THE INSTITUTE.**

(a) **MANAGEMENT.**—The Institute shall be jointly administered by the National Park Service and a public or private agency, organization, or institution, as determined by the Secretary.

(b) **GUIDELINES.**—The Institute shall be operated and managed in accordance with the study prepared by the National Park Service pursuant to section 203 of the Act entitled “An Act to conduct certain studies in the State of New Mexico”, approved November 15, 1990 (Public Law 101–578; 16 U.S.C. 4310 note).

(c) **CONTRACTS AND COOPERATIVE AGREEMENTS.**—The Secretary may enter into a contract or cooperative agreement with a public

or private agency, organization, or institution to carry out this Act.

(d) FACILITY.—

(1) LEASING OR ACQUIRING A FACILITY.—The Secretary may lease or acquire a facility for the Institute.

(2) CONSTRUCTION OF A FACILITY.—If the Secretary determines that a suitable facility is not available for a lease or acquisition under paragraph (1), the Secretary may construct a facility for the Institute.

(e) ACCEPTANCE OF GRANTS AND TRANSFERS.—To carry out this Act, the Secretary may accept—

(1) a grant or donation from a private person; or

(2) a transfer of funds from another Federal agency.

**SEC. 5. FUNDING.**

(a) MATCHING FUNDS.—The Secretary may spend only such amount of Federal funds to carry out this Act as is matched by an equal amount of funds from non-Federal sources.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved October 30, 1998.

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**LEGISLATIVE HISTORY—S. 231:**

HOUSE REPORTS: No. 105-496 (Comm. on Resources).

SENATE REPORTS: No. 105-37 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): July 11, considered and passed Senate.

Vol. 144 (1998): Oct. 10, considered and passed House.



Public Law 105–326  
105th Congress

An Act

Oct. 30, 1998  
[S. 890]

Dutch John  
Federal Property  
Disposition and  
Assistance Act of  
1998.  
16 USC 460v  
note.

To dispose of certain Federal properties located in Dutch John, Utah, to assist the local government in the interim delivery of basic services to the Dutch John community, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Dutch John Federal Property Disposition and Assistance Act of 1998”.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1)(A) Dutch John, Utah, was founded by the Secretary of the Interior in 1958 on Bureau of Reclamation land as a community to house personnel, administrative offices, and equipment for project construction and operation of the Flaming Gorge Dam and Reservoir as authorized by the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.); and

(B) permanent structures (including houses, administrative offices, equipment storage and maintenance buildings, and other public buildings and facilities) were constructed and continue to be owned and maintained by the Secretary of the Interior;

(2)(A) Bureau of Reclamation land surrounding the Flaming Gorge Reservoir (including the Dutch John community) was included within the boundaries of the Flaming Gorge National Recreation Area in 1968 under Public Law 90–540 (16 U.S.C. 460v et seq.);

(B) Public Law 90–540 assigned responsibility for administration, protection, and development of the Flaming Gorge National Recreation Area to the Secretary of Agriculture and provided that lands and waters needed or used for the Colorado River Storage Project would continue to be administered by the Secretary of the Interior; and

(C) most structures within the Dutch John community (including the schools and public buildings within the community) occupy lands administered by the Secretary of Agriculture;

(3)(A) the Secretary of Agriculture and the Secretary of the Interior are unnecessarily burdened with the cost of continuing to provide basic services and facilities and building maintenance and with the administrative costs of operating the Dutch John community; and

(B) certain structures and lands are no longer essential to management of the Colorado River Storage Project or to management of the Flaming Gorge National Recreation Area;

(4)(A) residents of the community are interested in purchasing the homes they currently rent from the Secretary of the Interior and the land on which the homes are located;

(B) Daggett County, Utah, is interested in reducing the financial burden the County experiences in providing local government support services to a community that produces little direct tax revenue because of Federal ownership; and

(C) a withdrawal of the role of the Federal Government in providing basic direct community services to Dutch John would require local government to provide the services at a substantial cost;

(5)(A) residents of the Dutch John community are interested in self-government of the community; and

(B) with growing demands for additional commercial recreation services for visitors to the Flaming Gorge National Recreation Area and Ashley National Forest, there are opportunities for private economic development, but few private lands are available for the services; and

(6) the privatization and disposal to local government of certain lands in and surrounding Dutch John would be in the public interest.

(b) PURPOSES.—The purposes of this Act are—

(1) to privatize certain lands in and surrounding Dutch John, Utah;

(2) to transfer jurisdiction of certain Federal property between the Secretary of Agriculture and the Secretary of the Interior;

(3) to improve the Flaming Gorge National Recreation Area;

(4) to dispose of certain residential units, public buildings, and facilities;

(5) to provide interim financial assistance to local government to defray the cost of providing basic governmental services;

(6) to achieve efficiencies in operation of the Flaming Gorge Dam and Reservoir and the Flaming Gorge National Recreation Area;

(7) to reduce long-term Federal outlays; and

(8) to serve the interests of the residents of Dutch John and Daggett County, Utah, and the general public.

### SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY OF AGRICULTURE.—The term “Secretary of Agriculture” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(2) SECRETARY OF THE INTERIOR.—The term “Secretary of the Interior” means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

### SEC. 4. DISPOSITION OF CERTAIN LANDS AND PROPERTIES.

(a) IN GENERAL.—Lands, structures, and community infrastructure facilities within or associated with Dutch John, Utah, that have been identified by the Secretary of Agriculture or the Secretary of the Interior as unnecessary for support of the agency of the

respective Secretary shall be transferred or disposed of in accordance with this Act.

(b) LAND DESCRIPTION.—Except as provided in subsection (e), the Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this Act) approximately 2,450 acres within or associated with the Dutch John, Utah, community in the NW $\frac{1}{4}$  NW $\frac{1}{4}$ , S $\frac{1}{2}$  NW $\frac{1}{4}$ , and S $\frac{1}{2}$  of Section 1, the S $\frac{1}{2}$  of Section 2, 10 acres more or less within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 3, Sections 11 and 12, the N $\frac{1}{2}$  of Section 13, and the E $\frac{1}{2}$  NE $\frac{1}{4}$  of Section 14 of Township 2 North, Range 22 East, Salt Lake Base and Meridian, that have been determined to be available for transfer by the Secretary of Agriculture and the Secretary of the Interior, respectively.

(c) INFRASTRUCTURE FACILITIES AND LAND.—Except as provided in subsection (e), the Secretary of the Interior shall dispose of (in accordance with this Act) community infrastructure facilities and land that have been determined to be available for transfer by the Secretary of the Interior, including the following:

(1) The fire station, sewer systems, sewage lagoons, water systems (except as provided in subsection (e)(3)), old post office, electrical and natural gas distribution systems, hospital building, streets, street lighting, alleys, sidewalks, parks, and community buildings located within or serving Dutch John, including fixtures, equipment, land, easements, rights-of-way, or other property primarily used for the operation, maintenance, replacement, or repair of a facility referred to in this paragraph.

(2) The Dutch John Airport, comprising approximately 25 acres, including runways, roads, rights-of-way, and appurtenances to the Airport, subject to such monitoring and remedial action by the United States as is necessary.

(3) The lands on which are located the Dutch John public schools, which comprise approximately 10 acres.

(d) OTHER PROPERTIES AND FACILITIES.—The Secretary of Agriculture and the Secretary of the Interior shall dispose of (in accordance with this Act) the other properties and facilities that have been determined to be available for transfer or disposal by the Secretary of Agriculture and the Secretary of the Interior, respectively, including the following:

(1) Certain residential units occupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(2) Certain residential units unoccupied on the date of enactment of this Act, as determined by the Secretary of the Interior.

(3) Lots within the Dutch John community that are occupied on the date of enactment of this Act by privately owned modular homes under lease agreements with the Secretary of the Interior.

(4) Unoccupied platted lots within the Dutch John community.

(5) The land, comprising approximately 3.8 acres, on which is located the Church of Jesus Christ of Latter Day Saints, within Block 9, of the Dutch John community.

(6) The lands for which special use permits, easements, or rights-of-way for commercial uses have been issued by the Forest Service.

(7) The lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of



Wildlife Resources, as described in the survey required under section 7, including yards and land defined by fences in existence on the date of enactment of this Act.

(8) The Dutch John landfill site, subject to such monitoring and remedial action by the United States as is necessary, with responsibility for monitoring and remediation being shared by the Secretary of Agriculture and the Secretary of the Interior proportionate to their historical use of the site.

(9) Such fixtures and furnishings in existence and in place on the date of enactment of this Act as are mutually determined by Daggett County, the Secretary of Agriculture, and the Secretary of the Interior to be necessary for the full use of properties or facilities disposed of under this Act.

(10) Such other properties or facilities at Dutch John that the Secretary of Agriculture or the Secretary of the Interior determines are not necessary to achieve the mission of the respective Secretary and the disposal of which would be consistent with this Act.

(e) RETAINED PROPERTIES.—Except to the extent the following properties are determined by the Secretary of Agriculture or the Secretary of the Interior to be available for disposal, the Secretary of Agriculture and the Secretary of the Interior shall retain for their respective use the following:

(1) All buildings and improvements located within the industrial complex of the Bureau of Reclamation, including the maintenance shop, 40 industrial garages, 2 warehouses, the equipment storage building, the flammable equipment storage building, the hazardous waste storage facility, and the property on which the buildings and improvements are located.

(2) 17 residences under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture, of which—

(A) 15 residences shall remain under the jurisdiction of the Secretary of the Interior; and

(B) 2 residences shall remain under the jurisdiction of the Secretary of Agriculture.

(3) The Dutch John water system raw water supply line and return line between the power plant and the water treatment plant, pumps and pumping equipment, and any appurtenances and rights-of-way to the line and other facilities, with the retained facilities to be operated and maintained by the United States with pumping costs and operation and maintenance costs of the pumps to be included as a cost to Daggett County in a water service contract.

(4) The heliport and associated real estate, consisting of approximately 20 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(5) The Forest Service warehouse complex and associated real estate, consisting of approximately 2 acres, which shall remain under the jurisdiction of the Secretary of Agriculture.

(6) The Forest Service office complex and associated real estate, which shall remain under the jurisdiction of the Secretary of Agriculture.

(7) The United States Post Office, pursuant to Forest Service Special Use Permit No. 1073, which shall be transferred to the jurisdiction of the United States Postal Service pursuant to section 6(d).

**SEC. 5. REVOCATION OF WITHDRAWALS.**

In the case of lands and properties transferred under section 4, effective on the date of transfer to the Secretary of the Interior (if applicable) or conveyance by quitclaim deed out of Federal ownership, authorization for each of the following withdrawals is revoked:

(1) The Public Water Reserve No. 16, Utah No. 7, dated March 9, 1914.

(2) The Secretary of the Interior Order dated October 20, 1952.

(3) The Secretary of the Interior Order dated July 2, 1956, No. 71676.

(4) The Flaming Gorge National Recreation Area, dated October 1, 1968, established under Public Law 90-540 (16 U.S.C. 460v et seq.), as to lands described in section 4(b).

(5) The Dutch John Administrative Site, dated December 12, 1951 (PLO 769, U-0611).

**SEC. 6. TRANSFER OF JURISDICTION.**

(a) **TRANSFERS FROM THE SECRETARY OF AGRICULTURE.**—Except for properties retained under section 4(e), all lands designated under section 4 for disposal shall be—

(1) transferred from the jurisdiction of the Secretary of Agriculture to the Secretary of the Interior and, if appropriate, the United States Postal Service; and

(2) removed from inclusion in the Ashley National Forest and the Flaming Gorge National Recreation Area.

(b) **TRANSFERS FROM THE SECRETARY OF THE INTERIOR.**—

(1) **IN GENERAL.**—The Secretary of the Interior shall transfer to the Secretary of Agriculture administrative jurisdiction over certain lands and interests in land described in paragraph (2), containing approximately 2,167 acres located in Duchesne and Wasatch Counties, Utah, acquired by the Secretary of the Interior for the Central Utah Project.

(2) **LAND DESCRIPTION.**—The lands referred to in paragraph (1) are lands indicated on the maps generally depicting—

(A) the Dutch John transfer of the Ashley National Forest to the State of Utah, dated February 1997;

(B) the Dutch John transfer of the Uinta National Forest to the State of Utah, dated February 1997;

(C) lands to be transferred to the Forest Service: Lower Stillwater Properties;

(D) lands to be transferred to the Forest Service: Red Hollow (Diamond Properties); and

(E) lands to be transferred to the Forest Service: Coal Mine Hollow (Current Creek Reservoir).

(3) **STATUS OF LANDS.**—

(A) **NATIONAL FORESTS.**—The lands and interests in land transferred to the Secretary of Agriculture under paragraph (1) shall become part of the Ashley or Uinta National Forest, as appropriate. The Secretary of Agriculture shall adjust the boundaries of each of the National Forests to reflect the additional lands.

(B) **MANAGEMENT.**—The transferred lands shall be managed in accordance with the Act of March 1, 1911 (commonly known as the “Weeks Law”) (36 Stat. 962, chapter 186; 16 U.S.C. 515 et seq.) and other laws (including

rules and regulations) applicable to the National Forest System.

(C) WILDLIFE MITIGATION.—As of the date of the transfer under paragraph (1), the wildlife mitigation requirements of section 8 of the Act of April 11, 1956 (43 U.S.C. 620g), shall be deemed to be met.

(D) ADJUSTMENT OF BOUNDARIES.—This paragraph does not limit the authority of the Secretary of Agriculture to adjust the boundaries of the Ashley or Uinta National Forest pursuant to section 11 of the Act of March 1, 1911 (commonly known as the “Weeks Law”) (36 Stat. 963, chapter 186; 16 U.S.C. 521).

(4) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Ashley and Uinta National Forests, as adjusted under this section, shall be considered to be the boundaries of the Forests as of January 1, 1965.

(c) FEDERAL IMPROVEMENTS.—The Secretary of the Interior shall transfer to the Secretary of Agriculture jurisdiction over Federal improvements to the lands transferred under this section.

(d) TRANSFERS FROM THE SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall transfer to the United States Postal Service administrative jurisdiction over certain lands and interests in land subject to Forest Service Special Use Permit No. 1073, containing approximately 0.34 acres.

(e) WITHDRAWALS.—Notwithstanding subsection (a), lands retained by the Federal Government under this Act shall continue to be withdrawn from mineral entry under the United States mining laws.

#### SEC. 7. SURVEYS.

The Secretary of the Interior shall survey or resurvey all or portions of the Dutch John community as necessary—

- (1) to accurately describe parcels identified under this Act for transfer among agencies, for Federal disposal, or for retention by the United States; and
- (2) to facilitate future recordation of title.

#### SEC. 8. PLANNING.

(a) RESPONSIBILITY.—In cooperation with the residents of Dutch John, the Secretary of Agriculture, and the Secretary of the Interior, Daggett County, Utah, shall be responsible for developing a land use plan that is consistent with maintenance of the values of the land that is adjacent to land that remains under the jurisdiction of the Secretary of Agriculture or Secretary of the Interior under this Act.

(b) COOPERATION.—The Secretary of Agriculture and the Secretary of the Interior shall cooperate with Daggett County in ensuring that disposal processes are consistent with the land use plan developed under subsection (a) and with this Act.

#### SEC. 9. APPRAISALS.

(a) REQUIREMENTS.—

- (1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall

Deadlines.

conduct appraisals to determine the fair market value of properties designated for disposal under paragraphs (1), (2), (3), (5), and (7) of section 4(d).

(2) UNOCCUPIED PLATTED LOTS.—Not later than 90 days after the date of receipt by the Secretary of the Interior from an eligible purchaser of a written notice of intent to purchase an unoccupied platted lot referred to in section 4(d)(4), the Secretary of the Interior shall conduct an appraisal of the lot.

(3) SPECIAL USE PERMITS.—

(A) IN GENERAL.—Not later than 90 days after the date of receipt by the Secretary of the Interior from a permit holder of a written notice of intent to purchase a property described in section 10(g), the Secretary of the Interior shall conduct an appraisal of the property.

(B) IMPROVEMENTS AND ALTERNATIVE LAND.—An appraisal to carry out subparagraph (A) may include an appraisal of the value of permit holder improvements and alternative land in order to conduct an in-lieu land sale.

(4) OCCUPIED PARCELS.—In the case of an occupied parcel, an appraisal under this subsection shall include an appraisal of the full fee value of the occupied lot or land parcel and the value of residences, structures, facilities, and existing, in-place federally owned fixtures and furnishings necessary for full use of the property.

(5) UNOCCUPIED PARCELS.—In the case of an unoccupied parcel, an appraisal under this subsection shall consider potential future uses of the parcel that are consistent with the land use plan developed under section 8(a) (including the land use map of the plan) and with subsection (c).

(6) FUNDING.—Funds for appraisals conducted under this section shall be derived from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d).

(b) REDUCTIONS FOR IMPROVEMENTS.—An appraisal of a residence or a structure or facility leased for private use under this section shall deduct the contributory value of improvements made by the current occupant or lessee if the occupant or lessee provides reasonable evidence of expenditure of money or materials in making the improvements.

(c) CURRENT USE.—An appraisal under this section shall consider the current use of a property (including the use of housing as a community residence) and avoid uncertain speculation as to potential future use.

(d) REVIEW.—

(1) IN GENERAL.—The Secretary of the Interior shall make an appraisal under this section available for review by a current occupant or lessee.

(2) ADDITIONAL INFORMATION OR APPEAL.—

(A) IN GENERAL.—The current occupant or lessee may provide additional information, or appeal the findings of the appraisal in writing, to the Upper Colorado Regional Director of the Bureau of Reclamation.

(B) ACTION BY SECRETARY OF THE INTERIOR.—The Secretary of the Interior—

(i) shall consider the additional information or appeal; and

(ii) may conduct a second appraisal if the Secretary determines that a second appraisal is necessary.

(e) INSPECTION.—The Secretary of the Interior shall provide opportunities for other qualified, interested purchasers to inspect completed appraisals under this section.

#### SEC. 10. DISPOSAL OF PROPERTIES.

##### (a) CONVEYANCES.—

(1) PATENTS.—The Secretary of the Interior shall dispose of properties identified for disposal under section 4, other than properties retained under section 4(e), without regard to law governing patents.

(2) CONDITION AND LAND.—Except as otherwise provided in this Act, conveyance of a building, structure, or facility under this Act shall be in its current condition and shall include the land parcel on which the building, structure, or facility is situated.

(3) FIXTURES AND FURNISHINGS.—An existing and in-place fixture or furnishing necessary for the full use of a property or facility under this Act shall be conveyed along with the property.

##### (4) MAINTENANCE.—

(A) BEFORE CONVEYANCE.—Before property is conveyed under this Act, the Secretary of the Interior shall ensure reasonable and prudent maintenance and proper care of the property.

(B) AFTER CONVEYANCE.—After property is conveyed to a recipient under this Act, the recipient shall be responsible for—

- (i) maintenance and proper care of the property; and
- (ii) any contamination of the property.

(b) INFRASTRUCTURE FACILITIES AND LAND.—Infrastructure facilities and land described in paragraphs (1) and (2) of section 4(c) shall be conveyed, without consideration, to Daggett County, Utah.

(c) SCHOOL.—The lands on which are located the Dutch John public schools described in section 4(c)(3) shall be conveyed, without consideration, to the Daggett County School District.

(d) UTAH DIVISION OF WILDLIFE RESOURCES.—Lands on which are located the offices, 3 employee residences, warehouses, and facilities of the Utah Division of Wildlife Resources described in section 4(d)(7) shall be conveyed, without consideration, to the Division.

##### (e) RESIDENCES AND LOTS.—

###### (1) IN GENERAL.—

(A) FAIR MARKET VALUE.—A residence and occupied residential lot to be disposed of under this Act shall be sold for the appraised fair market value.

(B) NOTICE.—The Secretary of the Interior shall provide local general public notice, and written notice to lessees and to current occupants of residences and of occupied residential lots for disposal, of the intent to sell properties under this Act.

###### (2) PURCHASE OF RESIDENCES OR LOTS BY LESSEES.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Interior shall provide a holder of a current

lease from the Secretary for a residence to be sold under paragraph (1) or (2) of section 4(d) or for a residential lot occupied by a privately owned dwelling described in section 4(d)(3) a period of 180 days beginning on the date of the written notice of the Secretary of intent of the Secretary to sell the residence or lot, to execute a contract with the Secretary of the Interior to purchase the residence or lot for the appraised fair market value.

(B) NOTICE OF INTENT TO PURCHASE.—To obtain the protection of subparagraph (A), the lessee shall, during the 30-day period beginning on the date of receipt of the notice referred to in subparagraph (A), notify the Secretary in writing of the intent of the lessee to purchase the residence or lot.

(C) NO NOTICE OR PURCHASE CONTRACT.—If no written notification of intent to purchase is received by the Secretary in accordance with subparagraph (B) or if a purchase contract has not been executed in accordance with subparagraph (A), the residence or lot shall become available for purchase by other persons under paragraph (3).

(3) PURCHASE OF RESIDENCES OR LOTS BY OTHER PERSONS.—

(A) ELIGIBILITY.—If a residence or lot becomes available for purchase under paragraph (2)(C), the Secretary of the Interior shall make the residence or lot available for purchase by—

(i) a current authorized occupant of the residence to be sold;

(ii) a holder of a current reclamation lease for a residence within Dutch John;

(iii) an employee of the Bureau of Reclamation or the Forest Service who resides in Dutch John; or

(iv) a Federal or non-Federal employee in support of a Federal agency who resides in Dutch John.

(B) PRIORITY.—

(i) SENIORITY.—Priority for purchase of properties available for purchase under this paragraph shall be by seniority of reclamation lease or residency in Dutch John.

(ii) PRIORITY LIST.—The Secretary of the Interior shall compile a priority list of eligible potential purchasers that is based on the length of continuous residency in Dutch John or the length of a continuous residence lease issued by the Bureau of Reclamation in Dutch John, with the highest priority provided for purchasers with the longest continuous residency or lease.

(iii) INTERRUPTIONS.—If a continuous residency or lease was interrupted, the Secretary shall consider only that most recent continuous residency or lease.

(iv) OTHER FACTORS.—In preparing the priority list, the Secretary shall not consider a factor (including agency employment or position) other than the length of the current residency or lease.

(v) DISPUTES.—A potential purchaser may file a written appeal over a dispute involving eligibility or ranking on the priority list with the Secretary of the Interior, acting through the Upper Colorado Regional

Director of the Bureau of Reclamation. The Secretary, acting through the Regional Director, shall consider the appeal and resolve the dispute.

(C) NOTICE.—The Secretary of the Interior shall provide general public notice and written notice by certified mail to eligible purchasers that specifies—

(i) properties available for purchase under this paragraph;

(ii) the appraised fair market value of the properties;

(iii) instructions for potential eligible purchasers; and

(iv) any purchase contract requirements.

(D) NOTICE OF INTENT TO PURCHASE.—An eligible purchaser under this paragraph shall have a period of 90 days after receipt of written notification to submit to the Secretary of the Interior a written notice of intent to purchase a specific available property at the listed appraised fair market value.

(E) NOTICE OF ELIGIBILITY OF HIGHEST ELIGIBLE PURCHASER TO PURCHASE PROPERTY.—The Secretary of the Interior shall provide notice to the potential purchaser with the highest eligible purchaser priority for each property that the purchaser will have the first opportunity to execute a sales contract and purchase the property.

(F) AVAILABILITY TO OTHER PURCHASERS ON PRIORITY LIST.—If no purchase contract is executed for a property by the highest priority purchaser within the 180 days after receipt of notice under subparagraph (E), the Secretary of the Interior shall make the property available to other purchasers listed on the priority list.

(G) LIMITATION ON NUMBER OF PROPERTIES.—No household may purchase more than 1 residential property under this paragraph.

(4) RESIDUAL PROPERTY TO COUNTY.—If a residence or lot to be disposed of under this Act is not purchased in accordance with paragraph (2) or (3) within 2 years after providing the first notice of intent to sell under paragraph (1)(B), the Secretary of the Interior shall convey the residence or lot to Daggett County without consideration.

(5) ADVISORY COMMITTEE.—The Secretary of the Interior, acting through the Upper Colorado Regional Director of the Bureau of Reclamation, may appoint a nonfunded Advisory Committee comprised of 1 representative from each of the Bureau of Reclamation, Daggett County, and the Dutch John community to review and provide advice to the Secretary on the resolution of disputes arising under this subsection and subsection (f).

(6) FINANCING.—The Secretary of the Interior shall provide advice to potential purchasers under this subsection and subsection (f) in obtaining appropriate and reasonable financing for the purchase of a residence or lot.

(f) UNOCCUPIED PLATTED LOTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Interior shall make an unoccupied platted lot described in section 4(d)(4) available for sale to eligible purchasers for the appraised fair market value of the lot.

(2) CONVEYANCE FOR PUBLIC PURPOSE.—On request from Daggett County, the Secretary of the Interior may convey directly to the County without consideration a lot referred to in paragraph (1) that will be used for a public use purpose that is consistent with the land use plan developed under section 8(a).

Applicability.

(3) ADMINISTRATION.—The procedures established under subsection (e) shall apply to this subsection to the maximum extent practicable, as determined by the Secretary of the Interior.

(4) LAND-USE DESIGNATION.—For each lot sold under this subsection, the Secretary of the Interior shall include in the notice of intent to sell the lot provided under this subsection the land-use designation of the lot established under the land use plan developed under section 8(a).

(5) LIMITATION ON NUMBER OF LOTS.—No household may purchase more than 1 residential lot under this subsection.

(6) LIMITATION ON PURCHASE OF ADDITIONAL LOTS.—No household purchasing an existing residence under this section may purchase an additional single home, residential lot.

(7) RESIDUAL LOTS TO COUNTY.—If a lot described in paragraph (1) is not purchased in accordance with paragraphs (1) through (6) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the lot to Daggett County without consideration.

(g) SPECIAL USE PERMITS.—

(1) SALE.—Lands on which Forest Service special use permits are issued to holders numbered 4054 and 9303, Ashley National Forest, comprising approximately 15.3 acres and 1 acre, respectively, may be sold at appraised fair market value to the holder of the permit.

(2) ADMINISTRATION OF PERMITS.—On transfer of jurisdiction of the land to the Secretary of the Interior pursuant to section 6, the Secretary of the Interior shall administer the permits under the terms and conditions of the permits.

(3) NOTICE OF AVAILABILITY FOR PURCHASE.—The Secretary of the Interior shall notify the respective permit holders in writing of the availability of the land for purchase.

(4) APPRAISALS.—The Secretary of the Interior shall not conduct an appraisal of the land unless the Secretary receives a written notice of intent to purchase the land within 2 years after providing notice under paragraph (3).

(5) ALTERNATIVE PARCELS.—On request by permit holder number 9303, the Secretary of the Interior, in consultation with Daggett County, may—

(A) consider sale of a parcel within the Daggett County community of similar size and appraised value in lieu of the land under permit on the date of enactment of this Act; and

(B) provide the holder credit toward the purchase or other negotiated compensation for the appraised value of improvements of the permittee to land under permit on the date of enactment of this Act.

(6) RESIDUAL LAND TO COUNTY.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) through (5) within 2 years after providing the first notice of



intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(h) TRANSFERS TO COUNTY.—Other land occupied by authorization of a special use permit, easement, or right-of-way to be disposed of under this Act shall be transferred to Daggett County if the holder of the authorization and the County, prior to transfer of the lands to the County—

(1) agree to and execute a legal document that grants the holder the rights and privileges provided in the existing authorization; or

(2) enter into another arrangement that is mutually satisfactory to the holder and the County.

(i) CHURCH LAND.—

(1) IN GENERAL.—The Secretary of the Interior shall offer to sell land to be disposed of under this Act on which is located an established church to the parent entity of the church at the appraised fair market value.

(2) NOTICE.—The Secretary of the Interior shall notify the church in writing of the availability of the land for purchase.

(3) RESIDUAL LAND TO COUNTY.—If land described in paragraph (1) is not purchased in accordance with paragraphs (1) and (2) within 2 years after providing the first notice of intent to sell under this subsection, the Secretary of the Interior shall convey the land to Daggett County without consideration.

(j) RESIDUAL PROPERTIES TO COUNTY.—The Secretary of the Interior shall convey all lands, buildings, or facilities designated for disposal under this Act that are not conveyed in accordance with subsections (a) through (i) to Daggett County without consideration.

(k) WATER RIGHTS.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Secretary of the Interior shall transfer all water rights the Secretary holds that are applicable to the Dutch John municipal water system to Daggett County.

(2) WATER SERVICE CONTRACT.—

(A) IN GENERAL.—Transfer of rights under paragraph (1) is contingent on Daggett County entering into a water service contract with the Secretary of the Interior covering payment for and delivery of untreated water to Daggett County pursuant to the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.).

(B) DELIVERED WATER.—The contract shall require payment only for water actually delivered.

(3) EXISTING RIGHTS.—Existing rights for transfer to Daggett County under this subsection include—

(A) Utah Water Right 41-2942 (A30557, Cert. No. 5903) for 0.08 cubic feet per second from a water well; and

(B) Utah Water Right 41-3470 (A30414b), an unapproved application to segregate 12,000 acre-feet per year of water from the original approved Flaming Gorge water right (41-2963) for municipal use in the town of Dutch John and surrounding areas.

(4) CULINARY WATER SUPPLIES.—The transfer of water rights under this subsection is conditioned on the agreement of Daggett County to provide culinary water supplies to Forest Service campgrounds served (on the date of enactment of this

Act) by the water supply system and to Forest Service and Bureau of Reclamation facilities, at a rate equivalent to other similar uses.

(5) MAINTENANCE.—The Secretary of Agriculture and the Secretary of the Interior shall be responsible for maintenance of their respective water systems from the point of the distribution lines of the systems.

(1) SHORELINE ACCESS.—On receipt of an acceptable application, the Secretary of Agriculture shall consider issuance of a special use permit affording Flaming Gorge Reservoir public shoreline access and use within the vicinity of Dutch John in conjunction with commercial visitor facilities provided and maintained under such a permit.

(m) REVENUES.—

(1) IN GENERAL.—Except as provided in paragraph (2), all revenues derived from the sale of properties as authorized by this Act shall temporarily be deposited in a segregated interest-bearing trust account in the Treasury with the moneys on hand in the account paid to Daggett County semiannually to be used by the County for purposes associated with the provision of governmental and community services to the Dutch John community.

(2) DEPOSIT IN THE GENERAL FUND.—Of the revenues described in paragraph (1), 15.1 percent shall be deposited in the general fund of the Treasury.

#### SEC. 11. VALID EXISTING RIGHTS.

(a) AGREEMENTS.—

(1) IN GENERAL.—If any lease, permit, right-of-way, easement, or other valid existing right is appurtenant to land conveyed to Daggett County, Utah, under this Act, the County shall honor and enforce the right through a legal agreement entered into by the County and the holder before the date of conveyance.

(2) EXTENSION OR TERMINATION.—The County may extend or terminate an agreement under paragraph (1) at the end of the term of the agreement.

(b) USE OF REVENUES.—During such period as the County is enforcing a right described in subsection (a)(1) through a legal agreement between the County and the holder of the right under subsection (a), the County shall collect and retain any revenues due the Federal Government under the terms of the right.

(c) EXTINGUISHMENT OF RIGHTS.—If a right described in subsection (a)(1) with respect to certain land has been extinguished or otherwise protected, the County may dispose of the land.

#### SEC. 12. CULTURAL RESOURCES.

(a) MEMORANDA OF AGREEMENT.—Before transfer and disposal under this Act of any land that contains cultural resources and that may be eligible for listing on the National Register of Historic Places, the Secretary of Agriculture, in consultation with the Secretary of the Interior, the Utah Historic Preservation Office, and Daggett County, Utah, shall prepare a memorandum of agreement, for review and approval by the Utah Office of Historical Preservation and the Advisory Council on Historic Preservation established by title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), that contains a strategy for protecting or mitigating adverse effects on cultural resources on the land.

(b) INTERIM PROTECTION.—Until such time as a memorandum of agreement has been approved, or until lands are disposed of under this Act, the Secretary of Agriculture shall provide clearance or protection for the resources.

(c) TRANSFER SUBJECT TO AGREEMENT.—On completion of actions required under the memorandum of agreement for certain land, the Secretary of the Interior shall provide for the conveyance of the land to Daggett County, Utah, subject to the memorandum of agreement.

**SEC. 13. TRANSITION OF SERVICES TO LOCAL GOVERNMENT CONTROL.**

(a) ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Interior shall provide training and transitional operating assistance to personnel designated by Daggett County, Utah, as successors to the operators for the Secretary of the infrastructure facilities described in section 4(c).

(2) DURATION OF TRAINING.—With respect to an infrastructure facility, training under paragraph (1) shall continue for such period as is necessary for the designated personnel to demonstrate reasonable capability to safely and efficiently operate the facility, but not to exceed 2 years.

(3) CONTINUING ASSISTANCE.—The Secretary shall remain available to assist with resolving questions about the original design and installation, operating and maintenance needs, or other aspects of the infrastructure facilities.

(b) TRANSITION COSTS.—For the purpose of defraying costs of transition in administration and provision of basic community services, an annual payment of \$300,000 (as adjusted by the Secretary for changes in the Consumer Price Index for all-urban consumers published by the Department of Labor) shall be provided from the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (70 Stat. 107, chapter 203; 43 U.S.C. 620d), to Daggett County, Utah, or, in accordance with subsection (c), to Dutch John, Utah, for a period not to exceed 15 years beginning the first January 1 that occurs after the date of enactment of this Act.

(c) DIVISION OF PAYMENT.—If Dutch John becomes incorporated and becomes responsible for operating any of the infrastructure facilities referred to in subsection (a)(1) or for providing other basic local governmental services, the payment amount for the year of incorporation and each following year shall be proportionately divided between Daggett County and Dutch John based on the respective costs paid by each government for the previous year to provide the services.

(d) ELECTRIC POWER.—

(1) AVAILABILITY.—The United States shall make available electric power and associated energy from the Colorado River Storage Project for the Dutch John community.

(2) AMOUNT.—The amount of electric power and associated energy made available under paragraph (1) shall not exceed 1,000,000 kilowatt-hours per year.

(3) RATES.—The rates for power and associated energy shall be the firm capacity and energy rates of the Salt Lake City Area/Integrated Projects.

**SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

(a) **RESOURCE RECOVERY AND MITIGATION.**—There are authorized to be appropriated to the Secretary of Agriculture, out of nonpower revenues to the Federal Government from land transferred under this Act, such sums as are necessary to implement such habitat, sensitive resource, or cultural resource recovery, mitigation, or replacement strategies as are developed with respect to land transferred under this Act, except that the strategies may not include acquisition of privately owned lands in Daggett County.

(b) **OTHER SUMS.**—In addition to sums made available under subsection (a), there are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved October 30, 1998.

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**LEGISLATIVE HISTORY—S. 890 (H.R. 2108):**

HOUSE REPORTS: No. 105-714 accompanying H.R. 2108 (Comm. on Resources).

SENATE REPORTS: No. 105-264 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 2, considered and passed Senate.

Oct. 8, considered and passed House.



Public Law 105–327  
105th Congress

An Act

To amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges.

Oct. 30, 1998

[S. 1333]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. USE OF CERTAIN RECREATIONAL FEES.**

Section 4(i)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)(1)) is amended by adding at the end the following:

“(C) UNITS AT WHICH ENTRANCE FEES OR ADMISSIONS FEES CANNOT BE COLLECTED.—

“(i) WITHHOLDING OF AMOUNTS.—Notwithstanding subparagraph (A), section 315(c) of section 101(c) of the Omnibus Consolidated Reversions and Appropriations Act of 1996 (16 U.S.C. 460l–6a note; Public Law 104–134), or section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1998 (16 U.S.C. 460l–6a note; Public Law 105–83), the Secretary of the Interior shall withhold from the special account under subparagraph (A) 100 percent of the fees and charges collected in connection with any unit of the National Park System at which entrance fees or admission fees cannot be collected by reason of deed restrictions.

“(ii) USE OF AMOUNTS.—Amounts withheld under clause (i) shall be retained by the Secretary and shall be available, without further Act of appropriation, for expenditure by the Secretary for the unit with respect to which the amounts were collected for the purposes of enhancing the quality of the visitor experience, protection of resources, repair and maintenance,

interpretation, signage, habitat or facility enhancement, resource preservation, annual operation (including fee collection), maintenance, and law enforcement.”.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—S. 1333:

SENATE REPORTS: No. 105-311 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 2, considered and passed Senate.

Oct. 10, considered and passed House.



Public Law 105–328  
105th Congress

An Act

To amend the Fish and Wildlife Improvement Act of 1978 to enable the Secretary of the Interior to more effectively use the proceeds of sales of certain items.

Oct. 30, 1998  
[S. 2094]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Fish and Wildlife Revenue Enhancement Act of 1998”.

Fish and Wildlife  
Revenue  
Enhancement  
Act of 1998.  
16 USC 742a  
note.

**SEC. 2. FINDINGS AND PURPOSES.**

16 USC 742l  
note.

(a) FINDINGS.—Congress finds that—

(1) the United States Fish and Wildlife Service (referred to in this Act as the “Service”)—

(A) is responsible for storage and disposal of items derived from fish, wildlife, and plants, including eagles and eagle parts, and other items that have become the property of the United States through abandonment or forfeiture under applicable laws relating to fish, wildlife, or plants;

(B) distributes many of those items for educational and scientific uses and for religious purposes of Native Americans; and

(C) unless otherwise prohibited by law, may dispose of some of those items by sale, except items derived from endangered or threatened species, marine mammals, and migratory birds;

(2) under law in effect on the date of enactment of this Act, the revenue from sale of abandoned items is not available to the Service, although approximately 90 percent of the items in possession of the Service have been abandoned; and

(3) making revenue from the sale of abandoned items available to the Service will enable the Service—

(A) to cover costs incurred in shipping, storing, and disposing of items derived from fish, wildlife, and plants; and

(B) to make more extensive distributions of those items for educational, scientific, and Native American religious purposes.

(b) PURPOSES.—The purposes of this Act are to make proceeds from sales of abandoned items derived from fish, wildlife, and plants available to the Service and to authorize the use of those proceeds to cover costs incurred in shipping, storing, and disposing of those items.

**SEC. 3. USE OF PROCEEDS OF CERTAIN SALES.**

Section 3(c) of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 742l(c)) is amended—

(1) by striking “Notwithstanding” and inserting the following:

“(1) IN GENERAL.—Subject to paragraph (2), notwithstanding”; and

(2) by adding at the end the following:

“(2) PROHIBITION ON SALE OF CERTAIN ITEMS.—In carrying out paragraph (1), the Secretary of the Interior and the Secretary of Commerce may not sell any species of fish, wildlife, or plant, or derivative thereof, for which the sale is prohibited by another Federal law.

“(3) USE OF REVENUES.—The Secretary of the Interior and the Secretary of Commerce may each expend any revenues received from the disposal of items under paragraph (1), and all sums referred to in the first sentence of section 11(d) of the Endangered Species Act of 1973 (16 U.S.C. 1540(d)) and the first sentence of section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))—

“(A) to make payments in accordance with those sections; and

“(B) to pay costs associated with—

“(i) shipping items referred to in paragraph (1) to and from the place of storage, sale, or temporary or final disposal, including temporary or permanent loan;

“(ii) storage of the items, including inventory of, and security for, the items;

“(iii) appraisal of the items;

“(iv) sale or other disposal of the items in accordance with applicable law, including auctioneer commissions and related expenses;

“(v) payment of any valid liens or other encumbrances on the items and payment for other measures required to clear title to the items; and



“(vi) in the case of the Secretary of the Interior only, processing and shipping of eagles and other migratory birds, and parts of migratory birds, for Native American religious purposes.”.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—S. 2094:

SENATE REPORTS: No. 105-285 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 11, considered and passed Senate.

Oct. 9, considered and passed House.



Public Law 105-329  
105th Congress

An Act

Oct. 30, 1998  
[S. 2106]

Arches National  
Park Expansion  
Act of 1998.  
16 USC 272 note.

To expand the boundaries of Arches National Park, Utah, to include portions of certain drainages that are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Arches National Park Expansion Act of 1998”.

**SEC. 2. EXPANSION OF ARCHES NATIONAL PARK, UTAH.**

(a) **BOUNDARY EXPANSION.**—The first section of Public Law 92-155 (16 U.S.C. 272) is amended—

(1) by striking “That (a) subject to” and inserting the following:

**“SECTION 1. ESTABLISHMENT OF PARK.**

“(a) **IN GENERAL.**—

“(1) **INITIAL BOUNDARIES.**—Subject to”; and

(2) by striking “Such map” and inserting the following:

“(2) **EXPANDED BOUNDARIES.**—Effective on the date of enactment of this paragraph, the boundary of the park shall include the area consisting of approximately 3,140 acres and known as the ‘Lost Spring Canyon Addition’, as depicted on the map entitled ‘Boundary Map, Arches National Park, Lost Spring Canyon Addition’, numbered 138/60,000-B, and dated April 1997.

“(3) **MAPS.**—The maps described in paragraphs (1) and (2)”.

(b) **INCLUSION OF LAND IN PARK.**—Section 2 of Public Law 92-155 (16 U.S.C. 272a) is amended—

(1) by striking “SEC. 2. The Secretary” and inserting the following:

**“SEC. 2. ACQUISITION OF PROPERTY.**

“(a) **IN GENERAL.**—The Secretary”; and

(2) by adding at the end the following:

“(b) **LOST SPRING CANYON ADDITION.**—As soon as practicable after the date of enactment of this subsection, the Secretary shall transfer jurisdiction over the Federal land contained in the Lost Spring Canyon Addition from the Bureau of Land Management to the National Park Service.”.

(c) **LIVESTOCK GRAZING.**—Section 3 of Public Law 92-155 (16 U.S.C. 272b) is amended—

Effective date.

(1) by striking “SEC. 3. Where” and inserting the following:

**“SEC. 3. LIVESTOCK GRAZING.**

“(a) IN GENERAL.—In a case in which”; and

(2) by adding at the end the following:

“(b) LOST SPRING CANYON ADDITION.—

“(1) CONTINUATION OF GRAZING LEASES, PERMITS, AND LICENSES.—In the case of any grazing lease, permit, or license with respect to land in the Lost Spring Canyon Addition that was issued before the date of enactment of this subsection, the Secretary shall, subject to periodic renewal, continue the grazing lease, permit, or license for a period equal to the lifetime of the holder of the grazing lease, permit, or license as of that date plus the lifetime of any direct descendants of the holder born before that date.

“(2) RETIREMENT.—A grazing lease, permit, or license described in paragraph (1) shall be permanently retired at the end of the period described in paragraph (1).

“(3) PERIODIC RENEWAL.—Until the expiration of the period described in paragraph (1), the holder (or descendant of the holder) of a grazing lease, permit, or license shall be entitled to renew the lease, permit, or license periodically, subject to such limitations, conditions, or regulations as the Secretary may prescribe.

“(4) SALE.—A grazing lease, permit, or license described in paragraph (1) may be sold during the period described in paragraph (1) only on the condition that the purchaser shall, immediately upon acquisition, permanently retire the lease, permit, or license.

“(5) TAYLOR GRAZING ACT.—Nothing in this subsection affects other provisions concerning leases, permits, or licenses under the Act of June 28, 1934 (commonly known as the ‘Taylor Grazing Act’) (48 Stat. 1269, chapter 865; 43 U.S.C. 315 et seq.).

“(6) ADMINISTRATION.—Any portion of a grazing lease, permit, or license with respect to land in the Lost Spring Canyon Addition shall be administered by the National Park Service.”.

(d) WITHDRAWAL FROM MINERAL ENTRY AND LEASING; PIPELINE MANAGEMENT.—Section 5 of Public Law 92-155 (16 U.S.C. 272d) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—The Secretary shall administer, protect and develop the park in accordance with the provisions of the law generally applicable to units of the National Park System, including the Act entitled ‘An Act to establish a National Park Service, and for other purposes’, approved August 25, 1916 (39 Stat. 535).”; and

(2) by striking subsection (b) and inserting the following:

“(b) LOST SPRING CANYON ADDITION.—

“(1) WITHDRAWAL.—Subject to valid existing rights, all Federal land in the Lost Spring Canyon Addition is appropriated and withdrawn from entry, location, selection, leasing, or other disposition under the public land laws (including the mineral leasing laws).

“(2) EFFECT.—The inclusion of the Lost Spring Canyon Addition in the park shall not affect the operation or maintenance by the Northwest Pipeline Corporation (or its successors

or assigns) of the natural gas pipeline and related facilities located in the Lost Spring Canyon Addition on the date of enactment of this paragraph.”.

16 USC 272g  
note.

(e) EFFECT ON SCHOOL TRUST LAND.—

(1) FINDINGS.—Congress finds that—

(A) a parcel of State school trust land, more specifically described as section 16, township 23 south, range 22 east, of the Salt Lake base and meridian, is partially contained within the Lost Spring Canyon Addition included within the boundaries of Arches National Park by the amendment by subsection (a);

(B) the parcel was originally granted to the State of Utah for the purpose of generating revenue for the public schools through the development of natural and other resources located on the parcel; and

(C) it is in the interest of the State of Utah and the United States for the parcel to be exchanged for Federal land of equivalent value outside the Lost Spring Canyon Addition to permit Federal management of all lands within the Lost Spring Canyon Addition.

(2) LAND EXCHANGE.—Public Law 92-155 (16 U.S.C. 272 et seq.) is amended by adding at the end the following:

16 USC 272g.

**“SEC. 8. LAND EXCHANGE INVOLVING SCHOOL TRUST LAND.**

**“(a) EXCHANGE REQUIREMENT.—**

**“(1) IN GENERAL.—**If, not later than 1 year after the date of enactment of this section, and in accordance with this section, the State of Utah offers to transfer all right, title, and interest of the State in and to the school trust land described in subsection (b)(1) to the United States, the Secretary—

**“(A)** shall accept the offer on behalf of the United States; and

Deadline.

**“(B)** not later than 180 days after the date of acceptance, shall convey to the State of Utah all right, title, and interest of the United States in and to the land described in subsection (b)(2).

**“(2) SIMULTANEOUS CONVEYANCES.—**Title to the school trust land shall be conveyed at the same time as conveyance of title to the Federal lands by the Secretary.

**“(3) VALID EXISTING RIGHTS.—**The land exchange under this section shall be subject to valid existing rights, and each party shall succeed to the rights and obligations of the other party with respect to any lease, right-of-way, or permit encumbering the exchanged land.

**“(b) DESCRIPTION OF PARCELS.—**

**“(1) STATE CONVEYANCE.—**The school trust land to be conveyed by the State of Utah under subsection (a) is section 16, Township 23 South, Range 22 East of the Salt Lake base and meridian.

**“(2) FEDERAL CONVEYANCE.—**The Federal land to be conveyed by the Secretary consists of approximately 639 acres, described as lots 1 through 12 located in the S½N½ and the N½N½N½S½ of section 1, Township 25 South, Range 18 East, Salt Lake base and meridian.

**“(3) EQUIVALENT VALUE.—**The Federal land described in paragraph (2) shall be considered to be of equivalent value to that of the school trust land described in paragraph (1).

“(c) MANAGEMENT BY STATE.—

“(1) IN GENERAL.—At least 60 days before undertaking or permitting any surface disturbing activities to occur on land acquired by the State of Utah under this section, the State shall consult with the Utah State Office of the Bureau of Land Management concerning the extent and impact of such activities on Federal land and resources and conduct, in a manner consistent with Federal law, inventory, mitigation, and management activities in connection with any archaeological, paleontological, and cultural resources located on the acquired lands.

“(2) PRESERVATION OF EXISTING USES.—To the extent that it is consistent with applicable law governing the use and disposition of State school trust land, the State shall preserve existing grazing, recreational, and wildlife uses of the acquired lands in existence on the date of enactment of this section.

“(3) ACTIVITIES AUTHORIZED BY MANAGEMENT PLAN.—Nothing in this subsection precludes the State of Utah from authorizing or undertaking a surface or mineral activity that is authorized by a land management plan for the acquired land.

“(d) IMPLEMENTATION.—Administrative actions necessary to implement the land exchange under this section shall be completed not later than 180 days after the date of enactment of this section.”.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—S. 2106 (H.R. 2283):

HOUSE REPORTS: No. 105-385 accompanying H.R. 2283 (Comm. on Resources).

SENATE REPORTS: No. 105-330 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 2, considered and passed Senate.

Oct. 10, considered and passed House.



Public Law 105–330  
105th Congress

An Act

Oct. 30, 1998  
[S. 2193]

To implement the provisions of the Trademark Law Treaty.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

Trademark Law  
Treaty  
Implementation  
Act.

**TITLE I—TRADEMARK LAW TREATY  
IMPLEMENTATION**

15 USC 1051  
note.

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Trademark Law Treaty Implementation Act”.

15 USC 1058  
note.

**SEC. 102. REFERENCE TO THE TRADEMARK ACT OF 1946.**

For purposes of this title, the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1051 et seq.), shall be referred to as the “Trademark Act of 1946”.

**SEC. 103. APPLICATION FOR REGISTRATION; VERIFICATION.**

(a) APPLICATION FOR USE OF TRADEMARK.—Section 1(a) of the Trademark Act of 1946 (15 U.S.C. 1051(a)) is amended to read as follows:

“SECTION 1. (a)(1) The owner of a trademark used in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner, and such number of specimens or facsimiles of the mark as used as may be required by the Commissioner.

“(2) The application shall include specification of the applicant’s domicile and citizenship, the date of the applicant’s first use of the mark, the date of the applicant’s first use of the mark in commerce, the goods in connection with which the mark is used, and a drawing of the mark.

“(3) The statement shall be verified by the applicant and specify that—

“(A) the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be the owner of the mark sought to be registered;

“(B) to the best of the verifier’s knowledge and belief, the facts recited in the application are accurate;

“(C) the mark is in use in commerce; and

“(D) to the best of the verifier’s knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive, except that, in the case of every application claiming concurrent use, the applicant shall—

“(i) state exceptions to the claim of exclusive use; and

“(ii) shall specify, to the extent of the verifier’s knowledge—

“(I) any concurrent use by others;

“(II) the goods on or in connection with which and the areas in which each concurrent use exists;

“(III) the periods of each use; and

“(IV) the goods and area for which the applicant desires registration.

“(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.”.

Regulations.

(b) APPLICATION FOR BONA FIDE INTENTION TO USE TRADE-MARK.—Subsection (b) of section 1 of the Trademark Act of 1946 (15 U.S.C. 1051(b)) is amended to read as follows:

“(b)(1) A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce may request registration of its trademark on the principal register hereby established by paying the prescribed fee and filing in the Patent and Trademark Office an application and a verified statement, in such form as may be prescribed by the Commissioner.

“(2) The application shall include specification of the applicant’s domicile and citizenship, the goods in connection with which the applicant has a bona fide intention to use the mark, and a drawing of the mark.

“(3) The statement shall be verified by the applicant and specify—

“(A) that the person making the verification believes that he or she, or the juristic person in whose behalf he or she makes the verification, to be entitled to use the mark in commerce;

“(B) the applicant’s bona fide intention to use the mark in commerce;

“(C) that, to the best of the verifier’s knowledge and belief, the facts recited in the application are accurate; and

“(D) that, to the best of the verifier’s knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive.

Except for applications filed pursuant to section 44, no mark shall be registered until the applicant has met the requirements of subsections (c) and (d) of this section.

“(4) The applicant shall comply with such rules or regulations as may be prescribed by the Commissioner. The Commissioner

Regulations.

shall promulgate rules prescribing the requirements for the application and for obtaining a filing date herein.”.

(c) CONSEQUENCE OF DELAYS.—Paragraph (4) of section 1(d) of the Trademark Act of 1946 (15 U.S.C. 1051(d)(4)) is amended to read as follows:

“(4) The failure to timely file a verified statement of use under paragraph (1) or an extension request under paragraph (2) shall result in abandonment of the application, unless it can be shown to the satisfaction of the Commissioner that the delay in responding was unintentional, in which case the time for filing may be extended, but for a period not to exceed the period specified in paragraphs (1) and (2) for filing a statement of use.”.

#### **SEC. 104. REVIVAL OF ABANDONED APPLICATION.**

Section 12(b) of the Trademark Act of 1946 (15 U.S.C. 1062(b)) is amended in the last sentence by striking “unavoidable” and by inserting “unintentional”.

#### **SEC. 105. DURATION OF REGISTRATION; CANCELLATION; AFFIDAVIT OF CONTINUED USE; NOTICE OF COMMISSIONER'S ACTION.**

Section 8 of the Trademark Act of 1946 (15 U.S.C. 1058) is amended to read as follows:

##### **“DURATION**

“SEC. 8. (a) Each registration shall remain in force for 10 years, except that the registration of any mark shall be canceled by the Commissioner for failure to comply with the provisions of subsection (b) of this section, upon the expiration of the following time periods, as applicable:

“(1) For registrations issued pursuant to the provisions of this Act, at the end of 6 years following the date of registration.

“(2) For registrations published under the provisions of section 12(c), at the end of 6 years following the date of publication under such section.

“(3) For all registrations, at the end of each successive 10-year period following the date of registration.

“(b) During the 1-year period immediately preceding the end of the applicable time period set forth in subsection (a), the owner of the registration shall pay the prescribed fee and file in the Patent and Trademark Office—

“(1) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is in use in commerce and such number of specimens or facsimiles showing current use of the mark as may be required by the Commissioner; or

“(2) an affidavit setting forth those goods or services recited in the registration on or in connection with which the mark is not in use in commerce and showing that any such nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

“(c)(1) The owner of the registration may make the submissions required under this section within a grace period of 6 months after the end of the applicable time period set forth in subsection (a). Such submission is required to be accompanied by a surcharge prescribed by the Commissioner.



“(2) If any submission filed under this section is deficient, the deficiency may be corrected after the statutory time period and within the time prescribed after notification of the deficiency. Such submission is required to be accompanied by a surcharge prescribed by the Commissioner.

“(d) Special notice of the requirement for affidavits under this section shall be attached to each certificate of registration and notice of publication under section 12(c).

“(e) The Commissioner shall notify any owner who files 1 of the affidavits required by this section of the Commissioner’s acceptance or refusal thereof and, in the case of a refusal, the reasons therefor.

“(f) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.”.

#### **SEC. 106. RENEWAL OF REGISTRATION.**

Section 9 of the Trademark Act of 1946 (15 U.S.C. 1059) is amended to read as follows:

##### **“RENEWAL OF REGISTRATION**

“SEC. 9. (a) Subject to the provisions of section 8, each registration may be renewed for periods of 10 years at the end of each successive 10-year period following the date of registration upon payment of the prescribed fee and the filing of a written application, in such form as may be prescribed by the Commissioner. Such application may be made at any time within 1 year before the end of each successive 10-year period for which the registration was issued or renewed, or it may be made within a grace period of 6 months after the end of each successive 10-year period, upon payment of a fee and surcharge prescribed therefor. If any application filed under this section is deficient, the deficiency may be corrected within the time prescribed after notification of the deficiency, upon payment of a surcharge prescribed therefor.

“(b) If the Commissioner refuses to renew the registration, the Commissioner shall notify the registrant of the Commissioner’s refusal and the reasons therefor.

“(c) If the registrant is not domiciled in the United States, the registrant shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.”.

**SEC. 107. RECORDING ASSIGNMENT OF MARK.**

Section 10 of the Trademark Act of 1946 (15 U.S.C. 1060) is amended to read as follows:

“ASSIGNMENT

“SEC. 10. (a) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing. In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted. Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the Patent and Trademark Office, the record shall be prima facie evidence of execution. An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the Patent and Trademark Office within 3 months after the date of the subsequent purchase or prior to the subsequent purchase. The Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Commissioner.

“(b) An assignee not domiciled in the United States shall designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.”.

**SEC. 108. INTERNATIONAL CONVENTIONS; COPY OF FOREIGN REGISTRATION.**

Section 44 of the Trademark Act of 1946 (15 U.S.C. 1126) is amended—

(1) in subsection (d)—

(A) by striking “23, or 44(e) of this Act” and inserting “or 23 of this Act or under subsection (e) of this section”; and

(B) in paragraphs (3) and (4) by striking “this subsection (d)” and inserting “this subsection”; and

(2) in subsection (e), by striking the second sentence and inserting the following: “Such applicant shall submit, within such time period as may be prescribed by the Commissioner,

a certification or a certified copy of the registration in the country of origin of the applicant.”.

#### **SEC. 109. TRANSITION PROVISIONS.**

Applicability.

(a) **REGISTRATIONS IN 20-YEAR TERM.**—The provisions of section 8 of the Trademark Act of 1946, as amended by section 105 of this Act, shall apply to a registration for trademark issued or renewed for a 20-year term, if the expiration date of the registration is on or after the effective date of this Act.

15 USC 1058  
note.

(b) **APPLICATIONS FOR REGISTRATION.**—This title and the amendments made by this title shall apply to any application for registration of a trademark pending on, or filed on or after, the effective date of this Act.

15 USC 1051  
note.

(c) **AFFIDAVITS.**—The provisions of section 8 of the Trademark Act of 1946, as amended by section 105 of this Act, shall apply to the filing of an affidavit if the sixth or tenth anniversary of the registration, or the sixth anniversary of publication of the registration under section 12(c) of the Trademark Act of 1946, for which the affidavit is filed is on or after the effective date of this Act.

15 USC 1058  
note.

(d) **RENEWAL APPLICATIONS.**—The amendment made by section 106 shall apply to the filing of an application for renewal of a registration if the expiration date of the registration for which the renewal application is filed is on or after the effective date of this Act.

15 USC 1059  
note.

#### **SEC. 110. EFFECTIVE DATE.**

15 USC 1051  
note.

This title and the amendments made by this title shall take effect—

(1) on the date that is 1 year after the date of the enactment of this Act, or

(2) upon the entry into force of the Trademark Law Treaty with respect to the United States, whichever occurs first.

## **TITLE II—TECHNICAL CORRECTIONS**

#### **SEC. 201. TECHNICAL CORRECTIONS TO TRADEMARK ACT OF 1946.**

(a) **IN GENERAL.**—The Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946), is amended as follows:

(1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is amended—

(A) by inserting “and,” after “specifying the date of the applicant’s first use of the mark in commerce”; and

(B) by striking “and, the mode or manner in which the mark is used on or in connection with such goods or services”.

(2) Section 2 (15 U.S.C. 1052) is amended—

(A) in subsection (e)—

(i) in paragraph (3) by striking “or” after “them,”; and

(ii) by inserting before the period at the end the following: “; or (5) comprises any matter that, as a whole, is functional”; and

(B) in subsection (f), by striking “paragraphs (a), (b), (c), (d), and (e)(3)” and inserting “subsections (a), (b), (c), (d), (e)(3), and (e)(5)”.

(3) Section 7(a) (15 U.S.C. 1057(a)) is amended in the first sentence by striking the second period at the end.

(4) Section 14(3) (15 U.S.C. 1064(3)) is amended by inserting “or is functional,” before “or has been abandoned”.

(5) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking “or device” and inserting “, device, any matter that as a whole is not functional,”.

(6) Section 26 (15 U.S.C. 1094) is amended by striking “7(c),” and inserting “, 7(c),”.

(7) Section 31 (15 U.S.C. 1113) is amended—

(A) by striking—

**“§ 31. Fees”;**

and

(B) by striking “(a)” and inserting “SEC. 31. (a)”.

(8) Section 32(1) (15 U.S.C. 1114(1)) is amended by striking “As used in this subsection” and inserting “As used in this paragraph”.

(9) Section 33(b) (15 U.S.C. 1115(b)) is amended—

(A) by redesignating paragraph (8) as paragraph (9);

and

(B) by inserting after paragraph (7) the following:

“(8) That the mark is functional; or”.

(10) Section 39(a) (15 U.S.C. 1121(a)) is amended by striking “circuit courts” and inserting “courts”.

(11) Section 42 (15 U.S.C. 1124) is amended by striking “the any domestic” and inserting “any domestic”.

(12) The Act is amended by striking “trade-mark” each place it appears in the text and the title and inserting “trade-mark”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply only to any civil action filed or proceeding before the United States Patent and Trademark Office commenced on or after such date relating to the registration of a mark.

15 USC 1052,  
1124.

Applicability.  
15 USC 1051  
note.

## TITLE III—MISCELLANEOUS PROVISIONS

### SEC. 301. USE OF CERTIFICATION MARKS FOR ADVERTISING OR PROMOTIONAL PURPOSES.

Section 14 of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1064) (commonly referred to as the Trademark Act of 1946) is amended by adding at the end the following: “Nothing in paragraph (5) shall be deemed to prohibit the registrant from using its certification mark in advertising or promoting recognition of the certification program or of the goods or services meeting the certification standards of the registrant. Such uses of the certification mark shall not be grounds for cancellation under paragraph (5), so long as the registrant does not itself produce, manufacture, or sell any of the

certified goods or services to which its identical certification mark is applied.”.

**SEC. 302. OFFICIAL INSIGNIA OF NATIVE INDIAN TRIBES.**

(a) **IN GENERAL.**—The Commissioner of Patents and Trademarks shall study the issues surrounding the protection of the official insignia of federally and State recognized Native American tribes. The study shall address at least the following issues:

(1) The impact on Native American tribes, trademark owners, the Patent and Trademark Office, any other interested party, or the international legal obligations of the United States, of any change in law or policy with respect to—

(A) the prohibition of the Federal registration of trademarks identical to the official insignia of Native American tribes;

(B) the prohibition of any new use of the official insignia of Native American tribes; and

(C) appropriate defenses, including fair use, to any claims of infringement.

(2) The means for establishing and maintaining a listing of the official insignia of federally or State recognized Native American tribes.

(3) An acceptable definition of the term “official insignia” with respect to a federally or State recognized Native American tribe.

(4) The administrative feasibility, including the cost, of changing the current law or policy to—

(A) prohibit the registration, or prohibit any new uses of the official insignia of State or federally recognized Native American tribes; or

(B) otherwise give additional protection to the official insignia of federally and State recognized Native American tribes.

(5) A determination of whether such protection should be offered prospectively or retrospectively and the impact of such protection.

(6) Any statutory changes that would be necessary in order to provide such protection.

(7) Any other factors which may be relevant.

(b) **COMMENT AND REPORT.**—

(1) **COMMENT.**—Not later than 60 days after the date of enactment of this Act, the Commissioner shall initiate a request for public comment on the issues identified and studied by the Commissioner under subsection (a) and invite comment on any additional issues that are not included in such request. During the course of the public comment period, the Commissioner shall use any appropriate additional measures, including field hearings, to obtain as wide a range of views as possible from Native American tribes, trademark owners, and other interested parties.

Deadlines.

(2) REPORT.—Not later than September 30, 1999, the Commissioner of Patents and Trademarks shall complete the study under this section and submit a report including the findings and conclusions of the study to the chairman of the Committee on the Judiciary of the Senate and the chairman of the Committee on the Judiciary of the House of Representatives.

Approved October 30, 1998.

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LEGISLATIVE HISTORY—S. 2193 (H.R. 1661):

HOUSE REPORTS: No. 105-194 accompanying H.R. 1661 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 17, considered and passed Senate.

Oct. 9, considered and passed House.



Public Law 105–331  
105th Congress

An Act

To require the Secretary of the Treasury to mint coins in commemoration of Thomas Alva Edison and the 125th anniversary of Edison’s invention of the light bulb, and for other purposes.

Oct. 31, 1998  
[H.R. 678]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Thomas Alva Edison Commemorative Coin Act”.

Thomas Alva  
Edison  
Commemorative  
Coin Act.  
31 USC 5112  
note.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) Thomas Alva Edison, one of America’s greatest inventors, was born on February 11, 1847, in Milan, Ohio.

(2) The inexhaustible energy and genius of Thomas A. Edison produced more than 1,300 inventions in his lifetime, including the incandescent light bulb and the phonograph.

(3) In 1928, Thomas A. Edison received the Congressional gold medal “for development and application of inventions that have revolutionized civilization in the last century”.

(4) 2004 will mark the 125th anniversary of the invention of the light bulb by Thomas A. Edison in 1879, the first practical incandescent electric lamp.

**SEC. 3. COIN SPECIFICATIONS.**

(a) **DENOMINATION.**—In commemoration of the 125th anniversary of the invention of the light bulb by Thomas A. Edison, the Secretary of the Treasury (hereafter in this Act referred to as the “Secretary”) shall mint and issue not more than 500,000 \$1 coins, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) **LEGAL TENDER.**—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) **NUMISMATIC ITEMS.**—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 4. SOURCES OF BULLION.**

The Secretary may obtain silver for minting coins under this Act from any available source, including stockpiles established under the Strategic and Critical Materials Stock Piling Act.

**SEC. 5. DESIGN OF COINS.****(a) DESIGN REQUIREMENTS.—**

(1) **IN GENERAL.**—The design of the coins minted under this Act shall be emblematic of the light bulb and the many inventions made by Thomas A. Edison throughout his prolific life.

(2) **DESIGNATION AND INSCRIPTIONS.**—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin; and

(B) inscriptions of the words “Liberty”, “In God We Trust”, “United States of America”, and “E Pluribus Unum”.

(3) **OBVERSE OF COIN.**—The obverse of each coin minted under this Act shall bear the likeness of Thomas A. Edison.

**(b) SELECTION.**—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

**SEC. 6. ISSUANCE OF COINS.**

**(a) QUALITY OF COINS.**—Coins minted under this Act shall be issued in uncirculated and proof qualities.

**(b) COMMENCEMENT OF ISSUANCE.**—The Secretary may issue coins minted under this Act beginning on January 1, 2004.

**(c) TERMINATION OF MINTING AUTHORITY.**—No coins may be minted under this Act after December 31, 2004.

**SEC. 7. SURCHARGES.**

**(a) IN GENERAL.**—All sales of coins minted under this Act shall include a surcharge of \$10 per coin.

**(b) DISTRIBUTION.**—Subject to section 5134(f) of title 31, United States Code, the first \$5,000,000 of the surcharges received by the Secretary from the sale of coins issued under this Act shall be paid by the Secretary as follows:

(1) **MUSEUM OF ARTS AND HISTORY.**—Up to  $\frac{1}{8}$  to the Museum of Arts and History, in the city of Port Huron, Michigan, for the endowment and construction of a special museum on the life of Thomas A. Edison in Port Huron.

(2) **EDISON BIRTHPLACE ASSOCIATION.**—Up to  $\frac{1}{8}$  to the Edison Birthplace Association, Incorporated, in Milan, Ohio, to assist in the efforts of the association to raise an endowment as a permanent source of support for the repair and maintenance of the Thomas A. Edison birthplace, a national historic landmark.

(3) **NATIONAL PARK SERVICE.**—Up to  $\frac{1}{8}$  to the National Park Service, for use in protecting, restoring, and cataloguing historic documents and objects at the “invention factory” of Thomas A. Edison in West Orange, New Jersey.

(4) **EDISON PLAZA MUSEUM.**—Up to  $\frac{1}{8}$  to the Edison Plaza Museum in Beaumont, Texas, for expanding educational programs on Thomas A. Edison and for the repair and maintenance of the museum.

(5) **EDISON WINTER HOME AND MUSEUM.**—Up to  $\frac{1}{8}$  to the Edison Winter Home and Museum in Fort Myers, Florida,



for historic preservation, restoration, and maintenance of the historic home and chemical laboratory of Thomas A. Edison.

(6) EDISON INSTITUTE.—Up to  $\frac{1}{8}$  to the Edison Institute, otherwise known as “Greenfield Village”, in Dearborn, Michigan, for use in maintaining and expanding displays and educational programs associated with Thomas A. Edison.

(7) EDISON MEMORIAL TOWER.—Up to  $\frac{1}{8}$  to the Edison Memorial Tower in Edison, New Jersey, for the preservation, restoration, and expansion of the tower and museum.

(8) HALL OF ELECTRICAL HISTORY.—Up to  $\frac{1}{8}$  to the Schenectady Museum Association in Schenectady, New York, for the historic preservation of materials of Thomas A. Edison and for the development of educational programs associated with Thomas A. Edison.

(c) AUDITS.—Each organization that receives any payment from the Secretary under this section shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code.

Approved October 31, 1998.

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LEGISLATIVE HISTORY—H.R. 678:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 9, considered and passed House.

Oct. 7, considered and passed Senate.



Public Law 105–332  
105th Congress

An Act

Oct. 31, 1998  
[H.R. 1853]

Carl D. Perkins  
Vocational and  
Applied  
Technology  
Education  
Amendments of  
1998.  
20 USC 2301  
note.

20 USC 2301  
note.

To amend the Carl D. Perkins Vocational and Applied Technology Education Act.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT.**

(a) **SHORT TITLE.**—This Act may be cited as the “Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998”.

(b) **AMENDMENT.**—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended to read as follows:

**“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

“(a) **SHORT TITLE.**—This Act may be cited as the ‘Carl D. Perkins Vocational and Technical Education Act of 1998’.

“(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- “Sec. 1. Short title; table of contents.
- “Sec. 2. Purpose.
- “Sec. 3. Definitions.
- “Sec. 4. Transition provisions.
- “Sec. 5. Privacy.
- “Sec. 6. Limitation.
- “Sec. 7. Special rule.
- “Sec. 8. Authorization of appropriations.

**“TITLE I—VOCATIONAL AND TECHNICAL EDUCATION ASSISTANCE TO THE  
STATES**

**“PART A—ALLOTMENT AND ALLOCATION**

- “Sec. 111. Reservations and State allotment.
- “Sec. 112. Within State allocation.
- “Sec. 113. Accountability.
- “Sec. 114. National activities.
- “Sec. 115. Assistance for the outlying areas.
- “Sec. 116. Native American program.
- “Sec. 117. Tribally controlled postsecondary vocational and technical institutions.
- “Sec. 118. Occupational and employment information.

**“PART B—STATE PROVISIONS**

- “Sec. 121. State administration.
- “Sec. 122. State plan.
- “Sec. 123. Improvement plans.
- “Sec. 124. State leadership activities.

**“PART C—LOCAL PROVISIONS**

- “Sec. 131. Distribution of funds to secondary school programs.
- “Sec. 132. Distribution of funds for postsecondary vocational and technical education programs.

- “Sec. 133. Special rules for vocational and technical education.
- “Sec. 134. Local plan for vocational and technical education programs.
- “Sec. 135. Local uses of funds.

“TITLE II—TECH-PREP EDUCATION

- “Sec. 201. Short title.
- “Sec. 202. Definitions.
- “Sec. 203. State allotment and application.
- “Sec. 204. Tech-prep education.
- “Sec. 205. Consortium applications.
- “Sec. 206. Report.
- “Sec. 207. Demonstration program.
- “Sec. 208. Authorization of appropriations.

“TITLE III—GENERAL PROVISIONS

“PART A—FEDERAL ADMINISTRATIVE PROVISIONS

- “Sec. 311. Fiscal requirements.
- “Sec. 312. Authority to make payments.
- “Sec. 313. Construction.
- “Sec. 314. Voluntary selection and participation.
- “Sec. 315. Limitation for certain students.
- “Sec. 316. Federal laws guaranteeing civil rights.
- “Sec. 317. Authorization of Secretary.
- “Sec. 318. Participation of private school personnel.

“PART B—STATE ADMINISTRATIVE PROVISIONS

- “Sec. 321. Joint funding.
- “Sec. 322. Prohibition on use of funds to induce out-of-State relocation of businesses.
- “Sec. 323. State administrative costs.
- “Sec. 324. Limitation on Federal regulations.
- “Sec. 325. Student assistance and other Federal programs.

“SEC. 2. PURPOSE.

20 USC 2301.

“The purpose of this Act is to develop more fully the academic, vocational, and technical skills of secondary students and postsecondary students who elect to enroll in vocational and technical education programs, by—

“(1) building on the efforts of States and localities to develop challenging academic standards;

“(2) promoting the development of services and activities that integrate academic, vocational, and technical instruction, and that link secondary and postsecondary education for participating vocational and technical education students;

“(3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve vocational and technical education, including tech-prep education; and

“(4) disseminating national research, and providing professional development and technical assistance, that will improve vocational and technical education programs, services, and activities.

“SEC. 3. DEFINITIONS.

20 USC 2302.

“In this Act:

“(1) ADMINISTRATION.—The term ‘administration’, when used with respect to an eligible agency or eligible recipient, means activities necessary for the proper and efficient performance of the eligible agency or eligible recipient’s duties under this Act, including supervision, but does not include curriculum development activities, personnel development, or research activities.

“(2) ALL ASPECTS OF AN INDUSTRY.—The term ‘all aspects of an industry’ means strong experience in, and comprehensive

understanding of, the industry that the individual is preparing to enter.

“(3) AREA VOCATIONAL AND TECHNICAL EDUCATION SCHOOL.—The term ‘area vocational and technical education school’ means—

“(A) a specialized public secondary school used exclusively or principally for the provision of vocational and technical education to individuals who are available for study in preparation for entering the labor market;

“(B) the department of a public secondary school exclusively or principally used for providing vocational and technical education in not fewer than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

“(C) a public or nonprofit technical institution or vocational and technical education school used exclusively or principally for the provision of vocational and technical education to individuals who have completed or left secondary school and who are available for study in preparation for entering the labor market, if the institution or school admits as regular students both individuals who have completed secondary school and individuals who have left secondary school; or

“(D) the department or division of an institution of higher education, that operates under the policies of the eligible agency and that provides vocational and technical education in not fewer than five different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if the department or division admits as regular students both individuals who have completed secondary school and individuals who have left secondary school.

“(4) CAREER GUIDANCE AND ACADEMIC COUNSELING.—The term ‘career guidance and academic counseling’ means providing access to information regarding career awareness and planning with respect to an individual’s occupational and academic future that shall involve guidance and counseling with respect to career options, financial aid, and postsecondary options.

“(5) CHARTER SCHOOL.—The term ‘charter school’ has the meaning given the term in section 10306 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8066).

“(6) COOPERATIVE EDUCATION.—The term ‘cooperative education’ means a method of instruction of education for individuals who, through written cooperative arrangements between a school and employers, receive instruction, including required academic courses and related vocational and technical education instruction, by alternation of study in school with a job in any occupational field, which alternation shall be planned and supervised by the school and employer so that each contributes to the education and employability of the individual, and may include an arrangement in which work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

“(7) DISPLACED HOMEMAKER.—The term ‘displaced homemaker’ means an individual who—

“(A)(i) has worked primarily without remuneration to care for a home and family, and for that reason has diminished marketable skills;

“(ii) has been dependent on the income of another family member but is no longer supported by that income; or

“(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) not later than 2 years after the date on which the parent applies for assistance under this title; and

“(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

“(8) EDUCATIONAL SERVICE AGENCY.—The term ‘educational service agency’ has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965.

“(9) ELIGIBLE AGENCY.—The term ‘eligible agency’ means a State board designated or created consistent with State law as the sole State agency responsible for the administration of vocational and technical education or for supervision of the administration of vocational and technical education in the State.

“(10) ELIGIBLE INSTITUTION.—The term ‘eligible institution’ means—

“(A) an institution of higher education;

“(B) a local educational agency providing education at the postsecondary level;

“(C) an area vocational and technical education school providing education at the postsecondary level;

“(D) a postsecondary educational institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.);

“(E) an educational service agency; or

“(F) a consortium of 2 or more of the entities described in subparagraphs (A) through (E).

“(11) ELIGIBLE RECIPIENT.—The term ‘eligible recipient’ means—

“(A) a local educational agency, an area vocational and technical education school, an educational service agency, or a consortium, eligible to receive assistance under section 131; or

“(B) an eligible institution or consortium of eligible institutions eligible to receive assistance under section 132.

“(12) GOVERNOR.—The term ‘Governor’ means the chief executive officer of a State or an outlying area.

“(13) INDIVIDUAL WITH LIMITED ENGLISH PROFICIENCY.—The term ‘individual with limited English proficiency’ means a secondary school student, an adult, or an out-of-school youth, who has limited ability in speaking, reading, writing, or understanding the English language, and—

“(A) whose native language is a language other than English; or

“(B) who lives in a family or community environment in which a language other than English is the dominant language.

“(14) INDIVIDUAL WITH A DISABILITY.—

“(A) IN GENERAL.—The term ‘individual with a disability’ means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

“(B) INDIVIDUALS WITH DISABILITIES.—The term ‘individuals with disabilities’ means more than 1 individual with a disability.

“(15) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given the term in section 101 of the Higher Education Act of 1965.

“(16) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

“(17) NONTRADITIONAL TRAINING AND EMPLOYMENT.—The term ‘nontraditional training and employment’ means occupations or fields of work, including careers in computer science, technology, and other emerging high skill occupations, for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

“(18) OUTLYING AREA.—The term ‘outlying area’ means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(19) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term ‘postsecondary educational institution’ means—

“(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor’s degree;

“(B) a tribally controlled college or university; or

“(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

“(20) SCHOOL DROPOUT.—The term ‘school dropout’ means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

“(21) SECONDARY SCHOOL.—The term ‘secondary school’ has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

“(22) SECRETARY.—The term ‘Secretary’ means the Secretary of Education.

“(23) SPECIAL POPULATIONS.—The term ‘special populations’ means—

“(A) individuals with disabilities;

“(B) individuals from economically disadvantaged families, including foster children;

“(C) individuals preparing for nontraditional training and employment;

“(D) single parents, including single pregnant women;

“(E) displaced homemakers; and

“(F) individuals with other barriers to educational achievement, including individuals with limited English proficiency.

“(24) STATE.—The term ‘State’, unless otherwise specified, means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

“(25) SUPPORT SERVICES.—The term ‘support services’ means services related to curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

“(26) TECH-PREP PROGRAM.—The term ‘tech-prep program’ means a program of study that—

“(A) combines at least 2 years of secondary education (as determined under State law) and 2 years of postsecondary education in a nonduplicative sequential course of study;

“(B) strengthens the applied academic component of vocational and technical education through the integration of academic, and vocational and technical, instruction;

“(C) provides technical preparation in an area such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, a health occupation, business, or applied economics;

“(D) builds student competence in mathematics, science, and communications (including through applied academics) in a coherent sequence of courses; and

“(E) leads to an associate degree or a certificate in a specific career field, and to high skill, high wage employment, or further education.

“(27) TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY.—The term ‘tribally controlled college or university’ has the meaning given such term in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

“(28) TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL AND TECHNICAL INSTITUTION.—The term ‘tribally controlled postsecondary vocational and technical institution’ means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965, except that paragraph (2) of such section shall not be applicable and the reference to Secretary in paragraph (5)(A) of such section shall be deemed to refer to the Secretary of the Interior) that—

“(A) is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or Indian tribes;

“(B) offers a technical degree or certificate granting program;

“(C) is governed by a board of directors or trustees, a majority of whom are Indians;

“(D) demonstrates adherence to stated goals, a philosophy, or a plan of operation, that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

“(E) has been in operation for at least 3 years;

“(F) holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational and technical education; and

“(G) enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians.

“(29) VOCATIONAL AND TECHNICAL EDUCATION.—The term ‘vocational and technical education’ means organized educational activities that—

“(A) offer a sequence of courses that provides individuals with the academic and technical knowledge and skills the individuals need to prepare for further education and for careers (other than careers requiring a baccalaureate, master’s, or doctoral degree) in current or emerging employment sectors; and

“(B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, of an individual.

“(30) VOCATIONAL AND TECHNICAL STUDENT ORGANIZATION.—

“(A) IN GENERAL.—The term ‘vocational and technical student organization’ means an organization for individuals enrolled in a vocational and technical education program that engages in vocational and technical activities as an integral part of the instructional program.

“(B) STATE AND NATIONAL UNITS.—An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in vocational and technical education at the local level.

20 USC 2303.

**“SEC. 4. TRANSITION PROVISIONS.**

“The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of this Act from any authority under provisions of the Carl D. Perkins Vocational and Applied Technology Education Act, as such Act was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998.

20 USC 2304.

**“SEC. 5. PRIVACY.**

“(a) GEPA.—Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), as added by the Family Educational Rights and Privacy Act of 1974 (section 513 of Public Law 93-380; 88 Stat. 571).

“(b) PROHIBITION ON DEVELOPMENT OF NATIONAL DATABASE.—Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals receiving services under this Act.

20 USC 2305.

**“SEC. 6. LIMITATION.**

“All of the funds made available under this Act shall be used in accordance with the requirements of this Act. None of the funds made available under this Act may be used to provide funding under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.) or to carry out, through programs funded under



this Act, activities that were funded under the School-To-Work Opportunities Act of 1994, unless the programs funded under this Act serve only those participants eligible to participate in the programs under this Act.

**“SEC. 7. SPECIAL RULE.**

20 USC 2306.

“In the case of a local community in which no employees are represented by a labor organization, for purposes of this Act the term ‘representatives of employees’ shall be substituted for ‘labor organization’.

**“SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

20 USC 2307.

“There is authorized to be appropriated to carry out this Act (other than sections 114, 117, and 118, and title II) such sums as may be necessary for each of the fiscal years 1999 through 2003.

## **“TITLE I—VOCATIONAL AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES**

### **“PART A—ALLOTMENT AND ALLOCATION**

**“SEC. 111. RESERVATIONS AND STATE ALLOTMENT.**

20 USC 2321.

“(a) RESERVATIONS AND STATE ALLOTMENT.—

“(1) RESERVATIONS.—From the sum appropriated under section 8 for each fiscal year, the Secretary shall reserve—

“(A) 0.2 percent to carry out section 115;

“(B) 1.50 percent to carry out section 116, of which—

“(i) 1.25 percent of the sum shall be available to carry out section 116(b); and

“(ii) 0.25 percent of the sum shall be available to carry out section 116(h); and

“(C) in the case of each of the fiscal years 2000 through 2003, 0.54 percent to carry out section 503 of Public Law 105-220.

“(2) STATE ALLOTMENT FORMULA.—Subject to paragraphs (3) and (4), from the remainder of the sums appropriated under section 8 and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

“(A) an amount that bears the same ratio to 50 percent of the sums being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State’s allotment ratio bears to the sum of the corresponding products for all the States;

“(B) an amount that bears the same ratio to 20 percent of the sums being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State’s allotment ratio bears to the sum of the corresponding products for all the States;

“(C) an amount that bears the same ratio to 15 percent of the sums being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is

made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

“(D) an amount that bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

“(3) MINIMUM ALLOTMENT.—

“(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (4), no State shall receive for a fiscal year under this subsection less than  $\frac{1}{2}$  of 1 percent of the amount appropriated under section 8 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

“(B) REQUIREMENT.—No State, by reason of the application of subparagraph (A), shall receive for a fiscal year more than 150 percent of the amount the State received under this subsection for the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998).

“(C) SPECIAL RULE.—

“(i) IN GENERAL.—Subject to paragraph (4), no State, by reason of the application of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

“(I) 150 percent of the amount that the State received in the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998); and

“(II) the amount calculated under clause (ii).

“(ii) AMOUNT.—The amount calculated under this clause shall be determined by multiplying—

“(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

“(II) 150 percent of the national average per pupil payment made with funds available under this section for that year (or in the case of fiscal year 1999, only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998).

“(4) HOLD HARMLESS.—

“(A) IN GENERAL.—No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311 et seq.) (as such part was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998) for fiscal year 1998.

“(B) RATABLE REDUCTION.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

“(b) REALLOTMENT.—If the Secretary determines that any amount of any State’s allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallocation. Any such reallocation among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallocated for any use other than the use for which the funds were appropriated. Any amount reallocated to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State’s allotment for the year in which the amount is obligated.

“(c) ALLOTMENT RATIO.—

“(1) IN GENERAL.—The allotment ratio for any State shall be 1.00 less the product of—

“(A) 0.50; and

“(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

“(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

“(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

“(2) PROMULGATION.—The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

“(3) DEFINITION OF PER CAPITA INCOME.—For the purpose of this section, the term ‘per capita income’ means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

“(4) POPULATION DETERMINATION.—For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

“(d) DEFINITION OF STATE.—For the purpose of this section, the term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

20 USC 2322.

**“SEC. 112. WITHIN STATE ALLOCATION.**

“(a) IN GENERAL.—From the amount allotted to each State under section 111 for a fiscal year, the State board (hereinafter referred to as the ‘eligible agency’) shall make available—

“(1) not less than 85 percent for distribution under section 131 or 132, of which not more than 10 percent of the 85 percent may be used in accordance with subsection (c);

“(2) not more than 10 percent to carry out State leadership activities described in section 124, of which—

“(A) an amount equal to not more than 1 percent of the amount allotted to the State under section 111 for the fiscal year shall be available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

“(B) not less than \$60,000 and not more than \$150,000 shall be available for services that prepare individuals for nontraditional training and employment; and

“(3) an amount equal to not more than 5 percent, or \$250,000, whichever is greater, for administration of the State plan, which may be used for the costs of—

“(A) developing the State plan;

“(B) reviewing the local plans;

“(C) monitoring and evaluating program effectiveness;

“(D) assuring compliance with all applicable Federal laws; and

“(E) providing technical assistance.

“(b) MATCHING REQUIREMENT.—Each eligible agency receiving funds made available under subsection (a)(3) shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(3).

“(c) RESERVE.—

“(1) IN GENERAL.—From amounts made available under subsection (a)(1) to carry out this subsection, an eligible agency may award grants to eligible recipients for vocational and technical education activities described in section 135 in—

“(A) rural areas;

“(B) areas with high percentages of vocational and technical education students;

“(C) areas with high numbers of vocational and technical students; and

“(D) communities negatively impacted by changes resulting from the amendments made by the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998 to the within State allocation under section 231 of the Carl D. Perkins Vocational and Applied Technology Education Act (as such section 231 was in effect on the day before the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998).

“(2) SPECIAL RULE.—Each eligible agency awarding a grant under this subsection shall use the grant funds to serve at

least 2 of the categories described in subparagraphs (A) through (D) of paragraph (1).

**“SEC. 113. ACCOUNTABILITY.**

20 USC 2323.

“(a) **PURPOSE.**—The purpose of this section is to establish a State performance accountability system, comprised of the activities described in this section, to assess the effectiveness of the State in achieving statewide progress in vocational and technical education, and to optimize the return of investment of Federal funds in vocational and technical education activities.

“(b) **STATE PERFORMANCE MEASURES.**—

“(1) **IN GENERAL.**—Each eligible agency, with input from eligible recipients, shall establish performance measures for a State that consist of—

“(A) the core indicators of performance described in paragraph (2)(A);

“(B) any additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(B); and

“(C) a State adjusted level of performance described in paragraph (3)(A) for each core indicator of performance, and State levels of performance described in paragraph (3)(B) for each additional indicator of performance.

“(2) **INDICATORS OF PERFORMANCE.**—

“(A) **CORE INDICATORS OF PERFORMANCE.**—Each eligible agency shall identify in the State plan core indicators of performance that include, at a minimum, measures of each of the following:

“(i) Student attainment of challenging State established academic, and vocational and technical, skill proficiencies.

“(ii) Student attainment of a secondary school diploma or its recognized equivalent, a proficiency credential in conjunction with a secondary school diploma, or a postsecondary degree or credential.

“(iii) Placement in, retention in, and completion of, postsecondary education or advanced training, placement in military service, or placement or retention in employment.

“(iv) Student participation in and completion of vocational and technical education programs that lead to nontraditional training and employment.

“(B) **ADDITIONAL INDICATORS OF PERFORMANCE.**—An eligible agency, with input from eligible recipients, may identify in the State plan additional indicators of performance for vocational and technical education activities authorized under the title.

“(C) **EXISTING INDICATORS.**—If a State previously has developed State performance measures that meet the requirements of this section, the State may use such performance measures to measure the progress of vocational and technical education students.

“(D) **STATE ROLE.**—Indicators of performance described in this paragraph shall be established solely by each eligible agency with input from eligible recipients.

“(3) **LEVELS OF PERFORMANCE.**—

“(A) STATE ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS OF PERFORMANCE.—

“(i) IN GENERAL.—Each eligible agency, with input from eligible recipients, shall establish in the State plan submitted under section 122, levels of performance for each of the core indicators of performance described in paragraph (2)(A) for vocational and technical education activities authorized under this title. The levels of performance established under this subparagraph shall, at a minimum—

“(I) be expressed in a percentage or numerical form, so as to be objective, quantifiable, and measurable; and

“(II) require the State to continually make progress toward improving the performance of vocational and technical education students.

“(ii) IDENTIFICATION IN THE STATE PLAN.—Each eligible agency shall identify, in the State plan submitted under section 122, levels of performance for each of the core indicators of performance for the first 2 program years covered by the State plan.

“(iii) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 2 YEARS.—The Secretary and each eligible agency shall reach agreement on the levels of performance for each of the core indicators of performance, for the first 2 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (vi). The levels of performance agreed to under this clause shall be considered to be the State adjusted level of performance for the State for such years and shall be incorporated into the State plan prior to the approval of such plan.

“(iv) ROLE OF THE SECRETARY.—The role of the Secretary in the agreement described in clauses (iii) and (v) is limited to reaching agreement on the percentage or number of students who attain the State adjusted levels of performance.

“(v) AGREEMENT ON STATE ADJUSTED LEVELS OF PERFORMANCE FOR 3RD, 4TH, AND 5TH YEARS.—Prior to the third program year covered by the State plan, the Secretary and each eligible agency shall reach agreement on the State adjusted levels of performance for each of the core indicators of performance for the third, fourth, and fifth program years covered by the State plan, taking into account the factors described in clause (vi). The State adjusted levels of performance agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan.

“(vi) FACTORS.—The agreement described in clause (iii) or (v) shall take into account—

“(I) how the levels of performance involved compare with the State adjusted levels of performance established for other States taking into account factors including the characteristics of

participants when the participants entered the program and the services or instruction to be provided; and

“(II) the extent to which such levels of performance promote continuous improvement on the indicators of performance by such State.

“(vii) REVISIONS.—If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (vi)(II), the eligible agency may request that the State adjusted levels of performance agreed to under clause (iii) or (vi) be revised. The Secretary shall issue objective criteria and methods for making such revisions.

“(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—Each eligible agency shall identify in the State plan, State levels of performance for each of the additional indicators of performance described in paragraph (2)(B). Such levels shall be considered to be the State levels of performance for purposes of this title.

“(c) REPORT.—

“(1) IN GENERAL.—Each eligible agency that receives an allotment under section 111 shall annually prepare and submit to the Secretary a report regarding—

“(A) the progress of the State in achieving the State adjusted levels of performance on the core indicators of performance; and

“(B) information on the levels of performance achieved by the State with respect to the additional indicators of performance, including the levels of performance for special populations.

“(2) SPECIAL POPULATIONS.—The report submitted by the eligible agency in accordance with paragraph (1) shall include a quantifiable description of the progress special populations participating in vocational and technical education programs have made in meeting the State adjusted levels of performance established by the eligible agency.

“(3) INFORMATION DISSEMINATION.—The Secretary—

“(A) shall make the information contained in such reports available to the general public;

“(B) shall disseminate State-by-State comparisons of the information; and

“(C) shall provide the appropriate committees of Congress copies of such reports.

#### “SEC. 114. NATIONAL ACTIVITIES.

20 USC 2324.

“(a) PROGRAM PERFORMANCE INFORMATION.—

“(1) IN GENERAL.—The Secretary shall collect performance information about, and report on, the condition of vocational and technical education and on the effectiveness of State and local programs, services, and activities carried out under this title in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of vocational and technical education. The Secretary annually shall report to Congress on the Secretary’s aggregate analysis of performance information collected each year pursuant to

Reports.

this title, including an analysis of performance data regarding special populations.

“(2) COMPATIBILITY.—The Secretary shall, to the extent feasible, ensure that the performance information system is compatible with other Federal information systems.

“(3) ASSESSMENTS.—As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on vocational and technical education for a nationally representative sample of students. Such assessment may include international comparisons.

“(b) MISCELLANEOUS PROVISIONS.—

“(1) COLLECTION OF INFORMATION AT REASONABLE COST.—The Secretary shall take such action as may be necessary to secure at reasonable cost the information required by this title. To ensure reasonable cost, the Secretary, in consultation with the National Center for Education Statistics, the Office of Vocational and Adult Education, and an entity assisted under section 118 shall determine the methodology to be used and the frequency with which information is to be collected.

“(2) COOPERATION OF STATES.—All eligible agencies receiving assistance under this Act shall cooperate with the Secretary in implementing the information systems developed pursuant to this Act.

“(c) RESEARCH, DEVELOPMENT, DISSEMINATION, EVALUATION AND ASSESSMENT.—

“(1) SINGLE PLAN.—

“(A) IN GENERAL.—The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation and assessment, capacity building, and technical assistance with regard to the vocational and technical education programs under this Act. The Secretary shall develop a single plan for such activities.

“(B) PLAN.—Such plan shall—

“(i) identify the vocational and technical education activities described in subparagraph (A) the Secretary will carry out under this section;

“(ii) describe how the Secretary will evaluate such vocational and technical education activities in accordance with paragraph (3); and

“(iii) include such other information as the Secretary determines to be appropriate.

“(2) INDEPENDENT ADVISORY PANEL.—The Secretary shall appoint an independent advisory panel, consisting of vocational and technical education administrators, educators, researchers, and representatives of labor organizations, businesses, parents, guidance and counseling professionals, and other relevant groups, to advise the Secretary on the implementation of the assessment described in paragraph (3), including the issues to be addressed, the methodology of the studies involved, and the findings and recommendations resulting from the assessment. The panel shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the



Secretary an independent analysis of the findings and recommendations resulting from the assessment described in paragraph (3). The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this subsection.

“(3) EVALUATION AND ASSESSMENT.—

“(A) IN GENERAL.—From amounts made available under paragraph (8), the Secretary shall provide for the conduct of an independent evaluation and assessment of vocational and technical education programs under this Act through studies and analyses conducted independently through grants, contracts, and cooperative agreements that are awarded on a competitive basis.

“(B) CONTENTS.—The assessment required under paragraph (1) shall include descriptions and evaluations of—

“(i) the extent to which State, local, and tribal entities have developed, implemented, or improved State and local vocational and technical education programs and the effect of programs assisted under this Act on that development, implementation, or improvement, including the capacity of State, tribal, and local vocational and technical education systems to achieve the purpose of this Act;

“(ii) the extent to which expenditures at the Federal, State, tribal, and local levels address program improvement in vocational and technical education, including the impact of Federal allocation requirements (such as within-State allocation formulas) on the delivery of services;

“(iii) the preparation and qualifications of teachers of vocational and technical, and academic, curricula in vocational and technical education programs, as well as shortages of such teachers;

“(iv) participation of students in vocational and technical education programs;

“(v) academic and employment outcomes of vocational and technical education, including analyses of—

“(I) the number of vocational and technical education students and tech-prep students who meet State adjusted levels of performance;

“(II) the extent and success of integration of academic, and vocational and technical, education for students participating in vocational and technical education programs; and

“(III) the extent to which vocational and technical education programs prepare students for subsequent employment in high-wage, high-skill careers or participation in postsecondary education;

“(vi) employer involvement in, and satisfaction with, vocational and technical education programs;

“(vii) the use and impact of educational technology and distance learning with respect to vocational and technical education and tech-prep programs; and

“(viii) the effect of State adjusted levels of performance and State levels of performance on the delivery of vocational and technical education services.

“(C) REPORTS.—

“(i) IN GENERAL.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

“(I) an interim report regarding the assessment on or before January 1, 2002; and

“(II) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the assessment, on or before July 1, 2002.

“(ii) PROHIBITION.—Notwithstanding any other provision of law, the reports required by this subsection shall not be subject to any review outside the Department of Education before their transmittal to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary, but the President, the Secretary, and the independent advisory panel established under paragraph (2) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

“(4) COLLECTION OF STATE INFORMATION AND REPORT.—

“(A) IN GENERAL.—The Secretary may collect and disseminate information from States regarding State efforts to meet State adjusted levels of performance described in section 113.

“(B) REPORT.—The Secretary shall gather any information collected pursuant to subparagraph (A) and submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

“(5) RESEARCH.—

“(A) IN GENERAL.—The Secretary, after consulting with the States, shall award grants, contracts, or cooperative agreements on a competitive basis to an institution of higher education, a public or private nonprofit organization or agency, or a consortium of such institutions, organizations, or agencies to establish a national research center or centers—

“(i) to carry out research for the purpose of developing, improving, and identifying the most successful methods for successfully addressing the education, employment, and training needs of participants in vocational and technical education programs, including research and evaluation in such activities as—

“(I) the integration of vocational and technical instruction, and academic, secondary and post-secondary instruction;

“(II) education technology and distance learning approaches and strategies that are effective with respect to vocational and technical education;

“(III) State adjusted levels of performance and State levels of performance that serve to improve vocational and technical education programs and student achievement; and

“(IV) academic knowledge and vocational and technical skills required for employment or participation in postsecondary education;

“(ii) to carry out research to increase the effectiveness and improve the implementation of vocational and technical education programs, including conducting research and development, and studies, providing longitudinal information or formative evaluation with respect to vocational and technical education programs and student achievement;

“(iii) to carry out research that can be used to improve teacher training and learning in the vocational and technical education classroom, including—

“(I) effective inservice and preservice teacher education that assists vocational and technical education systems; and

“(II) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include serving as a repository for information on vocational and technical skills, State academic standards, and related materials; and

“(iv) to carry out such other research as the Secretary determines appropriate to assist State and local recipients of funds under this Act.

“(B) REPORT.—The center or centers conducting the activities described in subparagraph (A) shall annually prepare a report of key research findings of such center or centers and shall submit copies of the report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Library of Congress, and each eligible agency.

“(C) DISSEMINATION.—The center or centers shall conduct dissemination and training activities based upon the research described in subparagraph (A).

“(6) DEMONSTRATIONS AND DISSEMINATION.—

“(A) DEMONSTRATION PROGRAM.—The Secretary is authorized to carry out demonstration vocational and technical education programs, to replicate model vocational and technical education programs, to disseminate best practices information, and to provide technical assistance upon request of a State, for the purposes of developing, improving, and identifying the most successful methods and techniques for providing vocational and technical education programs assisted under this Act.

“(B) DEMONSTRATION PARTNERSHIP.—

“(i) IN GENERAL.—The Secretary shall carry out a demonstration partnership project involving a 4-year, accredited postsecondary institution, in cooperation with local public education organizations, volunteer groups, and private sector business participants to provide program support, and facilities for education, training, tutoring, counseling, employment preparation, specific skills training in emerging and established professions, and for retraining of military medical personnel, individuals displaced by corporate or

military restructuring, migrant workers, as well as other individuals who otherwise do not have access to such services, through multisite, multistate distance learning technologies.

“(ii) PROGRAM.—Such program may be carried out directly or through grants, contracts, cooperative agreements, or through the national center or centers established under paragraph (5).

“(7) DEFINITION.—In this section, the term ‘institution of higher education’ has the meaning given the term in section 101 of the Higher Education Act of 1965.

“(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

**“SEC. 115. ASSISTANCE FOR THE OUTLYING AREAS.**

Grants.  
20 USC 2325.

“(a) OUTLYING AREAS.—From funds reserved pursuant to section 111(a)(1)(A), the Secretary shall—

“(1) make a grant in the amount of \$500,000 to Guam; and

“(2) make a grant in the amount of \$190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands.

“(b) REMAINDER.—Subject to the provisions of subsection (a), the Secretary shall make a grant of the remainder of funds reserved pursuant to section 111(a)(1)(A) to the Pacific Region Educational Laboratory in Honolulu, Hawaii, to make grants for vocational and technical education and training in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, for the purpose of providing direct vocational and technical educational services, including—

“(1) teacher and counselor training and retraining;

“(2) curriculum development; and

“(3) the improvement of vocational and technical education and training programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education.

“(c) LIMITATION.—The Pacific Region Educational Laboratory may use not more than 5 percent of the funds received under subsection (b) for administrative costs.

“(d) RESTRICTION.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this title for any fiscal year that begins after September 30, 2001.

20 USC 2326.

**“SEC. 116. NATIVE AMERICAN PROGRAM.**

“(a) DEFINITIONS.—In this section:

“(1) ALASKA NATIVE.—The term ‘Alaska Native’ means a Native as such term is defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

“(2) BUREAU FUNDED SCHOOL.—The term ‘Bureau funded school’ has the meaning given the term in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026).

“(3) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—The terms ‘Indian’, ‘Indian tribe’, and ‘tribal organization’ have the meanings given the terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(4) NATIVE HAWAIIAN.—The term ‘Native Hawaiian’ means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

“(5) NATIVE HAWAIIAN ORGANIZATION.—The term ‘Native Hawaiian organization’ has the meaning given the term in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

“(b) PROGRAM AUTHORIZED.—

“(1) AUTHORITY.—From funds reserved under section 111(a)(1)(B)(i), the Secretary shall make grants to and enter into contracts with Indian tribes, tribal organizations, and Alaska Native entities to carry out the authorized programs described in subsection (d), except that such grants or contracts shall not be awarded to secondary school programs in Bureau funded schools.

Grants.  
Contracts.

“(2) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The grants or contracts described in this section (other than in subsection (i)) that are awarded to any Indian tribe or tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this subsection.

“(3) SPECIAL AUTHORITY RELATING TO SECONDARY SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—An Indian tribe, a tribal organization, or an Alaska Native entity, that receives funds through a grant made or contract entered into under paragraph (1) may use the funds to provide assistance to a secondary school operated or supported by the Bureau of Indian Affairs to enable such school to carry out vocational and technical education programs.

“(4) MATCHING.—If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend not less than the amount expended during the prior fiscal year on vocational and technical education programs, services, and technical activities administered either directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

“(5) REGULATIONS.—If the Secretary promulgates any regulations applicable to subsection (b)(2), the Secretary shall—

“(A) confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members; and

“(B) promulgate the regulations under subchapter III of chapter 5 of title 5, United States Code, commonly known as the “Negotiated Rulemaking Act of 1990”.

“(6) APPLICATION.—Any Indian tribe, tribal organization, or Bureau funded school eligible to receive assistance under subsection (b) may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau funded school.

“(c) AUTHORIZED ACTIVITIES.—

“(1) AUTHORIZED PROGRAMS.—Funds made available under this section shall be used to carry out vocational and technical education programs consistent with the purpose of this Act.

“(2) STIPENDS.—

“(A) IN GENERAL.—Funds received pursuant to grants or contracts awarded under subsection (b) may be used to provide stipends to students who are enrolled in vocational and technical education programs and who have acute economic needs which cannot be met through work-study programs.

“(B) AMOUNT.—Stipends described in subparagraph (A) shall not exceed reasonable amounts as prescribed by the Secretary.

“(d) GRANT OR CONTRACT APPLICATION.—In order to receive a grant or contract under this section an organization, tribe, or entity described in subsection (b) shall submit an application to the Secretary that shall include an assurance that such organization, tribe, or entity shall comply with the requirements of this section.

“(e) RESTRICTIONS AND SPECIAL CONSIDERATIONS.—The Secretary may not place upon grants awarded or contracts entered into under subsection (b) any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 111(a). The Secretary, in awarding grants and entering into contracts under this paragraph, shall ensure that the grants and contracts will improve vocational and technical education programs, and shall give special consideration to—

“(1) programs that involve, coordinate with, or encourage tribal economic development plans; and

“(2) applications from tribally controlled colleges or universities that—

“(A) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational and technical education; or

“(B) operate vocational and technical education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational and technical education programs.

“(f) CONSOLIDATION OF FUNDS.—Each organization, tribe, or entity receiving assistance under this section may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and

Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

“(g) NONDUPLICATIVE AND NONEXCLUSIVE SERVICES.—Nothing in this section shall be construed—

“(1) to limit the eligibility of any organization, tribe, or entity described in subsection (b) to participate in any activity offered by an eligible agency or eligible recipient under this title; or

“(2) to preclude or discourage any agreement, between any organization, tribe, or entity described in subsection (b) and any eligible agency or eligible recipient, to facilitate the provision of services by such eligible agency or eligible recipient to the population served by such eligible agency or eligible recipient.

“(h) NATIVE HAWAIIAN PROGRAMS.—From the funds reserved pursuant to section 111(a)(1)(B)(ii), the Secretary shall award grants to or enter into contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this section for the benefit of Native Hawaiians.

**“SEC. 117. TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL AND TECHNICAL INSTITUTIONS. 20 USC 2327.**

“(a) GRANTS AUTHORIZED.—The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary vocational and technical institutions to provide basic support for the education and training of Indian students.

“(b) USE OF GRANTS.—Amounts made available pursuant to this section shall be used for vocational and technical education programs.

“(c) AMOUNT OF GRANTS.—

“(1) IN GENERAL.—If the sums appropriated for any fiscal year for grants under this section are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant who received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant’s Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution’s control.

“(2) PER CAPITA DETERMINATION.—For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational and technical institutions under this section for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

“(d) APPLICATIONS.—Any tribally controlled postsecondary vocational and technical institution that desires to receive a grant under this section shall submit an application to the Secretary in such manner and form as the Secretary may require.

“(e) EXPENSES.—

“(1) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary vocational and technical institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

“(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

“(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section; and

“(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

“(2) ACCOUNTING.—Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution’s operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

“(f) OTHER PROGRAMS.—

“(1) IN GENERAL.—Except as specifically provided in this Act, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary vocational and technical institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965, or any other applicable program for the benefit of institutions of higher education or vocational and technical education.

“(2) PROHIBITION ON ALTERATION OF GRANT AMOUNT.—The amount of any grant for which tribally controlled postsecondary vocational and technical institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921 (commonly known as the ‘Snyder Act’) (42 Stat. 208, chapter 115; 25 U.S.C. 13).

“(3) PROHIBITION ON CONTRACT DENIAL.—No tribally controlled postsecondary vocational and technical institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

“(g) NEEDS ESTIMATE AND REPORT ON FACILITIES AND FACILITIES IMPROVEMENT.—



“(1) NEEDS ESTIMATE.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this section, and in consideration of employment needs, economic development needs, population training needs, and facilities needs, prepare an actual budget needs estimate for each institution eligible under this section for each subsequent program year, and submit such budget needs estimate to Congress in such a timely manner as will enable the appropriate committees of Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions. Such data shall take into account the purposes and requirements of part A of title IV of the Social Security Act.

“(2) STUDY OF TRAINING AND HOUSING NEEDS.—

“(A) IN GENERAL.—The Secretary shall conduct a detailed study of the training, housing, and immediate facilities needs of each institution eligible under this section. The study shall include an examination of—

“(i) training equipment needs;

“(ii) housing needs of families whose heads of households are students and whose dependents have no alternate source of support while such heads of households are students; and

“(iii) immediate facilities needs.

“(B) REPORT.—The Secretary shall report to Congress not later than July 1, 2000, on the results of the study required by subparagraph (A).

“(C) CONTENTS.—The report required by subparagraph (B) shall include the number, type, and cost of meeting the needs described in subparagraph (A), and rank each institution by relative need.

“(D) PRIORITY.—In conducting the study required by subparagraph (A), the Secretary shall give priority to institutions that are receiving assistance under this section.

“(3) LONG-TERM STUDY OF FACILITIES.—

“(A) IN GENERAL.—The Secretary shall provide for the conduct of a long-term study of the facilities of each institution eligible for assistance under this section.

“(B) CONTENTS.—The study required by subparagraph (A) shall include a 5-year projection of training facilities, equipment, and housing needs and shall consider such factors as projected service population, employment, and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

“(C) SUBMISSION.—The Secretary shall submit to Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of enactment of this Act.

Reports.

“(h) DEFINITIONS.—In this section:

“(1) INDIAN.—The terms ‘Indian’ and ‘Indian tribe’ have the meanings given the terms in section 2 of the Tribally Controlled College or University Assistance Act of 1978.

“(2) INDIAN STUDENT COUNT.—The term ‘Indian student count’ means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary vocational and technical institution, determined as follows:

“(A) REGISTRATIONS.—The registrations of Indian students as in effect on October 1 of each year.

“(B) SUMMER TERM.—Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

“(C) ADMISSION CRITERIA.—Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student’s ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student’s aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a secondary school degree or its recognized equivalent shall be counted toward the computation of the Indian student count.

“(D) DETERMINATION OF HOURS.—Indian students earning credits in any continuing education program of a tribally controlled postsecondary vocational and technical institution shall be included in determining the sum of all credit or clock hours.

“(E) CONTINUING EDUCATION.—Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution’s system for providing credit for participation in such programs.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$4,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

20 USC 2328.

**“SEC. 118. OCCUPATIONAL AND EMPLOYMENT INFORMATION.**

“(a) NATIONAL ACTIVITIES.—From funds appropriated under subsection (f), the Secretary, in consultation with appropriate Federal agencies, is authorized—

“(1) to provide assistance to an entity to enable the entity—

“(A) to provide technical assistance to State entities designated under subsection (b) to enable the State entities to carry out the activities described in subsection (b);

“(B) to disseminate information that promotes the replication of high quality practices described in subsection (b);

“(C) to develop and disseminate products and services related to the activities described in subsection (b); and

“(2) to award grants to States that designate State entities in accordance with subsection (b) to enable the State entities to carry out the State level activities described in subsection (b).

“(b) STATE LEVEL ACTIVITIES.—In order for a State to receive a grant under this section, the eligible agency and the Governor of the State shall jointly designate an entity in the State—

“(1) to provide support for a career guidance and academic counseling program designed to promote improved career and

education decisionmaking by individuals (especially in areas of career information delivery and use);

“(2) to make available to students, parents, teachers, administrators, and counselors, and to improve accessibility with respect to, information and planning resources that relate educational preparation to career goals and expectations;

“(3) to equip teachers, administrators, and counselors with the knowledge and skills needed to assist students and parents with career exploration, educational opportunities, and education financing.

“(4) to assist appropriate State entities in tailoring career-related educational resources and training for use by such entities;

“(5) to improve coordination and communication among administrators and planners of programs authorized by this Act and by section 15 of the Wagner-Peyser Act at the Federal, State, and local levels to ensure nonduplication of efforts and the appropriate use of shared information and data; and

“(6) to provide ongoing means for customers, such as students and parents, to provide comments and feedback on products and services and to update resources, as appropriate, to better meet customer requirements.

“(c) NONDUPLICATION.—

“(1) WAGNER-PEYSER ACT.—The State entity designated under subsection (b) may use funds provided under subsection (b) to supplement activities under section 15 of the Wagner-Peyser Act to the extent such activities do not duplicate activities assisted under such section.

“(2) PUBLIC LAW 105-220.—None of the functions and activities assisted under this section shall duplicate the functions and activities carried out under Public Law 105-220.

“(d) FUNDING RULE.—Of the amounts appropriated to carry out this section, the Federal entity designated under subsection (a) shall use—

“(1) not less than 85 percent to carry out subsection (b); and

“(2) not more than 15 percent to carry out subsection (a).

“(e) REPORT.—The Secretary, in consultation with appropriate Federal agencies, shall prepare and submit to the appropriate committees of Congress, an annual report that includes—

“(1) an identification of activities assisted under this section during the prior program year;

“(2) a description of the specific products and services assisted under this section that were delivered in the prior program year; and

“(3) an assessment of the extent to which States have effectively coordinated activities assisted under this section with activities authorized under section 15 of the Wagner-Peyser Act.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

**“PART B—STATE PROVISIONS**

20 USC 2341.

**“SEC. 121. STATE ADMINISTRATION.****“(a) ELIGIBLE AGENCY RESPONSIBILITIES.—****“(1) IN GENERAL.—**The responsibilities of an eligible agency under this title shall include—**“(A)** coordination of the development, submission, and implementation of the State plan, and the evaluation of the program, services, and activities assisted under this title, including preparation for nontraditional training and employment;**“(B)** consultation with the Governor and appropriate agencies, groups, and individuals including parents, students, teachers, representatives of businesses, labor organizations, eligible recipients, State and local officials, and local program administrators, involved in the planning, administration, evaluation, and coordination of programs funded under this title;**“(C)** convening and meeting as an eligible agency (consistent with State law and procedure for the conduct of such meetings) at such time as the eligible agency determines necessary to carry out the eligible agency’s responsibilities under this title, but not less than four times annually; and**“(D)** the adoption of such procedures as the eligible agency considers necessary to—**“(i)** implement State level coordination with the activities undertaken by the State boards under section 111 of Public Law 105-220; and**“(ii)** make available to the service delivery system under section 121 of Public Law 105-220 within the State a listing of all school dropout, postsecondary, and adult programs assisted under this title.**“(2) EXCEPTION.—**Except with respect to the responsibilities set forth in paragraph (1), the eligible agency may delegate any of the other responsibilities of the eligible agency that involve the administration, operation, supervision of activities assisted under this title, in whole or in part, to one or more appropriate State agencies.

20 USC 2342.

**“SEC. 122. STATE PLAN.****“(a) STATE PLAN.—****“(1) IN GENERAL.—**Each eligible agency desiring assistance under this title for any fiscal year shall prepare and submit to the Secretary a State plan for a 5-year period, together with such annual revisions as the eligible agency determines to be necessary.**“(2) REVISIONS.—**Each eligible agency—**“(A)** may submit such annual revisions of the State plan to the Secretary as the eligible agency determines to be necessary; and**“(B)** shall, after the second year of the 5 year State plan, conduct a review of activities assisted under this title and submit any revisions of the State plan that the eligible agency determines necessary to the Secretary.**“(3) HEARING PROCESS.—**The eligible agency shall conduct public hearings in the State, after appropriate and sufficient

notice, for the purpose of affording all segments of the public and interested organizations and groups (including employers, labor organizations, and parents), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included in the State plan.

“(b) PLAN DEVELOPMENT.—

“(1) IN GENERAL.—The eligible agency shall develop the State plan in consultation with teachers, eligible recipients, parents, students, interested community members, representatives of special populations, representatives of business and industry, and representatives of labor organizations in the State, and shall consult the Governor of the State with respect to such development.

“(2) ACTIVITIES AND PROCEDURES.—The eligible agency shall develop effective activities and procedures, including access to information needed to use such procedures, to allow the individuals described in paragraph (1) to participate in State and local decisions that relate to development of the State plan.

“(c) PLAN CONTENTS.—The State plan shall include information that—

“(1) describes the vocational and technical education activities to be assisted that are designed to meet or exceed the State adjusted levels of performance, including a description of—

“(A) the secondary and postsecondary vocational and technical education programs to be carried out, including programs that will be carried out by the eligible agency to develop, improve, and expand access to quality, state-of-the-art technology in vocational and technical education programs;

“(B) the criteria that will be used by the eligible agency in approving applications by eligible recipients for funds under this title;

“(C) how such programs will prepare vocational and technical education students for opportunities in postsecondary education or entry into high skill, high wage jobs in current and emerging occupations; and

“(D) how funds will be used to improve or develop new vocational and technical education courses;

“(2) describes how comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel will be provided;

“(3) describes how the eligible agency will actively involve parents, teachers, local businesses (including small- and medium-sized businesses), and labor organizations in the planning, development, implementation, and evaluation of such vocational and technical education programs;

“(4) describes how funds received by the eligible agency through the allotment made under section 111 will be allocated—

“(A) among secondary school vocational and technical education, or postsecondary and adult vocational and technical education, or both, including the rationale for such allocation; and

“(B) among any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia, including the rationale for such allocation;

“(5) describes how the eligible agency will—

“(A) improve the academic and technical skills of students participating in vocational and technical education programs, including strengthening the academic, and vocational and technical, components of vocational and technical education programs through the integration of academics with vocational and technical education to ensure learning in the core academic, and vocational and technical, subjects, and provide students with strong experience in, and understanding of, all aspects of an industry; and

“(B) ensure that students who participate in such vocational and technical education programs are taught to the same challenging academic proficiencies as are taught to all other students;

“(6) describes how the eligible agency will annually evaluate the effectiveness of such vocational and technical education programs, and describe, to the extent practicable, how the eligible agency is coordinating such programs to ensure non-duplication with other existing Federal programs;

“(7) describes the eligible agency’s program strategies for special populations;

“(8) describes how individuals who are members of the special populations—

“(A) will be provided with equal access to activities assisted under this title;

“(B) will not be discriminated against on the basis of their status as members of the special populations; and

“(C) will be provided with programs designed to enable the special populations to meet or exceed State adjusted levels of performance, and prepare special populations for further learning and for high skill, high wage careers;

“(9) describe what steps the eligible agency shall take to involve representatives of eligible recipients in the development of the State adjusted levels of performance;

“(10) provides assurances that the eligible agency will comply with the requirements of this title and the provisions of the State plan, including the provision of a financial audit of funds received under this title which may be included as part of an audit of other Federal or State programs;

“(11) provides assurances that none of the funds expended under this title will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity, the employees of the purchasing entity, or any affiliate of such an organization;

“(12) describes how the eligible agency will report data relating to students participating in vocational and technical education in order to adequately measure the progress of the students, including special populations;

“(13) describes how the eligible agency will adequately address the needs of students in alternative education programs, if appropriate;

“(14) describes how the eligible agency will provide local educational agencies, area vocational and technical education schools, and eligible institutions in the State with technical assistance;

“(15) describes how vocational and technical education relates to State and regional occupational opportunities;

“(16) describes the methods proposed for the joint planning and coordination of programs carried out under this title with other Federal education programs;

“(17) describes how funds will be used to promote preparation for nontraditional training and employment;

“(18) describes how funds will be used to serve individuals in State correctional institutions;

“(19) describes how funds will be used effectively to link secondary and postsecondary education;

“(20) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this title and the data the eligible agency reports to the Secretary are complete, accurate, and reliable; and

“(21) contains the description and information specified in sections 112(b)(8) and 121(c) of Public Law 105-220 concerning the provision of services only for postsecondary students and school dropouts.

“(d) PLAN OPTION.—The eligible agency may fulfill the requirements of subsection (a) by submitting a plan under section 501 of Public Law 105-220.

“(e) PLAN APPROVAL.—

“(1) IN GENERAL.—The Secretary shall approve a State plan, or a revision to an approved State plan, unless the Secretary determines that—

“(A) the State plan, or revision, respectively, does not meet the requirements of this section; or

“(B) the State’s levels of performance on the core indicators of performance consistent with section 113 are not sufficiently rigorous to meet the purpose of this Act.

“(2) DISAPPROVAL.—The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

“(3) CONSULTATION.—The eligible agency shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult vocational and technical education, postsecondary vocational and technical education, tech-prep education, and secondary vocational and technical education after consultation with the State agency responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary vocational and technical education, and the State agency responsible for secondary education. If a State agency finds that a portion of the final State plan is objectionable, the State agency shall file such objections with the eligible agency. The eligible agency shall respond to any objections of the State agency in the State plan submitted to the Secretary.

“(4) TIMEFRAME.—A State plan shall be deemed approved by the Secretary if the Secretary has not responded to the eligible agency regarding the State plan within 90 days of the date the Secretary receives the State plan.

“(f) TRANSITION.—This section shall be subject to section 4 for fiscal year 1999 only, with respect to activities under this section.

20 USC 2343.

**“SEC. 123. IMPROVEMENT PLANS.**

“(a) STATE PROGRAM IMPROVEMENT PLAN.—If a State fails to meet the State adjusted levels of performance described in the report submitted under section 113(c), the eligible agency shall develop and implement a program improvement plan in consultation with appropriate agencies, individuals, and organizations for the first program year succeeding the program year in which the eligible agency failed to meet the State adjusted levels of performance, in order to avoid a sanction under subsection (d).

“(b) LOCAL EVALUATION.—Each eligible agency shall evaluate annually, using the State adjusted levels of performance, the vocational and technical education activities of each eligible recipient receiving funds under this title.

“(c) LOCAL IMPROVEMENT PLAN.—

“(1) IN GENERAL.—If, after reviewing the evaluation, the eligible agency determines that an eligible recipient is not making substantial progress in achieving the State adjusted levels of performance, the eligible agency shall—

“(A) conduct an assessment of the educational needs that the eligible recipient shall address to overcome local performance deficiencies;

“(B) enter into an improvement plan based on the results of the assessment, which plan shall include instructional and other programmatic innovations of demonstrated effectiveness, and where necessary, strategies for appropriate staffing and staff development; and

“(C) conduct regular evaluations of the progress being made toward reaching the State adjusted levels of performance.

“(2) CONSULTATION.—The eligible agency shall conduct the activities described in paragraph (1) in consultation with teachers, parents, other school staff, appropriate agencies, and other appropriate individuals and organizations.

“(d) SANCTIONS.—

“(1) TECHNICAL ASSISTANCE.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency’s responsibilities under section 122, or is not making substantial progress in meeting the purpose of this Act, based on the State adjusted levels of performance, the Secretary shall work with the eligible agency to implement improvement activities consistent with the requirements of this Act.

“(2) FAILURE.—If an eligible agency fails to meet the State adjusted levels of performance, has not implemented an improvement plan as described in paragraph (1), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (1), or has failed to meet the State adjusted levels of performance for 2 or more consecutive years, the Secretary may, after notice and opportunity for a hearing, withhold from the eligible agency all, or a portion



of, the eligible agency's allotment under this title. The Secretary may waive the sanction under this paragraph due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

“(3) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—

“(A) IN GENERAL.—The Secretary shall use funds withheld under paragraph (2), for a State served by an eligible agency, to provide (through alternative arrangements) services and activities within the State to meet the purpose of this Act.

“(B) REDISTRIBUTION.—If the Secretary cannot satisfactorily use funds withheld under paragraph (2), then the amount of funds retained by the Secretary as a result of a reduction in an allotment made under paragraph (2) shall be redistributed to other eligible agencies in accordance with section 111.

**“SEC. 124. STATE LEADERSHIP ACTIVITIES.**

20 USC 2344.

“(a) GENERAL AUTHORITY.—From amounts reserved under section 112(a)(2), each eligible agency shall conduct State leadership activities.

“(b) REQUIRED USES OF FUNDS.—The State leadership activities described in subsection (a) shall include—

“(1) an assessment of the vocational and technical education programs carried out with funds under this title that includes an assessment of how the needs of special populations are being met and how such programs are designed to enable special populations to meet State adjusted levels of performance and prepare the special populations for further learning or for high skill, high wage careers;

“(2) developing, improving, or expanding the use of technology in vocational and technical education that may include—

“(A) training of vocational and technical education personnel to use state-of-the-art technology, that may include distance learning;

“(B) providing vocational and technical education students with the academic, and vocational and technical skills that lead to entry into the high technology and telecommunications field; or

“(C) encouraging schools to work with high technology industries to offer voluntary internships and mentoring programs;

“(3) professional development programs, including providing comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel, that—

“(A) will provide inservice and preservice training in state-of-the-art vocational and technical education programs and techniques, effective teaching skills based on research, and effective practices to improve parental and community involvement; and

“(B) will help teachers and personnel to assist students in meeting the State adjusted levels of performance established under section 113;

“(C) will support education programs for teachers of vocational and technical education in public schools and

other public school personnel who are involved in the direct delivery of educational services to vocational and technical education students to ensure that such teachers stay current with the needs, expectations, and methods of industry; and

“(D) is integrated with the professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6001 et seq.) and title II of the Higher Education Act of 1965;

“(4) support for vocational and technical education programs that improve the academic, and vocational and technical skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical components of such vocational and technical education programs through the integration of academics with vocational and technical education to ensure learning in the core academic, and vocational and technical subjects;

“(5) providing preparation for nontraditional training and employment;

“(6) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards, and vocational and technical skills;

“(7) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

“(8) support for programs for special populations that lead to high skill, high wage careers.

“(c) PERMISSIBLE USES OF FUNDS.—The leadership activities described in subsection (a) may include—

“(1) technical assistance for eligible recipients;

“(2) improvement of career guidance and academic counseling programs that assist students in making informed academic, and vocational and technical education decisions;

“(3) establishment of agreements between secondary and postsecondary vocational and technical education programs in order to provide postsecondary education and training opportunities for students participating in such vocational and technical education programs, such as tech-prep programs;

“(4) support for cooperative education;

“(5) support for vocational and technical student organizations, especially with respect to efforts to increase the participation of students who are members of special populations;

“(6) support for public charter schools operating secondary vocational and technical education programs;

“(7) support for vocational and technical education programs that offer experience in, and understanding of, all aspects of an industry for which students are preparing to enter;

“(8) support for family and consumer sciences programs;

“(9) support for education and business partnerships;

“(10) support to improve or develop new vocational and technical education courses;

“(11) providing vocational and technical education programs for adults and school dropouts to complete their secondary school education; and

“(12) providing assistance to students, who have participated in services and activities under this title, in finding an appropriate job and continuing their education.

“(d) RESTRICTION ON USES OF FUNDS.—An eligible agency that receives funds under section 112(a)(2) may not use any of such funds for administrative costs.

## “PART C—LOCAL PROVISIONS

### “SEC. 131. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL PROGRAMS. 20 USC 2351.

“(a) DISTRIBUTION FOR FISCAL YEAR 1999.—Except as provided in section 133 and as otherwise provided in this section, each eligible agency shall distribute the portion of the funds made available under section 112(a)(1) to carry out this section for fiscal year 1999 to local educational agencies within the State as follows:

“(1) SEVENTY PERCENT.—From 70 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1124 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333) for the preceding fiscal year bears to the total amount received under such section by all local educational agencies in the State for such preceding fiscal year.

“(2) TWENTY PERCENT.—From 20 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with disabilities who have individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) served by such local educational agency for the preceding fiscal year bears to the total number of such students served by all local educational agencies in the State for such preceding fiscal year.

“(3) TEN PERCENT.—From 10 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency for the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State for such preceding fiscal year.

“(b) SPECIAL DISTRIBUTION RULES FOR SUCCEEDING FISCAL YEARS.—Except as provided in section 133 and as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available under section 112(a)(1) to carry out this section for fiscal year 2000 and succeeding fiscal years to local educational agencies within the State as follows:

“(1) 30 PERCENT.—30 percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such local educational agency for the preceding fiscal year compared to the total number of such individuals who reside in the school districts served by all

local educational agencies in the State for such preceding fiscal year.

“(2) 70 PERCENT.—70 percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such local educational agency from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved for the fiscal year for which the determination is made compared to the number of such individuals who reside in the school districts served by all the local educational agencies in the State for such preceding fiscal year.

“(c) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—The Secretary may waive the application of subsection (b) in the case of any eligible agency that submits to the Secretary an application for such a waiver that—

“(1) demonstrates that a proposed alternative formula more effectively targets funds on the basis of poverty (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) to local educational agencies within the State than the formula described in subsection (b); and

“(2) includes a proposal for such an alternative formula.

“(d) MINIMUM ALLOCATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a local educational agency shall not receive an allocation under subsection (a) unless the amount allocated to such agency under subsection (a) is greater than \$15,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

“(2) WAIVER.—The eligible agency shall waive the application of paragraph (1) in any case in which the local educational agency—

“(A)(i) is located in a rural, sparsely populated area,  
or

“(ii) is a public charter school operating secondary vocational and technical education programs; and

“(B) demonstrates that the local educational agency is unable to enter into a consortium for purposes of providing activities under this part.

“(3) REDISTRIBUTION.—Any amounts that are not allocated by reason of paragraph (1) or paragraph (2) shall be redistributed to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

“(e) LIMITED JURISDICTION AGENCIES.—

“(1) IN GENERAL.—In applying the provisions of subsection (a), no eligible agency receiving assistance under this title shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

“(2) SPECIAL RULE.—The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

“(f) ALLOCATIONS TO AREA VOCATIONAL AND TECHNICAL EDUCATION SCHOOLS AND EDUCATIONAL SERVICE AGENCIES.—

“(1) IN GENERAL.—Each eligible agency shall distribute the portion of funds made available under section 112(a)(1) for any fiscal year by such eligible agency for secondary school vocational and technical education activities under this section to the appropriate area vocational and technical education school or educational service agency in any case in which the area vocational and technical education school or educational service agency, and the local educational agency concerned—

“(A) have formed or will form a consortium for the purpose of receiving funds under this section; or

“(B) have entered into or will enter into a cooperative arrangement for such purpose.

“(2) ALLOCATION BASIS.—If an area vocational and technical education school or educational service agency meets the requirements of paragraph (1), then the amount that would otherwise be distributed to the local educational agency shall be allocated to the area vocational and technical education school, the educational service agency, and the local educational agency based on each school, agency or entity’s relative share of students who are attending vocational and technical education programs (based, if practicable, on the average enrollment for the preceding 3 years;

“(3) APPEALS PROCEDURE.—The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational and technical education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium or terminate a cooperative arrangement.

“(g) CONSORTIUM REQUIREMENTS.—

“(1) ALLIANCE.—Any local educational agency receiving an allocation that is not sufficient to conduct a program which meets the requirements of section 135 is encouraged to—

“(A) form a consortium or enter into a cooperative agreement with an area vocational and technical education school or educational service agency offering programs that meet the requirements of section 135;

“(B) transfer such allocation to the area vocational and technical education school or educational service agency; and

“(C) operate programs that are of sufficient size, scope, and quality to be effective.

“(2) FUNDS TO CONSORTIUM.—Funds allocated to a consortium formed to meet the requirements of this paragraph shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and can be used only for programs authorized under this title. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefiting only one member of the consortium.

Contracts.

“(h) DATA.—The Secretary shall collect information from eligible agencies regarding the specific dollar allocations made available by the eligible agency for vocational and technical education programs under subsections (a), (b), (c), and (d) and how these allocations are distributed to local educational agencies, area vocational and technical education schools, and educational service agencies, within the State in accordance with this section.

“(i) SPECIAL RULE.—Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

20 USC 2352.

**“SEC. 132. DISTRIBUTION OF FUNDS FOR POSTSECONDARY VOCATIONAL AND TECHNICAL EDUCATION PROGRAMS.**

“(a) ALLOCATION.—

“(1) IN GENERAL.—Except as provided in subsections (b) and (c) and section 133, each eligible agency shall distribute the portion of the funds made available under section 112(a)(1) to carry out this section for any fiscal year to eligible institutions or consortia of eligible institutions within the State.

“(2) FORMULA.—Each eligible institution or consortium of eligible institutions shall be allocated an amount that bears the same relationship to the portion of funds made available under section 112(a)(1) to carry out this section for any fiscal year as the sum of the number of individuals who are Federal Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of section 135 offered by such institution or consortium in the preceding fiscal year bears to the sum of the number of such recipients enrolled in such programs within the State for such year.

“(3) CONSORTIUM REQUIREMENTS.—

“(A) IN GENERAL.—In order for a consortium of eligible institutions described in paragraph (2) to receive assistance pursuant to such paragraph, such consortium shall operate joint projects that—

“(i) provide services to all postsecondary institutions participating in the consortium; and

“(ii) are of sufficient size, scope, and quality to be effective.

“(B) FUNDS TO CONSORTIUM.—Funds allocated to a consortium formed to meet the requirements of this section shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and shall be used only for programs authorized under this title. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefiting only one member of the consortium.

“(4) WAIVER.—The eligible agency may waive the application of paragraph (3)(A)(i) in any case in which the eligible institution is located in a rural, sparsely populated area.

“(b) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—The Secretary may waive the application of subsection (a) if an eligible agency submits to the Secretary an application for such a waiver that—

“(1) demonstrates that the formula described in subsection (a) does not result in a distribution of funds to the eligible institutions or consortia within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula will result in such a distribution; and

“(2) includes a proposal for such an alternative formula.

“(c) MINIMUM GRANT AMOUNT.—

“(1) IN GENERAL.—No institution or consortium shall receive an allocation under this section in an amount that is less than \$50,000.

“(2) REDISTRIBUTION.—Any amounts that are not distributed by reason of paragraph (1) shall be redistributed to eligible institutions or consortia in accordance with this section.

**“SEC. 133. SPECIAL RULES FOR VOCATIONAL AND TECHNICAL EDUCATION.** 20 USC 2353.

“(a) SPECIAL RULE FOR MINIMAL ALLOCATION.—

“(1) GENERAL AUTHORITY.—Notwithstanding the provisions of sections 131 and 132 and in order to make a more equitable distribution of funds for programs serving the areas of greatest economic need, for any program year for which a minimal amount is made available by an eligible agency for distribution under section 131 or 132, such State may distribute such minimal amount for such year—

“(A) on a competitive basis; or

“(B) through any alternative method determined by the State.

“(2) MINIMAL AMOUNT.—For purposes of this section, the term ‘minimal amount’ means not more than 15 percent of the total amount made available for distribution under section 112(a)(1).

“(b) REDISTRIBUTION.—

“(1) IN GENERAL.—In any academic year that an eligible recipient does not expend all of the amounts the eligible recipient is allocated for such year under section 131 or 132, such eligible recipient shall return any unexpended amounts to the eligible agency to be reallocated under section 131 or 132, as appropriate.

“(2) REDISTRIBUTION OF AMOUNTS RETURNED LATE IN AN ACADEMIC YEAR.—In any academic year in which amounts are returned to the eligible agency under section 131 or 132 and the eligible agency is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the eligible agency shall retain such amounts for distribution in combination with amounts provided under section 112(a)(1) for the following academic year.

“(c) CONSTRUCTION.—Nothing in section 131 or 132 shall be construed—

“(1) to prohibit a local educational agency or a consortium thereof that receives assistance under section 131, from working with an eligible institution or consortium thereof that receives assistance under section 132, to carry out secondary school vocational and technical education programs in accordance with this title;

“(2) to prohibit an eligible institution or consortium thereof that receives assistance under section 132, from working with a local educational agency or consortium thereof that receives

assistance under section 131, to carry out postsecondary and adult vocational and technical education programs in accordance with this title; or

“(3) to require a charter school, that provides vocational and technical education programs and is considered a local educational agency under State law, to jointly establish the charter school’s eligibility for assistance under this title unless the charter school is explicitly permitted to do so under the State’s charter school statute.

“(d) **CONSISTENT APPLICATION.**—For purposes of this section, the eligible agency shall provide funds to charter schools offering vocational and technical education programs in the same manner as the eligible agency provides those funds to other schools. Such vocational and technical education programs within a charter school shall be of sufficient size, scope, and quality to be effective.

20 USC 2354.

**“SEC. 134. LOCAL PLAN FOR VOCATIONAL AND TECHNICAL EDUCATION PROGRAMS.**

“(a) **LOCAL PLAN REQUIRED.**—Any eligible recipient desiring financial assistance under this part shall, in accordance with requirements established by the eligible agency (in consultation with such other educational entities as the eligible agency determines to be appropriate) submit a local plan to the eligible agency. Such local plan shall cover the same period of time as the period of time applicable to the State plan submitted under section 122.

“(b) **CONTENTS.**—The eligible agency shall determine requirements for local plans, except that each local plan shall—

“(1) describe how the vocational and technical education programs required under section 135(b) will be carried out with funds received under this title;

“(2) describe how the vocational and technical education activities will be carried out with respect to meeting State adjusted levels of performance established under section 113;

“(3) describe how the eligible recipient will—

“(A) improve the academic and technical skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical components of such programs through the integration of academics with vocational and technical education programs through a coherent sequence of courses to ensure learning in the core academic, and vocational and technical subjects;

“(B) provide students with strong experience in and understanding of all aspects of an industry; and

“(C) ensure that students who participate in such vocational and technical education programs are taught to the same challenging academic proficiencies as are taught for all other students;

“(4) describe how parents, students, teachers, representatives of business and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of vocational and technical education programs assisted under this title, and how such individuals and entities are effectively informed about, and assisted in understanding, the requirements of this title;



“(5) provide assurances that the eligible recipient will provide a vocational and technical education program that is of such size, scope, and quality to bring about improvement in the quality of vocational and technical education programs;

“(6) describe the process that will be used to independently evaluate and continuously improve the performance of the eligible recipient;

“(7) describe how the eligible recipient—

“(A) will review vocational and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations; and

“(B) will provide programs that are designed to enable the special populations to meet the State adjusted levels of performance;

“(8) describe how individuals who are members of the special populations will not be discriminated against on the basis of their status as members of the special populations;

“(9) describe how funds will be used to promote preparation for nontraditional training and employment; and

“(10) describe how comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel will be provided.

**“SEC. 135. LOCAL USES OF FUNDS.**

20 USC 2355.

“(a) GENERAL AUTHORITY.—Each eligible recipient that receives funds under this part shall use such funds to improve vocational and technical education programs.

“(b) REQUIREMENTS FOR USES OF FUNDS.—Funds made available to eligible recipients under this part shall be used to support vocational and technical education programs that—

“(1) strengthen the academic, and vocational and technical skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical components of such programs through the integration of academics with vocational and technical education programs through a coherent sequence of courses to ensure learning in the core academic, and vocational and technical subjects;

“(2) provide students with strong experience in and understanding of all aspects of an industry;

“(3) develop, improve, or expand the use of technology in vocational and technical education, which may include—

“(A) training of vocational and technical education personnel to use state-of-the-art technology, which may include distance learning;

“(B) providing vocational and technical education students with the academic, and vocational and technical skills that lead to entry into the high technology and telecommunications field; or

“(C) encouraging schools to work with high technology industries to offer voluntary internships and mentoring programs;

“(4) provide professional development programs to teachers, counselors, and administrators, including—

“(A) inservice and preservice training in state-of-the-art vocational and technical education programs and techniques, in effective teaching skills based on research, and in effective practices to improve parental and community involvement;

“(B) support of education programs for teachers of vocational and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to vocational and technical education students, to ensure that such teachers and personnel stay current with all aspects of an industry;

“(C) internship programs that provide business experience to teachers; and

“(D) programs designed to train teachers specifically in the use and application of technology;

“(5) develop and implement evaluations of the vocational and technical education programs carried out with funds under this title, including an assessment of how the needs of special populations are being met;

“(6) initiate, improve, expand, and modernize quality vocational and technical education programs;

“(7) provide services and activities that are of sufficient size, scope, and quality to be effective; and

“(8) link secondary vocational and technical education and postsecondary vocational and technical education, including implementing tech-prep programs.

“(c) PERMISSIVE.—Funds made available to an eligible recipient under this title may be used—

“(1) to involve parents, businesses, and labor organizations as appropriate, in the design, implementation, and evaluation of vocational and technical education programs authorized under this title, including establishing effective programs and procedures to enable informed and effective participation in such programs;

“(2) to provide career guidance and academic counseling for students participating in vocational and technical education programs;

“(3) to provide work-related experience, such as internships, cooperative education, school-based enterprises, entrepreneurship, and job shadowing that are related to vocational and technical education programs;

“(4) to provide programs for special populations;

“(5) for local education and business partnerships;

“(6) to assist vocational and technical student organizations;

“(7) for mentoring and support services;

“(8) for leasing, purchasing, upgrading or adapting equipment, including instructional aides;

“(9) for teacher preparation programs that assist individuals who are interested in becoming vocational and technical education instructors, including individuals with experience in business and industry;

“(10) for improving or developing new vocational and technical education courses;

“(11) to provide support for family and consumer sciences programs;

“(12) to provide vocational and technical education programs for adults and school dropouts to complete their secondary school education;

“(13) to provide assistance to students who have participated in services and activities under this title in finding an appropriate job and continuing their education;

“(14) to support nontraditional training and employment activities; and

“(15) to support other vocational and technical education activities that are consistent with the purpose of this Act.

“(d) ADMINISTRATIVE COSTS.—Each eligible recipient receiving funds under this part shall not use more than 5 percent of the funds for administrative costs associated with the administration of activities assisted under this section.

## “TITLE II—TECH-PREP EDUCATION

Tech-Prep  
Education Act.

### “SEC. 201. SHORT TITLE.

“This title may be cited as the ‘Tech-Prep Education Act’.

20 USC 2301  
note.

### “SEC. 202. DEFINITIONS.

20 USC 2371.

“(a) In this title:

“(1) ARTICULATION AGREEMENT.—The term ‘articulation agreement’ means a written commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to degrees or certificates in a tech-prep education program.

“(2) COMMUNITY COLLEGE.—The term ‘community college’—

“(A) means an institution of higher education, as defined in section 101 of the Higher Education Act of 1965, that provides not less than a 2-year program that is acceptable for full credit toward a bachelor’s degree; and

“(B) includes tribally controlled colleges or universities.

“(3) TECH-PREP PROGRAM.—The term ‘tech-prep program’ means a program of study that—

“(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study;

“(B) integrates academic, and vocational and technical, instruction, and utilizes work-based and worksite learning where appropriate and available;

“(C) provides technical preparation in a career field such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, health occupations, business, or applied economics;

“(D) builds student competence in mathematics, science, reading, writing, communications, economics, and workplace skills through applied, contextual academics, and integrated instruction, in a coherent sequence of courses;

“(E) leads to an associate or a baccalaureate degree or a postsecondary certificate in a specific career field; and

“(F) leads to placement in appropriate employment or to further education.

20 USC 2372.

**“SEC. 203. STATE ALLOTMENT AND APPLICATION.**

“(a) IN GENERAL.—For any fiscal year, the Secretary shall allot the amount made available under section 206 among the States in the same manner as funds are allotted to States under paragraph (2) of section 111(a).

“(b) PAYMENTS TO ELIGIBLE AGENCIES.—The Secretary shall make a payment in the amount of a State’s allotment under subsection (a) to the eligible agency that serves the State and has an application approved under subsection (c).

“(c) STATE APPLICATION.—Each eligible agency desiring assistance under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

20 USC 2373.

**“SEC. 204. TECH-PREP EDUCATION.**

“(a) GRANT PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—From amounts made available to each eligible agency under section 203, the eligible agency, in accordance with the provisions of this title, shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech-prep education programs described in subsection (c). The grants shall be awarded to consortia between or among—

“(A) a local educational agency, an intermediate educational agency or area vocational and technical education school serving secondary school students, or a secondary school funded by the Bureau of Indian Affairs; and

“(B)(i) a nonprofit institution of higher education that offers—

“(I) a 2-year associate degree program, or a 2-year certificate program, and is qualified as institutions of higher education pursuant to section 102 of the Higher Education Act of 1965, including an institution receiving assistance under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and a tribally controlled postsecondary vocational and technical institution; or

“(II) a 2-year apprenticeship program that follows secondary instruction, if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) pursuant to the provisions of section 435(a)(3) of such Act (20 U.S.C. 1083(a)); or

“(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 102 of the Higher Education Act of 1965, if such proprietary institution of higher education is not subject to a default management plan required by the Secretary.

“(2) SPECIAL RULE.—In addition, a consortium described in paragraph (1) may include 1 or more—

“(A) institutions of higher education that award a baccalaureate degree; and

“(B) employer or labor organizations.

“(b) DURATION.—Each grant recipient shall use amounts provided under the grant to develop and operate a 4- or 6-year tech-prep education program described in subsection (c).

“(c) CONTENTS OF TECH-PREP PROGRAM.—Each tech-prep program shall—

“(1) be carried out under an articulation agreement between the participants in the consortium;

“(2) consist of at least 2 years of secondary school preceding graduation and 2 years or more of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, reading, writing, communications, and technologies designed to lead to an associate’s degree or a postsecondary certificate in a specific career field;

“(3) include the development of tech-prep programs for both secondary and postsecondary, including consortium, participants in the consortium that—

“(A) meets academic standards developed by the State;

“(B) links secondary schools and 2-year postsecondary institutions, and if possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields, including the investigation of opportunities for tech-prep secondary students to enroll concurrently in secondary and postsecondary coursework;

“(C) uses, if appropriate and available, work-based or worksite learning in conjunction with business and all aspects of an industry; and

“(D) uses educational technology and distance learning, as appropriate, to involve all the consortium partners more fully in the development and operation of programs;

“(4) include in-service training for teachers that—

“(A) is designed to train vocational and technical teachers to effectively implement tech-prep programs;

“(B) provides for joint training for teachers in the tech-prep consortium;

“(C) is designed to ensure that teachers and administrators stay current with the needs, expectations, and methods of business and all aspects of an industry;

“(D) focuses on training postsecondary education faculty in the use of contextual and applied curricula and instruction; and

“(E) provides training in the use and application of technology;

“(5) include training programs for counselors designed to enable counselors to more effectively—

“(A) provide information to students regarding tech-prep education programs;

“(B) support student progress in completing tech-prep programs;

“(C) provide information on related employment opportunities;

“(D) ensure that such students are placed in appropriate employment; and

“(E) stay current with the needs, expectations, and methods of business and all aspects of an industry;

“(6) provide equal access, to the full range of technical preparation programs, to individuals who are members of special populations, including the development of tech-prep program services appropriate to the needs of special populations; and

“(7) provide for preparatory services that assist participants in tech-prep programs.

“(d) ADDITIONAL AUTHORIZED ACTIVITIES.—Each tech-prep program may—

“(1) provide for the acquisition of tech-prep program equipment;

“(2) acquire technical assistance from State or local entities that have designed, established, and operated tech-prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services and in the articulation process; and

“(3) establish articulation agreements with institutions of higher education, labor organizations, or businesses located inside or outside the State and served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs.

20 USC 2374.

**“SEC. 205. CONSORTIUM APPLICATIONS.**

“(a) IN GENERAL.—Each consortium that desires to receive a grant under this title shall submit an application to the eligible agency at such time and in such manner as the eligible agency shall prescribe.

“(b) PLAN.—Each application submitted under this section shall contain a 5-year plan for the development and implementation of tech-prep programs under this title, which plan shall be reviewed after the second year of the plan.

“(c) APPROVAL.—The eligible agency shall approve applications based on the potential of the activities described in the application to create an effective tech-prep program.

“(d) SPECIAL CONSIDERATION.—The eligible agency, as appropriate, shall give special consideration to applications that—

“(1) provide for effective employment placement activities or the transfer of students to baccalaureate degree programs;

“(2) are developed in consultation with business, industry, institutions of higher education, and labor organizations;

“(3) address effectively the issues of school dropout prevention and reentry and the needs of special populations;

“(4) provide education and training in areas or skills in which there are significant workforce shortages, including the information technology industry; and

“(5) demonstrate how tech-prep programs will help students meet high academic and employability competencies.

“(e) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In awarding grants under this title, the eligible agency shall ensure an equitable distribution of assistance between urban and rural consortium participants.

20 USC 2375.

**“SEC. 206. REPORT.**

“Each eligible agency that receives a grant under this title annually shall prepare and submit to the Secretary a report on the effectiveness of the tech-prep programs assisted under this title, including a description of how grants were awarded within the State.

**“SEC. 207. DEMONSTRATION PROGRAM.**

20 USC 2376.

“(a) DEMONSTRATION PROGRAM AUTHORIZED.—From funds appropriated under subsection (e) for a fiscal year, the Secretary shall award grants to consortia described in section 204(a) to enable the consortia to carry out tech-prep education programs.

“(b) PROGRAM CONTENTS.—Each tech-prep program referred to in subsection (a)—

“(1) shall—

“(A) involve the location of a secondary school on the site of a community college;

“(B) involve a business as a member of the consortium; and

“(C) require the voluntary participation of secondary school students in the tech-prep education program; and

“(2) may provide summer internships at a business for students or teachers.

“(c) APPLICATION.—Each consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

“(d) APPLICABILITY.—The provisions of sections 203, 204, 205, and 206 shall not apply to this section, except that—

“(1) the provisions of section 204(a) shall apply for purposes of describing consortia eligible to receive assistance under this section;

“(2) each tech-prep education program assisted under this section shall meet the requirements of paragraphs (1), (2), (3)(A), (3)(B), (3)(C), (3)(D), (4), (5), (6), and (7) of section 204(c), except that such paragraph (3)(B) shall be applied by striking ‘, and if possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields’; and

“(3) in awarding grants under this section, the Secretary shall give special consideration to consortia submitting applications under subsection (c) that meet the requirements of paragraphs (1), (3), (4), and (5) of section 205(d), except that such paragraph (1) shall be applied by striking ‘or the transfer of students to baccalaureate degree programs’.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$25,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

**“SEC. 208. AUTHORIZATION OF APPROPRIATIONS.**

20 USC 2377.

“There is authorized to be appropriated to carry out this title (other than section 207) such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

**“TITLE III—GENERAL PROVISIONS****“PART A—FEDERAL ADMINISTRATIVE PROVISIONS****“SEC. 311. FISCAL REQUIREMENTS.**

20 USC 2391.

“(a) SUPPLEMENT NOT SUPPLANT.—Funds made available under this Act for vocational and technical education activities shall supplement, and shall not supplant, non-Federal funds expended

to carry out vocational and technical education activities and tech-prep activities.

“(b) MAINTENANCE OF EFFORT.—

“(1) DETERMINATION.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no payments shall be made under this Act for any fiscal year to a State for vocational and technical education programs or tech-prep programs unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for vocational and technical education programs for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational and technical education programs, for the second fiscal year preceding the fiscal year for which the determination is made.

“(B) COMPUTATION.—In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special one-time project costs, and the cost of pilot programs.

“(C) DECREASE IN FEDERAL SUPPORT.—If the amount made available for vocational and technical education programs under this Act for a fiscal year is less than the amount made available for vocational and technical education programs under this Act for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of a State required by subparagraph (B) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

“(2) WAIVER.—The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

20 USC 2392.

“SEC. 312. AUTHORITY TO MAKE PAYMENTS.

“Any authority to make payments or to enter into contracts under this Act shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

20 USC 2393.

“SEC. 313. CONSTRUCTION.

“Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law. This section shall not be construed to bar students attending private, religious, or home schools from participation in programs or services under this Act.



**“SEC. 314. VOLUNTARY SELECTION AND PARTICIPATION.**

20 USC 2394.

“No funds made available under this Act shall be used—

“(1) to require any secondary school student to choose or pursue a specific career path or major; and

“(2) to mandate that any individual participate in a vocational and technical education program, including a vocational and technical education program that requires the attainment of a federally funded skill level, standard, or certificate of mastery.

**“SEC. 315. LIMITATION FOR CERTAIN STUDENTS.**

20 USC 2395.

“No funds received under this Act may be used to provide vocational and technical education programs to students prior to the seventh grade, except that equipment and facilities purchased with funds under this Act may be used by such students.

**“SEC. 316. FEDERAL LAWS GUARANTEEING CIVIL RIGHTS.**

20 USC 2396.

“Nothing in this Act shall be construed to be inconsistent with applicable Federal law prohibiting discrimination on the basis of race, color, sex, national origin, age, or disability in the provision of Federal programs or services.

**“SEC. 317. AUTHORIZATION OF SECRETARY.**

20 USC 2397.

“For the purposes of increasing and expanding the use of technology in vocational and technical education instruction, including the training of vocational and technical education personnel as provided in this Act, the Secretary is authorized to receive and use funds collected by the Federal Government from fees for the use of property, rights-of-way, and easements under the control of Federal departments and agencies for the placement of telecommunications services that are dependent, in whole or in part, upon the utilization of general spectrum rights for the transmission or reception of such services.

**“SEC. 318. PARTICIPATION OF PRIVATE SCHOOL PERSONNEL.**

20 USC 2398.

“An eligible agency or eligible recipient that uses funds under this Act for inservice and preservice vocational and technical education professional development programs for vocational and technical education teachers, administrators, and other personnel may, upon request, permit the participation in such programs of vocational and technical education teachers, administrators, and other personnel in nonprofit private schools offering vocational and technical education programs located in the geographical area served by such agency or recipient.

## **“PART B—STATE ADMINISTRATIVE PROVISIONS**

**“SEC. 321. JOINT FUNDING.**

20 USC 2411.

“(a) GENERAL AUTHORITY.—Funds made available to eligible agencies under this Act may be used to provide additional funds under an applicable program if—

“(1) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

“(2) such program serves the same individuals that are served under this Act;

“(3) such program provides services in a coordinated manner with services provided under this Act; and

“(4) such funds are used to supplement, and not supplant, funds provided from non-Federal sources.

“(b) APPLICABLE PROGRAM.—For the purposes of this section, the term ‘applicable program’ means any program under any of the following provisions of law:

“(1) Chapters 4 and 5 of subtitle B of title I of Public Law 105-220.

“(2) The Wagner-Peyser Act.

“(c) USE OF FUNDS AS MATCHING FUNDS.—For the purposes of this section, the term ‘additional funds’ does not include funds used as matching funds.

20 USC 2412.      **“SEC. 322. PROHIBITION ON USE OF FUNDS TO INDUCE OUT-OF-STATE RELOCATION OF BUSINESSES.**

“No funds provided under this Act shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from one State to another State if such relocation will result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

20 USC 2413.      **“SEC. 323. STATE ADMINISTRATIVE COSTS.**

“(a) GENERAL RULE.—Except as provided in subsection (b), for each fiscal year for which an eligible agency receives assistance under this Act, the eligible agency shall provide, from non-Federal sources for the costs the eligible agency incurs for the administration of programs under this Act an amount that is not less than the amount provided by the eligible agency from non-Federal sources for such costs for the preceding fiscal year.

“(b) EXCEPTION.—If the amount made available for administration of programs under this Act for a fiscal year is less than the amount made available for administration of programs under this Act for the preceding fiscal year, the amount the eligible agency is required to provide from non-Federal sources for costs the eligible agency incurs for administration of programs under this Act shall be the same percentage as the amount made available for administration of programs under this Act.

20 USC 2414.      **“SEC. 324. LIMITATION ON FEDERAL REGULATIONS.**

“The Secretary may issue regulations under this Act only to the extent necessary to administer and ensure compliance with the specific requirements of this Act.

20 USC 2415.      **“SEC. 325. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS.**

“(a) ATTENDANCE COSTS NOT TREATED AS INCOME OR RESOURCES.—The portion of any student financial assistance received under this Act that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

“(b) ATTENDANCE COSTS.—The attendance costs described in this subsection are—

“(1) tuition and fees normally assessed a student carrying an academic workload as determined by the institution, and

including costs for rental or purchase of any equipment, materials, or supplies required of all students in that course of study; and

“(2) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

“(c) COSTS OF VOCATIONAL AND TECHNICAL EDUCATION SERVICES.—Funds made available under this Act may be used to pay for the costs of vocational and technical education services required in an individualized education plan developed pursuant to section 614(d) of the Individuals with Disabilities Education Act and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational and technical education.”.

## **SEC. 2. PROMOTING SCHOLAR-ATHLETE COMPETITIONS.**

Section 10104 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8004) is amended—

(1) in subsection (a), by striking “to be held in 1995” and inserting “to be held in 1999”; and

(2) in subsection (b)—

(A) in paragraph (4), by striking “in the summer of 1995” and inserting “in the summer of 1999”;

(B) in paragraph (5), by striking “in 1996 and thereafter, as well as replicate such program”; and

(C) in paragraph (6), by striking “1995” and inserting “1999”.

## **SEC. 3. REFERENCES TO CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.**

(a) IMMIGRATION AND NATIONALITY ACT.—Section 245A(h)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(C)) is amended by striking “Vocational Education Act of 1963” and inserting “Carl D. Perkins Vocational and Technical Education Act of 1998”.

(b) NATIONAL DEFENSE AUTHORIZATION ACT.—Section 4461 of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143 note) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(c) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) in section 1114(b)(2)(C)(v) (20 U.S.C. 6314(b)(2)(C)(v)), by striking “Carl D. Perkins Vocational and Applied Technical Education Act” and inserting “Carl D. Perkins Vocational and Technical Education Act of 1998”;

(2) in section 9115(b)(5) (20 U.S.C. 7815(b)(5)), by striking “Carl D. Perkins Vocational and Technical Education Act” and inserting “Carl D. Perkins Vocational and Technical Education Act of 1998”;

(3) in section 14302(a)(2) (20 U.S.C. 8852(a)(2))—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively; and

(4) in the matter preceding subparagraph (A) of section 14307(a)(1) (20 U.S.C. 8857(a)(1)), by striking “Carl D. Perkins Vocational and Applied Technology Technical Education Act” and inserting “Carl D. Perkins Vocational and Technical Education Act of 1998”.

(d) EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking “(20 U.S.C. 2397h(3))” and inserting “, as such section was in effect on the day preceding the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998”.

(e) IMPROVING AMERICA’S SCHOOLS ACT OF 1994.—Section 563 of the Improving America’s Schools Act of 1994 (20 U.S.C. 6301 note) is amended by striking “the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Technical Education Act (20 U.S.C. 2301 et seq.)” and inserting “July 1, 1999”.

(f) WORKFORCE INVESTMENT ACT OF 1998.—Section 101(3) of the Workforce Investment Act of 1998 (29 U.S.C. 2801(3)) is amended by striking “section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471)” and inserting “section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998”.

(g) APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) is amended by striking “Carl D. Perkins Vocational Education Act” and inserting “Carl D. Perkins Vocational and Technical Education Act of 1998”.

20 USC 11 note.

(h) VOCATIONAL EDUCATION AMENDMENTS OF 1968.—Section 104 of the Vocational Education Amendments of 1968 (82 Stat. 1091) is amended by striking “section 3 of the Carl D. Perkins Vocational Education Act” and inserting “the Carl D. Perkins Vocational and Technical Education Act of 1998”.

(i) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(1) in section 502(b)(1)(N)(i) (42 U.S.C. 3056(b)(1)(N)(i)), by striking “or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)”; and

(2) in section 505(d)(2) (42 U.S.C. 3056c(d)(2))—

(A) by striking “employment and training programs” and inserting “workforce investment activities”; and

(B) by striking “the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)” and inserting “the Carl D. Perkins Vocational and Technical Education Act of 1998”.

#### SEC. 4. ADULT EDUCATION AND FAMILY LITERACY.

The Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.) is amended—

20 USC 9224.

(1) in section 224, by adding at the end the following:

“(g) TRANSITION.—The provisions of this section shall be subject to section 506(b).”; and

20 USC 9276.

(2) by amending paragraph (2) of section 506(b) to read as follows:

“(2) LIMITATION.—The authority to take actions under paragraph (1) shall apply until July 1, 2000.”.

**SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) **WORKFORCE INVESTMENT ACT OF 1998.**—Section 121 of the Workforce Investment Act of 1998 (29 U.S.C. 2841) is amended—

(1) in subsection (b)(1)(B)(iv), by inserting before the semicolon the following: “(other than part C of title I of such Act and subject to subsection (f))”; and

(2) by adding at the end the following:

“(f) **APPLICATION TO CERTAIN VOCATIONAL REHABILITATION PROGRAMS.**—

“(1) **LIMITATION.**—Nothing in this section shall be construed to apply to part C of title I of the Rehabilitation Act of 1973 (29 U.S.C. 741).

“(2) **CLIENT ASSISTANCE.**—Nothing in this Act shall be construed to require that any entity carrying out a client assistance program authorized under section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732)—

“(A) violate the requirement of section 112(c)(1)(A) of that Act that the entity be independent of any agency which provides treatment, services, or rehabilitation to individuals under that Act; or

“(B) carry out any activity not authorized under section 112 of that Act (including appropriate Federal regulations).”

(b) **WAGNER-PEYSER ACT.**—

(1) **IN GENERAL.**—Section 15 of the Wagner-Peyser Act (as added by section 309 of the Workforce Investment Act of 1998) is amended—

*Ante*, p. 1082.

(A) in subsection (a)(2)(A)(i), by striking “under” and all that follows through “for which” and inserting “under the provisions of this section for any purpose other than the statistical purposes for which”; and

(B) in subsection (e)(2)(G), by striking “complementary” and inserting “complementarity”.

(2) **EFFECTIVE DATE.**—The amendments made by paragraph

29 USC 491–2  
note.

(1) take effect July 2, 1999.

(c) **REHABILITATION ACT OF 1973.**—Section 725(c)(7) of the Rehabilitation Act of 1973 (as amended by section 410 of the Workforce Investment Act of 1998) is amended by striking “management,” and all that follows and inserting “management;”.

*Ante*, p. 1217.

**SEC. 6. REPEALS AND EXTENSIONS OF PREVIOUS HIGHER EDUCATION AMENDMENTS PROVISIONS.**

(a) **HIGHER EDUCATION AMENDMENTS OF 1986.**—Title XIII of the Higher Education Amendments of 1986 (Public Law 99-498) is repealed.

20 USC 1101  
note, 1029 note,  
1070a note, 1071  
note, 1091 notes,  
1121 note, 1221–  
1 notes, 9003  
note.

(b) HIGHER EDUCATION AMENDMENTS OF 1992.—The following provisions of the Higher Education Amendments of 1992 (Public Law 102–325) are repealed:

25 USC 3331 *et seq.*

20 USC 1070 note, 1070a–21 note, 1071 note, 1080 note, 1101 note, 1132a note, 1134 note, 1221–1 notes, 1221e note, 9003 note.  
20 USC 1101 note, 1145h, 1452 note; 29 USC 2401 *et seq.*

(1) Parts E, F, and G of title XIII.

(2) Title XIV.

(3) Parts A, B, C, and D of title XV.

Approved October 31, 1998.

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LEGISLATIVE HISTORY—H.R. 1853:

HOUSE REPORTS: Nos. 105–177 (Comm. on Education and the Workforce) and 105–800 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 143 (1997): July 17, 22, considered and passed House.

Vol. 144 (1998): June 12, considered and passed Senate, amended.

Oct. 8, House and Senate agreed to conference report.



Public Law 105–333  
105th Congress

An Act

To amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes.

Oct. 31, 1998  
[H.R. 2000]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

ANCSA Land  
Bank Protection  
Act of 1998.

**SECTION 1. AUTOMATIC LAND BANK PROTECTION.**

(a) **LANDS RECEIVED IN EXCHANGE FROM CERTAIN FEDERAL AGENCIES.**—The matter preceding clause (i) of section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)(1)(A)) is amended by inserting “or conveyed to a Native Corporation pursuant to an exchange authorized by section 22(f) of the Alaska Native Claims Settlement Act or section 1302(h) of this Act or other applicable law” after “Settlement Trust”.

(b) **LANDS EXCHANGED AMONG NATIVE CORPORATIONS.**—Section 907(d)(2)(B) of such Act (43 U.S.C. 1636(d)(2)(B)) is amended—

(1) by striking “and” at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting “; and”; and

(3) by adding at the end the following:

“(iv) lands or interest in lands shall not be considered developed or leased or sold to a third party as a result of an exchange or conveyance of such land or interest in land between or among Native Corporations and trusts, partnerships, corporations, or joint ventures, whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.”.

(c) **ACTIONS BY TRUSTEE SERVING PURSUANT TO AGREEMENT OF NATIVE CORPORATIONS.**—Section 907(d)(3)(B) of such Act (43 U.S.C. 1636(d)(3)(B)) is amended—

(1) by striking “or” at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting “; or”; and

(3) by adding at the end the following:

“(iii) to actions by any trustee whose right, title, or interest in land or interests in land arises pursuant to an agreement between or among Native Corporations and trusts, partnerships, or joint ventures whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.”.

**SEC. 2. DEVELOPMENT BY THIRD-PARTY TRESPASSERS.**

Section 907(d)(2)(A)(i) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636(d)(2)(A)(i)) is amended—

(1) by inserting “Any such modification shall be performed by the Native individual or Native Corporation.” after “substantial modification.”;

(2) by inserting a period after “developed state” the second place it appears; and

(3) by adding “Any lands previously developed by third-party trespassers shall not be considered to have been developed.”.

#### **SEC. 3. RETAINED MINERAL ESTATE.**

(a) **IN GENERAL.**—Section 12(c)(4) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (B) the following new subparagraphs:

“(C) Where such public lands are surrounded by or contiguous to subsurface lands obtained by a Regional Corporation under subsections (a) or (b), the Corporation may, upon request, have such public land conveyed to it.

“(D)(i) A Regional Corporation which elects to obtain public lands under subparagraph (C) shall be limited to a total of not more than 12,000 acres. Selection by a Regional Corporation of in lieu surface acres under subparagraph (E) pursuant to an election under subparagraph (C) shall not be made from any lands within a conservation system unit (as that term is defined by section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4))).

“(ii) An election to obtain the public lands described in subparagraph (A), (B), or (C) shall include all available parcels within the township in which the public lands are located.

“(iii) For purposes of this subparagraph and subparagraph (C), the term ‘Regional Corporation’ shall refer only to Doyon, Limited.”; and

(2) in subparagraph (E) (as so redesignated), by striking “(A) or (B)” and inserting “(A), (B), or (C)”.

(b) **FAILURE TO APPEAL NOT PROHIBITIVE.**—Section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)) is amended by adding at the end the following:

“(5) Subparagraphs (A), (B), and (C) of paragraph (4) shall apply, notwithstanding the failure of the Regional Corporation to have appealed the rejection of a selection during the conveyance of the relevant surface estate.”.

#### **SEC. 4. AMENDMENT TO PUBLIC LAW 102-415.**

Section 20 of the Alaska Land Status Technical Corrections Act of 1992 (106 Stat. 2129), is amended by adding at the end the following new subsection:

“(h) Establishment of the account under subsection (b) and conveyance of land under subsection (c), if any, shall be treated as though 3,520 acres of land had been conveyed to Gold Creek under section 14(h)(2) of the Alaska Native Claims Settlement Act for which rights to subsurface estate are hereby provided to CIRI. Within 1 year from the date of the enactment of this subsection, CIRI shall select 3,520 acres of subsurface estate in land from the area designated for selection by paragraph I.B.(2)(b) of the document identified in section 12(b) (referring to the Talkeetna Mountains) of the Act of January 2, 1976 (43 U.S.C. 1611 note). Not more than five selections shall be made under this subsection, each of which shall be reasonably compact and in whole sections, except when separated by unavailable land or when the remaining entitlement is less than a whole section.”.

Deadline.



**SEC. 5. CLARIFICATION ON TREATMENT OF BONDS FROM A NATIVE CORPORATION.**

Section 29(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)) is amended—

(1) in paragraph (3)(A), by inserting “and on bonds received from a Native Corporation” after “from a Native Corporation”; and

(2) in paragraph (3)(B), by inserting “or bonds issued by a Native Corporation which bonds shall be subject to the protection of section 7(h) until voluntarily and expressly sold or pledged by the shareholder subsequent to the date of distribution” before the semicolon.

**SEC. 6. CALISTA NATIVE CORPORATION LAND EXCHANGE.**

(a) CONGRESSIONAL FINDINGS.—Congress finds and declares that—

(1) the land exchange authorized by section 8126 of Public Law 102-172 should be implemented without further delay;

(2) the Calista Corporation, the Native Regional Corporation organized under the authority of the Alaska Native Claims Settlement Act for the Yupik Eskimos of Southwestern Alaska, which includes the majority of the Yukon Delta National Wildlife Refuge—

(A) has responsibilities provided for by the Alaska Native Claims Settlement Act to help address social, cultural, economic, health, subsistence, and related issues within the region and among its villages, including the viability of the villages themselves, many of which are remote and isolated; and

(B) has been unable to fully carry out such responsibilities;

(3) the implementation of the exchange referenced in this subsection is essential to helping Calista utilize its assets to carry out those responsibilities and to realize the benefits of the Alaska Native Claims Settlement Act;

(4) the parties to the exchange have been unable to reach agreement on the valuation of the lands and interests in lands to be conveyed to the United States under section 8126 of Public Law 102-172; and

(5) in light of the foregoing, it is appropriate and necessary in this unique situation that Congress authorize and direct the implementation of this exchange as set forth in this section in furtherance of the purposes and underlying goals of the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act.

(b) LAND EXCHANGE IMPLEMENTATION.—Section 8126 of Public Law 102-172 (105 Stat. 1206) is amended to read as follows:

“SEC. 8126. (a)(1) In exchange for lands, partial estates, and land selection rights identified in the document entitled ‘The Calista Conveyance and Relinquishment Document’, dated October 28, 1991, as amended September 22, 1998 (hereinafter referred to as ‘CCRD’), the United States will establish a property account for the Calista Corporation, a corporation organized under the laws of the State of Alaska, in the amount identified in the CCRD, and in accordance with the provisions of this Act.

Calista  
Corporation.

“(2) The CCRD contains the land descriptions of the lands and interests in lands to be conveyed, the selections to be relinquished, the charges to entitlement, the quantity and class of entitlement to be transferred to the United States, the terms of the Kuskokwim Corporation Conservation Easement, and the amount that is authorized for the property account.

“(3) The covenants, terms, and conditions to be used in any transfers to the United States described in the CCRD shall be binding on the United States and the participating Native corporations and shall be a matter of Federal law.

“(b)(1) The aggregate values of such lands and interests in lands, together with compensation for the considerations set forth in congressional findings concerning the Calista Region and its villages, shall be the sum provided in section IX of the CCRD. The amounts credited to the property account described in this subsection shall not be subject to adjustment for minor changes in acreage resulting from preparation or correction of the land descriptions in the CCRD or the exclusion of any small tracts of land as a result of hazardous material surveys. The Secretary of the Interior shall maintain an accounting of the lands and interests in lands remaining to be conveyed or relinquished by Calista Corporation and the participating village corporations pursuant to this section. The Secretary of the Treasury on October 1, 1998, shall establish a property account on behalf of Calista Corporation.

“(2) The account shall be credited and available for use as provided in paragraph (4), according to the following schedule of percentages of the amount in section IX of the CCRD:

“(A) On October 1, 1999, and on October 1 of each year thereafter through October 1, 2005, the amount equal to 12.69 percent.

“(B) On October 1, 2007, the amount equal to 11.17 percent.

“(3)(A) Unless otherwise authorized by law, the aggregate amount of all credits to the account, pursuant to the schedule set forth in paragraph (2), shall be equal to the amount in section IX of the CCRD.

“(B) All amounts credited to the account shall be from amounts in the Treasury not otherwise appropriated and shall be available for expenditure without further appropriation and without fiscal year limitation.

“(4) The property account may not be used until all conveyances, relinquishments of selections, and adjustments to entitlements described in the CCRD have been made to and accepted by the United States. The Secretary of the Interior shall notify the Secretary of the Treasury when all requirements of the preceding sentence have been met. Immediately thereafter the Secretary of the Treasury shall comply with his duties under this paragraph including the computations of the amount in the account, the amount that may be expended in any particular Federal fiscal year, and the balance of the account after any transaction. The property account may be used in the same manner as any other property account held by any other Alaska Native Corporation.

“(5) Notwithstanding any other provision of law, Calista Corporation on its own behalf or on behalf of the village corporations identified in the CCRD, may assign any or all of the account upon written notification to the Secretary of the Treasury and the Secretary of the Interior.

Notification.

“(6) The Secretary of the Treasury shall notify the Secretary of the Interior and Calista whenever there is a reduction in the property account, the purpose for such reduction and the remaining balance in the account. The Alaska State Office of the Bureau of Land Management shall be the official repository of such notices. Notification.

“(7) For the purpose of the determination of the applicability of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)) to revenues generated pursuant to that section, such revenues shall be calculated in accordance with section IX of the CCRD.

“(8) The United States shall not be liable for the redistribution of benefits by the Calista Corporation to the participating Alaska Native village corporations pursuant to this section.

“(9) These transactions are not based on appraised property values and therefore shall not be used as a precedent for establishing property values.

“(10) Prior to the issuance of any conveyance documents or relinquishments and acceptance, the Secretary of the Interior and the participating Native corporations may, by mutual agreement, modify the legal descriptions included in the CCRD to correct clerical errors.

“(11) Property located in the State of Alaska that is purchased by use of the property account shall be considered and treated as conveyances of land selections under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“(12) The conveyance of lands, partial estates, and land selection rights and relinquishment or adjustments to entitlement made by the Alaska Native Corporations pursuant to this section and the use of the property account in the Treasury shall be treated as the receipt of land or any interest therein or cash in order to equalize the values of properties exchanged pursuant to section 22(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(f)) as provided in the first sentence in section 21(c) of that Act (43 U.S.C. 1620(c)).

“(13) With respect to the content of the CCRD, the Secretary of the Interior, the Calista Regional Corporation, and the participating village corporations agree upon the lands, interests in lands, relinquishments and adjustments to entitlement described therein that may be offered to the United States pursuant to this section. These parties also agree with the amounts to be made available in the property account once all conveyances and relinquishments are completed, and the parties agree with the needs set forth in the congressional findings in section 6(a) of the ANCSA Land Bank Protection Act of 1998. The parties do not necessarily agree on the hortatory statements, descriptions, and attributions of resource values which are included in the CCRD as drafted by Calista. But such disagreements will not affect the implementation of this section.

“(14) Descriptions of resource values provided for surface lands which are not offered in the exchange and will remain privately owned by village corporations form no part of the consideration for the exchange.”.

#### **SEC. 7. MINING CLAIMS.**

Paragraph (3) of section 22(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended—

Haida  
Corporation.  
Haida  
Traditional Use  
Sites.

(1) by striking out “regional corporation” each place it appears and inserting in lieu thereof “Regional Corporation”; and

(2) by adding at the end the following: “The provisions of this section shall apply to Haida Corporation and the Haida Traditional Use Sites, which shall be treated as a Regional Corporation for the purposes of this paragraph, except that any revenues remitted to Haida Corporation under this section shall not be subject to distribution pursuant to section 7(i) of this Act.”.

**SEC. 8. SALE, DISPOSITION, OR OTHER USE OF COMMON VARIETIES OF SAND, GRAVEL, STONE, PUMICE, PEAT, CLAY, OR CINDER RESOURCES.**

Subsection (i) of section 7 of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)) is amended—

(1) by striking “Seventy per centum” and inserting “(A) Except as provided by subparagraph (B), 70 percent”; and

(2) by adding at the end the following:

“(B) In the case of the sale, disposition, or other use of common varieties of sand, gravel, stone, pumice, peat, clay, or cinder resources made during a fiscal year ending after the date of enactment of this subparagraph, the revenues received by a Regional Corporation shall not be subject to division under subparagraph (A). Nothing in this subparagraph is intended to or shall be construed to alter the ownership of such sand, gravel, stone, pumice, peat, clay, or cinder resources.”.

**SEC. 9. ALASKA NATIVE ALLOTMENT APPLICATIONS.**

Section 905(a) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634(a)) is amended by adding at the end the following:

Applicability.

“(7) Paragraph (1) of this subsection and subsection (d) shall apply, and paragraph (5) of this subsection shall cease to apply, to an application—

“(A) that is open and pending on the date of enactment of this paragraph;

“(B) if the lands described in the application are in Federal ownership other than as a result of reacquisition by the United States after January 3, 1959; and

“(C) if any protest which is filed by the State of Alaska pursuant to paragraph (5)(B) with respect to the application is withdrawn or dismissed either before, on, or after the date of the enactment of this paragraph.

“(8)(A) Any allotment application which is open and pending and which is legislatively approved by enactment of paragraph (7) shall, when allotted, be made subject to any easement, trail, or right-of-way in existence on the date of the Native allotment applicant’s commencement of use and occupancy.

“(B) The jurisdiction of the Secretary is extended to make any factual determinations required to carry out this paragraph.”.

**SEC. 10. VISITOR SERVICES.**

Paragraph (1) of section 1307(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(b)) is amended—

(1) by striking “Native Corporation” and inserting “Native Corporations”; and

(2) by striking “is most directly affected” and inserting “are most directly affected”.

**SEC. 11. LOCAL HIRE REPORT.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Interior shall transmit to Congress a report.

Deadline.  
16 USC 3198  
note.

(b) LOCAL HIRE.—The report required by subsection (a) shall—

(1) indicate the actions taken in carrying out subsection (b) of section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198);

(2) address the recruitment processes that may restrict employees hired under subsection (a) of such section from successfully obtaining positions in the competitive service; and

(3) describe the actions of the Secretary of the Interior in contracting with Alaska Native Corporations to provide services with respect to public lands in Alaska.

(c) COOPERATION.—The Secretary of Agriculture shall cooperate with the Secretary of the Interior in carrying out this section with respect to the Forest Service.

**SEC. 12. SHAREHOLDER BENEFITS.**

Section 7 of the Alaskan Native Claims Settlement Act (43 U.S.C. 1606) is amended by adding at the end the following:

“(r) BENEFITS FOR SHAREHOLDERS OR IMMEDIATE FAMILIES.—The authority of a Native Corporation to provide benefits to its shareholders who are Natives or descendants of Natives or to its shareholders’ immediate family members who are Natives or descendants of Natives to promote the health, education, or welfare of such shareholders or family members is expressly authorized and confirmed. Eligibility for such benefits need not be based on share ownership in the Native Corporation and such benefits may be provided on a basis other than pro rata based on share ownership.”.

**SEC. 13. SHAREHOLDER HOMESITE PROGRAM.**

Section 39(b)(1)(B) of the Alaskan Native Claims Settlement Act (43 U.S.C. 1629e(b)(1)(B)) is amended by inserting after “settlor corporation” the following: “or the land is conveyed for a homesite by the Trust to a beneficiary of the Trust who is also a legal resident under Alaska law of the Native village of the settlor corporation and the conveyance does not exceed 1.5 acres”.

112 STAT. 3136

PUBLIC LAW 105–333—OCT. 31, 1998

43 USC 1601  
note.

**SEC. 14. SHORT TITLE.**

This Act may be cited as the “ANCSA Land Bank Protection Act of 1998”.

Approved October 31, 1998.

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**LEGISLATIVE HISTORY—H.R. 2000:**

HOUSE REPORTS: No. 105–677 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 23, considered and passed House.

Oct. 7, considered and passed Senate.



Public Law 105–334  
105th Congress

An Act

To provide for a change in the exemption from the child labor provisions of the Fair Labor Standards Act of 1938 for minors who are 17 years of age and who engage in the operation of automobiles and trucks.

Oct. 31, 1998  
[H.R. 2327]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Drive for Teen Employment Act”.

Drive for Teen  
Employment Act.  
29 USC 201 note.

**SEC. 2. AUTHORITY FOR MINORS TO OPERATE MOTOR VEHICLES.**

(a) AMENDMENT.—Section 13(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c)) is amended by adding at the end the following:

“(6) In the administration and enforcement of the child labor provisions of this Act, employees who are under 17 years of age may not drive automobiles or trucks on public roadways. Employees who are 17 years of age may drive automobiles or trucks on public roadways only if—

“(A) such driving is restricted to daylight hours;

“(B) the employee holds a State license valid for the type of driving involved in the job performed and has no records of any moving violation at the time of hire;

“(C) the employee has successfully completed a State approved driver education course;

“(D) the automobile or truck is equipped with a seat belt for the driver and any passengers and the employee’s employer has instructed the employee that the seat belts must be used when driving the automobile or truck;

“(E) the automobile or truck does not exceed 6,000 pounds of gross vehicle weight;

“(F) such driving does not involve—

“(i) the towing of vehicles;

“(ii) route deliveries or route sales;

“(iii) the transportation for hire of property, goods, or passengers;

“(iv) urgent, time-sensitive deliveries;

“(v) more than two trips away from the primary place of employment in any single day for the purpose of delivering goods of the employee’s employer to a customer (other than urgent, time-sensitive deliveries);

“(vi) more than two trips away from the primary place of employment in any single day for the purpose of

transporting passengers (other than employees of the employer);

“(vii) transporting more than three passengers (including employees of the employer); or

“(viii) driving beyond a 30 mile radius from the employee’s place of employment; and

“(G) such driving is only occasional and incidental to the employee’s employment.

For purposes of subparagraph (G), the term ‘occasional and incidental’ is no more than one-third of an employee’s worktime in any workday and no more than 20 percent of an employee’s worktime in any workweek.”

(b) EFFECTIVE DATE.—

29 USC 213 note.

(1) IN GENERAL.—This Act shall become effective on the date of the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a) defining the term “occasional and incidental” shall also apply to any case, action, citation, or appeal pending on the date of the enactment of this Act unless such case, action, citation, or appeal involves property damage or personal injury.

Approved October 31, 1998.

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LEGISLATIVE HISTORY—H.R. 2327:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 28, considered and passed House.

Oct. 12, considered and passed Senate, amended.

Oct. 13, House concurred in Senate amendment.





Public Law 105–335  
105th Congress

An Act

To provide for the exchange of certain lands within the State of Utah.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Utah Schools and Lands Exchange Act of 1998”.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The State of Utah owns approximately 176,600 acres of land, as well as approximately 24,165 acres of mineral interests, administered by the Utah School and Institutional Trust Lands Administration, within the exterior boundaries of the Grand Staircase-Escalante National Monument, established by Presidential proclamation on September 18, 1996, pursuant to section 2 of the Antiquities Act of 1906 (16 U.S.C. 431). The State of Utah also owns approximately 200,000 acres of land, and 76,000 acres of mineral interests, administered by the Utah School and Institutional Trust Lands Administration, within the exterior boundaries of several units of the National Park System and the National Forest System, and within certain Indian reservations in Utah. These lands were granted by Congress to the State of Utah pursuant to the Utah Enabling Act (chap. 138, 28 Stat. 107 (1894)), to be held in trust for the benefit of the State’s public school system and other public institutions.

(2) Many of the State school trust lands within the monument may contain significant economic quantities of mineral resources, including coal, oil, and gas, tar sands, coalbed methane, titanium, uranium, and other energy and metalliferous minerals. Certain State school trust lands within the Monument, like the Federal lands comprising the Monument, have substantial noneconomic scientific, historic, cultural, scenic, recreational, and natural resources, including ancient Native American archeological sites and rare plant and animal communities.

(3) Development of surface and mineral resources on State school trust lands within the Monument could be incompatible with the preservation of these scientific and historic resources for which the Monument was established. Federal acquisition of State school trust lands within the Monument would eliminate this potential incompatibility, and would enhance management of the Grand Staircase-Escalante National Monument.

Oct. 31, 1998

[H.R. 3830]

Utah Schools and  
Lands Exchange  
Act of 1998.

16 USC 431 note  
[table].

(4) The United States owns lands and interest in lands outside of the Monument that can be transferred to the State of Utah in exchange for the Monument inholdings without jeopardizing Federal management objectives or needs.

(5) In 1993, Congress passed and the President signed Public Law 103-93, which contained a process for exchanging State of Utah school trust inholdings in the National Park System, the National Forest System, and certain Indian reservations in Utah. Among other things, it identified various Federal lands and interests in land that were available to exchange for these State inholdings.

(6) Although Public Law 103-93 offered the hope of a prompt, orderly exchange of State inholdings for Federal lands elsewhere, implementation of the legislation has been very slow. Completion of this process is realistically estimated to be many years away, at great expense to both the State and the United States in the form of expert witnesses, lawyers, appraisers, and other litigation costs.

(7) The State also owns approximately 2,560 acres of land in or near the Alton coal field which has been declared an area unsuitable for coal mining under the terms of the Surface Mining Control and Reclamation Act. This land is also administered by the Utah School and Institutional Trust Lands Administration, but its use is limited given this declaration.

(8) The large presence of State school trust land inholdings in the Monument, national parks, national forests, and Indian reservations make land and resource management in these areas difficult, costly, and controversial for both the State of Utah and the United States.

(9) It is in the public interest to reach agreement on exchange of inholdings, on terms fair to both the State and the United States. Agreement saves much time and delay in meeting the expectations of the State school and institutional trusts, in simplifying management of Federal and Indian lands and resources, and in avoiding expensive, protracted litigation under Public Law 103-93.

(10) The State of Utah and the United States have reached an agreement under which the State would exchange all its State school trust lands within the Monument, and specified inholdings in national parks, forests, and Indian reservations that are subject to Public Law 103-93, for various Federal lands and interests in lands located outside the Monument, including Federal lands and interests identified as available for exchange in Public Law 103-93 and additional Federal lands and interests in lands.

(11) The State school trust lands to be conveyed to the Federal Government include properties within units of the National Park System, the National Forest System, and the Grand Staircase-Escalante National Monument. The Federal assets made available for exchange with the State were selected with a great sensitivity to environmental concerns and a belief and expectation by both parties that Federal assets to be conveyed to the State would be unlikely to trigger significant environmental controversy.

(12) The parties agreed at the outset of negotiations to avoid identifying Federal assets for conveyance to the State where any of the following was known to exist or likely to

be an issue as a result of foreseeable future uses of the land: significant wildlife resources, endangered species habitat, significant archaeological resources, areas of critical environmental concern, coal resources requiring surface mining to extract the mineral deposits, wilderness study areas, significant recreational areas, or any other lands known to raise significant environmental concerns of any kind.

(13) The parties further agreed that the use of any mineral interests obtained by the State of Utah where the Federal Government retains surface and other interest, will not conflict with established Federal land and environmental management objectives, and shall be fully subject to all environmental regulations applicable to development of non-Federal mineral interest on Federal lands.

(14) Because the inholdings to be acquired by the Federal Government include properties within the boundaries of some of the most renowned conservation land units in the United States, and because a mission of the Utah School and Institutional Trust Lands Administration is to produce economic benefits for Utah's public schools and other beneficiary institutions, the exchange of lands called for in this agreement will resolve many longstanding environmental conflicts and further the interest of the State trust lands, the school children of Utah, and these conservation resources.

(15) The Congress finds that, under this Agreement taken as a whole, the State interests to be conveyed to the United States by the State of Utah, and the Federal interests and payments to be conveyed to the State of Utah by the United States, are approximately equal in value.

(16) The purpose of this legislation is to enact into law and direct prompt implementation of this historic agreement.

### **SEC. 3. RATIFICATION OF AGREED EXCHANGE BETWEEN THE STATE OF UTAH AND THE DEPARTMENT OF THE INTERIOR.**

(a) **AGREEMENT.**—The State of Utah and the Department of the Interior have agreed to exchange certain Federal lands, Federal mineral interests, and payment of money for lands and mineral interests managed by the Utah School and Institutional Trust Lands Administration, lands and mineral interests of approximately equal value inheld within the Grand Staircase-Escalante National Monument the Goshute and Navajo Indian Reservations, units of the National Park System, the National Forest System, and the Alton coal fields.

(b) **RATIFICATION.**—All terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled “Agreement to Exchange Utah School Trust Lands Between the State of Utah and the United States of America” (herein referred to as “the Agreement”) are hereby incorporated in this title, are ratified and confirmed, and set forth the obligations and commitments of the United States, the State of Utah, and Utah School and Institutional Trust Lands Administration (herein referred to as “SITLA”), as a matter of Federal law.

### **SEC. 4. LEGAL DESCRIPTIONS.**

(a) **IN GENERAL.**—The maps and legal descriptions referred to in the Agreement depict the lands subject to the conveyances.

(b) **PUBLIC AVAILABILITY.**—The maps and descriptions referred to in the Agreement shall be on file and available for public inspection in the offices of the Secretary of the Interior and the Utah State Director of the Bureau of Land Management.

(c) **CONFLICT.**—In case of conflict between the maps and the legal descriptions, the legal descriptions shall control.

**SEC. 5. COSTS.**

The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this Act.

**SEC. 6. REPEAL OF PUBLIC LAW 103-93 AND PUBLIC LAW 104-211.**

The provisions of Public Law 103-93 (107 Stat. 995), other than section 7(b)(1), section 7(b)(3), and section 10(b) thereof, are hereby repealed. Public Law 104-211 (110 Stat. 3013) is hereby repealed.

**SEC. 7. CASH PAYMENT PREVIOUSLY AUTHORIZED.**

As previously authorized and made available by section 7(b)(1) and (b)(3) of Public Law 103-93, upon completion of all conveyances described in the Agreement, the United States shall pay \$50,000,000 to the State of Utah from funds not otherwise appropriated from the Treasury.

**SEC. 8. SCHEDULE FOR CONVEYANCES.**

All conveyances under sections 2 and 3 of the agreement shall be completed within 70 days after the enactment of this Act.

Approved October 31, 1998.

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**LEGISLATIVE HISTORY—H.R. 3830:**

HOUSE REPORTS: No. 105-598 (Comm. on Resources).

SENATE REPORTS: No. 105-331 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 24, considered and passed House.

Oct. 9, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 31, Presidential statement.



Public Law 105–336  
105th Congress

An Act

To amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes.

Oct. 31, 1998  
[H.R. 3874]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “William F. Goodling Child Nutrition Reauthorization Act of 1998”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

William F.  
Goodling Child  
Nutrition  
Reauthorization  
Act of 1998.  
42 USC 1751  
note.

Sec. 1. Short title; table of contents.

**TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS**

- Sec. 101. Provision of commodities.
- Sec. 102. Nutritional and other program requirements.
- Sec. 103. Special assistance.
- Sec. 104. Miscellaneous provisions and definitions.
- Sec. 105. Summer food service program for children.
- Sec. 106. Commodity distribution program.
- Sec. 107. Child and adult care food program.
- Sec. 108. Meal supplements for children in afterschool care.
- Sec. 109. Pilot projects.
- Sec. 110. Training, technical assistance, and food service management institute.
- Sec. 111. Compliance and accountability.
- Sec. 112. Information clearinghouse.
- Sec. 113. Accommodation of the special dietary needs of individuals with disabilities.

**TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS**

- Sec. 201. School breakfast program authorization.
- Sec. 202. State administrative expenses.
- Sec. 203. Special supplemental nutrition program for women, infants, and children.
- Sec. 204. Nutrition education and training.

**TITLE III—COMMODITY DISTRIBUTION PROGRAMS**

- Sec. 301. Information from recipient agencies.
- Sec. 302. Food distribution.

**TITLE IV—EFFECTIVE DATE**

- Sec. 401. Effective date.

## **TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS**

### **SEC. 101. PROVISION OF COMMODITIES.**

(a) **IN GENERAL.**—Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended—

(1) by striking subsections (c) and (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (c), (d), and (e), respectively.

(b) **CONFORMING AMENDMENTS.**—The National School Lunch Act is amended by striking “section 6(e)” each place it appears in sections 14(f), 16(a), and 17(h)(1)(B) (42 U.S.C. 1762a(f), 1765(a), 1766(h)(1)(B)) and inserting “section 6(c)”.

### **SEC. 102. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.**

(a) **TECHNICAL AMENDMENTS.**—Section 9(f) of the National School Lunch Act (42 U.S.C. 1758(f)) is amended—

(1) in paragraph (2), by striking “subparagraph (A)” and inserting “paragraph (1)”; and

(2) in paragraphs (3) and (4), by striking “this paragraph” each place it appears and inserting “this subsection”.

(b) **WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.**—Section 9(f) of the National School Lunch Act (42 U.S.C. 1758(f)) is amended by adding at the end the following:

“(5) **WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.**—During the period ending on September 30, 2003, the Secretary shall not require the use of weighted averages for nutrient analysis of menu items and foods offered or served as part of a meal offered or served under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).”.

(c) **REQUIREMENT FOR FOOD SAFETY INSPECTIONS.**—Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end the following:

“(h) **FOOD SAFETY INSPECTIONS.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), a school participating in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall, at least once during each school year, obtain a food safety inspection conducted by a State or local governmental agency responsible for food safety inspections.

“(2) **EXCEPTION.**—Paragraph (1) shall not apply to a school if a food safety inspection of the school is required by a State or local governmental agency responsible for food safety inspections.”.

(d) **SINGLE PERMANENT AGREEMENT BETWEEN STATE AGENCY AND SCHOOL FOOD AUTHORITY; COMMON CLAIMS FORM.**—Section 9 of the National School Lunch Act (42 U.S.C. 1758), as amended by subsection (c), is further amended by adding at the end the following:

“(i) **SINGLE PERMANENT AGREEMENT BETWEEN STATE AGENCY AND SCHOOL FOOD AUTHORITY; COMMON CLAIMS FORM.**—

“(1) IN GENERAL.—If a single State agency administers any combination of the school lunch program under this Act, the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the summer food service program for children under section 13 of this Act, or the child and adult care food program under section 17 of this Act, the agency shall—

“(A) require each school food authority to submit to the State agency a single agreement with respect to the operation by the authority of the programs administered by the State agency; and

“(B) use a common claims form with respect to meals and supplements served under the programs administered by the State agency.

“(2) ADDITIONAL REQUIREMENT.—The agreement described in paragraph (1)(A) shall be a permanent agreement that may be amended as necessary.”.

#### SEC. 103. SPECIAL ASSISTANCE.

(a) SCHOOL ELIGIBILITY REQUIREMENTS FOR PAYMENTS.—Section 11(a)(1) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (i)(I), by striking “3 successive school years” each place it appears and inserting “4 successive school years”; and

(B) in clauses (ii) and (iii), by striking “3-school-year period” each place it appears and inserting “4-school-year period”;

(2) in subparagraph (D)—

(A) in clause (i)—

(i) by striking “3-school-year period” each place it appears and inserting “4-school-year period”; and

(ii) by striking “2 school years” and inserting “4 school years”;

(B) in clause (ii)—

(i) by striking the first sentence;

(ii) by striking “The school” and inserting “A school described in clause (i)”; and

(iii) by striking “5-school-year period” each place it appears and inserting “4-school-year period”; and

(C) in clause (iii), by striking “5-school-year period” and inserting “4-school-year period”; and

(3) in subparagraph (E), by striking clause (iii).

(b) ADJUSTMENTS TO PAYMENT RATES.—

(1) IN GENERAL.—Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended—

(A) by striking “(B) The annual” and inserting the following:

“(B) COMPUTATION OF ADJUSTMENT.—

“(i) IN GENERAL.—The annual”;

(B) by striking “Each annual” and inserting the following:

“(ii) BASIS.—Each annual”;

(C) by striking “The adjustments” and inserting the following:

“(iii) ROUNDING.—

“(I) THROUGH JUNE 30, 1999.—For the period ending June 30, 1999, the adjustments”; and  
(D) by adding at the end the following:

“(II) JULY 1, 1999, AND THEREAFTER.—On July 1, 1999, and on each subsequent July 1, the national average payment rates for meals and supplements shall be adjusted to the nearest lower cent increment and shall be based on the unrounded amounts for the preceding 12-month period.”.

(2) CONFORMING AMENDMENTS.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended—

(A) in the second sentence of paragraph (1)(B), by striking “adjusted to the nearest one-fourth cent,”; and

(B) in paragraph (2)(B)(ii), by striking “, which shall be adjusted” and all that follows and inserting “(as adjusted pursuant to section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)))”.

(c) INFORMATION AND ASSISTANCE CONCERNING REIMBURSEMENT OPTIONS.—

(1) IN GENERAL.—Section 11 of the National School Lunch Act (42 U.S.C. 1759a) is amended by adding at the end the following:

“(f) INFORMATION AND ASSISTANCE CONCERNING REIMBURSEMENT OPTIONS.—

Grants.

“(1) IN GENERAL.—From funds made available under paragraph (3), the Secretary shall provide grants to not more than 10 State agencies in each of fiscal years 2000 and 2001 to enable the agencies, in accordance with criteria established by the Secretary, to—

“(A) identify separately in a list—

“(i) schools that are most likely to benefit from electing to receive special assistance under subparagraph (C) or (E) of subsection (a)(1); and

“(ii) schools that may benefit from electing to receive special assistance under subparagraph (C) or (E) of subsection (a)(1);

“(B) make the list of schools identified under this subsection available to each school district within the State and to the public;

“(C) provide technical assistance to schools, or school districts containing the schools, to enable the schools to evaluate and receive special assistance under subparagraph (C) or (E) of subsection (a)(1);

“(D) take any other actions the Secretary determines are consistent with receiving special assistance under subparagraph (C) or (E) of subsection (a)(1) and receiving a grant under this subsection; and

“(E) as soon as practicable after receipt of the grant, but not later than September 30, 2001, take the actions described in subparagraphs (A) through (D).

“(2) REPORT.—

Deadline.

“(A) IN GENERAL.—Not later than January 1, 2002, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of



the Senate a report on the activities of the State agencies receiving grants under this subsection.

“(B) CONTENTS.—In the report, the Secretary shall specify—

“(i) the number of schools identified as likely to benefit from electing to receive special assistance under subparagraph (C) or (E) of subsection (a)(1);

“(ii) the number of schools identified under this subsection that have elected to receive special assistance under subparagraph (C) or (E) of subsection (a)(1); and

“(iii) a description of how the funds and technical assistance made available under this subsection have been used.

“(3) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary \$2,250,000 for each of fiscal years 2000 and 2001 to carry out this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds, without further appropriation.”

(2) TECHNICAL AMENDMENTS.—The National School Lunch Act is amended in the second sentence of each of sections 21(e)(2)(A) and 26(d) (42 U.S.C. 1769b-1(e)(2)(A), 1769g(d)) by inserting at the end before the period “, without further appropriation”.

#### SEC. 104. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) ADJUSTMENTS TO REIMBURSEMENT RATES.—Section 12(f) of the National School Lunch Act (42 U.S.C. 1760(f)) is amended—

(1) by striking “school breakfasts and lunches” and inserting “breakfasts, lunches, suppers, and supplements”;

(2) by striking “sections 4 and 11” and inserting “sections 4, 11, 13, and 17”; and

(3) by striking “lunches and breakfasts” each place it appears and inserting “meals and supplements”.

(b) CRIMINAL PENALTIES.—Section 12(g) of the National School Lunch Act (42 U.S.C. 1760(g)) is amended by striking “\$10,000” and inserting “\$25,000”.

(c) FOOD AND NUTRITION PROJECTS.—Section 12(m) of the National School Lunch Act (42 U.S.C. 1760(m)) is amended by striking “1998” each place it appears and inserting “2003”.

(d) BUY AMERICAN.—Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end the following:

“(n) BUY AMERICAN.—

“(1) DEFINITION OF DOMESTIC COMMODITY OR PRODUCT.—In this subsection, the term ‘domestic commodity or product’ means—

“(A) an agricultural commodity that is produced in the United States; and

“(B) a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

“(2) REQUIREMENT.—

“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall require that a school food authority purchase, to the maximum extent practicable, domestic commodities or products.

Applicability.

“(B) LIMITATIONS.—Subparagraph (A) shall apply only to—

“(i) a school food authority located in the contiguous United States; and

“(ii) a purchase of a domestic commodity or product for the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).”

“(3) APPLICABILITY TO HAWAII.—Paragraph (2)(A) shall apply to a school food authority in Hawaii with respect to domestic commodities or products that are produced in Hawaii in sufficient quantities to meet the needs of meals provided under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).”

(e) PROCUREMENT CONTRACTS.—Section 12 of the National School Lunch Act (42 U.S.C. 1760), as amended by subsection (d), is further amended by adding at the end the following:

“(o) PROCUREMENT CONTRACTS.—In acquiring a good or service for programs under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (other than section 17 of that Act (42 U.S.C. 1786)), a State, State agency, school, or school food authority may enter into a contract with a person that has provided specification information to the State, State agency, school, or school food authority for use in developing contract specifications for acquiring such good or service.”

#### **SEC. 105. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.**

(a) ESTABLISHMENT OF SITE LIMITATION.—Section 13(a)(7)(B) of the National School Lunch Act (42 U.S.C. 1761(a)(7)(B)) is amended by striking clause (i) and inserting the following:

“(i) operate—

“(I) not more than 25 sites, with not more than 300 children being served at any one site; or

“(II) with a waiver granted by the State agency under standards developed by the Secretary, with not more than 500 children being served at any one site;”

(b) ELIMINATION OF MEAL CONTRACTING RESTRICTIONS, INDICATION OF INTEREST REQUIREMENT, AND VENDOR REGISTRATION REQUIREMENTS.—Section 13 of the National School Lunch Act (42 U.S.C. 1761) is amended—

(1) in subsection (a)(7)(B)—

(A) by striking clauses (ii) and (iii); and

(B) by redesignating clauses (iv) through (vii) as clauses

(ii) through (v) respectively; and

(2) in subsection (l)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking “(other than private nonprofit organizations eligible under subsection (a)(7))”; and

(II) by striking “only with food service management companies registered with the State in which they operate” and inserting “with food service management companies”; and

(ii) by striking the last sentence;

(B) in paragraph (2)—

(i) in the first sentence, by striking “shall” and inserting “may”; and

(ii) by striking the second and third sentences;

(C) by striking paragraph (3); and

(D) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) OFFER VERSUS SERVE.—Section 13(f)(7) of the National School Lunch Act (42 U.S.C. 1761(f)(7)) is amended in the first sentence by striking “attending a site on school premises operated directly by the authority”.

(d) REAUTHORIZATION OF PROGRAM.—Section 13(q) of the National School Lunch Act (42 U.S.C. 1761(q)) is amended by striking “1998” and inserting “2003”.

(e) TECHNICAL AMENDMENT.—

(1) IN GENERAL.—Section 706(j)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2293) is amended by striking “methods of assessing” and inserting “methods for assessing”.

42 USC 1761.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on January 1, 1997.

42 USC 1761  
note.

#### SEC. 106. COMMODITY DISTRIBUTION PROGRAM.

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended in the matter preceding paragraph (1) by striking “1998” and inserting “2003”.

#### SEC. 107. CHILD AND ADULT CARE FOOD PROGRAM.

(a) ELIGIBILITY OF INSTITUTIONS.—Section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended—

(1) in the fourth sentence, by striking “Reimbursement” and inserting “Except as provided in subsection (r), reimbursement”; and

(2) in the sixth sentence, by striking paragraph (1) and inserting the following:

“(1) an institution (except a school or family or group day care home sponsoring organization) or family or group day care home shall—

“(A)(i) be licensed, or otherwise have approval, by the appropriate Federal, State, or local licensing authority; or

“(ii) be in compliance with appropriate procedures for renewing participation in the program, as prescribed by the Secretary, and not be the subject of information possessed by the State indicating that the license of the institution or home will not be renewed;

“(B) if Federal, State, or local licensing or approval is not available—

“(i) meet any alternate approval standards established by the appropriate State or local governmental agency; or

“(ii) meet any alternate approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; or

“(C) if the institution provides care to school children outside of school hours and Federal, State, or local licensing or approval is not required for the institution, meet State or local health and safety standards; and”.

(b) AUTOMATIC ELIGIBILITY FOR EVEN START PROGRAM PARTICIPANTS.—Section 17(c)(6) of the National School Lunch Act (42 U.S.C. 1766(c)(6)) is amended—

- (1) in subparagraph (A), by striking “(A)”; and
- (2) by striking subparagraph (B).

(c) PERIODIC SITE VISITS.—Section 17(d) of the National School Lunch Act (42 U.S.C. 1766(d)) is amended—

- (1) in the second sentence of paragraph (1), by inserting after “if it” the following: “has been visited by a State agency prior to approval and it”; and

- (2) in paragraph (2)(A)—

- (A) by striking “that allows” and inserting “that—

- “(i) allows”;

- (B) by striking the period at the end and inserting “; and”; and

- (C) by adding at the end the following:

- “(ii) requires periodic site visits to private institutions that the State agency determines have a high probability of program abuse.”.

(d) TAX EXEMPT STATUS AND REMOVAL OF NOTIFICATION REQUIREMENT FOR INCOMPLETE APPLICATIONS.—Section 17(d)(1) of the National School Lunch Act (42 U.S.C. 1766(d)(1)) is amended—

- (1) by inserting after the third sentence the following:

“An institution moving toward compliance with the requirement for tax exempt status shall be allowed to participate in the child and adult care food program for a period of not more than 180 days, except that a State agency may grant a single extension of not to exceed an additional 90 days if the institution demonstrates, to the satisfaction of the State agency, that the inability of the institution to obtain tax exempt status within the 180-day period is due to circumstances beyond the control of the institution.”; and

- (2) by striking the last sentence.

(e) USE OF FUNDS FOR AUDITS.—Section 17(i) of the National School Lunch Act (42 U.S.C. 1766(i)) is amended by striking “2 percent” and inserting “1.5 percent (except, in the case of each of fiscal years 2005 through 2007, 1 percent)”.

(f) PERMANENT AUTHORIZATION OF DEMONSTRATION PROJECT.—Section 17(p) of the National School Lunch Act (42 U.S.C. 1766(p)) is amended by striking paragraphs (4) and (5).

(g) MANAGEMENT SUPPORT.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended by adding at the end the following:

“(q) MANAGEMENT SUPPORT.—

“(1) TECHNICAL AND TRAINING ASSISTANCE.—In addition to the training and technical assistance that is provided to State agencies under other provisions of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Secretary shall provide training and technical assistance in order to assist the State agencies in improving their program management and oversight under this section.

“(2) FUNDING.—For each of fiscal years 1999 through 2003, the Secretary shall reserve to carry out paragraph (1) \$1,000,000 of the amounts made available to carry out this section.”.

(h) PARTICIPATION BY AT-RISK CHILD CARE PROGRAMS.—Section 17 of the National School Lunch Act (42 U.S.C. 1766), as amended

by subsection (g), is further amended by adding at the end the following:

“(r) PROGRAM FOR AT-RISK SCHOOL CHILDREN.—

“(1) DEFINITION OF AT-RISK SCHOOL CHILD.—In this subsection, the term ‘at-risk school child’ means a school child who—

“(A) is not more than 18 years of age, except that the age limitation provided by this subparagraph shall not apply to a child described in section 12(d)(1)(A); and

“(B) participates in a program authorized under this section operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

“(2) PARTICIPATION IN CHILD AND ADULT CARE FOOD PROGRAM.—An institution may participate in the program authorized under this section only if the institution provides supplements under a program—

“(A) organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

“(B) with an educational or enrichment purpose.

“(3) ADMINISTRATION.—Except as otherwise provided in this subsection, the other provisions of this section apply to an institution described in paragraph (2).

“(4) SUPPLEMENT REIMBURSEMENT.—

“(A) LIMITATIONS.—An institution may claim reimbursement under this subsection only for—

“(i) a supplement served under a program organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

“(ii) one supplement per child per day.

“(B) RATE.—A supplement shall be reimbursed under this subsection at the rate established for a free supplement under subsection (c)(3).

“(C) NO CHARGE.—A supplement claimed for reimbursement under this subsection shall be served without charge.”

(i) WIC INFORMATION.—Section 17 of the National School Lunch Act (42 U.S.C. 1766), as amended by subsection (h), is further amended by adding at the end the following:

“(s) INFORMATION CONCERNING THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.—

“(1) IN GENERAL.—The Secretary shall provide each State agency administering a child and adult care food program under this section with information concerning the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

“(2) REQUIREMENTS FOR STATE AGENCIES.—Each State agency shall ensure that each participating family and group day care home and child care center (other than an institution providing care to school children outside school hours)—

“(A) receives materials that include—

“(i) a basic explanation of the importance and benefits of the special supplemental nutrition program for women, infants, and children;

“(ii) the maximum State income eligibility standards, according to family size, for the program; and

“(iii) information concerning how benefits under the program may be obtained;

“(B) receives periodic updates of the information described in subparagraph (A); and

“(C) provides the information described in subparagraph (A) to parents of enrolled children at enrollment.”.

(j) TRANSFER OF HOMELESS PROGRAMS.—

(1) IN GENERAL.—Section 17 of the National School Lunch Act (42 U.S.C. 1766), as amended by subsection (i), is further amended by adding at the end the following:

“(t) PARTICIPATION BY EMERGENCY SHELTERS.—

“(1) DEFINITION OF EMERGENCY SHELTER.—In this subsection, the term ‘emergency shelter’ means—

“(A) an emergency shelter (as defined in section 321 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351)); or

“(B) a site operated by the shelter.

“(2) ADMINISTRATION.—Except as otherwise provided in this subsection, an emergency shelter shall be eligible to participate in the program authorized under this section in accordance with the terms and conditions applicable to eligible institutions described in subsection (a).

“(3) LICENSING REQUIREMENTS.—The licensing requirements contained in subsection (a)(1) shall not apply to an emergency shelter.

“(4) HEALTH AND SAFETY STANDARDS.—To be eligible to participate in the program authorized under this section, an emergency shelter shall comply with applicable State or local health and safety standards.

“(5) MEAL OR SUPPLEMENT REIMBURSEMENT.—

“(A) LIMITATIONS.—An emergency shelter may claim reimbursement under this subsection—

“(i) only for a meal or supplement served to children residing at an emergency shelter, if the children are—

“(I) not more than 12 years of age;

“(II) children of migrant workers, if the children are not more than 15 years of age; or

“(III) children with disabilities; and

“(ii) for not more than 3 meals, or 2 meals and a supplement, per child per day.

“(B) RATE.—A meal or supplement eligible for reimbursement shall be reimbursed at the rate at which free meals and supplements are reimbursed under subsection (c).

“(C) NO CHARGE.—A meal or supplement claimed for reimbursement shall be served without charge.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 13(a)(3)(C) of the National School Lunch Act (42 U.S.C. 1761(a)(3)(C)) is amended—

(i) in clause (i), by adding “or” at the end;

(ii) by striking clause (ii); and

- (iii) by redesignating clause (iii) as clause (ii).
- (B) Section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended in the third sentence—
  - (i) by striking “and public” and inserting “public”; and
  - (ii) by inserting before the period at the end the following: “, and emergency shelters (as provided in subsection (t))”.
- (C)(i) Section 17B of the National School Lunch Act (42 U.S.C. 1766b) is repealed.
- (ii) Section 25(b)(1) of the National School Lunch Act (42 U.S.C. 1769f(b)(1)) is amended—
  - (I) by striking subparagraph (D); and
  - (II) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively.
- (3) TECHNICAL AMENDMENTS.—
  - (A) Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)) is amended—
    - (i) in paragraph (1)(A), by striking “mental or physical” each place it appears; and
    - (ii) by adding at the end the following:

“(8) DISABILITY.—The term ‘disability’ has the meaning given the term in the Rehabilitation Act of 1973 for purposes of title II of that Act (29 U.S.C 760 et seq.).”
  - (B) Section 13(a)(1) of the National School Lunch Act (42 U.S.C. 1761(a)(1)) is amended in subparagraph (D) of the second sentence—
    - (i) in clause (i), by striking “to be mentally or physically handicapped” and inserting “to have a disability”; and
    - (ii) in clause (ii), by striking “the mentally or physically handicapped” and inserting “individuals who have a disability”.
  - (C) Section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking “handicaps” each place it appears and inserting “disabilities”.
  - (D) Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—
    - (i) in paragraph (6), by striking “mental or physical handicaps” each place it appears and inserting “disabilities”; and
    - (ii) by adding at the end the following:

“(7) DISABILITY.—The term ‘disability’ has the meaning given the term in the Rehabilitation Act of 1973 for purposes of title II of that Act (29 U.S.C 760 et seq.).”
  - (4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) take effect on July 1, 1999.

42 USC 1761  
note.

#### **SEC. 108. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.**

- (a) GENERAL AUTHORITY.—Section 17A(a) of the National School Lunch Act (42 U.S.C. 1766a(a)) is amended—
  - (1) in paragraph (1), by striking “supplements to” and inserting “supplements under a program organized primarily to provide care for”; and
  - (2) in paragraph (2), by striking subparagraph (C) and inserting the following:

“(C) operate afterschool programs with an educational or enrichment purpose.”.

(b) **ELIGIBLE CHILDREN.**—Section 17A(b) of the National School Lunch Act (42 U.S.C. 1766a(b)) is amended by striking “served to children” and all that follows and inserting “served to school children who are not more than 18 years of age, except that the age limitation provided by this subsection shall not apply to a child described in section 12(d)(1)(A).”.

(c) **REIMBURSEMENT.**—Section 17A(c) of the National School Lunch Act (42 U.S.C. 1766a(c)) is amended by striking “(c) REIMBURSEMENT.—For” and inserting the following:

“(c) **REIMBURSEMENT.**—

“(1) **AT-RISK SCHOOL CHILDREN.**—In the case of an eligible child who is participating in a program authorized under this section operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a supplement provided under this section to the child shall be—

“(A) reimbursed at the rate at which free supplements are reimbursed under section 17(c)(3); and

“(B) served without charge.

“(2) **OTHER SCHOOL CHILDREN.**—In the case of an eligible child who is participating in a program authorized under this section at a site that is not described in paragraph (1), for”.

#### **SEC. 109. PILOT PROJECTS.**

(a) **IN GENERAL.**—Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking subsections (c), (e), (g), and (h).

(b) **BREAKFAST PILOT PROJECTS.**—Section 18(i) of the National School Lunch Act (42 U.S.C. 1769(i)) is amended to read as follows:

“(i) **BREAKFAST PILOT PROJECTS.**—

“(1) **IN GENERAL.**—Subject to the availability of funds made available under paragraph (10), for a period of 3 successive school years, the Secretary shall make grants to State agencies to conduct pilot projects in elementary schools under the jurisdiction of not more than 6 school food authorities approved by the Secretary to—

“(A) reduce paperwork, simplify meal counting requirements, and make changes that will increase participation in the school breakfast program; and

“(B) evaluate the effect of providing free breakfasts to elementary school children, without regard to family income, on participation, academic achievement, attendance and tardiness, and dietary intake over the course of a day.

“(2) **NOMINATIONS.**—A State agency that seeks a grant under this subsection shall submit to the Secretary nominations of school food authorities to participate in a pilot project under this subsection

“(3) **APPROVAL.**—The Secretary shall approve for participation in pilot projects under this subsection elementary schools under the jurisdiction of not more than 6 nominated school food authorities selected so as to—

Grants.



“(A) provide for an equitable distribution of pilot projects among urban and rural elementary schools;

“(B) provide for an equitable distribution of pilot projects among elementary schools of varying family income levels; and

“(C) permit the evaluation of pilot projects to distinguish the effects of the pilot projects from other factors, such as changes or differences in educational policies or programs.

“(4) GRANTS TO SCHOOL FOOD AUTHORITIES.—A State agency receiving a grant under paragraph (1) shall make grants to school food authorities to conduct the pilot projects described in paragraph (1).

“(5) DURATION OF PILOT PROJECTS.—Subject to the availability of funds made available to carry out this subsection, a school food authority receiving amounts under a grant to conduct a pilot project described in paragraph (1) shall conduct the project during a period of 3 successive school years.

“(6) WAIVER AUTHORITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may waive the requirements of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) relating to counting of meals, applications for eligibility, and related requirements that would preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).

“(B) NONWAIVABLE REQUIREMENTS.—The Secretary may not waive a requirement under subparagraph (A) if the waiver would prevent a program participant, a potential program participant, or a school from receiving all of the benefits and protections of this Act, the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a Federal law (including a regulation) that protects an individual constitutional right or a statutory civil right.

“(7) REQUIREMENTS FOR PARTICIPATION IN PILOT PROJECT.—To be eligible to participate in a pilot project under this subsection—

“(A) a State agency—

“(i) shall submit an application to the Secretary at such time and in such manner as the Secretary shall establish to meet criteria the Secretary has established to enable a valid evaluation to be conducted; and

“(ii) shall provide such information relating to the operation and results of the pilot project as the Secretary may reasonably require; and

“(B) a school food authority—

“(i) shall agree to serve all breakfasts at no charge to all children enrolled in participating elementary schools;

“(ii) shall not have a history of violations of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(iii) shall have, under the jurisdiction of the school food authority, a sufficient number of elementary schools that are not participating in the pilot projects

to permit a valid evaluation of the effects of the pilot projects; and

“(iv) shall meet all other requirements that the Secretary may reasonably require.

“(8) EVALUATION OF PILOT PROJECTS.—

“(A) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct an evaluation of the pilot projects conducted by the school food authorities selected for participation.

“(B) CONTENT.—The evaluation shall include—

“(i) a determination of the effect of participation in the pilot project on the academic achievement, attendance and tardiness, and dietary intake over the course of a day of participating children that is not attributable to changes in educational policies and practices; and

“(ii) a determination of the effect that participation by elementary schools in the pilot project has on the proportion of students who eat breakfast and on the paperwork required to be completed by the schools.

“(C) REPORT.—On completion of the pilot projects and the evaluation, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation of the pilot projects required under subparagraph (A).

“(9) REIMBURSEMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive a total Federal reimbursement under the school breakfast program in an amount that is equal to the total Federal reimbursement for the school for the prior year under the program (adjusted to reflect changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor and adjusted for fluctuations in enrollment).

“(B) EXCESS NEEDS.—Funds required for the pilot project in excess of the level of reimbursement received by the school for the prior year (adjusted to reflect changes described in subparagraph (A) and adjusted for fluctuations in enrollment) may be taken from any non-Federal source or from amounts provided under this subsection.

“(10) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

“(B) REQUIREMENT.—No amounts may be provided under this subsection unless specifically provided in appropriations Acts.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 18 of the National School Lunch Act (42 U.S.C. 1769), as amended by subsections (a) and (b), is further amended by redesignating subsections (d), (f), and (i) as subsections (c), (d), and (e), respectively.

(2) Section 101(b) of the Child Nutrition Amendments of 1992 (42 U.S.C. 1769 note; Public Law 102-342) is amended—

(A) in paragraph (1)—

(i) by striking “(1)”; and

(ii) by striking “other than those required under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) to identify other” and inserting “to identify”; and

(B) by striking paragraph (2).

**SEC. 110. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.**

(a) **TECHNICAL AMENDMENTS.**—Section 21(c)(2) of the National School Lunch Act (42 U.S.C. 1769b-1(c)(2)) is amended by striking “of section 24” each place it appears in subparagraphs (F) and (H) and inserting “established by the Secretary”.

(b) **TRAINING AND TECHNICAL ASSISTANCE.**—Section 21(e)(1) of the National School Lunch Act (42 U.S.C. 1769b-1(e)(1)) is amended by striking “1998” and inserting “2003”.

(c) **FOOD SERVICE MANAGEMENT INSTITUTE.**—Section 21(e)(2)(A) of the National School Lunch Act (42 U.S.C. 1769b-1(e)(2)(A)) is amended in the first sentence by striking “and \$2,000,000 for fiscal year 1996 and each subsequent fiscal year,” and inserting “\$2,000,000 for each of fiscal years 1996 through 1998, and \$3,000,000 for fiscal year 1999 and each subsequent fiscal year,”.

**SEC. 111. COMPLIANCE AND ACCOUNTABILITY.**

Section 22(d) of the National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking “1996” and inserting “2003”.

**SEC. 112. INFORMATION CLEARINGHOUSE.**

Section 26(d) of the National School Lunch Act (42 U.S.C. 1769g(d)) is amended in the first sentence by striking “and \$100,000 for fiscal year 1998” and inserting “\$100,000 for fiscal year 1998, and \$166,000 for each of fiscal years 1999 through 2003”.

**SEC. 113. ACCOMMODATION OF THE SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.**

Section 27 of the National School Lunch Act (42 U.S.C. 1769h) is amended to read as follows:

**“SEC. 27. ACCOMMODATION OF THE SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.**

“(a) **DEFINITIONS.**—In this section:

“(1) **COVERED PROGRAM.**—The term ‘covered program’ means—

“(A) the school lunch program authorized under this Act;

“(B) the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

“(C) any other program authorized under this Act or the Child Nutrition Act of 1966 (except for section 17) that the Secretary determines is appropriate.

“(2) **ELIGIBLE ENTITY.**—The term ‘eligible entity’ means a school food authority, institution, or service institution that participates in a covered program.

“(b) ACTIVITIES.—The Secretary may carry out activities to help accommodate the special dietary needs of individuals with disabilities who are participating in a covered program. The activities may include—

“(1) developing and disseminating to State agencies guidance and technical assistance materials;

“(2) conducting training of State agencies and eligible entities; and

“(3) providing grants to State agencies and eligible entities.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2003.”.

## **TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS**

### **SEC. 201. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.**

Section 4(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(a)) is amended in the first sentence by striking “and to carry out the provisions of subsection (g)”.

### **SEC. 202. STATE ADMINISTRATIVE EXPENSES.**

(a) HOMELESS SHELTERS.—Section 7(a)(5)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)) is amended to read as follows:

“(B) REALLOCATION OF FUNDS.—

“(i) RETURN TO SECRETARY.—For each fiscal year, any amounts appropriated that are not obligated or expended during the fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary.

“(ii) REALLOCATION BY SECRETARY.—The Secretary shall allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for the amounts.”.

(b) ELIMINATION OF 10 PERCENT TRANSFER LIMITATION.—Section 7(a)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(6)) is amended to read as follows:

“(6) USE OF ADMINISTRATIVE FUNDS.—Funds available to a State under this subsection and under section 13(k)(1) of the National School Lunch Act (42 U.S.C. 1761(k)(1)) may be used by the State for the costs of administration of the programs authorized under this Act (except for the programs authorized under sections 17 and 21) and the National School Lunch Act (42 U.S.C. 1751 et seq.) without regard to the basis on which the funds were earned and allocated.”.

(c) REAUTHORIZATION OF PROGRAM.—Section 7(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(g)) is amended by striking “1998” and inserting “2003”.

### **SEC. 203. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.**

(a) ADDITIONAL REQUIREMENTS FOR APPLICANTS.—

(1) PHYSICAL PRESENCE REQUIREMENT.—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)) is amended by adding at the end the following:

“(C) PHYSICAL PRESENCE.—

“(i) IN GENERAL.—Except as provided in clause (ii) and subject to the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), each individual seeking certification or recertification for participation in the program shall be physically present at each certification or recertification determination in order to determine eligibility under the program.

“(ii) WAIVERS.—If the agency determines that the requirement of clause (i) would present an unreasonable barrier to participation, a local agency may waive the requirement of clause (i) with respect to—

“(I) an infant or child who—

“(aa) was present at the initial certification visit; and

“(bb) is receiving ongoing health care from a provider other than the local agency; or

“(II) an infant or child who—

“(aa) was present at the initial certification visit;

“(bb) was present at a certification or recertification determination within the 1-year period ending on the date of the certification or recertification determination described in clause (i); and

“(cc) has one or more parents who work.”.

(2) INCOME DOCUMENTATION REQUIREMENT.—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)), as amended by paragraph (1), is further amended by adding at the end the following:

“(D) INCOME DOCUMENTATION.—

“(i) IN GENERAL.—Except as provided in clause (ii), in order to participate in the program pursuant to clause (i) of paragraph (2)(A), an individual seeking certification or recertification for participation in the program shall provide documentation of family income.

“(ii) WAIVERS.—A State agency may waive the documentation requirement of clause (i), in accordance with criteria established by the Secretary, with respect to—

“(I) an individual for whom the necessary documentation is not available; or

“(II) an individual, such as a homeless woman or child, for whom the agency determines the requirement of clause (i) would present an unreasonable barrier to participation.”.

(3) ADJUNCT DOCUMENTATION REQUIREMENT.—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)), as amended by paragraph (2), is further amended by adding at the end the following:

“(E) ADJUNCT DOCUMENTATION.—In order to participate in the program pursuant to clause (ii) or (iii) of paragraph (2)(A), an individual seeking certification or recertification for participation in the program shall provide documentation of receipt of assistance described in that clause.”.

(b) EDUCATION AND EDUCATIONAL MATERIALS RELATING TO EFFECTS OF DRUG AND ALCOHOL USE.—Section 17(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(1)) is amended by adding at the end the following: “A local agency participating in the program shall provide education or educational materials relating to the effects of drug and alcohol use by a pregnant, postpartum, or breastfeeding woman on the developing child of the woman.”.

(c) DISTRIBUTION OF NUTRITION EDUCATION MATERIALS.—Section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)) is amended—

(1) by striking “(3) The” and inserting the following:

“(3) NUTRITION EDUCATION MATERIALS.—

“(A) IN GENERAL.—The”; and

(2) by adding at the end the following:

“(B) SHARING OF MATERIALS.—The Secretary may provide, in bulk quantity, nutrition education materials (including materials promoting breastfeeding) developed with funds made available for the program authorized under this section to State agencies administering the commodity supplemental food program authorized under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) at no cost to that program.”.

(d) USE OF CLAIMS FROM VENDORS AND PARTICIPANTS.—Section 17(f)(21) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(21)) is amended to read as follows:

“(21) USE OF CLAIMS FROM VENDORS AND PARTICIPANTS.—

A State agency may use funds recovered from vendors and participants, as a result of a claim arising under the program, to carry out the program during—

“(A) the fiscal year in which the claim arises;

“(B) the fiscal year in which the funds are collected;

and

“(C) the fiscal year following the fiscal year in which the funds are collected.”.

(e) INDIVIDUALS PARTICIPATING AT MORE THAN ONE SITE.—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following:

“(23) INDIVIDUALS PARTICIPATING AT MORE THAN ONE SITE.—

Each State agency shall implement a system designed by the State agency to identify individuals who are participating at more than one site under the program.”.

(f) IDENTIFICATION OF HIGH RISK VENDORS; COMPLIANCE INVESTIGATIONS.—

(1) IN GENERAL.—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)), as amended by subsection (e), is further amended by adding at the end the following:

“(24) HIGH RISK VENDORS.—Each State agency shall—

“(A) identify vendors that have a high probability of program abuse; and

“(B) conduct compliance investigations of the vendors.”.

(2) REGULATIONS.—The Secretary of Agriculture shall promulgate—

(A) not later than March 1, 1999, proposed regulations to carry out section 17(f)(24) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(24)), as added by paragraph (1); and

(B) not later than March 1, 2000, final regulations to carry out section 17(f)(24) of that Act.

(g) REAUTHORIZATION OF PROGRAM.—Section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)) is amended in the first sentence by striking “1998” and inserting “2003”.

(h) PURCHASE OF BREAST PUMPS.—Section 17(h)(1)(C) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(1)(C)) is amended—

(1) by striking “(C) In” and inserting the following:

“(C) REMAINING AMOUNTS.—

“(i) IN GENERAL.—Except as provided in clause (ii), in”; and

(2) by adding at the end the following:

“(ii) BREAST PUMPS.—A State agency may use amounts made available under clause (i) for the purchase of breast pumps.”.

(i) NUTRITION SERVICES AND ADMINISTRATION.—

(1) ALLOCATION OF AMOUNTS.—Section 17(h)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended in the first sentence by striking “1998” and inserting “2003”.

(2) TECHNICAL AMENDMENT.—Section 17(h)(2)(A)(iv) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)(iv)) is amended by striking “, to the extent funds are not already provided under subparagraph (I)(v) for the same purpose,”.

(3) LEVEL OF PER-PARTICIPANT EXPENDITURE FOR NUTRITION SERVICES AND ADMINISTRATION.—Section 17(h)(2)(B)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(B)(ii)) is amended by striking “15 percent” and inserting “10 percent (except that the Secretary may establish a higher percentage for State agencies that are small)”.

(4) TECHNICAL AMENDMENTS.—Section 17(h)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(3)) is amended—

(A) in subparagraph (E), by striking “In the case” and all that follows through “subsequent fiscal year,” and inserting “For each fiscal year,”; and

(B) by striking subparagraphs (F) and (G).

(5) CONVERSION OF AMOUNTS FOR SUPPLEMENTAL FOODS TO AMOUNTS FOR NUTRITION SERVICES AND ADMINISTRATION.—Section 17(h)(5)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(5)(A)) is amended in the matter preceding clause (i) by striking “achieves” and all that follows through “such State agency may” and inserting “submits a plan to reduce average food costs per participant and to increase participation above the level estimated for the State agency, the State agency may, with the approval of the Secretary,”.

(j) INFANT FORMULA PROCUREMENT.—Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) is amended by adding at the end the following:

“(iii) COMPETITIVE BIDDING SYSTEM.—A State agency using a competitive bidding system for infant formula shall award contracts to bidders offering the lowest net price unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than 5 percent.”.

(k) INFRASTRUCTURE AND BREASTFEEDING PROMOTION AND SUPPORT ACTIVITIES.—Section 17(h)(10)(A) of the Child Nutrition Act

of 1966 (42 U.S.C. 1786(h)(10)(A)) is amended by striking “1998” and inserting “2003”.

(I) CONSIDERATION OF PRICE LEVELS OF RETAIL STORES FOR PARTICIPATION IN PROGRAM.—

(1) IN GENERAL.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by adding at the end the following:

“(11) CONSIDERATION OF PRICE LEVELS OF RETAIL STORES FOR PARTICIPATION IN PROGRAM.—

“(A) IN GENERAL.—For the purpose of promoting efficiency and to contain costs under the program, a State agency shall, in selecting a retail store for participation in the program, take into consideration the prices that the store charges for foods under the program as compared to the prices that other stores charge for the foods.

Procedures.

“(B) SUBSEQUENT PRICE INCREASES.—The State agency shall establish procedures to ensure that a retail store selected for participation in the program does not subsequently raise prices to levels that would otherwise make the store ineligible for participation in the program.”.

Deadlines.  
42 USC 1786  
note.

(2) REGULATIONS.—The Secretary of Agriculture shall promulgate—

(A) not later than March 1, 1999, proposed regulations to carry out section 17(h)(11) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(11)), as added by paragraph (1); and

(B) not later than March 1, 2000, final regulations to carry out section 17(h)(11) of that Act.

(m) MANAGEMENT INFORMATION SYSTEM PLAN.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)), as amended by subsection (l)(1), is further amended by adding at the end the following:

“(12) MANAGEMENT INFORMATION SYSTEM PLAN.—

“(A) IN GENERAL.—In consultation with State agencies, vendors, and other interested persons, the Secretary shall establish a long-range plan for the development and implementation of management information systems (including electronic benefit transfers) to be used in carrying out the program.

Deadline.

“(B) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on actions taken to carry out subparagraph (A).

“(C) INTERIM PERIOD.—Prior to the date of submission of the report of the Secretary required under subparagraph (B), a State agency may not require retail stores to pay the cost of systems or equipment that may be required to test electronic benefit transfer systems.”.

(n) USE OF FUNDS IN PRECEDING AND SUBSEQUENT FISCAL YEARS.—

(1) IN GENERAL.—Section 17(i)(3)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)(A)) is amended—

(A) by striking “subparagraphs (B) and (C)” and inserting “subparagraph (B)”; and



(B) by striking clauses (i) and (ii) and inserting the following:

“(i)(I) not more than 1 percent (except as provided in subparagraph (C)) of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for allowable expenses incurred under this section for supplemental foods during the preceding fiscal year; and

“(II) not more than 1 percent of the amount of funds allocated to a State agency under this section for nutrition services and administration for a fiscal year may be expended by the State agency for allowable expenses incurred under this section for supplemental foods and nutrition services and administration during the preceding fiscal year; and

“(ii)(I) for each fiscal year, of the amounts allocated to a State agency for nutrition services and administration, an amount equal to not more than 1 percent of the amount allocated to the State agency under this section for the fiscal year may be expended by the State agency for allowable expenses incurred under this section for nutrition services and administration during the subsequent fiscal year; and

“(II) for each fiscal year, of the amounts allocated to a State agency for nutrition services and administration, an amount equal to not more than  $\frac{1}{2}$  of 1 percent of the amount allocated to the State agency under this section for the fiscal year may be expended by the State agency, with the prior approval of the Secretary, for the development of a management information system, including an electronic benefit transfer system, during the subsequent fiscal year.”.

(2) CONFORMING AMENDMENTS.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(A) in subsection (h)(10)(A), by inserting after “nutrition services and administration funds” the following: “and supplemental foods funds”; and

(B) in subsection (i)(3)—

(i) by striking subparagraphs (C) through (G); and

(ii) by redesignating subparagraph (H) as subparagraph (C).

(o) FARMERS’ MARKET NUTRITION PROGRAM.—

(1) MATCHING REQUIREMENT.—Section 17(m)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(3)) is amended in the first sentence by inserting “program income or” after “satisfied from”.

(2) CRITERIA FOR ADDITIONAL FUNDS.—Section 17(m)(6)(C) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(6)(C)) is amended—

(A) by striking “serve additional recipients in”;

(B) by striking clause (ii) and inserting the following:

“(ii) documentation that demonstrates that—

“(I) there is a need for an increase in funds; and

“(II) the use of the increased funding will be consistent with serving nutritionally at-risk persons and expanding the awareness and use of farmers’ markets;”;

(C) in clause (iii), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(iv) whether, in the case of a State that intends to use any funding provided under subparagraph (G)(i) to increase the value of the Federal share of the benefits received by a recipient, the funding provided under subparagraph (G)(i) will increase the rate of coupon redemption.”.

(3) RANKING CRITERIA FOR STATE PLANS.—Section 17(m)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(6)) is amended—

(A) by striking subparagraph (F); and

(B) by redesignating subparagraph (G) as subparagraph (F).

(4) FUNDING FOR CURRENT AND NEW STATES.—Section 17(m)(6)(F) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(6)(F)), as redesignated by paragraph (3)(B), is amended—

(A) in clause (i)—

(i) in the first sentence, by striking “that wish” and all follows through “to do so” and inserting “whose State plan”; and

(ii) in the second sentence, by striking “for additional recipients”; and

(B) in the second sentence of clause (ii), by striking “that desire to serve additional recipients, and”.

(5) REAUTHORIZATION OF PROGRAM.—Section 17(m)(9)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(9)(A)) is amended by striking “1998” and inserting “2003”.

(p) DISQUALIFICATION OF CERTAIN VENDORS.—

(1) IN GENERAL.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by adding at the end the following:

“(o) DISQUALIFICATION OF VENDORS CONVICTED OF TRAFFICKING OR ILLEGAL SALES.—

“(1) IN GENERAL.—Except as provided in paragraph (4), a State agency shall permanently disqualify from participation in the program authorized under this section a vendor convicted of—

“(A) trafficking in food instruments (including any voucher, draft, check, or access device (including an electronic benefit transfer card or personal identification number) issued in lieu of a food instrument under this section); or

“(B) selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for food instruments (including any item described in subparagraph (A) issued in lieu of a food instrument under this section).

“(2) NOTICE OF DISQUALIFICATION.—The State agency shall—

“(A) provide the vendor with notification of the disqualification; and

“(B) make the disqualification effective on the date of receipt of the notice of disqualification.

“(3) PROHIBITION OF RECEIPT OF LOST REVENUES.—A vendor shall not be entitled to receive any compensation for revenues lost as a result of disqualification under this subsection.

“(4) EXCEPTIONS IN LIEU OF DISQUALIFICATION.—

“(A) IN GENERAL.—A State agency may permit a vendor that, but for this paragraph, would be disqualified under paragraph (1), to continue to participate in the program if the State agency determines, in its sole discretion according to criteria established by the Secretary, that—

“(i) disqualification of the vendor would cause hardship to participants in the program authorized under this section; or

“(ii)(I) the vendor had, at the time of the violation under paragraph (1), an effective policy and program in effect to prevent violations described in paragraph (1); and

“(II) the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.

“(B) CIVIL PENALTY.—If a State agency under subparagraph (A) permits a vendor to continue to participate in the program in lieu of disqualification, the State agency shall assess the vendor a civil penalty in an amount determined by the State agency, in accordance with criteria established by the Secretary, except that—

“(i) the amount of the civil penalty shall not exceed \$10,000 for each violation; and

“(ii) the amount of civil penalties imposed for violations investigated as part of a single investigation may not exceed \$40,000.”.

(2) REGULATIONS.—The Secretary of Agriculture shall promulgate—

(A) not later than March 1, 1999, proposed regulations to carry out section 17(o) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(o)), as added by paragraph (1); and

(B) not later than March 1, 2000, final regulations to carry out section 17(o) of that Act.

(q) CRIMINAL FORFEITURE.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended by subsection (p)(1), is amended by adding at the end the following:

“(p) CRIMINAL FORFEITURE.—

“(1) IN GENERAL.—Notwithstanding any provision of State law and in addition to any other penalty authorized by law, a court may order a person that is convicted of a violation of a provision of law described in paragraph (2), with respect to food instruments (including any item described in subsection (o)(1)(A) issued in lieu of a food instrument under this section), funds, assets, or property that have a value of \$100 or more and that are the subject of a grant or other form of assistance under this section, to forfeit to the United States all property described in paragraph (3).

“(2) APPLICABLE LAWS.—A provision of law described in this paragraph is—

“(A) section 12(g) of the National School Lunch Act (42 U.S.C. 1760(g)); and

“(B) any other Federal law imposing a penalty for embezzlement, willful misapplication, stealing, obtaining by fraud, or trafficking in food instruments (including any item described in subsection (o)(1)(A) issued in lieu of a food instrument under this section), funds, assets, or property.

Deadlines.  
42 USC 1786  
note.

“(3) PROPERTY SUBJECT TO FORFEITURE.—The following property shall be subject to forfeiture under paragraph (1):

“(A) All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation described in paragraph (1).

“(B) All property, real and personal, constituting, derived from, or traceable to any proceeds a person obtained directly or indirectly as a result of a violation described in paragraph (1).

“(4) PROCEDURES; INTEREST OF OWNER.—Except as provided in paragraph (5), all property subject to forfeiture under this subsection, any seizure or disposition of the property, and any proceeding relating to the forfeiture, seizure, or disposition shall be subject to section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

“(5) PROCEEDS.—The proceeds from any sale of forfeited property and any amounts forfeited under this subsection shall be used—

“(A) first, to reimburse the Department of Justice, the Department of the Treasury, and the United States Postal Service for the costs incurred by the Departments or Service to initiate and complete the forfeiture proceeding;

“(B) second, to reimburse the Office of Inspector General of the Department of Agriculture for any costs incurred by the Office in the law enforcement effort resulting in the forfeiture;

“(C) third, to reimburse any Federal, State, or local law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

“(D) fourth, by the State agency to carry out approval, reauthorization, and compliance investigations of vendors.”.

(r) STUDY OF COST CONTAINMENT PRACTICES.—

(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study on the effect of cost containment practices established by States under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) for the selection of vendors and approved food items (other than infant formula) on—

(A) program participation;

(B) access and availability of prescribed foods;

(C) voucher redemption rates and actual food selections by participants;

(D) participants on special diets or with specific food allergies;

(E) participant use and satisfaction of prescribed foods;

(F) achievement of positive health outcomes; and

(G) program costs.

(2) REPORT.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

(A) not later than 2 years after the date of enactment of this Act, an interim report describing the results of the study conducted under paragraph (1); and

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note.

Deadlines.

(B) not later than 3 years after the date of enactment of this Act, a final report describing the results of the study conducted under paragraph (1).

(s) STUDY OF WIC SERVICES.—

42 USC 1786  
note.

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study that assesses—

(A) the cost of delivering services under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), including the costs of implementing and administering cost containment efforts;

(B) the fixed and variable costs incurred by State and local governments for delivering the services and the extent to which those costs are charged to State agencies;

(C) the quality of the services delivered, taking into account the effect of the services on the health of participants; and

(D) the costs incurred for personnel, automation, central support, and other activities to deliver the services and whether the costs meet Federal audit standards for allowable costs under the program.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to the Secretary of Agriculture, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under paragraph (1).

Deadline.

**SEC. 204. NUTRITION EDUCATION AND TRAINING.**

Section 19(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)) is amended—

(1) by striking the subsection heading and all that follows through paragraph (3)(A) and inserting the following:

“(i) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—

“(A) FUNDING.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1997 through 2003.”; and

(2) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

## **TITLE III—COMMODITY DISTRIBUTION PROGRAMS**

**SEC. 301. INFORMATION FROM RECIPIENT AGENCIES.**

Section 3(f)(2) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100-237) is amended to read as follows:

“(2) INFORMATION FROM RECIPIENT AGENCIES.—

“(A) IN GENERAL.—The Secretary shall ensure that information with respect to the types and forms of commodities that are most useful to persons participating in programs described in subsection (a)(2) is collected from recipient agencies operating the programs.

“(B) FREQUENCY.—The information shall be collected at least once every 2 years.

“(C) ADDITIONAL SUBMISSIONS.—The Secretary shall provide the recipient agencies a means for voluntarily submitting customer acceptability information.”.

**SEC. 302. FOOD DISTRIBUTION.**

The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100-237) is amended—

(1) by redesignating sections 13 and 14 as sections 17 and 18, respectively; and

(2) by inserting after section 12 the following:

**“SEC. 13. AUTHORITY TO TRANSFER COMMODITIES BETWEEN PROGRAMS.**

“(a) TRANSFER.—Subject to subsection (b), the Secretary may transfer any commodities purchased with appropriated funds for a domestic food assistance program administered by the Secretary to any other domestic food assistance program administered by the Secretary if the transfer is necessary to ensure that the commodities will be used while the commodities are still suitable for human consumption.

“(b) REIMBURSEMENT.—The Secretary shall, to the maximum extent practicable, provide reimbursement for the value of the commodities transferred under subsection (a) from accounts available for the purchase of commodities under the program receiving the commodities.

“(c) CREDITING.—Any reimbursement made under subsection (b) shall—

“(1) be credited to the accounts that incurred the costs when the transferred commodities were originally purchased; and

“(2) be available for the purchase of commodities with the same limitations as are provided for appropriated funds for the reimbursed accounts for the fiscal year in which the transfer takes place.

**“SEC. 14. AUTHORITY TO RESOLVE CLAIMS.**

“(a) IN GENERAL.—The Secretary may determine the amount of, settle, and adjust all or part of a claim arising under a domestic food assistance program administered by the Secretary.

“(b) WAIVER.—The Secretary may waive a claim described in subsection (a) if the Secretary determines that a waiver would serve the purposes of the program.

“(c) AUTHORITY OF THE ATTORNEY GENERAL.—Nothing in this section diminishes the authority of the Attorney General under section 516 of title 28, United States Code, or any other provision of law, to supervise and conduct litigation on behalf of the United States.

**“SEC. 15. PAYMENT OF COSTS ASSOCIATED WITH REMOVAL OF COMMODITIES THAT POSE A HEALTH OR SAFETY RISK.**

“(a) IN GENERAL.—The Secretary may use funds available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), that are not otherwise committed, for the purpose of reimbursing States for State and local costs associated with the removal of commodities distributed under any domestic food assistance program administered by the Secretary

if the Secretary determines that the commodities pose a health or safety risk.

“(b) ALLOWABLE COSTS.—The costs—

“(1) may include costs for storage, transportation, processing, and destruction of the commodities described in subsection (a); and

“(2) shall be subject to the approval of the Secretary.

“(c) REPLACEMENT COMMODITIES.—

“(1) IN GENERAL.—The Secretary may use funds described in subsection (a) for the purpose of purchasing additional commodities if the purchase will expedite replacement of the commodities described in subsection (a).

“(2) RECOVERY.—Use of funds under paragraph (1) shall not restrict the Secretary from recovering funds or services from a supplier or other entity regarding the commodities described in subsection (a).

“(d) CREDITING OF RECOVERED FUNDS.—Funds recovered from a supplier or other entity regarding the commodities described in subsection (a) shall—

“(1) be credited to the account available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, ch. 641; 7 U.S.C. 612c), to the extent the funds represent expenditures from that account under subsections (a) and (c); and

“(2) remain available to carry out the purposes of section 32 of that Act until expended.

“(e) TERMINATION DATE.—The authority provided by this section terminates effective October 1, 2000.

**“SEC. 16. AUTHORITY TO ACCEPT COMMODITIES DONATED BY FEDERAL SOURCES.**

“(a) IN GENERAL.—The Secretary may accept donations of commodities from any Federal agency, including commodities of another Federal agency determined to be excess personal property pursuant to section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)).

“(b) USE.—The Secretary may donate the commodities received under subsection (a) to States for distribution through any domestic food assistance program administered by the Secretary.

“(c) PAYMENT.—Notwithstanding section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)), the Secretary shall not be required to make any payment in connection with the commodities received under subsection (a).”.

## TITLE IV—EFFECTIVE DATE

42 USC 1755  
note.

### SEC. 401. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on October 1, 1998.

Approved October 31, 1998.

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#### LEGISLATIVE HISTORY—H.R. 3874 (S. 2286):

HOUSE REPORTS: Nos. 105-633 (Comm. on Education and the Workforce) and 105-786 (Comm. of Conference).

SENATE REPORTS: No. 105-243 accompanying S. 2286 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 20, considered and passed House.

Sept. 17, considered and passed Senate, amended, in lieu of S. 2286.

Oct. 7, Senate agreed to conference report.

Oct. 9, House agreed to conference report.





Public Law 105–337  
105th Congress

An Act

To allow Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute each to conduct a demonstration project to test the feasibility and desirability of new personnel management policies and procedures, and for other purposes.

Oct. 31, 1998  
[H.R. 4259]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1998”.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) the provision of culturally sensitive curricula for higher education programs at Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute is consistent with the commitment of the Federal Government to the fulfillment of treaty obligations to Indian tribes through the principle of self-determination and the use of Federal resources; and

(2) giving a greater degree of autonomy to those institutions, while maintaining them as an integral part of the Bureau of Indian Affairs, will facilitate—

(A) the transition of Haskell Indian Nations University to a 4-year university; and

(B) the administration and improvement of the academic program of the Southwestern Indian Polytechnic Institute.

**SEC. 3. DEFINITIONS; APPLICABILITY.**

(a) **DEFINITIONS.**—For purposes of this Act:

(1) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(2) **EMPLOYEE.**—The term “employee”, with respect to an institution named in subsection (b), means an individual employed in or under such institution.

(3) **ELIGIBLE.**—The term “eligible” means an individual who has qualified for appointment in the institution involved and whose name has been entered on the appropriate register or list of eligibles.

(4) **DEMONSTRATION PROJECT.**—The term “demonstration project” means a project conducted by or under the supervision of an institution named in subsection (b) to determine whether

Haskell Indian Nations University and Southwestern Indian Polytechnic Institute Administrative Systems Act of 1998.  
Kansas.  
New Mexico.  
25 USC 3731  
note.  
25 USC 3731.

25 USC 3731  
note.

specified changes in personnel management policies or procedures would result in improved personnel management.

(b) **APPLICABILITY.**—This Act applies to—

(1) Haskell Indian Nations University, located in Lawrence, Kansas; and

(2) Southwestern Indian Polytechnic Institute, located in Albuquerque, New Mexico.

25 USC 3731  
note.

**SEC. 4. AUTHORITY.**

(a) **IN GENERAL.**—Each institution named in section 3(b) may conduct a demonstration project in accordance with the provisions of this Act. The conducting of any such demonstration project shall not be limited by any lack of specific authority under title 5, United States Code, to take the action contemplated, or by any provision of such title or any rule or regulation prescribed under such title which is inconsistent with the action, including any provision of law, rule, or regulation relating to—

(1) the methods of establishing qualification requirements for, recruitment for, and appointment to positions;

(2) the methods of classifying positions and compensating employees;

(3) the methods of assigning, reassigning, or promoting employees;

(4) the methods of disciplining employees;

(5) the methods of providing incentives to employees, including the provision of group or individual incentive bonuses or pay;

(6) the hours of work per day or per week;

(7) the methods of involving employees, labor organizations, and employee organizations in personnel decisions; and

(8) the methods of reducing overall staff and grade levels.

(b) **CONSULTATION AND OTHER REQUIREMENTS.**—Before commencing a demonstration project under this Act, the president of the institution involved shall—

(1) in consultation with the board of regents of the institution and such other persons or representative bodies as the president considers appropriate, develop a plan for such project which identifies—

(A) the purposes of the project;

(B) the types of employees or eligibles to be included (categorized by occupational series, grade, or organizational unit);

(C) the number of employees or eligibles to be included (in the aggregate and by category);

(D) the methodology;

(E) the duration;

(F) the training to be provided;

(G) the anticipated costs;

(H) the methodology and criteria for evaluation, consistent with subsection (f);

(I) a specific description of any aspect of the project for which there is a lack of specific authority; and

(J) a specific citation to any provision of law, rule, or regulation which, if not waived, would prohibit the conducting of the project, or any part of the project as proposed;

(2) publish the plan in the Federal Register;

Federal Register,  
publication.

(3) submit the plan so published to public hearing;

(4) at least 180 days before the date on which the proposed project is to commence, provide notification of such project to—

Notification.

(A) employees likely to be affected by the project; and

(B) each House of Congress;

(5) at least 90 days before the date on which the proposed project is to commence, provide each House of Congress with a report setting forth the final version of the plan; and

Reports.

(6) at least 60 days before the date on which the proposed project is to commence, inform all employees as to the final version of the plan, including all information relevant to the making of an election under subsection (h)(2)(A).

(c) LIMITATIONS.—No demonstration project under this Act may—

(1) provide for a waiver of—

(A) any provision of law, rule, or regulation providing for—

(i) equal employment opportunity;

(ii) Indian preference; or

(iii) veterans' preference;

(B) any provision of chapter 23 of title 5, United States Code, or any other provision of such title relating to merit system principles or prohibited personnel practices, or any rule or regulation prescribed under authority of any such provision; or

(C) any provision of subchapter II or III of chapter 73 of title 5, United States Code, or any rule or regulation prescribed under authority of any such provision;

(2) impose any duty to engage in collective bargaining with respect to—

(A) classification of positions; or

(B) pay, benefits, or any other form of compensation;

or

(3) provide that any employee be required to pay dues or fees of any kind to a labor organization as a condition of employment.

(d) COMMENCEMENT AND TERMINATION DATES.—Each demonstration project under this Act—

(1) shall commence within 2 years after the date of enactment of this Act; and

(2) shall terminate by the end of the 5-year period beginning on the date on which such project commences, except that the project may continue beyond the end of such 5-year period—

(A) to the extent necessary to validate the results of the project; and

(B) to the extent provided for under subsection (h)(2)(B).

(e) DISCRETIONARY AUTHORITY TO TERMINATE.—A demonstration project under this Act may be terminated by the Secretary or the president of the institution involved if either determines that the project creates a substantial hardship on, or is not in the best interests of, the institution and its educational goals.

(f) EVALUATION.—

Reports.

(1) IN GENERAL.—The Secretary shall provide for an evaluation of the results of each demonstration project under this Act and its impact on improving public management.

(2) INFORMATION.—Upon request of the Secretary, an institution named in section 3(b) shall cooperate with and assist the Secretary, to the extent practicable, in any evaluation undertaken under this subsection and provide the Secretary with requested information and reports relating to the conducting of its demonstration project.

(g) ROLE OF THE OFFICE OF PERSONNEL MANAGEMENT.—Upon request of the Secretary or the president of an institution named in section 3(b), the Office of Personnel Management shall furnish information or technical advice on the design, operation, or evaluation, or any other aspect of a demonstration project under this Act.

(h) APPLICABILITY.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, all applicants for employment with, all eligibles and employees of, and all positions in or under an institution named in section 3(b) shall be subject to inclusion in a demonstration project under this Act.

(2) PROVISIONS RELATING TO CERTAIN BENEFITS.—

(A) OPTION FOR CERTAIN INDIVIDUALS TO REMAIN UNDER CURRENT LAW GOVERNING CERTAIN BENEFITS.—

(i) ELIGIBLE INDIVIDUALS.—This subparagraph applies in the case of any individual who, as of the day before the date on which a demonstration project under this Act is to commence at an institution—

(I) is an employee of such institution; and

(II) if benefits under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, are to be affected, has completed at least 1 year of Government service (whether with such institution or otherwise), but taking into account only civilian service creditable under subchapter III of chapter 83 or chapter 84 of such title.

(ii) OPTION.—If a demonstration project is to include changes to any benefits under subpart G of part III of title 5, United States Code, an employee described in clause (i) shall be afforded an election not to become subject to such demonstration project, to the extent those benefits are involved (and to instead remain subject to the provisions of such subpart G as if this Act had not been enacted).

(B) CONTINUATION OF CERTAIN ALTERNATIVE BENEFIT SYSTEMS AFTER DEMONSTRATION PROJECT TERMINATES FOR PERSONS BECOMING SUBJECT THERETO UNDER THE PROJECT.—Notwithstanding any other provision of this Act, the termination of a demonstration project shall not, in the case of any employee who becomes subject to a system of alternative benefits under this Act (in lieu of benefits that would otherwise be determined under subpart G of part III of title 5, United States Code), have the effect of terminating—

(i) any rights accrued by that individual under the system of alternative benefits involved; or

(ii) the system under which those alternative benefits are afforded, to the extent continuation of such system beyond the termination date is provided for under the terms of the demonstration project (as in effect on the termination date).

(3) TRANSITION PROVISIONS.—

(A) RETENTION OF ANNUAL AND SICK LEAVE ACCRUED BEFORE BECOMING SUBJECT TO DEMONSTRATION PROJECT.—Any individual becoming subject to a demonstration project under this Act shall, in a manner consistent with the requirements of section 6308 of title 5, United States Code, be credited with any annual leave and any sick leave standing to such individual's credit immediately before becoming subject to the project.

(B) PROVISIONS RELATING TO CREDIT FOR LEAVE UPON SEPARATING WHILE THE DEMONSTRATION PROJECT IS STILL ONGOING.—Any demonstration project under this Act shall include provisions consistent with the following:

(i) LUMP-SUM CREDIT FOR ANNUAL LEAVE.—In the case of any individual who, at the time of becoming subject to the demonstration project, has any leave for which a lump-sum payment might be paid under subchapter VI of chapter 55 of title 5, United States Code, such individual shall, if such individual separates from service (in the circumstances described in section 5551 or 5552 of such title 5, as applicable) while the demonstration project is still ongoing, be entitled to a lump-sum payment under such section 5551 or 5552 (as applicable) based on the amount of leave standing to such individual's credit at the time such individual became subject to the demonstration project or the amount of leave standing to such individual's credit at the time of separation, whichever is less.

(ii) RETIREMENT CREDIT FOR SICK LEAVE.—In the case of any individual who, at the time of becoming subject to the demonstration project, has any sick leave which would be creditable under section 8339(m) of title 5, United States Code (had such individual then separated from service), any sick leave standing to such individual's credit at the time of separation shall, if separation occurs while the demonstration project is still ongoing, be so creditable, but only to the extent that it does not exceed the amount of creditable sick leave that stood to such individual's credit at the time such individual became subject to the demonstration project.

(C) TRANSFER OF LEAVE REMAINING UPON TRANSFER TO ANOTHER AGENCY.—In the case of any employee who becomes subject to the demonstration project and is subsequently transferred or otherwise appointed (without a break in service of 3 days or longer) to another position in the Federal Government or the government of the District of Columbia under a different leave system (whether while the project is still ongoing or otherwise), any leave remaining to the credit of that individual which was earned

or credited under the demonstration project shall be transferred to such individual's credit in the new employing agency on an adjusted basis under regulations prescribed under section 6308 of title 5, United States Code. Any such regulations shall be prescribed taking into account the provisions of subparagraph (B).

(D) COLLECTIVE-BARGAINING AGREEMENTS.—Any collective-bargaining agreement in effect on the day before a demonstration project under this Act commences shall continue to be recognized by the institution involved until the earlier of—

(i) the date occurring 3 years after the commencement date of the project;

(ii) the date as of which the agreement is scheduled to expire (disregarding any option to renew); or

(iii) such date as may be determined by mutual agreement of the parties.

25 USC 3731  
note.

#### **SEC. 5. DELEGATION OF PROCUREMENT AUTHORITY.**

The Secretary shall, to the maximum extent consistent with applicable law and subject to the availability of appropriations therefor, delegate to the presidents of the respective institutions named in section 3(b) procurement and contracting authority with respect to the conduct of the administrative functions of such institution.

25 USC 3731  
note.

#### **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated, for fiscal year 1999, and each fiscal year thereafter, to each of the respective institutions named in section 3(b)—

(1) the amount of funds made available by appropriations as operations funding for the administration of such institution for fiscal year 1998; and

(2) such additional sums as may be necessary for the operation of such institution pursuant to this Act.

25 USC 3731  
note.

#### **SEC. 7. REGULATIONS.**

The president of each institution named in section 3(b) may, in consultation with the appropriate entities (referred to in section 4(b)(1)), prescribe any regulations necessary to carry out this Act.

Deadline.  
25 USC 3731  
note.

#### **SEC. 8. LEGISLATION TO MAKE CHANGES PERMANENT.**

Not later than 6 months before the date on which a demonstration project under this Act is scheduled to expire, the institution conducting such demonstration project shall submit to each House of Congress—

- (1) recommendations as to whether or not the changes under such project should be continued or made permanent; and
- (2) proposed legislation for any changes in law necessary to carry out any such recommendations.

Approved October 31, 1998.

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LEGISLATIVE HISTORY—H.R. 4259:

HOUSE REPORTS: No. 105–700, Pt. 1 (Comm. on Government Reform and Oversight).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 6, considered and passed House.

Oct. 14, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 31, Presidential statement.



Public Law 105–338  
105th Congress

An Act

Oct. 31, 1998  
[H.R. 4655]

Iraq Liberation  
Act of 1998.  
22 USC 2151  
note.

To establish a program to support a transition to democracy in Iraq.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Iraq Liberation Act of 1998”.

**SEC. 2. FINDINGS.**

The Congress makes the following findings:

(1) On September 22, 1980, Iraq invaded Iran, starting an 8 year war in which Iraq employed chemical weapons against Iranian troops and ballistic missiles against Iranian cities.

(2) In February 1988, Iraq forcibly relocated Kurdish civilians from their home villages in the Anfal campaign, killing an estimated 50,000 to 180,000 Kurds.

(3) On March 16, 1988, Iraq used chemical weapons against Iraqi Kurdish civilian opponents in the town of Halabja, killing an estimated 5,000 Kurds and causing numerous birth defects that affect the town today.

(4) On August 2, 1990, Iraq invaded and began a 7 month occupation of Kuwait, killing and committing numerous abuses against Kuwaiti civilians, and setting Kuwait’s oil wells ablaze upon retreat.

(5) Hostilities in Operation Desert Storm ended on February 28, 1991, and Iraq subsequently accepted the ceasefire conditions specified in United Nations Security Council Resolution 687 (April 3, 1991) requiring Iraq, among other things, to disclose fully and permit the dismantlement of its weapons of mass destruction programs and submit to long-term monitoring and verification of such dismantlement.

(6) In April 1993, Iraq orchestrated a failed plot to assassinate former President George Bush during his April 14–16, 1993, visit to Kuwait.

(7) In October 1994, Iraq moved 80,000 troops to areas near the border with Kuwait, posing an imminent threat of a renewed invasion of or attack against Kuwait.

(8) On August 31, 1996, Iraq suppressed many of its opponents by helping one Kurdish faction capture Irbil, the seat of the Kurdish regional government.

(9) Since March 1996, Iraq has systematically sought to deny weapons inspectors from the United Nations Special Commission on Iraq (UNSCOM) access to key facilities and documents, has on several occasions endangered the safe operation of UNSCOM helicopters transporting UNSCOM personnel

George Bush.



in Iraq, and has persisted in a pattern of deception and concealment regarding the history of its weapons of mass destruction programs.

(10) On August 5, 1998, Iraq ceased all cooperation with UNSCOM, and subsequently threatened to end long-term monitoring activities by the International Atomic Energy Agency and UNSCOM.

(11) On August 14, 1998, President Clinton signed Public Law 105-235, which declared that “the Government of Iraq is in material and unacceptable breach of its international obligations” and urged the President “to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations.”

William Clinton.

(12) On May 1, 1998, President Clinton signed Public Law 105-174, which made \$5,000,000 available for assistance to the Iraqi democratic opposition for such activities as organization, training, communication and dissemination of information, developing and implementing agreements among opposition groups, compiling information to support the indictment of Iraqi officials for war crimes, and for related purposes.

**SEC. 3. SENSE OF THE CONGRESS REGARDING UNITED STATES POLICY TOWARD IRAQ.**

Saddam Hussein.

It should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime.

**SEC. 4. ASSISTANCE TO SUPPORT A TRANSITION TO DEMOCRACY IN IRAQ.**

(a) **AUTHORITY TO PROVIDE ASSISTANCE.**—The President may provide to the Iraqi democratic opposition organizations designated in accordance with section 5 the following assistance:

(1) **BROADCASTING ASSISTANCE.**—(A) Grant assistance to such organizations for radio and television broadcasting by such organizations to Iraq.

(B) There is authorized to be appropriated to the United States Information Agency \$2,000,000 for fiscal year 1999 to carry out this paragraph.

Appropriation authorization.

(2) **MILITARY ASSISTANCE.**—(A) The President is authorized to direct the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training for such organizations.

President.

(B) The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under this paragraph may not exceed \$97,000,000.

(b) **HUMANITARIAN ASSISTANCE.**—The Congress urges the President to use existing authorities under the Foreign Assistance Act of 1961 to provide humanitarian assistance to individuals living in areas of Iraq controlled by organizations designated in accordance with section 5, with emphasis on addressing the needs of individuals who have fled to such areas from areas under the control of the Saddam Hussein regime.

(c) **RESTRICTION ON ASSISTANCE.**—No assistance under this section shall be provided to any group within an organization designated in accordance with section 5 which group is, at the time

the assistance is to be provided, engaged in military cooperation with the Saddam Hussein regime.

President.

(d) NOTIFICATION REQUIREMENT.—The President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 at least 15 days in advance of each obligation of assistance under this section in accordance with the procedures applicable to reprogramming notifications under section 634A.

(e) REIMBURSEMENT RELATING TO MILITARY ASSISTANCE.—

(1) IN GENERAL.—Defense articles, defense services, and military education and training provided under subsection (a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for each of the fiscal years 1998 and 1999 such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under subsection (a)(2).

(f) AVAILABILITY OF FUNDS.—(1) Amounts authorized to be appropriated under this section are authorized to remain available until expended.

(2) Amounts authorized to be appropriated under this section are in addition to amounts otherwise available for the purposes described in this section.

(g) AUTHORITY TO PROVIDE ASSISTANCE.—Activities under this section (including activities of the nature described in subsection (b)) may be undertaken notwithstanding any other provision of law.

President.

#### **SEC. 5. DESIGNATION OF IRAQI DEMOCRATIC OPPOSITION ORGANIZATION.**

Deadline.

(a) INITIAL DESIGNATION.—Not later than 90 days after the date of the enactment of this Act, the President shall designate one or more Iraqi democratic opposition organizations that the President determines satisfy the criteria set forth in subsection (c) as eligible to receive assistance under section 4.

(b) DESIGNATION OF ADDITIONAL ORGANIZATIONS.—At any time subsequent to the initial designation pursuant to subsection (a), the President may designate one or more additional Iraqi democratic opposition organizations that the President determines satisfy the criteria set forth in subsection (c) as eligible to receive assistance under section 4.

(c) CRITERIA FOR DESIGNATION.—In designating an organization pursuant to this section, the President shall consider only organizations that—

(1) include a broad spectrum of Iraqi individuals, groups, or both, opposed to the Saddam Hussein regime; and

(2) are committed to democratic values, to respect for human rights, to peaceful relations with Iraq's neighbors, to maintaining Iraq's territorial integrity, and to fostering cooperation among democratic opponents of the Saddam Hussein regime.

(d) NOTIFICATION REQUIREMENT.—At least 15 days in advance of designating an Iraqi democratic opposition organization pursuant

to this section, the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 of his proposed designation in accordance with the procedures applicable to reprogramming notifications under section 634A.

**SEC. 6. WAR CRIMES TRIBUNAL FOR IRAQ.**

Saddam Hussein.

Consistent with section 301 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138), House Concurrent Resolution 137, 105th Congress (approved by the House of Representatives on November 13, 1997), and Senate Concurrent Resolution 78, 105th Congress (approved by the Senate on March 13, 1998), the Congress urges the President to call upon the United Nations to establish an international criminal tribunal for the purpose of indicting, prosecuting, and imprisoning Saddam Hussein and other Iraqi officials who are responsible for crimes against humanity, genocide, and other criminal violations of international law.

**SEC. 7. ASSISTANCE FOR IRAQ UPON REPLACEMENT OF SADDAM HUSSEIN REGIME.**

It is the sense of the Congress that once the Saddam Hussein regime is removed from power in Iraq, the United States should support Iraq's transition to democracy by providing immediate and substantial humanitarian assistance to the Iraqi people, by providing democracy transition assistance to Iraqi parties and movements with democratic goals, and by convening Iraq's foreign creditors to develop a multilateral response to Iraq's foreign debt incurred by Saddam Hussein's regime.

**SEC. 8. RULE OF CONSTRUCTION.**

Nothing in this Act shall be construed to authorize or otherwise speak to the use of United States Armed Forces (except as provided in section 4(a)(2)) in carrying out this Act.

Approved October 31, 1998.

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**LEGISLATIVE HISTORY—H.R. 4655:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 5, considered and passed House.

Oct. 7, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 31, Presidential statement.



Public Law 105–339  
105th Congress

An Act

Oct. 31, 1998  
[S. 1021]

Veterans  
Employment  
Opportunities  
Act of 1998.  
5 USC 2101 note.

To amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Veterans Employment Opportunities Act of 1998”.

**SEC. 2. ACCESS FOR VETERANS.**

Section 3304 of title 5, United States Code, is amended by adding at the end the following:

“(f)(1) Preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service may not be denied the opportunity to compete for vacant positions for which the agency making the announcement will accept applications from individuals outside its own workforce under merit promotion procedures.

“(2) This subsection shall not be construed to confer an entitlement to veterans’ preference that is not otherwise required by law.

“(3) The area of consideration for all merit promotion announcements which include consideration of individuals of the Federal workforce shall indicate that preference eligibles and veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service are eligible to apply. The announcements shall be publicized in accordance with section 3327.

“(4) The Office of Personnel Management shall establish an appointing authority to appoint such preference eligibles and veterans.”.

**SEC. 3. IMPROVED REDRESS FOR PREFERENCE ELIGIBLES.**

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

**“§ 3330a. Preference eligibles; administrative redress**

“(a)(1) A preference eligible who alleges that an agency has violated such individual’s rights under any statute or regulation relating to veterans’ preference may file a complaint with the Secretary of Labor.

“(2)(A) A complaint under this subsection must be filed within 60 days after the date of the alleged violation.

Deadline.

“(B) Such complaint shall be in writing, be in such form as the Secretary may prescribe, specify the agency against which the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

“(3) The Secretary shall, upon request, provide technical assistance to a potential complainant with respect to a complaint under this subsection.

“(b)(1) The Secretary of Labor shall investigate each complaint under subsection (a).

“(2) In carrying out any investigation under this subsection, the Secretary’s duly authorized representatives shall, at all reasonable times, have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or agency that the Secretary considers relevant to the investigation.

“(3) In carrying out any investigation under this subsection, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

“(4) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or agency to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this subsection and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court. Courts.

“(c)(1)(A) If the Secretary of Labor determines as a result of an investigation under subsection (b) that the action alleged in a complaint under subsection (a) occurred, the Secretary shall attempt to resolve the complaint by making reasonable efforts to ensure that the agency specified in the complaint complies with applicable provisions of statute or regulation relating to veterans’ preference.

“(B) The Secretary of Labor shall make determinations referred to in subparagraph (A) based on a preponderance of the evidence.

“(2) If the efforts of the Secretary under subsection (b) with respect to a complaint under subsection (a) do not result in the resolution of the complaint, the Secretary shall notify the person who submitted the complaint, in writing, of the results of the Secretary’s investigation under subsection (b). Notification.

“(d)(1) If the Secretary of Labor is unable to resolve a complaint under subsection (a) within 60 days after the date on which it is filed, the complainant may elect to appeal the alleged violation to the Merit Systems Protection Board in accordance with such procedures as the Merit Systems Protection Board shall prescribe, except that in no event may any such appeal be brought—

“(A) before the 61st day after the date on which the complaint is filed; or

“(B) later than 15 days after the date on which the complainant receives written notification from the Secretary under subsection (c)(2).

“(2) An appeal under this subsection may not be brought unless—

“(A) the complainant first provides written notification to the Secretary of such complainant’s intention to bring such appeal; and

“(B) appropriate evidence of compliance with subparagraph (A) is included (in such form and manner as the Merit Systems Protection Board may prescribe) with the notice of appeal under this subsection.

“(3) Upon receiving notification under paragraph (2)(A), the Secretary shall not continue to investigate or further attempt to resolve the complaint to which the notification relates.

“(e)(1) This section shall not be construed to prohibit a preference eligible from appealing directly to the Merit Systems Protection Board from any action which is appealable to the Board under any other law, rule, or regulation, in lieu of administrative redress under this section.

“(2) A preference eligible may not pursue redress for an alleged violation described in subsection (a) under this section at the same time the preference eligible pursues redress for such violation under any other law, rule, or regulation.

**“§ 3330b. Preference eligibles; judicial redress**

Deadline.

“(a) In lieu of continuing the administrative redress procedure provided under section 3330a(d), a preference eligible may elect, in accordance with this section, to terminate those administrative proceedings and file an action with the appropriate United States district court not later than 60 days after the date of the election.

“(b) An election under this section may not be made—

“(1) before the 121st day after the date on which the appeal is filed with the Merit Systems Protection Board under section 3330a(d); or

“(2) after the Merit Systems Protection Board has issued a judicially reviewable decision on the merits of the appeal.

Regulations.

“(c) An election under this section shall be made, in writing, in such form and manner as the Merit Systems Protection Board shall by regulation prescribe. The election shall be effective as of the date on which it is received, and the administrative proceeding to which it relates shall terminate immediately upon the receipt of such election.

Effective date.

**“§ 3330c. Preference eligibles; remedy**

“(a) If the Merit Systems Protection Board (in a proceeding under section 3330a) or a court (in a proceeding under section 3330b) determines that an agency has violated a right described in section 3330a, the Board or court (as the case may be) shall order the agency to comply with such provisions and award compensation for any loss of wages or benefits suffered by the individual by reason of the violation involved. If the Board or court determines that such violation was willful, it shall award an amount equal to backpay as liquidated damages.

“(b) A preference eligible who prevails in an action under section 3330a or 3330b shall be awarded reasonable attorney fees, expert witness fees, and other litigation expenses.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by adding after the item relating to section 3330 the following:

“3330a. Preference eligibles; administrative redress.

“3330b. Preference eligibles; judicial redress.

“3330c. Preference eligibles; remedy.”.

**SEC. 4. EXTENSION OF VETERANS' PREFERENCE.**

(a) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Paragraph (3) of section 2108 of title 5, United States Code, is amended by striking “the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or the General Accounting Office;” and inserting “or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;”.

(b) AMENDMENTS TO TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 2 of title 3, United States Code, is amended by adding at the end the following:

**“§ 115. Veterans' preference**

“(a) Subject to subsection (b), appointments under sections 105, 106, and 107 shall be made in accordance with section 2108, and sections 3309 through 3312, of title 5.

“(b) Subsection (a) shall not apply to any appointment to a position the rate of basic pay for which is at least equal to the minimum rate established for positions in the Senior Executive Service under section 5382 of title 5 and the duties of which are comparable to those described in section 3132(a)(2) of such title or to any other position if, with respect to such position, the President makes certification—

“(1) that such position is—

“(A) a confidential or policy-making position; or

“(B) a position for which political affiliation or political philosophy is otherwise an important qualification; and

“(2) that any individual selected for such position is expected to vacate the position at or before the end of the President's term (or terms) of office.

Each individual appointed to a position described in the preceding sentence as to which the expectation described in paragraph (2) applies shall be notified as to such expectation, in writing, at the time of appointment to such position.”.

Notification.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 3, United States Code, is amended by adding at the end the following:

“115. Veterans' preference.”.

(c) LEGISLATIVE BRANCH APPOINTMENTS.—

2 USC 1316a.

(1) DEFINITIONS.—For the purposes of this subsection, the terms “covered employee” and “Board” shall each have the meaning given such term by section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

(2) RIGHTS AND PROTECTIONS.—The rights and protections established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code, shall apply to covered employees.

(3) REMEDIES.—

(A) IN GENERAL.—The remedy for a violation of paragraph (2) shall be such remedy as would be appropriate if awarded under applicable provisions of title 5, United States Code, in the case of a violation of the relevant corresponding provision (referred to in paragraph (2)) of such title.

(B) PROCEDURE.—The procedure for consideration of alleged violations of paragraph (2) shall be the same as

apply under section 401 of the Congressional Accountability Act of 1995 (and the provisions of law referred to therein) in the case of an alleged violation of part A of title II of such Act.

(4) REGULATIONS TO IMPLEMENT SUBSECTION.—

(A) IN GENERAL.—The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this subsection.

(B) AGENCY REGULATIONS.—The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this subsection.

(C) COORDINATION.—The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

(5) APPLICABILITY.—Notwithstanding any other provision of this subsection, the term “covered employee” shall not, for purposes of this subsection, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(6) EFFECTIVE DATE.—Paragraphs (2) and (3) shall be effective as of the effective date of the regulations under paragraph (4).

(d) JUDICIAL BRANCH APPOINTMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Judicial Conference of the United States shall prescribe procedures to provide for—

(A) veterans’ preference in the consideration of applicants for employment, and in the conduct of any reductions in force, within the judicial branch; and

(B) redress for alleged violations of any rights provided for under subparagraph (A).

(2) PROCEDURES.—Under the procedures, a preference eligible (as defined by section 2108 of title 5, United States Code) shall be afforded preferences in a manner and to the extent consistent with preferences afforded to preference eligibles in the executive branch.

(3) EXCLUSIONS.—Nothing in the procedures shall apply with respect to an applicant or employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is as a judicial officer;



(C) whose appointment is required by statute to be made by or with the approval of a court or judicial officer; or

(D) whose appointment is to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(4) DEFINITIONS.—For purposes of this subsection, the term “judicial officer” means a justice, judge, or magistrate judge listed in subparagraph (A), (B), (F), or (G) of section 376(a)(1) of title 28, United States Code.

(5) SUBMISSION TO CONGRESS; EFFECTIVE DATE.—

(A) SUBMISSION TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States shall submit a copy of the procedures prescribed under this subsection to the Committee on Government Reform and Oversight and the Committee on the Judiciary of the House of Representatives and the Committee on Governmental Affairs and the Committee on the Judiciary of the Senate.

(B) EFFECTIVE DATE.—The procedures prescribed under this subsection shall take effect 13 months after the date of enactment of this Act.

**SEC. 5. VETERANS’ PREFERENCE REQUIRED FOR REDUCTIONS IN FORCE IN THE FEDERAL AVIATION ADMINISTRATION.**

49 USC 106 note.

Section 347(b) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 460) is amended—

(1) by striking “and” at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting “; and”; and

(3) by adding at the end the following:

“(8) sections 3501–3504, as such sections relate to veterans’ preference.”.

**SEC. 6. FAILURE TO COMPLY WITH VETERANS’ PREFERENCE REQUIREMENTS TO BE TREATED AS A PROHIBITED PERSONNEL PRACTICE FOR CERTAIN PURPOSES.**

(a) IN GENERAL.—Subsection (b) of section 2302 of title 5, United States Code, is amended—

(1) by striking “or” at the end of paragraph (10);

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following:

“(11)(A) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans’ preference requirement; or

“(B) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans’ preference requirement; or”.

(b) DEFINITION; LIMITATION.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

“(e)(1) For the purpose of this section, the term ‘veterans’ preference requirement’ means any of the following provisions of law:

“(A) Sections 2108, 3305(b), 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317(b), 3318, 3320, 3351, 3352, 3363, 3501, 3502(b), 3504, and 4303(e) and (with respect to a preference

eligible referred to in section 7511(a)(1)(B)) subchapter II of chapter 75 and section 7701.

“(B) Sections 943(c)(2) and 1784(c) of title 10.

“(C) Section 1308(b) of the Alaska National Interest Lands Conservation Act.

“(D) Section 301(c) of the Foreign Service Act of 1980.

“(E) Sections 106(f), 7281(e), and 7802(5) of title 38.

“(F) Section 1005(a) of title 39.

“(G) Any other provision of law that the Director of the Office of Personnel Management designates in regulations as being a veterans’ preference requirement for the purposes of this subsection.

“(H) Any regulation prescribed under subsection (b) or (c) of section 1302 and any other regulation that implements a provision of law referred to in any of the preceding subparagraphs.

“(2) Notwithstanding any other provision of this title, no authority to order corrective action shall be available in connection with a prohibited personnel practice described in subsection (b)(11). Nothing in this paragraph shall be considered to affect any authority under section 1215 (relating to disciplinary action).”.

(c) REPEALS.—

(1) SECTION 1599c OF TITLE 10, UNITED STATES CODE.—

(A) REPEAL.—Section 1599c of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1599c.

(2) SECTION 2302(a)(1) OF TITLE 5, UNITED STATES CODE.—

Subsection (a)(1) of section 2302 of title 5, United States Code, is amended to read as follows:

“(a)(1) For the purpose of this title, ‘prohibited personnel practice’ means any action described in subsection (b).”.

5 USC 2302 note.

(d) SAVINGS PROVISION.—This section shall be treated as if it had never been enacted for purposes of any personnel action (within the meaning of section 2302 of title 5, United States Code) preceding the date of enactment of this Act.

#### **SEC. 7. EXPANSION AND IMPROVEMENT OF VETERANS’ EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS.**

(a) COVERED VETERANS.—Section 4212 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out “\$10,000” and inserting in lieu thereof “\$25,000”; and

(B) by striking out “special disabled veterans and veterans of the Vietnam era” and inserting in lieu thereof “special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized”;

(2) in subsection (b), by striking out “special disabled veteran or veteran of the Vietnam era” and inserting in lieu thereof “veteran covered by the first sentence of subsection (a)”; and

(3) in subsection (d)(1), by striking out “veterans of the Vietnam era or special disabled veterans” both places it appears

and inserting in lieu thereof “special disabled veterans, veterans of the Vietnam era, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized”.

(b) PROHIBITION ON CONTRACTING WITH ENTITIES NOT MEETING REPORTING REQUIREMENTS.—(1) Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following:

**“§ 1354. Limitation on use of appropriated funds for contracts with entities not meeting veterans’ employment reporting requirements**

“(a)(1) Subject to paragraph (2), no agency may obligate or expend funds appropriated for the agency for a fiscal year to enter into a contract described in section 4212(a) of title 38 with a contractor from which a report was required under section 4212(d) of that title with respect to the preceding fiscal year if such contractor did not submit such report.

“(2) Paragraph (1) shall cease to apply with respect to a contractor otherwise covered by that paragraph on the date on which the contractor submits the report required by such section 4212(d) for the fiscal year concerned.

“(b) The Secretary of Labor shall make available in a database a list of the contractors that have complied with the provisions of such section 4212(d).” Records.

(2) The table of sections at the beginning of chapter 13 of such title is amended by adding at the end the following:

“1354. Limitation on use of appropriated funds for contracts with entities not meeting veterans’ employment reporting requirements.”.

**SEC. 8. REQUIREMENT FOR ADDITIONAL INFORMATION IN ANNUAL REPORTS FROM FEDERAL CONTRACTORS ON VETERANS EMPLOYMENT.**

Section 4212(d)(1) of title 38, United States Code, as amended by section 7(a)(3) of this Act, is further amended—

(1) by striking out “and” at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph

(B) and inserting in lieu thereof “; and”; and

(3) by adding at the end the following:

“(C) the maximum number and the minimum number of employees of such contractor during the period covered by the report.”.

Approved October 31, 1998.

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LEGISLATIVE HISTORY—S. 1021 (H.R. 240):

HOUSE REPORTS: No. 105-40, Pt. 1 accompanying H.R. 240 (Comm. on Government Reform and Oversight).

SENATE REPORTS: No. 105-340 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 5, considered and passed Senate.

Oct. 8, considered and passed House.



Public Law 105–340  
105th Congress

An Act

To amend the Public Health Service Act to revise and extend certain programs with respect to women's health research and prevention activities at the National Institutes of Health and the Centers for Disease Control and Prevention.

Oct. 31, 1998  
[S. 1722]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Women’s Health Research and Prevention Amendments of 1998”.

Women’s Health  
Research and  
Prevention  
Amendments of  
1998.  
42 USC 201 note.

**TITLE I—PROVISIONS RELATING TO  
WOMEN’S HEALTH RESEARCH AT NA-  
TIONAL INSTITUTES OF HEALTH**

**SEC. 101. RESEARCH ON DRUG DES; NATIONAL PROGRAM OF EDU-  
CATION.**

(a) RESEARCH.—Section 403A(e) of the Public Health Service Act (42 U.S.C. 283a(e)) is amended by striking “1996” and inserting “2003”.

(b) NATIONAL PROGRAM FOR EDUCATION OF HEALTH PROFESSIONALS AND PUBLIC.—Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following:

“EDUCATION REGARDING DES

“SEC. 1710. (a) IN GENERAL.—The Secretary, acting through the heads of the appropriate agencies of the Public Health Service, shall carry out a national program for the education of health professionals and the public with respect to the drug diethylstilbestrol (commonly known as DES). To the extent appropriate, such national program shall use methodologies developed through the education demonstration program carried out under section 403A. In developing and carrying out the national program, the Secretary shall consult closely with representatives of nonprofit private entities that represent individuals who have been exposed to DES and that have expertise in community-based information campaigns for the public and for health care providers. The implementation of the national program shall begin during fiscal year 1999.

42 USC 300u–9.

“(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated

such sums as may be necessary for each of the fiscal years 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.”.

**SEC. 102. RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.**

Section 409A(d) of the Public Health Service Act (42 U.S.C. 284e(d)) is amended by striking “and 1996” and inserting “through 2003”.

**SEC. 103. RESEARCH ON CANCER.**

42 USC 285a-8. (a) RESEARCH ON BREAST CANCER.—Section 417B(b)(1) of the Public Health Service Act (42 U.S.C. 286a-8(b)(1)) is amended—  
 (1) in subparagraph (A), by striking “and 1996” and inserting “through 2003”; and  
 (2) in subparagraph (B), by striking “and 1996” and inserting “through 2003”.

42 USC 285a-8. (b) RESEARCH ON OVARIAN AND RELATED CANCER RESEARCH.—Section 417B(b)(2) of the Public Health Service Act (42 U.S.C. 286a-8(b)(2)) is amended by striking “and 1996” and inserting “through 2003”.

**SEC. 104. RESEARCH ON HEART ATTACK, STROKE, AND OTHER CARDIOVASCULAR DISEASES IN WOMEN.**

Subpart 2 of part C of title IV of the Public Health Service Act (42 U.S.C. 285b et seq.) is amended by inserting after section 424 the following:

“HEART ATTACK, STROKE, AND OTHER CARDIOVASCULAR DISEASES IN WOMEN

42 USC 285b-7a. “SEC. 424A. (a) IN GENERAL.—The Director of the Institute shall expand, intensify, and coordinate research and related activities of the Institute with respect to heart attack, stroke, and other cardiovascular diseases in women.

“(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate activities under subsection (a) with similar activities conducted by the other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to heart attack, stroke, and other cardiovascular diseases in women.

“(c) CERTAIN PROGRAMS.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the causes of, and to develop methods for preventing, cardiovascular diseases in women. Activities under such subsection shall include conducting and supporting the following:

“(1) Research to determine the reasons underlying the prevalence of heart attack, stroke, and other cardiovascular diseases in women, including African-American women and other women who are members of racial or ethnic minority groups.

“(2) Basic research concerning the etiology and causes of cardiovascular diseases in women.

“(3) Epidemiological studies to address the frequency and natural history of such diseases and the differences among

men and women, and among racial and ethnic groups, with respect to such diseases.

“(4) The development of safe, efficient, and cost-effective diagnostic approaches to evaluating women with suspected ischemic heart disease.

“(5) Clinical research for the development and evaluation of new treatments for women, including rehabilitation.

“(6) Studies to gain a better understanding of methods of preventing cardiovascular diseases in women, including applications of effective methods for the control of blood pressure, lipids, and obesity.

“(7) Information and education programs for patients and health care providers on risk factors associated with heart attack, stroke, and other cardiovascular diseases in women, and on the importance of the prevention or control of such risk factors and timely referral with appropriate diagnosis and treatment. Such programs shall include information and education on health-related behaviors that can improve such important risk factors as smoking, obesity, high blood cholesterol, and lack of exercise.

“(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.”.

#### SEC. 105. AGING PROCESSES REGARDING WOMEN.

Section 445H of the Public Health Service Act (42 U.S.C. 285e-10) is amended—

(1) by striking “The Director” and inserting “(a) The Director”; and

(2) by adding at the end the following subsection:

“(b) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.”.

Appropriation  
authorization.

#### SEC. 106. OFFICE OF RESEARCH ON WOMEN'S HEALTH.

Section 486(d)(2) of the Public Health Service Act (42 U.S.C. 287d(d)(2)) is amended by striking “Director of the Office” and inserting “Director of NIH”.

## TITLE II—PROVISIONS RELATING TO WOMEN'S HEALTH AT CENTERS FOR DISEASE CONTROL AND PREVENTION

#### SEC. 201. NATIONAL CENTER FOR HEALTH STATISTICS.

Section 306(n) of the Public Health Service Act (42 U.S.C. 242k(n)) is amended—

(1) in paragraph (1), by striking “through 1998” and inserting “through 2003”; and

(2) in paragraph (2), by striking “through 1998” and inserting “through 2003”.

**SEC. 202. NATIONAL PROGRAM OF CANCER REGISTRIES.**

Section 399L(a) of the Public Health Service Act (42 U.S.C. 280e-4(a)) is amended by striking “through 1998” and inserting “through 2003”.

**SEC. 203. NATIONAL BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM.**

(a) **SERVICES.**—Section 1501(a)(2) of the Public Health Service Act (42 U.S.C. 300k(a)(2)) is amended by inserting before the semicolon the following: “and support services such as case management”.

(b) **PROVIDERS OF SERVICES.**—Section 1501(b) of the Public Health Service Act (42 U.S.C. 300k(b)) is amended—

(1) in paragraph (1), by striking “through grants” and all that follows and inserting the following: “through grants to public and nonprofit private entities and through contracts with public and private entities.”; and

(2) by striking paragraph (2) and inserting the following:

“(2) **CERTAIN APPLICATIONS.**—If a nonprofit private entity and a private entity that is not a nonprofit entity both submit applications to a State to receive an award of a grant or contract pursuant to paragraph (1), the State may give priority to the application submitted by the nonprofit private entity in any case in which the State determines that the quality of such application is equivalent to the quality of the application submitted by the other private entity.”.

(c) **AUTHORIZATIONS OF APPROPRIATIONS.**—

(1) **SUPPLEMENTAL GRANTS FOR ADDITIONAL PREVENTIVE HEALTH SERVICES.**—Section 1509(d)(1) of the Public Health Service Act (42 U.S.C. 300n-4a(d)(1)) is amended by striking “through 1998” and inserting “through 2003”.

(2) **GENERAL PROGRAM.**—Section 1510(a) of the Public Health Service Act (42 U.S.C. 300n-5(a)) is amended by striking “through 1998” and inserting “through 2003”.



**SEC. 204. CENTERS FOR RESEARCH AND DEMONSTRATION OF  
HEALTH PROMOTION.**

Section 1706(e) of the Public Health Service Act (42 U.S.C. 300u-5(e)) is amended by striking “through 1998” and inserting “through 2003”.

Approved October 31, 1998.

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**LEGISLATIVE HISTORY—S. 1722:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 12, considered and passed Senate.

Oct. 13, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Oct. 31, Presidential statement.



Public Law 105–341  
105th Congress

An Act

Oct. 31, 1998 [S. 2285]	To establish a commission, in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women.
Women's Progress Commemoration Act. 16 USC 470a note.	<p><i>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,</i></p> <p><b>SECTION 1. SHORT TITLE.</b></p> <p>This Act may be cited as the “Women’s Progress Commemoration Act”.</p>
16 USC 470a note.	<p><b>SEC. 2. DECLARATION.</b></p> <p>Congress declares that—</p> <p>(1) the original Seneca Falls Convention, held in upstate New York in July 1848, convened to consider the social conditions and civil rights of women at that time;</p> <p>(2) the convention marked the beginning of an admirable and courageous struggle for equal rights for women;</p> <p>(3) the 150th Anniversary of the convention provides an excellent opportunity to examine the history of the women’s movement; and</p> <p>(4) a Federal Commission should be established for the important task of ensuring the historic preservation of sites that have been instrumental in American women’s history, creating a living legacy for generations to come.</p>
16 USC 470a note.	<p><b>SEC. 3. ESTABLISHMENT OF COMMISSION.</b></p> <p>(a) ESTABLISHMENT.—There is established a commission to be known as the “Women’s Progress Commemoration Commission” (referred to in this Act as the “Commission”).</p> <p>(b) MEMBERSHIP.—</p> <p>(1) IN GENERAL.—The Commission shall be composed of 15 members, of whom—</p> <p>(A) 3 shall be appointed by the President;</p> <p>(B) 3 shall be appointed by the Speaker of the House of Representatives;</p> <p>(C) 3 shall be appointed by the minority leader of the House of Representatives;</p> <p>(D) 3 shall be appointed by the majority leader of the Senate; and</p> <p>(E) 3 shall be appointed by the minority leader of the Senate.</p> <p>(2) PERSONS ELIGIBLE.—</p> <p>(A) IN GENERAL.—The members of the Commission shall be individuals who have knowledge or expertise,</p>
President. Congress.	

whether by experience or training, in matters to be studied by the Commission. The members may be from the public or private sector, and may include Federal, State, or local employees, members of academia, nonprofit organizations, or industry, or other interested individuals.

(B) DIVERSITY.—It is the intent of Congress that persons appointed to the Commission under paragraph (1) be persons who represent diverse economic, professional, and cultural backgrounds.

(3) CONSULTATION AND APPOINTMENT.—

President.  
Congress.

(A) IN GENERAL.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate, and minority leader of the Senate shall consult among themselves before appointing the members of the Commission in order to achieve, to the maximum extent practicable, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(B) COMPLETION OF APPOINTMENTS; VACANCIES.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate, and minority leader of the Senate shall conduct the consultation under subparagraph (3) and make their respective appointments not later than 60 days after the date of enactment of this Act.

(4) VACANCIES.—A vacancy in the membership of the Commission shall not affect the powers of the Commission and shall be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

(c) MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(2) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the Chairperson.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number of members may hold hearings.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

#### SEC. 4. DUTIES OF THE COMMISSION.

Not later than 1 year after the initial meeting of the Commission, the Commission, in cooperation with the Secretary of the Interior and other appropriate Federal, State, and local public and private entities, shall prepare and submit to the Secretary of the Interior a report that—

Deadline.  
Reports.  
16 USC 470a  
note.

(1) identifies sites of historical significance to the women's movement; and

(2) recommends actions, under the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other law, to rehabilitate and preserve the sites and provide to the public interpretive and educational materials and activities at the sites.

16 USC 470a  
note.

**SEC. 5. POWERS OF THE COMMISSION.**

(a) **HEARINGS.**—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties of this Act.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. At the request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

16 USC 470a  
note.

**SEC. 6. COMMISSION PERSONNEL MATTERS.**

(a) **COMPENSATION OF MEMBERS.**—A member of the Commission who is not otherwise an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. A member of the Commission who is otherwise an officer or employee of the United States shall serve without compensation in addition to that received for services as an officer or employee of the United States.

(b) **TRAVEL EXPENSES.**—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of service for the Commission.

(c) **STAFF.**—

(1) **IN GENERAL.**—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) **COMPENSATION.**—The executive director shall be compensated at a rate not to exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairperson may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of that title.

(3) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and the detail shall be without interruption or loss of civil service status, benefits, or privilege.

(d) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United

States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for a position at level V of the Executive Schedule under section 5316 of that title.

**SEC. 7. FUNDING.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this Act.

(b) **DONATIONS.**—The Commission may accept donations from non-Federal sources to defray the costs of the operations of the Commission.

**SEC. 8. TERMINATION.**

The Commission shall terminate on the date that is 30 days after the date on which the Commission submits to the Secretary of the Interior the report under section 4(b).

**SEC. 9. REPORTS TO CONGRESS.**

Not later than 2 years and not later than 5 years after the date on which the Commission submits to the Secretary of the Interior the report under section 4, the Secretary of the Interior shall submit to Congress a report describing the actions that have been taken to preserve the sites identified in the Commission report as being of historical significance.

16 USC 470a  
note.

16 USC 470a  
note.

Deadline.  
16 USC 470a  
note.

Approved October 31, 1998.

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**LEGISLATIVE HISTORY—S. 2285:**

SENATE REPORTS: No. 105–396 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 7, considered and passed Senate.

Oct. 10, considered and passed House.



Public Law 105–342  
105th Congress

An Act

Nov. 2, 1998  
[S. 2240]

To establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes.

Adams National  
Historical Park  
Act of 1998.  
16 USC 410eee  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Adams National Historical Park Act of 1998”.

16 USC 410eee.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) in 1946, Secretary of the Interior J.A. Krug, by means of the authority granted the Secretary of the Interior under section 2 of the Historic Sites Act of August 21, 1935, established the Adams Mansion National Historic Site, located in Quincy, Massachusetts;

(2) in 1952, Acting Secretary of the Interior Vernon D. Northrup enlarged the site and renamed it the Adams National Historic Site, using the Secretary’s authority as provided in the Historic Sites Act;

(3) in 1972, Congress, through Public Law 92–272, authorized the Secretary of the Interior to add approximately 3.68 acres at Adams National Historic Site;

(4) in 1978, Congress, through Public Law 95–625, authorized the Secretary of the Interior to accept by conveyance the birthplaces of John Adams and John Quincy Adams, both in Quincy, Massachusetts, to be managed as part of the Adams National Historic Site;

(5) in 1980, Congress, through Public Law 96–435, authorized the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, the burial place of John Adams, Abigail Adams, and John Quincy Adams and his wife, to be administered as part of the Adams National Historic Site;

(6) the actions taken by past Secretaries of the Interior and past Congresses to preserve for the benefit, education and inspiration of present and future generations of Americans the home, property, birthplaces and burial site of John Adams, John Quincy Adams, and Abigail Adams, have resulted in a multi-site unit of the National Park System with no overarching enabling or authorizing legislation; and

(7) that the sites and resources associated with John Adams, second President of the United States, his wife Abigail Adams, and John Quincy Adams, sixth President of the United

States, require recognition as a national historical park in the National Park System.

(b) PURPOSE.—The purpose of this Act is to establish the Adams National Historical Park in the City of Quincy, in the Commonwealth of Massachusetts, to preserve, maintain and interpret the home, property, birthplaces, and burial site of John Adams and his wife Abigail, John Quincy Adams, and subsequent generations of the Adams family associated with the Adams property in Quincy, Massachusetts, for the benefit, education and inspiration of present and future generations of Americans.

### SEC. 3. DEFINITIONS.

16 USC  
410eee-1.

As used in this Act:

(1) HISTORICAL PARK.—The term “historical park” means the Adams National Historical Park established in section 4.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

### SEC. 4. ADAMS NATIONAL HISTORICAL PARK.

16 USC  
410eee-2.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain properties in Quincy, Massachusetts, associated with John Adams, second President of the United States, his wife, Abigail Adams, John Quincy Adams, sixth President of the United States, and his wife, Louisa Adams, there is established the Adams National Historical Park as a unit of the National Park System.

(b) BOUNDARIES.—The historical park shall be comprised of the following:

(1) All property administered by the National Park Service in the Adams National Historic Site as of the date of enactment of this Act, as well as all property previously authorized to be acquired by the Secretary for inclusion in the Adams National Historic Site, as generally depicted on the map entitled “Adams National Historical Park”, numbered NERO 386/80,000, and dated April 1998.

(2) All property authorized to be acquired for inclusion in the historical park by this Act or other law enacted after the date of the enactment of this Act.

(c) VISITOR AND ADMINISTRATIVE SITES.—To preserve the historical character and landscape of the main features of the historical park, the Secretary may acquire up to 10 acres for the development of visitor, administrative, museum, curatorial, and maintenance facilities adjacent to or in the general proximity of the property depicted on the map identified in subsection (b)(1)(A).

(d) MAP.—The map of the historical park shall be on file and available for public inspection in the appropriate offices of the National Park Service.

### SEC. 5. ADMINISTRATION.

16 USC  
410eee-3.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with interested entities and

individuals to provide for the preservation, development, interpretation, and use of the park.

(2) Any payment made by the Secretary pursuant to a cooperative agreement under this paragraph shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such a project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary is authorized to acquire real property with appropriated or donated funds, by donation, or by exchange, within the boundaries of the park.

(d) REPEAL OF SUPERCEDED ADMINISTRATIVE AUTHORITIES.—

(1) Section 312 of the National Parks and Recreation Act of 1978 (Public Law 95-625; 92 Stat. 3479) is amended by striking “(a)” after “SEC. 312”; and strike subsection (b) in its entirety.

(2) The first section of Public Law 96-435 (94 Stat. 1861) is amended by striking “(a)” after “That”; and strike subsection (b) in its entirety.

(e) REFERENCES TO THE HISTORIC SITE.—Any reference in any law (other than this Act), regulation, document, record, map, or other paper of the United States to the Adams National Historic Site shall be considered to be a reference to the historical park.

#### **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved November 2, 1998.

16 USC  
410eee-4.

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#### **LEGISLATIVE HISTORY—S. 2240:**

SENATE REPORTS: No. 105-404 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 7, considered and passed Senate.

Oct. 10, considered and passed House.





Public Law 105–343  
105th Congress

An Act

To amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary, and for other purposes.

Nov. 2, 1998  
[S. 2246]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 201 of the Act of October 12, 1979 (93 Stat. 664), is amended by adding at the end thereof a new subsection to read as follows:

16 USC 461 note.

“(d) In order to preserve and maintain the historic setting of the Site, the Secretary is authorized to acquire, through donation only, lands with associated easements situated adjacent to the Site owned by the Brookline Conservation Land Trust. These lands are to be used for educational and interpretive purposes and shall be maintained and managed as part of the Frederick Law Olmsted National Historic Site.”.

Approved November 2, 1998.

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LEGISLATIVE HISTORY—S. 2246:

SENATE REPORTS: No. 105–405 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 7, considered and passed Senate.

Oct. 10, considered and passed House.



Public Law 105–344  
105th Congress

An Act

Nov. 2, 1998  
[S. 2413]

Prohibiting the conveyance of Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona unless the conveyance is made to the town of Pinetop-Lakeside or is authorized by Act of Congress.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WOODLAND LAKE PARK TRACT, APACHE-SITGREAVES NATIONAL FOREST, ARIZONA.**

(a) PROHIBITION OF CONVEYANCE.—The Secretary of Agriculture may not convey any right, title, or interest of the United States in and to the Woodland Lake Park tract unless the conveyance of the tract—

(1) is made to the town of Pinetop-Lakeside; or

(2) is specifically authorized by a law enacted after the date of the enactment of this Act.

(b) DEFINITION.—In this section, the terms “Woodland Lake Park tract” and “tract” mean the parcel of land in Apache-Sitgreaves National Forest in the State of Arizona that consists of approximately 583 acres and is known as the Woodland Lake Park tract.

Approved November 2, 1998.

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**LEGISLATIVE HISTORY—S. 2413:**

SENATE REPORTS: No. 105–384 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 9, considered and passed Senate.

Oct. 10, considered and passed House.



Public Law 105–345  
105th Congress

An Act

To amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the legislative authority for the Black Patriots Foundation to establish a commemorative work.

Nov. 2, 1998  
[S. 2427]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL.**

Section 506 of the Omnibus Parks and Public Lands Management Act of 1996 (40 U.S.C. 1003 note; 110 Stat. 4155) is amended by striking “1998” and inserting “2000”.

Approved November 2, 1998.

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LEGISLATIVE HISTORY—S. 2427:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 8, considered and passed Senate.

Oct. 10, considered and passed House.



Public Law 105-346  
105th Congress

An Act

Nov. 2, 1998  
[S. 2505]

To direct the Secretary of the Interior to convey title to the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, to the University of Idaho.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONVEYANCE OF TUNNISON LAB HAGERMAN FIELD STATION, HAGERMAN, IDAHO, TO THE UNIVERSITY OF IDAHO.**

Deadline.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the University of Idaho, without reimbursement, all right, title, and interest of the United States in and to the property described in subsection (b) for use by the University of Idaho for fish research.

(b) DESCRIPTION OF PROPERTY.—

(1) IN GENERAL.—The property referred to in subsection (a) consists of approximately 4 acres of land, the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, located thereon, and all improvements and related personal property, excluding water rights vested in the United States and necessary access and utility easements and rights-of-way.

(2) SURVEY.—The exact acreage and legal description of the property described under paragraph (1) shall be determined by a survey that is satisfactory to the Secretary.

(c) REVERSIONARY INTEREST IN THE UNITED STATES.—

(1) REQUIREMENT.—If any property conveyed to the University of Idaho under this section is used for any purpose other than the use authorized under subsection (a), all right, title, and interest in and to all property conveyed under this section shall revert to the United States.

(2) CONDITION OF PROPERTY ON REVERSION.—In the case of a reversion of property under paragraph (1), the University of Idaho shall ensure that all property reverting to the United States under this subsection is in substantially the same condition as, or in better condition than, on the date of conveyance under subsection (a).

(d) COMPLIANCE WITH OTHER LAWS.—In connection with property conveyed under this section, the University of Idaho shall—

(1) comply with the National Historic Preservation Act (16 U.S.C. 470 et seq.) for all ground disturbing activities, with special emphases on compliance with sections 106, 110, and 112 (16 U.S.C. 470f, 470h-2, 470h-4); and

(2) protect prehistoric and historic resources in accordance with the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

## (e) LIABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), as a condition of the conveyance of property under this section, the University of Idaho shall hold the United States harmless, and shall indemnify the United States, for all claims, costs, damages, and judgments arising out of any act or omission relating to the property conveyed under this section.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to a claim, cost, damage, or judgment arising from an act of negligence committed by the United States, or by an employee, agent, or contractor of the United States, prior to the date of the conveyance under this section, for which the United States is found liable under chapter 171 of title 28, United States Code.

Approved November 2, 1998.

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LEGISLATIVE HISTORY—S. 2505:

SENATE REPORTS: No. 105-354 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 5, considered and passed Senate.

Oct. 9, considered and passed House.



Public Law 105–347  
105th Congress

An Act

Nov. 2, 1998  
[S. 2561]

To amend the Fair Credit Reporting Act with respect to furnishing and using  
consumer reports for employment purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

Consumer  
Reporting  
Employment  
Clarification Act  
of 1998.  
15 USC 1601  
note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Consumer Reporting Employment  
Clarification Act of 1998”.

**SEC. 2. USE OF CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.**

(a) **DISCLOSURE TO CONSUMER.**—Section 604(b)(2) of the Fair  
Credit Reporting Act (15 U.S.C. 1681b(b)(2)) is amended to read  
as follows:

“(2) **DISCLOSURE TO CONSUMER.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph  
(B), a person may not procure a consumer report, or cause  
a consumer report to be procured, for employment purposes  
with respect to any consumer, unless—

“(i) a clear and conspicuous disclosure has been  
made in writing to the consumer at any time before  
the report is procured or caused to be procured, in  
a document that consists solely of the disclosure, that  
a consumer report may be obtained for employment  
purposes; and

“(ii) the consumer has authorized in writing (which  
authorization may be made on the document referred  
to in clause (i)) the procurement of the report by that  
person.

“(B) **APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR  
OTHER SIMILAR MEANS.**—If a consumer described in  
subparagraph (C) applies for employment by mail, tele-  
phone, computer, or other similar means, at any time before  
a consumer report is procured or caused to be procured  
in connection with that application—

“(i) the person who procures the consumer report  
on the consumer for employment purposes shall pro-  
vide to the consumer, by oral, written, or electronic  
means, notice that a consumer report may be obtained  
for employment purposes, and a summary of the  
consumer’s rights under section 615(a)(3); and

“(ii) the consumer shall have consented, orally,  
in writing, or electronically to the procurement of the  
report by that person.

“(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer’s application for employment only if—

“(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

“(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.”.

(b) CONDITIONS ON USE FOR ADVERSE ACTIONS.—Section 604(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(3)) is amended to read as follows:

“(3) CONDITIONS ON USE FOR ADVERSE ACTIONS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

“(i) a copy of the report; and

“(ii) a description in writing of the rights of the consumer under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).

“(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—

“(i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates, in lieu of the notices required under subparagraph (A) of this section and under section 615(a), within 3 business days of taking such action, an oral, written or electronic notification—

“(I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;

“(II) of the name, address and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis);

“(III) that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and

“(IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

“(ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer’s request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer’s rights as prescribed by the Federal Trade Commission under section 609(c)(3).

“(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer’s application for employment only if—

“(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

“(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.”.

### SEC. 3. PROVISION OF SUMMARY OF RIGHTS.

Section 604(b)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(1)(B)) is amended by inserting “, or has previously provided,” before “a summary”.

### SEC. 4. NATIONAL SECURITY INVESTIGATION CONFORMING AMENDMENTS.

(a) GOVERNMENT AS END USER.—Section 609(a)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(3)) is amended by adding at the end the following:

“(C) Subparagraph (A) does not apply if—

“(i) the end user is an agency or department of the United States Government that procures the report from the person for purposes of determining the eligibility of the consumer to whom the report relates to receive access or continued access to classified information (as defined in section 604(b)(4)(E)(i)); and

“(ii) the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).”.

(b) NATIONAL SECURITY INVESTIGATIONS.—Section 613 of the Fair Credit Reporting Act (15 U.S.C. 1681k) is amended—

(1) by inserting “(a) IN GENERAL.—” before “A consumer”; and

(2) by adding at the end the following:

“(b) EXEMPTION FOR NATIONAL SECURITY INVESTIGATIONS.—Subsection (a) does not apply in the case of an agency or department of the United States Government that seeks to obtain and use a consumer report for employment purposes, if the head of the



agency or department makes a written finding as prescribed under section 604(b)(4)(A).”.

#### SEC. 5. CIVIL SUITS AND JUDGMENTS.

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended—

(1) in paragraph (2), by striking “Suits and Judgments which” and inserting “Civil suits, civil judgments, and records of arrest that”;

(2) by striking paragraph (5);

(3) in paragraph (6), by inserting “, other than records of convictions of crimes” after “of information”; and

(4) by redesignating paragraph (6) as paragraph (5).

#### SEC. 6. TECHNICAL AMENDMENTS.

The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 603(d)(2)(A)(iii), by striking “any communication” and inserting “communication”; 15 USC 1681a.

(2) in section 603(o)(1), by striking “(d)(2)(E)” and inserting “(d)(2)(D)”;

(3) in section 603(o)(4), by striking “or” at the end and inserting “and”;

(4) in section 604(g), by striking “or a direct marketing transaction”; 15 USC 1681b.

(5) in section 611(a)(7), by striking “(6)(B)(iv)” and inserting “(6)(B)(iii)”;

and 15 USC 1681i.

(6) in section 621(b), by striking “or (e)”. 15 USC 1681s.

#### SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall be deemed to have the same effective date as the amendments made by section 2403 of the Consumer Credit Reporting Reform Act of 1996 (Public Law 104–208; 110 Stat. 3009–1257).

15 USC 1681a  
note.

Approved November 2, 1998.

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#### LEGISLATIVE HISTORY—S. 2561:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 6, considered and passed Senate.

Oct. 8, considered and passed House.



Public Law 105–348  
105th Congress

Joint Resolution

Nov. 2, 1998  
[S.J. Res. 51]

Granting the consent of Congress to the Potomac Highlands Airport Authority  
Compact entered into between the States of Maryland and West Virginia.

*Resolved by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

**SECTION 1. CONGRESSIONAL CONSENT.**

Congress hereby consents to the Potomac Highlands Airport Authority Compact entered into between the States of Maryland and West Virginia. The compact reads substantially as follows:

**“Potomac Highlands Airport Authority Compact**

**“SECTION 1. COUNTY COMMISSIONS EMPOWERED TO ENTER INTO  
INTERGOVERNMENTAL AGREEMENTS RELATING TO  
CUMBERLAND MUNICIPAL AIRPORT.**

“The county commissions of Mineral County, West Virginia, and of other West Virginia counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, may enter into intergovernmental agreements with this State, Allegany County, Maryland, other Maryland counties contiguous to Allegany County and Cumberland, Maryland, and other municipal corporations situated in those Maryland counties, and with the Potomac Highlands Airport Authority regarding the operation and use of the Cumberland Municipal Airport situated in Mineral County, West Virginia. The agreements shall be reciprocal in nature and may include, but are not limited to, conditions governing the operation, use, and maintenance of airport facilities, taxation of aircraft owned by Maryland residents and others, and user fees.

**“SEC. 2. POTOMAC HIGHLANDS AIRPORT AUTHORITY AUTHORIZED.**

“The county commissions of Mineral County, West Virginia, and of other West Virginia counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, or any one or more of them, jointly and severally, may create and establish, with proper governmental units of this State, Allegany County, Maryland, other Maryland counties contiguous to Allegany County, and Cumberland, Maryland, and other municipal corporations situated in those Maryland counties, or any one or more of them, a public agency to be known as the ‘Potomac Highlands Airport Authority’ in the manner and for the purposes set forth in this Compact.

**“SEC. 3. AUTHORITY A CORPORATION.**

“When created, the Authority and the members of the Authority shall constitute a public corporation and, as such, shall have perpetual succession, may contract and be contracted with, sue and be sued, and have and use a common seal.

**“SEC. 4. PURPOSES.**

“The Authority may acquire, equip, maintain, and operate an airport or landing field and appurtenant facilities in Mineral County, on the Potomac River near Ridgeley, West Virginia, to serve the area in which it is located.

**“SEC. 5. MEMBERS OF AUTHORITY.**

“(a) IN GENERAL.—The management and control of the Potomac Highlands Airport Authority, its property, operations, business, and affairs, shall be lodged in a board of seven or more persons who shall be known as members of the Authority and who shall be appointed for terms of three years each by those counties, municipal corporations, or other governmental units situated in West Virginia and Maryland as contribute to the funds of the Authority, in such proportion between those States and counties, municipal corporations, and units, and in whatever manner, as may from time to time be provided in the bylaws adopted by the Authority.

“(b) FIRST BOARD.—The first board shall be appointed as follows:

“(1) The County Commission of Mineral County shall appoint two members for terms of two and three years, respectively.

“(2) The governing official or body of the municipal corporation of Cumberland, Maryland, shall appoint three members for terms of one, two, and three years, respectively.

“(3) The governing official or body of Allegany County, Maryland, shall appoint two members for terms of one and two years, respectively.

**“SEC. 6. POWERS.**

“The Potomac Highlands Airport Authority has power and authority as follows:

“(1) To make and adopt all necessary bylaws, rules, and regulations for its organization and operations not inconsistent with law.

“(2) To take all legal actions necessary or desirable in relation to the general operation, governance, capital expansion, management, and protection of the Cumberland Municipal Airport.

“(3) To increase the number of members of the Authority, and to set the terms of office and appointment procedures for those additional members.

“(4) To elect its own officers, to appoint committees, and to employ and fix the compensation for personnel necessary for its operation.

“(5) To enter into contracts with any person, firm, or corporation, and generally to do anything necessary for the purpose of acquiring, equipping, expanding, maintaining, and operating an airport.

“(6) To delegate any authority given to it by law to any of its officers, committees, agents, or employees.

“(7) To apply for, receive, and use grants in aid, donations, and contributions from any sources.

“(8) To take or acquire lands by purchase, holding title to it in its own name.

“(9) To purchase, own, hold, sell, and dispose of personal property and to sell and dispose of any real estate which it may have acquired and may determine not to be needed for its purposes.

“(10) To borrow money.

“(11) To extend its funds in the execution of the powers and authority hereby given.

“(12) To take all necessary steps to provide for proper police protection at the airport.

“(13) To inventory airplanes and other personal property at the airport and provide the assessor of Mineral County and other proper governmental officials with full particulars in regard to the inventory.

#### **“SEC. 7. PARTICIPATION BY WEST VIRGINIA.**

“(a) APPOINTMENT OF MEMBERS; CONTRIBUTION TO COSTS.—The county commissions of Mineral County and of counties contiguous to Mineral County, and the governing bodies of municipal corporations situated in those counties, or any one or more of them, jointly and severally, may appoint members of the Authority and contribute to the cost of acquiring, equipping, maintaining, and operating the airport and appurtenant facilities.

“(b) TRANSFER OF PROPERTY.—Any of the foregoing county commissions or municipal corporations may transfer and convey to the Authority property of any kind acquired previously by the county commission or municipal corporation for airport purposes.

#### **“SEC. 8. FUNDS AND ACCOUNTS.**

“(a) CONTRIBUTION AND DEPOSIT OF FUNDS.—Contributions may be made to the Authority from time to time by the various bodies contributing to its funds and shall be deposited in whatever bank or banks a majority of the members of the Authority direct and may be withdrawn from them in whatever manner the Authority directs.

“(b) ACCOUNTS AND REPORTS.—The Authority shall keep strict account of all of its receipts and expenditures and shall make quarterly reports to the public and private bodies contributing to its funds, containing an itemized account of its operations in the preceding quarter. The accounts of the Authority shall be regularly examined by the State Tax Commissioner in the manner required by Article nine, Chapter six of the Code of West Virginia.

#### **“SEC. 9. PROPERTY AND OBLIGATIONS OF AUTHORITY EXEMPT FROM TAXATION.**

“The Authority is exempt from the payment of any taxes or fees to the State of West Virginia or any subdivisions of that State or to any officer or employee of the State or other subdivision of it. The property of the Authority is exempt from all local and municipal taxes. Notes, debentures, and other evidence of indebtedness of the Authority are declared to be issued for a public purpose and to be public instrumentalities, and, together with interest on them, are exempt from taxes.

**“SEC. 10. SALE OR LEASE OF PROPERTY.**

“In the event all of the public corporations contributing to the funds of the Authority so determine, the Authority shall make sale of all of its properties and assets and distribute the proceeds of the sale among those contributing to its funds. In the alternative, if such of the supporting corporations contributing a majority of the funds of the Authority so determine, the Authority may lease all of its property and equipment upon whatever terms and conditions the Authority may fix and determine.

**“SEC. 11. EMPLOYEES TO BE COVERED BY WORKMEN’S COMPENSATION.**

“All eligible employees of the Authority are considered to be within the Workmen’s Compensation Act of West Virginia, and premiums on their compensation shall be paid by the Authority as required by law.

**“SEC. 12. LIBERAL CONSTRUCTION OF COMPACT.**

“It is the purpose of this Compact to provide for the maintenance and operation of an airport in a prudent and economical manner, and this Compact shall be liberally construed as giving to the Authority full and complete power reasonably required to give effect to the purposes hereof. The provisions of this Compact are in addition to and not in derogation of any power existing in the county commissions and municipal corporations herein named under any constitutional, statutory, or charter provisions which they or any of them may now have or may hereafter acquire or adopt.”.

**SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.**

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.

Approved November 2, 1998.

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LEGISLATIVE HISTORY—S.J. Res. 51:

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 31, considered and passed Senate.

Oct. 8, considered and passed House.



Public Law 105-349  
105th Congress

Joint Resolution

Nov. 2, 1998  
[S.J. Res. 58]

Recognizing the accomplishments of Inspectors General since their creation in 1978 in preventing and detecting waste, fraud, abuse, and mismanagement, and in promoting economy, efficiency, and effectiveness in the Federal Government.

Whereas the Inspector General Act of 1978 (5 U.S.C. App.) was signed into law on October 12, 1978, with overwhelming bipartisan support;

Whereas Inspectors General now exist in the 27 largest executive agencies and in 30 other designated Federal entities;

Whereas Inspectors General serve the American taxpayer by promoting economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the Federal Government;

Whereas Inspectors General conduct and supervise audits and investigations to both prevent and detect waste, fraud and abuse in the programs and operations of the Federal Government;

Whereas Inspectors General make Congress and agency heads aware, through semiannual reports and other activities, of problems and deficiencies relating to the administration of programs and operations of the Federal Government;

Whereas Inspectors General work with Congress and agency heads to recommend policies to promote economy and efficiency in the administration of, or preventing and detecting waste, fraud and abuse in, the programs and operations of the Federal Government;

Whereas Inspectors General receive and investigate information from Federal employees and other dedicated citizens regarding the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to public health and safety;

Whereas Inspector General actions result in, on a yearly basis, recommendations for several billions of dollars to be spent more effectively; thousands of successful criminal prosecutions; hundreds of millions of dollars returned to the United States Treasury through investigative recoveries; and the suspension and disbarment of thousands of individuals or entities from doing business with the Government; and

Whereas for 20 years the Offices of Inspectors General have worked with Congress to facilitate the exercise of effective legislative oversight to improve the programs and operations of the Federal Government: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress—*

(1) recognizes the many accomplishments of the Offices of Inspectors General in preventing and detecting waste, fraud, and abuse in the Federal Government;

(2) commends the Offices of Inspectors General and their employees for the dedication and professionalism displayed in the performance of their duties; and

(3) reaffirms the role of Inspectors General in promoting economy, efficiency and effectiveness in the administration of the programs and operations of the Federal Government.

Approved November 2, 1998.

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LEGISLATIVE HISTORY—S.J. Res. 58:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 1, considered and passed Senate.

Oct. 10, considered and passed House.



Public Law 105–350  
105th Congress

Joint Resolution

Nov. 3, 1998  
[H.J. Res. 138]

Appointing the day for the convening of the first session of the One Hundred  
Sixth Congress.

*Resolved by the Senate and House of Representatives of the  
United States of America in Congress assembled,* That the first  
regular session of the One Hundred Sixth Congress shall begin  
at noon on Wednesday, January 6, 1999.

Approved October 31, 1998.

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LEGISLATIVE HISTORY—H.J. Res. 138:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 20, considered and passed House.

Oct. 21, considered and passed Senate.





Public Law 105–351  
105th Congress

An Act

To authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.

Nov. 3, 1998  
[S. 538]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Idaho.

**SECTION 1. CONVEYANCE OF FACILITIES.**

(a) DEFINITIONS.—In this section:

(1) BURLEY.—The term “Burley” means the Burley Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) DIVISION.—The term “Division” means the Southside Pumping Division of the Minidoka project, Idaho.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(b) CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall, without consideration or compensation except as provided in this section, convey to Burley, by quitclaim deed or patent, all right, title, and interest of the United States in and to acquired lands, easements, and rights-of-way of or in connection with the Division, together with the pumping plants, canals, drains, laterals, roads, pumps, checks, headgates, transformers, pumping plant substations, buildings, transmission lines, and other improvements or appurtenances to the land or used for the delivery of water from the headworks (but not the headworks themselves) of the Southside Canal at the Minidoka Dam and reservoir to land in Burley, including all facilities used in conjunction with the Division (including the electric transmission lines used to transmit electric power for the operation of the pumping facilities of the Division and related purposes for which the allocable construction costs have been fully repaid by Burley).

(2) COSTS.—The first \$80,000 in administrative costs of transfer of title and related activities shall be paid in equal shares by the United States and Burley, and any additional amount of administrative costs shall be paid by the United States.

(c) WATER RIGHTS.—

(1) TRANSFER.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States—

(i) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District;

(ii) that are for use on lands within the Burley Irrigation District; and

(iii) which are set forth in contracts between the United States and Burley or in the decree of June 20, 1913 of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of Twin Falls Canal Company v. Charles N. Foster, et al., and commonly referred to as the "Foster decree".

(B) Any rights that are presently held for the benefit of lands within both the Minidoka Irrigation District and the Burley Irrigation District shall be allotted in such manner so as to neither enlarge nor diminish the respective rights of either district in such water rights as described in contracts between Burley and the United States.

(C) The transfer of water rights in accordance with this paragraph shall not impair the integrated operation of the Minidoka Project, affect any other adjudicated rights, or result in any adverse impact on any other project water user.

(2) ALLOCATION OF STORAGE SPACE.—The Secretary shall provide an allocation to Burley of storage space in Minidoka Reservoir, American Falls Reservoir, and Palisades Reservoir, as described in Burley Contract Nos. 14-06-100-2455 and 14-06-W-48, subject to the obligation of Burley to continue to assume and satisfy its allocable costs of operation and maintenance associated with the storage facilities operated by the Bureau of Reclamation.

(d) PROJECT RESERVED POWER.—The Secretary shall continue to provide Burley with project reserved power from the Minidoka Reclamation Power Plant, Palisades Reclamation Power Plant, Black Canyon Reclamation Power Plant, and Anderson Ranch Reclamation Power Plant in accordance with the terms of the existing contracts, including any renewals thereof as provided in such contracts.

(e) SAVINGS.—

(1) Nothing in this Act or any transfer pursuant thereto shall affect the right of Minidoka Irrigation District to the joint use of the gravity portion of the Southside Canal, subject to compliance by the Minidoka Irrigation District with the terms and conditions of a contract between Burley and Minidoka Irrigation District, and any amendments or changes made by agreement of the irrigation districts.

(2) Nothing in this Act shall affect the rights of any person or entity except as may be specifically provided herein.

(f) LIABILITY.—Effective on the date of conveyance of the project facilities, described in section (1)(b)(1), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act (28 U.S.C. 2671 et seq.).

(g) COMPLETION OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall complete the conveyance under subsection (b) (including such action as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) not later than 2 years after the date of enactment of this Act.

(2) REPORT.—The Secretary shall provide a report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within eighteen months from the date of enactment of this Act on the status of the transfer, any obstacles to completion of the transfer as provided in this section, and the anticipated date for such transfer. Deadline.

Approved November 3, 1998.

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LEGISLATIVE HISTORY—S. 538:

SENATE REPORTS: No. 105–131 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 25, considered and passed Senate.

Oct. 12, considered and passed House.



Public Law 105–352  
105th Congress

An Act

Nov. 3, 1998  
[S. 744]

To authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.

Fall River Water  
Users District  
Rural Water  
System Act of  
1998.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Fall River Water Users District Rural Water System Act of 1998”.

**SEC. 2. FINDINGS AND PURPOSES.**

South Dakota.

(a) **FINDINGS.**—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Fall River Water Users District Rural Water System located in Fall River County, South Dakota, and the water supplies that are available are of poor quality and do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) past cycles of severe drought in the southeastern area of Fall River County have left residents without a satisfactory water supply, and, during 1990, many home owners and ranchers were forced to haul water to sustain their water needs;

(3) because of the poor quality of water supplies, most members of the Fall River Water Users District are forced to either haul bottled water for human consumption or use distillers;

(4) the Fall River Water Users District Rural Water System has been recognized by the State of South Dakota; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District Rural Water System members consists of a Madison Aquifer well, 3 separate water storage reservoirs, 3 pumping stations, and approximately 200 miles of pipeline.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Fall River Water Users District Rural Water System in Fall River County, South Dakota;

(2) to assist the members of the Fall River Water Users District in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Fall River Water Users District Rural Water System.

### SEC. 3. DEFINITIONS.

In this Act:

(1) **ENGINEERING REPORT.**—The term “engineering report” means the study entitled “Supplemental Preliminary Engineering Report for Fall River Water Users District” published in August 1995.

(2) **PROJECT CONSTRUCTION BUDGET.**—The term “project construction budget” means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the engineering report.

(3) **PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.**—The term “pumping and incidental operational requirements” means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Fall River Water Users District Rural Water System to each entity that distributes water at retail to individual users.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(5) **WATER SUPPLY SYSTEM.**—The term “water supply system” means the Fall River Water Users District Rural Water System, a nonprofit corporation, established and operated substantially in accordance with the engineering report.

### SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) **IN GENERAL.**—The Secretary shall make grants to the water supply system for the Federal share of the costs of the planning and construction of the water supply system.

Grants.

(b) **SERVICE AREA.**—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, and water conservation within the boundaries of the Fall River Water Users District, described as follows: bounded on the north by the Angostura Reservoir, the Cheyenne River, and the line between Fall River and Custer Counties, bounded on the east by the line between Fall River and Shannon Counties, bounded on the south by the line between South Dakota and Nebraska, and bounded on the west by the Igloo-Provo Water Project District.

South Dakota.  
Nebraska.

(c) **AMOUNT OF GRANTS.**—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 9.

(d) **LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.**—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

**SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.**

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the engineering report.

**SEC. 6. USE OF PICK-SLOAN POWER.**

(a) **IN GENERAL.**—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) **CONDITIONS.**—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Fall River Water Users District;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

**SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATE.**

This Act does not limit the authorization for water projects in South Dakota under law in effect on or after the date of enactment of this Act.

**SEC. 8. WATER RIGHTS.**

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

**SEC. 9. FEDERAL SHARE.**

The Federal share under section 4 shall be 70 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

**SEC. 10. NON-FEDERAL SHARE.**

The non-Federal share under section 4 shall be 30 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

**SEC. 11. CONSTRUCTION OVERSIGHT.**

(a) **AUTHORIZATION.**—The Secretary of the Interior, acting through the Director of the Bureau of Reclamation, may provide construction oversight to the water supply system for areas of the water supply system.

(b) **PROJECT OVERSIGHT ADMINISTRATION.**—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Fall River County, South Dakota.

**SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated—

(1) \$3,600,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

Approved November 3, 1998.

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LEGISLATIVE HISTORY—S. 744:

SENATE REPORTS: No. 105-369 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 7, considered and passed Senate.

Oct. 12, considered and passed House.





Public Law 105–353  
105th Congress

An Act

To amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

Nov. 3, 1998  
[S. 1260]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Securities Litigation Uniform Standards Act of 1998”.

Securities  
Litigation  
Uniform  
Standards Act of  
1998.  
15 USC 78a note.  
15 USC 78a note.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) the Private Securities Litigation Reform Act of 1995 sought to prevent abuses in private securities fraud lawsuits;

(2) since enactment of that legislation, considerable evidence has been presented to Congress that a number of securities class action lawsuits have shifted from Federal to State courts;

(3) this shift has prevented that Act from fully achieving its objectives;

(4) State securities regulation is of continuing importance, together with Federal regulation of securities, to protect investors and promote strong financial markets; and

(5) in order to prevent certain State private securities class action lawsuits alleging fraud from being used to frustrate the objectives of the Private Securities Litigation Reform Act of 1995, it is appropriate to enact national standards for securities class action lawsuits involving nationally traded securities, while preserving the appropriate enforcement powers of State securities regulators and not changing the current treatment of individual lawsuits.

**TITLE I—SECURITIES LITIGATION  
UNIFORM STANDARDS**

**SEC. 101. LIMITATION ON REMEDIES.**

(a) AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) AMENDMENT.—Section 16 of the Securities Act of 1933 (15 U.S.C. 77p) is amended to read as follows:

**“SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REMEDIES.**

“(a) REMEDIES ADDITIONAL.—Except as provided in subsection (b), the rights and remedies provided by this title shall be in

addition to any and all other rights and remedies that may exist at law or in equity.

“(b) CLASS ACTION LIMITATIONS.—No covered class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

“(1) an untrue statement or omission of a material fact in connection with the purchase or sale of a covered security; or

“(2) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

“(c) REMOVAL OF COVERED CLASS ACTIONS.—Any covered class action brought in any State court involving a covered security, as set forth in subsection (b), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to subsection (b).

“(d) PRESERVATION OF CERTAIN ACTIONS.—

“(1) ACTIONS UNDER STATE LAW OF STATE OF INCORPORATION.—

“(A) ACTIONS PRESERVED.—Notwithstanding subsection (b) or (c), a covered class action described in subparagraph (B) of this paragraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

“(B) PERMISSIBLE ACTIONS.—A covered class action is described in this subparagraph if it involves—

“(i) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

“(ii) any recommendation, position, or other communication with respect to the sale of securities of the issuer that—

“(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

“(II) concerns decisions of those equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters’ or appraisal rights.

“(2) STATE ACTIONS.—

“(A) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans that are named plaintiffs, and that have authorized participation, in such action.

“(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term ‘State pension plan’ means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

“(3) ACTIONS UNDER CONTRACTUAL AGREEMENTS BETWEEN ISSUERS AND INDENTURE TRUSTEES.—Notwithstanding subsection (b) or (c), a covered class action that seeks to enforce a contractual agreement between an issuer and an indenture trustee may be maintained in a State or Federal court by a party to the agreement or a successor to such party.

“(4) REMAND OF REMOVED ACTIONS.—In an action that has been removed from a State court pursuant to subsection (c), if the Federal court determines that the action may be maintained in State court pursuant to this subsection, the Federal court shall remand such action to such State court.

“(e) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

“(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) AFFILIATE OF THE ISSUER.—The term ‘affiliate of the issuer’ means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with, the issuer.

“(2) COVERED CLASS ACTION.—

“(A) IN GENERAL.—The term ‘covered class action’ means—

“(i) any single lawsuit in which—

“(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

“(II) one or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

“(ii) any group of lawsuits filed in or pending in the same court and involving common questions of law or fact, in which—

“(I) damages are sought on behalf of more than 50 persons; and

“(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

“(B) EXCEPTION FOR DERIVATIVE ACTIONS.—Notwithstanding subparagraph (A), the term ‘covered class action’ does not include an exclusively derivative action brought by one or more shareholders on behalf of a corporation.

“(C) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as one person or prospective class member, but

only if the entity is not established for the purpose of participating in the action.

“(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect the discretion of a State court in determining whether actions filed in such court should be joined, consolidated, or otherwise allowed to proceed as a single action.

“(3) COVERED SECURITY.—The term ‘covered security’ means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred, except that such term shall not include any debt security that is exempt from registration under this title pursuant to rules issued by the Commission under section 4(2).”

(2) CIRCUMVENTION OF STAY OF DISCOVERY.—Section 27(b) of the Securities Act of 1933 (15 U.S.C. 77z-1(b)) is amended by inserting after paragraph (3) the following new paragraph:

“(4) CIRCUMVENTION OF STAY OF DISCOVERY.—Upon a proper showing, a court may stay discovery proceedings in any private action in a State court as necessary in aid of its jurisdiction, or to protect or effectuate its judgments, in an action subject to a stay of discovery pursuant to this subsection.”

(3) CONFORMING AMENDMENTS.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(A) by inserting “except as provided in section 16 with respect to covered class actions,” after “Territorial courts,”; and

(B) by striking “No case” and inserting “Except as provided in section 16(c), no case”.

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—

(1) AMENDMENT.—Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended—

(A) in subsection (a), by striking “The rights and remedies” and inserting “Except as provided in subsection (f), the rights and remedies”; and

(B) by adding at the end the following new subsection: “(f) LIMITATIONS ON REMEDIES.—

“(1) CLASS ACTION LIMITATIONS.—No covered class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

“(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or

“(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

“(2) REMOVAL OF COVERED CLASS ACTIONS.—Any covered class action brought in any State court involving a covered security, as set forth in paragraph (1), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to paragraph (1).

“(3) PRESERVATION OF CERTAIN ACTIONS.—

“(A) ACTIONS UNDER STATE LAW OF STATE OF INCORPORATION.—

“(i) ACTIONS PRESERVED.—Notwithstanding paragraph (1) or (2), a covered class action described in clause (ii) of this subparagraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

“(ii) PERMISSIBLE ACTIONS.—A covered class action is described in this clause if it involves—

“(I) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

“(II) any recommendation, position, or other communication with respect to the sale of securities of an issuer that—

“(aa) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

“(bb) concerns decisions of such equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters’ or appraisal rights.

“(B) STATE ACTIONS.—

“(i) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans that are named plaintiffs, and that have authorized participation, in such action.

“(ii) STATE PENSION PLAN DEFINED.—For purposes of this subparagraph, the term ‘State pension plan’ means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

“(C) ACTIONS UNDER CONTRACTUAL AGREEMENTS BETWEEN ISSUERS AND INDENTURE TRUSTEES.—Notwithstanding paragraph (1) or (2), a covered class action that seeks to enforce a contractual agreement between an issuer and an indenture trustee may be maintained in a State or Federal court by a party to the agreement or a successor to such party.

“(D) REMAND OF REMOVED ACTIONS.—In an action that has been removed from a State court pursuant to paragraph (2), if the Federal court determines that the action may be maintained in State court pursuant to this subsection, the Federal court shall remand such action to such State court.

“(4) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions)

Applicability.

of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

“(5) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) AFFILIATE OF THE ISSUER.—The term ‘affiliate of the issuer’ means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with, the issuer.

“(B) COVERED CLASS ACTION.—The term ‘covered class action’ means—

“(i) any single lawsuit in which—

“(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

“(II) one or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

“(ii) any group of lawsuits filed in or pending in the same court and involving common questions of law or fact, in which—

“(I) damages are sought on behalf of more than 50 persons; and

“(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

“(C) EXCEPTION FOR DERIVATIVE ACTIONS.—Notwithstanding subparagraph (B), the term ‘covered class action’ does not include an exclusively derivative action brought by one or more shareholders on behalf of a corporation.

“(D) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as one person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

“(E) COVERED SECURITY.—The term ‘covered security’ means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) of the Securities Act of 1933, at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred, except that such term shall not include any debt security that is exempt from registration under the Securities Act of 1933 pursuant to rules issued by the Commission under section 4(2) of that Act.

“(F) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to affect the discretion of a State court in determining whether actions filed in such court

should be joined, consolidated, or otherwise allowed to proceed as a single action.”.

(2) CIRCUMVENTION OF STAY OF DISCOVERY.—Section 21D(b)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-4(b)(3)) is amended by adding at the end the following new subparagraph:

“(D) CIRCUMVENTION OF STAY OF DISCOVERY.—Upon a proper showing, a court may stay discovery proceedings in any private action in a State court, as necessary in aid of its jurisdiction, or to protect or effectuate its judgments, in an action subject to a stay of discovery pursuant to this paragraph.”.

(c) APPLICABILITY.—The amendments made by this section shall not affect or apply to any action commenced before and pending on the date of enactment of this Act. 15 USC 77p note.

**SEC. 102. PROMOTION OF RECIPROCAL SUBPOENA ENFORCEMENT.** 15 USC 78u note.

(a) COMMISSION ACTION.—The Securities and Exchange Commission, in consultation with State securities commissions (or any agencies or offices performing like functions), shall seek to encourage the adoption of State laws providing for reciprocal enforcement by State securities commissions of subpoenas issued by another State securities commission seeking to compel persons to attend, testify in, or produce documents or records in connection with an action or investigation by a State securities commission of an alleged violation of State securities laws.

(b) REPORT.—Not later than 24 months after the date of enactment of this Act, the Securities and Exchange Commission (hereafter in this section referred to as the “Commission”) shall submit a report to the Congress— Deadline.

(1) identifying the States that have adopted laws described in subsection (a);

(2) describing the actions undertaken by the Commission and State securities commissions to promote the adoption of such laws; and

(3) identifying any further actions that the Commission recommends for such purposes.

## **TITLE II—REAUTHORIZATION OF THE SECURITIES AND EXCHANGE COMMISSION**

### **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

#### **“SEC. 35. AUTHORIZATION OF APPROPRIATIONS.**

“(a) IN GENERAL.—In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission, \$351,280,000 for fiscal year 1999.

“(b) MISCELLANEOUS EXPENSES.—Funds appropriated pursuant to this section are authorized to be expended—

“(1) not to exceed \$3,000 per fiscal year, for official reception and representation expenses;

“(2) not to exceed \$10,000 per fiscal year, for funding a permanent secretariat for the International Organization of Securities Commissions; and

“(3) not to exceed \$100,000 per fiscal year, for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives, and staff to exchange views concerning developments relating to securities matters, for development and implementation of cooperation agreements concerning securities matters, and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings, including—

“(A) such incidental expenses as meals taken in the course of such attendance;

“(B) any travel or transportation to or from such meetings; and

“(C) any other related lodging or subsistence.”.

#### **SEC. 202. REQUIREMENTS FOR THE EDGAR SYSTEM.**

Section 35A of the Securities Exchange Act of 1934 (15 U.S.C. 781l) is amended—

(1) by striking subsections (a), (b), (c), and (e); and

(2) in subsection (d)—

(A) by striking “(d)”;

(B) in paragraph (2), by striking “; and” at the end and inserting a period; and

(C) by striking paragraph (3).

#### **SEC. 203. COMMISSION PROFESSIONAL ECONOMISTS.**

Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

“(2) **ECONOMISTS.**—

“(A) **COMMISSION AUTHORITY.**—Notwithstanding the provisions of chapter 51 of title 5, United States Code, the Commission is authorized—

“(i) to establish its own criteria for the selection of such professional economists as the Commission deems necessary to carry out the work of the Commission;

“(ii) to appoint directly such professional economists as the Commission deems qualified; and

“(iii) to fix and adjust the compensation of any professional economist appointed under this paragraph, without regard to the provisions of chapter 54 of title 5, United States Code, or subchapters II, III, or VIII of chapter 53, of title 5, United States Code.

“(B) **LIMITATION ON COMPENSATION.**—No base compensation fixed for an economist under this paragraph may exceed the pay for Level IV of the Executive Schedule, and no payments to an economist appointed under this paragraph shall exceed the limitation on certain payments in section 5307 of title 5, United States Code.



“(C) OTHER BENEFITS.—All professional economists appointed under this paragraph shall remain within the existing civil service system with respect to employee benefits.”.

## TITLE III—CLERICAL AND TECHNICAL AMENDMENTS

### SEC. 301. CLERICAL AND TECHNICAL AMENDMENTS.

(a) SECURITIES ACT OF 1933.—The Securities Act of 1933 (15 U.S.C. 77 et seq.) is amended as follows:

(1) Section 2(a)(15)(i) (15 U.S.C. 77b(a)(15)(i)) is amended—

(A) by striking “3(a)(2) of the Act” and inserting “3(a)(2)”; and

(B) by striking “section 2(13) of the Act” and inserting “paragraph (13) of this subsection”.

(2) Section 11(f)(2)(A) (15 U.S.C. 77k(f)(2)(A)) is amended by striking “section 38” and inserting “section 21D(f)”.

(3) Section 13 (15 U.S.C. 77m) is amended—

(A) by striking “section 12(2)” each place it appears and inserting “section 12(a)(2)”; and

(B) by striking “section 12(1)” each place it appears and inserting “section 12(a)(1)”.

(4) Section 18 (15 U.S.C. 77r) is amended—

(A) in subsection (b)(1)(A), by inserting “, or authorized for listing,” after “Exchange, or listed”;

(B) in subsection (c)(2)(B)(i), by striking “Capital Markets Efficiency Act of 1996” and inserting “National Securities Markets Improvement Act of 1996”;

(C) in subsection (c)(2)(C)(i), by striking “Market” and inserting “Markets”;

(D) in subsection (d)(1)(A)—

(i) by striking “section 2(10)” and inserting “section 2(a)(10)”; and

(ii) by striking “subparagraphs (A) and (B)” and inserting “subparagraphs (a) and (b)”;

(E) in subsection (d)(2), by striking “Securities Amendments Act of 1996” and inserting “National Securities Markets Improvement Act of 1996”; and

(F) in subsection (d)(4), by striking “For purposes of this paragraph, the” and inserting “The”.

(5) Sections 27, 27A, and 28 (15 U.S.C. 77z-1, 77z-2, 77z-3) are transferred to appear after section 26, in that order.

(6) Paragraph (28) of schedule A of such Act (15 U.S.C. 77aa(28)) is amended by striking “identic” and inserting “identical”.

(b) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended as follows:

(1) Section 3(a)(10) (15 U.S.C. 78c(a)(10)) is amended by striking “deposit, for” and inserting “deposit for”.

(2) Section 3(a)(12)(A)(vi) (15 U.S.C. 78c(a)(12)(A)(vi)) is amended by moving the margin 2 em spaces to the left.

(3) Section 3(a)(22)(A) (15 U.S.C. 78c(a)(22)(A)) is amended—

(A) by striking “section 3(h)” and inserting “section 3”; and

(B) by striking “section 3(t)” and inserting “section 3”.

(4) Section 3(a)(39)(B)(i) (15 U.S.C. 78c(a)(39)(B)(i)) is amended by striking “an order to the Commission” and inserting “an order of the Commission”.

(5) The following sections are each amended by striking “Federal Reserve Board” and inserting “Board of Governors of the Federal Reserve System”: subsections (a) and (b) of section 7 (15 U.S.C. 78g (a), (b)); section 17(g) (15 U.S.C. 78q(g)); and section 26 (15 U.S.C. 78z).

(6) The heading of subsection (d) of section 7 (15 U.S.C. 78g(d)) is amended by striking “EXCEPTION” and inserting “EXCEPTIONS”.

(7) Section 14(g)(4) (15 U.S.C. 78n(g)(4)) is amended by striking “consolidation sale,” and inserting “consolidation, sale,”.

(8) Section 15 (15 U.S.C. 78o) is amended—

(A) in subsection (c)(8), by moving the margin 2 em spaces to the left;

(B) in subsection (h)(2), by striking “affecting” and inserting “effecting”;

(C) in subsection (h)(3)(A)(i)(II)(bb), by inserting “or” after the semicolon;

(D) in subsection (h)(3)(A)(ii)(I), by striking “maintains” and inserting “maintained”;

(E) in subsection (h)(3)(B)(ii), by striking “association” and inserting “associated”.

(9) Section 15B(c)(4) (15 U.S.C. 78o-4(c)(4)) is amended by striking “convicted by any offense” and inserting “convicted of any offense”.

(10) Section 15C(f)(5) (15 U.S.C. 78o-5(f)(5)) is amended by striking “any person or class or persons” and inserting “any person or class of persons”.

(11) Section 19(c)(5) (15 U.S.C. 78s(c)(5)) is amended by moving the margin 2 em spaces to the right.

(12) Section 20 (15 U.S.C. 78t) is amended by redesignating subsection (f) as subsection (e).

(13) Section 21D (15 U.S.C. 78u-4) is amended—

(A) in subsection (g)(2)(B)(i), by striking “paragraph (1)” and inserting “subparagraph (A)”.

(B) by redesignating subsection (g) as subsection (f); and

(14) Section 31(a) (15 U.S.C. 78ee(a)) is amended by striking “this subsection” and inserting “this section”.

(c) INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended as follows:

(1) Section 2(a)(8) (15 U.S.C. 80a-2(a)(8)) is amended by striking “Unitde” and inserting “United”.

(2) Section 3(b) (15 U.S.C. 80a-3(b)) is amended by striking “paragraph (3) of subsection (a)” and inserting “paragraph (1)(C) of subsection (a)”.

(3) Section 12(d)(1)(G)(i)(III)(bb) (15 U.S.C. 80a-12(d)(1)(G)(i)(III)(bb)) is amended by striking “the acquired fund” and inserting “the acquired company”.

(4) Section 18(e)(2) (15 U.S.C. 80a-18(e)(2)) is amended by striking “subsection (e)(2)” and inserting “paragraph (1) of this subsection”.

(5) Section 30 (15 U.S.C. 80a–29) is amended—

(A) by inserting “and” after the semicolon at the end of subsection (b)(1);

(B) in subsection (e), by striking “semi-annually” and inserting “semiannually”; and

(C) by redesignating subsections (g) and (h), as added by section 508(g) of the National Securities Markets Improvement Act of 1996, as subsections (i) and (j), respectively.

(6) Section 31(f) (15 U.S.C. 80a–30(f)) is amended by striking “subsection (c)” and inserting “subsection (e)”.

(d) INVESTMENT ADVISERS ACT OF 1940.—The Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.) is amended as follows:

(1) Section 203(e)(8)(B) (15 U.S.C. 80b–3(e)(8)(B)) is amended by inserting “or” after the semicolon.

(2) Section 222(b)(2) (15 U.S.C. 80b–18a(b)(2)) is amended by striking “principle” and inserting “principal”.

(e) TRUST INDENTURE ACT OF 1939.—The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended as follows:

(1) Section 303 (15 U.S.C. 77ccc) is amended by striking “section 2” each place it appears in paragraphs (2) and (3) and inserting “section 2(a)”.

(2) Section 304(a)(4)(A) (15 U.S.C. 77ddd(a)(4)(A)) is amended by striking “(14) of subsection” and inserting “(13) of section”.

(3) Section 313(a) (15 U.S.C. 77mmm(a)) is amended—

(A) by inserting “any change to” after the paragraph designation at the beginning of paragraph (4); and

(B) by striking “any change to” in paragraph (6).

(4) Section 319(b) (15 U.S.C. 77sss(b)) is amended by striking “the Federal Register Act” and inserting “chapter 15 of title 44, United States Code,”.

**SEC. 302. EXEMPTION OF SECURITIES ISSUED IN CONNECTION WITH CERTAIN STATE HEARINGS.**

Section 18(b)(4)(C) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)(C)) is amended by striking “paragraph (4) or (11)” and inserting “paragraph (4), (10), or (11)”.

Approved November 3, 1998.

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**LEGISLATIVE HISTORY—S. 1260 (H.R. 1689):**

HOUSE REPORTS: Nos. 105–640 accompanying H.R. 1689 (Comm. on Commerce) and 105–803 (Comm. of Conference).

SENATE REPORTS: No. 105–182 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 13, considered and passed Senate.

July 22, considered and passed House, amended, in lieu of H.R. 1689.

Oct. 13, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Nov. 3, Presidential statement.

Public Law 105–354  
105th Congress

An Act

Nov. 3, 1998  
[S. 2524]

To codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TITLE 36, UNITED STATES CODE.**

Title 36, United States Code, is amended as follows:

(1) In section 902, strike subsections (b) and (c) and substitute the following:

“(b) **REQUIRED DISPLAY.**—The POW/MIA flag shall be displayed at the locations specified in subsection (d) of this section on POW/MIA flag display days. The display serves—

“(1) as the symbol of the Nation’s concern and commitment to achieving the fullest possible accounting of Americans who, having been prisoners of war or missing in action, still remain unaccounted for; and

“(2) as the symbol of the Nation’s commitment to achieving the fullest possible accounting for Americans who in the future may become prisoners of war, missing in action, or otherwise unaccounted for as a result of hostile action.

“(c) **DAYS FOR FLAG DISPLAY.**—(1) For purposes of this section, POW/MIA flag display days are the following:

“(A) Armed Forces Day, the third Saturday in May.

“(B) Memorial Day, the last Monday in May.

“(C) Flag Day, June 14.

“(D) Independence Day, July 4.

“(E) National POW/MIA Recognition Day.

“(F) Veterans Day, November 11.

“(2) In addition to the days specified in paragraph (1) of this subsection, POW/MIA flag display days include—

“(A) in the case of display at medical centers of the Department of Veterans Affairs (required by subsection (d)(7) of this section), any day on which the flag of the United States is displayed; and

“(B) in the case of display at United States Postal Service post offices (required by subsection (d)(8) of this section), the last business day before a day specified in paragraph (1) that in any year is not itself a business day.

“(d) **LOCATIONS FOR FLAG DISPLAY.**—The locations for the display of the POW/MIA flag under subsection (b) of this section are the following:

“(1) The Capitol.

“(2) The White House.

“(3) The Korean War Veterans Memorial and the Vietnam Veterans Memorial.

“(4) Each national cemetery.

“(5) The buildings containing the official office of—

“(A) the Secretary of State;

“(B) the Secretary of Defense;

“(C) the Secretary of Veterans Affairs; and

“(D) the Director of the Selective Service System.

“(6) Each major military installation, as designated by the Secretary of Defense.

“(7) Each medical center of the Department of Veterans Affairs.

“(8) Each United States Postal Service post office.

“(e) COORDINATION WITH OTHER DISPLAY REQUIREMENT.—Display of the POW/MIA flag at the Capitol pursuant to subsection (d)(1) of this section is in addition to the display of that flag in the Rotunda of the Capitol pursuant to Senate Concurrent Resolution 5 of the 101st Congress, agreed to on February 22, 1989 (103 Stat. 2533).

“(f) DISPLAY TO BE IN A MANNER VISIBLE TO THE PUBLIC.—Display of the POW/MIA flag pursuant to this section shall be in a manner designed to ensure visibility to the public.

“(g) LIMITATION.—This section may not be construed or applied so as to require any employee to report to work solely for the purpose of providing for the display of the POW/MIA flag.”.

(2) In section 2102(b), strike “designated personnel” and substitute “personnel made available to the Commission”.

(3) In section 2501(2), insert “solicit,” before “accept,”.

(4)(A) Insert after chapter 201 the following:

## **“CHAPTER 202—AIR FORCE SERGEANTS ASSOCIATION**

“Sec.

“20201. Definition.

“20202. Organization.

“20203. Purposes.

“20204. Membership.

“20205. Governing body.

“20206. Powers.

“20207. Restrictions.

“20208. Duty to maintain corporate and tax-exempt status.

“20209. Records and inspection.

“20210. Service of process.

“20211. Liability for acts of officers and agents.

“20212. Annual report.

### **“§ 20201. Definition**

“For purposes of this chapter, ‘State’ includes the District of Columbia and the territories and possessions of the United States.

### **“§ 20202. Organization**

“(a) FEDERAL CHARTER.—Air Force Sergeants Association (in this chapter, the ‘corporation’), a nonprofit corporation incorporated in the District of Columbia, is a federally chartered corporation.

“(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

**“§ 20203. Purposes**

“(a) GENERAL.—The purposes of the corporation are as provided in its bylaws and articles of incorporation and include—

“(1) helping to maintain a highly dedicated and professional corps of enlisted personnel within the United States Air Force, including the United States Air Force Reserve, and the Air National Guard;

“(2) supporting fair and equitable legislation and Department of the Air Force policies and influencing by lawful means departmental plans, programs, policies, and legislative proposals that affect enlisted personnel of the Regular Air Force, the Air Force Reserve, and the Air National Guard, its retirees, and other veterans of enlisted service in the Air Force;

“(3) actively publicizing the roles of enlisted personnel in the United States Air Force;

“(4) participating in civil and military activities, youth programs, and fundraising campaigns that benefit the United States Air Force;

“(5) providing for the mutual welfare of members of the corporation and their families;

“(6) assisting in recruiting for the United States Air Force;

“(7) assembling together for social activities;

“(8) maintaining an adequate Air Force for our beloved country;

“(9) fostering among the members of the corporation a devotion to fellow airmen; and

“(10) serving the United States and the United States Air Force loyally, and doing all else necessary to uphold and defend the Constitution of the United States.

“(b) CORPORATE FUNCTION.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of the District of Columbia.

**“§ 20204. Membership**

“(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws and articles of incorporation.

“(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

**“§ 20205. Governing body**

“(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the bylaws and articles of incorporation.

“(b) OFFICERS.—The officers and the election of officers are as provided in the bylaws and articles of incorporation.

“(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

**“§ 20206. Powers**

“The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**“§ 20207. Restrictions**

“(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

“(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

“(c) LOANS.—The corporation may not make a loan to a director, officer, employee, or member.

“(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**“§ 20208. Duty to maintain corporate and tax-exempt status**

“(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the District of Columbia.

“(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**“§ 20209. Records and inspection**

“(a) RECORDS.—The corporation shall keep—

“(1) correct and complete records of account;

“(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

“(3) at its principal office, a record of the names and addresses of its members entitled to vote.

“(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**“§ 20210. Service of process**

“The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**“§ 20211. Liability for acts of officers and agents**

“The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**“§ 20212. Annual report**

“The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.”

(B) In the table of chapters at the beginning of subtitle II, insert after the item related to chapter 201:

“202. AIR FORCE SERGEANTS ASSOCIATION ..... 20201”.

(5)(A) Insert after chapter 209 the following:

## **“CHAPTER 210—AMERICAN GI FORUM OF THE UNITED STATES**

“Sec.

“21001. Definition.

“21002. Organization.

“21003. Purposes.

“21004. Membership.

“21005. Governing body.

“21006. Powers.

“21007. Restrictions.

“21008. Duty to maintain corporate and tax-exempt status.

“21009. Records and inspection.

“21010. Service of process.

“21011. Liability for acts of officers and agents.

“21012. Annual report.

### **“§ 21001. Definition**

“For purposes of this chapter, ‘State’ includes the District of Columbia and the territories and possessions of the United States.

### **“§ 21002. Organization**

“(a) FEDERAL CHARTER.—American GI Forum of the United States (in this chapter, the ‘corporation’), a nonprofit corporation incorporated in Texas, is a federally chartered corporation.

“(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

### **“§ 21003. Purposes**

“(a) GENERAL.—The purposes of the corporation are as provided in its bylaws and articles of incorporation and include—

“(1) securing the blessing of American democracy at every level of local, State, and national life for all United States citizens;

“(2) upholding and defending the Constitution and the United States flag;

“(3) fostering and perpetuating the principles of American democracy based on religious and political freedom for the individual and equal opportunity for all;

“(4) fostering and enlarging equal educational opportunities, equal economic opportunities, equal justice under the law, and equal political opportunities for all United States citizens, regardless of race, color, religion, sex, or national origin;

“(5) encouraging greater participation of the ethnic minority represented by the corporation in the policy-making and administrative activities of all departments, agencies, and other governmental units of local and State governments and the United States Government;

“(6) combating all practices of a prejudicial or discriminatory nature in local, State, or national life which curtail, hinder, or deny to any United States citizen an equal opportunity to develop full potential as an individual; and

“(7) fostering and promoting the broader knowledge and appreciation by all United States citizens of their cultural heritage and language.

“(b) CORPORATE FUNCTION.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of Texas.



**“§ 21004. Membership**

“(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws and articles of incorporation.

“(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

**“§ 21005. Governing body**

“(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the bylaws and articles of incorporation.

“(b) OFFICERS.—The officers and the election of officers are as provided in the bylaws and articles of incorporation.

“(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

**“§ 21006. Powers**

“The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

**“§ 21007. Restrictions**

“(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

“(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

“(c) LOANS.—The corporation may not make a loan to a director, officer, employee, or member.

“(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

**“§ 21008. Duty to maintain corporate and tax-exempt status**

“(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of Texas.

“(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

**“§ 21009. Records and inspection**

“(a) RECORDS.—The corporation shall keep—

“(1) correct and complete records of account;

“(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

“(3) at its principal office, a record of the names and addresses of its members entitled to vote.

“(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

**“§ 21010. Service of process**

“The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

**“§ 21011. Liability for acts of officers and agents**

“The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

**“§ 21012. Annual report**

“The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.”.

(B) In the table of chapters at the beginning of subtitle II, insert after the item related to chapter 209:

“210. AMERICAN GI FORUM OF THE UNITED STATES ..... 21001”.

(6) In section 21703(1)(A)(iv), strike “December 22, 1961” and substitute “February 28, 1961”.

(7) In section 70103(b), strike “the State of”.

(8) In section 151303, subsections (f) and (g) are amended to read as follows:

“(f) STATUS.—Appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States.

“(g) COMPENSATION.—Members of the board serve without compensation.

“(h) LIABILITY.—Members of the board are not personally liable, except for gross negligence.”.

(9) In section 151305(b), strike “the State of”.

(10) In section 152903(8), strike “Corporation” and substitute “corporation”.

**SEC. 2. TECHNICAL AMENDMENTS TO OTHER LAWS.**

(a) The provisos in the paragraph under the heading “AMERICAN BATTLE MONUMENTS COMMISSION” in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105-65, Oct. 27, 1997, 111 Stat. 1368, 36 App. U.S.C. 121b, 122, and 122a) are repealed.

(b) Paragraph (3) of section 198(s) of the National and Community Service Act of 1990 (42 U.S.C. 12653(s)(3)) is repealed.

(c) Effective August 12, 1998, Public Law 105-225 (Aug. 12, 1998, 112 Stat. 1253) is amended as follows:

(1) Section 4(b) is amended by striking “2320(d)” and substituting “2320(e)”.

(2) Section 7(a), and the amendment made by section 7(a), are repealed.

Effective date.

*Ante*, p. 1498.

*Ante*, p. 1511.

**SEC. 3. EFFECTIVE DATE.**

The amendment made by section 1(8) of this Act shall take effect as if included in the provisions of Public Law 105-225, as of the date of enactment of Public Law 105-225.

**SEC. 4. LEGISLATIVE PURPOSE AND CONSTRUCTION.**

(a) **NO SUBSTANTIVE CHANGE.**—(1) Section 1 of this Act restates, without substantive change, laws enacted before September 5, 1998, that were replaced by section 1. Section 1 may not be construed as making a substantive change in the laws replaced.

(2) Laws enacted after September 4, 1998, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) **REFERENCES.**—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) **CONTINUING EFFECT.**—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) **ACTIONS AND OFFENSES UNDER PRIOR LAW.**—An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) **INFERENCES.**—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a heading of the provision.

(f) **SEVERABILITY.**—If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

**SEC. 5. REPEALS.**

(a) **INFERENCES OF REPEAL.**—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) **REPEALER SCHEDULE.**—The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Vol- ume	Page	Title	Section
1997 Nov. 18	105–85 ..	1082, 1501– 1516.	111	1917, 1963.	36 App.	189a, 1101, 5801–5815
Nov. 20 1998	105–110	.....	111	2270 .....	36 App.	45
Aug. 7	105–220	413 .....	112	1241 .....	36 App.	155b
Aug. 13	105–231	1–16 .....	112	1530 .....	36 App.	1101, 5901–5915

Approved November 3, 1998.

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LEGISLATIVE HISTORY—S. 2524:  
CONGRESSIONAL RECORD, Vol. 144 (1998):  
Oct. 8, considered and passed Senate.  
Oct. 12, considered and passed House.

Public Law 105–355  
105th Congress

An Act

To authorize the Automobile National Heritage Area in the State of Michigan,  
and for other purposes.

Nov. 6, 1998

[H.R. 3910]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**TITLE I—AUTOMOBILE NATIONAL  
HERITAGE AREA OF MICHIGAN**

Automobile  
National  
Heritage Area  
Act.

16 USC 461 note  
[table].

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Automobile National Heritage Area Act”.

**SEC. 102. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) the industrial, cultural, and natural heritage legacies of Michigan’s automobile industry are nationally significant;

(2) in the areas of Michigan including and in proximity to Detroit, Dearborn, Pontiac, Flint, and Lansing, the design and manufacture of the automobile helped establish and expand the United States industrial power;

(3) the industrial strength of automobile manufacturing was vital to defending freedom and democracy in 2 world wars and played a defining role in American victories;

(4) the economic strength of our Nation is connected integrally to the vitality of the automobile industry, which employs millions of workers and upon which 1 out of 7 United States jobs depends;

(5) the industrial and cultural heritage of the automobile industry in Michigan includes the social history and living cultural traditions of several generations;

(6) the United Auto Workers and other unions played a significant role in the history and progress of the labor movement and the automobile industry;

(7) the Department of the Interior is responsible for protecting and interpreting the Nation’s cultural and historic resources, and there are significant examples of these resources within Michigan to merit the involvement of the Federal Government to develop programs and projects in cooperation with the Automobile National Heritage Area Partnership, Incorporated, the State of Michigan, and other local and governmental bodies, to adequately conserve, protect, and interpret

this heritage for the educational and recreational benefit of this and future generations of Americans;

(8) the Automobile National Heritage Area Partnership, Incorporated would be an appropriate entity to oversee the development of the Automobile National Heritage Area; and

(9) 2 local studies, “A Shared Vision for Metropolitan Detroit” and “The Machine That Changed the World”, and a National Park Service study, “Labor History Theme Study: Phase III; Suitability-Feasibility”, demonstrated that sufficient historical resources exist to establish the Automobile National Heritage Area.

(b) **PURPOSE.**—The purpose of this title is to establish the Automobile National Heritage Area to—

(1) foster a close working relationship with all levels of government, the private sector, and the local communities in Michigan and empower communities in Michigan to conserve their automotive heritage while strengthening future economic opportunities; and

(2) conserve, interpret, and develop the historical, cultural, natural, and recreational resources related to the industrial and cultural heritage of the Automobile National Heritage Area.

#### **SEC. 103. DEFINITIONS.**

For purposes of this title:

(1) **BOARD.**—The term “Board” means the Board of Directors of the Partnership.

(2) **HERITAGE AREA.**—The term “Heritage Area” means the Automobile National Heritage Area established by section 104.

(3) **PARTNERSHIP.**—The term “Partnership” means the Automobile National Heritage Area Partnership, Incorporated (a nonprofit corporation established under the laws of the State of Michigan).

(4) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

#### **SEC. 104. AUTOMOBILE NATIONAL HERITAGE AREA.**

(a) **ESTABLISHMENT.**—There is established in the State of Michigan the Automobile National Heritage Area.

(b) **BOUNDARIES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the boundaries of the Heritage Area shall include lands in Michigan that are related to the following corridors:

(A) The Rouge River Corridor.

(B) The Detroit River Corridor.

(C) The Woodward Avenue Corridor.

(D) The Lansing Corridor.

(E) The Flint Corridor.

(F) The Sauk Trail/Chicago Road Corridor.

(2) **SPECIFIC BOUNDARIES.**—The specific boundaries of the Heritage Area shall be those specified in the management plan approved under section 106.

(3) **MAP.**—The Secretary shall prepare a map of the Heritage Area which shall be on file and available for public inspection in the office of the Director of the National Park Service.

(4) **NOTICE TO LOCAL GOVERNMENTS.**—The Partnership shall provide to the government of each city, village, and township that has jurisdiction over property proposed to be included in the Heritage Area written notice of that proposal.

(c) ADMINISTRATION.—The Heritage Area shall be administered in accordance with this title.

**SEC. 105. DESIGNATION OF PARTNERSHIP AS MANAGEMENT ENTITY.**

(a) IN GENERAL.—The Partnership shall be the management entity for the Heritage Area.

(b) FEDERAL FUNDING.—

(1) AUTHORIZATION TO RECEIVE FUNDS.—The Partnership may receive amounts appropriated to carry out this title.

(2) DISQUALIFICATION.—If a management plan for the Heritage Area is not submitted to the Secretary as required under section 106 within the time specified in that section, the Partnership shall cease to be authorized to receive Federal funding under this title until such a plan is submitted to the Secretary.

(c) AUTHORITIES OF PARTNERSHIP.—The Partnership may, for purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available under this title—

(1) to make grants to the State of Michigan, its political subdivisions, nonprofit organizations, and other persons;

(2) to enter into cooperative agreements with or provide technical assistance to the State of Michigan, its political subdivisions, nonprofit organizations, and other organizations;

(3) to hire and compensate staff;

(4) to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money; and

(5) to contract for goods and services.

(d) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The Partnership may not use Federal funds received under this title to acquire real property or any interest in real property.

**SEC. 106. MANAGEMENT DUTIES OF THE AUTOMOBILE NATIONAL HERITAGE AREA PARTNERSHIP.**

(a) HERITAGE AREA MANAGEMENT PLAN.—

(1) SUBMISSION FOR REVIEW BY SECRETARY.—The Board of Directors of the Partnership shall, within 3 years after the date of the enactment of this title, develop and submit for review to the Secretary a management plan for the Heritage Area.

(2) PLAN REQUIREMENTS, GENERALLY.—A management plan submitted under this section shall—

(A) present comprehensive recommendations for the conservation, funding, management, and development of the Heritage Area;

(B) be prepared with public participation;

(C) take into consideration existing Federal, State, county, and local plans and involve residents, public agencies, and private organizations in the Heritage Area;

(D) include a description of actions that units of government and private organizations are recommended to take to protect the resources of the Heritage Area; and

(E) specify existing and potential sources of Federal and non-Federal funding for the conservation, management, and development of the Heritage Area.

(3) ADDITIONAL PLAN REQUIREMENTS.—The management plan also shall include the following, as appropriate:

Records.

(A) An inventory of resources contained in the Heritage Area, including a list of property in the Heritage Area that should be conserved, restored, managed, developed, or maintained because of the natural, cultural, or historic significance of the property as it relates to the themes of the Heritage Area. The inventory may not include any property that is privately owned unless the owner of the property consents in writing to that inclusion.

(B) A recommendation of policies for resource management that consider and detail the application of appropriate land and water management techniques, including (but not limited to) the development of intergovernmental cooperative agreements to manage the historical, cultural, and natural resources and recreational opportunities of the Heritage Area in a manner consistent with the support of appropriate and compatible economic viability.

(C) A program for implementation of the management plan, including plans for restoration and construction and a description of any commitments that have been made by persons interested in management of the Heritage Area.

(D) An analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this title.

(E) An interpretive plan for the Heritage Area.

Deadlines.

(4) APPROVAL AND DISAPPROVAL OF THE MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 180 days after submission of the Heritage Area management plan by the Board, the Secretary shall approve or disapprove the plan. If the Secretary has taken no action after 180 days, the plan shall be considered approved.

(B) DISAPPROVAL AND REVISIONS.—If the Secretary disapproves the management plan, the Secretary shall advise the Board, in writing, of the reasons for the disapproval and shall make recommendations for revision of the plan. The Secretary shall approve or disapprove proposed revisions to the plan not later than 60 days after receipt of such revisions from the Board. If the Secretary has taken no action for 60 days after receipt, the plan and revisions shall be considered approved.

(b) PRIORITIES.—The Partnership shall give priority to the implementation of actions, goals, and policies set forth in the management plan for the Heritage Area, including—

(1) assisting units of government, regional planning organizations, and nonprofit organizations—

(A) in conserving the natural and cultural resources in the Heritage Area;

(B) in establishing and maintaining interpretive exhibits in the Heritage Area;

(C) in developing recreational opportunities in the Heritage Area;

(D) in increasing public awareness of and appreciation for the natural, historical, and cultural resources of the Heritage Area;

(E) in the restoration of historic buildings that are located within the boundaries of the Heritage Area and related to the theme of the Heritage Area; and



(F) in ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the Heritage Area; and

(2) consistent with the goals of the management plan, encouraging economic viability in the affected communities by appropriate means.

(c) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The Partnership shall, in preparing and implementing the management plan for the Heritage Area, consider the interest of diverse units of government, businesses, private property owners, and nonprofit groups within the Heritage Area.

(d) PUBLIC MEETINGS.—The Partnership shall conduct public meetings at least annually regarding the implementation of the Heritage Area management plan.

(e) ANNUAL REPORTS.—The Partnership shall, for any fiscal year in which it receives Federal funds under this title or in which a loan made by the Partnership with Federal funds under section 105(c)(1) is outstanding, submit an annual report to the Secretary setting forth its accomplishments, its expenses and income, and the entities to which it made any loans and grants during the year for which the report is made.

(f) COOPERATION WITH AUDITS.—The Partnership shall, for any fiscal year in which it receives Federal funds under this title or in which a loan made by the Partnership with Federal funds under section 105(c)(1) is outstanding, make available for audit by the Congress, the Secretary, and appropriate units of government all records and other information pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds.

(g) DELEGATION.—The Partnership may delegate the responsibilities and actions under this section for each corridor identified in section 104(b)(1). All delegated actions are subject to review and approval by the Partnership.

#### **SEC. 107. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.**

(a) TECHNICAL ASSISTANCE AND GRANTS.—

(1) IN GENERAL.—The Secretary may provide technical assistance and, subject to the availability of appropriations, grants to units of government, nonprofit organizations, and other persons upon request of the Partnership, and to the Partnership, regarding the management plan and its implementation.

(2) PROHIBITION OF CERTAIN REQUIREMENTS.—The Secretary may not, as a condition of the award of technical assistance or grants under this section, require any recipient of such technical assistance or a grant to enact or modify land use restrictions.

(3) DETERMINATIONS REGARDING ASSISTANCE.—The Secretary shall decide if a unit of government, nonprofit organization, or other person shall be awarded technical assistance or grants and the amount of that assistance. Such decisions shall be based on the relative degree to which the assistance effectively fulfills the objectives contained in the Heritage Area

management plan and achieves the purposes of this title. Such decisions shall give consideration to projects which provide a greater leverage of Federal funds.

(b) **PROVISION OF INFORMATION.**—In cooperation with other Federal agencies, the Secretary shall provide the general public with information regarding the location and character of the Heritage Area.

(c) **OTHER ASSISTANCE.**—The Secretary may enter into cooperative agreements with public and private organizations for the purposes of implementing this subsection.

(d) **DUTIES OF OTHER FEDERAL AGENCIES.**—Any Federal entity conducting any activity directly affecting the Heritage Area shall consider the potential effect of the activity on the Heritage Area management plan and shall consult with the Partnership with respect to the activity to minimize the adverse effects of the activity on the Heritage Area.

**SEC. 108. LACK OF EFFECT ON LAND USE REGULATION AND PRIVATE PROPERTY.**

(a) **LACK OF EFFECT ON AUTHORITY OF LOCAL GOVERNMENT.**—Nothing in this title shall be construed to modify, enlarge, or diminish any authority of Federal, State, or local governments to regulate any use of land under any other law or regulation.

(b) **LACK OF ZONING OR LAND USE POWERS.**—Nothing in this title shall be construed to grant powers of zoning or land use control to the Partnership.

(c) **LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.**—Nothing in this title shall be construed to affect or to authorize the Partnership to interfere with—

(1) the rights of any person with respect to private property; or

(2) any local zoning ordinance or land use plan of the State of Michigan or a political subdivision thereof.

**SEC. 109. SUNSET.**

The Secretary may not make any grant or provide any assistance under this title after September 30, 2014.

**SEC. 110. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated under this title not more than \$1,000,000 for any fiscal year. Not more than a total of \$10,000,000 may be appropriated for the Heritage Area under this title.

(b) **50 PERCENT MATCH.**—Federal funding provided under this title, after the designation of the Heritage Area, may not exceed 50 percent of the total cost of any activity carried out with any financial assistance or grant provided under this title.

## **TITLE II—GRAND STAIRCASE- ESCALANTE NATIONAL MONUMENT**

16 USC 431 note  
[table].

**SEC. 201. BOUNDARY ADJUSTMENTS AND CONVEYANCES, GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT, UTAH.**

(a) **EXCLUSION OF CERTAIN LANDS.**—The boundaries of the Grand Staircase-Escalante National Monument in the State of Utah are hereby modified to exclude the following lands:

(1) The parcel known as Henrieville Town, Utah, as generally depicted on the map entitled “Henrieville Town Exclusion, Garfield County, Utah”, dated March 25, 1998.

(2) The parcel known as Cannonville Town, Utah, as generally depicted on the map entitled “Cannonville Town Exclusion, Garfield County, Utah”, dated March 25, 1998.

(3) The parcel known as Tropic Town, Utah, as generally depicted on the map entitled “Tropic Town Parcel”, dated July 21, 1998.

(4) The parcel known as Boulder Town, Utah, as generally depicted on the map entitled “Boulder Town Exclusion, Garfield County, Utah”, dated March 25, 1998.

(b) INCLUSION OF CERTAIN ADDITIONAL LANDS.—The boundaries of the Grand Staircase-Escalante National Monument are hereby modified to include the parcel known as East Clark Bench, as generally depicted on the map entitled “East Clark Bench Inclusion, Kane County, Utah”, dated March 25, 1998.

(c) MAPS.—The maps referred to in subsections (a) and (b) shall be on file and available for public inspection in the office of the Grand Staircase-Escalante National Monument in the State of Utah and in the office of the Director of the Bureau of Land Management.

(d) LAND CONVEYANCE, TROPIC TOWN, UTAH.—The Secretary of the Interior shall convey to Garfield County School District, Utah, all right, title, and interest of the United States in and to the lands shown on the map entitled “Tropic Town Parcel” and dated July 21, 1998, in accordance with section 1 of the Act of June 14, 1926 (43 U.S.C. 869; commonly known as the Recreation and Public Purposes Act), for use as the location for a school and for other education purposes.

(e) LAND CONVEYANCE, KODACHROME BASIN STATE PARK, UTAH.—The Secretary shall transfer to the State of Utah all right, title, and interest of the United States in and to the lands shown on the map entitled “Kodachrome Basin Conveyance No. 1 and No. 2” and dated July 21, 1998, in accordance with section 1 of the Act of June 14, 1926 (43 U.S.C. 869; commonly known as the Recreation and Public Purposes Act), for inclusion of the lands in Kodachrome Basin State Park.

**SEC. 202. UTILITY CORRIDOR DESIGNATION, U.S. ROUTE 89, KANE COUNTY, UTAH.**

There is hereby designated a utility corridor with regard to U.S. Route 89, in Kane County, Utah. The utility corridor shall run from the boundary of Glen Canyon Recreation Area westerly to Mount Carmel Jct. and shall consist of the following:

(1) Bureau of Land Management lands located on the north side of U.S. Route 89 within 240 feet of the center line of the highway.

(2) Bureau of Land Management lands located on the south side of U.S. Route 89 within 500 feet of the center line of the highway.

16 USC 461 note  
[table].

### **TITLE III—TUSKEGEE AIRMEN NATIONAL HISTORIC SITE, ALABAMA**

#### **SEC. 301. DEFINITIONS.**

As used in this title:

(1) **HISTORIC SITE.**—The term “historic site” means the Tuskegee Airmen National Historic Site as established by section 303.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(3) **TUSKEGEE AIRMEN.**—The term “Tuskegee Airmen” means the thousands of men and women who were trained at Tuskegee University’s Moton Field to serve in America’s African-American Air Force units during World War II and those men and women who participate in the Tuskegee Experience today, who are represented by Tuskegee Airmen, Inc.

(4) **TUSKEGEE UNIVERSITY.**—The term “Tuskegee University” means the institution of higher education by that name located in the State of Alabama and founded by Booker T. Washington in 1881, formerly named Tuskegee Institute.

#### **SEC. 302. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—The Congress finds the following:

(1) The struggle of African-Americans for greater roles in North American military conflicts spans the 17th, 18th, 19th, and 20th centuries. Opportunities for African-American participation in the United States military were always very limited and controversial. Quotas, exclusion, and racial discrimination were based on the prevailing attitude in the United States, particularly on the part of the United States military, that African-Americans did not possess the intellectual capacity, aptitude, and skills to be successful fighters.

(2) As late as the 1940’s these perceptions continued within the United States military. Key leaders within the United States Army Air Corps did not believe that African-Americans possessed the capacity to become successful military pilots. After succumbing to pressure exerted by civil rights groups and the black press, the Army decided to train a small number of African-American pilot cadets under special conditions. Although prejudice and discrimination against African-Americans was a national phenomenon, not just a southern trait, it was more intense in the South where it had hardened into rigidly enforced patterns of segregation. Such was the environment where the military chose to locate the training of the Tuskegee Airmen.

(3) The military selected Tuskegee Institute (now known as Tuskegee University) as a civilian contractor for a variety of reasons. These included the school’s existing facilities, engineering and technical instructors, and a climate with ideal flying conditions year round. Tuskegee Institute’s strong interest in providing aeronautical training for African-American youths was also an important factor. Students from the school’s civilian pilot training program had some of the best test scores when compared to other students from programs across the Southeast.

(4) In 1941 the United States Army Air Corps awarded a contract to Tuskegee Institute to operate a primary flight school at Moton Field. Tuskegee Institute (now known as Tuskegee University) chose an African-American contractor who designed and constructed Moton Field, with the assistance of its faculty and students, as the site for its military pilot training program. The field was named for the school's second president, Robert Russa Moton. Consequently, Tuskegee Institute was one of a very few American institutions (and the only African-American institution) to own, develop, and control facilities for military flight instruction.

Robert Russa  
Moton.

(5) Moton Field, also known as the Primary Flying Field or Airport Number 2, was the only primary flight training facility for African-American pilot candidates in the United States Army Air Corps during World War II. The facility symbolizes the entrance of African-American pilots into the United States Army Air Corps, although on the basis of a policy of segregation that was mandated by the military and institutionalized in the South. The facility also symbolizes the singular role of Tuskegee Institute (Tuskegee University) in providing leadership as well as economic and educational resources to make that entry possible.

(6) The Tuskegee Airmen were the first African-American soldiers to complete their training successfully and to enter the United States Army Air Corps. Almost 1,000 aviators were trained as America's first African-American military pilots. In addition, more than 10,000 military and civilian African-American men and women served as flight instructors, officers, bombardiers, navigators, radio technicians, mechanics, air traffic controllers, parachute riggers, electrical and communications specialists, medical professionals, laboratory assistants, cooks, musicians, supply, firefighting, and transportation personnel.

(7) Although military leaders were hesitant to use the Tuskegee Airmen in combat, the Airmen eventually saw considerable action in North Africa and Europe. Acceptance from United States Army Air Corps units came slowly, but their courageous and, in many cases, heroic performance earned them increased combat opportunities and respect.

(8) The successes of the Tuskegee Airmen proved to the American public that African-Americans, when given the opportunity, could become effective military leaders and pilots. This helped pave the way for desegregation of the military, beginning with President Harry S. Truman's Executive Order 9981 in 1948. The Tuskegee Airmen's success also helped set the stage for civil rights advocates to continue the struggle to end racial discrimination during the civil rights movement of the 1950's and 1960's.

Harry S.  
Truman.

(9) The story of the Tuskegee Airmen also reflects the struggle of African-Americans to achieve equal rights, not only through legal attacks on the system of segregation, but also through the techniques of nonviolent direct action. The members of the 477th Bombardment Group, who staged a nonviolent demonstration to desegregate the officer's club at Freeman Field, Indiana, helped set the pattern for direct action protests popularized by civil rights activists in later decades.

(b) PURPOSES.—The purposes of this title are the following:

(1) To inspire present and future generations to strive for excellence by understanding and appreciating the heroic legacy of the Tuskegee Airmen, through interpretation and education, and the preservation of cultural resources at Moton Field, which was the site of primary flight training.

(2) To commemorate and interpret—

(A) the impact of the Tuskegee Airmen during World War II;

(B) the training process for the Tuskegee Airmen, including the roles played by Moton Field, other training facilities, and related sites;

(C) the African-American struggle for greater participation in the United States Armed Forces and more significant roles in defending their country;

(D) the significance of successes of the Tuskegee Airmen in leading to desegregation of the United States Armed Forces shortly after World War II; and

(E) the impacts of Tuskegee Airmen accomplishments on subsequent civil rights advances of the 1950's and 1960's.

(3) To recognize the strategic role of Tuskegee Institute (now Tuskegee University) in training the airmen and commemorating them at this historic site.

**SEC. 303. ESTABLISHMENT OF TUSKEGEE AIRMEN NATIONAL HISTORIC SITE.**

(a) **ESTABLISHMENT.**—In order to commemorate and interpret, in association with Tuskegee University, the heroic actions of the Tuskegee Airmen during World War II, there is hereby established as a unit of the National Park System the Tuskegee Airmen National Historic Site in the State of Alabama.

(b) **DESCRIPTION OF HISTORIC SITE.**—

(1) **INITIAL PARCEL.**—The historic site shall consist of approximately 44 acres, including approximately 35 acres owned by Tuskegee University and approximately 9 acres owned by the City of Tuskegee, known as Moton Field, in Macon County, Alabama, as generally depicted on a map entitled “Tuskegee Airmen National Historic Site Boundary Map”, numbered NHS-TA-80,000, and dated September 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(2) **SUBSEQUENT EXPANSION.**—Upon completion of agreements regarding the development and operation of the Tuskegee Airmen National Center as described in subsection 304, the Secretary is authorized to acquire approximately 46 additional acres owned by Tuskegee University as generally depicted on the map referenced in paragraph (1). Lands acquired by the Secretary pursuant to this paragraph shall be administered by the Secretary as part of the historic site.

(c) **PROPERTY ACQUISITION.**—The Secretary may acquire by donation, exchange, or purchase with donated or appropriated funds the real property described in subsection (b), except that any property owned by the State of Alabama, any political subdivision thereof, or Tuskegee University may be acquired only by donation. Property donated by Tuskegee University shall be used only for purposes consistent with the purposes of this title. The Secretary

may also acquire by the same methods personal property associated with, and appropriate for, the interpretation of the historic site.

(d) ADMINISTRATION OF HISTORIC SITE.—

(1) IN GENERAL.—The Secretary shall administer the historic site in accordance with this title and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (commonly known as the Historic Sites, Buildings, and Antiquities Act; 16 U.S.C. 461 et seq.).

(2) ROLE OF TUSKEGEE UNIVERSITY.—The Secretary shall consult with Tuskegee University as its principal partner in determining the organizational structure, developing the ongoing interpretive themes, and establishing policies for the wise management, use and development of the historic site. With the agreement of Tuskegee University, the Secretary shall engage appropriate departments, and individual members of the University's staff, faculty, and students in the continuing work of helping to identify, research, explicate, interpret, and format materials for the historic site. Through the President of the University, or with the approval of the President of the University, the Secretary shall seek to engage Tuskegee alumni in the task of providing artifacts and historical information for the historic site.

(3) ROLE OF TUSKEGEE AIRMEN.—The Secretary, in cooperation with Tuskegee University, shall work with the Tuskegee Airmen to facilitate the acquisition of artifacts, memorabilia, and historical research for interpretive exhibits, and to support their efforts to raise funds for the development of visitor facilities and programs at the historic site.

(4) DEVELOPMENT.—Operation and development of the historic site shall reflect Alternative C, Living History: The Tuskegee Airmen Experience, as expressed in the final special resource study entitled "Moton Field/Tuskegee Airmen Special Resource Study", dated September 1998. Subsequent development of the historic site shall reflect Alternative D after an agreement is reached with Tuskegee University on the development of the Tuskegee Airmen National Center as described in section 304.

(e) COOPERATIVE AGREEMENTS GENERALLY.—The Secretary may enter into cooperative agreements with Tuskegee University, other educational institutions, the Tuskegee Airmen, individuals, private and public organizations, and other Federal agencies in furtherance of the purposes of this title. The Secretary shall consult with Tuskegee University in the formulation of any major cooperative agreements with other universities or Federal agencies that may affect Tuskegee University's interests in the historic site. To every extent possible, the Secretary shall seek to complete cooperative agreements requiring the use of higher educational institutions with and through Tuskegee University.

**SEC. 304. TUSKEGEE AIRMEN NATIONAL CENTER.**

(a) COOPERATIVE AGREEMENT FOR DEVELOPMENT.—The Secretary shall enter into a cooperative agreement with Tuskegee University to define the partnership needed to develop the Tuskegee Airmen National Center on the grounds of the historic site.

(b) **PURPOSE OF CENTER.**—The purpose of the Tuskegee Airmen National Center shall be to extend the ability to relate more fully the story of the Tuskegee Airmen at Moton Field. The center shall provide for a Tuskegee Airmen Memorial, shall provide large exhibit space for the display of period aircraft and equipment used by the Tuskegee Airmen, and shall house a Tuskegee University Department of Aviation Science. The Secretary shall insure that interpretive programs for visitors benefit from the University's active pilot training instruction program, and the historical continuum of flight training in the tradition of the Tuskegee Airmen. The Secretary is authorized to permit the Tuskegee University Department of Aviation Science to occupy historic buildings within the Moton Field complex until the Tuskegee Airmen National Center has been completed.

Deadline.

(c) **REPORT.**—Within 1 year after the date of the enactment of this Act, the Secretary, in consultation with Tuskegee University and the Tuskegee Airmen, shall prepare a report on the partnership needed to develop the Tuskegee Airmen National Center, and submit the report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(d) **TIME FOR AGREEMENT.**—Sixty days after the report required by subsection (c) is submitted to Congress, the Secretary may enter into the cooperative agreement under this section with Tuskegee University, and other interested partners, to implement the development and operation of the Tuskegee Airmen National Center.

Deadline.

#### **SEC. 305. GENERAL MANAGEMENT PLAN.**

Within 2 complete fiscal years after funds are first made available to carry out this title, the Secretary shall prepare, in consultation with Tuskegee University, a general management plan for the historic site and shall submit the plan to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

#### **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary to carry out this title, \$29,114,000.

16 USC 461 note  
[table].

## **TITLE IV—DELAWARE AND LEHIGH NATIONAL HERITAGE CORRIDOR OF PENNSYLVANIA**

#### **SEC. 401. CHANGE IN NAME OF HERITAGE CORRIDOR.**

The Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (Public Law 100-692; 102 Stat. 4552; 16 U.S.C. 461 note) is amended by striking “Delaware and Lehigh Navigation Canal National Heritage Corridor” each place it appears (except section 4(a)) and inserting “Delaware and Lehigh National Heritage Corridor”.

#### **SEC. 402. PURPOSE.**

Section 3(b) of such Act (102 Stat. 4552) is amended as follows:

(1) By inserting after “subdivisions” the following: “in enhancing economic development within the context of preservation and”.



(2) By striking “and surrounding the Delaware and Lehigh Navigation Canal in the Commonwealth” and inserting “the Corridor”.

**SEC. 403. CORRIDOR COMMISSION.**

(a) MEMBERSHIP.—Section 5(b) of such Act (102 Stat. 4553) is amended as follows:

(1) In the matter preceding paragraph (1), by striking “appointed not later than 6 months after the date of the enactment of this Act”.

(2) By striking paragraph (2) and inserting the following: “(2) three individuals appointed by the Secretary upon consideration of individuals recommended by the Governor, of whom—

“(A) one shall represent the Pennsylvania Department of Conservation and Natural Resources;

“(B) one shall represent the Pennsylvania Department of Community and Economic Development; and

“(C) one shall represent the Pennsylvania Historical and Museum Commission.”.

(3) In paragraph (3), by striking “the Secretary, after receiving recommendations from the Governor, of whom” and all that follows through “Delaware Canal region” and inserting the following: “the Secretary upon consideration of individuals recommended by the Governor, of whom—

“(A) one shall represent a city, one shall represent a borough, and one shall represent a township; and

“(B) one shall represent each of the 5 counties of Luzerne, Carbon, Lehigh, Northampton, and Bucks in Pennsylvania”.

(4) In paragraph (4)—

(A) By striking “8 individuals” and inserting “nine individuals”.

(B) By striking “the Secretary, after receiving recommendations from the Governor, who shall have” and all that follows through “Canal region. A vacancy” and inserting the following: “the Secretary upon consideration of individuals recommended by the Governor, of whom—

“(A) three shall represent the northern region of the Corridor;

“(B) three shall represent the middle region of the Corridor; and

“(C) three shall represent the southern region of the Corridor.

A vacancy”.

(b) TERMS.—Section 5 of such Act (102 Stat. 4553) is amended by striking subsection (c) and inserting the following:

“(c) TERMS.—The following provisions shall apply to a member of the Commission appointed under paragraph (3) or (4) of subsection (b):

“(1) LENGTH OF TERM.—The member shall be appointed for a term of 3 years.

“(2) CARRYOVER.—The member shall serve until a successor is appointed by the Secretary.

“(3) REPLACEMENT.—If the member resigns or is unable to serve due to incapacity or death, the Secretary shall appoint, not later than 60 days after receiving a nomination of the

Deadline.

appointment from the Governor, a new member to serve for the remainder of the term.

“(4) TERM LIMITS.—A member may serve for not more than 6 years.”.

**SEC. 404. POWERS OF CORRIDOR COMMISSION.**

(a) CONVEYANCE OF REAL ESTATE.—Section 7(g)(3) of such Act (102 Stat. 4555) is amended in the first sentence by inserting “or nonprofit organization” after “appropriate public agency”.

(b) COOPERATIVE AGREEMENTS.—Section 7(h) of such Act (102 Stat. 4555) is amended as follows:

(1) In the first sentence, by inserting “any nonprofit organization,” after “subdivision of the Commonwealth,”.

(2) In the second sentence, by inserting “such nonprofit organization,” after “such political subdivision,”.

**SEC. 405. DUTIES OF CORRIDOR COMMISSION.**

Section 8(b) of such Act (102 Stat. 4556) is amended in the matter preceding paragraph (1) by inserting “, cultural, natural, recreational, and scenic” after “interpret the historic”.

**SEC. 406. TERMINATION OF CORRIDOR COMMISSION.**

Section 9(a) of such Act (102 Stat. 4556) is amended by striking “on the day occurring 5 years after the date of the enactment of this Act” and inserting “on November 18, 2003”.

**SEC. 407. DUTIES OF OTHER FEDERAL ENTITIES.**

Section 11 of such Act (102 Stat. 4557) is amended in the matter preceding paragraph (1) by striking “the flow of the Canal or the natural” and inserting “directly affecting the purposes of the Corridor”.

**SEC. 408. AUTHORIZATION OF APPROPRIATIONS.**

(a) COMMISSION.—Section 12(a) of such Act (102 Stat. 4558) is amended by striking “\$350,000” and inserting “\$1,000,000”.

(b) MANAGEMENT ACTION PLAN.—Section 12 of such Act (102 Stat. 4558) is amended by adding at the end the following:

“(c) MANAGEMENT ACTION PLAN.—

“(1) IN GENERAL.—To implement the management action plan created by the Commission, there is authorized to be appropriated \$1,000,000 for each of fiscal years 2000 through 2007.

“(2) LIMITATION ON EXPENDITURES.—Amounts made available under paragraph (1) shall not exceed 50 percent of the costs of implementing the management action plan.”.

**SEC. 409. LOCAL AUTHORITY AND PRIVATE PROPERTY.**

Such Act is further amended—

(1) by redesignating section 13 (102 Stat. 4558) as section 14; and

(2) by inserting after section 12 the following:

**“SEC. 13. LOCAL AUTHORITY AND PRIVATE PROPERTY.**

“The Commission shall not interfere with—

“(1) the private property rights of any person; or

“(2) any local zoning ordinance or land use plan of the Commonwealth of Pennsylvania or any political subdivision of Pennsylvania.”.

**SEC. 410. DUTIES OF THE SECRETARY.**

Section 10 of such Act (102 Stat. 4557) is amended by striking subsection (d) and inserting the following:

“(d) TECHNICAL ASSISTANCE AND GRANTS.—The Secretary, upon request of the Commission, is authorized to provide grants and technical assistance to the Commission or units of government, nonprofit organizations, and other persons, for development and implementation of the Plan.”.

**TITLE V—OTHER MATTERS****SEC. 501. BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR, MASSACHUSETTS AND RHODE ISLAND.**

Section 10(b) of the Act entitled “An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island”, approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by striking “For fiscal year 1996, 1997, and 1998,” and inserting “For fiscal years 1998, 1999, and 2000,”.

**SEC. 502. ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR, ILLINOIS.**

(a) EXTENSION OF COMMISSION.—Section 111(a) of the Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98–398; 98 Stat. 1456; 16 U.S.C. 461 note) is amended by striking “ten” and inserting “20”.

(b) REPEAL OF EXTENSION AUTHORITY.—Section 111 of such Act (16 U.S.C. 461 note) is further amended—

- (1) by striking “(a) TERMINATION.—”; and
- (2) by striking subsection (b).

**SEC. 503. WASATCH-CACHE NATIONAL FOREST AND MOUNT NAOMI WILDERNESS, UTAH.**

16 USC 1132  
note [table].

(a) BOUNDARY ADJUSTMENT.—To correct a faulty land survey, the boundaries of the Wasatch-Cache National Forest in the State of Utah and the boundaries of the Mount Naomi Wilderness, which is located within the Wasatch-Cache National Forest and was established as a component of the National Wilderness Preservation System in section 102(a)(1) of the Utah Wilderness Act of 1984 (Public Law 98–428; 98 Stat. 1657), are hereby modified to exclude the parcel of land known as the D. Hyde property, which encompasses an area of cultivation and private use, as generally depicted on the map entitled “D. Hyde Property Section 7 Township 12 North Range 2 East SLB & M”, dated July 23, 1998.

(b) LAND CONVEYANCE.—The Secretary of Agriculture shall convey to Darrell Edward Hyde of Cache County, Utah, all right, title, and interest of the United States in and to the parcel of land identified in subsection (a). As part of the conveyance, the Secretary shall release, on behalf of the United States, any claims of the United States against Darrell Edward Hyde for trespass or unauthorized use of the parcel before its conveyance.

Darrell Edward  
Hyde.

(c) WILDERNESS ADDITION.—To prevent any net loss of wilderness within the State of Utah, the boundaries of the Mount Naomi Wilderness are hereby modified to include a parcel of land comprising approximately 7.25 acres, identified as the “Mount Naomi

Wilderness Boundary Realignment Consideration” on the map entitled “Mount Naomi Wilderness Addition”, dated September 25, 1998.

**SEC. 504. AUTHORIZATION TO USE LAND IN MERCED COUNTY, CALIFORNIA, FOR ELEMENTARY SCHOOL.**

(a) **REMOVAL OF RESTRICTIONS.**—Notwithstanding the restrictions otherwise applicable under the terms of conveyance by the United States of any of the land described in subsection (b) to Merced County, California, or under any agreement concerning any part of such land between such county and the Secretary of the Interior or any other officer or agent of the United States, the land described in subsection (b) may be used for the purpose specified in subsection (c).

(b) **LAND AFFECTED.**—The land referred to in subsection (a) is the north 25 acres of the 40 acres located in the northwest quarter of the southwest quarter of section 20, township 7 south, range 13 east, Mount Diablo base line and Meridian in Merced County, California, conveyed to such county by deed recorded in volume 1941 at page 441 of the official records in Merced County, California.

(c) **AUTHORIZED USES.**—Merced County, California, may authorize the use of the land described in subsection (b) for an elementary school serving children without regard to their race, creed, color, national origin, physical or mental disability, or sex, operated by a nonsectarian organization on a nonprofit basis and in compliance with all applicable requirements of the laws of the United States and the State of California. If Merced County permits such lands to be used for such purposes, the county shall include information concerning such use in the periodic reports to the Secretary of the Interior required under the terms of the conveyance of such lands to the county by the United States. Any violation of the provisions of this subsection shall be deemed to be a breach of the conditions and covenants under which such lands were conveyed to Merced County by the United States, and shall have the same effect as provided by deed whereby the United States conveyed the lands to the county. Except as specified in this subsection, nothing in this section shall increase or diminish the authority or responsibility of the county with respect to the land.

California.

**SEC. 505. ROSIE THE RIVETER NATIONAL PARK SERVICE AFFILIATED SITE.**

(a) **FINDINGS.**—The Congress finds the following:

(1) The City of Richmond, California, is located on the northeastern shore of San Francisco Bay and consists of several miles of waterfront which have been used for shipping and industry since the beginning of the 20th century. During the years of World War II, the population of Richmond grew from 220 to over 100,000.

(2) An area of Richmond, California, now known as Marina Park and Marina Green, was the location in the 1940's of the Richmond Kaiser Shipyards, which produced Liberty and Victory ships during World War II.

(3) Thousands of women of all ages and ethnicities moved from across the United States to Richmond, California, in search of high paying jobs and skills never before available to women in the shipyards.

(4) Kaiser Corporation supported women workers by installing child care centers at the shipyards so mothers could work while their children were well cared for nearby.

(5) These women, referred to as “Rosie the Riveter” and “Wendy the Welder”, built hundreds of Liberty and Victory ships in record time for use by the United States Navy. Their labor played a crucial role in increasing American productivity during the war years and in meeting the demand for naval ships.

(6) In part the Japanese plan to defeat the United States Navy was predicated on victory occurring before United States shipyards could build up its fleet of ships.

(7) The City of Richmond, California, has dedicated the former site of Kaiser Shipyard #2 as Rosie the Riveter Memorial Park and will construct a memorial honoring American women’s labor during World War II. The memorial will be representative of one of the Liberty ships built on the site during the war effort.

(8) The City of Richmond, California, is committed to collective interpretative oral histories for the public to learn of the stories of the “Rosies” and “Wendys” who worked in the shipyards.

(9) The Rosie the Riveter Park is a nationally significant site because there tens of thousands of women entered the workforce for the first time, working in heavy industry to support their families and the War effort. This was a turning point for the Richmond, California, area and the Nation as a whole, when women joined the workforce and successfully completed jobs for which previously it was believed they were incapable.

(b) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior shall conduct a feasibility study to determine whether—

(A) the Rosie the Riveter Park located in Richmond, California, is suitable for designation as an affiliated site to the National Park Service; and

(B) the Rosie the Riveter Memorial Committee established by the City of Richmond, California, with respect to that park is eligible for technical assistance for interpretative functions relating to the park, including preservation of oral histories from former workers at the Richmond Kaiser Shipyards.

(2) REPORTS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall complete the study under paragraph (1) and submit a report containing findings, conclusions, and recommendations from the study to the Committee on Resources of the House of Representatives and the Committee on Energy and Environment of the Senate. Deadline.

#### SEC. 506. FORT DAVIS HISTORIC SITE, FORT DAVIS, TEXAS.

The Act entitled “An Act Authorizing the establishment of a national historic site at Fort Davis, Jeff Davis County, Texas”, approved September 8, 1961 (75 Stat. 488; 16 U.S.C. 461 note), is amended in the first section by striking “not to exceed four hundred and sixty acres” and inserting “not to exceed 476 acres”.

**SEC. 507. REAUTHORIZATION OF DELAWARE WATER GAP NATIONAL RECREATION AREA CITIZEN ADVISORY COMMISSION.**

Section 5 of Public Law 101-573 (16 U.S.C. 460*o* note) is amended by striking “10” and inserting “20”.

New Jersey.

**SEC. 508. ACQUISITION OF WARREN PROPERTY FOR MORRISTOWN NATIONAL HISTORICAL PARK.**

The Act entitled “An Act to provide for the establishment of the Morristown National Historical Park in the State of New Jersey, and for other purposes”, approved March 2, 1933 (chapter 182; 16 U.S.C. 409 *et seq.*), is amended by adding at the end the following new section:

16 USC 409i.

“SEC. 8. (a) In addition to any other lands or interest authorized to be acquired for inclusion in Morristown National Historical Park, and notwithstanding the first proviso of the first section of this Act, the Secretary of the Interior may acquire by purchase, donation, purchase with appropriated funds, or otherwise, not to exceed 15 acres of land and interests therein comprising the property known as the Warren Property or Mount Kimble. The Secretary may expend such sums as may be necessary for such acquisition.

“(b) Any lands or interests acquired under this section shall be included in and administered as part of the Morristown National Historical Park.”.

16 USC 442 note.

**SEC. 509. GEORGE WASHINGTON BIRTHPLACE NATIONAL MONUMENT, VIRGINIA.**

(a) **ACQUISITION OF EASEMENT.**—The Secretary of the Interior may acquire no more than a less than fee interest in the property generally known as George Washington’s Boyhood Home, Ferry Farm, located in Stafford County, Virginia, across the Rappahannock River from Fredericksburg, Virginia, comprising approximately 85 acres as generally depicted on the map entitled “George Washington Birthplace National Monument Boundary Map”, numbered 322/80,020, and dated April 1998, to ensure the preservation of the important cultural and natural resources associated with Ferry Farm. The Secretary of the Interior shall keep the map on file and available for public inspection in appropriate offices of the National Park Service.

Contracts.

(b) **MANAGEMENT OF EASEMENT.**—The Secretary shall enter into a cooperative agreement with Kenmore Association, Inc., for the management of Ferry Farm pending completion of the study referred to in subsection (c).

Deadline.

(c) **RESOURCE STUDY.**—Not later than 18 months after the date on which funds are made available to carry out this section, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a resource study of the property described in subsection (a). The study shall—

(1) identify the full range of resources and historic themes associated with Ferry Farm, including those associated with George Washington’s tenure at the property and those associated with the Civil War period;

(2) identify alternatives for further National Park Service involvement at the property beyond those that may be provided for in the acquisition authorized under subsection (a); and

(3) include cost estimates for any necessary acquisition, development, interpretation, operation, and maintenance associated with the alternatives identified.

(d) AGREEMENTS.—Upon completion of the resource study under subsection (c), the Secretary of the Interior may enter into an agreement with the owner of the property described in subsection (a) or other entities for the purpose of providing programs, services, facilities, or technical assistance that further the preservation and public use of the property.

**SEC. 510. ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE, KENTUCKY.** 16 USC 218a.

(a) IN GENERAL.—Upon acquisition of the land known as Knob Creek Farm pursuant to subsection (b), the boundary of the Abraham Lincoln Birthplace National Historic Site, established by the Act of July 17, 1916 (39 Stat. 385, chapter 247; 16 U.S.C. 211 et seq.), is revised to include such land. Lands acquired pursuant to this section shall be administered by the Secretary of the Interior as part of the historic site.

(b) ACQUISITION OF KNOB CREEK FARM.—The Secretary of the Interior may acquire, by donation only, the approximately 228 acres of land known as Knob Creek Farm in Larue County, Kentucky, as generally depicted on a map entitled “Knob Creek Farm Unit, Abraham Lincoln National Historic Site”, numbered 338/80,077, and dated October 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(c) STUDY AND REPORT.—The Secretary of the Interior shall study the Knob Creek Farm in Larue County, Kentucky, and not later than 1 year after the date of the enactment of this Act, submit a report to the Congress containing the results of the study. The purpose of the study shall be to:

Deadline.

(1) Identify significant resources associated with the Knob Creek Farm and the early boyhood of Abraham Lincoln.

(2) Evaluate the threats to the long-term protection of the Knob Creek Farm’s cultural, recreational, and natural resources.

(3) Examine the incorporation of the Knob Creek Farm into the operations of the Abraham Lincoln Birthplace National Historic Site and establish a strategic management plan for implementing such incorporation. In developing the plan, the Secretary shall—

(A) determine infrastructure requirements and property improvements needed at Knob Creek Farm to meet National Park Service standards;

(B) identify current and potential uses of Knob Creek Farm for recreational, interpretive, and educational opportunities; and

(C) project costs and potential revenues associated with acquisition, development, and operation of Knob Creek Farm.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (c).

**SEC. 511. STUDIES OF POTENTIAL NATIONAL PARK SYSTEM UNITS IN HAWAII.**

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, shall undertake feasibility

studies regarding the establishment of National Park System units in the following areas in the State of Hawaii:

(1) Island of Maui: The shoreline area known as “North Beach”, immediately north of the present resort hotels at Kaanapali Beach, in the Lahaina district in the area extending from the beach inland to the main highway.

(2) Island of Lanai: The mountaintop area known as “Hale” a the central part of the island.

(3) Island of Kauai: The shoreline area from “Anini Beach” to “Makua Tunnels” on the north coast of this island.

(4) Island of Molokai: The “Halawa Valley” on the eastern end of the island, including its shoreline, cove and lookout/access roadway.

(b) KALAUPAPA SETTLEMENT BOUNDARIES.—The studies conducted under this section shall include a study of the feasibility of extending the present National Historic Park boundaries at Kalaupapa Settlement eastward to Halawa Valley along the island’s north shore.

(c) REPORT.—A report containing the results of the studies under this section shall be submitted to the Congress promptly upon completion.

40 USC 1003  
note [table].

**SEC. 512. MEMORIAL TO MR. BENJAMIN BANNEKER IN THE DISTRICT OF COLUMBIA.**

(a) MEMORIAL AUTHORIZED.—The Washington Interdependence Council of the District of Columbia is authorized to establish a memorial in the District of Columbia to honor and commemorate the accomplishments of Mr. Benjamin Banneker.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Commemorative Works Act (40 U.S.C. 1001 et seq.).

(c) PAYMENT OF EXPENSES.—The Washington Interdependence Council shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

(d) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount required under section 8(b) of the Commemorative Works Act (40 U.S.C. 1008(b))), or upon expiration of the authority for the memorial under section 10(b) of such Act (40 U.S.C. 1010(b)), there remains a balance of funds received for the establishment of the memorial, the Washington Interdependence Council shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of such Act (40 U.S.C. 1008(b)(1)).

**SEC. 513. LAND ACQUISITION, BOSTON HARBOR ISLANDS RECREATION AREA.**

Section 1029(c) of division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 110 Stat. 4233; 16 U.S.C. 460kkk(c)) is amended by adding at the end the following new paragraph:



“(3) LAND ACQUISITION.—Notwithstanding subsection (h), the Secretary is authorized to acquire, in partnership with other entities, a less than fee interest in lands at Thompson Island within the recreation area. The Secretary may acquire the lands only by donation, purchase with donated or appropriated funds, or by exchange.”.

Approved November 6, 1998.

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LEGISLATIVE HISTORY—H.R. 3910:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 10, considered and passed House.

Oct. 14, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Nov. 6, Presidential statement.



Public Law 105–356  
105th Congress

An Act

Nov. 6, 1998  
[S. 2232]

To establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes.

16 USC 461 note  
[table].

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress finds that—

(1) the 1954 United States Supreme Court decision of *Brown v. Board of Education*, which mandated an end to the segregation of public schools, was one of the most significant Court decisions in the history of the United States.

(2) the admission of nine African-American students, known as the “Little Rock Nine”, to Little Rock’s Central High School as a result of the *Brown* decision, was the most prominent national example of the implementation of the *Brown* decision, and served as a catalyst for the integration of other, previously segregated public schools in the United States;

(3) 1997 marked the 70th anniversary of the construction of Central High School, which has been named by the American Institute of Architects as “the most beautiful high school building in America”;

(4) Central High School was included on the National Register of Historic Places in 1977 and designated by the Secretary of the Interior as a National Historic Landmark in 1982 in recognition of its national significance in the development of the Civil Rights movement in the United States; and

(5) the designation of Little Rock Central High School as a unit of the National Park System will recognize the significant role the school played in the desegregation of public schools in the South and will interpret for future generations the events associated with early desegregation of southern schools.

(b) PURPOSE.—The purpose of this Act is to preserve, protect, and interpret for the benefit, education, and inspiration of present and future generations, Central High School in Little Rock, Arkansas, and its role in the integration of public schools and the development of the Civil Rights movement in the United States.

**SEC. 2. ESTABLISHMENT OF CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE.**

(a) ESTABLISHMENT.—The Little Rock Central High School National Historic Site in the State of Arkansas (hereinafter referred to as the “historic site”) is hereby established as a unit of the National Park System. The historic site shall consist of lands and interests therein comprising the Central High School campus and

adjacent properties in Little Rock, Arkansas, as generally depicted on a map entitled “Proposed Little Rock Central High School National Historic Site”, numbered LIRO-20,000 and dated July, 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(b) ADMINISTRATION OF HISTORIC SITE.—The Secretary of the Interior (hereinafter referred to as the “Secretary”) shall administer the historic site in accordance with this Act. Only those lands under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (16 U.S.C. 461-467). Nothing in this Act shall affect the authority of the Little Rock School District to administer Little Rock Central High School nor shall this Act affect the authorities of the City of Little Rock in the neighborhood surrounding the school.

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with appropriate public and private agencies, organizations, and institutions (including, but not limited to, the State of Arkansas, the City of Little Rock, the Little Rock School District, Central High Museum, Inc., Central High Neighborhood, Inc., or the University of Arkansas) in furtherance of the purposes of this Act.

(2) The Secretary shall coordinate visitor interpretation of the historic site with the Little Rock School District and the Central High School Museum, Inc.

(d) GENERAL MANAGEMENT PLAN.—Within three years after the date funds are made available, the Secretary shall prepare a general management plan for the historic site. The plan shall be prepared in consultation and coordination with the Little Rock School District, the City of Little Rock, Central High Museum, Inc., and with other appropriate organizations and agencies. The plan shall identify specific roles and responsibilities for the National Park Service in administering the historic site, and shall identify lands or property, if any, that might be necessary for the National Park Service to acquire in order to carry out its responsibilities. The plan shall also identify the roles and responsibilities of other entities in administering the historic site and its programs. The plan shall include a management framework that ensures the administration of the historic site does not interfere with the continuing use of Central High School as an educational institution.

Deadline.

(e) ACQUISITION OF PROPERTY.—The Secretary is authorized to acquire by purchase with donated or appropriated funds by exchange, or donation the lands and interests therein located within the boundaries of the historic site: *Provided*, That the Secretary may only acquire lands or interests therein within the consent of the owner thereof: *Provided further*, That lands or interests therein owned by the State of Arkansas or a political subdivision thereof, may only be acquired by donation or exchange.

### SEC. 3. DESEGREGATION IN PUBLIC EDUCATION THEME STUDY.

(a) THEME STUDY.—Within two years after the date funds are made available, the Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a National Historic Landmark Theme Study (hereinafter referred to as the “theme study”) on the history of desegregation in public

Deadline.

education. The purpose of the theme study shall be to identify sites, districts, buildings, structures, and landscapes that best illustrate or commemorate key events or decisions in the historical movement to provide for racial desegregation in public education. On the basis of the theme study, the Secretary shall identify possible new national historic landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for national historic landmark designation.

(b) OPPORTUNITIES FOR EDUCATION AND RESEARCH.—The theme study shall identify appropriate means to establish linkages between sites identified in subsection (a) and between those sites and the Central High School National Historic Site established in section 2, and with other existing units of the National Park System to maximize opportunities for public education and scholarly research on desegregation in public education. The theme study also shall recommend opportunities for cooperative arrangements with State and local governments, educational institutions, local historical organizations, and other appropriate entities to preserve and interpret key sites in the history of desegregation in public education.

(c) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with one or more educational institutions, public history organizations, or civil rights organizations knowledgeable about desegregation in public education to prepare the theme study and to ensure that the theme study meets scholarly standards.

(d) THEME STUDY COORDINATION WITH GENERAL MANAGEMENT PLAN.—The theme study shall be prepared as part of the preparation and development of the general management plan for the Little Rock Central High School National Historic Site established in section 2.

#### SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved November 6, 1998.

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#### LEGISLATIVE HISTORY—S. 2232:

SENATE REPORTS: No. 105-307 (Comm. on Energy and Natural Resources).  
CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 2, considered and passed Senate.

Oct. 8, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):  
Nov. 6, Presidential remarks.



Public Law 105–357  
105th Congress

An Act

To amend the Controlled Substances Import and Export Act to place limitations on controlled substances brought into the United States.

Nov. 10, 1998  
[H.R. 3633]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Controlled Substances Trafficking Prohibition Act”.

Controlled  
Substances  
Trafficking  
Prohibition Act.  
21 USC 801 note.

**SEC. 2. LIMITATION.**

(a) AMENDMENT.—Section 1006(a) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)) is amended—

(1) by striking “The Attorney General” and inserting “(1) Subject to paragraph (2), the Attorney General”; and

(2) by adding at the end the following:

“(2) Notwithstanding any exemption under paragraph (1), a United States resident who enters the United States through an international land border with a controlled substance (except a substance in schedule I) for which the individual does not possess a valid prescription issued by a practitioner (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in accordance with applicable Federal and State law (or documentation that verifies the issuance of such a prescription to that individual) may not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.”.

(b) FEDERAL MINIMUM REQUIREMENT.—Section 1006(a)(2) of the Controlled Substances Import and Export Act, as added by this section, is a minimum Federal requirement and shall not be construed to limit a State from imposing any additional requirement.

21 USC 956 note.

(c) EXTENT.—The amendment made by subsection (a) shall not be construed to affect the jurisdiction of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.).

21 USC 956 note.

Approved November 10, 1998.

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**LEGISLATIVE HISTORY—H.R. 3633:**

HOUSE REPORTS: No. 105–629, Pt. 1 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Aug. 3, considered and passed House.

Oct. 20, considered and passed Senate.



Public Law 105–358  
105th Congress

An Act

Nov. 10, 1998  
[H.R. 3723]

To authorize funds for the payment of salaries and expenses of the Patent and Trademark Office, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

United States  
Patent and  
Trademark Office  
Reauthorization  
Act, Fiscal Year  
1999.  
35 USC 1 note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “United States Patent and Trademark Office Reauthorization Act, Fiscal Year 1999”.

**SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be made available for the payment of salaries and necessary expenses of the Patent and Trademark Office in fiscal year 1999, \$66,000,000 from fees collected in fiscal year 1998 and such fees as are collected in fiscal year 1999, pursuant to title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 et seq.). Amounts made available pursuant to this section shall remain available until expended.

**SEC. 3. LEVEL OF FEES FOR PATENT SERVICES.**

(a) GENERAL PATENT FEES.—Section 41 of title 35, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) The Commissioner shall charge the following fees:

“(1)(A) On filing each application for an original patent, except in design or plant cases, \$760.

“(B) In addition, on filing or on presentation at any other time, \$78 for each claim in independent form which is in excess of 3, \$18 for each claim (whether independent or dependent) which is in excess of 20, and \$260 for each application containing a multiple dependent claim.

“(C) On filing each provisional application for an original patent, \$150.

“(2) For issuing each original or reissue patent, except in design or plant cases, \$1,210.

“(3) In design and plant cases—

“(A) on filing each design application, \$310;

“(B) on filing each plant application, \$480;

“(C) on issuing each design patent, \$430; and

“(D) on issuing each plant patent, \$580.

“(4)(A) On filing each application for the reissue of a patent, \$760.

“(B) In addition, on filing or on presentation at any other time, \$78 for each claim in independent form which is in excess of the number of independent claims of the original

patent, and \$18 for each claim (whether independent or dependent) which is in excess of 20 and also in excess of the number of claims of the original patent.

“(5) On filing each disclaimer, \$110.

“(6)(A) On filing an appeal from the examiner to the Board of Patent Appeals and Interferences, \$300.

“(B) In addition, on filing a brief in support of the appeal, \$300, and on requesting an oral hearing in the appeal before the Board of Patent Appeals and Interferences, \$260.

“(7) On filing each petition for the revival of an unintentionally abandoned application for a patent or for the unintentionally delayed payment of the fee for issuing each patent, \$1,210, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be \$110.

“(8) For petitions for 1-month extensions of time to take actions required by the Commissioner in an application—

“(A) on filing a first petition, \$110;

“(B) on filing a second petition, \$270; and

“(C) on filing a third petition or subsequent petition, \$490.

“(9) Basic national fee for an international application where the Patent and Trademark Office was the International Preliminary Examining Authority and the International Searching Authority, \$670.

“(10) Basic national fee for an international application where the Patent and Trademark Office was the International Searching Authority but not the International Preliminary Examining Authority, \$760.

“(11) Basic national fee for an international application where the Patent and Trademark Office was neither the International Searching Authority nor the International Preliminary Examining Authority, \$970.

“(12) Basic national fee for an international application where the international preliminary examination fee has been paid to the Patent and Trademark Office, and the international preliminary examination report states that the provisions of Article 33(2), (3), and (4) of the Patent Cooperation Treaty have been satisfied for all claims in the application entering the national stage, \$96.

“(13) For filing or later presentation of each independent claim in the national stage of an international application in excess of 3, \$78.

“(14) For filing or later presentation of each claim (whether independent or dependent) in a national stage of an international application in excess of 20, \$18.

“(15) For each national stage of an international application containing a multiple dependent claim, \$260.

For the purpose of computing fees, a multiple dependent claim referred to in section 112 of this title or any claim depending therefrom shall be considered as separate dependent claims in accordance with the number of claims to which reference is made. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.”

(b) PATENT MAINTENANCE FEES.—Section 41 of title 35, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) The Commissioner shall charge the following fees for maintaining in force all patents based on applications filed on or after December 12, 1980:

“(1) 3 years and 6 months after grant, \$940.

“(2) 7 years and 6 months after grant, \$1,900.

“(3) 11 years and 6 months after grant, \$2,910.

Unless payment of the applicable maintenance fee is received in the Patent and Trademark Office on or before the date the fee is due or within a grace period of 6 months thereafter, the patent will expire as of the end of such grace period. The Commissioner may require the payment of a surcharge as a condition of accepting within such 6-month grace period the payment of an applicable maintenance fee. No fee may be established for maintaining a design or plant patent in force.”.

**SEC. 4. AUTHORIZATION OF COLLECTION AND EXPENDITURE.**

Section 42(c) of title 35, United States Code, is amended by striking the first sentence and inserting the following: “To the extent and in the amounts provided in advance in appropriations Acts, fees authorized in this title or any other Act to be charged or established by the Commissioner shall be collected by and shall be available to the Commissioner to carry out the activities of the Patent and Trademark Office.”.

35 USC 41 note.

**SEC. 5. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on October 1, 1998.

Approved November 10, 1998.

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**LEGISLATIVE HISTORY—H.R. 3723:**

HOUSE REPORTS: No. 105-528 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 12, considered and passed House.

Oct. 14, considered and passed Senate.





Public Law 105–359  
105th Congress

An Act

To require the Secretary of Agriculture and the Secretary of the Interior to conduct a study to improve the access for persons with disabilities to outdoor recreational opportunities made available to the public.

Nov. 10, 1998  
[H.R. 4501]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. STUDY REGARDING IMPROVED OUTDOOR RECREATIONAL ACCESS FOR PERSONS WITH DISABILITIES.**

16 USC 460l–1  
note.

(a) **STUDY REQUIRED.**—The Secretary of Agriculture and the Secretary of the Interior shall jointly conduct a study regarding ways to improve the access for persons with disabilities to outdoor recreational opportunities (such as fishing, hunting, trapping, wildlife viewing, hiking, boating, and camping) made available to the public on the Federal lands described in subsection (b).

(b) **COVERED FEDERAL LANDS.**—The Federal lands referred to in subsection (a) are the following:

- (1) National Forest System lands.
- (2) Units of the National Park System.
- (3) Areas in the National Wildlife Refuge System.
- (4) Lands administered by the Bureau of Land Management.

(c) **REPORT ON STUDY.**—Not later than 18 months after the date of the enactment of this Act, the Secretaries shall submit to Congress a report containing the results of the study.

Deadline.

Approved November 10, 1998.

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**LEGISLATIVE HISTORY—H.R. 4501:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 14, considered and passed House.

Oct. 20, considered and passed Senate.



Public Law 105-360  
105th Congress

An Act

Nov. 10, 1998  
[H.R. 4821]

To extend into fiscal year 1999 the visa processing period for diversity applicants whose visa processing was suspended during fiscal year 1998 due to embassy bombings.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. EXTENSION INTO FISCAL YEAR 1999 OF VISA PROCESSING PERIOD FOR DIVERSITY APPLICANTS WHOSE VISA PROCESSING WAS SUSPENDED DURING FISCAL YEAR 1998 DUE TO EMBASSY BOMBINGS.**

(a) EXTENSION OF PERIOD.—

(1) IN GENERAL.—Notwithstanding clause (ii)(II) of section 204(a)(1)(G) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(G)), in the case of an alien described in paragraph (1) or (2) of subsection (b)—

(A) the petition filed for classification under section 203(c) of such Act (8 U.S.C. 1153(c)) for fiscal year 1998 is deemed approved for processing for fiscal year 1999, without the payment of an additional \$75 filing fee; and

(B) the priority rank for such an alien for such classification for fiscal year 1999 is the earliest priority rank established for such classification for such fiscal year.

(2) VISAS CHARGED TO FISCAL YEAR 1999.—Immigrant visas made available pursuant paragraph (1) shall be charged to fiscal year 1999.

(b) ALIENS ELIGIBLE FOR BENEFITS.—

(1) PETITIONING ALIEN.—An alien described in this paragraph is an alien who—

(A) had a petition approved for processing under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)) for fiscal year 1998; and

(B)(i) had been scheduled for an immigrant visa interview on or after August 6, 1998, and before October 1, 1998, at the United States embassy in Nairobi, Kenya, at the United States embassy in Dar Es Salaam, Tanzania, or at any other United States visa processing post designated by the Secretary of State as a post at which immigrant visa services were suspended in fiscal year 1998 as a result of events related to the August 7, 1998, bombing of those embassies; or

(ii) had been interviewed for such a visa but refused issuance under section 221(g) of such Act (8 U.S.C. 1201(g)) during fiscal year 1998 at such an embassy or post.

(2) FAMILY MEMBERS.—An alien described in this paragraph is an alien who—

(A) is a family member described in section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d)) of an alien described in paragraph (1); or

(B)(i) is a family member described in such section of an alien described in paragraph (1)(A); and

(ii) meets the requirement of clause (i) or (ii) of paragraph (1)(B).

Approved November 10, 1998.

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LEGISLATIVE HISTORY—H.R. 4821:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 15, considered and passed House.

Oct. 21, considered and passed Senate.



Public Law 105–361  
105th Congress

An Act

Nov. 10, 1998  
[S. 459]

To amend the Native American Programs Act of 1974 to extend certain authorizations, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Native American  
Programs Act  
Amendments of  
1998.  
42 USC 2991  
note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Native American Programs Act Amendments of 1998”.

**SEC. 2. AUTHORIZATIONS OF CERTAIN APPROPRIATIONS UNDER THE NATIVE AMERICAN PROGRAMS ACT OF 1974.**

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) in subsection (a), by striking “for fiscal years 1992, 1993, 1994, and 1995.” and inserting “for each of fiscal years 1999, 2000, 2001, and 2002.”;

(2) in subsection (c), by striking “for each of the fiscal years 1992, 1993, 1994, 1995, and 1996,” and inserting “for each of fiscal years 1999, 2000, 2001, and 2002.”; and

(3) in subsection (e), by striking “, \$2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997.” and inserting “such sums as may be necessary for each of fiscal years 1999, 2000, 2001, and 2002.”.

**SEC. 3. NATIVE HAWAIIAN REVOLVING LOAN FUND.**

(a) IN GENERAL.—Section 803A of the Native American Programs Act of 1974 (42 U.S.C. 2991b–1) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “award grants” and inserting “award a grant”; and

(ii) by striking “use such grants to establish and carry out” and inserting “use that grant to carry out”; and

(B) in subparagraph (A), by inserting “or loan guarantees” after “make loans”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “loans to a borrower” and inserting “a loan or loan guarantee to a borrower”; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “Loans made” and inserting “Each loan or loan guarantee made”;

(ii) in subparagraph (A), by striking “5 years” and inserting “7 years”; and

(iii) in subparagraph (B), by striking “that is 2 percentage” and all that follows through the end of the subparagraph and inserting “that does not exceed a rate equal to the sum of—

“(I) the most recently published prime rate (as published in the newspapers of general circulation in the State of Hawaii before the date on which the loan is made); and

“(II) 3 percentage points.”; and

(3) in subsection (f)(1), by striking “1992, 1993, and 1994,” and inserting “2000 and 2001.”.

Approved November 10, 1998.

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LEGISLATIVE HISTORY—S. 459:

SENATE REPORTS: No. 105-20 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Sept. 29, considered and passed Senate.

Vol. 144 (1998): Oct. 9, considered and passed House, amended.

Oct. 14, Senate concurred in House amendments.



Public Law 105–362  
105th Congress

An Act

Nov. 10, 1998

[S. 1364]

Federal Reports  
Elimination Act  
of 1998.

To eliminate unnecessary and wasteful Federal reports.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Federal Reports Elimination Act of 1998”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

**TITLE I—DEPARTMENT OF AGRICULTURE**

Sec. 101. Reports eliminated.

**TITLE II—NOAA**

Sec. 201. Reports eliminated.

**TITLE III—EDUCATION**

Sec. 301. Report eliminated.

**TITLE IV—DEPARTMENT OF ENERGY**

Sec. 401. Reports eliminated.

Sec. 402. Reports modified.

**TITLE V—ENVIRONMENTAL PROTECTION AGENCY**

Sec. 501. Reports eliminated.

**TITLE VI—DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Sec. 601. Reports eliminated.

Sec. 602. Reports modified.

**TITLE VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Sec. 701. Reports eliminated.

**TITLE VIII—INDIAN AFFAIRS**

Sec. 801. Reports eliminated.

**TITLE IX—DEPARTMENT OF THE INTERIOR**

Sec. 901. Reports eliminated.

Sec. 902. Reports modified.

**TITLE X—DEPARTMENT OF JUSTICE**

Sec. 1001. Reports eliminated.

**TITLE XI—NASA**

Sec. 1101. Reports eliminated.

**TITLE XII—NUCLEAR REGULATORY COMMISSION**

Sec. 1201. Reports eliminated.

Sec. 1202. Reports modified.

TITLE XIII—OMB AND OPM

Sec. 1301. OMB.

Sec. 1302. OPM.

TITLE XIV—TRADE

Sec. 1401. Reports eliminated.

TITLE XV—DEPARTMENT OF TRANSPORTATION

Sec. 1501. Reports eliminated.

Sec. 1502. Reports modified.

## TITLE I—DEPARTMENT OF AGRICULTURE

### SEC. 101. REPORTS ELIMINATED.

(a) SECONDARY MARKET OPERATIONS.—Section 338(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988(b)) is amended—

- (1) by striking paragraph (4); and
- (2) by redesignating paragraph (5) as paragraph (4).

(b) ESTIMATE OF SECOND PRECEDING MONTH'S EXPENDITURES UNDER FOOD STAMP PROGRAM.—Section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking the third and fourth sentences.

(c) ADVISORY COMMITTEES.—Section 1804 of the Food and Agriculture Act of 1977 (7 U.S.C. 2284) is repealed.

(d) FARMER-TO-CONSUMER DIRECT MARKETING ACT OF 1976.—

(1) IN GENERAL.—Section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) is repealed.

(2) CONFORMING AMENDMENT.—Section 7(a) of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3006(a)) is amended by striking “the provisions of sections 4 and 6” and inserting “section 4”.

(e) AGRICULTURAL RESEARCH AT LAND-GRANT COLLEGES.—Section 1445(g) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(g)) is amended—

- (1) by striking “(1)” after “(g)”; and
- (2) by striking paragraph (2).

(f) FOREIGN OWNERSHIP OF AGRICULTURAL LAND.—Section 5 of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3504) is repealed.

(g) INTERNATIONAL SUGAR AGREEMENT, 1977.—Section 6 of Public Law 96-236 (7 U.S.C. 3606) is repealed.

(h) HOUSING PRESERVATION GRANT PROGRAM.—Section 533 of the Housing Act of 1949 (42 U.S.C. 1490m) is amended by striking subsection (j).

(i) NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION.—Section 17(k) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(k)) is amended—

- (1) by striking paragraph (4); and
- (2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

## TITLE II—NOAA

### SEC. 201. REPORTS ELIMINATED.

(a) REPORT CONCERNING PRICES FOR NAUTICAL AND AERONAUTICAL PRODUCTS.—Section 1307(a)(2)(A) of title 44, United States Code, is amended by striking the last sentence.

(b) REPORT ON NATIONAL SHELLFISH RESEARCH PROGRAM.—Section 308 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (33 U.S.C. 1251 note) is amended—

- (1) by striking subsection (d); and
- (2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

## TITLE III—EDUCATION

### SEC. 301. REPORT ELIMINATED.

106 Stat. 822.

Section 1411 of the Higher Education Amendments of 1992 is repealed.

## TITLE IV—DEPARTMENT OF ENERGY

### SEC. 401. REPORTS ELIMINATED.

(a) REPORT ON RESUMPTION OF PLUTONIUM OPERATIONS AT ROCKY FLATS.—Section 3133 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (105 Stat. 1574) is amended—

- (1) by striking subsections (c) and (d); and
- (2) by redesignating subsection (e) as subsection (c).

(b) ELECTRIC UTILITY PARTICIPATION STUDY.—Section 625 of the Energy Policy Act of 1992 (42 U.S.C. 13295) is repealed.

(c) REPORT ON VIBRATION REDUCTION TECHNOLOGIES.—Section 173(c) of the Energy Policy Act of 1992 (42 U.S.C. 13451 note) is amended—

- (1) by striking subsection (c); and
- (2) by redesignating subsection (d) as subsection (c).

(d) REPORT ON PROCESS-ORIENTED INDUSTRIAL ENERGY EFFICIENCY.—Section 132 of the Energy Policy Act of 1992 (42 U.S.C. 6349) is amended—

- (1) by striking subsection (d); and
- (2) by redesignating subsection (e) as subsection (d).

(e) REPORT ON INDUSTRIAL INSULATION AND AUDIT GUIDELINES.—Section 133 of the Energy Policy Act of 1992 (42 U.S.C. 6350) is amended by striking subsection (c).

(f) REPORT ON THE USE OF ENERGY FUTURES FOR FUEL PURCHASES.—Section 3014 of the Energy Policy Act of 1992 (42 U.S.C. 13552) is amended—

- (1) by striking subsection (b); and
- (2) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(g) REPORT ON IMPLEMENTATION OF THE ALASKA FEDERAL CIVILIAN ENERGY EFFICIENCY SWAP ACT OF 1980.—Section 6 of the Alaska Federal Civilian Energy Efficiency Swap Act of 1980 (40 U.S.C. 795d) is repealed.



**SEC. 402. REPORTS MODIFIED.**

(a) REPORT ON PLAN FOR ELECTRIC MOTOR VEHICLES.—Section 2025(b) of the Energy Policy Act of 1992 (42 U.S.C. 13435(b)) is amended—

(1) in the second sentence of paragraph (1), by striking “annually” and inserting “biennially”; and

(2) in the second sentence of paragraph (4), by striking “Annual” and inserting “Biennial”.

(b) COKE OVEN PRODUCTION TECHNOLOGY STUDY.—Section 112(n)(2)(C) of the Clean Air Act (42 U.S.C. 7412(n)(2)(C)) is amended by striking “The Secretary shall prepare annual reports to Congress on the status of the research program and at the completion of the study” and inserting “On completion of the study, the Secretary shall submit to Congress a report on the results of the study and”.

## **TITLE V—ENVIRONMENTAL PROTECTION AGENCY**

**SEC. 501. REPORTS ELIMINATED.**

(a) REPORT ON EFFECT OF POLLUTION ON ESTUARIES AND ESTUARINE ZONES.—

(1) IN GENERAL.—Section 104(n) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)) is amended—

(A) by striking paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3).

(2) CONFORMING AMENDMENT.—Section 320(k) of the Federal Water Pollution Control Act (33 U.S.C. 1330(k)) is amended by striking “section 104(n)(4)” and inserting “section 104(n)(3)”.

(b) CLEAN LAKES REPORT.—Section 314(a) of the Federal Water Pollution Control Act (33 U.S.C. 1324(a)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(c) REPORT ON NONPOINT SOURCE MANAGEMENT PROGRAMS.—Section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) is amended—

(1) in subsection (i), by striking paragraph (4);

(2) by striking subsection (m); and

(3) by redesignating subsection (n) as subsection (m).

(d) REPORT ON MEASURES TAKEN TO MEET OBJECTIVES OF FEDERAL WATER POLLUTION CONTROL ACT.—

(1) IN GENERAL.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375) is amended—

(A) by striking subsections (a), (b)(2), (c), (d), and (e);

(B) by striking “(b)(1)”; and

(C) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Section 104 of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended—

(i) in subsection (a)(5), by striking “in the report required under subsection (a) of section 516” and inserting “not later than 90 days after the date of convening of each session of Congress”; and

(ii) in the first sentence of subsection (o)(2), by striking “in the report required under subsection (a) of section 516” and inserting “not later than 90 days after the date of convening of each session of Congress”.

(B) The fourth sentence of section 116(b) of the Federal Water Pollution Control Act (33 U.S.C. 1266(b)) is amended by striking “section 616(b) of this Act” and inserting “section 516”.

(C) The last sentence of section 205(a) of the Federal Water Pollution Control Act (33 U.S.C. 1285(a)) is amended by striking “section 516(b)” and inserting “section 516”.

(D) The second sentence of section 210 of the Federal Water Pollution Control Act (33 U.S.C. 1290) is amended by striking “shall be included in the report required under section 516(a) of this Act” and inserting “shall be reported to Congress not later than 90 days after the date of convening of each session of Congress”.

42 USC 6932  
note.

(e) STUDY OF ENVIRONMENTAL PROBLEMS ASSOCIATED WITH IMPROPER DISPOSAL OR REUSE OF OIL.—Section 9 of the Used Oil Recycling Act of 1980 (Public Law 96-463; 94 Stat. 2058) is repealed.

(f) REPORT ON STATE AND LOCAL TRAINING NEEDS AND OBSTACLES TO EMPLOYMENT IN SOLID WASTE MANAGEMENT AND RESOURCE RECOVERY.—Section 7007 of the Solid Waste Disposal Act (42 U.S.C. 6977) is amended by striking subsection (c).

(g) INTERIM REPORT OF NATIONAL ADVISORY COMMISSION ON RESOURCE CONSERVATION AND RECOVERY.—Section 33(a) of the Solid Waste Disposal Act Amendments of 1980 (Public Law 96-482, 94 Stat. 2356; 42 U.S.C. 6981 note) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraph (8) as paragraph (7).

(h) FINAL REPORT ON MEDICAL WASTE MANAGEMENT.—

(1) IN GENERAL.—The Solid Waste Disposal Act is amended—

(A) by striking section 11008 (42 U.S.C. 6992g); and

(B) by redesignating sections 11009 through 11012 (42 U.S.C. 6992h through 6992k) as sections 11008 through 11011, respectively.

(2) CONFORMING AMENDMENTS.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended—

(A) by striking the item relating to section 11008; and

(B) by redesignating the items relating to sections 11009 through 11012 as the items relating to sections 11008 through 11011, respectively.

(i) REPORT ON STATUS OF DEMONSTRATION PROGRAM TO TEST METHODS AND TECHNOLOGIES OF REDUCING OR ELIMINATING RADON GAS.—Section 118(k)(2) of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499; 42 U.S.C. 7401 note) is amended—

(1) by striking subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

## TITLE VI—DEPARTMENT OF HEALTH AND HUMAN SERVICES

### SEC. 601. REPORTS ELIMINATED.

#### (a) AMENDMENTS.—

(1) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended as follows:

(A) Section 402(f) (42 U.S.C. 282(f)) is amended—

(i) in paragraph (1), by inserting “and” at the end;

(ii) in paragraph (2), by striking “; and” and inserting a period; and

(iii) by striking paragraph (3) (relating to annual reports on disease prevention).

(B) Section 408(a) (42 U.S.C. 284c(a)) is amended by striking paragraph (4) (relating to annual reports of the National Institutes of Health on administrative expenses).

(C) Section 430 (42 U.S.C. 285c-4) is amended—

(i) by striking subsection (j) (relating to annual reports of the National Diabetes Advisory Board, the National Digestive Diseases Advisory Board, and the National Kidney and Urologic Diseases Advisory Board); and

(ii) by redesignating subsection (k) as subsection (j).

(D) Section 439 (42 U.S.C. 285d-4) is amended by striking subsection (c) (relating to annual reports by the Arthritis and Musculoskeletal and Skin Diseases Interagency Coordinating Committee).

(E) Section 451 (42 U.S.C. 285g-3) is amended—

(i) in subsection (a), by striking “(a) There” and inserting “There”; and

(ii) by striking subsection (b) (relating to reports by the Associate Director for Prevention of the National Institute of Child Health and Human Development).

(F) Section 494A (42 U.S.C. 289c-1) is amended—

(i) by striking subsection (b) (relating to reports on health services research); and

(ii) by striking “(a)” and all that follows through “The Secretary” and inserting “The Secretary”.

(G) Section 1009 (42 U.S.C. 300a-6a) (relating to plans and reports regarding family planning) is repealed.

(H) Section 2104 (42 U.S.C. 300aa-4) (relating to National Vaccine Program reports) is repealed.

(2) OTHER ACTS.—The following provisions are amended:

(A) Section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (relating to annual reports on the administration of the Radiation Control for Health and Safety program) is repealed.

(B) Section 405 of the Indian Health Care Improvement Act (25 U.S.C. 1645) (relating to the tribal organization demonstration program for direct billing of medicare, medicaid, and other third party payors) is repealed.

(C) Section 1200 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 3509) (relating to the report of the Public Health Service) is repealed.

(D) Section 719 of the Indian Health Care Amendments of 1988 (Public Law 100-713; 102 Stat. 4838) (relating to the impact of the final rule relating to eligibility for health care services of the Indian Health Service) is repealed.

(E) The Alzheimer's Disease and Related Dementias Research Act of 1992 is amended by striking sections 911 and 912 (42 U.S.C. 11211 and 11212) (relating to the establishment and functions of the Council on Alzheimer's Disease).

(F) The International Health Research Act of 1960 (Public Law 86-610) is amended by striking section 5(h).

22 USC 2103.

(b) SOCIAL SECURITY ACT AND RELATED PROVISIONS.—

(1) Section 8403(b) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647; 102 Stat. 3799) is repealed.

(2) Section 4207(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-120) (42 U.S.C. 1395x note) is repealed.

(3) Section 9601(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272; 100 Stat. 222) (42 U.S.C. 1395b note) is repealed.

(4) Section 6003(i) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239; 103 Stat. 2158) (42 U.S.C. 1395ww note) is repealed.

(5) Section 6102(d)(4) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239; 103 Stat. 2185) (42 U.S.C. 1395w-4 note) is repealed.

(6) Section 1882(l)(6) of the Social Security Act (42 U.S.C. 1395ss(l)(6)) is repealed.

(7) Section 4056(d) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203; 101 Stat. 1330-99) (42 U.S.C. 1395l note) (as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360; 102 Stat. 781)) is repealed.

#### SEC. 602. REPORTS MODIFIED.

(a) INDIAN HEALTH.—Subsection (e) of section 513 of the Indian Health Care Improvement Act (25 U.S.C. 1660c(e)) is amended by striking “two years” and inserting “5 years”.

(b) SOCIAL SECURITY ACT.—

(1) Section 4801(e)(17)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-218) (42 U.S.C. 1396r note) is amended by striking “January 1, 1992” and inserting “January 1, 1999”.

(2) Section 4360(f) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-140) (42 U.S.C. 1395b-4) is amended by striking “Not later than 180 days after the date of the enactment of this section” and inserting “Beginning with 1992”.

## TITLE VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### SEC. 701. REPORTS ELIMINATED.

(a) FUNDING RELATING TO EVALUATING AND MONITORING PROGRAMS.—Section 7(r) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)) is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraph (6) as paragraph (5).

(b) STATE AND LOCAL STRATEGIES FOR REMOVAL OF BARRIERS TO AFFORDABLE HOUSING.—Section 1207 of the Housing and Community Development Act of 1992 (42 U.S.C. 12705a note) is repealed.

(c) COMPREHENSIVE REVIEW AND EVALUATION OF HOMELESS ASSISTANCE PROGRAMS.—Section 1409 of the Housing and Community Development Act of 1992 (42 U.S.C. 11361 note) is amended—

(1) by striking “(a) IN GENERAL.—”; and

(2) by striking subsection (b).

(d) NEIGHBORHOOD REDEVELOPMENT PROGRAM.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections

(f) and (g), respectively.

(e) HOMEOWNERSHIP DEMONSTRATION PROGRAM.—Section 132 of the Housing and Community Development Act of 1992 (Public Law 102-550; 106 Stat. 3712) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections

(f) and (g), respectively.

(f) RURAL RENTAL REHABILITATION DEMONSTRATION.—Section 311 of the Housing and Community Development Act of 1987 (42 U.S.C. 1490m note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(g) SUMMARY OF ACTIVITIES UNDER NEW TOWN DEMONSTRATION.—Section 1108 of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended by striking “the following” and all that follows before the period at the end of the section and inserting the following: “a copy of the new town plan of the governing board, upon the approval of that plan under section 1102(d)”.

## TITLE VIII—INDIAN AFFAIRS

### SEC. 801. REPORTS ELIMINATED.

(a) INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION REPORT.—Section 412 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3211) is repealed.

(b) REPORTS UNDER THE INDIAN FINANCING ACT OF 1974.—Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by striking subsection (f).

(c) EDUCATION AMENDMENTS OF 1978.—

(1) REPORT ON DEMONSTRATION PROJECTS.—Section 1121(h) of the Education Amendments of 1978 (25 U.S.C. 2001(h)) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4).

(2) NATIONAL CRITERIA FOR DORMITORY SITUATIONS.—Section 1122(d) of the Education Amendments of 1978 (25 U.S.C. 2002(d)) is amended by striking paragraph (3).

(3) POSITIONS CONTRACTED UNDER GRANTS OF POST-DIFFERENTIAL AUTHORITY IN THE BIA SCHOOLS.—Section 1132(h)(3)(B) of the Education Amendments of 1978 (25 U.S.C. 2012(h)(3)(B)) is amended by striking clause (iv).

(4) REPORT.—Section 1137 of the Education Amendments of 1978 (25 U.S.C. 2017) is amended—

(A) by striking the section designation and heading and inserting the following:

**“SEC. 1137. BIENNIAL REPORT.”;**

and

(B) in the first sentence of subsection (a)—

(i) by striking “annual report” and inserting “biennial report”; and

(ii) by striking “during the year” and inserting “during the 2-year period covered by the report”.

(5) REGULATIONS.—Section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is repealed.

(6) TECHNICAL CORRECTION.—Section 605(b)(2) of the School-to-Work Opportunity Act of 1994 (20 U.S.C. 6235(b)(2)) is amended by striking “(as defined in section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3)))” and inserting “(as defined in section 1146(3) of the Education Amendments of 1978 (25 U.S.C. 2026(3)))”.

(d) TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.—Section 5206 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505) is amended by striking subsection (g).

(e) PUBLIC LAW 96-135.—Section 2 of Public Law 96-135 (25 U.S.C. 472a) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(3) in subsection (d), as so redesignated—

(A) by striking paragraph (2); and

(B) by striking “(1) The Office” and inserting “The Office”.

(f) NATIVE AMERICANS EDUCATIONAL ASSISTANCE ACT.—Section 4 of the Native Americans Educational Assistance Act (25 U.S.C. 2001 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(g) INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—Section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j-1) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) through (o) as subsections (c) through (n), respectively.

## TITLE IX—DEPARTMENT OF THE INTERIOR

### SEC. 901. REPORTS ELIMINATED.

#### (a) PACIFIC YEW ACT.—

(1) REPEAL.—Section 7 of the Pacific Yew Act (16 U.S.C. 4806) is repealed.

(2) CONFORMING AMENDMENT.—Section 8 of such Act (16 U.S.C. 4807) is amended—

(A) by striking “the relevant congressional committees, as listed in section 7,” and inserting “the Committee on Resources and the Committee on Agriculture of the House of Representatives, and the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, and the Committee on Agriculture, Nutrition, and Forestry of the Senate,”; and

(B) by redesignating such section as section 7.

#### (b) SIZE AND CONDITION OF THE TULE ELK HERD IN CALIFORNIA.—

(1) REPEAL.—Section 3 of Public Law 94-389 (16 U.S.C. 673f) is repealed.

(2) REDESIGNATION.—Section 4 of Public Law 94-389 (16 U.S.C. 673g) is redesignated as section 3.

#### (c) WATER QUALITY OF THE SACRAMENTO-SAN JOAQUIN DELTA AND SAN FRANCISCO BAY ESTUARINE SYSTEMS.—Section 4 of Public Law 96-375 (94 Stat. 1506) is amended by striking the second sentence.

#### (d) COLORADO RIVER FLOODWAY MAPS.—

(1) REPEAL OF REQUIREMENTS.—Section 5(b) of the Colorado River Floodway Protection Act (43 U.S.C. 1600c(b)) is amended—

(A) by striking “(b)(1)” and inserting “(b)”;

(B) by striking paragraphs (2) and (3); and

(C) by redesignating clauses (i) and (ii) as paragraphs (1) and (2), respectively.

(2) CONFORMING AMENDMENT.—Section 5(c)(1) of such Act (43 U.S.C. 1600c(c)(1)) is amended by striking “the appropriate officers referred to in paragraph (3) of subsection (b),” and inserting “appropriate chief executive officers of States, counties, municipalities, water districts, Indian tribes, or equivalent jurisdictions in which the Floodway is located,”.

#### (e) CERTIFICATION OF ADEQUATE SOIL SURVEY OF LAND CLASSIFICATION.—

(1) 1953 ACT.—The first section of title I of the Interior Department Appropriation Act, 1953, is amended in the matter under the heading “CONSTRUCTION AND REHABILITATION” under the heading “BUREAU OF RECLAMATION” (66 Stat. 451) by striking “: *Provided further*, That no part of this or any other appropriation” and all that follows through “means of irrigation”.

43 USC 390a  
note.

(2) 1954 ACT.—The first section of title I of the Interior Department Appropriation Act, 1954 (43 U.S.C. 390a; 67 Stat. 266) is amended—

(A) in the matter under the heading “CONSTRUCTION AND REHABILITATION” under the heading “BUREAU OF RECLAMATION”, by striking “: *Provided further*, That no part

of this or any other appropriation” and all that follows through “demonstrated in practice”; and

(B) by striking “Such surveys shall include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows.” (as added by section 10 of the Garrison Diversion Unit Reformulation Act of 1986 (100 Stat. 426)).

(f) CLAIMS SUBMITTED FROM THE TETON DAM FAILURE.—Section 8 of Public Law 94-400 (90 Stat. 1213) is repealed.

(g) STUDY OF THE FEASIBILITY AND SUITABILITY OF ESTABLISHING NIOBRARA-BUFFALO PRAIRIE NATIONAL PARK.—

(1) REPEAL.—Section 8 of the Niobrara Scenic River Designation Act of 1991 (Public Law 102-50; 16 U.S.C. 1a-5 note) is repealed.

(2) REDESIGNATION.—Section 9 of such Act (Public Law 102-50; 105 Stat. 258) is redesignated as section 8.

(h) STUDY OF ROUTE 66.—The Route 66 Study Act of 1990 (Public Law 101-400; 104 Stat. 861) is repealed.

(i) REPORT ON ANTHRACITE MINE WATER CONTROL AND MINE SEALING AND FILLING PROGRAM.—The Act entitled “An Act to provide for the conservation of anthracite coal resources through measures of flood control and anthracite mine drainage, and for other purposes”, approved July 15, 1955, is amended—

(1) by striking section 5 (30 U.S.C. 575); and

(2) by redesignating section 6 (30 U.S.C. 576) as section 5.

(j) AUDIT OF FEDERAL ROYALTY MANAGEMENT SYSTEM.—

(1) IN GENERAL.—Section 302 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1752) is amended—

(A) in subsection (a), by striking “(a)”; and

(B) by striking subsection (b).

(2) CONFORMING AMENDMENT.—Section 304(c) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1753(c)) is amended by striking “Except as expressly provided in subsection 302(b), nothing” and inserting “Nothing”.

(k) REPORT ON BIDDING OPTIONS FOR OIL AND GAS LEASES ON OUTER CONTINENTAL SHELF LAND.—Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) is amended by striking paragraph (9).

(l) REPORTS ON OUTER CONTINENTAL SHELF LEASING AND PRODUCTION PROGRAM AND PROMOTION OF COMPETITION IN LEASING.—

(1) IN GENERAL.—Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1343) is repealed.

(2) CONFORMING AMENDMENT.—Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended by striking subsection (g).

(m) AUDIT OF FINANCIAL REPORT OF GOVERNOR OF GUAM.—The sixth undesignated paragraph of section 6 of the Organic Act of Guam (48 U.S.C. 1422) is amended by striking the third and fifth sentences.

(n) AUDIT OF FINANCIAL REPORT OF GOVERNOR OF THE VIRGIN ISLANDS.—The fourth undesignated paragraph of section 11 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1591) is amended by striking the third and fifth sentences.



(o) AUDIT OF FINANCIAL REPORT OF GOVERNOR OF AMERICAN SAMOA.—Section 501(a) of Public Law 96-205 (48 U.S.C. 1668(a)) is amended by striking the third and fifth sentences.

(p) AUDIT OF FINANCIAL REPORT OF CHIEF EXECUTIVES OF CERTAIN TERRITORIES.—Section 5 of Public Law 92-257 (48 U.S.C. 1692) is amended by striking the third and fifth sentences.

(q) REPORT ON ACTIVITIES UNDER HELIUM ACT.—Section 16 of the Helium Act (50 U.S.C. 167n) is repealed.

(r) REPORT ON CONTRACT AWARDS MADE TO FACILITATE NATIONAL DEFENSE.—

(1) IN GENERAL.—Public Law 85-804 is amended—

(A) by striking section 4 (50 U.S.C. 1434); and

(B) by redesignating section 5 (50 U.S.C. 1435) as section 4.

(2) CONFORMING AMENDMENT.—Section 502(a)(6) of the National Emergencies Act (50 U.S.C. 1651(a)(6)) is amended by striking “1431-1435” and inserting “1431 et seq.”.

#### **SEC. 902. REPORTS MODIFIED.**

(a) RECOMMENDATIONS ON PROSPECTIVE TIMBER SALES.—The first sentence of section 318(h) of Public Law 101-121 (103 Stat. 750) is amended by striking “a monthly basis” and inserting “an annual basis”.

(b) REPORT ON NATIONWIDE GEOLOGIC MAPPING PROGRAM.—Section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g) is amended—

(1) in the section heading, by striking “ANNUAL” and inserting “BIENNIAL”; and

(2) in the first sentence—

(A) by striking “each fiscal year, submit an annual report” and inserting “each second fiscal year, submit a biennial report”; and

(B) by striking “preceding fiscal year” and inserting “2 preceding fiscal years”.

## **TITLE X—DEPARTMENT OF JUSTICE**

#### **SEC. 1001. REPORTS ELIMINATED.**

(a) EMERGENCY LAW ENFORCEMENT ASSISTANCE REPORT.—Section 609U of the Justice Assistance Act of 1984 (42 U.S.C. 10509) is repealed.

(b) DIVERSION CONTROL FEE ACCOUNT REPORT.—Section 111(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (21 U.S.C. 886a) is amended by striking paragraph (5).

(c) DAMAGE SETTLEMENT REPORT.—Section 3724 of title 31, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(d) BANKING LAW OFFENSE REPORT.—Section 8(u) of the Federal Deposit Insurance Act (12 U.S.C. 1818(u)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

(e) BANKING LAW OFFENSE REWARDS REPORT.—Section 2571 of the Crime Control Act of 1990 (12 U.S.C. 4211) is repealed.

(f) BANKING INSTITUTIONS SOUNDNESS REPORT.—Section 1542 of the Housing and Community Development Act of 1992 (12 U.S.C. 1831m-1) is amended by striking subsection (e).

## TITLE XI—NASA

### SEC. 1101. REPORTS ELIMINATED.

(a) ACTIVITIES OF THE NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM.—Section 212 of the National Space Grant College and Fellowship Act (42 U.S.C. 2486j) is repealed.

(b) NOTIFICATION OF PROCUREMENT OF LONG-LEAD MATERIALS FOR SOLID ROCKET MONITORS ON OTHER THAN COOPERATIVE BASIS.—Section 121 of the National Aeronautics and Space Administration Authorization Act of 1988 (101 Stat. 869) is amended by striking subsection (d).

(c) CAPITAL DEVELOPMENT PLAN FOR SPACE STATION PROGRAM.—Section 107 of the National Aeronautics and Space Administration Authorization Act of 1988 (101 Stat. 864) is repealed.

(d) NOTICE OF MODIFICATION OF NASA.—

(1) 1985 ACT.—Section 103 of the National Aeronautics and Space Administration Authorization Act, 1985 (98 Stat. 424) is repealed.

(2) 1986 ACT.—Section 103 of the National Aeronautics and Space Administration Authorization Act of 1986 (99 Stat. 1014) is repealed.

(e) EXPENDITURES EXCEEDING ASTRONOMY PROGRAM.—Section 104 of the National Aeronautics and Space Administration Authorization Act, 1984 (97 Stat. 284) is repealed.

(f) PROPOSED DECISION OR POLICY CONCERNING COMMERCIALIZATION.—Section 110 of the National Aeronautics and Space Administration Authorization Act, 1984 (42 U.S.C. 2465) is repealed.

(g) JOINT FORMER SOVIET UNION STUDIES IN BIOMEDICAL RESEARCH.—Section 605 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (42 U.S.C. 2487d) is repealed.

## TITLE XII—NUCLEAR REGULATORY COMMISSION

### SEC. 1201. REPORTS ELIMINATED.

(a) REPORT OF ADVISORY COMMITTEE ON REACTOR SAFEGUARDS.—Section 29 of the Atomic Energy Act of 1954 (42 U.S.C. 2039) is amended by striking the sixth and seventh sentences.

(b) REPORT ON THE PRICE-ANDERSON ACT.—Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended—

- (1) by striking “(1)”; and
- (2) by striking paragraph (2).

### SEC. 1202. REPORTS MODIFIED.

Section 1701(b)(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(b)(1)) is amended—

42 USC 2451  
note.

(1) by striking “The Nuclear” and inserting “Not later than the date on which a certificate of compliance is issued under subsection (c), the Nuclear”; and

(2) by striking “at least annually”.

## **TITLE XIII—OMB AND OPM**

### **SEC. 1301. OMB.**

(a) **FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT OF 1990.**—The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101-410; 28 U.S.C. 2461 note) is amended by—

(1) striking section 6; and

(2) redesignating section 7 as section 6.

(b) **VOLUNTARY CONTRIBUTIONS BY THE UNITED STATES TO INTERNATIONAL ORGANIZATIONS.**—Section 306 of the Foreign Assistance Act of 1961 (22 U.S.C. 2226) is amended by—

(1) striking “(a) The” and inserting “The”; and

(2) striking subsection (b).

(c) **PROMPT PAYMENT ACT.**—

(1) **IN GENERAL.**—Section 3906 of title 31, United States Code, is repealed.

(2) **TECHNICAL AND CONFORMING AMENDMENTS.**—

(A) Section 3901(c) of such title is amended by striking “, except section 3906 of this title,”.

(B) Section 3902(b) of such title is amended by striking “Except as provided in section 3906 of this title, the” and inserting “The”.

(C) The table of sections for chapter 39 of such title is amended by striking the item relating to section 3906.

(d) **TITLE 5.**—Section 552a(u) of title 5, United States Code, is amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraph (7) as paragraph (6), and in that redesignated paragraph by striking “paragraphs (3)(D) and (6)” and inserting “paragraph (3)(D)”.

### **SEC. 1302. OPM.**

(a) **ADMINISTRATIVE LAW JUDGES.**—Section 1305 of title 5, United States Code, is amended by striking “require reports by agencies, issue reports, including an annual report to Congress,”.

(b) **FEDERAL EMPLOYEE RETIREMENT AND BENEFITS.**—

(1) **IN GENERAL.**—Section 1308 of title 5, United States Code, is repealed.

(2) **TECHNICAL AND CONFORMING AMENDMENTS.**—(A) The table of sections for chapter 13 of title 5, United States Code, is amended by striking the item relating to section 1308.

(B) Chapter 47 of title 5, United States Code, is amended—

(i) by striking section 4705 and redesignating section 4706 as section 4705; and

(ii) in the analysis at the beginning of the chapter by striking the items relating to sections 4705 and 4706 and inserting the following:

“Sec. 4705. Regulations.”.

(c) **CIVIL SERVICE RETIREMENT AND DISABILITY FUND.**—Section 8348(g) of title 5, United States Code, is amended by striking the third sentence.

(d) **PLACEMENT OF NON-INDIAN EMPLOYEES.**—Section 2(e) of the Act of December 5, 1979 (25 U.S.C. 472a(e); Public Law 96-135; 93 Stat. 1058) is amended—

- (1) by striking “(1)” after “(e)”; and
- (2) by striking paragraph (2).

## TITLE XIV—TRADE

### SEC. 1401. REPORTS ELIMINATED.

(a) **COFFEE TRADE.**—

(1) Section 5 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356n) is repealed.

(2) Section 4 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356m) is repealed.

(b) **TRADE ACT OF 1974.**—

(1) Section 126 of the Trade Act of 1974 (19 U.S.C. 2136(c)) is amended—

(A) by repealing subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2) Section 411 of the Trade Act of 1974 (19 U.S.C. 2441), and the item relating to that section in the table of contents for that Act, are repealed.

(c) **URUGUAY ROUND AGREEMENTS ACT.**—Section 424 of the Uruguay Round Agreements Act (19 U.S.C. 3622), and the item relating to that section in the table of contents contained in section 1(b) of that Act, are repealed.

(d) **RESTRICTIONS ON EXPENDITURES.**—Section 109(c)(3) of Public Law 100-202 (101 Stat. 1329-435; 41 U.S.C. 10b note) is amended—

(1) in subparagraph (A) by striking “and” after the semicolon;

(2) in subparagraph (B) by striking “; and” and inserting a period; and

(3) by repealing subparagraph (C).

## TITLE XV—DEPARTMENT OF TRANSPORTATION

### SEC. 1501. REPORTS ELIMINATED.

(a) **REPORTS ABOUT GOVERNMENT PENSION PLANS.**—Section 9503 of title 31, United States Code, is amended by striking subsection (a).

(b) **TRANSPORTATION AIR QUALITY REPORT.**—Section 108(f) of the Clean Air Act (42 U.S.C. 7408(f)) is amended by striking paragraphs (3) and (4).

23 USC 202 note. (c) **INDIAN RESERVATION ROADS STUDY.**—Section 1042 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1993) is repealed.

23 USC 104 note. (d) **STUDY OF IMPACT OF CLIMATIC CONDITIONS.**—Section 1101-1102 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027) is repealed.

(e) **BUMPER STANDARDS.**—

(1) **IN GENERAL.**—Section 32510 of title 49, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 325 of title 49, United States Code, is amended by striking the item relating to section 32510.

**SEC. 1502. REPORTS MODIFIED.**

(a) COAST GUARD REPORT ON MAJOR ACQUISITION PROJECTS.—Section 337 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (106 Stat. 1551) is amended—

(1) by striking “quarterly” and inserting “biannual”; and

(2) in the last proviso, by striking “preceding quarter” and inserting “preceding 6-month period”.

(b) AVIATION SECURITY REPORT.—Section 44938 of title 49, United States Code, is amended—

(1) in the second sentence of subsection (a)—

(A) by striking “annual” and inserting “biennial”; and

(B) by inserting “in each year the Administrator submits the biennial report” before the comma;

(2) in subsection (b) by striking “annually” and inserting “biennially”; and

(3) by striking subsection (c).

(c) REPORT ON PUBLIC TRANSPORTATION.—Section 308(e)(1) of title 49, United States Code, is amended by striking “submit a report to Congress in January of each even-numbered year” and inserting “submit to Congress in March 1998, and in March of each even-numbered year thereafter, a report”.

(d) NATIONAL BALLAST INFORMATION CLEARINGHOUSE.—Section 1102(f)(2) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4712(f)(2)) is amended by striking “biannual” and inserting “biennial”.

Approved November 10, 1998.

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**LEGISLATIVE HISTORY—S. 1364:**

SENATE REPORTS: No. 105-187 (Comm. on Governmental Affairs).  
CONGRESSIONAL RECORD, Vol. 144 (1998):

June 10, considered and passed Senate.

Oct. 13, considered and passed House, amended.

Oct. 21, Senate concurred in House amendment with an amendment. House concurred in Senate amendment.

Public Law 105-363  
105th Congress

An Act

Nov. 10, 1998  
[S. 1718]

To amend the Weir Farm National Historic Site Establishment Act of 1990 to authorize the acquisition of additional acreage for the historic site to permit the development of visitor and administrative facilities and to authorize the appropriation of additional amounts for the acquisition of real and personal property, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. WEIR FARM NATIONAL HISTORIC SITE, CONNECTICUT.**

(a) ACQUISITION OF LAND FOR VISITOR AND ADMINISTRATIVE FACILITIES.—Section 4 of the Weir Farm National Historic Site Establishment Act of 1990 (16 U.S.C. 461 note; Public Law 101-485; 104 Stat. 1171) is amended by adding at the end the following:

“(d) ACQUISITION OF LAND FOR VISITOR AND ADMINISTRATIVE FACILITIES; LIMITATIONS.—

“(1) ACQUISITION.—

“(A) IN GENERAL.—To preserve and maintain the historic setting and character of the historic site, the Secretary may acquire not more than 15 additional acres for the development of visitor and administrative facilities for the historic site.

“(B) PROXIMITY.—The property acquired under this subsection shall be contiguous to or in close proximity to the property described in subsection (b).

“(C) MANAGEMENT.—The acquired property shall be included within the boundary of the historic site and shall be managed and maintained as part of the historic site.

“(2) DEVELOPMENT.—The Secretary shall keep development of the property acquired under paragraph (1) to a minimum so that the character of the acquired property will be similar to the natural and undeveloped landscape of the property described in subsection (b).

“(3) AGREEMENTS.—Prior to and as a prerequisite to any development of visitor and administrative facilities on the property acquired under paragraph (1), the Secretary shall enter into one or more agreements with the appropriate zoning authority of the town of Ridgefield, Connecticut, and the town of Wilton, Connecticut, for the purposes of—

“(A) developing the parking, visitor, and administrative facilities for the historic site; and

“(B) managing bus traffic to the historic site and limiting parking for large tour buses to an offsite location.”.

(b) INCREASE IN MAXIMUM ACQUISITION AUTHORITY.—Section 7 of the Weir Farm National Historic Site Act of 1990 (16 U.S.C.

461 note; Public Law 101-485; 104 Stat. 1173) is amended by striking “\$1,500,000” and inserting “\$4,000,000”.

**SEC. 2. ACQUISITION AND MANAGEMENT OF WILCOX RANCH, UTAH, FOR WILDLIFE HABITAT.**

(a) FINDINGS.—Congress finds the following:

(1) The lands within the Wilcox Ranch in eastern Utah are prime habitat for wild turkeys, eagles, hawks, bears, cougars, elk, deer, bighorn sheep, and many other important species, and Range Creek within the Wilcox Ranch could become a blue ribbon trout stream.

(2) These lands also contain a great deal of undisturbed cultural and archeological resources, including ancient pottery, arrowheads, and rock homes constructed centuries ago.

(3) These lands, while comprising only approximately 3,800 acres, control access to over 75,000 acres of Federal lands under the jurisdiction of the Bureau of Land Management.

(4) Acquisition of the Wilcox Ranch would benefit the people of the United States by preserving and enhancing important wildlife habitat, ensuring access to lands of the Bureau of Land Management, and protecting priceless archeological and cultural resources.

(5) These lands, if acquired by the United States, can be managed by the Utah Division of Wildlife Resources at no additional expense to the Federal Government.

(b) ACQUISITION OF LANDS.—As soon as practicable, after the date of the enactment of this Act, the Secretary of the Interior shall acquire, through purchase, the Wilcox Ranch located in Emery County, in eastern Utah.

(c) FUNDS FOR PURCHASE.—The Secretary of the Interior is authorized to use not more than \$5,000,000 from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5) for the purchase of the Wilcox Ranch under subsection (b).

(d) MANAGEMENT OF LANDS.—Upon payment by the State of Utah of one-half of the purchase price of the Wilcox Ranch to the United States, or transfer by the State of Utah of lands of the same such value to the United States, the Secretary of the Interior shall transfer to the State of Utah all right, title, and interest of the United States in and to those Wilcox Ranch lands acquired under subsection (b) for management by the State Division of Wildlife Resources for wildlife habitat and public access.

**SEC. 3. LAND CONVEYANCE, YAVAPAI COUNTY, ARIZONA.**

(a) CONVEYANCE REQUIRED.—Notwithstanding any other provision of law, the Secretary of the Interior shall convey, without consideration and for educational related purposes, to Embry-Riddle Aeronautical University, Florida, a nonprofit corporation authorized to do business in the State of Arizona, all right, title, and interest of the United States, if any, to a parcel of real property consisting of approximately 16 acres in Yavapai County, Arizona, which is more fully described as the parcel lying east of the east right-of-way boundary of the Willow Creek Road in the southwest one-quarter of the southwest one-quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of section 2, township 14 north, range 2 west, Gila and Salt River meridian.

(b) TERMS OF CONVEYANCE.—Subject to the limitation that the land to be conveyed is to be used only for educational related purposes, the conveyance under subsection (a) is to be made without

any other conditions, limitations, reservations, restrictions, or terms by the United States. If the Secretary of the Interior determines that the conveyed lands are not being used for educational related purposes, at the option of the United States, the lands shall revert to the United States.

16 USC 47-1  
note.

**SEC. 4. LAND EXCHANGE, EL PORTAL ADMINISTRATIVE SITE, CALIFORNIA.**

(a) **AUTHORIZATION OF EXCHANGE.**—If the non-Federal lands described in subsection (b) are conveyed to the United States in accordance with this section, the Secretary of the Interior shall convey to the party conveying the non-Federal lands all right, title, and interest of the United States in and to a parcel of land consisting of approximately 8 acres administered by the Department of Interior as part of the El Portal Administrative Site in the State of California, as generally depicted on the map entitled “El Portal Administrative Site Land Exchange”, dated June 1998.

(b) **RECEIPT OF NON-FEDERAL LANDS.**—The parcel of non-Federal lands referred to in subsection (a) consists of approximately 8 acres, known as the Yosemite View parcel, which is located adjacent to the El Portal Administrative Site, as generally depicted on the map referred to in subsection (a). Title to the non-Federal lands must be acceptable to the Secretary of the Interior, and the conveyance shall be subject to such valid existing rights of record as may be acceptable to the Secretary. The parcel shall conform with the title approval standards applicable to Federal land acquisitions.

(c) **EQUALIZATION OF VALUES.**—If the value of the Federal land and non-Federal lands to be exchanged under this section are not equal in value, the difference in value shall be equalized through a cash payment or the provision of goods or services as agreed upon by the Secretary and the party conveying the non-Federal lands.

(d) **APPLICABILITY OF OTHER LAWS.**—Except as otherwise provided in this section, the Secretary of the Interior shall process the land exchange authorized by this section in the manner provided in part 2200 of title 43, Code of Federal Regulations, as in effect on the date of the enactment of this subtitle.

(e) **BOUNDARY ADJUSTMENT.**—Upon completion of the land exchange, the Secretary shall adjust the boundaries of the El Portal Administrative Site as necessary to reflect the exchange. Lands acquired by the Secretary under this section shall be administered as part of the El Portal Administrative Site.

(f) **MAP.**—The map referred to in subsection (a) shall be on file and available for inspection in appropriate offices of the Department of the Interior.



(g) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary of the Interior may require such additional terms and conditions in connection with the land exchange under this section as the Secretary considers appropriate to protect the interests of the United States.

Approved November 10, 1998.

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**LEGISLATIVE HISTORY—S. 1718:**

SENATE REPORTS: No. 105-328 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 2, considered and passed Senate.

Oct. 10, considered and passed House, amended.

Oct. 14, Senate concurred in House amendment.



Public Law 105–364  
105th Congress

An Act

Nov. 10, 1998  
[S. 2241]

To provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes.

16 USC 461 note  
[table].

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. GENERAL AUTHORITY.**

The Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized to acquire, by purchase with donated or appropriated funds, by donation, or otherwise, lands and interests in lands located in Hyde Park, New York, that were owned by Franklin D. Roosevelt or his family at the time of his death as depicted on the map entitled “F.D. Roosevelt Property Entire Park” dated July 26, 1962, and numbered FDR–NHS 3008. Such map shall be on file for inspection in the appropriate offices of the National Park Service.

**SEC. 2. ADMINISTRATION.**

Lands and interests therein acquired by the Secretary shall be added to, and administered by the Secretary as part of the Home of Franklin D. Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site, as appropriate.

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved November 10, 1998.

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**LEGISLATIVE HISTORY—S. 2241:**

SENATE REPORTS: No. 105–400 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 7, considered and passed Senate.

Oct. 15, considered and passed House.



Public Law 105–365  
105th Congress

An Act

To amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana.

Nov. 10, 1998  
[S. 2272]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Grant-Kohrs Ranch National Historic Site Boundary Adjustment Act of 1998”.

**SEC. 2. ADDITIONS TO GRANT-KOHR'S RANCH NATIONAL HISTORIC SITE.**

The Act entitled “An Act to authorize the establishment of the Grant-Kohrs Ranch National Historic Site in the State of Montana, and for other purposes”, approved August 25, 1972 (86 Stat. 632), is amended by striking the last sentence in the first section and inserting: “The boundary of the National Historic Site shall be as generally described on a map entitled, “Boundary Map, Grant-Kohrs Ranch National Historic Site”, numbered 80030–B, and dated January, 1998, which shall be on file and available for public inspection in the local and Washington, District of Columbia, offices of the National Park Service, Department of the Interior.”.

Grant-Kohrs  
Ranch National  
Historic Site  
Boundary  
Adjustment Act  
of 1998.  
16 USC 461 note  
[table].

Approved November 10, 1998.

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**LEGISLATIVE HISTORY—S. 2272:**

SENATE REPORTS: No. 105–324 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 2, considered and passed Senate.

Oct. 15, considered and passed House.



Public Law 105–366  
105th Congress

An Act

Nov. 10, 1998  
[S. 2375]

International  
Anti-Bribery and  
Fair Competition  
Act of 1998.  
15 USC 78a note.

To amend the Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act of 1977 to improve the competitiveness of American business and promote foreign commerce, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “International Anti-Bribery and Fair Competition Act of 1998”.

**SEC. 2. AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT GOVERNING ISSUERS.**

(a) PROHIBITED CONDUCT.—Section 30A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd–1(a)) is amended—

(1) by amending subparagraph (A) of paragraph (1) to read as follows:

“(A)(i) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage; or”;

(2) by amending subparagraph (A) of paragraph (2) to read as follows:

“(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate, or (iii) securing any improper advantage; or”;

(3) by amending subparagraph (A) of paragraph (3) to read as follows:

“(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or (iii) securing any improper advantage; or”.

(b) OFFICIALS OF INTERNATIONAL ORGANIZATIONS.—Paragraph (1) of section 30A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78dd–1(f)(1)) is amended to read as follows:

“(1)(A) The term ‘foreign official’ means any officer or employee of a foreign government or any department, agency,

or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization.

“(B) For purposes of subparagraph (A), the term ‘public international organization’ means—

“(i) an organization that is designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288); or

“(ii) any other international organization that is designated by the President by Executive order for the purposes of this section, effective as of the date of publication of such order in the Federal Register.”.

(c) ALTERNATIVE JURISDICTION OVER ACTS OUTSIDE THE UNITED STATES.—Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) is amended—

(1) by adding at the end the following:

“(g) ALTERNATIVE JURISDICTION.—

“(1) It shall also be unlawful for any issuer organized under the laws of the United States, or a State, territory, possession, or commonwealth of the United States or a political subdivision thereof and which has a class of securities registered pursuant to section 12 of this title or which is required to file reports under section 15(d) of this title, or for any United States person that is an officer, director, employee, or agent of such issuer or a stockholder thereof acting on behalf of such issuer, to corruptly do any act outside the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to any of the persons or entities set forth in paragraphs (1), (2), and (3) of subsection (a) of this section for the purposes set forth therein, irrespective of whether such issuer or such officer, director, employee, agent, or stockholder makes use of the mails or any means or instrumentality of interstate commerce in furtherance of such offer, gift, payment, promise, or authorization.

“(2) As used in this subsection, the term ‘United States person’ means a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) or any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof.”;

(2) in subsection (b), by striking “Subsection (a)” and inserting “Subsections (a) and (g)”; and

(3) in subsection (c), by striking “subsection (a)” and inserting “subsection (a) or (g)”.

(d) PENALTIES.—Section 32(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(c)) is amended—

(1) in paragraph (1)(A), by striking “section 30A(a)” and inserting “subsection (a) or (g) of section 30A”; and

(2) in paragraph (1)(B), by striking “section 30A(a)” and inserting “subsection (a) or (g) of section 30A”; and

(3) by amending paragraph (2) to read as follows:

“(2)(A) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who willfully violates subsection (a) or (g) of section 30A of this title shall be fined not more than \$100,000, or imprisoned not more than 5 years, or both.

“(B) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who violates subsection (a) or (g) of section 30A of this title shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Commission.”.

**SEC. 3. AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT GOVERNING DOMESTIC CONCERNS.**

(a) **PROHIBITED CONDUCT.**—Section 104(a) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)) is amended—

(1) by amending subparagraph (A) of paragraph (1) to read as follows:

“(A)(i) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage; or”;

(2) by amending subparagraph (A) of paragraph (2) to read as follows:

“(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate, or (iii) securing any improper advantage; or”; and

(3) by amending subparagraph (A) of paragraph (3) to read as follows:

“(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or (iii) securing any improper advantage; or”.

(b) **PENALTIES.**—Section 104(g) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(g)) is amended—

(1) by amending subsection (g)(1) to read as follows:

“(g)(1)(A) **PENALTIES.**—Any domestic concern that is not a natural person and that violates subsection (a) or (i) of this section shall be fined not more than \$2,000,000.

“(B) Any domestic concern that is not a natural person and that violates subsection (a) or (i) of this section shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Attorney General.”; and

(2) by amending paragraph (2) to read as follows:

“(2)(A) Any natural person that is an officer, director, employee, or agent of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) or (i) of this section shall be fined not more than \$100,000 or imprisoned not more than 5 years, or both.

“(B) Any natural person that is an officer, director, employee, or agent of a domestic concern, or stockholder acting on behalf

of such domestic concern, who violates subsection (a) or (i) of this section shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Attorney General.”.

(c) OFFICIALS OF INTERNATIONAL ORGANIZATIONS.—Paragraph (2) of section 104(h) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(h)) is amended to read as follows:

“(2)(A) The term ‘foreign official’ means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization.

“(B) For purposes of subparagraph (A), the term ‘public international organization’ means—

“(i) an organization that is designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288); or

“(ii) any other international organization that is designated by the President by Executive order for the purposes of this section, effective as of the date of publication of such order in the Federal Register.”.

(d) ALTERNATIVE JURISDICTION OVER ACTS OUTSIDE THE UNITED STATES.—Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is further amended—

(1) by adding at the end the following:

“(i) ALTERNATIVE JURISDICTION.—

“(1) It shall also be unlawful for any United States person to corruptly do any act outside the United States in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to any of the persons or entities set forth in paragraphs (1), (2), and (3) of subsection (a), for the purposes set forth therein, irrespective of whether such United States person makes use of the mails or any means or instrumentality of interstate commerce in furtherance of such offer, gift, payment, promise, or authorization.

“(2) As used in this subsection, the term ‘United States person’ means a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) or any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the laws of the United States or any State, territory, possession, or commonwealth of the United States, or any political subdivision thereof.”;

(2) in subsection (b), by striking “Subsection (a)” and inserting “Subsections (a) and (i)”;

(3) in subsection (c), by striking “subsection (a)” and inserting “subsection (a) or (i)”; and

(4) in subsection (d)(1), by striking “subsection (a)” and inserting “subsection (a) or (i)”.

(e) TECHNICAL AMENDMENT.—Section 104(h)(4)(A) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(h)(4)(A)) is amended by striking “For purposes of paragraph (1), the” and inserting “The”.

**SEC. 4. AMENDMENTS TO THE FOREIGN CORRUPT PRACTICES ACT GOVERNING OTHER PERSONS.**

Title I of the Foreign Corrupt Practices Act of 1977 is amended by inserting after section 104 (15 U.S.C. 78dd-2) the following new section:

15 USC 78dd-3. **“SEC. 104A. PROHIBITED FOREIGN TRADE PRACTICES BY PERSONS OTHER THAN ISSUERS OR DOMESTIC CONCERNS.**

“(a) PROHIBITION.—It shall be unlawful for any person other than an issuer that is subject to section 30A of the Securities Exchange Act of 1934 or a domestic concern (as defined in section 104 of this Act), or for any officer, director, employee, or agent of such person or any stockholder thereof acting on behalf of such person, while in the territory of the United States, corruptly to make use of the mails or any means or instrumentality of interstate commerce or to do any other act in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

“(1) any foreign official for purposes of—

“(A)(i) influencing any act or decision of such foreign official in his official capacity, (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or (iii) securing any improper advantage; or

“(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such person in obtaining or retaining business for or with, or directing business to, any person;

“(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

“(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate, or (iii) securing any improper advantage; or

“(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such person in obtaining or retaining business for or with, or directing business to, any person; or

“(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

“(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or (iii) securing any improper advantage; or



“(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such person in obtaining or retaining business for or with, or directing business to, any person.

“(b) EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.—Subsection (a) of this section shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

“(c) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to actions under subsection (a) of this section that—

“(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official’s, political party’s, party official’s, or candidate’s country; or

“(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

“(A) the promotion, demonstration, or explanation of products or services; or

“(B) the execution or performance of a contract with a foreign government or agency thereof.

“(d) INJUNCTIVE RELIEF.—

“(1) When it appears to the Attorney General that any person to which this section applies, or officer, director, employee, agent, or stockholder thereof, is engaged, or about to engage, in any act or practice constituting a violation of subsection (a) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent injunction or a temporary restraining order shall be granted without bond.

“(2) For the purpose of any civil investigation which, in the opinion of the Attorney General, is necessary and proper to enforce this section, the Attorney General or his designee are empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Attorney General deems relevant or material to such investigation. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

“(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the

Attorney General or his designee, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

“(4) All process in any such case may be served in the judicial district in which such person resides or may be found. The Attorney General may make such rules relating to civil investigations as may be necessary or appropriate to implement the provisions of this subsection.

“(e) PENALTIES.—

“(1)(A) Any juridical person that violates subsection (a) of this section shall be fined not more than \$2,000,000.

“(B) Any juridical person that violates subsection (a) of this section shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Attorney General.

“(2)(A) Any natural person who willfully violates subsection (a) of this section shall be fined not more than \$100,000 or imprisoned not more than 5 years, or both.

“(B) Any natural person who violates subsection (a) of this section shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Attorney General.

“(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of a person, such fine may not be paid, directly or indirectly, by such person.

“(f) DEFINITIONS.—For purposes of this section:

“(1) The term ‘person’, when referring to an offender, means any natural person other than a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) or any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship organized under the law of a foreign nation or a political subdivision thereof.

“(2)(A) The term ‘foreign official’ means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization.

“(B) For purposes of subparagraph (A), the term ‘public international organization’ means—

“(i) an organization that is designated by Executive order pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288); or

“(ii) any other international organization that is designated by the President by Executive order for the purposes of this section, effective as of the date of publication of such order in the Federal Register.

“(3)(A) A person’s state of mind is knowing, with respect to conduct, a circumstance or a result if—

“(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

“(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

“(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

“(4)(A) The term ‘routine governmental action’ means only an action which is ordinarily and commonly performed by a foreign official in—

“(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

“(ii) processing governmental papers, such as visas and work orders;

“(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

“(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

“(v) actions of a similar nature.

“(B) The term ‘routine governmental action’ does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decision-making process to encourage a decision to award new business to or continue business with a particular party.

“(5) The term ‘interstate commerce’ means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State or between any State and any place or ship outside thereof, and such term includes the intrastate use of—

“(A) a telephone or other interstate means of communication, or

“(B) any other interstate instrumentality.”

#### **SEC. 5. TREATMENT OF INTERNATIONAL ORGANIZATIONS PROVIDING COMMERCIAL COMMUNICATIONS SERVICES.**

(a) DEFINITION.—For purposes of this section:

(1) INTERNATIONAL ORGANIZATION PROVIDING COMMERCIAL COMMUNICATIONS SERVICES.—The term “international organization providing commercial communications services” means—

(A) the International Telecommunications Satellite Organization established pursuant to the Agreement Relating to the International Telecommunications Satellite Organization; and

(B) the International Mobile Satellite Organization established pursuant to the Convention on the International Maritime Satellite Organization.

(2) PRO-COMPETITIVE PRIVATIZATION.—The term “pro-competitive privatization” means a privatization that the President determines to be consistent with the United States policy of obtaining full and open competition to such organizations

President.  
15 USC 78dd-1  
note.

(or their successors), and nondiscriminatory market access, in the provision of satellite services.

(b) TREATMENT AS PUBLIC INTERNATIONAL ORGANIZATIONS.—

(1) TREATMENT.—An international organization providing commercial communications services shall be treated as a public international organization for purposes of section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) until such time as the President certifies to the Committee on Commerce of the House of Representatives and the Committees on Banking, Housing and Urban Affairs and Commerce, Science, and Transportation that such international organization providing commercial communications services has achieved a pro-competitive privatization.

(2) LIMITATION ON EFFECT OF TREATMENT.—The requirement for a certification under paragraph (1), and any certification made under such paragraph, shall not be construed to affect the administration by the Federal Communications Commission of the Communications Act of 1934 in authorizing the provision of services to, from, or within the United States over space segment of the international satellite organizations, or the privatized affiliates or successors thereof.

(c) EXTENSION OF LEGAL PROCESS.—

(1) IN GENERAL.—Except as required by international agreements to which the United States is a party, an international organization providing commercial communications services, its officials and employees, and its records shall not be accorded immunity from suit or legal process for any act or omission taken in connection with such organization's capacity as a provider, directly or indirectly, of commercial telecommunications services to, from, or within the United States.

(2) NO EFFECT ON PERSONAL LIABILITY.—Paragraph (1) shall not affect any immunity from personal liability of any individual who is an official or employee of an international organization providing commercial communications services.

(3) EFFECTIVE DATE.—This subsection shall take effect on May 1, 1999.

(d) ELIMINATION OR LIMITATION OF EXCEPTIONS.—

(1) ACTION REQUIRED.—The President shall, in a manner that is consistent with requirements in international agreements to which the United States is a party, expeditiously take all appropriate actions necessary to eliminate or to reduce substantially all privileges and immunities that are accorded to an international organization described in subparagraph (A) or (B) of subsection (a)(1), its officials, its employees, or its records, and that are not eliminated pursuant to subsection (c).

(2) DESIGNATION OF AGREEMENTS.—The President shall designate which agreements constitute international agreements to which the United States is a party for purposes of this section.

(e) PRESERVATION OF LAW ENFORCEMENT AND INTELLIGENCE FUNCTIONS.—Nothing in subsection (c) or (d) of this section shall affect any immunity from suit or legal process of an international organization providing commercial communications services, or the privatized affiliates or successors thereof, for acts or omissions—

(1) under chapter 119, 121, 206, or 601 of title 18, United States Code, the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), section 514 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 884), or Rule 104, 501, or 608 of the Federal Rules of Evidence;

(2) under similar State laws providing protection to service providers cooperating with law enforcement agencies pursuant to State electronic surveillance or evidence laws, rules, regulations, or procedures; or

(3) pursuant to a court order.

(f) RULES OF CONSTRUCTION.—

(1) NEGOTIATIONS.—Nothing in this section shall affect the President's existing constitutional authority regarding the time, scope, and objectives of international negotiations.

(2) PRIVATIZATION.—Nothing in this section shall be construed as legislative authorization for the privatization of INTELSAT or Inmarsat, nor to increase the President's authority with respect to negotiations concerning such privatization.

#### SEC. 6. ENFORCEMENT AND MONITORING.

(a) REPORTS REQUIRED.—Not later than July 1 of 1999 and each of the 5 succeeding years, the Secretary of Commerce shall submit to the House of Representatives and the Senate a report that contains the following information with respect to implementation of the Convention:

(1) RATIFICATION.—A list of the countries that have ratified the Convention, the dates of ratification by such countries, and the entry into force for each such country.

(2) DOMESTIC LEGISLATION.—A description of domestic laws enacted by each party to the Convention that implement commitments under the Convention, and assessment of the compatibility of such laws with the Convention.

(3) ENFORCEMENT.—As assessment of the measures taken by each party to the Convention during the previous year to fulfill its obligations under the Convention and achieve its object and purpose including—

(A) an assessment of the enforcement of the domestic laws described in paragraph (2);

(B) an assessment of the efforts by each such party to promote public awareness of such domestic laws and the achievement of such object and purpose; and

(C) an assessment of the effectiveness, transparency, and viability of the monitoring process for the Convention, including its inclusion of input from the private sector and nongovernmental organizations.

(4) LAWS PROHIBITING TAX DEDUCTION OF BRIBES.—An explanation of the domestic laws enacted by each party to the Convention that would prohibit the deduction of bribes in the computation of domestic taxes.

(5) NEW SIGNATORIES.—A description of efforts to expand international participation in the Convention by adding new signatories to the Convention and by assuring that all countries which are or become members of the Organization for Economic Cooperation and Development are also parties to the Convention.

(6) SUBSEQUENT EFFORTS.—An assessment of the status of efforts to strengthen the Convention by extending the

15 USC 78dd-1  
note.  
Deadline.

Records.

prohibitions contained in the Convention to cover bribes to political parties, party officials, and candidates for political office.

(7) **ADVANTAGES.**—Advantages, in terms of immunities, market access, or otherwise, in the countries or regions served by the organizations described in section 5(a), the reason for such advantages, and an assessment of progress toward fulfilling the policy described in that section.

(8) **BRIBERY AND TRANSPARENCY.**—An assessment of anti-bribery programs and transparency with respect to each of the international organizations covered by this Act.

(9) **PRIVATE SECTOR REVIEW.**—A description of the steps taken to ensure full involvement of United States private sector participants and representatives of nongovernmental organizations in the monitoring and implementation of the Convention.

Records.

(10) **ADDITIONAL INFORMATION.**—In consultation with the private sector participants and representatives of nongovernmental organizations described in paragraph (9), a list of additional means for enlarging the scope of the Convention and otherwise increasing its effectiveness. Such additional means shall include, but not be limited to, improved recordkeeping provisions and the desirability of expanding the applicability of the Convention to additional individuals and organizations and the impact on United States business of section 30A of the Securities Exchange Act of 1934 and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977.

(b) **DEFINITION.**—For purposes of this section, the term “Convention” means the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions adopted on November 21, 1997, and signed on December 17, 1997, by the United States and 32 other nations.

Approved November 10, 1998.

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**LEGISLATIVE HISTORY—S. 2375 (H.R. 4353):**

**HOUSE REPORTS:** No. 105-802 accompanying H.R. 4353 (Comm. on Commerce).  
**SENATE REPORTS:** No. 105-277 (Comm. on Banking, Housing, and Urban Affairs).

**CONGRESSIONAL RECORD, Vol. 144 (1998):**

July 31, considered and passed Senate.

Oct. 9, considered and passed House, amended, in lieu of H.R. 4353.

Oct. 14, Senate concurred in House amendment with amendments.

Oct. 20, House concurred in a Senate amendment with an amendment and disagreed with other amendments.

Oct. 21, Senate receded from certain amendments and concurred in another.

**WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):**

Nov. 10, Presidential statement.



Public Law 105–367  
105th Congress

An Act

To protect the sanctity of contracts and leases entered into by surface patent holders with respect to coalbed methane gas.

Nov. 10, 1998  
[S. 2500]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PROTECTION OF SANCTITY OF CONTRACTS AND LEASES OF SURFACE PATENT HOLDERS WITH RESPECT TO COALBED METHANE GAS.**

30 USC 81 note.

(a) IN GENERAL.—Subject to subsection (b), the United States shall recognize as not infringing upon any ownership rights of the United States to coalbed methane any—

(1) contract or lease covering any land that was conveyed by the United States under the Act entitled “An Act for the protection of surface rights of entrymen”, approved March 3, 1909 (30 U.S.C. 81), or the Act entitled “An Act to provide for agricultural entries on coal lands”, approved June 22, 1910 (30 U.S.C. 83 et seq.), that was—

(A) entered into by a person who has title to said land derived under said Acts, and

(B) that conveys rights to explore for, extract, and sell coalbed methane from said land; or

(2) coalbed methane production from the lands described in subsection (a)(1) by a person who has title to said land and who, on or before the date of enactment of this Act, has filed an application with the State oil and gas regulating agency for a permit to drill an oil and gas well to a completion target located in a coal formation.

(b) APPLICATION.—Subsection (a)—

(1) shall apply only to a valid contract or lease described in subsection (a) that is in effect on the date of enactment of this Act;

(2) shall not otherwise change the terms or conditions of, or affect the rights or obligations of any person under such a contract or lease;

(3) shall apply only to land with respect to which the United States is the owner of coal reserved to the United States in a patent issued under the Act of March 3, 1909 (30 U.S.C. 81), or the Act of June 22, 1910 (30 U.S.C. 83 et seq.), the position of the United States as the owner of the coal not having passed to a third party by deed, patent or other conveyance by the United States;

(4) shall not apply to any interest in coal or land conveyed, restored, or transferred by the United States to a federally recognized Indian tribe, including any conveyance, restoration,

or transfer made pursuant to the Indian Reorganization Act, June 18, 1934 (c. 576, 48 Stat. 984, as amended); the Act of June 28, 1938 (c. 776, 52 Stat. 1209 as implemented by the order of September 14, 1938, 3 Fed. Reg. 1425); and including the area described in section 3 of Public Law 98-290; or any executive order;

(5) shall not be construed to constitute a waiver of any rights of the United States with respect to coalbed methane production that is not subject to subsection (a); and

(6) shall not limit the right of any person who entered into a contract or lease before the date of enactment of this Act, or enters into a contract or lease on or after the date of enactment of this Act, for coal owned by the United States, to mine and remove the coal and to release coalbed methane without liability to any person referred to in subsection (a)(1)(A) or (a)(2).

Approved November 10, 1998.

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LEGISLATIVE HISTORY—S. 2500:

SENATE REPORTS: No. 105-408 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 9, considered and passed Senate.

Oct. 15, considered and passed House.





Public Law 105–368  
105th Congress

An Act

To amend title 38, United States Code, to improve benefits and services provided to Persian Gulf War veterans, to provide a cost-of-living adjustment in rates of compensation paid to veterans with service-connected disabilities, to enhance programs providing health care, compensation, education, insurance, and other benefits for veterans, and for other purposes.

Nov. 11, 1998

[H.R. 4110]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans Programs Enhancement Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Veterans  
Programs  
Enhancement  
Act of 1998.  
38 USC 101 note.

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

**TITLE I—PROVISIONS RELATING TO VETERANS OF PERSIAN GULF WAR  
AND FUTURE CONFLICTS**

Sec. 102. Health care for veterans of Persian Gulf War and future conflicts.

Sec. 103. National center on war-related illnesses and post-deployment health issues.

Sec. 104. Coordination of activities.

Sec. 105. Improving effectiveness of care of Persian Gulf War veterans.

Sec. 106. Contract for independent recommendations on research and for development of curriculum on care of Persian Gulf War veterans.

Sec. 107. Extension and improvement of evaluation of health status of spouses and children of Persian Gulf War veterans.

**TITLE II—EDUCATION AND EMPLOYMENT**

**Subtitle A—Education Matters**

Sec. 201. Calculation of reporting fee based on total veteran enrollment during a calendar year.

Sec. 202. Election of advance payment of work-study allowance.

Sec. 203. Alternative to twelve semester hour equivalency requirement.

Sec. 204. Medical evidence for flight training requirements.

Sec. 205. Waiver of wage increase and minimum payment rate requirements for Government job training program approval.

Sec. 206. Expansion of education outreach services.

Sec. 207. Information on minimum requirements for education benefits for members of the Armed Forces discharged early from duty for the convenience of the Government.

**Subtitle B—Uniformed Services Employment and Reemployment Rights Act  
Amendments**

Sec. 211. Enforcement of rights with respect to a State as an employer.

Sec. 212. Protection of extraterritorial employment and reemployment rights of members of the uniformed services.

- Sec. 213. Complaints relating to reemployment of members of the uniformed services in Federal service.

TITLE III—COMPENSATION, PENSION, AND INSURANCE

- Sec. 301. Medal of Honor special pension.  
Sec. 302. Accelerated death benefit for Servicemembers' Group Life Insurance and Veterans' Group Life Insurance participants.  
Sec. 303. Assessment of effectiveness of insurance and survivor benefits programs for survivors of veterans with service-connected disabilities.  
Sec. 304. National Service Life Insurance program.

TITLE IV—MEMORIAL AFFAIRS

- Sec. 401. Commemoration of individuals whose remains are unavailable for interment.  
Sec. 402. Merchant mariner burial and cemetery benefits.  
Sec. 403. Redesignation of National Cemetery System and establishment of Under Secretary for Memorial Affairs.  
Sec. 404. State cemetery grants program.

TITLE V—COURT OF VETERANS APPEALS

Subtitle A—Administrative Provisions Relating to the Court

- Sec. 501. Continuation in office of judges pending confirmation for second term.  
Sec. 502. Exemption of retirement fund from sequestration orders.  
Sec. 503. Adjustments for survivor annuities.  
Sec. 504. Reports on retirement program modifications.

Subtitle B—Renaming of Court

- Sec. 511. Renaming of the Court of Veterans Appeals.  
Sec. 512. Conforming amendments.  
Sec. 513. Effective date.

TITLE VI—HOUSING

- Sec. 601. Loan guarantee for multifamily transitional housing for homeless veterans.  
Sec. 602. Veterans housing benefit program fund account consolidation.  
Sec. 603. Extension of eligibility of members of Selected Reserve for veterans housing loans.  
Sec. 604. Applicability of procurement law to certain contracts of Department of Veterans Affairs.

TITLE VII—CONSTRUCTION AND FACILITIES MATTERS

- Sec. 701. Authorization of major medical facility projects.  
Sec. 702. Authorization of major medical facility leases.  
Sec. 703. Authorization of appropriations.  
Sec. 704. Increase in threshold for major medical facility leases for purposes of congressional authorization.  
Sec. 705. Threshold for treatment of parking facility project as a major medical facility project.  
Sec. 706. Parking fees.  
Sec. 707. Master plan regarding use of Department of Veterans Affairs lands at West Los Angeles Medical Center, California.  
Sec. 708. Designation of Department of Veterans Affairs Medical Center, Aspinwall, Pennsylvania.  
Sec. 709. Designation of Department of Veterans Affairs Medical Center, Gainesville, Florida.  
Sec. 710. Designation of Department of Veterans Affairs outpatient clinic, Columbus, Ohio.

TITLE VIII—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE

- Sec. 801. Short title.  
Sec. 802. Scholarship program for Department of Veterans Affairs employees receiving education or training in the health professions.  
Sec. 803. Education debt reduction program for Veterans Health Administration health professionals.  
Sec. 804. Repeal of prohibition on payment of tuition loans.  
Sec. 805. Conforming amendments.  
Sec. 806. Coordination with appropriations provision.

TITLE IX—MISCELLANEOUS MEDICAL CARE AND MEDICAL ADMINISTRATION PROVISIONS

- Sec. 901. Examinations and care associated with certain radiation treatment.

- Sec. 902. Extension of authority to counsel and treat veterans for sexual trauma.
- Sec. 903. Management of specialized treatment and rehabilitative programs.
- Sec. 904. Authority to use for operating expenses of Department of Veterans Affairs medical facilities amounts available by reason of the limitation on pension for veterans receiving nursing home care.
- Sec. 905. Report on nurse locality pay.
- Sec. 906. Annual report on program and expenditures of Department of Veterans Affairs for domestic response to weapons of mass destruction.
- Sec. 907. Interim appointment of Under Secretary for Health.

#### TITLE X—OTHER MATTERS

- Sec. 1001. Requirement for naming of Department property.
- Sec. 1002. Members of the Board of Veterans' Appeals.
- Sec. 1003. Flexibility in docketing and hearing of appeals by Board of Veterans' Appeals.
- Sec. 1004. Disabled veterans outreach program specialists.
- Sec. 1005. Technical amendments.

#### TITLE XI—COMPENSATION COST-OF-LIVING ADJUSTMENT

- Sec. 1101. Increase in rates of disability compensation and dependency and indemnity compensation.
- Sec. 1102. Publication of adjusted rates.

#### SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## TITLE I—PROVISIONS RELATING TO VETERANS OF PERSIAN GULF WAR AND FUTURE CONFLICTS

#### SEC. 101. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES REGARDING EVALUATION OF HEALTH CONSEQUENCES OF SERVICE IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

38 USC 1117  
note.

(a) PURPOSE.—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise which is not a part of the Federal Government, to review and evaluate the available scientific evidence regarding associations between illness and service in the Persian Gulf War.

(b) AGREEMENT.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities covered by this section. The Secretary shall seek to enter into the agreement not later than 2 months after the date of the enactment of this Act.

(2)(A) If the Secretary is unable within the time period set forth in paragraph (1) to enter into an agreement with the Academy for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for purposes of this section with another appropriate scientific organization that is not part of the Federal Government, operates as a not-for-profit entity, and has expertise and objectivity comparable to that of the Academy.

(B) If the Secretary enters into an agreement with another organization under this paragraph, any reference in this section

to the National Academy of Sciences shall be treated as a reference to such other organization.

(c) REVIEW OF SCIENTIFIC EVIDENCE.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall conduct a comprehensive review and evaluation of the available scientific and medical information regarding the health status of Gulf War veterans and the health consequences of exposures to risk factors during service in the Persian Gulf War. In conducting such review and evaluation, the Academy shall—

(A) identify the biological, chemical, or other toxic agents, environmental or wartime hazards, or preventive medicines or vaccines (including the agents specified in subsection (d)(1)) to which members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War may have been exposed by reason of such service;

(B) identify the illnesses associated with the agents, hazards, or medicines or vaccines identified under subparagraph (A); and

(C) identify the illnesses (including diagnosed illnesses and undiagnosed illnesses) for which there is scientific evidence of a higher prevalence among populations of Gulf War veterans when compared with other appropriate populations of individuals.

(2) In identifying illnesses under subparagraphs (B) and (C) of paragraph (1), the Academy shall review and summarize the relevant scientific evidence regarding illnesses, including symptoms, adverse reproductive health outcomes, and mortality, among the members described in paragraph (1)(A) and among other appropriate populations of individuals.

(3) In conducting the review and evaluation under paragraph (1), the Academy shall, for each illness identified under subparagraph (B) or (C) of that paragraph, assess the latency period, if any, between service or exposure to any potential risk factor (including an agent, hazard, or medicine or vaccine identified under subparagraph (A) of that paragraph) and the manifestation of such illness.

(d) SPECIFIED AGENTS.—(1) In identifying under subsection (c)(1)(A) the agents, hazards, or preventive medicines or vaccines to which members of the Armed Forces may have been exposed, the National Academy of Sciences shall consider the following:

(A) The following organophosphorous pesticides:

- (i) Chlorpyrifos.
- (ii) Diazinon.
- (iii) Dichlorvos.
- (iv) Malathion.

(B) The following carbamate pesticides:

- (i) Proxpur.
- (ii) Carbaryl.
- (iii) Methomyl.

(C) The carbamate pyridostigmine bromide used as nerve agent prophylaxis.

(D) The following chlorinated hydrocarbons and other pesticides and repellents:

- (i) Lindane.
- (ii) Pyrethrins.
- (iii) Permethrins.
- (iv) Rodenticides (bait).

(v) Repellent (DEET).

(E) The following low-level nerve agents and precursor compounds at exposure levels below those which produce immediately apparent incapacitating symptoms:

(i) Sarin.

(ii) Tabun.

(F) The following synthetic chemical compounds:

(i) Mustard agents at levels below those which cause immediate blistering.

(ii) Volatile organic compounds.

(iii) Hydrazine.

(iv) Red fuming nitric acid.

(v) Solvents.

(G) The following sources of radiation:

(i) Depleted uranium.

(ii) Microwave radiation.

(iii) Radio frequency radiation.

(H) The following environmental particulates and pollutants:

(i) Hydrogen sulfide.

(ii) Oil fire byproducts.

(iii) Diesel heater fumes.

(iv) Sand micro-particles.

(I) Diseases endemic to the region (including the following):

(i) Leishmaniasis.

(ii) Sandfly fever.

(iii) Pathogenic escherichia coli.

(iv) Shigellosis.

(J) Time compressed administration of multiple live, “attenuated”, and toxoid vaccines.

(2) The consideration of agents, hazards, and medicines and vaccines under paragraph (1) shall not preclude the Academy from identifying other agents, hazards, or medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of any report under subsection (h).

(3) Not later than 6 months after entry into the agreement under subsection (b), the Academy shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report specifying the agents, hazards, and medicines and vaccines considered under paragraph (1). Deadline.  
Reports.

(e) SCIENTIFIC DETERMINATIONS CONCERNING ILLNESSES.—(1) For each illness identified under subparagraph (B) or (C) of subsection (c)(1), the National Academy of Sciences shall determine (to the extent available scientific evidence permits) whether there is scientific evidence of an association of that illness with Gulf War service or exposure during Gulf War service to one or more agents, hazards, or medicines or vaccines. In making those determinations, the Academy shall consider—

(A) the strength of scientific evidence, the replicability of results, the statistical significance of results, and the appropriateness of the scientific methods used to detect the association;

(B) in any case where there is evidence of an apparent association, whether there is reasonable confidence that that apparent association is not due to chance, bias, or confounding;

(C) the increased risk of the illness among human or animal populations exposed to the agents, hazards, or medicines or vaccines;

(D) whether a plausible biological mechanism or other evidence of a causal relationship exists between exposure to the agents, hazards, or medicines or vaccines and the illnesses;

(E) in any case where information about exposure levels is available, whether the evidence indicates that the levels of exposure of the studied populations were of the same magnitude as the estimated likely exposures of Gulf War veterans; and

(F) whether there is an increased risk of illness among Gulf War veterans in comparison with appropriate peer groups.

(2) The Academy shall include in its reports under subsection (h) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

(f) RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC STUDIES.—

(1) Under the agreement under subsection (b), the National Academy of Sciences shall make any recommendations that it considers appropriate for additional scientific studies (including studies relating to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of service in the Persian Gulf War or exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

(2) In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

(g) SUBSEQUENT REVIEWS.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall conduct on a periodic and ongoing basis additional reviews of the evidence and data relating to its activities under this section.

(2) As part of each review under this subsection, the Academy shall—

(A) conduct as comprehensive a review as is practicable of the information referred to in subsection (c), the evidence referred to in subsection (e), and the data referred to in subsection (f) that became available since the last review of such information, evidence, and data under this section; and

(B) make determinations under the subsections referred to in subparagraph (A) on the basis of the results of such review and all other reviews previously conducted for purposes of this section.

(h) REPORTS BY ACADEMY.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives and the Secretary of Veterans Affairs periodic written reports regarding the Academy's activities under the agreement.

Deadline.

(2) The first report under paragraph (1) shall be submitted not later than 2 years after entry into the agreement under subsection (b). That report shall include—

(A) the determinations and discussion referred to in subsection (e); and

(B) any recommendations of the Academy under subsection (f).

(3) Reports shall be submitted under this subsection at least once every 2 years, as measured from the date of the report under paragraph (2).

(4) In any report under this subsection (other than the report under paragraph (2)), the Academy may specify an absence of meaningful developments in the scientific or medical community with respect to the activities of the Academy under this section during the 2-year period ending on the date of such report.

(i) **REPORTS BY SECRETARY.**—(1) The Secretary shall review each report from the Academy under subsection (h). As part of such review, the Secretary shall seek comments on, and evaluation of, the Academy's report from the heads of other affected departments and agencies of the United States.

(2) Based upon a review under paragraph (1), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the available scientific and medical information regarding the health consequences of Persian Gulf War service and of exposures to risk factors during service in the Persian Gulf War. The Secretary shall include in the report the Secretary's recommendations as to whether there is sufficient evidence to warrant a presumption of service-connection for the occurrence of a specified condition in Gulf War veterans. In determining whether to make such a recommendation, the Secretary shall consider the matters specified in subparagraphs (A) through (F) of subsection (e)(1).

(3) The report under this subsection shall be submitted not later than 120 days after the date on which the Secretary receives the report from the Academy. Deadline.

(j) **SUNSET.**—This section shall cease to be effective 11 years after the last day of the fiscal year in which the National Academy of Sciences enters into an agreement with the Secretary under subsection (b).

(k) **DEFINITION.**—In this section, the term “toxic agent, environmental or wartime hazard, or preventive medicine or vaccine associated with Gulf War service” means a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine that is known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War, whether such association arises as a result of single, repeated, or sustained exposure and whether such association arises through exposure singularly or in combination.

#### **SEC. 102. HEALTH CARE FOR VETERANS OF PERSIAN GULF WAR AND FUTURE CONFLICTS.**

(a) **AUTHORITY.**—Section 1710(e) is amended—

(1) by adding at the end of paragraph (1) the following new subparagraph:

“(D) Subject to paragraphs (2) and (3), a veteran who served on active duty in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) during a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities (as defined in section 1712A(a)(2)(B) of this title) after the date of the enactment of this subparagraph, is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness,

notwithstanding that there is insufficient medical evidence to conclude that such condition is attributable to such service.”;

(2) in paragraph (2)(B), by inserting “or (1)(D)” after “paragraph (1)(C)”;

(3) in paragraph (3)—

(A) by striking “and” at the end of subparagraph (A);

(B) by striking “December 31, 1998.” in subparagraph

(B) and inserting “December 31, 2001; and”; and

(C) by adding at the end the following new subparagraph:

“(C) in the case of care for a veteran described in paragraph (1)(D), after a period of 2 years beginning on the date of the veteran’s discharge or release from active military, naval, or air service.”; and

(4) by adding at the end the following new paragraph:

“(5) When the Secretary first provides care for veterans using the authority provided in paragraph (1)(D), the Secretary shall establish a system for collection and analysis of information on the general health status and health care utilization patterns of veterans receiving care under that paragraph. Not later than 18 months after first providing care under such authority, the Secretary shall submit to Congress a report on the experience under that authority. The Secretary shall include in the report any recommendations of the Secretary for extension of that authority.”.

Deadline.  
Reports.

Deadline.  
38 USC 1710  
note.

(b) IMPLEMENTATION REPORT.—Not later than October 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the Secretary’s plan for establishing and operating the system for collection and analysis of information required by paragraph (5) of section 1710(e) of title 38, United States Code, as added by subsection (a)(4).

38 USC 303 note.

**SEC. 103. NATIONAL CENTER ON WAR-RELATED ILLNESSES AND POST-DEPLOYMENT HEALTH ISSUES.**

Contracts.

(a) ASSESSMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate independent organization, under which such entity shall assist in developing a plan for the establishment of a national center or national centers for the study of war-related illnesses and post-deployment health issues. The purposes of such a center may include—

(1) carrying out and promoting research regarding the etiologies, diagnosis, treatment, and prevention of war-related illnesses and post-deployment health issues; and

(2) promoting the development of appropriate health policies, including monitoring, medical recordkeeping, risk communication, and use of new technologies.

(b) RECOMMENDATIONS AND REPORT.—With respect to such a center, an agreement under this section shall provide for the Academy (or other entity) to—

(1) make recommendations regarding: (A) design of an organizational structure or structures, operational scope, staffing and resource needs, establishment of appropriate databases, the advantages of single or multiple sites, mechanisms for implementing recommendations on policy, and relationship to academic or scientific entities; (B) the role or roles that relevant



Federal departments and agencies should have in the establishment and operation of any such center or centers; and (C) such other matters as it considers appropriate; and

(2) report to the Secretary, the Secretaries of Defense and Health and Human Services, and the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than 1 year after the date of the enactment of this Act, on its recommendations. Deadline.

(c) REPORT ON ESTABLISHMENT OF NATIONAL CENTER.—Not later than 60 days after receiving the report under subsection (b), the Secretaries specified in subsection (b)(2) shall submit to the Committees on Veterans' Affairs and Armed Services of the Senate and the Committees on Veterans' Affairs and National Security of the House of Representatives a joint report on the findings and recommendations contained in that report. Such report may set forth an operational plan for carrying out any recommendation in that report to establish a national center or centers for the study of war-related illnesses. No action to carry out such plan may be taken after the submission of such report until the end of a 90-day period following the date of the submission. Deadline.

#### SEC. 104. COORDINATION OF ACTIVITIES.

Section 707 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102-585; 38 U.S.C. 527 note) is amended—

(1) in the heading, by striking “GOVERNMENT ACTIVITIES ON HEALTH-RELATED RESEARCH” and inserting the following: “HEALTH-RELATED GOVERNMENT ACTIVITIES”;

(2) in subsection (a), by striking “research”; and

(3) by striking subsection (b) and inserting the following:

“(b) PUBLIC ADVISORY COMMITTEE.—Not later than January 1, 1999, the head of the department or agency designated under subsection (a) shall establish an advisory committee consisting of members of the general public, including Persian Gulf War veterans and representatives of such veterans, to provide advice to the head of that department or agency on proposed research studies, research plans, or research strategies relating to the health consequences of military service in the Southwest Asia theater of operations during the Persian Gulf War. The department or agency head shall consult with such advisory committee on a regular basis. Deadlines.  
Establishment.

“(c) REPORTS.—(1) Not later than March 1 of each year, the head of the department or agency designated under subsection (a) shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on—

“(A) the status and results of all such research activities undertaken by the executive branch during the previous year; and

“(B) research priorities identified during that year.

“(2)(A) Not later than 120 days after submission of the epidemiological research study conducted by the Department of Veterans Affairs entitled ‘VA National Survey of Persian Gulf Veterans—Phase III’, the head of the department or agency designated under subsection (a) shall submit to the congressional committees specified in paragraph (1) a report on the findings under that study and any other pertinent medical literature.

“(B) With respect to any findings of that study and any other pertinent medical literature which identify scientific evidence of

a greater relative risk of illness or illnesses in family members of veterans who served in the Persian Gulf War theater of operations than in family members of veterans who did not so serve, the head of the department or agency designated under subsection (a) shall seek to ensure that appropriate research studies are designed to follow up on such findings.

“(d) PUBLIC AVAILABILITY OF RESEARCH FINDINGS.—The head of the department or agency designated under subsection (a) shall ensure that the findings of all research conducted by or for the executive branch relating to the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War (including information pertinent to improving provision of care for veterans of such service) are made available to the public through peer-reviewed medical journals, the World Wide Web, and other appropriate media.

“(e) OUTREACH.—The head of the department or agency designated under subsection (a) shall ensure that the appropriate departments consult and coordinate in carrying out an ongoing program to provide information to those who served in the Southwest Asia theater of operations during the Persian Gulf War relating to: (1) the health risks, if any, resulting from any risk factors associated with such service; and (2) any services or benefits available with respect to such health risks.”.

38 USC 1117  
note.

Deadline.  
Contracts.

**SEC. 105. IMPROVING EFFECTIVENESS OF CARE OF PERSIAN GULF WAR VETERANS.**

(a) ASSESSMENT BY NATIONAL ACADEMY OF SCIENCES.—Not later than April 1, 1999, the Secretary of Veterans Affairs shall enter into a contract with the National Academy of Sciences to review the available scientific data in order to—

(1) assess whether a methodology could be used by the Department of Veterans Affairs for determining the efficacy of treatments furnished to, and health outcomes (including functional status) of, Persian Gulf War veterans who have been treated for illnesses which may be associated with their service in the Persian Gulf War; and

(2) identify, to the extent feasible, with respect to each undiagnosed illness prevalent among such veterans and for any other chronic illness that the Academy determines to warrant such review, empirically valid models of treatment for such illness which employ successful treatment modalities for populations with similar symptoms.

(b) ACTION ON REPORT.—(1) After receiving the final report of the National Academy of Sciences under subsection (a), the Secretary shall, if a reasonable and scientifically feasible methodology is identified by the Academy, develop an appropriate mechanism to monitor and study the effectiveness of treatments furnished to, and health outcomes of, Persian Gulf War veterans who suffer from diagnosed and undiagnosed illnesses which may be associated with their service in the Persian Gulf War.

(2) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of paragraph (1).

(3) The Secretary shall carry out paragraphs (1) and (2) not later than 180 days after receiving the final report of the National Academy of Sciences under subsection (a).

Deadline.

**SEC. 106. CONTRACT FOR INDEPENDENT RECOMMENDATIONS ON RESEARCH AND FOR DEVELOPMENT OF CURRICULUM ON CARE OF PERSIAN GULF WAR VETERANS.**

Section 706 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102-585; 38 U.S.C. 527 note) is amended by adding at the end the following new subsection:

“(d) RESEARCH REVIEW AND DEVELOPMENT OF MEDICAL EDUCATION CURRICULUM.—(1) In order to further understand the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War and of new research findings with implications for improving the provision of care for veterans of such service, the Secretary of Veterans Affairs and the Secretary of Defense shall seek to enter into an agreement with the National Academy of Sciences under which the Institute of Medicine of the Academy would—

“(A) develop a curriculum pertaining to the care and treatment of veterans of such service who have ill-defined or undiagnosed illnesses for use in the continuing medical education of both general and specialty physicians who provide care for such veterans; and

“(B) on an ongoing basis, periodically review and provide recommendations regarding the research plans and research strategies of the Departments relating to the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

“(2) Recommendations to be provided under paragraph (1)(B) include any recommendations that the Academy considers appropriate for additional scientific studies (including studies related to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of any aspects of such military service. In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

“(3) Not later than 9 months after the Institute of Medicine provides the Secretaries the curriculum developed under paragraph (1)(A), the Secretaries shall provide for the conduct of continuing education programs using that curriculum. Those programs shall include instruction which seeks to emphasize use of appropriate protocols of diagnosis, referral, and treatment of such veterans.”.

Deadline.

**SEC. 107. EXTENSION AND IMPROVEMENT OF EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.**

(a) ONE-YEAR EXTENSION.—Subsection (b) of section 107 of the Persian Gulf War Veterans' Benefits Act (title I of Public Law 103-446; 38 U.S.C. 1117 note) is amended by striking “December 31, 1998” and inserting “December 31, 1999”.

(b) TERMINATION OF CERTAIN TESTING AND EVALUATION REQUIREMENTS.—Subsection (a) of such section is amended—

(1) by striking “the” after “Secretary of”;

(2) by striking “study” both places it appears and inserting “program”; and

(3) by striking the sentence following paragraph (3).

(c) ENHANCED FLEXIBILITY IN EXAMINATIONS.—Subsection (d) of such section is amended—

(1) by striking “shall” and inserting “may”; and  
 (2) by inserting “, including fee arrangements described in section 1703 of title 38, United States Code” after “arrangements”.

(d) OUTREACH.—Subsection (g) of such section is amended—

(1) by striking “to ensure” and all that follows through the period at the end of paragraph (2) and inserting “for the purposes of the program.”; and

(2) by adding at the end the following new sentence: “In conducting such outreach activities, the Secretary shall advise that medical treatment is not available under the program.”.

(e) REPORT TO CONGRESS.—Subsection (i) of such section is amended to read as follows:

Deadline.

“(i) REPORT TO CONGRESS.—Not later than July 31, 1999, the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on activities with respect to the program, including the provision of services under subsection (d).”.

## TITLE II—EDUCATION AND EMPLOYMENT

### Subtitle A—Education Matters

#### SEC. 201. CALCULATION OF REPORTING FEE BASED ON TOTAL VETERAN ENROLLMENT DURING A CALENDAR YEAR.

(a) IN GENERAL.—The second sentence of section 3684(c) is amended by striking “on October 31” and all that follows through the period and inserting “during the calendar year.”.

(b) FUNDING.—Section 3684(c), as amended by subsection (a), is further amended by adding at the end the following new sentence: “The reporting fee payable under this subsection shall be paid from amounts appropriated for readjustment benefits.”.

38 USC 3684  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to calendar years beginning after December 31, 1998.

#### SEC. 202. ELECTION OF ADVANCE PAYMENT OF WORK-STUDY ALLOWANCE.

(a) IN GENERAL.—The third sentence of section 3485(a)(1) is amended by striking “An individual shall be paid in advance” and inserting “An individual may elect, in a manner prescribed by the Secretary, to be paid in advance”.

38 USC 3485  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements entered into under section 3485 of title 38, United States Code, on or after January 1, 1999.

#### SEC. 203. ALTERNATIVE TO TWELVE SEMESTER HOUR EQUIVALENCY REQUIREMENT.

(a) IN GENERAL.—The following sections of chapter 30 are each amended by striking “successfully completed” each place it appears and inserting “successfully completed (or otherwise received academic credit for)”: sections 3011(a)(2), 3012(a)(2), 3018(b)(4)(ii), 3018A(a)(2), 3018B(a)(1)(B), 3018B(a)(2)(B), and 3018C(a)(3).

38 USC 3011  
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1998.

**SEC. 204. MEDICAL EVIDENCE FOR FLIGHT TRAINING REQUIREMENTS.**

(a) TITLE 38, UNITED STATES CODE.—Sections 3034(d)(2) and 3241(b)(2) are each amended—

(1) by striking “pilot’s license” each place it appears and inserting “pilot certificate”; and

(2) by inserting “, on the day the individual begins a course of flight training,” after “meets”.

(b) TITLE 10, UNITED STATES CODE.—Section 16136(c)(2) of title 10, United States Code, is amended—

(1) by striking “pilot’s license” each place it appears and inserting “pilot certificate”; and

(2) by inserting “, on the day the individual begins a course of flight training,” after “meets”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to courses of flight training beginning on or after October 1, 1998.

10 USC 16136  
note.

**SEC. 205. WAIVER OF WAGE INCREASE AND MINIMUM PAYMENT RATE REQUIREMENTS FOR GOVERNMENT JOB TRAINING PROGRAM APPROVAL.**

(a) IN GENERAL.—Section 3677(b) is amended—

(1) by inserting “(1)” after “(b)”;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) in subparagraph (A), as so redesignated, by striking “(A)” and “(B)” and inserting “(i)” and “(ii)”, respectively; and

(4) by adding at the end the following new paragraph:

“(2) The requirement under paragraph (1)(A)(ii) shall not apply with respect to a training establishment operated by the United States or by a State or local government.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to approval of programs of training on the job under section 3677 of title 38, United States Code, on or after October 1, 1998.

38 USC 3677  
note.

**SEC. 206. EXPANSION OF EDUCATION OUTREACH SERVICES.**

(a) EXPANSION OF EDUCATION OUTREACH SERVICES TO MEMBERS OF THE ARMED FORCES.—Section 3034 is amended by adding at the end the following new subsection:

“(e)(1) In the case of a member of the Armed Forces who participates in basic educational assistance under this chapter, the Secretary shall furnish the information described in paragraph (2) to each such member. The Secretary shall furnish such information as soon as practicable after the basic pay of the member has been reduced by \$1,200 in accordance with section 3011(b) or 3012(c) of this title and at such additional times as the Secretary determines appropriate.

“(2) The information referred to in paragraph (1) is information with respect to the benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of the basic educational assistance program under this chapter, including application forms for such basic educational assistance under section 5102 of this title.

“(3) The Secretary shall furnish the forms described in paragraph (2) and other educational materials to educational institutions, training establishments, and military education personnel, as the Secretary determines appropriate.

“(4) The Secretary shall use amounts appropriated for readjustment benefits to carry out this subsection and section 5102 of this title with respect to application forms under that section for basic educational assistance under this chapter.”.

38 USC 3034  
note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect 180 days after the date of the enactment of this Act.

**SEC. 207. INFORMATION ON MINIMUM REQUIREMENTS FOR EDUCATION BENEFITS FOR MEMBERS OF THE ARMED FORCES DISCHARGED EARLY FROM DUTY FOR THE CONVENIENCE OF THE GOVERNMENT.**

(a) **ACTIVE DUTY PROGRAM.**—Section 3011 is amended by adding at the end the following new subsection:

“(i) The Secretary concerned shall inform any member of the Armed Forces who has not completed that member’s initial obligated period of active duty (as described in subsection (a)(1)(A)) and who indicates the intent to be discharged or released from such duty for the convenience of the Federal Government of the minimum active duty requirements for entitlement to educational assistance benefits under this chapter. Such information shall be provided to the member in a timely manner.”.

(b) **RESERVE PROGRAM.**—Section 3012 is amended by adding at the end the following new subsection:

“(g)(1) The Secretary concerned shall inform any member of the Armed Forces who has not completed that member’s initial service (as described in paragraph (2)) and who indicates the intent to be discharged or released from such service for the convenience of the Federal Government of the minimum service requirements for entitlement to educational assistance benefits under this chapter. Such information shall be provided to the member in a timely manner.

“(2) The initial service referred to in paragraph (1) is the initial obligated period of active duty (described in subparagraphs (A)(i) or (B)(i) of subsection (a)(1)) or the period of service in the Selected Reserve (described in subparagraphs (A)(ii) or (B)(ii) of subsection (a)(1)).”.

(c) **REPORT TO CONGRESS.**—Section 3036(b)(1) is amended—  
(1) by striking “and (B)” and inserting “(B)”; and

(2) by inserting before the semicolon the following: “, and (C) describing the efforts under sections 3011(i) and 3012(g) of this title to inform members of the Armed Forces of the minimum service requirements for entitlement to educational assistance benefits under this chapter and the results from such efforts”.

38 USC 3011  
note.

(d) **EFFECTIVE DATES.**—(1) The amendments made by subsections (a) and (b) shall take effect 120 days after the date of the enactment of this Act.

38 USC 3036  
note.

(2) The amendments made by subsection (c) shall apply with respect to reports to Congress submitted by the Secretary of Defense under section 3036 of title 38, United States Code, on or after January 1, 2000.

## **Subtitle B—Uniformed Services Employment and Reemployment Rights Act Amendments**

### **SEC. 211. ENFORCEMENT OF RIGHTS WITH RESPECT TO A STATE AS AN EMPLOYER.**

(a) IN GENERAL.—Section 4323 is amended to read as follows:

#### **“§ 4323. Enforcement of rights with respect to a State or private employer**

“(a) ACTION FOR RELIEF.—(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of this title of an unsuccessful effort to resolve a complaint relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for relief under this chapter for such person. In the case of such an action against a State (as an employer), the action shall be brought in the name of the United States as the plaintiff in the action.

“(2) A person may commence an action for relief with respect to a complaint against a State (as an employer) or a private employer if the person—

“(A) has chosen not to apply to the Secretary for assistance under section 4322(a) of this title;

“(B) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

“(C) has been refused representation by the Attorney General with respect to the complaint under such paragraph.

“(b) JURISDICTION.—(1) In the case of an action against a State (as an employer) or a private employer commenced by the United States, the district courts of the United States shall have jurisdiction over the action.

“(2) In the case of an action against a State (as an employer) by a person, the action may be brought in a State court of competent jurisdiction in accordance with the laws of the State.

“(3) In the case of an action against a private employer by a person, the district courts of the United States shall have jurisdiction of the action.

“(c) VENUE.—(1) In the case of an action by the United States against a State (as an employer), the action may proceed in the United States district court for any district in which the State exercises any authority or carries out any function.

“(2) In the case of an action against a private employer, the action may proceed in the United States district court for any district in which the private employer of the person maintains a place of business.

“(d) REMEDIES.—(1) In any action under this section, the court may award relief as follows:

“(A) The court may require the employer to comply with the provisions of this chapter.

“(B) The court may require the employer to compensate the person for any loss of wages or benefits suffered by reason of such employer’s failure to comply with the provisions of this chapter.

“(C) The court may require the employer to pay the person an amount equal to the amount referred to in subparagraph (B) as liquidated damages, if the court determines that the employer’s failure to comply with the provisions of this chapter was willful.

“(2)(A) Any compensation awarded under subparagraph (B) or (C) of paragraph (1) shall be in addition to, and shall not diminish, any of the other rights and benefits provided for under this chapter.

“(B) In the case of an action commenced in the name of the United States for which the relief includes compensation awarded under subparagraph (B) or (C) of paragraph (1), such compensation shall be held in a special deposit account and shall be paid, on order of the Attorney General, directly to the person. If the compensation is not paid to the person because of inability to do so within a period of 3 years, the compensation shall be covered into the Treasury of the United States as miscellaneous receipts.

“(3) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

“(e) EQUITY POWERS.—The court may use its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits of persons under this chapter.

“(f) STANDING.—An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter under subsection (a) or by the United States under subsection (a)(1).

“(g) RESPONDENT.—In any action under this chapter, only an employer or a potential employer, as the case may be, shall be a necessary party respondent.

“(h) FEES, COURT COSTS.—(1) No fees or court costs may be charged or taxed against any person claiming rights under this chapter.

“(2) In any action or proceeding to enforce a provision of this chapter by a person under subsection (a)(2) who obtained private counsel for such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, expert witness fees, and other litigation expenses.

“(i) INAPPLICABILITY OF STATE STATUTE OF LIMITATIONS.—No State statute of limitations shall apply to any proceeding under this chapter.

“(j) DEFINITION.—In this section, the term ‘private employer’ includes a political subdivision of a State.”.

(b) EFFECTIVE DATE.—(1) Section 4323 of title 38, United States Code, as amended by subsection (a), shall apply to actions commenced under chapter 43 of such title on or after the date of the enactment of this Act, and shall apply to actions commenced under such chapter before the date of the enactment of this Act that are not final on the date of the enactment of this Act, without regard to when the cause of action accrued.

(2) In the case of any such action against a State (as an employer) in which a person, on the day before the date of the enactment of this Act, is represented by the Attorney General



under section 4323(a)(1) of such title as in effect on such day, the court shall upon motion of the Attorney General, substitute the United States as the plaintiff in the action pursuant to such section as amended by subsection (a).

**SEC. 212. PROTECTION OF EXTRATERRITORIAL EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.**

(a) **DEFINITION OF EMPLOYEE.**—Section 4303(3) is amended by adding at the end the following new sentence: “Such term includes any person who is a citizen, national, or permanent resident alien of the United States employed in a workplace in a foreign country by an employer that is an entity incorporated or otherwise organized in the United States or that is controlled by an entity organized in the United States, within the meaning of section 4319(c) of this title.”.

(b) **FOREIGN COUNTRIES.**—(1) Subchapter II of chapter 43 is amended by inserting after section 4318 the following new section:

**“§ 4319. Employment and reemployment rights in foreign countries**

“(a) **LIABILITY OF CONTROLLING UNITED STATES EMPLOYER OF FOREIGN ENTITY.**—If an employer controls an entity that is incorporated or otherwise organized in a foreign country, any denial of employment, reemployment, or benefit by such entity shall be presumed to be by such employer.

“(b) **INAPPLICABILITY TO FOREIGN EMPLOYER.**—This subchapter does not apply to foreign operations of an employer that is a foreign person not controlled by an United States employer.

“(c) **DETERMINATION OF CONTROLLING EMPLOYER.**—For the purpose of this section, the determination of whether an employer controls an entity shall be based upon the interrelations of operations, common management, centralized control of labor relations, and common ownership or financial control of the employer and the entity.

“(d) **EXEMPTION.**—Notwithstanding any other provision of this subchapter, an employer, or an entity controlled by an employer, shall be exempt from compliance with any of sections 4311 through 4318 of this title with respect to an employee in a workplace in a foreign country, if compliance with that section would cause such employer, or such entity controlled by an employer, to violate the law of the foreign country in which the workplace is located.”.

(2) The table of sections at the beginning of chapter 43 is amended by inserting after the item relating to section 4318 the following new item:

“4319. Employment and reemployment rights in foreign countries.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply only with respect to causes of action arising after the date of the enactment of this Act.

38 USC 4303  
note.

**SEC. 213. COMPLAINTS RELATING TO REEMPLOYMENT OF MEMBERS OF THE UNIFORMED SERVICES IN FEDERAL SERVICE.**

(a) **IN GENERAL.**—The first sentence of paragraph (1) of section 4324(c) is amended by inserting before the period at the end the following: “, without regard as to whether the complaint accrued before, on, or after October 13, 1994”.

38 USC 4324  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to complaints filed with the Merit Systems Protection Board on or after October 13, 1994.

### **TITLE III—COMPENSATION, PENSION, AND INSURANCE**

#### **SEC. 301. MEDAL OF HONOR SPECIAL PENSION.**

(a) INCREASE.—Section 1562(a) is amended by striking “\$400” and inserting “\$600”.

38 USC 1562  
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

#### **SEC. 302. ACCELERATED DEATH BENEFIT FOR SERVICEMEMBERS’ GROUP LIFE INSURANCE AND VETERANS’ GROUP LIFE INSURANCE PARTICIPANTS.**

(a) IN GENERAL.—(1) Subchapter III of chapter 19 is amended by adding at the end the following new section:

##### **“§ 1980. Option to receive accelerated death benefit**

“(a) For the purpose of this section, a person shall be considered to be terminally ill if the person has a medical prognosis such that the life expectancy of the person is less than a period prescribed by the Secretary. The maximum length of such period may not exceed 12 months.

“(b)(1) A terminally ill person insured under Servicemembers’ Group Life Insurance or Veterans’ Group Life Insurance may elect to receive in a lump-sum payment a portion of the face value of the insurance as an accelerated death benefit reduced by an amount necessary to assure that there is no increase in the actuarial value of the benefit paid, as determined by the Secretary.

“(2) The Secretary shall prescribe the maximum amount of the accelerated death benefit available under this section that the Secretary finds to be administratively practicable and actuarially sound, but in no event may the amount of the benefit exceed the amount equal to 50 percent of the face value of the person’s insurance in force on the date the election of the person to receive the benefit is approved.

“(3) A person making an election under this section may elect to receive an amount that is less than the maximum amount prescribed under paragraph (2). The Secretary shall prescribe the increments in which a reduced amount under this paragraph may be elected.

“(c) The portion of the face value of insurance which is not paid in a lump sum as an accelerated death benefit under this section shall remain payable in accordance with the provisions of this chapter.

“(d) Deductions under section 1969 of this title and premiums under section 1977(c) of this title shall be reduced, in a manner consistent with the percentage reduction in the face value of the insurance as a result of payment of an accelerated death benefit under this section, effective with respect to any amounts which would otherwise become due on or after the date of payment under this section.

“(e) The Secretary shall prescribe regulations to carry out this section. Such regulations shall include provisions regarding— Regulations.

“(1) the form and manner in which an application for an election under this section shall be made; and

“(2) the procedures under which any such application shall be considered.

“(f)(1) An election to receive a benefit under this section shall be irrevocable.

“(2) A person may not make more than one election under this section, even if the election of the person is to receive less than the maximum amount of the benefit available to the person under this section.

“(g) If a person insured under Servicemembers’ Group Life Insurance elects to receive a benefit under this section and the person’s Servicemembers’ Group Life Insurance is thereafter converted to Veterans’ Group Life Insurance as provided in section 1968(b) of this title, the amount of the benefit paid under this section shall reduce the amount of Veterans’ Group Life Insurance available to the person under section 1977(a) of this title.

“(h) Notwithstanding any other provision of law, the amount of the accelerated death benefit received by a person under this section shall not be considered income or resources for purposes of determining eligibility for or the amount of benefits under any Federal or federally-assisted program or for any other purpose.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1979 the following new item:

“1980. Option to receive accelerated death benefit.”.

(b) CONFORMING AMENDMENTS.—Section 1970(g) is amended in the first sentence—

(1) by striking “Payments of benefits” and inserting “Any payments”; and

(2) by inserting “an insured or” after “or on account of,”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act. 38 USC 1970 note.

**SEC. 303. ASSESSMENT OF EFFECTIVENESS OF INSURANCE AND SURVIVOR BENEFITS PROGRAMS FOR SURVIVORS OF VETERANS WITH SERVICE-CONNECTED DISABILITIES.**

(a) REPORT ON ASSESSMENT.—Not later than October 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report containing an assessment of the adequacy of the insurance and survivor benefits programs of the Department of Veterans Affairs (including the payment of dependency and indemnity compensation under chapter 13 of title 38, United States Code) in meeting the needs of survivors of veterans with service-connected disabilities, including survivors of catastrophically disabled veterans who cared for those veterans. Deadline.

(b) REPORT ELEMENTS.—The report on the assessment under subsection (a) shall include the following:

(1) An identification of the characteristics that make a disabled veteran catastrophically disabled.

(2) A statement of the number of veterans with service-connected disabilities who participate in insurance programs administered by the Department.

(3) A statement of the number of survivors of veterans with service-connected disabilities who receive dependency and indemnity compensation under chapter 13 of title 38, United States Code.

(4) Data on veterans with service-connected disabilities that are relevant to the insurance programs administered by the Department, and an assessment how such data might be used to better determine the cost above standard premium rates of insuring veterans with service-connected disabilities under such programs.

(5) An analysis of various methods of accounting and providing for the additional cost of insuring the lives of veterans with service-connected disabilities under the insurance programs administered by the Department.

(6) An assessment of the adequacy and effectiveness of the current insurance programs and dependency and indemnity compensation programs of the Department in meeting the needs of survivors of severely disabled or catastrophically disabled veterans.

(7) An analysis of various methods of meeting the transitional financial needs of survivors of veterans with service-connected disabilities immediately after the deaths of such veterans.

(8) Such recommendations as the Secretary considers appropriate regarding means of improving the benefits available to survivors of veterans with service-connected disabilities under programs administered by the Department.

#### **SEC. 304. NATIONAL SERVICE LIFE INSURANCE PROGRAM.**

(a) ELIGIBILITY OF CERTAIN VETERANS FOR DIVIDENDS UNDER NSLI PROGRAM.—Section 1919(b) is amended—

(1) by striking “sections 602(c)(2) and” and inserting “section”; and

(2) by striking “sections” after “under such” and inserting “section”.

38 USC 1919  
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

## **TITLE IV—MEMORIAL AFFAIRS**

#### **SEC. 401. COMMEMORATION OF INDIVIDUALS WHOSE REMAINS ARE UNAVAILABLE FOR INTERMENT.**

(a) MEMORIAL HEADSTONES OR MARKERS FOR CERTAIN MEMBERS OF THE ARMED FORCES AND SPOUSES.—Subsection (b) of section 2306 is amended to read as follows:

“(b)(1) The Secretary shall furnish, when requested, an appropriate memorial headstone or marker for the purpose of commemorating an eligible individual whose remains are unavailable. Such a headstone or marker shall be furnished for placement in a national cemetery area reserved for that purpose under section 2403 of this title, a veterans’ cemetery owned by a State, or, in the case of a veteran, in a State, local, or private cemetery.

“(2) For purposes of paragraph (1), an eligible individual is any of the following:

“(A) A veteran.

“(B) The spouse or surviving spouse of a veteran.

“(3) For purposes of paragraph (1), the remains of an individual shall be considered to be unavailable if the individual’s remains—

“(A) have not been recovered or identified;

“(B) were buried at sea, whether by the individual’s own choice or otherwise;

“(C) were donated to science; or

“(D) were cremated and the ashes scattered without interment of any portion of the ashes.

“(4) For purposes of this subsection:

“(A) The term ‘veteran’ includes an individual who dies in the active military, naval, or air service.

“(B) The term ‘surviving spouse’ includes an unremarried surviving spouse whose subsequent remarriage was terminated by death or divorce.”

(b) **ALTERNATIVE COMMEMORATION FOR CERTAIN SPOUSES.**—Such section is further amended by adding at the end the following new subsection:

“(e)(1) When the Secretary has furnished a headstone or marker under subsection (a) for the unmarked grave of an individual, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate headstone or marker under that subsection for the surviving spouse of such individual.

“(2) When the Secretary has furnished a memorial headstone or marker under subsection (b) for purposes of commemorating a veteran or an individual who died in the active military, naval, or air service, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate memorial headstone or marker under that subsection for the surviving spouse of such individual.”

(c) **MEMORIAL AREAS.**—Section 2403(b) is amended to read as follows:

“(b) Under regulations prescribed by the Secretary, group memorials may be placed to honor the memory of groups of individuals referred to in subsection (a), and appropriate memorial headstones and markers may be placed to honor the memory of individuals referred to in subsection (a) and section 2306(b) of this title.”

Regulations.

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply to deaths occurring after the date of the enactment of this Act.

38 USC 2306  
note.

#### **SEC. 402. MERCHANT MARINER BURIAL AND CEMETERY BENEFITS.**

(a) **BENEFITS.**—Part G of subtitle II of title 46, United States Code, is amended by inserting after chapter 111 the following new chapter:

### **“CHAPTER 112—MERCHANT MARINER BENEFITS**

“Sec.

“11201. Eligibility for veterans’ burial and cemetery benefits.

“11202. Qualified service.

“11203. Documentation of qualified service.

“11204. Processing fees.

**“§ 11201. Eligibility for veterans’ burial and cemetery benefits**

“(a) ELIGIBILITY.—

“(1) IN GENERAL.—The qualified service of a person referred to in paragraph (2) shall be considered to be active duty in the Armed Forces during a period of war for purposes of eligibility for benefits under the following provisions of title 38:

“(A) Chapter 23 (relating to burial benefits).

“(B) Chapter 24 (relating to interment in national cemeteries).

“(2) COVERED INDIVIDUALS.—Paragraph (1) applies to a person who—

“(A) receives an honorable service certificate under section 11203 of this title; and

“(B) is not eligible under any other provision of law for benefits under laws administered by the Secretary of Veterans Affairs.

“(b) REIMBURSEMENT FOR BENEFITS PROVIDED.—The Secretary shall reimburse the Secretary of Veterans Affairs for the value of benefits that the Secretary of Veterans Affairs provides for a person by reason of eligibility under this section.

“(c) APPLICABILITY.—

“(1) GENERAL RULE.—Benefits may be provided under the provisions of law referred to in subsection (a)(1) by reason of this chapter only for deaths occurring after the date of the enactment of this chapter.

“(2) BURIALS, ETC. IN NATIONAL CEMETERIES.—Notwithstanding paragraph (1), in the case of an initial burial or columbarium placement after the date of the enactment of this chapter, benefits may be provided under chapter 24 of title 38 by reason of this chapter (regardless of the date of death), and in such a case benefits may be provided under section 2306 of such title.

**“§ 11202. Qualified service**

“For purposes of this chapter, a person shall be considered to have engaged in qualified service if, between August 16, 1945, and December 31, 1946, the person—

“(1) was a member of the United States merchant marine (including the Army Transport Service and the Naval Transport Service) serving as a crewmember of a vessel that was—

“(A) operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of the Administration or Office);

“(B) operated in waters other than inland waters, the Great Lakes, and other lakes, bays, and harbors of the United States;

“(C) under contract or charter to, or property of, the Government of the United States; and

“(D) serving the Armed Forces; and

“(2) while so serving, was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for such service.

**“§ 11203. Documentation of qualified service**

“(a) RECORD OF SERVICE.—The Secretary, or in the case of personnel of the Army Transport Service or the Naval Transport Service, the Secretary of Defense, shall, upon application—

“(1) issue a certificate of honorable service to a person who, as determined by that Secretary, engaged in qualified service of a nature and duration that warrants issuance of the certificate; and

“(2) correct, or request the appropriate official of the Federal Government to correct, the service records of that person to the extent necessary to reflect the qualified service and the issuance of the certificate of honorable service.

“(b) TIMING OF DOCUMENTATION.—A Secretary receiving an application under subsection (a) shall act on the application not later than 1 year after the date of that receipt.

“(c) STANDARDS RELATING TO SERVICE.—In making a determination under subsection (a)(1), the Secretary acting on the application shall apply the same standards relating to the nature and duration of service that apply to the issuance of honorable discharges under section 401(a)(1)(B) of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note).

“(d) CORRECTION OF RECORDS.—An official who is requested under subsection (a)(2) to correct the service records of a person shall make such correction.

**“§ 11204. Processing fees**

“(a) COLLECTION OF FEES.—The Secretary, or in the case of personnel of the Army Transport Service or the Naval Transport Service, the Secretary of Defense, shall collect a fee of \$30 from each applicant for processing an application submitted under section 11203(a) of this title.

“(b) TREATMENT OF FEES COLLECTED.—Amounts received by the Secretary under this section shall be deposited in the General Fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities. Amounts received by the Secretary of Defense under this section shall be deposited in the General Fund of the Treasury as offsetting receipts of the Department of Defense. In either case, such amounts shall be available, subject to appropriation, for the administrative costs of processing applications under section 11203 of this title.”

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 111 the following new item:

“112. Merchant Mariner Benefits .....11201”.

**SEC. 403. REDESIGNATION OF NATIONAL CEMETERY SYSTEM AND ESTABLISHMENT OF UNDER SECRETARY FOR MEMORIAL AFFAIRS.**

38 USC 2400  
note.

(a) REDESIGNATION AS NATIONAL CEMETERY ADMINISTRATION.—  
(1) The National Cemetery System of the Department of Veterans Affairs shall hereafter be known and designated as the National Cemetery Administration. The position of Director of the National Cemetery System is hereby redesignated as Under Secretary of Veterans Affairs for Memorial Affairs.

(2) Section 301(c)(4) is amended by striking “National Cemetery System” and inserting “National Cemetery Administration”.

(3) Section 307 is amended—

(A) in the first sentence, by striking “a Director of the National Cemetery System” and inserting “an Under Secretary for Memorial Affairs”; and

(B) in the second sentence, by striking “The Director” and all that follows through “National Cemetery System” and inserting “The Under Secretary is the head of the National Cemetery Administration”.

(b) PAY RATE FOR UNDER SECRETARY.—Chapter 53 of title 5, United States Code, is amended—

(1) in section 5314, by inserting after the item relating to the Under Secretary for Benefits of the Department of Veterans Affairs the following new item:

“Under Secretary for Memorial Affairs, Department of Veterans Affairs.”; and

(2) in section 5315, by striking “Director of the National Cemetery System.”.

(c) CONFORMING AMENDMENTS.—

(1)(A) The heading of section 307 is amended to read as follows:

**“§ 307. Under Secretary for Memorial Affairs”.**

(B) The item relating to section 307 in the table of sections at the beginning of chapter 3 is amended to read as follows:

“307. Under Secretary for Memorial Affairs.”.

(2) Section 2306(d) is amended by striking “within the National Cemetery System” each place such term appears and inserting “under the control of the National Cemetery Administration”.

(3) Section 2400 is amended—

(A) in subsection (a)—

(i) by striking “National Cemetery System” and inserting “National Cemetery Administration responsible”; and

(ii) in the second sentence, by striking “Such system” and all that follows through “National Cemetery System” and inserting “The National Cemetery Administration shall be headed by the Under Secretary for Memorial Affairs”;

(B) in subsection (b), by striking “National Cemetery System” and inserting “national cemeteries and other facilities under the control of the National Cemetery Administration”; and

(C) by amending the heading to read as follows:

**“§ 2400. Establishment of National Cemetery Administration; composition of Administration”.**

(4) The item relating to section 2400 in the table of sections at the beginning of chapter 24 is amended to read as follows:

“2400. Establishment of National Cemetery Administration; composition of Administration.”.

(5) Section 2402 is amended in the matter preceding paragraph (1) by striking “in the National Cemetery System” and



inserting “under the control of the National Cemetery Administration”.

(6) Section 2403(c) is amended by striking “in the National Cemetery System created by this chapter” and inserting “under the control of the National Cemetery Administration”.

(7) Section 2405(c) is amended—

(A) by striking “within the National Cemetery System” and inserting “under the control of the National Cemetery Administration”; and

(B) by striking “within such System” and inserting “under the control of such Administration”.

(8) Section 2408(c)(1) is amended by striking “in the National Cemetery System” and inserting “under the control of the National Cemetery Administration”.

(d) REFERENCES.—

(1) Any reference in a law, map, regulation, document, paper, or other record of the United States to the National Cemetery System shall be deemed to be a reference to the National Cemetery Administration.

(2) Any reference in a law, map, regulation, document, paper, or other record of the United States to the Director of the National Cemetery System shall be deemed to be a reference to the Under Secretary of Veterans Affairs for Memorial Affairs.

38 USC 2400  
note.

#### SEC. 404. STATE CEMETERY GRANTS PROGRAM.

(a) AMOUNT OF GRANT RELATIVE TO PROJECT COST.—(1) Paragraphs (1) and (2) of section 2408(b) are amended to read as follows:

“(1) The amount of a grant under this section may not exceed—

“(A) in the case of the establishment of a new cemetery, the sum of: (i) the cost of improvements to be made on the land to be converted into a cemetery; and (ii) the cost of initial equipment necessary to operate the cemetery; and

“(B) in the case of the expansion or improvement of an existing cemetery, the sum of: (i) the cost of improvements to be made on any land to be added to the cemetery; and (ii) the cost of any improvements to be made to the existing cemetery.

“(2) If the amount of a grant under this section is less than the amount of costs referred to in subparagraph (A) or (B) of paragraph (1), the State receiving the grant shall contribute the excess of such costs over the grant.”.

(2) The amendment made by paragraph (1) shall apply with respect to grants under section 2408 of title 38, United States Code, made after the end of the 60-day period beginning on the date of the enactment of this Act.

38 USC 2408  
note.

(b) AUTHORIZATION OF APPROPRIATIONS WITHOUT FISCAL YEAR LIMITATION.—The first sentence of section 2408(e) is amended by striking “shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated” and inserting “shall remain available until expended”.

(c) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANT PROGRAM.—Paragraph (2) of section 2408(a) is amended to read as follows:

“(2) There is authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each succeeding fiscal year through fiscal year 2004 for the purpose of making grants under paragraph (1).”.

## **TITLE V—COURT OF VETERANS APPEALS**

### **Subtitle A—Administrative Provisions Relating to the Court**

#### **SEC. 501. CONTINUATION IN OFFICE OF JUDGES PENDING CONFIRMATION FOR SECOND TERM.**

Section 7253(c) is amended by adding at the end the following new sentence: “A judge who is nominated by the President for appointment to an additional term on the Court without a break in service and whose term of office expires while that nomination is pending before the Senate may continue in office for up to 1 year while that nomination is pending.”.

#### **SEC. 502. EXEMPTION OF RETIREMENT FUND FROM SEQUESTRATION ORDERS.**

Section 7298 is amended by adding at the end the following new subsection:

“(g) For purpose of section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)), the retirement fund shall be treated in the same manner as the Claims Judges’ Retirement Fund.”.

#### **SEC. 503. ADJUSTMENTS FOR SURVIVOR ANNUITIES.**

Subsection (o) of section 7297 is amended to read as follows:

“(o) Each survivor annuity payable from the retirement fund shall be increased at the same time as, and by the same percentage by which, annuities payable from the Judicial Survivors’ Annuities Fund are increased pursuant to section 376(m) of title 28.”.

#### **SEC. 504. REPORTS ON RETIREMENT PROGRAM MODIFICATIONS.**

Deadline.

(a) REPORT ON JUDGES’ RETIREMENT SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the chief judge of the United States Court of Appeals for Veterans Claims shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the feasibility and desirability of merging the retirement plan of the judges of that court with retirement plans of other Federal judges.

Deadline.

(b) REPORT ON SURVIVOR ANNUITIES PLAN.—Not later than 6 months after the date of the enactment of this Act, the chief judge of the United States Court of Appeals for Veterans Claims shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report on the feasibility and desirability of allowing judges of that court to participate in the survivor annuity programs available to other Federal judges.

## Subtitle B—Renaming of Court

### SEC. 511. RENAMING OF THE COURT OF VETERANS APPEALS.

(a) IN GENERAL.—The United States Court of Veterans Appeals is hereby renamed as, and shall hereafter be known and designated as, the United States Court of Appeals for Veterans Claims. 38 USC 7251 note.

(b) SECTION 7251.—Section 7251 is amended by striking “United States Court of Veterans Appeals” and inserting “United States Court of Appeals for Veterans Claims”.

### SEC. 512. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO TITLE 38, UNITED STATES CODE.—

(1) The following sections are amended by striking “Court of Veterans Appeals” each place it appears and inserting “Court of Appeals for Veterans Claims”: sections 5904, 7101(b), 7252(a), 7253, 7254, 7255, 7256, 7261, 7262, 7263, 7264, 7266(a)(1), 7267(a), 7268(a), 7269, 7281(a), 7282(a), 7283, 7284, 7285(a), 7286, 7291, 7292, 7296, 7297, and 7298.

(2)(A) The heading of section 7286 is amended to read as follows:

#### “§ 7286. Judicial Conference of the Court”.

(B) The heading of section 7291 is amended to read as follows:

#### “§ 7291. Date when Court decision becomes final”.

(C) The heading of section 7298 is amended to read as follows:

#### “§ 7298. Retirement Fund”.

(3) The table of sections at the beginning of chapter 72 is amended as follows:

(A) The item relating to section 7286 is amended to read as follows:

“7286. Judicial Conference of the Court.”.

(B) The item relating to section 7291 is amended to read as follows:

“7291. Date when Court decision becomes final.”.

(C) The item relating to section 7298 is amended to read as follows:

“7298. Retirement Fund.”.

(4)(A) The heading of chapter 72 is amended to read as follows:

### “CHAPTER 72—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS”.

(B) The item relating to chapter 72 in the table of chapters at the beginning of title 38, United States Code, and the item relating to such chapter in the table of chapters at the beginning of part V are amended to read as follows:

“72. United States Court of Appeals for Veterans Claims ..... 7251”.

(b) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) The following provisions of law are amended by striking “Court of Veterans Appeals” each place it appears and inserting “Court of Appeals for Veterans Claims”:

(A) Section 8440d of title 5, United States Code.

(B) Section 2412 of title 28, United States Code.

(C) Section 906 of title 44, United States Code.

(D) Section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(2)(A) The heading of section 8440d of title 5, United States Code, is amended to read as follows:

**“§ 8440d. Judges of the United States Court of Appeals for Veterans Claims”.**

(B) The item relating to such section in the table of sections at the beginning of chapter 84 of such title is amended to read as follows:

“8440d. Judges of the United States Court of Appeals for Veterans Claims.”.

38 USC 7251  
note.

(c) **OTHER LEGAL REFERENCES.**—Any reference in a law, regulation, document, paper, or other record of the United States to the United States Court of Veterans Appeals shall be deemed to be a reference to the United States Court of Appeals for Veterans Claims.

38 USC 7251  
note.

**SEC. 513. EFFECTIVE DATE.**

This subtitle, and the amendments made by this subtitle, shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

## **TITLE VI—HOUSING**

**SEC. 601. LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS.**

(a) **IN GENERAL.**—Chapter 37 is amended by adding at the end the following new subchapter:

**“SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS**

**“§ 3771. Definitions**

“For purposes of this subchapter:

“(1) The term ‘veteran’ has the meaning given such term by paragraph (2) of section 101.

“(2) The term ‘homeless veteran’ means a veteran who is a homeless individual.

“(3) The term ‘homeless individual’ has the meaning given such term by section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

**“§ 3772. General authority**

“(a) The Secretary may guarantee the full or partial repayment of a loan that meets the requirements of this subchapter.

“(b)(1) Not more than 15 loans may be guaranteed under subsection (a), of which not more than five such loans may be guaranteed during the 3-year period beginning on the date of the enactment of this subchapter.

“(2) A guarantee of a loan under subsection (a) shall be in an amount that is not less than the amount necessary to sell the loan in a commercial market.

“(3) Not more than an aggregate amount of \$100,000,000 in loans may be guaranteed under subsection (a).

“(c) A loan may not be guaranteed under this subchapter unless, before closing such loan, the Secretary has approved the loan.

“(d)(1) The Secretary shall enter into contracts with a qualified nonprofit organization, or other qualified organization, that has experience in underwriting transitional housing projects to obtain advice in carrying out this subchapter, including advice on the terms and conditions necessary for a loan that meets the requirements of section 3773 of this title.

Contracts.

“(2) For purposes of paragraph (1), a nonprofit organization is an organization that is described in paragraph (3) or (4) of subsection (c) of section 501 of the Internal Revenue Code of 1986 and is exempt from tax under subsection (a) of such section.

“(e) The Secretary may carry out this subchapter in advance of the issuance of regulations for such purpose.

“(f) The Secretary may guarantee loans under this subchapter notwithstanding any requirement for prior appropriations for such purpose under any provision of law.

#### “§ 3773. Requirements

“(a) A loan referred to in section 3772 of this title meets the requirements of this subchapter if each of the following requirements is met:

“(1) The loan—

“(A) is for—

“(i) construction of, rehabilitation of, or acquisition of land for a multifamily transitional housing project described in subsection (b), or more than one of such purposes; or

“(ii) refinancing of an existing loan for such a project; and

“(B) may also include additional reasonable amounts for—

“(i) financing acquisition of furniture, equipment, supplies, or materials for the project; or

“(ii) in the case of a loan made for purposes of subparagraph (A)(i), supplying the organization carrying out the project with working capital relative to the project.

“(2) The loan is made in connection with funding or the provision of substantial property or services for such project by either a State or local government or a nongovernmental entity, or both.

“(3) The maximum loan amount does not exceed the lesser of—

“(A) that amount generally approved (utilizing prudent underwriting principles) in the consideration and approval of projects of similar nature and risk so as to assure repayment of the loan obligation; and

“(B) 90 percent of the total cost of the project.

“(4) The loan is of sound value, taking into account the creditworthiness of the entity (and the individual members of the entity) applying for such loan.

“(5) The loan is secured.

“(6) The loan is subject to such terms and conditions as the Secretary determines are reasonable, taking into account other housing projects with similarities in size, location, population, and services provided.

“(b) For purposes of this subchapter, a multifamily transitional housing project referred to in subsection (a)(1) is a project that—

“(1) provides transitional housing to homeless veterans, which housing may be single room occupancy (as defined in section 8(n) of the United States Housing Act of 1937 (42 U.S.C. 1437f(n)));

“(2) provides supportive services and counselling services (including job counselling) at the project site with the goal of making such veterans self-sufficient;

“(3) requires that each such veteran seek to obtain and maintain employment;

“(4) charges a reasonable fee for occupying a unit in such housing; and

“(5) maintains strict guidelines regarding sobriety as a condition of occupying such unit.

“(c) Such a project—

“(1) may include space for neighborhood retail services or job training programs; and

“(2) may provide transitional housing to veterans who are not homeless and to homeless individuals who are not veterans if—

“(A) at the time of taking occupancy by any such veteran or homeless individual, the transitional housing needs of homeless veterans in the project area have been met;

“(B) the housing needs of any such veteran or homeless individual can be met in a manner that is compatible with the manner in which the needs of homeless veterans are met under paragraph (1); and

“(C) the provisions of paragraphs (4) and (5) of subsection (b) are met.

“(d) In determining whether to guarantee a loan under this subchapter, the Secretary shall consider—

“(1) the availability of Department of Veterans Affairs medical services to residents of the multifamily transitional housing project; and

“(2) the extent to which needs of homeless veterans are met in a community, as assessed under section 107 of Public Law 102-405.

#### “§ 3774. Default

“(a) The Secretary shall take such steps as may be necessary to obtain repayment on any loan that is in default and that is guaranteed under this subchapter.

“(b) Upon default of a loan guaranteed under this subchapter and terminated pursuant to State law, a lender may file a claim under the guarantee for an amount not to exceed the lesser of—

“(1) the maximum guarantee; or

“(2) the difference between—

“(A) the total outstanding obligation on the loan, including principal, interest, and expenses authorized by

the loan documents, through the date of the public sale (as authorized under such documents and State law); and  
“(B) the amount realized at such sale.

**“§ 3775. Audit**

“During each of the first 3 years of operation of a multifamily transitional housing project with respect to which a loan is guaranteed under this subchapter, there shall be an annual, independent audit of such operation. Such audit shall include a detailed statement of the operations, activities, and accomplishments of such project during the year covered by such audit. The party responsible for obtaining such audit (and paying the costs therefor) shall be determined before the Secretary issues a guarantee under this subchapter.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 is amended by adding at the end the following new items:

“SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS

“3771. Definitions.

“3772. General authority.

“3773. Requirements.

“3774. Default.

“3775. Audit.”.

**SEC. 602. VETERANS HOUSING BENEFIT PROGRAM FUND ACCOUNT CONSOLIDATION.**

(a) CONSOLIDATION OF HOUSING LOAN REVOLVING FUNDS.—Subchapter III of chapter 37 is amended—

(1) by striking sections 3723, 3724, and 3725; and

(2) by inserting after section 3721 the following new section:

**“§ 3722. Veterans Housing Benefit Program Fund**

“(a) There is hereby established in the Treasury of the United States a fund known as the Veterans Housing Benefit Program Fund (hereafter in this section referred to as the ‘Fund’).

Establishment.

“(b) The Fund shall be available to the Secretary, without fiscal year limitation, for all housing loan operations under this chapter, other than administrative expenses, consistent with the Federal Credit Reform Act of 1990.

“(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

“(1) Any amount appropriated to the Fund.

“(2) Amounts paid into the Fund under section 3729 of this title or any other provision of law or regulation established by the Secretary imposing fees on persons or other entities participating in the housing loan programs under this chapter.

“(3) All other amounts received by the Secretary on or after October 1, 1998, incident to housing loan operations under this chapter, including—

“(A) collections of principal and interest on housing loans made by the Secretary under this chapter;

“(B) proceeds from the sale, rental, use, or other disposition of property acquired under this chapter;

“(C) proceeds from the sale of loans pursuant to sections 3720(h) and 3733(a)(3) of this title; and

“(D) penalties collected pursuant to section 3710(g)(4)(B) of this title.

38 USC 3722  
note.

“(d) Amounts deposited into the Fund under paragraphs (2) and (3) of subsection (c) shall be deposited in the appropriate financing or liquidating account of the Fund.

“(e) For purposes of this section, the term ‘housing loan’ shall not include a loan made pursuant to subchapter V of this chapter.”.

(b) TRANSFERS OF AMOUNTS INTO VETERANS HOUSING BENEFIT PROGRAM FUND.—All amounts in the following funds are hereby transferred to the Veterans Housing Benefit Program Fund:

(1) The Direct Loan Revolving Fund, as such fund was continued under section 3723 of title 38, United States Code (as such section was in effect on the day before the effective date of this title).

(2) The Department of Veterans Affairs Loan Guaranty Revolving Fund, as established by section 3724 of such title (as such section was in effect on the day before the effective date of this title).

(3) The Guaranty and Indemnity Fund, as established by section 3725 of such title (as such section was in effect on the day before the effective date of this title).

(c) REPEAL OF AUTHORITY TO SELL PARTICIPATION CERTIFICATES AND OF OBSOLETE REQUIREMENT TO CREDIT PROCEEDS.—

(1) REPEAL OF AUTHORITY TO SELL PARTICIPATION CERTIFICATES.—Section 3720 is amended by striking subsection (e).

(2) REPEAL OF OBSOLETE REQUIREMENT TO CREDIT PROCEEDS.—Section 3733 is amended by striking subsection (e).

(d) SUBMISSION OF SUMMARY FINANCIAL STATEMENT ON HOUSING PROGRAMS.—Section 3734 is amended by adding at the end the following new subsection:

“(c) The information submitted under subsection (a) shall include a statement that summarizes the financial activity of each of the housing programs operated under this chapter. The statement shall be presented in a form that is simple, concise, and readily understandable, and shall not include references to financing accounts, liquidating accounts, or program accounts.”.

(e) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENTS TO CHAPTER 37.—Chapter 37 is amended as follows:

(A) Section 3703(e)(1) is amended by striking “3729(c)(1)” and inserting “3729(c)”.

(B) Section 3711(k) is amended by striking “and section 3723 of this title” both places it appears.

(C) Section 3727(c) is amended by striking “funds established pursuant to sections 3723 and 3724 of this title, as applicable” and inserting “fund established pursuant to section 3722 of this title”.

(D) Section 3729 is amended—

(i) in subsection (c)—

(I) by striking “(c)(1)” and inserting “(c)”; and

(II) by striking paragraphs (2) and (3); and

(ii) in subsection (a)(1), by striking “(c)(1)” and inserting “(c)”.

(E) Section 3733(a)(6) is amended by striking “Department of Veterans Affairs Loan Guaranty Revolving Fund established by section 3724(a)” and inserting “Veterans



Housing Benefit Program Fund established by section 3722(a)".

(F) Section 3734, as amended by subsection (d), is further amended—

(i) in subsection (a)—

(I) by striking "Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund" in paragraph (1) and inserting "Veterans Housing Benefit Program Fund"; and

(II) by striking "funds," in paragraph (2) and inserting "fund";

(ii) in subsection (b), by striking "each fund" in the matter preceding paragraph (1) and inserting "the fund"; and

(iii) in subsection (b)(2)—

(I) by striking subparagraph (B);

(II) by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (B), (C), (D), (E), and (F), respectively; and

(III) in subparagraph (B), as so redesignated, by striking "subsections (a)(3) and (c)(2) of section 3729" and inserting "section 3729(a)(3)".

(G) Section 3735(a)(3)(A)(i) is amended by striking "Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund" and inserting "Veterans Housing Benefit Program Fund".

(2) OTHER CONFORMING AMENDMENT.—Section 2106(e) is amended by striking ", as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 3723 or 3724 of this title, respectively" and inserting "deposited in the Veterans Housing Benefit Program Fund established by section 3722 of this title".

(3) TECHNICAL AND CLERICAL AMENDMENTS.—(A) The heading for section 3734 is amended to read as follows:

**"§ 3734. Annual submission of information on the Veterans Housing Benefit Program Fund and housing programs".**

(B) The heading for section 3763 is amended to read as follows:

**"§ 3763. Native American Veteran Housing Loan Program Account".**

(C) The table of sections at the beginning of chapter 37 is amended—

(i) by inserting after the item relating to section 3721 the following new item:

"3722. Veterans Housing Benefit Program Fund.";

(ii) by striking the items relating to sections 3723, 3724, and 3725;

(iii) by striking the item relating to section 3734 and inserting the following:

"3734. Annual submission of information on the Veterans Housing Benefit Program Fund and housing programs.";

and

(iv) by striking the item relating to section 3763 and inserting the following:

“3763. Native American Veteran Housing Loan Program Account.”.

38 USC 2106  
note.

(f) **EFFECTIVE DATE.**—This title and the amendments made by this title shall take effect on October 1, 1998.

**SEC. 603. EXTENSION OF ELIGIBILITY OF MEMBERS OF SELECTED RESERVE FOR VETERANS HOUSING LOANS.**

(a) **EXTENSION.**—Section 3702(a)(2)(E) is amended by striking “October 27, 1999,” and inserting “September 30, 2003.”.

(b) **ONE-YEAR EXTENSION OF FEE PROVISION.**—Section 3729(a)(4) is amended—

(1) by striking “With respect to a loan closed after September 30, 1993, and before October 1, 2002,” and inserting “(A) With respect to a loan closed during the period specified in subparagraph (B)”; and

(2) by adding at the end the following:

“(B) The specified period for purposes of subparagraph (A) is the period beginning on October 1, 1993, and ending on September 30, 2002, except that in the case of a loan described in subparagraph (D) of paragraph (2), such period ends on September 30, 2003.”.

**SEC. 604. APPLICABILITY OF PROCUREMENT LAW TO CERTAIN CONTRACTS OF DEPARTMENT OF VETERANS AFFAIRS.**

(a) **IN GENERAL.**—Section 3720(b) is amended by striking “; however” and all that follows and inserting the following: “, except that title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section.”.

38 USC 3720  
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to contracts entered into under section 3720 of title 38, United States Code, after the end of the 60-day period beginning on the date of the enactment of this Act.

## **TITLE VII—CONSTRUCTION AND FACILITIES MATTERS**

**SEC. 701. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.**

(a) **IN GENERAL.**—The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Alterations and demolition at the Department of Veterans Affairs Medical Center, Long Beach, California, in an amount not to exceed \$23,200,000.

(2) Construction and seismic work at the Department of Veterans Affairs Medical Center, San Juan, Puerto Rico, in an amount not to exceed \$50,000,000.

(3) Outpatient clinic expansion at the Department of Veterans Affairs Medical Center, Washington, D.C., in an amount not to exceed \$29,700,000.

(4) Construction of a psychogeriatric care building and demolition of a seismically unsafe building at the Department of Veterans Affairs Medical Center, Palo Alto, California, in an amount not to exceed \$22,400,000.

(5) Construction of an ambulatory care addition and renovations for ambulatory care at the Department of Veterans Affairs Medical Center, Cleveland (Wade Park), Ohio, in an amount not to exceed \$28,300,000, of which \$7,500,000 shall be derived from funds appropriated for a fiscal year before fiscal year 1999 that remain available for obligation.

(6) Construction of an ambulatory care addition at the Department of Veterans Affairs Medical Center, Tucson, Arizona, in an amount not to exceed \$35,000,000.

(7) Construction of an addition for psychiatric care at the Department of Veterans Affairs Medical Center, Dallas, Texas, in an amount not to exceed \$24,200,000.

(8) Outpatient clinic projects at Auburn and Merced, California, as part of the Northern California Healthcare Systems Project, in an amount not to exceed \$3,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1999 that remain available for obligation.

(9) Renovations to a nursing home care unit at the Department of Veterans Affairs Medical Center, Lebanon, Pennsylvania, in an amount not to exceed \$9,500,000.

(10) Construction of a spinal cord injury center at the Department of Veterans Affairs Medical Center, Tampa, Florida, in an amount not to exceed \$46,300,000, of which \$20,000,000 shall be derived from funds appropriated for a fiscal year before fiscal year 1999 that remain available for obligation.

(b) CONSTRUCTION OF PARKING FACILITY.—The Secretary may construct a parking structure at the Department of Veterans Affairs Medical Center, Denver, Colorado, in an amount not to exceed \$13,000,000, of which \$11,900,000 shall be derived from funds in the Parking Revolving Fund.

#### **SEC. 702. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.**

The Secretary of Veterans Affairs may enter into leases for satellite outpatient clinics as follows:

(1) Baton Rouge, Louisiana, in an amount not to exceed \$1,800,000.

(2) Daytona Beach, Florida, in an amount not to exceed \$2,600,000.

(3) Oakland Park, Florida, in an amount not to exceed \$4,100,000.

#### **SEC. 703. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1999 and for fiscal year 2000—

(1) for the Construction, Major Projects, account \$241,100,000 for the projects authorized in section 701(a); and

(2) for the Medical Care account, \$8,500,000 for the leases authorized in section 702.

(b) LIMITATION.—(1) The projects authorized in section 701(a) may only be carried out using—

(A) funds appropriated for fiscal year 1999 or fiscal year 2000 pursuant to the authorization of appropriations in subsection (a);

(B) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1999 that remain available for obligation; and

(C) funds appropriated for Construction, Major Projects, for fiscal year 1999 for a category of activity not specific to a project.

(2) The project authorized in section 701(b) may only be carried out using funds appropriated for a fiscal year before fiscal year 1999—

(A) for the Parking Revolving Fund; or

(B) for Construction, Major Projects, for a category of activity not specific to a project.

**SEC. 704. INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY LEASES FOR PURPOSES OF CONGRESSIONAL AUTHORIZATION.**

Section 8104(a)(3)(B) is amended by striking “\$300,000” and inserting “\$600,000”.

**SEC. 705. THRESHOLD FOR TREATMENT OF PARKING FACILITY PROJECT AS A MAJOR MEDICAL FACILITY PROJECT.**

Section 8109(i)(2) is amended by striking “\$3,000,000” and inserting “\$4,000,000”.

**SEC. 706. PARKING FEES.**

(a) **LIMITATION.**—The Secretary of Veterans Affairs may not establish or collect any parking fee at any parking facility associated with the Spark M. Matsunaga Department of Veterans Affairs Medical and Regional Office Center in Honolulu, Hawaii.

(b) **REPORT.**—Not later than September 15, 1999, the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report regarding the Department’s experience in exercising and administering the authority of the Secretary to charge parking fees under subsections (d) and (e) of section 8109 of title 38, United States Code. The report shall include—

(1) the results of a survey which shall describe the parking facilities and number of parking spaces available to employees of the Department at each medical facility of the Department with more than 50 employees;

(2) an analysis of the means by which the Secretary could implement in a cost-effective manner the authority of the Secretary under subsection (e) of section 8109 of title 38, United States Code; and

(3) recommendations for amending section 8109 of such title—

(A) to address the applicability of parking fees to employees of the Secretary who are employed at a regional office which is co-located with a medical facility;

(B) to address the applicability of parking fees to persons using parking facilities at Department of Veterans Affairs medical centers co-located with facilities of the Department of Defense;

(C) to link any schedule of applicable fees to applicable commercial rates; and

(D) to achieve any other purpose.

Deadline.

**SEC. 707. MASTER PLAN REGARDING USE OF DEPARTMENT OF VETERANS AFFAIRS LANDS AT WEST LOS ANGELES MEDICAL CENTER, CALIFORNIA.**

(a) **REPORT.**—The Secretary of Veterans Affairs shall submit to Congress a report on the master plan of the Department of Veterans Affairs relating to the use of Department lands at the West Los Angeles Department of Veterans Affairs Medical Center, California.

(b) **REPORT ELEMENTS.**—The report under subsection (a) shall set forth the following:

(1) The master plan referred to in that subsection, if such a plan currently exists.

(2) A current assessment of the master plan.

(3) Any proposal of the Department for a veterans park on the lands referred to in subsection (a), and an assessment of such proposals.

(4) Any proposal to use a portion of those lands as dedicated green space, and an assessment of such proposals.

(c) **ALTERNATIVE REPORT ELEMENT.**—If a master plan referred to in subsection (a) does not exist as of the date of the enactment of this Act, the Secretary shall set forth in the report under that subsection, in lieu of the matters specified in paragraphs (1) and (2) of subsection (b), a plan for the development of a master plan for the use of the lands referred to in subsection (a) over the next 25 years and over the next 50 years.

**SEC. 708. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, ASPINWALL, PENNSYLVANIA.**

The Department of Veterans Affairs medical center in Aspinwall, Pennsylvania, is hereby designated as the “H. John Heinz III Department of Veterans Affairs Medical Center”. Any reference to that medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the H. John Heinz III Department of Veterans Affairs Medical Center.

**SEC. 709. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, GAINESVILLE, FLORIDA.**

The Department of Veterans Affairs medical center in Gainesville, Florida, is hereby designated as the “Malcom Randall Department of Veterans Affairs Medical Center”. Any reference to that medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Malcom Randall Department of Veterans Affairs Medical Center.

**SEC. 710. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, COLUMBUS, OHIO.**

The Department of Veterans Affairs outpatient clinic in Columbus, Ohio, shall after the date of the enactment of this Act be known and designated as the “Chalmers P. Wylie Veterans Outpatient Clinic”. Any reference to that outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Chalmers P. Wylie Veterans Outpatient Clinic.

Department of  
Veterans Affairs  
Health Care  
Personnel  
Incentive Act of  
1998.  
38 USC 101 note.

## TITLE VIII—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE

### SEC. 801. SHORT TITLE.

This title may be cited as the “Department of Veterans Affairs Health Care Personnel Incentive Act of 1998”.

### SEC. 802. SCHOLARSHIP PROGRAM FOR DEPARTMENT OF VETERANS AFFAIRS EMPLOYEES RECEIVING EDUCATION OR TRAINING IN THE HEALTH PROFESSIONS.

(a) PROGRAM AUTHORITY.—Chapter 76 is amended by adding at the end the following new subchapter:

#### “SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

##### “§ 7671. Authority for program

“As part of the Educational Assistance Program, the Secretary may carry out a scholarship program under this subchapter. The program shall be known as the Department of Veterans Affairs Employee Incentive Scholarship Program (hereafter in this subchapter referred to as the ‘Program’). The purpose of the Program is to assist, through the establishment of an incentive program for individuals employed in the Veterans Health Administration, in meeting the staffing needs of the Veterans Health Administration for health professional occupations for which recruitment or retention of qualified personnel is difficult.

##### “§ 7672. Eligibility; agreement

“(a) ELIGIBILITY.—To be eligible to participate in the Program, an individual must be an eligible Department employee who is accepted for enrollment or enrolled (as described in section 7602 of this title) as a full-time or part-time student in a field of education or training described in subsection (c).

“(b) ELIGIBLE DEPARTMENT EMPLOYEES.—For purposes of subsection (a), an eligible Department employee is any employee of the Department who, as of the date on which the employee submits an application for participation in the Program, has been continuously employed by the Department for not less than 2 years.

“(c) QUALIFYING FIELDS OF EDUCATION OR TRAINING.—A scholarship may be awarded under the Program only for education and training in a field leading to appointment or retention in a position under section 7401 of this title.

“(d) AWARD OF SCHOLARSHIPS.—Notwithstanding section 7603(d) of this title, the Secretary, in selecting participants in the Program, may award a scholarship only to applicants who have a record of employment with the Veterans Health Administration which, in the judgment of the Secretary, demonstrates a high likelihood that the applicant will be successful in completing such education or training and in employment in such field.

“(e) AGREEMENT.—(1) An agreement between the Secretary and a participant in the Program shall (in addition to the requirements set forth in section 7604 of this title) include the following:

“(A) The Secretary’s agreement to provide the participant with a scholarship under the Program for a specified number (from one to three) of school years during which the participant

pursues a course of education or training described in subsection (c) that meets the requirements set forth in section 7602(a) of this title.

“(B) The participant’s agreement to serve as a full-time employee in the Veterans Health Administration for a period of time (hereafter in this subchapter referred to as the ‘period of obligated service’) determined in accordance with regulations prescribed by the Secretary of up to three calendar years for each school year or part thereof for which the participant was provided a scholarship under the Program, but for not less than 3 years.

“(C) The participant’s agreement to serve under subparagraph (B) in a Department facility selected by the Secretary.

“(2) In a case in which an extension is granted under section 7673(c)(2) of this title, the number of years for which a scholarship may be provided under the Program shall be the number of school years provided for as a result of the extension.

“(3) In the case of a participant who is a part-time student, the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than 1 year.

#### “§ 7673. Scholarship

“(a) SCHOLARSHIP.—A scholarship provided to a participant in the Program for a school year shall consist of payment of the tuition (or such portion of the tuition as may be provided under subsection (b)) of the participant for that school year and payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year.

“(b) AMOUNTS.—The total amount of the scholarship payable under subsection (a)—

“(1) in the case of a participant in the Program who is a full-time student, may not exceed \$10,000 for any 1 year; and

“(2) in the case of a participant in the Program who is a part-time student, shall be the amount specified in paragraph (1) reduced in accordance with the proportion that the number of credit hours carried by the participant in that school year bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant.

“(c) LIMITATION ON YEARS OF PAYMENT.—(1) Subject to paragraph (2), a participant in the Program may not receive a scholarship under subsection (a) for more than three school years.

“(2) The Secretary may extend the number of school years for which a scholarship may be awarded to a participant in the Program who is a part-time student to a maximum of six school years if the Secretary determines that the extension would be in the best interest of the United States.

“(d) PAYMENT OF EDUCATIONAL EXPENSES BY EDUCATIONAL INSTITUTIONS.—The Secretary may arrange with an educational institution in which a participant in the Program is enrolled for the payment of the educational expenses described in subsection

(a). Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

**“§ 7674. Obligated service**

“(a) IN GENERAL.—Each participant in the Program shall provide service as a full-time employee of the Department for the period of obligated service provided in the agreement of the participant entered into under section 7603 of this title. Such service shall be provided in the full-time clinical practice of such participant’s profession or in another health-care position in an assignment or location determined by the Secretary.

“(b) DETERMINATION OF SERVICE COMMENCEMENT DATE.—(1) Not later than 60 days before a participant’s service commencement date, the Secretary shall notify the participant of that service commencement date. That date is the date for the beginning of the participant’s period of obligated service.

“(2) As soon as possible after a participant’s service commencement date, the Secretary shall—

“(A) in the case of a participant who is not a full-time employee in the Veterans Health Administration, appoint the participant as such an employee; and

“(B) in the case of a participant who is an employee in the Veterans Health Administration but is not serving in a position for which the participant’s course of education or training prepared the participant, assign the participant to such a position.

“(3)(A) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant’s service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State.

“(B) In the case of a participant receiving a degree from a school of nursing, the participant’s service commencement date is the later of—

“(i) the participant’s course completion date; or

“(ii) the date upon which the participant becomes licensed as a registered nurse in a State.

“(C) In the case of a participant not covered by subparagraph (A) or (B), the participant’s service commencement date is the later of—

“(i) the participant’s course completion date; or

“(ii) the date the participant meets any applicable licensure or certification requirements.

“(4) The Secretary shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3).

“(c) COMMENCEMENT OF OBLIGATED SERVICE.—(1) Except as provided in paragraph (2), a participant in the Program shall be considered to have begun serving the participant’s period of obligated service—

“(A) on the date, after the participant’s course completion date, on which the participant (in accordance with subsection (b)) is appointed as a full-time employee in the Veterans Health Administration; or

“(B) if the participant is a full-time employee in the Veterans Health Administration on such course completion

Regulations.



date, on the date thereafter on which the participant is assigned to a position for which the participant's course of training prepared the participant.

"(2) A participant in the Program who on the participant's course completion date is a full-time employee in the Veterans Health Administration serving in a capacity for which the participant's course of training prepared the participant shall be considered to have begun serving the participant's period of obligated service on such course completion date.

"(d) COURSE COMPLETION DATE DEFINED.—In this section, the term 'course completion date' means the date on which a participant in the Program completes the participant's course of education or training under the Program.

**"§ 7675. Breach of agreement: liability**

"(a) LIQUIDATED DAMAGES.—A participant in the Program (other than a participant described in subsection (b)) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 7603 of this title shall be liable to the United States for liquidated damages in the amount of \$1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

"(b) LIABILITY DURING COURSE OF EDUCATION OR TRAINING.—(1) Except as provided in subsection (d), a participant in the Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

"(A) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Secretary).

"(B) The participant is dismissed from such educational institution for disciplinary reasons.

"(C) The participant voluntarily terminates the course of education or training in such educational institution before the completion of such course of education or training.

"(D) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Secretary.

"(E) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by the participant, as a Department employee.

"(2) Liability under this subsection is in lieu of any service obligation arising under a participant's agreement.

"(c) LIABILITY DURING PERIOD OF OBLIGATED SERVICE.—(1) Except as provided in subsection (d), if a participant in the Program breaches the agreement by failing for any reason to complete such participant's period of obligated service, the United States shall

be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi \left( \frac{t-s}{t} \right)$$

“(2) In such formula:

“(A) ‘A’ is the amount the United States is entitled to recover.

“(B) ‘Φ’ is the sum of—

“(i) the amounts paid under this subchapter to or on behalf of the participant; and

“(ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

“(C) ‘t’ is the total number of months in the participant’s period of obligated service, including any additional period of obligated service in accordance with section 7673(c)(2) of this title.

“(D) ‘s’ is the number of months of such period served by the participant in accordance with section 7673 of this title.

“(d) LIMITATION ON LIABILITY FOR REDUCTIONS-IN-FORCE.—Liability shall not arise under subsection (b)(1)(E) or (c) in the case of a participant otherwise covered by the subsection concerned if the participant fails to maintain employment as a Department employee due to a staffing adjustment.

“(e) PERIOD FOR PAYMENT OF DAMAGES.—Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the 1-year period beginning on the date of the breach of the agreement.

#### “§ 7676. Expiration of program

“The Secretary may not furnish scholarships to individuals who have not commenced participation in the Program before December 31, 2001.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

#### “SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

“7671. Authority for program.

“7672. Eligibility; agreement.

“7673. Scholarship.

“7674. Obligated service.

“7675. Breach of agreement: liability.

“7676. Expiration of program.”.

#### SEC. 803. EDUCATION DEBT REDUCTION PROGRAM FOR VETERANS HEALTH ADMINISTRATION HEALTH PROFESSIONALS.

(a) PROGRAM AUTHORITY.—Chapter 76 (as amended by section 802(a)), is further amended by adding after subchapter VI the following new subchapter:

“SUBCHAPTER VII—EDUCATION DEBT REDUCTION  
PROGRAM

**“§ 7681. Authority for program**

“(a) IN GENERAL.—(1) As part of the Educational Assistance Program, the Secretary may carry out an education debt reduction program under this subchapter. The program shall be known as the Department of Veterans Affairs Education Debt Reduction Program (hereafter in this subchapter referred to as the ‘Education Debt Reduction Program’).

“(2) The purpose of the Education Debt Reduction Program is to assist in the recruitment of qualified health care professionals for positions in the Veterans Health Administration for which recruitment or retention of an adequate supply of qualified personnel is difficult.

“(b) RELATIONSHIP TO EDUCATIONAL ASSISTANCE PROGRAM.—Education debt reduction payments under the Education Debt Reduction Program may be in addition to other assistance available to individuals under the Educational Assistance Program.

**“§ 7682. Eligibility**

“(a) ELIGIBILITY.—An individual is eligible to participate in the Education Debt Reduction Program if the individual—

“(1) is a recently appointed employee in the Veterans Health Administration serving under an appointment under section 7402(b) of this title in a position for which recruitment or retention of qualified health-care personnel (as determined by the Secretary) is difficult; and

“(2) owes any amount of principal or interest under a loan, the proceeds of which were used by or on behalf of that individual to pay costs relating to a course of education or training which led to a degree that qualified the individual for the position referred to in paragraph (1).

“(b) COVERED COSTS.—For purposes of subsection (a)(2), costs relating to a course of education or training include—

“(1) tuition expenses;

“(2) all other reasonable educational expenses, including expenses for fees, books, and laboratory expenses; and

“(3) reasonable living expenses.

“(c) RECENTLY APPOINTED INDIVIDUALS.—For purposes of subsection (a), an individual shall be considered to be recently appointed to a position if the individual has held that position for less than 6 months.

**“§ 7683. Education debt reduction**

“(a) IN GENERAL.—Education debt reduction payments under the Education Debt Reduction Program shall consist of payments to individuals selected to participate in the program of amounts to reimburse such individuals for payments by such individuals of principal and interest on loans described in section 7682(a)(2) of this title.

“(b) FREQUENCY OF PAYMENT.—(1) The Secretary may make education debt reduction payments to any given participant in the Education Debt Reduction Program on a monthly or annual basis, as determined by the Secretary.

“(2) The Secretary shall make such payments at the end of the period determined by the Secretary under paragraph (1).

“(c) **PERFORMANCE REQUIREMENT.**—The Secretary may make education debt reduction payments to a participant in the Education Debt Reduction Program for a period only if the Secretary determines that the individual maintained an acceptable level of performance in the position or positions served by the participant during the period.

“(d) **MAXIMUM ANNUAL AMOUNT.**—(1) Subject to paragraph (2), the amount of education debt reduction payments made to a participant for a year under the Education Debt Reduction Program may not exceed—

“(A) \$6,000 for the first year of the participant’s participation in the Program;

“(B) \$8,000 for the second year of the participant’s participation in the Program; and

“(C) \$10,000 for the third year of the participant’s participation in the Program.

“(2) The total amount payable to a participant in such Program for any year may not exceed the amount of the principal and interest on loans referred to in subsection (a) that is paid by the individual during such year.

#### **“§ 7684. Expiration of program**

“The Secretary may not make education debt reduction payments to individuals who have not commenced participation in the Education Debt Reduction Program before December 31, 2001.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter (as amended by section 802(b)) is further amended by adding at the end the following new items:

#### **“SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM**

“7681. Authority for program.

“7682. Eligibility.

“7683. Education debt reduction.

“7684. Expiration of program.”.

#### **SEC. 804. REPEAL OF PROHIBITION ON PAYMENT OF TUITION LOANS.**

Section 523(b) of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4959; 38 U.S.C. 7601 note) is repealed.

#### **SEC. 805. CONFORMING AMENDMENTS.**

Chapter 76 is amended as follows:

(1) Section 7601(a) is amended—

(A) by striking “and” at the end of paragraph (2);

(B) by striking the period at the end of paragraph

(3) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

“(4) the employee incentive scholarship program provided for in subchapter VI of this chapter; and”; and

“(5) the education debt reduction program provided for in subchapter VII of this chapter.”.

(2) Section 7602 is amended—

(A) in subsection (a)(1)—

(i) by striking “subchapter I or II” and inserting “subchapter II, III, or VI”;

(ii) by striking “or for which” and inserting “, for which”; and

(iii) by inserting before the period at the end the following: “, or for which a scholarship may be awarded

under subchapter VI of this chapter, as the case may be”; and

(B) in subsection (b), by striking “subchapter I or II” and inserting “subchapter II, III, or VI”.

(3) Section 7603 is amended—

(A) in subsection (a)—

(i) by striking “To apply to participate in the Educational Assistance Program,” and inserting “(1) To apply to participate in the Educational Assistance Program under subsection II, III, V, or VI of this chapter,”; and

(ii) by adding at the end the following:

“(2) To apply to participate in the Educational Assistance Program under subchapter VII of this chapter, an individual shall submit to the Secretary an application for such participation.”; and

(B) in subsection (b)(1), by inserting “(if required)” before the period at the end.

(4) Section 7604 is amended by striking “subchapter II, III, or V” in paragraphs (1)(A), (2)(D), and (5) and inserting “subchapter II, III, V, or VI”.

(5) Section 7632 is amended—

(A) in paragraph (1)—

(i) by striking “and the Tuition Reimbursement Program” and inserting “, the Tuition Reimbursement Program, the Employee Incentive Scholarship Program, and the Education Debt Reduction Program”; and

(ii) by inserting “(if any)” after “number of students”;

(B) in paragraph (2), by inserting “(if any)” after “education institutions”; and

(C) in paragraph (4)—

(i) by striking “and per participant” and inserting “, per participant”; and

(ii) by inserting “, per participant in the Employee Incentive Scholarship Program, and per participant in the Education Debt Reduction Program” before the period at the end.

(6) Section 7636 is amended by striking “or a stipend” and inserting “a stipend, or education debt reduction”.

#### **SEC. 806. COORDINATION WITH APPROPRIATIONS PROVISION.**

This title shall be considered to be the authorizing legislation referred to in the third proviso under the heading “VETERANS HEALTH ADMINISTRATION—MEDICAL CARE” in title I of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999, and the reference in that proviso to the “Primary Care Providers Incentive Act” shall be treated as referring to this title.

## **TITLE IX—MISCELLANEOUS MEDICAL CARE AND MEDICAL ADMINISTRATION PROVISIONS**

### **SEC. 901. EXAMINATIONS AND CARE ASSOCIATED WITH CERTAIN RADIATION TREATMENT.**

(a) IN GENERAL.—Chapter 17 is amended by inserting after section 1720D the following new section:

#### **“§ 1720E. Nasopharyngeal radium irradiation**

“(a) The Secretary may provide any veteran a medical examination, and hospital care, medical services, and nursing home care, which the Secretary determines is needed for the treatment of any cancer of the head or neck which the Secretary finds may be associated with the veteran’s receipt of nasopharyngeal radium irradiation treatments in active military, naval, or air service.

“(b) The Secretary shall provide care and services to a veteran under subsection (a) only on the basis of evidence in the service records of the veteran which document nasopharyngeal radium irradiation treatment in service, except that, notwithstanding the absence of such documentation, the Secretary may provide such care to a veteran who—

“(1) served as an aviator in the active military, naval, or air service before the end of the Korean conflict; or

“(2) underwent submarine training in active naval service before January 1, 1965.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1720D the following new item:

“1720E. Nasopharyngeal radium irradiation.”

### **SEC. 902. EXTENSION OF AUTHORITY TO COUNSEL AND TREAT VETERANS FOR SEXUAL TRAUMA.**

Section 1720D(a) is amended by striking “December 31, 1998” in paragraphs (1) and (3) and inserting “December 31, 2001”.

### **SEC. 903. MANAGEMENT OF SPECIALIZED TREATMENT AND REHABILITATIVE PROGRAMS.**

(a) STANDARDS OF JOB PERFORMANCE.—Section 1706(b) is amended—

(1) in paragraph (2), by striking “April 1, 1997, April 1, 1998, and April 1, 1999” and inserting “April 1, 1999, April 1, 2000, and April 1, 2001”; and

(2) by adding at the end the following new paragraph:

“(3)(A) To ensure compliance with paragraph (1), the Under Secretary for Health shall prescribe objective standards of job performance for employees in positions described in subparagraph (B) with respect to the job performance of those employees in carrying out the requirements of paragraph (1). Those job performance standards shall include measures of workload, allocation of resources, and quality-of-care indicators.

“(B) Positions described in this subparagraph are positions in the Veterans Health Administration that have responsibility for allocating and managing resources applicable to the requirements of paragraph (1).

“(C) The Under Secretary shall develop the job performance standards under subparagraph (A) in consultation with the Advisory Committee on Prosthetics and Special Disabilities Programs and the Committee on Care of Severely Chronically Mentally Ill Veterans.”.

(b) DEADLINE FOR PRESCRIBING STANDARDS.—The standards of job performance required by paragraph (3) of section 1706(b) of title 38, United States Code, as added by subsection (a), shall be prescribed not later than January 1, 1999.

38 USC 1706  
note.

**SEC. 904. AUTHORITY TO USE FOR OPERATING EXPENSES OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL FACILITIES AMOUNTS AVAILABLE BY REASON OF THE LIMITATION ON PENSION FOR VETERANS RECEIVING NURSING HOME CARE.**

(a) IN GENERAL.—Section 5503(a)(1)(B) is amended by striking “Effective through September 30, 1997, any” in the second sentence and inserting “Any”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1997.

38 USC 5503  
note.

**SEC. 905. REPORT ON NURSE LOCALITY PAY.**

(a) REPORT REQUIRED.—(1) Not later than February 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report assessing the system of locality-based pay for nurses established under the Department of Veterans Affairs Nurse Pay Act of 1990 (Public Law 101-366) and now set forth in section 7451 of title 38, United States Code.

Deadlines.  
38 USC 7451  
note.

(2) The Secretary shall submit with the report under paragraph (1) a copy of the report on the locality pay system prepared by the contractor pursuant to a contract with Systems Flow, Inc., that was entered into on May 22, 1998.

(b) MATTERS TO BE INCLUDED.—The report of the Secretary under subsection (a)(1) shall include the following:

(1) An assessment of the effects of the locality-based pay system, including information, shown by facility and grade level, regarding the frequency and percentage increases, if any, in the rate of basic pay under that system of nurses employed in the Veterans Health Administration.

(2) An assessment of the manner in which that system is being applied.

(3) Plans and recommendations of the Secretary for administrative and legislative improvements or revisions to the locality pay system.

(4) An explanation of the reasons for any decision not to adopt any recommendation in the report referred to in subsection (a)(2).

(c) UPDATED REPORT.—Not later than February 1, 2000, the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report updating the report submitted under subsection (a)(1).

**SEC. 906. ANNUAL REPORT ON PROGRAM AND EXPENDITURES OF DEPARTMENT OF VETERANS AFFAIRS FOR DOMESTIC RESPONSE TO WEAPONS OF MASS DESTRUCTION.**

(a) IN GENERAL.—Subchapter II of chapter 5 is amended by adding at the end the following new section:

**“§ 530. Annual report on program and expenditures for domestic response to weapons of mass destruction**

“(a) The Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives an annual report, to be submitted each year at the time that the President submits the budget for the next fiscal year under section 1105 of title 31, on the activities of the Department relating to preparation for, and participation in, a domestic medical response to an attack involving weapons of mass destruction.

“(b) Each report under subsection (a) shall include the following:

“(1) A statement of the amounts of funds and the level of personnel resources (stated in terms of full-time equivalent employees) expected to be used by the Department during the next fiscal year in preparation for a domestic medical response to an attack involving weapons of mass destruction, including the anticipated source of those funds and any anticipated shortfalls in funds or personnel resources to achieve the tasks assigned the Department by the President in connection with preparation for such a response.

“(2) A detailed statement of the funds expended and personnel resources (stated in terms of full-time equivalent employees) used during the fiscal year preceding the fiscal year during which the report is submitted in preparation for a domestic medical response to an attack involving weapons of mass destruction or in response to such an attack, including identification of the source of those funds and a description of how those funds were expended.

“(3) A detailed statement of the funds expended and expected to be expended, and the personnel resources (stated in terms of full-time equivalent employees) used and expected to be used, during the fiscal year during which the report is submitted in preparation for a domestic medical response to an attack involving weapons of mass destruction or in response to such an attack, including identification of the source of funds expended and a description of how those funds were expended.

Expiration date.

“(c) This section shall expire on January 1, 2009.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 529 the following new item:

“530. Annual report on program and expenditures for domestic response to weapons of mass destruction.”.

**SEC. 907. INTERIM APPOINTMENT OF UNDER SECRETARY FOR HEALTH.**

The President may appoint to the position of Under Secretary for Health of the Department of Veterans Affairs, for service through June 30, 1999, the individual whose appointment to that position under section 305 of title 38, United States Code, expired on September 28, 1998.



## TITLE X—OTHER MATTERS

### SEC. 1001. REQUIREMENT FOR NAMING OF DEPARTMENT PROPERTY.

(a) IN GENERAL.—(1) Subchapter II of chapter 5, as amended by section 906(a), is further amended by adding at the end the following new section:

#### **“§ 531. Requirement relating to naming of Department property**

“Except as expressly provided by law, a facility, structure, or real property of the Department, and a major portion (such as a wing or floor) of any such facility, structure, or real property, may be named only for the geographic area in which the facility, structure, or real property is located.”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 530, as added by section 906(b), the following new item:

“531. Requirement relating to naming of Department property.”

(b) EFFECTIVE DATE.—Section 531 of title 38, United States Code, as added by subsection (a)(1), shall apply with respect to the assignment or designation of the name of a facility, structure, or real property of the Department of Veterans Affairs (or of a major portion thereof) after the date of the enactment of this Act. 38 USC 531 note.

### SEC. 1002. MEMBERS OF THE BOARD OF VETERANS' APPEALS.

(a) REQUIREMENT FOR BOARD MEMBERS TO BE ATTORNEYS.—Section 7101A(a) is amended—

(1) by inserting “(1)” after “(a)”; and

(2) by adding at the end the following new paragraph:

“(2) Each member of the Board shall be a member in good standing of the bar of a State.”

(b) EMPLOYMENT REVERSION RIGHTS.—Paragraph (2) of section 7101A(d) is amended to read as follows:

“(2)(A) Upon removal from the Board under paragraph (1) of a member of the Board who before appointment to the Board served as an attorney in the civil service, the Secretary shall appoint that member to an attorney position at the Board, if the removed member so requests. If the removed member served in an attorney position at the Board immediately before appointment to the Board, appointment to an attorney position under this paragraph shall be in the grade and step held by the removed member immediately before such appointment to the Board.

“(B) The Secretary is not required to make an appointment to an attorney position under this paragraph if the Secretary determines that the member of the Board removed under paragraph (1) is not qualified for the position.”

### SEC. 1003. FLEXIBILITY IN DOCKETING AND HEARING OF APPEALS BY BOARD OF VETERANS' APPEALS.

(a) FLEXIBILITY IN ORDER OF CONSIDERATION AND DETERMINATION.—Subsection (a) of section 7107 is amended—

(1) in paragraph (1), by inserting “in paragraphs (2) and (3) and” after “Except as provided”;

(2) in paragraph (2), by striking the second sentence and inserting the following: “Any such motion shall set forth succinctly the grounds upon which the motion is based. Such a motion may be granted only—

“(A) if the case involves interpretation of law of general application affecting other claims;

“(B) if the appellant is seriously ill or is under severe financial hardship; or

“(C) for other sufficient cause shown.”; and

(3) by adding at the end the following new paragraph:

“(3) A case referred to in paragraph (1) may be postponed for later consideration and determination if such postponement is necessary to afford the appellant a hearing.”.

(b) SCHEDULING OF FIELD HEARINGS.—Subsection (d) of such section is amended—

(1) in paragraph (2), by striking “in the order” and all that follows through the end and inserting “in accordance with the place of the case on the docket under subsection (a) relative to other cases on the docket for which hearings are scheduled to be held within that area.”; and

(2) by striking paragraph (3) and inserting the following new paragraph (3):

“(3) A hearing to be held within an area served by a regional office of the Department may, for cause shown, be advanced on motion for an earlier hearing. Any such motion shall set forth succinctly the grounds upon which the motion is based. Such a motion may be granted only—

“(A) if the case involves interpretation of law of general application affecting other claims;

“(B) if the appellant is seriously ill or is under severe financial hardship; or

“(C) for other sufficient cause shown.”.

#### **SEC. 1004. DISABLED VETERANS OUTREACH PROGRAM SPECIALISTS.**

(a) IN GENERAL.—Section 4103A(a)(1) is amended—

(1) in the first sentence, by striking “for each 6,900 veterans residing in such State” through the period and inserting “for each 7,400 veterans who are between the ages of 20 and 64 residing in such State.”;

(2) in the third sentence, by striking “of the Vietnam era”; and

(3) by striking the fourth sentence.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to appointments of disabled veterans’ outreach program specialists under section 4103A of title 38, United States Code, on or after the date of the enactment of this Act.

#### **SEC. 1005. TECHNICAL AMENDMENTS.**

(a) SECTION REDESIGNATION.—Section 1103, as added by section 8031(a) of the Veterans Reconciliation Act of 1997 (title VIII of Public Law 105-33), is redesignated as section 1104, and the item relating to that section in the table of sections at the beginning of chapter 11 is revised to reflect that redesignation.

(b) OTHER AMENDMENTS TO TITLE 38, UNITED STATES CODE.—

(1) Section 712(a) is amended by striking “the date of enactment of this section” and inserting “November 2, 1994,”.

(2) Section 1706(b)(1) is amended by striking “the date of the enactment of this section” at the end of the first sentence and inserting “October 9, 1996”.

(3) Section 1710(e)(2)(A)(ii) is amended by striking “section 2” and inserting “section 3”.

(4) Section 1803(c)(2) is amended by striking “who furnishes health care that the Secretary determines authorized” and inserting “furnishing health care services that the Secretary determines are authorized”.

(5) Section 2408(d)(1) is amended—

(A) by striking “the date of the enactment of this subsection” and inserting “November 21, 1997,”; and

(B) by striking “on the condition described in” and inserting “subject to the condition specified in”.

(6) Section 3018B(a)(2)(E) is amended by striking “before the one-year period beginning on the date of the enactment of this section,” and inserting “before October 23, 1993,”.

(7) Section 3231(a)(2) is amended by striking “subsection (f)” and inserting “subsection (e)”.

(8) Section 3674A(b)(1) is amended by striking “after the 18-month period beginning on the date of the enactment of this section”.

(9) Section 3680A(d)(2)(C) is amended by striking “section”.

(10) Section 3714(f)(1)(B) is amended by striking “more than 45 days after the date of the enactment of the Veterans’ Benefits and Programs Improvement Act of 1988” and inserting “after January 1, 1989”.

(11) Section 3727(a) is amended by striking “the date of enactment of this section” and inserting “May 7, 1968”.

(12) Section 3730(a) is amended by striking “Within” and all that follows through “steps to” and inserting “The Secretary shall”.

(13) Section 4102A(e)(1) is amended by striking the second sentence and inserting the following: “A person may not be assigned after October 9, 1996, as such a Regional Administrator unless the person is a veteran.”.

(14) Section 4110A is amended—

(A) by striking subsection (b); and

(B) by redesignating paragraph (3) of subsection (a) as subsection (b) and striking “paragraph (1)” therein and inserting “subsection (a)”.

(15) Section 5303A(d) is amended—

(A) in paragraph (2)(B), by striking “on or after the date of the enactment of this subsection” and inserting “after October 13, 1982,”; and

(B) in paragraph (3)(B)(i), by striking “on or after the date of the enactment of this subsection,” and inserting “after October 13, 1982,”.

(16) Section 5313(d)(1) is amended by striking “the date of the enactment of this section,” and inserting “October 7, 1980,”.

(17) Section 5315(b)(1) is amended by striking “the date of the enactment of this section,” and inserting “October 17, 1980,”.

(18) Section 8107(b)(3)(E) is amended by striking “section 7305” and inserting “section 7306(f)(1)(A)”.

(c) PUBLIC LAW 104-275.—The Veterans' Benefits Improvements Act of 1996 (Public Law 104-275) is amended as follows:

(1) Section 303(b) (110 Stat. 3332; 38 U.S.C. 4104 note) is amended by striking “sections 4104(b)(1) and (c)” and inserting “subsections (b)(1) and (c) of section 4104”.

(2) Section 705(e) (110 Stat. 3350; 38 U.S.C. 545 note) is amended by striking “section 5316” and inserting “section 5315”.

## **TITLE XI—COMPENSATION COST-OF-LIVING ADJUSTMENT**

38 USC 1114  
note.

### **SEC. 1101. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.**

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 1998, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 1998.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1998, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not

in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

**SEC. 1102. PUBLICATION OF ADJUSTED RATES.**

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1998, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 1101, as increased pursuant to that section.

Federal Register,  
publication.

38 USC 1114  
note.

Approved November 11, 1998.

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**LEGISLATIVE HISTORY—H.R. 4110 (S. 2273):**

HOUSE REPORTS: No. 105–627 (Comm. on Veterans' Affairs).

SENATE REPORTS: No. 105–341 accompanying S. 2273 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Aug. 3, considered and passed House.

Sept. 30, considered and passed Senate, amended, in lieu of S. 2273.

Oct. 10, House concurred in Senate amendment with amendments.

Oct. 21, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Nov. 11, Presidential statement.



Public Law 105–369  
105th Congress

An Act

Nov. 12, 1998  
[H.R. 1023]

To provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated antihemophilic factor, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Ricky Ray  
Hemophilia  
Relief Fund Act  
of 1998.  
42 USC 300c–22  
note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Ricky Ray Hemophilia Relief Fund Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—HEMOPHILIA RELIEF FUND**

Sec. 101. Ricky Ray Hemophilia Relief Fund.

Sec. 102. Compassionate payment relating to individuals with blood-clotting disorders and HIV.

Sec. 103. Determination and payment.

Sec. 104. Limitation on transfer of rights and number of petitions.

Sec. 105. Time limitation.

Sec. 106. Certain claims not affected by payment.

Sec. 107. Limitation on agent and attorney fees.

Sec. 108. Definitions.

**TITLE II—TREATMENT OF CERTAIN PRIVATE SETTLEMENT PAYMENTS IN HEMOPHILIA-CLOTTING-FACTOR SUIT UNDER THE MEDICAID AND SSI PROGRAMS**

Sec. 201. Treatment of certain private settlement payments in hemophilia-clotting-factor suit under the Medicaid and SSI programs.

**TITLE I—HEMOPHILIA RELIEF FUND**

42 USC 300c–22  
note.

**SEC. 101. RICKY RAY HEMOPHILIA RELIEF FUND.**

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a trust fund to be known as the “Ricky Ray Hemophilia Relief Fund”, which shall be administered by the Secretary of the Treasury.

(b) **INVESTMENT OF AMOUNTS IN FUND.**—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on and proceeds from any such investment shall be credited to and become part of the Fund.

(c) **AVAILABILITY OF FUND.**—Amounts in the Fund shall be available only for disbursement by the Secretary of Health and Human Services under section 103.

(d) **TERMINATION.**—The Fund shall terminate upon the expiration of the 5-year period beginning on the date of the enactment

of this Act. If all of the amounts in the Fund have not been expended by the end of the 5-year period, investments of amounts in the Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Fund, and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury of the United States.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Fund to carry out this title \$750,000,000.

**SEC. 102. COMPASSIONATE PAYMENT RELATING TO INDIVIDUALS WITH BLOOD-CLOTTING DISORDERS AND HIV.**

42 USC 300c-22  
note.

(a) **IN GENERAL.**—If the conditions described in subsection (b) are met and if there are sufficient amounts in the Fund to make each payment, the Secretary shall make a single payment of \$100,000 from the Fund to any individual who has an HIV infection and who is described in one of the following paragraphs:

(1) The individual has any form of blood-clotting disorder, such as hemophilia, and was treated with antihemophilic factor at any time during the period beginning on July 1, 1982, and ending on December 31, 1987.

(2) The individual—

(A) is the lawful spouse of an individual described in paragraph (1); or

(B) is the former lawful spouse of an individual described in paragraph (1) and was the lawful spouse of the individual at any time after a date, within the period described in such subparagraph, on which the individual was treated as described in such paragraph and through medical documentation can assert reasonable certainty of transmission of HIV from individual described in paragraph (1).

(3) The individual acquired the HIV infection through perinatal transmission from a parent who is an individual described in paragraph (1) or (2).

(b) **CONDITIONS.**—The conditions described in this subsection are, with respect to an individual, as follows:

(1) **SUBMISSION OF MEDICAL DOCUMENTATION OF HIV INFECTION.**—The individual submits to the Secretary written medical documentation that the individual has an HIV infection.

(2) **PETITION.**—A petition for the payment is filed with the Secretary by or on behalf of the individual.

(3) **DETERMINATION.**—The Secretary determines, in accordance with section 103(b), that the petition meets the requirements of this title.

**SEC. 103. DETERMINATION AND PAYMENT.**

42 USC 300c-22  
note.

(a) **ESTABLISHMENT OF FILING PROCEDURES.**—The Secretary of Health and Human Services shall establish procedures under which individuals may submit petitions for payment under this title. The procedures shall include a requirement that each petition filed under this Act include written medical documentation that the relevant individual described in section 102(a)(1) has (or had) a blood-clotting disorder, such as hemophilia, and was treated as described in such section.

(b) **DETERMINATION.**—For each petition filed under this title, the Secretary shall determine whether the petition meets the requirements of this title.

## (c) PAYMENT.—

(1) IN GENERAL.—To the extent there are sufficient amounts in the Fund to cover each payment, the Secretary shall pay, from the Fund, each petition that the Secretary determines meets the requirements of this title in the order received.

## (2) PAYMENTS IN CASE OF DECEASED INDIVIDUALS.—

(A) IN GENERAL.—In the case of an individual referred to in section 102(a) who is deceased at the time that payment is made under this section on a petition filed by or on behalf of the individual, the payment shall be made as follows:

(i) If the individual is survived by a spouse who is living at the time of payment, the payment shall be made to such surviving spouse.

(ii) If the individual is not survived by a spouse described in clause (i), the payment shall be made in equal shares to all children of the individual who are living at the time of the payment.

(iii) If the individual is not survived by a person described in clause (i) or (ii), the payment shall be made in equal shares to the parents of the individual who are living at the time of the payment.

(iv) If the individual is not survived by a person described in clause (i), (ii), or (iii), the payment shall revert back to the Fund.

(B) FILING OF PETITION BY SURVIVOR.—If an individual eligible for payment under section 102(a) dies before filing a petition under this title, a survivor of the individual may file a petition for payment under this title on behalf of the individual if the survivor may receive payment under subparagraph (A).

## (C) DEFINITIONS.—For purposes of this paragraph:

(i) The term “spouse” means an individual who was lawfully married to the relevant individual at the time of death.

(ii) The term “child” includes a recognized natural child, a stepchild who lived with the relevant individual in a regular parent-child relationship, and an adopted child.

(iii) The term “parent” includes fathers and mothers through adoption.

(3) TIMING OF PAYMENT.—The Secretary may not make a payment on a petition under this title before the expiration of the 120-day period beginning on the date of the enactment of this Act or after the expiration of the 5-year period beginning on the date of the enactment of this Act.

(d) ACTION ON PETITIONS.—The Secretary shall complete the determination required by subsection (b) regarding a petition not later than 120 days after the date the petition is filed under this title.

(e) HUMANITARIAN NATURE OF PAYMENT.—This Act does not create or admit any claim of or on behalf of the individual against the United States or against any officer, employee, or agent thereof acting within the scope of employment or agency that relate to an HIV infection arising from treatment with antihemophilic factor, at any time during the period beginning on July 1, 1982, and ending on December 31, 1987. A payment under this Act shall,



however, when accepted by or on behalf of the individual, be in full satisfaction of all such claims by or on behalf of that individual.

(f) ADMINISTRATIVE COSTS NOT PAID FROM FUND.—No costs incurred by the Secretary in carrying out this title may be paid from the Fund or set off against, or otherwise deducted from, any payment made under subsection (c)(1).

(g) TERMINATION OF DUTIES OF SECRETARY.—The duties of the Secretary under this section shall cease when the Fund terminates.

(h) TREATMENT OF PAYMENTS UNDER OTHER LAWS.—A payment under subsection (c)(1) to an individual—

(1) shall be treated for purposes of the Internal Revenue Code of 1986 as damages described in section 104(a)(2) of such Code;

(2) shall not be included as income or resources for purposes of determining the eligibility of the individual to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits, and such benefits shall not be secondary to, conditioned upon reimbursement from, or subject to any reduction because of receipt of, any such payment; and

(3) shall not be treated as a third party payment or payment in relation to a legal liability with respect to such benefits and shall not be subject (whether by subrogation or otherwise) to recovery, recoupment, reimbursement, or collection with respect to such benefits (including the Federal or State governments or any entity that provides such benefits under a contract).

(i) REGULATORY AUTHORITY.—The Secretary may issue regulations necessary to carry out this title.

(j) TIME OF ISSUANCE OF PROCEDURES.—The Secretary shall, through the promulgation of appropriate regulations, guidelines, or otherwise, first establish the procedures to carry out this title not later than 120 days after the date of the enactment of this Act.

#### **SEC. 104. LIMITATION ON TRANSFER OF RIGHTS AND NUMBER OF PETITIONS.**

42 USC 300c-22  
note.

(a) RIGHTS NOT ASSIGNABLE OR TRANSFERABLE.—Any right under this title shall not be assignable or transferable.

(b) ONE PETITION WITH RESPECT TO EACH VICTIM.—With respect to each individual described in paragraph (1), (2), or (3) of section 102(a), the Secretary may not make payment with respect to more than one petition filed in respect to an individual.

#### **SEC. 105. TIME LIMITATION.**

42 USC 300c-22  
note.

The Secretary may not make any payment with respect to any petition filed under this title unless the petition is filed within 3 years after the date of the enactment of this Act.

#### **SEC. 106. CERTAIN CLAIMS NOT AFFECTED BY PAYMENT.**

42 USC 300c-22  
note.

A payment made under section 103(c)(1) shall not be considered as any form of compensation, or reimbursement for a loss, for purposes of imposing liability on the individual receiving the payment, on the basis of such receipt, to repay any insurance carrier for insurance payments or to repay any person on account of worker's compensation payments. A payment under this title shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

42 USC 300c-22  
note.

**SEC. 107. LIMITATION ON AGENT AND ATTORNEY FEES.**

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the petition of an individual under this title, more than 5 percent of a payment made under this title on the petition. Any such representative who violates this section shall be fined not more than \$50,000.

42 USC 300c-22  
note.

**SEC. 108. DEFINITIONS.**

For purposes of this title:

(1) The term “AIDS” means acquired immune deficiency syndrome.

(2) The term “Fund” means the Ricky Ray Hemophilia Relief Fund.

(3) The term “HIV” means human immunodeficiency virus.

(4) Unless otherwise provided, the term “Secretary” means Secretary of Health and Human Services.

## **TITLE II—TREATMENT OF CERTAIN PAYMENTS IN HEMOPHILIA-CLOT- TING-FACTOR SUIT UNDER THE SSI PROGRAM**

42 USC 300c-22  
note.

**SEC. 201. TREATMENT OF CERTAIN PAYMENTS IN HEMOPHILIA-CLOT-  
TING-FACTOR SUIT UNDER THE MEDICAID AND SSI PRO-  
GRAMS.**

(a) PRIVATE PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the payments described in paragraph (2) shall not be considered income or resources in determining eligibility for, or the amount of—

(A) medical assistance under title XIX of the Social Security Act; or

(B) supplemental security income benefits under title XVI of the Social Security Act.

(2) PRIVATE PAYMENTS DESCRIBED.—The payments described in this subsection are—

(A) payments made from any fund established pursuant to a class settlement in the case of *Susan Walker v. Bayer Corporation, et al.*, 96-C-5024 (N.D. Ill.); and

(B) payments made pursuant to a release of all claims in a case—

(i) that is entered into in lieu of the class settlement referred to in subparagraph (A); and

(ii) that is signed by all affected parties in such case on or before the later of—

(I) December 31, 1997; or

(II) the date that is 270 days after the date on which such release is first sent to the persons (or the legal representative of such persons) to whom the payment is to be made.

(b) GOVERNMENT PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the payments described in paragraph (2) shall not be

considered income or resources in determining eligibility for, or the amount of supplemental security income benefits under title XVI of the Social Security Act.

(2) GOVERNMENT PAYMENTS DESCRIBED.—The payments described in this subsection are payments made from the Fund established pursuant to section 101 of this Act.

Approved November 12, 1998.

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LEGISLATIVE HISTORY—H.R. 1023:

HOUSE REPORTS: No. 105–465, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 19, considered and passed House.

Oct. 21, considered and passed Senate.



Public Law 105–370  
105th Congress

An Act

Nov. 12, 1998  
[H.R. 2070]

Correction  
Officers Health  
and Safety Act of  
1998.  
18 USC 4001  
note.

To amend title 18, United States Code, to provide for the testing of certain persons who are incarcerated or ordered detained before trial, for the presence of the human immunodeficiency virus, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Correction Officers Health and Safety Act of 1998”.

**SEC. 2. TESTING FOR HUMAN IMMUNODEFICIENCY VIRUS.**

(a) IN GENERAL.—Chapter 301 of title 18, United States Code, is amended by adding at the end the following:

**“§ 4014. Testing for human immunodeficiency virus**

“(a) The Attorney General shall cause each individual convicted of a Federal offense who is sentenced to incarceration for a period of 6 months or more to be tested for the presence of the human immunodeficiency virus, as appropriate, after the commencement of that incarceration, if such individual is determined to be at risk for infection with such virus in accordance with the guidelines issued by the Bureau of Prisons relating to infectious disease management.

“(b) If the Attorney General has a well-founded reason to believe that a person sentenced to a term of imprisonment for a Federal offense, or ordered detained before trial under section 3142(e), may have intentionally or unintentionally transmitted the human immunodeficiency virus to any officer or employee of the United States, or to any person lawfully present in a correctional facility who is not incarcerated there, the Attorney General shall—

“(1) cause the person who may have transmitted the virus to be tested promptly for the presence of such virus and communicate the test results to the person tested; and

“(2) consistent with the guidelines issued by the Bureau of Prisons relating to infectious disease management, inform any person (in, as appropriate, confidential consultation with the person’s physician) who may have been exposed to such virus, of the potential risk involved and, if warranted by the circumstances, that prophylactic or other treatment should be considered.

“(c) If the results of a test under subsection (a) or (b) indicate the presence of the human immunodeficiency virus, the Attorney General shall provide appropriate access for counselling, health

care, and support services to the affected officer, employee, or other person, and to the person tested.

“(d) The results of a test under this section are inadmissible against the person tested in any Federal or State civil or criminal case or proceeding.

“(e) Not later than 1 year after the date of the enactment of this section, the Attorney General shall issue rules to implement this section. Such rules shall require that the results of any test are communicated only to the person tested, and, if the results of the test indicate the presence of the virus, to correctional facility personnel consistent with guidelines issued by the Bureau of Prisons. Such rules shall also provide for procedures designed to protect the privacy of a person requesting that the test be performed and the privacy of the person tested.”.

Deadline.  
Regulations.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 301 of title 18, United States Code, is amended by adding at the end the following new item:

“4014. Testing for human immunodeficiency virus.”.

(c) GUIDELINES FOR STATES.—Not later than 1 year after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of Health and Human Services, shall provide to the several States proposed guidelines for the prevention, detection, and treatment of incarcerated persons and correctional employees who have, or may be exposed to, infectious diseases in correctional institutions.

Deadline.  
18 USC 4042  
note.

Approved November 12, 1998.

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LEGISLATIVE HISTORY—H.R. 2070:

HOUSE REPORTS: No. 105-665 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Aug. 3, considered and passed House.

Oct. 20, considered and passed Senate, amended.

Oct. 21, House concurred in Senate amendment.



Public Law 105–371  
105th Congress

An Act

Nov. 12, 1998  
[H.R. 2263]

To authorize and request the President to award the congressional Medal of Honor posthumously to Theodore Roosevelt for his gallant and heroic actions in the attack on San Juan Heights, Cuba, during the Spanish-American War.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to award the congressional Medal of Honor posthumously to Theodore Roosevelt, of the State of New York, for his actions in the attack of San Juan Heights, Cuba, during the Spanish-American War on July 1, 1898. Such an award may be made without regard to the provisions of section 3744 of title 10, United States Code, and may be made in accordance with award criteria applicable at the time of the actions referred to in the first sentence.

Approved November 12, 1998.

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LEGISLATIVE HISTORY—H.R. 2263:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 8, considered and passed House.

Oct. 21, considered and passed Senate.



Public Law 105–372  
105th Congress

An Act

To direct the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a feasibility study and construct a project to reclaim the Salton Sea, and for other purposes.

Nov. 12, 1998  
[H.R. 3267]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Salton Sea Reclamation Act of 1998”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Definitions.

**TITLE I—SALTON SEA FEASIBILITY STUDY**

Sec. 101. Salton Sea Feasibility study authorization.  
Sec. 102. Concurrent wildlife resources studies.  
Sec. 103. Salton Sea National Wildlife Refuge renamed as Sonny Bono Salton Sea National Wildlife Refuge.

**TITLE II—EMERGENCY ACTION TO IMPROVE WATER QUALITY IN THE  
ALAMO RIVER AND NEW RIVER**

Sec. 201. Alamo River and New River irrigation drainage water.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) The term “Committees” means the Committee on Resources and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environmental and Public Works of the Senate.

(2) The term “Salton Sea Authority” means the Joint Powers Authority by that name established under the laws of the State of California by a Joint Power Agreement signed on June 2, 1993.

(3) The term “Secretary” means the Secretary of the Interior, acting through the Bureau of Reclamation.

**TITLE I—SALTON SEA FEASIBILITY  
STUDY**

**SEC. 101. SALTON SEA FEASIBILITY STUDY AUTHORIZATION.**

(a) IN GENERAL.—No later than January 1, 2000, the Secretary, in accordance with this section, shall complete all feasibility studies

Deadline.

Salton Sea  
Reclamation Act  
of 1998.  
California.

and cost analyses for the options set forth in subsection (b)(2)(A) necessary for Congress to fully evaluate such options.

(b) FEASIBILITY STUDY.—

(1) IN GENERAL.—

(A) The Secretary shall complete all studies, including, but not limited to environmental and other reviews, of the feasibility and benefit-cost of various options that permit the continued use of the Salton Sea as a reservoir for irrigation drainage and: (i) reduce and stabilize the overall salinity of the Salton Sea; (ii) stabilize the surface elevation of the Salton Sea; (iii) reclaim, in the long term, healthy fish and wildlife resources and their habitats; and (iv) enhance the potential for recreational uses and economic development of the Salton Sea.

Deadline.

(B) Based solely on whatever information is available at the time of submission of the report, the Secretary shall: (i) identify any options he deems economically feasible and cost effective; (ii) identify any additional information necessary to develop construction specifications; and (iii) submit any recommendations, along with the results of the study to the Committees no later than January 1, 2000.

(C)(i) The Secretary shall carry out the feasibility study in accordance with a memorandum of understanding entered into by the Secretary, the Salton Sea Authority, and the Governor of California.

(ii) The memorandum of understanding shall, at a minimum, establish criteria for evaluation and selection of options under subparagraph (2)(A), including criteria for determining benefit and the magnitude and practicability of costs of construction, operation, and maintenance of each option evaluated.

(2) OPTIONS TO BE CONSIDERED.—Options considered in the feasibility study—

(A) shall consist of, but need not be limited to—

(i) use of impoundments to segregate a portion of the waters of the Salton Sea in one or more evaporation ponds located in the Salton Sea basin;

(ii) pumping water out of the Salton Sea;

(iii) augmented flows of water into the Salton Sea;

(iv) a combination of the options referred to in clauses (i), (ii), and (iii); and

(v) any other economically feasible remediation option the Secretary considers appropriate and for which feasibility analyses and cost estimates can be completed by January 1, 2000;

(B) shall be limited to proven technologies; and

(C) shall not include any option that—

(i) relies on the importation of any new or additional water from the Colorado River; or

(ii) is inconsistent with the provisions of subsection (c).

(3) ASSUMPTIONS.—In evaluating options, the Secretary shall apply assumptions regarding water inflows into the Salton Sea Basin that encourage water conservation, account for transfers of water out of the Salton Sea Basin, and are based



on a maximum likely reduction in inflows into the Salton Sea Basin which could be 800,000 acre-feet or less per year.

(4) CONSIDERATION OF COSTS.—In evaluating the feasibility of options, the Secretary shall consider the ability of Federal, tribal, State and local government sources and private sources to fund capital construction costs and annual operation, maintenance, energy, and replacement costs and shall set forth the basis for any cost sharing allocations as well as anticipated repayment, if any, of Federal contributions.

(c) RELATIONSHIP TO OTHER LAW.—

(1) RECLAMATION LAWS.—Activities authorized by this Act shall not be subject to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391 et seq.), and Acts amendatory thereof and supplemental thereto. Amounts expended for those activities shall be considered nonreimbursable for purposes of those laws and shall not be considered to be a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

(2) PRESERVATION OF RIGHTS AND OBLIGATIONS WITH RESPECT TO THE COLORADO RIVER.—This Act shall not be considered to supersede or otherwise affect any treaty, law, decree, contract, or agreement governing use of water from the Colorado River. All activities taken under this Act must be carried out in a manner consistent with rights and obligations of persons under those treaties, laws, decrees, contracts, and agreements.

#### SEC. 102. CONCURRENT WILDLIFE RESOURCES STUDIES.

(a) IN GENERAL.—The Secretary shall provide for the conduct, concurrently with the feasibility study under section 101(b), of studies of hydrology, wildlife pathology, and toxicology relating to wildlife resources of the Salton Sea by Federal and non-Federal entities.

(b) SELECTION OF TOPICS AND MANAGEMENT OF STUDIES.—

(1) IN GENERAL.—The Secretary shall establish a committee to be known as the “Salton Sea Research Management Committee”. The committee shall select the topics of studies under this section and manage those studies.

Establishment.

(2) MEMBERSHIP.—The committee shall consist of the following five members:

(A) The Secretary.

(B) The Governor of California.

(C) The Executive Director of the Salton Sea Authority.

(D) The Chairman of the Torres Martinez Desert Cahuilla Tribal Government.

(E) The Director of the California Water Resources Center.

(c) COORDINATION.—The Secretary shall require that studies under this section are coordinated through the Science Subcommittee which reports to the Salton Sea Research Management Committee. In addition to the membership provided for by the Science Subcommittee’s charter, representatives shall be invited from the University of California, Riverside; the University of Redlands; San Diego State University; the Imperial Valley College; and Los Alamos National Laboratory.

(d) PEER REVIEW.—The Secretary shall require that studies under this section are subjected to peer review.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—For wildlife resources studies under this section there are authorized to be appropriated to the Secretary, through accounts within the Fish and Wildlife Service, exclusively, \$5,000,000.

(f) **ADVISORY COMMITTEE ACT.**—The committee, and its activities, are not subject to the Federal Advisory Commission Act (5 U.S.C. App.).

16 USC 668dd  
note [table].

**SEC. 103. SALTON SEA NATIONAL WILDLIFE REFUGE RENAMED AS SONNY BONO SALTON SEA NATIONAL WILDLIFE REFUGE.**

(a) **REFUGE RENAMED.**—The Salton Sea National Wildlife Refuge, located in Imperial County, California, is hereby renamed and shall be known as the “Sonny Bono Salton Sea National Wildlife Refuge”.

(b) **REFERENCES.**—Any reference in any statute, rule, regulation, Executive order, publication, map, or paper or other document of the United States to the Salton Sea National Wildlife Refuge is deemed to refer to the Sonny Bono Salton Sea National Wildlife Refuge.

**TITLE II—EMERGENCY ACTION TO  
IMPROVE WATER QUALITY IN THE  
ALAMO RIVER AND NEW RIVER**

**SEC. 201. ALAMO RIVER AND NEW RIVER IRRIGATION DRAINAGE WATER.**

(a) **RIVER ENHANCEMENT.**—

(1) **IN GENERAL.**—The Secretary is authorized and directed to promptly conduct research and construct river reclamation and wetlands projects to improve water quality in the Alamo River and New River, Imperial County, California, by treating water in those rivers and irrigation drainage water that flows into those rivers.

(2) **ACQUISITIONS.**—The Secretary may acquire equipment, real property from willing sellers, and interests in real property (including site access) from willing sellers as needed to implement actions under this section if the State of California, a political subdivision of the State, or Desert Wildlife Unlimited has entered into an agreement with the Secretary under which the State, subdivision, or Desert Wildlife Unlimited, respectively, will, effective 1 year after the date that systems for which the acquisitions are made are operational and functional—

(A) accept all right, title, and interest in and to the equipment, property, or interests; and

(B) assume responsibility for operation and maintenance of the equipment, property, or interests.

Deadline.

(3) **TRANSFER OF TITLE.**—Not later than 1 year after the date a system developed under this section is operational and functional, the Secretary shall transfer all right, title, and interest of the United States in and to all equipment, property, and interests acquired for the system in accordance with the applicable agreement under paragraph (2).

(4) **MONITORING AND OTHER ACTIONS.**—The Secretary shall establish a long-term monitoring program to maximize the

effectiveness of any wetlands developed under this title and may implement other actions to improve the efficacy of actions implemented pursuant to this section.

(b) COOPERATION.—The Secretary shall implement subsection (a) in cooperation with Desert Wildlife Unlimited, the Imperial Irrigation District, California, and other interested persons.

(c) FEDERAL WATER POLLUTION CONTROL.—Water withdrawn solely for the purpose of a wetlands project to improve water quality under subsection (a)(1), when returned to the Alamo River or New River, shall not be required to meet water quality standards under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(d) AUTHORIZATION OF APPROPRIATIONS.—For river reclamation and other irrigation drainage water treatment actions under this section, there are authorized to be appropriated to the Secretary \$3,000,000.

Approved November 12, 1998.

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LEGISLATIVE HISTORY—H.R. 3267:

HOUSE REPORTS: No. 105-621, Pt. 1 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 15, considered and passed House.

Oct. 13, considered and passed Senate, amended.

Oct. 21, House concurred in Senate amendments.



Public Law 105–373  
105th Congress

An Act

Nov. 12, 1998  
[H.R. 4083]

To make available to the Ukrainian Museum and Archives the USIA television program “Window on America”.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AVAILABILITY OF USIA TELEVISION PROGRAM “WINDOW ON AMERICA”.**

Ohio.  
Indiana.

(a) IN GENERAL.—Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency is authorized to make available, upon request, to the Ukrainian Museum and Archives in Cleveland, Ohio and the Slavics Collection, Indiana University Libraries in Bloomington, Indiana, copies of the television program “Window on America” produced by the WORLDNET Television Service of the United States Information Agency.

(b) LIMITATION.—The Ukrainian Museum and Archives and the Slavics Collection are prohibited from broadcasting any materials made available pursuant to this Act.

(c) REIMBURSEMENT.—The Ukrainian Museum and Archives and the Slavics Collection shall reimburse the Director of the United States Information Agency for any expenses involved in making such copies available. Any reimbursement to the Director pursuant to this subsection shall be credited to the applicable appropriation of the United States Information Agency.

(d) TERMINATION.—Subsection (a) shall cease to have effect 5 years after the date of the enactment of this Act.

Approved November 12, 1998.

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LEGISLATIVE HISTORY—H.R. 4083:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 14, considered and passed House.

Oct. 21, considered and passed Senate.



Public Law 105–374  
105th Congress

An Act

To amend title 28, United States Code, with respect to the enforcement of child custody and visitation orders.

Nov. 12, 1998  
[H.R. 4164]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CHILD CUSTODY.**

(a) SECTION 1738A(a).—Section 1738A(a) of title 28, United States Code, is amended by striking “subsection (f) of this section, any child custody determination” and inserting “subsections (f), (g), and (h) of this section, any custody determination or visitation determination”.

(b) SECTION 1738A(b)(2).—Section 1738A(b)(2) of title 28, United States Code, is amended by inserting “or grandparent” after “parent”.

(c) SECTION 1738A(b)(3).—Section 1738A(b)(3) of title 28, United States Code, is amended by striking “or visitation” after “for the custody”.

(d) SECTION 1738A(b)(5).—Section 1738A(b)(5) of title 28, United States Code, is amended by striking “custody determination” each place it occurs and inserting “custody or visitation determination”.

(e) SECTION 1738A(b)(9).—Section 1738A(b) of title 28, United States Code, is amended by striking “and” at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting “; and”, and by adding after paragraph (8) the following:

“(9) ‘visitation determination’ means a judgment, decree, or other order of a court providing for the visitation of a child and includes permanent and temporary orders and initial orders and modifications.”.

(f) SECTION 1738A(c).—Section 1738A(c) of title 28, United States Code, is amended by striking “custody determination” and inserting “custody or visitation determination”.

(g) SECTION 1738A(c)(2)(D).—Section 1738A(c)(2)(D) of title 28, United States Code, is amended by adding “or visitation” after “determine the custody”.

(h) SECTION 1738A(d).—Section 1738A(d) of title 28, United States Code, is amended by striking “custody determination” and inserting “custody or visitation determination”.

(i) SECTION 1738A(e).—Section 1738A(e) of title 28, United States Code, is amended by striking “custody determination” and inserting “custody or visitation determination”.

(j) SECTION 1738A(g).—Section 1738A(g) of title 28, United States Code, is amended by striking “custody determination” and inserting “custody or visitation determination”.

(k) SECTION 1738A(h).—Section 1738A of title 28, United States Code, is amended by adding at the end the following:

“(h) A court of a State may not modify a visitation determination made by a court of another State unless the court of the other State no longer has jurisdiction to modify such determination or has declined to exercise jurisdiction to modify such determination.”.

Approved November 12, 1998.

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LEGISLATIVE HISTORY—H.R. 4164:

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 14, considered and passed House.

Oct. 21, considered and passed Senate, amended. House concurred in Senate amendment.



Public Law 105–375  
105th Congress

An Act

To amend the State Department Basic Authorities Act of 1956 to require the Secretary of State to submit an annual report to Congress concerning diplomatic immunity.

Nov. 12, 1998  
[S. 759]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. REPORTS AND POLICY CONCERNING DIPLOMATIC IMMUNITY.**

Title I, of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as the “Foreign Missions Act”) is amended by inserting after section 204A the following new section:

**“SEC. 204B. CRIMES COMMITTED BY DIPLOMATS.**

22 USC 4304b.

“(a) ANNUAL REPORT CONCERNING DIPLOMATIC IMMUNITY.—

“(1) REPORT TO CONGRESS.—The Secretary of State shall prepare and submit to the Congress, annually, a report concerning diplomatic immunity entitled “Report on Cases Involving Diplomatic Immunity”.

“(2) CONTENT OF REPORT.—In addition to such other information as the Secretary of State may consider appropriate, the report under paragraph (1) shall include the following:

“(A) The number of persons residing in the United States who enjoy full immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.

“(B) Each case involving an alien described in subparagraph (A) in which an appropriate authority of a State, a political subdivision of a State, or the United States reported to the Department of State that the authority had reasonable cause to believe the alien committed a serious criminal offense within the United States, and any additional information provided to the Secretary relating to other serious criminal offenses that any such authority had reasonable cause to believe the alien committed before the period covered by the report. The Secretary may omit from such report any matter the provision of which the Secretary reasonably believes would compromise a criminal investigation or prosecution or which would directly compromise law enforcement or intelligence sources or methods.

“(C) Each case described in subparagraph (B) in which the Secretary of State has certified that a person enjoys full immunity from the criminal jurisdiction of the United

States under laws extending diplomatic privileges and immunities.

“(D) The number of United States citizens who are residing in a receiving state and who enjoy full immunity from the criminal jurisdiction of such state under laws extending diplomatic privileges and immunities.

“(E) Each case involving a United States citizen under subparagraph (D) in which the United States has been requested by the government of a receiving state to waive the immunity from criminal jurisdiction of the United States citizen.

“(F) Whether the Secretary has made the notifications referred to in subsection (c) during the period covered by the report.

“(3) SERIOUS CRIMINAL OFFENSE DEFINED.—For the purposes of this section, the term ‘serious criminal offense’ means—

“(A) any felony under Federal, State, or local law;

“(B) any Federal, State, or local offense punishable by a term of imprisonment of more than 1 year;

“(C) any crime of violence as defined for purposes of section 16 of title 18, United States Code; or

“(D)(i) driving under the influence of alcohol or drugs;

“(ii) reckless driving; or

“(iii) driving while intoxicated.

“(b) UNITED STATES POLICY CONCERNING REFORM OF DIPLOMATIC IMMUNITY.—It is the sense of the Congress that the Secretary of State should explore, in appropriate fora, whether states should enter into agreements and adopt legislation—

“(1) to provide jurisdiction in the sending state to prosecute crimes committed in the receiving state by persons entitled to immunity from criminal jurisdiction under laws extending diplomatic privileges and immunities; and

“(2) to provide that where there is probable cause to believe that an individual who is entitled to immunity from the criminal jurisdiction of the receiving state under laws extending diplomatic privileges and immunities committed a serious crime, the sending state will waive such immunity or the sending state will prosecute such individual.



“(c) NOTIFICATION OF DIPLOMATIC CORPS.—The Secretary should periodically notify each foreign mission of United States policies relating to criminal offenses committed by individuals with immunity from the criminal jurisdiction of the United States under laws extending diplomatic privileges and immunities.”.

Approved November 12, 1998.

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LEGISLATIVE HISTORY—S. 759:

CONGRESSIONAL RECORD:

Vol. 143 (1997): Nov. 8, considered and passed Senate.

Vol. 144 (1998): Oct. 14, considered and passed House.



Public Law 105–376  
105th Congress

An Act

Nov. 12, 1998  
[S. 1132]

To modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the Monument and which are not currently within the jurisdiction of a Federal land management agency, to authorize purchase or donation of those lands, and for other purposes.

Bandelier  
National  
Monument  
Administrative  
Improvement  
and Watershed  
Protection Act of  
1998.  
New Mexico.  
16 USC 431 note  
[table].

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Bandelier National Monument Administrative Improvement and Watershed Protection Act of 1998”.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that:

(1) Bandelier National Monument (hereinafter, the Monument) was established by Presidential proclamation on February 11, 1916, to preserve the archeological resources of a “vanished people, with as much land as may be necessary for the proper protection thereof . . .” (No. 1322; 39 Stat. 1746).

(2) At various times since its establishment, the Congress and the President have adjusted the Monument’s boundaries and purpose to further preservation of archeological and natural resources within the Monument.

(A) On February 25, 1932, the Otowi Section of the Santa Fe National Forest (some 4,699 acres of land) was transferred to the Monument from the Santa Fe National Forest (Presidential Proclamation No. 1191; 17 Stat. 2503).

(B) In December of 1959, 3,600 acres of Frijoles Mesa were transferred to the National Park Service from the Atomic Energy Committee (hereinafter, AEC) and subsequently added to the Monument on January 9, 1991, because of “pueblo-type archeological ruins germane to those in the monument” (Presidential Proclamation No. 3388).

(C) On May 27, 1963, Upper Canyon, 2,882 acres of land previously administered by the AEC, was added to the Monument to preserve “their unusual scenic character together with geologic and topographic features, the preservation of which would implement the purposes” of the Monument (Presidential Proclamation No. 3539).

(D) In 1976, concerned about upstream land management activities that could result in flooding and erosion

in the Monument, Congress included the headwaters of the Rito de los Frijoles and the Cañada de Cochiti Grant (a total of 7,310 acres) within the Monument's boundaries (Public Law 94-578; 90 Stat. 2732).

(E) In 1976, Congress created the Bandelier Wilderness, a 23,267 acres area that covers over 70 percent of the Monument.

(3) The Monument still has potential threats from flooding, erosion, and water quality deterioration because of the mixed ownership of the upper watersheds, along its western border, particularly in Alamo Canyon.

(b) PURPOSE.—The purpose of this Act is to modify the boundary of the Monument to allow for acquisition and enhanced protection of the lands within the Monument's upper watershed.

### SEC. 3. BOUNDARY MODIFICATION.

Effective on the date of enactment of this Act, the boundaries of the Monument shall be modified to include approximately 935 acres of land comprised of the Elk Meadows subdivision, the Gardner parcel, the Clark parcel, and the Baca Land & Cattle Co. lands within the Upper Alamo watershed as depicted on the National Park Service map entitled "Proposed Boundary Expansion Map Bandelier National Monument" dated July, 1997. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

### SEC. 4. LAND ACQUISITION.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the Secretary of the Interior is authorized to acquire lands and interests therein within the boundaries of the area added to the Monument by this Act by donation, purchase with donated or appropriated funds, transfer with another Federal agency, or exchange: *Provided*, That no lands or interests therein may be acquired except with the consent of the owner thereof.

(b) STATE AND LOCAL LANDS.—Lands or interests therein owned by the State of New Mexico or a political subdivision thereof may only be acquired by donation or exchange.

(c) ACQUISITION OF LESS THAN FEE INTERESTS IN LAND.—The Secretary may acquire less than fee interests in land only if the Secretary determines that such less than fee acquisition will adequately protect the Monument from flooding, erosion, and degradation of its drainage waters.

### SEC. 5. ADMINISTRATION.

The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national Monument, including lands added to the Monument by this Act, in accordance with this Act and the provisions of law generally applicable to units of National Park System, including the Act of August 25, 1916, an Act to establish a National Park Service (39 Stat. 535; 16 U.S.C. 1 et seq.), and such specific legislation as heretofore has been enacted regarding the Monument.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated such sums as may be necessary to carry out the purpose of this Act.

Approved November 12, 1998.

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**LEGISLATIVE HISTORY—S. 1132:**

SENATE REPORTS: No. 105–178 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 17, considered and passed Senate.

Oct. 20, considered and passed House.



Public Law 105–377  
105th Congress

An Act

Granting the consent and approval of Congress to an interstate forest fire protection compact.

Nov. 12, 1998  
[S. 1134]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONSENT OF CONGRESS.**

(a) IN GENERAL.—The consent and approval of Congress is given to an interstate forest fire protection compact, as set out in subsection (b).

(b) COMPACT.—The compact reads substantially as follows:

**“THE NORTHWEST WILDLAND FIRE  
PROTECTION AGREEMENT**

“THIS AGREEMENT is entered into by and between the State, Provincial, and Territorial wildland fire protection agencies signatory hereto, hereinafter referred to as “Members”.

“FOR AND IN CONSIDERATION OF the following terms and conditions, the Members agree:

**“Article I**

“1.1 The purpose of this Agreement is to promote effective prevention, suppression and control of forest fires in the Northwest wildland region of the United States and adjacent areas of Canada (by the Members) by providing mutual aid in prevention, suppression and control of wildland fires, and by establishing procedures in operating plans that will facilitate such aid.

**“Article II**

“2.1 The agreement shall become effective for those Members ratifying it whenever any two or more Members, the States of Oregon, Washington, Alaska, Idaho, Montana, or the Yukon Territory, or the Province of British Columbia, or the Province of Alberta have ratified it.

“2.2 Any State, Province, or Territory not mentioned in this Article which is contiguous to any Member may become a party to this Agreement subject to unanimous approval of the Members.

State listing.  
Canada.

### **“Article III**

“3.1 The role of the Members is to determine from time to time such methods, practices, circumstances and conditions as may be found for enhancing the prevention, presuppression, and control of forest fires in the area comprising the Member’s territory; to coordinate the plans and the work of the appropriate agencies of the Members; and to coordinate the rendering of aid by the Members to each other in fighting wildland fires.

“3.2 The Members may develop cooperative operating plans for the programs covered by this Agreement. Operating plans shall include definition of terms, fiscal procedures, personnel contacts, resources available, and standards applicable to the program. Other sections may be added as necessary.

### **“Article IV**

“4.1 A majority of Members shall constitute a quorum for the transaction of its general business. Motions of Members present shall be carried by a simple majority except as stated in Article II. Each Member will have one vote on motions brought before them.

### **“Article V**

“5.1 Whenever a Member requests aid from any other Member in controlling or preventing wildland fires, the Members agree, to the extent they possibly can, to render all possible aid.

### **“Article VI**

“6.1 Whenever the forces of any Member are aiding another Member under this Agreement, the employees of such Member shall operate under the direction of the officers of the Member to which they are rendering aid and be considered agents of the Member they are rendering aid to and, therefore, have the same privileges and immunities as comparable employees of the Member to which they are rendering aid.

“6.2 No Member or its officers or employees rendering aid within another State, Territory, or Province, pursuant to this Agreement shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith to the extent authorized by the laws of the Member receiving the assistance. The receiving Member, to the extent authorized by the laws of the State, Territory, or Province, agrees to indemnify and save-harmless the assisting Member from any such liability.

“6.3 Any Member rendering outside aid pursuant to this Agreement shall be reimbursed by the Member receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment and for the cost of all materials, transportation, wages, salaries and maintenance of personnel and equipment incurred in connection with such request in accordance with the provisions of the previous section. Nothing contained herein shall prevent any assisting Member from assuming such loss, damage,

expense or other cost or from loaning such equipment or from donating such services to the receiving Member without charge or cost.

“6.4 For purposes of the Agreement, personnel shall be considered employees of each sending Member for the payment of compensation to injured employees and death benefits to the representatives of deceased employees injured or killed while rendering aid to another Member pursuant to this Agreement.

“6.5 The Members shall formulate procedures for claims and reimbursement under the provisions of this Article.

## **“Article VII**

“7.1 When appropriations for support of this agreement, or for the support of common services in executing this agreement, are needed, costs will be allocated equally among the Members.

“7.2 As necessary, Members shall keep accurate books of account, showing in full, its receipts and disbursements, and the books of account shall be open at any reasonable time to the inspection of representatives of the Members.

“7.3 The Members may accept any and all donations, gifts, and grants of money, equipment, supplies, materials and services from the Federal or any local government, or any agency thereof and from any person, firm or corporation, for any of its purposes and functions under this Agreement, and may receive and use the same subject to the terms, conditions, and regulations governing such donations, gifts, and grants.

## **“Article VIII**

“8.1 Nothing in this Agreement shall be construed to limit or restrict the powers of any Member to provide for the prevention, control, and extinguishment of wildland fires or to prohibit the enactment of enforcement of State, Territorial, or Provincial laws, rules or regulations intended to aid in such prevention, control and extinguishment of wildland fires in such State, Territory, or Province.

“8.2 Nothing in this Agreement shall be construed to affect any existing or future Cooperative Agreement between Members and/or their respective Federal agencies.

## **“Article IX**

“9.1 The Members may request the United States Forest Service to act as the coordinating agency of the Northwest Wildland Fire Protection Agreement in cooperation with the appropriate agencies for each Member.

“9.2 The Members will hold an annual meeting to review the terms of this Agreement, any applicable Operating Plans, and make necessary modifications.

“9.3 Amendments to this Agreement can be made by simple majority vote of the Members and will take effect immediately upon passage.

## **“Article X**

“10.1 This Agreement shall continue in force on each Member until such Member takes action to withdraw therefrom. Such action shall not be effective until 60 days after notice thereof has been sent to all other Members.

## **“Article XI**

“11.1 Nothing in this Agreement shall obligate the funds of any Member beyond those approved by appropriate legislative action.”.

### **SEC. 2. OTHER STATES.**

Without further submission of the compact, the consent of Congress is given to any State to become a party to it in accordance with its terms.

### **SEC. 3. RIGHTS RESERVED.**

The right to alter, amend, or repeal this Act is expressly reserved.

Approved November 12, 1998.

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#### **LEGISLATIVE HISTORY—S. 1134:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 30, considered and passed Senate.

Oct. 15, considered and passed House.





Public Law 105–379  
105th Congress

An Act

To amend the Food Stamp Act of 1977 to require food stamp State agencies to take certain actions to ensure that food stamp coupons are not issued for deceased individuals, to require the Secretary of Agriculture to conduct a study of options for the design, development, implementation, and operation of a national database to track participation in Federal means-tested public assistance programs, and for other purposes.

Nov. 12, 1998  
[S. 1733]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DENIAL OF FOOD STAMPS FOR DECEASED INDIVIDUALS.**

(a) IN GENERAL.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

“(r) DENIAL OF FOOD STAMPS FOR DECEASED INDIVIDUALS.—Each State agency shall—

“(1) enter into a cooperative arrangement with the Commissioner of Social Security, pursuant to the authority of the Commissioner under section 205(r)(3) of the Social Security Act (42 U.S.C. 405(r)(3)), to obtain information on individuals who are deceased; and

“(2) use the information to verify and otherwise ensure that benefits are not issued to individuals who are deceased.”.

(b) REPORT.—Not later than September 1, 2000, the Secretary of Agriculture shall submit a report regarding the progress and effectiveness of the cooperative arrangements entered into by State agencies under section 11(r) of the Food Stamp Act of 1977 (7 U.S.C. 2020(r)) (as added by subsection (a)) to—

(1) the Committee on Agriculture of the House of Representatives;

(2) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(3) the Committee on Ways and Means of the House of Representatives;

(4) the Committee on Finance of the Senate; and

(5) the Secretary of the Treasury.

(c) EFFECTIVE DATE.—This section and the amendments made by this section take effect on June 1, 2000.

Deadline.  
7 USC 2020 note.

7 USC 2020 note.

**SEC. 2. STUDY OF NATIONAL DATABASE FOR FEDERAL MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS.**

7 USC 2011 note.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study of options for the design, development, implementation, and operation of a national database to track participation in Federal means-tested public assistance programs.

(b) ADMINISTRATION.—In conducting the study, the Secretary shall—

(1) analyze available data to determine—

(A) whether the data have addressed the needs of the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(B) whether additional or unique data need to be developed to address the needs of the food stamp program; and

(C) the feasibility and cost-benefit ratio of each available option for a national database;

(2) survey the States to determine how the States are enforcing the prohibition on recipients receiving assistance in more than one State under Federal means-tested public assistance programs;

(3) determine the functional requirements of each available option for a national database; and

(4) ensure that all options provide safeguards to protect against the unauthorized use or disclosure of information in the national database.

Deadline.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under this section.

(d) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary of Agriculture \$500,000 to carry out this section. The Secretary shall be entitled to receive the funds and shall accept the funds, without further appropriation.

Approved November 12, 1998.

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LEGISLATIVE HISTORY—S. 1733:

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 14, considered and passed Senate.

Oct. 15, considered and passed House.



Public Law 105–380  
105th Congress

An Act

To eliminate restrictions on the acquisition of certain land contiguous to Hawaii  
Volcanoes National Park.

Nov. 12, 1998  
[S. 2129]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Hawaii Volcanoes National Park  
Adjustment Act of 1998”.

Hawaii Volcanoes  
National Park  
Adjustment Act  
of 1998.  
16 USC 391 note.

**SEC. 2. HAWAII VOLCANOES NATIONAL PARK.**

The first section of the Act of June 20, 1938 (52 Stat. 781,  
chapter 530; 16 U.S.C. 391b), is amended by inserting before the  
period at the end the following: “, except for the land depicted  
on the map entitled ‘NPS–PAC 1997HW’, which may be purchased  
with donated or appropriated funds”.

Approved November 12, 1998.

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**LEGISLATIVE HISTORY—S. 2129:**

SENATE REPORTS: No. 105–313 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 2, considered and passed Senate.

Oct. 14, considered and passed House.



Public Law 105–381  
105th Congress

Joint Resolution

Nov. 12, 1998  
[S.J. Res. 35]

Granting the consent of Congress to the Pacific Northwest Emergency Management Arrangement.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

State listing.  
Canada.

**SECTION 1. CONGRESSIONAL CONSENT.**

Congress consents to the Pacific Northwest Emergency Management Arrangement entered into between the States of Alaska, Idaho, Oregon, and Washington, and the Province of British Columbia and the Yukon Territory. The arrangement is substantially as follows:

**“PACIFIC NORTHWEST EMERGENCY MANAGEMENT  
ARRANGEMENT**

“Whereas, Pacific Northwest emergency management arrangement between the government of the States of Alaska, the government of the State of Idaho, the government of the State of Oregon, the government of the State of Washington, the government of the State of the Providence of British Columbia, and the government of Yukon Territory hereinafter referred to collectively as the ‘Signatories’ and separately as a ‘Signatory’;

“Whereas, the Signatories recognize the importance of comprehensive and coordinated civil emergency preparedness, response and recovery measures for natural and technological emergencies or disasters, and for declared or undeclared hostilities including enemy attack;

“Whereas, the Signatories further recognize the benefits of coordinating their separate emergency preparedness, response and recovery measures with that of contiguous jurisdictions for those emergencies, disasters, or hostilities affecting or potentially affecting any one or more of the Signatories in the Pacific Northwest; and

“Whereas, the Signatories further recognize that regionally based emergency preparedness, response and recovery measures will benefit all jurisdictions within the Pacific Northwest, and best serve their respective national interests in cooperative and coordinated emergency preparedness as facilitated by the Consultative Group on Comprehensive Civil Emergency and Management established in the Agreement Between the government of the United States of America and the government of Canada on Cooperation and Comprehensive Civil Emergency Planning and Management signed at Ottawa, Ontario, Canada on April 28,

1986: Now, therefore, be it is hereby agreed by and between each and all of the Signatories hereto as follows:

“ADVISORY COMMITTEE

“(1) An advisory committee named the Western Regional Emergency Management Advisory Committee (W-REMAC) shall be established which will include one member appointed by each Signatory.

“(2) The W-REMAC will be guided by the agreed-upon Terms of Reference-Annex A.

“PRINCIPLES OF COOPERATION

“(3) Subject to the laws of each Signatory, the following cooperative principles are to be used as a guide by the Signatories in civil emergency matters which may affect more than one Signatory:

“(A) The authorities of each Signatory may seek the advice, cooperation, or assistance of any other Signatory in any civil emergency matter.

“(B) Nothing in the arrangement shall derogate from the applicable laws within the jurisdiction of any Signatory. However, the authorities of any Signatory may request from the authorities of any other signatory appropriate alleviation of such laws if their normal application might lead to delay or difficulty in the rapid execution of necessary civil emergency measures.

“(C) Each Signatory will use its best efforts to facilitate the movement of evacuees, refugees, civil emergency personnel, equipment or other resources into or across its territory, or to a designated staging area when it is agreed that such movement or staging will facilitate civil emergency operations by the affected or participating Signatories.

“(D) In times of emergency, each Signatory will use its best efforts to ensure that the citizens or residents of any other Signatory present in its territory are provided emergency health services and emergency social services in a manner no less favorable than that provided to its own citizens.

“(E) Each Signatory will use discretionary power as far as possible to avoid levy of any tax, tariff, business license, or user fees on the services, equipment, and supplies of any other Signatory which is engaged in civil emergency activities in the territory of another Signatory, and will use its best efforts to encourage local governments or other jurisdictions within its territory to do likewise.

“(F) When civil emergency personnel, contracted firms or personnel, vehicles, equipment, or other services from any Signatory are made available to or are employed to assist any other Signatory, all providing Signatories will use best efforts to ensure that charges, levies, or costs for such use or assistance will not exceed those paid for similar use of such resources within their own territory.

“(G) Each Signatory will exchange contact lists, warning and notification plans, and selected emergency plans and will call to the attention of their respective local governments and

other jurisdictional authorities in areas adjacent to intersignatory boundaries, the desirability of compatibility of civil emergency plans and the exchange of contact lists, warning and notification plans, and selected emergency plans.

“(H) The authority of any Signatory conducting an exercise will ensure that all other signatories are provided an opportunity to observe, and/or participate in such exercises.

“COMPREHENSIVE NATURE

“(4) This document is a comprehensive arrangement on civil emergency planning and management. To this end and from time to time as necessary, all Signatories shall—

“(A) review and exchange their respective contact lists, warning and notification plans, and selected emergency plans; and

“(B) as appropriate, provide such plans and procedures to local governments, and other emergency agencies within their respective territories.

“ARRANGEMENT NOT EXCLUSIVE

“(5) This is not an exclusive arrangement and shall not prevent or limit other civil emergency arrangements of any nature between Signatories to this arrangement. In the event of any conflicts between the provisions of this arrangement and any other arrangement regarding emergency service entered into by two or more States of the United States who are Signatories to this arrangement, the provisions of that other arrangement shall apply, with respect to the obligations of those States to each other, and not the conflicting provisions of this arrangement.

“AMENDMENTS

“(6) This Arrangement and the Annex may be amended (and additional Annexes may be added) by arrangement of the Signatories.

“CANCELLATION OR SUBSTITUTION

“(7) Any Signatory to this Arrangement may withdraw from or cancel their participation in this Arrangement by giving sixty days, written notice in advance of this effective date to all other Signatories.

“AUTHORITY

“(8) All Signatories to this Arrangement warrant they have the power and capacity to accept, execute, and deliver this Arrangement.

“EFFECTIVE DATE

“(9) Notwithstanding any dates noted elsewhere, this Arrangement shall commence April 1, 1996.”.

**SEC. 2. INCONSISTENCY OF LANGUAGE.**

The validity of the arrangements consented to by this Act shall not be affected by any insubstantial difference in their form or language as adopted by the States and provinces.

**SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.**

The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved November 12, 1998.

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LEGISLATIVE HISTORY—S.J. Res. 35:

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 31, considered and passed Senate.

Oct. 15, considered and passed House.



Public Law 105–382  
105th Congress

An Act

Nov. 13, 1998  
[H.R. 633]

To amend the Foreign Service Act of 1980 to provide that the annuities of certain special agents and security personnel of the Department of State be computed in the same way as applies generally with respect to Federal law enforcement officers, and for other purposes.

Department of  
State Special  
Agents  
Retirement Act of  
1998.  
22 USC 3901  
note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Department of State Special Agents Retirement Act of 1998”.

**SEC. 2. AMENDMENTS RELATING TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.**

(a) DEFINITION OF A SPECIAL AGENT.—

(1) IN GENERAL.—Section 804 of the Foreign Service Act of 1980 (22 U.S.C. 4044) is amended—

(A) by striking “and” at the end of paragraph (13);

(B) by striking the period at the end of paragraph (14) and inserting “; and”; and

(C) by adding at the end the following:

“(15) ‘special agent’ means an employee of the Department of State with a primary skill code of 2501—

“(A) the duties of whose position—

“(i) are primarily—

“(I) the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States; or

“(II) the protection of persons pursuant to section 2709(a)(3) of title 22, United States Code, against threats to personal safety; and

“(ii) are sufficiently rigorous that employment opportunities should be limited to young and physically vigorous individuals, as determined by the Secretary of State pursuant to section 4823 of title 22, United States Code;

“(B) performing duties described in subparagraph (A) before, on, or after the date of the enactment of this paragraph; or

“(C) transferred directly to a position which is supervisory or administrative in nature after performing duties described in subparagraph (A) for at least 3 years.”.

(2) CONFORMING AMENDMENT.—Section 852 of such Act (22 U.S.C. 4071a) is amended—



- (A) by striking “and” at the end of paragraph (7);
- (B) by striking the period at the end of paragraph (8) and inserting “; and”; and

(C) by adding at the end the following:

“(9) the term ‘special agent’ has the same meaning given in section 804(15).”.

(b) CONTRIBUTIONS.—

(1) IN GENERAL.—Section 805(a) of such Act (22 U.S.C. 4045(a)) is amended by adding at the end the following:

“(3) For service as a special agent, paragraph (1) shall be applied by substituting for ‘7 percent’ the percentage that applies to law enforcement officers under section 8334(a)(1) of title 5, United States Code.”.

(2) CONFORMING AMENDMENT.—Section 805(a)(1) (22 U.S.C. 4045(a)(1)) of such Act is amended by striking “Except as provided in subsection (h),” and inserting “Except as otherwise provided in this section,”.

(c) SPECIAL CONTRIBUTION FOR PRIOR NONDEPOSIT SERVICE.—Section 805(d) of such Act (22 U.S.C. 4045(d)) is amended by adding at the end the following:

“(6) Subject to paragraph (4) and subsection (h), for purposes of applying this subsection with respect to prior service as a special agent, the percentages of basic pay set forth in section 8334(c) of title 5, United States Code, with respect to a law enforcement officer, shall apply instead of the percentages set forth in paragraph (1).”.

(d) COMPUTATION OF ANNUITIES.—

(1) IN GENERAL.—Section 806(a) of such Act (22 U.S.C. 4046(a)) is amended—

(A) by redesignating paragraph (6) as paragraph (7);

and

(B) by inserting after paragraph (5) the following:

“(6)(A) The annuity of a special agent under this subchapter shall be computed under paragraph (1) except that, in the case of a special agent described in subparagraph (B), paragraph (1) shall be applied by substituting for ‘2 percent’—

“(i) the percentage under subparagraph (A) of section 8339(d)(1) of title 5, United States Code, for so much of the participant’s total service as is specified thereunder; and

“(ii) the percentage under subparagraph (B) of section 8339(d)(1) of title 5, United States Code, for so much of the participant’s total service as is specified thereunder.

“(B) A special agent described in this subparagraph is any such agent or former agent who—

“(i)(I) retires voluntarily or involuntarily under section 607, 608, 611, 811, 812, or 813, under conditions authorizing an immediate annuity, other than for cause on charges of misconduct or delinquency, or retires for disability under section 808; and

“(II) at the time of retirement—

“(aa) if voluntary, is at least 50 years of age and has completed at least 20 years of service as a special agent; or

“(bb) if involuntary or disability, has completed at least 20 years of service as a special agent; or

“(ii) dies in service after completing at least 20 years of service as a special agent, when an annuity is payable under section 809.

“(C) For purposes of subparagraph (B), included with the years of service performed by an individual as a special agent shall be any service performed by such individual as a law enforcement officer (within the meaning of section 8331(20) or section 8401(17) of title 5, United States Code), or a member of the Capitol Police.”.

(2) SPECIAL RULE FOR SPECIAL AGENTS WITH PRIOR SERVICE UNDER THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM OR THE CIVIL SERVICE RETIREMENT SYSTEM.—Section 806(a) of such Act (22 U.S.C. 4046(a)), as amended by paragraph (1), is further amended—

(A) by redesignating paragraph (7) (as so redesignated by paragraph (1)) as paragraph (8); and

(B) by inserting after paragraph (6) (as added by paragraph (1)) the following:

“(7) In the case of a special agent who becomes or became subject to subchapter II—

“(A) for purposes of paragraph (6)(B), any service performed by the individual as a special agent (whether under this subchapter or under subchapter II), as a law enforcement officer (within the meaning of section 8331(20) or section 8401(17) of title 5, United States Code), or as a member of the Capitol Police shall be creditable; and

“(B) if the individual satisfies paragraph (6)(B), the portion of such individual’s annuity which is attributable to service under the Foreign Service Retirement and Disability System or the Civil Service Retirement System shall be computed in conformance with paragraph (6).”.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Paragraph (8) of section 806(a) of such Act (22 U.S.C. 4046(a)), as so redesignated by paragraph (2)(A), is amended by striking “and (4)” and inserting “(4), and (6)”.

(B) Paragraphs (1) and (3) of section 855(b) of such Act (22 U.S.C. 4071d(b)) are each amended by inserting “611,” after “608,”.

### SEC. 3. MANDATORY SEPARATION OF SPECIAL AGENTS.

The first sentence of section 812(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4052(a)(2)) is amended to read as follows: “Notwithstanding paragraph (1)—

“(A) an individual described in section 4(a)(2) of the Department of State Special Agents Retirement Act of 1998 who is otherwise eligible for immediate retirement under this chapter; or

“(B) a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, United States Code, as applicable, had the employee remained in civil service,

shall be separated from the Service on the last day of the month in which such individual under subparagraph (A) or such Foreign Service criminal investigator/inspector under subparagraph (B)

attains 57 years of age or completes 20 years of service if then over that age.”.

**SEC. 4. EFFECTIVE DATE; APPLICABILITY.**

22 USC 4044  
note.

(a) **IN GENERAL.**—Except as provided in subsection (b), this Act and the amendments made by this Act—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply with respect to—

(A) any individual first appointed on or after that date as a special agent who will have any portion of such individual's annuity computed in conformance with section 806(a)(6) of the Foreign Service Act; and

(B) any individual making an election under subsection (b), subject to the provisions of such subsection.

(b) **ELECTION FOR CURRENT PARTICIPANTS.**—

(1) **ELIGIBILITY.**—An election under this subsection may be made by any currently employed participant under chapter 8 of the Foreign Service Act of 1980 who is serving or has served as a special agent, or by a survivor of a special agent who was eligible to make an election under this section.

(2) **EFFECT OF AN ELECTION.**—

(A) **IN GENERAL.**—If an individual makes an election under this subsection, the amendments made by this Act shall become applicable with respect to such individual, subject to subparagraph (B).

(B) **TREATMENT OF PRIOR SERVICE.**—

(i) **SPECIAL CONTRIBUTION.**—An individual may, after making the election under this subsection, make a special contribution up to the full amount of the difference between the contributions actually deducted from pay for prior service and the deductions that would have been required if the amendments made by this Act had then been in effect. Any special contributions under this clause shall be computed under regulations based on section 805(d) of the Foreign Service Act of 1980 (as amended by section 2), including provisions relating to the computation of interest.

(ii) **ACTUARIAL REDUCTION.**—

(I) **RULE IF THE SPECIAL CONTRIBUTION IS PAID.**—If the full amount of the special contribution under clause (i) is paid, no reduction under this clause shall apply.

(II) **RULE IF LESS THAN THE ENTIRE AMOUNT IS PAID.**—If no special contribution under clause (i) is paid, or if less than the entire amount of such special contribution is paid, the recomputed annuity shall be reduced by an amount sufficient to make up the actuarial present value of the shortfall.

(c) **REGULATIONS AND NOTICE.**—Not later than 6 months after the date of the enactment of this Act, the Secretary of State—

Deadline.

(1) shall promulgate such regulations as may be necessary to carry out this Act; and

(2) shall take measures reasonably designed to provide notice to participants as to any rights they might have under this Act.

(d) **ELECTION DEADLINE.**—An election under subsection (b) must be made not later than 90 days after the date on which the relevant notice under subsection (c)(2) is provided.

(e) **DEFINITION.**—For purposes of this section, the term “special agent” has the meaning given such term under section 804(15) of the Foreign Service Act of 1980 (22 U.S.C. 4044(15)), as amended by section 2(a).

Approved November 13, 1998.

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**LEGISLATIVE HISTORY—H.R. 633:**

HOUSE REPORTS: No. 105–755, Pt. 1 (Comm. on International Relations).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 5, considered and passed House.

Oct. 20, considered and passed Senate.



Public Law 105–383  
105th Congress

An Act

To authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard,  
and for other purposes.

Nov. 13, 1998  
[H.R. 2204]

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

Coast Guard  
Authorization  
Act of 1998.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Coast Guard Authorization Act  
of 1998”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

**TITLE I—AUTHORIZATION**

- Sec. 101. Authorization of appropriations.
- Sec. 102. Authorized levels of military strength and training.
- Sec. 103. LORAN-C.

**TITLE II—COAST GUARD MANAGEMENT**

- Sec. 201. Severance pay.
- Sec. 202. Authority to implement and fund certain awards programs.
- Sec. 203. Use of appropriated funds for commercial vehicles at military funerals.
- Sec. 204. Authority to reimburse Novato, California, Reuse Commission.
- Sec. 205. Law enforcement authority for special agents of the Coast Guard  
Investigative Service.
- Sec. 206. Report on excess Coast Guard property.
- Sec. 207. Fees for navigation assistance service.
- Sec. 208. Aids to navigation report.

**TITLE III—MARINE SAFETY**

- Sec. 301. Extension of territorial sea for certain laws.
- Sec. 302. Penalties for interfering with the safe operation of a vessel.
- Sec. 303. Great Lakes Pilotage Advisory Committee.
- Sec. 304. Alcohol testing.
- Sec. 305. Protect marine casualty investigations from mandatory release.
- Sec. 306. Safety management code report and policy.
- Sec. 307. Oil and hazardous substance definition and report.
- Sec. 308. National Marine Transportation System.
- Sec. 309. Availability and use of EPIRBS for recreational vessels.
- Sec. 310. Search and rescue helicopter coverage.
- Sec. 311. Petroleum transportation.
- Sec. 312. Seasonal Coast Guard helicopter air rescue capability.
- Sec. 313. Ship reporting systems.

**TITLE IV—MISCELLANEOUS**

- Sec. 401. Vessel identification system amendments.
- Sec. 402. Conveyance of Coast Guard Reserve training facility, Jacksonville,  
Florida.
- Sec. 403. Documentation of certain vessels.
- Sec. 404. Conveyance of Nahant parcel, Essex County, Massachusetts.

- Sec. 405. Unreasonable obstruction to navigation.
- Sec. 406. Financial responsibility for oil spill response vessels.
- Sec. 407. Conveyance of Coast Guard property to Jacksonville University in Jacksonville, Florida.
- Sec. 408. Penalty for violation of International Safety Convention.
- Sec. 409. Coast Guard City, USA.
- Sec. 410. Conveyance of Communication Station Boston Marshfield Receiver Site, Massachusetts.
- Sec. 411. Clarification of liability of persons engaging in oil spill prevention and response activities.
- Sec. 412. Vessels not seagoing motor vessels.
- Sec. 413. Land conveyance, Coast Guard Station Ocracoke, North Carolina.
- Sec. 414. Conveyance of Coast Guard property in Sault Sainte Marie, Michigan.
- Sec. 415. Interim authority for dry bulk cargo residue disposal.
- Sec. 416. Conveyance of lighthouses.
- Sec. 417. Conveyance of Coast Guard LORAN Station Nantucket.
- Sec. 418. Conveyance of decommissioned Coast Guard vessels.
- Sec. 419. Amendment to conveyance of vessel S/S RED OAK VICTORY.
- Sec. 420. Transfer of Ocracoke Light Station to Secretary of the Interior.
- Sec. 421. Vessel documentation clarification.
- Sec. 422. Dredge clarification.
- Sec. 423. Double hull alternative designs study.
- Sec. 424. Vessel sharing agreements.
- Sec. 425. Reports.
- Sec. 426. Report on tonnage calculation methodology.
- Sec. 427. Authority to convey National Defense Reserve Fleet Vessels.
- Sec. 428. Authority to convey National Defense Reserve Fleet Vessel, JOHN HENRY.
- Sec. 429. Applicability of authority to release restrictions and encumbrances.
- Sec. 430. Barge APL-60.
- Sec. 431. Vessel financing flexibility.
- Sec. 432. Hydrographic functions.

#### TITLE V—ADMINISTRATIVE PROCESS FOR JONES ACT WAIVERS

- Sec. 501. Findings.
- Sec. 502. Administrative waiver of coastwise trade laws.
- Sec. 503. Revocation.
- Sec. 504. Definitions.
- Sec. 505. Sunset.

#### TITLE VI—HARMFUL ALGAL BLOOMS AND HYPOXIA

- Sec. 601. Short title.
- Sec. 602. Findings.
- Sec. 603. Assessments.
- Sec. 604. Northern Gulf of Mexico hypoxia.
- Sec. 605. Authorization of appropriations.
- Sec. 606. Protection of States' rights.

## TITLE I—AUTHORIZATION

### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard, as follows:

(1) For the operation and maintenance of the Coast Guard—

(A) for fiscal year 1998, \$2,715,400,000; and

(B) for fiscal year 1999, \$2,854,700,000; of which \$25,000,000 shall be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 and of which not less than \$408,000,000 shall be available for expenses related to drug interdiction.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto—

(A) for fiscal year 1998, \$399,850,000, of which \$2,000,000 shall be made available for concept evaluation for a replacement vessel for the Coast Guard icebreaker MACKINAW; and

(B) for fiscal year 1999, \$510,300,000, of which \$5,300,000 shall be made available to complete the conceptual design for a replacement vessel for the Coast Guard icebreaker MACKINAW,

to remain available until expended, of which \$20,000,000 shall be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 and of which not less than \$62,000,000 shall be available for expenses related to drug interdiction.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness—

(A) for fiscal year 1998, \$19,000,000; and

(B) for fiscal year 1999, \$18,300,000,

to remain available until expended, of which \$3,500,000 shall be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code—

(A) for fiscal year 1998, \$653,196,000; and

(B) for fiscal year 1999, \$691,493,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program—

(A) for fiscal year 1998, \$17,000,000; and

(B) for fiscal year 1999, \$26,000,000,

to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), \$26,000,000 for each of fiscal years 1998 and 1999, to remain available until expended.

#### **SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.**

(a) **ACTIVE DUTY STRENGTH.**—The Coast Guard is authorized an end-of-year strength for active duty personnel of—

(1) 37,944 as of September 30, 1998; and

(2) 38,038 as of September 30, 1999.

(b) **MILITARY TRAINING STUDENT LOADS.**—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training—

(A) for fiscal year 1998, 1,424 student years; and

(B) for fiscal year 1999, 1,424 student years.

- (2) For flight training—
  - (A) for fiscal year 1998, 98 student years; and
  - (B) for fiscal year 1999, 98 student years.
- (3) For professional training in military and civilian institutions—
  - (A) for fiscal year 1998, 283 student years; and
  - (B) for fiscal year 1999, 283 student years.
- (4) For officer acquisition—
  - (A) for fiscal year 1998, 814 student years; and
  - (B) for fiscal year 1999, 810 student years.

**SEC. 103. LORAN-C.**

(a) **FISCAL YEAR 1999.**—There are authorized to be appropriated to the Department of Transportation, in addition to the funds authorized for the Coast Guard for operation of the LORAN-C System, for capital expenses related to LORAN-C navigation infrastructure, \$10,000,000 for fiscal year 1999. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

Deadline.

(b) **COST-SHARING PLAN.**—Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for cost-sharing arrangements among Federal agencies for such capital and operating expenses related to LORAN-C navigation infrastructure, including such expenses of the Coast Guard and the Federal Aviation Administration.

**TITLE II—COAST GUARD MANAGEMENT****SEC. 201. SEVERANCE PAY.**

(a) **WARRANT OFFICERS.**—Section 286a(d) of title 14, United States Code, is amended by striking the last sentence.

(b) **SEPARATED OFFICERS.**—Section 286a of title 14, United States Code, is amended by striking the period at the end of subsection (b) and inserting “, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.”.

(c) **EXCEPTION.**—Section 327 of title 14, United States Code, is amended by striking the period at the end of paragraph (b)(3) and inserting “, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.”.

**SEC. 202. AUTHORITY TO IMPLEMENT AND FUND CERTAIN AWARDS PROGRAMS.**

Section 93 of title 14, United States Code, is amended—

- (1) by striking “and” after the semicolon at the end of paragraph (u);
- (2) by striking the period at the end of paragraph (v) and inserting “; and”; and
- (3) by adding at the end the following new paragraph:
  - “(w) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard



programs, missions, or operations, including State and local governments and commercial and nonprofit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation).”.

**SEC. 203. USE OF APPROPRIATED FUNDS FOR COMMERCIAL VEHICLES AT MILITARY FUNERALS.**

Section 93 of title 14, United States Code, as amended by section 202 of this Act, is further amended—

(1) by striking “and” after the semicolon at the end of paragraph (v);

(2) by striking the period at the end of paragraph (w) and inserting “; and”; and

(3) by adding at the end the following new paragraph:  
“(x) rent or lease, under such terms and conditions as are considered by the Secretary to be advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard military personnel to attend funeral services of the service member at a national cemetery.”.

**SEC. 204. AUTHORITY TO REIMBURSE NOVATO, CALIFORNIA, REUSE COMMISSION.**

The Commandant of the United States Coast Guard may use up to \$25,000 to provide economic adjustment assistance for the City of Novato, California, for the cost of revising the Hamilton Reuse Planning Authority’s reuse plan as a result of the Coast Guard’s request for housing at Hamilton Air Force Base. If the Department of Defense provides such economic adjustment assistance to the City of Novato on behalf of the Coast Guard, then the Coast Guard may use the amount authorized for use in the preceding sentence to reimburse the Department of Defense for the amount of economic adjustment assistance provided to the City of Novato by the Department of Defense.

**SEC. 205. LAW ENFORCEMENT AUTHORITY FOR SPECIAL AGENTS OF THE COAST GUARD INVESTIGATIVE SERVICE.**

(a) **AUTHORITY.**—Section 95 of title 14, United States Code, is amended to read as follows:

**“§ 95. Special agents of the Coast Guard Investigative Service law enforcement authority**

“(a)(1) A special agent of the Coast Guard Investigative Service designated under subsection (b) has the following authority:

“(A) To carry firearms.

“(B) To execute and serve any warrant or other process issued under the authority of the United States.

“(C) To make arrests without warrant for—

“(i) any offense against the United States committed in the agent’s presence; or

“(ii) any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing the felony.

“(2) The authorities provided in paragraph (1) shall be exercised only in the enforcement of statutes for which the Coast Guard has law enforcement authority, or in exigent circumstances.

“(b) The Commandant may designate to have the authority provided under subsection (a) any special agent of the Coast Guard Investigative Service whose duties include conducting, supervising, or coordinating investigation of criminal activity in programs and operations of the United States Coast Guard.

“(c) The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Commandant and approved by the Attorney General and any other applicable guidelines prescribed by the Secretary of Transportation or the Attorney General.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 14, United States Code, is amended by striking the item related to section 95 and inserting the following:

“95. Special agents of the Coast Guard Investigative Service law enforcement authority.”.

Deadline.

**SEC. 206. REPORT ON EXCESS COAST GUARD PROPERTY.**

Not later than 9 months after the date of the enactment of this Act, the Administrator of the General Services Administration and the Commandant of the Coast Guard shall submit to the Congress a report on the current procedures used to dispose of excess Coast Guard property and provide recommendations to improve such procedures. The recommendations shall take into consideration measures that would—

- (1) improve the efficiency of such procedures;
- (2) improve notification of excess property decisions to and enhance the participation in the property disposal decision-making process of the States, local communities, and appropriate non-profit organizations;
- (3) facilitate the expeditious transfer of excess property for recreation, historic preservation, education, transportation, or other uses that benefit the general public; and
- (4) ensure that the interests of Federal taxpayers are protected.

**SEC. 207. FEES FOR NAVIGATION ASSISTANCE SERVICE.**

Section 2110 of title 46, United States Code, is amended by adding at the end the following:

“(k) The Secretary may not plan, implement or finalize any regulation that would promulgate any new maritime user fee which was not implemented and collected prior to January 1, 1998, including a fee or charge for any domestic icebreaking service or any other navigational assistance service. This subsection expires on September 30, 2001.”.

14 USC 81 note.

**SEC. 208. AIDS TO NAVIGATION REPORT.**

Deadline.

Not later than 18 months after the date of the enactment of this Act, the Commandant of the Coast Guard shall submit to Congress a report on the use of the Coast Guard's aids to navigation system. The report shall include an analysis of the respective use of the aids to navigation system by commercial interests, members of the general public for personal recreation, Federal and State government for public safety, defense, and other similar purposes. To the extent practicable within the time allowed, the report shall include information regarding degree of use of the various portions of the system.

### **TITLE III—MARINE SAFETY**

#### **SEC. 301. EXTENSION OF TERRITORIAL SEA FOR CERTAIN LAWS.**

(a) PORTS AND WATERWAYS SAFETY ACT.—Section 102 of the Ports and Waterways Safety Act (33 U.S.C. 1222) is amended by adding at the end the following:

“(5) ‘Navigable waters of the United States’ includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.”.

(b) SUBTITLE II OF TITLE 46.—

(1) Section 2101 of title 46, United States Code, is amended—

(A) by redesignating paragraph (17a) as paragraph (17b); and

(B) by inserting after paragraph (17) the following:

“(17a) ‘navigable waters of the United States’ includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.”.

(2) Section 2301 of that title is amended by inserting “(including the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988)” after “of the United States”.

(3) Section 4102(e) of that title is amended by striking “operating on the high seas” and inserting “owned in the United States and operating beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured”.

(4) Section 4301(a) of that title is amended by inserting “(including the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988)” after “of the United States”.

(5) Section 4502(a)(7) of that title is amended by striking “on the high seas” and inserting “beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured, and which are owned in the United States”.

(6) Section 4506(b) of that title is amended by striking paragraph (2) and inserting the following:

“(2) is operating—

“(A) in internal waters of the United States; or

“(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.”.

(7) Section 8502(a)(3) of that title is amended by striking “not on the high seas” and inserting: “not beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured”.

(8) Section 8503(a)(2) of that title is amended by striking paragraph (2) and inserting the following:

“(2) operating—

“(A) in internal waters of the United States; or

“(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.”.

#### **SEC. 302. PENALTIES FOR INTERFERING WITH THE SAFE OPERATION OF A VESSEL.**

(a) IN GENERAL.—Section 2302 of title 46, United States Code, is amended—

(1) by amending the section heading to read as follows:

**“§ 2302. Penalties for negligent operations and interfering with safe operation”;**

and

(2) in subsection (a) by striking “that endangers” and inserting “or interfering with the safe operation of a vessel, so as to endanger”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 46, United States Code, is amended by striking the item relating to section 2302 and inserting the following:

“2302. Penalties for negligent operations and interfering with safe operation.”.

**SEC. 303. GREAT LAKES PILOTAGE ADVISORY COMMITTEE.**

Section 9307 of title 46, United States Code, is amended to read as follows:

**“§ 9307. Great Lakes Pilotage Advisory Committee**

Establishment.

“(a) The Secretary shall establish a Great Lakes Pilotage Advisory Committee. The Committee—

“(1) may review proposed Great Lakes pilotage regulations and policies and make recommendations to the Secretary that the Committee considers appropriate;

“(2) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to Great Lakes pilotage;

“(3) may make available to the Congress recommendations that the Committee makes to the Secretary; and

“(4) shall meet at the call of—

“(A) the Secretary, who shall call such a meeting at least once during each calendar year; or

“(B) a majority of the Committee.

“(b)(1) The Committee shall consist of seven members appointed by the Secretary in accordance with this subsection, each of whom has at least 5 years practical experience in maritime operations. The term of each member is for a period of not more than 5 years, specified by the Secretary. Before filling a position on the Committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Committee.

“(2) The membership of the Committee shall include—

“(A) three members who are practicing Great Lakes pilots and who reflect a regional balance;

“(B) one member representing the interests of vessel operators that contract for Great Lakes pilotage services;

“(C) one member representing the interests of Great Lakes ports;

“(D) one member representing the interests of shippers whose cargoes are transported through Great Lakes ports; and

“(E) one member representing the interests of the general public, who is an independent expert on the Great Lakes maritime industry.

“(c)(1) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

“(2) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. The representatives shall, as appropriate, report to and advise the Committee on matters relating to Great Lakes pilotage. The Secretary’s designated representative shall act as the executive secretary of the Committee and shall perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

“(d)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to Great Lakes pilotage.

“(2) The Secretary shall consider the information, advice, and recommendations of the Committee in formulating policy regarding matters affecting Great Lakes pilotage.

“(e)(1) A member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

“(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS–18 of the General Schedule under section 5332 of title 5 including travel time; and

“(B) travel or transportation expenses under section 5703 of title 5, United States Code.

“(2) A member of the Committee shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

“(f)(1) The Federal Advisory Committee Act (5 U.S.C. App.) applies to the Committee, except that the Committee terminates on September 30, 2003.

“(2) 2 years before the termination date set forth in paragraph (1) of this subsection, the Committee shall submit to the Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.”.

#### **SEC. 304. ALCOHOL TESTING.**

(a) **ADMINISTRATIVE PROCEDURE.**—Section 7702 of title 46, United States Code, is amended by striking the second sentence of subsection (c)(2) and inserting the following: “The testing may include preemployment (with respect to dangerous drugs only), periodic, random, and reasonable cause testing, and shall include post-accident testing.”.

(b) **INCREASE IN CIVIL PENALTY.**—Section 2115 of title 46, United States Code, is amended by striking “\$1,000” and inserting “\$5,000”.

(c) **INCREASE IN NEGLIGENCE PENALTY.**—Section 2302(c)(1) of title 46, United States Code, is amended by striking “\$1,000 for a first violation and not more than \$5,000 for a subsequent violation; or” and inserting “\$5,000; or”.

(d) **POST SERIOUS MARINE CASUALTY TESTING.**—

(1) Chapter 23 of title 46, United States Code, is amended by inserting after section 2303 the following:

#### **“§2303a. Post serious marine casualty alcohol testing**

“(a) The Secretary shall establish procedures to ensure that after a serious marine casualty occurs, alcohol testing of crew members or other persons responsible for the operation or other safety-sensitive functions of the vessel or vessels involved in such

casualty is conducted no later than 2 hours after the casualty occurs, unless such testing cannot be completed within that time due to safety concerns directly related to the casualty.

“(b) The procedures in subsection (a) shall require that if alcohol testing cannot be completed within 2 hours of the occurrence of the casualty, such testing shall be conducted as soon thereafter as the safety concerns in subsection (a) have been adequately addressed to permit such testing, except that such testing may not be required more than 8 hours after the casualty occurs.”.

(2) The table of sections at the beginning of chapter 23 of title 46, United States Code, is amended by inserting after the item related to section 2303 the following:

“2303a. Post serious marine casualty alcohol testing.”.

**SEC. 305. PROTECT MARINE CASUALTY INVESTIGATIONS FROM MANDATORY RELEASE.**

Section 6305(b) of title 46, United States Code, is amended by striking all after “public” and inserting a period and “This subsection does not require the release of information described by section 552(b) of title 5 or protected from disclosure by another law of the United States.”.

46 USC 3201  
note.

**SEC. 306. SAFETY MANAGEMENT CODE REPORT AND POLICY.**

(a) REPORT ON IMPLEMENTATION AND ENFORCEMENT OF THE INTERNATIONAL SAFETY MANAGEMENT CODE.—

(1) The Secretary of Transportation (in this section referred to as the “Secretary”) shall conduct a study—

(A) reporting on the status of implementation of the International Safety Management Code (hereafter referred to in this section as ‘Code’);

(B) detailing enforcement actions involving the Code, including the role documents and reports produced pursuant to the Code play in such enforcement actions;

(C) evaluating the effects the Code has had on marine safety and environmental protection, and identifying actions to further promote marine safety and environmental protection through the Code;

(D) identifying actions to achieve full compliance with and effective implementation of the Code; and

(E) evaluating the effectiveness of internal reporting and auditing under the Code, and recommending actions to ensure the accuracy and candidness of such reporting and auditing.

These recommended actions may include proposed limits on the use in legal proceedings of documents produced pursuant to the Code.

(2) The Secretary shall provide opportunity for the public to participate in and comment on the study conducted under paragraph (1).

Deadline.

(3) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (1).

(b) POLICY.—

Deadline.

(1) Not later than 9 months after submission of the report in subsection (a)(3), the Secretary shall develop a policy to

achieve full compliance with and effective implementation of the Code. The policy may include—

(A) enforcement penalty reductions and waivers, limits on the use in legal proceedings of documents produced pursuant to the Code, or other incentives to ensure accurate and candid reporting and auditing;

(B) any other measures to achieve full compliance with and effective implementation of the Code; and

(C) if appropriate, recommendations to Congress for any legislation necessary to implement one or more elements of the policy.

(2) The Secretary shall provide opportunity for the public to participate in the development of the policy in paragraph (1).

(3) Upon completion of the policy in paragraph (1), the Secretary shall publish the policy in the Federal Register and provide opportunity for public comment on the policy.

Federal Register,  
publication.

#### **SEC. 307. OIL AND HAZARDOUS SUBSTANCE DEFINITION AND REPORT.**

(a) **DEFINITION OF OIL.**—Section 1001(23) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(23)) is amended to read as follows:

“(23) ‘oil’ means oil of any kind or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include any substance which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601) and which is subject to the provisions of that Act;”.

(b) **REPORT.**—Not later than 6 months after the date of the enactment of this Act, the Commandant of the Coast Guard shall submit a report to the Congress on the status of the joint evaluation by the Coast Guard and the Environmental Protection Agency of the substances to be classified as oils under the Federal Water Pollution Control Act and title I of the Oil Pollution Act of 1990, including opportunities provided for public comment on the evaluation.

Deadline.

#### **SEC. 308. NATIONAL MARINE TRANSPORTATION SYSTEM.**

(a) **IN GENERAL.**—The Secretary of Transportation, through the Coast Guard and the Maritime Administration, shall, in consultation with the National Ocean Service of the National Oceanic and Atmospheric Administration, the Corps of Engineers, and other interested Federal agencies and departments, establish a task force to assess the adequacy of the nation’s marine transportation system (including ports, waterways, harbor approach channels, and their intermodal connections) to operate in a safe, efficient, secure, and environmentally sound manner.

(b) **TASK FORCE.**—

(1) The task force shall be chaired by the Secretary of Transportation or his designee and may be comprised of the representatives of interested Federal agencies and departments and such other nonfederal entities as the Secretary deems appropriate.

(2) The provisions of the Federal Advisory Committee Act shall not apply to the task force.

(c) **ASSESSMENT.**—

(1) In carrying out the assessment under this section, the task force shall examine critical issues and develop strategies, recommendations, and a plan for action. Pursuant to such examination and development, the task force shall—

(A) take into account the capability of the marine transportation system, the adequacy of depth of approach channels and harbors, and the cost to the Federal Government to accommodate projected increases in foreign and domestic traffic over the next 20 years;

(B) consult with senior public and private sector officials, including the users of that system, such as ports, commercial carriers, shippers, labor, recreational boaters, fishermen, and environmental organizations;

(C) sponsor public and private sector activities to further refine and implement (under existing authority) the strategies, recommendations, and plan for action;

(D) evaluate the capability to dispose of dredged materials that will be produced to accommodate projected increases referred to in subparagraph (A); and

(E) evaluate the future of the navigational aid system including the use of virtual aids to navigation on electronic charts.

Reports.

(2) The Secretary shall report to Congress on the results of the assessment no later than July 1, 1999. The report shall reflect the views of both the public and private sectors. The Task Force shall cease to exist upon submission of the report in this paragraph.

46 USC 4302  
note.

#### **SEC. 309. AVAILABILITY AND USE OF EPIRBs FOR RECREATIONAL VESSELS.**

Deadline.  
Reports.

The Secretary of Transportation, through the Coast Guard and in consultation with the National Transportation Safety Board and recreational boating organizations, shall, within 24 months of the date of the enactment of this Act, assess and report to Congress on the use of emergency position indicating beacons (EPIRBs) and similar devices by operators of recreational vessels on the Intra-coastal Waterway and operators of recreational vessels beyond the Boundary Line. The assessment shall at a minimum—

(1) evaluate the current availability and use of EPIRBs and similar devices by the operators of recreational vessels and the actual and potential contribution of such devices to recreational boating safety; and

(2) provide recommendations on policies and programs to encourage the availability and use of EPIRBs and similar devices by the operators of recreational vessels.

#### **SEC. 310. SEARCH AND RESCUE HELICOPTER COVERAGE.**

Deadline.  
Reports.

Not later than 9 months after the date of the enactment of this Act, the Commandant shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(1) identifying waters out to 50 miles from the territorial sea of Maine and other States that cannot currently be served by a Coast Guard search and rescue helicopter within 2 hours of a report of distress or request for assistance from such waters;



(2) providing options for ensuring that all waters of the area referred to in paragraph (1) can be served by a Coast Guard search and rescue helicopter within 2 hours of a report of distress or request for assistance from such waters;

(3) providing an analysis assessing the overall capability of Coast Guard search and rescue assets to serve each area referred to in paragraph (1) within 2 hours of a report of distress or request for assistance from such waters; and

(4) identifying, among any other options the Commandant may provide as required by paragraph (2), locations in the State of Maine that may be suitable for the stationing of a Coast Guard search and rescue helicopter and crew, including any Coast Guard facility in Maine, the Bangor Air National Guard Base, and any other locations.

**SEC. 311. PETROLEUM TRANSPORTATION.**

(a) DEFINITIONS.—In this section:

(1) FIRST COAST GUARD DISTRICT.—The term “First Coast Guard District” means the First Coast Guard District described in section 3.05-1(b) of title 33, Code of Federal Regulations.

(2) SECRETARY.—The term “Secretary” means the Secretary of the department in which the Coast Guard is operating.

(3) WATERS OF THE NORTHEAST.—The term “waters of the Northeast”—

(A) means the waters subject to the jurisdiction of the First Coast Guard District; and

(B) includes the waters of Long Island Sound.

(b) REGULATIONS RELATING TO WATERS OF THE NORTHEAST.—

(1) TOWING VESSEL AND BARGE SAFETY FOR WATERS OF THE NORTHEAST.—

(A) IN GENERAL.—Not later than December 31, 1998, the Secretary shall promulgate regulations for towing vessel and barge safety for the waters of the Northeast. Deadline.

(B) INCORPORATION OF RECOMMENDATIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), the regulations promulgated under this paragraph shall give full consideration to each of the recommendations for regulations contained in the report entitled “Regional Risk Assessment of Petroleum Transportation in the Waters of the Northeast United States” issued by the Regional Risk Assessment Team for the First Coast Guard District on February 6, 1997, and the Secretary shall provide a detailed explanation if any recommendation is not adopted.

(ii) EXCLUDED RECOMMENDATIONS.—The regulations promulgated under this paragraph shall not incorporate any recommendation referred to in clause (i) that relates to anchoring or barge retrieval systems.

(2) ANCHORING AND BARGE RETRIEVAL SYSTEMS.—

(A) IN GENERAL.—Not later than November 30, 1998, the Secretary shall promulgate regulations under section 3719 of title 46, United States Code, for the waters of the Northeast, that shall give full consideration to each of the recommendations made in the report referred to in paragraph (1)(B)(i) relating to anchoring and barge retrieval systems, and the Secretary shall provide a detailed explanation if any recommendation is not adopted. Deadline.

(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) prevents the Secretary from promulgating interim final regulations that apply throughout the United States relating to anchoring and barge retrieval systems that contain requirements that are as stringent as the requirements of the regulations promulgated under subparagraph (A).

**SEC. 312. SEASONAL COAST GUARD HELICOPTER AIR RESCUE CAPABILITY.**

The Secretary of Transportation is authorized to take appropriate actions to ensure the establishment and operation by the Coast Guard of a helicopter air rescue capability that—

- (1) is located at Gabreski Airport, Westhampton, New York; and
- (2) provides air rescue capability from that location from April 15 to October 15 each year.

**SEC. 313. SHIP REPORTING SYSTEMS.**

Section 11 of the Ports and Waterways Safety Act (Public Law 92-340; 33 U.S.C. 1230), is amended by adding at the end of the following:

“(d) SHIP REPORTING SYSTEMS.—The Secretary, in cooperation with the International Maritime Organization, is authorized to implement and enforce two mandatory ship reporting systems, consistent with international law, with respect to vessels subject to such reporting systems entering the following areas of the Atlantic Ocean: Cape Cod Bay, Massachusetts Bay, and Great South Channel (in the area generally bounded by a line starting from a point on Cape Ann, Massachusetts at 42 deg. 39’ N., 70 deg. 37’ W; then northeast to 42 deg. 45’ N., 70 deg. 13’ W; then southeast to 42 deg. 10’ N., 68 deg. 31’ W, then south to 41 deg. 00’ N., 68 deg. 31’ W; then west to 41 deg. 00’ N., 69 deg. 17’ W; then northeast to 42 deg. 05’ N., 70 deg. 02’ W, then west to 42 deg. 04’ N., 70 deg. 10’ W; and then along the Massachusetts shoreline of Cape Cod Bay and Massachusetts Bay back to the point on Cape Ann at 42 deg. 39’ N., 70 deg. 37’ W) and in the coastal waters of the Southeastern United States within about 25 nm along a 90 nm stretch of the Atlantic seaboard (in an area generally extending from the shoreline east to longitude 80 deg. 51.6’ W with the southern and northern boundary at latitudes 30 deg. 00’ N., 31 deg. 27’ N., respectively).”.

## **TITLE IV—MISCELLANEOUS**

**SEC. 401. VESSEL IDENTIFICATION SYSTEM AMENDMENTS.**

(a) IN GENERAL.—Chapter 121 of title 46, United States Code, is amended—

- (1) by striking “or is not titled in a State” in section 12102(a); and
- (2) by adding at the end the following:

**“§12124. Surrender of title and number**

“(a) A documented vessel shall not be titled by a State or required to display numbers under chapter 123, and any certificate of title issued by a State for a documented vessel shall be surrendered in accordance with regulations prescribed by the Secretary of Transportation.

“(b) The Secretary may approve the surrender under subsection (a) of a certificate of title for a vessel covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 121 of title 46, United States Code, is amended by adding at the end the following:

“12124. Surrender of title and number.”.

(c) OTHER AMENDMENTS.—Title 46, United States Code, is amended—

(1) by striking section 31322(b) and inserting the following:

“(b) Any indebtedness secured by a preferred mortgage that is filed or recorded under this chapter, or that is subject to a mortgage, security agreement, or instruments granting a security interest that is deemed to be a preferred mortgage under subsection (d) of this section, may have any rate of interest to which the parties agree.”;

(2) by striking “mortgage or instrument” each place it appears in section 31322(d)(1) and inserting “mortgage, security agreement, or instrument”;

(3) by striking section 31322(d)(3) and inserting the following:

“(3) A preferred mortgage under this subsection continues to be a preferred mortgage even if the vessel is no longer titled in the State where the mortgage, security agreement, or instrument granting a security interest became a preferred mortgage under this subsection.”;

(4) by striking “mortgages or instruments” in subsection 31322(d)(2) and inserting “mortgages, security agreements, or instruments”;

(5) by inserting “a vessel titled in a State,” in section 31325(b)(1) after “a vessel to be documented under chapter 121 of this title,”;

(6) by inserting “a vessel titled in a State,” in section 31325(b)(3) after “a vessel for which an application for documentation is filed under chapter 121 of this title,”; and

(7) by inserting “a vessel titled in a State,” in section 31325(c) after “a vessel to be documented under chapter 121 of this title,”.

**SEC. 402. CONVEYANCE OF COAST GUARD RESERVE TRAINING FACILITY, JACKSONVILLE, FLORIDA.**

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) the land and improvements thereto comprising the Coast Guard Reserve training facility in Jacksonville, Florida, is deemed to be surplus property; and

(2) the Commandant of the Coast Guard shall dispose of all right, title, and interest of the United States in and to that property, by sale, at fair market value.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other person, the Commandant of the Coast Guard shall give to the city of Jacksonville, Florida, the right of first refusal to purchase all or any part of the property required to be sold under that subsection.

**SEC. 403. DOCUMENTATION OF CERTAIN VESSELS.**

(a) **GENERAL WAIVER.**—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for each of the following vessels:

- (1) SEAGULL (United States official number 1038605).
- (2) BAREFOOT CONTESA (United States official number 285410).
- (3) PRECIOUS METAL (United States official number 596316).
- (4) BLUE HAWAII (State of Florida registration number FL0466KC).
- (5) SOUTHERN STAR (United States official number 650774).
- (6) KEEWAYDIN (United States official number 662066).
- (7) W.G. JACKSON (United States official number 1047199).
- (8) The vessel known as hopper barge E-15 (North Carolina State official number 264959).
- (9) MIGHTY JOHN III (formerly the NIAGARA QUEEN, Canadian registration number 318746).
- (10) MAR Y PAZ (United States official number 668179).
- (11) SAMAKEE (State of New York registration number NY 4108 FK).
- (12) NAWNSENSE (United States official number 977593).
- (13) ELMO (State of Florida registration number FL5337BG).
- (14) MANA-WANUI (United States official number 286657).
- (15) OLD JOE (formerly TEMPTRESS; United States official number 991150).
- (16) M/V BAHAMA PRIDE (United States official number 588647).
- (17) WINDWISP (United States official number 571621).
- (18) SOUTHLAND (United States official number 639705).
- (19) FJORDING (United States official number 594363).
- (20) M/V SAND ISLAND (United States official number 542918).
- (21) PACIFIC MONARCH (United States official number 557467).
- (22) FLAME (United States official number 279363).
- (23) DULARGE (United States official number 653762).
- (24) DUSKEN IV (United States official number 952645).
- (25) SUMMER BREEZE (United States official number 552808).
- (26) ARCELLA (United States official number 1025983).
- (27) BILLIE-B-II (United States official number 982069).
- (28) VESTERHAVET (United States official number 979206).
- (29) BETTY JANE (State of Virginia registration number VA 7271 P).
- (30) VORTICE, Bari, Italy, registration number 256.
- (31) The barge G. L. 8 (Canadian official number 814376).
- (32) YESTERDAYS DREAM (United States official number 680266).

- (33) ENFORCER (United States official number 502610).
  - (34) The vessel registered as State of Oregon registration number OR 766 YE.
  - (35) AMICI (United States official number 658055).
  - (36) ELIS (United States official number 628358).
  - (37) STURE (United States official number 617703).
  - (38) CAPT GRADY (United States official number 626257).
  - (39) Barge number 1 (United States official number 933248).
  - (40) Barge number 2 (United States official number 256944).
  - (41) Barge number 14 (United States official number 501212).
  - (42) Barge number 18 (United States official number 297114).
  - (43) Barge number 19 (United States official number 503740).
  - (44) Barge number 21 (United States official number 650581).
  - (45) Barge number 22 (United States official number 650582).
  - (46) Barge number 23 (United States official number 650583).
  - (47) Barge number 24 (United States official number 664023).
  - (48) Barge number 25 (United States official number 664024).
  - (49) Barge number 26 (United States official number 271926).
  - (50) FULL HOUSE (United States official number 1023827).
  - (51) EMBARCADERO (United States official number 669327).
  - (52) S.A., British Columbia (Canada official number 195214).
  - (53) FAR HORIZONS (United States official number 1044011).
  - (54) LITTLE TOOT (United States official number 938858).
  - (55) EAGLE FEATHERS (United States official number 1020989).
  - (56) ORCA (United States official number 665270).
  - (57) TAURUS (United States official number 955814).
  - (58) The barge KC–251 (United States official number CG019166; National Vessel Documentation Center number 1055559).
  - (59) VIKING (United States official number 224430).
  - (60) SARAH B (United States official number 928431).
- (b) FALLS POINT.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FALLS POINT, State of Maine registration number ME 5435 E.
- (c) COASTAL TRADER.—Section 1120(g) of the Coast Guard Authorization Act of 1996 (Public Law 104–324; 110 Stat. 3978)

is amended by inserting “COASTAL TRADER (United States official number 683227),” after “vessels”.

(d) NINA, PINTA, AND SANTA MARIA REPLICAS.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade only for the purpose of carrying passengers for hire for each of the vessels listed in paragraph (2).

(2) VESSEL DESCRIPTIONS.—The vessels referred to in paragraph (1) are the following:

(A) NINA (United States Coast Guard vessel identification number CG034346).

(B) PINTA (United States Coast Guard vessel identification number CG034345).

(C) NAO SANTA MARIA (United States Coast Guard vessel identification number CG034344).

(e) DOCUMENTATION OF VESSEL COLUMBUS.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), sections 12102 and 12106 of title 46, United States Code, and the endorsement limitation in section 5501(a)(2)(B) of Public Law 102-587, and subject to paragraph (2), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel COLUMBUS (United States official number 590658).

(2) LIMITATION.—Coastwise trade referred to in paragraph (1) may not include the transportation of dredged material from a project in which the stated intent of the Corps of Engineers, in its Construction Solicitation, or of another contracting entity, is that the dredged material is—

(A) to be deposited above mean high tide for the purpose of beach nourishment;

(B) to be deposited into a fill area for the purpose of creation of land for an immediate use identified in the Construction Solicitation other than disposal of the dredged material; or

(C) for the intention of immediate sale or resale unrelated to disposal.

(f) FOILCAT.—

(1) IN GENERAL.—Notwithstanding sections 12106 and 12108 of title 46, United States Code, section 8 of the Passenger Vessel Act (46 U.S.C. App. 289), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FOILCAT (United States official number 1063892). The endorsement shall provide that the vessel shall operate under the certificate of documentation only within the State of Hawaii and that the vessel shall not operate on any route served by a passenger ferry as of the date the Secretary of Transportation issues a certificate of documentation under this Act.

(2) **TERMINATION.**—The endorsement issued under paragraph (1) shall be in effect for the vessel FOILCAT for the period—

(A) beginning on the date on which the vessel is placed in service to initiate a high-speed marine ferry demonstration project sponsored by the State of Hawaii; and

(B) ending on the last day of the 36th month beginning after the date on which it became effective under subparagraph (A).

**SEC. 404. CONVEYANCE OF NAHANT PARCEL, ESSEX COUNTY, MASSACHUSETTS.**

(a) **IN GENERAL.**—The Commandant of the Coast Guard, may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the United States Coast Guard Recreation Facility Nahant, Massachusetts, to the Town of Nahant (the “Town”) unless the Commandant, or his delegate, in his sole discretion determines that the conveyance would not provide a public benefit.

(b) **IDENTIFICATION OF PROPERTY.**—The Commandant may identify, describe, and determine the property to be conveyed under this section.

(c) **TERMS OF CONVEYANCE.**—The conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to such terms and conditions as the Commandant may consider appropriate to protect the interests of the United States, including the reservation of easements or other rights on behalf of the United States.

(d) **REVERSIONARY INTEREST.**—The conveyance of real property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(1) the property, or any part thereof, ceases to be owned and used by the Town;

(2) the Town fails to maintain the property conveyed in a manner consistent with the terms and conditions in subsection (c); or

(3) at least 30 days before such reversion, the Commandant provides written notice to the Town that the property conveyed is needed for national security purposes.

**SEC. 405. UNREASONABLE OBSTRUCTION TO NAVIGATION.**

Notwithstanding any other provision of law, the liftbridge over the back channel of the Schuylkill River in Philadelphia, Pennsylvania, is deemed to unreasonably obstruct navigation.

**SEC. 406. FINANCIAL RESPONSIBILITY FOR OIL SPILL RESPONSE VESSELS.**

Section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) is amended—

(1) in subsection (a)(1), by striking “(except)” and all that follows through “Act)” and inserting a comma; and

(2) by adding at the end of subsection (c) the following:

“(4) **CERTAIN TANK VESSELS.**—Subsection (a)(1) shall not apply to—

“(A) a tank vessel on which the only oil carried as cargo is an animal fat or vegetable oil, as those terms

are used in section 2 of the Edible Oil Regulatory Reform Act; and

“(B) a tank vessel that is designated in its certificate of inspection as an oil spill response vessel (as that term is defined in section 2101 of title 46, United States Code) and that is used solely for removal.”.

**SEC. 407. CONVEYANCE OF COAST GUARD PROPERTY TO JACKSONVILLE UNIVERSITY IN JACKSONVILLE, FLORIDA.**

(a) **AUTHORITY TO CONVEY.**—

(1) **IN GENERAL.**—The Secretary of Transportation may convey to Jacksonville University, located in Jacksonville, Florida, without consideration, all right, title, and interest of the United States in and to the property comprising the Long Branch Rear Range Light, Jacksonville, Florida.

(2) **IDENTIFICATION OF PROPERTY.**—The Secretary may identify, describe, and determine the property to be conveyed under this section.

(b) **TERMS AND CONDITIONS.**—Any conveyance of any property under this section shall be made—

(1) subject to the terms and conditions the Commandant may consider appropriate; and

(2) subject to the condition that all right, title, and interest in and to property conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by Jacksonville University.

**SEC. 408. PENALTY FOR VIOLATION OF INTERNATIONAL SAFETY CONVENTION.**

(a) **IN GENERAL.**—Section 2302 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(e)(1) A vessel may not transport Government-impelled cargoes if—

“(A) the vessel has been detained and determined to be substandard by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel; or

“(B) the operator of the vessel has on more than one occasion had a vessel detained and determined to be substandard by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel.

“(2) The prohibition in paragraph (1) expires for a vessel on the earlier of—

“(A) 1 year after the date of the publication in electronic form on which the prohibition is based; or

“(B) any date on which the owner or operator of the vessel prevails in an appeal of the violation of the relevant international convention on which the detention is based.

“(3) As used in this subsection, the term ‘Government-impelled cargo’ means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant,



loan, or loan guarantee, resulting in shipment of the cargo by water.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) takes effect January 1, 1999. 46 USC 2302 note.

**SEC. 409. COAST GUARD CITY, USA.** 14 USC 639 note.

The Commandant of the Coast Guard may recognize the community of Grand Haven, Michigan, as “Coast Guard City, USA”. If the Commandant desires to recognize any other community in the same manner or any other community requests such recognition from the Coast Guard, the Commandant shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives 90 days prior to approving such recognition.

**SEC. 410. CONVEYANCE OF COMMUNICATION STATION BOSTON MARSHFIELD RECEIVER SITE, MASSACHUSETTS.**

(a) **AUTHORITY TO CONVEY.**—

(1) **IN GENERAL.**—The Commandant of the Coast Guard may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Coast Guard Communication Station Boston Marshfield Receiver Site, Massachusetts, to the Town of Marshfield, Massachusetts (the “Town”) unless the Commandant, or his delegate, in his sole discretion determines that the conveyance would not provide a public benefit.

(2) **LIMITATION.**—The Commandant shall not convey under this section the land on which is situated the communications tower and the microwave building facility of that station.

(3) **IDENTIFICATION OF PROPERTY.**—

(A) The Commandant may identify, describe and determine the property to be conveyed to the Town under this section.

(B) The Commandant shall determine the exact acreage and legal description of the property to be conveyed under this section by a survey satisfactory to the Commandant. The cost of the survey shall be borne by the Town.

(b) **TERMS AND CONDITIONS.**—Any conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the following terms and conditions:

(A) The Commandant may reserve utility, access, and any other appropriate easements on the property conveyed for the purpose of operating, maintaining, and protecting the communications tower and the microwave building facility.

(B) The Town and its successors and assigns shall, at their own cost and expense, maintain the property conveyed under this section in a proper, substantial, and workmanlike manner as necessary to ensure the operation, maintenance, and protection of the communications tower and the microwave building facility.

(C) Any other terms and conditions the Commandant considers appropriate to protect the interests of the United States, including the reservation of easements or other rights on behalf of the United States.

(c) REVERSIONARY INTEREST.—The conveyance of real property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(1) the property, or any part thereof, ceases to be owned and used by the Town;

(2) the Town fails to maintain the property conveyed in a manner consistent with the terms and conditions in subsection (b); or

(3) at least 30 days before such reversion, the Commandant provides written notice to the Town that the property conveyed is needed for national security purposes.

Notice.

**SEC. 411. CLARIFICATION OF LIABILITY OF PERSONS ENGAGING IN OIL SPILL PREVENTION AND RESPONSE ACTIVITIES.**

(a) CLARIFICATION OF LIABILITY FOR PREVENTING SUBSTANTIAL THREAT OF DISCHARGE.—Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (a)(8) by striking “to minimize or mitigate damage” and inserting “to prevent, minimize, or mitigate damage”;

(2) by striking “and” after the semicolon at the end of subsection (a)(23), by striking the period at the end of subsection (a)(24) and inserting “; and”, and by adding at the end of subsection (a) the following:

“(25) ‘removal costs’ means—

“(A) the costs of removal of oil or a hazardous substance that are incurred after it is discharged; and

“(B) in any case in which there is a substantial threat of a discharge of oil or a hazardous substance, the costs to prevent, minimize, or mitigate that threat.”; and

(3) in subsection (c)(4)(A), by striking the period at the end and inserting the following: “relating to a discharge or a substantial threat of a discharge of oil or a hazardous substance.”.

(b) OIL SPILL MECHANICAL REMOVAL.—Section 311(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)(2)) is amended—

(1) by striking “and (C)” and inserting “, (C)”; and

(2) by inserting before the semicolon at the end the following: “, and (D) discharges incidental to mechanical removal authorized by the President under subsection (c) of this section”.

**SEC. 412. VESSELS NOT SEAGOING MOTOR VESSELS.**

(a) VESSEL TURMOIL.—

(1) IN GENERAL.—The vessel described in paragraph (2) is deemed for all purposes, including title 46, United States Code, and all regulations thereunder, to be a recreational vessel of less than 300 gross tons, if—

(A) it does not carry cargo or passengers for hire; and

(B) it does not engage in commercial fisheries or oceanographic research.

(2) VESSEL DESCRIBED.—The vessel referred to in paragraph (1) is the vessel TURMOIL (British official number 726767).

(b) PILOT PROGRAM.—

(1) **IN GENERAL.**—The Secretary may establish a pilot program to exempt a vessel of at least 300 gross tons as measured under chapter 143 or chapter 145 of title 46, United States Code, from the requirement to be inspected under section 3301(7) of title 46, United States Code, as a seagoing motor vessel, if—

(A) the vessel does not carry any cargo or passengers for hire;

(B) the vessel does not engage in commercial service, commercial fisheries, or oceanographic research; and

(C) the vessel does not engage in towing.

(2) **EXPIRATION OF AUTHORITY.**—The authority to grant the exemptions under this subsection expires 2 years after the date of the enactment of this Act. Any specific exemptions granted under this subsection shall nonetheless remain in effect.

**SEC. 413. LAND CONVEYANCE, COAST GUARD STATION OCRACOKE, NORTH CAROLINA.**

(a) **AUTHORITY TO CONVEY.**—The Secretary of Transportation may convey, without consideration, to the State of North Carolina (in this section referred to as the “State”), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, in Ocracoke, North Carolina, consisting of such portion of the Coast Guard Station Ocracoke, North Carolina, as the Secretary considers appropriate for purposes of the conveyance.

(b) **CONDITIONS.**—The conveyance under subsection (a) shall be subject to the following conditions:

(1) That the State accept the property to be conveyed under that subsection subject to such easements or rights of way in favor of the United States as the Secretary considers to be appropriate for—

(A) utilities;

(B) access to and from the property;

(C) the use of the boat launching ramp on the property;

and

(D) the use of pier space on the property by search and rescue assets.

(2) That the State maintain the property in a manner so as to preserve the usefulness of the easements or rights of way referred to in paragraph (1).

(3) That the State utilize the property for transportation, education, environmental, or other public purposes.

(c) **REVERSION.**—(1) If the Secretary determines at any time that the property conveyed under subsection (a) is not being used in accordance with subsection (b), all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(2) Upon reversion under paragraph (1), the property shall be under the administrative jurisdiction of the Administrator of General Services.

(d) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the property conveyed under subsection (a), and any easements or rights of way granted under subsection (b)(1), shall

be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the State.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions with respect to the conveyance under subsection (a), and any easements or rights of way granted under subsection (b)(1), as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 414. CONVEYANCE OF COAST GUARD PROPERTY IN SAULT SAINTE MARIE, MICHIGAN.**

(a) **REQUIREMENT TO CONVEY.**—The Secretary of Transportation (in this section referred to as the “Secretary”) shall promptly convey, without consideration, to American Legion Post No. 3 in Sault Sainte Marie, Michigan, all right, title, and interest of the United States in and to the parcel of real property described in section 202 of the Water Resources Development Act of 1990 (Public Law 101-640), as amended by section 323 of the Water Resources Development Act of 1992 (Public Law 102-580), comprising approximately 0.565 acres, together with any improvements thereon.

(b) **CONDITION.**—The conveyance under subsection (a) shall be subject to the condition that the property be used as a clubhouse for the American Legion Post No. 3.

(c) **REVERSION.**—(1) If the Secretary determines at any time that the property conveyed under subsection (a) is not being used in accordance with subsection (b), all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(2) Upon reversion under paragraph (1), the property shall be under the administrative jurisdiction of the Administrator of General Services.

(d) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the American Legion Post No. 3.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions with respect to the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

**SEC. 415. INTERIM AUTHORITY FOR DRY BULK CARGO RESIDUE DISPOSAL.**

(a) **IN GENERAL.**—

(1) Subject to subsection (b), the Secretary of Transportation shall continue to implement and enforce the United States Coast Guard 1997 Enforcement Policy for Cargo Residues on the Great Lakes and revisions thereto that are made in accordance with that Policy (hereafter in this section referred to as the “Policy”) for the purpose of regulating incidental discharges from vessels of residues of dry bulk cargo into the waters of the Great Lakes under the jurisdiction of the United States.

(2) Any discharge under this section shall comply with all terms and conditions of the Policy.

(b) **EXPIRATION OF INTERIM AUTHORITY.**—The Policy shall cease to have effect on the date which is the earliest of—

(1) the effective date of regulations promulgated pursuant to legislation enacted subsequent to the enactment of this Act providing for the regulation of incidental discharges from vessels of dry bulk cargo residue into the waters of the Great Lakes under the jurisdiction of the United States is enacted; or

(2) September 30, 2002.

**SEC. 416. CONVEYANCE OF LIGHTHOUSES.**

**(a) AUTHORITY TO CONVEY.—**

(1) **IN GENERAL.**—The Commandant of the Coast Guard, or the Administrator of the General Services Administration, as appropriate, may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to each of the following properties:

(A) Light Station Sand Point, located in Escanaba, Michigan, to the Delta County Historical Society.

(B) Light Station Dunkirk, located in Dunkirk, New York, to the Dunkirk Historical Lighthouse and Veterans' Park Museum.

(C) The Mukilteo Light Station, located in Mukilteo, Washington, to the City of Mukilteo.

(D) Eagle Harbor Light Station, located in Michigan, to the Keweenaw County Historical Society.

(E) Cape Decision Light Station, located in Alaska, to the Cape Decision Lighthouse Society.

(F) Cape St. Elias Light Station, located in Alaska, to the Cape St. Elias Light Keepers Association.

(G) Five Finger Light Station, located in Alaska, to the Juneau Lighthouse Association.

(H) Point Retreat Light Station, located in Alaska, to the Alaska Lighthouse Association.

(I) Hudson-Athens Lighthouse, located in New York, to the Hudson-Athens Lighthouse Preservation Society.

(J) Georgetown Light, located in Georgetown County, South Carolina, to the South Carolina Department of Natural Resources.

(K) Coast Guard Light Station Two Harbors, located in Lake County, Minnesota, to the Lake County Historical Society.

(2) **IDENTIFICATION OF PROPERTY.**—The Commandant or Administrator, as appropriate, may identify, describe, and determine the property to be conveyed under this subsection.

(3) **EXCEPTION.**—The Commandant or Administrator, as appropriate, may not convey any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

**(b) TERMS OF CONVEYANCE.—**

(1) **IN GENERAL.**—The conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Commandant or the Administrator, as appropriate, may consider, including the reservation of easements and other rights on behalf of the United States.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, the conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property shall immediately revert to the United States if—

(A) the property, or any part of the property—

(i) ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of maritime history;

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this Act; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (5) established by the Commandant or the Administrator, as appropriate, pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Commandant or the Administrator, as appropriate, provides written notice to the owner that the property is needed for national security purposes.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—The conveyance of property under this section shall be made subject to the conditions that the Commandant or Administrator, as appropriate, considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant or Administrator, as appropriate;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining and inspecting aids to navigation, and for the purpose of enforcing compliance with subsection (b); and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The owner of the property is not required to maintain any active aid to navigation equipment on the property, except private aids to navigation permitted under section 83 of title 14, United States Code.

(5) MAINTENANCE OF PROPERTY.—The owner of the property shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the Commandant or the Administrator, as appropriate, pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

(c) DEFINITIONS.—In this section:

(1) AIDS TO NAVIGATION.—The term “aids to navigation” means equipment used for navigation purposes, including but not limited to, a light, antenna, sound signal, electronic navigation equipment, or other associated equipment which are operated or maintained by the United States.

(2) OWNER.—The term “owner” means the person identified in subsection (a)(1), and includes any successor or assign of that person.

(3) DELTA COUNTY HISTORICAL SOCIETY.—The term “Delta County Historical Society” means the Delta County Historical Society (a nonprofit corporation established under the laws of the State of Michigan, its parent organization, or subsidiary, if any).

(4) DUNKIRK HISTORICAL LIGHTHOUSE AND VETERANS’ PARK MUSEUM.—The term “Dunkirk Historical Lighthouse and Veterans’ Park Museum” means Dunkirk Historical Lighthouse and Veterans’ Park Museum located in Dunkirk, New York, or, if appropriate as determined by the Commandant, the Chautauqua County Armed Forces Memorial Park Corporation, New York.

(5) LAKE COUNTY HISTORICAL SOCIETY.—The term “Lake County Historical Society” means the Lake County Historical Society (a nonprofit corporation established under the laws of the State of Minnesota), its parent organization or subsidiary, if any, and its successors and assigns.

(d) NOTIFICATION.—Not less than 1 year prior to reporting to the General Services Administration that a lighthouse or light station eligible for listing under the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and under the jurisdiction of the Coast Guard is excess to the needs of the Coast Guard, the Commandant of the Coast Guard shall notify the State in which the lighthouse or light station is located, (including the State Historic Preservation Officer, if any) the appropriate political subdivision of that State, and any lighthouse, historic, or maritime preservation organizations in that State, that such property is excess to the needs of the Coast Guard.

(e) EXTENSION OF PERIOD FOR CONVEYANCE OF WHITLOCK’S MILL LIGHT.—Notwithstanding section 1002(a)(3) of the Coast Guard Authorization Act of 1996, the conveyance authorized by section 1002(a)(2)(AA) of that Act may take place after the date required by section 1002(a)(3) of that Act but no later than December 31, 1998.

**SEC. 417. CONVEYANCE OF COAST GUARD LORAN STATION NANTUCKET.** Massachusetts.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Commandant of the United States Coast Guard may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to approximately 29.4 acres of land, together with the improvements thereon, at Coast Guard LORAN Station Nantucket, Nantucket, Massachusetts, to the Town of Nantucket, Massachusetts (“the Town”) unless the Commandant, or his delegate, in his sole discretion determines that the conveyance would not provide a public benefit.

(2) IDENTIFICATION OF PROPERTY.—

(A) The Commandant may identify, define, describe, and determine the real property to be conveyed under this section.

(B) The Commandant shall determine the exact acreage and legal description of the property to be conveyed under this section by a survey satisfactory to the Commandant. The cost of the survey shall be borne by the Town.

(b) **TERMS OF CONVEYANCE.**—

(1) **IN GENERAL.**—The conveyance of real property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the following terms and conditions:

(i) The Town shall not, upon the property conveyed, allow, conduct, or permit any activity, or operate, allow, or permit the operation of, any equipment or machinery, that would interfere or cause interference, in any manner, with any aid to navigation located upon property retained by the United States at Coast Guard LORAN Station Nantucket, without the express written permission from the Commandant.

(ii) The Town shall maintain the real property conveyed in a manner consistent with the present and future use of any property retained by the United States at Coast Guard LORAN Station Nantucket as a site for an aid to navigation.

(iii) Any other terms and conditions the Commandant considers appropriate to protect the interests of the United States, including the reservation of easements or other rights on behalf of the United States.

(2) **REVERSIONARY INTEREST.**—The conveyance of real property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(A) the property, or any part thereof, ceases to be owned and used by the Town;

(B) the Town fails to maintain the property conveyed in a manner consistent with the terms and conditions in paragraph (1); or

(C) at least 30 days before such reversion, the Commandant provides written notice to the Town that the property conveyed is needed for national security purposes.

**SEC. 418. CONVEYANCE OF DECOMMISSIONED COAST GUARD VESSELS.**

(a) **IN GENERAL.**—The Commandant of the Coast Guard may convey all right, title, and interest of the United States in and to each of 2 decommissioned “White Class” 133-foot Coast Guard vessels to Canvasback Mission, Inc. (a nonprofit corporation under the laws of the State of Oregon; in this section referred to as “the recipient”), without consideration, if—

(1) the recipient agrees—

(A) to use the vessel for purposes of providing medical services to Central and South Pacific island nations;

(B) not to use the vessel for commercial transportation purposes except those incident to the provisions of those medical services;



(C) to make the vessel available to the United States Government if needed for use by the Commandant in times of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from the use by the Government under paragraph (1)(C);

(2) the recipient has funds available that will be committed to operate and maintain each vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment, and in the amount of at least \$400,000 per vessel; and

(3) the recipient agrees to any other conditions the Commandant considers appropriate.

(b) **MAINTENANCE AND DELIVERY OF VESSELS.**—Prior to conveyance of a vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. If a conveyance is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94-469 (15 U.S.C. 2605(e)).

(c) **OTHER EXCESS EQUIPMENT.**—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as a medical services vessel in Central and South Pacific Islands.

**SEC. 419. AMENDMENT TO CONVEYANCE OF VESSEL S/S RED OAK VICTORY.**

Section 1008(d)(1) of the Coast Guard Authorization Act of 1996 is amended by striking “2 years” and inserting “3 years”.

**SEC. 420. TRANSFER OF OCRACOE LIGHT STATION TO SECRETARY OF THE INTERIOR.** 16 USC 459a-10.

The Administrator of the General Services Administration shall transfer administrative jurisdiction over the Federal property consisting of approximately 2 acres, known as the Ocracoke Light Station, to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes. All property so transferred shall be included in and administered as part of the Cape Hatteras National Seashore.

**SEC. 421. VESSEL DOCUMENTATION CLARIFICATION.**

Section 12102(a)(4) of title 46, United States Code, and section 2(a) of the Shipping Act, 1916 (46 U.S.C. App. 802(a)) are each amended by—

(1) striking “president or other”; and

(2) inserting a comma and “by whatever title,” after “chief executive officer”.

**SEC. 422. DREDGE CLARIFICATION.**

Section 5209(b) of the Oceans Act of 1992 (46 U.S.C. 2101 note) is amended by adding at the end the following:

“(3) A vessel—

“(A) configured, outfitted, and operated primarily for dredging operations; and

“(B) engaged in dredging operations which transfers fuel to other vessels engaged in the same dredging operations without charge.”.

**SEC. 423. DOUBLE HULL ALTERNATIVE DESIGNS STUDY.**

Section 4115(e) of the Oil Pollution Act of 1990 (46 U.S. Code 3703a note) is amended by adding at the end the following:

“(3)(A) The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct the necessary research and development of a rationally based equivalency assessment approach, which accounts for the overall environmental performance of alternative tank vessel designs. Notwithstanding the Coast Guard opinion of the application of sections 101 and 311 of the Clean Water Act (33 U.S.C. 1251 and 1321), the intent of this study is to establish an equivalency evaluation procedure that maintains a high standard of environmental protection, while encouraging innovative ship design. The study shall include:

“(i) development of a generalized cost spill data base, which includes all relevant costs such as clean-up costs and environmental impact costs as a function of spill size;

“(ii) refinement of the probability density functions used to establish the extent of vessel damage, based on the latest available historical damage statistics, and current research on the crash worthiness of tank vessel structures;

“(iii) development of a rationally based approach for calculating an environmental index, to assess overall outflow performance due to collisions and groundings; and

“(iv) application of the proposed index to double hull tank vessels and alternative designs currently under consideration.

“(B) A Marine Board committee shall be established not later than 2 months after the date of the enactment of the Coast Guard Authorization Act of 1998. The Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure in the House of Representatives a report on the results of the study not later than 12 months after the date of the enactment of the Coast Guard Authorization Act of 1998.

“(C) Of the amounts authorized by section 1012(a)(5)(A) of this Act, \$500,000 is authorized to carry out the activities under subparagraphs (A) and (B) of this paragraph.”.

**SEC. 424. VESSEL SHARING AGREEMENTS.**

(a) Section 5 of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended by adding at the end the following:

“(g) VESSEL SHARING AGREEMENTS.—An ocean common carrier that is the owner, operator, or bareboat, time, or slot charterer of a United States-flag liner vessel documented pursuant to sections 12102(a) or (d) of title 46, United States Code, is authorized to agree with an ocean common carrier that is not the owner, operator or bareboat charterer for at least 1 year of United States-flag liner vessels which are eligible to be included in the Maritime

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Establishment.  
Reports.

Security Fleet Program and are enrolled in an Emergency Preparedness Program pursuant to subtitle B of title VI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1187 et seq.), to which it charters or subcharterers the United States-flag vessel or space on the United States-flag vessel that such charterer or subcharterer may not use or make available space on the vessel for the carriage of cargo reserved by law for United States-flag vessels.”.

(b) Section 10(c)(6) of the Shipping Act of 1984 (46 U.S.C. App. 1709(c)(6)) is amended by inserting “authorized by section 5(g) of this Act, or as” before “otherwise”.

(c) Nothing in this section shall affect or in any way diminish the authority or effectiveness of orders issued by the Maritime Administration pursuant to sections 9 and 41 of the Shipping Act, 1916 (46 U.S.C. App. 808 and 839).

(d) Section 3(6)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(6)(B)) is amended by striking “parcel-tanker.” and inserting “parcel-tanker or by vessel when primarily engaged in the carriage of perishable agricultural commodities (i) if the common carrier and the owner of those commodities are wholly-owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities and (ii) only with respect to the carriage of those commodities.”.

#### **SEC. 425. REPORTS.**

(a) **SWATH TECHNOLOGY.**—The Commandant of the Coast Guard shall, within 18 months after the date of the enactment of this Act, report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on the applicability of Small Waterplane Area Twin Hull (SWATH) technology, including concepts developed by the United States Office of Naval Research, to the design of Coast Guard vessels.

14 USC 93 note.

(b) **MARINE GUIDANCE SYSTEMS.**—The Secretary of Transportation shall, within 12 months after the date of the enactment of this Act, evaluate and report to the Congress on the suitability of marine sector laser lighting, cold cathode lighting, and ultraviolet enhanced vision technologies for use in guiding marine vessels and traffic.

33 USC 1323 note.

#### **SEC. 426. REPORT ON TONNAGE CALCULATION METHODOLOGY.**

The Administrator of the Panama Canal Commission shall, within 90 days of the date of the enactment of this Act, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the methodology employed in the calculation of the charge of tolls for the carriage of on-deck containers and the justification thereof.

#### **SEC. 427. AUTHORITY TO CONVEY NATIONAL DEFENSE RESERVE FLEET VESSELS.**

(a) **AUTHORITY TO CONVEY.**—Notwithstanding any other law, the Secretary of Transportation (referred to in this section as “the Secretary”) may convey all right, title, and interest of the Federal Government in and to either or both of the vessels S.S. AMERICAN VICTORY (United States official number 248005) and S.S. HATTIESBURG VICTORY (United States official number 248651) to The Victory Ship, Inc., located in Tampa, Florida (in this section

referred to as the “recipient”), and the recipient may use each vessel conveyed only as a memorial to the Victory class of ships.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver a vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient of any vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

**SEC. 428. AUTHORITY TO CONVEY NATIONAL DEFENSE RESERVE FLEET VESSEL, JOHN HENRY.**

(a) AUTHORITY TO CONVEY.—Notwithstanding any other law, the Secretary of Transportation (in this section referred to as “the Secretary”) may convey all right, title, and interest of the United States Government in and to the vessel JOHN HENRY (United States official number 599294) to a purchaser for use in humanitarian relief efforts, including the provision of water and humanitarian goods to developing nations.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date;

(C) at no cost to the United States Government; and

(D) only after the vessel has been redesignated as not militarily useful.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that the vessel shall not be used for commercial transportation purposes or for the

carriage of cargoes reserved to United States flag commercial vessels under section 901(b) and 901f of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) and 1241f);

(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(E) the recipient provides sufficient evidence to the Secretary that it has financial resources in the form of cash, liquid assets, or a written loan commitment of at least \$100,000.

(F) the recipient agrees to make the vessel available to the Government if the Secretary requires use of the vessel by the Government for war or national emergency.

(G) the recipient agrees to document the vessel under chapter 121 of title 46, United States Code.

(3) **ADDITIONAL TERMS.**—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) **PROCEEDS.**—Any amounts received by the United States as proceeds from the sale of the M/V JOHN HENRY shall be deposited in the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (chapter 121; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

**SEC. 429. APPLICABILITY OF AUTHORITY TO RELEASE RESTRICTIONS AND ENCUMBRANCES.**

Section 315(c)(1) of the Federal Maritime Commission Authorization Act of 1990 (Public Law 101-595; 104 Stat. 2988) is amended—

(1) by striking “3 contiguous tracts” and inserting “4 tracts”; and

(2) by striking “Tract A” and all that follows through the end of the paragraph and inserting the following:

“Tract 1—Commencing at a point N45° 28' 31" E 198.3 feet from point ‘A’ as shown on plat of survey of ‘Boundary Agreement of CAFB’ by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29' 09" E 220 feet; thence N45° 28' 31" E 50 feet; thence N44° 29' 09" W 220 feet; thence S45° 28' 31" W 50 feet to the point of commencement and containing 11,000 square feet (0.2525 acres).”

“Tract 2—Commencing at a point N45° 28' 31" E 198.3 feet from point ‘A’ as shown on plat of survey of ‘Boundary Agreement of CAFB’ by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29' 09" E 169.3 feet; thence S45° 28' 31" W 75 feet; (Deed Call S45° 30' 51" W 75 feet), thence N44° 29' 09" W 169.3 feet; thence N45° 28' 31" E 75 feet to the point of commencement and containing 12,697 square feet (0.2915 acres).”

“Tract 3—Commencing at a point N45° 28' 31" E 248.3 feet from point ‘A’ as shown on plat of survey of ‘Boundary Agreement of CAFB’ by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29' 09" E 220 feet; thence N45° 28' 31" E 50 feet; thence N44° 29' 09" W 220 feet; thence S45° 28' 31" W 50 feet to the point of commencement and containing 11,000 square feet (0.2525 acres).”

“Tract 4—Commencing at a point N45° 28′ 31″ E 123.3 feet and S44° 29′ 09″ E 169.3 feet from point ‘A’ as shown on plat of survey of ‘Boundary Agreement of CAFB’ by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29′ 09″ E 50.7 feet; thence N45° 28′ 31″ E 75 feet; thence N44° 29′ 09″ W 50.7 feet; thence S45° 28′ 31″ W 75 feet (Deed Call S45° 30′ 51″ W 75 feet) to the point of commencement and containing 3,802 square feet (0.0873 acres).

“Composite Description—A tract of land lying in section 2, Township 10 South—Range 8 West, Calcasieu Parish, Louisiana, and being more [sic] particularly described as follows: Begin at a point N45° 28′ 31″ E 123.3 feet from point ‘A’ as shown on plat of survey of ‘Boundary Agreement of CAFB’ by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence N45° 28′ 31″ E 175.0 feet; thence S44° 29′ 09″ E 220.0 feet; thence S45° 28′ 31″ W 175.0 feet; thence N44° 29′ 09″ W 220.0 feet to the point of beginning, containing 0.8035 acres.”

#### SEC. 430. BARGE APL-60.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the barge APL-60 (United States official number 376857).

(b) LIMITATIONS.—The vessel described in subsection (a) may be employed in the coastwise trade only for the purpose of participating in the ship disposal initiative initially funded by the Department of Defense Appropriations Act, 1999, for the duration of that initiative.

(c) TERMINATION.—A coastwise endorsement issued under subsection (a) shall terminate on the earlier of—

(1) the completion of the final coastwise trade voyage associated with the ship disposal initiative described in subsection (b); or

(2) the sale or transfer of the vessel described in subsection (a) to an owner other than the owner of the vessel as of October 1, 1998.

#### SEC. 431. VESSEL FINANCING FLEXIBILITY.

The Secretary of Transportation may guarantee obligations under section 1103 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1273), for the vessels planned for construction to be purchased by the American West Steamboat Company and to be named QUEEN OF THE YUKON, which will operate on the Yukon and Tanana Rivers, and EMPRESS OF THE NORTH, which will operate in Alaska, Washington, and Oregon. Notwithstanding sections 509, 1103(c), and 1104A(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1159, 1273(c), and 1274(b)), the Secretary of Transportation may guarantee obligations of 87½ percent of the purchase price of such vessels. Each obligation guaranteed under this section may have a maturity date of 25 years from the date of delivery of the vessel concerned.

#### SEC. 432. HYDROGRAPHIC FUNCTIONS.

(a) EFFECTIVE DATE.—Subsections (b) and (c) shall take effect immediately after the later of—

(1) the enactment of the Hydrographic Services Improvement Act of 1998; or

(2) the enactment of this Act.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 306 of the Hydrographic Services Improvement Act of 1998 is amended to read as follows: 33 USC 892d.

**“SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

“There is authorized to be appropriated to the Administrator the following:

“(1) To carry out nautical mapping and charting functions under the Act of 1947 and sections 303 and 304, except for conducting hydrographic surveys, \$33,000,000 for fiscal year 1999, \$34,000,000 for fiscal year 2000, and \$35,000,000 for fiscal year 2001.

“(2) To conduct hydrographic surveys under section 303(a)(1), including the leasing of ships, \$33,000,000 for fiscal year 1999, \$35,000,000 for fiscal year 2000, and \$37,000,000 for fiscal year 2001. Of these amounts, no more than \$16,000,000 is authorized for any one fiscal year to operate hydrographic survey vessels owned and operated by the Administration.

“(3) To carry out geodetic functions under the Act of 1947, \$25,000,000 for fiscal year 1999, \$30,000,000 for fiscal year 2000, and \$30,000,000 for fiscal year 2001.

“(4) To carry out tide and current measurement functions under the Act of 1947, \$22,500,000 for each of fiscal years 1999 through 2001. Of these amounts \$4,500,000 is authorized for each fiscal year to implement and operate a national quality control system for real-time tide and current and maintain the national tide network, and \$7,000,000 is authorized for each fiscal year to design and install real-time tide and current data measurement systems under section 303(b)(4).”.

(c) **REPEAL OF REPORT REQUIREMENTS.**—Section 305 of the Hydrographic Services Improvement Act of 1998 is amended by striking subsections (a) and (d). 33 USC 892c.

## **TITLE V—ADMINISTRATIVE PROCESS FOR JONES ACT WAIVERS**

**SEC. 501. FINDINGS.**

46 USC 12106  
note.

The Congress finds that—

(1) current coastwise trade laws provide no administrative authority to waive the United-States-built requirement of those laws for the limited carriage of passengers for hire on vessels built or rebuilt outside the United States;

(2) requests for such waivers require the enactment of legislation by the Congress;

(3) each Congress routinely approves numerous such requests for waiver and rarely rejects any such request; and

(4) the review and approval of such waiver requests is a ministerial function which properly should be executed by an administrative agency with appropriate expertise.

**SEC. 502. ADMINISTRATIVE WAIVER OF COASTWISE TRADE LAWS.**

46 USC 12106  
note.

Notwithstanding sections 12106 and 12108 of title 46, United States Code, section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 27 of the Merchant Marine Act, 1920 (46

U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade as a small passenger vessel or an uninspected passenger vessel for an eligible vessel authorized to carry no more than 12 passengers for hire if the Secretary, after notice and an opportunity for public comment, determines that the employment of the vessel in the coastwise trade will not adversely affect—

- (1) United States vessel builders; or
- (2) the coastwise trade business of any person who employs vessels built in the United States in that business.

46 USC 12106  
note.

#### **SEC. 503. REVOCATION.**

The Secretary may revoke an endorsement issued under section 502, after notice and an opportunity for public comment, if the Secretary determines that the employment of the vessel in the coastwise trade has substantially changed since the issuance of the endorsement, and—

- (1) the vessel is employed other than as a small passenger vessel or an uninspected passenger vessel; or
- (2) the employment of the vessel adversely affects—
  - (A) United States vessel builders; or
  - (B) the coastwise trade business of any person who employs vessels built in the United States.

46 USC 12106  
note.

#### **SEC. 504. DEFINITIONS.**

In this title:

- (1) SECRETARY.—The term “Secretary” means the Secretary of Transportation.
- (2) ELIGIBLE VESSEL.—The term “eligible vessel” means a vessel that—
  - (A) was not built in the United States and is at least 3 years of age; or
  - (B) if rebuilt, was rebuilt outside the United States at least 3 years before the certification requested under section 502, if granted, would take effect.
- (3) SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL; PASSENGER FOR HIRE.—The terms “small passenger vessel”, “uninspected passenger vessel”, and “passenger for hire” have the meaning given such terms by section 2101 of title 46, United States Code.

46 USC 12106  
note.

#### **SEC. 505. SUNSET.**

(a) IN GENERAL.—Subject to subsection (b), this title (other than this section) shall have no force or effect on or after September 30, 2002.

(b) ENDORSEMENTS CONTINUE.—Any certificate or endorsement issued under section 502 before the date referred to in subsection (a) of this section shall continue in effect until otherwise invalidated or revoked under chapter 121 of title 46, United States Code.



## TITLE VI—HARMFUL ALGAL BLOOMS AND HYPOXIA

Harmful Algal  
Bloom and  
Hypoxia  
Research and  
Control Act of  
1998.  
16 USC 1451  
note.

### SEC. 601. SHORT TITLE.

This title may be cited as the “Harmful Algal Bloom and Hypoxia Research and Control Act of 1998”.

### SEC. 602. FINDINGS.

16 USC 1451  
note.

The Congress finds that—

(1) the recent outbreak of the harmful microbe *Pfiesteria piscicida* in the coastal waters of the United States is one example of potentially harmful algal blooms composed of naturally occurring species that reproduce explosively and that are increasing in frequency and intensity in the Nation’s coastal waters;

(2) other recent occurrences of harmful algal blooms include red tides in the Gulf of Mexico and the Southeast; brown tides in New York and Texas; ciguatera fish poisoning in Hawaii, Florida, Puerto Rico, and the United States Virgin Islands; and shellfish poisonings in the Gulf of Maine, the Pacific Northwest, and the Gulf of Alaska;

(3) in certain cases, harmful algal blooms have resulted in fish kills, the deaths of numerous endangered West Indian manatees, beach and shellfish bed closures, threats to public health and safety, and concern among the public about the safety of seafood;

(4) according to some scientists, the factors causing or contributing to harmful algal blooms may include excessive nutrients in coastal waters, other forms of pollution, the transfer of harmful species through ship ballast water, and ocean currents;

(5) harmful algal blooms may have been responsible for an estimated \$1,000,000,000 in economic losses during the past decade;

(6) harmful algal blooms and blooms of non-toxic algal species may lead to other damaging marine conditions such as hypoxia (reduced oxygen concentrations), which are harmful or fatal to fish, shellfish, and benthic organisms;

(7) according to the National Oceanic and Atmospheric Administration in the Department of Commerce, 53 percent of United States estuaries experience hypoxia for at least part of the year and a 7,000 square mile area in the Gulf of Mexico off Louisiana and Texas suffers from hypoxia;

(8) according to some scientists, a factor believed to cause hypoxia is excessive nutrient loading into coastal waters;

(9) there is a need to identify more workable and effective actions to reduce nutrient loadings to coastal waters;

(10) the National Oceanic and Atmospheric Administration, through its ongoing research, education, grant, and coastal resource management programs, possesses a full range of capabilities necessary to support a near and long-term comprehensive effort to prevent, reduce, and control harmful algal blooms and hypoxia;

(11) funding for the research and related programs of the National Oceanic and Atmospheric Administration will aid in improving the Nation’s understanding and capabilities for

addressing the human and environmental costs associated with harmful algal blooms and hypoxia; and

(12) other Federal agencies such as the Environmental Protection Agency, the Department of Agriculture, and the National Science Foundation, along with the States, Indian tribes, and local governments, conduct important work related to the prevention, reduction, and control of harmful algal blooms and hypoxia.

16 USC 1451  
note.

#### **SEC. 603. ASSESSMENTS.**

(a) **ESTABLISHMENT OF INTER-AGENCY TASK FORCE.**—The President, through the Committee on Environment and Natural Resources of the National Science and Technology Council, shall establish an Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia (hereinafter referred to as the “Task Force”). The Task Force shall consist of the following representatives from—

- (1) the Department of Commerce (who shall serve as Chairman of the Task Force);
- (2) the Environmental Protection Agency;
- (3) the Department of Agriculture;
- (4) the Department of the Interior;
- (5) the Department of the Navy;
- (6) the Department of Health and Human Services;
- (7) the National Science Foundation;
- (8) the National Aeronautics and Space Administration;
- (9) the Food and Drug Administration;
- (10) the Office of Science and Technology Policy;
- (11) the Council on Environmental Quality; and
- (12) such other Federal agencies as the President considers appropriate.

(b) **ASSESSMENT OF HARMFUL ALGAL BLOOMS.**—

Deadline.

(1) Not later than 12 months after the date of the enactment of this title, the Task Force, in cooperation with the coastal States, Indian tribes, and local governments, industry (including agricultural organizations), academic institutions, and non-governmental organizations with expertise in coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of harmful algal blooms, alternatives for reducing, mitigating, and controlling harmful algal blooms, and the social and economic costs and benefits of such alternatives.

(2) The assessment shall—

(A) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to harmful algal blooms; and

(B) provide for Federal cooperation and coordination with and assistance to the coastal States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of harmful algal blooms and their environmental and public health impacts.

(c) **ASSESSMENT OF HYPOXIA.**—

Deadline.

(1) Not later than 12 months after the date of the enactment of this title, the Task Force, in cooperation with the States, Indian tribes, local governments, industry, agricultural, academic institutions, and non-governmental organizations with expertise in watershed and coastal zone management, shall complete and submit to the Congress an assessment which

examines the ecological and economic consequences of hypoxia in United States coastal waters, alternatives for reducing, mitigating, and controlling hypoxia, and the social and economic costs and benefits of such alternatives.

(2) The assessment shall—

(A) establish needs, priorities, and guidelines for a peer-reviewed, inter-agency research program on the causes, characteristics, and impacts of hypoxia;

(B) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to hypoxia; and

(C) provide for Federal cooperation and coordination with and assistance to the States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of hypoxia and its environmental impacts.

(e) **DISESTABLISHMENT OF TASK FORCE.**—The President may disestablish the Task Force after submission of the plan in section 604(d).

#### **SEC. 604. NORTHERN GULF OF MEXICO HYPOXIA.**

16 USC 1451  
note.  
Deadline.

(a) **ASSESSMENT REPORT.**—Not later than May 30, 1999, the Task Force shall complete and submit to Congress and the President an integrated assessment of hypoxia in the northern Gulf of Mexico that examines: the distribution, dynamics, and causes; ecological and economic consequences; sources and loads of nutrients transported by the Mississippi River to the Gulf of Mexico; effects of reducing nutrient loads; methods for reducing nutrient loads; and the social and economic costs and benefits of such methods.

(b) **SUBMISSION OF A PLAN.**—No later than March 30, 2000, the President, in conjunction with the chief executive officers of the States, shall develop and submit to Congress a plan, based on the integrated assessment submitted under subsection (a), for reducing, mitigating, and controlling hypoxia in the northern Gulf of Mexico. In developing such plan, the President shall consult with State, Indian tribe, and local governments, academic, agricultural, industry, and environmental groups and representatives. Such plan shall include incentive-based partnership approaches. The plan shall also include the social and economic costs and benefits of the measures for reducing, mitigating, and controlling hypoxia. At least 90 days before the President submits such plan to the Congress, a summary of the proposed plan shall be published in the Federal Register for a public comment period of not less than 60 days.

#### **SEC. 605. AUTHORIZATION OF APPROPRIATIONS.**

16 USC 1451  
note.

There are authorized to be appropriated to the Secretary of Commerce for research, education, and monitoring activities related to the prevention, reduction, and control of harmful algal blooms and hypoxia, \$15,000,000 for fiscal year 1999, \$18,250,000 for fiscal year 2000, and \$19,000,000 for fiscal year 2001, to remain available until expended. The Secretary shall consult with the States on a regular basis regarding the development and implementation of the activities authorized under this section. Of such amounts for each fiscal year—

(1) \$1,500,000 for fiscal year 1999, \$1,500,000 for fiscal year 2000, and \$2,000,000 for fiscal year 2001 may be used to enable the National Oceanic and Atmospheric Administration to carry out research and assessment activities, including procurement of necessary research equipment, at research laboratories of the National Ocean Service and the National Marine Fisheries Service;

(2) \$4,000,000 for fiscal year 1999, \$5,500,000 for fiscal year 2000, and \$5,500,000 for fiscal year 2001 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) project under the Coastal Ocean Program established under section 201(c) of Public Law 102–567;

(3) \$1,000,000 for fiscal year 1999, \$2,000,000 for fiscal year 2000, and \$2,000,000 for fiscal year 2001 may be used by the National Ocean Service of the National Oceanic and Atmospheric Administration to carry out a peer-reviewed research project on management measures that can be taken to prevent, reduce, control, and mitigate harmful algal blooms;

(4) \$5,500,000 for each of the fiscal years 1999, 2000, and 2001 may be used to carry out Federal and State annual monitoring and analysis activities for harmful algal blooms administered by the National Ocean Service of the National Oceanic and Atmospheric Administration; and

(5) \$3,000,000 for fiscal year 1999, \$3,750,000 for fiscal year 2000, and \$4,000,000 for fiscal year 2001 may be used for activities related to research and monitoring on hypoxia by the National Ocean Service and the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration.

16 USC 1451  
note.

#### **SEC. 606. PROTECTION OF STATES' RIGHTS.**

(a) Nothing in this title shall be interpreted to adversely affect existing State regulatory or enforcement power which has been granted to any State through the Clean Water Act or Coastal Zone Management Act of 1972.

(b) Nothing in this title shall be interpreted to expand the regulatory or enforcement power of the Federal Government which has been delegated to any State through the Clean Water Act or Coastal Zone Management Act of 1972.

Approved November 13, 1998.

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#### **LEGISLATIVE HISTORY—H.R. 2204 (S. 1259):**

HOUSE REPORTS: No. 105–236 (Comm. on Transportation and Infrastructure).

SENATE REPORTS: No. 105–246 accompanying S. 1259 (Comm. on Commerce, Science, and Transportation).

#### **CONGRESSIONAL RECORD:**

Vol. 143 (1997): Oct. 21, considered and passed House.

Vol. 144 (1998): Oct. 12, considered and passed Senate, amended, in lieu of S. 1259.

Oct. 15, House concurred in Senate amendment with an amendment.

Oct. 21, Senate concurred in House amendment.



Public Law 105–384  
105th Congress

An Act

To approve a governing international fishery agreement between the United States and the Republic of Poland, and for other purposes.

Nov. 13, 1998  
[H.R. 3461]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**TITLE I—GOVERNING INTERNATIONAL  
FISHERY AGREEMENT WITH POLAND**

**SEC. 101. GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH  
POLAND.**

16 USC 1823  
note.

Notwithstanding section 203 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of the Republic of Poland, as contained in the message to Congress from the President of the United States dated February 5, 1998, is approved as a governing international fishery agreement for the purposes of such Act and shall enter into force and effect with respect to the United States on the date of the enactment of this Act.

**TITLE II—MISCELLANEOUS FISHERIES  
PROVISIONS**

**SEC. 201. REAUTHORIZATION OF THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.**

(a) REAUTHORIZATION.—Section 211 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5610) is amended by striking “for each of” and all that follows through the end of the sentence and inserting “for each fiscal year through fiscal year 2001.”.

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—The Northwest Atlantic Fisheries Convention Act of 1995 is further amended—

(1) in section 207(e) (16 U.S.C. 5606(e)), by striking “sections” and inserting “section”;

(2) in section 209(c) (16 U.S.C. 5608(c)), by striking “chapter 17” and inserting “chapter 171”; and

(3) in section 210(6) (16 U.S.C. 5609(6)), by striking “the Magnuson Fishery” and inserting “the Magnuson-Stevens Fishery”.

(c) **REPORT REQUIREMENT.**—The Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 201 et seq.) is further amended by adding at the end the following:

16 USC 5611.

**“SEC. 212. ANNUAL REPORT.**

“The Secretary shall annually report to the Congress on the activities of the Fisheries Commission, the General Council, the Scientific Council, and the consultative committee established under section 208.”.

(d) **NORTH ATLANTIC FISHERIES ORGANIZATION QUOTA ALLOCATION PRACTICE.**—The Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 201 et seq.) is further amended by adding at the end the following:

16 USC 5612.

**“SEC. 213. QUOTA ALLOCATION PRACTICE.**

“(a) **IN GENERAL.**—The Secretary of Commerce, acting through the Secretary of State, shall promptly seek to establish a new practice for allocating quotas under the Convention that—

“(1) is predictable and transparent;

“(2) provides fishing opportunities for all members of the Organization; and

“(3) is consistent with the Straddling Fish Stocks Agreement.

“(b) **REPORT.**—The Secretary of Commerce shall include in annual reports under section 212—

“(1) a description of the results of negotiations held pursuant to subsection (a);

“(2) an identification of barriers to achieving such a new allocation practice; and

“(3) recommendations for any further legislation that is necessary to achieve such a new practice.

“(c) **DEFINITION.**—In this section the term ‘Straddling Fish Stocks Agreement’ means the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.”.

**SEC. 202. REAUTHORIZATION OF THE ATLANTIC TUNAS CONVENTION ACT OF 1975.**

(a) **REAUTHORIZATION.**—Section 10(4) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h(4)) is amended by striking “For fiscal year 1998,” and inserting “For each of fiscal years 1998, 1999, 2000, and 2001,”.

(b) **MISCELLANEOUS TECHNICAL AMENDMENTS.**—(1) The Atlantic Tunas Convention Act of 1975 is further amended—

(A) in section 2 (16 U.S.C. 971), by redesignating the second paragraph (4) as paragraph (5);

(B) in section 5(b) (16 U.S.C. 971c(b)), by striking “fisheries zone” and inserting “exclusive economic zone”;

(C) in section 6(c)(6) (16 U.S.C. 971d(c)(6))—

(i) by designating the last sentence as subparagraph (B), and by indenting the first line thereof; and

(ii) in subparagraph (A)(iii), by striking “subparagraph (A)” and inserting “clause (i)”;

(D) by redesignating the first section 11 (16 U.S.C. 971 note) as section 13, and moving that section so as to appear after section 12 of that Act;

(E) by amending the style of the heading and designation for each of sections 11 and 12 so as to conform to the style of the headings and designations of the other sections of that Act; and

16 USC 971j,  
971k.

(F) by striking “Magnuson Fishery” each place it appears and inserting “Magnuson-Stevens Fishery”.

16 USC 971,  
971b, 971d, 971e.

(2) Section 3(b)(3)(B) of the Act of September 4, 1980 (Public Law 96-339; 16 U.S.C. 971i(b)(3)(B)), is amended by inserting “of 1975” after “Act”.

**SEC. 203. AUTHORITY OF STATES OF WASHINGTON, OREGON, AND CALIFORNIA TO MANAGE DUNGENESS CRAB FISHERY.**

16 USC 1856  
note.

(a) IN GENERAL.—Subject to the provisions of this section and notwithstanding section 306(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1856(a)), each of the States of Washington, Oregon, and California may adopt and enforce State laws and regulations governing fishing and processing in the exclusive economic zone adjacent to that State in any Dungeness crab (*Cancer magister*) fishery for which there is no fishery management plan in effect under that Act.

(b) REQUIREMENTS FOR STATE MANAGEMENT.—Any law or regulation adopted by a State under this section for a Dungeness crab fishery—

(1) except as provided in paragraph (2), shall apply equally to vessels engaged in the fishery in the exclusive economic zone and vessels engaged in the fishery in the waters of the State, and without regard to the State that issued the permit under which a vessel is operating;

Applicability.

(2) shall not apply to any fishing by a vessel in exercise of tribal treaty rights except as provided in *United States v. Washington*, D.C. No. CV-70-09213, United States District Court for the Western District of Washington; and

(3) shall include any provisions necessary to implement tribal treaty rights pursuant to the decision in *United States v. Washington*, D.C. No. CV-70-09213.

(c) LIMITATION ON ENFORCEMENT OF STATE LIMITED ACCESS SYSTEMS.—Any law of the State of Washington, Oregon, or California that establishes or implements a limited access system for a Dungeness crab fishery may not be enforced against a vessel that is otherwise legally fishing in the exclusive economic zone adjacent to that State and that is not registered under the laws of that State, except a law regulating landings.

(d) STATE PERMIT OR TREATY RIGHT REQUIRED.—No vessel may harvest or process Dungeness crab in the exclusive economic zone adjacent to the State of Washington, Oregon, or California, except as authorized by a permit issued by any of those States or pursuant to any tribal treaty rights to Dungeness crab pursuant to the decision in *United States v. Washington*, D.C. No. CV-70-09213.

(e) STATE AUTHORITY OTHERWISE PRESERVED.—Except as expressly provided in this section, nothing in this section reduces the authority of any State under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to regulate fishing, fish processing, or landing of fish.

(f) TERMINATION OF AUTHORITY.—The authority of the States of Washington, Oregon, and California under this section with respect to a Dungeness crab fishery shall expire on the effective

date of a fishery management plan for the fishery under the Magnuson-Stevens Fishery Conservation and Management Act.

(g) REPEAL.—Section 112(d) of Public Law 104–297 (16 U.S.C. 1856 note) is repealed.

Applicability.

(h) DEFINITIONS.—The definitions set forth in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) shall apply to this section.

(i) SUNSET.—This section shall have no force or effect on and after September 30, 2001.

Hydrographic  
Services  
Improvement Act  
of 1998.

## TITLE III—NOAA HYDROGRAPHIC SERVICES

33 USC 851 note.

### SEC. 301. SHORT TITLE.

This title may be cited as the “Hydrographic Services Improvement Act of 1998”.

33 USC 892.

### SEC. 302. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.

(2) ADMINISTRATION.—The term “Administration” means the National Oceanic and Atmospheric Administration.

(3) HYDROGRAPHIC DATA.—The term “hydrographic data” means information acquired through hydrographic or bathymetric surveying, photogrammetry, geodetic measurements, tide and current observations, or other methods, that is used in providing hydrographic services.

(4) HYDROGRAPHIC SERVICES.—The term “hydrographic services” means—

(A) the management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, geodetic, and tide and current information, including the production of nautical charts, nautical information databases, and other products derived from hydrographic data;

(B) the development of nautical information systems; and

(C) related activities.

(5) ACT OF 1947.—The term “Act of 1947” means the Act entitled “An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes”, approved August 6, 1947 (33 U.S.C. 883a et seq.).

33 USC 892a.

### SEC. 303. FUNCTIONS OF THE ADMINISTRATOR.

(a) RESPONSIBILITIES.—To fulfill the data gathering and dissemination duties of the Administration under the Act of 1947, the Administrator shall—

(1) acquire and disseminate hydrographic data;

Standards.

(2) promulgate standards for hydrographic data used by the Administration in providing hydrographic services;

(3) promulgate standards for hydrographic services provided by the Administration;



(4) ensure comprehensive geographic coverage of hydrographic services, in cooperation with other appropriate Federal agencies;

(5) maintain a national database of hydrographic data, in cooperation with other appropriate Federal agencies;

(6) provide hydrographic services in uniform, easily accessible formats;

(7) participate in the development of, and implement for the United States in cooperation with other appropriate Federal agencies, international standards for hydrographic data and hydrographic services; and

(8) to the greatest extent practicable and cost-effective, fulfill the requirements of paragraphs (1) and (6) through contracts or other agreements with private sector entities.

(b) **AUTHORITIES.**—To fulfill the data gathering and dissemination duties of the Administration under the Act of 1947, and subject to the availability of appropriations, the Administrator—

(1) may procure, lease, evaluate, test, develop, and operate vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services;

(2) may enter into contracts and other agreements with qualified entities, consistent with subsection (a)(8), for the acquisition of hydrographic data and the provision of hydrographic services;

(3) shall award contracts for the acquisition of hydrographic data in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.); and

Contracts.

(4) may design and install where appropriate Physical Oceanographic Real-Time Systems to enhance navigation safety and efficiency.

#### **SEC. 304. QUALITY ASSURANCE PROGRAM.**

33 USC 892b.

(a) **DEFINITION.**—For purposes of this section, the term “hydrographic product” means any publicly or commercially available product produced by a non-Federal entity that includes or displays hydrographic data.

(b) **PROGRAM.**—

(1) **IN GENERAL.**—The Administrator may—

(A) develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3);

(B) authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and

(C) charge a fee for such certification and use.

(2) **LIMITATION ON FEE AMOUNT.**—Any fee under paragraph (1)(C) shall not exceed the costs of conducting the quality assurance testing, evaluation, or studies necessary to determine whether the hydrographic product satisfies the standards adopted under section 303(a)(3), including the cost of administering such a program.

(c) **LIMITATION ON LIABILITY.**—The Government of the United States shall not be liable for any negligence by a person that produces hydrographic products certified under this section.

(d) **HYDROGRAPHIC SERVICES ACCOUNT.**—

(1) **ESTABLISHMENT.**—There is established in the Treasury a separate account, which shall be known as the “Hydrographic Services Account”.

(2) **CONTENT.**—The account shall consist of—

(A) amounts received by the United States as fees charged under subsection (b)(1)(C); and

(B) such other amounts as may be provided by law.

(3) **USE.**—Amounts in the account shall be available to the Administrator, without further appropriation, for hydrographic services.

(e) **LIMITATION ON NEW FEES AND INCREASES IN EXISTING FEES FOR HYDROGRAPHIC SERVICES.**—After the date of the enactment of this Act, the Administrator may not—

(1) establish any fee or other charge for the provision of any hydrographic service except as authorized by this section; or

(2) increase the amount of any fee or other charge for the provision of any hydrographic service except as authorized by this section and section 1307 of title 44, United States Code.

#### **SEC. 305. REPORTS.**

Deadline.

(a) **PORTS.**—Not later than 6 months after the date of the enactment of this Act, the Administrator and the Commandant of the Coast Guard shall report to the Congress on—

(1) the status of implementation of real-time tide and current data systems in United States ports;

(2) existing safety and efficiency needs in United States ports that could be met by increased use of those systems; and

(3) a plan for expanding those systems to meet those needs, including an estimate of the cost of implementing those systems in priority locations.

(b) **MAINTAINING FEDERAL EXPERTISE IN HYDROGRAPHIC SERVICES.**—

Deadline.

(1) **IN GENERAL.**—Not later than 6 months after the date of the enactment of this Act, the Administrator shall report to the Congress on a plan to ensure that Federal competence and expertise in hydrographic surveying will be maintained after the decommissioning of the 3 existing Administration hydrographic survey vessels.

(2) **CONTENTS.**—The report shall include—

(A) an evaluation of the seagoing capacity, personnel, and equipment necessary to maintain Federal expertise in hydrographic services;

(B) an estimated schedule for decommissioning the 3 existing survey vessels;

(C) a plan to maintain Federal expertise in hydrographic services after the decommissioning of these vessels; and

(D) an estimate of the cost of carrying out this plan.

**SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

33 USC 892.

There is authorized to be appropriated to the Administrator the following:

(1) To carry out nautical mapping and charting functions under the Act of 1947 and sections 303 and 304, except for conducting hydrographic surveys, \$33,000,000 for fiscal year 1999, \$34,000,000 for fiscal year 2000, and \$35,000,000 for fiscal year 2001.

(2) To conduct hydrographic surveys under section 303(a)(1), including the leasing of ships, \$33,000,000 for fiscal year 1999, \$35,000,000 for fiscal year 2000, and \$37,000,000 for fiscal year 2001. Of these amounts, no more than \$16,000,000 is authorized for any one fiscal year to operate hydrographic survey vessels owned and operated by the Administration.

(3) To carry out geodetic functions under the Act of 1947, \$25,000,000 for fiscal year 1999, \$30,000,000 for fiscal year 2000, and \$30,000,000 for fiscal year 2001.

(4) To carry out tide and current measurement functions under the Act of 1947, \$22,500,000 for each of fiscal years 1999 through 2001. Of these amounts \$4,500,000 is authorized for each fiscal year to implement and operate a national quality control system for real-time tide and current and maintain the national tide network, and \$7,000,000 is authorized for each fiscal year to design and install real-time tide and current data measurement systems under section 303(b)(4).

**SEC. 307. AUTHORIZED NUMBER OF NOAA CORPS COMMISSIONED OFFICERS.**

(a) **AUTHORIZED NUMBER.**—Section 2 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a) is amended—

(1) by redesignating subsections (a) through (e) as subsections (b) through (f), respectively; and

(2) by inserting before subsection (b), as redesignated, the following:

“(a)(1) Except as provided in paragraph (2), there are authorized to be not less than 264 and not more than 299 commissioned officers on the active list of the National Oceanic and Atmospheric Administration for fiscal years 1999, 2000, 2001, 2002, and 2003.

“(2) The Administrator may reduce the number of commissioned officers on the active list below 264 if the Administrator determines that it is appropriate, taking into consideration—

“(A) the number of billets on the fisheries, hydrographic, and oceanographic vessels owned and operated by the Administration;

“(B) the need of the Administration to collect high-quality oceanographic, fisheries, and hydrographic data and information on a continuing basis;

“(C) the need for effective and safe operation of the Administration's fisheries, hydrographic and oceanographic vessels;

“(D) the need for effective management of the commissioned Corps; and

“(E) the protection of the interests of taxpayers.

“(3) At least 90 days before beginning any reduction as described in paragraph (2), the Administrator shall provide notice

Notice.

of such reduction to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.”.

(b) OFFICER RESPONSIBLE FOR COMMISSIONED OFFICERS AND VESSEL FLEET.—Section 24(a) of the Coast and Geodetic Survey Commissioned Officers’ Act of 1948 (33 U.S.C. 853u(a)) is amended by inserting “One such position shall be appointed from the officers on the active duty promotion list serving in or above the grade of captain, and who shall be responsible for administration of the commissioned officers, and for oversight of the operation of the vessel fleet, of the Administration.” before “An officer”.

(c) RELIEF FROM MORATORIUM ON NEW APPOINTMENTS.—The Secretary of Commerce immediately shall terminate the moratorium on new appointments of commissioned officers to the National Oceanic and Atmospheric Administration Corps.

Northwest  
Straits Marine  
Conservation.

## **TITLE IV—NORTHWEST STRAITS MARINE CONSERVATION INITIATIVE**

### **SEC. 401. SHORT TITLE.**

This title may be cited as the “Northwest Straits Marine Conservation Initiative Act”.

### **SEC. 402. ESTABLISHMENT.**

There is established a commission to be known as the Northwest Straits Advisory Commission (in this title referred to as the “Commission”).

### **SEC. 403. ORGANIZATION AND OPERATION.**

The Commission shall be organized and operated in accordance with the provisions of the Northwest Straits Citizen’s Advisory Commission Report of August 20, 1998, on file with the Secretary of Commerce (in this title referred to as the “Report”).

### **SEC. 404. FUNDING.**

(a) IN GENERAL.—The Secretary of Commerce may, from amounts available to the Secretary to carry out the work of the Commission, provide assistance for use in accordance with the Report and the priorities of the Commission—

Records.

(1) to collect marine resources data in the Northwest Straits;

(2) to coordinate Federal, State, and local marine resources protection and restoration activities in the Northwest Straits; and

(3) to carry out other activities identified in the Report as important to the protection and restoration of marine resources in the Northwest Straits.

(b) PROVISION.—The Secretary may provide the assistance authorized by subsection (a) through the Director of the Padilla Bay National Estuarine Research Reserve, unless the Governor of the State of Washington objects. If the Governor objects, then the Secretary may provide the assistance through the Administrator of the National Oceanic and Atmospheric Administration.

**SEC. 405. LIMITATION.**

Nothing in this title provides the Commission with the authority to implement any Federal law or regulation.

Approved November 13, 1998.

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**LEGISLATIVE HISTORY—H.R. 3461:**

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 12, considered and passed House.

Oct. 21, considered and passed Senate.



Public Law 105–385  
105th Congress

An Act

Nov. 13, 1998  
[H.R. 4283]

To support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes.

Africa: Seeds of  
Hope Act of 1998.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

7 USC 1691 note.

(a) **SHORT TITLE.**—This Act may be cited as the “Africa: Seeds of Hope Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and declaration of policy.

**TITLE I—ASSISTANCE FOR SUB-SAHARAN AFRICA**

Sec. 101. Africa Food Security Initiative.

Sec. 102. Microenterprise assistance.

Sec. 103. Support for producer-owned cooperative marketing associations.

Sec. 104. Agricultural and rural development activities of the Overseas Private Investment Corporation.

Sec. 105. Agricultural research and extension activities.

**TITLE II—WORLDWIDE FOOD ASSISTANCE AND AGRICULTURAL PROGRAMS**

**Subtitle A—Nonemergency Food Assistance Programs**

Sec. 201. Nonemergency food assistance programs.

**Subtitle B—Bill Emerson Humanitarian Trust Act of 1998**

Sec. 211. Short title.

Sec. 212. Bill Emerson Humanitarian Trust Act.

**TITLE III—MISCELLANEOUS PROVISIONS**

Sec. 301. Report.

22 USC 2293  
note.

**SEC. 2. FINDINGS AND DECLARATION OF POLICY.**

(a) **FINDINGS.**—Congress finds the following:

(1) The economic, security, and humanitarian interests of the United States and the nations of sub-Saharan Africa would be enhanced by sustainable, broad-based agricultural and rural development in each of the African nations.

(2) According to the Food and Agriculture Organization, the number of undernourished people in Africa has more than doubled, from approximately 100,000,000 in the late 1960s to 215,000,000 in 1998, and is projected to increase to 265,000,000 by the year 2010. According to the Food and Agriculture Organization, the term “under nutrition” means inadequate consumption of nutrients, often adversely affecting children’s physical and mental development, undermining their

future as productive and creative members of their communities.

(3) Currently, agricultural production in Africa employs about two-thirds of the workforce but produces less than one-fourth of the gross domestic product in sub-Saharan Africa, according to the World Bank Group.

(4) African women produce up to 80 percent of the total food supply in Africa according to the International Food Policy Research Institute.

(5) An effective way to improve conditions of the poor is to increase the productivity of the agricultural sector. Productivity increases can be fostered by increasing research and education in agriculture and rural development.

(6) In November 1996, the World Food Summit set a goal of reducing hunger worldwide by 50 percent by the year 2015 and encouraged national governments to develop domestic food plans and to support international aid efforts.

(7) Although the World Bank Group recently has launched a major initiative to support agricultural and rural development, only 10 percent, or \$1,200,000,000, of its total lending to sub-Saharan Africa for fiscal years 1993 to 1997 was devoted to agriculture.

(8)(A) United States food processing and agricultural sectors benefit greatly from the liberalization of global trade and increased exports.

(B) Africa represents a growing market for United States food and agricultural products. Africa's food imports are projected to rise from less than 8,000,000 metric tons in 1990 to more than 25,000,000 metric tons by the 2020.

(9)(A) Increased private sector investment in African countries and expanded trade between the United States and Africa can greatly help African countries achieve food self-sufficiency and graduate from dependency on international assistance.

(B) Development assistance, technical assistance, and training can facilitate and encourage commercial development in Africa, such as improving rural roads, agricultural research and extension, and providing access to credit and other resources.

(10)(A) Several United States private voluntary organizations have demonstrated success in empowering Africans through direct business ownership and helping African agricultural producers more efficiently and directly market their products.

(B) Rural business associations, owned and controlled by farmer shareholders, also greatly help agricultural producers to increase their household incomes.

(b) DECLARATION OF POLICY.—It is the policy of the United States, consistent with title XII of part I of the Foreign Assistance Act of 1961, to support governments of sub-Saharan African countries, United States and African nongovernmental organizations, universities, businesses, and international agencies, to help ensure the availability of basic nutrition and economic opportunities for individuals in sub-Saharan Africa, through sustainable agriculture and rural development.

## TITLE I—ASSISTANCE FOR SUB-SAHARAN AFRICA

22 USC 2293  
note.

### SEC. 101. AFRICA FOOD SECURITY INITIATIVE.

(a) **ADDITIONAL REQUIREMENTS IN CARRYING OUT THE INITIATIVE.**—In providing development assistance under the Africa Food Security Initiative, or any comparable or successor program, the Administrator of the United States Agency for International Development—

(1) shall emphasize programs and projects that improve the food security of infants, young children, school-age children, women and food-insecure households, or that improve the agricultural productivity, incomes, and marketing of the rural poor in Africa;

(2) shall solicit and take into consideration the views and needs of intended beneficiaries and program participants during the selection, planning, implementation, and evaluation phases of projects;

(3) shall favor countries that are implementing reforms of their trade and investment laws and regulations in order to enhance free market development in the food processing and agricultural sectors; and

(4) shall ensure that programs are designed and conducted in cooperation with African and United States organizations and institutions, such as private and voluntary organizations, cooperatives, land-grant and other appropriate universities, and local producer-owned cooperative marketing and buying associations, that have expertise in addressing the needs of the poor, small-scale farmers, entrepreneurs, and rural workers, including women.

(b) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that, if there is an increase in funding for sub-Saharan programs, the Administrator of the United States Agency for International Development should proportionately increase resources to the Africa Food Security Initiative, or any comparable or successor program, for fiscal year 2000 and subsequent fiscal years in order to meet the needs of the countries participating in such Initiative.

22 USC 2293  
note.

### SEC. 102. MICROENTERPRISE ASSISTANCE.

(a) **BILATERAL ASSISTANCE.**—In providing microenterprise assistance for sub-Saharan Africa, the Administrator of the United States Agency for International Development shall, to the extent practicable, use credit and microcredit assistance to improve the capacity and efficiency of agriculture production in sub-Saharan Africa of small-scale farmers and small rural entrepreneurs. In providing assistance, the Administrator should use the applied research and technical assistance capabilities of United States land-grant universities.

(b) **MULTILATERAL ASSISTANCE.**—

(1) **IN GENERAL.**—The Administrator of the United States Agency for International Development shall continue to work with other countries, international organizations (including multilateral development institutions), and entities assisting microenterprises and shall develop a comprehensive and coordinated strategy for providing microenterprise assistance for sub-Saharan Africa.



(2) **ADDITIONAL REQUIREMENT.**—In carrying out paragraph (1), the Administrator should encourage the World Bank Consultative Group to Assist the Poorest to coordinate the strategy described in such paragraph.

**SEC. 103. SUPPORT FOR PRODUCER-OWNED COOPERATIVE MARKETING ASSOCIATIONS.**

22 USC 2293  
note.

(a) **PURPOSES.**—The purposes of this section are—

(1) to support producer-owned cooperative purchasing and marketing associations in sub-Saharan Africa;

(2) to strengthen the capacity of farmers in sub-Saharan Africa to participate in national and international private markets and to promote rural development in sub-Saharan Africa;

(3) to encourage the efforts of farmers in sub-Saharan Africa to increase their productivity and income through improved access to farm supplies, seasonal credit, technical expertise; and

(4) to support small businesses in sub-Saharan Africa as they grow beyond microenterprises.

(b) **SUPPORT FOR PRODUCER-OWNED COOPERATIVE MARKETING ASSOCIATIONS.**—

(1) **ACTIVITIES.**—

(A) **IN GENERAL.**—The Administrator of the United States Agency for International Development is authorized to utilize relevant foreign assistance programs and initiatives for sub-Saharan Africa to support private producer-owned cooperative marketing associations in sub-Saharan Africa, including rural business associations that are owned and controlled by farmer shareholders.

(B) **ADDITIONAL REQUIREMENTS.**—In carrying out subparagraph (A), the Administrator—

(i) shall take into account small-scale farmers, small rural entrepreneurs, and rural workers and communities; and

(ii) shall take into account the local-level perspectives of the rural and urban poor through close consultation with these groups, consistent with section 496(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2293(e)(1)).

(2) **OTHER ACTIVITIES.**—In addition to carrying out paragraph (1), the Administrator is encouraged—

(A) to cooperate with governments of foreign countries, including governments of political subdivisions of such countries, their agricultural research universities, and particularly with United States nongovernmental organizations and United States land-grant universities, that have demonstrated expertise in the development and promotion of successful private producer-owned cooperative marketing associations; and

(B) to facilitate partnerships between United States and African cooperatives and private businesses to enhance the capacity and technical and marketing expertise of business associations in sub-Saharan Africa.

**SEC. 104. AGRICULTURAL AND RURAL DEVELOPMENT ACTIVITIES OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION.**

22 USC 2293  
note.

(a) **PURPOSE.**—The purpose of this section is to encourage the Overseas Private Investment Corporation to work with United

States businesses and other United States entities to invest in rural sub-Saharan Africa, particularly in ways that will develop the capacities of small-scale farmers and small rural entrepreneurs, including women, in sub-Saharan Africa.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the Overseas Private Investment Corporation should exercise its authority under law to undertake an initiative to support private agricultural and rural development in sub-Saharan Africa, including issuing loans, guaranties, and insurance, to support rural development in sub-Saharan Africa, particularly to support intermediary organizations that—

(A) directly serve the needs of small-scale farmers, small rural entrepreneurs, and rural producer-owned cooperative purchasing and marketing associations;

(B) have a clear track-record of support for sound business management practices; and

(C) have demonstrated experience with participatory development methods; and

(2) the Overseas Private Investment Corporation should utilize existing equity funds, loan and insurance funds, to the extent feasible and in accordance with existing contractual obligations, to support agriculture and rural development in sub-Saharan Africa.

22 USC 2293  
note.

**SEC. 105. AGRICULTURAL RESEARCH AND EXTENSION ACTIVITIES.**

(a) DEVELOPMENT OF PLAN.—The Administrator of the United States Agency for International Development, in consultation with the Secretary of Agriculture and appropriate Department of Agriculture agencies, especially the Cooperative State, Research, Education and Extension Service (CSREES), shall develop a comprehensive plan to coordinate and build on the research and extension activities of United States land-grant universities, international agricultural research centers, and national agricultural research and extension centers in sub-Saharan Africa.

(b) ADDITIONAL REQUIREMENTS.—Such plan shall seek to ensure that—

(1) research and extension activities will respond to the needs of small-scale farmers while developing the potential and skills of researchers, extension agents, farmers, and agribusiness persons in sub-Saharan Africa;

(2) sustainable agricultural methods of farming will be considered together with new technologies in increasing agricultural productivity in sub-Saharan Africa; and

(3) research and extension efforts will focus on sustainable agricultural practices and will be adapted to widely varying climates within sub-Saharan Africa.

## **TITLE II—WORLDWIDE FOOD ASSISTANCE AND AGRICULTURAL PROGRAMS**

### **Subtitle A—Nonemergency Food Assistance Programs**

#### **SEC. 201. NONEMERGENCY FOOD ASSISTANCE PROGRAMS.**

7 USC 1721 note.

(a) **IN GENERAL.**—In providing nonemergency assistance under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.), the Administrator of the United States Agency for International Development shall ensure that—

(1) in planning, decisionmaking, and implementation in providing such assistance, the Administrator takes into consideration local input and participation directly and through United States and indigenous private and voluntary organizations;

(2) each of the nonemergency activities described in paragraphs (2) through (6) of section 201 of such Act (7 U.S.C. 1721), including programs that provide assistance to people of any age group who are otherwise unable to meet their basic food needs (including feeding programs for the disabled, orphaned, elderly, sick and dying), are carried out; and

(3) greater flexibility is provided for program and evaluation plans so that such assistance may be developed to meet local needs, as provided for in section 202(f) of such Act (7 U.S.C. 1722(f)).

(b) **OTHER REQUIREMENTS.**—In providing assistance under the Agriculture Trade Development and Assistance Act of 1954, the Secretary of Agriculture and the Administrator of United States Agency for International Development shall ensure that commodities are provided in a manner that is consistent with sections 403(a) and (b) of such Act (7 U.S.C. 1733(a) and (b)).

### **Subtitle B—Bill Emerson Humanitarian Trust Act of 1998**

Bill Emerson  
Humanitarian  
Trust Act of  
1998.

#### **SEC. 211. SHORT TITLE.**

7 USC 1691 note.

This subtitle may be cited as the “Bill Emerson Humanitarian Trust Act of 1998”.

#### **SEC. 212. BILL EMERSON HUMANITARIAN TRUST ACT.**

(a) **IN GENERAL.**—Section 302 of the Agricultural Act of 1980 (7 U.S.C. 1736f–1) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by inserting “OR FUNDS” after “COMMODITIES”;

(B) in paragraph (1)—

(i) in subparagraph (B), by striking “and” at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(D) funds made available under paragraph (2)(B) which shall be used solely to replenish commodities in the trust.”; and

(C) in paragraph (2) by striking subparagraph (B) and inserting the following:

“(B) FUNDS.—Any funds used to acquire eligible commodities through purchases from producers or in the market to replenish the trust shall be derived—

“(i) with respect to fiscal years 2000 through 2002 from funds made available to carry out the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) that are used to repay or reimburse the Commodity Credit Corporation for the release of eligible commodities under subsections (c)(2) and (f)(2), except that, of such funds, not more than \$20,000,000 may be expended for this purpose in each of the fiscal years 2000 through 2002; and

“(ii) from funds authorized for that use by an appropriations Act.”;

(2) in subsection (c)(2)—

(A) by striking “ASSISTANCE.—Notwithstanding” and inserting the following: “ASSISTANCE.—

“(A) IN GENERAL.—Notwithstanding”; and

(B) by adding at the end the following:

“(B) LIMITATION.—The Secretary may release eligible commodities under subparagraph (A) only to the extent such release is consistent with maintaining the long-term value of the trust.”;

(3) in subsection (d)—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(3) subject to the need for release of commodities from the trust under subsection (c)(1), for the management of the trust to preserve the value of the trust through acquisitions under subsection (b)(2).”; and

(4) in subsection (f)—

(A) in paragraph (2), by inserting “OF THE TRUST” after “REIMBURSEMENT” in the heading; and

(B) in paragraph (2)(A), by inserting “and the funds shall be available to replenish the trust under subsection (b)” before the last period.

(b) CONFORMING AMENDMENTS.—

(1) Title III of the Agricultural Act of 1980 (7 U.S.C. 1736f-1 et seq.) is amended by striking the title heading and inserting the following:

### **“TITLE III—BILL EMERSON HUMANITARIAN TRUST”.**

(2) Section 301 of the Agricultural Act of 1980 (7 U.S.C. 1736f-1 note) is amended to read as follows:

**“SEC. 301. SHORT TITLE.**

“This title may be cited as the ‘Bill Emerson Humanitarian Trust Act’.”

(3) Section 302 of the Agricultural Act of 1980 (7 U.S.C. 1736f–1) is amended—

(A) in the section heading, by striking “**RESERVE**” and inserting “**TRUST**”;

(B) by striking “reserve” each place it appears (other than in subparagraphs (A) and (B) of subsection (b)(1)) and inserting “trust”;

(C) in subsection (b)—

(i) in the subsection heading, by striking “**RESERVE**” and inserting “**TRUST**”;

(ii) in paragraph (1)(B), by striking “reserve,” and inserting “trust,”; and

(iii) in the heading of paragraph (2), by striking “**RESERVE**” and inserting “**TRUST**”; and

(D) in the heading of subsection (e), by striking “**RESERVE**” and inserting “**TRUST**”.

(4) Section 208(d)(2) of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4001(d)(2)) is amended by striking “Food Security Commodity Reserve Act of 1996” and inserting “Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1 et seq.)”.

(5) Section 901b(b)(3) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)(3)), is amended by striking “Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f–1)” and inserting “Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1 et seq.)”.

## **TITLE III—MISCELLANEOUS PROVISIONS**

**SEC. 301. REPORT.**

Deadline.

Not later than 6 months after the date of the enactment of this Act, the Administrator of the United States Agency for International Development, in consultation with the heads of other appropriate agencies, shall prepare and submit to Congress a report on how the Agency plans to implement sections 101, 102, 103, 105, and 201 of this Act, the steps that have been taken toward such implementation, and an estimate of all amounts expended

or to be expended on related activities during the current and previous 4 fiscal years.

Approved November 13, 1998.

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LEGISLATIVE HISTORY—H.R. 4283:

HOUSE REPORTS: No. 105-681, Pt. 1 (Comm. on International Relations).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 28, considered and passed House.

Oct. 20, considered and passed Senate, amended. House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Nov. 13, Presidential statement.



Public Law 105–386  
105th Congress

An Act

To throttle criminal use of guns.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

Nov. 13, 1998  
[S. 191]

**SECTION 1. AMENDMENT TO TITLE 18, UNITED STATES CODE.**

(a) IN GENERAL.—Section 924(c) of title 18, United States Code, is amended—

(1) by striking “(c)” and all that follows through the end of paragraph (1) and inserting the following:

“(c)(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

“(i) be sentenced to a term of imprisonment of not less than 5 years;

“(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

“(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

“(B) If the firearm possessed by a person convicted of a violation of this subsection—

“(i) is a short-barreled rifle, short-barreled shotgun, or semi-automatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; or

“(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

“(C) In the case of a second or subsequent conviction under this subsection, the person shall—

“(i) be sentenced to a term of imprisonment of not less than 25 years; and

“(ii) if the firearm involved is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to imprisonment for life.

“(D) Notwithstanding any other provision of law—

“(i) a court shall not place on probation any person convicted of a violation of this subsection; and

“(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.”; and

(2) by adding at the end the following:

“(4) For purposes of this subsection, the term ‘brandish’ means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.”.

(b) CONFORMING AMENDMENT.—Section 3559(c)(2)(F)(i) of title 18, United States Code, is amended by inserting “firearms possession (as described in section 924(c));” after “firearms use;”.

Approved November 13, 1998.

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LEGISLATIVE HISTORY—S. 191 (H.R. 424) (S. 43):

HOUSE REPORTS: No. 105–344 accompanying H.R. 424 (Comm. on Resources).

CONGRESSIONAL RECORD:

Vol. 143 (1997): Nov. 13, considered and passed Senate.

Vol. 144 (1998): Oct. 9, considered and passed House, amended.

Oct. 15, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Nov. 13, Presidential remarks.





Public Law 105–387  
105th Congress

An Act

To provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and for other purposes.

Nov. 13, 1998  
[S. 391]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998”.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) COVERED INDIAN TRIBE.—The term “covered Indian tribe” means an Indian tribe listed in section 4(a).

(2) FUND ACCOUNT.—The term “Fund Account” means the consolidated account for tribal trust funds in the Treasury of the United States that is managed by the Secretary—

(A) through the Office of Trust Fund Management of the Department of the Interior; and

(B) in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(4) TRIBAL GOVERNING BODY.—The term “tribal governing body” means the duly elected governing body of a covered Indian tribe.

**SEC. 3. DISTRIBUTION TO, AND USE OF CERTAIN FUNDS BY, THE SISSETON AND WAHPETON TRIBES OF SIOUX INDIANS.**

Notwithstanding any other provision of law, including Public Law 92–555 (25 U.S.C. 1300d et seq.), any funds made available by appropriations under chapter II of Public Law 90–352 (82 Stat. 239) to the Sisseton and Wahpeton Tribes of Sioux Indians to pay a judgment in favor of those Indian tribes in Indian Claims Commission dockets numbered 142 and 359, including interest, that, as of the date of enactment of this Act, have not been distributed, shall be distributed and used in accordance with this Act.

**SEC. 4. DISTRIBUTION OF FUNDS TO TRIBES.**

(a) IN GENERAL.—

(1) AMOUNT DISTRIBUTED.—

(A) IN GENERAL.—Subject to section 8(e) and if no action is filed in a timely manner (as determined under section 8(d)) raising any claim identified in section 8(a), not earlier than 365 days after the date of enactment of this Act and not later than 415 days after the date

Mississippi Sioux  
Tribes Judgment  
Fund  
Distribution Act  
of 1998.  
25 USC 1300d  
note.  
25 USC  
1300d–21.

25 USC  
1300d–22.

25 USC  
1300d–23.

Deadline.

of enactment of this Act, the Secretary shall transfer to the Fund Account to be credited to accounts established in the Fund Account for the benefit of the applicable governing bodies under paragraph (2) an aggregate amount determined under subparagraph (B).

(B) AGGREGATE AMOUNT.—The aggregate amount referred to in subparagraph (A) is an amount equal to the remainder of—

(i) the funds described in section 3; minus

(ii) an amount equal to 71.6005 percent of the funds described in section 3.

(2) DISTRIBUTION OF FUNDS TO ACCOUNTS IN THE FUND ACCOUNT.—The Secretary shall ensure that the aggregate amount transferred under paragraph (1) is allocated to the accounts established in the Fund Account as follows:

(A) 28.9276 percent of that amount shall be allocated to the account established for the benefit of the tribal governing body of the Spirit Lake Tribe of North Dakota.

(B) 57.3145 percent of that amount, after payment of any applicable attorneys' fees and expenses by the Secretary under the contract numbered A00C14202991, approved by the Secretary on August 16, 1988, shall be allocated to the account established for the benefit of the tribal governing body of the Sisseton and Wahpeton Sioux Tribe of South Dakota.

(C) 13.7579 percent of that amount shall be allocated to the account established for the benefit of the tribal governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana, as designated under subsection (c).

(b) USE.—Amounts distributed under this section to accounts referred to in subsection (d) for the benefit of a tribal governing body shall be distributed and used in a manner consistent with section 5.

(c) TRIBAL GOVERNING BODY OF ASSINIBOINE AND SIOUX TRIBES OF FORT PECK RESERVATION.—For purposes of making distributions of funds pursuant to this Act, the Sisseton and Wahpeton Sioux Council of the Assiniboine and Sioux Tribes shall act as the governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

(d) TRIBAL TRUST FUND ACCOUNTS.—The Secretary of the Treasury, in cooperation with the Secretary of the Interior, acting through the Office of Trust Fund Management of the Department of the Interior, shall ensure that such accounts as are necessary are established in the Fund Account to provide for the distribution of funds under subsection (a)(2).

#### SEC. 5. USE OF DISTRIBUTED FUNDS.

(a) PROHIBITION.—No funds allocated for a covered Indian tribe under section 4 may be used to make per capita payments to members of the covered Indian tribe.

(b) PURPOSES.—The funds allocated under section 4 may be used, administered, and managed by a tribal governing body referred to in section 4(a)(2) only for the purpose of making investments or expenditures that the tribal governing body determines to be reasonably related to—

(1) economic development that is beneficial to the covered Indian tribe;

(2) the development of resources of the covered Indian tribe;

(3) the development of programs that are beneficial to members of the covered Indian tribe, including educational and social welfare programs;

(4) the payment of any existing obligation or debt (existing as of the date of the distribution of the funds) arising out of any activity referred to in paragraph (1), (2), or (3);

(5)(A) the payment of attorneys' fees or expenses of any covered Indian tribe referred to in subparagraph (A) or (C) of section 4(a)(2) for litigation or other representation for matters arising out of the enactment of Public Law 92-555 (25 U.S.C. 1300d et seq.); except that

(B) the amount of attorneys' fees paid by a covered Indian tribe under this paragraph with funds distributed under section 4 shall not exceed 10 percent of the amount distributed to that Indian tribe under that section;

(6) the payment of attorneys' fees or expenses of the covered Indian tribe referred to in section 4(a)(2)(B) for litigation and other representation for matters arising out of the enactment of Public Law 92-555 (25 U.S.C. 1300d et seq.), in accordance, as applicable, with the contracts numbered A00C14203382 and A00C14202991, that the Secretary approved on February 10, 1978 and August 16, 1988, respectively; or

(7) the payment of attorneys' fees or expenses of any covered Indian tribe referred to in section 4(a)(2) for litigation or other representation with respect to matters arising out of this Act.

(c) **MANAGEMENT.**—Subject to subsections (a), (b), and (d), any funds distributed to a covered Indian tribe pursuant to sections 4 and 7 may be managed and invested by that Indian tribe pursuant to the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) **WITHDRAWAL OF FUNDS BY COVERED TRIBES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), each covered Indian tribe may, at the discretion of that Indian tribe, withdraw all or any portion of the funds distributed to the Indian tribe under sections 4 and 7 in accordance with the American Indian Trust Fund Management Reform Act (25 U.S.C. 4001 et seq.).

(2) **EXEMPTION.**—For purposes of paragraph (1), the requirements under subsections (a) and (b) of section 202 of the American Indian Trust Fund Management Reform Act (25 U.S.C. 4022 (a) and (b)) and section 203 of such Act (25 U.S.C. 4023) shall not apply to a covered Indian tribe or the Secretary.

(3) **RULE OF CONSTRUCTION.**—Nothing in paragraph (2) may be construed to limit the applicability of section 202(c) of the American Indian Trust Fund Management Reform Act (25 U.S.C. 4022(c)).

**SEC. 6. EFFECT OF PAYMENTS TO COVERED INDIAN TRIBES ON BENEFITS.**

25 USC  
1300d-25.

A payment made to a covered Indian tribe or an individual under this Act shall not—

(1) for purposes of determining the eligibility for a Federal service or program of a covered Indian tribe, household, or individual, be treated as income or resources; or

(2) otherwise result in the reduction or denial of any service or program to which, pursuant to Federal law (including the Social Security Act (42 U.S.C. 301 et seq.)), the covered Indian tribe, household, or individual would otherwise be entitled.

25 USC  
1300d-26.

#### SEC. 7. DISTRIBUTION OF FUNDS TO LINEAL DESCENDANTS.

(a) IN GENERAL.—Subject to section 8(e), the Secretary shall, in the manner prescribed in section 202(c) of Public Law 92-555 (25 U.S.C. 1300d-4(c)), distribute to the lineal descendants of the Sisseton and Wahpeton Tribes of Sioux Indians an amount equal to 71.6005 percent of the funds described in section 3, subject to any reduction determined under subsection (b).

(b) ADJUSTMENTS.—

(1) IN GENERAL.—Subject to section 8(e), if the number of individuals on the final roll of lineal descendants certified by the Secretary under section 201(b) of Public Law 92-555 (25 U.S.C. 1300d-3(b)) is less than 2,588, the Secretary shall distribute a reduced aggregate amount to the lineal descendants referred to in subsection (a), determined by decreasing—

(A) the percentage specified in section 4(a)(B)(ii) by a percentage amount equal to—

(i) .0277; multiplied by

(ii) the difference between 2,588 and the number of lineal descendants on the final roll of lineal descendants, but not to exceed 600; and

(B) the percentage specified in subsection (a) by the percentage amount determined under subparagraph (A).

(2) DISTRIBUTION.—If a reduction in the amount that otherwise would be distributed under subsection (a) is made under paragraph (1), an amount equal to that reduction shall be added to the amount available for distribution under section 4(a)(1), for distribution in accordance with section 4(a)(2).

Certification.

(c) VERIFICATION OF ANCESTRY.—In seeking to verify the Sisseton and Wahpeton Mississippi Sioux Tribe ancestry of any person applying for enrollment on the roll of lineal descendants after January 1, 1998, the Secretary shall certify that each individual enrolled as a lineal descendant can trace ancestry to a specific Sisseton or Wahpeton Mississippi Sioux Tribe lineal ancestor who was listed on—

(1) the 1909 Sisseton and Wahpeton annuity roll;

(2) the list of Sisseton and Wahpeton Sioux prisoners convicted for participating in the outbreak referred to as the “1862 Minnesota Outbreak”;

(3) the list of Sioux scouts, soldiers, and heirs identified as Sisseton and Wahpeton Sioux on the roll prepared pursuant to the Act of March 3, 1891 (26 Stat. 989 et seq., chapter 543); or

(4) any other Sisseton or Wahpeton payment or census roll that preceded a roll referred to in paragraph (1), (2), or (3).

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 202(a) of Public Law 92-555 (25 U.S.C. 1300d-4(a)) is amended—

(A) in the matter preceding the table—

- (i) by striking “, plus accrued interest,”; and
  - (ii) by inserting “plus interest received (other than funds otherwise distributed to the Sisseton and Wahpeton Tribes of Sioux Indians in accordance with the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998),” after “docket numbered 359,”; and
- (B) in the table contained in that subsection, by striking the item relating to “All other Sisseton and Wahpeton Sioux”.

(2) ROLL.—Section 201(b) of Public Law 92-555 (25 U.S.C. 1300d-3(b)) is amended by striking “The Secretary” and inserting “Subject to the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998, the Secretary”.

#### SEC. 8. JURISDICTION; PROCEDURE.

Courts.  
25 USC  
1300d-27.

(a) ACTIONS AUTHORIZED.—In any action brought by or on behalf of a lineal descendant or any group or combination of those lineal descendants to challenge the constitutionality or validity of distributions under this Act to any covered Indian tribe, any covered Indian tribe, separately, or jointly with another covered Indian tribe, shall have the right to intervene in that action to—

(1) defend the validity of those distributions; or

(2) assert any constitutional or other claim challenging the distributions made to lineal descendants under this Act.

(b) JURISDICTION AND VENUE.—

(1) EXCLUSIVE ORIGINAL JURISDICTION.—Subject to paragraph (2), only the United States District Court for the District of Columbia, and for the districts in North Dakota and South Dakota, shall have original jurisdiction over any action brought to contest the constitutionality or validity under law of the distributions authorized under this Act.

(2) CONSOLIDATION OF ACTIONS.—After the filing of a first action under subsection (a), all other actions subsequently filed under that subsection shall be consolidated with that first action.

(3) JURISDICTION BY THE UNITED STATES COURT OF FEDERAL CLAIMS.—If appropriate, the United States Court of Federal Claims shall have jurisdiction over an action referred to in subsection (a).

(c) NOTICE TO COVERED TRIBES.—In an action brought under this section, not later than 30 days after the service of a summons and complaint on the Secretary that raises a claim identified in subsection (a), the Secretary shall send a copy of that summons and complaint, together with any responsive pleading, to each covered Indian tribe by certified mail with return receipt requested.

(d) STATUTE OF LIMITATIONS.—No action raising a claim referred to in subsection (a) may be filed after the date that is 365 days after the date of enactment of this Act.

(e) SPECIAL RULE.—

(1) FINAL JUDGMENT FOR LINEAL DESCENDANTS.—

(A) IN GENERAL.—If an action that raises a claim referred to in subsection (a) is brought, and a final judgment is entered in favor of 1 or more lineal descendants referred to in that subsection, section 4(a) and subsections (a) and (b) of section 7 shall not apply to the distribution of the funds described in subparagraph (B).

(B) DISTRIBUTION OF FUNDS.—Upon the issuance of a final judgment referred to in subparagraph (A) the Secretary shall distribute 100 percent of the funds described in section 3 to the lineal descendants in a manner consistent with—

(i) section 202(c) of Public Law 92-555 (25 U.S.C. 1300d-4(c)); and

(ii) section 202(a) of Public Law 92-555, as in effect on the day before the date of enactment of this Act.

(2) FINAL JUDGMENT FOR COVERED INDIAN TRIBES.—

(A) IN GENERAL.—If an action that raises a claim referred to in subsection (a) is brought, and a final judgment is entered in favor of 1 or more covered Indian tribes that invalidates the distributions made under this Act to lineal descendants, section 4(a), other than the percentages under section 4(a)(2), and subsections (a) and (b) of section 7 shall not apply.

Deadline.

(B) DISTRIBUTION OF FUNDS.—Not later than 180 days after the date of the issuance of a final judgment referred to in subparagraph (A), the Secretary shall distribute 100 percent of the funds described in section 3 to each covered Indian tribe in accordance with the judgment and the percentages for distribution contained in section 4(a)(2).

(f) LIMITATION ON CLAIMS BY A COVERED INDIAN TRIBE.—

(1) IN GENERAL.—If any covered Indian tribe receives any portion of the aggregate amounts transferred by the Secretary to a Fund Account or any other account under section 4, no action may be brought by that covered Indian tribe in any court for a claim arising from the distribution of funds under Public Law 92-555 (25 U.S.C. 1300d et seq.).

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the right of a covered Indian tribe to—

(A) intervene in an action that raises a claim referred to in subsection (a); or

(B) limit the jurisdiction of any court referred to in subsection (b), to hear and determine any such claims.

Approved November 13, 1998.

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**LEGISLATIVE HISTORY—S. 391 (H.R. 976):**

HOUSE REPORTS: No. 105-242 accompanying H.R. 976 (Comm. on Resources).

SENATE REPORTS: No. 105-379 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 9, considered and passed Senate.

Oct. 10, considered and passed House, amended.

Oct. 14, Senate concurred in House amendment.



Public Law 105–388  
105th Congress

An Act

To extend certain programs under the Energy Policy and Conservation Act and the Energy Conservation and Production Act, and for other purposes.

Nov. 13, 1998  
[S. 417]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Energy Conservation Reauthorization Act of 1998”.

Energy  
Conservation  
Reauthorization  
Act of 1998.  
42 USC 6201  
note.

**SEC. 2. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.**

(a) STATE ENERGY CONSERVATION PROGRAM.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended to read as follows:

“(f) For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.”.

(b) SCHOOLS AND HOSPITALS.—Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.”.

**SEC. 3. ENERGY CONSERVATION AND PRODUCTION ACT AMENDMENT.**

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 422. For the purpose of carrying out the weatherization program under this part, there are authorized to be appropriated for fiscal years 1999 through 2003 such sums as may be necessary.”.

**SEC. 4. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

(a) SUNSET.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking “five years after” and all that follows through “subsection (b)” and inserting “on October 1, 2003”.

(b) DEFINITION.—Section 804(1) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(1)) is amended to read as follows:

“(1) The term ‘Federal agency’ means each authority of the Government of the United States, whether or not it is within or subject to review by another agency.”.

#### SEC. 5. TECHNICAL AMENDMENTS.

(a) ENERGY POLICY AND CONSERVATION ACT.—The Energy Policy and Conservation Act is amended—

87 Stat. 871.

(1) in the table of contents—

(A) by striking “Sec. 301.” and all that follows through “Reports to Congress.”;

(B) by striking “efficiency” and inserting “conservation” in the item relating to section 325;

(C) by striking “and private labelers” in the item relating to section 326;

(D) by striking the items relating to part E of title III;

(E) by inserting after the items relating to part I of title III the following:

#### “PART J—ENCOURAGING THE USE OF ALTERNATIVE FUELS

“Sec. 400AA. Alternative fuel use by light duty Federal vehicles.

“Sec. 400BB. Alternative fuels truck commercial application program.

“Sec. 400CC. Alternative fuels bus program.

“Sec. 400DD. Interagency Commission on Alternative Motor Fuels.

“Sec. 400EE. Studies and reports.”;

(F) by inserting “Environmental” after “Energy Supply and” in the item relating to section 505; and

(G) by striking the item relating to section 527;

(2) in section 321(1) (42 U.S.C. 6291(1))—

(A) by striking “section 501(1) of the Motor Vehicle Information and Cost Savings Act” and inserting “section 32901(a)(3) of title 49, United States Code”; and

(B) by striking the second period at the end thereof;

(3) in section 322(b)(2)(A) (42 U.S.C. 6292(b)(2)(A)) by inserting close quotation marks after “type of product”;

(4) in section 324(a)(2)(C)(ii) (42 U.S.C. 6294(a)(2)(C)(ii)) by striking “section 325(j)” and inserting “section 325(i)”;

(5) in section 325 (42 U.S.C. 6295)—

(A) by striking “paragraphs” in subsection (e)(4)(A) and inserting “paragraph”; and

(B) by striking “BALLASTS;” in the heading of subsection

(g) and inserting “BALLASTS”;

(6) in section 336(c)(2) (42 U.S.C. 6306(c)(2)) by striking “section 325(k)” and inserting “section 325(n)”;

(7) in section 345(c) (42 U.S.C. 6316(c)) by inserting “standard” after “meets the applicable”;

(8) in section 362 (42 U.S.C. 6322)—

(A) by inserting “of” after “of the implementation” in subsection (a)(1); and

(B) by striking “subsection (g)” and inserting “subsection (f)(2)” in subsection (d)(12);

(9) in section 391(2)(B) (42 U.S.C. 6371(2)(B)) by striking the period at the end and inserting a semicolon;

(10) in section 394(a) (42 U.S.C. 6371c(a))—

(A) by striking the commas at the end of paragraphs (1), (3), and (5) and inserting semicolons;

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and



(C) by striking the colon at the end of paragraph (6) and inserting a semicolon;  
 (11) in section 400 (42 U.S.C. 6371i) by striking “(a)”;  
 (12) in section 400D(a) (42 U.S.C. 6372c(a)) by striking the commas at the end of paragraphs (1), (2), and (3) and inserting semicolons;

(13) in section 400I(b) (42 U.S.C. 6372h(b)) by striking “Secretary shall,” and inserting “Secretary shall”;

(14) in section 400AA (42 U.S.C. 6374) by redesignating subsection (i) as subsection (h);

(15) in section 503 (42 U.S.C. 6383)—

(A) by striking “with respect to” and inserting “with respect to” in subsection (b); and

(B) by striking “controlling” and inserting “, controlling,” in subsection (c)(1); and

(16) in section 552(d)(5)(A) (42 U.S.C. 6422(d)(5)(A)) by striking “notion” and inserting “motion”.

(b) ENERGY CONSERVATION AND PRODUCTION ACT.—The Energy Conservation and Production Act is amended—

(1) in the table of contents—

90 Stat. 1125.

(A) by striking “rules and regulations” and inserting “regulations and rulings” in the item relating to section 106; and

(B) by striking the item relating to section 207 and inserting the following:

“Sec. 207. State utility regulatory assistance.

“Sec. 208. Authorization of appropriations.”;

and

(2) in section 202 (42 U.S.C. 6802) by striking “(b) DEFINITIONS.—”.

(c) NATIONAL ENERGY CONSERVATION POLICY ACT.—The National Energy Conservation Policy Act is amended—

(1) in the table of contents—

90 Stat. 3206.

(A) by striking “, installation, and financing” and inserting “and installation” in the item relating to section 216;

(B) by striking “Ratings” and inserting “Rating Guidelines” in the item relating to part 6 of title II;

(C) by striking the item relating to section 304; and

(D) by striking “goals” and inserting “requirements” in the item relating to section 543;

(2) in section 216(d)(1)(C) (42 U.S.C. 8217(d)(1)(C)) by striking “explicitly” and inserting “explicitly”;

(3) in section 251(b)(1) (42 U.S.C. 8231(b)(1))—

(A) by striking “National Housing Act to projects” and inserting “National Housing Act) to projects”; and

(B) by striking “accure” and inserting “accrue”;

(4) in section 266 (42 U.S.C. 8235e) by striking “(17 U.S.C.” and inserting “(15 U.S.C.”; and

(5) in section 551(8) (42 U.S.C. 8259(8)) by striking “goothermal” and inserting “geothermal”.

#### SEC. 6. MATERIALS ALLOCATION AUTHORITY EXTENSION.

Section 104(b) of the Energy Policy and Conservation Act is amended by striking “(1) The authority” and all that follows through “(2)”.

50 USC app.  
2071 note.

**SEC. 7. BIODIESEL FUEL USE CREDITS.**

(a) AMENDMENT.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13211–13219) is amended by adding at the end the following new section:

42 USC 13220.

**“SEC. 312. BIODIESEL FUEL USE CREDITS.**

“(a) ALLOCATION OF CREDITS.—

“(1) IN GENERAL.—The Secretary shall allocate one credit under this section to a fleet or covered person for each qualifying volume of the biodiesel component of fuel containing at least 20 percent biodiesel by volume purchased after the date of the enactment of this section for use by the fleet or covered person in vehicles owned or operated by the fleet or covered person that weigh more than 8,500 pounds gross vehicle weight rating.

“(2) EXCEPTIONS.—No credits shall be allocated under paragraph (1) for a purchase of biodiesel—

“(A) for use in alternative fueled vehicles; or

“(B) that is required by Federal or State law.

“(3) AUTHORITY TO MODIFY PERCENTAGE.—The Secretary may, by rule, lower the 20 percent biodiesel volume requirement in paragraph (1) for reasons related to cold start, safety, or vehicle function considerations.

“(4) DOCUMENTATION.—A fleet or covered person seeking a credit under this section shall provide written documentation to the Secretary supporting the allocation of a credit to such fleet or covered person under paragraph (1).

“(b) USE OF CREDITS.—

“(1) IN GENERAL.—At the request of a fleet or covered person allocated a credit under subsection (a), the Secretary shall, for the year in which the purchase of a qualifying volume is made, treat that purchase as the acquisition of one alternative fueled vehicle the fleet or covered person is required to acquire under this title, title IV, or title V.

“(2) LIMITATION.—Credits allocated under subsection (a) may not be used to satisfy more than 50 percent of the alternative fueled vehicle requirements of a fleet or covered person under this title, title IV, and title V. This paragraph shall not apply to a fleet or covered person that is a biodiesel alternative fuel provider described in section 501(a)(2)(A).

“(c) CREDIT NOT A SECTION 508 CREDIT.—A credit under this section shall not be considered a credit under section 508.

“(d) ISSUANCE OF RULE.—The Secretary shall, before January 1, 1999, issue a rule establishing procedures for the implementation of this section.

“(e) COLLECTION OF DATA.—The Secretary shall collect such data as are required to make a determination described in subsection (f)(2)(B).

“(f) DEFINITIONS.—For purposes of this section—

“(1) the term ‘biodiesel’ means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act; and

“(2) the term ‘qualifying volume’ means—

“(A) 450 gallons; or

“(B) if the Secretary determines by rule that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents, the amount of such average annual alternative fuel use.”.

(b) **TABLE OF CONTENTS AMENDMENT.**—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end of the items relating to title III the following new item:

106 Stat. 2776.

“Sec. 312. Biodiesel fuel use credits.”.

**SEC. 8. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUEL VEHICLE PURCHASING REQUIREMENTS.**

(a) **IN GENERAL.**—Section 310 of the Energy Policy Act of 1992 (42 U.S.C. 13218) is amended—

(1) by striking the heading and inserting the following:

**“SEC. 310. REPORTS.”;**

(2) by inserting “(a) **GENERAL SERVICE ADMINISTRATION PROGRAM REPORT.**—” before “Not later than”; and

(3) by adding at the end the following:

“(b) **COMPLIANCE REPORT.**—

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this subsection, and annually thereafter for the next 14 years, the head of each Federal agency which is subject to this Act and Executive Order No. 13031 shall prepare, and submit to Congress, a report that—

Deadline.

“(A) summarizes the compliance by such Federal agency with the alternative fuel purchasing requirements for Federal fleets under this Act and Executive Order No. 13031; and

“(B) includes a plan of compliance that contains specific dates for achieving compliance using reasonable means.

“(2) **CONTENTS.**—

“(A) **IN GENERAL.**—Each report submitted under paragraph (1) shall include—

“(i) any information on any failure to meet statutory requirements or requirements under Executive Order No. 13031;

“(ii)(I) any plan of compliance that the agency head is required to submit under Executive Order No. 13031; or

“(II) if a plan of compliance referred to in subclause (I) does not contain specific dates by which the Federal agency is to achieve compliance, a revised plan of compliance that contains specific dates for achieving compliance; and

“(iii) any related information the agency head is required to submit to the Director of the Office of Management and Budget under Executive Order No. 13031.

“(B) **PENULTIMATE REPORT.**—The penultimate report submitted under paragraph (1) shall include an announcement that the report for the next year shall be the final report submitted under paragraph (1).

“(3) **PUBLIC DISSEMINATION OF REPORT.**—Each report submitted under paragraph (1) shall be made public, including—

Internet.

“(A) placing such report on a publicly available website on the Internet; and

Federal Register,  
publication.

“(B) publishing the availability of the report, including such website address, in the Federal Register.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Energy Policy Act of 1992 contained in section 1(b) of that Act (106 Stat. 2776 et. seq.) is amended by striking the item relating to section 310 and inserting the following:

“Sec. 310. Reports.”.

Hawaii.

**SEC. 9. PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.**

(a) Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following:

“(j) PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.—

“(1) DEFINITIONS.—In this subsection:

“(A) BINDING OFFER.—The term ‘binding offer’ means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

“(B) CATEGORY OF PETROLEUM PRODUCT.—The term ‘category of petroleum product’ means a master line item within a notice of sale.

“(C) ELIGIBLE ENTITY.—The term ‘eligible entity’ means an entity that owns or controls a refinery that is located within the State of Hawaii.

“(D) FULL TANKER LOAD.—The term ‘full tanker load’ means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

“(E) INSULAR AREA.—The term ‘insular area’ means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(F) OFFERING.—The term ‘offering’ means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

“(G) NOTICE OF SALE.—The term ‘notice of sale’ means the document that announces—

“(i) the sale of Strategic Petroleum Reserve products;

“(ii) the quantity, characteristics, and location of the petroleum product being sold;

“(iii) the delivery period for the sale; and

“(iv) the procedures for submitting offers.

“(2) IN GENERAL.—In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

“(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

“(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

“(ii) submit one or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

“(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

“(3) LIMITATION ON QUANTITY.—

“(A) IN GENERAL.—In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

“(B) PORTION OF QUANTITY OF PREVIOUS IMPORTS.—The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

“(C) PERCENTAGE OF OFFERING.—The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

“(4) ADJUSTMENTS.—

“(A) IN GENERAL.—Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

“(B) UPWARD ADJUSTMENT.—The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

“(i) less than 1 full tanker load; or

“(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

“(C) DOWNWARD ADJUSTMENT.—The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

“(5) DELIVERY TO OTHER LOCATIONS.—The State of Hawaii may enter into an exchange or a processing agreement that

requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

“(6) STANDARD SALES PROVISIONS.—Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum products at competitive sales.

“(7) ELIGIBLE ENTITIES.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this Act, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

“(B) LIMITATION.—The Governor of the State of Hawaii shall not certify more than one eligible entity under this paragraph for each notice of sale.

“(C) BARRED COMPANY.—If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

“(8) SUPPLIES OF PETROLEUM PRODUCTS.—At the request of the Governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area or the President of a Freely Associated State in its efforts to maintain adequate supplies of petroleum products from traditional and nontraditional suppliers.”.

42 USC 6241  
note.

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by subsection (a).

(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

(A) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(B) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

42 USC 6241  
note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the earlier of—

(1) the date that is 180 days after the date of enactment of this Act; or

(2) the date that final regulations are issued under subsection (b).

#### SEC. 10. INDIAN ENERGY RESOURCE DEVELOPMENT.

Section 2603 of the Energy Policy Act of 1992 (25 U.S.C. 3503) is amended in subsection (c) by striking “and 1997” each place it appears and inserting “1999, 2000, 2001, 2002 and 2003” in lieu thereof.

#### SEC. 11. REMEDIAL ACTION.

(a) Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended by striking “\$65,000,000” and inserting “\$140,000,000”.

(b) Section 1003(a) of such Act (42 U.S.C. 2296a-2) is amended by striking “\$415,000,000” and inserting “\$490,000,000”.

(c) Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g-1) is amended by striking “\$480,000,000” and inserting “\$488,333,333”.

Approved November 13, 1998.

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**LEGISLATIVE HISTORY—S. 417 (H.R. 4017):**

HOUSE REPORTS: No. 105-727 accompanying H.R. 4017 (Comm. on Commerce).

SENATE REPORTS: No. 105-25 (Comm. on Energy and Natural Resources).

**CONGRESSIONAL RECORD:**

Vol. 143 (1997): June 27, considered and passed Senate.

Vol. 144 (1998): Sept. 28, considered and passed House, amended, in lieu of H.R. 4017.

Oct. 8, Senate concurred in House amendments with an amendment.

Oct. 15, House concurred in Senate amendment.



Public Law 105–389  
105th Congress

An Act

Nov. 13, 1998  
[S. 1397]

To establish a commission to assist in commemoration of the centennial of powered flight and the achievements of the Wright brothers.

Centennial of  
Flight  
Commemoration  
Act.  
36 USC 143 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Centennial of Flight Commemoration Act”.

36 USC 143 note.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) December 17, 2003, is the 100th anniversary of the first successful manned, free, controlled, and sustained flight by a power-driven, heavier-than-air machine;

(2) the first flight by Orville and Wilbur Wright represents the fulfillment of the age-old dream of flying;

(3) the airplane has dramatically changed the course of transportation, commerce, communication, and warfare throughout the world;

(4) the achievement by the Wright brothers stands as a triumph of American ingenuity, inventiveness, and diligence in developing new technologies, and remains an inspiration for all Americans;

(5) it is appropriate to remember and renew the legacy of the Wright brothers at a time when the values of creativity and daring represented by the Wright brothers are critical to the future of the Nation; and

(6) as the Nation approaches the 100th anniversary of powered flight, it is appropriate to celebrate and commemorate the centennial year through local, national, and international observances and activities.

36 USC 143 note.

**SEC. 3. ESTABLISHMENT.**

There is established a commission to be known as the Centennial of Flight Commission.

36 USC 143 note.

**SEC. 4. MEMBERSHIP.**

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 6 members, as follows:

(1) The Director of the National Air and Space Museum of the Smithsonian Institution or his designee.

(2) The Administrator of the National Aeronautics and Space Administration or his designee.

(3) The chairman of the First Flight Centennial Foundation of North Carolina, or his designee.



(4) The chairman of the 2003 Committee of Ohio, or his designee.

(5) As chosen by the Commission, the president or head of a United States aeronautical society, foundation, or organization of national stature or prominence who will be a person from a State other than Ohio or North Carolina.

(6) The Administrator of the Federal Aviation Administration, or his designee.

(b) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner in which the original designation was made.

(c) COMPENSATION.—

(1) PROHIBITION OF PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay or compensation.

(2) TRAVEL EXPENSES.—The Commission may adopt a policy, only by unanimous vote, for members of the Commission and related advisory panels to receive travel expenses, including per diem in lieu of subsistence. The policy may not exceed the levels established under sections 5702 and 5703 of title 5, United States Code. Members who are Federal employees shall not receive travel expenses if otherwise reimbursed by the Federal Government.

(d) QUORUM.—Three members of the Commission shall constitute a quorum.

(e) CHAIRPERSON.—The Commission shall select a Chairperson of the Commission from the members designated under subsection (a) (1), (2), or (5). The Chairperson may not vote on matters before the Commission except in the case of a tie vote. The Chairperson may be removed by a vote of a majority of the Commission's members.

(f) ORGANIZATION.—No later than 90 days after the date of enactment of this Act, the Commission shall meet and select a Chairperson, Vice Chairperson, and Executive Director. Deadline.

#### SEC. 5. DUTIES.

36 USC 143 note.

(a) IN GENERAL.—The Commission shall—

(1) represent the United States and take a leadership role with other nations in recognizing the importance of aviation history in general and the centennial of powered flight in particular, and promote participation by the United States in such activities;

(2) encourage and promote national and international participation and sponsorships in commemoration of the centennial of powered flight by persons and entities such as—

- (A) aerospace manufacturing companies;
- (B) aerospace-related military organizations;
- (C) workers employed in aerospace-related industries;
- (D) commercial aviation companies;
- (E) general aviation owners and pilots;
- (F) aerospace researchers, instructors, and enthusiasts;
- (G) elementary, secondary, and higher educational institutions;

(H) civil, patriotic, educational, sporting, arts, cultural, and historical organizations and technical societies;

(I) aerospace-related museums; and

(J) State and local governments;

Publication.  
Records.

(3) plan and develop, in coordination with the First Flight Centennial Commission, the First Flight Centennial Foundation of North Carolina, and the 2003 Committee of Ohio, programs and activities that are appropriate to commemorate the 100th anniversary of powered flight;

(4) maintain, publish, and distribute a calendar or register of national and international programs and projects concerning, and provide a central clearinghouse for, information and coordination regarding, dates, events, and places of historical and commemorative significance regarding aviation history in general and the centennial of powered flight in particular;

(5) provide national coordination for celebration dates to take place throughout the United States during the centennial year;

(6) assist in conducting educational, civic, and commemorative activities relating to the centennial of powered flight throughout the United States, especially activities that occur in the States of North Carolina and Ohio and that highlight the activities of the Wright brothers in such States; and

(7) encourage the publication of popular and scholarly works related to the history of aviation or the anniversary of the centennial of powered flight.

(b) NONDUPLICATION OF ACTIVITIES.—The Commission shall attempt to plan and conduct its activities in such a manner that activities conducted pursuant to this Act enhance, but do not duplicate, traditional and established activities of Ohio's 2003 Committee, North Carolina's First Flight Centennial Commission, the First Flight Centennial Foundation, or any other organization of national stature or prominence.

#### SEC. 6. POWERS.

(a) ADVISORY COMMITTEES AND TASK FORCES.—

(1) IN GENERAL.—The Commission may appoint any advisory committee or task force from among the membership of the Advisory Board in section 12.

(2) FEDERAL COOPERATION.—To ensure the overall success of the Commission's efforts, the Commission may call upon various Federal departments and agencies to assist in and give support to the programs of the Commission. The head of the Federal department or agency, where appropriate, shall furnish the information or assistance requested by the Commission, unless prohibited by law.

(3) PROHIBITION OF PAY OTHER THAN TRAVEL EXPENSES.—Members of an advisory committee or task force authorized under paragraph (1) shall not receive pay, but may receive travel expenses pursuant to the policy adopted by the Commission under section 4(c)(2).

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this Act.

(c) AUTHORITY TO PROCURE AND TO MAKE LEGAL AGREEMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision in this Act, only the Commission may procure supplies, services, and property, and make or enter into leases and other legal agreements in order to carry out this Act.

(2) RESTRICTION.—

(A) IN GENERAL.—A contract, lease, or other legal agreement made or entered into by the Commission may not extend beyond the date of the termination of the Commission.

(B) FEDERAL SUPPORT.—The Commission shall obtain property, equipment, and office space from the General Services Administration or the Smithsonian Institution, unless other office space, property, or equipment is less costly.

(3) SUPPLIES AND PROPERTY POSSESSED BY COMMISSION AT TERMINATION.—Any supplies and property, except historically significant items, that are acquired by the Commission under this Act and remain in the possession of the Commission on the date of the termination of the Commission shall become the property of the General Services Administration upon the date of termination.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as any other Federal agency.

**SEC. 7. STAFF AND SUPPORT SERVICES.**

36 USC 143 note.

(a) EXECUTIVE DIRECTOR.—There shall be an Executive Director appointed by the Commission and chosen from among detailees from the agencies and organizations represented on the Commission. The Executive Director may be paid at a rate not to exceed the maximum rate of basic pay payable for the Senior Executive Service.

(b) STAFF.—The Commission may appoint and fix the pay of any additional personnel that it considers appropriate, except that an individual appointed under this subsection may not receive pay in excess of the maximum rate of basic pay payable for GS-14 of the General Schedule.

(c) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except as provided under subsections (a) and (b) of this section.

(d) MERIT SYSTEM PRINCIPLES.—The appointment of the Executive Director or any personnel of the Commission under subsection (a) or (b) shall be made consistent with the merit system principles under section 2301 of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon request by the Chairperson of the Commission, the head of any Federal department or agency may detail, on either a nonreimbursable or reimbursable basis, any of the personnel of the department or agency to the Commission to assist the Commission to carry out its duties under this Act.

(f) ADMINISTRATIVE SUPPORT SERVICES.—

(1) REIMBURSABLE SERVICES.—The Secretary of the Smithsonian Institution may provide to the Commission on a reimbursable basis any administrative support services that are necessary to enable the Commission to carry out this Act.

(2) **NONREIMBURSABLE SERVICES.**—The Secretary may provide administrative support services to the Commission on a nonreimbursable basis when, in the opinion of the Secretary, the value of such services is insignificant or not practical to determine.

(g) **COOPERATIVE AGREEMENTS.**—The Commission may enter into cooperative agreements with other Federal agencies, State and local governments, and private interests and organizations that will contribute to public awareness of and interest in the centennial of powered flight and toward furthering the goals and purposes of this Act.

(h) **PROGRAM SUPPORT.**—The Commission may receive program support from the nonprofit sector.

36 USC 143 note.

#### **SEC. 8. CONTRIBUTIONS.**

(a) **DONATIONS.**—The Commission may accept donations of personal services and historic materials relating to the implementation of its responsibilities under the provisions of this Act.

(b) **VOLUNTEER SERVICES.**—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(c) **REMAINING FUNDS.**—Any funds (including funds received from licensing royalties) remaining with the Commission on the date of the termination of the Commission may be used to ensure proper disposition, as specified in the final report required under section 10(b), of historically significant property which was donated to or acquired by the Commission. Any funds remaining after such disposition shall be transferred to the Secretary of the Treasury for deposit into the general fund of the Treasury of the United States.

36 USC 143 note.

#### **SEC. 9. EXCLUSIVE RIGHT TO NAME, LOGOS, EMBLEMS, SEALS, AND MARKS.**

(a) **IN GENERAL.**—The Commission may devise any logo, emblem, seal, or descriptive or designating mark that is required to carry out its duties or that it determines is appropriate for use in connection with the commemoration of the centennial of powered flight.

(b) **LICENSING.**—The Commission shall have the sole and exclusive right to use, or to allow or refuse the use of, the name “Centennial of Flight Commission” on any logo, emblem, seal, or descriptive or designating mark that the Commission lawfully adopts.

(c) **EFFECT ON OTHER RIGHTS.**—No provision of this section may be construed to conflict or interfere with established or vested rights.

(d) **USE OF FUNDS.**—Funds from licensing royalties received pursuant to this section shall be used by the Commission to carry out the duties of the Commission specified by this Act.

(e) **LICENSING RIGHTS.**—All exclusive licensing rights, unless otherwise specified, shall revert to the Air and Space Museum of the Smithsonian Institution upon termination of the Commission.

#### **SEC. 10. REPORTS.**

(a) **ANNUAL REPORT.**—In each fiscal year in which the Commission is in existence, the Commission shall prepare and submit to Congress a report describing the activities of the Commission during the fiscal year. Each annual report shall also include—

(1) recommendations regarding appropriate activities to commemorate the centennial of powered flight, including—

(A) the production, publication, and distribution of books, pamphlets, films, and other educational materials;

(B) bibliographical and documentary projects and publications;

(C) conferences, convocations, lectures, seminars, and other similar programs;

(D) the development of exhibits for libraries, museums, and other appropriate institutions;

(E) ceremonies and celebrations commemorating specific events that relate to the history of aviation;

(F) programs focusing on the history of aviation and its benefits to the United States and humankind; and

(G) competitions, commissions, and awards regarding historical, scholarly, artistic, literary, musical, and other works, programs, and projects related to the centennial of powered flight;

(2) recommendations to appropriate agencies or advisory bodies regarding the issuance of commemorative coins, medals, and stamps by the United States relating to aviation or the centennial of powered flight;

(3) recommendations for any legislation or administrative action that the Commission determines to be appropriate regarding the commemoration of the centennial of powered flight;

(4) an accounting of funds received and expended by the Commission in the fiscal year that the report concerns, including a detailed description of the source and amount of any funds donated to the Commission in the fiscal year; and

(5) an accounting of any cooperative agreements and contract agreements entered into by the Commission.

(b) FINAL REPORT.—Not later than June 30, 2004, the Commission shall submit to the President and Congress a final report. The final report shall contain—

Deadline.  
President.

(1) a summary of the activities of the Commission;

(2) a final accounting of funds received and expended by the Commission;

(3) any findings and conclusions of the Commission; and

(4) specific recommendations concerning the final disposition of any historically significant items acquired by the Commission, including items donated to the Commission under section 8(a)(1).

#### SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

36 USC 143 note.

(a) IN GENERAL.—

(1) AUDIT.—The Comptroller General of the United States shall audit on an annual basis the financial transactions of the Commission, including financial transactions involving donated funds, in accordance with generally accepted auditing standards.

(2) ACCESS.—In conducting an audit under this section, the Comptroller General—

(A) shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission, as necessary to facilitate the audit; and

(B) shall be afforded full facilities for verifying the financial transactions of the Commission, including access to any financial records or securities held for the Commission by depositories, fiscal agents, or custodians.

Deadline.  
President.

(b) FINAL REPORT.—Not later than September 30, 2004, the Comptroller General of the United States shall submit to the President and to Congress a report detailing the results of any audit of the financial transactions of the Commission conducted by the Comptroller General.

**SEC. 12. ADVISORY BOARD.**

(a) ESTABLISHMENT.—There is established a First Flight Centennial Federal Advisory Board.

(b) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Board shall be composed of 19 members as follows:

(A) The Secretary of the Interior, or the designee of the Secretary.

(B) The Librarian of Congress, or the designee of the Librarian.

(C) The Secretary of the Air Force, or the designee of the Secretary.

(D) The Secretary of the Navy, or the designee of the Secretary.

(E) The Secretary of Transportation, or the designee of the Secretary.

President.

(F) Six citizens of the United States, appointed by the President, who—

(i) are not officers or employees of any government (except membership on the Board shall not be construed to apply to the limitation under this clause); and

(ii) shall be selected based on their experience in the fields of aerospace history, science, or education, or their ability to represent the entities enumerated under section 5(a)(2).

(G) Four citizens of the United States, appointed by the majority leader of the Senate in consultation with the minority leader of the Senate.

(H) Four citizens of the United States, appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives. Of the individuals appointed under this subparagraph—

(i) one shall be selected from among individuals recommended by the representative whose district encompasses the Wright Brothers National Memorial; and

(ii) one shall be selected from among individuals recommended by the representatives whose districts encompass any part of the Dayton Aviation Heritage National Historical Park.

(c) VACANCIES.—Any vacancy in the Advisory Board shall be filled in the same manner in which the original designation was made.

(d) MEETINGS.—Seven members of the Advisory Board shall constitute a quorum for a meeting. All meetings shall be open to the public.

(e) CHAIRPERSON.—The President shall designate 1 member appointed under subsection (b)(1)(F) as chairperson of the Advisory Board. President.

(f) MAILS.—The Advisory Board may use the United States mails in the same manner and under the same conditions as a Federal agency.

(g) DUTIES.—The Advisory Board shall advise the Commission on matters related to this Act.

(h) PROHIBITION OF COMPENSATION OTHER THAN TRAVEL EXPENSES.—Members of the Advisory Board shall not receive pay, but may receive travel expenses pursuant to the policy adopted by the Commission under section 4(e).

(i) TERMINATION.—The Advisory Board shall terminate upon the termination of the Commission.

#### SEC. 13. DEFINITIONS.

36 USC 143 note.

For purposes of this Act:

(1) The term “Advisory Board” means the Centennial of Flight Federal Advisory Board.

(2) The term “centennial of powered flight” means the anniversary year, from December 2002 to December 2003, commemorating the 100-year history of aviation beginning with the First Flight and highlighting the achievements of the Wright brothers in developing the technologies which have led to the development of aviation as it is known today.

(3) The term “Commission” means the Centennial of Flight Commission.

(4) The term “designee” means a person from the respective entity of each entity represented on the Commission or Advisory Board.

(5) The term “First Flight” means the first four successful manned, free, controlled, and sustained flights by a power-driven, heavier-than-air machine, which were accomplished by Orville and Wilbur Wright of Dayton, Ohio on December 17, 1903 at Kitty Hawk, North Carolina.

#### SEC. 14. TERMINATION.

36 USC 143 note.

The Commission shall terminate not later than 60 days after the submission of the final report required by section 10(b) and shall transfer all documents and material to the National Archives or other appropriate Federal entity.

36 USC 143 note. **SEC. 15. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this Act \$250,000 for fiscal year 1999, \$600,000 for fiscal year 2000, \$750,000 for fiscal year 2001, \$900,000 for fiscal year 2002, \$900,000 for fiscal year 2003, and \$600,000 for fiscal year 2004.

Approved November 13, 1998.

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**LEGISLATIVE HISTORY—S. 1397:**

SENATE REPORTS: No. 105–294 (Comm. on Governmental Affairs).  
CONGRESSIONAL RECORD, Vol. 144 (1998):

Sept. 22, considered and passed Senate.

Oct. 14, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Nov. 13, Presidential statement.





Public Law 105–390  
105th Congress

An Act

To provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.

Nov. 13, 1998

[S. 1525]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Police, Fire, and Emergency Officers Educational Assistance Act of 1998”.

Police, Fire, and  
Emergency  
Officers  
Educational  
Assistance Act of  
1998.

**SEC. 2. FINANCIAL ASSISTANCE FOR HIGHER EDUCATION TO DEPENDENTS OF PUBLIC SAFETY OFFICERS KILLED OR PERMANENTLY AND TOTALLY DISABLED IN THE LINE OF DUTY.**

Part L of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended—

(1) in the heading for subpart 2, by striking “**Civilian Federal Law Enforcement**” and inserting “**Public Safety**”;

42 USC 3796d et  
seq.

(2) in section 1211(1), by striking “civilian Federal law enforcement” and inserting “public safety”;

42 USC 3796d.

(3) in section 1212(a)—

42 USC 3796d-1.

(A) in paragraph (1)(A), by striking “Federal law enforcement” and inserting “public safety”;

(B) in paragraph (2), by striking “Financial” and inserting the following: “Except as provided in paragraph (3), financial”; and

(C) by adding at the end the following:

“(3) The financial assistance referred to in paragraph (2) shall be reduced by the sum of—

“(A) the amount of educational assistance benefits from other Federal, State, or local governmental sources to which the eligible dependent would otherwise be entitled to receive; and

“(B) the amount, if any, determined under section 1214(b).”;

(4) in section 1214—

42 USC 3796d-3.

(A) by inserting “(a) IN GENERAL.—” before “The”; and

(B) by adding at the end the following:

“(b) SLIDING SCALE.—Notwithstanding section 1213(b), the Attorney General shall issue regulations regarding the use of a sliding scale based on financial need to ensure that an eligible dependent who is in financial need receives priority in receiving funds under this subpart.”;

Regulations.

- 42 USC 3796d-5. (5) in section 1216(a), by inserting “and each dependent of a public safety officer killed in the line of duty on or after October 1, 1997,” after “1992,”; and
- 42 USC 3796d-6. (6) in section 1217—  
(A) by striking paragraph (2); and  
(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

Approved November 13, 1998.

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LEGISLATIVE HISTORY—S. 1525 (H.R. 3046):

CONGRESSIONAL RECORD, Vol. 144 (1998):

May 15, considered and passed Senate.

Oct. 10, considered and passed House, amended, in lieu of H.R. 3046.

Oct. 15, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Nov. 13, Presidential remarks.



Public Law 105–391  
105th Congress

An Act

To provide for improved management and increased accountability for certain National Park Service programs, and for other purposes.

Nov. 13, 1998  
[S. 1693]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “National Parks Omnibus Management Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

National Parks  
Omnibus  
Management Act  
of 1998.  
16 USC 5901  
note.

Sec. 1. Short title; table of contents.  
Sec. 2. Definition.

**TITLE I—NATIONAL PARK SERVICE CAREER DEVELOPMENT, TRAINING,  
AND MANAGEMENT**

Sec. 101. Protection, interpretation, and research in the National Park System.  
Sec. 102. National Park Service employee training.  
Sec. 103. Management development and training.  
Sec. 104. Park budgets and accountability.

**TITLE II—NATIONAL PARK SYSTEM RESOURCE INVENTORY AND  
MANAGEMENT**

Sec. 201. Purposes.  
Sec. 202. Research mandate.  
Sec. 203. Cooperative agreements.  
Sec. 204. Inventory and monitoring program.  
Sec. 205. Availability for scientific study.  
Sec. 206. Integration of study results into management decisions.  
Sec. 207. Confidentiality of information.

**TITLE III—STUDY REGARDING ADDITION OF NEW NATIONAL PARK  
SYSTEM AREAS**

Sec. 301. Short title.  
Sec. 302. Purpose.  
Sec. 303. Study of addition of new National Park System areas.

**TITLE IV—NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT**

Sec. 401. Short title.  
Sec. 402. Congressional findings and statement of policy.  
Sec. 403. Award of concessions contracts.  
Sec. 404. Term of concessions contracts.  
Sec. 405. Protection of concessioner investment.  
Sec. 406. Reasonableness of rates.  
Sec. 407. Franchise fees.  
Sec. 408. Transfer of concessions contracts.  
Sec. 409. National Park Service Concessions Management Advisory Board.  
Sec. 410. Contracting for services.  
Sec. 411. Multiple contracts within a park.  
Sec. 412. Special rule for transportation contracting services.

- Sec. 413. Use of nonmonetary consideration in concessions contracts.
- Sec. 414. Recordkeeping requirements.
- Sec. 415. Repeal of National Park Service Concessions Policy Act.
- Sec. 416. Promotion of the sale of Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts.
- Sec. 417. Regulations.
- Sec. 418. Commercial use authorizations.
- Sec. 419. Savings provision.

#### TITLE V—FEES FOR USE OF NATIONAL PARK SYSTEM

- Sec. 501. Fees.
- Sec. 502. Distribution of golden eagle passport sales.

#### TITLE VI—NATIONAL PARK PASSPORT PROGRAM

- Sec. 601. Purposes.
- Sec. 602. National Park passport program.
- Sec. 603. Administration.
- Sec. 604. Foreign sales of Golden Eagle Passports.
- Sec. 605. Effect on other laws and programs.

#### TITLE VII—NATIONAL PARK FOUNDATION SUPPORT

- Sec. 701. Promotion of local fundraising support.

#### TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. United States Park Police.
- Sec. 802. Leases and cooperative management agreements.

16 USC 5901.

#### **SEC. 2. DEFINITION.**

As used in this Act, the term “Secretary” means the Secretary of the Interior, except as otherwise specifically provided.

## **TITLE I—NATIONAL PARK SERVICE CAREER DEVELOPMENT, TRAINING, AND MANAGEMENT**

16 USC 5911.

#### **SEC. 101. PROTECTION, INTERPRETATION, AND RESEARCH IN THE NATIONAL PARK SYSTEM.**

Recognizing the ever increasing societal pressures being placed upon America’s unique natural and cultural resources contained in the National Park System, the Secretary shall continually improve the ability of the National Park Service to provide state-of-the-art management, protection, and interpretation of and research on the resources of the National Park System.

16 USC 5912.

#### **SEC. 102. NATIONAL PARK SERVICE EMPLOYEE TRAINING.**

The Secretary shall develop a comprehensive training program for employees in all professional careers in the work force of the National Park Service for the purpose of assuring that the work force has available the best, up-to-date knowledge, skills and abilities with which to manage, interpret and protect the resources of the National Park System.

16 USC 5913.

#### **SEC. 103. MANAGEMENT DEVELOPMENT AND TRAINING.**

Within 2 years after the enactment of this Act, the Secretary shall develop a clear plan for management training and development, whereby career, professional National Park Service employees from any appropriate academic field may obtain sufficient training, experience, and advancement opportunity to enable those qualified to move into park management positions, including explicitly the position of superintendent of a unit of the National Park System.

**SEC. 104. PARK BUDGETS AND ACCOUNTABILITY.**

16 USC 5914.

(a) **STRATEGIC AND PERFORMANCE PLANS FOR EACH UNIT.**—Each unit of the National Park System shall prepare and make available to the public a 5-year strategic plan and an annual performance plan. Such plans shall reflect the National Park Service policies, goals, and outcomes represented in the Service-wide Strategic Plan, prepared pursuant to the provisions of the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285).

Public  
information.

(b) **ANNUAL BUDGET FOR EACH UNIT.**—As a part of the annual performance plan for a unit of the National Park System prepared pursuant to subsection (a), following receipt of the appropriation for the unit from the Operations of the National Park System account (but no later than January 1 of each year), the superintendent of the unit shall develop and make available to the public the budget for the current fiscal year for that unit. The budget shall include, at a minimum, funding allocations for resource preservation (including resource management), visitor services (including maintenance, interpretation, law enforcement, and search and rescue) and administration. The budget shall also include allocations into each of the above categories of all funds retained from fees collected for that year, including (but not limited to) special use permits, concession franchise fees, and recreation use and entrance fees.

## **TITLE II—NATIONAL PARK SYSTEM RESOURCE INVENTORY AND MANAGEMENT**

**SEC. 201. PURPOSES.**

16 USC 5931.

The purposes of this title are—

(1) to more effectively achieve the mission of the National Park Service;

(2) to enhance management and protection of national park resources by providing clear authority and direction for the conduct of scientific study in the National Park System and to use the information gathered for management purposes;

(3) to ensure appropriate documentation of resource conditions in the National Park System;

(4) to encourage others to use the National Park System for study to the benefit of park management as well as broader scientific value, where such study is consistent with the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.); and

(5) to encourage the publication and dissemination of information derived from studies in the National Park System.

**SEC. 202. RESEARCH MANDATE.**

16 USC 5932.

The Secretary is authorized and directed to assure that management of units of the National Park System is enhanced by the availability and utilization of a broad program of the highest quality science and information.

16 USC 5933.

**SEC. 203. COOPERATIVE AGREEMENTS.**

(a) **COOPERATIVE STUDY UNITS.**—The Secretary is authorized and directed to enter into cooperative agreements with colleges and universities, including but not limited to land grant schools, in partnership with other Federal and State agencies, to establish cooperative study units to conduct multi-disciplinary research and develop integrated information products on the resources of the National Park System, or the larger region of which parks are a part.

Deadline.

(b) **REPORT.**—Within one year of the date of enactment of this title, the Secretary shall report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives on progress in the establishment of a comprehensive network of such college and university based cooperative study units as will provide full geographic and topical coverage for research on the resources contained in units of the National Park System and their larger regions.

16 USC 5934.

**SEC. 204. INVENTORY AND MONITORING PROGRAM.**

The Secretary shall undertake a program of inventory and monitoring of National Park System resources to establish baseline information and to provide information on the long-term trends in the condition of National Park System resources. The monitoring program shall be developed in cooperation with other Federal monitoring and information collection efforts to ensure a cost-effective approach.

16 USC 5935.

**SEC. 205. AVAILABILITY FOR SCIENTIFIC STUDY.**

(a) **IN GENERAL.**—The Secretary may solicit, receive, and consider requests from Federal or non-Federal public or private agencies, organizations, individuals, or other entities for the use of any unit of the National Park System for purposes of scientific study.

(b) **CRITERIA.**—A request for use of a unit of the National Park System under subsection (a) may only be approved if the Secretary determines that the proposed study—

(1) is consistent with applicable laws and National Park Service management policies; and

(2) will be conducted in a manner as to pose no threat to park resources or public enjoyment derived from those resources.

(c) **FEE WAIVER.**—The Secretary may waive any park admission or recreational use fee in order to facilitate the conduct of scientific study under this section.

(d) **NEGOTIATIONS.**—The Secretary may enter into negotiations with the research community and private industry for equitable, efficient benefits-sharing arrangements.

16 USC 5936.

**SEC. 206. INTEGRATION OF STUDY RESULTS INTO MANAGEMENT DECISIONS.**

The Secretary shall take such measures as are necessary to assure the full and proper utilization of the results of scientific study for park management decisions. In each case in which an action undertaken by the National Park Service may cause a significant adverse effect on a park resource, the administrative record shall reflect the manner in which unit resource studies have been considered. The trend in the condition of resources of the National Park System shall be a significant factor in the annual performance

evaluation of each superintendent of a unit of the National Park System.

**SEC. 207. CONFIDENTIALITY OF INFORMATION.**

16 USC 5937.

Information concerning the nature and specific location of a National Park System resource which is endangered, threatened, rare, or commercially valuable, of mineral or paleontological objects within units of the National Park System, or of objects of cultural patrimony within units of the National Park System, may be withheld from the public in response to a request under section 552 of title 5, United States Code, unless the Secretary determines that—

(1) disclosure of the information would further the purposes of the unit of the National Park System in which the resource or object is located and would not create an unreasonable risk of harm, theft, or destruction of the resource or object, including individual organic or inorganic specimens; and

(2) disclosure is consistent with other applicable laws protecting the resource or object.

**TITLE III—STUDY REGARDING ADDITION OF NEW NATIONAL PARK SYSTEM AREAS**

National Park System New Areas Studies Act.

**SEC. 301. SHORT TITLE.**

16 USC 1 note.

This title may be cited as the “National Park System New Areas Studies Act”.

**SEC. 302. PURPOSE.**

16 USC 1a-5 note.

It is the purpose of this title to reform the process by which areas are considered for addition to the National Park System.

**SEC. 303. STUDY OF ADDITION OF NEW NATIONAL PARK SYSTEM AREAS.**

Section 8 of Public Law 91-383 (commonly known as the National Park System General Authorities Act; 16 U.S.C. 1a-5) is amended as follows:

(1) By inserting “GENERAL AUTHORITY.—” after “(a)”.

(2) By striking the second through the sixth sentences of subsection (a).

(3) By redesignating the last two sentences of subsection (a) as subsection (f) and inserting in the first of such sentences before the words “For the purposes of carrying” the following: “(f) AUTHORIZATION OF APPROPRIATIONS.—”.

(4) By inserting the following after subsection (a):

“(b) STUDIES OF AREAS FOR POTENTIAL ADDITION.—(1) At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a list of areas recommended for study for potential inclusion in the National Park System.

Records.

“(2) In developing the list to be submitted under this subsection, the Secretary shall consider—

“(A) those areas that have the greatest potential to meet the established criteria of national significance, suitability, and feasibility;

“(B) themes, sites, and resources not already adequately represented in the National Park System; and

“(C) public petition and Congressional resolutions.

“(3) No study of the potential of an area for inclusion in the National Park System may be initiated after the date of enactment of this subsection, except as provided by specific authorization of an Act of Congress.

“(4) Nothing in this Act shall limit the authority of the National Park Service to conduct preliminary resource assessments, gather data on potential study areas, provide technical and planning assistance, prepare or process nominations for administrative designations, update previous studies, or complete reconnaissance surveys of individual areas requiring a total expenditure of less than \$25,000.

“(5) Nothing in this section shall be construed to apply to or to affect or alter the study of any river segment for potential addition to the national wild and scenic rivers system or to apply to or to affect or alter the study of any trail for potential addition to the national trails system.

“(c) REPORT.—(1) The Secretary shall complete the study for each area for potential inclusion in the National Park System within 3 complete fiscal years following the date on which funds are first made available for such purposes. Each study under this section shall be prepared with appropriate opportunity for public involvement, including at least one public meeting in the vicinity of the area under study, and after reasonable efforts to notify potentially affected landowners and State and local governments.

“(2) In conducting the study, the Secretary shall consider whether the area under study—

“(A) possesses nationally significant natural or cultural resources and represents one of the most important examples of a particular resource type in the country; and

“(B) is a suitable and feasible addition to the system.

“(3) Each study—

“(A) shall consider the following factors with regard to the area being studied—

“(i) the rarity and integrity of the resources;

“(ii) the threats to those resources;

“(iii) similar resources are already protected in the National Park System or in other public or private ownership;

“(iv) the public use potential;

“(v) the interpretive and educational potential;

“(vi) costs associated with acquisition, development and operation;

“(vii) the socioeconomic impacts of any designation;

“(viii) the level of local and general public support;

and

“(ix) whether the area is of appropriate configuration to ensure long-term resource protection and visitor use;

“(B) shall consider whether direct National Park Service management or alternative protection by other public agencies or the private sector is appropriate for the area;



“(C) shall identify what alternative or combination of alternatives would in the professional judgment of the Director of the National Park Service be most effective and efficient in protecting significant resources and providing for public enjoyment; and

“(D) may include any other information which the Secretary deems to be relevant.

“(4) Each study shall be completed in compliance with the National Environmental Policy Act of 1969.

“(5) The letter transmitting each completed study to Congress shall contain a recommendation regarding the Secretary’s preferred management option for the area.

“(d) NEW AREA STUDY OFFICE.—The Secretary shall designate a single office to be assigned to prepare all new area studies and to implement other functions of this section.

“(e) LIST OF AREAS.—At the beginning of each calendar year, along with the annual budget submission, the Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a list of areas which have been previously studied which contain primarily historical resources, and a list of areas which have been previously studied which contain primarily natural resources, in numerical order of priority for addition to the National Park System. In developing the lists, the Secretary should consider threats to resource values, cost escalation factors, and other factors listed in subsection (c) of this section. The Secretary should only include on the lists areas for which the supporting data is current and accurate.”.

(5) By adding at the end of subsection (f) (as designated by paragraph (3) of this section) the following: “For carrying out subsections (b) through (d) there are authorized to be appropriated \$2,000,000 for each fiscal year.”.

## **TITLE IV—NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT**

### **SEC. 401. SHORT TITLE.**

This title may be cited as the “National Park Service Concessions Management Improvement Act of 1998”.

### **SEC. 402. CONGRESSIONAL FINDINGS AND STATEMENT OF POLICY.**

(a) FINDINGS.—In furtherance of the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.), which directs the Secretary to administer units of the National Park System in accordance with the fundamental purpose of conserving their scenery, wildlife, and natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress hereby finds that the preservation and conservation of park resources and values requires that such public accommodations, facilities, and services as have to be provided within such units should be provided only under carefully controlled safeguards against unregulated and indiscriminate use, so that—

(1) visitation will not unduly impair these resources and values; and

National Park  
Service  
Concessions  
Management  
Improvement Act  
of 1998.  
Contracts.  
16 USC 5901  
note.

16 USC 5951.

(2) development of public accommodations, facilities, and services within such units can best be limited to locations that are consistent to the highest practicable degree with the preservation and conservation of the resources and values of such units.

(b) **POLICY.**—It is the policy of the Congress that the development of public accommodations, facilities, and services in units of the National Park System shall be limited to those accommodations, facilities, and services that—

(1) are necessary and appropriate for public use and enjoyment of the unit of the National Park System in which they are located; and

(2) are consistent to the highest practicable degree with the preservation and conservation of the resources and values of the unit.

16 USC 5952.

**SEC. 403. AWARD OF CONCESSIONS CONTRACTS.**

In furtherance of the findings and policy stated in section 402, and except as provided by this title or otherwise authorized by law, the Secretary shall utilize concessions contracts to authorize a person, corporation, or other entity to provide accommodations, facilities, and services to visitors to units of the National Park System. Such concessions contracts shall be awarded as follows:

(1) **COMPETITIVE SELECTION PROCESS.**—Except as otherwise provided in this section, all proposed concessions contracts shall be awarded by the Secretary to the person, corporation, or other entity submitting the best proposal, as determined by the Secretary through a competitive selection process. Such competitive process shall include simplified procedures for small, individually-owned, concessions contracts.

(2) **SOLICITATION OF PROPOSALS.**—Except as otherwise provided in this section, prior to awarding a new concessions contract (including renewals or extensions of existing concessions contracts) the Secretary shall publicly solicit proposals for the concessions contract and, in connection with such solicitation, the Secretary shall prepare a prospectus and shall publish notice of its availability at least once in local or national newspapers or trade publications, and/or the Commerce Business Daily, as appropriate, and shall make the prospectus available upon request to all interested parties.

(3) **PROSPECTUS.**—The prospectus shall include the following information:

(A) The minimum requirements for such contract as set forth in paragraph (4).

(B) The terms and conditions of any existing concessions contract relating to the services and facilities to be provided, including all fees and other forms of compensation provided to the United States by the concessioner.

(C) Other authorized facilities or services which may be provided in a proposal.

(D) Facilities and services to be provided by the Secretary to the concessioner, if any, including public access, utilities, and buildings.

(E) An estimate of the amount of compensation, if any, due an existing concessioner from a new concessioner under the terms of a prior concessions contract.

(F) A statement as to the weight to be given to each selection factor identified in the prospectus and the relative importance of such factors in the selection process.

(G) Such other information related to the proposed concessions operation as is provided to the Secretary pursuant to a concessions contract or is otherwise available to the Secretary, as the Secretary determines is necessary to allow for the submission of competitive proposals.

(H) Where applicable, a description of a preferential right to the renewal of the proposed concessions contract held by an existing concessioner as set forth in paragraph (7).

(4) MINIMUM REQUIREMENTS.—(A) No proposal shall be considered which fails to meet the minimum requirements as determined by the Secretary. Such minimum requirements shall include the following:

(i) The minimum acceptable franchise fee or other forms of consideration to the Government.

(ii) Any facilities, services, or capital investment required to be provided by the concessioner.

(iii) Measures necessary to ensure the protection, conservation, and preservation of resources of the unit of the National Park System.

(B) The Secretary shall reject any proposal, regardless of the franchise fee offered, if the Secretary determines that the person, corporation, or entity is not qualified, is not likely to provide satisfactory service, or that the proposal is not responsive to the objectives of protecting and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(C) If all proposals submitted to the Secretary either fail to meet the minimum requirements or are rejected by the Secretary, the Secretary shall establish new minimum contract requirements and re-initiate the competitive selection process pursuant to this section.

(D) The Secretary may not execute a concessions contract which materially amends or does not incorporate the proposed terms and conditions of the concessions contract as set forth in the applicable prospectus. If proposed material amendments or changes are considered appropriate by the Secretary, the Secretary shall resolicit offers for the concessions contract incorporating such material amendments or changes.

(5) SELECTION OF THE BEST PROPOSAL.—(A) In selecting the best proposal, the Secretary shall consider the following principal factors:

(i) The responsiveness of the proposal to the objectives of protecting, conserving, and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(ii) The experience and related background of the person, corporation, or entity submitting the proposal, including the past performance and expertise of such person, corporation or entity in providing the same or similar facilities or services.

(iii) The financial capability of the person, corporation, or entity submitting the proposal.

(iv) The proposed franchise fee, except that consideration of revenue to the United States shall be subordinate to the objectives of protecting, conserving, and preserving resources of the unit of the National Park System and of providing necessary and appropriate facilities to the public at reasonable rates.

(B) The Secretary may also consider such secondary factors as the Secretary deems appropriate.

(C) In developing regulations to implement this title, the Secretary shall consider the extent to which plans for employment of Indians (including Native Alaskans) and involvement of businesses owned by Indians, Indian tribes, or Native Alaskans in the operation of a concession, contracts should be identified as a factor in the selection of a best proposal under this section.

(6) CONGRESSIONAL NOTIFICATION.—The Secretary shall submit any proposed concessions contract with anticipated annual gross receipts in excess of \$5,000,000 or a duration of more than 10 years to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary shall not award any such proposed contract until at least 60 days subsequent to the notification of both committees.

(7) PREFERENTIAL RIGHT OF RENEWAL.—(A) Except as provided in subparagraph (B), the Secretary shall not grant a concessioner a preferential right to renew a concessions contract, or any other form of preference to a concessions contract.

(B) The Secretary shall grant a preferential right of renewal to an existing concessioner with respect to proposed renewals of the categories of concessions contracts described by paragraph (8), subject to the requirements of that paragraph.

(C) As used in this title, the term “preferential right of renewal” means that the Secretary, subject to a determination by the Secretary that the facilities or services authorized by a prior contract continue to be necessary and appropriate within the meaning of section 402, shall allow a concessioner qualifying for a preferential right of renewal the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best proposal for a proposed new concessions contract which authorizes the continuation of the facilities and services provided by the concessioner under its prior contract.

(D) A concessioner which successfully exercises a preferential right of renewal in accordance with the requirements of this title shall be entitled to award of the proposed new concessions contract to which such preference applies.

(8) OUTFITTER AND GUIDE SERVICES AND SMALL CONTRACTS.—(A) The provisions of paragraph (7) shall apply only to the following:

(i) Subject to subparagraph (B), outfitting and guide concessions contracts.

(ii) Subject to subparagraph (C), concessions contracts with anticipated annual gross receipts under \$500,000.

(B) For the purposes of this title, an “outfitting and guide concessions contract” means a concessions contract which solely

Applicability.

authorizes the provision of specialized backcountry outdoor recreation guide services which require the employment of specially trained and experienced guides to accompany park visitors in the backcountry so as to provide a safe and enjoyable experience for visitors who otherwise may not have the skills and equipment to engage in such activity. Outfitting and guide concessioners, where otherwise qualified, include concessioners which provide guided river running, hunting, fishing, horseback, camping, and mountaineering experiences. An outfitting and guide concessioner is entitled to a preferential right of renewal under this title only if—

(i) the contract with the outfitting and guide concessioner does not grant the concessioner any interest, including any leasehold surrender interest or possessory interest, in capital improvements on lands owned by the United States within a unit of the National Park System, other than a capital improvement constructed by a concessioner pursuant to the terms of a concessions contract prior to the date of the enactment of this title or constructed or owned by a concessioner or his or her predecessor before the subject land was incorporated into the National Park System;

(ii) the Secretary determines that the concessioner has operated satisfactorily during the term of the contract (including any extension thereof); and

(iii) the concessioner has submitted a responsive proposal for a proposed new contract which satisfies the minimum requirements established by the Secretary pursuant to paragraph (4).

(C) A concessioner that holds a concessions contract that the Secretary estimates will result in gross annual receipts of less than \$500,000 if renewed shall be entitled to a preferential right of renewal under this title if—

(i) the Secretary has determined that the concessioner has operated satisfactorily during the term of the contract (including any extension thereof); and

(ii) the concessioner has submitted a responsive proposal for a proposed new concessions contract which satisfies the minimum requirements established by the Secretary pursuant to paragraph (4).

(9) NEW OR ADDITIONAL SERVICES.—The Secretary shall not grant a preferential right to a concessioner to provide new or additional services in a unit of the National Park System.

(10) SECRETARIAL AUTHORITY.—Nothing in this title shall be construed as limiting the authority of the Secretary to determine whether to issue a concessions contract or to establish its terms and conditions in furtherance of the policies expressed in this title.

(11) EXCEPTIONS.—Notwithstanding the provisions of this section, the Secretary may award, without public solicitation, the following:

(A) A temporary concessions contract or an extension of an existing concessions contract for a term not to exceed 3 years in order to avoid interruption of services to the public at a unit of the National Park System, except that prior to making such an award, the Secretary shall take

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all reasonable and appropriate steps to consider alternatives to avoid such interruption.

(B) A concessions contract in extraordinary circumstances where compelling and equitable considerations require the award of a concessions contract to a particular party in the public interest. Such award of a concessions contract shall not be made by the Secretary until at least 30 days after publication in the Federal Register of notice of the Secretary's intention to do so and the reasons for such action, and submission of notice to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

16 USC 5953.

**SEC. 404. TERM OF CONCESSIONS CONTRACTS.**

A concessions contract entered into pursuant to this title shall generally be awarded for a term of 10 years or less. However, the Secretary may award a contract for a term of up to 20 years if the Secretary determines that the contract terms and conditions, including the required construction of capital improvements, warrant a longer term.

16 USC 5954.

**SEC. 405. PROTECTION OF CONCESSIONER INVESTMENT.**

(a) **LEASEHOLD SURRENDER INTEREST UNDER NEW CONCESSIONS CONTRACTS.**—On or after the date of the enactment of this title, a concessioner that constructs a capital improvement upon land owned by the United States within a unit of the National Park System pursuant to a concessions contract shall have a leasehold surrender interest in such capital improvement subject to the following terms and conditions:

(1) A concessioner shall have a leasehold surrender interest in each capital improvement constructed by a concessioner under a concessions contract, consisting solely of a right to compensation for the capital improvement to the extent of the value of the concessioner's leasehold surrender interest in the capital improvement.

(2) A leasehold surrender interest—

(A) may be pledged as security for financing of a capital improvement or the acquisition of a concessions contract when approved by the Secretary pursuant to this title;

(B) shall be transferred by the concessioner in connection with any transfer of the concessions contract and may be relinquished or waived by the concessioner; and

(C) shall not be extinguished by the expiration or other termination of a concessions contract and may not be taken for public use except on payment of just compensation.

(3) The value of a leasehold surrender interest in a capital improvement shall be an amount equal to the initial value (construction cost of the capital improvement), increased (or decreased) in the same percentage increase (or decrease) as the percentage increase (or decrease) in the Consumer Price Index, from the date of making the investment in the capital improvement by the concessioner to the date of payment of the value of the leasehold surrender interest, less depreciation of the capital improvement as evidenced by the condition and prospective serviceability in comparison with a new unit of like kind.

Effective date.

(4) Effective 9 years after the date of the enactment of this Act, the Secretary may provide, in any particular new

concession contract the Secretary estimates will have a leasehold surrender interest of more than \$10,000,000, that the value of any leasehold surrender interest in a capital improvement shall be based on either (A) a reduction on an annual basis, in equal portions, over the same number of years as the time period associated with the straight line depreciation of the initial value (construction cost of the capital improvement), as provided by applicable Federal income tax laws and regulations in effect on the day before the date of the enactment of this Act or (B) such alternative formula that is consistent with the objectives of this title. The Secretary may only use such an alternative formula if the Secretary determines, after scrutiny of the financial and other circumstances involved in this particular concession contract (including providing notice in the Federal Register and opportunity for comment), that such alternative formula is, compared to the standard method of determining value provided for in paragraph (3), necessary in order to provide a fair return to the Government and to foster competition for the new contract by providing a reasonable opportunity to make a profit under the new contract. If no responsive offers are received in response to a solicitation that includes such an alternative formula, the concession opportunity shall be resolicited with the leasehold surrender interest value as described in paragraph (3).

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publication.

(5) Where a concessioner, pursuant to the terms of a concessions contract, makes a capital improvement to an existing capital improvement in which the concessioner has a leasehold surrender interest, the cost of such additional capital improvement shall be added to the then current value of the concessioner's leasehold surrender interest.

(b) SPECIAL RULE FOR EXISTING POSSESSORY INTEREST.—

(1) A concessioner which has obtained a possessory interest as defined pursuant to Public Law 89-249 (commonly known as the National Park Service Concessions Policy Act; 16 U.S.C. 20 et seq.), as in effect on the day before the date of the enactment of this Act, under the terms of a concessions contract entered into before that date shall, upon the expiration or termination of such contract, be entitled to receive compensation for such possessory interest improvements in the amount and manner as described by such concessions contract. Where such a possessory interest is not described in the existing contract, compensation of possessory interest shall be determined in accordance with the laws in effect on the day before the date of enactment of this Act.

(2) In the event such prior concessioner is awarded a new concessions contract after the effective date of this title replacing an existing concessions contract, the existing concessioner shall, instead of directly receiving such possessory interest compensation, have a leasehold surrender interest in its existing possessory interest improvements under the terms of the new contract and shall carry over as the initial value of such leasehold surrender interest (instead of construction cost) an amount equal to the value of the existing possessory interest as of the termination date of the previous contract. In the event of a dispute between the concessioner and the Secretary as to the value of such possessory interest, the matter shall be resolved through binding arbitration.

(3) In the event that a new concessioner is awarded a concessions contract and is required to pay a prior concessioner for possessory interest in prior improvements, the new concessioner shall have a leasehold surrender interest in such prior improvements and the initial value in such leasehold surrender interest (instead of construction cost), shall be an amount equal to the value of the existing possessory interest as of the termination date of the previous contract.

(c) **TRANSITION TO SUCCESSOR CONCESSIONER.**—Upon expiration or termination of a concessions contract entered into after the effective date of this title, a concessioner shall be entitled under the terms of the concessions contract to receive from the United States or a successor concessioner the value of any leasehold surrender interest in a capital improvement as of the date of such expiration or termination. A successor concessioner shall have a leasehold surrender interest in such capital improvement under the terms of a new contract and the initial value of the leasehold surrender interest in such capital improvement (instead of construction cost) shall be the amount of money the new concessioner is required to pay the prior concessioner for its leasehold surrender interest under the terms of the prior concessions contract.

(d) **TITLE TO IMPROVEMENTS.**—Title to any capital improvement constructed by a concessioner on lands owned by the United States in a unit of the National Park System shall be vested in the United States.

(e) **DEFINITIONS.**—For purposes of this section:

(1) **CONSUMER PRICE INDEX.**—The term “Consumer Price Index” means the “Consumer Price Index—All Urban Consumers” published by the Bureau of Labor Statistics of the Department of Labor, unless such index is not published, in which case another regularly published cost-of-living index approximating the Consumer Price Index shall be utilized by the Secretary; and

(2) **CAPITAL IMPROVEMENT.**—The term “capital improvement” means a structure, fixture, or nonremovable equipment provided by a concessioner pursuant to the terms of a concessions contract and located on lands of the United States within a unit of the National Park System.

Deadline.

(f) **SPECIAL REPORTING REQUIREMENT.**— Not later than 7 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives containing a complete analysis of the concession program as well as—

(1) an assessment of competition in the solicitation of prospectuses, fair and/or increased return to the Government, and improvement of concession facilities and infrastructure; and

(2) an assessment of any problems with the management and administration of the concession program that are a direct result of the implementation of the provisions of this title.

16 USC 5955.

**SEC. 406. REASONABLENESS OF RATES.**

(a) **IN GENERAL.**—Each concessions contract shall permit the concessioner to set reasonable and appropriate rates and charges for facilities, goods, and services provided to the public, subject to approval under subsection (b).



(b) **APPROVAL BY SECRETARY REQUIRED.**—A concessioner's rates and charges to the public shall be subject to approval by the Secretary. The approval process utilized by the Secretary shall be as prompt and as unburdensome to the concessioner as possible and shall rely on market forces to establish reasonableness of rates and charges to the maximum extent practicable. The Secretary shall approve rates and charges that the Secretary determines to be reasonable and appropriate. Unless otherwise provided in the contract, the reasonableness and appropriateness of rates and charges shall be determined primarily by comparison with those rates and charges for facilities, goods, and services of comparable character under similar conditions, with due consideration to the following factors and other factors deemed relevant by the Secretary: length of season, peakloads, average percentage of occupancy, accessibility, availability and costs of labor and materials, and type of patronage. Such rates and charges may not exceed the market rates and charges for comparable facilities, goods, and services, after taking into account the factors referred to in the preceding sentence.

(c) **IMPLEMENTATION OF RECOMMENDATIONS.**—Not later than 6 months after receiving recommendations from the Advisory Board established under section 409(a) regarding concessioner rates and charges to the public, the Secretary shall implement the recommendations or report to the Congress the reasons for not implementing the recommendations.

Deadline.

**SEC. 407. FRANCHISE FEES.**

16 USC 5956.

(a) **IN GENERAL.**—A concessions contract shall provide for payment to the government of a franchise fee or such other monetary consideration as determined by the Secretary, upon consideration of the probable value to the concessioner of the privileges granted by the particular contract involved. Such probable value shall be based upon a reasonable opportunity for net profit in relation to capital invested and the obligations of the contract. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park areas and of providing necessary and appropriate services for visitors at reasonable rates.

(b) **AMOUNT OF FRANCHISE FEE.**—The amount of the franchise fee or other monetary consideration paid to the United States for the term of the concessions contract shall be specified in the concessions contract and may only be modified to reflect extraordinary unanticipated changes from the conditions anticipated as of the effective date of the contract. The Secretary shall include in concessions contracts with a term of more than 5 years a provision which allows reconsideration of the franchise fee at the request of the Secretary or the concessioner in the event of such extraordinary unanticipated changes. Such provision shall provide for binding arbitration in the event that the Secretary and the concessioner are unable to agree upon an adjustment to the franchise fee in these circumstances.

(c) **SPECIAL ACCOUNT.**—All franchise fees (and other monetary consideration) paid to the United States pursuant to concessions contracts shall be deposited into a special account established in the Treasury of the United States. Twenty percent of the funds deposited in the special account shall be available for expenditure by the Secretary, without further appropriation, to support activities throughout the National Park System regardless of the unit of

the National Park System in which the funds were collected. The funds deposited into the special account shall remain available until expended.

(d) **SUBACCOUNT FOR EACH UNIT.**—There shall be established within the special account required under subsection (c) a subaccount for each unit of the National Park System. Each subaccount shall be credited with 80 percent of the franchise fees (and other monetary consideration) collected at a single unit of the National Park System under concessions contracts. The funds credited to the subaccount for a unit of the National Park System shall be available for expenditure by the Secretary, without further appropriation, for use at the unit for visitor services and for purposes of funding high-priority and urgently necessary resource management programs and operations. The funds credited to a subaccount shall remain available until expended.

16 USC 5957.

**SEC. 408. TRANSFER OF CONCESSIONS CONTRACTS.**

(a) **APPROVAL OF THE SECRETARY.**—No concessions contract or leasehold surrender interest may be transferred, assigned, sold, or otherwise conveyed or pledged by a concessioner without prior written notification to, and approval by, the Secretary.

(b) **CONDITIONS.**—The Secretary shall approve a transfer or conveyance described in subsection (a) unless the Secretary finds that—

(1) the individual, corporation or entity seeking to acquire a concessions contract is not qualified or able to satisfy the terms and conditions of the concessions contract;

(2) such transfer or conveyance would have an adverse impact on (A) the protection, conservation, or preservation of the resources of the unit of the National Park System or (B) the provision of necessary and appropriate facilities and services to visitors at reasonable rates and charges; and

(3) the terms of such transfer or conveyance are likely, directly or indirectly, to reduce the concessioner's opportunity for a reasonable profit over the remaining term of the contract, adversely affect the quality of facilities and services provided by the concessioner, or result in a need for increased rates and charges to the public to maintain the quality of such facilities and services.

(c) **TRANSFER TERMS.**—The terms and conditions of any contract under this section shall not be subject to modification or open to renegotiation by the Secretary because of a transfer or conveyance described in subsection (a), unless such transfer or conveyance would have an adverse impact as described in paragraph (2) of subsection (b).

16 USC 5958.

**SEC. 409. NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT ADVISORY BOARD.**

(a) **ESTABLISHMENT.**—There is hereby established a National Park Service Concessions Management Advisory Board (in this title referred to as the "Advisory Board") whose purpose shall be to advise the Secretary and National Park Service on matters relating to management of concessions in the National Park System.

(b) **DUTIES.**—

(1) **ADVICE.**—The Advisory Board shall advise on each of the following:

(A) Policies and procedures intended to assure that services and facilities provided by concessioners are necessary and appropriate, meet acceptable standards at reasonable rates with a minimum of impact on park resources and values, and provide the concessioners with a reasonable opportunity to make a profit.

(B) Ways to make National Park Service concessions programs and procedures more cost effective, more process efficient, less burdensome, and timelier.

(2) RECOMMENDATIONS.—The Advisory Board shall make recommendations to the Secretary regarding each of the following:

(A) National Park Service contracting with the private sector to conduct appropriate elements of concessions management and providing recommendations to make more efficient, less burdensome, and timelier the review or approval of concessioner rates and charges to the public.

(B) The nature and scope of products which qualify as Indian, Alaska Native, and Native Hawaiian handicrafts within this meaning of this title.

(C) The allocation of concession fees.

The initial recommendations under subparagraph (A) relating to rates and charges shall be submitted to the Secretary not later than one year after the first meeting of the Board.

(3) ANNUAL REPORT.—The Advisory Board, commencing with the first anniversary of its initial meeting, shall provide an annual report on its activities to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(c) ADVISORY BOARD MEMBERSHIP.—Members of the Advisory Board shall be appointed on a staggered basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Advisory Board shall be comprised of not more than seven individuals appointed from among citizens of the United States not in the employment of the Federal Government and not in the employment of or having an interest in a National Park Service concession. Of the seven members of the Advisory Board—

(1) one member shall be privately employed in the hospitality industry and have both broad knowledge of hotel or food service management and experience in the parks and recreation concessions business;

(2) one member shall be privately employed in the tourism industry;

(3) one member shall be privately employed in the accounting industry;

(4) one member shall be privately employed in the outfitting and guide industry;

(5) one member shall be a State government employee with expertise in park concession management;

(6) one member shall be active in promotion of traditional arts and crafts; and

(7) one member shall be active in a nonprofit conservation organization involved in parks and recreation programs.

(d) **TERMINATION.**—The Advisory Board shall continue to exist until December 31, 2008. In all other respects, it shall be subject to the provisions of the Federal Advisory Committee Act.

(e) **SERVICE ON ADVISORY BOARD.**—Service of an individual as a member of the Advisory Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Advisory Board shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or other comparable provisions of Federal law.

16 USC 5959.

**SEC. 410. CONTRACTING FOR SERVICES.**

(a) **CONTRACTING AUTHORIZED.**—(1) To the maximum extent practicable, the Secretary shall contract with private entities to conduct or assist in those elements of the management of the National Park Service concessions program considered by the Secretary to be suitable for non-Federal performance. Such management elements include each of the following:

- (A) Health and safety inspections.
- (B) Quality control of concessions operations and facilities.
- (C) Strategic capital planning for concessions facilities.
- (D) Analysis of rates and charges to the public.

(2) The Secretary may also contract with private entities to assist the Secretary with each of the following:

- (A) Preparation of the financial aspects of prospectuses for National Park Service concessions contracts.
- (B) Development of guidelines for a national park system capital improvement and maintenance program for all concession occupied facilities.
- (C) Making recommendations to the Director of the National Park Service regarding the conduct of annual audits of concession fee expenditures.

(b) **OTHER MANAGEMENT ELEMENTS.**—The Secretary shall also consider, taking into account the recommendations of the Advisory Board, contracting out other elements of the concessions management program, as appropriate.

(c) **CONDITION.**—Nothing in this section shall diminish the governmental responsibilities and authority of the Secretary to administer concessions contracts and activities pursuant to this title and the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 1 et seq.). The Secretary reserves the right to make the final decision or contract approval on contracting services dealing with the management of the National Park Service concessions program under this section.

16 USC 5960.

**SEC. 411. MULTIPLE CONTRACTS WITHIN A PARK.**

If multiple concessions contracts are awarded to authorize concessioners to provide the same or similar outfitting, guiding, river running, or other similar services at the same approximate location or resource within a specific national park, the Secretary shall establish a comparable franchise fee structure for all such same or similar contracts, except that the terms and conditions

of any existing concessions contract shall not be subject to modification or open to renegotiation by the Secretary because of an award of a new contract at the same approximate location or resource.

**SEC. 412. SPECIAL RULE FOR TRANSPORTATION CONTRACTING SERVICES.** 16 USC 5961.

Notwithstanding any other provision of law, a service contract entered into by the Secretary for the provision solely of transportation services in a unit of the National Park System shall be no more than 10 years in length, including a base period of 5 years and annual extensions for an additional 5-year period based on satisfactory performance and approval by the Secretary.

**SEC. 413. USE OF NONMONETARY CONSIDERATION IN CONCESSIONS CONTRACTS.** 16 USC 5962.

Section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), relating to the leasing of buildings and properties of the United States, shall not apply to contracts awarded by the Secretary pursuant to this title.

**SEC. 414. RECORDKEEPING REQUIREMENTS.** 16 USC 5963.

(a) **IN GENERAL.**—Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concessions contract have been and are being faithfully performed, and the Secretary and any duly authorized representative of the Secretary shall, for the purpose of audit and examination, have access to such records and to other books, documents, and papers of the concessioner pertinent to the contract and all terms and conditions thereof.

(b) **ACCESS TO RECORDS.**—The Comptroller General or any duly authorized representative of the Comptroller General shall, until the expiration of 5 calendar years after the close of the business year of each concessioner or subconcessioner, have access to and the right to examine any pertinent books, papers, documents and records of the concessioner or subconcessioner related to the contract or contracts involved.

**SEC. 415. REPEAL OF NATIONAL PARK SERVICE CONCESSIONS POLICY ACT.**

(a) **REPEAL.**—Public Law 89-249 (commonly known as the National Park Service Concessions Policy Act; 16 U.S.C. 20 et seq.) is repealed. The repeal of such Act shall not affect the validity of any concessions contract or permit entered into under such Act, but the provisions of this title shall apply to any such contract or permit except to the extent such provisions are inconsistent with the terms and conditions of any such contract or permit. References in this title to concessions contracts awarded under authority of such Act also apply to concessions permits awarded under such authority. 16 USC 20 note.

(b) **CONFORMING AMENDMENTS.**—(1) The fourth sentence of section 3 of the Act of August 25, 1916 (commonly known as the National Park Service Organic Act; 16 U.S.C. 3), is amended—

(A) by striking all through “no natural” and inserting “No natural,”; and

(B) by striking the last proviso in its entirety.

(2) Section 12 of Public Law 91-383 (commonly known as the National Park System General Authorities Act; 16 U.S.C. 1a-7) is amended by striking subsection (c).

- (3) The second paragraph under the heading “NATIONAL PARK SERVICE” in the Act of July 31, 1953 (67 Stat. 261, 271), is repealed.
- 16 USC 17b-1. (c) ANILCA.—Nothing in this title amends, supersedes, or  
16 USC 5951 otherwise affects any provision of the Alaska National Interest  
note. Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.
- 16 USC 5964. **SEC. 416. PROMOTION OF THE SALE OF INDIAN, ALASKA NATIVE, NATIVE SAMOAN, AND NATIVE HAWAIIAN HANDICRAFTS.**
- (a) IN GENERAL.—Promoting the sale of authentic United States Indian, Alaskan Native, Native Samoan, and Native Hawaiian handicrafts relating to the cultural, historical, and geographic characteristics of units of the National Park System is encouraged, and the Secretary shall ensure that there is a continuing effort to enhance the handicraft trade where it exists and establish the trade in appropriate areas where such trade currently does not exist.
- (b) EXEMPTION FROM FRANCHISE FEE.—In furtherance of these purposes, the revenue derived from the sale of United States Indian, Alaska Native, Native Samoan, and Native Hawaiian handicrafts shall be exempt from any franchise fee payments under this title.
- 16 USC 5965. **SEC. 417. REGULATIONS.**
- As soon as practicable after the effective date of this title, the Secretary shall promulgate regulations appropriate for its implementation. Among other matters, such regulations shall include appropriate provisions to ensure that concession services and facilities to be provided in a unit of the National Park System are not segmented or otherwise split into separate concessions contracts for the purposes of seeking to reduce anticipated annual gross receipts of a concessions contract below \$500,000. The Secretary shall also promulgate regulations which further define the term “United States Indian, Alaskan Native, and Native Hawaiian handicrafts” for the purposes of this title.
- 16 USC 5966. **SEC. 418. COMMERCIAL USE AUTHORIZATIONS.**
- (a) IN GENERAL.—To the extent specified in this section, the Secretary, upon request, may authorize a private person, corporation, or other entity to provide services to visitors to units of the National Park System through a commercial use authorization. Such authorizations shall not be considered as concessions contracts pursuant to this title nor shall other sections of this title be applicable to such authorizations except where expressly so stated.
- (b) CRITERIA FOR ISSUANCE OF AUTHORIZATIONS.—
- (1) REQUIRED DETERMINATIONS.—The authority of this section may be used only to authorize provision of services that the Secretary determines will have minimal impact on resources and values of the unit of the National Park System and are consistent with the purpose for which the unit was established and with all applicable management plans and park policies and regulations.
- (2) ELEMENTS OF AUTHORIZATION.—The Secretary shall—
- (A) require payment of a reasonable fee for issuance of an authorization under this section, such fees to remain available without further appropriation to be used, at a minimum, to recover associated management and administrative costs;

(B) require that the provision of services under such an authorization be accomplished in a manner consistent to the highest practicable degree with the preservation and conservation of park resources and values;

(C) take appropriate steps to limit the liability of the United States arising from the provision of services under such an authorization; and

(D) have no authority under this section to issue more authorizations than are consistent with the preservation and proper management of park resources and values, and shall establish such other conditions for issuance of such an authorization as the Secretary determines appropriate for the protection of visitors, provision of adequate and appropriate visitor services, and protection and proper management of the resources and values of the park.

(c) **LIMITATIONS.**—Any authorization issued under this section shall be limited to—

(1) commercial operations with annual gross receipts of not more than \$25,000 resulting from services originating and provided solely within a unit of the National Park System pursuant to such authorization;

(2) the incidental use of resources of the unit by commercial operations which provide services originating and terminating outside of the boundaries of the unit; or

(3) such uses by organized children's camps, outdoor clubs and nonprofit institutions (including back country use) and such other uses as the Secretary determines appropriate.

Nonprofit institutions are not required to obtain commercial use authorizations unless taxable income is derived by the institution from the authorized use.

(d) **PROHIBITION ON CONSTRUCTION.**—An authorization issued under this section shall not provide for the construction of any structure, fixture, or improvement on federally-owned lands within the boundaries of a unit of the National Park System.

(e) **DURATION.**—The term of any authorization issued under this section shall not exceed 2 years. No preferential right of renewal or similar provisions for renewal shall be granted by the Secretary.

(f) **OTHER CONTRACTS.**—A person, corporation, or other entity seeking or obtaining an authorization pursuant to this section shall not be precluded from also submitting proposals for concessions contracts.

#### **SEC. 419. SAVINGS PROVISION.**

(a) **TREATMENT OF GLACIER BAY CONCESSION PERMITS PROSPECTUS.**—Nothing contained in this title shall authorize or require the Secretary to withdraw, revise, amend, modify, or reissue the February 19, 1998, Prospectus Under Which Concession Permits Will be Open for Competition for the Operation of Cruise Ship Services Within Glacier Bay National Park and Preserve (in this section referred to as the “1998 Glacier Bay Prospectus”). The award of concession permits pursuant to the 1998 Glacier Bay Prospectus shall be under provisions of existing law at the time the 1998 Glacier Bay Prospectus was issued.

(b) **PREFERENTIAL RIGHT OF RENEWAL.**—Notwithstanding any provision of this title, the Secretary, in awarding future Glacier Bay cruise ship concession permits covering cruise ship entries for which a preferential right of renewal existed prior to the effective

16 USC 5951  
note.

Expiration date. date of this title, shall provide for such cruise ship entries a preferential right of renewal, as described in subparagraphs (C) and (D) of section 403(7). Any Glacier Bay concession permit awarded under the authority contained in this subsection shall expire by December 31, 2009.

## **TITLE V—FEES FOR USE OF NATIONAL PARK SYSTEM**

16 USC 5981.

### **SEC. 501. FEES.**

Notwithstanding any other provision of law, where the National Park Service or an entity under a service contract with the National Park Service provides transportation to all or a portion of any unit of the National Park System, the Secretary may impose a reasonable and appropriate charge to the public for the use of such transportation services in addition to any admission fee required to be paid. Collection of both the transportation and admission fees may occur at the transportation staging area or any other reasonably convenient location determined by the Secretary. The Secretary may enter into agreements with public or private entities, who qualify to the Secretary's satisfaction, to collect the transportation and admission fee. Such transportation fees collected as per this section shall be retained by the unit of the National Park System at which the transportation fee was collected and the amount retained shall be expended only for costs associated with the transportation systems at the unit where the charge was imposed.

Contracts  
16 USC 5982.

### **SEC. 502. DISTRIBUTION OF GOLDEN EAGLE PASSPORT SALES.**

Not later than 6 months after the date of enactment of this title, the Secretary of the Interior and the Secretary of Agriculture shall enter into an agreement providing for an apportionment among each agency of all proceeds derived from the sale of Golden Eagle Passports by private vendors. Such proceeds shall be apportioned to each agency on the basis of the ratio of each agency's total revenue from admission fees collected during the previous fiscal year to the sum of all revenue from admission fees collected during the previous fiscal year for all agencies participating in the Golden Eagle Passport Program.

## **TITLE VI—NATIONAL PARK PASSPORT PROGRAM**

16 USC 5991.

### **SEC. 601. PURPOSES.**

The purposes of this title are—

- (1) to develop a national park passport that includes a collectible stamp to be used for admission to units of the National Park System; and
- (2) to generate revenue for support of the National Park System.



**SEC. 602. NATIONAL PARK PASSPORT PROGRAM.**

16 USC 5992.

(a) **PROGRAM.**—The Secretary shall establish a national park passport program. A national park passport shall include a collectible stamp providing the holder admission to all units of the National Park System.

(b) **EFFECTIVE PERIOD.**—A national park passport stamp shall be effective for a period of 12 months from the date of purchase.

(c) **TRANSFERABILITY.**—A national park passport and stamp shall not be transferable.

**SEC. 603. ADMINISTRATION.**

16 USC 5993.

(a) **STAMP DESIGN COMPETITION.**—(1) The Secretary shall hold an annual competition for the design of the collectible stamp to be affixed to the national park passport.

(2) Each competition shall be open to the public and shall be a means to educate the American people about the National Park System.

(b) **SALE OF PASSPORTS AND STAMPS.**—(1) National park passports and stamps shall be sold through the National Park Service and may be sold by private vendors on consignment in accordance with guidelines established by the Secretary.

(2) A private vendor may be allowed to collect a commission on each national park passport (including stamp) sold, as determined by the Secretary.

(3) The Secretary may limit the number of private vendors of national park passports (including stamps).

(c) **USE OF PROCEEDS.**—

(1) The Secretary may use not more than 10 percent of the revenues derived from the sale of national park passports (including stamps) to administer and promote the national park passport program and the National Park System.

(2) Net proceeds from the sale of national park passports shall be deposited in a special account in the Treasury of the United States and shall remain available until expended, without further appropriation, for high priority visitor service or resource management projects throughout the National Park System.

(d) **AGREEMENTS.**—The Secretary may enter into cooperative agreements with the National Park Foundation and other interested parties to provide for the development and implementation of the national park passport program and the Secretary shall take such actions as are appropriate to actively market national park passports and stamps.

(e) **FEE.**—The fee for a national park passport and stamp shall be \$50.

**SEC. 604. FOREIGN SALES OF GOLDEN EAGLE PASSPORTS.**

16 USC 5994.

The Secretary of Interior shall—

(1) make Golden Eagle Passports issued under section 4(a)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(a)(1)(A)) or the Recreational Fee Demonstration Program authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (section 101(c) of Public Law 104–134; 16 U.S.C. 460l–6a note), available to foreign visitors to the United States; and

(2) make such Golden Eagle Passports available for purchase outside the United States, through commercial tourism channels and consulates or other offices of the United States.

16 USC 5995.

**SEC. 605. EFFECT ON OTHER LAWS AND PROGRAMS.**

(a) **PARK PASSPORT NOT REQUIRED.**—A national park passport shall not be required for—

(1) a single visit to a national park that charges a single visit admission fee under section 4(a)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)(2)) or the Recreational Fee Demonstration Program authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (section 101(c) of Public Law 104-134; 16 U.S.C. 4601-6a note); or

(2) an individual who has obtained a Golden Age or Golden Access Passport under paragraph (4) or (5) of section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)).

(b) **GOLDEN EAGLE PASSPORTS.**—A Golden Eagle Passport issued under section 4(a)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)(1)(A)) or such Recreational Fee Demonstration Program (16 U.S.C. 4601-6a note) shall be honored for admission to each unit of the National Park System.

(c) **ACCESS.**—A national park passport shall provide access to each unit of the National Park System under the same conditions, rules, and regulations as apply to access with a Golden Eagle Passport as of the date of enactment of this title.

(d) **LIMITATIONS.**—A national park passport may not be used to obtain access to other Federal recreation fee areas outside of the National Park System.

(e) **EXEMPTIONS AND FEES.**—A national park passport does not exempt the holder from or provide the holder any discount on any recreation use fee imposed under section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(b)) or such Recreational Fee Demonstration Program (16 U.S.C. 4601-6a note).

## **TITLE VII—NATIONAL PARK FOUNDATION SUPPORT**

**SEC. 701. PROMOTION OF LOCAL FUNDRAISING SUPPORT.**

Public Law 90-209 (commonly known as the National Park Foundation Act; 16 U.S.C. 19 et seq.) is amended by adding at the end the following new section:

16 USC 19o.

**“SEC. 11. PROMOTION OF LOCAL FUNDRAISING SUPPORT.**

“(a) **ESTABLISHMENT.**—The Foundation shall design and implement a comprehensive program to assist and promote philanthropic programs of support at the individual national park unit level.

“(b) **IMPLEMENTATION.**—The program under subsection (a) shall be implemented to—

“(1) assist in the creation of local nonprofit support organizations; and

“(2) provide support, national consistency, and management-improving suggestions for local nonprofit support organizations.

“(c) PROGRAM.—The program under subsection (a) shall include the greatest number of national park units as is practicable.

“(d) REQUIREMENTS.—The program under subsection (a) shall include, at a minimum—

“(1) a standard adaptable organizational design format to establish and sustain responsible management of a local nonprofit support organization for support of a national park unit;

“(2) standard and legally tenable bylaws and recommended money-handling procedures that can easily be adapted as applied to individual national park units; and

“(3) a standard training curriculum to orient and expand the operating expertise of personnel employed by local nonprofit support organizations.

“(e) ANNUAL REPORT.—The Foundation shall report the progress of the program under subsection (a) in the annual report of the Foundation.

“(f) AFFILIATIONS.—

“(1) CHARTER OR CORPORATE BYLAWS.—Nothing in this section requires—

“(A) a nonprofit support organization or friends group to modify current practices or to affiliate with the Foundation; or

“(B) a local nonprofit support organization, established as a result of this section, to be bound through its charter or corporate bylaws to be permanently affiliated with the Foundation.

“(2) ESTABLISHMENT.—An affiliation with the Foundation shall be established only at the discretion of the governing board of a nonprofit organization.”.

## TITLE VIII—MISCELLANEOUS PROVISIONS

### SEC. 801. UNITED STATES PARK POLICE.

16 USC 6011.

(a) APPOINTMENT OF TASK FORCE.—Not later than 60 days after the date of enactment of this title, the Secretary shall appoint a multidisciplinary task force to fully evaluate the shortfalls, needs, and requirements of law enforcement programs in the National Park Service, including a separate analysis for the United States Park Police, which shall include a review of facility repair, rehabilitation, equipment, and communication needs.

(b) SUBMISSION OF REPORT.—Not later than one year after the date of enactment of this title, the Secretary shall submit to the Committees on Energy and Natural Resources and Appropriations of the United States Senate and the Committees on Resources and Appropriations of the United States House of Representatives a report that includes—

Deadline.

(1) the findings and recommendations of the task force;

(2) complete justifications for any recommendations made;

and

(3) a complete description of any adverse impacts that would occur if any need identified in the report is not met.

**SEC. 802. LEASES AND COOPERATIVE MANAGEMENT AGREEMENTS.**

(a) **IN GENERAL.**—Section 3 of Public Law 91-383 (commonly known as the National Park System General Authorities Act; 16 U.S.C. 1a-2) is amended by adding at the end the following:

“(k) **LEASES.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2) and subject to paragraph (3), the Secretary may enter into a lease with any person or governmental entity for the use of buildings and associated property administered by the Secretary as part of the National Park System.

“(2) **PROHIBITED ACTIVITIES.**—The Secretary may not use a lease under paragraph (1) to authorize the lessee to engage in activities that are subject to authorization by the Secretary through a concessions contract, commercial use authorization, or similar instrument.

“(3) **USE.**—Buildings and associated property leased under paragraph (1)—

“(A) shall be used for an activity that is consistent with the purposes established by law for the unit in which the building is located;

“(B) shall not result in degradation of the purposes and values of the unit; and

“(C) shall be compatible with National Park Service programs.

“(4) **RENTAL AMOUNTS.**—

“(A) **IN GENERAL.**—With respect to a lease under paragraph (1)—

“(i) payment of fair market value rental shall be required; and

“(ii) section 321 of the Act of June 30, 1932 (47 Stat. 412, chapter 314; 40 U.S.C. 303b) shall not apply.

“(B) **ADJUSTMENT.**—The Secretary may adjust the rental amount as appropriate to take into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, or repair and related expenses.

“(C) **REGULATION.**—The Secretary shall promulgate regulations implementing this subsection that includes provisions to encourage and facilitate competition in the leasing process and provide for timely and adequate public comment.

“(5) **SPECIAL ACCOUNT.**—

“(A) **DEPOSITS.**—Rental payments under a lease under paragraph (1) shall be deposited in a special account in the Treasury of the United States.

“(B) **AVAILABILITY.**—Amounts in the special account shall be available until expended, without further appropriation, for infrastructure needs at units of the National Park System, including—

“(i) facility refurbishment;

“(ii) repair and replacement;

“(iii) infrastructure projects associated with park resource protection; and

“(iv) direct maintenance of the leased buildings and associated properties.

“(C) **ACCOUNTABILITY AND RESULTS.**—The Secretary shall develop procedures for the use of the special account

that ensure accountability and demonstrated results consistent with this Act.

“(1) COOPERATIVE MANAGEMENT AGREEMENTS.—

“(1) IN GENERAL.—Where a unit of the National Park System is located adjacent to or near a State or local park area, and cooperative management between the National Park Service and a State or local government agency of a portion of either park will allow for more effective and efficient management of the parks, the Secretary may enter into an agreement with a State or local government agency to provide for the cooperative management of the Federal and State or local park areas. The Secretary may not transfer administration responsibilities for any unit of the National Park System under this paragraph.

“(2) PROVISION OF GOODS AND SERVICES.—Under a cooperative management agreement, the Secretary may acquire from and provide to a State or local government agency goods and services to be used by the Secretary and the State or local governmental agency in the cooperative management of land.

“(3) ASSIGNMENT.—An assignment arranged by the Secretary under section 3372 of title 5, United States Code, of a Federal, State, or local employee for work in any Federal, State, or local land or an extension of such an assignment may be for any period of time determined by the Secretary and the State or local agency to be mutually beneficial.”.

(b) HISTORIC LEASE PROCESS SIMPLIFICATION.—The Secretary is directed to simplify, to the maximum extent possible, the leasing process for historic properties with the goal of leasing available structures in a timely manner.

16 USC 470h-3  
note.

Approved November 13, 1998.

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LEGISLATIVE HISTORY—S. 1693:

HOUSE REPORTS: No. 105-767 (Comm. on Resources).

SENATE REPORTS: No. 105-202 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

June 11, considered and passed Senate.

Oct. 13, considered and passed House, amended.

Oct. 14, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Nov. 13, Presidential statement.



Public Law 105–392  
105th Congress

An Act

Nov. 13, 1998  
[S. 1754]

To amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health education programs, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Health  
Professions  
Education  
Partnership Act  
of 1998.  
42 USC 201 note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Health Professions Education Partnerships Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—HEALTH PROFESSIONS EDUCATION AND FINANCIAL ASSISTANCE PROGRAMS**

**Subtitle A—Health Professions Education Programs**

- Sec. 101. Under-represented minority health professions grant program.
- Sec. 102. Training in primary care medicine and dentistry.
- Sec. 103. Interdisciplinary, community-based linkages.
- Sec. 104. Health professions workforce information and analysis.
- Sec. 105. Public health workforce development.
- Sec. 106. General provisions.
- Sec. 107. Preference in certain programs.
- Sec. 108. Definitions.
- Sec. 109. Technical amendment on National Health Service Corps.
- Sec. 110. Savings provision.

**Subtitle B—Nursing Workforce Development**

- Sec. 121. Short title.
- Sec. 122. Purpose.
- Sec. 123. Amendments to Public Health Service Act.
- Sec. 124. Savings provision.

**Subtitle C—Financial Assistance**

**CHAPTER 1—SCHOOL-BASED REVOLVING LOAN FUNDS**

- Sec. 131. Primary care loan program.
- Sec. 132. Loans for disadvantaged students.
- Sec. 133. Student loans regarding schools of nursing.
- Sec. 134. General provisions.

**CHAPTER 2—INSURED HEALTH EDUCATION ASSISTANCE LOANS TO GRADUATE STUDENTS**

- Sec. 141. Health Education Assistance Loan Program.
- Sec. 142. HEAL lender and holder performance standards.
- Sec. 143. Insurance Program.
- Sec. 144. HEAL bankruptcy.
- Sec. 145. HEAL refinancing.

**TITLE II—OFFICE OF MINORITY HEALTH**

- Sec. 201. Revision and extension of programs of Office of Minority Health.

## TITLE III—SELECTED INITIATIVES

- Sec. 301. State offices of rural health.  
Sec. 302. Demonstration projects regarding Alzheimer's Disease.  
Sec. 303. Project grants for immunization services.

## TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Technical corrections regarding Public Law 103–183.  
Sec. 402. Miscellaneous amendments regarding PHS commissioned officers.  
Sec. 403. Clinical traineeships.  
Sec. 404. Project grants for screenings, referrals, and education regarding lead poisoning.  
Sec. 405. Project grants for preventive health services regarding tuberculosis.  
Sec. 406. CDC loan repayment program.  
Sec. 407. Community programs on domestic violence.  
Sec. 408. State loan repayment program.  
Sec. 409. Authority of the director of NIH.  
Sec. 410. Raise in maximum level of loan repayments.  
Sec. 411. Construction of regional centers for research on primates.  
Sec. 412. Peer review.  
Sec. 413. Funding for trauma care.  
Sec. 414. Health information and health promotion.  
Sec. 415. Emergency medical services for children.  
Sec. 416. Administration of certain requirements.  
Sec. 417. Aids drug assistance program.  
Sec. 418. National Foundation for Biomedical Research.  
Sec. 419. Fetal Alcohol Syndrome prevention and services.

## **TITLE I—HEALTH PROFESSIONS EDUCATION AND FINANCIAL ASSISTANCE PROGRAMS**

### **Subtitle A—Health Professions Education Programs**

#### **SEC. 101. UNDER-REPRESENTED MINORITY HEALTH PROFESSIONS GRANT PROGRAM.**

(a) IN GENERAL.—Part B of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.) is amended to read as follows:

#### **“PART B—HEALTH PROFESSIONS TRAINING FOR DIVERSITY**

##### **“SEC. 736. CENTERS OF EXCELLENCE.**

42 USC 293.

“(a) IN GENERAL.—The Secretary shall make grants to, and enter into contracts with, designated health professions schools described in subsection (c), and other public and nonprofit health or educational entities, for the purpose of assisting the schools in supporting programs of excellence in health professions education for under-represented minority individuals.

“(b) REQUIRED USE OF FUNDS.—The Secretary may not make a grant under subsection (a) unless the designated health professions school involved agrees, subject to subsection (c)(1)(C), to expend the grant—

“(1) to develop a large competitive applicant pool through linkages with institutions of higher education, local school districts, and other community-based entities and establish an education pipeline for health professions careers;

“(2) to establish, strengthen, or expand programs to enhance the academic performance of under-represented minority students attending the school;

“(3) to improve the capacity of such school to train, recruit, and retain under-represented minority faculty including the payment of such stipends and fellowships as the Secretary may determine appropriate;

“(4) to carry out activities to improve the information resources, clinical education, curricula and cultural competence of the graduates of the school, as it relates to minority health issues;

“(5) to facilitate faculty and student research on health issues particularly affecting under-represented minority groups, including research on issues relating to the delivery of health care;

“(6) to carry out a program to train students of the school in providing health services to a significant number of under-represented minority individuals through training provided to such students at community-based health facilities that—

“(A) provide such health services; and

“(B) are located at a site remote from the main site of the teaching facilities of the school; and

“(7) to provide stipends as the Secretary determines appropriate, in amounts as the Secretary determines appropriate.

“(c) CENTERS OF EXCELLENCE.—

“(1) DESIGNATED SCHOOLS.—

“(A) IN GENERAL.—The designated health professions schools referred to in subsection (a) are such schools that meet each of the conditions specified in subparagraphs (B) and (C), and that—

“(i) meet each of the conditions specified in paragraph (2)(A);

“(ii) meet each of the conditions specified in paragraph (3);

“(iii) meet each of the conditions specified in paragraph (4); or

“(iv) meet each of the conditions specified in paragraph (5).

“(B) GENERAL CONDITIONS.—The conditions specified in this subparagraph are that a designated health professions school—

“(i) has a significant number of under-represented minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

“(ii) has been effective in assisting under-represented minority students of the school to complete the program of education and receive the degree involved;

“(iii) has been effective in recruiting under-represented minority individuals to enroll in and graduate from the school, including providing scholarships and other financial assistance to such individuals and encouraging under-represented minority students from all levels of the educational pipeline to pursue health professions careers; and

“(iv) has made significant recruitment efforts to increase the number of under-represented minority individuals serving in faculty or administrative positions at the school.



“(C) CONSORTIUM.—The condition specified in this subparagraph is that, in accordance with subsection (e)(1), the designated health profession school involved has with other health profession schools (designated or otherwise) formed a consortium to carry out the purposes described in subsection (b) at the schools of the consortium.

“(D) APPLICATION OF CRITERIA TO OTHER PROGRAMS.—In the case of any criteria established by the Secretary for purposes of determining whether schools meet the conditions described in subparagraph (B), this section may not, with respect to racial and ethnic minorities, be construed to authorize, require, or prohibit the use of such criteria in any program other than the program established in this section.

“(2) CENTERS OF EXCELLENCE AT CERTAIN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—

“(A) CONDITIONS.—The conditions specified in this subparagraph are that a designated health professions school—

“(i) is a school described in section 799B(1); and

“(ii) received a contract under section 788B for fiscal year 1987, as such section was in effect for such fiscal year.

“(B) USE OF GRANT.—In addition to the purposes described in subsection (b), a grant under subsection (a) to a designated health professions school meeting the conditions described in subparagraph (A) may be expended—

“(i) to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for under-represented minority individuals; and

“(ii) to provide improved access to the library and informational resources of the school.

“(C) EXCEPTION.—The requirements of paragraph (1)(C) shall not apply to a historically black college or university that receives funding under paragraphs (2) or (5).

“(3) HISPANIC CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are that—

“(A) with respect to Hispanic individuals, each of clauses (i) through (iv) of paragraph (1)(B) applies to the designated health professions school involved;

“(B) the school agrees, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Hispanic individuals; and

“(C) the school agrees, as a condition of receiving a grant under subsection (a), that—

“(i) the school will establish an arrangement with 1 or more public or nonprofit community based Hispanic serving organizations, or public or nonprofit private institutions of higher education, including schools

of nursing, whose enrollment of students has traditionally included a significant number of Hispanic individuals, the purposes of which will be to carry out a program—

“(I) to identify Hispanic students who are interested in a career in the health profession involved; and

“(II) to facilitate the educational preparation of such students to enter the health professions school; and

“(ii) the school will make efforts to recruit Hispanic students, including students who have participated in the undergraduate or other matriculation program carried out under arrangements established by the school pursuant to clause (i)(II) and will assist Hispanic students regarding the completion of the educational requirements for a degree from the school.

“(4) NATIVE AMERICAN CENTERS OF EXCELLENCE.—Subject to subsection (e), the conditions specified in this paragraph are that—

“(A) with respect to Native Americans, each of clauses (i) through (iv) of paragraph (1)(B) applies to the designated health professions school involved;

“(B) the school agrees, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Native Americans; and

“(C) the school agrees, as a condition of receiving a grant under subsection (a), that—

“(i) the school will establish an arrangement with 1 or more public or nonprofit private institutions of higher education, including schools of nursing, whose enrollment of students has traditionally included a significant number of Native Americans, the purpose of which arrangement will be to carry out a program—

“(I) to identify Native American students, from the institutions of higher education referred to in clause (i), who are interested in health professions careers; and

“(II) to facilitate the educational preparation of such students to enter the designated health professions school; and

“(ii) the designated health professions school will make efforts to recruit Native American students, including students who have participated in the undergraduate program carried out under arrangements established by the school pursuant to clause (i) and will assist Native American students regarding the completion of the educational requirements for a degree from the designated health professions school.

“(5) OTHER CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are—

“(A) with respect to other centers of excellence, the conditions described in clauses (i) through (iv) of paragraph (1)(B); and

“(B) that the health professions school involved has an enrollment of under-represented minorities above the national average for such enrollments of health professions schools.

“(d) DESIGNATION AS CENTER OF EXCELLENCE.—

“(1) IN GENERAL.—Any designated health professions school receiving a grant under subsection (a) and meeting the conditions described in paragraph (2) or (5) of subsection (c) shall, for purposes of this section, be designated by the Secretary as a Center of Excellence in Under-Represented Minority Health Professions Education.

“(2) HISPANIC CENTERS OF EXCELLENCE.—Any designated health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(3) shall, for purposes of this section, be designated by the Secretary as a Hispanic Center of Excellence in Health Professions Education.

“(3) NATIVE AMERICAN CENTERS OF EXCELLENCE.—Any designated health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(4) shall, for purposes of this section, be designated by the Secretary as a Native American Center of Excellence in Health Professions Education. Any consortium receiving such a grant pursuant to subsection (e) shall, for purposes of this section, be so designated.

“(e) AUTHORITY REGARDING NATIVE AMERICAN CENTERS OF EXCELLENCE.—With respect to meeting the conditions specified in subsection (c)(4), the Secretary may make a grant under subsection (a) to a designated health professions school that does not meet such conditions if—

“(1) the school has formed a consortium in accordance with subsection (d)(1); and

“(2) the schools of the consortium collectively meet such conditions, without regard to whether the schools individually meet such conditions.

“(f) DURATION OF GRANT.—The period during which payments are made under a grant under subsection (a) may not exceed 5 years. Such payments shall be subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved to make the payments.

“(g) DEFINITIONS.—In this section:

“(1) DESIGNATED HEALTH PROFESSIONS SCHOOL.—

“(A) IN GENERAL.—The term ‘health professions school’ means, except as provided in subparagraph (B), a school of medicine, a school of osteopathic medicine, a school of dentistry, a school of pharmacy, or a graduate program in behavioral or mental health.

“(B) EXCEPTION.—The definition established in subparagraph (A) shall not apply to the use of the term ‘designated health professions school’ for purposes of subsection (c)(2).

“(2) PROGRAM OF EXCELLENCE.—The term ‘program of excellence’ means any program carried out by a designated health professions school with a grant made under subsection (a), if the program is for purposes for which the school involved is authorized in subsection (b) or (c) to expend the grant.

“(3) NATIVE AMERICANS.—The term ‘Native Americans’ means American Indians, Alaskan Natives, Aleuts, and Native Hawaiians.

“(h) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated \$26,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

“(2) ALLOCATIONS.—Based on the amount appropriated under paragraph (1) for a fiscal year, one of the following subparagraphs shall apply:

“(A) IN GENERAL.—If the amounts appropriated under paragraph (1) for a fiscal year are \$24,000,000 or less—

“(i) the Secretary shall make available \$12,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(2)(A); and

“(ii) and available after grants are made with funds under clause (i), the Secretary shall make available—

“(I) 60 percent of such amount for grants under subsection (a) to health professions schools that meet the conditions described in paragraph (3) or (4) of subsection (c) (including meeting the conditions under subsection (e)); and

“(II) 40 percent of such amount for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(5).

“(B) FUNDING IN EXCESS OF \$24,000,000.—If amounts appropriated under paragraph (1) for a fiscal year exceed \$24,000,000 but are less than \$30,000,000—

“(i) 80 percent of such excess amounts shall be made available for grants under subsection (a) to health professions schools that meet the requirements described in paragraph (3) or (4) of subsection (c) (including meeting conditions pursuant to subsection (e)); and

“(ii) 20 percent of such excess amount shall be made available for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(5).

“(C) FUNDING IN EXCESS OF \$30,000,000.—If amounts appropriated under paragraph (1) for a fiscal year are \$30,000,000 or more, the Secretary shall make available—

“(i) not less than \$12,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(2)(A);

“(ii) not less than \$12,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in paragraph (3) or (4) of subsection (c) (including meeting conditions pursuant to subsection (e));

“(iii) not less than \$6,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(5); and

“(iv) after grants are made with funds under clauses (i) through (iii), any remaining funds for grants under subsection (a) to health professions schools that meet the conditions described in paragraph (2)(A), (3), (4), or (5) of subsection (c).

“(3) NO LIMITATION.—Nothing in this subsection shall be construed as limiting the centers of excellence referred to in this section to the designated amount, or to preclude such entities from competing for other grants under this section.

“(4) MAINTENANCE OF EFFORT.—

“(A) IN GENERAL.—With respect to activities for which a grant made under this part are authorized to be expended, the Secretary may not make such a grant to a center of excellence for any fiscal year unless the center agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the center for the fiscal year preceding the fiscal year for which the school receives such a grant.

“(B) USE OF FEDERAL FUNDS.—With respect to any Federal amounts received by a center of excellence and available for carrying out activities for which a grant under this part is authorized to be expended, the Secretary may not make such a grant to the center for any fiscal year unless the center agrees that the center will, before expending the grant, expend the Federal amounts obtained from sources other than the grant.

**“SEC. 737. SCHOLARSHIPS FOR DISADVANTAGED STUDENTS.**

42 USC 293a.

“(a) IN GENERAL.—The Secretary may make a grant to an eligible entity (as defined in subsection (d)(1)) under this section for the awarding of scholarships by schools to any full-time student who is an eligible individual as defined in subsection (d). Such scholarships may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in the attendance of such school.

“(b) PREFERENCE IN PROVIDING SCHOLARSHIPS.—The Secretary may not make a grant to an entity under subsection (a) unless the health professions and nursing schools involved agree that, in providing scholarships pursuant to the grant, the schools will give preference to students for whom the costs of attending the schools would constitute a severe financial hardship and, notwithstanding other provisions of this section, to former recipients of scholarships under sections 736 and 740(d)(2)(B) (as such sections existed on the day before the date of enactment of this section).

“(c) AMOUNT OF AWARD.—In awarding grants to eligible entities that are health professions and nursing schools, the Secretary shall give priority to eligible entities based on the proportion of graduating students going into primary care, the proportion of underrepresented minority students, and the proportion of graduates working in medically underserved communities.

“(d) DEFINITIONS.—In this section:

“(1) ELIGIBLE ENTITIES.—The term ‘eligible entities’ means an entity that—

“(A) is a school of medicine, osteopathic medicine, dentistry, nursing (as defined in section 801), pharmacy, podiatric medicine, optometry, veterinary medicine, public

health, chiropractic, or allied health, a school offering a graduate program in behavioral and mental health practice, or an entity providing programs for the training of physician assistants; and

“(B) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including students who are members of racial and ethnic minority groups.

“(2) ELIGIBLE INDIVIDUAL.—The term ‘eligible individual’ means an individual who—

“(A) is from a disadvantaged background;

“(B) has a financial need for a scholarship; and

“(C) is enrolled (or accepted for enrollment) at an eligible health professions or nursing school as a full-time student in a program leading to a degree in a health profession or nursing.

42 USC 293b.

**“SEC. 738. LOAN REPAYMENTS AND FELLOWSHIPS REGARDING FACULTY POSITIONS.**

“(a) LOAN REPAYMENTS.—

Contracts.

“(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program of entering into contracts with individuals described in paragraph (2) under which the individuals agree to serve as members of the faculties of schools described in paragraph (3) in consideration of the Federal Government agreeing to pay, for each year of such service, not more than \$20,000 of the principal and interest of the educational loans of such individuals.

“(2) ELIGIBLE INDIVIDUALS.—The individuals referred to in paragraph (1) are individuals from disadvantaged backgrounds who—

“(A) have a degree in medicine, osteopathic medicine, dentistry, nursing, or another health profession;

“(B) are enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, nursing, or other health profession; or

“(C) are enrolled as full-time students—

“(i) in an accredited (as determined by the Secretary) school described in paragraph (3); and

“(ii) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree from such a school.

“(3) ELIGIBLE HEALTH PROFESSIONS SCHOOLS.—The schools described in this paragraph are schools of medicine, nursing (as schools of nursing are defined in section 801), osteopathic medicine, dentistry, pharmacy, allied health, podiatric medicine, optometry, veterinary medicine, or public health, or schools offering graduate programs in behavioral and mental health.

“(4) REQUIREMENTS REGARDING FACULTY POSITIONS.—The Secretary may not enter into a contract under paragraph (1) unless—

“(A) the individual involved has entered into a contract with a school described in paragraph (3) to serve as a member of the faculty of the school for not less than 2 years; and

“(B) the contract referred to in subparagraph (A) provides that—

“(i) the school will, for each year for which the individual will serve as a member of the faculty under the contract with the school, make payments of the principal and interest due on the educational loans of the individual for such year in an amount equal to the amount of such payments made by the Secretary for the year;

“(ii) the payments made by the school pursuant to clause (i) on behalf of the individual will be in addition to the pay that the individual would otherwise receive for serving as a member of such faculty; and

“(iii) the school, in making a determination of the amount of compensation to be provided by the school to the individual for serving as a member of the faculty, will make the determination without regard to the amount of payments made (or to be made) to the individual by the Federal Government under paragraph (1).

“(5) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338C, 338G, and 338I shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, including the applicability of provisions regarding reimbursements for increased tax liability and regarding bankruptcy.

“(6) WAIVER REGARDING SCHOOL CONTRIBUTIONS.—The Secretary may waive the requirement established in paragraph (4)(B) if the Secretary determines that the requirement will impose an undue financial hardship on the school involved.

“(b) FELLOWSHIPS.—

“(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with eligible entities to assist such entities in increasing the number of underrepresented minority individuals who are members of the faculty of such schools.

“(2) APPLICATIONS.—To be eligible to receive a grant or contract under this subsection, an entity shall provide an assurance, in the application submitted by the entity, that—

“(A) amounts received under such a grant or contract will be used to award a fellowship to an individual only if the individual meets the requirements of paragraphs (3) and (4); and

“(B) each fellowship awarded pursuant to the grant or contract will include—

“(i) a stipend in an amount not exceeding 50 percent of the regular salary of a similar faculty member for not to exceed 3 years of training; and

“(ii) an allowance for other expenses, such as travel to professional meetings and costs related to specialized training.

“(3) ELIGIBILITY.—To be eligible to receive a grant or contract under paragraph (1), an applicant shall demonstrate to the Secretary that such applicant has or will have the ability to—

“(A) identify, recruit and select underrepresented minority individuals who have the potential for teaching, administration, or conducting research at a health professions institution;

“(B) provide such individuals with the skills necessary to enable them to secure a tenured faculty position at such institution, which may include training with respect to pedagogical skills, program administration, the design and conduct of research, grants writing, and the preparation of articles suitable for publication in peer reviewed journals;

“(C) provide services designed to assist such individuals in their preparation for an academic career, including the provision of counselors; and

“(D) provide health services to rural or medically underserved populations.

“(4) REQUIREMENTS.—To be eligible to receive a grant or contract under paragraph (1) an applicant shall—

“(A) provide an assurance that such applicant will make available (directly through cash donations) \$1 for every \$1 of Federal funds received under this section for the fellowship;

“(B) provide an assurance that institutional support will be provided for the individual for the second and third years at a level that is equal to the total amount of institutional funds provided in the year in which the grant or contract was awarded;

“(C) provide an assurance that the individual that will receive the fellowship will be a member of the faculty of the applicant school; and

“(D) provide an assurance that the individual that will receive the fellowship will have, at a minimum, appropriate advanced preparation (such as a master’s or doctoral degree) and special skills necessary to enable such individual to teach and practice.

“(5) DEFINITION.—For purposes of this subsection, the term ‘underrepresented minority individuals’ means individuals who are members of racial or ethnic minority groups that are underrepresented in the health professions including nursing.

42 USC 293c.

**“SEC. 739. EDUCATIONAL ASSISTANCE IN THE HEALTH PROFESSIONS REGARDING INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.**

“(a) IN GENERAL.—

“(1) AUTHORITY FOR GRANTS.—For the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, and podiatric medicine, public and nonprofit private schools that offer graduate programs in behavioral and mental health, programs for the training of physician assistants, and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).



“(2) AUTHORIZED EXPENDITURES.—A grant or contract under paragraph (1) may be used by the entity to meet the cost of—

“(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, as so determined, for education and training in a health profession;

“(B) facilitating the entry of such individuals into such a school;

“(C) providing counseling, mentoring, or other services designed to assist such individuals to complete successfully their education at such a school;

“(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education and health research training designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education;

“(E) publicizing existing sources of financial aid available to students in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program;

“(F) paying such scholarships as the Secretary may determine for such individuals for any period of health professions education at a health professions school;

“(G) paying such stipends as the Secretary may approve for such individuals for any period of education in student-enhancement programs (other than regular courses), except that such a stipend may not be provided to an individual for more than 12 months, and such a stipend shall be in an amount determined appropriate by the Secretary (notwithstanding any other provision of law regarding the amount of stipends);

“(H) carrying out programs under which such individuals gain experience regarding a career in a field of primary health care through working at facilities of public or private nonprofit community-based providers of primary health services; and

“(I) conducting activities to develop a larger and more competitive applicant pool through partnerships with institutions of higher education, school districts, and other community-based entities.

“(3) DEFINITION.—In this section, the term ‘regular course of education of such a school’ as used in subparagraph (D) includes a graduate program in behavioral or mental health.

“(b) REQUIREMENTS FOR AWARDS.—In making awards to eligible entities under subsection (a)(1), the Secretary shall give preference to approved applications for programs that involve a comprehensive approach by several public or nonprofit private health or educational entities to establish, enhance and expand educational programs that will result in the development of a competitive applicant pool of individuals from disadvantaged backgrounds who desire to pursue health professions careers. In considering awards for such a comprehensive partnership approach, the following shall apply with respect to the entity involved:

“(1) The entity shall have a demonstrated commitment to such approach through formal agreements that have common

objectives with institutions of higher education, school districts, and other community-based entities.

“(2) Such formal agreements shall reflect the coordination of educational activities and support services, increased linkages, and the consolidation of resources within a specific geographic area.

“(3) The design of the educational activities involved shall provide for the establishment of a competitive health professions applicant pool of individuals from disadvantaged backgrounds by enhancing the total preparation (academic and social) of such individuals to pursue a health professions career.

“(4) The programs or activities under the award shall focus on developing a culturally competent health care workforce that will serve the unserved and underserved populations within the geographic area.

“(c) **EQUITABLE ALLOCATION OF FINANCIAL ASSISTANCE.**—The Secretary, to the extent practicable, shall ensure that services and activities under subsection (a) are adequately allocated among the various racial and ethnic populations who are from disadvantaged backgrounds.

“(d) **MATCHING REQUIREMENTS.**—The Secretary may require that an entity that applies for a grant or contract under subsection (a), provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant or contract. As determined by the Secretary, such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

42 USC 293d.

**“SEC. 740. AUTHORIZATION OF APPROPRIATION.**

11(a) **SCHOLARSHIPS.**—There are authorized to be appropriated to carry out section 737, \$37,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002. Of the amount appropriated in any fiscal year, the Secretary shall ensure that not less than 16 percent shall be distributed to schools of nursing.

“(b) **LOAN REPAYMENTS AND FELLOWSHIPS.**—For the purpose of carrying out section 738, there is authorized to be appropriated \$1,100,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

“(c) **EDUCATIONAL ASSISTANCE IN HEALTH PROFESSIONS REGARDING INDIVIDUALS FOR DISADVANTAGED BACKGROUNDS.**—For the purpose of grants and contracts under section 739(a)(1), there is authorized to be appropriated \$29,400,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002. The Secretary may use not to exceed 20 percent of the amount appropriated for a fiscal year under this subsection to provide scholarships under section 739(a)(2)(F).

Deadline.

“(d) **REPORT.**—Not later than 6 months after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the efforts of the Secretary to address the need for a representative mix of individuals from historically minority health professions schools, or from institutions or other entities that historically or by geographic location have a demonstrated record of training or educating underrepresented minorities, within various health professions disciplines, on peer review councils.”

## (b) REPEAL.—

(1) IN GENERAL.—Section 795 of the Public Health Service Act (42 U.S.C. 295n) is repealed.

(2) NONTERMINATION OF AUTHORITY.—The amendments made by this section shall not be construed to terminate agreements that, on the day before the date of enactment of this Act, are in effect pursuant to section 795 of the Public Health Service Act (42 U.S.C. 795) as such section existed on such date. Such agreements shall continue in effect in accordance with the terms of the agreements. With respect to compliance with such agreements, any period of practice as a provider of primary health services shall be counted towards the satisfaction of the requirement of practice pursuant to such section 795.

42 USC 295n  
note.

(c) CONFORMING AMENDMENTS.—Section 481A(c)(3)(D)(i) of the Public Health Service Act (42 U.S.C. 287a-2(c)(3)(D)(i)) is amended by striking “section 739” and inserting “part B of title VII”.

**SEC. 102. TRAINING IN PRIMARY CARE MEDICINE AND DENTISTRY.**

Part C of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.) is amended—

(1) in the part heading by striking “**PRIMARY HEALTH CARE**” and inserting “**FAMILY MEDICINE, GENERAL INTERNAL MEDICINE, GENERAL PEDIATRICS, PHYSICIAN ASSISTANTS, GENERAL DENTISTRY, AND PEDIATRIC DENTISTRY**”;

(2) by repealing section 746 (42 U.S.C. 293j);

(3) in section 747 (42 U.S.C. 293k)—

(A) by striking the section heading and inserting the following:

“**SEC. 747. FAMILY MEDICINE, GENERAL INTERNAL MEDICINE, GENERAL PEDIATRICS, GENERAL DENTISTRY, PEDIATRIC DENTISTRY, AND PHYSICIAN ASSISTANTS.**”;

(B) in subsection (a)—

(i) in paragraph (1)—

(I) by inserting “, internal medicine, or pediatrics” after “family medicine”; and

(II) by inserting before the semicolon the following: “that emphasizes training for the practice of family medicine, general internal medicine, or general pediatrics (as defined by the Secretary)”;

(ii) in paragraph (2), by inserting “, general internal medicine, or general pediatrics” before the semicolon;

(iii) in paragraphs (3) and (4), by inserting “(including geriatrics), general internal medicine or general pediatrics” after “family medicine”;

(iv) in paragraph (3), by striking “and” at the end thereof;

(v) in paragraph (4), by striking the period and inserting a semicolon; and

(vii) by adding at the end thereof the following new paragraphs:

“(5) to meet the costs of projects to plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 799B), and for the training

of individuals who will teach in programs to provide such training; and

“(6) to meet the costs of planning, developing, or operating programs, and to provide financial assistance to residents in such programs, of general dentistry or pediatric dentistry.

For purposes of paragraph (6), entities eligible for such grants or contracts shall include entities that have programs in dental schools, approved residency programs in the general or pediatric practice of dentistry, approved advanced education programs in the general or pediatric practice of dentistry, or approved residency programs in pediatric dentistry.”;

(C) in subsection (b)—

(i) in paragraphs (1) and (2)(A), by inserting “, general internal medicine, or general pediatrics” after “family medicine”;

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “or” at the end; and

(II) in subparagraph (B), by striking the period and inserting “; or”; and

(iii) by adding at the end the following:

“(3) PRIORITY IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give priority to any qualified applicant for such an award that proposes a collaborative project between departments of primary care.”;

(D) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(E) by inserting after subsection (b), the following new subsection:

“(c) PRIORITY.—

“(1) IN GENERAL.—With respect to programs for the training of interns or residents, the Secretary shall give priority in awarding grants under this section to qualified applicants that have a record of training the greatest percentage of providers, or that have demonstrated significant improvements in the percentage of providers, which enter and remain in primary care practice or general or pediatric dentistry.

“(2) DISADVANTAGED INDIVIDUALS.—With respect to programs for the training of interns, residents, or physician assistants, the Secretary shall give priority in awarding grants under this section to qualified applicants that have a record of training individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among primary care practice or general or pediatric dentistry).

“(3) SPECIAL CONSIDERATION.—In awarding grants under this section the Secretary shall give special consideration to projects which prepare practitioners to care for underserved populations and other high risk groups such as the elderly, individuals with HIV-AIDS, substance abusers, homeless, and victims of domestic violence.”; and

(F) in subsection (e) (as so redesignated by subparagraph (D))—

(i) in paragraph (1), by striking “\$54,000,000” and all that follows and inserting “\$78,300,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.”; and

(ii) by striking paragraph (2) and inserting the following:

“(2) ALLOCATION.—

“(A) IN GENERAL.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available—

“(i) not less than \$49,300,000 for awards of grants and contracts under subsection (a) to programs of family medicine, of which not less than \$8,600,000 shall be made available for awards of grants and contracts under subsection (b) for family medicine academic administrative units;

“(ii) not less than \$17,700,000 for awards of grants and contracts under subsection (a) to programs of general internal medicine and general pediatrics;

“(iii) not less than \$6,800,000 for awards of grants and contracts under subsection (a) to programs relating to physician assistants; and

“(iv) not less than \$4,500,000 for awards of grants and contracts under subsection (a) to programs of general or pediatric dentistry.

“(B) RATABLE REDUCTION.—If amounts appropriated under paragraph (1) for any fiscal year are less than the amount required to comply with subparagraph (A), the Secretary shall ratably reduce the amount to be made available under each of clauses (i) through (iv) of such subparagraph accordingly.”; and

(4) by repealing sections 748 through 752 (42 U.S.C. 2931 through 293p) and inserting the following:

**“SEC. 748. ADVISORY COMMITTEE ON TRAINING IN PRIMARY CARE MEDICINE AND DENTISTRY. 42 USC 293l.**

“(a) ESTABLISHMENT.—The Secretary shall establish an advisory committee to be known as the Advisory Committee on Training in Primary Care Medicine and Dentistry (in this section referred to as the ‘Advisory Committee’).

“(b) COMPOSITION.—

“(1) IN GENERAL.—The Secretary shall determine the appropriate number of individuals to serve on the Advisory Committee. Such individuals shall not be officers or employees of the Federal Government.

“(2) APPOINTMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall appoint the members of the Advisory Committee from among individuals who are health professionals. In making such appointments, the Secretary shall ensure a fair balance between the health professions, that at least 75 percent of the members of the Advisory Committee are health professionals, a broad geographic representation of members and a balance between urban and rural members. Members shall be appointed based on their competence, interest, and knowledge of the mission of the profession involved. Deadline.

“(3) MINORITY REPRESENTATION.—In appointing the members of the Advisory Committee under paragraph (2), the Secretary shall ensure the adequate representation of women and minorities.

“(c) TERMS.—

“(1) IN GENERAL.—A member of the Advisory Committee shall be appointed for a term of 3 years, except that of the members first appointed—

“(A)  $\frac{1}{3}$  of such members shall serve for a term of 1 year;

“(B)  $\frac{1}{3}$  of such members shall serve for a term of 2 years; and

“(C)  $\frac{1}{3}$  of such members shall serve for a term of 3 years.

“(2) VACANCIES.—

“(A) IN GENERAL.—A vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

“(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

“(d) DUTIES.—The Advisory Committee shall—

“(1) provide advice and recommendations to the Secretary concerning policy and program development and other matters of significance concerning the activities under section 747; and

“(2) not later than 3 years after the date of enactment of this section, and annually thereafter, prepare and submit to the Secretary, and the Committee on Labor and Human Resources of the Senate, and the Committee on Commerce of the House of Representatives, a report describing the activities of the Committee, including findings and recommendations made by the Committee concerning the activities under section 747.

“(e) MEETINGS AND DOCUMENTS.—

“(1) MEETINGS.—The Advisory Committee shall meet not less than 2 times each year. Such meetings shall be held jointly with other related entities established under this title where appropriate.

“(2) DOCUMENTS.—Not later than 14 days prior to the convening of a meeting under paragraph (1), the Advisory Committee shall prepare and make available an agenda of the matters to be considered by the Advisory Committee at such meeting. At any such meeting, the Advisory Council shall distribute materials with respect to the issues to be addressed at the meeting. Not later than 30 days after the adjourning of such a meeting, the Advisory Committee shall prepare and make available a summary of the meeting and any actions taken by the Committee based upon the meeting.

“(f) COMPENSATION AND EXPENSES.—

“(1) COMPENSATION.—Each member of the Advisory Committee shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

“(2) EXPENSES.—The members of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States

Deadline.

Code, while away from their homes or regular places of business in the performance of services for the Committee.

“(g) FACA.—The Federal Advisory Committee Act shall apply to the Advisory Committee under this section only to the extent that the provisions of such Act do not conflict with the requirements of this section.”.

**SEC. 103. INTERDISCIPLINARY, COMMUNITY-BASED LINKAGES.**

Part D of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended to read as follows:

**“PART D—INTERDISCIPLINARY, COMMUNITY-BASED LINKAGES**

**“SEC. 750. GENERAL PROVISIONS.**

42 USC 294.

“(a) COLLABORATION.—To be eligible to receive assistance under this part, an academic institution shall use such assistance in collaboration with 2 or more disciplines.

“(b) ACTIVITIES.—An entity shall use assistance under this part to carry out innovative demonstration projects for strategic workforce supplementation activities as needed to meet national goals for interdisciplinary, community-based linkages. Such assistance may be used consistent with this part—

- “(1) to develop and support training programs;
- “(2) for faculty development;
- “(3) for model demonstration programs;
- “(4) for the provision of stipends for fellowship trainees;
- “(5) to provide technical assistance; and
- “(6) for other activities that will produce outcomes consistent with the purposes of this part.

**“SEC. 751. AREA HEALTH EDUCATION CENTERS.**

42 USC 294a.

“(a) AUTHORITY FOR PROVISION OF FINANCIAL ASSISTANCE.—

“(1) ASSISTANCE FOR PLANNING, DEVELOPMENT, AND OPERATION OF PROGRAMS.—

“(A) IN GENERAL.—The Secretary shall award grants to and enter into contracts with schools of medicine and osteopathic medicine, and incorporated consortia made up of such schools, or the parent institutions of such schools, for projects for the planning, development and operation of area health education center programs that—

Grants.  
Contracts.

“(i) improve the recruitment, distribution, supply, quality and efficiency of personnel providing health services in underserved rural and urban areas and personnel providing health services to populations having demonstrated serious unmet health care needs;

“(ii) increase the number of primary care physicians and other primary care providers who provide services in underserved areas through the offering of an educational continuum of health career recruitment through clinical education concerning underserved areas in a comprehensive health workforce strategy;

“(iii) carry out recruitment and health career awareness programs to recruit individuals from underserved areas and under-represented populations, including minority and other elementary or secondary students, into the health professions;

“(iv) prepare individuals to more effectively provide health services to underserved areas or underserved populations through field placements, preceptorships, the conduct of or support of community-based primary care residency programs, and agreements with community-based organizations such as community health centers, migrant health centers, Indian health centers, public health departments and others;

“(v) conduct health professions education and training activities for students of health professions schools and medical residents;

“(vi) conduct at least 10 percent of medical student required clinical education at sites remote to the primary teaching facility of the contracting institution; and

“(vii) provide information dissemination and educational support to reduce professional isolation, increase retention, enhance the practice environment, and improve health care through the timely dissemination of research findings using relevant resources.

“(B) OTHER ELIGIBLE ENTITIES.—With respect to a State in which no area health education center program is in operation, the Secretary may award a grant or contract under subparagraph (A) to a school of nursing.

“(C) PROJECT TERMS.—

“(i) IN GENERAL.—Except as provided in clause (ii), the period during which payments may be made under an award under subparagraph (A) may not exceed—

“(I) in the case of a project, 12 years or

“(II) in the case of a center within a project, 6 years.

“(ii) EXCEPTION.—The periods described in clause (i) shall not apply to projects that have completed the initial period of Federal funding under this section and that desire to compete for model awards under paragraph (2)(A).

“(2) ASSISTANCE FOR OPERATION OF MODEL PROGRAMS.—

“(A) IN GENERAL.—In the case of any entity described in paragraph (1)(A) that—

“(i) has previously received funds under this section;

“(ii) is operating an area health education center program; and

“(iii) is no longer receiving financial assistance under paragraph (1);

the Secretary may provide financial assistance to such entity to pay the costs of operating and carrying out the requirements of the program as described in paragraph (1).

“(B) MATCHING REQUIREMENT.—With respect to the costs of operating a model program under subparagraph (A), an entity, to be eligible for financial assistance under subparagraph (A), shall make available (directly or through contributions from State, county or municipal governments, or the private sector) recurring non-Federal contributions



in cash toward such costs in an amount that is equal to not less than 50 percent of such costs.

“(C) LIMITATION.—The aggregate amount of awards provided under subparagraph (A) to entities in a State for a fiscal year may not exceed the lesser of—

“(i) \$2,000,000; or

“(ii) an amount equal to the product of \$250,000 and the aggregate number of area health education centers operated in the State by such entities.

“(b) REQUIREMENTS FOR CENTERS.—

“(1) GENERAL REQUIREMENT.—Each area health education center that receives funds under this section shall encourage the regionalization of health professions schools through the establishment of partnerships with community-based organizations.

“(2) SERVICE AREA.—Each area health education center that receives funds under this section shall specifically designate a geographic area or medically underserved population to be served by the center. Such area or population shall be in a location removed from the main location of the teaching facilities of the schools participating in the program with such center.

“(3) OTHER REQUIREMENTS.—Each area health education center that receives funds under this section shall—

“(A) assess the health personnel needs of the area to be served by the center and assist in the planning and development of training programs to meet such needs;

“(B) arrange and support rotations for students and residents in family medicine, general internal medicine or general pediatrics, with at least one center in each program being affiliated with or conducting a rotating osteopathic internship or medical residency training program in family medicine (including geriatrics), general internal medicine (including geriatrics), or general pediatrics in which no fewer than 4 individuals are enrolled in first-year positions;

“(C) conduct and participate in interdisciplinary training that involves physicians and other health personnel including, where practicable, public health professionals, physician assistants, nurse practitioners, nurse midwives, and behavioral and mental health providers; and

“(D) have an advisory board, at least 75 percent of the members of which shall be individuals, including both health service providers and consumers, from the area served by the center.

“(c) CERTAIN PROVISIONS REGARDING FUNDING.—

“(1) ALLOCATION TO CENTER.—Not less than 75 percent of the total amount of Federal funds provided to an entity under this section shall be allocated by an area health education center program to the area health education center. Such entity shall enter into an agreement with each center for purposes of specifying the allocation of such 75 percent of funds.

“(2) OPERATING COSTS.—With respect to the operating costs of the area health education center program of an entity receiving funds under this section, the entity shall make available

(directly or through contributions from State, county or municipal governments, or the private sector) non-Federal contributions in cash toward such costs in an amount that is equal to not less than 50 percent of such costs, except that the Secretary may grant a waiver for up to 75 percent of the amount of the required non-Federal match in the first 3 years in which an entity receives funds under this section.

42 USC 294b.

**“SEC. 752. HEALTH EDUCATION AND TRAINING CENTERS.**

“(a) IN GENERAL.—To be eligible for funds under this section, a health education training center shall be an entity otherwise eligible for funds under section 751 that—

“(1) addresses the persistent and severe unmet health care needs in States along the border between the United States and Mexico and in the State of Florida, and in other urban and rural areas with populations with serious unmet health care needs;

“(2) establishes an advisory board comprised of health service providers, educators and consumers from the service area;

“(3) conducts training and education programs for health professions students in these areas;

“(4) conducts training in health education services, including training to prepare community health workers; and

“(5) supports health professionals (including nursing) practicing in the area through educational and other services.

“(b) ALLOCATION OF FUNDS.—The Secretary shall make available 50 percent of the amounts appropriated for each fiscal year under section 752 for the establishment or operation of health education training centers through projects in States along the border between the United States and Mexico and in the State of Florida.

42 USC 294c.

**“SEC. 753. EDUCATION AND TRAINING RELATING TO GERIATRICS.**

“(a) GERIATRIC EDUCATION CENTERS.—

“(1) IN GENERAL.—The Secretary shall award grants or contracts under this section to entities described in paragraphs (1), (3), or (4) of section 799B, and section 853(2), for the establishment or operation of geriatric education centers.

“(2) REQUIREMENTS.—A geriatric education center is a program that—

“(A) improves the training of health professionals in geriatrics, including geriatric residencies, traineeships, or fellowships;

“(B) develops and disseminates curricula relating to the treatment of the health problems of elderly individuals;

“(C) supports the training and retraining of faculty to provide instruction in geriatrics;

“(D) supports continuing education of health professionals who provide geriatric care; and

“(E) provides students with clinical training in geriatrics in nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers.

“(b) GERIATRIC TRAINING REGARDING PHYSICIANS AND DENTISTS.—

“(1) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, schools of medicine, schools of osteopathic medicine, teaching hospitals, and graduate medical education programs, for the purpose of providing support (including

residencies, traineeships, and fellowships) for geriatric training projects to train physicians, dentists and behavioral and mental health professionals who plan to teach geriatric medicine, geriatric behavioral or mental health, or geriatric dentistry.

“(2) REQUIREMENTS.—Each project for which a grant or contract is made under this subsection shall—

“(A) be staffed by full-time teaching physicians who have experience or training in geriatric medicine or geriatric behavioral or mental health;

“(B) be staffed, or enter into an agreement with an institution staffed by full-time or part-time teaching dentists who have experience or training in geriatric dentistry;

“(C) be staffed, or enter into an agreement with an institution staffed by full-time or part-time teaching behavioral mental health professionals who have experience or training in geriatric behavioral or mental health;

“(D) be based in a graduate medical education program in internal medicine or family medicine or in a department of geriatrics or behavioral or mental health;

“(E) provide training in geriatrics and exposure to the physical and mental disabilities of elderly individuals through a variety of service rotations, such as geriatric consultation services, acute care services, dental services, geriatric behavioral or mental health units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals; and

“(F) provide training in geriatrics through one or both of the training options described in subparagraphs (A) and (B) of paragraph (3).

“(3) TRAINING OPTIONS.—The training options referred to in subparagraph (F) of paragraph (2) shall be as follows:

“(A) A 1-year retraining program in geriatrics for—

“(i) physicians who are faculty members in departments of internal medicine, family medicine, gynecology, geriatrics, and behavioral or mental health at schools of medicine and osteopathic medicine;

“(ii) dentists who are faculty members at schools of dentistry or at hospital departments of dentistry; and

“(iii) behavioral or mental health professionals who are faculty members in departments of behavioral or mental health; and

“(B) A 2-year internal medicine or family medicine fellowship program providing emphasis in geriatrics, which shall be designed to provide training in clinical geriatrics and geriatrics research for—

“(i) physicians who have completed graduate medical education programs in internal medicine, family medicine, behavioral or mental health, neurology, gynecology, or rehabilitation medicine;

“(ii) dentists who have demonstrated a commitment to an academic career and who have completed postdoctoral dental training, including postdoctoral dental education programs or who have relevant advanced training or experience; and

“(iii) behavioral or mental health professionals who have completed graduate medical education programs in behavioral or mental health.

“(4) DEFINITIONS.—For purposes of this subsection:

“(A) The term ‘graduate medical education program’ means a program sponsored by a school of medicine, a school of osteopathic medicine, a hospital, or a public or private institution that—

“(i) offers postgraduate medical training in the specialties and subspecialties of medicine; and

“(ii) has been accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association through its Committee on Postdoctoral Training.

“(B) The term ‘post-doctoral dental education program’ means a program sponsored by a school of dentistry, a hospital, or a public or private institution that—

“(i) offers post-doctoral training in the specialties of dentistry, advanced education in general dentistry, or a dental general practice residency; and

“(ii) has been accredited by the Commission on Dental Accreditation.

“(c) GERIATRIC FACULTY FELLOWSHIPS.—

“(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide Geriatric Academic Career Awards to eligible individuals to promote the career development of such individuals as academic geriatricians.

“(2) ELIGIBLE INDIVIDUALS.—To be eligible to receive an Award under paragraph (1), an individual shall—

“(A) be board certified or board eligible in internal medicine, family practice, or psychiatry;

“(B) have completed an approved fellowship program in geriatrics; and

“(C) have a junior faculty appointment at an accredited (as determined by the Secretary) school of medicine or osteopathic medicine.

“(3) LIMITATIONS.—No Award under paragraph (1) may be made to an eligible individual unless the individual—

“(A) has submitted to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, and the Secretary has approved such application; and

“(B) provides, in such form and manner as the Secretary may require, assurances that the individual will meet the service requirement described in subsection (e).

“(4) AMOUNT AND TERM.—

“(A) AMOUNT.—The amount of an Award under this section shall equal \$50,000 for fiscal year 1998, adjusted for subsequent fiscal years to reflect the increase in the Consumer Price Index.

“(B) TERM.—The term of any Award made under this subsection shall not exceed 5 years.

“(5) SERVICE REQUIREMENT.—An individual who receives an Award under this subsection shall provide training in clinical geriatrics, including the training of interdisciplinary teams of health care professionals. The provision of such training shall

constitute at least 75 percent of the obligations of such individual under the Award.

**“SEC. 754. QUENTIN N. BURDICK PROGRAM FOR RURAL INTERDISCIPLINARY TRAINING.** 42 USC 294d.

“(a) GRANTS.—The Secretary may make grants or contracts under this section to help entities fund authorized activities under an application approved under subsection (c).

“(b) USE OF AMOUNTS.—

“(1) IN GENERAL.—Amounts provided under subsection (a) shall be used by the recipients to fund interdisciplinary training projects designed to—

“(A) use new and innovative methods to train health care practitioners to provide services in rural areas;

“(B) demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care;

“(C) deliver health care services to individuals residing in rural areas;

“(D) enhance the amount of relevant research conducted concerning health care issues in rural areas; and

“(E) increase the recruitment and retention of health care practitioners from rural areas and make rural practice a more attractive career choice for health care practitioners.

“(2) METHODS.—A recipient of funds under subsection (a) may use various methods in carrying out the projects described in paragraph (1), including—

“(A) the distribution of stipends to students of eligible applicants;

“(B) the establishment of a post-doctoral fellowship program;

“(C) the training of faculty in the economic and logistical problems confronting rural health care delivery systems; or

“(D) the purchase or rental of transportation and telecommunication equipment where the need for such equipment due to unique characteristics of the rural area is demonstrated by the recipient.

“(3) ADMINISTRATION.—

“(A) IN GENERAL.—An applicant shall not use more than 10 percent of the funds made available to such applicant under subsection (a) for administrative expenses.

“(B) TRAINING.—Not more than 10 percent of the individuals receiving training with funds made available to an applicant under subsection (a) shall be trained as doctors of medicine or doctors of osteopathy.

“(C) LIMITATION.—An institution that receives a grant under this section shall use amounts received under such grant to supplement, not supplant, amounts made available by such institution for activities of the type described in subsection (b)(1) in the fiscal year preceding the year for which the grant is received.

“(c) APPLICATIONS.—Applications submitted for assistance under this section shall—

“(1) be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic

institutions in establishing long-term collaborative relationships with health care providers in rural areas; and

“(2) designate a rural health care agency or agencies for clinical treatment or training, including hospitals, community health centers, migrant health centers, rural health clinics, community behavioral and mental health centers, long-term care facilities, Native Hawaiian health centers, or facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Act.

“(d) DEFINITIONS.—For the purposes of this section, the term ‘rural’ means geographic areas that are located outside of standard metropolitan statistical areas.

42 USC 294e.

**“SEC. 755. ALLIED HEALTH AND OTHER DISCIPLINES.**

“(a) IN GENERAL.—The Secretary may make grants or contracts under this section to help entities fund activities of the type described in subsection (b).

“(b) ACTIVITIES.—Activities of the type described in this subsection include the following:

“(1) Assisting entities in meeting the costs associated with expanding or establishing programs that will increase the number of individuals trained in allied health professions. Programs and activities funded under this paragraph may include—

“(A) those that expand enrollments in allied health professions with the greatest shortages or whose services are most needed by the elderly;

“(B) those that provide rapid transition training programs in allied health fields to individuals who have baccalaureate degrees in health-related sciences;

“(C) those that establish community-based allied health training programs that link academic centers to rural clinical settings;

“(D) those that provide career advancement training for practicing allied health professionals;

“(E) those that expand or establish clinical training sites for allied health professionals in medically underserved or rural communities in order to increase the number of individuals trained;

“(F) those that develop curriculum that will emphasize knowledge and practice in the areas of prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics;

“(G) those that expand or establish interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly;

“(H) those that expand or establish demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research;

“(I) those that provide financial assistance (in the form of traineeships) to students who are participants in any such program; and

“(i) who plan to pursue a career in an allied health field that has a demonstrated personnel shortage; and

“(ii) who agree upon completion of the training program to practice in a medically underserved community;

that shall be utilized to assist in the payment of all or part of the costs associated with tuition, fees and such other stipends as the Secretary may consider necessary; and

“(J) those to meet the costs of projects to plan, develop, and operate or maintain graduate programs in behavioral and mental health practice.

“(2) Planning and implementing projects in preventive and primary care training for podiatric physicians in approved or provisionally approved residency programs that shall provide financial assistance in the form of traineeships to residents who participate in such projects and who plan to specialize in primary care.

“(3) Carrying out demonstration projects in which chiropractors and physicians collaborate to identify and provide effective treatment for spinal and lower-back conditions.

**“SEC. 756. ADVISORY COMMITTEE ON INTERDISCIPLINARY, COMMUNITY-BASED LINKAGES.** 42 USC 294f.

“(a) ESTABLISHMENT.—The Secretary shall establish an advisory committee to be known as the Advisory Committee on Interdisciplinary, Community-Based Linkages (in this section referred to as the ‘Advisory Committee’).

“(b) COMPOSITION.—

“(1) IN GENERAL.—The Secretary shall determine the appropriate number of individuals to serve on the Advisory Committee. Such individuals shall not be officers or employees of the Federal Government.

“(2) APPOINTMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall appoint the members of the Advisory Committee from among individuals who are health professionals from schools of the types described in sections 751(a)(1)(A), 751(a)(1)(B), 753(b), 754(3)(A), and 755(b). In making such appointments, the Secretary shall ensure a fair balance between the health professions, that at least 75 percent of the members of the Advisory Committee are health professionals, a broad geographic representation of members and a balance between urban and rural members. Members shall be appointed based on their competence, interest, and knowledge of the mission of the profession involved. Deadline.

“(3) MINORITY REPRESENTATION.—In appointing the members of the Advisory Committee under paragraph (2), the Secretary shall ensure the adequate representation of women and minorities.

“(c) TERMS.—

“(1) IN GENERAL.—A member of the Advisory Committee shall be appointed for a term of 3 years, except that of the members first appointed—

“(A)  $\frac{1}{3}$  of the members shall serve for a term of 1 year;

“(B)  $\frac{1}{3}$  of the members shall serve for a term of 2 years; and

“(C)  $\frac{1}{3}$  of the members shall serve for a term of 3 years.

“(2) VACANCIES.—

“(A) IN GENERAL.—A vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

“(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

“(d) DUTIES.—The Advisory Committee shall—

“(1) provide advice and recommendations to the Secretary concerning policy and program development and other matters of significance concerning the activities under this part; and

“(2) not later than 3 years after the date of enactment of this section, and annually thereafter, prepare and submit to the Secretary, and the Committee on Labor and Human Resources of the Senate, and the Committee on Commerce of the House of Representatives, a report describing the activities of the Committee, including findings and recommendations made by the Committee concerning the activities under this part.

“(e) MEETINGS AND DOCUMENTS.—

“(1) MEETINGS.—The Advisory Committee shall meet not less than 3 times each year. Such meetings shall be held jointly with other related entities established under this title where appropriate.

Deadlines.

“(2) DOCUMENTS.—Not later than 14 days prior to the convening of a meeting under paragraph (1), the Advisory Committee shall prepare and make available an agenda of the matters to be considered by the Advisory Committee at such meeting. At any such meeting, the Advisory Council shall distribute materials with respect to the issues to be addressed at the meeting. Not later than 30 days after the adjourning of such a meeting, the Advisory Committee shall prepare and make available a summary of the meeting and any actions taken by the Committee based upon the meeting.

Deadline.

“(f) COMPENSATION AND EXPENSES.—

“(1) COMPENSATION.—Each member of the Advisory Committee shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee.

“(2) EXPENSES.—The members of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

“(g) FACA.—The Federal Advisory Committee Act shall apply to the Advisory Committee under this section only to the extent that the provisions of such Act do not conflict with the requirements of this section.



**“SEC. 757. AUTHORIZATION OF APPROPRIATIONS.**

42 USC 294g.

“(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, \$55,600,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

“(b) ALLOCATION.—

“(1) IN GENERAL.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall make available—

“(A) not less than \$28,587,000 for awards of grants and contracts under section 751;

“(B) not less than \$3,765,000 for awards of grants and contracts under section 752, of which not less than 50 percent of such amount shall be made available for centers described in subsection (a)(1) of such section; and

“(C) not less than \$22,631,000 for awards of grants and contracts under sections 753, 754, and 755.

“(2) RATABLE REDUCTION.—If amounts appropriated under subsection (a) for any fiscal year are less than the amount required to comply with paragraph (1), the Secretary shall ratably reduce the amount to be made available under each of subparagraphs (A) through (C) of such paragraph accordingly.

“(3) INCREASE IN AMOUNTS.—If amounts appropriated for a fiscal year under subsection (a) exceed the amount authorized under such subsection for such fiscal year, the Secretary may increase the amount to be made available for programs and activities under this part without regard to the amounts specified in each of subparagraphs (A) through (C) of paragraph (2).

“(c) OBLIGATION OF CERTAIN AMOUNTS.—

“(1) AREA HEALTH EDUCATION CENTER PROGRAMS.—Of the amounts made available under subsection (b)(1)(A) for each fiscal year, the Secretary may obligate for awards under section 751(a)(2)—

“(A) not less than 23 percent of such amounts in fiscal year 1998;

“(B) not less than 30 percent of such amounts in fiscal year 1999;

“(C) not less than 35 percent of such amounts in fiscal year 2000;

“(D) not less than 40 percent of such amounts in fiscal year 2001; and

“(E) not less than 45 percent of such amounts in fiscal year 2002.

“(2) SENSE OF CONGRESS.—It is the sense of the Congress that—

“(A) every State have an area health education center program in effect under this section; and

“(B) the ratio of Federal funding for the model program under section 751(a)(2) should increase over time and that Federal funding for other awards under this section shall decrease so that the national program will become entirely comprised of programs that are funded at least 50 percent by State and local partners.”.

**SEC. 104. HEALTH PROFESSIONS WORKFORCE INFORMATION AND ANALYSIS.**

(a) IN GENERAL.—Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended to read as follows:

**“PART E—HEALTH PROFESSIONS AND PUBLIC HEALTH WORKFORCE****“Subpart 1—Health Professions Workforce Information and Analysis**

42 USC 294n.

**“SEC. 761. HEALTH PROFESSIONS WORKFORCE INFORMATION AND ANALYSIS.**

“(a) PURPOSE.—It is the purpose of this section to—

“(1) provide for the development of information describing the health professions workforce and the analysis of workforce related issues; and

“(2) provide necessary information for decision-making regarding future directions in health professions and nursing programs in response to societal and professional needs.

“(b) GRANTS OR CONTRACTS.—The Secretary may award grants or contracts to State or local governments, health professions schools, schools of nursing, academic health centers, community-based health facilities, and other appropriate public or private nonprofit entities to provide for—

“(1) targeted information collection and analysis activities related to the purposes described in subsection (a);

“(2) research on high priority workforce questions;

“(3) the development of a non-Federal analytic and research infrastructure related to the purposes described in subsection (a); and

“(4) the conduct of program evaluation and assessment.

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, \$750,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

“(2) RESERVATION.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall reserve not less than \$600,000 for conducting health professions research and for carrying out data collection and analysis in accordance with section 792.

“(3) AVAILABILITY OF ADDITIONAL FUNDS.—Amounts otherwise appropriated for programs or activities under this title may be used for activities under subsection (b) with respect to the programs or activities from which such amounts were made available.”.

(b) COUNCIL ON GRADUATE MEDICAL EDUCATION.—Section 301 of the Health Professions Education Extension Amendments of 1992 (Public Law 102-408) is amended—

(1) in subsection (j), by striking “1995” and inserting “2002”;

(2) in subsection (k), by striking “1995” and inserting “2002”;

(3) by adding at the end thereof the following new subsection:

42 USC 295k note.

“(1) FUNDING.—Amounts otherwise appropriated under this title may be utilized by the Secretary to support the activities of the Council.”;

- (4) by transferring such section to part E of title VII of the Public Health Service Act (as amended by subsection (a));
- (5) by redesignating such section as section 762; and
- (6) by inserting such section after section 761.

42 USC 295k  
note.

42 USC 294o.

#### SEC. 105. PUBLIC HEALTH WORKFORCE DEVELOPMENT.

Part E of title VII of the Public Health Service Act (as amended by section 104) is further amended by adding at the end the following:

### “Subpart 2—Public Health Workforce

#### “SEC. 765. GENERAL PROVISIONS.

42 USC 295.

“(a) IN GENERAL.—The Secretary may award grants or contracts to eligible entities to increase the number of individuals in the public health workforce, to enhance the quality of such workforce, and to enhance the ability of the workforce to meet national, State, and local health care needs.

“(b) ELIGIBILITY.—To be eligible to receive a grant or contract under subsection (a) an entity shall—

“(1) be—

“(A) a health professions school, including an accredited school or program of public health, health administration, preventive medicine, or dental public health or a school providing health management programs;

“(B) an academic health center;

“(C) a State or local government; or

“(D) any other appropriate public or private nonprofit entity; and

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) PREFERENCE.—In awarding grants or contracts under this section the Secretary may grant a preference to entities—

“(1) serving individuals who are from disadvantaged backgrounds (including underrepresented racial and ethnic minorities); and

“(2) graduating large proportions of individuals who serve in underserved communities.

“(d) ACTIVITIES.—Amounts provided under a grant or contract awarded under this section may be used for—

“(1) the costs of planning, developing, or operating demonstration training programs;

“(2) faculty development;

“(3) trainee support;

“(4) technical assistance;

“(5) to meet the costs of projects—

“(A) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine and dental public health, that have available full-time faculty members with training and experience in the fields of preventive medicine and dental public health; and

“(B) to provide financial assistance to residency trainees enrolled in such programs;

“(6) the retraining of existing public health workers as well as for increasing the supply of new practitioners to address priority public health, preventive medicine, public health dentistry, and health administration needs;

“(7) preparing public health professionals for employment at the State and community levels; or

“(8) other activities that may produce outcomes that are consistent with the purposes of this section.

“(e) TRAINEESHIPS.—

“(1) IN GENERAL.—With respect to amounts used under this section for the training of health professionals, such training programs shall be designed to—

“(A) make public health education more accessible to the public and private health workforce;

“(B) increase the relevance of public health academic preparation to public health practice in the future;

“(C) provide education or training for students from traditional on-campus programs in practice-based sites; or

“(D) develop educational methods and distance-based approaches or technology that address adult learning requirements and increase knowledge and skills related to community-based cultural diversity in public health education.

“(2) SEVERE SHORTAGE DISCIPLINES.—Amounts provided under grants or contracts under this section may be used for the operation of programs designed to award traineeships to students in accredited schools of public health who enter educational programs in fields where there is a severe shortage of public health professionals, including epidemiology, biostatistics, environmental health, toxicology, public health nursing, nutrition, preventive medicine, maternal and child health, and behavioral and mental health professions.

42 USC 295a.

**“SEC. 766. PUBLIC HEALTH TRAINING CENTERS.**

“(a) IN GENERAL.—The Secretary may make grants or contracts for the operation of public health training centers.

“(b) ELIGIBLE ENTITIES.—

“(1) IN GENERAL.—A public health training center shall be an accredited school of public health, or another public or nonprofit private institution accredited for the provision of graduate or specialized training in public health, that plans, develops, operates, and evaluates projects that are in furtherance of the goals established by the Secretary for the year 2000 in the areas of preventive medicine, health promotion and disease prevention, or improving access to and quality of health services in medically underserved communities.

“(2) PREFERENCE.—In awarding grants or contracts under this section the Secretary shall give preference to accredited schools of public health.

“(c) CERTAIN REQUIREMENTS.—With respect to a public health training center, an award may not be made under subsection (a) unless the program agrees that it—

“(1) will establish or strengthen field placements for students in public or nonprofit private health agencies or organizations;

“(2) will involve faculty members and students in collaborative projects to enhance public health services to medically underserved communities;

“(3) will specifically designate a geographic area or medically underserved population to be served by the center that shall be in a location removed from the main location of the teaching facility of the school that is participating in the program with such center; and

“(4) will assess the health personnel needs of the area to be served by the center and assist in the planning and development of training programs to meet such needs.

**“SEC. 767. PUBLIC HEALTH TRAINEESHIPS.**

42 USC 295b.

“(a) IN GENERAL.—The Secretary may make grants to accredited schools of public health, and to other public or nonprofit private institutions accredited for the provision of graduate or specialized training in public health, for the purpose of assisting such schools and institutions in providing traineeships to individuals described in subsection (b)(3).

“(b) CERTAIN REQUIREMENTS.—

“(1) AMOUNT.—The amount of any grant under this section shall be determined by the Secretary.

“(2) USE OF GRANT.—Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

“(3) ELIGIBLE INDIVIDUALS.—The individuals referred to in subsection (a) are individuals who are pursuing a course of study in a health professions field in which there is a severe shortage of health professionals (which fields include the fields of epidemiology, environmental health, biostatistics, toxicology, nutrition, and maternal and child health).

**“SEC. 768. PREVENTIVE MEDICINE; DENTAL PUBLIC HEALTH.**

42 USC 295c.

“(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, public health, and dentistry to meet the costs of projects—

“(1) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine and dental public health; and

“(2) to provide financial assistance to residency trainees enrolled in such programs.

“(b) ADMINISTRATION.—

“(1) AMOUNT.—The amount of any grant under subsection (a) shall be determined by the Secretary.

“(2) ELIGIBILITY.—To be eligible for a grant under subsection (a), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine or dental public health and support from other faculty members trained in public health and other relevant specialties and disciplines.

“(3) OTHER FUNDS.—Schools of medicine, osteopathic medicine, dentistry, and public health may use funds committed by State, local, or county public health officers as matching amounts for Federal grant funds for residency training programs in preventive medicine.

42 USC 295d.

**“SEC. 769. HEALTH ADMINISTRATION TRAINEESHIPS AND SPECIAL PROJECTS.**

“(a) IN GENERAL.—The Secretary may make grants to State or local governments (that have in effect preventive medical and dental public health residency programs) or public or nonprofit private educational entities (including graduate schools of social work and business schools that have health management programs) that offer a program described in subsection (b)—

“(1) to provide traineeships for students enrolled in such a program; and

“(2) to assist accredited programs health administration in the development or improvement of programs to prepare students for employment with public or nonprofit private entities.

“(b) RELEVANT PROGRAMS.—The program referred to in subsection (a) is an accredited program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose by the Secretary of Education and which meets such other quality standards as the Secretary of Health and Human Services by regulation may prescribe.

“(c) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that meet the following conditions:

“(1) Not less than 25 percent of the graduates of the applicant are engaged in full-time practice settings in medically underserved communities.

“(2) The applicant recruits and admits students from medically underserved communities.

“(3) For the purpose of training students, the applicant has established relationships with public and nonprofit providers of health care in the community involved.

“(4) In training students, the applicant emphasizes employment with public or nonprofit private entities.

“(d) CERTAIN PROVISIONS REGARDING TRAINEESHIPS.—

“(1) USE OF GRANT.—Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

“(2) PREFERENCE FOR CERTAIN STUDENTS.—Each entity applying for a grant under subsection (a) for traineeships shall assure to the satisfaction of the Secretary that the entity will give priority to awarding the traineeships to students who demonstrate a commitment to employment with public or nonprofit private entities in the fields with respect to which the traineeships are awarded.

42 USC 295e.

**“SEC. 770. AUTHORIZATION OF APPROPRIATIONS.**

“(a) IN GENERAL.—For the purpose of carrying out this subpart, there is authorized to be appropriated \$9,100,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

“(b) LIMITATION REGARDING CERTAIN PROGRAM.—In obligating amounts appropriated under subsection (a), the Secretary may not obligate more than 30 percent for carrying out section 767.”.

**SEC. 106. GENERAL PROVISIONS.****(a) IN GENERAL.—**

(1) Part F of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is repealed.

(2) Part G of title VII of the Public Health Service Act (42 U.S.C. 295j et seq.) is amended—

(A) by redesignating such part as part F;

(B) in section 791 (42 U.S.C. 295j)—

(i) by striking subsection (b); and

(ii) redesignating subsection (c) as subsection (b);

(C) by repealing section 793 (42 U.S.C. 295l);

(D) by repealing section 798;

42 USC 295o.

(E) by redesignating section 799 as section 799B; and

42 USC 295p.

(F) by inserting after section 794, the following new

sections:

**“SEC. 796. APPLICATION.**

42 USC 295n–1.

“(a) IN GENERAL.—To be eligible to receive a grant or contract under this title, an eligible entity shall prepare and submit to the Secretary an application that meets the requirements of this section, at such time, in such manner, and containing such information as the Secretary may require.

“(b) PLAN.—An application submitted under this section shall contain the plan of the applicant for carrying out a project with amounts received under this title. Such plan shall be consistent with relevant Federal, State, or regional health professions program plans.

“(c) PERFORMANCE OUTCOME STANDARDS.—An application submitted under this section shall contain a specification by the applicant entity of performance outcome standards that the project to be funded under the grant or contract will be measured against. Such standards shall address relevant health workforce needs that the project will meet. The recipient of a grant or contract under this section shall meet the standards set forth in the grant or contract application.

“(d) LINKAGES.—An application submitted under this section shall contain a description of the linkages with relevant educational and health care entities, including training programs for other health professionals as appropriate, that the project to be funded under the grant or contract will establish. To the extent practicable, grantees under this section shall establish linkages with health care providers who provide care for underserved communities and populations.

**“SEC. 797. USE OF FUNDS.**

42 USC 295n–2.

“(a) IN GENERAL.—Amounts provided under a grant or contract awarded under this title may be used for training program development and support, faculty development, model demonstrations, trainee support including tuition, books, program fees and reasonable living expenses during the period of training, technical assistance, workforce analysis, dissemination of information, and exploring new policy directions, as appropriate to meet recognized health workforce objectives, in accordance with this title.

“(b) MAINTENANCE OF EFFORT.—With respect to activities for which a grant awarded under this title is to be expended, the entity shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of

such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant.

42 USC 295o.

**“SEC. 798. MATCHING REQUIREMENT.**

“The Secretary may require that an entity that applies for a grant or contract under this title provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant. As determined by the Secretary, such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

42 USC 295o-1.

**“SEC. 799. GENERALLY APPLICABLE PROVISIONS.**

“(a) AWARDING OF GRANTS AND CONTRACTS.—The Secretary shall ensure that grants and contracts under this title are awarded on a competitive basis, as appropriate, to carry out innovative demonstration projects or provide for strategic workforce supplementation activities as needed to meet health workforce goals and in accordance with this title. Contracts may be entered into under this title with public or private entities as may be necessary.

“(b) ELIGIBLE ENTITIES.—Unless specifically required otherwise in this title, the Secretary shall accept applications for grants or contracts under this title from health professions schools, academic health centers, State or local governments, or other appropriate public or private nonprofit entities for funding and participation in health professions and nursing training activities. The Secretary may accept applications from for-profit private entities if determined appropriate by the Secretary.

**“(c) INFORMATION REQUIREMENTS.—**

“(1) IN GENERAL.—Recipients of grants and contracts under this title shall meet information requirements as specified by the Secretary.

“(2) DATA COLLECTION.—The Secretary shall establish procedures to ensure that, with respect to any data collection required under this title, such data is collected in a manner that takes into account age, sex, race, and ethnicity.

“(3) USE OF FUNDS.—The Secretary shall establish procedures to permit the use of amounts appropriated under this title to be used for data collection purposes.

“(4) EVALUATIONS.—The Secretary shall establish procedures to ensure the annual evaluation of programs and projects operated by recipients of grants or contracts under this title. Such procedures shall ensure that continued funding for such programs and projects will be conditioned upon a demonstration that satisfactory progress has been made by the program or project in meeting the objectives of the program or project.

“(d) TRAINING PROGRAMS.—Training programs conducted with amounts received under this title shall meet applicable accreditation and quality standards.

**“(e) DURATION OF ASSISTANCE.—**

“(1) IN GENERAL.—Subject to paragraph (2), in the case of an award to an entity of a grant, cooperative agreement, or contract under this title, the period during which payments are made to the entity under the award may not exceed 5 years. The provision of payments under the award shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal



year involved to make the payments. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to the entity.

“(2) LIMITATION.—In the case of an award to an entity of a grant, cooperative agreement, or contract under this title, paragraph (1) shall apply only to the extent not inconsistent with any other provision of this title that relates to the period during which payments may be made under the award.

“(f) PEER REVIEW REGARDING CERTAIN PROGRAMS.—

“(1) IN GENERAL.—Each application for a grant under this title, except any scholarship or loan program, including those under sections 701, 721, or 723, shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

“(2) COMPOSITION.—Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. In providing for the establishment of peer review groups and procedures, the Secretary shall ensure sex, racial, ethnic, and geographic balance among the membership of such groups.

“(3) ADMINISTRATION.—This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

“(g) PREFERENCE OR PRIORITY CONSIDERATIONS.—In considering a preference or priority for funding which is based on outcome measures for an eligible entity under this title, the Secretary may also consider the future ability of the eligible entity to meet the outcome preference or priority through improvements in the eligible entity’s program design.

“(h) ANALYTIC ACTIVITIES.—The Secretary shall ensure that—

“(1) cross-cutting workforce analytical activities are carried out as part of the workforce information and analysis activities under section 761; and

“(2) discipline-specific workforce information and analytical activities are carried out as part of—

“(A) the community-based linkage program under part D; and

“(B) the health workforce development program under subpart 2 of part E.

“(i) OSTEOPATHIC SCHOOLS.—For purposes of this title, any reference to—

“(1) medical schools shall include osteopathic medical schools; and

“(2) medical students shall include osteopathic medical students.

**“SEC. 799A. TECHNICAL ASSISTANCE.**

42 USC 295o-2.

“Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.”

(b) PROFESSIONAL COUNSELORS AS MENTAL HEALTH PROFESSIONALS.—Section 792(a) of the Public Health Service Act (42 U.S.C. 295k(a)) is amended by inserting “professional counselors,” after “clinical psychologists,”.

**SEC. 107. PREFERENCE IN CERTAIN PROGRAMS.**

(a) **IN GENERAL.**—Section 791 of the Public Health Service Act (42 U.S.C. 295j), as amended by section 105(a)(2)(B), is further amended by adding at the end thereof the following subsection:

“(c) **EXCEPTIONS FOR NEW PROGRAMS.**—

“(1) **IN GENERAL.**—To permit new programs to compete equitably for funding under this section, those new programs that meet at least 4 of the criteria described in paragraph (3) shall qualify for a funding preference under this section.

“(2) **DEFINITION.**—As used in this subsection, the term ‘new program’ means any program that has graduated less than three classes. Upon graduating at least three classes, a program shall have the capability to provide the information necessary to qualify the program for the general funding preferences described in subsection (a).

“(3) **CRITERIA.**—The criteria referred to in paragraph (1) are the following:

“(A) The mission statement of the program identifies a specific purpose of the program as being the preparation of health professionals to serve underserved populations.

“(B) The curriculum of the program includes content which will help to prepare practitioners to serve underserved populations.

“(C) Substantial clinical training experience is required under the program in medically underserved communities.

“(D) A minimum of 20 percent of the clinical faculty of the program spend at least 50 percent of their time providing or supervising care in medically underserved communities.

“(E) The entire program or a substantial portion of the program is physically located in a medically underserved community.

“(F) Student assistance, which is linked to service in medically underserved communities following graduation, is available to the students in the program.

“(G) The program provides a placement mechanism for deploying graduates to medically underserved communities.”.

(b) **CONFORMING AMENDMENTS.**—Section 791(a) of the Public Health Service Act (42 U.S.C. 295j(a)) is amended—

(1) in paragraph (1), by striking “sections 747” and all that follows through “767” and inserting “sections 747 and 750”; and

(2) in paragraph (2), by striking “under section 798(a)”.

**SEC. 108. DEFINITIONS.**

(a) **GRADUATE PROGRAM IN BEHAVIORAL AND MENTAL HEALTH PRACTICE.**—Section 799B(1)(D) of the Public Health Service Act (42 U.S.C. 295p(1)(D)) (as so redesignated by section 106(a)(2)(E)) is amended—

(1) by inserting “behavioral health and” before “mental”; and

(2) by inserting “behavioral health and mental health practice,” before “clinical”.

(b) **PROFESSIONAL COUNSELING AS A BEHAVIORAL AND MENTAL HEALTH PRACTICE.**—Section 799B of the Public Health Service Act

(42 U.S.C. 295p) (as so redesignated by section 106(a)(2)(E)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C)—

(i) by inserting “and ‘graduate program in professional counseling,’” after “graduate program in marriage and family therapy”; and

(ii) by inserting before the period the following: “and a concentration leading to a graduate degree in counseling”;

(B) in subparagraph (D), by inserting “professional counseling,” after “social work,”; and

(C) in subparagraph (E), by inserting “professional counseling,” after “social work,”; and

(2) in paragraph (5)(C), by inserting before the period the following: “or a degree in counseling or an equivalent degree”.

(c) MEDICALLY UNDERSERVED COMMUNITY.—Section 799B(6) of the Public Health Service Act (42 U.S.C. 295p(6)) (as so redesignated by section 105(a)(2)(E)) is amended—

(1) in subparagraph (B), by striking “or” at the end thereof;

(2) in subparagraph (C), by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(D) is designated by a State Governor (in consultation with the medical community) as a shortage area or medically underserved community.”.

(d) PROGRAMS FOR THE TRAINING OF PHYSICIAN ASSISTANTS.—Paragraph (3) of section 799B of the Public Health Service Act (42 U.S.C. 295p) (as so redesignated by section 105(a)(2)(E)) is amended to read as follows:

“(3) The term ‘program for the training of physician assistants’ means an educational program that—

“(A) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to provide primary care under the supervision of a physician;

“(B) extends for at least one academic year and consists of—

“(i) supervised clinical practice; and

“(ii) at least four months (in the aggregate) of classroom instruction, directed toward preparing students to deliver health care;

“(C) has an enrollment of not less than eight students;

and

“(D) trains students in primary care, disease prevention, health promotion, geriatric medicine, and home health care.”.

(e) PSYCHOLOGIST.—Section 799B of the Public Health Service Act (42 U.S.C. 295p) (as so redesignated by section 105(a)(2)(E)) is amended by adding at the end the following:

“(11) The term ‘psychologist’ means an individual who—

“(A) holds a doctoral degree in psychology; and

“(B) is licensed or certified on the basis of the doctoral degree in psychology, by the State in which the individual practices, at the independent practice level of psychology to furnish diagnostic, assessment, preventive, and therapeutic services directly to individuals.”.

**SEC. 109. TECHNICAL AMENDMENT ON NATIONAL HEALTH SERVICE CORPS.**

Section 338B(b)(1)(B) of the Public Health Service Act (42 U.S.C. 254l–1(b)(1)(B)) is amended by striking “or other health profession” and inserting “behavioral and mental health, or other health profession”.

42 USC 293 note.

**SEC. 110. SAVINGS PROVISION.**

In the case of any authority for making awards of grants or contracts that is terminated by the amendments made by this subtitle, the Secretary of Health and Human Services may, notwithstanding the termination of the authority, continue in effect any grant or contract made under the authority that is in effect on the day before the date of the enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such financial assistance, or in approving the most recent request made (before the date of such enactment) for continuation of such assistance, as the case may be.

Nursing  
Education and  
Practice  
Improvement Act  
of 1998.  
42 USC 201 note.

## **Subtitle B—Nursing Workforce Development**

**SEC. 121. SHORT TITLE.**

This subtitle may be cited as the “Nursing Education and Practice Improvement Act of 1998”.

42 USC 296 note.

**SEC. 122. PURPOSE.**

It is the purpose of this subtitle to restructure the nurse education authorities of title VIII of the Public Health Service Act to permit a comprehensive, flexible, and effective approach to Federal support for nursing workforce development.

**SEC. 123. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.**

Title VIII of the Public Health Service Act (42 U.S.C. 296k et seq.) is amended—

(1) by striking the title heading and all that follows except for subpart II of part B and sections 846 and 855; and inserting the following:

### **“TITLE VIII—NURSING WORKFORCE DEVELOPMENT”;**

(2) in subpart II of part B, by striking the subpart heading and inserting the following:

#### **“PART E—STUDENT LOANS”;**

42 USC 297c.

(3) by striking section 837;  
(4) by inserting after the title heading the following new parts:

**“PART A—GENERAL PROVISIONS****“SEC. 801. DEFINITIONS.**

42 USC 296.

“As used in this title:

“(1) **ELIGIBLE ENTITIES.**—The term ‘eligible entities’ means schools of nursing, nursing centers, academic health centers, State or local governments, and other public or private nonprofit entities determined appropriate by the Secretary that submit to the Secretary an application in accordance with section 802.

“(2) **SCHOOL OF NURSING.**—The term ‘school of nursing’ means a collegiate, associate degree, or diploma school of nursing in a State.

“(3) **COLLEGIATE SCHOOL OF NURSING.**—The term ‘collegiate school of nursing’ means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and related subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, or to an equivalent degree, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited.

“(4) **ASSOCIATE DEGREE SCHOOL OF NURSING.**—The term ‘associate degree school of nursing’ means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college, or university is accredited.

“(5) **DIPLOMA SCHOOL OF NURSING.**—The term ‘diploma school of nursing’ means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

“(6) **ACCREDITED.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term ‘accredited’ when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education and when applied to a hospital, school, college, or university (or a unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education. For the purpose of this paragraph, the Secretary of Education shall publish a list of recognized accrediting bodies, and of State agencies, which the Secretary of Education determines to be reliable authority as to the quality of education offered.

“(B) **NEW PROGRAMS.**—A new program of nursing that, by reason of an insufficient period of operation, is not, at the time of the submission of an application for a grant or contract under this title, eligible for accreditation by

such a recognized body or bodies or State agency, shall be deemed accredited for purposes of this title if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the program will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students of the first entering class in such a program.

“(7) NONPROFIT.—The term ‘nonprofit’ as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

“(8) STATE.—The term ‘State’ means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

42 USC 296a.

**“SEC. 802. APPLICATION.**

“(a) IN GENERAL.—To be eligible to receive a grant or contract under this title, an eligible entity shall prepare and submit to the Secretary an application that meets the requirements of this section, at such time, in such manner, and containing such information as the Secretary may require.

“(b) PLAN.—An application submitted under this section shall contain the plan of the applicant for carrying out a project with amounts received under this title. Such plan shall be consistent with relevant Federal, State, or regional program plans.

“(c) PERFORMANCE OUTCOME STANDARDS.—An application submitted under this section shall contain a specification by the applicant entity of performance outcome standards that the project to be funded under the grant or contract will be measured against. Such standards shall address relevant national nursing needs that the project will meet. The recipient of a grant or contract under this section shall meet the standards set forth in the grant or contract application.

“(d) LINKAGES.—An application submitted under this section shall contain a description of the linkages with relevant educational and health care entities, including training programs for other health professionals as appropriate, that the project to be funded under the grant or contract will establish.

42 USC 296b.

**“SEC. 803. USE OF FUNDS.**

“(a) IN GENERAL.—Amounts provided under a grant or contract awarded under this title may be used for training program development and support, faculty development, model demonstrations, trainee support including tuition, books, program fees and reasonable living expenses during the period of training, technical assistance, workforce analysis, and dissemination of information, as appropriate to meet recognized nursing objectives, in accordance with this title.

“(b) MAINTENANCE OF EFFORT.—With respect to activities for which a grant awarded under this title is to be expended, the entity shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of

such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant.

**“SEC. 804. MATCHING REQUIREMENT.**

42 USC 296c.

“The Secretary may require that an entity that applies for a grant or contract under this title provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

**“SEC. 805. PREFERENCE.**

42 USC 296d.

“In awarding grants or contracts under this title, the Secretary shall give preference to applicants with projects that will substantially benefit rural or underserved populations, or help meet public health nursing needs in State or local health departments.

**“SEC. 806. GENERALLY APPLICABLE PROVISIONS.**

42 USC 296e.

“(a) AWARDING OF GRANTS AND CONTRACTS.—The Secretary shall ensure that grants and contracts under this title are awarded on a competitive basis, as appropriate, to carry out innovative demonstration projects or provide for strategic workforce supplementation activities as needed to meet national nursing service goals and in accordance with this title. Contracts may be entered into under this title with public or private entities as determined necessary by the Secretary.

**“(b) INFORMATION REQUIREMENTS.—**

“(1) IN GENERAL.—Recipients of grants and contracts under this title shall meet information requirements as specified by the Secretary.

“(2) EVALUATIONS.—The Secretary shall establish procedures to ensure the annual evaluation of programs and projects operated by recipients of grants under this title. Such procedures shall ensure that continued funding for such programs and projects will be conditioned upon a demonstration that satisfactory progress has been made by the program or project in meeting the objectives of the program or project.

“(c) TRAINING PROGRAMS.—Training programs conducted with amounts received under this title shall meet applicable accreditation and quality standards.

**“(d) DURATION OF ASSISTANCE.—**

“(1) IN GENERAL.—Subject to paragraph (2), in the case of an award to an entity of a grant, cooperative agreement, or contract under this title, the period during which payments are made to the entity under the award may not exceed 5 years. The provision of payments under the award shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to the entity.

“(2) LIMITATION.—In the case of an award to an entity of a grant, cooperative agreement, or contract under this title, paragraph (1) shall apply only to the extent not inconsistent with any other provision of this title that relates to the period during which payments may be made under the award.

**“(e) PEER REVIEW REGARDING CERTAIN PROGRAMS.—**

“(1) IN GENERAL.—Each application for a grant under this title, except advanced nurse traineeship grants under section 811(a)(2), shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

“(2) COMPOSITION.—Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. In providing for the establishment of peer review groups and procedures, the Secretary shall, except as otherwise provided, ensure sex, racial, ethnic, and geographic representation among the membership of such groups.

“(3) ADMINISTRATION.—This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

“(f) ANALYTIC ACTIVITIES.—The Secretary shall ensure that—

“(1) cross-cutting workforce analytical activities are carried out as part of the workforce information and analysis activities under this title; and

“(2) discipline-specific workforce information is developed and analytical activities are carried out as part of—

“(A) the advanced education nursing activities under part B;

“(B) the workforce diversity activities under part C; and

“(C) basic nursing education and practice activities under part D.

“(g) STATE AND REGIONAL PRIORITIES.—Activities under grants or contracts under this title shall, to the extent practicable, be consistent with related Federal, State, or regional nursing professions program plans and priorities.

“(h) FILING OF APPLICATIONS.—

“(1) IN GENERAL.—Applications for grants or contracts under this title may be submitted by health professions schools, schools of nursing, academic health centers, State or local governments, or other appropriate public or private nonprofit entities as determined appropriate by the Secretary in accordance with this title.

“(2) FOR-PROFIT ENTITIES.—Notwithstanding paragraph (1), a for-profit entity may be eligible for a grant or contract under this title as determined appropriate by the Secretary.

42 USC 296f.

**“SEC. 807. TECHNICAL ASSISTANCE.**

“Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.

**“PART B—NURSE PRACTITIONERS, NURSE MIDWIVES, NURSE ANESTHETISTS, AND OTHER ADVANCED EDUCATION NURSES**

42 USC 296j.

**“SEC. 811. ADVANCED EDUCATION NURSING GRANTS.**

“(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to meet the costs of—



“(1) projects that support the enhancement of advanced nursing education and practice; and

“(2) traineeships for individuals in advanced nursing education programs.

“(b) DEFINITION OF ADVANCED EDUCATION NURSES.—For purposes of this section, the term ‘advanced education nurses’ means individuals trained in advanced degree programs including individuals in combined R.N./Master’s degree programs, post-nursing master’s certificate programs, or, in the case of nurse midwives, in certificate programs in existence on the date that is one day prior to the date of enactment of this section, to serve as nurse practitioners, clinical nurse specialists, nurse midwives, nurse anesthetists, nurse educators, nurse administrators, or public health nurses, or in other nurse specialties determined by the Secretary to require advanced education.

“(c) AUTHORIZED NURSE PRACTITIONER AND NURSE MIDWIFERY PROGRAMS.—Nurse practitioner and nurse midwifery programs eligible for support under this section are educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) that—

“(1) meet guidelines prescribed by the Secretary; and

“(2) have as their objective the education of nurses who will upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities, acute care, and other health care settings.

“(d) AUTHORIZED NURSE ANESTHESIA PROGRAMS.—Nurse anesthesia programs eligible for support under this section are education programs that—

“(1) provide registered nurses with full-time anesthetist education; and

“(2) are accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs.

“(e) OTHER AUTHORIZED EDUCATIONAL PROGRAMS.—The Secretary shall prescribe guidelines as appropriate for other advanced nurse education programs eligible for support under this section.

“(f) TRAINEESHIPS.—

“(1) IN GENERAL.—The Secretary may not award a grant to an applicant under subsection (a) unless the applicant involved agrees that traineeships provided with the grant will only pay all or part of the costs of—

“(A) the tuition, books, and fees of the program of advanced nurse education with respect to which the traineeship is provided; and

“(B) the reasonable living expenses of the individual during the period for which the traineeship is provided.

“(2) DOCTORAL PROGRAMS.—The Secretary may not obligate more than 10 percent of the traineeships under subsection (a) for individuals in doctorate degree programs.

“(3) SPECIAL CONSIDERATION.—In making awards of grants and contracts under subsection (a)(2), the Secretary shall give special consideration to an eligible entity that agrees to expend the award to train advanced education nurses who will practice in health professional shortage areas designated under section 332.

## **“PART C—INCREASING NURSING WORKFORCE DIVERSITY**

42 USC 296m.

### **“SEC. 821. WORKFORCE DIVERSITY GRANTS.**

“(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to meet the costs of special projects to increase nursing education opportunities for individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among registered nurses) by providing student scholarships or stipends, pre-entry preparation, and retention activities.

“(b) GUIDANCE.—In carrying out subsection (a), the Secretary shall take into consideration the recommendations of the First, Second and Third Invitational Congresses for Minority Nurse Leaders on ‘Caring for the Emerging Majority,’ in 1992, 1993 and 1997, and consult with nursing associations including the American Nurses Association, the National League for Nursing, the American Association of Colleges of Nursing, the National Black Nurses Association, the National Association of Hispanic Nurses, the Association of Asian American and Pacific Islander Nurses, the Native American Indian and Alaskan Nurses Association, and the National Council of State Boards of Nursing.

“(c) REQUIRED INFORMATION AND CONDITIONS FOR AWARD RECIPIENTS.—

“(1) IN GENERAL.—Recipients of awards under this section may be required, where requested, to report to the Secretary concerning the annual admission, retention, and graduation rates for individuals from disadvantaged backgrounds and ethnic and racial minorities in the school or schools involved in the projects.

“(2) FALLING RATES.—If any of the rates reported under paragraph (1) fall below the average of the two previous years, the grant or contract recipient shall provide the Secretary with plans for immediately improving such rates.

“(3) INELIGIBILITY.—A recipient described in paragraph (2) shall be ineligible for continued funding under this section if the plan of the recipient fails to improve the rates within the 1-year period beginning on the date such plan is implemented.

## **“PART D—STRENGTHENING CAPACITY FOR BASIC NURSE EDUCATION AND PRACTICE**

42 USC 296p.

### **“SEC. 831. BASIC NURSE EDUCATION AND PRACTICE GRANTS.**

“(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities for projects to strengthen capacity for basic nurse education and practice.

“(b) PRIORITY AREAS.—In awarding grants or contracts under this section the Secretary shall give priority to entities that will use amounts provided under such a grant or contract to enhance the educational mix and utilization of the basic nursing workforce by strengthening programs that provide basic nurse education, such as through—

“(1) establishing or expanding nursing practice arrangements in noninstitutional settings to demonstrate methods to

improve access to primary health care in medically underserved communities;

“(2) providing care for underserved populations and other high-risk groups such as the elderly, individuals with HIV-AIDS, substance abusers, the homeless, and victims of domestic violence;

“(3) providing managed care, quality improvement, and other skills needed to practice in existing and emerging organized health care systems;

“(4) developing cultural competencies among nurses;

“(5) expanding the enrollment in baccalaureate nursing programs;

“(6) promoting career mobility for nursing personnel in a variety of training settings and cross training or specialty training among diverse population groups;

“(7) providing education in informatics, including distance learning methodologies; or

“(8) other priority areas as determined by the Secretary.”;

(5) by adding at the end the following:

## “PART F—FUNDING

### “SEC. 841. FUNDING.

42 USC 297q.

“(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out parts B, C, and D (subject to section 845(g)), there are authorized to be appropriated \$65,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.

“(b) ALLOCATIONS FOR FISCAL YEARS 1998 THROUGH 2002.—

“(1) NURSE PRACTITIONERS; NURSE MIDWIVES.—

“(A) FISCAL YEAR 1998.—Of the amount appropriated under subsection (a) for fiscal year 1998, the Secretary shall reserve not less than \$17,564,000 for making awards of grants and contracts under section 822 as such section was in effect for fiscal year 1998.

“(B) FISCAL YEARS 1999 THROUGH 2002.—Of the amount appropriated under subsection (a) for fiscal year 1999 or any of the fiscal years 2000 through 2002, the Secretary, subject to subsection (d), shall reserve for the fiscal year involved, for making awards of grants and contracts under part B with respect to nurse practitioners and nurse midwives, not less than the percentage constituted by the ratio of the amount appropriated under section 822 as such section was in effect for fiscal year 1998 to the total of the amounts appropriated under this title for such fiscal year. For purposes of the preceding sentence, the Secretary, in determining the amount that has been reserved for the fiscal year involved, shall include any amounts appropriated under subsection (a) for the fiscal year that are obligated by the Secretary to continue in effect grants or contracts under section 822 as such section was in effect for fiscal year 1998.

“(2) NURSE ANESTHETISTS.—

“(A) FISCAL YEAR 1998.—Of the amount appropriated under subsection (a) for fiscal year 1998, the Secretary shall reserve not less than \$2,761,000 for making awards

of grants and contracts under section 831 as such section was in effect for fiscal year 1998.

“(B) FISCAL YEARS 1999 THROUGH 2002.—Of the amount appropriated under subsection (a) for fiscal year 1999 or any of the fiscal years 2000 through 2002, the Secretary, subject to subsection (d), shall reserve for the fiscal year involved, for making awards of grants and contracts under part B with respect to nurse anesthetists, not less than the percentage constituted by the ratio of the amount appropriated under section 831 as such section was in effect for fiscal year 1998 to the total of the amounts appropriated under this title for such fiscal year. For purposes of the preceding sentence, the Secretary, in determining the amount that has been reserved for the fiscal year involved, shall include any amounts appropriated under subsection (a) for the fiscal year that are obligated by the Secretary to continue in effect grants or contracts under section 831 as such section was in effect for fiscal year 1998.

“(c) ALLOCATIONS AFTER FISCAL YEAR 2002.—

“(1) IN GENERAL.—For fiscal year 2003 and subsequent fiscal years, amounts appropriated under subsection (a) for the fiscal year involved shall be allocated by the Secretary among parts B, C, and D (and programs within such parts) according to a methodology that is developed in accordance with paragraph (2). The Secretary shall enter into a contract with a public or private entity for the purpose of developing the methodology. The contract shall require that the development of the methodology be completed not later than February 1, 2002.

“(2) USE OF CERTAIN FACTORS.—The contract under paragraph (1) shall provide that the methodology under such paragraph will be developed in accordance with the following:

“(A) The methodology will take into account the need for and the distribution of health services among medically underserved populations, as determined according to the factors that apply under section 330(b)(3).

“(B) The methodology will take into account the need for and the distribution of health services in health professional shortage areas, as determined according to the factors that apply under section 332(b).

“(C) The methodology will take into account the need for and the distribution of mental health services among medically underserved populations and in health professional shortage areas.

“(D) The methodology will be developed in consultation with individuals in the field of nursing, including registered nurses, nurse practitioners, nurse midwives, nurse anesthetists, clinical nurse specialists, nursing educators and educational institutions, nurse executives, pediatric nurse associates and practitioners, and women’s health, obstetric, and neonatal nurses.

“(E) The methodology will take into account the following factors with respect to the States:

“(i) A provider population ratio equivalent to a managed care formula of 1/1,500 for primary care services.

“(ii) The use of whole rather than fractional counts in determining the number of health care providers.

“(iii) The counting of only employed health care providers in determining the number of health care providers.

“(iv) The number of families whose income is less than 200 percent of the official poverty line (as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981).

“(v) The rate of infant mortality and the rate of low-birthweight births.

“(vi) The percentage of the general population constituted by individuals who are members of racial or ethnic minority groups, stated both by minority group and in the aggregate.

“(vii) The percentage of the general population constituted by individuals who are of Hispanic ethnicity.

“(viii) The number of individuals residing in health professional shortage areas, and the number of individuals who are members of medically underserved populations.

“(ix) The percentage of the general population constituted by elderly individuals.

“(x) The extent to which the populations served have a choice of providers.

“(xi) The impact of care on hospitalizations and emergency room use.

“(xii) The number of individuals who lack proficiency in speaking the English language.

“(xiii) Such additional factors as the Secretary determines to be appropriate.

“(3) REPORT TO CONGRESS.—Not later than 30 days after the completion of the development of the methodology required in paragraph (1), the Secretary shall submit to the Committee on Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the methodology and explaining the effects of the methodology on the allocation among parts B, C, and D (and programs within such parts) of amounts appropriated under subsection (a) for the first fiscal year for which the methodology will be in effect. Such explanation shall include a comparison of the allocation for such fiscal year with the allocation made under this section for the preceding fiscal year. Deadline.

“(d) USE OF METHODOLOGY BEFORE FISCAL YEAR 2003.—With respect to the fiscal years 1999 through 2002, if the report required in subsection (c)(3) is submitted in accordance with such subsection not later than 90 days before the beginning of such a fiscal year, the Secretary may for such year implement the methodology described in the report (rather than implementing the methodology in fiscal year 2003), in which case subsection (b) ceases to be in effect. The authority under the preceding sentence is subject to the condition that the fiscal year for which the methodology is implemented be the same fiscal year identified in such report as the fiscal year for which the methodology will first be in effect. Deadline.

“(e) AUTHORITY FOR USE OF ADDITIONAL FACTORS IN METHODOLOGY.—

“(1) IN GENERAL.—The Secretary shall make the determinations specified in paragraph (2). For any fiscal year beginning after the first fiscal year for which the methodology under subsection (c)(1) is in effect, the Secretary may alter the methodology by including the information from such determinations as factors in the methodology.

“(2) RELEVANT DETERMINATIONS.—The determinations referred to in paragraph (1) are as follows:

“(A) The need for and the distribution of health services among populations for which it is difficult to determine the number of individuals who are in the population, such as homeless individuals; migratory and seasonal agricultural workers and their families; individuals infected with the human immunodeficiency virus, and individuals who abuse drugs.

“(B) In the case of a population for which the determinations under subparagraph (A) are made, the extent to which the population includes individuals who are members of racial or ethnic minority groups and a specification of the skills needed to provide health services to such individuals in the language and the educational and cultural context that is most appropriate to the individuals.

“(C) Data, obtained from the Director of the Centers for Disease Control and Prevention, on rates of morbidity and mortality among various populations (including data on the rates of maternal and infant mortality and data on the rates of low-birthweight births of living infants).

“(D) Data from the Health Plan Employer Data and Information Set, as appropriate.

## **“PART G—NATIONAL ADVISORY COUNCIL ON NURSE EDUCATION AND PRACTICE**

42 USC 297t.

### **“SEC. 845. NATIONAL ADVISORY COUNCIL ON NURSE EDUCATION AND PRACTICE.**

“(a) ESTABLISHMENT.—The Secretary shall establish an advisory council to be known as the National Advisory Council on Nurse Education and Practice (in this section referred to as the ‘Advisory Council’).

“(b) COMPOSITION.—

“(1) IN GENERAL.—The Advisory Council shall be composed of—

“(A) not less than 21, nor more than 23 individuals, who are not officers or employees of the Federal Government, appointed by the Secretary without regard to the Federal civil service laws, of which—

“(i) 2 shall be selected from full-time students enrolled in schools of nursing;

“(ii) 2 shall be selected from the general public;

“(iii) 2 shall be selected from practicing professional nurses; and

“(iv) 9 shall be selected from among the leading authorities in the various fields of nursing, higher, secondary education, and associate degree schools of

nursing, and from representatives of advanced education nursing groups (such as nurse practitioners, nurse midwives, and nurse anesthetists), hospitals, and other institutions and organizations which provide nursing services; and

“(B) the Secretary (or the delegate of the Secretary (who shall be an ex officio member and shall serve as the Chairperson)).

“(2) APPOINTMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall appoint the members of the Advisory Council and each such member shall serve a 4 year term. In making such appointments, the Secretary shall ensure a fair balance between the nursing professions, a broad geographic representation of members and a balance between urban and rural members. Members shall be appointed based on their competence, interest, and knowledge of the mission of the profession involved. A majority of the members shall be nurses. Deadline.

“(3) MINORITY REPRESENTATION.—In appointing the members of the Advisory Council under paragraph (1), the Secretary shall ensure the adequate representation of minorities.

“(c) VACANCIES.—

“(1) IN GENERAL.—A vacancy on the Advisory Council shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

“(2) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

“(d) DUTIES.—The Advisory Council shall—

“(1) provide advice and recommendations to the Secretary and Congress concerning policy matters arising in the administration of this title, including the range of issues relating to the nurse workforce, education, and practice improvement;

“(2) provide advice to the Secretary and Congress in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including the range of issues relating to nurse supply, education and practice improvement; and

“(3) not later than 3 years after the date of enactment of this section, and annually thereafter, prepare and submit to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Commerce of the House of Representatives, a report describing the activities of the Council, including findings and recommendations made by the Council concerning the activities under this title. Deadline. Reports.

“(e) MEETINGS AND DOCUMENTS.—

“(1) MEETINGS.—The Advisory Council shall meet not less than 2 times each year. Such meetings shall be held jointly with other related entities established under this title where appropriate.

“(2) DOCUMENTS.—Not later than 14 days prior to the convening of a meeting under paragraph (1), the Advisory Council shall prepare and make available an agenda of the matters to be considered by the Advisory Council at such meeting. At any such meeting, the Advisory Council shall distribute materials with respect to the issues to be addressed at the Deadlines.

meeting. Not later than 30 days after the adjourning of such a meeting, the Advisory Council shall prepare and make available a summary of the meeting and any actions taken by the Council based upon the meeting.

“(f) COMPENSATION AND EXPENSES.—

“(1) COMPENSATION.—Each member of the Advisory Council shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Council. All members of the Council who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

“(2) EXPENSES.—The members of the Advisory Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

“(g) FUNDING.—Amounts appropriated under this title may be utilized by the Secretary to support the nurse education and practice activities of the Council.

“(h) FACA.—The Federal Advisory Committee Act shall apply to the Advisory Committee under this section only to the extent that the provisions of such Act do not conflict with the requirements of this section.”; and

42 USC 298b-2,  
296g.

(6) by redesignating section 855 as section 810, and transferring such section so as to appear after section 809 (as added by the amendment made by paragraph (5)).

42 USC 296 note.

#### **SEC. 124. SAVINGS PROVISION.**

In the case of any authority for making awards of grants or contracts that is terminated by the amendment made by section 123, the Secretary of Health and Human Services may, notwithstanding the termination of the authority, continue in effect any grant or contract made under the authority that is in effect on the day before the date of the enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such financial assistance, or in approving the most recent request made (before the date of such enactment) for continuation of such assistance, as the case may be.

## **Subtitle C—Financial Assistance**

### **CHAPTER 1—SCHOOL-BASED REVOLVING LOAN FUNDS**

#### **SEC. 131. PRIMARY CARE LOAN PROGRAM.**

(a) REQUIREMENT FOR SCHOOLS.—Section 723(b)(1) of the Public Health Service Act (42 U.S.C. 292s(b)(1)), as amended by section 2014(c)(2)(A)(ii) of Public Law 103-43 (107 Stat. 216), is amended by striking “3 years before” and inserting “4 years before”.



(b) NONCOMPLIANCE.—Section 723(a)(3) of the Public Health Service Act (42 U.S.C. 292s(a)(3)) is amended to read as follows:

“(3) NONCOMPLIANCE BY STUDENT.—Each agreement entered into with a student pursuant to paragraph (1) shall provide that, if the student fails to comply with such agreement, the loan involved will begin to accrue interest at a rate of 18 percent per year beginning on the date of such noncompliance.”.

(c) REPORT REQUIREMENT.—Section 723 of the Public Health Service Act (42 U.S.C. 292s) is amended—

- (1) by striking subsection (c); and
- (2) by redesignating subsection (d) as subsection (c).

**SEC. 132. LOANS FOR DISADVANTAGED STUDENTS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 724(f)(1) of the Public Health Service Act (42 U.S.C. 292t(f)(1)) is amended by striking “\$15,000,000 for fiscal year 1993” and inserting “\$8,000,000 for each of the fiscal years 1998 through 2002”.

(b) REPEAL.—Effective October 1, 2002, paragraph (1) of section 724(f) of the Public Health Service Act (42 U.S.C. 292t(f)(1)) is repealed.

**SEC. 133. STUDENT LOANS REGARDING SCHOOLS OF NURSING.**

(a) IN GENERAL.—Section 836(b) of the Public Health Service Act (42 U.S.C. 297b(b)) is amended—

- (1) in paragraph (1), by striking the period at the end and inserting a semicolon;
- (2) in paragraph (2)—
  - (A) in subparagraph (A), by striking “and” at the end; and
  - (B) by inserting before the semicolon at the end the following: “, and (C) such additional periods under the terms of paragraph (8) of this subsection”;
- (3) in paragraph (7), by striking the period at the end and inserting “; and”;
- (4) by adding at the end the following paragraph:

“(8) pursuant to uniform criteria established by the Secretary, the repayment period established under paragraph (2) for any student borrower who during the repayment period failed to make consecutive payments and who, during the last 12 months of the repayment period, has made at least 12 consecutive payments may be extended for a period not to exceed 10 years.”.

(b) MINIMUM MONTHLY PAYMENTS.—Section 836(g) of the Public Health Service Act (42 U.S.C. 297b(g)) is amended by striking “\$15” and inserting “\$40”.

(c) ELIMINATION OF STATUTE OF LIMITATION FOR LOAN COLLECTIONS.—

(1) IN GENERAL.—Section 836 of the Public Health Service Act (42 U.S.C. 297b) is amended by adding at the end the following new subsection:

“(1) ELIMINATION OF STATUTE OF LIMITATION FOR LOAN COLLECTIONS.—

“(1) PURPOSE.—It is the purpose of this subsection to ensure that obligations to repay loans under this section are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

“(2) PROHIBITION.—Notwithstanding any other provision of Federal or State law, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by a school of nursing that has an agreement with the Secretary pursuant to section 835 that is seeking the repayment of the amount due from a borrower on a loan made under this subpart after the default of the borrower on such loan.”

42 USC 297b  
note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to actions pending on or after the date of enactment of this Act.

(d) BREACH OF AGREEMENTS.—Section 846 of the Public Health Service Act (42 U.S.C. 297n) is amended by adding at the end thereof the following new subsection:

“(h) BREACH OF AGREEMENT.—

“(1) IN GENERAL.—In the case of any program under this section under which an individual makes an agreement to provide health services for a period of time in accordance with such program in consideration of receiving an award of Federal funds regarding education as a nurse (including an award for the repayment of loans), the following applies if the agreement provides that this subsection is applicable:

“(A) In the case of a program under this section that makes an award of Federal funds for attending an accredited program of nursing (in this section referred to as a ‘nursing program’), the individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual—

“(i) fails to maintain an acceptable level of academic standing in the nursing program (as indicated by the program in accordance with requirements established by the Secretary);

“(ii) is dismissed from the nursing program for disciplinary reasons; or

“(iii) voluntarily terminates the nursing program.

“(B) The individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to provide health services in accordance with the program under this section for the period of time applicable under the program.

“(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual or health facility making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such subsection if compliance by the individual or the health facility, as the case may be, with the agreements involved is impossible, or would involve extreme hardship to the individual or facility, and if enforcement of the agreements with respect to the individual or facility would be unconscionable.

“(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States

not later than the expiration of the 3-year period beginning on the date the United States becomes so entitled.

“(4) AVAILABILITY.—Amounts recovered under paragraph (1) with respect to a program under this section shall be available for the purposes of such program, and shall remain available for such purposes until expended.”.

(e) TECHNICAL AMENDMENTS.—Section 839 of the Public Health Service Act (42 U.S.C. 297e) is amended—

(1) in subsection (a)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

“(a) If a school terminates a loan fund established under an agreement pursuant to section 835(b), or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:”; and

(B) in paragraph (1), by striking “at the close of September 30, 1999,” and inserting “on the date of termination of the fund”; and

(2) in subsection (b), to read as follows:

“(b) If a capital distribution is made under subsection (a), the school involved shall, after such capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established under section 835(b) as determined by the Secretary under subsection (a).”.

#### SEC. 134. GENERAL PROVISIONS.

(a) MAXIMUM STUDENT LOAN PROVISIONS AND MINIMUM PAYMENTS.—

(1) IN GENERAL.—Section 722(a)(1) of the Public Health Service Act (42 U.S.C. 292r(a)(1)), as amended by section 2014(b)(1) of Public Law 103-43, is amended by striking “the sum of” and all that follows through the end thereof and inserting “the cost of attendance (including tuition, other reasonable educational expenses, and reasonable living costs) for that year at the educational institution attended by the student (as determined by such educational institution).”.

(2) THIRD AND FOURTH YEARS.—Section 722(a)(2) of the Public Health Service Act (42 U.S.C. 292r(a)(2)), as amended by section 2014(b)(1) of Public Law 103-43, is amended by striking “the amount \$2,500” and all that follows through “including such \$2,500” and inserting “the amount of the loan may, in the case of the third or fourth year of a student at a school of medicine or osteopathic medicine, be increased to the extent necessary”.

(3) REPAYMENT PERIOD.—Section 722(c) of the Public Health Service Act (42 U.S.C. 292r(c)), as amended by section 2014(b)(1) of Public Law 103-43, is amended—

(A) in the subsection heading by striking “TEN-YEAR” and inserting “REPAYMENT”;

(B) by striking “ten-year period which begins” and inserting “period of not less than 10 years nor more than 25 years, at the discretion of the institution, which begins”; and

(C) by striking “such ten-year period” and inserting “such period”.

(4) MINIMUM PAYMENTS.—Section 722(j) of the Public Health Service Act (42 U.S.C. 292r(j)), as amended by section 2014(b)(1) of Public Law 103-43, is amended by striking “\$15” and inserting “\$40”.

(b) ELIMINATION OF STATUTE OF LIMITATION FOR LOAN COLLECTIONS.—

(1) IN GENERAL.—Section 722 of the Public Health Service Act (42 U.S.C. 292r), as amended by section 2014(b)(1) of Public Law 103-43, is amended by adding at the end the following new subsection:

“(m) ELIMINATION OF STATUTE OF LIMITATION FOR LOAN COLLECTIONS.—

“(1) PURPOSE.—It is the purpose of this subsection to ensure that obligations to repay loans under this section are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

“(2) PROHIBITION.—Notwithstanding any other provision of Federal or State law, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by a school that has an agreement with the Secretary pursuant to section 721 that is seeking the repayment of the amount due from a borrower on a loan made under this subpart after the default of the borrower on such loan.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective with respect to actions pending on or after the date of enactment of this Act.

(c) DATE CERTAIN FOR CONTRIBUTIONS.—Paragraph (2) of section 735(e) of the Public Health Service Act (42 U.S.C. 292y(e)(2)) is amended to read as follows:

“(2) DATE CERTAIN FOR CONTRIBUTIONS.—Amounts described in paragraph (1) that are returned to the Secretary shall be obligated before the end of the succeeding fiscal year.”.

42 USC 292r  
note.

## CHAPTER 2—INSURED HEALTH EDUCATION ASSISTANCE LOANS TO GRADUATE STUDENTS

### SEC. 141. HEALTH EDUCATION ASSISTANCE LOAN PROGRAM.

(a) HEALTH EDUCATION ASSISTANCE LOAN DEFERMENT FOR BORROWERS PROVIDING HEALTH SERVICES TO INDIANS.—

(1) IN GENERAL.—Section 705(a)(2)(C) of the Public Health Service Act (42 U.S.C. 292d(a)(2)(C)) is amended by striking “and (x)” and inserting “(x) not in excess of three years, during which the borrower is providing health care services to Indians through an Indian health program (as defined in section 108(a)(2)(A) of the Indian Health Care Improvement Act (25 U.S.C. 1616a(a)(2)(A)); and (xi)”.

(2) CONFORMING AMENDMENTS.—Section 705(a)(2)(C) of the Public Health Service Act (42 U.S.C. 292d(a)(2)(C)) is further amended—

(A) in clause (xi) (as so redesignated) by striking “(ix)” and inserting “(x)”; and

(B) in the matter following such clause (xi), by striking “(x)” and inserting “(xi)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to services provided on or

42 USC 292d  
note.

after the first day of the third month that begins after the date of the enactment of this Act.

(b) **REPORT REQUIREMENT.**—Section 709(b) of the Public Health Service Act (42 U.S.C. 292h(b)) is amended—

- (1) in paragraph (4)(B), by adding “and” after the semicolon;
- (2) in paragraph (5), by striking “; and” and inserting a period; and
- (3) by striking paragraph (6).

(c) **PROGRAM ELIGIBILITY.**—

(1) **LIMITATIONS ON LOANS.**—Section 703(a) of the Public Health Service Act (42 U.S.C. 292b(a)) is amended by striking “or clinical psychology” and inserting “or behavioral and mental health practice, including clinical psychology”.

(2) **DEFINITION OF ELIGIBLE INSTITUTION.**—Section 719(1) of the Public Health Service Act (42 U.S.C. 292o(1)) is amended by striking “or clinical psychology” and inserting “or behavioral and mental health practice, including clinical psychology”.

**SEC. 142. HEAL LENDER AND HOLDER PERFORMANCE STANDARDS.**

(a) **GENERAL AMENDMENTS.**—Section 707(a) of the Public Health Service Act (42 U.S.C. 292f) is amended—

- (1) by striking the last sentence;
- (2) by striking “determined.” and inserting “determined, except that, if the insurance beneficiary including any servicer of the loan is not designated for ‘exceptional performance’, as set forth in paragraph (2), the Secretary shall pay to the beneficiary a sum equal to 98 percent of the amount of the loss sustained by the insured upon that loan.”;
- (3) by striking “Upon” and inserting:
  - “(1) **IN GENERAL.**—Upon”; and
  - (4) by adding at the end the following new paragraph:  
“(2) **EXCEPTIONAL PERFORMANCE.**—

“(A) **AUTHORITY.**—Where the Secretary determines that an eligible lender, holder, or servicer has a compliance performance rating that equals or exceeds 97 percent, the Secretary shall designate that eligible lender, holder, or servicer, as the case may be, for exceptional performance.

“(B) **COMPLIANCE PERFORMANCE RATING.**—For purposes of subparagraph (A), a compliance performance rating is determined with respect to compliance with due diligence in the disbursement, servicing, and collection of loans under this subpart for each year for which the determination is made. Such rating shall be equal to the percentage of all due diligence requirements applicable to each loan, on average, as established by the Secretary, with respect to loans serviced during the period by the eligible lender, holder, or servicer.

“(C) **ANNUAL AUDITS FOR LENDERS, HOLDERS, AND SERVICERS.**—Each eligible lender, holder, or servicer desiring a designation under subparagraph (A) shall have an annual financial and compliance audit conducted with respect to the loan portfolio of such eligible lender, holder, or servicer, by a qualified independent organization from a list of qualified organizations identified by the Secretary and in accordance with standards established by the Secretary. The standards shall measure the lender’s, holder’s, or servicer’s compliance with due diligence standards and

shall include a defined statistical sampling technique designed to measure the performance rating of the eligible lender, holder, or servicer for the purpose of this section. Each eligible lender, holder, or servicer shall submit the audit required by this section to the Secretary.

“(D) SECRETARY’S DETERMINATIONS.—The Secretary shall make the determination under subparagraph (A) based upon the audits submitted under this paragraph and any information in the possession of the Secretary or submitted by any other agency or office of the Federal Government.

“(E) QUARTERLY COMPLIANCE AUDIT.—To maintain its status as an exceptional performer, the lender, holder, or servicer shall undergo a quarterly compliance audit at the end of each quarter (other than the quarter in which status as an exceptional performer is established through a financial and compliance audit, as described in subparagraph (C)), and submit the results of such audit to the Secretary. The compliance audit shall review compliance with due diligence requirements for the period beginning on the day after the ending date of the previous audit, in accordance with standards determined by the Secretary.

“(F) REVOCATION AUTHORITY.—The Secretary shall revoke the designation of a lender, holder, or servicer under subparagraph (A) if any quarterly audit required under subparagraph (E) is not received by the Secretary by the date established by the Secretary or if the audit indicates the lender, holder, or servicer has failed to meet the standards for designation as an exceptional performer under subparagraph (A). A lender, holder, or servicer receiving a compliance audit not meeting the standard for designation as an exceptional performer may reapply for designation under subparagraph (A) at any time.

“(G) DOCUMENTATION.—Nothing in this section shall restrict or limit the authority of the Secretary to require the submission of claims documentation evidencing servicing performed on loans, except that the Secretary may not require exceptional performers to submit greater documentation than that required for lenders, holders, and servicers not designated under subparagraph (A).

“(H) COST OF AUDITS.—Each eligible lender, holder, or servicer shall pay for all the costs associated with the audits required under this section.

“(I) ADDITIONAL REVOCATION AUTHORITY.—Notwithstanding any other provision of this section, a designation under subparagraph (A) may be revoked at any time by the Secretary if the Secretary determines that the eligible lender, holder, or servicer has failed to maintain an overall level of compliance consistent with the audit submitted by the eligible lender, holder, or servicer under this paragraph or if the Secretary asserts that the lender, holder, or servicer may have engaged in fraud in securing designation under subparagraph (A) or is failing to service loans in accordance with program requirements.

“(J) NONCOMPLIANCE.—A lender, holder, or servicer designated under subparagraph (A) that fails to service

loans or otherwise comply with applicable program regulations shall be considered in violation of the Federal False Claims Act.”.

(b) **DEFINITION.**—Section 707(e) of the Public Health Service Act (42 U.S.C. 292f(e)) is amended by adding at the end the following new paragraph:

“(4) The term ‘servicer’ means any agency acting on behalf of the insurance beneficiary.”.

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply with respect to loans submitted to the Secretary for payment on or after the first day of the sixth month that begins after the date of enactment of this Act. 42 USC 292f note.

#### **SEC. 143. INSURANCE PROGRAM.**

Section 710(a)(2)(B) of the Public Health Service Act (42 U.S.C. 292i(a)(2)(B)) is amended by striking “any of the fiscal years 1993 through 1996” and inserting “fiscal year 1993 and subsequent fiscal years”.

#### **SEC. 144. HEAL BANKRUPTCY.**

(a) **IN GENERAL.**—Section 707(g) of the Public Health Service Act (42 U.S.C. 292f(g)) is amended in the first sentence by striking “A debt which is a loan insured” and inserting “Notwithstanding any other provision of Federal or State law, a debt that is a loan insured”.

(b) **APPLICATION.**—The amendment made by subsection (a) shall apply to any loan insured under the authority of subpart I of part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) that is listed or scheduled by the debtor in a case under title XI, United States Code, filed— 42 USC 292f note.

(1) on or after the date of enactment of this Act; or

(2) prior to such date of enactment in which a discharge has not been granted.

#### **SEC. 145. HEAL REFINANCING.**

Section 706 of the Public Health Service Act (42 U.S.C. 292e) is amended—

(1) in subsection (d)—

(A) in the subsection heading, by striking “CONSOLIDATION” and inserting “REFINANCING OR CONSOLIDATION”; and

(B) in the first sentence, by striking “indebtedness” and inserting “indebtedness or the refinancing of a single loan”; and

(2) in subsection (e)—

(A) in the subsection heading, by striking “DEBTS” and inserting “DEBTS AND REFINANCING”; and

(B) in the first sentence, by striking “all of the borrower’s debts into a single instrument” and inserting “all of the borrower’s loans insured under this subpart into a single instrument (or, if the borrower obtained only 1 loan insured under this subpart, refinancing the loan 1 time)”; and

(C) in the second sentence, by striking “consolidation” and inserting “consolidation or refinancing”.

## TITLE II—OFFICE OF MINORITY HEALTH

### SEC. 201. REVISION AND EXTENSION OF PROGRAMS OF OFFICE OF MINORITY HEALTH.

(a) DUTIES AND REQUIREMENTS.—Section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) is amended by striking subsection (b) and all that follows and inserting the following:

“(b) DUTIES.—With respect to improving the health of racial and ethnic minority groups, the Secretary, acting through the Deputy Assistant Secretary for Minority Health (in this section referred to as the ‘Deputy Assistant Secretary’), shall carry out the following:

“(1) Establish short-range and long-range goals and objectives and coordinate all other activities within the Public Health Service that relate to disease prevention, health promotion, service delivery, and research concerning such individuals. The heads of each of the agencies of the Service shall consult with the Deputy Assistant Secretary to ensure the coordination of such activities.

“(2) Enter into interagency agreements with other agencies of the Public Health Service.

“(3) Support research, demonstrations and evaluations to test new and innovative models.

“(4) Increase knowledge and understanding of health risk factors.

“(5) Develop mechanisms that support better information dissemination, education, prevention, and service delivery to individuals from disadvantaged backgrounds, including individuals who are members of racial or ethnic minority groups.

“(6) Ensure that the National Center for Health Statistics collects data on the health status of each minority group.

“(7) With respect to individuals who lack proficiency in speaking the English language, enter into contracts with public and nonprofit private providers of primary health services for the purpose of increasing the access of the individuals to such services by developing and carrying out programs to provide bilingual or interpretive services.

“(8) Support a national minority health resource center to carry out the following:

“(A) Facilitate the exchange of information regarding matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care.

“(B) Facilitate access to such information.

“(C) Assist in the analysis of issues and problems relating to such matters.

“(D) Provide technical assistance with respect to the exchange of such information (including facilitating the development of materials for such technical assistance).

“(9) Carry out programs to improve access to health care services for individuals with limited proficiency in speaking the English language. Activities under the preceding sentence shall include developing and evaluating model projects.

“(c) ADVISORY COMMITTEE.—



“(1) IN GENERAL.—The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Health (in this subsection referred to as the ‘Committee’).

“(2) DUTIES.—The Committee shall provide advice to the Deputy Assistant Secretary carrying out this section, including advice on the development of goals and specific program activities under paragraphs (1) through (9) of subsection (b) for each racial and ethnic minority group.

“(3) CHAIR.—The chairperson of the Committee shall be selected by the Secretary from among the members of the voting members of the Committee. The term of office of the chairperson shall be 2 years.

“(4) COMPOSITION.—

“(A) The Committee shall be composed of 12 voting members appointed in accordance with subparagraph (B), and nonvoting, ex officio members designated in subparagraph (C).

“(B) The voting members of the Committee shall be appointed by the Secretary from among individuals who are not officers or employees of the Federal Government and who have expertise regarding issues of minority health. The racial and ethnic minority groups shall be equally represented among such members.

“(C) The nonvoting, ex officio members of the Committee shall be such officials of the Department of Health and Human Services as the Secretary determines to be appropriate.

“(5) TERMS.—Each member of the Committee shall serve for a term of 4 years, except that the Secretary shall initially appoint a portion of the members to terms of 1 year, 2 years, and 3 years.

“(6) VACANCIES.—If a vacancy occurs on the Committee, a new member shall be appointed by the Secretary within 90 days from the date that the vacancy occurs, and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the Committee.

“(7) COMPENSATION.—Members of the Committee who are officers or employees of the United States shall serve without compensation. Members of the Committee who are not officers or employees of the United States shall receive compensation, for each day (including travel time) they are engaged in the performance of the functions of the Committee. Such compensation may not be in an amount in excess of the daily equivalent of the annual maximum rate of basic pay payable under the General Schedule (under title 5, United States Code) for positions above GS-15.

“(d) CERTAIN REQUIREMENTS REGARDING DUTIES.—

“(1) RECOMMENDATIONS REGARDING LANGUAGE AS IMPEDIMENT TO HEALTH CARE.—The Deputy Assistant Secretary for Minority Health shall consult with the Director of the Office of International and Refugee Health, the Director of the Office of Civil Rights, and the Directors of other appropriate departmental entities regarding recommendations for carrying out activities under subsection (b)(9).

“(2) **EQUITABLE ALLOCATION REGARDING ACTIVITIES.**—In carrying out subsection (b), the Secretary shall ensure that services provided under such subsection are equitably allocated among all groups served under this section by the Secretary.

“(3) **CULTURAL COMPETENCY OF SERVICES.**—The Secretary shall ensure that information and services provided pursuant to subsection (b) are provided in the language, educational, and cultural context that is most appropriate for the individuals for whom the information and services are intended.

“(e) **GRANTS AND CONTRACTS REGARDING DUTIES.**—

“(1) **IN GENERAL.**—In carrying out subsection (b), the Secretary acting through the Deputy Assistant Secretary may make awards of grants, cooperative agreements, and contracts to public and nonprofit private entities.

“(2) **PROCESS FOR MAKING AWARDS.**—The Deputy Assistant Secretary shall ensure that awards under paragraph (1) are made, to the extent practical, only on a competitive basis, and that a grant is awarded for a proposal only if the proposal has been recommended for such an award through a process of peer review.

“(3) **EVALUATION AND DISSEMINATION.**—The Deputy Assistant Secretary, directly or through contracts with public and private entities, shall provide for evaluations of projects carried out with awards made under paragraph (1) during the preceding 2 fiscal years. The report shall be included in the report required under subsection (f) for the fiscal year involved.

“(f) **REPORTS.**—

“(1) **IN GENERAL.**—Not later than February 1 of fiscal year 1999 and of each second year thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities carried out under this section during the preceding 2 fiscal years and evaluating the extent to which such activities have been effective in improving the health of racial and ethnic minority groups. Each such report shall include the biennial reports submitted under sections 201(e)(3) and 201(f)(2) for such years by the heads of the Public Health Service agencies.

“(2) **AGENCY REPORTS.**—Not later than February 1, 1999, and biennially thereafter, the heads of the Public Health Service agencies shall submit to the Deputy Assistant Secretary a report summarizing the minority health activities of each of the respective agencies.

“(g) **DEFINITION.**—For purposes of this section:

“(1) The term ‘racial and ethnic minority group’ means American Indians (including Alaska Natives, Eskimos, and Aleuts); Asian Americans and Pacific Islanders; Blacks; and Hispanics.

“(2) The term ‘Hispanic’ means individuals whose origin is Mexican, Puerto Rican, Cuban, Central or South American, or any other Spanish-speaking country.

“(h) **FUNDING.**—

“(1) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated \$30,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.”.

(b) AUTHORIZATION FOR NATIONAL CENTER FOR HEALTH STATISTICS.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(1) in subsection (m), by adding at the end the following:

“(4)(A) Subject to subparagraph (B), the Secretary, acting through the Center, shall collect data on Hispanics and major Hispanic subpopulation groups and American Indians, and for developing special area population studies on major Asian American and Pacific Islander populations.

“(B) The provisions of subparagraph (A) shall be effective with respect to a fiscal year only to the extent that funds are appropriated pursuant to paragraph (3) of subsection (n), and only if the amounts appropriated for such fiscal year pursuant to each of paragraphs (1) and (2) of subsection (n) equal or exceed the amounts so appropriated for fiscal year 1997.”;

(2) in subsection (n)(1), by striking “through 1998” and inserting “through 2003”; and

(3) in subsection (n)—

(A) in the first sentence of paragraph (2)—

(i) by striking “authorized in subsection (m)” and inserting “authorized in paragraphs (1) through (3) of subsection (m)”;

(ii) by striking “\$5,000,000” and all that follows through the period and inserting “such sums as may be necessary for each of the fiscal years 1999 through 2003.”; and

(B) by adding at the end the following:

“(3) For activities authorized in subsection (m)(4), there are authorized to be appropriated \$1,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002.”.

(c) MISCELLANEOUS AMENDMENTS.—Section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) is amended—

(1) in the heading for the section by striking “ESTABLISHMENT OF”; and

(2) in subsection (a), by striking “Office of the Assistant Secretary for Health” and inserting “Office of Public Health and Science”.

## **TITLE III—SELECTED INITIATIVES**

### **SEC. 301. STATE OFFICES OF RURAL HEALTH.**

Section 338J of the Public Health Service Act (42 U.S.C. 254r) is amended—

(1) in subsection (b)(1), in the matter preceding subparagraph (A), by striking “in cash”; and

(2) in subsection (j)(1)—

(A) by striking “and” after “1992,”; and

(B) by inserting before the period the following: “, and such sums as may be necessary for each of the fiscal years 1998 through 2002”; and

(3) in subsection (k), by striking “\$10,000,000” and inserting “\$36,000,000”.

**SEC. 302. DEMONSTRATION PROJECTS REGARDING ALZHEIMER'S DISEASE.**

(a) IN GENERAL.—Section 398(a) of the Public Health Service Act (42 U.S.C. 280c-3(a)) is amended—

(1) in the matter preceding paragraph (1), by striking “not less than 5, and not more than 15,”;

(2) in paragraph (2)—

(A) by inserting after “disorders” the following: “who are living in single family homes or in congregate settings”; and

(B) by striking “and” at the end;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

“(3) to improve the access of such individuals to home-based or community-based long-term care services (subject to the services being provided by entities that were providing such services in the State involved as of October 1, 1995), particularly such individuals who are members of racial or ethnic minority groups, who have limited proficiency in speaking the English language, or who live in rural areas; and”.

(b) DURATION.—Section 398A of the Public Health Service Act (42 U.S.C. 280c-4) is amended—

(1) in the heading for the section, by striking “**LIMITATION**” and all that follows and inserting “**REQUIREMENT OF MATCHING FUNDS**”;

(2) by striking subsection (a);

(3) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(4) in subsection (a) (as so redesignated), in each of paragraphs (1)(C) and (2)(C), by striking “third year” and inserting “third or subsequent year”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 398B(e) of the Public Health Service Act (42 U.S.C. 280c-5(e)) is amended—

(1) by striking “and such sums” and inserting “such sums”; and

(2) by inserting before the period the following: “, \$8,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002”.

**SEC. 303. PROJECT GRANTS FOR IMMUNIZATION SERVICES.**

Section 317(j) of the Public Health Service Act (42 U.S.C. 247b(j)) is amended—

(1) in paragraph (1), by striking “individuals against vaccine-preventable diseases” and all that follows through the first period and inserting the following: “children, adolescents, and adults against vaccine-preventable diseases, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2002.”; and

(2) in paragraph (2), by striking “1990” and inserting “1997”.

## TITLE IV—MISCELLANEOUS PROVISIONS

### SEC. 401. TECHNICAL CORRECTIONS REGARDING PUBLIC LAW 103–183.

(a) AMENDATORY INSTRUCTIONS.—Public Law 103–183 is amended—

(1) in section 601—

(A) in subsection (b), in the matter preceding paragraph (1), by striking “Section 1201 of the Public Health Service Act (42 U.S.C. 300d)” and inserting “Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.)”; and

(B) in subsection (f)(1), by striking “in section 1204(c)” and inserting “in section 1203(c) (as redesignated by subsection (b)(2) of this section)”;

(2) in section 602, by striking “for the purpose” and inserting “For the purpose”; and

(3) in section 705(b), by striking “317D(l)(1)” and inserting “317D(l)(1)”.

(b) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act, as amended by Public Law 103–183 and by subsection (a) of this section, is amended—

(1) in section 317E(g)(2), by striking “making grants under subsection (b)” and inserting “carrying out subsection (b)”;

(2) in section 318, in subsection (e) as in effect on the day before the date of the enactment of Public Law 103–183, by redesignating the subsection as subsection (f);

(3) in subpart 6 of part C of title IV—

(A) by transferring the first section 447 (added by section 302 of Public Law 103–183) from the current placement of the section;

(B) by redesignating the section as section 447A; and

(C) by inserting the section after section 447;

(4) in section 1213(a)(8), by striking “provides for for” and inserting “provides for”;

(5) in section 1501, by redesignating the second subsection (c) (added by section 101(f) of Public Law 103–183) as subsection (d); and

(6) in section 1505(3), by striking “nonprofit”.

(c) MISCELLANEOUS CORRECTION.—Section 401(c)(3) of Public Law 103–183 is amended in the matter preceding subparagraph (A) by striking “(d)(5)” and inserting “(e)(5)”.

(d) CONFORMING AMENDMENT.—Section 308(b) of the Public Health Service Act (42 U.S.C. 242m(b)) is amended—

(1) in paragraph (2)(A), by striking “306(n)” and inserting “306(m)”; and

(2) in paragraph (2)(C), by striking “306(n)” and inserting “306(m)”.

(e) EFFECTIVE DATE.—This section is deemed to have taken effect immediately after the enactment of Public Law 103–183.

### SEC. 402. MISCELLANEOUS AMENDMENTS REGARDING PHS COMMISSIONED OFFICERS.

(a) ANTI-DISCRIMINATION LAWS.—Amend section 212 of the Public Health Service Act (42 U.S.C. 213) by adding the following new subsection at the end thereof:

42 USC 300d–1—  
300d–3.

42 USC 300d–3.

42 USC 300d–32.

42 USC 247b–5.

42 USC 247b–6.

42 USC 247c.

42 USC 285f–2.

42 USC 300d–13.

42 USC 300k.

42 USC 300n–1.

42 USC 247c.

42 USC 242m  
note.

“(f) Active service of commissioned officers of the Service shall be deemed to be active military service in the Armed Forces of the United States for purposes of all laws related to discrimination on the basis of race, color, sex, ethnicity, age, religion, and disability.”.

(b) TRAINING IN LEAVE WITHOUT PAY STATUS.—Section 218 of the Public Health Service Act (42 U.S.C. 218a) is amended by adding at the end the following:

“(c) A commissioned officer may be placed in leave without pay status while attending an educational institution or training program whenever the Secretary determines that such status is in the best interest of the Service. For purposes of computation of basic pay, promotion, retirement, compensation for injury or death, and the benefits provided by sections 212 and 224, an officer in such status pursuant to the preceding sentence shall be considered as performing service in the Service and shall have an active service obligation as set forth in subsection (b) of this section.”.

(c) UTILIZATION OF ALCOHOL AND DRUG ABUSE RECORDS THAT APPLY TO THE ARMED FORCES.—Section 543(e) of the Public Health Service Act (42 U.S.C. 290dd-2(e)) is amended by striking “Armed Forces” each place that such term appears and inserting “Uniformed Services”.

#### **SEC. 403. CLINICAL TRAINEESHIPS.**

Section 303(d)(1) of the Public Health Service Act (42 U.S.C. 242a(d)(1)) is amended by inserting “counseling,” after “family therapy,”.

#### **SEC. 404. PROJECT GRANTS FOR SCREENINGS, REFERRALS, AND EDUCATION REGARDING LEAD POISONING.**

Section 317A(l)(1) of the Public Health Service Act (42 U.S.C. 247b-1(l)(1)) is amended by striking “1998” and inserting “2002”.

#### **SEC. 405. PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES REGARDING TUBERCULOSIS.**

Section 317E(g) of the Public Health Service Act (42 U.S.C. 247b-6(g)(1)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “1998” and inserting “2002”; and

(B) in subparagraph (B), by striking “\$50,000,000” and inserting “25 percent”; and

(2) in paragraph (2), by striking “1998” and inserting “2002”.

#### **SEC. 406. CDC LOAN REPAYMENT PROGRAM.**

Section 317F of the Public Health Service Act (42 U.S.C. 247b-7) is amended—

(1) in subsection (a)(1), by striking “\$20,000” and inserting “\$35,000”;

(2) in subsection (c), by striking “1998” and inserting “2002”; and

(3) by adding at the end the following:

“(d) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated for a fiscal year for contracts under subsection (a) shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.”.

**SEC. 407. COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.**

(a) IN GENERAL.—Section 318(h)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10418(h)(2)) is amended by striking “fiscal year 1997” and inserting “for each of the fiscal years 1997 through 2002”.

(b) STUDY.—The Secretary of Health and Human Services shall request that the Institute of Medicine conduct a study concerning the training needs of health professionals with respect to the detection and referral of victims of family or acquaintance violence. Not later than 2 years after the date of enactment of this Act, the Institute of Medicine shall prepare and submit to Congress a report concerning the study conducted under this subsection.

42 USC 10401  
note.

**SEC. 408. STATE LOAN REPAYMENT PROGRAM.**

Section 338I(i)(1) of the Public Health Service Act (42 U.S.C. 254q-1(i)(1)) is amended by inserting before the period “, and such sums as may be necessary for each of the fiscal years 1998 through 2002”.

**SEC. 409. AUTHORITY OF THE DIRECTOR OF NIH.**

Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

- (1) in paragraph (11), by striking “and” at the end thereof;
- (2) in paragraph (12), by striking the period and inserting a semicolon; and

(3) by adding after paragraph (12), the following new paragraphs:

“(13) may conduct and support research training—

“(A) for which fellowship support is not provided under section 487; and

“(B) which does not consist of residency training of physicians or other health professionals; and

“(14) may appoint physicians, dentists, and other health care professionals, subject to the provisions of title 5, United States Code, relating to appointments and classifications in the competitive service, and may compensate such professionals subject to the provisions of chapter 74 of title 38, United States Code.”.

**SEC. 410. RAISE IN MAXIMUM LEVEL OF LOAN REPAYMENTS.**

(a) REPAYMENT PROGRAMS WITH RESPECT TO AIDS.—Section 487A of the Public Health Service Act (42 U.S.C. 288-1) is amended—

(1) in subsection (a), by striking “\$20,000” and inserting “\$35,000”; and

(2) in subsection (c), by striking “1996” and inserting “2001”.

(b) REPAYMENT PROGRAMS WITH RESPECT TO CONTRACEPTION AND INFERTILITY.—Section 487B(a) of the Public Health Service Act (42 U.S.C. 288-2(a)) is amended by striking “\$20,000” and inserting “\$35,000”.

(c) REPAYMENT PROGRAMS WITH RESPECT TO RESEARCH GENERALLY.—Section 487C(a)(1) of the Public Health Service Act (42 U.S.C. 288-3(a)(1)) is amended by striking “\$20,000” and inserting “\$35,000”.

(d) REPAYMENT PROGRAMS WITH RESPECT TO CLINICAL RESEARCHERS FROM DISADVANTAGED BACKGROUNDS.—Section

487E(a) of the Public Health Service Act (42 U.S.C. 288-5(a)) is amended—

- (1) in paragraph (1), by striking “\$20,000” and inserting “\$35,000”; and
- (2) in paragraph (3), by striking “338C” and inserting “338B, 338C”.

**SEC. 411. CONSTRUCTION OF REGIONAL CENTERS FOR RESEARCH ON PRIMATES.**

Section 481B(a) of the Public Health Service Act (42 U.S.C. 287a-3(a)) is amended—

- (1) by striking “shall” and inserting “may”; and
- (2) by striking “\$5,000,000” and inserting “up to \$2,500,000”.

**SEC. 412. PEER REVIEW.**

Section 504(d)(2) of the Public Health Service Act (42 U.S.C. 290aa-3(d)(2)) is amended by striking “cooperative agreement, or contract” each place that such term appears and inserting “or cooperative agreement”.

**SEC. 413. FUNDING FOR TRAUMA CARE.**

Section 1232(a) of the Public Health Service Act (42 U.S.C. 300d-32) is amended by striking “and 1996” and inserting “through 2002”.

**SEC. 414. HEALTH INFORMATION AND HEALTH PROMOTION.**

Section 1701(b) of the Public Health Service Act (42 U.S.C. 300u(b)) is amended by striking “through 1996” and inserting “through 2002”.

**SEC. 415. EMERGENCY MEDICAL SERVICES FOR CHILDREN.**

Section 1910 of the Public Health Service Act (42 U.S.C. 300w-9) is amended—

- (1) in subsection (a)—
  - (A) by striking “two-year period” and inserting “3-year period (with an optional 4th year based on performance)”;
  - and
  - (B) by striking “one grant” and inserting “3 grants”;
  - and
- (2) in subsection (d), by striking “1997” and inserting “2005”.

**SEC. 416. ADMINISTRATION OF CERTAIN REQUIREMENTS.**

(a) IN GENERAL.—Section 2004 of Public Law 103-43 (107 Stat. 209) is amended by striking subsection (a).

(b) CONFORMING AMENDMENTS.—Section 2004 of Public Law 103-43, as amended by subsection (a) of this section, is amended—

- (1) by striking “(b) SENSE” and all that follows through “In the case” and inserting the following:  
“(a) SENSE OF CONGRESS REGARDING PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case”;
- (2) by striking “(2) NOTICE TO RECIPIENTS OF ASSISTANCE” and inserting the following:  
“(b) NOTICE TO RECIPIENTS OF ASSISTANCE”; and
- (3) in subsection (b), as redesignated by paragraph (2) of this subsection, by striking “paragraph (1)” and inserting “subsection (a)”.



(c) **EFFECTIVE DATE.**—This section is deemed to have taken effect immediately after the enactment of Public Law 103-43. 42 USC 238f note.

**SEC. 417. AIDS DRUG ASSISTANCE PROGRAM.**

Section 2618(b)(3) of the Public Health Service Act (42 U.S.C. 300ff-28(b)(3)) is amended—

(1) in subparagraph (A), by striking “and the Commonwealth of Puerto Rico” and inserting “, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam”; and

(2) in subparagraph (B), by striking “the Virgin Islands, Guam”.

**SEC. 418. NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH.**

Part I of title IV of the Public Health Service Act (42 U.S.C. 290b et seq.) is amended—

(1) by striking the part heading and inserting the following:

**“PART I—FOUNDATION FOR THE NATIONAL  
INSTITUTES OF HEALTH”;**

and

(2) in section 499—

(A) in subsection (a), by striking “National Foundation for Biomedical Research” and inserting “Foundation for the National Institutes of Health”;

(B) in subsection (k)(10)—

(i) by striking “not”; and

(ii) by adding at the end the following: “Any funds transferred under this paragraph shall be subject to all Federal limitations relating to federally-funded research.”; and

(C) in subsection (m)(1), by striking “\$200,000” and all that follows through “1995” and inserting “\$500,000 for each fiscal year”.

42 USC 290b.

**SEC. 419. FETAL ALCOHOL SYNDROME PREVENTION AND SERVICES.**

(a) **SHORT TITLE.**—This section may be cited as the “Fetal Alcohol Syndrome and Fetal Alcohol Effect Prevention and Services Act”.

(b) **FINDINGS.**—Congress finds that—

(1) Fetal Alcohol Syndrome is the leading preventable cause of mental retardation, and it is 100 percent preventable;

(2) estimates on the number of children each year vary, but according to some researchers, up to 12,000 infants are born in the United States with Fetal Alcohol Syndrome, suffering irreversible physical and mental damage;

(3) thousands more infants are born each year with Fetal Alcohol Effect, also known as Alcohol Related Neurobehavioral Disorder (ARND), a related and equally tragic syndrome;

(4) children of women who use alcohol while pregnant have a significantly higher infant mortality rate (13.3 per 1,000) than children of those women who do not use alcohol (8.6 per 1,000);

(5) Fetal Alcohol Syndrome and Fetal Alcohol Effect are national problems which can impact any child, family, or community, but their threat to American Indians and Alaska Natives is especially alarming;

Fetal Alcohol Syndrome and Fetal Alcohol Effect Prevention and Services Act.  
42 USC 201 note.  
42 USC 280f note.

(6) in some American Indian communities, where alcohol dependency rates reach 50 percent and above, the chances of a newborn suffering Fetal Alcohol Syndrome or Fetal Alcohol Effect are up to 30 times greater than national averages;

(7) in addition to the immeasurable toll on children and their families, Fetal Alcohol Syndrome and Fetal Alcohol Effect pose extraordinary financial costs to the Nation, including the costs of health care, education, foster care, job training, and general support services for affected individuals;

(8) the total cost to the economy of Fetal Alcohol Syndrome was approximately \$2,500,000,000 in 1995, and over a lifetime, health care costs for one Fetal Alcohol Syndrome child are estimated to be at least \$1,400,000;

(9) researchers have determined that the possibility of giving birth to a baby with Fetal Alcohol Syndrome or Fetal Alcohol Effect increases in proportion to the amount and frequency of alcohol consumed by a pregnant woman, and that stopping alcohol consumption at any point in the pregnancy reduces the emotional, physical, and mental consequences of alcohol exposure to the baby; and

(10) though approximately 1 out of every 5 pregnant women drink alcohol during their pregnancy, we know of no safe dose of alcohol during pregnancy, or of any safe time to drink during pregnancy, thus, it is in the best interest of the Nation for the Federal Government to take an active role in encouraging all women to abstain from alcohol consumption during pregnancy.

(c) PURPOSE.—It is the purpose of this section to establish, within the Department of Health and Human Services, a comprehensive program to help prevent Fetal Alcohol Syndrome and Fetal Alcohol Effect nationwide and to provide effective intervention programs and services for children, adolescents and adults already affected by these conditions. Such program shall—

(1) coordinate, support, and conduct national, State, and community-based public awareness, prevention, and education programs on Fetal Alcohol Syndrome and Fetal Alcohol Effect;

(2) coordinate, support, and conduct prevention and intervention studies as well as epidemiologic research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect;

(3) coordinate, support and conduct research and demonstration projects to develop effective developmental and behavioral interventions and programs that foster effective advocacy, educational and vocational training, appropriate therapies, counseling, medical and mental health, and other supportive services, as well as models that integrate or coordinate such services, aimed at the unique challenges facing individuals with Fetal Alcohol Syndrome or Fetal Alcohol Effect and their families; and

(4) foster coordination among all Federal, State and local agencies, and promote partnerships between research institutions and communities that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effect research, programs, surveillance, prevention, and interventions and otherwise meet the general needs of populations already affected or at risk of being impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effect.

(d) ESTABLISHMENT OF PROGRAM.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

**“PART O—FETAL ALCOHOL SYNDROME  
PREVENTION AND SERVICES PROGRAM**

**“SEC. 399G. ESTABLISHMENT OF FETAL ALCOHOL SYNDROME PREVENTION AND SERVICES PROGRAM.** 42 USC 280f.

“(a) FETAL ALCOHOL SYNDROME PREVENTION, INTERVENTION AND SERVICES DELIVERY PROGRAM.—The Secretary shall establish a comprehensive Fetal Alcohol Syndrome and Fetal Alcohol Effect prevention, intervention and services delivery program that shall include—

“(1) an education and public awareness program to support, conduct, and evaluate the effectiveness of—

“(A) educational programs targeting medical schools, social and other supportive services, educators and counselors and other service providers in all phases of childhood development, and other relevant service providers, concerning the prevention, identification, and provision of services for children, adolescents and adults with Fetal Alcohol Syndrome and Fetal Alcohol Effect;

“(B) strategies to educate school-age children, including pregnant and high risk youth, concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect;

“(C) public and community awareness programs concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect; and

“(D) strategies to coordinate information and services across affected community agencies, including agencies providing social services such as foster care, adoption, and social work, medical and mental health services, and agencies involved in education, vocational training and civil and criminal justice;

“(2) a prevention and diagnosis program to support clinical studies, demonstrations and other research as appropriate to—

“(A) develop appropriate medical diagnostic methods for identifying Fetal Alcohol Syndrome and Fetal Alcohol Effect; and

“(B) develop effective prevention services and interventions for pregnant, alcohol-dependent women; and

“(3) an applied research program concerning intervention and prevention to support and conduct service demonstration projects, clinical studies and other research models providing advocacy, educational and vocational training, counseling, medical and mental health, and other supportive services, as well as models that integrate and coordinate such services, that are aimed at the unique challenges facing individuals with Fetal Alcohol Syndrome or Fetal Alcohol Effect and their families.

“(b) GRANTS AND TECHNICAL ASSISTANCE.—The Secretary may award grants, cooperative agreements and contracts and provide technical assistance to eligible entities described in section 399H to carry out subsection (a).

“(c) DISSEMINATION OF CRITERIA.—In carrying out this section, the Secretary shall develop a procedure for disseminating the Fetal

Alcohol Syndrome and Fetal Alcohol Effect diagnostic criteria developed pursuant to section 705 of the ADAMHA Reorganization Act (42 U.S.C. 485n note) to health care providers, educators, social workers, child welfare workers, and other individuals.

“(d) NATIONAL TASK FORCE.—

“(1) IN GENERAL.—The Secretary shall establish a task force to be known as the National Task Force on Fetal Alcohol Syndrome and Fetal Alcohol Effect (referred to in this subsection as the ‘Task Force’) to foster coordination among all governmental agencies, academic bodies and community groups that conduct or support Fetal Alcohol Syndrome and Fetal Alcohol Effect research, programs, and surveillance, and otherwise meet the general needs of populations actually or potentially impacted by Fetal Alcohol Syndrome and Fetal Alcohol Effect.

“(2) MEMBERSHIP.—The Task Force established pursuant to paragraph (1) shall—

“(A) be chaired by an individual to be appointed by the Secretary and staffed by the Administration; and

“(B) include the Chairperson of the Interagency Coordinating Committee on Fetal Alcohol Syndrome of the Department of Health and Human Services, individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effect, and representatives from advocacy and research organizations such as the Research Society on Alcoholism, the FAS Family Resource Institute, the National Organization of Fetal Alcohol Syndrome, the Arc, the academic community, and Federal, State and local government agencies and offices.

“(3) FUNCTIONS.—The Task Force shall—

“(A) advise Federal, State and local programs and research concerning Fetal Alcohol Syndrome and Fetal Alcohol Effect, including programs and research concerning education and public awareness for relevant service providers, school-age children, women at-risk, and the general public, medical diagnosis, interventions for women at-risk of giving birth to children with Fetal Alcohol Syndrome and Fetal Alcohol Effect, and beneficial services for individuals with Fetal Alcohol Syndrome and Fetal Alcohol Effect and their families;

“(B) coordinate its efforts with the Interagency Coordinating Committee on Fetal Alcohol Syndrome of the Department of Health and Human Services; and

“(C) report on a biennial basis to the Secretary and relevant committees of Congress on the current and planned activities of the participating agencies.

“(4) TIME FOR APPOINTMENT.—The members of the Task Force shall be appointed by the Secretary not later than 6 months after the date of enactment of this part.

42 USC 280f-1.

“SEC. 399H. ELIGIBILITY.

“To be eligible to receive a grant, or enter into a cooperative agreement or contract under this part, an entity shall—

“(1) be a State, Indian tribal government, local government, scientific or academic institution, or nonprofit organization; and

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information

as the Secretary may prescribe, including a description of the activities that the entity intends to carry out using amounts received under this part.

**“SEC. 399I. AUTHORIZATION OF APPROPRIATIONS.**

42 USC 280f–2.

“(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, \$27,000,000 for each of the fiscal years 1999 through 2003.

“(b) TASK FORCE.—From amounts appropriated for a fiscal year under subsection (a), the Secretary may use not to exceed \$2,000,000 of such amounts for the operations of the National Task Force under section 399G(d).

**“SEC. 399J. SUNSET PROVISION.**

42 USC 280f–3.

“This part shall not apply on the date that is 7 years after the date on which all members of the National Task Force have been appointed under section 399G(d)(1).”.

Approved November 13, 1998.

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**LEGISLATIVE HISTORY—S. 1754:**

SENATE REPORTS: No. 105–220 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

July 31, considered and passed Senate.

Oct. 13, considered and passed House, amended.

Oct. 14, Senate concurred in House amendment.



Public Law 105–393  
105th Congress

An Act

Nov. 13, 1998  
[S. 2364]

To reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Economic  
Development  
Administration  
and Appalachian  
Regional  
Development  
Reform Act of  
1998.  
Urban and rural  
areas.  
42 USC 3121  
note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Economic Development Administration and Appalachian Regional Development Reform Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—ECONOMIC DEVELOPMENT**

- Sec. 101. Short title.
- Sec. 102. Reauthorization of Public Works and Economic Development Act of 1965.
- Sec. 103. Conforming amendment.
- Sec. 104. Transition provisions.
- Sec. 105. Effective date.

**TITLE II—APPALACHIAN REGIONAL DEVELOPMENT**

- Sec. 201. Short title.
- Sec. 202. Findings and purposes.
- Sec. 203. Meetings.
- Sec. 204. Administrative expenses.
- Sec. 205. Compensation of employees.
- Sec. 206. Administrative powers of Commission.
- Sec. 207. Cost sharing of demonstration health projects.
- Sec. 208. Repeal of land stabilization, conservation, and erosion control program.
- Sec. 209. Repeal of timber development program.
- Sec. 210. Repeal of mining area restoration program.
- Sec. 211. Repeal of water resource survey.
- Sec. 212. Cost sharing of housing projects.
- Sec. 213. Repeal of airport safety improvements program.
- Sec. 214. Cost sharing of vocational education and education demonstration projects.
- Sec. 215. Repeal of sewage treatment works program.
- Sec. 216. Repeal of amendments to Housing Act of 1954.
- Sec. 217. Supplements to Federal grant-in-aid programs.
- Sec. 218. Program development criteria.
- Sec. 219. Distressed and economically strong counties.
- Sec. 220. Grants for administrative expenses and commission projects.
- Sec. 221. Authorization of appropriations for general program.
- Sec. 222. Extension of termination date.
- Sec. 223. Technical amendment.

## TITLE I—ECONOMIC DEVELOPMENT

Economic  
Development  
Administration  
Reform Act of  
1998.  
42 USC 3121  
note.

### SEC. 101. SHORT TITLE.

This title may be cited as the “Economic Development Administration Reform Act of 1998”.

### SEC. 102. REAUTHORIZATION OF PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.

(a) FIRST SECTION THROUGH TITLE VI—The Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.) is amended by striking the first section and all that follows through the end of title VI and inserting the following:

#### “SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

42 USC 3121  
note.

“(a) SHORT TITLE.—This Act may be cited as the ‘Public Works and Economic Development Act of 1965’.

“(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

“Sec. 1. Short title; table of contents.

“Sec. 2. Findings and declarations.

“Sec. 3. Definitions.

#### “TITLE I—ECONOMIC DEVELOPMENT PARTNERSHIPS COOPERATION AND COORDINATION

“Sec. 101. Establishment of economic development partnerships.

“Sec. 102. Cooperation of Federal agencies.

“Sec. 103. Coordination.

#### “TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

“Sec. 201. Grants for public works and economic development.

“Sec. 202. Base closings and realignments.

“Sec. 203. Grants for planning and grants for administrative expenses.

“Sec. 204. Cost sharing.

“Sec. 205. Supplementary grants.

“Sec. 206. Regulations on relative needs and allocations.

“Sec. 207. Grants for training, research, and technical assistance.

“Sec. 208. Prevention of unfair competition.

“Sec. 209. Grants for economic adjustment.

“Sec. 210. Changed project circumstances.

“Sec. 211. Use of funds in projects constructed under projected cost.

“Sec. 212. Reports by recipients.

“Sec. 213. Prohibition on use of funds for attorney’s and consultant’s fees.

#### “TITLE III—ELIGIBILITY; COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

“Sec. 301. Eligibility of areas.

“Sec. 302. Comprehensive economic development strategies.

#### “TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

“Sec. 401. Designation of economic development districts.

“Sec. 402. Termination or modification of economic development districts.

“Sec. 403. Incentives.

“Sec. 404. Provision of comprehensive economic development strategies to Appalachian Regional Commission.

“Sec. 405. Assistance to parts of economic development districts not in eligible areas.

#### “TITLE V—ADMINISTRATION

“Sec. 501. Assistant Secretary for Economic Development.

“Sec. 502. Economic development information clearinghouse.

“Sec. 503. Consultation with other persons and agencies.

“Sec. 504. Administration, operation, and maintenance.

“Sec. 505. Businesses desiring Federal contracts.

“Sec. 506. Performance evaluations of grant recipients.

“Sec. 507. Notification of reorganization.

“TITLE VI—MISCELLANEOUS

“Sec. 601. Powers of Secretary.

“Sec. 602. Maintenance of standards.

“Sec. 603. Annual report to Congress.

“Sec. 604. Delegation of functions and transfer of funds among Federal agencies.

“Sec. 605. Penalties.

“Sec. 606. Employment of expeditors and administrative employees.

“Sec. 607. Maintenance and public inspection of list of approved applications for financial assistance.

“Sec. 608. Records and audits.

“Sec. 609. Relationship to assistance under other law.

“Sec. 610. Acceptance of certifications by applicants.

“TITLE VII—FUNDING

“Sec. 701. General authorization of appropriations.

“Sec. 702. Authorization of appropriations for defense conversion activities.

“Sec. 703. Authorization of appropriations for disaster economic recovery activities.

42 USC 3121.

**“SEC. 2. FINDINGS AND DECLARATIONS.**

“(a) FINDINGS.—Congress finds that—

“(1) while the economy of the United States is undergoing a sustained period of economic growth resulting in low unemployment and increasing incomes, there continue to be areas suffering economic distress in the form of high unemployment, low incomes, underemployment, and outmigration as well as areas facing sudden economic dislocations due to industrial restructuring and relocation, defense base closures and procurement cutbacks, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;

“(2) as the economy of the United States continues to grow, those distressed areas contain significant human and infrastructure resources that are underused;

“(3) expanding international trade and the increasing pace of technological innovation offer both a challenge and an opportunity to the distressed communities of the United States;

“(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private local, regional, and State organizations to ensure that existing resources are not wasted and all Americans have an opportunity to participate in the economic growth of the United States;

“(5) in order to avoid wasteful duplication of effort and to limit the burden on distressed communities, Federal, State, and local economic development activities should be better planned and coordinated and Federal program requirements should be simplified and made more consistent;

“(6) the goal of Federal economic development activities should be to work in partnership with local, regional, and State public and private organizations to support the development of private sector businesses and jobs in distressed communities;

“(7) Federal economic development efforts will be more effective if they are coordinated with, and build upon, the trade and technology programs of the United States; and

“(8) under this Act, new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another.



“(b) DECLARATIONS.—Congress declares that, in order to promote a strong and growing economy throughout the United States—

“(1) assistance under this Act should be made available to both rural and urban distressed communities;

“(2) local communities should work in partnership with neighboring communities, the States, and the Federal Government to increase their capacity to develop and implement comprehensive economic development strategies to address existing, or deter impending, economic distress; and

“(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to take advantage of the development opportunities afforded by technological innovation and expanding and newly opened global markets.

**“SEC. 3. DEFINITIONS.**

42 USC 3122.

“In this Act:

“(1) COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY.—The term ‘comprehensive economic development strategy’ means a comprehensive economic development strategy approved by the Secretary under section 302.

“(2) DEPARTMENT.—The term ‘Department’ means the Department of Commerce.

“(3) ECONOMIC DEVELOPMENT DISTRICT.—

“(A) IN GENERAL.—The term ‘economic development district’ means any area in the United States that—

“(i) is composed of areas described in section 301(a) and, to the extent appropriate, neighboring counties or communities; and

“(ii) has been designated by the Secretary as an economic development district under section 401.

“(B) INCLUSION.—The term ‘economic development district’ includes any economic development district designated by the Secretary under section 403 (as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998).

“(4) ELIGIBLE RECIPIENT.—

“(A) IN GENERAL.—The term ‘eligible recipient’ means—

“(i) an area described in section 301(a);

“(ii) an economic development district;

“(iii) an Indian tribe;

“(iv) a State;

“(v) a city or other political subdivision of a State or a consortium of political subdivisions;

“(vi) an institution of higher education or a consortium of institutions of higher education; or

“(vii) a public or private nonprofit organization or association acting in cooperation with officials of a political subdivision of a State.

“(B) TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE GRANTS.—In the case of grants under section 207, the term ‘eligible recipient’ also includes private individuals and for-profit organizations.

“(5) FEDERAL AGENCY.—The term ‘Federal agency’ means a department, agency, or instrumentality of the United States.

“(6) GRANT.—The term ‘grant’ includes a cooperative agreement (within the meaning of chapter 63 of title 31, United States Code).

“(7) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or Regional Corporation (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“(8) SECRETARY.—The term ‘Secretary’ means the Secretary of Commerce.

“(9) STATE.—The term ‘State’ means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(10) UNITED STATES.—The term ‘United States’ means all of the States.

## **“TITLE I—ECONOMIC DEVELOPMENT PARTNERSHIPS COOPERATION AND COORDINATION**

42 USC 3131.

### **“SEC. 101. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.**

“(a) IN GENERAL.—In providing assistance under this title, the Secretary shall cooperate with States and other entities to ensure that, consistent with national objectives, Federal programs are compatible with and further the objectives of State, regional, and local economic development plans and comprehensive economic development strategies.

“(b) TECHNICAL ASSISTANCE.—The Secretary may provide such technical assistance to States, political subdivisions of States, sub-State regional organizations (including organizations that cross State boundaries), and multi-State regional organizations as the Secretary determines is appropriate to—

“(1) alleviate economic distress;

“(2) encourage and support public-private partnerships for the formation and improvement of economic development strategies that sustain and promote economic development across the United States; and

“(3) promote investment in infrastructure and technological capacity to keep pace with the changing global economy.

Regulations.

“(c) INTERGOVERNMENTAL REVIEW.—The Secretary shall promulgate regulations to ensure that appropriate State and local government agencies have been given a reasonable opportunity to review and comment on proposed projects under this title that the Secretary determines may have a significant direct impact on the economy of the area.

“(d) COOPERATION AGREEMENTS.—

“(1) IN GENERAL.—The Secretary may enter into a cooperation agreement with any 2 or more adjoining States, or an

organization of any 2 or more adjoining States, in support of effective economic development.

“(2) PARTICIPATION.—Each cooperation agreement shall provide for suitable participation by other governmental and nongovernmental entities that are representative of significant interests in and perspectives on economic development in an area.

**“SEC. 102. COOPERATION OF FEDERAL AGENCIES.**

42 USC 3132.

“In accordance with applicable laws and subject to the availability of appropriations, each Federal agency shall exercise its powers, duties and functions, and shall cooperate with the Secretary, in such manner as will assist the Secretary in carrying out this title.

**“SEC. 103. COORDINATION.**

42 USC 3133.

“The Secretary shall coordinate activities relating to the preparation and implementation of comprehensive economic development strategies under this Act with Federal agencies carrying out other Federal programs, States, economic development districts, and other appropriate planning and development organizations.

## **“TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT**

**“SEC. 201. GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT.**

42 USC 3141.

“(a) IN GENERAL.—On the application of an eligible recipient, the Secretary may make grants for—

“(1) acquisition or development of land and improvements for use for a public works, public service, or development facility; and

“(2) acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such a facility, including related machinery and equipment.

“(b) CRITERIA FOR GRANT.—The Secretary may make a grant under this section only if the Secretary determines that—

“(1) the project for which the grant is applied for will, directly or indirectly—

“(A) improve the opportunities, in the area where the project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;

“(B) assist in the creation of additional long-term employment opportunities in the area; or

“(C) primarily benefit the long-term unemployed and members of low-income families;

“(2) the project for which the grant is applied for will fulfill a pressing need of the area, or a part of the area, in which the project is or will be located; and

“(3) the area for which the project is to be carried out has a comprehensive economic development strategy and the project is consistent with the strategy.

“(c) MAXIMUM ASSISTANCE FOR EACH STATE.—Not more than 15 percent of the amounts made available to carry out this section may be expended in any 1 State.

42 USC 3142.

**“SEC. 202. BASE CLOSINGS AND REALIGNMENTS.**

“Notwithstanding any other provision of law, the Secretary may provide to an eligible recipient any assistance available under this title for a project to be carried out on a military or Department of Energy installation that is closed or scheduled for closure or realignment without requiring that the eligible recipient have title to the property or a leasehold interest in the property for any specified term.

42 USC 3143.

**“SEC. 203. GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.**

“(a) IN GENERAL.—On the application of an eligible recipient, the Secretary may make grants to pay the costs of economic development planning and the administrative expenses of organizations that carry out the planning.

“(b) PLANNING PROCESS.—Planning assisted under this title shall be a continuous process involving public officials and private citizens in—

“(1) analyzing local economies;

“(2) defining economic development goals;

“(3) determining project opportunities; and

“(4) formulating and implementing an economic development program that includes systematic efforts to reduce unemployment and increase incomes.

“(c) USE OF PLANNING ASSISTANCE.—Planning assistance under this title shall be used in conjunction with any other available Federal planning assistance to ensure adequate and effective planning and economical use of funds.

“(d) STATE PLANS.—

“(1) DEVELOPMENT.—Any State plan developed with assistance under this section shall be developed cooperatively by the State, political subdivisions of the State, and the economic development districts located wholly or partially in the State.

“(2) COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY.—As a condition of receipt of assistance for a State plan under this subsection, the State shall have or develop a comprehensive economic development strategy.

“(3) CERTIFICATION TO THE SECRETARY.—On completion of a State plan developed with assistance under this section, the State shall—

“(A) certify to the Secretary that, in the development of the State plan, local and economic development district plans were considered and, to the maximum extent practicable, the State plan is consistent with the local and economic development district plans; and

“(B) identify any inconsistencies between the State plan and the local and economic development district plans and provide a justification for each inconsistency.

“(4) COMPREHENSIVE PLANNING PROCESS.—Any overall State economic development planning assisted under this section shall be a part of a comprehensive planning process that shall consider the provision of public works to—

“(A) promote economic development and opportunity;

“(B) foster effective transportation access;

“(C) enhance and protect the environment; and

“(D) balance resources through the sound management of physical development.

“(5) REPORT TO SECRETARY.—Each State that receives assistance for the development of a plan under this subsection shall submit to the Secretary an annual report on the planning process assisted under this subsection.

**“SEC. 204. COST SHARING.**

42 USC 3144.

“(a) FEDERAL SHARE.—Subject to section 205, the amount of a grant for a project under this title shall not exceed 50 percent of the cost of the project.

“(b) NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of the cost of a project, the Secretary may provide credit toward the non-Federal share for all contributions both in cash and in-kind, fairly evaluated, including contributions of space, equipment, and services.

**“SEC. 205. SUPPLEMENTARY GRANTS.**

42 USC 3145.

“(a) DEFINITION OF DESIGNATED FEDERAL GRANT PROGRAM.—In this section, the term ‘designated Federal grant program’ means any Federal grant program that—

“(1) provides assistance in the construction or equipping of public works, public service, or development facilities;

“(2) the Secretary designates as eligible for an allocation of funds under this section; and

“(3) assists projects that are—

“(A) eligible for assistance under this title; and

“(B) consistent with a comprehensive economic development strategy.

“(b) SUPPLEMENTARY GRANTS.—

“(1) IN GENERAL.—On the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the eligible recipient is eligible but, because of the eligible recipient’s economic situation, for which the eligible recipient cannot provide the required non-Federal share.

“(2) PURPOSES OF GRANTS.—Supplementary grants under paragraph (1) may be made for purposes that shall include enabling eligible recipients to use—

“(A) designated Federal grant programs; and

“(B) direct grants authorized under this title.

“(c) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—

“(1) AMOUNT OF SUPPLEMENTARY GRANTS.—Subject to paragraph (4), the amount of a supplementary grant under this title for a project shall not exceed the applicable percentage of the cost of the project established by regulations promulgated by the Secretary, except that the non-Federal share of the cost of a project (including assumptions of debt) shall not be less than 20 percent.

“(2) FORM OF SUPPLEMENTARY GRANTS.—In accordance with such regulations as the Secretary may promulgate, the Secretary shall make supplementary grants by increasing the amounts of grants authorized under this title or by the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs.

“(3) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any requirement as to the amount or source of non-Federal funds that may be applicable to a Federal program, funds provided under this section may be

used to increase the Federal share for specific projects under the program that are carried out in areas described in section 301(a) above the Federal share of the cost of the project authorized by the law governing the program.

“(4) LOWER NON-FEDERAL SHARE.—

“(A) INDIAN TRIBES.—In the case of a grant to an Indian tribe, the Secretary may reduce the non-Federal share below the percentage specified in paragraph (1) or may waive the non-Federal share.

“(B) CERTAIN STATES, POLITICAL SUBDIVISIONS, AND NONPROFIT ORGANIZATIONS.—In the case of a grant to a State, or a political subdivision of a State, that the Secretary determines has exhausted its effective taxing and borrowing capacity, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted its effective borrowing capacity, the Secretary may reduce the non-Federal share below the percentage specified in paragraph (1).

42 USC 3146.

**“SEC. 206. REGULATIONS ON RELATIVE NEEDS AND ALLOCATIONS.**

“In promulgating rules, regulations, and procedures for assistance under this title, the Secretary shall ensure that—

“(1) the relative needs of eligible areas are given adequate consideration by the Secretary, as determined based on, among other relevant factors—

“(A) the severity of the rates of unemployment in the eligible areas and the duration of the unemployment;

“(B) the income levels and the extent of underemployment in eligible areas; and

“(C) the outmigration of population from eligible areas and the extent to which the outmigration is causing economic injury in the eligible areas; and

“(2) allocations of assistance under this title are prioritized to ensure that the level of economic distress of an area, rather than a preference for a geographic area or a specific type of economic distress, is the primary factor in allocating the assistance.

42 USC 3147.

**“SEC. 207. GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.**

“(a) IN GENERAL.—

“(1) GRANTS.—On the application of an eligible recipient, the Secretary may make grants for training, research, and technical assistance, including grants for program evaluation and economic impact analyses, that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment.

“(2) TYPES OF ASSISTANCE.—Grants under paragraph (1) may be used for—

“(A) project planning and feasibility studies;

“(B) demonstrations of innovative activities or strategic economic development investments;

“(C) management and operational assistance;

“(D) establishment of university centers;

“(E) establishment of business outreach centers;

“(F) studies evaluating the needs of, and development potential for, economic growth of areas that the Secretary determines have substantial need for the assistance; and

“(G) other activities determined by the Secretary to be appropriate.

“(3) REDUCTION OR WAIVER OF NON-FEDERAL SHARE.—In the case of a project assisted under this section, the Secretary may reduce or waive the non-Federal share, without regard to section 204 or 205, if the Secretary finds that the project is not feasible without, and merits, such a reduction or waiver.

“(b) METHODS OF PROVISION OF ASSISTANCE.—In providing research and technical assistance under this section, the Secretary, in addition to making grants under subsection (a), may—

“(1) provide research and technical assistance through officers or employees of the Department;

“(2) pay funds made available to carry out this section to Federal agencies; or

“(3) employ private individuals, partnerships, businesses, corporations, or appropriate institutions under contracts entered into for that purpose.

**“SEC. 208. PREVENTION OF UNFAIR COMPETITION.**

42 USC 3148.

“No financial assistance under this Act shall be extended to any project when the result would be to increase the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises.

**“SEC. 209. GRANTS FOR ECONOMIC ADJUSTMENT.**

42 USC 3149.

“(a) IN GENERAL.—On the application of an eligible recipient, the Secretary may make grants for development of public facilities, public services, business development (including funding of a revolving loan fund), planning, technical assistance, training, and any other assistance to alleviate long-term economic deterioration and sudden and severe economic dislocation and further the economic adjustment objectives of this title.

“(b) CRITERIA FOR ASSISTANCE.—The Secretary may provide assistance under this section only if the Secretary determines that—

“(1) the project will help the area to meet a special need arising from—

“(A) actual or threatened severe unemployment; or

“(B) economic adjustment problems resulting from severe changes in economic conditions; and

“(2) the area for which a project is to be carried out has a comprehensive economic development strategy and the project is consistent with the strategy, except that this paragraph shall not apply to planning projects.

“(c) PARTICULAR COMMUNITY ASSISTANCE.—Assistance under this section may include assistance provided for activities identified by communities, the economies of which are injured by—

“(1) military base closures or realignments, defense contractor reductions in force, or Department of Energy defense-related funding reductions, for help in diversifying their economies through projects to be carried out on Federal Government installations or elsewhere in the communities;

“(2) disasters or emergencies, in areas with respect to which a major disaster or emergency has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), for post-disaster economic recovery;

“(3) international trade, for help in economic restructuring of the communities; or

“(4) fishery failures, in areas with respect to which a determination that there is a commercial fishery failure has been made under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)).

“(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.—

“(1) IN GENERAL.—Subject to paragraph (2), an eligible recipient of a grant under this section may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

“(2) LIMITATION.—Under paragraph (1), an eligible recipient may not provide any grant to a private for-profit entity.

42 USC 3150.

**“SEC. 210. CHANGED PROJECT CIRCUMSTANCES.**

“In any case in which a grant (including a supplementary grant described in section 205) has been made by the Secretary under this title (or made under this Act, as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998) for a project, and, after the grant has been made but before completion of the project, the purpose or scope of the project that was the basis of the grant is modified, the Secretary may approve, subject (except for a grant for which funds were obligated in fiscal year 1995) to the availability of appropriations, the use of grant funds for the modified project if the Secretary determines that—

“(1) the modified project meets the requirements of this title and is consistent with the comprehensive economic development strategy submitted as part of the application for the grant; and

“(2) the modifications are necessary to enhance economic development in the area for which the project is being carried out.

42 USC 3151.

**“SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.**

“In any case in which a grant (including a supplementary grant described in section 205) has been made by the Secretary under this title (or made under this Act, as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998) for a construction project, and, after the grant has been made but before completion of the project, the cost of the project based on the designs and specifications that was the basis of the grant has decreased because of decreases in costs—

“(1) the Secretary may approve, subject to the availability of appropriations, the use of the excess funds or a portion of the funds to improve the project; and

“(2) any amount of excess funds remaining after application of paragraph (1) shall be deposited in the general fund of the Treasury.

42 USC 3152.

**“SEC. 212. REPORTS BY RECIPIENTS.**

Regulations.

“(a) IN GENERAL.—Each recipient of assistance under this title shall submit reports to the Secretary at such intervals and in such manner as the Secretary shall require by regulation, except



that no report shall be required to be submitted more than 10 years after the date of closeout of the assistance award.

“(b) CONTENTS.—Each report shall contain an evaluation of the effectiveness of the economic assistance provided under this title in meeting the need that the assistance was designed to address and in meeting the objectives of this Act.

**“SEC. 213. PROHIBITION ON USE OF FUNDS FOR ATTORNEYS AND CONSULTANT’S FEES.** 42 USC 3153.

“Assistance made available under this title shall not be used directly or indirectly for an attorney’s or consultant’s fee incurred in connection with obtaining grants and contracts under this title.

**“TITLE III—ELIGIBILITY; COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES**

**“SEC. 301. ELIGIBILITY OF AREAS.**

42 USC 3161.

“(a) IN GENERAL.—For a project to be eligible for assistance under section 201 or 209, the project shall be located in an area that, on the date of submission of the application, meets 1 or more of the following criteria:

“(1) LOW PER CAPITA INCOME.—The area has a per capita income of 80 percent or less of the national average.

“(2) UNEMPLOYMENT RATE ABOVE NATIONAL AVERAGE.—The area has an unemployment rate that is, for the most recent 24-month period for which data are available, at least 1 percent greater than the national average unemployment rate.

“(3) UNEMPLOYMENT OR ECONOMIC ADJUSTMENT PROBLEMS.—The area is an area that the Secretary determines has experienced or is about to experience a special need arising from actual or threatened severe unemployment or economic adjustment problems resulting from severe short-term or long-term changes in economic conditions.

“(b) POLITICAL BOUNDARIES OF AREAS.—An area that meets 1 or more of the criteria of subsection (a), including a small area of poverty or high unemployment within a larger community in less economic distress, shall be eligible for assistance under section 201 or 209 without regard to political or other subdivisions or boundaries.

“(c) DOCUMENTATION.—

“(1) IN GENERAL.—A determination of eligibility under subsection (a) shall be supported by the most recent Federal data available, or, if no recent Federal data is available, by the most recent data available through the government of the State in which the area is located.

“(2) ACCEPTANCE BY SECRETARY.—The documentation shall be accepted by the Secretary unless the Secretary determines that the documentation is inaccurate.

“(d) PRIOR DESIGNATIONS.—Any designation of a redevelopment area made before the effective date of the Economic Development Administration Reform Act of 1998 shall not be effective after that effective date.

42 USC 3162.

**“SEC. 302. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.**

“(a) IN GENERAL.—The Secretary may provide assistance under section 201 or 209 (except for planning assistance under section 209) to an eligible recipient for a project only if the eligible recipient submits to the Secretary, as part of an application for the assistance—

“(1) an identification of the economic development problems to be addressed using the assistance;

“(2) an identification of the past, present, and projected future economic development investments in the area receiving the assistance and public and private participants and sources of funding for the investments; and

“(3)(A) a comprehensive economic development strategy for addressing the economic problems identified under paragraph (1) in a manner that promotes economic development and opportunity, fosters effective transportation access, enhances and protects the environment, and balances resources through sound management of development; and

“(B) a description of how the strategy will solve the problems.

“(b) APPROVAL OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY.—The Secretary shall approve a comprehensive economic development strategy that meets the requirements of subsection (a) to the satisfaction of the Secretary.

“(c) APPROVAL OF OTHER PLAN.—The Secretary may accept as a comprehensive economic development strategy a satisfactory plan developed under another federally supported program.

## **“TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS**

42 USC 3171.

**“SEC. 401. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS.**

“(a) IN GENERAL.—In order that economic development projects of broad geographic significance may be planned and carried out, the Secretary may designate appropriate economic development districts in the United States, with the concurrence of the States in which the districts will be wholly or partially located, if—

“(1) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single area described in section 301(a);

“(2) the proposed district contains at least 1 area described in section 301(a); and

“(3) the proposed district has a comprehensive economic development strategy that—

“(A) contains a specific program for intra-district cooperation, self-help, and public investment; and

“(B) is approved by each affected State and by the Secretary.

“(b) AUTHORITIES.—The Secretary may, under regulations promulgated by the Secretary—

“(1) invite the States to determine boundaries for proposed economic development districts;

“(2) cooperate with the States—

“(A) in sponsoring and assisting district economic planning and economic development groups; and

“(B) in assisting the district groups in formulating comprehensive economic development strategies for districts; and

“(3) encourage participation by appropriate local government entities in the economic development districts.

**“SEC. 402. TERMINATION OR MODIFICATION OF ECONOMIC DEVELOPMENT DISTRICTS.**

Regulations.  
42 USC 3172.

“The Secretary shall, by regulation, promulgate standards for the termination or modification of the designation of economic development districts.

**“SEC. 403. INCENTIVES.**

Regulations.  
42 USC 3173.

“(a) IN GENERAL.—Subject to the non-Federal share requirement under section 205(c)(1), the Secretary may increase the amount of grant assistance for a project in an economic development district by an amount that does not exceed 10 percent of the cost of the project, in accordance with such regulations as the Secretary shall promulgate, if—

“(1) the project applicant is actively participating in the economic development activities of the district; and

“(2) the project is consistent with the comprehensive economic development strategy of the district.

“(b) REVIEW OF INCENTIVE SYSTEM.—In promulgating regulations under subsection (a), the Secretary shall review the current incentive system to ensure that the system is administered in the most direct and effective manner to achieve active participation by project applicants in the economic development activities of economic development districts.

**“SEC. 404. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO APPALACHIAN REGIONAL COMMISSION.**

42 USC 3174.

“If any part of an economic development district is in the Appalachian region (as defined in section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)), the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the Appalachian Regional Commission established under that Act.

**“SEC. 405. ASSISTANCE TO PARTS OF ECONOMIC DEVELOPMENT DISTRICTS NOT IN ELIGIBLE AREAS.**

42 USC 3175.

“Notwithstanding section 301, the Secretary may provide such assistance as is available under this Act for a project in a part of an economic development district that is not in an area described in section 301(a), if the project will be of a substantial direct benefit to an area described in section 301(a) that is located in the district.

**“TITLE V—ADMINISTRATION**

42 USC 3191.

**“SEC. 501. ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT.**

President.

“(a) IN GENERAL.—The Secretary shall carry out this Act through an Assistant Secretary of Commerce for Economic Development, to be appointed by the President, by and with the advice and consent of the Senate.

“(b) COMPENSATION.—The Assistant Secretary of Commerce for Economic Development shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(c) DUTIES.—The Assistant Secretary of Commerce for Economic Development shall carry out such duties as the Secretary shall require and shall serve as the administrator of the Economic Development Administration of the Department.

42 USC 3192.

**“SEC. 502. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.**

“In carrying out this Act, the Secretary shall—

“(1) maintain a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal and State governments, including political subdivisions of States;

“(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal, State, and local laws in locating and applying for the assistance; and

“(3) assist areas described in section 301(a) and other areas by providing to interested persons, communities, industries, and businesses in the areas any technical information, market research, or other forms of assistance, information, or advice that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment in the areas.

42 USC 3193.

**“SEC. 503. CONSULTATION WITH OTHER PERSONS AND AGENCIES.**

“(a) CONSULTATION ON PROBLEMS RELATING TO EMPLOYMENT.—The Secretary may consult with any persons, including representatives of labor, management, agriculture, and government, who can assist in addressing the problems of area and regional unemployment or underemployment.

“(b) CONSULTATION ON ADMINISTRATION OF ACT.—The Secretary may provide for such consultation with interested Federal agencies as the Secretary determines to be appropriate in the performance of the duties of the Secretary under this Act.

42 USC 3194.

**“SEC. 504. ADMINISTRATION, OPERATION, AND MAINTENANCE.**

“The Secretary shall approve Federal assistance under this Act only if the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

42 USC 3195.

**“SEC. 505. BUSINESSES DESIRING FEDERAL CONTRACTS.**

“The Secretary may provide the procurement divisions of Federal agencies with a list consisting of—

“(1) the names and addresses of businesses that are located in areas described in section 301(a) and that wish to obtain

Federal Government contracts for the provision of supplies or services; and

“(2) the supplies and services that each business provides.

**“SEC. 506. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.**

42 USC 3196.

“(a) IN GENERAL.—The Secretary shall conduct an evaluation of each university center and each economic development district that receives grant assistance under this Act (each referred to in this section as a ‘grantee’) to assess the grantee’s performance and contribution toward retention and creation of employment.

“(b) PURPOSE OF EVALUATIONS OF UNIVERSITY CENTERS.—The purpose of the evaluations of university centers under subsection (a) shall be to determine which university centers are performing well and are worthy of continued grant assistance under this Act, and which should not receive continued assistance, so that university centers that have not previously received assistance may receive assistance.

“(c) TIMING OF EVALUATIONS.—Evaluations under subsection (a) shall be conducted on a continuing basis so that each grantee is evaluated within 3 years after the first award of assistance to the grantee after the effective date of the Economic Development Administration Reform Act of 1998, and at least once every 3 years thereafter, so long as the grantee receives the assistance.

“(d) EVALUATION CRITERIA.—

“(1) ESTABLISHMENT.—The Secretary shall establish criteria for use in conducting evaluations under subsection (a).

“(2) EVALUATION CRITERIA FOR UNIVERSITY CENTERS.—The criteria for evaluation of a university center shall, at a minimum, provide for an assessment of the center’s contribution to providing technical assistance, conducting applied research, and disseminating results of the activities of the center.

“(3) EVALUATION CRITERIA FOR ECONOMIC DEVELOPMENT DISTRICTS.—The criteria for evaluation of an economic development district shall, at a minimum, provide for an assessment of management standards, financial accountability, and program performance.

“(e) PEER REVIEW.—In conducting an evaluation of a university center or economic development district under subsection (a), the Secretary shall provide for the participation of at least 1 other university center or economic development district, as appropriate, on a cost-reimbursement basis.

**“SEC. 507. NOTIFICATION OF REORGANIZATION.**

Deadline.  
42 USC 3197.

“Not later than 30 days before the date of any reorganization of the offices, programs, or activities of the Economic Development Administration, the Secretary shall provide notification of the reorganization to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

## **“TITLE VI—MISCELLANEOUS**

**“SEC. 601. POWERS OF SECRETARY.**

42 USC 3211.

“(a) IN GENERAL.—In carrying out the duties of the Secretary under this Act, the Secretary may—

“(1) adopt, alter, and use a seal, which shall be judicially noticed;

“(2) subject to the civil service and classification laws, select, employ, appoint, and fix the compensation of such personnel as are necessary to carry out this Act;

“(3) hold such hearings, sit and act at such times and places, and take such testimony, as the Secretary determines to be appropriate;

“(4) request directly, from any Federal agency, board, commission, office, or independent establishment, such information, suggestions, estimates, and statistics as the Secretary determines to be necessary to carry out this Act (and each Federal agency, board, commission, office, or independent establishment may provide such information, suggestions, estimates, and statistics directly to the Secretary);

Regulations.

“(5) under regulations promulgated by the Secretary—

“(A) assign or sell at public or private sale, or otherwise dispose of for cash or credit, in the Secretary’s discretion and on such terms and conditions and for such consideration as the Secretary determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Secretary in connection with assistance provided under this Act; and

“(B) collect or compromise all obligations assigned to or held by the Secretary in connection with that assistance until such time as the obligations are referred to the Attorney General for suit or collection;

“(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, on such terms and conditions and for such consideration as the Secretary determines to be reasonable, any real or personal property conveyed to or otherwise acquired by the Secretary in connection with assistance provided under this Act;

“(7) pursue to final collection, by means of compromise or other administrative action, before referral to the Attorney General, all claims against third parties assigned to the Secretary in connection with assistance provided under this Act;

“(8) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), to the extent appropriate in connection with assistance provided under this Act;

“(9) in addition to any powers, functions, privileges, and immunities otherwise vested in the Secretary, take any action, including the procurement of the services of attorneys by contract, determined by the Secretary to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with assets held in connection with financial assistance provided under this Act;

“(10)(A) employ experts and consultants or organizations as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually;

“(B) compensate individuals so employed, including compensation for travel time; and

“(C) allow individuals so employed, while away from their homes or regular places of business, travel expenses, including per diem in lieu of subsistence, as authorized by section 5703

of title 5, United States Code, for persons employed intermittently in the Federal Government service;

“(11) establish performance measures for grants and other assistance provided under this Act, and use the performance measures to evaluate the economic impact of economic development assistance programs under this Act, which establishment and use of performance measures shall be provided by the Secretary through—

“(A) officers or employees of the Department;

“(B) the employment of persons under contracts entered into for such purposes; or

“(C) grants to persons, using funds made available to carry out this Act;

“(12) conduct environmental reviews and incur necessary expenses to evaluate and monitor the environmental impact of economic development assistance provided and proposed to be provided under this Act, including expenses associated with the representation and defense of the actions of the Secretary relating to the environmental impact of the assistance, using any funds made available to carry out section 207;

“(13) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, except that no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or the property of the Secretary; and

“(14) establish such rules, regulations, and procedures as the Secretary considers appropriate for carrying out this Act.

“(b) DEFICIENCY JUDGMENTS.—The authority under subsection (a)(7) to pursue claims shall include the authority to obtain deficiency judgments or otherwise pursue claims relating to mortgages assigned to the Secretary.

“(c) INAPPLICABILITY OF CERTAIN OTHER REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Secretary as a result of assistance provided under this Act if the premium for the insurance or the amount of the services or supplies does not exceed \$1,000.

“(d) PROPERTY INTERESTS.—

“(1) IN GENERAL.—The powers of the Secretary under this section, relating to property acquired by the Secretary in connection with assistance provided under this Act, shall extend to property interests of the Secretary relating to projects approved under—

“(A) this Act;

“(B) title I of the Public Works Employment Act of 1976 (42 U.S.C. 6701 et seq.);

“(C) title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); and

“(D) the Community Emergency Drought Relief Act of 1977 (42 U.S.C. 5184 note; Public Law 95-31).

“(2) RELEASE.—The Secretary may release, in whole or in part, any real property interest, or tangible personal property interest, in connection with a grant after the date that is 20 years after the date on which the grant was awarded.

“(e) POWERS OF CONVEYANCE AND EXECUTION.—The power to convey and to execute, in the name of the Secretary, deeds of

conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest in such property acquired by the Secretary under this Act may be exercised by the Secretary, or by any officer or agent appointed by the Secretary for that purpose, without the execution of any express delegation of power or power of attorney.

Deadline.  
42 USC 3213.

**“SEC. 603. ANNUAL REPORT TO CONGRESS.**

“Not later than July 1, 2000, and July 1 of each year thereafter, the Secretary shall submit to Congress a comprehensive and detailed annual report on the activities of the Secretary under this Act during the most recently completed fiscal year.

42 USC 3214.

**“SEC. 604. DELEGATION OF FUNCTIONS AND TRANSFER OF FUNDS AMONG FEDERAL AGENCIES.**

“(a) DELEGATION OF FUNCTIONS TO OTHER FEDERAL AGENCIES.—The Secretary may—

“(1) delegate to the heads of other Federal agencies such functions, powers, and duties of the Secretary under this Act as the Secretary determines to be appropriate; and

“(2) authorize the redelegation of the functions, powers, and duties by the heads of the agencies.

“(b) TRANSFER OF FUNDS TO OTHER FEDERAL AGENCIES.—Funds authorized to be appropriated to carry out this Act may be transferred between Federal agencies, if the funds are used for the purposes for which the funds are specifically authorized and appropriated.

“(c) TRANSFER OF FUNDS FROM OTHER FEDERAL AGENCIES.—

“(1) IN GENERAL.—Subject to paragraph (2), for the purposes of this Act, the Secretary may accept transfers of funds from other Federal agencies if the funds are used for the purposes for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated.

“(2) USE OF FUNDS.—The transferred funds—

“(A) shall remain available until expended; and

“(B) may, to the extent necessary to carry out this Act, be transferred to and merged by the Secretary with the appropriations for salaries and expenses.

42 USC 3215.

**“SEC. 605. PENALTIES.**

“(a) FALSE STATEMENTS; SECURITY OVERVALUATION.—A person that makes any statement that the person knows to be false, or willfully overvalues any security, for the purpose of—

“(1) obtaining for the person or for any applicant any financial assistance under this Act or any extension of the assistance by renewal, deferment, or action, or by any other means, or the acceptance, release, or substitution of security for the assistance;

“(2) influencing in any manner the action of the Secretary; or

“(3) obtaining money, property, or any thing of value, under this Act;

shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

“(b) EMBEZZLEMENT AND FRAUD-RELATED CRIMES.—A person that is connected in any capacity with the Secretary in the administration of this Act and that—



“(1) embezzles, abstracts, purloins, or willfully misapplies any funds, securities, or other thing of value, that is pledged or otherwise entrusted to the person;

“(2) with intent to defraud the Secretary or any other person or entity, or to deceive any officer, auditor, or examiner—

“(A) makes any false entry in any book, report, or statement of or to the Secretary; or

“(B) without being duly authorized, draws any order or issue, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof;

“(3) with intent to defraud, participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, grant, commission, contract, or any other act of the Secretary; or

“(4) gives any unauthorized information concerning any future action or plan of the Secretary that might affect the value of securities, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans, grants, or other assistance from the Secretary;

shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

**“SEC. 606. EMPLOYMENT OF EXPEDITERS AND ADMINISTRATIVE EMPLOYEES.** 42 USC 3216.

“Assistance shall not be provided by the Secretary under this Act to any business unless the owners, partners, or officers of the business—

“(1) certify to the Secretary the names of any attorneys, agents, and other persons engaged by or on behalf of the business for the purpose of expediting applications made to the Secretary for assistance of any kind, under this Act, and the fees paid or to be paid to the person for expediting the applications; and Certification.

“(2) execute an agreement binding the business, for the 2-year period beginning on the date on which the assistance is provided by the Secretary to the business, to refrain from employing, offering any office or employment to, or retaining for professional services, any person who, on the date on which the assistance or any part of the assistance was provided, or within the 1-year period ending on that date—

“(A) served as an officer, attorney, agent, or employee of the Department; and

“(B) occupied a position or engaged in activities that the Secretary determines involved discretion with respect to the granting of assistance under this Act.

**“SEC. 607. MAINTENANCE AND PUBLIC INSPECTION OF LIST OF APPROVED APPLICATIONS FOR FINANCIAL ASSISTANCE.** Records.  
42 USC 3217.

“(a) IN GENERAL.—The Secretary shall—

“(1) maintain as a permanent part of the records of the Department a list of applications approved for financial assistance under this Act; and

“(2) make the list available for public inspection during the regular business hours of the Department.

“(b) ADDITIONS TO LIST.—The following information shall be added to the list maintained under subsection (a) as soon as an application described in subsection (a)(1) is approved:

“(1) The name of the applicant and, in the case of a corporate application, the name of each officer and director of the corporation.

“(2) The amount and duration of the financial assistance for which application is made.

“(3) The purposes for which the proceeds of the financial assistance are to be used.

42 USC 3218.

**“SEC. 608. RECORDS AND AUDITS.**

“(a) RECORDKEEPING AND DISCLOSURE REQUIREMENTS.—Each recipient of assistance under this Act shall keep such records as the Secretary shall require, including records that fully disclose—

“(1) the amount and the disposition by the recipient of the proceeds of the assistance;

“(2) the total cost of the project in connection with which the assistance is given or used;

“(3) the amount and nature of the portion of the cost of the project provided by other sources; and

“(4) such other records as will facilitate an effective audit.

“(b) ACCESS TO BOOKS FOR EXAMINATION AND AUDIT.—The Secretary, the Inspector General of the Department, and the Comptroller General of the United States, or any duly authorized representative, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that relate to assistance received under this Act.

42 USC 3219.

**“SEC. 609. RELATIONSHIP TO ASSISTANCE UNDER OTHER LAW.**

“(a) PREVIOUSLY AUTHORIZED ASSISTANCE.—Except as otherwise provided in this Act, all financial and technical assistance authorized under this Act shall be in addition to any Federal assistance authorized before the effective date of the Economic Development Administration Reform Act of 1998.

“(b) ASSISTANCE UNDER OTHER ACTS.—Nothing in this Act authorizes or permits any reduction in the amount of Federal assistance that any State or other entity eligible under this Act is entitled to receive under any other Act.

**“SEC. 610. ACCEPTANCE OF CERTIFICATIONS BY APPLICANTS.**

“Under terms and conditions determined by the Secretary, the Secretary may accept the certifications of an applicant for assistance under this Act that the applicant meets the requirements of this Act.”.

(b) TITLE VII.—The Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.) is amended—

42 USC 3222,  
3212.

(1) by redesignating section 712 as section 602 and moving that section to appear after section 601 (as amended by subsection (a));

42 USC 3212.

(2) in section 602 (as added by paragraph (1))—

(A) by striking the section heading and all that follows through “All” and inserting the following:

**“SEC. 602. MAINTENANCE OF STANDARDS.**

“All”; and

(B) by striking “sections 101, 201, 202, 403, 903, and 1003” and inserting “this Act”; and

(3) by striking title VII (as amended by paragraph (1)) and inserting the following: 42 USC 3211 *et seq.*

## “TITLE VII—FUNDING

### “SEC. 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.

42 USC 3231.

“There are authorized to be appropriated to carry out this Act \$397,969,000 for fiscal year 1999, \$368,000,000 for fiscal year 2000, \$335,000,000 for fiscal year 2001, \$335,000,000 for fiscal year 2002, and \$335,000,000 for fiscal year 2003, to remain available until expended.

### “SEC. 702. AUTHORIZATION OF APPROPRIATIONS FOR DEFENSE CONVERSION ACTIVITIES.

42 USC 3232.

“(a) IN GENERAL.—In addition to amounts made available under section 701, there are authorized to be appropriated such sums as are necessary to carry out section 209(c)(1), to remain available until expended.

“(b) PILOT PROJECTS.—Funds made available under subsection (a) may be used for activities including pilot projects for privatization of, and economic development activities for, closed or realigned military or Department of Energy installations.

### “SEC. 703. AUTHORIZATION OF APPROPRIATIONS FOR DISASTER ECONOMIC RECOVERY ACTIVITIES.

42 USC 3233.

“(a) IN GENERAL.—In addition to amounts made available under section 701, there are authorized to be appropriated such sums as are necessary to carry out section 209(c)(2), to remain available until expended.

“(b) FEDERAL SHARE.—The Federal share of the cost of activities funded with amounts made available under subsection (a) shall be up to 100 percent.”.

(c) TITLES VIII THROUGH X.—The Public Works and Economic Development Act of 1965 is amended by striking titles VIII through X (42 U.S.C. 3231 *et seq.*).

### SEC. 103. CONFORMING AMENDMENT.

Section 5316 of title 5, United States Code, is amended by striking “Administrator for Economic Development.”.

### SEC. 104. TRANSITION PROVISIONS.

42 USC 3121  
note.

(a) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS.—This title, including the amendments made by this title, does not affect the validity of any right, duty, or obligation of the United States or any other person arising under any contract, loan, or other instrument or agreement that was in effect on the day before the effective date of this title.

(b) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against any officer or employee of the Economic Development Administration shall abate by reason of the enactment of this title.

(c) LIQUIDATING ACCOUNT.—The Economic Development Revolving Fund established under section 203 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3143) (as in effect on the day before the effective date of this title) shall continue to be available to the Secretary of Commerce as a liquidating account (as defined in section 502 of the Federal Credit Reform

Act of 1990 (2 U.S.C. 661a)) for payment of obligations and expenses in connection with financial assistance provided under—

(1) the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.);

(2) the Area Redevelopment Act (42 U.S.C. 2501 et seq.); and

(3) the Trade Act of 1974 (19 U.S.C. 2101 et seq.).

(d) ADMINISTRATION.—The Secretary of Commerce shall take such actions authorized before the effective date of this title as are appropriate to administer and liquidate grants, contracts, agreements, loans, obligations, debentures, or guarantees made by the Secretary under law in effect before the effective date of this title.

42 USC 3121  
note.

**SEC. 105. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect on a date determined by the Secretary of Commerce, but not later than 90 days after the date of enactment of this Act.

Appalachian  
Regional  
Development  
Reform Act of  
1998.  
40 USC app. 1  
note.

## **TITLE II—APPALACHIAN REGIONAL DEVELOPMENT**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Appalachian Regional Development Reform Act of 1998”.

**SEC. 202. FINDINGS AND PURPOSES.**

Section 2 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by adding at the end the following:

“(c) 1998 FINDINGS AND PURPOSES.—

“(1) FINDINGS.—Congress further finds and declares that, while substantial progress has been made in fulfilling many of the objectives of this Act, rapidly changing national and global economies over the past decade have created new problems and challenges for rural areas throughout the United States and especially for the Appalachian region.

“(2) PURPOSES.—In addition to the purposes stated in subsections (a) and (b), it is the purpose of this Act—

“(A) to assist the Appalachian region in—

“(i) providing the infrastructure necessary for economic and human resource development;

“(ii) developing the region’s industry;

“(iii) building entrepreneurial communities;

“(iv) generating a diversified regional economy; and

“(v) making the region’s industrial and commercial resources more competitive in national and world markets;

“(B) to provide a framework for coordinating Federal, State, and local initiatives to respond to the economic competitiveness challenges in the Appalachian region through—

“(i) improving the skills of the region’s workforce;

“(ii) adapting and applying new technologies for the region’s businesses; and

“(iii) improving the access of the region’s businesses to the technical and financial resources necessary to development of the businesses; and

“(C) to address the needs of severely and persistently distressed areas of the Appalachian region and focus special attention on the areas of greatest need so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across the United States.”.

#### **SEC. 203. MEETINGS.**

(a) ANNUAL MEETING REQUIREMENT.—Section 101 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by striking “(a) There” and inserting the following:

“(a) IN GENERAL.—

“(1) ESTABLISHMENT.—There”; and

(2) by adding at the end the following:

“(2) MEETINGS.—

“(A) IN GENERAL.—The Commission shall conduct at least 1 meeting each year with the Federal Cochairman and at least a majority of the State members present.”.

(b) ADDITIONAL MEETINGS BY ELECTRONIC MEANS.—Section 101 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in subsection (a)(2) (as added by subsection (a)(2)), by adding at the end the following:

“(B) ADDITIONAL MEETINGS.—The Commission may conduct such additional meetings by electronic means as the Commission considers advisable, including meetings to decide matters requiring an affirmative vote.”; and

(2) in the fourth sentence of subsection (c), by striking “to be present”.

(c) DECISIONS REQUIRING A QUORUM.—Section 101(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking the third sentence and inserting the following: “A decision involving Commission policy, approval of any State, regional, or subregional development plan or implementing investment program, any modification or revision of the Appalachian Regional Commission Code, any allocation of funds among the States, or any designation of a distressed county or an economically strong county shall not be made without a quorum of the State members.”.

#### **SEC. 204. ADMINISTRATIVE EXPENSES.**

Section 105 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by striking “(a) For the period” in the first sentence and all that follows through “such expenses” in the second sentence and inserting “Administrative expenses of the Commission”; and

(2) by striking subsection (b).

#### **SEC. 205. COMPENSATION OF EMPLOYEES.**

Section 106(2) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “the salary of the alternate to the Federal Cochairman on the Commission as provided in section 101” and inserting “the maximum rate of basic pay for the Senior Executive Service under section 5382 of title

5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title”.

**SEC. 206. ADMINISTRATIVE POWERS OF COMMISSION.**

Section 106(7) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “1982” and inserting “2001”.

**SEC. 207. COST SHARING OF DEMONSTRATION HEALTH PROJECTS.**

(a) **OPERATION COSTS.**—Section 202(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “100 per centum of the costs thereof” in the first sentence and all that follows through the period at the end of the second sentence and inserting “50 percent of the costs of that operation (or 80 percent of those costs in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226).”.

(b) **COST SHARING.**—Section 202 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by adding at the end the following:

“(f) **MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1998.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), after September 30, 1998, a Commission contribution of not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act.

“(2) **DISTRESSED COUNTIES.**—In the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226, the maximum Commission contribution under paragraph (1) may be increased to the lesser of—

“(A) 80 percent; or

“(B) the maximum Federal contribution percentage authorized by this section.”.

(c) **TECHNICAL AMENDMENTS.**—Section 202 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by striking “Secretary of Health, Education, and Welfare” each place it appears and inserting “Secretary of Health and Human Services”; and

(2) in subsection (c), by striking the last sentence.

**SEC. 208. REPEAL OF LAND STABILIZATION, CONSERVATION, AND EROSION CONTROL PROGRAM.**

Section 203 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

**SEC. 209. REPEAL OF TIMBER DEVELOPMENT PROGRAM.**

Section 204 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

**SEC. 210. REPEAL OF MINING AREA RESTORATION PROGRAM.**

Section 205 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

**SEC. 211. REPEAL OF WATER RESOURCE SURVEY.**

Section 206 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

**SEC. 212. COST SHARING OF HOUSING PROJECTS.**

(a) **LOANS.**—Section 207(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the first sentence by striking “80 per centum” and inserting “50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)”.

(b) **GRANTS.**—Section 207(c)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “80 per centum” and inserting “50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)”.

**SEC. 213. REPEAL OF AIRPORT SAFETY IMPROVEMENTS PROGRAM.**

Section 208 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

**SEC. 214. COST SHARING OF VOCATIONAL EDUCATION AND EDUCATION DEMONSTRATION PROJECTS.**

(a) **OPERATION COSTS.**—Section 211(b)(3) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “100 per centum of the costs thereof” in the first sentence and all that follows through the period at the end of the second sentence and inserting “50 percent of the costs of that operation (or 80 percent of those costs in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226).”.

(b) **COST SHARING.**—Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by adding at the end the following:

“(c) **MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1998.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), after September 30, 1998, a Commission contribution of not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act.

“(2) **DISTRESSED COUNTIES.**—In the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226, the maximum Commission contribution under paragraph (1) may be increased to the lesser of—

“(A) 80 percent; or

“(B) the maximum Federal contribution percentage authorized by this section.”.

(c) **TECHNICAL AMENDMENTS.**—Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in subsection (a), by striking “Secretary of Health, Education, and Welfare” and inserting “Secretary of Education”; and

(2) in subsection (b)—

(A) in paragraph (1), by striking “Secretary of the Department of Health, Education, and Welfare” and inserting “Secretary of Education”; and

(B) in paragraph (3), by striking the last sentence.

**SEC. 215. REPEAL OF SEWAGE TREATMENT WORKS PROGRAM.**

Section 212 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

**SEC. 216. REPEAL OF AMENDMENTS TO HOUSING ACT OF 1954.**

Section 213 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

**SEC. 217. SUPPLEMENTS TO FEDERAL GRANT-IN-AID PROGRAMS.**

(a) AVAILABILITY OF AMOUNTS.—Section 214(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the first sentence by striking “the President is authorized to provide funds to the Federal Cochairman to be used” and inserting “the Federal Cochairman may use amounts made available to carry out this section”.

(b) COST SHARING.—Section 214(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by striking “(b) The Federal” and inserting the following:

“(b) COST SHARING.—

“(1) IN GENERAL.—The Federal”; and

(2) by adding at the end the following:

“(2) MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1998.—

“(A) IN GENERAL.—Subject to subparagraph (B), after September 30, 1998, a Commission contribution of not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act.

“(B) DISTRESSED COUNTIES.—In the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226, the maximum Commission contribution under subparagraph (A) may be increased to 80 percent.”.

(c) DEFINITION OF FEDERAL GRANT-IN-AID PROGRAMS.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the first sentence—

(1) by striking “on or before December 31, 1980,”; and

(2) by striking “Titles I and IX of the Public Works and Economic Development Act of 1965” and inserting “sections 201 and 209 of the Public Works and Economic Development Act of 1965”.

(d) LIMITATION ON COVERED ROAD PROJECTS.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by inserting “authorized by title 23, United States Code” after “road construction”.

**SEC. 218. PROGRAM DEVELOPMENT CRITERIA.**

(a) CONSIDERATIONS.—Section 224(a)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by inserting before the semicolon at the end the following: “or in a severely and persistently distressed county or area”.

(b) OUTCOME MEASUREMENTS.—Section 224(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in paragraph (5), by striking the period at the end and inserting “; and”; and

(2) by adding at the end the following:



“(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures may be evaluated.”.

(c) REMOVAL OF LIMITATIONS.—Section 224 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking subsection (b) and inserting the following:

“(b) LIMITATION.—Financial assistance made available under this Act shall not be used to assist establishments relocating from one area to another.”.

(d) CONFORMING AMENDMENT.—Section 302(b)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the first sentence by striking “Notwithstanding” and all that follows through “the Commission” and inserting “The Commission”.

**SEC. 219. DISTRESSED AND ECONOMICALLY STRONG COUNTIES.**

Part C of title II of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by adding at the end the following:

**“SEC. 226. DISTRESSED AND ECONOMICALLY STRONG COUNTIES.**

“(a) DESIGNATIONS.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, and annually thereafter, the Commission, in accordance with such criteria as the Commission may establish, shall—

“(A) designate as ‘distressed counties’ those counties in the region that are the most severely and persistently distressed; and

“(B) designate 2 categories of economically strong counties, consisting of—

“(i) ‘competitive counties’, which shall be those counties in the region that are approaching economic parity with the rest of the United States; and

“(ii) ‘attainment counties’, which shall be those counties in the region that have attained or exceeded economic parity with the rest of the United States.

“(2) ANNUAL REVIEW OF DESIGNATIONS.—The Commission shall—

“(A) conduct an annual review of each designation of a county under paragraph (1) to determine if the county still meets the criteria for the designation; and

“(B) renew the designation for another 1-year period only if the county still meets the criteria.

“(b) DISTRESSED COUNTIES.—In program and project development and implementation and in the allocation of appropriations made available to carry out this Act, the Commission shall give special consideration to the needs of those counties for which a distressed county designation is in effect under this section.

“(c) ECONOMICALLY STRONG COUNTIES.—

“(1) COMPETITIVE COUNTIES.—Except as provided in paragraphs (3) and (4), in the case of a project that is carried out in a county for which a competitive county designation is in effect under this section, assistance under this Act shall be limited to not more than 30 percent of the project cost.

“(2) ATTAINMENT COUNTIES.—Except as provided in paragraphs (3) and (4), no funds may be provided under this Act

for a project that is carried out in a county for which an attainment county designation is in effect under this section.

“(3) EXCEPTIONS.—The requirements of paragraphs (1) and (2) shall not apply to—

“(A) any project on the Appalachian development highway system authorized by section 201;

“(B) any local development district administrative project assisted under section 302(a)(1); or

“(C) any multicounty project that is carried out in 2 or more counties designated under this section if—

“(i) at least 1 of the participating counties is designated as a distressed county under this section; and

“(ii) the project will be of substantial direct benefit to 1 or more distressed counties.

“(4) WAIVER.—

“(A) IN GENERAL.—The Commission may waive the requirements of paragraphs (1) and (2) for a project upon a showing by the recipient of assistance for the project of 1 or more of the following:

“(i) The existence of a significant pocket of distress in the part of the county in which the project is carried out.

“(ii) The existence of a significant potential benefit from the project in 1 or more areas of the region outside the designated county.

“(B) REPORTS TO CONGRESS.—The Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report describing each waiver granted under subparagraph (A) during the period covered by the report.”.

#### **SEC. 220. GRANTS FOR ADMINISTRATIVE EXPENSES AND COMMISSION PROJECTS.**

(a) AVAILABILITY OF AMOUNTS.—Section 302(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by striking “The President” and inserting “The Commission”; and

(2) in paragraphs (1), (2), and (3), by striking “to the Commission” each place it appears.

(b) COST SHARING.—Section 302(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “75 per centum” and inserting “50 percent”; and

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by striking “(a) The” and inserting the following:

“(a) AUTHORIZATION TO MAKE GRANTS.—

“(1) IN GENERAL.—The”;

(4) by adjusting the margins of subparagraphs (A), (B), and (C) (as redesignated by paragraph (2)) to reflect the amendment made by paragraph (3); and

(5) by adding at the end the following:

“(2) COST SHARING AFTER SEPTEMBER 30, 1998.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), after September 30, 1998, not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226) of the costs of any activity eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act.

“(B) DISCRETIONARY GRANTS.—

“(i) IN GENERAL.—Discretionary grants made by the Commission to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in the region may be made without regard to the percentage limitations specified in subparagraph (A).

“(ii) LIMITATION ON AGGREGATE AMOUNT.—For each fiscal year, the aggregate amount of discretionary grants referred to in clause (i) shall not exceed 10 percent of the amounts appropriated under section 401 for the fiscal year.”.

(c) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 302 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(A) in subsection (b)—

(i) in paragraph (2), by striking “Federal Energy Administration, the Energy Research and Development Administration” and inserting “Secretary of Energy”; and

(ii) by striking paragraphs (3) and (4); and

(B) by striking subsections (d) and (e).

(2) Section 210(a) of title 35, United States Code, is amended—

(A) by striking paragraph (11); and

(B) by redesignating paragraphs (12) through (22) as paragraphs (11) through (21), respectively.

#### **SEC. 221. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PROGRAM.**

Section 401 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended to read as follows:

##### **“SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

“(a) IN GENERAL.—In addition to amounts authorized by section 201 and other amounts made available for the Appalachian development highway system program, there are authorized to be appropriated to the Commission to carry out this Act—

“(1) \$68,000,000 for fiscal year 1999;

“(2) \$69,000,000 for fiscal year 2000; and

“(3) \$70,000,000 for fiscal year 2001.

“(b) AVAILABILITY.—Sums made available under subsection (a) shall remain available until expended.”.

#### **SEC. 222. EXTENSION OF TERMINATION DATE.**

Section 405 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “1982” and inserting “2001”.

**SEC. 223. TECHNICAL AMENDMENT.**

Section 5334(a) of title 5, United States Code, is amended in the second sentence by striking “title 40, appendix, or by a regional commission established pursuant to section 3182 of title 42, under section 3186(a)(2) of that title” and inserting “the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)”.

Approved November 13, 1998.

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**LEGISLATIVE HISTORY—S. 2364:**

SENATE REPORTS: No. 105–332 (Comm. on Environment and Public Works).  
CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 12, considered and passed Senate.

Oct. 13, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 34 (1998):

Nov. 13, Presidential statement.



Public Law 105–394  
105th Congress

An Act

To support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

Nov. 13, 1998  
[S. 2432]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Assistive Technology Act of 1998”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions and rule.

**TITLE I—STATE GRANT PROGRAMS**

- Sec. 101. Continuity grants for States that received funding for a limited period for technology-related assistance.
- Sec. 102. State grants for protection and advocacy related to assistive technology.
- Sec. 103. Administrative provisions.
- Sec. 104. Technical assistance program.
- Sec. 105. Authorization of appropriations.

**TITLE II—NATIONAL ACTIVITIES**

**Subtitle A—Rehabilitation Act of 1973**

- Sec. 201. Coordination of Federal research efforts.
- Sec. 202. National Council on Disability.
- Sec. 203. Architectural and Transportation Barriers Compliance Board.

**Subtitle B—Other National Activities**

- Sec. 211. Small business incentives.
- Sec. 212. Technology transfer and universal design.
- Sec. 213. Universal design in products and the built environment.
- Sec. 214. Outreach.
- Sec. 215. Training pertaining to rehabilitation engineers and technicians.
- Sec. 216. President’s Committee on Employment of People With Disabilities.
- Sec. 217. Authorization of appropriations.

**TITLE III—ALTERNATIVE FINANCING MECHANISMS**

- Sec. 301. General authority.
- Sec. 302. Amount of grants.
- Sec. 303. Applications and procedures.
- Sec. 304. Contracts with community-based organizations.
- Sec. 305. Grant administration requirements.
- Sec. 306. Information and technical assistance.
- Sec. 307. Annual report.
- Sec. 308. Authorization of appropriations.

**TITLE IV—REPEAL AND CONFORMING AMENDMENTS**

- Sec. 401. Repeal.
- Sec. 402. Conforming amendments.

Assistive  
Technology Act of  
1998.  
29 USC 3001  
note.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to—

(A) live independently;

(B) enjoy self-determination and make choices;

(C) benefit from an education;

(D) pursue meaningful careers; and

(E) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of society in the United States.

(2) Technology has become one of the primary engines for economic activity, education, and innovation in the Nation, and throughout the world. The commitment of the United States to the development and utilization of technology is one of the main factors underlying the strength and vibrancy of the economy of the United States.

(3) As technology has come to play an increasingly important role in the lives of all persons in the United States, in the conduct of business, in the functioning of government, in the fostering of communication, in the conduct of commerce, and in the provision of education, its impact upon the lives of the more than 50,000,000 individuals with disabilities in the United States has been comparable to its impact upon the remainder of the citizens of the United States. Any development in mainstream technology would have profound implications for individuals with disabilities in the United States.

(4) Substantial progress has been made in the development of assistive technology devices, including adaptations to existing devices that facilitate activities of daily living, that significantly benefit individuals with disabilities of all ages. Such devices and adaptations increase the involvement of such individuals in, and reduce expenditures associated with, programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, and recreation programs and activities, and other aspects of daily living.

(5) All States have comprehensive statewide programs of technology-related assistance. Federal support for such programs should continue, strengthening the capacity of each State to assist individuals with disabilities of all ages with their assistive technology needs.

(6) Notwithstanding the efforts of such State programs, there is still a lack of—

(A) resources to pay for assistive technology devices and assistive technology services;

(B) trained personnel to assist individuals with disabilities to use such devices and services;

(C) information among targeted individuals about the availability and potential benefit of technology for individuals with disabilities;

(D) outreach to underrepresented populations and rural populations;

(E) systems that ensure timely acquisition and delivery of assistive technology devices and assistive technology services;

(F) coordination among State human services programs, and between such programs and private entities, particularly with respect to transitions between such programs and entities; and

(G) capacity in such programs to provide the necessary technology-related assistance.

(7) In the current technological environment, the line of demarcation between assistive technology and mainstream technology is becoming ever more difficult to draw.

(8) Many individuals with disabilities cannot access existing telecommunications and information technologies and are at risk of not being able to access developing technologies. The failure of Federal and State governments, hardware manufacturers, software designers, information systems managers, and telecommunications service providers to account for the specific needs of individuals with disabilities in the design, manufacture, and procurement of telecommunications and information technologies results in the exclusion of such individuals from the use of telecommunications and information technologies and results in unnecessary costs associated with the retrofitting of devices and product systems.

(9) There are insufficient incentives for Federal contractors and other manufacturers of technology to address the application of technology advances to meet the needs of individuals with disabilities of all ages for assistive technology devices and assistive technology services.

(10) The use of universal design principles reduces the need for many specific kinds of assistive technology devices and assistive technology services by building in accommodations for individuals with disabilities before rather than after production. The use of universal design principles also increases the likelihood that products (including services) will be compatible with existing assistive technologies. These principles are increasingly important to enhance access to information technology, telecommunications, transportation, physical structures, and consumer products. There are insufficient incentives for commercial manufacturers to incorporate universal design principles into the design and manufacturing of technology products, including devices of daily living, that could expand their immediate use by individuals with disabilities of all ages.

(11) There are insufficient incentives for commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of the perception that such individuals constitute a limited market.

(12) At the Federal level, the Federal Laboratories, the National Aeronautics and Space Administration, and other similar entities do not recognize the value of, or commit resources on an ongoing basis to, technology transfer initiatives that would benefit, and especially increase the independence of, individuals with disabilities.

(13) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and assistive technology services. In addition, the Federal Government does not provide adequate assistance and information with respect to the quality and use of assistive technology devices and assistive technology services to targeted individuals.

(14) There are changes in the delivery of assistive technology devices and assistive technology services, including—

(A) the impact of the increased prevalence of managed care entities as payors for assistive technology devices and assistive technology services;

(B) an increased focus on universal design;

(C) the increased importance of assistive technology in employment, as more individuals with disabilities move from public assistance to work through training and on-the-job accommodations;

(D) the role and impact that new technologies have on how individuals with disabilities will learn about, access, and participate in programs or services that will affect their lives; and

(E) the increased role that telecommunications play in education, employment, health care, and social activities.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide financial assistance to States to undertake activities that assist each State in maintaining and strengthening a permanent comprehensive statewide program of technology-related assistance, for individuals with disabilities of all ages, that is designed to—

(A) increase the availability of, funding for, access to, and provision of, assistive technology devices and assistive technology services;

(B) increase the active involvement of individuals with disabilities and their family members, guardians, advocates, and authorized representatives, in the maintenance, improvement, and evaluation of such a program;

(C) increase the involvement of individuals with disabilities and, if appropriate, their family members, guardians, advocates, and authorized representatives, in decisions related to the provision of assistive technology devices and assistive technology services;

(D) increase the provision of outreach to underrepresented populations and rural populations, to enable the two populations to enjoy the benefits of activities carried out under this Act to the same extent as other populations;

(E) increase and promote coordination among State agencies, between State and local agencies, among local agencies, and between State and local agencies and private entities (such as managed care providers), that are involved or are eligible to be involved in carrying out activities under this Act;

(F)(i) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, that facilitate the availability or provision of assistive technology devices and assistive technology services; and

(ii) facilitate the change of laws, regulations, policies, practices, procedures, and organizational structures, to obtain increased availability or provision of assistive technology devices and assistive technology services;

(G) increase the probability that individuals with disabilities of all ages will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or



between settings of daily living (for example, between home and work);

(H) enhance the skills and competencies of individuals involved in providing assistive technology devices and assistive technology services;

(I) increase awareness and knowledge of the benefits of assistive technology devices and assistive technology services among targeted individuals;

(J) increase the awareness of the needs of individuals with disabilities of all ages for assistive technology devices and for assistive technology services; and

(K) increase the capacity of public agencies and private entities to provide and pay for assistive technology devices and assistive technology services on a statewide basis for individuals with disabilities of all ages;

(2) to identify Federal policies that facilitate payment for assistive technology devices and assistive technology services, to identify those Federal policies that impede such payment, and to eliminate inappropriate barriers to such payment; and

(3) to enhance the ability of the Federal Government to—

(A) provide States with financial assistance that supports—

(i) information and public awareness programs relating to the provision of assistive technology devices and assistive technology services;

(ii) improved interagency and public-private coordination, especially through new and improved policies, that result in increased availability of assistive technology devices and assistive technology services; and

(iii) technical assistance and training in the provision or use of assistive technology devices and assistive technology services; and

(B) fund national, regional, State, and local targeted initiatives that promote understanding of and access to assistive technology devices and assistive technology services for targeted individuals.

### SEC. 3. DEFINITIONS AND RULE.

29 USC 3002.

(a) DEFINITIONS.—In this Act:

(1) ADVOCACY SERVICES.—The term “advocacy services”, except as used as part of the term “protection and advocacy services”, means services provided to assist individuals with disabilities and their family members, guardians, advocates, and authorized representatives in accessing assistive technology devices and assistive technology services.

(2) ASSISTIVE TECHNOLOGY.—The term “assistive technology” means technology designed to be utilized in an assistive technology device or assistive technology service.

(3) ASSISTIVE TECHNOLOGY DEVICE.—The term “assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(4) ASSISTIVE TECHNOLOGY SERVICE.—The term “assistive technology service” means any service that directly assists an

individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

(B) services consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(D) coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(5) CAPACITY BUILDING AND ADVOCACY ACTIVITIES.—The term “capacity building and advocacy activities” means efforts that—

(A) result in laws, regulations, policies, practices, procedures, or organizational structures that promote consumer-responsive programs or entities; and

(B) facilitate and increase access to, provision of, and funding for, assistive technology devices and assistive technology services,

in order to empower individuals with disabilities to achieve greater independence, productivity, and integration and inclusion within the community and the workforce.

(6) COMPREHENSIVE STATEWIDE PROGRAM OF TECHNOLOGY-RELATED ASSISTANCE.—The term “comprehensive statewide program of technology-related assistance” means a consumer-responsive program of technology-related assistance for individuals with disabilities, implemented by a State, and equally available to all individuals with disabilities residing in the State, regardless of their type of disability, age, income level, or location of residence in the State, or the type of assistive technology device or assistive technology service required.

(7) CONSUMER-RESPONSIVE.—The term “consumer-responsive”—

(A) with regard to policies, means that the policies are consistent with the principles of—

(i) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

(ii) respect for the privacy, rights, and equal access (including the use of accessible formats) of such individuals;

(iii) inclusion, integration, and full participation of such individuals in society;

(iv) support for the involvement in decisions of a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs such involvement; and

(v) support for individual and systems advocacy and community involvement; and

(B) with respect to an entity, program, or activity, means that the entity, program, or activity—

(i) is easily accessible to, and usable by, individuals with disabilities and, when appropriate, their family members, guardians, advocates, or authorized representatives;

(ii) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

(iii) facilitates the full and meaningful participation of individuals with disabilities (including individuals from underrepresented populations and rural populations) and their family members, guardians, advocates, and authorized representatives, in—

(I) decisions relating to the provision of assistive technology devices and assistive technology services to such individuals; and

(II) decisions related to the maintenance, improvement, and evaluation of the comprehensive statewide program of technology-related assistance, including decisions that affect advocacy, capacity building, and capacity building and advocacy activities.

(8) **DISABILITY.**—The term “disability” means a condition of an individual that is considered to be a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides.

(9) **INDIVIDUAL WITH A DISABILITY; INDIVIDUALS WITH DISABILITIES.**—

(A) **INDIVIDUAL WITH A DISABILITY.**—The term “individual with a disability” means any individual of any age, race, or ethnicity—

(i) who has a disability; and

(ii) who is or would be enabled by an assistive technology device or an assistive technology service to minimize deterioration in functioning, to maintain a level of functioning, or to achieve a greater level of functioning in any major life activity.

(B) **INDIVIDUALS WITH DISABILITIES.**—The term “individuals with disabilities” means more than one individual with a disability.

(10) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), and includes a community college receiving

funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(11) PROTECTION AND ADVOCACY SERVICES.—The term “protection and advocacy services” means services that—

(A) are described in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.), the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973; and

(B) assist individuals with disabilities with respect to assistive technology devices and assistive technology services.

(12) SECRETARY.—The term “Secretary” means the Secretary of Education.

(13) STATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and section 302, the term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(B) OUTLYING AREAS.—In sections 101(c) and 102(b):

(i) OUTLYING AREA.—The term “outlying area” means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(ii) STATE.—The term “State” does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(14) TARGETED INDIVIDUALS.—The term “targeted individuals” means—

(A) individuals with disabilities of all ages and their family members, guardians, advocates, and authorized representatives;

(B) individuals who work for public or private entities (including insurers or managed care providers), that have contact with individuals with disabilities;

(C) educators and related services personnel;

(D) technology experts (including engineers);

(E) health and allied health professionals;

(F) employers; and

(G) other appropriate individuals and entities.

(15) TECHNOLOGY-RELATED ASSISTANCE.—The term “technology-related assistance” means assistance provided through capacity building and advocacy activities that accomplish the purposes described in any of subparagraphs (A) through (K) of section 2(b)(1).

(16) UNDERREPRESENTED POPULATION.—The term “underrepresented population” means a population that is typically underrepresented in service provision, and includes populations such as persons who have low-incidence disabilities, persons who are minorities, poor persons, persons with limited-English proficiency, older individuals, or persons from rural areas.

(17) UNIVERSAL DESIGN.—The term “universal design” means a concept or philosophy for designing and delivering products and services that are usable by people with the widest

possible range of functional capabilities, which include products and services that are directly usable (without requiring assistive technologies) and products and services that are made usable with assistive technologies.

(b) REFERENCES.—References in this Act to a provision of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 shall be considered to be references to such provision as in effect on the day before the date of enactment of this Act.

## TITLE I—STATE GRANT PROGRAMS

### SEC. 101. CONTINUITY GRANTS FOR STATES THAT RECEIVED FUNDING FOR A LIMITED PERIOD FOR TECHNOLOGY-RELATED ASSISTANCE.

29 USC 3011.

#### (a) GRANTS TO STATES.—

(1) IN GENERAL.—The Secretary shall award grants, in accordance with this section, to eligible States to support capacity building and advocacy activities, designed to assist the States in maintaining permanent comprehensive statewide programs of technology-related assistance that accomplish the purposes described in section 2(b)(1).

(2) ELIGIBLE STATES.—To be eligible to receive a grant under this section a State shall be a State that received grants for less than 10 years under title I of the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

#### (b) USE OF FUNDS.—

(1) IN GENERAL.—Any State that receives a grant under this section shall use the funds made available through the grant to carry out the activities described in paragraph (2) and may use the funds to carry out the activities described in paragraph (3).

#### (2) REQUIRED ACTIVITIES.—

##### (A) PUBLIC AWARENESS PROGRAM.—

(i) IN GENERAL.—The State shall support a public awareness program designed to provide information to targeted individuals relating to the availability and benefits of assistive technology devices and assistive technology services.

(ii) LINK.—Such a public awareness program shall have an electronic link to the National Public Internet Site authorized under section 104(c)(1).

(iii) CONTENTS.—The public awareness program may include—

(I) the development and dissemination of information relating to—

(aa) the nature of assistive technology devices and assistive technology services;

(bb) the appropriateness of, cost of, availability of, evaluation of, and access to, assistive technology devices and assistive technology services; and

(cc) the benefits of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities of all ages to perform activities of daily living;

(II) the development of procedures for providing direct communication between providers of assistive technology and targeted individuals; and

(III) the development and dissemination, to targeted individuals, of information about State efforts related to assistive technology.

(B) INTERAGENCY COORDINATION.—

(i) IN GENERAL.—The State shall develop and promote the adoption of policies that improve access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State and that result in improved coordination among public and private entities that are responsible or have the authority to be responsible, for policies, procedures, or funding for, or the provision of assistive technology devices and assistive technology services to, such individuals.

(ii) APPOINTMENT TO CERTAIN INFORMATION TECHNOLOGY PANELS.—The State shall appoint the director of the lead agency described in subsection (d) or the designee of the director, to any committee, council, or similar organization created by the State to assist the State in the development of the information technology policy of the State.

(iii) COORDINATION ACTIVITIES.—The development and promotion described in clause (i) may include support for—

(I) policies that result in improved coordination, including coordination between public and private entities—

(aa) in the application of Federal and State policies;

(bb) in the use of resources and services relating to the provision of assistive technology devices and assistive technology services, including the use of interagency agreements; and

(cc) in the improvement of access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State;

(II) convening interagency work groups, involving public and private entities, to identify, create, or expand funding options, and coordinate access to funding, for assistive technology devices and assistive technology services for individuals with disabilities of all ages; or

(III) documenting and disseminating information about interagency activities that promote coordination, including coordination between public and private entities, with respect to assistive technology devices and assistive technology services.

(C) TECHNICAL ASSISTANCE AND TRAINING.—The State shall carry out directly, or provide support to public or private entities to carry out, technical assistance and training activities for targeted individuals, including—

(i) the development and implementation of laws, regulations, policies, practices, procedures, or organizational structures that promote access to assistive technology devices and assistive technology services for individuals with disabilities in education, health care, employment, and community living contexts, and in other contexts such as the use of telecommunications;

(ii)(I) the development of training materials and the conduct of training in the use of assistive technology devices and assistive technology services; and

(II) the provision of technical assistance, including technical assistance concerning how—

(aa) to consider the needs of an individual with a disability for assistive technology devices and assistive technology services in developing any individualized plan or program authorized under Federal or State law;

(bb) the rights of targeted individuals to assistive technology devices and assistive technology services are addressed under laws other than this Act, to promote fuller independence, productivity, and inclusion in and integration into society of such individuals; or

(cc) to increase consumer participation in the identification, planning, use, delivery, and evaluation of assistive technology devices and assistive technology services; and

(iii) the enhancement of the assistive technology skills and competencies of—

(I) individuals who work for public or private entities (including insurers and managed care providers), who have contact with individuals with disabilities;

(II) educators and related services personnel;

(III) technology experts (including engineers);

(IV) health and allied health professionals;

(V) employers; and

(VI) other appropriate personnel.

(D) OUTREACH.—The State shall provide support to statewide and community-based organizations that provide assistive technology devices and assistive technology services to individuals with disabilities or that assist individuals with disabilities in using assistive technology devices and assistive technology services, including a focus on organizations assisting individuals from underrepresented populations and rural populations. Such support may include outreach to consumer organizations and groups in the State to coordinate efforts to assist individuals with disabilities of all ages and their family members, guardians, advocates, or authorized representatives, to obtain funding for, access to, and information on evaluation of assistive technology devices and assistive technology services.

(3) DISCRETIONARY ACTIVITIES.—

(A) ALTERNATIVE STATE-FINANCED SYSTEMS.—The State may support activities to increase access to, and funding for, assistive technology devices and assistive technology services, including—

(i) the development of systems that provide assistive technology devices and assistive technology services to individuals with disabilities of all ages, and that pay for such devices and services, such as—

(I) the development of systems for the purchase, lease, other acquisition, or payment for the provision, of assistive technology devices and assistive technology services; or

(II) the establishment of alternative State or privately financed systems of subsidies for the provision of assistive technology devices and assistive technology services, such as—

(aa) a low-interest loan fund;

(bb) an interest buy-down program;

(cc) a revolving loan fund;

(dd) a loan guarantee or insurance program;

(ee) a program operated by a partnership among private entities for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or

(ff) another mechanism that meets the requirements of title III and is approved by the Secretary;

(ii) the short-term loan of assistive technology devices to individuals, employers, public agencies, or public accommodations seeking strategies to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); or

(iii) the maintenance of information about, and recycling centers for, the redistribution of assistive technology devices and equipment, which may include redistribution through device and equipment loans, rentals, or gifts.

(B) DEMONSTRATIONS.—The State, in collaboration with other entities in established, recognized community settings (such as nonprofit organizations, libraries, schools, community-based employer organizations, churches, and entities operating senior citizen centers, shopping malls, and health clinics), may demonstrate assistive technology devices in settings where targeted individuals can see and try out assistive technology devices, and learn more about the devices from personnel who are familiar with such devices and their applications or can be referred to other entities who have information on the devices.

(C) OPTIONS FOR SECURING DEVICES AND SERVICES.—The State, through public agencies or nonprofit organizations, may support assistance to individuals with disabilities and their family members, guardians, advocates, and authorized representatives about options for securing assistive technology devices and assistive technology services that would meet individual needs for such assistive technology devices and assistive technology services. Such assistance shall not include direct payment for an assistive technology device.

(D) TECHNOLOGY-RELATED INFORMATION.—



(i) IN GENERAL.—The State may operate and expand a system for public access to information concerning an activity carried out under another paragraph of this subsection, including information about assistive technology devices and assistive technology services, funding sources and costs of such devices and services, and individuals, organizations, and agencies capable of carrying out such an activity for individuals with disabilities. The system shall be part of, and complement the information that is available through a link to, the National Public Internet Site described in section 104(c)(1).

(ii) ACCESS.—Access to the system may be provided through community-based locations, including public libraries, centers for independent living (as defined in section 702 of the Rehabilitation Act of 1973), locations of community rehabilitation programs (as defined in section 7 of such Act), schools, senior citizen centers, State vocational rehabilitation offices, other State workforce offices, and other locations frequented or used by the public.

(iii) INFORMATION COLLECTION AND PREPARATION.—In operating or expanding a system described in subparagraph (A), the State may—

(I) develop, compile, and categorize print, large print, braille, audio, and video materials, computer disks, compact discs (including compact discs formatted with read-only memory), information in alternative formats that can be used in telephone-based information systems, and materials using such other media as technological innovation may make appropriate;

(II) identify and classify funding sources for obtaining assistive technology devices and assistive technology services, and the conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

(III) identify support groups and systems designed to help individuals with disabilities make effective use of an activity carried out under another paragraph of this subsection, including groups that provide evaluations of assistive technology devices and assistive technology services; and

(IV) maintain a record of the extent to which citizens of the State use or make inquiries of the system established in clause (i), and of the nature of such inquiries.

(E) INTERSTATE ACTIVITIES.—

(i) IN GENERAL.—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals with disabilities of all ages to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such

Contracts.

individuals need at home, at school, at work, or in other environments that are part of daily living.

(ii) ELECTRONIC COMMUNICATION.—The State may operate or participate in an electronic information exchange through which the State may communicate with other States to gain technical assistance in a timely fashion and to avoid the duplication of efforts already undertaken in other States.

(F) PARTNERSHIPS AND COOPERATIVE INITIATIVES.—The State may support partnerships and cooperative initiatives between the public sector and the private sector to promote greater participation by business and industry in—

(i) the development, demonstration, and dissemination of assistive technology devices; and

(ii) the ongoing provision of information about new products to assist individuals with disabilities.

(G) EXPENSES.—The State may pay for expenses, including travel expenses, and services, including services of qualified interpreters, readers, and personal care assistants, that may be necessary to ensure access to the comprehensive statewide program of technology-related assistance by individuals with disabilities who are determined by the State to be in financial need and not eligible for such payments or services through another public agency or private entity.

(H) ADVOCACY SERVICES.—The State may provide advocacy services.

(c) AMOUNT OF FINANCIAL ASSISTANCE.—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 105(a) and reserved under section 105(b)(1)(A) for any fiscal year for grants under this section, the Secretary shall make a grant in an amount of not more than \$105,000 to each eligible outlying area.

(2) GRANTS TO STATES.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1), the Secretary shall make grants to States in accordance with the requirements described in paragraph (3).

(3) CALCULATION OF STATE GRANTS.—

(A) CALCULATIONS FOR GRANTS IN THE SECOND OR THIRD YEAR OF A SECOND EXTENSION GRANT.—For any fiscal year, the Secretary shall calculate the amount of a grant under paragraph (2) for each eligible State that would be in the second or third year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, if that Act had been reauthorized for that fiscal year.

(B) CALCULATIONS FOR GRANTS IN THE FOURTH OR FIFTH YEAR OF A SECOND EXTENSION GRANT.—

(i) FOURTH YEAR.—An eligible State that would have been in the fourth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 during a fiscal year, if that Act had been reauthorized for that fiscal year, shall receive under paragraph (2) a grant in an amount equal to 75 percent of the funding that the State received in the prior

fiscal year under section 103 of that Act or under this section, as appropriate.

(ii) FIFTH YEAR.—An eligible State that would have been in the fifth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 during a fiscal year, if that Act had been reauthorized for that fiscal year, shall receive under paragraph (2) a grant in an amount equal to 50 percent of the funding that the State received in the third year of a second extension grant under section 103 of that Act or under this section, as appropriate.

(C) PROHIBITION ON FUNDS AFTER FIFTH YEAR OF A SECOND EXTENSION GRANT.—Except as provided in subsection (f), an eligible State that would have been in the fifth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 during a fiscal year, if that Act had been reauthorized for that fiscal year, may not receive any Federal funds under this title for any fiscal year after such fiscal year.

(D) ADDITIONAL STATES.—

(i) IN GENERAL.—For purposes of this paragraph, the Secretary shall treat a State described in clause (ii)—

(I) for fiscal years 1999 through 2001, as if the State were a State described in subparagraph (A); and

(II) for fiscal year 2002 or 2003, as if the State were a State described in clause (i) or (ii), respectively, of subparagraph (B).

(ii) STATE.—A State referred to in clause (i) shall be a State that—

(I) in fiscal year 1998, was in the second year of an initial extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988; and

(II) meets such terms and conditions as the Secretary shall determine to be appropriate.

(d) LEAD AGENCY.—

(1) IDENTIFICATION.—

(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall designate a lead agency to carry out appropriate State functions under this section. The lead agency shall be the current agency (as of the date of submission of the application supplement described in subsection (e)) administering the grant awarded to the State for fiscal year 1998 under title I of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, except as provided in subparagraph (B).

(B) CHANGE IN AGENCY.—The Governor may change the lead agency if the Governor shows good cause to the Secretary why the designated lead agency should be changed, in the application supplement described in subsection (e), and obtains approval of the supplement.

(2) DUTIES OF THE LEAD AGENCY.—The duties of the lead agency shall include—

(A) submitting the application supplement described in subsection (e) on behalf of the State;

(B) administering and supervising the use of amounts made available under the grant received by the State under this section;

(C)(i) coordinating efforts related to, and supervising the preparation of, the application supplement described in subsection (e);

(ii) continuing the coordination of the maintenance and evaluation of the comprehensive statewide program of technology-related assistance among public agencies and between public agencies and private entities, including coordinating efforts related to entering into interagency agreements; and

(iii) continuing the coordination of efforts, especially efforts carried out with entities that provide protection and advocacy services described in section 102, related to the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, or authorized representatives, and other appropriate individuals, with respect to activities carried out under the grant; and

(D) the delegation, in whole or in part, of any responsibilities described in subparagraph (A), (B), or (C) to one or more appropriate offices, agencies, entities, or individuals.

(e) APPLICATION SUPPLEMENT.—

(1) SUBMISSION.—Any State that desires to receive a grant under this section shall submit to the Secretary an application supplement to the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, at such time, in such manner, and for such period as the Secretary may specify, that contains the following information:

(A) GOALS AND ACTIVITIES.—A description of—

(i) the goals the State has set, for addressing the assistive technology needs of individuals with disabilities in the State, including any related to—

(I) health care;

(II) education;

(III) employment, including goals involving the State vocational rehabilitation program carried out under title I of the Rehabilitation Act of 1973;

(IV) telecommunication and information technology; or

(V) community living; and

(ii) the activities the State will undertake to achieve such goals, in accordance with the requirements of subsection (b).

(B) MEASURES OF GOAL ACHIEVEMENT.—A description of how the State will measure whether the goals set by the State have been achieved.

(C) INVOLVEMENT OF INDIVIDUALS WITH DISABILITIES OF ALL AGES AND THEIR FAMILIES.—A description of how individuals with disabilities of all ages and their families—

(i) were involved in selecting—

(I) the goals;

(II) the activities to be undertaken in achieving the goals; and

(III) the measures to be used in judging if the goals have been achieved; and

(ii) will be involved in measuring whether the goals have been achieved.

(D) REDESIGNATION OF THE LEAD AGENCY.—If the Governor elects to change the lead agency, the following information:

(i) With regard to the original lead agency, a description of the deficiencies of the agency.

(ii) With regard to the new lead agency, a description of—

(I) the capacity of the new lead agency to administer and conduct activities described in subsection (b) and this paragraph; and

(II) the procedures that the State will implement to avoid the deficiencies, described in clause (i), of the original lead agency.

(iii) Information identifying which agency prepared the application supplement.

(2) INTERIM STATUS OF STATE OBLIGATIONS.—Except as provided in subsection (f)(2), when the Secretary notifies a State that the State shall submit the application supplement to the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall specify in the notification the time period for which the application supplement shall apply, consistent with paragraph (4).

Notification.  
Applicability.

(3) CONTINUING OBLIGATIONS.—Each State that receives a grant under this section shall continue to abide by the assurances the State made in the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 and continue to comply with reporting requirements under that Act.

(4) DURATION OF APPLICATION SUPPLEMENT.—

(A) DETERMINATION.—The Secretary shall determine and specify to the State the time period for which the application supplement shall apply, in accordance with subparagraph (B).

(B) LIMIT.—Such time period for any State shall not extend beyond the year that would have been the fifth year of a second extension grant made for that State under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, if the Act had been reauthorized through that year.

(f) EXTENSION OF FUNDING.—

(1) IN GENERAL.—In the case of a State that was in the fifth year of a second extension grant in fiscal year 1998 or is in the fifth year of a second extension grant in any of the fiscal years 1999 through 2004 made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, or made under this section, as appropriate, the Secretary may, in the discretion of the Secretary, award a 3-year extension of the grant to such State if the State submits an application supplement under subsection (e)

and meets other related requirements for a State seeking a grant under this section.

(2) AMOUNT.—A State that receives an extension of a grant under paragraph (1), shall receive through the grant, for each of fiscal years of the extension of the grant, an amount equivalent to the amount the State received for the fifth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, or made under this section, as appropriate, from funds appropriated under section 105(a) and reserved under section 105(b)(1)(A) for grants under this section.

(3) LIMITATION.—A State may not receive amounts under an extension of a grant under paragraph (1) after September 30, 2004.

29 USC 3012.

**SEC. 102. STATE GRANTS FOR PROTECTION AND ADVOCACY RELATED TO ASSISTIVE TECHNOLOGY.**

(a) GRANTS TO STATES.—

(1) IN GENERAL.—On the appropriation of funds under section 105, the Secretary shall make a grant to an entity in each State to support protection and advocacy services through the systems established to provide protection and advocacy services under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) for the purposes of assisting in the acquisition, utilization, or maintenance of assistive technology or assistive technology services for individuals with disabilities.

(2) CERTAIN STATES.—Notwithstanding paragraph (1), for a State that, on the day before the date of enactment of this Act, was described in section 102(f)(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall make the grant to the lead agency designated under section 101(d). The lead agency shall determine how the funds made available under this section shall be divided among the entities that were providing protection and advocacy services in that State on that day, and distribute the funds to the entities. In distributing the funds, the lead agency shall not establish any further eligibility or procedural requirements for an entity in that State that supports protection and advocacy services through the systems established to provide protection and advocacy services under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.). Such an entity shall comply with the same requirements (including reporting and enforcement requirements) as any other entity that receives funding under paragraph (1).

(3) PERIODS.—The Secretary shall provide assistance through such a grant to a State for 6 years.

(b) AMOUNT OF FINANCIAL ASSISTANCE.—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 105(a) and reserved under section 105(b)(1)(A) for any fiscal year, the Secretary shall make a grant in an amount of not more than \$30,000 to each eligible system within an outlying area.

(2) GRANTS TO STATES.—For any fiscal year, after reserving funds to make grants under paragraph (1), the Secretary shall make allotments from the remainder of the funds described in paragraph (1) in accordance with paragraph (3) to eligible

systems within States to support protection and advocacy services as described in subsection (a). The Secretary shall make grants to the eligible systems from the allotments.

(3) SYSTEMS WITHIN STATES.—

(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each fiscal year, the Secretary shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, the allotment to any system under subparagraph (A) shall be not less than \$50,000, and the allotment to any system under this paragraph for any fiscal year that is less than \$50,000 shall be increased to \$50,000.

(4) REALLOTMENT.—Whenever the Secretary determines that any amount of an allotment under paragraph (3) to a system within a State for any fiscal year will not be expended by such system in carrying out the provisions of this section, the Secretary shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Secretary determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

(c) REPORT TO SECRETARY.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report that contains such information as the Secretary may require, including documentation of the progress of the entity in—

(1) conducting consumer-responsive activities, including activities that will lead to increased access, for individuals with disabilities, to funding for assistive technology devices and assistive technology services;

(2) engaging in informal advocacy to assist in securing assistive technology and assistive technology services for individuals with disabilities;

(3) engaging in formal representation for individuals with disabilities to secure systems change, and in advocacy activities to secure assistive technology and assistive technology services for individuals with disabilities;

(4) developing and implementing strategies to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to advocate the provision of assistive technology devices and assistive technology services to which the individuals with disabilities are entitled under law other than this Act; and

(5) coordinating activities with protection and advocacy services funded through sources other than this title, and coordinating activities with the capacity building and advocacy activities carried out by the lead agency.

(d) **REPORTS AND UPDATES TO STATE AGENCIES.**—An entity that receives a grant under this section shall prepare and submit to the lead agency the report described in subsection (c) and quarterly updates concerning the activities described in subsection (c).

(e) **COORDINATION.**—On making a grant under this section to an entity in a State, the Secretary shall solicit and consider the opinions of the lead agency of the State designated under section 101(d) with respect to efforts at coordination, collaboration, and promoting outcomes between the lead agency and the entity that receives the grant under this section.

29 USC 3013.

**SEC. 103. ADMINISTRATIVE PROVISIONS.****(a) REVIEW OF PARTICIPATING ENTITIES.**—

(1) **IN GENERAL.**—The Secretary shall assess the extent to which entities that receive grants pursuant to this title are complying with the applicable requirements of this title and achieving the goals that are consistent with the requirements of the grant programs under which the entities applied for the grants.

**(2) ONSITE VISITS OF STATES RECEIVING CERTAIN GRANTS.**—

(A) **IN GENERAL.**—The Secretary shall conduct an onsite visit for each State that receives a grant under section 101 and that would have been in the third or fourth year of a second extension grant under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 if that Act had been reauthorized for that fiscal year, prior to the end of that year.

(B) **UNNECESSARY VISITS.**—The Secretary shall not be required to conduct a visit of a State described in subparagraph (A) if the Secretary determines that the visit is not necessary to assess whether the State is making significant progress toward development and implementation of a comprehensive statewide program of technology-related assistance.

(3) **ADVANCE PUBLIC NOTICE.**—The Secretary shall provide advance public notice of an onsite visit conducted under paragraph (2) and solicit public comment through such notice from targeted individuals, regarding State goals and related activities to achieve such goals funded through a grant made under section 101.

(4) **MINIMUM REQUIREMENTS.**—At a minimum, the visit shall allow the Secretary to determine the extent to which the State is making progress in meeting State goals and maintaining a comprehensive statewide program of technology-related assistance consistent with the purposes described in section 2(b)(1).

(5) **PROVISION OF INFORMATION.**—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information.

**(b) CORRECTIVE ACTION AND SANCTIONS.**—

(1) **CORRECTIVE ACTION.**—If the Secretary determines that an entity fails to substantially comply with the requirements of this title with respect to a grant program, the Secretary shall assist the entity through technical assistance funded under section 104 or other means, within 90 days after such determination, to develop a corrective action plan.



(2) **SANCTIONS.**—An entity that fails to develop and comply with a corrective action plan as described in paragraph (1) during a fiscal year shall be subject to one of the following corrective actions selected by the Secretary:

(A) Partial or complete fund termination under the grant program.

(B) Ineligibility to participate in the grant program in the following year.

(C) Reduction in funding for the following year under the grant program.

(D) Required redesignation of the lead agency designated under section 101(d) or an entity responsible for administering the grant program.

(3) **APPEALS PROCEDURES.**—The Secretary shall establish appeals procedures for entities that are found to be in non-compliance with the requirements of this title.

(c) **ANNUAL REPORT.**—

(1) **IN GENERAL.**—Not later than December 31 of each year, the Secretary shall prepare, and submit to the President and to Congress, a report on the activities funded under this Act, to improve the access of individuals with disabilities to assistive technology devices and assistive technology services.

Deadline.

(2) **CONTENTS.**—Such report shall include information on—

(A) the demonstrated successes of the funded activities in improving interagency coordination relating to assistive technology, streamlining access to funding for assistive technology, and producing beneficial outcomes for users of assistive technology;

(B) the demonstration activities carried out through the funded activities to—

(i) promote access to such funding in public programs that were in existence on the date of the initiation of the demonstration activities; and

(ii) establish additional options for obtaining such funding;

(C) the education and training activities carried out through the funded activities to educate and train targeted individuals about assistive technology, including increasing awareness of funding through public programs for assistive technology;

(D) the research activities carried out through the funded activities to improve understanding of the costs and benefits of access to assistive technology for individuals with disabilities who represent a variety of ages and types of disabilities;

(E) the program outreach activities to rural and inner-city areas that are carried out through the funded activities;

(F) the activities carried out through the funded activities that are targeted to reach underrepresented populations and rural populations; and

(G) the consumer involvement activities carried out through the funded activities.

(3) **AVAILABILITY OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES.**—As soon as practicable, the Secretary shall include in the annual report required by this subsection information on the availability of assistive technology devices and assistive technology services.

(d) EFFECT ON OTHER ASSISTANCE.—This title may not be construed as authorizing a Federal or a State agency to reduce medical or other assistance available, or to alter eligibility for a benefit or service, under any other Federal law.

29 USC 3014.

**SEC. 104. TECHNICAL ASSISTANCE PROGRAM.**

(a) IN GENERAL.—Through grants, contracts, or cooperative agreements, awarded on a competitive basis, the Secretary is authorized to fund a technical assistance program to provide technical assistance to entities, principally entities funded under section 101 or 102.

(b) INPUT.—In designing the program to be funded under this section, and in deciding the differences in function between national and regionally based technical assistance efforts carried out through the program, the Secretary shall consider the input of the directors of comprehensive statewide programs of technology-related assistance and other individuals the Secretary determines to be appropriate, especially—

(1) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services;

(2) family members, guardians, advocates, and authorized representatives of such individuals; and

(3) individuals employed by protection and advocacy systems funded under section 102.

(c) SCOPE OF TECHNICAL ASSISTANCE.—

(1) NATIONAL PUBLIC INTERNET SITE.—

(A) ESTABLISHMENT OF INTERNET SITE.—The Secretary shall fund the establishment and maintenance of a National Public Internet Site for the purposes of providing to individuals with disabilities and the general public technical assistance and information on increased access to assistive technology devices, assistive technology services, and other disability-related resources.

(B) ELIGIBLE ENTITY.—To be eligible to receive a grant or enter into a contract or cooperative agreement under subsection (a) to establish and maintain the Internet site, an entity shall be an institution of higher education that emphasizes research and engineering, has a multidisciplinary research center, and has demonstrated expertise in—

(i) working with assistive technology and intelligent agent interactive information dissemination systems;

(ii) managing libraries of assistive technology and disability-related resources;

(iii) delivering education, information, and referral services to individuals with disabilities, including technology-based curriculum development services for adults with low-level reading skills;

(iv) developing cooperative partnerships with the private sector, particularly with private sector computer software, hardware, and Internet services entities; and

(v) developing and designing advanced Internet sites.

(C) FEATURES OF INTERNET SITE.—The National Public Internet Site described in subparagraph (A) shall contain the following features:

(i) AVAILABILITY OF INFORMATION AT ANY TIME.—

The site shall be designed so that any member of the public may obtain information posted on the site at any time.

(ii) INNOVATIVE AUTOMATED INTELLIGENT AGENT.—

The site shall be constructed with an innovative automated intelligent agent that is a diagnostic tool for assisting users in problem definition and the selection of appropriate assistive technology devices and assistive technology services resources.

(iii) RESOURCES.—

(I) LIBRARY ON ASSISTIVE TECHNOLOGY.—The site shall include access to a comprehensive working library on assistive technology for all environments, including home, workplace, transportation, and other environments.

(II) RESOURCES FOR A NUMBER OF DISABILITIES.—The site shall include resources relating to the largest possible number of disabilities, including resources relating to low-level reading skills.

(iv) LINKS TO PRIVATE SECTOR RESOURCES AND INFORMATION.—To the extent feasible, the site shall be linked to relevant private sector resources and information, under agreements developed between the institution of higher education and cooperating private sector entities.

(D) MINIMUM LIBRARY COMPONENTS.—At a minimum, the Internet site shall maintain updated information on—

(i) how to plan, develop, implement, and evaluate activities to further extend comprehensive statewide programs of technology-related assistance, including the development and replication of effective approaches to—

(I) providing information and referral services;

(II) promoting interagency coordination of training and service delivery among public and private entities;

(III) conducting outreach to underrepresented populations and rural populations;

(IV) mounting successful public awareness activities;

(V) improving capacity building in service delivery;

(VI) training personnel from a variety of disciplines; and

(VII) improving evaluation strategies, research, and data collection;

(ii) effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services;

(iii) successful approaches to increasing the availability of public and private funding for and access

to the provision of assistive technology devices and assistive technology services by appropriate State agencies; and

(iv) demonstration sites where individuals may try out assistive technology.

(2) TECHNICAL ASSISTANCE EFFORTS.—In carrying out the technical assistance program, taking into account the input required under subsection (b), the Secretary shall ensure that entities—

(A) address State-specific information requests concerning assistive technology from other entities funded under this title and public entities not funded under this title, including—

(i) requests for state-of-the-art, or model, Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services;

(ii) requests for examples of policies, practices, procedures, regulations, administrative hearing decisions, or legal actions, that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

(iii) requests for information on effective approaches to Federal-State coordination of programs for individuals with disabilities, related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages;

(iv) requests for information on effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services;

(v) other requests for technical assistance from other entities funded under this title and public entities not funded under this title; and

(vi) other assignments specified by the Secretary, including assisting entities described in section 103(b) to develop corrective action plans; and

(B) assist targeted individuals by disseminating information about—

(i) Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services, to promote fuller independence, productivity, and inclusion in society for individuals with disabilities of all ages; and

(ii) technical assistance activities undertaken under subparagraph (A).

(d) ELIGIBLE ENTITIES.—To be eligible to compete for grants, contracts, and cooperative agreements under this section, entities shall have documented experience with and expertise in assistive

technology service delivery or systems, interagency coordination, and capacity building and advocacy activities.

(e) APPLICATION.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

#### **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title \$36,000,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000 through 2004.

(b) RESERVATIONS OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), of the amount appropriated under subsection (a) for a fiscal year—

(A) 87.5 percent of the amount shall be reserved to fund grants under section 101;

(B) 7.9 percent shall be reserved to fund grants under section 102; and

(C) 4.6 percent shall be reserved for activities funded under section 104.

(2) RESERVATION FOR CONTINUATION OF TECHNICAL ASSISTANCE INITIATIVES.—For fiscal year 1999, the Secretary may use funds reserved under subparagraph (C) of paragraph (1) to continue funding technical assistance initiatives that were funded in fiscal year 1998 under the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

(3) RESERVATION FOR ONSITE VISITS.—The Secretary may reserve, from the amount appropriated under subsection (a) for any fiscal year, such sums as the Secretary considers to be necessary for the purposes of conducting onsite visits as required by section 103(a)(2).

## **TITLE II—NATIONAL ACTIVITIES**

### **Subtitle A—Rehabilitation Act of 1973**

#### **SEC. 201. COORDINATION OF FEDERAL RESEARCH EFFORTS.**

Section 203 of the Rehabilitation Act of 1973 (as amended by section 405 of the Workforce Investment Act of 1988) is amended— 29 USC 763.

(1) in subsection (a)(1), by inserting after “programs,” insert “including programs relating to assistive technology research and research that incorporates the principles of universal design,”;

(2) in subsection (b)—

(A) by inserting “(1)” before “After receiving”;

(B) by striking “from individuals with disabilities and the individuals’ representatives” and inserting “from targeted individuals”;

(C) by inserting after “research” the following: “(including assistive technology research and research that incorporates the principles of universal design)”;

(D) by adding at the end the following:

“(2) In carrying out its duties with respect to the conduct of Federal research (including assistive technology research and

research that incorporates the principles of universal design) related to rehabilitation of individuals with disabilities, the Committee shall—

“(A) share information regarding the range of assistive technology research, and research that incorporates the principles of universal design, that is being carried out by members of the Committee and other Federal departments and organizations;

“(B) identify, and make efforts to address, gaps in assistive technology research and research that incorporates the principles of universal design that are not being adequately addressed;

“(C) identify, and establish, clear research priorities related to assistive technology research and research that incorporates the principles of universal design for the Federal Government;

“(D) promote interagency collaboration and joint research activities relating to assistive technology research and research that incorporates the principles of universal design at the Federal level, and reduce unnecessary duplication of effort regarding these types of research within the Federal Government; and

“(E) optimize the productivity of Committee members through resource sharing and other cost-saving activities, related to assistive technology research and research that incorporates the principles of universal design.”;

(3) by striking subsection (c) and inserting the following:

“(c) Not later than December 31 of each year, the Committee shall prepare and submit, to the President and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that—

“(1) describes the progress of the Committee in fulfilling the duties described in subsection (b);

“(2) makes such recommendations as the Committee determines to be appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research (including assistive technology research and research that incorporates the principles of universal design) related to rehabilitation of individuals with disabilities; and

“(3) describes the activities that the Committee recommended to be funded through grants, contracts, cooperative agreements, and other mechanisms, for assistive technology research and development and research and development that incorporates the principles of universal design.”; and

(4) by adding at the end the following:

“(d)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting assistive technology research programs, to reduce duplication of effort among the programs, and to increase the availability of assistive technology for individuals with disabilities, the Committee may recommend activities to be funded through grants, contracts or cooperative agreements, or other mechanisms—

“(A) in joint research projects for assistive technology research and research that incorporates the principles of universal design; and

Deadline.  
Reports.

“(B) in other programs designed to promote a cohesive, strategic Federal program of research described in subparagraph (A).

“(2) The projects and programs described in paragraph (1) shall be jointly administered by at least 2 agencies or departments with representatives on the Committee.

“(3) In recommending activities to be funded in the projects and programs, the Committee shall obtain input from targeted individuals, and other organizations and individuals the Committee determines to be appropriate, concerning the availability and potential of technology for individuals with disabilities.

“(e) In this section, the terms ‘assistive technology’, ‘targeted individuals’, and ‘universal design’ have the meanings given the terms in section 3 of the Assistive Technology Act of 1998.”.

#### **SEC. 202. NATIONAL COUNCIL ON DISABILITY.**

Section 401 of the Rehabilitation Act of 1973 (as amended by section 407 of the Workforce Investment Act of 1998) is amended by adding at the end the following:

“(c)(1) Not later than December 31, 1999, the Council shall prepare a report describing the barriers in Federal assistive technology policy to increasing the availability of and access to assistive technology devices and assistive technology services for individuals with disabilities.

“(2) In preparing the report, the Council shall obtain input from the National Institute on Disability and Rehabilitation Research and the Association of Tech Act Projects, and from targeted individuals, as defined in section 3 of the Assistive Technology Act of 1998.

“(3) The Council shall submit the report, along with such recommendations as the Council determines to be appropriate, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.”.

#### **SEC. 203. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.**

(a) IN GENERAL.—Section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) is amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively;

(2) by inserting after subsection (c) the following:

“(d) Beginning in fiscal year 2000, the Access Board, after consultation with the Secretary, representatives of such public and private entities as the Access Board determines to be appropriate (including the electronic and information technology industry), targeted individuals (as defined in section 3 of the Assistive Technology Act of 1998), and State information technology officers, shall provide training for Federal and State employees on any obligations related to section 508 of the Rehabilitation Act of 1973.”; and

(3) in the second sentence of paragraph (1) of subsection (e) (as redesignated in paragraph (1)), by striking “subsection (e)” and inserting “subsection (f)”.

(b) CONFORMING AMENDMENT.—Section 506(c) of the Rehabilitation Act of 1973 (29 U.S.C. 794(c)) is amended by striking “section 502(h)(1)” and inserting “section 502(i)(1)”.

29 USC 781.

Deadline.  
Reports.

Effective date.

29 USC 794b.

## Subtitle B—Other National Activities

29 USC 3031.

### SEC. 211. SMALL BUSINESS INCENTIVES.

(a) DEFINITION.—In this section, the term “small business” means a small-business concern, as described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(b) CONTRACTS FOR DESIGN, DEVELOPMENT, AND MARKETING.—

(1) IN GENERAL.—The Secretary may enter into contracts with small businesses, to assist such businesses to design, develop, and market assistive technology devices or assistive technology services. In entering into the contracts, the Secretary may give preference to businesses owned or operated by individuals with disabilities.

(2) SMALL BUSINESS INNOVATIVE RESEARCH PROGRAM.—Contracts entered into pursuant to paragraph (1) shall be administered in accordance with the contract administration requirements applicable to the Department of Education under the Small Business Innovative Research Program, as described in section 9(g) of the Small Business Act (15 U.S.C. 638(g)). Contracts entered into pursuant to paragraph (1) shall not be included in the calculation of the required expenditures of the Department under section 9(f) of such Act (15 U.S.C. 638(f)).

(c) GRANTS FOR EVALUATION AND DISSEMINATION OF INFORMATION ON EFFECTS OF TECHNOLOGY TRANSFER.—The Secretary may make grants to small businesses to enable such businesses—

(1) to work with any entity funded by the Secretary to evaluate and disseminate information on the effects of technology transfer on the lives of individuals with disabilities;

(2) to benefit from the experience and expertise of such entities, in conducting such evaluation and dissemination; and

(3) to utilize any technology transfer and market research services such entities provide, to bring new assistive technology devices and assistive technology services into commerce.

29 USC 3032.

### SEC. 212. TECHNOLOGY TRANSFER AND UNIVERSAL DESIGN.

(a) IN GENERAL.—The Director of the National Institute on Disability and Rehabilitation Research may collaborate with the Federal Laboratory Consortium for Technology Transfer established under section 11(e) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)), to promote technology transfer that will further development of assistive technology and products that incorporate the principles of universal design.

(b) COLLABORATION.—In promoting the technology transfer, the Director and the Consortium described in subsection (a) may collaborate—

(1) to enable the National Institute on Disability and Rehabilitation Research to work more effectively with the Consortium, and to enable the Consortium to fulfill the responsibilities of the Consortium to assist Federal agencies with technology transfer under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq);

(2) to increase the awareness of staff members of the Federal Laboratories regarding assistive technology issues and the principles of universal design;

(3) to compile a compendium of current and projected Federal Laboratory technologies and projects that have or will



have an intended or recognized impact on the available range of assistive technology for individuals with disabilities, including technologies and projects that incorporate the principles of universal design, as appropriate;

(4) to develop strategies for applying developments in assistive technology and universal design to mainstream technology, to improve economies of scale and commercial incentives for assistive technology; and

(5) to cultivate developments in assistive technology and universal design through demonstration projects and evaluations, conducted with assistive technology professionals and potential users of assistive technology.

(c) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Secretary may make grants to or enter into contracts or cooperative agreements with commercial, nonprofit, or other organizations, including institutions of higher education, to facilitate interaction with the Consortium to achieve the objectives of this section.

(d) RESPONSIBILITIES OF CONSORTIUM.—Section 11(e)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(1)) is amended—

(1) in subparagraph (I), by striking “; and” and inserting a semicolon;

(2) in subparagraph (J), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(K) work with the Director of the National Institute on Disability and Rehabilitation Research to compile a compendium of current and projected Federal Laboratory technologies and projects that have or will have an intended or recognized impact on the available range of assistive technology for individuals with disabilities (as defined in section 3 of the Assistive Technology Act of 1998), including technologies and projects that incorporate the principles of universal design (as defined in section 3 of such Act), as appropriate.”.

**SEC. 213. UNIVERSAL DESIGN IN PRODUCTS AND THE BUILT ENVIRONMENT.** 29 USC 3033.

The Secretary may make grants to commercial or other enterprises and institutions of higher education for the research and development of universal design concepts for products (including information technology) and the built environment. In making such grants, the Secretary shall give consideration to enterprises and institutions that are owned or operated by individuals with disabilities. The Secretary shall define the term “built environment” for purposes of this section.

**SEC. 214. OUTREACH.**

29 USC 3034.

(a) ASSISTIVE TECHNOLOGY IN RURAL OR IMPOVERISHED URBAN AREAS.—The Secretary may make grants, enter into cooperative agreements, or provide financial assistance through other mechanisms, for projects designed to increase the availability of assistive technology for rural and impoverished urban populations, by determining the unmet assistive technology needs of such populations, and designing and implementing programs to meet such needs.

(b) ASSISTIVE TECHNOLOGY FOR CHILDREN AND OLDER INDIVIDUALS.—The Secretary may make grants, enter into cooperative agreements, or provide financial assistance through other mechanisms, for projects designed to increase the availability of assistive

technology for populations of children and older individuals, by determining the unmet assistive technology needs of such populations, and designing and implementing programs to meet such needs.

29 USC 3035.

**SEC. 215. TRAINING PERTAINING TO REHABILITATION ENGINEERS AND TECHNICIANS.**

(a) **GRANTS AND CONTRACTS.**—The Secretary shall make grants, or enter into contracts with, public and private agencies and organizations, including institutions of higher education, to help prepare students, including students preparing to be rehabilitation technicians, and faculty working in the field of rehabilitation engineering, for careers related to the provision of assistive technology devices and assistive technology services.

(b) **ACTIVITIES.**—An agency or organization that receives a grant or contract under subsection (a) may use the funds made available through the grant or contract—

(1) to provide training programs for individuals employed or seeking employment in the field of rehabilitation engineering, including postsecondary education programs;

(2) to provide workshops, seminars, and conferences concerning rehabilitation engineering that relate to the use of assistive technology devices and assistive technology services to improve the lives of individuals with disabilities; and

(3) to design, develop, and disseminate curricular materials to be used in the training programs, workshops, seminars, and conferences described in paragraphs (1) and (2).

29 USC 3036.

**SEC. 216. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.**

(a) **PROGRAMS.**—The President's Committee on Employment of People With Disabilities (referred to in this section as "the Committee") may design, develop, and implement programs to increase the voluntary participation of the private sector in making information technology accessible to individuals with disabilities, including increasing the involvement of individuals with disabilities in the design, development, and manufacturing of information technology.

(b) **ACTIVITIES.**—The Committee may carry out activities through the programs that may include—

(1) the development and coordination of a task force, which—

(A) shall develop and disseminate information on voluntary best practices for universal accessibility in information technology; and

(B) shall consist of members of the public and private sectors, including—

(i) representatives of organizations representing individuals with disabilities; and

(ii) individuals with disabilities; and

(2) the design, development, and implementation of outreach programs to promote the adoption of best practices referred to in paragraph (1)(B).

(c) **COORDINATION.**—The Committee shall coordinate the activities of the Committee under this section, as appropriate, with the activities of the National Institute on Disability and Rehabilitation Research and the activities of the Department of Labor.

(d) **TECHNICAL ASSISTANCE.**—The Committee may provide technical assistance concerning the programs carried out under this

section and may reserve such portion of the funds appropriated to carry out this section as the Committee determines to be necessary to provide the technical assistance.

(e) **DEFINITION.**—In this section, the term “information technology” means any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including a computer, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

**SEC. 217. AUTHORIZATION OF APPROPRIATIONS.**

29 USC 3037.

There are authorized to be appropriated to carry out this title, and the provisions of section 203 of the Rehabilitation Act of 1973 that relate to research described in section 203(b)(2)(A) of such Act, \$10,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal year 2000.

### **TITLE III—ALTERNATIVE FINANCING MECHANISMS**

**SEC. 301. GENERAL AUTHORITY.**

29 USC 3051.

(a) **IN GENERAL.**—The Secretary shall award grants to States to pay for the Federal share of the cost of the establishment and administration of, or the expansion and administration of, an alternative financing program featuring one or more alternative financing mechanisms to allow individuals with disabilities and their family members, guardians, advocates, and authorized representatives to purchase assistive technology devices and assistive technology services (referred to individually in this title as an “alternative financing mechanism”).

(b) **MECHANISMS.**—The alternative financing mechanisms may include—

- (1) a low-interest loan fund;
- (2) an interest buy-down program;
- (3) a revolving loan fund;
- (4) a loan guarantee or insurance program;
- (5) a program operated by a partnership among private entities for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or
- (6) another mechanism that meets the requirements of this title and is approved by the Secretary.

(c) **REQUIREMENTS.**—

(1) **PERIOD.**—The Secretary may award grants under this title for periods of 1 year.

(2) **LIMITATION.**—No State may receive more than one grant under this title.

(d) **FEDERAL SHARE.**—The Federal share of the cost of the alternative financing program shall not be more than 50 percent.

(e) **CONSTRUCTION.**—Nothing in this section shall be construed as affecting the authority of a State to establish an alternative financing program under title I.

**SEC. 302. AMOUNT OF GRANTS.**

29 USC 3052.

(a) **IN GENERAL.**—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 308 for any fiscal year that are not reserved under section 308(b), the Secretary shall make a grant in an amount of not more than \$105,000 to each eligible outlying area.

(2) GRANTS TO STATES.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1), the Secretary shall make grants to States from allotments made in accordance with the requirements described in paragraph (3).

(3) ALLOTMENTS.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1)—

(A) the Secretary shall allot \$500,000 to each State; and

(B) from the remainder of the funds—

(i) the Secretary shall allot to each State an amount that bears the same ratio to 80 percent of the remainder as the population of the State bears to the population of all States; and

(ii) the Secretary shall allot to each State with a population density that is not more than 10 percent greater than the population density of the United States (according to the most recently available census data) an equal share from 20 percent of the remainder.

(b) INSUFFICIENT FUNDS.—If the funds appropriated under this title for a fiscal year are insufficient to fund the activities described in the acceptable applications submitted under this title for such year, a State whose application was approved for such year but that did not receive a grant under this title may update the application for the succeeding fiscal year. Priority shall be given in such succeeding fiscal year to such updated applications, if acceptable.

(c) DEFINITIONS.—In subsection (a):

(1) OUTLYING AREA.—The term “outlying area” means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) STATE.—The term “State” does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

29 USC 3053.

**SEC. 303. APPLICATIONS AND PROCEDURES.**

(a) ELIGIBILITY.—States that receive or have received grants under section 101 and comply with subsection (b) shall be eligible to compete for grants under this title.

(b) APPLICATION.—To be eligible to compete for a grant under this title, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) an assurance that the State will provide the non-Federal share of the cost of the alternative financing program in cash, from State, local, or private sources;

(2) an assurance that the alternative financing program will continue on a permanent basis;

(3) an assurance that, and information describing the manner in which, the alternative financing program will expand and emphasize consumer choice and control;

(4) an assurance that the funds made available through the grant to support the alternative financing program will

be used to supplement and not supplant other Federal, State, and local public funds expended to provide alternative financing mechanisms;

(5) an assurance that the State will ensure that—

(A) all funds that support the alternative financing program, including funds repaid during the life of the program, will be placed in a permanent separate account and identified and accounted for separately from any other fund;

(B) if the organization administering the program invests funds within this account, the organization will invest the funds in low-risk securities in which a regulated insurance company may invest under the law of the State; and

(C) the organization will administer the funds with the same judgment and care that a person of prudence, discretion, and intelligence would exercise in the management of the financial affairs of such person;

(6) an assurance that—

(A) funds comprised of the principal and interest from the account described in paragraph (5) will be available to support the alternative financing program; and

(B) any interest or investment income that accrues on or derives from such funds after such funds have been placed under the control of the organization administering the alternative financing program, but before such funds are distributed for purposes of supporting the program, will be the property of the organization administering the program; and

(7) an assurance that the percentage of the funds made available through the grant that is used for indirect costs shall not exceed 10 percent.

(c) LIMIT.—The interest and income described in subsection (b)(6)(B) shall not be taken into account by any officer or employee of the Federal Government for purposes of determining eligibility for any Federal program.

#### **SEC. 304. CONTRACTS WITH COMMUNITY-BASED ORGANIZATIONS.**

29 USC 3054.

(a) IN GENERAL.—A State that receives a grant under this title shall enter into a contract with a community-based organization (including a group of such organizations) that has individuals with disabilities involved in organizational decisionmaking at all organizational levels, to administer the alternative financing program.

(b) PROVISIONS.—The contract shall—

(1) include a provision requiring that the program funds, including the Federal and non-Federal shares of the cost of the program, be administered in a manner consistent with the provisions of this title;

(2) include any provision the Secretary requires concerning oversight and evaluation necessary to protect Federal financial interests; and

(3) require the community-based organization to enter into a contract, to expand opportunities under this title and facilitate administration of the alternative financing program, with—

- (A) commercial lending institutions or organizations;
- or
- (B) State financing agencies.

29 USC 3055.

**SEC. 305. GRANT ADMINISTRATION REQUIREMENTS.**

A State that receives a grant under this title and any community-based organization that enters into a contract with the State under this title, shall submit to the Secretary, pursuant to a schedule established by the Secretary (or if the Secretary does not establish a schedule, within 12 months after the date that the State receives the grant), each of the following policies or procedures for administration of the alternative financing program:

(1) A procedure to review and process in a timely manner requests for financial assistance for immediate and potential technology needs, including consideration of methods to reduce paperwork and duplication of effort, particularly relating to need, eligibility, and determination of the specific assistive technology device or service to be financed through the program.

(2) A policy and procedure to assure that access to the alternative financing program shall be given to consumers regardless of type of disability, age, income level, location of residence in the State, or type of assistive technology device or assistive technology service for which financing is requested through the program.

(3) A procedure to assure consumer-controlled oversight of the program.

29 USC 3056.

**SEC. 306. INFORMATION AND TECHNICAL ASSISTANCE.**

(a) IN GENERAL.—The Secretary shall provide information and technical assistance to States under this title, which shall include—

(1) providing assistance in preparing applications for grants under this title;

(2) assisting grant recipients under this title to develop and implement alternative financing programs; and

(3) providing any other information and technical assistance the Secretary determines to be appropriate to assist States to achieve the objectives of this title.

(b) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Secretary shall provide the information and technical assistance described in subsection (a) through grants, contracts, and cooperative agreements with public or private agencies and organizations, including institutions of higher education, with sufficient documented experience, expertise, and capacity to assist States in the development and implementation of the alternative financing programs carried out under this title.

29 USC 3057.

**SEC. 307. ANNUAL REPORT.**

Deadline.

Not later than December 31 of each year, the Secretary shall submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate describing the progress of each alternative financing program funded under this title toward achieving the objectives of this title. The report shall include information on—

(1) the number of grant applications received and approved by the Secretary under this title, and the amount of each grant awarded under this title;

(2) the ratio of funds provided by each State for the alternative financing program of the State to funds provided by the Federal Government for the program;

(3) the type of alternative financing mechanisms used by each State and the community-based organization with which each State entered into a contract, under the program; and

(4) the amount of assistance given to consumers through the program (who shall be classified by age, type of disability, type of assistive technology device or assistive technology service financed through the program, geographic distribution within the State, gender, and whether the consumers are part of an underrepresented population or rural population).

#### **SEC. 308. AUTHORIZATION OF APPROPRIATIONS.**

29 USC 3058.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this title \$10,000,000 for fiscal year 1999 and such sums as may be necessary for fiscal year 2000.

(b) **RESERVATION.**—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall reserve 2 percent for the purpose of providing information and technical assistance to States under section 306.

## **TITLE IV—REPEAL AND CONFORMING AMENDMENTS**

#### **SEC. 401. REPEAL.**

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is repealed.

#### **SEC. 402. CONFORMING AMENDMENTS.**

(a) **DEFINITIONS.**—Section 6 of the Rehabilitation Act of 1973 (as amended by section 403 of the Workforce Investment Act of 1998) is amended—

29 USC 705.

(1) in paragraph (3), by striking “section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2))” and inserting “section 3 of the Assistive Technology Act of 1998”; and

(2) in paragraph (4), by striking “section 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(3))” and inserting “section 3 of the Assistive Technology Act of 1998”.

(b) **RESEARCH AND OTHER COVERED ACTIVITIES.**—Section 204(b)(3) of the Rehabilitation Act of 1973 (as amended by section 405 of the Workforce Investment Act of 1998) is amended—

29 USC 764.

(1) in subparagraph (C)(i), by striking “the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)” and inserting “the Assistive Technology Act of 1998”; and

(2) in subparagraph (G)(i), by striking “the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)” and inserting “the Assistive Technology Act of 1998”.

29 USC 794e. (c) PROTECTION AND ADVOCACY.—Section 509(a)(2) of the Rehabilitation Act of 1973 (as amended by section 408 of the Workforce Investment Act of 1998) is amended by striking “the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (42 U.S.C. 2201 et seq.)” and inserting “the Assistive Technology Act of 1998”.

Approved November 13, 1998.

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LEGISLATIVE HISTORY—S. 2432:

SENATE REPORTS: No. 105-334 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 144 (1998):

Oct. 5, considered and passed Senate.

Oct. 9, considered and passed House, amended.

Oct. 14, Senate concurred in House amendment.

